UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE *101st* CONGRESS

SECOND SESSION

VOLUME 136—PART 19

OCTOBER 1, 1990 TO OCTOBER 8, 1990

(PAGES 26695 TO 28083)

GENERAL SERVICES ADMINISTRATION
9-8-97
LAW
LIBRARY
CENTRAL OFFICE

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1990

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

LAW LIBRARY

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C, 20402

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

SENATE—*Monday, October 1, 1990*

(Legislative day of Monday, September 10, 1990)

The Senate met at 3 p.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

He hath shewed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God.—Micah 6:8.

Mighty God, in whom is all authority and from whom authority is received, make Thy presence felt here and help us to be sensitive of our accountability to Thee. The decisions made in this Chamber reverberate throughout the Nation and the world, touching every State, county, and city, affecting millions of lives and unnumbered organizations with profound positive or negative impact. For many they determine destiny. Guide Your servants as they make the hard decisions, the unpopular decisions, decisions that will not pay off politically. Give them wisdom to distinguish between what is right and what is wrong and courage to do the right.

To the glory of God and the good of the people. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 1, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Senate majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, as I announced last night, there will be no rollcall votes today. It is our hope we can proceed to and complete action on the military construction appropriations bill. If any rollcall votes are required with respect to that measure, they will be scheduled for sometime during the day tomorrow.

At 2:15 p.m. tomorrow, the Senate will vote on the concurrent resolution relating to the Persian Gulf and the situation there. Immediately following that vote, or at approximately 2:30 p.m., the Senate will turn to the nomination of David Souter to be a Justice of the Supreme Court. There is no time limit with respect to that matter, and debate will continue as long as Senators wish to address the subject.

It is my hope and expectation, however, without wishing to prevent any Senator from speaking for as long as he or she wishes, to complete action on that nomination and vote on it tomorrow sometime prior to the close of business. I hope that proves to be possible.

Mr. President, I reserve the remainder of my leader time, and I am pleased now to yield to the distinguished Republican leader.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

Mr. DOLE. Mr. President, I would say in response to the majority leader's statement, I see no problem with that schedule, except we may have some problem voting after 6 tomorrow. I have one Member who has a real problem after 6. Maybe that could be resolved between now and tomorrow.

Mr. MITCHELL. I will be pleased to do that. The only reason I had for attempting to get the vote tomorrow was to accommodate the President and the nominee, Judge Souter. But if there is a problem on the Republican side, we would not have any objection to waiting until the following day.

Mr. DOLE. The problem may go away. But right now, it appears there is one problem. I will let the majority leader know.

Mr. MITCHELL. Certainly.

THE BUDGET

Mr. DOLE. Mr. President, let me indicate, as I did last evening, that we need to take a look at the budget package. I would also follow up by saying we did meet, Republicans met today at 2, Republican Senators. About 31 or 32 of the 45 Republicans were able to be there. It is the first of what I assume to be a number of meetings.

I would say in a general way I was optimistic and encouraged after the meeting. We had the OMB Director, Mr. Darman there; the President's Chief of Staff, John Sununu; and Secretary of the Treasury, Nick Brady. All three of these gentlemen were representing the President throughout these discussions on the budget.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

In addition, the Republicans had myself; the Senator from New Mexico [Mr. DOMENICI]; the Senator from Texas [Mr. GRAMM]; the Senator from Oregon [Mr. HATFIELD]; and the Senator from Oregon [Mr. PACKWOOD] who were also there, and a good number of Senators who had different views on different parts of the package.

We are going to make a real effort to make certain everybody understands as much as we can of the package. There are a lot of details. I was there almost every minute, as was the majority leader, but there are probably some details we do not know about because people were off drafting some. We saw some we had not seen. Some may be surprised in what they do see. There have already been a couple of contradictions raised.

But overall, I wanted to report that we had a good meeting. We do have some differences. There are some who feel that we got less than we should have, some who are satisfied, and some who might have done it differently. But I think overall I can say with some assurance we are on the right track. We ought to be able to produce at least half the Republican Senators for a bipartisan vote in the next couple of weeks, hopefully.

It is still the hope of this Senator if we move quickly, as some of us hope we can do, there will be some chance, maybe, of adjourning by October 14; if not, very early the next week, rather than October 20.

We will have additional meetings and we will meet with my colleagues who were unable to be there today. We will have additional meetings for those who were in attendance. But all in all, it was a good effort.

I want to thank all those who attended, and hopefully we will be able to work together on both sides of the aisle to pass this very historic budget reduction package; $500 billion is a lot of money. It is not easy to put it together. I am certain everyone in America can find fault with parts of it, and maybe with justification. I do not foreclose that reality, either.

But based on the time we spent and the work that was done, in my view, it is a package that should be supported by an overwhelming majority of Republicans and Democrats in both the House and Senate.

THE BUDGET

Mr. MITCHELL. I thank the distinguished Republican leader for his comments and his report on his meeting with his colleagues.

I now report to him, and to all of our colleagues, on a similar meeting that Democratic Members of the Senate just had from 1 until 3, attended by a large majority of the Democratic Members of the Senate. Much of the meeting was devoted to an explanation of the package by the participants, each of whom deserves great credit: Senators BYRD, BENTSEN, SASSER, and FOWLER, and of course the same is true of our colleagues on the Republican side.

There was a spirited discussion. I think, not surprisingly, the comments were similar to those described by the Republican leader. Some expressed concern, indeed strong opposition to individual elements of the package. Some felt that we, the Democratic negotiators, had given away too much; not gotten enough in return. But overall I think it was a positive meeting and a constructive meeting.

While, understandably, most Senators, and appropriately most Senators, are taking the time to study the agreement in detail before making a decision because it is a very important responsibility. I am hopeful that we also will be able to achieve the necessary majority of votes to gain enactment of this package. It is something to which all of the leadership has committed itself and which I have been devoting virtually full time trying to accomplish on our side, as I know the distinguished Republican leader is as well.

Mr. President, we hope very much that when our colleagues review the agreement, when they get over their inevitable displeasure at one or more specific provisions, when they weigh it in the light of the national interest, the interest of our country, which is and must be foremost in every decision that we make as public officials and certainly in a decision of this magnitude, the need to improve our economic future and, most important, to bring interest rates down—to bring interest rates down will be the single most important act to encourage growth in the American economy—I hope that when our colleagues weigh all of this, they will see their way clear to support this agreement, notwithstanding understandable disagreement with some provisions.

I myself am deeply disappointed in some of the provisions and have said so publicly. I know the distinguished Republican leader feels the same way. We agreed on some; disagreed on others. He does not like the fact that some things are in it or that some things are not in it. I do not like the fact that some things are in it and the fact that some things are not in it. Overall, this is in the interest of our Nation, and that must ultimately guide our decisions in this body. I thank my colleague.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein not to exceed 5 minutes each, unless unanimous consent is obtained, and that the period for morning business extend until 3:45 p.m.

The ACTING PRESIDENT pro tempore. Hearing no objection, it is so ordered.

Who seeks recognition?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask unanimous consent to speak as if in morning business for 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CABLE TELEVISION CONSUMER PROTECTION ACT OF 1990

Mr. WIRTH. Thank you, Mr. President. I appreciate your recognition and courtesy and I appreciate the forbearance of the distinguished chairman of the Appropriations Subcommittee on Military Construction.

Mr. President, I wanted to spend a few minutes, if I might, addressing the current discussions over the Cable Television Consumer Protection Act of 1990. You will remember that on Friday the majority leader asked unanimous consent that the Senate proceed to consideration of the cable act and I objected. We had some significant discussion on Friday and everybody went away, I suppose, wondering where we were going from here. I thought it might be useful to talk about where we may be able to go from here, what is possible, and what I think the problems are.

Let me say, first of all, Mr. President, I have made very clear to the chairman of the committee and to the ranking Republican that I hope we can work this out and I hope that when we do work this out. I have also talked with the distinguished junior Senator from Tennessee [Mr. GORE] about working this out. And I hope after we do work it out we would find the White House willing to continue along.

It is my understanding also at this point that there are a number of people that the White House has asked to object to the legislation, or at least to threaten to do so. I hope, if we do get agreement here, that we will find the White House in agreement and not vetoing the bill, contrary to the intention statement Senator STEVENS placed in the RECORD on Friday.

So, having said that, I believe that this is an absolutely work-outable

problem, and I would like to describe what I think the issues are and the issue are not in the remaining time that I have.

First of all, there are two issues that are real in the bill and a number of issues that are not. The real issues upon which there is a consensus are, one, the rate issue and the fact that there have been some abuses in various cable franchises of the cost of basic services for cable television. That is one of the real issues and I think everybody agrees that that should be addressed in this legislation.

I agree with that. The committee agrees with that. The House has stronger provisions than the Senate provision on that subject; the House agrees with that. So I do not think there is any disagreement over the rate issue, the so-called rate-gouging issue.

The second issue that everybody agrees upon, as well, is an issue of service; a feeling that the cable industry, which has grown very rapidly, has not been as attentive to consumer service, service of its customers when they have problems; that when it gets cut off and the picture goes black or whatever, that the cable industry has not been as attentative to those services as it should have been.

I think that is also a legitimate issue, recognized, I might add, very significant by the cable industry which undertook not long ago a major national program to upgrade its consumer services, saying clearly to the world, we have not done as well as we should have and we are going to increase in this area.

Those two areas, Mr. President, one rate, and second, customer service, those two areas were the reason this bill came about to begin with. That is the foundation upon which this legislation rested. There were famous cases of abuse in South Carolina, and the distinguished chairman of the full committee talked about that.

We are familiar with the deeply, I suppose, insulting rate issues in the State of Hawaii that Senator INOUYE has spoken of so eloquently. The distinguished ranking Republican, Senator DANFORTH, has talked about problems in Jefferson City, MO. These are rate problems and customer service problems. And that is the reason we have this bill.

So the bill started in a relatively modest form to address those issues. But then if was seen by some as an opportunity to add a variety of other things on, and that is where the problem began.

There are a number of other industries who have become, I believe, very threatened by the cable industry; a number of other industries who have not liked the fact that the cable industry has grown very successfully, very rapidly, and is in fact one of the most successful and one of the few, I would say, I think continually successful industries in the United States of America today. There are a number of people who looked at this and they looked at the cable market shares, which has been going up. The percentage of households reached by cable, I believe, has gone beyond 50 percent. They see that happening—cable penetration of the market has gone up, and the other people's share of the viewer market has gone down.

Well, we all know in the economics of the capitalist system that market share is extraordinarily important. People want to have as great a market share as possible, and will spend a great deal of time and income attempting to increase their market share through one way or another—better marketing, better product. In this situation that we are seeing here, there are other industries trying to increases their market share by getting amendments passed on the Senate floor, amendments passed to the cable bill that will damage cable, decrease cable's market share and, therefore, increase their industry's piece of the pie. And that is what the second part of this legislation was all about, Mr. President.

It had absolutely nothing to do with the basic part of the cable bill; had absolutely nothing to with rate; had absolutely nothing to do with customer protection and customer service. It had all to do with the development of a variety of initiatives to attempt to take shots at an industry that was becoming increasingly successful.

Now as a sidebar here, Mr. President, if I sound like an apologist for the cable industry, in part I am and in part I am not. I think that they have abused some of the privilege they had on rates and abused some of the privilege they had on customer service. But I also believe this is an industry that has begun to reach its enormous promise.

The cable industry is the only industry, the only broadcaster, the only provider of video services that does anything, for example, about children's programming. The variety of programs on for children on cable television is not found on commercial television. It is not there in any way, shape or form.

This is an industry that ought to be very proud of its affirmative action agenda that is written into the law, the Cable Act of 1984. No other industry has as tough and aggressive a program for affirmative action. This is an industry that has lots of lease access and public access to the airwaves in the 1984 Cable Act.

This is an industry that has grown, has provided remarkable services like C-SPAN. If it were not for the advent and growth of the cable industry, would we all have been watching what went on in Tiananmen Square last year from China? Where was a lot of the news that came this year related to Central and Eastern Europe and the remarkable events that have been going on in the Persian Gulf? Much of that information came back to us through CNN. The American public watch the deliberations here; sometimes it is good, most of the time it probably is not. But they are watching the deliberations here through C-SPAN. Again services reaching the promise of the cable industry.

So, in part, I believe that this industry has abused some of its privilege and recognize that; in part, I believe that they are beginning to reach the promise of this industry.

Getting back to this legislation, Mr. President, what happened with this bill? The abuses that were the original target of the bill were rates and customer service. Added on top of that were these major attempts to take away part of the market share of cable television; organized efforts to go right back after this industry.

How did they go about doing it? The main way they went about doing it were two provisions. One related to so-called volume discounts and one related to exclusivity. What does this mean? When the cable industry was growing, the general comment was, "How is cable going to fill up all of these channels? Is cable going to be initiating some of its own programming?"

During the 1970's and early 1980's, there was enormous pressure on the cable industry to start doing original programming. There was enormous pressure on the industry to not just rerun programs that had already been done, not just to be carrying the signal from over-the-air broadcasters, but to start to develop a lot of their own programming. And cable started to do that.

Time, Inc. developed a whole program that they started to develop. Various cable services started to grow up developing their own programming, investing a great deal of money in this, and then having that programming that the program developer goes out and sells to the distribution network and goes out and sells to the people who are going to show that programming.

Let us imagine that we have, for purposes of the distinguished occupant of the Chair, Virginia Programming Associates, and they invest a great deal of money in developing a program that is going to go out over cable television. Virginia Programming Associates has invested tens of millions of dollars in the program.

They say what we will do now to recoup our investment in this program is to sell it to a variety of people who are going to carry that program on

cable systems. It is such a good program, what Virginia Programming Associates have done, that there is a lot of demand for that program out there. A lot of different systems would like to get this particular program. So Virginia Programming Associates makes an exclusive arrangement with the distributor out there—one system has that program. They will pay a little bit more for that exclusivity. Then that distribution system can go out and advertise to other people "Subscribe to them because they have this wonderful programming from Virginia Programming Associates." It is something that is done all the time.

Most network programming is done exactly the same way. Programmers do this all the time in the broadcast world. "Cheers," for example, or "The Cosby Show." Do you think when a programmer makes that he sells it to all the networks? Not at all. That programmer sells it to one of the networks and that network has an exclusive arrangement with the programmer and that program is sold only on ABC, on CBS, or on NBC. Cable programmers are no different. They are going to make an exclusive arrangement with a distribution system.

Mr. President, I ask unanimous consent to have a full statement related to exclusivity and how this is reinforced across the board in the Federal law printed in the RECORD.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

(See exhibit 1.)

Mr. WIRTH. What the legislation was doing, Mr. President, was saying you can no longer have an exclusive arrangement of this sort; saying to the cable producer you can no longer have an exclusive arrangement with somebody who is distributing your programming. That does not make any sense.

If we take another local example, the Washington Post has an exclusive arrangement with David Broder to carry David Broder. What this would say is David Broder not only gets paid by the Washington Post but anything he writes can be carried by the Washington Times or anybody else as well, and it has to be. It says if a Denver Post reporter has a copyrighted story and that reporter has an exclusive arrangement with the Denver Post, that story cannot be carried exclusively by the Denver Post any more but would have to be carried by everybody else. Who has ever heard of such a thing?

The idea that somebody who creates a program cannot develop an exclusive arrangement with the person who distributes that program runs in the face of all the Federal law, all the precedents, and is flat wrong. That was in the proposed legislation and that had nothing to do with the basic rate issue and nothing to do with the basic issue of customer service. It was simply an attempt to go after an increasingly successful industry.

A second objectionable part of the legislation, Mr. President, relates to so-called volume discounts. If you, going back to Virginia Programming Associates, create a program and say I am going to sell it for x amount per customer out there, but then Colorado Distribution comes to Virginia Associates and says "We have 1 million customers, will you give us a lower rate, a better deal, a lower cost per consumer if we give you a customer base of 1 million consumers," what are you going to say? Of course. We do that all the time as well.

If you are a textile manufacturer in South Carolina and you are producing a volume of textiles and a retail outlet comes to you and says, "If we deliver to you such and such a market, will you give us a lower price because of mass distribution," you are going to say, "Of course."

If you, for example, are in the tour business and you are running tours to Hawaii and there is a group that comes to you and says, "We will take 365 people, fill up one 747 and go to Hawaii, will you give us a lower price on that 747 and give us a lower price in that hotel and those hotel rooms on Waikiki Beach," you as the tour director are going to say, "Of course we will."

Volume discounts are also part of what goes on in this country in terms of the distribution network: wholesaling to retailing. If somebody takes the responsibility of retailing on a mass scale out there, you let them take that responsibility, let them do the work for you, and you in turn give them a lower price for the product.

Take Ford automobiles, automobiles manufactured in the States of Missouri. That manufacturer gives to the wholesale distributor who is going to distribute a whole lot of automobiles a lower rate than the individual purchaser gets when he actually goes to that retailer in the end. That wholesaler distributor is going to take the risk and do a lot of that work.

The second objectionable feature of the legislation that was up on Friday was how it treated volume discounts. It said something that is absolutely within the mainstream of the way in which Americans do business all the time is now going to be precluded.

I do not understand why, when we get ourselves into this situation, attempting to limit exclusivity, limiting the ability to market through volume discounting, that we end up then coming in and calling that a major consumer issue. Tell me how many people in this institution, how many people in the Senate have gotten letters from their constituents saying, "I am not being given a fair opportunity to get an exclusive arrangement on a program into my cable system"?

The last time that occurred was when we had the discussion here on the floor with Senator GORE's amendment a couple of years ago on how people in backyard satellite dish areas were treated. We fixed that entirely by making sure that the rural electric associations were able to market that programming and also get volume discounts which they could get and then market it out to their consumers, and the cable industry was happy to do that, to have the rural electrification associations take the risk on distribution. In return for that, they got programming at a lower level.

Those are the two central issues that relate to my problems with this legislation.

This legislation was not a piece designed to just take care of rates. It did, and that is all right. The House provision was stronger and better. It was not just to take care of customer service. It did. The House provision was good; in fact, better. We should have accepted those, but build on top of this in a way that is endemic to the way legislative business gets done.

Somebody saw an opportunity, saw a vehicle, and tried to build on top of these other issues, the express purpose of which was to go after an industry that is growing in this country, an industry that has been one of the most successful industries in this country, one of the few that is maintaining its head above water and growing in increasing market share and, I might add, Mr. President, an industry that is a very important industry in the State of Colorado.

So it is for those reasons, Mr. President, that I objected when the motion to proceed came up on Friday and unanimous consent was requested.

To repeat, I hope that we can work this out.

I ask unanimous consent to proceed for 2 additional minutes, if I might, Mr. President?

The PRESIDING OFFICER. Is there objection? Without objection, the Senator is recognized for 2 additional minutes.

Mr. WIRTH. Mr. President, I hope that we can come to an agreement on the real issues, and I think we are in agreement with the rate issue and the customer service issue. There are a number of other outstanding issues, and I think those can be, for the most part, worked out.

There is language on exclusivity in the House bill that talks about when there is abuse of power by a monopoly power group, what happens? It is perfectly acceptable language on exclusivity. In the rare case that it has happened, let us take care of it. The House bill does so. Let us get rid of

this volume discount language and move on.

There is no reason why we cannot arrive at decent legislation that satisfies and meets the legitimate consumer interest, but does not do deep damage to one single industry at the expense of a variety of others who are circling around trying to limit the cable industry's market share, the cable industry's ability to grow and meet its enormous promise.

In summary, Mr. President, on Friday, I objected to the motion to proceed to S. 1880, the Cable Television Consumer Protection Act of 1990. I would like to reiterate that, as I said on Friday, I am not opposed to passing cable regulatory legislation that addresses rates and customer service, the consumer protection issues that we all agree need our attention.

On the contrary, I want to see legislation enacted that addresses these issues. Nevertheless, I have a number of concerns about several specific elements of the Senate bill. These include provisions related to program exclusivity, the authority of the FCC to address vertical and horizontal integration within the cable industry and ownership restrictions on direct broadcast satellites [DBS].

I would like to repeat my request to the sponsors of the legislation. Let us sit down and work these issues out. I think we can reach a compromise. We owe it to cable viewers to reach a compromise. We can and should pass an effective consumer protection bill. I would like to see such a bill and renew my offer to resolve the issues I have raised and pass legislation we all can support.

Some have said that, since the administration is opposed to any reregulation of the industry at this time, we should not spend time trying to reach an agreement that will only be vetoed when we send it to the President. I hope this is not the case. I encourage my colleagues on the other side of the aisle who want a bill to weigh in with the administration in support of the legislation. I have done so and I hope that we can produce a package that the President will sign. We have spent a great deal of time on legislation such as campaign finance reform, child care, and others despite a threatened veto. We should not use a possible veto as an excuse to abandon the cable bill.

If possible, one option that we should consider is to take the House bill from the desk, pass an amended version of that legislation and go to conference. The House bill addresses many of the same issues as the Senate in a more moderate manner. Although I do have concerns about some elements of the House bill as well, I would be willing to take up that proposal if we can obtain an agreement on the legislation and on the amendments that would be in order.

To sum up, I want to see legislation. I think we have an opportunity to pass needed legislation in this area. We should not squander this opportunity. Again, I would be pleased to sit down and discuss my concerrns with the sponsors of the proposal and try to reach an agreement.

I appreciate the forbearance of the President and the distinguished Senator from Minnesota.

I yield the floor.

EXHIBIT 1

COMPETITION IN THE VIDEO MARKETPLACE

Competition in the distribution of video programming generally occurs between media within a discrete geographic market. There can be little disagreement that CNN and Headline News compete directly with the broadcast networks' news operations; that Arts and Entertainment and the Discovery Channel compete against programming typically found on PBS; or that ESPN competes against sports programming carried by broadcasters. Furthermore, the cable industry has found it highly effective to compete against broadcasters by serving market segments ignored by television stations. Black Entertainment Television, Nickelodeon, children's programming networks, and Spanish-language networks allow cable operators to compete against local broadcasters by serving interests in the community which the latter have largely ignored or abandoned.

EXCLUSIVITY AND FEDERAL LAW

Product differentiation is the key to successful competition in the distribution of video programming. Exclusivity over product is usually the best means to protect diversity, which is why programmers want to determine how and by whom their products are to be exhibited. Federal law has long recognized that by protecting exclusivity rights to intellectual property, one enhances competition and provides for increased diversity of information and entertainment. Indeed, federal policy recognizes that disruption of these exclusive rights works against, not toward, competition.

For example, federal law does not mandate that a local movie theater or even a national chain of theaters is entitled to show any particular movie. It does not mandate that all television stations are entitled to network affiliation agreements, nor does it forbid a network-owned broadcast station from being programmed with the same network's "feed." It is recognized, for example, that NBC may license its wholly-owned and operated broadcast station in Washington, D.C. (WRC-TV) as the only distributor of NBC programming in the Washington area, to the exclusion of other aspiring NBC affiliates. Moreover, federal law does not permit a cable system to use its compulsory license to import network programming over the objection of a local affiliate of that network.

The federal government recently took steps to strengthen broadcasters' exclusive rights to programming. With the reinstatement of syndicated exclusivity for broadcasters earlier this year, federal law forbids cable from using its compulsory license to import programming from distant stations if a local station has the exclusive rights to a market for such programming. At the same time, the FCC broadened the network non-duplication rules by expanding the situations where local broadcast network affiliates can prevent carriage of distant broadcast network affiliates.

In the last Congress, the need to protect program exclusivity was recognized in the Satellite Home Viewer Act of 1988. That law extends a compulsory license to satellite carriers to make broadcast signals available to home satellite dish owners. Congress restricted that license, however, so that home dish owners may not receive network programming via satellite if they have access to a terrestrial broadcast affiliate of that network.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. BOSCHWITZ].

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business for a period not to exceed 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDGE SOUTER

Mr. BOSCHWITZ. Mr. President, I rise to state that I will vote for Judge David Souter as the Associate Justice of the Supreme Court. The Senate Judiciary Committee almost unanimously approved Judge Souter's nomination, and I commend them for that.

Judge Souter's intellectual qualities are unquestionable. He is a magna cum laude graduate from Harvard College, a Rhodes scholar, and a graduate of Harvard Law School. His professional qualifications are equally impressive. He succeeded our colleague, Senator RUDMAN, as New Hampshire attorney general. That certainly is an intellectual challenge, to succeed Senator RUDMAN.

While his tenure on the First Circuit Court of Appeals has not been a long one, he did serve for 7 years on the New Hampshire Supreme Court.

So I look forward to voting for him. I believe his confirmation should go through this body speedily, and I am pleased to announce my support for Judge Souter at this time.

GLOBAL TRADE NEGOTIATIONS

Mr. BOSCHWITZ. Mr. President, I would like to point out that the global trade negotiations are running into tough days. I see an article in the Wall Street Journal from the 25th of September saying that Carla Hills, our Trade Representative, suggests that they may, indeed, collapse. That would certainly be an unfortunate occurrence.

I agree with Ms. Hills that we should, indeed, move forward and that the Europeans need to, in some way, moderate what they are doing on the world market.

In another article on the 26th of September, it is noted in the Wall Street Journal that the EC, the European Community, the subsidies and penalties that they impose upon their

own people amount to $120 billion a year; that the subsidies to the farmers, and I believe the direct subsidies are at least half that to the farmers, far exceed what we do in this country; and that the penalties they impose upon their consumers are, again, as much as the subsidies they give to their farmers, for a total of $120 billion.

They just do not want to back away from all that. They penalize their own communites; they penalize their own countries. They slow down their economic growth, and they impose a great hardship on the rest of the world.

I hope those talks do go forward. I urge Ms. Hills on, and I suggest that she be tough.

There was a very interesting article, also, on the 25th of September in the Wall Street Journal that was headlined as follows: "Attempts to Assist Farmers in Poland Work Only to Impoverish Them More."

What the article says is that by shipping in food into Poland, we so depress the market for food in Poland that we are, indeed, bankrupting their farmers; that of all of their economic society, they did have some free enterprise in agriculture, but because we drove down the marketplace by sending into Poland subsidized or free commodities, we have caused great hardships to come to their farmers and to their farm communities.

The result is, because they have no infrastructure, that there is much spoilage. They have no place to store their own goods. And since they must store them, because the consumers have this food that has come from foreign countries, they are experiencing considerable spoilage.

I suggest, Mr. President, that the same thing is happening in some of the poorest countries of the world; that the Europeans and, indeed, our own country, as we seek to gain market share around the world, the Europeans being far greater offenders than we, that they dump their commodities into those Third and Fourth World countries. The farmers in those countries are just getting by, barely getting by, and must compete now with subsidized commodities that come in from Europe and, indeed, yes, come in from the United States as well.

So we are imposing great hardship on the farmers in those countries, and in those countries often two out of three people live on the farm. There is no way that Third and Fourth World countries are going to develop unless they do it first through agriculture.

So these subsidies that prevent the free exchange of world trade not only prevent there being fair trade in the world, but exact extreme penalties on Third and Fourth World countries, and on developing parts of the world.

Mr. President, I hope that the negotiators will negotiate away those subsidies, because I believe those subsidies are harmful in every respect.

THE BUDGET SUMMIT AGREEMENT

Mr. BOSCHWITZ. Mr. President, I want to talk about the budget summit agreement.

My friend, Senator GORTON, said—and perhaps he has already said it here on the floor—that Benjamin Franklin, at the conclusion of the Constitutional Convention in 1787, said to some of the delegates who were announcing that they would vote against this document, the Constitution—that it was an imperfect document—that if they sent it back to be renegotiated, it would come out even worse.

And he advised his fellow delegates to the Constitutional Convention, of which he was a senior delegate—at that time, he was 81—to vote for the document that proved to be such a historic document in every way in the history of the world.

So it is with this budget summit. I think if we send those negotiators back to renegotiate, not only would they be most unhappy, having spent day after day and night after night doing this, but they probably would, after this conclusion, come up with a worse result.

I am impressed with this budget agreement on the basis that the reductions are real. Certainly, the increased taxes are real. They always have been. They always seem to work out that way. They will be used to reduce the budget.

But the spending reductions that I see in this package are also real. I have not examined all the smaller ones, but certainly the larger ones are real reductions that will occur.

As I understand it, the enforcement provisions in the budget summit agreement are pretty good, as well, so that I am inclined, Mr. President, to vote for that agreement. I do not announce out and out that I will, but I expect to vote for that agreement.

There are many things in the agreement that I do not like. I think it is going to be hard on the farmers of Minnesota. We are reducing that element to the budget probably more than some other elements to the budget. So that has to be evaluated more carefully.

I also do not like the fact that some of the reductions are, in fact, taxes. The so-called reductions in outlays that occur in Medicare are often just really increases in taxes that are imposed upon Medicare recipients.

But, by and large, it is not a bad package. As I look at the outlay growth of the entire budget, the outlay growth is remarkably slow. In 1991, we expect to spend $1 trillion 360 billion; $1,360 billion.

It goes from there so that 4 years later, in fiscal year 1995, we are only spending $1 trillion 385 billion, a 2-percent outlay growth over a 4-year period.

It is hard to imagine that we can keep that pace. But, nevertheless, we certainly should try.

So, Mr. President, while I am not entirely satisfied and have not concluded all of my examination of the package, it is a package that seems to have real cuts. Therefore, I expect to vote for it, and I will review it yet further.

I yield the floor.

TRIBUTE TO SEYMOUR H. KNOX, JR.

Mr. MOYNIHAN. Mr. President, I rise to report to the Senate the death of an individual of monumental character and accomplishment, Seymour H. Knox, Jr., of Buffalo, NY, a renowned banker, philanthropist, and patron of the arts.

Seymour Knox's long and storied life sparkled with adventure and achievement. In addition to his leadership of the F.W. Woolworth chain of department stores, originally cofounded by his father, Seymour Knox, Sr., he was a hugely successful banker who helped build the extensive Marine Midland empire.

His leadership in business and banking was matched by his passion for sport. Seymour Knox was a championship polo and squash player, ranked among the best players in the world in his youth.

His philanthropy and his vast interest in education were of immense benefit to the University of Buffalo, where he served as a council chairman from 1949 to 1969, and to President Eisenhower, who appointed him to a Presidential Commission on Higher Education in the 1950's.

Seymour Knox may best be remembered, however, for his magnificent contributions to the world of art. He was the catalyst behind the great success of the Albright-Knox Gallery in Buffalo, now recognized as one of the foremost contemporary art galleries in the world. While others strove to build extensive private art collections, Seymour Knox set out to construct a great public gallery of the highest rank. He believed art should be seen by all, not hidden away in a warehouse. Such was Seymour Knox's passion for sharing his love of art.

Mr. President, I ask unanimous consent that the text of two obituaries of Seymour H. Knox, Jr., one from the Buffalo News and one from the New York Times, be printed in the RECORD. There being no objection, the obituaries were ordered to be printed in the RECORD, as follows:

[From the Buffalo News, Sept. 27, 1990]

SEYMOUR H. KNOX JR., BANKER, PATRON OF THE ARTS, PHILANTHROPIST, DIES AT 92

(By Tom Buckman)

Seymour H. Knox Jr., a pillar of Buffalo banking for nearly 70 years, a philanthropist and honored American art patron, died early today in his Buffalo home. He was 92.

Knox used his wealth and keen eye for abstract painting and sculpture to mold the Albright-Knox Art Gallery into one of the world's foremost contempory art museums.

Under his leadership, the gallery, which marked its 125th anniversary in 1987, gained international recognition for the quality and daring of its holdings. The modern collection is widely regarded as one of the Nation's best.

Among the many honors conferred on him in recent years was the National Medal of the Arts, awarded by President Ronald Reagan in 1984.

A former Marine Midland Bank-Western board chairman, Knox combined business and cultural interests with a love of sport that helped him become a champion on polo and squash player as a young man and later influenced his sons. Seymour H. III and Northrup R., who brought the National Hockey League's Buffalo Sabres into existence.

Knox was born Sept. 1, 1898, into one of Buffalo's most enterprising families. Fifteen years earlier, his father, Seymour H. Sr., and his father's first cousin, Frank W. Woolworth, had opened a "five and 10 cent" store in Reading, Pa., that was the genesis of the F.W. Woolworth chain.

The Main Street store in downtown Buffalo, which opened in 1888 as part of the S.H. Knox chain, was among the first in what became a worldwide retailing empire of thousands of outlets operating under the Woolworth, Woolco, Kinney Shoe and Richman Brothers names.

Seymour Knox Sr. was the first chairman of Marine National Bank, which resulted from the merger of two Buffalo banks in 1913 and eventually grew into today's far-flung Marine Midland empire.

Seymour Jr. was 16 when his father died in 1915 at age 54, but he followed in his footsteps after graduating from Yale University in 1920.

He was elected to the Woolworth board in 1926 and served until reaching mandatory retirement 45 years later, in 1971.

But banking was his true early calling. He became a director of Marine in 1921, vice president in 1926 and chairman from 1943 to 1970. It was that year that construction was under way on Marine's 38-story Main Street tower, which dominates the Buffalo skyline and in which Knox maintained an office until his death.

Knox's energetic business leadership was matched by a passion for polo, cultivated on the rambling East Aurora estate where his father, beginning in the 1890's, had bred champion trotters and pacers as a hobby.

A diminutive man known to close friends as "Shorty," Knox led his Aurora team to the U.S. championship in 1932 and later won a tournament in Europe and barnstormed in South America. His ranking as a seven-goal-handicap polo player was one of his proudest achievements, along with his eight-goal status later achieved by his son Northrup.

Knox was also a top squash player and invited many of the nation's best to compete on the East Aurora estate, where he also raised prize Aberdeen Angus cattle in much the same way that his father had bred swift harness horses.

His love of polo, which he reluctantly gave up in the 1960s, was transcended in later life by a consuming interest in art.

"Buying for the gallery, going to the gallery, were his great passions," recalled Seymour III.

Seymour Knox Jr. credited A. Conger Goodyear, a Buffalonian and family friend who went on to become the first president of New York's Museum of Modern Art, with stimulating his art interest in the late 1920s. While other prominent Americans worked to build great private collections, Knox quietly went about building a public gallery that would join the first rank of the world's art museums.

"Art," he once said, "should be acquired to be seen and enjoyed, not to be stored in a warehouse. There is no point in buying more for myself. Where would I put it?"

The Knoxes' interest in the gallery, the nation's sixth-oldest public art museum, dates to 1915. Through the Seymour H. Knox Foundation, the family over the years has given millions for the construction of additions to the museum and the purchase of art to fill it. The family underwrote the establishment of a Room of Contemporary Art in 1930, the gallery library three years later and the modern north wing, opened in 1962.

Seymour Jr. personally gave the gallery hundreds of paintings, sculptures, drawings and prints whose market value is in the millions. The bulk of these gifts were in the contemporary vein—abstract expressionism, constructionism, assemblage and pop art, areas in which Knox developed a keen interest after age 50. Some were works of younger artists forging in new directions, while others were by such "old masters" of modern art as Picasso, Gauguin, and Giacometti.

"His outlook," former Buffalo News art critic Jean Reeves once said, "was always youthful and adventurous, and he was unfailingly receptive to new ideas and techniques."

Knox, who joined the board of the museum's governing organization, the Buffalo Fine Arts Academy, in 1926, became president in 1938 and was re-elected every year until 1977, when he became chairman.

Soft-spoken and unassuming, Knox assumed responsibility for gallery purchases after 1946, when the funds donated by the family 16 years earlier for the Room of Contemporary Art were exhausted.

Up to that point "I'd put money in from time to time and call the committee together," he recalled later. "It was hard to get agreement on what we would buy."

"Finally, I decided that if I was giving the money I should have more to say about what we bought—with the help of the gallery director, of course."

In Gordon M. Smith, who became director in 1955, Knox found a person of similar tastes and adventuresome spirit, and they set out on an intense search for large, important works in the contemporary field. They were pioneers, choosing the works of painters such as DeKooning, Gorky, Pollock, Motherwell, Guston and others before they gained public acceptance.

As modern art became more respectable—and a good investment risk—the stakes rose. Knox and Smith often found themselves bidding against businessmen and business institutions instead of museum people for the best pieces.

Charmed by the adventurous pair, the irascible abstractionist Clyfford Still sold them two of his paintings, the only ones he had ever sold to a museum, and then in 1964 presented 31 of his works to the gallery. The gift was one of the most extensive collections ever presented by a living artist to a public museum in the United States.

In 1965, the Knox Foundation subsidized the controversial Buffalo Festival of the Arts Today, a review of avant-garde trends in the arts that focused nationwide attention on Buffalo and turned the city's reputation as a stronghold of artistic conservatism on its head.

Knox once said he aimed to find "the best example" of each artist's work. But he freely admitted: "Who knows which is best? We're bound to make some mistakes."

A hands-on executive, Knox kept the gallery staff moving, insisting that pictures be rehung often to keep the museum alive, and frequently taking a hand in the work.

The respect he commanded became apparent in 1961, when the board changed the institution's name from the Albright Art Gallery to the Albright-Knox.

Gov. Nelson Rockefeller named him chairman of the New York State Council on the Arts at its inception in 1960, and under Knox's 15-year stewardship the organization brought professional art, music and dance programs to all parts of the state, fostering grass roots cultural activity.

His philanthropy extended to the Lincoln Center for the Performing Arts and the Whitney Museum of American Art in New York, and he flew to museum and exhibition openings around the country. He also traveled widely in Europe, looking at old and new art—always with an eye to works that might enhance the Albright-Knox collections.

Education was another of Knox's longtime interests. He joined the Council of the University of Buffalo, which later joined the state university system, in 1920 and was its chairman from 1949 until 1969. Over the years the Knox family had been one of UB's principal benefactors.

In awarding him an honorary doctor of arts degree in 1962, the university praised his "unfailing devotion to the cause of education and the arts" and "immeasurable contributions to cultural life and educational opportunity" in Buffalo.

He was a past president of the board of the Aiken Preparatory School in Aiken, S.C., where he maintained a winter home for many years, and in the 1950s was appointed by President Eisenhower to a presidential committee on higher education.

Knox at various times was a director of the New York Central Railroad, American Steamship Co., Hewitt-Robins Inc. and Niagara Share Corp., trustee of the Buffalo Museum of Science and Yale University Art Gallery and member of the Yale University Council.

He received Canisius College's Distinguished Citizen's Achievement Award, the Buffalo Club's gold medal for civil leadership and the Buffalo and Erie County Historical Society's Red Jacket Award for civic service, all in 1962, and the Frontier Press Club's Distinguished Citizen Award for 1964.

The Buffalo News named him a Citizen of the Year in 1952 and in 1987, calling Knox "one of those rare individuals whose achievements warrant recognition more than once."

Knox's wife of 48 years, the former Helen Northrup, died in 1971.

Besides his two sons, Knox is survived by six grandchildren and seven great-grandchildren.

Funeral plans are incomplete.

[From the New York Times, Sept. 28, 1990]

SEYMOUR H. KNOX IS DEAD AT 92; BUFFALO BANKER WAS ART PATRON

(By Grace Glueck)

Seymour H. Knox, a banker, internationally known art patron and first chairman of the New York State Council on the Arts, died yesterday at his home in Buffalo. He was 92 years old.

Over the years, Mr. Knox, who was known as "the dean of American art patrons," gave more than 700 works of art—most of them in the contemporary field—to the Albright-Knox Art Gallery in Buffalo. In 1961, the gallery's name was changed from the Albright Art Gallery to the Albright-Knox in recognition of the Knox family's contribution toward building a new addition. At his death, Mr. Knox was honorary chairman of the board of the Buffalo Fine Arts Academy, which operates the gallery.

Mr. Knox was a director of several prominent corporations, among them the Marine Midland Bank, F. W. Woolworth Company, the New York Central Railroad, the Penn Central Railroad and the American Steamship Company. He was chairman of the Marine Midland Trust Company of Western New York from 1943 to 1970 and was chairman emeritus at his death. In his younger days, he was also a well-known polo and squash racquets player.

FAMILY ACTIVE IN ART

Mr. Knox—nicknamed Shorty because of his height—was born in Buffalo on Sept. 1, 1898, to one of the city's leading families. In 1888 his father had opened the first of a chain of variety stores, S. H. Knox & Company. The chain grew rapidly, and in 1912 the elder Knox merged it with an enterprise run by a cousin, F. W. Woolworth. The new venture became the F. W. Woolworth chain of 5-and-10-cent stores.

The younger Knox attended Hotchkiss Preparatory School and graduated from Yale in 1920. His interest in the visual arts followed that of his parents, who were active in the Buffalo Fine Arts Academy, and he joined the board in 1925. In 1939 he and his family donated money to establish a room of contemporary art at the gallery in memory of his mother, Grace Millard Knox, enabling the gallery to buy important works by Picasso, Matisse, Miró, Mondrian, Beckmann and Braque.

In the 1950's, with the advice of Gordon M. Smith, then director of the Albright Gallery, he began buying for the gallery the works, then still modestly priced, of the Abstract Expressionist painters, including Willem de Kooning, Arshile Gorky, Mark Rothko, Hans Hofmann and Robert Motherwell. The Albright was the first museum in the world to buy works by Clyfford Still and mounted two important Still shows. In 1964 Mr. Still met Mr. Knox at an airport cafeteria in Washington to announce the artist's gift to the gallery of 31 Still paintings.

Artists represented by major Knox gifts to the gallery also include Jasper Johns, Frank Stella, Alexander Calder, Roy Lichtenstein, Andy Warhol, Robert Rauschenberg, Louise Nevelson, Anthony Caro, Henry Moore, Sonia Delaunay and Helen Frankenthaler.

In the 1960's, Mr. Knox helped organize two festivals in Buffalo that brought critics and audiences from around the world to see new developments in the visual and performing arts. As chairman of the New York State Council on the Arts from 1960 to 1975, he commissioned an important report in 1975 that was intended to make the council more effective as it grew and served more constituencies. In 1986, at a White House ceremony, Mr. Knox was awarded a National Medal of Art by President Ronald Reagan for his contributions to the arts in Buffalo and the nation.

Mr. Knox's wife, Helen Northrup Knox, died in 1971. He is survived by two sons, Seymour H. Knox 3d of Buffalo and Northrup Rand Knox of East Aurora, N.Y.; six grandchildren, and seven great-grandchildren.

ANNOUNCING COL. FRANK NORTON, U.S. ARMY, AS THE CHIEF OF THE SENATE ARMY LIAISON OFFICE

Mr. THURMOND. Mr. President, I rise today to call to the attention of my colleagues that effective today, Col. Frank Norton, is appointed as the chief of the Army Liaison Office here in the Senate.

Few on the staff of this great institution are more widely known and genuinely liked than is Col. Frank Norton. His broad experience in Army matters gives him great credibility, and his views on matters of national security are sought by Members and staff.

Despite assuming the mantel of leadership, I am sure Colonel Norton will continue to contribute to the actions we take in the Senate as he has in the past.

Mr. President, I know that I speak for my colleagues when I say that we are delighted that the Army has chosen Colonel Norton for this important position.

OPERATION SMILE

Mr. WARNER. Mr. President, I would like to bring the Senate up to date on the work of Operation Smile International. In May of this year President Bush, as part of his "thousand points of light," recognized the tremendous work of this Norfolk, VA-based nonprofit organization by awarding to Dr. William Magee and his wife Kathy, founders of Operation Smile International, a voluntary action award for their work overseas.

Operation Smile has affected the live of thousands of children in the Philippines, Vietnam, Ghana, Kenya, Liberia, and Colombia. Thanks to the efforts of more than 1,000 volunteer physicians, nurses and other health-related professionals, more than 4,100 needy young people have received reconstructive surgery in the past 9 years that has changed their lives.

Founded in 1982, Operation Smile has grown to encompass 12 chapters nationally, with support groups in Europe and elsewhere. Around the world, 12,000 health care, education, business, and civic professionals donate their time and talents to promote peace and progress through this program. Volunteers from 70 cities and 6 countries come together to work toward a common goal of restoring dignity, to the disfigured.

Operation Smile was invited into Vietnam in 1989 in one of the first humanitarian American efforts there since the war. Operation Smile worked closely with Gen. John Vessey, Special Presidential Emissary for POW/MIA Affairs, to launch the organization's missions to Vietnam. The team returned for a second visit this past February, not just to Hanoi but also to Ho Chi Minh City, formerly Saigon.

During their 2-week medical missions, Operation Smile volunteers work hand-in-hand with their host country counterparts to provide specialized medical and surgical care to needy children and their families. Operation Smile teams treat children with cleft lips and palates, club feet, burn scars, facial tumors, and urological problems.

A simple 45-minute procedure to repair cleft lip brings about immeasurable results. As a child's life is transformed from one of isolation to one of health and productivity, the entire community is touched.

Operation Smile is truly an international agency reaching out to the world through its volunteers from the United States who serve as ambassadors to the world as well as healers.

OPERATION SMILE

Mr. ROBB. Mr. President, it is my pleasure to join my friend and colleague, JOHN WARNER, in paying tribute to Virginia's outstanding medical volunteer organization, Operation Smile. In doing so, we join President Bush who has already recognized the remarkable efforts of this Norfolk-based organization.

The doctors, anesthesiologists, nurses, and support teams of Operation Smile come from across America. They represent the finest of voluntarism, and in their humanitarian efforts that span the globe, act as ambassadors of good will. They are an inspiration to our people at home, and a ray of hope for those in need abroad.

Bill and Kathy Magee should be given special recognition for their vision, their caring and determination to reach out to deformed and disfigured children of the world and to create a new life for them. Thousands of individuals are challenged in life through overcoming handicaps. Operation Smile helps children with deformities—spanning the globe from Kenya to Colombia, Vietnam, to Ghana—meet and overcome these challenges.

Operation Smile has played a key role as part of the U.S. Government's

commitment to facilitate ongoing efforts of American nongovernmental organizations to address Vietnam's humanitarian concerns in the areas of prosthetics and child health. Working with General Vessey, the Presidential Emmissary for POW/MIA affairs, the team has twice been to Vietnam, most recently last February. This is but one instance of their exemplary, humanitarian activities.

Operation Smile is an organization that expresses to the world that Virginians and Americans care. As Bill and Kathy Magee have said so often, we give asking for nothing in return, but to see the smile of a child.

I commend Bill and Kathy Magee and the 12,000 volunteers of Operation Smile. It has been my pleasure to work with them in the past year, and I look forward to continuing to work with them.

DOGS FOR THE DEAF

Mr. HATFIELD. Mr. President, we spend a great deal of time on this floor discussing the enormous problems which face this country—so much time that we sometimes do not pause to recognize the outstanding achievements and contributions of individual citizens across this country. Today I rise to do just that.

In the small southern Oregon town of Central Point, the staff and volunteers of an organization called Dogs for the Deaf are training hearing ear dogs. These dogs, rescued from Humane Society shelters throughout Oregon, northern California and southwest Washington, are trained and then given free of charge to deaf and severely hearing-impaired people. They have dramatically changed the lives of over 500 people from 40 different States.

What can these dogs do? They let their master know when a fire alarm has sounded or the timer on the oven has gone off. They lead their master to the door when someone is knocking and awaken them in the morning when the alarm clock rings. They alert their master to the baby who has tipped over in a walker and is crying. In short, these highly trained dogs allow deaf and hearing impaired people to engage life in as independent a fashion as the hearing world.

Dogs for the Deaf has the creation of Ray Kabat, a retired Hollywood animal trainer who moved to Oregon more than a decade ago and established the nonprofit agency in 1977. After his death in 1986, his daughter, Robin Kabat Dickson, became the organization's director. Operating without the benefit of any public fundings, Dogs for the Deaf relies on the good will and generosity of countless individuals and organizations throughout the Nation.

Good Sam recreational vehicle clubs around the United States have been primary contributors. Service clubs such as Rotary and Kiwanis have given generous contributions as have such corporations as Purina Mills. Since the cost of training each dog is nearly $4,000, these contributions are vitally important.

With permission of this body, I would like to submit for the RECORD a story of one dog from Dogs for the Deaf, recently highlighted in the May issue of Reader's Digest. It is a story that dramatically demonstrates the profound impact one of these animals can have on a deaf person. Mr. President, this innovative and extraordinarily beneficial program deserves our highest praise. The efforts of its dedicated staff and volunteers—and of course its dogs—already have touched and indeed changed hundreds of lives; and with the continued assistance of all of us, thousands more can be helped.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Reader's Digest, May 1990]

A MUTT NAMED MEKO

(By Jack Fincher)

Her birth in 1953 was difficult. Too little emergency oxygen had been pumped into her small body, damaging immature nerves and leaving Ellen Richau partially deaf. Worse, her doctors in Billings, Mont., said the deafness would increase as Ellen grew older.

Watching their golden-haired daughter play with her two brothers, Jan and Lavio Richau came to a decision: they would not send her to a school for the deaf. "Your father and I feel you should grow up in the hearing world," her mother told her. "You're smart, Ellen. You can make it."

Ellen tried. And, gradually, she became so skilled at lip reading that her father, a cabinetmaker, often forgot her handicap. But once she started school, everything changed.

Classmates thought Ellen was retarded, and they ignored or taunted her. And once, when she missed a command to clear her desk, the teacher slapped Ellen's hands with a ruler. Humiliated, she broke down in tears. The shy little girl drew deeper into herself.

While in grammar school, Ellen was fitted with a clunky hearing aid. The primitive electronics amplified not only speech but the drone of passing cars and the whistle of the prairie wind. One day in class, the device began shrieking. Ellen couldn't hear it, but the other students covered their ears, laughing and pointing.

From then on, the moment she left home in the morning, Ellen stuffed the hearing aid in her book bag and retreated into silence. If something challenged or confronted her, she turned her back on it. When one of her watercolors won a prize, bringing her into contact with others, she quit painting.

In her teens, Ellen met John Raines, a young ranch hand. Before long, she dropped out of school, married John and went to work on their small farm. Then an auto accident accelerated her hearing loss. Soon after, the couple was divorced.

Ellen was determined to build a home for her two babies and, for a time, came out of her shell. She passed the high-school equivalency exam, earned an accounting degree and went to work as a bookkeeper. She even took up ballroom dancing, feeling the beat through the floor and mouthing the lyrics to keep time.

Tests at this point showed her hearing was 95-percent gone. Complications for a series of kidney operations, together with her pain medication, caused her to give up her job. After a rapid weight gain, she also gave up dancing and, once more, withdrew into her private world.

Then one day in 1985 Ellen saw a magazine ad in her audiologist's office about dogs trained to help the deaf the way guide dogs help the blind. Why not? Ellen wondered. I love animals. What do I have to lose?

She got in touch with Dogs for the Deaf, Inc, a national nonproft organization in Oregon that trains such dogs. There was a long waiting list, but after 15 months Ellen was assigned a dog. Soon an unlikely twosome appeared on her front step in Billings.

"Ellen?" a slim woman in her late 20s inquired. "I'm Carole Neff, your trainer. And this is Meko."

Ellen's heart sank. Sitting in the doorway was a small black, brown and white mongrel, wispy-haired and droopy-eared.

"Meko might not look like much, "Carole said, noting Ellen's dismay, "but she's bright, and six months of training have gone into her. This afternonn you'll get acquainted. Tomorrow we'll start teaching her the locations of important sounds in your house."

That night, Ellen lay in bed thinking, What have I gotten myself into? She looked at Meko, who was gazing at her from the other side of the bed. My life is a dead end. Turning it around is probably too tall an order for a scruffy little mutt.

The next morning when Ellen awoke, Meko was snuggled beside her, head to head on the same pillow. "Meko!" Hearing a voice at the front door, followed by the door bell, Meko leaped against Ellen's knees and ran to the doorway looking back for Ellen to follow. Carole was at the front door.

"Now praise her, give her love, Carole said, stepping inside.

"Good dog!" Ellen murmured halfheartedly, petting Meko's moist muzzle. Tail wagging, Meko took Ellen's gift of a tiny teddy bear and strutted off. Their training had begun.

Gradually Meko would come to learn Ellen's life: the telephone alarm clock, microwave timer, tea kettle whistle, oven buzzer, smoke alarm. Each sound alerted the dog to get Ellen.

"What do you think of her?" Carole asked Ellen the second day.

"She's so . . . short-haired," Ellen replied, still resisting the little dog.

Carole paused a moment, smaling. "Give yourself a chance, Ellen," she said gently.

On the third day, Carole announced, "You and Meko have to learn how to work together in public. We're going out to lunch."

Ellen felt a rush of fear. "We can't, she insisted. "Dogs aren't allowed in restaurants."

"Not true," Carole assured her. "Certified hearing dogs are admitted. Just show this card. It lists your dog's rights."

Ellen tensed up. She hated confronation. It only called attention to her deafness.

When the three walked into the restaurant, Ellen had to fight back tears. Swallowing hard, she held out the card to the hos-

tess, who showed the two women to a table. Meko promptly went to sleep at Ellen's feet.

"There," Carole said "The worst is over."

"No, it isn't," Ellen blurted. "Look. Everyone's talking about us." Only later did she begin to relax.

That evening, after Carole returned to her motel, Ellen took Meko for a walk. She felt confused, uncertain. Did she really want Meko? No, she wanted a dog that didn't need to have daily exercise and that didn't make a fool of her in public. Then she remembered Carole's advice: "Give yourself a chance, Ellen." Yourself, Not Meko.

Ellen looked around. She hadn't walked this far in years. The fresh air felt good, and she was in less pain. This little mutt, she decided, had already accomplished something. Or rather, Ellen realized, she had done it, with Meko's help.

Hearing-ear dogs, Ellen discovered, were new to Montana. One day while she was walking in the park, an official ran up to her.

"Don't you see the signs?" he sputtered. "No dogs permitted!"

Trembling, Ellen stood her ground. "This is a hearing-ear dog, and state law allows us to be together in public parks." She showed the man her card and the cleanup bag she carried.

"Look," the official said grudgingly, "you can walk around the park, but not inside."

Ellen was even more determined now. "Meko and I are going to enjoy the birds and flowers," she said, surprised by her even tone. "Here's our address. If your superior wants to talk about this, we'll be glad to go in and see him."

The man stalked away in a huff, and Ellen and Meko continued on their way.

A few months later, Meko suddenly vanished. Ellen searched the house, then walked to the park and back, hoping Meko might have slipped away to take their daily walk alone. Finally, she went out to her car to drive to the city pound. That's when she realized she hadn't looked in the garage.

As she swung open the door, a small blur of fur shot out and slammed against her knees, bowling her over in the gravel. Ellen saw where paint had been gouged from the door, as the dog fought vainly to answer her calls. She pulled the warm bundle close, "I love you, Meko," she whispered softly. "What would we do without each other?"

Over the three years they've been together, Meko has learned her job well. One winter night, Ellen was doing laundry when Meko raced up to her frantically. Ellen hurried after the dog—into a billowing pall of smoke. A portable heater had set a bed on fire, and the smoke alarm hadn't gone off yet.

Today Ellen Raines is totally deaf. But with Meko at her side, she works as a volunteer computer operator, and after losing 50 pounds exercising with Meko, she has resumed social dancing. "My friends say I actually dance better than I ever did," she says. "I doin't try to lead anymore. I follow my partner." She strokes the small, sleeping figure at her feet, "Meko taught me that. And a lot of other things, as well."

NOMINATION OF JUDGE DAVID H. SOUTER TO BE ASSOCIATE JUSTICE OF U.S. SUPREME COURT

Mr. DODD. Mr. President, I rise to speak on the confirmation of Judge David H. Souter to be an Associate Justice of the U.S. Supreme Court.

The appointment of any nominee to the U.S. Supreme Court celebrates the particular genuis of our Constitution. Two branches of Government, the executive and the legislative, share in the power to determine the membership of the third branch, the judiciary, which then explicates the authority of the other two, the relationship between the National Government and the States, and the rights and liberties of all Americans.

To fulfill the appointment function, both the President and the Senate must respect each other's constitutional role in the process while remaining true to their own. In selecting a nominee, the President should consider the prevaling views of the Senate and the American people while upholding the sole authority to choose a nominee for the Supreme Court. The Senate should refrain from dictating a particular choice to the President while asserting its right to weigh the nominee's intellect, integrity, and character, as well as constitutional and judicial philosophy in its exercise of advice and consent.

Like all of my colleagues, I approach the question of the confirmation of Judge David Souter with enormous seriousness and solemnity. The constitutional responsibility to "advise and consent" on the President's nominee to the Supreme Court is one of the most important responsibilities charged to a U.S. Senator. A Supreme Court Justice has an unparalleled opportunity to influence the most critical issues facing this and future and generations of Americans. Moreover, I believe that the Court now may be at a pivotal point—a time when the future direction of our law is at stake and when the Court is most shaped by the outlook and philosophy of the nine individuals who serve as Justices.

While the framers unquestionably intended that the Senate take an active role in the confirmation process, the Constitution nowhere dilineates those factors by which each Senator should judge the fitness of a judicial nominee. Thus, each Senator must determine for himself or herself the acceptable criteria in judging a Supreme Court nominee.

In my view, each Senator must begin and end his examination of the nominee in the best interest of the United States?

Answering this question in the affirmative first requires that each Senator satisfy himself or herself that the nominee possesses the excellent technical and legal skills which we must demand of all Federal judges. Our next task is to ensure that the nominee is of the highest character and free from any conflicts of interest. Finally, we must vigorously examine the nominee to see whether he or she is capable of and committed to upholding the Constitution of the United States, and protecting the individual rights and liberties guaranteed therein.

We must ask whether the nominee has the commitment and judicial temperament to give life and real world meaning to our Constitution's guarantees. We may disagree about the meaning of the various provisions in the Constitution, but the nominee's views must be within an appropriate and acceptable range, and his or her approach must reflect a deep commitment to our Nation's constitutional ideals.

In that regard, it is up to each Senator to decide for himself or herself at what point a nominee's views become so contrary to what the Senator believes is in the best interest of the Nation to warrant opposition to the nominee.

Clearly, Judge Souter possesses the requisite technical and legal skills for a position on the Supreme Court. He is an individual of outstanding intellectual ability, integrity, and character. He has an excellent academic background—magna cum laude and Phi Beta Kappa at Harvard College, Harvard Law School, and a Rhodes scholar at Oxford University. He has impressive professional experience—extensive practice as a lawyer, attorney general of the State of New Hampshire, trial judge, and associate justice of the supreme court of the State of New Hampshire. The American Bar Association unanimously endorsed Judge Souter, giving him its highest rating.

Mr. President, I believe that Judge Souter's considerable intellectual strengths and professional experience are coupled with a commitment to fundamental constitutional values and principles. Judge Souter's testimony offered this Senator sufficient assurance of his place within the mainstream of Supreme Court jurisprudence—by endorsing an active role for the Court in protecting individual rights, by showing himself to be at ease with modern developments in the law and in the country, and by asserting that he would bring no "personal agenda" to the Court.

The picture of Judge Souter that emerged from the hearings is that of a jurist who is openminded, intellectually flexible, and fair, a judge who understands, as he stated that, "whatever court we are in * * * at the end of our task some human being is going to be affected. Some human life is going to be changed * * * and we had better use every power of our minds and our hearts and our beings to get those rulings right."

Judge Souter also appears to be a man of thoughtfulness, humility and compassion. During the hearings, he

spoke of being a listener, of being committed to preserving the Constitution for present and future generations of people "whose lives will be affected by (his) stewardship."

It also became quite evident that Judge Souter is a proponent of judicial restraint who respects and defers to precedent, but who treats the Constitution as a living document which recognizes changing circumstances and conditions.

Mr. President, during the hearings, Judge Souter did provide, in general, a reassuring discussion of his judicial philosophy. I must point out, however, that I found some of his testimony troubling, as I am sure every Member did at one point or another.

Clearly, there are constitutional issues that all of us are deeply concerned about. These include the constitutional right of a woman to make decisions about reproduction, gender-based discrimination, separation between church and state, and freedom of speech. During the hearings, Judge Souter touched on many of these subjects.

Frankly, I wish he would have been more forthcoming and definitive in his views in these areas. Unfortunately, with respect to one particular area of constitutional law—the area involving the right to privacy in matters relating to reproduction—Judge Souter has determined that the Members of the U.S. Senate and the American people are not entitled to know his views.

He steadfastly and persistently refused to answer any questions relating to this complex area, although he was forthcoming in many other areas of constitutional law which may come before the Supreme Court during this or upcoming terms.

During the course of his testimony, Judge Souter conceded that he did have a view regarding Roe versus Wade at the time the decision was rendered in 1973, but he would not reveal to the members of the Judiciary Committee what that view had been.

He declined to tell the committee what his personal views on the issue of abortion were on the grounds that many people would not believe that his personal views would have no impact on how he might rule in a future case concerning abortion. I would note that other Supreme Court nominees have been more forthcoming and have distinguished personal views from judicial views when appearing before the committee.

I also would note, Mr. President, that Judge Souter did feel free to disclose his views on numerous other issues that will be coming before the Supreme Court in the years ahead. He spoke freely about legal cases and principles regarding such controversial subjects as capital punishment and separation of church and state.

Thus, I am troubled by Judge Souter's refusal to speak not only to a broad right of privacy, but even to the line of cases involving the right of privacy leading up to the Roe versus Wade decision.

However, while Judge Souter's unwillingness to disclose his position on abortion troubles me, I recognize that the law on this issue remains unsettled. It is significant to me that during the hearings, Judge Souter agreed that there is an "unenumerated right of privacy" in the Constitution. Moreover, in many of his statements, he appeared committed to embracing an expansive reading of the nature of constitutional liberties. He specifically committed himself to keeping an openmind when the Court reconsiders Roe versus Wade.

Mr. President, we never have an absolute assurance as to how any nominee or sitting Supreme Court Justice will vote on a particular issue. Requiring a commitment in advance would discourage openmindedness and threaten an independent judiciary. All we as Senators should ask is that the nominee possess intellectual excellence, integrity, judicial temperament, experience, fairness, and a willingness to listen.

Mr. President, I am convinced that Judge Souter is such a nominee. I believe that David Souter is a fair and open-minded jurist. My strong feeling is that he would serve with distinction and would work to preserve and protect our fundamental constitutional values, if confirmed as a Justice of the Supreme Court. There is no indication that his approach to the Constitution, or to the Court's role in interpreting it, would unravel the settled fabric of constitutional law.

During the hearings, Judge Souter described the Justice he hopes to replace on the Supreme Court, Justice William J. Brennan, as "one of the most fearlessly principled guardians of the American Constitution that it has ever had and ever will have." Judge Souter's admiration for the man he would succeed, of course begs the question of how like or unlike Justice Brennan he would be. While I do not expect Judge Souter to take Justice Brennan's place on the Court's ideological spectrum, I am confident that he will not stay in the Court's conservative shadow.

My hope is that, if confirmed, he will grow in his capacity as a Supreme Court Justice and may well become an outstanding justice.

Therefore, I will vote to confirm Judge David Souter to be an Associate Justice of the Supreme Court of the United States.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,025th day that Terry Anderson has been held captive in Beirut.

I ask unanimous consent that an Associated Press article featuring the families of the men held hostage in Lebanon be submitted to the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FAMILIES OF AMERICANS HELD IN LEBANON ARE HOSTAGES IN THEIR OWN WAY

(By George Esper)

Thomas Cicippio is never in bed before midnight. Each night, he anxiously watches the 11 o'clock news for any word of the six American hostages held in Lebanon, including his brother, Joseph.

Then, as the clock nears the start of yet another day of waiting, he walks to the plywood billboard on the lawn of his Norristown, Pa., home listing the names of each hostage and the total days they have been held. Silently, he advances the numbers.

He and other family members of the six men sympathize with the relatives of the new hostages being held in Kuwait and Iraq, but they don't want their husbands, fathers, brothers and sons forgotten.

"I feel very badly for them," Cicippio said of the latest hostage families. "I know what they're going through. The only difference is that we really don't know what conditions they're being held under. We do know our hostages are in chains. They're blindfolded. They don't see daylight."

On Sept. 12, the fourth anniversary of his brother's captivity, Cicippio advanced the days to 1,462.

A week earlier, he had posted the 2,000th day for Terry Anderson, chief Middle East correspondent for The Associated Press and the longest held of the hostages. Time enough for the 42-year-old Anderson to spend five birthdays in captivity and face a sixth, Oct. 27.

"I feel as though I'm doing something for the hostage families," said Cicippio. At 6 am., he's up again, watching the morning news, hoping he'll hear something on the hostages' release.

In a sense, the families of the Lebanon captives are hostages themselves.

In trying to save the lives of their relatives, they have given up much of their own lives. For years, they have felt the uncertainty, the loneliness and the fears now gripping the families of the hundreds of hostages being held by Iraq.

Estelle Ronneburg, the 69-year-old mother of hostage Jesse Turner, pointedly kept her job as a bank accountant in Boise, Idaho, to keep her mind occupied with figures instead of her son's deprivation. "That way, I don't get quite as upset," she said.

Turner's wife, Bader, a Lebanese native, and their 3-year-old daughter, Joanne, left Beirut a little more than a year ago to visit Mrs. Turner's brother in the United Arab Emirates. They never returned because of the fighting.

They recently arrived in Boise to spend a few months with Mrs. Ronneburg, who never had seen her granddaughter.

"It's rough," said Mrs. Turner. "They kidnapped him six months after we got married. It was a very hard time for me. He wasn't around when Joanne was born, and the war was tough. I'm lost without him. Every time I see Joanne, I feel pity that he is missing her childhood."

Only by his picture and her mother's words does Joanne know her 43-year-old father, called Jonathan by his family for his middle name. She was born five months after he was kidnapped on Jan. 24, 1987.

When she sees anyone on the street with a beard who resembles her father, she asks, "Is that Daddy Johnny?" And over and over, she presses her mother: "Where is Daddy Johnny? Is he going to come?"

"So I keep her thinking that he's in Beirut with my sister," her mother said.

Mrs. Ronneburg said the sheer number of hostages taken by Iraq have pushed the captives in Lebanon further into the background. "I hope all the hostages in Iraq will be out very soon," she said.

For these days in August 1989, the Cicippio family went through a kind of torture when his kidnappers threatened to kill Joseph Cicippio, then gave him a series of reprieves.

Thomas Cicippio and other family members cried when they watched a chilling videotape released by the captors of Joseph, 60, pleading for his life.

"He said a goodbye to his wife. That was very emotional. He just said something about, 'Don't ever forget me. Keep thinking of me.' That was the first and only time we heard his voice since his captivity."

"I think about him all the time," said Cicippio, 67. "I think about what he's doing. Does he know we are doing everything we can to get him released? Does he know everyone is thinking about him? * * * We wonder about his health and how long will he be able to endure."

The same fears torment Virginia Steen, the wife of hostage Alann Steen.

Like their friends the Turners, the Steens had been married only six months when 51-year-old Alann was kidnapped.

"It's been four years of horror for my husband and for all the other families," said Mrs. Steen, who lives in Clark Lake, Mich.

"I know the horror and the pain the new hostage families must be feeling, the feeling of being separated and not knowing how long it's going to last," she said. "It's horrible. I do believe the hostages in Lebanon are quite different than the hostages held in Iraq and Kuwait right now. As far as I know, people aren't being chained to radiators, beaten and held in dark cells."

Peggy Say, Terry Anderson's sister, regularly shuttles around the United States and keeps an around-the-clock telephone vigil in her tireless campaign to free her brother, Cicippio, Turner, Steen, Edward Austin Tracy, abducted Oct. 21, 1986, and Thomas Sutherland, kidnapped June 9, 1985.

She has made four trips to the Middle East seeking their release. She has pleaded their cases before President Bush, U.N. Secretary-General Javier Perez de Cuellar, Pope John Paul II, PLO leader Yasser Arafat and Archbishop of Canterbury Robert Runcie.

Some days, though, she feels she cannot go on.

"I'm tired," she said at one point this year. "I want to be with my grandkids and my family. I'll feel sorry for myself for about five minutes and then I think about Terry and I think, 'What do you think he would give to be where you are? Just get out and do it.' "

During Anderson's captivity, Mrs. Say, 49, had endured the deaths from cancer of her father and another brother, Rich, within four months of each other in 1986. What will break Anderson's heart, she said, is not having seen them; she doesn't think he even knows now that they have died.

Her memories haunted Mrs. Say so much that two years ago, she moved with her husband from Batavia, N.Y., to a home on a lake near Cadiz, Ky.

"I wanted to get away from the atmosphere and the house because I had taken care of Dad and Rich before they died. Then we lost a grandson the following year. We also lost three aunts. It was needing a fresh start and needing to be not so accessible to the media," she said.

Such a series of tragic events might have destroyed others of lesser strength. But Mrs. Say has remained strong, knowing her brother has done the same.

It is said that Terry Anderson prays with rosary beads that he crocheted from fibers.

"On his last videotape, he was telling us all to stay strong," said Mrs. Say. "He said, 'I'll be praying for you as you're praying for me.' If he can keep his faith and his dignity and his strength under those conditions how can I do any less?"

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee [Mr. SASSER].

Mr. SASSER. I thank the Chair.

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1991

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar 756, H.R. 5313, the military construction appropriations bill; that the bill be considered under the following limitations: One, that there be 30 minutes for debate on the bill and the committee-reported amendments, and that the only amendments in order, in addition to the committee-reported amendments, be the following, with limitations on time as listed: that there be 20 minutes on a managers' amendment relating to the construction provisions of the bill; that there be an additional 20 minutes on a Grassley amendment to provide a new civil cause of action in Federal law for international terrorism; and that there be 5 minutes on a Grassley amendment to be offered, as I understand, on behalf of Senator MURKOWSKI, relating to construction restrictions against foreign contractors whose home country denies market opportunities for products and services of the United States; that there be 15 minutes on a Baucus amendment to provide for payment of claims by United States nationals against Iraq; that no motion or motions to recommit be in order; that no points of order be waived by this agreement; that the time be divided in the usual form; that when all time is used or yielded back, the Senate proceed to third reading and final passage without intervening action or debate.

I ask unanimous consent for all of the foregoing provisions, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

Mr. SASSER. Mr. President, I yield to my distinguished colleague from Tennessee, Senator GORE, 10 minutes not to be charged against the bill.

The PRESIDING OFFICER. Will the Senator suspend just long enough to report the bill.

The bill clerk read as follows:

A bill (H.R. 5313) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 5313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1991, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander in Chief, **[**$747,067,000**]** *$698,167,000,* to remain available until September 30, 1995: *Provided,* That of this amount, not to exceed **[**$95,577,000**]** *$83,577,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 99-173, $1,900,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 99-500 and Public Law 99-591, $14,905,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 100-202, $29,030,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 100-447, $26,910,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 101-148, $44,000,000 is hereby rescinded.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation,

[$1,137,278,000] *$1,084,126,000*, to remain available until September 30, 1995: *Provided*, That of this amount, not to exceed [$76,951,000] *$71,951,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Navy" under Public Law 101-148, $6,200,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, [$949,446,000] *$892,184,000*, to remain available until September 30, 1995: *Provided*, That of this amount, not to exceed [$107,741,000] *$80,741,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Air Force" under Public Law 100-447, $4,700,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Air Force" under Public Law 101-148, $20,690,000 is hereby rescinded: [*Provided further*, That, herein and hereafter, the Ballistic Missile Organization shall not be relocated from Norton Air Force Base, California.] *Provided further, That none of the funds available to the Department of Defense during fiscal year 1991 may be used, directly or indirectly, to transfer, realign, relocate, or otherwise diminish any part of the 37th Tactical Fighter Wing at the Tonopah Research Site, Nevada, until (1) a final environmental impact statement on any such action is completed by the Secretary of the Air Force; and (2) after the 21-day period beginning on the date on which such Secretary transmits to the appropriate committees a report containing an analysis of the costs and benefits of taking any such action and such report has been reviewed by the General Accounting Office.*

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, [$625,326,000] *$600,113,000*, to remain available until September 30, 1995: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed [$94,285,000] *$74,285,000* shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 100-447, $35,578,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 101-148, $32,541,000 is hereby rescinded.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, [$250,000,000] *$210,400,000*, to remain available until expended: *Provided*, That none of the funds appropriated [or otherwise available under the North Atlantic Treaty Organization Infrastructure Account] in this [or any other] Act may be obligated for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing to Crotone, Italy, *until authorized by Congress.*

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$201,558,000] *$226,188,000*, to remain available until September 30, 1995.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$135,240,000] *$154,830,000*, to remain available until September 30, 1995.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$68,297,000] *$75,126,000*, to remain available until September 30, 1995.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$63,300,000] *$75,207,000*, to remain available until September 30, 1995.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, [$37,700,000] *$41,100,000*, to remain available until September 30, 1995.

FAMILY HOUSING, ARMY

(INCLUDING RESCISSIONS)

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $61,800,000; for Operation and maintenance, and for debt payment, $1,463,967,000; in all $1,525,767,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1995: *Provided further*, That of the funds appropriated for "Family Housing, Army" under Public Law 100-202, $4,264,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Family Housing, Army" under Public Law 100-447, $8,400,000 is hereby rescinded.

FAMILY HOUSING, NAVY AND MARINE CORPS

(INCLUDING RESCISSION)

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, [$185,000,000] *$138,607,000*; for Operation and maintenance, and for debt payment, $691,101,000; in all [$876,101,000] *$829,708,000*: *Provided*, That the amount provided for construction shall remain available until September 30, 1995: *Provided further*, That of the funds appropriated for "Family Housing, Navy and Marine Corps" under Public Law 101-148, $11,037,000 is hereby rescinded.

FAMILY HOUSING, AIR FORCE

(INCLUDING RESCISSIONS)

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, [$185,100,000] *$138,988,000*; for Operation and maintenance, and for debt payment, $771,442,000; in all [$956,542,000] *$910,430,000*: *Provided*, That the amount provided for construction shall remain available until September 30, 1995: *Provided further*, That of the funds appropriated for "Family Housing, Air Force" under Public Law 100-202, $1,941,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Family Housing, Air Force" under Public Law 100-447, $167,000 is hereby rescinded: *Provided further*, That of the funds appropriated for "Family Housing, Air Force" under Public Law 101-148, $43,856,000 is hereby rescinded.

FAMILY HOUSING, DEFENSE AGENCIES

(INCLUDING RESCISSIONS)

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation

and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $500,000; for Operation and maintenance, $20,514,000; in all $21,014,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1995: *Provided further*, That of the funds appropriated for "Family Housing, Defense Agencies" under Public Law 101-148, $300,000 is hereby rescinded.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $5,100,000, to remain available until expended.

BASE REALIGNMENT AND CLOSURE ACCOUNT

For deposit into the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), [$998,100,000] *$916,500,000*, to remain available for obligation until September 30, 1995: *Provided*, That none of these funds may be obligated for base realignment and closure activities under Public Law 100-526 which would cause the Department's $2,400,000,000 cost estimate for military construction and family housing related to the Base Realignment and Closure Program to be exceeded: *Provided further*, That [$81,600,000 of the] funds appropriated herein shall be available [solely] for environmental restoration.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 113. The Secretary of Defense is to inform the Committees on Appropriations and the Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 114. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1991, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 115. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 116. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the second session of the One Hundred First Congress.

SEC. 117. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1991, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1991 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

SEC. 118. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 119. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 120. Of the funds appropriated in this Act for Operations and maintenance of Family Housing, no more than $16,000,000 may be obligated for contract cleaning of family housing units.

SEC. 121. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

SEC. 122. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

SEC. 123. None of the funds appropriated in this Act, except those necessary to exercise construction management provisions under section 2807 of title 10, United States Code, may be used for study, planning, design, or architect and engineer services related to the relocation of Yongsan Garrison, Korea.

SEC. 124. None of the funds herein or heretofore appropriated for Military Construction and Family Housing are available to fund costs associated with military operations in Panama known as Operation Just Cause, notwithstanding transfer authority contained in section 211 of Public Law 101-302.

SEC. 125. The Congress disapproves the deferrals relating to the Department of Defense as set forth in the message from the Comptroller General transmitted to the Congress on June 28, 1990 (H. Doc. 101-210).

SEC. 126. (a) Notwithstanding any other provision of law, the Secretary of the Army shall transfer, no later than September 30, 1991, and without reimbursement, to the Secretary of the Interior the real property, including improvements thereon, consisting of approximately 7,600 acres of Fort Meade, Maryland, located generally south of Maryland Route 198 extended and the power-line right-of-way, as determined under subsection (d).

(b) The Secretary of the Interior shall administer the property transferred pursuant to subsection (a) consistent with wildlife conservation purposes and shall provide for the continued use of the property by Federal agencies to the extent such agencies are using it on the date of the enactment of this Act, including activities of the Department of Defense that are consistent with the recommendations of the Base Realignment and Closure Commission.

(c) The Secretary of the Interior may not convey, lease, transfer, declare excess or surplus, or otherwise dispose of any portion of the property transferred pursuant to subsection (a) unless approved by law.

(d) The exact acreage and legal description of the property to be transferred under this section shall be determined by a survey satisfactory to the Director of the United States Fish and Wildlife Service within the Department of the Interior, after consultation with the Department of the Army and appropriate State and local government officials.

SEC. 127. (a) IN GENERAL.—(1) Subject to subsections (b) through (e), the Secretary of the Army may convey to the city of Tacoma, Washington, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, located at 3009 North Star Street, Tacoma, Washington, consisting of approximately 6.7 acres.

(2) The conveyance under paragraph (1) shall be made in consideration for a 50-year leasehold interest in and to Pier 23, Port of Tacoma, made available by the State of Washington to the Department of the Army.

(b) CONDITIONS OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be subject to the following conditions:

(1) The property conveyed shall be used for public purposes.

(2) The Secretary may reserve to the United States (and shall include in the instrument of conveyance) such easements and other interest in the property conveyed pursuant to this section as the Secretary determines necessary or convenient for the operations, activities, and functions of the United States.

(c) REVERSION.—If the Secretary determines at any time that the property conveyed pursuant to this section is not being used for the purposes specified in subsection (b)(1), all right, title, and interest in and to the property (including improvements thereon) shall revert to the United States and the United States shall have the right of immediate entry thereon.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the city.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 128. None of the funds appropriated in this Act, except for North Atlantic Treaty Organization Infrastructure funds, may be used for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

SEC. 129. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 130. (a) CONVEYANCE.—(1) Except as provided in paragraphs (2), (3), and (4), and subject to subsections (c) and (g), the Secretary of the Army shall convey to the University of Utah all right, title, and interest of the United States in and to the land comprising Fort Douglas, Utah, together with improvements thereon.

(2) The Secretary shall except from the land conveyed under paragraph (1) such land, not in excess of 64 acres, and improvements thereon as may be necessary for the Army to continue conducting Army Reserve activities at the Fort Douglas location.

(3) The Secretary shall also except from the land conveyed under paragraph (1) the land at Fort Douglas constituting the Fort Douglas Post Cemetery, consisting of approximately four acres.

(4) In connection with the land retained for Army Reserve activities and the land constituting the Army Post Cemetery, the Secretary shall reserve to the United States in the land conveyed such rights-of-way and other easements as may be necessary for ingress to and egress from the land retained.

(b) CONSIDERATION.—(1) The conveyance under subsection (a) shall be made only on the condition that the State of Utah and the University of Utah waive any entitlements that have not been exercised on behalf of the University of Utah before the date of the enactment of this section and that may be due to the State of Utah or the University of Utah on behalf of the University of Utah under—

(A) section 3 of the Act entitled "An Act to establish the office of Surveyor-General of Utah, and to grant Land for School and University Purposes", approved February 21, 1855 (10 Stat. 611); and

(B) sections 8 and 12 of the Act entitled "An Act to enable the people of Utah to form a constitution and State government, and to be admitted into the Union on equal footing with the original States", approved July 16, 1894 (28 Stat. 110).

(2) The waiver referred to in paragraph (1) shall be executed in such manner as the Secretary of the Army, after consultation with the Attorney General of the United States, determines necessary to effectively waive any unexercised entitlements under those laws.

(c) CONDITION.—(1) The conveyance provided for in subsection (a) may be made only on condition that—

(A) the State of Utah agree to maintain and operate, as provided in paragraph (2), the Army museum located on the land conveyed to the University of Utah pursuant to this section; and

(B) the University of Utah agree—

(i) to maintain and operate, as provided in paragraph (2), the Army chapel and other historical buildings located on the land referred to in subparagraph (A); and

(ii) to preserve and maintain, as provided in paragraph (2), the parade grounds that are a part of the land referred to in subparagraph (A).

(2) The Army museum, Army chapel, and other historical buildings referred to in paragraph (1) shall be maintained and operated, and the parade grounds referred to in that paragraph shall be preserved and maintained, in a manner consistent with Federal laws and regulations pertaining to the preservation of historical sites, buildings, and monuments, as specified by the Secretary of the Interior.

(d) REVERSIONARY RIGHT.—If the University of Utah uses the land conveyed pursuant to subsection (a) for other than educational or research purposes, all right, title, and interest in and to such land shall automatically revert to the United States and the United States shall have the right of immediate entry thereon.

(e) DEADLINE FOR CONVEYANCE.—The conveyance under subsection (a) shall be made not later than one year after the date of the enactment of this section.

(f) JOINT USE OF UTILITY SYSTEMS.—The Secretary may enter into an agreement with the University of Utah under which the Army and the University would—

(1) jointly use the existing utility systems located at Fort Douglas at the time of the conveyance provided for under subsection (a);

(2) equitably share the cost of maintaining, operating, and replacing (as necessary) the systems; and

(3) pay on a pro rata basis for the utilities consumed by each of the parties.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance provided for under subsection (a) as the Secretary considers necessary to protect the interests of the United States.

(h) ADDITIONAL EXCESS LAND.—In the event that any lands constituting Fort Douglas, Utah, that are not conveyed pursuant to subsection (a) are declared excess to the needs of the Army after the date of the conveyance provided for in that subsection, the Secretary shall convey such lands to the University of Utah. Any lands conveyed pursuant to this subsection shall be conveyed subject to a reversionary clause in favor of the United States as provided in subsection (d).

This Act may be cited as the "Military Construction Appropriations Act, 1991".

CABLE TELEVISION CONSUMER PROTECTION ACT

Mr. GORE. Mr. President, I was in my office when on the monitor I heard the arguments from my friend, the Senator from Colorado, concerning the cable television bill. I have come to the floor to respond to some of those arguments. I appreciate the courtesy afforded me.

Before I respond to the arguments presented a few moments ago, I would like to say that the Senator from Colorado has served for 16 years in the House and now the Senate, and all of our colleagues should know, as they do, that there is no Member of either body who has more experience or expertise in the field of communications policy. I had the privilege of serving under my friend from Colorado when he was chairman of the Communications Subcommittee in the other body. He labored long and hard to improve the communications policy and the communications laws of this entire country. I admire his skill. I respect his experience.

I must say I also admire his consistency on this particular set of issues because he and I have disagreed on this for quite a long time. I would like to respond to some of the points that he just made in hopes that the give and

take will illuminate the underlying issue for our colleagues.

Of course, what brings us both to the floor is the heat and friction over the attempt by the Commerce Committee to bring to the floor a major piece of legislation to protect consumers of cable television service and consumers of television service in the multichannel format who would like to receive that service from competing forms of distribution, whether it is a satellite dish in the backyard or a wireless microwave system or one of these so-called sky cable systems that will use those little satellites, if that is ever allowed to proceed.

Let me talk just for a moment about this issue of exclusivity. This is the provision in the current bill which my friend, the Senator from Colorado, has objected to our considering, which protects the cable industry against competition from alternative delivery formats. One of them is backyard satellite dish receivers.

What really caused me to come to the floor is that my colleague and friend said that this problem was fixed when the National Rural Telecommunications Cooperative was established in order to provide these program signals to rural owners of satellite dishes.

Mr. President, at the occasion of our last debate on this matter, the National Rural Telecommunications Co-op had just been established and some argued that it would fix the problem. I expressed great skepticism and doubt because I have dealt with the cable industry on this matter for many years and I know from where they are coming. They do not want competition.

Now the jury is in and nobody can claim that the National Rural Telecommunications Co-op system has fixed the problem. Here is what they say about it. When it was just set up, I might say the officials of NTRC, as we call it, came in and said, "Let's give this industry a chance to see whether they will work this problem out. Maybe they will solve our problem." Well, now we have the evidence. They have refused to deal with them in good faith. The cable industry has shut them out. They are offering the wholesale rate at 460 percent greater cost than they are offering it for the cable subscribers. And a lot of the programmers that make it available to these cable systems refuse to sell at any cost to the National Rural Telecommunications Co-op or to any distributor to satellite dishowners.

So, far from being fixed, this proves our case. The experience of the rural co-ops in trying to help the backyard dishowners has convinced them to completely change their minds about how they view it. Whereas they were coming to defend the cable industry in saying they have agreed to deal with it, let us see how it works out, they say we have tried for 2 years. They throw up their hands and say it is an impossible bunch to deal with; they want it all; they are greedy; they do not deal in good faith—a 460-percent markup.

I will put this in the RECORD. I will not read it all now, but let me just give a couple of examples.

PBS sells to the cable operators at a wholesale rate per consumer of 10 cents per month. Do you know that they change the rural co-op for the dishowners? Ninety cents a month—a 900 percent markup. Why? Well, that is because they want to shut them out. They do not want competition from some other delivery sources. That is what it is all about. They have a monopoly now. They want to hold on for all it is worth.

Next point. My distinguished friend and colleague used broadcasters as an example of exclusivity to justify, attempt to justify, what the cable operators do. First of all, the broadcast signal is on so-called TV. But I must say for anyone defending the cable industry to use broadcasters as an example of executive contracts that work and are fair is really unbelievable to me for this reason: 70 percent of all the people who watch cable television systems are watching broadcast signals that are taken essentially for free by the cable television companies and sold to the subscribers to that cable system.

So it is hardly exclusive. In fact, it is the raw material that makes the cable industry two-thirds of the money it makes. They are getting it from another program source and they are paying practically nothing for it. So I would not say that is a great example that justifies what the cable industry is doing.

The next argument. I heard an analogy to Ford dealers. You know that you can go to one of several Ford dealers in any given population area. In this population area where the Capital is located, you are not locked in to one Ford dealer. If you are in Nashville, TN, Memphis, TN, or Knoxville, you can go to one of several Ford dealers. There is competition. That is not the case with cable television.

Also, when a cable television franchise is given the right to distribute to satellite dishowners, they are restricted from selling outside their own cable area. In other words, they have the right to distribute the program to dishowners if they are a cable system, but they are restricted from going in and competing with the cable system next door in the adjacent area.

So again, that analogy in my opinion just does not work at all.

A lot was made about volume discounts. Is that not the American way? Why can the programmers not do it? Why can the cable industry not do it? Well, they can. I said in the debate last week when we talked about this, as far as I am concerned volume discounts are fine, so long as they are applied on a nondiscriminatory basis. That is what we are asking.

My time is running out. So, let me get to the bottom line on this. We have an anticompetitive marketplace out there in cable television. People who are customers of cable television are screaming bloody murder because their rates have been going right straight up and their service has been declining rapidly.

A lot of folks would like to see some competition from satellite dishes and from some of these other distribution systems that I have mentioned. But the cable television industry has put a noose around the competitors, and they are squeezing it and trying to strangle them. And they have succeeded in some cases. It is the single rawest abuse of monopoly power going on in America today that I have seen. If you talk to some of these satellite dish folks, you will know exactly what I am talking about.

On the last occasion, I addressed this subject and negotiated on this. I know my colleagues who support this legislation have, too. Yet, since that time I have not been contacted by anyone from the industry, or anyone who supports the industry. I will renew the offer and I hope they will take up on it, because this bill ought to be debated. If they have the votes, fine, let us vote on it. But, let us get the bill up, let us vote on it, discuss it, and go through the normal process, Mr. President.

Thank you. Again I thank my colleague for his courtesy.

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1991

The Senate continued with the consideration of the bil.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. SASSER. Mr. President, I ask that time not to exceed 10 minutes be yielded to the distinguished Senator from Washington and, further, that the time not be charged against the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, the Senator from Washington, Senator GORTON, is recognized for up to 10 minutes.

Mr. GORTON. I ask unanimous consent that my remarks be as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET SUMMIT AGREEMENT

Mr. GORTON. Mr. President, at the opening of the Constitutional Convention in the spring of 1787, Edmond Randolph, Governor of Virginia, introduced into that convention the Virginia resolutions, the prescription for a new Constitution and a strong central Government for the United States.

As spring moved into summer and summer into autumn, however, Governor Randolph vacillated. Ultimately, the day before the signing of the Constitution, he came out in opposition, because the Constitutional Convention had not called for a second constitutional convention to consider all of the objections which various States might have.

Fortunately, however, a day or so later, on September 17, 1787, Benjamin Franklin spoke to the Constitutional Convention. Here is what Benjamin Franklin said:

> I confess that there are several parts of this Constitution which I do not at present approve * * * But I am not sure I shall never approve them.
>
> For, having lived long, I have experienced many instances of being obliged by better information or fuller consideration to change opinions on even important subjects, which I once thought right, but found to be otherwise.

Benjamin Franklin said that he doubted that a second convention could do any better, and was astonished that what the Convention produced approached so near to perfection. He ended his remarks with this statement:

> I consent, sir, to this Constitution, because I expect no better and because I am not sure it is not the best.

This spring, Mr. President, all of us were in favor of deficit reduction. Now it is autumn, and we have a specific proposal, a specific budget in front of us. Each of us must choose to be an Edmond Randolph or a Benjamin Franklin. I will choose the latter course. In his spirit, I accept this budget, because I expect no better and am not sure it is not the best.

Since details of the proposed budget agreement were released, I have listened to Members from the far left and the far right sharply criticize proposed tax increases, spending cuts, or both. The phone has been ringing off the hook with angry constituents—especially those who will be directly taxed or whose favorite programs will be reduced—urging me to oppose the package. Lobbyists from every corner have called to object to one provision or another.

In short, the budget agreement asks that a broad range of Americans make small sacrifices to help return fiscal sanity and economic vitality to this Nation.

In a perverse way, the widespread protest, much like the potshots after political extremists, prove the package to be balanced and that it is real. That, Mr. President, is precisely why I intend to support it.

We are confronted by a sluggish economy and the prospects of a sequester that would cripple the Federal Government, cripple our presence in the Middle East, as well as many other vital domestic programs. The medicine may be bitter, but the alternatives would be far worse.

Mr. President, there is no denying that the budget agreement is far from perfect in the eyes of any individual Member. It was not designed by any single group of draftsmen with similar philosophies. Rather, it is the result of a political compromise among Members of Congress and the administration, Republicans and Democrats, conservatives, and liberals, all of whom fully appreciate the gravity of the situation and the challenges facing this Nation.

Granted, Mr. President, the proposal contains many provisions that I do not support, more taxes and Medicare cuts to identify only two. I have consistently urged the administration to resist Democratic calls for new or increased taxes. Moreover, I have the same concerns about Medicare cuts as I expressed in a letter sent to the Budget Committee in February. And, closer to home, I worry that some of the cuts in agriculture are drastic—though this, too, may be overcome if we forswear new programs and end old ones for minor crops which do little but add to consumer costs, and rather focus on those for basic program crops together with those which strongly and effectively promote exports.

Nevertheless, Mr. President, there are times at which the needs of the Nation are paramount to the demands of the few. This is such a ime. By asking for broad, minor sacrifices, the President, and the congressional negotiators have risen above taking partisan cheap shots, and have set a high standard for leadership to which my fellow Members of Congress and I must rise.

There are, however, two elements, the conspicuous absence of which I wholeheartedly approve. I am relieved that the budget agreement did not include provisions to raise income tax rates. We cannot afford further to depress an already sluggish economy by taking another direct cut out of the income of every American household. Moreover, I am pleased that Social Security benefits were not touched. Such a proposal would almost certainly have doomed the package.

For all of its shortcomings, Mr. President, the budget agreement will set in motion a process for real budget discipline, a discipline that seems to have been lost by a Democratic-controlled Congress. For the first time in a long time, Federal spending programs will not be permitted to grow uncontrollably. For the first time in a long time, the budget calculations are not rife with accounting gimmicks, overoptimistic economic assumptions, or rosy scenarios.

This budget proposal takes an unvarnished look into the looking glass of economic reality. It calls for a future of discipline in which all Americans can take hope. I only regret that it took a near-fiscal disaster and the threat of shutting down the Federal Government completely to convince congressional leadership to concede to the long-known dictates of budget reality.

No, Mr. President, the budget proposal is not perfect in my eyes. Alone, I would have drafted a far different one. But this budget proposal is far preferable to the consequences that every American would suffer were Congress to flee from the burdens of its responsibility.

And, finally, Mr. President, there is a simpler reason why each Member should vote to pass the budget proposal: It is the right thing to do. Not the easiest, and perhaps not the most politically expedient, simply right.

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1991

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee [Mr. SASSER].

Mr. SASSER. Mr. President, I am pleased to bring before the Senate the military construction bill for fiscal year 1991. I would point out to the Chair and to my colleagues that the bill approved by the full Appropriations Committee is $1 billion, 146 million under the amount requested by the President in the budget request that he sent to the Congress earlier this year. It is also $331 million under the bill passed by the House of Representatives.

Mr. President, the mix of military forces in the next decade will be different than the mix of forces today. Military planning is shifting from the potential for confrontation in Western Europe to more realistic contingencies in the third world. Many of the force and base structure decisions, which will define the future national defense priorities, have not yet been made or implemented by the administration.

Therefore, Mr. President, the committee felt that it would not be prudent for the Congress to approve a larger military construction investment until we know what kind of force we are going to have in the future and

where that force will be based. That is why we have taken such a large reduction in the active forces in this bill.

We have also altered the priorities presented in the budget request. The administration requested a 22-percent increase in overseas funding, primarily in Europe. This at the very time we are poised to dramatically trim forces deployed in Europe.

The administration also sought to cut the most cost effective component, the Army and Air Guard, by over 70 percent.

So, Mr. President, we have substantially increased funding for the Guard and Reserve which, as we have seen in recent days, will be playing a more important role in our national defense.

Mr. President, the budget request includes funding for the NATO infrastructure account in a manner which would support construction of a new $800 million air base in Italy. The bill before us includes a provision that fences funds for this purpose unless authorized by the Congress.

Mr. President, it is my personal view that a full-scale, $800 million F-16 base in Italy is simply not required, particularly not when dozens of bases here at home are being closed.

A case might be made for a continuing military requirement for an appropriate-sized F-16 presence in southern Europe. Events of recent days would indicate that to be true. I have suggested to General Galvin, our NATO commander, that instead of proceeding with a new $800 million base, that we scale the deployment back to a minimum essential base which can support rotational aircraft from bases in the United States.

That is the sensible way to proceed, Mr. President. It would maintain our commitment to NATO and Italy at a greatly reduced cost. I am hopeful that the department and our mission to NATO will carefully consider this approach as an appropriate alternative to building a new $800 million airbase in a foreign country. I am hopeful that the administration will see the wisdom of this approach as the authorization and appropriations bills enter conference committee.

Mr. President, the General Accounting Office has determined that the process utilized by the Department of Defense in support of Secretary Cheney's fiscal year 1990 military construction moratorium is an illegal impoundment and a violation of the Budget and Impoundment Act. The bill approves House language which overturns the illegal deferral of funds.

However, Mr. President, let me emphasize that the committee agrees with the purpose behind the Secretary's moratorium. We should not proceed with building new projects at those locations which may be impacted by base or force structure changes.

We have included report language urging the administration to submit rescissions for those projects which will never be built. I believe that substantial additional savings can be achieved, but the GAO finding requires the DOD and the Congress to follow the law. So, the committee, Mr. President, is not seeking to overturn the Secretary's moratorium. We are merely requiring that the process established in the Budget and Impoundment Act for deferrals and rescissions be followed.

Mr. President, I would add that the committee does believe that the Secretary should release those projects, particularly for the Guard and Reserve, which will not be impacted by force or base structure changes. To continue to withold those projects will only increase the ultimate cost of construction.

Mr. President, the committee has eliminated $10 million requested to initiate design of a billion dollar Pentagon renovation and expansion project.

The committee does not question that the Pentagon is getting old and in need of work. But the Department of Defense has, itself, failed to be a good steward over its own facility. The Department's leadership failed to seek adequate repair and maintenance funds from the annual rent payments made to the General Services Administration. As a result, the Pentagon building was left to slowly deteriorate.

The Department of Defense, the largest and most powerful bureaucracy in the world, merely turned over its annual rent payments to GSA and got nothing in return. Make no mistake about it, Mr. President, the DOD leadership could have gotten a better deal from the GSA if the Department's leadership had truly tried. Instead, the Pentagon has been permitted to fall into disrepair. Now the Department wants to spend a billion dollars to completely rebuild the Pentagon and add 500,000 square feet of space.

Mr. President, we are in a budget crisis. I ask my colleagues, is this the time to be spending a billion dollars for new offices for the Pentagon bureaucracy? I think not.

The Pentagon needs to tighten its belt just like the active services are going to have to do out in the field.

Mr. President, I would add that there is also a dispute between the House and Senate committees of legislative jurisdiction over the future of the Pentagon itself. One House committee wants GSA to maintain the Pentagon building. The Armed Services Committee in the Senate, on the other hand, believes the DOD should be given full control over the building. That dispute must work itself out first before the Department embarks on any renovation activity.

Finally, Mr. President, I would like to discuss briefly the current situation in the Persian Gulf.

The Subcommittee on Military Construction, on August 27, approved a reprogramming to permit the expenditure of up to $30 million by the army for construction activities in Saudi Arabia in support of Operation Desert Shield.

Mr. President, we believe that our troops that are deployed in the inhospitable Arabian Desert should be provided with the facilities necessary to carry out their difficult mission. We do not yet know how long our presence will be required to defend Saudi Arabia and to enforce the international sanctions against Iraq.

However, preliminary costs developed by the Department of the Army indicates that $1.8 billion in fiscal year 1991 military construction may be necessary to support Operation Desert Shield.

Mr. President, I would indicate to the Senate that this bill does not provide direct funding for Operation Desert Shield. We have not received a formal request from the administration. However, the subcommittee will continue to work with the Department of Defense to provide the funding necessary to support our deployment in the gulf.

Mr. President, the subcommittee believes the Department of Defense should seek funding from the host nation and from our allies before utilizing appropriated funds for construction activities in Saudi Arabia. Certainly, we must provide our troops with what they need to do the job. However, the subcommittee believes that our allies, themselves, should be providing more troops and a greater financial contribution to the effort in the Persian Gulf. Certainly if we are to spend $1.8 billion in temporary construction in the gulf, our allies should help us pay that bill. Such expenditures seem tailor made for countries such as Japan and Germany which are unable to directly participate militarily.

Mr. President, the United States only gets 11 percent of our oil from the gulf. Europe gets 27 percent; Japan, 59 percent. And the Persian Gulf countries, themselves, receive hundreds of billions of dollars annually from oil exports to the industrialized world. So, our allies and the gulf countries must contribute more to this effort.

I would also indicate to my colleagues that the subcommittee will exercise its oversight and jurisdiction over Persian Gulf construction activities regardless of the source of funding. The department should be permitted to utilize funds from foreign countries only for projects and activities

approved by the appropriate oversight committees.

So, Mr. President, the subcommittee will carefully monitor events in the gulf and the requirements for military construction.

Mr. President, the full committee reported the bill out on August 1 of this year. The bill itself and the accompanying report have been available for inspection by the membership now for over 2 months. So there has been adequate time for Members to review the contents of this legislation.

Mr. President, I wish to yield to the distinguished ranking member of the subcommittee, but before doing so, I take this opportunity to again express my appreciation to the distinguished Senator from Iowa for the important contribution that he makes to the work of this Military Construction Appropriations Subcommittee.

I look forward to working with the distinguished ranking minority member in the coming years. He makes an enormous contribution to the work of this subcommittee and to the work of the Senate at large, and for that I will express not only my gratitude, but my continued respect.

I yield now to the distinguished Senator from Iowa, Mr. GRASSLEY.

The PRESIDING OFFICER (Mr. BRYAN). The Chair recognizes the Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I yield myself such time as I use, and I thank the Senator, the distinguished chairman of this committee, for his kind remarks.

I, like the Senator, rise in support of this bill, H.R. 5313, the fiscal year 1990 military construction appropriations bill.

The bill before us recommends appropriations of $7.98 billion for facility requirements for the Department of Defense, including the operation and maintenance of military family housing.

Mr. President, the bill before us is within the subcommittee's 302(b) allocation for budget authority and outlays. The committee recommendation also represents a reduction from the President's budget request of $1.1 billion; a reduction from the House-passed bill of $332 million; and a reduction from the fiscal year 1990 appropriation of $271 million.

Mr. President, the chairman has already given a brief analysis of the bill and has inserted into the RECORD a longer statement which provides details on the bill. I associate myself with the statement of the distinguished chairman and, therefore, will not go into any detail on the bill, which has been reported and available to Members since mid-August.

Mr. President, I do, however, thank my friend from Tennessee, Chairman SASSER, for the excellent work he has done on this bill. I especially thank him for the spirit of cooperation which is exhibited on this subcommittee. We work together, all members of the subcommittee, to insure that the facility requirements for our military members and their dependents are our No. 1 priority.

Again, Mr. President, I support the bill before the Senate and urge its adoption.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. SASSER].

Mr. SASSER. Mr. President, I thank the distinguished Senator from Iowa for his remarks and comments.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, provided that no point of order shall be considered as having been waived by reason of this agreement, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, will the distinguished chairman yield for the purpose of a colloquy regarding provisions in the 1991 appropriations transferring land at Fort Meade to the Secretary of the Interior?

Mr. SASSER. I am happy to yield to the Senator from Maryland.

Mr. SARBANES. I thank the chairman.

The bill language states and I quote "the Secretary of the Army shall transfer, no later than September 30, 1991, and without reimbursement, to the Secretary of the Interior the real property, including improvements thereon, consisting of approximately 7,600 acres of Fort Meade, Maryland." The bill also states and again I quote, "the Secretary of the Interior shall administer the property transferred * * * consistent with wildlife conservation purposes."

It is my understanding that the intent of the committee is for this land to be added to the Patuxent Wildlife Research Center and to be administered by the director of that center. It is also my understanding that the committee intends for the land to be managed in such a way that enhances and protects the land's value as habitat for wildfowl and migratory birds, as habitat for other wildlife, as wetlands and undisturbed forest, as part of the Chesapeake Bay watershed, and as a wildlife research and experimentation center. Is this what the committee intends?

Mr. SASSER. The Senator is correct. The committee intends for all of this acreage to be added to the Patuxent Wildlife Research Center for the purpose of wildlife conservation and research.

Mr. SARBANES. The Base Closure and Realignment Act specifies the Department of Defense's responsibility for environmental restoration including its obligations under the National Environmental Policy Act of 1969.

With respect to the 7,600 acres at Fort Meade, it is my understanding that the committee expects the Army to continue all of its investigations of potential contamination, including potential hazardous substance releases, underground storage tanks, and other possible sources of contaminants. Should any of these require cleanup, the Army is expected to utilize funding from the Defense Environmental Restoration Account or other appropriate sources of funding as well as its own personnel to effect timely cleanups and to meet any statutory and regulatory deadlines that might otherwise fall to the Fish and Wildlife Service.

Mr. SASSER. That is the committee's intent. The Army is expected to meet any obligations and deadlines associated with provisions of Superfund, the Resource Conservation Recovery Act, and related Federal and State laws.

Mr. SARBANES. A primary benefit to the Army from this transfer is that they will not have to clean up the unexploded munitions which underlie a considerable portion of the property. It would be necessary to clearcut the forests and drain the wetlands on the property to even begin removing unexploded ammunition. These munitions apparently pose little or no hazard in their present state and it is my understanding that the committee does not intend for the Army or the Fish and Wildlife Service to attempt their removal. Is that correct?

Mr. SASSER. The Senator from Maryland is correct.

Mr. SARBANES. I thank the chairman for his concurrence on these important issues and I want to address one final area of concern. The appropriations bill states and I quote "the Secretary of the Interior * * * shall provide for the continued use of the property by Federal agencies to the extent such agencies are using it on the date of the enactment of this act, including activities of the Department of Defense that are consistent with the recommendations of the Base Realignment and Closure Commission."

It is my understanding that the committee intends for the Fish and Wildlife Service to be able to enter into cooperative agreements and issue special use permits for historic uses of the 7,600 acres provided that they are consistent with all laws pertaining to wildlife refuges and consistent with the purposes of the Patuxent Wildlife Research Center.

Mr. SASSER. The Senator from Maryland is correct. That is the committee's intent.

Mr. SARBANES. Mr. President, I thank my friend from Tennessee for

his assurances on these important issues. This land is a notable and appropriate addition to our National Wildlife Refuge System. Future generations of Americans will look favorably upon our foresight in setting aside this acreage for wildlife conservation and I commend the members of the committee for their commitment to this transfer.

Ms. MIKULSKI. My colleague from Maryland is correct. The Patuxent Wildlife Research Center performs extremely sensitive and valuable work with the breeding of endangered species and requires a natural and undisturbed area. The center is in the best position to administer the property, which hosts over 106 breeding birds in addition to migratory birds, bald eagles, blue herons, and several rare and endangered species.

Mr. President, the disposition of the Fort Meade property is extremely important to the citizens of Maryland, especially those in Anne Arundel and Prince Georges Counties. In transferring this property to the Department of the Interior, we will create the second largest environmentally protected area in the entire Boston-Richmond corridor. This is a unique opportunity to preserve and protect this valuable land. I thank the chairman for his support in protecting this critical environmental resource.

ENERGY MANAGEMENT AND CONSERVATION

Mr. KASTEN. Mr. President, I would like to engage in a colloquy with my colleague from Wisconsin and the chairman and ranking Republican of the Military Construction Subcommittee regarding an important energy conservation initiative which is in the House version of the Defense authorization bill. Specifically, the House Defense authorization bill includes an authorization of $50 million for an energy conservation program. Unfortunately, the Senate version of the bill does not contain this provision, nor is it part of the House or Senate versions of the military construction appropriations bill. Given the importance of this program, particularly in light of events in the Persian Gulf, I would like to receive assurances that the conferees will consider adding funds for the program in conference.

Mr. SASSER. Mr. President, I answer to the Senator from Wisconsin that the conferees will consider funding all of the programs that are included in the final version of the military construction sections of the Defense authorization bill. Obviously, an unusual procedural situation has occurred this year with the military construction appropriations bill moving faster than the authorization bill. In conference, we will have to sort out all the discrepancies so that the final version of the two bills are brought into line. We will definitely review the funding request for an energy conservation program if it is authorized in the final version of the Defense authorization bill.

Mr. KOHL. Mr. President, I am pleased to hear from the chairman of the Military Construction Subcommittee that, if authorized, the conferees will consider providing $50 million for an energy conservation program. Such a program is sorely needed at the Department of Defense. Over the last decade, investments in energy conservation systems have declined from a total of over $225 million in 1981 to less than $2 million this fiscal year, according to testimony of the Department before Congress in July. Last year the House Armed Services Committee directed the Department to spend $20 million on energy management and conservation systems. Not one dollar of that money was actually spent. At the same time, the Department submitted a report to Congress which lists a small percentage of the energy management and conservation needs of the Department. That report lists a nunber of projects with a payback of less than 1 year—in other words, an investment in energy management or conservation systems would save the taxpayers money in the first year of operation.

With this track record, it is clear that the Department has different priorities and that it will not invest in energy conservation unless required to do so by the Congress.

Mr. SASSER. I agree wholeheartedly with my friend from Wisconsin. I strongly support energy conservation. The Department of Defense is the largest consumer of energy in the Federal Government. Total Federal energy purchases last year totaled $8.5 billion of which 80 percent was by DOD. Those costs will only skyrocket next year as oil prices rise. Energy conservation is a sound investment both for the taxpayer and for our national security.

Mr. KASTEN. Mr. President, I would also like to thank the chairman of the Military Construction Subcommittee for his support of energy conservation. I have been following this issue for years. Despite several expressions of congressional interest, the Department has failed to take the initiative on this important issue. I am hopeful that the conferees will fund the $50 million to begin again this program. More importantly, I want the Congress to send a clear signal to the Department that energy conservation is a high priority, that Congress will appropriate money for this purpose in future years, and that the Department should include a realistic budget for energy management and conservation in the budget request for next year.

Mr. GRASSLEY. Mr. President, I also strongly support the goals of energy conservation. The Defense Department needs to increase its efforts in this area immediately. I believe that the record shows that Congress has always funded the Department's requests for energy conservation purchases in the past. We will continue to do so in the future and, if necessary, will take the lead on this issue.

Mr. KOHL. I thank the Senator from Iowa for his expressions of support.

Mr. STEVENS. Mr. President, the report accompanying the 1988 military construction appropriations bill included language that directed the Army to replace facilities utilized by the Bureau of Land Management that were destroyed by the Army at Fort Wainwright, AK.

To date, the Army has not complied with the direction of the Congress. The Army and BLM have worked together to resolve what kind of facilities are necessary to support the firefighting mission of the BLM in Alaska.

The Bureau of Land Management has proposed a solution where the Army could construct an addition to an existing facility on Fort Wainwright to support the BLM mission. The estimated cost of this addition is $1.3 million.

Mr. President, the Congress spoke clearly on this issue in the 1988 bill. I ask my chairman and ranking member on the Military Construction Subcommittee if they continue to support the language included in the 1988 bill.

Mr. SASSER. Mr. President, I appreciate my colleague, the Senator from Alaska, raising this issue again before the Senate. I share his frustration with the Army's failure to comply with the direction provided by the Congress in 1988. The strategy proposed by the Bureau of Land Management is reasonable, and appears to be the lowest cost solution to this problem. I join Senator STEVENS in urging the Army to reprogram $1.3 million from available 1988 funds to construct this addition at Fort Wainwright.

Mr. GRASSLEY. Mr. President, I join the chairman of the Military Construction Subcommittee in support of the project described by the Senator from Alaska. Senator STEVENS serves as a member of this subcommittee, and I will work with him to ensure that this project is completed.

Mr. STEVENS. Mr. President, I appreciate the support of the Senator from Tennessee and the Senator from Iowa. As this bill proceeds to conference with the House, may I ask them if this matter might be considered during that conference, to reinforce the 1988 language?

Mr. SASSER. If I might respond, Mr. President, I can assure the Senator that this matter will be raised in the conference, where the Senator will be a conferee.

Mr. STEVENS. I thank the chairman.

AMENDMENT NO. 2920

Mr. SASSER. Mr. President, on behalf of myself and the distinguished ranking member, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. SASSER], for himself and Mr. GRASSLEY, proposes an amendment numbered 2920.

Mr. SASSER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 8, strike "$698,167,000" and insert in lieu thereof "$697,967,000".

On page 3, line 13, strike "$1,084,126,000" and insert in lieu thereof "$1,083,826,000".

On page 4, line 6, strike "$892,184,000" and insert in lieu thereof "$891,784,000".

On page 4, lines 19 through 21, restore the matter stricken.

On page 7, line 9, strike "$226,188,000" and insert in lieu thereof "$235,549,000".

On page 7, line 16, strike "$154,830,000" and insert in lieu thereof "$146,369,000".

On page 7, line 22, strike "$75,126,000" and insert in lieu thereof "$75,226,000".

On page 8, line 22, strike "$61,800,000" and insert in lieu thereof "$61,700,000".

On page 8, line 24, strike "$1,525,767,000" and insert in lieu thereof "$1,525,667,000".

Mr. SASSER. Mr. President, the amendment I offer with the distinguished ranking member results in no net increase to the appropriations provided in this bill.

The amendment is offered to make technical corrections in the bill, to provide funding for those projects which were approved by the Senate during the consideration of the authorization bill, completed subsequent to full committee action on the appropriations bill, and to provide funding for other projects, including several National Guard and Reserve projects which were included in the House authorizing bill but were not included in the House appropriations bill.

I might say, Mr. President, that the project additions are fully offset with corresponding reductions.

Mr. President, I ask unanimous consent that a complete description of this amendment be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The amendment includes the following project additions:

Army:	
Alaska: Fort Wainwright, elementary school	$8,300,000
Utah: Toole, Chemical demil facility (increase to project)	9,000,000
Navy:	
California: Monterey Fleet Oceanography Center, meteorological building	6,440,000
Rhode Island: Newport Underwater Systems Center, Integrated propulsion facility	13,700,000
Air Force:	
Arkansas: Little Rock AFB, personnel processing center	5,300,000
New Mexico: Holloman Air Force Base, F-117 facilities	36,000,000
Army National Guard:	
Arizona:	
Bellemont, Consolidated training site	6,522,000
Marana, CMS facility	4,554,000
Indiana: Knox, armory	1,376,000
Iowa:	
Camp Dodge, add vehicle storage facility to STARC armory	575,000
Corning, armory	1,008,000
Council Bluffs, add OMS to armory	528,000
Oskaloosa, amory	1,306,000
Missouri:	
Jefferson City:	
Armory	5,049,000
OMS	942,000
USPFO warehouse	2,800,000
Education facility	2,329,000
Support maintenance shop	7,880,000
New Mexico: Albuquerque, training site	1,549,000
Tennessee:	
Huntingdon, armory	1,319,000
Jackson, armory addition	898,000
Lenoir City, armory	1,230,000
Texas: Houston, Addicks armory and OMS	5,400,000
Utah:	
Camp Williams:	
Armory	4,145,000
Aviation support facility	6,952,000
OMS	799,000
Wisconsin: Beloit, armory	2,200,000
Air National Guard:	
Iowa:	
Des Moines, upgrade aircraft hanger	1,800,000
Sioux City, alter composite support fac	680,000
Maryland: Glen Martin Airport utilities removal	3,700,000
North Dakota: Fargo, jet fuel storage	3,500,000
Army Reserve:	
Tennessee:	
Knoxville, reserve center planning & design	460,000
Memphis, reserve center planning & design	840,000
Army Family Housing:	
Kansas, Fort Riley (250 units)	16,500,000

The amendment includes the following reductions:

Army:	
Deficiency allowance	15,000,000
General reduction	2,500,000
Navy: General reduction	20,440,000
Air Force:	
General reduction (increase)	30,700,000
CONUS unspecified, site unspecified, F-117 facilities	11,000,000
Army National Guard: Deficiency allowance	50,000,000
Air National Guard:	
Arkansas:	
Little Rock AFB, personnel processing center	5,300,000
Deficiency allowance (reduction)	12,841,000
Army Reserve: Deficiency allowance (reduction)	1,200,000
Army Family Housing: Construction improvements (reduction)	16,600,000

CHANGE TO BILL LANGUAGE

The amendment restores the bill language approved by the House relating to the Ballistic Missile Organization.

Mr. SASSER. Mr. President, this amendment is cosponsored, I might say, by the ranking minority member. I yield to him for any comments he might wish to make at this time.

Mr. GRASSLEY. Mr. President, I have no comments. I am ready for its adoption.

Mr. SASSER. Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SASSER. Yes, I yield back all time on my side.

Mr. GRASSLEY. I yield back all time on my side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2920) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2921

(Purpose: To provide a new civil cause of action in Federal law for international terrorism that provides extraterritorial jurisdiction over terrorist acts abroad against U.S. nationals)

Mr. GRASSLEY. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself and Mr. HEFLIN, proposes an amendment numbered 2921.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . ANTITERRORISM ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the "Antiterrorism Act of 1990".

(b) TERRORISM.—Chapter 113A of title 18, United States Code, is amended—

(1) in section 2331 by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 as 2332 and striking the caption for section 2331 and inserting the following:

"§ 2332. Criminal penalties";

(3) by inserting before section 2332 as redesignated the following:

"§ 2331. Definitions

"As used in this chapter—

"(1) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnaping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(2) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

"(3) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property; and

"(4) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin.".

(4) by adding immediately after section 2332 as redesignated the following new sections:

"§ 2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his person, property, or business by reason of an act of international terrorism, or his estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover three-fold the damages he sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPED UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 1472 (i), (k), (l), (n), or (r) of title 49 App. shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPED UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§ 2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this title may be served in any district where the witness resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

"§ 2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 3 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of his whereabouts, shall not be reckoned within this period of limitation.

"§ 2336. Other limitations

"No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

"§ 2337. Suits against government officials

"No action shall be maintained under section 2333 of this title against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his official capacity or under color of legal authority.

"§ 2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter."; and

(5) by amending the table of sections to read as follows:

"CHAPTER 113A.—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.

(c) TABLE OF CONTENTS.—The table of contents of part 1, title 18, United States Code, is amended by striking:

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals ..... 2331"

and inserting in lieu thereof:

"113A. Terrorism ..... 2331".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to any pending case and any cause of action arising on or after 3 years before the date of enactment of this section.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume, and I will not take much.

Last April, Senator HEFLIN and I introduced S. 2465, the Anti-Terrorism Act of 1990. This legislation would, for the first time, provide for a civil cause of action for American victims of international terrorism.

Current laws already provide for criminal jurisdiction over acts of international terrorism. This amendment will fill the gap in the law by establishing a civil counterpart to the existing criminal statute.

This legislation has strong bipartisan support. Ten of fourteen members of the Judiciary Committee are cosponsors. Cosponsors of S. 2465 include: Senators HATCH, HUMPHREY, BIDEN, SPECTER, SIMON, LEVIN, LIEBERMAN, MURKOWSKI, DECONCINI, COATS, BOSCHWITZ, METZENBAUM, HELMS, BOND, and KOHL. Last July the Subcommittee on Courts and Administrative Practice held a hearing where families of victims of terrorism, legal experts, and the administration testified. Last week, the subcommittee unanimously and favorably polled out this important legislation. The companion bill has been introduced in the House where it has also garnered strong bipartisan support.

Specifically, this amendment provides that any national of the United States, injured by an act of international terrorism, his estate, heirs, or survivors, may sue in U.S. district court for treble damages.

Last June, a New York district court ruled that the U.S. courts have jurisdiction over the Palestinian Liberation Organization. We all remember the hijacking of the *Achille Lauro* cruiseliner when PLO terrorists brutally murdered American Leon Klinghoffer. His wife Marilyn wanted justice so she turned to the American legal system and sued those responsible. When Mrs. Klinghoffer died, their daughters carried on in the pursuit of justice.

Skeptics told the Klinghoffers that it was beyond what most people would try. "Sue the PLO. What? Are you crazy?" They were asked.

At the July hearing, Ilsa Klinghoffer testified that her mother was "determined to find some accountability, some responsibility, some justice for everything she went through." Ilsa explained that she had to continue in her footsteps.

Lisa Klinghoffer explained that suing those responsible—the PLO:

is a matter of principle. It is not the Judgment. It is not the money. It is not a price tag. It is to legally set responsibility for who gave the orders to murder my father; for who gave the orders to hijack the ship * * * it is a search for justice.

And justice is what the Grassley-Heflin amendment is all about. The Klinghoffers have laid the groundwork. The New York courts have set the precedent. The Grassley-Heflin amendment codifies that ruling and

makes it definitive. It empowers victims of terrorism with the right to their day in court to prove who is responsible for all the world to see.

The United States must take a strong stance against terrorism. The Department of State testified that this bill would add to the arsenal of legal tools that can be used against those who commit acts of terrorism against U.S. citizens abroad.

Mr. President, the latest stream of terrorist threats has been unleashed against Americans. The Butcher of Baghdad, Saddam Hussein, has threatened to attack America and her allies anywhere in the world with his agents of terror.

Just last Friday, Abul Abbas, mastermind of the *Achille Lauro* hijacking, unleashed a new campaign of terror against Americans. Abbas, member of the PLO Executive Committee, convicted murderer of Leon Klinghoffer, leader of the recent May PLO attack on the beaches of Tel Aviv, is alive and well and calling for renewed terrorism against Americans worldwide.

Now is the time for action. Now is the time to strengthen our ability to both deter and punish acts of terrorism.

We must make it clear that terrorists' assets are not welcome in our country. And if they are found, terrorists will be held accountable where it hurts them most: at their lifeline, their funds. With the Grassley-Heflin bill, we put terrorist on notice: To keep their hands off Americans and their eyes on their assets.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SASSER. Mr. President, I understood that this amendment, which is legislative in nature, has been cleared by the majority and minority leadership on the Judiciary Committee, which is the committee of jurisdiction. With that understanding, Mr. President, the majority is willing to accept this amendment on this bill and to take it to conference. Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. Does the Senator yield back the time reserved to him?

Mr. SASSER. I yield back the time on this amendment.

The PRESIDING OFFICER. Does the Senator from Iowa do the same?

Mr. GRASSLEY. Yes, I do.

Mr. DOMENICI. Mr. President, I wonder if the distinguished manager on our side might just answer a question for the Senator from New Mexico.

Mr. GRASSLEY. On this provision?

Mr. DOMENICI. Yes.

Mr. GRASSLEY. Yes, I am glad to yield to the Senator from New Mexico.

Mr. DOMENICI. Is the amendment he is referring to the so-called managers' amendment that incorporates additional items?

Mr. GRASSLEY. No, it is not. I do not need any time.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back by both the managers in control of the floor.

The question is on agreeing to the amendment.

The amendment (No. 2921) was agreed to.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2922

(Purpose: To provide for payment of claims by United States nationals against Iraq)

Mr. BAUCUS. Mr. President, I rise to offer an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 2922.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . PAYMENT OF CLAIMS BY UNITED STATES NATIONALS AGAINST IRAQ.

(a) Notwithstanding any other provision of law, the President is authorized—

(1) to vest title in a portion of the property in which transactions have been blocked pursuant to Executive Order 12722 of August 3, 1990, which portion shall be equal to the total amount of obligations owed to United States Government (including the Department of Agriculture and the Commodity Credit Corporation) and United States nationals for which Iraq has suspended repayment; and

(2) to liquidate such property and pay United States creditors the amount of the obligations referred to under paragraph (1).

(b) In the event that property liquidated under subsection (a)(2) is less than the total amount of obligations described in subsection (a)(1), then obligations the repayment of which is guaranteed by the Commodity Credit Corporation shall be given priority in payment of creditors.

Mr. BAUCUS. Mr. President, I rise to offer an amendment to liquidate Iraqi assets to pay Iraq's debts to United States creditors.

Since Iraq's invasion of Kuwait the United States has imposed a number of economic sanctions against Iraq.

On August 3, 1990, the President imposed an embargo on Iraq and froze substantial Iraqi assets in the United States. Precise estimates of the value of the Iraqi assets frozen are not available, but they appear to be worth several hundred million dollars.

In retaliation, Iraq took a number of steps, including suspending payments on debts to creditors in the United States.

On September 19, Iraq took the additional step of seizing all assets of nations supporting the U.N. embargo of Iraq.

This included an as yet unspecified amount of U.S. assets.

Iraq now owes creditors in the United States about $2.6 billion.

This includes about $1.9 billion in loans to Iraq guaranteed by the U.S. Department of Agriculture for loans to purchase U.S. agricultural exports.

If Iraq defaults on these debts, USDA's Commodity Credit Corporation would be forced to pay off the loans.

These debts would cost the CCC approximately $900 million in fiscal year 1991 alone.

That would be a tremendous drain on CCC assets that are already drawn thin to support the farm program.

My amendment would authorize the President to liquidate a portion of Iraqi assets sufficient to repay their debts to United States creditors—particularly the Department of Agriculture.

The point of this amendment is simple.

American farmers are already suffering because of the Middle East crisis in many ways.

Farmers are paying drastically higher fuel prices because of the threat to the flow of oil.

Farmers also stand to lose hundreds of millions in sales to Iraq because of the embargo.

But if we do not take action, farmers will also be effectively forced to pay off Iraqi debts out of the farm program.

This is simply unacceptable.

Iraq has seized United States assets. It is now time for us to follow suit.

This amendment is cosponsored by Senators BOREN, DASCHLE, EXON, CONRAD, and KERRY of Massachusetts.

It is supported by the National Association of Wheat Growers, the American Farm Bureau, and the National Farmers' Union.

We must move to pass this critical legislation quickly.

I ask unanimous consent that a letter of support and an article on this subject from the Washington Post be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NATIONAL ASSOCIATION,
OF WHEAT GROWERS,
September 26, 1990.

Hon. MAX BAUCUS
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BAUCUS: This letter is to express our support for your amendment to H.R. 5268, regarding and specifically the

provision which directs the President to liquidate frozen Iraqi assets in order to repay Iraqi debt owed to U.S. creditors.

The National Association of Wheat Growers supports the President's August 3 decision to embargo all U.S. trade with Iraq. There should be no question that in this crisis, U.S. wheat producers want to do their fair share. Since the Iraqi invasion of Kuwait, we have lost one of our largest export markets for hard red winter wheat. We also face a significant reduction in net farm income because higher oil prices will result in a higher cost of production.

These are very direct and harmful effects. A more indirect, perhaps more insidious, effect may come in the form of an Iraqi default on the $1.9 billion it owes to USDA's Commodity Credit Corporation. If Iraq defaults on these loan guarantees, the USDA will be held accountable. We are uncertain whether the CCC can sustain such a loss without cutting outlays to already desperately trimmed farm support and export assistance programs.

We respectfully urge you and your colleagues to move quickly on this legislation to ensure that American farmers are not unduly or excessively hurt by the Persian Gulf crisis.

Sincerely,

DEL WIEDEMAN,
President.

IRAQ SEIZES ASSETS OF STATES OPPOSING IT

(By Richard Homan)

Iraq declared yesterday that it has seized all assets of countries participating in the U.N.-imposed sanctions against it, but the move appeared likely to have only limited impact against foreign governments and companies since oil and other major industries in the country long have been state-owned. The announcement from Baghdad came as the five permanent members of the U.N. Security Council reportedly reached agreement to expand the sanctions by allowing countries to intercept aircraft bound to or from Iraq or Kuwait. But diplomatic sources said the proposal, expected to be voted on this weekend, does not allow for the use of force against civilian aircraft because that would violate international aviation conventions.

In an effort to further tighten sanctions, diplomats at the United Nations said, the proposed resolution would also allow countries to "arrest" Iraqi ships in their ports if they are believed to be violating the sanctions imposed by the Security Council August 6, 4 days after Iraq invaded Kuwait.

President Bush warned again yesterday that the United States is prepared to take unspecified "additional steps" if sanctions and the quest for a political resolution to the Persian Gulf conflict do not succeed. A White House spokeswoman said Bush's remarks, at a political fund-raiser in San Francisco, were meant to be a reiteration of what he has said repeatedly—that Iraqi President Saddam Hussein's invasion and annexation of Kuwait last month "will not stand."

In his speech, which came a day after the Pentagon announced that Iraq had added significantly to its troop strength in Kuwait, Bush said the United States was compelled "by the moral compass that guides our nation" to respond to Saddam's "brutally aggressive act of terrorism against international law and order."

Among other developments yesterday, a U.S.-chartered plane flew 416 women and children, most of them Americans, out of Baghdad. Also, Argentina, in a break with its tradition of neutrality in international disputes, said it will send two warships to the Persian Gulf to help enforce the economic blockade. The move would make Argentina the first Latin American state to join the multinational military deployment there.

U.S. officials said it was not immediately clear how Iraq's seizure of foreign assets, decreed by the ruling Revolution Command Council, headed by Saddam, would affect American interests. State Department spokesman Margaret Tutwiler said, "It is not clear from the Iraqi statement in what form or against whom the action will be taken." A Treasury Department spokesman said no determination of the amount of property involved could be made until claims are filed.

Some Western governments said they saw little to be concerned about.

"The U.K. is in the happy position of being a net debtor to Iraq" and thus not likely to suffer seriously, a spokesman for the Bank of England told Reuter. Asked what he thought the effect would be, Belgain Foreign Minister Mark Eyskens told reporters: "Not much, because there isn't much to seize. Saddam Hussein has come up with much more interesting moves."

The Iraqi decree said, "All money, assets and their revenues, belonging to governments, institutions, companies and banks of countries that have taken arbitrary decisions against Iraq are impounded." It barred Iraqi courts from considering legal challenges against the order, and it back-dated it to the start of the U.N.-imposed embargo.

While the order did not mention Kuwait, there was little doubt that it included that country, which Saddam now considers part of Iraq.

Dozens of major foreign companies, many of them American, have worked in Iraq and Kuwait in recent years, primarily in the oil industry, construction and communications. But Iraq, and to a lesser extent, Kuwait, had nationalized major segments of their economies in the 1970s and outsiders were permitted to hold few assets there.

Spokesmen for Morrison-Knudsen and Bechtel Corp., two of the biggest American engineering and construction firms working in the Persian Gulf area, said their companies had no assets in Iraq.

Iraq's largest industry, the production and transportation of oil, has been entirely state-owned since the former British concession was nationalized in 1972. Foreign oil companies have few assets in Iraq except possibly tools and office furniture owned by drilling and maintenance contractors.

The Bank of England said Iraqi deposits already frozen in British banks totaled nearly $3.2 billion while they owed Iraq more than $1.9 billion they could not pay—a windfall in Britian's favor. A spokesman said the British government's only physical asset in Iraq was its embassy compound, Reuter reported.

The proposed air embargo is being sought as reports continue to circulate that Libya has been sending air shipments to Iraq. The nature of the cargo is not known, although several weeks ago the Security Council's Sanctions Committee was told that Libya had been transshipping equipment to build bridges for use by tanks.

There also have been intelligence reports that Libyan planes were being used by Western European companies exporting goods to Baghdad.

On Saturday, French President Francois Mitterrand said he had a list of "companies in our country trying to get around the embargo," and he said several countries were helping Iraq evade the embargo, but he did not identify them.

The main focus of the proposed resolution is to have the countries surrounding Iraq—Iran, Syria, Jordan, Saudi Arabia and Turkey—prevent aircraft from reaching Iraq unless they are carrying medical supplies or are authorized by the U.N. Sanctions Committee. While no force could be used against planes violating the embargo, a Western diplomat said, tracer bullets could be fired and fighter aircraft could signal by waggling their wings.

If aircraft fail to comply, the diplomat said, the information would be noted and the offending company or country could be singled out for punitive action if such moves are authorized by future U.N. resolutions.

At the United Nations, Soviet Deputy Foreign Minister Vladimir Petrovsky told reporters he was optimistic that sanctions and diplomatic action against Iraq would succeed. "I strongly believe in a step-by-step approach," he said. "Not all options have been used. I also believe Saddam will take into account the attitude of the international community." The Soviet Union is one of the five permanent members of the Security Council, along with the United States, Britain, France and China.

News services reported these addditional developments:

Japanese automakers agreed to allow the United States to use three auto transport ships to carry vehicles and other goods to the gulf region.

Jordan's King Hussein, Morocco's King Hassan II and Algerian President Chadli Bendjedid met in Rabat, Morocco, to discuss ways of solving the gulf crisis. Iranian Foreign Minister Ali Akbar Velayati indicated that Tehran would soon open talks with Saudi Arabia for the same purpose.

Vladimir Kryuchkov, chairman of the KGB secret police, told the Associated Press in an interview that the Soviet Union is willing to share intelligence on Iraq with the United States but has not made the offer directly because it has been rebuffed in the past.

The U.S. Defense Department, joining an effort by world relief organizations, has temporarily designated three military cargo planes—two C-5s and one C-141—to supply and transport some of the thousands of foreign refugees from Kuwait and Iraq now in Jordan, the Pentagon said.

Jordanian Finance Minister Basil Jardaneh said his country's economy faces collapse by late November unless it receives substantial financial aid. The embargo against Iraq, a major trading partner, will cost it an estimated $2.1 billion in the first year of the crisis—half of Jordan's annual gross national product—and Jordan also will pay about $30 million to aid refugees from Iraq and Kuwait, he said.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, on our side we can accept the amendment of the Senator from Montana.

Mr. DOMENICI. I understand that we are prepared to accept it on this side.

The PRESIDING OFFICER. Does the Senator from Montana yield back his time?

Mr. BAUCUS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Would that be the request of the Senator from Tennessee, to yield back the time under his control?

Mr. SASSER. Yes, we yield back the time under our control.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2922) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. SASSER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, at this point, I yield to the distinguished Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, I will take but a very few moments.

Mr. President, I rise today in support of the amendment that was offered by the distinguished managers of the bill that would increase funding for the construction of the facilities necessary to bed down the 37th Tactical Fighter Wing at Holloman Air Force Base in New Mexico. This amendment will enable the Air Force to remain on schedule with the transfer of the F-117 Stealth fighter from Tonopah to Holloman, and also to ensure at least a $130 million savings during the course of the move.

The Air Force has decided to transfer the 37th Tactical Fighter Wing from Tonopah Air Force Base, NV, to Holloman Air Force base in New Mexico. This is in no way associated with any base closure as some members had originally assumed.

Tonopah was never intended to be the permanent home for the fighter. Tonopah Air Force base is for top secret programs only, and the F-117 Stealth fighter program has been classified until recently. As a result of the program's declassification, the Air Force decided to plan a search for a permanent home for the 37th Tactical Fighter Wing.

The Air Force chose both Holloman AFB in New Mexico, and Nellis AFB in Nevada as the potential homes for the 37th. They conducted indepth studies on the merits of moving the wing to either of the two facilities, based on economic and operational criteria. Based on these criteria, the Air Force found that it was both economically and operationally more beneficial to move the wing to Holloman.

Several questions were raised about the validity of the Air Force numbers, estimates and conclusions. The GAO was commissioned to do a study on the Air Force conclusions. On September 27, we received a preliminary briefing from the GAO on its conclusions. While the Air Force and GAO figures differed slightly, the GAO was in agreement that there were substantial savings to be gained by the transfer of the F-117 to Holloman. The GAO found that $130 million savings could be achieved by the transfer of the 37th Tactical Fighter Wing to Holloman.

The amendment that was offered by Senators SASSER and GRASSLEY will increase funding for this transfer by $25 million in fiscal year 1991. This will bring the total amount associated with military construction costs in fiscal year 1991 to $36 million. It will also ensure that the Air Force remains on schedule and that the savings associated with the move are achieved.

When the Air Force and the President originally submitted their budget request to Congress, Air Force officials were under the impression that hangars to house the plane would not be necessary. Since that time they have found that in order to protect the F-117 from heat, and allow maintenance crews to work on them when needed, 40 operational hangars will be necessary regardless of where the F-117 itself is finally based.

This amendment will provide the funds the Air Force needs for the construction of the hangars in order to keep the transfer schedule on track, and ensure that the cost benefits to be derived from the transfer are fully achieved. The additional funds are offset by other programs that will not be adversely affected.

I would like to thank the distinguished chairman of the subcommittee and the ranking member for their cooperation. We have worked very hard on this issue over the past 5 months, and have been able to get clear, decisive, and conclusive information about the merits of the transfer of the F-117 to Holloman and the cost savings to be achieved. It is time now to move forward with this relocation, and ensure that the savings that can be achieved, are actually achieved.

Mr. President, let me just say to the managers and to all of those that have been involved in this issue, including the distinguished occupant of the chair and the distinguished Senator from Nevada [Mr. REID] that I am delighted that we have come to a resolution today which will, indeed, provide the moneys needed by the Air Force for the proposed move of the Stealth fighter from Tonopah, in the deserts of Nevada, to a permanent home at Holloman Air Force Base in New Mexico. We have been through some very trying times together, and we have collectively, I believe, in the best traditions of the U.S. Senate, made an effort to make sure that indeed the Air Force was right in its economic assessments regarding the move.

That did delay things for a while, but not to any extent which will cause irreparable harm or unduly delay things, and I want to thank everyone who participated. I believe we are taking an appropriate step today, providing the construction money and the money needed for new hangars at this base to accommodate this very exciting new fighter that will move to Holloman Air Force Base, NM, sometime in the not too distant future.

I thank the managers for including in the managers' amendment the requisite moneys for this construction and to make this move, eventually, a reality. I thank them for including it, and finding ways to include it within the ceilings allocated to them within the appropriations process.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Iowa [Mr. GRASSLEY].

AMENDMENT NO. 2923

Mr. GRASSLEY. Mr. President, I send an amendment to the desk for Mr. MURKOWSKI, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. MURKOWSKI (for himself, Mr. HEINZ, Mr. D'AMATO, and Mr. STEVENS), proposes an amendment numbered 2923.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . (a)(1) None of the funds appropriated by this Act may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary for the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding, for construction

projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

(3) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) The term "foreign country" includes any foreign instrumentality. Each territory or possession of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) Any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country.

(3) Subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(4) The restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country.

(5) The terms "contractor" and "subcontractor" includes any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Act.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

Mr. MURKOWSKI. Mr. President, I offer an amendment that would prohibit foreign company participation in public works projects appropriated by the bill, if the U.S. Trade Representative rules that reciprocal access to foreign public works projects is not available.

In 1988, the United States and Japan entered into a bilateral trade agreement aimed at opening the Japanese construction market to American participation. Since its signing, the United States Government has found trade barriers to exist in the Japanese public works construction market through at least two trade investigations—a section 301, and the Airport and Airways Safety and Expansion Act. Although finding unfair trade practices, the USTR has cited the bilateral agreement as a commitment on the part of the Japanese to open this market, and reason to forego United States actions.

Mr. President, there are serious allegations that this agreement has been violated on the first major contract awarded under that agreement, a part of the Kansai International Airport in Japan. The Japanese press is filled with story after story of illegal price fixing in the Japanese construction market. It even has a name: It is called dango in Japanese. We have just learned that the winner of that first major project at Kansai, the Niigata Engineering Co., is one of the 100 Japanese construction companies sentenced by pay damages to the United States this year for illegal price fixing at a United States naval base in Japan.

Let me point out that the Japanese construction market is larger than the United States construction market, some $50 billion larger. And yet the Japanese have around 2.5 billion dollars' worth of construction work in the United States annually, while the United States has done only 200 million dollars' worth of construction work in Japan, in total. Not annually, in total.

Mr. President, the second major contract at Kansai will be awarded any day. This is why we must now take a stand on this issue. We must begin the process today on this appropriations bill which includes funding for public works projects in which foreign countries may participate.

We can no longer afford to sit by and hope that our trading partners will offer us the benefits we offer to them so freely. We definitely cannot sit by and watch our bilateral agreements be brushed aside.

Mr. President, I urge that my colleagues adopt this amendment. Should we find in our bilateral talks that access will undoubtedly be granted to U.S. companies, this amendment can be dealt with in conference. But the message today must be clear—we take our bilateral commitments seriously, and so must our partners.

Mr. GRASSLEY. I reserve my time. I believe this amendment will be accepted.

Mr. SASSER. This is essentially the same amendment the Senator from Alaska has added to a number of appropriations bills for the last several years: It was added to the military construction bill in fiscal year 1989. We have no objection to this amendment.

Mr. GRASSLEY. Mr. President, I yield back the remainder of my time.

Mr. SASSER. I yield our remaining time on this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 2923) was agreed to.

Mr. DURENBERGER. Mr. President, I rise today in support of the fiscal year 1991 military construction appropriations. I believe the overall bill reasonably reflects our infrastructure requirements, in the context of many of the historic changes occurring around the world. The bill also clearly takes into account our tight fiscal constraints. Each of these factors clearly have an impact on our military construction requirements.

There are a number of construction projects, however, that are particularly important to the Minnesota Air and Army National Guards, and by extension, to the overall National Guard effort. Both the Senate Armed Services and Appropriations Committees have generously funded two of these projects. I have been in touch with representatives of the Minnesota Guard, and they are, indeed, pleased that these projects, both at the Air National Guard facilities at the Minneapolis-St. Paul Airport, have been funded.

I do believe, however, that the two projects that did not receive funding warrant particular consideration. We all well understand the budget constraints under which we must operate, but I believe these projects are ultimately very cost effective, filling an essential need at affordable, reasonable costs.

The first of these projects is a $4.2 million composite support facility to replace four older buildings at the Air National Guard facility at the Minneapolis-St. Paul International Airport, base for the 133d Tactical Airlift Wing. This consolidation of administrative and support functions within a single structure will allow more efficient training and operations, economical use of available land, and econo-

mies of scale in mechanical systems. The buildings it would replace are 1950's wooden structures with substandard ventilation and insulation.

The second project is located at the Army National Guard building at Camp Ripley. Camp Ripley is the Army National Guard's primary winter training facility. The Guard wishes to expand the existing maintenance and repair facility with a 35,000 square foot addition, at a cost of $6.1 million. With the new equipment and increased winter operations, the existing facility is insufficient, providing less than half its authorized space.

Mr. President, I believe that these two projects are important to the Guard mission. They are effective and cost-efficient. These several projects are very important to maintaining the readiness of Guard and Reserve forces around the Midwest and elsewhere across the country.

And with the recent changes around the world and most especially the ongoing crisis in the Persian Gulf, it is abundantly clear that we will only increase our reliance on our National Guard and Reserve forces. Our Guard and Reserve forces are performing admirably in the current crisis, answering the President's call to duty with courage, conviction, and commitment.

Mr. President, I do not at this time suggest that the Senate act to fund these two projects. I would remind my colleagues, however, that in its bill, the House does in fact fully fund these projects. I would urge my colleagues, particularly those who will serve on the conference committee, to give serious consideration to adopting the House-passed funding levels for these important and effective Air and Army National Guard projects. I believe our Guard mission and the public will be well-served by these efforts.

Thank you, Mr. President. I yield the floor.

Mr. GORTON. Mr. President, this Senator appreciates the work of the Military Construction Subcommittee of the Committee on Appropriations on this bill. In particular, I note the full funding of Washington State military construction projects that were authorized by the Armed Services Committee. I would like to take this opportunity to underscore the importance of several of these projects.

First, and foremost, the subcommittee approved the requested $22.3 million for the Everett Homeport. Both the administration and the Senate clearly recognize the strategic merit in basing a carrier battle group in the Pacific Northwest. As our lines of trade and communication with the Orient continue to expand, the requirement for Naval Forces to protect those important sealanes becomes more important. As the recent situation in the Middle East makes plain, threats to the continued flow of imported oil make protection of the sealanes from our Alaskan oilfields all the more urgent. Everett is well suited for such a mission.

Second, I thank the subcommittee for approving an authorized $20 million for land acquisition at the Puget Sound Naval Shipyard at Bremerton. The shipyard, which is bursting at the seams, needs this land to alleviate much of the overcrowding that now exists on base.

Third, the subcommittee approved an authorized $2.9 million for the purchase of a pier and building by the Tacoma National Guard to develop a Watercraft Support Training Complex. The recent callup of selected reserves and guard personnel illustrates the importance of a well-trained reserve force.

Finally, the subcommittee followed the recommendation of the Armed Services Committee in deferring military construction funds for operations and training facilities for the developmental A-12 attack aircraft. Given the current troubles of the A-12 program, the subcommittee's action was prudent. I hope however, that when the A-12 program is back on track, Congress will continue to fund the beddown of the A-12 at Whidbey Island, as planned.

I must express concern, however, about the ongoing Navy review of the basing plans for the A-12 attack aircraft. I believe that the Navy made the right decision when it selected NAS Whidbey Island and NAS Oceana as the sites for the A-12. I believe it would be a mistake, both in terms of cost and operations, to alter existing plans by basing the A-12 at NAS Lemoore. What is at stake here is the future of the Navy's tactical training airspace. Potential loss of the Navy's premier Northwest training airspace would adversely affect carrier aviation for decades to come.

Mr. BINGAMAN. Mr. President, I rise today in support of the fiscal year 1991 Military Construction Appropriations Act. I am particularly pleased that the managers have included in their amendment $36 million in funding to relocate the F-117 Stealth Fighter Wing from Tonopah Reservation to Holloman Air Force Base.

Mr. President, the New Mexico and Nevada delegations were recently briefed on the results of a General Accounting Office audit of the costs and savings of the proposed move. The results of that audit confirm the conclusion reached earlier this year by the Air Force that Holloman is the most cost-effective option for basing the F-117's. The audit also upheld the Air Force conclusion that additional military construction funding in fiscal year 1991 would result in a substantial one-time savings from the costs associated with operating the aircraft at Tonopah for an additional year. After receiving the briefing, Senator DOMENICI and I took the results of the audit to Senator SASSER, who agreed to include the additional funding necessary to keep the move on track in this year's bill.

Mr. President, Holloman Air Base is an important and valued member of the New Mexico community. This legislation will have a significant effect on the quality of life of the people in and around Holloman, and I would like to thank Senator SASSER for his assistance in obtaining this funding. I urge my colleagues to support this legislation.

Mr. CHAFEE. Mr. President, I wish today to voice my support for a $13.7 million appropriation for the Naval Underwater Systems Center [NUSC] in Newport, RI, in the fiscal year 1991 military construction appropriations bill. I would especially like to thank the distinguished subcommittee chairman from Tennessee, JIM SASSER for his assistance in putting together a manager's amendment to include this and other authorized programs in the bill.

NUSC is the Navy's main center for research, development, testing, and evaluation of submarine weapon and warfare systems and surface sonar systems. It plays a critical role in maintaining the technological superiority that America's submarine fleet has over any and all potential adversaries.

The program in question would fund the construction of a 100,000-square-foot building needed to provide for the testing and development of advanced underwater vehicle propulsion/acoustic systems and related components. It will be used to develop unique submarine launched torpedoes; targets; and special purpose vehicles in support of the Navy's Tactical Undersea Vehicles Program. The building will maintain a flexible design to allow for incorporation of future systems development requirements. It would also have a high-security area for the development and testing of specific special projects in support of submarine launched weapons and special purposes systems. This new building will have the capability to handle vehicles ranging in size from a few inches to 36 inches in diameter.

This capability is needed to enhance our ability to develop new quiet submarine technologies necessary for retrofitting the 688-class submarine and to build the next generation *Seawolf* submarines. These submarines will have substantially reduced acoustic signatures and the ability to effectively operate undetected at higher speeds. The importance of this effort cannot be overstated at the Soviet military's ability to detect; track, and potentially destroy our present generation of submarines grows.

Funding for this NUSC Program was provided for in the House-passed ver-

sion of this bill and was authorized in the recently passed Senate defense authorization bill. I once again thank the Senator from Tennessee [Mr. SASSER] and to urge my colleagues to support this amendment.

FORT MEADE LAND TRANSFER

Mr. SARBANES. Mr. President, I rise in strong support of the military construction appropriations bill for fiscal year 1991.

In addition to meeting many pressing national priorities, this bill provides much-needed funding for a number of important projects in my own State of Maryland. More than $6 million is provided for a new wastewater treatment facility at Indian Head Naval Ordnance Station and an additional $1.8 million is included for replacement of the outdated fire station that serves the eastern half of Andrews Air Force Base. Mr. President, I ask that a list of the projects in Maryland be included in the RECORD following my statement.

The report language accompanying this legislation also establishes priorities for military construction for fiscal year 1992. That language directs the administration to include three critical projects in its budget submission for next year: First, a cold/dry food storage facility for Aberdeen Proving Ground; second, a new fire station for Fort Ritchie; and third, completion of sanitary sewer improvements at the naval electronics systems engineering activity at St. Inigoes. Mr. President, all three of these projects will address pressing infrastructure needs and I commend the committee for making them top priorities.

Most importantly, Mr. President, this bill contains provisions that will ensure the protection of thousands of acres of ecologically significant property that has been declared surplus at Fort Meade. It transfers approximately 7,600 acres of Fort Meade to the U.S. Fish and Wildlife Service for wildlife conservation purposes.

Mr. President, this transfer has been one of my highest priorities and a priority of the Maryland congressional delegation since the Defense Secretary's Commission on Base Realignment and Closure declared about 9,000 acres at Fort Meade as surplus in December 1988. For the past year, we have worked hard to convince the Department of Defense and the administration that preservation of the bulk of this land is the only responsible and acceptable result of the partial closure of Fort Meade. I am pleased that the Army has recognized that fact and agreed to the compromise included in this bill.

Two important tributaries of the Chesapeake Bay, the Patuxent and Little Patuxent Rivers, flow through and are protected by this property. These rivers are important breeding and wintering areas for migratory waterfowl while the land is home to over 100 species of birds and a variety of wildlife. The swamps near the two rivers on the property contain many Pin Oaks and Sycamores which, along with the dense shrub layer that borders much of the shore area, help to filter the sediments and other pollutants that would otherwise flow downstream, eventually entering the Chesapeake Bay.

The realignment of Fort Meade has presented us with an unprecedented opportunity to preserve much needed open space in one of the fastest-grown urban areas in our Nation—the Baltimore-Washington corridor. The compromise language the Senate is expected to approve today will allow the Department of the Interior to select the 7,600 acres that are most important for wildlife conservation. At the same time, Mr. President, this bill will prevent the Department of the Interior from disposing of those acres without congressional approval. Of the remaining acres, approximately 325 that include wells and landfills will be retained by the Army. Less than 1,000 acres will be available for other uses and will be subject to the strict zoning requirements that I understand Anne Arundel County will enact.

I want to especially thank the distinguished chairman of the subcommittee, Senator SASSER, whose support and leadership was vital in the preservation of these 7,600 acres. I would be remiss if I did not also thank Mike Walker, the subcommittee's staff director, whose support and assistance I very much appreciate.

Mr. President, it is quite unlikely that there will ever be another chance to set aside such a large and ecologically valuable tract of land so close to the Capital of our Nation. Preservation of this land for wildlife conservation is a victory for Maryland, for our environment, and for our Nation. I look forward to prompt passage of this bill and urge my colleagues to support it.

Maryland projects in the military construction appropriations for fiscal year 1991

Aberdeen Proving Ground:	
Relocate/modernize fire barricades	$10,400,000
Security upgrade	1,700,000
Toxicology research facility	33,000,000
Andrews Air Force Base:	
Air National Guard special fuel facility	300,000
Combat arms training facility	1,300,000
Fire/crash rescue station	1,750,000
Bethesda National Naval Medical Center: Bachelor enlisted quarters	9,040,000
Fort Detrick: Storage facility addition	530,000
Glenn L. Martin Airport: Alter Air National Guard support facility	600,000
Fort George Meade:	
Building 9805 addition	3,425,000
Defense courier station	1,800,000
Defense reutilization and marketing office	9,500,000
Low-voltage power upgrade	8,221,000
OPS Building 2A cooling tower	1,800,000
Substation 1 electrical upgrade	6,025,000
Indian Head Naval Ordnance Station: Industrial wastewater treatment facilities	6,430,000
Naval Electronics Systems Engineering Activity: FACSFAC electronic systems integration	4,020,000
Naval Intelligence Command: Suitland Headquarters, increment II	55,048,000
Patuxent River Naval Air Test Center:	
Security improvements	3,010,000
Test pilot school	6,030,000
Patuxent River Naval Hospital: Aviation physiology training facility	2,510,000
Uniformed Services University of Health Sciences: Complete construction of animal rooms	800,000
Total	167,239,000

Mr. SASSER. Mr. President, I know of no further amendments to this bill.

Mr. GRASSLEY. Mr. President, likewise on this side.

Mr. SASSER. Mr. President, I request third reading.

The PRESIDING OFFICER. There is time remaining.

Mr. SASSER. Let me withhold that request. I believe the distinguished chairman of the Appropriations Committee is seeking recognition. I will yield to him such time as he may consume.

The PRESIDING OFFICER. The senior Senator from West Virginia [Mr. BYRD] is recognized.

Mr. BYRD. Mr. President, I thank the Chair and I thank the distinguished chairman. I will not consume more than 3 minutes.

Mr. President, today we are considering H.R. 5313, the military construction appropriations bill for fiscal year 1991. This measure provides necessary funding for the planning, design, construction, alteration, and improvement of military facilities worldwide, including the operation and maintenance of military family housing. The bill also provides funding for the U.S. share of NATO infrastructure construction costs.

The bill as recommended by the Committee on Appropriations provides net appropriations of $7,979,291,000 for fiscal year 1991. The bill is $1,146,687,000 below the President's request and $331,876,000 below the House allowance. For the benefit of my colleagues, I note that this bill is also $271,284,000 below the amounts appropriated in fiscal 1990 and $981,409,000 below the amounts appro-

priated for fiscal 1989. With respect to the subcommittee's 302(b) allocation, the bill as recommended is within both the budget authority and outlay ceilings.

I wish to commend Senator SASSER, chairman of the subcommittee and Senator GRASSLEY, the ranking minority member, for their excellent work in accommodating the priorities of the Senate within the constraints of the budget agreement. Their work was greatly assisted by the cooperation of their colleagues on the subcommittee and on the full Committee on Appropriations.

As a matter of fact, the subcommittee, which is chaired by Senator SASSER, was willing to have its allocation reduced when the chairman made the allocations to the various subcommittees, and I want to compliment him. At a time when most subcommittees sought to have their allocations increased, for good reason, I think it sets an excellent example when the chairman of a particular appropriations subcommittee says "Well, I will live within my means. As a matter of fact I will give up a little bit of my allocation. That allocation can be helpful to another subcommittee or subcommittees that perhaps have tremendous needs within the constraints under which they are operating."

So, I want to compliment the chairman, Mr. SASSER, and I want to thank him for that. Of course the ranking member has to be thanked likewise, because it affects him as well. So I congratulate them. Their work was greatly assisted by the cooperation of their colleagues on the subcommittee. I also wish to compliment the majority and minority staff for their months of hard work in connection with this legislation: Mike Walker, Mary Marshall, Rick Pierce, and Dona Pate.

The managers have explained in great detail the contents of the measure as recommended to the Senate and I hope now we can get down to the business of considering and passing the bill. As reported by the full committee, it deserves the support of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. SASSER].

Mr. SASSER. Mr. President, I thank the distinguished chairman of the Appropriations Committee and the President pro tempore of the U.S. Senate for his very kind and generous remarks. I might say that it has been an enormous pleasure this year to work with the distinguished chairman of the Appropriations Committee on matters dealing with military construction. He has been very helpful and very sympathetic to our wishes and needs during the year.

Mr. President, I know of no further amendments. And I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I yield back the remainder time on this side.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. All time has been yielded back.

The bill, having been read the third time, the question is, Shall it pass?

So the bill (H.R. 5313) as amended, was passed.

Mr. SASSER. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I move the Senate insist on its amendments to the bill, H.R. 5313, and request a conference with the House of Representatives and that the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion was agreed to; and the Presiding Officer (Mr. BRYAN) appointed Mr. SASSER, Mr. INOUYE, Mr. REID, Mr. FOWLER, Mr. BYRD, Mr. GRASSLEY, Mr. GARN, Mr. STEVENS, and Mr. HATFIELD conferees on the part of the Senate.

MORNING BUSINESS

Mr. SASSER. Mr. President, I ask unanimous consent for a period of morning business, with Senators to be permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

CABLE TELEVISION CONSUMER PROTECTION ACT

Mr. DANFORTH. Mr. President, late last week the majority leader asked unanimous consent to proceed to the cable television legislation. There was an objection to that unanimous-consent request. Because of that objection, for all practical purposes the issue is dead for this Congress. That, I think, is a very unfortunate result, but it is important to recognize reality.

Had we been able to bring the bill before the Senate, those of us who had supported it were convinced that we could pass it in very short order. Some amendments, I think seven or eight, had been proposed, and we had worked out time agreements with all but a couple.

Of course, the night before the bill was to be brought up, some people were slipping proposed amendments over transoms and under doors. But, still we believed that we could move forward with the legislation and do so in very short order.

We are now in the last days, hopefully, of this Congress. That means that to object to a unanimous-consent request to take up a bill is to ensure that the bill will never be brought up.

Because we are in the final days of this Congress, the few opponents of the bill are in the position of being able to kill it. Even if the majority leader were to move to proceed to the legislation, it could be filibustered. Those who oppose the bill say if they can get enough concessions, they might be willing to go forward. It is a kind of a take-it-or-leave-it attitude by the opponents. And that puts the advocates of cable television legislation in an exceptionally weak position.

So, as a practical matter, last Friday when the objection was entered to proceeding with this legislation, the opponents killed it. The results of killing the cable legislation became immediately apparent just outside the Nation's Capital. Literally within hours of the death of the cable television legislation, a firm called Media General of Fairfax County announced a significant increase in its cable rates for that community.

Mr. President, I would not be surprised if the action of those who opposed the cable legislation last Friday would not create something of a domino effect around the country, of cable companies saying, "Well, we are relieved from the threat of congressional action; let us get with it and continue the trend that has been going on for the past 3 or 4 years and raise the cable rates for our subscribers."

Why not? There is no reason not to. There is no power on Earth capable of reining in the cable television companies when they want to increase rates.

We believed a number of years ago when we decided to deregulate cable television that competition was a substitute for regulation. But, of course, there is no competition for most cable services today. Under the present state of the law, there will be no effective competition.

We have said in other areas that where there are natural monopolies—that in the absence of competition—Government at least will have the power to regulate. Because if there is no check by competition, there must be a check by regulation or else there is no limit to what can be done by unregulated monopolies.

For cable, there is neither regulation nor competition. What we did when we introduced this legislation back in 1989 was to say that we prefer compe-

tition, but in the absence of competition, let us at least allow local authorities to regulate. And, to make competition possible, let us give prospective competitors access to programming. There is never going to be meaningful competition if somebody interested in getting into the business is shut out from competing because he cannot get the programming.

That is what we did in the legislation, and the legislation received careful attention in the Senate Commerce Committee. We had 10 days of hearings on cable and related issues, and then we marked up the bill. We reported the bill out of the Commerce Committee by a vote of 18 to 1. I do not know what the vote would be on the floor of the Senate. But, there is no doubt in my mind, Mr. President, that if we had sufficient time, and we do not in this Congress, we could pass the bill by an overwhelming majority—I might say, by a veto-proof majority. That is not to be.

The strong support in the Congress for legislation to deal with the abuses in the cable television industry, is mirrored throughout the rest of the country. The Consumer Federation of America has described this as the most important consumer legislation before Congress this year. Interestingly, even people who answer polls sponsored by the cable industry itself have weighed in very heavily in favor of legislation. On August 24, CNN conducted a poll of its viewers, all of whom were cable subscribers. The question asked was: "Should cable TV be regulated?" Ninety-two percent of those who answered, answered yes, cable should be regulated; 8 percent answered no.

Recognition of the abuses within the cable industry is spreading through this country. The American people know that an unregulated monopoly is taking advantage of them, both in prices and in services. And the American people are speaking out; 92 to 8 in this poll. Their voices are being heard in the Congress.

Yes, there were some differences between the Commerce Committee bill and the House bill. But more important than the differences was the fact that both the Commerce Committee and the House of Representatives were serious about passing cable legislation. We could have come to an agreement with the House. I know that from speaking with Congressman MARKEY, he was very anxious to pass legislation this year. But, unfortunately, we are in a position where a small number of Senators could block the legislation. And they did it, Mr. President.

Mr. President, I congratulate the cable industry on winning the battle. They made a tremendous effort. As Senator HOLLINGS pointed out on the floor, the cable industry is a formidable foe, represented in Washington by some of the ablest advisors in this city. I do not minimize the skill of their legislative endeavors, but I also believe that to win the battle is not the same as winning the war. This is a war that will be fought next year.

It will be fought because legislation is not going to be introduced a month or 6 months or a year into the next Congress. Legislation is going to be introduced as soon as Congress begins. Having spoken with the chairman of our committee, Senator HOLLINGS, and the chairman of the subcommittee, Senator INOUYE, and knowing my own position, if our party is able to win control of the Senate, this is a matter that is going to receive hearings and will receive a markup very early in the next Congress. I believe we are going to pass legislation which will provide for rate regulation. I believe that we will pass legislation that will bar cable programmers from unreasonably refusing to deal with competitors. I believe that the legislation that will be enacted next year will be at least as strong as what we were considering this year. To the cable interests who were able to prevent this bill from passing this year, I extend my congratulations. I am not a sore loser. I would just as soon not lose but I am not a sore loser. I look forward to revisiting this in the Commerce Committee and on the floor of the Senate at an early date in 1991.

The PRESIDING OFFICER. Who seeks recognition?

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii [Mr. AKAKA].

NOMINATION OF JUDGE SOUTER

Mr. AKAKA. Mr. President, after much deliberation, I rise to oppose the nomination of Judge Souter to the Supreme Court. After carefully reviewing his legal background and the Judiciary Committee's hearing record, I have reluctantly come to the conclusion that I cannot support Judge Souter for our Highest Court.

Judge Souter is by all accounts an engaging, thoughtful, and highly intelligent individual. No one questions that his academic and legal qualifications are of the highest standard. However, his record on matters relating to the Constitution is unusually sparse. And what little can be found on his beliefs on a number of fundamental constitutional issues, such as civil rights and the right to privacy, concern me very much.

I am troubled by his defense of New Hampshire's voter literacy test.

I am troubled by the opinion he authored which undermined New Hampshire's rape shield law, an important statute protecting women who have been sexually assaulted. I am troubled by his criticism of the so-called heightened scrutiny test in gender discrimination cases, a standard that has been highly effective in battling discrimination against women. I am also troubled by his defense of New Hampshire's refusal to abide by an Equal Employment Opportunity Commission regulation requiring a racial breakdown of State employees.

And I am especially disturbed by his refusal to acknowledge a fundamental right of privacy beyond that accorded married couples.

Judge Souter's limited view of the right to privacy raises grave questions about his outlook on matters such as reproductive choice. His silence on this issue places a cloud of uncertainty over well-settled legal precedents governing the rights of individuals to make fundamental choices involving themselves, their families, and their relationships with other members of society.

He has also refused to state a view on whether the right to privacy includes the right to use contraception. A retreat in these areas could deny millions of men and women privacy rights which the Constitution guarantees and which previous Supreme Courts have affirmed.

The Constitution invests the Senate with the responsibility to advise and consent on Supreme Court nominations. The Founding Fathers granted us a responsibility equal to that of the President in determining the fitness of an individual for the High Court.

This week, I will cast my first vote as a Senator on a nomination to the Supreme Court. I feel compelled to exercise an abundance of caution in carrying out this responsibility. Because we are deciding on a nominee to our highest court, and because so much is at stake in filling this seat, I would much rather err on the side of caution than to give a nominee merely the benefit of the doubt.

Despite 3 days of Judiciary Committee hearings, Judge Souter's view on major constitutional questions such as abortion and civil rights remain largely a mystery to the American public and the Senate. The American people should not be playing a guessing game with a nominee to the Highest Court of the land.

The concerns I have raised do not relate to a narrow, single issue, but involve an entire field of constitutional law. For these reasons, I will oppose Judge Souter's nomination when it reaches the Senate floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the

order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORMER PRESIDENT JIMMY CARTER ON THE MIDDLE EAST

Mr. METZENBAUM. Mr. President, a recent Washington Post carries a column by former U.S. Ambassador to the United Nations Jeane Kirkpatrick entitled, "Jimmy Carter's Mideast Fictions."

Ambassador Kirkpatrick comments on a September 16 interview that President Carter gave to CNN regarding the current situation in the Middle East. In the interview, the former President asserted that Israel is guilty of ignoring U.S. resolutions regarding withdrawal from the West Bank. He claimed that "there have been six or eight unanimous (resolutions) by the United Nations Security Council calling for Israel to withdraw from the occupied territories. * * * These have the same legal status as the resolutions demanding that Iraq withdraw from Kuwait."

Mr. President, I join Ambassador Kirkpatrick in inquiring as to exactly which resolutions the former President refers. There certainly are U.N. resolutions calling for Israel to withdraw from occupied territory, but this is conditioned upon Arab recognition of Israel's right to exist. Ambassador Kirkpatrick is correct when she suggests that former President Carter was more creative than accurate when totaling up the U.N. resolutions.

It would appear that the former President's goal was to tighten the vise on Israel while supposedly objectively analyzing the current Persian Gulf crisis. His comparison of Israel in the West Bank to Iraq in Kuwait employs some of the most inventive logic we have seen in Middle East analysis. With respect, I would point out to the former President that inventive is not synonymous with accurate. With sadness, I would point out to the former President that his characterization is not only inaccurate, but counterproductive and damaging to long-term efforts for Middle East peace. The former President is confused regarding the difference between a war of self-defense, and a shameless grab for land and resources. Maybe the staff of his fine library can clarify the issue for the former President, as I read Ambassador Kirkpatrick's column, I must confess I had a feeling of foreign policy deja vu. This was not the first time I had heard of former President Carter's unique approach to Middle East analysis. Nearly 6 months ago, March 27, 1990, he briefed Members of the Senate on a trip to the Middle East from which he had recently returned, during that trip, he publicly criticized Israel on its policies in the West Bank and Gaza. Israel was only one stop on Carter's itinerary, however. He also went to Syria. What did he have to say about human rights in Syria? Human rights in Syria where 20,000 people had been totally eliminated, the whole community had been plowed under by Assad and his troops? What did he have to say about that? Not one word.

During the March 27 briefing, I pressed him on this apparent double standard in his public statements on human rights. Former President Carter's response was that Syria did not need public criticism because the Syrian public has no say in decisionmaking. In other words, the ex-President of the world's most free society felt at liberty to penalize Israel for being an open vibrant society, and did not see fit to say one word about that repressive society that exists in Syria where 20,000—or better people—had admittedly been plowed under, lost, their lives, and the total community lost.

I told the former President that democracies like Israel could take the heat of public criticism. I also told him that fear of offending a dictatorship like Syria ultimately leads to stronger dictatorships. Unfortunately we are now learning this lesson the hard way in the Persian Gulf.

Mr. President, a fringe minority of Middle East analysts have recently linked a permanent resolution of the Iraq-Kuwait crisis to a resolution of the Arab-Israel crisis. I regret that the former President seems to have bought into this self-serving approach.

I applaud former Ambassador Kirkpatrick's effort to maintain a higher standard of intellectual integrity regarding the Middle East, and I ask unanimous consent that a copy of her column appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 24, 1990]

JIMMY CARTER'S MIDEAST FICTIONS

(By Jeane Kirkpatrick)

Saddam Hussein was only half-serious when he linked Iraq's conquest of Kuwait to Israel's occupation of the West Bank and Gaza. Former president Jimmy Carter was wholly serious—and wholly mistaken—when he tried to make the case that the two matters "have the same legal status."

In an interview with CNN's Bernard Shaw on Sept. 16, Carter made the weirdly mistaken assertion that, "There have been six or eight unanimous [resolutions] by the United Nations Security Council calling for Israel to withdraw from the occupied territories, to restore the rights of the Palestinians, to come to an international conference—these have the same legal status as the resolutions demanding that Iraq withdraw from Kuwait." But, Carter added, "The world has not marshalled its efforts to make sure that these United Nations resolutions have been fulfilled."

Carter's comments are important because the unanimous Security Council resolutions to which they refer do not exist. This fiction is dangerous to Israel and dangerous to an understanding of realities in the Middle East.

As of Sept. 19, seven Security Council resolutions had been passed concerning Iraq's invasion of Kuwait. The first condemned Iraq's invasion and called for an unconditional withdrawal of Iraqi troops from Kuwait. The remaining six resolutions built on this.

There is *no* parallel resolution concerning Israel's presence in the West Bank and Gaza. There is a resolution that calls for Israel's withdrawal from territories occupied in the 1967 war and *also* calls for Arab governments to end "all states of belligerency" against Israel and accept that "every state in the area," including Israel, has "a right to live in peace within secure and recognized boundaries free from threats and acts of force."

This, of course, is Security Council Resolution 242, passed at the end of the 1967 war, in which Israel successfully fended off an attack by all her Arab neighbors. Resolution 242 is the basis of the famous "land for peace" formula, which was reaffirmed in Resolution 338 passed after the next Arab war against Israel in 1973 and supplemented by a call for direct negotiations between the parties.

These resolutions were the basis of the 1978 Camp David Accords negotiated by Israel's Menachem Begin and Egypt's Anwar Sadat with the help of then-President Carter. Those accords were a remarkable achievement because they were the only instance in which an Arab state (Egypt) was willing to negotiate with Israel or to make peace with the Jewish state. For the crime of making peace with Israel, Egypt was expelled from the Arab League and Anwar Sadat was murdered.

All other Arab states have ever since refused negotiation, peace or normal relations with Israel. Most have continued to call for the destruction of Israel, support terrorist attacks against Israel, and have ever since refused to reaffirm Resolutions 242 and 338. (The exception was Lebanon in the brief period of Bashir Gemayel's presidency—also terminated by assassination.)

How could Carter have imagined that there were "six or eight unanimous Security Council resolutions"? Or—a more basic question—how could he have seen the cases of Kuwait and the West Bank as parallel when Iraq invaded and occupied Kuwait, a sovereign state, and Israel was itself invaded three times?

The answer, I think, is that a false version of the Arab-Israeli conflict has been so often repeated that many people—including some very high officials—have come to feel that Israel is somehow guilty of aggression. It was, in fact, the victim of repeated wars of aggression. They have also come to feel that Israel's occupation of the West Bank is as clearly "illegal" as Iraq's conquest of Kuwait, when Israel acted in self-defense against neighbors (including Jordan) who not only attacked but have been unwilling to make peace.

These mistakes have serious implications. They lead Carter and others who have come to believe them to feel that Israel is a lawbreaker and that the U.S. failure to "pressure" Israel is evidence of an American double standard.

This mythical version of the Arab-Israeli conflict ignores the reality of the hostility that has surrounded the state of Israel from its founding until today, and makes the Is-

raeli government's concern with survival look like paranoia. It is not.

So far, the only relevance of the Gulf crisis to Arab-Israeli problems is to exacerbate them. Israel's qualitative edge in weapons is being eroded by the United States' proposed massive sales ($23 billion) to Saudi Arabia. Jordan has associated itself with the most radical, rejectionist, terrorist-minded Palestinians. PLO leaders—together at last in Baghdad—have made clearer than ever their commitment to violent politics. Saddam Hussein has threatened that, if attacked, he will retaliate against Israel.

If there is a double standard in this situation, it exists only in the minds of those who, like Jimmy Carter, think there is a parallel between Iraqi aggression and Israeli defense.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

OPPOSING THE PERSIAN GULF RESOLUTION

Mr. KENNEDY. Mr. President, tomorrow the Senate will be asked to vote on one of the most important pieces of legislation this body has considered in many years—a concurrent resolution addressing the actions of the President and the role of Congress in the crisis in the Persian Gulf.

I support the steps that President Bush has taken so far, and I commend him for the skillful diplomacy that has marshalled the international community against the aggression of Saddam Hussein. I am also proud of our dedicated men and women who are serving today in Saudi Arabia. All of us understand the potential cost of our commitment to peace in the region, and we admire their ability to endure the harsh conditions of their current deployment. Their courage is what makes America the symbol of freedom and democracy across the globe.

We must be careful, however, not to confuse support for the President's actions so far with a blank check endorsement for future actions. Yet, in my view, that is exactly what the proposed resolution does. It is, in effect, a Tonkin Gulf resolution for the Persian Gulf, and I intend to vote against it.

The broad and sweeping language of the second sentence of subsection (b) can easily be used by President Bush as approval in advance by Congress of military action against Iraq, up to and including the launching of an all-out war.

In rushing to support the President in a time of crisis, Congress must not abdicate its constitutional responsibility. The Founding Fathers bestowed on Congress—not the President—the power to declare war. I do not believe we should abdicate that important responsibility by passing this resolution.

None of us wants war in the Middle East. Our present policy is to give the economic sanctions time to work, and they should be given time to work. But all of us are also aware of the pressures on the President to go to war.

In my view, Congress should not act in any way that encourages the President to do so at this time.

If we are adopting a resolution approving of the President's past actions, let us do so.

But it is wrong for Congress to hint to the President that we are acquiescing now in his resort to force at some future date.

The War Powers Act appears to be unworkable in the current situation. There are those who argue that hostilities are not imminent, and others who claim the act is unconstitutional. But no one is arguing that Congress should abandon its constitutional power. Yet this resolution can easily be interreputed as doing so.

If the President intends to go to war to achieve his objectives, the Constitution requires him to consult with Congress. An attack on Iraq or Iraqi-controlled Kuwait is an act of war, pure and simple. If the President decides he must take such action, and risk tens of thousands of American casualties, then he must do so with the approval of Congress—in advance in specific terms, not by an after-the-fact invitation of an ambiguous resolution, the likes of which we have not seen since the Tonkin Gulf resolution of 1964.

That infamous resolution became a blank check for the Vietnam war, and history must not repeat itself in 1990. I urge the Senate to vote against the Persian Gulf resolution.

Mr. President, I suggest the absence of a quroum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUATION OF EXPORT CONTROL REGULATIONS—MESSAGE FROM THE PRESIDENT—PM 147

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b), I hereby report to the Congress that I have today exercised the authority granted by this Act to continue in effect the system of controls contained in 15 C.F.R., Parts 768-799, including restrictions on participation by U.S. persons in certain foreign boycott activities, which heretofore have been maintained under the authority of the Export Administration Act of 1979, as amended, 50 U.S.C. App. 2401 *et seq.* In addition, I have made provision for the administration of section 38(e) of the Arms Export Control Act, 22 U.S.C. 2778(e).

The exercise of this authority is necessitated by the expiration of the Export Administration Act on September 30, 1990, and the resulting lapse of the system of controls maintained under that Act.

In the absence of controls, foreign parties would have unrestricted access to U.S. commercial products, technology, and technical data, posing an unsual and extraordinary threat to national security, foreign policy, and economic objectives critical to the United States. In addition, U.S. persons would not be prohibited from complying with certain foreign boycott requests. This would seriously harm our foreign policy interests, particularly in the Middle East.

Controls established in 15 C.F.R. 768-799, and continued by this action, include the following:

—National security export controls aimed at restricting the export of goods and technologies which would make a significant contribution to the military potential of certain other countries and which would prove detrimental to the national security of the United States.

—Foreign policy controls that further the foreign policy objectives of the United States or its declared international obligations in such widely recognized areas as human rights, antiterrorism, regional stability, missile technology nonproliferation, and chemical and biological weapons nonproliferation.

—Nuclear nonproliferation controls that are maintained for both national security and foreign policy reasons, and which support the objectives of the Nuclear Nonproliferation Act.

—Short supply controls that protect domestic supplies, and antiboycott regulations that prohibit compliance with foreign boycotts aimed at countries friendly to the United States.

Consequently, I have issued an Executive order (a copy of which is attached) to continue in effect all rules and regulations issued or continued in

effect by the Secretary of Commerce under the authority of the Export Administration Act of 1979, as amended, and all orders, regulations, licenses, and other forms of administration actions under the Act, except where they are inconsistent with sections 203(b) and 206 of the International Emergency Economic Powers Act.

The Congress and the Executive have not permitted export controls to lapse since they were enacted under the Export Control Act of 1949. Any termination of controls could permit transactions to occur that would be seriously detrimental to the national interests we have heretofore sought to protect through export controls and restrictions on compliance by U.S. persons with certain foreign boycotts. I believe that even a temporary lapse in this system of controls would seriously damage our national security, foreign policy, and economic interests and undermine our credibility in meeting our international obligations.

The countries affected by this action vary depending on the objectives sought to be achieved by the system of controls instituted under the Export Administration Act. Potential adversaries may seek to acquire sensitive U.S. goods and technologies. Other countries serve as conduits for the diversion of such items. Still other countries have policies that are contrary to U.S. foreign policy or nuclear nonproliferation objectives, or foster boycotts against friendly countries. For some goods or technologies, controls could apply even to our closest allies in order to safeguard against diversion to potential adversaries.

It is my intention to terminate the Executive order upon enactment into law of a bill reauthorizing the authorities contained in the Export Administration Act.

GEORGE BUSH.

THE WHITE HOUSE, *September 30, 1990.*

MESSAGE FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on September 30, 1990, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 5755. An Act to amend the temporary increase in the public debt limit; and

H.J. Res. 655. Joint resolution making continuing appropriations for the fiscal year 1991, supplemental appropriations for Operation Desert Shield for the fiscal year 1990, and for other purposes.

Under the authority of the order of the Senate of January 3, 1989, the enrolled bill and joint resolution were signed on September 30, 1990, during the recess of the Senate, by the Acting President pro tempore [Mr. BRYAN].

MESSAGES FROM THE HOUSE

At 3:32 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 1756) to provide for the reservation and interpretation of sites associated with Acadian culture in the State of Maine; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 84. An act to amend title 28, United States Code, to provide Federal debt collection procedures; and

S. 2437. An act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2006. An act to expand the powers of the Indian Arts and Crafts Board, and for other purposes;

H.R. 2039. An act to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve adults and to youths, and for other purposes;

H.R. 2754. An act to require the Secretary of the Treasury to mint coins in commemoration of the quincentenary of the discovery of America by Christopher Columbus and to establish the Christopher Columbus Fellowship Foundation;

H.R. 2840. An act to reauthorize the Coastal Barrier Resources Act, and for other purposes;

H.R. 3684. An act to increase public understanding of the natural environment and to advance and develop environmental education and training;

H.R. 3898. An act to require certain procedural changes in United States district courts in order to promote the just, speedy and inexpensive determination of civil actions, and for other purposes;

H.R. 5264. An act to authorize modification of the boundaries of the Alaska Maritime National Wildlife Refuge; and

H.R. 5381. An act to implement certain proposals of the Federal Courts Study Committee, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 172. A concurrent resolution expressing the sense of the Congress that, for purposes of determining child custody, evidence of spousal abuse should create a statutory presumption that it is detrimental to the child to be placed in the custody of an abusive parent; and

H. Con. Res. 362. A concurrent resolution expressing the sense of Congress concerning the need for a national policy to rebuild the infrastructure of the United States.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2006. An act to expand the powers of the Indian Arts and Crafts Board, and for other purposes; to the Select Committee on Indian Affairs.

H.R. 5264. An act to authorize modification of the boundaries of the Alaska Maritime National Wildlife Refuge; to the Committee on Energy and Natural Resources.

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times and referred as indicated:

H.R. 4323. An act to amend the Federal Water Pollution Control Act relating to water quality in the Great Lakes; to the Committee on Environment and Public Works.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 172. A concurrent resolution expressing the sense of the Congress that, for purposes of determining child custody, evidence of spousal abuse should create a statutory presumption that it is detrimental to the child to be placed in the custody of an abusive parent; to the Committee on the Judiciary.

H. Con. Res. 362. A concurrent resolution expressing the sense of Congress concerning the need for a national policy to rebuild the infrastructure of the United States; to the Committee on Environment and Public Works.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2039. An act to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve adults and to youth, and for other purposes;

H.R. 2754. An act to require the Secretary of the Treasury to mint coins in commemoration of the quincentenary of the discovery of America by Christopher Columbus and to establish the Christopher Columbus Fellowship Foundation; and

H.R. 3684. An act to increase the public understanding of the natural environment and to advance and develop environmental education and training.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, October 1, 1990, he had presented to the President of the United States the following enrolled bill and joint resolution:

S. 1738. An act to convey certain Oregon and California Railroad Grant Lands in Josephine County, Oregon, to the Rogue Community College District, and for other purposes; and

S.J. Res. 57. Joint resolution to establish a national policy on permanent papers.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 592. A bill to amend the Federal Rules of Civil Procedure with respect to the examination of prospective jurors (Rept. No. 101-482).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with amendments:

S. 2928. A bill to make certain technical and clarifying amendments to the Indian Self-Determination Act, and for other purposes (Rept. No. 101-483).

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

H.R. 3468. A bill to amend the act entitled "An Act to extend the Wetlands Loan Act", to provide for the expansion of the Stewart B. McKinney National Wildlife Refuge (Rept. No. 101-484).

H.R. 3787. A bill to authorize a joint Federal, State, and Tribal study for the restoration of the fishery resources of the Chehalis River Basin, Washington, and for other purposes (Rept. No. 101-485).

By Mr. NUNN, from the Committee on Armed Services, with an amendment in the nature of a substitute and an amendment to the title:

S. 3026. A bill to amend titles 10 and 37, United States Code, to make members of the Armed Forces involved in Operation Desert Shield or similar operations eligible for certain benefits and to make members of the reserve components of the Armed Forces and retired members of the Armed Forces eligible for certain benefits when ordered to active duty in connection with mobilization.

S. 3087. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to accept gifts of money and property for use by the Department of Defense.

EXECUTIVE REPORTS OF COMMITTEES SUBMITTED DURING RECESS

Under the authority of the order of the Senate of September 30, 1990, the following executive report was submitted on October 1, 1990, during the recess of the Senate:

By Mr. BIDEN, from the Committee on the Judiciary:

David H. Souter, of New Hampshire, to be an Associate Justice of the Supreme Court of the United States (with additional and minority views) (Exec. Rept. No. 101-32).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BREAUX:

S. 3146. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the classification of mixed alkylbenzenes; to the Committee on Finance.

By NICKLES:

S. 3147. A bill to make the 65-mile-per-hour speed limit demonstration project permanent and available to any State; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX:

S. 3146. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the classification of mixed alkylbenzenes; to the Committee on Finance.

TARIFF CLASSIFICATION OF MIXED ALKYLBENZENES

● Mr. BREAUX. Mr. President, today I am introducing legislation which makes a technical change in the U.S. Harmonized Tariff Schedule to clarify the tariff category of linear alkylbenzene [LAB] used in the production of household detergents. The United States has long recognized the need to maintain a strong tariff on LAB, since the U.S. industry faces direct competition from protected, Government-subsidized overseas producers.

However, after the conversion to the Harmonized Tariff Schedule, and a recent Customs decision, LAB was inadvertently classified with similar products that are eligible for reduced tariffs under the Generalized System of Preferences [GSP].

My bill simply clarifies the tariff treatment for LAB by placing it in the proper tariff category. With the new classification, LAB is not subject to the GSP as has always been the case. Other alkylbenzenes will remain in the proper category and continue to receive preferential treatment under the GSP.●

By Mr. NICKLES:

S. 3147. A bill to make the 65-mile-per-hour speed limit demonstration project permanent and available to any State; to the Committee on Commerce, Science, and Transportaion.

THE 65-MILE-PER-HOUR SPEED LIMIT DEMONSTRATION PROJECT

● Mr. NICKLES. Mr. President, unless Congress acts, 1 year from today States will lose the authority provided them in 1987 to post 65-mile-per-hour speed limits on noninterstate highways that meet interstate standards.

In 1986 Congress provided States permanent authority to set speed limits up to 65 mile per hour on rural highways that are formally part on the Interstate Highway System. The structure of the 1986 law failed to recognize many noninterstate highways are built to the construction design, and safety standards as those in the interstate system and should also be eligible for States to consider as candidates for a 65-mile-per-hour speed limit.

To remedy this situation, I introduced legislation which became law in 1987 and, as ultimately crafted, created a 4-year demonstration project allowing the first 20 States to apply the opportunity to raise the speed limit to 65 on noninterstate highways that meet or exceed the interstate standards.

Sixteen States have taken advantage of this authority, which is contained in section 329 of Public Law 100-202. In the 16 States, 15 percent of the total highway miles posted at 65 mile per hour is on noninterstate highways under the 1987 authority. In my State of Oklahoma, 36 percent of our 65 mile per hour highways are on section 329 qualified highways. Oklahomans strongly support a 65-mile-per-hour limit for roads that meet interstate standards, and to let the provision sunset without being permanently renewed would be met with vocal opposition.

The bill that I am introducing today would provide States the authority to post 65-mile-per-hour speed limits on any highway that meets the stringent design and contruction standards required of the interstates. It continues to be my strong belief that appropriate speed limits can best be determined by each State, not the Federal Government. The States are the best authority and should be the final authority in determining the speeds traveled within their boundaries.

Therefore, I urge my colleagues to support my legislation and would encourage it's timely consideration and passage before the impending deadline.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the section 329 set out within section 101(l) of Public Law 100-102 (101 Stat. 1329-383; 23 U.S.C. 154, note) is amended—

(1) by striking out subsection (b),

(2) by striking out "(a) Any project" and inserting in lieu thereof "Any project", and

(3) by striking out "in fiscal years 1988, 1989, 1990, and 1991 with respect to a highway located in a State eligible under subsection (b)," and inserting in lieu thereof "for any fiscal year with respect to any highway".●

ADDITIONAL COSPONSORS

S. 2413

At the request of Mr. KERRY, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2413, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoner or taken captive by a hostile foreign government or its agents or a

hostile force before April 15, 1962, and for other purposes.

S. 2591

At the request of Mr. BAUCUS, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 2591, a bill to amend title XVIII of the Social Security Act to provide relief from certain regulations relating to physicians' services.

S. 2601

At the request of Mr. INOUYE, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2601, a bill to amend the Internal Revenue Code of 1986 to allow individuals who do not itemize deductions a deduction for charitable contributions to the extent in excess of $100 per year.

S. 2629

At the request of Mr. KENNEDY, the names of the Senator from Indiana [Mr. COATS] and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 2629, a bill to amend the Public Health Service Act to extend the immunization program for vaccine-preventable diseases, and for other purposes.

S. 2813

At the request of Mr. GRAHAM, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 2813, a bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

S. 2901

At the request of Mr. PRYOR, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 2901, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 2925

At the request of Mr. DIXON, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Washington [Mr. ADAMS], the Senator from Colorado [Mr. WIRTH], the Senator from Hawaii [Mr. AKAKA], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oregon [Mr. HATFIELD], the Senator from Rhode Island [Mr. PELL], the Senator from Louisiana [Mr. JOHNSTON], the Senator from New York [Mr. D'AMATO], the Senator from Indiana [Mr. LUGAR], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 2925, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the discovery of America and to authorize the payment of the proceeds of the sale of such coins to the Christopher Columbus Quincentenary Scholarship Foundation for the purpose of establishing a scholarship program, and for other purposes.

S. 2980

At the request of Mr. BAUCUS, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2980, a bill to amend the Internal Revenue Code of 1986 to modify the provisions permitting certain entities to elect a taxable year other than the required year.

S. 3002

At the request of Mr. MOYNIHAN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 3002, a bill to amend title XIX of the Social Security Act to permit coverage of residential drug treatment for pregnant women and certain families members under the Medicaid Program, and for other purposes.

S. 3030

At the request of Mr. HEFLIN, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 3030, a bill to provide disaster assistance for agricultural producers, and for other purposes.

S. 3041

At the request of Mr. SANFORD, the names of the Senator from Delaware [Mr. BIDEN] and the the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 3041, a bill to set forth United States policy toward Central America and to assist the economic recovery and development of that region.

S. 3052

At the request of Mr. GORE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 3052, a bill to amend the Public Health Service Act with respect to providing financial assistance for certain trauma-care centers operating in geographic areas with a significant incidence of violence arising from the abuse of drugs.

S. 3131

At the request of Mr. HEINZ, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 3131, a bill to amend titles II and XVI of the Social Security Act to improve procedures for the determination of disability for purposes of eligibility under such titles.

SENATE JOINT RESOLUTION 364

At the request of Mr. REID, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Louisiana [Mr. BREAUX], the Senator from Illionis [Mr. SIMON], the Senator from Delaware [Mr. BIDEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Tennessee [Mr. SASSER], the Senator from Texas [Mr. GRAMM], the Senator from Michigan [Mr. LEVIN], the Senator from Missouri [Mr. BOND], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the third week of February, 1991, as "National Parents and Teachers Association Week."

SENATE JOINT RESOLUTION 296

At the request of Mr. ROTH, the names of the Senator from New York [Mr. D'AMATO], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Missouri [Mr. BOND], the Senator from South Dakota [Mr. PRESSLER], the Senator from Nevada [Mr. BRYAN], the Senator from Alabama [Mr. HEFLIN], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of Senate Joint Resolution 296, a resolution to express the sense of the Senate to support the Taiwan's membership in the General Agreement on Tariffs and Trade.

AMENDMENTS SUBMITTED

MILITARY CONSTRUCTION APPROPRIATIONS, FISCAL YEAR 1991

SASSER (AND GRASSLEY) AMENDMNET NO. 2920

Mr. SASSER (for himself and Mr. GRASSLEY) proposed an amendment to the bill (H.R. 5313) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 2, line 8 strike "$698,167,000" and insert in lieu thereof '$697,967,000".

On page 3, line 13 strike "$1,084,126,000" and insert in lieu thereof '$1,083,826,000".

On page 4, line 6 strike "$892,184,000 and insert in lieu thereof "$1,891,784,000".

On page 4, lines 19 through 21, restore the matter stricken.

On page 7, line 9 strike "$226,188,000" and insert in lieu thereof "$235,549,000".

On page 7, line 16 strike "$154,830,000" and insert in lieu thereof "$146,369,000".

On page 7, line 22 strike "$75,126,000" and insert in lieu thereof "$75,226,000".

On page 8, line 22 strike "$61,800,000" and insert in lieu thereof "$61,700,000".

On page 8, line 24 strike "$1,525,767,000" and insert in lieu thereof "$1,525,667,000".

GRASSLEY (AND HEFLIN) AMENDMENT NO. 2921

Mr. GRASSLEY (for himself and Mr. HEFLIN) proposed an amendment to the bill H.R. 5313, supra; as follows:

At the appropriate place, insert the following:

SEC. . ANTITERRORISM ACT OF 1990.

(a) Short Title.—This section may be cited as the "Antiterrorism Act of 1990".

(b) Terrorism.—Chapter 113A of title 18, United States Code, is amended—

(1) in section 2331 by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 as 2332 and striking the caption for section 2331 and inserting the following:

"§ 2332. Criminal penalties";

(3) by inserting before section 2332 as redesignated, the following:

"§ 2331. Definitions

"As used in this chapter—

"(1) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are in violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(2) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

"(3) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property; and

"(4) the term 'act of war' means any act occuring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin.".

(4) by adding immediately after section 2332 as redesignated the following new sections:

"§ 2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his person, property, or business by reason of an act of internatinal terrorism, or his estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover three-fold the damages he sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPED UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 1472 (i), (k), (l), (n), or (r) of title 49 App. shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPED UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the esential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§ 2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this title may be served in any district where the witness resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

"§ 2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 3 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of his whereabouts, shall not be reckoned within this period of limitation.

"§ 2336. Other limitations

"No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

"§ 2337. Suits against government officials

"No action shall be maintained under section 2333 of this title against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his official capacity or under color of legal authority.

"§ 2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter."; and

(5) by amending the table of sections to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.

(c) TABLE OF CONTENTS.—The table of contents of part 1, title 18, United States Code, is amended by striking:

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals ..... 2331"

and inserting in lieu thereof:

"T13A. Terrorism ..... 2331".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to any pending case and any cause of action arising on or after 3 years before the date of enactment of this section.

BAUCUS AMENDMENT NO. 2922

Mr. BAUCUS proposed an amendment to the bill H.R. 5313, supra, as follows:

At the end of the bill, add the following new section:

SEC. . PAYMENT OF CLAIMS BY UNITED STATES NATIONALS AGAINST IRAQ.

(a) Notwithstanding any other provision of law, the President is authorized—

(1) to vest title in a portion of the property in which transactions have been blocked pursuant to Executive Order 12722 of August 3, 1990, which portion shall be equal to the total amount of obligations owed to United States Government (including the Department of Agriculture and the Commodity Credit Corporation) and United States nationals for which Iraq has suspended repayment; and

(2) to liquidate such property and pay United States creditors the amount of the obligations referred to under paragraph (1).

(b) In the event that property liquidated under subsection (a)(2) is less than the total amount of obligations described in subsection (a)(1), then obligations the repayment of which is guaranteed by the Commodity Credit Corporation shall be given priority in payment of creditors.

MURKOWSKI (AND OTHERS) AMENDMENT NO. 2923

Mr. GRASSLEY (for Mr. MURKOWSKI, for himself, Mr. HEINZ, Mr. D'AMATO, and Mr. STEVENS) proposed an amendment to the bill H.R. 5313, surpa, as follows:

At the end of the bill, add the following:

SEC. . (a)(1) None of the funds appropriated by this Act may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary for the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall make a

determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding, for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

(3) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) The term "foreign country" includes any foreign instrumentality. Each territory or possession of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) Any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country.

(3) Subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(4) The restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country.

(5) The terms "contractor" and "subcontractor" includes any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Act.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

TELEPHONE OPERATOR CONSUMER SERVICES IMPROVEMENT ACT

INOUYE AMENDMENT NO. 2924

Mr. BRYAN (for Mr. INOUYE) proposed an amendment to the bill (S. 1660) relating to telephone operator consumer services, and for other purposes, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Operator Consumer Services Improvement Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the divestiture of AT&T and decisions allowing open entry for competitors in the telephone marketplace produced a variety of new services and many new providers of existing telephone services;

(2) the growth of competition in the telecommunications market makes it essential to ensure that safeguards are in place to assure fairness for consumers and service providers alike;

(3) a variety of providers of operator services now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business from consumers;

(4) the mere existence of a variety of service providers in the operator services marketplace is significant in making that market competitive only when consumers are able to make informed choices from among those service providers;

(5) however, often consumers have no choices in selecting a provider of operator services, and often attempts by consumers to reach their preferred long distance carrier by using a telephone billing card, credit card, or prearranged access code number are blocked;

(6) a number of State regulatory authorities have taken action to protect consumers using intrastate operator services;

(7) from January 1988 through February 1990, the Federal Communications Commission received over 4,000 complaints from consumers about operator services;

(8) those consumers have complained that they are denied access to the interexchange carrier of their choice, that they are deceived about the identify of the company providing operator services for their calls and the rates being charged, that they lack information on what they can do to complain about unfair treatment by an operator service provider, and that they are, accordingly, being deprived of the free choice essential to the operation of a competitive market;

(9) the Commission has testified that its actions have been insufficient to correct the problems in the operator services industry to date; and

(10) a combination of industry self-regulation and government regulation is required to ensure that competitive operator services are provided in a fair and reasonable manner.

SEC. 3. AMENDMENT.

Title II of the Communications Act of 1934 is amended by inserting immediately after section 225 (47 U.S.C. 225) the following new section:

"Sec. 226. TELEPHONE OPERATOR SERVICES.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'access code' means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence.

"(2) The term 'aggregator' means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services.

"(3) The term 'call splashing' means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the Subsequent provider is unable or unwilling to determine the location of the original call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location.

"(4) The term 'consumer' means a person initiating any interstate telephone call using operator services.

"(5) The term 'equal access' has the meaning given that term in Appendix B of the Modification of Final Judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia), as amended by the Court in its orders issued prior to the enactment of this section.

"(6) The term 'equal access code' means an access code that allows the public to obtain an equal access connection to the carrier associated with that code.

"(7) The term 'operator services' means any interstate telecommunications service initiated from an aggregator location that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than—

"(A) automatic completion with billing to the telephone from which the call originated; or

"(B) completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer.

"(8) The term 'presubscribed provider of operator services' means the interstate provider of operator services to which the consumer is connected when the consumer places a call using a provider of operator services without dialing an access code.

"(9) The term 'provider of operator services' means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services.

"(b) REQUIREMENTS FOR PROVIDERS OF OPERATOR SERVICES.—

"(1) IN GENERAL.—Beginning not later than 30 days after the date of enactment of this section, each provider of operator services shall, at a minimum—

"(A) identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

"(B) permit the consumer to terminate the telephone call at no charge before the call is connected;

"(C) disclose immediately to the consumer, upon request and at no charge to the consumer—

"(i) a quote of its rates or charges for the call;

"(ii) the methods by which such rates or charges will be collected; and

"(iii) the methods by which complaints concerning such rates, charges, or collection practices will be resolved;

"(D) ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of subsection (c) and, if applicable, subsection (e)(1);

"(E) withhold payment (on a location-by-location basis) of any compensation, including commissions, to aggregators if such provider reasonably believes that the aggregator (i) is blocking access by means of "950" or "800" numbers to interstate common carriers in violation of subsection (c)(1)(B) or (ii) is blocking access to equal access codes in violation of rules the Commission may prescribe under subsection (e)(1);

"(F) not bill for unanswered telephone calls in areas where equal access is available;

"(G) not knowingly bill for unanswered telephone calls where equal access is not available;

"(H) not engage in call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred;

"(I) except as provided in subparagraph (H), not bill for a call that does not reflect the location of the origination of the call; and

"(J) not bill an interexchange telephone call to a billing card number which—

"(i) is issued by another provider of operator services, and

"(ii) permits the identification of the other provider,

unless the call is billed at a rate not greater than the other provider's rate for the call, the consumer requests a special service that is not available under tariff from the other provider, or the consumer expressly consents to a rate greater than the other provider's rate.

"(2) ADDITIONAL REQUIREMENTS FOR FIRST 3 YEARS.—In addition to meeting the requirements of paragraph (1), during the 3-year period beginning on the date that is 30 days after the date of enactment of this section, each presubscribed provider of operator services shall identify itself audibly and distinctly to the consumer, not only as required in paragraph (1)(A), but also for a second time before connecting the call and before the consumer incurs any charge.

"(c) REQUIREMENTS FOR AGGREGATORS.—

"(1) IN GENERAL.—Each aggregator, beginning not later than 30 days after the date of enactment of this section, shall—

"(A) post on or near the telephone instrument, in plain view of consumers—

"(i) the name, address, and toll-free telephone number of the provider of operator services;

"(ii) a written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and

"(iii) the name and address of the enforcement division of the Common Carrier Bureau of the Commission, to which the consumer may direct complaints regarding operator services; and

"(B) ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer; and

"(C) ensure that no charge by the aggregator to the consumer for using an "800" or "950" access code number, or any other access code number, is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.

"(2) EFFECT OF STATE LAW OR REGULATION.—The requirements of paragraph (1)(A) shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are substantially the same as those required in paragraph (1)(A).

"(d) GENERAL RULEMAKING REQUIRED.—

"(1) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding pursuant to this title to prescribe regulations to—

"(A) protect consumers from unfair and deceptive practices relating to their use of operator services to place interstate telephone calls; and

"(B) ensure that consumers have the opportunity to make informed choices in making such calls.

"(2) DEADLINES.—The Commission shall initiate the proceeding required under paragraph (1) within 60 days after the date of enactment of this section and shall prescribe regulations pursuant to the proceeding not later than 210 days after such date of enactment. Such regulations shall take effect not later than 45 days after the date the regulations are prescribed.

"(3) CONTENTS OF REGULATIONS.—The regulations prescribed under this section shall—

"(A) contain provisions to implement each of the requirements of this section, other than the requirements established by the rulemaking under subsection (e) on access and compensation; and

"(B) contain such other provisions as the Commission determines necessary to carry out this section and the purposes and policies of this section.

"(4) ADDITIONAL REQUIREMENTS TO BE IMPLEMENTED BY REGULATIONS.—The regulations prescribed under this section shall, at a minimum—

"(A) establish minimum standards for providers of operator services to use in the routing and handling of emergency telephone calls; and

"(B) establish a policy for requiring providers of operator services to make public information about recent changes in operator services and choices available to consumers in that market.

"(e) SEPARATE RULEMAKING ON ACCESS AND COMPENSATION.—

"(1) ACCESS.—The Commission, within 9 months after the date of enactment of this section, shall require—

"(A) that each aggregator ensure within a reasonable time that each of its telephones presubscribed to a provider of operator services allows the consumer to obtain access to the provider of operator services desired by the consumer through the use of an equal access code; or

"(B) that all providers of operator services, within a reasonable time, make available to their customers a "950" or "800" access code number for use in making operator services calls from anywhere in the United States; or

"(C) that the requirements described under both subparagraphs (A) and (B) apply.

"(2) COMPENSATION.—The Commission shall consider the need to prescribe compensation (other than advance payment by consumers) for owners of competitive public pay telephones for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones. Within 9 months after the date of enactment of this section, the Commission shall reach a final decision on whether to prescribe such compensation.

"(f) TECHNOLOGICAL CAPABILITY OF EQUIPMENT.—Any equipment and software manufactured or imported more than 18 months after the date of enactment of this section and installed by any aggregator shall be technologically capable of providing consumers with access to interstate providers of operator services through the use of equal access codes.

"(g) FRAUD.—In any proceeding to carry out the provisions of this section, the Commission shall require such actions or measures as are necessary to ensure that aggregators are not exposed to undue risk of fraud.

"(h) DETERMINATIONS OF RATE COMPLIANCE.—

"(1) FILING OF INFORMATIONAL TARIFF.—

"(A) IN GENERAL.—Each provider of operator services shall file, within 30 days after the date of enactment of this section, and shall maintain, update regularly, and keep open for public inspection, an informational tariff specifying rates, terms, and conditions, and including commissions, surcharges, any fees which are collected from consumers, and reasonable estimates of the amount of traffic priced at each rate, with respect to calls for which operator services are provided. Any changes in such rates, terms, or conditions shall be filed no later than the first day on which the changed rates, terms, or conditions are in effect.

"(B) WAIVER AUTHORITY.—The Commission may, after 4 years following the date of enactment of this section, waive the requirements of this paragraph only if—

"(i) the findings and conclusions of the Commission in the final report issued under paragraph (3)(B)(iii) state that the regulatory objectives specified in subsection (d)(1)(A) and (B) have been achieved; and

"(ii) the Commission determines that such waiver will not adversely affect the continued achievement of such regulatory objectives.

"(2) REVIEW OF INFORMATIONAL TARIFFS.—If the rates and charges filed by any provider of operator services under paragraph (1) appear upon review by the Commission to be unjust or unreasonable, the Commission may require such provider of operator services to do either or both of the following:

"(A) demonstrate that its rates and charges are just and reasonable, and

"(B) announce that its rates are available on request at the beginning of each call.

"(3) PROCEEDING REQUIRED.—

"(A) IN GENERAL.—Within 60 days after the date of enactment of this section, the Commission shall initiate a proceeding to determine whether the regulatory objectives specified in subsection (d)(1) (A) and (B) are being achieved. The proceeding shall—

(1) monitor operator service rates;

"(ii) determine the extent to which offerings made by providers of operator services are improvements, in terms of service quality, price, innovation, and other factors, over those available before the entry of new providers of operator services into the market;

"(iii) report on (in the aggregate and by individual provider) operator service rates, incidence of service complaints, and service offerings;

"(iv) consider the effect that commissions and surcharges, billing and validation costs, and other costs of doing business have on the overall rates charged to consumers; and

"(v) monitor compliance with the provisions of this section, including the periodic placement of telephone calls from aggregator locations.

"(B) REPORTS.—(i) The Commission shall, during the pendency of such proceeding and not later than 5 months after its commencement, provide the Congress with an interim report on the Commission's activities and progress to date.

"(ii) Not later than 11 months after the commencement of such proceeding, the Commission shall report to the Congress on its interim findings as a result of the proceeding.

"(iii) Not later than 23 months after the commencement of such proceeding, the Commission shall submit a final report to the Congress on its findings and conclusions.

"(4) IMPLEMENTING REGULATIONS.—

"(A) IN GENERAL.—Unless the Commission makes the determination described in subparagraph (B), the Commission shall, within 180 days after submission of the report required under paragraph (3)(B)(iii), complete a rulemaking proceeding pursuant to this title to establish regulations for implementing the requirements of this title (and paragraphs (1) and (2) of this subsection) that rates and charges for operator services be just and reasonable. Such regulations shall include limitations on the amount of commissions or any other compensation given to aggregators by providers of operator service.

"(B) LIMITATION.—The requirement of subparagraph (A) shall not apply if, on the basis of the proceeding under paragraph (3)(A), the Commission makes (and includes in the report required by paragraph (3)(B)(iii)) a factual determination that market forces are securing rates and charges that are just and reasonable, as evidenced by rate levels, costs, complaints, service quality, and other relevant factors.

"(i) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to alter the obligations, powers, or duties of common carriers or the Commission under the other sections of this Act.".

ADDITIONAL STATEMENTS

THRESHOLD TEST BAN AND PEACEFUL NUCLEAR EXPLOSIONS TREATIES

● Mr. GORTON. Mr. President, while for the past 14 years the United States has observed the 150-kiloton threshold limit of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, I am pleased that the United States and Soviet Union have agreed to effective verification procedures that now make formal ratification of these treaties possible. Although advances in verification technology make this possible, it has been the political changes in the Soviet Union and the commensurate improvement in United States-Soviet relations that, to my mind, has contributed most toward this achievement.

It is the responsibility of the Armed Services Committee to assess the national security implications of these nuclear testing agreements. During testimony before the committee, both the Chairman of the Joint Chiefs of Staff and the Secretary of Defense recommended ratification of the treaties. Their only caveat was an assurance that the United States maintain the national resolve to carry out the verification methods permitted by the protocols to the treaties and that there be congressional support for the safeguards enumerated in the resolution of ratification.

In addition to the safeguards, which I wholeheartedly support, the resolution of ratification, as prepared by the Senate Foreign Relations Committee, contains a declaration regarding follow-on negotiations that bears some discussion and clarification. I am referring to paragraph II.

The United States shares a special responsibility with the Soviet Union to continue the bilateral nuclear testing talks to achieve further limitations on nuclear testing, including the achievement of a verifiable comprehensive test ban.

While most of us would support an eventual ban on nuclear testing, I think it important to include a caveat that the administration makes plain: The United States should only enter into new negotiations on further limitations that, in the words of National Security Adviser, Brent Scowcroft:

Make sense from a national security standpoint, contribute to stability, and still guarantee a reliable, safe, and effective deterrent.

It is clear that there exists a difference of opinion between the Foreign Relations Committee and the administration as to what the appropriate next step should be. The administration makes it clear in numerous statements that it would be prudent to evaluate the operation of the new treaties before deciding whether further limitations on testing would be tolerable. The Foreign Relations Committee on the other hand, would like to see every effort made to achieve a verifiable comprehensive test ban as soon as possible.

The central difference between the two positions is that while both support an end to all nuclear testing, the administration views this in association with a program that would reduce and ultimately eliminate our dependence on nuclear weapons for national security. Supporters of immediate negotiations leading to a CTB, by contrast, have concluded that nuclear testing is no longer essential for our security and that a ban on testing will make the world a safer place.

There are many arguments in favor of continued testing; I would like to mention only three: first, we need to assure ourselves—and prospective opponents—that our nuclear deterrent is reliable and effective. Despite advances in supercomputing, there is no substitute for actual testing to determine the reliability of the existing stockpile.

Second, as we continue to reduce our arsenal through arms control and normal attrition, we will need to modernize those residual forces. A smaller force needs to be a more survivable force. Nuclear testing will be required to develop new systems that do not necessarily add to the destructive capability of our forces, but improve its survivability.

Finally, and this reason is of immediate concern to the people of my State, testing is required to improve the safety and security features of existing nuclear weapons. I note the recent problems associated with the W79 artillery shell and the SRAM-A missile. The latter was removed from alert B-52 bombers stationed at Fairchild AFB. According to the directors of our nuclear weapons labs, nuclear testing played an important role in discovering these problems associated with our nuclear forces.

Still, despite these reasons to continue testing many argue that a ban on nuclear testing would make an important contribution toward improved United States-Soviet relations and would set an example for other states that are on the verge of testing nuclear weapons.

I would argue, however, that these arguments now before us are a result of improved relations, not a factor contributing to them. In the same vein, a CTB can only be a result of a new strategic environment in which nuclear deterrence has become irrelevant, not the other way around. As for setting an example, third countries do not acquire nuclear weapons to face the United States, but to enhance their regional positions. Restraint on our part has little impact on such regional power balances and antagonisms.

To conclude, Mr. President, I would hope that the Congress not force the administration's hand with respect to follow-on negotiations on nuclear testing. Let us first see how well these two treaties now before us work before we take the final step toward a complete

ban on nuclear testing. Most important, however, is that when we begin down that path, we make certain that we are joined by the entire international community. For it would be folly for the United States—and the Soviet Union—to halt nuclear testing while other nations continue to develop nascent nuclear capabilities.●

S. 1860, A BILL TO FURNISH OUTPATIENT CARE FOR FORMER POW'S

● Mr. D'AMATO. Mr. President, I rise today to add my support to legislation that will correct an injustice that affects a select and courageous group of veterans; former prisoners of war. These veterans, after suffering the indignation of imprisonment by our enemies while in service to our country, are not always assured the medical care they deserve. Currently, former POW's with less than a 50 percent disability may or may not receive needed outpatient care. It is time to correct this inequity and provide a consistent health care policy for all former POW's. That is why I am cosponsoring S. 1860. This bill guarantees that outpatient medical services for any disability of a former POW will be furnished by the Department of Veterans Affairs.

I must admit that until recently I was not aware that former POW's were not guaranteed this service. However, when it was brought to my attention, I could not believe that this great Nation would deny medical care to these brave individuals. How can we tell these people that their service, in effect, didn't count? How can we tell the soldiers of tomorrow that our Nation will not be there for them should they become POW's? Our former POW's fought to preserve the freedoms we hold dear, and in so doing, became captives. They have a right to these medical services.

As we all know, our Nation faces difficult budget choices, but the $1 million cost estimated to provide health services to these veterans is money well spent. I commend Senator BOREN for introducing this bill and I urge my colleagues to join me in cosponsoring this legislation.●

S. 110—FAMILY PLANNING AMENDMENTS

● Mr. KERRY. Mr. President, I rise today to voice my disappointment at the recent failure of this body to pass S. 110, the family planning amendments. This valuable piece of legislation, of which I am an original cosponsor, would have reauthorized the programs under title X of the Public Health Service Act for an additional 5 years.

Since 1970, title X has been the core of our national family planning effort. Each year, 4,500 public and private clinics around the country provide medical and educational services to over 4 million low-income women and teenagers. While the primary focus of title X is contraceptive services, title X supported clinics offer preventive health services, and are often the first place low-income women—and especially teenagers—receive formal medical care.

Unfortunately, our Nation's 20-year program of family planning services is dying. Under the Reagan administration, the title X program suffered severe funding cuts and crippling programmatic assaults. In addition, Congress has not reauthorized the program in 5 years. As a result, the program ekes by on continuing appropriations, continually at risk of having its funding completely eliminated. Funding for the program has declined from $162 million in 1981 to less than $140 million today.

Title X works in Massachusetts, with services provided at 77 clinic sites throughout the State. In Massachusetts, we have nearly 250,000 teenage and poor women at risk for unintended pregnancy and these services are much needed. Despite the need, title X funding in Massachusetts has declined by 13 percent over the last decade.

Title X is a cost-effective program that works. Title X provides needed health care services; prevents unintended pregnancies and the corresponding need for abortion; and it effectively addresses teen pregnancy.

Each year, family planning services prevent 1.2 million unintended pregnancies which could result in 509,000 unwanted births and 516,000 abortions. According to a 1988 study by the Alan Guttmacher Institute, every public dollar spent to provide contraceptive services saves $4.40 in taxpayer funds that otherwise would go toward medical care, welfare, and other social services—an overall total of $1.8 billion in savings annually. Dollars well invested in title X today clearly result in savings down the road.

Title X is an important program that needs to be reauthorized with adequate funding levels. While efforts to provide this support have been temporarily defeated, I want to assure my colleagues that this Senator will continue to fight to see that the needs of thousands of Americans do not go unmet.●

ORDER OF BUSINESS

Mr. BRYAN. Mr. President, all of the following unanimous-consent items which I will be addressing to the Chair in a few moments have been cleared on the Republican side.

COPYRIGHT REMEDY CLARIFICATION ACT

Mr. BRYAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3045.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendments of the Senate to the bill (H.R. 3045) entitled "An act to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Kastenmeier, Mr. Crockett, Mr. Berman, Mr. Moorhead, and Mr. Coble be the managers of the conference on the part of the House.

Mr. BRYAN. Mr. President, I move that the Senate insist on its amendments, agree to the conference requested by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. SHELBY] appointed Mr. DECONCINI, Mr. LEAHY, Mr. KENNEDY, Mr. HATCH, and Mr. GRASSLEY conferees on the part of the Senate.

EISENHOWER CENTER FOR THE CONSERVATION OF HUMAN RESOURCES AT COLUMBIA UNIVERSITY

Mr. BRYAN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Resolution 327 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 327) to recognize and commend the establishment of the Eisenhower Center for the Conservation of Human Resources at Columbia university.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 327) and its preamble are as follows:

S. RES. 327

Whereas the Conservation of Human Resources Project at Columbia University is now in its fifth decade;

Whereas General Dwight David Eisenhower, as president of Columbia University from 1948 to 1953, invigorated the Conservation Project with energy and direction;

Whereas the Conservation Project was established to examine economic transformations from the viewpoint of human resources and to analyze responses by educational, training, and employer institutions to such transformations;

Whereas the Conservation Project has published some 250 books and reports on human resources; and

Whereas in recognition of Dwight David Eisenhower's service to his country and to Columbia University, the Conservation of Human Resources Project has been renamed the Eisenhower Center for the Conservation of Human Resources; Now, therefore, be it

Resolved, That, in this centennial year of Dwight David Eisenhower's birth, the newly rechristened Eisenhower Center for the Conservation of Human Resources at Columbia University has the full and enthusiastic support of the United States Senate.

Mr. BRYAN. Mr. President, I move both to reconsider and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRYAN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc from further consideration of the following: House Joint Resolution 482, Irish American Month; House Joint Resolution 398, regarding the Yosemite Park; and S. 2111, the Asian/Pacific-American Heritage Month, and that the Senate then proceed to their immediate consideration, that the joint resolutions and bill be deemed read a third time and passed, that a motion to reconsider be laid upon the table, and that the preamble be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRISH-AMERICAN HERITAGE MONTH

The joint resolution (H.J. Res. 482) designating March 1991 as "Irish-American Heritage Month" was considered, ordered to a third reading, read the third time, and passed.

YOSEMITE NATIONAL PARK

The joint resolution (H.J. Res. 398) commemorating the centennial of the creation by Congress of Yosemite National Park was considered, ordered to a third reading, read the third time, and passed.

ASIAN/PACIFIC-AMERICAN HERITAGE MONTH

A bill (S. 2111) designating the month of May as "Asian/Pacific-American Heritage Month" was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 2111

Be it enacted be the Senate and House House of Representatives of the United States of America in Congress assembled, That Public Law 95-419 be amended by—

(1) inserting "annually" in between "proclaim" and "the";

(2) striking "seven-day perid beginning on May 4, 1979" and inserting "thirty-one-day period beginning May 1, 1990";

(3) striking "Week" and inserting "Month";

(4) inserting "annually" in between "to issue" and "a proclamation";

(5) striking "seven-day period beginning on May 4, 1979" and inserting "thirty-one-day peiod beginning May 1, 1990";

(6) striking "Week" and inserting "Month";

(7) striking "week" and inserting "month";

(8) inserting "programs," in between "appropriate" and "ceremonies".

MEASURE INDEFINITELY POSTPONED—SENATE JOINT RESOLUTION 283

Mr. BRYAN. Mr. President, I now ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 283 and that the measure then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc from further consideration of Senate Joint Resolution 369, the "Year of Thanksgiving for the Blessing of Liberty" and Senate Joint Resolution 351, the "National Trauma Awareness Month," that the Senate proceed to their immediate consideration; that the resolutions be deemed read a third time, and passed; that the motion to reconsider be laid upon the table; that the preambles be agreed to; and that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

YEAR OF THANKSGIVING FOR THE BLESSINGS OF LIBERTY

The joint resolution (S.J. Res. 369) designating 1991 as the "Year of Thanksgiving for the Blessings of Liberty" was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 369

Whereas the people of the United States have expressed gratitude by celebrating a national season of thanksgiving since the 17th century;

Whereas the War for Independence was won and the Constitution written and adopted to secure the blessings of liberty for citizens;

Whereas after the first Congress drafted a Bill of Rights to be added to the Constitution, established a Federal judicial system, created departments of administration, and established the Government of the United States under the Constitution, it requested President Washington to issue a proclamation of national thanksgiving;

Whereas in the first Presidential proclamation, President Washington called on the people of the United States to acknowledge, by thanksgiving, the blessings of civil and religious liberty;

Whereas by December 15, 1791, three-quarters of the United States had ratified the proposed Bill of Rights;

Whereas 1991 is recognized as the official observance of the bicentennial of the ratification of the Bill of Rights; and

Whereas for 200 years the people of the United States have enjoyed the blessings of liberty under the Constitution and the Bill of Rights, embodied in the first 10 amendments of the Constitution: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1991 is designated as the "Year of Thanksgiving for the Blessings of Liberty", and the President is authorized and requested to issue a proclamation calling upon the Governors of the several States, the chief officials of local governments, and the people of the United States to observe the year with appropriate ceremonies and activities.

NATIONAL TRAUMA AWARENESS MONTH

The joint resolution (S.J. Res. 351) to designate the month of May 1991 as "National Trauma Awareness Month" was considered, ordered to a third reading, read a third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 351

Whereas more than eight million individuals in the United States suffer traumatic injury each year;

Whereas traumatic injury is the leading cause of death of individuals less than forty-four years of age in the United States;

Whereas every individual is a potential victim of traumatic injury;

Whereas traumatic injury often occurs without warning;

Whereas traumatic injury frequently renders its victims incapable of caring for themselves;

Whereas past inattention to the causes and effects of trauma has led to the inclusion of trauma among the most neglected medical conditions;

Whereas the people of the United States spend more than $140 billion on the problem of trauma;

Whereas the problem of trauma can be remedied only by prevention and treatment through emergency medical services and trauma systems; and

Whereas the people of the United States must be educated in the prevention and treatment of trauma and in the proper and effective use of emergency medical systems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May, 1991 is designated as "National Trauma Awareness

Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

MEASURE PLACED ON THE CALENDAR

Mr. BRYAN. Mr. President, I ask unanimous consent that H.R. 2754, the Christopher Columbus Quincentenary Coins Act, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

TELEPHONE OPERATOR CONSUMER SERVICES IMPROVEMENT ACT

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 793, S. 1660, the Telephone Operator Consumer Servics Improvement Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1660) relating to telephone operator consumer services, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to the consideration of the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Operator Consumer Services Improvement Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the divestiture of AT&T and decisions allowing open entry for competitors in the telephone marketplace produced a variety of new services and many new providers of existing telephone services;

(2) the growth of competition in the telecommunications market makes it essential to ensure that safeguards are in place to assure fairness for consumers and service providers alike;

(3) a variety of providers of operator services now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business from consumers;

(4) the mere existence of a variety of service providers in the operator services marketplace is significant in making that market competitive only when consumers are able to make informed choices from among those service providers;

(5) however, often consumers have no choices in selecting a provider of operator services, and often attempts by consumers to reach their preferred long distance carrier by a telephone billing card, credit card, or prearranged access code number are blocked;

(6) a number of State regulatory authorities have taken action to protect consumers using intrastate operator services;

(7) from January 1988 through February 1990, the Federal Communications Commission received over 4,000 complaints from consumers about operator services;

(8) those consumers have complained that they are denied access to the interexchange carrier of their choice, that they are deceived about the identity of the company providing operator services for their calls and the rates being charged, that they lack information on what they can do to complain about unfair treatment by an operator service provider, and that they are, accordingly, being deprived of the free choice essential to the operation of a competitive market;

(9) the Commission has testified that its actions have been insufficient to correct the problems in the operator services industry to date; and

(10) a combination of industry self-regulation and government regulation is required to ensure that competitive operator services are provided in a fair and reasonable manner.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "aggregator" means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services;

(2) "call splashing" means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the subsequent provider is unable to determine the actual originating location of the call and, because of such inability, is prevented from billing the call on the basis of such actual originating location;

(3) "Commission" means the Federal Communications Commission;

(4) "consumer" means a person initiating any interstate telephone call using operator services;

(5) "equal access" has the meaning given that term in Appendix B of the Modification of Final Judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia), as amended by the Court in its orders issued prior to the enactment of this Act;

(6) "equal access code" means a carrier-specific number that allows the public to obtain an equal access connection to that carrier;

(7) "operator services" means any interstate telecommunications service that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than—

(A) automatic completion with billing to the telephone from which the call originated; or

(B) completion through a carrier-specific access code number used by the consumer, with billing to an account previously established with the carrier by the consumer;

(8) "person" includes an individual, partnership, association, joint-stock company, trust, or corporation; and

(9) "presubscribed provider of operator services" means the interstate provider of operator services to which the consumer obtains access when the first digit dialed is the number "0".

SEC. 4. RULEMAKING REQUIRED.

(a) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding pursuant to title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) to prescribe regulations to—

(1) protect consumers from unfair and deceptive practices relating to their use of operator services to place interstate telephone calls; and

(2) ensure that consumers have the opportunity to make informed choices in making such calls.

(b) DEADLINES.—The Commission shall initiate the proceeding required under subsection (a) within 30 days after the date of enactment of this Act and shall prescribe regulations pursuant to the proceeding not later than 180 days after the date of enactment of this Act. Such regulations shall take effect not later than 90 days after the date the regulations are prescribed.

(c) CONTENTS OF REGULATIONS.—The regulations prescribed under this section shall—

(1) contain provisions to implement each of the requirements of section 5(c);

(2) contain such other provisions as the Commission determines necessary to carry out section 5 and the purposes and policies of this Act; and

(3) for purposes of administration and enforcement, be treated as regulations prescribed by the Commission pursuant to title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.).

SEC. 5. MINIMUM REQUIREMENTS.

(a) REQUIREMENTS FOR PROVIDERS OF OPERATOR SERVICES.—(1) Within 30 days after the date of enactment of this Act, each provider of operator services shall, at a minimum—

(A) identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

(B) permit the consumer to terminate the telephone call at no charge before the call is answered;

(C) disclose immediately to the consumer, upon request and at no charge to the consumer—

(i) a quote of its rates or charges for the call;

(ii) the methods by which such rates or charges will be collected; and

(iii) the methods by which complaints concerning such rates, charges, or collection practices will be resolved;

(D) ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of subsection (b) and, if applicable, subsection (g);

(E) withhold payment of any compensation, including commissions, to aggregators (i) at locations at which blocking of access by means of "950" or "800" numbers to interstate common carriers occurs in violation of subsection (b)(1)(B), and (ii) if the Commission establishes the requirement described in subsection (g)(1), at locations at which blocking of equal access codes occurs;

(F) be prohibited from billing for unanswered telephone calls in areas where equal access is available, and be prohibited from knowingly billing for unanswered telephone calls where equal access is not available;

(G) be prohibited from call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual

originating location of the call, and the consumer then consents to be transferred; and

(H) be prohibited from billing an interexchange telephone call to a billing card number which—

(i) is issued by another provider of operator services, and

(ii) permits the identification of the other provider,

unless the call is billed at a rate not greater than the other provider's rate for the call, the consumer requests a special service that is not available under tariff from the other provider, or the consumer expressly consents to a rate greater than the other provider's rate.

(2) In addition to meeting the requirements of paragraph (1), during the 3-year period beginning on the date that is 30 days after the date of enactment of this Act, each presubscribed provider of operator services shall—

(A) identify itself audibly and distinctly to the consumer, not only as required in paragraph (1)(A), but also for a second time before placing the call and before the consumer incurs any charge; and

(B) state clearly to the consumer at the beginning of the call, "Our rates are available on request.".

(b) REQUIREMENTS FOR AGGREGATORS.—(1) Each aggregator, within 30 days after the date of enactment of this Act, shall—

(A) post on or near the telephone instrument, in plain view of consumers—

(i) the name, address, and toll-free telephone number of the provider of operator services;

(ii) a written disclosure that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and

(iii) the name, address, and telephone number of the consumer affairs division of the Commission, to which the consumer may direct complaints regarding operator services; and

(B) ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer and that no charge by the aggregator to the consumer for using such an "800" or "950" access code number is greater than the amount the aggregator charges for calls placed to the presubscribed provider of operator services.

(2) The requirements of paragraph (1)(A) shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are substantially the same as those required in paragraph (1)(A).

(c) REQUIREMENTS TO BE IMPLEMENTED BY REGULATIONS.—The regulations prescribed under section 4 shall, at a minimum—

(1) establish minimum standards for providers of operator services to use in the routing and handling of emergency telephone calls; and

(2) establish a policy for requiring providers of operator services to make public information about recent changes in operator services and choices available to consumers in that market.

(d) COMPETITIVE PAY PHONE COMPENSATION.—The Commission shall consider the need to prescribe compensation (other than advance payment by consumers) for owners of competitive public pay telephones for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones. Within 9 months after the date of enactment of this Act, the Commission shall reach a final decision on whether to prescribe such compensation.

(e) TECHNOLOGICAL CAPABILITY OF EQUIPMENT.—Any equipment manufactured or imported more than 12 months after the date of enactment of this Act and installed by any aggregator shall be technologically capable of providing consumers with access to interstate providers of operator services through the use of equal access codes.

(f) FRAUD.—The Commission shall require such actions or measures as are necessary to ensure that aggregators are not exposed to undue risk of fraud.

(g) FACILITATION OF ACCESS.—The Commission, within 9 months after the date of enactment of this Act, shall require—

(1) that all aggregators ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to obtain access to the provider of operator services desired by the consumer through the use of an equal access code; or

(2) that all providers of operator services make available to their customers a "950" or "800" number for use in making operator services calls from anywhere in the United States; or

(3) that the requirements described under both paragraphs (1) and (2) apply.

SEC. 6. DETERMINATIONS OF RATE COMPLIANCE.

(a) FILING OF INFORMATIONAL TARIFF.—The Commission shall require each provider of operator services to file, within 30 days after the date of enactment of this Act, and to maintain and keep open for public inspection, an informational tariff specifying rates, terms, and conditions, and including commissions, surcharges, or other fees which are collected from consumers, with respect to calls for which operator services are provided. The Commission may, after three years following the date of enactment of this Act, waive the requirements of this subsection but only if the findings and conclusions of the Commission in the final report issued under subsection (b)(2)(C) state that the regulatory objectives specified in section 4(a)(1) and (2) have been achieved.

(b) PROCEEDING REQUIRED.—(1) Within 30 days after the date of enactment of this Act, the Commission shall initiate a proceeding to determine whether the regulatory objectives specified in section 4(a) (1) and (2) are being achieved. The proceeding shall—

(A) monitor operator service rates;

(B) determine the extent to which offerings made by providers of operator services are improvements, in terms of service quality, price, innovation, and other factors, over those available before the entry of new providers of operator services into the market;

(C) report on, in the aggregate, operator service rates, incidence of service complaints, and service offerings;

(D) consider the effect that commissions and surcharges, billing and validation costs, and other costs of doing business have on the overall rates charged to consumers; and

(E) monitor compliance with the provisions of section 5, including the periodic placement of telephone calls from aggregator locations.

(2)(A) The Commission shall, during the pendency of such proceeding and not later than 5 months after its commencement, provide the Congress with an interim report on the Commission's activities and progress to date.

(B) Not later than 11 months after the commencement of such proceeding, the Commission shall report to the Congress on its interim findings as a result of the proceeding.

(C) Not later than 23 months after the commencement of such proceeding, the Commission shall issue a final report to the Congress on its findings and conclusions.

(c) AUTHORITY TO ESTABLISH RATE CEILINGS.—If the Commission finds in the report required under subsection (b)(2)(C) that consumers are not benefiting from a competitive market for operator services, the Commission shall have the authority to establish ceilings for the rates charged by providers of operator services, based upon the rates charged by the largest carrier in the interstate operator services market.

SEC. 7. PENALTIES; FORFEITURES.

The provisions of title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.) shall apply to violations of this Act or regulations prescribed under this Act in the same manner and to the same extent as to violations of the Communications Act of 1934 or rules and regulations under that Act, including—

(1) criminal penalties for willful and knowing violations of statutory provisions, consisting of a fine of no more than $10,000 or imprisonment for no more than 1 year, or both, for a first offense, and a fine of no more than $10,000 or imprisonment for no more than 2 years, or both, for any subsequent offense;

(2) criminal penalties for willful and knowing violation of Commission rules, regulations, conditions, and restrictions, consisting of a fine of not to exceed $500 for each day in which an offense occurs; and

(3) forfeiture penalties for the willful or repeated failure to comply with statutory provisions or Commission rules, regulations, or orders—

(A) of not to exceed $100,000 for each violation or each day of a continuing violation by a common carrier subject to title II of the Communications Act of 1934, or by an applicant for any common carrier license, permit, certificate, or other instrument of authorization issued by the Commission; and

(B) of not to exceed $10,000 for each violation or each day of a continuing violation by a person that is not such a common carrier or applicant.

AMENDMENT NO. 2924

(Purpose: To make an amendment in the nature of a substitute)

Mr. BRYAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for Mr. INOUYE, proposes an amendment numbered 2924.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Operator Consumer Services Improvement Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the divestiture of AT&T and decisions allowing open entry for competitors in the telephone marketplace produced a variety of new services and many new providers of existing telephone services;

(2) the growth of competition in the telecommunications market makes it essential to ensure that safeguards are in place to assure fairness for consumers and service providers alike;

(3) a variety of providers of operator services now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business from consumers;

(4) the mere existence of a variety of service providers in the operator services marketplace is significant in making that market competitive only when consumers are able to make informed choices from among those service providers;

(5) however, often consumers have no choices in selecting a provider of operator services, and often attempts by consumers to reach their preferred long distance carrier by using a telephone billing card, credit card, or prearranged access code number are blocked;

(6) a number of State regulatory authorities have taken action to protect consumers using intrastate operator services;

(7) from January 1988 through February 1990, the Federal Communications Commission received over 4,000 complaints from consumers about operator services;

(8) those consumers have complained that they are denied access to the interexchange carrier of their choice, that they are deceived about the identity of the company providing operator services for their calls and the rates being charged, that they lack information on what they can do to complain about unfair treatment by an operator service provider, and that they are, accordingly, being deprived of the free choice essential to the operation of a competitive market;

(9) the Commission has testified that its actions have been insufficient to correct the problems in the operator services industry to date; and

(10) a combination of industry self-regulation and government regulation is required to ensure that competitive operator services are provided in a fair and reasonable manner.

SEC. 3. AMENDMENT.

Title II of the Communications Act of 1934 is amended by inserting immediately after section 225 (47 U.S.C. 225) the following new section:

"Sec. 226. TELEPHONE OPERATOR SERVICES.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'access code' means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence.

"(2) The term 'aggregator' means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services.

"(3) The term 'call splashing' means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the Subsequent providers is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location.

"(4) The term 'consumer' means a person initiating any interstate telephone call using operator services.

"(5) The term 'equal access' has the meaning given that term in Appendix B of the Modification of Final Judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia), as amended by the Court in its orders issued prior to the enactment of this section.

"(6) The term 'equal access code' means an access code that allows the public to obtain an equal access connection to the carrier associated with that code.

"(7) The term 'operator services' means any interstate telecommunications service initiated from an aggregator location that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than—

"(A) automatic completion with billing to the telephone from which the call originated; or

"(B) completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer.

"(8) The term 'presubscribed provider of operator services' means the interstate provider of operator services to which the consumer is connected when the consumer places a call using a provider of operator services without dialing an access code.

"(9) The term 'provider of operator services' means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services.

"(b) REQUIREMENTS FOR PROVIDERS OF OPERATOR SERVICES.—

"(1) IN GENERAL.—Beginning not later than 30 days after the date of enactment of this section, each provider of operator services shall, at a minimum—

"(A) identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

"(B) permit the consumer to terminate the telephone call at no charge before the call is connected;

"(C) disclose immediately to the consumer, upon request and at no charge to the consumer—

"(i) a quote of its rates or charges for the call;

"(ii) the methods by which such rates or charges will be collected; and

"(iii) the methods by which complaints concerning such rates, charges, or collection practices will be resolved;

"(D) ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of subsection (c) and, if applicable, subsection (e)(1);

"(E) withhold payment (on a location-by-location basis) of any compensation, including commissions, to aggregators if such provider reasonably believes that the aggregator (i) is blocking access by means of "950" or "800" numbers to interstate common carriers in violation of subsection (c)(1)(B) or (ii) is blocking access to equal access codes in violation of rules the Commission may prescribe under subsection (e)(1);

"(F) not bill for unanswered telephone calls in areas where equal access is available;

"(G) not knowingly bill for unanswered telephone calls where equal access is not available;

"(H) not engage in call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred;

"(I) except as provided in subparagraph (H), not bill for a call that does not reflect the location of the origination of the call; and

"(J) not bill an interexchange telephone call to a billing card number which—

"(i) is issued by another provider of operator services, and

"(ii) permits the identification of the other provider,

unless the call is billed at a rate not greater than the other provider's rate for the call, the consumer requests a special service that is not available under tariff from the other provider, or the consumer expressly consents to a rate greater than the other provider's rate.

"(2) ADDITIONAL REQUIREMENTS FOR FIRST 3 YEARS.—In addition to meeting the requirements of paragraph (1), during the 3-year period beginning on the date that is 30 days after the date of enactment of this section, each presubscribed provider of operator services shall identify itself audibly and distinctly to the consumer, not only as required in paragraph (1)(A), but also for a second time before connecting the call and before the consumer incurs any charge.

"(c) REQUIREMENTS FOR AGGREGATORS.—

"(1) IN GENERAL.—Each aggregator, beginning not later than 30 days after the date of enactment of this section, shall—

"(A) post on or near the telephone instrument, in plain view of consumers—

"(i) the name, address, and toll-free telephone number of the provider of operator services;

"(ii) a written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and

"(iii) the name and address of the enforcement division of the Common Carrier Bureau of the Commission, to which the consumer may direct complaints regarding operator services; and

"(B) ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer; and

"(C) ensure that no charge by the aggregator to the consumer for using an "800" or "950" access code number, or any other access code number, is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.

"(2) EFFECT OF STATE LAW OR REGULATION.—The requirements of paragraph (1)(A) shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are sub-

stantially the same as those required in paragraph (1)(A).

"(d) GENERAL RULEMAKING REQUIRED.—

"(1) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding pursuant to this title to prescribe regulations to—

"(A) protect consumers from unfair and deceptive practices relating to their use of operator services to place interstate telephone calls; and

"(B) ensure that consumers have the opportunity to make informed choices in making such calls.

"(2) DEADLINES.—The Commission shall initiate the proceeding required under paragraph (1) within 60 days after the date of enactment of this section and shall prescribe regulations pursuant to the proceeding not later than 210 days after such date of enactment. Such regulations shall take effect not later than 45 days after the date the regulations are prescribed.

"(3) CONTENTS OF REGULATIONS.—The regulations prescribed under this section shall—

"(A) contain provisions to implement each of the requirements of this section, other than the requirements established by the rulemaking under subsection (e) on access and compensation; and

"(B) contain such other provisions as the Commission determines necessary to carry out this section and the purposes and policies of this section.

"(4) ADDITIONAL REQUIREMENTS TO BE IMPLEMENTED BY REGULATIONS.—The regulations prescribed under this section shall, at a minimum—

"(A) establish minimum standards for providers of operator services to use in the routing and handling of emergency telephone calls; and

"(B) establish a policy for requiring providers of operator services to make public information about recent changes in operator services and choices available to consumers in that market.

"(e) SEPARATE RULEMAKING ON ACCESS AND COMPENSATION.—

"(1) ACCESS.—The Commission, within 9 months after the date of enactment of this section, shall require—

"(A) that each aggregator ensure within a reasonable time that each of its telephones presubscribed to a provider of operator services allows the consumer to obtain access to the provider of operator services desired by the consumer through the use of an equal access code; or

"(B) that all providers of operator services, within a reasonable time, make available to their customers a "950" or "800" access code number for use in making operator services calls from anywhere in the United States; or

"(C) that the requirements described under both subparagraphs (A) and (B) apply.

"(2) COMPENSATION.—The Commission shall consider the need to prescribe compensation (other than advance payment by consumers) for owners of competitive public pay telephones for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones. Within 9 months after the date of enactment of this section, the Commission shall reach a final decision on whether to prescribe such compensation.

"(f) TECHNOLOGICAL CAPABILITY OF EQUIPMENT.—Any equipment and software manufactured or imported more than 18 months after the date of enactment of this section and installed by any aggregator shall be technologically capable of providing consumers with access to interstate providers of operator services through the use of equal access codes.

"(g) FRAUD.—In any proceeding to carry out the provisions of this section, the Commission shall require such actions or measures as are necessary to ensure that aggregators are not exposed to undue risk of fraud.

"(h) DETERMINATIONS OF RATE COMPLIANCE.—

"(1) FILING OF INFORMATIONAL TARIFF.—

"(A) IN GENERAL.—Each provider of operator services shall file, within 30 days after the date of enactment of this section, and shall maintain, update regularly, and keep open for public inspection, an informational tariff specifying rates, terms, and conditions, and including commissions, surcharges, any fees which are collected from consumers, and reasonable estimates of the amount of traffic priced at each rate, with respect to calls for which operator services are provided. Any changes in such rates, terms, or conditions shall be filed no later than the first day on which the changed rates, terms, or conditions are in effect.

"(B) WAIVER AUTHORITY.—The Commission may, after 4 years following the date of enactment of this section, waive the requirements of this paragraph only if—

"(i) the findings and conclusions of the Commission in the final report issued under paragraph (3)(B)(iii) state that the regulatory objectives specified in subsection (d)(1)(A) and (B) have been achieved; and

"(ii) the Commission determines that such waiver will not adversely affect the continued achievement of such regulatory objectives.

"(2) REVIEW OF INFORMATIONAL TARIFFS.—If the rates and charges filed by any provider of operator services under paragraph (1) appear upon review by the Commission to be unjust or unreasonable, the Commission may require such provider of operator services to do either or both of the following:

"(A) demonstrate that its rates and charges are just and reasonable, and

"(B) announce that its rates are available on request at the beginning of each call.

"(3) PROCEEDING REQUIRED.—

"(A) IN GENERAL.—Within 60 days after the date of enactment of this section, the Commission shall initiate a proceeding to determine whether the regulatory objectives specified in subsection (d)(1)(A) and (B) are being achieved. The proceeding shall—

(i) monitor operator service rates;

"(ii) determine the extent to which offerings made by providers of operator services are improvements, in terms of service quality, price, innovation, and other factors, over those available before the entry of new providers of operator services into the market;

"(iii) report on (in the aggregate and by individual provider) operator service rates, incidence of service complaints, and service offerings;

"(iv) consider the effect that commissions and surcharges, billing and validation costs, and other costs of doing business have on the overall rates charged to consumers; and

"(v) monitor compliance with the provisions of this section, including the periodic placement of telephone calls from aggregator locations.

"(B) REPORTS.—(i) The Commission shall, during the pendency of such proceeding and not later than 5 months after its commencement, provide the Congress with an interim report on the Commission's activities and progress to date.

"(ii) Not later than 11 months after the commencement of such proceeding, the Commission shall report to the Congress on its interim findings as a result of the proceeding.

"(iii) Not later than 23 months after the commencement of such proceeding, the Commission shall submit a final report to the Congress on its findings and conclusions.

"(4) IMPLEMENTING REGULATIONS.—

"(A) IN GENERAL.—Unless the Commission makes the determination described in subparagraph (B), the Commission shall, within 180 days after submission of the report required under paragraph (3)(B)(iii), complete a rulemaking proceeding pursuant to this title to establish regulations for implementing the requirements of this title (and paragraphs (1) and (2) of this subsection) that rates and charges for operator services be just and reasonable. Such regulations shall include limitations on the amount of commissions or any other compensation given to aggregators by providers of operator service.

"(B) LIMITATION.—The requirement of subparagraph (A) shall not apply if, on the basis of the proceeding under paragraph (3)(A), the Commission makes (and includes in the report required by paragraph (3)(B)(iii)) a factual determination that market forces are securing rates and charges that are just and reasonable, as evidenced by rate levels, costs, complaints, service quality, and other relevant factors.

"(i) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to alter the obligations, powers, or duties of common carriers or the Commission under the other sections of this Act.".

Mr. INOUYE. Mr. President, I offer today a substitute version of S. 1660, the Telephone Operator Consumer Services Improvement Act of 1990. This may be one of the most significant pieces of communications legislation to pass the Congress this year. This bill will go a long way toward solving the problems that have plagued consumers who attempt to make operator-assisted calls from telephones made available to the public. This bill seeks to protect the consumer from unfair and deceptive practices by these new operator services companies. At the same time, the bill establishes reasonable ground rules for the promotion of competition in the operator services market.

The need for this bill is well known by any consumer that has attempted to make an operator-assisted call from a hotel, airport, hospital, or other public location over the past few years. Four years ago, several new companies entered the market to provide telephone operator services in competition with AT&T. These new companies, known as "alternate operator services", or "AOS", companies, often engaged in unfair and deceptive practices that generated thousands of complaints by disgruntled consumers. According to these consumer complaints, these AOS companies often refused to identify themselves, charged rates significantly higher than the rates that consumers expected to be

charged, blocked consumers from reaching their carrier of choice through the 950 or 800 access codes, billed for calls that were never answered, and, when consumers asked to be transferred to AT&T, issued bills that indicated the calls were made from locations that were hundreds of miles away from the consumer's actual location.

In 1988, the Telecommunications Research and Action Center, a consumer group known as TRAC, filed a complaint with the FCC against five AOS companies. In ruling on this complaint, the FCC declared that blocking of access was illegal and ordered the carriers to stop blocking access to other carriers. The FCC declined, however, to take any further action. It refused to regulate or even investigate these carriers' rates, and it refused to adopt rules or initiate a rulemaking proceeding to govern the entire operator services industry. The FCC further permitted the industry to apply for waivers of the nonblocking requirements, and virtually all the carriers submitted waiver requests.

After the FCC's ruling, the FCC continued to receive more complaints about AOS companies than about any other problem. Congress stepped forward to respond to these concerns. Last year the House took the lead and passed legislation sponsored by Congressman COOPER to establish reasonable regulations to govern this industry and protect the consumer. The House bill was a significant achievement that reflected a great deal of hard work and compromise.

In the Senate, Senator DIXON introduced a bill that was very similar to the House-passed bill, and Senator BREAUX introduced a companion bill to the House-passed bill. After a hearing on February 7 and several additional rounds of negotiating, the Senate Commerce Committee was able to report a substitute bill to S. 1660 by voice vote on June 27 of this year. That substitute will made only small changes to the strong foundation laid by the House.

After several additional rounds of negotiations among the industry participants and the FCC, we have emerged with a consensus bill that is supported by almost all the members of the industry and the key sponsors of legislation in the Senate and the House. I would, in particular, like to note that the FCC now supports this legislation and has expressed its commitment to resolving the problems in the operator services industry. In fact, the FCC has been very cooperative and helpful in offering suggestions for improving the bill. The bill now includes several provisions that should assist the FCC in taking action to protect consumers of operator services. I fully expect that the FCC will act in good faith to carry out the provisions of this bill as expeditiously as possible. I also expect that the FCC will act quickly on several petitions that are now pending at the commission that are not specifically addressed in this bill.

Senator HOLLINGS, Senator DANFORTH, and Senator PACKWOOD have all contributed to the drafting of this bill and have indicated their support. Of course, Senators BREAUX and DIXON made significant contributions by introducing the two operator services bills and by continuing to work on the drafting of this substitute. Several other Senators have worked closely on this bill, including Senators ROBB, KOHL, BURNS, LOTT, GORTON, and PRESSLER.

I would also like to commend the chairman of the House Subcommittee on Telecommunications and Finance, Mr. MARKEY, the ranking Republican member of that committee, Mr. RINALDO, and the original sponsor of this legislation in the House, Mr. COOPER, for their leadership in recognizing the need for this legislation early on and for crafting a balanced piece of legislation that went 90 percent of the way toward solving the problems in this industry.

In short, this bill reflects hours of hard work by both Houses of Congress and on both sides of the aisle. I appreciate the spirit of cooperation shown by all these members and their staff. It is my hope and expectation that this substitute can be passed by the Senate today and taken up by the House shortly thereafter. I believe that this substitute deserves the strong support of all the members, and I urge its passage.

Mr. HOLLINGS. Mr. President, I rise today to support the substitute amendment being offered by Senator INOUYE to S. 1660, the Telephone Operator Consumer Services Improvement Act of 1990. The operator services industry is the latest example of the deregulation gone mad approach to public interest regulation. It used to be that you could pick up a telephone, dial "0", and make your telephone call with the assurance that your rates would be reasonable and your service quality high.

Today, the consumer has no such assurance. You can dial "0" in an emergency and find that no one picks up the line. You can place a long distance call from one State and be billed for a call from another State. You can find that your charges are four times higher than they used to be. And you can be charged for calls that were never answered.

I applaud the efforts of Senator INOUYE, Senator BREAUX, and Senator DIXON for taking up this cause. It is time that we get back to ensuring that the public interest includes the interests of the telephone consumer as well as the interests of the telephone industry.

At the same time, there is no reason to penalize the entire operator services industry for the misguided actions of a few competitors. Consumers are not complaining about the rates and practices of AT&T. It does not seem fair to me to put the burden on AT&T to solve their problems.

I thus believe that the approach taken by this bill, to refer the difficult issue of unblocking and 800 numbers to the FCC, is the proper resolution. The new administration at the FCC has indicated that it is ready to work with Congress and to establish reasonable regulations to protect the consumer and to promote competition. I think it is time to let this FCC do its job.

Once again, I express my appreciation for the hard work of Senator INOUYE and the other Senators on the committee who have worked to craft this consensus bill. I urge my colleagues to support the passage of this substitute and of S. 1660, as amended.

Mr. BREAUX. Mr. President, for generations after the introduction of Alexander Graham Bell's marvelous invention, the regulated telephone industry became one that Americans could rely on for reliable, near-impeccable service at fair prices. You placed your call from anywhere in the country, at a hotel or motel, on the side of a country road or major highway, in a hospital, airport, train or bus depot, at a high school or university and you knew what to expect. From any place you called, you knew what to expect in rates and service. In fact you rarely consciously considered per-minute rate charges. You were so familiar with the service that you could approximate the cost of a call by its total time.

No more. Now it is a case of transit telephone user beware. The aftermath of the deregulation of long-distance telephone service in 1984 has brought hundreds of new telephone service providers in various markets. With them have come, in the name of competition, varying service offerings at unfamiliary, usually higher, costs to consumers. Many traveling telephone users calling homes or businesses have subsequently suffered telephone bill rate shock.

A most recent example is illustrated in a letter I received from a constituent just a few days ago on September 13. She told me that her husband is on the road for 8 to 10 months of the year. he calls home frequently. The telephone, she says, "is the lifeline to our marriage." They had not had problems with the amounts of their long-distance bills until 2 or 3 months ago. For an unexplained reason, her recent billings were from various telephone companies other than her chosen carrier, AT&T.

My constituent's bitter complaint is that she is charged on her August 4 billing $208.66 for calls that, according to her AT&T comparison, would have cost $65.28. The difference is over 200 percent. This family had a similar experience on August 29, receiving charges totaling $80.90 which would have been $26.19 at AT&T rates. I have copies of these bills, including the AT&T rate comparisons.

This kind of problem repeated hundreds of times around the country is what prompted me to introduce S. 1660, the basis of the Senate Commerce Committee substitute which will be voted out of the Senate today. In fact, over 4,000 similar consumer complaints were filed in the FCC from January 1988 through February 1990. And, the stream of complaints is still flowing.

The House of Representatives first addressed this issue after nearly a year of negotiations with consumer and telephone industry representatives. By voice vote the resulting legislation, H.R. 971, the Telephone Operator Services Consumer Protection Act, cleared the House in September 1989. Significant compromises were forged in several knotty issues. I introduced in the Senate the companion bill, S. 1660, the Telephone Operator Consumer Services Improvement Act. S. 1660 is intended to curb abusive pricing and billing practices of some operator service provider [OSP] long-distance telephone companies.

My constituent complains that she has been stripped of her rights to use the service which she requested in using her calling card. S. 1660 will protect a consumer's right to choose, yet avoid a premature imposition of rates and commissions penalties.

Among other important provisions, it requires OSP's to identify themselves to callers, and upon request at no cost to the consumer, give rates, billing procedures, and procedures for filing complaints. OSR's will be prohibited from billing a long-distance telephone call to a billing card number which is issued by another OSP unless the call is billed at a rate no greater than that other OSP's rate for that call. OSP's must file their rates at the FCC, and they are required to justify questionable charges.

Within 18 months, S 1660 requires that telephone for transient use such as on highways, in motels, hotels, airports, and hospitals must be technically capable of connecting callers to long distance carriers of choice. Meanwhile, S. 1660 would prohibit the blocking of access to chosen carriers. If a no-blocking law cannot be enforced at the FCC, penalties such as denials of commissions on telephone service collections paid by OSP's to hotels and motels, et cetera, would then be in order.

Moreover, criminal penalties for willful and knowing violations of the Communications Act, consisting of fines of up to $10,000 or imprisonment for up to a year may apply. Violators may also be subjected to forfeiture penalties of up to $100,000 a day for willful or repeated failure to comply with statutory provisions or FCC Commission rules, regulations or orders.

OSP owners have made major investments in operations and equipment, and some provide enhanced services and job opportunities in their communities. S. 1660 is more than a consumers benefits bill; it offers OSP's an opportunity to improve operations and prove consumer acceptance in the marketplace.

The Congress will know soon enough whether in fact there is industry compliance with this much-needed legislation. S. 1660 requires the FCC to conduct a 9-month study of whether additional regulation is needed. If OSP industry improvements do not materialize, I will support more stringent regulation.

I want to thank Senate Communications Subcommittee chairman, Senator INOUYE and the committee staff, particularly John Windhausen and William Heyer, for long hours of extraordinarily effective work that they contributed in the successful effort to move this legislation to this point of passage.

Mr. BURNS. Mr. President, I rise today in support of S. 1660, the Telephone Operator Services Improvement Act of 1990.

Throughout this past year, my colleagues on the Senate Commerce Committee and I have worked diligently to formulate a measure that not only will provide a foundation to promote competition in operator-assisted services, but will preserve the needs and interests of consumers using these telephone services.

It is a well established fact that multiple providers on any communications service ultimately will bring benefits to the public in the form of new services and cheaper rates. Because the operator service industry is so new, these benefits have been slower in coming. Before the advent of alternative operator service providers, as they were first known, consumers knew who the operator was and how to reach them since there was only one provider, AT&T. However, new providers have resulted in an inevitable confusion as consumers struggle to understand how best to utilize the new services. As this transition process occurs, more and more consumers are beginning to learn of operator service providers, [OSP's], and the varied benefits and innovations they may offer.

Such a transition process is not unique to the communications industry. The divestiture of AT&T clearly has brought the American public innovative telecommunication services, lower prices, and spurred competition in the long-distance field. Through MCI, US Sprint, ITT, and hundreds of other smaller long-distance carriers, the American public has been granted the freedom to choose and as a result of this freedom, competition has flourished. In the end, it is hoped that a market of competitive providers will one day lead to a more fully deregulated regulatory structure. All of us would welcome that. While the battle between AT&T and new competitors has been a long and difficult one, as a whole the American public is reaping the benefits of competition.

The same principle holds true for competition in the operator-assisted services. While we all agree there have been problems with the operator service industry, just as there were in the newly deregulated long-distance industry, the array of new services and state-of-the-art technology being offered by many operator service companies in just 3 short years of existence is phenomenal. If competition had not entered this marketplace, consumers would be the losers.

Mr. President, there have been some critical problems with the operator service industry and if we are to promote competition, these problems need to be addressed. I am very pleased to see that S. 1660 will require the FCC to help resolve many problems and to monitor industry compliance. One particular concern I have is for consumers to continue to have a choice. Individuals who call from any phone in the country should have the right to use the carrier of their choice—either the operator service company provided by that particular phone or any any other carrier. The legislation establishes this principle, and it is my hope that the FCC will make it workable as implementing regulations are issued.

We have all heard frustrating stories of customers being denied access to the carrier of their choice while traveling. There are several reasons why this may occur. First, there may be purely technical problems preventing connection to a particular carrier. Second, the carrier of choice may not make available its data base to the operator service company. Without access to this data base, an operator service provider cannot validate and bill the card number and as a result must deny the caller use of the carrier. Third, at times the carrier of choice may deny the transfer of a call from an operator service provider even though the caller wants to access that carrier. Fourth, not all carriers provide a uniform method of access for their customers to reach them. These access problems need to be resolved, and I strongly urge the FCC to investi-

gate universally available solutions that will facilitate ease of access.

Finally, I would like to elaborate my concerns surrounding the current billing, collection, and validation arrangements in the operator service industry, an issue which was left unaddressed in S. 1660. During the discussion on the legislation, I became aware of the disparities in costs and availability of billing and validation services between AT&T and other operator service providers. I understand several local exchange carriers [LEC's] which provide billing, validation and collection services to AT&T do not offer those same services to other OSP's at any price. The LEC's that do provide these services to OSP's sometime charge them a significantly higher amount than they do to AT&T. OSP's are totally dependent on the LEC's for calling card validation, billing and the collection of calls. The inability to obtain such services causes many competitive problems that need to be corrected if we expect consumers to use all OSP services.

I believe billing and collection disparity raises the question of fair competition, and any solution that attempts to satisfy the customer, must address this inequity. Again, I would encourage the Commission to consider this issue in the context of the rulemaking required in the bill.

While it is my hope that this legislation will address the problems and concerns surrounding the operator service industry, the need for continual oversight remains. If any abuses persist by operator service companies, the Commisson may find it necessary to use the authority given by this bill to crack down on the bad players. I, for one, believe Congress has an important role to play in providing continuing oversight in this industry.

In closing, I want to express my support for this measure. I want to thank my colleagues, particularly Chairmen HOLLINGS and INOUYE, for their diligence on this complex issue and commend the staff for their hard work in piecing together a bill that provides consumers with the necessary information to make informed choices, while allowing a new industry to develop in a competitive marketplace. Since the bill will cover every company providing operator services, we are guaranteed upon implementation of the bill's terms, many of the problems plaguing consumers of operator services should disappear. This will be a welcome development. I also want to thank the operator service industry, the consumer groups, and the Federal Communications Commission for their assistance and willingness to work with us on reaching an acceptable compromise.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 2924) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the votes by which the amendments were agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. BRYAN. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 971, the House companion; that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken and that the text of S. 1660, as amended, be inserted in lieu thereof; that the bill be advanced to third reading and passed; and that the motion to reconsider the passage of the bill be laid upon the table and that S. 1660 then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 971), as amended, was passed.

ORDERS FOR TUESDAY, OCTOBER 2, 1990

Mr. BRYAN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Tuesday, October 2; that following the time for the two leaders, there be a period for morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, and that Senator BIDEN be recognized for up to 15 minutes; and that the Senate stand in recess between the hours of 12:30 and 2:15 p.m., Tuesday, in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTENT TO PROCEED TO S. 3037, THE MONEY LAUNDERING BILL

Mr. BRYAN. Mr. President, the majority leader asked me to announce for the information of Senators that at 10:30 tomorrow morning, it is his intention to seek consent to proceed on Calendar No. 819, S. 3037, the money laundering bill.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BRYAN. Mr. President, there appears to be no further business to come before the Senate today, so I now ask unanimous consent that the Senate stand in recess, under the previous order, until the hour of 10 a.m., Tuesday, October 2, 1990.

There being no objection, the Senate, at 6:57 p.m., recessed until Tuesday, October 2, 1990, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Monday, October 1, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:[H01OC0-V1]{H8435}prayer

As we look to the opportunities and possibilities of each new day, we are yet reminded, O God, that there are many who are filled with anxiety and apprehension and do not share in Your gift of peace and serenity. O gracious God, we particularly remember in our prayer those who are separated from their families and those they love in distant places of our world and even within our own communities and families. May relationships be strengthened, O God, by the healing and comforting power of Your spirit—a spirit that brings us together, that bridges every chasm, that transcends all time and space, and gives to all the gift of faith, hope, and love. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Georgia [Mr. JONES], please come forward and lead the House in the Pledge of Allegiance.

Mr. JONES of Georgia led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolutions of the House of the following titles:

H.R. 3007. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations;

H.J. Res. 469. Joint resolution to designate October 6, 1990, as "German-American Day"; and

H.J. Res. 603. Joint resolution to designate the month of October 1990 as "Country Music Month."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House if requested, a bill of the House of the following title:

H.R. 5725. An act to extend the expiration date of the Defense Production Act of 1950.

The message also announced that the Senate agrees to the amendments of the House to the amendment of the Senate to the bill (H.R. 1243) "An act to require the Secretary of Energy to establish three Centers for Metal Casting Competitiveness Research."

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 657. An act to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors;

S. 1657. An act for the relief of Trevor Henderson;

S. 2981. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America;

S. 3016. An act for the relief of Janice and Leslie Sedore and Ruth Hillman;

S. 3091. An act to amend the act incorporating the American Legion so as to redefine eligibility for membership therein;

S.J. Res. 270. Joint resolution to designate the period commencing February 17, 1991, and ending February 23, 1991, as "National Visiting Nurse Associations Week";

S.J. Res. 293. Joint resolution to designate November 16, 1990, as "National Philanthropy Day";

S.J. Res. 307. Joint resolution designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week";

S.J. Res. 323. Joint resolution designating November 11 through 17, 1990, as "Geography Awareness Week";

S.J. Res. 340. Joint resolution designating the week beginning November 11, 1990, as "National Disabled Veterans Week";

S.J. Res. 347. Joint resolution designating April 7 through 13, 1991, as "National County Government Week";

S.J. Res. 349. Joint resolution designating October 1990 as "Italian-American Heritage and Culture Month";

S.J. Res. 353. Joint resolution to designate September of 1991 as "National Rice Month";

S.J. Res. 358. Joint resolution to designate February 7, 1991, as "National Women and Girls in Sports Day";

S.J. Res. 362. Joint resolution to designate the period commencing on November 18, 1990, and ending on November 24, 1990, as "National Adoption Week";

S.J. Res. 366. Joint resolution to designate March 30, 1991, as "National Doctors Day"; and

S.J. Res. 367. Joint resolution to designate the week of November 11 through 17, 1990, as "Gaucher's Disease Awareness Week."

The message also announced that the Senate agree to the amendments of the House to the bill (S. 647) "An act to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws," with an amendment.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill and joint resolution on Sunday, September 30, 1990:

H.R. 5755. An act to extend the temporary increase in the public debt limit; and

H.J. Res. 655. Joint resolution making continuing appropriations for the fiscal year 1991, supplemental appropriations for Operation Desert Shield for the fiscal year 1990, and for other purposes.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first eligible bill on the Consent Calendar.

AUTHORIZING LEASE OF LANDS ON MILLE LACS INDIAN RESERVATION

The Clerk called the bill (H.R. 3618) to authorize the lease of lands on the Mille Lacs Indian Reservation for a term not to exceed 99 years.

There being no objection, the Clerk read the bill as follows:

H.R. 3618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MILLE LACS INDIAN RESERVATION LEASE TO MINNESOTA STATE HISTORICAL SOCIETY

The first section of the Act of August 9, 1955 (25 U.S.C. 415), is amended by inserting "the Mille Lacs Indian Reservation with respect to a lease to the Minnesota Historical Society," after "the Navajo Reservation,".

With the following committee amendment:

Committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. MILLE LACS INDIAN RESERVATION LEASE TO MINNESOTA STATE HISTORICAL SOCIETY.

The first section of the Act of August 9, 1955 (25 U.S.C. 415), is amended by inserting "the Mille Lacs Indian Reservation with respect to a lease between an entity established by the Mille Lacs Band of Chippewa Indians and the Minnesota Historical Society," after "the Navajo Reservation,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING RUMSEY INDIAN RANCHERIA TO CONVEY A CERTAIN PARCEL OF LAND

The Clerk called the bill (H.R. 3703) to authorize the Rumsey Indian Rancheria to convey a certain parcel of land.

There being no objection, the Clerk read the bill as follows:

H.R. 3703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the Rumsey Indian Rancheria, a part of the Wintun Tribe of Indians, is a federally recognized Indian tribe, located in Rumsey, California, where eighty-three and thirty-nine hundredths acres of land are held in trust for the Rancheria by the United States;

(2) in February, 1987, fee simple title to property located at lot 23, Sierra Meadows subdivision, unit 5A Washoe County, Nevada, commonly known as 978 O'Callahan Street, Sparks, Nevada, was transferred to the Rancheria which it presently holds under the name Wintun Indian Tribe;

(3) such property is located approximately one hundred twenty-five miles from the Rancheria trust land base in California, and ownership of such land, which is in a residential area, provides no significant benefit for the tribal members;

(4) the most beneficial use of such land is to sell it at its present market value and to utilize the proceeds for the improvement of the tribe's economic and social welfare; and

(5) section 2116 of the Revised Statutes (25 U.S.C. 177) prohibits the conveyance of any lands owned by Indian tribes without the consent of Congress.

SEC. 2. CONVEYANCE OF LAND.

(a) AUTHORITY.—Notwithstanding section 2116 of the Revised Statutes (25 U.S.C. 177), Rumsey Indian Rancheria is authorized to convey that land known as lot 23, Sierra Meadows subdivision, unit 5A, Washoe County, Nevada, commonly known as 978 O'Callahan Street, Sparks, Nevada, to any bona fide purchaser for value.

(b) PROCEEDS.—Proceeds from the conveyance of land pursuant to subsection (a) may be used only for the economic development and social welfare of the Rumsey Indian Rancheria.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SAN CARLOS MINERAL STRIP ACT OF 1990

The Clerk called the bill (H.R. 4593) to transfer to the Secretary of the Interior the administration of the surface rights in approximately ten thousand six hundred and fifty acres of land presently within the boundaries of the San Carlos Indian Reservation, Arizona, and managed by the Forest Service as part of the Coronado National Forest.

There being no objection, the Clerk read the bill as follows:

H.R. 4593

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Carlos Mineral Strip Act of 1990".

SEC. 2. DECLARATION OF BOUNDARY.

Congress hereby affirms that the San Carlos Indian Reservation includes those lands consisting of more or less ten thousand six hundred and fifty acres and generally depicted on the map entitled "San Carlos Apache Mineral Strip—Coronado Division" and dated April 24, 1990, which shall be on file and available for public inspection in the offices of the Chief, Forest Service, and the Assistant Secretary for Indian Affairs, Department of the Interior, and the tribal offices of the San Carlos Apache Tribe. The boundary of the Coronado National Forest is hereby modified as depicted on the map referred to in this section.

SEC. 3. DATE OF ESTABLISHMENT.

The lands referred to in section 1 shall be deemed to have been held in trust by the United States for the benefit of the San Carlos Apache Tribe since December 14, 1872.

SEC. 4. ADMINISTRATION OF LANDS.

All right, title, and interest in the lands referred to in section 1 shall hereafter—

(1) be administered by the Secretary of the Interior; and

(2) be held in trust by the United States for the benefit of the San Carlos Apache Tribe and to be a part of the San Carlos Indian Reservation for all purposes.

SEC. 5. SAVINGS PROVISION.

Nothing in this Act is intended to affect or modify any valid entries under the mining laws of the United States.

With the following committee amendment:

Committee amendment: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Carlos Mineral Strip Act of 1990".

SEC. 2. DEFINITION.

For the purposes of this Act, the term "San Carlos Apache Mineral Strip" means that portion of the San Carlos Apache Reservation which was conditionally ceded to the United States, as described by the Agreement dated February 25, 1896, and ratified by the Act of June 10, 1896 (29 Stat. 360).

SEC. 3. CONFIRMATION OF BOUNDARY.

Congress hereby affirms that the San Carlos Apache Reservation, as established and described by the Executive orders of November 9, 1871, and December 14, 1872, includes all lands which lie within the San Carla Apache Mineral Strip which are presently managed by the Forest Service as part of the Coronado National Forest. The boundary of the Coronado National Forest is hereby modified to exclude such lands.

SEC. 4. DATE OF ESTABLISHMENT.

The lands referred to in section 3 which were managed by the Forest Service before the effective date of this Act shall be deemed to have been held in trust by the United States for the benefit of the San Carlos Apache Tribe since December 14, 1872. Nothing in this Act may be construed to establish, in any action brought by the San Carlos Apache Tribe, whether or not the tribe is entitled to payment for damages arising from the management of such lands by the Forest Service before the date of enactment of this Act.

SEC. 5. ADMINISTRATION OF LANDS.

All rights, title, and interest in the lands referred to in section 4 shall hereafter—

(1) be administered by the Secretary of the Interior; and

(2) be held in trust by the United States for the benefit of the San Carlos Apache Tribe.

Such lands shall be a part of the San Carlos Apache Indian Reservation for all purposes.

SEC. 6. PURCHASE OF RANGE IMPROVEMENTS.

If offered by the Secretary within 180 days after the date of enactment of this Act, the Secretary shall acquire the permanent improvements on the grazing allotment located on the lands referred to in section 4 which are subject to a grazing permit from the Forest Service on the date of enactment of this Act. The Secretary shall pay $122,842 for such improvements.

SEC. 7. SAVINGS PROVISION.

Nothing in this Act shall affect or modify any valid entry or other valid existing rights under the mining laws of the United States.

SEC. 8. EFFECTIVE DATE.

Sections 3, 4, and 5 of this Act shall take effect upon certification by the Secretary that the provisions of section 6 have been satisfied.

Mr. KYL. Mr. Speaker, I rise in support of H.R. 4593, the San Carlos Mineral Strip Act of 1990.

The bill will resolve a dispute, which dates back to the early part of this century, over the administrative control over between 10,650 and 13,850 acres of land on what is known as the San Carlos Mineral Strip.

Mr. Speaker, it might be helpful if I outlined very briefly some of the history that underlies this legislation.

The south boundary of the San Carlos Reservation was originally established by President Ulysses S. Grant in 1872.

In 1896, the San Carlos Tribe conditionally ceded a total of 232,000 acres of mineral strip land to the United States. In ratifying the agreement, Congress expressly provided that "the lands so surrendered shall be open to occupation, location, and purchase under the provisions of the mineral-land laws only."

San Carlos mineral strip lands were subsequently added to the Crook National Forest—now known as the Coronado National Forest—by Presidential proclamations on July 1, 1908 and March 21, 1917. These actions were prohibited by the act of June 10, 1896. They also violated section 24 of the act of March 3, 1891, which authorized the Federal forest reserves to be created from public

lands, not Indian lands, as well as section 10 of the 1891 act which stated "[t]hat nothing in this act shall change, repeal or modify any agreements or treaties made with any Indian tribes for disposal of their lands, or of any land ceded to the United States to be disposed of for the benefit of such tribes. * * *"

In 1963, Under Secretary of Interior Carr issued an order restoring the subsurface rights in the mineral strip to the San Carlos Apache Tribe, subject to any valid existing rights.

In 1969, Secretary Udall issued an order restoring the surface rights in the mineral strip to the tribe. However, the Forest Service objected that national forest lands were not subject to the authorities under which the Secretary of the Interior's order was issued, and that there was no other authority by which the Secretary of the Interior could legally transfer national forest lands to the tribe.

Mr. Speaker, H.R. 4593 settles this dispute once and for all. The bill affirms that the mineral strip lands are a part of the San Carlos Apache Reservation as established by Executive orders in 1871 and 1872.

A new survey is to be conducted pursuant to those Executive orders and the correct boundary is to be fenced. I would estimate that the amount of acreage that will be affected is 11,853 acres. The boundaries of the Coronado National Forest will be modified accordingly.

Since the tribe has indicated that it may seek damages against the United States as a result of Federal occupancy of the lands—and it would be inappropriate to try to influence the outcome of that potential litigation here—we have included language to make it clear that nothing in the act can be construed to enhance or diminish any such claims. The tribe will have to make its case in the courts should it choose to do so.

Finally, the bill includes language directing the Secretary of the Interior to acquire the permanent improvements on the grazing allotment located on the mineral strip lands which are subject to a grazing permit from the Forest Service on the date of enactment. The Secretary is directed to pay $122,842 for such improvements, an amount based upon a BIA-obtained appraisal in 1978.

Before closing, Mr. Speaker, I want to thank the chairman of the Interior Committee, MO UDALL, and his staff for moving this bill so quickly.

This is a fair settlement to an old problem, and I urge my colleagues' support.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to transfer to the Secretary of the Interior the administration of the surface rights in certain lands presently within the boundaries of the San Carlos Indian Reservation, Arizona, and managed by the Forest Service as part of the Coronado National Forest, and for other purposes."

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBER OF PRESIDENT'S COMMISSION ON FEDERAL APPOINTMENT PROCESS

The SPEAKER. Pursuant to the provisions of section 203(b) of Public Law 101-194, the Chair appoints Mr. Werner Brandt, executive assistant to the Speaker, to the President's Commission on the Federal Appointment Process.

COMMUNICATION FROM THE MINORITY LEADER

The SPEAKER laid before the House the following communication from the Honorable ROBERT H. MICHEL, Republican leader:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 24, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Sec. 203 (b) of Public Law 101-194, I hereby appoint Mr. William R. Pitts, Jr. to serve as a member of the President's Commission on the Federal Appointment Process.

Mr. Pitts is an employee in the legislative branch, serving as a Floor Assistant in the House of Representatives, and I have the ultimate confidence in his ability to make a significant contribution to the important work of this Commission.

Sincerely yours,

ROBERT H. MICHEL,
Republican Leader.

GENERAL LEAVE

Mr. GORDON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation passed earlier today.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

CARE IN VETERANS' HOSPITALS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. I, along with thousands of others who watched ABC's "Primetime Live" on TV last Thursday evening, were dismayed with the segment concerning the Cleveland VA Medical Center. The hidden camera showing the unfeeling attitude of one of the members of the nursing staff in caring for a paralyzed veteran patient was inexcusable. I have talked with Secretary Derwinski. We want the matter straightened out and he is sending the medical inspector general to the hospital to conduct an investigation. If it is found that the ABC report is correct, those responsible should be dismissed.

Unfortunately, Mr. Speaker, the piece by Diane Sawyer creates the impression that the Cleveland episode is typical of what goes on in VA hospitals throughout the country. It simply is not true. Veterans watching that program will be fearful of going to the VA for their health care thinking the quality of care is not what it should be. I am confident that is not the case. Quality of care in VA hospitals is as good as in private hospitals due to VA's affiliations with more than 100 top medical schools throughout the country. Veterans live longer and with less pain because of our VA health care facilities. It is true that budget shortfalls have resulted in many veterans being denied care, but for those who are admitted, quality of care has not been sacrificed.

Mr. Speaker, there is no excuse for the incident at Cleveland. But I would remind my colleagues that if a hidden camera is taken into any medical facility in the country, it will find incidents that none of us condone. In those cases, the individuals should be fired. But let us not lose sight of the fact that VA employees who work tirelessly in hospitals throughout the United States should be commended for the care they give to thousands of veterans every day.

RECIPE FOR A RECESSION

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I have sadly come to the conclusion that the summit budget is a recipe for a recession. A deep, painful recession where hundreds of thousands of people lose their jobs.

It is sheer folly to impose a massive tax increase and substantial spending cuts at a time when we are already on the brink of a recession. This is a Herbert Hoover budget which will do the wrong thing at the wrong time in the wrong way. This is the same policy that Great Britain followed after World War I in an attempt to reduce their deficit by raising taxes and reducing spending. What they got were breadlines and stagnation.

For example, what sense does it make to impose a massive fuel tax at a time when the price of oil is already skyrocketing? A tax on fuel is a tax on production because 80 percent of our fuel use is production related, and a fuel tax is not only regressive, but grossly unfair on rural Americans who must drive twice as many miles as urban Americans.

Although I voted against most of the appropriations bills this year, and would find it distasteful, a better alternative would be to change the Gramm-Rudman targets, hold the line on taxes, and adopt more modest spending cuts, rather than inflict this recipe

for a recession on the American people.

□ 1210

BUDGET AGREEMENT PLACES UNFAIR BURDEN ON WORKING CLASS AND ELDERLY

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, I commend our leaders for their tireless efforts to reach a budget agreement. But I have deep concerns about the fairness of this agreement. It results in an unfair burden being placed on the backs of working class Americans, and it is especially tough on our older citizens. This agreement imposes a 12-cent-a-gallon increase in gasoline taxes, on top of the huge increases since the Mideast crisis.

This will unduly hurt working Americans, many who commute long distances to their jobs in rural States like Maine. I think that is unfair and unacceptable.

The agreement will make our older citizens pay twice as much for Medicare coverage.

And the agreement will double the amount of deductibles that those same older citizens will have to pay at a time in their lives when they are physically unable to earn additional money.

For these reasons I think the agreement does not meet the fairness test and I will have to oppose it.

THE END OF WALSH'S FISHING EXPEDITION

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, I know many of my fellow Members were happy to read that Lawrence Walsh may shut down the investigation of Iran-Contra next year.

This may be the major spending cut the budget negotiators were looking for. When he finally closes up shop, his investigation will have taken 4 years—as long as the American Civil War—cost the taxpayer more than $20 million, and in the end done little but enrich a bunch of lawyers.

In July, I introduced a bill which would put a 2-year sunset provision on independent counsels, unless an extension is approved. I urge my fellow Members to support this bill so that future special prosecutors won't be able to conduct endless fishing expeditions.

TAX MORT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, students hear it. Veterans hear it. Seniors hear it. Truck drivers hear it. Everybody can hear it except the people in Washington.

Mr. Speaker, ladies and gentlemen, today the fat lady is singing in Washington, DC. This tax deal stinks.

Let me remind this body that mom and dad and the beer drinkers did not get us into this mess. It was champagne guzzlers and the Pentagon, and today they are laughing their brass off.

Roosevelt gave us a New Deal. Reagan gave us a raw deal. This administration is turning Uncle Sam into an IRS agent.

As a Democrat today on the floor, and I am going to be hit with all this demagog stuff, I am against any more taxes on American people who cannot afford to pay it, especially in my area where you have not even offered me rustproof paint for a steel industry that is going belly up.

I am against this tax bill, and Congress should put a title on it. They should call it "tax mort."

THE AMERICAN PEOPLE DO NOT WANT MORE TAXES

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I think we see today that both sides of the aisle are upset with this debacle that we call an agreement. There is no question that people on both sides of the aisle do not want this tax increase.

But do not lay all the blame on President Bush. The Democratic leadership on that side participated in it just as the Republican leadership. A pox on everybody's house.

The American people do not want more taxes. Listen to this, a 10-cent-a-gallon tax increase on gasoline is going to cost each household in this country $120 a year. The energy costs are going to be $140 more per year on each household. The overall revenue increases, tax increases, are going to be $134 billion. That includes alcohol taxes, cigarette taxes, the first national sales tax, which is ultimately going to be lowered to include everybody in the not-too-distant future.

The fact of the matter is this is a disaster for the American economy, one that should be shelved. We have a 4-percent program which would limit spending to 4 percent over last year. It is called the 4-percent solution. We ought to look at that. We ought to look at that as a substitute.

THE GREATER GOOD OF THE COUNTRY IS AT STAKE

(Mr. SMITH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Vermont. Mr. Speaker, the President and his budget summit have made their decision, and I have made mine. I support this agreement, because it is time for this country, but more particularly this Congress, to act on the budget-deficit crisis. We are faced with stark and difficult choices. If we do not act on this package, we risk a severe recession, economic chaos and massive increases in unemployment.

Again, we risk more devastating cuts from Gramm-Rudman.

When my children ask me where was I when we tried to put the country back on track, I want to be able to tell them that I was part of the solution and not part of the problem.

Politics as usual are going to try to duck this, push it away, vote no, do anything. I disagree on the right, I disagree on the left.

The good of the country calls us to put politics as usual aside, because politics as usual will lead to no agreement, and no agreement will lead to severe and deep recession as well as drastic Gramm-Rudman cuts. The greater good of the country is at stake.

Parts of this agreement disappoint me, and I do not agree with all of its provisions, but as painful as this budget agreement is, for people in Vermont and all over this country, there will be far greater pain if we fail once again to lead this country as this Congress.

LET US COOL THE RHETORIC AND EXAMINE THE PACKAGE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, the budget-deficit agreement is unfair, painful, and might result in a lot of us losing our seats. But what is the alternative? Recession, the market is going crazy, and $100 billion in automatic cuts crippling our domestic and military programs, furloughing more than a million Federal workers.

Mr. Speaker, let us stop demagoging this issue. Let us keep our powder dry before deciding how to vote. Let us examine this package. Let us try to make it better.

There is no question, this agreement hits everybody smack in the teeth, senior citizens trying to get health care, those who smoke and drink, those who drive, those from energy States, those students planning on going to school, those planning to buy

a Mercedes or mink coat. Other than those mentioned, you are OK.

Mr. Speaker, seriously, let us be responsible. Let us cool the rhetoric and examine this package before proceeding.

CALLING FOR A FAIR AND COMPASSIONATE DEFICIT REDUCTION PACKAGE

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, I rise today to express my vehement opposition to the recently proposed deficit reduction agreement. This deficit cutting proposal is irresponsible and mean-spirited. Once again we are asking those who can least afford it, to pay for the irresponsible spending practices of the past: $60 billion cut from Medicare, $2.7 billion cut from veterans programs, and punishing excise taxes.

This proposal will devastate the quality of life for millions of Americans. It not only guts the most critical of quality of life programs but it takes money directly from the pockets of the hardest working Americans, who are just barely getting by as it is.

Rather than being offered a responsible and compassionate proposal, the American people are staring down the barrel of a gun loaded with a bucket full of punishing taxes and outrageous cuts in quality-of-life programs. It is time to retire the private club of summiteers and get on with our constitutional duty of providing for the needs of the American people. All of us in Congress have a constitutional right to a direct voice in the setting of Federal spending policies. Let us vote this down and get to work on crafting a fair and compassionate deficit reduction package.

□ 1220

MILITARY WOMEN DESERVE FIRST-CLASS STATUS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, American women today are stationed in the desert of Saudi Arabia, subject to all the threats that American men are that are stationed there. On top of that, they are also being subjected to the second-class status that women have in the Saudi Arabian culture.

Last month, our own Pentagon released a very devastating survey. It showed that 64 percent of our women in the military said that they have been subjected to sexual harassment or rape; that 80 percent said that they have been subjected to sexual teasing on the job. We have not heard anything from the Pentagon about this.

Furthermore, we saw very sad stories about some of our young men at Annapolis one more time getting in trouble. Now, there may not be much we can do about the second-class status of women in Saudi Arabia, but I would certainly hope that the Pentagon takes much more active action on this whole area, and starts seeing if we cannot get some first-class status for women in our military.

NO MORE "TRUST US"

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, I have had less than 24 hours to examine the budget summit package of tax increases and spending reductions. I finally made it through the tax increases, only to determine that it is tough for Idahoans and tough for Americans. Now I am trying to convince myself that the House has entirely changed its colors and removed its stripes.

What am I saying? I am saying that we are all going to agree to hold the line, to follow the cuts, and to adhere to all of these things that our summiteers say we are going to.

Well, Mr. Speaker, Ronald Reagan tried to convince me of that in 1982 and he did not. I voted against TEFRA, and I was right. He and the House were wrong. Where are the absolute ironclad guarantees that these spending reductions will come about? I am only talking about the rates of increase. There are no guarantees. The pledges will be, "Oh, absolutely, we will guarantee them. Trust us. Trust us." Well, I do not "Trust us."

The habit to spend is here, and the habit to spend will stay, and now we are going to give more money to feed the habit.

LIVE BY SPIRIT OF AGREEMENT

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I support the spirit and many of the programs that were in the budget summit agreement that was released yesterday. We have only a short time to work, and what we must do is roll up our sleeves and get to work, and get this agreement passed. Not every word, not every dotted "i" and cross every "t," but we should live by the spirit of it, and we can live by the spirit of it.

I hope and trust that 2 weeks from now when we have to bring to the floor the tax packages and the other spending cuts that are here, that there will be enough Members that rally together and get this job done. America needs that, American can stand no less.

REJECT AGREEMENT

(Mr. COX asked and was given permission to address the House for 1 minute.)

Mr. COX. Mr. Speaker, the budget summit agreement has been described by some as a bittersweet package that no one will like. It contains, we are told, spending cuts and tax increases. Half that story is true. No one will like this, certainly, and it does contain tax increases, 134 billion dollars' worth over 5 years.

However, except for defense spending, it contains no spending cuts. I repeat, no spending cuts. Specifically, domestic discretionary spending over the next 5 years is planned to increase by $150 billion. Specifically, entitlement program spending is projected to increase over the next 5 years by $542 billion—one-half trillion dollars. There is no enforcement in this agreement to keep even those huge spending increases in check. There are caps on spending programs, but these caps may be changed to accommodate "economic and technical reestimates," and in an agreement that is based on economic assumptions of 4.1 percent real GNP growth in 1993 and 2.8 percent inflation in 1995, those readjustments will be forthcoming.

The fact is, this is a pig in a poke, and we ought to turn it down.

SUPPORT TEXTILE BILL

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, this week in all probability the textile bill will be before the House of Representatives again. We will hear once again the argument that this bill is anticonsumer. Nothing could be further from the truth, Mr. Speaker.

To show Members the fallacy of this argument, I have two suits I found at a major retailer in my district. This one was made in the United States. This one was made overseas. The same brand, same price, different colors, same cut.

So, Members be the judge: Is it an anticonsumer bill? Certainly not. It will certainly not hurt the consumer, and it will help the 2.3 million textile workers who are trying to put food on their table and support their families. I ask Members to support the textile bill again this week.

REGARDING THE PASSING OF BRIG. GEN. W.H.L. "MOON" MULLINS, RETIRED

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, it is a most painful task to pass on the news of the death of retired Brig. Gen. W.H.L. "Moon" Mullins. Moon was a close friend and great pal to so many in this body.

He was killed in a crash on Saturday during aerobatics in a restored World War II P-51 near the Chatham, MA, Airport on Cape Cod.

I suppose if Moon had to choose a way to go, this would be it. He was a true fighter pilot in every respect and his love of flying was a paramount part of his life even in retirement.

He was a highly decorated pilot who flew 146 combat missions in the Vietnam theater. Then he came back to head the Air Force congressional liaison in the House where his straight talk and warm personality won the respect of everyone.

He was the first to make the rank of general in his West Point class of 1957 and the youngest general in the Air Force at that time. But that was to be expected.

He was tops in his class, captain and all-American selectee in lacrosse and head of the Glee Club. Nothing meant more to him than the military life and the Air Force except his family. He married the beautiful and charming Florine Magnani and they have two boys, Todd who works in Senate Veterans' Affairs and Dan who just graduated from the Air Force Academy and is now a second lieutenant in flight training.

He chose to retire early from the Air Force in 1979 even though he was described as having a brilliant career ahead of him. He simply wanted to spend more time with the family. Since that time he has headed the government and congressional affairs office at General Dynamics.

Moon was more than the all-American boy, he was a tough leader with a sense of caring for the Nation and a hearty concern for each of his fellows. God endowed Moon with the finest Irish tenor voice on either side of the ocean. He kept that voice vibrant through the years. He sang at parties, at dedications, and at passings. Whether it was at the bedside of Pete Murphy, our since-departed Defense Appropriations Subcommittee director or at the funeral of Gen. "Maggie" Maglione, the sweet, clear lilt of his gorgeous voice brought tears down every cheek.

Mr. Speaker, if we listen carefully now we can hear his haunting, beautiful version of "Danny Boy" telling us that the "pipes, the pipes are calling" Moon Mullins home. Former Speaker "Tip" O'Neill loved Moon like one of his family. We all loved him like a brother. So to Flo and the boys we offer our deepest sympathy on his passing and thank them from the bottom of our hearts for sharing that man among men with us for all these years.

PRESIDENT REJECTS TAIWAN AID

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, when we are in a time period when the Congress and the President are trying to find new moneys, Mr. Bush has turned down $100 million from Taiwan to help pay for the Persian Gulf fiasco. Why? Because we do not want to offend the Chinese, our friends the Chinese. They happen to sit as a permanent member on the U.N. Security Council with veto power.

□ 1230

These are the same Chinese who just 2 days ago violated the U.N. boycott on Iraq by sending them very precious chemicals to help them develop missile fuel to send poison gas and nuclear weapons maybe to us.

It is the same China who through the good graces of the Reagan and Bush administration now has 15 percent of the United States textile market.

It is the same China who murdered thousands of their own people who only wanted to have a little bit of freedom to be able to speak and to congregate, and these are supposed to be our friends.

Well, with friends like that, who needs enemies. I say we ought to dump them.

COMISKEY PARK, A MOST HALLOWED BATTLEGROUND

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, one of America's most hallowed battlegrounds disappeared on Sunday. Old Comiskey Park in Chicago saw its last game and slipped into the legend of American baseball.

Up in the corner of right field in Comiskey, you could stand in those half-light shadows, surrounded by wooden-slatted seats and look out on a grassy field, real grass, where real heroes thrilled wide-eyed kids every season. There at 35th and Shields on the south side of Chicago, legends of the game put on their spikes and stepped up to the plate—Minnie Minoso, Babe Ruth, Nellie Fox, Lou Gehrig, Joe DiMaggio, Ty Cobb, Luke Appling, Ted Williams, Luis Aparicio, and Carlton Fisk, a baseball pantheon.

In eight decades of the game, Comiskey saw the best and it endured, through the shame of the Black Sox, the horror of the Disco Demolition and the fireworks of the game's greatest showman, Bill Veeck.

A hide-covered ball made old Comiskey a temple and a wrecking ball will make it a parking lot, but the Baseball Palace of the World will survive in the memories of 78 million of us fortunate enough to have been there and millions more who will always wish they could have.

REMEMBER TIANANMEN SQUARE

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, last year following the brutal massacre in Tiananmen Square the House of Representatives reaffirmed itself as a bastion for democracy throughout the world by coming to the defense and protection of the Chinese students in America. Since that time repression in China has intensified. There have been many executions, many without due process and we have the names of at least 1,000 prisoners of conscience arrested after the Tiananmen Square massacre.

For this reason, Mr. Speaker, I was very dismayed to learn that our own Department of State has sent a letter to the Immigration and Naturalization Service recommending that there be no asylum granted to dissidents because there is no well-founded fear of persecution in China on the basis of political opinion.

How can this be? It must be a mistake.

Today many of our colleagues are joining me in a letter to Secretary of State Baker to call his attention to this situation and asking him to disassociate himself from this letter and to change the conditions which are sent to the Immigration and Naturalization Service from the Department of State.

I urge my colleagues to join us in this fight. We promised we would never forget the martyrs of democracy in Tiananmen Square.

THE PUERTO RICO SELF-DETERMINATION ACT

(Mr. DE LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LUGO. Mr. Speaker, I expected that Chairman UDALL will submit the Interior and Insular Affairs Committee's overwhelmingly favorable report on H.R. 4765, the Puerto Rico Self-Determination Act, later today.

The bill would authorize a referendum on Puerto Rico's future political status next year and provide for development and consideration of legislation on a status that won a majority in the referendum. That legislation would only become effective, if approved by both the Congress and the Puerto Rican people, in 1992.

This bill has been the priority project of the Insular and International Affairs Subcommittee that I am privileged to chair this Congress. I sponsored it along with the subcommittee ranking Republican, Mr. LAGOMARSINO, Resident Commissioner FUSTER, and other Members. It has also received the support of the Speaker and that of the minority leader.

This important and sensitive legislation was developed through intensive and extensive bipartisan negotiations with the advocates of three status options in Puerto Rico and the White House. I hope that it will come to the floor shortly and that my colleagues will support it.

CONTINUATION OF EXPORT CONTROL REGULATIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-242)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs, and ordered to be printed:

(For message, see proceedings of the Senate of today, October 1, 1990.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if suspended, will be taken after debate has been concluded on all such motions to suspend the rules.

SUPPORTING THE PRESIDENT WITH RESPECT TO IRAQI AGGRESSION AGAINST KUWAIT

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 658) to support actions the President has taken with respect to Iraqi aggression against Kuwait and to demonstrate United States resolve.

The Clerk read as follows:

H.J. RES. 658

Whereas the Government of Iraq without provocation invaded and occupied the territory of Kuwait on August 2, 1990, has brutalized the population of Kuwait, has taken large numbers of innocent hostages, and has disregarded the rights of diplomats, all in clear violation of international law and the norms of international conduct;

Whereas Iraq's actions have caused great suffering among the hundreds of thousands of innocent people who have been displaced by this crisis;

Whereas the President condemned Iraq's unprovoked and naked aggression and undertook a series of actions, including imposing comprehensive economic sanctions on Iraq and freezing Iraqi and Kuwaiti assets in the United States;

Whereas the United Nations Security Council in a series of resolutions condemned these actions as blatantly unlawful, imposed mandatory economic sanctions (including maritime and air embargoes) designed to compel Iraq to withdraw from Kuwait, called on all states to take appropriate measures to ensure that these sanctions are enforced, called for the immediate release of all hostages, strongly condemned aggressive acts perpetrated by Iraq against diplomatic premises and personnel in Kuwait, and reaffirmed the right of individual and collective self-defense in this situation;

Whereas the President, in response to requests from governments in the region and in exercise of the inherent right of individual and collective self-defense as specified in the Charter of the United Nations, has deployed United States Armed Forces into and around the Arabian Peninsula as part of a multinational force that includes Arab, Islamic, nonaligned, North Atlantic Treaty Organization members, and other states to deal with this armed aggression, to protect American lives, and to assist in enforcement of sanctions and the defense of friendly states in the region;

Whereas friends and allies have provided critical leadership in, and support for, the international efforts to impose sanctions on Iraq and otherwise oppose Iraqi aggression; and

Whereas these actions have thus far deterred Iraq from initiating hostilities against other friendly states in the region or against United States forces: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This resolution may be cited as the "United States Policy on Iraqi Aggression Resolution".

SEC. 2. DECLARATION OF UNITED STATES OBJECTIVES AND POLICIES.

(a) UNITED STATES OBJECTIVES.—United States policy in the Persian Gulf, as stated by the President and hereby affirmed by the Congress, is directed toward—

(1) the immediate, unconditional, and complete withdrawal of all Iraqi forces from Kuwait;

(2) the restoration of Kuwait's legitimate government;

(3) the security and stability of the Persian Gulf region;

(4) the protection of American citizens abroad, and the release of all those held hostage by Iraq; and

(5) the fostering of a new world order, freer from the threat of terror, stronger in the pursuit of justice, and more secure in the quest for peace.

(b) IMPORTANCE OF SECURITY AND STABILITY OF THE REGION.—The United States and the international community recognize the importance of the security and stability of the Persian Gulf region and adequate access to its energy resources. The United States and the international community must continue to oppose Iraq's armed aggression against Kuwait, a flagrant violation of international law which threatens global economic security and constitutes a serious challenge to international efforts to build a stable and peaceful environment in the post-Cold War era.

(c) CONDEMNATION OF IRAQ—The United States and the international community—

(1) should continue to condemn Iraq for its flagrant aggression, its abysmal human rights record, its support for international terrorism, its efforts to destabilize the region, its taking of civilian hostages, its terrorism of diplomats and violations of diplomatic premises, and its continuing efforts to develop and its demonstrated willingness to use weapons of mass destruction; and

(2) should hold Iraq and its leaders accountable for such actions.

(d) SUPPORT FOR DEPLOYMENT OF UNITED STATES ARMED FORCES.—The Congress—

(1) supports the deployment by the President of United States Armed Forces to the Persian Gulf region in response to Iraq's military aggression;

(2) expresses its appreciation to and support for the members of the Armed Forces who have been deployed to that region and to the members of the Ready Reserve and the National Guard who have been ordered to active duty; and

(3) declares its support for them as they perform their vital role in the achievement of United States objectives.

(e) UNITED STATES EFFORTS TO PROMOTE INTERNATIONAL COOPERATION.—The Congress commends the President for his successful efforts to promote international consensus and cooperation in response to this crisis. The United States should continue its efforts to—

(1) strengthen the international consensus against Iraq's aggression, through broadening cooperation with the Soviet Union, other members of the international community, and the United Nations;

(2) obtain additional and substantial commitments of air, sea, and ground forces from other nations in support of the multinational forces deployed in the Persian Gulf region in response to Iraq's aggression;

(3) obtain increased financial assistance and other support from other nations for those multinational forces;

(4) obtain substantial tangible international assistance for those nations that have suffered financial losses as a result of their support for the United Nations trade embargo against Iraq; and

(5) obtain adequate international humanitarian assistance for those foreign nationals who have fled Iraq and Kuwait.

(f) OTHER UNITED STATES ACTIONS.—The United States should also—

(1) continue to seek international consensus—

(A) to contain Iraq's conventional, chemical, biological, and nuclear weapons and ballistic missile programs, and

(B) to stop the export to Iraq of dual use technology and military components, including technology and components of direct or indirect United States origin;

(2) continue to seek international consensus to address regional problems of arms proliferation, including conventional weap-

ons, ballistic missiles, and weapons of mass destruction (chemical, biological, and nuclear weapons), and to seek to ensure that conventional weapons transfers to the region reflect legitimate security needs of the recipient nation;

(3) continue its stated policy to maintain Israel's economic well-being and qualitative military advantage in the Middle East (including through means such as technology transfers and defense cooperation), and continue its efforts to achieve an Arab-Israeli peace settlement; and

(4) continue promoting respect for internationally recognized human rights and the rule of law, and support the development of democratic institutions, throughout the region.

(g) SUPPORT FOR ACTIONS OF THE UNITED NATIONS.—

(1) COMMENDATION OF THE UNITED NATIONS.—The United Nations should be commended for its timely, unified, and strong response to Iraq's armed aggression against Kuwait.

(2) COMMENDATION OF SECURITY COUNCIL MEMBERS.—The member states of the United Nations Security Council who formulated a coordinated and unprecedented international policy response to Iraq's aggression through the adoption of Resolutions 660, 661, 662, 664, 665, 666, 667, and 668 should also be commended.

(3) AFFIRMATION OF RESOLUTIONS.—The Congress affirms its support for those Security Council resolutions.

(4) INTERNATIONAL IMPLEMENTATION OF RESOLUTIONS.—The Congress calls on all nations to fully support and comply with the resolutions adopted by the Security Council and to strengthen the enforcement of the sanctions imposed by the United Nations against Iraq.

(5) CONTINUATION OF DIPLOMATIC EFFORTS.—The United States and other members of the international community should continue efforts to achieve a diplomatic solution to the crisis in the Persian Gulf region through implementation of those resolutions.

SEC. 3. EFFORTS TO ACHIEVE UNITED STATES OBJECTIVES AND POLICIES.

The Congress supports the President's emphasis on diplomatic efforts, international sanctions, and negotiations under the auspices of the United Nations to achieve the United States objectives and policies set forth in section 2. The United States shall continue to emphasize the use of diplomatic and other nonmilitary means in order to achieve those objectives and policies, while maintaining credible United States and multinational deterrent military force.

SEC. 4. WAR POWERS FINDINGS.

The Congress finds that—

(1) on August 9, 1990, the President reported to the Congress that he had ordered the deployment of substantial elements of the United States Armed Forces into the Persian Gulf region in response to the threat posed by the actions of Iraq;

(2) in this report, the President stated that the report was being provided "consistent with the War Powers Resolution";

(3) the War Powers Resolution requires, in sections 4(a)(2) and 4(a)(3), that the President report to the Congress whenever, in the absence of a declaration of war, United States Armed Forces are introduced into the territory, airspace, or waters of a foreign nation while equipped for combat (except for deployments which relate solely to supply, replacement, repair, or training of such forces) or are introduced in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

(4) the War Powers Resolution also requires, in section 4(a)(1), that the President report to the Congress whenever, in the absence of a declaration of war, United States Armed Forces are introduced into hostilities or situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(5) consistent with that requirement, the President declared in his August 9th report, "I do not believe involvement in hostilities is imminent"; and

(6) the President has consulted with the Congress and has kept the Congress informed with regard to the deployment of United States Armed Forces into the Persian Gulf region.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of House Joint Resolution 658 and urge its adoption. This resolution is the result of extensive and positive deliberations between the majority, the other side of the aisle, and the administration on what must be the most important of the shared powers of Congress and the executive—the issue of what may be war, but will hopefully be, a peaceful resolution to the current situation in the Persian Gulf. This resolution was crafted by members of the committee in close consultation with the highest representatives of the administration and represents that which can be achieved when there is consensus among Americans with regard to our principles of constitutional democracy and that our traditional role of opposing illegal and naked aggression, be it against Poland in 1939, Pearl Harbor in 1941, or Kuwait in 1990.

Simply stated, House Joint Resolution 658 affirms and congratulates the President on the actions he has taken to date with respect to the current situation in the Persian Gulf and the Arabian Peninsula as a result of the Iraqi invasion of Kuwait. House Joint Resolution 658 is not, nor can it be interpreted as a wide open measure that could be compared to the Gulf of Tonkin resolution. As a matter of fact, House Joint Resolution 658 serves to reaffirm that Congress and the executive have an equal role in the determination of such matters as that as the Iraqi invasion, purported annexation, and occupation of Kuwait, and the United States coordinated multinational response to that barbaric act.

By unanimous voice vote last Thursday, The Committee on Foreign Affairs approved House Joint Resolution 658 as a demonstration of our firm resolve against Iraq's terrorist and barbaric actions. The bipartisan leadership in the House, led by Majority Leader GEPHARDT and Minority Leader MICHEL, joined 37 members of the Foreign Affairs Committee as original sponsors of House Joint Resolution 658.

The Foreign Affairs Committee's September 27 action on House Joint Resolution 658 was preceded by many extensive meetings and briefings with the President and his senior advisors in the White House, including his National Security Advisor, and the Secretary of State, that started almost immediately after the August 2 Iraqi invasion of Kuwait.

Some key events include:

On August 9, President Bush submitted a war powers compliance report to Congress formally announcing the deployment of United States troops equipped for combat in Saudi Arabia and the Persian Gulf region. This report included the President's judgement that U.S. troops were not being introduced into imminent hostilities.

On August 28, President Bush conducted a briefing for Members of Congress at the White House on the status of efforts to deter further Iraqi aggression.

During the week of September 3, a bipartisan group of House leaders, including myself, presented the President with our findings based on our visit to Saudi Arabia and Egypt.

On September 4, Secretary of State Baker testified before the Foreign Affairs Committee in which he described the need for U.S. resolve and sought the support of Congress for the President's actions.

On September 18, the Subcommittee on Europe and the Middle East of the Foreign Affairs Committee held a hearing to receive testimony from State Department witnesses on recent developments in the Middle East.

On September 26, members of the Subcommittees on Arms Control, International Security and Science and Europe and the Middle East, met to consider a draft resolution on the Iraqi aggression, resulting in a number of recommendations for full committee consideration.

On September 27, the full committee met and favorably reported House Joint Resolution 658 with 37 cosponsors from the Foreign Affairs Committee, led by myself and the Ranking Minority Member, WILLIAM S. BROOMFIELD. The committee's 37 cosponsors were joined by Majority Leader GEPHARDT and Minority Leader MICHEL.

As I have stated, this reolution—which has the power of law—was developed in close consultation between the Executive branch and the Congress. It reflects a bipartisan consen-

sus that our actions to date are a postive influence with regard to this first crisis that confronts the post cold war environment, newly created since the dramatic dismantlement of the Berlin Wall. In reviewing this legislation, my colleagues, as well as the American public will find that the purpose of this legislation is to affirm congressional support for the actions that the President has taken to date with respect to Saddam Hussein's aggression against his former ally—Kuwait—as well as to demonstrate collective United States resolve against those actions.

This resolution is straightforward in condemning Iraqi actions which include the invasion of Kuwait, the taking, and terrorizing of hostages, the brutalization of the peoples of Kuwait, as well as Iraq's blatant disregard of world opinion, in the forms of United Nations actions, against such acts. In addition, this resolution specifies, as well as commends, its support for the President in assembling global unity and cooperation toward the achievement of specified objectives. These objectives include:

The immediate, unconditional, and complete withdrawal of all Iraqi forces from Kuwait;

The restoration of Kuwait's legitimate government;

The security and stability of the Persian Gulf region; and

The protection of America citizens abroad, and the release of all those held hostage by Iraq.

This resolution also goes on to endorse the President's concept of achieving the establishment of a world order which condemns international terrorism, believes in the concept of the pursuit of justice, and remains committed to the pursuit of peace.

This resolution condemns Iraq for its flagrant aggression, its abysmal human rights record, its support for international terrorism, and its continued and dedicated efforts to develop and use weapons of mass destruction. As you know, these weapons include those of chemical and biological weapons, nuclear weapons, and their means of time urgent delivery—those of ballistic missile systems. At the same time, this resolution cites United States efforts to achieve international cooperation through consultations with the Soviet Union, and that of immediate action within the United Nations Security Council—which has passed eight resolutions in condemnation of Iraqi actions under the leadership of Saddam Hussein.

In this regard, House Joint Resolution 658 seeks to obtain additional international support of United States actions on behalf of Kuwait, as well as to build an international diplomatic and other nonmilitary means of consensus against that of the actions of Saddam Hussein. Furthermore, House Joint Resolution 658 cites unified consensus and opinion between that of the executive and Congress with regard to the achievement of our policies by specifying our peaceful commitment to the resolution of this crisis.

A concern by some is that the Iraqi resolution is but another Gulf of Tonkin resolution that grants unconditional open-ended authority to the President. House Joint Resolution 658 does not grant an unconditional or open-ended authorization to the President to use any means he deems necessary. The normal constitutional and legislative processes still apply. Compare the operative clause of the two resolutions.

The Gulf of Tonkin resolution reads: "The Congress approves the determination of the President to take all necessary measures * * * to prevent further aggression." And, declares that "the United States is, therefore, prepared, as the President determines, to take all necessary steps including the use of armed force, to assist [Vietnam]."

The Iraqi resolution reads: "The U.S. shall continue to emphasize the use of diplomatic and other nonmilitary means * * * while maintaining credible United States and multinational deterrent military force."

The key difference between the Iraqi resolution and the Gulf of Tonkin are as follows:

Iraqi Resolution	Gulf of Tonkin Resolution
Endorses past Presidential actions but does not grant open-ended authorization to the President.	Endorsed Presidential action and granted open-ended authority to the President.
Defines U.S. policy objectives to redress Iraqi aggression.	No comparable provision.
Emphasizes international and nonmilitary solutions.	No comparable provision.
Endorses the deployment of U.S. military as a deterrent force.	Authorizes the President to use Armed Forces in any way he determines.
Finds the President to be acting consistent with War Powers and presumes he will continue to do so.	No comparable provision.

The last point is significant because the War Powers Resolution was not enacted until 1973.

Far more than any other President since 1973, President Bush understands and, I believe, respects the purpose and spirit of War Powers. As a former House Member and now the Chief Executive of the land, he understands the value of our constitutional principles of checks and balances and shared powers.

Most importantly, however, House Joint Resolution 658 confirms the viability of what has been a bone of contention between the Congress and the executive branch and by that I mean the war-making provisions of the Constitution. House Joint Resolution 658 reflects a consensus of opinion on the War Powers findings that I developed in conjunction with my colleague from Michigan, the Honorable WILLIAM S. BROOMFIELD, who serves as the ranking minority leader of the Committee on Foreign Affairs, and the administration.

House Joint Resolution 658 embodies the legal requirements of the War Powers Resolution, which requires the President to report to Congress under any of the following three different conditions in which he has introduced U.S. Armed Forces equipped for combat:

First, whenever the President has introduced such forces into the territory of a foreign nation. The President so reported in his August 9 War Powers compliance report to Congress.

Second, whenever the President's introduction of such forces has substantially enlarged U.S. forces already in a foreign nation. The President so reported in his August 9 War Powers compliance report to Congress.

Third, whenever the President has introduced such forces into hostilities or imminent hostilities. The President reported in his August 9 War Powers compliance report to Congress and I quote: "I do not believe involvement in hostilities is imminent."

As a matter of fact, the President adds in his August 9 report to Congress, following his statement that he does not believe U.S. troops have been introduced into imminent hostilities: "To the contrary, it is my belief that the deployment will facilitate a peaceful resolution of the crisis."

Accordingly, House Joint Resolution 658 specifies that the President: First, reported to Congress his decision to deploy substantial elements of United States forces to the Persian Gulf on August 9, 1990, in response to Iraqi aggression; second, was doing so "consistent" with the War Powers Resolution; third, did not "believe imminent hostilities" were evident; and fourth, consulted with and has kept Congress informed with regard to United States deployments in the Persian Gulf region. These particular specifications should be important to my colleagues on both sides of the aisle.

These specifications are important because they assert a unified congressional and executive view that: First, regardless of future actions in the Persian Gulf and on the Arabian Peninsula, a congressional decision on the issue of war or peace would have to be made through joint consultation; second; the Congress accepts the President's view with reactions to date; and third, the Founding Fathers entrusted within us the wisdom to act together and not alone upon the subject of war and peace—long before the issue of "sweet light crude" became important to the western democracies.

In the immediate days after the August 2 Iraqi invasion of Kuwait, the President acted decisively.

Under our President's leadership, an unprecedented international coalition

was forged within days and subsequent weeks through eight United Nations Security Council Resolutions to counter Iraqi's aggression.

The President himself fully recognized that unilateral executive branch actions cannot and should not do it all. The President knows that there must be close consultation, coordination, and ultimately concurrence with the U.S. Government—the very underpinnings of the War Powers Resolution—for our efforts to be successful.

At the August 28 White House briefing before some 150 Members of Congress, the President said:

Meeting the challenge of the Persian Gulf is not something that I or this administration can do by ourselves.

The President wisely added:

We can only succeed if all of us—Executive and Legislative, Republicans and Democrats—work together.

Over the past 2 months since the Iraqi invasion of Kuwait, a strong consensus has developed within this country—among Democrats and Republicans alike—to respond with dispatch, resolve, and clarity. We must address and redress Iraqi aggression, terrorism, and its subsequent inhumane and barbaric behavior both in Kuwait and in the neighboring Middle East area.

Inaction by Congress breeds suspicion and potential disarray. It will be at the expense of our troops in the field. It would only serve the benefit of the international tyrant and bully, Saddam Hussein.

Accordingly, this resolution against Iraqi aggression is before us today.

To the tyrant Saddam Hussein, this resolution says:

Your illegal and barbaric actions against all peoples of the world, including your very own, will no longer be tolerated and must be redressed.

To all Americans in the Middle East—our troops, our diplomats, and those held hostage—this resolution says:

Your Government—the Executive and Legislative branches—stand firmly and together with you.

To other countries in the world, this resolution says:

You must do more in diplomatic, economic, and military measures and actions to assure success.

To the United Nations, this resolution says:

We commend you for your solidarity to date and underscore our preference to restore international order and peace through the United Nations.

To our President, this resolution says:

You have acted consistently with the War Powers Resolution and we assume and expect you will continue to do so.

To the American people, this resolution says:

Your Government, the Congress and the President, are united in purpose and resolve. We seek your continued support to restore international law and order, and economic stability in the world.

Fundamental U.S. foreign policy decisions such as committing U.S. troops and U.S. dollars overseas must be made with the understanding and support of the American people and the Congress.

Accordingly, that's why House Joint Resolution 658 is before us today.

President Bush has united the world against Iraq.

The resolution says that the President and the Congress must remain united against Iraq to demonstrate United States resolve and ultimate success.

In other words, Mr. Speaker, House Joint Resolution 658 is an expression of reality and consensus.

It expresses our unity of purpose in opposing blatant and naked aggression.

It also express our agreement that we—the people—are committed to this unity of purpose.

It expresses our resolve to see this crisis through together—the President, the Congress, and as such the American people—in seeking our unified and resolved response to those repugnant actions that have been taken by that of Saddam Hussein and his henchmen.

House Joint Resolution 658 is not a declaration of war, nor should it be interpreted as such. House Joint Resolution 658 is, however, a declaration of principle which specifies our mutual—Executive and congressional—support and resolve against Iraqi aggression.

□ 1240

In sum, Mr. Speaker, questions have been raised with regard to the open-endedness of any resolution such as House Joint Resolution 658 that comes before Congress.

I would say to those who have those questions to simply read House Joint Resolution 658. I remember very vividly both the Kennedy resolution and the Gulf of Tonkin resolution, as well as the Lebanon resolution. In two of those resolutions, the Kennedy and Gulf of Tonkin resolutions, the President was authorized to use whatever armed force necessary in any way that he determined.

Similar language does not appear in this resolution. Our objective here is to demonstrate the unity that exists among the American people, between the political parties, between the Congress and the President, with regard to the action that we deem as essential, and that action has been to condemn Iraqi aggression and to support the tremendous effort made by the administration in seeking international support and cooperation in this effort.

Now, a legitimate question that could be asked is, "Well, what is next? What about tomorrow?" This resolution does not address future actions. It assumes and presumes that any further action that would be taken would be taken pursuant to the normal constitutional and legislative processes.

This resolution does not anticipate the future. Rather, it specifies where we are and where we stand. It states our support for the objectives of the U.N. resolutions, and those of the administration in gaining international support in condemnation of Iraqi aggression. It states our support for the objectives that are the present policy of the United States, which are restated here and were stated by the President.

This then raises a second question, which is, "What is the purpose of the resolution?"

The purpose of the resolution is to show that the Congress has acted affirmatively. It shows that the Congress has a responsibility and that we have accepted and lived up to that responsibility. We could have said nothing; we could tacitly have ratified and confirmed the actions of the President without saying a word. We could do it indirectly by simply approving the supplemental appropriations bill, which in effect would be a ratification of the acts of the President of the United States in support of his policy.

We have that right. But for us to stay silent, in my judgment, would be a tragic error. Those who support War Powers and even those who are opposed to the concept of War Powers need to join in on this one issue, which is that the hottest places in hell are reserved for those who in time of crisis remain silent.

In this regard, House Joint Resolution 658 clearly demonstrates that Congress chooses not to remain silent. We say that we are in full support with what the President has done and what the policies of this country are right now. We do it in an affirmative sense rather than in a negative or indirect sense or doing so by not saying anything.

Thus, the very spirit of War Powers is carried out by virtue of the fact that we bring this resolution to the floor so Members can vote for it—and I hope they will—or against it—and I hope they will not vote against it—because without that we have nothing.

We would be saying, in effect, "Let the President take the lead and do whatever he wants to; we will sit back and see which way the wind blows and then decide what we are going to do or how we are going to do it or what we are going to say about it."

We are saying to you right now that this is an opportunity to step up and fulfill our constitutional responsibilities. This bill does not add one thing or take away one thing from the President's powers. We cannot by legislative act either aggrandize or diminish the powers of the President. However,

by the same virtue, Mr. Speaker, we do not diminish one iota the right of the Congress to determine what should be done.

I would just conclude with this: Any further action that the President desires to take with respect to the situation in the Persian Gulf, we assume and demand that the President follow the constitutional and legislative processes. For these reasons, I again urge the immediate adoption of House Joint Resolution 658.

I include the following material in the RECORD: A copy of the President's speech before a joint session of Congress on September 11, 1990; the President's August 9 War Powers letter; the Gephardt statement on the House delegation to Bahrain, Saudi Arabia, and Egypt; remarks by the President at his August 28 briefing to Members of Congress; and the text of the Gulf of Tonkin resolution.

ADDRESS BY THE PRESIDENT OF THE UNITED STATES

Mr. President, Mr. Speaker, Members of the United States Congress, distinguished guests, fellow Americans, thank you very much for that warm welcome.

We gather tonight, witness to events in the Persian Gulf as significant as they are tragic. In the early morning hours of August 2d, following negotiations and promises by Iraq's dictator Saddam Hussein not to use force, a powerful Iraqi Army invaded its trusting and much weaker neighbor, Kuwait. Within 3 days, 120,000 Iraqi troops with 850 tanks had poured into Kuwait, and moved south to threaten Saudi Arabia. It was then I decided to check that aggression.

At this moment, our brave servicemen and women stand watch in that distant desert and on distant seas, side by side with the forces of more than 20 other nations.

They are some of the finest men and women of the United States of America. And they're doing one terrific job.

These valiant Americans were ready at a moment's notice to leave their spouses, their children, to serve on the frontline half-way around the world. They remind us who keeps America strong. They do.

In the trying circumstances of the gulf, the morale of our servicemen and women is excellent. In the face of danger, they are brave, well-trained, and dedicated.

A soldier, Private First Class Wade Merritt of Knoxville, Tennessee, now stationed in Saudi Arabia, wrote his parents of his worries, his love of family, and his hopes for peace. But Wade also wrote: "I am proud of my Army and its men . . . I am proud to serve my country."

Let my just say, Wade, America is proud of you. And grateful to every soldier, sailor, marine, and airman serving the cause of peace in the Persian Gulf.

I also want to thank the Chairman of the Joint Chiefs of Staff, General Powell, the Chiefs here tonight, our commander in the Persian Gulf, General Schwartzkop, and the men and women of the Department of Defense—what a magnificent job you are doing. Thank you very, very much.

I wish I could say their work is done. But we all know it is not.

So if ever there was a time to put country before self and partiotism before party, that time is now. Let me thank all Americans, especially those in this Chamber tonight, for your support for our forces and their mission.

That support will be even more important in the days to come.

So tonight, I want to talk to you about what is at stake—what we must do together to defend civilized values around the world, and maintain our economic strength at home.

Our objectives in the Persian Gulf are clear, our goals defined and familiar:

Iraq must withdraw from Kuwait completely, immediately—and without condition.

Kuwait's legitimate government must be restored.

The security and stability of the Persian Gulf must be assured.

American citizens abroad must be protected.

These goals are not ours alone. They have been endorsed by the United Nations Security Council five times in as many weeks. Most countries share our concern for principle. And many have a stake in the stability of the Persian Gulf. This is not, as Saddam Hussein would have it, the United States against Iraq. It is Iraq against the world.

As you know, I've just returned from a very productive meeting with Soviet President Gorbachev, I am pleased that we are working together to build a new relationship. In Helsinki, our joint statement affirmed to the world our shared resolve to counter Iraq's threat to peace. Let me quote:

"We are united in the belief that Iraq's aggression must not be tolerated. No peaceful international order is possible if larger states can devour their smaller neighbors.

Clearly, no longer can a dictator count on East-West confrontation to stymie concerted United Nations action against aggression.

A new partnership of nations has begun.

We stand today at a unique and extraordinary moment. The crisis in the Persian Gulf, as grave as it is, also offers a rare opportunity to move toward an historic period of cooperation. Out of these troubled times, our fifth objective—a new world order—can emerge: A new era—freer from the threat of terror, stronger in the pursuit of justice, and more secure in the quest for peace. An era in which the nations of the world, east and west, north and south, can prosper and live in harmony.

A hundred generations have searched for this elusive path to peace, while a thousand wars raged across the span of human endeavor. Today that new world is struggling to be born. A world quite different from the one we've known. A world where the rule of law supplants the rule of the jungle. A world in which nations recognize the shared responsibility for freedom and justice. A world where the strong respect the rights of the weak.

This is the vision I shared with President Gorbachev in Helsinki. He and other leaders from Europe, the Gulf and around the world, understand that how we manage this crisis today, could shape the future for generations to come.

The test we face is great—and so are the stakes. This is the first assault on the new world we seek, the first test of our mettle. Had we not responded to this first provocation with clarity of purpose; if we do not continue to demonstrate our determination; it would be a signal to actual and potential despots around the world.

America and the world must defend common vital interests. And we will.

America and the world must support the rule of law. And we will.

America and the world must stand up to aggression. And we will.

And one thing more—in the pursuit of these goals America will not be intimidated.

Vital issues of principle are at stake. Saddam Hussein is literally trying to wipe a country off the face of the Earth.

We do not exaggerate.

Nor do we exaggerate when we say: Saddam Hussein will fail.

Vital economic interests are at risk as well. Iraq itself controls some 10 percent of the world's proven oil reserves. Iraq plus Kuwait controls twice that. An Iraq permitted to swallow Kuwait would have the economic and military power, as well as the arrogance, to intimidate and coerce its neighbors—neighbors who control the lion's share of the world's remaining oil reserves. We cannot permit a resource so vital to be dominated by one so ruthless. And we won't.

Recent events have surely proven that there is no substitute for American leadership. In the face of tyranny, let no one doubt American credibility and reliability.

Let no one doubt our staying power. We will stand by our friends.

One way or another, the leader of Iraq must learn this fundamental truth.

From the outset, acting hand-in-hand with others, we've sought to fashion the broadest possible international response to Iraq's aggression. The level of world cooperation and condemnation of Iraq is unprecedented.

Armed Forces from countries spanning four continents, are there at the request of King Fahd of Saudi Arabia to deter and, if need be, to defend against attack. Muslim and non-Muslims, Arabs and non-Arabs, soldiers from many nations, stand shoulder-to-shoulder, resolute against Saddam Hussein's ambitions.

We can now point to five U.N. Security Council resolutions that condemn Iraq's aggression. They call for Iraq's immediate and unconditional withdrawal, the restoration of Kuwait's legitimate government, and categorically reject Iraq's cynical and self-serving attempt to annex Kuwait.

Finally, the United Nations has demanded the release of all foreign nationals held hostage against their will, and in contravention of international law. It is a mockery of human decency to call these people "guests." They are hostages, and the whole world knows it.

Prime Minister Margaret Thatcher, a dependable ally, said it all: "We do not bargain over hostages. We will not stoop to the level of using human beings as bargaining chips. Ever."

Of course, our hearts go out to the hostages and their families. But our policy cannot change. And it will not change. America and the world will not be blackmailed by this ruthless policy.

We are now in sight of a United Nations that performs as envisioned by its founders. We owe much to the outstanding leadership of Secretary-General Perez de Cuellar. The U.N. is backing up its words with action. The Security Council has imposed mandatory economic sanctions on Iraq, designed to force Iraq to relinquish the spoils of its illegal conquest. The Security Council has also taken the decisive step of authorizing the use of all means necessary to ensure compliance with these sanctions.

Together with our friends and allies, ships of the United States Navy are today patrolling mideast waters. They have already intercepted more than 700 hundred ships to enforce the sanctions. Three regional lead-

ers I spoke with just yesterday told me that these sanctions are working. Iraq is feeling the heat.

We continue to hope that Iraq's leaders will recalculate just what their aggression has cost them. They are cut off from world trade. Unable to sell their oil. And only a tiny fraction of goods gets through.

The communique with President Gorbachev made mention of what happens when the embargo is so effective that children of Iraq literally need milk, or the sick truly need medicine. Then under strict international supervision that guarantees the proper destination, then food will be permitted.

At home, the material cost of our leadership can be steep. That's why Secretary of State Baker and Treasury Secretary Brady have met with many world leaders to underscore that the burden of this collective effort must be shared. We are prepared to do our share and more to help carry that load; we insist others do their share as well.

The response of most of our friends and allies has been good. To help defray costs, the leaders of Saudi Arabia, Kuwait, and the United Arab Emirates have pledged to provide our deployed troops with all the food and fuel they need. Generous assistance will also be provided to stalwart frontline nations, such as Turkey and Egypt.

I am also heartened to report that this international response extends to the neediest victims of this conflict—the refugees. For our part, we have contributed $28 million for relief efforts. This is but a portion of what is needed. I commend, in particular, Saudi Arabia, Japan, and several European nations who have joined us in this purely humanitarian effort.

There is an energy-related cost to be borne as well. Oil-producing nations are already replacing lost Iraqi and Kuwaiti output. More than half of what was lost has been made up. We are getting superb cooperation. If producers, including the United States, continue steps to expand oil and gas production, we can stabilize prices and guarantee against hardship. Additionally, we and several of our allies always have the option to extract oil from our strategic petroleum reserves, if conditions warrant. As I have pointed out before, conservation efforts are essential to keep our energy needs as low as possible. We must then take advantage of our energy sources across the board: Coal, natural gas, hydro, and nuclear. Our failure to do these things has made us more dependent on foreign oil than ever before. Finally, let no one even contemplate profiteering from this crisis. We will not have it.

I cannot predict just how long it will take to convince Iraq to withdraw from Kuwait. Sanctions will take time to have their full intended effect. We will continue to review all options with our allies, but let it be clear: We will not let this aggression stand.

Our interest, our involvement in the gulf, is not transitory. It predated Saddam Hussein's aggression, and will survive it. Long after all our troops come home, and we all hope it is soon, very soon, there will be a lasting role for the United States in assisting the nations of the Persian Gulf. Our role, with others, is to deter future aggression. Our role is to help our friends in their own self-defense. And something else: To curb the proliferation of chemical, biological, ballistic missile, and above all, nuclear technologies.

Let me also make clear that the United States has no quarrel with the Iraqi people. Our quarrel is with Iraq's dictator, and with his aggression. Iraq will not be permitted to annex Kuwait. That's not a threat, or a boast, that's just the way it's going to be.

Our ability to function effectively as a great power abroad depends on how we conduct ourselves here at home. Our economy, our Armed Forces, our energy dependence, and our cohesion all determine whether we can help our friends and stand up to our foes.

For America to lead, America must remain strong and vital. Our world leadership and domestic strength are mutual and reinforcing; a woven piece, as strongly bound as Old Glory.

To revitalize our leadership capacity, we must address our budget deficit—not after election day, or next year, but now.

Higher oil prices slow our growth, and higher defense costs would only make our fiscal deficit problem worse. That deficit was already greater than it should have been—a projected $232 billion for the coming year. It must—it will—be reduced.

To my friends in Congress, together we must act this very month—before the next fiscal year begins October 1—to get America's economic house in order. The gulf situation helps us realize we are more economically vulnerable than we ever should be. Americans must never again enter any crisis—economic or military—with an excessive dependence on foreign oil and an excessive burden of Federal debt.

Most Americans are sick and tired of endless battles in the Congress and between the branches over budget matters. It is high time we pulled together—and get the job done right. It is up to us to straighten this out.

This job has four basic parts.

First: The Congress should, this month, within a budget agreement, enact growth-oriented tax measures—to help avoid recession in the short term; and to increase savings, investment, productivity, and competitiveness for the longer term. These measures include extending incentives for research and experimentation; expanding the use of IRA's for new homeowners; establishing tax-deferred family savings accounts; creating incentives for the creation of enterprise zones and initiatives to encourage more domestic drilling; and, yes, reducing the tax rate for capital gains.

Second, the Congress should, this month, enact a prudent multiyear defense program—one that reflects not only the improvement in East-West relations, but our broader responsibilities to deal with the continuing risk of outlaw action and regional conflict. Even with our obligation in the gulf, a sound defense budget can have some reduction in real terms, and we are prepared to accept that. But to go beyond such levels, where cutting defense would threaten our vital margin of safety, is something I will never accept.

The world is still dangerous. Surely that is now clear. Stability is not secure. American interests are far-reaching. Inter-dependence has increased. The consequences of regional instability can be global. This is no time to risk America's capacity to protect her vital interests.

Third, the Congress should, this month, enact measures to increase domestic energy production and energy conservation—in order to reduce dependence on foreign oil. These measures should include my proposals to increase incentives for domestic oil and gas exploration, fuel-switching, and to accelerate the development of Alaskan energy resources, without damage to wildlife.

As you know, when the oil embargo was imposed in the early 1970's the United States imported almost 6 million barrels of oil per day. This year, before the Iraqi invasion, U.S. imports had risen to nearly 8 million barrels per day. We had moved in the wrong direction. Now we must act to correct that trend.

Fourth, the Congress should, this month, enact a 5-year program to reduce the projected debt and deficits by $500 billion—that is, by half a trillion dollars. If, with the Congress, we can develop a satisfactory program by the end of the month, we can avoid the ax of sequester—deep across-the-board cuts that would threaten our military capacity and risk substantial domestic disruption.

I want to be able to tell the American people that we have truly solved the deficit problem. For me to do that, a budget agreement must meet these tests:

It must include the measures I've recommended to increase economic growth and reduce dependence on foreign oil.

It must be fair. All should contribute, but the burden should not be excessive for any one group of programs or people.

It must address the growth of government's hidden liabilities.

It must reform the budget process, and further: It must be real.

I urge Congress to provide a comprehensive 5-year deficit reduction program to me as a complete legislative package—with measures to assure that it can be fully enforced. America is tired of phoney deficit reduction, or promise-now, save-later plans. It is time for a program that is credible and real.

Finally, to the extent that the deficit reduction program includes new revenue measures, it must avoid any measure that would threaten economic growth or turn us back toward the days of punishing income tax rates. That is one path we should not head down again.

I have been pleased with recent progress, although it has not always seemed so smooth.

But now it is time to produce.

I hope we can work out a responsible plan. But with or without agreement from the budget summit, I ask both Houses of the Congress to allow a straight up-or-down vote on a complete $500 billion deficit reduction package—not later than September 28.

If the Congress cannot get me a budget, then Americans will have to face a tough, mandated sequester.

I am hopeful, in fact I am confident, the Congress will do what it should. And I can assure you, we in the executive branch will do our part.

In the final analysis, our ability to meet our responsibilities abroad depends upon political will and consensus at home. This is never easy in democracies—where we govern only with the consent of the governed. And although free people in a free society are bound to have their differences, Americans traditionally come together in times of adversity and challenge.

Once again, Americans have stepped forward to share a tearful goodbye with their families before leaving for a strange and distant shore. At this very moment, they serve together with Arabs, Europeans, Asians, and Africans in defense of principle and the dream of a new world order. That is why they sweat and toil in the sand and the heat and the sun.

If they can come together under such adversity; if old adversaries like the Soviet Union and the United States can work in common cause; then surely we who are so fortunate to be in this great chamber—Democrats, Republicans, liberals, conservatives—can come together to fulfill our responsibilities here.

Thank you, good night, and God bless the United States of America.

Thank you all very much.

[Applause, the Members rising.]

At 9 o'clock and 40 minutes p.m., the President of the United States, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order.

The members of the President's Cabinet.

The ambassadors, ministers, and charges d'Affaires of foreign governments.

THE WHITE HOUSE,
Washington, DC, August 9, 1990.

Hon. THOMAS FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On August 2, 1990, Iraq invaded and occupied the sovereign state of Kuwait in flagrant violation of the Charter of the United Nations. In the period since August 2, Iraq has massed an enormous and sophisticated war machine on the Kuwait-Saudi Arabian border and in southern Iraq, capable of initiating further hostilities with little or no additional preparation. Iraq's actions pose a direct threat to neighboring countries and to vital U.S. interests in the Persian Gulf region.

In response to this threat and after receiving the request of the Government of Saudi Arabia, I ordered the forward deployment of substantial elements of the United States Armed Forces into the region. I am providing this report on the deployment and mission of our Armed Forces in accordance with my desire that Congress be fully informed and consistent with the War Powers Resolution.

Two squadrons of F-15 aircraft, one brigade of the 82nd Airborne Division, and other elements of the Armed Forces began arriving in Saudi Arabia at approximately 9:00 a.m. (EDT) on August 8, 1990. Additional U.S. air, naval, and ground Forces also will be deployed. The Forces are equipped for combat, and their mission is defensive. They are prepared to take action in concert with Saudi forces, friendly regional forces, and others to deter Iraqi aggression and to preserve the integrity of Saudi Arabia.

I do not believe involvement in hostitities is imminent; to the contrary, it is my belief that this deployment will facilitate a peaceful resolution of the crisis. If necessary, however, the Forces are fully prepared to defend themselves. Although it is not possible to predict the precise scope and duration of this deployment, our Armed Forces will remain so long as their presence is required to contribute to the security of the region and desired by the Saudi government to enhance the capability of Saudi armed forces to defend the Kingdom.

I have taken these actions pursuant to my constitutional authority to conduct our foreign relations and as Commander in Chief. These actions are in exercise of our inherent right of individual and collective self-defense. I look forward to cooperation with the Congress in helping to restore peace and stability to the Persian Gulf region.

Sincerely,

GEORGE BUSH.

STATEMENT OF THE HON. RICHARD GEPHARDT, HOUSE MAJORITY LEADER AND CHAIRMAN OF THE BIPARTISAN DELEGATION TO BAHRAIN, SAUDI ARABIA, AND EGYPT

At the direction of Speaker Thomas S. Foley, a bipartisan House delegation, led by me and Robert Michel, House Minority Leader, has just completed a brief study mission to Bahrain, Saudi Arabia, and Egypt that included visits with U.S. service men and women and meetings with the Amir Sheikh Isa of Bahrain, King Fahd of Saudi Arabia, President Mubarak of Egypt, and leaders of the Kuwaiti government in exile.

As we stated on our departure from Washington, we strongly support the actions of President Bush in countering Iraq's invasion of Kuwait. This is a matter of principle in opposing aggression and upholding the rule of law.

Our delegation was impressed with the morale of the men and women in the U.S. Army, Navy, Air Force, Marine Corps, and Coast Guard with whom we visited. They are serving under extremely difficult climatic conditions. Yet our men and women in uniform are bearing up well in this harsh and inhospitable environment, while maintaining a high state of combat readiness. These U.S. soldiers, sailors, marines, and airmen deserve our respect and admiration for the job they are doing. We believe that a number of relatively modest initiatives should be taken soon to help improve conditions under which they are serving. These include mail service and fair adjustments to pay and allowances.

During our visit, we were struck by the massive logistical operation, which is still underway, to move large numbers of U.S. forces to the region of the Persian Gulf. That buildup has been successful. U.S. military leaders told us that the forces now in place are already sufficient to defend against Iraqi aggression directed against Saudi Arabia, the principal goal of Operation Desert Shield. In their view, multinational forces are also building rapidly to a level that would permit offensive operations.

We were told that 22 nations have either sent or are sending forces or are otherwise engaged in this multinational operation. Units from several Arab nations are already in Saudi Arabia, on the front lines directly opposite Iraqi forces. We were also told that U.S.-and non-U.S. forces are approximately equal in number, and that there is good coordination among various forces.

We strongly believe that other nations—particularly our NATO allies—must make more significant contributions through the dispatch of additional troops.

The delegation also firmly believes that the financial burden of supporting multilateral military deployments in the Persian Gulf area must be shared equitably. We were encouraged by a pledge from King Fahd that the Saudi government will continue to be forthcoming both in this area and on increasing oil production.

Clearly, other nations with a significant stake in the Persian Gulf must contribute to the common effort. We thus strongly support President Bush's efforts to press our allies and others for such contributions.

We asked many officials in the region about the effectiveness of the U.N.-mandated blockade of Iraq. U.S. military leaders believe that the multilateral interdiction effort has virtually stopped seaborne commerce to and from Iraq. It remains unclear, however, how long the blockade will have to continue before it begins to have a critical impact. Furthermore, some shipments from Libya continue by air to Iraq over the territories of Jordan and Sudan. These shipments only prolong Saddam Hussein's intransigence and must end.

We also asked officials of regional nations whether a military strike against Iraq will become necessary. Some regional-state officials believe that that is a possibility. Most, however, wish to see first how the U.N. sanctions work and called attention to the unprecedented level of cooperation achieved so far within the Security Council.

As we return to Washington, we will immediately face the issue of the 1991 defense budget. It is obvious that additional funds must be provided, in both this fiscal year and next, to support the continued presence of U.S. forces in the Persian Gulf. We pledge to do our part in providing necessary funds and in revising defense spending priorities to take into account lessons to be learned in connection with Operation Desert Shield, especially regarding the role of airlift and sealift.

Some program investments appear to have worked well—such as the prepositioning of equipment overseas in the theater. A key unresolved issue is whether more U.S. National Guard and Reserve combat units should be called up for duty in the Persian Gulf during the current crisis. We detected reluctance on the part of U.S. force commanders to employ such units because of limitations on tours of duty. Congress will need to review this issue, as part of its consideration of the role to be played by the Guard and Reserves within the overall structure of the U.S. armed forces.

REMARKS BY THE PRESIDENT TO MEMBERS OF CONGRESS, AUGUST 28, 1990

Let me just start off by thanking all of the members of Congress who were able to get back here to discuss this situation of deep concern to every American. What we will do is, I'll make a few remarks here and then we'll go into executive session, and I will be glad to respond to your questions as best I can and—backed up ably by the team that's here with me.

But meeting the challenge in the Persian Gulf is not something that I or this administration can do by ourselves. We can only succeed if all of us—Executive and Legislative, Republican and Democrats—work together. And that was one of the reasons I wanted you to come here today. Let no one at home doubt that—my commitment to work with the Congress, and let no one abroad doubt our national unity or our staying power.

Let me begin by providing some background to the unfolding drama in the Gulf. And then later, I want to hear from you and, as I say, respond to questions.

First, the background, when this administration began, we sought to strengthen the cease-fire between Iran and Iraq and to improve relations with Iraq. We held no illusions about that. We hoped, along with many in the Congress, that Iraqi behavior might be moderated. But even before the current crisis, though, Iraq was moving at odds to our interests and to the interests of many around the world. So we suspended the provisions of the CCC agricultural credits, stopped the export of furnaces that had the potential to contribute to Iraq's nuclear capabilities.

You all know the events of the last several weeks. Iraq threatened Kuwait, lied about

its intentions, and finally invaded. In three days, Iraq had 120,000 troops and 850 tanks in Kuwait, moving south toward the Saudi border. And it was this clear and rapidly escalating threat that led King Fahd of Saudi Arabia to ask for our assistance. We knew that an Iraq that had the most powerful military machine in the Gulf and controlled 20 percent of the world's proven reserves of oil would pose a threat to the Persian Gulf, to the Middle East and to the entire world.

We responded to this quickly, without hesitation. Our objectives were obvious from the start: the immediate, complete and unconditional withdrawal of all Iraqi forces from Kuwait; the restoration of Kuwait's legitimate government; security and stability of Saudi Arabia and the Persian Gulf; and the protection of American citizens abroad.

Our actions to achieve these objectives have been equally clear. Within hours of the assault, the United States moved to freeze Iraq's assets in this country and to protect those of Kuwait. I asked Dick Cheney, Secretary Cheney, to go to Saudi Arabia, Egypt and Morocco to arrange for military cooperation between us in key Arab states. And I asked Jim Baker, Secretary Baker to go to Turkey and to Brussels to rally the support of our NATO allies. Both of these missions were extraordinarily successful. The world response to Iraq was a near unanimous chorus of condemnation.

With great speed, the United Nations Security Council passed five resolutions. These resolutions condemned Iraq's invasion of Kuwait, demanded Iraq's immediate and unconditional withdrawal, and rejected Iraq's annexation of Kuwait. The U.N. has also mandated sanctions against Iraq, those chapter 7 sanctions, and endorsed all measures that may be necessary to enforce these sanctions. And the United Nations has demanded that Iraq release all foreign nationals being held against their will without delay.

The United Nations sanctions are in effect and have been working remarkably well, even on a voluntary basis. Iraqi oil no longer flows through pipelines to ports in Turkey and Saudi Arabia. And again, I want to thank both the Saudis and the Turks for their lead role in all of this. And today, reports indicate that traffic through Aqaba has come virtually to a halt.

U.S. military forces stand shoulder to shoulder with forces of many Arab and European states to deter and, if need be, defend Saudi Arabia against attack. And U.S. naval forces sail with the navies of many other states to make the sanctions as water-tight as possible. This is not, as Saddam Hussein claims, the United States against Iraq. It is truly Iraq against the majority in the Arab world, Iraq against the rest of the world.

And so the basic elements of our strategy are now in place. And where do we want to go? Well, our intention and, indeed, the intention of almost every country in the world is to persuade occupation; that it will pay a stiff price by trying to hold on and even stiffer price by widening the conflict. And, of course, we seek to achieve these goals without further violence.

The United States supports the U.N. Secretary General and other leaders working to promote a peaceful resolution of this crisis on the basis of Security Council Resolution 660.

I also remain deeply concerned about the American and other foreign nationals held hostage by Iraq. As I've said before, when it comes to the safety and well-being of American citizens held against their will, I will hold Baghdad responsible.

That's the general comments I wanted to make for public consumption. And then I'd now like to suggest that we all remain, if we could, and excuse our friends from the press and go into executive session here so I can just make one or two more comments and then respond to the questions that may come to me or any of the others here. But thank you all very much for attending.

GULF OF TONKIN RESOLUTION

Whereas naval units of Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of International law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

Whereas the United States is assisting the people of southeast Asia to protect their freedom and has no territorial, military, or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

SEC. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am delighted that the day has finally arrived when the House will be given a chance to express its support for the President's actions in the Persian Gulf.

There was a time when I was concerned that Congress would be the only institution in the world outside of the governments of Libya and Cuba that would fail to support the President's policies in the gulf.

In this time of crisis, it appeared for a while that the Commander-in-Chief of America's Armed Forces could count more on the support of the Soviet Government than he could on his own Congress.

But through the fine efforts of Chairman FASCELL and others on the Foreign Affairs Committee, it now appears that Congress will have a chance to go on record today in support of the President's leadership in this crisis.

The resolution says many important things. It may not be a perfect expression of every Member's position, but I believe that in the imperfect workings of democratic government this is as close as we will come to a resolution that all can support.

To me its central message is that Congress supports not only the President's leadership and his actions, but also clearly endorses his objectives and policies in the gulf.

In doing so, it sends a message to four important audiences. To the President and his close advisers, it says you are on the right course. It gives them the confidence, that what they are doing, has the support of a wide spectrum of American opinion. And it gives them added authority, as they deal with other world leaders.

To the courageous men and women who have left their homes and their families to defend our interests in the Persian Gulf, it says that the United States is behind you.

It wasn't so long ago that a divided America sent millions of its young people to the jungles of Southeast Asia with the impression that they were risking their lives over nothing.

I recently visited our troops in Saudi Arabia with a delegation of my fellow House Members. These troops are facing a long stay in a harsh climate where the temperature rises to more than 120 degrees during the day.

Sand gets in their uniforms, clogs up their weapons, and makes it hard to get about. Despite these hardships, they are in high spirits and proud of the job they are doing under very difficult conditions.

Yet they want the confidence that comes from knowing that they are there for a reason, that Americans are united behind them. This resolution should help give them that confidence.

This resolution also sends a message to Saddam Hussein. He may be under the impression that he can wait out the United States. He may think he is facing a house divided, and that America no longer has the patience and the will to sustain great undertakings.

Access to oil from the Persian Gulf is a vital interest of the United States. There are some interests we can ignore. Oil is not one of them.

The President did the right thing, and this resolution will show Saddam that Congress and the American people are fully prepared to do what's necessary to force Iraq to back down.

This resolution also sends a message to leaders of other nations. The forceful response of the President was critical to world order.

The 45-year standoff between the superpowers is over, and right now there is a power vacuum. Some nations may get the idea that they now have a free hand in their regions and take this opportunity to settle some old scores.

This resolution backs up the President's actions, and serves notice on those who would imitate Saddam Hussein that they will not get a free ride.

Through its support of the President's efforts to promote international cooperation, this resolution assures many Arab leaders that their decision to oppose a fellow Arab had the broad political, moral, and military support of the rest of the world.

This great multilateral operation should demonstrate that the world will no longer tolerate this kind of piracy on a large scale.

The unified response of so many nations should succeed not only in forcing Saddam Hussein to back down, but should also help create a climate for peace and cooperation among the nations of the world.

This resolution should tell the leaders of other nations that international cooperation has widespread support within the American Government, and that on critical issues like this, America speaks with one voice.

Mr. Speaker, this is a resolution that should have the support of every Member of this House. I urge my colleagues to vote for it.

□ 1250

Mr. FASCELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. LEVINE].

Mr. AUCOIN. Mr. Speaker, will the gentleman yield?

Mr. LEVINE of California. Mr. Speaker, I yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Speaker, I oppose the Persian Gulf resolution.

I do so with considerable reluctance, because I support the current deployment of United States and Allied Forces in opposition to the brutal aggression of Saddam Hussein. I also support the first three sections of this resolution, and I commend the Foreign Affairs Committee for producing them.

But I cannot support the fourth section, dealing with the War Powers Act. This section fails to meet the very specific requirements set down by the War Powers Act, and thereby undermines that law.

Section 4 of the War Powers Act provides that, when U.S. Armed Forces are introduced into a situation in which hostilities are imminent, or in which they substantially enlarge the U.S. combat presence in a foreign nation, the President must, within 48 hours, submit a report to Congress stating the circumstances, authority, scope, and duration of the commitment. President Bush's August 9 letter to the Speaker arguably does that, but in a minimal way. A minimal explanation of the purpose, scope, and duration of our commitment may have been all that was possible on August 9, but surely the President knows more now. President Bush should have and should now send an update. The American people whose loved ones may shortly be bleeding in the desert deserve a maximal, not minimal, explanation.

Section 5 of the War Powers Act then provides that, if hostilities are imminent, the forces must be withdrawn within 60 days of the report unless Congress declares war, provides a specific authorization for a continued presence, or extends the period by another 60 days.

After spending 3 days with the troops in Saudi Arabia, I have not the slightest doubt that hostilities are imminent. They are not certain, but they are more probable than not.

We are now within a week of the 60-day limit. Therefore, the War Powers Act requires us to take one of the specified actions, or the troops must be withdrawn. I believe we should now be voting, not on this resolution, but on a 60-day extension.

I would vote for such an extension. But this resolution isn't it. Instead, it simply repeats the President's claim that hostilities are not imminent, when clearly they are.

The War Powers Act was passed for a reason. But what we have here is an evasion of the responsibilities of the War Powers Act. It strikes me as uncomfortably reminiscent of Lyndon Johnson's Tonkin Gulf resolution. And the memory of the Bush-Baker team's dishonesty in handling the Willie Horton, flag desecration, and Boston Harbor issues does not inspire confidence that they are above another Tonkin Gulf deception.

So I will vote against this resolution—not because of anything it contains, but because it does not contain that which it should.

Mr. LEVINE of California. Mr. Speaker, I want to commend the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], and I also want to commend the minority leadership of the committee, particularly the ranking member, for their leadership in putting before both the committee and this body an important resolution that has gained consensus support in the Committee on Foreign Affairs and that I hope will gain consensus support on the House floor on both sides of the aisle.

Mr. Speaker, the resolution before us today is an important statement of congressional support for the President's conduct in the Persian Gulf crisis thus far. This resolution, most significantly, drives home the message to Saddam Hussein that the American Government and the American people, as expressed through the U.S. Congress, stand united in opposition to Saddam Hussein's brutal occupation and annexation of Kuwait and that the United States stands together with the vast majority of nations throughout the globe to condemn and to reverse the Iraqi invasion and occupation of Kuwait.

It is important to note at the same time that this resolution is not prospective. It only deals with activities that have occurred thus far. While it clearly expresses congressional endorsement of the President's actions to date, as I believe it should, it neither authorizes, nor encourages, any particular course of action in the future.

While the President's actions, since August 2, I believe, merit our very strong bipartisan support, we would be remiss if we did not question the lenses through which this administration has viewed the Mideast, and, at least, note that the mixed messages that this administration sent to Saddam Hussein prior to this crisis may have unfortunately helped lead him to believe that he could attack Kuwait with virtual impugnity. Therefore, it is important that this resolution emphasizes, as it does, the importance of continued consultation between the administration and the Congress. It is critical, Mr. Speaker, that these consultations include careful and thorough discussions about the wisdom of using this crisis as an excuse to send additional billions of dollars in weaponry to this explosive region. Because, Mr. Speaker, if this crisis teaches us anything, it should teach us that fueling unrestrained armed races in this volatile and unstable region of the world which is fraught with conflict, fraught with danger, fraught with instability, that such regional arms races make this part of the world even more dangerous than they would otherwise be.

I hope, Mr. Speaker, that the President will exercise the skill that he did in leading the international community to isolate Saddam Hussein to develop arms control and an arms control framework for the region and to develop mechanisms to defuse, rather than fuel, regional tensions once this crisis is over. I do believe that it is important that we be commending the President for his actions since August 2 until today, and not beyond that, and that is what this particular resolution does.

In intentionally keeping all future options open, this resolution stresses the importance of continued consultation between the administration and the Congress in all future operations in the Persian Gulf.

This resolution in no way gives a blanket approval to any course of conduct in the gulf. It implicitly assumes Congress and the the president will continue to work together closely to formulate a policy in response to Iraqi aggression that has broad-based support among Congress and the public.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the

gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I rise in support of the President's action to date in the Persian Gulf and in reluctant support of this resolution.

Mr. Speaker, I believe that the Committee on Foreign Affairs has done a good job, under the leadership of Chairman FASCELL and Mr. HAMILTON, in drafting the language of the resolution. They avoided a host of potential minefields, and should be commended.

But I must say that I am not convinced of the need for Congress to consider any resolution of this sort at this time. It is no secret to Saddam Hussein or to anyone else that there exists a strong and bipartisan consensus of support for administration policy in the Persian Gulf thus far. There also exists what I would like to believe is a universal hope that the combination of diplomacy, economic sanctions, and military deterrence now being used will lead to a peaceful and successful conclusion of the current crisis.

For these reasons, I am not sure that this resolution adds much to the current debate.

Based on certain clarifications of purpose that were made by the Committee on Foreign Affairs, however, I will vote to support it.

The first clarification is that this resolution does not, in any way, or under any circumstances, authorize the offensive use of military force by the United States.

Second, the resolution does not, in any way, relieve the President of his legal responsibility to comply in full with the War Powers Resolution. This means that, if the time should come when the involvement of our troops in hostilities is imminent, the President is required to submit a report under section 4(a)(1) of that resolution. If Congress did not then act within 60 days to extend the development of U.S. troops, the troops would have to come home.

Third and last, I want to make it clear that although this resolution affirms each of the President's policy objectives in the Persian Gulf, it does not—and should not—imply that all of these objectives are of equal importance.

The fact is that the goals sought by the President and cited in the resolution include the essential, Iraq's withdrawal from Kuwait and the release of hostages; the general, stability in the Persian Gulf; the controversial, restoration of the monarchy in Kuwait; and the merely rhetorical, creation of a new world order. I trust that our troops will not be tied to the desert sands waiting for a new world order to emerge from the choatic present, and I would personally oppose any policy that risks American lives for the sole purpose of restoring the Emir of Kuwait to his golden throne. It was my understanding that the United States generally accepts democracy as an alternative to monarchy, and that we have even been known, under some circumstances, to insist upon it.

In closing, I would like to make two points about the issues addressed, and intentionally not addressed, by this resolution.

First, I strongly support the efforts taken thus far by the President to deter further aggression from Iraq.

The President was right to stand up to Saddam Hussein, and he has gone about it the right way; marshaling international support, using the United Nations, and orchestrating what is potentially the toughest set of international economic sanctions in world history.

Second, I hope the President will ignore the rising chorus of armchair generals and unemployed cold warriors urging him to abandon multilateral action and strike out on his own. It is awfully easy to order air strikes on Iraq from your own living room; it is a lot harder when you have to bear the full consequences of such an action as Commander in Chief. Let us support the President, but let us not goad him into action that may be unwise or premature or unsuccessful. Let us not set the standard for success in this crisis at so high a level that the President's only choices become apparent failure and certain folly.

Our respone to aggression in the Persian Gulf has already achieved much. With continued domestic and international support, it can succeed. That is the message of the past 8 weeks. And that—no more and no less—is the message we seek to convey in approving this resolution this afternoon.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in support of House Joint Resolution 658. Congress should support and commend the President for his decisive action in the Persian Gulf. A vote for this resolution is a way to make our position known. A vote for this resolution says that Congress is a participant in this action in the gulf. Congress should indicate that it will stand behind the President's stated objectives to restore the sovereignty of Kuwait and to protect American lives and interests.

I would especially like to thank and commend the gentleman from Florida [Mr. FASCELL] for including my language that urges the international condemnation of Iraq for its taking of civilian hostages and terrorizing of diplomats. I believe it is important that the international community concentrate on the actions of Iraq during its brutal occupation of Kuwait. The explicit use of civilian hostages as human shields is a tactic worthy of Attila the Hun and Genghis Khan, and a blatant violation of all norms of international law and civilized behavior. The activities of the Iraqi occupying forces in Kuwait must also be a focus of the condemnation of the world.

Mr. Speaker, Saddam Hussein's forces are committing unspeakable atrocities in Kuwait. Accounts of rape and murder reach the outside world daily. While killing and driving out the native Kuwaitis, the Iraqis are also systematically dismantling the infrastructure of Kuwait. They are removing and sending to Iraq everything from museums and factories to the traffic lights.

It is good that the United Nations has stood together to condemn this wanton disregard of international law. President Bush deserves all the credit for rallying the international community to this consensus. Congress should stand behind him and express its support for the diplomatic efforts of the President by passing unanimously this joint resolution.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I want to express my appreciation to the distinguished gentleman from Florida [Mr. FASCELL], chairman of the Committee on Foreign Affairs, for yielding this time to me.

Mr. Speaker, I rise in support of House Joint Resolution 658, a resolution to support the actions taken by President Bush with respect to Iraqi aggression against Kuwait.

This resolution outlines U.S. objectives in the Persian Gulf, as articulated by President Bush, and expresses congressional support for the actions he has taken thus far. The resolution commends the President for his efforts to resolve this crisis through diplomatic and other nonmilitary means.

This resolution also commends the outstanding work of the United Nations during this crisis. In the aftermath of Iraq's invasion of Kuwait on August 2, the United Nations has proven to be an indispensable forum for the development and articulation of a coordinated international response to that aggression. This resolution commends President Bush and his administration for their successful efforts to promote this international consensus and cooperation.

Mr. Speaker, I would also like to echo the sentiments of the prime sponsor of this resolution, the distinguished Chairman of the Foreign Affairs Committee Mr. FASCELL. During and consistently since, committee consideration of this resolution, Chairman FASCELL has reiterated his view that this legislation is not intended as a congressional authorization for any future offensive military actions by the United States.

The resolution is strictly focused on the President's actions thus far. I would like to thank Chairman FASCELL for making several last-minute changes in the final version of the resolution on Friday in response to concerns I had about his issue.

With those changes it is emphatically clear that this resolution does not authorize, nor encourage any future offensive military actions by the United States in the Persian Gulf.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished

gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of House Joint Resolution 658, the resolution we crafted in the Foreign Affairs Committee expressing congressional support for the President's reaction to the Iraqi invasion of Kuwait. This resolution has the support of both minority and majority members of the Foreign Affairs Committee.

I believe it is very important for Congress to go on record fully supporting the President's very responsible and intelligent actions in response to the brutal invasion of peaceful Kuwait by Iraqi Dictator Saddam Hussein. The threats to regional stability, western economic security and Saudi sovereignty by Iraq are very real. This resolution is making it clear, beyond a doubt, that the Congress is fully supporting the President, his actions and his objectives. There will be no internal dissension regarding the war powers issue, thanks to this resolution. Because this resolution recognizes that the President's report to Congress were provided, "consistent with the war powers resolution", the potentially divisive war powers debate is avoided.

Congressional-executive branch unity is a critical foundation upon which we have and continue to build solid, international responses to this blatant Iraqi aggression. This resolution further bolsters our position in Saudi Arabia by letting the Iraqis know Congress stands behind the President and our deployment of troops to the region. We are prepared for any contingency.

While there are parts of the resolution I would have crafted differently, on the whole, I believe it is important to pass this resolution without delay and without focusing too critically on the portions each of us would modify in some way. The bottom line is that Congress fully backs the President and his actions—especially those concerning Iraq and attracting further positive, supportive reactions from the international community.

Mr. FASCELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Oregon [Mr. DEFAZIO].

□ 1310

Mr. DEFAZIO. Mr. Speaker, I regret that I must rise in opposition to this joint resolution. I agree with much of what is contained in the resolution. I am outraged by Iraq's cynical and brutal invasion of Kuwait.

I stand behind the committee's support for greater international cooperation in the Persian Gulf. I share the view that other nations should be urged to contribute both militarily and economically to the effort there, and I certainly support the resolution's statement that the President shall continue to emphasize diplomatic and other nonmilitary means to achieve our objectives in the region. I oppose it not so much for what it says but what it does not say.

The President in his August 9 letter to the Speaker said that he did not believe involvement in hostilities is imminent. Section 4 of this resolution repeats that bold assertion and with a wink and a nod undermines the War Powers Act and Congress' obligation under article 1, section 8 of the Constitution.

More than 300,000 heavily armed troops face one another, divided by a mere line in the sand. This is the largest buildup involving United States forces since the Vietnam war.

Ask our young men and women in the Saudi Arabian region, on the Saudi border in the sands, at the air bases in the Middle East, ask our sailors in the Persian Gulf. They think that hostilities are imminent. Ask our allies in this undertaking. They think hostilities are imminent. Go home and ask your constitutents. They believe that hostilities are imminent. Only here in the Halls of Congress and down the street at the White House do we try to ignore the reality of the Persian Gulf confrontation and these tough constraints of the law.

The report accompanying the War Powers Resolution was unequivocal in defining "hostilities."

> The word "hostilities" was substituted for the phrase "armed conflict" during the subcommittee drafting process because it was considered to be somewhat broader in scope. In addition to a situation in which fighting has actually begun, "hostilities" also encompasses a state of confrontation in which no shots have been fired but in which there is a clear and present danger of armed conflict.

This resolution is a dangerous mix of policy statements that most of us support and silent on the means to achieve its goals. We have to demand more of the President than this.

Mr. Speaker, I appreciate the statement of the committee chairman that this resolution does not extend open-ended authority to the President as in the Gulf of Tonkin. Unfortunately, those assurances do not meet the requirements of article 1, section 8 of the Constitution as strictly defined under Public Law 93-148, the War Powers Act.

We cannot duck our responsibility. We must demand a 4(a)1 report from the President defining the scope, the duration, and objectives of our deployment in the gulf, and then we must vote aye or no on the written record.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Speaker, I thank the gentleman for yielding time to me.

Let me say that I rise in reluctant support of this resolution, reluctant not regarding its contents, but regarding the circumstance. However, the circumstance is one defined less by our actions than by the aggression of Saddam Hussein

In this regard, several comments about the Gulf of Tonkin are in order because I think many Members are thinking implicitly about it.

We must realize that the Gulf of Tonkin resolution was precipitated by an episode which, if it occurred, was an attack by a wooden boat with rifle fire, perhaps semiautomatic, against the American Navy. This resolution is rooted not in civil war, but border changing. It is based upon an incident, where for the first time in the post-World War era, a country has attempted to swallow another country and make it a province of that state. With the possible exception of Goa and East Timor, such has not happened in half a century, but that is what Iraq is attempting to do with Kuwait, and neither this country nor the international community can duck the consequences.

So I would simply stress, that from an international legal perspective, from the perspective of a cause, this Congress has no reason to be reluctant to support the President of the United States in his actions to date.

All of us recognize the truly tougher decisions are to come. As the chairman of the committee and others have pointed out, this resolution is not prospective as the Gulf of Tonkin resolution was by implication. It simply underscores the importance of the circumstances and endorses Presidential policies to date.

In that regard, I think every Member of this body can, not with enthusiasm for war, but with cautious recognition of the challenges with which we are confronted, give the benefit of the doubt to the President and, most importantly, note that as we look into the future, the President of the United States has asserted, as is reflected in this resolution, that he is looking to "a new world order," one in which conflicts will be resolved by collective resistance, through strict adherence to international law and the utilization of international organizations.

Mr. Speaker, I stress in this regard, again, that this is in stark differentiation with the Vietnam war and the Tonkin Gulf resolution. This country is leading the world because we are the only ones capable of leading in this kind of event. By the same token, the President of the United States is looking to international law, he is abiding by domestic law, and he is being very careful in conform his actions to his understanding of the Constitution itself.

Mr. Speaker, I would urge adoption of this resolution, understanding that it is not an issue that America wanted

to confront, but it is one which Congress has an obligation to speak to.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I rise in very, very qualified support of this joint resolution, and commend the chairman of the committee for not letting the Congress be silent, as we witness the largest U.S. troop deployment in the last two decades.

There is no question that Iraq must be brought into the world order of states, and whether this can happen with Saddam Hussein as head of that nation is highly unlikely. The national boundaries the Western World and the United Nations accept in the Middle East do not necessarily reflect how families and forces in the region view themselves.

Who in America would want to question our President under such circumstances? Yet questions must be asked. It is incumbent upon this body to question whether the involvement of thousands of U.S. ground troops and other forces is the proper way to achieve stability in the region. Even with the support of Egypt, Syria, and Saudi Arabia, our country ends up in the position of chief policer in the Middle East. For how long must we be there?

The objective is still too muddled. I have always believed that for U.S. service men and women to be victorious in any military operation, they must be convinced of the merit of their cause. Yet we read in the papers even today that some of our troops are saying we are in the Middle East to fight for cheaper gas. Some are saying we are there to stop Saddam Hussein. Some are asking why we are not fighting on the offensive.

America has paid a heavy price in the past for murky military objectives that precede clear foreign policy objectives. So far our involvement has cost us higher gas prices here at home and worry by those families who have their sons and daughters deployed in that region. Profits flowing into the Arab oil states are phenomenal as a result of the prices we are paying here at home. I think those nations should pay for the cost of their own defense.

In the final analysis, Arab nations will have to run their own affairs. In voting on this resolution today, let me say this is one Member of Congress who is not voting for a long-term commitment of our ground forces in that region, who is not voting for our continued dependence on Middle East oil, and who is not voting for America's sons and daughters to be the chief police force in the region.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair wishes to advise that the gentleman from Florida [Mr. FASCELL] has 5 minutes remaining and the gentleman from Michigan [Mr. BROOMFIELD] has 8 minutes remaining.

Mr. BROOMFIELD. Mr. Speaker, I reserve the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I congratulate the chairman of the committee and the ranking minority member and all the committee members for bringing this resolution to Congress for a decision. I would have preferred that it had been under an arrangement where we could have had an amendment offered to it, because several weeks ago I introduced a resolution which addresses the same subject matter. This is what it said:

> The Congress finds further that the Constitution of the United States vests all power to declare war in the Congress of the United States. Any offensive action taken against Iraq must be explicitly approved by the Congress of the United States before such action may be initiated.

□ 1310

Mr. Speaker, we do not really have to look very far. We can just look to the constitutional convention itself and Supreme Court decisions on the matter. Madison said in his presentation of these constitutional things:

> Every just view that can be taken of this subject admonishes the public of the necessity of a rigid adherence to the simple, the received, the fundamental doctrine of the Constitution, that the power to declare war, including the power of judging the cause of war, is fully and exclusively vested in the legislature; that the Executive has no right in any case to decide the question whether there is or is not cause for declaring war.

Mr. Speaker, this is something that disturbs me very greatly because thousands of people, hundreds of thousands of people could be lost in this war without a decision on the part of the Congress of the United States, and a careful and judged debate on the question. We need to debate the question as to whether or not it is in the best interests or the responsibility of our country to do war.

Mr. Speaker, I feel that we would be better off if the situation in that area were controlled by a police organization under the United Nations, in which event we would not be challenged ourselves if we decided that it was not in our best interest to continue, with our limited support from allies.

Mr. Speaker, I feel very deeply about this, and I would appreciate everybody thinking about it, and also in connection with the War Powers Act, which in my opinion gave powers to the President which the Constitution deprived him of. So we really should look at this question and carefully protect our country from going to a war which the Congress has not passed upon.

Mr. FASCELL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I thank the gentleman for his comments. I would say his letter was very seriously considered by the committee and his suggestion in his bill. All of the general thoughts that he has expressed are encompassed in this bill I believe.

In the final analysis, the option to declare war, if that is what we want to do, has been preserved by Congress. There is no way we can take it away from Congress, nor should we, and this resolution is very clear on the point that this is not an authorization into the future based on certain conditions, absolutely not.

So the constitutional responsibility remains right where it has been, I would say to the gentleman, but I thank him for his contribution, which is very useful.

Mr. BENNETT. I thank the chairman.

Mr. FASCELL. Mr. Speaker, I yield my remaining 2½ minutes to the gentleman from Indiana [Mr. HAMILTON], chairman of the Subcommittee on Europe and the Middle East.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, I thank the distinguished gentleman for yielding, and I rise in opposition to the resolution.

Mr. Speaker, I find it painful to oppose my Democratic leadership and the President in this matter, but I believe the resolution is not in the national interest and, as a matter of conscience, I am compelled to dissent. The United States can no longer be the world's policeman. We need to come home to America. It is our own serious economic problems here at home that deserve our attention and our resources.

While I agree with the resolution's characterization of the reprehensible actions of Saddam Hussein and the Government of Iraq, and the resolution's endorsement of severe economic sanctions and the freezing of Iraqi and Kuwaiti assets in the United States, can anyone honestly believe that our military would be in the sands of Saudi Arabia today except for oil.

There is simply no threat to the American homeland. We are there plainly and simply because under that sand is oil. And, I believe, no American life is worth sacrificing for the oil that powers the economies of the Western European and Far Eastern nations that are our economic competitors.

In short, Mr. Speaker, I want to see this Nation become energy independent; I want to see our troops brought home; and I want to see this country rebuilding the human and physical infrastructure that is so urgently needed for the economic warfare that is already upon us.

Ironically, should war break out—and I believe it will—the economic costs of guaranteeing this oil to our foreign economic competi-

tors will, in my judgment, far exceed the $40 billion in savings provided for in the just proposed budget summit deficit reduction plan.

Last, Mr. Speaker, I do pledge my support for the pending appropriations necessary to sustain our military forces, because I would not do anything to jeopardize their lives or fighting capabilities.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, I want to commend Mr. FASCELL, chairman of the House Foreign Affairs Committee; Mr. BROOMFIELD, the ranking minority member; Mr. HAMILTON, chairman of the Subcommittee on Europe and the Middle East; and members of the committee for their role in bringing to the floor a resolution which, while it expresses support for the President's initiatives to respond to the Iraqi invasion of Kuwait, is careful not to implicitly embrace any future military action which could involve the United States in a war in the Persian Gulf. This is a far cry from resolutions in the past, such as the Tonkin Gulf resolution during the Johnson Presidency or the Lebanon resolution during the Reagan Presidency, which gave congressional approval to Presidential actions which eventually ended in tragic consequences for the United States.

Also, I agree with that portion of the resolution which commends the President for obtaining international cooperation and the support for the United Nations in diplomatic initiatives against Iraq and for his insistence upon the restoration of international law and order in the Persian Gulf.

What then, Mr. Speaker, is it that causes me to oppose this resolution?

Section (d)(1) states that the Congress "supports the deployment by the President of United States Armed Forces to the Persian Gulf region in response to Iraq's military aggression." I obviously agree with the economic sanctions imposed against Iraq and I accept our air and naval presence in the Persian Gulf theater to assist in the defense of Saudi Arabia. However, I am concerned about the deployment of United States ground forces in Saudi Arabia. My sense of history and experience has shown that the decision to involve large numbers of United States ground forces in far distant lands, such as Southeast Asia and Lebanon, inevitably Americanizes such engagements and stretches American interests in these regional conflicts. Because of these past experiences, I am unable to support this resolution.

I have no objection to sections (d) (2) and (3) which express our appreciation for our military personnel who are stationed in the Persian Gulf region. One month ago, I visited the Persian Gulf region with 21 other Members of the House and I spent time with some of our servicemen in their defensive positions. For their sacrifices, they deserve our support.

With respect to section 4 and the War Powers finding, I am not sanguine about this. It is widely understood that the President had not really communicated to us as the law required, and these new findings conform the history of this situation to a different conclusion.

Also, as one who voted for the Gulf of Tonkin resolution, as everyone else in the House did, I many times have regretted that vote. It should not come as a surprise that I and, in fact, many in this Chamber do not presume to support a military resolution to the Persian Gulf crisis. However, the overwhelming approval of this resolution will be read as given the President unfettered support for whatever policy he chooses to pursue in the Persian Gulf. In fact, there are those who are pressing the President to seek early military action against Iraq and it has been reported this past weekend that the President's patience is wearing thin.

Mr. Speaker, I fear that this overwhelming approval by the Congress, however unintended, will be used as a blank check to convey support for policies which I could not endorse. The weakness of the War Powers Act in self-evident, and I will not vote to give the President a blank check to lead our Nation into war.

Mr. HAMILTON. Mr. Speaker, I rise in support of House Joint Resolution 658, a resolution to support actions the President has taken with respect to Iraqi aggression against Kuwait and to demonstrate United States resolve.

It is appropriate for Congress to act and to speak out on this crucial policy issue. It is not an issue to duck. With some 165,000 American ground forces in Suadi Arabia and with some 26 nations involved in the international effort to confront Iraqi aggression, there are important national interests at stake.

Mr. Speaker, I would like to add four brief comments to what has been said about this resolution:

First, this document is a consensus resolution and it reflects the views of different Members. It also reflects the hard work of the chairman of the committee, Mr. FASCELL, and of the ranking member of the committee, Mr. BROOMFIELD, to reach broad agreement. The resolution is the product of thorough consultations among Members on both sides of the aisle. It may not address the concerns of every Member, but it certainly represents a strong consensus.

Second, the resolution is intended to be supportive of present policy, of what has happened over 8 weeks since the Iraqi invasion of Kuwait. There is an effort here to state where we are, not an effort to say where we should go.

Third, this resolution does not represent a blank check. It cannot be construed as a Gulf of Tonkin resolution. It does not support future actions except those actions that continue current policy. If policy changes or new circumstances require different actions, Congress would expect to act again.

Finally, Mr. Speaker, I regard the vote on this resolution as important, and I hope that we can have a strong vote in support of it despite the uncertainties about the future and despite the debate which has arisen regarding United States policy toward Iraq before August 2.

It is crucial that we show the American people, to Iraq, and to the world community that there is today no major division on present policy in the Persian Gulf and over what has been done in the gulf in the last 8 weeks.

Mr. Speaker, there is today a consensus in the United States and in the international community on our policy toward Iraq. This resolution reflects that consensus. I urge my colleagues to join in supporting this resolution and in sending a strong signal to allies, to friends, and to Baghdad. What we do today can help maintain the consensus at home and abroad so that the united broad international military response to Iraqi aggression remains strong. That is the best hope for achieving a nonmilitary, diplomatic solution to the crisis and an Iraqi withdrawal from Kuwait.

I urge adoption of House Joint Resolution 658.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Speaker, I just want to comment on the remarks just made by our distinguished colleague from Indiana. It was a very clear and concise and strong statement about our efforts and what this resolution does and what it does not do. I would also like to say that without his, as usual, clearheaded contributions to our deliberations we might not be where we are today. I wanted to express my appreciation to him for his efforts.

I wanted to take time also to thank the distinguished gentleman from Michigan [Mr. BROOMFIELD], the ranking member of the Foreign Affairs Committee, for all of his hard work and for the cooperation from both parties on this matter to get this, as the gentleman from Indiana has pointed out, truly consensus resolution worked out with the administration. It was that effort that produced the clear statement of exactly what our policy is. Support for this resolution demonstrates to the world where the United States and its people are with regard to this particular act of Iraqi aggression.

Mr. BROOMFIELD. Mr. Speaker, I also join Chairman FASCELL in his statement and pay tribute obviously to the gentleman from Indiana [Mr. HAMILTON], who did play an extremely important role in resolving the differences between both parties and the administration. This truly has been one of our finest hours in the committee in working out this legislation.

Mr. GILMAN. Mr. Speaker, I rise to express strong support for House Joint Resolution 658, a joint resolution to support actions the

President has taken with respect to Iraqi aggression against Kuwait. I would like to commend our Foreign Affairs, distinguished chairman, the gentleman from Florida [Mr. FASCELL] along with the distinguished ranking Republican member, the gentleman from Michigan [Mr. BROOMFIELD] for working tirelessly to achieve a consensus. It's not always easy, but with Mr. FASCELL and Mr. BROOMFIELD'S leadership of our committee we have been known to achieve the almost impossible. I would also like to commend our former minority chief of staff Steve Berry, who in his new capacity as Principal Deputy Assistant Secretary of State for Legislative Affairs, was instrumental in working out the final versions of this bill. Our loss in the Foreign Affairs Committee was certainly the State Department's gain.

On August 2, 1990, the Government of Iraq took the despicable step of ruthlessly invading, and subsequently occupying the sovereign nation of Kuwait. That reprehensible action has had a serious impact on the world community. Throughout the Congress there is very strong bipartisan support for the President's actions.

If it is possible to view this crisis in any positive light, I think we must recognize that the unprecedented action of the United Nations Security Council gives all of us hope that in an environment where East-West tensions are diminishing on a daily basis, multinational organizations such as the United Nations, will be able to play a constructive and productive role in maintaining international law and order.

The President has set forth our objectives in the gulf clearly. The achievement of those objectives are critically important to our overall ability to function as a preeminent world power.

Mr. Chairman, The Iraqi Government must be condemned for its abysmal human rights record, its sustained support for international terrorism, its use of foreign nationals to serve as human shields in an abhorrent attempt to protect Iraqi strategic targets, and finally for the Iraqi regime's demonstrated willingness to acquire and use weapons of mass destruction. I was heartened to learn that Iraq's irresponsible President was kind enough to retract the statement he earlier made request a list of Americans at our Embassy in Kuwait so that he could have them executed. Each day brings another despicable Iraqi outrage.

This legislation sends precisely the right message to the world: "The Congress and the President are united in the attempt to contain naked aggression, to prevent the despicable outlaw regime of Saddam Hussein from annexing Kuwait, and sending the strongest possible international signal that we will stand by our allies for better or for worse." Our President, as well as our Secretary of State have done an outstanding job. I commend the administration for its timely consultation with the Congress, and I would like to salute our uniformed forces in the gulf, as well as our fine diplomatic corps, including Ambassador Howell and Charge Wilson for the selfless dedication to duty they have exhibited. May G-d be with them in the weeks ahead.

Mr. Speaker, this is a bipartisan measure. We have worked hard to achieve a on it. Accordingly, I urge unanimous support for this bill.

Mr. HOPKINS. Mr. Speaker, it seems to me that the question before the House today is not whether the President's actions were consistent with the War Powers Resolution as this resolution states, but whether the President has actually complied with the War Powers Resolution. Looking at sections 4 and 5 of the War Powers law, it appears fairly clear that the President has not complied with these provisions as required.

Today's resolution proposes to enshrine this arrangement of mutual convenience between the Congress and the White House that holds that whenever the issue comes up "we will both agree to look the other way on War Powers."

While this may make political sense, it also ignores the law. The law says that the President shall report and that he shall remove the troops 60 days later. Anything less, in my view, simply ignores the requirements of this law.

I want the record to be clear that I am not defending these requirements because I have consistently stated that the War Powers law on the books is flawed, unworkable, and possibly dangerous to our troops in the field.

What I am saying is that we are not doing any one any favors by looking the other way on the War Powers issue.

We shouldn't ignore the issue hoping it goes away.

We should be fixing this law.

We should remove the arbitrary withdrawal clock and come up with a better and more realistic mechanism to involve Congress in decisions of War Powers. Today's approach of ignoring the law just serves to perpetuate the problem and postpone the fact that one of these days someone will hold the Presidency to the unreasonable and dangerous requirements of the law.

I will reluctantly support this reolution because it does express strong support for the President's actions in the Persian Gulf and it puts Congress on the record with that support. However, I must state that I find the provisions which assert that the War Powers issue has been properly addressed to be self-serving delusion and a gross evasion of responsibility.

Mr. DELLUMS. Mr. Speaker, House Joint Resolution 658 further undermines the constitutional responsibility of the Congress. On February 7, 1984, in the wake of the United States invasion of Grenada, I sought a congressional resolution of inquiry to investigate the President's exceeding his legal mandate under article I, section 8 of the Constitution and the War Powers Act of 1973. I was told that the invasion was a fait accompli and that there was nothing the Congress could do about it. In response, I stated that my legislative initiative was a conscious effort to prevent another Grenada from occurring somewhere else in the Third World.

My proposal for a full congressional investigation of this critical issue was rejected. Subsequently we witnessed the disaster of the Iran-Contra episode and the Presidential invasion of Panama while the Congress was out of session last December. Last month, again while Congress was out of session and with virtually no congressional consultation, the President responded to the illegal, immoral Iraqi invasion of Kuwait by sending almost 200,000 United States Army military personnel to Saudi Arabia and the Persian Gulf region.

From the outset I have urged the President to initiate any action in this crisis only under the aegis of a collective United Nations mandate, and only after full consultation with Congress, our allies in the region and Europe, and the Soviet Union. I have further urged the President to maximize his diplomatic efforts to achieve a negotiated settlement that restores the territorial integrity of Kuwait and secures Iraqi release of all foreign hostages being held in Kuwait and Iraq. I have also exhorted him not to increase arms sales and transfers to any nation in the region, because it will exacerbate tensions throughout the region and make more difficult any constructive long-term resolution of pervasive problems that have cost the people of the Middle East so much in blood and treasure.

Finally, given the wording of this resolution, I do not share the authors' assertions on the House floor that this resolution "does not represent a blank check" for further unilateral military action by the President. I am very concerned that the passage of this resolution will only provide a congressional public relations mandate for the President to accentuate a military resolution of this crisis, rather than sustained diplomatic negotiations with all parties concerned. We have put hundreds of thousands of our uniformed military personnel in harm's way. We have a moral obligation to them, to the American people, and to the people, of the Middle East to achieve a just resolution of this crisis without recourse to further bloodshed and devastation.

Mr. DEFAZIO. Mr. Speaker, I have to rise in opposition to a resolution which does little more than endorse the President's failure to comply with the clear requirements of the War Powers Resolution and the U.S. Constitution as they apply to the use of our Armed Forces in Saudi Arabia and the Persian Gulf. Worse than that, it offers implicit endorsement for any further military moves the President may choose to make.

Just over 3 years ago, when American servicemen were dying in the Persian Gulf to protect Kuwaiti oil shipments, I made the point that the United States was in the 37 year of a constitutional crisis. The crisis began when President Harry Truman introduced a large American military force into the Korean conflict without any congressional authorization whatsoever. His administration advanced the unheard-of theory that "the President, as Commander in Chief of the Armed Forces of the United States, has full control over the use thereof."

For the first time in American history, a President claimed the full share of the war-making powers granted to Congress by the U.S. Constitution. Today, Mr. Speaker, we are in the 40 year of that constitutional crisis, and Congress is still failing in its responsibility.

The framers of the Constitution clearly intended that the power to initiate war, whether declared or undeclared, should reside in the legislative branch of Government. Not only did they give Congress the power "to declare war [and] grant letters of marque and reprisal, and make rules concerning captures on land and

water," they also gave Congress the power to "make rules for the government and regulation of the land and naval forces," the power to "define and punish piracies and felonies committed on the high seas, and offenses against the law of nations," and the power to "raise and support Armies * * * [and] a navy."

If that weren't enough, Congress is given perhaps the broadest grant of power in the Constitution, the power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all others powers vested by this Constitution in the Government of the United States or in any department or officer thereof."

The President's vaunted power as Commander in Chief of the Armed Forces, according to Alexander Hamilton, who among the framers was the champion for a strong Presidency, was limited to "nothing more than the supreme command and direction of the military and naval forces," as opposed to the British King, whose power included "the declaring of War and * * * the raising and regulating of fleets and armies."

The framers sought to create a chief executive, not another King. The power to lead the Nation into a costly overseas military adventure was a power they explicitly denied to the President of the United States. James Madison spoke for all of his colleagues when he wrote, in a letter to Thomas Jefferson:

The constitution supposes, what the history of all governments demonstrates, the Executive is the branch of power most interested in war and most prone to it. It has accordingly, with studied care, vested the question of war in the Legislature.

Presidents up until Harry Truman by and large honored the constitutional scheme. But since that time, the President has increasingly asserted the power to make war at the expense of the Constitution and the legitimate role of the U.S. Congress.

The constitutional crisis came to a head with the Vietnam war and the Gulf of Tonkin resolution. The Gulf of Tonkin resolution was a loosely worded declaration supporting the President's actions to defend United States Armed Forces in Southeast Asia and deter aggression. Members of the Senate rose to make it clear that the resolution was not intended to authorize a wider war, but two U.S. Presidents read it differently.

Only two Members of Congress opposed the Gulf of Tonkin resolution. One of them was Wayne Morse of Oregon, and in opposing this resolution today I am proud to echo his words on the floor of the Senate in 1964:

I believe history will record that we have made a great mistake by subverting and circumventing the Constitution of the United States * * * by means of this resolution. As I argued earlier today * * * we are in effect giving the President warmaking powers in the absence of a declaration of war. I believe that to be a historic mistake.

History vindicated the Senator from Oregon.

The War Powers Resolution, passed in 1973 over President Nixon's veto, was a response not only to the excesses of the Executive during the Vietnam war, but also to the near-total abdication of responsibility during that period by Congress. The resolution was intended to:

Insured that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

The resolution requires the President to report to Congress under section 4(a)(1) whenever he introduces U.S. Armed Forces into hostile situations. Congress must act within 60-days to authorize their continued presence, or they must be withdrawn. Unfortunately, Presidential compliance with the reporting and consulting requirements of the resolution has been nearly nonexistent.

The CONGRESSIONAL RECORD is equally dismal. In 1987, when President Reagan used the U.S. Navy to escort reflagged Kuwaiti tankers, both the House and Senate repeatedly ducked the war power issue. Despite a major military buildup in the gulf—despite the fact that 37 U.S. seamen aboard the U.S.S. *Stark* were killed by an Iraqi missile, the fact that a number of vessels were damaged by mines, and the exchange of hostile fire between United States and Iranian forces, the President did not submit a report pursuant to section 4(a)(1) of the War Powers Resolution and Congress did not demand one.

It was left to a number of my colleagues and I to seek relief in the Federal courts. The courts judged the matter to be an unjustifiable political question. Today we have arrived at the final and complete unravelling of the War Powers Resolution. The President has once again failed to properly comply with the law, and Congress has offered him its congratulations.

The near-war in which we find ourselves is a classic case of bad policy choices coming home to haunt us. Iraq has a long history of aggression in the region, an abysmal human rights record, and has violated international conventions against the use of chemical weapons, going so far as to use them against its own population. Despite that, the Reagan and Bush administrations over the decade of the 1980's increasingly tilted United States policy toward Iraq. Their bad judgement was compounded, of course, by both administrations' failure to develop a national energy policy and their systematic cuts in Federal support for conservation and renewable energy development.

Today, a large American force sits uneasily in the Arabian desert. They don't have a clear idea why they are there, the American people don't have a clear idea why they are there, and Congress doesn't have a clear idea why they are there.

Mr. Speaker, if we should have learned anything from the military misadventures of the last 40 years, it is that U.S. military might should not be committed to battle without a clear statement of U.S. objectives and the broad support of the American people.

Will our citizens support an indefinite United States presence in the Arabian peninsula? Will they support a war to put back in power the autocratic billionaire oil sheiks of Kuwait? Will they support the President if he decides to invade Kuwait and Iraq? These are the kinds of questions we could answer with a debate in Congress on the continued deployment of our forces in Saudi Arabia.

The resolution passed by the House today is notable for what it lacks. It lacks any authorization for a continued U.S. presence in the region, yet it lacks any statement that it does not constitute an authorization.

The committee's resolution is notable for its lack of any congressional demand that the President submit a section 4(a)(1) report or a finding that one is necessary. It merely restates the reporting requirements of the law and notes that the President does not believe hostilities are imminent.

If this is not a situation requiring a section 4(a)(1) report, then nothing short of a major land war will do. Congress once again fell short of fulfilling its responsibility. It's a sad day for the U.S. Constitution.

Mr. KENNEDY. Mr. Speaker, while the Persian Gulf resolution signals congressional support for the President's initiatives to honor our security relationship in the Middle East, it does not give the President carte blanche on America's action in the gulf, nor does it relinquish the questions that remain regarding this military action.

The administration's resolve to seek a diplomatic resolution prior to the August 2, 1990, invasion certainly needs further inquiry. Iraq's signals were clear before the invasion, yet the United States made little effort to resolve the critical situation before Iraq's movement across the Kuwait border.

Most recently, the actions taken by the President to provide certain financial incentives to nations participating in this deployment may be an honorable deed, yet the effects to the U.S. economy will need further examination before Congress can ratify his promises.

Finally, the lack of burden-sharing raises concerns about the international makeup of this venture. The administration has consistently referred to the Persian Gulf deployment as an international effort. Yet to date, the affair has not reflected a true international endeavor. The lion's share of this campaign remains heavily on the shoulders of Americans.

As Representatives, we must begin to ask the tough questions. And we must expect the proper answers. We have a responsibility to assure the American people that our young men and women are not risking their lives 10,000 miles away from home for an empty rationale.

Congress still reserves the right to exert its authority and participate in the pursuit of America's policy objectives. And now is the time to use that influence.

Mr. SMITH of New Jersey. Mr. Speaker, I am an original cosponsor of this resolution, House Joint Resolution 658, outlining congressional agreement with the resolve of the President against Iraqi's invasion and annexation of Kuwait.

Following the August 2 invasion of Kuwait by the Armed Forces of Iraqi President Saddam Hussein and Iraq's subsequent annexation of Kuwait, a multinational Armed Force has responded to the call for help made by neighboring Saudi Arabia. While the United States has committed the largest contingency of combat soldiers and military hard-

ware, there are over 25 nations represented in the military operation, providing men and material.

In unprecedented diplomatic maneuvers, the United Nations Security Council has unanimously approved a series of carefully worded resolutions condemning Iraq's maneuvers. In short, the resolutions condemn the invasion of Kuwait, declare the annexation of that country null and void, establish an embargo of all trade with Iraq and occupied Kuwait, authorize the use of force to enforce the blockade against Iraq, call for the release of all hostages, strongly condemn the aggressive acts against diplomatic premises and personnel in Kuwait, reaffirm the right of individual and collective self-defense in this situation.

Mr. Speaker, I commend the President for his commitment to diligently consult with Congress and work to maintain support for his policy among the leadership of both the House and Senate. Furthermore, I strongly support the President in his determination to isolate Iraq, position the troops to deter further aggressive actions by Iraq, and coordinate Operation Desert Shield with U.S. allies and countries in the region.

As reiterated in this resolution, Mr. Speaker, the President has forged a sound policy in the Persian Gulf to press for the complete, immediate and unconditional withdrawal of all Iraqi forces from Kuwait as mandated by the U.N Security Council; the restoration of the Government of Kuwait which was in place on August 1; the protection of the lives of American citizens held hostage by Iraq, both in Iraq and in Kuwait; and the security and stability of the Persian Gulf region.

Mr. Speaker, I commend President Bush for his steadfast commitment to these principles and his tireless efforts to build an international consensus and appropriate response, and I urge my colleagues to support this resolution unanimously.

Mrs. BOXER. Mr. Speaker, I vote for this resolution because I want this Congress to clearly send a message to Saddam Hussein that we are of one mind on several issues:

First, no country can wipe another country off the face of the Earth.

Second, innocent citizens must never be taken as hostages.

Third, diplomatic solutions must be pursued.

Fourth, this effort must be multinational and U.N. oriented. These principles are embodied in the resolution.

I do have doubts about the wisdom of sending so many American ground forces to Iraq, while other nations have sent so few.

I am disappointed that one of the first acts of the President was to press for an outrageously huge arms sale to Saudi Arabia. Such arms sales in the past have led to heavily armed leaders such as Saddam Hussein. I disapprove of this proposed arms sale.

I am also concerned that our President is doing so little to put together an energy policy for our Nation to lead our country to energy independence. This is essential.

This resolution speaks to the past and not to the future.

I am fearful of the future for our young men and women and therefore my vote on this resolution hinges on the words that call for diplomacy, United Nations leadership, and a strong multinational effort.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). All time has expired.

The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the joint resolution, House Joint Resolution 658.

The question was taken.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERSONAL EXPLANATION

Mr. HOUGHTON. Mr. Speaker, I missed four votes while attending my mother's 90th birthday celebration. Had I been here I would have voted:

"Yea" on House Joint Resolution 658, "yea" on House Joint Resolution 418, "yea" on House Concurrent Resolution 329, and "yea" on H.R. 3954.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 658, the joint resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PROTECTING ANTARCTICA AS A GLOBAL ECOLOGICAL COMMONS

Mr. YATRON. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 418) calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons, as amended.

The Clerk read as follows:

H.J. RES. 418

Whereas Antarctica, like the great oceans and the atmosphere, is a part of the global commons;

Whereas the Antarctic region, including the continent and the Southern Ocean, is a fragile ecosystem that supports an amazing abundance of life, and is, in turn, crucial to other life on Earth;

Whereas Antarctica is a critical area in the study and documentation of global change;

Whereas negotiations of the Antarctic Treaty Consultative Parties have resulted in the Convention on the Regulation of Antarctic Mineral Resource Activities;

Whereas the Convention on the Regulation of Antarctic Mineral Resource Activities, while requiring consideration of environmental impacts prior to allowing minerals development in Antarctica, does not guarantee preservation of the Antarctic environment; and

Whereas the challenge to humankind is to ensure that Antarctica is stewarded in a manner that conserves its unique environment and preserves its value for scientific research: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That—

(1) Antarctica is a global ecological commons and should, therefore, be subject to a new agreement or protocol which supplements the Antarctic Treaty of 1959, either of which should be subject to periodic review and, for an indefinite period, establish Antarctica as a region closed to commercial minerals development and related activities;

(2) under the agreement described in paragraph (1), information about mineral or other resources in Antarctica should be obtained under strictly controlled arrangements and be openly shared within the international scientific community;

(3) the Convention on the Regulation of Antarctic Mineral Resource Activities, though a considerable step forward, is not adequate to provide the necessary level of protection for the fragile environment of Antarctica and has the potential to actually stimulate movement toward commercial exploitation;

(4) pending the negotiation and entry into force of a new agreement or protocol which supplements the Antarctic Treaty of 1959 and ensures the full protection of Antarctica as a global ecological commons, the Convention on the Regulation of Antarctic Mineral Resource Activities should not be presented to the Senate for advice and consent to ratification;

(5) until an agreement described in paragraph (1) is entered into, the United States should support the interim restraint measures in force among the Consultative Parties to the Antarctic Treaty of 1959; and

(6) the negotiation of a new agreement or a protocol, which supplements the Antarctic Treaty of 1959, providing full protection of Antarctica as a global ecological commons and establishing Antarctica as a region closed to commercial minerals development and related activities for an indefinite period, should be a major item on the agenda of the November 1990 meeting of the Antarctica Treaty Convention Parties in Santiago, Chile.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. YATRON] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. YATRON].

□ 1320

Mr. YATRON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support House Joint Resolution 418. Let me commend the gentleman from Utah, Congressman OWENS, for this important initiative and for his outstanding leadership in protecting the environment of Antarctica. I also want to acknowledge the efforts of Chairman FASCELL, and Congressman BEREUTER for all their efforts on the issue of Antarctica.

The hearings on Antarctica conducted by the Subcommittee on Human Rights and International Organizations, have highlighted the need for greater environmental protection. Antarctica is of tremendous value to scientific research. It serves as the habitat for an abundance of species. It plays a key role in maintaining climate stability. Unfortunately, its unique, near-pristine, and fragile environment is being increasingly threatened by various kinds of human activity.

If any minerals operators are eventually allowed to proceed in Antarctica, they could result in severe and irreparable damage. I am concerned that the recently negotiated minerals convention will encourage such activity.

House Joint Resolution 418 constitutes a major advancement in protecting Antarctica's environment. It calls for an indefinite moratorium on minerals activities, and for a new international agreement to establish the area as a global ecological commons. It urges the President not to submit the minerals convention to the Senate for ratification, pointing to its deficient environmental protections.

Mr. Speaker, the Foreign Affairs Committee approved the resolution after adopting some amendments offered by Congressman OWENS which addressed the concerns of the administration.

I ask my colleagues for their support of this critical measure.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this resolution, which calls for the United States to promote further negotiations to protect the Antarctic environment.

The remotest continent, the Antarctic has been relatively unaffected by man. This is fortunate, since the Antarctic ecosystem is extremely fragile. It is also of great interest to scientists and has great natural value.

In recent years, the United States participated in negotiation of a Convention on the Regulation of Antarctic Mineral Resource Activities. This agreement was intended to provide for strict environmental safeguards in the event the Antarctic Continent was opened for mineral activities.

Since the Convention was negotiated, concerns have grown that having such a system in place could actually encourage mineral development. This was not the intent of the United States. Our Government's policy has consistently been to protect the Antarctic by maintaining the consensus among the parties to the Antarctic Treaty of 1958.

The current resolution calls for a new agreement among the Antarctic Treaty parties to provide comprehensive protection for the Antartic environment. It will reinforce the administration's approach and improve the prospects of consensus among the Antarctic Treaty partners. It has the support of the State Department and the administration.

I commend the sponsor, Mr. OWENS of Utah, for his concern about this issue and also his willingness to work with the administration to craft a constructive approach. I also commend the chairman of the subcommittee with jurisdiction, Mr. YATRON, as well as the ranking Republican member, Mr. BEREUTER. I also wish to thank Chairman FASCELL for calling up this matter. The chairman and I were privileged to join in personally discussing this issue with Capt. Jacques Cousteau when he appeared before the subcommittee a few months ago.

I hope all Members will support this timely resolution. It will demonstrate congressional concern prior to the new round of international negotiations on this subject which commence in November.

Mr. YATRON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Speaker, I rise in strong support of this resolution, and I commend the chairman of the Subcommittee on Human Rights and International Organizations and others who have taken the lead in this matter.

In the world today, right at the top of the list of important issues that confront people all over the world is the question of our ecology and our environment and the efforts that are being made to preserve what little we have left. So I am pleased to join in supporting this resolution.

The measure before us represents a carefully crafted balance among the various interests involved, including the administration, environmental groups, and majority and minority members of the committee. At the outset I wish to commend the sponsor of the resolution, the gentleman from Utah, the Honorable WAYNE OWENS, for his leadership and very conscientious efforts in shaping this legislation into its present consensus form. Also I wish to compliment the Human Rights and International Organizations Subcommittee, and in particular Chairman GUS YATRON and the Honorable DOUG BEREUTER, ranking minority member, for their diligent efforts in considering the resolution. The resolution before us, which was cosponsored by 73 Members, was reported from the Committee on Foreign Affairs by a unanimous voice vote.

Further, I would like to specially thank the Honorable WALTER B. JONES, chairman of the Subcommittee on Merchant Marine and Fisheries, for his committee's willingness to waive its request for sequential referral, without prejudice to its jurisdiction, in the interest of expeditious consideration of House Joint Resolution 418, as amended.

The Antarctic Treaty System provides the framework to guide international cooperation and activities on the Antarctic continent. In addition to the basic treaty of 1959, it also includes conventions to conserve seals, marine living resources, and flora and fauna. The most recently negotiated component, the Convention on the Regulation of Antarctic Mineral Resource Activities [CRAMRA], which is unlikely ever to enter into force, is the precipitating factor in the current debate. That proposed new entity to the treaty system would establish a regime under which Antarctic mining could occur. CRAMRA is thus perceived as the camel's nose under the tent leading to wholesale mining activity and consequent environmental degradation of the pristine continent. CRAMRA is widely regarded as inadquate to protect the Antarctic environment.

The resolution before us today, House Joint Resolution 418, as amended, urges that a new agreement or protocol be negotiated to supplement the Antarctic Treaty which would close Antarctia to minerals activities, and fully protect the environment. Testimony before Congress by Capt. Jacques Cousteau, and various environmental organizations underscored the necessity for achieving those objectives. Congressional sentiments are clearly in support of those goals.

The language of the resolution, however, is carefully worded to provide flexibility in negotiating an accord to achieve those ends. Use of the words "indefinite" and "subject to periodic review" regarding a mineral ban were judiciously chosen. They are intended to assure that the United States might not be forever disadvantage should circumstances and technologies radically after. It is conceivable that at a future time, access to some critical mineral might be desirable, and extraction feasible by a yet undiscovered technology which is environmentally benign. The language leaves the door open for future negotiations under such an eventuality, and maintains the United States on an equal footing with other nations. In the interim, the United States would pursue an agreement for Antarctica's comprehensive environmental protection, and which would preclude minerals activities for an indefinite period. It is important to note that at present, there are no commercially viable minerals on Antarctica, according to a recent OTA study.

The resolution also does the following:

It encourages the exchange of minerals information among the international scientific community;

It recognizes the CRAMRA, although a significant step forward is, on its own, not adquate to protect the Antarctic environment, and urges that CRAMRA not be submitted for Senate ratification;

It urges the United States to continue to support the interim restraint measures currently in force until a new agreement is effectuated; and

Finally, it is timely in noting the upcoming Santiago meeting of consultative parties, and recognizes this issues as a central theme to be discussed there.

Mr. Speaker, this is a constructive resolution which will further the objectives we all share for properly safeguarding Antarctica as a global ecological commons. It should strengthen the hand of U.S. negotiators on this issue. I urge its immediate adoption.

Mr. YATRON. Mr. Speaker, I yield 5 minutes to the gentleman from Utah [Mr. OWENS]. Again, let me commend him for his outstanding leadership on this very important resolution.

Mr. OWENS of Utah. Mr. Speaker, I express my appreciation to the chairman, the gentleman from Florida [Mr. FASCELL], who for so many years has been involved in these issues and to our chairman, the gentleman from Pennsylvania [Mr. YATRON], the gentleman from Nebraska [Mr. BEREUTER], the gentleman from Michigan [Mr. BROOMFIELD] for those kind remarks, and the gentleman from Massachusetts [Mr. CONTE], who is doing so much for Antarctica who has agreed to travel with me to see that desolate land this winter.

Mr. Speaker, the continent of Antarctica is one of the great gifts given mankind. What we do with it in the next century will speak volumes about our respect for the planet and our perception of our place on it.

The United States has always been the world's leader in environmental protection. From John Muir's call in the late 19th century for preservation of our Nation's beauty, and the establishment of the National Park Service and the National Forest Service, concern for the environment has been a distinguishing hallmark of our unique heritage as Americans. We have deservedly earned, over the last century, an international reputation that we zealously guard. We gave the world the first national parks, the first national forests, the first Clean Water Act, the first Clean Air Act, the first laws governing hazardous waste. Our system of environmental protection, despite its occasional failings, is still the envy of the world.

But far away, at the furthest reaches of the planet, the United States has been lagging behind a significant and growing movement to protect the Antarctic ecosystem from mineral development. Instead of leading, America has thrown up roadblocks and obstacles which made the ideal of secure protection for the Antarctic and its living creatures more difficult to achieve, obstacles which have puzzled other environmentally committed nations which expect more of us. Australia, France, Belgium, and Italy have already stated their intention to pursue a complete ban on mineral activities in Antarctica. New Zealand, the Soviet Union, Poland, and India have also expressed their sympathies with this goal. the biggest obstacle to real progress in protecting Antarctica from mineral development came, ironically, from the United States, where the Bush administration stubbornly resisted this growing tide. The administration seemed unalterably committed to pushing the Convention on the Regulation of Antarctic Mineral Resource Activities, or CRAMRA, even though it seemed likely that this document, though well-intended, could provide the impetus for unwise mineral activities.

Thankfully, that has changed. Over the last year, since the introduction of House Joint Resolution 418, we have seen a tremendous shift in attitudes and thinking concerning the Antarctic, particularly from the administration. I have conducted long and careful negotiations with the State Department on the question of mineral development in Antarctica and I have been very gratified by the progress we have made in coming together on this question. As public attention has focused on the Antarctic, the necessity for its preservation in as natural a state as possible, including a closure to mineral development, has become conventional wisdom.

In late November, in less than 2 short months, the consultative parties of the Antarctic Treaty will meet in Santiago, Chile, and discuss a comprehensive environmental agreement which will serve to protect Antarctica better than the existing regimen—and much better than CRAMRA could. The negotiating posture our team takes, coupled with the growing sentiment organized by Australia and France and many other parties to the Antarctic Treaty, will mean all the difference in finding a way to fully protect Antarctica. Because of international opposition and increased awareness of Antarctica's irreplaceable status, CRAMRA appears to be dead in the water. I am delighted to have seen a major shift in State Department thinking over the last few months. I was certain that this shift would occur eventually, but I am surprised and pleased at its speed. I am pleased that it has occurred in time to move this resolution through the Congress before the meeting in Santiago. For a time, the United States appeared willing to abdicate its leadership role on this issue of international environmental preservation, but I now believe that our negotiating team in Chile will perpetuate the tradition of American leadership in the global environment as it works toward establishing a comprehensive environmental treaty and a minerals closure.

It has become increasingly clear, for reasons of ecology, climate monitoring, and esthetics that the Antarctic, the last continent more or less untouched by man, should be preserved from unwise development, particularly mineral development, which would likely put its tremendous natural resources at risk. As Capt. Jacques Cousteau expressed it at a hearing this past spring, the wreck of the *Exxon Valdez* in Alaska would pale in comparison to the nearly eternal and far-reaching effects of a similar spill in the Antarctic. We cannot allow that scenario to take place.

I do not believe we need to explore Antarctica for minerals. I do not believe we need its oil, if indeed there is any. We certainly do not need its coal, the only mineral clearly in abundance. The highest value for that frozen continent lies in its preservation, left in its natural state as much as possible in this interconnected world, as a reservoir of life, and as a laboratory for science. We do not need Antarctica's minerals; we need a pristine Antarctica. We need it for baseline measures of alarming global trends toward global warming and ozone depletion. We need it for its undisturbed ecosystem, which helps to feed the world. We are not that desperate for fossil fuels, even with the gulf crisis, to put this precious ecosystem at risk for a few more days or months of oil.

Antarctica is as far away as any place on the planet can be. It is impossibly cold and hostile. It is thoroughly inhospitable. At its best, the temperature barely creeps above freezing. At its worst, the climate approaches that of Mars. It is the world's highest, coldest, most desolate desert.

Yet, it has captured our collective imagination—and it has commanded our attention, not just in this committee, not just in this Congress, and not just in this country. Most of us will probably never see Antarctica firsthand. But it is still vital that we work for its preservation.

What happens there, so far away, affects what happens here and in my home State of Utah. Nothing stands completely independent in our environmentally connected world. It is not necessary to exploit every corner of this planet to survive, and that which we leave untouched—in Antarctica, on the North Slope of Alaska, in the wilderness region of Utah—is a testimony to our confidence in ourselves. As Thoreau said, "A man is rich in proportion to the number of things he can afford to leave alone." We are rich enough to leave Antarctica alone.

□ 1330

Mr. BROOMFIELD. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Nebraska [Mr. BEREUTER], a cosponsor of this legislation.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. Mr. Speaker, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding. I just wanted to rise in support of this resolution. I think it is a step in the right direction. I want to associate myself with the able chairman of the subcommittee [Mr. YATRON] and the gentleman from Utah [Mr. OWENS], as I heard his remarks and support this initiative.

I wish that we could do more. However, I think this is the least that we can do.

Mr. Speaker, I rise in support of this joint resolution. I commend its sponsor, the gentleman from Utah [Mr. OWENS], for introducing it and I appreciate his support as a cosponsor of my bill, the Antarctica World Park and Protection Act of 1990.

Mr. Speaker, Antarctica is a unique and very special region of the world. With 90 percent of Earth's fresh water, it is both a fragile ecosystem that supports many forms of life, and an indispensable part of the atmospheric and oceanographic systems that moderate the world's weather and maintain the habitability and productivity of our planet.

Since 1961, the Antarctica Treaty has provided a framework for peaceful and cooperative international activities in Antarctica. America can be proud of its leadership role in the development and implementation of the treaty, as well as the scientific research and other activities that have taken place in Antarctica under the treaty.

However, there is now a growing concern about the need for new steps to assure that Antarctica will remain unspoiled and dedicated to peaceful research, especially since the 1988 signing of a convention on the regulation of Antarctica mineral resource activities—or "CRAMRA"—that would for the first time constitute a framework for possible prospecting and other mineral exploration and development activities in Antarctica.

I believe that CRAMRA was a mistake and a step in the wrong direction. Instead of pushing forward with it, the United States should be exercising leadership toward prohibiting mineral exploration and development in Antarctica, as called for by this joint resolution.

Our Nation's special contribution to Antarctica's future should be the national park concept, an idea born in our country that has won converts around the globe. We should adopt this joint resolution and then go forward with legislation that will put America where it should be, in the forefront of those working to make Antarctica the first world park.

We will likely not have time to complete action on such legislation in this Congress. But it should be high on our agenda next year. Meanwhile, we should adopt this joint resolution to reverse past mistaken policies and to again make American a leader in working for full protection of Antarctica.

Mr. BEREUTER. Mr. Speaker, as ranking minority member of the subcommittee considering environmental matters, I rise in support of House Joint Resolution 418.

Mr. Speaker, there is little or no disagreement among Americans that the pristine environment of Antarctica should be preserved. Among many other important environmental reasons it is essential to protect Antarctica for ongoing research on such important matters as ozone depletion and global climate change. Antarctica and its surrounding waters are home to a phenomenally large and diverse network of living creatures. Antarctica is a living laboratory, a laboratory which promises to help mankind unlock answers to some of the most pressing environmental questions of our time. The survival of our planet as a desirable living environment may well be at stake.

Clearly, no one wants that continent to suffer ecological degradation. However, Antarctica is threatened from a number of forces. An upsurge in tourism, improper waste disposal, oilspills, a significant upsurge in fishing, and the possibility of mineral resource activity all threaten Antarctica's pristine nature. Moreover, there is growing agreement that existing international agreements do not provide adequate safeguards for this fragile environment. In short, Mr. Speaker, Antarctica must be protected against ecological degradation.

House Joint Resolution 418 makes an important contribution toward the goal of preserving the Antarctica ecosystem. It calls for tough new international conventions that would protect Antarctica against mineral resource activities and improper waste disposal. And, pending the enactment of such a new treaty regime, House Joint Resolution 418 calls for the United States and the other Antarctic Treaty parties to adopt a policy of restraint toward the exploitation of mineral resources.

Mr. Speaker, this Member would commend the author of House Joint Resolution 418, the gentleman from Utah [Mr. OWENS] for his leadership on this important matter. The gentleman worked long and hard to craft a resolution that enjoys broad bipartisan support in this body, and has the support of the State Department. This gentleman would commend him for drafting legislation that allows this body and the administration to speak with one voice. The consensus reflected in this resolution will be particularly important as the United States goes into the international conference on Antarctica next month.

The efforts of the gentleman from Pennsylvania [Mr. YATRON] were also instrumental in the crafting of this resolution. As usual, the chairman of the Subcommittee on Human Rights and International Organizations has been a leader in advancing international environmental awareness. In addition, this Member would like to commend the gentleman from Florida [Mr. FASCELL] and the gentleman from Michigan [Mr. BROOMFIELD] for their support of House Joint Resolution 418, and for facilitating its consideration.

Mr. Speaker, as a cosponsor of this resolution, this Member urges its adoption.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of House Joint Resolution 418 which supports measures to preserve the pristine environment of the most remote continent of the planet. However, the remoteness of Antarctica does not lessen the current and potential impact of activities of man to the world's ecological health.

Science has shown that the health of the Earth is connected in many different ways to the environment in the south polar region. The profound effect of the hole in the atmosphere above Antarctica is being further studied and documented. The coastal areas of Antarctica contain some of the most prolific marine oganisms crucial to the oceans grand food chain. It is incumbent upon mankind to take whatever steps are necessary to insure the continuation of the virgin environment of Antarctica.

Sensing the need for concrete action to protect Antarctica, I joined my colleague, BRUCE VENTO, in April of this year in introducing H.R. 4514, the Antarctica World Park and Protection Act of 1990. A hearing on the Antarctica World Park legislation was recently held by the Subcommittee on Insular and International Affairs of the Committee on Interior and Insular Affairs, thus advancing this proposal before the Congress.

The United States should take the lead in pressing for international cooperation in preserving and protecting Antarctica, particularly before any new mining regime is instituted. The resolution before the House today sends a clear message of the sense of Congress to responsibly act on preserving the environment of Antarctica while cautiously considering any further expansion of mankind's presence.

Mr. SMITH of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. Mr. Speaker, I yield to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of House Joint Resolution 418, and just want to commend my good friend, the gentleman from Pennsylvania [Mr. YATRON] and the gentleman from Utah [Mr. Owens] for their leadership, as well as the gentleman from Nebraska [Mr. BEREUTER] for their work on behalf of this resolution.

We had a series of hearings on this very important topic of preserving Antarctica, and a number of distin-

guished witnesses came forward and provided Members with very useful testimony. This is a good resolution and deserves the support of the membership.

Mr. Speaker, the resolution before us outlines a sound environmental policy with respect to the fragile ecosystem of Antarctica, and delineates what I believe should be the appropriate response to the special protections which the Antarctica requires. I commend the gentleman from Utah [Mr. OWENS] for his diligence and persistence in writing this resolution, and I commend the gentleman from Pennsylvania [Mr. YATRON] for his leadership in bringing this measure before the House.

Next month, in Santiago, Chile, the Antarctica Treaty Consolutative Parties will be meeting, and, as the resolution recommends, I believe the negotiation of a supplemental agreement to the Antarctic Treaty should provide full protection of Antarctica as a global ecological commons. Antarctica could then be closed, for an indefinite period, to commercial mineral development and other ecologically destructive activities.

Mr. Speaker, the Subcommittee on Human Rights and International Organizations held a number of hearings on Antarctica and the current and potential threats facing its fragile, yet preistine ecosystem. There is grave concern that the current convention does not provide adequate environmental protections against mineral exploitation. This resolution asks that the Convention on the Regulation of Antarctic Mineral Resource Activities not be presented to the Senate for advice and consent to ratification, until additional agreements are made within the Antarctic Treaty system which would ensure full protection of Antarctica as a global ecological commons.

The scientific importance of the Antarctic region, with its abundance of life, and the immense value of its resources and atmosphere for scientific research of such things as global climate change, cries out for further protection in international treaties. Mr. Speaker, I believe this resolution helps clarify that commitment which must be made for the preservation of Antartica, and urge my colleagues to support the measure.

Mr. BROOMFIELD. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I rise in strong support for House Joint Resolution 418, Congressman OWENS' resolution to "protect Antarctica as a Global Ecological Commons." It is particularly gratifying to speak on behalf of Congressman OWENS, because he has testified before the Merchant Marine and Fisheries Committee on my own Antarctica bill, the Antarctic Protection and Conservation Act of 1990.

Although this area is thousands of miles from our shores, Mr. Speaker, Antarctica is an important conservation issue for the United States. Antarctica is the most important feeding ground in the southern hemisphere for whales and dolphins. It is the home to two-thirds of the world's seals. And it hosts a myriad of fish and wildlife species.

Peaceful study of this natural treasure should not be interrupted by commercial exploitation. And this resolution before the House today will help make the United States an international leader in the protection and conservation of this last frontier.

My bill, which I hope to bring to the floor before the end of this session, will give teeth to Congressman OWENS' resolution and provide protection of Antarctica from mineral exploration or exploitation with the force of law. It will also extend the protections of NEPA—the National Environmental Policy Act—to all Federal Government sponsored activities in Antarctica.

Mr. Speaker, thanks are due to those who have worked to protect pristine Antarctica. Chairmen WALTER JONES DANTE FASCELL, GERRY STUDDS, and GUS YATRON as well as such distinguished minority members as BILL BROOMFIELD, BOB DAVIS, and DOUG BEREUTER have put forth yeoman efforts to help make this legislation possible.

Please join me and support Congressman OWENS' resolution.

Mr. DE LUGO. Mr. Speaker, I rise in support of House Joint Resolution 418, the resolution introduced by a member of the Interior and Insular Affairs Committee, Congressman WAYNE OWENS. The bill calls for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties for the full protection of Antarctica as a global ecological commons. The timing is of the essence since the consultative parties, which include the United States, are scheduled to meet in Chile in November.

The Subcommittee on Insular and International Affairs, which I chair, has jurisdiction over matters regarding Antarctica and any claim the United States may assert in future in regard to any part of that territory. I share with my colleague, Mr. OWENS, the sense of urgency regarding the need for the United States to assume a leadership position in urging all the treaty nations to take steps now to permanently protect that great treasury that we call Antarctica. I urge swift passage of this very important environmental measure.

Mr. JONES of North Carolina. Mr. Speaker, I rise in strong support of House Joint Resolution 418, a resolution calling for the United States to encourage immediate negotiations toward a new agreement among the Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons, introduced by Representative WAYNE OWENS.

This resolution urges the United States to take a leadership position in negotiating a new agreement among the Antarctic Treaty parties that will provide comprehensive environmental protection for Antarctica. The resolution recognizes that a new agreement is needed if we are to provide comprehensive and enforceable protection of this unique continent.

The resolution also recognizes that the recently negotiated convention on the regulation of antarctic mineral resource activities, or CRAMRA, is not adequate to protect this fragile environment. The very title of CRAMRA states its purpose—to regulate mining in Antarctica. This agreement is not, as some would have us believe, an agreement to protect the Antarctic environment. Rather, it establishes a framework under which Antarctic mineral resources can be exploited. The development of mineral resources in Antarctica is not only not technologically feasible for the foreseeable future, but brings with it the attendant and unnecessary risks of oilspills and other environmental hazards.

We have all witnessed in the Arctic climate of Prince William Sound, AK, how devastating an oilspill can be, and how helpless we are to clean up a spill of this magnitude. A spill in Antarctica could permanently harm its coastal ecosystem, home to 35 species of penguins and other birds, 6 varieties of seals, 12 whale species, and nearly 200 types of fish.

Finally, I am in full agreement with the resolution's call for the Antarctic Treaty parties to make legally binding the existing informal understanding they now have to forestall any minerals activities until CRAMRA enters into force. Since it is very unlikely that CRAMRA will enter into force in the foreseeable future, the treaty parties must find some other means of enforcing the current, informal moratorium while they are working out a new agreement for comprehensive protection. I urge that a new moratorium prohibit for a lengthy period of time any minerals activities while more comprehensive protections are being negotiated.

Mr. Speaker, the Merchant Marine and Fisheries Committee has a strong interest in the protection of the Antarctic environment. We have recently reported two important Antarctic environmental measures, H.R. 3977, Mr. CONTE's bill to prohibit U.S. citizens from mining in Antarctica, and H.R. 4210, a bill that I introduced to provide additional environmental protection from waste disposal, marine pollution, tourism, and other potentially harmful activities sponsored by U.S. agencies and citizens in Antarctica. However, in the interest of expediting consideration of House Joint Resolution 418, on behalf of the Merchant Marine and Fisheries Committee, I have agreed not to seek a sequential referral of the resolution without prejudice to our jurisdiction but, instead, have exchanged letters with Mr. FASCELL, chairman of the Foreign Affairs Committee, acknowledging our respective committees' interests in this subject matter.

I am especially pleased that the Foreign Affairs Committee has also recently reported H.R. 3977, which was referred jointly to our committees. We are in the process of negotiating some final changes in the text of this bill with the administration, in hopes of bringing this bill to the floor at the earliest opportunity. With the passage of House Joint Resolution 418 and H.R. 3977, the United States will take two steps toward the goal of providing permanent environmental protection for the Antarctic continent.

Finally, I wish to acknowledge the hard work of both Representative OWENS and Chairman FASCELL in bringing House Joint Resolution 418 to the floor. I urge my colleagues to support this resolution.

Mr. YATRON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Pennsylvania [Mr. YATRON] that the House suspend the rules and pass the joint resolution, House Joint Resolution 418, as amended.

The question was taken.

Mr. BEREUTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1340

GENERAL LEAVE

Mr. YATRON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Joint Resolution 418, the joint resolution just considered.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REGARDING COUNTRIES WHICH VIOLATE THE MORATORIUM ON COMMERCIAL WHALING

Mr. YATRON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 329) calling for U.S. sanctions against nations which conduct unjustified lethal whale research, and otherwise expressing the sense of the Congress with regard to nations which violate the International Whaling Commission moratorium on commercial whaling by killing whales under the guise of scientific research.

The Clerk read as follows:

H. CON. RES. 329

Whereas the United States fully supported the adoption by the International Whaling Commission of an indefinite moratorium on commercial whaling to become effective in 1986;

Whereas the United States fully supported the adoption by the International Whaling Commission of resolutions designed to establish criteria for reviewing proposals by Commission member nations to take whales under special (that is, scientific) permits during the commercial whaling moratorium,

Whereas the United States has supported all resolutions adopted by the International Whaling Commission requesting nations engaged in "research" whaling that fails to meet the criteria established by the Commission to refrain from carrying out further such whaling activities;

Whereas Japan has already killed more than 500 whales in spite of these International Whaling Commission resolutions and has publicly declared its intention to take several hundred more whales during the current whaling season;

Whereas Japan was certified by the Secretary of Commerce in 1988 under the Packwood-Magnuson Amendment and the Pelly Amendment for its research whaling activities that diminished the effectiveness of the conservation program of the International Whaling Commission;

Whereas in 1988 Japan was denied permits to fish in the United States Exclusive Economic Zone as a result of this certification, but no additional action has been taken beyond denial of 1989 permits as a result of Japan's whaling activities which continued in 1989; and

Whereas other nations have also continued to kill whales for scientific research despite International Whaling Commission resolutions disapproving their research plans: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) continued whaling and commercialization of whale meat represent a violation of the International Whaling Commission moratorium on commercial whaling;

(2) in accordance with United States statutes, the Secretary of Commerce should certify any nation for continued whaling activities that have been rejected as scientifically invalid by the International Whaling Commission;

(3) the President should use his authority under the Pelly Amendment, and other powers of his Office, to order an embargo on a significant quantity of fishery products entering the United States from nations found to be diminishing the effectiveness of the International Whaling Convention;

(4) the President should use all tools of diplomacy to convince whaling nations to comply with decisions of the International Whaling Commission; and

(5) the President should use all tools of diplomacy to encourage the support of the member nations of the International Whaling Commission for a long-term solution to the problems before the Commission.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania [Mr. YATRON] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. YATRON].

Mr. YATRON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I introduced House Concurrent Resolution 329 last May, with several of my colleagues on the Foreign Affairs Committee as original cosponsors. The resolution was a result of the subcommittee's hearings and related activities to protect whales and other marine mammals. The resolution calls on the President to impose sanctions, provided by U.S. law, on nations which defy decisions of the International Whaling Commission on the killing of whales.

I want to commend Chairman FASCELL and Congressman BEREUTER for all their efforts to preserve whales and marine mammals.

The IWC moratorium on all commercial whaling took effect in 1986, but nations are permitted to take whales for legitimate scientific research. Strict guidelines were established to ensure that nations would not continue to engage in commercial whaling under the guise of scientific research.

However, some nations have continued to kill whales maintaining it was for scientific reasons, but their research plans have been found invalid by the IWC. In addition, resolutions condemning their activities have been adopted at IWC meetings, including the most recent in July.

After the Secretary of Commerce certifies a nation as diminishing the effectiveness of the IWC the President is authorized to impose sanctions on nations which violate IWC rulings. The Packwood/Magnuson amendment provides for a reduction in permits to fish in U.S. waters, and the Pelly amendment allows for an embargo of fishery products.

Japan was certified in 1988, and permits to fish in United States waters were denied in 1988 and 1989. This action has not had much effect because there is little foreign fishing in U.S. waters. An embargo of fishery products would be more meaningful, but has not been imposed. Some other nations have also defied the moratorium, but on a much smaller scale than Japan. No sanctions have been imposed on them.

House Concurrent Resolution 329 calls on the President to use all tools of diplomacy to encourage compliance with the IWC moratorium, and to implement the Pelly amendment on nations which do not.

Mr. Speaker, the United States has strongly and consistently supported the IWC and the moratorium. Enactment of this resolution will reaffirm our commitment to whale preservation. I ask all my colleagues to support this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I want to thank the gentleman from Pennsylvania and the members of the subcommittee, as well as the sponsors of this resolution, for their leadership and determination in bringing this measure foward.

I will extend my remarks, Mr. Speaker, but let me say this. If we, the people of the United States, do not try to bring about world recognition of this very serious problem, if we do not stop that which is illegal and reach an agreement which other countries will adhere to, there will not be any whales left. But the problem goes beyond that. There will be nothing that swims

in the oceans. We are destroying, we, meaning mankind, not the United States are destroying our oceans. We have tried to take the lead on preservation efforts because a large amount of the protein that mankind will need to survive is in this ocean. We, again referring to mankind, are polluting the oceans, destroying the waters and destroying the vital resources in them. We need to do everything we know how for our own survival and for the future in order to protect our environment and the very resource that helps keep us alive.

The resolution before us now recognizes that nations have stretched the definition of scientific whaling, and killed whales to suit their own consumptive purposes. Not only is it a contravention of the IWC moratorium, but it undermines the effectiveness of its whale conservation program. The resolution calls for sanctions against countries which continue to kill whales in violation of the International Whaling Commission [IWC] moratorium on commercial whaling. Japan and Norway continue whaling under the guise of science, although their research activities have been determined invalid by the IWC.

The IWC has no enforcement mechanism, therefore, it is up to member states to determine their own enforcement authority. In the United States, there are two statutes to address IWC violations—the Packwood-Magnuson amendment and the Pelly amendment. In 1988 Japan was certified under both amendments by the United States Department of Commerce for its scientific whaling in noncompliance with IWC guidelines and resolutions. Under the Packwood-Magnuson amendment, Japan was denied permits to fish in United States territorial waters. The Pelly amendment, however, was not involved. It calls on the President to embargo a portion of fish imports from offending nations—such embargo authority has never been used by a U.S. President. House Concurrent Resolution 329 calls on the President to exercise that authority, and to also use all diplomatic means to effect compliance with IWC decisions.

This resolution is fully consistent with previous U.S. policy, and votes in the IWC aimed at curbing excessive and specious scientific whaling activities. U.S. policy fully supports the 1986 IWC moratorium on commercial whaling, and its strict guidelines to ensure that no commercial whaling is done under the guise of scientific research. Diplomatic efforts by the United States and domestic legislation underscore that policy.

Mr. Speaker, U.S. policy is clear on this issue. Many signals have been conveyed through the International Whaling Commission, and U.S. diplomacy. Ample warning has been given. It is time to follow through and implement U.S. statutes in furtherance of whale conservation programs. I urge the immediate adoption of House Concurrent Resolution 329.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support House Concurrent Resolution 329, which is aimed at protecting whales from unscrupulous whaling operations by foreign countries. I want to thank GUS YATRON, the chairman, and vice chairman DOUG BEREUTER for their work in moving this legislation to the floor.

Japan and certain other countries continue to carry on commercial whaling under the guise of scientific research. This violates the spirit of the moratorium on commercial whaling that was imposed by the International Whaling Commission in 1986.

Under existing law, the executive branch has the ability to certify such nations as not in compliance with IWC rules. The President may then respond, by limiting fishery cooperation with these countries.

So far, the administration has not used this authority to impose an embargo on fish imports from nations like Japan. Instead, the administration has tried a combination of diplomatic, public and economic pressure on Japan and other noncomplying countries. There is a danger that imposition of further sanctions could actually lead to Japan's leaving the IWC.

For these reasons, the State Department has some objections to this resolution. Nevertheless, I support the resolution, and I believe most of the other minority members of the committee do as well. This is because we believe the time has come for the President to consider using his legal authorities to take stronger action to improve protection for the whales.

Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER], the vice chairman of the subcommittee.

Mr. BEREUTER. Mr. Speaker, as ranking minority member of the subcommittee considering environmental matters, I rise in support of House Concurrent Resolution 329.

Mr. Speaker, this member would begin by commending the author of this resolution, the gentleman from Pennsylvania [Mr. YATRON], for his dedicated work on this subject and for reminding us that, despite an international moratorium, that commercial whaling continues. He has long been a leader on the matter of preserving the oceans' resources. Indeed, the gentleman from Pennsylvania has been active on international environmental issues long before it became popular to do so. He rightly deserves this body's appreciation.

This member would also commend the distinguished gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs, as well as the committees' distinguished ranking member, Mr. BROOMFIELD, for their assistance in expediting this important resolution.

As a cosponsor of this resolution I would note, Mr. Speaker, that House Concurrent Resolution 329 enjoys broad partisan support. Indeed, this member would point to the fact that all minority members of the subcommittee responsible for international environmental affairs, the Subcommittee on Human Rights and International Organizations, are cosponsors of this important resolution.

Mr. Speaker, the International Whaling Commission passed a moratorium on international commercial whaling which has been in effect since 1986. Under the moratorium, whaling was permitted only for very tightly monitored scientific experiments.

In the years since the ban took effect, commercial whaling has been reduced dramatically. The bulk of those nations who were engaged in whaling have abandoned that practice.

Only a very few nations flaunt the commercial whaling ban. Far and away, Japan is the leading violator. They have already killed more than 500 whales since the moratorium took effect, killed 330 whales last year, and will kill hundreds more this year. While the Japanese claim scientific reasons for whaling—a claim the IWC rejects—the whalemeat ends up on Japanese tables. Norway also continues to kill perhaps five whales a year, also allegedly for scientific purposes, and then sells the whale meat commercially to Japan.

House Concurrent Resolution 329 simply calls upon the President, in responding to those nations who continue disregard of the ban in whaling, to exercise the options that already exist in law. Specifically, it urges the President to use the Pelly amendment to embargo a significant quantity of fishery products from entering the United States.

Japan's fishing practices—in whaling as well as other matters such as the use of deadly driftnets—has reflected a disregard for international environmental concerns. The object of the House Concurrent Resolution 329 sends a very direct message that such actions have consequences, and that the United States will not sit quietly by while the world's dwindling resouces are plundered.

Mr. Speaker, this Member finally wishes to commend the interest and strong support of the gentlemen from Washington, Mr. CHANDLER and Mr. MILLER, for protecting the whales, and to urge my colleagues to support this resolution.

□ 1350

Mr. YATRON. Mr. Speaker, I yield 1 minute to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I rise in strong support of this concurrent resolution and in order to commend my chairman, the gentleman from Pennsylvania [Mr. YATRON].

Mr. Speaker, there is no chairman of any subcommittee in the House who works harder than GUS YATRON. He has taken the lead in this and in so many other important environmental issues. I genuinely want to commend him for his leadership here.

We have introduced similar legislation which would implement the goals which this resolution sets down as the sense of the Congress' feeling toward marine mammals. We were not able to move that legislation in this Congress. It is my hope that we can move it in the next Congress to its implementation.

It is a weak implementation at best, as we all know, when one deals with the oceans, but it is very important that that which we can do we attempt to do, and I hope we can accomplish that in the next Congress.

I commend the gentleman from Pennsylvania [Mr. YATRON] and all those on the minority side and all those who have brought this concurrent resolution forward.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH], a cosponsor of this legislation.

Mr. SMITH of New Jersey. I thank the gentleman for yielding.

Mr. Speaker, I commend the gentleman from Pennsylvania [Mr. YATRON] and the gentleman from Nebraska [Mr. BEREUTER] for bringing this matter before the House in a timely manner.

I am an original cosponsor of House Concurrent Resolution 329, which calls on the President to apply economic sanctions against countries which violate the International Whaling Commission moratorium on commercial killing of whales. Mr. Speaker, House Concurrent Resolution 329, as a followup to earlier action taken by the House, calls for an extension of the IWC moratorium. This resolution calls for the Secretary of Commerce to identify and to certify those nations which, using the exemption contained in the moratorium, in actual fact conduct commerical whaling under the guise of scientific whaling.

The IWC current moratorium, which took effect in 1986, must be continued and must be strengthened because the whale population continues to decline. Violations of the moratorium are persistently raised at a diplomatic level with the errant countries and yet the guise of scientific whaling is still being used as a cover for commercial fisheries.

This sham, Mr. Speaker, must come to an end, it must cease.

Mr. Speaker, with the resolution before us, the administration is encouraged to invoke what is known as the Pelly amendment and order an embargo on certain fishery products from the countries identified as violators of the moratorium.

Mr. Speaker, with the continued violation of the protections established for the whale population, I believe this is a logical and prudent next step which must be taken.

We must make the protection of the whale meaningful. I support this resolution and the remedy contained in the resolution and ask that all Members support it today when we have a vote on it.

Mr. YATRON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 329, which calls on the President of the United States to invoke the Pelly amendment sanctions.

I might also say that our colleague from Washington, Mr. MILLER, is in the line of succession of that seat, that of Mr. Pelly, from the First District of Washington. He too has been working very hard in this regard to stop the illegal taking of whales.

To me it is absolutely unthinkable that, in spite of the International Whaling Commission moratorium, that Japan last year killed 330 whales and plan to kill several hundred more this year. They do so with the flimsy excuse that this is for research purposes.

Ladies and gentlemen, this is commercial whaling, and that whale ends up on the table of Japanese consumers.

The American people are sick and tired of this kind of behavior by the Japanese. The whaling, the driftnet fishing, the total disregard of the limitation on ocean resources, not to mention being sick and tired of unfair trade practices. Japan righteously condemns Iraqi aggression in the Persian Gulf and yet acts like Saddam Hussein on the high seas.

It it time to invoke the Pelly sanctions. It is time to stop killing whales.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Speaker, I have spoken to the Members of this House many times before on behalf of the great whales, the most magnificant mammals ever to live on this Earth. In spite of the International Whaling Commission's ban on commercial whaling since 1986, their continued existence is in great peril. I rise today in support of House Concurrent Resolution 329 introduced by our colleague, Mr. YATRON, urging sanctions against those nations who continue the commercial slaughter of these greatest of God's creatures under the guise of scientific whaling. Mr. Speaker, the fate of the whales rests in the hearts and minds of the American people, who want to save them. Today, we, in this Congress, have the opportunity to speak out for our citizens, to tell those whose greed is driving the whales into extinction that we want this slaughter eliminated, brought to a final stop.

Mr. LAGOMARSINO. Mr. Speaker, today I am rising in support of House Concurrent Resolution 329, a bill urging sanctions against countries which continue to kill whales under the guise of scientific research.

As my colleagues may be aware, the International Whaling Commission adopted an indefinite moratorium on commercial whaling which went into effect in 1986. This moratorium was a major step in preserving the great whales from extinction as a result of overhunting. However, the International Whaling Commission's moratorium permitted a small number of whales to be killed each year for scientific purposes.

Unfortunately, some nations have used this loophole as a justification for continued large scale whaling operations. Since the International Whaling Commission's moratorium went into effect, Japan has killed over 500 whales. During the current whaling season alone, the Japanese intend to take several hundred more whales.

In response to this threat to the world's dwindling whale populations, I joined several of my colleagues in writing to Prime Minister Toshiki Kaifu of Japan urging his country to end their planned harvest of of minke whales in the waters surrounding Antarctica.

House Concurrent Resolution 329 goes a step further by urging President Bush to impose various sanctions on nations that diminish the effectiveness of the International Whaling Commissions whaling moratorium.

In short, I strongly urge my colleagues to support current international protecting the world's whale populations by voting for passage of House Concurrent Resolution 329.

Mrs. KENNELLY. Mr. Speaker, I rise in strong support for House Concurrent Resolution 329. This resolution is important as it expresses that the President should order an embargo on fishery products entering the United States from nations which conduct unjustified lethal whale research and violate the International Whaling Commission [IWC] moratorium on commercial whaling.

Every year some 300 minke whales are unjustifiably hunted and killed. And an international mechanism exists to stop this: an International Whale Commission Treaty prohibits the hunting of whales, except when used for legitimate scientific research. Yet, the Japanese continue to hunt these whales, claiming they are being used for this purpose, despite the findings of the Scientific Committee of the International Whaling Commission stating that

the minke whale has almost no scientific research value.

The 1990 Meeting of the International Whaling Commission held in Noordwijk, the Netherlands last July represented a historic turning point for the future of all cetaceans. The Commission put it simply, killing whales under the guise of scientific research will not be tolerated.

Once again, I would like to take this opportunity to praise an organization based in my district which participated in the International Whaling Commission Meeting: the Cetacean Society International. Their tireless efforts in raising environmental concerns and educating the public about the importance of maintaining a healthy, bountiful ocean should be commended; it is indeed one of the reasons I stand before you today.

And so, on behalf of the Cetacean Society International, I urge you to join me in support for this resolution. In this world of economic realities, an embargo against fishery products will make a difference. The time is now to stop the senseless purging of these great animals from our international waters—not only by passing resolutions, but by flexing our economic muscles to make our resolutions stick.

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Pennsylvania [Mr. YATRON] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 329.

The question was taken.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ESTABLISHING A PEACE CORPS MEMORIAL

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3954) to authorize the establishment of a memorial on Federal land in the District of Columbia to honor individuals who have served as volunteers in the Peace Corps, as amended.

The Clerk read as follows:

H.R. 3954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—The Peace Corps Volunteers Memorial Commission is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor service in the Peace Corps.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" approved November 14, 1986 (40 U.S.C. 1001, et seq.).

SEC. 2. PEACE CORPS VOLUNTEERS MEMORIAL COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission, to be known as the Peace Corps Volunteers Memorial Commission (hereinafter in this act referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of—

(1) the Director of the Peace Corps, who shall serve ex officio, without the right to vote, and without additional pay, allowances, or benefits for such service; and

(2) a Chairperson (so designated at the time of appointment) and 5 additional members, who shall serve without compensation and shall be appointed by the President, by and with the advice and consent of the Senate, from among representatives of Peace Corps support organizations, former Peace Corps volunteers, and other individuals who are knowledgeable about international volunteerism.

(c) APPOINTMENTS AND TERMS.—The first appointments under subsection (b)(2) shall be made not later than 4 months after the date of the enactment of this Act. Members shall serve for the life of the Commission and any appointment to fill a vacancy shall be made in the same manner as the original appointment.

(d) DUTIES.—In carrying out section 1, the Commission shall—

(1) by contract or otherwise, provide for solicitation and acceptance of private contributions for the memorial and conduct such other activities as may be necessary for the establishment of the memorial; and

(2) maintain appropriate financial and other records, which shall be subject to audit by the Comptroller General.

(e) QUORUM.—Four voting members of the Commission shall constitute a quorum.

(f) SUPPORT SERVICES.—Upon the request of the Commission, the head of any Federal department or agency may, on a reimbursable basis, provide personnel or administrative support services to the Commission.

(g) TERMINATION.—The Commission shall cease to exist 30 days after the completion of the memorial, or 30 days after the date of the expiration of authority for the memorial under section 10(b) of the Act referred to in section 1(b), whichever occurs first.

SEC. 3. PAYMENT OF EXPENSES.

(a) NO FEDERAL PAYMENT.—Except as provided in this section, the United States shall not pay any expense of the establishment of the memorial.

(b) FUND.—There is constituted in the Treasury a fund which, subject to appropriation, shall be available to the Commission for expenses of establishing the memorial. The fund shall consist of—

(1) amounts deposited, and interest and proceeds credited, under subsection (c); and

(2) obligations obtained under subsection (d).

(c) DEPOSITS.—The Chairperson of the Commission shall deposit in the fund such amounts from private contributions as may be accepted under section 2(d). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

(d) INVESTMENTS.—The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairperson of the Commission, is not required to meet current expenses. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairperson, has a maturity suitable for the fund.

(e) DEPOSIT OR REFUND OF FUND BALANCE.—If, upon payment of all expenses of establishment of the memorial, or upon expiration of authority for the memorial under section 10(b) of the Act referred to in section 1(b), there remains a balance in the fund, the Chairperson of the Commission shall, as determined by the Commission, deposit the amount of the balance in the account provided for in section 8(b)(1) of that Act or refund the amount of the balance, pro rata, to the private contributors.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

□ 1400

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3954 authorizes the establishment of a memorial in the District of Columbia to honor service in the Peace Corps. This bill does not authorize any expenditure of funds. It does not place any new burdens on the executive branch. It does propose to honor all those who have served their country as Peace Corps volunteers. I would like to commend Repesentative CONTE, the original sponsor of this proposal, and the nearly 100 cosponsors, for their efforts on this piece of legislation.

The bill before us today is an amendment in the nature of a substitute which was reported in identical form by the Committee on Foreign Affairs and the Committee on House Administration. I would like to thank Representative CLAY, chairman of the Subcommittee on Libraries and Memorials, and Representative ANNUNZIO, chairman of the committee, and the minority members of the Committee on House Administration, for their cooperation and prompt action on this bill.

This legislation, authorizing a commission to begin planning and fund raising for a Peace Corps memorial, is a fitting action at this time. 1991 will mark the 30th anniversary of the Peace Corps. Representative CONTE, Representative BROOMFIELD, and I, and a few others around here, remember the enthusiasm—bipartisan enthusiasm—which greeted the idea of giving

Americans an opportunity to help the people of other countries and to help promote better understanding among people, through service in the Peace Corps.

In these 30 years, approximately 130,000 have served in the Peace Corps, and more than 200 have died while serving as Peace Corps volunteers. They have deserved recognition for their service.

H.R. 3954 does not specify in any way what form a Peace Corps memorial should take. That decision will be the responsibility of the Commission, composed of former Peace Corps volunteers, representatives of Peace Corps support organizations, and other individuals knowledgeable about international voluntarism. Suggestions for a memorial range from a traditional statue, to a living memorial such as a grove of trees, to a plaque in an existing memorial or public building. It will be up to the Commission to determine what the proposed memorial should look like.

I urge all my colleagues to join me in supporting H.R. 3954.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to join my colleagues in support of H.R. 3954, authorizing the establishment of a memorial in the District of Columbia to honor service in the Peace Corps. This bill establishes a commission that will solicit and accept private contributions for the memorial.

Since President John Kennedy announced the creation of the Peace Corps at the University of Michigan in 1961, almost 120,000 individuals have volunteered to serve in the Peace Corps. These men and women have reached out to over 100 countries, providing the skills to help some of the poorest people of the world meet basic living requirements. Today, 6,100 Peace Corps volunteers work in 72 nations on development projects that may well spell survival for the people they work with. They also promote the Peace Corps goals of world peace and friendship between the United States and the countries which host the volunteers.

For 29 years, the volunteers of the Peace Corps have served these goals of world peace and friendship. As the Peace Corps nears its 30th anniversary, I urge my colleagues to support H.R. 3954, a bill that gives service in the Peace Corps the recognition it deserves.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. CONTE], the principal sponsor of this legislation.

Mr. CONTE. Mr. Speaker, 30 years ago, President Kennedy announced his plan to establish the Peace Corps.

I was one of the original sponsors of the bill which authorized its creation, and few efforts have proven so successful.

Today, we are considering an act authorizing a memorial to the Peace Corps here in Washington, DC.

The act specifies that the memorial will come at no cost to the taxpayer. It takes no position on the form of the memorial, leaving that question to be decided by a Commission established by the President.

The Peace Corps is one of our most successful volunteer programs, and one of our most effective foreign policy efforts. The memorial authorized in this bill will be a tribute to the people who made it possible—the volunteers.

Over the past 30 years, they've done wonders for communities all over the world. Their activities range from helping disabled children and organizing Special Olympics competition in Jamaica; to helping plan and dig fish ponds in rural Zaire; to teaching English in Thailand; to building health clinics in Honduras; and now to helping Eastern Europeans with urban planning and small business skills.

There could be no more appropriate time for this bill. The Peace Corps is growing, both in the number of countries it serves and the types of work it does. Volunteers must be more skilled than ever to meet new needs in these countries, and new challenges are appearing in other nations—for example, teaching environmental conservation techniques, in urban health and housing, and in developing small businesses.

Finally, I want to give my sincere thanks to Chairman DANTE FASCELL of the Foreign Affairs Committee and Chairman BILL CLAY of the Subcommittee on Libraries and Memorials, and to ranking members BILL BROOMFIELD and PAUL GILLMOR.

They and their staffs have worked hard to bring this bill to the floor late in the session, and I truly appreciate their generous support and assistance.

I urge my colleagues to join me in supporting this bill.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. CLAY], chairman of the Subcommittee on Libraries and Memorials of the Committee on House Administration.

Mr. CLAY. Mr. Speaker, I thank the gentleman from Florida [Mr. FASCELL] for yielding this time to me.

Mr. Speaker, I want to commend my colleagues, the gentleman from Massachusetts [Mr. CONTE] for introducing this legislation, and the gentleman from Florida [Mr. FASCELL] for bringing this bill to the floor.

Mr. Speaker, the Peace Corps has demonstrated to the rest of the world what is best about our country's values and character. A memorial in honor of those who volunteered and served in the Peace Corps, as provided by this legislation, is both appropriate and well deserved.

I also want to express my appreciation to the Committee on Foreign Affairs and to the author of the legislation, the gentleman from Massachusetts [Mr. CONTE] for their cooperation and willingness to work with the Committee on House Administration in perfecting this legislation.

Mr. Speaker, H.R. 3954 provides that the memorial be built solely with private funds raised for that purpose. No Federal funds will be expended on its construction.

The Congressional Budget Office cost estimate referred to follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 26, 1990.

Hon. FRANK ANNUNZIO,
Chairman Committee on House Administration, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared a cost estimate for H.R. 3954, a bill to authorize the establishment of a memorial on Federal land in the District of Columbia to honor Peace Corps volunteers, as ordered reported by the House Committee on House Administration on September 19, 1990. This bill creates a Peace Corps Volunteers Memorial Commission, to solicit and accept private contributions for the establishment and maintenance of the memorial. Therefore, CBO estimates this bill to be of no cost to federal, state, or local governments.

If you wish further details on this cost analysis, we will be pleased to provide them. The CBO staff contact is Diane Celuch (226-2800).

Sincerely,

ROBERT F. HALE
(For Robert D. Reischauer.)

In addition, Mr. Speaker, this legislation ensures that the memorial will be planned and built in a manner that is consistent with the Commemorative Works Act of 1986.

Again I want to thank the gentleman from Massachusetts [Mr. CONTE] and the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL] and members of the Committee on Foreign Affairs for their willingness to work with the Committee on House Administration to develop a bill that deserves the support of the Members of this body, and I urge the adoption of this resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, I yield back the balance of my time.

The Speaker pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 3954, as amended.

The question was taken.

Mr. CONTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERSONAL EXPLANATION

Mr. HOUGHTON. Mr. Speaker, I missed four votes while attending my mother's 90th birthday celebration. Had I been here I would have voted:

"Yea" on House Joint Resolution 658, "yea" on House Joint Resolution 418, "yea" on House Concurrent Resolution 329, and "yea" on H.R. 3954.

THE 30TH ANNIVERSARY OF THE INDEPENDENCE OF CYPRUS

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 465) congratulating President Vassiliou, the Government, and the people of Cyprus on the 30th anniversary of independence.

The Clerk read as follows:

H. RES. 465

Whereas on October 1, 1990, the Republic of Cyprus will mark the thirtieth anniversary of its independence; and

Whereas the United States strongly supports the resumption of meaningful United Nations-sponsored talks aimed at reaching a just and lasting solution to the Cyprus problem in accordance with relevant United Nations resolutions and decisions: Now, therefore, be it

Resolved, That—

(1) the House of Representatives congratulates President Vassiliou, the government, and the people of Cyprus on the thirtieth anniversary of independence; and

(2) it is the sense of the House of Representatives that the United States should continue its strong support of the United Nations Secretary General in his efforts to resolve the Cyprus problem.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

For what purpose does the gentleman from Indiana [Mr. BURTON] seek recognition?

POINT OF ORDER

Mr. BURTON of Indiana. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. BURTON of Indiana. My point of order Mr. Speaker, is to ask the gentleman from Michigan [Mr. BROOMFIELD] if he is opposed to the bill.

Mr. BROOMFIELD. Mr. Speaker, I do not think that is a point of order.

The SPEAKER pro tempore. Under the rule, the gentleman from Michigan [Mr. BROOMFIELD] is required to answer the gentleman from Indiana [Mr. BURTON] if he is opposed to the bill.

Mr. BROOMFIELD. Mr. Speaker, I am not opposed to the bill.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BROOMFIELD] is not opposed.

Mr. BURTON of Indiana. Mr. Speaker, I am opposed to the bill and would like to have the time.

The SPEAKER pro tempore. Under the rule, the gentleman from Indiana [Mr. BURTON] will be recognized for 20 minutes.

The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. BURTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 465 and urge its adoption. This resolution was introduced by two of the more senior members of the Committee on Foreign Affairs: Mr. YATRON, who diligently serves as chairman of the Subcommittee on Human Rights and International Organizations, and Mr. BROOMFIELD, the distinguished ranking member of the committee. Their determined dedication to seeking a peaceful solution of the conflict on Cyprus is certainly beyond question and, indeed, is to be commended.

Simply stated, House Resolution 465 congratulates President Vassiliou, the Government, and the people of Cyprus on the 30th anniversary of the independence of the Republic of Cyprus. This resolution also stipulates that it remains our sense that the United States should continue its commitment and support for United Nations General Secretary de Cuéllar in his efforts to bring about a just and lasting, as well as peaceful and negotiated end to the tragic division of this island republic.

The resolution reaffirms the longstanding policy of the United States to support a peaceful resolution of the Cyprus conflict that will lead to the reunification of the island under one government. This policy has been forged upon our concern for the people of both Greek and Turkish Cypriot heritage, and because we retain important interests in the eastern Mediterranean, principally among our NATO allies, Greece and Turkey.

In this regard, House Resolution 465 in its elegant simplicity avoids taking part in the dispute that we all know to exist on Cyprus. At the same time, this resolution extends our gracious congratulations to the President, Government, and people of the Republic of Cyprus on the 30th anniversary of their independence, and extends our sincere hopes for the peaceful solution to that dispute. For these reasons, I again urge its immediate adoption.

□ 1410

Mr. Speaker, I yield such time as he may consume to the ranking minority member of the committee, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, I support this resolution congratulating President Vassiliou and the Cypriot people on the 30th anniversary of the independence of the Republic of Cyprus. House Resolution 465 also urges our Government to continue its support of the United Nation's peace efforts on that divided island.

Let me thank Chairman FASCELL and Congresssman HAMILTON for their timely consideration on this initiative. I also appreciate GUS YATRON's strong support of this resolution and salute his leadership for the cause of peace on Cyprus.

While all of us have criticized the United Nations in the past for its shortcomings, I want to highlight the good work of that organization in trying to keep the Cyprus problem on the front burner. U.N. Secretary General Perez de Cuéllar deserves our praise for his personal peace efforts on that divided island. I appreciate the challenges he faces and wish him well in his future negotiating efforts.

Let us hope that next year the Republic of Cyprus will celebrate an equally important event in the history of that island, a fair resolution of the Cyprus dispute.

I urge my colleagues to join me in supporting this resolution.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on the surface, House Resolution 465 appears relatively harmless. After all, what could be wrong with simply congratulating the President, the Government, and the people of Cyprus on their 30th anniversary.

Mr. Speaker, despite what my colleagues may tell you, House Resolution 465 is not harmless. It is a deliberate and calculated slap in the face to both the Turkish Republic of Northern Cyprus and the Republic of Turkey.

Mr. Speaker, for those Members of Congress not familiar with the origin of the Cyprus conflict, I would like to reexamine, for a brief moment, the events which took place on Cyprus from 1960 to 1974. Without a clear understanding of this history, it is impossible to understand the negative ramifications of the resolution.

When Britain relinquished control of Cyprus in 1960, a bicommunal Government, with shared leadership by Turkish Cypriot and Greek Cypriot communities was created by treaty. This compromise recognized the Turkish Cypriot and Greek Cypriot people of the island as political equals, with shared responsibilities and authority.

The Treaty of Guarantee, signed by the Turkish Cypriots, Turkey, Britain, Greece, and the Greek Cypriots, clear-

ly stated that any of its guarantors had the right to intervene should the sovereignty of the island be threatened.

Mr. Speaker, shortly after the Republic of Cyprus was born, its first President, Archibishop Makarios, immediately began to carry out his plan for enosis, which means union with Greece. By 1963, the Greek Cypriots had completely destroyed the bicommunal character of the Republic by ousting, through force, the Turkish Cypriot leaders from their elected positions. They then proceeded to destroy over 100 Turkish villages.

For the next 11 years, Turkish Cypriots suffered great losses, both human and material, in clashes initiated by Greek Cypriots. These clashes were fully supported by the Greek Army. Almost 1 out of every 120 Turkish Cypriots, including women, children, and the elderly, was killed during this period despite the fact that the U.N. peacekeeping troops were present on the island.

Given this tragic repression, Turkey was completely within its rights in 1974 to intervene on Cyprus in order to prevent the annexation of Cyprus to Greece. Turkey was completely within its right to prevent the annihilation of the Turkish Cypriot propulation. In fact, Turkey could have and should have intervened as early as 1963 when the Cypriot Constitution was destroyed by the Greek Cypriots.

I might add, Mr. Speaker, that the Athens Court of Appeals acknowledged the legality of the Turkish peace operation in a decision numbered 2658 on March 21, 1979. It stated this:

> The Turkish military intervention in Cyprus, which was carried out in accordance with the Zurich and London accords, was legal. Turkey, as one of the guarantor powers, had the right to fulfill her obligations. The real culprits * * * are the Greek officers who engineered and staged a coup and prepared the conditions for this intervention.

That was a Greek court that said that, Mr. Speaker.

Resolutions, like House Resolution 465, which ignore the history of the Cyprus issue, resolutions like House Resolution 465, which deliberately fail to recognize the people of the Turkish Republic of Northern Cyprus, and resolutions, like House Resolution 465, which are designed to isolate the people of Northern Cyprus are unworthy of this body. The proponents of this resolution want to deny international recognition to the people of Northern Cyprus. Well I do not, and I will not.

Mr. Speaker, let me add that the resolution we are considering here today is very ill-timed, especially when one looks at what Turkey, one of our most loyal allies, is doing to help us in the gulf crisis.

Of all America's allies, none deserves more credit for their stand against Iraq's invasion of Kuwait than the Republic of Turkey. If the current gulf crisis teaches Members of Congress anything, it should be that the United States needs allies with the inclination, resolution, and wherewithal to share in the responsibilities, and to meet the challenges necessary to promote peace and stability.

Mr. Speaker, I know who America's friends are, and it does not take a genious to know Turkey is one of them. Who was it that denounced Iraq's invasion of Kuwait within hours? It was Turkey. Who immediately endorsed the United States-led initiative in the United Nations Security Council to condemn Iraq's aggression? It was Turkey. Who shut down Iraq's pipelines even though it would cut the country off from its major source of domestic oil, and cost them over $300 million a year? It was Turkey. And now, who is losing over $2 billion a year in trade with Iraq? It is Turkey.

Yet, despite these Turkish economic sacrifices, this body is now considering a resolution which would give President Denktas and the Turkish Cypriots a good kick in the pants, along with their friends in Turkey.

Mr. Speaker, this resolution is unworthy of this body. We can and should be above these political games.

Mr. Speaker, let me sum up my remarks by saying that House Resolution 465 is controversial. It was almost tabled in the Foreign Affairs Committee. We lost by a slim margin of 13 to 9. And it was opposed by a bipartisan group of legislators on the committee.

Mr. Speaker, if this resolution was as noncontroversial as its proponents would have us believe, it would also recognize the President, the Government, and the people of the Turkish Republic of Northern Cyprus. Or better yet—and this was suggested in the committee—it would simply recognize all the people of Cyprus, leaving out all references to Presidents and governments. In that way, there could not have been any controversy like this today.

Mr. Speaker, colleagues, the people of Northern Cyprus are opposed to this resolution. The people of Turkey are opposed to this resolution. And anyone with a modicum of respect for our political and military alliance with Turkey is also opposed to this resolution.

Mr. Speaker, I would like to conclude by saying that if Members know absolutely nothing about the Cyprus issue, I urge them to vote against this resolution here today!

Mr. Speaker, this did not need to happen. We could certainly have passed a resolution that would have been noncontroversial and congratulated all the people on Cyprus instead of singling out only President Vassiliou.

I might add one more thing: That President Vassiliou on January 26, 1989, said this, and I quote:

> Cyprus is a bastion of Greece. The number of islands which are Greek are many, and Cyprus is just one of them.

Mr. Speaker, the people on the Turkish side of Cyprus certainly do not concur with that, and they do not deserve this kind of a kick in the pants.

Mr. FEIGHAN. Mr. Speaker, I yield 3 minutes to the chairman of the Subcommittee on Europe and the Middle East, the gentleman from New York [Mr. GILMAN].

□ 1420

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for House Resolution 465, congratulating President Vassiliou, the Government and the people of Cyprus on the 30th anniversary of that nation's independence.

Frustration continues on the island of Cyprus. Since 1974, Cyprus has been partitioned due to the illegal invasion by Turkish forces of the northern third of that island. Secretary General Péres de Cuéllar has worked tirelessly to bring both sides to the bargaining table. However, the intransigent attitude of Turkish Northern Cypriot Leader Rauf Denktash has made progress virtually impossible.

Our desire is clear. We must do all in our power to bring peace and stability to Cyprus. A permanent peace that will respect the rights of both Greek and Turkish communities on the island.

Mr. Speaker, I would like to commend the distinguished ranking Republican member of the Foreign Affairs Committee, the gentleman from Michigan [Mr. BROOMFIELD], as well as the distinguished chairman of our Subcommittee on Human Rights and International Organizations the gentleman from Pennsylvania [Mr. YATRON], for their outstanding work on this measure.

Accordingly, I urge our colleagues to join in sending this congratulatory message to the people of Cyprus, on their 30th anniversary and in continuing to support the United Nations Secretary General in its valiant efforts to peacefully resolve the Cyprus issue.

Mr. FEIGHAN. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, today is the 30th anniversary of the independence of the Republic of Cyprus. This is an occasion of great celebration in Cyprus, as you might imagine. Veterans' Secretary Ed Derwinski, the official United States representative, is attending festivities in Nicosia, the capital of Cyprus.

But while Secretary Derwinski shares our good wishes with the people of Cyprus and their freely elected President, George Vassiliou, I'm sure that he will also feel the cloud that hangs over the island.

On July 18, 1974, 14 short years after Cyprus gained independence, a Turkish force invaded and occupied the northern 40 percent of the island. Today, 35,000 Turkish soldiers are stationed in the north of Cyprus separating the Greek-Cypriot and Turkish-Cypriot populations.

Secretary Derwinski will undoubtedly see the barbed wire and guard towers that comprise the Green Line, the border that separates Cyprus, that runs through the center of Nicosia and serves as an ugly reminder of the foreign troops on Cypriot soil and the unresolved conflict that has dragged on for 16 years.

The legitimately elected Government of Cyprus has been trying to negotiate a settlement which will reunify this small island-nation of 700,000 people while guaranteeing the rights and safety of both Greek-Cypriots and Turkish-Cypriots. Unfortunately, the intransigence of the leadership of the occupied territory, lead by Rauf Denktash, has repeatedly torpedoed these efforts.

The Foreign Operations Subcommittee is looking at ways to use United States aid more creatively to bring other elements of the Turkish community outside of Denktash's reach into cooperative projects. The House Foreign Operations Subcommittee with the strong support of myself and Mr. MRAZEK, reiterated its commitment to resolving the Cyprus issue by earmarking $15 million in this years' appropriations bill for bicommunal projects between Greek-Cypriots and Turkish-Cypriots.

Since all travel from the south to the north of Cyprus has been banned for 16 years, the exchange of ideas between Greek-Cypriots and Turkish-Cypriots has been suspended. There is a real danger that the two groups, separated for so long, will lose touch with each other and fall prey to irreconcilable mistrust and hatred. If this occurs, the division of Cyprus will become much more difficult, if not impossible, to resolve. Bicommunal projects, which bring Cypriots from both sides of the Green Line together, are one of the few ways Greek and Turkish-Cypriots could maintain a dialog.

This resolution congratulates President Vassiliou and the people of Cyprus on the occasion of their 30th year of independence and asserts that the United States should continue its strong support for the U.N. General Secretary in his efforts to resolve the Cyprus problem.

Mr. Speaker, I commend Mr. BROOMFIELD for his leadership and ongoing efforts in behalf of Cyprus and for sponsoring this important legislation. In addition, I thank the Committee on Foreign Affairs for their timely consideration allowing this resolution to come to the floor on the 30th anniversary of Cyprus' independence.

Mr. Speaker, we commend the people of Cyprus—all of them—and their outstanding President, George Vassiliou, on 30 years of independence and we pray that foreign troops will withdraw and the entire island reunited in full independence soon.

Mr. BURTON of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will not belabor the point. We have very serious matters that we need to discuss today. I would just like to say that I have some information that I would like to submit for the RECORD that gives a point-by-point analysis of the situation and goes into the history of the conflict on Cyprus.

I would like to conclude my remarks by saying that we all hope that the problems on Cyprus are resolved peacefully. We hope that both the Greek Cypriots and the Turkish Cypriots can sit down at the conference table and work out their differences. But that is what must be done. It must be done in a bicommunal way. One side or the other cannot usurp the authority of the other side. If that continues to happen, then I think the conflict will continue on into the future.

Mr. Speaker, I hope and pray today that those on Cyprus who are combatants and are confronting one another would listen to what we are saying and sit down and work this out. Hopefully the next time a resolution like this comes up, there will be no controversy, because there will be one unified government on Cyprus.

Mr. Speaker, I submit a history of the Cyprus issue for the RECORD.

HISTORY OF THE CYPRUS ISSUE

The Creation of Cyprus

Britain relinquished control of Cyprus in 1960. The Zurich-London Accords of 1959, led to the establishment of an independent, bilingual, bicommunal republic with a Greek Cypriot President and a Turkish Cypriot Vice President.

The treaty of guarantee was then signed by Great Britain, Greece and Turkey to "ensure the recognition and maintenance of the independence, territorial integrity, and security of Cyprus by preventing direct or indirect partition or annexation by the guarantor states."

The constitution recognized the Turkish Cypriot and Greek Cypriot peoples of the island as political equals, with shared responsibilities and authority.

The Destruction of Cyprus

Archbishop Makarios was elected the Republic's first President.

Although Makarios was one of the signers of the 1960 constitution, as President of Cyprus he immediately began to carry out his plan for enosis (or union with Greece).

To achieve enosis, Makarios initiated the "Akritas Plan" under this plan, the government adopted unilaterally, a series of amendments to the constitution that deprived the Turkish Cypriot community of their constitutional protections.

One of the amendments deprived the Turkish Cypriots of their right to veto legislation in the House of Representatives.

When the Turkish Cypriots rejected these amendments, Makarios ejected, by force, all Turkish Cypriot Government officials and members of the House of Representatives.

Makarios then launched a series of attacks against the Turkish Cypriots.

In 1964, Makarios imposed an economic boycott of the chief Turkish Cypriot enclaves. Government forces surrounded these enclaves with barbed wire and road blocks.

By the end of 1964, the Greek Cypriots had effectively destroyed the bi-communal character of the republic of Cyprus.

In 1967, George Grivas, a lieutenant-general in the Greek Army who was sent by Greece to coordinate military action against the Turkish Cypriots, launched a series of raids against the Turkish Cypriot enclaves.

During the 1967-74 period tensions steadily escalated as enosists (those who wanted union with Greece) intensified their preparations for a final onslaught against the Turkish Cypriots.

Many diehard enosists believed Makarios was not totally committed to their cause.

In order to oust Makarios, Greece engineered a coup code-named "Operation President" in 1974.

Under the plan, the national guard was assisted by 950 soldiers in the Greek Army, permitted on the island by the treaty of alliance, as well as by officers smuggled into Cyprus just before the coup.

On July 15, 1974, Nikos Sampson was installed as the puppet President on Cyprus. In 1969, Sampson was elected to the House of Representatives in 1969 with the slogan "death to the turks!"

The Prime Minister of Turkey, Bulent Ecevit, appealed to Great Britain, urging them to cooperate with Turkey in enforcing the Treaty of Guarantee. Great Britain failed to respond.

Because the international community failed to respond to the coup, Turkey exercised its right of intervention under the Treaty of Guarantee to protect the Turkish Cypriot population.

Greek-Cypriot atrocities

In December 1963, 25 Turkish patients at the Nicosia Hospital disappeared from their beds. A British investigation revealed that the Greek medical staff had slit the patients throats as they lay in their beds, and that their bodies were loaded onto a truck and driven to a farm north of the city, where they were fed into mechanical choppers and ground into the earth.

In February, 1964 when the U.S. Under-Secretary of State, George Ball, visited Cyprus, he concluded that the Greek Cypriots "just want to be left alone to kill Turkish Cypriots."

In June 1964, Prime Minister George Papandreou of Greece initiated clandestine nightly shipments of arms and troops, who arrived in Cyprus in civilian clothes and then joined terrorist organizations. 20,000 officers and men were shipped to Cyprus.

364 Turkish Cypriots were killed in the massacres of 1963-64. Over 25,000 Turkish Cypriots, including the population of 103 villages were chased from their homes. Hundreds of homes were destroyed.

In two separate attacks carried out on the 14th and 15th of November 1967, more than

30 Turkish Cypriots were killed, including three sons of an elderly couple and an eighty-year-old man who were burned alive by being wrapped in a gasoline-soaked blanket and set on fire.

800 Turkish Cypriots disappeared in 1974.

TREATY OF GUARANTEE

Article IV of the 1960 Treaty of Guarantee, signed by the Turkish Cypriots, Turkey, Britain, Greece and the Greek Cypriots, clearly stated that any of its guarantors had the right to intervene should the sovereignty of the island be threatened.

The Athens court of appeals acknowledged the legality of the Turkish peace operation in a decision (No. 2658/79) on March 21, 1979. It stated:

"The Turkish military intervention in Cyprus, which was carried out in accordance with the Zurich and London Accords, was legal. Turkey, as one of the guarantor powers, had the right to fulfill her obligations. The real culprits * * * are the Greek officers who engineered and staged a coup and prepared the conditions for this intervention."

GREEK CYPRIOT ARMS BUILDUP

The Greek Cypriots are undertaking an extensive arms buildup.

In May, they purchased 800 milion dollars' worth of new arms. This includes 4 Gazelle helicopters equipped with antitank missiles, 36 AMX-30 combat tanks, 1,000 Apilas antitank missiles, 40 surface to air Syrian missiles, armored vehicles with 150 mm-diameter guns, and many more.

The U.S. Arms Control and Disarmament Agency (ACDA) reports that the Greek Cypriots imported 320 million dollars' worth of arms between 1983 and 1987. In the last two years, under Vasilious' leadership, they imported 358 million.

GREEK CYPRIOTS SUPPORT TERRORISTS

In January, two members of the Marxist Kurdish Workers Party (PKK) met with members of the Cypriot House of Representatives.

The PKK is a terrorist organization that has been waging a guerilla war in Turkey that has killed thousands.

Intelligence sources estimate that almost 1,500 Kurdish terrorists are being trained in camps in the Syrian-controlled Bakaa Valley in Lebanon.

STATEMENTS BY YASSILIOUS

On January 26, 1989, the Greek Cypriot leader, George Yassilious, said "Cyprus is a bastion of Greece. The number of islands which are Greek are many and Cyprus is just one of them."

CONCLUSIONS

Linking military aid to Turkey to troop withdrawals from Cyprus will not encourage a resolution of the Cyprus issue.

No Greek political leader will exert himself to be accommodating if he can win Turkish concessions as a result of outside pressure.

If the U.S. were to threaten the Turks with aid cuts to force concessions, we would only exacerbate rather Turkish community fears about Greek intentions.

Turkish troops on Cyprus have only one function and that is to safeguard the lives of Turkish Cypriots. The Turkish presence on Cyprus has provided peace and stability on the island for the last 15 years.

The Turkish Cypriots want them to stay, pending a peace settlement to provide protection against repetition of anti-Turkish programs and any further attempt to unite the island with Greece. They do not wish to be again the victims of attacks and massacres.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FEIGHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the sponsor of the resolution, Mr. BROOMFIELD, for working hard to bring this resolution to the floor in such an expeditious fashion. As you know, today is the anniversary of the independence of the Republic of Cyprus. For 30 years, Cyprus has been a good friend of the United States. Today we celebrate that friendship and congratulate the President, the Government and the people of Cyprus. Our resolution also recognizes that Cyprus remains a divided island and we call for the early resumption of bicommunal talks with a goal of establishing a unified, federal republic that protects the rights of all Cypriots, and does so in accordance with U.N. resolutions. Sadly, those talks have been "dead in the water" since the March 1990 meeting in New York.

Mr. Speaker, I know that Mr. BROOMFIELD and many members of the Foreign Affairs Committee are committed to doing everything we can to see a settlement to the Cyprus issue. It has been a subject of intense interest and debate on our committee and I am afraid that debate is likely to be with us a while longer. The Cyprus issue remains troubling to be because it involves three of our closest allies—Cyprus, Greece, and Turkey. It threatens not only their relations with each other, but also the smooth operation of our military alliance in that part of the world.

I support the language of the resolution. I find it to be straightforward and balanced. I also would point out that in the resolution we renew our support for the U.N. Secretary-General's mission aimed at reaching a just solution to the conflict in accordance with U.N. resolutions. At a time when we are calling for the world to heed the U.N. Security Council resolutions upholding the embargo against Iraq, I hope that we would pay the same amount of attention to U.N. Security Council resolutions that deal with Cyprus.

The resolution is an important statement for the Congress to make. It continues the congressional tradition of keeping the Cyprus issue on the front-burner and I commend the sponsor Mr. BROOMFIELD as well as Mr. YATRON, the distinguished chairman of the Subcommittee on Human Rights, for their continued efforts to promote a responsible, reasonable U.S. policy in the eastern Mediterranean.

Mr. HAMILTON. Mr. Speaker, I rise in support of House Resolution 465, a resolution to commend the Republic of Cyprus on the occasion of 30 years of independence. I want first to commend the gentleman from Michigan [Mr. BROOMFIELD] and the gentleman from Pennsylvania [Mr. YATRON] for their leadership in bringing this resolution before us.

We in the United States, through our own history, understand the difficulties which arise in establishing an independent nation and in unifying a country. We salute today the achievement of the Cypriot peoples and hope that nation has a bright future in peace and unity and with strong ties to Europe.

Cyprus is an important country for the United States and an important friend. Time and again, the Republic of Cyprus has helped the United States. For instance, many times during the civil war in Lebanon, Cyprus became an important line of communications and travel to and from Lebanon. The United States is committed to maintaining good relations with both the Greek and Turkish Cypriot communities despite the divisions which characterize relations between these communities today.

Since the events of 1974, Cyprus has remained divided and its peoples have suffered. Efforts to negotiate a settlement of the dispute in Cyprus has so far proven elusive. A duel track approach is being pursued by both sides: Each continues to reinforce its defenses on the island while at the same time participating in U.N.-sponsored peace talks. Unfortunately, these talks have started and stopped and detoured many times over the years since 1974. Little progress has been made toward a settlement and bicommunal contacts are woefully few and getting fewer.

As we mark Cyprus' 30th anniversary as a nation, I believe we should resolve that efforts to achieve progress toward a settlement be redoubled. The United States should give higher priority to supporting U.N. efforts and to helping the Greek and Turkish Cypriot communities to achieve a negotiated agreement and to live peacefully together in one country. With this goal, I believe that the United States can assist Cyprus in achieving greater peace and prosperity for its peoples during the next 30 years of independence.

Mr. Speaker, I urge my colleagues to support House Resolution 465 and join in saluting Cyprus on this important milestone.

Mr. YATRON. Mr. Speaker, I strongly support House Resolution 465. I want to commend the sponsor of the bill, my good friend, Congressman BROOMFIELD, for all his hard work to promote a settlement to the situation in Cyprus. I also want to acknowledge the outstanding efforts of Chairman FASCELL, and Congressmen HAMILTON, GILMAN, and FEIGHAN on the issue of Cyprus.

Mr. Speaker, today marks the 30th anniversary of the independence of Cyprus. It is most appropriate that we recognize this important occasion because maintaining their independence has not been easy for the Cypriot people. Peace and stability have often been elusive. The people of Cyprus have endured much internal strife and bloodshed as they continue their search for a just and lasting settlement.

Mr. Speaker, House Resolution 465 commends the people of Cyprus on their 30th anniversary, and reaffirms American support for

the U.N. Secretary General in his efforts to resolve the Cyprus problem.

Passage of House Resolution 465 will help ensure that the Congress, the administration, and the United Nations continue to focus attention on the situation in Cyprus. It will send an important signal to the world community as well.

I ask all my colleagues for their support of this timely and meaningful initiative.

Mr. OWENS of Utah. Mr. Speaker, congratulations to President Vassiliou and the people of Cyprus on this 30th anniversary of statehood.

I've had the opportunity to visit Cyrpus twice in the past 2 years and talk with President Vassiliou about the challenges and opportunities for Cyprus in the years ahead.

He is an examplary statesman who has kept the U.N.-sponsored peace process alive despite setback after setback. Furthermore, he's succeeded in putting Cyrpus on track for full membership in the European Economic Community.

Since the Turkish invasion of 1974, Cyprus has made a remarkable economic recovery, resettling thousands of refugees and emerging as a thriving commercial center. Today, Cyrpus is a hub for financial services in the Eastern Mediterranean, and is home to one of the largest commercial shipping fleets in the world.

It is appropriate today, as we also consider a resolution on the current crisis in the Persian Gulf, to reflect on the meaning of international law and American foreign policy. The Turkish invasion and continuing occupation in Cyprus is no less a contravention of law than Iraq's invasion and occupation of Kuwait. If we are to have a principled foreign policy, we should be consistent and unequivocal.

Let us hope that the next 30 years will end the division on Curpus and yield continued economic growth and prosperity.

Mr. BILIRAKIS. Mr. Speaker, today, I rise to pay tribute to the valiant people of the island-nation of Cyprus, on this the 30th anniversary of the independence of that nation.

Yes, I proudly rise to extol the steadfast national spirit of the Cypriot people, a national spirit that sadly has been strained for more than half of those 30 years of independence.

Cypriot resolution is tested daily, Mr. Speaker, by the effects of a long and terrible invasion and occupation. Indeed, this past July 20 marked a much darker occasion—the 16th anniversary of the Turkish invasion of Cyprus, an invasion that has split Cyprus in two from that day to this.

It is grim irony that we observe this fact today, October 1, because on the day after tomorrow, free people the world over will join Germany in a celebration of reunification as East and West Germany once again form a single nation.

Freedom is, indeed, sweeping much of East Europe, yet just to the south, in the Eastern Mediterranean, Cyprus remains a dark and unswept corner.

Turkey continues its illegal occupation of northern Cyprus, continues to station more than 30,000 troops there and continues to maintain some 65,000 settlers there. Frequent incidents and disputes scar the populace.

However, it is important to point out that the Republic of Cyprus is not without friends. In fact, Mr. Speaker, this coming weekend a diligent organization headquartered in my district, the Pancyprian Association of Florida, will hold a fundraising event to benefit the children of Cyprus.

We must all take a lesson from organizations such as this one, conscientiously standing watch over the welfare of Cyprus through this long 16-year darkness. All of us must do our utmost to see an end to the division of Cyprus. Like the Berlin Wall, the Nicosia Wall must fall as well.

We in the Congress have a responsibility to use our influence to see Cyprus made whole again, to rescue the thousands of Greek-Cypriots who have become refugees in the land of their birth. Like those faithful Cypriots in my district and elsewhere, we must do our utmost in this cause.

I strongly urge President Bush to elevate this issue on the Foreign Affairs agenda. The United States must demand that this illegal Turkish occupation end. Don't force us to mark another painful July 20; let us celebrate a new independence day for Cyprus with the joy and fervor that we celebrate today.

Ms. PELOSI. Mr. Speaker, I rise today in support of House Resolution 465, a bill to congratulate Cyprus on the 30th anniversary of its independence.

Our message of congratulations to Cyprus is not as celebratory as it should be. Over 16 years ago, the Turks invaded Cyprus and still, the Turkish troops remain. Cypriot cultural artifacts are systematically destroyed and Turkish intransigence at the bargaining table clouds the outlook for a peaceful, bicommunal resolution of the Cyprus conflict.

The Cypriot children bear scars as a result of the unnatural division of their homeland. They are denied the freedom to see the homes of their parents and are growing up in a climate of uncertainty and fear. For the sake of the children of tragically divided Cyprus, we must do everything in our power to promote a solution for a United Cyprus.

House Resolution 465, before us today, expresses the sense of the House that the United States should continue its strong support of the U.N. Secretary General in his effort to find a solution for a united and peaceful Cyprus. The world's new strategic order provides an opportunity for a reevaluation of the old United States-Turkey relationship. Now the United States should push for an end to the impasse on Cyprus. It is important that this historic opportunity not be missed by an administration preoccupied by its desire to stop Saddam Hussein.

With the passage of House Resolution 465, Congress is sending the message that the United States wants Turkey, and Rauf Denktash, to end the Cyprus stalemate. The children of Cyprus deserve a future full of the promise and freedom that has for so long been denied them—a future in which the green line can become a green light for unrestrained movement, unrestricted settlement, and unleashed optimism.

Hopefully, next year when we congratulate Cyprus on its anniversary, it will be a real celebration of a free and united Cyprus. I urge my colleagues to support this resolution.

Ms. SNOWE. Mr. Speaker, I would like to express my strong support for House resolution, a resolution congratulating the Republic of Cyprus on its 30th anniversary of independence.

In many ways, this is a time for unreserved celebration. Cyprus gained its independence from Britain in 1961 during an era of global decolonization. This was a time of great expectations and hope for newly independent nations throughout the world. During the decades of the 1960's and 1970's, however, hopes and expectations in many emerging countries were dashed on the rocks or failed economic policies and self-destructive ideologies.

During this period, up until the Turkish illegal invasion and occupation of northern Cyprus in 1974, the Republic of Cyprus prospered in a turbulent region. We should celebrate no less, however, the tremendous accomplishments of the Republic of Cyprus since 1974, when the people of Cyprus suddenly found their economic infrastructure destroyed by war and the most productive 40 percent of their territory occupied by a foreign power. Since then, the Cypriot people have rebuilt their nation a second time in the face of almost overwhelming adversity.

I urge my colleagues to take this moment of celebration to reflect and rededicate themselves to breaking the deadlock that for 16 years has made this otherwise happy anniversary a bittersweet occasion. At a time when freedom is sweeping the world, Cyprus should join the ranks of divided nations such as Germany, which in 2 days will emerge whole after years of partial foreign occupation and domination. Despite all of the dramatic events of the past year, Europe will never be truly whole nor fully free until Cyprus once again has regained its full independence and territorial integrity.

Mr. Speaker, I once again congratulate the people of Cyprus on their 30th anniversary of independence, and I urge my colleagues to support House Resolution 465.

Mr. MRAZEK. Mr. Speaker, I rise in strong support of House Resolution 465, commemorating the 30th anniversary of the independence of the Republic of Cyprus. The peoples and Governments of the United States and Cyprus have long enjoyed warm, friendly, cooperative relations and this resolution is a proper recognition of that fact.

Mr. Speaker, as this resolution implicitly indicates, the United States and the international community recognize the Government of the Republic of Cyprus as the only legitimate government of all the Cypriot people. In that respect, I am particularly pleased that the resolution mentions President Vassiliou by name. I have had the honor and pleasure of meeting President Vassiliou, and I believe that he is extremely dedicated to and capable of pursuing and reaching a negotiated solution to the sad and thorny problem of the division of Cyprus, perhaps more so than any of his predecessors.

The resolution correctly states strong United States support for U.N. Secretary General Pérez de Cuéllar's mediation efforts on Cyprus. This is the only path to peace. President Vassiliou has worked closely and in good

faith with the Secretary General. Regrettably, as demonstrated in the U.N.-sponsored talks in New York earlier this year, the same cannot be said of the Turkish-Cypriot leader.

Mr. Speaker, since the subject of the Persian Gulf crisis is so much on our minds, I would like to note that the Government of the Republic of Cyprus strongly supports and is strictly implementing the U.N.-approved economic embargo of Iraq.

I urge my colleagues to support this resolution, and only hope that when it is time to celebrate the next anniversary of independence for Cyprus, that some progress has been made on reuniting the two communities on this troubled island.

Mr. FEIGHAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and agree to the resolution, House Resolution 465.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FEIGHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Resolution 465, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1430

AVIATION SECURITY IMPROVEMENT ACT OF 1990

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5732) to promote and strengthen aviation security, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5732

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Aviation Security Improvement Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
TITLE I—AVIATION SECURITY
Sec. 101. Director of Intelligence and Security.
Sec. 102. Annual aviation security report; budget.
Sec. 103. Assistant Administrator for Civil Aviation Security.
Sec. 104. Federal Security Managers and Foreign Security Liaison Officers.
Sec. 105. Air carrier and airport security personnel.
Sec. 106. Assessment of threats to domestic airport security.
Sec. 107. Research and development.
Sec. 108. Deployment of explosive detection equipment.
Sec. 109. Threats to civil aviation; public notification.
Sec. 110. Airport construction guidelines.
Sec. 111. Intelligence.
Sec. 112. Screening of mail and cargo.
TITLE II—UNITED STATES RESPONSE TO TERRORISM AFFECTING AMERICANS ABROAD
Sec. 201. International negotiations concerning aviation security.
Sec. 202. Coordinator for counterterrorism.
Sec. 203. Passenger manifest.
Sec. 204. Department of State notification of families of victims.
Sec. 205. Designation of State Department family liaison and toll-free family communications system.
Sec. 206. Disaster training for State Department personnel.
Sec. 207. Department of State responsibilities and procedures at international disaster site.
Sec. 208. Recovery and disposition of remains and personal effects.
Sec. 209. Assessment of Lockerbie experience.
Sec. 210. Official Department of State recognition.
Sec. 211. Proposal to increase limit on carrier liability under the Warsaw Convention.
Sec. 212. United States Government compensation for victims of terrorism.
Sec. 213. Overseas security electronic bulletin board.
Sec. 214. Antiterrorism assistance.
Sec. 215. Antiterrorism measures.
Sec. 216. Proposal for consideration by the international civil aviation organization.

SEC. 2. FINDINGS.

Congress finds that—

(1) the safety and security of passengers of United States air carriers against terrorist threats should be given the highest priority by the United States Government;

(2) the report of the President's Commission on Aviation Security and Terrorism, dated May 15, 1990, found that current aviation security systems are inadequate to provide such protection;

(3) the United States Government should immediately take steps to ensure fuller compliance with existing laws and regulations relating to aviation security;

(4) the United States Government should work through the International Civil Aviation Organization and directly with foreign governments to enhance aviation security of foreign carriers and at foreign airports;

(5) the United States Government should ensure that enhanced security measures are fully implemented by both United States and foreign air carriers;

(6) all nations belonging to the Summit Seven should promptly amend the Bonn Declaration to extend sanctions for all terrorist acts, including attacks against airports and air carrier ticket offices;

(7) the United States Government, in bilateral negotiations with foreign governments, should emphasize upgrading international aviation security objectives;

(8) the United States Government should have in place a mechanism by which the Government notifies the public, on a case-by-case basis and through the application of a uniform national standard, of certain credible threats to civil aviation security;

(9) the United States Government has a special obligation to United States victims of acts of terrorism directed against this Nation and should provide prompt assistance to the families of such victims and assure that fair and prompt compensation is provided to such victims and their families; and

(10) the United States must have the national will to take every feasible action to prevent, counter, and respond to terrorist activities.

TITLE I—AVIATION SECURITY

SEC. 101. DIRECTOR OF INTELLIGENCE AND SECURITY.

(a) ESTABLISHMENT OF POSITION.—There is established in the Office of the Secretary of Transportation the position of Director of Intelligence and Security.

(b) POWERS AND DUTIES.—The Director of Intelligence and Security shall report directly to the Secretary of Transportation and shall have the following duties and powers:

(1) Receipt, assessment, and distribution of intelligence information relating to long-term transportation security.

(2) Development of policies, strategies, and plans for dealing with threats to transportation security.

(3) Other planning relating to transportation security, including coordination of countermeasures with appropriate Federal agencies.

(4) Such other duties and powers as the Secretary may prescribe.

(c) CONFORMING AMENDMENT.—Section 106(g)(1) of title 49, United States Code, is amended by inserting after "312-314," the following "315-316 (except for the duties and powers vested in the Director of Intelligence and Security by or under section 101 of the Aviation Security Improvement Act of 1990),".

SEC. 102. ANNUAL AVIATION SECURITY REPORT; BUDGET.

(a) ANNUAL AVIATION SECURITY REPORT.—Section 308 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(f) TRANSPORTATION SECURITY.—

"(1) ANNUAL REPORT.—Not later than December 31 of calendar year 1991 and of each calendar year thereafter, the Secretary shall submit to Congress an annual report concerning transportation security, together with such recommendations as the Secretary considers appropriate. Such report shall not contain information contained in annual reports required by sections 315(a) of the Federal Aviation Act of 1958, including information described in section 1115(a) of such Act. Such annual report may, as necessary, be submitted in 2 parts with 1 part being classified in nature and 1 part being unclassified.

"(2) CONTENTS OF REPORT.—The annual report required by this subsection shall include—

"(A) a summary of the activities of the Director of Intelligence and Security in the 12-month period ending on the date of such report;

"(B) an assessment of trends and developments in terrorist activities, methods, and other threats to transportation;

"(C) recommendations for research, engineering, and development activities relating

to transportation security, except research, engineering, and development activities relating to aviation security to the extent such activities are covered by the research plan required by section 312(d) of the Federal Aviation Act of 1958;

"(D) legislative and regulatory recommendations, if appropriate;

"(E) funding and staffing requirements of the Director of Intelligence and Security;

"(F) an assessment of funding and staffing requirements, and attainment of existing staffing goals, for carrying out security functions of the Federal Aviation Administration;

"(G) identification and evaluation of cooperative efforts with other Federal intelligence agencies;

"(H) an evaluation of cooperation with foreign transportation and intelligence authorities; and

"(I) the status of implementation of the recommendations of the President's Commission of Aviation Security and Terrorism and the 1987 Department of Transportation Safety Review Task Force and the reasons for any delays in implementation of such recommendations.".

(b) PASSENGER SCREENING REPORTS.—Section 315(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356(a)) is amended by striking "semiannual" each place it appears and inserting "annual".

(c) ANNUAL BUDGET SUBMISSION.—The annual budget submission for the Department of Transportation shall include a specific request for the Office of the Director of Intelligence and Security. In determining the budget request for the Director, the Secretary shall take into consideration recommendations contained in the annual report submitted under section 308(f) of title 49, United States Code.

SEC. 103. ASSISTANT ADMINISTRATOR FOR CIVIL AVIATION SECURITY.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is amended by adding at the end the following new section:

"SEC. 318. ASSISTANT ADMINISTRATOR OF CIVIL AVIATION SECURITY.

"(a) ESTABLISHMENT OF POSITION.—There is established the position of Assistant Administrator for Civil Aviation Security.

"(b) AUTHORITY OF ADMINISTRATOR.—The Assistant Administrator shall report directly to the Administrator and shall be subject to the Administrator's direction and authority.

"(c) RESPONSIBILITIES.—The responsibilities of the Assistant Administrator shall include—

"(1) day-to-day management of and operational guidance to field security resources, including Federal Security Managers;

"(2) enforcement of security-related requirements;

"(3) identification of research and development requirements of security-related activities;

"(4) inspections of security systems;

"(5) reporting to the Director of Intelligence and Security such information as may be necessary to permit the Director to fulfill assigned responsibilities; and

"(6) such other functions as the Administrator considers necessary and appropriate.

"(d) MEASURES TO STRENGTHEN AIR TRANSPORTATION SECURITY.—The Assistant Administrator shall review and, as necessary, develop measures to strengthen air transportation security, including—

"(1) measures to strengthen controls over checked baggage in air transportation, such as measures to ensure baggage reconciliation and inspection of items in baggage of passengers which could potentially contain explosive devices;

"(2) measures to strengthen control over individuals with access to aircraft;

"(3) measures to improve testing of security systems;

"(4) measures to ensure the use of best available x-ray equipment for air transportation security purposes; and

"(5) measures to strengthen preflight screening of passengers.".

SEC. 104. FEDERAL SECURITY MANAGERS AND FOREIGN SECURITY LIAISON OFFICERS.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 319. FEDERAL SECURITY MANAGERS AND FOREIGN SECURITY LIAISON OFFICERS.

"(a) FEDERAL SECURITY MANAGERS.—

"(1) ESTABLISHMENT OF POSITION.—Not later than 90 days after the date of the enactment of this section, the Administrator shall establish the position of Federal Security Manager for each airport in the United States at which the Administrator determines that such a Manager is necessary to meet the needs of air transportation security and begin stationing such Managers at such airports.

"(2) 2-YEAR STATIONING REQUIREMENT.—Not later than 2 years after the date of the enactment of this section, the Administrator shall have stationed a Federal Security Manager at each airport in the United States which is designated by the Department of Transportation as a category X airport.

"(3) RESPONSIBILITIES.—The responsibilities of a Federal Security Manager with respect to an airport shall include the following:

"(A) Receipt of intelligence information relating to aviation security.

"(B) Directing the development of a comprehensive security plan for the airport—

"(i) which establishes responsibilities of each such air carrier and the operator with respect to air transportation security at the airport; and

"(ii) which includes measures to be taken during periods of normal airport operations and during periods when there is a need for additional airport security, as determined by the Federal Security Manager.

"(C) Oversight and enforcement of implementation by air carriers and airport operators of Federal security requirements, including the comprehensive plan developed pursuant to subparagraph (B).

"(D) Serving as the on-site coordinator of the response of the Federal Aviation Administration to terrorist incidents and threats at the airport.

"(E) Coordination of day-to-day Federal activities relating to aviation security at the airport.

"(F) Coordination with local law enforcement efforts relating to aviation security.

"(G) Coordination of activities with Federal Security Managers at other airports, as appropriate.

"(4) AUTHORITY OF ASSISTANT ADMINISTRATOR.—A Federal Security Manager shall report directly to the office of the Assistant Administrator for Civil Aviation Security.

"(b) FOREIGN SECURITY LIAISON OFFICERS.—

"(1) ESTABLISHMENT OF POSITION.—Not later than 90 days after the date of the enactment of this section, the Administrator shall establish the position of Foreign Security Liaison Officer for each airport outside the United States at which the Administrator determines that such an Officer is necessary for air transportation security and shall begin assigning such Officers.

"(2) 2-YEAR REQUIREMENT.—Not later than 2 years after the date of the enactment of this section, the Administrator shall assign Foreign Security Liaison Officers for airports outside the United States where extraordinary security measures are in place. The Secretary of State shall give high priority to the stationing of such officers.

"(3) RESPONSIBILITIES.—A Foreign Security Liaison Officer shall be responsible (A) for serving as the liaison of the Assistant Administrator for Civil Aviation Security with foreign security authorities (including foreign governments and airport authorities) with respect to implementation of Federal security requirements at the airport, and (B) to the extent practicable, for performing the responsibilities set forth in subsection (a)(3).

"(4) AUTHORITY OF ASSISTANT ADMINISTRATOR.—A Foreign Security Liaison Officer shall report directly to the office of the Assistant Administrator for Civil Aviation Security.

"(5) COORDINATION WITH CHIEF OF UNITED STATES DIPLOMATIC MISSION.—The activities of a Foreign Security Liaison Officer shall be coordinated with the chief of the United States diplomatic mission to which the officer is assigned. All activities of a Foreign Security Liaison Officer pursuant to this subsection shall be consistent with the authorities of the Secretary of State and the chief of mission to a foreign country under section 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 and section 207 of the Foreign Service Act of 1980.

"(c) LONG-TERM IMPLEMENTATION PLAN.—Not later than 180 days after the date of the enactment of this section, the Administrator shall submit to Congress a plan to fully implement the requirements of this section. Such plan shall include a schedule for implementation and an assessment of personnel and funding needs.".

SEC. 105. AIR CARRIER AND AIRPORT SECURITY PERSONNEL.

(a) IN GENERAL.—Section 316 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1357) is amended by adding at the end the following new subsections:

"(g) AIR CARRIER AND AIRPORT SECURITY PERSONNEL.—

"(1) EMPLOYMENT INVESTIGATIONS.—

"(A) IN GENERAL.—In order to ensure the security of aircraft and their passengers, crew, and cargo, the Administrator shall issue regulations to require individuals employed in, and individuals applying for, positions described in subparagraph (B) to be subjected to such employment investigations, including criminal history record check, as the Administrator determines necessary to ensure air transportation security.

"(B) INDIVIDUALS SUBJECT TO EMPLOYMENT INVESTIGATIONS.—An individual shall be subject to an employment investigation under subparagraph (A) if such individual is employed in, or is applying for, a position in which such individual has unescorted access, or may authorize others to have unescorted access, to air carrier or foreign air carrier aircraft or to secured areas of United States airports serving air carriers or foreign air carriers.

"(C) REQUIREMENTS OF AIR CARRIERS AND AIRPORT OPERATORS.—Any air carrier, foreign

air carrier, or airport operator who employs an individual in a position described in subparagraph (B), or authorizes or contracts for the services of such individual, shall take such actions as may be necessary to ensure that any employment investigation required by the Administrator under subparagraph (A) is performed.

"(2) CRIMINAL HISTORY RECORDS CHECK.—

"(A) IN GENERAL.—If, as part of an employment investigation under paragraph (1)(A), the Administrator requires an identification and criminal history record check of an individual in a position described in paragraph (1)(B) to be conducted by the Attorney General, the Administrator (after consultation with the Attorney General) shall designate persons to obtain and transmit fingerprints to the Attorney General. The costs of any such check shall be paid by the employer of such individual. The Attorney General may for the purposes of this subsection make available the results of any such check to persons designated by the Administrator, after consultation with the Attorney General.

"(B) REGULATIONS.—For purposes of administering this subsection, the Administrator shall prescribe regulations to—

"(i) implement procedures for taking fingerprints; and

"(ii) establish requirements for use of information received from the Attorney General under this subsection in order to limit the dissemination of such information and ensure that such information is used solely for the purposes of this subsection.

"(C) CORRECTION OF CHECK INFORMATION.—An individual who, as part of an employment investigation under paragraph (1)(A), is subject to an identification and criminal history records check shall be provided a copy of any record received from the Attorney General and shall have the right to complete and correct the information contained in such check before any final employment decision is made on account of such check.

"(3) EMPLOYMENT RESTRICTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an air carrier, foreign air carrier, or airport operator shall not employ, or authorize or contract for the services of, any individual in a position described in paragraph (1)(B), if—

"(i) such individual has not been subject to an employment investigation required under paragraph (1)(A); or

"(ii) the results of such investigation establish that such individual in the 10-year period ending on the date of such investigation has been convicted in any jurisdiction of a crime set forth in section 902(b), (c), (h), (i), (j), (k), (l), (m), (n), (q), or (r); a crime set forth in section 32 of title 18, United States Code; murder; assault with intent to murder; espionage; sedition; treason; rape; kidnapping; unlawful possession, sale, distribution, or manufacture of an explosive or weapon; extortion; armed robbery; distribution of, or intent to distribute, a controlled substance; or conspiracy to commit any of the aforementioned criminal acts.

The Administrator may specify other factors which the Administrator determines to be sufficient to make an individual ineligible for employment in a position described in paragraph (1)(B).

"(B) EXCEPTION.—It shall not be a violation of subparagraph (A) for an air carrier, foreign air carrier, or airport operator to employ, or authorize or contract for employment of, an individual in a position described in paragraph (1)(B) who has not been subject to an employment investigation required by paragraph (1)(A), if the employment of such individual is carried out pursuant to a plan approved by the Administrator which provides alternate security arrangements.

"(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as requiring investigations or record checks where such investigations or record checks are prohibited by applicable laws of a foreign government.

"(5) FEES AND CHARGES.—The Administrator and the Attorney General shall establish reasonable fees and charges to cover expenses incurred in carrying out this subsection. The amount of fees collected under this paragraph shall be credited to the accounts in the Treasury from which such expenses were incurred and shall be available to the Administrator and the Attorney General for paying expenses for which such fees are collected.

"(h) EMPLOYMENT STANDARDS.—Not later than 270 days after the date of the enactment of this subsection, the Administrator shall prescribe standards for the hiring, continued employment, and contracting of air carrier and, as appropriate, airport security personnel. Such standards shall include—

"(1) minimum training requirements for new employees;

"(2) retraining requirements;

"(3) minimum staffing levels; and

"(4) minimum language skills.

"(i) HUMAN FACTORS.—The Administrator, in coordination with air carriers, airport operators, and other interested persons shall review issues relating to human performance in the aviation security system with the goal of maximizing such performance. Upon completion of the review, the Administrator shall recommend guidelines and prescribe appropriate changes to existing procedures to improve such performance.

"(j) TRAINING OF AIR CARRIER AND AIRPORT SECURITY PERSONNEL.—Not later than 180 days after the date of the enactment of this subsection, the Administrator shall prescribe standards for the education and training of—

"(1) ground security coordinators;

"(2) security supervisory personnel; and

"(3) airline pilots as in-flight security coordinators.

Such standards shall include initial training, retraining, and continuing education requirements and methods by which the performance of ground security coordinators and security supervisory personnel shall be measured annually.

"(k) FOREIGN AIR CARRIER SECURITY PROGRAMS.—

"(1) CONTINUATION OF EXISTING APPROVAL REQUIREMENT.—The Administrator shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that foreign air carriers must adopt and use a security program approved by the Administrator.

"(2) LEVEL OF PROTECTION.—The Administrator may approve a security program of a foreign air carrier under the requirement referred to in paragraph (1) only if the Administrator finds that the security program provides passengers of the foreign air carrier with the same level of protection as such passengers would receive under the security programs of air carriers serving the same airports.

"(3) REVIEW OF EXISTING PROGRAMS.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall take such action as may be necessary to ensure that a security program of a foreign air carrier approved by the Administrator before such date of enactment meets the requirement of paragraph (2).

"(4) ANNUAL REPORT.—The Administrator shall submit to Congress as part of the annual report required by section 315(a) an assessment of the steps being taken, and the progress being made, in ensuring that foreign air carrier security programs for airports outside the United States—

"(A) at which the Administrator determines that a Foreign Security Liaison Officer is necessary for air transportation security, and

"(B) for which extraordinary security measures are in place,

are in compliance with this subsection.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading is amended by adding at the end thereof the following:

"Sec. 316. Air transportation security."

"(g) Air carrier and airport security personnel.

"(h) Employment standards.

"(i) Human factors.

"(j) Training of air carrier and airport security personnel.

"(k) Foreign air carrier security programs.

"(l) Passenger manifest.".

(c) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue regulations implementing subsection (k)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1357), as inserted by subsection (a) of this section.

SEC. 106. ASSESSMENT OF THREATS TO DOMESTIC AIRPORT SECURITY.

(a) GENERAL ASSESSMENT.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall jointly conduct an assessment of current and potential threats to the domestic air transportation system. Such assessment shall include consideration of the extent to which there are individuals with the capability and intent to carry out terrorist or related unlawful acts against the domestic aviation system and the methods by which such individuals might carry out such acts.

(b) ANALYSIS AND MONITORING.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall jointly determine and implement the most effective method for continually analyzing and monitoring security threats to the domestic air transportation system.

(c) ASSESSMENTS WITH RESPECT TO INDIVIDUAL AIRPORTS.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall jointly conduct periodic threat and vulnerability assessments with respect to the security of individual airports which are part of the domestic air transportation system. Each such assessment shall include consideration of—

(1) the adequacy of security procedures with respect to the handling and transport of checked baggage, cargo, and mail;

(2) space requirements for security personnel and equipment;

(3) separation of screened and unscreened passengers, baggage, cargo, and mail;

(4) separation of the controlled and uncontrolled areas of airport facilities; and

(5) coordination of the activities of security personnel of the United States Customs Service, the Immigration and Naturalization Service, the Federal Aviation Administration, air carriers, and of other law enforcement personnel.

(d) REPORTS TO CONGRESS.—The Administrator of the Federal Aviation Administration shall transmit to Congress an annual report on the progress being made and the problems occurring in implementation of this section, together with recommendations for improving domestic air transportation security.

(e) REMEDYING SECURITY DEFICIENCIES.—The Administrator of the Federal Aviation Administration shall take such actions as may be necessary to improve domestic air transportation security by remedying any deficiencies in such security discovered as a result of the assessments, analyses, and monitoring conducted under this section.

SEC. 107. RESEARCH AND DEVELOPMENT.

Section 316(d) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1351(d)) is amended by adding at the end the following new paragraphs:

"(3) PROGRAM TO ACCELERATE RESEARCH.—

"(A) IN GENERAL.—The Administrator shall establish and carry out a program to accelerate and expand the research, development, and implementation of technologies and procedures to counteract terrorist acts against civil aviation.

"(B) REVIEW OF THREATS.—Not later than 180 days after the date of the enactment of this paragraph, the Administrator shall complete an intensive review of threats to civil aviation, with particular focus on—

"(i) the explosive materials which present the most significant threat to civil aircraft;

"(ii) the minimum amounts, configurations, and types of explosive material which would likely cause catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on such date;

"(iii) the amounts, configurations, and types of explosive material which can reliably be detected by existing, or reasonably anticipated, near-term explosive detection technologies;

"(iv) the feasibility of employing various methods to minimize damage caused by explosive materials which cannot be reliably detected by existing, or reasonably anticipated, near-term explosive detection technologies;

"(v) the ability to screen such different entities as passengers, carry-on baggage, checked baggage, mail, and cargo; and

"(vi) the technologies which might be used in the future to attempt to destroy or otherwise threaten commercial aircraft and the methods by which such technologies can be effectively countered.

"(C) USE OF RESULTS.—The results of such review shall be used by the Administrator in developing the focus and priorities of the program established under this paragraph.

"(D) DESIGN AND IMPLEMENTATION.—In designing and implementing the program established under this paragraph, the Administrator shall—

"(i) consult and coordinate with other Federal agencies conducting similar research;

"(ii) identify Federal agencies which would benefit from such research; and

"(iii) seek cost-sharing agreements with such Federal agencies.

"(4) PURPOSE.—It shall be the purpose of the program established under paragraph (3) to develop and have in place not later than 36 months after the date of the enactment of this paragraph such new equipment and procedures as are needed to meet the technological challenges presented by terrorism.

"(5) HUMAN FACTORS.—The program established under paragraph (3) shall include research and development of both technological improvements and ways to enhance human performance.

"(6) GRANTS AND COOPERATIVE AGREEMENTS.—Amounts appropriated for each fiscal year under paragraph (9) shall be made available by the Administrator, by way of grants, to colleges, universities, and other appropriate research institutions and facilities with demonstrated ability to conduct research described in paragraph (3). Such grants shall be in such amounts, and subject to such terms and conditions, as the Administrator may prescribe. The Administrator may also enter into such cooperative agreements with such governmental entities as the Administrator considers appropriate.

"(7) REVIEW.—In administration of the program established under paragraph (3), the Administrator shall review and consider the annual reports of the Secretary of Transportation submitted to Congress on transportation security and intelligence.

"(8) SCIENTIFIC ADVISORY PANEL.—The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering and Development Advisory Committee, for the purpose of reviewing, commenting on, and advising the Administrator on the progress of, and any necessary modifications to, the programs established under paragraph (3), including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft by the next generation of terrorist weapons. The panel shall consist of individuals with scientific and technical expertise in—

"(A) the development and testing of effective explosive-detection systems;

"(B) aircraft structure and experimentation to determine the type and minimum weights of explosives which an effective technology must be capable of detecting;

"(C) technologies involved in the minimization of airframe damage to aircraft from explosives; and

"(D) such other scientific and technical areas as are considered appropriate by the Administrator.

"(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Airport and Airway Trust Fund, after completion of the review required by paragraph (3)(B), such sums as may be necessary for the purpose of carrying out the grant program established by paragraph (6).".

SEC. 108. DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 320. DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT.

"No deployment or purchase of any explosive detection equipment pursuant to section 108.7(b)(8) and 108.20 of title 14, Code of Federal Regulations, or any similar rule, shall be required after the date of the enactment of this section, unless the Administrator determines that an emergency situation requires such deployment or purchase or certifies that, based on the results of tests conducted pursuant to protocols developed in consultation with expert scientists from outside the Federal Aviation Administration, such equipment alone or as part of an integrated system can detect the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to commercial aircraft with 60 or more passenger seats.".

SEC. 109. THREATS TO CIVIL AVIATION; PUBLIC NOTIFICATION.

(a) IN GENERAL.—Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 321. REPORTING OF THREATS TO CIVIL AVIATION.

"(a) IN GENERAL.—Any air carrier, airport operator, travel agent, or individual employed by such an entity, receiving information, other than through a communication directed by the Federal Government, of a threat to civil aviation, shall immediately provide such information to—

"(1) an official of the Federal Aviation Administration;

"(2) the Director of Intelligence and Security; or

"(3) other appropriate officials, as specified by the Administrator.

"(b) FLIGHT CANCELLATIONS.—In the event that a determination is made that a particular threat to civil aviation cannot be addressed in a manner adequate to ensure, to the extent feasible, the safety of the passengers and crew of a particular flight or series of flights, the Administrator shall order the cancellation of such flight or series of flights.

"(c) NOTIFICATION GUIDELINES.—

"(1) PUBLIC NOTIFICATION GUIDELINES.—Not later than 180 days after the date of the enactment of this section, the Administrator, in coordination with the Secretary of State and the Attorney General, shall develop guidelines for ensuring notification to the public of threats to civil aviation in appropriate cases.

"(2) FLIGHT AND CABIN CREW NOTIFICATION GUIDELINES.—Not later than 180 days after the date of the enactment of this section, the Administrator shall develop guidelines for ensuring notification of the flight and cabin crews of an air carrier flight of threats to the security of such flight in appropriate cases.

"(d) RESPONSIBILITIES.—The guidelines developed under subsection (c)(1) shall identify officials responsible for—

"(1) determining, on a case-by-case basis, if public notification of a threat is in the best interest of the United States and the traveling public;

"(2) ensuring that public notification, when considered appropriate, is made in a timely and effective manner, including the use of a toll-free telephone number; and

"(3) canceling the departure of a flight or series of flights under subsection (b).

"(e) CRITERIA.—The guidelines developed pursuant to subsection (c)(1) shall provide for the consideration of—

"(1) the specificity of the threat;

"(2) the severity of the threat;

"(3) the credibility of intelligence information related to the threat;

"(4) the ability to effectively counter the threat;

"(5) the protection of intelligence information sources and methods;

"(6) cancellation, by an air carrier or the Administrator, of a flight or series of flights instead of public notification;

"(7) the ability of passengers and crew to take steps to reduce the risk to their safety as a result of any notification; and

"(8) such other factors as the Administrator considers appropriate.

"(f) SELECTIVE NOTIFICATION PROHIBITED.—In no event shall there be notification of a threat to civil aviation to only selective potential travelers unless such threat applies only to them.

"(g) DISTRIBUTION.—The guidelines developed pursuant to subsection (c) shall be distributed for use by appropriate officials of the Department of Transportation, the Department of State, the Department of Justice, and air carriers.

"(h) ACCESS TO INFORMATION.—The Administrator, in cooperation with the Secretary of State, the Attorney General, intelligence agencies, law enforcement officials, and others involved in the collection and analysis of intelligence information relating to aviation security, shall develop procedures to minimize the number of individuals having access to threat information. Any restrictions adopted pursuant to this subsection shall not diminish the ability of the Federal Government to effectively discharge its responsibilities relating to aviation security, including notification of the public and flight and cabin crews under subsection (c).".

(b) CONFORMING AMENDMENTS TO TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 relating to title III of such Act is amended by inserting after the item relating to section 317 the following new items:

"Sec. 318. Assistant Administrator of Civil Aviation Security.
"(a) Establishment of position.
"(b) Authority of Administrator.
"(c) Responsibilities.
"(d) Measures to strengthen air transportation security.
"Sec. 319. Federal Security Managers and Foreign Security Liaison Officers.
"(a) Federal Security Managers.
"(b) Foreign Security Liaison Officers.
"(c) Long-term implementation plan.
"Sec. 320. Deployment of explosive detection equipment.
"Sec. 321. Reporting of threats to civil aviation.
"(a) In general.
"(b) Flight cancellations.
"(c) Notification guidelines.
"(d) Responsibilities.
"(e) Criteria.
"(f) Selective notification prohibited.
"(g) Distribution.
"(h) Access to information.".

SEC. 110. AIRPORT CONSTRUCTION GUIDELINES.

(a) IN GENERAL.—Section 612 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1432) is amended by adding at the end the following new subsection:

"(d) AIRPORT CONSTRUCTION GUIDELINES.—The Administrator, in consultation with airport authorities, air carriers, and such others as the Administrator considers appropriate, shall develop guidelines for airport design and construction to allow for maximum security enhancement.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 612. Airport operating certificates."

is amended by adding at the end thereof the following:

"(d) Airport construction guidelines.".

SEC. 111. INTELLIGENCE.

(a) INTERNATIONAL TERRORISM REPORTING.—Not later than 180 days after the date of the enactment of this Act, the heads of the agencies of the intelligence community shall promulgate policies and procedures to ensure that intelligence reports concerning international terrorism are made available, as appropriate, to other members of the intelligence community, the Department of Transportation, and the Federal Aviation Administration.

(b) STRATEGIC PLANNING.—The intelligence community shall consider placing greater emphasis on strategic intelligence efforts through the establishment of a unit for strategic planning concerning terrorism.

(c) CENTRAL INTELLIGENCE AGENCY LIAISON.—Not later than 90 days after the date of the enactment of this Act, the Director of Central Intelligence, in consultation with the Secretary of Transportation, shall designate not less than one intelligence officer of the Central Intelligence Agency to serve in a senior staff position in the Office of the Secretary of the Department of Transportation.

(d) REVIEW OF MEMORANDUMS OF UNDERSTANDING.—Not later than 180 days after the date of the enactment of this Act, the intelligence community, the Department of Transportation, and the Federal Aviation Administration shall conduct a review of and, as appropriate, revise all memorandums of understanding and other written working agreements between the intelligence community and the Federal Aviation Administration.

(e) INTELLIGENCE COMMUNITY.—For purposes of this section, the term "intelligence community" means the intelligence and intelligence-related activities of the following agencies of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

SEC. 112. SCREENING OF MAIL AND CARGO.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to determine whether additional requirements should be imposed to enhance the security requirements for the transportation of mail and cargo by passenger aircraft.

(b) FACTORS.—In conducting the study under this section, the Administrator shall consider, among other things—

(1) the extent to which it is practicable to require for mail and cargo the same screening procedures as are required for checked baggage;

(2) constitutional limitations on the authority of the United States Government to screen mail;

(3) existing and reasonably anticipated explosive detection technologies capable of screening mail and cargo;

(4) the variation in threat presented by mail and cargo from various locations;

(5) the use of inspection procedures specific to mail and cargo;

(6) the protection, to the extent possible, of the privacy of the senders and recipients of mail;

(7) precise detection of explosive materials which can cause catastrophic damage to commercial aircraft; and

(8) the desirability of not unduly delaying the delivery of mail and cargo.

(c) CONSULTATION REQUIREMENT.—In conducting the study under this section, the Administrator shall consult with the Postmaster General, the Secretary of Defense, and other interested persons.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under this section, together with such legislative and administrative recommendations as the Administrator considers appropriate.

TITLE II—UNITED STATES RESPONSE TO TERRORISM AFFECTING AMERICANS ABROAD

SEC. 201. INTERNATIONAL NEGOTIATIONS CONCERNING AVIATION SECURITY.

(a) UNITED STATES POLICY.—It is the policy of the United States—

(1) to seek bilateral agreements to achieve United States aviation security objectives with foreign governments;

(2) to continue to press vigorously for security improvements through the Foreign Airport Security Act and the foreign airport assessment program; and

(3) to continue to work through the International Civil Aviation Organization to improve aviation security internationally.

(b) NEGOTIATIONS FOR AVIATION SECURITY.—(1) The Department of State, in consultation with the Department of Transportation, shall be responsible for negotiating requisite aviation security agreements with foreign governments concerning the implementation of United States rules and regulations which affect the foreign operations of United States air carriers, foreign air carriers, and foreign international airports. The Secretary of State is directed to enter, expeditiously, into negotiations for bilateral and multilateral agreements—

(A) for enhanced aviation security objectives;

(B) to implement the Foreign Airport Security Act and the foreign airport assessment program to the fullest extent practicable; and

(C) to achieve improved availability of passenger manifest information.

(2) A principal objective of bilateral and multilateral negotiations with foreign governments and the International Civil Aviation Organization shall be improved availability of passenger manifest information.

SEC. 202. COORDINATOR FOR COUNTERTERRORISM.

The Coordinator for Counterterrorism shall be responsible for the coordination of international aviation security for the Department of State.

SEC. 203. PASSENGER MANIFEST.

(a) MANDATORY AVAILABILITY OF PASSENGER MANIFEST.—Section 316 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1357) is further amended by adding at the end the following new subsection:

"(l) PASSENGER MANIFEST.—

"(1) Not later than 60 days after the date of the enactment of this subsection, the Administrator shall require all United States air carriers to provide a passenger manifest for any flight to appropriate representatives of the United States Department of State not later than 3 hours after any such carrier is notified of an aviation disaster outside the United States which involves such flight.

"(2) For purposes of this subsection, a passenger manifest should include the following information:

"(A) the full name of each passenger;

"(B) the passport number of each passenger, if required for travel; and

"(C) the name and telephone number of a contact for each passenger.".

(b) IMPLEMENTATION.—In implementing the requirement pursuant to the amendment made by subsection (a) of this section, the Administrator shall consider the necessity and feasibility of requiring United States carriers to collect passenger manifest information as a condition for passenger boarding of any flight subject to such requirement.

(c) FOREIGN AIR CARRIERS.—The Administrator shall consider a requirement for foreign air carriers comparable to that imposed pursuant to subsection (a).

(d) INFORMATION FROM UNITED STATES PASSPORTS.—Notwithstanding any other provision of law, to the extent provided in appropriation acts, for each fiscal year not more than $5,000,000 in passport fees collected by the Department of State may be credited to a Department of State account. Amounts credited to such account shall be available only for the costs associated with the acquisition and production of machine-readable United States passports and visas and compatible reading equipment. Amounts credited to such account are authorized to remain available until expended.

SEC. 204. DEPARTMENT OF STATE NOTIFICATION OF FAMILIES OF VICTIMS.

(a) DEPARTMENT OF STATE POLICY.—It is the policy of the Department of State pursuant to section 43 of the State Department Basic Authorities Act to directly and promptly notify the families of victims of aviation disasters abroad concerning citizens of the United States directly affected by such a disaster, including timely written notice. The Secretary of State shall ensure that such notification by the Department of State is carried out notwithstanding notification by any other person.

(b) DEPARTMENT OF STATE GUIDELINES.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such regulations, guidelines, and circulars as are necessary to ensure that the policy under subsection (a) is fully implemented.

SEC. 205. DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON AND TOLL-FREE FAMILY COMMUNICATIONS SYSTEM.

(a) DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an aviation disaster directly involving United States citizens abroad, if possible, the Department of State will assign a specific individual, and an alternate, as the Department of State liaison for the family of each such citizen.

(b) TOLL-FREE COMMUNICATIONS SYSTEM.—In the establishment of the Department of State toll-free communications system to facilitate inquiries concerning the affect of any disaster abroad on United States citizens residing or traveling abroad, the Secretary of State shall ensure that a toll-free telephone number is reserved for the exclusive use of the families of citizens who have been determined to be directly involved in any such disaster.

SEC. 206. DISASTER TRAINING FOR STATE DEPARTMENT PERSONNEL.

(a) ADDITIONAL TRAINING.—The Secretary of State shall institute a supplemental program of training in disaster management for all consular officers.

(b) TRAINING IMPROVEMENTS.—

(1) In expanding the training program under subsection (a), the Secretary of State shall consult with death and bereavement counselors concerning the particular demands posed by aviation tragedies and terrorist activities.

(2) In providing such additional training under subsection (a) the Secretary of State shall consider supplementing the current training program through—

(A) providing specialized training to create a team of "disaster specialists" to deploy immediately in a crisis; or

(B) securing outside experts to be brought in during the initial phases to assist consular personnel.

SEC. 207. DEPARTMENT OF STATE RESPONSIBILITIES AND PROCEDURES AT INTERNATIONAL DISASTER SITE.

(a) DISPATCH OF SENIOR STATE DEPARTMENT OFFICIAL TO SITE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international disaster, particularly an aviation tragedy, directly involving significant numbers of United States citizens abroad not less than one senior officer from the Bureau of Consular Affairs of the Department of State shall be dispatched to the site of such disaster.

(b) CRITERIA FOR DEPARTMENT OF STATE STAFFING AT DISASTER SITE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate criteria for Department of State staffing of disaster sites abroad. Such criteria shall define responsibility for staffing decisions and shall consider the deployment of crisis teams under subsection (d). The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement criteria developed pursuant to this subsection.

(c) STATE DEPARTMENT OMBUDSMAN.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international aviation disaster involving significant numbers of United States citizens abroad not less than one officer or employee of the Department of State shall be dispatched to the disaster site to provide on-site assistance to families who may visit the site and to act as an ombudsman in matters involving the foreign local government authorities and social service agencies.

(d) CRISIS TEAMS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate procedures for the deployment of a "crisis team", which may include public affairs, forensic, and bereavement experts, to the site of any international disaster involving United States citizens abroad to augment in-country Embassy and consulate staff. The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement procedures developed pursuant to this subsection.

SEC. 208. RECOVERY AND DISPOSITION OF REMAINS AND PERSONAL EFFECTS.

It is the policy of the Department of State (pursuant to section 43 of the State Department Basic Authorities Act) to provide liaison with foreign governments and persons and with United States air carriers concerning arrangements for the preparation and transport to the United States of the remains of citizens who die abroad, as well as the disposition of personal effects. The Secretary of State shall ensure that regulations and guidelines of the Department of State reflect such policy and that such assistance is rendered to the families of United States citizens who are killed in terrorist incidents and disasters abroad.

SEC. 209. ASSESSMENT OF LOCKERBIE EXPERIENCE.

The Secretary of State shall compile an assessment of the Department of State response to the Pan American Airways Flight 103 aviation disaster over Lockerbie, Scotland, on December 21, 1988, together with guidelines for future Department of State responses to comparable disasters, for general distribution to all United States diplomatic and consular posts abroad.

SEC. 210. OFFICIAL DEPARTMENT OF STATE RECOGNITION.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate guidelines for appropriate ceremonies or other official expressions of respect and support for the families of United States citizens who are killed through acts of terrorism abroad.

SEC. 211. PROPOSAL TO INCREASE LIMIT ON CARRIER LIABILITY UNDER THE WARSAW CONVENTION.

It is the sense of the Congress that the United States should take all appropriate action to increase limits on carrier liability established by the Convention for the Unification of Certain Rules Relating to International Transportation by Air (concluded at Warsaw, Poland, October 12, 1929), commonly known as the Warsaw Convention.

SEC. 212. UNITED STATES GOVERNMENT COMPENSATION FOR VICTIMS OF TERRORISM.

(a) COMPENSATION.—The President shall submit to the Congress, not later than one year after the date of the enactment of this Act, recommendations on whether or not legislation should be enacted to authorize the United States to provide monetary and tax relief as compensation to United States citizens who are victims of terrorism.

(b) BOARD.—The President may establish a board to develop criteria for compensation and to recommend changes to existing laws to establish a single comprehensive approach to victim compensation for terrorist acts.

(c) INCOME TAX BENEFIT FOR VICTIMS OF LOCKERBIE TERRORISM.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of any individual whose death was a direct result of the Pan American Airways Flight 103 terrorist disaster over Lockerbie, Scotland, on December 21, 1988, any tax imposed by subtitle A of the Internal Revenue Code of 1986 shall not apply—

(A) with respect to the taxable year which includes December 21, 1988, and

(B) with respect to the prior taxable year.

(2) LIMITATION.—In no case may the tax benefit pursuant to paragraph (1) for any taxable year, for any individual, exceed an amount equal to 28 percent of the annual rate of basic pay at Level V of the Executive Schedule of the United States as of December 21, 1988.

SEC. 213. OVERSEAS SECURITY ELECTRONIC BULLETIN BOARD.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and regulations as may be necessary to establish, under the Bureau of Consular Affairs, an electronic bulletin board accessible to the general public. Such bulletin board shall contain all information, updated daily, which is available on the Overseas Security Electronic Bulletin Board of the Bureau of Diplomatic Security.

SEC. 214. ANTITERRORISM ASSISTANCE.

(a) AVIATION SECURITY.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $7,000,000 for fiscal year 1991 for aviation security assistance under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.), relating to antiterrorism assistance.

(b) TRAINING SERVICES.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa2) is amended in subsection (d) by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following new paragraphs:

"(1) Training services (including short term refresher training) provided pursuant to this chapter may be conducted outside the United States only if—

"(A) the training to be conducted outside the United States will be provided during a period of not more than 30 days;

"(B) such training relates to—

"(i) aviation security;

"(ii) crisis management;

"(iii) document screening techniques;

"(iv) facility security;

"(v) maritime security;

"(vi) VIP protection; or

"(vii) the handling of detector dogs, except that only short term refresher training may be provided under this clause; and

"(C) at least 15 days before such training is to begin, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in accordance with the procedures applicable to reprogramming notifications.

"(2) Personnel of the United States Government authorized to advise eligible foreign countries on antiterrorism matters shall carry out their responsibilities, to the maximum extent possible, within the United States. Such personnel may provide advice outside the United States on antiterrorism matters to eligible foreign countries for periods not to exceed 30 consecutive calendar days.

"(3)(A) Except as provided in subparagraph (B), employees of the Department of State shall not engage in the training of law enforcement personnel or the provision of services under this chapter.

"(B) Subparagraph (A) does not apply to training (including short term refresher training) or services provided to law enforcement personnel by employees of the Bureau of Diplomatic Security with regard to crisis management, facility security, or VIP protection.".

SEC. 215. ANTITERRORISM MEASURES.

(a) GUIDELINES FOR INTERNATIONAL AVIATION TRAVELERS.—For the purpose of notifying the public, the Secretary of State, in consultation with the Secretary of Transportation, shall develop and publish guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities. Notices concerning such guidelines shall be posted and prominently displayed domestically and abroad in international airports.

(b) DEVELOPMENT OF INTERNATIONAL STANDARDS.—The Secretary of State and the Secretary of Transportation in all appropriate fora, particularly talks and meetings related to international civil aviation, shall enter into negotiations with other nations for the establishment of international standards regarding guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities.

(c) PUBLICATION OF REWARDS FOR TERRORISM-RELATED INFORMATION.—For the purpose of notifying the public, the Secretary of State shall publish the availability of United States Government rewards for information on international terrorist-related activities, including rewards available under section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) and chapter 204 of title 18, United States Code. To the extent appropriate and feasible, notices making such publication shall be posted and prominently displayed domestically and abroad in international airports.

(d) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Transportation should take appropriate measures to utilize and train properly the officers and employees of other United States Government agencies who have functions at international airports in the United States and abroad in the detection of explosives and firearms which could be a threat to international civil aviation.

SEC. 216. PROPOSAL FOR CONSIDERATION BY THE INTERNATIONAL CIVIL AVIATION ORGANIZATION.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Transportation, shall propose to the International Civil Aviation Organization the establishment of a comprehensive aviation security program which shall include (1) training for airport security personnel, (2) grants for security equipment acquisition for certain nations, and (3) expansion of the appropriate utilization of canine teams in the detection of explosive devices in all airport areas, including use in passenger screening areas and nonpublic baggage assembly and processing areas.[H01OC0-T1]{H8475}areas.

The SPEAKER pro tempore (Mr. STUDDS). Is a second demanded?

Mr. GILMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. GILMAN. Mr. Speaker, it is our intention to divide our time for purposes of control with the gentleman from Pennsylvania [Mr. CLINGER] representing the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Without objection, so ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes, the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 10 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield 10 minutes to the gentleman from Florida [Mr. FASCELL], the distinguished chairman of the Committee on Foreign Affairs, and I ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5732 is a response to the tragic events of December 21, 1988, when a terrorist bomb destroyed Pan American World Airways Flight 103 over Lockerbie, Scotland, killing 259 passengers and crew and 11 residents of the town.

The bill now before us will substantially improve aviation security and could prevent a repetition of the tragedy of Lockerbie. Prompt enactment of this bill is essential to the safety of our citizens traveling by air. Recent events in the Middle East have raised the potential of terrorist attacks on the airlines of the United States and the countries which support us.

The bill incorporates the recommendations of the President's Commission on Aviation Security and Terrorism, created at the behest of the families of the victims of Pan Am 103. The Commission was expert and bipartisan. It was chaired by Ann McLaughlin, former Secretary of Labor in the Reagan administration, and its members included Edward Hidalgo, a former Secretary of the Navy, Gen. Thomas Richards, former Deputy Commander-in-chief of the U.S. European Command, our colleagues JIM OBERSTAR and JOHN PAUL HAMMERSCHMIDT, two of the most knowledgeable Members of the House on aviation, and Senators LAUTENBERG and D'AMATO, who have a long-term interest and expertise in aviation.

H.R. 5732 implements many of the Commission's recommendations. Of particular note is the establishment of a new Director of Intelligence and Security in the Department of Transportation, a new Associate Administrator of the Federal Aviation Administration for Security, and the creation of new positions of Federal security managers and liaison officers to coordinate security at high risk airports. These new positions will enhance the attention aviation security receives from the Secretary and the Administrator. Creation of these positions will go a long way toward ensuring that we are taking all possible measures to protect airline passengers.

The bill also establishes new standards for background investigations and training of security personnel, an expedited program of research and development for explosive detection equipment, a joint FAA-FBI assessment of security at domestic airports, and requirements that foreign air carriers offer passengers on flight to the United States the same level of security as we require of U.S. carriers.

Mr. Speaker, the bill now before us is strongly supported by the group representing the families and friends of most of the victims of Pan Am 103. The bill was reported by voice vote in the two committees which considered it. Amendments have been added to meet concerns raised by the administration

Mr. Speaker, this legislation can make a real difference in aviation security. The legislation will be a lasting legacy to those who died in Pan Am 103 and to the tireless work of their families and friends.

I urge my colleagues to join me in passing this important legislation and helping prevent another Lockerbie tragedy.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise to express my strong support for H.R. 5200, a bill to improve our foreign airport security, and I would like to commend the distinguished chairman of our House Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL], as well as our distinguished ranking Republican member of the committee, the gentleman from Michigan [Mr. BROOMFIELD], for their tireless efforts on behalf of the families of the Pan Am 103 victims, to improve the safety and increase the security standards of our Nation's airlines. I also commend the Public Works and Transportation Committee for their diligent work on this legislation.

Mr. Speaker, four of the victims of the Pan Am 103 debacle were my constituents: Theodora Cohen, Mark Zwynenburg, Kenneth Bisset, and Pamela Posen—four innocent victims of one of the most egregious and despicable terrorist incidents in history.

I am, however, pleased to note that we in the Congress are not alone in this fight. Administration officials have done an outstanding job in pursuit of our mutual concerns. In addition, the report of the McLaughlin Commission's was thorough, unbiased, and characteristic of the outstanding work of our former Labor Secretary, the Honorable Ann McLaughlin.

It is my understanding that the administration has already implemented some 70 percent of the McLaughlin Commission's recommendations. This is heartening because after our airport security hearing last July, it is obvious that an overhaul of our current standards and operating procedures is absolutely necessary.

Mr. Speaker, this legislation is not perfect. But I believe it is a good beginning. Let me commend Members and staff on both sides for trying to work out a compromise that is acceptable to most parties.

I wholeheartedly support the call for a U.S. Government airport security manager. Making someone responsible, on-site at our major international airports is absolutely essential in view of the current activities of several notorious international terrorist organizations. I believe the additional oversight required by this measure will significantly enhance our ability to prevent a Pan Am 103 debacle from ever happening again.

One clause in this bill which I particularly support is the requirement for the President to submit to the Congress recommendations for providing monetary and tax relief compensation to U.S. citizens who are victims of terrorism, and gives limited exemption to victims of Pan Am 103 from income tax payments for tax years 1987 and 1988.

I would also like to commend Ambassador Morris Busbee for the outstanding work he has done during his brief tenure as Ambassador-at-Large for Counterterrorism. If I may I would like to say that his Bureau, State Department's counterterrorism office, which is the agency of primary responsibility for formulating our Nation's international counterterrorism policy, should be the recipient of more funding for research and development.

Mr. Speaker, once again I commend the Members and staff who worked so hard on this bill, and I implore all of our colleagues to unanimously support it.

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support for H.R. 5732, the Aviation Security Improvement Act of 1990, which was jointly referred to the Committee on Foreign Affairs and the Committee on Public Works and Transportation. Both committees unanimously reported H.R. 5732 last week.

I would like to first express my deep appreciation to our colleagues on the Public Works Committee, in particular, JIM OBERSTAR, the chairman of the Aviation Subcommittee and member of the Pan Am 103 Commission, and his ranking member BILL CLINGER, as well as the chairman of the full Public Works Committee, GLENN ANDERSON, and his ranking member, JOHN PAUL HAMMERSCHMIDT, also a member of the Pan Am Commission.

I would like to commend the chairperson of the Pan Am Commission, Ann McLaughlin whose testimony before the Foreign Affairs and Public Works Committee contributed immeasurably to the development of this legislation. In addition, the following members of the Foreign Affairs Committee have made important contributions to this process: BILL BROOMFIELD, STEVE SOLARZ, OLYMPIA SNOWE, LARRY SMITH, TED WEISS, BEN GILMAN, and DAN BURTON.

I would also like to extend my appreciation to the families of the victims of Pan Am 103 and especially my constituent Vicki Cummock. Their tireless efforts to effect changes and to improve aviation security were a driving force behind this legislation. We can never replace their tremendous loss, but we can make a difference by changing the prevailing business as usual attitude toward aviation security.

H.R. 5732 represents countless hours of negotiations between members and staff of the two committees, the executive branch, and representatives of the families of the victims of Pan Am 103. This legislation, in large part, reflects and implements the recommendations of the President's Commission and will, in my opinion, significantly enhance aviation security.

The bill contains a number of important provisions which I believe upgrades aviation security and which will protect the traveling public. The bill as considered by the Public Works Committee has been ably explained by the gentleman from Minnesota [Mr. OBERSTAR], the chairman of the Aviation Subcommittee. Briefly the bill, as amended by the Committee on Foreign Affairs, contains:

A provision which clarifies the authority and role of the U.S. Chief of Mission vis-a-vis the new Foreign Security Liaison Officer assigned to embassies overseas for purposes of aviation security. This language was included at the request of the Department of State; and

A provision requiring foreign air carriers to implement higher security standards. In other words, it establishes a "level playing field" and gives the American traveling public a better sense of security whether they are traveling on foreign or U.S. airlines. It requires that the Administrator of FAA issue regulations to upgrade foreign air carrier security within 6 months. In my opinion, this provision of H.R. 5732 ensures comparable security standards because it mandates that foreign airlines flying to the United States provide the same level of protection that is provided by U.S. airlines.

However, I had hoped to be able to reach an agreement to further clarify this requirement by stipulating that the ICAO standards are the floor and not the ceiling for approval of foreign air carriers' security programs. I would like to make the record clear that Congress expects that foreign air carrier

security programs be upgraded. Given the administration's assessment that there is a current high threat of terrorism which includes threats to civil aviation as a result of the crisis in the Persian Gulf, we should not tolerate any less than the highest security standards possible.

The committee included a requirement that the current State Department Coordinator for Counter-terrorism also be responsible and accountable for the coordination of international aviation security matters. This implements the Commission's recommendation without creating a new box in the bureaucracy of the State Department. I am, however, disappointed that the Department would not agree to restore the status of this office to Ambassador-at-Large. It seems to me that this is an extremely important issue and, while we are not mandating the restoration of the Ambassador-at-Large for Counter-terrorism, we strongly urge the Secretary to reconsider his downgrading of this office.

In addition, H.R. 5732 contains provisions regarding passenger manifests, the use of passport fees, and authorizes an additional $7 million in fiscal year 1991 for antiterrorism training assistance, specifically for aviation security.

Finally, H.R. 5732 provides limited tax relief to the immediate families of the victims of Pan Am 103 comparable to that which was provided to the U.S. Government employees on that flight. The purpose here is to treat equally all the victims of Pan Am 103.

Mr. Speaker, given that we are nearing the end of this Congress and the time constraints of the legislative schedule we must consider this measure under suspension. As I indicated earlier, the Committees on Foreign Affairs and on Public Works have been working on this bill for some time. Discussions have taken place with all those who were interested in this measure. A number of suggested changes were made at the request of the executive branch and it is my understanding that the administration now supports this bill.

Saddam Hussein is actively working with his legions of terror and actively planning terrorist attacks which would target airlines, airports, commercial establishments in Europe and the Middle East.

Now is the time to improve on aviation security and do all we can to protect the traveling public.

□ 1440

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. Goss], a member of the Committee on Foreign Affairs.

Mr. GOSS. Mr. Speaker, I thank my distinguished colleague, the gentleman from New York, for yielding me this time.

Mr. Speaker, much work and thought have gone into this legislation, and it certainly deserves our support.

Much pain and compassion have also gone into this legislation, because it relates to the testimony and the grief of the families of the victims of air terrorism, most notably those involved in the grisly Pan Am tragedy in Scotland.

Promises have been made that we would do everything we could to respond to the thoughtless, senseless, painful waste of human life caused by the perpetrators of air terrorism involved. This bill is our response, and it is a good piece of work.

However, it would not be fair to say that this bill does everything it could do. In fact, it does not. Because fully meaningful penalties for air terrorism are not included apparently, because of germaneness considerations in the committees of jurisdiction, debate was, indeed, forestalled on the mandatory death penalty for those committing acts of air terrorism that result in the death of innocent victims. This debate should take place, and I would hope that many of my colleagues would agree with me that a mandatory death penalty under such circumstances would be beneficial to our commitment to doing all we can to combat terrorism.

I urge passage of the bill under suspension today, and I congratulate the distinguished leadership of the committees involved.

I also ask the support of that leadership to find a way to bring to the House floor the opportunity to debate the mandatory death penalty for those who kill, maim, and butcher innocent victims by act of air terrorism.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. Solomon].

Mr. SOLOMON. Mr. Speaker, let me commend both committees for an excellent piece of legislation.

I was one of the sponsors of H.R. 5200, on which this present bill is based. Let me just say that last September, when the Aviation Security Act passed the House, I was pleased that the House unanimously adopted my amendment, which was later inserted into the International Narcotics Control Act, that now allows the President to offer rewards of up to $2 million for good, solid information that helps us to prevent terrorist acts and apprehend those who would carry out such despicable acts as the bombing of Pan Am 103.

Because of that law, posters like this now appear in airports and public places all over the world. It says:

Reward for terrorist information. The United States Government is authorized to make payment of up to $2 million for information aiding in the prevention of terrorist acts outside the United States against U.S. citizens or property or for information leading to the arrest or conviction of any person who has committed a terrorist attack against U.S. citizens or property.

I mention my amendment to that former bill in order to underscore my concern that this bill should not be brought before the House under suspension of the rules.

This kind of legislation, and that which was going to be offered by the gentleman from Oklahoma [Mr. Inhofe], should have come before the Committee on Rules so that we could have been debating an open rule which would have allowed the death penalty amendment to be attached to this bill.

Otherwise, gentlemen, you have got a perfect piece of legislation. I just hope that we can continue to really send the message to Saddam Hussein and to the Iraqi terrorists running around the world and in Europe today, that we will not tolerate actions against American citizens anywhere.

Mr. Speaker, let me take a moment to say this to my colleagues. I am truly fearful that we are on the verge of a new, even more horrifying wave of terrorism—set in motion by a dangerous man in the Middle East, Saddam Hussein. A man, I remind my colleagues, who has chemical weapons and has not hesitated to use them.

Recent press reports have informed us that terrorists, specifically Abu Nidal's group, are now laying plans for new acts of terrorism. In fact, according to one such report, a group of Abu Nidal's terrorists are running around Europe right now.

Mr. Speaker, the United States has let Hussein know that it will hold him and his government responsible for any attacks on American or Allied targets that can be traced to pro-Iraqi terrorist groups. The Congress ought to be backing that warning up in every way it can—including passing a mandatory death penalty for terrorism.

Mr. Speaker, the Congress—should send the message now. Who knows, it might serve to deter an attack somewhere, sometime, and save the lives of countless innocent civilians—maybe right here in Washington.

Mr. GILMAN. Mr. Speaker, we thank the gentleman from New York for his remarks.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Boehlert].

Mr. BOEHLERT. Mr. Speaker, I want to commend to my colleagues this very important piece of legislation. It deals with a very sensitive and critically important subject, and two committees have combined on a bipartisan basis to fashion a bill that we can all be proud of.

Particularly I am proud of that section dealing with the subject of public notification. Nevermore do we want a

situation like we had with Pan Am flight 103 when there was a dual system of notification. The insiders had privileged information on a bulletin board in Moscow for the Federal Government's employees where there was posted a notice about the threat. The rest of the world did not know about that threat. We nevermore want to have a situation like that.

We want to have a situation where, if there is a serious, credible threat to an airliner, that the public is assured of notification, and I want to commend the chairman of the Subcommittee on Aviation from our full committee for his willingness to work constructively to fashion a section of the bill that will guarantee to the public that nevermore will we have a situation like that.

In the future, and God forbid, I hope it never happens, but in the future if there is a serious, credible threat, that there is a mechanism built into the system for public notification so that the people can make a choice that is critically important.

Second, I want to commend the committee for looking very constructively, at the Thermal Neutron Analysis System Program. Many of us were led to believe, and I think maybe it is a little wishful thinking, that the TNA would solve the problem. All we have to do is spend $1 million per machine, put them in the airports, and then forever more we can screen out all of the explosive devices. Well, it is not quite that simple. It never really is.

□ 1450

It is not yet clearly proven. However, what we have set up is a demonstration program at the high risk airports. We are moving in the right direction.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the bill before us now implements the recommendations of the President's Commission on Aviation Security and Terrorism. It was an honor for me to serve with Former Secretary of Labor Ann McLaughlin, our Aviation Subcommittee Chairman JIM OBERSTAR, and the other distinguished individuals on that Commission.

The destruction of Pan Am 103 is a tragedy that has deeply affected this Nation. It is one that we should not, and will not, soon forget. It has already led to changes in the way we guard the security of our Nation's airlines. And it led directly to the creation of the President's Commission on Aviation Security and Terrorism.

This Commission spent many months examining the events that preceded the bombing of Pan Am 103. We examined the shortcomings of our security system and looked for ways to improve it. As a result of our efforts, several solid recommendations were made to improve aviation security. These recommendations are embodied in H.R. 5732, the bill before us now.

H.R. 5732 sets forth several new approaches, some perhaps controversial, to deal with the terrorist threat.

For example, the bill would require the placement of Federal security managers at each high risk airport; background investigations of airport and airline employees; expedited research on new technologies, procedures, and human factors to counter terrorism; new procedures to deal with bomb threats that would prohibit selective notification of such threats; and study to consider the screening of personal mail.

As a member of the President's Commission on Aviation Security and Terrorism, I support this bill because it implements the Commission's recommendations.

Originally, I was concerned about the procedures being used to bring this bill to the floor. During the consideration of this measure in the Public Works and Transportation Committee, I expressed a preference for bringing this bill up under an open rule rather than under suspension.

I did this because there were several Members who wished to offer amendments that could improve the bill. In addition, the administration was seeking changes to the legislation. This suspension procedure would deny them an opportunity to have their suggestions considered.

However, more recently, discussions have been held between the Chairman, the Secretary of Transportation, and Members on this side of the aisle. As a result, changes have been made that should go a long way toward satisfying many of the objections to the bill. These changes alter the position of DOT's senior security official within that agency's structure and give the administration more flexibility regarding the deployment of bomb detection devices and victims compensation.

It is my understanding that while the administration continues to have reservations about this bill, it no longer opposes its passages in the House.

In light of this, I can fully support this bill and urge its passage by the House.

Mr. Speaker, I yield 3 minutes to the distinguished ranking member of the Subcommittee on Aviation, the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I am pleased to rise in support of H.R. 5732, because it will enhance the safety of the commercial aviation industry by proposing a number of new security-related performance requirements for air carriers.

Mr. Speaker, as late as this morning I shared the concern of the gentleman from Arkansas [Mr. HAMMERSCHMIDT] about the procedure under which the legislation was coming to the floor. There were a number of Members on our side of the aisle who wanted to offer amendments. The administration had some concerns about what was contained in the legislation, but I am pleased to report that because of some changes which have been incorporated in the committee amendment, I am convinced that the body should pass this legislation expeditiously.

The main concern remaining outstanding is the consideration of capital punishment, and I would have hoped that that amendment might have been made in order so that we could have considered that amendment in this legislation, and I would certainly work with those promoting that amendment in other legislation which may be before Members this year.

The concerns that the administration has had with the bill have been addressed in the legislation we are considering here today. The changes that were incorporated in the committee amendment takes the position of Assistant Secretary which is included in the bill at present, and substitutes for that, the position of Director of Intelligence and Security. The key point here is that this individual will have direct access to the Secretary, so that there will be a very expeditious consideration of any intelligence that is brought to the Director's attention that would evidence a risk to lives, and that word would be able to be taken directly to the Secretary.

It also enhances or provides additional flexibility for the Administrator in emergencies to deploy explosive detection equipment in cases where deployment may be prevented because of certification requirements in the law. I think that is also a very welcome addition to the bill.

I just want to commend our colleagues the gentleman from Minnesota [Mr. OBERSTAR] and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] who were key players in the Commission, which brought forward the recommendations which we are incorporating, basically, in this legislation. They and the other members of the Commission deserve tremendous commendation for the work they have done.

Mr. Speaker, the evidence gathered today clearly highlights a series of aviation failures which led to Pan Am 103's downing. I think that this bill will clearly enhance our ability to deal with acts of terrorism in the future, and I strongly urge my colleagues to support the legislation at this time.

Mr. MAZZOLI. The Chair would advise that the time of the gentleman from New York [Mr. GILMAN] has expired. The gentleman from Arkansas [Mr. HAMMERSCHMIDT] has 5 minutes remaining, the gentleman from Cali-

fornia [Mr. ANDERSON] has 6 minutes remaining, and the gentleman from Florida [Mr. FASCELL] has 5 minutes remaining.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield the balance of my time to a member of the committee, the gentleman from Oklahoma [Mr. INHOFE], a member of the committee.

Mr. INHOFE. Mr. Speaker, I thank the gentleman from Arkansas for yielding. First of all, let me commend the chairman, the gentleman from California [Mr. ANDERSON], and the chairman from Minnesota [Mr. OBERSTAR] for the time they spent on this bill and the work that they did.

I am rising in support of the bill that we are considering today. I would like to elaborate, though, a little but on something that is sadly missing from this bill. I am the Member who had the amendment that would call for the death penalty in the case of deaths that result from a terrorist hijacking of an aircraft. There was a ruling that was rather controversial because it kind of went both ways for a while, but apparently the Parliamentarian felt my amendment was not germane. Currently, the law provides that in the event of such a death as I described, there is a choice of either a mandated death penalty, or of life imprisonment.

What I was attempting to do was take life imprisonment out of that with the idea that people, the mentality of individuals who commit this type of an act only understand one thing, and that is the death penalty. There has been a lot of discussion today by a number of people about Pan Am 103, but there are many other tragedies that have occurred. One occurred June 14, 1985. It was TWA 847. At that time, Members might recall that a young Navy SEAL was brutally murdered during the act of a hijacking, and my concern comes from the fact that here we are, not having a mandatory death penalty, but only last week Saddam Hussein came out with an edict that they would have a death penalty for anyone who did so much as harbor a foreigner. I believe that certainly that act is nothing in comparison with the terrorist activity that results in a death.

We have a crime bill that we have considered, and in this crime bill they have implemented further things that were subject to a death penalty. They are murdering Federal officials, mail bombings, murdering civil rights lawyers, murder during the course of robberies, and planting bombs in a plane, train, bus or Federal building.

So we, in fact, right now in the face of all the terrorist activity that is being encouraged by Saddam Hussein, are lessening the punishment for this type of activity. I guess what I want to do, Mr. Speaker, is serve notice that in the event that the House does consider this year or during the next session the crime bill that we definitely must have very, very strong provisions that call for a mandated death penalty in the case of a death that results as a result of the terrorist hijacking of an airplane. I think this bill as dealing with the safety and security of the flying public, must have that type of provision in it.

Mr. FASCELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I thank the distinguished chairman for yielding me this time. I rise in strong support of this legislation. Pan Am 103 cost the lives of many of our beautiful young people. We lost 5 in Maryland, one from my district. The father of Lt. Georgie Williams has been a leader in pushing for this legislation because he knows what it meant for his only son, his only child, to die in this fashion. He has been supported by others who lost their children in this terrorist incident.

□ 1500

The least that we can do in this Congress and in this Government is to make certain another incident of this type cannot occur. This bill would not only be a tribute so that these young people did not die in vain, but it is also for the sake of all Americans everywhere and all peoples who travel throughout the world, but it would particularly let the families of all these young people know that we care.

Again I commend Chairman FASCELL, Chairman ANDERSON, and Ranking Minority Leader HAMMERSCHMIDT for moving ahead with this bill.

Mr. FASCELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I yield back the balance of my time, 6 minutes, to the gentleman from Minnesota [Mr. OBERSTAR], a member of the President's Commission on Aviation Security.

Mr. OBERSTAR. Mr. Speaker, I appreciate the opportunity to conclude the debate on this legislation.

This bill is both a monument and a monumental step forward in our confrontation with those who would randomly destroy innocent lives by blowing up the most vulnerable means of transportation we have, aviation.

Those of us who served on the President's Commission on Aviation Security and Terrorism, who walked the streets of Lockerbie and paused in prayer at the monument to the victims of Pan Am Flight 103, came away indelibly changed, moved forever. You could not have seen the reconstructed forward section of Pan Am 103 and that gaping hole without realizing this was a random, mindless, destructive act that must not be allowed to be repeated.

We were not engaged in the quest of Brother Juniper in Thornton Wilder's Pulitzer Prize-winning Bridge of San Luis Rey, inquiring into why in the firmament God chose those five for destruction. We were inquiring why a bomb got through the maze of security that had been set up to prevent this kind of destruction, and we came to the realization that it may have been a preventable tragedy.

In that Commission and in the work of our Subcommittee on Aviation and in the full Committee on Foreign Affairs previously, with extensive hearings inquiring into the causes and the whys and trying to close the gaps, we spent hours, weeks, months, and now years in search of means of closing the aviation security gap.

Oh, yes, no legislation is perfect. This one is probably imperfect, but it will be only as good as our efforts, as our national will, and without this legislation we will simply be lumbering along.

We need to provide a legal framework for the recommendations of that Commission, which is one of the finest works that I have seen of any Presidential Commission, which provided very sound and reasonable and practical and workable guidance.

We have labored very vigorously to bring forth legislation that will be implementable, that will not be subject to the good will of one Secretary of a Department and may be ignored by another Secretary or be done by one Administrator, but not done by the next.

We are a nation of laws. Laws guide us. This law is going to guide us toward a better security system against terrorism.

We have made a number of adjustments to accommodate some concerns the administration set forth about the Assistant Secretary for Security, which the Commission recommended. That position was created in the bill introduced in July on which hearings were held, markup was held, and at the ultimate hour there was concern about this Assistant Secretary.

The bill does not back away from the central principle as we have adjusted it, and I think the gentleman from Pennsylvania [Mr. CLINGER] expressed it very well. The Commission's report was that there should be direct communication from someone at a high level in the Department with other agencies concerned with intelligence and security so that that person could report directly to the Secretary and not have intelligence information on aviation security threats go through a maze of bureaucracy. We keep that principle intact in this bill by establishing in law the Director of Intelligence and Security in the Office of the Secretary as has already been established by Secretary of Transpor-

39-059 O-91-4 (Pt. 19)

tation, Mr. Skinner, who has done a splendid job in responding to the Commission's recommendations.

Now, there was concern about the thermal neutron analysis device. The Commission's report perhaps is a little stronger that the bill's final conclusion, but I think our bill is a more practical realization of what the Commission was concerned about, that we not put in place requirements for airlines to buy and establish and put in place a very costly device whose effectiveness has not yet been demonstrated. The Department's demonstration program will go forward without interruption. It will be reviewed under this legislation by the Scientific Advisory Panel, which will be part of a larger Advisory Committee already established within FAA, which will give the Administrator some guidance in saying the device is ready or not ready for full-scale deployment. That is all we are looking for. That is what the Commission wanted, and that is what the families were looking for.

Under this legislation, the Administrator cannot require the airlines to deploy or purchase explosive detection equipment unless the Administrator determines either that an emergency situation warrants its deployment, or certifies that it can detect the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to aircraft. While the legislation does not specify the minimums which equipment should be able to detect, we would expect the Administrator to require any new equipment to be able to detect, at a minimum, the amount, type, and configuration which has already demonstrated the ability to cause catastrophic failure in an airplane—on Pan Am 103.

There is another matter that was in the jurisdiction of the Foreign Affairs Committee and they have adjusted that matter to accommodate the concerns that the Congress not appear to direct the President to report a specific piece of legislation, but to make recommendations to Congress, and that has been accommodated.

So we have worked very, very hard, right down to the last hour before consideration of this bill to accommodate concerns to make sure that we have a bill that is workable, but most of all one that can prevent random acts of destruction against innocent fellow citizens traveling abroad.

Let us keep our eye on the objective, and that to protect the half-billion travelers worldwide each year who are subject to the whims of terrorists.

In conclusion, I urge approval of the legislation. I commend all those who participated, particularly the staff of the Foreign Affairs Committee, Bob Boyer, Toni Verstandy, and Bob Jenkins, if I may return the compliment, and thank my colleague, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for the splendid work that we did together in the Commission, and the gentleman from Pennsylvania [Mr. CLINGER] for the splendid work on the committee.

Ms. SNOWE. Mr. Speaker, I urge my colleagues to support passage of the Aviation Security Improvement Act of 1990. This bill is the joint product of the Foreign Affairs and Public Works Committees. It will enact all of the essential recommendations of the President's Commission on Aviation Security and Terrorism, chaired by the Honorable Ann McLaughlin.

The McLaughlin Commission issued an extensive report with specific, detailed recommendations last May. Our two committees then worked closely with Commission members, the administration, and family members of the victims in fashioning this bill.

This legislation contains several initiatives I have long advocated, and which are embodied in a bill I introduced last year, H.R. 2488. It also contains the work of other members of both committees, and I would like to particularly recognize the efforts and leadership of the chairman of the Foreign Affairs Committee [Mr. FASCELL], the ranking Republican of the Foreign Affairs Committee [Mr. BROOMFIELD], the gentleman from New York [Mr. SOLARZ], and the gentleman from Indiana [Mr. BURTON].

While the administration may have preferred more flexibility in certain areas than provided in this bill, I believe that the legislation strikes an appropriate balance and I understand that the administration is willing to accept the bill as currently drafted. The administration should be praised for the actions it has taken so far in implementing a number of the McLaughlin Commission recommendations. The Department of Transportation has already implemented administratively 70 percent of the Commission's recommendations. Some of the recommendations, however, require legislative action, and even in those areas where the administration has already taken corrective action, this will ensure that security standards will remain high even when public attention to the issue wanes.

I am particularly pleased about one provision in the bill that I attempted to have included in an aviation security bill our two committees reported out a year ago and was passed by the House, but was never acted upon by the other body. That provision, which is embodied in section 105 of the bill we are considering today, directs the FAA to require foreign air carriers to provide the same level of security as American carriers. Due to opposition from the administration last year, this provision was not included in the previous bill.

Section 105 will end a longstanding and troubling double standard. Although half of all Americans traveling abroad fly on foreign carriers, the FAA has in the past routinely allowed those carriers to maintain significantly lower security standards than are required of U.S. carriers. It is long past time for this inequitable and dangerous practice to end. Because of the overriding importance of this provision and the past reluctance of the FAA to establish a level playing field in the area of aviation security. I wanted to emphasize this bill's clear intention that henceforth the FAA Administrator must issue regulations requiring foreign carriers to maintain security practices equal to or better than practices required of American carriers. My concern is that the FAA not use its ability to certify the adequacy of foreign carrier security plans in such a way as to undermine the provision's intended affect.

Again, I would like to congratulate Chairman FASCELL and Congressman BROOMFIELD for their leadership on this issue, and the willingness of the Public Works Committee to work closely with our committee in fashioning this important bipartisan legislation. I urge my colleagues to support this bill.

Mr. BROOMFIELD. Mr. Speaker, I want to commend Chairman FASCELL for this leadership on the aviation security issue here in Congress and salute his efforts to bring H.R. 5732 to the floor. The Foreign Affairs Committee worked closely with the Public Works and Transportation Committee on this legislative initiative designed to enhance security in the skies.

Let me also thank the familes of the Pan Am 103 victims for encouraging the President to establish the Commission on Aviation Security and Terrorism. They deserve our praise for their commitment to enhancing airport and aircraft security. Without their constructive involvement, we might not be considering the Aviation Security Improvement Act today.

This legislation embodies the recommendation from the report of the President's Commission on Aviation Security and Terrorism. We have learned many lessons from the Lockerbie disaster. We must profit from those lessons and ensure that another incident like Pan Am 103 does not happen again.

Unfortunately, terrorism is still with us. Saddam Hussein's recent threats are a reminder that terrorism remains a tool that can be used against our interests around the world.

As we improve security, we must ensure that foreign carriers using U.S. airports meet the same high security standards that U.S. carries are required to maintain. Many of those foreign airlines carry U.S. passengers who now demand better security. It is time to have a level playing field for the struggling U.S. airline industry.

Our staffs worked with both the Department of Transportation and the Department of State to improve this bill. Progress has been made in addressing the administration's concerns. Further refinements can hopefully be made in the legislative process.

I know that some of the families of the Pan Am 103 victims would like to require the death penalty for those responsible for terrorism in the air. I urge my colleagues to join me in supporting this improved legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 5732, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5732, the bill just passed.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from California?

There was no objection.

FOREIGN CONTRACTING AUDIT EQUITY ACT OF 1990

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4131) to ensure that executive agencies have adequate authority to review the performance of foreign contractors and subcontractors under certain procurement contracts, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Contracting Audit Equity Act of 1990".

SEC. 2. INSPECTION AND AUDIT REQUIREMENTS FOR CONTRACTS WITH FOREIGN CONTRACTORS.

(a) INSPECTION AND AUDIT CLAUSE.—Each solicitation for competitive proposals issued by an executive agency for a covered contract, and each covered contract awarded by an executive agency, shall include a clause under which the agency or its authorized representatives has the right to inspect the facilities and audit the records of each foreign offeror for the contract or foreign contractor performing the contract.

(b) AUDIT AND DETERMINATION OF REASONABLENESS OF PRICE.—An executive agency shall not award a covered contract using procedures other than competitive procedures, or agree to a modification of such a contract, as a result of a proposal having a price greater than $500,000, unless—

(1) the proposal has been audited in accordance with contract auditing standards that are generally accepted in the United States and the price of the proposal has been determined to be reasonable by—

(A) the head of the agency or the authorized representative of the head of the agency;

(B) a foreign audit entity approved under a memorandum of understanding between the head of the agency, acting on behalf of the United States, and the foreign country; or

(C) the Defense Contract Audit Agency; and

(2) the contracting officer documents in the contract file the basis for the determination.

(c) SUBMISSION OF COST OR PRICING DATA BY FOREIGN CONTRACTORS.—

(1) LIMITATION ON WAIVING REQUIREMENTS.—The head of an executive agency shall not exercise any authority under another law to waive any requirement for a foreign contractor or foreign subcontractor to submit cost or pricing data, unless the head of the agency—

(A) makes a written determination that the price of the contract is reasonable, which sets forth the reasons for such determination; and

(B) includes that determination in the contract file.

(2) DESIGNATION OF FOREIGN AUDIT ENTITY AS AUTHORIZED REPRESENTATIVE.—In exercising any right of the head of an executive agency or the authorized representative of an executive agency to examine records of a foreign contractor, the head of the agency may designate a foreign audit entity as an authorized representative of the agency if the foreign audit entity has been approved under a memorandum of understanding between the head of the agency and the foreign country.

(d) RIGHT OF UNITED STATES TO EXAMINE FOREIGN CONTRACTOR RECORDS.—

(1) IN GENERAL.—In order to verify any certification or statement made by a foreign contractor with respect to a covered contract, the head of an agency that awards a covered contract, acting through any authorized representative of the head of the agency who is an employee of the United States or a member of the armed forces, has the right to examine any records of any foreign contractor under the contract related to—

(A) the proposal for the contract;

(B) discussions conducted on the proposal;

(C) pricing of the contract;

(D) performance of the contract; or

(E) pricing of any change or modification of the contract.

(2) EXPIRATION OF RIGHT.—The right of the head of an agency under paragraph (1) shall expire 3 years after final payment under the covered contract.

SEC. 3. ENFORCEMENT.

(a) SUBPOENA AUTHORITY.—The Inspector General for an executive agency may require by subpoena the production of any records in the performance of functions pursuant to this Act. Such a subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court.

(b) SUSPENSION OF PAYMENTS UNDER CONTRACT.—In any case in which a foreign contractors fails to comply with this Act (including by failing to provide any item requested by an executive agency in accordance with this Act or by a subpoena issued under subsection (a)), the head of the executive agency that awarded the contract to which the failure to comply relates may suspend payment under the contract.

(c) INCLUSION IN SOLICITATIONS AND COVERED CONTRACTS.—The head of an executive agency shall include in each solicitation for competitive proposals issued by the agency for a covered contract, and in each covered contract awarded by the agency, a clause that requires the offeror or contractor to comply with a subpoena issued under subsection (a) and that provides the penalty prescribed in subsection (b).

SEC. 4. EXAMINATION AND AUDITS BY COMPTROLLER GENERAL.

((a) EXAMINATION AND AUDIT OF RECORDS.—Notwithstanding any other law, the head of an executive agency shall include in each covered contract awarded by the agency a clause under which the Comptroller General and his or her authorized representative have the right, until 3 years after final payment under the contract, to examine any records of any foreign contractor under the contract.

(b) CONFORMING AMENDMENT.—Section 304(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(c)) is amended by striking all after the first sentence.

SEC. 5. REGULATIONS.

Not later than 90 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall revise the Federal Acquisition Regulation to implement this Act.

SEC. 6. DEFINITIONS.

In this Act—

(1) the term "competitive procedures" has the meaning given that term by section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5));

(2) the term "covered contract" means—

(A) a contract (other than a contract awarded using sealed bid procedures) entered into by an executive agency for the procurement of goods or services that is performed by a foreign contractor; or

(B) a subcontract that is performed by a foreign contractor under a contract (other than a contract awarded using sealed bid procedures) entered into by an executive agency for the procurement of goods or services;

(3) the term "executive agency" means any agency in the executive branch of the Government, and includes any independent establishment or wholly owned Government corporation;

(4) the term "foreign contractor" means a contractor or subcontractor under a covered contract that is organized or existing under the laws of a country other than the United States and its territiories and possessions, including organizations that are owned wholly or partially by the government of such a country; and

(5) the term "records" includes information, documents, reports, answers, accounts, papers, books, or other data or documentary evidence.

SEC. 7. EFFECTIVE DATE.

This Act applies with respect to solicitations issued after the expiration of the 90-day period beginning on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

□ 1510

Mr. Speaker, it is common knowledge that developments in the past decade have seriously eroded our competitive position in world trade, posing an ever greater threat to our economy and to our defense industrial base.

Of particular concern to the Government Operations Committee has been the extent to which U.S. Government procurement has contributed to that decline. Despite the 1988 amendments to the Buy American Act, a far greater

percentage of our Government contracts dollars are available to foreign competitors than foreign governments make available to our contractors. Further, U.S. Government auditors scrutinize American firms far more frequently and strictly than they do foreign firms that win our contracts. In the procurement market, our own Government continues to make life more difficult for American firms than foreign ones.

House Resolution 4131 would require that U.S. Government contracts and solicitations for contracts require that U.S. auditors have the right to examine the facilities and records of foreign contractors with the same standards that American firms are held to. That is critical to ensure against the abuse of American tax dollars that were discovered in a Government operations committee investigation this year.

In The Netherlands contractors refused to provide complete cost and pricing data, making defective pricing audits impossible. British contractors withheld data on the grounds that they were proprietary or not eligible for audit. French auditors did not check for unallowable costs. It was estimated that the differences may have resulted in overcharges to the U.S. Government on foreign contracts of between $400 million and $625 million.

The U.S. taxpayer should not have to pay for procurements which place U.S. contractors at an unfair disadvantage or allow foreign contractors to unjustifiably increase the cost to the United States. This bill will ensure just that.

Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to join with Chairman CONYERS today in supporting passage of H.R. 4131, a bill designed to ensure that foreign firms selling to the U.S. Government adhere to the same stringent audit standards required of American firms.

Under current law, United States and foreign contractors are not being treated equally when it comes to determining fair and reasonable costs. When U.S. firms, big or small, sell to the Government, they are subject to audits which can discover unallowable costs or unfair prices. Unfortunately, because of less stringent audit standards for foreign firms, it is more difficult for contract officers to identify when these companies mischarge, overcharge or illegally charge American taxpayers.

The solution contained in H.R. 4131 is quite simple: If you want to do business with the American Government—whether you are an American firm or a foreign firm—you must allow the Government to audit and inspect your books as they relate to the contract. This would be a condition of the contract and would be contained in any solicitation for competitive bids.

The Department of Defense has entered into memorandums of understanding with 19 trading partners. Five of the agreements include audit annexes which provide that the host country performs audits of contractors without cost to the procuring country.

For example, a United States Government agency would perform audits of American firms doing business for the French Government, while French auditors would perform audits of French contractors performing work for the United States Department of Defense.

These audit annexes have simply not worked. Foreign audits have not been made in accordance with audit agreements and audit reports have been inadequate.

It has not been easy evaluating the performance of foreign auditors. In fact, it took the DOD inspector general 6 months to even get a meeting with anybody in France to discuss their audit coverage. French officials denied the IG access to the auditors and then used language that even the interpreter refused to translate.

The Pentagon purchased nearly $36 billion in goods and services from foreign sources between 1985 and 1988. It is unconscionable to think that we can be denied an opportunity to ensure that those charges are fair and reasonable.

This bill places no new requirements on American business. It does, however, ensure that American firms are not disadvantaged by audit requirements not applied to foreign contractors.

H.R. 4131 is a good bill that addresses a serious shortcoming in existing procurement law. The bill received unanimous bipartisan support in the Government Operations Committee. I fully support its adoption and urge my House colleagues to support the bill.

RESPONSE TO OMB'S STATEMENT OF ADMINISTRATION POLICY

OMB charge: The bill requires agencies to obtain greater inspection and audit rights from a foreign contractor than from a U.S. contractor.

Response: Not true! The bill simply subjects foreign contractors selling to the U.S. Government to the same requirements as demanded of American contractors. Under the five reciprocal audit annexes, foreign contractors, unlike U.S. contractors, are exempted from GAO, IG and agency audits.

OMB charge: Foreign auditors currently apply U.S. cost principles to determine the allowability of costs on U.S. contracts. Requiring foreign auditors to use U.S. auditing standards would be contrary to the primary rationale for reciprocal audit agreements.

Response: The problem is that foreign auditors are not applying U.S. cost principles. It is a fact that France, Germany, the Netherlands, and the United Kingdom do not conduct defective pricing audits. The IG found 100 percent of the French audit reports to be unresponsive to audit requests from the contracting officer. While reciprocal audit agreements may sound great in the theory, they have been a dismal failure in practice.

OMB charge: The bill would permit examination by the Comptroller General of any records of any foreign contractor.

Response: Not true! The bill authorizes the Comptroller General to examine only those foreign contractor records that relate to the covered procurement contract. It does not provide blanket authority to examine records unrelated to the procurement contract. American contractors are currently subject to GAO audit authority. As currently written, reciprocal audit annexes exempt foreign contractors from such audits.

WHY H.R. 4131 IS NEEDED

DOD purchased approximately $8 billion of goods and services through prime and subcontracts during fiscal years 1985–1988, with the five countries which have signed audit annexes with the United States.

Under those audit agreements the U.S. has no way of knowing when foreign companies are charging costs that are not allowed under U.S. law—such as, interest costs, kennel costs, first class airfare.

U.S. auditors usually question 10 to 15 percent of proposed contract costs. Foreign auditors have only been questioning 1.26 percent of proposed costs. German auditors have actually increased costs by 5 percent!

Current regulations allow DOD to exclude GAO auditors from reviewing foreign contractor data. None of the 5 audit agreements specifically allow for DOD Inspector General access to foreign contractor data. Similarly, the Defense Contract Audit Agency has only a limited role and limited access to contractors in the five countries with which DOD has audit agreements.

Many unallowable costs are established in law and there is no authority to waive those unallowable costs. Without the ability to adequately audit contracts, there is no way to identify unallowables.

The DOD IG found that France, Germany, the Netherlands and the UK did not do defective pricing audits.

The DOD IG found no evidence that DOD attempted to determine what the French procurement law and auditing standards were and whether they could satisfy U.S. contracting requirements for negotiating fair and reasonable prices.

EXCERPTS FROM THE INSPECTOR GENERAL'S TESTIMONY ON FOREIGN AUDITS

We found that France, Germany, the Netherlands, and the United Kingdom do not conduct defective pricing audits.

The foreign auditors were also late on 55 percent of the audit requests for review of contractor proposals that result in audit reports. This ranged from the Netherlands' auditors, who were late on all audit requests, to the German auditors, who were late on 33 percent of the requests.

Overall, the contracting officers whom we contacted considered 65 percent of the European audit reports to be unresponsive to the audit requests. The perceived unresponsiveness ranged from 100 percent for the French reports to 53 percent unresponsive for the German reports.

IG auditors were told that the DOD has no right to know French auditing standards and procedures, or how those procedures were applied when performing field pricing support audits of DOD contracts.

□ 1520

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I merely want to commend the ranking minority leader of the Committee on Government Operations, the gentleman from New York [Mr. HORTON], who has demonstrated, once again, the great detail and the diligence that he brings to all of the legislation that comes through our subcommittee and our full committee. We are indebted to him for his good work, and I might also mention that the inspector general of the Department of Defense was extremely helpful to this staff and its subcommittee in bringing this legislation to the full membership of the House.

Mr. Speaker, there are no further requests for time on my side, and I yield back the balance of my time.

Mr. HORTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 4131, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

COMPUTER MATCHING AND PRIVACY PROTECTION AMENDMENTS OF 1990

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5450) to amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals' eligibility for Federal benefits, as amended.

The Clerk read as follows:

H.R. 5450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Amendments of 1990".

SEC. 2. VERIFICATION REQUIREMENTS AMENDMENT.

(a) IN GENERAL.—Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until—

(A)(i) the agency has independently verified the information; or

"(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that—

"(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

"(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

"(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

"(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

"(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

"(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where application investigation and confirmation of—

"(A) the amount of any asset or income involved;

"(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

"(C) the period or periods when the individual actually had such asset or income.

"(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.".

(b) ISSUANCE OF GUIDANCE BY DIRECTOR OF OMB.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall publish guidance under subsection (p)(1)(A)(ii) of section 552a of title 5, United States Code, as amended by this Act.

SEC. 3. LIMITATION OF APPLICATION OF VERIFICATION REQUIREMENT.

Section 552a(p)(1)(A)(ii)(II) of title 5, United States Code, as amended by section 2, shall not apply to a program referred to in paragraph (1), (2), or (4) of section 1137(b) of the Social Security Act (42 U.S.C. 1320b-7), until the earlier of—

(1) the date on which the Data Integrity Board of the Federal agency which administers that program determines that there is not a high degree of confidence that information provided by that agency under Federal matching programs is accurate; or

(2) 30 days after the date of publication of guidance under section 2(b).

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from California [Mr. MCCANDLESS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5450 amends the Computer Matching and Privacy Protection Act of 1988. The original matching act regulates the use of computer matching conducted by Federal agencies or the use of Federal records subject to the Privacy Act of 1974. The purpose was to provide that computer matching can only be conducted pursuant to agreements between the agency providing the records and the agency receiving the records.

The law has generally worked well, but a few small problems have developed. H.R. 5450 proposes several minor amendments to address those problems.

Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. WISE], who is the chairman of the Subcommittee on Government Information, Justice, and Agriculture, to explain the details of the amendment.

Mr. WISE. Mr. Speaker, I thank the gentleman from Michigan [Mr. CONYERS] very much for yielding this time to me and for bringing this bill to the floor in such a timely manner because I think it is important that the House act upon it.

Mr. Speaker, H.R. 5450 proposes to fine-tune the Computer Matching and Privacy Protection Act of 1988, a law that regulates computer matching by Federal agencies or using Federal data. H.R. 5450 proposes two minor modifications.

First, the bill changes the requirement that all matching information be independently verified. The new procedure permits Federal agencies to share benefit information with the States without case-by-case verification in circumstances were the verification is unnecessary.

The existing data integrity boards would play an oversight role to make sure that the information being disclosed is accurate. This new procedure will make it easier for the States to use some information received from Federal agencies without unnecessary bureaucracy.

Second, for benefit programs that have statutory or regulatory due process notice periods, the bill allows those periods to substitute for the 30-day notice period otherwise provided for in the act. The 30-day notice period is retained for programs without existing requirements.

This will fix a problem unforeseen when the original matching bill was passed. It should also significantly reduce the cost to the States of complying with the Computer Matching Act.

The Congressional Budget Office estimates that enactment of H.R. 5450 will save the Federal Government $270 million over the next 5 years. CBO estimates that the savings to the States will be $145 million over 5 years.

These estimates are admittedly very uncertain, and we cannot be sure how much money will be saved. We are sure that there will be some savings. We also are sure that there are unnecessary costs that can be avoided if we pass H.R. 5450. The bill is not based on any specific cost savings.

The bill is strongly supported by the American Public Welfare Association and State welfare departments. We also have a letter of support from the Office of Management and Budget.

Finally, I want to acknowledge the work done by Representative KLECZKA and Representative BUSTAMANTE in bringing the problems to the committee's attention. They introduced the first bill on the subject, and we have worked closely together in drafting H.R. 5450. I also want to thank Representative MCCANDLESS for his assistance and cooperation.

Mr. MCCANDLESS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5450, legislation to amend the Computer Matching and Privacy Protection Act of 1988. I would like to commend subcommittee Chairman BOB WISE, his staff and all of the many public interest groups who have worked together in crafting this legislation.

When the computer matching and privacy protection law was enacted 2 years ago, the bill contained language requiring States to independently verify all computer-generated information before acting to suspend, reduce or revoke Federal benefit payments. The act further required States to provide an additional 20-day notice before taking adverse action against a benefit recipient.

Although the measure was intended to provide program recipients with protection against the hasty or faulty reduction of program benefits, it has proven unnecessarily burdensome for federally generated income information. Since passage of the Computer Matching Act, it has become clear that data regarding Social Security, Medicare, and Federal retiree benefit payments is already highly accurate and not readily verifiable by outside State sources.

H.R. 5450 would exempt such highly accurate data from the matching requirements of the Computer Matching Act and preserve the 30-day adverse-action notification period for only those programs without set notification periods of their own.

It is estimated that passage of H.R. 5450 will save the State and Federal Governments between $50 and $90 million a year in administrative costs through the elimination of unnecessary paperwork and reduced processing time. I support this corrective legislation as necessary to preserve the financial integrity of our food stamp, Medicaid and AFDC Programs, while maintaining the safeguards needed to protect our Nation's most vulnerable citizens.

□ 1530

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute. It is only to put on the record the assurances I have received again from the distinguished subcommittee chairman, the gentleman from West Virginia [Mr. WISE], and that is the fact that whenever we talk about computers and matching computers and trading information in the Federal Government, it can make some of our citizens nervous. We want to state, even in this record, as we have made amendments to the existing law on that subject, that this would in no way violate any of the privacy laws, the requirement that information gathered by one agency be kept where appropriate within that bounds, and that the rights of every citizen were being very carefully considered as we made these amendments to the original legislation of 1988 and 1989.

Mr. Speaker, I thank the gentleman from West Virginia [Mr. WISE] for those assurances.

Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I just want to concur in the statements of the gentleman from Michigan [Mr. CONYERS]. All we are doing here is a little tightening of some problems caused by the States. Essentially, the protections in place even before this act was passed are still in place. These amendments were drawn as narrowly as possible to reflect that very concern.

Mr. Speaker, in the moment I have, I would like to thank very much the staffs involved in this, Mary Tripp with the minority and Bob Gellman, who does so much work in this particular area for the committee. I would like to thank them for all the efforts they put into this.

Mr. KLECZKA. Mr. Speaker, I rise today in support of H.R. 5450, the Computer Matching and Privacy Protection Amendments of 1990, of which I am an original cosponsor.

I have had a longstanding interest in computer matching legislation because of its impact on my home State of Wisconsin and my complementary interest in freedom of information issues.

Early this year, I was contacted by Wisconsin secretary of health and social services Patricia Goodrich concerning the large amounts the State of Wisconsin would have to pay due to an oversight in the then recently enacted Computer Matching and Privacy Protection Act.

Based on careful calculations, the new law would have inadvertently cost the State and Federal Government $8.4 million in Wisconsin alone. The Congressional Budget Office estimates the nationwide total cost for fiscal year 1992 to be $55 million, an amount that would increase to $130 million by fiscal year 1995.

Disturbed by these unnecessary expenditures, my good friend Congressman ALBERT G. BUSTAMANTE and I introduced a bill to address this situation, H.R. 4367, the Computer Matching Corrections Act of 1990.

We were assisted in this process by the excellent work of the American Public Welfare Association [APWA], which among its many other functions, works closely with the State human services administrators, the individuals most familiar with this issue.

H.R. 4367 exempted the Medicaid, food stamps, and Aid to Families with Dependent Children Programs from the new 30-day notice period because they already had adequate computer matching verification guarantees.

Having introduced this legislation, I was pleased to work with Chairman BOB WISE of the Government Operations Subcommittee on Information, Justice, and Agriculture, Mr. BUSTAMANTE, the APWA, welfare rights advocates, and various Federal agencies to craft the compromise bill we are considering today.

H.R. 5450 has my strong support because it lifts the burdensome costs on the States and the Federal Government while fully protecting the due process rights of benefits recipients. This measure will allow benefits to go to those who truly deserve them without being diverted to those we know to be ineligible.

It is gratifying that the House has acted so promptly on this important legislation and it is hoped that the other body will approve it just as expeditiously. This timely action is needed to remove the $400 million threat hanging over Wisconsin, the other States, and the Federal Government in the next few years. I urge my colleagues to vote for H.R. 5450.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 5450, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5450.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MAKING IN ORDER ON TUESDAY, OCTOBER 2, 1990, OR ANY DAY THEREAFTER, CONSIDERTION OF HOUSE CONCURRENT RESOLUTION 310, BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1991-95

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that it be in order tomorrow or any day thereafter for the chairman of the Committee on the Budget to move to take from the Speaker's table the concurrent resolution, House Concurrent Resolution 310, with the Senate amendments thereto, and either to disagree to the amendments of the Senate and to agree to the conference requested by the Senate; or to concur in the Senate amendments with amendments, that all points of order against said motion be waived, that the Senate amendments and motion be considered as read, that debate on said motion continue not to exceed 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget, and that the previous question be considered as ordered on said motion without intervening motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Mr. FRANK. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 3897) to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes.

The Clerk read as follows:

Senate amendment:

Page 2, line 4, strike out all after "1990," down to and including "1994." in line 6, and insert: "$2,100,000 for fiscal year 1991, $2,200,000 for fiscal year 1992, $2,300,000 for fiscal year 1993, and $2,400,000 for fiscal year 1994.".

The SPEAKER pro tempore. Is a second demanded?

Mr. JAMES. I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, earlier this year the House authorized the continuation of the entity known as the Administrative Conference of the United States, which is a very useful organization. This organization performs a series of very thoughtful studies on matters relating to administrative procedure.

We sent that bill over to the other body. They reported it back with a slight reduction in the authorization figures. We are here asking that the House concur in the Senate amendments, with the lower authorization figures.

Mr. Speaker, I reserve the balance of my time.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3897, a bill to reauthorize the Administrative Conference of the United States.

Following the enactment of the Administrative Procedure Act in 1946, it became apparent that there was a need for a permanent organization to promote uniformity and fairness in Federal regulatory procedures. Finally, in 1964, the Administrative Conference of the United States was established through the enactment of the Administrative Conference Act. The principal purpose of the Administrative Conference is to identify sources of delay, inefficiency, and unfairness in the administrative-regulatory process and to recommend necessary improvements to the President, Congress, Federal agencies, and the courts.

The Conference develops and conducts research in the broad subject area of administrative law; it also acts as an information clearinghouse with respect to developments in administrative procedure in the Federal agencies, and in State and local government. Importantly, the Conference provides a forum for both the regulators and the regulated to come together and exchange thoughts and ideas. The Conference can, and has, "humanized" bureaucracy.

In fulfilling its statutory mandate, the Administrative Conference operates on a comparatively modest budget. That fact is borne out by the bill we considered today. As amended by the Senate, H.R. 3897 proposes the following authorization ceilings for the Conference over the next 4 years:

Fiscal year:	*Million*
1991	$2.1
1992	2.2
1993	2.3
1994	2.4

The Administrative Conference, in my opinion, plays a valuable role in assisting the various agencies in implementing many of the laws we pass. The Administrative Conference has proven to be a major asset to the workings of both the executive branch and the Congress. I urge my colleagues to support H.R. 3897, with the Senate amendments.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and concur in the Senate amendment to H.R. 3897.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the Senate amendment to H.R. 3897.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MARITIME ADMINISTRATION AUTHORIZATION FOR FISCAL YEAR 1991

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4205) to authorize appropriations for fiscal year 1991 for the Maritime Administration, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in fiscal year 1991, the following amounts are authorized to be appropriated for the Maritime Administration:

(1) Any amounts necessary to liquidate obligations under operating-differential subsidy contracts for the fiscal year 1991 portion of the total of current contract authority.

(2) $35,690,000 for expenses related to manpower, education, and training, including—

(A) $25,205,000 for maritime training at the Merchant Marine Academy at Kings Point, New York;

(B) $8,872,000 for assistance to the State maritime academies; and

(C) $1,613,000 for manpower and additional training.

(3) $28,095,000 for operating programs.

(4) $7,902,000 for expenses related to national security support capabilities, including—

(A) $6,748,000 for the National Defense Reserve Fleet; and

(B) $1,154,000 for emergency planning operations.

(5) $225,000,000 for the Ready Reserve Force, including—

(A) $49,400,000 for fleet additions, replacements, acquisitions, and upgrading of vessels for the Ready Reserve Force;

(B) $171,600,000 for maintenance and operations programs in support of the Ready Reserve Force; and

(C) $4,000,000 for the Ready Reserve Force facilities.

SEC. 2. Section 8(e) of the Act of October 13, 1989 (Public Law 101-115; 103 Stat. 695), is amended to read as follows:

"(e) The Secretary may make awards on an equal matching basis to an institute designated under subsection (a) from amounts appropriated. The aggregate annual amount of the Federal share of the awards shall not exceed $100,000.".

SEC. 3. Section 1303(h)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(h)(1)), is amended to read as follows:

"(h)(1) A Board of Visitors to the Academy shall be established, for a term of two years commencing at the beginning of each Congress, to visit the Academy annually on a date determined by the Secretary and to make recommendations on the operation of the Academy.".

SEC. 4. Section 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1160(i)), is amended to read as follows:

"(i) The Secretary of Transportation is authorized to acquire suitable documented vessels, as defined in section 2101 of title 46, United States Code, with funds in the Vessel Operations Revolving Fund derived from the sale of obsolete vessels in the National Defense Reserve Fleet. For purposes of this subsection, the acquired and absolete vessels shall be valued at their scrap value in domestic or foreign markets as of the date of the acquisition for or sale from the National Defense Reserve Fleet; except that, in a transaction subject to this section, the value assigned to those vessels will be determined on the same basis, with consideration given to the fair value of the cost of positioning the traded-out vessel to the place of scrapping. All cost incident to the lay-up of the vessel acquired under this subsection may be paid from balances in the Fund. Notwithstanding the provisions of sections 9 and 37 of the Shipping Act, 1916, vessels sold from the National Defense Reserve Fleet under this subsection may be scrapped in approved foreign markets.".

SEC. 5. (a) Section 4 of the Act of October 13, 1989 (Public Law 101-115; 103 Stat. 692), is amended:

(1) by inserting "legislative" after "sixty"; and

(2) by adding a new sentence at the end of the section to read: "The Secretary shall not take any vessel, currently in service as a State academy training vessel, out of service for the purpose of implementing any alternative program, including ship sharing, until or unless the vessel is incapable of bing maintained in good repair as required under section 1304(c)(1)(A) of the Merchant Marine Act, 1936.".

(b) Section 3 of the Act of October 13, 1989 (Public Law 101-115; 103 Stat. 692) shall not be effective prior to October 1, 1994.

SEC. 6. (a) Section 1303(e)(3), of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(e)(3)) is amended—

(1) by inserting "(A)" immediately after "(3)"; and

(2) by adding at the end the following new sub-paragraph:

"(B) If the Secretary of Defense is unable or unwilling to order an individual to active duty under subparagraph (A), the Secretary of Transportation—

"(i) may recover from the individual the costs of education provided by the Federal Government; and

"(ii) shall request the Attorney General to begin court proceedings to recover the costs of education if the Secretary decides to seek recovery under clause (i).".

(b) The amendment made by subsection (a) shall apply to individuals who sign agreements after the date of enactment of this Act under section 1303(e) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(e)).

SEC. 7. Section 1303(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(b), is amended—

(1) a paragraph (1)—

(A) by striking "Governor of American Samoa (unitl a delegate to the House of Representatives from American Samoa takes office)" and inserting in lieu thereof "Delegate from American Samoa";

(B) by striking "any individuals who is" and inserting in lieu thereof "any individual who is—

(C) by inserting "or" immediately after "Commission," the last place it appears; and

(D) by striking ", or a resident of American Samoa if the individual is nominated by the Governor of American Samoa";

(2) in paragraph (3)(A)(vi), by striking "Governor of American Samoa (until a delegate to the House of Representatives from American Samoa takes office)" and inserting in lieu thereof "Delegate to the House of Representatives from American Samoa"; and

(3) in paragraph (7)—

(A) in subparagraph (A), by striking "annually", "until September 30, 1995,", and "up to six"; and

(B) in subparagraph (B), by striking "The Secretray shall insure that the Republic of Panama reimburse the Secretary" and inserting in lieu thereof "The Secretary shall be remibursed".

SEC. 8. FISHING VESSELS IN CALIFORNIA.

(a) DEFINITION.—For puposes of the application of section 8103(a), 12102, 12110, and 12111 of title 46, United States Code, to a fishing vessel operating in waters subject to the jurisdiction of the United States off the coast of the State of California, the term "citizen of the United States" includes an alien lawfully admitted to the United States for permanent residence as of October 1, 1990.

(b) TERMINATION.—This section shall termainate on October 1, 2000.

SEC. 9. ACCESS TO PORTS.

So long as the bilateral maritime transportation agreement entitled the Agreement Regarding Certain Maritime Matters Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics, signed on June 1, 1990, remains in force, the ports of Wilmington and Morehead City, North Carolina, shall have the same privileges under Article III of that agreement as those ports listed in Annex I of the agreement.

SEC. 10. Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating may issue a certifcate of documentation with appropriate endorsement for employment of the coastwise, and Great Lakes trades, or the fisheries of the United States for the following vessels.

AMERICAN EAGLE (U.S. official number 523873).

ANGELOS (hull identification number HAZ1432C0173 amd State of Hawaii registration number HA1432C).

ARCTIC SOUNDER (U.S. official number 569927).

BOUNTY (U.S. official number 960956).

CAMELOT (U.S. official number 923202).

CHEROKEE V (U.S. official number 570746).

ERNESTINA (U.S. official number 136423).

ESPERANCE (U.S. official number 691732).

FLORA VEE (U.S. official number 526631).

GHOSTRIDER (U.S. official number 906121).

HE'ENALU (State of Hawaii registration number HA843CP).

HELL'S-A-POPPIN (U.S. official number 963543).

HIPPOCAMPUS (U.S. official number 560934).

IMPULSE (U.S. official number 693209).

JOB SITE (U.S. official number 595013).

KAINALU (State of Hawaii registration number HA779CP).

LADY ROSE ANNE (U.S. official number 603040).

MARINER III (U.S. official number 225459).

OCEAN PROWER (U.S. official number 632751).

OH BABY AT LAST (U.S. official number 938936).

OPEN RETURN (U.S. official number 658669).

PACIFIC PEARL (hull identification number MRY10161M76414).

PAULA SUE (State of Maryland registration number MD7449K).

PLAYPEN (U.S. official number 617198).

PUMPKIN (U.S. official number 627259).

ROSE (U.S. official number 928811).

ROUGH POINT (U.S. official number 917958).

SALISA M (U.S. official number 26553).

SEA DEVIL (U.S. official number 569316).

SEAGULL (U.S. official number 958929).

SEA NUGGET (State of Alaska registration number AK2233E).

SEA WIND (U.S. official number 610694).

SINBAD (ex-SANGRIA) (State of Alaska registration number AK3650 and hull identification number 15846).

SOLITAIRE (U.S. official number 521894).

SWEE'PEA (State of Alaska registration number AK8550L and hull identification number PBL32001K990).

SYRINGA (hull identification number 363412; U.S. Customs number 84-129170-6).

WEATHERBIRD (U.S. official number 527918).

WEATHERBIRD II (ex-AUNT BEE (U.S. official number 652213).

SEC. 11. Notwithstanding the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), a vessel of less than five hundred gross tons that was sold to and operated by a non-profit corporation organized under United States law, the majority of whose directors are United States citizens, for use by that corporation exclu-

sively as an oceanographic research vessel, has not been "sold foreign" unless the vessel has been placed under the registry of a nation other than the United States during the period of ownership by that corporation.

SEC. 12. (a) The S/V ZODIAC (United States official number 223755) shall be deemed to be less than one hundred gross tons and, in applying the regulations relating to the inspection of passenger vessels, the Secretary of the department in which the Coast Guard is operating shall inspect that vessel under regulations applying to vessels of that weight.

(b) Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating shall inspect the ZODIAC (United States official number 223755) under subchapter T of title 46, Code of Federal Regulations. Any certification issued by the Secretary under subchapter T for the ZODIAC shall permit that vessel to carry not more than forty-nine passengers on lakes, bays, and sounds service.

SEC. 13. (a) This section may be cited as the "Merchant Mariner Memorial Act of 1990".

(b)(1) Notwithstanding any other law, the Secretary of Transportation may convey to any group of not less than two and not mroe than three nonprofit organizations, without consideration, all right, title, and interest of the United States Government in a vessel which—

(A) is in the National Defense Reserve Fleet on the date of enactment of this section;

(B) is of not less than 4,000 displacement tons;

(C) has no usefulness to the Government; and

(D) is scheduled to be scrapped.

(2) As a condition of conveying a vessel to a group of nonprofit organizations pursuant to this section, the Secretary shall require that each nonprofit organization in the group—

(A) before the date of that conveyance, enter into an agreement with the other nonprofit organizations in that group which requires—

(i) the sale of the vessel for scrap purposes; and

(ii) the equal division of the proceeds of the sale among the nonprofit organizations in that group;

(B) use its share of those proceeds for the expenses directly related to acquiring land for, designing, berthing, refurbishing, repairing, or constructing a memorial to merchant mariners;

(C) have raised, before the date of enactment of this section, at least $100,000 from non-Federal sources for use for establishing a memorial to merchant mariners; and

(D) agree to any other conditions the Secretary considers appropriate.

(3)(A) A nonprofit organization may apply to the Secretary for a conveyance under this section individually or as a member of a group of nonprofit organizations.

(B) The Secretary shall designate, for purposes of this section, groups of not less than two and not more than three nonprofit organizations which apply individually under this section.

(C) A nonprofit organization may not be a member of more than one group of nonprofit organizations for purposes of this section.

(c) The Secretary shall deliver a vessel conveyed under this section to a group of nonprofit organizations—

(1) at a place where the vessel is located on the date of the approval of the conveyance,

(2) in its condition on that date, and

(3) without cost of the Government.

(d) The authority of the Secretary under this section to convey vessels shall expire two years after the date of enactment of this section.

SEC. 14. (a) This section may be cited as the "Non-Vessel-Operating Common Carrier Amendments of 1990.".

(b) BONDING OF NON-VESSEL-OPERATING COMMON CARRIERS.—Public Law 98-237, 98 Stat. 67 (46 App. U.S.C. 1701 et seq.) is amended by adding a new section 23 as follows:

"SEC. 23. Bonding of Non-Vessel-Operating Common Carriers.

"(a) BOND.—Each non-vessel-operating common carrier, as defined by section 3(17) of this Act, shall furnish to the Commission a bond in a form and an amount determined by the Commission to be satisfactory to insure the financial responsibility of that carrier, but in any event not less than $50,000.

"(b) SURETY.—A bond submitted pursuant to this section shall be issued by a surety company found acceptable by the Secretary of the Treasury.

"(c) CLAIMS AGAINST BOND.—A bond obtained pursuant to this section shall be available to pay any judgment for damages against a non-vessel-operating common carrier arising from its transportation-related activities or order for reparations issued pursuant to section 11 of this Act or any penalty assessed against a non-vessel-operating carrier pursuant to section 13 of this Act.

"(d) RESIDENT AGENT.—A non-vessel-operating common carrier not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

"(e) TARIFFS.—The Commission may suspend or cancel any or all tariffs of a non-vessel-operating common carrier for failure to maintain the bond required by subsection (a) of this section or to designate an agent as required by subsection (d) of this section or for a violation of section 10(a)(1) of this Act.".

(c) PROHIBITED ACTS.—Subsection (b) of section 10 of Public Law 98-237 (46 App. U.S.C. 1709) is amended as follows:

(1) Paragraph (13) is amended by striking "or,";

(2) Strike "(14)" wherever it appears and insert "(16)";

(3) A new paragraph (14) is added as follows:

"(14) knowingly and willfully accept cargo from or transport cargo for the account of a non-vessel-operating common carrier that does not have a tariff and a bond as required by sections 8 and 23 of this Act;"; and

(4) A new paragraph (15) is added as follows:

"(15) knowingly and willfully enter into a service contract with a non-vessel-operating common carrier or in which a non-vessel-operating common carrier is listed as an affiliate that does not have a tariff and a bond as required by sections 8 and 23 of this Act; or".

(d) INTERIM RULES.—The Commission may prescribe interim rules and regulations necessary to carry out this Act.

(e) EFFECTIVE DATE.—This section shall become effective 90 days after the date of its enactment.

SEC. 15. TECHNICAL CORRECTION.—Section 8103 of title 46, United States Code is amended in subsection (i) by striking "Naturalization" and inserting "Nationality".

The SPEAKER pro tempore. Is a second demanded?

Mr. DAVIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

□ 1540

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the fiscal 1991 authorization bill for the Maritime Administration in the Department of Transportation.

The authorized figures are precisely what the President requested. We are in complete conformity with the administration's budget.

The bill contains almost $233 million for national security purposes, including money for the National Defense Reserve Fleet, and its component, the Ready Reserve Force.

This money has direct implications for Operation Desert Shield. We have broken out over 40 RRF ships to provide sealift for our troops in the Persian Gulf.

This bill represents a substantial increase in funding for the Ready Reserve Force. Unfortunately, part of the increase was made necessary by Congress' failure last year to appropriate the full amount requested by the President for the RRF. This failure shortchanged needed maintenance on RRF ships, and I have no doubt that it contributed to the difficulties we experienced in getting some of the vessels ready to go to the Persian Gulf within their hoped-for schedules. I sincerely hope that Congress does not repeat its mistake this year.

With regard to the reserve fleet, my committee has begun taking a hard look at its capabilities and performance thus far in Operation Desert Shield. Serious questions have already been raised about the oldest ships, particularly those that date from World War II. Representatives BROOMFIELD and WYDEN have encouraged us to question whether these particular vessels are in fact militarily useful or whether there retention might actually be harmful by lulling us into a state of complaceny about our sealift assets.

The bill makes no fundamental changes in our reserve fleet policy, although it does make it easier for

Marad to obtain better vessels through a more flexible section 510(i) trade program. I want to put the administration on notice, however, that next year our committee may wish to recommend substantial changes to the reserve fleet policy.

The other large authorization in the bill provides money to pay operating differential subsidy for certain U.S.-flag ship operators. These are contractural obligations. The committee expects to produce a total reform of the ODS program next year. I call upon Secretary Skinner to complete rapidly his maritime policy review and send us an administration package on ODS reform and other changes in maritime policy. There has been too much delay already.

The bill also contains authorizations for the U.S. Merchant Marine Academy at Kings Point, for Federal contributions to State maritime academies, and administrative costs for MarAd.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4205, a bill to authorize appropriations for fiscal year 1991 for the U.S. Maritime Administration.

The bill which provides authorizations for operating differential subsidies, manpower and training and national security support is identical to those sums requested for these programs by the administration. The bill also contains a provision that allows the Maritime Administration to sell old National Defense Reserve Fleet [NDRE] vessels for scrap and put the money into a trust fund to be used to purchase newer vessels for the NDRF. Although this bill contains a number of other important provisions, I wanted to mention this provision and the status of the NDRF and the Ready Reserve Force. Mr. Speaker, it is the Ready Reserve Force ships that have carried the bulk of our heavy equipment to the Persian Gulf. The Merchant Marine and Fisheries Committee has looked at length, at the condition of the RRF and NDRF ships and I urge my colleagues, not only to support the authorizations contained in H.R. 4205, but also to urge members of the Appropriations Committee to full fund these authorizations. I might add that the administration supports these provisions and has worked closely with our committee to obtain the proper and necessary funding.

In closing I urge my colleagues to support H.R. 4205 and to vote for its passage.

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

There are several statutory changes in the bill. Mr. MINETA has worked hard for a provision to allow certain Vietnamese aliens lawfully admitted for permanent residence in California to continue to own and operate their fishing vessels. These hard working people want only to continue to pursue their chosen livelihood, but application of current law would prevent that and might result in throwing them onto the welfare rolls. Who would advocate such a perverse result? This bill will solve their problem.

The bill also encourages the Governments of the United States and the Republic of Panama to expand opportunities for young Panamanians to attend the U.S. Merchant Marine Academy. A Kings Point education would be invaluable for providing skills and background useful for running the Panama Canal. It is in our interest to make sure that young Panamanians possess these skills, and I urge the two governments to be aggressive in seeking out potential Panamanian cadets for Kings Point.

Members of the North Carolina congressional delegation, particularly Mr. COBLE, were disappointed with the treatment of their State's ports in the recent bilateral maritime agreement with the Soviet Union, so the bill contains a provision addressing that issue.

The bill incorporates the provisions of H.R. 5206, as reported from committee, to require bonds for nonvessel-operating common carriers. Our committee report on H.R. 5206 provides an explanation and legislative history.

Mrs. BENTLEY's bill on merchant mariner memorials, H.R. 668, is made a part of this bill. See House Report 101-520.

Finally, the bill provides relief for a number of vessels with documentation and other disabilities.

Mrs. BENTLEY. Mr. Speaker, I rise in support of H.R. 4205, the Maritime Administration Authorization Act for fiscal year 1991.

A provision of the committee's amendment being offered today is the language of my own bill—H.R. 668, the Merchant Mariner Memorial Act, a bill designed to create a funding mechanism for nonprofit organizations dedicated to building and maintaining memorials to our merchant mariners who served so valiantly during World War II.

My language authorizes the Secretary of Transportation to transfer title of obsolete vessels to groups of these non-profit organizations, who will scrap them and share equally in the proceeds.

The proceeds may be used only to build and maintain a memorial.

Mr. Speaker, our merchant mariners provide an invaluable service to their country in times of war or national emergency. The merchant marine is our fourth arm of defense—providing the most efficient logistical support system for our military forces.

It is given the responsibility of carrying to the forward lines the personnel and ordnance so vitally needed to thwart aggressors, who would deprive us or similar people of peace and freedom.

Their contributions to the defense of the United States and the free world, as a whole, are well documented. Their successes did not come easy.

During World War II, the merchant marine had a casualty rate second only to the Marine Corps. Yet, their contributions, their successes, their tragic loss of human life are relatively unknown by today's generation; and as time passes and memories fade, their deeds will be lost forever.

That would be tragic; and that is why it is so important that the few nonprofit organizations dedicated to preserving the life and accomplishments of the U.S. merchant marine for future generations must succeed.

I urge my colleagues to support H.R. 4205.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 4205, the Maritime Authorization for fiscal year 1991.

I want to commend Chairman JONES for his leadership on this legislation.

This authorization bill includes an important provision, which will allow individuals who are permanent residents as of October 1, 1990, and who fish in California waters, to own and pilot smaller fishing vessels. This provision was revised from language in H.R. 4796, legislation which I introduced earlier this year.

We are all very sensitive to any possible openings or loopholes in U.S. maritime law for future foreign competition or labor.

That is why I worked with union representatives and members of the House Merchant Marine and Fisheries Committee to find an adequate resolution to the problem faced on these legal residents, while addressing any legitimate concerns of U.S. citizen fishermen by including a 10-year sunset provision.

This bill is very narrowly crafted to aid legal residents, who have every intention of becoming citizens, and are anxious to be self-sufficient.

Mr. Speaker, why is this provision necessary?

In 1989, the Coast Guard, for the first time in recent memory. Began to enforce this law in the San Francisco Bay area. The only individuals impacted by the Coast Guard actions were Vietnamese fishermen who had applied for citizenship, but have not yet had their applications approved, or who are not yet eligible to apply.

As a result, the Vietnamese fishermen were faced with the dilemma of giving up their professions and living on welfare to support their families or trying to continue fishing while facing fines of $500 each time they were cited. And being threatened by the Coast Guard with the loss of their boats and licenses.

Since a permanent resident must wait 5 years before applying for citizenship, and because it takes approximately 2 years to process a citizenship application, the fisherman would essentially be unable to earn a living for 7 years.

Last October, the Vietnamese Fishermen Association of America and six individuals filed a suit in the District Court of Northern California, seeking an injunction against continued enforcement of the law of the Coast Guard. The suit alleged that the statute was unconstitutional because of its discriminatory impact on permanent residents.

Although a temporary restraining order was issued, a preliminary injunction was denied, leading to an appeal to the 9th Circuit Court of Appeal. On July 20, of this year, the Court heard argument in the case, and after pointed questioning directed at the Justice Department attorney, issued a highly unusual order giving the parties 45 days to work out a compromise before reporting back to the court. The court hearing and subsequent order indicate that the court is extremely sensitive to the inequitable nature of the situation and wants to see a fair resolution.

This court order has added urgency to the pending legislation. All previous attempts by the fishermen to resolve this issue have been rejected by the Coast Guard. The statutes are legally ambiguous so I am personally skeptical the court will be able to adequately resolve the issues presented incorporating the interests of all the parties. Thus, a true solution will ultimately require an exercise of Congress' plenary power.

Recognizing that these permanent resident fishermen are, or all intents and purposes, akin to citizens by virtue of the fact that they pay taxes and support the economy, this legislation will allow them to continue pursuing their trade and supporting their families, instead of being forced into welfare.

I urge my colleagues to support H.R. 4205, the maritime authorization for fiscal year 1991.

Mr. LENT. Mr. Speaker, I rise in support of H.R. 4205, a bill to authorize appropriations for fiscal year 1991 for the Maritime Administration, and for other purposes.

At the outset, I want to thank Chairmam JONES for his efforts in developing this legislation. He has worked with the Members on our side of the aisle to come up with compromises that we all can support.

This legislation was reported to by the Merchant Marine Fisheries Committee on May 16, 1990. The funding level in this legislation is identical to the administration's request—$57,887,000. These funds are for the operating-differential subsidy program; manpower, education and training; operating programs; national security support capabilities; and the Ready Reserve Force [RRF]. This funding level will enable the Maritime Administration to carry out its statutory responsibilities.

I will only make one specific comment with regard to the funding level, and that is to address the amount of money for the Ready Reserve Force [RRF]. As everyone in this Chamber is aware, the U.S. Government has used vessels from the RRF in the sealift mission for Operation Desert Shield in Saudi Arabia. There have been some problems with some of these RRF vessels reported in the news media. Without going into a long explanation, I would like to point out to the Members that some of the problems during the breaking out of these RRF vessels is the direct result of the Congress not making available the funding requested by the administration for maintenance of the RRF vessels. For example, for fiscal year 1990, the administration requested $239 million for the RRF. However, Congress only appropriated $89 million. During hearings held by our committee last week, spokesmen from both the Department of Defense and the Maritime Administration indicated that one of the reasons why some of the RRF vessels were not broken out on time was that the Government had not received the funding necessary to prepare and maintain the ships.

Mr. Speaker, H.R. 4205 also contains a provision that is the result of discussions between our committee and our colleague, the Hon. NORMAN MINETA, and is drawn from legislation he introduced earlier this year in the form of H.R. 4796. This provision would make special arrangements for Vietnamese fishermen in California, who are in the process of obtaining United States citizenship. Until they have received their citizenship, current law prohibits them from operating fishing vessels in the United States. This section is designed to give these fisherman the opportunity to operate these vessels pending the completion of their citizenship requirements.

Mr. Speaker, we have also included in this legislation, the text of a bill authored by our friend and colleague, the Hon. HELEN BENTLEY, to provide recognition to American merchant seamen who have provided such valiant service to our country. The bill would provide that the Government could convey to several nonprofit organizations a vessel which the Government is currently holding and is scheduled to be scrapped. The purpose of this, is to allow these organizations to obtain funds by selling the vessel for scrap, and then to design and build a memorial for U.S. merchant seamen. There are conditions in the legislation to ensure that the vessel is sold for scrap and that the organizations obtaining it are financially able to carry out their intended purposes.

Mr. Speaker, this legislation also contains the text of a bill that was introduced by Chairman JONES, myself, and the Hon. ROBERT DAVIS of Michigan, in response to a request from the Federal Maritime Commission [FMC]. This section of this legislation is called the Non-Vessel Operating Common Carrier Amendments of 1990.

At a hearing held by the Merchant Marine Committee earlier this year, witnesses from the Government and private interests testified in support of this legislation. The basic purpose of this provision is to require that certain non-vessel operating common carriers, which are companies that are in the business of consolidating cargo for shipment overseas, to furnish to the FMC a bond of not less than $50,000 in order to guarantee their performance.

Several years of study by the FMC determined that this legislation is necessary to assist them in correcting problems with NVOCC's failing to deliver on their commitments to provide cargo to vessel operators and to assure completion of shipments. I believe this is an important refinement to the authorities of the FMC. It has received virtually unanimous support from all parties, including organizations that represent the NVOCC's in the United States.

Mr. Speaker, H.R. 4205 also contains provisions that would authorize coastwise privileges for vessels which, for one reason or another, are unable to obtain the necessary Federal documents to operate in our domestic trade. The committee collected a number of vessels that need special congressional authorization. We have reviewed the circumstances surrounding each of these vessels and we are confident that the inclusion of these vessels is appropriate.

This legislation also contains a provision designed to modify the bilateral maritime agreement recently negotiated by the United States and the Soviet Union. The agreement lists a number of specific ports in each country which will allow vessels of the other country to enter without going through the lengthly procedures for obtaining permission to enter port. This section of H.R. 4205 would specifically name two ports in the State of North Carolina—Wilmington and Moorehead City—to the list of approved ports in the United States.

Mr. Speaker, this legislation has been carefully crafted and reviewed by the members of our committee, and represents an appropriate piece of authorizing legislation. I urge my colleagues to join me and the other members of the Merchant Marine and Fisheries Committee in supporting this bill.

Mr. DAVIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 4205, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4205, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

GREAT LAKES FISH AND WILDLIFE RESTORTION ACT OF 1990

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4299) to authorize a study of the

fishery resources of the Great Lakes, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GREAT LAKES FISH AND WILDLIFE RESTORATION

SECTION 1001. SHORT TITLE.

This title may be cited as the "Great Lakes Fish and Wildlife Restoration Act of 1990".

SEC. 1002. FINDINGS.

The Congress finds and declares the following:

(1) As the human population of the Great Lakes Basin has expanded to over 35,000,000 people, great demands have been placed on the lakes for use for boating and other recreation, navigation, municipal and industrial water supply, waste disposal, power production, and other purposes. These growing and often conflicting demands exert pressure on the fish and wildlife resources of the Great Lakes Basin, including in the form of contaminants, invasion by nonindigenous species, habitat degradation and destruction, legal and illegal fishery resource harvest levels, and sea lamprey predation.

(2) The fishery resources of the Great Lakes support recreation fisheries enjoyed by more than 5,000,000 people annually and commercial fisheries providing approximately 9,000 jobs. Together, these fisheries generate economic activity worth more than $4,400,000,000 annually to the United States.

(3) The availability of a suitable forage base is essential to lake trout, walleye, yellow perch, and other recreational and commercially valuable fishery resources of the Great Lakes Basin. Protecting and restoring productive fish habitat, including by protecting water quality, is essential to the successful recovery of Great Lakes Basin fishery resources.

(4) The Great Lakes Basin contains important breeding and migration habitat for all types of migratory birds. Many migratory bird species dependent on deteriorating Great Lakes Basin habitat have suffered serious population declines in recent years.

(5) Over 80 percent of the original wetlands in the Great Lakes Basin have been destroyed and such losses continue at a rate of 20,000 acres annually.

(6) Contaminant burdens in the fish and wildlife resources of the Great Lakes Basin are substantial and the impacts of those contaminants on the life functions of important fish and wildlife resources are poorly understood. Concern over the effects of those contaminants on human health have resulted in numerous public health advisories recommending restricted or no consumption of Great Lakes fish.

(7) The lower Great Lakes are uniquely different from the upper Great Lakes biologically, physically, and in the degree of human use and shoreline development, and special fishery resource assessments and management activities are necessary to respond effectively to these special circumstances.

SEC. 1003. PURPOSE.

The purposes of this Act are—

(1) to carry out a comprehensive study of the status, and the assessment, management, and restoration needs, of the fishery resources of the Great Lakes Basin;

(2) to develop proposals to implement recommendations resulting from that study; and

(3) to provide assistance to the Great Lakes Fisheries Commission, States, Indian Tribes, and other interested entities to encourage cooperative conservation, restoration and management of the fish and wildlife resources and their habitat of the Great Lakes Basin.

SEC. 1004. DEFINITIONS.

In this Act—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "Director" means the Director of the United States Fish and Wildlife Service;

(3) the term "fish stock" means—

(A) a taxonomically distinct species or subspecies of fish; or

(B) any other aggregation of fish that are geographically, ecologically, behaviorally, or otherwise limited from breeding with individuals from other groups of fish and are capable of management as a unit;

(4) the term "Great Lakes Basin" means the air, land, water, and living organisms within the drainage basin of the Saint Lawrence River at or upstream from the point at which the river becomes the international boundary between Canada and the United States;

(5) the term "Indian Tribe" means any Indian tribe, band, village, nation, or other organized group or community that is recognized by the Bureau of Indian Affairs as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(6) the term "lower Great Lakes" means the region in which is located that portion of the Great Lakes Basin which is downstream from the confluence of the Saint Clair River and Lake Huron near Port Huron, Michigan;

(7) the term "upper Great Lakes" means that portion of the Great Lakes Basin which is upstream from the confluence of the Saint Clair River and Lake Huron near Port Huron, Michigan.

(8) the term "nonindigenous species" means a species of plant or animal that did not occur in the Greak Lakes Basin before European colonization of North America;

(9) the term "Secretary" means the Secretary of the Army; and

(10) the term "State Director" means the head of the agency, department, board, commission, or other governmental entity of each of the States of New York, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, and the Commonwealth of Pennsylvania which is responsible for the management and conservation of the fish and wildlife resources of that State.

SEC. 1005. GREAT LAKES FISHERY RESOURCES RESTORATION STUDY.

(a) IN GENERAL.—The Director shall conduct a comprehensive study of the status of, and the assessment, management, and restoration needs of, the fishery resources of the Great Lakes Basin and shall provide the opportunity for the Secretary, the Administrator, State Directors, Indian Tribes, the Great Lakes Fishery Commission, appropriate Canadian Government entities, and other appropriate entities to participate in the study. The Director shall complete the study by October 1, 1994.

(b) MEMORANDUM OF UNDERSTANDING.—To provide opportunities for the full participation of all affected entities in the planning and conduct of the study, the Director shall invite the entities identified in subsection (a) to enter into a memorandum of understanding regarding the scope and focus of the study and the responsibilities of each participant for conducting the study.

(c) CONTENT OF STUDY.—A study under this section shall include, but not be limited to—

(1) identifying and describing the component drainages of the Great Lakes Basin (including the drainage for each of the Great Lakes), analyzing how the characteristics and current or expected land and water uses of those drainages have affected, and can be expected to affect in the future, the fishery resources and fish habitats of the Great Lakes Basin;

(2) analyzing historical fishery resource data for the Great Lakes Basin to identify the causes of past and continuing declines of the fishery resources and the impediments to restoring those resources;

(3) evaluating the adequacy, effectiveness, and consistency of current Great Lakes interagency fisheries management plans and Federal and State water quality programs, with respect to their effects on Great Lakes fishery resources;

(4) analysing the impacts of, and management control alternatives for, recently introduced nonindigenous species, including the zebra mussel, the ruffe, and the spiny water flea in accordance with the Aquatic Nuisance Prevention and Control Act of 1990;

(5) developing recommendations regarding—

(A) an action plan to analyze the effects of contaminant levels on fishery resources;

(B) an action plan for the cooperative restoration and enhancement of depleted, nationally significant fish stocks, including lake trout, yellow perch, lake sturgeon, walleye, forage fish, and Atlantic salmon;

(C) planning and technical assistance that should be provided to the, Great Lakes Fisheries Commission, States, and Indian Tribes to assist their fishery resource restoration efforts;

(D) mitigation measures to restore and enhance fishery resources adversely affected by past Federal (including federally assisted or approved) water resource development projects and other activities;

(E) increasing the involvement of the International Joint Commission, the Great Lakes Commission, the Great Lakes Fishery Commission, and other interjurisdictional entities regarding fishery resources protection, restoration, and enhancement;

(F) research projects and data gathering initiatives regarding population trends of fish stocks, including population abundance and structure, interspecific competition, survival rates, and behavioral patterns;

(G) important fishery resource habitat and other areas that should be protected, restored, or enhanced for the benefit of Great Lakes fishery resources;

(H) how private conservation organizations, recreational and commercial fishing interests, the aquaculture industry, and the general public could contribute to the implementation of the fishery resource restoration and enhancement recommendations developed pursuant to this Act; and

(I) appropriate contributions that should be made by States and other non-Federal entities to the cost of activities undertaken to implement the recommendations, including a description of—

(i) the activities that shall be cost-shared;

(ii) the entities or individuals which shall share the costs of those activities;

(iii) the proportion of appropriate project and activity costs that shall be borne by non-Federal interests; and

(iv) how the entities or individuals who share costs should finance their contribution.

(d) PROPOSALS FOR IMPLEMENTING RECOMMENDATIONS.—The Director shall develop proposals for implementing the recommendations of the study developed under subsection (c)(5). The proposals shall be consistent with the goals of the Great Lakes Water Quality Agreement, as revised in 1987, the 1954 Great Lakes Fisheries Convention, State and tribal fishery management jurisdiction, and the 1980 Joint Strategic Plan for the management of Great Lakes fishery resources.

SEC. 1006. GOALS OF UNITED STATES FISH AND WILDLIFE SERVICE PROGRAMS RELATED TO GREAT LAKES FISH AND WILDLIFE RESOURCES.

In administering programs of the United States Fish and Wildlife Service related to the Great Lakes Basin, the Director shall seek to achieve the following goals:

(1) Restoring and maintaining self-sustaining fishery resource populations.

(2) Minimizing the impacts of contaminants on fishery and wildlife resources.

(3) Protecting, maintaining, and, where degraded and destroyed, restoring fish and wildlife habitat, including the enhancement and creation of wetlands that result in a net gain in the amount of those habitats.

(4) Stopping illegal activities adversely impacting fishery and wildlife resources.

(5) Restoring threatened and endangered species to viable, self-sustaining levels.

(6) Protecting, managing, and conserving migratory birds.

SEC. 1007. ESTABLISHMENT OF OFFICES.

(a) GREAT LAKES COORDINATION OFFICE.—The Director shall establish a centrally located facility for the coordination of all United States Fish and Wildlife Service activities in the Great Lakes Basin, to be known as the "Great Lakes Coordination Office". The functional responsibilities of the Great Lakes Coordination Office shall include intra- and interagency coordination, information distribution, and public awareness outreach. The Great Lakes Coordination Office shall include all administrative and technical support necessary to carry out its responsibilities.

(b) LOWER GREAT LAKES FISHERY RESOURCES OFFICE.—The Director shall establish an office with necessary administrative and technical support services to carry out all United States Fish and Wildlife Service operational activities related to fishery resource protection, restoration, maintenance, and enhancement in the lower Great Lakes. The office shall be known as the "Lower Great Lakes Fishery Resources Office", and shall be centrally located in the lower Great Lakes so as to facilitate fishery resource restoration and enhancement activities relating to the lower Great Lakes.

(c) UPPER GREAT LAKES FISHERY RESOURCES OFFICES.—The Director shall establish one or more offices with necessary administrative and technical support services to carry out United States Fish and Wildlife Service operational activities related to fishery resource protection, restoration, maintenance, and enhancement in the upper Great Lakes. Each of the offices shall be known as an "Upper Great Lakes Fishery Resources Office", and shall be appropriately located so as to facilitate fishery resource activities in the upper Great Lakes.

SEC. 1008. ANNUAL REPORTS.

Not later than 1 year after the date of the enactment of this Act and annually thereafter, the Director shall submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate. Each such report shall describe—

(1) the progress and findings of the studies conducted under section 1005, including recommendations of implementing activities, where appropriate, that would contribute to the restoration or improvement of one or more fish stocks of the Great Lakes Basin; and

(2) activities undertaken to accomplish the goals stated in section 1006.

SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director—

(1) for conducting a study under section 1005 not more than $4,000,000 for each of the fiscal years 1991 through 1994;

(2) to establish and operate the Great Lakes Coordination Office under section 1008(a) and Upper Great Lakes Fishery Resources Offices under section 1008(c) not more than $4,000,000 for each of the fiscal years 1991 through 1995; and

(3) to establish and operate the Lower Great Lakes Fishery Resources Office under section 1008(b), not more than $2,000,000 for each of the fiscal years 1991 through 1995.

TITLE II—GREAT LAKES OIL POLLUTION RESEARCH AND DEVELOPMENT

SEC. 2001. SHORT TITLE.

This title may be cited as the "Great Lakes Oil Pollution Research and Development Act".

SEC. 2002. GREAT LAKES OIL POLLUTION RESEARCH AND DEVELOPMENT.

Section 7001 of the Oil Pollution Act of 1990 (Public Law 101-380) is amended as follows:

(1) GREAT LAKES DEMONSTRATION PROJECT.—In subsection (c)(6), strike "3" and insert "4", strike "and" after "California,", and insert "and (D) a port on the Great Lakes" after "Louisiana,".

(2) FUNDING.—In subsection (f) strike "21,250,000" and insert "22,000,000" and in subsection (f)(2) strike "2,250,000" and insert "3,000,000".

The SPEAKER pro tempore. Is a second demanded?

Mr. DAVIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4299, the Great Lakes Fish and Wildlife Restoration Act, taken together with a bill which will be offered next under suspension by the gentleman from Michigan [Mr. HERTEL] reflects the leadership and hard work of several Members from the Great Lakes States, including the gentleman from New York, Mr. NOWAK; the chairman of our Subcommittee on Oceanography and Great Lakes, Mr. HERTEL; and the ranking member of our Committee on Merchant Marine and Fisheries, Mr. DAVIS.

The bill, as introduced and reported by our committee, was designed to strengthen several Fish and Wildlife Service programs in the Great Lakes basin and to authorize two offices within the Service to implement those programs.

This afternoon, we have included in our motion to suspend the rules a committee amendment that broadens the scope and increases the importance of the bill.

The committee amendment contains two titles. Title I is the bill as originally reported.

Title II authorizes an oil pollution research and development demonstration project for the Great Lakes. This is similar to projects authorized in the recently passed oilspill liability bill for the west, gulf, and east coasts of the United States.

Mr. Speaker, I have been told by my colleagues so many times in recent weeks that what's good for the Great Lakes is good for America that I've come to believe it.

□ 1550

H.R. 4299, as I said before, to be followed by H.R. 5390, comprise the most important proposals for protecting public safety and environmental quality of the Great Lakes that we will consider in this Congress. It is, undeniably, good for the Great Lakes, and it is good for the country, and I trust it will be approved without controversy today.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4299, legislation that addresses the fish and wildlife resources of the Great Lakes.

The Great Lakes are of great importance to both the United States and Canada—specifically the 35 million Americans and Canadians who live in the region. With this population, great demands on the lakes for boating, recreation, shipping, municipal and industrial water supplies, waste disposal, power production, and other uses have burdened these waters. The result is that the fish and wildlife resources of the lakes have undergone traumatic changes in the past 50 years.

Title I of the bill that Congressman NOWAK of New York introduced, calls for a comprehensive study of the status, management, and restoration needs of the resources of the Great Lakes. The growing and often conflicting demands placed on the Great

Lakes will continue to exert pressure on fish and wildlife. These pressures include contaminates, invasion of alien species such as the zebra mussel and sea lamprey, and the destruction of habitat.

The Fish and Wildlife Service, the Great Lakes Fisheries Commission, and State agencies already have the responsibility for managing these resources. Unfortunately, they have not been given adequate funding to address existing problems or put programs in place to prevent new ones. This bill does not.

Simply put, title I of H.R. 4299 directs the Fish and Wildlife Service, the Environmental Protection Agency, the U.S. Corps of Engineers, State fish and wildlife agencies, tribes, and Canadian officials to undertake a comprehensive study of the fish and wildlife resources of the lakes and report to Congress by October 1, 1994. The bill establishes a facility for the coordination of the U.S. Fish and Wildlife Service activities in the Great Lakes basin and authorizes the establishment of an upper and a lower Great Lakes Fisheries Assistance Office to assist in the restoration and enhancement activities relating to the Great Lakes.

Title II of the bill amends the recently enacted Oil Pollution Act to allow an oil spill demonstration program in the Great Lakes. This will compliment existing projects in California, New York, and Louisiana. I hope that in selecting a site for this proposal attention is given to particularly hazardous navigation zones, such as the Straits of Mackinac.

Mr. Speaker, the Great Lakes, America's fourth seacoast are a national treasure and an economic treasure we must protect. Enactment of H.R. 4299 will ensure that the lakes continue to feed us, provide jobs, and be a source of recreation for generations to come.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Speaker, this, with H.R. 5390, is a very important package for the Great Lakes States.

I want to commend the gentleman from Massachusetts [Mr. STUDDS], the gentleman from Michigan [Mr. DAVIS], the ranking member of the full committee, the gentleman from New York [Mr. NOWAK], from the Public Works and Transportation Subcommittee chair that he has for all the hard work that they have done.

Last week we saw a great fire in a ship, an oil ship, in Bay City, MI. In fact, the gentleman from New York [Mr. NOWAK] and I and the gentleman from Michigan [Mr. TRAXLER] were up there with the Coast Guard to investigate and find out how it occurred.

This bill will move a long way in avoiding that kind of condition from ever happening again, that kind of accident from ever happening again.

I commend the gentlemen. This is a very important package, and we hope that the Senate will pass this en bloc.

Mr. DAVIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 4299, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4299, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AQUATIC NUISANCE PREVENTION AND CONTROL ACT OF 1990

Mr. HERTEL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5390) to prevent and control infestations of the coastal inland waters of the United States by the zebra mussel, and other nonindigenous aquatic nuisance species, as amended.

The Clerk read as follows:

H.R. 5390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Subtitle A—General Provisions

SECTION 1001. SHORT TITLE.

This title may be cited as the "Aquatic Nuisance Prevention and Control Act of 1990".

SEC. 1002. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the discharge of untreated water in the ballast tanks of vessels and through other means results in unintentional introductions of aquatic nuisance species to fresh, brackish, and saltwater environments;

(2) several aquatic nusiance species, especially the zebra mussel (Dreissena polymorpha), may disrupt the aquatic environment and economy of affected coastal areas;

(3) the zebra mussel is expected to infest over two-thirds of the inland waters of the continental United States through the unintentional transportation of larvae and adults by vessels operating in inland waters; and

(4) the potential economic disruption to communities affected by the zebra mussel due to its colonizing of water inlet and outlet pipes, boat hulls, and other hard surfaces, has been estimated at $5,000,000,000 by the year 2000.

(b) PURPOSES.—The purposes of this Act are to—

(1) prevent the unintentional introduction of aquatic nuisance species into the waters of the United States through ballast water management and other requirements;

(2) coordinate activities of Federal, State, and local agencies involved in the management of the zebra mussel and other aquatic nuisance species;

(3) develop new procedures to prevent and control unintentional introductions of nonindigenous species from routes other than ballast water exchange; and

(4) establish a program of research and technology development and assistance to States in the management and removal of zebra mussels.

SEC. 1003. DEFINITIONS.

As used in this Act—

(1) "aquatic nuisance species" means any nonindigenous species which may adversely affect the ecological stability or the economic and recreational uses of waters of the United States;

(2) "Assistant Secretary" means the Assistant Secretary of the Army for Public Works;

(3) "ballast water" means any water taken on board a vessel to be used to manipulate the trim and stability of the vessel;

(4) "Director" means the Director of the United States Fish and Wildlife Service;

(5) "high seas" means waters beyond the territorial sea of the United States or Canada;

(6) "nonindigenous species" means any species that is not native to an ecosystem, including any such organism transferred from one country to another;

(7) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(8) "Task Force" means the Aquatic Nuisance Species Task Force established under section 1201; and

(9) "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

Subtitle B—Prevention Of Unintentional Introductions of Aquatic Nuisance Species

SEC. 1101. AQUATIC NUISANCE SPECIES IN THE GREAT LAKES.

(a) GUIDELINES.—(1) Not later than 12 months after the date of the enactment of this Act, the Secretary, in consultation with the Task Force, shall issue voluntary guidelines to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the exchange of ballast water of vessels prior to entering those waters.

(2) The guidelines issued under this subsection shall—

(A) ensure to the maximum extent practicable that ballast water containing aquatic nuisance species is not discharged into the Great Lakes;

(B) protect the safety of the vessel, its crew, and passengers;

(C) take into consideration different vessel operating conditions; and

(D) be based on the best scientific information available.

(b) AUTHORITY OF SECRETARY.—(1) Not later than 24 months after the date of enactment of this Act, the Secretary, in consultation with the Task Force, shall issue regulations to prevent the introduction and spread of aquatic nuisance species into the

Great Lakes through the ballast water of vessels.

(2) The regulations issued under this subsection shall—

(A) require all vessels that carry ballast water and enter a United States port on the Great Lakes after operating on the high seas to—

(i) carry out high seas exchange of ballast water prior to entering any port within the Great Lakes;

(ii) carry out an exchange of ballast water in other areas if the exchange does not pose a threat of infestation or spread of aquatic nuisance species in the waters of the United States, including the Great Lakes; or

(iii) use alternative ballast water management methods if the Secretary determines alternative methods are as effective as high seas exchange in preventing and controlling infestations of aquatic nuisance species;

(B) provide for sampling or other procedures to monitor compliance with the regulations issued under this section;

(C) prohibit a vessel from operating on waters subject to the jurisdiction of the United States on the Great Lakes unless the master or other individual in charge of the vessel certifies to the Secretary or the Secretary's designee that the vessel has complied with the requirements established under this subsection before the vessel departs from the first lock in the St. Lawrence Seaway;

(D) deny access to United States ports for vessels in violation of regulations issued pursuant to this subsection; and

(E) take into consideration the safety of the vessel, its crew, and passengers, the different vessel operating conditions, and the best scientific information available.

(c) CONSULTATION WITH CANADA.—In developing guidelines and regulations under this section, the Secretary, in consultation with the Secretary of State, is encouraged to develop with the Government of Canada an effective international program for preventing the introduction and spread of aquatic nuisance species in the Great Lakes from the ballast water of vessels.

SEC. 1102. NATIONAL BALLAST WATER CONTROL PROGRAM.

(a) COAST GUARD STUDY.—The Secretary, in cooperation with the Director and the Under Secretary, shall conduct a study to determine the need for controls on vessels entering the waters of the United States to prevent the unintentional introduction and spread of aquatic nuisance species in those waters.

(b) CONTENT.—The study shall include an examination of—

(1) the extent to which aquatic nuisance species are a problem in the waters of the United States;

(2) the degree to which shipping may be a major pathway of transmission of aquatic nuisance species in these waters;

(3) possible alternatives for controlling the introduction of those species through shipping, including the effectiveness of those alternatives in controlling the introduction and spread of aquatic nuisance species;

(4) the feasibility of implementing regional versus national control measures; and

(5) the effectiveness of ballast water exchange in preventing the introduction of aquatic nuisance species between marine ports.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report summarizing the results of the study conducted under this section to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate.

(d) REGULATIONS.—30 months after the date of enactment of this Act, the Secretary may issue regulations for preventing the introduction and spread of aquatic nuisance species by vessels in the waters of the United States, if the Secretary determines as a result of the study conducted under this section, that those regulations are warranted.

(e) NEGOTIATIONS.—The Secretary, working through the International Maritime Organization and in consultation with the Secretary of State, is encouraged to enter into negotiations with other nations concerning the planning and implementation of measures for the prevention and control of unintentional introductions of aquatic nuisance species in the waters of the United States.

(f) CIVIL PENALTIES.—Any person who violates a regulation issued under this subtitle shall be liable for a civil penalty in an amount not to exceed $25,000. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

(g) CRIMINAL PENALTIES.—Any person who knowingly violates a regulation issued under this subtitle commits a class C felony.

Subtitle C—Aquatic Nuisance Species Control Program

SEC. 1201. AQUATIC NUISANCE SPECIES CONTROL PROGRAM.

(a) TASK FORCE.—There is hereby established a task force to be known as the "Aquatic Nuisance Species Task Force".

(b) MEMBERSHIP.—Membership on the Task Force shall consist of—

(1) the Director;

(2) the Under Secretary;

(3) the Administrator of the Environmental Protection Agency;

(4) the Commandant of the Coast Guard;

(5) the Assistant Secretary;

(6) a representative of the International Association of Fish and Wildlife Agencies;

(7) the Director of the Great Lakes Commission; and

(8) any other individual the Chairpersons deem appropriate.

(c) CHAIRPERSONS.—The Director and the Under Secretary shall serve as co-chairpersons of the Task Force and shall be jointly responsible for carrying out this subtitle in consultation with the other members of the Task Force.

(d) MEMORANDUM OF UNDERSTANDING.—Six months after the date of enactment of this Act, the Director and the Under Secretary shall develop a memorandum of understanding that describes the role of each Federal agency in carrying out this subtitle.

SEC. 1202. DEVELOPMENT OF AQUATIC NUISANCE SPECIES RESEARCH AND CONTROL PROGRAM.

(a) IN GENERAL.—The Task Force shall develop, update annually, and implement a five-year program to coordinate Federal activities related to research, monitoring, control, and eradication of aquatic nuisance species.

(b) CONTENT.—The program developed under subsection (a) shall—

(1) identify the goals, priorities, and approaches for aquatic nuisance species research, monitoring, control and eradication to be conducted or funded by the Federal Government;

(2) describe the specific research, monitoring, control, and eradication activities to be conducted under the program by participating Federal agencies;

(3) coordinate aquatic nuisance species programs and activities of participating Federal agencies and affected State agencies;

(4) describe the specific role of each Federal agency in implementing the program as set forth in the memorandum of understanding under subsection 1201(d);

(5) include recommendations for funding to implement the program; and

(6) develop a demonstration program of research, monitoring, control, and eradication for aquatic nuisance species, particularly the zebra mussel, to be implemented in the Great Lakes.

(c) RESEARCH.—The program developed under subsection (a) shall provide for research regarding—

(1) the environmental and economic risks associated with the introduction of aquatic nuisance species into the waters of the United States, particularly the Great Lakes;

(2) the principal pathways by which aquatic nuisance species are introduced and spread;

(3) possible methods for the prevention, management, and control of aquatic nuisance species, particularly the zebra mussel; and

(4) the assessment of the effectiveness of prevention, management, and control methods.

(d) MONITORING.—The program developed under subsection (a) shall provide for monitoring to—

(1) detect unintentional introductions of aquatic nuisance species;

(2) determine the dispersal of aquatic nuisance species after introduction; and

(3) provide for the early detection and prevention of infestations of aquatic nuisance species in unaffected drainage basins.

(e) TECHNICAL ASSISTANCE.—The program developed under subsection (a) shall provide for technical assistance to State and local governments and persons to minimize the environmental, public health, and safety risks associated with aquatic nuisance species, including an early warning system for advance notice of possible infestations and appropriate responses.

(f) REPORTS.—

(1) Not later than 12 months after the date of enactment of this Act, the Chairpersons shall submit a report describing the program developed under subsection (a) to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate and the Committee on Commerce, Science, and Transportation of the Senate.

(2) On an annual basis after the submission of the program, the Chairpersons shall submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate detailing progress in implementing the program and preventing the spread of aquatic nuisance species.

SEC. 1203. CONTROL AND MANAGEMENT OF AQUATIC NUISANCE SPECIES.

(a) IMPLEMENTATION.—Each Federal agency that is participating in the program developed under section 2202 may under-

take such activities as may be necessary to implement the program.

(b) REGULATIONS.—Not later than 18 months after the date of the enactment of this Act, the Federal agencies that are represented on the Task Force may, consistent with their authority, issue regulations, which implement the recommendations of the Task Force, for controlling the unintentional introduction and spread of aquatic nuisance species by means other than vessel ballast water.

SEC. 1204. STATE AQUATIC NUISANCE SPECIES MANAGEMENT PLANS.

(a) STATE PLAN.—

(1) IN GENERAL.—The Governor of each State may, after notice and opportunity for public comment, prepare and submit to the Task Force for approval, a management plan which identifies those areas or activities within the State for which technical and financial asistance is needed to eliminate or reduce the environmental, public health, and safety risks associated with aquatic nuisance species.

(2) CONTENT.—Each plan shall, to the extent possible, identify the management practices and measures that will be undertaken to reduce infestations of aquatic nuisance species, particularly the zebra mussel. The plan shall—

(A) identify and describe State and local programs for the control and eradication of aquatic nuisance species, particularly the zebra mussel;

(B) identify Federal activities that may be needed to control and eradicate aquatic nuisance species and a description of the manner in which those activities should be coordinated with State and local government activities; and

(C) a schedule of implementing the plan, including annual milestones.

(3) CONSULTATION.—

(A) In developing and implementing the management plan, the State should, to the maximum extent practicable, involve local governments and public and private organizations that have expertise in the control of aquatic nuisance species, particularly the zebra mussel.

(B) Upon the request of a State, the Task Force may provide technical assistance in developing and implementing a management plan.

(4) PLAN APPROVAL.—Within 90 days after the submission of the plan, the Task Force shall review the proposed plan and approve it if it meets the requirements of this subsection or return the plan to the governor with recommended modifications

(b) GRANT PROGRAM.—

(1) STATE GRANTS.—The Director and the Assistant Secretary may make grants to States with approved management plans for the implementation of those plans.

(2) APPLICATION.—An application for a grant under this subsection shall include an identification and description of the best management practices and measures which the State proposes to utilize with any Federal assistance to be provided under the grant.

(3) FEDERAL SHARE.—The Federal share of the cost of each management plan implemented the Federal assistance under this section in any fiscal year shall not exceed 75 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided for non-Federal sources.

(4) ADMINISTRATIVE COSTS.—For the purposes of this section, administrative costs for activities and programs carried out with a grant in any fiscal year shall not exceed 5 percent of the amount of the grant in that year.

(5) IN-KIND CONTRIBUTIONS.—In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.

SEC. 1205. RELATIONSHIP TO OTHER LAWS.

All actions taken by Federal agencies in implementing the program developed under section 1202(a) shall be consistent with all applicable Federal, State, and local environmental laws. Nothing in this title shall affect the authority of any State or political subdivision thereof to adopt or enforce control measures for aquatic nuisance species, or diminish or affect the jurisdiction of any State over resident species of fish and wildlife. Compliance with the control and eradication measures of any State or political subdivision thereof regarding aquatic nuisance species shall not relieve any person of the obligation to comply with the provisions of this subtitle.

SEC. 1206. INJURIOUS SPECIES.

For the purposes of section 42 of title 18, United States Code, the Secretary of the Interior shall declare the zebra mussel (Dreissena polymorpha) an injurious species.

SEC. 1207. REPORT ON INTENTIONAL INTRODUCTIONS OF NONINDIGENOUS SPECIES.

Not later than 18 months after the date of enactment of this Act, the Director, in consultation with affected State fish and wildlife agencies, shall prepare and submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate on the problem of intentional introductions of nonindigenous species into the United States.

Subtitle D—Authorizations

SEC. 1301. AUTHORIZATIONS.

(a) IMPLEMENTATION OF RESEARCH AND CONTROL PROGRAM.—There are authorized to be appropriated for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to develop and implement the program required under sections 1203 and 1204—

(1) $1,125,000 to fund zebra mussel prevention and control research at the Great Lakes Environmental Research Laboratory;

(2) $3,375,000 to fund grants for zebra mussel prevention and control research under section 206 of the National Sea Grant College Program Act (33 U.S.C. 1125);

(3) $500,000 to fund Sea Grant Marine Advisory services national education and extension services;

(4) $100,000 to fund aquatic nuisance species prevention and control activities of the Great Lakes Fishery Commission;

(5) $100,000 to fund aquatic nuisance species prevention and control activities of the Great Lakes Commission;

(6) $100,000 to the Secretary to fund the activities of the Coast Guard;

(7) $2,500,000 to the United States Fish and Wildlife Service;

(8) $1,000,000 to the Environmental Protection Agency; and

(9) $1,000,000 to the Corps of Engineers.

(b) GRANTS UNDER SECTION 1204.—There are authorized to be appropriated for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to make grants under section 1204—

(1) $2,500,000 to the United States Fish and Wildlife Service; and

(2) $2,500,000 to the Corps of Engineers.

(c) ENFORCEMENT ACTIVITIES.—There are authorized to be appropriated $2,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to the Coast Guard for enforcement activities under subtitle B.

Subtitle E—Cooperative Environmental Analyses

SEC. 1401. ENVIRONMENTAL IMPACT ANALYSES.

(a) INTERNATIONAL COOPERATION.—The Secretary of State, in consultation with the Council on Environmental Quality, is encouraged to enter into negotiations with the governments of Canada and Mexico to provide for reciprocal cooperative environmental impact analysis of major Federal actions which have significant transboundary effects on the quality of the human environment in the United States, Canada, and Mexico.

(b) MODIFICATION OF NATIONAL ENVIRONMENTAL POLICY ACT REGULATIONS.—The Council on Environmental Quality shall modify its regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as may be necessary to reflect any agreement entered into under subsection (a).

TITLE IV.—NATIONAL SEA GRANT COLLEGE PROGRAM AUTHORIZATION

SEC. 2001. SHORT TITLE.

This title may be cited as the "National Sea Grant College Program Authorization Act of 1990".

SEC. 2002. NATIONAL SEA GRANT OFFICE.

(a) MAINTENANCE OF OFFICE.—Section 203(a) of the National Sea Grant College Program Act (33 U.S.C. 1123(a)) is amended to read as follows:

"(a) The Secretary shall maintain, within the Administration, a program to be known as the National Sea Grant College Program. The National Sea Grant College Program shall consist of the financial assistance and other activities provided for in this Act, and shall be administered by a National Sea Grant Office within the Administration. The Secretary shall establish long-range planning guidelines and priorities for, and adequately evaluate, this program.".

(b) OVERSIGHT.—Section 203(b) of the National Sea Grant College Program Act (33 U.S.C. 1123(b)) is amended—

(1) in paragraph (6), by striking "; and" and inserting a semicolon;

(2) in paragraph (7), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(8) oversee the operation of the National Sea Grant Office established under subsection (a) of this section.".

SEC. 2003. AUTHORIZATION.

Subsections (a) through (c) of section 212 of the National Sea Grant College Program Act (33 U.S.C. 1131(a)(c)) are amended to read as follows:

"(a) There is authorized to be appropriated to carry out the provisions of sections 204, 205, and 208 of this Act, an anount—

"(1) for fiscal year 1991, not to exceed $48,750,000; and

"(2) for fiscal year 1992, not to exceed $52,500,000.

"(b) There is authorized to be appropriated to carry out section 206 of this Act, an amount—

"(1) for fiscal year 1991, not to exceed $6,375,000; and

"(2) for fiscal year 1992, not to exceed $10,000,000.

"(c)(1) There is authorized to be appropriated for administration of this Act by the National Sea Grant Office and the Administration, an amount—

"(A) for fiscal year 1991, not to exceed $2,400,000; and

"(B) for fiscal year 1992, not to exceed $2,500,000.

"(2) Sums appropriated under the authority of subsections (a) and (b) shall not be available for administration of this Act by the National Sea Grant Office, or for Administration program or administrative expenses.".

SEC. 2004. REPEAL OF MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

Section 211 of the National Sea Grant College Program Act (33 U.S.C. 1130) is repealed.

The SPEAKER pro tempore. Is a second demanded?

Mr. DAVIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. HERTEL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5390.

The bill which we are considering today addresses many important issues related to the Great Lakes, and specifically H.R. 5390 establishes a comprehensive program of prevention and control of aquatic nuisance species, particularly the zebra mussel in the Great Lakes.

In June, the Subcommittee on Oceanography and Great Lakes held a hearing on the problem of exotic species infestations in the Great Lakes and other coastal regions of the United States. The results of this hearing only served to reemphasize the enormous impact which aquatic nuisance species are having on the economy and the aquatic environment.

These species disrupt coastal environments by competing with native organisms for food and other resources and may have negative economic impact on commercial and recreational fisheries, municipal and industrial water supplies, and shipping interests.

The bill before us today mandates a three-phase program for preventing further introduction of nuisance species in the Great Lakes and elsewhere by requiring the U.S. Coast Guard to issue voluntary ballast control regulations for vessels entering the Great Lakes. Furthermore, this legislation requires mandatory ballast water control for all vessels entering the Great Lakes after 2 years, using appropriate control methods which are to be certified by the Secretary of Transportation.

Finally, this program mandates a national study to determine the extent in which exotic species are posing problems elsewhere in the Nation. H.R. 5390 encourages international negotiations with the Government of Canada to develop a joint program of ballast water control.

The second major effect of this legislation is to mandate development of a comprehensive program of research, monitoring, and control of the zebra mussel and other aquatic nuisance species in the Great Lakes and elsewhere.

NOAA and the U.S. Fish and Wildlife Service would serve as cochairs of the Federal task force. The task force would implement a cooperative program for research on the effects of aquatic nuisance species on the environment and on methods for the control of the spread of nuisance species once in the ecosystem.

Grants to Great Lakes States and other States affected by aquatic nuisance species to implement zebra mussel control and management programs are also provided on a competitive basis. These funds would go toward actual implementation of the program and, finally, over 5 years, the bill would provide authorization for appropriations of over $12 million per fiscal year including $5 million to fund the research activities of NOAA. This money would be used for State grants administered through the Sea Grant Colleges Program and the Great Lakes Environmental Research Laboratory in Ann Arbor. There would be $5 million to the U.S. Fish and Wildlife Service for implementation of a research program and for grants to States to develop a management program; $2 million will go to the Coast Guard to develop regulations and study this program nationally.

Other provisions of H.R. 5390 would be authorized, the National Sea Grant Program Act for fiscal year 1991-92, and authorizes the study of the Great Lakes fishery resources.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5390.

Title I of the bill introduced by Congressman HERTEL and myself, that address an immediate problem for the lakes—zebra mussels. In 5 short years after being dumped in the Great Lakes by oceangoing ships, these small clamlike organisms have caused millions of dollars in damage. In Lake Erie and Ontario they have clogged industrial and municipal water intake pipes and boat motors, they have colonized fish spawning reefs and have littered beaches with razor sharp shells.

The potential for severe economic harm is devastating, because these tiny aquatic animals have no natural predators to limit their numbers. Not only have they found their way into each of the Great Lakes, but are gaining a foothold as far west as northern Minnesota's St. Louis River spreading fear of infestation to Minnesota's 10,000 lakes and the Mississippi River.

The bill requires that the U.S. Coast Guard develop voluntary guidelines to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the exchange of ballast water of vessels. This exchange can be carried out on the high seas or in other areas, as long as it protects against the threat of infestation. Ships may use an alternative ballast water management treatment program if it has been found effective. Within 2 years these requirements would be made mandatory for the Great Lakes. The bill also requires the Coast Guard to initiate a study of other waters of the United States to determine if similar ballast water management is needed.

This bill also establishes a task force of Federal and State agencies and other entities to develop a 5-year program relating to research, monitoring, control, and eradication of aquatic nuisance species. The bill provides State grantes to assist in the carrying out of activities required by the task force and provides authorization to various Federal agencies for their involvement in solving this problem.

Title II of the bill reauthorizes and makes several changes to the National Sea Grant Program.

Mr. HERTEL. Mr. Speaker, I want to thank the ranking member, the gentleman from Michigan [Mr. DAVIS], for helping so much in being an original cosponsor of this bill, and I especially want to thank the gentleman from New York [Mr. NOWAK] for all of his hard work in this entire area. He has even worked with Russian scientists and with the gentlemen from Michigan [Mr. DINGELL]. Maybe he could tell us about that. He has done an excellent job, and we thank him for all of his help, especially today in developing this package and allowing this bill to come forward.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Mr. Speaker, I rise in strong support of H.R. 5390 and also the Great Lakes Fish and Wildlife Restoration Act of 1990 which I understand just preceded this debate.

□ 1600

Mr. Speaker, the Aquatic Nuisance Prevention and Control Act of 1990 is certainly one that will help Members greatly, I think, to look at the situation of the zebra mussel and other exotic species that have entered the Great Lakes, and in fact, other waters throughout our Nation.

It is an initiative that, I think, is in perfect timing because I think it is one that hopefully we can, instead of just reacting to a situation, we can finally get out in front of the problem and be

able to manage it before it becomes unmanageable.

I just want to thank the chairman, the gentleman from North Carolina [Mr. JONES] and certainly the gentleman from Michigan [Mr. DAVIS] for all their hard work, but most of all the gentleman from Massachusetts [Mr. STUDDS] and certainly the gentleman from Michigan [Mr. HERTEL] for their initiation of the hearings, and going through the process and bringing this bill to the House floor.

This has been of great interest, and we certainly want to continue that kind of cooperation between our two committees. I commend all involved.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. NOWAK. I yield to the chairman, the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I would just like to take one moment to reiterate the understanding of this gentleman and of our two committees that the bill just passed prior to this, the one authorized by the gentleman from New York, and the current pending bill by the gentleman from Michigan [Mr. HERTEL], in our judgment, while they are separate freestanding bills, taken together comprise a legislative package designed to address the problems confronting the Great Lakes, a package which both the committees involved are committed to seeing through to final enactment.

The gentleman has managed to introduce Members to a critter named the zebra mussel, and to convince Members of the enormous consequence of our coming to deal with that problem. The two gentlemen together, as we said before, together with the gentleman from Michigan [Mr. DAVIS] have done yeoman service on behalf of their region of the country and the Great Lakes. I want to assure all the gentlemen concerned that we view this as a legislative package on behalf of the Great Lakes, and will do our best to see both bills are enacted into law.

Mr. HERTEL. Mr. Speaker, I yield myself such time as I may consume. This is the greatest threat we have seen in this century to the Great Lakes. That is why I would really like to commend all members of the Committee on Merchant Marine and Fisheries, and all of my Great Lakes colleagues from Michigan and the other States for their support of this legislation. I would particularly like to single out again, the gentleman from New York [Mr. NOWAK], the gentleman from North Carolina [Mr. JONES], the gentleman from Massachusetts [Mr. STUDDS], the gentleman from Louisiana [Mr. TAUZIN], and again the gentleman from Michigan [Mr. DAVIS], the ranking member. We are proud of Michigan, and thank them for all of their help, and urge support of this legislation.

Mr. NOWAK. Mr. Speaker, I rise in strong support of H.R. 5390, the Aquatic Nuisance Prevention and Control Act of 1990, a bill crafted to respond to the threat of the zebra mussel and other exotic species that find their way into U.S. waters. The zebra mussel in just 2 years has infiltrated the Great Lakes and colonized our water intake infrastructure; it is estimated to cost the Nation over $5 billion in damage and management costs over the next decade as it spreads from the Great Lakes to inland rivers and lakes.

This bill is a comprehensive interagency response to the problem of the zebra mussel, providing resources to NOAA, the U.S. Fish and Wildlife Service, the Coast Guard, the U.S. Army Corps of Engineers, and the Environmental Protection Agency that provides for a coordinated attack on the prevention and control of exotic species. I have worked closely with Representative DENNIS HERTEL, chairman of the Merchant Marine and Fisheries Subcommittee on Oceanography and the Great Lakes, in the development of this bill and I wish to thank him and other Michigan Members for their vigilance in addressing this critical problem.

Mr. Speaker, I also rise in support of H.R. 4299, the Great Lakes Fish and Wildlife Restoration Act of 1990.

This bill provides badly needed resources to the U.S. Fish and Wildlife Service to assess our Great Lakes fishery and implement management programs critical to the stewardship of the fishery, now worth over $4.5 billion annually to the Great Lakes regional economy. In crafting this bill we consulted extensively with the Fish and Wildlife Service to ensure that this legislation would reflect the true programmatic needs of the Service in this new Great Lakes initiative. This modest Federal investment in the Great Lakes resource is long overdue and will make the U.S. Fish and Wildlife Service a full partner in the multiagency Federal effort to clean up and enhance our valuable Great Lakes fishery.

H.R. 4299 also amends the recently enacted Oil Pollution Act of 1990 to include an oil pollution minimization demonstration project for the Great Lakes. The Great Lakes are a unique ecosystem that take a full 100 years for the water to cycle through. This warrants special consideration for the unique and certain devastation that a major oilspill would have on the system. Again I will thank Chairman HERTEL for his excellent work in moving this provision along.

I would like to commend the chairman of the Merchant Marine and Fisheries Committee, Mr. JONES and ranking minority member, Mr. DAVIS, whom I worked closely with in crafting the fish and wildlife bill.

Finally, special thanks is owed to my colleague, Chairman STUDDS, for his subcommittee's expeditious consideration of these initiatives. Thanks to his leadership, strong hearing records were developed and legislation moved quickly through the Merchant Marine and Fisheries Committee.

I strongly urge the adoption of these bills.

Mr. DAVIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HERTEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Michigan [Mr. HERTEL] that the House suspend the rules and pass the bill, H.R. 5390, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The title of the bill was amended so as to read: "A bill to prevent and control infestations of the coastal inland waters of the United States by the zebra mussel and other nonindigenous aquatic nuisance species, to reauthorize the National Sea Grant College Program, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HERTEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5390, the bill just passed.

The. SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PORTABILITY OF BENEFITS FOR NONAPPROPRIATED FUND EMPLOYEES ACT OF 1990

Mr. ACKERMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3139) to amend title 5, United States Code, to authorize portability of benefits for employees of nonappropriated fund instrumentalities of the Department of Defense when such employees convert to the civil service system, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Portability of Benefits for Nonappropriated Fund Employees Act of 1990".

SEC. 2. DEFINITIONAL AMENDMENT.

Section 2105(c) of title 5, United States Code, is amended—

(1) by amending paragraph (1) to read as follows:

"(1) laws administered by the Office of Personnel Management, except—

"(A) section 7204;

"(B) as otherwise specifically provided in this title;

"(C) the Fair Labor Standards Act of 1938; or

"(D) for the purpose of entering into an interchange agreement to provide for the noncompetitive movement of employees be-

tween such instrumentalities and the competitive service; or"; and

(2) in paragraph (2), by striking "chapter 84" and inserting "chapter 84 (except to the extent specifically provided therein)".

SEC. 3. AMENDMENT RELATING TO ORDER OF RETENTION.

Section 3502(a)(C) of title 5, United States Code, is amended to read as follows:

"(C) is entitled to credit for—

"(i) service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Allotment Act or of a committee or association of producers described in section 10(b) of the Agricultural Adjustment Act; and

"(ii) service rendered as an employee described in section 2105(c) if such employee moves or has moved, on or after January 1, 1987, without a break in service of more than 3 days, from a position in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard to a position in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).".

SEC. 4. AMENDMENT RELATING TO PAY ON A CHANGE OF POSITION.

Section 5334 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) An employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) who moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, may have such employee's initial rate of basic pay fixed at the minimum rate of the appropriate grade or at any step of such grade that does not exceed the highest previous rate of basic pay received by that employee during the employee's service described in section 2105(c). In the case of a nonappropriated fund employee who is moved involuntarily from such nonappropriated fund instrumentality without a break in service of more than 3 days and without substantial change in duties to a position that is subject to this subchapter, the employee's pay shall be set at a rate (not above the maximum for the grade, except as may be provided for under section 5365) that is not less than the employee's rate of basic pay under the nonappropriated fund instrumentality immediately prior to so moving.".

SEC. 5. AMENDMENT RELATING TO PERIODIC STEP INCREASES.

Section 5335 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) In computing periods of service under subsection (a) in the case of an employee who moves without a break in service of more than 3 days from a position under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) to a position under the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, service under such instrumentality shall, under regulations prescribed by the Office, be deemed service in a position subject to this subchapter.".

SEC. 6. AMENDMENT RELATING TO GRADE AND PAY RETENTION.

Section 5365(b) of title 5, United States Code, is amended by adding at the end, as a flush left sentence, the following: "Individuals with respect to whom authority under paragraph (2) may be exercised include individuals who are moved without a break in service of more than 3 days from employment in nonappropriated fund instrumentalities of the Department of Defense or the Coast Guard described in section 2105(c) to employment in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).".

SEC. 7. AMENDMENT RELATING TO PAY FOR ACCUMULATED AND ACCRUED LEAVE.

Section 5551(a) of title 5, United States Code, is amended by adding at the end the following new sentence: "For the purposes of this subsection, movement to employment described in section 2105(c) shall not be deemed separation from the service in the case of an employee whose annual leave is transferred under section 6308(b).".

SEC. 8. AMENDMENTS RELATING TO TRANSFERS BETWEEN POSITIONS UNDER DIFFERENT LEAVE SYSTEMS.

Section 6308 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "The annual"; and

(2) by adding at the end the following new subsection:

"(b) The annual leave, sick leave, and home leave to the credit of a nonappropriated fund employee of the Department of Defense or the Coast Guard described in section 2105(c) who moves without a break in service of more than 3 days to a position in the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter shall be transferred to the employee's credit. The annual leave, sick leave, and home leave to the credit of an employee of the Department of Defense or the Coast Guard who is subject to this subchapter and who moves without a break in service of more than 3 days to a position under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c), shall be transferred to the employee's credit under the nonappropriated fund instrumentality. The Secretary of Defense or the Secretary of Transportation, as appropriate, may provide for a transfer of funds in an amount equal to the value of the transferred annual leave to compensate the gaining entity for the cost of a transfer of annual leave under this subsection.".

SEC. 9. AMENDMENTS TO INCLUDE ADDITIONAL SERVICE FOR LEAVE ACCRUAL PURPOSES.

(a) IN GENERAL.—Section 6312 is amended to read as follows:

"§ 6312. Accrual and accumulation for former ASCS county office and nonappropriated fund employees

"(a) Credit shall be given in determining years of service for the purpose of section 6303(a) for—

"(1) service as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Allotment Act or of a committee or an association of producers described in section 10(b) of the Agricultural Adjustment Act; and

"(2) service under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) by an employee who has moved without a break in service of more than 3 days to a position subject to this subchapter in the Department of Defense or the Coast Guard, respectively.

"(b) The provisions of subsections (a) and (b) of section 6308 for transfer of leave between leave systems shall apply to the leave systems established for such county office employees and employees of such Department of Defense and Coast Guard nonappropriated fund instrumentalities, respectively.".

(b) TABLE OF SECTIONS.—The item relating to section 6312 in the table of sections for chapter 63 of title 5, United States Code, is amended to read as follows:

"6312. Accrual and accumulation for former ASCS county office and nonappropriated fund employees.".

SEC. 10. AMENDMENTS RELATING TO THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) AMENDMENTS TO SECTION 8331 OF TITLE 5.—Section 8331 of title 5, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1)(J);

(2) by inserting "and" after the semicolon at the end of paragraph (1)(K);

(3) by inserting after paragraph (1)(K) the following new paragraph:

"(L) an employee described in section 2105(c) who has made an election under section 8347(p)(1) to remain covered under this subchapter;";

(4) in paragraph (1)(ii), by striking the matter following "Government employees" through the semicolon and inserting "(besides any employee excluded by clause (x), but including any employee who has made an election under section 8347(p)(2) to remain covered by a retirement system established for employees described in section 2105(c));"; and

(5) in paragraph (7), by striking "and Gallaudet College;" and inserting "Gallaudet College, and, in the case of an employee described in paragraph (1)(L), a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c);".

(b) AMENDMENT TO SECTION 8347 OF TITLE 5.—Section 8347 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(p)(1) Under regulations prescribed by the Office of Personnel Management, an employee of the Department of Defense or the Coast Guard who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) has 5 or more years of civilian service creditable under this subchapter; and

"(C) moves, without a break in service of more than 3 days, to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered as an employee under this subchapter during any employment described in section 2105(c) after such move.

"(2) Under regulations prescribed by the Office of Personnel Management, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, described in section 2105(c), who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) is a vested participant in a retirement system established for employees described in section 2105(c), as the term 'vested participant' is defined by such system;

"(C) moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c); and

"(D) is excluded from coverage under chapter 84 by section 8402(b),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered, during any subsequent employment as an employee as defined in section 2105(a) or section 2105(c), by the retirement system applicable to such employee's current or most recent employment described in section 2105(c) rather than be subject to this subchapter.".

SEC. 11. AMENDMENTS RELATING TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

(a) AMENDMENTS TO SECTION 8401 OF TITLE 5.—Section 8401 of title 5, United States Code, is amended—

(1) in paragraph (11)—

(A) by striking "and" at the end of subparagraph (A);

(B) by inserting "and" after the semicolon at the end of subparagraph (B);

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) an employee described in section 2105(c) who has made an election under section 8461(n)(1) to remain covered under this chapter;";

(D) by striking "or" at the end of clause (ii);

(E) by inserting "or" after the semicolon at the end of clause (iii); and

(F) by inserting after clause (iii) the following new clause:

"(iv) an employee who has made an election under section 8461(n)(2) to remain covered by a retirement system established for employees described in section 2105(c);"; and

(2) in paragraph (15), by striking "and Gallaudet College;" and inserting ", Gallaudet College, and, in the case of an employee described in paragraph (11)(C), a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c);".

(b) AMENDMENT TO SECTION 8461 OF TITLE 5.—Section 8461 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(n)(1) Under regulations prescribed by the Office, an employee of the Department of Defense or the Coast Guard who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) has 5 or more years of civilian service creditable under this chapter; and

"(C) moves, without a break in service of more than 3 days, to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered as an employee under this chapter during any employment described in section 2105(c) after such move.

"(2) Under regulations prescribed by the Office, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c), who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) is a vested participant in a retirement system established for employees described in section 2105(c), as the term 'vested participant' is defined by such system;

"(C) moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is not described by section 2105(c); and

"(D) is not eligible to make an election under section 8347(p),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered, during any subsequent employment as an employee as defined by section 2105(a) or section 2105(c), by the retirement system applicable to such employee's current or most recent employment described by section 2105(c) rather than be subject to this chapter.".

SEC. 12. AMENDMENTS RELATING TO HEALTH BENEFITS.

Section 8901(3)(A) of title 5, United States Code, is amended—

(1) by striking "or" at the end of clause (ii);

(2) by inserting "or" after the semicolon at the end of clause (iii); and

(3) by inserting after clause (iii) the following new clause:

"(iv) on an immediate annuity under a retirement system established for employees described in section 2105(c), in the case of an individual who elected under section 8347(p)(2) or 8461(n)(2) to remain subject to such a system;".

SEC. 13. APPLICABILITY.

(a) IN GENERAL.—The amendments made by this Act shall apply with respect to any individual who, on or after January 1, 1987—

(1) moves without a break in service of more than 3 days from employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard that is described in section 2105(c) of title 5, United States Code, to employment in the Department of Defense or the Coast Guard, respectively, that is not described in such section 2105(c); or

(2) moves without a break in service from employment in the Department of Defense or the Coast Guard that is not described in such section 2105(c) to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, that is described in such section 2105(c).

(b) RULE FOR INDIVIDUALS WHO MOVED BETWEEN JANUARY 1, 1987, AND DATE OF ENACTMENT.—The Secretary of Defense, the Secretary of Transportation, the Director of the Office of Personnel Management, and the Executive Director of the Federal Retirement Thrift Investment Board, as applicable, shall take such actions as may be practicable to ensure that each individual who has moved as described in subsection (a) on or after January 1, 1987, and before the date of enactment of this Act, receives the benefit of the amendments made by this Act as if such amendments had been in effect at the time such individual so moved. Each such individual who wishes to make an election of retirement coverage under the amendments made by section 10 or 11 of this Act shall complete such election within 180 days after the date of enactment of this Act.

SEC. 14. CLARIFYING PROVISIONS RELATING TO TREATMENT OF INDIVIDUALS ELECTING TO REMAIN SUBJECT TO THEIR FORMER RETIREMENT SYSTEM.

(a) DEFINITION.—For the purpose of this section, the term "nonappropriated fund instrumentality" means a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, described in section 2105(c) of title 5, United States Code.

(b) PARTICIPATION IN THE THRIFT SAVINGS PLAN BY AN INDIVIDUAL ELECTING TO REMAIN IN CSRS.—(1) If an individual makes an election under section 8347(p)(1) of title 5, United States Code, to remain covered by subchapter III of chapter 83 of such title, any nonappropriated fund instrumentality thereafter employing such individual shall deduct from such individual's pay and contribute to the Thrift Savings Fund such sums as are required for such individual in accordance with section 8351 of such title.

(2) Notwithstanding subsection (a) or (b) of section 8432 of title 5, United States Code, any individual who, as of the date of enactment of this Act, becomes eligible to make an election under section 8347(p)(1) of such title may, within 30 days after such individual makes an election thereunder in accordance with section 13(b), make any election described in section 8432(b)(1)(A) of such title.

(c) PARTICIPATION IN THE THRIFT SAVINGS PLAN BY AN INDIVIDUAL ELECTING TO REMAIN IN FERS.—(1) If an individual makes an election under section 8461(n)(1) of title 5, United States Code, to remain covered by chapter 84 of such title, any nonappropriated fund instrumentality thereafter employing such individual shall deduct from such individual's pay and shall contribute to the Thrift Savings Fund the funds deducted, together with such other sums as are required for such individual under subchapter III of such chapter.

(2) Notwithstanding subsection (a) or (b) of section 8432 of title 5, United States Code, any individual who, as of the date of enactment of this Act, becomes eligible to make an election under section 8461(n)(1) of such title may, within 30 days after such individual makes an election thereunder in accordance with section 13(b)), make any election described in section 8432(b)(1)(A) of such title.

(d) DEDUCTIONS AND WITHHOLDINGS FOR INDIVIDUALS ELECTING TO REMAIN COVERED BY A RETIREMENT SYSTEM ESTABLISHED FOR NAF EMPLOYEES.—If an individual makes an election under section 8347(p)(2) or 8461(n)(2) of title 5, United States Code, to remain covered by a retirement system established for employees described in section 2105(c) of such title, any Government agency thereafter employing such individual shall, in lieu of any deductions or contributions for which it would otherwise be responsible with respect to such individual under chapter 83 or 84 of such title, make such deductions from pay and such contributions as would be required (under the retirement system for nonappropriated fund employees involved) if it were a nonappropriated fund instrumentality. Any such deductions and contributions shall be remitted to the Department of Defense or the Coast Guard, as applicable, for transmission to the appropriate retirement system.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. ACKERMAN] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ACKERMAN].

GENERAL LEAVE

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3139, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Department of Defense employs nearly 200,000 nonappropriated fund employees who comprise the military morale, welfare, and recreation work force. These employees work in such activities as libraries, child care centers, commissaries, and recreation facilities.

The Defense Authorization Act for fiscal year 1989 required the Department of Defense to reorganize this work force, causing up to 8,000 nonappropriated fund employees to be converted to civil service status and up to 2,000 civil service employees to be converted to nonappropriated fund status.

As the Office of Personnel Management testified:

The employees of the Defense Department's nonappropriated fund instrumentalities are excluded by law from most of the Federal personnel system and, as a result, problems have long arisen when employees move back and forth between nonappropriated fund instrumentalities and regular Government employment.

H.R. 3139 will permit those employees to make that shift without a loss in pay or benefits, such as retirement, leave, and health and life insurance, by permitting the portability of benefits between the nonappropriated fund system and the civil service system.

The Congressional Budget Office estimates that enactment of H.R. 3139 would result in total savings to the Federal Government $22 million in fiscal year 1991.

Mr. Speaker, I want to point out that there is a subtracting error in the authorization and outlay levels contained in the CBO estimate for fiscal year 1991.

The correct figure for fiscal year 1991 should be a $16 million savings in both authorization and outlay totals.

I will insert the entire CBO estimate in the RECORD immediately following my remarks.

Mr. Speaker, there are many employees around the world who are eagerly awaiting enactment of this bill. I urge my colleagues to support H.R. 3139 and I reserve the balance of my time.

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 1990.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, the Congressional Budget Office has prepared the attached cost estimate for the proposed substitute amendments to H.R. 3139, "Portability of Benefits for Department of Defense Nonappropriated Fund Employees Act of 1989."

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, SEPTEMBER 28, 1990

1. Bill number: Amendment in the nature of substitute to H.R. 3139.

2. Bill title: Portability of Benefits for Department of Defense Nonappropriated Fund Employees Act of 1990.

3. Bill status: An amendment in the nature of a substitute to H.R. 3139, as introduced and referred to the Committee on Post Office and Civil Service on August 4, 1989.

4. Bill purpose: To amend title 5, United States Code, to authorize portability of benefits for employees of nonappropriated fund instrumentalities of the Department of Defense when such employees convert to the civil service system, and for other purposes:

5. Estimated Changes to CBO Baseline:

[By fiscal years, in millions of dollars]

	1991	1992	1993	1994	1995
Direct Spending					
Civil service retirement:					
Estimated budget authority	−22	−23	−24	−25	−26
Estimated outlays					
Revenues: Employee contributions and NAF employer contributions	6	6	6	6	6
Net deficit	−6	−6	−6	−6	−6
Authorizations					
Department of Defense:					
Employer contributions:					
Estimated authorization level	−28	−36	−38	−40	−41
Estimated outlays	−28	−36	−38	−40	−41
Pay:					
Estimated authorization level	12	12	13	13	14
Estimated outlays	12	12	13	13	14
Authorization total:					
Estimated authorization level	−14	−24	−25	−27	−27
Estimated outlays	−14	−24	−25	−27	−27

The spending effects of this bill fall in Functions 600 and 050.

Basis of Estimate: The Department of Defense (DOD) operates a wide variety of programs under the umbrella of Morale, Welfare, and Recreation (MWR). These programs include such activities as libraries, movie theaters, and officer clubs. MWR programs are funded through either appropriations, user fees, or a combination of the two. Employees under programs funded by appropriations are considered civil servants and are entitled to all the benefits received by the federal workforce. Employees of programs funded through user fees are considered non-appropriated fund (NAF) employees and are not covered under civil service, but under local health, leave, and retirement systems.

The 1988 Continuing Resolution mandated that DOD restructure its MWR programs, based on funding sources. Because of this, in fiscal year 1991, some programs that had been funded through appropriations are scheduled to be switched to non-appropriated funds, and vice versa. As a result of these changes, employees in the same position will find themselves in new health, leave, and retirement systems. DOD estimates that 8,000 employees will move from NAF to civil service, and 2,000 will move the other way. Under current law, all accumulated benefits in one system are not transferable to the other system and would be lost. The amendment to H.R. 3139 would provide for portability of benefits so that employees involuntarily switched between the two systems would suffer no loss in pay or benefits.

This bill would allow employees who are changed from non-appropriated, NAF, to appropriated, DOD, fund status or vice versa to elect to remain in their current retirement system. If they chose to switch retirement systems, as under current law, they would lose all of their previous retirement credit. CBO has assumed that all employees would choose to remain in their current retirement system. Therefore, the civil service retirement fund would not receive employer and employee contributions for the 8,000 employees who are currently expected to be switched to DOD status and would be covered under civil service in fiscal year 1991. Employee and employer contributions would decline from projected baseline levels by $30 million in fiscal year 1991 and $160 million over 5 years.

Under the provisions of this bill, if a NAF employee is switched to DOD status and elects to remain in the NAF retirement system, DOD would be required to make the employer contribution into the NAF retirement system. Similarly, if a DOD employee is moved into NAF status but elects to remain in civil service retirement, the NAF plan would have to make the employer contributions to the civil service retirement system. Therefore, NAF would have to make employer contributions to the civil service retirement fund to cover the 2,000 employees who will be switched to NAF status but who would remain in civil service retirement. Employee and employer contributions would total approximately $8 million in fiscal year 1991 and $41 million over 5 years. On the other hand, according to information from DOD, most NAF retirement plans currently do not have any employer contributions. Therefore, DOD would not be required to make any contributions to NAF plans for the 8,000 employees who are switched to DOD status but remain in the NAF retirement plans.

In addition, under current law, DOD would make employer contributions to the Thrift Savings Plan for the 8,000 employees who would be switched to FERS. Agencies make two types of contributions for FERS employees. First, agencies automatically contribute 1 percent of an employee's salary to the Thrift Savings Plan. In addition, an employee's contribution to the Thrift Savings Plan is matched dollar for dollar for the first 3 percent of pay and fifty cents on the dollar for the next 2 percent of pay contributed. CBO baseline projections assumed that 55 percent of the 8,000 people would contribute on average 5 percent of their salary beginning in fiscal year 1992 when they would become eligible to participate in the Thrift Savings Plan. The DOD contribution for these employees would total approximately $30 million over 5 years. Under this bill, CBO assumes the 8,000 employees would remain in their NAF retirement plans. Therefore, no government contributions from DOD would be made for these employees.

Unlike the retirement provisions, this bill would require that NAF employees receive health and life insurance benefits from NAF, and civil service employees receive the same health and life insurance benefits as other federal employees. Under current law, the 8,000 employees who are scheduled to switch to DOD fund status are already expected to receive federal health and life insurance benefits. Therefore, this provision

would have no additional costs to the federal government.

In addition, this bill would allow people switching from NAF to civil service to retain their full salary. Pay grades under the NAF system are equivalent to those under the general schedule. Under current law, however, when a person transfers from NAF to civil service, any step increases that have accumulated are erased. Thus, a person in grade 9, step 8 reverts back to grade 9, step 1. Section 4 provides that the individual would not lose any salary as a result of a switch. Costs of this section are estimated at $12 million in fiscal year 1991 and $64 million over 5 years. This is based on an average grade of general schedule employees (grade 8, step 6), the difference between a step 6 and step 1 of $3,900, and a net movement of 6,000 employees.

The bill also includes provisions related to transfers between positions under different leave systems. The DOD would be able to provide payment to NAF for annual leave costs and vice versa. The bill would not mandate this, so it is unclear what course of action DOD would take. Generally, if an employee changes agencies, a payment for annual leave is not made, according to information from the Office of Personnel Management. If payments were made between the two systems for all 10,000 employees, there would be savings to DOD of $14 million in fiscal year 1991. This is because NAF would pay more to DOD for losing 8,000 employees than DOD would pay to NAF for losing 2,000 employees. This saving, however, is not included in the estimate because it is not mandated by the amendment.

5. Estimated cost to State and local governments: None.

6. Estimate comparison: None.

7. Previous CBO estimate: None.

8. Estimate prepared by: Cathy Ellman (226-2820), Lisa Siegel (226-2840).

9. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

The SPEAKER pro tempore. The gentleman from New York [Mr. GILMAN] will control the time for the minority side.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3139, the Portability of Benefits for Department of Defense Nonappropriated Fund Employees Act. I thank the gentleman from Texas [Mr. LEATH] for his sponsorship of this legislation and the chairman of the subcomittee of jurisdiction, Mr. ACKERMAN, and the chairman of the full Committee on Post Office and Civil Service, Mr. FORD, for their leadership in bringing this legislation to the floor today.

H.R. 3139 provides for the portability of benefits for Department of Defense employees transferring between the Civil Service System and the nonappropriated fund programs. Nonappropriated fund [NAF] programs are those Department of Defense programs funded through user fees, such as libraries, movie theaters, and officer clubs. Employees of NAF programs are not covered under civil service, but under local health, leave and retirement systems.

In 1988, Congress mandated the Department of Defense restructure its NAF programs based on funding sources. As a result, some programs that had been funded through appropriations are scheduled to be switched to nonappropriated funds, and vice versa. Under current law, employees would lose accumulated benefits in the transfer to another system. H.R. 3139 will provide for portability of such benefits so that employees involuntarily transferred between the two systems will suffer no loss in pay or benefits.

Mr. Speaker, H.R. 3139 is time-sensitive legislation and deserves our swift approval. The administration supports this measure. Accordingly, I urge all my colleagues to join me in support of this legislation.

Mr. ACKERMAN. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Speaker, it gives me great pleasure to speak today in support of H.R. 3139, which addresses the portability of benefits for nonappropriated fund and civil service employees of the Department of Defense. This important measure addresses and alleviates a very fundamental concern on the part of some 200,000 Department of Defense morale, welfare, and recreation employees who will have new opportunities opened to them when this bill is passed into law.

It is somewhat fitting that this bill should come to the floor against the backdrop of the budget impasse which has loomed like a dark cloud over the last several weeks. The long and difficult budget negotiations decimated morale among Government workers faced with the very real possibility of furloughs, Government workers who at best find themselves unable to count on the security of their future and at worst feel like they are pawns in a political budget game as they anticipate the draconian measures which will take place in absence of an agreement.

Within the Department of Defense, some 200,000 employees have been anxious and uncertain about the security of their futures for a much longer period of time. The inevitability of Defense budget reductions combined with a mandate for DOD to become more self-sufficient in its morale, welfare and recreation programs strikes fear in the hearts of many MWR workers, now paid from appropriated funds. DOD's becoming more self-sufficient meant that many activities would no longer receive appropriated funds. Thus when an activity changed status from an appropriated to a nonappropriated activity, its employees changed status, too.

With that change in status, though, came a tough choice. Keep your job, but lose your benefits and transfer into a new benefit system since you are no longer a civil servant paid by appropriated funds. That is a tough choice to make at any point in one's career, and especially at the upper end of the seniority ladder. The irony, too, is that the very people who worked toward the betterment of the quality of life for our soldiers and sailors had their own quality of life diminished dramatically. The anguish felt by many was real.

This bill corrects the inequity in not allowing civil service MWR employees to keep the benefits they had enjoyed as civil servants simply because their status changed to nonappropriated fund employees. It just makes sense to allow the movement back and forth between systems to allow for this circumstance and for the transfer of nonappropriated fund employees into the Civil Service Benefit System. The cost is negligible, and the benefit is invaluable.

Today we have a chance to boost morale among Government workers by sending them a signal that we do understand the impact that Federal budget decisions have on individuals who might otherwise feel alientated and ignored. And as the inevitable funding reductions and realignments continue to impact appropriated and nonappropriated fund activities, those of us who support this legislation can be proud to know that we have done something to significantly improve the lot of a substantial number of Government employees who are working to make life a little more enjoyable for our men and women in uniform.

I commend the gentleman from Texas, MARVIN LEATH, for sponsoring this bill and for his continued efforts to safeguard the benefits of Department of Defense employees. He will be sorely missed when he retires at the end of this Congress.

□ 1610

Mr. ACKERMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Speaker, I rise today in support of this bill. I think the gentleman from Texas [Mr. LEATH] has corrected an inequity that has plagued DOD employees and managers for years, and that is deserving of our thanks and congratulations for superb piece of legislation.

Mr. Speaker, first and foremost, employees should be able to move freely between nonappropriated funds and Civil Service positions. This will protect the interests of dedicated and loyal employees who would otherwise suffer considerable financial hardship as the services comply with our directive to restructure morale, welfare, and recreation programs. This bill shows our employees that we care

about their welfare, as well as good management.

Second, this bill opens a whole new world of opportunity for advancement for some of our most talented employees. Of particular interest to me, as chairman of the Personnel and Compensation Subcommittee, will be the shot in the arm that military child care givers around the world will receive when they realize that they can compete for Civil Service management positions.

Mr. Speaker, many military children will benefit from that awareness. Best of all, Mr. Speaker, portability is cost-neutral. It will not add to our budget woes.

I commend the bill to my colleagues, and recommend its immediate adoption.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

Mr. ACKERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and pass the bill, H.R. 3139, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PHYSICIANS COMPARABILITY ALLOWANCES REAUTHORIZATION

Mr. ACKERMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2588) to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances.

The Clerk read as follows:

S. 2588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5948(d) of title 5, United States Code, is amended by striking out the second sentence and inserting in lieu thereof "No agreement shall be entered into under this section later than September 30, 1993, nor shall any agreement cover a period of service extending beyond September 30, 1995.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. ACKERMAN] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ACKERMAN].

GENERAL LEAVE

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 2588, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ACKERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2588, extends the Federal Physicians Comparability Allowance Act of 1978, for 3 years, until September 30, 1993.

The Federal Physicians Comparability Allowance Act of 1978 provides authority for agency heads to enter into service agreements with Government physicians to provide allowances in return for a specified period of service.

Physicians comparability allowances are used by Federal agencies which are experiencing significant recruitment and retention problems.

Currently, payments may not exceed $14,000 per year if the physician has served for 24 months or less as a Government physician at the time the agreement was made or $20,000 per year if the physician has more than 24 months of service.

The continuation of the Federal Physicians Comparability Allowance Act is necessary so that we may continue to attract and retain the best physicians to the Federal Government.

Mr. Speaker, without an extension of the program, Federal agencies would be at a serious disadvantage in competing for physicians in the labor market. I urge my colleagues to support S. 2588, and I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I am pleased to rise in support of S. 2588, the Physicians Comparability Allowance Act. I would like to thank my colleagues the senior Senator from Alaska, TED STEVENS, and my good friend from Massachusetts, SILVIO CONTE, for their hard work in securing passage of this legislation.

The Physicians Comparability Allowance Act extends the current program of allowing agency and department heads to offer service allowances to certain categories of Federal Government doctors and dentists in order to alleviate recruitment and retention problems. Currently, payments may not exceed $14,000 per year if the physician has served for 24 months or less as a Government physician at the time the agreement was made or $20,000 per year if the physician has more than 24 months of service.

Agencies employing physicians have reported to the Office of Personnel Management that this program is instrumental in improving their ability to recruit much needed physicians. Agencies have also reported reduced physician turnover rates since the enactment of this program.

The benefits of recruiting and retaining qualified and competent physicians for the Federal work force are immeasurable. These Federal physicians perform vital functions throughout the public health service in agencies including the National Institutes of Health; the Alcohol, Drug Abuse, and Mental Health Administration; the Centers for Disease Control; and the Food and Drug Administration.

Mr. Speaker, similar provisions to the legislation before us today are included in the comprehensive Federal employee pay reform measure as reported by the Committee on Post Office and Civil Service. While this measure focuses on problems in the recruitment and retention of Government physicians, Congress needs to focus on the Governmentwide problems confronting the Federal work force.

Accordingly, I urge all my colleagues to join me in support of this legislation.

Mr. CONTE. Mr. Speaker, I rise in strong support of passage for S. 2588. This bill simply reauthorizes the physician's comparability allowance through fiscal year 1993. My friend, Senator STEVENS, introduced this bill in the other body and I introduced the companion bill, H.R. 4920, here in the House.

While this is a simple extension, the underlying problem of keeping talented doctors in the Public Health Service is much more complex. The PCA helps to cut the pay gap between the private sector and Government service. But now we are finding that even with PCA, the pay gap is getting bigger and bigger. Overall salaries at NIH are now 50 percent lower than the outside.

I'm trying to fix that problem. We must perform corrective surgery to improve compensation for our best physicians and scientists in the Public Health Service. My senior biomedical research service bill is now an important part of the NIH reauthorization bill. Along with the PCA, SBRS will make pay competitive with the outside.

Both the PCA and the SBRS are essential in bringing our Public Health Service back to robust health. I urge speedy passage of this important bill.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

Mr. ACKERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and pass the Senate bill, S. 2588.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS PERSONNEL ACT OF 1990

Mr. SIKORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4174) to establish a comprehensive personnel system for employees of the Administrative Office of the United States Courts, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Office of the United States Courts Personnel Act of 1990".

SEC. 2. GENERAL PERSONNEL AUTHORITY.

The Director of the Administrative Office of the United States Courts (hereinafter in this Act referred to as the "Director") may appoint, fix the compensation of, assign, and direct such personnel as the Director determines necessary to discharge the duties and functions of the Administrative Office.

SEC. 3. ESTABLISHMENT OF PERSONNEL MANAGEMENT SYSTEM.

(a) The Director shall, by regulation, establish a personnel management system for the Administrative Office which provides for the appointment, pay, promotion, and assignment of all employees on the basis of merit, but without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The system shall apply to all Administrative Office employees except those referred to in section 603 of title 28, United States Code, and shall, at a minimum—

(1) provide for a schedule of pay rates applicable to all employees; except as provided in paragraph (10), the basic pay of any person appointed under this section shall not exceed the rate of basic pay for level V of the Executive Schedule;

(2) incorporate pay comparability principles as set forth in section 5301(a) of title 5, United States Code;

(3) provide for the adjustment of the pay of employees at the same time and in the same percentage amount as rates of basic pay are adjusted for General Schedule and prevailing rate employees, as appropriate;

(4) establish procedures for employee evaluations, the granting of periodic pay adjustments, incentive awards, and resolution of employee grievances;

(5) establish procedures for disciplinary actions, including reduction in grade or pay, suspension, and removal, based on unacceptable performance or misconduct, except that—

(A) such procedures shall be consistent with—

(i) section 4303 of title 5, United States Code, to the extent that they relate to adverse actions based on unacceptable performance; and

(ii) chapter 75 of title 5, United States Code, to the extent that they relate to adverse actions covered by such chapter; and

(B) the Director may exempt from these procedures positions of a confidential or policy-determining character, not to exceed 4 percent of the authorized positions of the Administrative Office;

(6) establish procedures for premium pay (including overtime), except that the Director may at his discretion implement flexible and compressed work schedules and may exempt the hours constituting such schedules from premium pay to the extent he deems necessary to implement such schedules;

(7) include the principles set forth in section 2301(b) of title 5, United States Code;

(8) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code;

(9) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; the Director must promulgate regulations providing procedures for resolving complaints of discrimination by employees and applicants for employment;

(10) provide for the basic pay of not more than 5 percent of the authorized positions of the Administrative Office (excluding the positions referred to in section 603 of title 28, United States Code) to be set at rates not to exceed the rate of basic pay for positions at level IV of the Executive Schedule; the aggregate pay (including basic pay and incentive awards) of any individual whose basic pay is set under this subsection may not exceed the salary of the Director; and

(11) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.

(b) The Director may apply the provisions of sections 5723 and 6304(f) of title 5, United States Code, to the positions referred to in subsection (a)(10) and in section 603 of title 28, United States Code, including the Deputy Director.

(c) The Director may provide for incentive awards for the positions referred to in section 603 of title 28, United States Code, including the Deputy Director, subject to the aggregate pay limitation in subsection (a)(10).

(d) The Chief Justice of the United States or the Judicial Conference of the United States may grant incentive awards to the Director, except that the Director's aggregate pay for any fiscal year, including salary and incentive awards, may not exceed the salary of a United States circuit judge. The Chief Justice or the Judicial Conference may authorize application of section 5723 of title 5, United States Code, to the Director.

(e) The Director may develop and conduct programs to meet the short- and long-range training needs of the agency.

(f) Notwithstanding any other provision of law, an individual who is an employee of the Administrative Office on the day before the effective date of this section and who, as of that day, was entitled to—

(1) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

(2) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code, or

(3) file an appeal with the Equal Employment Opportunity Commission under part 1613 of title 29 of the Code of Federal Regulations,

shall continue to be entitled to file such appeal so long as the individual remains an employee of the Administrative Office, except that this provision shall not apply to employees in positions referred to in section 603 of title 28, United States Code, or in positions of a confidential or policy-determining character referred to in subsection (a)(10).

(g) Nothing in this Act shall be construed to abolish or diminish any right or remedy granted to employees of or applicants for employment in the Administrative Office by any law prohibiting discrimination in Federal employment on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition, except that, with respect to any such employees and applicants for employment, any authority granted under any such law to the Equal Employment Opportunity Commission, the Office of Personnel Management, the Merit Systems Protection Board, or any other agency in the executive branch, shall be exercised by the Administrative Office.

SEC. 4. NONCOMPETITIVE APPOINTMENTS.

(a) Notwithstanding any other provision of law, any employee of the Administrative Office who has completed at least 1 year of continuous service under a nontemporary appointment under the personnel system established pursuant to section 3 acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

(b) A period of continuous service performed as a nontemporary employee of the Administrative Office immediately before the personnel system under section 3 takes effect shall, for purposes of subsection (a), be treated as if it had been performed under such system.

SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 602(a) of title 28, United States Code, is amended to read as follows:

"(a) The Director shall appoint and fix the compensation of necessary employees of the Administrative Office in accordance with the Administrative Office of the United States Courts Personnel Act of 1990.".

(b) Section 603 of title 28, United States Code, is amended by striking "of the Deputy Director and" and by inserting after the first sentence the following: "Notwithstanding any other provision of law, the Director shall not be deemed to be an 'employee' for the purpose of subchapter I of chapter 63 of title 5. The salary of the Deputy Director shall be 92 percent of the salary of the Director.".

(c) Section 2301(a) of title 5, United States Code, is amended—

(1) by inserting "and" at the end of paragraph (1);

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(d) Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking ", the Administrative Office of the United States Courts,".

(e) Section 4301(1) of title 5, United States Code, is amended—

(1) by inserting "and" at the end of subparagraph (A);

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(f) Section 4501(1) of title 5, United States Code, is amended by striking subparagraph (B) and redesignating subparagraphs (C) through (H) as subparagraphs (B) through (G), respectively.

(g) Section 4701(a)(1) of title 5, United States Code, is amended by striking ", the

Administrative Office of the United States Courts,".

(h) Section 5102(a)(1) of title 5, United States Code, is amended by striking subparagraph (B) and redesignating subparagraphs (C) through (G) as subparagraphs (B) through (F), respectively.

(i) Section 5108(c) of title 5, United States Code, is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(j) Section 5349(a) of title 5, United States Code, is amended by striking "the Administrative Office of the United States Courts,".

(k)(1) Section 5595(a)(1) of title 5, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (C); and

(B) by adding after subparagraph (D) the following:

"(E) the Administrative Office of the United States Courts, the Federal Judicial Center, and the courts named by section 610 of title 28; and".

(2) Section 5595(b) of title 5, United States Code, is amended by adding at the end the following: "However, the Director of the Administrative Office of the United States Courts may prescribe regulations to effect the application and operation of this section to the agencies specified in subsection (a)(1)(E) of this section."

(l)(1) Section 5596(a)(2) of title 5, United States Code, is amended by striking "Courts;" and inserting "Courts, the Federal Judicial Center, and the courts named by section 610 of title 28;".

(2) Section 5596(c) of title 5, United States Code, is amended by striking "employees." and inserting "employees, or to the agencies specified in subsection (a)(2) of this section."

(m) Clause (v) of section 8331(1) of title 5, United States Code, is amended to read as follows:

"(v) an employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or a court named by section 610 of title 28, excluded by the Director of the Administrative Office under section 8347(o) of this title;".

(n) Section 8347 of title 5, United States Code, is amended by adding at the end the following:

"(p) The Director of the Administrative Office of the United States Courts may exclude from the operation of this subchapter an employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or a court named by section 610 of title 28, whose employment is temporary or of uncertain duration.".

(o) Section 8401(11)(i)(I) of title 5, United States Code, is amended by striking "(v),".

(p) Section 8402(c) of title 5, United States Code, is amended by adding at the end the following:

"(7) The Director of the Administrative Office of the United States Courts may exclude from the operation of this chapter an employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or a court named by section 610 of title 28, whose employment is temporary or of uncertain duration.".

(q) Section 602(b) of title 28, United States Code, is amended by striking "604(a)(15)(B)" and inserting "604(a)(16)(B)".

(r) Section 402(a)(1) of the Judicial Improvements and Access to Justice Act (102 Stat. 4650) is amended by striking "redesignating paragraph (18)" and inserting "redesignating paragraph (19)".

SEC. 6. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1990 and for each fiscal year thereafter such sums as may be necessary to carry out the provisions of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. SIKORSKI] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. SIKORSKI].

GENERAL LEAVE

Mr. SIKORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 4174, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SIKORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4174 authorizes the establishment of a personnel system for employees of the Administrative Office of the U.S. Courts.

The Administrative Office—as its name states—is responsible for the administration of the U.S. courts, including the probation and bankruptcy systems. Even though it is the administrative arm of the Federal judiciary and an agency of the judicial branch, the Administrative Office is nevertheless currently subject to the control of the executive branch in personnel matters. The U.S. courts which it serves, however, are generally free from such executive branch supervision.

The purpose of this legislation is to authorize the establishment of an independent personnel management system within the Office that is free from executive branch controls and more similar to that serving the rest of the judicial branch.

It should be noted that this legislation is supported by the administration and that the Congressional Budget Office has estimated that there is no significant cost to the enactment of this legislation.

This measure was referred jointly to the Committee on Post Office and Civil Service and the Committee on the Judiciary. It is my understanding from Chairman BROOKS that they have no objection to house consideration of this measure today. I would, however, like to thank Chairman BROOKS and Chairman KASTENMEIER for their cooperation and diligence in this effort.

Additionally, I would like to commend the gentleman from Michigan, Chairman FORD for his efforts on this issue, and also recognize him for all of his hard work as chairman on the Post Office and Civil Service Committee.

□ 1620

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the distinguished chairman of the Civil Service Subcommittee, the gentleman from Minnesota [Mr. SIKORSKI], for bringing this important measure to the floor. This bill would require the Director of the Administrative Office of the U.S. Courts to establish an independent personnel system. I am pleased to report that the administrative costs associated with establishing a personnel management system would not be significant because such a system is largely in place.

Mr. Speaker, this measure has been motivated by and supported by Chief Justice Rehnquist, who, incidentally, is today celebrating his 66th birthday, so it is fitting that we consider this measure today.

Mr. Speaker, I urge my colleagues to join me in support of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SIKORSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. SIKORSKI] that the House suspend the rules and pass the bill, H.R. 4174, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DRUG AND HOUSEHOLD SUBSTANCE MAILING ACT OF 1990

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5209) to amend title 39, United States Code, to make nonmailable any unsolicited sample of a drug or other hazardous household substance which does not meet child-resistant packaging requirements, as amended.

The Clerk read as follows:

H.R. 5209

Be it enacted by the Senate and House of Respresentatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug and Household Substance Mailing Act of 1990".

SEC. 2. MEASURES TO PREVENT INDIVIDUALS FROM BEING INVOLUNTARILY EXPOSED TO POTENTIALLY HAZARDOUS SUBSTANCES RECEIVED THROUGH THE MAILS.

Section 3001 of title 39, United States Code, is amended by redesignating subsec-

tions (f) and (g) as subsections (h) and (i), respectively, and by inserting after subsection (e) the following:

"(f) Any matter which is unsolicited by the addressee, which contains a 'household substance' (as defined by section 2 of the Poison Prevention Packaging Act of 1970), and which does not comply with the requirements for special child-resistant packaging established for that substance by the Consumer Product Safety Commission, is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

"(g)(1) Matter otherwise legally acceptable in the mails which contains or includes a fragrance advertising sample is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless the sample is sealed, wrapped, treated, or otherwise prepared in a manner reasonably designed to prevent individuals from being unknowingly or involuntarily exposed to the sample.

"(2) The Postal Service shall by regulation establish the standards or requirements which a fragrance advertising sample must satisfy in order for the mail matter involved not be considered nonmailable under this subsection.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect 180 days after the date of enactment of this Act, and shall apply with respect to any matter mailed on or after that effective date.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5209, as amended, would declare that any package containing a drug sample or hazardous household substance—as defined by the Poison Prevention Packaging Act of 1970—that does not meet the child-resistant packaging requirements of the Consumer Product Safety Commission is nonmailable matter. The amendments provide that fragrance advertising samples will also be included as nonmailable matter when not properly packaged and that the requirements of the act will become effective 180 days after the act's enactment date. The bill gives the Postal Service the discretion and authority to dispose of the unsolicited samples that are not properly packaged.

I want to take this opportunity to thank the esteemed chairman of the Post Office and Civil Service Committee, Mr. BILL FORD, for his assistance and support in pursuing this potentially lifesaving legislation. As always, his efforts as chairman of this committee provide an example of leadership to those who serve on it.

Earlier this year a potentially lethal accident was prevented in Saline, MI. The incident involved several children, ages 3 to 8, who took Tylenol Gelcap samples from envelopes which had been left in an open mailbox area in an apartment complex. The children reportedly pretended that the potentially dangerous medications were illegal drugs. Thankfully, a concerned resident confiscated the samples before the children ingested a lethal dose of the medication.

The pharmaceutical samples were easily accessible, from the type of solicitation we all receive through the mail, an envelope containing advertising, coupons, and product samples. Pharmaceutical samples are frequently mailed as promotional advertisement. Unfortunately, current law provides no protection for young children who may accidentally eat or drink these potent medicines. Additionally, no protection is afforded for those who may have a severe allergic reaction to the unsealed fragrance stripes often enclosed in mailings.

H.R. 5209, as amended, which has the support of the Postal Service and mailers of pharmaceutical and hazardous household samples, simply mandates that such samples mailed by companies be packaged in child-proof containers to prevent potentially tragic occurrences.

The Postal Service and mailers have been cooperative in helping to correct the problem. And, from the reports I have received it appears that the word is getting out and actions are being taken to assure that child-resistent packaging will be used for drug and hazardous household substance samples sent through the mail. However, I would rather be particularly cautious and mandate the pharmaceutical and household sample packaging requirements than overlook the potential for harm to children.

Again, I want to thank BILL FORD for his leadership and support in promulgating this legislation. I urge Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of this measure.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to congratulate our committee's distinguished chairman, the gentleman from Michigan [Mr. FORD] and the distinguished chairman of Postal Operations Subcommittee, the gentleman from Indiana [Mr. McCLOSKEY] for their work on this important measure. Thankfully no tragedy has occurred involving the ingesting of drugs sent through the mail. This legislation provides a simple requirement that all drugs samples sent via direct mail, be enclosed in child resistant containers.

During consideration of this bill, my colleagues, the gentleman from New York [Mr. HORTON] and I agreed on an amendment to address a serious problem that individuals may suffer from, when they unknowingly are subject to the strong odor of perfume scents. These scents are often enclosed in bills or as inserts in magazines. Thousands of Americans suffer allergic reactions to the fragrance samples that arrive in the mail without warning.

The amendment would direct the Postal Service to issue regulations on the perfume advertising inserts. The regulations would not place an unfair burden on the cosmetic industry or the manufacturers of the scent samples.

I believe that we have been able to forge a delicate compromise between the industry and our serious concerns over protecting the individuals who have suffered severe reactions to perfume advertising inserts. The U.S. Postal Service supports this bill.

I urge a "yes" vote on H.R. 5209.

Mr. FORD of Michigan. This is a rare instance where we in the Congress have an opportunity to adjust a potential problem before serious harm comes to anyone.

For those of you not familiar with the history of this issue, our legislation was prompted by a March 1990 incident in Saline, MI, where several children, aged 3 to 8, took Tylenol Gelcap samples from direct marketing envelopes which had been placed in the mail box area of an apartment complex. The children were pretending the Tylenol Gelcaps were illegal drugs and were crushing them, possibly to inhale the powder. Fortunately for the children, an adult resident saw what was going on and confiscated the pills—turing them over to Jim Douglas, the police chief of Saline. Mr. Douglas contacted our office with this information, asked for help to prevent the problem in the future, and testified at our committee's hearing. Our bill is the result of this action.

And frankly, our bill is an indication that the Congress really is in touch with what is going on out there in the real world. Where are the cynics now that we have discovered a problem, brought all parties involved in the issue to an agreement, and acted quickly to bring about a solution? The system worked. We did not become tied up in idelogical bickering, or worry about more government intrusion. We saw a problem with our drug sample packaging and mailing standards—it was brought home clearly to us by any incident in a small Michigan town. We acted to prevent injury—not just make repairs after harm has been done.

In the past what this bill proposes to do would have been viewed as an unwarranted intrusion into the private affairs of a commercial enterprise. This is not the case today. All parties; the direct mail and marketing industry as well as the U.S. Postal Service supports the Drug and Household Substance Mailing Act of 1990. Their good will has helped us to produce a good bill.

This is truly a situation where the tightening of rules and regulations could prevent a threat to public safety. I would rather be cautious—I would rather tighten up packaging regulations

now than overlook the potential harm to children in the future.

I strongly urge passage of this legislation.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 5209, as amended.

The title of the bill was amended so as to read: "A bill to amend title 39, United States Code, to make nonmailable any unsolicated sample of a drug or other hazardous household substance which does not meet child-resistant packaging requirements, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on H.R. 5209, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ROBERT McCLORY POST OFFICE

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5007) to designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, as the "Robert McClory Post Office," as amended.

The Clerk read as follows:

H.R. 5007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, is designated as the "Robert McClory Post Office Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the facility referred to in section 1 is deemed to be a reference to the "Robert McClory Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5007, as amended, would designate the Postal Facility located at 100 South John F. Kennedy Drive, Carpentersville, IL, as the "Robert McClory Post Office Building."

Congressman McClory, a respected Member of this body for 20 years, represented a constituency from the North Shore of Illinois up until his retirement in 1982.

He was commonly thought of as an independent legislator with a strong belief in civil and constitutional rights. He served as a distinguished member of the House Judiciary Committee and a member of the Permanent Select Committee on Intelligence.

During his tenure in Congress he was a leading supporter of voting rights legislation and efforts to gain statehood for the District of Columbia, and was a House manager of the equal rights amendment.

But, we will best remember Congressman McClory for his leadership during the Watergate hearings as a leading supporter of the article of impeachment charging Nixon with abusing his constitutional powers.

I urge all Members of the House to support this legislation as a fitting tribute to our late colleague.

Mr. Speaker, I reserve the balance of my time.

□ 1630

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, most of us will recall our destinguished former colleague, Bob McClory, and we will need little today by which to remember his many dedicated years of service to this body. Not to mention his friendship.

Bob McClory came to this body in 1963 after many steadfast years in the Illinois State Legislature, served with more than just distinction on the Committee on Judiciary rising to become its ranking minority member before retiring in 1983. Those years were active years on that committee. The Voting Rights Act, the Civil Rights Act and many other important pieces of legislation affecting generations of Americans. Not to mention Impeachment proceedings against a sitting U.S. President.

Thoughout these and many other proceedings Congressman McClory practiced the fine art of legislating until he was one of the most respected Members in this body. His departure from this body in 1983 and his sudden death in 1988 left many of us deeply saddened, but, feeling much better about ourselves for having known him. This small tribute we would pay him today, will ensure that his memory remains with us and his former constituents for many years. I would also like to commend our colleague, Congressman DENNIS HASTERT, for introducing this measure in honor of Bob.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HASTERT] who introduced this measure in honor of Bob McClory.

Mr. HASTERT. Mr. Speaker, it is honor for me to sponsor this bill that names a post office in Carpentersville, IL, after the former Congressman Bob McClory. Many Members are still here who served with Bob during his tenure in the House from 1962 to 1982. I know that I speak for all of his former colleagues and friends in saying that Bob McClory was one of the most respected Members of this body that has ever served.

Bob was an outstanding public servant with a distinguished record of service to Illinois and our country. He dedicated more than three decades of his life to serving the people of northeastern Illinois, moving from the Illinois House of Representatives to the Illinois State Senate to the U.S. House of Representatives.

During his 20 years here, Bob served on the Permanent Select Committee on Intelligence and was a member of the U.S. delegation to the Interparlimentary Union. Most predominant, of course, was his presence on the House Judiciary Committee, where he climbed to be ranking Republican member before his retirement. His service on the committee gained him a reputation as a Member who worked hard and had an abiding respect for the rule of law.

Throughout his career, Bob understood the important role that congressional spouses play in the service of this body. He worked with his very lovely and charming wife, Doris, on many endeavors of the Congressional Club and the other organizations to which spouses belong.

Bob McClory was a wonderful man and a fine legislator in integrity and principle, and it is fitting that we acknowledge his contributions by naming a Federal post office in his honor.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Illinois [Mr. HASTERT] for his sponsorship of this measure.

Mr. Speaker, I yield such time as he may consume to another distinguished colleague, the gentleman from Illinois [Mr. PORTER] who worked with Congressman McClory.

Mr. PORTER. Mr. Speaker, I commend my Illinois colleague for his leadership and initiative in recognizing and memorializing the achievements of Congressman Bob McClory.

Our late friend, and colleague, Bob McClory, was one of the most outstanding, most respected, and most be-

loved members ever to serve in the Congress.

His long and distinguished career of 20 years here was marked with thoughtful judgment, deep concern for people, and a commitment second to none for the rule of law. Bob set standards for all of us—standards of character and integrity, standards of scholarship and attention to legislative detail, and standards of caring and empathy—that we would all do well to emulate, and that led him and his loving wife, Doris, to be loved and respected by all whose paths crossed theirs. Congressman Bob McClory served on the Judiciary Committee and as its ranking member and gained national prominence during the Watergate hearings, when he made clear that partisanship would have no part in his decision regarding President Nixon's conduct. All who knew Bob McClory understood his position would be independently and conscientiously considered and taken, and all of America got to see an example of what a thoughtful, independent and committed U.S. Congressman should be.

His energy and warmth, his decency and humanity inspired all whose lives he touched, and, Mr. Speaker, it is more than appropriate that he be memorialized and his spirit and achievements be recognized in this way.

When redistricting occurred in 1981 according to the new 1980 census, Bob's district was divided three ways, the largest portion, over 50 percent, allocated to a district now represented by our colleague PHIL CRANE, and smaller portions to new disticts now represented by the sponsor of this legislation, our able colleague, DENNY HASTERT, and by myself.

I have been and am currently working with Bob's lovely wife, Doris, to find a suitable way to recognize his life and service to our country within my district. This recognition of Bob within Congressman HASTERT's district where Bob served so ably and so long is to be commended and should be and is strongly supported by all the Members of this body.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Illinois [Mr. PORTER] for his supporting remarks.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH], a good friend of Congressman McClory.

Mr. SMITH of Texas. Mr. Speaker, today I would like to pay tribute to a Member whose service and integrity stands as a benchmark for all other Members of the House of Representatives.

Mr. Bob McClory, who served the citizens of northeast Illinois so well, is known for many contributions to this great Nation, and to this House. But perhaps his greatest achievement is setting the personal and ethical standards to which all other Members of the House can aspire.

As a member of the Judiciary Committee for example, Mr. McClory during the Watergate hearings retained his characteristic thoughtful approach throughout most difficult and strenuous times.

This bill, rightly honors the inspiring career, public service and personal standards of Representative Bob McClory.

Mr. HYDE. Mr. Speaker, I wish to speak on behalf of my dear friend, whom I miss immensely, Bob McClory. I am so proud that this body has undertaken to put his name on a post office, where it will last much longer than we will. Bob was a great patriot, he was a great friend, he loved the law, he was a superb lawyer, he loved his wife and his family, and Illinois and the Congress lost a great deal when, due to the imperfections of reapportionment, he was deprived of his district. But he stayed around Washington and could be seen at many bar association functions, and was always a spirited good friend with sound advice. When he passed on, Illinois lost a great resource, as did we all.

I am really proud that we have named a post office after him, and I shall drive by it as frequently as I can, looking at the splendid name, and remembering what a wonderful person he was. His lovely wife Doris can be justly proud at this action today.

Mr. CRANE. Mr. Speaker, it is appropriate that the House today votes on the naming of a post office in Carpentersville, IL, in honor of a friend and former colleague, Congressman Bob McClory.

For more than three decades, Bob McClory most ably served those citizens who elected him to represent their interests in the Illinois House of Representatives and Senate in Springfield, as well as here in Washington to handle their affairs with understanding and compassion in the House of Representatives.

Often he struggled in behalf of causes that weren't popular, but they were struggles for causes held to be true. And his decision to retire from Congress following the drawing of the last congressional reapportionment map was but a final demonstration of his dignity as he moved to protect his party from the embarrassment of a primary battle with a Republican colleague.

A post office will well serve as a beacon to the memory of this fine gentleman; this quiet, thoughtful man who served his Nation, his State, and his constituents with such distinction.

Mr. ANNUNZIO. Mr. Speaker, I rise today in strong support for H.R. 5007, a bill introduced by my colleague from Illinois, Congressman J. DENNIS HASTERT, and which I have cosponsored, to designate the facility of the U.S. Postal Service located at 100 South John F. Kennedy Drive in Carpentersville, IL, as the Robert McClory Post Office.

Bob McClory was my close and trusted friend during the 18 years we served in Congress together. As the second-ranking Republican on the House Judiciary Committee, Bob was of great help to me in the passage of my bill to grant a Federal charter to the Italian-American War Veterans of the United States. He was of invaluable assistance in securing the passage of legislation which made Columbus Day a national holiday, and he was a motivating force in providing for the observance of all Federal holidays on Mondays.

First elected to the House of Representatives in 1962, Bob compiled an outstanding record of achievement during the 20 years he served in Congress. He especially earned the respect and admiration of his colleagues during the Watergate impeachment hearings, for his conscientious and statesman-like conduct. His fairness and integrity were an inspiration to all of us in Congress who had the opportunity to know him and to work with him.

It is fitting that a U.S. Postal Service be named after Bob McClory, a man who devoted his life to the service of our country, and I urge the support of my colleagues in the House of Representatives for H.R. 5007, as a much deserved tribute to Bob McClory, a truly dedicated public servant and outstanding citizen of our Nation and of the State of Illinois.

Mr. ROE. Mr. Speaker, I rise in support of H.R. 5007, a bill to honor the late Congressman Bob McClory of Illinois by naming the new post office in Carpentersville, IL, for him.

Bob McClory devoted his life to public service, first in Illinois where he served in both the House and Senate of the Illinois State Legislature, then in the U.S. House of Representatives where he served from 1963–83.

His long and distinguished tenure on the House Judiciary Committee, where he was the ranking Republican member, was marked by staunch advocacy for civil rights and recognition for America's civil right's leaders.

Bob McClory was an independent thinker, a man who argued his positions from well thought out personal analysis. He helped articulate issues from a new perspective and he made us all attentive to his arguments.

Mr. Speaker, whether or not we agreed with Bob McClory in a debate, we always respected and admired him. I believe naming the post office in Carpentersville for him is an appropriate way to honor a distinguished citizen of Illinois, an eminent legislator in the U.S. Congress, and a devoted denizen of his country.

Mr. MICHEL. Mr. Speaker, I want to join our colleagues in support of H.R. 5007 to designate "the Robert McClory Post Office" in Carpentersville, IL.

I feel this action is a fitting tribute to our late colleague, and fellow Illinoisan, Bob McClory. What better way to honor someone who was such an exemplary public servant, than to name in his honor a post office building, a place where so many Americans, on a daily basis, come in direct contact with their Government.

Bob McClory came to us in the election of 1962 after serving with distinction in the Illinois State Legislature. He eventually became ranking Republican member on our Committee on the Judiciary here in the House of Representatives. During his 20 years in the House he proved to be a man of reasoned opinion and prudent judgment. He exemplified the

kind of civility and comity that is so important to the functioning of this institution.

He radiated energy and good will, and was as industrious as he was gracious.

I just want to join our colleagues in saying that the Robert McClory Post Office is a good way of keeping before the public, for years to come, the name of a good man and a fine public servant.

Mr. DREIER of California. Mr. Speaker, how fitting to honor our former colleague Bob McClory in this way. He was one of the most incredible men I've ever known and I miss him greatly. A diligent member of the Judiciary Committee he thrived on his work. We are fortunate to have known him and it's always good to see his lovely wife, Doris, who often visits the Capitol.

Mr. McCLOSKEY. Mr. Speaker I have no further requests for time and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 5007, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, as the 'Robert McClory Post Office Building'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5007, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

JESSE OWENS BUILDING OF THE U.S. POSTAL SERVICE

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5235) to designate the Owens Finance Station of the U.S. Postal Service in Cleveland, OH, as the "Jesse Owens Building of the United States Postal Service."

The Clerk read as follows:

H.R. 5235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building located at 5600 Woodland Avenue, Cleveland, Ohio, known as the Owens Finance Station is designationed as the "Jesse Owens Building of the United States Postal Service". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the Jesse Owens Building of the United States Postal Service.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5235 would designate the postal building located at 5600 Woodland Avenue, Cleveland, OH, as the Jesse Owens Building of the U.S. Postal Service.

The legendary triumph of Jesse Owens in the 1936 Olympic games passes from generation to generation as one of the great moments in American history. We often tell the story of when the son of a sharecropper and grandson of an American slave crushed Hitler's theory of the superior Aryan race.

Jesse Owens returned from those Olympic games as a new American hero, a responsibility he combined with his special concern for the youth of our Nation. He spent the rest of his life reinforcing to all that making dreams into reality takes a lot of determination, dedication, self-discipline, and effort.

I feel the naming of the post office in Cleveland, OH, would be a fitting honor to be bestowed on one of our great American heroes, and I urge Members to support this legislation.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, tributes to Jesse Owens come readily for most of us. A remarkable human being, born in Alabama in 1913, his winning of four gold medals in the 1936 Olympic games, held in Berlin, was the culmination of an outstanding collegiate career and secured for him the status of truly being a legend in his own lifetime. At those games he set new Olympic records in the 100-meter dash, the 200-meter dash, and the long jump and shared in setting a new Olympic record for the 400-meter relay.

In later years he worked as a public relations consultant and received from President Gerald R. Ford the Presidential Medal of Freedom in 1976 and a "Living Legends Award," from President Jimmy Carter in 1979. When Jesse Owens passed away in Tucson, AZ, in March 1980, more than just the sports world paused and took notice of a passing giant from our landscape. I heartedly recommend adoption of the measure before us.

Mr. CLAY. Mr. Speaker, I rise in support of H.R. 5235, a bill to rename a Cleveland postal facility in honor of the Olympic hero, Jesse Owens. I would like to commend my good friend and colleague from Ohio, Representative LOUIS STOKES, for sponsoring this legislation and for his continued efforts to honor this great American.

In 1936, Jesse Owens traveled to Germany for the Berlin Olympics. His memorable performance was a triumph for all Americans. By placing first in the 100- and 200-meter dashes, the broad jump, and the 400-meter relay, Jesse Owens became the first athlete to be awarded four gold medals in one Olympics. Moreover, during a time of great racial tension stemming from Hitler's ideas of white supremacy, this black American was able to clear the hurdles of racism to capture the hearts of all those attending the 1936 Olympic games. People from all countries and races rose together, chanting his name.

Jesse Owens did not stop there. Throughout his life, he maintained his commitment to sportmanship. He spoke on the importance of using the power of sports to conquer racism of all kinds. It is appropriate to honor this man. He was a hero in every sense of the word. I am proud to support this legislation.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 5235.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5235, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ARTHUR V. WATKINS POST OFFICE

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5409) to designate the post office building at 222 West Center Street, in Orem, UT, as the "Authur V. Watkins Post Office," as amended.

The Clerk read as follows:

H.R. 5409

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That the post office located at 222 West Center Street, in Orem, UT, shall hereafter be known and designated as the "Authur V. Watkins Post Office Building". Any reference in a law, regulation, map, document, record, or other paper of the United States to that building shall be deemed to be a reference to the Authur V. Watkins Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana [Mr. MCCLOSKEY] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5409, as amended, would designate the postal building located at 222 West Center Street, in Orem, UT, as the "Arthur V. Watkins Post Office Building."

This bill shows our appreciation for the accomplishments of Senator Watkins on behalf of the residents of Utah as well as the entire Nation during his 12 years in the U.S. Senate.

During his 12 years in the Senate, Senator Watkins served as the chairman of the Joint Congressional Committee on Immigration and National Policy and was a member of the Judiciary Committee, the Interior and Insular Affairs Committee, the Public Works Committee, the Joint Committee on Economic Report and the Joint Committee on Navajo-Hopi Indian Administration.

Senator Watkins most distinguished role in the Senate was that of chairman of the Select Committee on the Censure of Joseph McCarthy. With many people questioning the wisdom of this selection, Senator Watkins quickly took control of the proceedings and often silenced Senator McCarthy when necessary. The committee successfully handed down a bipartisan recommendation of censure under his leadership.

It is most fitting that this post office in Orem, UT, be named for our late colleague, and I urge all Members to support this legislation.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Arthur Watkins served in the U.S. Senate from 1947 until 1959 and was a member of the Indian Claims Commission until 1967.

Born in Midway, UT, on December 18, 1886, Senator Watkins attended Brigham Young and New York Universities and received his law degree from Columbia University in 1912. Before coming to the Congress, he served as an assistant county attorney for Salt Lake County and as a district judge of the Fourth Judicial District of the State of Utah and was in private practice.

However, most of us will remember Arthur Watkins as a man with the courage of his convictions. A conservative Republican, he served as chairman of the Select Committee on the Censure of Joseph McCarthy and later published his recollections of that event in a volume entitled, "Enough Rope: The Inside Story of the Censure of Senator Joe McCarthy" prior to his death in 1973.

H.R. 5409, introduced by our colleague, Congressman HOWARD NIELSON, designates that the postal facility located at 222 West Center Street in Orem, UT, will be hereafter referred to as the "Arthur V. Watkins Post Office." This is a small measure of respect for the memory of this fine American and the role he played in making democracy work.

Mr. Speaker, I am pleased to yield such time as he may consume to the sponsor of this measure, the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, first off, let me thank Post Office Committee chairman, BILL FORD, and ranking member, BEN GILMAN, for their support and for bringing this legislation to the floor so expeditiously. I also want to thank subcommittee chairman, FRANK MCCLOSKEY, and ranking member, FRANK HORTON, whose staff provided invaluable assistance.

H.R. 5409 would name the U.S. Post Office in Orem, UT, after former Senator Arthur Vivian Watkins. I realize passing legislation of this nature is rather routine. However, the contributions and service rendered this country by Senator Watkins was anything but routine.

During his 12 years in office, Senator Watkins served with dignity and distinction, continually confounding the cynics with the firmness of his convictions and the balance of his judgment.

Perhaps his most memorable role was that of chairman of the Select Committee on the Censure of Joseph McCarthy. At the time, many questined the wisdom of naming Watkins chairman, but were soon surprised by the control and forcefulness he demonstrated while in the chair.

Upon the completion of his Senate career, Senator Watkins served as a member of the Indian Claims Commission until 1967.

Time magazine once described Senator Watkins as "a man little known in the past who should be long remembered into the future." I could not agree more, and urge my colleagues to support this legislation.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. MCCLOSKEY] that the House suspend the rules and pass the bill, H.R. 5409, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the post office building at 222 West Center Street, in Orem, Utah, as the 'Arthur V. Watkins Post Office Building'.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5409, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

STATE ENERGY EFFICIENCY PROGRAMS IMPROVEMENT ACT OF 1990

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 711) to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act, and for other purposes; as amended.

The Clerk read as follows:

H.R. 771

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Energy Efficiency Programs Improvement Act of 1990".

SEC. 2. STATE ENERGY EFFICIENCY GOALS AND DEFINITIONS.

(a) GOALS.—(1) Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

"STATE ENERGY EFFICIENCY GOALS

"SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after October 1, 1991, shall contain a goal, consisting of an improvement of 10 percent or more in the efficiency of use of energy in the State concerned in the calendar year 2000 as compared to the calendar year 1990, and may contain interim goals.".

(2) The table of contents of such Act is amended by striking out the item for section 364 and inserting in lieu thereof the following:

"Sec. 364. State energy efficiency goals.".

(b) DEFINITIONS.—Section 366(4) of such Act (42 U.S.C. 6326(4)) is amended—

(1) by striking out "building or industrial" and inserting in lieu thereof "building, building system, energy consuming device associated with the building, or industrial";

(2) by striking out "the date of enactment of the Energy Conservation and Production Act" and inserting in lieu thereof "May 1, 1989"; and

(3) by inserting "maintain or " before "improve the efficiency" in the first sentence.

SEC. 3. REQUIRED ELEMENTS OF STATE ENERGY CONSERVATION PLAN.

(a) PLAN REQUIREMENTS.—Section 362(c) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)) is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(6) procedures for ensuring effective coordination among various local, State, and Federal energy conservation programs within the State, including any program administered within the Office of Technical and Financial Assistance of the Department of Energy and the Low Income Home Energy Assistance Program administered by the Department of Health and Human Services.".

(b) ADDITIONAL CONDITIONS.—Section 363 of such Act (42 U.S.C. 6323) is amended by adding at the end thereof the following new subsections:

"(d) Each State receiving Federal financial assistance pursuant to this section shall provide reasonable assurance to the Secretary that it has established policies and procedures designed to assure that Federal financial assistance under this part and under part G of this title will be used to supplement, and not to supplant, State and local funds, and to the extent practicable, to increase the amount of such funds that otherwise would be available, in the absence of such Federal financial assistance, for those programs set forth in the State energy conservation plan approved pursuant to subsection (b).

"(e)(1) Effective October 1, 1991, to be eligible for Federal financial assistance pursuant to this section, a State shall submit to the Secretary, as a supplement to its energy conservation plan, an energy emergency planning program for an energy supply disruption, as designed by the State consistent with applicable Federal and State law. The contingency plan provided for by the program shall include an implementation strategy or strategies (including regional coordination) for dealing with energy emergencies. The submission of such plan shall be for informational purposes only and without any requirement of approval by the Secretary.

"(2) Federal financial assistance made available under this part to a State may be used to develop and conduct the energy emergency planning program requirement referred to in paragraph (1).".

SEC. 4. OPTIONAL ELEMENTS OF STATE ENERGY CONSERVATION PLAN AND CONSOLIDATION OF SUPPLEMENTAL STATE ENERGY CONSERVATION PLAN.

(a) IN GENERAL.—Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(1) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles, fleet vehicles, taxies, mass transit, and privately owned vehicles;";

(2) by striking out "and" at the end of paragraph (4);

(3) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) programs for financing energy efficiency and renewable energy capital investments, projects, and programs—

"(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of energy efficiency and renewable energy measures; or

"(B) in addition to or in lieu of programs described in subparagraph (A), which may be used in connection with public or nonprofit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(6) programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State;

"(7) programs to promote the adoption of integrated energy plans which provide for—

"(A) periodic evaluation of a State's energy needs, available energy resources (including greater energy efficiency), and energy costs; and

"(B) utilization of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;

"(8) programs to promote energy efficiency in residential housing, such as—

"(A) programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and

"(B) programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing;

"(9) programs to identify unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures and to educate consumers concerning such acts or practices;

"(10) programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems;

"(11) programs to promote energy efficiency as an integral component of economic development planning conducted by State, local, or other governmental entities or by energy utilities;

"(12) in accordance with subsection (g), programs to implement the Energy Technology Commercialization Services Program; and

"(13) any other appropriate method or programs to conserve and to promote efficiency in the use of energy.".

(b) ENERGY TECHNOLOGY COMMERCIALIZATION SERVICES PROGRAM.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by adding at the end thereof the following new subsection:

"(g)(1) The purposes of this subsection are to—

"(A) strengthen State outreach programs to aid small and start-up businesses;

"(B) foster a broader application of engineering principles and techniques to energy technology products, manufacturing, and commercial production by small and start-up businesses; and

"(C) foster greater assistance to small and start-up businesses in dealing with the Federal Government on energy technology related matters.

"(2) The programs to implement the functions of the Energy Technology Commercialization Services Program, as provided for by subsection (d)(12), shall—

"(A) aid small and start-up businesses in discovering useful and practical information relating to manufacturing and commercial production techniques and costs associated with new energy technologies;

"(B) encourage the application of such information in order to solve energy technology product development and manufacturing problems;

"(C) establish an Energy Technology Commercialization Services Program affiliated with an existing entity in each State;

"(D) coordinate engineers and manufacturers to aid small and start-up businesses in solving specific technical problems and improving the cost effectiveness of methods for manufacturing new energy technologies;

"(E) assist small and start-up businesses in preparing the technical portions of proposals seeking financial assistance for new energy technology commercialization; and

"(F) facilitate contract research between university faculty and students and small start-up businesses, in order to improve energy technology product development and independent quality control testing.

"(3) Each State energy technology commercialization services program shall develop and maintain a data base of engineering and scientific experts in energy technologies and product commercialization interested in participating in the service. Such data base shall, at a minimum, include faculty of institutions of higher education, retired manufacturing experts, and national laboratory personnel.

"(4) The services provided by the energy technology commercialization services programs established under this subsection shall be available to any small or start-up business. Such service programs shall charge fees which are affordable to a party eligible for assistance, which shall be determined by examining factors, including the following: (A) the costs of the services received; (B) the need of the recipient for the services; and (C) the ability of the recipient to pay for the services.

"(5) For the purposes of this subsection, the term—

"(A) 'institution of higher education' has the same meaning as such term is defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

"(B) 'small business' means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632) for the Standard Industrial Classification (SIC) codes designated by the Secretary of Energy; and

"(C) 'start-up business' means a small business which has been in existence for 5 years or less.".

(c) ELIMINATION OF SSECP.—(1) Section 367 of such Act (42 U.S.C. 6327) is repealed.

(2) The table of contents of such Act is amended by striking out the item for section 367.

SEC. 5. STATE ENERGY ADVISORY BOARD.

Section 365 of the Energy Policy and Conservation Act (42 U.S.C. 6325) is amended by adding at the end the following:

"(g)(1)(A) There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the 'Board') which shall consist of at least 18 and not more than 21 members appointed by the Secretary as soon as practicable but no later than September 30, 1991. At least eight of the members of the Board shall be persons who serve as directors of the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to section 362. At least four members shall be directors of State or local low income weatherization assistance programs. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs from the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, financial institutions, local government energy programs, or research institutions. A majority of the members of the Board shall be State employees.

"(B)(i) Except as provided in clause (ii), the members of the Board shall serve a term of three years.

"(ii) Of the members first appointed to the Board, one-third shall serve a term of one year, one-third shall serve a term of two years, and the remainder shall serve a term of three years, as specified by the Secretary.

"(2) The Board shall—

"(A) make recommendations to the Assistant Secretary for Conservation and Renewable Energy within the Department of Energy with respect to—

"(i) the energy efficiency goals and objectives of the programs carried out under this part, part G of this title, and under part A of title IV of the Energy Conservation and Production Act; and

"(ii) programmatic and administrative policies designed to strengthen and improve the programs referred to in clause (i), including actions that should be considered to encourage non-Federal resources (including private resources) to supplement Federal financial assistance;

"(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs; and

"(C) encourage transfer of the results of research and development activities carried out by the Federal Government with respect to energy efficiency and renewable energy resource technologies.

"(3) The Secretary shall designate one of the members of the Board to serve as its chairman and one to serve as its vice-chairman. The chairman and vice-chairman shall serve in those offices no longer than two years.

"(4) The Secretary shall provide the Board with such reasonable services and facilities as may be necessary for the performance of its functions.

"(5) The Board shall be nonpartisan.

"(6) The Board may adopt administrative rules and procedures and may elect one of its members secretary of the Board.

"(7) Consistent with Federal regulations, the Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

"(8) The Board shall meet at least twice a year and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including an accounting of the expenses reimbursed under paragraph (7) with respect to the year for which the report is made and any recommendations it may have for administrative or legislative changes concerning the matters referred to in subparagraphs (A), (B), and (C) of paragraph (2).

"(9) The Board shall continue until terminated by law.".

SEC. 6. ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.

(a) NON-FEDERAL SHARE OF A PROJECT.—Section 396(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6371e(b)(1)) is amended by adding at the end thereof the following: "The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects (including, but not limited to, loan programs and performance contracting), even if, pursuant to such financing, clear title to the equipment does not pass to the school or hospital until after the grant is completed.".

(b) DEFINITIONS.—Section 391 of such Act (42 U.S.C. 6371) is amended—

(1) in paragraph (1), by striking out "April 20, 1977" and inserting in lieu thereof "May 1, 1989";

(2) in paragraph (2), by striking out "reduce energy consumption" and inserting in lieu thereof "maintain or reduce energy consumption and reduce energy costs" in the material preceding subparagraph (A);

(3) in paragraph (2)(C), by inserting "and load management systems" before the semicolon;

(4) in paragraph (8), by inserting "administrative facilities," after "dormitories,"; and

(5) in paragraph (17)(A), by striking out "and related cost savings" and inserting in lieu thereof "or energy cost savings".

(c) REPEAL OF EDUCATIONAL AGENCY EXCLUSION.—Section 396(e) of such Act (42 U.S.C. 6371e(e)) is repealed.

(d) USE OF FUNDS.—Section 396(d) of such Act (42 U.S.C. 6371e(d)) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) The"; and

(2) by adding at the end the following new paragraphs:

"(2) A State may utilize up to 100 percent of the funds provided by the Secretary under this part for any fiscal year for program and technical assistance and up to 50 percent of such funds for marketing and other costs associated with leveraging of non-Federal funds for carrying out this part and may administer a continuous and consecutive application and award procedure for providing program and technical assistance under this part in accordance with regulations that the Secretary shall establish, if the State—

"(A) has adopted a State plan in accordance with section 394, the administration of which is in accordance with applicable regulations; and

"(B) certifies to the Secretary that not more than 15 percent of the aggregate amount of Federal and non-Federal funds used by the State to provide program and technical assistance, implement energy conservation measures, and otherwise carry out a program pursuant to this part for the fiscal year concerned will be expended for program and technical assistance and for marketing and other costs associated with leveraging of non-Federal funds for such program.".

SEC. 7. WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS.

(a) COOLING MATERIALS.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by adding after subparagraph (F) the following:

"(G) cooling efficiency modifications, including, but not limited to, replacement air-conditioners, ventilation equipment, screening, window films, and shading devices; and".

(b) RENTAL HOUSING.—(1) Section 413(b)(2) of such Act (42 U.S.C. 6863(b)(2)) is amended—

(A) by striking out "and" at the end of subparagraph (A); and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) that provide guidance to the States in the implementation of this part, including guidance designed to ensure that a State establishes (i) procedures that provide protection under paragraph (5) to tenants paying for energy as a portion of their rent, and (ii) a process for monitoring compliance with its obligations pursuant to this part; and

"(C) that secure the Federal investment made under this part and address the issues of eviction from and sale of property receiving weatherization materials under this part.".

(2) Section 413(b) of such Act (42 U.S.C. 6863(b)) is amended by adding at the end the following:

"(5) In any case in which a dwelling consists of a rental unit or rental units, the State, in the implementation of this part, shall ensure that—

"(A) the benefits of weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

"(B) for a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed;

"(C) the enforcement of subparagraph (B) is provided through procedures established by the State by which tenants may file complaints and owners, in response to such complaints, shall demonstrate that the rent increase concerned is related to matters other than the weatherization work performed; and

"(D) no undue or excessive enhancement will occur to the value of such dwelling units.

"(6) As a condition of having assistance provided under this part with respect to multifamily buildings, a State may require financial participation from the owners of such buildings.".

(c) ALLOCATION FORMULA.—Section 414 of such Act (42 U.S.C. 6864) is amended—

(1) in subsection (a)(D), by inserting ", such as the cost of heating and cooling," after "necessary"; and

(2) by adding at the end the following:

"(c) Effective with fiscal year 1991, and annually thereafter, the Secretary shall

update the population, eligible households, climatic, residential energy use, and all other data used in allocating the funds under this part among the States pursuant to subsection (a).".

(d) WAIVER OF 40-PERCENT REQUIREMENT.—Section 415(a) of such Act (42 U.S.C. 6865(a)) is amended—

(1) in the first sentence, by striking out "An average" and inserting in lieu thereof "(1) Except as provided in paragraph (2), an average";

(2) by inserting the following before the period at the end of the second sentence: ", and a State may provide in the plan adopted pursuant to subsection (b) for recipients of grants of less than $350,000 to use up to an additional 5 percent of such grant for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by the Secretary pursuant to this part"; and

(3) by adding at the end the following:

"(2)(A) The Secretary shall approve a State's application to waive the 40-percent requirement established in paragraph (1) if the State includes in its plan energy audit procedures and techniques which (i) meet standards established by the Secretary after consultation with the State Energy Advisory Board established under section 365(g) of the Energy Policy and Conservation Act, (ii) establish priorities for selection of weatherization measures based on their cost and contribution to energy efficiency, (iii) measure the energy requirement of individual dwellings and the rate of return of the total conservation investment in a dwelling, and (iv) account for interaction among energy efficiency measures.

"(B) The Secretary shall make information on energy audit procedures and techniques available to States applying for a waiver under subparagraph (A) and shall provide training for State and local agencies in the implementation of such procedures and techniques.".

(e) DWELLING UNIT LIMITATION.—Section 415(c) of such Act (42 U.S.C. 6865(c)) is amended—

(1) in paragraph (1), by striking out "The expenditure" and inserting in lieu thereof "Except as provided in paragraphs (3) and (4), the expenditure"; and

(2) by adding at the end the following:

"(3) Beginning with fiscal year 1991, the $1,600 per dwelling unit limitation provided in paragraph (1) shall be adjusted annually by increasing the limitation amount by an amount equal to—

"(A) the limitation amount for the previous fiscal year, multiplied by

"(B) the lesser of (i) the percentage increase in the Consumer Price Index (all items, United States city average) for the most recent calendar year completed before the beginning of fiscal year for which the determination is being made, or (ii) three percent.

"(4)(A) In addition to the average per dwelling unit limitation applicable in a State under paragraphs (1) and (3), the Secretary shall, upon application by a State, establish a separate average per dwelling unit limitation for dwelling units in such State—

"(i) which conform to program requirements; and

"(ii) which, in addition to any other weatherization modifications, have furnace efficiency modifications made under this part.

"(B) The average per dwelling unit limitation applicable in a State to units described in subparagraph (A) shall not exceed an amount equal to—

"(i) the amount permitted for the expenditure of financial assistance for labor, weatherization materials, and related matters for dwelling units in such State under paragraphs (1) and (3), plus

"(ii) an amount determined by the State to be the average amount that is appropriate for furnace efficiency modifications of dwelling units of the type assisted under this part in such State.".

(f) REPEAL OF PERFORMANCE FUND.—Section 415(d) of such Act (42 U.S.C. 6865(d)) is repealed.

(g) NON-FEDERAL FUNDING REQUIREMENT.—Section 414(b)(3) of such Act (42 U.S.C. 6864(b)(3)) is amended by striking out "and (B)" and inserting in lieu thereof the following: "(B) for using Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C)".

(h) ADDITIONAL REPORTING REQUIREMENT.—Section 421 of such Act (42 U.S.C. 6871) is amended—

(1) by striking out "through 1979"; and

(2) by adding at the end the following: "Such report shall include information and data furnished by each State on the average costs incurred in weatherization of individual dwelling units, the average size of the dwellings being weatherized, and the average income of households receiving assistance under this part.".

(i) INCENTIVE PROGRAM.—Section 415 of such Act (42 U.S.C. 6865) is amended by adding at the end the following:

"(d) Beginning with fiscal year 1992, the Secretary may allocate funds appropriated pursuant to section 422(b) to provide supplementary financial assistance to those States which the Secretary determines have achieved the best performance during the previous fiscal year in achieving the purposes of this part. In making this determination, the Secretary shall—

"(1) consult with the State Energy Advisory Board established under section 365(g) of the Energy Policy and Conservation Act; and

"(2) give priority to those States which, during such previous fiscal year, obtained a significant portion of income from non-Federal sources for their weatherization programs or increased significantly the portion of low-income weatherization assistance that the State obtained from non-Federal sources.

"(e)(1)(A) Beginning with fiscal year 1992, the Secretary may allocate, from funds appropriated pursuant to section 422(b), among the States an equal amount for each State not to exceed $100,000 per State. Each State shall make available amounts received under this subsection to provide supplementary financial assistance to recipients of grants under this part that have achieved the best performance during the previous fiscal year in advancing the purposes of this part.

"(B) None of the funds made available under this subsection may be used by any State for administrative purposes.

"(2) The Secretary shall, after consulting with the State Energy Advisory Board referred to in subsection (d)(1), prescribe guidelines to be used by each State in making available supplementary financial assistance under this subsection, with a priority being given to subgrantees that, by law or through administrative or other executive action, provided non-Federal resources (including private resources) to supplement Federal financial assistance under this part during the previous fiscal year.".

(j) Conforming Amendment—Section 411 of such Act (42 U.S.C. 6861) is amended to read as follows:

"FINDINGS AND PURPOSE

"SEC. 411. (a) The Congress finds that—

"(1) a fast, cost-effective, and environmentally sound way to prevent future energy shortages in the United States while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units;

"(2) existing efforts to encourage and facilitate such measures are inadequate because—

"(A) many dwellings owned or occupied by low-income persons are energy inefficient;

"(B) low-income persons can least afford to make the modifications necessary to provide for efficient energy equipment in such dwellings and otherwise to improve the energy efficiency of such dwellings;

"(3) weatherization of such dwellings would lower shelter costs in dwellings owned or occupied by low-income persons as well as save energy and reduce future energy capacity requirements; and

"(4) States, through Community Action Agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to alleviate the adverse effects of energy costs on such low-income persons, to supplement other Federal programs serving such low-income persons, and to increase energy efficiency.

"(b) It is, therefore, the purpose of this part to develop and implement a weatherization assistance program to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential energy expenditures, and improve their health and safety, especially low-income persons who are particularly vulnerable such as the elderly, the handicapped, and children.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) STATE PLAN PROGRAM.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended to read as follows:

"(f) For the purpose of carrying out this part, there are authorized to be appropriated not to exceed $25,000,000 for fiscal year 1991, $35,000,000 for fiscal year 1992, and $45,000,000 for fiscal year 1993.".

(b) ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.—Section 397 of the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated not to exceed $40,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1992, and $60,000,000 for fiscal year 1993.".

(c) WEATHERIZATION ASSISTANCE PROGRAM.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. (a) There are authorized to be appropriated for purposes of carrying out the weatherization program under this part,

other than under subsections (d) and (e) of section 415, not to exceed $200,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, and 1994.

"(b) There are authorized to be appropriated for purposes of carrying out the weatherization program under subsections (d) and (e) of section 415, not to exceed $20,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994.".

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considerd as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

□ 1650

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 711, the State Energy Conservation Programs Improvement Act of 1989 updates, streamlines, and improves DOE's Weatherization Assistance, Institutional Conservation, and State Energy Conservation Programs. It provides incentives to attract more non-Federal funding to these programs and should result in far more energy conservation for the Federal dollar.

These programs were originally created by Congress in the 1970's to improve the energy efficiency of our economy and to reduce our dependence on imported oil. Today, with the events in the Middle East, these goals are as important as ever.

We should not forget, however, that these programs also provide needed assistance to help people, schools, hospitals, and small businesses cut their energy bills.

All three programs have produced many successes. For example:

The Weatherization Program has already upgraded 4 million low-income houses, resulting in average energy savings of 10 to 20 percent each.

The ICP Program has provided over 21,000 grants to local schools and hospitals.

The SECP Program has nurtured a host of innovative programs that are tailored to specific States' needs and had saved an estimated 6.6 billion barrels of oil equivalent cumulatively by 1989 according to DOE. That is about twice the size of the Department of Interior's mean estimate of the amount of oil that might be available in the coastal plain of the Arctic National Wildlife Refuge.

Examples of successful SECP programs geared to specific States' needs are an alternative vehicle fuel progam in California, a Louisiana program to reduce energy use in the commercial shrimp fishing fleet, and an interest rate buy-down program in Maine to provide energy conservation loans to small businesses.

Despite the successes of these programs, there are still over 10 million homes in the country that are eligible for weatherization and thousands of schools and hosptials that could benefit from reduced energy bills.

There is still a need for these programs, but some of their requirements no longer make sense. There are also new activities that States could undertake to reduce the burden of energy costs on their citizens. These programs need new goals and greater flexibility to deal with the changed energy realities of the 1990's.

Today I will offer a committee amendment in the nature of a substitute for H.R. 711 as reported by the Committee on Energy and Commerce. This amendment was worked out with extensive input from groups representing the State and local administrators of these programs, the Department of Energy and minority staff. I particularly want to thank my colleagues Mr. MOORHEAD, Mr. SYNAR, and Mr. MARKEY for their help in improving the bill. I would also like to thank my Senate colleagues, Mr. JOHNSTON and Mr. METZENBAUM, for their work on the companion bill in the Senate, S. 247.

I would like to mention just a few of the improvements this bill makes to DOE's State and local conservation programs;

It encourages States to use more sophisticated auditing techniques and heating system modifications by giving them more flexibility on spending limitations under the Weatherization Program if they do.

It authorizes a weatherization incentive fund that rewards States which attract more non-Federal funding and makes it possible to require matching contributions from landlords.

It updates the Institutional Conservation Program by making schools and hospitals built after 1977 eligible for assistance, and by allowing schools and hospitals to use innovative financing methods to make their matching contributions.

It updates the expired goals of the State Energy Conservation Program and authorizes a broader range of activities that States can engage in to meet the specific conservation needs of their citizens.

It reauthorizes spending for these programs at levels that are below the original authorizations but above the fiscal year 1990 appropriations levels.

I would like to discuss just a few of the bill's provisions in a little more detail.

The bill has several provisions to help warmer States better address the needs of their low-income people. First, it gives them more flexibility to install cooling measures through the Weatherization Program. Clearly in some of our Southern States cooling is as much or more of a problem as heating and those States have needed the ability to provide a variety of shading and ventilation measures for their people. This bill gives them the authority to do so.

Many of the Southern States are also fast growing States and had been disadvantaged in the allocation of funds under the Weatherization Program because the Department of Energy had not been updating the data it uses to determine such allocations. This bill requires DOE to immediately update the data it uses for determining the allocation of weatherization funds and to keep it up to date. For example, as soon as the 1990 census data is available it should be incorporated into the formula.

This bill does not, however, require DOE to change the underlying formula it uses to allocate money to the States. I firmly believe that formula is fair because it directs funding to where it will be most cost effective, to those States with extreme climates, both hot and cold.

The program changes I mentioned, along with the higher authorization levels, will make all States better off without making any State worse off.

Another specific change is that we allow both the State Energy Conservation Program and the Institutional Conservation Program to fund projects that provide savings through load shifting or load management, as long as no additional energy use results. Load shifting can result in significant savings to consumers, utilities and society by shifting demand for energy from peak hours of low demand. Schools and hospitals in particular should be able to take advantage of the savings from load management projects. These provisions were not intended to allow financing of simple fuel switching projects.

Another critical improvement provided by this bill is to promote innovative financing of energy efficiency projects under the State Energy Conservation Program. For example, the existing program regulations limit annual expenditures for building retrofits to 33 percent of the yearly State Energy Conservation Program funds a State receives. This bill would specifically eliminate this unnecessary restriction. I expect that immediately upon enactment DOE will not enforce such outdated regulation, so that these innovative programs can be expanded quickly.

In conclusion, this bill will make these three worthwhile programs even

more responsive to the needs of individual States, will allow program managers to take advantage of innovations in technology and finance that were not available when these programs were first passed into law, and will make the programs more cost effective.

I have been working on this bill for 3 years, and given today's perilous international situation, it could not have come the floor at a better time.

A vote for this bill is a vote for energy efficiency and energy security. It is also a vote to help low-income families, schools, and hospitals control their energy costs at a time when those costs are rising.

I urge my colleagues to vote to approve H.R. 711 today.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 711, as amended, the State Energy Efficiency Programs Improvement Act of 1990. This legislation reauthorizes three programs administered by the Department of Energy which help the Nation conserve energy. These programs are low-income weatherization assistance, the schools and hospitals program, and grants to State energy offices, which are primarily used on efforts to conserve energy in the commercial and residential sectors. The bill reauthorizes the Weatherization Program through fiscal year 1994 and the other two programs through fiscal year 1993. These programs have not been reauthorized for 10 years, although each has been extended and funded in annual appropriations acts.

I am pleased to report that we have been able to work with our majority colleagues in a bipartisan manner to develop this legislation. The amendment in the nature of a substitute contained within Mr. SHARP's motion to suspend the rules incorporates an informal agreement on the bill reached between the House and Senate Energy Committees to facilitate swift passage of H.R. 711 before the end of the session.

Most of this bill streamlines the existing programs so that taxpayer dollars are spent more effectively and States are given more administrative flexibility to run the programs within their States. New requirements are kept to a minimum. States must provide for coordination of Federal, State, and local energy conservation programs; establish procedures so that to the maximum extent practicable Federal money does not merely replace State funds; and submit an energy emergency plan.

Much of the earlier effort on this bill was expended in the successful search for a compromise on the allocation formula for the Weatherization Program. I joined 19 of my committee colleagues in asking Chairman SHARP to work with us so that the West and the South will receive a fair share of these funds. We are not making nearly all of the changes in this regard that I would prefer. However, we are taking several constructive steps by expanding the list of eligible cooling measures and by requiring annual updates of the data which is plugged into the existing formula to allocate weatherization money among the States.

Appropriations for these programs have been relatively constant in recent years and substantially less than what they were 10 years ago. H.R. 711 would authorize substantially more money for each of the three programs in the fiscal years covered by the legislation. However, given our understandable desire to restrain Federal spending, particularly in the wake of the budget summit agreement, I want to point out that H.R. 711 has a number of provisions to encourage States to look to non-Federal sources of money for these programs, including an amendment by Mr. TAUKE and Mr. WYDEN on leveraging non-Federal funds which was adopted by the Committee on Energy and Commerce.

In conclusion, Mr. Speaker, I want to thank Mr. SHARP, the chairman of the Subcommittee on Energy and Power, for working with those of us on this side of the aisle and with the other body to come up with the compromise we bring to the floor today. I urge support for the legislation, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I thank the chairman of the subcommittee for yielding time to me. I rise in support of the legislation.

Mr. Speaker, this bill is a key piece in the energy security jigsaw puzzle. I commend the ranking Republican, the gentleman from California [Mr. MOORHEAD] and the chairman of the subcommittee, the gentleman from Indiana [Mr. SHARP] for their efforts on this bill.

Several States, in particular Oregon and Iowa, have innovative State energy efficiency programs, and at this point I would briefly like to engage the manager of the bill in a brief colloquy with respect to the legislation.

I would like to clarify the intent of subsection 6(d) of the bill, as amended in committee by Mr. TAUKE and myself. The amended language lets States that match Federal Institutional Conservation Program [ICP] funds with non-Federal funds use all the Federal money for technical assistance so long as they spend no more than 15 percent of their total funds on technical assistance. States which qualify under this subsection may make their technical assistance grants on an ongoing basis, rather than following the Federal grant cycle.

The House committee report says, "States which only partially take advantage of this subsection * * * must follow the DOE grant cycle for technical assistance * * *."

As I understand it, the phrase "only partially take advantage" refers to States that receive ICP funds but do not attract enough non-Federal funds to the eligible to use all their ICP funds for technical assistance. A State like Oregon, which expects to qualify to spend all its ICP funds on technical assistance, but plans to spend some on other projects, can still award technical assistance grants on an ongoing basis. Is that right?

Mr. SHARP. If the gentleman will yield, Mr. Speaker, yes in the situation you describe, a State would not need to follow the DOE grant cycle for technical assistance grants.

□ 1700

Mr. WYDEN. Mr. Speaker, I appreciate the response of the chairman of the subcommittee.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the chairman very much for yielding me this time.

Mr. Speaker, I just rise to congratulate the chairman of the subcommittee and the ranking minority member, the gentleman from California [Mr. MOORHEAD], for their work on this legislation. I think that it is an excellent piece of work. It will raise from about $200 million to $270 million a year the amount of funding which is available for these very important and very effective time-tested energy conservation programs.

I have here a list of the effective State energy conservation programs that are funded at the Federal level in partnership with the States and local communities, and I think this really does demonstrate that when Federal money is properly targeted, then there is the commitment made by the local and State governments to take programs of this nature and put them into effect and show how they work that we can have success stories.

What we are doing now is updating this law based upon the lessons which we have learned over the last 10 years or so and incorporating it into a new statute. I think that is very helpful, and I congratulate the chairman of the subcommittee and the ranking minority member.

With the boys and young women over in the Persian Gulf right now fighting in large part to ensure that

we have a steady flow of oil coming into the world economy, I think it is reassuring to know that we are passing these commensense, smart, up-to-date programs that will protect us in the long run against a repetition of the mistakes of the past.

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

My Speaker, I would just like to indicate that the gentleman from Massachusetts [Mr. MARKEY] has worked extensively on these proposals and others as a member of the Committee on Energy and Commerce, but more significantly as chairman of the predecessor subcommittee dealing with these issues. We are trying to continue to improve upon that work with his continuing help.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.[H01OC0-X1]{H8513}my time.

Mr. SHARP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 711, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 711, the bill just passed.

The SPEAKER pro tempore. (Mr. MAZZOLI). Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. SHARP. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 247) to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such act, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Energy Efficiency Programs Improvement Act of 1990".

SEC. 2. TABLE OF CONTENTS.—

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. State energy conservation goals.
Sec. 4. Required State energy conservation plan elements and consolidation of energy extension service.
Sec. 5. Optional State energy conservation plan elements and consolidation of supplemental State energy conservation plan.
Sec. 6. Additional conditions for Federal assistance.
Sec. 7. State energy advisory board.
Sec. 8. Update of energy conservation program for schools and hospitals.
Sec. 9. Weatherization assistance for low-income persons.
Sec. 10. Support for technology applications.
Sec. 11. Authorizations of appropriations.
Sec. 12. Territorial energy assistance program.

SEC. 3. STATE ENERGY CONSERVATION GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

"STATE ENERGY EFFICIENCY GOALS

"SEC. 364. Effective October 1, 1990, each State energy conservation plan with respect to which financial assistance is made available by the Secretary under this part shall contain an energy efficiency goal, and may contain interim goals, for such State, which, as a result of the implementation of such plan, shall achieve at least a 10 percent improvement in the efficiency of use of energy supplies consumed in such State in the year 2000 compared to the projected energy consumption, as of October 1, 1990, for such State in the year 2000. The plan shall specify the assumptions used by the State in the determination of its projected energy supplies and demands taking into account population trends, economic growth, and the effects of Federal, State, and local energy efficiency programs.".

SEC. 4. REQUIRED STATE ENERGY CONSERVATION PLAN ELEMENTS AND CONSOLIDATION OF ENERGY EXTENSION SERVICE.—(a) IN GENERAL.—Section 362(c) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(6) procedures for ensuring effective coordination among various local, State, and Federal energy conservation programs within the State, including any program administered within the Office of State and Local Assistance Programs of the Department of Energy as of December 31, 1987, and the Low Income Home Energy Assistance Program administered by the Department of Health and Human Services;

"(7) in accordance with subsection (f), programs to implement all the functions of the Energy Extension Service, as provided by law on the day before the date of enactment of the State Energy Efficiency Programs Improvement Act of 1989; and

"(8) in a supplementary contingency plan, energy emergency policies and procedures to deal with energy supply disruptions including petroleum products, electricity, natural gas, coal, and other energy supply and delivery disruptions.".

(b) ENERGY EXTENSION SERVICE.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by adding at the end thereof the following new subsection:

"(f) The programs to implement all the functions of the Energy Extension Service, as provided for by subsection (c)(7), shall—

"(1) include programs for identification, development, and demonstration of energy efficiency opportunities, techniques, methods, materials, and equipment (including those that are responsive to local needs or resources) and alternative energy technologies such as solar heating and cooling for agricultural, commercial, and small business operations, individual energy consumers, and new and existing residential, commercial, and agricultural buildings or structures;

"(2) provide for technical assistance, instructions, information dissemination, and practical demonstrations with respect to energy efficiency opportunities;

"(3) provide, to the maximum extent practicable within personnel and funding limitations, active outreach energy extension assistance (including information on end-user technology requirements) at the local level through appropriate offices (including metropolitan offices) and through county agents and technical staff assistance;

"(4) make maximum use of existing outreach or delivery mechanisms or programs and include, to the maximum extent practicable, any State, local, university, college, or other organization's programs for energy information, education, or technology transfer which have activities or purposes similar to those of this part; and

"(5) establish and implement policies and procedures designed to assure that assistance provided under this part does not replace or supplant the expenditure of other Federal or State or local funds for the same purposes, but instead supplements such funds and increases the expenditure of such State or local funds to the maximum extent practicable.".

(c) ELIMINATION OF ENERGY EXTENSION SERVICE.—The National Energy Extension Service Act (title V of Public Law 95-39) is repealed.

SEC. 5. OPTIONAL STATE ENERGY CONSERVATION PLAN ELEMENTS AND CONSOLIDATION OF SUPPLEMENTAL STATE ENERGY CONSERVATION PLAN.—(a) IN GENERAL.—Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(1) by striking paragraphs (3), (4) and (5);

(2) by adding at the end thereof the following new paragraphs:

"(3) programs for financing energy efficiency and renewable energy capital investments, projects, and programs—

"(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of energy efficiency and renewable energy measures;

"(B) in addition to or in lieu of programs described in subparagraph (A), which may be used in connection with public or nonprofit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(4) programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles,

fleet vehicles, taxis, mass transit and privately owned vehicles;

"(5) programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State;

"(6) programs to promote the adoption of integrated energy plans which provide for—

"(A) periodic evaluation of a State's energy needs, available energy resources (including greater energy efficiency), and energy costs; and

"(B) utilization of reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;

"(7) programs to promote energy efficiency in residential housing, such as—

"(A) programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and

"(B) programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing;

"(8) programs to protect consumers from any unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures;

"(9) programs to promote energy efficiency as an integral component of economic development programs conducted by State, local or other governmental entities, and energy utilities;

"(10) programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems;

"(11) programs to encourage integrated energy and environmental planning by other State, county, and local governmental agencies and authorities, including regulatory authorities with jurisdiction over energy utilities;

"(12) in accordance with subsection (g), programs to implement the function of the Energy Technology and Engineering Services Program; and

"(13) any other appropriate method or programs to conserve and to promote efficiency in the use of energy.".

(b) ENERGY TECHNOLOGY AND ENGINEERING SERVICES PROGRAM.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by adding at the end thereof the following new subsection:

"(g)(1) The purposes of this subsection are to—

"(A) strengthen State outreach programs to aid small and start-up businesses;

"(B) foster a broader application of engineering principles and techniques to energy technology product development, manufacturing, and commercial production by small and start-up businesses; and

"(C) foster greater assistance to small and start-up businesses in dealing with the Federal Government on energy technology related matters.

"(2) The programs to implement the functions of the Energy Technology and Engineering Services Program, as provided for by subsection (d)(12), shall—

"(A) aid small and start-up businesses in discovering useful and practical information relating to manufacturing and commercial production techniques and costs associated with new energy technologies;

"(B) encourage the application of such information in order to solve energy technology product development and manufacturing problems;

"(C) establish an Energy Technology and Engineering Services Program affiliated with an existing entity in each State;

"(D) coordinate engineers and manufacturers to aid small and start-up businesses in solving specific technical problems and improving the cost effectiveness of methods for manufacturing new energy technologies;

"(E) assist small and start-up businesses in preparing the technical portions of proposals seeking financial assistance for new energy technology development and commercialization; and

"(F) facilitate contract research between university faculty and students and small start-up businesses, in order to improve energy technology product development and independent quality control testing.

"(3) Each State energy technology and engineering services program shall develop and maintain a data base of engineering and scientific experts in energy technology development and commercialization interested in participating in the service. Such data base shall, at a minimum, include faculty of institutions of higher education, retired manufacturing experts, and national laboratory personnel.

"(4) The services provided by the energy technology and engineering services program established under this section shall be available to any small or start-up business. Such service programs shall charge fees which are affordable to a party eligible for assistance, which shall be determined by examining factors including (A) the costs of the services received; (B) the need of the recipient for the services; and (C) the ability of the recipient to pay for the services.

"(5) For the purposes of this subsection, the term—

"(A) 'institution of higher education' has the same meaning as such term is defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

"(B) 'small business' means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632) for the Standard Industrial Classification (SIC) codes designated by the Secretary of Energy;

"(C) 'start-up business' means a small business which has been in existence for 5 years or less.".

(c) AMENDMENTS TO DEFINITIONS.—Section 366(4) of the Energy Policy and Conservation Act is amended—

(1) by striking "building or industrial" and inserting in lieu thereof "building, building system, energy consuming device associated with the building, or industrial"; and

(2) by striking "the date of enactment of the Energy Conservation and Production Act" and inserting in lieu thereof "May 1, 1989".

(d) ELIMINATION OF SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS.—Section 367 of the Energy Policy and Conservation Act (42 U.S.C. 6327) is repealed.

SEC. 6. ADDITIONAL CONDITIONS FOR FEDERAL ASSISTANCE.—(a) Section 363(b) of the Energy Policy and Conservation Act (42 U.S.C. 6323(b)) is amended by adding new paragraphs (4) and (5) as follows:

"(4) In fiscal years 1991 and 1992, the percentage of available Federal financial assistance provided a State under this part shall be equal to the percentage the State received in fiscal year 1990 of the aggregate financial assistance by all States under this part and under section 506 of the National Energy Extension Service Act (42 U.S.C. 7005(i)).

"(5) The Secretary shall by rule establish the formula for the allocations of financial assistance after fiscal year 1992 on the basis of population and other factors the Secretary deems appropriate.".

(b) Section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by adding at the end thereof the following new subsections:

"(d) In order for any State energy conservation plan to be eligible for Federal assistance under this section, the State must submit to the Secretary a supplementary contingency plan pursuant to section 362(c)(8) governing emergencies within such State. The contingency plan shall include an implementation strategy or strategies (including regional coordination) for dealing with such energy emergencies. The submission of such plan to the Secretary shall be for informational purposes only.

"(e) The Secretary shall establish policies and procedures designed to assure that Federal financial assistance under this part, the Weatherization Assistance for Low-Income Persons Program under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861, et seq.), and the Energy Conservation Program for Schools and Hospitals under part G of this Act (42 U.S.C. 6371, et seq.), will be used only to supplement, and not be used to supplant, State and local, to the extent practicable, to increase the amount of such funds that otherwise would be available, in the absence of such Federal financial assistance, for those programs set forth in the State energy conservation plan approved pursuant to subsection (b).".

SEC. 7. STATE ENERGY ADVISORY BOARD.—Section 365 of the Energy Policy and Conservation Act (42 U.S.C. 6325) is amended by adding at the end the following:

"(g)(1) There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the 'Board') which shall consist of not less than 18 nor more than 21 members appointed by the Secretary. Not less than eight of the members of the Board shall be persons who serve as directors of the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to section 362. Not less than four members shall be directors of State or local Low Income Weatherization Assistance Programs. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs for the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, financial institutions, or research institutions. A majority of the members of the State Energy Advisory Board shall be State employees.

"(2) The Board shall—

"(A) make recommendations with respect to the energy efficiency objectives of the programs carried out under part G of this title, and under part A of title IV of the Energy Conservation and Production Act to the Assistant Secretary for Conservation and Renewable Energy, the Director of the Office of State and Local Assistance Programs, and the Director of the Building and Community Systems Office within the Department of Energy;

"(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs;

"(C) recommend changes to State and Federal energy policies;

"(D) review State energy conservation plans and the implementation of State energy conservation programs for the purpose of making recommendations to the Secretary regarding programmatic and administrative policies designed to strengthen the programs and improve their effectiveness;

"(E) review implementation by the States, of the Low-Income Weatherization Program and evaluate the performance of such States for the purpose of making recommendations to the Secretary regarding programmatic and administrative policies designed to strengthen the programs and improve their effectiveness, including actions that should be considered to provide non-Federal resources, including private resources, to supplement Federal financial assistance; and

"(F) encourage technology transfer of the results of research and development activities carried out by the Federal Government with respect to energy efficiency and renewable energy resources.

"(3) The Secretary shall designate 1 member to serve as its chairman, 1 member to serve as its vice-chairman, and 1 member to serve as its secretary, who shall serve in those offices no longer than 2 years.

"(4) The Secretary shall provide the Board with such services and facilities as may be necessary for the performance of its functions.

"(5) The Board shall be nonpartisan.

"(6) The Board may adopt administrative rules and procedures.

"(7) Consistent with Federal regulations, the Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

"(8) The Board shall meet at least three times per year and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including any recommendations it may have for administrative or legislative changes.".

SEC. 8. UPDATE OF ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.—(a) NON-FEDERAL SHARE OF A PROJECT.—Section 396(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6371e(b)(1)) is amended by adding at the end thereof the following: "The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects, including loan programs and performance contracting even if clear title to the equipment does not pass to the school or hospital until after the grant is completed.".

(b) AMENDMENTS TO DEFINITIONS.—

(1) Section 391(1) of such Act (42 U.S.C. 6371(8)) is amended by striking "April 20, 1977" and inserting in lieu thereof "May 1, 1989".

(2) Section 391(8) of such Act (42 U.S.C. 6371(8)) is amended by inserting the words "administrative facilities," after the word "dormitories,".

(c) ADDITIONAL LIMITATION.—Redesignate section 396(d) of such Act as subsection (d)(1) and add the following new paragraphs (2) and (3):

"(2) A State may utilize up to 100 percent of the funds provided under this part for technical assistance, except that—

"(A) not more than 15 percent of the aggregate funds used by the State to provide technical assistance and for implementation of energy conservation measures pursuant to schools and hospitals programs may be expended for such technical assistance; and

"(B) administration of schools and hospitals activities by such State shall be in accordance with applicable regulations.

"(3)(A) If (i) a State has adopted a State plan in accordance with section 394, the administration of which is in accordance with applicable regulations, and (ii) the State annually certifies to the Secretary that the Federal funds expended for schools' and hospitals' activities by such State are less than 15 percent of the aggregate funds used by the State for the implementation of energy conservation measures pursuant to the schools' and hospitals' programs, then—

"(B)(i) The limitations of paragraph (2) shall not apply to the State schools and hospitals programs under this part, (ii) the State may utilize up to 100 percent of the funds provided under this part for program and technical assistance and up to 50 percent of the funds provided under this part for marketing and other costs associated with leveraging of other non-Federal funds for technical assistance and energy conservation measures under this program, and (iii) the State may administer a continuous and consecutive application and award procedure for providing technical assistance under this part, in accordance with regulations established by the Secretary for this purpose.".

(d) REPEAL OF EDUCATIONAL AGENCY EXCLUSION.—Section 396(e) of the Energy Policy and Conservation Act (42 U.S.C. 6371e(e)) is repealed.

SEC. 9. WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS.—(a) COOLING WEATHERIZATION MATERIALS.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended by deleting "and" at the end of subparagraph (F), redesignating subparagraph (G) as subparagraph (H), and adding the following new subparagraph:

"(G)(i) subject to clause (ii), cooling efficiency modifications including, but not limited to, replacement air-conditioners, ventilation equipment, screening, window films, and shading devices; and

"(ii) the Secretary shall establish criteria for use by States to determine cooling efficiency modifications that qualify for financial assistance as consistent with the purposes of this part; and".

(b) Section 413(b)(2) of such act is amended by—

(1) deleting "and" at the end of paragraph (A);

(2) amending paragraph (B) to read as follows:

"(B) provide guidance to the States in the implementation of this part, including guidance designed to insure that a State establishes (i) procedures to assure that tenants paying for energy as a portion of their rent shall enjoy the protection that paragraph (5) provides, and (ii) a process for monitoring compliance with its obligations pursuant to this part, and"

(3) adding a new paragraph (C) as follows:

"(C) designed to (i) secure the purposes of the Federal investment pursuant to this part, and (ii) address the issues of eviction and sale.".

(c) Section 413(b) of such Act is amended by adding new paragraphs as follows:

"(5) Where the dwelling consists of a rental unit or rental units, the State, in the implementation of this part, shall insure that—

"(A) the benefits of weatherization assistance in connection with such leased units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

"(B) for a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed; and

"(C) no undue or excessive enhancement will occur to the value of such dwelling units.

"(6) The regulation promulgated pursuant to paragraph (2) shall authorize States to require financial participation from owners of multifamily buildings where weatherization services are being provided.".

(d) REVISION OF ALLOCATION FORMULA.—Section 414 of the Energy Conservation and Production Act is amended—

(1) by adding at the end of subparagraph (C) of subsection (a) before the period; "and their potential for energy savings";

(2) by redesignating existing subparagraph (D) as subparagraph (E) and inserting a new subparagraph (D) as follows:

"(D) The cost of heating and cooling.".

(3) by adding a new subsection (c) as follows:

"(c) Effective fiscal year 1991, and annually thereafter, the Secretary shall update the population, climatic, residential energy use, and all other data used in allocating the funds of the Low-Income Weatherization Assistance Program among the States pursuant to section 414(a). Thereafter, the Secretary shall update these data with the most current data available no less than once every year.".

(e)(1) WAIVER OF LIMITATIONS.—Redesignate subsection (a) of section 415 of the Energy Conservation and Production Act (42 U.S.C. 6865(a)) as paragraph (2) and insert after "SEC. 415." and before the redesignated paragraph a paragraph (a)(1), as follows:

"(a)(1) The limitations of paragraph (2) shall not apply to a State weatherization program under this part if the State or area weatherization plan adopted by a State in accordance with subsection (b), in the judgment of the Secretary, after consultation with the State Energy Advisory Committee, includes—

"(A) evaluation procedures which establish priorities for selection of weatherization measures based on their cost and contribution to energy efficiency;

"(B) standards to be used by the State to determine whether to invest in individual energy efficiency measures based on a rate of return that will ensure that investment in each measure is an appropriate use of low-income weatherization assistance; and

"(C) energy audit procedures and techniques which measure (i) the energy requirements of individual dwellings; (ii) the rate of return of each conservation investment; and (iii) the interaction between energy efficiency measures.".

(2) Amend the redesignated paragraph 415(a)(2), by adding a comma at the end of the last sentence before the period and the following: "except that a State may provide in the plan adopted pursuant to subsection (b) for subgrantees receiving grants in amounts less than $350,000, whom the State has determined require additional financial assistance to effectively implement the ad-

ministrative requirements established by the Secretary pursuant to this part, to use up to an additional 5 percent of the subgrant made under this part for implementation of such administrative requirements".

(f) DWELLING UNIT LIMITATION.—Section 415(c) of such Act (42 U.S.C. 6865(c)) is amended—

(1) in paragraph (1), by striking "The expenditure" and inserting in lieu thereof "Except as provided in paragraphs (3) and (4), the expenditure"; and

(2) by adding at the end thereof the following new paragraphs:

"(3) Beginning with fiscal year 1990, the $1,600 per dwelling unit limitation provided in paragraph (1) shall be adjusted annually by increasing the limitation amount by an amount equal to the percentage increase in the Consumer Price Index for the previous fiscal year multiplied by the limitation amount for such previous fiscal year. The increase under the preceding sentence for any fiscal year shall not exceed 3 percent.

"(4)(A) In addition to the average per dwelling unit limitation applicable in a State under paragraphs (1) and (3), the Secretary may, upon application by a State, establish an average per dwelling unit limitation for dwelling units in such State—

"(i) which conform to program requirements;

"(ii) which, in addition to any other weatherization modifications, have furnace efficiency modifications made under this part; and

"(iii) for which determination is made pursuant to regulations prescribed by the Secretary that such furnace efficiency modifications are a cost-effective use of funds.

"(B) The average per dwelling unit limitation applicable in a State to units described in subparagraph (A) shall not exceed an amount equal to—

"(i) the amount permitted for the expenditure of financial assistance for labor, weatherization materials, and related matters for dwelling units in such State under paragraphs (1) and (3), plus

"(ii) an amount determined by the Secretary to be the average amount that is appropriate for furnace efficiency modifications of dwelling units of the type assisted under this part in such State.".

(g) NON-FEDERAL FUNDING REQUIREMENT.—Section 414(b)(3) of such Act is amended by deleting "and (B)" and inserting the following:

"(B) for employing Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C)".

(h) ADDITIONAL REPORTING REQUIREMENT.—Section 421 of such Act is amended by adding at the end thereof the following: "Such report shall include information and data furnished by each State on the average costs incurred in weatherization of individual dwelling units.".

(i) REPEAL OF PERFORMANCE FUND.—Section 415(d) of such Act (42 U.S.C. 6865(d)) is repealed.

(j) ESTABLISHMENT OF WEATHERIZATION INCENTIVE FUND.—Section 415 of such Act (42 U.S.C. 6865) is further amended by adding new subsections (d) and (e), as follows:

"(d) Beginning in fiscal year 1992, the Secretary, to the extend provided for in the Appropriations Act, may allocate such funds as are provided in the Low-Income Weatherization Incentive Fund to provide supplementary financial assistance to those States which the Secretary determines have achieved the best performance during the previous fiscal year in achieving the purposes of this part. In making this determination the Secretary shall:

"(1) consult with the State Energy Advisory Board pursuant to section 365(g)(2)(E); and

"(2) give priority to those States which have employed Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources.

"(e)(1) Beginning in fiscal year 1991, the Secretary may allocate among the States an equal amount, not to exceed $100,000 per State, of the funds appropriated for the purposes of this part. Such funds shall be available to the States to provide supplementary financial assistance to those subgrantees which the States determine have achieved the best performance during the previous fiscal year in advancing the purposes of this part, except that none of such funds may be used for State administration of this program. In making such determination, States shall give priority to those subgrantees who by rule, law, or administrative and executive action have provided non-Federal resources, including private resources, to supplement Federal financial assistance under this part.

"(2) The regulations promulgated by the Secretary pursuant to section 413(b) shall include guidelines to be used by each State in making the determination under paragraph (1). When promulgating such guidelines the Secretary shall consult with the State Energy Advisory Board pursuant to section 365(g)(2)(E).".

(k) ASSISTANCE FOR UNEMPLOYED PERSONS TRAINING PROGRAM.—The Secretary shall make available to States from available funds up to $300,000 in the aggregate to establish training programs for unemployed persons in low-income weatherization auditing and installation skills.

SEC. 10. SUPPORT FOR TECHNOLOGY APPLICATION.—(a) The Secretary shall establish a low-income home weatherization technology applications project and a State energy conservation technology applications project in the Office of Conservation and Renewable Energy. These projects shall identify and evaluate the technologies, measures, and practices, including energy evaluation instruments, which are most effective in increasing energy efficiency. The projects also shall provide mechanisms for assisting State and local providers in applying improvements to their markets and service areas; including but not limited to, technical papers and manuals, training sessions and direct access to technical specialists.

(b) The low-income home weatherization technology applications project and State energy conservation technology applications project shall conduct specialized research and technical assistance to address the needs of warm weather States in implementing cooling measures and developing audits suitable for warm climates.

(c) In the report pursuant to section 421 of the Energy Policy and Conservation Act, the Secretary shall report on progress in the application of energy efficiency technology measures and management practices, including those for cooling measures, for low-income weatherization and other purposes.

SEC. 11. AUTHORIZATIONS OF APPROPRIATIONS.—(a) STATE PLAN PROGRAM.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6324(f)) is amended to read as follows:

"(f) For the purpose of carrying out this part, there are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act $25,000,000 for fiscal year 1991, $35,000,000 for fiscal year 1992, and $45,000,000 for fiscal year 1993.".

(b) ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.—Section 397 of the Energy Policy and Conservation Act (42 U.S.C. 6371f(a)) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act $40,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1992, and $60,000,000 for fiscal year 1993.".

(c) WEATHERIZATION ASSISTANCE PROGRAM.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. (a) There are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for purposes of carrying out the weatherization program under this part other than sections 415 (d) and (e), $200,000,000 for fisca year 1991 and such sums as may be necessary for 1992 and 1993.

"(b) There are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for purposes of carrying out the weatherization program under sections 415 (d) and (e), $20,000,000 for 1991 and such sums as may be necessary for 1992 and 1993.".

SEC. 12. TERRITORIAL ENERGY ASSISTANCE PROGRAM.—(a)(1) The Secretary of Energy, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901, et. seq.), may grant financial assistance to insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the insular area on imported fuels and improve the quality of life in the insular area.

(2) Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, the affected local energy entities in the area with necessary expertise to successfully effectuate the project, including, but not limited to, the local energy agencies and power authorities, public works departments, the Army Corps of Engineers, the Pacific International Center for High Technology Research, and the Center for Energy and Environmental Research of the University of Puerto Rico.

(3) In determining the amount of financial assistance to be provided for a proposed energy-efficiency or renewable energy measure, the Secretary shall consider—

(A) whether the measure will reduce the relative dependence of the insular area on imported fuels;

(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 territorial energy assessment or are identified by the Secretary as consistent with the purpose of this section;

(D) whether the measure will contribute significantly to the quality of the environment in the insular area; and

(E) any other factors which the Secretary may determine to be relevant to a particular project or measure.

(4) The Secretary shall require at least 20 percent of the costs of any project under this section to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

(b) For the purpose of this section, the term—

(1) "insular area government" means American Samoa Government, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, Federated States of Micronesia, Government of Guam, Republic of the Marshall Islands, Republic of Palau, and United States Virgin Islands; and

(2) "1982 territorial energy assessment" means the assessment prepared by the Department of Energy pursuant to the Omnibus Territorial Act. (Public Law 96-597, 94 Stat. 3480; as amended by Public Law 99-213, 97 Stat. 1460).

(c) For each fiscal year, there is hereby authorized to be appropriated for the purposes of this section, $500,000.

MOTION OFFERED BY MR. SHARP

Mr. SHARP. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SHARP moves to strike all after the enacting clause of the Senate bill S. 247 and to insert in lieu thereof the provisions of H.R. 711, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 711) was laid on the table.

SECURITIES ACTS AMENDMENTS OF 1990

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 483) to provide for the concurrence of the House to the amendments of the Senate to the bill (H.R. 1396) with an amendment.

The Clerk read as follows:

H. RES. 483

Resolved, That upon the adoption of this resolution the bill (H.R. 1396) to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement be and is hereby taken from the Speaker's table to the end that the Senate amendment to the text of the bill be and is hereby agreed to with the following amendment:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, H.R. 1396, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities Acts Amendments of 1990".

TITLE I—AUTHORIZATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Securities and Exchange Commission Authorization Act of 1990".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 35. There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission—

"(1) $178,023,000 for the fiscal year ending September 30, 1990; and

"(2) $212,609,000 for the fiscal year ending September 30, 1991.".

TITLE II—INTERNATIONAL SECURITIES LAW ENFORCEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "International Securities Enforcement Cooperation Act of 1990".

SEC. 202. RELEASE OF RECORDS BY THE COMMISSION.

(a) IN GENERAL.—Section 24 of the Securities Exchange Act of 1934 (15 U.S.C. 78x) is amended—

(1) in subsection (b), by striking "Nothing in this subsection shall authorize the Commission to withhold information from the Congress."; and

(2) by adding at the end thereof the following new subsections:

"(c) The Commission may, in its discretion and upon a showing that such information is needed, provide all 'records' (as defined in subsection (a)) and other information in its possession to such persons, both domestic and foreign, as the Commission by rule deems appropriate if the person receiving such records or information provides such assurances of confidentiality as the Commission deems appropriate.

"(d) Except as provided in subsection (e), the Commission shall not be compelled to disclose records obtained from a foreign securities authority if (1) the foreign securities authority has in good faith determined and represented to the Commission that public disclosure of such records would violate the laws applicable to that foreign securities authority, and (2) the Commission obtains such records pursuant to (A) such procedure as the Commission may authorize for use in connection with the administration or enforcement of the securities laws, or (B) a memorandum of understanding. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(e) Nothing in this section shall—

"(1) alter the Commission's responsibilities under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), as limited by section 21(h) of this Act, with respect to transfers of records covered by such statutes, or

"(2) authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.".

(b) CONFORMING AMENDMENTS.—

(1) INVESTMENT COMPANY ACT OF 1940.—Section 45(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-44) is amended by striking "It shall be unlawful" and inserting "Except as provided in section 24(c) of the Securities Exchange Act of 1934, it shall be unlawful".

(2) INVESTMENT ADVISERS ACT OF 1940.—Section 210(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-10(b)) is amended by striking "subsections (c) and (e) of section 209" and inserting "subsections (c) and (d) of section 209 of this title and section 24(c) of the Securities Exchange Act of 1934".

SEC. 203. SANCTIONS AGAINST BROKER OR DEALER, ASSOCIATED PERSONS, OR PERSONS SEEKING ASSOCIATION.

(a) AUTHORITY OF THE COMMISSION TO SANCTION BROKERS AND DEALERS FOR FOREIGN VIOLATIONS.—Section 15(b) (15 U.S.C. 78o(b)) of the Securities Exchange Act of 1934 is amended—

(1) in paragraph (4)(B), by inserting after "misdemeanor" the following: "or of a substantially equivalent crime by a foreign court of competent jurisdiction";

(2) in paragraph (4)(B)(i), by inserting after "burglary," the following: "any substantially equivalent activity however denominated by the laws of the relevant foreign government,";

(3) in paragraph (4)(B)(ii)—

(A) by inserting after "transfer agent," the following: "foreign person performing a function substantially equivalent to any of the above,";

(B) by inserting after "(7 U.S.C. 1 et seq.)" the following: "or any substantially equivalent foreign statute or regulation";

(4) in paragraph (4)(B)(iii), by inserting after "securities" the following: ", or substantially equivalent activity however denominated by the laws of the relevant foreign government";

(5) in paragraph (4)(B)(iv), by inserting after "United States Code" the following: ", or a violation of a substantially equivalent foreign statute";

(6) in paragraph (4)(C)—

(A) by inserting after "transfer agent," the following: "foreign person performing a function substantially equivalent to any of the above,";

(B) by inserting after "Commodity Exchange Act" each time it appears the following: "or any substantially equivalent foreign statute or regulation"; and

(C) by inserting after "insurance company," the following: "foreign entity substantially equivalent to any of the above,"; and

(7) by inserting after subparagraph (F) of paragraph (4) the following:

"(G) has been found by a foreign financial regulatory authority to have—

"(i) made or caused to be made in any application for registration or report required to be filed with a foreign financial regulatory authority, or in any proceeding before a foreign financial regulatory authority with respect to registration, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign financial regulatory authority any material fact that is required to be stated therein;

"(ii) violated any foreign statute or regulation regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade;

"(iii) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign financial regulatory authority regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign financial regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and

regulations, another person who commits such a violation, if such other person is subject to his supervision.".

(b) EXTENSION OF DEFINITION OF STATUTORY DISQUALIFICATION TO INCLUDE FOREIGN VIOLATIONS.—Section 3(a)(39) of such Act (15 U.S.C. 78c(a)(39)) is amended—

(1) in subparagraph (A)—

(A) by inserting after "self-regulatory organization," the following: "foreign equivalent of a self-regulatory organization, foreign or international securities exchange,"; and

(B) by inserting after both "(7 U.S.C. 7)," and "(7 U.S.C. 21),", the following: "or any substantially equivalent foreign statute or regulation,";

(C) by inserting after "contract market", the following: "or foreign equivalent";

(2) by striking subparagraph (B) and inserting the following:

"(B) is subject to—

"(i) an order of the Commission, other appropriate regulatory agency, or foreign financial regulatory authority—

"(I) denying, suspending for a period not exceeding 12 months, or revoking his registration as a broker, dealer, municipal securities dealer, government securities broker, or government securities dealer or limiting his activities as a foreign person performing a function substantially equivalent to any of the above; or

"(II) barring or suspending for a period not exceeding 12 months his being associated with a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or foreign person performing a function substantially equivalent to any of the above;

"(ii) an order of the Commodity Futures Trading Commission denying, suspending, or revoking his registration under the Commodity Exchange Act (7 U.S.C. 1 et seq.); or

"(iii) an order by a foreign financial regulatory authority denying, suspending, or revoking the person's authority to engage in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof;";

(3) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(4) by inserting after subparagraph (C) the following:

"(D) by his conduct while associated with any broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or any other entity engaged in transactions in securities, or while associated with an entity engaged in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof, has been found to be a cause of any effective suspension, expulsion, or order by a foreign or international securities exchange or foreign financial regulatory authority empowered by a foreign government to administer or enforce its laws relating to financial transactions as described in subparagraph (A) or (B) of this paragraph;";

(5) in subparagraph (E) (as redesignated by paragraph (3) of this subsection) by striking "(A), (B), or (C)" and inserting "(A), (B), (C), or (D)".

(6) in subparagraph (F) (as redesignated) by striking "(D) or (E)" and inserting "(D), (E), or (G)" and by inserting after "such paragraph (4)" the first place it appears the following: "or any other felony".

(c) CONFORMING AMENDMENTS.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in sections 15(b)(6), 15B(c)(2), 15B(c)(4), 15C(c)(1)(A), 15C(c)(1)(C), 17A(c)(3)(A), and 17A(c)(4)(C), by striking "(A), (D), or (E)" and inserting "(A), (D), (E), or (G)"; and

(2) in section 15C(f)(2), by striking "or the rules or regulations under any such other provision" and inserting "the rules or regulations under any such other provision, or investigations pursuant to section 21(a)(2) of this title to assist a foreign securities authority".

SEC. 204. DEFINITION OF FOREIGN FINANCIAL REGULATORY AUTHORITY.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraph:

"(51) The term 'foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate participation of its members in activities listed above.".

SEC. 205. SANCTIONS AGAINST INVESTMENT ADVISERS OR PERSONS ASSOCIATED OR SEEKING ASSOCIATION WITH A REGISTERED INVESTMENT ADVISER OR INVESTMENT COMPANY.

(a) INVESTMENT COMPANY ACT OF 1940.—Section 9(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(b)) is amended—

(1) by striking "or" at the end of paragraphs (1) and (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) by inserting after paragraph (3) the following:

"(4) has been found by a foreign financial regulatory authority to have—

"(A) made or caused to be made in any application for registration or report required to be filed with a foreign securities authority, or in any proceeding before a foreign securities authority with respect to registration, any statement that was at the time and in light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to a foreign securities authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(5) within 10 years has been convicted by a foreign court of competent jurisdiction of a crime, however denominated by the laws of the relevant foreign government, that is substantially equivalent to an offense set forth in paragraph (1) of subsection (a); or

"(6) by reason of any misconduct, is temporarily or permanently enjoined by any foreign court of competent jurisdiction from acting in any of the capacities, set forth in paragraph (2) of subsection (a), or a substantially equivalent foreign capacity, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security.".

(b) INVESTMENT ADVISERS ACT OF 1940.—Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(e)) is amended—

(1) in paragraph (2) by inserting after "misdemeanor" the following: "or of a substantially equivalent crime by a foreign court of competent jurisdiction";

(2) in paragraph (2)(A), by inserting after "burglary," the following: "any substantially equivalent activity however denominated by the laws of the relevant foreign government,";

(3) in paragraphs (2)(B) and (3)—

(A) by inserting after "transfer agent," the following: "foreign person performing a function substantially equivalent to any of the above,"; and

(B) after "Commodity Exchange Act" each place it appears, the following: "or any substantially equivalent statute or regulation";

(4) in paragraph (2)(C), by inserting after "securities" the following: "or substantially equivalent activity however denominated by the laws of the relevant foreign government";

(5) in paragraph (2)(D) by inserting after "United States Code" the following: ", or a violation of a substantially equivalent foreign statute";

(6) in paragraph (3)—

(A) by inserting after "court of competent jurisdiction" the following: ", including any foreign court of competent jurisdiction,"; and

(B) by inserting after "insurance company," the following: "foreign entity substantially equivalent to any of the above,";

(7) in paragraph (5), by inserting after "this title," the following: "the Commodity Exchange Act,";

(8) by inserting after paragraph (6) the following new paragraph:

"(7) has been found by a foreign financial regulatory authority to have—

"(A) made or caused to be made in any application for registration or report required to be filed with a foreign securities authority, or in any proceeding before a foreign securities authority with respect to registration, any statement that was at the time and in light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to a foreign securities authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade, or has been found, by the foreign financial regulatory authority, to have failed

reasonably to supervise, with a view to preventing violations of statutory provisions, and rules and regulations promulgated thereunder, another person who commits such a violation, if such other person is subject to his supervision.".

(c) CONFORMING AMENDMENT.—Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(f)) is amended by striking "paragraph (1), (4), or (5)" and inserting "paragraph (1), (4), (5), or (7)".

SEC. 206. DEFINITION OF FOREIGN SECURITIES AUTHORITY AND FOREIGN FINANCIAL REGULATORY AUTHORITY.

(a) INVESTMENT COMPANY ACT OF 1940.—Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)) is amended by inserting after paragraph (48) the following:

"(49) 'Foreign securities authority' means any foreign government or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.

"(50) 'Foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate the participation of its members in activities listed above.".

(b) INVESTMENT ADVISERS ACT OF 1940.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)) is amended by inserting after paragraph (22) the following:

"(23) 'Foreign securities authority' means any foreign government, or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.

"(24) 'Foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a selfregulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate participation of its members in activities listed above.".

SEC. 207. REIMBURSEMENT OF EXPENSES INCURRED IN PROVIDING ASSISTANCE TO A FOREIGN SECURITIES AUTHORITY.

Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign securities authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation pursuant to section 21(a)(2) of this title or in providing any other assistance to a foreign securities authority. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.".

TITLE III—SHAREHOLDER COMMUNICATIONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Shareholder Communications Improvement Act of 1990".

SEC. 302. AMENDMENTS TO 1934 ACT.

(a) SECTION 14(b).—Section 14(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(b)(1)) is amended by—

(1) striking "section 12 of this title" and inserting "section 12 of this title, or any security issued by an investment company registered under the Investment Company Act of 1940,"; and

(2) striking "or authorization" and inserting "authorization, or information statement".

(b) SECTION 14(c).—Section 14(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(c)) is amended by striking "title" and inserting "title, or a security issued by an investment company registered under the Investment Company Act of 1940,".

SEC. 303. EFFECTIVE DATE.

The amendments made by section 302 of this title shall take effect upon the expiration of 180 days after the date of enactment of this Act.

TITLE IV—TRUST INDENTURE ACT OF 1939

SEC. 401. SHORT TITLE.

This title may be cited as the "Trust Indenture Reform Act of 1990".

SEC. 402. DEFINITION.

Section 303(8) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(8)) is amended by inserting "section 305 or" after "provided for in".

SEC. 403. EXEMPTION FROM QUALIFICATION.

Section 304 of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd) is amended—

(1) in subsection (a)—

(A) by striking paragraph (3);

(B) in paragraph (4)(A), by striking ", as heretofore amended,";

(C) by redesignating paragraphs (4)(A) and (4)(B) as paragraphs (3) and (4), respectively; and

(2) by striking subsection (d) and inserting the following:

"(d) The Commission may, by rules or regulations upon its own motion, or by order on application by an interested person, exempt conditionally or unconditionally any person, registration statement, indenture, security or transaction, or any class or classes of persons, registration statements, indentures, securities, or transactions, from any one or more of the provisions of this title, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by this title. The Commission shall by rules and regulations determine the procedures under which an exemption under this subsection shall be granted, and may, in its sole discretion, decline to entertain any application for an order of exemption under this subsection.".

SEC. 404. SECURITIES REQUIRED TO BE REGISTERED UNDER THE SECURITIES ACT.

Section 305 of the Trust Indenture Act of 1939 (15 U.S.C. 77eee) is amended—

(1) in subsection (a)(1), by striking "or has a conflicting interest as defined in subsection (b) of section 310";

(2) in subsection (b)—

(A) by striking "The Commission shall issue" and inserting "(1) Except as may be permitted by paragraph (2) of this subsection, the Commission shall issue";

(B) by redesignating paragraph (1) as subparagraph (A);

(C) by inserting "or" at the end thereof;

(D) by striking paragraph (2);

(E) by redesignating paragraph (3) as subparagraph (B);

(F) in such subparagraph (B), by striking "or has any conflicting interest as defined in subsection (b) of section 310"; and

(G) by adding at the end of subsection (b) the following new paragraph:

"(2) In the case of securities registered under the Securities Act of 1933, which securities are eligible to be issued, offered, or sold on a delayed basis by or on behalf of the registrant, the Commission shall not be required to issue an order pursuant to paragraph (1) of subsection (b) of section 305 for failure to designate a trustee eligible to act under subsection (a) of section 310 if, in accordance with such rules and regulations as may be prescribed by the Commission, the issuer of such securities files an application for the purpose of determining such trustee's eligibility under subsection (a) of section 310. The Commission shall issue an order prior to the effective date of such application refusing to permit the application to become effective, if it finds that any person designated as trustee under such indenture is not eligible to act as such under subsection (a) of section 310, but no order shall be issued except after notice and opportunity for hearing within the periods and in the manner required with respect to refusal orders pursuant to section 8(b) of the Securities Act of 1933. If after notice and opportunity for hearing the Commission issues an order under this provision, the obligor shall within 5 calendar days appoint a trustee meeting the requirements of subsection (a) of section 310. No such appointment shall be effective and such refusal order shall not be rescinded by the Commission until a person eligible to act as trustee under subsection (a) of section 310 has been appointed. If no order is issued, an application filed pursuant to this paragraph shall be effective the tenth day after filing thereof or such earlier date as the Commission may determine, having due regard to the adequacy of information provided therein, the public interest, and the protection of investors.".

SEC. 405. WHEN QUALIFICATION BECOMES EFFECTIVE.

Section 309(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77iii(b)) is amended by inserting after "such Act" the following: ", or the failure of the issuer to file an application as provided for by section 305(b)(2)".

SEC. 406. PERSONS ELIGIBLE FOR APPOINTMENT AS TRUSTEE.

Section 310(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(a)) is amended—

(1) by inserting at the end of paragraph (1) the following: "The Commission may, pursuant to such rules and regulations as it may prescribe, or by order on application, permit a corporation or other person organized and doing business under the laws of a foreign government to act as sole trustee under an indenture qualified or to be qualified pursuant to this title, if such corporation or other person (i) is authorized under such laws to exercise corporate trust powers, and (ii) is subject to supervision or examination by authority of such foreign

government or a political subdivision thereof substantially equivalent to supervision or examination applicable to United States institutional trustees. In prescribing such rules and regulations or making such order, the Commission shall consider whether under such laws, a United States institutional trustee is eligible to act as sole trustee under an indenture relating to securities sold within the jurisdiction of such foreign government.";

(2) by striking "The indenture to be qualified shall require that there shall" in paragraph (1) and inserting "There shall";

(3) by striking "thereunder" in paragraph (1) and inserting "under every indenture qualified or to be qualified pursuant to this title";

(4) by inserting "or a corporation or other person permitted to act as trustee by the Commission" before "(referred to" in paragraph (1);

(5) by striking "The indenture to be qualified shall require that such institution" in paragraph (2) and inserting "Such institution";

(6) by striking "such indenture shall provide that" in paragraph (3);

(7) by striking "the indenture to be qualified shall require that" in paragraph (4); and

(8) by inserting "shall" after "the indenture trustee or trustees" in paragraph (4).

SEC. 407. PERSONS INELIGIBLE FOR APPOINTMENT AS TRUSTEE.

Section 310(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(a)) is amended by adding at the end thereof the following new paragraph:

"(5) No obligor upon the indenture securities or person directly or indirectly controlling, controlled by, or under common control with such obligor shall serve as trustee upon such indenture securities.".

SEC. 408. DISQUALIFICATION OF TRUSTEE.

Section 310(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(b)) is amended to read as follows:

"(b) If any indenture trustee has or shall acquire any conflicting interest as hereinafter defined—

"(i) then, within 90 days after ascertaining that it has such conflicting interest, and if the default (as defined in the next sentence) to which such conflicting interest relates has not been cured or duly waived or otherwise eliminated before the end of such 90-day period, such trustee shall either eliminate such conflicting interest or, except as otherwise provided below in this subsection, resign, and the obligor upon the indenture securities shall take prompt steps to have a successor appointed in the manner provided in the indenture;

"(ii) in the event that such trustee shall fail to comply with the provisions of clause (i) of this subsection, such trustee shall, within 10 days after the expiration of such 90-day period, transmit notice of such failure to the indenture security holders in the manner and to the extent provided in subsection (c) of section 313; and

"(iii) subject to the provisions of subsection (e) of section 315, unless such trustee's duty to resign is stayed as provided below in this subsection, any security holder who has been a bona fide holder of indenture securities for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of such trustee, and the appointment of a successor, if such trustee fails, after written request thereof by such holder to comply with the provisions of clause (i) of this subsection.

"For the purposes of this subsection, an indenture trustee shall be deemed to have a conflicting interest if the indenture securities are in default (as such term is defined in such indenture, but exclusive of any period of grace or requirement of notice) and—

"(1) such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of an obligor upon the indenture securities are outstanding or is trustee for more than one outstanding series of securities, as hereafter defined, under a single indenture of an obligor, unless—

"(A) the indenture securities are collateral trust notes under which the only collateral consists of securities issued under such other indenture,

"(B) such other indenture is a collateral trust indenture under which the only collateral consists of indenture securities, or

"(C) such obligor has no substantial unmortgaged assets and is engaged primarily in the business of owning, or of owning and developing and/or operating, real estate, and the indenture to be qualified and such other indenture are secured by wholly separate and distinct parcels of real estate: *Provided*, That the indenture to be qualified shall automatically be deemed (unless it is expressly provided therein that such provision is excluded) to contain a provision excluding from the operation of this paragraph other series under such indenture, and any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of such an obligor are outstanding, if—

"(i) the indenture to be qualified and any such other indenture or indentures (and all series of securities issuable thereunder) are wholly unsecured and rank equally, and such other indenture or indentures (and such series) are specifically described in the indenture to be qualified or are thereafter qualified under this title, unless the Commission shall have found and declared by order pursuant to subsection (b) of section 305 or subsection (c) of section 307 that differences exist between the provisions of the indenture (or such series) to be qualified and the provisions of such other indenture or indentures (or such series) which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures, or

"(ii) the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under the indenture to be qualified and such other indenture or under more than one outstanding series under a single indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures or with respect to such series;

"(2) such trustee or any of its directors or executive officers is an underwriter for an obligor upon the indenture securities;

"(3) such trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with an underwriter for an obligor upon the indenture securities;

"(4) such trustee or any of its directors or executive officers is a director, officer, partner, employee, appointee, or representative of an obligor upon the indenture securities, or of an underwriter (other than the trustee itself) for such an obligor who is currently engaged in the business of underwriting, except that—

"(A) one individual may be a director and/or an executive officer of the trustee and a director and/or an executive officer of such obligor, but may not be at the same time an executive officer of both the trustee and of such obligor,

"(B) if and so long as the number of directors of the trustee in office is more than nine, one additional individual may be a director and/or an executive officer of the trustee and a director of such obligor, and

"(C) such trustee may be designated by any such obligor or by any underwriter for any such obligor, to act in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent, or depositary, or in any other similar capacity, or, subject to the provisions of paragraph (1) of this subsection, to act as trustee, whether under an indenture or otherwise;

"(5) 10 per centum or more of the voting securities of such trustee is beneficially owned either by an obligor upon the indenture securities or by any director, partner or executive officer thereof, or 20 per centum or more of such voting securities is beneficially owned, collectively by any two or more of such persons; or 10 per centum or more of the voting securities of such trustee is beneficially owned either by an underwriter for any such obligor or by any director, partner, or executive officer thereof, or is beneficially owned, collectively, by any two or more such persons;

"(6) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined—

"(A) 5 per centum or more of the voting securities, or 10 per centum or more of any other class of security, of an obligor upon the indenture securities, not including indenture securities and securities issued under any other indenture under which such trustee is also trustee, or

"(B) 10 per centum or more of any class of security of an underwriter for any such obligor;

"(7) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, 5 per centum or more of the voting securities of any person who, to the knowledge of the trustee, owns 10 per centum or more of the voting securities of, or controls directly or indirectly or is under direct or indirect common control with, an obligor upon the indenture securities;

"(8) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, 10 per centum or more of any class of security of any person who, to the knowledge of the trustee, owns 50 per centum or more of the voting securities of an obligor upon the indenture securities;

"(9) such trustee owns, on the date of default upon the indenture securities (as such term is defined in such indenture but exclusive of any period of grace or requirement of notice) or any anniversary of such default while such default upon the indenture securities remains outstanding, in the capacity of executor, administrator, testamentary or inter vivos trustee, guardian, committee or conservator, or in any other similar capacity, an aggregate of 25 per centum or more of the voting securities, or of any class of se-

curity, of any person, the beneficial ownership of a specified percentage of which would have constituted a conflicting interest under paragraph (6), (7), or (8) of this subsection. As to any such securities of which the indenture trustee acquired ownership through becoming executor, administrator or testamentary trustee of an estate which include them, the provisions of the preceding sentence shall not apply for a period of not more than 2 years from the date of such acquisition, to the extent that such securities included in such estate do not exceed 25 per centum of such voting securities or 25 per centum of any such class of security. Promptly after the dates of any such default upon the indenture securities and annually in each succeeding year that the indenture securities remain in default the trustee shall make a check of its holding of such securities in any of the above-mentioned capacities as of such dates. If the obligor upon the indenture securities fails to make payment in full of principal or interest under such indenture when and as the same becomes due and payable, and such failure continues for 30 days thereafter, the trustee shall make a prompt check of its holdings of such securities in any of the above-mentioned capacities as of the date of the expiration of such 30-day period, and after such date, notwithstanding the foregoing provisions of this paragraph, all such securities so held by the trustee, with sole or joint control over such securities vested in it, shall be considered as though beneficially owned by such trustee, for the purposes of paragraphs (6), (7), and (8) of this subsection; or

"(10) except under the circumstances described in paragraphs (1), (3), (4), (5) or (6) of section 311(b) of this title, the trustee shall be or shall become a creditor of the obligor.

"For purposes of paragraph (1) of this subsection, and of section 316(a) of this title, the term 'series of securities' or 'series' means a series, class or group of securities issuable under an indenture pursuant to whose terms holders of one such series may vote to direct the indenture trustee, or otherwise take action pursuant to a vote of such holders, separately from holders of another such series: *Provided*, That 'series of securities' or 'series' shall not include any series of securities issuable under an indenture if all such series rank equally and are wholly unsecured.

"The specification of percentages in paragraphs (5) to (9), inclusive, of this subsection shall not be construed as indicating that the ownership of such percentages of the securities of a person is or is not necessary or sufficient to constitute direct or indirect control for the purposes of paragraph (3) or (7) of this subsection.

"For the purposes of paragraphs (6), (7), (8), and (9) of this subsection—

"(A) the terms 'security' and 'securities' shall include only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay moneys lent to a person by one or more banks, trust companies, or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness;

"(B) an obligation shall be deemed to be in default when a default in payment of principal shall have continued for thirty days or more, and shall not have been cured; and

"(C) the indenture trustee shall not be deemed the owner or holder of (i) any security which it holds as collateral security (as trustee or otherwise) for any obligation which is not in default as above defined, or (ii) any security which it holds as collateral security under the indenture to be qualified, irrespective of any default thereunder, or (iii) any security which it holds as agent for collection, or as custodian, escrow agent or depositary, or in any similar representative capacity.

"For the purposes of this subsection, the term 'underwriter' when used with reference to an obligor upon the indenture securities means every person who, within one year prior to the time as of which the determination is made, was an underwriter of any security of such obligor outstanding at the time of the determination.

"Except in the case of a default in the payment of the principal of or interest on any indenture security, or in the payment of any sinking or purchase fund installment, the indenture trustee shall not be required to resign as provided by this subsection if such trustee shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that—

"(i) the default under the indenture may be cured or waived during a reasonable period and under the procedures described in such application, and

"(ii) a stay of the trustee's duty to resign will not be inconsistent with the interests of holders of the indenture securities. The filing of such an application shall automatically stay the performance of the duty to resign until the Commission orders otherwise.

"Any resignation of an indenture trustee shall become effective only upon the appointment of a successor trustee and such successor's acceptance of such an appointment.".

SEC. 409. PREFERENTIAL COLLECTION OF CLAIMS AGAINST OBLIGOR.

Section 311 of the Trust Indenture Act of 1939 (15 U.S.C. 77kkk) is amended—

(1) by striking "the indenture to be qualified shall provide that" in the first paragraph of subsection (a);

(2) by striking "The indenture to be qualified shall provide that, if" at the beginning of the third paragraph of subsection (a) and inserting "If";

(3) by striking "four months" and "four months' " each place they appear in subsection (a) and inserting "three months" and "three months' ", respectively;

(4) by inserting at the end of subsection (a) the following: "In any case commenced under the Bankruptcy Act of July 1, 1898, or any amendment thereto enacted prior to November 6, 1978, all references to periods of three months shall be deemed to be references to periods of four months."; and

(5) by striking "may" in the first line of subsection (b) and inserting "shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to".

SEC. 410. BONDHOLDER LISTS.

Section 312 of the Trust Indenture Act of 1939 (15 U.S.C. 77111) is amended—

(1) by striking "The indenture to be qualified shall contain provisions requiring each obligor" in subsection (a) and inserting "Each obligor";

(2) in subsection (a), by striking "indenture securities to" and inserting "indenture securities shall"; and

(3) by striking "The indenture to be qualified shall also contain provisions requiring that, within" in subsection (b) and inserting "Within".

SEC. 411. REPORTS BY INDENTURE TRUSTEE.

Section 313(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77mmm(a)) is amended—

(1) by striking "The indenture to be qualified shall contain provisions requiring the indenture trustee to" and inserting "The indenture trustee shall";

(2) by inserting after "a brief report with respect to" the following: "any of the following events which may have occurred within the previous 12 months (but if no such event has occurred within such period no report need be transmitted):";

(3) by inserting after the paragraph designation at the beginning of paragraphs (1), (4), and (5) the following: "any change to";

(4) in paragraph (1) by striking ", or in lieu thereof, if to the best of its knowledge it has continued to be eligible and qualified under such section, a written statement to such effect"; and

(5)(A) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively; and

(B) by inserting after paragraph (1) the following:

"(2) the creation of or any material change to a relationship specified in paragraph (1) through (10) of section 310(b);".

SEC. 412. BONDHOLDER COMMUNICATIONS.

Section 313 of the Trust Indenture Act of 1939 (15 U.S.C. 77mmm) is amended—

(1) by striking "The indenture to be qualified shall also contain provisions requiring the indenture trustee to" in subsection (b) and inserting "The indenture trustee shall";

(2) by striking "The indenture to be qualified shall also provide that reports" in subsection (c) and inserting "Reports"; and

(3) by striking "The indenture to be qualified shall also provide that a copy" in subsection (d) and inserting "A copy".

SEC. 413. REPORTS BY OBLIGOR; EVIDENCE OF COMPLIANCE WITH INDENTURE PROVISIONS.

Section 314 of the Trust Indenture Act of 1939 (15 U.S.C. 77nnn) is amended—

(1) by striking "The indenture to be qualified shall contain provisions requiring each" in subsection (a) and inserting "Each";

(2) by inserting "shall" after "thereby" in such subsection;

(3) by striking "to" after the paragraph designation at the beginning of paragraphs (1), (2), and (3) of subsection (a);

(4) by striking "and" at the end of paragraph (2) of subsection (a);

(5) by striking the period at the end of paragraph (3) of subsection (a) and inserting "; and";

(6) by adding at the end of subsection (a) the following new paragraph:

"(4) furnish to the indenture trustee, not less often than annually, a brief certificate from the principal executive officer, principal financial officer or principal accounting officer as to his or her knowledge of such obligor's compliance with all conditions and covenants under the indenture. For purposes of this paragraph, such compliance shall be determined without regard to any period of grace or requirement of notice provided under the indenture.";

(7) by striking "such indenture shall contain provisions requiring" in subsection (b);

(8) by striking "securities to furnish" in subsection (b) and inserting "securities shall furnish";

(9) by striking "The indenture to be qualified shall contain provisions requiring the

obligor" in subsection (c) and inserting "The obligor";

(10) by striking "securities to furnish" in subsection (c) and inserting "securities shall furnish";

(11) by striking "such indenture shall contain provisions" in subsection (d) and inserting "the obligor upon the indenture securities shall furnish to the indenture trustee a certificate or opinion of an engineer, appraiser, or other expert as to the fair value";

(12) by striking "requiring the obligor upon the indenture securities to furnish to the indenture trustee a certificate or opinion of an engineer, appraiser or other expert as to the fair value" in paragraphs (1), (2) and (3) of subsection (d);

(13) by striking "If the indenture to be qualified so provides," at the beginning of the penultimate sentence of subsection (d) and inserting "The indenture to be qualified shall automatically be deemed (unless it is expressly provided therein that such provision is excluded) to provide that";

(14) by striking "specified in the indenture" in the penultimate sentence of subsection (d) and inserting "duly authorized to make such certificate or opinion by the obligor from time to time"; and

(15) by inserting in subsection (e) "(other than certificates provided pursuant to subsection (a)(4) of this section)" after "indenture".

SEC. 414. DUTIES AND RESPONSIBILITIES OF THE TRUSTEE.

Section 315 of the Trust Indenture Act of 1939 (15 U.S.C. 77ooo) is amended—

(1) by striking "The indenture to be qualified may" in subsections (a) and (e) and inserting "The indenture to be qualified shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to";

(2) by striking "such indenture shall contain provisions requiring the indenture trustee to examine" in subsection (a) and inserting "the indenture trustee shall examine";

(3) by striking "The indenture to be qualified shall contain provisions requiring the indenture trustee to" in subsections (b) and (c) and inserting "The indenture trustee shall";

(4) by striking "That such indenture may" in the proviso in subsection (b) and inserting "That such indenture shall automatically be deemed (unless it is expressly provided therein that such provision is excluded) to"; and

(5) by striking "such indenture may" in paragraphs (1), (2), and (3) of subsection (d) and inserting "such indenture shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to".

SEC. 415. DIRECTIONS AND WAIVERS BY BONDHOLDERS; PROHIBITION OF IMPAIRMENT OF RIGHT TO PAYMENT; RECORD DATES.

Section 316 of the Trust Indenture Act of 1939 (15 U.S.C. 77ppp) is amended—

(1) by striking "may contain provisions" after "qualified" in subsection (a) and inserting "may contain provisions" before "authorizing the holders" in paragraph (2) of subsection (a);

(2) by inserting "shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to contain provisions" before "authorizing the holders" in paragraph (1) of subsection (a);

(3) by inserting "or if expressly specified in such indenture, of any series of securities" after "principal amount of the indenture securities" in paragraphs (1) and (2) of subsection (a);

(4) by striking "The indenture to be qualified shall provide that, notwithstanding" in subsection (b) and inserting "Notwithstanding";

(5) by striking "thereof" in subsection (b) and inserting "of the indenture to be qualified"; and

(6) by adding at the end thereof the following new subsection:

"(c) The obligor upon any indenture qualified under this title may set a record date for purposes of determining the identity of indenture security holders entitled to vote or consent to any action by vote or consent authorized or permitted by subsection (a) of this section. Unless the indenture provides otherwise, such record date shall be the later of 30 days prior to the first solicitation of such consent or the date of the most recent list of holders furnished to the trustee pursuant to section 312 of this title prior to such solicitation.".

SEC. 416. SPECIAL POWERS OF TRUSTEE; DUTIES OF PAYING AGENTS.

Section 317 of the Trust Indenture Act of 1939 (15 U.S.C. 77qqq) is amended—

(1) by striking "to be qualified shall contain provisions" in subsection (a) and inserting "trustee shall be authorized";

(2) by striking "authorizing the indenture trustee" in paragraph (1);

(3) by striking "authorizing such trustee" from paragraph (2); and

(4) by striking "The indenture to be qualified shall provide that each" in subsection (b) and inserting "Each".

SEC. 417. EFFECT OF MANDATORY TERMS.

Section 318 of the Trust Indenture Act of 1939 (15 U.S.C. 77rrr) is amended—

(1) by striking subsection (a) and inserting the following:

"SEC. 318. (a) If any provision of the indenture to be qualified limits, qualifies, or conflicts with the duties imposed by operation of subsection (c) of this section, the imposed duties shall control.";

(2) by adding at the end thereof the following new subsection:

"(c) The provisions of sections 310 to and including 317 that impose duties on any person (including provisions automatically deemed included in an indenture unless the indenture provides that such provisions are excluded) are a part of and govern every qualified indenture, whether or not physically contained therein, shall be deemed retroactively to govern each indenture heretofore qualified, and prospectively to govern each indenture hereafter qualified under this title and shall be deemed retroactively to amend and supersede inconsistent provisions in each such indenture heretofore qualified. The foregoing provisions of this subsection shall not be deemed to effect the inclusion (by retroactive amendment or otherwise) in the text of any indenture heretofore qualified of any of the optional provisions contemplated by section 310(b)(1), 311(b), 314(d), 315(a), 315(b), 315(d), 315(e), or 316(a)(1).".

SEC. 418. JURISDICTION OF OFFENSES AND SUITS.

Section 322(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77vvv(b)) is amended by inserting "or duty" after "any liability".[H01OC0-X2]{H8522}ability".

The Speaker pro tempore. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The Speaker pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The Speaker pro tempore. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 483, which contains the full text of H.R. 1396 as passed by the House with an amendment which in part adopts language added by the Senate in its consideration of that bill. H.R. 1396 originated in the House as the International Securities Enforcement Cooperation Act of 1989. This package of reform legislation is yet another step forward in assuring that the securities markets are fully up to date in order to absorb the revolutionary challenges of globalization and modernization in the securities markets of today.

The House passed H.R. 1396 in its original form on September 25, 1989. The Senate then adopted H.R. 1396 on November 16, 1989, with a package of amendments. Those amendments included the Securities and Exchange Commission authorization, lifting pay cap restrictions on compensation for SEC employees, the Trust Indenture Reform Act of 1990, the Shareholder Communications Improvement Act of 1990, and two amendments to the Public Utility Holding Company Act of 1935 which would have benefited utilities in Vermont and Kentucky. The resolution that now lies before the House would retain the International Securities Enforcement Cooperation Act in its original form as well as the SEC authorization for fiscal years 1990 and 1991, the Trust Indenture Reform Act, and the Shareholder Communications Improvement Act.

This reform package follows naturally from the passage in the last Congress of the Insider Trading and Securities Fraud Enforcement Act of 1989. It also appropriately follows last Friday's House passage of H.R. 3657, the Securities Markets Reform Act of 1990, which now awaits the President's signature, and S. 647, the Securities Enforcement Remedies and Penny Stock Reform Act of 1990, which the House is passing today. After the boom times of the 1980's, Wall Street must live with the realities of an up-to-date regulatory structure which promotes the healthy operation of the securities markets, identifies problem areas, and facilitates vigorous enforcement and prosecution of the law.

The international enforcement bill, which was the original H.R. 1396 com-

ponent, contains the following elements. First, it grants the SEC an exemption from the Freedom of Inforamtion Act for records provided to the Commission by foreign securities authorities under certain specified circumstances. Second, it facilitates greater access to Commission enforcement files by domestic and foreign law enforcement officials. Third, it permits the SEC to sanction securities professionals for violations of foreign securities laws. Fourth, it expands the authority of self-regulatory organizations to exclude convicted felons from membership based on violations of foreign laws. Finally, it authorizes the SEC to accept reimbursement for expenses incurred on behalf of foreign governmental authorities in their investigations.

The Trust Indenture Reform Act, introduced as H.R. 1786, and the Shareholder Communications Improvement Act, introduced as H.R. 2780, are before the House for the first time today. The Subcommittee on Telecommunications and Finance marked up both of these measures last November, and the bills were awaiting action by the full Committee when last year's recess arrived. Both bills were introduced by the gentleman from New Jersey [Mr. RINALDO] and the final versions now included within the resolution reflect the input of his hard work and that of his staff to perfect the bills originally sent up by the SEC.

Beyond expanding the SEC's legislative tools in the international arena and elsewhere, this resolution reauthorizes the SEC for fiscal years 1990 and 1991.

Mr. Speaker, this reform package continues the progression of a year of remarkable legislative achievement in the securities area. Market reform, civil remedies and penny stock legislation have all been sent to the President, and we are continuing to move forward in the important area of enhancing the responsibilities of public accountants to root out financial fraud. I hope, working together with out minority, and with Chairman DINGELL, we can continue to produce the type of important, reform-minded legislation that is essential to building an honest, efficient, modern securities marketplace.

In conclusion, Mr. Speaker, I want to again note the tremendous contribution of the minority, Mr. RINALDO and Mr. LENT, as well as Chairman DINGELL, and the staffs on both sides of the aisle, in helping to bring this package to the floor today. It is this bipartisan cooperation that has marked all of our successful efforts at the Telecommunications and Finance Subcommittee, and I look forward to many more trips to the floor with my colleagues on these issues.

I urge my colleagues to support this important resolution.

Mr. Speaker, I would also like to, on this package of legislation, especially note the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], whom I think all who are familiar with his work know the commitment that he has to overhauling and reforming the securities marketplace in the wake of the terrible scandals that have occurred in the 1980's and the globalization which has taken place, and his fingerprints are all over this legislation, and his staff, led by Consuela Washington, has played an integral role. As well, I would like to thank Steve Blumenthal, the staff for the minority, and on my staff, I would like to thank Howard Homonoff and Elise Hoffmann for their work in this legislation, and Herb Brown, the subcommittee staff director for his leadership and guidance as we have moved through the process, and to Steve Cope, the legislative counsel, for his work in this area.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 483.

I am proud to have been an original sponsor of H.R. 1396, the International Securities Enforcement Cooperation Act; H.R. 1786, amending the Trust Indenture Act of 1939; and H.R. 2780, the Shareholder Communications Improvement Act. These three bills make up House Resolution 483 that we consider today.

I am particularly pleased and proud of the investor protection that will be made by the provisions of H.R. 2780, the Shareholder Communications Improvement Act which is included in this bill. This legislation will improve communications between shareholders and the companies in which they invest when their shares are held for their benefit by banks or in street name by brokers. This bill will significantly improve the flow of information to investors in mutual funds.

Mr. Speaker, since the 1960's individual investors have increasingly come to the securities markets by institutionalizing their investments. The diversification of portfolio, professional management of investments, and pooling of funds that make it possible to negotiate commissions, are all advantages that have made mutual funds the investment of choice in the last two decades. I introduced the Shareholder Communication Improvements Act to help ensure that the millions of investors in mutual funds will receive the same corporate reports and proxy information that investors in individual stocks do. They are entitled to no less and they shall receive it.

The provisions of House Resolution 483 will modernize the Trust Indenture Act to simplify its operation. They will eliminate needless duplication and reprinting of boilerplate language of trust indentures, making compliance with the law less difficult and expensive.

To attract domestic and foreign capital to our markets we must maintain public confidence in the integrity of our financial institutions and our ability to regulate them. Sharing information is an essential element of market regulation in today's environment of 24-hour a day, worldwide trading of securities. To that end House Resolution 483 furthers coordination and cooperation between the U.S. Securities and Exchange Commission and its counterpart agencies in other countries. It does this in several ways:

First, it provides the SEC with authority to maintain the confidentiality of information received from foreign governments in conjunction with international enforcement investigations.

Second, it permits the SEC to share its records concerning trade in foreign markets or in foreign securities with appropriate law enforcement authorities in other nations.

Third, it premits the SEC to accept reimbursement for the expenses it incurs in connection with conducting investigations at the request of foreign governments.

And finally, it permits the SEC or the securities industry self-regulatory organizations to exclude from their membership individuals who have been convicted of violating foreign securities laws.

Mr. Speaker, House Resolution 483 enjoys wide support and gives the Securities and Exchange Commission the tools its needs to continue and coordinate the international attack on securities fraud. It streamlines the regulation of the issuance of debt securities and significantly increases the flow of shareholder communications to the owners of mutual funds. I urge my colleagues to support the bill.

□ 1710

I want to take a moment to acknowledge the hard work of the chairman of the committee, the gentleman from Michigan [Mr. DINGELL] and the ranking member of the full committee, the gentleman from New York [Mr. LENT], but most of all the work of the chairman of the Subcommittee on Telecommunications and Finance, the gentleman from Massachusetts [Mr. MARKEY], who labored long and hard to see that this came to fruition. I do not recall any other year in which this much meaningful, necessary securities legislation was passed by our subcommittee, by the full committee, passed on the floor of the House, and sent over to the President for his signature. That shows that this committee really puts its shoulder to the wheel under the guidance of the chairman, the gen-

tleman from Massachusetts [Mr. MARKEY] and has come up with a number of bills that is certainly going to restructure some of the enforcement provisions of the securities industry as we move into the 1990's and beyond. I want to thank the gentleman, and publicly acknowledge the contributions that he has made.

Mr. DINGELL. Mr. Speaker, I rise in strong support of the Securities Acts Amendments of 1990.

Title I would authorize the Securities and Exchange Commission at $178 million for fiscal year 1990 and $212.6 million for fiscal year 1991. This increase in the SEC's budget will ensure adequate enforcement of the securities laws and oversight of securities markets. After the excesses of the 1980's, which culminated earlier this year with the bankruptcy filing of the junk bond firm Drexel Burnham Lambert, the public policy goal of a strong and fully funded SEC is not subject to question. The primary purpose of this highly regarded, independent agency, don't forget, is to protect the investing public.

Title II contains the text of H.R. 1396, the International Securities Enforcement Cooperation Act, which passed the House by voice vote under suspension of the rules in September of last year. Hearings held in the Energy and Commerce Committee as well as the Committee on Government Operations underscore the need for improved international cooperation and coordination in fighting securities fraud. Prompt enactment of this legislation is necessary to ensure the cooperation of foreign governments and regulatory authorities with several pending SEC international securities fraud investigations.

Mr. Speaker, these amendments are the product of a bipartisan effort. My friend and colleague from New Jersey, Mr. RINALDO, played a significant role in shaping the legislation by introducing at the request of the SEC H.R. 2780, the Shareholder Communications Improvement Act, and H.R. 1786, the Trust Indenture Reform Act, whose provisions make up titles III and IV of this resolution. These provisions will help in streamlining regulation, easing industry compliance with the law, and ensuring that investors have adequate information on which to make sound decisions. I want to thank the gentleman in particular for the many hours he and his principal staff adviser, Stuart Kaswell, spent negotiating legislative language on the Trust Indenture Act with the Securities and Exchange Commission, representatives of the banking industry, and other interested parties. Mr. Kaswell left the staff of the Energy and Commerce Committee earlier this year to pursue a career in the private practice of law and the benefits that will accrue to the investing public as the result of his work are a fitting legacy for his tenure in public service.

Mr. Speaker, unfortunately, not included in today's legislation are provisions for strengthening the funding mechanism for the SEC's important investor protection functions. The President's budget for fiscal year 1991 at page A–1182 recommended increases in fees collected by the SEC to generate slightly over $80 million in governmental receipts. Consistent with that recommendation, title I, as originally proposed by our committee, would have raised SEC fees while also providing for full cost recovery of SEC expenses. Accordingly, the securities industry and other users and beneficiaries of the SEC's services would pay for strengthening the agency; the taxpayer would not get the bill. Historically, the SEC has been underfunded because it has received no credit for its fees which go straight to the U.S. Treasury and which, in recent years, have exceeded its appropriated budgets by more than twice. This pattern must be broken if the public is to be adequately served. This is particularly true given the new authorities and responsibilities thrust upon the agency in recent times. The so-called self-funding proposal passed the House in budget reconciliation last year but was deleted from today's House resolution due to the objections of the Office of Management and Budget and the Committee on Ways and Means, both of whom view the SEC as a cash cow to be raided for deficit reduction purposes. This view is shortsighted and, in the long term, harmful to our capital markets and the economy as a whole. I intend to pursue our full-cost-recovery proposals in separate legislation.

In the meantime, I urge my colleagues to support today's legislation as a first step in strengthening the hand of the Securities and Exchange Commission and advancing the sound public policy goals of the Nation's securities laws.

Mr. LENT. Mr. Speaker, I rise in support of House Resolution 483. As an original sponsor of the International Securities Enforcement Cooperation Act of 1989, the Shareholder Communications Act, and amendments to the Trust Indenture Act which form the basis of this bill, I want to express my strong support for this important legislation.

We live in a time when movements in stock prices on the New York Stock Exchange are transmitted not only to Boston, Chicago, and San Francisco but around the world to markets in London, Frankfurt, Tokyo, and Hong Kong. Today, investment capital flows to opportunities in the most efficient markets without regard to the country in which the exchange is located. Unfortunately, a world of investment opportunities also creates a world of opportunity for criminals who would manipulate, deceive, and defraud.

Using modern telecommunications technology they open accounts in securities firms and banks of many countries. Networks of collaborators develop schemes that can easily escape the surveillance of regulators located in a single country. The answer, of course, is to use the same technology to fight them. By entering into international agreements of cooperation with law enforcement authorities around the world and transferring information among them, we can build a network that ensures no one acting anywhere in the world can manipulate securities markets and escape detection. But without the support of foreign securities regulators, enforcement of our domestic laws by the SEC is made more difficult if not impossible.

Foreign governments have expressed concern over the operation of U.S. disclosure laws that could compromise the confidentiality of law enforcement information they would otherwise be willing to provide. House Resolution 483 addresses this problem by allowing the SEC to protect information provided by foreign securities enforcement authorities from disclosure. As a corollary, it also allows the SEC to provide foreign governments with information we have collected concerning fraud and manipulation taking place in overseas markets.

Mr. Speaker, international securities enforcement is of critical importance but in reality it involves a small number of people. In comparison, millions of people have invested over $1 trillion in the shares of mutual funds. It is these millions of shareholders who will benefit from the better and more timely disclosure of management information that will be the result of the adoption of House Resolution 483. Included in this amended bill are the provisions of H.R. 2780, the Shareholder Communication Improvement Act, which I cosponsored when they were introduced by the ranking Republican on the Subcommittee on Telecommunications and Finance, the gentleman from New Jersey [Mr. RINALDO].

By significantly increasing the amount of information that is transmitted to them, House Resolution 483 will make possible informed decisions by mutual fund shareholders when they are called upon to vote in annual elections of directors and upon resolutions establishing the policies of management. Congressional concern over shareholder governance issues is increasing and considering the enormous growth in the amounts of money and the number of people who invest in mutual funds, in many ways, Mr. Speaker, it may be that the most significant portions of House Resolution 483 deal not with international securities enforcement but with shareholder communications.

House Resolution 483 as we consider it today includes amendments to the Trust Indenture Act of 1939. These amendments were originally contained in H.R. 1786 which was sponsored by my colleague, the gentleman from New Jersey [Mr. RINALDO], and which I cosponsored. As is the case in all technical bills, the public may not appreciate the streamlining of regulation involved in this legislation. The public does benefit, however, from good government and that is the result of the elimination of unnecessary costs of regulation and the more efficient operation of our bond markets.

Finally, Mr. Speaker, since its inception the U.S. Securities and Exchange Commission has led the way in ensuring that the securities markets of our country are the finest in the world and least susceptible to manipulation and fraud. Over the last two decades the growth of the securities markets has been astronomical by any standard. It is not speculation that has been responsible for this growth. The capital markets are the foundations of capitalism and provide the mechanism by which corporations raise the money that become factories and machinery and employment for millions of people. Additionally, the securities markets have become the method by which pensions, savings plans, and every form of employee benefit program are funded. In today's economy, in one way or another, everyone is an investor in the securities mar-

kets and the SEC is responsible for overseeing their regulations.

House Resolution 483 will help to ensure that the SEC is adequately funded to continue to rise to new challenges that will be presented by the increasingly global network of securities markets. Raising the fees charged investors who trade and on companies registering stock offerings provides a user-based fee system that is fair and equitable. The result is in the interest of the Nation, its business community, and its investors.

I would like to compliment the gentleman from Michigan, the chairman of the Energy and Commerce Committee, Mr. DINGELL, for his efforts on behalf of this legislation. I would also like to congratulate the chairman of the subcommittee, Mr. MARKEY, and the ranking Republican on the subcommittee, Mr. RINALDO, for all they did to make this possible. Finally, I take special note of the many fine contributions made to the legislative process on this bill by minority counsel Stuart Kaswell.

Mr. Speaker, I urge all my colleagues to support this important legislation.

Mr. MARKEY. I have no further requests for time, and I yield back the balance of my time.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the resolution offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and agree to the resolution, (H. Res. 483).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that the House insist upon its amendments to the bill, H.R. 1396, to amend the Federal securities law in order to facilitate cooperation between the United States and foreign countries and securities law enforcement, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts [Mr. MARKEY]?

There was no objection.

The SPEAKER pro tempore. The Chair will appoint conferees upon the Speaker's return to the Chair.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, on House Resolution 483, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

SECURITIES ENFORCEMENT REMEDIES AND PENNY STOCK REFORM ACT OF 1990

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill (S. 647) to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws and to eliminate abuses in transactions in penny stocks, and for other purposes.

The Clerk read as follows:

Senate amendment to House amendments:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; EFFECTIVE DATE.

(a) SHORT TITLE.—This Act may be cited as the "Securities Enforcement Remedies and Penny Stock Reform Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; effective date.

TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

Sec. 101. Authority of a court to impose money penalties and to prohibit persons from serving as officers and directors.

Sec. 102. Cease-and-desist authority.

TITLE II—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

Sec. 201. Enforcement of title.

Sec. 202. Civil remedies in administrative proceedings.

Sec. 203. Cease-and-desist authority.

Sec. 204. Procedural rules for cease-and-desist proceedings.

Sec. 205. Conforming amendments to section 15B.

Sec. 206. Signature guarantees.

TITLE III—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

Sec. 301. Civil remedies in administrative proceedings.

Sec. 302. Money penalties in civil actions.

TITLE IV—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

Sec. 401. Civil remedies in administrative proceedings.

Sec. 402. Money penalties in civil actions.

Sec. 403. Conforming amendment to section 214.

TITLE V—PENNY STOCK REFORM

Sec. 501. Short title.

Sec. 502. Findings.

Sec. 503. Definition of penny stock.

Sec. 504. Expansion of section 15(b) sanction authority with respect to penny stocks.

Sec. 505. Requirements for brokers and dealers of penny stocks.

Sec. 506. Development of automated quotation systems for penny stocks.

Sec. 507. Voidability of contracts in violation of section 15(c)(2).

Sec. 508. Restrictions on blank check offerings.

Sec. 509. Broker/dealer disciplinary history.

Sec. 510. Review of regulatory structures and procedures.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this Act shall be effective upon enactment.

(2) CIVIL PENALTIES.—

(A) IN GENERAL.—No civil penalty may be imposed pursuant to the amendments made by this Act on the basis of conduct occurring before the date of enactment of this Act.

(B) ACCOUNTING AND DISGORGEMENT.—Subparagraph (A) shall not operate to preclude the Securities and Exchange Commission from ordering an accounting or disgorgement pursuant to the amendments made by this Act.

(3) SPECIAL RULES FOR TITLE V.—

(A) SECTIONS 503 AND 504.—Except as provided in subparagraph (C), sections 503 and 504 shall be effective 12 months after the date of enactment of this Act or upon the issuance of final regulations initially implementing such section, whichever is earlier.

(B) SECTIONS 505 AND 508.—Except as provided in subparagraph (C), sections 505 and 508 shall be effective 18 months after the date of enactment of this Act or upon the issuance of final regulations initially implementing such sections, whichever is earlier.

(C) COMMENCEMENT OF RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Commission shall commence rulemaking proceedings to implement sections 503, 505, and 508.

TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 101. AUTHORITY OF A COURT TO IMPOSE MONEY PENALTIES AND TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.

Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end thereof the following new subsections:

"(d) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 8A of this title, other than by committing a violation subject to a penalty pursuant to section 21A of the Securities Exchange Act of 1934, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 22 of this title, actions under this section shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 8A, each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with such an order, each day of the failure to comply with the order shall be deemed a separate offense.

"(e) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any proceeding under subsection (b), the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of such Act if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer.".

SEC. 102. CEASE-AND-DESIST AUTHORITY.

The Securities Act of 1933 (15 U.S.C. 77 et seq.) is amended by inserting after section 8 the following:

"CEASE-AND-DESIST PROCEEDINGS

"SEC. 8A. (a) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(b) HEARING.—The notice instituting proceedings pursuant to subsection (a) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(c) TEMPORARY ORDER.—

"(1) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to subsection (a), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceeding. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(2) APPLICABILITY.—This subsection shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(d) REVIEW OF TEMPORARY ORDERS.—

"(1) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to subsection (c), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(2) JUDICIAL REVIEW.—Within—

"(A) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(B) 10 days after the Commission renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under paragraph (1) of this subsection.

"(3) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(4) EXCLUSIVE REVIEW.—Section 9(a) of this title shall not apply to a temporary order entered pursuant to this section.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (a), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

TITLE II—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 201. ENFORCEMENT OF TITLE.

Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended—

(1) by redesignating subsection (d) as subsection (d)(1);

(2) by inserting after subsection (d)(1) the following new paragraphs:

"(2) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any proceeding under paragraph (1) of this subsection, the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer.

"(3) MONEY PENALTIES IN CIVIL ACTIONS.—

"(A) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 21C of this title, other than by committing a violation subject to a penalty pursuant to section 21A, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(B) AMOUNT OF PENALTY.—

"(i) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (I) $5,000 for a natural person or $50,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(ii) SECOND TIER.—Notwithstanding clause (i), the amount of penalty for each

such violation shall not exceed the greater of (I) $50,000 for a natural person or $250,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in subparagraph (A) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(iii) THIRD TIER.—Notwithstanding clauses (i) and (ii), the amount of penalty for each such violation shall not exceed the greater of (I) $100,000 for a natural person or $500,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(aa) the violation described in subparagraph (A) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(bb) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(C) PROCEDURES FOR COLLECTION.—

"(i) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(ii) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(iii) REMEDY NOT EXCLUSIVE.—The actions authorized by this paragraph may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(iv) JURISDICTION AND VENUE.—For purposes of section 27 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(D) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 21C, each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

SEC. 202. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

(a) The Securities Exchange Act of 1934 is amended by inserting after section 21A (15 U.S.C. 78u-1) the following:

"CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS

"SEC. 21B. (a) COMMISSION AUTHORITY TO ASSESS MONEY PENALTIES.—In any proceeding instituted pursuant to sections 15(b)(4), 15(b)(6), 15B, 15C, or 17A of this title against any person, the Commission or the appropriate regulatory agency may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(1) has willfully violated any provision of the Securities Act of 1933, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or this title, or the rules or regulations thereunder, or the rules of the Municipal Securities Rulemaking Board;

"(2) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person;

"(3) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission or with any other appropriate regulatory agency under this title, or in any proceeding before the Commission with respect to registration, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein; or

"(4) has failed reasonably to supervise, within the meaning of section 15(b)(4)(E) of this title, with a view to preventing violations of the provisions of such statutes, rules and regulations, another person who commits such a violation, if such other person is subject to his supervision;

and that such penalty is in the public interest.

"(b) MAXIMUM AMOUNT OF PENALTY.—

"(1) FIRST TIER.—The maximum amount of penalty for each act or omission described in subsection (a) shall be $5,000 for a natural person or $50,000 for any other person.

"(2) SECOND TIER.—Notwithstanding paragraph (1), the maximum amount of penalty for each such act or omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in subsection (a) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(A) the act or omission described in subsection (a) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(B) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(c) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission or the appropriate regulatory agency may consider—

"(1) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(2) the harm to other persons resulting either directly or indirectly from such act or omission;

"(3) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(4) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 15(b)(4)(B) of this title;

"(5) the need to deter such person and other persons from committing such acts or omissions; and

"(6) such other matters as justice may require.

"(d) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission or the appropriate regulatory agency may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, the Commission or the appropriate regulatory agency may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

(b) CONFORMING AMENDMENT.—The heading of section 21A of this title (15 U.S.C. 78u-1) is amended to read as follows:

"CIVIL PENALTIES FOR INSIDER TRADING"

SEC. 203. CEASE-AND-DESIST AUTHORITY.

The Securities and Exchange Act of 1934 is amended by adding after section 21B (as added by section 202 of this Act) the following new section:

"CEASE-AND-DESIST PROCEEDINGS

"SEC. 21C. (a) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(b) HEARING.—The notice instituting proceedings pursuant to subsection (a) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(c) TEMPORARY ORDER.—

"(1) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to subsection (a), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to

the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(2) APPLICABILITY.—This subsection shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(d) REVIEW OF TEMPORARY ORDERS.—

"(1) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to subsection (c), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(2) JUDICIAL REVIEW.—Within—

"(A) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(B) 10 days after the Commission renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under paragraph (1) of this subsection.

"(3) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(4) EXCLUSIVE REVIEW.—Section 25 of this title shall not apply to a temporary order entered pursuant to this section.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (a), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

SEC. 204. PROCEDURAL RULES FOR CEASE-AND-DESIST PROCEEDINGS.

Section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended by adding at the end thereof the following new subsection:

"(d) CEASE-AND-DESIST PROCEDURES.—Within 1 year after the date of enactment of this subsection, the Commission shall establish regulations providing for the expeditious conduct of hearings and rendering of decisions under section 21C of this title, section 8A of the Securities Act of 1933, section 9(f) of the Investment Company Act of 1940, and section 203(k) of the Investment Advisers Act of 1940.".

SEC. 205. CONFORMING AMENDMENTS TO SECTION 15B.

Section 15B(c)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(6)(A)) is amended—

(1) by striking "and the nature" and inserting ", the nature"; and

(2) by striking "proposed action and" and inserting "proposed action, and whether the Commission is seeking a monetary penalty against such municipal securities dealer or such associated person pursuant to section 21B of this title; and ".

SEC. 206. SIGNATURE GUARANTEES.

Section 17A(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-9(d)(4)) is amended by adding at the end the following:

"(5) A registered transfer agent may not, directly or indirectly, engage in any activity in connection with the guarantee of a signature of an endorser of a security, including the acceptance or rejection of such guarantee, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, to facilitate the equitable treatment of financial institutions which issue such guarantees, or otherwise in furtherance of the purposes of this title.".

TITLE III—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

SEC. 301. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended—

(1) by redesignating subsection (d) as subsection (g);

(2) by inserting after subsection (c) the following new subsections:

"(d) MONEY PENALTIES IN ADMINISTRATIVE PROCEEDINGS.—

"(1) AUTHORITY OF COMMISSION.—In any proceeding instituted pursuant to subsection (b) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(A) has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, or this title, or the rules or regulations thereunder;

"(B) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person; or

"(C) has willfully made or caused to be made in any registration statement, application, or report required to be filed with the Commission under this title, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such registration statement, application, or report any material fact which was required to be stated therein;

and that such penalty is in the public interest.

"(2) MAXIMUM AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $5,000 for a natural person or $50,000 for any other person.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for each such act or omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(i) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(3) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission may consider—

"(A) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(B) the harm to other persons resulting either directly or indirectly from such act or omission;

"(C) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(D) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 203(e)(2) of the Investment Advisers Act of 1940;

"(E) the need to deter such person and other persons from committing such acts or omissions; and

"(F) such other matters as justice may require.

"(4) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into ac-

count any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission may impose a penalty under this section, the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.

"(f) CEASE-AND-DESIST PROCEEDINGS.—

"(1) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(3) TEMPORARY ORDER.—

"(A) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceeding, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission, notwithstanding section 40(a) of this title, determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(B) APPLICABILITY.—This paragraph shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(4) REVIEW OF TEMPORARY ORDERS.—

"(A) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(B) JUDICIAL REVIEW.—Within—

"(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(ii) 10 days after the Commission renders a decision on an application and hearing under subparagraph (A), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under subparagraph (A) of this paragraph.

"(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (B) of this paragraph shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(D) EXCLUSIVE REVIEW.—Section 43 of this title shall not apply to a temporary order entered pursuant to this section.

"(5) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (f)(1), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection."; and

(3) in redesignated subsection (g), by striking "subsections (a) through (c) of".

SEC. 302. MONEY PENALTIES IN CIVIL ACTIONS.

Section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-41) is amended by adding at the end thereof the following new subsection:

"(e) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 9(f) of this title, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 44 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 9(f), each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

TITLE IV—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

SEC. 401. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended by adding at the end thereof the following new subsections:

"(i) MONEY PENALTIES IN ADMINISTRATIVE PROCEEDINGS.—

"(1) AUTHORITY OF COMMISSION.—In any proceeding instituted pursuant to subsection (e) or (f) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(A) has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or this title, or the rules or regulations thereunder;

"(B) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person;

"(C) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission under this title, or in any proceeding before the Commission with respect to registration, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein; or

"(D) has failed reasonably to supervise, within the meaning of section 203(e)(5) of this title, with a view to preventing violations of the provisions of this title and the rules and regulations thereunder, another person who commits such a violation, if such other person is subject to his supervision;

and that such penalty is in the public interest.

"(2) MAXIMUM AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $5,000 for a natural person or $50,000 for any other person.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for each such act or omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(i) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(3) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission may consider—

"(A) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(B) the harm to other persons resulting either directly or indirectly from such act or omission;

"(C) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(D) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 203(e)(2) of this title;

"(E) the need to deter such person and other persons from committing such acts or omissions; and

"(F) such other matters as justice may require.

"(4) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(j) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission may impose a penalty under this section, the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.

"(k) CEASE-AND-DESIST PROCEEDINGS.—

"(1) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(3) TEMPORARY ORDER.—

"(A) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission, notwithstanding section 211(c) of this title, determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(B) APPLICABILITY.—This paragraph shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(4) REVIEW OF TEMPORARY ORDERS.—

"(A) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(B) JUDICIAL REVIEW.—Within—

"(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(ii) 10 days after the Commission renders a decision on an application and hearing under subparagraph (A), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's appli-

cation under subparagraph (A) of this paragraph.

"(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (B) of this paragraph shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(D) EXCLUSIVE REVIEW.—Section 213 of this title shall not apply to a temporary order entered pursuant to this section.

"(5) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under paragraph (1), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

SEC. 402. MONEY PENALTIES IN CIVIL ACTIONS.

Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended by adding at the end thereof the following new subsection:

"(e) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 203(k) of this title, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 214 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 203(k), each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

SEC. 403. CONFORMING AMENDMENT TO SECTION 214.

Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended—

(1) by inserting after "all suits in equity" the following: "and actions at law brought to enforce any liability or duty created by, or"; and

(2) by inserting after "Any suit or action" the following: "to enforce any liability or duty created by, or".

TITLE V—PENNY STOCK REFORM

SEC. 501. SHORT TITLE.

This title may be cited as the "Penny Stock Reform Act of 1990".

SEC. 502. FINDINGS.

The Congress finds the following:

(1) The maintenance of an honest and healthy primary and secondary market for securities offerings is essential to enhancing long-term capital formation and economic growth and providing legitimate investment opportunities for individuals and institutions.

(2) Protecting investors in new securities is a critical component in the maintenance of an honest and healthy market for such securities.

(3) Protecting issuers of new securities and promoting the capital formation process on behalf of small companies are fundamental concerns in maintaining a strong economy and viable trading markets.

(4) Unscrupulous market practices and market participants have pervaded the "penny stock" market with an overwhelming amount of fraud and abuse.

(5) Although the Securities and Exchange Commission, State securities regulators, and securities self-regulators have made efforts to curb these abusive and harmful practices, the penny stock market still lacks an adequate and sufficient regulatory structure, particularly in comparison to the structure for overseeing trading in National Market System securities.

(6) Investors in the penny stock market suffer from a serious lack of adequate information concerning price and volume of penny stock transactions, the nature of this market, and the specific securities in which they are investing.

(7) Current practices do not adequately regulate the role of "promoters" and "consultants" in the penny stock market, and many professionals who have been banned from the securities markets have ended up in promoter and consultant roles, contributing substantially to fraudulent and abusive schemes.

(8) The present regulatory environment has permitted the ascendancy of the use of particular market practices, such as "reverse mergers" with shell corporations and "blank check" offerings, which are used to facilitate manipulation schemes and harm investors.

(9) In light of the substantial and continuing problems in the penny stock markets, additional legislative measures are necessary and appropriate.

SEC. 503. DEFINITION OF PENNY STOCK.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraph:

"(51)(A) The term 'penny stock' means any equity security other than a security that is—

"(i) registered or approved for registration and traded on a national securities exchange that meets such criteria as the Commission shall prescribe by rule or regulation for purposes of this paragraph;

"(ii) authorized for quotation on an automated quotation system sponsored by a registered securities association, if such system (I) was established and in operation before January 1, 1990, and (II) meets such criteria as the Commission shall prescribe by rule or regulation for purposes of this paragraph;

"(iii) issued by an investment company registered under the Investment Company Act of 1940;

"(iv) excluded, on the basis of exceeding a minimum price, net tangible assets of the issuer, or other relevant criteria, from the definition of such term by rule or regulation which the Commission shall prescribe for purposes of this paragraph; or

"(v) exempted, in whole or in part, conditionally or unconditionally, from the definition of such term by rule, regulation, or order prescribed by the Commission.

"(B) The Commission may, by rule, regulation, or order, designate any equity security or class of equity securities described in clause (i) or (ii) of subparagraph (A) as within the meaning of the term 'penny stock' if such security or class of securities is traded other than on a national securities exchange or through an automated quotation system described in clause (ii) of subparagraph (A).

"(C) In exercising its authority under this paragraph to prescribe rules, regulations, and orders, the Commission shall determine that such rule, regulation, or order is consistent with the public interest and the protection of investors.".

SEC. 504. EXPANSION OF SECTION 15(B) SANCTION AUTHORITY WITH RESPECT TO PENNY STOCKS.

(a) AMENDMENT.—Section 15(b)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)) is amended to read as follows:

"(6)(A) With respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a broker or dealer, or any person participating, or, at the time of the alleged misconduct, who was participating, in an offering of any penny stock, the Commission, by order, shall censure, place limitations on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar such person from being associated with a broker or dealer, or from participating in an offering of penny stock, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limi-

tations, suspension, or bar is in the public interest and that such person—

"(i) has committed or omitted any act or ommission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of this subsection;

"(ii) has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph; or

"(iii) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(B) It shall be unlawful—

"(i) for any person as to whom an order under subparagraph (A) is in effect, without the consent of the Commission, willfully to become, or to be, associated with a broker or dealer in contravention of such order, or to participate in an offering of penny stock in contravention of such order;

"(ii) for any broker or dealer to permit such a person, without the consent of the Commission, to become or remain, a person associated with the broker or dealer in contravention of such order, if such broker or dealer knew, or in the exercise of reasonable care should have known, of such order; or

"(iii) for any broker or dealer to permit such a person, without the consent of the Commission, to participate in an offering of penny stock in contravention of such order, if such broker or dealer knew, or in the exercise of reasonable care should have known, of such order and of such participation.

"(C) For purposes of this paragraph, the term 'person participating in an offering of penny stock' includes any person acting as any promoter, finder, consultant, agent, or other person who engages in activities with a broker, dealer, or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock. The Commission may, by rule or regulation, define such term to include other activities, and may, by rule, regulation, or order, exempt any person or class of persons, in whole or in part, conditionally or unconditionally, from such term.".

(b) RECOMMENDATIONS.—Within 6 months after the date of enactment of this Act, the Securities and Exchange Commission shall submit to each House of the Congress such recommendations as the Commission considers appropriate with respect to further revision of section 15(b)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)). In preparing such recommendations, the Commission shall consider the desirability and effect of expanding the applicability of such section to any promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer, or issuer for purposes of the issuance of or trading in, or inducing or attempting to induce the purchase or sale of, any security (and not just penny stock).

SEC. 505. REQUIREMENTS FOR BROKERS AND DEALERS OF PENNY STOCKS.

Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end thereof the following new subsection:

"(g) REQUIREMENTS FOR TRANSACTIONS IN PENNY STOCKS.—

"(1) IN GENERAL.—No broker or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any penny stock by any customer except in accordance with the requirements of this subsection and the rules and regulations prescribed under this subsection.

"(2) RISK DISCLOSURE WITH RESPECT TO PENNY STOCKS.—Prior to effecting any transaction in any penny stock, a broker or dealer shall give the customer a risk disclosure document that—

"(A) contains a description of the nature and level of risk in the market for penny stocks in both public offerings and secondary trading;

"(B) contains a description of the broker's or dealer's duties to the customer and of the rights and remedies available to the customer with respect to violations of such duties or other requirements of Federal securities laws;

"(C) contains a brief, clear, narrative description of a dealer market, including 'bid' and 'ask' prices for penny stocks and the significance of the spread between the bid and ask prices;

"(D) contains the toll free telephone number for inquiries on disciplinary actions established pursuant to section 15A(i) of this title;

"(E) defines significant terms used in the disclosure document or in the conduct of trading in penny stocks; and

"(F) contains such other information, and is in such form (including language, type size, and format), as the Commission shall require by rule or regulation.

"(3) COMMISSION RULES RELATING TO DISCLOSURE.—The Commission shall adopt rules setting forth additional standards for the disclosure by brokers and dealers to customers of information concerning transactions in penny stocks. Such rules—

"(A) shall require brokers and dealers to disclose to each customer, prior to effecting any transaction in, and at the time of confirming any transaction with respect to any penny stock, in accordance with such procedures and methods as the Commission may require consistent with the public interest and the protection of investors—

"(i) the bid and ask prices for penny stock, or such other information as the Commission may, by rule, require to provide customers with more useful and reliable information relating to the price of such stock;

"(ii) the number of shares to which such bid and ask prices apply, or other comparable information relating to the depth and liquidity of the market for such stock; and

"(iii) the amount and a description of any compensation that the broker or dealer and the associated person thereof will receive or has received in connection with such transaction;

"(B) shall require brokers and dealers to provide, to each customer whose account with the broker or dealer contains penny stocks, a monthly statement indicating the market value of the penny stocks in that account or indicating that the market value of such stock cannot be determined because of the unavailability of firm quotes; and

"(C) may, as the Commission finds necessary or appropriate in the public interest or for the protection of investors, require brokers and dealers to disclose to customers additional information concerning transactions in penny stocks.

"(4) EXEMPTIONS.—The Commission, as it determines consistent with the public interest and the protection of investors, may by rule, regulation, or order exempt in whole or in part, conditionally or unconditionally, any person or class of persons, or any transaction or class of transactions, from the requirements of this subsection. Such exemptions shall include an exemption for brokers and dealers based on the minimal percentage of the broker's or dealer's commissions, commission-equivalents, and markups received from transactions in penny stocks.

"(5) REGULATIONS.—It shall be unlawful for any person to violate such rules and regulations as the Commission shall prescribe in the public interest or for the protection of investors or to maintain fair and orderly markets—

"(A) as necessary or appropriate to carry out this subsection; or

"(B) as reasonably designed to prevent fraudulent, deceptive, or manipulative acts and practices with respect to penny stocks.".

SEC. 506. DEVELOPMENT OF AUTOMATED QUOTATION SYSTEMS FOR PENNY STOCKS.

The Securities Exchange Act of 1934 is amended by inserting after section 17A the following new section:

"AUTOMATED QUOTATION SYSTEMS FOR PENNY STOCKS

"SEC. 17B. (a) FINDINGS.—The Congress finds that—

"(1) the market for penny stocks suffers from a lack of reliable and accurate quotation and last sale information available to investors and regulators;

"(2) it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to improve significantly the information available to brokers, dealers, investors, and regulators with respect to quotations for and transactions in penny stocks; and

"(3) a fully implemented automated quotation system for penny stocks would meet the information needs of investors and market participants and would add visibility and regulatory and surveillance data to that market.

"(b) MANDATE TO FACILITATE THE ESTABLISHMENT OF AUTOMATED QUOTATION SYSTEMS.—

"(1) IN GENERAL.—The Commission shall facilitate the widespread dissemination of reliable and accurate last sale and quotation information with respect to penny stocks in accordance with the findings set forth in subsection (a), with a view toward establishing, at the earliest feasible time, one or more automated quotation systems that will collect and disseminate information regarding all penny stocks.

"(2) CHARACTERISTICS OF SYSTEMS.—Each such automated quotation system shall—

"(A) be operated by a registered securities association or a national securities exchange in accordance with such rules as the Commission and these entities shall prescribe;

"(B) collect and disseminate quotation and transaction information;

"(C) except as provided in subsection (c), provide bid and ask quotations of participating brokers or dealers, or comparably accurate and reliable pricing information, which shall constitute firm bids or offers for at least such minimum numbers of shares or minimum dollar amounts as the Commission and the registered securities association or national securities exchange shall require; and

"(D) provide for the reporting of the volume of penny stock transactions, including last sale reporting, when the volume reaches appropriate levels that the Commission shall specify by rule or order.

"(c) EXEMPTIVE AUTHORITY.—The Commission may, by rule or order, grant such exemptions, in whole or in part, conditionally or unconditionally, to any penny stock or class of penny stocks from the requirements of subsection (b) as the Commission deter-

mines to be consistent with the public interest, the protection of investors, and the maintenance of fair and orderly markets.

"(d) COMMISSION REPORTING REQUIREMENTS.—The Commission shall, in each of the first 5 annual reports (under section 23(b)(1) of this title) submitted more than 12 months after the date of enactment of this section, include a description of the status of the penny stock automated quotation system or systems required by subsection (b). Such description shall include—

"(1) a review of the development, implementation, and progress of the project, including achievement of significant milestones and current project schedule; and

"(2) a review of the activities of registered securities associations and national securities exchanges in the development of the system.".

SEC. 507. VOIDABILITY OF CONTRACTS IN VIOLATION OF SECTION 15(c)(2).

Section 29(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78cc(b)) is amended—

(1) in clause (A), by striking "paragraph (2) or (3)" and inserting "paragraph (3)";

(2) in clause (B), by striking "paragraph (1)" and inserting "paragraph (1) or (2)"; and

(3) by adding at the end thereof the following new sentence: "The Commission may, in a rule or regulation prescribed pursuant to such paragraph (2) of such section 15(c), designate such rule or regulation, or portion thereof, as a rule or regulation, or portion thereof, a contract in violation of which shall not be void by reason of this subsection.".

SEC. 508. RESTRICTIONS ON BLANK CHECK OFFERINGS.

Section 7 of the Securities Act of 1933 (15 U.S.C. 77g) is amended—

(1) by inserting "(a)" after "SEC. 7."; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The Commission shall prescribe special rules with respect to registration statements filed by any issuer that is a blank check company. Such rules may, as the Commission determines necessary or appropriate in the public interest or for the protection of investors—

"(A) require such issuers to provide timely disclosure, prior to or after such statement becomes effective under section 8, of (i) information regarding the company to be acquired and the specific application of the proceeds of the offering, or (ii) additional information necessary to prevent such statement from being misleading;

"(B) place limitations on the use of such proceeds and the distribution of securities by such issuer until the disclosures required under subparagraph (A) have been made; and

"(C) provide a right of rescission to shareholders of such securities.

"(2) The Commission may, as it determines consistent with the public interest and the protection of investors, by rule or order exempt any issuer or class of issuers from the rules prescribed under paragraph (1).

"(3) For purposes of paragraph (1) of this subsection, the term 'blank check company' means any development stage company that is issuing a penny stock (within the meaning of section 3(a)(51) of the Securities Exchange Act of 1934) and that—

"(A) has no specific business plan or purpose; or

"(B) has indicated that its business plan is to merge with an unidentified company or companies.".

SEC. 509. BROKER/DEALER DISCIPLINARY HISTORY.

Section 15A of the Securities Exchange Act 1934 (15 U.S.C. 78o-3) is amended by adding at the end the following:

"(i) A registered securities association shall, within one year from the date of enactment of this section, (1) establish and maintain a toll-free telephone listing to receive inquiries regarding disciplinary actions involving its members and their associated persons, and (2) promptly respond to such inquiries in writing. Such association may charge persons, other than individual investors, reasonable fees for written responses to such inquiries. Such an association shall not have any liability to any person for any actions taken or omitted in good faith under this paragraph.".

SEC. 510. REVIEW OF REGULATORY STRUCTURES AND PROCEDURES.

(a) REVIEW REQUIRED.—The Comptroller General, in consultation with the Securities and Exchange Commission, shall conduct a review of the rules, procedures, facilities, and oversight and enforcement activities of self-regulatory organizations under the Securities Exchange Act of 1934 with respect to penny stocks (within the meaning of section 3(a)(51) of such Act). Such review shall include an analysis of—

(1) the resources devoted by self-regulatory organizations to the detection, investigation, prosecution, and correction of fraud and abuse in the trading of such penny stocks;

(2) the methods and techniques used, and alternative methods which may be used, in those oversight and enforcement activities, including methods and techniques involving coordinated oversight and enforcement activities with other Federal and State authorities;

(3) the adequacy of the rules, procedures, and facilities of such self-regulatory organizations for the prevention of excessive spreads and markups, unscrupulous sales practices, and other conduct inconsistent with high standards of commercial honor and just and equitable principles of trade;

(4) any obstacles to or limitations on the authority of self-regulatory organizations that impair the conduct of those oversight and enforcement activities;

(5) the adequacy of current listing and maintenance requirements and procedures and the potential for erosion of such requirements and procedures due to issuer avoidance of penny stock designation and regulation; and

(6) such other matters as the Comptroller General considers necessary or appropriate.

(b) REPORT.—Within one year after the date of enactment of this Act, the Comptroller General shall submit a report on the review required by subsection (a). Such report shall include, in addition to a statement of findings with respect to each matter described in paragraphs (1) through (6) of such subsection, such recommendations as the Comptroller General considers appropriate with respect to legislative or administrative changes.

The SPEAKER. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 647, which represents the revised text of H.R. 5325, the Securities Enforcement and Penny Stock Reform Act of 1990. This bill represents the most significant attack on securities fraud and white collar crime in many years. Susan Bryant, the recent president of the North American State Securities Administrators Association, stated with regard to the penny stock provisions, that there is "no other single piece of investment-related legislation before Congress today that would do more to protect so many individuals and their life savings."

The Senate originally passed S. 647 last summer, and shortly thereafter, on July 23, 1990, the House passed H.R. 5325. That bill originated as two separate bills: H.R. 4497, the Penny Stock Reform Act of 1990, and H.R. 975, the Securities Law Enforcement Remedies Act of 1990, both of which were reported from the Committee on Energy and Commerce on July 27, 1990. The committee reports on those two bills constitute the legislative history for the bill before us today.

The problems addressed in this legislation fall within a broader pattern of reckless greed and criminality which has left a dark stain on many of the superficially glossy financial success stories of the 1980's. In response, we are now at the precipice of enacting a host of legislation which should amount to the most comprehensive reform of the securities laws since the 1930's. Alongside legislation on insider trading, market reform, international enforcement cooperation, and others, the bill before us today will give the Securities and Exchange Commission the legal foundation to right the wrongs perpetrated over much of the last decade.

I would like to thank my good friend and colleague and ranking minority member of the Subcommittee on Telecommunications and Finance, Mr. RINALDO, for his help in bringing this measure to the floor, and note the extraordinary leadership of Chairman DINGELL, who introduced H.R. 975 and cosponsored H.R. 4497. I would also like to note the active and critical assistance of the gentleman from Oregon, Mr. WYDEN, on the penny stock bill. This combined measure is also cosponsored by Representatives RICHARDSON, MOORHEAD, MCMILLEN, SLATTERY, and BATES. I must also acknowledge the key members of the Senate Banking Committee, Senators DODD, HEINZ, RIEGLE, and GARN and their staffs, for their diligent and

superb efforts in crafting the final language in the bill before us.

Title V of the Senate-passed bill maintains all of the essential pieces which marked the foundation of the penny stock bill as introduced, and as it was enacted by the House last July: Greatly enhanced disclosure for penny stock investors; movement toward a fully implemented automated quotation system for penny stocks; new SEC authority to keep recidivist criminals out of the penny stock business as promoters and consultants; and restrictions of the use of blank check offerings. Make no mistake; this legislation is far more than a hope for future regulatory action. It is a precise and unequivocal directive to the SEC to finish the job of cleaning up the penny stock market.

The penny stock section of the bill would require the SEC to adopt rules requiring brokers and dealers to provide investors with a number of specific types of information concerning the prices of stock they are purchasing and the inherent riskiness of the penny stock market. The Commission is also directed to promulgate rules regulating the issuance of blank check offerings. This section looks in particular to States like Utah as a model, by mandating timely disclosure of actual business plans, limiting the proceeds of blank checks until adequate disclosure is made, and providing shareholders with a right of rescission if that disclosure is deemed unacceptable. The effect of such rules would hopefully be similar to that in Utah: the elimination of blank checks as an easy vehicle for penny stock fraud.

Although the bill now before us today is virtually identical to that passed by the House, I do want to note some clarifying language in the section on disclosure of bid and ask prices to penny stock customers. The new language states that penny stock brokers and dealers must provide investors with these prices unless the Commission by rule determines that other information would be "more useful and reliable" to those investors. The clear and unequivocal intent of the authors of this legislation, as embodied in the language, is that investors receive bid and ask prices. However, the bill does give the Commission flexibility in the event there is in the future some alternative information which would be substantially more useful and reliable to investors.

The first four titles of this bill were previously reported out of the Energy and Commerce Committee as H.R. 975. They reflect the combined efforts of the SEC, which originally recommended this legislation to Congress, Chairman DINGELL, the gentleman from New Jersey, Mr. RINALDO, and the input of many others from the Senate, the securities industry, and the bar.

The two key pieces of H.R. 975 as introduced remain. First, the authority to impose fines for violations of the securities laws. The SEC is limited under present law in its ability to craft civil remedies which are appropriate to the particular violation of law. For cases other than those involving insider trading, which has its own statutory directive on fines, the Commission would now have an effective alternative to the simple slap on the wrist represented by an injunction or the nuclear bomb represented by barring someone from the securities business. The Commission could impose fines for myriad violations including issuance of false or misleading prospectus information, market manipulation in penny stocks, stock parking, and short-selling on a downtick.

This legislation also expressly provides the SEC with the authority to seek through the courts to bar securities law violators from serving as officers and directors of public corporations. This equitable remedy is essential to protect the investing public from corporate theft and corruption.

The bill also adds an important new cease and desist authority which was not in H.R. 975 as originally introduced. This new grant of authority would permit the Commission to issue both temporary and permanent orders through administrative action in order to prevent a significant dissipation or conversion of assets, significant harm to investors or substantial harm to the public interest. This cease and desist authority is similar to that granted the banking regulators in last year's savings and loan legislation and that currently used by the Federal Trade Commission. Due to the serious nature of the potential imposition of temporary orders, the SEC may only impose them against regulated persons such as broker/dealers and investment advisers, among others.

I am particularly pleased that the compromise with the Senate contains the House-passed procedural protections regarding the cease and desist provision. In addition to review of these orders in the courts, the legislation would now mandate that whenever the Commission issues a temporary cease and desist order without the benefit of notice to the alleged violator, the SEC is required to provide a hearing to that party and render a decision reviewing the initial order at the earliest possible time. This tracks the type of procedural protections built into rule 65 of the Federal Rules of Civil Procedure, which govern temporary restraining orders in the Federal courts.

There are many people who deserve thanks for bringing this bill to where it is today, as well as for so much of the success of the subcommittee in the finance area in this Congress. First, to my good friend and colleague MATT RINALDO, because without his keen interest in bipartisan cooperation and extraordinary public policy, none of this would have been possible. In addition I want to note the extraordinary leadership of Chairman DINGELL and the tremendous cooperation of Mr. LENT, the ranking minority member of the full committee. On the penny stock bill, I want to thank Mr. WYDEN of Oregon, who chaired the subcommittee's first hearing in Oregon and who was tireless in his efforts to bring this bill to fruition. On the staff level, I want to thank Howard Homonoff, Herb Brown, Sara Morris, and Dolores Daly of the Subcommittee on Telecommunications and Finance; Consuela Washington of the full Energy and Commerce Committee; and Steve Blumenthal from the full committee minority staff. From the SEC, I would like to thank Chairman Breeden and his staff, especially Joe Goldstein, Chairman of the SEC Penny Stock Task Force. I would also like to acknowledge the extremely helpful input in the State securities regulators through NASAA.

In closing, I urge my colleagues to support this legislation which will do so much to benefit our markets and the investing public.

□ 1720

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 647.

This bill ranks with the most important legislation we will consider this year. It will bring the longstanding national disgrace of an inadequately regulated penny stock market to a close. It mandates and authorizes the Securities and Exchange Commission to provide greater protection to investors in low-priced securities. In developing this legislation my colleagues and I worked hard to identify the problems of the penny stock market, and we have proposed solutions that will increase investor protection and not interfere with the ability of small businesses to raise capital.

Mr. Speaker, I sponsored the Penny Stock Reform Act with the gentleman from Massachusetts [Mr. MARKEY] when it was introduced in April 1990. The bill was unanimously reported out of the Energy and Commerce Committee in June and unanimously passed the House of Representatives in July. The Senate passed the bill in September and today, October 1, the legislative process will come to an end. The speed with which we have moved underscores the depth of concern in Congress about this problem.

This legislation is as unique as it is comprehensive. It proposes authority for the SEC that is without precedent in the Federal securities laws. In most cases the sad fact is that by the time a

penny stock offering is discovered as being a fraud, all the money is gone and the investors are left with a meaningless right to sue. This bill provides the SEC with the power to restrict the use of funds raised in a public offering until required disclosures have been made to investors. It also gives the SEC authority to grant rights of recision. It is our plan that the SEC will enact regulations to ensure the existence of a pool of money, to protect the public, until investors are sure that the only risks they assume are those they bargain for in the marketplace.

In S. 647 the most important provision is the one authorizing the SEC, for the first time, to prohibit securities law violators from being associated in any way with an offering of penny stocks. Too many people have been thrown out of the securities business for violating the law, only to appear again in penny stock offerings as consultants to the issuer or in some other, nonbroker capacity. We do not want these people underwriting penny stock offerings, promoting penny stock offerings, or even consulting on penny stock offerings. S. 647 will be the Federal law that the SEC uses to keep them out.

S. 647 not only fights fraud; it seeks to improve the operation of the legitimate market in low-priced securities. The penny stock market, which in many ways is more difficult to regulate than the listed securities market, needs an electronic system that delivers quotation and trading information to investors. S. 647 mandates the creation of such a system and we will see such a system brought into existence.

The remaining sections of S. 647, those that contain the provisions of the Securities Law Enforcement Remedies Act, are strong statements of congressional support for greater levels of investor protection. This legislation adds weapons to the SEC's enforcement arsenal, broadening the spectrum of penalties that can be imposed upon securities law violators. Now courts and the SEC will be able to tailor penalties to match the seriousness of the violation in question.

The most potent of the new powers granted in the bill is the authority for the SEC to impose cease and desist orders. Today millions of dollars can be removed from bank accounts electronically in a matter of minutes. Delaying the ability of Federal regulators to restrain such transfers is a prescription for disaster. An equally strong weapon to be wielded by the SEC in protecting investors is the authority to order a violator of the securities laws to disgorge illegally made profits.

Finally, S. 647 authorizes the SEC to seek court imposed monetary fines on violators of SEC cease and desist orders. Monetary fines are considered in between the "kill or kiss' remedies now available in which the SEC must either slap the wrists of violators, or "kill" them with a revocation of license.

Taken together, the provisions of the Penny Stock Reform Act and the Remedies Act make a powerful statement that Congress will never allow the integrity of the securities market to be compromised and that investors will be protected.

Mr. Speaker, this bill is due in large measure to the untiring, dedicated work of the gentleman from Massachusetts [Mr. MARKEY], the chairman of the Telecommunications and Finance Subcommittee, and to Chairman DINGELL of the full committee.

Once again, I certainly want to acknowledge the hard work of Chairman MARKEY and urge my colleagues to give their unanimous support to this unanimous legislation.

Mr. Speaker, I would also like to acknowledge the contribution of the other sponsors of the legislation, particularly the gentleman from Oregon [Mr. WYDEN], the gentleman from California [Mr. MOORHEAD], and the other people, and particularly the staff who helped make this become a reality.

Mr. MARKEY. Mr. Speaker, I yield as much time as he may consume to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, I very much want to associate myself with the remarks of the gentleman from New Jersey [Mr. RINALDO], who earlier said that this has been an exceptionally productive session for the Telecommunications and Finance Subcommittee.

□ 1730

I think under the leadership of Chairman MARKEY, with the help of the ranking Republican member, the gentleman from New Jersey [Mr. RINALDO], we have seen on one issue after another the subcommittee will go forward with important legislation. They have been of great help to this Member. Through the courtesy of the chairman of the subcommittee, the first hearing on penny stock fraud was held in Portland. Whether it has been the penny stock fraud issues or accounting reform or what have you, the gentleman from Massachusetts and the gentleman from New Jersey have worked in an exceptionally bipartisan way to process litigation.

I want to thank both of them for the opportunity that they have given this Member to work with them during this session.

Mr. Speaker, with respect to the penny stock legislation, I think this bill sends a particularly important message. Throughout the 1980's, the focus was primarily on the big investor, whether it was Mr. Boesky or Mr. Miliken. As far as regulation was concerned, when it came time to debate these issues, the focus of Government was essentially on trying to make the market more efficient for the large investors. Now, with this legislation, we have a chance to tip the scales back, tip the scales toward basic fairness for the small investor and do it at a critical time when obviously our stock markets and our financial markets are in a very fragile condition.

So I think this is an important bill. It is a bill that will give the small investors the attention and concern that their needs warrant.

I would like to focus on just one argument that was made as this legislation went forward.

Some said, for example, that this bill could retard the capital formation process, that somehow, by having some minimum basic standards to protect the small investor, this would retard capital formation. I just feel very strongly that that argument is off base. If anything, I think what has happened over the years, has been that capital which small investors have, scarce capital, has been diverted to these penny stock frauds. And if, with additional scrutiny and oversight, we can prevent penny stock fraud, I think that will free up more capital to be invested at this critical time, especially in the small business sector of our economy.

The other point that I think is fundamental, is that we know those who try to perpetrate these frauds are going to look to other areas. Chairman MARKEY and Chairman DINGELL have already begun to contemplate concerns in this area.

I think it is going to be important in the days ahead that we look at the area of Government securities because I think some who have tried to perpetrate penny stock fraud will move quickly to this area as well.

Chairman MARKEY and Chairman DINGELL have been very vigilant in trying to advocate for consumer rights in this area.

I want to commend them and thank them for their efforts.

Mr. LENT. Mr. Speaker, I rise in support of S. 647.

S. 647, the Securities Enforcement Remedies and Penny Stock Reform Act of 1990, is a clear and distinct statement of congressional policy demanding more and better protection of investors. It provides a blueprint for the Securities and Exchange Commission to significantly increase investor protection and to do so in a way that will not interfere with small businesses raising capital. The provisions of the bill will not only fight fraud, they will improve the operation of the legitimate penny stock market by mandating the creation of an electronic trading information system.

S. 647 directs and authorizes the SEC to oversee the evolution of a disclosure system in which confirmations, monthly reports, and quotation and transaction information is taken to new levels in the penny stock market. But the bill does much more than just mandate disclosure. The SEC is authorized to inject itself directly into the underwriting process by restricting the use of funds raised in penny stock public offerings. It is also authorized to adopt rules providing for a shareholder right of recision. While such actions are taken informally by the SEC today as part of negotiated settlements, S. 647 will codify the authority. As such, it is a major departure from the traditional oversight role of the SEC.

S. 647 also adds new weapons to the SEC's enforcement arsenal, including the authority to order a violator of the securities laws to disgorge illegally made profits. S. 647 gives the SEC authority to issue temporary cease-and-desist orders. When this concept was first introduced, these injunction-like powers would have applied to all respondents in SEC proceedings. Negotiations subsequently restricted their application to proceedings involving securities firms and their associated persons. The theory behind the limitation, was that these firms were already subject to an SEC in-house disciplinary structure. The limitation is an important one and I support it.

Similarly, I joined with my good friends, the gentleman from Michigan, Mr. DINGELL, and the gentlemen from Massachusetts and New Jersey, Mr. MARKEY and Mr. RINALDO, in insisting upon amendments mandating improvements in the due process protections of individuals subject to cease-and-desist proceedings. To that end, this legislation now contains provisions for a timely hearing in temporary cease-and-desist actions and imposes upon the SEC an obligation to adopt rules of practice governing time periods in which the hearing must be held and a decision rendered.

The threat of an SEC-imposed temporary cease-and-desist order is a powerful weapon. I am afraid that without procedural due process safeguards in place, it could become a prosecutorial bludgeon that I could not support. I am pleased that is not the case in S. 647.

Mr. Speaker, the 101st Congress will pass more substantive securities legislation than any Congress in memory, and S. 647 is one of the most significant. For this enormously successful bipartisan effort, I want to recognize the contribution of the chairman of the Energy and Commerce Committee, Mr. DINGELL and his counsel, Consuela Washington, as well as the chairman of the Subcommittee on Telecommunications and Finance, Mr. MARKEY and his counsels, Herbert Brown, Nancy Smith, and Howard Homonoff. Equally deserving of notice of their work on this bill is the ranking Republican member of the subcommittee, my good friend, Mr. RINALDO, and our minority chief counsel, Margaret Durbin and minority counsel, Steve Blumenthal.

In the six decades that have passed since the enactment of the first of the Federal securities laws, the financial markets of the United States have evolved and transformed into the most dynamic in the world. The securities bills that we are enacting today, will provide a much-needed and long-delayed overhaul of our regulatory structure to ensure that it is adequate to its task. S. 647 is an important part of the effort, and I urge my colleagues to support it.

Mr. DINGELL. I rise in strong support of this bipartisan substitute to resolve the differences between the House and Senate securities law enforcement bills.

The original Federal securities laws of 1933 and 1934 were a remarkable legislative achievement and have well served the purposes of which they were designed for over a half century. Yet no regulation can be static in a dynamic society. Our continuing oversight of the securities markets makes evident the urgent need for some amendments to these laws to make them as effective now as they have been in the past and to raise the entire securities industry to the highest standards.

Accordingly, this House-Senate compromise contains the following elements:

First, it strengthens and broadens the SEC's enforcement powers by authorizing new civil money penalties for a range of securities violations. These fines will deter unlawful conduct by making securities law violators pay for their acts.

Second, the amendment gives the SEC both temporary and permanent cease-and-desist authority. This new authority strengthens the SEC's ability to protect investor funds, and it permits the SEC to use its administrative procedures to curb a wider range of securities violations.

Third, the bill expressly authorizes the courts to bar certain individuals who have engaged in fraudulent activities from serving as officers or directors of public companies. We believe this will protect investors from those whose past unlawful conduct demonstrates their unfitness to serve as an officer or director.

Finally, the compromise amendment adopts the penny stock reform provisions of H.R. 5325. A November 20, 1989, Business Week editorial called penny stock fraud a national embarrassment and urged law enforcement officials to finally start taking this crime seriously. The importance of the capital markets to our national economic progress does not permit anything less than the most fair, honest, and efficient operations. I commend the leadership of the Senate Banking Committee for their willingness to accept the House legislation and to meet us more than halfway on this legislation.

By agreement with the Senate, the House and Senate committee reports on H.R. 5325 and S. 467 shall constitute the legislative history for the amendment in the nature of a substitute that we pass today. Mr. Speaker, I commend the chairman of the Subcommittee on Telecommunications and Finance, Mr. MARKEY, and the subcommittee's ranking Republican, Mr. RINALDO, for their determined efforts to see the penny stock legislation to final passage.

I urge the President to sign this legislation.

Mr. MARKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and concur in the Senate amendment to the House amendments to the Senate bill, S. 647.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment to the House amendments was concurred in.

A motion to reconsider was laid on the table.

CHILDREN'S TELEVISION ACT OF 1990

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1677) to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Children's Television Act of 1990".

TITLE I—REGULATION OF CHILDREN'S TELEVISION FINDINGS

SEC. 101. The Congress finds that—

(1) it has been clearly demonstrated that television can assist children to learn important information, skills, values, and behavior, while entertaining them and exciting their curiosity to learn about the world around them;

(2) as part of the obligation to serve the public interest, television station operators and licensees should provide programming that serves the special needs of children;

(3) the financial support of advertisers assists in the provision of programming to children;

(4) special safeguards are appropriate to protect children from overcommercialization on television;

(5) television station operators and licensees should follow practices in connection with children's television programming and advertising that take into consideration the characteristics of the child audience; and

(6) it is therefore necessary that the Federal Communications Commission (hereafter referred to as the "Commission") take the actions required by this title.

STANDARDS FOR CHILDREN'S TELEVISION PROGRAMMING

SEC. 102. (a) The Commission shall, within 30 days after the date of enactment of this Act, initiate a rulemaking proceeding to prescribe standards applicable to commercial television broadcast licensees with respect to the time devoted to commercial matter in conjunction with children's television programming. The Commission shall, within 180 days after the date of enactment of this Act, complete the rulemaking proceedings and prescribe final standards that meet the requirements of subsection (b).

(b) Except as provided in subsection (c) the standards prescribed under subsection (a) shall include the requirement that each commercial television broadcast licensee shall limit the duration of advertising in children's television programming to not more than 10.5 minutes per hour on weekends and not more than 12 minutes per hour on weekdays.

(c) After January 1, 1993, the Commission—

(1) may review and evaluate the advertising duration limitations required by subsection (b); and

(2) may, after notice and public comment and a demonstration of the need for modification of such limitations, modify such limitations in accordance with the public interest.

(d) As used in this section, the term "commercial television broadcast licensee" includes a cable operator, as defined in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

CONSIDERATION OF CHILDREN'S TELEVISION SERVICE IN BROADCAST LICENSE RENEWAL

SEC. 103. (a) After the standards required by section 102 are in effect, the Commission shall, in its review of any application for renewal of a television broadcast license, consider the extent to which the licensee—

(1) has complied with such standards; and

(2) has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs.

(b) In addition to consideration of the licensee's programming as required under subsection (a), the Commission may consider—

(1) any special nonbroadcast efforts by the licensee which enhance the educational and informational value of such programming to children; and

(2) any special effort by the licensee to produce or support programming broadcast by another station in the licensee's marketplace which is specifically designed to serve the educational and informational needs of children.

PROGRAM LENGTH COMMERCIAL MATTER

SEC. 104. Within 180 days after the date of enactment of this Act, the Commission shall complete the proceeding known as "Revision of Programming and Commercialization Policies, Ascertainment Requirements and Program Log Requirements for Commercial Television Stations", MM Docket No. 83-670.

TITLE II—ENDOWMENT FOR CHILDREN'S EDUCATION TELEVISION

SHORT TITLE

SEC. 201. This title may be cited as the "National Endowment for Children's Educational Television Act of 1990".

FINDINGS

SEC. 202. The Congress finds that—

(1) children in the United States are lagging behind those in other countries in fundamental intellectual skills, including reading, writing, mathematics, science, and geography;

(2) these fundamental skills are essential for the future governmental and industrial leadership of the United States;

(3) the United States must act now to greatly improve the education of its children;

(4) television is watched by children about three hours each day on average and can be effective in teaching children;

(5) educational television programming for children is aired too infrequently either because public broadcast licensees and permittees lack funds or because commercial broadcast licensees and permittees or cable television system operators do not have the economic incentive; and

(6) the Federal Government can assist in the creation of children's educational television by establishing a National Endowment for Children's Educational Television to supplement the children's educational programming funded by other governmental entities.

NATIONAL ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

SEC. 203. (a) Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.) is amended—

(1) by redesignating section 394 as section 393A;

(2) by redesignating subparts B, C, and D as subparts C, D, and E, respectively; and

(3) by inserting immediately after section 393A, as so redesignated, the following new subpart:

"Subpart B—National Endowment for Children's Educational Television

"ESTABLISHMENT OF NATIONAL ENDOWMENT

SEC. 394. (a) It is the purpose of this section to enhance the education of children through the creation and production of television programming specifically directed toward the development of fundamental intellectual skills.

"(b)(1) There is established, under the direction of the Secretary, a National Endowment for Children's Educational Television. In administering the National Endowment, the Secretary is authorized to—

"(A) contract with the Corporation for the production of educational television programming for children; and

"(B) make grants directly to persons proposing to create and produce educational television programming for children.

The Secretary shall consult with the Advisory Council on Children's Educational Television in the making of the grants or the awarding of contracts for the purpose of making the grants.

"(2) Contracts and grants under this section shall be made on the condition that the programming shall—

"(A) during the first two years after its production, be made available only to public television licensees and permittees and noncommercial television licensees and permittees; and

"(B) thereafter be made available to any commercial television licensee or permittee or cable television system operator, at a charge established by the Secretary that will assure the maximum practicable distribution of such programming, so long as such licensee, permittee, or operator does not interrupt the programming with commercial advertisements. The Secretary may, consistent with the purpose and provisions of this section, permit the programming to be distributed to persons using other media, establish conditions relating to such distribution, and apply those conditions to any contract or grant made under this section. The Secretary may waive the requirements of subparagraph (A) if the Secretary finds that neither public television licensees and permittees nor noncommercial television licensees and permittees will have an opportunity to air such programming in the first two years after its production.

"(c)(1) The Secretary, with the advice of the Advisory Council on Children's Educational Television, shall establish criteria for making contracts and grants under this section. Such criteria shall be consistent with the purpose and provisions of this section and shall be made available to interested parties upon request. Such criteria shall include—

"(A) criteria to maximize the amount of programming that is produced with the funds made available by the Endowment;

"(B) criteria to minimize the costs of—

"(i) selection of grantees,

"(ii) administering the contracts and grants, and

"(iii) the administrative costs of the programming production; and

"(C) criteria to otherwise maximize the proportion of funds made available by the Endowment that are expended for the cost of programming production.

"(2) Applications for grants under this section shall be submitted to the Secretary in such form and containing such information as the Secretary shall require by regulation.

"(d) Upon approving any application for a grant under subsection (b)(1)(B), the Secretary shall make a grant to the applicant in an amount determined by the Secretary, except that such amounts shall not exceed 75 percent of the amount determined by the Secretary to be the reasonable and necessary cost of the project for which the grant is made.

"(e)(1) The Secretary shall establish an Advisory Council on Children's Educational Television. The Secretary shall appoint ten individuals as members of the Council and designate one of such members to serve as Chairman.

"(2) Members of the Council shall have terms of two years, and no member shall serve for more than three consecutive terms. The members shall have expertise in the fields of education, psychology, child development, or television programming, or related disciplines. Officers and employees of the United States shall not be appointed as members.

"(3) While away from their homes or regular places of business in the performance of duties for the Council, the members of

the Council shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with 5703 of title 5, United States Code.

"(4) The Council shall meet at the call of the Chairman and shall advise the Secretary concerning the making of contracts and grants under this section.

"(f)(1) Each recipient of a grant under this section shall keep such records as may be reasonably necessary to enable the Secretary to carry out the Secretary's functions under this section, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such grant, the total cost of the project, the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to a grant received under this section.

"(g) The Secretary is authorized to make such rules and regulations as may be necessary to carry out this section, including those relating to the order of priority in approving applications for projects under this section or to determining the amounts of contracts and grants for such projects.

"(h) There are authorized to be appropriated $2,000,000 for fiscal year 1991 and $4,000,000 for fiscal year 1992 to be used by the Secretary to carry out the provisions of this section. Sums appropriated under this subsection for any fiscal year shall remain available for contracts and grants for projects for which applications approved under this section have been submitted within one year after the last day of such fiscal year.

"(i) For purposes of this section—

"(1) the term 'educational television programming for children' means any television program which is directed to an audience of children who are 16 years of age or younger and which is designed for the intellectual development of those children, except that such term does not include any television program which is directed to a general audience but which might also be viewed by a significant number of children; and

"(2) the term 'person' means an individual, partnership, association, joint stock company, trust, corporation, or State or local governmental entity.".

(b) Section 397 of the Communications Act of 1934 (47 U.S.C. 397) is amended—

(1) in paragraph (2) by striking "subpart C" and inserting in lieu thereof "subpart D"; and

(2) in paragraph (15)—

(A) by inserting "and subpart B" immediately after subpart A"; and

(B) by striking "subpart B, subpart C" and inserting in lieu thereof "subpart C, subpart D".

The SPEAKER pro tempore. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1677, the Children's Television Act of 1990. This consensus legislation is the result of bipartisan effort and compromise. It represents the product of prolonged negotiations between public interest groups and broadcasters, and enjoys the strong support of public interest advocates, as well as many broadcasters. Passage of the legislation would be an important step toward ensuring that our Nation's children obtain the fullest benefit from our most pervasive communications medium: television.

During the 14 years that I have served in Congress, the status of children's television has been a recurring issue of concern. For decades, the Federal Communications Commission and the courts recognized the importance of broadcaster service to the child audience. Unfortunately, during the deregulatory excesses of the FCC during the 1980's, many of the Commission's regulations affecting children, particularly those affording children special protections, were abolished. Advocates for children assert, and many studies confirm, that deregulation of children's television has caused an increase in the commercialization of children's television and a decline in educational and informational programming for children. The Children's Television Act of 1990 addresses these problems.

The bill before us today contains language identical to that approved by the House on July 23, 1990. It also incorporates, with several changes, the major provisions of S. 797, the National Endowment for Children's Educational Television Act of 1989, which passed the Senate last year.

Specifically, the legislation reinstates commercial time guidelines for children's television programming, applicable to both broadcasters and cable television operators. The legislation does not apply to licensees of low power television stations. Such guidelines limit commercial time during children's programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. In light of the committee's concerns about the changing nature of the video marketplace, the legislation provides that after January 1, 1993, and after notice, public comment, and a demonstration of the need for modification, the FCC may modify these time standards in accordance with the public interest. It is the intent of the authors of this legislation that nothing in the act be construed to subject a cable operator to liability for violation of the Commission's rules, promulgated pursuant to this act, for any secondary transmission of a primary transmission of a broadcast television station.

The legislation also provides a congressional recognition, for the first time, that broadcasters' public interest responsibilities include a responsibility to provide educational and informational programming for children. The bill provides the Commission broad discretion, during the license renewal process, to review a station's commitment to educational and informational programming for children. The legislation does not require the FCC to set quantitative guidelines for educational programming, but instead, requires the Commission to base its decision upon an evaluation of a station's overall service to children. Under the legislation, the FCC would consider the extent to which the licensee has complied with the Commission's commercial time restrictions and has served the educational and informational needs of children through its overall programming, including programming specifically designed to serve such needs. In its evaluation, the Commission also could consider any special nonbroadcast efforts by the licensee that enhance the educational and information value of programming for children.

Further, the bill addresses the issue of "program length commercials," which long has been a source of debate and contention. The legislation requires the Commission to complete its review of program length commercials within 180 days after the date of enactment of this act. I remain strongly opposed to any practice that contributes to the commercial exploitation of children, and I will monitor closely the result of the Commission's proceeding on this issue.

The legislation also establishes, under the direction of the Secretary of Commerce, a National Endowment for Children's Educational Television. Television holds great promise as an educator for the Nation's children and is especially important in an era where literacy and the comptetitive position of the United States are linked so closely. However, a perennial scarcity of funding for high quality informational and educational programming for children historically has limited the use of this potentially valuable tool. Creation of the National Endowment will assist in addressing this problem.

The bill authorizes the Secretary of Commerce $2 million for fiscal year 1991 and $4 million for fiscal year 1992 to fund television programming specifically designed to develop children's intellectual skills. Under the legisla-

tion, the Secretary either may contract with the Corporation for Public Broadcasting to create and produce informational and educational children's programming or make grants directly to the creators and producers of such programming. Any programming developed with the assistance of the Endowment may be exhibited only on public television during the first 2 years after its production, although the Secretary may waive this requirement. Thereafter, the programming will be available to other distribution entities, including commercial broadcasters and cable operators, provided the programming is shown free of commercials.

It is the committee's intent that the Secretary distribute the funds authorized by this legislation in a fashion that maximizes the amount of Endowment-funded programming and minimizes overhead and administrative costs. The Secretary, however, will retain discretion as to whether the public interest is best served by concentrating funding on a few significant projects or by distributing grants among many smaller projects.

For far too long, we have allowed children's television to be driven principally by commercial considerations. It is time to put the interests of the children themselves back into the equation. Passage of the Children's Television Act of 1990 will provide broadcasters and children's program producers incentives to educate our Nation's creatively, rather than to exploit them economically. Children's television should and can be the video equivalent of textbooks and the classics, rather than the video equivalent of a Toys-R-Us catalog.

President Bush repeatedly has stated that he wants to be the Education President, and that he wants to put education on the top of the national agenda. This bill helps to accomplish that goal. The legislation is tough but fair and flexible. Further, the cost to taxpayers is small when compared to the huge dividends it will pay for years to come in terms of more and better programming for children. I hope and expect that President Bush will sign it into law.

This legislation is the product of the combined efforts of many members of the Committee on Engery and Commerce and the Subcommittee on Telecommunications and Finance. Particularly to be commended are Representatives BRYANT and BRUCE for their continued leadership on the legislation. I also want to thank and commend Mr. RINALDO, the ranking minority member of the subcommittee, for his efforts both this Congress and last Congress in developing this legislation, which represents a bipartisam approach to this important issue. In addition, I want to thank the full committee chair, Mr. DINGELL, for his support and wise guidance on this legislation. Finally, the national television networks, the National Association of Broadcasters, the Association of Independent Television Stations, and numerous public interest groups deserve credit for this legislation. In particular, I want to recognize Action for Children's Television, under the tireless and tenacious leadership of Peggy Charen. Without the hard work and dedication of Peggy and the Action for Children's Television staff, this legislation would not have been psooible.

Passage of the Children's Television Act of 1990 would be the most important congressional statement on children's television in a generation. I urge my colleagues to support this landmark initiative.

Mr. Speaker, I would like to congratulate the gentleman from New Jersey [Mr. RINALDO] for his work on this legislation. It would not have been possible without him. He deserves a great deal of credit for helping us to get the bill to this point.

In addition, I would like to expressly point out the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], and his staff, and also the gentlemen on the staff, David Leach, for their work in helping to maneuver this bill through the process and getting it to this point today.

I would like to thank the national television networks, the National Association of Broadcasters, the Association of Independent Television Stations, and numerous public interest groups who deserve credit for this legislation.

In particular, I want to recognize Action for Children's Television under the tireless and tenacious leadership of Peggy Charen. Witout her hard work and dedication and Action for Children's Television staff, this legislation would not have been possible. This legislation is very largely attributable to the tireless efforts of Peggy Charen over the last two decades so that we are here today. This bill today is the fruition of all of her efforts.

On our subcommittee I would like to particularly point out the work of Congressman BRYANT from the great State of Texas, who has worked tirelessly through his entire tenure in Congress to advance the goals which are embodied in this legislation. I am going to recognize him on his own time a little bit later.

□ 1740

However the gentleman from Texas [Mr. BRYANT] deserves a lot of the credit for the legislation which we are passing here today, as well as the gentleman from Illinois [Mr. BRUCE], who has similarly committed an enormous amount of time and effort to this endeavor, along with Members like the gentleman from New Mexico [Mr. RICHARDSON], the gentleman from Washington [Mr. SWIFT], and many other members on our committee. We have brought this bill out to our colleagues on a bipartisan basis, and I want to congratulate them all, because this bill really should have each and every one of their names at the top of the list. That is the kind of commitment they all made to the passage of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1677, the Children's TV Act, as amended by the other body.

The House passed H.R. 1677 on the Suspension Calendar on July 23. Earlier today, the other body approved this bill with one amendment: The creation of a children's TV programming endowment. I support the endowment, for reasons which I will get to in a moment.

The Telecommunications Subcommittee has labored long and hard over children's TV legislation in the last two Congresses. In 1988, we produced a bill that passed both bodies overwhelmingly, only to see the bill pocket-vetoed.

Now, we are back with a very similar piece of legislation, of which I am an original sponsor. I am pleased that the Telecommunications Subcommittee has continued to make passage of children's TV legislation one of its highest priorities. I commend the subcommittee's chairman, the gentleman from Massachusetts [Mr. MARKEY], for his tireless efforts in this important area.

America's young people watch 20 hours of TV a week—and as much as 15,000 hours by the time they're 16 years old. There is little doubt that television can influence children in ways that can cause parents great concern. Unfortunately, in many cases, television competes with the family and the classroom for the attention of children.

Too often, the great potential of television to educate and entertain children has been lost. Although there are bright spots, much children's programming is commercially oriented to selling toys, games, and cereals. Since the FCC got rid of its commercial time guidelines 5 years ago, the number of commercials aired during children's programs has increased noticeably.

Congressional concern with this situation has boiled over. Our subcommittee concluded that Congress had to intervene to make sure that broadcasters' special obligation to their child audiences was being fulfilled. The result of the subcommittee's efforts is H.R. 1677, the legislation before the House today.

The underlying purpose of this legislation needs to be emphasized, so there is no doubt in the minds of

Members of Congress or the affected industries about what it will accomplish. The bill reaffirms the essential obligations of broadcasters to serve children, not just entertain them.

The bill identifies particular problems with children's programming, and corrects them with a minimum of government interference. We do not attempt to solve every real or imagined problem with children's TV programming. This bill should give TV stations, networks, and program producers ample incentive to improve children's TV programming in substantive ways. I hope that the industry can show us through its programming that further legislation will not be necessary.

The industry should not forget that more is at stake with children's TV than just entertainment. This programming has a profound effect on the development of this Nation's most precious resource—its children.

After passage of H.R. 1677 by the House in July, we entered into extensive discussions with interested Senators on the details of a provision included in the other body's children's TV bill, S. 1992. The Senate bill created a federally funded endowment for children's TV programming.

The endowment provision added to H.R. 1677 by the other body earlier today is a significant compromise, and a significant improvement, over the endowment originally contained in the children's TV bill passed by the other body.

This compromise is the result of numerous discussions between Chairman DINGELL, Chairman MARKEY, Mr. LENT, and I with Senators HOLLINGS, INOUYE, and DANFORTH. I wish to thank all of them for their interest and hard work in bridging our differences and compromising on the details of the endowment provision.

The children's programming endowment contained in H.R. 1677 is authorized to be funded at $2 million in fiscal year 1991 and $4 million in fiscal year 1992. This is a great improvement over the original Senate proposal of $10 million in fiscal 1991. This endowment would contribute to the creation of children's TV programming that is directed specifically at the educational and informational needs of children, and which would be available both to public and commercial TV stations eventually.

The endowment will be administered by the Commerce Department's expert telecommunications agency, NTIA, which can contract with the Corporation for Public Broadcasting [CPB] to let CPB make the programming grants. NTIA also can make direct grants itself.

The statutory language of H.R. 1677 gives NTIA flexibility in administering the endowment. But to make the endowment as efficient and effective as possible, NTIA should make the greatest possible use of CPB in the grantmaking process. CPB has been making programming grants for over 20 years, and already has the apparatus and expert staff to do the job effectively.

The use of CPB would make sure NTIA's own staff is not overburdened. CPB's participation also would help to assure that these funds go for the production of programming to the greatest extent possible, and are not swallowed up in administrative costs.

This endowment is not intended to turn NTIA into a flowthrough mechanism for television funding which circumvents or supplants CPB's central role in that process. It also should not be seen as a signal that Congress is changing the way Federal funds for public broadcasting are administered. as the congressionally created entity responsible for administering Federal funds appropriated for public television, CPB's wealth of experience should be used extensively by NTIA in administering this programming endowment.

There is a vast, unexplored gap between children's TV shows that are purely educational, and those which are purely entertainment. Bridging that gap is an important challenge before the TV industry today. This legislation should give the TV industry the necessary push to improve children's TV programming.

I support H.R. 1677 as amended by the Senate, and I urge all Members of the House to support it as well. I intend to do my utmost to make sure President Bush signs this legislation as soon as possible.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MARKEY] for yielding to me, and I want to express my great happiness that the Children's Television Act of 1990, in its final form, is before the House today. I want to especially thank the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce, and the gentleman from Massachusets [Mr. MARKEY] for their persistence in getting this bill to this, the last step in the legislative process. They deserve the lion's share of the credit for having made this possible, and I want to express my very sincere appreciation to them for persisting in this effort. I also want to acknowledge the hard work of many other colleagues, but especially the gentleman from New Jersey [Mr. RINALDO], the ranking Republican on the Telecommunications Subcommittee, who, as well, persisted in insisting that this matter be brought forth, and I also want to acknowledge the gentleman from Illinois [Mr. BRUCE] who joined in sponsoring and fighting for legislation to insure substantial improvement in the quality of children's television programming with a minimum of commercialization. Of course mention has already been made of Peggy Charen from Action for Children's Television. She indeed is the mother of this concept and deserves the recognition as well.

Mr. Speaker, the bill before us combines two important concepts; first, reinstatement of the previous Federal Communications Commission limitation on commercial advertising during children's program to 10½ minutes per hour on weekends and 12 minutes per hour during the week, and a requirement that the Commission consider at the time of license renewal whether broadcast licensees have adequately served the educational and informational needs of children in their programming as a prerequisite to renewal of their broadcast license.

Now in the past I have supported much stronger programming standards. I believe that commercial broadcasters should, at a bare minimum, air 7 hours a week of educational and informational programming to meet the needs of children under 12 years old. Studies indicate, as the gentleman from New Jersey [Mr. RINALDO] said a moment ago, that an American child on average watches 15,000 hours of television before they finish their schooling, which is more than they have spent in the classroom. I think it is manifestly clear that the power of television in our society is awesome and is beyond debate, and its influence on our Nation's children is overwhelming. I believe a stronger measure than the one we are passing today is needed, but this measure is the best compromise which we can achieve in this Congress, and I think it is a significant step forward for which we all should be grateful for the opportunity to support.

□ 1750

Since today's Federal Communications Commission has refused to maintain rules or regulations to ensure that broadcasters meet their public interest obligations to children, the legislation we reported from the Committee on Energy and Commerce which is before us today is absolutely essential.

The limits we propose are reasonable and are necessitated by the over commercialization of children's programming, including the advent of program length commercials. The purpose of this bill is to ensure that stations will not fail to provide a reasonable amount of quality programming with strict advertising limits, specifically for children, or else be in jeopardy of not having their licenses renewed.

Mr. Speaker, this is a noble effort to improve children's television programming and to prevent further commercialization, contrary to the interest of our children.

Mr. Speaker, I trust the support of numerous groups which promote the education and physical and emotional and mental health of our Nation's children will persuade not only the Congress, but also our President, that this bill, a small step forward for quality children's television, fits into his program as a kinder and gentler President, who responds to family concerns, that will build a kinder and gentler America, and, if we can pass this bill today, will sign it into law.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I would like to enter into a colloquy with the gentleman from Massachusetts [Mr. MARKEY], the chairman of the subcommittee.

I would like to commend the leadership of this committee, particularly the chairmen and ranking members of the subcommittee and full committee for making this bill possible. I'm confident that it will bring great benefits to children all across America.

A broadcast license is a public trust, carrying very special obligations. These obligations will now formally extend to the area of children's programming. And that is something for which the Congress can be very proud.

Overcommercialization of the public airways is of great concern to all of us, and I hope this bill will succeed in preventing overcommercialization during children's viewing hours.

Along these lines, I would like to seek clarification of the bill's application to televised home shopping services. Chairman MARKEY, to the extent that these shopping services use broadcast stations as a mode of delivery, would this bill apply?

Mr. MARKEY. If the gentleman will yield, Mr. Speaker, yes, the bill would apply to all broadcast stations, including those with home shopping programming.

Mr. COOPER. Now, from what I can tell, these shopping services do not transmit very much information or entertainment. Instead, their programming is virtual non-stop sales presentations, some of which are directed towards children, and others attempt to sell children's products. Mr. Chairman, am I correct that sections 102 and 103 of this bill apply to these shopping stations?

Mr. MARKEY. The gentleman is correct. In order to have a license renewed, such a shopping station would have to demonstrate that it has met the obligations contained in this bill along with all other renewal criteria.

Mr. COOPER. I thank the Chairman and commend him for his fine work on this legislation. I know that the Chairman will work with me to follow this matter closely as the Federal Communications Commission implements the requirements of this bill, as we do not want any broadcaster, particularly a home shopping station, to ignore the educational and developmental needs of America's children.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON], a leader on this legislation.

Mr. RICHARDSON. Mr. Speaker, I would like to commend my chairman for his diligence and unfailing energy in bring this important piece of legislation to the floor. While the quality of children's television may pale in comparison to the problems of hunger, malnutrition, and disease, it is in no sense unimportant.

For those familiar with what is offered to children on our public airways there is much reason for dismay—excessive advertising, little differentiation between program and product advertisement, and little to stimulate young and growing minds.

There is little doubt that it is in the national interest to develop active young minds and bodies. As such, it is entirely appropriate that the Federal Communications Commission be given the authority at license renewal time to review a broadcast licensee's services to children.

Imposition of time limits on advertising during children's programming is also not too much to ask—10.5 minutes of advertising per hour on weekdays and 12 minutes per hour on weekends is simply not that restrictive. We have the right to expect that our broadcast stations will be more than a medium for the sales of merchandise.

Though I understand the broadcasters point of view that cable television operators have not had similar requirements imposed upon them, addressing the needs of children is not much to ask in exchange for the right to use the public's airwaves.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, I rise today in support of H.R. 1677, the Children's Television Act of 1989. This bill is intended to contribute to the creation of children's television programming that is directed particularly at the educational and informational needs of children.

Specifically, the legislation requires the Federal Communications Commission to reinstate advertising time guidelines for children's television. The FCC would be required to set standards for commercial television broadcast licensees to limit the amount of time that commercials may be shown during children's programs.

Quite simply, the bill limits time spent advertising products on children's programs to 12 minutes per hour on weekdays and 10½ minutes per hour on weekends. These are reasonable limits. Parents will no longer have the concern about Saturday morning television—where programs consist of a steady stream of commercials, interrupted by an occasional cartoon or two. Our children deserve better than what they're getting.

In addition, the FCC is called upon to review the service that broadcasters provide children.

Not long ago, I was extremely disturbed by an episode of Mighty Mouse, a popular children's cartoon hero, when he sniffed what appeared to be cocaine in order to rejuvenate himself after a tough session of crimefighting. This is not the message we wish to convey to the children of our Nation. I was outraged and contacted the head of the network that aired it, and the scene was later deleted.

We must put program producers on notice that Congress is watching. Our children deserve more than garbage—violence especially—in the programs they watch.

Mr. Speaker, this bill is a step in the direction of improving the overall quality of children's television programs. I urge my colleagues to vote in favor of this necessary and worthwhile legislation.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume, just to say that I have no further requests for time. I would like to thank, though, Larry Irving, Herb Brown, and Lisa Gursky from my staff, and from the minority staff I would like to thank Terry Haines, who has risen from his sickbed in Baltimore to come here today. That is how important this legislation is to him. I think it is a tribute to him that this legislation is out here today.

Mr. Speaker, I yield back the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, I thank the gentleman for yielding.

It is time, America. It is time, America, to wake up and take a hand in our future. To children, every program is educational. On TV, every morsel of smut is absorbed by young minds; every act of violence is rationalized as normal; every act of perversion is viewed as an everyday involvement.

To be entertained today, it seems one has to endure violence, perverts, smut. Television executives and television producers have chosen to ignore the fact that there is an audience of people out there who prefer something else, who prefer not to have their children exposed to this, to their slide into the sewer.

I want to congratulate the authors of this legislation and those who have

worked on this legislation. I think it helps us turn that corner for wholesome, educational, and, yes, entertaining programs, that are educational to our children and are beneficial to the future of this Nation.

Mr. Speaker, I would like to endorse this legislation and congratulate the sponsors of it.

Mr. LENT. Mr. Speaker, I rise in support of H.R. 1677, the Children's TV Act, as amended by the other body.

I particularly commend the work of the principal sponsors of this legislation, the gentleman from Texas, [Mr. BRYANT], and the gentleman from New Jersey, the ranking Republican member of the Telecommunications Subcommittee [Mr. RINALDO] for their hard work on this legislation.

I also with to extend special thanks to the full committee chairman, the gentleman from Michigan [Mr. DINGELL] and the subcommittee chairman, the gentleman from Massachusetts [Mr. MARKEY]. Without their willingness to work on a bipartisan children's TV bill, this legislation would never have made it to the floor.

The provisions of this bill are not complex. It requires reasonable limits on commercial time during children's shows, and directs TV stations to comply with those limits.

The bill also directs the FCC to consider whether a TV station has served the educational and information needs of children in its overall programming. Of course, TV stations already are required to serve their child audiences. But now, the FCC will be directed to gauge whether TV stations are actually meeting that obligation. While this may be a special provision, it is meant to improve programming to children, who unquestionably are a special audience with distinct programming needs.

This bill is not a cure all. It does not pretend to be. Rather, the committee has taken a hard look at children's TV in the last two Congresses, and has tried to encourage sensible behavior toward children by television licensees. We can do no more and still be consistent with the first amendment.

Television is a pervasive medium. What comes out of the tube has a great impact on all who watch. That impact is measurably greater on children, who often lack the capability to appreciate that they are being sold as well as entertained.

The Bryant/Rinaldo bill provides a modest correction to excesses in children's TV advertising practices. It also strongly encourages TV stations to improve their children's programming.

I hope every Member of the House would agree that these improvements are needed if TV programming for children is to live up to its potential.

The Senate amended H.R. 1677 to add a children's programming endowment. This provision was added after extensive discussions between both Houses. It is much improved from the endowment originally approved by the Senate last year, and its funding levels are drastically scaled back from the original $10 million in fiscal year 1990 to $2 million in fiscal year 1991 and $4 million in fiscal year 1992. I can support this provision with those changes.

Once again, I commend Mr. BRYANT and Mr. RINALDO, and everyone involved with this legislation for their efforts. I encourage my House colleagues to vote in favor of H.R. 1677.

Mr. RINALDO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and concur in the Senate amendment to H.R. 1677.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the Senate amendement to H.R. 1677.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

TELEVISION DECODER CIRCUITRY ACT OF 1990

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4267) to require new televisions to have built-in decoder circuitry, as amended.

The Clerk read as follows:

H.R. 4267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Television Decoder Circuitry Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) to the fullest extent made possible by technology, deaf, and hearing-impaired people should have equal access to the television medium;

(2) closed-captioned television transmissions have made it possible for thousands of deaf and hearing-impaired people to gain access to the television medium, thus significantly improving the quality of their lives;

(3) closed-captioned television will provide access to information, entertainment, and a greater understanding of our Nation and the world to over 24,000,000 people in the United States who are deaf or hearing-impaired;

(4) closed-captioned television will provide benefits for the nearly 38 percent of older Americans who have some loss of hearing;

(5) closed-captioned television can assist both hearing and hearing-impaired children with reading and other learning skills, and improve literacy skills among adults;

(6) closed-captioned television can assist those among our Nation's large immigrant population who are learning English as a second language with language comprehension;

(7) currently, a consumer must buy a Tele-Caption decoder and connect the decoder to a television set in order to display the closed-captioned television transmissions;

(8) technology is now available to enable that closed-caption decoding capability to be built into new television sets during manufacture at a nominal cost by 1991; and

(9) the availability of decoder-equipped television sets will significantly increase the audience that can be served by closed-captioned television, and such increased market will be an incentive to the television medium to provide more captioned programming.

SEC. 3. DISPLAY CLOSED-CAPTIONED TELEVISION.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(u) Require that apparatus designed to receive television pictures broadcast simultaneously with sound be equipped with built-in decoder circuitry designed to display closed-caption television transmissions when such apparatus is manufactured in the United States or imported for use in the United States, and its television picture screen is 13 inches or greater in size, measured diagonally.".

SEC. 4. SHIPPING OR IMPORTING.

(a) REGULATIONS.—Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended by redesignating subsection (b) as subsection (c), and by adding after subsection (a) the following new subsection:

"(b) No person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States, any apparatus described in section 303(u) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section. Such rules shall provide performance and display standards for such built-in decoder circuitry. Such rules shall further require that all such apparatus be able to receive and display closed captioning which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and display specifications set forth in the Public Broadcasting Service engineering report numbered E-7709-C dated May 1980, as amended by the Telecaption II Decoder Module Performance Specification published by the National Captioning Institute, November 1985. As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that closed captioning service continues to be available to consumers. This subsection shall not apply to carriers transporting such apparatus without trading it.".

(b) CONFORMING AMENDMENT.—Section 330(c) of such Act, as redesignated by this Act, is amended by deleting "and section 303(s)" and inserting in lieu thereof "and sections 303(s) and 303(u)".

SEC. 5. EFFECTIVE DATE.

The amendments made by sections 3 and 4 of this Act shall take effect on July 1, 1993.

SEC. 6. RULES.

The Federal Communications Commission shall promulgate rules to implement the amendments made by this Act within 180 days after the date of its enactment.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

□ 1800

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4267, the Television Decorder Circuitry Act of 1990. This legislation requires all new television sets with screens 13 inches or larger to have built-in decoder circuitry to display closed captions. Passage of this legislation would represent a giant step forward toward ensuring full and equal access to television for all Americans.

Throughout the 1990's and into the next century, the central and essential role television plays in our lives is certain to grow. A recent study estimated that Americans watch 7 to 8 hours of television every day. Undeniably, television is our most important source of news, information, and entertainment programming. And as technological breakthroughs involving fiber optics, high definition and digital television, and direct broadcast satellites occur, the role television plays in our homes, businesses, and communities will become even more pronounced.

However, all Americans have not been able to participate in the video revolution on an equal basis. Specifically, deaf and hearing-impaired people presently do not have full and equal access to the television programming that most Americans take for granted. Although closed captioning enables the deaf and hearing-impaired community to share in the television experience with the hearing world, access to captioned programming historically has been restricted by the limited number of set-top decoders in use. The National Captioning Institute estimates the installed base of decoders at only 300,000 units, a small fraction of the 24 million deaf and hearing-impaired population.

The limited penetration of decoders is threatening the continued availability of closed-captioning services. In order to enhanced commercial incentives for private funding of captioning, the audience for captioned programs must grow. We reached a milestone in 1989 when, for the first time, all prime-time programming shown on the three major commercial television networks was captioned. But captioning is much less prevalent on local, daytime, and basic cable programming. The legislation before us today is an essential tool for increasing the use of captioning.

Let me emphasize that the deaf and hearing-impaired population is only one of a number of groups that will benefit from this legislation. The potential audience for captioning also includes individuals seeking to acquire or improve literacy skills, including 24 to 27 million functionally illiterate adults, 3 to 4 million immigrants learning English as a second language, and 18 million children in grades kindergarten through 3, learning to read. A significant portion of this audience presently fails to benefit from captioned television because of the cost of purchasing a decoder and the perceived stigma attached to its purchase and use. These problems are particularly acute for the nearly 40 percent of America's elderly with moderate or severe hearing loss.

The Television Decoder Circuitry Act of 1990 was crafted in a spirit of bipartisanship and cooperation. It reflects consensus reached during discussions of the last few months between Members of Congress, members of the deaf and hearing-impaired community, the captioning industry, and television manufacturers. Specifically, this legislation requires all television sets, with picture screens 13 inches or larger, manufactured or imported for use in the United States, to be equipped by July 1, 1993, with built-in decoder circuitry designed to display closed-captioned television transmissions. This provision would eliminate the need for consumers to purchase expensive set-top decoders in order to view closed captions. The legislation further requires the Federal Communications Commission to prescribe rules that provide performance and display standards for such built-in circuitry. Finally, the bill empowers the Commission to take action to ensure that closed-captioning service continues to be available to consumers as new video technologies, including high-definition television, are developed.

Let me note that this legislation would not mandate the inclusion of any particular chip or circuitry in television sets. In fact, it is my strong expectation that competition in the marketplace for such circuitry will spur the development of innovative approaches to the provision of captioning.

Before concluding, I want to thank the full committee chairman, Mr. DINGELL, for his active support and involvement on this important issue. I also want to thank and commend my colleagues, especially Senator HARKIN and Congressman OWENS, without whom this legislation would not be before us. In addition, I want to thank Mr. RINALDO, the ranking minority member of the subcommittee, for working in a bipartisan fashion to improve the legislation. Finally, I note that development of consensus support for this critical legislation would not have been possible without the immense help and cooperation of the Caption Center, the National Captioning Institute, the National Center for Law and the Deaf, the Electronic Industries Association, and Zenith Electronics Corp.

For a small cost—estimated by most experts at no more than $15 per television set—we can ensure that the promise of the information age is accessible to all Americans. I urge my colleagues to join me in supporting this essential legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, closed captioning has been an important invention. It enables the deaf and hearing impaired to fully experience the magic of television for the first time. It has many other uses: For example, it can also be used to teach new languages, spelling, and many other skills.

Closed captioning is widely available on television. So it should be possible to widely receive it. Unfortunately, that has not happened for three reasons. First, the price of decoders remains high. Second, many people, especially senior citizens, find the decoders difficult to install.

Finally, there is an understandable stigma associated with using a decoder: You do not want to call attention to your hearing loss.

Technology usually solves most problems of this kind. There is a technological solution to the decoder problem: An inexpensive computer chip which could be placed inside every television set.

This chip technology seems to be too good a technology not to build into televisions. With this chip, and the rate at which Americans buy televisions, closed captioning could be available to nearly every home in America within the next decade.

As the ranking Republican member both of the Telecommunications Subcommittee and the Select Committee on Aging, I am proud to encourage the spread of low-cost technology which guarantees access for every citizen to our communications systems.

The House has achieved that goal in other areas, particularly in laws which enable all our deaf and hearing impaired citizens to make full use of the world's best telephone network. Now, we can do so again today, in legislation which will permit the hearing impaired full access to television for the first time.

This closed captioning legislation should be seen as an important part of the House's overall effort to guarantee equal access to communications for all of our deaf and hearing impaired citizens.

H.R. 4267, as amended by the committee, made a variety of technical changes to improve the original legislation. The amended bill now assures that TV set makers will have the maximum flexibility to meet the decoder requirement through whatever captioning technology is most technically advanced and widely used.

These changes, which are similar to ones approved by the Senate Commerce Committee, will assure that the TV Decoder Circuitry Act receives wide congressional and public support, and becomes law this year. I urge my colleagues to support this important and necessary legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to thank the staff for their work, to compliment Mr. Haines, Mr. Irving, and Ms. Gursky from my staff, as well as Sara Morris, Herb Brown, the subcommittee staff director, and once again MATT RINALDO for his work on this legislation, and all of the organizations in the disabled community that have worked with us to put this piece of legislation together.

Mr. LENT. Mr. Speaker, this legislation is the brainchild of my New York colleague, ED TOWNS. I commend him for his efforts. I also want to applaud the fine work of the chairman of the Energy and Commerce Committee, Mr. DINGELL, as well as the chairman and ranking Republican member of the Telecommunications Subcommittee, Mr. MARKEY and Mr. RINALDO, for their fine work in bringing this TV decoder legislation to the floor.

Requiring television sets sold in this country to be able to decode and display closed captioning for the deaf and hearing impaired is a small burden for manufacturers and the public to bear. But this minor action will yield major benefits.

Television has become the principal source for news and information in this country. In fact, access to television is virtually a necessity in the electronic information age. Passage of this legislation will make it much easier for our deaf citizens to experience fully the magic of television.

The intent of the TV Decoder Act is the same as the intent of another of the House's major legislative achievements this year—the Americans With Disabilities Act, which was signed by the President this summer. The ADA will provide full access to the telephone network for the deaf and hearing impaired. The decoder legislation before the House today does the same thing: It will help to provide, for the first time, full and equal access to the major mass medium in the United States.

That is a worthy goal. It is one which I am proud to support, and one which I urge all my colleagues to support by approving H.R. 4267, the Television Decoder Circuitry Act.

Mr. RICHARDSON. Mr. Speaker, I thank the chairman for the time and rise in support of the bill. I commend the gentleman from Massachusetts for his effort in bringing this bill to the floor. Requiring decoders in all television sets will help enfranchise many individuals who are currently unable to take advantage of our most popular medium. Our society depends on television for news and entertainment. For better or worse it is the glue which binds much of our Nation together, though many are excluded because they are deaf or hard of hearing. The limited number of programs which are captioned and the high cost of decoder devices has limited the growth in this important area.

By requiring that new TV sets include a decorder, which can be done at much lower cost during the production stage than in the aftermarket, we open up many new possibilities—for the deaf and for others. Children's programs, could for example, provide reading instruction through closed captioning, or stations could provide simultaneous translation.

In closing, I urge quick passage of this legislation.

Mr. OWENS of New York. Mr. Speaker, today the House considers H.R. 4267, the Television Decoder Circuitry Act of 1990, which I introduced this session of Congress along with Congressmen MARKEY, GUNDERSON, BONIOR, BERMAN, LLOYD, SLATTERY, SYNAR, WYDEN, BILIRAKIS, and CHANDLER.

We are proud of our monumental achievement this session—the passage of the landmark Americans With Disabilities Act (ADA). The ADA provides our Nation's 43 million citizens with disabilities the rights to full and equal access to employment, services provided by State and local governments, transportation, public accommodations, and telecommunications. However, a vital area was not covered in the ADA, that of full and equal access to television programming.

We take television for granted. It has become much more than a medium of entertainment. It has become the central way we share information in our society. Yet, the benefits of television are not fully accessible to millions of deaf and hard-of-hearing citizens. While closed captioning has opened the door for television viewing, the maintenance and growth of this technology depends on the wide use of decoders.

In a letter to the Commission on the Education of the Deaf, ABC noted:

* * * [if] decoders were more widely used and viewership [were] to grow, the marketplace can be relied upon to increase captioning because more viewers would be reached at a decreased per capita cost. Increased decoder ownership—not just more captioning—is required for a strong, self-sustaining captioning service.

The National Captioning Institute [NCI] concurs that the future of closed captioned television is:

* * * inextricably tied to the number of households who access it. In order to eliminate the need for ongoing federal funds and to make the captioned service economically viable and self-sustaining, captioning must reach into at least 500,000 homes and ideally 1,000,000 by 1990.

According to NCI, because of the cost of separate decoders, less than 300,000 have been sold since 1979. The Commission on the Education of the Deaf [COED] has stated that this modest number of consumer purchases served as a disincentive to private industry funding necessary for a self-sustaining captioning service.

Technology offers an alternative solution to the survival of closed-captioned programming. Companies are currently working on this technology, and have indicated that by the end of 1991, a decoder circuitry chip can be built into new television sets at a nominal cost. This will greatly increase the audience that can be served by closed-captioned television. Closed-captioned television programs will reach more than 24 million deaf and hard-of-hearing Americans, including 38 percent of senior citizens.

Closed-captioned programming has also been shown to have tremendous benefits for teaching literacy skills. Several studies have indicated that exposure to closed-captioned television improves students' word recognition, reading comprehension, and language retention skills, and is a motivational tool for learning. This increased potential audience for television will be a real incentive to the television broadcasting industry to provide more closed-captioned programming. In order to reach this potential audience and ensure a strong, self-sustaining captioning service, we need this legislation which mandates built-in decoder circuitry.

I wish to thank Congressman MARKEY for his strong leadership and excellent efforts on this legislation; Congressman RINALDO for his support; and Congressman DINGELL for his efforts in expediting action on this bill. Finally, I want to thank Sy DuBow of the National Center for Law and the Deaf and the staffs of the subcommittee involved for his efforts in making this bill a reality.

Mr. GUNDERSON. Mr. Speaker, you and I take for granted that we can tune in our TV sets at any time of the day or night and learn what is happening all across the country and around the world. We can tune in and enjoy programs that set our thoughts astir; or programs that simply make us laugh and forget the cares of the day.

Now, with the passage of the Television Decoder Circuitry Act, of which I am proud to be a chief cosponsor, this Nation's 24 million Americans who are deaf or hard of hearing will have equal access to these same television offerings. The development of television closed-captioning has made it possible for millions of persons with hearing losses to see what television has to say. But many deaf and hard of hearing people have not benefited from closed-captioned programming because the cost of purchasing a separate stand-alone decoder represents a particular economic hardship.

The Television Decoder Circuitry Act requires that television sets with screens 13 inches or larger be equipped in the factory with a decoder circuit chip which allows closed circuit television transmissions. The cost will be nominal. This legislation has the broad bipartisan support of Congress, as well as that of the electronics industry.

But, we must remember that it is not only the deaf and hard-of-hearing citizens who will benefit from this legislation. There are some 23 million functionally illiterate Americans who will be able to use the captions on TV programs as a valuable tool in learning to read.

Children, as well, can enjoy the added reinforcement of the written word as they watch their favorite programs, thus improving their reading skills. Moreover, our Nation's ever-increasing immigrant population attempting to learn English as a second language will receive a real leg up through captioning.

Mr. Speaker, it is no secret to you and to my colleagues here in Congress that one of my most rewarding experiences continues to come through my service as a member of the board of trustees at Gallaudet University. I treasure the interaction this position affords me in learning more every day about a silent culture, and which has helped open my ears and mind to the concerns of my deaf and hearing impaired friends.

I am proud to join my colleagues today in the passage of the Television Decoder Circuitry Act which is a major step toward ensuring full accessibility to television programming for all Americans.

Mr. MARKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 4267, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 1974) to require new televisions to have built in decoder circuitry, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. RINALDO. Mr. Speaker, reserving the right to object, I yield to the chairman of the subcommittee to explain the Senate bill.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding.

This bill is identical in substance to the bill just approved by the House. I am making this unanimous consent request in order to clear the bill for swift presentation to the President for his signature.

Also, because I forgot, I want to compliment David Leach of the full committee staff for his work on all of this legislation as well.

Mr. RINALDO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Television Decoder Circuitry Act of 1990".

FINDINGS

SEC. 2. The Congress finds that—

(1) to the fullest extent made possible by technology, deaf and hearing-impaired people should have equal access to the television medium;

(2) closed-captioned television transmissions have made it possible for thousands of deaf and hearing-impaired people to gain access to the television medium, thus significantly improving the quality of their lives;

(3) closed-captioned television will provide access to information, entertainment, and a greater understanding of our Nation and the world to over 24,000,000 people in the United States who are deaf or hearing-impaired;

(4) closed-captioned television will provide benefits for the nearly 38 percent of older Americans who have some loss of hearing.

(5) closed-captioned television can assist both hearing and hearing-impaired children with reading and other learning skills, and improve literacy skills among adults;

(6) closed-captioned television can assist those among our Nation's large immigrant population who are learning English as a second language with language comprehension;

(7) currently, a consumer must buy a TeleCaption decoder and connect the decoder to a television set in order to display the closed-captioned television transmissions;

(8) technology is now available to enable that closed-caption decoding capability to be built into new television sets during manufacture at a nominal cost by 1991; and

(9) the availability of decoder-equipped television sets will significantly increased the audience that can be served by closed-captioned television, and such increased market will be an incentive to the television medium to provide more captioned programming.

REQUIREMENT FOR CLOSED-CAPTIONING EQUIPMENT

SEC. 3. Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(u) Require that apparatus designed to receive television pictures broadcast simultaneously with sound be equipped with built-in decoder circuitry designed to display closed-captioned television transmissions when such apparatus is manufactured in the United States or imported for use in the United States, and its television picture screen is 13 inches or greater in size.".

PERFORMANCE AND DISPLAY STANDARDS

SEC. 4. (a) Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended by redesignating subsection (b) as subsection (c), and by inserting immediately after subsection (a) the following new subsection:

"(b) No person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States, any apparatus described in section 303(u) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority by that section. Such rules shall provide performance and display standards for such built-in decoder circuitry. Such rules shall further require that all such apparatus be able to receive and display closed captioning which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and display specifications set forth in the Public Broadcasting System engineering report numbered E-7709-C dated May 1980, as amended by the Telecaption II Decoder Module Performance Specification published by the National Captioning Institute, November 1985. As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that closed-captioning service continues to be available to consumers. This subsection shall not apply to carriers transporting such apparatus without trading it.".

(b) Section 330(c) of such Act, as redesignated by subsection (a) of this section, is amended by deleting "and section 303(s)" and inserting in lieu thereof ", section 303(s), and section 303(u)".

EFFECTIVE DATE

SEC. 5. Sections 3 and 4 of this Act shall take effect on July 1, 1993.

RULES

SEC. 6. The Federal Communications Commission shall promulgate rules to implement this Act within 180 days after the date of its enactment.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 4267) was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative day to revise and extend their remarks on several bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4300, FAMILY UNITY AND EMPLOYMENT OPPORTUNITY IMMIGRATION ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-786) on the resolution (H. Res. 484) providing for the consideration of the bill (H.R. 4300) to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes, which was referred to the House Calendar and ordered to be printed.

FORT McDOWELL INDIAN COMMUNITY WATER RIGHTS SETTLEMENT ACT OF 1990

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5063) to provide for the

settlement of the water rights claims of the Fort McDowell Indian Community in Arizona and for other purposes, as amended.

The Clerk read as follows:

H.R. 5063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This act may be cited as the "Fort McDowell Indian Community Water Rights Settlement Act of 1990."

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATIONS

(a) The Congress finds that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on development of viable Indian reservation economies;

(3) quantification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) On September 15, 1903, the United States Government established a reservation for the Fort McDowell Indian Community in Arizona north of the confluence of the Salt and Verde Rivers tributary to the Gila River;

(5) the United States, as trustee for the Community, obtained water entitlements for the Community pursuant to the Kent Decree of 1910; however, continued uncertainty as to the full extent of the Community's entitlement to water has severely limited the Community's access to water and the financial resources necessary to develop its valuable agricultural lands and frustrated its efforts to reduce its dependence on federal program funding and achieve meaningful self-determination and economic self-sufficiency;

(6) proceedings to determine the full extent and nature of the Community's water rights and damages thereto are currently pending before the United States District Court in Arizona, the United States Claims Court, the Superior Court of the State of Arizona in and for Maricopa County, as part of the General Adjudication of the Gila River System and Source, and before various federal agencies under the Federal Tort Claims Act;

(7) recognizing that final resolution of pending litigation will take many years and entail great expense to all parties, continue economically and socially damaging limits to the Community's access to water, prolong uncertainty as to the availability of water supplies and seriously impair the long-term economic planning and development of all parties, the Community and neighboring non-Indian communities have sought to settle disputes over water and reduce the burdens of litigation;

(8) after more than five years of negotiation, which included participation by representatives of the United States Government, the Community and neighboring non-Indian communities of the Salt River Valley, who are all party to the General Adjudication of the Gila River System and Source, the parties have entered into an agreement to resolve all water rights claims between and among themselves, to quantify the Community's entitlement to water, and to provide for the orderly development of the Community's lands;

(9) pursuant to the agreement, the neighboring non-Indian communities will transfer rights to approximately twelve thousand acre-feet of surface water to the Community; provide for the means of firming existing water supplies of the Community, and make substantial additional contributions to carry out the agreement's provisions; and

(10) to advance the goals of Federal Indian policy and to fulfill the trust responsibility of the United States to the Community, it is appropriate that the United States participate in the implementation of the agreement and contribute funds for the rehabilitation and expansion of existing reservation irrigation facilities so as to enable the Community to utilize fully its water entitlements in developing a diverse, efficient reservation economy.

(b) Therefore, the Congress declares that the purposes of this Act are: (1) to approve, ratify and confirm the agreement entered into by the Community and its neighboring non-Indian communities, (2) to authorize and direct the Secretary of the Interior to execute and perform such agreement, and (3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Community as provided in the agreement and this Act.

SEC. 3. DEFINITIONS

For purposes of this Act—

(a) "Agreement" means that agreement among the Fort McDowell Indian Community; the State of Arizona; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District, the Arizona cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe, and the Arizona Town of Gilbert; and the Central Arizona Water Conservation District, together with all exhibits thereto, as the same is approved and executed by the Secretary of the Interior pursuant to Sections 11(d) and 12(a)(8) of this Act.

(b) "CAP" means the Central Arizona Project, a reclamation project authorized under Title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(c) "CAWCD" means the Central Arizona Water Conservation District organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 15, 1972, for the delivery of water and repayment of costs of the Central Arizona Project.

(d) "Community" means the Fort McDowell Indian Community, a community of Yavapai Indians organized under Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987, 25 U.S.C. 476), and duly recognized by the Secretary.

(e) "HVID" means the Harquahala Valley Irrigation District, an irrigation district organized under the laws of the State of Arizona.

(f) "Kent Decree" means the decree dated March 1, 1910, entered in Patrict T. Hurley versus Charles F. Abbott, and others, Case Numbered 4564, in the District Court of the Third Judicial District of the Territory of Arizona, in and for the County of Maricopa, and all decrees supplemental thereto.

(g) "RWCD" means the Roosevelt Water Conservation District, an irrigation district organized under the laws of the State of Arizona.

(h) "Secretary" means the Secretary of the United States Department of the Interior.

(i) "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users' Assocation, an Arizona corporation.

SEC. 4. KENT DECREE REREGULATION

(a) To permit the Community to more fully utilize its water rights under the Kent Decree as provided in the Agreement and subsection (b) of this section, the agreement between the United States and the SRP dated June 3, 1935, as amended on November 26, 1935, relating to the Verde River Storage Works, and the agreement among the SRP, Phelps Dodge Corporation, and the Defense Plant Corporation dated March 1, 1944, including, but not limited to, the provisions of such agreements by which SRP saves and holds harmless the United States, and the rights of the United States and SRP to Verde River storage, are hereby ratified, confirmed and declared to be valid; Provided, however, that the priority date and quantification of these storage rights, and such other storage rights as may exist, shall be determined in an appropriate state proceeding in the State of Arizona. Nothing in this Act or the Agreement shall affect the validity or invalidity of any permit, right-of-way, license or grant held by Phelps Dodge Corporation for the utilization of land or water within the San Carlos Apache Reservation.

(b) The Secretary is authorized and directed to contract with SRP, for a period of not more than 25 years from the date the authorizations contained in section 9(b) of this Act become effective, for the utilization of up to three thousand acre-feet of the existing storage right of the United States and SRP behind Bartlett and Horseshoe Dams on the Verde River for the reregulation of the Community's rights to water under the Kent Decree. This storage space shall be for seasonal regulation only, with no annual carryover past October 1.

SEC. 5 RATIFICATION AND CONFIRMATION OF CONTRACTS

(a) The contract between the SRP and RWCD dated October 24, 1924, together with all amendments thereto and any extension thereof entered into pursuant to the Agreement, is ratified, confirmed, and declared to be valid.

(b) The Secretary is authorized and directed to revise the subcontract of the RWCD agricultural water service from the CAP to include an addendum substantially in the form of exhibit "10.3.2" to the Agreement and to execute the subcontract as revised. Notwithstanding any other provision of law, the Secretary shall approve the conversions of agricultural water to municipal and industrial uses authorized by the addendum at such time as the conditions authorizing such conversions, as set forth in the addendum, are found to exist.

(c) The lands within the RWCD and the lands within the SRP shall be free from the ownership limitations of Federal reclamation law and all full cost pricing provisions of Federal law.

(d) Neither SRP nor the RWCD shall become subject to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 309aa et seq.) by viture of either of their participation in the settlement or their execution and performance of the Agreement,

including, but not limited to, any exchanges provided for in the Agreement.

SEC. 6. OTHER WATER

(a) The Secretary is authorized and directed to acquire for the Community thirteen thousand nine hundred thirty-three acre-feet of water from one or a combination of the following sources:

(1) CAP water permanently relinquished by the HVID pursuant to contract with the Secretary.

(2) CAP municipal and industrial water and CAP Indian priority water permanently relinquished by the City of Prescott, the Yavapai-Prescott Tribe, the Yavapai-Apache Indian Community of the Camp Verde Reservation, the Cottonwood Water Company or the Camp Verde Water Company pursuant to contract with the Secretary. Any water acquired by the Secretary pursuant to this section shall be acquired with the consent of the contracting entity and shall be assigned to the Community in partial satisfaction of the Secretary's obligation under this section.

(3) In the event that the Secretary cannot acquire thirteen thousand nine hundred and thirty-three acre-feet of water, solely or in combination, from the sources identified in subsections (a)(1) and (a)(2) of this Section, then the Secretary is authorized to acquire, from all water resources at the disposal of the United States, water in amounts necessary to meet the requirements of this section.

HARQUAHALA VALLEY IRRIGATION DISTRICT

(b) The Secretary is authorized to contact with the HVID for the permanent relinquishment of any portion of HVID's rights to CAP agricultural water.

(1) The Secretary may use HVID water its original CAP agricultural priority or may convert it, at the rate of one acre-foot per CAP-eligible acre, to a maximum of thirty-three thousands two hundred and sixty-three acre-feet of CAP Indian priority water. Up to thirteen thousands nine hundred thirty-three acre-feet of such water shall be made available to the Community by contract with the Secretary.

(2) As consideration for the fair value of water relinquished under subsection (b) of this section, the Secretary is authorized:

(i) to credit the HVID with an appropriate share of its outstanding CAP distribution system debt, with such share reflecting the relationship between the amount of HVID CAP rights acquired by the Secretary and the total CAP allocation of the HVID; and

(ii) to offset the annual repayment requirements of the CAWCD under repayment contract numbered 14-06-W-245 in amounts which total the balance of the fair value of the water acquired and not accounted for under (i) above until such value is exhausted.

(3) In the event that the Secretary acquires all or a part of the CAP water rights of the HVID, the following shall apply:

(i) The Secretary is authorized to transfer title to existing federal facilities within HVID that are no longer needed for CAP purposes to the CAWCD or to other non-federal entities.

(ii) The Secretary is authorized to approve or execute any agreements that are necessary to accomplish the transfer of HVID's CAP agricultural water rights to the Secretary for Indian water rights settlement purposes. As a condition of the transfer of such entitlement, the lands which are purchased by non-federal interests within HVID must be excluded from HVID. Except as provided for in Article 8.7 of the December 1, 1988, contract between the United States and CAWCD, the excluded lands shall not be entitled to a supply of CAP water for agricultural purposes and shall not be subject to the ownership limitations of Federal reclamation law and all full cost pricing provisions of Federal law.

(iii) The agreement implementing the transfer of HVID's CAP agricultural water rights to the Secretary shall provide that any lands which remain in HVID or its successor shall continue to be subject to the ownership limitations of Federal reclamation law and all full cost pricing provisions of Federal law as long as HVID, or its successor, has a Federal repayment obligation for the cost of the CAP distribution system. The agreement implementing the transfer shall provide that lands remaining in HVID, or its successor, will not bear costs of operation, maintenance, and replacement for the CAP distribution system greater than that which they would have in the absence of the transfer of HVID's CAP agricultural water rights.

(4) Water acquired by the Secretary for the Fort McDowell Indian Community pursuant to this subsection shall be delivered to the Community as provided for in the Agreement. Any remaining water acquired by the Secretary pursuant to this subsection (b) shall be used only in the settlement of water rights claims of other Indian tribes having claims to the water in the Salt and Verde River system.

VERDE RIVER WATERSHED

(c) Providing that the Secretary first acquires at least seven thousand acre-feet of CAP water from one or more of the entities named in subsection (a)(2), of this section, the Secretary is authorized to acquire, by purchase from willing sellers, land and water rights in the Big Chino Valley of the Verde River watershed, in an amount sufficient to replace all such water so acquired.

(1) The Secretary shall not acquire any land or water rights in the Big Chino Valley of the Verde River watershed until he has completed a study to determine whether, through the construction of water diversion, collection, and conveyance facilities to deliver water to a point near Sullivan Lake in Yavapai County, Arizona (hereinafter referred to as the "Sullivan Lake delivery point"), the exercise of such water rights will not have an adverse effect on the flow or the biota of the Verde River and that such exercise is not likely to jeopardize the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species. The Secretary shall make the study required by this paragraph available to the public for inspection and comment upon its completion.

(2) The Secretary is authorized to enter into an agreement with the City of Prescott to reimburse the city for not to exceed $800,000 advanced to the Secretary by the city for the purpose of expediting completion of the study required in subsection (c)(1) of this section.

(3) If the Secretary determines, based upon the findings of the study, that the exercise of water rights will not have an adverse effect on the flow or the biota of the Verde River and is not likely to jeopardize the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species, the Secretary shall be authorized to acquire land in the Big Chino Valley and to construct diversion, collection, and conveyance facilities sufficient to deliver the water to the Sullivan Lake delivery point.

(4) The Secretary shall develop and implement a continuous monitoring program to ensure that groundwater pumping from land acquired pursuant to this subsection (c) shall not adversely affect the flow or the biota of the Verde River and to ensure that it will not jeopardize the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species. The program shall be developed prior to and implemented concurrent with the construction of the facilities described in subsection (c)(3) of this section.

(d) If the Secretary acquires the CAP contract or subcontracts of the Yavapai-Apache Indian Community of the Camp Verde Reservation, the Cottonwood Water Company or the Camp Verde Water Company, the Secretary is authorized to construct water conveyance facilities from the Sullivan Lake delivery point to a point downstream on the Verde River. Subject to the study required in subsection (d)(1) of this section and all applicable law, the Secretary is further authorized to place into the Verde River at the point downstream an amount of water sufficient, including all losses, to replace the water assigned by such entity or entities pursuant to this subsection.

(1) The Secretary shall not construct any water conveyance facilities from the Sullivan Lake delivery point to any point downstream on the Verde River to replace water assigned pursuant to subsection (a)(2) of this section, until he has completed a study to determine whether the flow of the Verde River may be augmented without jeopardizing the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species and, if the flow of the Verde may be so augmented, at what point or points downstream from the Sullivan Lake delivery point such augmentation would be most appropriate.

(2) The Secretary shall, in conjunction with arrangements for the delivery of water pursuant to this subsection (d), develop and implement a monitoring program to ensure that the augmentation of the Verde River will not jeopardize the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species.

(e) If the Secretary acquires the CAP contract or subcontract of the Yavapai-Prescott Tribe or the City of Prescott, the Secretary is authorized to construct water conveyance facilities from the Sullivan Lake delivery point to the City of Prescott's existing pumping facilities in the Little Chino Valley, Yavapai County, Arizona. If the Secretary constructs such water conveyance facilities, the City of Prescott shall repay the Secretary for the costs thereof. Nothing in this subsection shall be construed to prevent the City of Prescott from constructing such conveyance facilities itself.

(1) The Secretary shall deliver water to the City of Prescott's existing pumping facilities or to such other point as the Secretary and the City of Prescott may agree, in an amount sufficient, including all losses, to replace the water acquired from the City of Prescott and the Yavapai-Prescott Tribe.

(2) The Secretary is authorized and directed to enter into such agreements as are necessary to ensure that the Yavapai-Prescott Tribe will receive its share of the water to be developed by the Secretary pursuant to this subsection (e). Such agreement shall set forth the cost and other terms of delivery of such water.

(3) The Secretary is authorized and directed, at the request of the Yavapai-Prescott Indian Tribe, to enter into and renew agreements granting the Yavapai-Prescott Indian Tribe long-term grazing privileges on the land acquired by the Secretary pursuant to subsection (a)(2) of this section; Provided, that the exercise of such privileges by the Yavapai-Prescott Indian Tribe shall not interfere with the exercise of water rights upon such land except for water reasonably needed by the Yavapai-Prescott Indian Tribe in connection with grazing.

(f) The Secretary is authorized to contract to deliver replacement water to the entities identified in subsections (d) and (e) of this section which relinquish CAP water to the Secretary for the benefit of the Community. The replacement water shall be delivered by the Secretary at the Sullivan Lake delivery point unless otherwise agreed by the Secretary and the entity to receive the water. No replacement water may be delivered to any entity other than those identified in subsection (a)(2) of this section or their agents, and no replacement water may be used directly or indirectly outside Yavapai County, Arizona.

(g) The entities which relinquish CAP water to the Community pursuant to subsection (a)(2) of this section shall not be required to repay costs incurred by the United States pursuant to subsections (c) and (c)(3) of this section. The entities identified in subsection (d) of this section, except for any entity which is an Indian tribe, shall repay the United States so much of the cost of the undertaking identified in subsection (d) as the entities and the United States shall agree. The costs of any undertaking pursuant to this subsection (g) allocated to an Indian tribe shall be nonreimbursable.

(h) The Secretary is authorized and directed to study the sources and cost of the water supplies, other than those identified in this section, that can be used to satisfy the water rights of the Yavapai-Prescott Indian Tribe and of the Yavapai-Apache Indian Community of the Camp Verde Reservation. A separate study shall be made for each tribe. Each study shall be commenced within 180 days after the enactment of this Act and shall be completed within one year after it is commenced. Copies of such studies shall be provided to the Committee on Interior and Insular Affairs of the U.S. House of Representatives and the Select Committee on Indian Affairs of the U.S. Senate.

(i) If the Secretary acquires water for the Community pursuant to subsection (a)(2) of this section, then the Secretary shall exclude, for the purpose of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-06-W-245 between the United States and CAWCD dated December 15, 1972, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be non-reimbursable.

(j) The Secretary shall, in the exercise of the authorities provided in subsection (a) of this section, comply with all applicable environmental law.

(k) If the Secretary acquires at least seven thousand acre-feet of CAP water from the entities identified in subsection (a)(2) of this section, there is authorized to be appropriated not to exceed $30,000,000 to pay the costs of acquiring the land and water resources identified in subsection (c) of this section and the costs allocable to the construction of diversion, collection, and conveyance facilities described in subsection (c); costs allocable to the construction or diversion, collection, and conveyance facilities shall be adjusted by such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved therein.

(l) There is authorized to be appropriated such sums as may be necessary to provide for the studies required in subsections (c)(1), (d)(1), and (h) of this section and for the monitoring programs described in subsections (c)(4) and (d)(2) of this section.

SEC. 7. WATER DELIVERY CONTRACT AMENDMENTS; WATER LEASE

(a) The Secretary is authorized and directed to amend the CAP water delivery contract between the United States and the Community dated December 11, 1980 (herein referred to as the "Community CAP Delivery Contract"), as follows:

(1) to extend the term of such contract to December 31, 2099 and to provide for its subsequent renewal upon terms and conditions to be agreed upon by the parties prior to the expiration of the extended term thereof;

(2) to authorize the Community to lease the CAP water to which the Community is entitled under the Community CAP Delivery Contract to the City of Phoenix under the terms and conditions of the Project Water Lease set forth in exhibit "20.2.2" to the Agreement for a term commencing January 1, 2001, and ending December 31, 2099.

(b) Notwithstanding any other provision of law, the amendments to the Community CAP Delivery Contract set forth in exhibit "20.2.1" to the Agreement and the terms and conditions of the Project Water Lease set forth in exhibit "20.2.2" to the Agreement are hereby authorized, approved, and confirmed.

(c) The United States shall not impose upon the Community the operation, maintenance and replacement charges described and set forth in section "6(b)" of the Community CAP Delivery Contract or any other charge with respect to CAP water delivered or required to be delivered to the City of Phoenix as lessee of the Project Water Lease herein authorized.

(d) The Community and the Secretary shall lease to the City of Phoenix, for a term commencing on January 1, 2001, and ending December 21, 2099, for consideration in an amount agreed to by the Community and the City to be paid by the City to the Community, upon those terms reflected in the Project Water Lease set forth in exhibit "20.2.2" to the Agreement, the four thousand three hundred acre-feet of CAP water to which the Community is entitled under the Community CAP Delivery Contract. The Project Water Lease shall specifically provide that—

(1) the City of Phoenix, in accordance with its obligations under the Project Water Leases, shall pay all operation, maintenance and replacement costs of such water to the United States, or, if directed by the Secretary, to the CAWCD; *Provided*, That such payments shall not be commenced earlier than October 1, 1999;

(2) except as otherwise provided in the Projects Water Lease, the City of Phoenix, shall not be obligated to pay water service capital charges or municipal and industrial subcontract charges or any other charges or payment for such CAP water other than the operation, maintenance, and replacement costs and lease payments as set forth in this subsection.

(e) For the purpose of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract Numbered 14-06-W-245 between the United States of America and the CAWCD dated December 15, 1972, and any amendment or revision thereof, the costs associated with the delivery of CAP water pursuant to the Project Water Lease referred to in subsection (d) shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation.

(f) Notwithstanding any other provision of statutory or common law, the Community may with the approval of the Secretary, lease water provided to the Community under section 6 of this Act for its fair market value for a term not to exceed 100 years as provided in the Agreement but in no event for use outside Pima, Pinal or Maricopa Counties, State of Arizona. If some or all of the water provided to the Community under section 6 of this Act is CAP water, the provisions of subsections of (a), (b), (c), (d) and (e) of this section 7 shall apply to any lease of such water.

(g) Except as authorized by this section, no water made available to the Community or its members pursuant to the Agreement may be sold, leased, transferred, or in any way used off the Community's reservation.

(h) If water is acquired from the Salt and Verde watershed pursuant to section (6)(a)(3), no such water may be sold, leased, transferred, or in any way be used off of the Community's reservation.

SEC. 8. FORT McDOWELL INDIAN COMMUNITY DEVELOPMENT FUND; LOAN

(a) As soon as practicable, the Community shall establish the Fort McDowell Indian Community Development Fund into which shall be deposited—

(1) by the Secretary, the funds appropriated pursuant to subsection (b) of this section; and

(2) by the Senate of Arizona, $2,000,000 required by paragraph 21.4 of the Agreement.

(b) There is hereby authorized to be appropriated, together with interest accruing from one year after the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into account the average market yield on outstanding Federal obligations of comparable maturity, $23,000,000 which the Secretary shall deposit into the Community Development Fund for the Community to use in the design and construction of facilities to put to beneficial use the Community's water entitlement and for other economic and community development on the Fort McDowell Indian Reservation.

(c) As of the date the authorizations contained in section 9(b) of this Act become effective, the Community, in its discretion, may use the Development Fund, principal and income, to fulfill the purposes of the Agreement and this Act: *Provided*, That no amount of the Federal or State appropriations deposited into the Development Fund may be used to make per capita payments to members of the Community.

(d) As of the date the authorizations contained in section 9(b) of this Act become effective—

(1) the Secretary shall have no further duties or responsibilities with respect to the administration of, or expenditures from, the Development Fund, and

(2) the United States shall not be liable for any claim or cause of action arising from

the Community's use and expenditure of moneys from the Development Fund.

(e) The Secretary is authorized and directed to provide to the Community a loan pursuant to the Small Reclamation Projects Act (Ch. 972, 70 Stat. 1044, 43 U.S.C. 422a, as amended), in the amount of $13,000,000, to be repaid over a term of fifty years without interest, for the purpose of constructing facilities for the conveyance and delivery of water on the Fort McDowell Indian Reservation: *Provided*, that any requirements for qualifying for the loan are hereby waived, including, but not limited to, the provisions of Section 3, 4(b)(2), 5(a) and 5(c) of the Small Reclamation Projects Act.

(1) The Community shall establish an account into which the Community shall deposit $1,000,000. The principal and all accrued income shall be retained in such fund until such time as the Community's obligation to repay the loan under subsection (e) is fulfilled.

(2) No appropriations for the construction of the CAP made after the date of enactment of this Act shall be used to plan, design, construct, or operate any facilities on the Fort McDowell Indian Reservation.

SEC. 9. SATISFACTION OF CLAIMS

(a) The benefits realized by the Community's members under this Act shall constitute full and complete satisfaction of all members' claims for water rights or injuries to water rights under Federal and State laws (including claims for water rights in groundwater, surface water, and effluent) from time immemorial to the effective date of this Act, and for any and all future claims of water rights (including claims for water rights in groundwater, surface water, and effluent) from and after the effective date of this Act.

(b) The Community and the Secretary on behalf of the United States are authorized, as part of the performance of the obligations under the Agreement, to execute a waiver and release of all present and future claims of water rights or injuries to water rights (including water rights in groundwater, surface water, and effluent), from time immemorial to the effective date of this Act, and any and all future claims of water rights (including water rights in groundwater, surface water, and effluent), from and after the effective date of this Act, which the Community and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona.

(c) Except as provided in paragraphs 19.2 and 19.5 of the Agreement, the United States shall not assert any claim against the State of Arizona or any political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona in its own right or on behalf of the Community based upon—

(1) water rights or injuries to water rights of the Community and its members; or

(2) water rights or injuries to water rights held by the United States on behalf of the Community and its members.

(d) In the event the authorizations contained in subsection (b) of this section do not become effective pursuant to section 12(a), the Community shall retain the right to assert past and future water rights claims as to all reservation lands.

SEC. 10. ENVIRONMENTAL COMPLIANCE

(a) Execution of the settlement Agreement by the Secretary as provided for in section 11(d) shall not constitute major federal action under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance, except as specifically directed otherwise herein, during the implementation phase of this settlement.

(b) There is hereby authorized to be appropriated such sums as may be necessary to carry out all necessary environmental compliance associated with this settlement, including mitigation measures adopted by the Secretary.

(c) With respect to this settlement, the Bureau of Reclamation shall be designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

(d) Except as specifically set forth herein, the Secretary shall comply with all aspects of NEPA and the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.), and other applicable environmental acts and regulations in proceeding through the implementation phase of this settlement; Provided, however, that in regard to NEPA compliance, the Secretary is precluded from studying or considering alternatives to the Community's onreservation agriculture development plans which will be facilitated by the settlement, or performed under the Small Reclamation Projects loan made pursuant to section 8(e).

SEC. 11. MISCELLANEOUS PROVISIONS

(a) In the event any party to the Agreement should file a lawsuit in Federal District Court relating only and directly to the interpretation or enforcement of this Act or the Agreement, naming the United States of America or the Community as parties, authorization is hereby granted to join the United States of America and/or the Community in any such litigation, and any claim by the United States of America or the Community to sovereign immunity from such suit is hereby waived.

(b) The United States of America shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Agreement against any lands within the Fort McDowell Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) Water received by entities other than the Community pursuant to the Agreement shall not affect any future allocation or reallocation of the CAP supply.

(d) To the extent the Agreement does not conflict with the provisions of this Act, such Agreement is hereby approved, ratified, and confirmed. The Secretary is authorized and directed to execute and perform such Agreement. The Secretary is further authorized to execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(e) As of the date the authorizations contained in section 9(b) of this Act become effective, section 302(a) of the Colorado River Basin Project Act (43 U.S.C. 1522(a)) shall no longer apply to the Community.

(f) An easement for the construction, operation and maintenance of the Community's water diversion system on and within the lands identified in the Community's special permit extension application dated July 12, 1990 filed with the United States Forest Service, Department of Agriculture, is hereby granted in perpetuity.

(g) As of the date the authorizations contained in section 9(b) of this Act and in section 10(b) of the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act (102 Stat. 2549) become effective, subsection 4(a) of this Act shall become effective as to the Salt River Pima-Maricopa Indian Community and the United States.

(h) Section 7(a) of the Salt River Pima-Maricopa Indian Community Water Rights Act (102 Stat. 2549) is hereby amended by striking the date "1990" and inserting in lieu thereof "1991."

SEC. 12. EFFECTIVE DATE

(a) The authorizations contained in section 9(b) of this Act shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that:

(1) the Secretary has signed a contract with the SRP for the storage and regulation of the Community's Kent Decree water pursuant to section 4;

(2) the RWCD subcontract for agricultural water service from CAP has been revised and executed as provided in section 5(b);

(3) the Secretary has acquired water pursuant to section 6 and made it available for delivery for the benefit of the Community;

(4) the funds authorized by section 8(b) have been appropriated and deposited into the Community Development Fund;

(5) the loan authorized by section 8(e) has been provided to the Community;

(6) the State of Arizona has appropriated and deposited into the Community Development Fund the $2,000,000 required by paragraph 21.4 of the Agreement;

(7) the stipulation which is attached to the Agreement as exhibit "19.5" has been approved; and

(8) the Agreement has been modified to the extent it is in conflict with this Act and has been executed by the Secretary.

(b) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) of subsection (a) of this section have not occurred by December 31, 1993, sections 4, 5(a), and 5(b), if they have not theretofore become effective pursuant to the provisions of the Act of October 20, 1988 (P.L. 100-512), and sections 7, 8(a), 8(b), 8(e), 9(b), 9(c), 11(a), 11(b), 11(c), 11(d), 11(e) and 11(f) of this Act and any contracts entered into pursuant to those provisions shall not thereafter be effective, and any funds appropriated pursuant to section 8(b) of this Act shall revert to the Treasury, and any funds appropriated pursuant to paragraph 21.4 of the Agreement shall revert to the State of Arizona.

SEC 13. OTHER CLAIMS

Nothing in the Agreement or this act shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims or entitlements to water of any Arizona Indian tribe, band or community, other than the Community.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Ari-

zona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I am very pleased to support H.R. 5063.

This bill provides for the settlement of the water rights claims of the Fort McDowell Indian community.

The settlement should enable this Yavapai Indian community to achieve the economic self-sufficiency that is key to any notion of self-determination.

It will quantify the community's water rights.

It will provide funds for the community to develop those rights.

It includes State and local contributions valued at roughly half the total settlement cost.

The bill before us includes changes that respond to the administration's objections to the bill as reported by the Interior Committee.

With these changes I understand that the administration will accept it.

I congratulate and commend the community and the other Arizona parties to the settlement for their diligent efforts.

I applaud Interior Secretary Lujan, whose big picture approach to Arizona's water disputes has led to major progress on some very old and complex issues.

I complement my House colleagues, Mr. RHODES and Mr. KYL, and Senators MCCAIN and INOUYE for their leadership and hard work on this legislation.

Mr. Speaker, the bill before us is fair and a credit to all concerned.

I strongly urge the House to pass it.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5063, the Fort McDowell Indian Community Water Rights Settlement Act of 1990. I rise in support of this bill because it embodies a prudent and just settlement of the federally reserved water rights of the Fort McDowell Indian Community as against the other water users in central Arizona. This bill reflects the following worthy principles:

It is a settlement negotiated over the course of several years by the tribe, the Untied States, the State of Arizona, and all affected non-Indian water users in the locale.

It is a settlement that has as its basis and agreement that allows the tribe to put its water rights to use in a meaningful way, and that brings, certainty to the water rights of the affected non-Indian water users and stability to the local economy.

It is a settlement that has considerable local cost share and contribution—local water users will contribute approximately half of the water that is to be confirmed as the tribe's water entitlement; they will contribute about some cash to the settlement to enable the tribe to put its water to use; and they will provide storage capability for tribal water in local reservoirs.

It is a settlement that serves to redress some of the wrongs committed against the Fort McDowell Indian community over the past century—aborted attemtps by the Federal Government to remove the tribe from its reservation; failure of the Federal Government to provide assistance to the tribe in developing the reservation's land and water resources earlier in the century; and continued threats by the Federal Government from 1950 to 1987 to construct Orme Dam and flood the most valuable two-thirds of the reservation.

For the foregoing reasons, I urge my colleagues to support H.R. 5063.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KOLBE. Mr. Speaker, I rise in support of H.R. 5063, the Fort McDowell Indian Water Rights Settlement Act. This bill is the result of over 5 years of negotiations and the product of the dedicated efforts of many people. I commend all parties involved, especially Arizona delegation members JAY RHODES, MO UDALL, JON KYL and Senator JOHN MCCAIN, for their hard work, perseverance and spirit of compromise. With so many varied interests, and such longstanding, contentious issues, H.R. 5063 is a landmark achievement.

This legislation, when enacted, will quantify the Fort McDowell Indian community's entitlement to water and settle all claims between the community and neighboring non-Indian communities. Costly, time-consuming and uncertain litigation would be avoided. This water settlement will provide a basis for substantial economic development of the reservation and improving the quality of life on the reservation.

Again, I want to extend the highest praise to the parties to this settlement. This bill is fair, balanced and necessary. Its creation should be a model for how to resolve complex and controversial issues, especially those involving water rights settlements. This bill is good for the Fort McDowell Indian community, it's good for neighborhood non-Indian communities, it's good for the State of Arizona, and its good for the Federal Government. I urge your support.

Mr. RICHARDSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 5063, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order:

House Joint Resolution 658, by the yeas and nays;

House Joint Resolution 418, by the yeas and nays;

House Concurrent Resolution 329, by the yeas and nays; and

H.R. 3954, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

□ 1810

SUPPORTING THE PRESIDENT WITH RESPECT TO IRAQI AGGRESSION AGAINST KUWAIT

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is the question of suspending the rules and passing the joint resolution (H.J. Res. 658).

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the joint resolution (H.J. Res. 658), on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 380, nays 29, answered "present" 1, not voting 23, as follows:

[Roll No. 394]

YEAS—380

Ackerman	Bartlett	Boggs
Anderson	Barton	Bonior
Andrews	Bateman	Bosco
Annunzio	Beilenson	Boucher
Anthony	Bennett	Boxer
Applegate	Bentley	Brennan
Archer	Bereuter	Brooks
Armey	Berman	Broomfield
Aspin	Bevill	Browder
Atkins	Bilbray	Brown (CA)
Baker	Bilirakis	Bruce
Ballenger	Bliley	Bryant
Barnard	Boehlert	Buechner

Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Conte
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traficant
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NAYS—29

AuCoin
Bates
Clay
Collins
Conyers
DeFazio
Dellums
Edwards (CA)
Gonzalez
Hayes (IL)
Jacobs
Kastenmeier
Lehman (FL)
McDermott
Mfume
Miller (CA)
Payne (NJ)
Pelosi
Rangel
Roybal
Savage
Schroeder
Serrano
Stark
Stokes
Torres
Traxler
Washington
Yates

ANSWERED "PRESENT"—1

Williams

NOT VOTING—23

Alexander
Borski
Brown (CO)
Crane
Crockett
Douglas
Engel
Frenzel
Gingrich
Hatcher
Hawkins
Hiler
Houghton
Ireland
Michel
Morrison (CT)
Owens (NY)
Rowland (CT)
Saiki
Schuette
Solarz
Torricelli
Towns

□ 1830

Mrs. COLLINS, Mr. SERRANO, Mrs. SCHROEDER, and Messrs. RANGEL, MFUME, LEHMAN of Florida, STOKES, BATES, and PAYNE of New Jersey changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all additional motions to suspend the rules on which the Chair has postponed further proceedings on today.

PROTECTING ANTARCTICA AS A GLOBAL ECOLOGICAL COMMONS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the joint resolution (H.J. Res. 418) as amended.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. YATRON] that the House suspend the rules and pass the joint resolution (H.J. Res. 418) as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 398, nays 11, not voting 24, as follows:

[Roll No. 395]

YEAS—398

Ackerman
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery

Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—11

Dannemeyer
DeLay
Fields
Hall (TX)
Hammerschmidt
Hancock
Hansen
Lightfoot
Marlenee
Stump
Vucanovich

NOT VOTING—24

Alexander
Borski
Brown (CO)
Crane
Crockett
Douglas
Engel
Frenzel
Gephardt
Gingrich
Hatcher
Hawkins
Hiler
Houghton
Ireland
Michel
Morrison (CT)
Owens (NY)
Rowland (CT)
Saiki
Schuette
Solarz
Torricelli
Towns

□ 1840

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REGARDING COUNTRIES WHICH VIOLATE THE MORATORIUM ON COMMERCIAL WHALING

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 329).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. YATRON] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 329), on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 21, as follows:

[Roll No. 396]

YEAS—412

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—21

Borski
Brown (CO)
Crane
Crockett
Engel
Frenzel
Gephardt
Gingrich
Hatcher
Hawkins
Hiler
Houghton
Ireland
Morrison (CT)
Owens (NY)
Rowland (CT)
Saiki
Schuette
Solarz
Torricelli
Towns

□ 1848

So (two-thirds having voted in favor thereof), the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ESTABLISHING A PEACE CORPS MEMORIAL

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3954, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the bill, H.R. 3954, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 24, as follows:

[Roll No. 397]

YEAS—409

Ackerman	Courter	Hall (OH)
Alexander	Cox	Hall (TX)
Anderson	Coyne	Hamilton
Andrews	Craig	Hammerschmidt
Annunzio	Dannemeyer	Hancock
Anthony	Darden	Hansen
Applegate	Davis	Harris
Archer	de la Garza	Hastert
Armey	DeFazio	Hayes (IL)
Aspin	DeLay	Hayes (LA)
Atkins	Dellums	Hefley
AuCoin	Derrick	Hefner
Baker	DeWine	Henry
Ballenger	Dickinson	Herger
Barnard	Dicks	Hertel
Bartlett	Dingell	Hoagland
Barton	Dixon	Hochbrueckner
Bateman	Donnelly	Holloway
Bates	Dorgan (ND)	Hopkins
Beilenson	Dornan (CA)	Horton
Bennett	Douglas	Hoyer
Bentley	Downey	Hubbard
Bereuter	Dreier	Huckaby
Berman	Duncan	Hughes
Bevill	Durbin	Hunter
Bilbray	Dwyer	Hutto
Bilirakis	Dymally	Hyde
Bliley	Dyson	Inhofe
Boehlert	Early	Jacobs
Boggs	Eckart	James
Bonior	Edwards (CA)	Jenkins
Bosco	Edwards (OK)	Johnson (CT)
Boucher	Emerson	Johnson (SD)
Boxer	English	Johnston
Brennan	Erdreich	Jones (GA)
Brooks	Espy	Jones (NC)
Broomfield	Evans	Jontz
Browder	Fascell	Kanjorski
Brown (CA)	Fawell	Kaptur
Bruce	Fazio	Kasich
Bryant	Feighan	Kastenmeier
Buechner	Fields	Kennedy
Bunning	Flake	Kennelly
Burton	Flippo	Kildee
Bustamante	Foglietta	Kleczka
Byron	Ford (MI)	Kolbe
Callahan	Frank	Kolter
Campbell (CA)	Frost	Kostmayer
Campbell (CO)	Gallegly	Kyl
Cardin	Gallo	LaFalce
Carper	Gaydos	Lagomarsino
Carr	Gejdenson	Lancaster
Chandler	Gekas	Lantos
Chapman	Geren	Laughlin
Clarke	Gibbons	Leach (IA)
Clay	Gillmor	Leath (TX)
Clement	Gilman	Lehman (CA)
Clinger	Glickman	Lehman (FL)
Coble	Gonzalez	Lent
Coleman (MO)	Goodling	Levin (MI)
Coleman (TX)	Gordon	Levine (CA)
Collins	Goss	Lewis (CA)
Combest	Gradison	Lewis (FL)
Condit	Grandy	Lewis (GA)
Conte	Grant	Lightfoot
Conyers	Gray	Lipinski
Cooper	Green	Livingston
Costello	Guarini	Lloyd
Coughlin	Gunderson	Long
Lowery (CA)	Paxon	Smith (TX)
Lowey (NY)	Payne (NJ)	Smith (VT)
Luken, Thomas	Payne (VA)	Smith, Denny (OR)
Lukens, Donald	Pease	Smith, Robert (NH)
Machtley	Pelosi	Smith, Robert (OR)
Madigan	Penny	Snowe
Manton	Perkins	Solomon
Markey	Petri	Spence
Marlenee	Pickett	Spratt
Martin (IL)	Pickle	Staggers
Martin (NY)	Porter	Stallings
Martinez	Poshard	Stangeland
Matsui	Price	Stark
Mavroules	Pursell	Stearns
Mazzoli	Quillen	Stenholm
McCandless	Rahall	Stokes
McCloskey	Rangel	Studds
McCollum	Ravenel	Stump
McCrery	Regula	Sundquist
McCurdy	Rhodes	Swift
McDade	Richardson	Synar
McDermott	Ridge	Tallon
McEwen	Rinaldo	Tanner
McGrath	Ritter	Tauke
McHugh	Roberts	Tauzin
McMillan (NC)	Robinson	Taylor
McMillen (MD)	Roe	Thomas (CA)
McNulty	Rogers	Thomas (GA)
Meyers	Rohrabacher	Thomas (WY)
Mfume	Ros-Lehtinen	Torres
Michel	Rose	Traficant
Miller (CA)	Rostenkowski	Traxler
Miller (OH)	Roth	Udall
Miller (WA)	Roukema	Unsoeld
Mineta	Rowland (GA)	Upton
Mink	Roybal	Valentine
Moakley	Russo	Vander Jagt
Molinari	Sabo	Vento
Mollohan	Sangmeister	Visclosky
Montgomery	Sarpalius	Volkmer
Moody	Savage	Vucanovich
Moorhead	Sawyer	Walgren
Morella	Saxton	Walker
Morrison (WA)	Schaefer	Walsh
Mrazek	Scheuer	Washington
Murphy	Schiff	Watkins
Murtha	Schneider	Waxman
Myers	Schroeder	Weber
Nagle	Schulze	Weiss
Natcher	Schumer	Weldon
Neal (MA)	Sensenbrenner	Wheat
Neal (NC)	Serrano	Whittaker
Nelson	Sharp	Whitten
Nielson	Shaw	Williams
Nowak	Shays	Wilson
Oakar	Shumway	Wise
Oberstar	Shuster	Wolf
Obey	Sikorski	Wolpe
Olin	Sisisky	Wyden
Ortiz	Skaggs	Wylie
Owens (UT)	Skeen	Yates
Oxley	Skelton	Yatron
Packard	Slattery	Young (AK)
Pallone	Slaughter (NY)	Young (FL)
Panetta	Slaughter (VA)	
Parker	Smith (FL)	
Parris	Smith (IA)	
Pashayan	Smith (NE)	
Patterson	Smith (NJ)	

NOT VOTING—24

Borski	Gephardt	Owens (NY)
Brown (CO)	Gingrich	Ray
Crane	Hatcher	Rowland (CT)
Crockett	Hawkins	Saiki
Engel	Hiler	Schuette
Fish	Houghton	Solarz
Ford (TN)	Ireland	Torricelli
Frenzel	Morrison (CT)	Towns

□ 1855

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The title of the bill was amended so as to read: "A bill to authorize the establishment of a memorial on Federal land in the District of Columbia or its environs to honor service in the Peace Corps.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 394, House Joint Resolution 658—supporting actions the President has taken with respect to Iraqi aggression against Kuwait; rollcall No. 395, House Joint Resolution 418—the treaty to protect Antarctica; rollcall No. 396, House Concurrent Resolution 329—sanctions against commercial whaling; and rollcall No. 397, H.R. 3954—establishing a Peace Corps memorial. Had I been here, I would have voted "aye" for each one.

CONFERENCE REPORT ON S. 1824, EDUCATION OF THE HANDICAPPED ACT AMENDMENTS OF 1990

Mr. MARTINEZ submitted the following conference report and statement on the bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-787)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE; REFERENCE.

(a) Short Title.—This Act may be cited as the "Education of the Handicapped Act Amendments of 1990".

(b) REFERENCE.—Except as otherwise provided in section 901, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Education of the Handicapped Act.

TITLE I—GENERAL PROVISIONS

SEC. 101. DEFINITIONS.

(a) HANDICAPPED CHILDREN.—Section 602(a)(1) (20 U.S.C. 1401(a)(1)) is amended to read as follows:

"(1) The term 'children with disabilities' means children—

"(A) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

"(B) who, by reason thereof need special education and related services.".

(b) SPECIAL EDUCATION.—Section 602(a)(16) (20 U.S.C. 1401(a)(16)) is amended by striking "including classroom instruction" and all that follows and inserting the following: "including—

"(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

"(B) instruction in physical education.".

(c) RELATED SERVICES.—Section 602(a)(17) (20 U.S.C. 1401(a)(17)) is amended—

(1) by striking "recreation," and inserting "recreation, including therapeutic recreation and social work services,"; and

(2) by inserting ", including rehabilitation counseling," after "counseling services,".

(d) TRANSITION SERVICES.—Section 602(a)(20 U.S.C. 1401(a)) is amended by redesignating paragraphs (19) through (23) as paragraphs (20) through (24), respectively, and by inserting after paragraph (18) the following new paragraph:

"(19) The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.".

(e) INDIVIDUALIZED EDUCATION PROGRAM.—Section 602(a)(20), as redesignated by subsection (d) of this section, is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) a statement of the needed transition services for students beginning no later than age 16 and annually thereafter (and, when determined appropriate for the individual, beginning at age 14 or younger), including, when appropriate, a statement of the interagency reponsibilities or linkages (or both) before the student leaves the school setting,", and

(2) by inserting after subparagraph (F) (as so redesignated) the following: "In the case where a participating agency, other than the educational agency, fails to provide agreed upon services, the educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives.".

(f) PUBLIC OR PRIVATE NONPROFIT AGENCY OR ORGANIZATION.—Section 602(a)(24)(A), as redesignated by subsection (d) of this section, is amended by inserting before the period the following: "and the Bureau of Indian Affairs of the Department of the Interior (when acting on behalf of schools operated by the Bureau for children and students on Indian reservations) and tribally controlled schools funded by the Department of Interior".

(g) ASSISTIVE TECHNOLOGY DEVICE.—Section 602(a), as amended by subsection (d) of this section, is amended by adding at the end the following new paragraph:

"(25) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.".

(h) ASSISTIVE TECHNOLOGY SERVICE.—Section 602(a), as amended by subsection (g) of this section, is amended by adding at the end the following new paragraph:

"(26) The term 'assistive technology service' means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

"(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

"(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.".

(i) UNDERREPRESENTED.—Section 602(a), as amended by subsection (h) of this section, is amended by adding at the end the following new paragraph:

"(27) The term 'underrepresented' means populations such as minorities, the poor, the limited English proficient, and individuals with disabilities.".

SEC. 102. NOTICE OF INQUIRY

(a) PUBLICATION.—Not later than 30 days after the date of the enactment of the Education of the Handicapped Act Amendments of 1990, the Secretary shall publish a Notice of Inquiry in the Federal Register for the purpose of soliciting public comments regarding the appropriate components of an operational definition under such Act for the term "attention deficit disorder" (hereinafter referred to in this section as the "disorder") in accordance with subsection (b)(2).

(b) PUBLIC COMMENT.—

(1) The Notice of Inquiry published under subsection (a) shall provide for a 120-day period for public comment.

(2) The Notice of Inquiry shall request comments concerning the following issues:

(A) How should the disorder be described operationally for purposes of qualifying a child for special education and related services under part B of the Education of the Handicapped Act.

(B) What criteria should be included in the definition to qualify children with the disorder whose disability is comparable in severity to other children with disabilities currently determined to be eligible for special education and related services under part B of the Education of the Handicapped Act.

(C) What specific manifestations of the disorder, if any, should be included in the definition.

(D) Whether the definition should include references to characteristics or circumstances that produce transient inattentive behaviors that, in and of themselves, would not make a child eligible for special education and related services under the definition of the disorder.

(E) Whether the definition should address the concurrence of this disorder with other disabilities such as specific learning disabilities or serious emotional disturbance, and if so addressed, the manner in which such is to be accomplished.

(F) Whether guidelines should be provided to State and local educational agencies regarding their obligation to conduct an evaluation of a child suspected of having this disorder, and a description of such guidelines.

(G) Who should be authorized to conduct an assessment of a child having or suspected of having the disorder and whether the assessment should be conducted by more than one individual (such as a teacher and a psychologist).

(H) What provisions should be included in the definition and what additional steps, if any, not currently required by the regulations implementing part B of the Education of the Handicapped Act, should be included to ensure that racial, ethnic, and linguistic minorities are not misclassified under this definition.

(c) REPORT TO COMMITTEES.—Not later than 30 days after the close of the comment period referred to in subsection (b)(1), the Secretary shall transmit the public comments received in response to the Notice of Inquiry in a usable form, accompanied by a document summarizing such comments, to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

SEC. 103. ABROGATION OF STATE SOVEREIGN IMMUNITY.

Part A (20 U.S.C. 1400 et seq.) is amended by inserting after section 603 the following new section:

"ABROGATION OF STATE SOVEREIGN IMMUNITY

"SEC. 604. (a) A State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act.

"(b) In a suit against a State for a violation of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public entity other than a State.

"(c) The provisions of subsections (a) and (b) shall take effect with respect to violations that occur in whole or part after the date of the enactment of the Education of the Handicapped Act Amendments of 1990.".

SEC. 104. REPORTS, EVALUATIONS, FINDINGS, AND OTHER PROVISIONS GENERALLY APPLICABLE TO PARTS C THROUGH G.

Part A (20 U.S.C. 1400 et seq.) is amended by adding at the end the following new section:

"ADMINISTRATIVE PROVISIONS APPLICABLE TO PARTS C THROUGH G AND SECTION 618

"SEC. 610. (a) The Secretary shall maintain a process for developing a program plan for the implementation of each of the programs authorized under section 618 and parts C through G. The plan shall include program goals, objectives, strategies, and priorities. In conducting the process, the Secretary shall involve individuals with disabilities, parents, professionals, and representatives of State and local educational agencies, private schools, institutions of higher education, and national organizations who have interest and expertise in the program.

"(b) In awarding grants, contracts, and cooperative agreements under parts C through G, the Secretary, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of infants, toddlers, children, and youth with disabilities from minority backgrounds.

"(c) In awarding grants, contracts, or cooperative agreements under parts C through

G the Secretary, where appropriate, may require applicants to address the various transitions that a child with a disability may face throughout such child's years in school, including—

"(1) the transition from medical care to special education for those children with disabilities, including chronic health impairments, who may require individualized health-related services to enable such children to participate in, or benefit from, special education;

"(2) the transition between residential placement and community-based special education services; and

"(3) the transition between a separate educational placement and the regular classroom setting.

"(d) The Secretary shall conduct directly, or by contract or cooperative agreement with appropriate entities, independent evaluations of the programs authorized under section 618 and under parts C through G, and may for such purpose use funds appropriated to carry out such provisions. The findings of the evaluators shall be utilized in the planning process under subsection (a) for the purpose of improving the programs. The evaluations shall determine the degree to which the program is being conducted consistent with the program plan and meeting its goals and objectives. The Secretary shall submit to the appropriate committees of the Congress the results of the evaluations required by this subsection.

"(e) The Secretary shall report on the program plans required in subsection (a) and findings from the evaluations under subsection (d) in the annual report to the Congress required under section 618.

"(f) The Secretary shall develop effective procedures for acquiring and disseminating information derived from programs and projects funded under parts C through G, as well as information generated from studies conducted and data collected under section 618.

"(g) The Secretary shall, where appropriate, require recipients of all grants, contracts, and cooperative agreements under parts C through G to prepare reports describing their procedures, findings, and other relevant information in a form that will maximize the dissemination and use of such procedures, findings, and information. The Secretary shall require their delivery, as appropriate, to the Regional and Federal Resource Centers, the Clearinghouses, and the Technical Assistance to Parents Programs (TAPP) assisted under parts C and D, as well as the National Diffusion Network, the ERIC Clearinghouse on the Handicapped and Gifted, and the Child and Adolescent Service Systems Program (CASSP) under the National Institute of Mental Health, appropriate parent and professional organizations, organizations representing individuals with disabilities, and such other networks as the Secretary may determine to be appropriate.

"(h)(1) The Secretary shall convene, in accordance with paragraph (2), panels of experts who are competent, by virtue of their training or experience, to evaluate proposals under section 618 and parts C through G.

"(2) Panels under paragraph (1) shall be composed of individuals with disabilities, parents of such individuals, individuals from the fields of special education, related services, and other relevant disciplines.

"(3) The Secretary shall convene panels under paragraph (1) for any application that includes a total funding request exceeding $60,000 and may convene or otherwise appoint panels for applications that include funding requests that are less than such amount.

"(4) Panels under paragraph (1) shall include a majority of non-Federal members. Such non-Federal members shall be provided travel and per diem not to exceed the rate provided to other educational consultants used by the Department of Education and shall be provided consultant fees at such a rate.

"(5) The Secretary may use funds available under section 618 and parts C through G to pay expenses and fees of non-Federal members of the panels.

"(i) The Secretary shall conduct at least 1 site visit for each grant, contract, and cooperative agreement receiving $300,000 or more annually under parts C through G.

"(j)(1) With respect to the discretionary programs authorized by parts C through G, the Congress finds as follows:

"(A)(i) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

"(ii) America's racial profile is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Hispanics, 14.6 percent for African-Americans, and 40.1 percent for Asians and other ethnic groups.

"(iii) By the year 2000, this Nation will have 260,000,000 people, one of every three of whom will be either African-American, Hispanic, or Asian-American.

"(iv) Taken together as a group, it is a more frequent phenomenon for minorities to comprise the majority of public school students. Large city school populations are overwhelmingly minority, e.g., Miami, 71 percent; Philadelphia, 73 percent; Baltimore, 80 percent.

"(v) Recruitment efforts within special education at the level of preservice, continuing education, and practice must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of special education.

"(vi) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation. In the Nation's 2 largest school districts, limited-English students make up almost half of all students initially entering school at the kindergarten level. Studies have documented apparent discrepancies in the levels of referral and placement of limited-English proficient children in special education. The Department of Education has found that services provided to limited-English proficient students often do not respond primarily to the pupil's academic needs. These trends pose special challenges for special education in the referral, assessment, and services for our Nation's students from non-English language backgrounds.

"(B)(i) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

"(ii) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

"(iii) Poor African-American children are 3.5 times more likely to be identified by their teacher as mentally retarded than their white counterpart.

"(iv) Although African-Americans represent 12 percent of elementary and secondary enrollments, they constitute 28 percent of total enrollments in special education.

"(v) The drop out rate is 68 percent higher for minorities than for whites.

"(vi) More than 50 percent of minority students in large cities drop out of school.

"(C)(i) The opportunity for full participation in awards for grants and contracts; boards of organizations receiving funds under this Act; and peer review panels; and training of professionals in the area of special education by minority individuals, organizations, and historically Black colleges and universities is essential if we are to obtain greater success in the education of minority children with disabilities.

"(ii) In 1989, of the 661,000 college and university professors, 4.6 percent were African-American and 3.1 percent were Hispanic. Of the 3,600,000 teachers, prekindergarten through high school, 9.4 percent were African-American and 3.9 percent were Hispanic.

"(iii) Students from minority groups comprise more than 50 percent of K–12 public school enrollment in seven States yet minority enrollment in teacher training programs is less than 15 percent in all but six States.

"(iv) As the number of African-American and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease.

"(v) Ten years ago, 12.5 percent of the United States teaching force in public elementary and secondary schools were members of a minority group. Minorities comprised 21.3 percent of the national population at that time and were clearly underrepresented then among employed teachers. Today, the elementary and secondary teaching force is 3 to 5 percent minority, while one-third of the students in public schools are minority children.

"(vi) As recently as 1984–85, Historically Black Colleges and Universities (HBCUs) supplied nearly half of the African-American teachers in the Nation. However, in 1988, HBCUs received only 2 percent of the discretionary funds for special education and related services personnel training.

"(vii) While African-American students constitute 28 percent of total enrollment in special education, only 11.2 percent of individuals enrolled in preservice training programs for special education are African-American.

"(viii) In 1986–87, of the degrees conferred in education at the B.A., M.A., and Ph.D levels, only 6, 8, and 8 percent, respectively, were awarded to African-American or Hispanic students.

"(D) Minorities and underserved persons are socially disadvantaged because of the lack of opportunities in training and educational programs, undergirded by the practices in the private sector that impede their full participation in the mainstream of society.

"(2) The Congress further finds that these conditions can be greatly improved by providing opportunities for the full participation of minorities through the implementation of the following recommendations:

"(A) Implementation of a policy to mobilize the Nation's resources to prepare minorities for careers in special education and related services.

"(B) This policy should focus on—

"(i) the recruitment of minorities into teaching; and

"(ii) financially assisting HBCUs and other institutions of higher education (whose minority student enrollment is at least 25 percent) to prepare students for special education and related service careers.

"(C)(i) The Secretary shall develop a plan for providing outreach services to the entities described in clause (ii) in order to increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under any of parts C through G.

"(ii) The entities referred to in clause (i) are—

"(I) Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 25 percent;

"(II) eligible institutions as defined in section 312 of the Higher Education Act of 1965;

"(III) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

"(IV) underrepresented populations.

"(iii) For the purpose of implementing the plan required in clause (i), the Secretary shall, for each of the fiscal years 1991 through 1994, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out parts C through G.

"(3) The Secretary shall exercise his/her utmost authority, resourcefulness, and diligence to meet the requirements of this subsection.

"(4) Not later than January 31 of each year, starting with fiscal year 1991, the Secretary shall submit to Congress a final report on the progress toward meeting the goals of this subsection during the preceding fiscal year. The report shall include—

"(i) a full explanation of any progress toward meeting the goals of this subsection; and

"(ii) a plan to meet the goals, if necessary.".

TITLE II—ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED INDIVIDUALS

SEC. 201. SETTLEMENTS AND ALLOCATIONS.

Section 611(f) (20 U.S.C. 1411(f)) is amended—

(1) in paragraph (1), in the first sentence, by inserting "(A)" after "reservations" and by inserting before the period the following: ", and (B) for whom services were provided through contract with an Indian tribe or organization prior to fiscal year 1989"; and

(2) by adding at the end the following new paragraph:

"(3) Before March 1, 1991, the Secretary of the Interior shall submit to the appropriate Committees of the Congress a plan for the provision of services under this Act to all children with disabilities residing on reservations, whether or not such reservation is served by a B.I.A. funded school. Such plan shall provide for the coordination of services benefiting these children from whatever source, including Tribes, the State in which the child resides and entities of such State, the Indian Health Service, other B.I.A. divisions and other Federal agencies. In developing such a plan, the Secretary shall consult with all interested and involved parties. Such a plan may not be based upon a blanket assumption or interpretation that denies Federal or Interior responsibility for any group or class of children or settings, but shall be based upon the needs of the children and the system best suited for meeting those needs, and may involve the establishment of service agreements between the B.I.A. and other entities.".

SEC. 202. STATE PLANS.

Section 613(a)(3) (20 U.S.C. 1413(a)(3)) is amended to read as follows:

"(3) describe, consistent with the purposes of this Act, a comprehensive system of personnel development that shall include—

"(A) a description of the procedures and activities the State will undertake to ensure an adequate supply of qualified special education and related services personnel, including—

"(i) the development and maintenance of a system for determining, on an annual basis—

"(I) the number and type of personnel, including leadership personnel, that are employed in the provision of special education and related services, by area of specialization, including the number of such personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure; and

"(II) the number and type of personnel, including leadership personnel, needed, and a projection of the numbers of such personnel that will be needed in five years, based on projections of individuals to be served, retirement and other leaving of personnel from the field, and other relevant factors;

"(ii) the development and maintenance of a system for determining, on an annual basis, the institutions of higher education within the State that are preparing special education and related services personnel, including leadership personnel, by area of specialization, including—

"(I) the numbers of students enrolled in such programs, and

"(II) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year; and

"(iii) the development, updating, and implementation of a plan that—

"(I) will address current and projected special education and related services personnel needs, including the need for leadership personnel; and

"(II) coordinates and facilitates efforts among State and local educational agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel with disabilities; and

"(B) a description of the procedures and activities the State will undertake to ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, including—

"(i) a system for the continuing education of regular and special education and related services personnel;

"(ii) procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources; and

"(iii) procedures for adopting, where appropriate, promising practices, materials, and technology.".

SEC. 203. EVALUATION.

Section 618 is amended to read as follows:

"EVALUATION AND PROGRAM INFORMATION

"SEC. 618. (a) The Secretary shall, directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, analyses, and evaluations—

"(1) to assess progress in the implementation of this Act;

"(2) to assess the impact and effectiveness of State and local efforts, and efforts by the Secretary of the Interior, to provide—

"(A) free appropriate public education to children and youth with disabilities; and

"(B) early intervention services to infants and toddlers with disabilities; and

"(3) to provide—

"(A) Congress with information relevant to policymaking; and

"(B) State, local, and Federal agencies, including the Department of the Interior, with information relevant to program management, administration, delivery, and effectiveness with respect to such education and early intervention services.

"(b)(1) In carrying out subsection (a), the Secretary, on at least an annual basis (except as provided in subparagraph (E)), shall obtain data concerning programs and projects assisted under this Act and under other Federal laws relating to infants, toddlers, children, and youth with disabilities, and such additional information, from State and local educational agencies, the Secretary of the Interior, and other appropriate sources, including designated lead agencies under part H (except that during fiscal year 1992 such entities may not under this subsection be required to provide data regarding traumatic brain injury or autism), including—

"(A) the number of infants, toddlers, children, and youth with disabilities in each State receiving a free appropriate public education or early intervention services—

"(i) in age groups 0–2 and 3–5, and

"(ii) in age groups 6–11, 12–17, and 18–21, by disability category;

"(B) the number of children and youth with disabilities in each State, by disability category, who—

(i) are participating in regular educational programs (consistent with the requirements of section 612(5)(B) and 614(a)(1)(C)(iv));

(ii) are in separate classes, separate schools or facilities, or public or private residential facilities; or

(iii) have been otherwise removed from the regular education environment;

"(C) the number of children and youth with disabilities exiting the educational system each year through program completion or otherwise, by disability category, for each year of age from age 14 through 21;

"(D) the number and type of personnel that are employed in the provision of—

"(i) special education and related services to children and youth with disabilities, by disability category served; and

"(ii) early intervention services to infants and toddlers with disabilities; and

"(E) at least every three years, using the data collection method the Secretary finds most appropriate, a description of the services expected to be needed, by disability category, for youth with disabilities in age groups 12–17 and 18–21 who have left the educational system.

"(2) Beginning with fiscal year 1993, the Secretary shall obtain and report data from the States under section 613(a)(3)(A), including data addressing current and projected special education and related services needs, and data on the number of personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure, and other data for the purpose of meeting the requirements of this subsection pertaining to special education and related services personnel.

"(3) The Secretary shall provide, directly or by grant, contract, or cooperative agreement, technical assistance to State agencies providing the data described in paragraphs

(1) and (2) to achieve accurate and comparable information.

"(c)(1) The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, public agencies, and private nonprofit organizations, and, when necessary because of the unique nature of the study, private-for-profit organizations, for the purpose of conducting studies, analyses, syntheses, and investigations for improving program management, administration, delivery, and effectiveness necessary to provide full educational opportunities and early interventions for all children with disabilities from birth through age 21. Such studies and investigations shall gather information necessary for program and system improvements including—

"(A) developing effective, appropriate criteria and procedures to identify, evaluate, and serve infants, toddlers, children, and youth with disabilities from minority backgrounds for purposes of program eligibility, program planning, delivery of services, program placement, and parental involvement;

"(B) planning and developing effective early intervention services, special education, and related services to meet the complex and changing needs of infants, toddlers, children, and youth with disabilities;

"(C) developing and implementing a comprehensive system of personnel development needed to provide qualified personnel in sufficient number to deliver special education, related services, and early intervention services;

"(D) developing the capacity to implement practices having the potential to integrate children with disabilities, to the maximum extent appropriate, with children who are not disabled;

"(E) effectively allocating and using human and fiscal resources for providing early intervention, special education, and related services;

"(F) strengthening programs and services to improve the progress of children and youth with disabilities while in special education, and to effect a successful transition when such children and youth leave special education;

"(G) achieving interagency coordination to maximize resource utilization and continuity in services provided to infants, toddlers, children, and youth with disabilities;

"(H) strengthening parent-school communication and coordination to improve the effectiveness of planning and delivery of interventions and instruction, thereby enhancing development and educational progress; and

"(I) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice.

"(2)(A) The studies and investigations authorized under this subsection may be conducted through surveys, interviews, case studies, program implementation studies, secondary data analyses and syntheses, and other appropriate methodologies.

"(B) The studies and investigations conducted under this subsection shall address the information needs of State and local educational agencies for improving program management, administration, delivery, and effectiveness.

"(3) The Secretary shall develop and implement a process for the on-going identification of national program information needed for improving the management, administration, delivery, and effectiveness of programs and services provided under this Act. The process shall identify implementation issues, desired improvements, and information needed by State and local agencies to achieve such improvements, and shall be conducted in cooperation with State educational agencies that can ensure broad-based statewide input from each cooperating State. The Secretary shall publish for public comment in the Federal Register every 3 years a program information plan describing such information needs. Such program information plan shall be used to determine the priorities for, and activities carried out under, this subsection to produce, organize, and increase utilization of program information. Such program information plan shall be included in the annual report submitted under section 618 every 3 years.

"(4) In providing funds under this subsection, the Secretary shall require recipients to prepare their procedures, findings, and other relevant information in a form that will maximize their dissemination and use, especially through dissemination networks and mechanisms authorized by this Act, and in a form for inclusion in the annual report to Congress authorized under subsection (g).

"(d)(1) The Secretary shall enter into cooperative agreements with State educational agencies and other State agencies to carry out studies to assess the impact and effectiveness of programs, policies, and procedures assisted under this Act.

"(2) The agreements referred to in paragraph (1) shall—

"(A) provide for the payment of not more than 60 percent of the total cost of studies conducted by a participating State agency to assess the impact and effectiveness of this Act; and

"(B) be developed in consultation with the State Advisory Panel established under section 613(a)(12), local educational agencies, and others involved in, or concerned with, the education of children and youth with disabilities and the provision of early intervention services to infants and toddlers with disabilities.

"(3) The Secretary shall provide technical assistance to participating State agencies in the implementation of the study design, analysis, and reporting procedures.

"(e)(1) The Secretary shall by grant, contract, or cooperative agreement, provide for special studies to assess progress in the implementation of this Act, and to assess the impact and effectiveness of State and local efforts and efforts by the Secretary of the Interior to provide free appropriate public education to children and youth with disabilities, and early intervention services to infants and toddlers with disabilities. Reports from such studies shall include recommendations for improving programs and services to such individuals. The Secretary shall, beginning in fiscal year 1993 and for every third year thereafter, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed priorities for review and comment.

"(2) In selecting priorities for fiscal years 1991 through 1994, the Secretary may give first consideration to—

"(A) completing a longitudinal study of a sample of students with disabilities, examining—

"(i) the full range of disabling conditions;

"(ii) the educational progress of students with disabilities while in special education; and

"(iii) the occupational, educational, and independent living status of students with disabilities after graduating from secondary school or otherwise leaving special education.

"(B) conducting pursuant to this subsection a nationally representative study focusing on the types, number, and intensity of related services provided to children with disabilities by disability category.

"(C) conducting pursuant to this subsection a study that examines the degree of disparity among States with regard to the placement in various educational settings of children and youth with similar disabilities, especially those with mental retardation, and, to the extent that such disparity exists, the factors that lead such children and youth to be educated in significantly different educational settings.

"(D) conducting pursuant to this subsection a study that examines the factors that have contributed to the decline in the number of children classified as mentally retarded since the implementation of this Act, and examines the current disparity among States in the percentage of children so classified.

"(E) conducting pursuant to this subsection a study that examines the extent to which out-of-community residential programs are used for children and youth who are seriously emotionally disturbed, the factors that influence the selection of such placements, the degree to which such individuals transition back to education programs in their communities, and the factors that facilitate or impede such transition.

"(F) conducting pursuant to this subsection a study that examines (i) the factors that influence the referral and placement decisions and types of placements, by disability category and English language proficiency, of minority children relative to other children, (ii) the extent to which these children are placed in regular education environments, (iii) the extent to which the parents of these children are involved in placement decisions and in the development and implementation of the individualized education program and the results of such participation, and (iv) the type of support provided to parents of these children that enable these parents to understand and participate in the educational process.

"(f) The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, other public agencies, and private nonprofit organizations to support activities that organize, synthesize, interpret, and integrate information obtained under subsections (c) and (e) with relevant knowledge obtained from other sources. Such activities shall include the selection and design of content, formats, and means for communicating such information effectively to specific or general audiences, in order to promote the use of such information in improving program administration and management, and service delivery and effectiveness.

"(g)(1)(A) The Secretary is authorized to conduct activities, directly or by grant, contract, or cooperative agreement, to prepare an annual report on the progress being made toward the provision of—

"(i) a free appropriate public education to all children and youth with disabilities; and

"(ii) early intervention services for infants and toddlers with disabilities.

"(B) Not later than 120 days after the close of each fiscal year, the Secretary shall transmit a copy of the report authorized under subparagraph (A) to the appropriate committees of each House of Congress. The

annual report shall be published and disseminated in sufficient quantities to the education and disability communities and to other interested parties.

"(2) The Secretary shall include in each annual report under paragraph (1)—

"(A) a compilation and analysis of data gathered under subsection (b) and under part H; and

"(B) a description of findings and determinations resulting from monitoring reviews of State implementation of this part.

"(3) In the annual report under paragraph (1) for fiscal year 1991 (which is published in 1992) and for every third year thereafter, the Secretary shall include in the annual report—

"(A) an index of all current projects funded under parts C through G; and

"(B) data reported under sections 622 and 634.

"(4) The Secretary shall include in each annual report under paragraph (1) the results of research and related activities conducted under part E that the Secretary determines are relevant to the effective implementation of this Act.

"(5) The Secretary shall, in consultation with the National Council on Disability and the Bureau of Indian Affairs Advisory Committee for Exceptional Children, include a description of the status of early intervention services for infants and toddlers with disabilities from birth through age 2, and special education and related services to children with disabilities from 3 through 5 years of age (including those receiving services through Head Start, developmental disabilities programs, crippled children's services, mental health/mental retardation agencies, and State child-development centers and private agencies under contract with local schools).

"(h) There are authorized to be appropriated $12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 through 1994 to carry out the purposes of this section and not more than 30 percent may be used to carry out the purposes of subsection (e) of this section.".

TITLE III—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF HANDICAPPED INDIVIDUALS

SEC. 301. REGIONAL RESOURCE AND FEDERAL CENTERS.

(a) AMENDMENTS TO SUBSECTION (a).—Section 621(a) (20 U.S.C. 1421(a)) is amended—

(1) in the first sentence, by striking "regional resource centers." and inserting the following: "regional resource centers that focus on special education and related services and early intervention services.";

(2) in the second sentence—

(A) by striking "training to State" and inserting "training, as requested, to State"; and

(B) by inserting after "agencies providing" the following: "special education and related services and";

(3) in the third sentence, by striking "center" the second place such term appears and all that follows and inserting "center."; and

(4) in paragraph (3), by striking "relevant projects conducted by" and inserting "relevant programs and projects conducted under parts C through G and by".

(b) AMENDMENTS TO SUBSECTION (b).—Section 621(b) (20 U.S.C. 1421(b)) is amended by striking "shall consider" and inserting "shall utilize criteria for setting criteria that are consistent with the needs identified by States within the region served by such center, consistent with requirements established by the Secretary under subsection (f), and, to the extent appropriate, consistent with requirements under section 610, and shall consider".

(c) AMENDMENTS TO SUBSECTION (d).—Section 621(d) (20 U.S.C. 1421(d)) is amended by inserting at the end thereof the following new sentence: "Such coordinating technical assistance center is authorized to—

"(1) provide information to, and training for, agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this part and parts D through G, and shall make such information available to the regional resource centers on request;

"(2) give priority to providing technical assistance concerning the education of children with disabilities from minority backgrounds;

"(3) exchange information with, and, where appropriate, cooperate with, other centers addressing the needs of children with disabilities from minority backgrounds; and

"(4) provide assistance to State educational agencies, through the regional resource centers, for the training of hearing officers.".

(d) NEW SUBSECTION.—Section 621 (20 U.S.C. 1421) is amended by adding at the end the following new subsection:

"(f)(1) The Secretary shall develop guidelines and criteria for the operation of Regional and Federal Resource Centers. In developing such criteria and guidelines, the Secretary shall establish a panel representing the Office of Special Education Programs staff, State special education directors, representatives of disability advocates, and, when appropriate, consult with the regional resource center directors.

"(2) Such guidelines and criteria shall include—

"(A) a description of how the Federal and Regional Resource Centers Program will be administered by the Secretary;

"(B) a description of the geographic region each Center is expected to serve;

"(C) a description of the role of a Center in terms of expected leadership and dissemination efforts;

"(D) a description of expected relationships with State agencies, research and demonstration centers, and with other entities deemed necessary;

"(E) a description of how a Center will be evaluated; and

"(F) other guidelines and criteria deemed necessary.

"(3) The Secretary shall publish in the Federal Register by July 1, 1991, for review and comment, proposed and (then following such review and comment) final guidelines developed by the panel.".

SEC. 302. SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH.

(a) AMENDMENTS TO SUBSECTION (a).—Section 622(a) (20 U.S.C. 1422(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting "local educational agencies, and designated lead agencies under part H" after "State educational agencies";

(B) in subparagraph (A) by—

(i) inserting "infants, toddlers," before "children and youth"; and

(ii) striking "special education and related services" and inserting in lieu thereof "special education, early intervention, and related services";

(C) in subparagraph (B), by amending such subparagraph to read as follows:

"(B) make available to deaf-blind youth (who are in the process of transitioning into adult services) programs, services, and supports to facilitate such transition, including assistance related to independent living and competitive employment.";

(2) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) For purposes of this section, the term 'deaf-blind', with respect to children and youth, means having auditory and visual impairments, the combination of which creates such severe communication and other developmental and learning needs that they cannot be appropriately educated in special education programs solely for children and youth with hearing impairments, visual impairments, or severe disabilities, without supplementary assistance to address their educational needs due to these dual, concurrent disabilities.";

(3) by amending paragraph (3) (as redesignated by paragraph (2) of this subsection) to read as follows:

"(3)(A) A grant, cooperative agreement, or contract may be made under paragraph (1)(A) only for programs providing—

"(i) technical assistance to agencies, institutions, or organizations providing educational or early intervention services to deaf-blind infants, toddlers, children, or youth;

"(ii) preservice or inservice training to paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind infants, toddlers, children, or youth;

"(iii) replication of successful innovative approaches to providing educational, early intervention, or related services to deaf-blind infants, toddlers, children, and youth;

"(iv) pilot projects that are designed to—

"(I) expand local educational agency capabilities by providing services to deaf-blind children and youth that supplement services already provided to children and youth through State and local resources; and

"(II) encourage eventual assumption of funding responsibility by State and local authorities;

"(v) the development, improvement, or demonstration of new or existing methods, approaches, or techniques that contribute to the adjustment and education of deaf-blind infants, toddlers, children, and youth; or

"(vi) facilitation of parental involvement in the education of their deaf-blind infants, toddlers, children, and youth.

"(B) The programs described in subparagraph (A) may include—

"(i) the diagnosis and educational evaluation of infants, toddlers, children, and youth who are likely to be diagnosed as deaf-blind;

"(ii) programs of adjustment, education, and orientation for deaf-blind infants, toddlers, children, and youth; and

"(iii) consultative, counseling, and training services for the families of deaf-blind infants, toddlers, children, and youth.";

(4) in paragraph (4) (as so redesignated)—

(A) in subparagraph (A), (i) by striking "organizations serving, or proposing to serve," and inserting the following: "organizations that are preparing deaf-blind adolescents for adult placements, or that are preparing to receive deaf-blind young adults into adult living and work environments, or that serve, or propose to serve,", and (ii) by striking "who have attained age twenty-two years"; and

(B) in subparagraph (C), by inserting "supervised," after "rehabilitative,";

(5) in paragraph (5) (as so redesignated), by amending such paragraph to read as follows:

"(5) In carrying out this subsection, the Secretary is authorized to enter into a number of grants or cooperative agreements to establish and support single and multi-State centers for the provision of technical assistance and pilot supplementary services, for the purposes of program development and expansion, for children and youth with deaf-blindness and their families.".

(b) AMENDMENTS TO SUBSECTION (c).—Section 622(c)(1) (20 U.S.C. 1422(c)(1)) is amended—

(1) in clause (A), by inserting "sex," after "severity,";

(2) in clause (C), by inserting before the period the following: "and the setting in which the services are provided"; and

(3)(A) by striking "and" at the end of clause (B);

(B) by striking the period at the end of clause (C) and inserting "; and"; and

(C) by adding at the end the following new clause: "(D) student outcomes, where appropriate.".

(c) AMENDMENTS TO SUBSECTION (d).—Section 622(d) (20 U.S.C. 1422(d)) is amended to read as follows:

"(d) The Secretary shall make a grant, or enter into a contract or cooperative agreement, for a national clearinghouse for children and youth with deaf-blindness—

"(1) to identify, coordinate, and disseminate information on deaf-blindness, emphasizing information concerning effective practices in working with deaf-blind infants, toddlers, children, and youth;

"(2) to interact with educators, professional groups, and parents to identify areas for programming, materials development, training, and expansion of specific services;

"(3) to maintain a computerized data base on local, regional, and national resources; and

"(4) to respond to information requests from professionals, parents, and members of the community.".

(d) AMENDMENTS TO SUBSECTION (e).—Section 622(e) (20 U.S.C. 1422(e)) is amended to read as follows:

"(e) In carrying out this section, the Secretary shall take into consideration the availability and quality of existing services for deaf-blind infants, toddlers, children, and youth in the country, and, to the extent practicable, ensure that all parts of the country have an opportunity to receive assistance under this section.";

(e) AMENDMENTS TO SUBSECTION (f).—Section 622(f) (20 U.S.C. 1422(f)) is amended by striking "with," and all that follows and inserting the following: "with organizations or public or nonprofit private agencies, as determined by the Secretary to be appropriate, to address the needs of children and youth with deaf-blindness, for—

"(1) research to identify and meet the full range of special needs of such children and youth; and

"(2) the development and demonstration of new, or improvements in existing methods, approaches, or techniques that would contribute to the adjustment and education of children and youth with deaf-blindness.".

SEC. 303. EARLY EDUCATION FOR HANDICAPPED CHILDREN.

(a) AMENDMENTS TO SUBSECTION (a).—Section 623(a)(1) (20 U.S.C. 1423(a)(1)) is amended—

(1) in the matter preceding subparagraph (A), in the first sentence, by striking "problems of such children." and inserting "needs of these children.";

(2) in subparagraph (A), by inserting "or other communication mode and" after "speech"; and

(3) in subparagraph (B), by inserting before "encourage" the following: "provide family education and include a parent or their representative of such child, as well as";

(4) in subparagraph (C), by striking "problems" and inserting "special needs";

(5) in subparagraph (D)—

(A) by inserting after "practices" the following: ", including interdisciplinary models and practices,"; and

(B) by inserting before the comma the following: "and to the parents of such children";

(6) in subparagraph (E), by inserting before the period the following: ", including the involvement of adult role models with disabilities at all levels of the program"; and

(7) by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a comma, and by adding after subparagraph (E) the following:

"(F) facilitate and improve the early identification of infants and toddlers with disabilities or those infants and toddlers at risk of having developmental disabilities,

"(G) facilitate the transition of infants with disabilities or infants at risk of having developmental delays, from medical care to early intervention services, and the transition from early intervention services to preschool special education or regular education services (especially where the lead agency for early intervention programs under part H is not the State educational agency),

"(H) promote the use of assistive technology devices and assistive technology services, where appropriate, to enhance the development of infants and toddlers with disabilities, and

"(I) increase the understanding of, and address, the early intervention and preschool needs of children exposed prenatally to maternal substance abuse.".

(b) AMENDMENTS TO SUBSECTION (b).—Section 623(b) (20 U.S.C. 1423(b)) is amended by adding at the end the following: "This technical assistance development system shall provide assistance to parents of and advocates for infants, toddlers, and children with disabilities, as well as direct service and administrative personnel involved with such children. Information from the system should be aggressively disseminated through established information networks and other mechanisms to ensure both an impact and benefits at the community level. The Secretary shall ensure that the technical assistance provided under this subsection includes assistance to part H State agencies on procedures for use by primary referral sources in referring a child to the appropriate agency within the system for evaluation, assessment, or service.".

(c) AMENDMENTS TO SUBSECTION (c).—Section 623(c) (20 U.S.C. 1423(c)) is amended by adding at the end the following: "Such institutes shall disseminate this information in the manner prescribed in section 610(g).".

(d) AMENDMENTS TO SUBSECTION (d).—Section 623(d) (20 U.S.C. 1423(d)) is amended by inserting before the period the following: ", including programs to integrate children with disabilities into regular preschool programs".

(e) AMENDMENTS TO SUBSECTION (f).—Section 623(f) (20 U.S.C. 1423(f)) is amended by inserting before the period the following: ", including infants and toddlers with disabilities".

(f) NEW SUBSECTION (g).—Section 623 (20 U.S.C. 1423) is amended by adding at the end the following:

"(g) The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit private organizations to synthesize the knowledge developed under this section and organize, integrate, and present such knowledge so it can be incorporated and imparted to parents, professionals, and others providing or preparing to provide preschool or early intervention services and to persons designing preschool or early intervention programs.".

SEC. 304. PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN.

(a) AMENDMENT TO SECTION HEADING.—The heading for section 624 (20 U.S.C. 1424) is amended to read as follows:

"PROGRAMS FOR CHILDREN WITH SEVERE DISABILITIES".

(b) AMENDMENTS TO SUBSECTION (a).—Section 624(a) (20 U.S.C. 1424(a)) is amended—

(1) in the matter preceding paragraph (1), by amending such matter to read as follows: "The Secretary may make grants to, or enter into contracts or cooperative agreements with, appropriate public agencies and nonprofit organizations to address the special education, related services, early intervention, and integration needs of infants, toddlers, children, and youth with severe disabilities through—";

(2) in paragraph (1), (A) by inserting after "special needs" the following: ", including transportation to and from school", and (B) by inserting "education, related services, and early intervention" after "special";

(3) in paragraph (3), (A) by inserting "special and regular education, related services, and early intervention" before "personnel", (B) by inserting "infants, toddlers," after "such", and (C) by striking "youth, and" and inserting the following: "youth, including training of regular teachers, instructors, and administrators in strategies (the goal of which is to serve infants, toddlers, children, and youth with disabilities) that include integrated settings for educating such children along side their nondisabled peers,";

(4) in paragraph (4), by striking "children and youth." and inserting the following: "children and youth by utilizing existing networks as prescribed in section 610(g) and"; and

(5) by adding at the end the following new paragraph:

"(5) statewide projects, in conjunction with the State's plan under part B, to improve the quality of special education and related services for children and youth with severe disabilities, and to change the delivery of those services from segregated to integrated environments.".

(b) NEW SUBSECTION.—Section 624 (20 U.S.C. 1424) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public or private nonprofit private agencies, institutions, or organizations for the development and operation of extended school year demonstration programs for infants, toddlers, children, and youth with severe disabilities.".

(c) FURTHER NEW SUBSECTION.—Section 624, as amended by subsection (b) of this section, is amended by adding at the end the following new subsection:

"(e) In awarding such grants and contracts under this section, the Secretary shall include a priority on programs that increase the likelihood that these children and youth will be educated with their nondisabled peers.".

SEC. 305. POSTSECONDARY EDUCATION.

(a) AMENDMENTS TO SUBSECTION (a).—Section 625(a) (20 U.S.C. 1424a(a)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "Such model programs may include joint projects that coordinate with special education and transition services.";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) for outreach activities that include the provision of technical assistance to strengthen efforts in the development, operation, and design of model programs that are adapted to the special needs of individuals with disabilities."; and

(3) in paragraph (6), by striking "$2,000,000" and inserting "$4,000,000".

(b) AMENDMENTS TO SUBSECTION (b).—Section 625(b) (20 U.S.C. 1424a(b)) is amended to read as follows:

"(b) For purposes of subsection (a), the term 'individuals with disabilities' means individuals—

"(1) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

"(2) who, by reason thereof, need special education and related services.".

SEC. 306. SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR YOUTH WITH DISABILITIES.

(a) AMENDMENTS TO SUBSECTION (a).—Section 626(a)(1) (20 U.S.C. 1425(a)(1)) is amended by inserting "independent and community living," after "continuing education,".

(b) AMENDMENTS TO SUBSECTION (b).—Section 626(b) (20 U.S.C. 1425(b)) is amended—

(1) in paragraph (2), by inserting "independent living," after "training,";

(2) in paragraph (8), by striking "handicapped youth" and all that follows and inserting the following: "some youth with disabilities remain to complete school programs while others drop out,";

(3) in paragraph (9), by striking "developing" and all that follows through "techniques" and inserting "developing curriculum and instructional techniques in special education and related services";

(4) in paragraph (10)—

(A) by inserting "or adapted" after "specially designed"; and

(B) by striking "to increase" and all that follows and inserting the following: "to facilitate the full participation of youths with disabilities in community programs."; and

(5) by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting in lieu thereof ", and", and by adding after paragraph (10) the following:

"(11) developing and disseminating exemplary programs and practices that meet the unique needs of students who utilize assistive technology devices and assistive technology services as such students make the transition to postsecondary education, vocational training, competitive employment (including supported employment), and continuing education or adult services.".

(c) AMENDMENTS TO SUBSECTION (d).—Section 626(d)(3) (20 U.S.C. 1425(d)(3)) is amended by striking "to the extent appropriate,".

(d) NEW SUBSECTION (e).—Section 626 (20 U.S.C. 1425) is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

"(e)(1) The Secretary shall make one-time, 5-year grants, on a competitive basis, to States in which the State vocational rehabilitation agency and State educational agency submit a joint application to develop, implement, and improve systems to provide transition services for youth with disabilities from age 14 through the age they exit school.

"(2) In the case of a State whose vocational rehabilitation agency does not participate regarding a joint application described in paragraph (1), the Secretary may make a grant under such paragraph to the State if a joint application for the grant is submitted by the State educational agency and one other State agency that provides transition services to individuals who are leaving programs under this Act.

"(3) States that receive grants shall use grant funds to:

"(A) Increase the availability, access, and quality of transition assistance through the development and improvement of policies, procedures, systems, and other mechanisms for youth with disabilities and their families as such youth prepare for and enter adult life.

"(B) Improve the ability of professionals, parents, and advocates to work with such youth in ways that promote the understanding of and the capability to successfully make the transition from 'student' to 'adult'.

"(C) Improve working relationships among education personnel, both within LEAs and in postsecondary training programs, relevant State agencies, the private sector (especially employers), rehabilitation personnel, local and State employment agencies, local Private Industry Councils (PICS) authorized by the Job Training Partnership Act (JTPA), and families of students with disabilities and their advocates to identify and achieve consensus on the general nature and specific application of transition services to meet the needs of youth with disabilities.

"(D) Create an incentive for accessing and using the expertise and resources of programs, projects, and activities related to transition funded through this section and with other sources.

"(4)(A) In order to receive funding under this subsection, a State vocational rehabilitation agency and State educational agency shall describe in their application how they will use the first year, if necessary, to plan how to implement transition services, the second through fourth years to develop and implement transition services, and the fifth year to evaluate transition services. The application shall describe how the grant funds will be used during the planning period and phased out during the evaluation period to ensure the continuation of transition services. Such applications shall also include—

"(i) a description of the current availability, access, and quality of transition services for eligible youth and a description of how, over 5 years, the State will improve and expand the availability, access, and quality of transition services for youth with disabilities and their families as such youth prepare for and enter adult life;

"(ii) a description of how the State will improve and increase the ability of professionals, parents, and advocates to work with such youth in ways that promote the understanding of and the capability to successfully make the transition from 'student' to 'adult';

"(iii) a description of how the State will improve and increase working relationships among education personnel, both within LEAs and in postsecondary training programs, relevant State agencies, the private sector (especially employers), rehabilitation personnel, local and State employment agencies, local Private Industry Councils (PICS) authorized by the JTPA, and families of students with disabilities and their advocates to identify and achieve consensus on the general nature and specific application of transition services to meet the needs of youth with disabilities; and

"(iv) a description of how the State will use grant funds as an incentive for accessing and using the expertise and resources of programs, projects, and activities related to transition funded through this section and with other sources.

"(B) The Secretary shall give preference to those applications that, in addition to clearly addressing the requirements under subparagraph (A), describe how the State will—

"(i) target resources to school settings, such as providing access to rehabilitation counselors for students with disabilities who are in school settings;

"(ii) target a substantial amount of grant funds, received under this subsection, to case management, program evaluation and documentation of, and dissemination of information about, transition services;

"(iii) provide incentives for interagency and private sector resource pooling and otherwise investing in transition services, especially in the form of cooperative agreements, particularly with PICS authorized by the JTPA and local branches of State employment agencies;

"(iv) provide for early, ongoing information and training for those involved with or who could be involved with transition services—professionals, parents, youth with disabilities, including self-advocacy training for such youth, and advocates for such youth as well as PICS authorized by the JTPA and local branches of State employment agencies;

"(v) provide for the early and direct involvement of all relevant parties, including PICS authorized by the JTPA and local branches of State employment agencies, in operating and planning improvements in transition services, and the early and direct involvement of all relevant parties in planning and implementing transition services for individual youth;

"(vi) provide access to training for eligible youth that matches labor market needs in their communities;

"(vii) integrate transition services with relevant opportunities in communities, including those sponsored by PICS authorized by the JTPA and local employment agencies;

"(viii) use a transition services evaluation plan that is outcome oriented and that focuses on individual youth-focused benefits; and

"(ix) ensure that, when appropriate and no later than age 22, eligible youth who participate in transition services under this program would be served as appropriate in the State section 110 and/or title VI, part C

program authorized under the Rehabilitation Act of 1973.".

(e) AMENDMENTS TO FORMER SUBSECTION (e).—Section 626(f), as redesignated by subsection (d) of this section, is amended—

(1)(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end of paragraph (1) (as so designated) the following new sentence: "Such organizations and institutions shall disseminate such materials and information as prescribed under section 610(g).";

(2) by adding after paragraph (1) (as so designated) the following new paragraph:

"(2) The Secretary shall fund one or more demonstration models designed to establish appropriate methods of providing, or continuing to provide, assistive technology devices and services to secondary school students as they make the transition to vocational rehabilitation, employment, postsecondary education, or adult services. Such demonstration models shall include, as appropriate—

"(A) cooperative agreements with the Rehabilitation Services Administration and/or State vocational rehabilitation agencies that ensure continuity of funding for assistive technology devices and services to such students; and

"(B) methods for dissemination of exemplary practices that can be adapted or adopted by transitional programs for secondary school students with disabilities."; and

(3) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall award one, five-year cooperative agreement through a separate competition to an institution of higher education, or nonprofit public or private organization. The purpose of this agreement will be to evaluate and document the approaches and outcomes of the projects funded under subsection (e). The results of this agreement shall be disseminated through the appropriate clearinghouses, networks, and through direct communication with Federal, State, and local agencies.

"(B) The evaluation carried out pursuant to subparagraph (A) of transition services under subsection (e) shall include an evaluation of—

"(i) the outcomes of the transition services provided under such subsection, including the effect of the services regarding postsecondary education, job training, employment, and other appropriate matters;

"(ii) the impact of including in the individualized education program a statement of needed transition services (as required under section 602(a)(20)(D));

"(iii) the extent to which, in the provision of the transition services, agencies are cooperating effectively, including evaluation of the extent of coordination of the staff of the agencies, of procedures regarding confidentiality, assessment of needs, and referrals, and coordination regarding data bases and training;

"(iv) the extent to which obstacles exist regarding cooperation and coordination among agencies in the provision of the transition services, and the extent to which Federal law creates disincentives to such cooperation and coordination; and

"(v) the extent to which the transition services have been provided in a cost-effective manner.

"(C) The evaluation carried out pursuant to subparagraph (A) shall include recommendations on the manner in which the program under subsection (e) can be improved.

"(D) In the annual report required under section 618(g), the Secretary shall include a report of the activities and results associated with the agreement under subparagraph (A).".

(f) AMENDMENTS TO FORMER SUBSECTION (f)—Section 626(g), as redesignated by subsection (d) of this section, is amended by inserting before the period the following: ", the Job Training Partnership Act (JTPA), and the Carl D. Perkins Vocational and Applied Technology Education Act".

SEC. 307. PROGRAMS FOR CHILDREN AND YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE.

Section 627 (20 U.S.C. 1426) is amended to read as follows:

"PROGRAMS FOR CHILDREN AND YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE

"SEC. 627. (a) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, institutions of higher education, State and local educational agencies, and other appropriate public and private nonprofit institutions or agencies to establish projects for the purpose of improving special education and related services to children and youth with serious emotional disturbance. Such projects may include—

"(1) studies regarding the present state of special education and related services to such children and youth and their families, including information and data to enable assessments of the status of such services over time;

"(2) developing methodologies and curricula designed to improve special education and related services for these children and youth;

"(3) developing and demonstrating strategies and approaches to reduce the use of out-of-community residential programs and the increased use of school district-based programs (which may include day treatment programs, after-school programs, and summer programs);

"(4) developing the knowledge, skills, and strategies for effective collaboration among special education, regular education, related services, and other professionals and agencies; or

"(5) developing and demonstrating innovative approaches to assist and to prevent children with emotional and behavioral problems from developing serious emotional disturbances that require the provision of special education and related services.

"(b)(1) The Secretary is authorized to make grants, on a competitive basis, to local educational agencies in collaboration with mental health entities to provide services for children and youth with serious emotional disturbance. Such demonstration projects shall—

"(A) increase the availability, access, and quality of community services for such children and youth and their families;

"(B) improve working relationships among education, school, and community mental health and other relevant personnel, families of such children and youth, and their advocates;

"(C) target resources to school settings, such as providing access to school and/or community mental health professionals and other community resources for students with serious emotional disturbance who are in community school settings; and

"(D) take into account the needs of minority children and youth in all phases of project activity.

"(2) Funds received under this subsection may also be used to facilitate interagency and private sector resource pooling to improve services for such children and youth and to provide information and training for those involved with, or who could be involved with, such children and youth. "(c) Each project assisted under this section shall—

"(1) apply existing research outcomes from multi-disciplinary fields;

"(2) use a grant evaluation plan that is outcome-oriented and that focuses on the benefits to individual children and youth;

"(3) report on the effectiveness of such project; and

"(4) disseminate the findings of such project, where appropriate, in accordance with section 610(g).".

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

Section 628 (20 U.S.C. 1427) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 628. (a) There are authorized to be appropriated to carry out section 621 $8,525,000 for fiscal year 1991, $9,300,000 for fiscal year 1992, $10,140,000 for fiscal year 1993, and $11,052,000 for fiscal year 1994.

"(b) There are authorized to be appropriated to carry out section 622 $21,900,000 for fiscal year 1991, $24,100,000 for fiscal year 1992, $26,500,000 for fiscal year 1993, and $29,200,000 for fiscal year 1994.

"(c) There are authorized to be appropriated to carry out section 623 $31,400,000 for fiscal year 1991, $34,235,000 for fiscal year 1992, $37,325,000 for fiscal year 1993, and $40,705,000 for fiscal year 1994.

"(d) There are authorized to be appropriated to carry out section 624 $9,500,000 for fiscal year 1991, $10,500,000 for fiscal year 1992, $11,600,000 for fiscal year 1993, and $12,700,000 for fiscal year 1994.

"(e) There are authorized to be appropriated to carry out section 625 $9,470,000 for fiscal year 1991, $10,230,000 for fiscal year 1992, $11,050,000 for fiscal year 1993, and $11,930,000 for fiscal year 1994.

"(f) There are authorized to be appropriated to carry out section 626 (except subsection (e)) $9,800,000 for fiscal year 1991, $10,800,000 for fiscal year 1992, $11,900,000 for fiscal year 1993, and $13,050,000 for fiscal year 1994.

"(g) There are authorized to be appropriated to carry out section 626(e) $27,500,000 for fiscal year 1991, $30,250,000 for fiscal year 1992, $33,275,000 for fiscal year 1993, and $36,602,000 for fiscal year 1994.

"(h) There are authorized to be appropriated to carry out section 627 $6,500,000 for fiscal year 1991, $8,000,000 for fiscal year 1992, $9,500,000 for fiscal year 1993, and $11,500,000 for fiscal year 1994.".

TITLE IV—TRAINING PERSONNEL FOR THE EDUCATION OF HANDICAPPED INDIVIDUALS

SEC. 401. GRANTS FOR PERSONNEL TRAINING.

(a) AMENDMENTS TO SUBSECTION (a)(1).—Section 631(a)(1) (20 U.S.C. 1431(a)(1)) is amended—

(1) in subsection (a)(1), by striking "special education and early intervention" and inserting "special education, related services, and early intervention";

(2) in subparagraph (A), by striking "adaptive physical education" and inserting "adapted physical education and instructional and assistive technology services";

(3) in subparagraphs (B) through (D), by amending such subparagraphs to read as follows:

"(B) related services to children and youth with disabilities in educational settings, and other settings,

"(C) special education and other careers in preschool and early intervention services for infants and toddlers with disabilities,

"(D) special education leadership, including supervision and administration (at the advanced graduate, doctoral, and post-doctoral levels), special education research, and special education personnel preparation (at the doctoral and post-doctoral levels), and".

(b) FURTHER AMENDMENTS TO SUBSECTION (a).—Section 631(a) (20 U.S.C. 1431(a)) is amended—

(1) in paragraph (2)(A), (A) by striking "for the personnel" and inserting "for special education, related services, early intervention, and other personnel", and (B) after "shortages" inserting ", including the need for personnel in the provision of special education to children of limited English proficiency";

(2) in paragraph (2)(B), by inserting before the period the following: ", and that include in their applications a detailed description of strategies that will be utilized to recruit and train members of minority groups and persons with disabilities";

(3) in paragraph (3), by adding at the end the following new sentence: "Such institutions shall give priority consideration in the selection of qualified recipients of fellowships and traineeships to individuals from disadvantaged backgrounds, including minorities and individuals with disabilities who are underrepresented in the teaching profession or in the specializations in which they are being trained."

(c) NEW PARAGRAPHS IN SUBSECTION (a).—Section 631(a) (20 U.S.C. 1431(a)) is amended by adding at the end the following new paragraphs:

"(5) In making grants under subsection (a)(1), the Secretary may determine that a portion of training supported through such grants shall be conducted on an interdisciplinary basis, and shall be designed to assist special educators in properly coordinating service provision with related services personnel. To the extent feasible, training programs funded under subsection (a)(1)(B) and (a)(1)(E) shall require practica to demonstrate the delivery of related services in an array of regular and special education and community settings.

"(6) Nothing in this subsection shall be construed to prevent regular education or special education personnel from benefiting or participating in training activities conducted under this subsection on a preservice or inservice basis.

"(7) The Secretary, in carrying out paragraph (1), shall make grants to Historically Black Colleges and Universities, and other institutions of higher education whose minority student enrollment is at least 25 percent.".

(d) AMENDMENTS TO SUBSECTION (b).—Section 631(b) (20 U.S.C. 1431(b)) is amended by striking "nonprofit agencies" and all that follows and inserting the following: "nonprofit agencies and organizations to develop and demonstrate effective ways for preservice training programs to prepare regular educators to work with children and youth with disabilities and their families; for training teachers to work in community and school settings with school students with disabilities and their families; for inservice and preservice training of personnel to work with infants, toddlers, children, and youth with disabilities and their families; for inservice and preservice training of personnel to work with minority infants, toddlers, children, and youth with disabilities and their families; for preservice and inservice training of special education and related services personnel in the use of assistive and instructional technology to benefit infants, toddlers, children, and youth with disabilities; and for the recruitment and retention of special education, related services, and early intervention personnel. Both preservice and inservice training shall include a component that addresses the coordination among all service providers, including regular educators.".

(e) AMENDMENT TO SUBSECTION (c).—

(1) Section 631(c)(2) (20 U.S.C. 1431(c)(2)) is amended—

(A) by amending subparagraph (A) to read as follows:

"(A) be governed by a board of directors of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly minority parents, and that includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, and individuals with disabilities, or, if the nonprofit private organization does not have such a board, such organization shall have a membership that represents the interests of individuals with disabilities, and shall establish a special governing committee of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly parents of minority children, and which includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, to operate the training and information program under paragraph (1), and parent and professional membership of these boards or special governing committees shall be broadly representative of minority and other individuals and groups having an interest in special education, early intervention, and related services;";

(B) in subparagraph (B)—

(i) by striking "children" and inserting "infants, toddlers, children, and youth"; and

(ii) by striking "handicapping" and inserting "disabling"; and

(C) in subparagraph (C), by inserting before the period the following: ", and, for purposes of paragraph (1), network with clearinghouses, including those established under section 633 and other organizations and agencies, and network with other established national, State, and local parent groups representing the full range of parents of infants, toddlers, children, and youth with disabilities, especially parents of minority children".

(2) Section 631(c)(2) (20 U.S.C. 1431(c)(2)) is amended by adding after subparagraph (C) the following: "Nothing in subparagraph (A) shall be construed to authorize or permit the denial to any person of the due process of law required by the United States Constitution.".

(f) AMENDMENTS TO SUBSECTION (c)(4).—Section 631(c)(4) (20 U.S.C. 1431(c)(4)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting a comma; and

(3) by adding at the end the following new subparagraphs:

"(C) serve parents of minority children with disabilities representative to the proportion of the minority population in the areas being served, and

"(D) be funded at a sufficient size, scope, and quality to ensure that the program is adequate to serve the parents in the area.".

(g) NEW PARAGRAPH IN SUBSECTION (c).—Section 631(c) (20 U.S.C. 1431(c)) is amended by adding at the end the following new paragraph:

"(9) After the establishment in each State of a parent training and information center, the Secretary shall provide for the establishment of 3 experimental centers to serve large numbers of parents of children with disabilities located in high density areas that do not have such centers and 2 such centers to serve large numbers of parents of children with disabilities located in rural areas.

"(10) Effective for fiscal year 1991 and every year thereafter, the Secretary shall obtain data concerning programs and centers assisted under this subsection on—

"(A) the number of parents provided information and training by disability category of their children,

"(B) the types and modes of information or training provided,

"(C) strategies used to reach and serve parents of minority infants, toddlers, children, and youth with disabilities,

"(D) the number of parents served as a result of activities described under subparagraph (C),

"(E) activities to network with other information clearinghouses and parent groups as required in subsection (c)(2)(C), and

"(F) the number of agencies and organizations consulted with at the national, State, regional, and local levels.

The Secretary shall include a summary of this information in the annual report to Congress as required in section 618(g).".

(h) FURTHER AMENDMENTS TO SUBSECTION (c).—Section 631(c) (20 U.S.C. 1431(c)) is amended—

(1) in paragraph (1), in the first and second sentences, by striking "parents of handicapped children" each place such term appears and inserting "parents of infants, toddlers, children, and youth with disabilities";

(2) in paragraph (5)—

(A) in subparagraph (E), by amending such subparagraph to read as follows:

"(E) obtain appropriate information about the range of options, programs, services, and resources available at the national, State, and local levels to assist infants, toddlers, children, and youth with disabilities and their families, and"; and

(B) in subparagraph (F), by striking "handicapped" and all that follows and inserting the following: "infants, toddlers, children, and youth with disabilities under this Act."; and

(3) in paragraph (7)—

(A) by striking "with appropriate agencies which" and inserting the following: "and network with appropriate national, State, regional, and local agencies and organizations, such as protection and advocacy agencies, that"; and

(B) by striking "handicapped children and youth" and inserting "infants, toddlers, children, and youth with disabilities and their families".

SEC. 402. GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS FOR TRAINEESHIPS.

Section 632 (20 U.S.C. 1432) is amended—

(1) in subsection (c) by—

(A) inserting "special and regular education, related services and early intervention" after "prepare"; and

(B) by striking the period at the end thereof and inserting a comma and "and to assist the State in developing and maintaining such systems and conducting personnel recruitment and retention activities."; and

(2) by inserting at the end thereof the following new subsection:

"(d) The Secretary is authorized to provide directly or by grant, contract, or cooperative agreement, technical assistance to State educational agencies on matters pertaining to the effective implementation of section 613(a)(3).".

SEC. 403. CLEARINGHOUSES.

Section 633 (20 U.S.C. 1433) is amended to read as follows:

"CLEARINGHOUSES

"SEC. 633. (a) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public agencies or private nonprofit organizations or institutions for the establishment of three national clearinghouses: on children and youth with disabilities; on postsecondary education for individuals with disabilities; and on careers in special education, to—

"(1) collect, develop, and disseminate information,

"(2) provide technical assistance,

"(3) conduct coordinated outreach activities,

"(4) provide for the coordination and networking with other relevant national, State, and local organizations and information and referral resources,

"(5) respond to individuals and organizations seeking information, and

"(6) provide for the synthesis of information for its effective utilization by parents, professionals, individuals with disabilities, and other interested parties.

"(b) The national clearinghouse for children and youth with disabilities shall:

"(1) Collect and disseminate information (including the development of materials) on characteristics of infants, toddlers, children, and youth with disabilities and on programs, legislation, and services relating to their education under this Act and other Federal laws.

"(2) Participate in programs and services related to disability issues for providing outreach, technical assistance, collection, and dissemination of information; and promoting networking of individuals with appropriate national, State, and local agencies and organizations.

"(3) Establish a coordinated network and conduct outreach activities with relevant Federal, State, and local organizations and other sources for promoting public awareness of disability issues and the availability of information, programs, and services.

"(4) Collect, disseminate, and develop information on current and future national, Federal, regional, and State needs for providing information to parents, professionals, individuals with disabilities, and other interested parties relating to the education and related services of individuals with disabilities.

"(5) Provide technical assistance to national, Federal, regional, State and local agencies and organizations seeking to establish information and referral services for individuals with disabilities and their families.

"(6) In carrying out the activities in this subsection, the clearinghouse will include strategies to disseminate information to underrepresented groups such as those with limited English proficiency.

"(c) The national clearinghouse on postsecondary education for individuals with disabilities shall:

"(1) Collect and disseminate information nationally on characteristics of individuals entering and participating in education and training programs after high school; legislation affecting such individuals and such programs; policies, procedures, and support services, as well as adaptations, and other resources available or recommended to facilitate the education of individuals with disabilities; available programs and services that include, or can be adapted to include, individuals with disabilities; and sources of financial aid for the education and training of individuals with disabilities.

"(2) Identify areas of need for additional information.

"(3) Develop new materials (in both print and nonprint form), especially by synthesizing information from a variety of fields affecting disability issues and the education, rehabilitation, and retraining of individuals with disabilities.

"(4) Develop a coordinated network of professionals, related organizations and associations, mass media, other clearinghouses, and governmental agencies at the Federal, regional, State, and local level for the purposes of disseminating information and promoting awareness of issues relevant to the education of individuals with disabilities after high school and referring individuals who request information to local resources.

"(5) Respond to requests from individuals with disabilities, their parents, and professionals who work with them, for information that will enable them to make appropriate decisions about postsecondary education and training.

"(d) The national clearinghouse designed to encourage students to seek careers and professional personnel to seek employment in the various fields relating to the education of children and youth with disabilities shall:

"(1) Collect and disseminate information on current and future national, regional, and State needs for special education and related services personnel.

"(2) Disseminate information to high school counselors and others concerning current career opportunities in special education, location of programs, and various forms of financial assistance (such as scholarships, stipends, and allowances).

"(3) Identify training programs available around the country.

"(4) Establish a network among local and State educational agencies and institutions of higher education concerning the supply of graduates and available openings.

"(5) Provide technical assistance to institutions seeking to meet State and professionally recognized standards.

"(e)(1) In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give priority consideration to any applicant with demonstrated, proven effectiveness (at the national level) in performing the functions established in this section; and with the ability to conduct such projects, communicate with intended consumers of information, and maintain the necessary communication with national, regional, State, and local agencies and organizations.

"(2) In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give priority consideration to any applicant with demonstrated, proven effectiveness (at the national level) in providing informational services to minorities and minority organizations.

"(f)(1) Beginning in fiscal year 1991, and for each year thereafter, the Secretary shall obtain information on each project assisted under this section, including—

"(A) the number of individuals served by disability category, as appropriate, including parents, professionals, students, and individuals with disabilities;

"(B) a description of responses utilized;

"(C) a listing of new products developed and disseminated; and

"(D) a description of strategies and activities utilized for outreach to urban and rural areas with populations of minorities and underrepresented groups.

"(2) A summary of the data required by this subsection shall be included in the annual report to Congress required under section 618.".

SEC. 404. REPORTS TO SECRETARY.

Section 634(a) (20 U.S.C. 1434(a)) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) information described in section 631(c)(9) and section 633(f)(1), as applicable.".

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

Section 635(a) (20 U.S.C. 1435(a)) is amended to read as follows:

"(a)(1) There are authorized to be appropriated to carry out this part (other than sections 631(a)(6), 631(c), and 633) $94,725,000 for fiscal year 1991, $103,255,000 for fiscal year 1992, $113,580,000 for fiscal year 1993, and $123,760,000 for fiscal year 1994.

"(2) There are authorized to be appropriated to carry out section 631(a)(6) $19,250,000 for fiscal year 1991, $21,175,000 for fiscal year 1992, $23,292,500 for fiscal year 1993, and $25,621,750 for fiscal year 1994.

"(3) There are authorized to be appropriated to carry out section 631(c) $11,000,000 for fiscal year 1991, $12,100,000 for fiscal year 1992, $13,300,000 for fiscal year 1993, and $14,600,000 for fiscal year 1994.

"(4) There are authorized to be appropriated to carry out section 633 $2,900,000 for fiscal year 1991, $2,465,000 for fiscal year 1992, $2,710,000 for fiscal year 1993, and $2,960,000 for fiscal year 1994.".

TITLE V—RESEARCH IN EDUCATION OF INDIVIDUALS WITH DISABILITIES

SEC. 501. RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF CHILDREN WITH DISABILITIES.

Section 641 (20 U.S.C. 1441) is amended to read as follows:

"RESEARCH AND RELATED ACTIVITIES

"SEC. 641. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, State and local educational agencies, institutions of higher education, other public agencies and nonprofit private organizations for the purpose of advancing and improving the knowledge base and improving the practice of professionals, parents, and others providing early intervention, special education, and related services, including professionals who work with children and youth with disabilities in regular education environments, to provide such children effective instruction and enable them to successfully learn. The activities supported under this section shall support innovation, development, exchange, and use of such advancements in knowledge and practice designed to contribute to the im-

provement of instruction and learning of infants, toddlers, children, and youth with disabilities. In carrying out this section, the Secretary may support a wide range of research and related activities designed to—

"(1) advance knowledge regarding the provision of instruction and other interventions to infants, toddlers, children, and youth with disabilities including—

"(A) the organization, synthesis, and interpretation of current knowledge and the identification of knowledge gaps;

"(B) the identification of knowledge and skill competencies needed by personnel providing special education, related services, and early intervention services;

"(C) the improvement of knowledge regarding the developmental and learning characteristics of infants, toddlers, children, and youth with disabilities in order to improve the design and effectiveness of interventions and instruction;

"(D) the evaluation of approaches and interventions;

"(E) the development of instructional strategies, techniques, and activities;

"(F) the improvement of curricula and instructional tools such as textbooks, media, materials, and technology;

"(G) the development of assessment techniques, instruments (including tests, inventories, and scales), and strategies for measurement of progress and the identification, location, and evaluation of infants, toddlers, children, and youth with disabilities for the purpose of determining eligibility, program planning, and placement for special education, related services, and early intervention services. Particular attention should be given to the development of alternative assessment procedures and processes for minority individuals and those with limited English proficiency;

"(H) the testing of research findings in practice settings to determine the application, usability, effectiveness, and generalizability of such research findings;

"(I) the improvement of knowledge regarding families, minorities, limited English proficiency, and disabling conditions; and

"(J) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice; and

"(2) advance the use of knowledge by personnel providing special education, related services, and early intervention services including—

"(A) the improvement of knowledge regarding how such individuals learn new knowledge and skills, and strategies for effectively facilitating such learning in preservice, inservice, and continuing education;

"(B) the organization, integration, and presentation of knowledge so that such knowledge can be incorporated and imparted in personnel preparation, continuing education programs, and other relevant training and communication vehicles; and

"(C) the expansion and improvement of networks that exchange knowledge and practice information.

"(b) In carrying out subsection (a), the Secretary shall consider the special education, related services, or early intervention and research experience of applicants.

"(c) The Secretary shall publish proposed priorities under this part in the Federal Register not later than 12 months preceding the fiscal year for which they are being announced, and shall allow a period of 60 days for public comments and suggestions. The Secretary shall, after analyzing and considering the public comments, publish final priorities in the Federal Register not later than 90 days after the close of the comment period.

"(d) The Secretary shall provide an index (including the title of each project and the name and address of the funded organization) of all projects conducted under this part in the prior fiscal year in the annual report described under section 618.

"(e) The Secretary shall—

"(1) coordinate the priorities established under subsection (b) with research priorities established by the National Institute for Disability and Rehabilitation Research and other appropriate agencies conducting research pertaining to the education of individuals with disabilities; and

"(2) provide information concerning priorities established under subsection (b) to the National Council on Disability and to the Bureau of Indian Affairs Advisory Committee for Exceptional Children.

"(f)(1) The Secretary shall make grants or enter into contracts or cooperative agreements for the establishment of a center or centers designed to organize, synthesize, and disseminate current knowledge relating to children with attention deficit disorder with respect to the following:

"(A) Assessment techniques, instruments, and strategies used for identification, location, evaluation and for measurement of progress.

"(B) Knowledge and skill competencies needed by professionals providing special and regular education and related services.

"(C) Environmental, organizational, resource, and other conditions necessary for effective professional practice.

"(D) Developmental and learning characteristics.

"(E) Instructional strategies, techniques, and activities.

"(F) Curricula and instructional tools such as textbooks, media, materials, and technology.

"(G) Strategies, techniques, and activities related to involvement of families.

"(2) In awarding grants, contracts, and cooperative agreements under paragraph (1), the Secretary shall give priority consideration to applicants with—

"(A) demonstrated knowledge concerning the disorder;

"(B) proven effectiveness in performing the functions established in this subsection; and

"(C) the ability to—

"(i) conduct such projects;

"(ii) communicate with intended consumers of information; and

"(iii) maintain the necessary communication with national, regional, State, and local agencies.

"(g)(1) The Secretary shall make grants, or enter into contracts or cooperative agreements, for the establishment of model demonstration programs, of which some will be school-based models, that provide the services of an ombudsman to assist in resolving problems that are barriers to appropriate educational, related services, or other services for children and youth with disabilities.

"(2) Programs under paragraph (1) shall provide or identify personnel to assist children and youth with disabilities, their parents or guardians, special and regular education teachers, State and local education administrators, and related services personnel to resolve problems in a timely manner through dispute mediation and other methods, notwithstanding due process procedures, in order to further the delivery of appropriate education and related services. Participation in this program does not preclude or delay due process under part B of this Act.

"(3) Ombudsman services for programs under paragraph (1) shall be provided by social workers, parent advocates, psychologists, and persons with similar qualifications designated by the Secretary.".

SEC. 502. RESEARCH AND DEMONSTRATION PROJECTS IN PHYSICAL EDUCATION AND RECREATION FOR CHILDREN WITH DISABILITIES.

Section 642 (20 U.S.C. 1442) is amended by striking "recreation for handicapped children" each place such term appears and inserting "recreation for children with disabilities, including therapeutic recreation".

SEC. 503. PANELS OF EXPERTS.

Part E (20 U.S.C. 1441 et seq.) is amended by striking section 643 and by redesignating section 644 as section 643.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

Section 643, as redesignated by section 503 of this Act, is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 643. For purposes of carrying out this part, there are authorized to be appropriated $21,100,000 for fiscal year 1990, $24,650,000 for fiscal year 1991, $27,400,000 for fiscal year 1992, $30,200,000 for fiscal year 1993, and $33,200,000 for fiscal year 1994.".

TITLE VI—INSTRUCTIONAL MEDIA FOR INDIVIDUALS WITH DISABILITIES

SEC. 601. PURPOSES.

Section 651 (20 U.S.C. 1451) is amended—

(1) by striking the subsection designation;

(2) in paragraph (1)—

(A) by inserting "and hard of hearing" after "deaf" each place it appears;

(B) in subparagraph (A), by inserting "and television programs" after "those films"; and

(C) in subparagraph (B), by inserting " and television programs" after "these films";

(2) in paragraph (2), by striking "and" after the semicolon at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and by adding at the end the following new subparagraph:

"(D) utilizing educational media to help eliminate illiteracy among individuals with disabilities;"; and

(3) by striking the period at the end of paragraph (2) and inserting "; and" and by adding at the end the following new paragraph:

"(3) the general welfare of visually impaired individuals by—

"(A) bringing to such individuals an understanding and appreciation of textbooks, films, television programs, video material, and other educational publications and materials that play such an important part in the general and cultural advancement of visually unimpaired individuals; and

"(B) ensuring access to television programming and other video materials.".

SEC. 602. CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR INDIVIDUALS WITH DISABILITIES.

Section 652 (20 U.S.C. 1452) is amended—

(1) in the heading for such section, by inserting ", TELEVISION, DESCRIPTIVE VIDEO," after "FILMS";

(2) in subsection (a), by inserting ", descriptive video," after "captioned films";

(3) in subsection (b)—

(A) in paragraph (3), by striking "captioning of films" and inserting "captioning for deaf and hard of hearing individuals and video description for the visually impaired, of films, television programs, and video materials"; and

(B) in paragraph (4)—

(i) by striking "captioned films" and inserting "captioned and video-described films, video materials,"; and

(ii) inserting "or entities" after "agencies";

(C) in paragraph (8), by inserting "and hard of hearing" after "deaf";

(4) in subsection (c), by—

(A) inserting "and other appropriate nonprofit organizations" after "Inc."; and

(B) striking "theatrical" and inserting "cultural";

(5) in subsection (c)(1), by inserting "and hard of hearing" after "deaf";

(6) in subsection (c)(2), by inserting "and hard of hearing" after "deaf"; and

(7) in subsection (c)(3), (A) by inserting "and hard of hearing" after "deaf", and (B) by inserting ", educational, and social" after "cultural".

(8) by adding at the end the following new subsection:

"(d)(1) The Secretary is authorized to make a grant or enter into a contract for the purpose of providing current, free textbooks and other educational publications and materials to blind and other print-handicapped students in elementary, secondary, postsecondary, and graduate schools and other institutions of higher education through the medium of transcribed tapes and cassettes.

"(2) For the purpose of this subsection, the term 'print-handicapped' refers to any individual who is blind or severely visually impaired, or who, by reason of a physical or perceptual disability, is unable to read printed material unassisted.".

SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

Section 653 (20 U.S.C. 1454) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 653. For the purpose of carrying out section 652 there are authorized to be appropriated $20,010,000 for fiscal year 1991, $22,010,000 for fiscal year 1992, $24,200,000 for fiscal year 1993, and $26,600,000 for fiscal year 1994.

TITLE VII—TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR INDIVIDUALS WITH DISABILITIES

SEC. 701. FINANCIAL ASSISTANCE.

Section 661 (20 U.S.C. 1461) is amended—

(1) in the matter preceding paragraph (1), in the first sentence, by striking "provision of early intervention" and inserting "provision of related services and early intervention services";

(2) in paragraph (1)—

(A) by inserting "assistive technology," after "technology,"; and

(B) by striking "more effectively" and inserting "most effectively, efficiently, and appropriately";

(3) in paragraphs (2) through (4), by striking "new technology," each place such term appears and inserting "technology, assistive technology,";

(4) in paragraph (4), by inserting before the period at the end the following: ", where appropriate, to entities described in section 610(g)";

(5)(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting a comma; and

(C) by adding at the end the following:

"(5) increasing access to and use of assistive technology devices and assistive technology services in the education of infants, toddlers, children, and youth with disabilities, and other activities authorized under the Technology-Related Assistance for Individuals With Disabilities Act of 1988, as such Act relates to the education of students with disabilities, and

"(6) examining how these purposes can address the problem of illiteracy among individuals with disabilities."; and

(6) by inserting "(a)" after the section designation and by adding at the end the following new subsection:

"(b)(1) With respect to new technology, media, and materials utilized with funds under this part to improve the education of students with disabilities, the Secretary shall make efforts to ensure that such instructional materials are closed captioned.

"(2) The Secretary may not award a grant, contract, or cooperative agreement under paragraphs (1) through (4) of subsection (a) unless the applicant for such assistance agrees that activities carried out with the assistance will be coordinated, as appropriate, with the State entity receiving funds under title I of Public Law 100-407.".

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

Section 662 (20 U.S.C. 1462) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 662. For the purpose of carrying out this part, there are authorized to be appropriated $11,900,000 for fiscal year 1991, $12,860,000 for fiscal year 1992, $13,890,000 for fiscal year 1993, and $15,000,000 for fiscal year 1994.".

TITLE VIII—INFANTS AND TODDLERS WITH DISABILITIES

SEC. 801. DEFINITIONS.

Section 672(2)(E) (20 U.S.C. 1472(2)(E)) is amended—

(1) by striking "and" after the comma at the end of clause (ix) and inserting "and" after the comma at the end of clause (x); and

(2) by adding at the end the following new clause:

"(xi) social work services,".

SEC. 802. REQUIREMENTS FOR STATEWIDE SYSTEM.

Section 676(b) (20 U.S.C. 1476(b)) is amended—

(1) in paragraph (6), by inserting before the comma the following: ", including the preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on the availability of early intervention services, and procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services as required under this paragraph to parents of infants with disabilities"; and

(2) in paragraph (8), by inserting before the comma the following: ", including training of primary referral sources respecting the basic components of early intervention services available in the State".

TITLE IX—TECHNICAL AMENDMENTS

SEC. 901. TERMINOLOGY AND TECHNICAL AMENDMENTS.

(a) REVISION IN SHORT TITLE.—

(1) Section 601(a) (20 U.S.C. 1400(a)) is amended by striking "This title" and all that follows and inserting in lieu thereof the following: "This title may be cited as the 'Individuals with Disabilities Education Act'.".

(2) The following Acts are each amended by striking "Education of the Handicapped Act" each place it occurs and inserting in lieu thereof "Individuals with Disabilities Education Act": Carl D. Perkins Vocational Education and Applied Technology Act; Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988; Department of Education Organization Act; Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987; Education for All Handicapped Children Act of 1975; Education of the Deaf Act of 1986; Elementary and Secondary Education Act of 1965; Medicare Catastrophic Coverage Act of 1988; Omnibus Trade and Competitiveness Act of 1988; Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978; and Technology-Related Assistance for Individuals With Disabilities Act of 1988.

(3) Any other Act and any regulation which refers to the Education of the Handicapped Act shall be considered to refer to the Individuals with Disabilities Education Act.

(b) TERMINOLOGY AMENDMENTS.—The Education for the Handicapped Act is amended in—

(1) section 601(b)(1) (20 U.S.C. 1400(b)(1)) by striking "handicapped children" and inserting "children with disabilities";

(2) section 601(b)(3) (20 U.S.C. 1400(b)(3)) by striking "handicapped children" and inserting "children with disabilities";

(3) section 601(b)(4) (20 U.S.C. 1400(b)(4)) by striking "handicapped children" and inserting "children with disabilities";

(4) section 601(b)(5) (20 U.S.C. 1400(b)(5)) by striking "handicapped children" and inserting "children with disabilities";

(5) section 601(b)(5) (20 U.S.C. 1400(b)(5)) by striking "handicaps" each place such term appears and inserting "disabilities";

(6) section 601(b)(7) (20 U.S.C. 1400(b)(7)) by striking "handicapped children" and inserting "children with disabilities";

(7) section 601(b)(8) (20 U.S.C. 1400(b)(8)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(8) section 601(b)(9) (20 U.S.C. 1400(b)(9)) by striking "handicapped children" and inserting "children with disabilities";

(9) section 601(c) (20 U.S.C. 1400(c)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(10) section 602(a)(1) (20 U.S.C. 1401(a)(1)) by striking "handicapped children" and inserting "children with disabilities";

(11) section 602(a)(13) (20 U.S.C. 1401(a)(13)) by striking "handicapped children" and inserting "children with disabilities";

(12) section 602(a)(15) (20 U.S.C. 1401(a)(15)) by striking "handicaps" each place such term appears and inserting "disabilities";

(13) section 602(a)(16) (20 U.S.C. 1401(a)(16)) by striking "handicapped child" and inserting "child with a disability";

(14) section 602(a)(17) (20 U.S.C. 1401(a)(17)) by striking "handicapped child" and inserting "child with a disability";

(15) section 602(a)(17) (20 U.S.C. 1401(a)(17)) by striking "handicapping" and inserting "disabling";

(16) section 602(a)(19) (20 U.S.C. 1401(a)(19)) by striking "handicapped child" and inserting "child with a disability";

(17) section 602(a)(19) (20 U.S.C. 1401(a)(19)) by striking "handicapped chil-

dren" and inserting "children with disabilities";

(18) section 602(a)(22) (20 U.S.C. 1401(a)(22)) by striking "handicapped children" and inserting "children with disabilities";

(19) section 602(b) (20 U.S.C. 1401(b)) by striking "handicapped youth" and inserting "youth with a disability";

(20) section 602(b) (20 U.S.C. 1401(b)) by striking "handicapped chila" and inserting "child with a disability";

(21) section 603(a) (20 U.S.C. 1402(a)) by striking "the handicapped" and inserting "individuals with disabilities";

(22) the section heading to section 606 (20 U.S.C. 1405) by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES";

(23) section 606 (20 U.S.C. 1405) by striking "handicapped individuals" and inserting "individuals with disabilities";

(24) section 608(b) (20 U.S.C. 1407(b)) by striking "handicapped children" and inserting "children with disabilities";

(25) section 611(a)(1)(A) (20 U.S.C. 1411(a)(1)(A)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(26) section 611(a)(3) (20 U.S.C. 1411(a)(3)) by striking "handicapped children" and inserting "children with disabilities";

(27) section 611(a)(5)(A)(i) (20 U.S.C. 1411(a)(5)(A)(i)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(28) section 611(a)(5)(A)(ii) (20 U.S.C. 1411(a)(5)(A)(ii)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(29) section 611(a)(5)(A)(iii) (20 U.S.C. 1411(a)(5)(A)(iii)) by striking "handicapped children" and inserting "children with disabilities";

(30) section 611(c)(4)(B) (20 U.S.C. 1411(c)(4)(B)) by striking "handicapped children" and inserting "children with disabilities";

(31) section 611(d) (20 U.S.C. 1411(d)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(32) section 611(f) (20 U.S.C. 1411(f)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(33) section 612(1) (20 U.S.C. 1412(1)) by striking "handicapped children" and inserting "children with disabilities";

(34) section 612(2)(A) (20 U.S.C. 1412(2)(A)) by striking "handicapped children" and inserting "children with disabilities";

(35) section 612(2)(B) (20 U.S.C. 1412(2)(B)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(36) section 612(2)(C) (20 U.S.C. 1412(2)(C)) by striking "handicapped," and inserting "disabled,";

(37) section 612(2)(C) (20 U.S.C. 1412(2)(C)) by striking "handicap," and inserting "disability,";

(38) section 612(3) (20 U.S.C. 1412(3)) by striking "handicapped children," each place such term appears and inserting "children with disabilities,";

(39) section 612(3) (20 U.S.C. 1412(3)) by striking "handicaps" and inserting "disabilities";

(40) section 612(4) (20 U.S.C. 1412(4)) by striking "handicapped child," and inserting "child with a disability,";

(41) section 612(5) (20 U.S.C. 1412(5)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(42) section 612(5) (20 U.S.C. 1412(5)) by striking "handicapped," and inserting "disabled,";

(43) section 612(5) (20 U.S.C. 1412(5)) by striking "handicap" and inserting "disability";

(44) section 612(6) (20 U.S.C. 1412(6)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(45) section 612(7) (20 U.S.C. 1412(7)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(46) section 612(7) (20 U.S.C. 1412(7)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(47) section 613(a)(2) (20 U.S.C. 1413(a)(2)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(48) section 613(a)(4)(A) (20 U.S.C. 1413(a)(4)(A)) by striking "handicapped children" and inserting "children with disabilities";

(49) section 613(a)(4)(B)(i) (20 U.S.C. 1413(a)(4)(B)(i)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(50) section 613(a)(9)(B) (20 U.S.C. 1413(a)(9)(B)) by striking "handicapped children" and inserting "children with disabilities";

(51) section 613(a)(11) (20 U.S.C. 1413(a)(11)) by striking "handicapped children" and inserting "children with disabilities";

(52) section 613(a)(12) (20 U.S.C. 1413(a)(12)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(53) section 613(a)(12) (20 U.S.C. 1413(a)(12)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(54) section 613(a)(13)(A) (20 U.S.C. 1413(a)(13)(A)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(55) section 613(b) (20 U.S.C. 1413(b)) by striking "handicapped children" and inserting "children with disabilities";

(56) section 613(d)(1) (20 U.S.C. 1413(d)(1)) by striking "handicapped children" and inserting "children with disabilities";

(57) section 613(d)(2)(A) (20 U.S.C. 1413(d)(2)(A)) by striking "handicapped children" and inserting "children with disabilities";

(58) section 613(e) (20 U.S.C. 1413(e)) by striking "handicapped children" and inserting "children with disabilities";

(59) section 614(a)(1)(A) (20 U.S.C. 1414(a)(1)(A)) by striking "handicapped" and inserting "disabled";

(60) section 614(a)(1)(A) (20 U.S.C. 1414(a)(1)(A)) by striking "handicap" and inserting "disability".

(61) section 614(a)(1)(C) (20 U.S.C. 1414(a)(1)(C)) by striking "handicapped children" and inserting "children with disabilities";

(62) section 614(a)(1)(C)(ii) (20 U.S.C. 1414(a)(1)(C)(ii)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(63) section 614(a)(1)(C)(ii) (20 U.S.C. 1414(a)(1)(C)(ii)) by striking "handicaps" and inserting "disabilities";

(64) section 614(a)(2)(B) (20 U.S.C. 1414(a)(2)(B)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(65) section 614(a)(3) (20 U.S.C. 1414(a)(3)) by striking "handicapped children" and inserting "children with disabilities";

(66) section 614(a)(5) (20 U.S.C. 1414(a)(5)) by striking "handicapped child" and inserting "child with a disability";

(67) section 614(c)(1) (20 U.S.C. 1414(c)(1)) by striking "handicapped children" and inserting "children with disabilities";

(68) section 614(d) (20 U.S.C. 1414(d)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(69) section 614(e) (20 U.S.C. 1414(e)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(70) section 614(f) (20 U.S.C. 1414(f)) by striking "handicapped children" and inserting "children with disabilities";

(71) section 615(a) (20 U.S.C. 1515(a)) by striking "handicapped children" and inserting "children with disabilities";

(72) section 615(b)(1)(A) (20 U.S.C. 1415(b)(1)(A)) by striking "handicapped child" and inserting "child with a disability";

(73) section 615(d)(1) (20 U.S.C. 1415(d)(1)) by striking "handicapped children" and inserting "children with disabilities";

(74) section 615(e)(4)(B) (20 U.S.C. 1415(e)(4)(B)) by striking "handicapped child or youth" and inserting "child or youth with a disability";

(75) section 615(f) (20 U.S.C. 1415(f)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(76) section 616(a)(2)(B) (20 U.S.C. 1416(a)(2)(B)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(77) section 617(a)(1)(A) (20 U.S.C. 1417(a)(1)(A)) by striking "handicapped children" and inserting "children with disabilities";

(78) section 617(a)(1)(D) (20 U.S.C. 1417(a)(1)(D)) by striking "handicapped children" and inserting "children with disabilities";

(79) section 619(a)(1)(C) (20 U.S.C. 1419(a)(1)(C)) by striking "handicapped children" and inserting "children with disabilities";

(80) section 619(a)(2)(A)(i) (20 U.S.C. 1419(a)(2)(A)(i)) by striking "handicapped child" and inserting "child with a disability";

(81) section 619(a)(2)(A)(ii) (20 U.S.C. 1419(a)(2)(A)(ii)) by striking "handicapped children" and inserting "children with disabilities";

(82) section 619(a)(2)(A)(ii)(I) (20 U.S.C. 1419(a)(2)(A)(ii)(I)) by striking "handicapped child" and inserting "child with a disability";

(83) section 619(a)(2)(A)(ii)(II) (20 U.S.C. 14198(a)(2)(A)(ii)(II)) by striking "handicapped children" and inserting "children with disabilities";

(84) section 619(a)(2)(D) (20 U.S.C. 1419(a)(2)(D)) by striking "handicapped child" and inserting "child with a disability";

(85) section 619(a)(2)(F)(i) (20 U.S.C. 1419(a)(2)(F)(i)) by striking "handicapped child" each place such term appears and inserting "child with a disability";

(86) section 619(b)(1)(B) (20 U.S.C. 1419(b)(1)(B)) by striking "handicapped children" and inserting "children with disabilities";

(87) section 619(b)(3) (20 U.S.C. 1419(b)(3)) by striking "handicapped child" and inserting "child with a disability";

(88) section 619(c)(1)(A) (20 U.S.C. 1419(c)(1)(A)) by striking "handicapped children" and inserting "children with disabilities";

(89) section 619(c)(1)(B) (20 U.S.C. 1419(c)(1)(B)) by striking "handicapped children" and inserting "children with disabilities";

(90) section 619(c)(2)(A) (20 U.S.C. 1419(c)(2)(A)) by striking "handicapped children" and inserting "children with disabilities";

(91) section 619(c)(2)(B) (20 U.S.C. 1419(c)(2)(B)) by striking "handicapped children" and inserting "children with disabilities";

(92) section 619(c)(3)(A) (20 U.S.C. 1419(c)(3)(A)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(93) section 619(c)(3)(B) (20 U.S.C. 1419(c)(3)(B)) by striking "handicapped children" and inserting "children with disabilities";

(94) the heading to part C by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES";

(95) section 621(a)(1) (20 U.S.C. 1421(a)(1)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(96) section 621(a)(1) (20 U.S.C. 1421(a)(1)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(97) section 621(a)(2) (20 U.S.C. 1421(a)(2)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(98) section 621(a)(2) (20 U.S.C. 1421(a)(2)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(99) section 621(a)(4) (20 U.S.C. 1421(a)(4)) by striking "handicapped infants, toddlers, children, and youth" and inserting "infants, toddlers, children, and youth with disabilities";

(100) the heading to section 623 (20 U.S.C. 1423) by striking "HANDICAPPED CHILDREN" and inserting "CHILDREN WITH DISABILITIES";

(101) section 623(a)(1) (20 U.S.C. 1423(a)(1)) by striking "handicapped children" and inserting "children with disabilities";

(102) section 623(a)(1)(D) (20 U.S.C. 1423(a)(1)(D)) by striking "handicapped children" and inserting "children with disabilities";

(103) section 623(b) (20 U.S.C. 1423(b)) by striking "handicapped children" and inserting "children with disabilities";

(104) section 623(c) (20 U.S.C. 1423(c)) by striking "handicapped children" and inserting "children with disabilities";

(105) section 623(d) (20 U.S.C. 1423(d)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(106) section 623(f) (20 U.S.C. 1423(f)) by striking "handicapped children" and inserting "children with disabilities";

(107) the heading to section 624 (20 U.S.C. 1424) by striking "SEVERELY HANDICAPPED CHILDREN" and inserting "CHILDREN WITH SEVERE DISABILITIES";

(108) section 624(a) (20 U.S.C. 1424(a)) by striking "severely handicapped children and youth" and inserting "children and youth with severe disabilities";

(109) section 624(a)(1) (20 U.S.C. 1424(a)(1)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(110) section 624(a)(2) (20 U.S.C. 1424(a)(2)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(111) section 625(a)(1) (20 U.S.C. 1425(a)(1)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(112) section 625(a)(2) (20 U.S.C. 1425(a)(2)) by striking "handicapping" and inserting "disabling";

(113) section 625(a)(2)(A) (20 U.S.C. 1425(a)(2)(A)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(114) section 625(a)(2)(B) (20 U.S.C. 1425(a)(2)(B)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(115) section 625(a)(2)(B) (20 U.S.C. 1425(a)(2)(B)) by striking "nonhandicapped" and inserting "nondisabled";

(116) section 625(a)(3) (20 U.S.C. 1425(a)(3)) by striking "handicapped persons" and inserting "persons with disabilities";

(117) section 625(b) (20 U.S.C. 1425(b)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(118) section 625(b) (20 U.S.C. 1425(b)) by striking "visually handicapped" and inserting "visually disabled";

(119) the heading to section 626 (20 U.S.C. 1426) by striking "HANDICAPPED CHILDREN AND YOUTH" and inserting "CHILDREN AND YOUTH WITH DISABILITIES";

(120) section 626(a)(1) (20 U.S.C. 1426(a)(1)) by striking "handicapped youth" and inserting "youth with disabilities";

(121) section 626(a)(3) (20 U.S.C. 1426(a)(3)) by striking "handicapped students" and inserting "students with disabilities";

(122) section 626(b) (20 U.S.C. 1426(b)) by striking "handicapped youth" each place such term appears and inserting "youth with disabilities";

(123) section 626(b) (20 U.S.C. 1426(b)) by striking "handicapping" each place such term appears and inserting "disabling";

(124) section 626(b)(9) (20 U.S.C. 1426(b)(9)) by striking "handicapped students' acquisition of the skills" and inserting "the acquisition of skills by students with disabilities";

(125) section 626(d)(2) (20 U.S.C. 1426(d)(2)) by striking "handicapped youth" and inserting "youth with disabilities";

(126) section 626(d)(3) (20 U.S.C. 1426(d)(3)) by striking "handicapped students" each place such term appears and inserting "students with disabilities";

(127) section 626(e) (20 U.S.C. 1426(e)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(128) the heading to part D by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES";

(129) section 631(a)(1)(B) (20 U.S.C. 1431(a)(1)(B)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(130) section 631(b) (20 U.S.C. 1431(b)) by striking "handicapped children" and inserting "children with disabilities";

(131) section 631(c)(1) (20 U.S.C. 1431(c)(1)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(132) section 631(c)(2)(A) (20 U.S.C. 1431(c)(2)(A)) by striking "handicapped children" and inserting "children with disabilities";

(133) section 631(c)(2)(A) (20 U.S.C. 1431(c)(2)(A)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(134) section 631(c)(2)(A) (20 U.S.C. 1431(c)(2)(A)) by striking "handicapping" and inserting "disabling";

(135) section 631(c)(2)(B) (20 U.S.C. 1431(c)(2)(B)) by striking "handicapping" and inserting "disabling";

(136) section 631(c)(4)(B) (20 U.S.C. 1431(c)(4)(B)) by striking "handicapped children" and inserting "children with disabilities";

(137) section 631(c)(5)(A) (20 U.S.C. 1431(c)(5)(A)) by striking "handicapping" and inserting "disabling";

(138) section 631(c)(5)(B) (20 U.S.C. 1431(c)(5)(B)) by striking "handicapped children's educational programs" and inserting "educational programs of children with disabilities";

(139) section 631(c)(5)(D) (20 U.S.C. 1431(c)(5)(D)) by striking "handicapped child's individualized educational program" and inserting "the individualized educational program of a child with a disability";

(140) section 631(c)(5)(E) (20 U.S.C. 1431(c)(5)(E)) by striking "handicapped children" and inserting "children with disabilities";

(141) section 631(c)(5)(F) (20 U.S.C. 1431(c)(5)(F)) by striking "handicapped children" and inserting "children with disabilities";

(142) section 631(c)(7) (20 U.S.C. 1431(c)(7)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(143) section 632(c) (20 U.S.C. 1432(c)) by striking "handicapped infants, toddlers, children, and youth" and inserting "infants, toddlers, children, and youth with disabilities";

(144) section 633(c) (20 U.S.C. 1433(c)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(145) the heading to section 643 (20 U.S.C. 1443) by striking "HANDICAPPED CHILDREN" and inserting "CHILDREN WITH DISABILITIES";

(146) section 643 (20 U.S.C. 1443) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(147) section 644(a)(1) (20 U.S.C. 1444(a)(1)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(148) section 644(a)(2) (20 U.S.C. 1444(a)(2)) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities";

(149) the heading to part F by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES";

(150) section 651(a)(2) (20 U.S.C. 1451(a)(2)) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities";

(151) section 652(a) (20 U.S.C. 1452(a)) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities";

(152) section 652(b)(5) (20 U.S.C. 1452(b)(5)) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities";

(153) the heading to part G by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES";

(154) section 661 (20 U.S.C. 1461) by striking "handicapped students" each place such term appears and inserting "students with disabilities";

(155) section 661 (20 U.S.C. 1461) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(156) section 661 (20 U.S.C. 1461) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities";

(157) the heading to part H by striking "HANDICAPPED INFANTS AND TODDLERS" and inserting "INFANTS AND TODDLERS WITH DISABILITIES";

(158) section 671(a) (20 U.S.C. 1471(a)) by striking "handicapped infants and toddlers" each place such term appears and inserting "infants and toddlers with disabilities";

(159) section 671(a)(3) (20 U.S.C. 1471(a)(3)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(160) section 671(b)(1) (20 U.S.C. 1471(b)(1)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(161) section 671(b)(3) (20 U.S.C. 1471(b)(3)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(162) section 672(1) (20 U.S.C. 1472(1)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(163) section 672(2) (20 U.S.C. 1472(2)) by striking "a handicapped infant's or toddler's developmental needs" and inserting "the developmental needs of an infant or toddler with a disability";

(164) section 673 (20 U.S.C. 1473) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(165) section 675(d) (20 U.S.C. 1475(d)) by striking "handicapped children" and inserting "children with disabilities";

(166) section 676(a) (20 U.S.C. 1476(a)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(167) section 676(b)(2) (20 U.S.C. 1476(b)(2)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(168) section 676(b)(3) (20 U.S.C. 1476(b)(3)) by striking "handicapped infant and toddler" and inserting "infant and toddler with a disability";

(169) section 676(b)(3) (20 U.S.C. 1476(b)(3)) by striking "handicapped infant or toddler" and inserting "infant or toddler with a disability";

(170) section 676(b)(4) (20 U.S.C. 1476(b)(4)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(171) section 676(b)(6) (20 U.S.C. 1476(b)(6)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(172) section 676(b)(9)(D) (20 U.S.C. 1476(b)(9)(D)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(173) section 676(b)(14) (20 U.S.C. 1476(b)(14)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(174) section 677(a) (20 U.S.C. 1477(a)) by striking "handicapped infant or toddler" and inserting "infant or toddler with a disability";

(175) section 677(d)(2) (20 U.S.C. 1477(d)(2)) by striking "handicapped infant or toddler" and inserting "infant or toddler with a disability";

(176) section 677(d)(7) (20 U.S.C. 1477(d)(7)) by striking "handicapped toddler" and inserting "toddler with a disability";

(177) section 678(b)(5) (20 U.S.C. 1478(b)(5)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(178) section 679 (20 U.S.C. 1479) by striking "handicapped infants and toddlers" each place such term appears and inserting "infants and toddlers with disabilities";

(179) section 680(4) (20 U.S.C. 1480(4)) by striking "handicapped infant or toddler" and inserting "infant or toddler with a disability";

(180) section 680(5) (20 U.S.C. 1480(5)) by striking "handicapped infant or toddler" each place such term appears and inserting "infant or toddler with a disability";

(181) section 681(b) (20 U.S.C. 1481(b)) by striking "handicapped infants and toddlers" and inserting "infants or toddlers with disabilities";

(182) section 682(e)(3) (20 U.S.C. 1482(e)(3)) by striking "handicapped infants and toddlers" and inserting "infants or toddlers with disabilities";

(183) section 683(2) (20 U.S.C. 1483(2)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(184) section 683(2) (20 U.S.C. 1483(2)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities"; and

(185) section 684(b)(1) (20 U.S.C. 1484(b)(1)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities".

(c) TECHNICAL AMENDMENTS.—Section 612(3) (20 U.S.C. 1412(3)) is amended by inserting "category" after "disability".

(d) HEAD START ACT.—Section 640(d) of the Head Start Act (42 U.S.C. 9835(d)) is amended by—

(1) striking "handicapped children" and inserting "children with disabilities"; and

(2) striking "handicapping" and inserting "disabling".

(e) HIGHER EDUCATION ACT OF 1965.—Section 465(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)(2)) is amended by striking "handicapped children" each place such term appears and inserting "children with disabilities".

(f) IMPACT AID.—Public Law 81-874 (20 U.S.C. 258) is amended in—

(1) section 3(d)(2)(C), by striking "handicapped children" each place such term appears and inserting "children with disabilities"; and

(2) section 403(10), by striking "handicapped" and inserting "disabled".

(g) TEMPORARY CHILD CARE FOR HANDICAPPED CHILDREN AND CRISIS NURSERIES ACT OF 1986.—Section 205(d)(2) of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117c(d)(2)) is amended by striking "handicapped children" and inserting "children with disabilities".

TITLE X—GENERAL PROVISIONS

SEC. 1001. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1990.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
M. R. OWENS,
MATTHEW G. MARTINEZ,
DONALD M. PAYNE,
JIM JONTZ,
BILL GOODLING,
STEVE BARTLETT,
CASS BALLENGER,
PETER SMITH,
Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,
PAUL SIMON,
ORRIN HATCH,
DAVID DURENBERGER,
JAMES M. JEFFORDS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

PART B

TITLE

1. The Senate bill titles the Act the "Education of Individuals with Disabilities Act of 1989." The House amendment names the bill the "Education of the Handicapped Act Amendments of 1990." (See note 229 for new name for the entire Act.)

The Senate recedes.

DEFINITIONS

2. Sec. 602(a)(1) of the Act as amended by both the Senate bill and the House amendment adds a new category to the definition of handicapped children. The Senate uses the term, "head injuries" while the House uses the term, "traumatic brain injury."

The Senate recedes.

The conferees intend that children and youth with traumatic brain injuries receive a free and appropriate public education which emphasizes special education and related services designed to meet their unique needs.

The conferees incorporate by reference the explanation regarding this amendment set out in House Report 101-544 at pages 5-6.

Sec. 602(a)(1) of the Act as amended by the House amendment, includes "attention deficit disorder" under the handicapping condition "other health impairments".

The Senate bill contains no comparable provision.

The House recedes with an amendment requiring the Secretary to publish, within 30 days of enactment, a Notice of Inquiry for the purpose of soliciting public comments regarding the appropriate components of an operational definition under the Education of the Handicapped Act for the term "attention deficit disorder." The Notice shall provide for a 120-day comment period for response to specific issues and for the transmittal of these comments to the appropriate committees of Congress. The conferees do not intend that any court or administrative hearing officer shall interpret the action of the conferees of rejecting the House provision or of including particular terminology in the Notice of Inquiry for the purpose of assisting it in interpreting the term "children with disabilities" under section 602 of the Education of the Handicapped Act.

The conferees recognize that as a matter of policy, the Office of Civil Rights of the Department of Education has determined that "attention deficit disorder" can be a handicapping condition under the regulations implementing section 504 of the Rehabilitation Act of 1973. OCR has also determined that such determination must be made on a case by case basis. Conferees strongly encourage the Assistant Secretary for Civil Rights to disseminate to educational agencies, parents, and other interested persons, through the issuance of policy interpretations or other means, OCR's current policies regarding ADD. The inclusion of section 102 in the legislation concerning the Notice of Inquiry should in no way be construed to affect OCR's current policies regarding ADD.

The Notice of Inquiry process, agreed to by the conferees, is intended to be a useful way to sort out conflicting positions and should provide Congress with the widest possible range of advice on the issue. It is the intent of the conferees that in both the Notice of Inquiry to be conducted by the Department of Education and in congressional consideration thereafter, no perspective on the issue of ADD should be excluded.

This amendment additionally requires the establishment of a center or centers (under section 641(f) of the Act) designed only to organize, synthesize, and disseminate current knowledge relating to children with this disorder. It is the managers' intention that funding should be given to applicants who have demonstrated knowledge of this disorder and proven effectiveness in performing the required functions.

3. Sec. 602(a)(16) of the Act as amended by the House amendment, clarifies the settings covered by special education.

The Senate bill contains no comparable provision.

The Senate recedes.

4. Sec. 602(a)(17) of the Act as amended by the House amendment clarifies that the term "recreation" includes "therapeutic recreation" and clarifies that the term "counseling" includes "rehabilitation counseling."

The Senate bill contains no comparable provision.

The Senate recedes.

Both the House and Senate committee reports of the EHA Amendments of 1986 included language clarifying the intent of Congress to include rehabilitation counseling as a related service. The conferees incorporate by reference the explanation regarding this amendment set out in House Report 101-544 at pages 7-8.

5. Sec. 602(a) of the Act as amended by the House amendment adds a new definition of "translation services."

The Senate bill contains no comparable provision.

The Senate recedes with an amendment clarifying that the listed activities are only examples of different types of post-school activities. The conferees incorporate by reference the explanation regarding this amendment set out in House Report 101-544 at pages 9 and 10.

6. 602(a)(20) of the Act as amended by the House amendment adds a statement on transition services to the required components of an individual education program for students no later than the age of 16, and where appropriate, beginning at the age of 14 or younger.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment providing for the reconvening of the IEP team where a participating agency, other than the educational agency, other than the educational agency, fails to provide transition services.

7. Sec. 602(a)(24)(A) of the Act as amended by the House amendment includes the Bureau of Indian Affairs and tribally-controlled schools in the definition of private, nonprofit agency or organization.

The Senate bill contains no comparable provision.

The Senate recedes.

STATE IMMUNITY

8. Sec. 604(a) of the Act as amended by the Senate bill uses the term "waiver."

Sec. 604(a) of the Act as amended by the House amendment uses the term "abrogatiion."

The Senate recedes.

ADMINISTRATIVE PROVISIONS

9. Part A of the Act as amended by both the Senate bill and the House amendment adds a new section 610.

The Senate bill titles this section "Administrative Provisions."

The House amendment uses "Administrative Provisions Applicable to Parts C Through G and Section 618."

The Senate recedes.

10. The House amendment [under section 610(a)] includes a general mandatory direction to the Secretary to create a program planning process and stipulates certain entities to be consulted in the process.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment clarifying that the Secretary shall maintain a process for developing a program plan.

11. The Senate bill [under section 610(a)] includes a requirement, where appropriate, that grantees demonstrate how they will address the needs of students from a "diversity of racial, ethnic, and linguistic backgrounds."

The House amendment contains no comparable provision.

The House recedes with an amendment to replace "diversity of racial, ethnic, and linguistic backgrounds" with "minority backgrounds."

12. The House amendment [under section 610(b)] requires independent evaluations of all programs under section 618 and Parts C through G.

The Senate bill contains no comparable provision.

The Senate recedes.

13. The amendment [under section 610(c)] requires inclusion of the program plans and evaluations required by this section in the annual reports to Congress.

The Senate bill contains no comparable provision.

The Senate recedes.

14. The House amendment [under section 610(d)] requires the development of effective information acquisition and dissemination procedures for programs and projects under Parts C through G, and studies under section 618.

The Senate bill contains comparable language elsewhere in its bill.

The Senate recedes.

15. The Senate bill [under section 610(b)] requires dissemination by all grant recipients and states the Secretary "may require" distribution to "appropriate networks that exchange practice and knowledge." The networks are named.

The House amendment authorizes [under section 610(d)] the Secretary, "where appropriate," to require grant recipients to conduct dissemination, but says the Secretary "shall require" the delivery of documents produced, as appropriate, to named networks, and "such other networks as the Secretary may determine to be appropriate."

The Senate recedes to the House and the House recedes to the Senate with an amendment clarifying that where appropriate all recipients are required to disseminate and deliver all documents they have produced.

16. The Senate bill [under section 610(c)] requires at least one site visit for every grant receiving $300,000 or more annually under Parts C through G of this Act.

The House amendment contains no comparable provision.

The House recedes.

17. The House amendment [under section 610(d)] makes the following changes to the current panels of experts provision: moves the provision to this section and repeals section 643; adds that panels be competent "by virtue of their training or experience;" adds persons from "related services;" deletes requriement for experience and expertise in the content areas and age levels addressed; and adds that the Secretary may use funds from section 618 for this activity.

The Senate bill contains no comparable provision.

The Senate recedes.

18. The House amendment [under section 610(g)] adds a new provision on "Goals for Minorities and Underserved Persons." The provision includes:

(a) findings [610(g)(1)].

(b) a statement of policy [610(g)(2)].

(c) a process for awarding grants, contracts, and cooperative agreements for activities under Parts C through G to certain entities having expertise in serving these groups [610(g)(2)(C)].

(d) a definition of the entities covered [610(g)(2)(c)(ii)].

(e) a requirement for outreach (by the Secretary) to those entities [610(g)(2)(D)].

(f) a reservation of 1% of the amount appropriated for Parts C through G for certain entities [610(g)(2)(D)(iii)].

(g) a requirement for an annual report to Congress on the implementation of these provisions [610(g)(4)].

(h) a definition of minority and underserved [610(g)(5)(i)].

The Senate bill contains no comparable provision.

The Senate recedes with an amendment:

(a) striking [610(g)(2)(C)] and [610(g)(5)(i)].

(b) requiring that the 1% reserved for outreach sunset at the end of the authorization, at which time the Congress will evaluate the need for continuation of this provision.

(c) substituting "underrepresented" for "underserved" throughout the bill.

SETTLEMENTS AND ALLOCATIONS

19. Sec. 611(f) of the Act as amended by the House amendment amends the current provisions on Indians by requalifying those entities which received grants prior to FY 1989, but which were then held ineligible for grants; and by requiring the B.I.A. to submit to Congress, by March 1, 1991, a report on the coordinated provision of services to all children residing on reservations.

The Senate bill contains no comparable provision.

The Senate recedes.

STATE PLANS

20. Sec. 613(a)(3) of the Act as amended by the Senate bill uses the term "describe" and sets out the requirements for the Comprehensive System for Personnel Development (CSPD).

Sec. 613(a)(3) of the House amendment uses the term "set forth," and includes a general description of the CSPD plan and its requirements.

The House recedes.

21. Sec. 613(a)(3) of the Act as amended by the Senate bill requires the State to determine levels of personnel and uses the term "who do not hold appropriate State certification or licensure." With regards to five-year projections, it uses the term "retirement and other leaving of personnel from the field and other relevant factors."

Sec. 613(a)(3) of the Act as amended by the House amendment also requires the State to document the personnel figures, but does not include language on appropriate State certification. With regards to five-year projections, it requires documentation of the types of exemptions and uses the term "projected rates of personnel attrition and other factors."

The House recedes.

22. Sec. 613(a)(3) of the Act as amended by the Senate bill requires the provision of student information on an annual basis; uses the term "the numbers of students enrolled in such programs," including graduates "with credentials to qualify for certification or licensure, during the past year;" and requires the development, updating, and implementation of the CSPD to meet current and projected needs.

Sec. 613(a)(3) of the Act as amended by the House amendment uses the term "number of personnel being trained," and requires a report on the "extent to which this meets or will meet State personnel needs."

The House recedes.

23. Sec. 613 (a)(3) of the Act as amended by the Senate bill adds a requirement for coordination with a number of entities to recruit, prepare, and retain qualified personnel, including personnel from diverse racial, ethnic, and linguistic backgrounds and personnel with disabilities.

Sec. 613(a)(3) of the Act as amended by the House amendment requires a description of State plans to recruit and retain qualified personnel to "overcome current and projected shortages," including those caused by lack of licensure or certification, and the extent of success.

The House recedes with an amendment to replace "diverse racial, ethnic, and linguistic background" with "minority background."

24. Sec. 613(a)(3) of the Act as amended by the Senate bill requires a description of procedures and activities to "ensure that all personnel necessary . . . are appropriately and adequately prepared;" specifically includes regular education personnel in the continuing education provision and the information dissemination provision.

Sec. 613(a)(3) of the Act as amended by the House amendment requires that "special education . . . personnel, including leadership personnel" be included in the continuing education provision and the dissemination of information provision. Also requires reports on success in meeting needs and on the extend of information dissemination.

The House recedes.

25. Sec. 613(a)(3) of the Act as amended by the Senate bill requires a procedure for adopting, where appropriate, "promising practices, materials and technology".

The House amendment contains no comparable provision.

The House recedes.

26. Sec. 613(a)(3) of the Act as amended by the House amendment requires the State to increase the supply of personnel from racial and ethnic minority groups and individuals with disabilities.

The Senate bill contains no comparable provision.

The House recedes (see note 23).

27. Sec. 613(a)(3) of the Act as amended by the House amendment gives a specific timeline for compliance with this provision.

The Senate bill contains no comparable provision.

The House recedes.

ADMINISTRATION

28. Sec. 617 of the Act as amended by the House amendment includes a provision relating to the acquisition of a computerized information managment system.

The Senate bill contains no comparble provision.

The House recedes.

EVALUATIONS

29. Sec. 618 of the Act as amended by the House amendment titles this section "EVALUATION AND PROGRAM INFORMATION."

The Senate bill contains no comparable provision.

The Senate bill recedes.

30. Sec. 618 of the Act as amended by the Senate bill deletes from current law the general authority for the Secretary to "conduct studies, investigations, and evaluations."

The House amendment contains no comparable provision.

The Senate recedes.

31. Sec. 618(a) of the Act as amended by the House amendment adds to current law the authority to do "analyses."

The Senate bill contains no comparable provision.

The Senate recedes.

32. Sec. 618(a)(3)(B) of the Act as amended by the House amendment adds the term "delivery" after "information on effectiveness."

The Senate bill contains no comparable provision.

The Senate recedes.

33(a). Sec. 618(b) of the Act as amended by the House amendment includes lead agencies "established" under Part H.

The House recedes.

33(b). Sec. 618(b) of the Act as amended by the House amendment states that for FY 1991 information may not be required "regarding traumatic brain injury and autism."

The Senate recedes.

34. Sec. 618(b)(1) of the Act as amended by the Senate bill deletes in current law (1) the requirement that the data collected be "as is necessary for the implementation of this Act", and (2) the annual collection of data on services for students exiting this system (see note 39).

The House recedes.

35. Sec. 618(b)(1) of the Act as amended by the Senate bill rewrites the current provision by applying the term "by disability category" to all clauses.

The House amendment contains no comparable provision.

The House recedes.

36. Sec. 618(b)(3) of the Act as amended by both the Senate bill and House amendment rewrites the current provision on numbers of students exiting the system. The Senate bill uses the term "age 14 through 21." The House amendment uses the term "14 and above" and requires a sampling of data for lower age levels.

The House recedes.

37. Sec. 618(b)(3) of the Act as amended by the Senate bill deletes in current law the provisions requiring data on expenditure levels and services needed for full implementation of the Act.

The House amendment contains no comparable provision.

The House recedes.

38. Sec. 618(b)(3) of the Act as amended by the House amendment adds a data requirement on the number of students who exit preschool programs under Part B and enter regular education programs at the first grade level.

The Senate bill contains no comparable provision.

The House recedes.

39. Sec. 618(b)(3) of the Act as amended by the Senate bill requires, at least every three years, a description of anticipated services for students who have left the educational system.

The House amendment contains no comparable provision.

The House recedes.

40. Sec. 618(b)(5) of the Act as amended by the Senate bill requires, by FY 1992, data on the number of personnel needed under the Comprehensive System of Personnel Development (CSPD), as well as other data.

Sec. 618(b)(5) of the Act as amended by the House amendment requires, by FY 1991, information on the implementation of the CSPD, but does not specify what information is to be included (see note 21).

The House recedes with an amendment changing the implementation date of this provision from FY 1992 to FY 1993.

41. Sec. 618(b)(5) of the Act as amended by the Senate bill requires the Secretary to provide technical assistance to State agencies which provide CSPD data.

The House amendment contains no comparable provision.

The House recedes.

42. Sec. 618(c) of the Act as amended by the Senate bill deletes the current provision on evaluation studies and places it on other provisions in Part E.

The House amendment contains no comparable provision.

The Senate recedes.

43. Sec. 618(c) of the Act as amended by the Senate bill titles this section "Program Management and Effectiveness."

Sec. 618(c) of the Act as amended by the House amendment titles this section "Implementation Inquiries."

The House recedes to the Senate and the Senate recedes to the House with an amendment deleting the title.

44. Sec. 618(c) of the Act as amended by the Senate bill permits general program management grants to private, for profit organizations if this study has a unique character. Grants would be made for studies and investigations.

Sec. 618(c) of the Act as amended by the House amendment does not specify the tax status of the organizations; expands on the list of eligible activities, including case studies, secondary data analyses, syntheses, and program implementation inquiries (see note 51).

The House recedes.

45. Sec. 618(c) of the Act as amended by the Senate bill includes projects to develop effective "racially, ethnically, and linguistically apprpriate criteria and procedures."

Sec. 618(c) of the Act as amended by the House amendment has a more general provision for the development of criteria and procedures, with emphasis on those from minority backgrounds.

The House recedes with an amendment to replace the term "racially, ethnically, and linguistically" with "those from minority backgrounds."

46. Sec. 618(c) of the Act as amended by the House amendment includes projects on the relationships between placement procedures and the outcomes of placement decisions.

The Senate bill contains no comparable provision.

The House recedes.

47. Sec. 618(c) of the Act as amended by the House amendment includes projects on planning and delivery of services at points of transition, expecially for youth.

The Senate bill contains no comparable provision.

The House recedes.

48. Sec. 618(c) of the Act as amended by the House amendment requires recipients to prepare their findings in a way which maximizes dissemination and use. Stipulates dissemination mode and report to Congress.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment that moves this provision to section 618(c)(4).

49. Sec. 618(c) of the Act as amended by the Senate bill includes a general project to develop and implement a Comprehensive Personnel Development System (CSPD)

Sec. 618(c) of the Act as amended by the House amendment gives authority to support improvements in such systems, to improve resource allocation and use, interagency coordination, continuity of services, and parent-school communication and collaboration.

The House recedes (see note 50).

50. Sec. 618(c) of the Act as amended by the Senate bill includes projects to: develop capacity to implement practices to integrate children with diabilities; effectively allocate and use human and fiscal resources; strengthen programs and services to improve progress in programs and in transition; achieve interagency coordination; strengthen parent-school communication and coordination; and improve professional practices.

The House amendment contains no comparable provision.

The House recedes.

51. Sec. 618(c) of the Act as amended by the Senate bill stipulates some of the methods for these studies and requires that the studies and investigations address information needs of State and local educational agencies.

The House amendment contains no comparable provision.

The House recedes.

52. Sec. 618(c) of the Act as amended by the Senate bill requires the development and implementation (in cooperation with State and local entities) of an on-going system for determining national program information needs and requires that a program information plan be published in the Federal Register every three years, and be included in the annual report to Congress.

Sec. 618(c) of the Act as amended by the House amendment requires that proposed funding priorities be published in the Federal Register every three years for review, and that comments be taken into consideration when priorities are set.

The House recedes.

53. Sec. 618(d)(1) of the Act as amended by the Senate bill moves the current provision on cooperative agreements with SEA's to Part E.

Sec. 618(d)(1) of the Act as amended by the House amendment retains the current provision and adds procedures and policies to the list of activities to be studied.

The Senate recedes.

SPECIAL STUDIES

54. Sec. 618(e) of the Act as amended by the House amendment requires that proposed priorities for special studies be submitted to Congress and published in the *Federal Register.*

The Senate bill stipulates that each study include recommendations.

The Senate recedes with an amendment changing the date upon which proposed priorities must be submitted to Congress from "not later than July 1 of each year beginning 1991" to "beginning in fiscal year 1993 and for every third year thereafter."

55. Sec. 618(e) of the Act as amended by the Senate bill mandates certain studies.

Sec. 618(e) of the Act as amended by the House amendment allows discretion to fund specified studies.

The Senate recedes.

56. Sec. 618(e) of the Act as amended by the Senate bill is more specific with respect to the longitudinal study.

The House amendment contains no comparable provision.

The House recedes.

57. Sec. 618(e) of the Act as amended by the House amendment includes three studies: (1) factors contributing to the decline in numbers of students classified as mentally retarded and the current disparity between State counts; (2) the degree and reasons for placement in separate educational facilities; and (3) the status, progress, and variation in the implementation of policies, procedures, and programs governing the provision of services.

The Senate bill amendment contains no comparable provision.

The Senate recedes with an amendment that renumbers the position of this study within the special studies provision.

58. Sec. 618(e) of the Act as amended by both the Senate bill and the House amendment requires a study of the types, number, and intensity of related services.

Sec. 618(e) of the Act as amended by the Senate bill requires that this study be "nationally representative."

The House recedes.

59. Sec. 618(e) of the Act as amended by the House amendment includes two studies: selection and use of out-of-community placements for students who are seriously emotionally disturbed; and the variables affecting the placements of minority children (see note 135).

The Senate bill contains no comparable provision.

The Senate recedes with an amendment to:

(a) renumber these studies and place them within the existing special studies provision.

(b) modify [618(e)(2)(F)(iii)] on the study on minority placements by inserting "in the development and" after "decisions and" and before "implementation of."

60. Sec. 618(e) of the Act as amended by the Senate bill includes studies of: the disparities between States in placements of students with similar disabilities, especially those with mental retardation; and the factors which have contributed to the decline of students with specific disabilities (see note 57).

The House amendment contains no comparable provision.

The House recedes with an amendment to renumber these studies and place them within the existing special studies provision.

61. Sec. 618(e) of the Act as amended by the Senate bill includes a specific provision which authorizes activities that "organize, synthesize, interpret, and integrate" information from these studies with information from other sources (see note 69).

The House amendment contains no comparable provision.

The House recedes with an amendment requiring the inclusion of that aspect of the House provision which requires that "such activities shall include selection and design of content, formats, and means for effectively communicating such information."

62. Sec. 618(f) of the Act as amended by the House amendment adds the heading "Annual Report."

The Senate bill contains no comparable provision.

The House recedes.

63. Sec. 618(f)(1) of the Act as amended by the Senate bill authorizes the Secretary to conduct activities to prepare an annual report, which "shall be disseminated . . . to the education community at large and to other interested parties."

Sec. 618(f)(1) of the Act as amended by the House amendment directs the Secretary to prepare such a report, for dissemination "to the education and disability communities," and requires that Part H data be included in the report.

The House recedes with an amendment modifying the Senate provision to include dissemination to the "disability communities" and Part H data in the annual report.

64. Sec. 618(f)(2) of the Act as amended by the House amendment requires the annual report to include an index and summary of each activity related to program information undertaken under certain subsections.

The Senate bill contains no comparable provision.

The House recedes (see note 66).

65. Sec. 618(f)(2) of the Act as amended by the Senate bill requires inclusion of a description of findings and determinations resulting from State monitoring.

The House amendment contains no comparable provision.

The House recedes.

66. Sec. 618(f)(2) of the Act as amended by the Senate bill requires that the Secretary provide an annual index to all projects funded under Parts C through G and data from sections 622 and 634; deletes current provisions requiring the reporting of infor-

mation related to vocational education programs, least restrictive environment, and recommendations for changes in the Act.

The House amendment contains no comparable provision.

The House recedes.

67. Sec. 618(f)(4) of the Act as amended by the Senate bill deletes current requirements for information on special populations, and substitutes the requirement to provide information on the results of research and related activities conducted under Part E that the Secretary determines as relevant to the effective implementation of the Act.

The House amendment contains no comparable provision.

The House recedes.

68. Sec. 618(f)(5) of the Act as amended by the Senate bill deletes from current law the reference to a specific date and the term "inclusive" from the reference to age.

The House amendment contains no comparable provision.

The House recedes.

69. Sec. 618(g) of the Act as amended by the House amendment includes a general provision which authorizes activities to organize, synthesize, interpret, and integrate information from this section with information from other sources, and stipulates design of content and means for communicating such information.

The Senate bill contains no comparable provision.

The House recedes.

AUTHORIZATIONS

70. Sec. 618. (g) [as redesignated (h)] of the Act as amended by the House amendment authorizes for each of the fiscal years 1991 through 1994, that 1% of the amounts appropriated for the Senate assistance grants under Part B be reserved to carry out section 618; of the 1%, not more than 25% may be used to carry out the special studies.

Sec. 618. (g) [as redesignated (h)] of the Act as amended by the Senate bill authorizes $3.594 million for FY 90-94 to carry out section 618.

The Senate recedes with an amendment to delete the 1% provision and replace it with a $12 million authorization for FY 91, and such sums as necessary for FY 92-94, and change the ceiling on special studies from 25% to 30%.

PART C

REGIONAL RESOURCE AND FEDERAL CENTERS

71. Sec. 621(a) of the Act as amended by both the Senate bill and the House amendment adds "special education, related services, and early intervention" to the focus of the Regional Resource Centers.

Sec. 621(a) of the Act as amended by the House amendment adds the caveat that centers provide training "as requested;" deletes the Secretary's authority to set priorities for the centers; and specifies the projects covered under dissemination activities.

The Senate recedes.

72. Sec. 621(b) of the Act as amended by the House amendment adds specific criteria relating to regional needs for the Secretary to utilize in making grants for the centers.

The Senate bill contains no comparable provision.

The Senate recedes.

73. Sec. 621(d) of the Act as amended by the Senate bill expands the authority of the National Coordinating Technical Assistance Center to: provide training and information to a wide range of entities regarding techniques and approaches for submitting applications, and to make such information available to other regional centers; give priority in providing technical assistance concerning education of students from diverse racial, ethnic, and linguistic backgrounds; exchange information and cooperate with other centers addressing the needs of students from diverse racial, ethnic, and linguistic backgrounds; and provide assistance to States—through regional centers—for the training of hearing officers.

The House contains no comparable provision.

The House recedes with an amendment to replace "diverse racial, ethnic, and linguistic backgrounds" with "minority backgrounds."

74. Sec. 621 of the Act as amended by the House amendment adds a new subsection which directs the Secretary to develop, in consultation with a panel, guidelines and criteria for the operation of Regional and Federal Resource Centers; stipulates elements to be included under the guidelines and criteria; directs the Secretary to publish (in the *Federal Register* by July 1, 1991) proposed guidelines for review and comment, and to publish final guidelines developed by the panel.

The Senate bill contains no comparable provision.

The Senate recedes.

DEAF BLIND SERVICES

75. Sec. 622(a)(1)(A) of the Act as amended by the Senate bill adds lead agencies under Part H, adds infants and toddlers to those to be served, and adds "early intervention" to the services to be provided.

The House amendment contains no comparable provision.

The House recedes.

76. Sec. 622(a)(1)(B) of the Act as amended by the Senate bill deletes the term "youth" and adds the term "individuals" in reference to eligibility.

Sec. 622(a)(1)(B) of the Act as amended by the House amendment rewrites the provision, adding "supports" and "including assistance related to independent living and competitive employment" to facilitate transition.

The Senate recedes.

77. Sec. 622(a)(2) of the Act as amended by the House amendment redesignates this paragraph as 3 and adds a definition of deaf-blind.

The Senate bill contains no comparable provision.

The Senate recedes.

78. Sec. 622(a)(2) of the Act as amended by the Senate bill adds "early intervention services" to the provision regarding technical assistance and replication of successful innovative approaches.

The House amendment contains no comparable provision.

The House recedes.

79. Sec. 622(a)(2) of the Act as amended by both the Senate bill and the House amendment adds pilot projects to expand the capability of local educational agencies to provide services, and encourage State and local authorities to assume funding responsibility for these projects.

. Sec. 622(a)(2) of the Act as amended by the Senate bill adds youth to the population to be served.

The House amendment contains no comparable provision.

The House recedes.

80. Sec. 622(a)(2) of the Act as amended by the Senate bill authorizes projects for: research to identify and meet the full range of special needs of this population; the development, or demonstration of new or existing methods, approaches, or techniques that contribute to the adjustment and education of this population; and facilitation of parental involvement.

The House amendment contains no comparable provision.

The Senate recedes to the House and the House recedes to the Senate with an amendment deleting projects on research to identify and meet the full range of special needs of this population.

81. Sec. 622(a)(2) of the Act as amended by the Senate bill adds infants and toddlers to the population to be served.

The House amendment contains no comparable provision.

The House recedes.

82. Sec. 622(a)(2) [as redesignated (3)] of the Act as amended by the Senate bill deletes the age requirement.

The House amendment contains no comparable provision.

The House recedes.

83. Sec. 622(a)(3) [as redesignated (4)] of the Act as amended by the House amendment expands eligibility criteria for grantees.

The Senate bill contains no comparable provision.

The Senate recedes.

84. Sec. 622(a)(3) [as redesignated (4)] of the Act as amended by the Senate bill requires that the Secretary, in carrying out this section, shall consider the availability and quality of existing services and the need for services in all parts of the country.

The House amendment contains no comparable provision.

The House recedes.

85. Sec. 622(b) of the Act as amended by the Senate bill authorizes single and multistate centers for the provision of technical assistance and adds "pilot projects" as entities to be served.

Sec. 622(a)(4) [as redesignated (5)] of the Act as amended by the House amendment authorizes single and multi-state centers for the provision of technical assistance and "pilot supplementary services."

The Senate recedes.

86. Sec. 622(c)(1) of the Act as amended by the House amendment expands the data to be reported: sex, service settings, and where appropriate, student outcomes.

The Senate bill contains no comparable provision.

The Senate recedes.

87. Sec. 622(d) of the Act as amended by the Senate bill authorizes a cooperative agreement with stipulated entities for the establishment of a National Center on Deaf-Blindness to disseminate materials and information on effective practices in working with deaf-blind infants, toddlers, children, and youth.

Sec. 622(d) of the act as amended by the House amendment authorizes a grant, contract, or cooperative agreement to establish a National Clearinghouse for Children and Youth with Deaf-Blindness to identify, coordinate, and disseminate information on deaf-blindness; to respond to information requests from a broad range of constituents; to interact with educators and others to identify areas for programming, materials development, training and expansion of specific services; and to maintain a computerized data base of resources.

The Senate recedes with an amendment stating that the information to be disseminated by this clearing house should emphasize "information on effective practices in working with this population."

The conferees note that Gallaudet University was awarded a cooperative agreement to operate the Deaf-Blind Clearinghouse. Un-

fortunately, the Department of Education decided not to fund it, but instead to include this function under another technical assistance project.

Information for educators and parents on the unique and intense instructional needs of deaf-blind children is lacking and sometimes inaccessible. Information which may be available is often difficult to identify and locate and may not have the depth and breadth to provide support to educators and parents in making satisfactory program decisions and design. It is the intention of the conferees that experience and expertise specific to deaf-blindness must be considered when making this award.

88. Sec. 622(e) of the Act as amended by the House amendment deletes severely handicapped from the provision that authorizes extended school year programs.

The Senate bill contains no comparable provision.

The House recedes.

89. Sec. 622(e) and (f) of the Act is amended by the Senate bill repeals the two provisions related to the extended school year programs and the crossover authority for funding of joint projects serving deaf-blind and severely handicapped populations.

The House amendment contains no comparable provision.

The House recedes.

90. Sec. 622(f) of the Act as amended by the House amendment authorizes research to identify and meet the full range of special needs of this population, and the development and demonstration of new or improvements in existing methods, approaches, or techniques that would contribute to the adjustment and education of this population.

The Senate bill contains no comparable provision.

The Senate recedes.

EARLY EDUCATION

91. Sec. 623(a)(1) of the Act as amended by the House amendment replaces the term "problems of such children" with "needs of these children."

The Senate bill contains no comparable provision.

The Senate recedes.

92. Sec. 623(a)(1) of the Act as amended by the Senate bill adds "other communication mode" to the list of services and activities.

Sec. 623(a)(1) of the Act as amended by the House amendment replaces the term "speech" with "communication."

The House recedes.

93. Sec. 623(a)(1)(B) of the Act as amended by the House amendment expands the list of activities and services to include family education with mandatory participation of a parent or representative.

The Senate bill contains no comparable provision.

The Senate recedes.

94. Sec. 623(a)(1)(C) of the Act as amended by the House amendment replaces the term "problems of such children" with "special needs of these children."

The Senate bill contains no comparable provision.

The Senate recedes.

95. Sec. 623(a)(1)(D) of the Act as amended by the House amendment adds interdisciplinary models and practices to the training activities, and includes parents in the service population.

The Senate bill contains no comparable provision.

The Senate recedes.

96. Sec. 623(a)(1)(E) of the Act as amended by the House amendment adds the involvement of adult role models with disabilities to the adoption of exemplary models and practices.

The Senate bill contains no comparable provision.

The Senate recedes.

97. Sec. 623(a)(1) of the Act as amended by the Senate bill adds new subparagraphs to list new activities and services: facilitate and improve early identification of infants and toddlers; facilitate transition of infants; promote use of assistive technology devices and services; and increase understanding of, and address, early intervention and preschool needs of children exposed prenatally to maternal substance abuse.

The House amendment contains no comparable provision.

The House recedes.

98. Sec. 623(b) of the Act as amended by the House amendment expands the service population of the technical assistance development system to include parents, advocates, direct service and administrative personnel, and Part H State agencies; and requires aggressive dissemination of information from the system.

The Senate bill contains no comparable provision.

The Senate recedes. The conferees incorporate by reference the explanation regarding this amendment set out in House Report 101-544 on page 34.

99. Sec. 623(c) of the Act as amended by the House amendment specifies modes for dissemination of information.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment specifying that reference be made to section 610(g) whenever modes of dissemination are mentioned.

100. Sec. 623(d) of the Act as amended by the House amendment adds projects on integration into regular preschool programs to the list of research activities.

The Senate bill contains no comparable provision.

The Senate recedes.

101. Sec. 623(f) of the Act as amended by the House amendment clarifies the eligibility population by including infants and toddlers.

The Senate bill contains no comparable provision.

The Senate recedes.

102. Sec. 623 of the Act as amended by the Senate bill adds a new subsection (g) to include an authority to synthesize knowledge developed under this section; and to organize, integrate, and present this knowledge to maximize its utility and dissemination.

The House amendment contains no comparable provision.

The Senate recedes to the House and the House recedes to the Senate with a technical amendment.

CHILDREN WITH SEVERE DISABILITIES

103. Sec. 624 of the Act as amended by the Senate bill titles this section "Programs for Children with Severe Disabilities."

Sec. 624 of the Act as amended by the House amendment titles this section "Programs for Severely Handicapped Children."

The House recedes.

104. Sec. 624(a) of the Act as amended by the Senate bill uses the term "early intervention."

Sec. 624(a) of the Act as amended by the House amendment uses the term "integration needs;" deletes the authority of the Secretary to determine eligible organizations or institutions, replacing it with designated entities; and adds infants and toddlers to the population to be served.

The Senate recedes with an amendment to include the "early intervention."

105. Sec. 624(1)(1) of the Act as amended by the House amendment includes transportation to and from school as one of the special needs that can be researched.

The Senate bill contains no comparable provision.

The Senate recedes.

106. Sec. 624(a)(3) of the Act as amended by the Senate bill stipulates the categories of personnel eligible for training services, and adds infants and toddlers to the population to benefit from training.

Sec. 624(a)(3) of the Act as amended by the House amendment includes "regular teachers, instructors, and administrators" to thse eligible for training, and adds integrated settings as a training category.

The Senate recedes to the House and the House recedes to the Senate combining the langauge from the Senate bill and the House amendn:ent.

107. Sec. 624(a)(4) of the Act as amended by the House amendment stipulates certain dissemination modes.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment deleting the specific modes of dissemination and substituting a reference to section 610(g).

108. Sec. 624(a) of the Act as amended by the House amendment adds a new paragraph (5) which authorizes statewide projects to improve the quality of special education and related services, and to change the delivery of those services from segregated to integrated environments.

The Senate bill contains no comparable provision.

The Senate recedes.

109(a). Sec. 624 of the Act as amended by both the Senate bill and the House amendment authorizes extended school year programs for this population.

109(b). Sec. 624 of the Act as amended by the House amendment redesignates (b) as (c) and adds a new (b) to include infants and toddlers in the population to be served, and allows the funding of grants that would include the participation of non-disabled students if there is non-Federal matching funds.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment to delete the provision regarding the funding of grants that would allow participation of non-disabled students.

110. Sec. 624 of the Act as amended by the House amendment adds a new (e) which establishes a priority for funding projects which increase the likelihood of non-segregated settings.

The Senate bill contains no comparable provision.

The Senate recedes.

POSTSECONDARY EDUCATION

111. Sec. 625(a) of the Act as amended by the House amendment clarifies that these model programs may include joint projects that coordinate with special education and transition services.

The Senate bill contains no comparable provision.

The Senate recedes.

112. Sec. 625(a)(2) of the Act as amended by the House amendment adds a new sub-

paragraph (C) to include outreach activities in the list of those authorized.

The Senate bill contains no comparable provision.

The Senate recedes.

113. Sec. 625(b) of the Act as amended by both the Senate bill and the House amendment clarifies the population to be served. The Senate bill uses the terms "individuals" and "head injuries." The House amendment uses the terms "children" and "traumatic brain injury," and includes attention deficit disorder as a specific health impairment.

The Senate recedes with an amendment deleting attention deficit disorder as a specific health impairment.

114. Sec. 626 of the Act as amended by the Senate bill titles this section "Secondary Education and Transition Services for Handicapped Youth."

Sec. 626 of the Act as amended by the House amendment titles this section "Secondary Education and Transition Services for Children and Youth with Disabilities."

The Senate recedes.

115. 626(a)(1) of the Act as amended by the House amendment adds "independent and community living" to the list of general activities.

The Senate bill contains no comparable provision.

The Senate recedes.

116. Sec. 626(b)(2) of the Act as amended by the Senate bill adds "independent living" as an emphasis under the authority for demonstration model projects.

The House amendment contains no comparable provision.

The House recedes.

117. Sec. 626(b)(9) of the Act as amended by the House amendment revises current law to include "reasons why some youth with disabilities remain to complete school" as a factor to be studied.

The Senate bill contains no comparable provision.

The Senate recedes.

118(a). Sec. 626(b)(9) of the Act as amended by both the Senate bill and the House amendment includes the term "related services" in the provision on developing curriculum and instructional techniques.

118(b). Sec. 626(b)(9) of the Act as amended by the House amendment revises the current provision by changing the placement of the term "special education."

The Senate recedes.

119. Sec. 626(b)(10) of the Act as amended by the House amendment adds the term "or adapted" to the physical education and therapeutic recreation programs that can be funded, and substitutes the phrase "to facilitate the full participation of youths with disabilities in community programs" for the current phrase "to increase the potential of handicapped youths for community participation."

The Senate bill contains no comparable provision.

The Senate recedes.

120. 626(b) of the Act as amended by the Senate bill adds a new paragraph (11) which authorizes the development and dissemination of exemplary programs and practices regarding the use of assistive technology devices and services.

The House amendment contains no comparble provision.

The House recedes.

121. Sec. 626(d)(3) of the Act as amended by the House amendment revises current law to require participation of students and parents in planning, developing, and implementing these projects.

The Senate bill contains no comparable provision.

The Senate recedes.

NEW TRANSITION STATE GRANTS

122. Sec. 626(e) of the Act as amended by both the Senate bill and the House amendment redesignates (e) as (f) and adds a new (e) which authorizes a new initiative to fund joint State educational agency/State vocational rehabilitation agency (SEA/SVRA) applicants to implement and improve transition services for youth.

The Senate bill requires at least five grants to joint State educational agency/State vocational rehabilitation agency (SEA/SVRA) applicants to provice services for youth ages 14-21. Priority would be given to joint projects which target resources to school settings, provide on-going information and training, and provide for cooperative arrangements for interagency funding to ensure service to youth in accordance with the Rehabilitation Act of 1973.

The House amendment requires one-time, 5-year grants; authorizes joint applicants other than SVRA, but only in the case when the SVRA does not participate; provides services for youth from age 14 through the age they exit school. Gives preference to applicants that will: (1) target resources to school settings; (2) target grant funds to case management, program evaluation, and documentation and dissemination of information on transition services; (3) provide incentives for interagency and private sector resource pooling; (4) provide for early ongoing information and training; (5) provide for early and direct involvement of all relevant parties; (6) provide access to training for eligible youth; (7) integrate transition services with relevant opportunities in communities; (8) use a transition services evaluation plan; and (9) ensure that eligible youth be served in accordance with the Rehabilitation Act of 1973.

The Senate recedes.

123. Sec. 626 of the Act as amended by the Senate bill adds a new subsection (h) which includes a new authority for projects that address transitions that children with disabilities may face throughout their school years. Examples of these transitions and activities are stipulated. Coordination of programs and geographic dispersion are required.

The House amendment contains no comparable provision.

The House recedes with an amendment to move this provision to section 610.

124. Sec. 626(e) [redesignated as (f)] of the Act as amended by the House amendment adds specified modes for information dissemination.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment specifying that reference be made to section 610(g) whenever modes of dissemination are mentioned.

125. Sec. 626(e) [redesignated as (f)] of the Act as amended by the House amendment requires the Secretary to fund one or more demonstration models designed to establish appropriate methods of providing, or continuing to provide, assistive technology devices and services to secondary students as they transition to a number of environments. Such demonstration models shall include, as appropriate, cooperative agreements with rehabilitation entities to ensure continuity of finding, and methods for the dissemination of exemplary practices (see note 120).

The Senate bill contains no comparable provision.

The Senate recedes.

126. Sec. 626(e) [redesignated as (f)] of the Act as amended by the House amendment requires the Secretary to award one five-year cooperative agreement with a stipulated entity to evaluate and document projects funded under the transition services initiative. Specific requirements are included; and documentation and evaluation results are to be included in the Secretary's annual report.

The Senate bill contains no comparable provision.

The Senate recedes.

127. Sec. 626(f) [redesignated as (g)] of the Act as amended by the House amendment adds a requirement to coordiante programs under this section with projects under the Job Training Partnership Act (JTPA) and the Carl D. Perkins Vocational Education and Applied Technology Act.

The Senate bill contains no comparable provision.

The Senate recedes.

SERIOUS EMOTIONAL DISTURBANCE

128. Sec. 627 of the Act as amended by the Senate bill uses the term "serious emotional disturbances" in the title for this section.

Sec. 627 of the Act as amended by the House amendment uses the term "serious emotional disturbance" in the title for this section.

The Senate recedes.

129. Sec. 627 of the Act as amended by both the Senate bill and the House amendment authorizes projects to improve special education and related services to children and youth with serious emotional disturbance.

The Senate bill is more descriptive regarding the type of projects.

The House amendment is broader in terms of the funding mechanisms.

The Senate recedes with an amendment changing the term "shall" to "may" after the term "projects."

130. Sec. 627 of the Act as amended by both the Senate bill and the House amendment includes as a project activity studies regarding the state of special education and related services to this population, including an assessment of the status of these services.

Sec. 627 of the Act as amended by the Senate bill adds "youth" to the population to be studied and uses the term "including the establishment and maintenance of data bases for assessing."

Sec. 627 of the Act as amended by the House amendment uses the term "including information and data to enable assessments."

The Senate recedes.

131. Sec. 627 of the Act as amended by both the Senate bill and the House amendment includes as a project activity the development of methodology and curricula.

The Senate bill uses the term "programming" to describe special education and related services.

The Senate recedes.

132. Sec. 627 of the Act as amended by the Senate bill includes projects to develop effective collaboration between types of programs (see note 136).

The House amendment contains no comparable provision.

The House recedes with an amendment to delete the term "projects to" and replace the term "develop" with the term "developing."

133. Sec. 627 of the Act as amended by both the Senate bill and the House amendment includes as a project activity the development and demonstration of innovative approaches which would avert the deterioration of this condition.

The Senate bill uses the term "to prevent."

The House bill uses the term "to assist."

The Senate recedes with an amendment adding "and to prevent" after "to assist."

134. Sec. 627 of the Act as amended by the Senate bill includes the authority to synthesize and disseminate information.

The House amendment contains no comparable provision.

The Senate recedes (see note 136).

135. Sec. 627 of the Act as amended by the Senate bill requires at least one study on out-of-community residential programs and factors that surround such placements.

The House amendment contains no comparable provision.

The Senate recedes (see note 59).

136. Sec. 627 of the Act as amended by the House amendment authorizes grants to local educational agencies to collaborate with mental health entities to provide services through demonstration projects. Funds could be used to facilitate interagency and private sector resource pooling to improve services, and to provide information and training. Sets out activities to be inlcuded and stipulates evaluation and dissemination requirements.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment specifying that reference be made to section 610(g) whenever modes of disemination are mentioned.

137. Authorizations (Part C—Centers and Services)

(a) Regional Resource Centers

Sec. 628 of the Act as amended by the Senate bill authorizes the following figures:

1991: 8,100,000
1992: 8,750,000
1993: 9,450,000
1994: 10,204,000

Sec. 628 of the Act as amended by the House amendment authorizes the following figures:

1991: 8,950,000
1992: 9,850,000
1993: 10,830,000
1994: 11,900,000

The Senate recedes to the House and the House recedes to the Senate with an amendment substituting the following figures:

1991: 8,525,000
1992: 9,300,000
1993: 10,140,000
1994: 11,052,000

(b) Deaf-Blind Programs

Sec. 628 of the Act as amended by the Senate bill authorizes the following figures:

1991: 19,220,000
1992: 20,760,000
1993: 22,420,000
1994: 24,220,000

Sec. 628 of the Act as amended by the House amendment authorizes the following figures:

1991: 21,900,000
1992: 24,100,000
1993: 26,500,000
1994: 29,200,000

The Senate recedes.

(c) Early Education

Sec. 628 of the Act as amended by the Senate bill authorizes the following figures:

1991: 29,600,000
1992: 31,970,000
1993: 34,530,000
1994: 37,290,000

Sec. 628 of the Act as amended by the House amendment authorizes the following figures:

1991: 33,200,000
1992: 36,500,000
1993: 40,120,000
1994: 44,120,000

The Senate recedes to the House and the House recedes to the Senate an amendment substituting the following figures:

1991: 31,400,000
1992: 34,235,000
1993: 37,325,000
1994: 40,705,000

(d) Severely Handicapped

Sec. 628 of the Act as amended by the Senate bill authorizes the following figures:

1991: 7,020,000
1992: 7,580,000
1993: 8,190,000
1994: 8,840,000

Sec. 628 of the Act as amended by the House amendment authorizes the following figures:

1991: 9,500,000
1992: 10,500,000
1993: 11,600,000
1994: 12,700,000

The Senate recedes.

(e) Postsecondary Education

Sec. 628 of the Act as amended by the Senate bill authorizes the following figures:

1991: 9,470,000
1992: 10,230,000
1993: 11,050,000
1994: 11,930,000

Sec. 628 of the Act as amended by the House amendment authorizes the following figures:

1991: 8,00,000
1992: 8,780,000
1993: 9,660,000
1994: 10,630,000

The House recedes.

(f) Secondary Education and Transition

Sec. 628 of the Act as amended by the Senate bill authorizes the following figures:

1991: 12,000,000
1992: 15,000,000
1993: 18,000,000
1994: 21,000,000

Sec. 628 of the Act as amended by the House amendment authorizes the following figures:

1991: 9,800,000
1992: 10,800,000
1993: 11,900,000
1994: 13,050,000

The Senate recedes.

(g) New Transition Initiative

Sec. 628 of the Act as amended by the House bill authorizes the following figures:

1991: 27,500,000
1992: 30,250,000
1993: 33,275,000
1994: 36,602,000

The Senate recedes.

(h) Serious Emotional Disturbance

Sec. 628 of the Act as amended by the Senate bill authorizes the following figures:

1991: 5,000,000
1992: 6,000,000
1993: 7,000,000
1994: 8,000,000

Sec. 628 of the Act as amended by the House amendment authorizes the following figures:

1991: 8,000,000
1992: 10,000,000
1993: 12,000,000
1994: 15,000,000

The Senate recedes to the House and the House recedes to the Senate with an amendment substituting the following figures:

1991: 6,500,000
1992: 8,000,000
1993: 9,500,000
1994: 11,500,000

PART D

PERSONNEL TRAINING

138. Sec. 631(a)(1) of the Act as amended by the House amendment clarifies that both inservice and preservice training is included.

The Senate bill contains no comparable provision.

The House recedes (see note 147).

139.Sec. 631(a)(1)(A) of the Act as amended by the House amendment substitutes the term "adapted" for "adaptive" and adds "instructional and assistive technology services."

The Senate bill contains no comparable provision.

The Senate recedes. The conferees recognize that there are severe gaps in the training of personnel in the use of assistive technology. As a result, this category has been added to the list of areas for training personnel under Part D of the Act. The provisions are intended to increase awareness of, and access to, assistive technology services and devices in meeting the educational and related service needs of students with disabilities.

140. Sec. 631(a)(1)(B) of the Act as amended by the House amendment adds "infants," "toddlers," and "other settings" to the related services training provision.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment deleting "infants and toddlers."

141. Sec. 631(a)(1)(C) of the Act as amended by the House amendment adds a special provision relating to training of preschool and early intervention services.

The Senate bill contains no comparable provision.

The Senate recedes.

142. Sec. 631(a)(1)(C) of the Act as amended by the Senate bill combines the training of leadership personnel with special education pre-school and early intervention services personnel (currently under paragraph E).

Sec. 631(a)(1)(D) of the Act as amended by the House amendment keeps leadership training separate; specifies that leadership training includes supervision and administration at the advanced graduate, doctoral and post-doctoral levels, and research and special education personnel preparation at the doctoral and post-doctoral levels.

The Senate recedes.

143. Sec. 631(a)(2)(A) of the Act as amended by the Senate bill stipulates the types of personnel to be considered when determining shortages.

Sec. 631(a)(2)(A) of the Act as amended by the House amendment retains the current language, but specifically includes the need for personnel to serve children of limited-English proficiency.

The Senate recedes to the House and the House recedes to the Senate combining provisions in the Senate bill and the House amendment.

144. Sec. 631(a)(2)(B) of the Act as amended by the House amendment adds application requirements for recruitment and training of minority groups and persons with disabilities.

The Senate bill contains no comparable provision.

The Senate recedes.

145. Sec. 631(a)(3) of the Act as amended by the House amendment adds a provision giving minority students a priority in the receipt of any fellowships or traineeships.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment to add the following language: "Such institutions shall give priority consideration in the selection of qualified recipients of fellowships and traineeships to individuals from disadvantaged backgrounds, including minorities and individuals with disabilities, who are underrepresented in the teaching profession or in the specializations in which they are being trained."

146. Sec. 631(a)(4) of the Act as amended by the House amendment deletes the current provision to reserve 5% of funds to prepare personnel where shortages exist, and substitutes a requirement that students who receive financial assistance shall either repay such assistance or work in the field for a equivalent period of time.

The Senate bill contains no comparable provision.

The House recedes. The conferees are aware of the shortages of personnel in the filed of special education and related services, and would strongly suggest that the Secretary fully implement the current provision.

147(a). Sec. 631(a) of the Act as amended by the Senate bill adds a new paragraph (5) which allows regular and special education personnel to benefit from both preservice or inservice training.

Sec. 631(a) of the Act as amended by The House amendment adds a new paragraph (5) which allows the Secretary to determine that a portion of the training funds be used for interdisciplinary training to assist special educators in coordinating the provision of services with related services personnel. Requires practica to demonstrate the delivery of related services in an array of regular and special education and community settings.

The Senate recedes with an amendment changing the requirement regarding practica from mandatory to discretionary by inserting the term "to the extent feasible."

147(b). Sec. 631(a) of the Act as amended by the Senate bill adds a new paragraph (6) which states that "nothing in this subsection shall be construed to prevent regular education or special education personnel from benefiting from or participating in training activities conducted under this subsection on a preservice or inservice basis.

The House amendment contains no comparable provision.

The House recedes.

148. Sec. 631(a) of the Act as amended by the Senate bill adds a new paragraph (6) which establishes two priorities; the recruitment and retention of personnel from a diversity of racial, ethnic, and linguistic backgrounds, and individuals with disabilities; the preservice preparation of these personnel to serve individuals from a diversity of racial, ethnic, and linguistic backgrounds.

Sec. 631(a) of the Act as amended by the House amendment requires the Secretary to make grants to Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 25 percent.

The Senate recedes.

149. Sec. 631(b) of the Act as amended by the Senate bill broadens the range of students that teachers can be trained to work with the community and school settings by subtituting the term "secondary school students" with "students."

Sec. 631(b) of the Act as amended by the House amendment substantially expands the number of eligible trainees to include those working with infants and toddlers (and their families), minority students, and students using assistive and instructional technology; stipulates that preservice and inservice training include a component that addresses coordination among all service providers, including regular educators.

The Senate recedes to the House and the House recedes to the Senate combining provisions in the Senate bill and the House amendment.

PARENT TRAINING

150. Sec. 631(c)(2)(A) of the Act as amended by the House amendment expands the representation on the broad of directors of the parent training projects to include minority parents and professionals and that the broad "be representative of the proportion of minority individuals in the area."

The Senate bill contains no comparable provision.

The Senate recedes with an amendment adding the following after subparagraph (C): "Nothing in subparagraph

(A) shall be construed to authorize or permit the denial of any person of the due process of law required by the United States Constitution" and substituting "broadly representative" for the phrase "be representative of the proportion. . . ."

151. Sec. 631(c)(2)(B) the House amendment expands the service population to include infants, toddlers, and youth.

The Senate bill contains no comparable provision.

The Senate recedes.

152. Sec. 63 1(c)(2)(C) The House amendment adds a requirement that applicants show the ability to network with certain entities, especially minority parent groups.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment changing the term "especially minority parent groups" to "especially parents of minority children."

153. Sec. 631(c)(4)(A) of the Act as amended by the House amendment gives priority to the establishment of five (5) new experimental parent training and information centers serving high density areas which do not have such centers.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment clarifying that these experimental centers can be established only after there is a parent training center in each State, and that three of the five experimental centers must be located in high-density areas; two in rural areas.

154. Sec. (c)(4) of the Act as amended by the House amendment adds new subparagraphs (C) and (D) with requirements that grantees serve minority parents "to the proportion of the minority population in the areas being served;" and that grants be adequately funded.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment deleting "level adequate to serve the parents in the area" and inserting "sufficient size, scope, and quality to ensure that the program is adequate to serve the parents in the area."

155. Sec. 631(c) of the Act as amended by the House amendment adds a new paragraph (9) and a new provision on the collection of specific data by the Secretary.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment changing "minority parents" to "parents of minority infants, toddlers, children, and youth with disabilities."

156. Sec. 631(c)(1) of the Act as amended by the House amendment expands the service population of the training centers to include infants, toddlers, and youth.

The Senate bill contains no comparable provision.

The Senate recedes.

157. Sec. 631(c)(5)143(E) of the Act as amended by the House amendment, changes the requirement that parent training centers assist parents in obtaining information by: deleting the degree to which the programs, services, and resources are appropriate; including information about the range of options and information that is available at the national, state, and local levels; and expanding the service population to include infants, toddlers, and youth, and their families.

The Senate bill contains no comparable provision.

The Senate recedes.

158. Sec. 631(c)(5)(F) of the Act as amended by the House amendment updates the current requirement of the parent training centers to assist parents to understand the provisions of the Act by including infants, toddlers, and youth.

The Senate bill contains no comparable provision.

The Senate recedes.

159. Sec. 631(c)(7) of the Act as amended by the House amendment revises the requirement that parent training centers consult with appropriate agencies by adding a stipulation that they network with certain entities whose service population includes infants, toddlers, and youth, and their families.

The Senate bill contains no comparable provision.

The Senate recedes.

160. Sec. 632(c) of the Act as amended by the Senate bill clarifies the types of personnel to receive preservice and inservice training.

The House amendment contains no comparable provision.

The House recedes.

161. Sec. 632(c) of the Act as amended by both the Senate bill and the House amendment authorizes a new provision to assist the State in developing and maintaining its CSPD and conducting recruitment and retention activities.

The Senate uses the terms "to assist," "developing and maintaining such systems," "conducting personnel recruitment."

The House uses the terms "assisting," "develop and maintain its comprehensive system of personnel development," and "conduct recruitment."

162. Sec. 632 of the Act as amended by the Senate bill adds a new subsection (d) which authorizes technical assistance to States in effective implementation of the required comprehensive personnel development system.

The House recedes.

CLEARINGHOUSES

163. Sec. 633(a) of the Act as amended by the Senate bill deletes the current authority for other dissemination and technical assistance support projects and transfers all or part of the support language under each in-

dividual clearinghouse; changes the language from permissive to mandatory by substituting the term "shall make" for the term "authorized to make."

Sec. 633(a) of the Act as amended by the House amendment retains the current permissive language, includes a general prefatory section on the three clearinghouses [redesignated as (b), (c), and (d)] and adds cooperative agreement as a funding mechanism.

The Senate recedes.

164. Sec. 633(a) of the Act as amended by both the Senate bill and the House amendment require the collection, development, and dissemination of information.

The Senate bill includes the term "synthesize" and stipulates that information be collected on a national basis and disseminated to specific groups.

The House amendment requires that information be collected on the characteristics of the populations served and on programs, legislation, and services related to the education of those served.

The Senate recedes.

165. Sec. 633(a) of the Act as amended by both the Senate bill and the House amendment requires the clearinghouse to participate in programs in order to provide outreach, technical assistance, and information collection and dissemination.

The Senate bill includes referrals to appropriate national, State, and local agencies and organizations.

The House amendment includes participation in services related to disability issues and promotes networking with appropriate national, State, and local agencies and organizations.

The Senate recedes.

166. Sec. 633(a) of the Act as amended by the Senate bill uses the term "coordinate outreach activities" and stipulates that coordination be with other sources of information, programs, and services, including organizations representing individuals with disabilities; stipulates the population to be served.

Sec. 633(a) of the Act as amended by the House amendment establishes a coordinated network to conduct outreach activities for the promotion of public awareness of disability issues.

The Senate recedes.

167. Sec. 633 (a) of the Act as amended by the Senate bill requires the clearinghouse to provide the Secretary data on information needs.

Sec. 633(a) of the Act as amended by the House amendment requires the clearinghouse to collect, develop, and disseminate such data on a broad range of information needs.

The Senate recedes.

168. Sec. 633(a) of the Act as amended by the Senate bill authorizes participation in dissemination of research and demonstration models and projects.

The House amendment contains no comparable provision.

The Senate recedes (see Note 14).

169. Sec. 633(a) of the Act as amended by the House amendment requires that the clearinghouse include strategies to disseminate information to underrepresented groups such as the limited-English proficient.

The Senate bill contains no comparable provision.

The Senate recedes.

170. Sec. 633(b) of the Act as amended by the Senate bill uses mandatory language on the establishment of a national clearinghouse on postsecondary education.

The House amendment does not mandate this clearinghouse.

The Senate recedes.

171. Sec. 633(b) of the Act as amended by both the Senate bill and House amendment requires the national clearinghouse on postsecondary education to collect and disseminate information.

The Senate bill includes the synthesis of information, stipulates those to receive the information, and includes programs and resources for rehabilitation and retraining of adults.

The House amendment uses the term "after high school" rather than "postsecondary," and includes programs and resources which can be adapted to include individuals with disabilities.

The Senate recedes.

172. Sec. 633(b) of the Act as amended by the Senate bill includes information "regarding postsecondary education for individuals with disabilities."

The House amendment contains no comparable provision.

The Senate recedes.

173. Sec. 633(b) of the Act as amended by both the House amendment authorizes the development of new materials (in both print and nonprint form), especially by synthesizing information from a variety of fields affecting disability issues and the education, rehabilitation, and retraining of individuals with disabilities.

The Senate bill contains no comparable provision.

The Senate recedes.

174. Sec. 633(b) of the Act as amended by both the Senate bill and the House amendment requires the clearinghouse on postsecondary education to disseminate information and promote awareness of issues relevant to individuals with disabilities.

The Senate bill requires the coordination with professionals, relevant government agencies, and appropriate organizations.

The House amendment calls for the development of a coordinated network of professionals, related organizations and associations, mass media, other clearinghouses, and governmental agencies (including regional); uses the term "after high school" rather than "postsecondary," and refers individuals requesting information to local resources.

The Senate recedes.

175. Sec. 633(b) of the Act as amended by the House amendment requires the clearinghouse to respond to requests for information.

The Senate bill contains no comparable provision.

The Senate recedes.

176. Sec. 633(b) of the Act as amended by the Senate bill authorizes cooperative agreements as a funding mechanism for the careers clearinghouse.

The House amendment substantially restates the current law.

The Senate recedes (see note 163).

177. Sec. 633(c) of the Act as amended by both the Senate bill and the House amendment authorizes assistance to institutions.

The Senate bill adds new paragraph (6) which stipulates that the assistance be to institutions of higher education, States, and others to recruit persons for professional careers in special education, related services, and early intervention, including strategies for recruiting individuals from the diversity of racial, ethnic, and linguistic backgrounds and individuals with disabilities.

The House bill stipulates that the assistance be to institutions seeking to meet State and professionally recognized standards.

The Senate recedes.

178. Sec. 633(b) of the Act as amended by both the Senate bill and the House amendment stipulate qualifications of applicants seeking grants.

The Senate bill adds new paragraph (3) which states that "particular attention" be given to those with demonstrated experience at the national level in providing information services to "racially, ethnically, and linguistically diverse" consumers, rural and urban consumers, other consumer organizations, and professionals.

The House amendment redesignates this subsection as (e) and states that "priority attention" be given to those with demonstrated experience at the national level in providing information services to minorities and minority organizations.

The Senate recedes with an amendment to include "demonstrated, proven effectiveness."

179. Sec. 633(b) [redesignated as (e)(3)] of the Act as amended by the House amendment authorizes the clearinghouses to subcontract with profit-making organizations only when necessary for materials or media access.

The Senate bill contains no comparable provision.

The Senate recedes.

180. Sec. 633 of the Act as amended by the House amendment adds a new subsection (f) which includes specific requirements on information collection and dissemination from each project funded under this section.

The Senate bill contains no comparable provision.

The Senate recedes.

181. Sec. 634(a) of the Act as amended by the House amendment adds to this section a requirement on specific information on the number of parents served, and on clearinghouse activities.

The Senate bill contains no comparable provision.

The Senate recedes.

182. Authorizations (Part D—Training Personnel)

(a) Personnel Training

Sec. 635 of the Act as amended by the Senate bill authorizes the following figures:

1991: 93,850,000
1992: 101,360,000
1993: 111,500,000
1994: 120,420,000

Sec. 635 of the Act as amended by the House amendment authorizes the following figures:

1991: 95,600,000
1992: 105,150,000
1993: 115,660,000
1994: 127,100,000

The Senate recedes to the House and the House recedes to the Senate with an amendment substituting the following figures:

1991: 94,725,000
1992: 103,255,000
1993: 113,580,000
1994: 123,760,000

(b) HBCU's

Sec. 635 of the Act as amended by the House amendment authorizes the following figures:

1991: 19,250,000
1992: 21,175,000
1993: 23,292,000
1994: 25,621,000

The Senate recedes.

(c) Parent Training

Sec. 635 of the Act as amended by the Senate bill authorizes the following figures:

1991: 10,000,000
1992: 11,000,000

1993: 12,000,000
1994: 13,000,000

Sec. 635 of the Act as amended by the House amendment authorizes the following figures:
1991: 11,000,000
1992: 12,100,000
1993: 13,300,000
1994: 14,600,000

The Senate recedes.

(d) Clearinghouses

Sec. 635 of the Act as amended by the Senate bill authorizes the following figures:
1991: 2,160,000
1992: 2,230,000
1993: 2,520,000
1994: 2,720,000

Sec. 635 of the Act as amended by the House amendment authorizes the following figures:
1991: 2,420,000
1992: 2,700,000
1993: 2,900,000
1994: 3,200,000

The Senate recedes to the House and the House recedes to the Senate with an amendment substituting the following figures:
1991: 2,290,000
1992: 2,465,000
1993: 2,710,000
1994: 2,960,000

RESEARCH

183. Sec. 641 of the Act as amended by the Senate bill titles this section "Research and Related Activities."

Sec. 641 of the Act as amended by the House amendment titles this section "Improvement of Instruction and Learning of Children with Disabilities."

The House recedes.

184. Sec. 641(a) of the Act as amended by both the Senate bill and the House amendment authorize grants for research activities.

The Senate bill stipulates that grants be used to assess and improve the practice of personnel, and the roles of other appropriate persons, and authorizes demonstration activities.

The House amendment stipulates that grants be used by States for purpose of advancing and improving the knowledge base; includes the improvement of professionals who work with children and youth with disabilities in regular educational environments; and states that activities shall support innovation, development, exchange, and use of such advancements in knowledge and practice designed to contribute to the improvement of the instruction and learning of the population to be served.

The Senate recedes.

185. Sec. 641(a) of the Act as amended by the Senate bill uses the term "skill competencies."

Sec. 641(a) of the Act as amended by the House amendment uses the term "skill competency."

House recedes.

186. Sec. 641(a) of the Act as amended by the House amendment stipulates the types of assessment instruments; includes location to determine eligibility; includes the term "program planning and placement;" and stipulates that particular attention be paid to the development of alternative assessment procedures and processes for minority individuals and those with limited-English proficiency.

The Senate bill contains no comparable provision.

The Senate recedes.

187. Sec. 641(a) of the Act as amended by the House amendment includes the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice.

The Senate bill contains no comparable provision.

The Senate recedes to the House and the House recedes to the Senate with a technical amendment.

188. Sec. 641(a) of the Act as amended by both the Senate bill and the House amendment requires the improvement of knowledge regarding families.

The Senate bill uses the terms "racial and ethnic diversity, and disabling conditions."

The House amendment uses the terms "minorities, limited-English proficiency, and handicapping conditions."

The Senate recedes to the House and the House recedes to the Senate with an amendment substituting "minorities" for "racial and ethnic diversity;" "disabling conditions" for "handicapping conditions" and including "limited-English proficiency" within this provision.

189. Sec. 641(a) of the Act as amended by both the Senate bill and the House amendment requires the advancement of knowledge utilization.

The Senate bill uses the term "personnel."

The House amendment uses the term "professionals and others."

The House recedes.

190. Sec. 641(a) of the Act as amended by both the Senate bill and the House amendment requires the improvement of knowledge regarding how those providing special education, related services, and early intervention learn new knowledge, skills, and strategies.

The Senate bill adds continuing education as a vehicle for learning.

The House recedes.

191. Sec. 641(a) of the Act as amended by both the Senate bill and the House amendment requires the organization, integration, and presentation of knowledge so that it can be incorporated in relevant training and communication vehicles.

The House amendment includes the term "imparted."

The Senate recedes to the House and the House recedes to the Senate with an amendment combining the language from the Senate bill and the House amendment.

192. Sec. 641(a) of the Act as amended by both the Senate bill and the House amendment requires the expansion and improvement of networks.

The House amendment gives examples of networks.

The House recedes.

193. Part E of the Act as amended by the Senate bill creates a separate section for general research provisions.

The House amendment retains the format of current law.

The Senate recedes.

194. Sec. 641(c) of the Act as amended by both the Senate bill and the House amendment requires the Secretary to publish proposed priorities for research grants.

The Senate bill redesignates this provision as 645(b) which stipulates that proposed priorities be published not later than 12 months preceding the fiscal year for which they are being announced, and that the final priorities be published 90 days following the review and comment period.

The House amendment stipulates that proposed priorities be published no later than July 1, every two years, and that the final priorities be published 60 days following the review and comment period.

The House recedes with an amendment changing "60 days" to "90 days."

195. Sec. 641(d) of the Act as amended by both the Senate bill and the House amendment rewrites the existing provision to include an index in the annual report.

The House amendment requires the Secretary to make reports of research projects available to the education community at large and to other interested parties.

The Senate bill contains no comparable provision.

The House recedes.

196. Sec. 641(d) [Redesignated as 645(c)] of the Act as amended by the Senate bill adds the requirement to coordinate the research priorities with those established by "other appropriate agencies conducting research pertaining to the education of individuals with disabilities."

The House amendment contains no comparable provision.

The House recedes with a technical amendment.

196(A). New Sec. 641(f)—for discussion of the new Attention Deficit Disorder research center, see note 2.

197. Sec. 641 of the Act as amended by the House amendment creates a new subsection (g) which authorizes the establishment of model demonstration programs to provide the services of an ombudsman to assist in resolving problems that are barriers to appropriate educational, related services, or other services for children and youth with disabilities.

The Senate bill contains no comparable provision.

The Senate recedes with a technical amendment.

198. Sec. 642 of the Act as amended by the House amendment includes research on therapeutic recreation.

The Senate bill contains no comparable provision.

The Senate recedes.

199. Part E of the Act as amended by the House amendment repeals section 643, Panels of Experts, which is incorporated into new section 610.

The Senate bill contains no comparable provision.

The Senate recedes (see note 17).

200. Authorizations (Part E—Research]

(a) Research and Innovation

Sec. 644 of the Act as amended by the Senate bill authorizes the following figures:
1991: 25,000,000
1992: 28,000,000
1993: 31,000,000
1994: 34,000,000

Sec. 644 of the Act as amended by the House amendment authorizes the following figures:
1991: 24,300,000
1992: 26,800,000
1993: 29,400,000
1994: 32,400,000

The Senate recedes to the House and the House recedes to the Senate with an amendment substituting the following figures:
1991: 24,650,000
1992: 27,400,000
1993: 30,200,000
1994: 33,200,000

INSTRUCTIONAL MEDIA

201. Sec. 651 of the Act as amended by the House amendment deletes the subsection designation, (a).

The Senate bill contains no comparable provision.

The Senate recedes.

202. Sec. 651(a)(1) of the Act as amended by the Senate bill adds the term "and hard of hearing" after the term "deaf" each place it appears.

The House amendment contains no comparable provision.

The House recedes.

203. Sec. 651(a)(1) of the Act as amended by the House amendment adds new subparagraph (D) which requires the utilization of educational media to help eliminate illiteracy.

The Senate bill contains no comparable provision.

The Senate recedes.

204. Sec. 651(a) of the Act as amended by the House amendment adds a subsection (3) to make available educational publications and materials, as well as films, TV programs and video materials to individuals with visual impairments.

The Senate bill contains no comparable provision.

The Senate recedes.

205. Sec. 652(a) of the Act as amended by the House amendment adds descriptive videos to the loan services provision.

The Senate bill contains no comparable provision.

The Senate recedes.

206. Sec. 652(b) of the Act as amended by both the Senate bill and the House amendment provide for the captioning of films and video materials.

The Senate bill includes the terms "hard of hearing individuals" and adds audio description of video materials for blind and visually impaired individuals.

The House amendment uses the terms "hearing impaired" and adds video description for the visually impaired.

The Senate recedes with an amendment to add "hard of hearing."

207. Sec. 652(b)(4) of the Act as amended by both the Senate bill and the House amendment add video material for distribution.

The Senate bill also adds audio described video materials.

The House amendment also adds video-described films.

The Senate recedes.

208. Sec. 652(b)(8) of the Act as amended by the Senate Bill includes hard of hearing.

The House amendment contains no comparable provision.

The House recedes (see note 202).

209. Sec. 652(c) of the Act as amended by the Senate bill adds other appropriate nonprofit organizations as eligible recipients for grants.

The House amendment contains no comparable provision.

The House recedes.

210. Sec. 652(c) of the Act as amended by the Senate bill substitutes the term "cultural" for "theatrical."

The House amendment contains no comparable provision.

The House recedes.

211. Sec. 652(c)(1) of the Act as amended by the Senate bill includes hard of hearing.

The House amendment contains no comparable provision.

The House recedes (see note 202).

212. Sec. 652(c)(2) of the Act as amended by the Senate bill includes hard of hearing.

The House amendment contains no comparable provision.

The House recedes (see note 202).

213. Sec. 652(c)(3) of the Act as amended by the Senate bill includes hard of hearing.

The House amendment contains no comparable provision.

The House recedes (see note 202).

214. Sec. 652(c)(3) of the Act as amended by the House amendment adds educational and social experiences to promote the integration of hearing and deaf people.

The Senate bill contains no comparable provision.

The Senate recedes.

215. Sec. 652 of the Act as amended by the House amendment adds a new subsection (d) which authorizes a contract for services with the Recording for the Blind, Inc. to produce stipulated materials. This subsection also defines the term "print-handicapped."

The Senate bill contains no comparable provision.

The Senate recedes with an amendment to delete "Recording for the Blind, Inc."

216. Authorization (Part F—Instructional Media)

(a) Instructional Media.

Sec. 653 of the Act as amended by the Senate bill authorizes the following figures:

1991: 17,863,000
1992: 19,292,000
1993: 20,835,000
1994: 22,502,000

Sec. 653 of the Act as amended by the House amendment authorizes the following figures:

1991: 20,010,000
1992: 22,010,000
1993: 24,200,000
1994: 26,600,000

The Senate recedes.

TECHNOLOGY

217. Sec. 661 of the Act as amended by the House amendment adds related and early intervention services to the areas covered by grants to promote new technology.

The Senate bill contains no comparable provision.

The Senate recedes.

218. Sec. 661(1) of the Act as amended by the House amendment adds assistance technology as one of the elements to be studied in the education of individuals with disabilities.

The Senate bill contains no comparable provision.

The Senate recedes.

219. Sec. 661(1) of the Act as amended by the House amendment tightens the standard for judging the use of technology by adding the term "efficiently and appropriately."

The Senate bill contains no comparable provision.

The Senate recedes.

220. Sec. 661 of the Act as amended by both the Senate bill and the House amendment delete the term "new" each place it appears in this section.

The House amendments adds the term "assistive technology" in paragraphs (2) through (4).

The Senate recedes.

221. Sec. 661(4) of the Act as amended by the House amendment stipulates modes of disseminating technology information.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment specifying that reference be made to section 610(g) whenever modes of dissemination are mentioned.

222. Sec. 661 of the Act as amended by the Senate bill adds a new paragraph (5) which adds an activity to increase access to, and use of, assistive technology devices and assistive technology services.

The House amendment contains no comparable provision.

The House recedes.

223. Sec. 661 of the Act as amended by the House amendment adds a new paragraph (5) which adds a new activity to address the problem of illiteracy among individuals with disabilities.

The Senate bill contains no comparable provision.

The Senate recedes.

224. Sec. 661 of the Act as amended by the House amendment adds a new subsection requiring the Secretary to ensure that instructional materials are close-captioned, and that grantees coordinate activities with the State entity receiving funds under Title I of Public Law 100-407.

The Senate recedes.

225. Authorizations (Part G—Technology, Media and Materials)

(a) Technology, Education Media, and Materials

Sec. 662 of the Act as amended by the Senate bill authorizes the following figures:

1991: 11,900,000
1992: 12,860,000
1993: 13,860,000
1994: 15,000,000

Sec. 662 of the Act as amended by the House amendment authorizes the following figures:

1991: 13,300,000
1992: 14,700,000
1993: 16,140,000
1994: 17,800,000

The House recedes.

PART H

DEFINITIONS

226. Sec. 672(E) of the Act as amended by the House amendment adds social work services to the definition of early intervention services.

The Senate bill contains no comparable provision.

The Senate recedes.

STATEWIDE SYSTEM

227. Sec. 676(b) of the Act as amended by the House amendment adds a requirement that materials for families on the availability of early intervention services be prepared and disseminated; and that procedures be developed for determining the extent to which these materials are made available.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment including this provision in paragraph (6) of the existing law.

STATE INTERAGENCY COORDINATING COUNCIL

228. Sec. 682 of the Act as amended by the Senate bill changes the size and composition of the State Interagency Coordinating Council by stipulating minimal membership requirements; stipulates that certain councils are "grand-fathered" if they meet certain of the prior requirements, and includes an amendment to conform the statute to this change.

The House amendment contains no comparable provision.

The Senate recedes.

TECHNICAL CHANGES

229. Both the Senate bill and the House amendment replace the term "handicapped" and its various forms with the term "disability" and its various forms.

The House amendment also changes the name of the Act.

The House recedes to the Senate format and the Senate recedes to the change in the name.

230. Sec. 612(3) of the Act as amended by the Senate bill makes two technical changes.

The House amendment contains no comparable provision.

The House recedes.

231. The Senate bill amends technology in the Head Start Act by replacing the term "handicapped children" with "children with disabilities."

The House amendment contains no comparable provision.

The House recedes.

232. The Senate bill amends the terminology in the "Higher Education Act of 1965 "by replacing the term "handicapped children" with "children with disabilities."

The House amendment contains no comparable provision.

The House recedes.

233. The Senate bill amends the terminology in Public Law 81-874 (Impact Aid) by replacing the term "handicapped children" with "children with disabilities."

The House amendment contains no comparable provision.

The House recedes.

234. The Senate bill amends the terminology in the "Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986" by replacing the term "handicapped children" with "children with disabilities."

The House amendment contains no comparable provision.

The House recedes.

GENERAL PROVISIONS

235. The Senate bill stipulates that the amendments of this Act shall take effect on the date of enactment of this Act, except that any amendment that the Secretary determines would cause substantial disruptions to programs or substantial lapses in services if effective on the date of enactment of this Act, shall take effect on October 1, 1990.

The House amendment stipulates that the amendments made by this Act shall take effect on October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later.

The Senate recedes with an amendment making the effective date October 1, 1990.

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
M.R. OWENS,
MATTHEW G. MARTINEZ,
DONALD M. PAYNE,
JIM JONTZ,
BILL GOODLING,
STEVE BARTLETT,
CASS BALLENGER,
PETER SMITH,
Managers on the Part of the House.
EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,
PAUL SIMON,
ORRIN HATCH,
DAVID DURENBERGER,
JAMES M. JEFFORDS,
Managers on the Part of the Senate.

EXTENDING EXPIRATION DATE OF THE DEFENSE PRODUCTION ACT OF 1950

Ms. OAKAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5725) to extend the expiration date of the Defense Production Act of 1950, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Page 1, line 5, strike out "20" and insert: "5".

Ms. OAKAR (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. (Mr. MAZZOLI). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentlewoman from Ohio?

Mr. PARRIS. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from Ohio [Ms. OAKAR].

(Ms. OAKAR asked and was given permission to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, the other body has sent us a short-term extension of the Defense Production Act [DPA] until October 5, and I urge its approval.

As Members will recall, last Monday, September 24, the House voted to suspend the rules and passed H.R. 486, the Defense Production Act Amendments of 1990, by a vote of 295 to 119.

Subsequently, faced with the possibility that work would not be completed on this legislation by the September 30, 1990, expiration date, the House passed a simple extender bill—H.R. 5725—to continue the authorities of DPA until October 20.

Last evening, the Senate considered this matter and amended H.R. 5725 to extend the legislation to October 5, 1990. I know all in this House are aware of the role played by the Defense Production Act in directly supporting the deployment in the Persian Gulf, and our forces elsewhere in the world. I would ask that a letter from the Deputy Secretary of Defense, Mr. Donald Atwood, to this effect be placed in the RECORD at this point.

So, we have before us our own bill, as amended by the Senate to extend the DPA until October 5. The most practical course is that we approve this bill, and I urge that we do so at this time. I thank the Speaker, the minority, and all who have collaborated to make possible expeditious action on this legislation.

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC, September 24, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I urge the Congress to extend for two years the provisions of the Defense Production Act (DPA). Although the Administration would prefer that Congress make the DPA permanent law, with the September 30, 1990, expiration of the Act approaching quickly the Administration urges that Congress extend the Act for two more years. Continuation of the Department's authority under the DPA without any lapse is particularly important when units of the United States Armed Forces are deployed, as they are now in the Middle East, in situations in which they could face combat.

The DPA enables the Nation's industry to give priority to weapons and military equipment production to meet defense needs under the Defense Priorities and Allocations System established pursuant to Title I of the Act. The Department has found it necessary to invoke this authority hundreds of times each year to ensure that the Armed Forces have the items they need when they need them.

The authority granted by the DPA is essential to keep the Armed Forces supplied with spare and consumable items, such as aviation fuel, munitions, chemical protective suits, and combat meals because the Department's suppliers would otherwise be unable to obtain the necessary inputs on a priority basis to produce these products. Since Operation Desert Shield began, DPA authority has been necessary to procure missile containers used to ship and store missiles, electronic countermeasures pods and radomes for Marine and Air Force tactical aircraft, secure computer workstations, and various components of the Bradley Fighting Vehicle.

We prefer that Congress consider acting favorably on the legislative recommendations of the Administration. However, expeditious extension of the DPA, without objectionable provisions that will complicate the enactment of the legislation is essential. I urge the Congress to proceed swiftly to ensure that the law is extended before it expires on September 30, 1990. Such an extension could include several provisions of H.R. 4766, H.R. 486, or S. 2168 that are directly related to the energy aspects of the current situation in the Persian Gulf.

A similar letter has been sent to Senators Mitchell and Dole and Congressman Michel.

Sincerely,

DONALD ATWOOD.

Mr. PARRIS. Mr. Speaker, further reserving the right to object, I will not object. I strongly support the reauthorization of the Defense Production Act. The act expired on September 30, 1990—just yesterday. The House passed a bill that would have extended it to October 20, 1990. The Senate amendment will extend it to only October 5, 1990. I wish that they would have passed the House bill cleanly, but they did not. Now, we have no choice but to pass the bill with the Senate amendments.

This act is vital to our military operations in the Middle East. As I have made clear before, provisions of the DPA are being used right now to procure important weapons for our troops in Saudi Arabia. If the act expires, both our troops and defense contractors will be put at risk.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentlewoman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

NATIONAL BREAST CANCER AWARENESS MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from futher consideration of the Senate joint resolution (S.J. Res. 301) designating October 1990 as "National Breast Cancer Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

□ 1900

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, during this reservation I would like to acknowledge the work of the gentlewoman from Illinois [Mrs. COLLINS], the chief sponsor of House Joint Resolution 570.

Mr. Speaker, I yield to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I want to thank the ranking minority member and the chairman of the committee for yielding to me.

I want to commend the gentlewoman from Illinois [Mrs. COLLINS] for introducing on the House side this resolution.

Mr. Speaker, every 13 minutes a woman contracts breast cancer in this country. During the Vietnam war, when we lost 57,000 men and women in this country who served our country, we lost more than 300,000 women and a small number of men to breast cancer. Yet the issue of breast cancer in terms of research and prevention is not on the front burner in this Congress, nor frankly with the administration, although many individuals have promised that we will see some resolution.

This year, 43,000 women and about 300 men we estimate will die of breast cancer. It is a catastrophic disease. Yet we have minuscule amounts of money for direct research.

Mr. Speaker, one out of nine women will contract breast cancer. We spend a minuscule amount of money in direct research, only $18 million.

I have always supported AIDS research, but just to give a comparison, where 1 out of 1,000 individuals contracts AIDS in this country, our research is up to about $2.4 billion for AIDS research. It is interesting that with that relationship and that commitment, we are finding and seeing some movement in preventing AIDS and finding a cure for it.

Mr. Speaker, I think we should do the same for this terrible disease.

Mr. Speaker, whereas we have $150 million in increased money for cervical and breast cancer research, because they told us that within a certain period of time they could find a cure if we had a commitment to finding a cure to that devastating disease, the Senate has zero. It think the families in America ought to ask why that is not a priority in the Senate.

In addition to this, in the last session of Congress we had folded mammography into the catastrophic bill. We know that we can prevent breast cancer if there is self-examination and if women and men are able to have a mammography to have early detection.

We know that when you have early detection, if you just take Medicare as an example, the cost for an individual who finds breast cancer at an early stage is $10,000 or less, and the person has a 95-percent chance of recovery.

When a person does not find breast cancer at an early stage, it costs the Federal Government $65,000 to $125,000, and the person has less chance of survival. So let us have a commitment to finding a cure and preventing this disease.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. MYERS of Indiana. Mr. Speaker, reserving the right to object, I certainly shall not. Having had some personal experience with this dreaded problem, this disease, it certainly is a growing one in the Nation. More and more people, and I say people because men experience breast cancer also, not as frequently as women, but both experience this and it is growing.

Mr. Speaker, more women and more men are suffering each year from the discovery that they have breast cancer. Certainly early discovery is one of the keys to success. Oncologists are making great strides and gaining a lot. However, we need to give this more attention.

Mr. Speaker, there is some possibility that for those people in the high-profile sector that there may be a drug now coming on the scene that might prevent cancer in those people in the high-profile sector, people who have had breast cancer in the past, or mothers or sisters that have had it.

Mr. Speaker, this is an area that our Nation needs to give more attention to. Not that it has been ignored, but we need to give it more attention. There is something that can be done, and it can be eliminated, if properly handled.

Mr. Speaker, I certainly congratulate the gentlewoman from Ohio [Ms. OAKAR], who has frequently spoken on this, has had hearings on it. The whole country is concerned about it. It is time the Nation gets on board.

I thank the gentlewoman and the committee for bringing this bill to our attention today.

Mrs. MORELLA. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 570, to designate the month of October as "National Breast Cancer Awareness Month." This resolution is intended to expand public awareness of the lifesaving potential of early detection and treatment of breast cancer.

Currently, breast cancer is expected to strike 1 in 9 women, up from only 1 in 20 in 1961. The American Cancer Society estimates that 10,500 breast cancer deaths could have been prevented in 1989 by early detection and treatment. Less than one-third of women over the age of 40 have ever had a mammogram. The number of women receiving regular mammography screening is even lower. A study by the American Cancer Society concluded that cost is the primary reason why women fail to receive this vital service.

I urge my colleagues to join me in approving this resolution, and to support efforts to ensure that every woman, regardless of economic status, have access to mammography screening.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 570 which designates October 1990 as "Breast Cancer Awareness Month," and I would like to commend the gentlewoman from Illinois [Mrs. COLLINS] for her efforts in bringing this measure to the floor.

Mr. Speaker, I continually find the statistics on breast cancer, and the mortality rate from breast cancer very disturbing. In 1989, 43,000 women died of breast cancer—one in every 9 women will contract breast cancer in this lifetime, yet only 150,000 cases will be diagnosed this year.

In spite of these shocking statistics many women do not practice routine breast examinations or utilize today's advanced mammography technology. I hope making October, Breast Cancer Awareness Month, will reveal to all Americans the importance of prevention and early detection, because, 1 in every 5 deaths from breast cancer could be avoided by early detection.

Statistics show that women with early stages of breast cancer, when the disease is still "localized", experience a 90-percent survival rate, while the survival rate for women with more advanced regional cancer is only a 68 percent. Even more tragic, is the fact that the survival rate for women with breast cancer which has advanced to more severe stages is only 18 percent.

Surely this is a disease for which "an ounce of prevention is worth a pound of cure." National Breast Cancer Awareness Month can help get this message out, and can actually save women's lives.

I urge my colleagues to vote in favor of House Joint Resolution 570.

Mrs. COLLINS. Mr. Speaker, today, we have the opportunity to vote to designate October 1990 as "National Breast Cancer Awareness Month." Joining me in sponsoring this resolution, which the Senate has already passed, is Congresswoman MORELLA. Our collaboration underscores the point that the diagnosis and treatment of breast cancer is an issue of concern to everyone, immune from partisanship.

Breast cancer has become the second leading cause of cancer death for American

women. It is estimated that there will be 150,000 new cases of cancer diagnosed in 1990, 44,000 of which are expected to result in death. Breast cancer incidence rates have increased about 1 percent per year since the early 1970's, including a 20-percent jump in the first half of the 1980's; 1 in every 10 American women will be diagnosed with breast cancer. Additionaly, about 900 American men will be diagnosed with breast cancer during 1990, of whom about 300 are expected to die.

In short, breast cancer incidence remains at a staggering level with no decrease in sight. However, the rate of breast cancer mortality is entirely subject to change.

Early detection of breast cancer, through self-examination, clinical examinations, and screening mammography, can result in a 5-year survival rate of nearly 100 percent and significantly minimize its consequences. Studies have documented the decrease in breast cancer deaths attributable to early detection, particularly due to screening mammography's ability to detect cancers too small to be felt by even experienced examiners. Mammograms can also reveal additional lesions too small to be felt once an initial lump has been detected.

Yet, vast numbers of American women do not regularly avail themselves of the advantages of early detection. In some cases it is due to the lack of access to screening mammography because of socio-economic factors. In other cases, the cost of a mammogram or physical exam keeps women from requesting them. In still other cases it is simply due an absence of information or a presence of fear.

One of the first steps we must take is to further educate both the public and physicians about the importance of and means for early detection of breast cancer. Women must be encouraged to request procedures for early detection and physicians must be encouraged to recommend them. An awareness of the disease and its mitigation must become better integrated into America's medical routines.

Although today we take a step toward increasing reliance on breast cancer early detection and treatment, the next steps must follow promptly. National Breast Cancer Awareness Month is a good start, but we must not settle for commemoratives.

In 1988, my effort to offer mammography benefits to Medicare patients was successful, as coverage was extended through the Catastrophic Care Act. But, with the act's repeal last year, no mammography benefits remained. Consequently, I introduced H.R. 4701 to restore those benefits. Other Members have introduced bills that follow this same philosophy.

These bills must be the real focus of our efforts. National Breast Cancer Awareness Month must be proclaimed. The month must be utilized, however, to extend the coverage that we are promoting. It is a perfect opportunity to put our money where our mouths are.

Mr. Speaker, I urge my colleagues to support this resolution.

Mrs. MORELLA. Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 301, to designate the month of October as National Breast Cancer Awareness Month. This resolution is intended to expand public awareness of the lifesaving potential of early detection and treatment of breast cancer.

Currently, breast cancer is expected to strike 1 in 9 women, up from one 1 in 20 in 1961. The American Cancer Society estimates that 10,500 breast cancer deaths could have been prevented in 1989 by early detection and treatment. Less than one-third of women over the age of 40 have never had a mammogram. The number of women receiving regular mammography screening is even lower. A study by the American Cancer Society concluded that cost is the primary reason why women fail to receive this vital service.

I urge my colleagues to join me in approving this resolution, and to support efforts to ensure that every women, regardless of economic status, have access to mammography screening.

Mr. MYERS of Indiana. Mr. Speaker, I withdraw my reservation of objection.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 301

Whereas breast cancer will strike an estimated 150,000 women and 900 men in the United States in 1990;

Whereas one out of every ten women will develop breast cancer at some point in her life;

Whereas the risk of developing breast cancer increases as a woman grows older;

Whereas breast cancer is the second leading cause of cancer death in women, killing an estimated 43,000 women and 300 men in 1989;

Whereas the 5-year survival rate for localized breast cancer has risen from 78 percent in the 1940s to over 90 percent today;

Whereas most breast cancers are detected by the woman herself;

Whereas educating both the public and physicians about the importance of early detection will result in reducing breast cancer mortality;

Whereas appropriate use of screening mammography, in conjunction with clinical examination and breast self-examination, can result in the detection of many breast cancers early in their development and increase the survival rate to nearly 100 percent;

Whereas data from controlled trials clearly demonstrate that deaths from breast cancer are significantly reduced in women over the age of 40 by using mammography as a screening tool;

Whereas women do not have mammograms for a variety of reasons, such as the cost of testing, lack of information, and fear;

Whereas access to screening mammography is directly related to socioeconomic status;

Whereas increased awareness about the importance of screening mammography will result in the procedure being regularly requested by the patient and recommended by the health care provider; and

Whereas it is projected that more women will use this lifesaving test as it becomes increasingly available and affordable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "National Breast Cancer Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ENDING HUNGER MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 610) designating October 1990 as "Ending Hunger Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I yield to the gentleman from Florida [Mr. SMITH], the chief sponsor of this joint resolution.

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. RIDGE] for yielding. I want to commend the gentleman from Ohio [Mr. SAWYER] and the gentleman from Pennsylvania [Mr. RIDGE] for their help and patience in this and their continued dedication to this, which is now the second year that we have been able to bring this to the floor.

Mr. Speaker, I am grateful for the opportunity to address the House and bring attention to a very important resolution, House Joint Resolution 610, which will designate the month of October as "An End to Hunger" month.

Hunger afflicts more than 1 billion people worldwide and takes the lives of almost 18 million men and women every year, three-fourths of whom are children. This resolution is designed to promote activities that will increase education and heighten public awareness about the extent and devastating impact of hunger, including its causes and its consequences. This resolution does not seek to appropriate Federal funds. It is simply designed to increase public awareness about the reality of systemic hunger worldwide.

Mr. Speaker, I might add parenthetically, this is as timely as it can be. This weekend in the United Nations 70 nations join to talk about the Year of the Child and to talk about children's problems in the world, foremost among which was hunger. Although they did not appropriate money, they all signed pledges. That is a good start.

Due in a large part to the energetic work of Jan Solomon, Debra Anderson, Eileen Hasday, and Tony Ciscan of the 16th District in Florida, and Rosemary Lukens, Jim Winders, and Leslie Butler of the hunger project, this resolution received broad support.

I would like to dedicate this year's resolution to the memory of Margaret Holuczak, a teacher from MacArthur High School in Hollywood, FL, who was brutally murdered on September 5, 1990, standing at a bus stop. Two young teenagers accosted her and killed her for $6 in her handbag. She taught her students about the trauma of hunger, the pain of children who are hungry, and she paid the price in a society where unfortunately violence is as prevalent as hunger.

By passing this important resolution, the collective voice of the U.S. Congress is calling upon the public to recognize that hunger is an everyday tragedy for millions of people just like ourselves, and people like Margaret Holuczak need to have their memories enshrined, a woman who left now an orphaned 13-year-old daughter.

□ 1910

For all of the children of the world, Mr. Speaker, we thank the House for passing this resolution, and again I thank the gentleman for yielding.

Mr. SAWYER. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 610, to designate the month of October 1990, as "Ending Hunger Month."

No one wants any man, woman, or child to go hungry.

However, it is the hunger of children that hurts us the most, both emotionally and practically.

All of our efforts to achieve world peace, to save our planet, and to create economic stability will mean nothing if we cannot feed the children.

In the United States more than 5,000 children suffer from malnutrition.

Worldwide, there are over 150 million children who do not have enough to eat.

Many of these children are born with low birthweights or are sickly at birth because their mothers were malnourished during pregnancy.

It will be almost impossible for these babies to grow into the kind of self-sufficient adults the world needs—adults who have the skills they need to survive and to take care of their own children.

We must ensure that all children are well-nourished, starting from the time of their conception.

Their growing minds and bodies should have first call on the world's resources, in good times and in bad.

This is not charity—this is taking of the world's future.

Finally, Mr. Speaker, I want to commend Congressman LARRY SMITH for all of his efforts in getting this worthwhile resolution to the floor today.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 610

Whereas hunger affects the lives of 500,000,000 to 1,000,000,000 people in the world and takes the lives of 13,000,000 to 18,000,000 people each year, 75 percent of whom are children under the age of 5;

Whereas, while famines often gain widespread media attention and the subsequent response of the public, little attention is focused on the problem of chronic hunger;

Whereas schools and communities should conduct educational programs that lead to the development of viable methods for alleviating hunger;

Whereas there is a need to promote continuing activities that increase education and heighten public awareness about the extent of hunger, its causes, and consequences;

Whereas a society educated about the pervasiveness of hunger is equipped to respond to the needs of hungry people around the world; and

Whereas the United Nations and the United States Congress have designated October 16, 1990, as World Food Day and have called upon all people to take appropriate actions: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "Ending Hunger Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

YEAR OF CLEAN WATER

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 181) to establish calendar year 1992 as the "Year of Clean Water," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, under my reservation I simply want to identify the gentleman from New Jersey [Mr. ROE], as the chief sponsor of this legislation.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 369, designating 1992 as Clean Water Year.

Over the past decade our Government has taken several major steps toward ensuring clean water for all Americans, however much more needs to be done. The continued presence of PCB's in the Hudson River, and the poisoning of our water supplies by toxic chemicals remain vital concerns.

With the many complex issues facing our enviornment, it is time to celebrate a year of clean water; a year for everyone to celebrate our planet and become actively involved in solving the many problems facing our environment.

Mr. Speaker, I urge my colleagues to join in exploring the many benefits of a healthy environment and clean water and support House Joint Resolution 369, designating 1992 as the "Year of Clean Water."

Mr. ROE. Mr. Speaker, it is my pleasure, as an original sponsor of House Joint Resolution 369, commemorating the 20th anniversary of the Clean Water Act, to urge the passage of this legislation. I am pleased to have over 200 of my colleagues as cosponsors, including the distinguished members of the Public Works and Transportation Committee: GLENN ANDERSON, HENRY NOWAK, JOHN PAUL HAMMERSCHMIDT, and ARLAN STANGELAND.

With this resolution, recently adopted by the Senate, we are celebrating the accomplishments of our Federal Clean Water Act, and even more importantly we are reaffirming our national commitment to the goal of truly safe, clean water. Water quality in America was at a critical point in 1972 when Congress passed the Clean Water Act. Rivers, lakes, coastal waters, and aquifers were being contaminated by industrial wastes, municipal raw sewage, and runoff. Existing and future public and private water use were threatened. Fish and wildlife were disappearing at an alarming rate.

Congress moved to correct this travesty nearly 20 years ago and the results have been highly effective. Great progress has been made in cleaning up many water pollution problems and preventing additional degradation. Rivers and lakes once choked with pollution and devoid of healthy populations of aquatic life have been reborn and are clean and vital once more. In our back yard, the Potomac River is a stellar example. And, there are success stories in every State. However, the job is not complete. Serious problems persist throughout the Nation. There is also much left to do in implementing what we have already authorized.

The Nation renewed its efforts in 1977, 1981, and finally in 1987 with the passage of the most recent Clean Water Act amendments which provide new initiatives to assist municipalities in constructing municipal sewage treatment plants using State revolving loan funds, controlling toxic pollutants, reducing nonpoint sources of pollution, and protecting environmentally sensitive area such as estuaries and coastal waters.

This resolution designates 1992 as the Year of Clean Water and October 1992 as Clean Water Month. The commemoration of the 20th anniversary of the Clean Water Act is a national effort, coordinated by the American Clean Water Foundation to: Enhance citizen involvement in clean up efforts and promote personal stewardship on the Nation's water resources; expand educational opportunities for America's youth; increase opportunities to transfer information on water issues and management techniques among national and international policy makers and environmental pro-

fessions' report on the trends in water quality between 1972 and 1992; and commemorate the 20th anniversary with festivities in the Nation's capital and the 50 State capitals.

We cannot deny the great progress that has resulted from the Clean Water Act. And, yet to rest on our laurels would be a tragic mistake. Pollution, drought and ever increasing demand our problems which continue to threaten our water resources. As a founding member of America's Clean Water Foundation board of governors and as a public servant who has battled environmental problems and been an advocate for clean water at every level of government, I am convinced of the need for each of us to take stock of our accomplishments, consider impacts of our daily activities, evaluate our future needs, and reaffirm our commitment. I am proud to be associated with this important effort, and I encourage each of you to join in support of this resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 181

Whereas, clean water is a natural resource of tremendous value and importance to the Nation;

Whereas, there is resounding public support for protecting and enhancing the quality of this Nation's rivers, streams, lakes, wetlands, and marine waters.

Whereas, maintaining and improving water quality is essential to protect public health, to protect fisheries and wildlife, and to assure abundant opportunities for public recreation;

Whereas, it is a national responsibility to provide clean water as a legacy for future generations;

Whereas, substantial progress has been made in protecting and enhancing water quality since passage of the 1972 Federal Water Pollution Control Act (Clean Water Act) due to concerted efforts by Federal, State, and local governments, the private sector, and the public;

Whereas, serious water pollution problems persist throughout the Nation and significant challenges lie ahead in the effort to protect water resources from point and nonpoint sources of conventional and toxic pollution;

Whereas, further development of water pollution control programs and advancement of water pollution control research, technology, and education are necessary and desirable; and

Whereas, October of 1992 is the 20th anniversary of the enactment into law of the Clean Water Act: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, the Congress of the United States hereby designates calendar year 1992 as the "Year of Clean Water" and the month of October 1992 as "Clean Water Month" in celebration of the Nation's accomplishments under the Clean Water Act, and the firm commitment of the Nation to the goals of that Act.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 602) designating October 1990 as "National Domestic Violence Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from New York [Ms. SLAUGHTER], who is the chief sponsor of this joint resolution.

Ms. SLAUGHTER of New York. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding, and I also thank Chairman SAWYER and Mr. RIDGE because, with their help, I am pleased today that the House stands ready, again, to approve a resolution designating October as National Domestic Violence Awareness Month. In this way we can raise awareness of the problem that is the single largest cause of injury to women in the United States. Every day, nearly 5,800 women are beaten and abused—victims of domestic violence. Many of these women feel trapped in their own homes and are afraid to seek help out of fear they will suffer even more abuse. Even those who do seek assistance often find few resources available to them. Today, for every two abused women admitted to shelter programs, another is turned away due to lack of space.

In voting for this resolution, we affirm every woman's right to live her life free of abuse and violence and we recognize as well the important contributions that many local volunteers and community shelter programs are making in treating abused women. Please join me in support of this resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 602

Whereas it is estimated that a woman is battered every 15 seconds in the United States;

Whereas domestic violence is the single largest cause of injury to women in the United States, affecting 6,000,000 women;

Whereas urban and rural women of all racial, social, religious, ethnic, and economic groups, and of all ages, physical abilities, and lifestyles are affected by domestic violence;

Whereas 31 percent of female homicide victims in 1988 were killed by their husbands or boyfriends;

Whereas one-third of the domestic violence incidents involve felonies, specifically, rape, robbery, and aggravated assault;

Whereas in 50 percent of families where the wife is being abused, the children of that family are also abused;

Whereas some individuals in law enforcement and the judicial system continue to think of spousal abuse as a "private" matter and are hesitant to intervene and treat domestic assault as a crime;

Whereas in 1987, over 375,000 women, plus their children, were provided emergency shelter in domestic violence shelters and safe homes, and the number of women and children that were sheltered by domestic violence programs increased by 164,000 between 1983 and 1987;

Whereas 40 percent of women in need of shelter may be turned away due to a lack of shelter space;

Whereas the nationwide efforts to help the victims of domestic violence need to be expanded and coordinated:

Whereas there is a need to increase the public awareness and understanding of domestic violence and the needs of battered women and their children; and

Whereas the dedication and successes of those working to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "National Domestic Violence Awareness Month", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the month by becoming more aware of the tragedy of domestic violence, supporting those who are working to end domestic violence, and participating in other appropriate efforts.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the various joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LAWRENCE F. O'BRIEN—1917-90

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, I rise to pay tribute to one of the greatest Americans to ever come out of my home city of Springfield, MA. I am referring to Lawrence Fran-

cis O'Brien, Jr., who passed away last Friday.

Larry O'Brien left a legacy of service to the Democratic Party and to this country that stands as a model for all of us in political life. In the early 1950's, then-Congressman John F. Kennedy asked Larry O'Brien to help with Kennedy's campaign for the U.S. Senate. O'Brien accepted and managed Kennedy's successful Senate campaign in 1952, despite running in the face of the Eisenhower landslide at the top of the ticket. O'Brien then ran Kennedy's 1958 reelection campaign, as well as the tough 1960 Presidential campaign. He was in Dallas in November of 1963 when the President was killed. In 1968, while working to get Robert Kennedy elected President, he was by the Senator's side when an assassin's bullet ended the campaign and stunned the Nation. His organizational skills, from ward politics in Springfield to a Presidential campaign, were legendary. He always had a clear plan and he rarely lost. He also served his country ably in a number of posts.

Mr. Speaker, there is not enough time here to list all of Larry O'Brien's accomplishments. I will inlcude for the RECORD a Washington Post piece on O'Brien, as well as an excellent appreciation from the Springfield Union-News.

I would like to extend my condolences to his wife, Elva and his children, Larry and Mary. Many of us here in the House knew Larry O'Brien and we know what a valuable asset he was to both the Democratic Party and the Nation. Larry O'Brien will be greatly missed.

[From the Washington Post]

KENNEDY AIDE, NBA CHIEF LAWRENCE F. O'BRIEN DIES

(By J.Y. Smith)

Lawrence F. O'Brien Jr., 73, a master of modern political organization who was an assistant to presidents Kennedy and Johnson, and an innovative commissioner of the National Basketball Association, died of cancer Sept. 27 at New York Hospital-Cornell Medical Center in New York City.

He also spent three years in the Johnson Cabinet as postmaster general and had served as chairman of the Democratic National Committee.

Known everywhere as Larry O'Brien, he played important parts in the nation's political drama from the changing of the generational guard that occurred with the election in 1960 of Kennedy—the first White House occupant to be born in this century—to the impeachment and resignation of President Nixon in 1974.

Mr. O'Brien first came to national prominence as the organizer of Kennedy's 1960 primary and presidential campaigns. Thereafter he was Kennedy's liaison with Capitol Hill. He helped persuade a Congress dominated by Repubicans and southern Democratic conservatives to back such measures as the establishment of the Peace Corps and the Arms Control and Disarmament Agency and the extension of the Civil Rights Commission. And he was with Kennedy when the president fell to a sniper's bullet in Dallas on Nov. 22, 1963.

When Johnson succeeded to the presidency, he asked Mr. O'Brien to be his postmaster general. In that job, he produced a report that resulted in the establishment of the U.S. Postal Service and the removal of the postmaster generalship from the Cabinet. He also reported to Johnson on the political consequences of the rising tide of dismay at the war in Vietnam.

In 1968, when Johnson announced he would not seek another term in the White House but instead would concentrate on seeking an end to the war in Southeast Asia, Mr. O'Brien heeded a call from Robert F. Kennedy to assist him in his own bid for the presidency. He was with Robert Kennedy when he was shot to death in a hotel in Los Angeles on June 6, 1968, just after winning the crucial California primary.

Mr. O'Brien later worked in the presidential campaigns of Hubert H. Humphrey and George S. McGovern, and he twice served as chairman of the Democratic National Committee.

He was head of the DNC in June 1972, when his office at the Watergate complex in Washington was broken into by burglars who wanted to wiretap his conversations to gain political intelligence. The incident precipitated the scandal that led to Nixon's impeachment and resignation two years later.

From 1975 to 1984, Mr. O'Brien was commissioner of the NBA. In an interview in 1980, he told Washington Post sportswriter Thomas Boswell that he had been a "ref baiter and a screamer" of a basketball fan since his boyhood in Springfield, Mass., where the game was invented. Despite this description, Boswell said the commissioner was so pleasant and self-effacing that if he were "assigned to command the pearly gates in heaven, he could convince you that he was nothing more than a humble night watchman."

Mr. O'Brien became commissioner at a time when the NBA was far from the wonderous blend of riches, skill and passionate enthusiasm that it is today, with millions of fans all over the world. One of Mr. O'Brien's early tasks, in fact, was to bring it into its present organizational form by bringing about a merger of the NBA and the American Basketball Association.

He also negotiated a landmark $74 million television contract with CBS that ensured the financial stability of the league, and he instituted various measures to keep the teams competitive with each other, including a limit on the salary each team can pay at a given time. To make the game more interesting, he instituted the three-point shot. The NBA's world championship cup has been named "The Larry O'Brien Trophy" in his honor.

Mr. O'Brien's most far-reaching contribution, however, may have been in the field of political organization. He was a founder of the modern school of politics in which success is defined by degree to which people get involved.

In his book "The Making of the President, 1960," Theodore H. White said that the difference between the old and new politics is the difference between inclusion and exclusion. "In a tight old-fashioned machine," he wrote, "the idea is to operate with as few people as possible, keeping decision and action in the hands of as few inside men as possible. In the new style . . . the central idea is to give many people as possible a sense of participation; participation galvanizes emotions, gives the participant a live stake in the victory of the leader."

Mr. O'Brien told how to do this in a publication called "O'Brien's Manual," a 64-page outline of all of John F. Kennedy's campaigns from his reelection to the House of Representatives in 1950 through his elections to the Senate in 1952 and 1958.

In 1958, for example, the Kennedy organization circulated a nominating petition among Massachusetts voters that was signed by 256,000 people. At the same time, the campaign was swamped with offers to help from 1,800 volunteers for whom there was nothing to do. Mr. O'Brien's solution was to put the 1,800 to work sending thank-you notes to every one of the petition signers. Thus the signers had the satisfaction of thanks while the volunteers could be proud of their service.

Mr. O'Brien's organizational work in the crucial West Virginia primary in 1960, White said, was "a masterpiece."

Lawrence Francis O'Brien Jr., was born on July 7, 1917. The place of his birth was the Roland Hotel in Springfield, which was owned by his father. His mother was the former Myra Sweeney. Both parents had immigrated to Massachusetts from County Cork, Ireland.

The senior O'Brien got into Democratic Party politics as a reaction to anti-Irish prejudice. By the time his son was 15, he was following his father's footsteps as a part-time party worker. The boy also played basketball and was a member of the debating team at Cathedral High School. He earned a law degree at Northeastern University by going to night school, and during World War II he served in the Army.

After the war, he went into the family real estate business and opened a cafe in Springfield. Before long, he was running a congressional campaign for Foster Furcolo, a longtime friend. Furcolo lost in 1946, but he was successful in 1948. Mr. O'Brien accompanied him to Washington as his administrative assistant. In 1950, their partnership broke up in unexplained recriminations, and Mr. O'Brien went back to Springfield.

Soon after, John Kennedy called him. Then a member of the House of Representatives, Kennedy had his eye on the U.S. Senate seat held by Henry Cabot Lodge, and he wanted to test his chances in the 1952 election. That campaign was successful, despite a Republican landslide with Gen. Dwight D. Eisenhower at the head of the GOP's national ticket, and Kennedy was reelected by a wide margin in 1958. The following year, Mr. O'Brien joined Kennedy in planning his run for the White House.

In his memoirs, "No Final Victories," published in 1974, Mr. O'Brien recalled his first contacts with Kennedy in 1950. The congressman wanted him to arrange a meeting with leaders in the Springfield area, and Furcolo, as the local congressman, objected on the ground that Kennedy had not cleared this with him. He also said Mr. O'Brien had legal problems.

Without hesitation, Kennedy took Mr. O'Brien aside. Mr. O'Brien wrote that he sometimes thought back "to that time when [Kennedy] had to make a quick judgment between Furcolo and me, Furcolo was a member of Congress; I was a cafe owner whom Kennedy knew precious little about. . . . But Kennedy chose to trust me rather than Furcolo, and I would have to say that I don't know another man in politics who would have made the same decision."

That was the sort of thing that Mr. O'Brien cherished in politics. But after the

1968 presidential campaign, he decided he had had enough. He left Washington and moved to New York City as president of McDonnell & Co., an investment banking firm. From 1970 to 1972, he returned to the political wars as head of the DNC and then was a consultant in New York until heading the NBA.

Mr. O'Brien's survivors include his wife, the former Elva Brassard, whom he married in 1944, of New York City; a son, Lawrence F. O'Brien III of Washington; a sister, Mary Blaczek of Wilbraham, Mass.; and two grandsons.

[From the Springfield Union News, Sept. 29, 1990]

MAN OF MANY TALENTS

Lawrence F. O'Brien, a Springfield native, was introduced to the rough and tumble world of politics as a child, went on to achieve national prominence as a presidential campaign strategist and played key roles in two presidential administrations.

A man of many talents, he served for 10 years as commissioner of the National Basketball Association and later for several years as president of the Basketball Hall of Fame in his hometown, where the game was born.

Among his other accomplishments was service as postmaster general under President Lyndon B. Johnson. But it may be that Larry O'Brien is best remembered nationwide for the fact that he was chairman of the Democratic National Committee when his office at committee headquarters in the Watergate complex in Washington was burglarized in June 1972.

What began as a routine police investigation into a break-in, wiretap and burglary mushroomed into a political scandal and cover-up that shook the nation and led to the resignation of President Richard M. Nixon.

For those who knew him well, however, O'Brien is remembered as a man who enjoyed great success in politics, government, the world of sports and business, and seemed to be equally at home in all of those occupations.

Yet as long-time friend and political consultant Joseph Napolitan said: "Politics was always Larry's first love and he never forgot his roots."

His roots were in the Mattoon Street neighborhood where he grew up, the son of Irish immigrants. His father owned a downtown saloon, located where the Springfield Civic Center now stands. As a boy, he accompanied his father on walks into city neighborhoods, taking nomination petitions from door to door.

O'Brien graduated from Cathedral High School and Northeastern University and received honorary degrees from a number of colleges and universities.

If he had one skill that exceeded all others, it was managing political campaigns.

He directed Foster Furcolo's successful campaign for Congress in 1946. The success that made his national reputation was the 1960 campaign that carried John F. Kennedy into the White House following tough primary contests with Sen. Hubert H. Humphrey, and then a very close election win over Nixon.

That campaign erased, once and for all, some deep-rooted national doubts about the possibility of electing a Catholic to the highest office in the land.

The, in 1968, O'Brien undertook what was probably his second most difficult political assignment when he managed Vice President Humphrey's presidential campaign against Nixon—set against the tumultuous background of the Vietnam War and strong opposition to it at home.

Far behind at the start, Humphrey gained ground rapidly and just narrowly missed overtaking Nixon.

O'Brien's death Thursday in New York City, at age 73, saddens all who knew and admired this sandy-haired Irishman with the engaging smile who served so well in many different capacities.

It can be said that he died too young because he had more to give. Yet it can also be said that he accomplished more in his 73 years than others who are blessed with longer lives.

We join in the tributes to Larry O'Brien and extend our sympathy to his family.

CHICAGO'S 1990 COLUMBUS DAY PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, This year, on Monday, October 8, 1990, the Joint Civic Committee of Italian Americans will again sponsor the Chicago Columbus Day Parade, the greatest patriotic parade in the city of Chicago, celebrating the discovery of America by Christopher Columbus, and highlighting the contributions of Italians and Italian Americans to world civilization. In addition to paying tribute to Columbus, the theme of this year's parade, "A Salute to Italian Fashion and Design," will honor the numerous fashion designers who have made Milan the fashion capital of the world as well as the many prominent Italian-American fashion designers located in Chicago.

This year we are delighted that baseball great and living sport's legend, Joe DiMaggio, and the Italian Ambassador, Rinaldo Petrignani, will be joining us as the guests of honor. Other participants in the parade will include Mayor Richard M. Daley of the city of Chicago, Gov. James R. Thompson of the State of Illinois; Congressman MARTY RUSSO, serving as general chairman of this year's parade; and many other civic and political dignataries, as well as myself.

Mr. Speaker, this week, the President of the United States, the Honorable George Bush, will be issuing a proclamation commemorating the discovery of America by Christopher Columbus. Also, the Governor of the State of Illinois, the Honorable James R. Thompson, and the Mayor of the city of Chicago, the Honorable Richard M. Daley, have issued proclamations, and copies of these proclamations follow:

STATE OF ILLINOIS—PROCLAMATION

Whereas, Christopher Columbus proved that having visions, determination, and perseverance helps mankind; and

Whereas, the discovery Columbus made in 1492 is a symbol of pride, freedom, and joy for all Americans; and

Whereas, Columbus and many other distinguished Italians have contributed to the growth of civilization. The Italian community is joined by Americans of every ethnic background in recognizing Columbus Day;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim October 8, 1990, as Columbus Day in Illinois.

JAMES R. THOMPSON,
Governor

CITY OF CHICAGO—PROCLAMATION

Whereas, the Joint Civic Committee of Italian Americans (JCCIA) is sponsoring its annual Columbus Day Parade on October 8; and

Whereas, the courage and visionary wisdom displayed by Christopher Columbus in his intrepid voyage of discovery is exemplary of the Italian-American community; and

Whereas, those qualities of our Italian-American brothers and sisters are evident in the many contributions to the arts, politics, sports and socio-economic life of Chicago; and

Whereas, the Chicago Department of Cultural Affairs is presenting its annual exhibit and program series in honor of Italian Heritage Month in October, and the public is invited to attend; and

Whereas, this year's parade honors the Italian contribution to fashion and design:

Now, therefore, I, Mayor Richard M. Daley, Mayor of the city of Chicago, do hereby proclaim October 8, 1990, to be Columbus Day Parade in Chicago and urge the people of Chicago to recognize the historical observance in honor of the great navigator, Christopher Columbus.

RICHARD M. DALEY,
Mayor

Mr. Speaker, Chicago's Columbus Day celebration will begin at 9 a.m. with a concelebrated Mass at Our Lady of Pompeii Church in Chicago. Arrangements for this year's Mass have been made by the Reverend Lawrence Cozzi, C.S., chairman of the religious program and organizations committee and Rev. Donald Craig. The main celebrant will be the Auxiliary Bishop of Chicago, John R. Gorman, D.D., and the host for the liturgy will be the Reverend Angelo Carbone, C.S., pastor of Our Lady of Pompeii Church. Concelebrants at the Mass will include: Rev. Lawrence Cozzi, C.S. of Scalabrini Village, the Italian-American old people's residence in Northlake, IL; Rev. Nicholas Marra of St. Lucy's Church in Chicago; Rev. Vincent Zarlenga of St. Vincent Ferrer in

River Forest, IL; and Deacon Frank DeVita of Divine Providence Parish in Westchester, IL.

An introduction before the Mass will be given by Theresa Petrone, the theme coordinator of this year's parade, and the cochairperson of the programs and arrangements committee. Robert Allegrini, executive director of the Joint Civic Committee of Italian-Americans, and coordinator of the programs and arrangements committee, will serve as the commentator. Lectors will be Judy Guzaldo, president of the JCCIA women's division, and Lilia Juarez, president of the JCCIA west suburban women's division. The prayer of the faithful will be offered by Mark Farina, president of the JCCIA young adult division. Norman Boccio will be the carrier-of-the cross, and members of the offertory procession will include Dina Marie Bair, queen of the Columbus Day Parade; Joe Annunzio, who will be portraying Christopher Columbus in this year's parade; Marie Palello, executive secretary of the JCCIA, chairperson of the bands, marchers, transportation, and floats committee, and coordinator of this year's parade; Marge Porcelli, secretary of the JCCIA; and Ann Sorrentino, chairperson of the authentic Italian costumes committee.

Music will be provided by the Italian Cultural Center Chorus of Chicago, under the direction of Leonora LiPuma, and the organist will be Frank Pugno. Serving as ushers will be Nick Bianco, John DeBella, Michael Palello, Lawrence Spallitta, chairman of the floats personnel committee, and Anthony Lanzito. The Fourth Degree Knights of Columbus will serve as the honor guard, including Ben Daniel, master, 4th degree, and Joseph Nardi, admiral, LaSalle Assembly.

After the Mass at 10:15 a.m., a wreath laying ceremony will take place at the Columbus Statue at Arrigo Park, cosponsored by the Grand Lodge of the State of Illinois, Order of the Sons of Italy in America, and the Joint Civic Committee of Italian-Americans. Coordinating this event will be Thomas Baratta and Sam Garnello of the Order of the Sons of Italy in America, aided by the color guard of the Italian-American War Veterans of the State of Illinois. The invocation at the wreath laying ceremony will be given by Auxiliary Bishop John R. Gorman, D.D., and the host of this ceremony will be Congressman Marty Russo, chairman of the Columbus Day Parade Committee. Posting of the colors will be under the direction of James Sarno, state commander of the State of Illinois Italian-American War Veterans. Also, participating in the ceremony will be the ladies auxiliary of the Italian-American War Veterans with Nancy Colasuomo, state auxiliary president. At the conclusion of the wreath laying ceremony, a breakfast will be prepared and served by the Our Lady of Pompeii Mother's Club.

The 2-hour parade with step off at Dearborn and Wacker Drive in Chicago at 1 p.m. Joseph Ahern, president of the WLS-TV in Chicago, has scheduled this parade to be broadcast via delayed telecast on WLS-TV, channel 7, on Saturday, October 13 from 12 noon to 2 p.m. Narrating the telecast for WLS-TV will be Mary Ann Childers and Jim Gibbons of WLV-TV, joined by Dominic DiFrisco, president of the Joint Civic Committee of Italian-Americans, and Theresa Petrone, vice chairman of the board of trustees of the JCCIA. Both this year are also serving as cochairpersons of the program and arrangements committee.

Over 200 floats, bands, and marching units will participate in this gala celebration, and in keeping with the theme of this year's parade, there will be a floating fashion show consisting of 10 floats featuring clothing from Italy's current top designers.

This floating fashion show will be produced for the Joint Civic Committee of Italian-Americans by Karen Baker of Marchetti's Special Events. Also, other floats will carry members of the Italian-American community wearing traditional costumes from various regions in Italy. In addition, featured in the parade will be Joe Annunzio portraying Christopher Columbus and Angela Petrone portraying Queen Isabella.

Anthony Fornelli, past parade chairman, will serve as grand marshal of the parade, and Ben Affetto will serve as parade marshal. Other chairmen and cochairmen include: Alderman William J.P. Banks, chairman of the finance and souvenir committee, and State representative James DeLeo, chairman of the television sponsors committee.

The televisions sponsors of this year's parade include: Paul Butera of Butera Foods, Nello Ferrara of Ferrara Pan Candy Co., Dominick DiMatteo of Dominick's Finer Foods, Inc., Joe Marchetti of Como Inn Restaurant, Nick Celozzi of Celozzi Ettleson Chevrolet World, State Farm Insurance Co., Illinois State Lottery, Hilton Hotels Corp., Alitalia Airlines, and Commonwealth Edison.

One of the highlights of the Chicago Columbus Day celebration is the selection each year of the queen of the parade. Judged on her beauty, poise, and personality, Dina Marie Bair of Chicago was chosen to reign as this year's Italian-American community queen. She received a $2,500 check which was presented by the Joint Civic Committee of Italian-Americans, Festa Italiana-Amerital Unico, and the James E. Coli chapter of the Italo-American National Union. Other prizes for the queen of the parade included a scholarship to the John Powers Modeling School, wearing apparel from Karen Stefani of Avanti's Boutique in River Forest, a wristwatch donated by Tina Amico, dinner for two at the Como Inn courtesy of Joseph Marchetti, dinner with Chicago Sun Times food columnist Pat Bruno, an opportunity to be an extra in a movie to be made in Chicago, and a queen's trophy.

The members of the queen's court include: Gemma Celeste Marsalli of Park Ridge, IL, Donna Marie Santolli of Chicago, IL, Dina Marie Fazio of Elmwood Park, IL, and Ann Signorelli of Hinsdale, IL.

The chairman of the queens contest is Fred Mazzei, and the cochairperson is Josephine Bianco. Judges for the contest include: Pat Bruno, restaurant critic for the Chicago Sun Times; Joseph Cosentino, editor of FRA NOI, the Italian-American community newspaper; Dr. John Drammis, Jr., cosmetic plastic surgeon and director of Cosmetic Surgery Center of Chicago; Robert J. Durkin, executive director of the John Roberts Powers School of Modeling; Mary Laney, director of the Chicago Tourism Office and president of the Chicago Tourism Council; Adrienne Levatino, vice president of the Illinois Hospital Assoc.; Laura Spingola, president of Trade Resources Ltd.; and Barabra Drammis, store manager of Bailey, Banks & Biddle.

The Joint Civic Committee of Italian-Americans, under the able leadership of its president, Dominic DiFrisco, chairman of the board of trustees, Michael Coli, and executive director, Robert Allegrini, is comprised of more than 65 Italo-American civic organizations in the Chicagoland area and sponsors the Columbus Day Parade and related activities. Founded in 1952 to fight prejudice and discrimination toward Italian-Americans, the Joint Civic Committee has grown over the last three decades into a formidable organization for addressing the broadened social, cultural, and educational concerns of more than one-half million Italian-Americans living in the metropolitan area of Chicago.

The Columbus Day celebration will close with a reception at the Como Inn Restaurant in Chicago at 3:30 p.m., sponsored in part by the Italian Government Travel Office, and in honor of the guests, the officers, committee chairmen, and members who are participating in making the 1990 Columbus Day Parade a monumental success.

On this 20th celebration of Columbus Day as a national legal holiday, as the honorary parade chairman of the Columbus Day parade, I would like to take this opportunity to commend the members and officers of the Joint Civic Committee of Italian-Americans for their outstanding efforts in making this year's parade a memorable and exciting event.

The officers and members of the 1990 Columbus Day Parade Committee are as follows:

LIST OF THE OFFICERS AND MEMBERS OF CHICAGO COLUMBUS DAY PARADE COMMITTEE

COLUMBUS DAY PARADE COMMITTEE

Congressman Marty Russo, Chairman.
Anthony Fornelli, Grand Marshal.

JCCIA OFFICERS

Dominic DiFrisco, President.
Fred Mazzei, 1st Vice President.
Thomas C. Baratta, 2d Vice President.
John Ciolfi, 3d Vice President.
Pat Naples, 4th Vice President.
Joseph Annunzio, 5th Vice President.
Emil Venuti, Treasurer.
Tena Amico, Secretary.
Lawrence Spallitta, Sergeant-At-Arms.
Rev. Lawrence Cozzi, C.S., Chaplain.
Robert Allegrini, Executive Director.

BOARD OF TRUSTEES

Michael Coli, Chairman, Congressman Frank Annunzio, Vice Chairman, Theresa Petrone, Vice Chairman, Tena Amico, Joseph Annunzio, Thomas C. Baratta, Merrill Becker, Mr. and Mrs. Nick Bianco, Rudolph Bilotta, Dick Biondi, Shirlee Blacconeri, Norman Boccio.

Anthony Bottalla, Richard Caifano, Richard Calderazzo, Dominic Candoloro, State Representative Ralph Capparelli, Enrio Caputo, Pasquale Caputo, Harry Caray, Gilbert Cataldo, Dr. James Catanzaro, Frank Paul Catrambone, John Ciolfi, John Coli, State Treasurer Jerry Cosentino.

Joseph Cosentino, Rev. Lawrence Cozzi, C.S., Rev. Gino Dalpiaz, Cook County Commissioner Frank Damato, Marlene Dantino, Marie Davino, Billy DeCiccio, State Representative James A. DeLeo, Carl DeMoon, Pat S. DeMoon, State Senator Vince DeMuzio.

Alfonso DiBenedetto, Dominic DiFrisco, Joseph DiLeonardi, Dominick DiMatteo, Ettore DiVito, Cook County Commissioner Marco Domico, Joan Esposito, Anthony Falduto, Peter Felice, Paul Finnamore, Bernard J. FioRito, Anthony J. Fornelli, Camille Fotopoulos, Anthony Fratto.

Joseph F. Frederick, Jr., Sam Garnello, Andy Gatuso, Joe Gentile, Ronald Giordano, Dan Goduto, Tom A. Graziano, Kenneth J. Kolnicki, Ernest Kumerow, Joseph LaCalamita, Alderman Anthony Laurino, Angelo Lencioni, Leonora LiPuma, Joseph Lizzadro, Jr., Joseph Locallo, Jr., Nick Lombardi, Steve Lombardi.

Jerry Lonigro, Charles LoVerde, Joseph Lucania, Anthony Lupo, Dr. Gregory Macaluso, Robert Macari, Frank Mancari, Roy Marcucci, Pay Marcy, Jr., Peter Martino, Louis Masotti, Joseph Mazza, Fred Mazzei, Marino Mazzei, Amy Mazzolin, Gildo Mazzolin.

Rudolph L. Milasich, Sr., Joseph Monastero, Pat Naples, Michael Nardello, Nick Nitti, Marion Ortale, Vincent Pagone, Michael Palello, Dewey Paoletti, George Paulik, Pat Pavini, Molly Pavone, Richard P. Pellegrino.

Charles J. Porcelli, Dino Porto, Lawrence Pucci, Nunzio Raimondi, Fred Randazzo, Ron Rascia, Joe Rizza, Frank A. Romano, Michael Rongo, Nat G. Rosasco, Ray Rosato, Tom Roti, Francis J. Russo, Anthony E. Sacco.

Ann M. Sassetti, Joseph Scala, Phyllis Schoene, Sam Scott, Fred Serpe, Jr., John Serpico, Lawrence Spallitta, Andrew Storniello, Dr. Raffaele Suriano, Sam Tenuta, Anthony Terlato, Anthony Tolitano, Joseph Tolitano, Denise Tomasello, Lester Trilla, Ange Tufano, John Tufo, Renato Turano, Emil Venuti.

EXECUTIVE COMMITTEE

Richard Caifano, John Coli, Rev. Lawrence Cozzi, C.S., Rev. Gino Dalpiaz, Carl De Moon, Mark Farina, Anthony Fornelli, Sam Garnello, Judy Guzaldo, Lilia Juarez, Pat Pavini, Charles J. Porcelli, Fred Randazzo, John Serpico.

WOMEN'S DIVISION OFFICERS

Judy Guzaldo, President.
Carmella Tolitano, 1st Vice President.
JoAnne Spata, 2d Vice President.
Frances Passaglia, Recording Secretary.
Marie Palello, Corresponding Secretary.
Mary Ann Ciolfi, Treasurer.
Marion Ortale, Advisor.

WEST SUBURBAN WOMEN'S DIVISION OFFICERS

Lilia Juarez, President.
Delores Sennebogen, 1st Vice President.
Carol Pedersen, 2d Vice President.
Carol Cerny, Treasurer.
Mary Conti, Recording Secretary.
Ann Sorrentino, Corresponding Secretary.
Tena Amico, Advisor.

YOUNG ADULT DIVISION OFFICERS

Mark Farina, President.
Leo Buttitta, Vice President.
Vita Conforte, Treasurer.
Linda Renella, Recording Secretary.
Bill Del Cerno, Corresponding Secretary.

CHAPLAIN

Rev. Lawrence C. Cozzi, C.S.

THEME COORDINATOR

Theresa Petrone.

RELIGIOUS PROGRAM AND ORGANIZATIONS

Rev. Lawrence Cozzi, C.S., Chairman.
Rev. Donald Craig.
Nick Bianco.
John DeBella.
Mike Palello.
Lawrence Spallitta.

TV ADVERTISEMENTS

State Representative James DeLeo, Chairman.

AUTHENTIC ITALIAN COSTUMES

Ann Sorrentino, Chairperson.
Elena Frigoletti.
Lilia Juarez.
Mary Spallitta.

FINANCE AND SOUVENIR BOOK

Alderman William J.P. Banks, Chairman.
Angeline Annunzio.

BANDS, MARCHERS, TRANSPORTATION, AND FLOATS

Marie Palello, Chairperson.

PROGRAM AND ARRANGEMENTS

Dominic DiFrisco, Cochairman.
Theresa Petrone, Cochairperson.
Robert Allegrini, Coordinator.
Alderman William J.P. Banks.
Mark Farina.
James DeLeo.

QUEEN CONTEST

Fred Mazzei, Chairman.
Josephine Bianco, Cochairperson.
Anita Louise Bianco.
Marie Palello.
Mike Palello.
Mark Farina.
JoAnne Spata.
Fred Randazzo.

FLOAT PERSONNEL

Lawrence Spallitta, Chairman.
Norman Boccio.

PARADE MARSHALS

Ben Affetto, Chairman, John DeBella, Nick Bianco, Pasquale Caputo, Ettore DiVito, Tom Bellino, Frank A. Lato, Mike Palello, Ron Onesti, Lewis Affetto, Mark Affetto, Nat Caputo, John Fay, Len Vekkos, Emilio Stramaglia, Mark Presto, Rich Onesti, Mike Simi, Jeff Garzonetti, Tony Agosto, Gene McBride.

STAFF PHOTOGRAPHER

Sam Bruno.

PUBLIC RELATIONS

Fred Randazzo.

OFFICE VOLUNTEER

William Travers.

THE 50TH ANNIVERSARY OF THE BATTLE OF BRITAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, if you will recall, when we adjourned last Thursday, before we adjourned I took the well to talk about a new friend of mine, 82 years young, the highest ranking living ace from the world's greatest battle, the only battle ever totally decided in the air, what the world has come to call the Battle of Britain. We are celebrating during this 3-month period that ends on October 31 the 50-year anniversary of that titanic clash between the British Royal Air Force standing alone and the German Luftwaffe coming off an unbroken string of victories from September 1 to the conquering of France in June, 50 years ago.

I had spoken on the night of September 27 because that was the day when Witold Urbanowicz, then a flight lieutenant with the RAF, but flying as a Pole, shot down 4 of his 17 victories on the 27th. And then last night the House adjourned so quickly after a majority caucus on the floor that I was unable to keep my promise that I would return to the floor on September 30 when Witold Urbanowicz duplicated his feat and shot down 4 more Luftwaffe airplanes, bringing his score to 15. And then during this month of October 50 years ago, he shot down his 16th and his 17th victory.

The four he shot down 50 years ago last night was a Dornier, two-engine bomber, Dornier 215, and then he shot down three Messerschmitts. Then they were called BF-109's, and then the name of the company was changed to the name of Willy Messerschmitt, the chief designer of Beoflugverks. The ME-109's he shot down were then the world's biggest fighters, and he shot down two of them with two quick bursts in a matter of 3 seconds.

Witold, I repeat, came back to the United States after the battle of Britain, or came for the first time to the United States, flew on a Sunderland from Britain, through Africa, South America, lost an engine in the Caribbean, and finally came to Washington, DC and landed on the Potomac, or for all I know, at the Patuxent Naval Air Station. Then he became the deputy air attache for the Polish Embassy, the embassy that we betrayed later at Yalta, and here in Washington at cocktail parties, asked the world famous founder and leader of the Flying Tigers, Gen. Claire Chennault, to rescue him from a desk and to take him to China.

□ 1920

And Chennault did that quickly, where Witold Urbanowicz, as a Flying Tiger, achieved 2 more aerial victories and 9 victories on the ground, bringing his score to 28. He then later went back to Europe, and using his fighter as a fighter-bomber, supported our ground forces in their advance through France into Germany.

In all of those combat missions, hundreds of them, his plane was only hit once by one bullet, and he himself was personally never touched. It is an amazing career that this gentleman had.

I would only hope that, given the youthful vigor God has still given him at 82 years young, that someday I might have the honor, as I suggested to him, to arrange a trip for him to go back to Poland now that that betrayal has been undone, and Poland is truly on the verge of being as free a nation as it was on the evening of September 1, 1939, when Hilter staged that sneak attack into that country which

brought Great Britain into World War II; Great Britain and France and eventually the United States.

I want to, in my concluding moments, Mr. Speaker, recommend to you and all of my colleagues a book about the Battle of Britain. Amazingly, in the last 50 years with all of the excellent books written on this titanic air struggle, dozens of books, somebody inadvertently failed to use the simplest title of all, "The Battle of Britain," and it was left to two gentlemen, excellent writers, one of them the official historian for the Royal Air Force for decades, Richard Hough, and the other, a great writer of history, Denis Richards. These two gentlemen have, I believe, compiled the definitive book on the Battle of Britain.

I completed this at the end of about seven or eight other books that I started reading earlier in the year so that I would be a worthy representative for President George Bush at the 50th anniversary of the Battle of Britain ceremonies during the Farnborough air show earlier last month, the first week of September, and if you can only find the time to read one book, not forgetting the history of Western civilization or even, heaven forbid, even forgetting what happened, just what happened 50 years ago, this is the one book to read on today, October 1.

I will close with this, Mr. Speaker: "It was the beginning of the end in October. Yesterday, 48 German airplanes were shot down to 20 British. Today a fair day, October 1, 1940. Six German Luftwaffe planes shot down, four British. A month of fighting still to go," and as Churchill said so ringingly, and it is quoted over and over beautifully in this book, "We prevented Western civilization from entering a new Dark Age."

Please, read this book, "The Battle of Britain."

WHEN WILL WE LEARN?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. I am constantly amazed that the American Government too often acts more like an Uncle Patsy who hoping to get rich quick falls for an scheme presented to him than to the once proud Uncle Sam who was the symbol to lead our armies in World War II.

Wars are fought sometimes over land and power or an idea. The end means or war is control of the production of your former enemies. In that regard, America is different. We have not sought to take control of means of production of the countries we defeated, but have helped them as we did with the Marshall plan in Europe, and—don't forget—we helped to rebuild Japan.

We are continuing to be helpful to those countries who are now our allies although, we are engaged in an economic war with them over U.S. territory—and that territory is the American ability to control the means of production for our own country.

We are losing that battle for a number of reasons and the effects over the long term can and will be devasting.

The economic war we are in today is no less deadly, economically, to Americans than a shooting war in terms of loss of lifestyle, opportunities for education, jobs, and home ownership.

My friend, Pat Choate, had aptly pointed out how this has happened to America in his book "Agents of Influence." Pat explained why access to people in powerful government positions is important for foreign governments and businesses.

In a review of his book in the September issue of Harvard Business Review, Pat stated "The Japanese help finance both the Republican and Democratic parties, make major contributions to political action committees, and count on their payrolls top political advisers to the president, to members of Congress, to Governors, and to mayors."

Pat supported this statement with the following:

A 1986 General Accounting Office survey identified 76 former federal officials who left officie between 1980 and 1985 and then became registered foreign agents. The list—which the GAO acknowledges is only partial—includes 8 special assistants to the president, 5 assistants to the president, 2 deputy assistants to the president, 1 presidential counselor, a deputy White House press secretary, a chief of staff to the vice president, a chairman and vice chairman of the U.S. International Trade Commission, 2 deputy U.S. trade representatives, 6 senators, 9 representatives, 12 senior Senate staff, 5 senior House staff, and 4 retired generals. Together these 76 former top-ranking U.S. officials represented 166 foreign clients from 52 countries and 2 international organizations—20 of them went to work for Japan."

That is quite a list when you consider the network of contacts these people have established. As we all know, a person's contacts in government are his or her livelihood and the quickest means of getting something done in government. Contacts are a good source of information for a lobbyist. They are essential to be effective in government—or in business.

Just how this ultimately translates was explained in a section about Japan's intelligence gathering in the Harvard Business Review article.

Pat explained that early in the Bush administration everyone involved in trade, and those interested in Government appointments were curious who would be the next U.S. Trade Representative.

According to Pat Choate, the Japanese knew who it was before the American newspapers had the story. He said;

One week before the appointment was announced, a Japanese official bragged to an American friend that "the lady" who would be named was "most acceptable" to Japan. Two days before the appointment was announced, a Japanese newspaper, the Nihon Keizai Shimbun, broke the story in Tokyo.

The point of Pat Choate's statements is the former Government officials not only know how our Government works and how to get something done, but through their contacts can keep up a steady flow of information for their client. We all know that knowledge is power—and the United States is losing the knowledge game right in our own backyard—our American Government.

Another example of how we are losing is in textiles. We hear a deal has been made to give away 20,000 of our textile jobs to another country regardless of the need to provide jobs to working Americans and to maintain a full-blown textile industry in the United States.

Our American textile jobs may be the price to Turkey because of its help to the United States in the Middle East. We can lose those 20,000 jobs by raising the textile and apparel quotas for Turkey.

This is not the only way in which America contributes textile jobs abroad. We currently contribute 20 percent of the funds to the World Bank, and the Bank has projects to establish textile factories. Turkey is to receive $32 million to build a weaving mill to make fabric for apparel exports.

It also receives $6.11 million to expand capacity to make trousers and jackets for export. Finally, it receives $7.12 million for a mill to make sewing thread for all these additional garment exports.

After this generous help from Uncle Sam or should I say Uncle Patsy and the World Bank, will Turkey then be able to come back and remind us of their help in the Middle East and obtain even more textile jobs from us? Because of Uncle Sam's largesse use abroad, this could happen.

Another way we are losing out in this economic war is through patent abuse. The President of an American chemical company recently came into my office with yet another version of the familiar story of patent abuse and how the Japanese unfairly treat and abuse American companies.

As I listened to Salvatore Monte, president of Kenrich Petrochemicals, Inc., and his wife, Erica, vice president of Kenrich, I thought of similar stories I have heard, and I wondered when will we Americans learn how the Japanese really do business?

Mr. Monte's firm makes organo-metallic compounds, the chemicals which serve as a molecular glue between or-

ganic and inorganic materials in making a complex product.

The compounds go into everything from rocket fuels and ammunitions to tires, cars, paints, coatings, photocopier toner to making blue pencil leads stronger. Some of his chemical compounds make products biodegradable and increase the conductivity of electricity.

There is a 200- to 500-percent improvement in products using minute amounts of Mr. Monte's organic-metallic compounds. Steel is stronger, tires are better, the strength of plastic crates is increased, and ammunition is more effective. Kenrich's patents on these organo-matallic compounds are Mr. Monte's invention. They should be of paramount interest to the U.S. Government.

The story Mr. Monte told me about the Japanese delaying and stalling tactics on Kenrich patents and contracts is all too familiar.

His story about Kenrich dealings with the Japanese follows:

In the midseventies, Mr. Monte was approached by Ajinomoto officials to bring his product to Japan, but emphasized he had to have a Japanese partner.

On July 1, 1976, the Japanese trading company Nitto Shoji, Ltd., started the approval for the first Kenrich product [KR TTS] to be sold in Japan. At that time 26 Kenrich patents were filed.

By January 1977, 15 distinct Kenrich chemicals were licensed through Nitto Shoji to the Ajinomoto Co. [ADJICO].

During this time Mr. and Mrs. Monte were treated to only first-class treatment by the Japanese. They stayed in the best rooms at the best hotels, ate at the five star restaurants, and were chauffered everywhere. The Montes were given only the most polite and courteous treatment. As a result of this respectful treatment the Montes were certain they were being fairly treated by the Japanese.

By 1984—8 years later—the Montes had transferred all of the Kenrich technology to the Japanese. Mr. Monte estimated that Ajinomoto's sales of Kenrich products exceeded $1,000,000. I say estimated because Mr. Monte waited for a sales report on Kenrich products from Ajinomoto products but never received it.

During this time the Japanese were testing Kenrich's products under the Japanese Government's New Substance Act. Mr. Monte was informed the Japanese had received customer complaints about the quality of Kenrich products. He found this curious because Mr. Monte had not had trouble with products in any other country.

The Japanese also used another ploy in addition to the nonreporting of sales and testing the product. They went through another company, Nippon Soda, Inc., to sell the Kenrich products under another name. As Mr. Monte said, "it is ingenious, they set up a company to compete with themselves so they can protect the technology." The big loser in this is, of course, the American company.

After 14 years of doing business with the Japanese, Kenrich still is receiving only $50,000 a year in royalties. Based on reports from sales representatives in Southeast Asia it is estimated that Ajinomoto sales containing the Kenrich products are close to $50 million so a 5-percent royalty would certainly be more than $50,000. It would be around $2,500,000.

In fact, the Japanese company even wanted to reduce the $50,000 royalty. By now there were over 200 Japanese patented applications of Kenrich products, yet the sales were still supposedly less than $1 million. On the other hand, the Mexican agent for Kenrich is expected within 3 years to do better than the Japanese after all this time.

At this time some of Kenrich's products had been developed under an alternate titanate technology and sold by Nippon Soda, Inc., in the United States. They even threatened action against Mr. Monte if they continued to sell the Kenrich product in the United States.

Since Monte was the inventor of these products that took a lot of chutzpah to challenge him, but Mr. Monte is a fighter and he did not give in. His company, Kenrich, is not large enough to take on a Japanese trading company in a patent battle—but under the American system he has a right to a reward for his talents and labors.

Before I go on, I would like to add another way in which American businesses are seriously undermined since it pertains directly to Kenrich. A banker friend of mine told me that if a pending sale of Fidelcor goes through to CIT then all the financing for Kenrich will be 60 percent owned by the Japanese via Daijon Bank.

Therefore, whenever Kenrich needs a bank loan it will have to provide all its paper work for examination by the bank that is a majority owned foreign bank.

This means that the information on whatever Kenrich ships to the United States Navy, or to any military installation and in what amount will be in the hands of the Japanese. This is less than satisfactory, given the Japanese track record in dealing with Kenrich.

In the United States system we do not pass along privileged information from companies to their competitors as the Japanese do, either in the American banking or the patent system.

The role of patents in our economy was described in the September issue of National Defense in an article titled "Patents and Scofflaws" by Robert J. Berens.

It stated:

A fair and orderly system for protecting intellectual property is essential to all nations as they struggle to catch up or stay ahead in today's frenetic economic environment.

As the United States is being reminded so painfully, a nation's relative economic, political and military position depends to a great extent on intellectual properties and who uses them.

Just what this means to us according to the National Defense article was described in a recent report by Northwestern University Annenberg Washington Program. It stated, "Piracy of copyrights patents and other intellectual property costs the U.S. economy tens of billions of dollars and thousands of jobs every year."

The article further explained that "a 1988 report of the U.S. International Commission found 431 American companies suffered aggregate worldwide losses of almost $24 billion in 1986 because of inadequate intellectual property protection." For your information each billion dollars translates roughly into 25,000 jobs—multiply that by 24 billion and that equals 600,000 jobs.

Patent theft and nonpayment of taxes is just one way in which we lose jobs from our economy.

We should consider just exactly what it means when we give away our manufacturing jobs—or just plain jobs—to other countries. Our economy has rapidly shifted from a manufacturing base to a service economy. In 1949, the manufacturing jobs were 33 percent of the labor force and although they have increased in number—manufacturing jobs today are only 18 percent of our labor force. The jobs in our economy are weighted to service and retail on an average of $9.77 versus manufacturing at $10.80 per hour.

It doesn't sound like that much but $8 more a day multiplied by hundreds of thousands of persons over a period of a year amounts to substantial funds and for a broader tax base for the U.S. Government.

We need to be concerned about that tax base and make sure that all companies, both domestic and foreign, pick up their fair share of the tax burden.

It should not rest on the working American, but they are the ones who pay the price when the foreign companies escape their responsibility to the Government.

Back in February we were shocked to learn that, "as a group, the more than 36,000 foreign-owned companies filing tax returns in the U.S. reported negative taxable income." The Wall Street Journal, February 20, 1990. In that story, the Journal reports that "many of the subsidiaries the tax agency is examining are owned by corporations from Japan, this country's

stiffest economic competitor, but the IRS said it hadn't gone after Japanese companies specifically."

Several weeks ago, Chairman JAKE PICKLE conducted hearings in his Ways and Means Oversight Subcommittee which shed light on how this avoidance has been managed. The loss to the American taxpayer has been estimated to be as high as $50 billion over the last several years.

Fifty billion. Imagine what that money could do for our budget woes. Through accounting tricks and fancy manuevering, Japanese corporations have managed to dodge the tax man. Moreover, no penalties have ever been paid to the Internal Revenue Service by any of these corporations on their income tax underpayments.

It is time to ensure that foreign corporations operate equitably under our laws and shoulder their responsibility for the fair treatment Americans give them, by paying their fair share of the taxes.

Working men and women should be rewarded for their work and not have to pay the price for foreign companies not paying their taxes, nor because of the Government's political reasons, give up their jobs to a foreign country.

The Bible states in Deuteronomy 28 that you are rewarded for the work of your hands. Surely, this country could ensure that American citizens be rewarded for their efforts by protecting the ideas of men like Salvatore Mone, or the opportunity for jobs of textile workers. It is time for us to take a stand on behalf of America. We can and do manufacture quality products and provide innovative services. If we don't, we won't even have a park bench to sit on to watch the pigeons, or a tin cup to ask for handouts.

We need American plants and products and ideas of men like Salvatore Monte to create jobs and to remain a strong Nation. The choice is ours. I vote to help American business.

□ 1940

WE ARE ON A BUDGET TRAIN RIDE TO OBLIVION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I have a prepared statement that I would like to make and then I will involve myself in some information about the budget and also involve myself in a discussion with my colleague, the gentleman from Texas [Mr. DELAY] and others who might want to speak on this subject.

Mr. Speaker, I awakened the other night thinking about our budget problems and although I was sick with a cold, I could not stay in bed because I could feel the weight of the problem.

We have been told by our leaders that we must not rock the boat—we must realize that even if we can't vote for a budget compromise—that includes large tax increases coupled with additional spending—that to speak out might cause either side of the aisle—Democrat or Republican to lose one or two votes which would deny that side the majority which would stop this compromise. Well I must speak out. We must speak out.

We are on a train ride to oblivion. If we don't get control of spending now—then when? If not us—then who?

There are literally hundreds—perhaps thousands of reasons to keep on spending by passing this budget and only one reason not to—because it is wrong. It's wrong to increase taxes because it will reduce the Nation's purchasing power and put us into a deep recession. It's wrong to continue to increase the spending being proposed because we are all in over our heads, and increasing spending only increases the mortgage on our children's future.

We're selling this Nation's birthright for a mess of potage.

The train we're on is picking up speed and heading downhill, and instead of putting on the brakes, we're throwing more coal into the furnace to create more speed. There is going to be a wreck. A real economic disaster. But never mind because if we continue to forestall the day of reckoning by actions like we are about to take, it may not be on our watch—we hope. But it might yet be.

In any event, if we continue on the path we're on—if we don't reduce spending—if we keep on saddling the American people with more and more taxes, then there will be economic disaster—and the form of government we now enjoy might very well crumble thus denying our posterity the blessings which we as a free people, living in a free republic, have enjoyed.

There are alternative budgets that have been proposed—but they have not seen the light of day. Budgets that would hold the line on spending and not raise taxes. But, we have been told they can't pass because of the political pressure they would create. Because it would pinch the toes of many areas of our society—and I think, that's right, it would cause some discomfort. But that discomfort is nothing compared to what pain will be felt by the entire Nation down the road if we don't act responsibly today.

No nation—no matter how great—can live beyond it's means indefinitely—and we are no exception.

We will either have hyperinflation, in which case the bubble will break and we'll have tragedy, or we'll have Government try to control inflation by using such tools as raising interest rates, in which case the economy will grind to a halt and we'll have a depression. Either way we end up in the same place. There's only one answer—stand up and be counted now. Vote against more spending. Vote against more taxes. Vote for a progrowth budget even though in the short run it may pinch America's toes. If we don't, America may lose her legs.

□ 1950

I yield to my colleague from Texas.

Mr. DELAY. I appreciate the gentleman from Indiana yielding to me. I appreciate him taking out this special order.

Mr. Speaker, it takes a lot of courage for the gentleman from Indiana to come down to the well and make statements about a package, and an agreement that could very well hurt both of us, for that matter.

In standing up and talking about this package, one of the things that the proponents of the agreement continue to bring up in all the meetings that have been held in the last 2 days on the agreement is, No. 1, what the gentleman just addressed, "What is your alternatives?" Well, we do have an alternative. It was introduced this afternoon. There are two other alternatives being worked on by other groups.

We had an alternative that showed those areas of cuts and program eliminations and revenues that we would be willing to vote for, that we brought out before the August recess, and those have been dismissed out of hand. No one even wants to discuss them.

So if the proponents of the agreement do not want to talk about alternatives, that they have an agreement and intend to pass it, then they pose the question: What happens if the agreement goes down?

Well, you either have to vote for this agreement or you have sequester, with which I disagree. You may have sequester for a few days, but we still are a Congress, and we still can meet and still do our job, if the agreement goes down.

So I have got to weigh the agreement versus what might be possible if the agreement goes down, and Congress actually does its job for a change.

In looking at the agreement. I must admit I have not totally analyzed all of the agreement, but in looking at it on its face and in general terms, and looking at it I truly feel, as the Heritage Foundation feels, that this agreement would do serious damage to our economy, that it would drive us to a recession if we are not already in one.

If we are in a recession, we will make that recession deeper.

The least that will happen is stagflation, which is to me in some cases especially in some parts of the country, is worse than a recession.

But among the most damaging aspects of the agreement, I would like to list some of them, just to let the American people and this House understand what we are looking at.

We are looking at a huge tax increase that will lower living standards for most Americans. The increase in gasoline tax alone is particularly harsh. The overall tax increase, especially in time of rising oil and gasoline prices, and the overall tax increase that is being proposed, probably would push the United States into that full-blown recession.

We have spending which continues to rise in the agreement, despite the misleading claims that spending has been cut drastically, or has been frozen.

The few tax credits for businesses, while not bad in themselves, follow the national industrial policy approach to the economy; rather than cutting taxes across the board, the Government targets particular kinds of investors for special privileges. There really is no strong enforcement mechanism.

The agreement, for example does not contain a line-item veto nor the elimination of current service budgeting or multiple Gramm-Rudman sequesters or threats of multiple Gramm-Rudman sequesters.

Where spending increases in popular programs are limited, Congress can and will likely restore those funds after the full agreement is accepted.

The numbers released by the Office of Management and Budget are so confusing that few Senators and Congressmen can figure out exactly what it is they are being asked to vote on. The agreement is the most successful use of blue smoke and mirrors to date by those budget summiteers.

However, a number of facts do stand out. In fiscal 1991, total Federal spending would still increase by 4.5 percent or $55 billion over fiscal 1990 levels, excluding the cost of the S&L crisis. But by fiscal 1995, total Federal spending will be $222 billion higher than fiscal 1990 levels, an increase of 18.4 percent. In fiscal 1991, tax revenues are projected to grow by $77.7 billion over fiscal 1990 levels; with the summit agreement raising $16.2 billion in new taxes, total tax revenues in 1991, this fiscal year, will be $93.6 billion higher than the fiscal 1990 level.

The gross national product is projected to grow by $1.8 trillion during the next 5 years. This assumption is highly questionable. Even if such growth does occur, $133.4 billion tax increase will take 7.44 percent of every dollar of economic growth over the next 5 years.

Defense spending bears 100 percent of the reductions in discretionary spending during the first 3 years of the agreement. During the first 3 years, domestic discretionary spending will rise by almost $24 billion, an increse of 12 percent.

We are being asked to put everything up front, higher taxes, massive cuts in defense, a small adjustment in entitlement programs and trust this Congress to give us the "lower increases of spending in the out years."

Mr. BURTON of Indiana. If the gentleman would allow me to interrupt for just a second, I think that is a very salient point. We are asking the American people to trust us in the outyears. The fact of the matter is if they have watched the history of this body, they know Congress has never really stuck to budget proposals in the outyears in the past. Spending goes on unabated, and I think this will probably be no exception.

I yield to the gentleman.

Mr. DELAY. We had the same sort of proposal in 1982 where Congress promised President Reagan, that if he would raise taxes, they would give him spending cuts to offset those tax increases.

Mr. BURTON of Indiana. Yes, more than offset. They said they would give $3 in spending cuts for every $1 in new taxes, and none of the spending cuts were ever realized, only the new taxes.

□ 2000

History proves this out, and, every time we talk about 5-year plan, we change the 5-year plan every year. So, next year; we will be back here looking for a new 5-year plan, and one must picture this. If this agreement calls for a 5-year plan, and most of the slowdown in the increases in spending, and they are not cuts, they are slowdowns and increases in spending, are in the outyears, then what is to say that next year we will come back in and do a new 5-year plan? So, we never reach that fifth year that we are talking about.

Mr. BURTON of Indiana. Sure.

Mr. DELAY. So, we have raised taxes, we have had massive cuts indefense spending, and yet we will be waiting for that fifth year in a slowdown in spending.

I do not think that is a good agreement. I do not think it is, quote, fair to everyone concerned, and I certainly do not think it is fair to the American taxpayer.

Mr. DOUGLAS. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. Before I yield, if I just might make one more comment?

There are some other things that I am sure my colleagues from Texas and also New Hampshire are well aware of, and that is they are going to be increasing or starting for the first time a national sales tax, and the gentleman from New Hampshire [Mr. DOUGLAS] so eloquently went into this the other night, and that sales tax is the camel's nose under the tent. It is going to be a luxury items, big-ticket items, $30,000 cars and higher, and jewelry, and furs and so forth, but in the years to come there is no doubt, when we start hitting another economic church, and this kind of a budget will precipitate those kinds of economic crunches, there is no doubt in my mind that they will say, "OK; let's just lower the level that we're going to tax. Let's lower the $30,000 car to a $15,000 car to a $10,000 car," and on down to zero so that we will have a national sales tax that will be pervasive. It will hit everybody in our society.

Mr. DELAY. Mr. Speaker, will the gentleman yield on that point?

Mr. BURTON of Indiana. I yield to the gentleman from Texas.

Mr. DELAY. If my colleagues go back and check the history, at least of Texas, and I am sure of many other States that instituted sales taxes, an local entities, they always started with the luxury tax. They always started with those items that only the rich could afford and sold it to the taxpayer as, "Look, we're going to tax expensive cars, expensive furs, expensive jewelry. They won't touch you. Just let us have that tax."

And not only do they lower the threshold on those items, but they expand the number of commodities and products that they start taxing.

So, this is a brand-new tax that we are bringing to the American people.

Mr. DOUGLAS. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from New Hampshire.

Mr. DOUGLAS. Mr. Speaker, I thank the gentleman from Indiana for yielding.

I wanted to follow up on that, too, because I happen to come from a State, the only one in the Nation other than Alaska, who, I guess, is in the similar situation. But we do not have a sales tax, and we do not have an income tax in New Hampshire. And the reason we do not have a sales tax is just, as the gentleman from Indiana [Mr. BURTON] pointed out.

I say to my colleagues, "Once you start, you can just keep moving more columns this way to be counted by the sales tax. You increase the rate."

This one starts out very high, at 10 percent, and, as my colleagues know, and I know, the papers we were handed yesterday, some of them indicated that electronics and aircraft were included. Now it turns out, apparently, that it was a last-minute deal, they were taken out, but the mere fact that they were on the sheet of paper tells me as clear as a bell that our TV's, our VCR's, all of that electronics equipment, is the next phase.

Mr. BURTON of Indiana. We will be saying, "They're back."

Mr. DOUGLAS. Yes, "They're back."

The amount, as the gentleman said, will be dropped. The number of things that get picked up will be increased, and I guess, to me, the real problem is this is an especially bad way to go because it is a truly new tax. We do not have a national sales tax on any consumer items right now. But if this bill passes, the foot will be in the door, and we will have begun down the road that we started with the graduated income tax at the turn of the century and will end this century with a national sales tax.

I think that is absolutely outrageous to think that, rather than cutting budgets, real cuts, not the phony Washington, Disneyland stuff, but real dollar reductions, we are not doing that. Is a single bureaucrat being laid off as a result of this painful package? Is one single agency shut down? The answer is "no."

Chase Manhattan just had to lay off 5,000 employees because they are faced with a deficit, and we, with 2 million employees, are not even letting one person go.

And I look at this branch that we work for, and it is shocking to me to think that 37,000 people are employed by the U.S. Congress. Now that is easily 10,000 more than we need, and, if we really want to make some cuts, we can start right here and make some real reductions in the outrageous spending that this branch is involved in.

Mr. BURTON of Indiana. If I just might interject one thing that a lot of our colleagues may not be aware of: 10 years ago, in fiscal year 1981, we were getting about $599 billion in tax revenues of all sorts, and this next fiscal year, without any tax increases; in fact, because of the tax cuts that Reagan passed, which created 21 million new jobs, the economy has grown to where we are going to receive $1.2 trillion in tax revenues. That is more than double what we had 10 years ago.

We are getting about $80 billion in new revenues yearly now, but that is not enough. These fellows want more. They want more to spend more.

Mr. DELAY. Mr. Speaker, will the gentleman yield on that?

Mr. BURTON of Indiana. If I could just say one thing, and then I will be happy to yield to my colleague from Texas.

I would just like to read down the litany of taxes that are going to be increased, and the gentleman alluded to some of these a few mintues ago. Energy taxes; they are going to have a 2-percent petroleum tax that is going to hit home heating and all kinds of energy costs. We are going to have a 10-cent-a-gallon gas tax. We are going to increase tobacco taxes, increase beer, wine, distilled spirits taxes. The 10-percent luxury excise tax we talked about.

Here are some others we have not heard about earlier: ozone-depleting chemical excise taxes; that is a new one on me. Lost deductions in salvage values for insurance companies, which is going to amount to a tax. Increased airport trust fund aviation excise taxes over 5 years. Increase the harbor maintenance tax. And so on and so forth.

Plus we are going to hit the senior citizens with higher deductibles on their Medicare and more expenses to them as well.

Mr. DELAY, Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Texas.

Mr. DELAY. The gentleman from Indiana [Mr. BURTON] has already started presenting my point.

There are, in addition to the, quote, $134 billion in suggested tax revenue increases, there are many hidden tax increases in this agreement, and several of them are under the, quote, spending cut portion of the agreement.

For example, the gentleman already alluded to the monthly tax that senior citizens pay to Medicare will be increased. Yet the revenues generated by that change are counted as a spending cut. And 17 different fees are to be increased, generating an additional $14.2 billion in revenue for the Government over the next 5 years. Yet the revenue is to be counted as a spending cut. Nearly $5.4 billion of the supposed spending cuts are actually revenues from the Postal Service, which is now off-budget, resulting in no real savings, and the agreement contains an automatic tax increase. Thus every tax cut must be offset by a tax increase.

At the very least, this provision effectively eliminates any opportunity to pass tax cut legislation to pull the economy out of a recession which the budget agreement would cause.

Mr. BURTON of Indiana. Mr. Speaker, I think the point the gentleman from Texas [Mr. DELAY] is making is that a lot of these so-called spending cuts are nothing more than smoke and mirrors, and I was on a television show with one of my colleagues from the other side of the aisle not too long ago, and he was talking about this budget was a real budget without smoke and mirrors, and the gentleman from Texas [Mr. DELAY] just pointed out that there is a ton of smoke and mirrors in this thing.

Mr. DOUGLAS. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from New Hampshire.

Mr. DOUGLAS. Does this not actually give smoke and mirrors a bad name?

I mean, one of the concerns that I have in there which has gotten very little attention in the last 24 hours is that, when we were told that this whole process was going to be worth it, the bottom line was fundamental reform. There is no line item veto in this budget package. There is no balanced budget amendment in this budget package. There is not an end to current services, base line budgeting and they move to zero budgeting in this package. An we have not moved to a 2-year budget cycle.

Mr. BURTON of Indiana. And no rescission authority for the President.

Mr. DOUGLAS. Exactly. None of those things are in here.

What we have is the traditional, "We'll pass a law that will settle these targets and numbers, and everyone will comply with it for the next 5 years."

Now we have already had a law that we passed 5 years ago called Gramm-Rudman. That law expires, and theoretically tomorrow, or today rather, we should be at balance. Am I correct? Was it not a 5-year plan to balance the budget?

Have we balanced it? No. We have a bigger deficit now than I think we did 5 years ago when we started this balanced budget statutory approach.

Mr. DELAY. If the gentleman would yield, in defense of Gramm-Rudman I must say that the projected deficits before Gramm-Rudman passed were much higher than the dificits are now.

□ 2010

The gentleman is right in my opinion that the deficits are larger than we would like to see and larger than we were promised when we passed Gramm-Rudman, but they are lower than if we did not pass Gramm-Rudman.

Mr. BURTON of Indiana. The point needs to be made that without Gramm-Rudman, my gosh, no one knows where we would be. We need budgetary constraint. I think the point the gentleman from New Hampshire [Mr. DOUGLAS] is making is even with the teeth we put in with Gramm-Rudman, spending is almost out of control.

Mr. DOUGLAS. Basically that is my point, not that there is something wrong with Gramm-Rudman that means we should not have done it. It is better than any other option, which is to do nothing. But the practical problem is that Gramm-Rudman is a statute, and this will be a statute, and there is no lasting mechanism.

I have felt all along that if we wanted something meaningful, then we would have the balanced budget amendment enacted by the House and the Senate as part of at least the rainbow that we could have worked toward, the pot of gold at the end of that rainbow 5 years from now. Because if the summiteers are correct, that in 5 years we are going to be

down to inflation of 2.8 percent, interest rates at 4.2 percent, and a budget that is balanced, if we have reached that Nirvana in 5 years, then they ought to have the balanced budget amendment voted on, enacted by the House, by the Senate, and sent to the States, so that 5 years from now, after they have ratified it and it has taken effect, effective 1995, this statute will end and we will be in truly a phenomenal situation, with a balanced budget, the 4-percent interest rates and the under 3 percent inflation, and everyone will be deliriously happy.

If they do not think they are really going to do that, then that explains why they did not put the balanced budget amendment in here.

Mr. BURTON of Indiana. I think the gentleman makes a number of salient points. I think one thing we ought to point out is even though we are on the floor of the House, in this well, talking about the problems with this budget, we are not just slamming this budget proposal without some alternative.

The gentleman from Texas [Mr. DELAY] alluded to several budgets that we have proposed in the past, and maybe we ought to talk a little bit about the 4-percent solution and what that will do for the country in lieu of this budget, which we think would be an economic disaster.

The 4-percent solution, for the benefit of Members who may be paying attention to what we are doing here, is a budget that starts with last year's spending as a base. Not with the current services budgeting procedure attached to it, but the 4-percent solution starts with last year's spending as a base, real spending as a base, and allows the spending to increase by 4 percent per year over the next 5 years.

That, coupled with a capital gains tax cut and one other small cut I think in the Social Security taxes of about 2.3 percent, which many people favor and which would not jeopardize in any way the Social Security trust fund, but that 4-percent solution with those other benefits would lead us to a balanced budget by 1995, and even give us an $11 billion surplus.

So I think this is something we should, as Members, look at seriously if this thing goes down, which we hope it will.

The problem is that budget and another budget which the gentleman from Texas [Mr. DELAY] and I worked on for some time, has never even been considered, even though we sent it to all 535 Members of the House, the Senate, the White House, and everybody else involved in this process.

So I am hopeful the budget we proposed, both budgets we proposed, will at least be given some look-see in the next few days, if it looks like this particular budget that we do not like goes down.

Mr. DELAY. I do not think we are going to hold our breath waiting for them to look at it, but I think it is at least at this period of time a responsible approach. It is very easily understood. You do not have to have a lot of number crunching like you do in this proposal, where the numbers do not exactly jive where they are hidden and Members cannot quite understand where this baseline is and that baseline is, and how much we really are going to be spending, and when we are going to spend it.

A 4-percent solution is I think even very generous. It is more generous than most taxpayers face when they are looking at a deficit in their own family budgets. You cannot be assured of an automatic 4-percent increase for the next 5 years or the next 7 years if you are trying to raise a family and trying to do a good job. When you are running a deficit, you have to look at what you are spending your money on and prioritize under the amount of revenues that you are receiving.

No less should happen to our Government. Maybe because of its simplicity, it shows a little too much genuineness for many of our leaders to pick up.

Mr. BURTON of Indiana. If I might just interject, today when we had our meeting on the budget with leaders from the White House and others, I think one of the leaders, and I will not mention the name, indicated that the 4-percent solution we talked about was not doable. We know as a legislative body you can do almost anything you want to if you have the votes.

The fact of the matter is, if we want to curtail spending, limit it to a 4-percent growth across the board, pass the capital gains tax and other cuts we have talked about, it is doable.

Our solution does not even include the cuts in defense that we think would be added to it which we think we could accept, which would give us a brighter picture with this budget.

This is something that is doable. We as the Congress with the executive branch, working together, can make the 4-percent work. All we need is the intestinal fortitude to do it.

Mr. DELAY. Not only that, it is up front moneys. We ran some preliminary numbers on it. In the budget agreement the first-year savings is $40 billion. So the budget summiteers did not even reach the $50 billion target that they set for themselves.

Mr. BURTON of Indiana. But it was supposed to be higher than that before. It was supposed to be $114 billion, as I recall.

Mr. DELAY. I think the gentleman is right. The 4-percent solution, in looking at the preliminary numbers, and they are preliminary, look like the first-year savings, with the revenue package and everything that we are talking about, is a savings of $43 billion, $3 billion more than the budget agreement that took over 4 months to put together.

So we are talking about moneys and savings being up front, and presenting them to the American people first, rather than promising so that we can cook numbers and get through this crisis for another year and face it again next year. We will have a real plan, with the savings up front, that are real.

They force this Congress into setting priorities under caps, and that is what we ought to be doing. Time and time again, how many times have we seen down here on this floor passing program after program, spending after spending, increasing existing spending, increasing spending on existing programs, with little or no regard to the total picture in the budget?

Yet this would bring discipline to that. This Congress could not pass a new program unless they took money from an existing program. Then when an existing program needed more money, then you would have to say well, you would have to establish priorities and say yes, the need here is greater than the need over in this agency, so we are going to move the spending in that way, staying under a 4-percent cap.

Mr. BURTON of Indiana. We would have to make tough choices. But that is what we were elected to do. We have not been doing it. We have been caving in to more spending year in and year out.

I would like to add one more thing. Some Members think a group of us got together and threw this package together. The fact of the matter is we worked for months with leading think tanks around town, the Heritage Foundation, the U.S. Chamber of Commerce, and other leading organizations.

Mr. DELAY. Citizens For a Sound Economy.

Mr. BURTON of Indiana. Citizens For a Sound Economy, who really have some grasp of the problem. I think this is a very well-thought-out solution. I am glad the gentleman from Texas has taken such a leadership role in the fight for sanity around this place.

Mr. DELAY. I just really feel that we really have got to look at this very closely. I am still looking at it. It would be nice to find something in here that you could take and say yeah, that is good enough for me to vote for this package. It is a very complicated package, I must say.

Mr. BURTON of Indiana. It would be something that if we wanted to get out of here and go home and just get on with the campaign, that we could vote for and just leave. But it would be an irresponsible thing for you or me or most Members to vote for this pack-

age, knowing the long-term damage it is going to do to the American economy.

Mr. DELAY. If we defeat this agreement, the world does not come to an end.

□ 2020

Other packages can be put together. Congress can do its job and send packages to the President, spending bills and tax bills and budget reconciliations to the President. If he does not like them, he can veto them. They can work something out using those vehicles, or they can pass our solution. There are other ways of doing it.

The world does not come to an end, and I hope this House, and particularly the American people, are not duped by the doomsday sayers that are out there claiming fiscal chaos if we go into sequestration or if this agreement does not pass, that this agreement is the only thing available to us, and it is now or never, and scaring the American people into once again, once again accepting higher spending and higher taxes to pay for it.

Mr. BURTON of Indiana. I thank the gentleman.

Mr. DELAY. I thank the gentleman for taking this special order.

Mr. BURTON of Indiana. I thank my colleague from Texas for his valuable contribution tonight. I hope our colleagues who may be paying attention to this special order will at least look at the logic, what I think is the logic of the 4-percent solution.

Mr. Speaker, I yield the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ENGEL (at the request of Mr. GEPHARDT) for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RIDGE) to revise and extend their remarks and include extraneous material:)

Mr. DELAY, for 5 minutes, today.

Mr. DOUGLAS, for 5 minutes, today.

Mr. DORNAN of California, for 5 minutes, today.

Mr. DREIER of California, for 60 minutes each day, on October 2, 3, 4, 5, 9, 10, and 11.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DURBIN, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. TRAXLER following Mr. HAMILTON on House Joint Resolution 658.

Mr. NOWAK, during general debate on H.R. 4299, the Great Lakes Fish and Wildlife Restoration Act of 1990.

Mr. HYDE, prior to the passage of H.R. 5007.

(The following Members (at the request of Mr. RIDGE) and to include extraneous matter:)

Mr. KYL.

Mr. GINGRICH.

Ms. ROS-LEHTINEN.

Mr. MCDADE.

Mr. GILMAN in two instances.

Mr. CONTE.

Mr. BILIRAKIS.

Mr. SCHAEFER.

Mr. RINALDO.

Mr. BEREUTER.

Mr. GUNDERSON.

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. DYSON.

Mr. DONNELLY.

Mr. ANDERSON in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mr. CROCKETT.

Mr. WEISS.

Mr. STARK.

Mr. WOLPE.

Mr. DORGAN of North Dakota.

Mr. BONIOR.

Mr. CLAY.

Mr. LEHMAN of California.

Mr. MCMILLEN of Maryland.

Mr. AUCOIN.

Mr. TOWNS.

Mr. TALLON.

Mr. BRUCE.

Mrs. KENNELLY.

SENATE BILLS REFERRED

Bills and joint resolutions of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1657. An act for the relief of Trevor Henderson; to the Committee on the Judiciary.

S. 2981. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America; to the Committee on the Judiciary.

S. 3016. An act for the relief of Janice and Leslic Sedore and Ruth Hillman; to the Committee on the Judiciary.

S. 3091. An act to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein; to the Committee on the Judiciary

S.J. Res. 270. Joint resolution to designate the period commencing Februray 17, 1991, and ending February 23, 1991, as "National Visiting Nurse Associations Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 293. Joint resolution to designate November 16, 1990, as "National Philanthropy Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 307. Joint resolution designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 323. Joint resolution designating November 11 through 17, 1990, as "Geography Awareness Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 340. Joint resolution designating the week beginning November 11, 1990, as "National Disabled Veterans Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 347. Joint resolution designating April 7 through 13, 1991, as "National County Government Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 349. Joint resolution designating October 1990 as "Italian-American Heritage and Culture Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 353. Joint resolution to designate September of 1991 as "National Rice Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 358. Joint resolution to designate February 7, 1991, as "National Women and Girls in Sports Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 362. Joint resolution to designate the period commencing on November 18, 1990, and ending on November 24, 1990, as "National Adoption Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 366. Joint resolution to designate March 30, 1991, as "National Doctors Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 367. Joint resolution to designate the week of November 11 through 17, 1990, as "Gaucher's Disease Awareness Week"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles which were thereupon signed by the Speaker:

H.R. 3007. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations.

H.R. 5755. An act to extend the temporary increase in the public debt limit; and

H.J. Res. 655. Joint resolution making continuing appropriations for the fiscal year 1991, supplemental appropriations for "Operation Desert Shield" for the fiscal year 1990, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the follow-

ing date present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On October 1, 1990:

H.R. 5755. An act to extend the temporary increase in the public debt limit;

H.J. Res. 655. Joint resolution making continuing appropriations for the fiscal year 1991, supplemental appropriations for "Operation Desert Shield" for the fiscal year 1990, and for other purposes; and

H.R. 5747. An act to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

AJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 22 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, October 2, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Senate's table and referred as follows:

3977. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Turkey for defense articles (transmittal No. 91-01), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3978. A letter from the Secretary of Defense, transmitting his certification that the current 5 defense program fully funds the support costs associated with the Family of Heavy Tactical Vehicles Program; to the Committee on Armed Services.

3979. A letter from the Secretary of Education, transmitting a copy of the Stafford Loan, Supplemental Loans for Students, PLUS, and Consolidation Loan Programs—Notice of Interpretation, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3980. A letter from the Assistant Secretary for Conservation and Renewable Energy, Department of Energy, transmitting the annual report for fiscal year 1989 on Federal Government Energy Management and Conservation Programs, pursuant to 42 U.S.C. 8253 nt.; to the Committee on Energy and Commerce.

3981. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Turkey for defense articles and services (Transmittal No. 91-01), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3982. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Germany (Transmittal No. 17-90), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

3983. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, transmitting a followup summary of activities proposed for funding in Peru during fiscal year 1990 by AID's Latin America and Caribbean Bureau, pursuant to 22 U.S.C. 2151u(e); to the Committee on Foreign Affairs.

3984. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the President's determination that the "Agreement on Trade Relations Between the Government of the United States and the Government of the Czechoslovak Federative Republic" will promote the purposes of the Trade Act of 1974 and is in the national interests, pursuant to 19 U.S.C. 2437(a); to the Committee on Ways and Means.

3985. A letter from the Comptroller General, General Accounting Office, transmitting the initial analysis of the estimated costs of the assistance agreements the FSLIC entered into during 1988 and 1989 (GAO/AFMD-90-81, September 1990), pursuant to 12 U.S.C. 1441a nt.; jointly, to the Committees on Banking, Finance and Urban Affairs and Government Operations.

3986. A Communication from the President of the United States, transmitting notification of the President's intention to exercise authority under section 506(a) of the Foreign Assistance Act of 1961, as amended, in order to provide military assistance to Israel, pursuant to 22 U.S.C. 2318(b)(2); jointly, to the Committees on Foreign Affairs and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3960. A bill to increase the amounts authorized to be appropriated for the Colorado River Storage Project, and for other purposes; with an amendment (Rept. 101-764, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.J. Res. 647. Joint resolution disapproving the recommendation of the President to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China (Rept. 101-772). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.J. Res. 649. Resolution approving the extension of nondiscriminatory treatment (most favored nation treatment) to the products of Czechoslovakia (Rept. 101-773). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 37. A bill to authorize the water resources research activities of the United States Geological Survey, and for other purposes; with amendments (Rept. 101-774, Pt. 1). Ordered to be printed.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 2734. A bill to inaugurate a comprehensive program of environmental research, development, and demonstration relating to contamination and depletion of ground water and ground water resources; and to establish an Interagency Ground Water Research Committee to improve coordination among Federal agencies and provide assistance for implementation of State management programs; with an amendment (Rept. 101-775, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1747. An act to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes; with amendments (Rept. 101-776). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2680. An act to provide for the conveyance of lands to certain individuals in Stone County, Arkansas (Rept. 101-777). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5063. A bill to provide for the settlement of the water rights claims of the Fort McDowell Indian Community in Arizona and for other purposes; with an amendment (Rept. 101-778). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2582. A bill to amend the Historic Sites, Buildings, and Antiquities Act; with amendments (Rept. 101-779). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5004. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Mills River in the State of North Carolina for potential addition to the Wild and Scenic Rivers System; with an amendment (Rept. 101-780). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5402. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Allegheny River in the State of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes; with amendments (Rept. 101-781). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2059. An act to establish the Weir Farm National Historic Site in the State of Connecticut with an amendment (Rept. 101-782). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4630. A bill to exchange certain lands in the State of New Mexico, and for other purposes; with amendments (Rept. 101-783, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5428. A bill to designate certain public lands in the State of Illinois as wilderness, and for other purposes (Rept. 101-784, Pt. 1). Ordered to be printed.

Mr. JONES of North Carolina. H.R. 5206. A bill to provide for the bonding of non-vessel-operating common carriers, and for other purposes; with an amendment (Rept. 101-785). Referred to the Committee of the Whole House on the State of the Union.

Mr. BONIOR: Committee on Rules. House Resolution 484. Resolution providing for the consideration of H.R. 4300, a bill to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for

other purposes (Rept. 101-786). Referred to the House Calendar.

Mr. HAWKINS: Committee of conference. Conference report on S. 1824 (Rept. 101-787). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GOODLING (for himself, Mr. HAWKINS, Mr. CLAY, and Mrs. ROUKEMA):

H.R. 5759. A bill to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such act to employee group health plans; to the Committee on Education and Labor.

By Mr. DELLUMS (for himself and Mr. BLILEY):

H.R. 5760. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to establish a predictable and equitable method for determining the amount of the annual Federal payment to the District of Columbia and to simpify congressional review of District acts; jointly, to the Committees on the District of Columbia and Rules.

By Mr. ARMEY (for himself, Mr. KASICH, Mr. DELAY, Mr. BURTON of Indiana, Mr. CRAIG, Mr. DOUGLAS, Mr. INHOFE, Mr. HANCOCK, Mr. DENNY SMITH, Mr. EMERSON, Mr. HERGER, Mr. KYL, Mr. BALLENGER, Mr. PARRIS, Mr. SMITH of New Hampshire, Mr. DANNEMEYER, Mr. WALKER, Mr. LIGHTFOOT, Mr. NIELSON of Utah, Mr. PACKARD, Mr. HOLLOWAY, Mr. SHUMWAY, Mr. MCEWEN, Mr. ROHRABACHER, and Mr. HUNTER:

H.R. 5761. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to limit increases in outlays to 4 percent per year, to provide for midyear sequesters in order to assure that deficit and outlay targets are achieved, and to amend the Congressional Budget Act of 1974 to extend the deficit targets; jointly, to the Committees on Government Operations; Banking, Finance and Urban Affairs; and Rules.

By Mr. CROCKETT (for himself and Mr. LAGOMARSINO):

H.R. 5762. A bill to promote Caribbean regional development; to the Committee on Foreign Affairs.

By Mr. JACOBS:

H.R. 5763. A bill to amend the Internal Revenue Code of 1986 to clarify that Social Security taxes shall not apply to payments made to State and local government employees under laws in the nature of workmen's compensation acts; to the Committee on Ways and Means.

By McDADE (for himself and Mr. LAFALCE):

H.R. 5764. A bill to amend the Small Business Act to exempt the Small Business Administration and financial and lending institutions from liability under certain Federal environmental laws with respect to property when title or control of the property is acquired by the Administration or the financial or lending institution under the terms of a business or disaster loan; jointly, to the Committees on Small Business and Energy and Commerce.

By Mr. MANTON:

H.R. 5765. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide a lump sum payment to public safety officers who become totally and permanently disabled as a result of a catastrophic injury sustained in the line of duty, and for other purposes; to the Committee on the Judiciary.

By Ms. MOLINARI:

H.R. 5766. A bill to amend the Federal Charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America; to the Committee on the Judiciary.

By Mr. SHARP:

H.R. 5767. A bill to establish a national energy strategy for the United States that reflects concern for the global environmental consequences of current trends in atmospheric concentrations of greenhouse gases, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TAUZIN (for himself and Mr. HAYES of Louisiana):

H.R. 5768. A bill to provide for the creation, restoration, protection, enhancement, and conservation of coastal wetlands, to conserve North American wetland ecosystems, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

By Mr. WHITTEN:

H.J. Res. 660. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes; to the Committee on Appropriations.

By Mr. SERRANO (for himself, Mr. DELLUMS, Mr. ENGEL, Mr. HAWKINS, Mr. OWENS of New York, Mr. PAYNE of New Jersey, Mr. SCHUMER, Ms. SLAUGHTER of New York, Mrs. UNSOELD, and Mr. WASHINGTON):

H.J. Res. 661. Joint resolution designating October 31, 1990, as "Pediatric Aids Awareness Day"; to the Committee on Post Office and Civil Service.

By Mr. WEISS (for himself and Mr. LEACH of Iowa):

H.J. Res. 662. Joint resolution to designate December 1, 1990, as "World AIDS Day"; to the Committee on Post Office and Civil Service.

By Mr. BRUCE (for himself, Mr. APPLEGATE, Mrs. BENTLEY, Mr. BURTON of Indiana, Mr. COSTELLO, Mr. DINGELL, Mr. DURBIN, Mr. ECKART, Mr. EVANS, Mr. GAYDOS, Ms. KAPTUR, Mrs. LLOYD, Ms. LONG, Mr. POSHARD, Mr. SCHEUER, Mr. TAUZIN, Mr. TRAFICANT, Mr. WISE, and Mr. WOLPE):

H. Con. Res. 377. Concurrent resolution regarding the negotiation of a free trade agreement with Mexico; to the Committee on Ways and Means.

By Mr. MARKEY (for himself, Mr. DINGELL, Mr. LENT, and Mr. RINALDO):

H. Res. 483. Resolution to provide for the concurrence of the House to the amendment of the Senate to the bill (H.R. 1396) with an amendment.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

504. By the SPEAKER: Memorial of the Legislature of the State of California, relative to military bases; to the Committee on Armed Services.

505. Also, memorial of the Legislature of the State of California, relative to military base closures; to the Committee on Armed Services.

506. Also, memorial of the Legislature of the State of California, relative to earthquake insurance; to the Committee on Banking, Finance and Urban Affairs.

507. Also, memorial of the Legislature of the State of California, relative to the Transition Program for Refugee Children; to the Committee on Education and Labor.

508. Also, memorial of the Legislature of the State of California, relative to Federal motor vehicle safety standards for multipurpose passenger vehicles; to the Committee on Energy and Commerce.

509. Also, memorial of the Legislature of the State of California, relative to television violence; to the Committee on Energy and Commerce.

510. Also, memorial of the Legislature of the State of California, relative to corporations; to the Committee on Energy and Commerce.

511. Also, memorial of the Legislature of the State of California, relative to a national health care plan; to the Committee on Energy and Commerce.

512. Also, memorial of the Legislature of the State of California, relative to broadcasting emergency information; to the Committee on Energy and Commerce.

513. Also, memorial of the Legislature of the State of California, relative to Lithuania; to the Committee on Foreign Affairs.

514. Also, memorial of the Legislature of the State of California, relative to a sister State agreement; to the Committee on Foreign Affairs.

515. Also, memorial of the Legislature of the State of California, relative to rain forests; to the Committee on Foreign Affairs.

516. Also, memorial of the Legislature of the State of California, relative to the Israeli Plan for Free and Democratic Elections; to the Committee on Foreign Affairs.

517. Also, memorial of the Legislature of the State of California, relative to the Bodie Mining District; to the Committee on Interior and Insular Affairs.

518. Also, memorial of the Legislature of the State of California, relative to fish and wildlife; to the Committee on Interior and Insular Affairs.

519. Also, memorial of the Legislature of the State of California, relative to creditors committees in bankruptcy proceedings; to the Committee on the Judiciary.

520. Also, memorial of the Legislature of the State of California, relative to coastal waters; to the Committee on Merchant Marine and Fisheries.

521. Also, memorial of the Legislature of the State of California, relative to air transportation; to the Committee on Public Works and Transportation.

522. Also, memorial of the Legislature of the State of California, relative to industrial development and mortgage revenue bonds; to the Committee on Ways and Means.

523. Also, memorial of the Legislature of the State of California, relative to Vietnam veterans exposed to agent orange; to the Committee on Veterans' Affairs.

524. Also, memorial of the Legislature of the State of California, relative to civil rights; jointly, to the Committees on Education and Labor and the Judiciary.

525. Also, memorial of the Legislature of the State of California, relative to tuna product labeling; jointly, to the Committee on Energy and Commerce and Merchant Marine and Fisheries.

526. Also, memorial of the Legislature of the State of California, relative to Hawaiian

rain forests; jointly, to the Committee on Energy and Commerce and Interior and Insular Affairs.

527. Also, memorial of the Legislature of the State of California, relative to oilspills; jointly, to the Committee on Merchant Marine and Fisheries and Public Works and Transportation.

528. Also, memorial of the Legislature of the State of California, relative to the unemployment insurance shortfall; jointly to the Committee on Ways and Means and Appropriations.

529. Also, memorial of the Legislature of the State of California, relative to retirements; jointly, to the Committee on Ways and Means and Energy and Commerce.

530. Also, memorial of the Legislature of the State of California, relative to gasoline prices; jointly to the Committee on Energy and Commerce, Ways and Means, and the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1400: Mr. FLAKE.
H.R. 2037: Mr. YOUNG of Alaska.
H.R. 2418: Mr. JENKINS.
H.R. 3513: Mr. PARRIS.
H.R. 4392: Mr. JONTZ.
H.R. 4495: Mr. MCCRERY and Mr. HOAGLAND.
H.R. 4814: Mr. SUNDQUIST.
H.R. 4840: Mr. BRENNAN and Mr. VALENTINE.
H.R. 5176: Mr. BENNETT.
H.R. 5203: Mr. JACOBS.
H.R. 5244: Mr. FISH.
H.R. 5367: Mr. RICHARDSON.
H.R. 5416: Mr. FIELDS.
H.R. 5426: Mr. OWENS of Utah.
H.R. 5464: Mr. DYMALLY and Mr. GRAY.
H.R. 5562: Mr. VANDER JAGT and Mr. SHAYS.
H.R. 5592: Mr. BATEMAN, Mr. HOLLOWAY, Mr. LIPINSKI, Mr. LAGOMARSINO, Mr. GILMAN, Mr. HERGER, Mr. SHUMWAY, Mr. APPLEGATE, Mr. SOLOMON, Mr. RITTER, Mr. DONALD E. LUKENS, and Mr. ROGERS.
H.R. 5596: Mrs. SAIKI, Mr. MCDERMOTT, Mr. MRAZEK, Mr. HORTON, Ms. PELOSI, and Mr. ROE.
H.R. 5601: Mr. FISH.
H.R. 5616: Mr. FRANK.
H.R. 5630: Mr. FISH.
H.R. 5671: Ms. KAPTUR, Mrs. PATTERSON, Mr. DWYER of New Jersey, and Mr. TALLON.
H.R. 5677: Mr. MILLER of Washington and Mr. HORTON.
H.R. 5690: Mr. ROSE, Mr. BERMAN, Mr. HORTON, Mr. GILMAN, Mr. WOLF, Mr. HERTEL, and Mr. BLILEY.
H.R. 5707: Mr. SYNAR and Mr. WISE.
H.R. 5736: Mr. SARPALIUS, Mr. BOUCHER, Ms. KAPTUR, Mr. SOLOMON, Mr. HORTON, and Mr. ROE.
H.J. Res. 214: Mr. WOLPE, Mr. WILSON, Mr. TAUZIN, Mr. SLATTERY, Mr. SAVAGE, Mr. STANGELAND, Mr. OWENS of Utah, Mr. MURPHY, Mr. PALLONE, Mr. MCMILLEN of Maryland, Mr. MCDERMOTT, and Mr. VENTO.
H.J. Res. 353: Mr. LAFALCE and Mr. PANETTA.
H.J. Res. 509: Mr. SUNDQUIST, Mr. WISE, and Mrs. BENTLEY.[H01OC0-K1]{H8595sRes. 595
H.J. Res. 595; Mr. MURPHY, Mr. BATES, Mr. CHANDLER, Mr. DE LUGO, Mr. DICKS, Mr. DEWINE, Mr. EVANS, Mr. GUARINI, Mr. HEFNER, Mr. HUNTER, and Mr. HYDE.
H.J. Res. 613: Mr. ECKART, Mr. YOUNG of Alaska, Mr. STENHOLM, Mr. DEFAZIO, Mr. BUNNING, Mr. SABO, Mr. PURSELL, Mr. WHITTAKER, Mr. WYLIE, Mr. PICKLE, Mr. HILER, Mr. THOMAS of California, Mr. NAGLE, Mrs. BYRON, Mr. RHODES, Mr. BALLENGER, Mr. WYDEN, Mr. ROGERS, Mr. SIKORSKI, Mr. AUCOIN, and Mr. POSHARD.
H.J. Res. 658: Mr. LANTOS and Mr. MCCLOSKEY.
H. Con. Res. 91: Mr. FLIPPO and Mr. JACOBS.
H. Con. Res. 177: Mr. DEFAZIO.
H. Con. Res. 259: Mr. SLATTERY, Mr. NATCHER, Mr. DYMALLY, Mr. FLAKE, Mr. GEREN OF TEXAS, and Mr. NAGLE.
H. Con. Res. 346: Mr. LAGOMARSINO, Mr. FISH, Mr. SOLOMON, and Mr. ROE.
H. Con. Res. 371: Mr. JONTZ and Mr. GEJDENSON.
H. Con. Res. 372: Mr. OLIN, Mr. WEISS, Mr. HUGHES, and Mr. PEASE.
H. Con. Res. 374: Mr. THOMAS of California, Mr. RITTER, Mr. LENT, and Mr. FISH.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

238. By the SPEAKER: Petition of the Seventh Northern Marianas Commonwealth Legislature, relative to the United Nations Global Convention on the Rights of the Child; to the Committee on Foreign Affairs.

239. Also, petition of the Governor of the State of New Jersey, relative to the reauthorization of the Delaware River & Bay Authority Compact as passed by the New Jersey Legislature; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

EDUCATIONAL CHOICE: MORE REASONS TO GIVE IT A CHANCE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. GINGRICH. Mr. Speaker, the following remarks were made by the Honorable Pete DuPont at the Rotary Club of Wilmington, DE, on September 13. His speech reinforces my belief that educational choice, not more money, is the only solution that will save our education system from its current destruction from irresponsible bureaucratic control.

I think it is important for all my colleagues to read this speech and realize that choice education is indeed a step in the right direction to solving the problems of our education system. It is time to give our young people a chance to obtain a better education by eliminating bureaucracy and allowing individuals to take charge of their education.

The remarks follow:

THE POWER TO CHOOSE: AN EDUCATION SCHOLARSHIP PLAN

(REMARKS OF HON. PIERRE S. DUPONT IV)

During my eight years as Governor, I spent a great deal of time working to improve our education system. An explosion of new programs were enacted: student testing, teacher testing, gifted and talented programs, special programs for learning disabled children—the list was long and comprehensive. I served as Chairman of the Education Commission of the States so that we could learn from the other 49 states about their ideas, to help us in putting effective reforms into place in Delaware.

You remember those years, the years in which everyone was talking about education and the need to do something about it. The national dialogue began in 1983, with the National Committee on Excellence in Education's widely published report, "A Nation at Risk". One sentence from the report said it all: "If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war. As it stands, we have allowed this to happen to ourselves."

In response, Delawarean's gathered expert advice, we marshalled our resources and launched an all-out effort to improve education.

The experts said decrease class size, so we did, by 11% since 1982.

The experts said increase teachers' salaries, so we did. Since 1980, teachers' salaries in Delaware have risen twice as fast as the salaries of others; today, the average teacher's salary is $33,400, 39% more than the average worker's salary in our state.

The experts said increase the number of math and science courses that students must take. We now require two additional courses for graduation.

The experts said to begin teaching children earlier to allow them to have a longer academic career, so we did that too, through mandatory kindergarten.

And the experts said to spend money—and, oh my, did we spend money.

Spending on education across America, since 1983, has grown twice as fast as inflation (education expenditure is up 70%; inflation up 30%). In Delaware, spending per pupil has increased 102% since 1980, while inflation during the same time has increased 66% (see chart). In Delaware, we spend an average of $5,900 educating each student, compared with the national average of $4,900.

So for all our time, for all our efforts, for all of this "cash register mentality," just what have we accomplished? Sadly, not very much.

Twenty-nine percent of American students who enter the ninth grade fail to graduate from high school; at some of our worst schools, this dropout rate exceeds 50%. Half of our high school seniors cannot identify Robert E. Lee; cannot locate France on a map, and cannot identify the century in which the first world war occurred. The number of high school seniors scoring above 750 on the combined verbal and math sections of the SAT's is 50% lower than it was 10 years ago. On international math and science tests, American students score twelfth best in the world.

In Delaware, we are not doing much better. Delaware students rank fortieth from the top of the 50 states in their scores on the armed forces qualification test. Delaware's high school dropout rate is 31%, up from 26% in 1980. In 1980, Delaware's SAT scores were 10 points higher than the rest of the United States. Today we have fallen back to the national average.

For more than a decade, we have worked at the margins, and we have failed. We have spent money, huge sums of money, and we have failed. While we reformed and spent, and spent and reformed, performance has continued to decline. Spending is up, performance is down. Clearly something is very, very wrong.

You know, when I left office in 1985, I was proud of the job we had done in education and the foundation I thought we had laid to see that future generations of Delawareans were better prepared to meet the challenges of life in the Twenty-first Century. It turns out in addition to being proud, I was also mistaken. We have not succeeded in increasing the ability of children to learn; indeed, while we have spent our resources our children have fallen further and further behind their counterparts in other nations. Our national wealth—the ability of our young to learn—has been quietly slipping through our fingers.

But how can this be? With all the effort, all the resources, the partnerships and the good intentions, how can it be that it has come to naught, that we are losing out in the race for knowledge?

For two reasons, I think. One is that the world has changed, dramatically changed, in the past decade.

All of us have read articles and listened to reports telling us that America needs to keep pace with changes around the globe. It's true—the world is a very different place than it once was. It seems like only yesterday when the world superpowers could measure their economic influence by sheer numbers—numbers of factories, the amount of copper they could mine, power they could generate, steel they could forge, the amount of capital they could control. In that era, the U.S. was on top.

But today, the world is a very different place. Borders no longer contain competition. A nation's wealth is no longer measured by the ton of product. The 1980's brought the technology of the information age, and today information is capital; instead of wealth and power coming from material resources; it comes now from information—information generated by the imagination and creativity of free people.

Nations which have played by the old rules, stifling individual initiative denying freedom, placing stock in huge bureaucracies to manage their economies, have failed.

One quick look at the Soviet Union and Eastern Europe proves that centrally planned economies have failed. They cannot grow wheat, or put oranges on the grocery shelves, or provide a decent standard of living for their people. The triumph of individual creativity in the West over centralized planning in the East is obvious to all.

In this new era, when the fundamental driving force for an improved standard of living and increased wealth for all of us is knowledge, it is truly a wonder that one of the last remaining vestiges of monopolistic bureaucracy lies in the education system of the United States of America.

Think about it. In the United States, the government decides where our children go to school, when our children go to school, who teaches them, what books they read, what tests they take, what results are to be achieved, and even what they eat for lunch. Education in America is a system of total government control forced on all of us by rule of law.

I believe that is the second reason we are falling behind, because as knowledge has become more important in our world, our centrally planned education system has been unable to keep up, so American students have continued to fall farther and farther behind.

During the 1970's and 1980's, our nation's productivity growth suddenly fell from nearly 3% a year to 2%. Professor John Kendrick of George Washington pointed out that one of the key reasons accounting for approximately 70% of the decline is the "knowledge factor." It should come as no surprise that when the most precious commodity of the information revolution—knowledge—is provided by a bureaucratic system which would be the envy of the Soviet Union, productivity in our country would fall.

Now, instead of wringing our hands and talking about the continued decline in American education, it's time for us to all agree that we've been on the wrong course, and we need to set a new one. We need to admit to ourselves that a school system is not an island unto itself. It is buffeted by the same winds of change that have over-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

come so many other institutions in our new world.

In virtually every segment of our society we have a rolling, 24-hour referendum by consumers on the products they accept. It is this ability to switch horses, to change products, to abandon the inferior and embrace the superior that gives free enterprise its fundamental superiority—both morally and practically—over centrally planned economies. Do you think General Motors would ever have attempted to improve its automobiles without Japanese competition? Do you think that the cost of electronic equipment would have come down as fast as it has without competition? Do you think you would be able to get the kind of food, clothing, and other consumer items you desire at a price you can afford if there were only one source of supply? Of course not. And yet, we have but one source of supply in education—where the government supplies the "one best product."

I recently read a humorous piece in the Wall Street Journal written by a good friend, Phil Wingate, formerly of the Du Pont Company, who lives here in Wilmington. Phil recounted an amusing encounter with a Soviet government official in a Wilmington drug store. The Soviet was perplexed by the numerous varieties of aspirin available to the American consumer, wondering whether the government enforced controls to ensure each brand was adequately allocated to each city and town across the country. While Boris might not understand the variety and the force of competition in our aspirin market, I am sure he would understand the "one best product" system of our educational establishment.

But America did not come to grow and prosper through 200 years with the government providing "one best product." It is time to bring the proven American values of choice and competition into education, to replace a centrally planned education system run from Washington and Dover, with a customer drive system in which parents choose the schools for their children and schools must compete for their students.

We should have dozens, if not hundreds, of different kinds of schools which offer choices to our children. We should have schools which specialize in mathematics; schools which specialize in English and grammar; schools which specialize in discipline; in the arts and science, schools which meet in the evenings and in the summer. Education is an industry in which a thousand flowers should bloom. And they can bloom, not by the wise decisions of well-intentioned government planners, but only by thousands of free choices made by millions of free people in a free society.

Allowing parents to choose their schools makes all kinds of sense. Choice ends the stifling bureaucracy that has given us the twelfth best schools in the world.

Choice means fairness—giving all families access to the best schools now within the economic grasp of only the few. It is poor and middle class working families whose children are most often trapped in inferior schools.

Choice means power—the power of every parent to choose the school best suited to each child—the power to choose our child's education as we choose our jobs, our houses, our churches and our leaders.

But most of all, choice forces all schools to improve to survive in the competitive marketplace and this raises the quality of education in every classroom in every school.

A choice program would be relatively easy to implement in Delaware. We are small enough, homogenous enough, and because state government provides 70% of the total funding for education, implementation is manageable.

Here's how a choice plan might work. Beginning in 1992, each school district in Delaware would have the option of adopting an "Education Scholarship Program", either by majority vote of the School Board or by the voters in a referendum. No district would be required to participate in the plan.

Once a choice plan has been approved by the School Board or by the voters of a particular district, it would be phased into elementary schools, one grade at a time to avoid disruption, beginning with first grade in 1992. The parents of each first grade student would in the spring make a selection, choosing to send their child to any government first grade school in their home school district, or to any government school in another district which would accept the student, or, in the alternative, parents could accept a $2,150 scholarship for their child to attend any accredited private first grade school within or outside Delaware. The $2,150, will more than cover the tuition at 31 of the 39 private schools in Delaware. Once choice is fully phased into elementary schools, school districts could elect to move more quickly to bring choice to the remaining grades.

Parents thus have one of three choices to make: to send their child to a government school in the school district in which they live; to send their child to a government school in another district which would accept that child; or to send the child to a private school of the family's choice using the scholarship to cover the cost of tuition.

This proposal is a win-win proposal for all segments of the educational community. For parents, it provides a choice of schools to which to send their children, to insure that each child learns in the best environment possible for that individual child.

Local school districts win too. Because the cost of operating Delaware's government schools is so much greater than tuition at private schools ($6,000 per student versus $2,100 per student), there will be extra dollars to educate children choosing government schools. For every student that departs a government school, approximately $2,000 of the $6,000 it cost to educate the departing student will be retained by the district to upgrade programs for the remaining students. While the local school district would have less total dollars, it would have more dollars per student to run its programs for the remaining students.

Such a plan would have special provisions to deal with Federal dollars, the transportation of students, disadvantaged and handicapped students. No district would be allowed to discriminate in accepting or rejecting any student on the basis of race, creed or color and each local school district would continue to have the same desegration obligations which it has under existing court orders.

All of us know we must do better, that America is losing out, that our current education system is failing us. Teachers know it. Education professionals know it. Parents know it. So do you and I. I know it from the perspective of a state legislator, a Congressman, a Governor, Chairman of the Education Commission of the States and a parent. I have spent a career in, around, and part of the government education system of America. And you know it from your own first-hand experience. What we have is not good enough. We need a dramatic change for the better.

It is time for the citizens of Delaware to demand a better system of education for our children. Complacency is easy and understandable. The most fortunate on the economic ladder feel secure because their children are in the government schools that are perceived to be the best—in the Brandywine District, for example. But its a false sense of security. While parents may think that Brandywine schools are superior to some of the other schools in our state, they are nowhere near as good as the best schools around the globe which are turning out students with which Brandywine's students must compete. And that is where true competition will come, in the years ahead. Parents shouldn't be content if their children are in schools perceived to be better than others in Delaware; they should be worried to death by the Japanese schools, the German schools, schools of the Pacific Rim and the emerging democracies.

The struggle for choice will not be easy, for virtually every entrenched bureaucracy will fight to the death to preserve its monopoly position.

Choice will be opposed by some elected officials in the State of Delaware, by many educational bureaucrats, by vocal members of the teachers' union, all of whom believe, of course, that they are better able to make education decisions for your children than you are. Criticism may come in a scholarly way from traditional-thinking school superintendents, none of whom have ever had to compete with other schools for students, and from the 1960's thinking of some members of our press corps. There will be technical criticisms too—of transportation formulas, funding balances, and the like.

But change we must, for we are losing out. We must bring choice to parents, competition into our system and opportunity into our classrooms. We must fundamentally restructure education in Delaware. We have the tools, we have the educated populace, we have a compact state, we have the financial resources, and we have the leadership.

In the coming months, let us begin a dialogue within our community—with parents, teachers, government leaders, business groups, community activists—to make a choice plan work for Delaware. I hope you will join me and bring your views into the debate.

Now is the time to end the government stranglehold on the education of our children, to bring excellence, opportunity and a world-class education into every classroom, and place the power of choice on the kitchen table of every Delaware family. Delaware's future—and the future of the next generation of Delawareans—depends upon it.

EXPOSING ISRAELI VIOLENCE

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. CROCKETT. Mr. Speaker, for the past several weeks, all of our attention seems to have been focused on the crisis in the gulf. I would hope, however, that we would not lose sight of the need to solve another ongoing

crisis in the Middle East—the Israeli-Palestinian conflict.

Today, I would like to call my colleagues' attention to two thoughtful and revealing pieces on that situation: A column entitled, "Exposing Israeli Violence," written by Colman McCarthy of the Washington Post and fact-sheets taken from the Swedish Save the Children report on "The Status of Palestinian Children During the Uprising in the Occupied Territories." These pieces document Israel's brutal response to the Palestinian uprising—now approaching its third year.

I believe that they raise important enough questions to want to bring it to the attention of Members of Congress because our Government's policy has been to turn a blind eye to the kinds of injustices these pieces discuss. I submit that unless U.S. policy changes—unless this country holds Israel to the same standards its sets for other governments and encourages the Israeli Government to compromise—no peace will be possible in that troubled region of the world.

I, therefore, ask that Mr. McCarthy's column and the Swedish Save the Children fact-sheets be included in today's CONGRESSIONAL RECORD.

EXPOSING ISRAELI VIOLENCE

(By Colman McCarthy)

A headline in a recent Jerusalem Post captured the current low state of Israeli justice in the Occupied Territories: "Soldier Kills Man, Gets 4 Months; Youth Stones Bus, Gets Two Years."

The soldier was a sergeant who fired bullets into a West Bank group of Palestinian demonstrators who were fleeing an Israeli military raid. A 22-year-old man, unarmed, fell dead. The youth was a Palestinian boy of 16 who hurled stones at an Israeli bus in the Bethlehem area. No bus rider was hurt.

What was reported in the Jerusalem Post didn't make the Western press. By ordinary news judgment, why should it? Double-standard Israeli justice has become normalized to the point that the frequency of horror stories has sapped them of impact. It's enough only to notice that in recent months a few nonpartisan groups have continued to report on the brutalization of Palestinians by the Israeli government, and to say that no matter how commonplace the violence becomes the world will be told.

In May, a 1,000-page study from the Swedish Save the Children organization, funded by the Ford Foundation, documented that the Israeli army has systematically become a child-killer. Between December 1987 and December 1989, 159 children under age 16 were killed by soldiers. The average age of the dead was 10. Between 50,000 and 63,000 children were beaten, gassed or wounded. More than half of the slain were not near a demonstration when killed. Only 19 percent were involved in stone throwing. Even after slaughtering children, the Israelis weren't content: Soldiers disrupted or interfered with more than half of the funerals.

A month before the Swedish study, Physicians for Human Rights, a Boston advocacy group, reported on health-care services for Palestinian inmates in the three Israeli prison systems. The physicians found the delivery of health services to be "poor," sanitation conditions "unacceptable," health screening "not routinely provided," with no complete medical examinations given to detainees held for weeks or months in police stations. Nor are Israeli health professionals "fulfilling their obligation to prevent physical abuse of the prisoners."

When not killing children or mistreating prisoners, the Israeli military has found other outlets for violence. In May, Amnesty International documented allegations of torture and harassment of Palestinian members of a joint Israeli-Palestinian group called Runners for Peace. The athletes, wearing T-shirts calling for peace between Israelis and Palestinians and jogging through West Bank villages to promote friendship, are seen as threats.

Taken together, these reports and studies, as well as a run of others, ought to be reason enough for the United States to raise Palestinian human rights and civil liberties as a major condition for continued U.S. aid to Israel. A stand is needed now more than ever. The new Shamir government is more militaristic, more self-righteous and more disdainful of Israeli moderates and peace groups than any in Israel's history.

If George Bush can lecture Nelson Mandela on the virtue and necessity of nonviolence, why not the same message to the Shamir government, which needs to hear it a hundredfold more? An irony here is that the Palestinian resistance in recent years has put more faith in nonviolent tactics—strikes, boycotts, demonstrations—than in guns. It was Palestinian moderates, including its pacifists, who unilaterally acted to try to break the cycle of violence. Israel's response? Kill children, bulldoze homes, jail the innocent.

Instead of pressuring Israel, so long overcapitalized with U.S. aid that it is now overbearing in its demands for more, the United States keeps a firm opposition to Palestinians, Jerome M. Segal, president of the Jewish Peace Lobby and a research scholar at the University of Maryland, writes in the current Nation magazine: "Close to 100 countries have now recognized the State of Palestine. The U.S., on the other hand, has set itself sharply in opposition to this emergence of a Palestinian entity, threatening to cut off funds to U.N. agencies that accept Palestine as a member state. But as a recent Rand Corporation report commissioned by the Defense Department maintained, sooner or later there will be a Palestinian state."

It will be later—or better, never—for Sen. Robert Packwood, the Oregon Republican who has sent out a four-page fund-raising letter based on his pro-Israel, anti-Arab voting record. Senatorial duties come second in Packwood's list of urgencies: "Instead of spending all my time raising money for my own reelection campaign, I'd prefer to devote my time and energies to protecting and defending the security of Israel."

Packwood might also devote time to reading what some Swedes and U.S. physicians, plus Amnesty International have been learning about his beloved Israeli government.

FACT SHEET: CHILD DEATH AND INJURY

[9 December 1987-9 December 1989]

A child is defined for this report as under the age of 16 years.

Compared with the first year, second year child death and injury patterns showed:

A 27% increase in child deaths, from 70 to 89. Child gunshot deaths showed a 103% increase, from 35 to 71. Recorded tear gas deaths dropped by 81%.

A 46% increase in total recorded child injuries; the total estimated number of child injuries increased to 30,000-37,000, up from 20,000-25,000.

A 191% increase in child gunshot wounds from high-velocity or plastic bullets; if metal-ball bullets are added, total child gunshot wounds show an increase of 491%. As a percent of all child injuries, high-velocity and plastic bullet wounds increased to 15%, up from 7%; if metal-ball bullets are added, the percent of all gunshot wounds increased to 30%, up from 7%.

A 56% increase in total recorded child beating injuries requiring medical treatment.

A drop in conventional crowd-control weapons injuries requiring medical treatment. Tear gas injuries dropped in number by 34% and dropped as a proportion of all child injuries to 16%, down from 35%. Rubber-coated bullet injuries dropped in number by 59% and dropped as a proportion of all child injuries to less than 3%, down from 9%.

An increased proportion of child casualties (deaths and injuries) among total casualties in gunshot (32%, up from 28%), metal-ball bullets (44%), and beating (36%, up from 35%); and a decreased proportion of tear gas casualties (38%, down from 54%) and rubber-coated bullet casualties (46%, down from 55%).

A 160% increase in the number of children aged 0 to 11 years who were shot dead. The average age remained the same at 12.5 years.

A 30% increase in the number of injured children aged 10 years and under.

A 360% increase in the number of high-velocity and plastic bullet wounds to children aged 10 years and under; if metal-ball bullet wounds are added, total gunshot wounds to these children increased by 1,400%. High-velocity and plastic bullet wounds as a proportion of all injuries sustained by children aged 10 and under increased by 260%; if metal-ball bullets are added, the percent of gunshot injuries increased by 1,100%.

A 140% increase in beating injuries sustained by children aged 10 years and under, and a 116% increase in the age group 5 years and under.

At the end of the second year of the intifada, total two year child death and injury patterns showed:

One hundred fifty-nine children are known to have been killed by gunfire, beating, tear gas, and other intifada-related causes. Gunfire was the leading cause of death over the two years, accounting for 67% of the child deaths; in the last 18 months of the period, gunfire accounted for 78% of the child deaths.

Military personnel were responsible for 94% of the children's deaths.

An estimated 50,000 to 63,000 children, or one out of every 15 to 20 children required medical treatment for gunshot, beating, tear gas, rubber-coated bullet, and other intifada-related injuries during this same period. Nearly half (47%) of the injuries in the sample were caused by beating; 21% by tear gas, and 22% by gunshot (high-velocity, plastic, and metal-ball bullet).

In U.S. population terms, these numbers represent 9,680 American children killed and 3-3.8 million American children injured.

Children accounted for 21% of all recorded deaths and 38% of all recorded casualties (deaths and injuries).

The average age of all children killed was 10 years; the average age for children shot dead was 12.5 years.

Forty percent of the injured children were aged 10 and under.

The sample of 14,117 collected child injury records includes 6,934 child beating

injuries: 2,150 of these beating injuries were sustained by children aged 10 and under and 439 were sustained by children aged 5 and under. Of the 1,689 child gunshot injuries recorded, 229 of the gunshot injuries were sustained by children aged 10 and under, and 39 were sustained by children aged 5 and under.

Although 57% of the children killed were from the West Bank (including East Jerusalem), children in the Gaza Strip, with its smaller population, were 1.4 times more likely to be killed as their counterparts in the West Bank. Two thirds (66%) of the West Bank children killed were from the three northern districts of Jenin, Tulkarem, and Nablus.

More non-camp (city, town, and village) children died than in-camp refugee children. But, since in-camp refugees account for 18% of the total population (though only 58% of all refugees), in-camp refugee children are 4.1 times more likely to be killed than other children.

The largest single group of children killed were non-camp residents of the West Bank, but if population distribution is considered, children living in Gaza refugee camps are at greatest risk.

Fifty-two percent of the children killed were not in the vicinity of a protest activity when killed; another 28% of the children killed were observing or passing a demonstration, hanging a flag, dismantling a barricade, participating in a silent march, dispersing from a demonstration, fleeing from soldiers, marching in a funeral, helping injured demonstrators, or trying to prevent the arrest of a neighbor or friend. Less than a fifth (19%) of the children killed were involved in a stone-throwing demonstration when killed; one was known to have been throwing a stone when shot. Several others were killed after they had thrown their stones.

In the case of recorded tear gas deaths in particular, 94% of the children killed were not involved in a protest activity when exposed to lethal quantities of gas; they were at home. In 84% of the cases a gas canister or grenade was launched into the house or within five meters of the house.

In the case of gunshot deaths in particular, 32% of the children were not in the vicinity of a demonstration when shot dead; another 41% who also were not participating in a stone-throwing demonstration were shot dead in the circumstances described above. A quarter (27%) of the children were participating in a stone-throwing demonstration when shot dead.

Forty percent of all children who died were at home or within ten meters of the house when they were killed. In the case of the gunshot deaths in particular, 18% of the children were at home or within ten meters of the house when shot dead. One of these children was dragged out of the house and killed in the street.

Forty-eight percent of the children killed by gunfire were shot in the head or neck; 17% died of multiple bullet wounds.

Seventeen percent of the children killed by gunfire were shot from behind, above, or from the side.

Thirty-nine percent of the dying children whose families and rescuers sought medical treatment were obstructed or delayed by soldiers; 14% of these children were detained by soldiers after being wounded, were denied prompt and proper treatment for their wounds, and died in army custody. In only two (2%) cases known did the party responsible provide assistance to the dying child.

Fifty-four percent of the children's funerals were violently disrupted or interfered with in some way by the army. In the case of the funerals of child gunshot victims, 76% were violently disrupted or interfered with in some way.

Excluding tear gas deaths which rarely drew the attention of the military authorities and actions taken at the children's funerals, 60% of the families interviewed reported degrading, humiliating, or intimidating treatment in connection with the children's death. This treatment occurred while the family was seeking medical care for the dying child, obtaining permission from the military authorities to bury the child, or during military investigations into the child's death.

FACT SHEET: CHILDREN UNDER CURFEW

[9 December 1987—9 December 1989]

During the first two years of the intifada in the refugee camps, where an average of ten people live in small two- or three-room houses (which may not have running water and electricity):

All children were subjected to curfew. (18% of the Palestinian child population live in refugee camps.)

On an average day, 43,000 children were under curfew. (This represents 25% of all in-camp refugee children.)

Seventy-nine percent (34,000) of the children under curfew each day were from Gaza camps. (Children in Gaza refugee camps represent 72% of all in-camp children.)

The entire Gaza Strip was under night curfew for 21 of the 24 months.

99,000 children in seven camps were under curfew for 6.5 to 9.4 months, or for 27% to 39% of the first two years of the intifada. (This represents 57% of all in-camp refugee children.)

The 116,000 children in all eight Gaza refugee camps spent 41% of the months March through June 1989 under curfew. Over 19,000 children in four West Bank refugee camps spent 61% of the months September through November 1989 under curfew.

The number of curfew incidents increased by at least 9% in the second year.

Three thousand five hundred sixty-five curfew incidents were recorded, giving a Cumulative Curfew Population, the summation of daily populations under curfew, of over 62 million persons.

In the first six months of the intifada, when curfews on all Palestinian communities (cities, towns, villages, and refugee camps) were able to be tracked systematically:

Seventy-two percent (674,000) of all children living in the West Bank and Gaza Strip were subjected to curfew at least once. Children in 156 communities experienced curfew at least once.

One hundred one thousand children in 10 communities were under curfew for 1.6 to 3.2 months, or for 27% to 53% of the time.

On an average day, 75,000 children were under curfew:

Thirty-four thousand Gazan children in two camps

Eleven thousand West Bank children in three camps

Thirty thousand children in five other communities

Forty-three thousand children living in 11 West Bank towns were subjected to long consecutive curfews, lasting for two to five weeks; 85,900 children living in ten refugee camps were subjected to long consecutive curfews lasting for two to six weeks.

Children living in camps experienced almost 20 times more curfew than children in other communities.

FACT SHEET: HOUSE DEMOLITION AND CHILD HOMELESSNESS

[9 December 1987–9 December 1989]

In the first year of the intifada:

Military authorities demolished or sealed (completely or partially) at least 547 houses for either "security" or "licensing" reasons. Approximately 2,500 children were left homeless.

184 of these houses were demolished or sealed for "security" reasons. This number represents a 426% increase from 1987 levels and, specifically, a 1,240% increase in "security"-related complete demolitions.

At least 363 additional houses were demolished for "licensing" violations, a 282% increase from 1987.

In the second year of the intifada:

Military authorities demolished or sealed (completely or partially) at least 551 houses for either "security" or "licensing" reasons. Approximately 2,500 children were left homeless.

There was less than a 1% increase in the total number of demolitions and sealings compared with the first year, but there was a difference in the pattern. Specifically:

There was a 12% increase in the number of houses that were completely demolished for "security" reasons, and a 35% decrease in the number of houses only partially demolished for "security" reasons.

There was a 193% increase in total sealings (complete and partial) for "security" reasons.

There was a 17% decrease in reported "licensing" demolitions.

By the end of the second year of the intifada:

At least 1,098 houses had been demolished or sealed (completely or partially) for "security" or "licensing" reasons. Of these, at least 1,011 were complete demolitions or sealings, which left at least 9,766 people, including 4,883 children, homeless.

The equivalent numbers of children deliberately made homeless in selected countries, relative to the respective populations, are:

Two hundred ninety-seven thousand American children

Fifty-nine thousand four hundred United Kingdom children

Eight thousand four hundred thirty Swedish children

Seven thousand seven hundred Israeli children

PEDIATRIC AIDS AWARENESS DAY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. SERRANO. Mr. Speaker, I rise today on Child Health Day to introduce a joint resolution to designate October 31, 1990, as "Pediatric AIDS Awareness Day."

I chose to introduce this resolution today because we must continue our rescue mission for our children from all destructive forces. I think that it is only fitting that October 31, which is traditionally recognized as Halloween, be designated as a day to recognize those children who cannot participate in the festivi-

ties. More importantly, this resolution is designed to focus more attention on one of this country's most explosive health problems.

AIDS has become the No. 1 killer in America. It is a national health emergency affecting individuals, their families, and the health care system in all 50 States. The Centers for Disease Control [CDC] reports that to date, more than 150,000 Americans have been diagnosed with the disease and nearly 90,000 have died. Conservative estimates suggest that the numbers in America will more than double in the next 2 years. Sadly, more than half those diagnosed include children and these numbers are expected to increase at an alarming rate.

Mr. Speaker, pediatric AIDS refers to patients under the age of 13 at the time of diagnosis with HIV. The CDC reports that 2,525 cases of pediatric AIDS have resulted in 1,328 deaths as of August 1990. The highest numbers of pediatric AIDS as reported by the CDC in metropolitan cities include New York City with 671 cases; Miami with 151 cases; Newark with 121 cases; Los Angeles with 86 cases; Washington, DC, with 61 cases; and Houston with 40 cases. Other major cities also report increases in the numbers of children with AIDS.

These figures are alarming, but what is really alarming is that for every child born with or diagnosed with the disease is a mother who also is infected, and a father, who too carries the disease. Certain groups of women are especially vulnerable to contracting AIDS, solely as a result of their own intravenous drug use, or of their relations with men who are intravenous drug users, or with other men who engage in nontraditional relations with other men. According to the CDC, one of the fastest growing components of the epidemic are women.

Mr. Speaker, my congressional district, the Bronx, is home to a large share of the economically and socially disadvantaged of New York City, and it is bearing more and more of the brunt of the AIDS assault. Nationally, women make up 8 percent of AIDS cases; 12 percent of all of New York City, while in the Bronx, they comprise a 21-percent share. AIDS is already the leading cause of death among women age 20 to 24, and will soon be the leading cause among all women of reproductive age.

A vast disproportionate share of pediatric AIDS cases are African-American or Latino children. Ninety-one percent of all pediratric AIDS cases in New York City are African-American or Latino; and for my district, the Bronx, the figure is 94 percent. That AIDS is the leading cause of death of children ages 1 to 4 in the city is an indication of the dimension of the problem. The Bronx newborns have the highest incidence of HIV seropositivity in the city. The Bronx alone has 10 percent of the Nation's pediatric AIDS cases.

These figures are consistent with worldwide predictions. The World Health Organization predicts that during the 1990's, AIDS will be the leading cause of death among women between the ages of 20 and 40 in major cities in this country, and in Western Europe and sub-Saharan Africa. Further, the Lancelot, London's leading medical journal, reports that more than 3 million women and children will die from the disease during the 1990's, more than six times the number of the 1980's.

We know that there is no cure for this disease, but some therapies are showing promising results. The only sure thing that is available is an effective public education campaign aimed at providing information to all persons and especially to high risk groups about the consequences of the disease. While the CDC suggest a possible slowdown in the growth of new AIDS cases among certain groups, it also reports a slow but steady increase of human immunodeficiency virus among cases among the heterosexual population, thus increasing the need to continue the campaign of education, our most effective weapon in the fight against the spread of AIDS.

America faces enormous challenges in meeting the current and future health care needs of our people, and no challenge is greater than finding a cure for AIDS. Confronting this dilemma posses complex issues and will require a sustained national commitment to action. Educational tools sensitive to the different ethnic and high-risk groups, and especially children, must be devised and deployed in our cities to further help curtail the spread of this disease.

I urge my colleagues to join with me, along with Representatives DELLUMS, ENGEL, HAWKINS, OWENS, PAYNE, SCHUMER, SLAUGHTER, UNSOELD, and WASHINGTON, and cosponsor this measure, which designates October 31, 1990, as "Pediatric AIDS Awareness Day."

OPEN SEAT ELECTIONS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. STARK. Mr. Speaker, an editorial in today's Roll Call newspaper makes a very important point about the advantages of incumbents in House elections. When there is no incumbent in a race, providing no incumbent advantages, the Republicans are often a good bet to lose. What the editorial does not point out, is that frequently the Republican Congressional Campaign provides their challengers with greater resources than the Democratic candidates. In spite of that advantage and because of the strong vision Democrats have of how government can improve people's lives, we are winning those open seats.

OPEN-SEAT ELECTIONS

Those who complain that Congressional elections are rigged should take note of Roll Call's survey of this year's open-seat races, which begins on page 15. Such contests occur on a level playing field; the incumbent has no advantage because there are no incumbents. There are 30 open-seat races, 18 for seats currently held by Republicans and 12 for seats now held by Democrats. It appears almost certain that Democrats will get the better of these elections. If they do, they will be continuing a recent trend. In 1986 and 1988, Democrats also were net gainers of open seats.

While we don't want to make too much of this phenomenon, it certainly casts doubt on the contention that the reason the GOP can't make headway in the House is the unfair advantage of incumbency. The truth is that the GOP can't make headway on a level playing field either. Seats currently held by Republicans are in jeopardy of going Democratic in Connecticut (John Rowland's district), Idaho (Larry Craig), Illinois (Lynn Martin), Nebraska (Virginia Smith), New Hampshire (Bob Smith), New Jersey (Jim Courter), and Rhode Island (Claudine Schneider). Democrats will lose some seats now in their party's hands as well, but it's not the Democrats who have been grousing about the unfair nature of Congressional elections and calling for such draconian and dangerous remedies as a 12-year tenure.

When you look carefully at individual races, you find that the GOP's main deficiency is a lack of good candidates. By the very nature of their political philosophy, the Democrats should be expected to have a larger talent pool; after all, Democrats believe in governments, so they have more soldiers serving that cause. But a second and more important reason for the lack of strong GOP candidates is that, in recent years, the party seems to have taken up Congress-bashing itself as a cause—rather than focusing on solid, conservative policy issues. Really, now, is it hard to understand why it's difficult to find men and women who want to devote their careers to serving in an institution that party dogma says is rotten? Sure, if they win, such candidates could reform Congress, but getting franking rules changed is hardly the sort of thing that inspires smart people to run for office. To get good candidates, Republicans need to stress issues that do inspire.

DALE HARTGERINK, KALAMAZOO CITY TREASURER

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. WOLPE. Mr. Speaker, I want to pay tribute to a very special constituent of mine, Mr. Dale Hartgerink, treasurer of the city of Kalamazoo. This evening Dale will be honored by his friends and colleagues as he retires from over four decades of distinguished public service.

Dale began his career as deputy treasurer for the city of Kalamazoo in September 1950; 20 years later, in 1970, he became the city's chief financial officer, a post he has had to this day. I began my own public service as a Kalamazoo city commissioner just prior to the time Dale assumed the treasurer's post, and I remember well the consistency and excellence of his financial stewardship. No one could have been more deserving of the prestigious Dr. Jackson R.E. Phillips Award for outstanding leadership in the management of public funds, an honor bestowed on Dale last year.

Dale's contributions, however, have not been limited to his exemplary service as Kalamazoo city treasurer. He has committed both time and energy to a vast array of community and professional organizations: cofounding the Michigan Municipal Finance Association and the Michigan Municipal Treasurers Institute at Michigan State University; serving as treasurer of the Westside Kiwanis of Kalamazoo, and as a board member of the Suburban Kiwanis of

Kalamazoo; serving as president of the Arcadia Parent-Teachers Association and as a deacon of the Bethany Reformed Church.

Mr. Speaker, over the years, Dale Hartgerink has distinguished himself as a dedicated public servant. His integrity, his deep commitment to his community and its welfare, and his professional skill have earned him the respect and admiration of all who have been privileged to know and to work with him. I know my colleagues will want to join me in congratulating Dale upon his retirement and in wishing him and his family all possible happiness in the years ahead.

WORLD AIDS DAY

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. WEISS. Mr. Speaker, the World Health Organization [WHO] estimates that there are now more than 1 million cases of AIDS worldwide. Another 8 to 10 million people have already become infected with the human immunodeficiency virus [HIV].

In response to the urgent need for worldwide action to stop this pandemic, WHO has crafted a global program on AIDS, which has helped to stimulate and establish programs throughout the world to stop the transmission of HIV and to meet the challenges of AIDS.

For the last 2 years, WHO has organized a "World AIDS Day" to focus international attention on the need for education, compassion and action on AIDS in every country in the world. In 1989, "World AIDS Day" was centered on young people, because they are so critical to HIV/AIDS prevention and control. This year, WHO has chosen to focus on the issue of "Women and AIDS."

More women are expected to become ill with AIDS during the next 2 years than the cumulative total of AIDS cases reported to WHO in the first decade of the pandemic. This devastating disease has profound effects on women, both as an illness and as a social and economic challenge. As health care providers, educators, and mothers, women play a crucial role in preventing infection with HIV and caring for people with AIDS. This disease also presents extremely complex decisions for women regarding fertility, pregnancy, and child rearing. Furthermore, women's lack of status within the family and society heightens their vulnerability to infection and to the consequences of the epidemic. And the stigma attached to AIDS often subjects women to discrimination, social rejection, and other violations of their rights.

The World Health Organization deserves special commendation for drawing worldwide attention to this important dimension of the AIDS crisis. WHO's contribution—including the annual commemoration of "World AIDS Day"—plays an important part in the international effort to stop this disease.

Today, on behalf of myself and Congressman JIM LEACH, I will introduce a resolution to designate December 1, 1990, as "World AIDS Day," This legislation, like a similar resolution approved by the House last year, calls on the people of the United States to join the global effort in response to this tragic disease.

I urge my colleagues to join Congressman LEACH and myself in supporting "World AIDS Day."

The text of the resolution follows:

H.J. RES. —

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas infection with the human immunodeficiency virus (HIV) and the incidence of acquired immunodeficiency syndrome (AIDS) is a global problem of urgent proportions;

Whereas the World Health Organization has estimated that the actual worldwide total number of AIDS cases as of August 1990 was over one million and that eight to ten million people have already become infected with HIV, approximately one-third of whom are women; and that more women are expected to become ill with AIDS during the next two years than the cumulative total of AIDS cases reported to WHO during the first decade of the pandemic;

Whereas World AIDS Day in 1988 and 1989 brought messages about the need for action, compassion, and understanding about AIDS to every country in the world; urged people in communities around the world to "Join the Worldwide Effort" to fight AIDS; involved families, schools, villages, governments, local organizations, and others in activities which focused attention in 1990 on the need to address young people in the epidemic of AIDS;

Whereas the World Health Organization has chosen to focus on the issues of Women and AIDS on World AIDS Day in 1990 because AIDS has a profound effect on women, as an illness and as a social and economic challenge;

Whereas women plan a crucial role in preventing infection with HIV and caring for HIV-infected people and people with AIDS as care providers, health workers, educators, and mothers; AIDS presents extremely complex decisions for women regarding fertility, pregnancy, childbirth, and raising children; women's lack of status within the family and society heightens their vulnerability to infection and consequences of the epidemic; and the stigma attached to AIDS can subject women to discrimination, social rejection, and other violations of their rights;

Whereas the World Health Organization Global AIDS Strategy, undertaken by the WHO Global Progamme on AIDS, and forged in the light of this worsening pandemic, has achieved impressive results in establishing and stimulating the urgent, worldwide response that has led to the establishment of programs or activities against HIV/AIDS in every country of the world;

Whereas the one hundred and sixty-seven Member States of the World Health Organization, in concert with intergovernmental and nongovernmental organizations around the world, have accepted the responsibility to safeguard the health of everyone and control the spread of HIV infection through national policies and programs, and in conformity with the WHO Global AIDS Strategy;

Whereas the World Summit of Ministries of Health and AIDS Prevention in London in 1988, recognizing that the widest possible dissemination and exchange of information and education messages is vital to AIDS prevention and control efforts, created the basis for the declaration of World AIDS Day as a day of information, education, action and compassion on AIDS: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress, assembled, That December 1, 1990, is designated "World AIDS Day", and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities, with a special focus in 1990 on women and AIDS.

CHINA'S VIOLATION OF U.N. EMBARGO OF IRAQ

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. GILMAN. Mr. Speaker, an article appeared in today's Washington Post and London's Independent on Sunday about the People's Republic of China's [PRC] flagrant breach of the U.N. embargo in making a secret $1.5 million deal 10 days ago with Iraq to sell Baghdad about 7 tons of lithium hydride. Mr. Speaker, lithium hydride is used to fuel ballistic missiles. As the Post pointed out:

Its military applications include the manufacture of hydrogen and atomic bombs, and as a precursor for lithium aluminum hydride, an extremely powerful reducing agent that has potential for use in production of nerve gas.

London's Independent, September 30, 1990, reported:

It is thought most likely that Iraq wants the chemical for use in fuel for ballistic missiles. It is working on rockets capable of reaching Tel Aviv, Riyadh and southern Europe.

Mr. Speaker, how much longer will we tolerate our special treatment of the People's Republic of China? Will the death of our men and women in the Saudi desert or the destruction of Israel with People's Republic of China assistance put an end to this policy blunder? Will we have to wait that long? If the massacres in Tiananmen Square and Tibet did not serve as a wake-up call, I shudder to think what it will take to understand that it is not in our Nation's interest to continue a special relationship with the People's Republic of China and that we should treat that nation accordingly.

The House is scheduled to vote this week on the question of extending most-favored-nation [MFN] status for the People's Republic of China. I hope that my colleagues will consider the People's Republic of China's violations in considering their vote with regard to the extension of MFN. Let's not wait for our young men and women to suffer the consequences of a few special interests.

Today, on the 41st anniversary of the founding of the People's Republic of China—national day—I could think of more appropriate gifts to the world than the proliferation of the deadliest weapons to the deadliest of dictators.

Mr. Speaker, in order to share the information concerning this extremely serious breach

of the embargo on Iraq by the People's Republic of China, I request that the London Independent article by Tim Kelsey, on Sunday, September 30, 1990, and the Washington Post article by Lena Sun, October 1, 1990, be inserted at this point in the RECORD:

[From the London Independent on Sunday, Sept. 30, 1990]

CHINA SHIPS VITAL NUCLEAR CARGO TO IRAQ

(By Tim Kekey)

In flagrant breach of the United Nations embargo, China has sold Iraq large quantities of a rare chemical used in the manufacture of nuclear weapons and missile fuel. The Independent on Sunday has learned that, in a secret deal 10 days ago, a subsidiary of North China Industries Corporation (Norinco), a Chinese state company, agreed to supply about seven tons of lithium hydride to Baghdad.

The revelation is likely to have grave diplomatic repercussions, since it jeopardises Peking's attempts to remove the stain of Tiananmen and to improve its reputation in the West. As a permanent member of the UN Security Council, China has aligned itself with the West on a number of crucial votes, including resolution 661 in August, which banned trade with Iraq. It is possible that the central government in Peking may not have been made aware by Norinco of the deal.

Intelligence reports relating to possible sales to Iraq by Norinco have already aroused concern in Washington. Earlier this week, the US embassy in Peking advised the Chinese of US anxiety over the company's activities. It is not known if this related to the lithium hydride deal.

The sale has shocked and alarmed scientists and weapons proliferation experts. "In view of its potential nuclear applications, it is very serious indeed," said Frank Barnaby, a former Aldermaston scientist and author on military technology.

The most frightening, but in an Iraqi context least likely application of lithium hydride, is in hydrogen bombs. Only five countries, including China and Britain, have tested hydrogen bombs, and scientists agree that Iraq will not have the know-how to build such a weapon for at least a decade. But defense experts say that Saddam Hussein is stockpiling components for future development of such a weapon. Lithium hydride is also of use in making the atom bomb, although alternatives are available which can perform the same functions. Intelligence sources believe Iraq may be able to build an atom bomb within five years.

It is thought most likely that Iraq wants the chemical for use in fuel for ballistic missiles. It is working on rockets capable of reaching Tel Aviv, Riyadh, and southern Europe.

Scientists are also worried that lithium hydride could be used in the manufacture of nerve gasses. "It is a precursor for lithium aliuminum hydride, which is an extremely powerful reducing agent, and potentially of use in the production of nerve gasses," said Julian Perry-Robionsin, an internationally-respected authority on chemical weapons. John Hassard, a weapons proliferation expert at Imperial College, London, said: "This is extremely disturbing, particularly in view of Iraq's proven use of nerve gas in the past. It is a very grave potential problem."

Lithium hydride has very few civil applications. It is used in pharmaceuticals, and in the computer industry, but only in minute quantities. Iraq is believed to have tried to buy the chemical in the past, but there are only three manufacturers in the West, all of whom would have been suspicious of an order even one-tenth this size.

The sale was conducted in great secrecy. Just before the UN arms embargo was imposed, sales material was sent from Peking to five arms dealers worldwide, including three in Europe and one in Latin America. The Independent on Sunday has obtained copies of some of the documents. They suggest potential uses for the chemical "in the space industry as a high energy fuel" and "as as excellent catalyst used in the organic-synthesis industry" which could include the manufacture of poison gas.

The Chinese offered 10 tons for sale, priced at around $210,000 a ton. The offer was open to any purchaser, but within days. Iraq agreed to buy around seven tons, at a total cost of approximately $1.5m, according to defense sources. Delivery was to be within 20-30 days of purchase.

It is likely that the lithium hydride is still in China. Sources suspect the Chinese planned to fly it to Tehran, and then foward it as "pharmaceuticals" to Baghdad.

It was clearly intended to be a pilot sale: it was confirmed to parties approached by the Chinese that additional quantities of lithium hydride were available. This has underscored the worst fears of weapons proliferations experts in the West. "There has always been a tension between commercial expedience and their concern for international security," said one. "It's hard to imagine a more cynical deal than this one."

[From the Washington Post, Oct. 1, 1990]

CHINESE SAID TO SELL CHEMICAL TO IRAQ

(By Lena H. Sun)

BEIJING, September 30.—China, in apparent violation of the U.N. trade embargo against Iraq, has sold Baghdad large quantities of a chemical used in the manufacture of nuclear weapons and missile fuel, a British newspaper reported today.

The Independent, in a story from London, said a subsidiary of North China Industries Corp., one of China's largest defense conglomerates, agreed to supply about seven tons of lithium hydride to Baghdad for about $1.5 million in a secret deal 10 days ago. The Independent said it had some documents relating to the sale.

The Chinese Foreign Ministry today denied that China had violated the embargo and called the Independent's report "totally groundless."

An unidentified spokesman quoted by the official New China News Agency said: "China is a responsible country. We have been holding a very serious attitude toward the implementation of Resolution 661," which was passed by the Security Council on Aug. 6 and bars U.N. members from trading with Iraq.

The newspaper report said the Iraqis most likely want the chemical for fuel for ballistic missiles. It said Iraqi President Saddam Hussein has previously tried to obtain lithium hydride, but that the three Western manufacturers of the chemical are suspicious of large orders.

China, a permanent member of the U.N. Security Council, has aligned itself with the West on sanctions against Iraq, imposed after Iraqi troops invaded Kuwait on Aug. 2. China is said to hope its cooperation with the West in the Persian Gulf crisis will lead to improved relations with the United States and other Western countries and to the lifting of sanctions imposed after the Chinese army crackdown on demonstrators for democracy last year.

But ever since the U.N. embargo against Iraq was approved, rumors have circulated in Beijing about possible violations by the Chinese, Western diplomats said. Officials from the U.S. Embassy here have met several times with Chinese officials "about the question of enforcement," one U.S. diplomat said, including a meeting last week.

That meeting included discussion about U.S. concern over North China Industries Corp's activity, diplomats said. But a U.S. official declined to say whether the reported sale of lithium hydride was discussed. "We talked to the Chinese about three or four things concerning their overall posture on sanctions" against Iraq, said the official, who declined to elaborate.

"We have no evidence that China has broken the embargo," he said.

The newspaper report said it was possible that China's central authorities were not aware of the deal. In the past, Chinese officials have said they have little control over the activities of China's numerous arms companies.

According to the newspaper, lithium hydride has few civil uses, although it can be used in pharmaceuticals and in the computer industry in minute quantities. Its military applications include manufacture of hydrogen and atomic bombs, and as a precursor for lithium aluminum hydride, an extremely powerful reducing agent that has potential for use in production of nerve gas.

TRIBUTE TO JUDGE ROBINSON O. EVERETT

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. LANCASTER. Mr. Speaker, on September 30, 1990, Robinson O. Everett of Durham, NC, retired after serving more than a decade as chief judge of the U.S. Court of Military Appeals. Under his brilliant and effective leadership, the Court of Military Appeals has evolved into one of the most respected and innovative courts in America. The indefatigable, personal effort he exerted toward realizing this goal represents one of the most remarkable examples of judicial commitment and dedication that could be displayed.

His concern has always been to reconcile the demands of justice with the requirements of military discipline. He has written hundreds of judicial opinions, many of which have resolved some of the most difficult questions in military and constitutional law. His many landmark decisions will surely have a lasting influence on military jurisprudence for decades to come.

Chief Judge Everett's other major accomplishments are equally remarkable. Within a year after his arrival at the court, he revamped the court's docketing system, which resulted in a great reduction in the cost of managing and retaining the court's recorded docket entries on all cases. This electronic capability also gave the court instantaneous access to all the court's docketing records. Furthermore, during his first year as chief judge, the court accomplished an astonishing 82 percent increase in the court's final dispositions on the

master docket over the previous year, cutting in half the number of cases pending on the master docket. In recent years, the year-end pending cases have been reduced to a record low, and the time required to process cases before the court has also been dramatically reduced.

Judge Everett has been a model educator who has relentlessly sought to improve the professional skills of both military and civilian practitioners. In 1983, he reshaped the court's annual Homer Ferguson Conference and redesigned it not only to give military lawyers—but civilian lawyers as well—an opportunity to develop and maintain excellent skills required for appellate court practice within the military justice system and elsewhere. To make these training programs readily available to all lawyers, he had the conferences videotaped and made special arrangements to have portions of the conferences televised on C-SPAN. He also conceived and developed a documentary videotaped program produced for use by military lawyers and military educational institutions, as well as distribution and use by civilian law schools and community education programs both in the United States and overseas. This video, the first of its kind, explained the entire process of trial and appellate procedures in a military court-martial case with particular emphasis on the appellate judicial responsibilities of the civilian U.S. Court of Military Appeals.

The Judge has been exceptionally devoted to promoting public awareness of the fairness and progressiveness of military justice. He has never been to busy to accept invitations to address military and civilian conferences, seminars, training workshops, meetings of various bar associations, and law schools throughout the country.

These judicial visitations and speeches have kept the military and civilian communities fully apprised of the court's responsibility in the administration of military justice; have improved the professional and legal education of military and civilian lawyers; have provided an interchange of ideas beneficial to the military community in general; have provided the court an opportunity to ascertain the impact of its decisions on the administration of military justice; and have helped to develop a better appreciation of the operational problems in the various services.

One of Chief Judge Everett's most innovative programs was reaching out and taking the court to the people. For the first time in the court's history, the judges traveled outside their own courthouse to hear oral arguments in several actual appeal cases. Some of the cases were held at various law schools and at the West Point Military Academy. These convenient hearings provided an excellent opportunity for members of the academic community, military, civilian judges, lawyers, law students, and future military leaders of the United States military academies to meet with the judges and view how court-martial cases are presented by appellate advocates for decision by the court.

The court had televised an actual hearing conducted in their courtoom, which was later televised nationwide on the C-SPAN Television Network as part of a 3-hour special program on military justice and the appellate review of court-martial cases under the Uniform Code of Military Justice. The court's remarkable success in allowing the first telecast of an actual federal court proceeding may have been the catalyst of the recent decision of the Judicial Conference of the United States to reverse a ban in effect for decades in this country to allow television in some of the Article III lower courts in a 3-year experimental program.

There are few judges who have so enthusiastically and relentlessly devoted so much time at promoting better understanding of the American legal system by the youth of our country than Judge Everett has. In 1987, Judge Everett directed the National Student Law Day Project, which has been described as "one of the truly most ambitious and most successful projects ever undertaken" in an effort to celebrate the Bicentennial of the U.S. Constitution. The project won the first-place award in the American Bar Association's 1987 Law Day USA Competition.

Chief Judge Everett was exceptionally well-prepared for his judicial service. Earlier he had served as a Commissioner on the Court. He has been a law professor at Duke University for almost 35 years. Also, he had practiced law in North Carolina as well as in the District of Columbia and has held many positions in the organized Bar. In fact, he was the Chairman of the American Bar Association Committee on Military Law from 1977 to 1979. During the early 1960's, he served as a special counsel to Senator Sam Ervin's Subcommittee on Constitutional Rights in conducting the hearings and studies which led to the Military Justice Act of 1968. He has written a book "Military Justice in the Armed Forces of the United States" and numerous articles on military law, criminal procedure, and evidence. Prior to his retirement in 1978 as a colonel in the Air Force Reserve, Judge Everett had acquired many years experience as a judge advocate. Moreover, during his tenure as the chief judge, he served as the chairman of the Federal Bar Association's Judiciary Committee and the chairman of the FBA's Administration of Justice Section.

Chief Judge Everett will be returning to the Duke Law School, where he has been a tenured professor for many years. Fortunately, as a senior judge, he still will be available to assist the Court of Military Appeals from time-to-time. We wish to express our gratitude to this very distinguished jurist from our home State of North Carolina, for his extraordinary service and dedication to his country. We extend to him our best wishes for the future.

THE 260TH MILITARY INTELLIGENCE BATTALION, FLORIDA NATIONAL GUARD IS ACTIVATED

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize today the 260th Military Intelligence Battalion of the Florida National Guard.

This unique unit will be federally activated today in Miami. The mission of this unit is to provide foreign language support, counterintelligence and signals intelligence. Utilizing the many different cultures of Miami's citizens, the battalion provides language support in Spanish, Haitian-Creole, Korean, Quecha, Italian, German, and Greek. It also provides vital intelligence support of Federal law enforcement agencies and the U.S. Customs Service in the war on drugs.

In recognition of this latest addition to our Nation's defenses, I will be presenting the battalion with an American flag flown over the Capitol today, at a ceremony on December 2. I would like to thank the entire 260th Military Intelligence Battalion for kindly including me in this event, and in particular their commanding officer, Lt. Col. Stanley L. Shively.

ON THE BUDGET SUMMIT AGREEMENT

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. KYL. Mr. Speaker, I recently received a very thoughtful and poignant letter from a constituent, Mr. Delbert Haney, who expressed frustration at Congress' inability to come to grips with many of the problems our Nation faces today.

His letter is particularly timely given that the House is poised to take up the budget summit agreement—an agreement which I believe dodges the real cause of our deficit problem, that is, excessive Government spending, in favor of higher taxes.

I ask that Mr. Haney's letter be reprinted in the RECORD at this point for the benefit of our colleagues:

SEPTEMBER 18, 1990.

Hon. JON KYL,
Washington, DC.

DEAR REPRESENTATIVE KYL: I am writing a letter to you that is long overdue. I am enclosing a copy of two recent articles that appeared in the Arizona Republic that strike a resounding chord with me and with my family. The bottom line is that we are fed up with the combination of actions and inactions that the congress (both houses) either take or fail to take to solve the difficulties that the country faces.

At this point it is really beyond partisan politics; both parties in our opinion have contributed to the stalemate that we are in. We are unable to see how the difficulties are going to be resolved within the existing approach and processes. . . . We are tired and unwilling to allow this process to continue on endlessly while the country goes down the tubes. The often quoted "fiddling while Rome burns" is not an overstatement!

I ask you, in the best interest of the country—setting aside your and your staff's personal stake—to examine and support the underlying positions that are reflected in these articles. The suggestions go a long way towards unraveling the stalemate that we are in . . . It may not completely solve the problem and it may bring other issues to the forefront, but at least there will be movement.

In addition I would like to add the following specific comments and observations that reflect how I feel.

1. Unfortunately, I feel that as a group the entrenched congressional members are at a core level unresponsive to the interest of the country. Although the situations vary from member to member, they are seemingly held captive by the collection of special interests, their personal interest, their personal and professional career objectives, their fear of offending a vocal special interest group, or their anxiety about being on the wrong side of a media viewpoint. Seemingly somewhere further down the list is the priority of what is in the best interest of the country as a whole, particularly when viewed from a longer term perspective. I feel that we need a new process where entrenchment isn't the norm—where new and fresh approaches are examined and accepted or rejected based upon their merit; not their political origin, not the grandstanding for the media and special interest groups and not the rhetoric that has become the norm and succeeds in confusing every single issue no matter now simple it is.

2. We feel that too much power, money and control over recent years have been allowed to flow to the congressional branch of the government. They have repeatedly demonstrated their inability to manage even their own simple affairs and unfortunately even more graphically those of our country. We can't believe the amount and high levels of attention that seemingly flow to the minor non-issue items pursued with such vigor and enthusiasm with the objective of embarrassing the "other party", while critical and core problems of our country go unattended or pushed from year to year without being effectively dealt with. It's obvious that the Peter Principle is in operation here. It's also clear that based on how they conduct themselves and the results, there is too much power, control, and responsibility vested in the congress and they have become the stumbling block seemingly trying to maintain their own petty fiefdoms at tremendous cost to the rest of the country. A major shift and decentralization must occur transferring responsibility, control, power and money from the Congress specifically and the Federal Government generally if we are to survive as a free and democratic nation.

3. We are fed up with more government programs, in particular those that spend more money. It is clear that we as a country cannot afford many of these programs, particularly when administered thru the government. We feel that the next session of congress should focus on repealing government programs and administration as a starting point. And only if necessary provide a transition period while the responsibilities, burdens, control and objectives are shifted or eliminated entirely. While the idea of having national programs sounds good, in practice it has been a fiscal nightmare and in general has added tremendously to the problem rather than solving the problem.

4. We are appalled at the moral (I should say Immoral) climate that exists in the congress of the United States. Contrary to what has been coming out of Washington, There Is a Right and a Wrong. And it is critical that the congressional words, deeds and actions strongly, clearly articulate this for the rest of the country. Otherwise we will send messages to our society that it is acceptable to disobey the law, flaunt the legal, moral and ethical standards of our community, and take advantage of circumstances and technicalities to escape responsibility for their actions. There is a direct relationship between the failure to follow moral, ethical and legal standards in congress and that failure in the rest of the country. We feel strongly that congress has failed to adequately police its own members and lacks the guts and will to so. Until they can demonstrate an ability to administer the responsibilities of policing their own members, this should be transferred outside of their control. We must have a high and unequivocal standard of moral and ethical conduct from all of our elected officials. This is no less than a FOUNDATION STONE of a free and democratic society.

5. We are fed up with the National Debt Problem, the seemingly endless and unlimited spending that congress engages in and all of the accompanying rhetoric and finger pointing. . . Both of our recent Presidents have spoken out strongly on reducing budget deficits and government spending and have been unable to overcome the congressional actions to spend even more money. Congress is clearly responsible for failing to impose on itself spending restraints, and has left the nation clearly vulnerable, unable to absorb even minor setbacks, and then when the major ones hit—S&L debacle, the crisis in the Middle East, a recession—there is no cushion to absorb even a portion of the blow. This must be reversed! To me the most bitter ironic twist of our current government spending practices is that government spending on open ended entitlement programs which are targeted to help the disadvantaged is directly and clearly causing inflation and high interest rates—which directly and with great cruelty strike the poor, the elderly and the disadvantaged—those who are least able to offset these debilitating effects and must reduce their standard of living or become further dependent on welfare and social programs. Then we pump more money into these social and entitlement programs to offset the cruel effects of high interest rates and high inflation—and this then feeds another spiraling cycle of inflation and high interest rates and on and on we go. If we want to truly help the poor, the elderly and those in need then we will reduce our government spending, only embark on programs that the country can afford, and reduce the national debt. This will do more to stablize and keep prices of goods within their reach than any other single thing we can do. We want Government spending reduced and the deficit eliminated and a foolproof plan to eliminate the national debt as a top priority.

I am aware that this letter has turned out to be much longer and in greater detail than I had expected. But once I got started the cumulative frustration just came pouring out. This is the point with which I started the letter, "a lot of people are really fed up with the way things are and feel that it time to change the way that we are operating our government". I ask you to join the effort to effect serious reform in our governmental processes. I ask you to speak up clearly and strongly in favor of these proposals and join with the rest of your constituents in setting a new course for the nation.

Sincerely yours,

DELBERT HANEY.

STOP FOREIGN COMPANIES FROM CHEATING ON THE EMBARGO

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. STARK. Mr. Speaker, every day there are reports of cheating on the Iraqi embargo. This is unfortunate as the embargo is still our best hope for a diplomatic solution to the crisis, the alternative being a bloody, costly war, with many dead Americans.

Even a small amount of basic supplies leaking in could go a long way to alleviate Iraq's economic pain. Worse, there is the possibility of smugglers bringing in key strategic components or information, like satellite battlefield photos.

Beyond this, the embargo has another purpose: To diplomatically isolate Saddam Hussein, pressuring him into a settlement on our terms. Cheating lets him know that he still has allies out there, that there are still people who will deal with him.

Two weeks ago I introduced the Iraq Embargo Enforcement Act (H.R. 5622) which would put sanctions on foreign companies found violating the embargo. Upon determining a company a violator, the President would prohibit its goods from entering this country. We should shut off the U.S. market from these embargo profiteers.

Among the cheaters are respectable Western companies. Let's pass this bill and hit these folks on their bottom line, which is apparently all they care about.

The following are several news accounts of embargo violations:

[From the AP, Sept. 27, 1990]

DIGEST BRIEFS

NICOSIA, CYPRUS.—The six-week-old U.N. economic embargo has not kept Iraq from receiving food and supplies by truck from Jordan, jetliner from South America, via smugglers from Syria and Iran, and even by mule from Turkey.

The embargo has halted virtually all of Iraq's oil exports and drastically reduced cargo shipments to the country, but supplies are slipping in thanks to sympathetic governments, pro-Iraqi groups and opportunistic smugglers.

[From the Economist, Sept. 22, 1990]

SANCTIONS: FOOD FOR SOME

"There are lots of ways for an innovative shipper to avoid a blockade, and as the prize goes up, they become more innovative," said Capt. Paul Prokop, commander of the U.S. Coast Guard teams enforcing the embargo in the Persian Gulf.

The amount of slippage is difficult to determine. Before Iraq invaded Kuwait on Aug. 2, prompting the international community to impose the sanctions, it imported about three-quarters of its food supplies.

[From the Sunday Times, 1990 Times Newspapers Ltd., Sept. 2, 1990]

SADDAM SEARCHES FOR A LIFELINE AS SCREW TIGHTENS

Some goods are still getting into Iraq by road from Jordan and along the mountainous tracks from Iran and Turkey. Other

supplies are arriving by air from Jordan, Libya and Yemen. And some companies are still working in Iraq, in contravention of the embargo: a West German company is working on Basra airport, a Dutch firm is dredging near the port of Umm Qasr.

SADDAM SEARCHES FOR A LIFELINE AS SCREW TIGHTENS

(By Mark Hosenball)

Evidence of successful efforts to bust the United Nations sanctions against Iraq is arousing deep concern in intelligence circles on both sides of the Atlantic.

Though the blockade is effectively preventing Iraq from exporting its oil, basically because the pipelines through Turkey to the north and Saudi Arabia to the south have been shut off, imports into Iraq are still getting through.

The list of countries suspected of shipping military equipment or civilian supplies to Iraq in violation of the UN embargo includes Libya, North Korea, Sudan, Yemen and Algeria. But officials believe American and British companies are also joining in.

"Where we find them we will stamp on them," said a British government official yesterday, who confirmed that some British companies were suspected of sanctions busting.

American intelligence also claims to have evidence that some supplies of military equipment from the Soviet Union are still arriving in Baghdad by air, without the knowledge or permission of President Mikhail Gorbachev. Iran is said to be allowing some sanctions-busting traffic across the land border with its former enemy.

Even if the UN manages to seal the land fronters, Saddam can still rely on regular supplies by air, at least for the present. The Pentagon believes the Libyan airlift to Iraq reported by The Sunday Times last week has intensified during the past seven days.

There is now a regular procession of Soviet-made transport planes picking up supplies of both war materials and food in Libya and delivering them to Baghdad, the flights routinely fly across Saudi airspace, sources said. They indicated that both the American and Saudi governments were aware of the sanctions-busting flights, but so far had not moved to stop them.

It is understood that President George Bush has been reluctant to order that planes violating the embargo should be shot down, largely because it would probably provoke a war before he is ready.

Iraq's clandestine airlift it made possible by its large fleet of commercial jet liners, supplemented by large stocks of spare parts taken from Kuwait airport after the invasion.

However, the emerging evidence of airborne sanctions-busting produced hints in Washington last week that the Pentagon was studying the possibility of mounting an air blockade of Iraq to complement the naval blockade.

Iraq, which exports only oil, is heavily dependent on imports of food. Figures produced by the UN Food and Agriculture Organisation say Iraq imports all its tea and coffee, 99% of its vegetable oil, 99% of its sugar, 76% of its wheat and 65% of its meat.

Faced with 17m of its own mouths to feed, and a further 1.5m Kuwaitis, superficially it appears to have a problem. But Western diplomats in Baghdad say that Saddam's position has been strengthened by a bumper harvest in some crops, with wheat four times more plentiful than in 1989. Analysts believe farm production is capable of further increases, while consumption will fall as belts are tightened.

American intelligence last week detected orders placed recently with American food brokers for huge quantities of foodstuffs to be shipped to Jordan. Officials believe the food is really being ordered for Iraq, and are considering ways of blocking the purchases.

"They are trying to buy more stuff than you would need to feed everyone in Jordan," one official involved in the investigation said.

There are also reports that the Levantine traders of the eastern Mediterranean, based in the Christian enclave of Lebanon and Cyprus, have formed an unofficial and effective network to keep Iraq supplied with food. The profits now available on normally innocuous items such as margarine and rice make it worth their while to supply Iraq in a roundabout, but so far perfectly safe route.

The network, adopting the classic tactics of weapons dealers who often use false "end user" documents, is thought to be employing a variety of false cargo manifests.

One route that came to the notice of Western intelligence last week involves regular shipments from East Beirut to Jordan, via Damascus. Only in Amman are the manifests changed to state the true destination: Baghdad.

On Friday, Margaret Thatcher tackled King Hussein of Jordan about the open breach of the UN sanctions order between his country and Iraq. The king replied that he accepted the principal of applying them, but was anxious about the cost to his fragile economy. The UN is putting together a financial package to compensate countries such as Syria and Turkey for their loss of trade with Iraq; Jordan could qualify for a large part of it.

The United States and Britain have been greatly impressed, however, with the willingness of Turkey the only country where Iraq could realistically hope to swap its oil for food to co-operate in applying the sanctions.

But analysts reckon Iraq could hold out until well into next year, by which time the UN's resolve to enforce sanctions could have faltered and the eight years of the war with Iran has given Saddam great experience in knowing how to survive the imposition of suffering on the Iraqi people. In 1986, six Iraqi businessmen were shot for corruption: Saddam's threats to execute hoarders will not be taken lightly within Iraq's leaky borders.

INNOCENT LENDER LIABILITY RELIEF ACT OF 1990

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. McDADE. Mr. Speaker, today I am introducing legislation to provide relief to small business owners and operators across the Nation who are encountering difficulty in complying with Federal hazardous waste liability laws. They are finding it a challenge to obtain financing to clean up property contaminated by hazardous waste, replace underground storage tanks, and otherwise improve existing facilities. Recent court interpretations of the Comprehensive Environmental Response Compensation and Liability Act [CERCLA], more commonly known as the Superfund statute, have held that a secured lender who forecloses on a property or a facility that is contaminated by hazardous waste may be liable for the costs of cleanup, even though the lender did not cause or contribute to the contamination. Costs associated with such efforts may be excessive, even reaching into the millions. Often these costs exceed the tangible value of the property itself, yet CERCLA imposes no limit on the amount of financial responsibility.

The threat of this liability has caused uneasiness among lenders. Their reaction has been fully predictable. They have assiduously avoided approving loans to businesses which could possibly encounter toxic waste contamination problems. This lender reluctance has severely affected small firms, those least able to cope. Without the capital needed to finance the federally mandated cleanup of contaminated sites, replacement of underground storage tanks, or installation of pollution-control equipment, small business owners could face the possibility of court-ordered closure of their businesses. Such action could trigger any number of harmful financial consequences for affected small business owners and the communities they serve.

In testimony before the Committee on Small Business, a representative of the Independent Petroleum Marketers Association of America explained that small gas station owners had been ordered by the Environmental Protection Agency to replace underground storage tanks. However, good-faith efforts to obtain needed financing to comply with the EPA edict were unsuccessful because of lender concern—and fear—over the issue of liability. The inability of these individuals—the vast majority of whom are small business men and women—to secure loans to comply with EPA regulations placed them in direct violation of the law. Many could have faced an ordered shutdown. This would have had a devastating effect on small gas station owners and the local businesses and residents who depend on them. Rural communities, like those in my district, would have been extremely hard hit by a shutdown. However, strong congressional support for relaxing EPA's deadline for tank replacement eventually resulted in a postponement of the effective date. While this delay will provide temporary relief to independent petroleum marketers and other affected small business owners, the problem of obtaining financing remains.

Other small business owners are already or could be affected by the lack of available financing to clean up contaminated sites, replace underground storage tanks, or reduce emissions through the installation of pollution-abatement equipment. Dry cleaners, wood product manufacturers, metal finishers, and other small businesses in a wide range of industries spread across a broad geographical spectrum are equally affected. The full scope of this problem will become clear as more small businesses come forward and make their concerns known. The fear of Superfund liability has chilled the willingness of lenders to make loans to small businesses. Unless some measure of permanent relief is provided

soon, many small business owners will find themselves in serious violation of Federal environmental laws.

The legislation I am introducing today addresses the vexing problem of lender liability and offers a solution that will relieve innocent lenders of the responsibility for the costs of cleanup. Specifically, the bill would amend the Small Business Act to exempt the U.S. Small Business Administration and SBA lenders from liability for the cleanup of contaminated sites under the Superfund and Solid Waste Disposal Acts when title or control of a property is conveyed to the SBA or the lender as a result of foreclosure. However, this exemption would not apply to the SBA or financial institutions when either, by any act or omission, caused or contributed to a release or threatened the release of a hazardous substance.

Extending this protection to the SBA and its lenders should help in overcoming lender resistance to making loans to small business owners to finance the cleanup of contaminated sites and installation of pollution-control equipment. In addition to this benefit, the legislation, which is a simple change to existing law, would have no revenue impact.

Mr. Speaker, we have seen a resurgence of interest in and concern for protecting and preserving our natural resources. It is important that all Americans do their part to clean up contaminated sites and reduce pollution. Small business owners are willing to do their part. However, they have been hampered in their ability to achieve this aim because of the justified concerns of lenders. This legislation would help allay the concerns of the SBA and lenders and enable them to assist small business owners to meet their responsibilities under Federal environmental laws. I would urge my colleagues to support this measure which will help our Nation's small businesses.

EFFECTIVENESS OF THE RESEARCH AND DEVELOPMENT TAX CREDIT

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. DONNELLY. Mr. Speaker, one of the many problems with the recently announced budget summit agreement is the recommendation to extend the research and development tax credit. At a time when Congress is being asked to reduce the Federal budget deficit by one-half a trillion dollars, I fail to see why we should be asked to spend $600 million to extend a tax credit that is of limited value and a subsidy for America's largest corporations.

Last year, I asked the General Accounting Office to prepare a study on the effectiveness of the R&D tax credit. Although that study is too long to print entirely in the RECORD, I ask unanimous consent that the executive summary be included. Some major findings of the GAO study are:

The existing credit has stimulated little additional research. In fact, the credit has cost the Federal Government $7 billion, but has only stimulated $1.5 billion in new research. The Federal Government would be far better off subsidizing research directly rather than through the tax laws.

Corporations with assets of over $250 million claimed 80 percent of the credit. This ends the myth that the credit helps smaller startup firms.

The Internal Revenue Service questioned 79 percent of the corporations claiming the credit. Of that 79 percent, 88 percent had at least a portion of the claimed credit disallowed.

Mr. Speaker, if Congress is serious about reducing the budget deficit, the inefficient and wasteful R&D tax credit should expire. At a time when we are asking lower and middle income Americans to shoulder the vast bulk of deficit reduction, it is unconscionable to be giving tax subsidies to corporations worth more than a quarter of a billion dollars.

EXECUTIVE SUMMARY

PURPOSE

In 1981, Congress enacted a temporary research and experimentation tax credit. Lawmakers wanted to provide an incentive for businesses to invest in research because they were concerned about the competitiveness of American firms. Congress has renewed the credit twice. It is scheduled to expire December 31, 1989.

This report responds to a December 1987 request from Congressman Brian Donnelly and the mandate in the Technical and Miscellaneous Revenue Act of 1988. The act required GAO to report on the operation of the credit, its effectiveness, and alternatives to the credit's current structure.

BACKGROUND

Beginning July 1981, taxpayes could reduce their tax liability by 25 percent of qualified research and experimentation expenditures that exceeded a base amount. Qualified expenditures are for product innovation, but not product development. The base amount is equal to the taxpayer's most recent 3-year average of qualified expenditures or 50 percent of the taxpayer's current year expenditures, whichever is greater. Congress designed the credit to stimulate additional research spending.

The credit, never a permanent part of the tax code, expired on December 31, 1985, but was reenacted by the Tax Reform Act of 1986 and made retroactive to January 1, 1986. The 1986 act, however, modified the credit by (1) reducing the rate to 20 percent and (2) more narrowly defining qualified expenditures. The credit was again reenacted in November 1988. It was unchanged except that taxpayers must reduce their deductions for research expenses by an amount equal to 50 percent of the credit they claim.

Current congressional and administration proposals would change various features of the credit. The major change would replace the moving-average base with a base that would initially be computed as the taxpayer's average spending over a fixed period (1984 through 1988) and then be indexed to the growth in the Gross National Product (GNP). Another change would allow taxpayers to use an optional credit with a lower rate and a smaller base.

As with other business tax credits, the research credit is primarily used by large corporations. Between 1981 and 1985, corporations with assets of $250 million or more claimed about 80 percent of the credit, or $4.7 billion.

RESULTS IN BRIEF

GAO estimates that the credit stimulated between $1 billion and $2.5 billion of additional research spending between 1981 and 1985 at a cost of $7 billion in tax revenues. Thus, each dollar of taxes foregone stimulated between 15 and 36 cents of research spending. Although the amount of spending stimulated by the credit was well below the credit's revenue cost, total benefits may be much higher. If, as many presume, research activities are more beneficial to society than nonresearch activities, the credit may still be sound tax policy.

The credit could provide more of an incentive if the moving-average base were replaced with a fixed base indexed to the growth in GNP or another indexing factor. Assuming companies' patterns of research spending are similar to those of the early 1980s, the "effective rate" of the proposed credit—the actual tax benefit that a company receives for spending an additional dollar on research—would be about 14 percent instead of below 4 percent as it is under the current credit. To ensure that the credit continues to provide an attractive incentive to most taxpayers at an acceptable revenue cost, the base and index should be reviewed periodically and adjusted as needed.

The Internal Revenue Service [IRS] administers the research and experimentation tax credit primarily through corporate audits. From a survey of IRS revenue agents, GAO concluded that the current credit is relatively difficult for IRS to administer. IRS questioned the credit claimed by 79 percent of the corporations that had their credit audited. The amount questioned represented 20 percent of the amount of credit claimed. However, some corporations have appealed the amounts IRS questioned. Many revenue agents reported that the definition of qualified research expenses was unclear. The Treasury recently issued regulations that should help resolve such definitional questions. Consequently, it is premature at this time to suggest legislative changes to make the credit easier to administer.

GAO'S ANALYSIS

Effectiveness of the Credit

GAO analyzed income tax return data for a sample of 800 corporations with assets over $250 million. The analysis showed that the research and experimentation credit provided some incentive to increase spending. Because the credit is earned only for increases in research spending above a moving-average base, the effective rate of the credit is well below 20 percent; GAO estimated the rate to be about 4 percent for 1981 through 1983. The credit is calculated in such a manner that a company's decision to spend an additional dollar on research in a given year generally increases the amount of credit that the company earns that year but decreases the credit earned in 3 succeeding years. As a result, the effective rate provided by the credit depends on a company's pattern of spending over several years and can vary considerably across firms. The effective rate measures the reduction in the price of a unit of research due to the credit. By combining GAO's estimates of the average effective rate of credit with estimates of firms' responsiveness to price reductions, GAO estimated the stimulative effect of the credit to be $1 billion to $2.5 billion in additional research spending between 1981 and 1985. (See pp. 24-29.)

Structure of the Credit

GAO concluded that the greatest potential for improving the credit's stimulative effect lies in modifications that would (1) break the link between current spending and future base expenditures and (2) make the base more accurately reflect the research spending that would have occurred without the credit. For example, replacing the 3-year moving-average base with a fixed base, indexed to the growth in GNP, would substantially increase the average incentive provided per dollar of revenue cost. This revision would break the link between taxpayers' current spending and the amounts of credit they earn in future years. The average incentive of such a credit would depend on the distribution of research spending across companies—how much research spending is done by companies that are rapdily increasing their spending above previous years compared to spending by companies that are only modestly increasing, or even reducing, their spending. If the distribution remains similar to what it was in 1985, the effective rate of credit would be about 14 percent instead of below 4 percent as it is under the current credit. Of course, future growth in research spending may differ from its earlier pattern, affecting the long-run revenue cost and average incentive. (See pp. 31-48.)

GAO's analysis also showed that other proposed changes to the credit will involve tradeoffs among the objectives of (1) providing each taxpayer a significant incentive, (2) making this incentive available to as many taxpayers as possible, and (3) keeping the revenue cost at an acceptable level. For example, retaining a minimum base period amount of 50 percent of current year expenditures could play a critical role in containing the revenue cost of the credit. However, this would reduce the incentive for companies that are rapidly increasing their research expenditures. GAO's analysis showed that additional revenues could be saved by modifying the proposed credit to reduce the amount of credit earned for expenditures taxpayers would have made without the credit. The tradeoff for this modification is to reduce the credit's incentive for a relatively small number of taxpayers. (See pp. 48-51.)

Administration of the Credit

IRS routinely audits the research credit as part of its special program auditing the largest corporations. From a GAO survey of IRS revenue agents who had recently completed such audits, GAO estimates that (1) IRS audited about 74 percent of the large corporations claiming the credit, (2) these corporations claimed about $1.8 billion of credits, and (3) the audits resulted in adjustments to the credit for 341 corporations, or 79 percent of those that had their credit audited. In these audits, IRS disallowed an estimated $368 million of credit claimed by 303 companies and allowed an additional $7 million of credit for 38 companies. (See pp. 18-19.)

The GAO survey showed that revenue agents most frequently cited corporations claiming unqualified expenditures as the reason for adjusting the credit. The types of unqualified expenditures revenue agents reported as being either difficult or very difficult to audit were expenditures for adapting existing capability, routine or cosmetic alteration, overhead and administration, and ordinary testing. Overall, about a fifth of the agents reported that the definition of qualified expenditures was unclear. In May 1989, Treasury reproposed regulations that should help clarify the definition of qualified expenditures. (See pp. 20-21.)

RECOMMENDATIONS

GAO is not making any recommendations.

AGENCY COMMENTS

GAO discussed the information contained in this report with responsible officials at IRS and Treasury. They suggested some technical clarifications, which were made to the report.

A TRIBUTE TO JAMES L. RIVERS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. CONTE. Mr. Speaker, today I rise in honor of Mr. James L. Rivers, who is leaving the Central Berkshire Regional School District after 32 years of dedication and service.

Mr. Rivers has enjoyed many triumphs during his tenure in public education. Mr. Rivers has taught science, mathematics, and psychology. He has been a guidance counselor for the Central Berkshire Regional School District since 1969 and became director of the guidance department in 1975. Mr. Rivers has initiated many programs over the years, including a work/study program at Wahconah Regional High School and groups involved in peer counseling and alcohol and drug abuse prevention. The Massachusetts School Counselors Association recently honored Mr. Rivers for his commitment and tireless efforts on behalf of all the children in the Central Berkshires.

Taking heart in the age old notion that a sound mind is best supported with a sound body, Mr. Rivers has served as a football and baseball coach in the Dalton School System. He amassed a 66-percent winning record as the helmsman for the Waconah High School varsity baseball team from 1966 to 1977. Coach River's teams made eight trips to the Western Massachusetts regional baseball playoffs, which led him to his induction into the Massachusetts State Baseball Coaches Hall of Fame in 1984.

With a man so thoroughly involved and prosperous in public education, it is hard to imagine him having the time and energy left to give any more to his community. And yet, Mr. Rivers has found the resources to be an active member of his neighborhood Youth Corps. He has also been an active member of St. Agnes Church, teaching religious education and serving on the St. Agnes school board for a year.

Mr. Rivers has recently accepted the position of principal at the Notre Dame School in Pittsfield. Jim has termed this post a new adventure for himself. I am confident that the students of the Notre Dame School will benefit greatly from Mr. Rivers' proven leadership and the successes he is certain to have as he ventures into the future.

SONS OF ITALY, ITALIAN MINISTRY OF CULTURE COMMENDED FOR "IN ITALIANO"

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. FASCELL. Mr. Speaker, on the evening of September 18, 1990, a reception was held in the Foreign Affairs Committee room to celebrate the launching of "In Italiano," an instructional television series for Italian language and culture airing weekly on cable TV. Broadcast via the Learning Channel, this 26-episode program began transmission to more than 1,250 affiliate stations and 20.5 million cable viewers throughout the United States last month.

Italian language instruction in the United States has been a top cultural and educational priority of the Italian Government and the Order Sons of Italy in America [OSIA] for many years. After several years of preparation, the Italian national television network, RAI, in collaboration with the president of the Council of Ministers and the Italian University of Foreigners of Perugia, produced "In Italiano." The Sons of Italy Foundation, meanwhile, has continued to support and promote Italian language and culture through its scholarship program and the excellent work of its national education committee. The Sons of Italy Foundation bestows in excess of $600,000 annually on deserving young scholars.

In addition to OSIA and the Italian Ministry of Culture, I am proud to have served as a cosponsor of this reception with our colleagues, the Senator from New Mexico, Mr. DOMENICI; the Senator from Vermont, Mr. LEAHY; the gentleman from Massachusetts, Mr. CONTE; His Excellency, Ambassador Rinaldo Petrignani; the RAI Corp.; the National Cable Television Association; the Learning Channel; and the National Education Association.

Speakers at the event included our distinguished colleague from Massachusetts; Deputy Chief of Mission, Embassy of Italy, Paolo Janni; Dr. Gastone Orefice Ortona, chief editor, RAI Corp.; Dr. Harold E. Morse, chairman and CEO, the Learning Channel; Albert J. Riccelli, Sr., national president, OSIA; and Dr. Phillip R. Piccigallo, national executive director, OSIA. Special thanks are also owed to OSIA California State president Frank J. DeSantis and OSIA national education cochairperson Peter C. Tubiolo; the Learning Channel's vice president for programming Robert Sestili; and Gerlando Butti, Ph.D., and Vincenzo Coniglio, Ph.D., directors of the Italian Cultural Institutes of Los Angeles and San Francisco, respectively.

Throughout my service on the House Committee on Foreign Affairs, I have worked toward expanding and enhancing the public's examination of U.S. foreign policy, foreign relations, and multicultural activities. Certainly the study and knowledge of languages is the surest pathway to improved understanding of the world around us and to achieving true multicultural literacy.

I heartily endorse the new instructional series, "In Italiano," and I commend all those

who contributed to its production, promotion and widespread distribution.

TRIBUTE TO YOSEMITE PARK ON ITS CENTENNIAL CELEBRATION

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. LEHMAN of California. Mr. Speaker, Yosemite National Park celebrates its centennial today, October 1, 1990. I have the distinct privilege of having this premier national park and World Heritage Site within my district. Having hiked and cross-country skied in Yosemite all of my life, I can attest to the magnificent beauty and incomparable majesty of this park. Today as a tribute to the centennial of Yosemite, I would like to offer a brief history about this most popular park which brought over 3.4 million visitors to its gates this past year.

On October 1, 1890, President Benjamin Harrison signed into law an act to set aside reserved forest lands surrounding Yosemite Valley. It is this date which has been formally recognized as the establishment of Yosemite as a national park for all the people of the United States.

Covering over 1,200 square miles, Yosemite National Park lies in the Sierra Nevada Mountains in central California with the San Joaquin Valley to the west and the Great Basin to the east. Yosemite contains the headwaters of the Tuolumne and Merced Rivers and is known worldwide for such landmarks as Half Dome, Bridalveil Fall, El Capitan, and Yosemite Valley.

Historians say that native Americans first inhabited the magnificent landscape of Yosemite and the Sierra about 3,000 years ago. Ancestors of the Sierra Miwok, known as the Ahewahneechee or Yosemite Indians, entered higher elevations of the Sierra from the Central Valley of California. Non-Indian adventurers did not arrive until 1833 when, it is believed, the famous Joseph Walker party skirted the cliffs of the Yosemite Valley in search of new furtrapping territory. In 1851 Maj. James D. Savage led the Mariposa Battalion into Yosemite Valley in pursuit of Indians.

The first tourists came to Yosemite in 1855 with a party organized by James M. Hutchings, who was the publisher of California magazine. Hutchings' visit marked the beginning of Yosemite as an attraction for nature lovers and tourists. One of those early visitors to Yosemite was Horace Greeley, who wrote: "I know no single wonder of Nature on Earth which can claim a superiority over Yosemite." Later when John Muir came to Yosemite in the 1860's and was among the first to recognize that Yosemite Valley was a product of glacier movement, he described the glaciers as nature's landscape architect.

In the mid-1860's the state of California administering of Yosemite Valley and the Mariposa Big Trees continued until 1906 when California relinquished its ownership and President Theodore Roosevelt signed a Federal law accepting the return of Yosemite. Yosemite was thus combined with the 1890 back-country Federal forest reserve to constitute Yosemite National Park.

Although universally regarded as a premier park and natural experience, much of Yosemite's history has included controversy over the way in which it has been managed. Perhaps the most notable issue of contention regarding the management of the park was the construction of the Hetch-Hetchy Dam within park boundaries in 1913. But, decades before that occurred people had been arguing over access, accommodations, and development within the park. That controversy continues today as Yosemite celebrates its centennial.

Americans have much to celebrate during Yosemite's centennial; as we approach the 21st century at Yosemite, we have even more to contemplate. The challengers of natural preservation in concert with public use at Yosemite have existed from the very beginning. In the late 1920's and 1930's, Yosemite Park Superintendent Charles Goff Thomson summed up these challenges very well. Thomson described it as reconciling two conflicting objectives: "First, the National Park Service is controlled by an earnest determination to preserve the parks for posterity. Our second responsibility is to make Yosemite as useful as possible to the people of this generation." Superintendent Thomson's words hold just as true today as they did six decades ago.

WSMV—A HISTORY OF EXCELLENCE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. CLEMENT. Mr. Speaker, I rise today to pay tribute to not only one of the best local television stations in America, but one of the best stations in the history of televised broadcasting—station WSMV in Nashville, TN.

This year WSMV is celebrating its 40th anniversary on the air. The NBC affiliate is the most honored television station in America, receiving more major national broadcasting awards in the past 5 years than any affiliated station in America, according to a survey tabulated by a national accounting firm.

The survey included 20 national awards received by affiliated stations in each of the top 50 televisions markets during the 5-year period 1985–89. Awards surveyed included the George Foster Peabody Award, the Dupont-Columbia Award, the George K. Polk Award, the National Emmy, J.C. Penney-Missouri, Broadcast Promotion and Marketing Executives [BPME], Ohio State and others.

WSMV Nashville received a total of 41 of the pretigious national awards.

WSMV signed on the air on September 30, 1950, and has become a national leader in broadcasting. In Nashville, it serves as the market leader in news and is known for its outstanding service to the community through the 5-year-long campaign known as 4-The-Family.

During its history, WSMV has seen an extraordinary number of its on-air talent move on to hold positions in the largest television markets in the Nation. Among them are game show host Pat Sajack of the popular show "Wheel of Fortune," Dan Miller who appeared with Sajack on his CBS late-night variety show, John Tesh who is the cohost of "Entertainment Tonight" and former anchors Lonnie Lardner and Carol Marin.

During its first 32 years, the NBC affiliate was owned by the National Life and Accident Insurance Co. In 1964, WSM became the first television station in the Nation to receive satellite weather map photos transmitted from NASA's Nimbus satellite.

In 1965, WSM brought color programming to the Nashville market and in 1975 channel 4 became the first Nashville television station to broadcast an hour-long news program.

Serving as channel 4's first news anchor, Jud Collins began broadcasting in 1950 what he termed a primitive 15-minute newscast. The newscast aired at 10 p.m. featuring news, weather and sports information.

Channel 4 was the first station in the market to report live with Collins' outstanding stories on a prison riot in 1960. He convinced the Governor of Tennessee to allow television cameras inside the prison for the report and WSM remained on the air throughout the night.

In 1963, another major personality joined WSM, Ralph Emery. Emery who is now both the host of the Ralph Emery Show on channel 4 and host of Nashville Now on the Nashville Network, has the longest running and highest rated early morning lead-in to the Today Show in America.

I also want to recognize one of the outstanding news directors in the country, Mike Kettenring. Mike was recently honored, as part of the station's 40th anniversary and his 15th year with the station, with a surprise roast that resulted in the establishment of the Michael J. Kettenring Journalism Scholarship at Middle Tennessee State University.

Mike Kettenring is one of those rare individuals whose outstanding work has benefitted not only WSMV, but an entire geographic region in Tennessee and Kentucky where channel 4's signal reaches. His contributions through a hard working commitment to quality local programming, public service, news and special family oriented themes are unparalleled.

I grew up in Nashville and I have watched channel 4 most of my life. Nashville is indeed fortunate to have a television station of this caliber.

I ask my colleagues to join me in celebrating the 40th anniversary of one of the best television stations in broadcasting history, and I wish WSMV many more successful anniversaries.

DARE TO BE DRUG-FREE

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. SCHAEFER. Mr. Speaker, I rise today to honor a group of young people in Lakewood, CO, who have chosen to become the front line in our Nation's fight against drugs. The

Drug Abuse Resistance Education [DARE] program, cosponsored by the Lakewood Public Schools and the Lakewood Police Department, has graduated yet another class of courageous students from Hutchinson Elementary School who have dared to stay drug-free.

Despite the best efforts of local law enforcement, Federal drug prevention programs, and even parents, our children's schools remain the place in our society most vulnerable to drug pushers. DARE—a joint effort between students, local law enforcement officers, teachers, and school administration officials—is working to combat escalating drug use in schools the most effective way possible * * * through prevention. While law enforcement is responsible for reducing the supply of drugs, it is the students—with the encouragement and guidance of the community—who must take the front line in eliminating the demand for drugs.

If cost projects are an indication of the severity of our Nation's drug problem, there is legitimate reason for concern. The figures are staggering—in the coming year alone the U.S. Government will spend $10.6 billion on drug control activities. Last year we spent over $12 billion solely on drug-related incarcerations. The key to overcoming this seemingly insurmountable problem lies in the next generation * * * our Nation's future depends on their choice to stay drug-free today.

I commend the courage of those students who resist drugs, the dedication of all the law enforcement officers, teachers, parents and administrators who empower youth to resist drugs and the Lakewood community for their commitment to a drug-free future.

FDIC REFORM SHOULD NOT PENALIZE CONSUMERS

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. RINALDO. Mr. Speaker, recent reports indicate that the FDIC Bank Insurance Fund is at a historically low level. The FDIC is crucial to maintaining the confidence that the American people have in our financial system.

Millions of Americans' savings are protected by the FDIC. This is especially true of older Americans, whose financial independence and retirement are based on the money that they have saved over a lifetime of work. We cannot endanger their futures.

However, some experts have suggested that the way to reform the system is to reduce the amount of an individual's deposit that is covered by FDIC insurance. I strongly oppose this suggestion.

We cannot break our convenant with the American people. Millions of Americans depend on the FDIC to protect their savings, and we in Congress cannot violate this trust by reducing the amount of a savings deposit that is covered. The small depositor should not have to pay for the mistakes of government regulators and high-flying speculators.

There are many ways to strengthen the FDIC other than to penalize individual depositors. Federal Reserve Chairman Alan Greenspan has said that lowering the $100,000 per account coverage will not appreciably reduce the FDIC's costs.

Instead, financial institutions should be required to increase their capital levels and to reduce their dividends when their earnings drop. Congress should also change the FDIC premiums from a flat percentage of deposits to a system that takes into consideration the amount of risk that each financial institution poses to the FDIC.

A conservative, well-managed bank should not have to pay the same premium that an institution with high-risk investments would pay. The depositors at the conservative bank end up subsidizing the other's risky investments.

I would prefer a system that measures the risk of each financial institution's investments and sets their premiums accordingly. This would also provide an incentive for banks to move to safer, more secure lines of investment.

In addition, the financial regulators must step up their examinations of financial institutions. The key to reducing FDIC losses is early detection and rapid corrective action.

Congress must make some tough decisions about the structure of our financial industry that reduce the risks to the FDIC while encouraging an innovative financial system.

TRIBUTE TO CHIEF WARRANT OFFICER 2 ANDREW PAUL PORTER

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. BONIOR. Mr. Speaker, last year during the American invasion of Panama, one of our casualties was a young man from my district in Michigan. CWO2 Andrew Paul Porter served his country proudly, bravely, and with distinction. Andy felt it an honor to wear the uniform of the United States and he never hesitated to risk his life in the line of duty. He died early on December 20, 1989. He was 25 years old.

As a tribute to his sacrifice and in recognition of a truly fine young person, I am pleased to enter into the CONGRESSIONAL RECORD, a beautiful remembrance of Andy written by his mother, Mrs. Marlene Porter.

REMEMBERING ANDY

It has proven to be a very difficult task to send out all the thank you notes for the many kindnesses shown our family since Andy was killed. It is not difficult thanking people for their kindness, but I feel bad so many people did not have the good fortune to know Andy. In this message, I want to thank everyone and give people who never met Andy, an idea of what a neat man he was.

First, my family and I thank everyone for all the support and help. We had help from people from the first moments we learned Andy was missing in action. It was the next day we learned he had been killed. People came to our home with food, helped with anything that was needed, and friends and family stayed with John and the girls while I flew to California to help Sue. The servicemen who came to the funeral were picked up and driven back to the airport by friends and other family members. There were flowers from many people and many memorials to Save the Whales Foundation and the Helicopter Museum. Some of the memorial donations were to other organizations in Andy's name. There are five trees planted in Israel in his name also. We received hundreds of cards and letters from people all over the United States. Some from people who lost sons in Vietnam. There was much coverage on television, some people taped the different channels and give us copies of the tapes. The local police departments offered much help the day of the funeral and our neighbor took care of a press release to the TV networks. People at the Methodist Church, the Vietnam Veterans' Administration, and the St. Clair Inn provided a beautiful luncheon after the service. The St. Clair Inn provided rooms for the visiting service men for however many days needed. People are still sending cards of encouragement to let us know we have not been forgotten.

There was a great amount of press on Andy's life and achievements in the military but little about his sunny disposition, easy going manner and super sense of humor that made life fun.

The most important thing in Andy's life was his family. He always looked out for his sisters, Lisa and Bronwyn. As all kids, they would fight with each other, but let anyone else say or do anything to the girls it was another story. It was great knowing that with all the normal fighting and teasing that went on, these three kids were friends and allies and really loved each other.

Andy always felt responsible for the family. He had always told John and I he would take care of us. He even looked at property that had two homes on it so he could see that we were taken care of. He had discussed taking care of us many times with his wife, he felt very strongly about this. We assured him this was not necessary, but Andy just went on with his plan. It was comforting knowing he was there if we really did need him.

Andy was forever calling home to see what we thought of this or that. He always discussed things that were going on in his life with us. He valued our opinion and most always took our advice. That quality in Andy is something few parents have the opportunity to experience.

He sent money home to use for anything we wanted. He felt he owed us for just doing what parents do, taking care of him, feeding him, helping him, caring for him when he was sick and just plain raising him. Loving him through it all.

Andy had a great deal of compassion for other people. When Brian Madrid was killed in Panama, Andy was unable to accompany Brian home to his parents. It bothered him that a man who did not know Brian was taking him home, so Andy wrote them a seven-page letter telling them of their friendship and what a wonderful person their son was and how much Andy loved Brian. Brian's folks have let us know how much that letter and Andy's phone calls meant to them.

A fellow pilot and friend, said of him: "Andy was always way ahead of me in the goodness department and I have always felt unworthy of his friendship. His goodness was just intoxicating. That is something I will never get over.

Andy always kept track of his friends and how they were. If anyone needed help of any kind of just encouragement, he was

there for them. Andy always looked for the good in people, not their faults.

I'm told that the other pilots knew flying with Andy could cost them money as Andy would hit them up for funds for candy. He then would fly over the slums of Panama and throw candy to the kids.

Bronwyn said of Andy, "he was so special and a joy to be around, unless you knew him you would never believe what a wonderful person he was." "A man who took a hold of life and lived it to the fullest—trying to include everyone in the joy of it all the way."

Andy loved children. He had two daughters that came with his marriage to Sue. He loved to take the girls on trips and spend time with them doing things as a family. He bought them bikes and loved to take them to the beach. Andy and Sue wanted one child of their own and intended to fill their family with adopted children. He felt there were many children who needed love and Andy had more love to give than any young man I've ever known.

Andy was interested in many things. He liked to try things at least once. He learned to brew his own beer. He was a success at this venture and his buddies helped down the supply to encourage his newfound hobby. He brought some home one Christmas for the family to try, it was agreed that his brew was good stuff.

He took up boxing at Ft. Rucker and was a 1983 welterweight champion. After he received his boxing trophy, his friends wanted him to join them in running competitions between the companies. He was a 10 K runner. At home he would do his running with Nugget, his dog, and sometimes Sue would join them.

Growing up in Michigan you learn to do many sports. Swimming, diving, water skiing and even a little boating. However, the one thing he loved was skiing in the snow. Andy loved this downhill sport. He went to Garmisch, Germany skiing while stationed in Germany in 1984.

While in Panama, Andy got his scuba certification in two days. Andy and Brian were scuba buddies until Brian was killed.

Andy loved motorcycles and cars. He was always on the lookout for special autos. While in service, and bought a 1973 MG Midget, 1969 SS Chevelle, Triumph Spitfire, Triumph TR 250, and a 1969 Jaguar. We bought his Midget and his wife will keep the Jaguar. He sold the rest to friends.

Andy knew how fragile life was, he had lost three friends to crashes this year. He made sure his family knew how much he loved them. He sent Sue a pearl necklace from Panama for Christmas. She was worried because it was so expensive, but Andy told her you can't take it with you. He called the night before he died to thank us for the presents and cookies we sent and tell us how much he loved us. He had even opened his presents.

Andy touched many lives with love and friendship. He will be missed by more people than I will ever know.

Ft. Ord has asked for information on Andy's life. They were considering naming a Day Care Facility after him. After they received the information they felt it would be more fitting to name the new Youth Center after him. The decision is not definite yet, but just being considered is an honor.

Andy was a neat kid. He was always a hero to his friends and family, but in all the confusion of the last moments of his life, we learned he saved the lives of two of his friends. A missile was going to hit their helicopter, he radioed them and they moved from the path of the missile. When they radioed Andy back to see if he was alright and tell him the missile had missed them, Andy was already down. He is credited with saving the lives of many men when he destroyed the anti-aircraft gun at the Amador location. Andy died December 20, 1989 in the early dawn hours of the invasion.

I hope this gives you some insight as to the type of person Andy was. I'm sure you can see Andy was one in a million, a true gift from God. We are all put on this earth to do a job. Andy got his done in twenty five years and has gone on to better things. The rest of us may be here for a hundred years and never accomplish what Andy did in twenty five.

WORLD BANK ADDRESS BY BARBER CONABLE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. BEREUTER. Mr. Speaker, on September 25, 1990, our former colleague and President of the World Bank, Mr. Barber Conable, gave a stirring annual address to the Board of Governors of the World Bank. He first spoke on the gulf crisis and changes in Eastern Europe, then outlined in the remaining two-thirds of his speech a comprehensive strategy for reducing the abject poverty in which 1 billion of our fellow humans beings continue to live. This Member believes that Barber Conable speaks eloquently to all of us about how to seize today's historic opportunity to secure economic and social progress for all people. Accordingly, this Member recommends reading the following excerpts from the Conable speech, in part because they correspond so closely to legislation enacted last year by the Congress, which encouraged the World Bank to take exactly the initiatives he has enunciated.

Excerpt of Mr. Conable's speech follows:

ADDRESS BY BARBER B. CONABLE

As the 1990s unfold, success in reducing poverty should be the measure of global economic progress.

Reducing poverty is possible. Developing countries, bolstered by international support, have made impressive advances against poverty. In the two decades after 1965, developing country annual consumption per capita rose from $590 to $985 in real terms; life expectancy rose from 51 to 62 years; and the net enrollment rate in primary education increased from 73 to 84 percent. These are not mere statistics. They speak of real achievements which have improved the quality of peoples' lives—achievements to which the World Bank has contributed considerably over many years, achievements of which we can all be proud.

Development on this scale and at this speed is unprecedented.

Despite these impressive advances, poverty has proven a stubborn foe. For instance, three of the world's most populous nations—India, China and Indonesia—have made great progress toward reducing poverty. Even so, more than one billion people, half of them in South Asia, still live on less than a dollar a day. Over the next ten years, the population of the developing world is likely to increase by at least 850 million people, many of whom will be born into absolute poverty.

Some regions have regressed economically. Living standards in Latin America have fallen below those of the 1970s. Parts of Sub-Saharan Africa have suffered a veritable collapse of living standards, institutions and infrastructure. Given Africa's rapidly rising population, the number of poor people will continue to increase, even if economic growth accelerates. There, poverty reduction faces its greatest challenge.

Poverty reduction is an integrating theme for the many facets of the Bank's work, and it is the raison d'etre for our operational emphasis. Our World Development Report 1990 sets out a clear strategy for reducing poverty.

The premise of the strategy is that the poor's most abundant asset is their labor. Experience suggests two related ways of improving and utilizing that asset. First, economic growth which encourages the productive use of labor by removing policy biases will increase income-earning opportunities for the poor, particularly in farming and small and medium enterprise. Second, expanded and better directed educational and health services for the poor will augment their income-earning potential.

These two elements form the core of this poverty reduction strategy. In addition, carefully targeted transfers and social safety nets are necessary to assist those most vulnerable—for instance, the children, the aged, the sick and the handicapped—who, through no fault of their own, will not be reached. We can, we must reduce the suffering of these dependent poor.

This strategy derives from years of experience and a growing consensus in the development community about what is needed to reduce poverty.

The precondition for restoring growth in many countries is structural adjustment. Major economic imbalances must be redressed; the poor suffer most from distortions such as high inflation.

Inadequate restructuring hurts the poor, by reducing consumption and availability of social services. We have seen in programs in Ghana and Bolivia, however, that social services can be preserved and even expanded, depite budgetary constraints.

In fact, the poor benefit from restructuring. Indonesia's restructuring mainly affected industry, while Tanzania's was directed chiefly at agriculture. Demand for labor is rising in both countries.

Economic growth is driven by the entrepreneurial spirit of individuals. A vibrant private sector, therefore, is vital. Most of the income-earning opportunities for the poor are generated by the private sector, many in the dynamic informal urban sector and in the labor-intensive agriculture sector.

The World Bank is rapidly increasing its lending for the social sectors—primary education where we are tripling our lending, basic health care, family planning and nutrition. Our special focus on women in development seeks to expand economic opportunities, while easing their burden in securing food, water and health services for their families. We have intensified our support for efficient food production and for targeted nutrition progams to replace costly general food subsidies. We are helping countries design better delivery system for social and public services, and are encouraging the involvement of communities, NGOs and the private sector.

Together, we can reduce poverty.

Any poverty reduction strategy is sustainable only if it respects the natural environment.

Poor people and poor countries suffer most from environmental degradation.

As the World Bank pursues poverty reduction, our commitment to environmentally sustainable development will continue. We will encourage ecologically sound patterns of energy use, agricultural development, industrialization and human settlement.

Implementation of the poverty reduction strategy could reduce the number of poor people in developing countries by at least 300 million, roughly one-third, by the year 2000. Child mortality rates could decline with improved health services, and primary education could become almost universal.

This progress is achievable, despite rapidly rising populations, including an expected increase of about 100 million poor people in Sub-Saharan Africa. The World Bank is determined to press Africa's recovery. Special and sustained action is required from the entire international community. I welcome the support given to the second round of the Special Program of Assistance for Africa.

In Africa and elsewhere, governments must be committed to poverty reduction. Scarce resources—financial, natural and human—must be used more effectively. People are seeking better choices and more control over their individual destinies.

Development is most likely to succeed where government is honest, competent, responsive and just; where accountable institutions function according to objective rules; and where red tape is minimized.

Successful implementation of the strategy also depends a great deal on the external economic environment, which is largely determined by industrial countries.

A satisfactory outcome to the Uruguay Round is crucially important.

In addition to removing trade restrictions, industrial countries must provide adequate financial resources and sound investment to support the strategy. Otherwise, poverty reduction will remain an ambitious dream.

Private direct investment is a powerful engine of growth. Developing countries must improve their investment climates to attract private capital—whether it be foreign, domestic or flight capital.

Despite recent debt-reduction agreements, debt remains an obstacle to growth in many developing countries. We must continue to pursue ways to lighten further the load of both private and official debt.

Increased flows of official development assistance are also needed, if developing countries are to succeed in implementing poverty reduction strategies.

The Gulf crisis has dampened hopes for a peace dividend. But it should not. Just as an example, if members of NATO cut their military outlays by only 10 percent, they could double their development aid. Moreover, developing countries spend around $200 billion a year on weapons; many spend more on arms than on health and education combined. Financial resources must be redirected to higher priorities.

Development is a slow process, a constantly moving tapestry. Success in reducing poverty will require patience. It will also require determined, collective action. The cooperative spirit in which the international community has responded to the Gulf crisis should inspire our approach to other common causes, especially poverty.

Let me suggest four ways in which we can work together to reduce poverty.

First, developing country governments should establish sustainable growth policies and spending priorities for poverty reduction. They must marshall and make efficient use of scarce resources. The World Bank will work with interested nations to formulate and implement the specific programs which will bring the strategy to life. Others must also help.

Second, we should agree on ways to measure better how country policies affect the poor. Good intentions are not enough; objective standards must be built into our efforts to improve the quality of life. Indicators such as child mortality, primary school enrollment, nutrition, real unskilled wages, and real agricultural producer prices could be used to measure progress in reducing poverty.

Third, good performance should be increasingly important in allocation of development assistance. Where recipients do not pursue a broad poverty reduction strategy, assistance should be limited and carefully directed towards the neediest groups. Where countries adopt effective strategies, resource flows should be increased to reinforce their implementation. IDA already gives considerable weight to a country's efforts to reduce poverty, in allocating its scarce concessional funds.

Fourth, the entire international community should be committed to substantial poverty reduction. The UNDP's Human Development Report 1990, the Bank's World Development Report, and the extraordinary Children's Summit this coming weekend in New York are fresh evidence that the international community has common concerns, directions and strategies. We must tap the international reservoir of skills and experience to translate this common concern into action.

Lifting poverty's burden from hundreds of millions of people means new freedom for them—freedom from hunger; freedom from ignorance; freedom from avoidable ill health; freedom to determine their own destinies; freedom to participate in growth and improvement—in short, freedom for a future brighter than the past. Together, we can, and I believe we will, reduce poverty.

SEYMOUR H. KNOX, JR., AN EXTRAORDINARY MAN

HON. BILL PAXON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. PAXON. Mr. Speaker, last week, Buffalo lost a dear friend, a dear friend indeed. At the age of 92, the passing of Seymour H. Knox, Jr., brought to a close a long life of vision, passion, and generosity.

The impact Seymour Knox had on our community is extraordinary. As a banker, an educator and a philanthropist, Mr. Knox left us a legacy that will remain long, long after he is gone.

Mr. Knox served for 27 years as chairman of the Marine Midland Bank. He saw it grow from a small local bank to a global money center—and he built Buffalo's tallest building—an appropriate symbol of his significance in our community.

For 20 years, Mr. Knox served as chairman of the University of Buffalo. He led the university into the State University of New York system, transforming it into an internationally recognized institute of higher education.

But I think he would want to be remembered most for his love of art, a love he graciously shared with all of us. Just as Seymour Knox was more than an ordinary banker, and more than an ordinary educator, he was also more than an ordinary patron of the arts.

The Albright-Knox Art Gallery, which Mr. Knox served over the course of his life as president, chairman, and benefactor, claims one of the most renowned collections of modern art in the world.

It was Seymour Knox who said that, "Art should be acquired to be seen and enjoyed, not to be stored in a warehouse."

That quote eloquently yet modestly summarizes Seymour Knox's sense of civic responsibility. All of Mr. Knox's accomplishments were shared and experienced by the whole community. He never did things solely for his own gratification; he always strove to include others.

Always dedicated to his family, Seymour Knox's legacy will live on in the lives of his two sons, Seymour III and Northrup, coowners of the Buffalo Sabres, and his six grandchildren. As a matter of fact, Seymour Knox V was just born a few months ago.

His extraordinary accomplishments, combined with his extraordinary generosity, has guaranteed a lasting place of prominence for Seymour Knox in the history of Buffalo.

HAITI'S FRAGILE HOPES

HON. BRYON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, the ebb and flow of democratic trends in Haiti has left most of us confused and perplexed. Several disappointing turns have also caused many of my colleagues to wonder whether Haiti can ever build a real democratic government and open society.

These fears would certainly be nourished by a recent article in the Christian Science Monitor, which I would bring to the attention of my colleagues. The author reports that Haiti's precarious experiment with democracy seems headed for the scrap heap. The reported delays in voter registration, the election postponement, the failure to arrest Duvalierists Roger Lafontant and Williams Regala, and conflicts between Interim President Ertha Pascal Trouillot and the Council of State all portend dark days for Haiti.

Yet some friends of Haiti still hold out hope that democratic elections will be held, and that the will of the Haitian people may yet be expressed. I would urge President Bush and Secretary of State Baker to do everything possible to turn that hope into reality. I encourage them to continue their efforts of pressuring the interim government to proceed with fair elections without the threat of violence or harassment. And to that end, they must persist in calling for the arrest or exile of Regala and Lafontant.

The article from the September 26, 1990 Christian Science Monitor follows.

[From the Christian Science Monitor, Sept. 26, 1990]

HAITIAN ELECTIONS LOOK DOUBTFUL

(By Kathie Klarreich)

Haiti's fragile political system appears to be coming apart at the seams, casting doubt on whether elections will be held this year as planned.

An appointed interim president, Ertha Pascal Trouillot, and the 19-member Council of State took office six months ago. Their primary purpose, aside from governing the country temporarily, was to organize free and fair presidential elections.

Since then, voter registration has been postponed twice. Elections have been delayed until December. Crime and killings, widely seen as part of a campaign of intimidation by antidemocratic forces, are on the rise. There were 29 murders in August alone.

Following a furor last month over Mrs. Trouillot's unwillingness to consult with the Council of State, the body severed all ties with the president on Aug. 15 and has since called for her resignation. An alternative government was proposed, but Trouillot has ignored the idea.

"Never in Haitian history has any president had such possibility of doing well," says the Rev. Antoine Adrien, a Roman Catholic priest and negotiator who helped appoint Trouillot and her government. "Trouillot could have been queen, but instead she chose to be the puppet of the Army."

Trouillot quickly lost the confidence of the Haitian people by ruling in the fashion of previous dictators, political observers here say. This style, they contend, includes making autonomous decisions and standing aside while public coffers are pilfered.

The State Council, after announcing it had exhausted negotiations, declared its "right to veto." They accused the government of fraud, nepotism, "incompetence, favoritism, and corruption of the financial management of the state to the detriment of the national economy."

"Anything Trouillot signs is illegal now," says Council President Louis Roy. "She has never once responded to our accusations, but continues to conduct business as normal. She is acting like a dictator, ignoring a situation which is explosive."

Despite this, the Provisional Electoral Council (CEP), which is in charge of organizing the elections, and the State Council agree an election can still take place, if there is the security for it and if efforts are made to improve public confidence by halting the current crime wave.

The Army, headed by Gen. Herard Abraham, is reported to favor elections. Army representatives have met members of the CEP to discuss electoral security. But the Army has done little to shake suspicions it is passive toward, if not involved in, much of the recent violence and crime.

Working with inadequate resources, CEP officials say their organizing efforts were to be budgeted at $1 million a month. The government is required by law to give the CEP a monthly payment, but CEP officials say they have never received any money. Canada last weekend gave $1.2 million to the CEP. The US has indirectly contributed $3.5 million toward elections and $2 million in election equipment.

Despite such obstacles, CEP member Emmanual Ambroise says: "If we didn't think we could change things, we wouldn't be here. We believe the people want elections, and we'll do everything possible to help them. But we won't make the same mistakes we made before." Mr. Ambroise was a member of the CEP that organized the last election, on Nov. 29, 1987, when more than 34 voters were killed at the polls.

Williams Regala, one of the alleged architects of the 1987 massacre, returned to Haiti in July along with former Defense Minister Roger Lafontant. Mr. Lafontant is believed to have been chief of the Tonton Macoutes, former dictator Jean-Claude Duvalier's paramilitary henchmen.

Although there is a warrant out for his arrest, Lafontant has been seen traveling in the countryside with military escorts. He is campaigning for president although the country's Constitution forbids associates of Mr. Duvalier from running for office for 10 years. Former US President Jimmy Carter on Saturday urged Lafontant to abandon presidential ambitions and go into exile.

"The Macoutes don't have popular support," says Victor Benoit, leader of the moderate Konakom Party. "But they can buy people, which could lead to destabilization."

Marc Bazin, leader of the Movement for a Democratic Haiti, wants elections held at any cost. Mr. Bazin, a former World Bank employee, is widely thought to have the backing of the United States government. Some say Bazin has signaled a willingness to overlook the past.

"We do not think justice is going to give us elections," Bazin said at a recent rally. "We think it is elections that are going to give us justice."

There is, however, no clear favorite in the race.

A number of parties are forming coalitions to broaden their popular support. Some Haitians say they are waiting for the situation to become clearer before they commit themselves. Others want to see what happens when registration starts Oct. 5. There is a general desire for change, but not at any cost.

"The candidates are like unmarked bottles," Dr. Roy says. "You don't know if the bottle you pick will be poison or the cure."

FRANCISCAN SISTERS OF ST. JOSEPH CELEBRATE 50TH ANNIVERSARY OF SERVICE TO ST. MARY'S HOSPITAL OF BROOKLYN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a magnificent institution which has rendered compassionate and competent care to the people of Brooklyn for half a century.

On October 4, 1990, St. Mary's Hospital, an affiliate of the Catholic Medical Center of Brooklyn and Queens, Inc., will be celebrating the 50th anniversary of the Franciscan Sisters of St. Joseph's service at St. Mary's.

St. Mary's Hospital, a 270-bed acute care facility located in Bedford-Stuyvesant has been caring for the physical, emotional, and spiritual needs of the citizens of Brooklyn since opening its doors in 1882.

Today, the hospital, staffed by the Franciscan Sisters of St. Joseph of Hamburg, has expanded its facilities to assure service and care to the people of this community. This tradition of compassionate and humble care led the hospital to establish diverse residency programs to serve the total health care needs of the community. These programs include obstetrics, gynecology, medicine, surgery, pediatrics, and pathology. It is through the vision and courage of the Franciscan Sisters that St. Mary's remains a respected institution in the Brooklyn Community.

I commend this wonderful institution for their unwavering devoted service to the people of this community.

FAMILY UNITY IN OUR IMMIGRATION POLICY

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. AuCOIN. Mr. Speaker, we will soon consider H.R. 4300, the Family Unity and Employment Opportunity Immigration Act. As a cosponsor of this legislation I urge my colleagues to vote for passage of this bill which maintains family unity as the cornerstone of our immigration policy.

The act amends section 5 of the Immigration Marriage Fraud Amendments of 1986 to bring the provision into conformity with other provisions of the Immigration and Nationality Act. Current law prohibits the filing or approval of any visa petition that is based on a marriage between an American citizen and his or her alien spouse if the marriage occurs while the alien is subject to deportation or exclusion proceedings, unless the alien spouse resides in the United States for 2 years. In place of the automatic 2-year foreign exile requirement, the H.R. 4300 would impose a statutory presumption of fraud that would prohibit marriages entered into during the pendency of deportation proceedings from constituting the basis for a visa petition unless the Attorney General is satisfied that the marriage is bona fide and not entered into for the purpose of evading the immigration laws.

Section 5 was enacted to insure that aliens who were in the process of being ejected from the country could not escape deportation by entering into a sham marriage with a U.S. citizen. The change in section 5 rendered by this act will in no way diminish the ability of the INS to detect and prevent fraudulent marriages.

What it will do is permit couples whose marriages are bona fied and whom Congress did not intend to punish when it enacted section 5, to demonstrate the validity of their marriage without first being compelled to suffer the hardship and trauma of separation or exile. The deterrent effect and presumption of fraud would be preserved, but the irrebuttable and unwarranted penalty imposed on valid marriages would be removed. I urge my colleagues to maintain this provision of the Family Unity and Employment Opportunity Act.

TAIWAN'S NATIONAL DAY

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. TALLON. Mr. Speaker, with the approach of Taiwan's National Day, its 79th anniversary of independence, on Wednesday, October 10, we have a chance to celebrate the phenomenon that it the modern Republic of China. A great debt is owed Taiwan's leaders past and present, most notably Generalissimo Chiang Kai-shek, President Chiang Ching-kuo, and President Lee Teng-hui. Together these leaders have created a viable democratic polity out of backward and feudalistic beginnings.

To President Lee Teng-hui of the Republic of China and to his representative in Washington, Dr. Cing Mou-shih, we send our congratulations on Taiwan's 79th birthday as we applaud Taiwan's spectacular successes of the last 79 years.

FREE TRADE AGREEMENT WITH MEXICO

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1990

Mr. BRUCE. Mr. Speaker, I am pleased to introduce this concurrent resolution which highlights some concerns present in a potential free trade agreement with Mexico.

This week, President Bush expects to formally notify Congress of his intent to put FTA negotiations with the Mexican Government on a fast track. Let me begin by saying that this resolution does not oppose the formation of such a trade agreement with Mexico. However, it emphasizes that the potential impact of an FTA on the competitiveness of many sectors of our economy needs to be thoroughly assessed before we enter into a landmark trade agreement.

This resolution instructs the U.S. Trade Representative to complete an impact assessment on U.S. industries, while recognizing that the requirements of the Omnibus Trade and Competitiveness Act of 1988, regarding consultations with Congress and the relevant committees in the development of an FTA be strictly observed.

The administration has indicated that, because of our experience gained in negotiating an FTA with Canada, we have the ability to iron out a free trade agreement with Mexico in an even shorter period of time. This sense of euphoria needs to be received with caution. While the Canadian economy is quite similar to our own, the Mexican economy is not as developed.

Currently, United States workers in the manufacturing sector are earning between $5 and $10 per hour along with many nonwage benefits, while Mexican workers are earning between $5 and $10 per day for the similar work. Additionally, United States producers must adhere to increasingly stricter clean air, clean water, and waste disposal regulations while pollution standards in Mexico are weaker than our own and frequently unenforced. These labor and environmental standards in our country, although necessary, exact a cost on United States business which is not paid by our Mexican competitors. For these reasons, I do not believe that we can afford to view a United States-Mexico free trade agreement as an extension of our recently signed FTA with Canada.

Another concern addressed in this resolution is the potential for an FTA to allow Mexico to become a gateway for foreign products into the United States. Our trade negotiators need to devote close attention to domestic content and rule of origin provisions to ensure we are not inviting third parties to take unfair advantage of tariff and nontariff reductions which become part of this bilateral agreement.

If you have concerns about the impact of a United States-Mexico free trade agreement on United States competitiveness, I urge you to join me in supporting this resolution.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 2, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 3

9:30 a.m.
Environment and Public Works
Toxic Substances, Environmental Oversight, Research and Development Subcommittee
To hold hearings to review the Office of Technology Assessment's report, "Neurotoxicity, Identifying and Controlling Poisons of the Nervous System," and to examine related research and regulatory issues.
SD-406

Governmental Affairs
To hold hearings on the Office of Management and Budget's response to the Federal government's management failures.
SD-342

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Wayne L. Berman, of New York, and Craig R. Helsing, of the District of Columbia, each to be an Assistant Secretary of Commerce.
SR-253

Judiciary
To hold hearings to review the proposed United States refugee resettlement admissions program for fiscal year 1991.
SD-226

3:00 p.m.
Foreign Relations
To hold hearings on the nominations of Linton F. Brooks, of Virginia, for the rank of Ambassador as Deputy Head of Delegation to the Nuclear and Space Talks, Juliette C. McLennan, of the District of Columbia, for the rank of Ambassador as U.S. Representative on the Commission on the Status of Women of the Economic and Social Council of the United Nations, Paul J. Dobriansky, of Virginia, to be Associate Director for Programs, United States Information Agency, and Robert A. Flaten, of Minnesota, to be Ambassador to the Republic of Rwanda.
SD-419

OCTOBER 4

9:00 a.m.
Environment and Public Works
Business meeting, to consider pending calendar business.
SD-406

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on whistleblower problems in the Federal Grain Inspection Service, Department of Agriculture.
SR-428A

Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 2822, to promote and strengthen aviation security.
SR-253

Governmental Affairs
To continue hearings on the Office of Management and Budget's response to the Federal government's management failures.
SD-342

10:00 a.m.
Foreign Relations
To hold hearings on proposed arms sales to Saudi Arabia.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Armed Services
To hold hearings on implications of the Treaty on the Final Settlement With Respect to Germany (Treaty Doc. 101-20) for NATO strategy and U.S. military presence in Europe.
SR-222

OCTOBER 5

9:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine alleged fraud, waste and abuse in Federal student loan programs, focusing on activities of the Culinary School of Washington.
SD-342

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment situation for September.
2359 Rayburn Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Mary S. Brunette, of Virginia, to be an Assistant Secretary of Housing and Urban Development.
SD-538

Foreign Relations
To hold hearings on the nomination of Ryan C. Crocker, of Washington, to be Ambassador to the Republic of Lebanon.
SD-419

2:00 p.m.
Judiciary
To hold hearings on the nominations of Thomas G. Nelson, of Idaho, to be United States Circuit Judge for the Ninth Circuit, Joseph M. McLaughlin, of New York, to be United States Circuit Judge for the Second Circuit, Donna M. Owens, of Ohio, to be Director of the Bureau of Justice Assistance, Department of Justice, Diane G. Weinstein, of the District of Columbia, to be a Judge of the United States Claims Court, and James B. Loken, of Minnesota, to be United States Circuit Judge for the Eighth Circuit.
SD-226

OCTOBER 9

9:30 a.m.
Governmental Affairs
To hold hearings to examine proliferation in the 1990's.
SD-342

OCTOBER 10

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to review the sale of Semi-Gas Company, focusing on antitrust issues and the Committee on Foreign Investment's views.
SR-253

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine alleged fraud, waste and abuse in Federal student loan programs.
SD-342

OCTOBER 11

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study to examine the bleaching of Atlantic tropical coral caused by the coral releasing algae and the resulting deterioration of the species.
SR-253

FEBRUARY 26

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.
345 Cannon Building

FEBRUARY 28

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Blinded Veterans Association, Vietnam Veterans of America, Military Order of the Purple Heart, and Non-Commissioned Officers Association.
345 Cannon Building

APRIL 17

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of AMVETS, Ex-Prisoners of War, Jewish War Veterans, and World War I Veterans.
345 Cannon Building

SENATE—*Tuesday, October 2, 1990*

(Legislative day of Monday, September 10, 1990)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

The PRESIDING OFFICER. Today's prayer will be offered by a guest chaplain, the Reverend Dr. Donald M. Meisel, Westminster Presbyterian Church, Minneapolis, MN.

PRAYER

The guest chaplain, the Reverend Dr. Donald M. Meisel, senior minister, of the Westminster Presbyterian Church, Minneapolis, MN, offered the following prayer:

Let us pray:

Dear Lord of All, by Your design our lives are a succession of single days. One day we were born. One day we shall take our leave of this planet. All we have for certain is the given day—this day. May we live it well.

May we be sensitive today to those who have preceded us here, who gave their all to the succession of their days—by virtue of which we are much the wiser and profoundly indebted.

May we be sensitive today to those for whom this day is fraught with pain and confusion and uncertainty and want. Wherein it is in our power to fashion a better tomorrow for them, let that be our first order of business.

May we be sensitive today, Lord, to those who have yet to see the light of day. May the world they enter be a better rather than a lesser place because of the decisions made here.

May we be sensitive today to the lingering, persistent shadow of the threat of war. May something as positive as the invasion of Kuwait was negative be added to the mix leading to a better hope for tomorrow for millions of people.

Lord, the men and women in this room are ordinary people with extraordinary responsibilities.

May the day, by Your grace, find them equal to the possibilities that exist.

And may they have some joy in reaching for them.

In the strength of Your name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 2, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning following the time for the two leaders, there will be a period for morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each. During the period for morning business, Senator BIDEN will be recognized for up to 15 minutes.

At 10:30 this morning, it is my intention to seek consent to proceed to Calendar No. 819, S. 3037, the Money Laundering bill. Should consent not be granted, it is my intention to move to proceed to the bill.

The Senate will recess from 12:30 to 2:15 p.m. for the party conferences. Upon reconvening at 2:15 today, there will be a rollcall vote on final passage of Senate Concurrent Resolution 147, regarding the Persian Gulf situation. Once that vote is concluded, the Senate will go into executive session to begin consideration of the nomination of David Souter to be an Associate Justice of the U.S. Supreme Court.

CONGRATULATIONS TO FORMER SENATOR HUGH SCOTT ON HIS 90TH BIRTHDAY

Mr. MITCHELL. Mr. President, on behalf of Senator DOLE and myself, Mr. HEINZ, and Mr. SPECTER, I send a resolution to the desk congratulating former Senator Hugh Scott on his 90th birthday, and I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 331) to congratulate Senator Hugh Scott on his 90th birthday.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 331) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 331

Whereas Senator Hugh Scott of Pennsylvania, was the Senate Republican leader for eight years, and

Whereas Senator Scott was the Senate Assistant Republican Leader for two years, and

Whereas Senator Scott was Chairman of the Republican National Committee 1948-49, and

Whereas Senator Scott was a Member of Congress for 33 years, including eight terms in the House of Representatives and three terms in the Senate, and

Whereas Senator Scott voluntarily retired at the end of his term in January 1977, and

Whereas Senator Scott served his country in the United States Naval Reserve in World War II, and saw duty aboard the carrier *Valley Forge* during the Korean War: now, therefore, be it

Resolved, That the Senate extends its best wishes to Senator Hugh Scott on his 90th birthday, November 11, 1990.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE RESOLUTION ON THE GULF CRISIS

Mr. MITCHELL. Mr. President, today the Senate will have an opportunity to express itself on the Persian Gulf crisis. The resolution upon which

we will vote expresses support for the President in this difficult and dangerous time in the Persian Gulf.

It commends the President for steering the U.N. Security Council toward its strong condemnation of Iraq's unprovoked aggression against Kuwait.

It expresses Congress' approval of the actions taken to date in support of the goals outlined by the U.N. Security Council.

It supports continued American action in accordance with U.N. Security Council decisions and in accordance with our constitutional and statutory processes.

Finally, it calls upon other nations to strengthen enforcement of U.N. sanctions against Iraq and to provide assistance to States adversely affected by sanctions or harboring refugees from the crisis.

That is what the resolution is. Let me now state what I believe the resolution is not.

This resolution is not an authorization for the use of force, now or in the future.

Nor does this resolution represent approval of all future actions taken by the President in the gulf.

This resolution is not a blank check. This resolution is not a Gulf of Tonkin resolution.

Congress cannot responsibly provide such approval in advance. Nor should Congress attempt to do so.

Future actions must be judged on their own merits, in view of the circumstances at the time.

Moreover, constitutional and statutory processes govern the process for making decisions that might lead to war or for formally declaring war.

The War Powers Resolution requires the President to consult with and formally report to the Congress when U.S. Armed Forces are introduced into situations where imminent involvement in hostilities is clearly indicated by the circumstances.

The Constitution makes plain that only Congress can provide a declaration of war.

The President of the United States has no legal authority, none whatsoever, to commit the United States to war.

So the Senate, then, will be involved in future grave decisions should the crisis expand and the shadow of war approach.

I fully expect that the President will follow America's constitutional and statutory procedures for involving Congress in the weighty decisions that might lead to war.

No one of us wants war in the Persian Gulf.

I believe the President has acted wisely in leading the U.N. Security Council toward the strong stance that it has adopted. It is critically important to maintain the unity of the international community in confronting Iraq's belligerence.

I hope that the current course of international economic and diplomatic sanctions will convince Saddam Hussein of the futility of his aggression and demonstrate the power of unity within the United Nations.

I am pleased that this body can express its support for the President's actions in this regard.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all of the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

THE 1990 OCTOBER QUARTERLY REPORTS

The mailing and filing date of the October quarterly report required by the Federal Election Campaign Act, as amended, is Monday, October 15, 1990. All principal campaign committees supporting Senate candidates in the 1990 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116. You may wish to advise your campaign committee personnel of this requirement.

The Public Records Office will be open from 8 a.m. until 9 p.m. on Monday, October 15, to receive these filings. In general, reports will be available 24 hours after receipt. For further information, please do not hesitate to contact the Office of Public Records on (202) 224-0322.

Mr. COHEN. Mr. President, may I inquire of the majority leader, would there be any objection to extending the morning hour until 10:35? I know the Senator from Minnesota wants to express some words about the message that was delivered this morning from a minister from his State. Senator BIDEN has 15 minutes, which will take until 10:30, and I would like to make a few comments on the resolution if that will be possible.

Mr. MITCHELL. Mr. President, I am pleased to accommodate the request and, indeed, since there may be other Senators who wish to speak, I will now ask unanimous consent that the period for morning business be extended until 11 a.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE RESOLUTION ON THE GULF CRISIS

Mr. DURENBERGER. Mr. President, I am looking forward to the comments of my colleague from Maine on the subject that the majority leader raised. I know my colleague from Maine is going to talk about the War Powers Act, and it is most appropriate, particularly given his understanding and his respect on this issue. I hope that all of us will be cognizant of what our colleague has to say.

THE GUEST CHAPLAIN

Mr. DURENBERGER. Mr. President, this morning it is for me a personal honor and a pleasure to have the Senate session begin with a prayer from my friend Pastor Don Meisel, of Westminster Presbyterian Church of Minneapolis.

I say to my friend Don Meisel that, while there are not many Members on the floor, his inspirational words have gone out throughout the Senate and to a national CNN audience this morning and it actually reaches millions of people via the CONGRESSIONAL RECORD. I am not sure whether that makes him a television preacher or not, but as a very close friend for the last 19 years, I appreciate not only his words but the act of his being here.

I say to my colleagues and to those who are concerned about the chaplain for the day that Don Meisel has been an especially good servant in the highest sense of that word. I can only speak to his service to the people of the Twin Cities for the last two decades. He was born in St. Paul, graduated from Macalester College in St. Paul and was educated at Princeton Seminary and Edinburgh, Scotland, like so many good Presbyterian ministers are.

I came to know Don and his wife Ellie and their family 19 years ago when we moved in almost next door to them in south Minneapolis. He and Ellie are two of the most unique people I have ever met in their relationship, their love for the Lord, and their love for other people; 37 years of a beautiful marriage; four children, Donny, Nancy, Wayne, and Tim, who happens to be an especially close friend of my son David. They have two grandchildren, Robin and Maura, and the grandchildren are a constant source of sermon illustrations for the 3,000 members of Westminster Church.

Pastor Meisel and his congregation of 18 years provide a special service to the downtown community in Minneapolis and also to a much larger community now through the Westminster

town hall forums. And I dare say there are a number of our colleagues, present and past, who have been asked to participate in these very special forums. For 10 years Pastor Meisel and that congregation have brought in outstanding artists, authors, poets, social commentators, and other thoughtful people to provide intellectual stimulation and informed dialog. These forums now are known throughout the region and are broadcast by American public radio.

The people of Minnesota are proud of their serious approach to public issues and ideas. Today we have been blessed not only in the prayer but in the person of Pastor Meisel and, through him, the people of Westminster, who have provided us all the valuable opportunity to learn more about ourselves in the world for which we are responsible.

This opportunity to lead the world's greatest deliberate body in prayer is a fitting tribute to Don Meisel's life, to his family, and to his years of service to the people of Minnesota and elsewhere.

Mr. President, I yield the floor.

THE RESOLUTION ON THE GULF CRISIS

Mr. COHEN. Mr. President, I rise today in support of Senate Concurrent Resolution 147, which expresses support for the President's actions in response to Iraq's invasion of Kuwait. I believe that the President has shown strength and wisdom by pursuing a policy toward Iraq that emphasizes international cooperation and makes clear that Iraq's unprovoked aggression against Kuwait is completely unacceptable. If the President had not reacted in the firm and effective manner that he was, we would be risking the extortion of the civilized world by a ruthless tyrant bent on regional conquest.

In fact, if Saddam Hussein's character appeared in a novel, it might appear to be implausible on the grounds that no human could be so unambiguously evil. Yet it is a matter of record that he has engaged in the use of chemical weapons and of torture against his own people; that he has personally executed opponents; that he has twice launched unprovoked attacks on his neighbors; and that he has bankrupted a country with immense oil reserves through his obsessive efforts to expand his arsenal of weapons of mass destruction and long-range delivery systems. For his neighbors and his opponents, Saddam Hussein has been not only a nightmare but a daymare for many years, but his most recent act of aggression poses a threat that extends well beyond the Middle East. I believe that the entire civilized world has a compelling interest in enforcing international sanctions against Iraq, and I commend the President and the administration for working so skillfully through the United Nations to fashion the broad alliance that now confronts Saddam Hussein.

I also wish to associate myself with the words spoken just a few movements ago by my colleague from Maine, the majority leader, Senator MITCHELL, about what is not in Senate Concurrent Resolution 147. I agree with his interpretation that this does not provide any sort of a legislative record that would give a blank check to President Bush to conduct a war without consulting Congress, indeed without resorting to us for a declaration of war.

I am also rising to express my dissatisfaction with this resolution. I am dissatisfied with the role that has been relegated to Congress in determining our policy toward Iraq. We are left with essentially two options, either to declare war or allow the President to wage war and then just ask Congress to pay the bills. This is simply unacceptable.

The resolution that we are voting on later today is useful in that it will express support for our President and his policies to date. But it is not a resolution pursuant to or even consistent with the War Powers Resolution. We are operating today on the false premise that our troops in the Persian Gulf, facing over 400,000 Iraqi forces in and around Kuwait, are not in imminent danger. I simply do not accept that.

Last week, in the Senate Armed Services Committee, we authorized imminent danger pay for U.S. forces participating in Operation Desert Shield. We did that, I believe, not only because duty in the Persian Gulf is difficult and dangerous, because on that basis we would have had to authorize imminent danger pay for forces in many parts of the globe. We took that action, which I believe the Senate is going to follow and support, because we know that in this instance the potential for war could easily turn upon a small misadventure or miscalculation. We know that Saddam Hussein has weapons of mass destruction, and a vast army, and has demonstrated a will to use them. And he has been absolutely unrepetent and uncompromising regarding his invasion of Kuwait. He has abducted—perhaps even murdered—hundreds if not thousands of individuals in Kuwait. He continues to make bellicose statements regarding the United States and our allies in the region. So I think that the risk of armed conflict remains high and that our troops that in fact in a situation of involving imminent hostilities. In that regard, commenting on this situation, Secretary of Defense Cheney warned last week that Saddam Hussein, "may seek to use military force to break the stranglehold that the embargo has imposed." He also referred to the U.S. commitment in the Persian Gulf as "open-ended."

It seems to me that this extraordinary commitment of U.S. forces to the Persian Gulf, which clearly has the potential to involve the United States in hostilities, is precisely the sort of situation envisioned when the War Powers Resolution was enacted. If it was not intended to bar "open ended commitments and force Congress to either specifically authorize or negate deployments that might involve the United States in a war, then I wonder what was the War Powers Resolution intended to do? And I wonder, how can we, who enact the Nation's laws, subsequently disregard them without undermining respect for the rule of law itself?

At the same time, I could not agree more with those who maintain that the War Powers Resolution has not worked as we hoped it might and it was intended to. The debates that we had during consideration of the Persian Gulf reflagging operation a couple of years ago demonstrated the many problems inherent in current law. But if the law is flawed, as most would agree that it is, then we have an obligation to change it rather than ignore it. Certainly we should repeal it if not change it.

I believe that Congress and the executive branch both need to participate in decisions that could lead to war. That was clearly the intent of our Founding Fathers, who wisely sought to ensure that we have unity at home before we risk conflict abroad. The power to declare war, which our Constitution invests in the legislative branch, is an important safeguard against impetuous presidential action that must be preserved. The existence of nuclear weapons in the arsenals of the superpowers in my view makes that safeguard not irrelevant, but more important than ever, since any overseas involvement contains the potential for escalation. And for those more limited engagements that predominate in the world today, it is necessary for Congress and the President to stand united in order to be effective and minimize the risks to our men and women in uniform.

That is why, Mr. President, I joined with a number of my distinguished colleagues, including Senators BYRD, MITCHELL, NUNN, WARNER, BOREN, and DANFORTH, in introducing a bill, S. 2, to remedy the problems inherent in current law. The measure we have introduced would establish what we hope will be an effective process for consultation between the Presidency and Congress, as well as an effective and clearly constitutional mechanism for Congress to circumscribe U.S. involvement overseas if necessary.

As envisioned in this legislation, the consultative process would involve regular meetings between key congressional leaders and the President, together with his leading advisers. Members of the permanent consultative group would include the leadership of the House and Senate, as well as the chairman and ranking minority members of the Foreign Relations, Armed Services, and Intelligence Committees of both Houses of Congress. In extraordinary cases involving vital U.S. security interests, the President could limit these meetings to the leadership of the House and Senate. It is also important to point out that this legislation preserves the provisions in existing law which require the President to provide written reports to Congress regarding the commitment of U.S. forces to situations involving imminent hostilities, as well as the separate statutory requirements that covert actions be reported to the two Intelligence Committees.

In my view, this approach makes more sense than the one currently in place but bilaterally ignored today. If these consultations succeed in building a consensus, it will ensure either that the United States does not commit forces to situations involving hostilities, or that such forces are committed with the support both of Congress and the President. That is the ideal we should strive toward—discussing and I hope resolving contentious foreign policy issues before we commit our military to situations with the potential for conflict or escalation. That is the optimal approach both from the standpoint of effectiveness and of fairness to our military personnel.

Of course, it may not always be possible to achieve a consensus between the executive and legislative branches, and this legislation provides for that contingency by establishing a flexible and clearly constitutional mechanism for Congress to express itself on issues involving the use of force. By a majority vote of its members, the chairman and vice chairman of the congressional consultative group would be able to introduce a resolution that would be considered under expedited procedures. This resolution might require the President to submit a report. It might withhold funding for a military operation, or specifically authorize such as operation, or place limits on such an operation. It is completely flexible. But it ensures that Congress will have the opportunity to express itself regarding policies that could lead to war. This process would substitute for the current procedure under which U.S. forces must automatically be withdrawn from the area of conflict after 90 days without specific congressional authorization for their continued involvement in hostilities.

It is true, of course, that the President could veto this resolution. But even if his veto is sustained, it will at least be clear that money may not be available in the following budget cycle to continue an operation opposed by a majority in Congress. And unlike the present system, which is tough in theory but weak in practice, this procedure will undoubtedly be constitutional and enforceable. Finally, by setting a high standard, this legislation will mitigate against congressional micromanagment of U.S. foreign policy. In short, I believe this approach makes more sense than the current arbitrary 90-day deadline after which U.S. forces must automatically be withdrawn in the absence of specific congressional authorization.

Mr. President, we cannot guarantee that this approach will be effective, but it has become clear that a new approach is needed. At the present time, we have a ticking bomb lodged in our constitutional system that could explode if tensions increase and support for the President's policies in the Persian Gulf decline in the months ahead. By failing either to comply with the War Powers Resolution or to change it, I fear that we are not resolving this important issue but only delaying it to our disadvantage. If S. 2 is enacted, I believe we can defuse this bomb, sparing our country needless divisions and controversy and increasing the effectiveness of our foreign policy.

In sum, Mr. President, while I support the President's policies, I am very troubled by the predicament we find ourselves in today. I have indicated before that I think the President would serve his own decision and America's cause well by complying with the provisions of the War Powers Act and asking for an explicit vote to authorize Operation Desert Shield as called for by the War Powers Resolution. Unfortunately, the resolution we will be voting on this afternoon is crafted in such a fashion that it does not provide such an authorization. I strongly hope that the administration does not conclude that we as a body do not seek to bear our fair share of the weighty burden involved in decisions that could lead to conflict. I believe that it would be extremely unfortunate if the administration or the American people believed that we are abdicating our legal and constitutional responsibilities.

Mr. President, I believe that this is a matter of great importance, and I hope that in light of the current situation in the Persian Gulf my colleages on both sides of the aisle will give S. 2 careful consideration and support efforts to ensure that it is considered at the earliest opportunity. We need to repair the War Powers Act rather than meekly surrender congressional power to the executive branch. In the meantime, however, I believe that the administration and Congress should comply with the law as written.

I also am advised that the Senator from Delaware [Mr. BIDEN] may offer another statutory approach to this particular issue on war powers. I have not had an opportunity to review it, but I certainly will give it careful consideration.

The final message is that we should enforce compliance, insist on compliance with the War Powers Act as written. If we do not do that, we ought either to modify it or nullify it.

Mr. President, I yield the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 147—NO BLANK CHECK

Mr. SIMON. Mr. President, we have and will be voting this afternoon on Resolution 147 regarding the President's action in Kuwait. I think the President has handled it very, very well up to this point and that portion of the resolution which supports what the President has done up to this point I think is excellent.

There is one phrase in here that disturbs me, and I do not know what we can do about it. I understand it would take unanimous consent to modify anything in this resolution and I assume that unanimous consent would be difficult to achieve. But when it says, "the Congress supports continued action by the President," I do not know what that means. And if that is a blank check, I do not want to sign it.

Again, I think what the President has done up to this point has been good. I think the President has handled this exceedingly well. Oh, we might differ on some minor points, any one of us, but I think on balance it has been exceedingly well handled. But no President, no Secretary of State, no Secretary of Defense, should in any way misunderstand what we are doing here. We should not hand a blank check to the President.

When it says in this resolution, "the Congress supports continued action by the President," I do not know what that means. I am concerned about that phrase, and I hope as we enter into debate on this, between now and 2:15 when we vote, there will be some attention to this. My own preference would be that that particular phrase be dropped.

I see two of my colleagues who have been very active in this whole field,

one of whom has been a leader in supporting international law, my colleague from New York, Senator MOYNIHAN, is here.

I am concerned by the words, "the Congress supports continued action by the President." I would like to see that modified and I hope maybe we could get unanimous consent to have that modified.

Everything else in the resolution is fine. The President has handled this exceedingly well. The United Nations has worked as it should work. But for this Senate to pass a resolution that says among other things, "the Congress supports continued action by the President," that concerns me. I do not know what that means. I do not want to give any blank checks to any President, any administration. That is my concern.

The ACTING PRESIDENT pro tempore. The chair recognizes the Senator from California [Mr. CRANSTON].

PATIENCE

Mr. CRANSTON. Mr. President, I urge President Bush to resist the pressures of propaganda and pursue a policy of patience for peace. We should not be pushed into military action by stories of Iraqi atrocities in Kuwait. There probably never was a war in the history of the world in which atrocities were not committed against civilians. That is one of the reasons why war is so terrible and why we should do our utmost to avoid war.

I have seen estimates that American casualties could climb to 30,000 or more if an intensive ground tank war was to break out over the Iraq situation. I feel absolutely certain that, given the choice between 30,000 American casualties or sweating it out until the embargo and the blockade work, Americans would be almost unanimous in urging sweat it out.

I want to respond to the President's reported statement that the plundering of Kuwait may reduce the time we have to allow the embargo to work. I say patience for peace should be America's watchword.

President Bush sent our troops to Saudi Arabia to deter further Iraqi aggression and to prevent a power-hungry dictator from dominating oil supplies vital to the world. But we should not send millions of Americans into a bloody and destructive shooting war, simply because we are repelled by Iraqi atrocities. We cannot, unfortunately, correct all the evils of the world.

I was on a trip in the Middle East recently with other Senators. It was a delegation headed by Senator PELL. Of all the Arab leaders we spoke to, President Mubarak of Egypt was the most optimistic that the embargo could get Iraqi President Saddam Hussein to withdraw from Kuwait. But even President Mubarak talked in terms of months, not days or weeks.

I feel very strongly that the United States should not initiate military action agains Iraq without careful, cautious forethought and without the approval of Congress and without the approval of the United Nations. Going it alone would alienate our friends in and out of the Arab world and destroy whatever good we have accomplished so far. If we get into a war, win or lose, Saddam Hussein could be transformed into a hero in Arab eyes for taking on the U.S. military Goliath.

Mr. President, I support the pending resolution with the very clear understanding that it does not approve any military actions against Iraq without the approval first of Congress and the United Nations.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from New York [Mr. MOYNIHAN].

PERSIAN GULF RESOLUTION

Mr. MOYNIHAN. Mr. President, I rise to say I am in complete agreement with the Senator from California. He and I have spoken about this on the floor now for several weeks, as have the Senator from Illinois and the Senator from Maine. Our resolution says that—

> The Congress supports continued action by the President in accordance with the decisions of the United Nations Security Council, and in accordance with the United States constitutional and statutory processes, including the authorization and appropriation of funds by Congress to deter Iraqi aggression and to protect American lives and vital interests.

I want to speak in a moment about the President's speech yesterday that he addressed to the U.N. General Assembly, which I found very positive. I want to congratulate him for that speech.

It also came as a relief because, very simply, Mr. President, all this weekend a transparently orchestrated series of statements came from what can only be described as "the war party" within the administration. It does not take a great deal of textual analysis to spot 15 people from the Pentagon briefing reporters from the New York Times, Washington Post, and Newsday, and we can just go down the list of national periodicals.

I will give my colleagues an example. On Sunday a New York Times report said: "Kuwaitis Say U.S. Doubts Embargo Will Get Iraq Out." The article said:

> For at least a week, the administration has been giving a bleak prognosis in private discussions with congressional leaders and diplomats.

Then the Washington Post had a story which reported:

> After 8 weeks, the administration remains highly uncertain whether the Persian Gulf crisis will be resolved peaceably or lead to war.

Mr. SIMON. Will my colleague yield?

Mr. MOYNIHAN. I will be happy to yield.

Mr. SIMON. What he is saying is the very thing that concerns me. As my colleagues read this resolution, when we say, though it is qualified, by U.N. action and the U.S. constitutional processes, when we read that, and we read this resolution that says the Congress supports continued action by the President, is this resolution—and I know that my distinguished colleague from New York is a cosponsor of it—but does this in any way give a blank check to the President?

Mr. MOYNIHAN. I will respond to my able, learned, and determined friend, no, it does not.

Mr. SIMON. I thank the Senator.

Mr. MOYNIHAN. And I want to say to those people who are giving these stories, no, it does not give a blank check. One official, we learned from the Washington Post, says: "Bush is preparing the country for possible military action." On Saturday, we were told President Bush had given a "pessimistic assessment of the chances for a peaceful solution."

Another story began with this sentence:

> Iraq will have to be ousted from Kuwait by military action because diplomatic efforts and trade sanctions are likely to have little impact in Iraqi President Saddam Hussein, U.S. Government analysts concluded recently.

Finally, on that point, Mr. President, Michael Kramer, writing in Time, began an article with the sentence: "War by Christmas or perhaps sooner." He says:

> U.S. officials openly discuss the use of tactical nuclear weapons against Iraq.

And then this sentence, a concluding sentence as I recall the article:

> A Bush adviser who countenances tactical nuclear weapons, as easily as the Arab official, says their use has yet to be discussed seriously because everyone is confident that a war against Iraq will resemble a turkey shoot.

That strikes me as the kind of talk that comes from someone who has never been in one of them there turkey shoots, unlike the distinguished Presiding Officer.

And so, Mr. President, I would like to turn, if I may, to the President's address yesterday. I ask unanimous consent for 5 additional minutes.

The ACTING PRESIDENT pro tempore. The Senator's time of 5 minutes has expired. There is no one else seeking the floor. The Senator may extend his time as he may need.

THE PRESIDENT'S SPEECH TO THE UNITED NATIONS

Mr. MOYNIHAN. President Bush's speech yesterday could not have been more consonant with the concurrent resolution which we will be voting on at 2:15. It was described as the most detailed elaboration of his policy in the gulf that he has yet given, and he gave it in an appropriate setting—the United Nations—which has been the locus of the policy we have pursued.

I have several times made the point that under article 25 of the U.N. Charter, member nations are bound to comply with U.N. Security Council resolutions. The charter is a treaty. The treaty is the supreme law of the land. The President need not, in the first instance, explain why he is complying with a Security Council resolution. He needs to, of course, properly explain why our representative on the Council supported the resolution with which we are complying.

He said yesterday:

We're hopeful that the machinery of the United Nations will no longer be frozen by the divisions of the cold war.

He asked:

Can we work together in a new partnership of nations? Can the collective strength of the world community expressed by the United Nations unite to deter and defeat aggression?

And then he said in a nice sentence:

Because the cold war's battle of ideas is not the last epic battle of this century.

He went on to talk about the rule of law. He said:

Let me take this opportunity to make the policy of my Government clear. The United States supports the use of sanctions to compel Iraq's leaders to withdraw immediately and without condition from Kuwait. We also support the provision of medicine and food for humanitarian purposes, so long as distribution can be monitored.

He said:

Our quarrel is not with the people of Iraq. We do not wish them to suffer. The world's quarrel is with the dictator who ordered the invasion.

That is an important statement. We have not yet heard from the President whether food will be part of the embargo. The term "humanitarian purposes" does not quite tell us all we need to know about whether we are going to feed people or not, or allow them to be fed.

He said:

Let me also emphasize that all of us here at the U.N. hope that military force will never be used. We seek a peaceful outcome and a diplomatic outcome.

Mr. President, when we talk in these terms we are not speaking as people who would never contemplate the use of force. More important, we need to recognize that economic sanctions are a use of coercion, and they are not any prettier to contemplate than military action.

We are going to find out whether such sanctions can work. It may be they cannot. They never did under the League. They have not really been effective under the United Nations. Here is the chance. The cold war is over. The Soviet Union, United States, all the permanent members, all the countries of the world—Cuba and Yeman excepted—are united.

The President speaks of a new partnership of nations that transcends the cold war, a partnership based on consultation, cooperation, and collective action, especially through international and regional organizations united by principle and the rule of law, a partnership whose goals are to increase democracy, increase prosperity, increase peace, and reduce arms.

That is not a man talking about a turkey shoot. He should shut those people up. He is Commander in Chief. They are not. They have no business committing the United States to any kind of war until the President has determined it has to be done, goes to the Security Council and comes to the Congress, as the Senator from California said. We support his actions. I think all of us do. He has taken a position of acting through the United Nations. It is not because we are caught up in what my good friend and fellow New Yorker, Henry Kissinger, spoke of over the weekend: the heady glow of internationalism. No, not the heady glow of internationalism. We know exactly what the chances are this will work. They are not that great. But, oh, my God, if it did, would that not be an event in the history of the world, not just another election or anything like that.

The President in my view said the right thing, just as many of his advisers were speaking very differently. I hope it was not a deliberate two-track approach. I think everybody on this floor and the Presiding Officer will know it is not the first time a nice President has said one thing and a bad adviser another. I hope that is not the case. I think the President spoke his true intentions. What he said is so consistent with how he has so far conducted himself that I see no grounds for questioning him.

The Senate will empahsize in this resolution, that we will support what he does through the Security Council and he should consult with the Congress before going to the Security Council on matters so very large import. But there is no blank check. There is no statement to do whatever you want, such as the military steps "informed sources" have been discussing over the weekend. That is not the case.

Mr. CRANSTON. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the distinguished ranking deputy Democratic leader of the Senate.

Mr. CRANSTON. I thank the Senator from New York for his leadership on this virtually important issue. Several of our colleagues have expressed concern about the pending resolution, fearing that it might turn out to be another Gulf of Tonkin resolution that would be interpreted as a blank check.

Does the Senator feel that it has been written strongly enough in expression by him and others on the floor, including myself, to make plain it is not another Gulf of Tonkin resolution?

Mr. MOYNIHAN. I say to my friend that, as he knows, this specific subject came up as we discussed, in our various meetings, what kind of resolution we wanted. This is not a Gulf of Tonkin resolution. It is a resolution that says we have to act in the world. We have principles. We have a U.N. system, and the U.N. system seems to be working, and we will work through the United Nations. That was the great agony of Vietnam, that we were so much and so singularly alone out there. But we are not withdrawing from the world, and we do not think this is a kinder, gentler world that will be nice if we just say nice things. Economic sanctions are not nice things. And things could go beyond economic sanctions. We know that. But we are saying that the President has been acting within the U.N. system and we urge him to continue to do. He said yesterday he will. I do not see why there should be any reason for any ambiguity. There is none in the mind of this Senator. I think there is none in the mind of the Senator from California.

I see the Senator from Maine has risen. Knowing the respect he is held within the Chamber, I would be interested to hear what he says, and also the Senator from Washington.

Mr. CRANSTON. I have another question I want to address to the Senator, but I will wait until the Senator from Maine has had his chance.

Mr. MOYNIHAN. Perhaps the Senator will do it now.

Mr. CRANSTON. It is on a related matter but a little bit separate. The Senator and I agree, and I know others do, that this is not a Gulf of Tonkin resolution, which was interpreted by the President as a blank check to take action that turned out to be military in nature.

There is another question that has arisen over the President's speech of yesterday, and I gather the Senator from New York has had more time to study that speech than I, plus subsequent clarifying statements from the President. But there was some concern after his speech, that he might be suggesting following the Mitterrand line

of some overall negotiations tied to a retreat of Saddam Hussein from Kuwait after he was satisfied that certain things would follow that he would like thereafter, particularly relating to an overall settlement of the Palestinian issue and the problems between the Arab world and Israel. I have not seen it. I gather the President afterwards said he did not suggest any such thing, that there is going to be no discussion of anything with Saddam Hussein until he is out of Kuwait and back to Baghdad. Is that the Senator's understanding of what transpired?

Mr. MOYNIHAN. That is exactly how I would read the speech. He said that we are not going to accept the grim nightmare of anarchy in which the law of the jungle supplants the law of nations. The law of nations says Suddam Hussein must get out of Kuwait.

Mr. CRANSTON. I thank the Senator. That clarifies one point.

Mr. ADAMS. Will the Senator yield for a question?

Mr. MOYNIHAN. I guess the Senator from Maine was first. I am happy to yield.

Mr. COHEN. Will the Senator yield for a question of the Senator from New York?

The Senator from New York, as I understand it, sees this resolution merely as endorsing the actions the President has taken pursuant to various U.N. resolutions.

Mr. MOYNIHAN. That is correct.

Mr. COHEN. It should be made very clear that the President of the United States does not recognize that Congress has any constitutional authority, short of declaring war or appropriating dollars, in this entire process. The President has stated, for example, that he would welcome an expression of support initiated by the Congress but not initiated pursuant to the War Powers Resolution. In other words, the President invites Congress to say it supports his action as it is currently being carried out, but President Bush does not recognize Congress as having any role to play short of a declaration of war. And, of course, there has been no declaration of war since World War II. There were none for Korea, Vietnam, Grenada, or Panama.

So we have the unique situation today in which Congress is left in limbo—either we have the power to declare war, which has not been done for well over 40 years, or we can simply appropriate the dollars necessary to pay the bill for deploying troops to an area which the administration does not recognize as involving imminent hostilities. So we are in somewhat of a no man's land.

I think it is imperative that we move to correct the situation so we do not have this President or some other President point to a resolution of support recognizing his inherent authority to commit 100,000-plus troops to a region that everyone recognizes involves imminent hostilities.

Mr. MOYNIHAN. I must respond tentatively, because I do not have any greater insight than the Senator from Maine as to how exactly we should proceed. I do know one thing: We better be asking the kind of question the Senator from Maine just asked. I do believe—and I do not know if anyone in the Chamber shares this view—that we are in a new region of international behavior. The framers of the Constitution, a 19th century document, had no experience and very little, if any, anticipation of any formal organization of nations. They divided the powers of international affairs deliberately and ambiguously. I am not surprised to find us not quite sure who is responsible for what. It was an invitation to this kind of discussion.

A. U.N. action takes place in a different era, an age where there is a world organization, the second of its kind and one that was designed to try to prevent the failures of the first; where the nations have given an organization, the Security Council, with five permanent members, the power to take action, including military action.

It was specifically contemplated by the United States and by this Congress in the United Nations Participation Act of 1945 that the President would negotiate an agreement with the Security Council that would make forces available to it—let it have on call, shall we say, the 82d Airborne Division—which the Security Council could commit to battle.

Such a commitment of U.N. forces would have to be with the unanimous agreement of the permanent members. Therefore our President would have to agree. Our U.N. Ambassador would have to agree. It is a terrifying thought because I once served in that position.

Congress said that the agreement between the United States and the Security Council would have to be approved by us. No agreement was ever reached. It took 5 years' negotiation.

But the President ought to be thinking, as we ought to be thinking, "All right, if we are acting in this new context, what forms of consultation do we need?"

We are not going to war. It is a peacekeeping action—maintaining the Charter. A declaration of war probably does no more really than change legal status of the belligerant parties, but I do not want to press that point.

But in any event, that is not what we are doing. We are doing something different, which we contemplated we would do. That takes some further thought about how do we do it. We do not want to have an expression of world unity and have a huge division at home. It is the last thing a President should want, any President, or Congress.

Is that at all coherent to the Senator from Maine, that we are in new territory here?

Mr. COHEN. I think clearly we are in new territory. But the Senator from Maine is simply raising the issue of the proper role for Congress within that new area. Is it simply to acquiesce in an action that has already been taken? Is it a consultative process which would then require some kind of expedited review procedure, a voting procedure, to say, "Yes, we specifically authorize this?" Or are we relegated to turning over that authority to the President to act through the United Nations, with the Senate and the House simply funding the decisions made by the President of the United States? That is the kind of question I have.

Mr. MOYNIHAN. That is exactly the right kind of question.

Mr. ADAMS. Will the Senator from New York yield?

I want to follow on the questions of the Senator from Maine. I want to ask the Senator from New York: As we were trying to work on this concurrent resolution we stated specifically, "The Congress supports continued action by the President in accordance with the United States constitutional and statutory processes."

I want to be certain this resolution is specifically sufficient to make clear that if hostilities are eminent, or if the President decides for the launch of a military offensive, this body expects the President to comply with the War Powers Resolutions, and with the Constitution.

I have stated since this is a concurrent resolution, and so stated on September 28, at great length during the debate, that we had a consultative body created between the House and the Senate, to be debatable for consultation before action. The second thing was to create a resolution since we are not under 4(a)(1), which has the 60-day withdrawal provision, which would specifically state that for further actions to take place the President must come to the Congress.

We need to be very certain, and it is certainly this Member's understanding that this is not a Gulf of Tonkin resolution. This is a resolution to approve this debate. And as a member of the Appropriations Committee I certainly intend to exercise whatever powers I may have there that as additional requests are made, and if they were made for offensive action, those would be questioned and it would be tied to the consultative process.

I hope that Senator NUNN will also enter into this debate. I know I have discussed this matter with him. We both are of the opinion—we tried seven times, I say to the Senator, in

the Persian Gulf, to use the War Powers Act. It was blocked each time by the President refusing to send a letter and by our inability to get to the expedited procedures.

So I am prepared to go either way, the War Powers Act to be filed, and with a substantive resolution that would state that we have approved to this point; we may well approve further but that he must come to the Congress for money and for all portions of a War Powers Act, and acts of war are included within that.

So I wanted to take this time with the Senator from New York, because I know there are others who are concerned about this—that this is a Gulf of Tonkin resolution. Let us let the President say so and we will all vote against it. We will vote item-by-item on appropriations.

We have tried to make this a concurrent resolution—this does not have to be signed by the President—which states the position of Congress, which is in support of giving money for the troops that are there now, and the actions of the United Nations, as the Senator from New York has so well stated. But I would like to have the Senator from New York assure me of my question; that this resolution is sufficiently clear where we say in accordance with the U.S. constitutional and statutory processes it does not authorize the President to launch a military offensive when we are out of session, and that this body expects the President to comply with the statutes and with the Constitution as he takes his actions in the Persian Gulf area.

That is my basic question.

Mr. MOYNIHAN. I say to my friend from Washington that I would seek the counsel of our colleagues—that certainly this is not a Gulf of Tonkin resolution. If it were, it would not be on the floor. That we set out not to do.

I have to say I owe complete candor to the body, and to the professionalism of my colleague. I am not prepared to say that the President cannot act in concert with the Security Council before consulting with Congress. Clearly he thereafter has to come to us for appropriations, and clearly, as the Senator from Maine said, he ought to be thinking about a process in which he does. Else appropriations will not be forthcoming and so forth.

But I think that in ratifying the U.N. Charter—a treaty which is the supreme law of our land—we have obligated ourselves as a nation and given the power to act in the first instance to the President through our permanent Representative.

I see the learned Senator from Maryland is on his feet. I would look to him for counsel on that point.

It would be refreshing if somebody from the administration came by to talk with us about these matters. But here we are.

Mr. SARBANES. Will the Senator yield?

Mr. President, first of all I think the Senator from Maine is making a very substantial contribution by asking the kind of questions that he put earlier. This obviously is a new area. There has to be some way for this body to express its support of what the President has done thus far in dealing with this situation in the Middle East, which has commanded a consensus internationally, and I think commanded a consensus domestically.

It seems to me we have to find some way to express support for that without providing some sort of sweeping authorization for the President then to do other things which have not been presented to us. We do not know the circumstances under which they would be proposed to be done. There is no way we can make a judgment, in advance of having a concrete situation, whether in fact we would approve or not.

We should not be put in the position of trying to approve something in advance that we really are not able to understand in concrete terms. I think this resolution is designed to avoid that pitfall, and at the same time express some strong support.

My reaction to the question put by the Senator from Washington was that, leaving aside, for the moment, the working through the United Nations, which the Senator from New York mentioned, I would think any other action by the President would have to meet the criteria that the Senator was enunciating.

Having said that, the question remains on the United Nations. And the Senator from New York, I think, has raised a very interesting theory. If you read the commitment to the charter, it is clear that that action could not be taken by the United Nation, unless it commanded a majority of the Security Council, including all the members thereof who possess a veto, since a single one of their votes could negate any action, even if all of the other 14 are for it.

So you have all the veto-possessing powers, which includes the United States; and a sufficient number of others to constitute a majority. I would want to look further into that before making a definitive judgment.

I think the Senator was wise to put that as a possible commitment that the Nation has undertaken. Putting that to one side, I think any commitment of the court, which the Senator from Washington was talking about, that the President undertook, would be outside of the context of the United Nations on the premise of his question, and would have to meet the standards and the criteria that he put forward.

This is a difficult situation. We want to support—at least I believe we want to support—what the President has done to date, strongly, with a consensus vote. We ought to be able to do that, without somehow being perceived as being in the position of giving the President a blank check. I think this resolution accomplishes that. I do not think it gives the President a blank check for future action. I do think it expresses support for past action.

My own view on past action is that the President has handled the matter thus far with skill, and I particularly commend him for going to the international community and working through the United Nations. And, of course, this concurrent resolution is very strong in emphasizing that aspect of the President's actions. Therefore, I hope this resolution will be supported strongly in this body on that basis.

I noticed the majority leader, when he was on the floor earlier, said that future actions must be judged on their own merits, in view of the circumstances at the time. And that moreover, constitutional and statutory processes govern the process for making decisions that might lead to formally declaring war. He then made reference both to the War Powers Resolution and the war power in the Constitution, and that the President does not have the legal authority to make that kind of commitment absent the participation of Congress.

I must say, I want to commend those who have worked in putting this resolution together, because I understand the difficulties which were involved. The House was considering a joint resolution which seems to be more reaching in its implications. I think it actually passed the House as of yesterday.

I do think this Senate Concurrent Resolution 147 that is before us will accomplish the purpose of not providing a blank check for future action, simply of supporting what the President has done. What we want to do here is to send an important message to the international community that the President finds support in the Congress and, therefore, across the country, for the actions he has taken to date.

The PRESIDING OFFICER (Mr. BRYAN). The Chair informs Senators that the period for morning business has expired.

Mr. MOYNIHAN. Mr. President, the Senator from Maine has been on the floor and on his feet for some time. Is it possible to extend morning business for 5 minues? The Senator from Washington is also here.

The PRESIDING OFFICER. That would be possible by a unanimous-consent request, if the Senator so requests.

EXTENSION OF MORNING BUSINESS

Mr. MOYNIHAN. I ask unanimous consent that we may add 10 additional minutes for morning business so the Senators from Maine and Washington may speak to the matter.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Maine [Mr. COHEN] is recognized.

Mr. COHEN. Mr. President, I rise again to address a question to my colleagues from New York, Maryland, and Washington.

When we refer to the "appropriate constitutional statutory provision," what are we referring to? Are we referring to the War Powers Act, which we ourselves have apparently decided is unworkable? We have decided it is unworkable, because it is arbitrary in the setting of deadlines. It may very well only lend courage to our adversaries, rather than to our supporters. It is seen as being cowardly on the part of the U.S. Congress, because we have to do nothing, simply let time go by to reverse the President's decision. So we have concluded that it is unworkable.

Well, most Presidents, if not all, have determined that the War Powers Act is unconstitutional, and they are not going to be bound by it. They have not been bound by it, including this President, who does not recognize its constitutionality.

So the question really becomes, what is going to be our role in the future? If, in fact, we do not support the War Powers Act any longer ourselves, should we not be about the business of modifying it, changing it, or expressing our support for nullifying it? To leave a law on the books that we do not recognize as being effective, and say we are going to ignore it, only invites a contempt for the process.

Presidents hold it in contempt. They think that is not a constitutional exercise on the part of Congress. So if we are dissatisfied for a different reason, then why is it on the books? I think we have to be careful in terms of where we go as a body in the future.

The Senator from Washington, when we were reflagging Kuwaiti vessels, tried on, I believe, seven occasions to get a vote pursuant to the War Powers Act. He was frustrated in that regard. I believe he stated earlier, a few moments ago, that the War Powers Act should not be invoked now, because there is no danger of imminent hostilities. I disagree.

I think the current situation in the Persian Gulf, with the commitment of 400,000 Iraqi forces, well in excess of 100,000 American forces, plus the other 25 or so nations currently involved, in a situation in which we have the most massive amount of military equipment confronting each other's forces, is clearly a situation involving imminent hostilities.

The Senator from New York spent 5 minutes detailing statements coming out of the administration to the effect that it looks like we will have to go to war; that this is going to be a turkey shoot. We recently had an Air Force Chief of Staff who was forced to resign because of statements he made.

I think the War Powers Act contemplated precisely the kind of situation that we are in today. We have 100,000-plus forces in the vicinity of the Persian Gulf. Something could happen: A miscalculation; someone strays over the line, and there is a retaliation; or hostages starve to death or are executed. We could easily find ourselves at war.

Where is Congress in this process? We have not, I think, spent enough time debating amongst ourselves exactly what role we intend to have in this process. I think we have to do something before the fact rather than simply complaining about our role after the fact.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. COHEN. I yield.

Mr. MOYNIHAN. First, a comment. The legal scholar John Hart Ely recently wrote of the War Powers Act that repeal "would greatly improve compliance." Does the Senator not think we ought to hear from the administration what they think the sequence of responsibility is when acting in a security council situation?

Mr. COHEN. I do. I think the administration should state its beliefs with respect to the Security Council and our statutory processes. What does that mean? Does that mean war powers? You say it does not. Does it mean appropriations? I suggest they procedurally view the appropriations process as, "Send us the money to carry out the war if it should come." I do not expect it means anything but that to the administration. I would welcome any clarification on their part.

Mr. MOYNIHAN. Will the Senator entertain the thought "war" may not be the correct word? The "enforcement actions" of the Security Council under the charter is something apart from war. It is designed, in the words of the charter to put an end "to the scourge war." I offer the thought. Will the Senate agree this is something that should be talked about?

Mr. COHEN. I think the Senator from New York has indicated earlier this is an entirely new area that we ought to give considerable focus and attention to, including discussion on the floor.

The PRESIDING OFFICER. The Chair will instruct the time of the Senator from Maine has expired.

The Senator from Washington [Mr. ADAMS].

Mr. ADAMS. Mr. President, I stated on last Friday, when we debated this, that I intend to put in a second concurrent resolution to answer the question of the Senator from Maine. I believe the War Powers Act is constitutional. If the President wishes to challege it in court, he should do so. Four times we have been to court, and four times the court has said it is a political question.

However, what we have started in this process is, first, to have a concurrent resolution that dealt with things up to today and to authorize the appropriation of money and the fact that troops had landed. There is a special provision in the War Powers Act for that, 4(b)(1), and that, to me, is where we are today. That is why I did not file a 4(a)(1) resolution which said you must withdraw troops within 60 days.

The two parts will follow, which I mentioned last Friday and mention again today: Second, we should set up the consultative group—and I intend to introduce that today as a concurrent resolution—set up under the rules of the House and Senate, a consultative group that the President should and must consult with.

The third thing is a resolution that I am prepared to introduce. I would go under the War Powers Act 4(a)(1)—we can do the other—but a resolution that sets forth a system that does not require the withdrawal within 60 days, because I finally round, after resolutions, that was a better way to go about it. But this resolution states clearly the procedures of consultation that must take place before an offensive action other than under the United Nations. There may be U.N. power that exists. But under the powers of the U.S. Constitution and under the statutory powers that exist, this would be tied to two things: First, the consultation, and then this consulting body would have the right to file a resolution, so you would not have the President triggering it and being able to block it up here, but filed within the constitutional bodies, the legislative bodies themselves. The second part would be that appropriation would be based upon that. So the appropriations hammer is used to provide the resolution.

This new system is something that I think could eventually lead to a change in the War Powers Act and provide a better system. We have the God-given opportunity here of a few moments of time to debate and place in position this new type of operation, where it would be a continual consultative body and a body with power to put in the resolution. Otherwise, we are thrown back on the War Powers Act.

I have pleaded with the President, I have pleaded with my colleagues not to force us into that position. We want to be supportive and we can be sup-

portive through a series of actions if it is taken step by step. But, as I stated in my remarks on Friday and I repeat again, the Founding Fathers deliberately avoided the power to wage war from the power to declare war. The power to declare war and the foreign policy implications and the domestic implications of that were given deliberately to the Congress so that no one person, no matter how wonderful as a President, could act with the power of a king and be able to both declare war or start one and then carry it out.

I agree that many times in the history of this Republic the Congress has not done it duties. We have let Presidents do it. There has been a movement of power under the separation of powers from the Congress to the administration. I have served in the administration; I served as a Cabinet officer. I know the powers that are available within an administration to both be persuasive and to move funds around and to move people around. But that is not what it was all about with the founding of the Constitution and our Founding Fathers. That is all I plead with my colleagues, that we have a constitutional responsibility to say to the President, "We will carry out our part of this and we are, with this, approving what you have done to date. But we are not approving"—and I hope we give this message clearly to the President—"that when we leave town you can then proceed under some powers which you call Commander in Chief to carry on a war. This is not the power to carry on. That has to be voted here. Call us back if you want, call us back for resolutions. Call us back for the war powers and, if you want not to fight, we will give you a different kind of resolution that says the troops can be there this long and appropriate this amount of money."

This is the way the system was created. I beg of you, please let us keep that system because, otherwise, we are placed at the mercy of a group of people talking to one another, very good people, very intelligent people, but I know the Senator from Maine has been, just as I have have, in on these meetings of intelligent groups and Joint Chiefs, and so on. Pretty soon you get to talking to yourself rather than talking to the people and talking to the elected representatives. There is in this body a great body of knowledge and experience on wars and their horrors and what happens and how to raise money and with what occurs, and people have served in them, and this experience and this ability should be shared with the President as the Founding Fathers wanted, so that we move together as one.

This does not take a lot of time. This does not prevent action by this Nation. This Nation can move very rapidly, and I cannot think of anything more important than we move together. That was the lesson of the Vietnam war which we do not want to repeat. But I was in a declared war, and it was very comfortable to know that everybody agreed with the declaration of war and we did not have recriminations when we suffered terrible defeats and heavy casualties because we were all in it and all understood it. The problem we have had in past undeclared wars is the people have not all been there and as we have been appropriating moneys and doing things, groups have begun to splinter off.

The PRESIDING OFFICER. The Chair will inform the Senator from Washington the period for morning business has expired.

Mr. ADAMS. I appreciate that. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, this debate has been informative and important on this resolution that will be voted on at 2:15. I ask unanimous consent that I may be permitted to speak for 5 minutes on the subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I was in my office preparing a statement on the subject when I heard the morning business debate and came over.

I commend my colleagues, Senator COHEN, Senator MOYNIHAN, Senator ADAMS, and others for the discussion which has occurred so far because I think it is a very, very important matter. I have a concern that in the course of our debate some, perhaps those in Iraq, may read this as some lessening of our support for the President or some tying of his hands, which I know is not the intent of those who are on the floor today. It is possible that when we talk about the deliberative process and debate on the Senate floor as to a declaration of war, we may be setting the stage for some preemptive action by our opponents in the Persian Gulf. I know we do not intend to have that as our result.

I think that the distinguished Senator from New York [Mr. MOYNIHAN] has raised a very important consideration on a redefinition of war because the U.N. Charter speaks in terms of use of force, and we may be past the day when war is carried out as the complete destruction of our opponents and it is a use-of-force concept and personality.

When my distinguished colleague from Maine, Senator COHEN, raised the issue about the War Powers Resolution and perhaps the desirability of acknowledging that it does not work, I would disagree respectfully on the ground that its constitutionality is uncertain, but it keeps the President and the Congress, both of us, on our toes as to what is going to happen next.

I think it is important to focus on the fact that the War Powers Resolution does not authorize the President to act. It only requires under certain circumstances—hostilities—that the Congress approve the action that has been taken or else the action is a nullity.

So that it is a limitation on Presidential action and it is very important that these issues be considered by this body. We do not wish to give the President a blank check. There have been quite a number of comments about the scope of this resolution not authorizing the initiation of action. But at the same time we do not wish to create a record here which will suggest the tying of a President's hands, and the resolution in its current form is ambiguous, perhaps deliberately ambiguous.

One concern which this Senator has is that aside from brief moments of discussion—and discussion is enhanced very substantially when there are a number of Senators on the floor exchanging ideas, an event which is all too rare on this floor—we have not had the benefit of hearings on the subject to really get into the substantive questions as to where we have gone on the concept of war or on the concept of use of force, and how we make an appropriate balance as to the authority of the Commander in Chief as contrasted with the authority of Congress to declare war.

It would be unseemly and hard to contemplate that we would be debating this kind of an issue while time might be present for a preemptive strike by our opponents in the Mideast.

The pending resolution raises constitutional issues of far-ranging importance. In the light of: First, the undeclared Korean war; second, the undeclared Vietnam war; third, the Gulf of Tonkin resolution which has led some to argue Congress authorized the Vietnam war; and fourth, the War Powers Resolution, it is obvious that there is a very difficult issue in reconciling the sole authority of the Congress to declare war contrasted with the President's authority as Commander in Chief.

We live in a vastly different world from 1787 when those constitutional provisions were adopted. In the modern era, the concept of war where one nation may seek to totally destroy an opponent has given way to the refined concept of "use of force" and the proportionality of such force. The U.N. Charter, for example, repeatedly references "the use of force" as contrasted to a state of war.

Our history provides many precedents for Presidential action under exigent circumstances; but it must be remembered that the War Powers Reso-

lution does not give the President authority to act. Instead that resolution limits Executive authority by requiring congressional approval under certain circumstances in a specified timeframe to permit Presidential action to stand once it has been taken.

It may not be happenstance that 18 years after the adoption of the War Powers Resolution, its constitutionality remains in doubt. This uncertain status of the constitutionality of the War Powers Resolution keeps both the President and the Congress cautiously on their respective toes, leaving substantial flexibility in the system.

Given the precarious position of U.S. military personnel and our allies in the Mideast, it is difficult to contemplate congressional debate on the declaration of war with rollcall votes without inviting a preemptive strike by Iraq.

At the same time, we must remain mindful of the constitutional mandate on Congress' role authority to declare war and we must remain equally mindful of the Vietnam experience that a war cannot be maintained without public support including appropriate congressional action in our representative democracy.

Consultation differs vastly from authorization. Consultation by the President with the Congress necessarily involves limited participation by only some Members of Congress; and consultation may involve little more than notification.

Further complex issues are added by collective action under the U.N. Charter. As a matter of public policy, it is certainly desirable to have collective action by the U.N. on sanctions contrasted with unilateral U.S. action.

Doctrinal authority is present in that treaties—like the U.N. Charter—are the supreme law of the land and action by a majority of the Security Council with the concurrence of the five permanent members is binding on all member nations.

Since the United States has the veto power, that necessarily requires U.S. assent; but that is satisfied by the President's action contrasted with the U.S. constitutional requirement for congressional authorization for war.

I am concerned with the limited consideration which the Congress has given to these important issues. Hearings have not been held on the resolution to probe these complex matters.

Our Senate debate has been limited in time and the all-consuming budget issues which have confronted the Congress simultaneously with the events in the Mideast.

The absence of extensive and intensive debate on these issues may reflect a subconscious desire to avoid explicit consideration. Certainly, no one wants to do anything which would give aid and comfort to the enemy or would make it more difficult to deal with the difficult military issues in the Persian Gulf. Nevertheless, my sense is that in a democracy, all the issues should be confronted, considered, and resolved head on.

Senator PELL, the chairman of the Foreign Relations Committee and floor manager of the pending resolution, summarized the views of many Senators when he stated:

> It is important to add, however, that this resolution does not * * * constitute authority for the President to initiate unprovoked military action against Iraq.

The President has performed extremely well in dispatching U.S. military forces to the Mideast and in his diplomatic successes in stimulating U.N. resolutions for collective action. The pending resolution, subject to the limitation summarized by Senator PELL, is an appropriate step at this time.

Mr. President, I regret that my time is up.

Mr. ADAMS. Will the Senator from Pennsylvania yield for a question?

Mr. SPECTER. Yes.

Mr. ADAMS. I expect to put in—and this colloquy this morning we have had produces this—the concurrent resolution which we discussed, which was to set up a consultative body of the Senate and the House to talk with the President as these matters go along.

Would the Senator support such a step as that as one more step is moving toward having these matters discussed in greater detail and by parties which are well experienced and informed in it before decisions are made?

Mr. SPECTER. With all due respect to my distinguished colleague from Washington, I would not want to answer that question on one foot. I am a little bit suspicious of consultation because when the Executive says they will consult with the Congress, that is a long way from authorization. I have found that consultation frequently has the import of really being limited to notification.

There was a fascinating discussion on this subject when the air strike was ordered on Libya—a strike that I totally concurred with. When the planes were in the air, the congressional leadership—it was a very small group, none of those who are present on the floor today—were meeting with the President and the Secretary of State and others on whether or not the congressional leadership had the standing to disagree, which would have caused the return of the planes.

Mr. ADAMS. I would ask the Senator a further question.

The PRESIDING OFFICER. The Chair would inform the Senator that his 5 minutes has expired.

Mr. ADAMS. I ask unanimous consent to be allowed to continue for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ADAMS. I would ask the Senator if you were to give this group the power to file the joint resolution which now is often blocked to start the processes of the Congress having an expedited procedure for handling the matter, if the Senator would feel that that consultative group would then be consulted rather than just talked to?

Mr. SPECTER. I would respond to my distinguished colleague by saying that it is hard for me to fashion a process of consultation and a process of congressional action and deliberation while there is an emergency and while some of our opponents somewhere may take preemptive action. Not wishing to answer a question with a question, how would you accommodate——

Mr. ADAMS. I think we are all agreed that with preemptive action, we are certainly entitled to defend ours. We have a minute in time here, a momentary point of time when we have, under 4(b) of the act, troops armed in another country who are not yet in hostilities. That is why this period of time is important in our history where we can debate this before the actual hostilities.

Mr. SPECTER. But the response which I make to my colleague, which I think is very important, is while we are consulting and deliberating, that may set the occasion for someone to take preemptive action which would be disastrous.

The PRESIDING OFFICER. The Chair would inform the Senator the 5 minutes with the limited extension has expired.

PERU: THE TRAGEDY CONTINUES

Mr. CRANSTON. Mr. President, I had the honor a few days ago to receive in my office a delegation from the Human Rights Coordinating Board, a coalition of Peru's major human rights organizations.

The group was in Washington to receive the prestigious "Letelier-Moffitt Memorial Human Rights Award." They met with me to express their concern about the continuing problem of human rights violations in Peru.

Mr. President, I share their worry. For the third year in a row, Peru has had the highest number per capita of forced disappearances of people, according to the United Nations.

Despite this, security force wrongdoing—in the form of hundreds of kidnapings and secret executions of suspected dissidents—has gone unpunished. The Human Rights Coordinating Board was hard pressed to come up with the name of a single military

officer who has been tried for rights violations.

I should mention that the recent surge in violence directed in particular against human rights groups does not come from the military alone. The leftwing fundamentalist guerrilla group Shining Path has also stepped up actions against the rights activists.

Nonetheless, in my office members of the delegation said they wanted particularly to underscore their concern about the recent extension of so-called emergency zones, in which military control is established over civilian authorities, in Peru. Today, some 50 percent of the national territory is under such rule.

Exacerbating the problem, the rights leaders told me, is the increasing tendency to equate the production of coca leaf by peasant smallholders with support for the Shining Path. They worry that United States assistance to the Peruvian military—ostensibly for the purpose of fighting narcotics—will reinforce the trend of confusing peasant producers with guerrilla insurgents, and killing them.

"And that," human rights leader Hortensia Munoz said, "could convert Sendero Luminoso into a so-called national liberation movement when, up to now, they have very little support among the people."

Mr. President, the Human Rights Coordinating Board members told me—and I agree—that the solution to the problem of Peruvian coca production rests in economics and support for civilian law enforcement efforts, not an increase in the militarization of the Andean drug war.

I ask unanimous consent that a statement prepared by the delegation be printed in the RECORD:

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

A REPORT BY THE PERUVIAN HUMAN RIGHTS COORDINATING BOARD

"PERU 1989-1990: NATIONAL COORDINATOR OF HUMAN RIGHTS"

Peru has a population of 20 million inhabitants and more than 1.2 million sq. kms. of territory. As we enter the final decade of the century, Peruvians are faced with an official annual inflation rate of 2,775 percent and a minimum monthly salary of less than $50. Hunger and under-employment are daily occurrences.

In the poorest regions of the country, one out of every eighth child dies before its first birthday, and the death rate of children under five is 53 percent, or 195,000 child deaths per year. In the poorest areas, the life expectancy is less than 50 years for adults.

Moreover, four out of five houses lack water, sewerage and electricity. Forty percent of the population, which includes 60 percent of the country's children, receives less than 10 percent of the nation's income.

In this context, the political violence which has haunted the country since 1980 is unfolding.

The social cost of the political violence is incalculable. In terms of human lives alone, at least 17,763 Peruvians have been killed and more than 3,000 have been disappeared. Material losses due to the violence are more than $17 billion, equal to Peru's external debt.

The increasing damages brought about by these 10 years of violence threaten to destroy, or at least block, the advancement of alternative development projects which respect life, the consolidation of democracy and the viability of a system that guarantees social justice.

1. Violations of human rights in Peru are a permanent and systematic practice

Since December 1982, the subject of greatest concern in Peru is the administration of the armed forces. Their strongest presence is in the departments of Ayacucho, Apurimac and Huancavelica. These are central highland zones with traditional populations of Quechua speaking peasant communities. The per capita income in these departments has been consistently among the lowest in the country.

In May 1980, amidst the process of reintroducing formal democracy to the country, Sendero Luminoso (SL) initiated its violent actions in Ayacucho. The same day as the presidential elections, an SL column assaulted the community of Chuschi and destroyed the electoral ballots. SL declared this as "the beginning of armed conflict."

Since then, SL has maintained its activity in the country via actions which include gross human rights violations; assassinations of unarmed civilians, including old people, children and pregnant women; threats against community and district leaders and the use of terrorist acts against many sectors of the population. SL's terrorist acts have also provoked the systematic destruction of the State's infrastructure.

Since the beginning of SL's activity it has been clear that the State is incapable of articulating a democratic response to confront such subversion.

At first, the State denied the importance of Sendero. Then, following SL's increasing terrorism, the State applied a series of police measures against "common insurgency." Finally, the State virtually abdicated democratic authority over an ever widening area of Peruvian territory to the administration of the armed forces, under the name of "special regimes," under whose control now figure the "Political-Military Commands."

Since November 1982, the date in which the first Political-Military Command was formed, the increase in the number of human rights abuses shows that we are not dealing with isolated and extreme cases of over zealous military personnel assigned to the conflict zones.

Instead, the number of accusations and proofs of abuses show the existence of a policy, effectively designed and applied, which has as its final objective the eradication of subversion, but which in turn uses practices that systematically abuse human rights.

The interference of the Political-Military Commands in the normal administration of justice is public and notorious. Judges assigned to areas under the control of these Commands are systematically prevented from complying with rules of habeas corpus. In order to collect evidence they must obtain permission to travel into the interior. This permission, however, is seldom granted by the military authorities. There have even been cases in which once a disappearance complaint has been successfully made, the judicial authorities are then negated access to the jails in which the illegally held prisoners are kept.

In these circumstances, the right of all citizens to the judicial system is systematically denied by members of the Political-Military Commands.

The military judiciary has covered up all cases in which the civil courts have attempted to bring to trial members of the armed forces for crimes against humanity. This systematic cover-up is against Peruvian law.

According to Article 324 of the Military Justice Code: "Military justice also recognizes that public offenses committed while in service are subject to the civilian Penal Code."

The Supreme Court of the country has also abdicated its functions and, contradicting the specific and clear texts of national laws, has facilitated the military judicial system to try civilian human rights abuse cases.

The processes followed by the military courts in these cases have resulted in minor or suspended military sentences, such as disobedience or abuse of authority, negating the possibility of more severe charges such as murder, rape and torture.

2. Human rights violations during 1989 and 1990: disappearances and extra-judicial executions

According to documents (E/CN.4/1989/19 and E/CN.4/1989/18) of the United Nations Work Group on Forced Disappearances, Peru had the highest number of forced disappearances in 1987 and 1988 (79 and 170 people disappeared in respective years). According to Peruvian human rights organizations, in 1989 no less than 300 people were victims of this criminal practice. From January to May 1990, there have been 160 accusations of detained/disappeared people. Of these, only 44 have reappeared and 116 are still missing. In this period, the department of Ayacucho has registered the highest number of disappeared: 47 people, which is equivalent to 40 percent of the still unknown cases. The armed forces are responsible for 90 percent of the disappearances. Peasants make up 40 percent of those missing.

One recent case is the disappearance of Guadalupe Ccalloccunto, member of the Ayacucho regional office of SERPAJ (Regional Justice and Peace Office) who was detained and disappeared by members of the armed forces in the early morning of June 10, 1990, in the city of Ayacucho. According to family members, military personnel using face masks and heavily armed, violently entered Ccalloccunto's home.

In the presence of her four young children and other family members, she was forcefully taken away. So far, the armed forces deny having detained or imprisoned her. Nonetheless, others who suffered military arrest but managed to get free, have confirmed that they saw Ccalloccunto in the Cabitos Prison in the city of Ayacucho.

Human rights workers have also been the victims of forced disappearance. Angel Escobar Jurado, administrative secretary of the Committee for the Defense of Human Rights in the department of Huancavelica, for example, was detained/disappeared by members of the armed forces on Feb. 27, 1990 in the city of Huancavelica.

The arbitrary executions which go on in Peru increase the responsibility of the State in murder.

In 1988, the United Nations released its special report on summary or arbitrary executions. The report made special reference

to the life of witnesses, from the Cayara massacre—a massacre denied by the armed forces and the Peruvian government—and made an appeal to the government to guarantee the lives of the witnesses (Document E/CN.4/1989/25).

Today, the majority of the witnesses have been killed, one by one. The last was Martha Crisostomo Garcia, a 21-year-old nurse. She was assassinated on September 8, 1989.

Special Prosecutor Dr. Escobar Pinedo, who investigated the massacre and concluded his inquiry by charging a general of the Peruvian army before the civil courts, was fired from his job and forced to leave the country because of numerous death threats.

During this period, lawyer Jorge Huamali was killed in Pasco on Aug. 23, 1989; labor leader Aladino Melgarejo was assassinated on June 17, 1989 and dozens of other people were also killed.

Among all the documented cases, the one which caused the most public outcry was that of the murder of 12 defenseless peasants in the community of Nanrapata, province of Chumbivilcas, Cusco (which had not yet been declared an emergency zone).

According to the accusations, on April 26, 1990, members of the Peruvian army forced members of the community to meet in the town square and then ordered the men, women and children to undress. Some of the women were raped and then the army, with their list in hand, selected 12 people who they savagely tortured in the presence of the rest of the community. These 12 people were later killed in front of the population.

Forensic examinations conducted on 11 of the 12 dead bodies showed multiple internal and external wounds, cigarette and hot water burns, as well as other signs of torture. All but one of the victims, who was poisoned, also showed multiple gunshot wounds.

Despite public outcry and denunciations against the army by members of the Catholic hierarchy of the southern Andes region, the authorities of the State have so far not fulfilled their responsibility to identify the guilty.

3. The use of the civilian population

Ever since the armed forces assumed control of internal order in the declared emergency zone, the military has forced the creation of civil defense committees to be used as civilian patrols in the counterinsurgency campaign.

Although there are parts of the country where these "rondas" have formed on their own initiative in order to ward off SL, it is also undeniable that the military has controlled their development, using the civilian population in this way to "clean" territories with presumed Sendero presence.

In many cases, there have been charges that these civilian patrols have been involved in massacres, usually assisted by the military.

Even a cursory reading of the first reports on the human rights situation in Peru shows the way in which these rondas have been coverted into one of the principal agents of human rights violations in the country (see Amnesty International 1983 letter to President Belaunde).

Since 1989, and especially under the previous rule of Gen. Petronio Fernandez Davila as head of the Political-Military Command of Ayacucho, the military's anti-subversive strategy has increasingly used civilian populations as the front line attack against Sendero.

This new strategy consists of forcing the remaining civilian population in the zone into artificial communities.

These newly created geopolitical entities are organized militarily, based on the model of ronda civil defense units, such that "each zone has its authorities, a lieutenant governor, a civil defense rondas president, a subcommander and a commander." (Chavez, Jorge, "Menos sangre, mas ideologia," La Republica, 7/8/90, page 19).

By this means of regrouping the civilian population, the military is effectively destroying traditional community patterns.

At the same time, the rondas have been accused of committing human rights violations, in particular, extrajudical executions.

For example, at the end of March 1990, ronderos from Naylamp de Sonomoro, in the district of Pangoa, provice of Stipo, Junin, assulated the village of Cajiriari and killed civilians with machetes and old hunting rifles. This operation was carried out with the help of a contingent of police. Days later, in the same town of Naylamp de Sonomoro, a civilian patrol assassinated an entire family of colonizers who they accused of belonging to Sendero.

4. Extension of the conflict zone

The territory under the administration of the armed forces—presumably responsible for the increasing numbers of registered deaths—continues to expand. Since the end of 1989 all the provinces of the departments of Lima, Apurimac, Huancavelica, San Martin, Junin, Pasco, Ayacucho, Huanuco and Ucayali, plus the constitutional province of Callao, have been under emergency military control.

Since Aug. 7, 1990, with the approval of the newly elected government of President Alberto Fujimori, areas under emergency control have increased even further. In addition to those provinces listed above, the provinces of Arequipa, Cusco, Punco, Piura, Trujillo, Chiclayo, Chimbote, Mayns and Huaraz have been added.

Approximately 70 percent ot the Peruvian population is now living under a regime where their basic human rights have been suspended.

There are three Political-Military Commands in charge of the penal system in conflict zones. The oldest, created in December 1982, is in the city of Ayacucho and controls the emergency zones in the southern Andes.

In the last two years, two more Commands have been formed in the central highlands (in the city of Huancayo) and in the Alto Huallaga, an area associated with drug traffic. In addition, the armed forces maintain a strong presence in the emergency zones of San Martin and Ucayali.

That the conflict zones now cover nearly half the national territory shows that the risk of being murdered is one of the realities which represents everyday life in Peru.

5. The permanent, systematic and indiscriminate practice of torture

Torture constitutes a social wound in Peru which gets worse every year, and is practiced every day. The existence of torture in Peru was described in the 1988 U.N. special report on torture and other cruel, inhuman or degrading punishments (Document E/CN.4/1989/15).

Among the many cases denounced in Peru is the case of Carlos Reano, M.D. in September 1989. According to a member of the Medical Association of Peru, Dr. Reano suffered irreversible damage to his right arm.

Another example is that of Alberto Lopez Bautista, who in October 1989, was tortured in the Cabitos prison of Ayacucho. In November of that year, 10 mine workers who were held in army jails in Jauja and Huancayo were medically certified as having been tortured.

6. Persecution of social movements

The unjustified accusations of terrorism, and disturbing the public peace or property, leveled against labor leaders and workers, has become a pretext to use the repressive State apparatus against these people. This has resulted in the indiscriminate use of violence, including arbitrary detentions, torture and dismantling of local unions.

Since 1988, these arbitrary detentions have made it ever more dangerous for the labor movement to organize. In August 1989, 44 miner leaders were arrested during a strike, falsely accused of terrorism. They were then held in jail for two weeks before being released.

During 1989, two Catholic priests, the Rev. Jorge Alvarez Calderon and the Rev. Luis Hernot, were also detained and falsely accused of being involved in terrorist acts.

Three hundred university students from the medical school of San Marcos University were detained in Lima as they were in class.

Also during 1989, there are registered cases in which the national police used small caliber bullets against demonstrators resulting in serious wounds among the victimized population.

At the end of the first six months of 1990, approximately 10,000 people have been subjected to arbitrary mass arrests, a "preventive" practice of the police against "possible" future crime.

7. Human rights violations committed in confronting drug traffic

In Peru, there are drug growing areas which are totally tied to the international traffic of drugs: the Alto Huallaga, which has some 50,000 hectares in coca production, and the Central Huallaga with 30,000 hectares under production. In addition, there are numberous dispersed areas in other parts of the country where coca is grown and eventually converted into cocaine paste.

The ever increasing amount of rural land dedicated to growing coca is the result of the relative comparative advantage this crop provides to an already improverished peasant population, working on small individual plots and with no State assistance. Government agrarian policies provide no profitable alternative.

The substitution of traditional crops of the zone—coffee, cacao, achiote, palm oil, corn, rice and palm—for coca, has been stimulated by international demand for cocaine which is sold to international cartels by intermediaries.

It is true that the production of coca leaves is, for the most part, in the hands of local peasants; small landholders whose crops cover little more than one hectare on average. But, the processing, circulation and distribution of the crop is carried out by intermediaries tied to international drug traffic networks.

This differentiation between a basically peasant economy, which grows coca to supply those who produce the cocaine paste, and the international drug traffic networks which process and distribute the drug, generates a fundamental contradiction in the zone. This contradiction is between the coca growers and marketers who increase their margin of participation through the value added in the process.

The further development of this contradiction will only generate conflicts, which are likely to remain unresolved.

Sendero Luminoso is assuming the role of mediator between coca-growing peasants and the marketers, and is establishing the terms of exchange and agreement fulfillment. With this base, SL has imposed a system of social control based on terror in the zone. Their system includes the systematic and summary executions of those people accused of not accepting the rules of the game.

The presence of SL in the zone implies an eventual radical confrontation with the authorities of the State. Armed SL attacks against police stations are leading to militarization of the area as the State's answer. Already the area is a declared emergency zone, organized in the above referenced Political-Military Command of the Alto Huallaga.

There is enough evidence to show that the increased militarization of the zone implies an increase in the repressive capacity of the State in the area, and the potential that repression will be used against the peasant population, who is erroneously viewed as part of the international drug traffic system on the one hand, and as allied to Sendero, under whom they are subject to a system of social control based on terror, on the other.

It remains clear that this evolving repressive capacity of the State puts into question the existence of guarantees and full vigilance of human rights in the zone, as has already been partially verified by events in 1989—553 violent political murders in the areas of the Alto Huallaga, the central jungle, Ucayli and Loreto. In the first five months of 1990 there have been 453 assassinations.

The militarization of the zone implies, therefore, an increase in the risk of death for the peasant population which grows coca in the area.

All international help—such as that recently offered by the United States in the context of the Bennett Plan—that results in the increased operational capacity of the armed forces in the internal control of the Alto Huallaga area, is only justified when the international community also commits itself to collaborate in guaranteeing the full vigilance of human rights. Such aid should be conditioned in an effective manner to respect the life and dignity of the people living in the region.

It is precisely for this reason that the international community must be prepared to provide the necessary oversight in the future of the evolving operational capacity of the armed forces in the internal control of the coca producing areas.

The international community cannot allow the military of one country to give aid to the armed forces of another when that aid will be used to produce more deaths; to maintain permanent, systematic, indiscriminate and unsanctioned violations against human rights.

We must not forget that in the name of national security, children, old people, pregnant mothers and other innocent civilians in Peru are being killed. Moreover, the principles of democracy have been so distorted that absolute impunity is given to individuals responsible for massacres against the civilian population.

REFORMING IMET WILL HELP FORTIFY EMERGING DEMOCRACIES

Mr. CRANSTON. Mr. President, I rise today to urge the substantive reform of the International Military Education and Training [IMET] Program.

The task is an urgent one, given the current scarcity of funds and the fact that, up to now, programs such as IMET have not always fully reflected U.S. policy concerning democratization and the civilian control of the military.

A remarkable transition to democracy is now underway in Eastern Europe, Latin America, and other parts of the globe.

Autocrats and totalitarian systems are being swept away and replaced by citizens eager to participate in the public life of their nations.

Fully aware that democracy is the result of more than just a collective desire for freedom, the new leaders of these countries are painstakingly crafting practices and institutions to ensure that liberty endures, a process that harkens back to the early years of our own democracy.

To ensure that the trend toward democracy continues, one of the most important changes that must occur is that a nation's military is fully under the control of civilian authority.

At the same time, the armed forces must develop a professional mission that prepares them to defend the Nation's territorial sovereignty, while keeping them at the margins of partisan politics.

Since its inception the IMET Program has provided important linkages between U.S. and foreign military forces. However, as a recent study by the General Accounting Office has noted, the content and impact of the training currently provided has not sufficiently promoted the consolidation of democracy.

It seems to me that what is needed is a program that promotes healthier civil-military relations by empowering representatives of elected civilians with the skills and techniques needed to exercise informed oversight and direction over military forces.

Mr. President, in many—if not most—emerging democracies the corps of civilian managers that forms an integral process of military management in the United States simply does not exist.

In some countries, particularly in Latin America, this is due to a seemingly unending pendular movement from military regimes, to elected governments, then back again.

In others, such as in Eastern Europe, the cadre of civilian democratic managers does not exist because what oversight there was came from the Communist party apparatus.

As former Vice President Walter F. Mondale noted in a recent book, "Towards a New Relationship: The Role of the Armed Forces in a Democratic Government":

> The lack of continuity in democratic political institutions can mean a loss of historical memory, gaps in technical training and an absence of personal ties between military officers and civilians which sustain good will in times of crisis.

Elected legislators, their staffs, members of nongovernmental organizations and personnel from Finance, Foreign Relations, Defense and Presidential ministries should be among the civilian participants of the new IMET Program.

At the same time, a reformed IMET Program would effectively promote the concept of national defense of territory and sovereignty as the sole military mission, thereby discouraging their performance of police functions.

Mr. President, I believe that the IMET curriculum should emphasize that the success and prestige of the American Armed Forces and those of many other nations have been immeasurably advanced by their unquestioned subordination to civilian political authority and their strict adherence to a mission of national defense of territory and sovereignty.

Several initiatives might be taken in this regard, such as the use of exchange programs, joint studies and structured visits to the United States by military and civilian personnel to learn how this country has successfully managed its own civil-military relationship.

There are also professional military ethics and responsibilities that are universal and particularly appropriate for inclusion in IMET training if the 1990's are to be an era in which democracy continues to expand.

First, that the military does not play a partisan political role, and follows the orders of freely elected civilian authority;

Second, that it is a military officer's duty to prevent human rights abuses of civilians or captured or surrendered military personnel, and

Lastly, that professional military strictures are incorporated into their daily routine concerning the constitutional limits on military authority; the proper response to illegal orders, and the misuse of power to further personal goals.

Mr. President, I believe that in the next fiscal year it is important that testing methods should be developed that would help evaluate IMET trainees' attitudes toward professional military ethics and responsibilities. One component would be an evaluation of the program's impact on these attitudes during instruction and in later careers. These testing efforts should

be refined as time goes on in order to improve the curriculum.

The GAO study also raises serious questions about the possible negative effect on civilian authority in developing countries of the training of military forces in so-called nation-building skills. It specifically suggests that in one country surveyed the use of military forces in nation-building was undesirable because of a tenuous civil-military relationship.

The GAO study also pointed out that officials in both the agency for international development and the United States Information Agency in two of the six nations studied indicated that nation-building should be undertaken by the civilian sector, and that their agencies were capable of providing nation-building training to civilians.

Mr. President, this issue is more than an academic debate or a bureaucratic turf-battle. The GAO analysis hearkens back to the 1960's and early 1970's, when the strengthening of foreign militaries' nation-building missions appeared to help tip the balance of power away from elected civilian leaders and toward unelected military rulers in many nations.

According to a 1971 Rand Corp. study by Luigi Einaudi and Alfred Stepan III:

> A rationale sometimes used for certain U.S. military assistance programs is that 'professionalism' contributes to lessened political involvement on the military's part, and to their concentration on exclusively military affairs. Logic, however, suggests that to the extent that military expertise, or professionalism, is increased in areas of counter-insurgency, nation-building and multisector development planning, the military would tend to become more rather than less involved in politics.

By encouraging militaries to take on greater civic action or nation-building responsibilities, the United States gives the militaries legitimacy in assuming roles that put them in direct competition with civilian authorities. As Panama City Mayor Cochez has noted:

> By assigning the military a civic action role the U.S. strengthens their hand. When they build a bridge, the military will get the credit. If a road is constructed, the billboard says, "your National Guard is working for you." Meanwhile, we cash-strapped politicians cannot get financing for our own projects, but are sure to get the blame when things, a lot of times less exciting things, don't get done.

Mr. President, I hope that in instructuring the IMET curriculum in the coming years, these views are taken into consideration. It is clear that nation-building studies conflict with the broader U.S. policy goals of support for democratic leadership. Therefore, I would suggest that, with the exception of mapmaking, such courses should be curtailed.

Further, I would urge that—before scarce training resources are used for nation-building—we are certain that within the country in question there are no civilians qualified for such training, and that no civilian agency, governmental or private, could reasonably expect to undertake the specific task.

Mr. President, because the United States has a highly successful experience in the civilian control of the military, it can provide a valuable model for study for officers and others coming from newly emerging democracies.

For this reason, I urge that immediate action be taken to ensure that a significant part of the IMET curriculum be devoted to the study of democratic institutions and practices.

Among the issues upon which the cirriculum should focus are the close interaction and contract between civilians and military throughout our command and control structure; the scores of nongovernmental agencies which help to inform and to shape military policy and how they operate, and the role played by Congress and other governmental agencies in policy formulation.

The importance of the Posse Comitatus Act, which has helped keep our military from involving itself in partisan political activity by keeping it at the margins of internal security, should also be stressed.

At the same time, I believe it is vital that a certain number of the IMET training slots, 20 percent in the first year, should be earmarked for civilians broadly representative of the political community and nongovernmental organizations in the countries in which IMET is offered.

By seeking to train significant numbers of civilians over time, we will be both empowering civilian managers and assuring an instance of democratic oversight which is sadly lacking in many of these nations.

In expanding the scope of IMET training, I believe that it is important that the administration seek to contract the services of nongovernmental entities to assist both in the training of civilians and in rounding out the curriculums offered to the military.

A variety of these—such as the center for democracy, the National Democratic Institute for International Affairs [NDI], and the Institute for Representative Government—have experience in studying or improving civil-military relations in foreign countries. They should be consulted with during the process of reformulation of IMET.

Similarly, certain countries have an urgent need for this type of training. Certainly the nations of Eastern Europe are candidates, given the heavy legacy of Soviet-trained security forces and domination by local communist parties. Countries such as Argentina, Bolivia, Chile, Brazil, El Salvador, Thailand, the Philippines, Korea, and Nicaragua should also be considered for Democratic military education and training.

The United States has had the good fortune to have enjoyed more than 200 years of Democratic Government. Part of the strength of our system has been the undeniable success with which we have handled our own civil-military relationship. This is perhaps one of the most important lessons we can provide a world still struggling to find its own democratic institutions and procedures. We must do so, and quickly.

Mr. President, I know my good friend and distinguished colleague, Senator LEAHY, chairman of the Foreign Operations Subcommittee with jurisdiction over IMET, has been looking into the issue of reforming IMET as well. I look forward to working with him on this.

SHABAN KASTRATI RELEASED FROM JAIL

Mr. DOLE. Mr. President, about a week ago, I came to the floor and discussed the tragic human rights situation in Kosova, Yugoslavia, which I witnessed when I led a Senate delegation to Yugoslavia. In that statement, I mentioned that the police state created by the Serbian Government in Kosova had not only been abusing the rights of the Albanian population living there, but the rights of American citizens, as well.

I told my colleagues about 19-year-old Shaban Kastrati who was arrested by Serbian authorities on August 29, the day our Senate delegation visited Pristina, the capital of Kosova. According to the State Department, he was sentenced under false charges to 60 days imprisonment.

I can say, after spending just 1 day in Kosova seeing the oppression of the Albanian people there, I cannot even imagine what 60 days in a Serbian prison must be like for an ethnic Albanian.

But happily, after serving 1 month in jail, Shaban Kastrati has finally been released. For 30 days, I along with many of my colleagues, made phone calls, sent cables and letters on Shaban's behalf. Most recently, according to reports, Representative HELEN BENTLEY raised this matter with the President of Serbia, while in Yugoslavia for the weekend.

Some may be inclined to breathe a sigh of relief—thinking that the job is done now that Shaban Kastrati is out of jail. It is not. Yes, Shaban Kastrati is now a free man once again, but the bottom line is that Shaban should not have been put in jail in the first place. He was arrested under false charges, beaten and imprisoned. In other words, Shaban was treated the very

same way that thousands of Albanians have been treated for the past year or two.

In my view, our job here in the Congress is not done until we let the Republic of Serbia know that we are fed up with the Serbian Government bullying not only Americans, but the ethnic Albanians who make up 92 percent of the population in Kosova. We need to let the Serbian authorities know that the free world is fed up with Communist regimes and tyranny aimed at crushing democratic movements and the people who support them. We also need to let the federal government of Yugoslavia know that it is not welcome in world community as long as it is complicitous in perpetuating this human rights nightmare.

Mr. President, I am relieved that Shaban Kastrati has been released. But, I am convinced that we in the Congress must continue to work on behalf of those still suffering in Kosova.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is closed.

ADJOURNMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 1 minute; that when the Senate reconvenes, the call of the calendar be waived, no motions or resolutions come over under the rule; that the morning hour be deemed to have expired following the second reading of the bills and joint resolution that have been read for the first time; and that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, at 11:26 a.m. on Tuesday, October 2, 1990, the Senate adjourned until 11:27 a.m., the same day.

AFTER ADJOURNMENT

TUESDAY, OCTOBER 2, 1990

The Senate met at 11:27 a.m., pursuant to adjournment, and was called to order by the Presiding Officer [Mr. BRYAN].

ACREAGE LIMITATION PROGRAM FOR 1991 CROP OF WHEAT

The PRESIDING OFFICER. The Chair lays before the Senate S. 3018, which was read the first time on the previous legislative day. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 3018), to require the Secretary of Agriculture to announce an acreage limitation program for the 1991 crop of wheat.

Mr. SYMMS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. Pursuant to rule XIV, the bill will be placed on the calendar.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Calendar Order No. 819, S. 3037, the money laundering bill.

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. I object.

The PRESIDING OFFICER. Objection is noted.

Mr. MITCHELL. Mr. President, I move to proceed to Calendar Order No. 819, S. 3037, the money laundering bill.

The PRESIDING OFFICER. The question occurs on the motion to proceed. The question is debatable. The Senator from Idaho [Mr. SYMMS] is recognized.

Mr. SYMMS. Mr. President, I make this objection not so much for the actual text of the bill, as I am not a member of the committee, and have not had the opportunity to study the bill in detail, but it is my understanding that the objective of the next 2 weeks in this Congress was to try to resolve the question of the Federal budget.

We are operating here under a 5-day rule to waive the Gramm-Rudman-Hollings sequester, and there are many of us that think 5 days is long enough to waive that. There are many of us that believe that the President has the power, inherent in his authority as President of the United States, to waive a sequester on anything that impacts public safety such as air traffic controllers, such as meat inspectors and others; that we probably would serve this Nation about as well as we can serve it by continuing on this railroad track effort for this budget agreement that has been reached by several of our colleagues and the White House, by getting the sequester underway.

I am not advocating we have to do it that way, but it would appear to me that we really do not have time to be talking about a money laundering bill, or most any other bill for that matter, that is of this importance. This may be a bill that I may turn out to be for. However I will have some questions when it finally comes before the floor, and I have asked my staff to find information for me to see if this is another excuse by Congress to get more power to delve into the very private, financial lives of all American citizens in the name of drug war. I do not know the answer to that question, but I think it is a question that does need to be answered.

I note also, by looking at the minority views and additional views of Senators GARN, HEINZ, and BOND—and I call my colleagues' attention to this—that they had a vote in the committee by 11 to 10, where Senator GARN offered an amendment to retain the temporary availability period for local checks. The vote on this amendment was 11 to 10. The closeness of the margin suggests that this issue should be revisited when the legislation comes to the Senator floor.

Mr. President, the Chairman of the Federal Reserve supports the amendment to retain the 3-day availability for local checks which was reduced to 2 days. This obviously needs a full airing here on the Senate floor.

Mr. KERRY. Will the Senator yield for a moment?

Mr. SYMMS. I will be happy to yield.

Mr. KERRY. With respect to the issue the Senator raises on the closeness of that vote, there has now been an agreement worked out with the committee, and the managers jointly are prepared to offer an amendment that is, in fact, not at all contentious.

If I could simply say to my distinguished colleague from Idaho, this bill has a companion bill in the House of Representatives that passed by 406 to 0, and it came out of the Banking Committee unanimously.

The Senate majority leader has informed me there is no issue of time here. We are prepared to debate this all day. We are prepared to debate it tomorrow. The budget is not yet ready to come to the floor so there is really not an issue of time.

I will be happy to discuss the merits of it but this, as I say, is a bill that passed unanimously in the Banking Committee, unanimously in the House of Representatives. There is time to pass this legislation. It is supported by the Senator from Utah, Senator HATCH, Senator GARN. It is supported by Senator D'AMATO. It is supported on our side. It has broad bipartisan support—the Senator from Illinois.

I think in terms of the tools we need to fight a drug war it would be a tragedy if we did not proceed.

Mr. SYMMS. I thank my colleague for his comments. As I said, this Senator has not come to a conclusion on this bill. But both parties are going to go to their caucuses at the hour of 12:30, and when we come back this afternoon, we are going to dispose of the nomination of Judge Souter. I inquire of the manager of the bill, is it his intention to bring it to a vote between now and 12:30?

Mr. KERRY. That depends really on the level of opposition and the level of the amendments that might or might not suddenly appear. It was our understanding there really has not been any objection or any opposition to this bill.

There might be an amendment that might draw some opposition. But the bill as it stands now has, as I said, emerged from the committee with very broad support, bipartisan support. I do not think it is one that would necessarily require even a rollcall vote. Depending on what happens with amendments.

But I urge the Senator to permit us to proceed under the normal process and see if this body cannot pass a piece of legislation that is important to our efforts in the drug war.

Mr. SYMMS. Mr. President, if I might reclaim my time to carry on, I appreciate the concerns my colleague from Massachusetts brings up.

I might say, just as an editorial comment, Mr. President, that just because legislation has passed a committee unanimously—there may have been Senators on the committee who just did not want to go to the trouble to raise certain concerns they had about the bill and therefore they end up not objecting to the vote and it passes without a recorded vote—although there may have been some concerns and apprehension about it. Just because a bill passes the House of Representatives by a unanimous vote, there may be time when people would not want to go on record on a bill. Particularly if it passes on the suspension calendar where there is only 20 minutes per side, 40 minutes equally divided, for debate to fully air what is in a bill, people would not necessarily want to go on record about it.

In this age of perestroika behind the Iron Curtain, where people are trying to deregulate their economies, where the enlightened intelligent people are saying what it is that you in America and the free world have had is so much better than what we have had—I might just say, here we go again. Unanimous votes, bipartisan votes, are what have given the American people $3 trillion worth of debt and excessive burdens of regulation.

There are some things in the savings title of S. 3037 that I think ought to be talked about. In my office a couple of weeks ago we had the chairman of the largest bank in my State. He was in the office and I asked him, how are you folks doing? He said we are doing fairly well as a bank because the agriculture community is doing well; they have paid back their notes, so financially we are doing fairly well. But he pointed out to me the banks are already overwhelmed by a sea of regulation.

In less than 7 years, Congress has passed seven consumer banking regulations relating to expedited funds availability, adjustable rate mortgage caps, credit cards disclosures, Equal Credit Opportunity Act, home equity line disclosures, the Community Reinvestment Act, and the Home Mortgage Disclosure Act. These new regulations are in addition to existing regulations.

The list of consumer legislation alone—what had already passed, these are new things that have been passed in less than 7 years—the Truth in Lending Act, Electronics Funds Transfer Act, Consumer Leasing Act, Equal Credit Opportunity Act, the Real Estate Settlement Procedures Act, the Fair Credit Reporting Act and the Fair Housing Act.

What that means is it costs more money to run a bank in the United States. Maybe some people wonder why it is most of the big banks in the world are not United States banks any more. I think the concern that I have heard from the bankers in my State is more and more these statutes are unrelated to safety and soundness but they require them to hire additional staff devoted to compliance with more Federal regulations.

One effect of the accumulation of regulations is the additional staff devoted entirely to compliance. Even small banks in country towns must employ an entire staff devoted exclusively to compliance. Some banks have reported, for example, that they employ three or more persons who are devoted entirely to the single regulation, the Community Investment Act.

This costs money. I think before this Congress acts on legislation like this we have pending before us right now, Mr. President, this week, a $500 billion so-called deficit reduction package, of which a great part is going to require that the working men and women in America pay more money for gasoline, more money for a list of other items that they use which will be very costly to these men and women. We are taking money out of the family till, that they would use to raise their families, to pay for an ever-growing Government. The one thing that Washington, DC, inside the Beltway, in the Halls of Congress, never wants to slow down is the ever-growing size and scope and interference of the U.S. Government.

This Senator does not know exactly what this bill does in terms of how far and how intrusive it is. But the money laundering bill, just in title, sounds like it is put out here because it will read good in the newspapers. Congress has solved the problem of the drug launderers.

In the process they take all the other people in America that are law-abiding citizens and probably interfere in their private economic decisions and transactions.

So, in addition to the additional staff devoted to compliance, there is a reduction then when you have to apply your staff to work on compliance with Federal regulators that have nothing to do with the safety and solvency of the bank, we have a reduction in service and products. Truth in savings could have a chilling effect on new product designs. The cost of potential liability and regulatory compliance will inhibit new products. Regulations already in place illustrate this chilling effect. For example, some banks have determined that the disclosure requirements for adjustable rate mortgages are so complicated that they cannot afford to offer them. Consumers are thus denied a valuable, desirable product because of a regulatory burden. I want to repeat that, Mr. President. Some banks have determined that the disclosure requirements for adjustable rate mortgages are so complicated that they cannot afford to offer them.

I think it is unfortunate in this modern day that what we have done is we no longer leave enough time for Members of Congress to go home and run their own businesses. We do not have people in Congress any more who run their businesses so they live under the laws that they pass. I have long been a believer that it would be healthy for America if we had a Congress that met for 6 months every year and were allowed to go out and practice law, if they are a lawyer, or run a bank if they are a banker, so they can keep their hand in the business community, in the real world, if you will, to know just exactly what is going on out in real America, outside the Beltway, outside the hallowed Halls of Congress, here in the cave of the winds, Mr. President.

I think what happens is it is very easy to pass a bill that sounds good on the surface, and maybe this bill will pass this Senate by a unanimous vote, but I do believe that it is a bill that should not be discussed this year. If it is that important that we do it, then I think that it would be something that could be brought up in the next Congress and could be brought before the Congress and deliberated with due time. I do not believe Senators this week will have the opportunity——

Mr. KERRY. Will the Senator yield?

Mr. SYMMS. I want to finish my point and then I will yield to my colleague.

I do not believe the Senators this week in any way will be able to focus attention needed on a bill this important.

I just add again, Mr. President, in the last 7 years, we have had expedited funds availability, adjustable rate mortgage caps, credit card disclosures, Equal Credit Opportunity Act, home equity line disclosures, Community Reinvestment Act, the Home Mortgage Disclosures Act, on top of already Truth in Lending Act, the Electronic Funds Transfer Act, the Consumer Leasing Act, the Real Estate Settlement Procedures Act, the Fair Credit Reporting Act, and the Fair Housing Act, and now we want to add another

layer of regulation on the bank and this is your little country banker who will have to charge your constituents more money to have a bank account in that bank because of more regulatory burden.

While no single regulation, Mr. President, is too burdensome, when you add all this up, the aggregate burden of the litany of banking regulations ultimately affects the banks' operations and their ability to serve customers effectively. The aggregate burden consumes valuable officer and staff time and deprives consumers of products with which the associated regulatory compliance costs are prohibitive. The cost of compliance with consumer regulation adds significant cost to the business of banking with a substantial impact on the bank's bottom line.

We have all been reading in the papers about the situation American banks are in today. One of the big Eastern banks I notice recently laid off 5,000 emloyees in one fell swoop. The regulatory costs ultimately are passed on to consumers in the form of higher fees and lower interest rates on deposit instruments and higher fees and higher interest rates on loans. Elements of the expense which apply to all regulations, now get this, Mr. President, extra costs which apply to all regulation including the Truth in Savings Act, include legal fees for interpretation and implementation, collection and destruction of old forms, devising new forms, labor, meetings, preparation of reports, development of new technology, computer technology, computer resources, printing new forms, postage, handling inquiries and misunderstandings, purchasing compliance education and auditing tools, training and retraining personnel, monitoring compliance and assisting compliance examiners.

While compliance with requirements of truth in savings may appear to be simple and inexpensive, as other earlier statutes have shown, an apparent simple statute translates into an expensive regulation, for example, direct costs of a single provision is estimated to be in excess of $123.8 million. That figure only covers the requirements that the depository institution mail to all account holders and a copy of account schedule fees, terms and conditions of deposit accounts.

It may be that this is a cause that is worthy of spending $123 million for one regulation. It may be, Mr. President, that it is all well and good and it is worthy of that and that is what this Congress ought to do. But I think before we do it, before we leap, we ought to have some serious study and consideration just how much money Congress wants to require of our small, little country bankers to comply with a regulation that may or may not impact and help affect fighting the drug war. I think all Senators would like to see a successful victory in the drug war. There is no question about that. But are we going to do it so we throw the baby out with the bathwater? Are we going to add on more legal fees, et cetera, for these little banks so they can comply with another regulation? That is really a question that I think all Senators should have time to study.

Mr. President, from what some of my banker friends have told me in my State, that is an invitation to expensive litigation. This bill is an open-ended invitation. As the history of the Truth in Lending Act and other consumer statutes have demonstrated, banks and other financial institutions pay dearly for minor and inadvertent compliance mistakes. Such statutes invite expensive class action suits regardless of the merits of the suits.

The truth in savings title presents the same invitation—more unnecessary legislation. That is the final thing my friend from Idaho said to me: "Do we really need more unnecessary legislation just so Members of the Senate and Congress can pass a bill and go home and say we took care of that problem; we have now solved the money laundering problem?"

There is no great outcry from the consumers, I am told, that they are being misled or uninformed about fees, charges and interest rates on deposit accounts. Indeed, most banks already provide disclosures which are substantially similar to those required by the truth in savings title. Nonetheless, if this bill passes, banks will incur significant expenses to do what they are already doing. Banks will be required to pay to review the new regulations and current disclosures, revise and redesign and reprint and mail new disclosures, monitor compliance, and the list is endless on end. This will be one more area where Congress will be overkilling as the benefits do not outweigh the costs of the truth in savings regulations.

Mr. President, I just will say before I yield the floor to my colleagues, and I would like to have an understanding here that this Senator thinks that we should go to our policy luncheons, hash out what we are going to do about the problem with the Federal budget. Are we going to support the majority leader and the minority leader package; are we going to support that package or are we not? That is much, much more important than for us to be diverting our attention from this.

There is another very important issue coming up. Are we going to confirm Judge Souter or not? That is an issue that is very important. The Supreme Court has now convened for their fall session. It would appear to this Senator that it is more important for the Senate to get on with the confirmation process with Judge Souter so that we know whether he is going to be confirmed or not than whether or not the Senate is going to go forward with this legislation.

So I might ask an inquiry of the managers of the bill, Senator GARN and Senator KERRY, is it the intention to agree to this motion before 12:30 today upon the recess?

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. SYMMS. I have the floor. I only ask a question. I did not yield the floor.

Mr. KERRY. I will be delighted to answer the Senator's question. There is no preconceived time, there is no preconceived notion in either Senator GARN's or my head about when a vote would occur.

We are trying to move this forward in the normal fashion that business ought to be conducted on the floor of the Senate. I might simply say I find it somewhat incredible that my colleague suggests that we neither have time nor that we should proceed on a matter that somehow does not have complete agreement prior to coming to the floor. That is precisely what we are supposed to be doing.

I respectfully say to him that the very provision to which he objects has previously passed the Senate as part of the Proxmire Reorganization Act. So the Senate has previously deliberated it. I applaud what he has said with respect to the little person out there who is going to wind up paying more taxes. That is precisely why this is an important piece of legislation. There is $100 billion a year in money laundering going on, and Mr. Seidman has suggested a significant portion of the savings and loan scandal is reflected in money laundering. U.S. attorneys around the country are prosecuting people today for taking the hard-earned taxpayers' dollars and sending them to other countries.

The question here is whether we are going to save the taxpayer money. That is what is at stake in this legislation.

I simply say to my colleagues I would like to proceed and debate it. Let us proceed on the merits. There is no preconceived notion of having a vote before or after the caucus. We want to consider whatever amendments; whatever issues the Senator would like to raise, we would like to debate. But we would not like to have this issue slowed down with the notion that we should not be deliberating it.

Mr. SYMMS. Mr. President, I reclaim my time. I do not think I quite know for sure what the managers of the bill intend to do. If I understand the parliamentary situation, we are on the motion to proceed to the bill; is that not correct?

The PRESIDING OFFICER. The Senator from Idaho is correct.

Mr. SYMMS. I guess what the Senator is saying, Mr. President, is I do not wish us to move forward until after we have had a chance to discuss it in our Policy Committee meetings.

Mr. KERRY. I would be delighted, Mr. President, if the Senator will yield, to agree there is no preconceived notion. If the Senator wants to have some time to discuss with colleagues this legislation, I think that is important. There is no rush to judgment. I would be happy to agree that we would not have a vote, we would proceed to discuss some of the merits of the bill, and pick it up afterward.

Mr. SYMMS. That is the point I would like to make. I would like to have time. I have just been handed another list of concerns for some of my friends in Idaho who are bankers about problems that they have. A survey shows they have aleady spent $129 million to do precisely what Congress is asking for them to do in this bill.

So if my colleagues will give this Senator the assurance that between now and the hour of 12:30 there will be no unanimous-consent agreement agreed to on a time certain to vote on the motion to proceed, and they want to discuss the issue, I will be happy to yield the floor; otherwise, the Senator will be inclined to put in a quorum call.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. DIXON. Will the Senator yield for a question?

Mr. SYMMS. I will be happy to yield to my friend from Illinois for a question.

Mr. DIXON. If I may say to my distinguished friend from Idaho, I had intended to rise in opposition to his position on this and to articulate my views about why we ought to turn to this legislation. But if I understand the position of my friend from Idaho, he is hopeful that we can consume the time until 12:30 until we go to party conferences and take this up afterward. If that is his position, then I would like to suggest to him that I am glad to take it up after our party conference today.

I would like to then take 5 minutes as though in morning business to introduce a piece of legislation. I have been here since 10:30. I am very much interested in this issue, but if we cannot resolve this I would like to do something else while we have a little time remaining .

Mr. SYMMS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. KERRY. Mr. President, without losing my rights to the floor, I would like to yield to the distinguished Senator from Utah, who would like to make a unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah [Mr. GARN] is recognized.

Mr. GARN. I thank the distinguished Senator from Massachusetts. If I could, without him losing his right to the floor, just assure the Senator from Idaho that there was no intention on the part of either manager to even seek a unanimous-consent agreement. We did not have expectation of passing this bill that quickly, because there are other Senators from the Banking Committee, Senator MACK and others, who wanted to speak. So I can certainly add to the assurance that in the natural course of events that would not have taken place.

PRIVILEGE OF THE FLOOR

Mr. GARN. Mr. President, I ask unanimous consent that Ruth Amberg be given privileges of the floor during the consideration of S. 3037.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts has reclaimed the floor.

Mr. KERRY. Mr. President, I know the distinguished Senator from Connecticut and the distinguished Senator from Illinois would like to speak. I have a number of comments I do want to make at some point. I do not need to necessarily make them right now.

I simply like to say to the Senator from Idaho that the issue he just raised with respect to the CTR's is not contained in this bill. It is not contained in this legislation.

Second, this legislation has been worked on with the support of the banking community and it has the support of the American Banking Association. It does not come to the floor without having run a lot of hoops and a lot of hurdles to date. That does not mean Senators will not have some concerns that do not need to be expressed.

I emphasize to the Senator from Idaho that this legislation does not solve the problem of money laundering but it goes a fair distance toward improving the tools in order to enable us to try to recoup some money that the taxpayer is losing. We have countless banks failing around the country that have been already taken over by the RTC. We are all concerned about that.

There are indictments around the country, a number of indictments of people accused of laundering money out of the savings and loans into other bank accounts. That ought to concern us very deeply.

What this legislation does, with the support of Senator GARN, Senator HATCH, Senator D'AMATO, Senator BOND, and others, is it tries to tighten up the tools available to our enforcers to permit them to be able to represent the taxpayers adequately in court and to be able to try to recoup money as well as to be able to hold accountable those who are robbing this money from our taxpayers.

I cannot think of a better effort in conjunction with the budget efforts right now. I would certainly be willing personally to sit with the Senator from Idaho or any other Senator, as I know Senator GARN would, in an effort to try to work out these differences.

Mr. President, I yield the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois [Mr. DIXON] is recognized.

Mr. DIXON. Mr. President, I look forward to engaging in this debate after lunch. I have been here since 10:30. If my colleagues will indulge me, I ask unanimous consent to proceed as though in morning business for not more than 5 minutes to introduce a bill and make a brief statement.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The request of the Senator is agreed to.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 3148 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KERRY. Mr. President, since we are basically agreed at this point that we are not going to do anything except introductory comments with respect to the legislation prior to the conferees, I will proceed to do that now, as I think will the Senator from Utah, and try to explain what this bill is about a little bit so that colleagues can have a chance to reflect about it during the conferences. Hopefully, we can work out whatever differences might exist.

I would like to thank the distinguished chairman of the Banking Committee, Senator RIEGLE, and the majority leader. I would like to thank Senator GARN, who has worked closely on this legislation. I would like to thank them for trying to get this matter before the U.S. Senate before we face adjournment this year.

I personally believe that the stakes of what is happening with respect to money laundering in this country, and in other parts of the world as a result of what is happening here, that it would really have been irresponsible for us not to consider this prior to leaving, particularly given the overwhelming vote in the House of Representatives in companion legislation. I think it is the overwhelming sentiment of the Banking Committee.

There are several components to this bill. It is not just money laundering. There is the component of title I, which has the money laundering enforcement amendments. There is the

Truth in Savings Act portion, which has been referred to by the Senator from Idaho.

There are some amendments to the Expedited Funds Availability Act which were debated on the floor not so long ago. There is the home equity consumer portion and the Counterfeit Deterrence Act, and finally a Coin Redesign Act; very simple and straightforward.

Let me just quickly discuss each component. I think the most important component, at least to this Senator, is the money laundering component. First, more than a year ago, a subcommittee of the Foreign Relations Committee which I chaired, the Narcotics Terrorism Subcommittee, issued a report based on a hearing that had been held in which it had been found that drug money laundering, with the aid of banks in this country through other countries, was really a very significant factor; and that we ought to consider as a matter of policy whether or not we were willing to revoke the charter of a bank where there was clear evidence that the senior officials or the directors within that bank had knowledge of and had personally participated in the process so that, in effect, you had a corporate policy that was dedicated to the process of money laundering. And we felt that was a de minimis standard which we ought to try to adhere to.

Obvioulsy, the vast majority of bankers in this country are law abiding; the vast majority of banks in this country do not engage in this practice. And there is no effort here to somehow suggest that it is otherwise. But notwithstanding that, money laundering is about a $100 billion-plus problem.

Mr. DODD. I thank my colleague from Massachusetts.

Mr. President, I first of all thank my colleague from Massachusetts, as well as my colleague from Illinois, who is the chairman of the subcommittee that deals with this matter.

For purposes of background, this was a matter that actually originated, as the distinguished Senator from Utah will recall, in the 100th Congress. We passed it then but it was not enacted into law and has been sort of lingering around in the 101st Congress trying to find a proper vehicle on which to work out some of the details. It emerges today as a part of this particular process that is now before us.

The bill before us, frankly, as the Senator from Massachusetts pointed out, whatever controversy surrounded this matter was resolved, I say to my colleagues, to such a degree that we ended up with a unanimous vote out of the committee. Weeks were spent pretty much trying to sort out the problems that the banking community may have had over these pieces.

It worked out to their satisfaction. Certainly, they would have preferred in some cases not to have anything at all. That is nothing new. But to the extent we were going to try to do something here in terms of disclosure, they were satisfied that what we had done here was not going to be onerous or burdensome or create new additional costs that would make it impossible for them to function as institutions.

As a result of weeks of work, this was not a question where we ended up with a 9-to-8 vote, trying to force something on the institution here. Of course, as the Senator from Massachusetts pointed out, a good part of this, I believe, was adopted by the House in the last Congress.

This is not exactly what you would call a highly controversial issue at all. Basically, it comes down to one word and one word only: disclosure. That is the heart of it. There are two basic provisions in here that allow consumers, in trying to make decisions about their financial matters, to have as much information as possible in deciding where to do business. That is all this really amounts to.

So I would like to, at least, for those who may be somewhat confused by the debate and argument—I know our colleague from Idaho went on at some length. Frankly, he is talking about, in good part, things that have been done a long time ago. Whether or not he agreed, though, is another matter.

But frankly, what is included here is nothing more than disclosure. I will take just a couple of minutes to outline, and I will come back again after the recess and go back and debate some of these matters with the Senator from Idaho, or anyone else who cares to, to explain fully what we do in this legislation, and why it enjoyed the kind of unanimous support it received out of the committee; and why it received the same reaction from the House.

The truth in Savings and Investments Act is designed to address the impact of banking deregulation on consumer savings vehicles. The deregulation of interest rates that began in 1980 has resulted in the availability of higher returns for depositors. This benefit, however, has been accompanied by an almost mind-numbing variety of terms and conditions that affect the actual amount earned, provisions that are impossible for consumers to sort out.

You need almost a Ph.D. degree to figure this stuff out. If you sit down with two-income earners and families trying to expedite how they handle the financial matters, we decided here to make it clear to consumers without having to hire a lawyer and an accountant to decide what is the better opportunity, to make it clear what it is. That is all it is.

Let me explain a little bit how it works.

Let me briefly discuss just two of the major provisions. First, a glance through most newspapers will reveal advertisements of returns based on simple interest, APR's and APY's, the annual percentage rates and annual percentage yields. Since each of these methods has a different basis for computation, it is not possible for consumers to know which produces a higher yield.

You really could not draw that conclusion just based on that piece of information. Is 8 percent simple interest higher or lower than 7.9 percent compounded daily for instance? If you only saw those two figures, you would not necessarily know.

In order to correct this problem, the bill requires depository institutions to disclose only one figure—an annual percentage yield to be determined by the Federal Reserve Board by a formula that takes into account the interest rate and the frequency of compounding for a 365-day period.

So it just is a guiding light for consumers; that is all it is. You can go and rant and rave about what it is. All these provisions do is make it clear what is included here so the average consumers today will make the right choice or have a right to make a choice as to which institution they want to do business with.

The result will be much simpler for consumers. Every time they see two or more figures advertised, they will know that the higher number will always produce a higher return for the consumer. That is all they need to know. That will make life easier for the consumer and it will benefit the depository institution that is truly offering the highest return.

It is good for institutions that are competitive; this will assist them as well. Those who complain about it are those who do not want to offer high rates of return and advertise that and do not want to lose the business. It is clear where the opposition is coming from. The institutions that are competitive are for this. They believe the consumer ought to have that kind of information.

A second example is the balance calculation provision contained in section 309 of the bill. It mandates that banks use either an average daily balance method or a day of deposit to day of withdrawal approach. They can choose one or the other. These two methods give consumers their money's worth; balances are calculated on the amount of money they have in their accounts each day. Roughly, 90 percent of all depository institutions use one method or the other. The importance of this provision lies in the fact that some institutions use other meth-

ods that can have very adverse effects on consumers.

So we are dealing with a fraction of those institutions that do not use these other two, and let me explain why they can have an adverse impact. For example, our hearings in 1987—Mr. President, that is how long this debate goes back—revealed that the same interest rates paid on the same balances over a 6-month period produced returns that varied from as much as $75.30 to $44.93, depending upon whether the bank used a day of deposit to day of withdrawal method or a low balance method, one that pays interest on the lowest balance for the month. Section 309 of the bill will outlaw such an unfair result. That may be a burden for some institutions, but be that as it may, that is what it is designed to do. So for those few who are engaging in unfair practices of these, they do not like it.

Before turning to the amendments to other provisions in the bill, I would just like to point out that the problems presented by noncomparable information and the failure to disclose relevant other terms and conditions are especially important in the 1990's when there are more and more two-worker families and people simply do not have the time, as I mentioned a moment ago, needed to identify everything the bankers are not telling them.

With respect to the changes to the Expedited Funds Availability Act, I just want to comment on the provision that would give nonproprietary ATM's an additional 4 years to meet the schedule for local checks. When we enacted this provision, it was designed as a technology-inducing provision. Unfortunately, the technology for nonproprietary ATM's to differentiate local from nonlocal checks has not changed enough to permit them to do so at a reasonable cost. So, therefore, we extended the time to accommodate the banks when they pointed this particular out. By extending the time for these ATM's to meet this schedule, we are maintaining the legislation's goal, which we think is an important one, but recognizing the reality that it cannot be reached by the date in the original legislation.

The banks came to the committee and said, "That is a problem for us. Can you help us?" We said it makes good sense; we can work that out. The legislation already does things the banks clearly needed to have done. By rejecting that legislation, we go back, one could argue, to the earlier provision that required them to meet that earlier standard. The suggestion, however, this is legislation that is totally onerous to the banking communities is patently false.

Finally, I just want to address the rationale for proposing a change to the home equity loan statute so soon after its adoption in 1988. As with the matter I just discussed regarding expedited funds, a problem has arisen that needs attention. In this case, the problem is the result of a misinterpretation of the statute by the Federal Reserve Board and a Federal court. Our main goal in that legislation was to require lenders to disclose the key cost terms to consumers. In variable rate loans, the consumer needs to know two things in order to know what interest rate will be charged—the index that is being used, which is typically some version of the prime rate, and the margin, which is a fixed percentage rate that is added to the index to produce the interest rate. Thus, the 1988 legislation requires the disclosure of "any index or margin to which such changes in the (annual percentage) rate are related."

For example, if a borrower's rate will be based on the Wall Street prime plus a 2-point margin, then I believe, and I think all of us do on the committee, the consumer needs to know both those facts and that is the intention of the legislation. Instead, the Fed did not require disclosure of the margin and the United States District Court for the District of Columbia recently upheld the Fed's viewpoint, holding that:

> In the normal case, the change in the interest rate of a variable HEL is not related to the margin but to the index; the margin is generally a fixed figure which will not be responsible for a change in the interest rate. Accordingly, the lenders would only be required to describe how the interest rate would change over time due to the index.

The Fed's and the court's interpretation vitiate the intention of the provision which was for lenders to disclose what index they were using and what the margin was. Without the disclosure of both of these terms, the consumer cannot determine what interest rate will be applied. That is why this amendment is included in the legislation.

To correct this problem, section 318 of title III requires the creditor to provide, as part of the disclosures given with the application form, the specific margin which applies to the creditor's Home Equity Plan. Mr. President, as they are soliciting business, there is the business they want. So when you are taking the application forms the consumers will have a better idea.

The amendment allows creditors that offer more than one margin to use a single disclosure form so long as the creditor specifies the amount of the credit line to which the margin is tied or clearly sets forth and describes the feature to which the margin is tied. Disclosure of specific margins would not preclude creditors from providing lower margins under certain circumstances.

Mr. President, I realize this is a bit technical, but as is often the case, matters that come before the Banking Committee dealing with financial institutions are technical, and words of art are important here, and this is legislation.

Again, I emphasize and say to my good friend from Idaho, who I know is legitimately concerned about the cost of added burdens, and so forth, that you can complicate these matters and a lot of times a few institutions that are frankly concerned about the purely competitive environment are not going to like some of them. What this is designed to do here is really to make sure that constituents of his and mine who do business with these institutions, when they read the advertisements in the paper, get a good idea so it is not a shell and pea game, so when they say interest rates are such and such, they can count on them, so those two-income families the Senator from Idaho and I have in our States who read that in trying to make a decision to go to bank X or Y they are not going to be fooled by a simple disclosure application. Clearly, when we are trying to encourage competition within the lending institutions and make sure the consumers are getting the deal they think they are getting, these kinds of provisions really should not provoke and have not provoked any controversy at all except for the few institutions that, frankly, do not want to really be competitive when it comes to offering higher yields for people's money.

So when you wade through all of these and read the language, as technical as it is, the bottom line is, do we believe that the consumers in this country ought to know what, in fact, the yields are going to be or not? Or do we want to allow a few institutions to continue to play a game that would require the average person to go out and virtually hire a lawyer to determine what, in fact, the yields are going to be.

I opt for the former. The few pennies it may cost an institution to provide that information is hardly, it seems to me, worth the opposition that is being expressed to this kind of provision in these bills.

I gather we may debate it a little further this afternoon after our caucus luncheons. But I would hope that my colleagues—and I will be delighted to have private conversations with them about the bill, what is in it and so forth, and our staffs will be available.

This was a unanimous vote by the House committee and a unanimous vote by our committee. It is not a controversial matter except for a handfull of institutions that have always objected to disclosure. That is all that is required of this legislation.

I thank my colleague from Massachusetts for giving me an opportunity

to lay out the details of what these two provisions really are in this legislation.

I yield the floor.

Mr. LEAHY. Mr. President, I do not want to interfere with my distinguished colleague from Massachusetts because I always try to give the utmost respect to those Southern States, but I wonder, if he has no objection, if I might be able to proceed for just 3 or 4 minutes on a subject of some major concern.

Mr. President, I thank Senator KERRY. As always he is showing his unfailing courtesy in helping other Senators.

NUTRITION BUDGET

Mr. LEAHY. Mr. President, this past weekend, President Bush joined world leaders at the United Nations in calling for a renewed attack on child hunger and mortality. The words he used reflect my own concern for the world's, in particular for the U.S. children. Indeed, a hungry child is an empty promise. The President is correct in recognizing that.

But I am disappointed to see that the President's budget priorities speak, unfortunately, a lot louder than his words. The administration's budget has put hunger relief on a starvation diet in this country.

Last spring I introduced the Mickey Leland Memorial Domestic Hunger Relief Act in the Senate. We did this to honor the memory of a brave Congressman who was dedicated to the world's desperately poor citizens and, in fact, died on a trip to try to bring food to some of the hungriest of this world. Our bill expanded our domestic nutrition programs to meet the needs of our own hungry, especially the one out of five children in this country who live in poverty.

Think about that when we are talking about the children of the world, Mr. President; one out of five children in the United States lives in poverty. The same one out of five live in hunger in the wealthiest, most powerful Nation on Earth.

The administration opposed this bill. They opposed the Mickey Leland bill right from the beginning. And they continued their opposition for many months. And now this living tribute to Mickey Leland has died because of the budget priorities of the administration.

The Mickey Leland bill is only one of the victims of the administration's starvation budget. This year the administration proposed almost $500 million in cuts for child nutrition programs, including at least $180 million in cuts in the school lunch program. President Bush campaigned for more day care but his proposed budget cut funding for meals provided to children in day care. Cuts of over $280 million for both child and adult day care tell how those campaign promises have come out.

The supplemental food program for women, infants, and children, the WIC Program, has been shown by study, after study, after study, to significantly increase the health of newborn infants. It reduces the cost of child health care. We want to find something in the Year of the Child that helps children, that saves children's lives. WIC does. It saves children's lives. It saves the Nation money at the same time. It is in many ways, Mr. President, the perfect program—if we really mean what we say about helping children.

Now, in the Presidential debates, President Bush strongly supported WIC. Governor Dukakis strongly supported WIC. Everybody strongly supported it. But President Bush had a chance to do something about it, and he did not propose increases in the WIC program. In fact, he refused my offer to support full funding for WIC. And because of this funding shortfall, WIC fails to serve over 40 percent of those women and young children who are eligible.

We have to ask ourselves also, in a year we are talking about this attack on child hunger and mortality, how many children die needlessly at birth because they do not have access to the WIC Program? How many children have health problems for the rest of their lives because they did not have access to the WIC Program?

Why is it that the United States lags so far behind other nations in child mortality statistics, the number of children who die at birth, or are hampered throughout their life, because Of a low birth weight? One reason is we do not fully fund the WIC Program. The President also asked in his budget for a significant cut in the nutrition assistance program for Puerto Rico—over a $100 million cut.

Mr. President, all of us like to give speeches with the flags flying and the bands playing, and with pride and with patriotism we speak of being the richest and most powerful Nation on Earth because, indeed, we are. But sometimes we do not talk about the millions of Americans who go to bed hungry every single night, not by choice, but by necessity. Hunger is not limited to the homeless living on our street corners or in our subway stations. There are Americans in every city and every State who live with hunger every day.

Mr. President, you and I, or any of the other 98 Members of this body could go into any community in this country, whether we had ever been there before or not, and find pockets of hunger in this, the wealthiest, most powerful nation on Earth. We know that poor nutrition and hunger jeopardize the future of our entire Nation. When children go to school hungry, they do not learn. If our Nation's children are not learning, our Nation's future is seriously at risk, and we must not surrender our future. A hungry child is an empty promise.

It is time for the administration to stop pretending that it cares about children and start acting to protect them. Stop giving lofty speeches about the rest of the world, necessary though they might be, and look at the hungry children in America. Statistics show that across our Nation, the rich get richer and the poor get poorer. The gap between rich and poor in our Nation is as wide as it has ever been since World War II.

The budget deal reached by Congressional leaders and the administration takes steps to reduce the income gap as well as the deficit. I applaud the negotiators for their patience and their hard work, patience sometimes in the face of arrogant obstinance. But I cannot agree that merely holding our ground in the fight against hunger is enough. I cannot accept the fact that the most powerful nation in recorded history cannot feed the hungry or heal the sick or provide any Federal employment to the able-bodied. We have to continue the moral struggle against hunger and poverty in the United States.

In conclusion, I would say, Mr. President, that we have to take a leadership role on these issues internationally. As chairman of the appropriations subcommittee dealing with foreign aid, I intend to support those United Nations and other international programs for children. I want to see more funding for UNICEF, for child survival, for AID-supported children's programs. I support the world summit for children. I hope the summit will lead to prompt ratification of the Convention on the Rights of the Child, and I hope this Nation will back up its rhetoric with the necessary money and will back up the symbolism with some substance. It is time to fulfill the promise of the child.

The PRESIDING OFFICER. The Chair informs the Senator from Massachusetts and the Senator from Utah, the floor managers respectively, that under the previous order——

Mr. KERRY. Mr. President, I ask unanimous consent simply to be able to proceed to clarify a number of points, and then I think the Senator and I agree not to delay the Senate at this point.

I ask unanimous consent granted when I originally asked the RECORD not show me interrupted by the previous speaker also not show me interrupted by the Senator from Vermont nor by the recess, and when we reconvene after the recess I be allowed to continue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I understand there is an order for a vote at that time.

I will continue at such time as this bill is resumed in debate and it be shown at that moment.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 this afternoon.

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m., whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

SUPPORTING THE ACTIONS TAKEN BY THE PRESIDENT WITH RESPECT TO IRAQI AGGRESSION AGAINST KUWAIT

BIPARTISAN SUPPORT FOR PRESIDENT'S POLICY IN THE PERSIAN GULF

Mr. DOLE. Mr. President, I am pleased to join the majority leader in offering this resolution. I would also like to affirm that the administration supports the resolution.

The resolution is important for what it says—and equally important for what it does not say.

It does express the strong, bipartisan support in the Senate for the President's leadership, policies, and actions in the Persian Gulf crisis.

In doing that, it will send another strong and important message to Saddam Hussein: The United States is united in its determination to achieve the goals of the President's policies. Saddam Hussein is not going to get what he wants, period; and he surely is not going to get what he wants because of indecision or dissent in the U.S. Senate.

The resolution also includes a strong call to all nations in the world, to keep up the pressure on Saddam; and, at the same time, to respond to the needs of those adversely affected by the enforcement of the sanctions.

As an aside, I might note that I have recently met with a large number of foreign leaders—Presidents, Prime Ministers, and Finance Ministers. Every one of them spoke of their governments' commitment to cooperate in the "squeeze Saddam" strategy, but many of them, too, pointed out the severe costs to their countries of that cooperation.

President Zhelev of Bulgaria, to cite just one example, not only pledge continuing commitment to the embargo of Iraq, but announced that Bulgaria will send some ground units to Saudi Arabia, if asked.

But he also pointed out that Saddam has quit payment on the multibillion dollar debt that Iraq owes Bulgaria, even as Bulgaria—increasingly cut off from Soviet oil and natural gas supplies—must pay much higher costs for those commodities on world markets. So it is a double or triple whammy on many of these countries. And it is important that we acknowledge that in this resolution.

But, as I said, this resolution is also important for what it does not say.

Most importantly, while properly reaffirming the constitutional processes by which our foreign policy is developed and implemented, the resolution does not plunge us into a pointless and damaging confrontation over war powers.

There is a time and a place for everything. And one of these days, we must confront this war powers issue, and get it resolved in a manner that is consistent with the Constitution, preserves the legitimate role of the Congress, and serves the national interest.

But debates here on the floor of the Senate can be misunderstood, when translated into headlines, or soundbites in the media around the country, and around the world.

A debate right now, which could be misunderstood or misreported as evidence of an erosion of support for the President's stance, would serve no one's interest—except Saddam Hussein's.

So this is a good resolution. I commend the administration, which urged us to pursue this resolution, and the majority leader, who has been very involved in working out this draft.

It was a bipartisan process, which has resulted in a bipartisan product. That is the way we ought to deal with these serious foreign policy issues.

I urge all Senators to vote for this resolution.

Mr. PELL. Mr. President, before we cast our votes with respect to this resolution, I wish to bring one matter to the attention of the Senate which is a matter of some concern.

Back in August, while the Senate was still in recess, and after the President's initial deployment of troops to the Persian Gulf region, I wrote to the President asking for certain documents relating to those deployments. I reminded the President, by way of background, that in 1983, when the United States was participating in a multinational peacekeeping force in Lebanon, the Senate Foreign Relations Committee had had the opportunity to examine the exchange of letters between the Governments of the United States and Lebanon which provided the basis for that participation. Accordingly, this past August I wrote with respect to the Persian Gulf deployments—

I assume that in recent days there have been similar exchanges of letters with the Governments of Saudi Arabia, Kuwait and other nations with respect to the military deployments and other actions recently undertaken by the United States. For instance, the official Saudi request was mentioned in your August 9 letter to Congress, and the Kuwaiti request was mentioned in Acting Secretary of State Kimmitt's letter to Congress last week.

As required by the Case-Zablocki Act and consistent with the detailed information the Committee was provided in connection with drafting the Lebanon resolution, I would appreciate your having provided to me copies of any exchanges of letters that the Executive Branch may have had with Saudi Arabia, Kuwait and other Governments, and also the content of any oral agreements.

I have not yet received a reply to my letter, although the State Department has assured us that we will have the requested items next week. I mention this at this time, because at least with respect to the specifics of the arrangements and commitments we might have undertaken with other governments, we are, in a way, operating in the dark. I trust that when we receive the reply, we will find no surprises and not have to revisit the findings contained in this resolution.

Mr. KOHL. Mr. President, I firmly believe that the President's response to the invasion of Kuwait by Iraq has been fundamentally sound. Iraq's behavior has been unjustified and unacceptable. The President's ability to forge an international response to this aggression has been both skillful and effective. The actions he has taken so far have my support and deserve the thanks of the civilized world.

Having said that, Mr. President, I must also say that I am less than pleased with the resolution now before us. To begin with, I believe that the President should have sought congressional approval for the actions he has taken—approval which he would have gotten—as required by the War Powers Resolution. The President may not like the War Powers Resolution but it is the law of the land and one of the issues at stake in the Persian Gulf is respect for the rule of law. The law requires congressional approval of deployment of American forces in situations in which hostilities are imminent. Hostilities are, unfortunately, imminent in the gulf. And that means that the President is required to seek congressional authorization for his actions.

Second, I believe that the President should have been—and should be—working more closely with the Congress in developing our Nation's ongoing response to events in the Persian Gulf. So far, I am afraid, the executive branch is working with the other nations of the world but not with the Congress of our own country. I understand the realities of the modern world: Secrecy is often essential, events take place quickly, responses

have to be almost instantaneous. But planning is going on now. And the Congress, perhaps represented by a leadership group, ought to be aware of what options are developed, and involved in the process of evaluating those choices.

Third, I am concerned about the specific language of the resolution because some may read it as giving the President a blank check for future action. That is simply not the case with this Senator. I do support the actions the President has taken so far. But I cannot signal my support for future actions unless I know what strategy will guide them and what operational details will control them. Of course I support "continued action * * * to deter Iraqi aggression and to protect American lives and vital interests in the region." But what does continued action mean? Military action? Diplomatic action? Capitulation to Iraq? The resolution does not define its terms—and that disturbs me deeply and offends greatly. Military action may be essential at some point. But I do not want to see us take any military action until that point is reached. By committing us to "support continued action by the President" some may see the resolution as a grant of authority to the President. Perhaps it is wishful thinking, but I read the language of the resolution more restrictively; after all, there is at least the requirement that such action be in accordance with the decisions of the United Nations and our own domestic legal processes. That, I hope, is enough to suggest that additional authorization or approval would be required before our actions move in a new direction or shift their current emphasis.

Finally, while I recognize the value of this resolution, I also recognize its limitations. This resolution doesn't really endorse or encompass or create a comprehensive policy in the Persian Gulf; at best it simply speaks to the current crisis. And that is precisely what is wrong with the resolution and with our policy: It only addresses the immediate crisis. Look at some selective recent history: 2 years ago we tilted toward Iraq because they were fighting Iran—now Iraq has tilted against us and who knows where Iran is; 2 months ago Syria was branded a terrorist state—now we invite them to lunch; today we are all frightened by the proliferation of weapons and military might in the region—so we propose to sell an additional $21 billion in arms to Saudi Arabia. Mr. President, over the past few years we have bounced from one policy extreme to another: We have shifted goals, altered alliances, modified the means we are willing to use. It is really time for us to figure out what our policy in the region is going to be. This resolution, as important as it may be, simply does not help us do that.

Despite these concerns, Mr. President, when all is said and done, I will vote for this resolution. I will do so because I agree with what the President has done so far and because I want to send a clear signal of American unity to Iraq and to all other nations. But I also want to send a clear signal to the President of the United States that increased consultation and involvement is necessary if that support is to be sustained and that unity is to be maintained. The American people have a right to fully understand what we are doing; the Congress has an obligation—a legal, constitutional and moral obligation—to be involved in, and give approval to, American action in the gulf. And our nation has a need to develop a comprehensive and consistent policy in the Middle East.

Mr. KERRY. Mr. President, I support this resolution which I believe sends an unequivocal signal to Saddam Hussein that the Senator is in total agreement with the President and the international community in actions taken thus far to force the Iraqi, withdrawal from Kuwait.

In so doing, it should be pointed out that this resolution is not a Gulf of Tonkin resolution on the Persian Gulf. Quite the contrary, this resolution reflects the near unanimity of the global community in condemning this aggressive act by a brutal dictator.

Unlike our experience in Vietnam, the United States is not acting unilaterally in the Persian Gulf. We are not acting in the absence of an international consensus in support of our presence in the region. The emphasis that the President is placing on the role of the United Nations is a critical element of our policy in dealing with this crisis. The President has done a superb job in mobilizing the international consensus, as manifested by the eight resolutions passed by the U.N Security Council in response to the Iraqi invasion.

The success of U.S. policy will be largely contingent upon the maintenance of this international solidarity. It is imperative that the United States continue to operate under the auspices of the United Nations.

While the resolution is not statutorily binding upon the President, I would like to differ with its characterization offered by our distinguished colleague from Oregon [Mr. HATFIELD]. Subsection (b) of the resolved clause expresses support for the President's actions, or continued action, in "accordance with the decisions of the United Nations Security Council and in accordance with United States constitutional and statutory processes, including the authorization and appropriations of funds by the Congress."

Mr. President, I believe this phase appropriately defines the limit of our support. We are telling the administration that Congress will support continued action so long as this action is in accordance with the decisions of the U.N. Security Council, in accordance with the U.S. constitutional and statutory processes. I would submit that since the War Powers Resolution is part of our statutory process, this resolution is covered in the legislation we are considering today.

And quite frankly, if the Congress is so predisposed to correcting a perceived policy miscalculation, the ultimate weapon we have is the power of the purse. As one who fought and bled for my country, the failure of the Congress to cut off funding for the Vietnam war for so many years represented the ultimate derogation of the responsibilities of this institution.

I am a strong supporter and advocate of the War Powers Resolution. But the War Powers Resolution, and its invocation, should not be used as an excuse for not exercising the most effective tool we have to decide these issues—the power of the purse.

Mr. President, I am supporting this resolution because it is my belief that it does not authorize the President to operate unilaterally either apart from the U.N. framework, or without specific authorization from the Congress. The success of the President's policy, thus far, has been the international consensus behind our efforts and those of our allies—a consensus which has contributed to, and strengthened, the broad base of support among the American people.

I would caution anyone in the administration who would be inclined to engage in a twisted or convoluted interpretation of this resolution that we are not giving the President carte blanche to wage offensive military action unilaterally. All our actions must be predicated upon support from the Congress, the American people, and under the continued sanction of the United Nations.

I am concerned that the Iraqi invasion of Kuwait may be an ominous omen of the potential dangers facing the global community in the post-cold war era.

The global community has emerged from 45 years of superpower competition, during which the threat of unclear confrontation was never far from our consciousness. Fortunately, the cold war did not bring our worst fears to fruition.

The end of the cold war era, however, does not mean the world is safe from global catastrophe. The greatest danger to international security and stability can come from traditional regional hot spots which, if left unattended, could be the spark that could turn local confrontations into more widespread conflagration.

Today, we are confronted by a regional power, Iraq, which has attacked a weaker state, Kuwait, for both terri-

torial gain and control of an important resource. The crisis is even more threatening by virtue of the fact that Iraq has developed a chemical weapons capability, and is pursuing a nuclear weapons development program. And Saddam Hussein has demonstrated a willingness to use such weapons of mass destruction in the past, whether in his war against Iran or against his own Kurdish population.

That is why I support President Bush's response thus far to the crisis and our demand—the demand of the international community as manifested through the Security Council resolutions of the United Nations—for the unconditional and total Iraqi withdrawal from Kuwait.

The fundamental issue associated with the Iraqi invasion of Kuwait, in my estimation, has nothing to do with oil prices or who controls how much of the world's petroleum reserves. The fundamental issue has nothing to do with our rushing in to support, or prop up, so-called feudal monarchies in the Persian Gulf.

Even the question of energy independence, or the failure to develop a national energy policy, is peripheral to what should concern us, our Western allies, and our new-found allies in the region.

If local or regional aggressions are allowed to go unchallenged, then the entire global community could open itself up to nuclear and/or chemical weapons blackmail, particularly if a despot's appetite has been whetted by local or regional successes.

That is the potential reality being played out in the Persian Gulf today. Yes, there are risks inherent in the current massive development of U.S. military power in the region. But one has to weigh those risks against what, potentially, could be a more catastrophic outcome. Do we want to risk this possibility?

While the threat of all-out nuclear war between the United States and the Soviet Union has hung so heavily over the world for the past 45 years, there has also been concern for local and regional conflicts escalating into nuclear or chemical wars. We have succeeded, for the most part, in keeping that genie in the bottle. It would be disastrous if that genie were ever allowed to pop out of the bottle. It would establish a precedent that would make it difficult to influence other potential hot spots around the globe.

We are currently in a transition period from the cold war era to an era in which the superpowers no longer have surrogates over whom they could exercise influence in times of crisis. Saddam Hussein has certainly proven that to his former ally, the Soviet Union. There are leaders, such as Saddam Hussein, who will exploit this new reality to pursue their own nefarious ambitions.

Yet, no one nation alone can carry the burden for responding to such threats which could escalate into confrontations with global implications. We need to focus on strengthening the capabilities of the U.N. to meet future aggressions, because, unfortunately, there are other Saddam Husseins lurking in the world's future. The global community has to be prepared to respond quickly and credibly to avert larger catastrophies which might lurk in our future.

We have to get serious about the conventional arms race around the world. Iraq is a frightening example as to the need for the international community to get serious in bringing to an end the proliferation of chemical, biological, and nuclear weapons throughout the world. We have to get serious about nonproliferation.

The current crisis, and the response of the international community to the Iraqi aggression, does provide us an opportunity to strengthen a multilateral capacity to deal with future threats.

The President speaks of a new world order. And to a large degree we are seeing the unfolding of a new world order. But for the principle of collective security to become a functional reality, we have to take the leadership in supporting a system based upon the rule of international law.

If there is one lesson, among many, to be learned from this crisis, it is the fact that the West, and the United States as the leader of the West, has to realize that unilateral action will threaten seriously our own long-term security. In the coming decades, we could find ourselves in a world at least as dangerous and unfriendly as that of the cold war. Only by promoting a truly international security system based on the rule of international law and the United Nations can our Nation hope to promote both our own and wider global security.

The fact that the President has been sensitive to the need for responding to this crisis under the United Nations auspices and framework, has been a very important consideration in my support for his policy. He has been skillful in working with the United Nations to establish an international partnership to respond to this aggression. In the process, I believe the United States is making an important contribution in the long overdue requirement for strengthening multilateral responses to present and future crises which do and will, face this global community of ours.

Mr. BIDEN. Mr. President, 8 weeks have passed since American troops were sent to the Arabian peninsula to deter further aggression by the nation of Iraq.

We have seen the largest buildup of American forces since the Vietnam war—in a fraction of time that it took to make a similar commitment in Indochina, with a fraction of the debate.

It is now October 1, nearly 2 months since the first United States soldiers arrived in Saudi Arabia, and 3 weeks since Congress reconvened after the August recess.

In these 2 months, the U.N. Security Council has approved no less than eight resolutions regarding the gulf crisis.

Yet the Senate has remained, as an institution, largely silent.

A NEW AMERICAN DOCTRINE

The debate on this policy is long overdue. For the deployment of United States Forces in the Persian Gulf is not just, to use the President's words, "a line drawn in the sand."

It is a new American doctrine to justify massive United States intervention in the Middle East.

Ten years ago, in response to the Soviet invasion of Afghanistan, President Carter articulated a doctrine that now bears his name. He said:

> An attempt by any outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States.

The American people understood that we could not accept an alien hand—at the time, a Soviet hand—grabbing control of this essential resource.

But President Bush has responded to a new threat—not from an outside power—but from an Arab aggressor seeking to control Arab oil.

This is a dramatic shift in American foreign policy—a Bush corollary to the Carter doctrine.

We have declared to the world that we will not permit an unfriendly Arab nation to control gulf oil.

A commitment potentially limitless in its scope that at a minimum, could well mean a long-term presence of U.S. Forces—at least Naval Forces—in the Persian Gulf Region.

Congress must play a role in helping to more clearly define this long-term commitment, just as Congress must play a role in the current deployment of U.S. Forces.

To date, Congress has been simply an observer, heartily congratulating the President for his brilliant diplomatic skills and praising American soldiers for their service to the country.

Such praise has not been un-deserved.

The President has done a tremendous job thus far in uniting the world in opposition to Iraq's aggression.

And American forces have been heroic in their rapid deployment to the Middle East and in their commitment to duty under harsh conditions.

But to continue in this sideline role would be not merely an evasion of responsibility, but an abdication of congressional power.

CONGRESS AND THE WAR-MAKING POWER

That Congress has the power to declare war is unambiguous in our Constitution.

But students of the doctrine of original intent would perhaps be surprised to learn that the framers did not intend for congressional involvement in the use of force to end there.

Indeed, an early draft of the Constitution reserved exclusively for Congress the power to make war.

Later this was changed to declare war. But the reason for this change is instructive.

At the Constitutional Convention, James Madison and Elbridge Gerry argued for the amendment for one reason—to allow the President "the power to repel sudden attacks."

In fact, the framers had no interest in the ceremonial aspects of declaring war—which has only been used five times in our history as a nation.

Even then, as Alexander Hamilton noted, "the ceremony of a formal denunciation of war" had "of late fallen into disuse." (Federalist 25).

The real issue was authorization of war, which the framers did not intend to give to the President.

Even so staunch an advocate of Presidential authority as Hamilton emphasized that the President's power as Commander in Chief would be "much inferior" to that of the British King.

Amounting to "nothing more than the supreme command and direction of the military and naval forces" (Federalist 69).

The framers of the Constitution wanted Congress involved, on an equal basis, in any decision on the use of force—the most fundamental decision a nation can make—for two important reasons:

First, to balance power within our Government; and

Second, because congressional support is a sound barometer of a policy's wisdom and a prerequisite of a policy's sustainability.

SUPPORTING THE CURRENT POLICY

Congress must have a role to play in authorizing the current deployment of troops in the Middle East, as well as any further action.

It cannot be merely reduced to providing the funds to continue the military operation, "which as a practical matter is guaranteed, since Congress rarely uses the power of the purse to cut off support when American soldiers are on the brink of war."

The question then becomes: By what form does Congress add its voice to the policy?

I believe the best approach would be to provide a statutory authorization, rather than the hortatory resolution before us today.

In truth, I do have concerns about the resolution now before us.

The best that can be said about it is that it is only a concurrent resolution, and thus has no force of law.

I would be happier if we set down some guidelines for U.S. policy, in order to clarify our objectives in the gulf, and to provide signposts for future actions.

The resolution's ambiguity leaves open the possibiity that the President will interpret this resolution very broadly and consider it as the first and last word of Congress on this matter.

It mentions neither future actions by Congress, nor of the need to seek a declaration of war if hostilities occur.

It merely "supports continued action by the President."

Now we must make declarative statements about the intent of Congress in approving this resolution.

But we must remember that Presidents have not hesitated to ignore legislative history when it suited them.

We need only to recall the Vietnam experience, where the Johnson administration cited the Gulf of Tonkin resolution—enacted in response to alleged North Vietnamese attacks on the U.S.S. *Maddox* and the U.S.S. *Turner Joy*—as an authorization to escalate the war.

Despite the fact the resolution said nothing about authorizing anyone to do anything.

We know these resolutions are subject to selective interpretation—and abuse.

The words of Nicholas Katzenbach are instructive. While serving as Johnson's Attorney General, Katzenbach acknowledged in an internal memorandum that there was some legislative history to indicate that in passing the Gulf of Tonkin resolution, Congress did not intend to approve a large-scale land war in Asia.

But later, as Under Secretary of State, Katzenbach testified to Congress that the Gulf of Tonkin resolution constituted the "functional equivalent" of a declaration of war.

A similarly clever administration official might use this resolution as justification for military action.

Let me read from the operative section of the measure:

The Congress supports continued action in accordance with the decisions of the United Nations Security Council and in accordance with United States constitutional and statutory processes, including the authorization and appropriation of funds by the Congress, to deter Iraqi aggression and to protect American lives and vital interests.

Now I, and many other Senators, take the reference to the U.S. constitutional and statutory processes to mean that the President must continue to seek authorization from Congress.

But because the current administration appears to believe that the Executive's warmaking powers are almost limitless, the reference could be rendered meaningless.

For example, the wording about the authorization and appropriation process might be construed later—if we go ahead and appropriate the funds—as constituting the necessary congressional approval for any military activities which the President decides to undertake.

I hope and expect that President Bush will reject such interpretation.

A STATUTORY AUTHORIZATION

I believe the Congress, the Nation, and the troops sweltering in the Saudi desert would be better served if Congress clarifies American policy in the gulf with enactment of a statutory authorization, which could demonstrate robust support for the President, guide the administration's policy, as well as make clear that Congress has not granted a blank check to the President and that further authorization is necessary for the initiation of hostilities.

Such a resolution would also lay out principles that should govern U.S. policy, providing a framework for action on the part of the President and Congress.

This is well within the range of our responsibilities as the legislative branch.

And it would help ensure public support for this policy.

I have drafted such a resolution, and submit it now in the RECORD for the consideration of my colleagues.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

STATUTORY AUTHORIZATION

A joint resolution providing statutory authorization for the deployment of United States Armed Forces in the Persian Gulf region to deter and, if necessary, defend against further Iraqi aggression and to participate in multilateral efforts to restore the sovereignty of Kuwait and promote the security and stability of the region

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Collective Security in the Persian Gulf Resolution".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that in response to the act of aggression by Iraq against Kuwait, which began on August 2, 1990, the United States has—

(1) participated in decisions of the United Nations Security Council, as follows:

(A) Resolution 660, demanding immediate and unconditional withdrawal of Iraqi forces from Kuwait and restoration of the sovereignty, independence, and territorial integrity of that nation;

(B) Resolution 661, imposing economic sanctions against Iraq;

(C) Resolution 662, declaring null and void Iraq's annexation of Kuwait;

(D) Resolution 664, demanding the release and safe passage of innocent civilians;

(E) Resolution 665, authorizing appropriate measures to halt maritime shipping to and from Iraq and Kuwait as necessary to enforce economic sanctions;

(F) Resolution 666, directing that food supplied to Iraq for humanitarian purposes be conveyed solely through the United Nations;

(G) Resolution 667, condemning Iraq for the violation of diplomatic protections in Kuwait; and

(H) Resolution 670, extending the economic embargo to include material transported by aircraft.

(2) acting in response to the request of threatened nations and in accordance with the United Nations Charter, deployed United States Armed Forces in Saudi Arabia and elsewhere in the Persian Gulf region in conjunction with military deployments by other United Nations member-states, in order to—

(A) deter and, if necessary, defend against further Iraqi aggression; and

(B) assist in enforcing economic sanctions against Iraq pursuant to United Nations Security Council Resolutions 661, 665, and 670.

(b) PURPOSE.—Congress intends this joint resolution to constitute specific statutory authorization for continued United States military participation in collective security actions in the Persian Gulf region.

SEC. 3. GOALS OF UNITED STATES POLICY.

(a) IMMEDIATE GOALS.—The immediate goals of United States policy in the Persian Gulf region shall be:

(1) unconditional withdrawal of Iraqi forces from Kuwait;

(2) restoration of the sovereignty of Kuwait; and

(3) protection of the lives of American citizens held hostage in Iraq and Kuwait.

(b) LONG-TERM GOALS.—Over the long term, United States policy in the Persian Gulf region shall seek to achieve:

(1) the security and stability of the region; and

(2) by unprecedented and effective use of the mechanisms of collective security action, the promotion of a new world order.

SEC. 4. PRINCIPLES GOVERNING UNITED STATES POLICY.

United States participation in collective security actions relating to the Persian Gulf region shall be governed by the following principles:

(1) COLLECTIVE RESPONSIBILITY.—The United States shall continue to emphasize adequate sharing, by countries of the region and of the industrialized world, of the responsibilities, including the costs of military deployments and participation in economic sanctions, associated with collective security actions in the Persian Gulf region.

(2) EMPHASIS ON UNITED NATIONS.—The United States shall continue to emphasize and rely upon the procedures and instrumentalities of the United Nations system in order to sustain effective multilateral support for collective security actions in the Persian Gulf region.

(3) ROLE OF REGIONAL AND OTHER FORCES.—The United States, having taken urgent measures to lead a collective security action in the Persian Gulf region, shall seek to promote—

(A) greater participation in ground-force defense by countries of the region; and

(B) greater sharing of responsibilities, among countries having vital interests in the region, for the deployment and support of armed forces needed for regional stability.

(4) COMPLIANCE WITH THE LAW OF NATIONS.—The United States shall, in cooperation with other nations, seek to achieve substantial compliance by Iraq with the Law of Nations, including:

(A) the United Nations Charter;

(B) the International Covenant on Civil and Political Rights;

(C) the Convention on the Prevention and Punishment of the Crime of Genocide;

(D) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare;

(E) the Treaty on the Non-Proliferation of Nuclear Weapons; and

(F) the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

Accordingly, the United States shall seek effective multilateral participation in such restrictions on trade with the current government of Iraq as may be necessary to ensure a cessation of transfers to that regime of military technology and equipment, including all material and technical assistance that could contribute to the development or employment of ballistic missiles and nuclear, biological, and chemical weapons.

SEC. 5. AUTHORIZATION FOR USE OF FORCE.

(a) AUTHORIZATION.—The President is authorized to continue to deploy United States Armed Forces in the Persian Gulf region—

(1) to deter and, if necessary, defend against further Iraqi aggression;

(2) to respond as may be necessary, proportionate, and effective to any acts of intended harm to American citizens or nationals; and

(3) to participate in collective security actions in the event that the United Nations directs the use of military force to counter threats to regional security posed by the Iraqi regime.

(b) FURTHER AUTHORIZATION.—

(1) Before initiating a use of force against Iraq beyond those uses authorized by subsection (a), the President shall—

(A) consult and seek the advice of the Combined Congressional Leadership Group created pursuant to section 7 of this Resolution;

(B) set forth to Congress and the American people his explanation of the imperatives mandating such use of force in the absence of a United Nations directive; and

(C) seek a declaration of war or other statutory authorization.

(2) In light of evolving developments in and relating to the Persian Gulf, Congress shall from time to time consider further measures of authorization; and authorization for military action shall at no time be inferred from the authorization or appropriation of funds for the Department of Defense.

SEC. 6. REPORTS TO CONGRESS.

(a) REPORT ON PRINCIPLES AND GOALS.—Not later than January 31, 1991, and every three months thereafter for so long as United States Armed Forces continue to participate in collective security actions in the Persian Gulf region, the President shall transmit to the Speaker of the House of Representatives and chairman of the Committee on Foreign Relations of the Senate a report providing a detailed description of such participation, the circumstance requiring the continuation of such participation, and the results of United States efforts undertaken in accord with the goals and principles set forth in sections 3 and 4.

(b) REPORTS ON DEVELOPMENTS IN THE PERSIAN GULF REGION.—In the event of developments in the Persian Gulf region that involve or appear likely to involve the United States Armed Forces in hostilities, the President shall, in accord with the reporting requirements of the War Powers Resolution, report fully and promptly to the Congress on the circumstances and the implications thereof.

SEC. 7. CONGRESSIONAL LEADERSHIP GROUP.

(a) ESTABLISHMENT.—To facilitate congressional deliberation and Executive-Legislative consultation on critical decisions relating to United States participation in collective security actions pursuant to this Resolution, there shall be established in each House of Congress, as an exercise of the rulemaking authority of that House, a Leadership Group which shall be comprised as follows:

(1) in the House of Representatives—

(A) the Speaker, who shall serve as chairman;

(B) the Majority and Minority Leaders;

(C) the chairmen and ranking members of the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence; and

(2) in the Senate—

(A) the Majority Leader, who shall serve as chairman;

(B) the President pro tempore and the Minority Leader;

(C) the chairmen and ranking members of the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence.

(b) COMBINED CONGRESSIONAL LEADERSHIP GROUP.—When the chairmen of the two groups deem it appropriate and practical for purposes of congressional deliberation or Executive-Legislative consultation, they shall arrange for the two Groups to assemble as a Combined Congressional Leadership Group, on which the two chairmen shall act as co-chairmen.

(c) CONSULTATION REGARDING THE USE OF FORCE.—The President shall, unless urgent circumstances do not permit, consult and seek the advice of the Combined Congressional Leadership Group designated pursuant to this section, prior to key decisions relating to the disposition or commitment of United States Armed Forces authorized by this Resolution to be deployed in the Persian Gulf region.

Mr. BIDEN. In my view, this resolution would be preferable:

It specifically authorizes the current deployment of U.S. troops;

It authorizes their use to defend against further Iraqi aggression and to respond, in a proportionate manner, to acts of intended harm to American citizens;

It does not endorse a preemptive strike; it does, however preauthorize American forces to participate in collective security actions in the event that the United Nations directs the use of military force to counter threats to regional security posed by the Iraqi regime;

It also requires the President to seek a declaration of war or other statutory authorization if significant hostilities break out; and

It calls for further measures of authorization by Congress, making clear

that no blank check is being endorsed over to the President.

I hope my colleagues will take a close look at the resolution.

To suggest that the resolution before us is imperfect, as I have, is not to imply that the Senate is on the verge of enacting a 1990 version of the Gulf of Tonkin resolution.

Indeed, the circumstances are far different.

Today we have a clear act of illegal aggression against a sovereign nation, rather than a contrived attack against U.S. naval vessels.

Today we have the United Nations Security Council unanimously condemning the nation of Iraq, rather than the United States acting largely on its own.

Today we have thousands of troops from Arab and Islamic nations alongside U.S. soldiers, rather than a token force of Asian troops providing minimal diplomatic cover for American boys.

Despite my reservations and concerns about this resolution, I intend to vote for it, but only on the assumption that the language does not constitute congressional support in advance for a Presidential decision to use force in the gulf—in the absence of prior authorization by Congress or a decision by the U.N. Security Council under article 42 to undertake a collective action designed to remove Iraqi forces from Kuwait.

In other words, congressional support for "continued actions" does not mean that the President can take any action that does not contradict existing Security Council decisions or that he can use force to implement existing Security Council decisions without seeking authority from Congress.

Mr. HARKIN. Mr. President, I rise to cast my vote in support of Senate Concurrent Resolution 147, but do with the explicit understanding that this resolution will not serve as a blanket authorization for the President to go to war in the Persian Gulf or as approval of the President circumventing the War Powers Act.

Specifically, this resolution does not give the President the authority to conduct military operations against Iraq without additional authorization from Congress. It does endorse the deployment of United States forces for defensive purposes, to deter Iraqi aggression against Saudi Arabia. It does endorse the use of economic sanctions and diplomatic means to pressure Iraq into withdrawing from Kuwait. And it does embrace the United Nations and the five Security Council resolutions which condemn Iraq's aggression in the Persian Gulf.

I support the resolution's expression of support for the actions the United States has taken so far to deter further Iraqi aggression in the Persian Gulf. President Bush has done a masterful job of mobilizing the support of the United Nations through the numerous resolutions approved by the Security Council.

Furthermore, there is unanimous support in the world community—with the exceptions of Iraq and its very small group of allies—for the goals enunciated in those Security Council resolutions, specifically: First, the immediate, complete and unconditional withdrawal of Iraqi forces from Kuwait; second, the restoration of Kuwait's sovereignty; third, the release and safe passage of foreign hostages held by Iraq; fourth, the imposition of economic sanctions against Iraq; and fifth, the maintenance of international peace and security in the Persian Gulf.

I urge that the United States go further in involving the U.N. in the gulf crisis. The United Nations should not be just supporting the United States Armed Forces in Saudi Arabia and the gulf, it should be directing those forces. A multilateral force under U.N. command, including such countries as the Soviet Union, would be the most effective to deter further Iraqi aggression and in persuading Saddam Hussein to withdraw his forces from Kuwait.

Accordingly, I had hoped that this resolution would advocate the option of putting U.S. forces, along with the troops of other countries now stationed in the gulf, under the command of the United Nations.

In addition, the meaning and intent of paragraph (b) of the resolution needs to be clarified so that the President does not interpret it as a blank check for future military action in the Persian Gulf. Specifically, that provision expresses the support of Congress for continued action by the President in accordance with the decisions of the United Nations Security Council and in accordance with U.S. constitutional and statutory processes.

This provision puts the Congress on record in support of U.S. policy and actions to date. It does not endorse the President going to war, or committing U.S. troops into hostilities, in the Persian Gulf.

It also should be established for the record that the phrase U.S. constitutional and statutory processes refers to the War Powers Act. Specifically, in order for U.S. Armed Forces to go to war for longer than 60 days, section 4(a)(1) of the War Powers Act requires that Congress authorize such a commitment, or else troops have to be withdrawn.

No resolution, no matter how loosely drafted, can absolve Congress of its constitutional and legal mandates. Simply put, we have an obligation to approve sending U.S. forces into combat, if that unfortunate situation were to occur.

The American people deserve no less from their elected representatives. After all, we are asking nearly 200,000 of our young men and women to risk their lives in defense of our national interest in the Persian Gulf. The least that Congress can do is fulfill its legal and constitutional responsibilities.

Mr. SANFORD. Mr. President, I intend to vote for Senate Concurrent Resolution 147 because it is a useful expression of support for our policy of working through the United Nations. I approve of the President's immediate deployment of our Armed Forces to block any possible invasion of Saudi Arabia by Saddam Hussein. I also note with approval the emphasis that this resolution places on the actions taken by the United Nations, the goals it has established, and the methods implemented for achieving those goals.

However, I want the record to show that I share the firm position of many Senators that this resolution does not authorize the President to conduct offensive military operations against Iraq without additional and specific authorization from the Congress. The resolution states that the Congress supports continued action by the President in accordance with the decisions of the United Nations Security Council and in accordance with United States constitutional and statutory processes. This does not mean a strained or forced reading of the U.N. resolutions or U.S. law. This is not a Gulf of Tonkin resolution and, if an attempt is made to so interpret it, I will strenuously object.

Mr. NUNN. Mr. President, I rise today as one of the original sponsors of this bipartisan concurrent resolution. I want to emphasize at the outset that this is not legislation, which would be in the form of a joint resolution that would have to be signed by the President or enacted over his veto if he chose to veto it. It is a concurrent resolution. Nevertheless, it is an important measure for a number of reasons.

First, it is important because it expresses the strong approval of the Congress for the leadership of the President in working with the U.S. Security Council. The Security Council has to date passed eight separate resolutions dealing with Iraq's aggression and its violations of the U.N. charter and fundamental principles of international law.

It is also important because it expresses congressional approval of the President's actions in achieving and supporting the Security Council's resolutions and in involving friendly governments.

Finally, and most importantly, the concurrent resolution expresses congressional support for the President's continued action in accordance with the decisions of the Security Council

and in accordance with U.S. constitutional and statutory processes, including the authorization and appropriation of funds by the Congress, to deter Iraqi aggression, and to protect American lives and vital interests in the region.

It is this last point that I would like to discuss briefly this afternoon. The concurrent resolution doesn't express congressional support for every future action by the President. Rather it limits congressional support for the President's actions that are in accordance with the Security Council's decisions and with U.S. constitutional and statutory processes. The Constitution grants to the Congress the power to declare war; to raise and support armies; and to provide and maintain a navy. Additionally, the Constitution provides that "no money shall be drawn from the Treasury, but in consequence of appropriations made by law." Without wanting to get into a prolonged discussion concerning the strengths or weaknesses of the War Powers Resolution, I believe it is worth emphasizing that in the final analysis the Congress can most appropriately and most effectively play its proper role in matters such as this through the power of the purse. For after all is said and done, no President can use the Armed Forces of the United States unless the Congress authorizes and appropriates funds to support and sustain such action.

Secretary Cheney has estimated in testimony before the Armed Services Committee on September 11 that the peacetime presence of U.S. Armed Forces in support of Operation Desert Shield will have an incremental cost of approximately $15 billion on an annual basis during fiscal year 1991. I want to emphasize that it will cost $15 billion in the absence of hostilities. If hostilities should occur, and I fervently hope that the White House goals can be achieved without the use of force, the cost will be far in excess of that amount. In such an event, the President will have to come to the Congress to seek authorization and appropriation of additional funds to support Operation Desert Shield.

I want to point out that the continuing resolution that the Congress passed on Sunday contains a provision, reflecting a bill reported out by the Armed Services Committee, that revises the procedures for accepting and using contributions from foreign countries, and requiring that any moneys, along with the proceeds from the sale of any property received, would be available to the Department of Defense only in accordance with standard congressional authorization and appropriation procedures. That action ensures that all funds, whatever their source, will be subject to the authorization and appropriation process.

In conclusion, then, I want to express my support for the concurrent resolution. I am pleased to note, moreover, that the administration supports the resolution. This is especially noteworthy in view of the emphasis that the resolution places on the constitutional and statutory role that the Congress will have in the event that hostilities should occur in the Persian Gulf.

Mr. DODD. Mr. President, I rise to express my support for the pending resolution regarding the President's actions with respect to Iraqi aggression against Kuwait.

This resolution, in my view, deserves the full backing of both the Senate and the House of Representatives.

The resolution is balanced and appropriate for the occasion. First, this is a concurrent resolution. It is purposefully designed to express a point of view. That's important, to be sure. But that's all it does. By definition this resolution has no legal, binding effect.

Second, this resolution emphasizes support for concerted multilateral action to deal with the Persian Gulf situation. It recognizes President Bush's leadership role in engaging the attention of the United Nations Security Council and securing its approval for a variety of multilateral actions against Iraq, including the establishment of a full economic sanctions regime.

Third, Concurrent Resolution 147 lays down markers with respect to future Presidential actions designed to deal with Iraq's military occupation of Kuwait. It pegs such actions to decisions by the U.N. Security Council and to the requirements of our own constitutional processes and procedures.

Mr. President, there is a strong desire on Capitol Hill to commend the President for his handling of the Persian Gulf situation but to do so without handing him and the administration a blank check on the war powers issue.

I firmly believe Senate Concurrent Resolution 147 strikes the proper balance between these competing requirements. I hope this resolution is adopted overwhelmingly.

Mr. BRADLEY. Mr. President, the American people are about to enter our third month of a full-fledged military, political, and economic commitment to protect the vital interests of our Nation in the Persian Gulf. With this resolution, Congress affirms that we support the President's efforts and his leadership in assembling an international consensus to deter Iraq's aggression toward its neighbors. But neither the administration nor the American people should interpret this resolution as a blank check for military action in the region. Nor should it be interpreted as waiving the War Powers Act. The language of the resolution itself cites the need to defend American interests "in accordance with the decisions of the U.N. Security Council and in accordance with U.S. constitutional and statutory processes, including the authorization and appropriation of funds by the Congress."

Iraq's sudden invasion of Kuwait 2 months ago posed a direct threat of widespread disruptions of world oil supplies, as well as a threat that the balance of power in this vital, oil-rich region would be supplanted by the domination of a hostile dictator. Ever since the invasion, the President and his administration have mobilized an unprecedented coalition of nations who understand the threat and are willing to contribute to the defense of Iraq's neighbors by supporting economic sanctions and aiding the countries that are bearing the heaviest economic costs. But reminding Saddam Hussein that the international community, not just the United States, will oppose his actions, the President has improved the chances that this conflict will end peacefully, as Saddam realizes the magnitude of the challenge he faces. The President further deserves credit for taking full advantage of our changing relationship with the Soviet Union to join in a cooperative effort in the Persian Gulf that would have been inconceivable even a year ago.

At the same time, there is a growing view that, regardless of how well the administration has handled the situation since the Iraqi invasion, they failed to pursue policies that might have deterred Saddam Hussein from invading in the first place. To the extent this failure derives from lack of clarity as to the nature of America's vital interests in the region, it bears not only on which the administration neglected to do to deter Iraq's aggression, but also on our future actions.

Mr. LAUTENBERG. Mr. President, I rise in support of Senate Concurrent Resolution 147, which supports the President's actions to counter Iraqi aggression in the Persian Gulf. It also expresses Congress' support for continued action by the President in accordance with both United Nations resolutions on Iraq, and the United States Constitution and laws, to deter Iraqi aggression, to protect American lives and vital interests in the region.

I am voting for this resolution because the President has done an excellent job in marshaling the world community against Iraqi aggression, and deserves our backing. I also support the resolution because I believe it was right to send American troops in defense of the critically important national interests at stake in the gulf. The President's hand will be strengthened in dealing with Iraq and the world community by having a united Congress behind him.

One issue that has arisen with respect to this resolution is whether it gives the President a blank check to go to war in the gulf, or relieves him of the need to consult, closely and often, with the Congress on our strategy in the gulf. Mr. President, I do not believe it does. The resolution clearly states that the President has our support for continued action, but only within the confines of the Constitution, the authorization and appropriation process, and the U.N. resolutions on Iraq. The resolution thus acknowledges that Congress retains the power of the purse over the gulf operation, and the constitutional power to declare war, which is the basis for the War Powers Act.

This resolution does not authorize the President to go to war. This would require clear congressional authorization, which should be sought under the War Powers Act or through a declaration of war. No President should commit American troops to war without the support of both the Congress and the American people. I am confident that the President would not rush precipitously to war without consulting Congress or without winning our support.

I urge my colleagues to pass this resolution.

YES TO SENATE CONCURRENT RESOLUTION 147, NO TO A UNITED STATES-IRAQ WAR

Mr. HOLLINGS. Mr. President, I will vote for Senate Concurrent Resolution 147 supporting the President's actions in rallying the United Nations and the international community to oppose Iraqi aggression. In a time of crisis, such as we now face in the Persian Gulf, we Americans have only one President, and we must give him the benefit of the doubt. But while I give President Bush the benefit of the doubt, nonetheless the doubt remains. Indeed, let me be very blunt in saying that I vote for this resolution with the gravest of reservations about the wisdom of our evolving policy in the Persian Gulf.

Let's go right to the point of these U.N. Security Council resolutions. Taken in isolation, each one of the eight resolutions is correct and unobjectionable. Of course we demand that Iraq withdraw its forces from Kuwait. Of course we support the international embargo of Iraq. Of course we are outraged by Iraq's violation of foreign embassies and by its abduction of foreign nationals, including thousands of Americans.

But, as history amply demonstrates, Security Council resolutions, in and of themselves, are impotent and innocuous. What deeply concerns me is that the administration has used these Security Council resolutions as sugar coating for what remains, in essence, a unilateral U.S. response in taking on Saddam Hussein. We have willy-nilly committed an extraordinary U.S. expeditionary force, including an air and sea armada not seen since the Vietnam war, to back up President's Bush's assertion that Saddam's aggression "will not stand."

Let me be very clear on the following point. I supported the initial United States deployment for the express and limited purpose of defending Saudi Arabia from the clear and present danger of attack by Iraq. There was a fire raging out of control on Saudi Arabia's border, and the United States had the only available fire brigade. We did what we had to do. But we have now moved beyond that limited purpose. The administration has stated that it is United States policy to compel Iraq to leave Kuwait, and to restore the Kuwaiti emir to his throne and riches. I do not believe—and prior to August 2 the United States Government did not believe—that preservation of Kuwait territorial integrity and the emir's regime is a vital interest of the United States justifying the expenditure of American blood.

Almost as an afterthought to U.S. deployment in early August, the administration cajoled other nations to send troops and treasure to back up the U.S. commitment in the gulf. But, nonetheless, it remains overwhelmingly a U.S. initiative. I am also troubled by the fact that, in order to retain the U.N. imprimatur, we are going to have to yield control of U.S. forces to questionable U.N. policymaking and to questionable U.N. military command.

If there is war in the Persian Gulf, as it now stands it will clearly be a war between Iraq and the United States, not between Iraq and the United Nations. Whether or not we win such a war, it would have catastrophic consequences for future U.S. relations vis-a-vis the Persian Gulf and the nations of the Arab masses. In the wake of a United States offensive against Arab Iraq, so great would be the tidal wave of anti-U.S. reaction that even those Arab governments now favorably disposed toward us would be compelled by public opinion to break with the United States. We would win the war but lose the peace.

In early August, we were the only fire brigade available, but that situation has now changed. We need to recall two lessons from the Vietnam war. The first lesson is that there will be no Gulf of Tonkin resolution this time around. Senate Concurrent Resolution 147 is limited in its scope, and neither explicitly nor implicitly gives license to the President to wage an unprovoked offensive against Iraq. The second lesson from Vietnam is that, this time around, we need to do the "-ization" before hostilities break out. President Nixon came up with his Vietnamization policy only after tens of thousands of American boys had been killed. We must Arabize this present conflict, and we must do so before American GI's are sacrificed by the thousands. Our imperative is Arabize the forces and voices opposing Saddam Hussein.

Bear in mind that Saddam is not primarily our problem. He is the Arab world's problem. Accordingly, it is up to the Arabs, in concert with the Iranians, to deal with him. If they lack the political and military will to contain him, then our own sacrifices would be for nought. An American-Iraq war would be as futile as it would be disastrous for our country.

IRAQI AGGRESSION AGAINST KUWAIT

Mr. CONRAD. Mr. President, I rise to lend my support to the resolution expressing the Congress' approval of the actions the President has pursued thus far in response to Iraq's outrageous aggression against Kuwait.

As so many of my colleagues have said here today, the President has done a good job in responding quickly and firmly to Saddam Hussein's flagrant violations of international law. The President has pursued a firm but careful policy in a dangerous, highly volatile situation. My vote today represents an endorsement of the actions he has taken to date.

My vote is also an expression of support for and pride in the men and women in our Armed Forces who are holding the line in the desert and on the seas against further Iraqi aggression. Theirs is the toughest of missions. They have the prayers and support of us all.

As I cast my vote today, I remain hopeful that the gulf crisis can be resolved without war. I thought the President's address to the United Nations was very helpful, and I urge him to continue to work with our allies and through the United Nations to restore peace and stability to the gulf.

I would also say that while I am supportive of the President's approach in general to this crisis, I remain deeply dissatisfied with our allies' response to our appeals to share the burden. I hope the administration will press even harder on this front. The current allied response is simply unacceptable.

Finally, a resolution like the one we are voting on today cannot help but revive memories of the Gulf of Tonkin resolution. Let me state unequivocally that my vote today should not be construed as unqualified support for any future actions the President may take in the gulf. I reserve the right to pass judgment of future policy through the authorization and appropriations process, and the mechanisms of the War Powers Act.

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 p.m. having arrived, the Senate will now proceed to vote on Senate Concurrent Resolution 147, which the clerk will report.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 147) supporting the actions taken by the President with respect to Iraqi aggression against Kuwait.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—96

Adams	Exon	McClure
Akaka	Ford	McConnell
Armstrong	Fowler	Metzenbaum
Baucus	Garn	Mikulski
Bentsen	Glenn	Mitchell
Biden	Gore	Moynihan
Bingaman	Gorton	Murkowski
Bond	Graham	Nickles
Boren	Gramm	Nunn
Boschwitz	Grassley	Packwood
Bradley	Harkin	Pell
Breaux	Hatch	Pressler
Bryan	Heflin	Pryor
Bumpers	Heinz	Reid
Burdick	Helms	Riegle
Burns	Hollings	Robb
Byrd	Humphrey	Rockefeller
Chafee	Inouye	Roth
Coats	Jeffords	Rudman
Cochran	Johnston	Sanford
Cohen	Kassebaum	Sarbanes
Conrad	Kasten	Sasser
Cranston	Kerry	Shelby
D'Amato	Kohl	Simon
Danforth	Lautenberg	Simpson
Daschle	Leahy	Specter
DeConcini	Levin	Stevens
Dixon	Lieberman	Symms
Dodd	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Durenberger	McCain	Wirth

NAYS—3

Hatfield	Kennedy	Kerrey

NOT VOTING—1

Wilson

So the concurrent resolution (S. Con. Res. 147) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 147

Whereas on August 2, 1990, the armed forces of Iraq invaded and occupied the State of Kuwait, too large numbers of innocent hostages, and disregarded the rights of diplomats, all in clear violation of the United Nations Charter and fundamental principles of international law;

Whereas the President condemned Iraq's aggression, imposed comprehensive United States economic sanctions upon Iraq, and froze Iraqi assets in the United States;

Whereas the United Nations Security Council, in a series of five unanimously approved resolutions, condemned Iraq's actions as unlawful, imposed mandatory economic sanctions designed to compel Iraq to withdraw from Kuwait, called on all states to take appropriate measures to ensure the enforcement of sanctions, called for the immediate release of all hostages, and reaffirmed the right of individual and collective self-defense; and

Whereas, in response to requests from governments in the region exercising the right of collective self-defense as provided in Article 51 of the United Nations Charter, the President deployed United States Armed Forces in the Persian Gulf region as part of a multilateral effort: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) the Congress strongly approves the leadership of the President in successfully pursuing the passage of United Nations Security Council Resoltuions 660, 661, 662, 664, 665, 666, 667, and 670, which call for—

(1) the immediate, complete, and unconditional withdrawal of all Iraqi forces from Kuwait;

(2) the restoration of Kuwait's sovereignty, independence, and territorial integrity;

(3) the release and safe passage of foreign nationals held hostage by Iraq;

(4) the imposition of economic sanctions, including the cessation of airline transport, against Iraq; and

(5) the maintenance of international peace and security in the Persian Gulf region.

(b) The Congress approves the actions taken by the President in support of these goals, including the involvement of the United Nations and of the friendly governments. The Congress supports continued action by the President in accordance with the decisions of the United Nations Security Council and in accordance with United States constitutional and statutory processes, including the authorization and appropriation of funds by the Congress, to deter Iraqi aggression and to protect American lives and vital interests in the region.

(c) The Congress calls on all nations to strengthen the enforcement of the United Nations imposed sanctions against Iraq, to provide assistance for those adversely affected by enforcement of the sanctions, and to provide assistance to refugees fleeing Kuwait and Iraq.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

EXECUTIVE SESSION

NOMINATION OF DAVID H. SOUTER, OF NEW HAMPSHIRE, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session, and proceed to the consideration of the nomination of David H. Souter, to be an Associate Justice of the Supreme Court of the United States.

The nomination will be stated.

SUPREME COURT OF THE UNITED STATES

The assistant legislative clerk read the nomination of David H. Souter, of New Hampshire, to be an Associate Justice of the Supreme Court of the United States.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, let me begin by suggesting that the committee has worked diligently over the weekend to provide all Members of the Senate with a copy of the committee report laying out in some significant detail the rationale for the committee's position, along with the dissenting view that was put forward.

Mr. President, let me say before we begin this process, that neither Judge Souter nor his chief supporter, my distinguished colleague from the State of New Hampshire, has urged me as chairman of the committee to rush this process. But the President has urged us to rush the process.

The Supreme Court sat for the first time this year, yesterday. Today is the second day of their sitting. And although, God willing, if Judge Souter becomes Justice Souter, he will sit for as long as his predecessor Justice Brennan did, which would mean for another 34 years. A couple days will not make a difference. But apparently it makes a great deal of difference to the President of the United States.

So I would say to my colleagues I do not want to in any way curtail anyone speaking as long as they would like and feel the need to speak on such an important nomination. But there is a rumor drifting around here that, if we do not finish by 6 o'clock, somehow we are not going to get to vote on Judge Souter.

I hope either we finish before 6, or, if we do not, we stay tonight until we finish voting on such an important matter, particularly in light of the fact that the President has publicly gone on television and exhorted me as chairman of the committee to move the process along.

We have waived the 48-hour rule that is ordinarily observed from the time a report on a nominee is submitted to the Senate until the time we take up the nomination. Even those who have opposed Judge Souter, and stated so publicly, have participated and are willing to allow the process to go beyond its ordinary timeframe; that is, move faster than the rules call for.

So with that brief introduction, let me suggest that I hope that my colleagues are prepared to come to the floor to speak on behalf or, if they are opposed, in opposition to Judge Souter so we can move as rapidly as possible.

I have a relatively long, about a 20-minute statement, on behalf of Judge Souter's nomination. But I see that some of my colleagues who wish to speak are here. I will have time to make the statement because I am here for the duration.

So rather than take the time at the outset, I yield to my distinguished colleague from South Carolina, if he wishes to speak first. If not, I would move to recognize one of our colleagues. But I will withhold my state-

ment which I will make at some point today on behalf of Judge Souter.

Mr. THURMOND. Thank you very much.

The PRESIDING OFFICER. The Senator South Carolina.

Mr. THURMOND. Mr. President, today, the U.S. Senate is considering the nomination of Judge David H. Souter to be an Associate Justice of the Supreme Court of the United States. The Judiciary Committee had earlier undertaken its task of holding extensive hearings and reviewing the qualifications of Judge Souter, a most important responsibility.

Last Thursday, the Judiciary Committee considered this nominee. The committee favorably reported this nomination to the full Senate by a vote of 13 to 1. I repeat, a vote of 13 to 1. This vote is certainly a strong recommendation to the full Senate in favor of Judge Souter, an individual who has outstanding qualities to serve on this Nation's highest court.

Briefly, I would like to comment on Judge Souter's confirmation hearings which spanned 5 days. The committee conducted a hearing which was equitable, thorough, and diligent. Judge Souter's 3 days of exhaustive testimony provided the opportunity to carefully examine and review his intellectual capacity, moral character, and personal and professional background. Additional witnesses who testified made a contribution to the committee's consideration of Judge Souter's nomination to this esteemed position. Finally, I would like to commend the distinguished chairman of the Judiciary Committee, Senator BIDEN, for his handling of the hearing on this nominee which was conducted in a fair and equitable manner.

My review of Judge Souter's background convinces me that he possesses the necessary qualities to be an outstanding member of the Supreme Court. His intellectual credentials are impeccable: Phi Beta Kappa, Rhodes scholar, magna cum laude graduate of Harvard, law degree from Harvard, and graduate study at Oxford University. His experience is extraordinary: Currently serving as a judge of the U.S. Court of Appeals for the First Judicial Circuit; formerly an associate justice of the New Hampshire Supreme Court for 7 years; previously served as a judge on the New Hampshire Superior Court for 5 years; served as the attorney general for the State of New Hampshire; held positions as deputy attorney general, assistant attorney general, and practical law in the private sector.

Mr. President, the American Bar Association carefully scrutinized the professional competence, integrity, and judicial temperament of Judge Souter. The ABA determined that Judge Souter deserved its highest rating based on its extensive investigation which included such comments as:

> Judge Souter is highly competent and possesses the scholarly, analytical, and writing skills necessary to serve on the Supreme Court.

As well, Judge Souter had previously received the highest rating from the ABA for his current position on the First Circuit Court of Appeals.

Regarding the hearings on this nominee, Judge Souter's impressive testimony before the committee demonstrates he is a man of keen intellect who is devoted to the law. His thorough understanding of the law and answers to the vast number of probing questions on a wide range of legal topics assures me that he possesses the substantial knowledge and understanding to make an outstanding Supreme Court Justice. Judge Souter showed that he clearly comprehends the majesity of our constitutional system of government and spoke eloquently about the lessons he has learned during his years of service on the bench. The first lesson, he said, is

> Whatever court we are in * * * where we are on a trial court or an appellate court, at the end of our task some human being is going to be affected.

The second lesson, he stated, is

> If * * * we are going to be judges, whose rulings will affect the lives of other people * * * we had better use every power of our minds and hearts and * * * beings to get those rulings right.

I strongly believe that Judge Souter will temper scholarly, knowledgeable decisions with sensitivity for those individuals who will be affected by them.

Many distinguished witnesses testified in favor of Judge Souter. Several of these witnesses have known Judge Souter for years—they are well aware of the outstanding qualities that this individual possesses.

Governor Baliles, who was formerly attorney general and a former Governor of Virginia, stated:

> Judge Souter is an individual who [will] bring objective intellect, integrity, and centered view of judicial procedure to the Nation's highest Court * * * not a populist but a rationalist, one who is moderate in tone and expression.

Ms. Deborah Cooper, a lawyer in private practice in Lebanon, NH, testified:

> I have unshakable confidence that Judge Souter * * * will approach the issues before the Supreme Court * * * not with a pre-established political agenda or ideology, but with superior legal skills, intellect and unparalleled integrity.

A former Attorney General of the United States also testified in his favor.

Members of the law enforcement community strongly endorsed Judge Souter, testifying, he is "extremely well-qualified to serve on the highest court in the United States."

There were certainly many other distinguished witnesses who spoke out strongly in favor of Judge Souter for a position on the Supreme Court. Time does not allow me to reiterate all of that testimony.

Mr. President, the framers of our Constitution created the judicial branch as an impartial, independent branch of government. A member of the Supreme Court must consider hundreds, even thousands of issues during his or her tenure. While any one issue may now be more prominent than others, as times change, so will the issues before the Court. A member of the Supreme Court makes decisions in a vast array of areas and is not put in place to make short-term decisions to satisfy any political constituency, any one individual, or any particular group. This nominee should be judged on his integrity and intellectual and professional qualifications—not on his willingness to endorse the views or position of any one particular person or political constituency.

In summary, this nominee, as does any nominee, comes to the Senate with a presumption in his favor. As the President is called upon under our Constitution to make judicial appointments, I strongly believe it is up to the opponents of a nominee to overcome the presumption in his favor. The burden of proof is not placed on the nominee to prove that he is fit to serve. Clearly, those few who oppose Judge Souter have not overcome the presumption in his favor.

In closing, Judge Souter has been thoroughly scrutinized by the Judiciary Committee. He has received the bipartisan endorsement by 13 of the 14 members of the committee. Without question, he has a keen sense of justice, a clear view of the concept of fairness, and a deep understanding of the impact his decisions will have on the individuals affected by them. Judge Souter will make an outstanding addition to the Supreme Court.

I urge the Members of the Senate to vote in favor of this nominee.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I am going to make my statement now, but before I begin, let me acknowledge something I think is probably unique in the annals of American history, although I cannot swear to that at this moment.

The reason that I yielded—in the ordinary processes the chairperson of the committee speaks first on an important matter like this—the ranking member of this committee, Senator THURMOND, has sat on and deliberated over and voted on, I suspect, although I am not certain, more Supreme Court nominations than any other person in the history of the United States of

America. I just want to say that it is an extraordinary pleasure working with him and it is an extraordinary undertaking working with him because you never quite know exactly what he is going to do or say no matter how many of these nominees he has deliberated over. But one thing always is certain, whatever he says always ends up on point.

I think it is 23 appointees, nominees, to the Supreme Court of the United States, that Senator THURMOND of South Carolina has voted on.

And he pointed out to me——

Mr. THURMOND. There were 105 nominees.

Mr. BIDEN. See what I mean? You never know exactly what is going to happen. He just pointed out to me there were 105 nominees in our entire history. So about 20 percent, between 20 and 25 percent of all the nominees, about 20 percent of all the nominees that have ever been nominated for the Court, my friend from South Carolina has voted on them.

We have not always voted the same. I suspect I will be observing him voting on nominees long after I have left this Chamber, and I suspect we will not agree on all the nominees. But we do agree on this one, and we have agreed on more than we have disagreed.

Ten weeks ago, Mr. President, President Bush began the solemn task of filling Justice Brennan's seat on the U.S. Supreme Court by nominating Judge David Hackett Souter to assume that high post. Today, the Senate exercises its constitutionally assigned role in the process by deciding whether we will give our consent to the President's nomination.

Over these past 10 weeks, the members of the Judiciary Committee have devoted literally hundreds of hours to studying Judge Souter's record, his credentials, and his judicial opinions. We held extensive hearings on this nomination—the third longest set of hearings on any Supreme Court nominee in our history.

And most importantly, we used these hearings to question Judge Souter in depth on matters of judicial philosophy and constitutional law. Judge Souter was questioned for the second longest time of any Supreme Court nominee; for almost 20 hours, we had an opportunity to examine this man and his views.

We had the need—the duty—to learn as much about Judge Souter as possible. No nominee in a quarter century had come to this committee with less known about his or her constitutional philosophy than David Hackett Souter. And no nomination—at any time since the 1930's—had come before the Senate at a moment of such importance, in terms of setting the future direction of the Supreme Court, and, I might add, in turn, the United States of America.

At this critical moment—what I called a constitutional crossroads, 3 weeks ago today—I referred to it as that and I contend it is that, a constitutional crossroad—I mentioned to this Chamber that our committee had an obligation to learn all that it could about David Hackett Souter's constitutional philosophy.

And at this critical moment—and where I disagree with my friend from South Carolina—the burden of proof rests, as it always has and always should, on the nominee to demonstrate that he is the person whom we should confirm to sit on the Nation's highest court.

As I see it, Judge Souter has met this burden of proof with respect to some matters; he has failed it with respect to others. His philosophy was neither proven to be wholly inappropriate or wholly acceptable for confirmation.

In my "additional views" in the Judiciary Committee report, I have detailed my personal assessment of what we have learned about Judge Souter's philosophy in nine key areas. Today, I would like to briefly summarize these views, starting with the most positive aspect of Judge Souter's record, at least as far as this Senator is concerned.

First, in the area of freedom of speech, Judge Souter indicated his support for Justice Brennan's landmark precedent of New York Times versus Sullivan; for the Supreme Court's ban on prior restraint of the press; and for the Brandenburg decision that permits speech that urges civil disobedience.

Thus, Judge Souter showed a very strong dedication to the key principles at issue in this area.

In the field of free exercise of religion, Judge Souter indicated that he had "no reason to raise questions about the appropriateness of the strict scrutiny test" for laws that impair religious practice. Thus, Judge Souter suggested that he disagreed with the Supreme Court's recent and restricted decision in Employment Division versus Smith, a decision that in my view undermines religious freedom in our country. And again I found his disagreement with that decision very encouraging.

In the area of stare decisis, Judge Souter detailed a philosophy that shows what I beleive to be a proper respect for precedent. He particularly emphasized that before the Supreme Court reverses, a prior ruling, it should take into account "whether private citizens * * * have relied upon [the precedent] in their own planning to such a degree that * * * it would be a great hardship in overruling it now."

This, in my view, favorably distinguishes Judge Souter from other nominees who said that they would look only at whether the Government structures and social institutions have been built up around a particular decision before deciding to reverse the case, and not whether or not individuals as well had come to rely upon that decision, a distinction with a significant difference, as I read what Judge Souter is saying.

Finally, for this side of the ledger—the ledger where he has, in my view, unquestionably met what I believe to be the burden of proof he must meet—and most importantly, Judge Souter categorically rejected the arch-conservative judicial philosophy of original intent, a philosophy, I might add, were it to be adhered to by the Supreme Court, would require the Court to overturn, as Judge Bork accurately stated, a couple dozen landmark decisions.

And that view of original intent, the view that the meaning to the constitutional provisions should be limited to the specific intentions of the Framers of the Constitution at the time they wrote the Constitution, that is what I mean and most people mean by original intent.

This doctrine—was Judge Souter himself acknowledged—would undermine many of the most important decisions the Supreme Court has given us through the years. To name a few, Brown versus the Board of Education, a decision outlawing, making it illegal, and recognizing as unconstitutional the doctrine of separate but equal; separate facilities for black children in America were no longer deemed to be constitutional.

Another decision where I beleive it would overrule that view of the Constitution is the one person, one vote ruling, those decisions which said that they can no longer allow one part of a State with a very small population to have a disproportionate say in the affairs of that State, giving, in effect, the people in the metropolitan areas less than an equal vote with people in rural areas.

And there are the Court's precedents that outlawed discrimination against women, a whole number of cases that over the past years have recognized that the 14th amendment embraces the notion that when they say equality, we are talking about equality for men and women, equality among the sexes. All of those areas of the Court's decisions would be, in fact, in jeopardy if the doctrine of original intent were adhered to by the Court or this nominee.

And Judge Souter said that this "original intent" doctrine, and I am now quoting him, is "not * * * the appropriate criterion for constitutional meaning."

In a response to my question, and the question I asked was this: "Does

the correct interpretation of a constitutional provision * * * change over time?" Judge Souter responded: "Principles don't change, but our perceptions of the world around us and the need for those principles do."

As a matter of fact, the very thing that gave me heart and gave my friend from Iowa, who is on the floor, cause and pause, the very thing that made me look at Judge Souter and say, "Well, we have a Judge here that will interpret the Constitution, use a methodology that is consistent with the way the Court has ruled in the recent past, and is necessary for the well-being of America," is the very thing that my friend from Iowa very skillfully questioned the Judge about, because it gave him great concern.

In all of these critical respects that I have mentioned, Judge Souter clearly proved that his judicial philosophy was sound and, I would argue, commendable. In all of these critical respects Judge Souter met his burden of proof and then some.

In other areas, though Judge Souter compiled a more mixed record in this Senator's view. And these are the four areas I would like to address for a moment. The first is that there is the first amendment prohibition on the establishment of religion. In that area his record is mixed, in my view. Here Judge Souter criticized the prevailing Supreme Court rule in Lemon versus Kurtzman—which, by the way I might add is not an exceptional view; many people have criticized it—but he did so without indicating what guarantees of religious liberty he would impose in its place. As a result, we are left with a very unclear picture of how Judge Souter approaches this important question. We have very little idea of how high he thinks the wall of separation between church and state ought to be.

The second area that gives me concern is the area of race discrimination. Here, too, some things Judge Souter said were quite hopeful. He called the struggle for racial equality the most tragic problem confronting the Nation, and he suggested that at least some types of affirmative action, some types of affirmative action programs, are permissible, in his view; again giving me reason for hope, giving some of my colleagues pause for concern. Yet aspects of Judge Souter's record as Attorney General and his testimony before our committee were troubling. Again, the record is a mixed one.

Third, there is the area of gender discrimination. Judge Souter criticized the Supreme Court's current middle tier scrutiny for laws that discriminate on the basis of gender and even implied that the basis for his criticism was that the Court's existing standard fails to provide adequate protection for women's rights. As the Chair knows; there are three general tiers of scrutiny. Strict scrutiny—the Court says the State has to have some overwhelming right to be able to justify the existing practice saying women cannot do something men can do. The middle tier level says, we will listen to it, but it better be a pretty strong reason why you are allowing a discrimination between men and women based upon something a woman may want to do. And then there is the rational basis test which basically says, if the State comes up with any reason that is rational. There used to be cases where a woman could not be a bartender, and the rationale was "unless they happened to be married to or the child of the owner of the bar." A rational basis test basically was, it is rational to want women to be home, not in the bar. That is kind of a preposterous notion under our thinking today, if we would say women cannot be a bartender based on that reason. But under a rational basis test, were one in existence, the State would be able to pass such laws.

So, which tier of scrutiny—very high, middle, or low—that the judge would apply in dealing with gender discrimination cases is of great consequence to the people of this country, obviously to the women of this country. Yet I found, notwithstanding the fact he criticized the middle tier and implied that his criticism was based on the fact that one could not be certain enough, that it was not strong enough, he never did tell us what standard he would apply. I found that disappointing, his failure to clearly indicate whether his standards in this area would be in fact more or less rigorous than the current law. The judge's tone suggests that he was headed in the right direction, from my perspective—that is, it should be a very much stronger test the State should have to prove in order to be able to discriminate against women for anything—but we do not know for sure whether he wants a test that is stronger or weaker. I would have felt much more comfortable had he been willing to tell us. And had he told us, he would not in any way be telling us how he would rule in a future case. He would just be telling us what methodology he would apply in order to interpret the facts in any given case.

Finally, there is the area of privacy and reproductive choice, probably the single most significant area that Judge Souter failed to speak to. Choice; here Judge Souter did say some encouraging things. He agreed there is a marital right to privacy and the right of married couples to make choices about procreation, to use his phrase, "at the core of" the fundamental right to privacy. That is, the right to determine whether or not to become pregnant is "at the core of" the right to privacy recognized in the marital right to privacy.

He agreed that the Constitution protects unenumerated rights, unlike some who have come before us in the recent past, and, more specifically, that there is a substantive content in the due process clause of the 5th and 14th amendments, important guarantees of liberty for all Americans.

He even said he would give meaning to the words of the ninth amendment, which was the most refreshing of all that I heard. One recent brilliant nominee said the ninth amendment was little more—and I think I am quoting precisely when I say "little more than a water blot on the Constitution." It was nice to see a justice come along and say there was a ninth amendment and it meant something and it was another potential protection for individual freedoms.

Perhaps most importantly to me, Judge Souter flatly rejected the position being advanced by Chief Justice Rehnquist and Justice Scalia for determining when in the future privacy rights will be recognized by the Court. Judge Souter said that he "could not accept their view." I find that incredibly encouraging.

When we brought that out—I will not take the time of the floor at this moment, but in footnote 6 of the Michael H. case, the very erudite and articulate Justice Scalia set out a rational for the conditions under which the Court should go back in history to examine the social mores of a society to determine whether or not it was ever intended to be protected. But it was a formula for disaster. By taking his rational and applying it, it would be very, very difficult—very difficult—for anyone in the future to find that there were rights of privacy that existed that individuals have. It would have made it very difficult, using Justice Scalia's rationale set out in footnote 6, to have come to the conclusion on a number of cases that are already law. Loving versus Virginia, that outlawed the antimiscegenation laws—applying the rationale as most understand it, set forward by Justice Scalia in footnote 6, it would be very difficult to figure out how anyone, that Court, could have come to the proper conclusion of saying antimiscegenation laws were unconstitutional. So, when Judge Souter, rejected that rationale, it was a significant step, in my view, toward his meeting the burden of proof that I believe he need meet in order to be on the Court.

But at the opposite end of the spectrum, Mr. President, on the privacy area, I found some troubling things. I found most troubling Judge Souter's initial refusal to discuss whether unmarried persons have any fundamental right of privacy and, worse still, his ultimate declaration that whether such rights exist, that is such rights of privacy for unmarried individuals—I

asked whether they existed or not. "Do unmarried individuals have rights to privacy?" His ultimate declaration was that whether such rights exist is an open question.

Mr. President, in my view this is not an open question. Individuals do have a constitutionally protected right of privacy and it is a fundamental right of privacy, and the Supreme Court, in 26 cases written by 10 different Justices over the past 17 years, has recognized this fundamental right. In calling the existence of a right to privacy an open question, Judge Souter, I believe, was plainly wrong.

Mr. GRAHAM assumed the chair.

Mr. BIDEN. Mr. President, yet, between the privacy issues on which Judge Souter met his burden of proof and the issues on which Judge Souter failed is one vital privacy issue which Judge Souter declined to speak to altogether. And that is whether a woman's fundamental right not to be pregnant continues after her birth control fails.

As I explained in detail during the hearings, I felt that Judge Souter could have told us far more about his views in this area without compromising his judicial independence or indicating how he would vote on a request to overrule Roe versus Wade. Judge Souter's refusal to talk at all about his philosophy in this area frustrated Senators and frustrated our ability to exercise one of our constitutional responsibilities and, needlessly so. For example, Judge Souter was not at all reluctant to tell us, at least in what general categories he would apply, what methodology he would apply on gender discrimination cases. Yet, he would not discuss that at all in these other cases.

The real issue here is, in the most fundamental form without speaking to Roe is, if we recognize that a woman has a fundamental right to determine in the first instance whether or not she should become pregnant, and that is basically what the Connecticut case, Griswold, was all about. A married couple said as a married couple, we have a right to use birth control. Connecticut State law, to oversimplify it, said you do not. It went to court. The court said there is a fundamental right to determine questions of procreation. So if a husband and wife decide they do not want to have a child at that moment and use a birth control device and that is recognized as a fundamental right of privacy to use that, what happens when it fails? Does that right vanish the moment a woman becomes pregnant? What constitutes the legal definition of pregnancy? When does that right expire? And does it continue to be fundamental or is it a mere liberty interest, as every justice has acknowledged it could be?

What about contraceptive devices that, in medical terms, impact upon ending a pregnancy after the sperm and the egg meet? What is that? How do you make those distinctions? Someone constitutionally has to do that. We were not asking Judge Souter how he ruled on any particular case, but when does that fundamental right, he acknowledges, exist. How does it expire, if it does?

In sum, he did not speak to that question, and I have not said this before, but I say it now. I believe the reason many of us have given him a bye, if you will, on insisting that he answer every one of those questions, is not because we did not have a right to ask those questions, and we did ask them, but it became clear to me that Judge Souter had concluded that he would not speak to anything, anything at all, that got him remotely close to that issue.

And so, if you look at the sum of his testimony relative to privacy, relative to what he did not speak to, it is a tough decision, and I can see how someone could conclude that on the basis of that, they would not vote for him. I, on the other hand, concluded that on the basis of the whole record, I would vote for him.

So, in sum, today the Senate has before it a nominee who has satisfied his burden of proof with respect to some issues, straddled the line on others, failed in some, and left us with a question mark on still other matters. This mixed picture makes this nomination a very, very hard case; hard for me, as one Senator and as chairman of the Judiciary Committee, to determine what my proper role and responsibilities command me to do. But after weighing the evidence very closely and, believe me, I have read and reread and listened and prepared as well as I possibly could, I believe, and weighed as closely and as fairly as I could, and studied the record as intensely as I could, I on balance have decided to support the confirmation of Judge Souter as an Associate Justice to the Supreme Court.

Taking Judge Souter at his word and rereading those words quite carefully several times, I have come to the belief that Judge Souter is not an ideological rightwing conservative. And I do not mean only that he has proved himself not to be an extremist.

Judge Souter went much further still. He clearly distinguished himself from an even broader school of legal conservatism, including some conservative positions now being taken by members of the current court. He rejected Justice Scalia's cramped formula for determining when fundamental rights and unenumerated rights could be acknowledged. He rejected two key principles of rigid interpretism, saying that the due process clause does protect substantive liberties and that the meaning of the constitutional provisions cannot be limited to the original intent of the framers.

He rejected the Court's recent majority opinion in the Smith case on religious freedom, and he rejected the conservative view that courts must stay out of the realm of addressing profound social problems. Indeed, Judge Souter insisted that the Court must intervene in these areas when a vacuum of responsibility exists.

This repeated rejection of the precepts of modern archconservative leadership of legal interpretism, proved to be what Judge Souter was not; namely, he is not the sort of man who, if confirmed, would run roughshod over the important precedents handed down by the Supreme Court over the past three decades.

But that alone is not enough. Beyond proving what he was not, Judge Souter also proved to me affirmatively that much about his philosophy, about his approach to dealing with the issues of the future merit our consent to his confirmation.

Weighing most heavily on me in this respect were Judge Souter's following statements: That he believed that judges must vindicate rights not explicitly stated in the Constitution; that the due process clause protects unenumerated liberties; that a fundamental right to privacy exists; that he would use a broad and not narrow methodology in deciding when the court should recognize such rights; and, lastly, but importantly, that judges must use the Bill of Rights to protect the rights of minorities.

These statements, of course, give us no clear sense of how Judge Souter is going to rule on any particular case, and I want to emphasize that point. I have no notion how he is going to rule on any particular case. None of us here today, none of us, know how Judge David Souter will rule on any specific case if he becomes Justice Souter. But this is how it should be.

As we emphasized over and over again during our hearings, our committee was not looking for case specific commitments from the nominee. What Judge Souter's statements to the committee do indicate is that he has an approach on most issues far more conservative than I would hope for the court, nonetheless an acceptable one.

I said that this was true of most issues. Unfortunately, Judge Souter's flat refusal to discuss reproductive choice leaves us with no indication at all where he will come out on this issue and, indeed, it leaves us with no indication at all of even how he thinks about this constitutional question.

What Judge Souter did tell us, however, was this: "I have not made up my mind and I do not go on the Court saying that I must go one way or the other."

This statement goes a step beyond refusing to tell us his view on repro-

ductive freedoms and tells us, if Judge Souter is to be believed, and I do believe him—he was under oath—that his mind is open.

I am not undecided on the underlying question to which he would not speak. I strongly believe that a woman's right to choose is a fundamental right, a fundamental right protected by our Constitution.

I believe that any attempts to read that right out of the Constitution are misdirected and, if they were read out of the Constitution, would reflect a mistaken understanding of the true majesty of the liberty clause of the 14th amendment to our Constitution.

But I also known that the President of the United States has a diametrically opposed view to mine. President Bush has pledged to see Roe overruled because he believes it to be wrong. He obviously has no intention of submitting, and will never submit, a nominee who adheres to my very different view on this matter. I know that and we all know that.

It is one thing to reject a nominee who would come to the court opposed to reproductive freedom. If the President attempted to send such a nominee, one who shared his view, he or she would get a serious fight up here. Although it is always dangerous to predict the outcome of this body, I submit that that nominee would have at best an even chance of surviving the advise and consent process of the Senate. That is just one person's view.

But if the Senate goes a step further and also rejects a nominee who genuinely seems to be open minded on this question, neither committed to the President's view nor the opposing view—if we make that a litmus test for confirmation, particularly in light of the fact that the nominee has gone so much further on so many other issues that I have mentioned earlier leading us to the inescapable conclusion that he is not of the school of thought that views the Constitution in such cramped and narrow terms—we will have an eight-member Court for as long as the President is President.

Under the circumstances of sharp division between the White House and the Senate, I believe the best we can hope for is a judge who has an expansive methodology for interpreting privacy rights generally and genuinely—and I emphasize genuinely—has an open-minded view of a woman's privacy right after conception occurs.

Judge Souter is not the sort of judge I would nominate had the President asked me who to nominate, but I think he is about the best that we can expect, from my perspective, from this administration.

With this realistic lens as my perspective, I will vote for Judge Souter's confirmation. I do not so enthusiastically, although I have come to have an incredibly high regard for David Souter as an individual. I do not do so without reservation, for I have stated those reservations as clearly as I know how. But nonetheless, I will support him.

In closing, I express the hope that the administration will not learn the wrong lesson from what will probably be a lopsided vote in Judge Souter's favor today.

Our overwhelming approval, in my view, is not a sign that the Senate intends to be lax about exercising its advise and consent power or intends to use that power only to screen out extremist nominees. Rather, it is a sign that we take this power seriously and that we intend to exercise it responsibly—and in doing so Judge Souter falls within the sphere of candidates acceptable to the Senate.

Based on the statements made, I might add, in the committee when we voted, this vote could have very easily been an 8-to-6 vote instead of a 13-to-1 vote, for there were five other Senators who said this was an incredibly close call for them.

I believe the burden of proof—I will end where I began, and this is where my friend from South Carolina and I differ—I believe the burden of proof is on the nominee. Just as the burden is on the President to convince the American people to vote for him to be President, is on every Senator and Congressperson to convince the people in their State to vote for them to have this power, it is also a burden that is on the nominee to be given such awesome power for a lifetime. Any future nominee who fails to meet that burden—and I emphasize again how close I believe this nominee came to that line—will be vigorously opposed, at least by this Senator. Other nominees possessing a more cramped view of the Constitution and an unwillingness to acknowledge broad, unenumerated rights already recognized, and in the future probably needing to be recognized, could well fall outside the sphere of acceptability. For example, a nominee who criticizes the notion of unenumerated rights or the right to privacy would be unacceptable in my view and I do not believe would pass muster here. A nominee whose view of the 14th amendment's equal protection clause has led him or her to have a cramped vision of the Court's role in creating a more just society for women would be unacceptable in my view. A nominee whose vision of the first amendment's guarantees of freedom of speech and religion would constrain those provisions in their historic scope would I believe be unacceptable to many here.

But Judge Souter is not such a nominee. His vision of the Constitution is not mine, but it is clearly not that of hardliners who believe that the Constitution is meant to be read very narrowly. Neither is he a man whom I would nominate, but he is a man whose nomination I will support.

Today we make a determination that will alter the course of this Nation for decades to come, for if we consent to Judge Souter's nomination we put him in a position of awesome power and responsibility, a position he is almost certain to hold for a long time after most of us are gone from the Senate floor. No one knows, no one can imagine what questions will be before the Supreme Court in the year 2024, the year until which Judge Souter will serve if he is confirmed today and matches Justice Brennan's tenure on the Court.

But if history is any guide, tomorrow's issues, whatever form they will take, will pit government against personal liberty. That has always been the case. It has always been the conflict—government versus personal liberty. It will pit majority tyranny against individual rights. That has always been at issue in our constitutional battles. It will pit the danger of discrimination against the dream of equality for all Americans.

For 200 years, Mr. President, the Supreme Court has served as the court of last resort in the struggles that I have mentioned. For 200 years the Supreme Court has been the final guardian of our fundamental rights. So it was for our parents and our gradparents and so it should be for our children and our grandchildren for decades to come. If we confirm him today, Judge David Souter will decide what our Constitution means for the next generation. It is an awesome power, an awesome power that we are giving one man. While he would not be my choice to exercise that power, I believe he is the best we could hope for from this administration.

Thus, it is with a hopeful heart and with open eyes that I will vote for the confirmation of Judge David Hackett Souter.

I now yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise in support of the nomination of Judge David Souter. I do so because I believe he understands the proper role of the courts—especially the Supreme Court—in our constitutional system.

To me, this has always been the touchstone of a great justice.

Early in the 19th century, when our great experiment in democratic self-government was still new and fragile, the Supreme Court confronted an important question concerning the power of the central government. The case moved Chief Justice John Marshall to write that the "judicial power, as opposed to the power of the laws, has no existence. Courts are the mere instru-

ments of the law, and can will nothing."

That was the constitutional deal as that great Chief Justice saw it, and as it was universally understood when our system was created. In return for life tenure on the bench, and in the absence of direct intervention by the other branches, the courts were to play a limited and objective role, without any policymaking function.

That is the way it has to be in our constitutional democracy, because nothing in the theory or history of separation of powers would make sense if the courts can simply hijack the power of Congress to legislate, or the power of the Congress, the States, and the people to amend the Constitution. While the executive and the legislative check the excesses of each other, and the judiciary checks them both, there is no direct check on the unconstitutional decisions of the Supreme Court. The only check on these nine men and women is their own sense of self-restraint.

But rather than the restraint of a John Marshall, we have labored under the limitless authority of others, such as a later Chief Justice, who used to ask, of a position advanced before the Court, not if it was constitutional, but merely if it was good. The result: The personal preferences, overriding the people's government, and nullifying the rule of law.

These judges—including some who have served on the Supreme Court—seem to have forgotten that they are appointed, not anointed. Some are so intoxicated with power and good intentions that they forget any sense of restraint. Their actions call to mind the warning of Daniel Webster that—

> Good intentions will always be pleaded for every assumption of power. It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions. There are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters.

The other branches—especially Congress—have been all too willing conspirators in this new order, largely out of self-interest. After all, if we consciously let the courts make all the controversial policy decisions, and allow the courts to enact an agenda that could never pass the legislature, we can tell our constituents to blame the courts, rather than us. But we have paid a heavy price for this conspiracy. For if we are to expect the people to respect and obey court decisions, the people must believe that the courts—and in particular the Supreme Court—are governed by the rule of law, not a rule of man. Unfortunately, many people have lost faith in the judiciary as an impartial, nonpolitical branch. They see the courts not as an umpire, but a partisan player—one that, to cite but one example, intentionally favors a criminal defendant over a victim and the law enforcement.

Over the past 3 weeks, we heard much about rights; rights granted by Government and rights unenumerated. But if our Constitution means anything it means that we have the right to govern ourselves pursuant to the rule of law. That law applies not just to people in Des Moines, or Cedar Rapids, or Council Bluffs in my home State; it has to apply to the Supreme Court as well. The Supreme Court must be every bit as governed by the Constitution as the rest of us are.

Judge Souter has earned my vote to be Justice Souter because I conclude that he understands the limited role of a judge in a constitutional democracy. I believe he understands what Justice Frankfurter meant when the Justice said that nothing new can be added to the Constitution except by the amendment process and nothing old can be removed except through that same process.

Let me underscore this: Irrespective of David Souter's impressive résumé and his great intellect, he would be disqualified to be a Supreme Court Justice unless he is both willing and able to subject himself to the self-restraint which enables him to accept the Constitution as his rule for decision, and makes him refrain from attempting to revise or update that instrument according to his personal views. If David Souter lacked either the ability or willingness to exercise self-restraint, he would not truly support the Constitution, no matter his respect for that document or his oath of office that he will soon take.

Fortunately, in his 12 years as a trial and appellate judge, Judge Souter has many times demonstrated his commitment to judicial restraint and is fidelity to a written Constitution.

Mr. President, I questioned Judge Souter closely on the issue of judicial restraint. I was comforted to hear him state that judges stray from their role when they decide cases according to their own views of public policy rather than according to the dictates of law. When I asked him about the potential of judges to roam over the social landscape to address problems and issues at will, Judge Souter explained that the very legitimacy of judges in a democracy rests on their appeal to a law that is outside themselves, as he testified:

> What we are trying to do to avoid that roving quality, that knight errancy, is to try to find an objective source of meaning which constrains us, as well as the rest of the Republic, which was intended by the people who drafted and the people who adopted the constitutions and the statutes that we are dealing with, because it is only if we try to search for a source of meaning outside ourselves and our preferences or the preferences that may be fleeting at the moment do we really deserve, as members of a judicial system, the respect and the acceptance which ultimately is the foundation for the rule of law in the Republic or in any republic.

Mr. President, I followed up Judge Souter's answer by seeking his reaction to the legal philosophy of Judge Robert Bork, that—to quote Bork:

> In a constitutional democracy, the moral content of law must be that of a framer or legislator, never that of the morality of the judge.

Judge Souter agreed entirely. As he elaborated, quote:

> We have not been placed upon courts, in effect, to impose our will. We have been placed upon courts to impose the will that lies behind the meaning of those who framed and by their adoption intended to impose the law and the constitutional law of this country upon us all.

In the nominee's view, therefore, a judge must follow the law, and not his personal views of morality or policy. In recognizing this fundamental limitation on a judge, Judge Souter has demonstrated that he possesses the single most important qualification for service in the judiciary in our system of divided powers.

Mr. President, a fair amount has been made of Judge Souter's seeming endorsement during the hearings of an activist judiciary when the political branches of Government are slow to act. A close reading of the transcript however, belies this hope on the part of fans of judicial activism.

Judge Souter emphasized that the courts are not super-legislatures, responsible for addressing every social ill or injustice, but rather play the more limited role of protecting those liberties and rights conferred by the Constitution or otherwise retained by the people.

To be sure, I was troubled by his introduction of the concept of legislative vacuums that could be filled by courts when others were slow to act. But upon my further questioning, Judge Souter made an important distinction—that the jurisdiction of the Federal courts can never be derived from perceptions of the moment about what ought to be done. As Chief Justice Hughes wrote:

> Extraordinary conditions do not create or enlarge constitutional power.

Judge Souter agrees. As he put it:

> The Supreme Court should only act and can only act when it has the judicial responsibility under the 14th amendment or any other section of the Constitution.

Judge Souter thus believes that courts may act only when they are empowered to do so, and not simply when they perceive that a social problem has gone unaddressed or unremedied.

This principle of restraint is not, as some argue, a controversial or extreme tenet of "modern arch-conservative legal thought." Rather, it is the cornerstone or our constitutional system. It is the defining characteristic of the

judiciary in our Government of divided powers.

I am therefore encouraged by Judge Souter's view of the properly limited role of the Federal courts.

Mr. President, Judge Souter's 12 years on the bench shows a faithfulness to the text and original meaning of the Constitution and statutes.

This is a most sound and appropriate method of judging. Judge Souter believes that judges must decide cases according to principles of law not their own personal predilections or preferences. For example, in response to another of my questions, Judge Souter said:

> It is essential for us to have some idea of the criterion that we are going to employ to find values which are not simply reflections of our own feelings at the moment and our own feelings about the desirability of the claims that may be pressed before us.

Judge Souter also properly recognizes that a judge must always be on his guard lest he substitute his own views for those of the framers of the Constitution or the Congress. Judge Souter's colloquy with me on this point is revealing, and even reassuring. He said:

> We have not been placed upon courts * * * to impose our will. We have been placed upon courts to impose the will that lies behind the meaning of those who framed and by their adoption intended to impose the law and the constitutional law of this country upon us all.

Mr. President, this original meaning approach is in the best traditions of constitutional adjudication. Its origins come right from the beginning of our Nation. As the great Justice Joseph Story wrote in 1833:

> The first and fundamental rule in the interpretation of all [written] instruments is, to construe them according to the sense of the terms and the intentions of the parties.

To this day, apparently, some insist on mischaracterizing this as an arch-conservative, or discredited philosophy. They are in error when they allege that acceptance of original meaning would freeze the Constitution as it was two centuries ago. No one of the interpretivist school believes this, and the critics know it.

The genius of the Constitution, which was contributed to its longevity, is that it was not meant to be a code of laws covering all situations. The practitioners of original meaning understand this. Rather, they see the document as setting up a structure and a set of principles for governing. And it is these principles that judges like David Souter are faithful to.

Thus, it is wrong to suggest that there is some inconsistency between Judge Souter's approach to Brown versus Board of Education and his dissent in Estate of Dionne. In Dionne, Judge Souter relied on historical evidence—in that instance reaching back to Magna Carta—in order to understand the meaning of a constitutional provision that descended from the Magna Carta.

As Judge Souter explained to our committee, the principle contained in the New Hampshire constitution was in his view a fairly narrow one. He therefore believed that the New Hampshire Supreme Court had no power to broaden it, replacing the Constitution's principle with its own feelings. Whatever the historical merits of Judge Souter's explanation of the text in that case, I agree with him that the court's responsibility was to apply the original principle.

To be perfectly candid, I was not comfortable with every answer from Judge Souter. But I understand and appreciate that our committee hearings have increasingly become matters of political theatre—where nominees are now forced to show allegiance to certain pet theories of Senators. I place more weight on 12 years as a judge, over 3 days as a candidate before the committee. Having said that, I also assume that there will be decisions by Judge Souter with which I will disagree. But no Senator has a right to insist on his own issue-by-issue philosophy, at least not if judicial independence is to mean anything.

You see, to be a "conservative" when it comes to the Court has nothing to do with particular outcomes, or even counteracting the past liberal activism. Conservative activism is no better than liberal activism.

Rather, a true conservative philosophy gives the constitution a full and conscientious interpretation, but where the constitution is silent, leaves the policy struggles to the Congress, the President and the people of the 50 States.

Many, however, who oppose this nominee are frankly not interested in a justice who will respect the people's choices, or even one who will be fair, open-minded, and without a private agenda. Indeed, some are openly hostile to the idea of a Justice who will decide cases as they come, without prejudgment. Rather, they want a judge who will rule their way, every time. No one—Senator or interest group—is entitled to this.

It is gratifying that the Senate is so overwhelmingly rejecting the extremist view, a view that unfortunately predominated during the debate in the fall of 1987.

Finally, Mr. President, I must object in the strongest possible terms to a new idea floated during these hearings, either implicit or explicit, that a nominee must meet a burden of proof to be confirmed.

A nomination is not in any way a trial, nor should it be confused with one through the introduction of such legal terms. To speak in terms of burden of proof begs other questions: Is it the burden of production or the burden of persuasion? Is the burden met only by a preponderance of the evidence or must the nominee prove himself fit beyond a reasonable doubt?

As deployed in the committee report, and that is in the additional views of that report, however, this whole subject becomes clear that a nominee meets his burden only by agreeing with a Senator's views on past precedents or legal philosophy. The burden of proof is thus simply a litmus test by another name. I reject this test and am confident that most Senators do, as well.

Mr. President, I support the nomination, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, I join those who pay tribute to the chairman of the Judiciary Committee for the manner in which he conducted the hearings, the forum of the hearings themselves, the balance that he developed in the presentations of a wide variety of witnesses. Both in regard to this nominee and I must say also with regard to the controversial nomination of Judge Bork, I think all of the members of that committee and all of us in the Senate owe a great debt of gratitude to our chairman, Senator BIDEN, and I think the American people who had the good chance to watch these hearings must also share in that opinion, and I acknowledge the work of Senator THURMOND, as well. This has been a result of a bipartisan effort of both the chairman and the ranking minority member, and I pay tribute to his contribution in developing these hearings.

From the beginning of our Nation, the Senate of the United States and the President of the United States have had a shared responsibility in the appointment of Justices to the Supreme Court.

That responsibility is assigned to the President and the Senate by the specific terms of the Constitution itself.

For 200 years, it has been among the highest responsibilities that any Senator has. Today, it is more important than ever, because of the central place of the Supreme Court in the life and the liberty of our Nation.

In fact, in the original drafts of the Constitution in 1787, the Founders of our country gave the Senate the sole responsibility for appointing Federal judges. But in the final draft, after the great debates that determined the future course of our Nation, the concept of dual or shared responsibility was adopted, as one of the major checks and balances of our system of Government. For two centuries, it has ensured that neither Congress nor the President has excessive influence over the Supreme Court.

Today, as always, our responsibility as Senators is to make our own independent assessment of the qualifica-

tions of Supreme Court nominees. In exercising that responsibility, our chief obligation is to determine whether the President's nominee possesses a sufficient commitment to the core constitutional values at the heart of our democracy. If we have serious doubts about the sufficiency of that commitment, our own responsibility as Senators is clear.

We are not only entitled to reject the President's nominee—we are obliged to do so. No President has a blank check in appointing members of the Supreme Court.

As I stated at the outset of the hearings, Judge Souter has a distinguished background. But aspects of his record on the bench and in the New Hampshire attorney general's office raised troubling questions about the depth of his commitment to the role of the Supreme Court and Congress in protecting individual rights and liberties under the Constitution.

Far from dispelling these concerns, Judge Souter's testimony before the Senate Judiciary Committee reinforced them. In particular, my concerns center on the fundamental constitutional issues of civil rights, the right of privacy, and the power of Congress and the courts to protect these basic rights.

Judge Souter's record and testimony on issues related to civil rights is particularly troubling. As attorney general of New Hampshire, Judge Souter defended Gov. Meldrim Thomson's decision to refuse to provide data on the racial composition of the State government work force required by regulations of the Equal Employment Opportunity Commission pursuant to title VII of the Civil Rights Act of 1964.

Attorney General Souter took the position that it was unconstitutional for Congress to require employers to compile and report such statistics. No other State advanced such a specious argument. His petition to the Supreme Court even took the extraordinary position that the EEOC was violating a worker's constitutional right to privacy by requiring employers to report the overall racial composition of their work force.

Judge Souter repeatedly defended the appropriateness of his actions as attorney general in challenging the EEOC regulation. It was only after repeated questioning that Judge Souter finally admitted that the courts had been correct in rejecting his arguments.

His unenthusiastic after-the-fact endorsement of the Court's decision does not dispel the doubts raised by Judge Souter's reactionary arguments in the case.

Discrimination is a national problem, and Congress is entitled under the Constitution to seek national solutions.

Attorney General Souter's participation and persistence in this case is troubling, because it suggests an extremely narrow view of the power of Congress to end race discrimination or other evils in our society.

As attorney general, Judge Souter was not merely acting as a lawyer for his client, the Governor. True, he had that obligation. But he also had a higher obligation. As part of his oath of office, he also made a commitment to support the Constitution of the United States. Yet in this case, he showed himself willing to make an argument that no other State in the Nation was prepared to make, an argument that the Court flatly refused to accept.

Similarly, in the area of voting rights, Judge Souter was quick to challenge congressional legislation when New Hampshire's opposing practice was at stake. In landmark legislation, the Voting Rights Act of 1965, Congress banned the use of literacy tests in States where the tests had been used for discrimination.

Extending the act in 1970, Congress determined that literacy tests were inherently discriminatory, and banned the use of literacy tests in voting nationwide.

New Hampshire had a literacy test, and in 1970, it refused to comply with the Federal law. So the United States brought suit to prohibit New Hampshire from enforcing its State test for the 1970 elections.

In opposing the suit, Judge Souter represented the State and argued all the way to the Supreme Court that Congress did not have the constitutional authority to ban literacy tests, in the absence of evidence that the specific tests had been used in a discriminatory fashion.

A three-judge Federal court rejected that argument, and struck down New Hampshire's literacy test. In Oregon versus Mitchell, the Supreme Court ruled unanimously—9 to 0—that the ban on literacy tests was a constitutional use of congressional power.

As an assistant attorney general, Judge Souter participated extensively in the litigation over the New Hampshire test. What I find most disturbing about his position on this issue was the conclusion, advanced in his briefs, that citizens who cannot read cannot cast meaningful ballots.

Judge Souter either chose to ignore, or was unaware, of ways in which voters who cannot read can be assisted in casting ballots. In fact, at the time he filed his brief, people who could not read had been voting for years in other States, and blind voters were guaranteed assistance at the polls in New Hampshire.

His insistence that literacy tests could be used to exclude such voters demonstrates a willingness to discriminate against those who have been less formally educated, but who can still make intelligent, well-informed decisions about candidates and issues in elections.

As Father Theodore Hesburgh, Chairman of the Civil Rights Commission, noted in a letter to President Nixon when Congress was considering the Voting Rights Act of 1970:

> The lives and fortunes of illiterates are no less affected by the actions of local, state, and federal governments than those of their more fortuante brethren. Today, with television so widely available, it is possible for one with little formal education to be a well-informed and intelligent member of the electorate.

In fact, when the Federal district court rejected Judge Souter's arguments and issued an order to suspend the literacy test, New Hampshire did establish procedures so that citizens who could not read were still able to vote.

In this case, as in the case involving the EEOC, Judge Souter took the position that Congress did not have the power to deal with a serious national problem. Also, as in the EEOC case, the Federal courts unanimously rejected his view.

Obviously, these are gray areas where plausible arguments can be made that Congress has exceeded its constitutional powers. But in these two cases, Judge Souter's positions were categorically rejected by the Supreme Court.

In effect, in challenging congressional power in these two cases, he was willing to defend the indefensible.

I asked Judge Souter about the literacy case during his confirmation hearings. Defending his view that the votes of people who cannot read would dilute the votes of people who can read, he called it simply "a mathematical statement * * * essentially a kind of statement of math."

The manner with which he dismissed the right of the poor and uneducated in his State to vote is all the more troubling because his response was one of the rare spontaneous moments of the hearing.

Prior to the committee hearing, news reports of a 1976 commencement address at Daniel Webster College by Judge Souter when he was Attorney General had received widespread media attention. According to contemporaneous reports of the address in several newspapers, Attorney General Souter had described affirmative action programs as affirmative discrimination.

When questioned about the remark at his confirmation hearing, Judge Souter replied, "I hope that was not the exact quote because I don't believe that." Judge Souter went on to acknowledge that he had seen the news reports on his speech at the time he gave it, but did not indicate that he denied the statement attributed to

him or sought a correction. During his testimony, Judge Souter never denied making the statement.

Instead, he attempted to defend his remark by arguing that he had been referring to affirmative action programs which were not linked to remedial purposes, but were merely distributing benefits for the sake of reflecting some formula of racial distribution.

Judge Souter's record on sex discrimination also raises troubling questions. Until the 1970's, the Supreme Court applied a weak standard to cases involving claims of such discrimination under the equal protection clause.

The courts accepted any rational basis for laws that treated men and women differently. Under this approach, women were routinely excluded from many occupations and subjected to forms of discrimination that almost all of us would regard as intolerable today. I believe the chairman of our committee reviewed the problems caused by this approach in his statement, for example, women were denied the opportunity to work in bars, and women were prohibited from being on juries in this country.

In the 1970's, however, the Supreme Court began to apply a higher standard of review to classifications based on sex, and struck down laws that discriminated against women. Judge Souter challenged this new standard as Attorney General Souter, and in a 1978 case, he urged the Supreme Court to "define, shape, limit or even eliminate" the standard.

The case involved the New Hampshire statutory rape law. A man convicted under the statute claimed the law was unconstitutional, because it did not apply to women. The Supreme Court refused to review the case, but a few years later, in another case, the Court made clear that under its higher standard of review, statutory rape laws are valid, even if they do not apply to women.

It is disturbing that Judge Souter's brief suggested that the Supreme Court eliminate the higher standard of review in sex discrimination cases. If he were genuinely concerned about the rights of women, the obvious argument to have made was that even under a higher standard of review, statutory rape laws are valid. But he did not take that course. Instead, he suggested that the Court go back to the old law, which had permitted sex discrimination to flourish.

When asked during his testimony before the committee whether legislative classifications based on sex should be accorded heightened or intermediate scrutiny under the three-tier equal protection analysis applied by the Supreme Court, Judge Souter endorsed some type of scrutiny between the weakest level, or rational basis test and the highest level, or strict scrutiny test. But he did not commit himself to a standard for sex discrimination that is at least as exacting as the standard currently used by the Court to invalidate many gender-based laws. Thus, there is significant doubt that Judge Souter will apply a sufficiently rigorous constitutional standard to make protection against sex discrimination a meaningful constitutional right for the women of America.

On the issue of whether the Constitution protects a right to privacy, Judge Souter said he believes that "the due process clause of the 14th amendment does recognize and does protect an unenumerated right of privacy." However, Judge Souter refused to reveal whether he believed there is any fundamental privacy right outside the marital relationship. Specifically, in discussing the constitutional status of abortion, Judge Souter would go no farther than to say that abortion "would rank as an interest to be asserted under liberty."

In his opening prepared statement to the committee, Judge Souter spoke disarmingly about his constant awareness that his decisions as a judge would affect real people.

But when asked at the hearing about the consequences facing women if Roe versus Wade is overruled, he first described the situation as a problem of federalism. Asked a second time about the impact on women, he described it as a law enforcement problem. Finally he observed that "whatever the Court does, someone's lives, and indeed thousands of lives, will be affected, and that fact must be appreciated." Judge Souter said that he had not made up his mind about Roe versus Wade, but these answers are more alarming than disarming.

In fact, Judge Souter's reluctant comments, while ambiguous, suggest that, in fact, he takes an excessively restrictive view of the right to privacy, and that he is likely to side with the Justices on the Court who are prepared to overrule Roe versus Wade, or leave it as a hollow shell.

Judge Souter's reluctance to discuss specific constitutional issues relating to abortion and the right to privacy, contrasted sharply with his willingness to discuss, in great detail, his views on other constitutional issues likely to come before the Supreme Court, including church-state issues and capital punishment.

I am troubled that if Judge Souter joins the current closed divided Supreme Court, he will solidify a 5-to-4 anticivil rights, antiprivacy majority inclined to turn back the clock on the historic progress of recent decades.

If so, literally millions of our fellow citizens will be denied their rights as Americans to equal opportunity and equal justice under law.

I hope I am wrong. But I fear I am right. To a large extent, in spite of the hearings we have held, the Senate is still in the dark about this nomination. And all of us are voting in the dark. The lesson of the past decade of the Senate's experience in confirming justices to the Supreme Court, is that we must vote our fears, not our hopes. If nominees do not meet the test of demonstrating a convincing good-faith, in-depth, abiding commitment to the core constitutional values of the kind so obviously at stake at this turning point in our history. They can—and should—be rejected by the Senate. To apply a lesser standard is to fail our own constitutional responsibility in the confirmation process.

In my view, Judge Souter does not meet that test. In good conscience, I cannot support this nomination.

The PRESIDING OFFICER (Ms. MIKULSKI). The majority leader is recognized.

THE BUDGET RESOLUTION CONFERENCE REPORT

Mr. MITCHELL. Madam President, as in legislative session, I note the presence on the floor of the distinguished Republican leader with whom I had a number of discussions today regarding the procedure with respect to the budget resolution conference report.

I apologize to our colleagues for interrupting this debate. This will just take a few moments.

Because there has been a great deal of interest by the press and, through the press, the public in the procedure that we would use, I thought it would be useful to bring the membership of the Senate up to date on how we are progressing in that regard.

As the Members of the Senate know, we are dealing with a conference report on the budget resolution. The original schedule called for the House to take the matter up first, which would be the case in the ordinary course of events and, following action by the House, to have the matter taken up in the Senate.

It is my understanding that the House is now considering taking the matter up during the day on Thursday, which means that if the conference report were approved in the House, we in the Senate would be taking it up sometime Thursday afternoon. I would like, if I might, to yield to my distinguished colleague for further discussion in that regard.

Mr. DOLE. We had discussed the possibility, maybe, of initiating the action on the Senate side based on the hope that we have the votes on the Senate side, on each side of the aisle, to pass the conference report, and then send it to the House where that may be more in doubt. But there are some procedural difficulties that could be encountered there, as we have dis-

cussed privately, and I would guess for the present are still under review, as I understand it, because there could be a motion to recommit offered; that could be amended. That could present problems.

But the important thing, I think, is that we get to it as quickly as we can and act in a positive way because if not we are going to be faced again on Friday with another continuing resolution and extending the debt ceiling and delaying sequester or letting the Government come to a halt. I hope my colleagues in the Senate and my colleagues in the House fully appreciate the consequences if we do not act in a positive way.

Mr. MITCHELL. Madam President, I have discussed this with the distinguished Republican leader and with the Speaker today, both in person and by telephone. Just for the information of Senators, under the rules of the Senate, conference reports are subject to motions to recommit if the House has not yet acted on the conference report. And of course such motions to recommit could include instructions. The instuctions themselves would be subject to amendment.

By contrast, if the House has already acted, the conference is dissolved and the matter is before the Senate not subject to either motions to recommit or amendment and therefore there would simply be one vote on it.

I want to make very clear we are talking here about the budget resolution which legally binds only as to the aggregate budget figures. The specific law changes which create, in effect, the subparts that lead up to those totals would not be effectively changed as a result of the budget resolution, but rather would be in the reconciliation bill which will follow. And under the agreement that we reached on Sunday, would follow not later than October 19.

At that time, in the Senate the reconciliation bill will be fully open to amendment and debate. So I wanted to make clear we are not attempting in any way to foreclose Senators from offering amendments to the reconciliation bill to change that. That is the relevant and appropriate stage in the process at which amendments can be offered and both the distinguished Republican leader and I fully expect such amendments to be offered. What we are trying to do not is to start the process in motion that will produce a reconciliation bill and that requires as a first step enactment of the conference report on the budget resolution.

So we are going to continue to consider the measure and determine the manner most likely to produce the desired result, which is the adoption of the conference report of the budget resolution, enabling us to proceed to send the matter to the committees who will report back. And then we will have a reconciliation bill on the floor that will include all of the specific law changes and be open to amendment by Members.

Mr. DOLE. If the Senator will yield for 1 additional moment, he put his finger on it in the last sentence or two. The ultimate, the bottom line, is to get the conference report adopted and the reconciliation. The leadership along with the President has committed itself to this course. We want it to be successful. There is a lot riding on it. Not the leadership or not the President, but there are lot of people in the country who I think are looking for leadership on this particular issue, as painful as it may be to some. We have to devise a strategy that will try to make certain that will happen.

We are continuing to review it. The normal procedure would be it would go to the House and come to the Senate. I just urge my House colleagues to think very seriously about the consequences—some of my House colleagues.

Mr. MITCHELL. Madam President, if I might add, in conclusion, I share the concern of the distinguished Republican leader and hope very much that the conference report will be approved in the House and in the Senate.

Again, so Members of the Senate understand that they are not agreeing to a procedure that would prohibit all amendments. When we come back with a reconciliation bill, as we have in the past, that bill would of course be subject to the provisions of the Budget Act, that is the time for debate would be limited and there are certain tests which apply to amendments to that bill under the Budget Act. But within those constraints of the Budget Act which traditionally have applied to the reconciliation bill, Senators would be free to offer their amendments and have them debated and voted on here in the Senate. That is, of course, the appropriate stage in the process to accomplish that.

I am going to continue our discussions with the Republican leader and the Speaker. I merely wanted through this exchange to inform Senators of the current state of the process and summarize it. It now appears that the House will act on the conference report Thursday during the day and then it will come to the Senate and hopefully we will have it on the Senate floor for action during the day on Thursday. That is our present plan. That is of course subject to change. But I will keep Members fully advised as soon as any final decision is made.

I thank the distinguished Republican leader and I thank particularly my friend and colleague from Utah for yielding to permit us to have this exchange.

NOMINATION OF DAVID H. SOUTER, OF NEW HAMPSHIRE, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

The Senate resumed consideration of the nomination.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I have listened to the remarks made thus far. I do not think any person wants to see anybody go on the bench who is a radical activist judge either on the left or on the right. I think what we want is we want judges who basically are going to be people who I think, frankly, look, act, talk, and think like Judge David Hackett Souter.

He calls himself an interpretist. I would use the term interpretivist. In other words, he indicates he is going to determine the constitutional decisions that come before him, and the legislative decisions and other decisions, based upon the original meaning of those documents.

That does not mean necessarily that he is going to go back into the mind of James Madison and the other Founders. But he will follow the broad meaning, which the Founders anticipated within their language that they used in these various documents.

We are founders today as we pass legislation. Maybe not as significant or as important, but nevertheless our original meaning should be given great weight with regard to constitutional principles.

He knows that by going into the original meaning, that those original Founding Fathers knew that our country was going to grow, it was going to become more modern, it was going to have great inventions, it was going to become more sophisticated. So that comprises a broad set of considerations for anybody who really wants to adhere to the original meaning of the Constitution.

He also understands that the Constitution provides for a means to overcome that which the Constitution does not cover. It provides a number of means, but one in particular is in article V to the Constitution, which provides for a means of amending the Constitution. He understands that if the Constitution is silent on some issue that is of overwhelming importance to the public, that we can amend the Constitution and that is the way you do it. You do not do it by ad hoc activist judicial decisionmaking from one's own viscera. And unfortunately that is what has been going on for too many years.

The right to amend the Constitution is a safety valve that basically allows us to make changes if we want to, or if we have to, if there is an overwhelming support for it. And as we all know

there have been 26 times that that right has been exercised.

Judge Souter understands the need to protect the minority, as well as the majority, within the terms in the original meaning of the Constitution and that which would be naturally extrapolated from that original meaning.

David Hackett Souter, I am convinced—and I think most people who watched the proceedings on television are convinced—is a person of integrity, competency, intelligence, compassion. He is a person who appears to be—and I think anybody watching would have to conclude is—a kind person, considerate of other people. He is a person of considerable eloquence, especially when he is talking about the law of the land.

I think he showed that he is a person of fairness—5 years on the trial bench, 7 years on the Supreme Court of New Hampshire, and 1 year on the First Circuit Court of Appeals—and he is a decent man. He is a person who has the health to do this job. He clearly stood up to all the pressures of those hearings. I think he is a person of humility. He is teachable. He is someone who acknowledges that others might understand things even better than he does form time to time, and he is willing to listen. He is a person of independence.

With humility, he proved himself to be a listener, somebody who was considerate of other people's views. To me, that is pretty important.

He has shown through his lifetime that he is a person of public spirit—serving on hospital boards, serving in his own church and doing other things that were in public spirit and he has given a lifetime to public service—just exactly the type of person with a broad background that we need on the Supreme Court.

I have heard some of the criticisms that have come up. Some of them have come from my good friend from Massachusetts. I hesitate to point out that he stands alone on the Judiciary Committee, as the only one against this nomination made by the President who had the support of 40 States in the last election.

No one who listened to Judge Souter's testimony could believe that he takes a limited view of the ability of Congress to remedy civil rights; no one believes that unless you were not listening or unless you just do not want to listen.

As a matter of fact, he took just the opposite viewpoint, which was very interesting to a lot of people who were there.

There was no objection raised here today that Judge Souter had argued that enlarging the franchise dilutes the votes of those who previously were entitled to vote. That objection is frivolous. Voter dilution cases are standard forms of voting rights challenges recognized by the Supreme Court.

I hasten to point out when he made that statement in his brief, Judge Souter was an advocate, arguing an advocate's position based upon the then current law as established by Justice Byron White and even Justice Hugo Black who made exactly the same statements in opinions of the Supreme Court; yet Judge Souter is now being criticized for, as an advocate, making exactly the same point on appeal.

So I point out that he was an advocate at the time. Literacy tests at the time were legal. No matter how much we dislike them today, they were legal at that particular time. He was sworn to uphold the law, not to remake it. He was advocating for his State at that particular time. He was an assistant attorney general of the State of New Hampshire, advocating a position that had already been advocated by his predecessors and, I might hasten to add, under the then existing law.

So it is not right to go back in hindsight and say he should not have done that; that that shows something wrong with him. Come on, that is what advocates do.

If we are going to start using a nominee's briefs against him in the confirmation process, we are going to be setting a shocking precedent. Every client is entitled to zealous advocacy. It is an advocate's job to make arguments to sway a court, including plausible arguments based on extension of principles established by then current case law. It would be a very, very dangerous message to send to lawyers: If you have any ambition to be a judge, you lawyers, do not represent controversial clients and be careful what you say on behalf of a client because you might be held responsible for the fact that the law was as it was at the time you made the statement.

In my view, positions taken by Judge Souter in any legal brief representing a client are not fair game for inquiry, other than as a reflection of his writing ability and his ability as an advocate. They are pieces of advocacy in fulfillment of his duty as a lawyer to his client. What is, in fact, important is not what he said as an advocate but what he believes the role of the U.S. Supreme Court is or should be in our Federal system.

Suppose the President nominates a criminal defense lawyer to be a Supreme Court Justice? This person may have defended murderers, rapists, drug kingpins—you name it. It would have been his job zealously to advocate their interests, extend the reach of procriminal defense legal theories on the inadmissibility of physical evidence and the inadmissibility of the defendant's own words. He may have harshly cross-examined rape victims; he may have questioned them about their own behavior in ways we might find offensive in retrospect. Should that lawyer be disqualified because of his or her advocacy on behalf of their clients?

Virginia Attorney General Mary Sue Terry has defended the male-only admissions policy at the Virginia Military Institute, a State institution against a legal challenge by the Federal Government. Should this count against her in the nomination process, were she to be nominated to the Federal court or Supreme Court?

One consequence of this trend is that academic writings, even of a speculative nature, even ones where the nominee has since changed his or her mind, can be misused to discredit a nominee.

This can be a double-edged sword. Of course, if the traditional roles of the nomination process are permanently changed, are we now going to witness the misuse of a lawyer's role as an advocate in the nomination process? Will the message be not only do not write anything potentially controversial, but also do not represent anyone or any institution who is controversial or unpopular? Do we wish to discourage lawyers from taking the tough cases, from taking on such clients if they have any, and especially if they have any aspirations to be a judge? I hope not. That, too, in my opinion, is a double-edged sword and something we have to consider.

Mr. President, it seems to me that several of my good friends on the other side of the aisle, particularly on the Judiciary Committee, are rent by self-doubt, angst, and some guilt in voting for Judge Souter. I believe, however, it is fair to say, based on his opinions, and testimony that Judge Souter is clearly well within the reasonable and respectable range of an appropriate nominee. It also seems to me, Mr. President, that today's debate is largely about Judge Souter's nomination and our colleagues, a few of them, are concerned. They are concerned about some of his opinions and his testimony, because it has not fit every niche that they want it to fit.

His nomination has really been conceded for some time, and it should be. He should be overwhelmingly confirmed today. I think everybody knows that.

I want to respect my colleagues who have stood up on both sides of the Judiciary Committee and have stood up for Judge Souter, as they should. I appreciate it. But what we are hearing from some of my thoughtful friends on the other side of the aisle is really an opening salvo in the next round if President Bush has an opportunity to nominate another person. It is pretty much a foregone conclusion that Judge Souter is going to be Justice Souter after today.

Accordingly, we have heard in the last few weeks an exposition of views on various legal and constitutional issues in an effort to characterize and limit the spectrum of constitutional thought. Thus, at length, we have been treated to various legal thoughts: How certain cases should be decided under each school, which school is doctrinaire, which is entirely OK. In my opinion, these are interesting but relatively more edifying as an insight into the views of those who expound them for anything else.

Even more disturbing, some of what we are hearing from the other side appears to be in large part a thinly veiled extraordinary, unfortunate, and, in my view, unconvincing effort to set the parameters on President's Bush's next Supreme Court nomination, if he has the privilege of having one.

It may be that some pundits or interest groups will suggest that if such a future nominee is thought to be clearly "more conservative than Judge Souter," as measured according to many of the notions we are hearing from Judge Souter's reluctant supporters in this body, no matter how reasonable and responsible the nominee's views may be, such nominee is "automatically out of the mainstream."

The committee would be well advised in such a case to determine whether such suggestions themselves emanate from the brackish backwaters, before assuming they constitute the mainstream.

Madam President, it is not easy in this day and age to get a person on the Supreme Court who fills the needs of everybody in this body. In fact, I venture to say that nobody can meet that test. If we are going to adopt litmus tests as the way to determine whether or not a person comes on the Court, and especially a single litmus test, no matter how important it may be, then I think that is a tremendous mistake.

Nobody knows what will happen to these people once they go on the Court, with experience, with time, with facts, with cases, with other problems that come up. Nobody really knows how they are going to rule in the future, and many Presidents have been upset at how some of their nominees have ruled as they have watched both in the remaining years of their Presidency, and after they are retired from the Presidency.

The fact is it is ridiculous to impose any single litmus test on any candidate for this high office, this high position. If we follow the lead of the litmus testers, to preprogram the responses in the judicial process, then the job could be done by computers, and judges would not really be necessary.

Yet what has made the Supreme Court great for over 200 years—what has allowed it to occupy such a distinguished, unique, and important place in American society—a role shared by no court in any other nation in history—is the quality of judgment that has been shown by the persons who have served with distinction on the Court.

Madam President, I did not mean to take this much time. I do not see how anybody who watched the hearings, watched the difficult questions, watched the problems that were raised, and watched Judge Souter in response to those problems and those questions, could conclude that he is not a worthy person to go on the Supreme Court of the United States of the America. I really have difficulty seeing why anybody would feel that way.

On the other hand, I respect the feelings of some of our colleagues who are going to vote against Judge Souter for whatever reason. I do not see a logical reason for it. I do not see a legal reason for it. I do not see a confirmation reason for it. Frankly, I hope that the litmus test mentality is not used in the future, because if it is I can think of at least 150 litmus tests that people feel strongly about around here that would make it almost impossible for any great nominee to make it on the Court.

Judge Souter is a great nominee. He is not just a nominee. I first became acquainted with him when Senator RUDMAN brought him to my attention after the Bork nomination failed. I am fully aware of his career from that point. I have a tremendous and inestimable respect for this man. I expect him to go on to become a Supreme Court Justice who will please the vast majority of people in this society, because as I have said he is honest, he is decent, he is a person of integrity, he is a person of competence, of ability, and all of those other wonderful attributes that I hope we can find in other Judges on any court in this country, let alone the Supreme Court of the United States of America.

Madam President, I hope our colleagues will see fit to vote for Judge David Hackett Souter to be a Justice on the Supreme Court of the United States of America. It is the right thing to do. It is the important thing to do. This is an important office, and it is important that we dignify it with important arguments. I have not seen good arguments used against him yet, either in committee, since the committee has held its hearings, or on the floor today.

Madam President, I hope our colleagues will vote for Judge Souter.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. HEINZ. Madam President, will the Senator from Wisconsin yield for a brief unanimous consent request?

Mr. KOHL. Yes.

VISIT TO THE SENATE BY CHILEAN DELEGATION

Mr. HEINZ. Madam President, as in legislative session, earlier today I notified the leadership that there is present in the Capitol today a delegation of senators from the Republic of Chile.

RECESS

Mr. HEINZ. Madam President, I ask unanimous consent that we might stand in recess for not to exceed 2 minutes. The Senator from New Hampshire has indicated he would yield me 2 minutes, if such was necessary to accommodate the Senate. I ask that no time be taken from the Senator from Wisconsin.

There being no objection, at 4:36 p.m., the Senate recessed until 4:38 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mrs. MIKULSKI].

NOMINATION OF DAVID H. SOUTER, OF NEW HAMPSHIRE, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

The Senate continued with the consideration of the nomination.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. I thank the Chair.

Madam President, First, I congratulate Chairman BIDEN for his work on the Souter nomination. The chairman and his staff made a difficult process run smoothly. The hearing was well-focused and illuminating on a host of issues. His impartial and fair handling of the hearing allowed us—on behalf of the American people—to conduct a thorough examination of the nominee.

Madam President, I intend to vote for Judge Souter, but this was not an easy decision. In the course of reviewing the nominee's record and listening to him at the hearing, two different pictures of David Souter emerged: one revealed a conservative New Hampshire attorney general and jurist; the other, a reasurring pragmatist without an ideological agenda. I am voting to confirm the second Judge Souter despite my reservations about the first.

As attorney general—where he was required to be an advocate—Judge Souter took several stands that he acknowledged he would not take today. He defended lowering the American flag on Good Friday; he supported the continued use of literacy tests for prospective voters; and he argued against supplying civil rights data to the Federal Government as required by law. More than that, while on the New Hampshire Supreme Court, he issued a number of troubling rulings and dissents.

In his testimony before our committee, however, we heard a different Judge Souter. He demonstrated admirable personal qualities and expounded moderate judicial views.

Without question, Judge Souter revealed a remarkable intellect, one that equals or even exceeds the traditionally high standards required of a Supreme Court Justice. And he showed a warmth and humor that belied his image as a man out of touch with modern life. In my opinion, Judge Souter clearly has the competence, character, and integrity necessary to sit on our Nation's Highest Court.

At the hearing, Judge Souter's judicial philosophy was reassuring. He displayed an understanding of and respect for the values which form the core of our constitutional system of government.

Judge Souter firmly rejected the doctrine of original intent, which would undermine many of the Court's most important achievements. Brown versus Board of Education, which desegregated public schools, would never have been decided if the Supreme Court had interpreted the 14th amendment using original intent. And our fundamental right to privacy would have been severely cramped had the Court applied this doctrine to the Bill of Rights.

Fortunately, the Judge Souter who testified before our committee does not seem locked to the past. I was heartened by his strong words of praise for former Justice William Brennan, the Court's leading opponent of original intent. David Souter told us:

> Justice Brennan is going to be remembered as one of the most fearlessly principled guardians of the American Constitution that it has ever had and ever will have.

And Judge Souter spoke of the need "to make the Constitution a reality for our time." Clearly, these are not the words of a conservative ideologue.

Still, the hearing did not paint an entirely complete picture of Judge Souter's judicial views. I would like to have heard a clearer statement in support of civil rights and the struggle for racial equality.

Similarly, I am concerned that Judge Souter did not explicitly recognize—or even address—a woman's constitutional right to reproductive choice. This fundamental right should not hang by the thread of a shrinking Supreme Court majority. And so I have joined as a cosponsor of the Freedom of Choice Act, which would write into Federal statutory law the abortion provisions on Roe versus Wade.

Let me conclude on this note: It is not just a Supreme Court seat that is at stake here; in my judgment it is also the entire confirmation process. I believe the nominee was candid in his testimony, and I was persuaded by watching and listening to him at the hearing. But if Justice Souter turns out to be a rigid ideologue—and not the moderate that he appeared to be—then both the Senate and the American people will have been deceived. That would call into question the value of having nominees appear before our committee. We might be justified—or even required—to ignore personal presentations entirely, and rely exclusively on the written record.

Madam President, in reaching my decision, I had to determine whether the conservative public servant from New Hampshire matured into the moderate nominee who appeared before the Judiciary Committee. I believe that he has. And while I was troubled by parts of Judge Souter's record, I was impressed by the man himself. And so, despite my reservations, I will support Judge Souter as someone who is capable of personal growth, shows an open mind and rejects ideological extremism. I will vote my aspirations rather than my fears.

Thank you, Madam President.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, I will shortly propound a unanimous-consent request setting the vote for 6 p.m. I understand that has been cleared on both sides. We are now checking to make absolutely certain that it is agreeable so that no Senator feels he or she has not had the opportunity to speak. I will do that momentarily. In the meantime, I am pleased to yield to other Senators.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I have already spoken at some length on the Senate floor on my view in support of Judge Souter. So I will refer anyone who might conceivably be interested in those views to the CONGRESSIONAL RECORD on September 19, 1990, a week ago Wednesday.

But there are a few other comments which I think appropriate to make at this time, that relate to the very important principle, that was established in our hearings, that a nominee should not be required to answer the ultimate question on how the nominee would rule on a case which may come before the Supreme Court even where that question is as important as the nominee's views on what will happen to Roe versus Wade. The issue of choice, the issue of abortion is, I think, the most divisive issue which has confronted the United States since the country's inception perhaps with the exception of slavery, Madam President. There were many who came forward and strongly urged that Judge Souter should be required to say how he would rule on Roe versus Wade.

It is my expectation that there will be a very strong vote in support of Judge Souter today. Certainly the vote on the Judiciary Committee of 13 to 1, where many who voted in favor of Judge Souter were those individuals who were very strongly in favor of upholding Roe versus Wade, established a very important principle that people in our society were willing to abide by the system as to what would happen in the regular context where a case was decided in the context of specific facts, briefing, argument, consultation among the Justices, and that a nominee would not be required to answer a question as to how the nominee would rule on a case yet to come before the Court.

Madam President, I have expressed my view, both on this floor and otherwise, about my support of the choice position. Although I am very much opposed to abortion as a personal matter, I do not think it is something that the Government can regulate. But, notwithstanding my own views on the subject, I took the strong position that Judge Souter should not be compelled to say how he would rule when the issue of Roe versus Wade came before the Court again.

At the same time, Madam President, I think it is important to emphasize, that if the Supreme Court moves further on the road to deciding ultimate positions of public policy as a superlegislature, that the Supreme Court runs the risk of losing its standing, and the nominees run the risk of losing their standing to decline to answer the ultimate questions.

This Senator is very much concerned about a series of Supreme Court decisions illustrated by the Griggs case, the Wards Cove case, the National League of Cities versus Usury, and Garcia versus San Antonio Transit Authority, where the Court has moved in the direction of being a superlegislature.

The Civil Rights Act was passed in 1964, and, in 1971, a unanimous Supreme Court in the opinion written by Chief Justice Burger, not known for any expansive interpretations, defined discrimination in the disparate impact situation. I will not speak at length about what that means, because it is not necessary to illustrate the point.

Eighteen years later, last year, 1989, the Supreme Court of the United States reversed Griggs in Wards Cove and did so with five Justices changing the law in the context where the Congress of the United States had let the Griggs opinion stand for 18 years, giving full force and vitality to what is realistically a conclusive presumption of congressional assent to the Griggs opinion as interpreting congressional intent.

Four of those Justices who reversed Griggs had appeared in the Judiciary Committee during the course of the past decade and put their hands on

the Bible and had sworn not to be judicial activists but to interpret rather than to make the law.

I would suggest, Madam President, that if the Court, if the Justices are to become superlegislators, they will not be immune from stating their positions on such issues, just as candidates for the Senate are not immune from stating our position on matters of public policy.

There is a similar issue involved in the case of National League of Cities versus Usury, where the Supreme Court of the United States in 1975, defined the relations between Federal and State governments, local units of government. That position was reversed in Garcia versus San Antonio Transit Authority, 9 years later, in 1984. In writing in dissent, Chief Justice Rehnquist and Justice O'Connor, in separate opinions, said that the Garcia opinion was really like a railroad ticket. As Justice Roberts said years ago, "this day and this train only." Chief Justice Rehnquist and Justice O'Connor said, when the issue came before the Court, with a change in membership and constituency, the opinion would be reversed.

I was on the point that if the decisions of the Supreme Court on important constitutional doctrines, like Federal and State relations, depend upon the constituency of the court, then I think nominees are going to be asked how they are going to decide these issues on public policy.

On the man himself, Madam President, I think Judge Souter presents a record of qualification. His record, academically, in law school, Rhodes scholar, record as a practitioner, attorney general, trial judge, State supreme court justice, his judicial opinions, his testimony before the committee, was exemplary.

I do not agree with some of my colleagues who have supported Judge Souter, based upon a change in position before the committee. I believe that Judge Souter took expansive views when he testified before the Judiciary Committee, but that is understandable. The opinions of Judge Souter were the basis for my reliance on evaluating Judge Souter, and he was much more restrained and restrictive in those opinions than the testimony he gave before the Judiciary Committee.

Madam President, even in those opinions, in the Richardson case, Judge Souter found a liberty interest. In the criminal law cases, he had a good balance recognizing defendants' rights as well as the interest of law enforcement.

So whether you take the more expansive views of Judge Souter testifying before the Judiciary Committee, or the more restrictive views that he exhibited in his opinions, I believe he is well within the continuum of constitutional jurisprudence and ought to be confirmed.

In view of the limitations of time, although there is much more that could be said, that summarizes my views. I thank the Chair and yield the floor.

Mr. SIMON. Madam President, I rise briefly to explain my views to my colleagues. I think there are three basic points.

One is, does Judge Souter meet the basic standards that we are looking for? In terms of ability, in terms of scholarship, in terms of someone who is willing to listen, it is very clear that he does.

On two points I would like to have seen a stronger nominee. One is, I want someone who is a champion of civil liberties. The second thing I would like is someone who will lead for those less fortunate. Unfortunately, in the Souter record there is no evidence that Judge Souter will be a leader in either of these areas.

The second question then is, if he does not meet these latter two standards, should he be considered? If I were to go solely by the record, candidly, I would vote against him. But his testimony showed an appreciable growth, if you want to make that assumption, or it showed political dexterity, if you want to make that assumption. But his testimony clearly was better than his record. If I had gone just by his record, as I have indicated, I would have voted against Judge Souter in committee, and I would be voting against him now.

In the area of civil rights, at least one statement he made while he was attorney general was a statement that concerned me. But in response to my specific questions, he was more forthcoming and encouraging, though he made one statement that still concerns me; and that is that there is no discrimination in New Hampshire. I wish that were the case in any one of our 50 States. It is more of an indication that his continued growth is still in need.

On the much publicized Roe versus Wade case, my own belief, my own impression, is that he will vote to sustain Roe versus Wade. It is made up of several reasons. One was his counseling of a young woman who was about to have an illegal abortion under Massachusetts law. The second was his vote as a member of the hospital board, where they authorized that hospital to have abortions performed at that hospital. A third came in response to a question by Senator SPECTER, in which Judge Souter said, so far as he knew, the court had never taken away a right that had been given. Finally then, it was the impression that I have from him of great reverence for precedent.

On the basis of those things, I will personally be surprised if he votes to overturn Roe versus Wade, though no one can know the answer for sure.

Finally, we face a very difficult question. That is, is it likely that President Bush will send a nominess with more moderate views than Judge Souter? As you look at the list of those who are considered, I have come to the reluctant conclusion that that is very unlikely. If I were to vote against the nominee, it would be a signal to the President that it does not matter who you send up, you are automatically going to get votes against that nominee from those who want to see the Court as a champion of civil rights and civil liberties.

Finally, I add, Madam President, the departure of Justice Brennan means, unquestionably, no matter what the votes of Judge Souter, the Court is going to be shifting to the right. That means that the basic defense of civil rights and civil liberties, I think inevitably, is going to shift from the Supreme Court to the Senate and the House. It makes our responsibilities more awesome, and I hope we will live up to those responsibilities. I will vote to confirm Judge Souter.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Madam President, this Senator is pleased to report that his impressions have been confirmed. Those are impressions of a man I met over a decade ago, David Hackett Souter, a man who now awaits the advice and consent of the Senate of the United States to confirm him as the 105th Associate Justice of the Supreme Court of the United States.

While I was attorney general of the State of Washington and president of the National Association of Attorneys General, I first met David Souter, who was then attorney general of New Hampshire. I was not happy to meet David Souter under those circumstances, because my friend WARREN RUDMAN had just left that position. He turned it over to an individual whom I did not know, and about whom I knew nothing. But I learned quickly that David Hackett Souter was a thoughtful, courageous, and intelligent man, a man of integrity and steadfast purpose.

The Nation watched as Judge Souter's fitness for a seat on the bench was questioned by the Senate Judiciary Committee for the second longest period of time of any Supreme Court nominee in history.

(Mr. SIMON assumed the chair.)

Mr. GORTON. I believe we observed the courage and independence of a man confronted on each side by those who wanted to hear clear and preconceived notions. I can say that had he told the committee what many of its members wished to hear, he would not gain this Senator's vote today to become Justice David Souter. Presi-

dent Lincoln once observed under similar circumstances, "We cannot ask a man what he will do, and if we should, and he should answer us, we should despise him for it."

Why? Because the Constitution requires of our jurists the impartial balancing on the scales of justice the facts which are presented to them. Our Federal Code states:

Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. (28 U.S.C. 455(a)).

To be impartial, a judge must divorce his personal feelings from the philosophical analysis which he is charged to employ for the benefit of every citizen. Impartiality is and must be a prerequisite to the grant of the awesome power of this position. Judicial independence fostered by that impartiality is the touchstone by which our law lives.

The report of the Judiciary Committee on this nominee concluded:

We believe that Judge Souter struck an appropriate balance in this testimony; that his testimony and the record before the committee enabled us fully to discharge our constitutional responsibility of advice and consent; and that a requirement of greater specificity would gravely compromise the independence of the judiciary and the separation of powers. Such independence is explicitly mandated by the Constitution, by Federal statute, and by the canons of judicial ethics.

I am proud to have witnessed Judge Souter withstand the test. And I can think of no qualities which are more important for a position on the Supreme Court of the United States than those which David Souter demonstrated in those 20 hours, a constant willingness and ability to listen, to learn, to grow from experience. Judge David Souter has the integrity and the dedication to ideals which made this country great.

Mr. President, I think none of us, even Members of the Senate of the United States, can fully appreciate the awesome and lonesome responsibility of being a member of the Supreme Court of the United States and having the Constitution of this great country in his or her hands. My conviction is that David Souter can take on that responsibility thoughtfully, responsibly, with an open mind, and with the ability to contribute greatly to the development of legal institutions in this country. Judge Souter has earned my vote for his confirmation, and I hope my colleagues will find that he has also earned their vote as well.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. Thank you very much, Mr. President

I want to spend a few minutes sharing my own thoughts and experiences with my colleagues about my own decision related to Judge Souter and the decision facing the Senate this week.

As you know, I am not a lawyer and I therefore come at this with perhaps a bit of a different window than those who are looking at the record, reading cases, and so on.

I would like to do two things today. One, to talk a little bit about the issue of Roe versus Wade in front of us and, second, sketch what I think is a very interesting and informative profile of David Hackett Souter as I gathered it over the last 10 weeks.

First, the issue of Roe versus Wade is clearly the issue many of us, commentators and observers, have come back to. This is one of the dominant issues of this time, if not the dominant issue on the Court right now. I would hope that David Hackett Souter will be voting to uphold Roe versus Wade. I am sorry——

(Disturbance in the Visitors' Galleries.)

Mr. WIRTH. Mr. President, the issue, as we all know, elicits all kinds of responses and emotions, and it would be my hope that the concern for precedents, the concern for privacy, would lead Justice Souter in this direction. I would also think it is absolutely appropriate for everybody to be asking questions on this front and I am sorry we did not get more specific answers on it but you know that is the judgment that was made by David Souter.

Beyond question, the Supreme Court is now at a crossroads. Judge Souter's role on the bench may well be pivotal. Because I take the advice and consent role of a Senator very seriously, I met with Judge Souter, have reviewed the hearing record and some of his decisions and have spoken with many people associated with him professionally. Given my division with the President on many of the issues the Supreme Court may hear, the best I could hope for would be a skilled judge who comes to the bench with an open mind—I believe Judge Souter does just that.

I do have some reservations, similar to many of my colleagues. Upfront I must admit that I hope he holds fast to the approach he cited when discussing fundamental rights during his hearing. He stated that he would use the approach identified with Justice John Marshall Harlan—that the question of weighing the value of asserted rights cannot be approached without an inquiry into the history and the traditions of the American people, in order to try to find, on a historically demonstrable basis, their commitment to a set of values which either do or do not support the claim that a particular right in question is fundamental.

During his testimony, Judge Souter stated that he has not made up his mind as to whether or not he would vote to uphold Roe versus Wade. Judge Souter did not address the fundamental right to privacy with as much clarity as I would have liked. But he did indicate his commitment to certain matters of privacy, and I hope that during what is expected to be a long term on the bench, he continues to support the fundamental individual rights.

When Judge Souter was asked about the equal protection clause in the 14th amendment, he stated that his approach in interpreting the Constitution would be to determine the meaning or principle that the framers intended—not the specific application they had in mind at the time. Should this be the case, when a question of protecting individual rights of privacy were to come before the Supreme Court, I expect that Judge Souter will set fit to see to decide the case with the breadth of our time, not be limited to the scope our framers had when writing the Constitution.

To go on, Mr. President, let me talk a little bit about what I understand and have learned about David Souter over the last 10 weeks. David Souter and I were in the same class in college. We lived in the same living unit, a very large dormitory kind of unit that had its own dining room, and so on. There were probably 350 undergraduates in this unit. We were in the same class. We did not know each other. We knew who the other person was but did not know each other.

As an aside, I might say a friend of mine came up and said, how could you vote for someone when you did not even know him when you were there? I said he did not know me either. I think that is appropriate commentary on the fact it is a large institution. In any case, I was surprised it came up in the same class.

So soon after his nomination was sent up, became public, I got on the telephone and I made a variety of calls in August and let me flesh out, if I might, the profile that emerged. This was in early August. That profile, and these are my notes that I picked up off my desk the other day in summary of all these conversations. I must have talked to 10 or 15 classmates who knew David Souter.

Smart, courteous, little fastidious, devotion to precedents, extraordinary intelligence, great integrity, a man who puts principle before expediency, a man of old New England values, intensely private. Asked a liberal Democrat, does Bush know any more than we do? How could he? He is an intensely private man, describing David Souter. Devoutly Episcopalian. Another said, no reservations, an individual of great principle and underlying humanity.

Another, without qualification. And then he said, I also am a liberal Democrat. He said my view of George Bush

just jumped up. Sense of many as a person, concerned sense of a person who does not exist any more.

Said one, an individual who is joyous within his own house and his own library. I believe he is truly interested in judicial restraint, not an individual who has commented to me and through the years on politics.

That was a profile in August as I talked to people. All of these individuals were close to David Souter and very positive.

I picked this up again at the beginning of last week and made another round of calls and let me just share these last reactions and I will stop.

From one individual in our class who is a reporter for a major national newspaper: He said, having called around himself—this is a secondary research—my general sense of those who are—this is a man who chooses to live his own life although he is not a hermit by any means, he maintains friendships of individuals who themselves are from moderate and a progressive stripe. The people who are close to him are not ideologs. His friends describe him as being bright, thoughtful and idealistic. This is a profile from our classmate reporter who had talked to other classmates. While he may be cautious, from a conservative State, he is not a Reagan Justice, or someone you would think George Bush would appoint.

None of the people had a conversation with him about Roe versus Wade. I checked and cross-checked them for over an hour. None believed with his own belief in precedents that he will overturn Roe versus Wade, and his own instincts will lead him in the direction of supporting precedent.

Men and women say the same thing. Among the people who know him well I get the same reading. If I were a conservative I would be petrified by this guy. There is no guarantee he will do what they want, not a Scalia clone.

That is the secondary research of this last week from a reporter friend of mine, a classmate who talked to a variety of other individuals. I have done a lot of my own primary research and again let me close with reactions of this week.

None of these people obviously do I want to identify. I asked one gentleman who is again a liberal Democrat, a clergyman and a very, very thoughtful and bright individual whom I knew also 30 years ago. I asked him, would you vote for David Souter? He said, I think I am sure I would vote yes. I was a little surprised by this statement on Brennan; I did not know he would say that. He is very honorable. He simply would not fake it. I was asking what he thought about the Souter testimony on the girl at college, and so on. He said he simply would not fake it. What you see is who he is. When we were undergraduates this classmate said he lived and breathed the Supreme Court and judicial process, so much that we used to call him then Justice Souter. He has great respect for precedent, he is a student of Holmes, did his senior thesis on Holmes and Holmes' judicial philosophy, has a deep abiding interest and respect for the Court and American history; certainly not likely to be an extremist in any way. Nothing would suggest that that is the case. With time, in fact, I believe he will be a coherent force on the Court.

He is a wonderful and amusing friend. "Something I have always wanted to do," said David to me. After I called him when I heard about the appointment, he said, "This is something I have always wanted to do. But if it doesn't work out, I can be blissfully happy on this court in New Hampshire."

It is sort of an accident of fate that someone who is so nonpolitical would be washed up on these shores. As part of the research this last week, let me conclude with this morning's telephone calls, if I might, Mr. President.

"David Souter, simply stated, is one of the greatest individuals I have ever known. He is extraordinarily brilliant, intellectually gifted in an openminded way, not a bully like some who are that smart. He can then carefully and calmly come to a conclusion having put his force of mind to work on it."

And "I am a liberal Democrat. This will be one of George Bush's great appointments."

"On predictability, on the issue that everyone is talking and asking about, and given the caveats of Supreme Court decisions—and having spent so much time with him, as has my wife and daughter; I am a lawyer—I do not think he will kick over the traces. He will get people talking together like Justice Powell."

And, "I imagine he will be a jealous guardian of individual liberties, sort of a New England-like approach to guarding the individual against the State."

And, "Watching the hearings confirmed what I know about him personally. What you see is what you get. He is not partisan. He is not an ideolog. He is not a zealot. I did not vote for Ronald Reagan or for George Bush. My guys have not done very well. But even given the presumption that they can appoint anybody who they want, he is really a fine appointment."

I was very impressed, Mr. President, with this catalog of individuals, the perspective was very broad. Most of them are people who are more progressive rather than conservative. But these are people who have known David Souter for 30 years. What emerges is that profile that I have described. I am going to vote for David Souter. I believe that this profile is one that I can trust. I did the best that I could in the research available to me, read the record, looked at the hearings, watched David Souter testify, and I have talked to the lawyers. But maybe more importantly I have put together this human dimension which I wanted to share with my colleagues and with the country today.

Thank you very much, Mr. President.

I yield the floor.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ADAMS. Mr. President, I have previously stated my position with regard to the nomination of David Souter in the CONGRESSIONAL RECORD of September 27 at the beginning of that day on S14035.

But I felt that it was necessary during the course of this debate, during this executive session, that I once again make a few very brief remarks to not reiterate what I stated on that day, which I still believe and feel is an important part of this record, but to simply state again the concern and the real lack of substantial position that many of us feel with regard to nominee David Souter concerning his feelings on the right to privacy and in particular the right to privacy contained within the U.S. Constitution as it affects the right of women to make a choice on their reproductive rights.

I was very impressed with the comments of my very good friend, Senator WIRTH, as to the personal integrity and the intelligence of David Souter. I have not doubted this. But it was refreshing to hear his analysis of the people he had talked to and the hope that he has that we will have—from a President who has deliberately stated he wishes Roe versus Wade overturned and has nominated this man—a man that may indeed be another Lewis Powell or a Blackmun and may be his own person on the Supreme Court.

I am opposing the nomination of David Souter because in this position as a Senator of the United States, I am 1 of 100 who give their advice and their consent to the creation, along with the President, of the third branch of Government under this Constitution. In the creation of that branch, we had, during the course of our history, created some good, some bad, some mediocre Supreme Courts.

We have the present situation in the United States where we have a President committed to one position. We have probably a majority of the U.S. Senate committed to another position on this right to privacy as it affects the right to choose of over half of our people. And we have a Supreme Court that has been appointed over a series of years that is either evenly balanced or is balanced in favor of overturning a basic right of privacy.

As a lawyer and as a person who has tried many lawsuits and been involved in both the Congress—the House, the Senate—and in the administration as a Cabinet officer, I take very seriously the duty that we are to give both advice and consent on a person who, in this particular case, gave a very good presentation on nearly all matters.

I think he will make an excellent judge on the first circuit, and after a number of years might well be considered, as he has made decisions on Federal cases involving the Constitution, for a Supreme Court position by this President. And it may well be, as my friend, Senator WIRTH said, that we have gotten lucky and that this is a person that would be far better than any other we might ever get.

But I am struck by the fact that we had testimony—and I followed it carefully—with regard to David Souter's position on the death Penalty. I happen to agree with his position on the constitutional effect of the death penalty. But 2,000 people on death row know where he stands on that and his general philosophy—not a particular case but his general philosophy—and yet over 100 million law-abiding women in the United States of America do not know what his position is on what had been a settled fact of law for over 17 years in Roe versus Wade and a basic right that we very often—98 men in this body, and 8 on the Supreme Court—pass on the rights that we know not all about.

So this is a very important question for a lot of people, and a lot of people view this not as some deep political question but as a deep constitutional question—the fundamental right of privacy. I am always struck by those who would deregulate everything in this country but would regulate a women's most private rights.

I am concerned and, therefore, I shall vote against the nomination of David Souter. I hope that I am proven wrong and that the statement that was just made on the floor that this might be a great surprise to all of us and this might be a person who would vote to uphold, by stare decisis or otherwise, a constitutional interpretation that has existed for 17 years.

The Constitution, Mr. President, of the United States is a shield not a sword. It is a shield for individuals against the power of the State. It is a shield, in this case, for over half of our population, who happen to be female, from having their right of privacy deeply invaded and regulated, whether it be by the State or by the Federal Government. And it is something that very often is debated without their presence being a major factor.

I, therefore, feel in the case of David Souter, this body should wait awhile. Let him show his mettle on the First Circuit. Because an appointment to the Supreme Court is very different than an appointment to any other court in the land. A person appointed need not be a lawyer. A person appointed need not have any particular set of qualifications. A person appointed becomes one of nine, rather than 535, or rather than an individual, as one of the three parts of the U.S. Government.

The decisions that will be made by this appointee will probably last in this country for the next 30 years. The Senate has to give its advice and its consent. My advice is that we appoint someone who will uphold the traditions of the Court and use the Constitution as a shield, particularly as it involves the rights of the women in this country. My consent is withheld because I have not been convinced that this would occur. I hope it will.

As I said in my earlier comments in the CONGRESSIONAL RECORD several days ago, if I am proven wrong and he protects these fundamental rights of the women of our country, I will appear on this floor and I will offer him a personal apology that I misjudged him. But all I have at this point is the judgment that I can render based upon the testimony that he gave, the testimony that others gave, and the record that he has. I must admit that record is very limited so far as the Court is concerned.

So let us all hope David Souter is what he appears to be; according to Senator WIRTH, a person of independence, a person who will follow the traditions of the Constitution, who will treat it as a shield, who believes in the right of privacy and will enforce it and, therefore, will not go to the Court and join a group to overturn a 17-year-old decision.

I realize many if not most of my colleagues may disagree with me on this, but I have felt it very important that the President of the United States understands and that my colleagues understand that many of us, as a matter of conscience, cannot support this nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, obviously I am supporting the nomination of Judge David Souter. I think the remarks of Senator WIRTH of Colorado were so appropriate and very moving to talking with regard with the people who know him best. That is the test of any human being. I think that is one of the most impressive relations of support that I have heard on any nomination. And to speak as a classmate of the man, men who knew him, and the other classmates as they remember him, and many happening to be of liberal Democratic philosophy, that I think says it all.

I have a strange view of politics. I always like to see how a person does in his home precinct as he runs for political office. How does he do right there among the people who supposedly know him best? I think that is a pretty good test, and one we should use.

I must also respond to the comments of some who suggest that Judge Souter came to the confirmation process bearing some burden of proof. This is a particularly inappropriate use of that phrase, in my opinion. The Senate Judiciary Committee was not sitting as some omniscient body sitting in judgment of executive nominations. Our proper role, under the advice and consent clause of article II, section 2, of the Constitution, in my view, is to provide an additional, more personal, information gathering mechanism through which our colleagues, the full Senate, may make an informed decision whether or not to confirm a nominee. Our job was to look not only to the nominees paper trail, academic credentials but to also try to see into the nominee's heart. I commented on those perceptions last Thursday and will not restate those here. I am troubled, however, about this perception that a nominee must prove something to the committee and the Senate before he or she is fit to assume a position on the Supreme Court.

I just want to comment briefly on the burden of proof issue that came up, and continues to pop up. It is my personal view there is no burden of proof on a nominee to assure the Senate that he or she will vote in the manner dictated by the particular politics of the moment, either according to some specified political philosophy or to a specific outcome on any particular issue, abortion being a classic example.

I happen to feel that a woman should have the choice, indeed, in that ghastly situation known only to them. But if there is indeed any form of burden of proof, that burden is, in my mind, upon any Senator who comes into the confirmation process with a personal agenda. That is where the burden of proof falls, heavily and clearly.

The burden is on those who would vote against the nominee only because they disagree with the choice made by the American people when they elected the President of the United States. The burden is on those Members who approach the process with a closed mind, or who have made up their mind. It is their burden to prove to the American people that they are discharging their constitutional duties, rather than acting most energetically out of personal bias or purely political motives.

I think it is unfortunate the confirmation process has indeed become overly permeated with politics in the partisan sense. It will always necessarily be present, but not as an overweening component.

We expect our judges and Justices to approach cases with pure objectivity. We demand they shed their personal feelings while sitting in judgment of others and while passing on the important constitutional issues of the day. I am concerned we in the Senate, while considering the equally crucial question of confirmation of a Presidential nominee to our highest Court, appear reluctant to impose upon ourselves an equally stringent standard of objectivity in performing our duties under the advise and consent clause.

So any burdens, I think, are upon those who seek for any reason to destroy the presumption in favor of the President's appointment.

That is not to say we should not be critical. It is not to say we should not question. We do not blindly accept, but we should never demand to know how a future case will be decided as a condition to a favorable confirmation vote, because such conditioning, in my opinion, undermines the basic requirement that our judges approach each case objectively and that their decisions in those cases be based purely on the law.

I hope we will have a successful vote. I know we will, in a few moments. I am convinced that the record leads—and any thoughtful person who reads it will be led—to only one conclusion, the conclusion reached by an overwhelming vote of the committee, by a 13-to-1 vote of my colleagues: That David H. Souter will be one splendid and fine addition to the Supreme Court; and, as Justice Souter, he will not be swayed in his decisions by sheer numbers. He is not afraid to depart from the majority of his colleagues if his interpretation of the law leads to a result different from others. He will listen.

We hear that again and again. That is a key aspect of this man. He will set aside his own personal and political beliefs when deciding cases brought before him. He will not legislate, nor will he be afraid to make the politically unpopular decisions if the law requires a politically unpopular result.

David Souter will be a Justice—a Justice in the purest and finest sense of that word—and our country will be well served by his presence on the Court. He is a most impressive man, a sincere and authentic and kind human being. He will be a tremendous Justice. He is going to make us all very, very proud. I say God bless him in his deliberations on that bench, and in his stewardship of our enduring Constitution.

Go back and look at his opening statement before the committee. That said it more beautifully than I can.

I thank the Chair.

Mr. DECONCINI. Mr. President, there are several major issues of the utmost importance presently facing this body and the American public. The controversy in the Persian Gulf has yet to be resolved and requires our constant attention. The budget summit agreement is on the mind of every Member in this body. Both of those issues involve two of Congress's most important powers: The power to declare war and the power of the purse. Today, Mr. President, we execute a power entrusted to the Senate that can weigh just as heavily as those two other powers. For through our role of advice and consent on Supreme Court nominees, we determine, with the President, which individuals will be interpreting the Constitution for future generations.

President Bush has nominated Judge David Hackett Souter to a position of extraordinary importance in our country. I spent a great deal of time prior to his confirmation hearings studying the record of Judge Souter. I was indeed impressed with his background. As a member of the Judiciary Committee, I with my colleagues questioned him on the great constitutional issues of our day. In the end, I felt secure that Judge Souter would protect the rights embodied in our Constitution that we all so cherish. For that reason I decided to vote to confirm his nomination.

In Judge Souter, President Bush nominated an individual who appeared to possess the intellect, integrity, experience and judicial temperament to serve on the Supreme Court. The committee hearings gave him the opportunity to confirm those impressions.

I was very impressed with Judge Souter's testimony before the committee. I was especially pleased by his openness in answering committee members' questions, He heeded the advice of several of my colleagues and myself to be forthcoming. Yet he drew a reasonable line in his response. Judge Souter adequately and properly protected his need to withhold answers in certain areas that will still come before the Court. At the same time, he discussed at length his approach to constitutional interpretation and his legal opinion on settled law.

The hearings made clear that Judge Souter did not have a hidden agenda he would attempt to impose upon the Court. Instead, Judge Souter is a proponent of judicial restraint. He respects and defers to precedent. He understands the respective powers of the three branches of Government. Most importantly, he understands the role of the Court in our system and its duty to protect individual liberties. He will not attempt to protect the "haves" at the expense of the "have nots."

Mr. President, no one in this body will ever be satisfied with every response of a nominee. I would have liked to have heard Judge Souter's own standard for gender discrimination under the equal protection clause of the 14th amendment. But I feel confident that he will not attempt to dismantle the protections the Court has provided in this area.

We have no absolute assurances how any nominee or sitting Supreme Court Justice would vote. The Constitution does not entitle the Senate to such a guarantee. Our ability to predict a Justice's future decisions is limited. Justices have changed their positions from time to time. Throughout their careers they face constitutional issues never contemplated at the time of their nomination. Thus, the ultimate question we as Senators must ask ourselves is whether we feel secure entrusting him with the tremendous responsibility of protecting the rights embodied in our Constitution. I am confident that Judge Souter will guard these rights judiciously.

Changes in the Court's composition are disruptive but inevitable. Justice Brennan's retirement is indeed a turning point in the history of the Supreme Court. Although I disagreed with some of Justice Brennan's decisions, no one can deny his mark on the Court or his place in history. In that respect, Judge Souter, as he so candidly admitted, has some pretty big shoes to fill. He will, I believe, serve the Court and out country well.

Mr. President, I hope that the Souter nomination will serve as an example for President Bush and future Presidents on the nomination process. President Bush fulfilled his appointment duty by presenting us with a nominee who possesses competence, integrity, judicial temperament, and experience. Through the committee, the Senate fulfilled its role of examining and questioning the nominee on the great constitutional issues of our day. We conclude that duty today by exercising our advice and consent authority. Chairman BIDEN and the ranking member, Senator THURMOND, of the Judiciary Committee should be commended for conducting very thorough hearings. I believe the committee asked extensive but fair questions and I further believe that Judge Souter responded with fair and thoughtful answers.

I have concluded that President Bush chose Judge Souter because he will be an openminded jurist. And, most importantly, as he so often stated during the hearing, he will listen. He was not chosen to turn back the clock on the great constitutional principles of our day. Through the hearings the Senate and the American public heard an individual with a great understanding of the Constitution and the role of the Court in protecting our individual liberties.

Mr. President, today this body will be entrusting Judge Souter with a position of immense power. Soon, he will begin making decisions affecting the lives of each of us far into the future.

His decisions will also impact on our children and their children. We cannot reverse the course that Judge Souter will pursue. Thus, we can only be secure in believing that we made the right decision based on what we know today. I am secure in voting to confirm Judge Souter to the Supreme Court. And I am confident he will fulfill our expectations.

Mr. BIDEN. Mr. President, to bring the Chair and my colleagues up to date here, I think we only have three more people who wish to speak on this nomination. One is on his way, as I speak—Senator CRANSTON—who indicates he would like to speak on the nomination for about 10 minutes. And then I believe the only two people left who indicated a desire to speak on the nomination—I say this for the convenience of my colleagues in determining when the vote is likely to take place—is the distinguished Senator from New Hampshire, the real justice. I should not be so facetious. We have all been kidding him so much because he has an intense interest in and is a close friend of the nominee.

The Senator from New Hampshire is on the floor and, after Senator CRANSTON speaks, he will be the last speaker on the Republican side, and then Senator MITCHELL would like to close. He indicates he has about 7 minutes worth of comments. So if all goes well in the next few minutes, we should be able to be voting on this nomination by 6 o'clock, hopefully maybe as early as 10 minutes of 6. In the meantime, I suggest the absence of a quorum awaiting the arrival of the Senator from California.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, as the Senate deliberates on the nomination of Judge David H. Souter to serve as an Associate Justice of the U.S. Supreme Court, I am reminded of a statement uttered by one of our greatest Presidents, Abraham Lincoln, nearly 136 years ago. Referring to the great strife that was dividing our Nation at that time. Lincoln stated, "No man is good enough to govern another man without that other's consent."

Although circumstances differ, President Lincoln's statement still rings true today. In considering the nomination of Judge Souter to serve on our Nation's Highest Court, we are offering the Senate's consent—the people's consent—to selecting Judge Souter to decide some of the most important and controversial issues that will be coming before the Supreme Court.

This is a very sobering responsibility, and one that I do not take lightly. The cases that will be considered by the Supreme Court this coming year, and the next several years, are sure to be among the most contentious for many decades. During this term alone, the Supreme Court will be deciding cases involving such controversial issues as abortion, sex discrimination, punitive damages, and challenges to the death penalty. Therefore, I am concerned that the individual who receives my consent—indeed, the Senate's consent—brings an open mind and a tempered judicial willingness to thoroughly review the facts and circumstances of these cases.

Mr. President, I have reviewed Judge Souter's background. I am much impressed by his academic and professional credentials. Judge Souter's testimony before the Senate Judiciary Committee indicates that he possesses an agile legal mind and a keen intellect, reflective of a well-reasoned and experienced judicial philosophy. Judge Souter has the background and the legal knowledge that should serve him well in deciding vital constitutional issues of our time. He received the highest judicial rating possible from the American Bar Association's judicial screening panel. Judge Souter's academic record is flawless, boasting two undergraduate degrees—one from Harvard and one from Oxford where he studied as a Rhodes Scholar. Subsequently, Judge Souter earned his law degree at Harvard University, where he was named Phi Beta Kappa.

Judge Souter's professional background demonstrates a commitment to public service that is lacking in many lawyers with his distinguished academic credentials. He served as an associate with the New Hampshire law firm of Orr and Reno for 2 years after graduating from Harvard. He then turned to public service, as both assistant attorney general and associate attorney general for the State of New Hampshire before being named attorney general of that State in 1976. In 1978, Judge Souter was appointed to the New Hampshire Superior Court, and 5 years later, he was appointed to the New Hampshire State Supreme Court. Most recently, Judge Souter was appointed to the First Circuit U.S. Court of Appeals, where he has been serving since this past April.

Mr. President, I do not casually offer my support to any nominee. After much study and review, I am satisfied that this nominee is eminently qualified and will provide a well-reasoned and an aptly tempered approach to the cases that will be coming before him. I approve of Judge Souter because he offers a unique combination of qualities that will serve him well on the U.S. Supreme Court. I recall a statement that he made during his confirmation hearings that a few of us here in the legislative branch would do well to remember. He said, "* * * at the end of our task some human being is going to be affected * * *," and judges, therefore, "had better use every power of our minds and our hearts and our bodies to get those rulings right."

I am certain that Judge Souter will wrestle to the utmost to get those rulings right. His brilliant legal mind, combined with his human approach to the law, will serve our country well. I hope my colleagues will join with me in offering their consent for approval of this nominee.

Mr. DURENBERGER. Mr. President, I rise to support the nomination of David Souter to the U.S. Supreme Court.

Judge Souter will replace a legend, Associate Justice William Brennan, who after 34 great years on our Nation's Highest Court has stepped down. Justice Brennan's powerful intellect, winning personality, and willingness to take on the tough issues have served the Nation well and will be hard to replace. He has left a legacy of wisdom and service that will grow in history. His shoes cannot be filled by anyone, nor should they be.

On July 23, 1990, President Bush nominated David H. Souter to fill Justice Brennan's vacated Supreme Court seat. I believe the President's choice is a wise one and am very glad that he has acted so swiftly to fill the seat. The Court will be asked to address many complicated and important issues this fall and it is very important that all nine chairs be filled.

I take my constitutional role of advising and consenting on judicial nominees very seriously. It is one of the most important responsibilities assigned to each Senator and one that I have devoted a great deal of time to in the last couple months. Accordingly, I have evaluated Mr. Souter's nomination very carefully. I listened to his hearing testimony, and that of other witnesses, read many pertinent documents, and spoken with many Minnesotans about Souter's nomination.

Mr. President, shortly after I was elected to the U.S. Senate in 1978 I was faced with my first appointment. President Jimmy Carter had nominated Congressman Abner Mikva to the U.S. Court of Appeals for the District of Columbia. I grappled with the choice of standards for evaluating judicial nominees. Article II, section 2 of the Constitution provides that the President's power to appoint important public officials is to be exercised "by and with the advice and consent of the Senate." Alexander Hamilton, in No. 76 of the Federalist Papers stated that the purpose of advice and consent was "to prevent the appoint-

ment of unfit characters." Senators have interpreted this power in different ways.

Under one standard, the one I have come to use, it is the Senate's role to evaluate the nominee on the basis of his competence and integrity. This standard is premised on the view that the President, elected by all the people, was empowered by the Constitution to appoint officeholders who would further his philosophy and goals. The other standard, a distinctly minority and different view, was that a Senator would vote his perference on the political views of the nominee. The second standard was, and is, very tempting. Abner Mikva's views were much more liberal than mine. But, after careful analysis I decided that politics did not belong. As I stated at the time:

> The power to "advise and consent" on judicial nominations has never been viewed as authority for the Senate to substitute its judgement for the President's on the qualifications of a nominee. For two centuries that power has been regarded as authorizing rejection of nominees for only two reasons—lack of integrity or lack of competence. No judicial nominee has even been rejected simply because the Senate disagrees with his political views.

So, I swallowed hard and voted to confirm Abner Mikva. I have employed that standard for every judicial nomination since. I did for Judge Bork, and I will apply it to the Judge Souter's nomination today.

In sum, my constitutional advise and consent role is to evaluate a nominee's fitness to serve as a judge. My goal is to insure that members of the Supreme Court are able jurists, honest, and will fairly interpret the Constitution and laws of the land. I do not have a litmus test; such tests are not appropriate. I do not look for a political agenda or philosophical bias. Competence and integrity are what matter.

Mr. President, Judge Souter is competent and has an unblemished history of legal and public service. His career is one of high intellectual achievement and personal integrity. While watching his confirmation hearing before the Senate Judiciary Committee, Judge Souter showed me that he is a man of deep intellectual character; a man who will approach every case presented to the High Court with a willingness to listen carefully to both sides, and then cast his vote based upon the principles embodied in our Constitution. He does not bring a personal or political agenda to the court. The only agenda Judge Souter has is to interpret the Constitution and law consistent with the principles of fairness and justice.

I was most struck by a comment Judge Souter made about the awesome power that any judge must have, especially a member of the Supreme Court. Let me quote Judge Souter when he described his judicial role: "Whatever court we are in * * * at the end of our task some human is going to be affected. Some human life is going to be changed by what we do * * * (therefore) * * * We'd better use every power in our minds and our hearts and our beings to get those rulings right."

Mr. President, I conclude David Souter is fit to serve on the Supreme Court of the United States. This very intelligent, scholarly, and refreshingly private man well understands the imposing authority, power, and responsibility that he will have on the highest court in our land. He will not abuse that awesome power, but will interpret the Constitution of this land fairly and with compassion. These are the essential characteristics of a judge and make him fit to serve, and serve well on the Supreme Court.

Mr. HEINZ. Mr. President, on July 23, 1990, President Bush nominated David Hackett Souter, presently a sitting justice on the U.S. Appeals Court for the First Circuit, to fill the Supreme Court seat left vacant with the retirement of Associate Supreme Court Justice William Brennan.

As is the case with every recent Supreme Court vacancy, Judge Souter's nomination has engendered public debate and public scrutiny. The public has a compelling interest in the character and capabilities of individual justices who would serve on the Supreme Court, the highest court in the land. A nomination to the U.S. Supreme Court is a lifetime appointment, and the nine justices of the Court are, therefore, a select group. Together, they represent the final arbiters of the Constitution, the framework of our democracy and the guarantor of our individual liberties.

Because of the importance of the position, the Senate is required, under the Constitution, to give the President our advice and consent to the nomination. I approach this decision with an especially keen sense of responsibility. The process is demanding and challenging. In the discharge of my duties, I owe to my constituents, and Judge Souter, an impartial and fair decision in casting my vote.

In the 2½ months since the President nominated him, the Nation has learned a lot about David Souter, the person and the jurist. His entire life has been put under a microscope, leaving not a single aspect of his career uninvestigated. The Senate Judiciary Committee and numerous interest groups examined hundreds of his decisions as a member of the Supreme Court of the State of New Hampshire. They probed the actions he took and the briefs he wrote as attorney general and assistant attorney general of New Hampshire. They looked into his finances, his education, and his pastimes. The committee itself questioned Judge Souter for 20 hours in open session—more time spent before the committe by any other Supreme Court nominee in history save one.

Mr. President, the record demonstrates that Judge Souter is eminently qualified to sit on the Supreme Court. As an alumnus of Harvard College and Law School, a Rhodes scholar, private practitioner, New Hampshire attorney general and State supreme court justice, Judge Souter has shown the scholarship, legal acumen, professional achievement, integrity, fidelity to the law and committment to the constitution to serve on our highest court.

A standard I have applied in all nomination considerations is to determine whether the nominee is an extremist or activist. If so, the nominee should be rejected. I believe this test is fair and impartial, preventing extremism of both the right and left, either a conservative activist or liberal activist from joining our highest court. In responding to direct inquiries from committee members, Judge Souter articulated a judicial philosophy that is within the mainstream of constitutional thought. His answers on the issues of original intent, stare decisis, statutory construction and judicial restraint revealed a judge committed to rendering an honest interpretation of constitutional rights and liberties. He strongly and convincingly indicated his commitment to precedent regarding previous interpretations of the Bill of Rights, due process and the equal protection clause of the Constitution.

One of the highly controversial aspects of this nomination revolved around how Judge Souter would rule on cases coming before the Court which challenged the premise of the Supreme Court's decision in Roe versus Wade. Several Senators directly, and some others indirectly, asked Judge Souter his position on this controversial case. Judge Souter declined to answer this line of questioning, as is his perogative, since cases concerning abortion rights are scheduled to be heard by the Supreme Court in the near future. Judge Souter did comment on the constitutional underpinnings to that decision—the right to privacy. He stated that he believed that there is a fundamental if unenumerated right to privacy in the Constitution, and that the right of married couples to make choices about procreation is at the core of that fundamental right. His response may not have satisfied either side of the abortion debate, but it did reveal a person with a scholarly appreciation of the competing constitutional interests and with the integrity to render judgment in accordance with those interests.

Finally, Mr. President, I found this nominee to be both learned and eloquent. In his opening statement, and I recommend it to all my constituents interested in gaining a measure of this

man, Judge Souter acknowledged that the actions of a jurist cannot be rendered without thought to its effect. He recognized that his actions will affect human beings, that some human life is going to be affected in some way. His comments suggest to me a man who is capable of bringing depth and compassion to the Supreme Court.

Therefore, Mr. President, I will vote in favor of the nomination of David H. Souter to the Supreme Court of the United States.

Mr. DOLE. Mr. President, after 3 days of testimony and 18 hours of often grueling congressional questioning, Judge David Souter has demonstrated to America that he deserves a seat on our Nation's highest court.

Throughout his legal career—as New Hampshire attorney general, as an associate justice on the New Hampshire Supreme Court, and as the author of more than 200 judicial opinions—Judge Souter has consistently distinguished himself with his keen intellect, with his evenhandedness, and with his commitment to the rule of law.

Most importantly, Judge Souter understands that in a three-branch democracy such as ours, the role of a Federal judge is to interpret the Constitution strictly, and not to legislate one's own personal or political agenda from the bench.

So, Mr. President, it is no wonder that the American Bar Association has given Judge Souter its highest rating—well qualified.

And it is no wonder that—last week—the Judiciary Committee gave Judge Souter its stamp of approval—for the second time in less than a year.

JUDGES, NOT POLITICIANS

Throughout the confirmation process, Judge Souter has consistently refused to answer specific questions about specific cases now pending on the Supreme Court's docket.

This reticence may disappoint some of the beltway special-interest groups, but it does not disappoint the American people.

The American people have always cherished, and jealously guarded, the independence of their Federal judiciary. And they understand that this independence is endangered—gravely endangered—by the brazen intrusion of special-interest politics into the confirmation process.

To his credit, Judge Souter has gamely resisted these political pressures. And, for this, he has earned the Senate's—and the Nation's—respect and gratitude.

Mr. President, it is my hope that the experience of this nomination will help set the standard for Senate review of future Supreme Court nominees.

Without a doubt, Senators have a constitutional obligation to probe a nominee's judicial and legal philosophy. They have the right to ask tough questions. And they may properly examine personal qualities that are of critical importance to a nominee's fitness to serve—qualities like open-mindedness, integrity, a commitment to equal treatment under the law for all Americans, and an ability to understand real life people and their real-life problems.

These topics are all fair game. And no Senator should feel reluctant to press a nominee hard in these areas, and to reject that nominee if he or she falls short of the mark.

But, Mr. President, no nominee to the Supreme Court—or to any court, for that matter—has the obligation to explain how he or she will vote once confirmed.

Simply put, Federal judges should judge only from the Federal bench. They should not, and must not, prejudge cases from the bench of a Senate confirmation hearing.

In a recent article, former Chief Justice Warren Burger gave us all ample warning about the dangers of transforming Federal judges into politicians.

And I quote:

No nominee worthy of confirmation will allow his or her position to become fixed before the issues are fully defined in detail before the Supreme Court with all the nuances that accompany a constitutional case. Presidents and legislators have always had platforms and agendas, but for judges the only agenda should be the Constitution and the laws agreeable with the Constitution.

THE SUPREME COURT'S FALL TERM

Mr. President, yesterday, the Supreme Court began its fall term. There are many important cases now pending on the Court's docket—cases involving the death penalty, the right to legal counsel, school desegregation, and the constitutionality of punitive damage awards.

With these important issues now under consideration, the Supreme Court deserves a ninth Justice who has the intellectual capacity to hit the ground running, to make a contribution to the intellectual life of the Court right from the start.

By any standard, Judge Souter has demonstrated an intellectual ability, skills as a lawyer and jurist, and a quiet, but firm, personal and judicial temperament that leave little doubt that he will make a significant contribution to the Court from day one.

Very simply, Judge Souter deserves to be confirmed by the Senate, and he deserves to be confirmed today.

Finally, Mr. President, I want to thank the distinguished chairman of the Judiciary Committee, Senator BIDEN, and the committee's ranking member, Senator THURMOND. They have conducted fair and comprehensive hearings. And they have greatly assisted the Senate in discharging its constitutional responsibilities.

I also want to congratulate my good friend and colleague, Senator WARREN RUDMAN. As most of us know, Senator RUDMAN's interest in this nomination extends beyond "advice and consent" to the bonds that flow from of a long and enduring friendship.

The success of Judge Souter before the Judiciary Committee, and almost certainly before the Senate later today, is as much a testament to the qualities of the Senator from New Hampshire as it is to the considerable qualifications of this fine nominee.

Mr. PACKWOOD. Mr. President, I rise today to discuss the nomination of Judge David Souter to be an Associate Justice of the U.S. Supreme Court.

No duty of a U.S. Senator is more important or deserving of careful consideration than that of a nomination to the Supreme Court. If confirmed, a nominee may well serve for decades, and his or her written opinions and ability to persuade fellow Justices will profoundly affect our lives, and the lives of future generations.

In the days since the Senate Judiciary Committee completed its hearings on Judge Souter, I have given this nomination a great deal of thought.

First, I have examined transcripts of Judge Souter's testimony before the committee.

Second, constituent organizations have shared their concerns with me about this nominee. This input was welcome and helpful in directing my attention to aspects of Judge Souter's record as well as the hearing proceedings.

Third, I have listened with interest to the reasoning of my Senate colleagues as they announced their respective positions on this nomineee.

Ultimately, of course, each Senator must keep his or her own counsel in a matter of this magnitude. I welcome this opportunity to share my decision on this nomination and the thinking which led me to it.

First, and I will not belabor this point because so many other Senators have covered it quite eloquently, Judge Souter has a superb educational background and impressive legal experience. The number of years he served as a State court judge, and State attorney general, leave no doubt of his legal competence.

In addition, those who know Judge Souter personally, gave him positive references almost without exception. This is true of: hearing witnesses; the judge's friends and associates who have been quoted in the media; and individuals of long acquaintance with Judge Souter who personally shared with me their high regard for him.

Judge Souter's associates find him personable, compassionate, and possessed of great integrity.

As important as outstanding professional competence and excellent char-

acter are, those qualities alone do not a Supreme Court Justice make. The Senate's constitutional duty to provide advice and consent in the matter of Supreme Court nominations demands that we look beyond these qualities to the most critical issue: what kind of steward of the Constitution would this nominee be?

There is absolutely no doubt that the next Justice to the confirmed will be the deciding vote on a number of issues of critical importance to Americans.

Keeping this in mind, as well as the duty of Congress to safeguard constitutional rights, I reviewed with particular interest Judge Souter's testimony on privacy, gender discrimination, civil rights, and freedom of religion.

Judge Souter was questioned on freedom of religion by committee members concerned about two of his actions as State attorney general:

First, his defense of an executive order calling for the lowering of flags on Good Friday, and

Second, his statement that the beliefs of Jehovah's Witnesses who refused to display the words "Live free or die" on their license plates were "mere whimsy."

Mr. President, I, too, felt concern about these positions which the judge had taken. Freedom of religion, one of the basic tenets on which our Nation was founded, means nothing if a State can establish one sect as more legitimate by its actions, or prevent the free exercise of religion. I was therefore gratified to note that the hearing record reflects that Judge Souter would apply strict scrutiny to laws that impair the free exercise of religion. His answer about the reasoning he would apply in cases where a State is alleged to violate the establishment clause was somewhat less clear. However, on balance, I am satisfied that the positions he took as Attorney General would not be reflected in his philosophy as a Justice.

Civil Rights is another area I red flagged for careful review, due in part to Judge Souter's now-famous alleged quote that "affirmative action is affirmative discrimination." I was also interested in the novel position he took as State attorney general that employee privacy rights prohibited the State from revealing its minority hiring practices to the Federal Equal Employment Opportunity Commission. However, Judge Souter's testimony again did much to allay my concerns. He did not reject the concept of affirmative action, and indicated that he would find it appropriate in certain circumstances. He also showed, in my view, a sensitivity to the degree that race discrimination affects our Nation, recognizing it as a tragedy. Finally, he left no doubt that Brown versus Board of Education is to him a matter of well-settled law.

On the issue of gender discrimination, Judge Souter indicated dissatisfaction in his testimony, as he has in his writings as an attorney and a judge, with the so-called middle tier of constitutional protection generally used. He is not the first to find fault with this standard. More important to me than his criticism of midlevel scrutiny, is what standard of protection he would apply in gender discrimination cases: Strict scrutiny? The rational basis test? Or a newly fashioned, more acceptable middle tier standard? This issue is of more than academic concern to American women, and I wish the record were more illuminating in this regard.

Finally, let me address the issue of the constitutional right to privacy. In this area of the law, more than any other, Judge Souter was reluctant to discuss his views, and he has been widely criticized for this. Judge Souter agrees that there is a fundamental marital right of privacy as found in Griswold versus Connecticut, which includes the right to use contraceptives. However, he stopped short of expressing his opinion of the reasoning in Eisenstadt versus Baird, in which the court found that the right to use contraceptives extends to unmarried persons.

He did this, I believe, out of an overabundance of caution rather than any desire to frustrate the factfinding efforts of the committee. It is obvious from the record that Judge Souter believed that any discussion of a case coming anywhere near Roe versus Wade in the line of privacy cases might cause him to comment on the merits of Roe. I disagree with his position that answering the committee's questions on Eisenstadt would have been improper. However, each nominee must decide for him or herself what the bounds of propriety are for discussing issues they feel may come before the court.

I also disagree with Judge Souter as to whether the right to choose recognized in Roe is a matter of settled law. However, in the face of my dissatisfaction and disagreement with some of his responses in this area, I keep coming back to one statement he made. In response to Senator KOHL's question: "Do you have an opinion on Roe versus Wade?" Judge Souter replied, "I have not got any agenda on what should be done with Roe versus Wade, if that case were brought before me. I will listen to both sides of that case. I have not made up my mind, and I do not go on the court saying, I must go one way or I must go another way."

My distinguished colleagues, based on what we know of Judge Souter's character, and the totality of his testimony, I take him at his word. And knowing that he is of an open mind on the question of abortion, I find encouragement in his statements about how he would evaluate a claim that a particular right is fundamental. Judge Souter voiced approval for Justice Harlan's approach, taking into consideration the history and traditions of the American people. If he applies that analysis, the right to choose must, I believe, be found to be fundamental because the legal structures against abortion in this country are of comparatively recent origin. Indeed, at the time our Constitution was written, abortion was permitted under the common law.

Further, I am convinced that Judge Souter is cognizant of the legal chaos that would ensue if the right to choose is struck down. He testified that the practical consequence of overturning Roe would be "a range of protection afforded which would raise complicated federalism issues." When asked by Senator METZENBAUM whether he would consider consequences, such as the death of women from botched illegal abortions, in determining whether the right to choose is fundamental, Judge Souter indicated strongly in the affirmative.

Although I take these as encouraging signs that this nominee would recognize that the right to choose is fundamental, I am not so naive as to assume what his decisions in individual cases would be on this or any other issue. To paraphrase an apt statement, which one Senator made in committee, I cannot be accused of making my decision on Judge Souter based on the single issue of abortion, because I do not know where he will come down on that issue. I do not believe we will be sent a nominee in the foreseeable future whose position on Roe and abortion will be easily discerned. Given those circumstances, and based on the totality of the record, I will vote to confirm Judge David Souter to the U.S. Supreme Court.

This does not mean that I believe it is inappropriate to ask nominees where they stand on the right to choose. Nor does it mean that if a nominee clearly indicated that he or she would overturn Roe that I would not mount a vigorous campaign against that nominee's confirmation. However, this nomination is not the occasion to wage that battle. The record simply does not indicate to me that Judge Souter would go to the Court with the intent to overturn Roe, or that he has an agenda to weaken constitutional protection against discrimination or freedom of religion.

Mr. President, I will vote to confirm Judge Souter, believing that the scholarly mind and compassionate heart which he evidenced during the confirmation hearings, will serve him and the American people well in his years on the Court.

39-059 O-91-10 (Pt. 19)

Mr. McCONNELL. Mr. President, I rise today in support of the confirmation of U.S. Court of Appeals Judge David H. Souter as an Associate Justice to the Supreme Court of the United States.

Before addressing the nominee's qualifications, I would first like to speak to the standard by which I examine nominees to the highest court in the land.

Over 20 years ago, as a legislative assistant in the Senate, I began to review and study the intent of our Founding Fathers in this important constitutional process. As a result, I devised a standard that I believe to be the Senate's role in this process. It was during this time that I wrote a law review article on this topic. Mr. President, I request that my article, "Haynsworth and Carswell: A New Standard of Excellence," Kentucky Law Journal (Volume 59, 1970-71), be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[Article not reproducible in the RECORD.]

Mr. McCONNELL. Mr. President, an examination of the Senate's historic role in this confirmation process should begin with the political writings contemporaneous with the drafting and approval of the Constitution. In the Federalist, No. 76, in discussing the nomination process, Alexander Hamilton clearly defines the limits of the Senate's "advice and consent" power:

> To what purpose then require the cooperation of the Senate? I answer, that the necessity of their concurrence would . . . be an excellent check upon a spirit of favoritism in the President, and . . . prevent the appointment of unfit characters from State prejudice, from family connection, personal attachment, or a view to popularity.

Clearly, a test of ideology and politics was not contemplated. Also, the very structure of the proposed government, and the relationship of each branch to the other, supports this view. The framers intended for three separate and independent branches of government. The judiciary was to be free from political influences, insulated from the whims of a changing majority and answerable only to the law and a public that expected the judicial branch to despense justice free from the taint of popular politics. Any attempt to deny confirmation on the basis of a philosophy, that is within the mainstream of American political and judicial thought, is an assault on this tripartite structure of government. It is clear under our form of government that the advice and consent role of the Senate in judicial nominations should not be politicized.

Therefore, from Hamilton's description of the Senate's role in the nomination process, I have identified five basic criteria for reviewing nominations to the Supreme Court: Competence, temperament, judicial propriety, judicial achievement, and personal integrity.

Obviously, there are other theories to apply regarding the correct confirmation test, at various times during the history of Senate confirmation proceedings of Supreme Court nominations, the personal or political philosophy of the nominee has become the principle, and sometimes the only, criteria for fitness to the Court. Most recently, we went through the shameful debacle of the Bork confirmation process. The Bork proceeding was, thus far, the nadir of the 20th-century version of the bitter battles of the 18th and 19th century where judicial nominees were rejected because of partisan and ideological differences. The political judgment of a nominee's fitness for judicial office has found modern day validation in the writings of Yale Law School Professor Charles Black.

In my opinion, Senator KENNEDY stated the correct view during the confirmation of Justice Thurgood Marshall. Justice Marshall's nomination was strenuously opposed by Senate conservatives. The senior Senator from Massachusetts said:

> I believe it is recognized by most Senators that we are not charged with the responsibility of approving a [Supreme Court Justice] only if his views always coincide with our own. We are not seeking a nominee for the Supreme Court who will express the majority view of the Senate on every given issue, or on a given issue of fundamental importance.
>
> We are interested really in knowing whether the nominee has the background, experience, qualifications, temperament, and integrity to handle this most sensitive, important, responsible job.

There is no doubt that fundamental differences continue to exist as to what standards of fitness to apply. However, unlike the competency, integrity criteria, the successful application of the political fitness test requires an environment of intense political activity. As the Bork nomination proved, an extensive record of written achievement can create such a fertile environment.

However, the ideological litmus test may be applied differently when the nominee has neither written nor stated sufficient views on particular issues. Thus, the mechanism for determining whether the candidate will pass the political litmus test, may itself become the test. For example, during the Souter hearings, ideological opposition evolved to opposition based upon the nominee's failure to answer specific questions relating to issues that are most certainly to come before the Court.

With this new approach, those opposed to Judge Souter have tried to apply their political litmus test in a different fashion. Unhappy that the nominee has not provided any so-called controversial material—disagreement with the questioner's position—upon which to oppose the nominee, some would reject him for not commenting on issues of a future case before the Court. It started with general concerns about the open-mindedness of the candidate:

> David Souter must assure the Senate and the public that he has an open mind, is forward-looking and has a vision of the Constitution which respects individual rights. If he fails to meet this burden, the Senate should withhold its consent. (Nan Aron, Director, Alliance For Justice)

Later, the demand for David Souter's personal views on specific constitutional issues arose.

While I agree that a nominee should have an open mind, any questioning beyond a genuine effort to determine this openness is clearly inappropriate. Likewise, any attempt to elicit a specific response regarding an issue which is reasonably expected to come before the Court in the future is fundamentally unfair to any future parties and a violation of the judicial canons of ethics.

Moveover, such tactics begin to impinge upon an even greater principle, the constitutional doctrine of separation of powers. Warren E. Burger, in commenting on what he characterizes as a new assault on the independence of the judiciary, refers to this line of questioning as an inquisition. He states that the practice of calling upon Supreme Court nominees to answer questions in advance of how they would vote on specific constitutional issues is demeaning to, and a corrosive action upon, the Court and its necessary independence:

> Does such an inquisition not demean and undermine our historic separation of powers? If Senators can commit a future justice as to how he or she will decide a particular case, who then is construing the Constitution? Where does this place the high duty of constitutional interpretation?
>
> Now the question is whether the American people are witnessing a confirmation process in which special interest groups have flooded Senators with questions demanding advance commitment from the nominee as to what his or her vote will be on some pet subject.

Justice Burger was further quoted as saying:

> Of course, no nominee worthy of confirmation will allow his or her position to become fixed before the issues are fully defined in detail before the Supreme Court with all the nuances that accompany a constitutional case.
>
> To expect a nominee to make commitments, or even to engage in substantive discussion of a case yet unseen, borders on the preposterous. Judges, like Senators and Presidents, while entertaining general impressions on a subject, have been known to change their minds when they have all the facts and circumstances as distinguished from some hypothetical proposition.

Lloyd N. Cutler, counsel to former President Jimmy Carter, in a written article disapproving of this type of questioning of Judge Souter, wrote:

As Prof. Charles Black has noted, the Court is the great legitimator of our government, the final arbiter of whether or not the executive and legislative branches have exceeded or abused their limited powers. To perform this vital function, the Court must be, and must appear to be, as independent of the President and of the Congress as humanly possible. While the President must appoint and the Senate must confirm or reject the nominee, it is vital to the integrity of the process that neither they nor the rest of us insist on knowing in advance how a new Justice is going to vote in a particular case.

The key to the Court's critical constitutional role lies in the mystery of its future actions. If the Justices appear to have committed their votes to the President, who appoints them, or to the Senate which confirms them, we will no longer trust them as our ultimate authority on the Constitution's meaning.

In August, speaking before the American Bar Association, Supreme Court Justice John Paul Stevens warned against either the executive or legislative branches trying to determine in advance the views of the nominee:

You really wouldn't want a judge who would say in advance how he or she would vote on particular issues. That's not part of the independent judiciary that's such an important part of our tradition and our history.

I continue to believe that the Senate should reject the political litmus test. I also believe the Senate should reject any test requiring a nominee to state in any substantial way how he or she will vote on a particular issue that may come before the Court.

Mr. President, regarding Judge Souter's qualifications, it is quite obvious that after 5 days of hearings and 40 witnesses, Judge Souter's competency is certainly not in doubt. The American Bar Association's standing committee on the Federal judiciary has given him its highest rating, "well qualified." As both a lawyer and judge, his peers have spoken of his brillance and his outstanding intellectual capacity.

As to the second criterion, judicial achievement, Judge Souter is also very qualified. He has served with distinction in the following New Hampshire offices—assistant attorney general, attorney general, State superior judge, and State supreme court judge. Most importantly he has a depth of judicial experience including the hands on experience of a trial judge, a significant skill and perspective to take to the Higher Court. With his current position on the U.S. Court of Appeals, Judge Souter has 12 years on the bench. In fact, he has more judicial experience than all but one of the current Justices had at the time of their confirmation. John Broderick, a former New Hampshire Bar Association president, said of his judicial ability, "he's a judge's judge, extraordinarily talented and impeccably fair."

Judge Souter clearly meets the exacting standard of excellence. Academically, Judge Souter, a Phi Beta Kappa, graduated magna cum laude from Harvard College. Afterward he studied at Oxford University for 2 years as a Rhodes scholar. He completed his academic and professional studies at Harvard Law School. A "first rate scholar," says a former president of the New Hampshire Bar Association.

Last, a thorough examination of his background has found his judicial propriety and personal integrity to be above reproach. Even his most severe critic makes no challenge regarding Judge Souterh's personal or professional honesty. The ABA's standing committee stated that "Judge Souter's integrity, character, and general reputation appear to be of the highest order and without blemish."

In conclusion, Mr. President, under these standards of fitness I will vote to confirm Judge David H. Souter as Associate Justice to the Supreme Court.

Mr. COATS. Mr. President, in the last several years the Senate's constitutional role of advise and consent has lost its way in a thicket of policy debates and partisan agendas. Recent confirmation fights have scarred the process with bitterness and distortion. Senate hearings have become political inquisitions, rehashing the shifting debates of current elections.

But with the nomination of Judge Souter, we have the opportunity to defy the recent past.

To begin with, we must relearn a basic principle, a principle concerning how the Senate should treat the President's Supreme Court appointments. A principle about what the power of nominations means.

This is not a debate we conduct in a vacuum. The doctrine of advise and consent was given considerable attention by the founders. Alexander Hamilton wrote that the Senate should approve a president's nominee unless there were *"Special and strong* [emphasis mine] reasons for refusal." And further, that when the Senate oversteps its proper bounds, the result is "the full display of all the private and party likings and dislikes, partialities and antipathies, attachments and animosities, which are felt by those who compose the assembly."

Senator George Cabot of Massachusetts wrote in 1799, "I have always rejected the idea of non-concurrence with a nomination merely because the nominee was less suitable for the office than thousands of others: He must be positively unfit for office, and the public duty not likely to be performed by him, to justify in my mind the non-concurrence. It has always appeared to me that a departure from this principle would soon wrest from the President altogether the essence of nominating power, which is the power of selecting offices."

A judicial nomination is not properly a political struggle for the direction of the court between executive and legislature. That decision was made in a national election 2 years ago. The president has earned the right to make his choice under the Constitution. The Senate, quite simply, has no political role in this process at all. The criteria for our judgment is character, experience, and intelligence—these minimum standards of fitness. These limited determinations exhaust our appropriate involvement.

But with Judge Souter, we can say more than the undisputed fact he is fit for office. We can say he will bring exceptional talents, temperament, and knowledge to the court. This nominee merits more than grudging acceptance. He deserves our strong support.

His academic record is unexcelled. His service to New Hampshire as attorney general was outstanding. His tenure on the New Hampshire supreme court was distinguished. He is a scholar of the law and an individual of personal loyalty and religious conviction.

But above all, he takes it as his purpose to ensure fidelity to the words of the Constitution and the original intent of the framers. In a 1986 case Judge Souter wrote that "the court's interpretive task is to determine the meaning of * * * [constitutional language] as it was understood when the framers proposed it."

Some have attempted to define this approach as a variety of extremism. But it was once the dominant view of constitutional law.

Justice Nathan Clifford, in 1874, summarized this attitude, "courts cannot nullify an act of the legislature on the vague ground that they think it is opposed to a general latent spirit supposed to pervade or underlie the Constitution. * * * Such a power is denied to the courts, because to concede it would be to make the courts sovereign over both the Constitution and the people, and convert the government into a judicial despotism." Justice Felix Frankfurter, about 90 years later, reflected, "as a member of this court I am not justified in writing my private notions of policy into the Constitution, no matter how deeply I may cherish them or how mischievous I may deem their disregard."

I am convinced that the job of the judge is the application of the law, not the creation of new laws. The Supreme Court should be an instrument to check Federal expansion, not an instrument of Federal expansion. It is a principle, by every indication, that Judge Souter supports.

The alternative is to turn the court into a source of unpredictable interventions in policy debates. Judges become oriented toward political outcomes. Courts become political tribunals, and the consequences for democracy are profound.

Important decisions are taken out of the hands of voters and put into the hands of unelected judges. "If this is all that judges do," wrote Alexander Bickel, "then their authority over us is totally intolerable and totally irreconcilable with the theory and practice of democracy." Justice Hugo Black, who was occasionally guilty of the sin he condemns, warned that the Nation could "cease to be governed by the law of the land and instead become one governed ultimately by the rule of judges." He preferred to put his faith in the words of the written Constitution itself rather than to rely on the shifting, day-to-day standards of the fairness of individual judges." Abraham Lincoln said that under an activist court, "the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal."

We cannot predict what decisions the court will be forced to make in future years. Issues change from decade to decade, even from year to year. The things that seem most important today may be relegated to footnotes in the dissertations written when the century turns. The most important attribute of a judge is his judicial philosphy and temperament, not his stand on current and shifting political debates.

By this standard, the president has made an excellent choice. He has appointed a candidate of judicial distinction and judicial restraint—a judge who will leave to legislators the business of legislation. And I hope the Senate will respond with its careful consideration and overwhelming support.

Mr. COHEN. Mr. President, the Senate's role in judicial appointments, and particularly the appointment of members of the U.S. Supreme Court, is one of its most important functions. In fulfilling its constitutional duty of advice and consent, the Senate shares with the President the critical responsibility of shaping the quality of the Federal judiciary and, therefore, the quality of justice in our Nation.

Although there may appropriately be a strong presumption in favor of a Presidential nominee, each Senator has an obligation to evaluate the qualifications and competence of those individuals nominated by the President in order to meet the responsibility imposed by the Constitution. After reviewing with some care David Souter's academic and professional qualifications, and his writings and testimony before the Judiciary Committee, I believe that Judge Souter should be confirmed for a seat on the U.S. Supreme Court.

The Judiciary Committee's hearings on the Souter nomination were lengthy and comprehensive. With few exceptions, the members of the committee and those who watched the hearings were impressed with Judge Souter's intelligence, his thoughtfulness and his strong streak of independence. His background is equally impressive, from his notable educational credentials to his experience as a State attorney general, trial judge, and New Hampshire Supreme Court justice.

The Standing Committee on the Federal Judiciary of the American Bar Association unanimously found Judge Souter to be "well qualified," its highest rating. The president of the New Hampshire Bar Association testified that "those of us who have witnessed Judge Souter's judicial performance firsthand can, in good conscience, report to this committee that he possesses * * * a first-rate legal mind, a flexible and curious appetite for the law, an unbiased ear for argument, an uncommon civility and * * * a quiet compassion."

There is, of course, uncertainty on how Judge Souter will rule on issues of considerable importance, particularly the issue of abortion. Many individuals and organizations who support a woman's right to choose, including myself, have reservations about what Judge Souter will do once he is on the Court. However, I am convinced by Judge Souter's testimony that he brings no personal agenda to the Court, and that he will be an open minded, fair and compassionate jurist.

I do not believe that Judge Souter's intelligence, his integrity, his respect for the rule of law and the Constitution, or his commitment to the fundamental principles of justice and equality can be questioned. It is by these standards, together with professional competence, that Judge Souter and other nominees to the Federal judiciary should, in my opinion, be judged. I believe Judge Souter has demonstrated the kind of qualities that will make him a fine addition to the U.S. Supreme Court.

Mr. ROBB. Mr. President, I rise to declare my support for the confirmation of Judge David H. Souter to the Supreme Court of the United States.

I followed Judge Souter's testimony before the Judiciary Committee with interest. He was questioned at great length and, at times, sharply. Yet I did not hear anything which would cause me to vote against his nomination.

Judge Souter's objective academic qualifications are superb. More persuasive, though, was the subjective evidence offered on his behalf by a number of witnesses, including two former Democratic attorneys general of Virginia, one of whom was my successor as Governor.

Many people have raised concerns not about what was said in the Judiciary Committee, but about what wasn't said. While I share the concerns of many about critical issues, including the right to privacy, I was impressed by Judge Souter's apparent willingness to listen to the arguments presented to him. In casting my vote on his behalf, I add my fervent hope that Judge Souter's openness and willingness to listen remain hallmarks of his service as Associate Justice of the Supreme Court.

Mr. HATFIELD. Mr. President, I will vote to confirm the President's nomination of Judge David Souter to the Supreme Court when the Senate turns to this matter later today. Like the majority of my colleagues, I was enormously impressed by Judge Souter's personal decency, intellectual capacity and legal expertise during his recent testimony before the Senate Judiciary Committee. I will cast my vote for Judge Souter with full confidence that his will be a voice of reason and fairness on the bench in the years ahead.

The fact that this nomination comes at a time when our Nation's attention is focused on Roe versus Wade has forced all of us to think long and hard about how we view the Supreme Court and how we approach the Senate's confirmation process. I want to share briefly with my colleagues some thoughts on this nomination, on this process and on the complicated and sometimes polarizing times in which we live.

Undoubtedly, there are organizations and individuals who will accuse those of us who vote to confirm Judge Souter of being insensitive to their concerns and to their depth of commitment. That charge cuts to the heart of what I believe is a very serious misunderstanding of this confirmtion process.

If part of our constitutional responsibility to give our advice and consent regarding a judicial nomination involved making sure that the nominee's views on specific issues match our own, I am afraid I would never be able to support a judicial nomination. I certainly would not be able to support this one. Why? Because I know where Judge Souter stands on an issue I care and feel deeply about: the death penalty. Unlike abortion rights activists whose opposition to this nomination stems from the fact that they do not know where Judge Souter stands on Roe, I know where he stands on the death penalty. He stands firmly on the other side of the issue. As deeply and strongly as some people feel about Roe I feel just as deeply and strongly that the death penalty is not merely wrong but fundamentally immoral.

Perhaps there are those who will argue that my opposition to the death penalty is somehow rendered meaningless by my willingness to confirm a Supreme Court nominee who disagrees with my position—just as there are those who will question the commitment of abortion rights Senators who vote for a nominee whose position on abortion they do not know. But, Mr. President, I do not exaggerate when I suggest that this single-minded vision, if it prevails, could destroy our democracy.

Our population is infinitely diverse in race, ethnic origin, economic status, religion, and personal values. Our States and regions are equally diverse in history, geography, and economic base. This pluralism and individualism argues against our survival as a nation. But we have survived—despite often bitter debate and a bloody Civil War. We have survived because our forefathers gave us a constitutional government based on pluralism and individualism, and a Supreme Court free of daily political pressures.

To apply a single-issue litmus test to a Supreme Court nominee would be to contravene the fundamental principles of American democracy. As the Oregonian stated in its September 20, 1990 editorial "* * * spokesmen for abortion-rights and women's groups are wrong in trying to make Souter's position on Roe versus Wade [sic] the sole test of whether he should be confirmed." I agree and refuse to apply such a test in the case of Judge Souter.

Unfortunately, Mr. President, I am convinced that the highly charged political atmosphere in which Judge Souter has found himself is largely a problem of our own making. On one hand, I give great credit to my colleagues who refuse to allow this nomination, and indeed this entire process, to become a series of political litmus tests. But on the other hand, I am increasingly convinced that the very fact that all judicial nominees are now greeted with more questions about politics than about principles is a direct indictment of us and of what this process has become.

We have allowed this political polarization to occur—indeed we have fostered an environment in which single-issue politics flourishes and prevails—by being more interested in ducking the tough issues than a taking responsibility for them. This legislative paralysis has resulted in people looking to the courts for political activism. That is not only wrong, it is also dangerous.

We live in enormously complicated and increasingly polarized times. But that fact simply underscores the urgent need for both the continued integrity of the Supreme Court and for Congress to take responsibility for the tough issues at hand. Voting to confirm Judge David Souter's nomination will ensure the former. But only we can ensure the latter.

Ms. MIKULSKI. Mr. President, the Constitution requires that Members of the U.S. Senate advise and consent to a Presidential nomination for a vacancy on the Supreme Court.

Once consent is given, a Supreme Court Justice may serve for the rest of his or her life, virtually unaccountable to any person or group.

This is as it should be. We don't want our Supreme Court to be swayed by momentary Presidential passions, or forced to choose between justice and votes.

In return for our consent, however, the Members of the U.S. Senate have a right to know for whom we are voting.

I have no doubt that Judge Souter is professionally competent. Nor do I question his personal integrity.

But I cannot cast my vote to confirm a man who has been silent, vague, or evasive every time he has been asked if he would uphold fundamental constitutional rights—rights of concern to every American and particularly of concern to America's women.

Judge Souter has refused to discuss how the Constitution's guarantee of equal protection under the law protects women against gender discrimination; and he has refused to discuss the fundamental right of privacy.

Through most of the Senate's confirmation hearings, Judge Souter dazzled us with his wit and intelligence. He discussed at great length many areas of the law with which he will have to deal. He spoke on issues of desegregation, the death penalty, and the separation of church and state.

But whenever questioning turned to the constitutional rights of women the eloquent Judge Souter became the intractable and laconic New Englander of legend.

And so today, we do not know if Justice Souter would vote regarding women under the protection of the Constitution.

We don't know if Justice Souter would vote to protect a woman's right to decide when and if to bear a child.

Mr. President, women were not even allowed to vote in this country until 1920. Only 16 women have ever stood on the floor of this Chamber as a U.S. Senator. Only in the last generation have many women truly started to gain control over their lives, their careers, and their families.

And we still have far to go.

We have worked too hard and come to far to accept silence and evasion from a Supreme Court nominee.

The U.S. Senate represents 250 million Americans. We cannot act on their behalf without candor and from men like Judge Souter.

I respectfully submit that it is not acceptable for a Supreme Court nominee to conceal his views of the critical constitutional issues of the right of privacy.

I cannot make a leap of faith for Judge Souter. I will vote against his confirmation.

Mr. KERRY. Mr. President, as I contemplate a vote on this nomination, I know that Judge Souter will be confirmed overwhelmingly. I doubt there will be more than 10 votes against him. So I am voting on a nomination that is not in doubt.

Judge Souter has been impressive in the confirmation process. He is obviously extraordinarily bright and articulate, and worthy of the high regard in which he has long been held by my friend Senator RUDMAN, whom I respect greatly.

There is no question of the potential for Judge Souter to make a significant contribution to the Supreme Court, in the tradition of Justice Harlan—a goal he has set for himself.

He may well be as some have said, "the best nominee we could expect from this President."

But while there is a great deal that commends this nonimee to me and urges me to vote for him, I want my vote to underscore my deep concern about two areas.

On civil rights and on women's rights there are significant questions about Judge Souter which loom large enough to justify a vote against this nominee. This seat is a critical seat on the court at a critical moment in its history.

Many of my colleagues have come to the floor and bemoaned the gaps in their knowledge and in the record about Judge Souter's philosophy in these areas. They have also expressed concerns about some of the things he did say.

For example, in his testimony, Judge Souter distinguished between "marital privacy" which he stated "can and should be regarded as fundmamental" and other privacy, "not every aspect of [which] may rise to a fundamental level."

Judge Souter suggested that in the privacy area, one had to engage in a balancing test, under which any fundamental State interest can be balanced against the fundamental interest of the individual to determine which interest shall prevail—the individual's right of privacy, or the "fundamental right" of the State, which Judge Souter did not define.

There are two problems here, and both are serious.

First, because Judge Souter is vague as to what might constitute a "fundamental interest" of the State, in theory, he might find that almost any interest of the State could be determined to be "fundamental." Judge Souter's balancing test here might be interpreted as requiring only some-

thing more than a rational relationship test. The test implies that Judge Souter might well agree to loosen current constitutional restraints on the ability of Government to intervene in people's private lives.

Second, Judge Souter explicitly, carefully, and definitively distinguished the right of privacy of people who are married from those who are not. The former have a fundamental right, according to Judge Souter, looking back to the intent of the Founding Fathers; the latter have some rights, but these may not be fundamental, Judge Souter testified.

This is an odd and disturbing distinction. Unfortunately, Judge Souter refused to answer other questions which would have more fully explained the practical meaning of the distinction, so it is difficult to understand the meaning of the distinction. Nevertheless, it is a troubling one.

These are examples only, but they suggest why so many of us find this nomination to be, as in the words of Senator BIDEN, "a hard case," requiring a difficult choice.

In the past, I have voted for Justices whose judicial philosophies were far from the approach that I would like to see taken by the Supreme Court, including Justice Scalia and Justice Kennedy.

Today, I have decided to make a different choice to carry out my responsibility of advise and consent. I choose with my vote to express my concern about the future of civil rights and women's rights, and therefore will vote against this nomination.

Mr. HUMPHREY. Mr. President, my remarks will be brief, since Judge Souter's eminent qualifications for confirmation as a Supreme Court Justice have been thoroughly demonstrated and discussed.

Needless to say, New Hampshire is extremely proud of Judge Souter. His legal and judicial accomplishments, and his lifelong commitment to public service, were already well-established before the confirmation hearings began.

But if there were any doubts about Judge Souter's fitness for the High Court, they were demolished by his impressive demonstration of legal knowledge and unflappable judicial temperament during the ordeal of confirmation hearings. Once his testimony was completed, even the skeptics understood what those from New Hampshire have known for years: Judge Souter has the "right stuff" to serve with distinction on the U.S. Supreme Court.

Of course, no nominee for the Supreme Court can be "all things to all people", and Judge Souter is no exception. To his credit, he declined to yield to the demands of those who sought a pre-confirmation commitment on crucial issues that will be coming before the Supreme Court in future cases. Ironically, Judge Souter's demonstration that he would listen with a fair and open mind to the arguments on such issues was attacked as grounds for opposing him by those who demanded a pledge to rule their way in future abortion cases.

I am pleased to see that these blatant assaults on the principle of judicial independence have failed to carry the day. Many of the same groups that conspired to defame Judge Bork 3 years ago have called for the rejection of the moderate Judge Souter because he has declined to endorse their liberal agenda before taking a seat on the Court.

Although a few Members have heeded that call, I am confident that an overwhelming majority of the Senate will reject it. Any other result would cause irreparable damage to judicial independence.

In that regard, it is also important to recognize that portions of Judge Souter's testimony were of little comfort to those who seek a more conservative judiciary. I readily admit that some of his testimony was a bit disturbing to this Senator. For example, I do not share his assessment that Justice Brennan has been a peerless defender of the Constitution—at least not the Constitution that I know. His testimony also indicated that Judge Souter needs to be more sensitive to the dangers of judicial usurpation of legislative powers. I suspect that this may be attributable to the fact that he has spent his judicial career in the relatively sane environment of the New Hampshire courts. After a few months exposure to the excesses of some of the Federal courts, I am confident that he will develop a keener appreciation of this problem.

While Senators on both sides of the aisle may have their individual reservations on various issues, it is clear that Judge Souter is a sound and solid choice for the Supreme Court at this time. The American people entrusted President Bush with primary responsibility for selecting Supreme Court Justices in the last election, and he has chosen well.

Judge Souter has demonstrated a rare combination of qualities which will serve the American people well—a keen understanding of the Constitution coupled with a strong sense of fundamental fairness. I strongly support his confirmation and urge my colleagues to do the same.

Mr. LIEBERMAN. Mr. President, after careful consideration, I have decided to support the nomination of Judge David Souter to the U.S. Supreme Court. This is based upon my own conversations with Judge Souter, the material we have received from both supporters and opponents of his nominations, Judge Souter's testimony before the Judiciary Committee and the committee's report and additional and dissenting views.

I have concluded that Judge Souter is extremely well-qualified for the position of Associate Justice of the U.S. Supreme Court. He has received the highest rating of the American Bar Association's Standing Committee on the Federal Judiciary. His long experience as an attorney general, a trial judge, and a State supreme court justice gives him a great deal of perspective on, and sensitivity to, the effect of his decisions on litigants and the judicial system. He clearly is very intelligent, and capable of rendering well-reasoned decisions solidly grounded in both the facts of the case and the law as he interprets it.

I, of course, have no greater insight than any of my colleagues into what result Judge Souter would reach in specific future cases. I nevertheless will vote to give advice and consent to his nomination because I believe that he will approach the issues before him with an openmind in an attempt to reach a fair and reasoned conclusion. A judge must decide each case in the light of the facts and arguments presented, and the law as it stands at the time judgment is rendered. I believe Judge Souter will do this, that he will not decide these cases in the abstract, and that he will not join the Supreme Court with an agenda to fulfill.

I am comfortable that, in voting to confirm Judge Souter, we will place on the Supreme Court a man who will approach the new legal issues of the next century in a careful, methodical, and analytical manner. I believe Judge Souter will serve with honor and distinction. I will, therefore, vote to confirm Judge Souter as an Associate Justice of the U.S. Supreme Court.

Mr. HEFLIN. Mr. President, I come to the floor today to reaffirm my announced position on the confirmation of Judge David Souter to be Justice on the U.S. Supreme Court. I strongly believe that Judge Souter has the necessary qualities to be a Justice on the Court, and I will vote in favor of his confirmation.

I believe that Judge Souter will bring to the Supreme Court strong credentials will serve him well over the course of his tenure on the Court. His academic background is clearly outstanding, and his legal experience more than adequately qualifies him to sit on this Nation's Highest Court. Further, I believe that Judge Souter will bring the reflected values of a small town that is tightly knitted, that cares about its neighbors, and that reflects traditional American concepts of respect for the rights of others and respect for a fair and just society.

I accept Judge Souter's responses to the committee's questions on a wide range of legal issues. I believe that he will respect precedent and be a faith-

ful guardian of the Constitution. Further, I know that Judge Souter will bring a historical perspective and a clear-headed approach to the analysis of issues which will come before him.

In conclusion, I wish to add my voice to the chorus of support which has followed this nominee, and I urge my colleagues to vote in favor of his confirmation.

Mr. CONRAD. Mr. President, I rise to speak in support of the nomination of David H. Souter to be an Associate Justice of the U.S. Supreme Court.

Judge Souter was nominated by President Bush to replace one of this century's most vigorous defenders of individual liberties, Justice William Brennan. In his 34 years on the Supreme Court, Justice Brennan authored more than 1,200 opinions. He leaves a legacy that extends from Baker versus Carr—a decision that enunciated the one-man, one-vote principle and opened the courts to litigation over voting rights—to the case New York Times versus Sullivan—a case which is the basis for the expansion of first amendment speech and press guarantees that we have seen in this century. Justice Brennan's principled application of constitutional protections has made this country a better place to live for many Americans.

Justice Brennan's departure also means that his replacement will step onto a court fiercely divided over issues like the separation of church and state, the question of exclusion of illegally seized evidence from State and Federal trial proceedings, and the issue of privacy, to name just a few. It is indeed a pivotal time for the U.S. Supreme Court.

Mr. President, in the fall of 1987, the Senate and this Nation experienced one of the most divisive confirmation battles in our history. It was during that year—my first in the Senate—that I realized that there were few Senate responsibilities more solemn than the constitutional duty of advise and consent. Nominees to the High Court face the prospect of deciding cases when every Member of this body is long gone. They may cast deciding votes on issues which we cannot even imagine today. Our decision to approve a nominee cannot be amended. There is no omnibus bill to revisit approval of a nominee. It is a decision we can only make once, and it must be wisely made.

I hold deeply to the view that the Senate has a coequal role in the nomination of Supreme Court Justices. It surprises advocates who argue for Presidential deference to know that in one early draft of the Constitution, the U.S. Senate was the body which chose nominees to the High Court. The current partnership between the Senate and the White House was settled on to provide an appropriate balance between the branches.

While the Constitution confers on the Senate the duty to share the responsibility of nominating a Justice, it does not give guidance on the criteria for evaluation of such nominees. Each Senator must develop his own standards. The nominee must be intelligent, honest, and competent. The nominee must also possess a deep understanding of the constitutional issues that have been crucial in this nation since its inception: State and Federal powers and the rights and liberties of all individuals.

Our duty in this body, then, is to elicit the views and thoughts of Supreme Court nominees. Accordingly, I closely followed the nomination of Judge Souter. I watched or reviewed the tesimony from his confirmation hearings. I solicited the views of members of the bar of my own State of North Dakota. I conferred with Members of this body on the nomination of Judge Souter. And, finally, I was fortunate to have the opportunity to meet and spend some time with Judge Souter.

From this examination, a very clear picture of Judge Souter has emerged: A highly intelligent, dedicated jurist who has an impressive command of the issues that may come before the U.S. Supreme Court.

Judge Souter is clearly qualified to serve on the Supreme Court. His legal career is very impressive, and his experience spans almost all aspects of the legal profession. His decision to dedicate much of his career to public service is laudable. Colleagues who have opposed him in Court, or who have lost cases before his court, have universally applauded his intellect, his dedication to fairness, and his judicial temperament.

His appearance before the Senate Judiciary Committee demonstrated that he possesses an impressive command of modern constitutional issues. He spoke knowledgeably about issues that have occupied the Court in the 20th century, including the separation between church and state; civil rights; Federal affirmative action programs; the guarantees of free speech and the free exercise of religion; the constitutionality of the death penalty; the relationship among the various branches and levels of Government; the powers and limits on powers of the State; and the rights and liberties of individuals.

I will vote to confirm Judge Souter, but I had one concern. While I understand the Judge's personal view that he could not comment on issues which might prejudge cases that could come before the Court, I was dismayed with what I thought was selective application of this principle.

For instance, when asked by Senator SPECTER about his view of the free exercise clause as expressed in the case involving the use of peyote by drug counselors, Judge Souter said:

> On the free exercise question, I have to be circumspect to a point because I believe that the Smith case is subject to a motion for rehearing presently before the Court. But I think there are some things that with a reasonable degree of specificity I can say.
>
> The first is that I do not come here and prior to the decision of that case or after it I have not had personal reason to want to reexamine the strict scrutiny test which has been applied in a lot of cases since Shurbert. I recognize the reasoning of the majority opinion. I mean I can follow it; I understand what the Court was saying in the Smith case. But I also recognize I think the fact that case could also have been examined under the Shurbert standard. As you mentioned or indicated a moment ago, that, of course, is exactly what Justice O'Connor did in her concurring opinion in that case. (Transcript, September 14, pp. 47-48)

This amplification of views on the free exercise clause is utterly appropriate, in my view. And, yet, in response to questions in any way related to Roe versus Wade or the War Powers Resolution, for example, Judge Souter invoked his prohibition on responding. In response to the very next question posed by Senator SPECTER, Judge Souter stated:

> The first is, of course—and I know you recognize this—that because of the reasonable likelihood that the constitutionality of the War Powers Resolution could come before the Court in some guise, I cannot give an opinion on the constitutionality of that.

Judge Souter, in fact, refused to reflect in any way on some key constitutional questions. I agree that he should not have to indicate how he would vote in particular cases, but he could discuss his views on many issues without revealing the way he might vote.

This pattern greatly concerns me because I fear it may betray a lack of candor on issues which might provoke opposition from this body. I oppose the single-issue politics which may have fostered this strategy, yet I believe Judge Souter could have forthrightly replied to many of the questions that he declined to answer without jeopardizing his independence or integrity on the bench. His refusal to answer these questions has left the Senate to consider his nomination without knowing his views on the pivotal issues of civil rights and race and gender discrimination, the right to privacy, Federal powers, biomedical ethics, and many others. He has tried to calm the fears of concerned Senators by assurances that he will listen. I believe that he will listen, but I fear that he has not fully revealed views that should appropriately be discussed.

I hope, Mr. President, that I am wrong and this was not a concerted strategy, but I must agree with my colleagues on the Judiciary Committee

and express my dismay at Judge Souter's unwillingness to answer crucial questions on some major constitutional issues of our day.

Mr. President, despite this concern, I shall support the nomination of Judge Souter to the U.S. Supreme Court. I found him in our meeting together to be an open, learned individual. I believe his statement that he shall listen to those who come before the Court. I believe that he truly understands that millions of Americans' lives may be affected by decisions he renders. This is an awesome responsibility, and he has convinced me that he is worthy of the trust and confidence of the American people.

Mr. NUNN. Mr. President, I rise today to announce my support for the nomination of Judge David H. Souter to the U.S. Supreme Court. I believe that he is a well-qualified individual who will serve with distinction on our Nation's highest court.

Judge Souter has an impressive academic record and a career of distinguished public service. Following his graduation from Harvard College in 1961, he was selected as a Rhodes scholar and attended Magdalen College, Oxford, between 1961 and 1963. He then enrolled in Harvard Law School and was graduated in 1966.

In his first job out of law school, Judge Souter practiced law in a private firm in Concord, NH, and 2 years later began 10 years of service with the State attorney general's office. In 1976, he was appointed attorney general for the State of New Hampshire, a position he held for 2 years until he was appointed to the superior court bench. Five years later, he was named an associate justice of the New Hampshire Supreme Court. Earlier this year, President Bush nominated Judge Souter to the First Circuit Court of Appeals.

I believe that Judge Souter's life time commitment to public service makes him a good candidate for the Supreme Court. From my review of the Judiciary Committee's hearing records and from my conversations with colleagues, I am convinced that Judge Souter will not be an ideologue with an agenda, but rather a temperate jurist. I believe that he has the intellect and integrity to fulfill his constitutional duties as an Associate Justice of the Supreme Court.

Finally, I believe that Judge Souter will not be judicially rigid. Instead, it is my hope that he will decide the cases that come before him with a healthy application of common sense. It is my view that our Founding Fathers intended to set forth general principles which would remain the foundation of our Nation and that they viewed the Constitution as a living document to be interpreted with common sense in light of changing circumstances and conditions. Mr. President, I believe that Judge David Souter will use such a standard and will serve our Nation well.

Mr. DOMENICI. Mr. President, I rise today to express my support of the confirmation of Judge David Souter to be an Associate Justice of the U.S. Supreme Court.

Under the Constitution, the Senate has the duty to offer advice and consent on judicial nominees. Our primary concerns when confirming a nominee for the Supreme Court should not focus on specific issues, but rather on the nominee's ability to serve on our Nation's Highest Court.

The Senate must determine whether the individual that the President has nominated has the competence, integrity, temperament, and respect for the basic principles of our constitutional system necessary to serve as a Justice of the Supreme Court. I am convinced that Judge Souter possesses these qualities.

First, a Justice must be a person who has exhibited exceptional competence in the law: He or she should be learned in the law and have extensive experience in the practice of the law.

Judge Souter graduated magna cum laude and Phi Beta Kappa from Harvard University in 1961. He continued his education as a Rhodes scholar at Oxford University in England and then returned to Harvard, where he earned his law degree.

After 2 years of private law practice, Judge Souter entered public service. He was an assistant attorney general of New Hampshire for 3 years, deputy attorney general for 5, and attorney general—the State's chief law enforcement official—from 1976 to 1978.

In 1978, he was appointed to the New Hampshire Superior Court on which he served for 5 years until he was appointed to the New Hampshire Supreme Court. In 1990, Judge Souter was unanimously confirmed by the Senate to be a judge on the U.S. Court of Appeals for the First Circuit, where he currently serves. With his 12 years on the bench, Judge Souter has more judicial experience than all but one of the current Justices has at the time they were appointed to the Supreme Court.

During his confirmation hearings, Judge Souter demonstrated an impressive knowledge and command of constitutional law. Clearly, by reason of his intellect, his education, and his experience, Judge Souter possesses the competence that the American people demand of their Supreme Court Justices. That is why the American Bar Association gave Judge Souter its highest rating and declared him to be "well qualified" to serve on the Supreme Court.

Second, a Justice must be a person with unquestioned integrity: He or she should be honest, ethical, and fair.

Those who know Judge Souter best—his peers in the legal profession in New Hampshire—are united in their opinion that Judge Souter is an impeccably fair man who adheres to the highest ethical standards of the legal profession. His honesty is beyond reproach.

Third, a Justice must be a person with a judicial temperament: He or she should be even-tempered, firm, compassionate, and able to listen to different points of view.

Judge Souter ably demonstrated during his confirmation hearings that he has the right temperament to serve as a judge. His answers were calm and thoughtful. He engaged in a scholarly discussion with the members of the Judiciary Committee, listening to their viewpoints and explaining his with utmost courteousness. Judge Souter also movingly demonstrated that he is a man of compassion when he related his experience of advising a woman who was confronted with an unwanted pregnancy.

Some would question whether an unassuming man who would rather live in a small town, who enjoys the solitude of nature, who prefers books to television, who goes to church every Sunday, and who is devoted to his family and friends has sufficient real-life experiences to function effectively as a judge.

Frankly, Mr. President, I'm not sure I understand this criticism. In any event, Judge Souter—as an active and involved member of his community and as a practicing lawyer and a judge—has been exposed to a broad spectrum of real-life problems. He knows that deciding a case is not an abstract intellectual exercise, but rather is a serious activity that can potentially affect millions of people. As Judge Souter testified:

> Whatever court we are in, at the end of our task some human being is going to be affected. Some human life is going to be changed and we had better use every power of our minds and our hearts and our beings to get those rulings right.

Fourth, a Justice must be a person who respects the basic principles of our constitutional system: He or she should not be burdened by an ideology that would prevent him or her from being an impartial judge.

During his confirmation hearing and throughout his 12 years as a judge, Judge Souter demonstrated a profound respect for and devotion to the philosophical underpinnings of our American democracy—federalism, separation of powers, freedom of speech and religion, individual rights, equal protection, due process, and the rule of law.

I am convinced that he will adhere to the doctrine of judicial restraint and will interpret and apply the laws, not impose his own political views. He

has an independent mind and has no ideological agenda that he seeks to fulfill, except to preserve the Constitution of the United States.

Mr. President, in the case of Judge David Souter, President Bush has nominated an individual who has demonstrated throughout his lifetime that he possesses those traits. He is extremely well-qualified to sit on the Supreme Court, and I will vote to confirm him.

Mr. BUMPERS. Mr. President, few events in my career have struck as close to home as Justice Brennan's decision to retire. The Senate's duty to advise and consent to a successor to a Justice of such unique stature is especially heavy. That successor will likely be serving out a life term at the top of our third branch of government long after most of us in this body are gone from here. When Justice Brennan announced his retirement, I hoped the President would put aside any ideological agenda and try to find the best qualified person in the country for this job. I have no way of knowing whether Judge Souter is that person or not.

Many things in his record commend him for service on the Court. First, he will be the first former trial judge in recent memory to serve on the Nation's Highest Court. As a former trial lawyer, it gives me great comfort to think that someone who has actually tried lawsuits will be sitting in judgment over important cases. One of the most well-founded criticisms of the Court, it seems to me, is that too often the Justices have little familiarity with the realities of trial practice.

Without belaboring the facts, Judge Souter has an enviable record of accomplishment as a lawyer. He was graduated from Harvard University and Harvard Law School. He has been deputy attorney general, attorney general of New Hampshire, a trial judge and State supreme court justice, and earlier this year he was confirmed by the Senate as U.S. circuit judge for the First Circuit.

My hesitation is not over any qualms about Judge Souter's character. From every report, he is a man of unquestioned integrity and certainly has an outstanding educational and professional background. He appears to be a very traditional New Englander, conservative in his appearance, manner and thinking.

I am somewhat reassured that Judge Souter is highly recommended by a respected Senator on the other side of the aisle, WARREN RUDMAN.

I have studied the record of the confirmation hearings before the Judiciary Committee. It goes without saying that when the Constitution is being discussed I pay attention to what's being said. Judge Souter said little with which I would disagree, and he was genial and accommodating. Frankly, his answers were not very reassuring for the right wing of the President's party.

Yet, still, there are those who say he is a wolf in sheep's clothing who will give a narrow berth to constitutional liberties. There are at least two kinds of conservatives—those who believe the State can do no wrong and those who believe that governmental restraints on the individual must be strongly justified. For too long, the former have dominated the debate. Judge Souter seems to have a Jeffersonion streak about him.

I cannot see into David Souter's mind and know what he will do when faced with issues surrounding Roe versus Wade and its progeny. The Court has already ensured, however, that there will be plenty such cases on the docket. We have seen draconian measures enacted in Guam and Louisiana, and more are sure to come. While I wish I knew more of Judge Souter's true feelings on a number of issues, I think he acquitted himself well enough in his hearings to receive the benefit of the doubt. I will resolve that doubt in his favor.

Mr. KERREY. Mr. President, I plan to vote to confirm Judge Souter as a Associate Justice of the Supreme Court.

This is my first vote on a Supreme Court nomination, and I wish to set out the standards that I believe should guide such decisions. I believe there are three. While I have reservations about Judge Souter's record, which I will discuss, I believe he has met these three standards.

The first standard I would invoke asks whether the nominee has a distinguished judicial record. While Judge Souter's credentials as a nominee do not rise to the level of some of the titans of the Supreme Court's history, his record is nonetheless distinguished. He has served as a State attorney general; a State superior and supreme court justice; and a judge for the Federal court of appeals. He is known in the legal community for an inquiring and exacting legal intellect. He received the highest rating from the American Bar Association's Standing Committee on the Federal Judiciary. His personal integrity and ethical standards are beyond reproach.

The second standard asks whether the nominee is within the Nation's judicial mainstream. Judge Bork was not. Judge Souter is. In the hearings, he accepted certain high standards of protection for the essential freedoms of speech and religion. He indicated his support for certain remedies for racial discrimination. He committed himself to the important concept of deference to precedent, and rejected notions that we should in all cases return to the "original intent" of the Constitution's framers. Judge Souter is, to be sure, a very conservative jurist. But that is hardly surprising or objectionable given that he was nominated by a conservative President.

The final standards asks whether the nominee has the judicial temperament necessary to sit on our highest court. As I will explain, I am concerned about Judge Souter's sensitivity to political, social, and economic minorities. I am troubled he was willing to act as an advocate, as New Hampshire attorney general, for some official initiatives that smacked of intolerance. Yet Judge Souter's judicial record, which I believe is far more important, suggests that he receives the opinions of all parties before him with an attentive, fair, and open mind. The willingness to listen respectfully to diverse arguments is essential to the credibility of our judicial process.

While I will vote for confirmation, it is with reservations. First, I have serious reservations about Judge Souter's position on abortion. My reservation is that I, like the rest of America, do not know what his position is on the right of women to make the most fundamental choices about reproduction. That is a troubling gap in the record. I am troubled that this nominee and the administration that nominated him do not recognize the right to make such a choice as fundamental. I am troubled that on the difficult choice over abortion they are willing to substitute their moral judgments for those of individual Americans.

At the same time, I find it comforting that Judge Souter recognizes an implicit constitutional right of privacy as "fundamental." And I must take Judge Souter at his word when he says he has not made up his mind concerning Roe versus Wade. We can only hope the Court's other eight Justices will approach this divided and divisive issue with equally open minds.

Second, I have reservations about the level of Judge Souter's sensibilities about society's treatment of women, racial minorities, and religious minorities. Our society today is not the society of 1789. One of the journeys of our time has been toward expanded participation in our economy and society by those who had been excluded in the past. Judge Souter's experience and views, to the extent he revealed them during his confirmation hearings, seem remote from that defining American odyssey.

Let me cite one example. At one point in the hearings, Judge Souter said, "the State of New Hampshire does not have racial problems." Perhaps Judge Souter was characterizing what others would say about his home State; there is some possibility of that from the context. Perhaps all Judge Souter meant is that New Hampshire is racially homogeneous in relative terms. I can understand that. I am also from a State that has a relatively

small proportion of residents who are racial minorities.

Yet one of the Constitution's chief missions is to protect those who are not part of the majority. Thus it speaks to the rights of political, social, and racial minorities of all sizes—not just those who are near-majorities. I am aware that even in Nebraska there are racial problems. Yet the record sadly suggests it might surprise Judge Souter to learn, as I did, that over a dozen racial discrimination complaints were brought over the past year to his State's human rights commission, and that his State has seen many serious racial incidents over the years, as the testimony of witnesses during the hearings made clear.

I hope Judge Souter will hear this message from me and others as he takes his seat on the Supreme Court: Racial discrimination, unfortunately, still exists in every town in America. Sexual discrimination and harassment, unfortunately, still exist in every industry. I hope Judge Souter's constitution, like mine, listens for the voices of victims of discrimination and has something to say to their pain.

Subject to those reservations, Mr. President, I will cast my vote in favor of confirming Judge Souter's nomination.

Mr. WARNER. Mr. President, I rise to join in this debate, for a second time, to express my respect for the work done by the Senate Judiciary Committee and to encourage Senators to give their support for this outstanding nominee for the Supreme Court of the United States.

During the consideration of this nomination, I have solicited the views of a wide range of my fellow Virginians. Clearly the majority—a very significant majority—express confidence in Judge Souter's ability to serve our Nation in this position.

Today, I ask the Senate to consider the opinions of a man whom I respect greatly— Andrew Miller, Esq. In 1978 this distinguished former attorney general of Virginia opposed me in the election for the seat in the U.S. Senate I am now privileged to hold. Our campaigns were fair, by today's standard unbelievably fair and honest. I won by a narrow margin, which reflects the confidence and respect many Virginians held, and still hold, for Andrew Miller.

In the time that has ensued, Mr. Miller has worked with me on a number of public issues. He is very successful in the private practice of law and continues to contribute of his time and wisdom for the public betterment of others.

I greatly value his friendship and have confidence in his views on this nomination.

Mr. President, I will now read to the Senate a letter from Andrew Miller to the President of the United States:

WASHINGTON, DC,
September 24, 1990.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: As a former Attorney General of the Commonwealth of Virginia, I write in support of your nomination of David H. Souter as an associate Justice of the United States Supreme Court. I became acquainted with Mr. Souter shortly after I was sworn in as Attorney General of the Commonwealth of Virginia in January 1970. At that time he was serving as an Assistant Attorney General of the State of New Hampshire. From 1970 to 1975, we worked closely together in representing the interests of the Atlantic Coastal States in the case of *United States* v. *Maine, et al.*, 420 U.S. 515 (1975).

During this period, I became very impressed with Mr. Souter's legal abilities. Not only was he willing to work hard but his intellectual brilliance, scholarly research and thoughtful analysis all contributed to the enhancement of the States' position. While the Supreme Court ultimately decided against the States, the Court had greater difficulty in doing so as a consequence of Mr. Souter's contributions in the drafting of the States' papers. Moreover, on a personal level, I found our association extremely pleasant because of his courteous and considerate demeanor.

While Mr. Souter has held a variety of public offices, in the discharge of his responsibilities he has never been political. Indeed, he has not sought opportunities to exercise legislative or executive authority. As you know, the Attorney General of New Hampshire is appointed, not elected by popular vote. During his tenure in that office, and subsequently on the bench, I know of no instance in which his integrity was questioned. He has chartered his course as a lawyer and judge dedicated to excellence in the performance of duty in the justice system.

As a judge Mr. Souter has understood the role of oral argument in ensuring that issues are fully examined. He also has recognized that not every issue brought before a Supreme Court has constitutional implications. I believe that as an Associate Justice his State background will bring a useful perspective to the Court's deliberations. I am also confident that he will not engage in public rhetoric about his fellow justices or about political leaders, which circumspection should benefit the Court institutionally.

The foregoing views are undoubtedly shared by many others who have known Mr. Souter for an extended period of time. I feel compelled to write this letter of endorsement, however, out of my own experience as Attorney General, in light of some of the concerns expressed in the confirmation process about his performance as Attorney General of New Hampshire. The gist of these concerns appears to be that Mr. Souter as Attorney General defended State policies with which those expressing the concerns did not agree.

If such expressions of concern were intended to be justifiable criticism, they were wide of the mark. All Attorneys General take an oath to uphold the Constitution of the United States and their respective States. What engenders constitutional litigation, of course, are differences of opinion as to the meaning of the Constitution to be upheld. Assuming that the State's policy is not frivolous, an Attorney General has a legal and moral obligation as its chief legal officer to advocate that position, whether established by its legislature by statute or its governor by executive order.

As is the case with any lawyer representing a client, an Attorney General may not on occasion agree with his client's, i.e., the State's, policy. His individual views are not relevant to his obligation to see that the State's position is fairly and effectively presented before the judicial tribunal where it is being challenged. Thus, in defending policies of the State of New Hampshire with which he or others disagreed, Mr. Souter far from breaching his commitment to uphold the Constitution was in fact discharging his constitutional obligation as Attorney General of that State. This is so even though in certain instances the judiciary ultimately decided that the questioned policies of New Hampshire failed to pass constitutional muster.

I respectfully submit that the fact that these State positions did not withstand judicial scrutiny has nothing to do with whether Mr. Souter withstands Senatorial scrutiny. As the confirmation record demonstrates, he has passed personal and professional muster with distinction. Those of us who have worked with him and had the pleasure of this acquaintance over the years are not surprised.

Sincerely yours,

ANDREW P. MILLER.

Mr. President, I will vote for this distinguished American and urge others to do so.

Mr. BIDEN. Mr. President, in the interest of time, but also in the interest of clarity and fairness, this is usually done after the vote takes place, but I would like to do it prior to the vote because these people very seldom get the recognition they deserve.

I would like to recognize for particular thanks staff people who played a key role in putting these hearings together. They devoted hundreds of hours and late nights to making the committee's consideration of Judge Souter's nomination orderly and fair: John Bauer, Jamie Daniel, John Dichtl, Ted Hosp, Kim Kachmann, Lisa Meyer, Ross Mansbach, Anne Rung, Henry Noyes, Phil Shipman, Pam Yonkin, Brooke Thomas, Justin Tillinghast, and Grace Lescelius.

And special thanks to two staff members who put in countless hours to make sure that the hearings went smoothly: Joel Feyerherm and Sally Shafroth, who has done so much for the committee for so long. They really went above and beyond the call of duty.

These attorneys and professionals on the Judiciary staff helped us study Judge Souter's record, assemble that record, and conduct a thoughtful analysis of it. Their intellectual skill and contribution was first rate: Scott Schell, Annette Anthony, Harriet Grant, and Andy Tartaglino.

Five professional staff people deserve particular credit for their contributions:

Paul Bland, our committee's chief nominations counsel, who supervised

our study and review of Judge Souter's record and writings. His performance on this nomination, as with the many others he has worked on, was superb.

David Strauss, a University of Chicago law professor who joined our staff to work on the Souter nomination, and did a fantastic job of working with constitutional scholars and conducting vital research into the complex constitutional questions at issue here.

Chris Schroeder, of Duke University Law School, who volunteered his time to help with briefings, and the preparation of materials for the hearings. As always, Chris' intellectual insights were of great value.

Jeff Peck, our committee's general counsel, who spearheaded my preparation for the hearings. Quite simply, there is no constitutional lawyer anywhere in this country who has thought as intelligently or deeply about the role of the Senate in confirming Supreme Court Justices.

And last, but not least, Diana Huffman, the committee's staff director, who supervised the committee's preparation for the hearings, and the conduct of those hearings. Her tireless and savvy work in putting together the hearings was essential in our success in balancing the committee's need to be thorough with its duty to be fair.

Now I see my colleague from California is here, and I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. I thank the distinguished chairman of the Judiciary Committee for his courtesy.

Mr. President, last Monday, September 24, I addressed the Senate at some length on the reasons why I will vote "no" on the nomination of David Souter to succeed Justice William Brennan as an Associate Justice of the U.S. Supreme Court. My view of my constitutional responsibilities to exercise advice and consent to a lifetime appointment to the highest court of the land compels me to vote no. I am not voting against Judge Souter because we disagree on the issue of abortion or on the Supreme Court's decision in Roe versus Wade, since I have no idea what his position is on abortion or Roe versus Wade.

I am voting no because I have no idea what his position is on the level of scrutiny to be applied in right-to-privacy cases. I am voting no because I have no idea what his position is on the constitutional right of individuals, married or unmarried, to use contraceptives. No Member of the Senate, to my knowledge, knows the answer to any of these questions because Judge Souter has declined to answer them. He did not decline to answer questions on other important constitutional issues ranging from the constitutionality of capital punishment to his views on cases involving the religious freedom provisions of the first amendment, but on constitutional issues involving the right to privacy of millions of American men and women, we know little.

Mr. President, Judge Souter told the Judiciary Committee that he did not know how he would rule on any prospective future specific case involving reconsideration of Roe versus Wade and would listen to the arguments made on both sides. That is a position which any judicial nominee is obligated to take. Indeed, any nominee who cannot make that commitment should be rejected out of hand. A commitment not to prejudge an issue prior to hearing the arguments is an essential element of justice. No member of the Judiciary Committee of the U.S. Senate asked Judge Souter to state how he would rule on any prospective case.

I am voting against Judge Souter's confirmation because he has asked us to take him on faith in this critical area of constitutional rights. That I cannot do. Many, many Senators have expressed similar concerns about Judge Souter's refusal to answer questions in this important area of constitutional law. Many who will vote for him have expressed the hope that they are making the right choice and that he will not cast a fifth vote on the Court which will dismantle the long line of cases recognizing and securing the right of Americans to privacy in matters relating to procreation, including the right to abortion.

I intend to do more than just hope for the best. Mr. President, to the millions of American women who fear that by its action today in confirming Judge Souter, as is about to happen, the U.S. Senate is placing their lives in jeopardy, I make this pledge to them: If the unhappy day comes when David Souter casts a fifth and deciding vote to overturn Roe versus Wade, I will take action to bring before the Senate the Freedom of Choice Act. The Freedom of Choice Act is legislation I have introduced which will make freedom of choice Act would have the effect of nullifying a Souter vote to overturn Roe versus Wade. This legislation provides simply that a State may not restrict the right of a woman to choose to terminate a pregnancy before fetal viability, or at any time, if necessary, to protect her life or her health.

Mr. President, Congress has the authority under section 5 of the 14th amendment to the Constitution to enact legislation to protect the liberty interests of Americans where the Supreme Court cannot find a specific right protected under the Constitution.

Many Members of the Senate from both sides of the aisle who are committed to protecting the rights of women to make these most fundamental decisions for themselves free of Government interference have already joined as cosponsors of this important legislation. I hope that other Members who share these concerns will join as cosponsors of this legislation and help us work to ensure that this country does not return to the dark days of back alley abortions and Government interference with private, personal decisions of Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, the Senate will today undertake its constitutional obligation to advise and consent on the nomination of Judge David Souter to be an Associate Justice of the Supreme Court.

Such votes are never easy to cast. Because each Justice has the ability to affect—indeed, to alter—the very fabric of our Nation, I believe that every Senator has a deep responsibility to evaluate thoroughly every nominee before deciding how to vote.

As you know, Mr. President, the Judiciary Committee held 5 days of hearings to examine Judge Souter on his qualifications and record. In addition, numerous distinguished witnesses representing themselves and/or their organizations testified for and against this nominee. In my view, each witness contributed to the mosaic that the Senate has created on the very private Judge Souter.

I must say that I share the frustration of those Senators and witnesses who wanted to learn more. While questions were asked and answers were given, many of us continue to feel uncertain about the real views of a man who could change the course of our history. In particular, I wanted to know more about his views in the areas of privacy—including a woman's right to choose an abortion, racial and gender discrimination, and religious freedom.

In the absence of certainty, Mr. President, I must rely on the two things that a Senator must always rely on: Judgment and experience. During my almost 30 years in the Senate, I have faced votes on more than a dozen different nominees to the Supreme Court. I have also seen those nominees, once on the Court, both please and disappoint the American people and the Senators who voted to confirm them. It is my fervent hope that Judge Souter, whom I believe will be confirmed by the Senate, will bring to the Court and to the Nation compassion, understanding, and wisdom.

In deciding how to vote, Mr. President, I have also looked back on my prior decisions. Over the years, I have voted both for and against various nominees to the Court. I have voted against nominees when it was clear to me that the national interest would be harmed, and I have voted for nomi-

nees—even those who do not share my views or philosophy—when I was confident that the nominee was professionally and personally qualified.

Mr. President, unlike some of my colleagues, I do not subscribe to the theory that Senators should not inquire into a nominee's personal views. Rather, I believe it is incumbent upon each Senator to ensure that the Supreme Court is composed of judges of compassion, intelligence, and integrity. If intensive questioning is the best way—or the only way—to make this determination, then it is fair and necessary that it be done.

Still, it is often difficult to tell, in advance of Senate confirmation, whether a nominee has the qualities that are necessary in a guardian of our constitutional rights and liberties. In this instance, I have concluded—from the Judiciary Committee hearings and a review of the record—that Judge Souter seems to be a person of integrity who has the professional and personal qualifications necessary to sit on the Nation's highest court.

In reaching this decision, I have been cognizant of—and troubled by—the concerns of individuals and organizations who share my views on issues of great consequence to our society. I have weighed carefully those concerns, and I appreciate the effort and commitment of many who have shared their concerns with me. In my view, however, Judge Souter—the nominee of a Republican President who was elected on the coattails of the most conservative President in recent history—is probably the best and most moderate nominee we can expect from this administration.

Mr. President, I think it is entirely possible that Judge Souter will serve this Nation well. I hope that the Judiciary Committee hearings, and the words and advice of concerned Senators and citizens, will help Judge Souter remember every day that he serves on the Court his own eloquent testimony: "if [judges] * * * are going to change * * * lives by what we do, we had better use every power of our minds and our hearts and our beings to get those rulings right."

I wish Judge Souter well, and wish for the country that the Senate is vindicated in its decision to confirm this nominee.

Mr. SYMMS. Mr. President, I rise on this second day of the Supreme Court's 1990-91 term to announce my support for the nomination of U.S. Circuit Judge David H. Souter to be an Associate Justice of the U.S. Supreme Court. President Bush announced his nomination of Judge Souter just 10 weeks ago yesterday, and I am pleased the majority leader and Senator BIDEN, the chairman of the Judiciary Committee, have brought the nomination to the full Senate in time for Justice Souter to be seated for all but a few days of the Court's new term.

I have reviewed Judge Souter's record as a jurist in both the Federal and New Hampshire State courts and, prior to that, as the attorney general of New Hampshire. In addition, I was pleased to be able to watch a good deal of the Judiciary Committee's confirmation hearings.

Clearly, there are a few issues, such as abortion, on which Judge Souter does not have a well-established record of personal opinion or judicial decisions. And that fact probably serves him well in this confirmation process. On the other hand, there are many legal and constitutional issues where Judge Souter's writings from the bench or as attorney general have left a paper trail that was explored in depth during the Judiciary Committee's hearings and by which Senators can garner a pretty clear picture of the kind of jurist this man is likely to be.

As attorney general, Judge Souter was a staunch defender of the right of law-abiding citizens to be protected against society's criminal element. He demanded respect for State law and those who threatened public order were dealt with firmly and fairly. He was a no-nonsense chief prosecutor for the State, and the citizens of New Hampshire benefited greatly by the attention Attorney General Souter paid to the serious responsibilities of his office.

As a judge, he has written numerous decisions involving important constitutional issues such as freedom of association, due process rights, and protection against unwarranted search and seizure and self-incrimination, as well as legal issues relating to important questions of family, labor, and criminal law. What this record establishes clearly is that David Souter is a careful, precise, keenly intellectual jurist who believes in the court's limited constitutional role as the interpreter, rather than the creator, of law. He accepts and applies traditional standards of statutory and constitutional interpretation by referring to "the plan meaning of the language employed," and in constitutional cases, he applies "the clear rule that 'the language of the Constitution is to be understood in the sense in which it was used at the time of its adoption.'"

In a response to a question on the Judiciary Committee's questionnaire regarding his general approach to judging, Judge Souter said:

> The obligation of any judge is to decide the case before the court, and the nature of the issue presented will largely determine the appropriate scope of the principle on which its decision should rest. Where that principle is not provided and controlled by black letter authority or existing precedent, the decision must honor the distinction between personal and judicially cognizable values. The foundation of judicial responsibility in statutory interpretation is respect for the enacted text and for the legislative purpose that may explain a text that is unclear. The expansively phrased provisions of the Constitution must be read in light of its divisions of power among the branches of government and the constituents of the federal system.

Mr. President, in that statement and in terms far more eloquent that I could muster, Judge Souter has aptly described the approach to judging that I look for and highly approved in any nominee to serve on the Federal bench but particularly so for nominees to the Supreme Court. On that basis, I feel confident that David H. Souter is eminently qualified and will be a very able Associate Justice of the Supreme Court. I hope he will be overwhelmingly confirmed.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, since we are about to conclude the debate on Justice Souter, I wish to take this opportunity to express my deep appreciation to several members of my staff who have done such a fine job preparing for the hearings, during the hearings, for floor consideration today. They are Terry Wooten, who is chief counsel and staff director on the Judiciary Committee; Melissa Riley, who does outstanding work in connection with the judges on the committee; Duke Short, who is now my chief of staff but formerly was in charge of nominations and continues to take a great interest in this work; and Melinda Koutsumpas, the minority chief clerk whose efforts were very beneficial. I thank them for their good work.

I also commend several members of Senator BIDEN's staff who have been cooperative and helpful during this process: Jeff Peck, Ron Klain, and Diana Huffman.

Senator BIDEN and I have a fine relationship. Our staffs have a good relationship, and it is very nice that we can all work together.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Delaware is recognized.

Mr. BIDEN. I believe the Senator from New Mexico has indicated that he would like to speak to this nomination.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I will vote for the nomination of Judge David Souter for a position on the Supreme Court. My vote is determined by two considerations:

First of all, the information which has come out during the hearings on Mr. Souter's nomination in my view has been favorable to him. Based on his intellectual capacity, education, and his reputation for integrity, he

seems eminently qualified to serve on the Supreme Court.

Second, I firmly believe that the Senate's responsibility is to give its consent to a President's nominee unless there is a basis in the record of the nominee that renders him unfit for the position to which he is nominated.

Many are apprehensive about Judge Souter's views on the right to privacy and, more particularly, about his views on the right of a woman to choose to have an abortion. I share those concerns and I hope that he will have the wisdom to leave established law in place on that extremely sensitive issue.

I believe my duty under the circumstances is to give him the opportunity to exercise his judgment. I fervently hope, as do many of my colleagues, that judgment proves to be good.

I thank the Chair. I yield the floor.

Mr. BIDEN. Mr. President, there is an additional colleague who wishes to speak, and I am told that he is on his way to the Chamber. I believe that will be the last person to speak until we have the closing statements by the distinguished Senator from New Hampshire [Mr. RUDMAN] and the majority leader.

So while we are waiting for the Senator to arrive, I suggest the absence of a quorum.

Mr. THURMOND. Mr. President, if the distinguished Senator will withhold, I would like to take this opportunity to commend Senator RUDMAN for being so active in behalf of Justice Souter. I do not think I have known any Senator in my 36 years here who has taken more interest in a nomination than has Senator RUDMAN. They have been friends for many years. They know each other well. His opinion, I am sure, has had a great influence on many other Senators.

I just want to pay him that tribute and tell him he has done a fine job in connection with this nomination.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Thank you, Mr. President. I will not be long, because I know that my colleagues wish to get on with this matter.

Mr. President, as I said earlier in the Senate Judiciary Committee, I will consent to the nomination of David Souter to be the next Justice of the United States Supreme Court. In debating this nomination and Judge Souter's qualifications, the U.S. Senate carries out one of its most profound responsibilities.

The President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint * * * Judges of the Supreme Court."

Those 20 words are in article II of the Constitution, and they lay out the guidance for the President and the Senate as we come together to select members of the Judiciary. In confirming judges, we should neither rubberstamp the President's choice nor make the process partisan.

I think the Judiciary Committee has fulfilled its responsibility with care and deliberation. Chairman BIDEN deserves a great deal of credit for this. Senator THURMOND, too, deserves credit. Others have done a tremendous job as well. Senator RUDMAN went to every one of his colleagues, both Democrat and Republican, who had any question whatsoever about this nomination. He very frankly and honestly filled us in.

Whenever the Senate completes its work of advice and consent, I always ask myself whether we have served the Constitution and the American people in confirming or rejecting a nominee. In this case, we probed deeply into Judge Souter's professional and intellectual qualifications. But we always do.

I will put into the RECORD some of my findings of his qualifications.

I just want to take a moment to talk about "Advice and Consent" because some people lose sight of exactly what that means. There was some grumbling even in the Judiciary Committee that the Senators asked too many questions. I thought the questions were tough and probing, and fair and thorough, as they should be. Some used the time to talk about past confirmations, but most Senators asked significant, difficult, probing, and exhaustive questions.

Advice and consent in the Constitution demand thorough questions. It does not demand excuses for asking them. We demean ourselves and we demean the Constitution if any of us apologizes for asking thorough questions.

The more answers we get, the more the American people know about an individual, especially an individual who will make important decisions about our lives and our country; and the better the Constitution is served. The Court and the Constitution were well served by the Senate hearings on Judge Souter. This body, the U.S. Senate, was also well served and I believe, through it, the American people.

We understand that the framers of the Constitution and the Bill of Rights did not entrust certain fundamental liberties entirely to the good intentions of the executive and legislative branches. For that reason, we have an independent judiciary. And we Senators are the ones who have to make sure that we preserve that.

So let us never make excuses for upholding the Constitution through advice and consent. After all, we take an oath of office to do just that. It is an obligation none of us should ever forget. We want members of the Judiciary Committee to take that to heart in probing the nominee's views on constitutional law. We asked whether Judge Souter will respect the fundamental rights and liberties that Americans have fought for two centuries to preserve.

Over the last 2 months since Justice Brennan resigned, we have reviewed every aspect of Judge Souter's judicial and legal career. We have questioned him about his tenure in the Attorney General's office, his years in the New Hampshire State courts, and his current views on a wide range of legal and social issues. The committee concluded, in a strong bipartisan vote reflecting the thoroughness and quality of the hearings, that Judge Souter should be confirmed.

I will not go back through all of this. I will put that in the RECORD.

I have said before I do not believe that Judge Souter has answered all my questions, to the extent that I wish he had. But he has demonstrated a belief in the Constitution and a willingness to approach issues fairly. He is not, in my mind, an ideologue.

If we offer our consent to President Bush's nominee, as I believe we will, he will be entrusted with the awesome responsibility that Justice Brennan fulfilled so well, so nobly, and so magnificently.

As the honorable man that I believe he is, Judge Souter is not going to forget the valuable lesson he learned as a trial judge, that the decisions he will make will have an impact for the rest of the life on an individual and sometimes on many individuals.

So through us the American people express their faith in Judge Souter's ability to preserve the essence of the American tradition. My vote today represents my faith that he is a nominee worthy of that trust.

The Senate must take great care in asking questions during confirmation hearings because the individual who ascends to the Supreme Court this term will help to mold the course of American jurisprudence well into the next century. As we look ahead we will lose much of that little message on the American penny—E Pluribus Unum, bringing from the many, one; bringing from diversity, a unity of purpose and spirit—if we do not preserve the quality, dignity, and independence of the Supreme Court.

Time after time, throughout our history, when other branches of Government were either unwilling or unable to protect fundamental rights, Americans have turned to the courts and, ultimately, to the Supreme Court. It would be a foolish dereliction of our duty to give any nominee this power without understanding—as fully as we can—where the nominee thinks the Court should go. Our advice and consent structure epitomizes the framers' genius for the separation of powers,

which guarantees the protection of the freedoms in our Constitution.

To maintain this historical role for the Court, it is up to both the White House and this body, walking separate but parallel paths, to chart the future course of judicial selection. Presidents consistently should pick nominees from the very large list of able, experienced, tested, and well-known men and women whose lives make them natural choices as protectors and expositors of the Constitution. The ultimate critics or our advice and consent task are the American people, and their oversight is utterly impossible if this Senate performs nothing more than polite or perfunctory review.

What are the factors the Senate must consider during the advice and consent process?

The threshold qualifications are competence, honesty, and integrity. Judge Souter's record, combined with his performance in 2½ days of testimony, convinces me that he is intelligent, learned, forthright, and honorable. But those attributes are no more than prerequisites for the job, and mark only the beginning of our deliberations.

We must also ask whether Judge Souter will respect the fundamental rights and liberties that Americans have fought for two centuries to preserve.

Does Judge Souter accept the first amendment as protecting our right to speak and worship as we believe, to articulate our grievances and express them to our Government, and to benefit from a free press?

Does Judge Souter respect the freedom from government interference in our private lives that Americans have come to expect and enjoy?

Does Judge Souter commit himself to ensuring that the rights and opportunities that uniquely characterize our society will be equally available to all, regardless of race or gender?

After listening to Judge Souter at the confirmation hearings, examining his writings and speaking privately with him twice, I decided to support his nomination.

Mr. President, that decision was a difficult one. Judge Souter did not give the committee all of the answers—either in content or breadth—to which I believe the Senate is entitled.

I questioned Judge Souter extensively about his views on the establishment clause of the first amendment and remain troubled that he would not commit himself to Jefferson's idea of a "wall of separation" between church and state. I trust that if Judge Souter is confirmed and called upon to consider the establishment clause, he will keep in mind our discussion of the poignant experiences of his friends WARREN RUDMAN and Tom Rath or the similar experience that my friend from Vermont, Jerry Diamond, described in his appearance before the committee.

I trust Judge Souter will understand that government has no business flying flags at half-mast on Good Friday, and will recognize that the moral and religious beliefs of Americans, even small minorities, must not be disparaged by the state as "mere whimsy." The first amendment has made this Nation tolerant, united, and strong. I do not believe that Judge Souter will view this legacy lightly.

I remain troubled by Judge Souter's reticence in answering questions on the scope of fundamental privacy rights. In response to my question about whether Roe versus Wade is settled law, Judge Souter declined to respond, saying he drew "a fine line" at Griswold versus Connecticut.

That line was the wrong line. Although we do not expect a judicial nominee to comment on a specific case before the court, the public we represent should know how the nominee regards fundamental rights.

While he refused to comment on Roe versus Wade, Judge Souter assured us that he would not approach challenges to this important case with any agenda or preconceived ideas about the results. The majority of Americans expect that David Souter will share their view that decisions about reproduction are best left to the individual. This is one realm of life where the State has little interest or right to interfere.

Judge Souter spoke movingly about an incident in which he counseled a young woman who was contemplating a self-induced abortion. I hope Judge Souter learned that day that while abortion decisions are traumatic under any circumstances, abortions in the pre-Roe era were dangerous, beyond the means of most women, and often life-threatening. American women cannot be plunged into the dark ages ever again.

I wish there would never be the need for another abortion, but that is a decision for a woman, not for a legislature or a court. During the hearing, I reminded Judge Souter of my own experience with illegal, pre-Roe abortion. As a prosecutor in Vermont, I received a call from the police. It was 3 o'clock in the morning and a woman in the emergency room of the local hospital had nearly died from a botched abortion.

I prosecuted the man who arranged for this and other women to travel from Burlington, VT to Montreal for abortions performed by a nurse who learned her trade from the SS at Auschwitz. This nurse nearly killed a young woman, who ended up sterile. And this woman was not the only victim. Several other women, after having abortions performed illegally, were blackmailed for money or sex by the man who arranged the dangerous procedure. Quite a racket.

Abortion is not an easy question, but none of us wants women to endure this pain and exploitation again. Let us be realistic, if abortion is outlawed again, women will retreat to back alleys and back rooms where they will be vulnerable to the kind of piranha I prosecuted in Vermont. Judge Souter and I discussed this incident during the hearing. I hope he will not lose sight of its message.

I also believe that Judge Souter will not approach constitutional questions as a strict constructionist. Judge Souter recognizes that the equal protection clause was properly applied in the landmark case of Brown versus Board of Education, that the Constitution protects unenumerated rights, and that changing social attitudes and traditions must be considered in identifying such rights.

Another area that disturbed me was Judge Souter's role as New Hampshire attorney general when 1,414 protesters were arrested at the site of the Seabrook nuclear powerplant in 1977. I questioned Judge Souter about the State's establishment of a private fund to help finance its costs. I was alarmed that the utility donated $74,000 to the fund, while the prosecutions were pending. This arrangement evoked images of "rent-a-prosecutor."

Attorney General Souter—as the chief law enforcement officer in charge of the prosecutions—should have prevented an interested party from influence the judicial process. I welcomed Judge Souter's remarks that he now understands he should have opposed the fund.

Nonetheless, Mr. President, Judge Souter demonstrates that he approaches issues fairly and reveres the Constitution. Once confirmed, Judge Souter will take the seat of Justice William Brennan. Justice Brennan is a remarkable jurist, who will long be remembered for his fierce, unyielding support of individual rights—even in the face of popular prejudice and scorn.

At critical moments in history we have depended on the Supreme Court—and justices like William Brennan—to be our unifier, to being together a divided society, to bridge deep gulfs in understanding, to help explicate complex problems thrust on us by modern times. As Judge Souter acknowledged during his confirmation hearing, "Justice Brennan is going to be remembered as one of the most fearlessly principled guardians of the American Constitution that it has ever had and will ever have."

As a Supreme Court Justice, David Souter will serve as the guardian of the liberty and cherished freedoms of all Americans.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I thank the Chair.

Mr. President, first let me say in all sincerity, that I have no words to express my thanks to the chairman of the Judiciary Committee, Senator BIDEN of Delaware, and the ranking member, Senator THURMOND of South Carolina, for their unfailing courtesy through a rather interesting, and I would say, difficult period for my friend, David Hacket Souter.

The conduct of the hearings was scrupulously fair and thorough. I think in many ways, they set a standard on both sides of the dias, for what hearings should be.

I also want to pay a particular note of thanks to two people who also went the extra mile to make it possible for David Souter to get to those hearings, feeling that all of the logistics of the details had been prepared. They are Diana Huffman of Senator BIDEN's staff, and Duke Short of Senator THURMOND's staff. To all others, I give my personal thanks.

To my colleagues, I would say it is a unique situation in which a nominee to the U.S. Supreme Court happens to be one of the dearest and closet friends of a Member of the U.S. Senate. That is a unique situation. To all of my colleagues who came to me to ask questions about the nominee, I tell you now as I told you then, I have tried to be frank and candid and direct, as we expect of each other.

Mr. President, I can only think back to a day 20 years ago when I met a young man as an assistant in my office, when I became attorney general of our State. I recognized how extraordinary he was soon after I met him. And the most extraordinary thing for me standing here today is that in 1973 I had a conversation with him, which I remember very distinctly. After he had done an extraordinary piece of work, I remember saying to him, "I do not know what you your future will be, I do not know what path you have charted for your life, but it seems to me that you ought to have an interest in being on the bench. Hopefully the State bench and maybe someday the Federal bench."

I remember saying very clearly: "And when you get there, as I expect you will, I hope you will aspire to the highest possible place that you can be," never thinking, Mr. President, that I would be given the privilege by the Republican leader, which I appreciate, of giving the closing remarks in behalf of my very dear friend on this very special October day.

Mr. President, David Souter is my friend. I have trusted him, I have respected him, and I like him. He has made all of us, who know him, think, and to laugh, and to reflect. When I became attorney general of New Hampshire, our office was small. He helped me build it to one of the top law firms in the State. He succeeded me and excelled what I did.

He did so by recruiting a staff of extraordinarily talented young men and women, some of them who the committee heard from, who are hired on the basis of talent, not politics or ideology. He had a staff that was the envy of the law firms of the region. Those lawyers today are judges, public servants, and partners in major law firms in New Hampshire and across the country.

David Souter served with great distinction as a judge. Everyone who practiced before him lauded his fairness and his wisdom.

Moveover, I believe that his days as a judge on the trial court impressed upon him some very interesting lessons. One of those, I think struck all members of the committee, when he said it. I will quote it from those hearings. He said:

> When those days on the trial court were over, there were two experiences that I took away with me and the lessons remain with me today. The first lesson, simple as it is, is that whatever court we are in, whatever we are doing, whether we are on a trial court or in an appellate court, at the end of our task some human being is going to be affected. Some human life is going to be changed in some way by what we do.
>
> The second lesson that I learned is that if we are going to be judges, whose rulings will affect the life of other people, we had better use every power of our minds and our hearts and our beings to get those rulings right.

During the hearings, the Senator from Wisconsin [Mr. KOHL] asked David Souter why he wanted to sit on the Supreme Court. After noting with absolute candor that he did not seek the position, David Souter said:

> I want to try the best I can to exercise that responsibility to give the Constitution a good life in the time that it's entrusted to me, to preserve that life and to preserve it for the generations that will be sitting in this room long after you and I are gone.

That struck me as one of the most eloquent statements I have ever heard in my days of public service. His devotion to the Nation and its constitutional principles were made clear when he said this, in answer to a question:

> I would not be true to my own sense of constitutional principle if I did not say that the Senate ought to be looking for someone who, in going through the very difficult process sometimes of seeking constitutional meaning, would seek for something outside that judge's personal views for that moment, who would seek to infuse into the Constitution a sense of enduring value, not of ephemeral value, and who would try to rest the process on as objective an inquiry as can be possible for these massive and magnificent generalities that are committed to us.

Mr. President, that is the kind of a Justice of the U.S. Supreme Court that this Nation sorely needs.

As those of us from New Hampshire have known for many years, and millions of Americans came to realize when he testified before the Judiciary Committee, this is the kind of Supreme Court Justice we will get in David Souter. His life has been rooted in our rocky soil and nurtured by a lifelong commitment to public service. David Souter is a good person—one who will bring honor to the Supreme Court and to our constitutional system.

So, Mr. President, it is with unbounded enthusiasm and with conviction that I consider it a special privilege today to urge my colleagues to join me in voting for this magnificent man from New Hampshire.

I thank the Chair.

Mr. BIDEN. Mr. President, while we are waiting for the majority leader, let me just say that David Souter is indeed fortunate to have such a friend.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I begin by commending the distinguished chairman of the Judiciary Committee, Senator BIDEN of Delaware, for the fair and thorough manner with which this nomination was considered. And, also, the members of his staff, most especially Ron Klain, who did an outstanding job in organizing the hearings and organizing the prompt action by the Senate.

I also commend my thanks to the distinguished ranking member of the Judiciary Committee, Senator THURMOND, and of course to Senator RUDMAN, whose support for, sponsorship of, and diligent effort on behalf of the nominee, has in my view been a major factor in the reception received by the nominee in the Senate.

I will say in all candor that the fact that Judge Souter has a long history of association with Senator RUDMAN and is strongly endorsed by Senator RUDMAN was an important factor in my own consideration of this matter, and I know the same to be true of all of the Members of the Senate who so respect our distinguished colleague from New Hampshire.

Mr. President, I will vote to confirm the nomination of Judge David Souter to the Supreme Court of the United States.

I do so not because I feel confident that I can predict his future course on the Court. Rather, because I believe that in outlining the broader framework within which he views constitutional protections and the responsibil-

ity of the judiciary to adjudicate cases, Judge Souter reflected a reasoned approach and a sound understanding of the Constitution.

In a discussion with the committee chairman about the development of the Bill of Rights, Judge Souter made the following observation:

> * * * the starting point for anyone who reads the Constitution seriously is that there is a concept of limited governmental power which is not simply to be identified with the enumeration of those specific rights or specifically defined rights that were later embodied in the bill [of Rights].
>
> If there were any further evidence needed for this, of course, we can start with the Ninth Amendment. * * *
>
> * * * it was * * * an acknowledgment that the enumeration [or rights in the Bill of Rights] was not intended to be in some sense exhaustive and in derogation of other rights retained.

I agree with that statement and the approach to the Constitution that it reflects. Our Constitution was not written to prescribe specific remedies for particular problems. It was, rather, intended to prevent a concentration of power by any group or individual so as to preserve the liberties of the people.

In his testimony, Judge Souter acknowledged the responsibility of the Court in fulfilling that purpose. He said, "* * * courts must accept their own responsibility for making a just society." Judge Souter repeatedly acknowledged that the rights of Americans are not exhausted by the specific rights listed in the text of the Bill of Rights, but that they also include rights implicit in the text of the Constitution.

He made it clear that what is implicit in the text of the Constitution is not limited to the particular factors present at the time of writing, but includes broader principles.

His interpretation, as he put it, is not that original intent is determinative, but original meaning.

He said, for example, "If you were to confine the equal protection clause only to those subjects which its framers and adopters intended it to apply to, it could not have been applied to school desegregation," because those who wrote and adopted the 14th amendment lived at a time when segregated schools were the standard.

He went on to say, "What we are looking for, when we look for original meaning, is the principle that was intended to be applied * * *."

The distinction Judge Souter drew between original intent and original meaning is a useful distinction. It permits the underlying principles to be applied to new needs without limiting the broad rights of our people today to the political or social circumstances of the 18th or 19th centuries.

Judge Souter's understanding, in particular, of the significance and reach of the 14th amendment in the constitutional system reflects an understanding of our Nation's history and of the central role that the tragic fact of racial prejudice has played in our history.

Judge Souter said no social problem is "* * * more tragic or demanding of the efforts of every American in the Congress and out of the Congress than the removal of societal discrimination in matters of race * * *." He also said, in response to a question about judicial activism, "The obvious and significant fact of history * * * is the adoption of the 14th amendment."

As we all know, Judge Souter declined to address specifically the question of abortion and the Court's past rulings on that matter. He acknowledged a core right of privacy but would not be drawn into discussion of how broad or how enforceable against government such a right would be.

For that reason, those who are particularly concerned that the Supreme Court may in the near future dramatically tighten or even reverse the right of a woman to choose to terminate a pregnancy have suggested that Judge Souter's nomination ought to be rejected.

I respect the view that this factor is so central that no other factor should be considered. But, on reflection, I do not share that view.

The hearings focused to a substantial degree on the subject of privacy.

That is understandable at a time when developments in medicine and technology are altering our ability to intervene medically to save and prolong life and to intrude technologically into the most private recesses of individual thought and behavior.

There is little doubt that future cases before the Supreme Court will develop the legal boundaries of privacy, individual autonomy, conscience, and related concepts.

Advances in genetics have already raised questions about the legal ownership rights an individual may have to his or her physical body. Advances in voice transmission have raised questions about the expectation of a privacy in conversations conducted over certain telephone equipment. Medical advances have raised the exceedingly difficult issue of the State's relationship to an individual's death from natural causes.

But while this new and expanding area of law will continue to play a central role in the development of constitutional doctrine and the protection of individual rights, we must remind ourselves that the Supreme Court is not the sole source of legal development in the American system.

The Congress and the executive branch also have their responsibilities in meeting the new challenges that face our society.

I said at the outset that I do not have a feeling that I can predict how Judge Souter would vote on cases that may come before him on the Supreme Court.

I have, therefore, rested my decision on his nomination on the approach that he uses to determine the source of individual liberties, the breadth with which he sees constitutional guarantees, the emphasis he places on the structure of the constitutional system and its purpose, and the criteria he would use to determine if an individual liberty is enforceable against the government.

These factors do not give me an infallible guide as to his future rulings. But they do not give such a guide to anyone else either.

Those who argue that Judge Souter should be opposed because they are certain they know how he will vote have no objective basis for that certainty.

But there is one certainty over which there can be no dispute: No matter what the pressing controversy of the moment is, Judge Souter or any other nominee will occupy a seat on the Supreme Court for many years after the hot controversies of today are settled law.

I believe that if Judge Souter brings to those future controversies the breadth of experience, understanding, and the careful judgment which his testimony before the Judiciary Committee reflected, then his decisions in those cases will continue to reflect the fundamental American constitutional tradition.

For those reasons, I shall vote to confirm his nomination.

Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of David H. Souter, of New Hampshire, to be an Associate Justice of the Supreme Court of the United States? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 9, as follows:

[Rollcall Vote No. 259 Ex.]

YEAS—90

Armstrong	Boschwitz	Coats
Baucus	Breaux	Cochran
Bentsen	Bryan	Cohen
Biden	Bumpers	Conrad
Bingaman	Burns	D'Amato
Bond	Byrd	Danforth
Boren	Chafee	Daschle

DeConcini	Humphrey	Packwood
Dixon	Inouye	Pell
Dodd	Jeffords	Pressler
Dole	Johnston	Pryor
Domenici	Kassebaum	Reid
Durenberger	Kasten	Riegle
Exon	Kerrey	Robb
Ford	Kohl	Rockefeller
Fowler	Leahy	Roth
Garn	Levin	Rudman
Glenn	Lieberman	Sanford
Gore	Lott	Sarbanes
Gorton	Lugar	Sasser
Graham	Mack	Shelby
Gramm	McCain	Simon
Grassley	McClure	Simpson
Harkin	McConnell	Specter
Hatch	Metzenbaum	Stevens
Hatfield	Mitchell	Symms
Heflin	Moynihan	Thurmond
Heinz	Murkowski	Wallop
Helms	Nickles	Warner
Hollings	Nunn	Wirth

NAYS—9

Adams	Burdick	Kerry
Akaka	Cranston	Lautenberg
Bradley	Kennedy	Mikulski

NOT VOTING—1

Wilson

So the nomination was confirmed.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Disturbance in the Visitors' Galleries.)

Mr. BYRD. Mr. President, may we have order in the Galleries?

The PRESIDING OFFICER. The Galleries will refrain from any noise. Order will be restored.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has confirmed the nomination of Judge David Souter.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. FORD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE INTERNATIONAL FUND FOR IRELAND

Mr. KENNEDY. Mr. President, the International Fund for Ireland has now been in operation for 4 years. In that time, it has grown from a hopeful idea in the Anglo-Irish Agreement on Northern Ireland in 1985, through a troubled initial phase, to what it has become today, a worthwhile participant in the search for a peaceful settlement of the violence and divisions that have plagued the people of Northern Ireland for over 20 years.

The United States has a substantial interest in promoting this search for peace. After a difficult start, the Fund has turned out to be an effective means for us to help achieve the goal that all of us share for the future of Northern Ireland. Annual appropriations from the United States have played a major role in the Fund's success. An appropriation of $20 million for fiscal year 1991 has strong support in Congress, and I hope that it will be enacted.

From the beginning, the mandate of the Fund was clear—to encourage economic development in the areas most affected by the violence in Northern Ireland. In article 10 of the Anglo-Irish Agreement, the Governments of Ireland and Great Britain pledged to

> Cooperate to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequence of the instability of recent years, and shall consider the possibility of securing international support for this work.

The International Fund for Ireland was subsequently created to carry out this purpose. In the initial phase of its operations, the Fund established seven key programs:

First, two investment companies operating according to strict commercial criteria;

Second, a business enterprise program to stimulate job creation;

Third, an urban development program to revitalize town centers, including 24 towns in Northern Ireland, and 12 in the South;

Fourth, a tourism program to develop one of the region's principal industries;

Fifth, an agriculture and fisheries program to stimulate new enterprises;

Sixth, a science and technology program to emphasize practical research likely to lead to early economic benefits;

Seventh, a wider horizons program to encourage new skills through practical work experience, training, and education overseas.

At the outset, however, the Fund had difficulty in developing and implementing its mission. Projects were funded that were difficult to justify on the basis of the priority intended to be given to areas most affected by the violence. These areas include over a third of the population of Northern Ireland, and are concentrated in West and North Belfast, Derry, and along the border with Ireland. As a result of its missteps, the Fund was legitimately and increasingly criticized, and there were growing doubts in Congress about the desirability of U.S. support.

To its credit, the Fund responded to these concerns. A new series of initiatives was developed with special emphasis on disadvantaged areas, and the Fund has received high marks in the past year for its work in implementing these initiatives.

At a meeting of the Anglo-Irish Intergovernmental Conference on September 14, the conferees noted with particular satisfaction the growing evidence of the Fund's success in promoting economic regeneration to the direct benefit of the entire community, particularly in the most disadvantaged areas.

There is tangible evidence of this success. In all, 1,300 projects have been supported by the Fund; 8,000 jobs have been created; and substantial assistance has been made available to disadvantaged areas, with special emphasis on economic development projects in North Belfast, West Belfast, and Derry.

For the vast majority of the people on both sides of the conflict in Northern Ireland, the Fund has become a symbol of hope for a better future. It is helping to reduce the violence, mistrust, and discrimination that have plagued Northern Ireland for too long. In my view, the Fund deserves credit for resolving its early difficulties. It is coming into its own today, and it deserves continued support from the United States.

Mr. President, a four-part series of articles by Niall Kiely in the Irish Times last August provides an excellent analysis of the Fund. I believe that the articles will be of interest to all of us in Congress, and I ask unanimous consent that they may be printed in the RECORD, along with a subsequent editorial in the Irish Times.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Irish Times, Aug. 20, 1990]

FUND'S U.S. BACKERS DISAPPOINTED BY DUBLIN

(By Niall Kiely)

Beset by radical critics drawn from the ranks of Sinn Fein supporters in the United States, the International Fund for Ireland could have done without this year's unpublicised differences between the Irish Government and its most important supporters, the Friends of Ireland (FoI) group in the American Congress and Senate.

It was doubly unfortunate that it was the Government's absorption in Ireland's six-month EC presidency that proved instrumental in ruffling feathers on Capitol Hill. As 1992 nears, and the Euro-USA trade disagreements take on more rancorous forms, American aid to Community member-states has become increasingly vulnerable.

Although the Minister for Foreign Affairs, Mr. Collins, finally stepped into the breach in June with a warm speech of thanks to the board of the IFI, some of the fund's staunchest backers in Washington regarded the Minister's effort as rather little, and delivered pretty late in the day. The pressure of local criticisms, however unjustified most of them probably were, had taken its toll of FoI enthusiasm and the image of the fund had been belittled and smeared.

The critics were both forthright and cunning. The campaign was co-ordinated by prominent figures in Noraid, the Irish American Unity Conference and the Ancient Order of Hibernians. Their tactics were standard practice in modern American politics: identify vulnerability, distort some facts if necessary and paint the critical slogans with broad, populist strokes. As tactics go, it can be difficult to counter such have-you-stopped beating your wife attacks, and in the event, the response of the IFI and its official backers proved dilatory and hapless.

In effect, the fund's supporters in Dublin and London were up against the bare-knuckle gougers against whom they fielded nobody with the street-smart nous or official authority to slug back appropriately. British diplomats in Washington have always had difficulties dealing with contentious issues involving the Irish-American community, not least because their accents and perceived cultural values grate on the sensibilities of Americans with green-and-white views on the North. This factor in practical terms left defence of the IFI and its American funding largely to the Irish embassy.

The staff in Washington, particularly the political counsellor, Brendan Scannell, who laboured mightily on the Hill to counteract the efforts of the anti-fund lobbyists, did their best—and to notable eventual effect. Whatever distress signals they sent back to Dublin, however, made little impact on a Government engrossed in its half-year task of Community presidency. The summits, the shuttling and the time-consuming pomp and protocol took apparent precedence over what may have seemed a storm in a Washington teacup.

"The emphasis was all 'Europe,' Europe at the time and whatever it was the embassy did, it didn't get the big guys in Dublin off their asses," says one seasoned observer of Irish-American politics. "It left a clear feeling (in Washington) that the Irish Government hadn't done enough to counteract the charges against the fund and back up its friends. There was also a sense in the States that the Government was taking the Irish-American lobby's support for granted."

Nor could the fund and its operators in Dublin and Belfast escape all the flak. Their intent was admirable when they tried briskly from the start to get money out on the ground and produce results; and it made practical sense to avoid creating an expensive administrative tail, instead piggybacking on existing official networks, North and South. One result, perhaps inevitable, of all this hustle and hurry was that the mesh of IFI's check-and-balance net was never particularly fine.

And there may have been an element of innocence by well-meaning public servants who believe that because they were basically doing good works, such small mistakes as cropped up would be understood, corrected and forgiven: but that was naivety indeed by people who underestimated the determination of the critics who waited in ambush.

It was not just that some specific projects were funded which offered near-perfect material for the critics to exploit, such as the facelift for an AIB frontage in Strabane, or that ventures were assisted which invited apparently reasonable censure on the grounds that they were frivolous, "unsuitable" or already had recourse to private/public cash; it also transpired that the fund's defenders failed to justify with sufficient vim and rigour its *raison d'etre* and operating principles.

"Frankly, the (IFI) secretariat seemed to be clueless when it came to reacting to the criticisms of the fund's work," one well-connected Washington source told *The Irish Times* "You wouldn't have to be paranoid about Noraid to see them coming a mile off. Their connections are public and they certainly would like to destroy the Anglo-Irish Agreement, but the secretariat not alone let them make all the running—they floundered around the place when it came to hitting back."

It was not appreciated in Dublin or London how relatively insignificant an issue the IFI was, even for the committed FoI men, considered in the context of a year in their political lives, the source added. "These guys in the House (of Representatives) and Senate reckoned they'd done their bit by getting the money. Then they found themselves being sniped at—and by other Irishmen!," he explained, "Their attitude was: if the Israelis got another 20 million bucks, you wouldn't get some of them bitching later about how a few thousand was misspent here and there."

[From the Irish Times, Aug. 21, 1990]

TAKING ISSUE WITH THE "WELL-HEELED" AIR OF FUND PROJECTS

It's a long way from Ballymurphy to Stormont. As the crow flies, probably only a handful of miles, but the contrasts are not just the blatant ones. The gulf separating the Rev. Des Wilson and Irvine Devitt has much more to do with background, personal philosophy and Northern nuance.

Devitt is one of the joint directors general of the International Fund for Ireland (IFI). His room in the monolithic former parliament building in east Belfast is beside what used to be the Northern Ireland prime minister's office in pre-1972 days. In Dublin, his counterpart is Donal Hamill of Foreign Affairs who operates from an office in Iveagh House: St. Stephen's Green, Wilson might reasonably argue, is also some distance from Ballymurphy.

The sincerity of all three men could not be doubted, yet they hold diametrically opposed views on the fund and its application. A serious link between their positions is provided in the bulky shape of John McGuckian, who was appointed last autumn to a three-year term as IFI chairman. A successful businessman in his late 40s, McGuckian was once taught by Father Wilson and still admires him.

Sitting in the homely but down-at-heel Springhill community house, set in a west Belfast housing estate where jobless figures are so high as to be almost meaningless as statistics, it is easy to understand how the 55-year-old priest finds much of the IFI's funding priorities anathema. He considers tourism, for instance, to be an already well-heeled and oversubscribed industry "that produces the lousiest jobs and the most anti-social hours;" he is bitter after a lifetime watching funds either misspent or not spent at all in Catholic working-class areas. And he is angry at the fund's refusal to fund a proposed project in the local Conway Mill.

Devitt, whose background was in the textile industry and with the NI Development Board (NIDB) before joining the department of commerce, has a simple explanation: although the IFI's day-to-day operations are independent and impartial, the British and Irish Governments do have an ultimate veto on any project considered unsuitable, and London exercised that veto on the mill. (A House of Commons answer last December stated that the mill had been refused public funds ". . . because of the nature and extent of paramilitary influence within the Mill.")

The "leverage concept" finds its way into much of Irvine Devitt's defence of the fund and its operations. He understands how the Americans in particular appreciate the concept of using public funds to lever further investment from private enterprise and local communities. In the North, the IFI has used its cash to encourage back-up financing from the Local Enterprise Development Unit (LEDU), the local councils, the Departments of Environment (DoE) and agriculture and community groups.

He describes as rubbish the claims of fund critics that most of the IFI spending in the North is east of the Bann, and that funding has favoured the Protestant community disproportionately. "There's no secret about the projects. Thirty-five per cent of the population lives in disadvantaged areas, and about 70 per cent of our spending has gone into those areas," he says. "And I'd reckon myself that the population is 80 to 90 per cent Catholic in the locations involved".

The emphasis has been on promoting an "enterprise culture" in which people who wish to start up or diversify in business can get assistance varying from workspace to training, expert advice to cash. Established and new enterprise centres have taken much of the IFI's Northern spending, with each disadvantaged area receiving £50,000 over two years to pay for a development officer whose role is to help local communities identify and develop suitable projects.

McGuckian believes that the American politicians who were instrumental in securing the initial US funding for the IFI understood perfectly well why the administrators had to concentrate during the first year or so on private enterprise companies and individuals: it was essential to get the money working quickly, and it took time to establish mechanisms through which suitable and realistic community schemes could be found and encouraged. "One of the problems was and still is to get good, viable projects in the disadvantaged areas where they were and are most needed," he says. "But as we got programmes underway and learned more ourselves, we got the development consultants out on the ground to research and recommend the right types of projects."

Devitt stoutly defends tourism projects as justifiable schemes for IFI assistance. "Sure, these schemes are easy targets," he agrees, "but economic regeneration is the name of the game. Take our assistance towards the building of the Plaza "budget" Hotel in central Belfast. The 10 per cent of costs we provided at a crucial stage nudged that project towards reality. Now consider

what that hotel will mean: there will be great employment during construction, it will probably be staffed by people from west Belfast, it will bring visitors to Belfast—and it will bring confidence to the city."

He believes the IFI's work has already begun to have practical effect. "I think the impact is now visible on the economic and social landscape of the North of Ireland. If you look honestly at Derry and Belfast, you'll surely agree that there are signs of confidence in both cities. Because of that, and with the help of our projects, I feel other towns will follow suit."

Last year, five of the IFI's six directors were replaced to coincide with McGuckian's arrival. The likes of Mr. Neil McCann, the Dublin fruit importer; Mr. Paddy Duffy, the Co Tyrone solicitor, Belfast merchant banker, Mr. John Craig; Mr. Pat Kenny, of accountants Deloitte Haughey Boland; retired Stormont civil servant Mr. Denis Calvert, and Fruit of the Loom MD, Mr. Willie McCarter from Buncrana, give of their time unstintingly to the fund.

None does so with more alacrity than McGuckian who also manages clothing and property interests, a farm and is a director of AIB and several other companies including some in the U.S. He is also pro chancellor of Queen's University, Belfast, deputy chairman of Ulster Television and vice-chairman of Laganside Corporation, a government body promoting the development of inner city Belfast.

It is impossible to doubt his conviction when he explains his motivation for devoting two and sometimes three days of his working week to IFI business. "The reason I'm involved is because it seems to be a chance to ease the misery, unemployment and deprivation in the most disadvantaged parts of this country," he says. I'm also hoping to help in a process that may bring peace in Ireland.

[From the Irish Times, Aug. 22, 1990]

FEW ATTACKS ON FUND DISBURSEMENTS STAND UP TO SCRUTINY

The most celebrated and trivial item of notoriety associated with the International Fund for Ireland (IFI) was certainly the cash allocated towards refurbishing the frontage of the Allied Irish Bank branch in Strabane, Co. Tyrone. Typically, Sinn Fein's allies in the United States got it half-right when they alleged that the fund had paid $10,000 to help to pay for the facelift.

In fact, the sum involved was $2,500 and it had seemed justified under the terms of the urban development programme in operation by the IFI at that time (four years ago). It was never used because an embarrassed AIB refunded the money. The grant-aid was ill-advised, perhaps, but scarcely scandalous.

"I'm sure we took some wrong options, and only a fool would say we didn't make some mistakes but we didn't make all that many," says the Co. Antrim businessman, Mr. John McGuckian, who has been fund chairman since last October. "There were very few things we couldn't defend in some way, but with the benefit of hindsight, we could have avoided some difficulties that arose later. Given that we have been or are involved in 1,500 projects, some were bound to be less than perfect.

He will not accept that the fund's checking of applicants has failed because it has steadfastly refused to develop an expensive and cumbersome bureaucracy of its own, relying instead on a secretariat drawn from officials in Dublin and Belfast. "There are other benefits for this arrangement, also, in that people from both sides of the Border at all sorts of levels are working well together," he says, adding with a rare but undisguised sarcasm. "Maybe some people wouldn't like that."

Criticisms of the fund have been most stinging from U.S. sources, mainly emanating from a combination of Irish Northern Aid (Noraid), the Irish American Unity Conference and the Ancient Order of Hibernians, although it is difficult at times to keep track of the cross-affiliations and memberships of various critics.

When examined individually and viewed in the context of overall IFI activities few, if any, of the attacks on fund disbursements really stand up to reasonable scrutiny. A potted selection of examples follows:

That the IFI bought the Townsend Street centre in Belfast from the British government but laundered the money through the Catholic Church to obscure the deal. Facts: the centre was purchased from the Northern Ireland Development Board by the centre's enterprise board, a bona fide community group; the IFI has helped in creating some 200 jobs on the peaceline site.

That the IFI financed foreign "junkets". Facts: true but done as part of the fund's "wide horizons" programme to provide training abroad for religiously mixed groups of young people and done specificially to meet the conditions laid down by Canada on the spending of its Can$10 million contribution.

That the fund bought a fishery vessel for the British government. Facts: true, but a research boat being used by the Northern Ireland Department of Agriculture in collaboration with the Department of the Marine in Dublin for the mutual benefit of both fishing industries.

The U.S. General Accounting Office has been very critical of the IFI's management and accountability. Facts: untrue. The IFI agreed to provide improved economic indicators of achievement, and a Peat Marwick study found that the fund was meeting its intended purpose and donor wishes; and the U.S. Agency for International Development, to which the GAO reports, has confirmed to Congress in each of the past four years that the IFI has carried out its mandate.

America is "propping up the Hillsborough deal scam" with the fund "while starving Eastern Europe and doing nothing for sub-Sahara Africa". Fact: this rather gives the game away with its strong implication that the real target of the critics is the Anglo-Irish Agreement signed in 1985 by Dublin and London. The IFI was indeed set up (in 1986) under the framework of the agreement and to give practical expression to its aspirations "to promote the economic and social development of those areas of both parts of Ireland which have suffered most severely from the consequences of the instability of recent years." The annual U.S. contribution to the fund constitutes one-quarter of one percent of the total U.S. foreign aid budget.

Grants have been given to anti-Catholic employers. Facts: the most recent USAID report to Congress on the IFI, dated March, 1990, stated that "disbursements from the IFI are distributed in accordance with the principle of equality of opportunity and non-discrimination in employment, without regard to religious affiliation, and address the needs of both communities in Northern Ireland."

It is worth mentioning in a general sense also, vis-a-vis the Canadian insistence on youth training expenditures, that the US money was provided with the clear understanding that it would, where possible, be utilized to provide practical momentum towards job creation, i.e., to stimulate private enterprise in the direction of "commercial entrepreneurship". Thus, the fund can justify, if such be needed, its provision of grant-aid to private businesses on the grounds that its seed-money helped prompt entrepreneurial activity.

In this context, one final example. It was alleged in the US that Lacey's wine bar, in Coleraine, Co Derry, had received a grant of $100,000 from the IFI before being sold for $½ million at considerable profit. The facts, not surprisingly, are quite at variance with this tale. The bar, located in a rundown area, did indeed receive $100,000 as 30 percent funding and its development provided 25 jobs and stimulated other economic activity in the vicinity. Its owners are indeed considering selling the business, but any new owners will have to repay the IFI grant in full before they will get legal title to the property.

[From the Irish Times, Aug. 23, 1990]

FUND'S ACTIVITIES GENERATING QUITE A BIT OF HOPE AND OPTIMISM

Even his best friends wouldn't describe Mr. Charles Brett as laid back or hail-fellow-well-met. A 61-year-old Belfast solicitor and architectural historian with a lifetime's involvement in public service and the arts, his style might easily be characterised as autocratic and aloof, although nobody would have doubted his capability or his commitment during a three-year term chairing the International Fund for Ireland (IFI).

It was perhaps as well, however, that a knighthood came after the end of his IFI stint last autumn. The longer than usual hair, the natty dress style and an accent honed at Rugby and Oxford could at times have an unfortunate effect, particularly in the United States: having to address the abrassive IFI chairman as "Sir Charles" might have put the tin hat on it even for the fund's staunchest American supporters.

His successor, Antrim businessman John McGuckian, could scarcely be more different. Separated from the *de rigueur* Mercedes and the sober suits, he might perhaps pass for a cheerful, down-to-earth cattle dealer. There is even a certain enthusiastic naivety to his character, a factor which cost him dearly last April when an ABC television news item on the IFI viciously "edited" a lengthy McGuckian interview in a manner which reflected little credit on the network.

A palpable sincerity has served him well in most respects, however, not least during a briefing delivered last Friday morning in Iveagh House on St. Stephen's Green. The occasion represented something of a coup for the Department of Foreign Affairs and its embassy in Washington, both of which have been fighting a rearguard action to counteract Sinn Fein-inspired critics of the fund in the US. Seven members of the House of Representatives had been persuaded to stop over in Ireland en route to Eastern Europe on a fact-finding trip and all, bar one, were members of crucial appropriations (i.e. fund-dispersing) committees.

The two most important members of the delegation were probably David Obey, a Wisconsin Democrat who is proudly Irish-American (family name originally Aubey) and who chairs the foreign operations subcommittee of the appropriations committee; and New York Democrat Matt McHugh, an-

other appropriations member and staunch Friend of Ireland (FoI). But the other three Democrats, William Lehman (Florida), Les AuCoin (Oregon) and William Lipinski (Illinois), and two Republicans, Connie Morella (Maryland) and John Porter (Illinois) will also have influential roles to play in this autumn's final acts of the appropriations committees' drama.

The politicians had a packed flying trip on Friday, taking in lunch with Northern Secretary Mr. Brooke at Stormont and visiting three of the IFI-funded enterprise centres in Belfast before flying to Shannon. That night in Adare they were impressed by the arrival of Mr. Collins, the Minister for Foreign Affairs, who jetted in from his hectic Middle Eastern mission with the EC's ministerial troika and hosted dinner. The delegates reportedly left Shannon on Saturday with positive impressions.

It was important for the IFI that they did so. Thus far, the U.S. has contributed 80 per cent of the total funding, with $120 million in 1986-'88, another $10 million in 1989 and a further $20 million this year. In addition, the EC has provided ECU45 million for the 1989-'91 period. Canada supplied Can$10 million and New Zealand NZ$0.3 million. For next year the fund hopes to have a budget of some $50 million, made up of $20 million from the US plus the held over cash and other contributions.

Right now, according to Mr. McGuckian, some $60 million is spendable this financial year, bringing to $166 million the amount available to the end of 1990 (the comparable total to the end of 1991 would be $220 million, at least on paper).

Although the US contribution is reducing as a proportion of total funds available, its significance in symbolic and practical terms remains very substantial, not least for the boost its loss would deliver to opponents of the Anglo-Irish Agreement. In the present circumstances, only a brave man would make firm predictions about this autumn's budgeting battle in Washington, but Mr. McGuckian remains reasonably optimistic that the $20 million proposed for 1991 IFI funding will survive the appropriations haggling.

There are inchoate but distinct signs, too, that IFI supporters may be winning the war of attrition in the US. For all the undoubted annoyance of the Friends of Ireland in the House and Senate earlier this year over what they concluded was an offhand, even blasé, assumption, in Dublin that FoI support could be taken for granted, they remain firmly behind the Anglo-Irish Agreement and the Irish Government's approach to the British problem in the north.

No one has been more important in support of this stance than Congressman Brian Donnelly. FoI chairman and one of the more effective gut-politicians of the present generation of elected Irish-Americans—a group of almost incalculable importance to Dublin in that they form the first really effective pro-Ireland political lobby in a country where 40 million claim Irish ancestry, but where extraordinarily effective pro-Israel lobbyists have for decades made a comparative mockery of their relatively insignificant voting aggregate.

Mr. Donnell is also a rising star of whom the Irish Government must take serious notice in coming years. The House of Representatives Speaker, Mr. Thomas Foley will almost certainly appoint his own team this year to succeed that which he inherited from his predecessor, and Mr. Donnelly is well-placed to prosper.

And for all the warning shots the FoI leader has fired across the Irish Government's bow about the IFI's spending policy, he has been going his own combative way about sorting out the Stateside opposition. Very recently, he was pleased to receive a letter from one of his erstwhile foes in the Irish American Unity Conference pledging support for US funding of the IFI, albeit with reservations on the nature of projects supported.

The Ancient Order of Hibernians PRO, Mr. Mike Cummings, whose bitter epistolary attacks on the IFI helped fuel US doubts about the fund, may also be about to lose his power base. In May, the AOH president, Mr. Michael Coogan, was busily disowning Mr. Cummings' letters as not representing the organization's views, but it seemed rather like a belated shutting of the order's stable-door. This summer's biennial AOH convention elected St. Louis man, Mr. George Clough as national president, however, and it is generally assumed that his pro-IFI leadership team will not include Mr. Cummings.

This reporter recently visited randomly selected IFI-supported projects in counties Monaghan, Tyrone, Leitrim, Derry, Donegal and Antrim. The evidence on the ground indicated clearly that the fund is having an impact that is not less than positive in all locations and is strikingly effective in some. And although it is sometimes difficult to measure the effect of certain projects on the spirit and confidence of a disadvantaged community, it was impossible to avoid the conclusion that IFI activities are generating quite a bit of hope and optimism, quite apart from the practical matter of creating jobs. A huge breadth and variety of activities has been covered by the 1,520 projects helped or initiated to date and The Irish Times tour took in a mixed sample. They included a high-tech mushroom-compost plant near Monaghan town which supplies 220 local growers who feed a company most of whose produce is exported to the UK; a business enterprise centre in Omagh with 30 of its 37 units functioning and expert advice available on "outreach" to communities all over Fermanagh and most of Co Tyrone; depressed but picturesque Manorhamilton where £75,000 in IFI cash prompted a further £100,000 of Leitrim county council spending, transformed the town's appearance and sparked local pride to improve shopfronts and homes; resurgent Derry, where IFI seed-money looks set to help create community-based commercial hearts in the windblown housing estates west above the city; Donegal, where development officer Mr. Pat Bolger—white-bearded visionary of the country's co-op movement—was fulsome in praise of the psychological lift the £278,000 IFI spending to date has provided in a county where tourist numbers are only now reaching 1966 peaks again and where "every shrub, every lick of paint helps"; and of course, Belfast, where International Fund money helps stimulate five enterprise centres already busy with local small businesses, manufacturing as well as service industries.

Sitting in the busy offices of the Townsend Street centre which straddles the peaceline between the Falls and Shankill roads, the West Belfast Enterprise Board chairman, Mr. Frank Murphy, spoke with pride of the bustle in the units outside and said simply: "Nothing would have happened here without the International Fund money."

[From the Irish Times, Aug. 27, 1990]

A FUND OF HOPE

It's ironical that any project designed to promote reconciliation on this island should be considered suspect by those who most stridently proclaim their dedication to unity; ironical but, in the nature of things, virtually inevitable.

The International Fund for Ireland is not just any project. It was established by the Irish and British Governments, one of the by-products of the Anglo-Irish Agreement. Its purpose is to channel financial support for the agreement from the United States, Canada, New Zealand and the European Community. Its most substantial contribution so far, $150 million, has come from the United States.

These, in the eyes of its critics, were features of the fund which lent weight to suspicions that were deepened by the tactic of using public funds to lever investment from private enterprise and local communities. And in some instances at least the local projects helped bore the marks of hasty choice. But as Niall Kiely demonstrated in his reports in The Irish Times last week, many of the criticisms were ill-founded or based on distortions emanating from partisan American-Irish opponents of the Anglo-Irish Agreement.

These groups included Noraid, the Irish American Unity Conference and the Ancient Order of Hibernians. In their angry world distance lends disenchantment to any view of Ireland which is not painted in black and white and from which the usual characters from the familiar cast of demons are missing.

The fund's organisers have made mistakes. Some of them might have been avoided if they had given more thought to how their work might appear to people ready to bite any helping hand. They have probably gained from the experience. And Ireland North and South has benefited from a fund which started or helped more than 1,500 projects since 1986—generating, as the last of The Irish Times reports had it, quite a bit of hope apart from the practical matter of creating jobs.

Focusing American attention on the hopeful and practical rather than the tragic in Irish life would be a worthwhile achievement in itself. The fund's energetic new chairman, John McGuckian, is conscious of both the symbolism and the practical results. The Government, which occasionally allows its attention to stray from the fund's potential, would do well to contribute more forcefully to the effort.

TRIBUTE TO BRIG. GEN. WILLIAM H.L. MULLINS

Mr. WARNER. Mr. President, it is with great sadness that I rise today to pay tribute to the late William H.L. "Moon" Mullins, a retired Air Force brigadier general and former corporate vice president for government affairs of General Dynamics Corp. General Mullins died September 29 as a passenger in a restored P-51 Mustang, World War II fighter plane, with the pilot, George F. Enhorning, in Chatham, MA.

General Mullins was a heavily decorated combat veteran of the Vietnam war who led a distinguished military career for 22 years of service to our

Nation. His military decorations included the Distinguished Flying Cross with 4 Oak Leaf Clusters, the Bronze Star Medal, the Meritorious Service Medal with 1 Oak Leaf Cluster, the Air Medal with 12 Oak Leaf Clusters, the Air Force Commendation Medal with 1 Oak Leaf Cluster, and the Air Force Outstanding Unit Award with 1 Oak Leaf Cluster for Valor.

General Mullins was born in Independence, MO, on February 9, 1935. He began his military career in 1957 as a commissioned officer of the U.S. Military Academy at West Point. Following graduation, he attended flight training and received his pilot wings in 1958. As a trained F-100 pilot, he completed his first operational assignment with the 8th Tactical Fighter Wing at Itazuke Air Base in Japan, serving from June 1959 to June 1961. Over the next 2 years, General Mullins was the aide-de-camp to the Commander of the 13th Air Force at Clark Air Base, Republic of the Philippines, while remaining combat-ready in the F-100.

In July 1963, General Mullins served as an F-4 instructor pilot at MacDill Air Force Base, FL, and later at Davis-Monthan Air Force Base in Arizona. Following graduation in 1967 from the Air Command and Staff College at Maxwell Air Force Base, AL, he rejoined the 8th Tactical Fighter Wing in Ubon Royal Thai Air Force Base, Thailand, as the Wing F-4 standardization and evaluation chief. During his years in Thailand, he flew 146 combat missions, 116 of them over North Vietnam.

General Mullins received a master's degree in business administration from the University of Arizona and later served in the Pentagon from 1968 to 1971 as a staff officer for Headquarters, U.S. Air Force, in the Directorate of Operations and the Directorate of Budget. As a graduate of the National War College in 1972, he served as the assistant deputy commander and later as the deputy commander for operations, at the 4th Tactical Fighter Wing at Seymour Johnson Air Force Base in North Carolina.

In 1974, General Mullins distinguished himself as a member of the Six-Man Group for the Chief of Staff of the U.S. Air Force. He retired from the Air Force in 1979, after serving as the Deputy Director of Legislative Affairs, and joined General Dynamics as its deputy director of legislative affairs.

General Mullins is survived by his wife, the former Florine Lucy Magnani, who lives in Alexandria, VA, and their two sons, Dan, a second lieutenant in the U.S. Air Force, who is stationed in Mississippi, and Todd of Alexandria.

Mr. President, we mourn the tragic loss of General Mullins but remember and honor his many years of distinguished military service to our Nation.

NOTIFICATION FROM THE PRESIDENT ON FREE TRADE NEGOTIATIONS WITH MEXICO

Mr. BENTSEN. Mr. Chairman, earlier this week President Bush formally notified me, as chairman of the Finance Committee and pursuant to section 1102(c) of the Omnibus Trade and Competitiveness Act of 1988, of his intent to enter into free trade negotiations with Mexico. President Bush further informed me that the United States will be consulting with Canada and Mexico in coming months concerning whether Canada also will participate in the negotiations.

In order to provide all Members with full information on this notification from the President, I hereby request that a copy of the President's letter appear in the CONGRESSIONAL RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, September 25, 1990.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In a letter to me of August 21, President Salinas formally proposed initiation of negotiations for a free trade agreement between the United States and Mexico (copy enclosed). As you know, President Salinas and I had endorsed the objective of a free trade agreement at a meeting in June, and our respective Trade Ministers, Secretary Serra and United States Trade Representative Hills, had so recommended in a joint report of August 8 (copy enclosed).

Mexico is our third largest trading partner, and you are aware of the dynamic, market-oriented reforms undertaken by President Salinas. We see substantial opportunities for mutual benefit in further lowering impediments to bilateral trade in goods and services and to investment.

Accordingly, I welcome the recommendations in the joint report and President Salinas' proposal. Negotiation of a comprehensive free trade agreement is consistent with the efforts of both my Administration and the Congress to eliminate barriers to the flow of goods, services and investment and to protect intellectual property rights.

Therefore, pursuant to Section 1102(c) of the Omnibus Trade and Competitiveness Act of 1988, I am hereby notifying the House Committee on Ways and Means of trade negotiations with Mexico.

I also want to inform you that the Government of Canada has recently expressed a desire to participate in the negotiations, with a view to negotiating an agreement or agreements among all three countries. I welcome the opportunity to work with our two neighbors towards this end. We, with the Canadian and Mexican Governments together, will be consulting in the coming months to explore the possibilities in his regard, which we will also discuss with your committee. I will send a further or revised notice to your Committee as appropriate, depending on the outcome of our consultations.

I want to emphasize that such trilateral consultations will not affect the continued validity of the existing free trade agreement with Canada. Further, in all these discussions, we expect to build on our multilateral negotiating efforts in the Uruguay Round, which is scheduled to conclude at the end of this year.

Ambassador Hills has already begun consultations with your Committee, and the Administration will continue that process throughout the negotiations.

Sincerely,

GEORGE BUSH.

DR. JOHN HARTE

Mr. WIRTH. Mr. President, I rise today to share with my colleagues a recent article about the cutting edge scientific work that is occurring in Colorado under the leadership of Dr. John Harte, a brilliant researcher out of the University of California at Berkeley.

One of our best kept scientific secrets is the Rocky Mountain Biological Laboratory, which is based in Gothic, CO. Every summer, many of the Nation's best and brightest scientific minds gather at RMBL to preside over scientific investigations in Colorado's high country. The cast of characters includes Dr. Harte, the renowned population biologists Anne and Paul Ehrlich, as well as John Holdren, who is probably our foremost nuclear physicist and one of the Nation's best minds. And every summer as I travel through the State, we get together at RMBL and I have the opportunity to learn a great deal about science in those wonderful later afternoons.

I was reminded of this, Mr. President, when I came across the October issue of Discover magazine. Anyone who is concerned about the issue of global warming needs to be aware of the Discover article that details an exciting new experiment that John Harte has established in Colorado. Scientists know a great deal about global warming—that our atmosphere acts like the walls of a greenhouse; that the gases that have the ability to warm the atmosphere are increasing rapidly in concentration; and that the Earth has warmed by about one degree during the past century. On the other hand, the state of science has not advanced to the point where scientists can tell us exactly what will happen as the Earth warms in the future. Dr. Harte's research in the mountains of Colorado will provide important new information about the effect of global warming on our biologic resources.

I highly recommend this article to all of my colleagues. And I applaud the work of Dr. Harte and all of his colleagues at the Rocky Mountain Biological Laboratory.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOT SPOT

(By Glen Martin)

This high mountain meadow in the middle of the Colorado Rockies hardly seems the place for apocalyptic research. Groves of quaking aspen dip down to vales covered with blue-flowered larkspur and a few yellow dandelions. Pea plants called lupines are beginning to unfurl long banners of pink, white, and blue blooms. A creek murmurs nearby, gorged with spring snowmelt and mountain trout. High above, a bald eagle rides the thermals.

And sweating profusely in the bright June sun, John Harte struggles to tighten a web of cables that crisscross a section of the meadow. "This project has really made me admire the engineering skills of spiders," Harte grumbles.

Harte, a 51-year-old ecologist from the University of California at Berkeley, has stretched a 12-foot-high grid of shiny cables above 300 square yards of turf. The cables are supported by four steel towers, one at each corner of the grid. And hanging down from the cables are ten infrared heat lamps, each about three feet long.

By heating up the meadow, this bizarre assemblage is supposed to simulate what many see as the coming apocalypse. "The scientific community is virtually unanimous about global warming," says Harte. "By 2050, if we continue to load trace gases—mainly carbon dioxide—into the atmosphere at our current rate, we can expect Earth's temperature to increase by anywhere from three to nine degrees. The Vostok record confirms that."

That record is a series of cores drilled from the ice in Vostok, Antarctica. The ice has been deposited at various times throughout the past 160,000 years, and bubbles trapped within it give geologists pristine samples of Earth's atmosphere at the time the ice was formed. By comparing the gas in these bubbles with other geologic evidence that indicates how warm or cold Earth's climate was then, researchers can relate greenhouse gases to increased temperatures.

They gauge the change in global temperature from the relative amounts of two isotopes of oxygen, O_{18} and O_{16}, in the fossilized shells of marine animals. During extended cold periods the lighter O_{16}, instead of readily evaporating from the seas and then returning as icemelt or rain, gets trapped in the planet's growing ice caps. Shells formed then thus have higher than normal concentrations of heavy O_{18}. In warmer times, the ratio of the two isotopes is less extreme.

Matching isotope ratios with Vostok bubbles has revealed that atmospheric carbon dioxide levels and global temperatures track each other unerringly: when CO_2 goes up, so does temperature. "But we don't know much about the mechanisms involved," says Harte. And that has led him to his meadow.

Harte is trying to learn whether greenhouse warming could start a vicious cycle that would cause the effects to be even worse than are now predicted. "We know that trace gases—mainly carbon dioxide, methane, and nitrous oxide—heat up the atmosphere," he says. "Now we need to know whether that heat stimulates further trace-gas releases from the soils. It's possible that the increased temperatures can stimulate the activity of soil microorganisms."

When a soil microbe sits down to a hearty meal of such typical soil nutrients as nitrogen and phosphorous, it discharges considerable amounts of carbon dioxide, nitrous oxide, and methane as waste products. What concerns Harte is that warmer soils could mean hungrier microbes and more gas—and thus more heat.

Harte's spider web is designed to reveal whether this is likely to come to pass. He has divided his grid into ten sections, each covering 30 square yards of meadow. Infrared lamps will heat every other section by 2.5 degrees, the increase expected in this part of the Rockies for the middle of the coming century. The unheated sections in between allow researchers to compare the effects of the lamps with the natural state of the meadow.

The experiment will begin this December and run for a minimum of three years. Once a week, Harte will take gas samples from buckets turned upside down for ten minutes at a time on both the heated and unheated strips. He'll draw the samples through fitted nipples at the bottoms of the buckets via syringes, then analyze them with a gas chromatograph. "We'll be able to plot any changes in the meadow very precisely," he says.

Some of those changes could be alterations in the very fabric of the seasons. With a 2.5-degree rise in temperature snow at high elevations might melt up to two months sooner. In Colorado that would mean March instead of May. The result would be soil that is drier and warmer by the time May rolls around "You'd be expanding summer at the expense of winter," says Harte.

That could have particularly grim consequences for specialized plants and animals. In the past, species that favor cool climes have responded to great episodes of global warming by migrating north, or to higher, colder elevations. But these adjustments, Harte points out, "took place over thousands of years. In the current episode of global warming we're talking fifty or sixty years. That's probably not enough time for most plants and animals to adjust."

Harte's "greenhouse meadow" runs along a slope and covers three different zones of vegetation. Species that require dry soil, like sage, thrive at the top, water-loving plants like veratrum grow at the bottom, and moderate-moisture fans—larkspur and lupine among them—favor the middle. Over the next three years, Harte expects, this situation will change. "We expect less biological diversity, although we don't know to what degree," he says. But plants favoring the wettest soil might be knocked out of the picture altogether.

Early warming can have other, more insidious effects. Some plants, such as larkspur, bloom when the snow first melts. But one of larkspur's most important pollinators, the broad-tailed hummingbird, times its migrations by the sun. As the days get longer, the hummingbird follows the sun north, where it finds its favorite flower in full bloom.

"If the atmosphere warms abruptly," says Harte, "we could see the larkspur bloom weeks before the first hummingbirds get to it. That would be harmful for both species." Without flowers to attract the birds, larkspur will have difficulty reproducing. And without larkspur to eat, the birds will starve.

Harte doesn't expect anything dramatic to happen when he turns on the grid in December—the current will simply turn on the infrared lamps. The real drama lies three years down the road, when the results are in. Harte does not expect them to be comforting: "If I had to hazard a guess, I'd say this project will confirm what we suspect—that we don't have any time to waste."

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,026th day that Terry Anderson has been held captive in Beirut.

DETERIORATING HUMAN RIGHTS CONDITIONS IN KENYA

Mrs. KASSEBAUM. Mr. President, last Friday the Kenyan Government, under President Daniel arap Moi, banned the Nairobi Law Monthly—a popular and influential journal which had championed political freedom, basic civil rights, and multiparty democracy. This action is the most recent in a series of strong-armed tactics by the Moi regime to stifle its peaceful critics.

The 1989 State Department human rights report described the increasingly repressive political environment in Kenya—including forced deportations, police brutality, detentions, and growing signs of executive manipulation of the judicial system.

During the 1989 markup of the foreign aid authorization bill, I expressed strong concern about the deteriorating human rights situation in Africa and had language included in the legislation linking Kenya's human rights performance to its foreign aid. Since that time, President Moi's policies have only become harsher.

Earlier this summer, President Moi ordered the imprisonment of dozens of prominent lawyers and human rights activists, including Gitobu Imanyara, editor of the now banned Nairobi Law Monthly, and two former Cabinet ministers who had spoken out for democracy, Charles Rubia and Kenneth Matiba. Mr. Rubia and Mr. Matiba remain in jail, held without charge.

As human rights conditions deteriorate, the United States Government continues to supply Kenya with nearly $50 million in aid, the largest amount for a nation in sub-Saharan Africa. For fiscal year 1991, the House has passed the foreign operations appropriations bill which provides $33 million in economic aid and $9 million in military aid to Kenya.

Mr. President, I believe that the situation in Kenya has reached the point where we must send a clear and firm message to the Government in Nairobi that we will not tolerate the continued suppression of basic human rights and civil liberties. In order to convey our strong disapproval of the current policies, I support the cessation of all military aid and economic support funds to Kenya until the human rights situation improves.

Furthermore, I believe that Congress should adopt legislation requiring the administration to notify Congress 15 days in advance of any obligation of aid to Kenya. This position was

supported by the committee in 1989. Through this mechanism, Congress would be able to closely follow the status of human rights in Kenya, and would be able to maintain pressure on the Kenyan Government to respect civil liberties and basic human rights.

This is an encouraging time for those of us who watch events in sub-Saharan Africa. Many former oppressive, one-party African states have opened up—increasing respect for basic civil liberties and political rights. Yet, the Government of Kenya, an important United States ally in Africa, is moving in the opposite direction—closing their society by choking free speech and suppressing civil liberties.

MESSAGES FROM THE HOUSE

At 11:55 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, each without amendment:

S. 1974. An act to require new televisions to have built-in decoder circuitry; and

S. 2588. An act to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3897) to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 5725) to extend the expiration date of the Defense Production Act of 1950.

The message also announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 647) to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws.

The message further announced that the House has passed the bill (S. 916) to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes; it insists upon its amendment to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROE, Mr. BROWN of California, Mr. NELSON of Florida, Mr. HALL of Texas, Mr. VOLKMER, Mr. MINETA, Mr. TORRICELLI, Mr. NAGLE, Mr. HAYES of Louisiana, Mr. TANNER, Mr. WALKER, Mr. SENSENBRENNER, Mr. LEWIS of Florida, Mr. PACKARD, Mr. BUECHNER, and Mr. CAMPBELL of California as managers of the conference on the part of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 3007. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 2588. An act to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances;

H.R. 5725. An act to extend the expiration date of the Defense Production Act of 1950; and

S.J. Res. 301. Joint resolution designating October 1990 as "National Breast Cancer Awareness Month."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

At 2:42 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 198) to amend title 17, United States Code, the Copyright Act to protect certain computer programs; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4567. An act to authorize an exchange of lands in South Dakota and Colorado;

H.R. 5144. An act to provide for the study of certain historical and cultural resources located in the city of Vancouver, Washington, and for other purposes; and

H.R. 5316. An act to provide for the appointment of additional Federal circuit and district judges, and for other purposes.

The message further announced that pursuant to the provisions of section 203(b) of Public Law 101-194, the Speaker appoints Mr. Warner Brandt; and the minority leader appoints Mr. William R. Pitts, Jr., to the President's Commission on the Federal Appointment Process.

At 4:18 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolutions, each without amendment:

S. 1128. An act for the relief of Richard Saunders;

S. 1229. An act for the relief of Maria Luisa Anderson;

S. 1683. An act for the relief of Paula Grzyb;

S. 1814. An act for the relief of Wilson Johan Sherrouse;

S.J. Res. 181. Joint resolution to establish calendar year 1992 as the "Year of Clean Water"; and

S.J. Res. 301. Joint resolution designating October as "National Breast Cancer Awareness Month."

The message also announced that the House disagrees to the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. PANETTA, Mr. GEPHARDT, and Mr. FRENZEL as managers of the conference on the part of the House.

The message further announced that the Speaker appoints the following additional conferees and modifications in the appointments previously made in the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2830) entitled "An Act to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes":

From the Committee on Foreign Affairs, for consideration of titles IX (except sections 1124, 1125, 1134, 1137, and subtitle E), XXIII (except section 2306), sections 114, 1423, 1551, 1751-60, 1763, and 1765 of the Senate bill, and title XII (except sections 1241 and 1243-46) and sections 415, 1313(a), and 1833 of the House amendment, and modifications committed to conference: Mr. FASCELL, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. WOLPE, Mr. CROCKETT, Mr. GEJDENSON, Mr. DYMALLY, Mr. KOSTMAYER, Mr. LEVINE of California, Mr. BROOMFIELD, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. ROTH, and Mr. BEREUTER.

From the Committee on Foreign Affairs, for consideration of subtitle E of title XI, sections 1931-1935 and 1937-1939 of the Senate bill, and title XXX of the House amendment, and modifications committed to conference: Mr. FASCELL, Mr. HAMILTON, Mr. YATRON, Mr. GEJDENSON, Mr. BROOMFIELD, and Mr. ROTH.

From the Committee on Merchant Marine and Fisheries, for consideration of subtitle E of title XI of the Senate bill, and title XXX of the House amendment, and modifications committed to conference: Mr. JONES of North Carolina, Mr. STUDDS, Mr. HUBBARD, Mr. TAUZIN, Mr. HERTEL, Mr. LIPINSKI, Mr. DAVIS of Michigan, Mr. YOUNG of Alaska, Mr. LENT, and Mr. FIELDS.

From the Committee on Merchant Marine and Fisheries, for consideration of sections 1238, 1286, and 1422

of the Senate bill, and sections 1314 and 1602 of the House amendment, and modifications committed to conference: Mr. JONES of North Carolina, Mr. STUDDS, Mr. HERTEL, Mr. DAVIS of Michigan, and Mr. YOUNG of Alaska.

From the Committee on Ways and Means, for consideration of section 902, those portions of section 1121 adding new sections 101(5), 103(5), 113(c)(2), 114, 204(c)(2)(B), 404-05, 503(b)(3), 504, and 601 (c) and (f) to the Agricultural Trade Act of 1978, sections 1122, 1124-25, 1137, 1716(c), that portion of section 2123 adding a new section 7A(e) to the Cotton Research and Promotion Act, sections 2140, 2155(g), 2178, 2188, 2203, 2306, 2452, and 2454 of the Senate bill, and sections 614, those portions of section 1221 adding new sections 101(4), 105(a), 106, 402 (c) and (f) to the Agricultural Trade Act of 1978, sections 1223(i), 1241, 1243, 1245-47, 1428, 1445(g), 1468, 1475(3), 1485(d) and 1494 of the House amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. JENKINS, Mr. ARCHER, and Mr. CRANE: Except, that, for consideration of sections 2203, 2452, and 2454 of the Senate bill, Mr. JACOBS is appointed in lieu of Mr. JENKINS.

From the Committee on Ways and Means, for consideration of sections 1134, 1721, and 1730A of the Senate bill, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. JENKINS, Mr. DOWNEY, Mr. PEASE, Mr. RUSSO, Mr. GUARINI, Mr. MATSUI, Mr. ANTHONY, Mr. ARCHER, Mr. VANDER JAGT, Mr. CRANE, Mr. FRENZEL, Mr. SCHULZE, and Mr. THOMAS of California.

From the Committee on Energy and Commerce, for consideration of sections 1761 and 1762 of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. SCHEUER, Mr. WYDEN, Mr. SIKORSKI, Mr. BRUCE, Mr. ROWLAND of Georgia, Mr. SYNAR, Mr. HALL of Texas, Mr. ECKART, Mr. LENT, Mr. DANNEMEYER, Mr. WHITTAKER, Mr. TAUKE, Mr. BLILEY, and Mr. FIELDS.

From the Committee on Energy and Commerce, for consideration of sections 1495, 1497, and 1498 J-L of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. ROWLAND of Georgia, Mr. LENT, and Mr. TAUKE.

From the Committee on Energy and Commerce, for consideration of section 1437 of the Senate bill, and section 1367(b) of the House amendment, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. ECKART, Mr. LENT, and Mr. TAUKE.

From the Committee on Energy and Commerce, for consideration of title XVI (except sections 1615-16, 1620 (b), (c), (d), and (f)) and section 1716 of the Senate bill, and sections 1495 95G, 1495 J-95L, 1495M (a), (e), and (g) and 1495 N-95V of the House amendment, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. BRUCE, Mr. LENT, and Mr. TAUKE.

From the Committee on Energy and Commerce, for consideration of subtitle C of title XVII of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. WYDEN, Mr. LENT, and Mr. BLILEY.

From the Committee on Energy and Commerce, for consideration of section 1773 of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. ROWLAND of Georgia, Mr. LENT, and Mr. WHITTAKER.

From the Committee on Energy and Commerce, for consideration of section 1772 of the Senate bill, and section 1376A of the House amendment, and modifications committed to conference: Mr. DINGELL, Mr. THOMAS A. LUKEN, Mr. SWIFT, Mr. LENT, and Mr. TAUKE.

From the Committee on Energy and Commerce, for consideration of section 1948 of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. THOMAS A. LUKEN, Mr. SWIFT, Mr. LENT, and Mr. WHITTAKER.

From the Committee on Energy and Commerce, for consideration of sections 2033(3)(F), 2079, and 2081 of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. MARKEY, Mr. SWIFT, Mr. LENT, and Mr. TAUKE.

From the Committee on Energy and Commerce, for consideration of sections 1339, of the House amendment, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. TOWNS, Mr. LENT, and Mr. BLILEY.

From the Committee on Agriculture, for consideration of those portions of section 1121 adding new sections 101(5), 103(5), 113(c)(2), 114, 204(c)(2)(B), 404-05, 503(b)(3), 504, and 601 (c) and (f) to the Agricultural Trade Act of 1978, of the Senate bill, and those portions of section 1221 adding new sections 101(4), 105(a), 106, 203 and 402 (c) and (f) to the Agricultural Trade Act of 1978, of the House amendment, and modifications committed to conference: Mr. ESPY, Mr. HARRIS, Mr. SARPAULIS, Mr. EMERSON, and Mr. ROBERT F. SMITH.

From the Committee on Education and Labor, for consideration of sections 1496(b), 1498-1498N, 1965, 1966, 2471, 2474, 2476, and 2479 of the Senate bill, and sections 1382, 1774, 1842(b) of the House amendment, and modifications committed to conference: Mr. HAWKINS, Mr. FORD of Michigan, Mr. GAYDOS, Mr. GOODLING, and Mr. TAUKE.

From the Committee on Science, Space, and Technology, for consideration of sections 1921-30, 1940, and 1944-46 of the Senate bill, and modifications committed to conference: Mr. ROE, Mr. SCHEUER, Mr. MCMILLEN of Maryland, Mr. WALKER, and Mr. SCHNEIDER.

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 1350 of the Senate bill, and modifications committed to conference: Mr. ERDREICH, Mr. KANJORSKI, Mr. CARPER, Mr. BEREUTER, and Mr. ROTH.

In the appointment of conferees previously announced from the committee on Agriculture:

The appointment of Mr. CONDIT is amended by deleting section 1215 from the exception for title XII of the House amendment.

The appointment of Ms. LONG is amended by deleting section 1215.

Mr. ROBERT F. SMITH is appointed in lieu of Mr. MARLENEE for title XII of the Senate bill and title XVI of the House amendment.

Mr. MORRISON of Washington is appointed in lieu of Mr. MARLENEE for title XIII of the Senate bill and title XXIX of the House amendment.

Mr. GRANDY is appointed in lieu of Mr. HOPKINS for all provisions except title VII and section 1962 of the Senate bill, and title VIII and section 1249 of the House amendment, on which Mr. HOPKINS will remain a conferee, and Mr. LEWIS of Florida is appointed in lieu of Mr. HOPKINS for subtitle A of title XVII of the Senate bill and title XIV of the House amendment.

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 1608. An act to strengthen nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human Services to prepare and implement a 10-year plan to assess the dietary and nutritional status of the United States population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes;

H.R. 4491. An act entitled the "Coast Guard Omnibus Act of 1990";

H.R. 5063. An act to provide for the settlement of the water rights claims of the Fort McDowell Indian Community in Arizona, and for other purposes; and

H.J. Res. 658. Joint resolution to support actions the President has taken with respect to Iraqi aggression against Kuwait and to demonstrate United States resolve.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 329. Concurrent resolution calling for U.S. sanctions against nations which conduct unjustified lethal whale research, and otherwise expressing the sense of the Congress with regard to nations which violate the International Whaling Commission moratorium on commercial whaling by killing whales under the guise of scientific research.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4491. An act entitled the "Coast Guard Omnibus Act of 1990"; to the Committee on Commerce, Science, and Transportation.

H.R. 4567. An act to authorize an exchange of lands in South Dakota and Colorado; to the Committee on Energy and Natural Resources.

H.R. 5144. An act to provide for the study of certain historical and cultural resources located in the city of Vancouver, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

H.J. Res. 658. Joint resolution to support actions the President has taken with respect to Iraqi aggression against Kuwait and to demonstrate United States resolve; to the Committee on Foreign Relations.

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5746. An act to extend the Export Administration Act of 1979, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 329. Concurrent resolution calling for United States sanctions against nations which conduct unjustified lethal whale research, and otherwise expressing the sense of the Congress with regard to nations which violate the International Whaling Commission moratorium on commercial whaling by killing whales under the guise of scientific research; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 3018. A bill to require the Secretary of Agriculture to announce an acreage limitation program for the 1991 crop of wheat.

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2840. An act to reauthorize the Coastal Barriers Resources Act, and for other purposes.

H.R. 3898. An act to require certain procedural changes in the United States district courts in order to promote the just, speedy, and inexpensive determination of civil acquisitions, and for other purposes.

H.R. 5063. An act to provide for the settlement of the water rights claims of the Fort McDowell Indian Community in Arizona, and for other purposes.

H.R. 5316. An act to provide for the appointment of additional Federal circuit and district judges, and for other purposes.

H.R. 5381. An act to implement certain proposals of the Federal Courts Study Committee, and for other purposes.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. AKAKA) announced that on September 27, 1990, he had signed the following enrolled bills which had previously been signed by the Speaker of the House:

S. 535. An act to increase civil monetary penalties based on the effect of inflation;

S. 2075. An act to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality;

H.R. 2761. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United Services Organization; and

H.R. 4962. An act to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, October 2, 1990, he had presented to the President of the United States the following enrolled bill and joint resolution:

S. 2588. An act to amend section 5948 of title 5, United States Code, to reauthorize physicians comparibility allowances; and

S.J. Res. 301. Joint resolution designating October 1990 as "National Breast Cancer Awareness Month".

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 591. A bill to amend the Federal Rules of Criminal Procedure with respect to the examination of prospective jurors (Rept. No. 101-486).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1742. A bill to further the goals of the Paperwork Reduction Act and provide for comprehensive information resources management of Federal departments and agencies, and for other purposes (Rept. No. 101-487).

By Mr. PELL, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 2436. A bill to amend the Peace Corps Act to extend the authorizations of appropriations for the Peace Corps through fiscal year 1992, to provide for limited exceptions to the limitation on reemployment by the Peace Corps, and to establish a Peace Corps foreign fluctuations account, and for other purposes.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and an amended preamble:

S. Con. Res. 113. A concurrent resolution expressing the sense of the Congress on international nuclear sales to South Asia.

By Mr. PELL, from the Committee on Foreign Relations, with amendments and with a preamble:

S. Con. Res. 141. A concurrent resolution expressing the sense of the Congress regarding the deteriorating human rights situation in Kenya.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

James O. Mason, of Utah, to be Representative of the United States on the Executive Board of the World Health Organization;

The following-named persons to be Representatives and Alternate Representatives of the United States of America to the Forty-fifth Session of the General Assembly of the United Nations:

Representatives: Thomas R. Pickering, of New Jersey. Alexander Fletcher Watson, of Massachusetts.

Alternate Representatives: Jonathan Moore, of Massachusetts. Jacob Stein, of New York. Shirin R. Tahir-Kheli, of Pennsylvania. Milton James Wilkinson, of New Hampshire.

Katherine D. Ortega, of New Mexico, to be an Alternative Representative of the United States of America to the 45th Session of the General Assembly of the United Nations;

Scott M. Spangler, of Arizona, to be an Assistant Administrator of the Agency for International Development;

Cheryl Feldman Halpern, of New Jersey, to be a member of the Board for International Broadcasting for a term expiring April 28, 1991; and

William H.G. Fitzgerald, of the District of Columbia, to be a Member of the Board of Directors of the African Development Foundation for a term expiring February 9, 1996.

The following-named persons to be Members of the U.S. Advisory Commission on Public Diplomacy for terms expiring July 1, 1991:

William J. Hybl, of Colorado and Richard B. Stone, of the District of Columbia.

Eugene L. Scassa, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belize.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Euguene Luigi Scassa

Post: Ambassador to Belize

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses names, Susan, (wife) David and Eugene (children), none.

4. Parents, both parents are deceased.

5. Grandparents, both deceased.

6. Brothers and Spouses names, Angelo Scassa (brother) and his wife Sylvia, none.

7. Sisters and Spouses, none.

Richard C. Brown, of Maryland, a Career Member of the Senior Foreign Services, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Oriental Republic of Uruguay.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nonination and ending on the date of the nomination.)

Nominee: Richard C. Brown

Post: American Embassy, Montevideo

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse Elizabeth Ann Brown, none.
3. Children and spouses names, Tara (daughter) Justin (son), none.
4. Parents names, Helen F. Brown, Charley C. Brown (deceased).
5. Grandparents names, deceased for 20 yrs.
6. Brothers and spouses names, Jerry D. Brown, Billie Brown (spouse),none.
7. Sisters and spouses names, Charlene Larsen, Bud Larsen (spouse), none.

Michael Martin Skol, of Illinois, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraorinary and Plenipotentiary of the United States of America to the Republic of Venezula.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nonination and ending on the date of the nomination.)

Nominee: Michael Martin Skol.

Post: Ambassador to Venezuela.

Contributions, amount, date, and donee.

1. Self, $200, January 11, 1988 Steven Kramer for Congress (Democratic primary, New Mexico).
2. Spouse, Claudia Serwer Skol, none.
3. Children and spouses names, none.
4. Parents Ted Skol (deceased), Rebecca Skol, none.
5. Grandparents names (Clara Grossman, Al Williams, Max Skolnik, Sophie Skolnik) (all deceased prior to 1986).
6. Brothers and spouses names, David Skol (no spouse), none.
7. Sisters and spouses names, none.

Edward P. Brynn, of Vermont, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Burkina Faso.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Edward Byrnn.

Post: Ouagadougou.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, Edward Cooke Brynn, Anne Elizabeth Callahan Brynn, Justin Oliver Norsworthy Brynn, Kierman Patrick Flynn, Sarah Frailey Flynn.
4. Parents names, Walter and Mary Brynn (Deceased).
5. Grandparents names, Soeren and Agnes Brynn, Lawrence and Ellen Callahan (Deceased).
6. Sisters and spouses names, Katherine and Charles Walther, Mary Anne and Terrence O'Brien.
7. Brothers and spouses names, Thomas and Claudia Brynn, Lawrence and Heather Brynn, David and Louise Brynn.

Stephen H. Rogers, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Stephen H. Rogers.

Post: Swaziland.

Contributions, amount, date, and donee:

1. Self, 2. Spouse (Joint contributions) $50, January 20, 1986, Democratic Nat'l Comm. (DNC), $50, March 8, 1986, Milliken for Congress, $25, June 16, 1986, Dem. Campaign Comm., $100 ea. on March 28, 1987, August 28, 1988, November 14, 1988 and January 19, 1989, DNC.
3. Children and spouses names, Kryston R. Fischer, $100, 1988, DNC.
4. Parents names, deceased.
5. Grandparents names, deceased.
6. Brothers and spouses names, John W. Rogers (Mrs.) Barbara H. Rogers.
7. Sisters and spouses names, deceased.

Other Children: F. Halsey Rogers—none, Julia L. Rogers—none, John H. Rogers—none.

Arlene Render, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Arlene Render.

Post: Gambia.

Contributions, amount, date, and donee:

1. Self, Arlene Render.
2. Spouse, N/A.
3. Children and spouses names, N/A.
4. Parents names, Oscar Render, Isabella Render, deceased.
5. Grandparents names, Rueben and France Render, deceased. Oscar and Susie Martin, deceased.
6. Brothers and spouses names, Richard Render, Jeffrey Render.
7. Sisters and spouses names, Carol Lockette, Rosalyn Hill.

Herbert Donald Gelber, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mali.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Herbert Donald Gelber.

Post: Ambassador to Mali.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, Michael S., Esther L., Miriam.
4. Parents names, deceased.
5. Grandparents names, deceased.
6. Brothers and spouses names, Harvey, Natalie.
7. Sisters and spouses names, none.

Gordon L. Streeb, of Colorado, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zambia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Gordon L. Streeb.

Post: Zambia.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, Kurt, Kent, Kerry-Lynn Streeb, none.
4. Parents names, Gerhard O. Streeb, none.
5. Grandparents names, Hans and Frieda Streeb, deceased. Alex and Mary Martin, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names, Imogene and Alfred Clay, none. Amelia Streeb, deceased.

Harmon Elwood Kirby, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Togo.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Harmon E. Kirby.

Post: Ambassador to Togo.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names, Caroline P. Kirby, Christopher H. Kirby, none.

Parents names, Julia E. Kirby (Mother), Cecil Kirby (Father) deceased.

5. Grandparents names, John B. Tucker, deceased, John Vance-Kirby, deceased, Sarah Tucker, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

Leonard H. O. Spearman, Sr., of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Lesotho.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Dr. Leonard H. Spearman

Post: Amb. to the Kingdom of Lesotho

Contributions, amount, date, and donee:

1. Self, and
2. Spouse, Valerie B. Spearman:

Reported for 1987 Clearance:

$200.00, Sept. 30, 1984, Harris County Council of Organizations. $130.00, Jan. 7, 1985, Donohoe for State Office, $30.00 Oct. 24, 1985, Elizabeth Spates for Houston Independent School Board, $75.00, Aug. 16, 1986, Jack Fields for Congress, $100.00, October 7, 1986, Bill Clements Hqtrs. in Black Community, $700.00, Oct. 29, 1986, Republican Party of Harris County, Texas, $370.00, Jan. 5, 1987, Texas Inaugural Committees, $50.00, March 2, 1987, The Texas Committee of 300, and $50.00, March 2, 1987, Circle R Republican Club.

New Contributions Reported for 1990 Clearance:

$2,000.00, 1988, George Bush Campaign (Presidential). $1,300.00, Dec. 16, 1988, Republican Senatorial Inner Circle, $41.50, July 1, 1989, Republican Party of Texas, $100.00, July 19, 1989, Congressman Tom DeLay, $100.00, Feb. 13, 1990, Republican Party of Texas, and $1,000.00, March 27, 1990, Senator Phil Gramm.

3. Children and spouses names, Lynn Spearman McKenzie-Michael McKenzie (none), Charles M. Spearman-Jacinthe D. Spearman (none), Leonard H. O. Spearman, Jr. (none).

4. Parents names, Elvis W. and Tryphenia Spearman (none).

5. Grandparents names, Rosa Lawrence (deceased), Rawn Mitchell (deceased), Adell Spearman (deceased), Rose Spearman (deceased).

6. Brothers and spouses names, Elvis Ohara Spearman (deceased), Frankie Spearman (none), Rawn W. Spearman (none), Daisey L. Spearman (deceased).

7. Sisters and spouses names, Viva T. Spearman Coleman-Hyron Coleman (none), Agenoria S. Paschal, Alonjo Paschal (none).

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DIXON (for himself, Mr. BYRD, Mr. D'AMATO, Mr. FORD, Mr. HEINZ, Mr. HELMS, and Mr. REID):

S. 3148. A bill to condition funding for coproduction with South Korea of the F/A-18 aircraft on receipt by Congress of the relevant Memorandum of Understanding (MOU) and to extend the 30-day congressional review period until the MOU is received; to the Committee on Foreign Relations.

By Mr. HOLLINGS:

S. 3149. A bill to amend title XVIII of the Social Security Act to provide coverage under part B of Medicare for air fulidized based bed therapy in nursing facilities; to the Committee on Finance.

By Mr. PELL:

S. 3150. A bill to amend the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

By Mr. RIEGLE (for himself, Mr. HEINZ, and Mr. PRYOR):

S. 3151. A bill to amend title II of the Social Security Act to provide for the entitlement of deemed spouses to benefits under such title despite the entitlement of a legal spouse, to waive the 2-year waiting period for entitlement to divorced spouse's benefits, and for other purposes; to the Committee on Finance.

By Mr. GORTON:

S. 3152. A bill to authorize the issuance of certificates of documentation for certain inflatable vessels; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON:

S. 3153. A bill to assure equal justice for women in the courts; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mr. ROTH, Mr. BRADLEY, and Mr. LAUTENBERG):

S.J. Res. 373. Joint resolution granting the consent of the Congress to amendments to the Delaware-New Jersey Compact, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for Mr. DOLE, (for himself, Mr. MITCHELL, Mr. HEINZ and Mr. SPECTER):

S. Res. 331. A resolution to congratulate Senator Hugh Scott on his 90th birthday; considered and agreed to.

By Mr. HEFLIN:

S. Res. 332. A resolution to refer S. 1301, entiteld "For the relief of Hoar Construction, Inc., of Birmingham, Alabama, to settle certain claims filed against the Small Business Administration" to the Chief Judge of the United States Claims Court for a report thereon; to the Committee on the Judiciary.

By Mr. ADAMS:

S. Con. Res. 149. Concurrent resolution to create a Congressional Leadership Group; to the Committee on Rules and Administration.

By Mr. FORD (for Mr. HARKIN):

S. Con. Res. 150. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 1824; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON (for himself, Mr. BYRD, Mr. D'AMATO, Mr. FORD, Mr. HEINZ, Mr. HELMS and Mr. REID):

S. 3148. A bill to condition funding for coproduction with South Korea of the F/A-18 aircraft on receipt by Congress of the relevant memorandum of understanding [MOU] and to extend the 30-day congressional review period until the MOU is received; to the Committee on Foreign Relations.

CONDITIONS ON SALE OF AIRCRAFT TO KOREA

Mr. DIXON. Mr. President, the administration on Friday, September 7, 1990, sent official notification to the Senate that it had reached an agreement with the South Korean Government on the sale of F/A-18's to that country.

Just 2 weeks ago, I asked the State Department to provide me with a copy of the proposed memorandum of understanding and any relevant side letters of agreement. I was told "No." Word was relayed back that officials would brief me or my staff. We could ask questions, but we could not review the actual documents. I then placed a call to Mr. C. Boyden Gray, White House chief counsel, to request these documents—a simple request. As a Member of the Senate, I think I am entitled to a positive reponse. I made this simple request 10 days ago. I have yet to get any answer.

Mr. President, the Constitution of this great Nation in article 1, section 8, gives Congress the authority to "* * * regulate commerce with foreign nations * * *" South Korea may well be an important ally, but South Korea is still a foreign nation within the meaning of article 1, section 8, of our Constitution.

What we are being asked to do is to allow an agreement between the President of the United States and a foreign government to be approved without anybody elected to the Senate or the House of Representatives being permitted to look at the document.

The President only has the authority to enter into these agreements because Congress permits it. Congress, however, did not abandon its responsibilities. In the delegation of authority provided by the statute, Congress explicitly reserves for itself the right to overturn individual sales that Congress believes are unwise by enacting a joint resolution of disapproval. How can Congress intelligently exercise this power without seeing the terms of the proposed sales as outlined in the memoranda of understanding?

Mr. President, together with Senators BYRD, D'AMATO, FORD, HEINZ, HELMS, and REID, I am today introducing legislation designed to remind the administration of its duties under the law. It does not withdraw the President's authority to negotitate sales agreements. Instead, the bill merely requires the administration to give the Speaker of the House and the President pro tempore of the Senate the actual memorandum of understanding with South Korea, as well as any side letters of agreement. The bill also says that the 30-day period during which Congress has to consider the agreement will not begin until we have received these documents.

Mr. President, I simply want to conclude by saying this is the most remarkable experience I have ever had in public service. The law under the Arms Export Control Act says that those of us in the U.S. Senate and those of us in the Congress passed upon these memoranda of understanding and side agreements that our country enters into with foreign countries, and here is the administration saying to a U.S. Senate Member and other U.S. Senators that they will not let us see the memorandum of understanding and the accompanying papers.

How can any member of the U.S. Senate make an intelligent judgment call on whether it is a good MOU and a good contract without looking at it? I think it is remarkable. I am not passing upon the virtue of this instrument or the subjective or other parts of the agreement itself. I am simply saying we have a right to see this memorandum of understanding.

I yield the floor. I thank my colleagues.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL DOCUMENTS REQUIRED FOR PROPOSED COPRODUCTION OF F/A-18 AIRCRAFT.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available by any provision of law shall be available for the export, or the licensing for export, of any items or technology to South Korea in connection with the coproduction of F/A-18 aircraft until at least 30 days after the Congress has received the proposed memorandum of understanding between South Korea and the United States regarding that coproduction and all documentation and background material, including agreements concluded through the exchange of letters, relating thereto.

(b) EXTENSION OF THE CONGRESSIONAL REVIEW PERIOD.—No Presidential certification under subsection (b), (c) or (d) of section 36 of the Arms Export Control Act with respect to the sale or export of items or technology for the coproduction of the F/A-18 aircraft with South Korea shall be deemed to have been received by the Congress until the President submits to the Congress the documents described in subsection (a).

By Mr. HOLLINGS:

S. 3149. A bill to amend title XVIII of the Social Security Act to provide coverage under part B of Medicare for air fluidized bead bed therapy in nursing facilities; to the Committee on Finance.

MEDICARE COVERAGE OF AIR FLUIDIZED BEAD BED THERAPY IN NURSING HOMES

● Mr. HOLLINGS. Mr. President, today I am introducing legislation which would amend title XVIII of the Social Security Act to provide coverage under part B of Medicare for air fluidized bead bed therapy in nursing facilities. Currently Medicare covers air fludizied bead bed therapy under part A for up to 100 days per spell of illness. My bill calls for placing all patients with medical necessity on air fluidized support beds until they are completely healed, with Medicare B picking up any treatment days not covered under part A.

As many of my colleagues are aware, pressure sores are one of the most devastating problems facing the health care industry from both a patient recovery and financial perspective—an annual estimated cost of $2 to $7 billion. Nursing home patients comprise the largest group for developing pressure sores. All too often, when the covered period expires, a patient is removed from an air fluidized bead bed without due consideration of medical condition or excess costs. Replacement beds are not adequate to completely heal pressure sores, resulting in complications such as sepsis, osteomyelitis, protein loss, and exacerbation of certain co-existing conditions. And, unnecessary costs are incurred when the patient's condition escalates to the point that hospitalization is required and Medicare must pay the higher costs of an acute care facility.

The total estimated cost for curing a single stage 4 pressure ulcer is between $30,000 and $40,000. With the part B coverage for air fluidized bead beds, the treatment costs for patients with pressure sores would decrease substantially because the beds allow them to heal completely and reduce the amount spent on existing sores. Also, the coverage would reduce complications associated with pressure sores because patients would be placed on products that would deter further skin breakdown reducing the worsening of existing sores.

Mr. President, because I am convinced that expansion of air fluidized bead bed therapy is cost effective, my bill also requires that the Secretary of Health and Human Services monitor the impact of total Medicare expenditures of the addition of the air fluidized bead bed therapy furnished to patients in nursing facilities. It is estimated that utilization of this appropriate therapy would reduce the cost of pressure sores in hospitals 36 percent to approximately $7,104—a 10.4 percent reduction in length-of-stay costs alone. The cost reduction will be even more substantial in skilled nursing care facilities where costs are usually less.

The current program of not healing the sores and allowing them to worsen results in astronomical treatment costs in both nursing and hospital settings. Earlier intervention and complete healing of pressure sores will reduce suffering and decrease the cost to the patient and to the Medicare Program.

Mr. President, there simply is no need to continue to spend enormous amounts of money on pressure sores in nursing facilities when this simple change in the law could save us money. I urge my colleagues to lend their full support to my measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICARE PART B COVERAGE OF AIR FLUIDIZED BEAD BED THERAPY IN NURSING FACILITIES TO TREAT PRESSURE SORES.

(a) IN GENERAL.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395(s)) is amended—

(1) by striking "and" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; and"; and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) air fluidized bead bed therapy, in accordance with utilization guidelines to be developed by the Secretary, furnished in a nursing facility.".

(b) MONITORING OF COST OF BENEFIT.—The Secretary of Health and Human Services shall study and monitor the impact on total medicare expenditures of the cost of coverage under title XVIII of the Social Security Act of air fluidized bead bed therapy furnished to individuals in nursing facilities.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to items and services furnished on or after January 1, 1991.●

By Mr. PELL:

S. 3150. A bill to amend the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

AMENDMENTS TO FEDERAL SHIP MORTGAGE INSURANCE PROGRAM

● Mr. PELL. Mr. President, today I am introducing legislation designed to help the fishing industry through some very difficult times.

When I look at the problems faced by Rhode Island fishermen, it seems to me as if life itself is conspiring against them. Lately, there seems to be nothing but bad news those who make their living at fishing.

The credit crunch. New England is in the midst of a serious economic downturn and these bad times have all but dried up the credit available to fishermen for vessel operation.

The crisis in the Middle East. Events far away from Narragansett Bay have driven the price of energy through the roof and this increase is a significant and unexpected financial burden for fishermen.

Foreign competition. Aggressive or unsound fishing practices employed by foreign-based fishermen are challenging the competitiveness of our domestic fishing industry and this challenge may force some fishermen out of business.

Depleted fishing stocks. Over-fishing of popular fishing stocks along with a lack of expertise in the marketing of underutilized species have hit fisherman hard and placed the future viability of the industry in grave doubt.

All of these forces are working against Rhode Island fishermen. The fishermen are trying to meet these challenges by working longer hours, fixing their boats by themselves, and setting out to sea on days when conditions are potentially hazardous.

There are many ways those of us in Congress can help our fishermen. This week, I received an outstanding suggestion for a good place to start.

The Rhode Island Fisheries Preservation Alliance has asked me to introduce legislation that will change the Federal Ship Mortgage Insurance Program to better meet the needs of fishermen in the 1990's and beyond. I am proud to introduce that legislation here today.

The Federal Ship Mortgage Insurance Program Act Amendments of 1990 will address perhaps the most pressing need of Rhode Island fishermen, the unavailability of credit.

Under this act, the Federal Government will back loans made to fishermen for general working capital needs.

In the current program, loans are only backed if they are for the construction, reconstruction, or reconditioning of fishing vessels.

The legislation I am introducing today would expand the Federal Ship Mortgage Insurance Program to cover loans made for the equipping, maintaining, repairing, or operating a fishing vessel.

In closing, I should emphasize that this new legislation was developed by a group of Rhode Islanders that have made an effort to change the fishing industry for the better. The Rhode Island Fisheries Preservation Alliance was recently formed to bring about real solutions to the problems facing the fishing industry.

The Federal Ship Mortgage Insurance Program Act Amendments of 1990 is a tribute to the perseverance of the men and women that make up this group, including its chairman, Rhode Island State Senator William O'Neill, Mr. Fred Benson, Mr. Norbert Stamps, Mr. John Kilcommons, and Mr. John Kennedy.

Mr. President, as introduced, this is good legislation, but I am open to suggestions for further improvement. For example, it may be desirable to increase the guarantee fee for fishery loans under this program because the risks involved may be somewhat greater than in the existing program. In addition, the Rhode Island Fisheries Preservation Alliance has explicitly recognized that one of the problems confronting the industry is overcapitalization. If safeguards in addition to those already in the program are required to assure that these loan guarantees do not add to the overcapitalization problem, then those additional provisions can be added.●

By Mr. RIEGLE (for himself, Mr. HEINZ, and Mr. PRYOR):

S. 3151. A bill to amend title II of the Social Security Act to provide for the entitlement of deemed spouses to benefits under such title despite the entitlement of a legal spouse, to waive the 2-year waiting period for entitlement to divorced spouse's benefits, and for other purposes; to the Committee on Finance.

ENTITLEMENT TO BENEFITS OF DEEMED SPOUSE AND LEGAL SPOUSE

● Mr. RIEGLE. Mr. President, today I am introducing with my distinguished colleagues, Senators HEINZ and PRYOR, a bill that would remedy an injustice that deprives widows and widowers of Social Security benefits—benefits that they may need to survive. Most often affecting widows rather than widowers, current law denies the benefits of a deceased worker to a widow if the deceased worker had a preexisiting common law marriage that was not terminated and the wife from that marriage, the legal wife, applies for dependent benefits on the deceased worker's record. This is true even if the widow had no knowledge of this prior marriage.

These widows, in good faith, believed that they were legally married and relied upon the fact that when they become old, they would be eligible for benefits on their husband's records. As it stands, many of these women have little or no income. Despite long relationships with men they believed to legally be their husbands, they are left without any Social Security coverage when their husband dies. This bill would restore benefits to good faith wives even if the legal wife receives benefits. It would also waive the 2-year waiting period after a divorce for divorced spouses who are eligible for dependent spouse benefits and would continue disability benefits during appeal.

I became painfully aware of the dilemma of good faith wives when Lillian Snowden, a Michigan resident, contacted my regional office. At that time, she requested my assistance regarding entitlement to Social Security widow's benefits on the record of her deceased husband, Mr. Jack Snowden.

Lillian married Jack Snowden ceremonially on November 6, 1950. She remained entirely committed and fully dependent upon Jack for 31 years until his death in 1981. After Jack died, Lillian, who was listed as Jack's wife in his application for retirement benefits, became entitled to widows benefits. For 2½ years, Lillian received the benefits she needed and deserved. The payments enabled her to sustain herself.

In March 1984, Mrs. Snowden received notice from the Social Security Administration that she was no longer entitled to benefits because a woman who had lived with Mr. Snowden for 10 years prior to his meeting Lillian, had applied for widow's benefits. Their relationship was considered a common law marriage and was determined to have remained in effect until Mr. Snowden's death. Therefore, Lillian Snowden's marriage to Jack was deemed invalid, leaving Lillian, who was not responsible, nor aware of this problem, without any survivor's benefits. Jack's previous, common law wife had not lived with him since before 1950 but remains the sole beneficiary of his survivor's insurance.

My office contacted the Social Security Administration immediately to verify the information that Lillian received and was told that the decision to revoke Lillian's benefits was correct and in accordance with their rules and regulations. In addition, they would not even consider a waiver of the divorce requirement. Despite many phone calls, the decision to revoke Lillian's benefits stood.

Mr. President, today Lillian Snowden receives only $281 in SSI benefits per month. Obviously, this is not enough for anyone to make ends meet. To resolve this situation, I am introducing this legislation, to amend title II of the Social Security Act to provide benefits to a widow or widower who in good faith married unaware that their marriage was invalid and who lost their entitlement to benefits because another entitled spouse claimed those benefits.

The plight of Lillian Snowden is tragic, but not unique. Indeed, there are many in this Nation who would benefit from the correction of this injustice. To continue to adhere to the promises of Social Security and to the ideals it professes, we must correct these inequities.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENTITLEMENT TO BENEFITS OF DEEMED SPOUSE AND LEGAL SPOUSE.

(a) CONTINUED ENTITLEMENT OF DEEMED SPOUSE DESPITE ENTITLEMENT OF LEGAL SPOUSE.—Section 216(h)(1) of the Social Security Act (42 U.S.C. 416(h)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(h)(1)(A)"; and

(B) by striking "If such courts" in the second sentence and inserting the following: "(ii) If such courts"; and

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)";

(B) by striking "The provisions of the preceding sentence" in the second sentence and inserting the following:

"(ii) The provisions of clause (i)";

(C) by striking "(i) if another" in the second sentence and all that follows through "or (ii)";

(D) by striking "The entitlement" in the third sentence and inserting the following:

"(iii) The entitlement";

(E) by striking "subsection (b), (c), (e), (f), or (g)" in the third sentence and inserting "subsection (b) or (c)";

(F) by striking "wife, widow, husband, or widower" the first place it appears in the third sentence and inserting "wife or husband";

(G) by striking "(i) in which" in the third sentence and all that follows through "in which such applicant entered" and inserting "in which such person enters";

(H) by striking "For purposes" in the fourth sentence and inserting the following:

"(iv) For purposes";

and

(I) by striking "(i) and "(ii)" in the fourth sentence and inserting "(I)" and "(II)", respectively.

(b) TREATMENT OF DIVORCE IN THE CONTEXT OF INVALID MARRIAGE.—Section 216(h)(1)(B)(i) of such Act (as amended by subsection (a)) if further amended—

(1) by striking "where under subsection (b), (c), (f), or (g) such applicant is not the wife, widow, husband, or widower of such individual" and inserting "where under sub-

section (b), (c), (d), (f), or (g) such applicant is not the wife, divorced wife, widow, surviving divorced wife, husband, divorced husband, widower, or surviving divorced husband of such individual";

(2) by striking "and such applicant" and all that follows through "files the application,";

(3) by striking "subsections (b), (c), (f), and (g)" and inserting "subsections (b), (c), (d), (f), and (g)"; and

(4) by adding at the end the following new sentences: "Notwithstanding the preceding sentence, in the case of any person who would be deemed under the preceding sentence a wife, widow, husband, or widower of the insured individual, such marriage shall not be deemed to be a valid marriage unless the applicant and the insured individual were living in the same household at the time of the death of the insured individual or (if the insured individual is living) at the time the applicant files the application. A marriage that is deemed to be a valid marriage by reason of the preceding sentence shall continue to be deemed a valid marriage if the insured individual and the person entitled to benefits as the wife or husband of the insured individual are no longer living in the same household at the time of the death of such insured individual.".

(c) TREATMENT OF MULTIPLE ENTITLEMENTS UNDER THE FAMILY MAXIMUM.—Section 203(a)(3) of such Act (42 U.S.C. 403(a)(3)) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) In any case in which—

"(i) two or more individuals are entitled to monthly benefits for the same month as a spouse under subsection (b) or (c) of section 202, or as a surviving spouse under subsection (e), (f), or (g) of section 202,

"(ii) at least one of such individuals is entitled by reason of subparagraph (A)(ii) or (B) of section 216(h)(1), and

"(iii) such entitlements are based on the wages and self-employment income of the same insured individual, the benefit of the entitled individual whose entitlement is based on a valid marriage (as determined without regard to subparagraphs (A)(ii) and (B) of section 216(h)(1)) to such insured individual shall, for such month and all months thereafter, be determined without regard to this subsection, and the benefits of all other individuals who are entitled, for such month or any month thereafter, to monthly benefits under section 202 based on the wages and self-employment income of such insured individual shall be determined as if such entitled individual were not entitled to benefits for such month.".

(d) CONFORMING AMENDMENT.—Section 203(a)(6) of such Act (42 U.S.C. 403(a)(6)) is amended by inserting "(3)(D)," after "(3)(C),".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to benefits for months after December 1990.

(2) TERMINATED BENEFICIARIES AND DIVORCED DEEMED SPOUSES.—In the case of individuals whose benefits under title II of the Social Security Act have been terminated under section 216(h)(1)(B) of such Act before January 1, 1991, or who would be entitled to benefits under such title for any month after December 1990 as a divorced spouse or surviving divorced spouse solely by reason of the amendments made by this section, the amendments made by this section shall apply only with respect to benefits for which application is filed with the Secretary of Health and Human Services after December 31, 1990.

SEC. 2. WAIVER OF 2-YEAR WAITING PERIOD FOR INDEPENDENT ENTITLEMENT TO DIVORCED SPOUSE'S BENEFITS.

(a) WAIVER FOR PURPOSES OF DEDUCTIONS ON ACCOUNT OF WORK.—Section 203(b)(2) of the Social Security Act (42 U.S.C. 403(b)(2)) is amended—

(1) by striking "(2) When" and all that follows through "2 years, the benefit" and inserting the following:

"(2)(A) Except as provided in subparagraph (B), in any case in which—

"(i) any of the other persons referred to in paragraph (1)(B) is entitled to monthly benefits as a divorced spouse under section 202 (b) or (c) for any month, and

"(ii) such person has been divorced for not less than 2 years,

the benefit"; and

(2) by adding at the end the following new subparagraph:

"(B) Clause (ii) of subparagraph (A) shall not apply with respect to any divorced spouse in any case in which the individual referred to in paragraph (1) became entitled to old-age insurance benefits under section 202(a) before the date of the divorce.".

(b) WAIVER IN CASE OF NONCOVERED WORK OUTSIDE THE UNITED STATES.—Section 203(d)(1)(B) of such Act (42 U.S.C. 403(d)(1)(B)) is amended—

(1) by striking "(B) When" and all that follows through "2 years, the benefit" and inserting the following:

"(B)(i) Except as provided in clause (ii), in any case in which—

"(I) a divorced spouse in entitled to monthly benefits under section 202 (b) or (c) for any month, and

"(II) such divorced spouse has been divorced for not less than 2 years,

the benefit"; and

(2) by adding at the end the following new clause:

"(ii) Subclause (II) of clause (i) shall not apply with respect to any divorced spouse in any case in which the individual entitled to old-age insurance benefits referred to in subparagrph (A) became entitled to such benefits before the date of the divorce.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months after December 1990.

SEC. 3. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 of the Social Security Act (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1)(i), by inserting "or" after "hearing,", and by striking "pending, or (iii) June 1990." and inserting "pending."; and

(2) by striking paragraph (3)●

By Mr. GORTON:

S. 3152. A bill to authorize the issuance of certificates of documentation for certain inflatable vessels; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF CERTAIN INFLATABLE VESSELS

● Mr. GORTON. Mr. President, the bill I am introducing today would provide for a Jones Act exemption for certain small inflatable boats known as Zodiacs which are used by Wilderness Cruise Lines of Seattle, WA.

Wilderness Cruise Lines operates passenger cruise ships from Seattle to Alaska or off the coast of Baja, CA. Zodiacs are used to carry passengers from the cruise ships for sightseeing trips near or on the shore. Each Zodiac can carry up to 15 people and costs approximately $11,000.

The U.S. Coast Guard has recently labeled the use of the Zodiacs as coastwise trade. As the boats are manufactured in Canada, they do not qualify for the needed documentation to obtain a coastwise license. I am therefore introducing a bill to allow these vessels to obtain the necessary documentation.

I ask unanimous consent that the text of the bill be printed in the RECORD following this statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue certificates of documentation for eight inflatable vessels identified, respectively, as follows:

(1) Serial number 3968B, model number J990.

(2) Serial number 4581B, model number J990.

(3) Serial number A501A, model number D989.

(4) Serial number A502A, model number D989.

(5) Serial number 6291C, model number G091.

(6) Serial number 6300C, model number G091.

(7) Serial number 7302C, model number G091.

(8) Serial number 7305C, model number G091.●

By Mr. SIMON:

S. 3153. A bill to assure equal justice for women in the courts; to the Committee on the Judiciary.

EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

● Mr. SIMON. Mr. President, I rise today to introduce the Equal Justice for Women in the Courts Act of 1990. This bill will address one of the remaining barriers to equal justice in our States and Federal judicial proceedings—gender bias by judges and supporting personnel.

The Equal Justice for Women in the Courts Act would authorize funds for the State Justice Institute and the Federal Judicial Center for use in the development and dissemination of model programs designed to train judges and their personnel on rape laws, sexual assault, domestic violence and other gender-motivated crimes.

Training would include such topics as the physical, economic, and psychological effects of rape and domestic violence on the victim and their costs on society; statistics on the nature and in-

cidence of domestic violence; and the application of rape shield laws and other limits on the introduction of evidence in court. Both the State and the Federal model programs would be developed with the assistance of law enforcement officials, victim's advocates, prosecutors, defense attorneys, and legal and social science experts.

The Federal Courts Study Committee report released in April recognized the crucial need for the type of judicial education and training this bill will provide. The Study Committee noted that studies of many State systems reflect the presence of gender bias in State judicial proceedings. The committee concluded, "[w]e believe education is the best means of sensitizing judges and supporting personnel to their own possible inappropriate conduct and to the importance of curbing such bias when shown by attorneys, parties, and witnesses."

Two years ago, the Illinois State Bar Association, the Illinois Women's Bar Association, and the Chicago Bar Association established the Task Force to Study Gender Bias in the Courts. The task force recently released its exhaustive study of the manifestations of gender bias in domestic relations cases, criminal cases, civil damage awards, and courtroom dynamics in the Illinois system. The report related such specific instances of bias as a judge's comments in a case where a husband engaged in an automobile chase of his estranged wife and her companion. The woman and her companion were killed in the chase. As he sentenced the defendant to probation, the presiding judge stated, "[t]his was no drunken idiot trying to run someone off the road. This was a sober man trying to reclaim his wife."

But this is just one of many examples of blatant gender bias uncovered by the task force. The report catalogs other, far more subtle, instances of bias throughout the justice system and strongly recommends judicial education as an important component in any effort to eliminate such bias.

I too believe that educational training for State and Federal judges on the issues of sexual assault, spousal abuse, and domestic violence is extremely important and necessary in order for judges and court personnel to have a clear sense of the traumatic effects of such crimes on the victims.

The Equal Justice for Women in the Courts Act builds on landmark legislation introduced by Senator BIDEN in April. That bill, S. 2754, the Violence Against Women Act, is a comprehensive measure designed to make our Nation's streets, homes, and college and university campuses safer for women. The bill increases the penalties for sexual assault and creates grants to States to train police and prosecuters. Senator BIDEN's bill also grants interstate enforcement of protective orders and creates a civil rights remedy for victims of sexual assault. This bill has been the subject of extensive hearings in the Judiciary Committee and I am proud to count myself among its bipartisan cosponsors.

Mr. President, statistics compiled by the Judiciary Committee reveal that in 1989, more women were abused by their husbands than the number of women who got married. and since 1974, the rate of assaults against young women age 20-24 has risen 48 percent. In that same period of time assaults against young men age 20-24 dropped 12 percent. In my home State of Illinois, the rate of sexual assaults has risen roughly 18 percent since 1986.

Yet rape is the most underreported of all major crimes—it is believed that only about 7 percent of all rapes are reported to police. One of the reasons they go unreported is the perceived, and often actual, insensitivity of law enforcement officers and officers of the court to the victims of crimes of this nature.

The bill I introduce today will provide meaningful protection of the rights of those who are victimized by sex crimes and other gender-motivated crimes. When the Judiciary Committee considers S. 2754, I intend to offer the Equal Justice for Women in the Courts Act as an amendment. The Equal Justice for Women in the Courts Act will take us all one step closer to realizing equal justice under the law.

Mr. President, I commend this bill to my colleagues and invite their cosponsorship and support.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following this statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equal Justice for Women in the Courts Act of 1990".

TITLE I—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN STATE COURTS

SEC. 101. GRANTS AUTHORIZED.

The Attorney General shall make grants through the State Justice Institute for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 102. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this title may include—

(1) current data on the nature and incidence of rape and sexual assault by strangers and non-strangers, marital rape, and incest;

(2) current data on the undereporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of law and attitudes of rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that subjects victims to improper sex stereotyping and harrassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant and the inappropriateness of holding such victims in contempt of court;

(10) current data on the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' failure to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel; and

(18) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims.

SEC. 103. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The Attorney General shall ensure that model programs carried out pursuant to grants made under this title are developed in conjunction with, and with the participation of, law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the

courts drawn from the legal and social science professions.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1991, $600,000 to carry out the purposes of this title. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

TITLE II—EDUCATION AND TRAINING FOR JUDGES AND COURT PERSONNEL IN FEDERAL COURTS

SEC. 201. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use data collection techniques such as reviews of trail and appellate opinions and transcripts, public hearings and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 102 of title I; and

(B) all procedural and substantive aspects of the legal rights and remedies, for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 203. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this title, the Federal Judicial Center shall ensure that the study and model programs are developed in conjunction with, and with the participation of, law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts drawn from the legal and social science professions.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1991, $400,000 to carry out the purposes of this title. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 201(a) of this title.●

By Mr. BIDEN (for himself, Mr. ROTH, Mr. BRADLEY, and Mr. LAUTENBERG):

S.J. Res. 373. Joint resolution granting the consent of the Congress to amendments to the Delaware-New Jersey Compact, and for other purposes; to the Committee on the Judiciary.

CONSENT OF CONGRESS TO AMENDMENT TO THE DELAWARE-NEW JERSEY COMPACT.

● Mr. BIDEN. Mr. President, I am joined by Senators ROTH, BRADLEY, and LAUTENBERG in introducing legislation to grant congressional consent to amendments to an interstate compact between Delaware and New Jersey. The amendments, which have been passed by both State legislatures, allow the Delaware River and Bay Authority to engage in economic development activity.

The original compact was consented to in 1962. Allowing an interstate authority of this type to engage in economic development is fairly common. In fact, New Jersey already has similar arrangements with interstate authorities it has established with her two other neighbors, Pennsylvania and New York.

The compact explicitly requires that environmental concerns be met before proceeding with any economic development activities. Delaware has long supported strong protective measures for the State's coastline. In approving the compact, Delawareans made sure that the authority would have to comply with strict environmental stanards. In fact, steps that will improve environmental conditions in the Delaware River and Bay are specifically listed as qualifying economic development projects.

The compact amendments enjoyed strong bipartisan support in the Delaware and New Jersey legislatures. I hope that Congress will be able to grant its consent to the compact changes before the end of the session.

I ask that a copy of the joint resolution consenting to the compact be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 373

Whereas the State of Delaware and the State of New Jersey, pursuant to legislative authority adopted by each State, being 53 Laws of Delaware, chapter 145, and Public Law 1961, chapter 66 of the Laws of New Jersey, have provided, subject to the consent of Congress, for a compact, known as the Delaware-New Jersey Compact, establishing "The Delaware River and Bay Authority" for the development of the area in both States bordering the said Delaware River and Bay; and

Whereas the State of Delaware and the State of New Jersey, pursuant to legislative authority adopted by each State, have provided subject to the consent of Congress, for an amendment to the Delaware-New Jersey Compact to authorize the Delaware River and Bay Authority to undertake economic development projects, other than major projects, at its own initiative, and to undertake major projects after securing only such approvals as may be required by the legislation of the State in which the project is to be located, except the Authority is prohibited from undertaking any major project to be located in the Delaware River and Bay, including, without limitation, any deep-water port or superport, without the prior approval, by concurrent legislation, of the two States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS.

The Congress consents to the amendments to the Delaware-New Jersey Compact which have been enacted by the States of Delaware and New Jersey, so that the Delaware-New Jersey Compact reads substantially as follows:

"DELAWARE-NEW JERSEY COMPACT

"Whereas the States of Delaware and New Jersey are separated by the Delaware River and Bay which creates a natural obstacle to the uninterrupted passage of traffic other than by water and with normal commercial activity between the two States thereby hindering the economic growth and development of those areas in both States which border the River and Bay; and

"Whereas the pressures of existing trends from increasing traffic, growing population, and greater industrialization indicate the need for closer cooperation between the two States in order to advance the economic development and to improve crossings, transportation, terminal, and other facilities of the area; and

"Whereas the financing, construction, operation and maintenance of such crossings, transportation, terminal, and other facilities of commerce and the overall planning for future economic development of the area may be best accomplished for the benefit of the two States and their citizens, the region and Nation, by the cordial cooperation of Delaware and New Jersey by and through a joint or common agency or authority; and

"Whereas the Delaware-New Jersey Compact, enacted pursuant to 53 Laws of Delaware, Chapter 145 (17 Del. C. §1701) and Public Law 1961, c. 66 (C. 32:11E-1 et seq.) of the Pamphlet Laws of New Jersey, with the consent of the United States Congress by Joint Resolution being Public Law 87-678, 87th Congress, H.J. Res. 783, September 20, 1962, created the Delaware River and Bay Authority with the intention of advancing the economic growth and development of those areas in both States which border the Delaware River and Bay by the financing, development, construction, operation, and maintenance of crossings, transportation, or terminal facilities and other facilities of commerce, and by providing for overall planning for the future economic development of those areas; and

"Whereas the economic growth and development of areas of both States will be further advanced by authorizing the Authority to undertake economic development projects, other than major projects, as defined in Article II, at its own initiative, and to undertake major projects after securing only such approvals as may be required by legislation of the State in which the project is to be located, except that the Authority is prohibited from undertaking any major project, to be located in the Delaware River or Bay, including, without limitation, any deep-water port or superport, without the prior approval, by concurrent legislation, of the two States; and

"Whereas the natural environment of those areas in the two States which border the Delaware River and Bay would be better preserved by requiring that the projects, other than crossings, of the Authority shall be in complete compliance with all applica-

ble environmental protection laws and regulations before the Authority may undertake the planning, development, construction, or operation of any project, other than a crossing:

"Now, Therefore, the State of Delaware and the State of New Jersey do hereby solemnly covenant and agree, each with the other as follows:

"ARTICLE I

"SHORT TITLE

"This Compact shall be known as the 'Delaware-New Jersey Compact'.

"ARTICLE II

"DEFINITIONS

" 'Crossing' means any structure or facility adapted for public use in crossing the Delaware River or Bay between the States, whether by bridge, tunnel, ferry, or other device, and by any vehicle or means of transportation of persons or property, as well as all approaches thereto and connecting and services routes and all appurtenances and equipment relating thereto.

" 'Transportation facility' and 'terminal facility' means any structure or facility other than a crossing, as herein defined, adapted for public use within each of the States party hereto in connection with the transportation of persons or property, including railroads, motor vehicles, watercraft, airports and aircraft, docks, wharves, piers, slips, basins, storage places, sheds, warehouses, and every means or vehicle of transportation now or hereafter in use for the transportation of persons and property or the storage, handling or loading of property, as well as all appurtenances and equipment related thereto.

" 'Commerce facility or development' means any structure or facility adapted for public use or any development for a public purpose within each of the States party hereto in connection with recreational and commercial fishery development, recreational marina development, aquaculture (marine farming), shoreline preservation and development (including wetlands and open-lands acquisition, active recreational and park development, beach restoration and development, dredge spoil disposal and port-oriented development), foreign trade zone site development, manufacturing and industrial facilities, and other facilities of commerce which, in the judgment of the Authority, are required for the sound economic development of the area.

" 'Appurtenances' and 'Equipment' mean all works, buildings, structures, devices, appliances, and supplies, as well as every kind of mechanism, arrangement, object, or substance related to and necessary or convenient for the proper construction, equipment, maintenance, improvement, and operation of any crossing, transportation facility or terminal facility, or commerce facility, or development.

" 'Project' means any undertaking or program for the acquisition or creation of any crossing, transportation facility or terminal facility, or commerce facility or development, or any part thereof, as well as for the operation, maintenance, and improvement thereof.

" 'Major Project' means any project, other than a crossing, having or likely to have significant environmental impacts on the Delaware River and Bay, its shorelines or estuaries, or any other area in the State of Delaware or the New Jersey counties of Cape May, Cumberland, Cloucester, and Salem, as determined in accordance with State law by the environmental agency of the State in which the major project is to be located.

" 'Tunnel' means a tunnel of one or more tubes.

" 'Governor' means any person authorized by the Constitution and law of each State to exercise the functions, powers, and duties of that office.

" 'Authority' means the Authority created by this Compact or any agency successor thereto.

"The singular whenever used in this Compact shall include the plural, and the plural shall include the singular.

"ARTICLE III

"FAITHFUL COOPERATION

"They agree to and pledge, each to the other, faithful cooperation in the effectuation of this Compact and any future amendment or supplement thereto, and of any legislation expressly in implementation thereof hereafter enacted, and in the planning, development, financing, construction, operation, maintenance, and improvement of all projects entrusted to the authority created by this Compact.

"ARTICLE IV

"ESTABLISHMENT OF AGENCY; PURPOSES

"The two States agree that there shall be created and they do hereby create a body politic, to be known as 'The Delaware River and Bay Authority' (for brevity hereinafter referred to as the 'Authority'), which shall constitute an agency of government of the State of Delaware and the State of New Jersey for the following general public purposes, and which shall be deemed to be exercising essential government functions in effectuating such purposes, to wit:

"(a) The planning, financing, development, construction, purchase, lease, maintenance, improvement, and operation of crossings between the States of Delaware and New Jersey across the Delaware River or Bay at any location south of the boundary line between the State of Delaware and the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore of said River, together with such approaches or connections thereto as in the judgment of the Authority are required to make adequate and efficient connections between such crossings and any public highway or other routes in the State of Delaware or in the State of New Jerey; and

"(b) The planning, financing, development, construction, purchase, lease, maintenance, improvement, and operation of any transportation or terminal facility within the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester, and Salem, which facility, in the judgment of the Authority, is required for the sound economic development of the area; and

"(c) The planning, financing, development, construction, purchase, lease, maintenance, improvement, and operation of any commerce facility or development within the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester, and Salem, which in the judgment of the Authority is required for the sound economic development of the area; and

"(d) The performance of such other functions as may be hereafter entrusted to the Authority by concurrent legislation expressly in implementation hereof.

"The Authority shall not undertake any major project or part thereof without having first secured such approvals as may be required by legislation of the State in which the project is to be located.

"The Authority shall not undertake any major project, or part thereof to be located in the Delaware River or Bay, including, without limitation, any deep-water port or superport, without having first secured approval thereof by concurrent legislation of the two States expressly in implementation thereof.

"The Authority shall not undertake any major project or part thereof without first giving public notice and holding a public hearing, if requested, on any proposed major project, in accordance with the law of the State in which the major project is to be located. Each State shall provide by law for the time and manner for the giving of such public notice, the requesting of a public hearing and the holding of such public hearings.

"ARTICLE V

"COMMISSIONERS

"The Authority shall consist of twelve Commissioners, six of whom shall be residents of and qualified to vote in and shall be appointed from the State of Delaware, and six of whom shall be residents of and qualified to vote in and shall be appointed from the State of New Jersey; not more than three of the Commissioners of each State shall be of the same political party; the Commissioners for each State shall be appointed in the manner fixed and determined from time to time by the law of each State respectively. Each Commissioner shall hold office for a term of five years, and until his successor shall have been appointed and qualified, but the terms of the first Commissioners shall be so designated that the term of at least one Commissioner from each State shall expire each year. All terms shall run to the first day of July. Any vacancy, however created, shall be filled for the unexpired term only. Any Commissioner may be suspended or removed from office as provided by law of the State from which he shall be appointed.

"Commissioners shall be entitled to reimbursement for necessary expenses to be paid only from revenues of the Authority and may not receive any other compensation for services to the Authority except such as may from time to time be authorized from such revenues by concurrent legislation.

"ARTICLE VI

"BOARD ACTION

"The Commissioners shall have charge of the Authority's property and affairs and shall, for the purpose of doing business, constitute a Board, but no action of the Commissioners shall be binding or effective unless taken at a meeting at which at least four Commissioners from each State are present, and unless at least four Commissioners from each State shall vote in favor thereof. The vote of any one or more of the Commissioners from each State shall be subject to cancellation by the Governor of such State at any time within 10 days (Saturdays, Sundays, and public holidays in the particular State excepted) after receipt at the Governor's office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by law for the manner of delivery of such minutes and for notification of the action thereon.

39-059 O-91-11 (Pt. 19)

"ARTICLE VII

"GENERAL POWERS

"For the effectuation of its authorized purposes, the Authority is hereby granted the following powers:

"(a) To have perpetual succession.

"(b) To adopt and use an official seal.

"(c) To elect a chairman and a vice chairman from among the Commissioners. The chairman and vice chairman shall be elected from different States and shall each hold office for two years. The chairmanship and vice chairmanship shall be alternated between the two States.

"(d) To adopt bylaws to govern the conduct of its affairs by the Board of Commissioners, and it may adopt rules and regulations and may make appropriate orders to carry out and discharge its powers, duties, and functions, but no bylaw or rule, regulation, or order shall take effect until it has been filed with the Secretary of State of each State or in such other manner in each State as may be provided by the law thereof. In the establishment of rules, regulations, and orders respecting the use of any crossing, transportation, or terminal facility or commerce facility or development owned or operated by the Authority, including approach roads, it shall consult with appropriate officials of both States in order to insure, as far as possible, uniformity of such rules, regulations, and orders with the laws of both States.

"(e) To appoint or employ such other officers, agents, attorneys, engineers, and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, compensation, pensions, terms of office and all other conditions and terms of employment and retention.

"(f) To enter into contracts and agreements with either State or with the United States, or with any public body, department, or other agency of either State or of the United States or with any individual, firm, or corporation deemed necessary or advisable for the exercise of its purposes and powers.

"(g) To accept from any government or governmental department, agency, or other public or private body, or from any other source, grants, or contributions of money or property as well as loans, advances, guarantees, or other forms of financial assistance which it may use for or in aid of any of its purposes.

"(h) To acquire (by gift, purchase, or condemnation), own, hire, lease, use, operate, and dispose of property, whether real, personal, or mixed, or of any interest therein, including any rights, franchise and property for any crossing, facility, or other project owned by another and which the Authority is authorized to own and operate.

"(i) To designate as express highways, and control public and private access thereto, all or any approaches to any crossing or other facility of the Authority for the purpose of connecting the same with any highway or other route in either State.

"(j) To borrow money and to evidence such loans by bonds, notes, or other obligations, either secured or unsecured, and either in registered or unregistered form, and to fund or refund such evidences of indebtedness, which may be executed with facsimile signatures of such persons as may be designated by the Authority and by a facsimile of its corporate seal.

"(k) To procure and keep in force adequate insurance or otherwise provide for the adequate protection of its property, as well as to indemnify it or its officers, agents, or employees against loss or liability with respect to any risk to which it or they may be exposed in carrying out any function hereunder.

"(l) To grant the use of by franchise, lease, or otherwise, and to make charges for the use of any crossing, facility, or other project or property owned or controlled by it.

"(m) To exercise the right of eminent domain to acquire any property or interest therein.

"(n) To determine the exact location, system, and character of and all other matters in connection with any and all crossings, transportation, or terminal facilities, commerce facilities or developments or other projects which it may be authorized to own, construct, establish, effectuate, operate, or control.

"(o) To exercise all other powers not inconsistent with the Constitutions of the two States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

"ARTICLE VIII

"ADDITIONAL POWERS

"For the purpose of effectuating the authorized purposes of the Authority, additional powers may be granted to the Authority by legislation of either State without the concurrence of the other, and may be exercised within such State, or may be granted to the Authority by Congress and exercised by it; but no additional duties or obligations shall be undertaken by the Authority under the law of either State or of Congress without authorization by the law of both States.

"ARTICLE IX

"EMINENT DOMAIN

"If the Authority shall find and determine that any property or interest therein is requried for a public use in furtherance of the purposes of the Authority, said determination shall not be affected by the fact that such property has theretofore been taken over or is then devoted to a public use, but the public use in the hands or under the control of the Authority shall be deemed superior to the public use for which it has theretofore been taken or to which it is then devoted. The Authority shall not exercise the power of eminent domain granted herein to acquire any property, other than a crossing, devoted to a public use, of either State, or of any municipality, local government, agency, public authority or commission, or of two or more of them, for any purpose other than a crossing, without having first secured the authorization of the holder of the title to the land in question and such other approvals as may be required by legislation of the State in which the project is to be located. The Authority shall not exercise the power of eminent domain in connection with any commerce facility or development.

"In any condemnation proceedings in connection with the acquisition by the Authority of property or property rights of any character in either State and the right of inspection and immediate entry thereon, through the exercise by it of its power of eminent domain, any existing or future law or rule of court of the State in which such property is located with respect to the condemnation of property for the construction, reconstruction, and maintenance of highways therein shall control. The Authority shall have the same power and authority with respect thereto as the State agency named in any such law, provided that nothing herein contained shall be construed as requiring joint or concurrent action by the two States with respect to the enactment, repeal, or amendment of any law or rule of court on the subject of condemnation under which the Authority may proceed by virtue of this Article.

"If the established grade of any street, avenue, highway, or other route shall be changed by reason of the construction by the Authority of any work so as to cause loss or injury to any property abutting on such street, avenue, highway, or other route, the Authority may enter into voluntary agreements with such abutting property owners and pay reasonable compensation for any loss or injury so sustained, whether or not it be compensable as damages under the condemnation law of the State.

"The power of the Authority to acquire property by condemnation shall be a continuing power, and no exercise thereof shall be deemed to exhaust it.

"ARTICLE X

"REVENUE AND APPLICATION

"The Authority is hereby authorized to establish, levy, and collect such tolls and other charges as it may deem necessary, proper, or desirable in connection with any crossing, transportation, or terminal facility, commerce facility or development or other project which it is or may be authorized at any time to construct, own, operate, or control, and the aggregate of said tolls and charges shall be at least sufficient (1) to meet the combined expenses of operation, maintenance and improvement thereof, (2) to pay the cost of acquisition or construction, including the payment, amortization, and retirement of bonds or other securities or obligations assumed, issued, or incurred by the Authority, together with interest thereon, and (3) to provide reserves for such purposes; and the Authority is hereby authorized and empowered, subject to prior pledges, if any, to pledge such tolls and other revenues or any part thereof as security for the repayment with interest of any moneys borrowed by it or advanced to it for its authorized purposes and as security for the satisfaction of any other obligations assumbed by it in connection with such loans or advances. There shall be allocated to the cost of the acquisition, construction, operation, maintenance, and improvement of such facilities and projects such proportion of the general expenses of the Authority as it shall deem property chargeable thereto.

"ARTICLE XI

"COVENANT WITH BONDHOLDERS

"The two said States covenant and agree with each other and with the holders of any bonds or other securities or obligations of the Authority, assumed, issued, or incurred by it and as security for which there may be pledged the tolls and revenues or any part thereof of any crossing, transportation, or terminal facility, commerce facility or development or other project, that the two said States will not, so long as any of such bonds or other obligations remain outstanding and unpaid, diminish, or impair the power of the Authority to establish, levy, and collect tolls

and other charges in connection therewith, and that neither of the two said States will, so long as any of such bonds or other obligations remain outstanding and unpaid, authorize any crossing of the Delaware River or Delaware Bay south of the line mentioned in Article IV(a) of this Compact by any person or body other than the Authority, unless, in either case, adequate provision shall be made by law for the protection of those advancing money upon such obligation.

"ARTICLE XII

"SECURITIES LAWFUL INVESTMENTS

"The bonds or other securities or obligations which may be issued by the Authority pursuant to this Compact, or any amendments hereof or supplements hereto, are hereby declared to be negotiable instruments, and are hereby made securities in which all State and municipal officers and bodies of each State, all banks, bankers, trust companies, savings banks, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of either State may properly and legally invest any funds, including capital, belonging to them or within their control, and said obligations are hereby made securities which may properly and legally be deposited with and shall be received by any State or municipal officer or agency of either State for any purpose for which the deposit of bonds or other obligations of such State is now or may hereafter be authorized.

"ARTICLE XIII

"TAX STATUS

"The powers and functions exercised by the Authority under this Compact and any amendments hereof or supplements hereto are and will be in all respects for the benefit of the people of the States of Delaware and New Jersey, the region and Nation, for the increase of their commerce and prosperity and for the enhancement of their general welfare. To this end, the Authority shall be regarded as performing essential governmental functions in exercising such powers and functions and in carrying out the provisions of this Compact and of any law relating thereto, and shall not be required to pay any taxes or assessments of any character, levied by either State or political subdivision thereof, upon any of the property used by it for such purposes, or any income or revenue therefrom, including any profit from a sale or exchange. The bonds or other securities or obligations issued by the Authority, their transfer and the interest paid thereon or income therefrom, including any profit from a sale or exchange, shall at all times be free from taxation by either State or any subdivision thereof.

"ARTICLE XIV

"JURISDICTION; USE OF LANDS

"Each of the two States hereby consents to the use and occupancy by the Authority of any lands and property of the Authority in such State for the construction, operation, maintenance or improvement of any crossing, transportation, or terminal facility, commerce facility or development, or other project which it is or may be authorized at any time to construct, own, or operate, including lands lying under water.

"ARTICLE XV

"REVIEW AND ENFORCEMENT OF RULES

"Judicial proceedings to review any bylaw, rule, regulation, order, or other action of the Authority or to determine the meaning or effect thereof may be brought in such court of each State, and pursuant to such law or rules thereof, as a similar proceeding with respect to any agency of such State might be brought.

"Each State may provide by law what penalty or penalties shall be imposed for violation of any lawful rule, regulation, or order of the Authority, and, by law or rule of court, for the manner of enforcing the same.

"ARTICLE XVI

"NO PLEDGE OF CREDIT

"The Authority shall have no power to pledge the credit or to create any debt or liability of the State of Delaware, of the State of New Jersey or of any other agency or of any political subdivision of said States.

"ARTICLE XVII

"LOCAL COOPERATION AND AGREEMENTS

"(a) All municipalities, political subdivisions, and every department, agency, or public body of each of the States are hereby authorized and empowered to cooperate with, aid and assist the Authority in effectuating the provisions of this Compact and of any amendment hereof or supplement hereto.

"(b) The Authority is authorized and empowered to cooperate with each of the States, or any political subdivision thereof, and with any municipality, local government, agency, public authority or commission of the foregoing, in connection with the acquisition, planning, rehabilitation, construction or development of any project, other than a crossing, and to enter into an agreement or agreements, subject to compliance with the laws of the State in which the project is to be located, with each of the States, or any political subdivision thereof, and with any municipality, county, local government, agency, public authority, or commission or with two or more of them, for or relating to such purposes.

"(c) The Authority and the city, town, municipality, or other political subdivision in which any project, other than a crossing, is to be located are hereby authorized and empowers, subject to compliance with the laws of the State in which the project is to be located, to enter into an agreement or agreements to provide which local laws, resolutions, ordinances, rules, and regulations, if any, of the city, town, municipality, or other political subdivision affected by such project shall apply to such project. All other existing local laws, resolutions, ordinances or rules and regulations not provided for in the agreement shall be applicable to the project, other than a crossing. All local laws, resolutions, ordinances or rules and regulations enacted after the date of the agreement shall not be applicable to such projects unless made applicable by the agreement or any modification thereto.

"ARTICLE XVIII

"DEPOSITARIES

"All banks, bankers, trust companies, savings banks and other persons carrying on a banking business under the laws of either State are authorized to give security for the safekeeping and prompt payment of moneys of the Authority deposited by it with them, in such manner and form as may be required by and may be approved by the Authority, which security may consist of a good and sufficient undertaking with such sureties as may be approved by the Authority, or may consist of the deposit with the Authority or other depository approved by the Authority as collateral of such securities as the Authority may approve.

"ARTICLE XIX

"AGENCY POLICE

"Members of the police force established by the Authority, regardless of their residence, shall have in each State, on the crossings, transportation or terminal facilities, commerce facilities or developments and other projects and the approaches thereto, owned, operated, or controlled by the Authority, and at such other places and under such circumstances as the law of each State may provide, all the powers of investigation, detention, and arrest conferred by law on peace officers, sheriffs, or constables in such State or usually exercised by such officers in each State.

"ARTICLE XX

"REPORTS AND AUDITS

"The Authority shall make annual reports to the Governors and Legislatures of the State of Delaware and the State of New Jersey, setting forth in detail its operations and transactions, and may make such additional reports from time to time to the Governors and Legislatures as it may deem desirable.

"It shall, at least annually, cause an independent audit of its fiscal affairs to be made, and shall furnish a copy of such audit report together with such additional information or data with respect to its affairs as it may deem desirable to the Governors and Legislatures of each State.

"It shall furnish such information or data with respect to its affairs as may be requrested by the Governor or Legislature of each State.

"ARTICLE XXI

"BOUNDARIES UNAFFECTED

"The existing territorial or boundary lines of the States or the jurisdiction of the two States established by said boundary lines shall not be changed hereby.

"ARTICLE XXII

"ENVIRONMENTAL PROTECTION

"(a) The planning, development, construction, and operation of any project, other than a crossing, shall comply with all environmental protection laws, regulations, directives, and orders, including, without limitation, any coastal zone laws, wetlands laws, or subaqueous land laws or natural resources laws, now or hereinafter enacted, or promulgated by the State in which the project, or any part thereof, is located.

"(b) The planning, development, construction, and operation of any project, other than a crossing, to be located in the Delaware River and Bay shall comply with all environmental protection laws, regulations, directives, and orders, including, without limitation, any coastal zone laws, wetland laws, subaqueous land laws or natural resource laws now or hereinafter enacted or promulgated by either State.

"(c) The planning, development, construction, and operation of any project, other than a crossing, located in the coastal zone of Delaware (as defined in Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989), shall be subject to the same limitations, requirements, procedures, and appeals as apply to any other person under the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code,

as in effect on January 1, 1989. Nothing in this Compact shall be deemed to pre-empt, modify, or supersede any provision of the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. The interpretation and application of this paragraph shall be governed by the laws of the State of Delaware and be determined by the courts of the State of Delaware.

"(d) The planning, development, construction, and operation of any project, other than a crossing, located in New Jersey, shall be subject to the provisions of New Jersey law, when applicable, including but not limited to the Wetlands Act of 1970, N.J.S.A. 13:9A-1, et seq. and the Coastal Area Facility Review Act, N.J.S.A. 13:19-1, et seq.".

SEC. 2. FEDERAL JURISDICTION NOT AFFECTED.

Nothing contained in the compact set forth in section 1 shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the area which forms the subject of such compact.

SEC. 3. AUTHORITY FOR ADDITIONAL TOLL BRIDGES.

Section 4 of the Act entitled "An Act to authorize the State of Delaware, by and through its State highway department, to construct, maintain, and operate a toll bridge across the Delaware River near Wilmington, Delaware" approved July 13, 1946 (60 Stat 533), as amended by the Act of June 27, 1951 (66 Stat. 91) and the Act of October 3, 1962 (76 Stat. 741-742), is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and", and

(3) by adding after paragraph (4) the following:

"(5) to pay the cost of any project which the Delaware River and Bay Authority is or may be authorized to construct, own, operate, or control, under the Delaware-New Jersey Compact, as consented to by the Congress,".

SEC. 4. REQUIREMENTS OF OTHER LAWS.

In addition to any other requirement of law, any project constructed by the Delaware River and Bay Authority in and over the navigable waters of the United States shall be subject to the procedural requirements of section 2(a) of the Fishing and Wildlife Coordination Act (16 U.S.C. 662(a)).

SEC. 5. CONSTRUCTION.

Nothing in this resolution shall be construed as—

(1) amending or superseding the provisions of the Act of September 27, 1961 (75 Stat. 688); or

(2) granting advance consent of Congress for the performance by the Delaware River and Bay Authority of other functions, as contemplated by Article IV, paragraph (d) of the compact set forth in section 1 or for the assumption by the Authority of additional powers, as contemplated by Article VII of such compact.

SEC. 6. DISCLOSURE OF INFORMATION.

The right is reserved to the Congress or any of its standing committees to require of the Delaware River and Bay Authority the disclosure and furnishing of such information and data as it is deemed appropriate by the Congress or any committee thereof having jurisdiction of the subject matter of this resolution.

SEC. 7. RESERVATION BY THE CONGRESS.

The right to alter, amend, or repeal this joint resolution is expressly reserved.●

● Mr. ROTH. Mr. President, I am pleased to rise today and to join my colleagues Senator BIDEN, Senator BRADLEY, and Senator LAUTENBERG in introducing legislation that amends the Delaware and New Jersey compact which created the Delaware River and Bay Authority. The compact was created to advance the economic growth and development in those areas of both States which border the Delaware River and Bay. The compact, which has been unchanged since 1963, currently empowers the Delaware River and Bay Authority to finance and develop crossings, transportation or terminal facilities in both New Jersey and Delaware. The compact was created by the U.S. Congress by joint resolution, Public Law 87-678, on September 20, 1962.

This year after extensive public hearings, strong bipartisan support, and enactment of legislation by both the Delaware General Assembly and the New Jersey State Legislature, we are asking that the restrictions on the authority's ability to use its toll revenues be lifted. We are proposing that besides crossings other economic development projects may be undertaken by the authority. Of course, any such project shall be in complete compliance with all applicable environmental laws before the authority may undertake the development of the project.

For the compact amendment to become effective, the original joint resolution of Congress approving its creation must be amended by both bodies of the Congress. In the U.S. House of Representatives Mr. HUGHES has introduced House Joint Resolution 657 which would do just that. We are introducing the identical legislation in the Senate today. I urge my colleagues to join us in supporting this legislation.●

ADDITIONAL COSPONSORS

S. 52

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 52, a bill to amend section 1086 of title 10, United States Code, to provide for payment under the CHAMPUS Program of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under Medicare, and for other purposes.

S. 730

At the request of Mr. COATS, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 730, a bill to request the President to award gold medals on behalf of Congress to Frank Capra, James M. Stewart, and Fred Zinnemann, and to provide for the production of bronze duplicates of such medals for sale to the public.

S. 731

At the request of Mr. COATS, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 731, a bill to request the President to award a gold medal on behalf of Congress to Robert Wise and to provide for the production of bronze duplicates of such medals for sale to the public.

S. 1400

At the request of Mr. KASTEN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1400, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 1661

At the request of Mr. PRYOR, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1661, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses.

S. 1808

At the request of Mr. BREAUX, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1808, a bill to amend section 468A of the Internal Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants.

S. 1815

At the request of Mr. BOSCHWITZ, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 1815, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer Social Security taxes on cash tips.

S. 2754

At the request of Mr. BIDEN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 2754, a bill to combat violence and crimes against women on the streets and in homes.

S. 2767

At the request of Mr. MCCAIN, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 2767, a bill to provide for retention of certain Medicare catastrophic benefits provided by health maintenance organization.

S. 2796

At the request of Mr. COHEN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2796, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of their title IV student loans while completing a resident training program accredited by the Accredita-

tion Council for Graduate Medical Education or the Accrediting Committee of the American Osteopathic Association.

S. 2898

At the request of Mr. HARKIN, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Massachusetts [Mr. KENNEDY], the Senator from California [Mr. WILSON], the Senator from Michigan [Mr. LEVIN], the Senator from North Dakota [Mr. CONRAD], the Senator from Alabama [Mr. SHELBY], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 2898, a bill to improve counseling services for elementary schoolchildren.

S. 2925

At the request of Mr. DIXON, the names of the Senator from Iowa [Mr. HARKIN], the Senator from West Virginia [Mr. BYRD], the Senator from Michigan [Mr. RIEGLE], the Senator from California [Mr. CRANSTON], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of S. 2925, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the discovery of America and to authorize the payment of the proceeds of the sale of such coins to the Christopher Columbus Quincentenary Scholarship Foundation for the purpose of establishing a scholarship program, and for other purposes.

S. 2959

At the request of Mr. BAUCUS, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Nebraska [Mr. KERREY], the Senator from Ohio [Mr. METZENBAUM], the Senator from Arkansas [Mr. BUMPERS], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 2959, a bill to amend the Railroad Retirement Solvency Act of 1983 to extend for 2 years the transfer to the Railroad Retirement Account of income tax revenues from tier 2 benefits.

S. 2979

At the request of Mr. MITCHELL, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2979, a bill to protect the public from health risks from radiation exposure from low-level radioactive waste, and for other purposes.

S. 2989

At the request of Mr. HEINZ, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2989, a bill to amend title XIX of the Social Security Act to provide for an expansion of Medicaid benefits to low-income pregnant women and children, and to raise the tax on cigarettes to fund such Medicaid expansion.

At the request of Mr. HEINZ, the name of the Senator from Alabama [Mr. SHELBY] was withdrawn as a cosponsor of S. 2989, supra.

S. 3076

At the request of Mr. PRYOR, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 3076, a bill to provide for permanent extensions of expiring health-related waiver of liability provisions.

S. 3136

At the request of Mr. BURNS, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 3136, a bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to limit increases in outlays to 4 percent per year, to provide for midyear sequesters in order to assure that deficit and outlay targets are achieved, and to amend the Congressional Budget Act of 1974 to extend the deficit targets.

SENATE JOINT RESOLUTION 351

At the request of Mr. BYRD, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Joint Resolution 351, a joint resolution to designate the month of May 1991, as "National Trauma Awareness Month."

SENATE JOINT RESOLUTION 363

At the request of Mr. RIEGLE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 363, a joint resolution to designate the week of October 22 through October 28, 1990, as the "International Parental Child Abduction Awareness Week."

SENATE JOINT RESOLUTION 371

At the request of Mr. PRYOR, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 371, a joint resolution to recognize the week of October 1-7, as "National Nursing Home Residents' Rights Week."

SENATE CONCURRENT RESOLUTION 149—CREATING A CONGRESSIONAL LEADERSHIP GROUP

Mr. ADAMS submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 149

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. CONGRESSIONAL LEADERSHIP GROUP.

(a) ESTABLISHMENT.—To facilitate congressional deliberation and Executive-Legislative consultation on critical decisions relating to United States participation in collective security actions pursuant to this Resolution, there shall be established in each House of Congress, as an exercise of the rulemaking authority of that House, a Leadership Group which shall be comprised as follows:

(1) in the House of Representatives—

(A) the Speaker, who shall serve as chairman;

(B) the Majority and Minority Leaders;

(C) the chairmen and ranking members of the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence;

(D) such other members as the chairman of the Group may designate; and

(2) in the Senate—

(A) the Majority Leader, who shall serve as chairman;

(B) the President pro tempore and the Minority Leader;

(C) the chairmen and ranking members of the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence; and

(D) such other members as the chairman of the Group may designate.

(b) COMBINED CONGRESSIONAL LEADERSHIP GROUP.—When the chairmen of the two groups deem it appropriate and practical for purposes of congressional deliberation or Executive-Legislative consultation, they shall arrange for the two Groups to assemble as a Combined Congressional Leadership Group, on which the two chairmen shall act as cochairmen.

(c) CONSULTATION REGARDING THE USE OF FORCE.—The President shall, unless urgent circumstances do not permit, consult and seek the advice of the Congressional Leadership Groups or the Combined Congressional Leadership Group designated pursuant to this section, prior to committing United States Armed Forces to hostilities in the Persian Gulf region.

SENATE CONCURRENT RESOLUTION 150—AUTHORIZING CORRECTIONS IN THE ENROLLMENT OF S. 1824

Mr. FORD (for Mr. HARKIN) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 150

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1824), an Act to reauthorize the Education of the Handicapped Act, and for other purposes, the Secretary of the Senate shall make the following correction:

(1) In the amendment made by section 405, strike out "631(a)(6)" each place that such occurs and insert in lieu thereof "631(1)(7)".

SENATE RESOLUTION 331—CONGRATULATING FORMER SENATOR HUGH SCOTT ON HIS 90TH BIRTHDAY

Mr. MITCHELL (for Mr. DOLE, for himself, Mr. MITCHELL, Mr. HEINZ, and Mr. SPECTER) submittted the following resolution; which was considered and agreed to:

S. RES. 331

Whereas Senator Hugh Scott of Pennsylvania, was the Senate Republican Leader for eight years, and

Whereas Senator Scott was the Senate Assistant Republican Leader for two years, and

Whereas Senator Scott was Chairman of the Republican National Committee 1948-49, and

Whereas Senator Scott was a Member of Congress for 33 years, including eight terms in the House of Representatives and three terms in the Senate, and

Whereas Senator Scott voluntarily retired at the end of his term in January 1977, and

Whereas Senator Scott served his country in the United States Naval Reserve in World War II, and saw duty aboard the carrier Valley Forge during the Korean war: Now, therefore, be it .

Resolved, That the Senate extends its best wishes to Senator Hugh Scott on his 90th birthday, November 11, 1990.

SENATE RESOLUTION 332—TO REFER THE BILL S. 1301 TO THE COURT OF CLAIMS

Mr. HEFLIN submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 332

Resolved, That the bill S. 1301, entitled "For the relief of Hoar Construction, Inc., of Birmingham, Alabama, to settle certain claims filed against the Small Business Administration" now pending in the Senate, together with all the accompanying papers, is referred to the Chief Judge of the United States Claims Court. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Codes, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusion thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due to the claimant from the United States.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 9:30 a.m., Tuesday, October 2, 1990, for a hearing to receive testimony on the key elements of a national energy policy that can effectively address U.S. dependence on oil and the actions Congress must take to implement such a policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, October 2, beginning at 9:30 a.m., to conduct a hearing on the Federal program for the disposal of spent nuclear fuel and high-level radioactive waste.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NEW STUDY ON WEAPONS COSTS

● Mr. PRYOR. Mr. President, I would like to submit into the RECORD a recent publication of the Project on Government Procurement, a nonprofit organization dedicated to uncovering and eliminating Government waste.

This recent study is entitled "Weapons Unit Costs: Current versus Predecessors and Current versus Future." It attempts to compare the costs of current procurement items in the defense budget with similar items in past budgets. The study uses data supplied by the Defense Department.

The study is provocative and interesting and I recommend it to my colleagues for review.

Mr. President, I ask that the text of the study be printed in the RECORD at this point.

The text follows:

[Project on Government Procurement, June 11, 1990]

WEAPONS UNIT COSTS CURRENT VERSUS PREDECESSORS AND CURRENT VERSUS FUTURE

(Prepared by Greg Williams, Research Associate)

The following tables are meant to illustrate the cost of technology as it is applied to new weapons systems. Obviously, improvements in technology bring benefits as well. For instance, the Mx missile carries three times as many warheads as does the Minuteman III to which it is compared. The questions is—Does this make it worth twelve times as much money?

In an effort to be objective, we have used the Defense Department's own figures as much as possible in the composition of these tables. In Chart I, with the noted exceptions, all of the figures are DoD's own estimates of how much weapons cost. They are taken from DoD's budget requests from the years indicated. They all refer to the acquisition unit costs of the weapons: In other words, how much it would cost to buy a single example of that weapon, not counting the R&D and other associated costs.

The figures in the second chart come from a greater variety of sources, and are specifically footnoted. These figures will be further discussed below that chart.

We have used DoD's approved method of incorporating inflation in the cost of weapons systems. All of the figures are inflated or deflated to 1990 dollars using the Major Commodity Deflators for total obligation authority listed in *National Defense Budget Estimates for FY 1990/1991*. This document is published by the Office of the Assistant Secretary of Defense (Comptroller).

The weapons compared, again, are not meant to be equivalent in performance. They represent consecutive generations of a given class of weapons. For instance, the C-5 and C-17 are both heavy lift aircraft. However, the C-17 is intended to carry material much closer to the front than is the C-5, and to land on shorter airstrips. On the other hand, the C-17 is also significantly smaller. Nonetheless, the C-17 represents the current incarnation of the Air Force's ideal airlifter. Information on all of these weapons systems is too voluminous to include here. The Project staff will be happy to answer any questions you may have on these items.

CHART I.—PRICES DEFLATED WITH DOD MAJOR COMMODITY DEFLATOR

System	Last price	Number bought	Predecessor	Year bought	Number bought	1990 price (millions)	Percent price increase
Mx missile	148.9	12	Minuteman III	75	61	$12.3	1,111
B-1B bomber	180.8	48	B-52G	57	100	46.3	290
F-15E fighter	49.3	36	F-4E	73	48	10.4	374
C-5B cargo plane	102.1	21	C-141	65	284	30.9	230
CG-47 missile cruiser	873.8	5	CGN-41	75	1	673.9	30
SSN-688 Attack submarine	903.9	2	SSN-637	69	2	320.0	182
EA-6B EW plane (refurbish)	104.0	3	EA-6B (new)	89	9	56.7	83
F-14 (refurbish)	70.2	12	F-14 (new)	87	15	46.0	53
Trident II missile	28.1	52	Trident I	84	52	15.5	81
M1 Tank	2.9	481	M60	77	886	1.1	164
AH-64 Attack helicopter	11.7	132	AH-1S	81	15	4.2	179
			AH-1T	88	34	7.4	58
Average							236

All of the above figures are acquisition expenditure requests, taken from DoD testimony submitted to Congress with the following exceptions:

The 100 B-52's purchased were cited in *Weapons and Warfare*, edited by Bernard Fitzsimmons, Phoebus Publishing, 1978. See Vol. 22, p. 2405. The program cost listed is from hearings on the FY 1957 Defense Budget, before the House Appropriations Committee, H.R. 10986, p. 826. This cost included spares and supporting facilities, in addition to the actual aircraft.

The 284 C-141's are listed as having cost $1,783 million in 1965 dollars in *U.S. Military Aircraft Data Book, 1989*, prepared by Ted Nicholas and Rita Rossi of Data Search Associates. Procurement was spread over three years, starting in 1963.

Acquisition costs do not include research, development and support items. Requests are the budgets submitted to Congress by the executive branch. They are a reflection of what the military planned to spend, not

what they actually did spend. These figures are used because they are the most consistent, and widely available.

CHART II.—PAST PROJECTIONS VERSUS CURRENT PROJECTIONS OF FUTURE WEAPONS COSTS

Weapon system	Promised price	Current price	Percent increase	Performance issues
Mx Missile	87.0	148.9	71	
B–2 stealth bomber.	321.6	570.5	77	No testing of its stealth characteristics, or weapons delivery.
Advanced tactical fighter.	80.0	105.3	32	No flight testing whatsoever.
C–17 cargo plane.	115.7	293.7	154	Prototypes have not flown, and computer software is experiencing problems.
DDG–51 destroyer.	873.7	696.6	−20	No active ECM. No testing at sea. Limited antimissile defenses.
SSN–21 Sub: lead.	1,867.7	1,959.0	4	Computer Software problems, and limited weapons carriage. No testing at sea.
Follow-ons..	1,098.7	1,469.1	34	
Trident II missile.	45.2	28.1	−38	Safety concerns.
M1 tank	1.7	4.3	153	Never met its reliability requirements. Not fuel efficient.
Average			52	

The purpose of this chart is to show how weapons system costs often grow beyond early projections. With the exception of the ATF, all of the above systems are included in this year's procurement budget as production items. The prices listed show how those projections line up with the actual budget requests when production starts. Bear in mind, however, in most of the cases listed in this chart, not a single unit has been completed yet. The prices of DDG–51, SSN–21, the C–17 and the Advanced Tactical Fighter could all increase significantly by the time they actually enter service. But even now one can see how far off projections can be.

On the other hand, the costs of these weapons should go down as production continues. However, the M1, D–5 and Mx are all well into production. And the Seawolf SSN–21 "class" price is for the third submarine of that design (the Navy often buys several ships of a new class before the first is completed.). So it is unclear that this "learning curve" will bring weapons costs back to their original projections.

The figures used in the chart above were collected from many sources, including testimony and budget material submitted to Congress by DoD, magazine and newspaper accounts, and military service public affairs officers. Generally, this chart compares past projections of program costs to present projections of acquisition. Program costs include all research and development and other associated costs, in addition to the price paid for the actual equipment. Acquisition costs are the costs only covering the purchase cost of the weapons system itself. This comparison paints a somewhat unrealistically favorable picture of the situation. We arranged the chart in this way because, before a weapon actually enters production, program costs are often the only figures available, and after a weapon is in production, the acquisition cost is the most meaningful figure available. Once a weapons program reaches maturity, it is difficult to separate out what costs are directly connected with the weapon and which aren't. The acquisition cost is the standard DoD price, given in well-defined terms while a weapon is in production. When we have been unable to get the desired figures, we have sometimes substituted program for acquisition costs, or vice-versa. However, we have in no case compared a past acquisition cost to a present program cost. This would be unfair since the additional R&D and other costs would make the price seem to grow more than it actually had. Thus, in the cases in which we have been unable to develop more accurate data, we have given the military the benefit of the doubt.

Specific source citations for these figures are included in the endnotes.●

AMTRAK: CELEBRATING 20 YEARS OF FAILURE

● Mr. ARMSTRONG. Mr. President, the Senate will soon adopt a resolution for the curious purpose of commemorating 20 years of subsidizing Amtrak, so I want to review whether Amtrak has provided, as one supporter hoped at its creation, "a long-awaited answer to the disappearing passenger train dilemma."

The answer should have been evident in 1970, since passenger travel by train had already been on a near continuous decline for over 70 years. The train's heyday was 1895 when trains carried 95 percent of intercity traffic. But, the invention of the automobile and Henry Ford's affordable Model T, and the Wright brothers' discovery of flight signaled the end of the line was near for the passenger train. Railroads' last profitable year for passenger traffic was 1936. By 1970, the Interstate Highway System and jet air service were well-established, and the railroads simply did not have enough people riding trains to offer passenger service any longer.

Congress, though, had high hopes that passenger trains could be revived. Congressional supporters of Amtrak explained, "the number of intercity travelers continues to grow each year * * * rail passenger service can play a valuable role in intercity transportation." They thought the objective could be accomplished with a facelift, "an alert, imaginative program, thoroughly promoted and publicized, can recreate an acceptable image for railroad passenger travel, and bring this mode of transportation back into profitable use." Another proponent thought an answer might lie in the future: "Hopefully new developments in high speed rail technology will enable Amtrak to eventually become solvent." So, Congress provided a $40 million grant and a $100 million loan with high expectations that travelers would soon again flock to the trains.

The subsequent 20 years have been disillusioning for Amtrak's well-intentioned supporters. Cars continue to be the dominant and preferred mode of travel, accounting for 80 percent of intercity travel. In 1978, air travel was deregulated and increased 68 percent over the next 10 years. Now, 17 percent of intercity travel is by airplane. Amtrak, however, continues to lag behind. It accounts for only one-third of 1 percent of intercity travel today, a slight decrease from its one-half of 1 percent share in 1970. In fact, Amtrak can hardly claim to be predominantly an intercity carrier, since about 45 percent of its passengers are commuters.

While Amtrak is a blip in the overall transportation scheme, it has also failed to find a particular market niche. Its rigid, skeletal route structure has less than 500 stops, so it is not a viable alternative for most areas. In fact, Amtrak does not even stop in South Dakota, Wyoming, Oklahoma, Maine, or Alaska. According to a GAO study, Amtrak subsidies compete with bus service, a more important transportation mode in rural areas. Even in the Northeast corridor, where Amtrak ridership is the highest, it carries less than 10 percent of the total intercity traffic among cars, planes, and trains.

Amtrak has failed as a transportation mode despite having a monopoly in passenger train service and being heavily subsidized. Over $14 billion has been spent on Amtrak subsidies since 1970. The resolution says Amtrak hopes to cover 100 percent of its operating costs by the year 2000, but this is probably just more wishful thinking. The resolution does not mention if Amtrak will ever cover its capital costs, and of course it will not. Congress, moreover, recently approved legislation to increase Amtrak's subsidies from $656 million in 1990 to $712 million in 1992. At this rate, taxpayers could be socked for another $7 billion before the end of this century.

Mr. President, trains have a nostalgic appeal, but there is no dilemma about the disappearance of the passenger train; it can't compete with the auto and airplane. There is no more likelihood that passenger trains will become a viable transportation mode today than if the Government had subsidized the steamship and stagecoach at the turn of the last century.●

THE PENSION RESTORATION ACT

● Mr. COATS. Mr. President, I am pleased to be an original cosponsor of S. 3120, the Pension Restoration Act. This bill was introduced to provide partial redress for those unfortunate workers who lost their vested pension benefits when their employers' pension plans terminated with insufficient funds prior to the enactment of the Employee Retirement Income Security Act [ERISA].

On the morning of December 9, 1963, the 11,000 employees at the Studebaker auto plant in South Bend, IN, reported to work only to be told that the company was closing its plant and moving to Canada, and they discovered suddenly that they had not only

lost their jobs, but also their pensions as well.

As a consequence of this experience, and similar disasters that befell retiring workers in other States, the Congress in 1974 passed ERISA. Prior to its enactment employers were legally obligated to pay earned pension benefits up to the limit of the pension plan's assets; if the assets were insufficient to pay the benefits when the plan was terminated, the employees were left high and dry. Under ERISA's pension insurance program, pension plan participants are guaranteed that their basic benefits will be paid by the Pension Benefit Guaranty Corporation should their plan collapse for some reason.

Today some 40 million workers and their surviving spouses are protected by the Pension Benefit Guaranty Corporation. Unfortunately some 46,000 Americans who had their pensions terminated between 1942 and 1974 and lost their vested benefits through no fault of their own were not covered under ERISA. According to the Department of Labor, some 13,000 plans terminated during those years, and 6,000 of those plans did not have sufficient funds to pay the benefits that thousands of workers had worked their lifetimes to earn.

It is a tragic irony that the very people whose losses resulted in the passage of ERISA, including those Studebaker retirees, were overlooked and were left uncompensated pursuant to that act. The Pension Restoration Act of 1990 is designed to provide some compensation for the people who were still left unprotected when ERISA was enacted. Many of these pension losers have died. In 1974 there were 115,000 living individuals who had lost vested benefits despite ERISA. Today the estimated 65,000 survivors are old and aging, living on meager resources, in many cases. Surely justice dictates that finally the Congress should rectify its mistake and provide some restitution for these remaining pre-ERISA pension losers who were overlooked 16 years ago.

Under this bill each individual pension loser would be compensated $75 a year for each year worked under a pension plan. Thus, a retiree who worked 20 years under a plan would receive $1,500 a year. A surviving spouse would receive half that amount. Payments would be made once annually beginning with the effective date of the legislation. The Pension Benefit Guaranty Corporation would administer this program, which would be paid entirely by Pension Benefit Guaranty Corporation premiums.

The estimated cost of this program would be less than $50 million in 1990 to compensate an estimated 26,674 retirees and 14,392 widows and widowers. This cost will continue to decrease each year as the number of beneficiaries decreases. No increase in Pension Benefit Guaranty Corporation premium levels will be required to meet the payments. This is a modest amount to pay compared to the significant benefits lost by these retirees.

Mr. President, I urge speedy consideration of this legislation so that those thousands of pension losers in Indiana and elsewhere will be provided some of the pension funds they earned and were promised but lost through plan termination and congressional oversight, but no fault of their own.

In conclusion, Mr. President, I wish to pay tribute to Odel Duke Newburn, who was three time president of UAW Local No. 5 when Studebaker closed its plant. It is due to the determination of this Hoosier to stir the Congress into action and his tireless efforts to help his fellow former workers at Studebaker that this bill is being proposed today.●

WE NEED TO STOP VIOLENCE AGAINST WOMEN

● Mr. SIMON. Mr. President, Senator BIDEN has introduced a bill, which I am proud to cosponsor, to combat violence against women. The bill is a comprehensive measure designed to make streets safer for women through increased penalties and grants to States and localities for training programs for police and prosecutors. In efforts to diminish violence against women in their own homes—domestic violence—the bill encourages arrests of abusing spouses and grants interstate enforcement of protective orders. Finally, the bill creates a civil rights remedy for victims of sexual assault.

When the bill comes before the committee later this week, I intend to propose an amendment calling for educational training of State and Federal judges on the issue of sexual assault. I believe such training is extremely important and necessary in order for judges to have a clear sense of the traumatic impact of sexual assault on the victim. I have spoken with the National Network for Victims of Sexual Assault, the NOW Legal Defense and Education Fund, as well as the Illinois Coalitions Against Domestic Violence and Sexual Assault, and they strongly support this measure. They believe that lack of education leads to outdated attitudes in sexual assault cases, and that judicial training is needed in order to better protect victims' rights. Additionally, this amendment is consistent with a provision in title II of Senator BIDEN's bill calling for judicial training on domestic violence.

Also is support of judicial education are the findings of a 1990 Illinois Task Force sponsored by the Chicago Bar Association, the Illinois State Bar Association, and the Women's Bar Association of Illinois. Their report documents the need for legal and judicial reform in cases involving women and again stresses the need for judicial education and training. To my knowledge, Illinois is the first State to take such a comprehensive look at gender bias. Their review and recommendations go beyond the legal system. I ask to print the executive summary in the RECORD and urge my colleagues to read it.

The executive summary follows:

EXECUTIVE SUMMARY

In 1988, the Illinois State Bar Association, Chicago Bar Association, and the Women's Bar Association of Illinois established a Task Force to study and report on gender bias in the Illinois courts. The 44-member Task Force was comprised of judges, lawyers, academics, and lay experts from throughout the State of Illinois. Its members were selected with an eye to assuring representation of each judicial circuit, both sexes, the bench, bar and lay communities, and people with different types of both criminal and civil law experience, as well as minorities and different age groups. Subdivided into a number of committees charged with investigating different substantive areas of law, the Task Force carried out its empirical research by means of public hearings, specialized roundtables, interviews, and surveys. The report which follows this Executive Summary represents the results of that research.

The Report is divided into four main areas of particular concern: (1) domestic relations, (2) criminal law, (3) civil damage awards, and (4) courtroom dynamics. One topic—domestic violence—is treated both in the chapter on domestic relations and in the chapter about criminal law, because it involves both civil and criminal remedies. Each section or sub-section contains a lengthy description of the substantive findings concerning that area of the law, followed by a summary of findings and a list of recommendations for reform. A detailed description of the history of the Task Force and the methodology which each committee used is also included in the full report. This Executive Summary describes the main findings contained in each section and also sets forth the recommendations proposed in relation to each area of the law. Preliminarily, however, the Task Force believes that the following procedural recommendations are essential to the success of any reforms which may result from this Report:

(1) The Illinois Supreme Court and the sponsoring bar associations should establish an implementation committee charged with the task of seeing that the recommendations set forth in this Report are implemented as soon as possible.

(2) If it appears desirable after review of this Report, the Illinois Supreme Court and the sponsoring bar associations should convene a "Phase II" Task Force on Gender Bias to investigate additional areas relevant to the issue of gender bias in the courts.

I. DOMESTIC RELATIONS

The investigation of gender bias in domestic relations law focused upon four issues: (1) property distribution, maintenance, and litigation expenses; (2) child support; (3) child custody and visitation; and (4) domestic violence.

Property distribution

Although the Illinois Marriage and Dissolution Act of 1977 mandates an "equitable

distribution" of property upon the dissolution of marriage, the Task Force found that the typical distribution awarded by the courts disadvantages women in a variety of ways. First, many lawyers believe that the courts ignore certain statutorily mandated factors when distributing marital property, such as each party's ability to acquire future assets, the dissipation of assets, and whether property is in lieu of maintenance. Typically, dissolution decrees instead simply divide tangible marital assets and expect that the two spouses will subsequently be independent.

This division works to the advantage of the spouse, usually the husband, who has been actively involved in the work force and to the disadvantage of homemakers, whose efforts have in fact contributed to the creation of their husbands' career assets. Moreover, wives typically request and are awarded the marital home, in order to maintain stability for the couple's children. This results in assigning the majority of the couple's liability, in the form of the mortgage, to the partner who typically earns the smallest amount of the family income. Men, on the other hand, typically retain the majority of the couple's liquid assets, such as stocks, bonds, and business assets, and are thus able to gain a fresh start after marriage with little debt and decreased expenses.

Finally, the Marriage and Dissolution Act does not effectively impose a duty upon the parties to a divorce proceeding to preserve the marital assets during the pendency of that proceeding. Surveys carried out by the Task Force lead it to believe that the courts also fail to take into consideration the dissipation of assets when distributing marital property, thus compounding the problems which the typical distribution of property creates.

Maintenance awards and litigation expenses

Awards of maintenance (formerly called alimony) have become less frequent and of shorter duration under the new Marriage and Dissolution Act. If awarded at all, support is usually limited to "rehabilitative maintenance," that is, support "for the time necessary to acquire sufficient eduction or training to enable the party to find appropriate employment." This change has resulted in serious disadvantages to older women upon the dissolution of marriages of long duration. The reality is that older women who have devoted their lives to homemaking and caretaking of children often cannot find suitable training and employment. The Task Force believes that the homemakers' contributions to their families are inappropriately undervalued, both in the distribution of marital property and in the allocation of maintenance.

Under Illinois' new modified "no-fault" divorce law, moreover, some domestic relations attorneys believe that women have lost a significant source of leverage which helped them attain more favorable settlements in the past, by simply refusing to agree to divorce. This change in bargaining position is aggravated because women typically do not have access to legal representation equal to that of their divorcing spouses. Even if a woman may be entitled to an award of attorney's fees at the end of a dissolution proceeding, courts are reportedly reluctant to award prospective fees during the pendency of that proceeding, making it difficult for some women to obtain adequate representation. Moreover, in many parts of the state, no legal services are available for domestic relations cases involving poor people.

Women's lack of access to legal representation places women at a disadvantage during settlement negotiations, when most domestic relations cases are resolved. Moreover, the fact that attorneys recover their fees earlier in a settlement may have the effect of forcing settlements on terms that are disadvantageous to women.

Finally, one further problem which the Attorney Registration and Disciplinary Commission called to the attention of the Task Force is the incidence of sexual relationships between domestic relations attorneys and their clients. The Task Force is concerned that such relationships, during the pendency of a divorce, may conflict with the attorney's fiduciary responsibility to the client, possibly prevent any reconciliation of the parties, or affect the negotiation of property rights and custody.

RECOMMENDATIONS

A. Legislature

1. As the Illinois State Bar Association has already suggested, the Marriage and Dissolution Act should be amended to provide for an automatic temporary restraining order "freezing" marital property during the pendency of dissolution proceedings and temporary support should be awarded from the proceeds of this property.

2. The Marriage and Dissolution Act should also be amended to require the court to review maintenance awards periodically to determine whether there continues to be a disparity of incomes and whether the spouse receiving maintenance can show due diligence in seeking employment and job training opportunities.

B. Judiciary

1. The courts should adopt an "investment partnership" model of marriage and its dissolution, which would place emphasis not on the equal treatment of spouses at the time of divorce but on each spouse receiving equal benefits of the marriage and thus of all the assets acquired during the period of the marriage.

2. Judges should be required to make findings for the record concerning the factors being used to determine equitable distribution of property, including career assets that take into account the future earning potential of the parties.

3. In order to reduce problems that attorneys and courts may have in placing a value on future earnings, economic formulae should be adopted incorporating principles found in computer models that analyze the long-term consequences of divorce judgments.

4. In cases involving older women who have primarily served as homemakers and caretakers of children in long-term marriages, courts should not be averse to awarding long-term maintenance when justified.

5. If a spouse does not have access to liquid marital property, judges should routinely award prospective attorney's fees early in the proceedings to guarantee adequate legal representation for both parties; and the Illinois Supreme Court should adopt a rule implementing this recommendation.

6. An amendment to the Rules of Professional Conduct should be drafted concerning sexual relationships between attorneys and their clients in pending divorce proceedings, incorporating a presumption that such relationships are inherently unethical and unprofessional.

C. Bar Associations

1. Education concerning the problems and issues raised in this report should be included in programs of continuing legal education.

D. Attorney Registration and Disciplinary Commission

1. The ARDC should use all of its fact-finding powers to investigate each complaint alleging an improper attorney-client sexual relationship, as it would any other complaint.

2. Complaints concerning attorneys-client sexual relationships should be assigned to panels including female and male members, as well as members from fields outside the domestic relations bar.

E. Law Schools

1. Discussion of the problems and issues raised in this report should be included in classes concerning legal ethics and family law.

Child support

Illinois law now provides statutory guidelines for the amount of child support to be awarded upon the dissolution of marriage. However, the Task Force heard testimony that these guidelines, which were intended to be minimum awards, are used instead as maximums; and courts appear reluctant to modify child support awards as children grow older, to adapt to their changed needs.

Moreover, the enforcement of child support awards in Illinois is inadequate to ensure that the custodial parent, usually the mother, has the resources necessary to meet the needs of the couple's children. Statistics reviewed by the Task Force show that the majority of child support awards are paid irregularly, partially, or not at all. Although the adoption of a statutory provision for automatic income withholding in Illinois has resolved enforcement problems in cases were the non-custodial parent works at a regular job, there continue to be significant problems enforcing child support awards against self-employed or irregularly employed fathers.

Witnesses testified at the Task Force public hearings that they were forced to return to court repeatedly to enforce child support awards. Moreover, courts are reluctant to impose even very brief prison sentences on delinquent parents and do not consistently impose interest on past-due child support judgments, although such interest is now statutorily mandated. Finally, the federally funded Child Support Enforcement Program, which provides free legal representation, has apparently not provided or marketed its services statewide. Although Illinois Supreme Court Rule 296, promulgated in 1988, provides for the automatic monitoring and enforcement of child support awards, this program is also not available in all counties.

RECOMMENDATIONS

A. Legislature

1. The legislature should change the law on modification of child support orders to provide cost-of-living increases every three years in certain circumstances or to set forth more clearly the standards for modification of child support orders.

2. The legislature should explore new remedies for enforcement of child support from self-employed parents, including attachment of business assets and suspension of professional licenses.

3. The legislature should fund a program of automatic child support enforcement

under Supreme Court Rule 296 for all persons for whom federal funds are not available.

4. The legislature should implement a quasi-judical process, using hearing officers working in conjuction with judges, to set and enforce child support awards, especially in larger counties.

5. The legislature should add as a remedy under the IMDMA that lost wages may be reimbursed to custodial parents who are required to take time off from work to appear in court to enforce their child support and maintenance awards.

B. Judiciary

1. Judges should receive education and training on the effectiveness of jail as a remedy in child support cases, especially where the delinquent parent is known to have the financial means to comply but repeatedly flaunts the court's orders.

2. Smaller counties should be encouraged to implement Supreme Court Rule 296, which provides for monitoring and automatic enforcement of child support awards.

3. Judges should receive education concerning the cost of quality care, food, and clothing for children.

C. Court Administration

1. The Child Support Enforcement Program, which provides free legal representation to enforce child support awards, should market its services to custodial parents throughout the state.

2. Counties adopting Supreme Court Rule 296, which provides for automatic monitoring and enforcement of child support awards, should market these services as well.

Child custody and visitation

Although the presumption that custody of children should be awarded to their mothers has been abolished by statute in Illinois, custody of children is nonetheless awarded to mothers in the vast majority of cases. This may result either from the preference of the parties or from a continuing judicial preference for maternal custody. An informal continuation of the "tender years" presumption against awarding custody of children under the age of five to the father may also place men at a disadvantage in child custody decisions. In addition, roundtable participants reported that some courts even refused to give overnight visitation rights to fathers of very young children, without considering the capacity of the individual men to care for those children. Finally, some women deny visitation inappropriately in retaliation for their ex-husbands' failure to pay child support.

The Task Force believes that the genuine contributions of each parent to caregiving should be taken into account in decisions about custody and visitation. Moreover, preference should not be given to the parent of superior economic means, thus discriminating, typically, against low-income women.

Domestic relations attorneys who testified at the Task Force roundtables believe that there is now a near-presumption in favor of joint custody in Illinois and that this presumption has become yet another weapon in litigation over property distribution and child support. Non-custodial parents sometimes threaten to seek joint or sole custody in order to reduce their financial obligations to their families or to harass an ex-spouse.

Joint custody may be appropriate in some circumstances, but only where divorced parents are able to communicate and to reach shared decisions about the child's welfare. The courts should carefully scrutinize the facts concerning joint custody in each case; and joint custody should only be awarded when both parties consent and have filed a Joint Parenting Agreement with the court, specifying each parent's rights and responsibilities for all major decisions involving the education and care of the child.

RECOMMENDATIONS

A. Legislature

1. The statute should be amended to provide that joint custody be awarded only when both parents consent.

B. Judiciary

1. Judges should receive training on problems associated with joint custody.

2. The court should carefully scrutinize the facts concerning joint custody in each case, and joint custody awarded only when the parents have filed a Joint Parenting Agreement with the court.

3. Judges should appoint trained guardians ad litem or attorneys for the child to represent the interests of the child and should order family background investigations in contested custody cases.

4. Both violations of child support orders and violations of visitation arrangements should be enforced strenuously, without the need for repeated court appearances which deter parents who cannot miss work or who must hire sitters from pursuing their rights.

5. The courts should be more sensitive to economic disparities between the parties and should correct disparities by increasing maintenance and child support rather than by awarding custody to the wealthier parent.

Domestic violence

Although the Task Force treated domestic violence primarily as an issue for the criminal justice system, a number of related problems were nonetheless mentioned in connection with domestic relations cases. Domestic violence advocates complained that some court clerks refuse to assist women filling out court forms to obtain judicial remedies in domestic violence cases, even though such assistance is statutorily mandated. Courts also frequently, though improperly grant "mutual" orders of protection protecting both parties from abuse by the other in cases where only one spouse has filed pleadings requesting an order of protection. Additionally, mediation is usually required of the parties in domestic relations cases, although it may be counter-productive in cases involving a history of domestic violence. Finally, some judges refuse to order that abusive spouses' visitation of children be subject to supervision, although visitation in such cases may provide an occasion for further abuse of either the children or the abused spouse.

RECOMMENDATIONS

A. Legislature

1. Legislation should be passed to require mediation in which the two parties meet separately and not together in cases where there has been a history of abuse, to help protect the interests of an abused spouse who may be unable to express views conflicting with those of her batterer in his presence.

B. Judiciary

1. Judges should require that visitation be supervised in cases where there has been a history of abuse and the victim requests such supervision.

2. The statute prohibiting the granting of mutual orders of protection where both parties have not filed written pleadings should be strictly enforced.

3. Judges should not require mediation in cases involving domestic violence.

C. Courtroom Administration

1. Court clerks should be directed to comply with the statutory mandate to assist domestic violence victims in filling out the forms to obtain orders of protection.

II. CRIMINAL JUSTICE

In relating to the criminal justice system, the Task Force concentrated on three areas which raise concerns about the possibility of gender bias in the Illinois courts: sexual assault, domestic violence, and criminal sentencing.

Sexual assault

Rape is a crime whose adult victims are almost invariably women. Yet victims may be reluctant to prosecute rape crime, at least in part because of the treatment they receive from the justice system. Lengthy continuances, repeated court appearances, and lack of communication with prosecutors make victims inclined to drop rather than to follow through on charges which, at best, are emotionally difficult to prosecute. In some instances, moreover, victims' names continue to be published in court opinions, potentially deterring prosecution of sexual assault cases.

In 1984, Illinois passed a new law to govern sexual assault, the Criminal Sexual Assault Act. Although this statute has demonstrably increased the number of prosecutions for rape in Illinois, significant problems remain. At least in part because of fear of the treatment which victims receive from the criminal justice system, rape remains a substantially underreported crime. When it is reported, police and prosecutors screen out large numbers of cases. Although the police are reported to take sexual assault complaints more seriously since passage of the new law, only one-half of all cases result in arrest or other closure. Moreover, prosecutors consistently fail to prosecute cases in which the victim was acquainted with or had previously had sex with the offender and are especially reluctant to prosecute cases involving spousal sexual abuse, although the new law also covers those cases.

There also appears to be a continuing suspicion of the credibility of sexual assualt victims on the part of police, prosecutors, judges, and juries. Although rape is rarely committed before eyewitnesses and is often not reported immediately, prosecutors and investigators seek corroboration, including evidence of a "prompt complaint." Judges and juries also expect more corroboration in sexual assault cases than in other cases of a similar class.

Cases involving "date" or "acquaintance rape" are particularly susceptible to dismissal for lack of corroboration, such as evidence of physical force, or because the prosecutor fails to believe the victim. In addition, evidence of the victim's past sexual activity continues to be introduced in these cases, although the "Rape Shield Statute" prohibits its introduction as to prior activity with persons other than the defendant himself. Finally, bail and sentencing appear to be more lenient in cases where the victim was aquainted with her assailant than in cases of "stranger rape."

RECOMMENDATIONS

A. Legislature

1. Additional funding should be appropriated to provide victim advocates and other support services to victims.

2. Enforcement provisions should be added to the Crime Victims' Bill of Rights.

B. Bar Associations

1. Bar associations should coordinate and provide continuing legal education courses for bar members concerning sexual assault and especially about problems of acquaintance rape.

2. Bar associations should discourage attempts to abrogate or circumvent the Rape Shield Statute.

C. Judiciary

1. Education concerning current research on sexual assault, and especially on acquaintance rape, should be included in training and educational programs for judges.

2. Pre-trial continuances in sexual assault cases should be limited, whenever possible, so that victims with work and child care responsibilities will not be deterred from prosecuting sexual assault cases.

3. The same standards should be applied in setting bail and sentencing offenders in acquaintance cases as are applied to cases in which the victim and defendant are strangers.

4. The Rape Shield Statute should be enforced consistently.

5. Judges should discourage and discipline attempts to abrogate or circumvent the Rape Shield Statute.

6. The Illinois Supreme Court should promulgate a rule prohibiting the publication of the names or identities of victims in judicial opinions concerning sexual assault.

D. Law Enforcement (Police, Prosecutors)

1. Education concerning sexual assault, acquaintance rape, and rape trauma syndrome should be mandatory for both police and prosecutors.

2. Investigative techniques used by police and prosecutors should be improved, so as to include victim-sensitive interviewing in sexual assault cases.

3. Police and prosecutors should comply more consistently with the mandates of the Crime Victims' Bill of Rights.

4. Specialized units for the prosecution of sexual assault cases should be established in all jurisdictions, to promote vertical handling of sexual assault cases.

5. Victims of sexual assault by an acquaintance should be treated with the same seriousness as those who are sexually assaulted by a stranger.

6. Statistics should be maintained concerning charging decisions in sexual assault cases, in order to improve enforcement of the sexual assault laws.

E. Court Administration

1. A safe waiting place should be provided for victims of sexual assault during court proceedings, so that they do not need to wait in the same area as their assailants.

2. The publication of victims' names and identifying information in published case opinions should be prohibited.

3. Resource information on the dynamics of sexual assault and educational programs which incorporate current research on sexual assault should be provided to the judiciary.

4. Statistics should be maintained concerning prosecution and conviction rates in sexual assault cases, in order to improve enforcement of the sexual assault laws.

F. Law Schools

1. Courses dealing with current sexual assault laws and on understanding the dynamics of sexual assault should be provided.

Domestic violence

Domestic violence against women is a widespread problem in Illinois, affecting an estimated 253,000 women each year. In 1982, Illinois passed a new Domestic Violence Act, which provides, among other things, for the issuance of an Order of Protection against a domestic violence offender and for criminal sanctions. However, public acceptance of the intent to effectively criminalize acts of domestic violence has been slow, and there remain pervasive problems in the attitudes of those charged with enforcement of the statute.

Although most law enforcement personnel in Illinois now demonstrate a knowledge of the rights of domestic violence victims and concern for those victims, there are still some police who do not regard domestic violence as a serious crime and who enforce the law selectively. Moreover, although a majority of prosecutors are willing to prosecute domestic violence cases, a significant minority of prosecutors still believe that these cases belong in civil court and are very selective about which cases they will prosecute. Domestic violence cases are rarely charged as felonies.

Like sexual assault, domestic violence is an area in which victims are likely to drop charges, both for emotional reasons and for reasons related to court procedure, such as the length of proceedings and number of court appearances. The provision of support services to victims seems to make a difference; but these services are not consistently available throughout the state.

The majority of Illinois judges treat victims of domestic violence with respect and sensitivity and are knowledgeable about their rights, although isolated cases of judicial insensitivity were reported to the Task Force. However, judges rarely sentence domestic violence offenders to time in prison. Instead, the penalty imposed in the majority of cases is simply to require counseling.

Finally, the situation of the battered woman who kills her abusive mate presents special problems for the criminal system. Studies show that women who use deadly force do so only after they have become convinced that they will themselves be killed. However, such women may have a difficult time meeting the legal standard for self-defense, which is based upon an assumption that the antagonists are of equal strength and that the defender strikes back at the moment of being attacked. Thus, battered women convicted of killing their abusers have sometimes received disproportionately severe sentences, which have been relieved only by the exercise of executive clemency.

RECOMMENDATIONS

A. Legislature

1. Additional funds should be appropriated for victim advocate services to provide adequate court support to victims.

2. The privilege protecting the confidential communications between domestic violence victims and their advocate-counselors should be strengthened.

3. The statutory penalty for repeated convictions of domestic violence should be increased.

B. Police

1. Pro-arrest policies should be established for violations of orders of protection, misdemeanors, and felonies in domestic violence cases.

2. Written guidelines should be developed for implementation of the Illinois Domestic Violence Act and Domestic Battery Statute.

3. Specific training guidelines should be established concerning the dynamics of domestic violence and the effect of immediate criminal justice intervention.

4. The proivision of the Illinois Domestic Violence Act which requires notification to victims of their rights under the Act should be strictly enforced.

5. Domestic violence reports should be tracked accurately, in order to improve enforcement of the law.

C. Prosecutors

1. Pro-prosecution policies should be established for domestic violence cases.

2. Either vertical prosecution or a special unit for handling domestic violence cases should be established in all jurisdictions.

3. Specific training guidelines should be established concerning the dynamics of domestic violence and the effect of immediate criminal justice intervention.

4. Mandatory educational programs should be provided to all prosecutors concerning the battered woman syndrome.

5. Dismissals or failures to prosecute domestic violence cases should be tracked, in order to improve enforcement of the law.

D. Defense Attorneys

1. Defense attorneys should educate themselves concerning the battered woman syndrome and the cycle of domestic violence and learn to recognize when domestic violence is a mitigating factor for battered women charged with committing violence against their abusers.

2. Defense attorneys should become knowledgeable about support services for battered women.

E. Judiciary and Court Administration

1. Specific training guidelines should be established about the dynamics of domestic violence and the effect of immediate criminal justice intervention.

2. Safe waiting areas should be set up in the courts to provide protection to domestic violence victims awaiting court hearings.

3. Judges should more frequently mandate counseling for batterers.

4. Judges hearing domestic violence cases should consider the appropriateness of ordering plenary relief, including decisions on custody and finances, in one forum, in order to reduce the number of times a domestic violence victim must appear at court hearings.

5. Where necessary, judges hearing domestic violence cases should issue orders requiring domestic violence defendants to vacate the domestic premises.

6. Judges should consider the appropriateness of imposing sentences involving imprisonment for domestic violence offenders and for violations of orders of protection.

7. The probation department should be required to examine issues of domestic violence in presentence reports.

8. Members of the judiciary should recognize the appropriateness of admitting evidence concerning the battered woman syndrome, where relevant, in cases where a battered woman is on trial for killing her abusive mate.

F. Bar Associations

1. Bar associations should coordinate and provide legal education on the dynamics of domestic violence, the battered woman syndrome, and the use of expert testimony in domestic violence cases.

G. Law Schools

1. Education concerning the dynamics of domestic violence and its effect on the criminal and civil court systems should be included in the curriculum.

Criminal sentencing

Participants in the criminal justice system believe that gender enters into decisions concerning bail and sentencing in Illinois. However, there is disagreement concerning whether the differential treatment works to the benefit or detriment of women. Prosecutors and defense attorneys hold the majority perception which is that female offenders receive lower bail and shorter sentences than male offenders for similar crimes, without regard to their responsibilities for child care. However, groups and individuals who work on a regular basis with convicted and incarcerated female offenders, including court and correctional personnel, hold a minority view. These groups believe that female offenders are treated more harshly than males or, at a minimum, are not given appropriate consideration for their familial responsibilities. Statistics indicate that this is a plausible hypothesis. However, there is no reliable data base in Illinois to prove or disprove either of the conflicting perceptions.

RECOMMENDATIONS

A. The Judiciary

1. Education should be provided for judges in the area of sentencing standards and alternatives, in order to encourage sentences based upon appropriate statutory factors in aggravation and mitigation, and not upon gender alone.

2. The Supreme Court should convene a task force to examine the treatment of juvenile offenders in the juvenile and criminal justice systems.

B. Law Enforcement Personnel

1. Charging procedures and decisions should be reviewed, to ensure that gender alone is not the dispositive factor in enforcing the law.

C. Court Administration

1. A uniform reporting system should be developed and implemented for bail, conviction and sentencing data, which includes data concerning gender, prior criminal history, familial responsibilities, and other significant factors.

III. CIVIL DAMAGE AWARDS

A number of gender-based assumptions appear to enter into the process by which damage awards are determined in civil cases (*e.g.*, personal injury cases) in Illinois. First, both judges and juries are likely to assume that women should receive higher damages for injuries affecting physical attractiveness than men and that men should receive higher damages for injuries affecting physical strength and capacity for manual labor than women. These assumptions, although gender-based, may in fact reflect disparate burdens and expectations which society is perceived to impose upon women and men.

Second, because of assumptions about women's earning capacity and their tendency to leave the work force, at least temporarily, in order to care for children, the typical female plaintiff is likely to receive a smaller award for loss of future income than is a male plaintiff. The application of this assumption to the individual case may produce a gender-biased award if it does not reflect the facts pertinent to the individual female plaintiff. Such assumptions are also gender-biased because they ignore women's non-market services as homemakers in the calculation of lost income.

Third, trial attorneys appear to make a number of gender-based assumptions which can affect the choice and presentation of witnesses, jury selection, and the ultimate award of damages. Some personal injury lawyers assume, for example, that women are more credible witnesses than men with respect to testimony about pain, both their own and that of others. Female jurors are perceived to be jealous of female attorneys who are too "aggressive" and of female attorneys, litigants, and witnesses who are "too attractive." The gender of an expert witness may also enter into the consideration of whether she should be selected to testify at trial, particularly if the litigation "team" includes other females. These assumptions may impact upon the number of female attorneys and experts selected to participate in the trial of personal injury cases.

Finally, the Illinois Pattern Jury Instructions, which are used in almost all civil cases, consistently use male pronouns to describe parties, witnesses, and litigants. Although attorneys may redraft the instructions to reflect the appropriate genders in a particular case, the exclusive use of the male pronoun represents an institutional use of a gender term which may reinforce and perpetuate gender-biased assumptions.

RECOMMENDATIONS

A. The Judiciary

1. The Illinois Supreme Court Committee on Jury Instructions in Civil Cases should revise the pattern jury instructions for use in civil cases to make them gender-neutral.

2. The Illinois Supreme Court Committee on Jury Instructions in Civil Cases should develop a jury instruction which specifies factors to consider to recognize the economic value of a spouse's work in the family.

3. Judges should manage the environment in their respective courtrooms in such a way as not to exhibit or to tolerate gender-biased attitudes in the conduct of a trial.

B. Court Administration

1. The Administrative Officer of the Courts should undertake a review of the materials used for juror education, both videos and hand-outs, to determine whether these materials should include admonitions that jurors should disregard race and gender in reaching their conclusions.

C. Bar Associations

1. Bar associations should hold seminars for lawyers, arbitrators, and judges which address the economic status of women as workers, mothers and wives.

IV. COURTROOM DYNAMICS

The proportion of the Illinois attorney population which is female has increased from 8% in 1980 to 20% in 1989; and women make up more than 40% of the typical law school student body. However, women continue to be underrepresented in the field of litigation and to have less diverse caseloads than men. This may be the result of the fact that women tend more often than men to practice in institutional settings—government, private industry, and legal aid or public defender work—where litigation is less frequent or the case load less varied. Possibly as a result of this imbalance, women make up only 8% of the judiciary in Illinois, a fact which many attorneys and litigants decry.

Although there are indications that overt discrimination against women in the courtroom is diminishing, there is also evidence that more subtle forms of bias persist, affecting women as lawyers, as litigants, and as witnesses. One-third of the female attorneys responding to a survey which the American Bar Foundation designed and administered reported that they had personally experienced some form of derogatory behavior or remarks which judges directed at them within the preceding 12 months. They reported instances of (1) judges' use of informal address or terms of endearment to female counsel, (2) judges' comments on female counsel's dress or physical appearance, (3) less attentiveness to female counsel's statements than to those of male counsel, (4) judicial comments about the proper role of women, and (5) exclusion of female counsel from camaraderie between judges and male counsel. Survey respondents agreed that incidents of judicial bias placed female attorneys at a disadvantage and had an effect on the interests of the parties. However, in the overwhelming majority of cases, the female attorney did not object to the offending conduct, for fear of an adverse effect on her client's interests.

Incidents of derogatory of demeaning behavior on the part of male attorneys toward female attorneys are far more common than such behavior on the part of judges. Fifty-seven percent of the female attorneys responding to the survey reported that they had experienced derogatory treatment by male litigators during the preceding 12 months. They mentioned, for example, forms of address and remarks that denigrated the professional status of female attorneys, as well as conduct which was simply dismissive of female counsel, such as refusing to acknowledge her presence, interrupting her presentation, or monopolizing the physical area in front of the bench. When female attorney's objected and the judge was present, judges were reported to have intervened in the majority of cases. Much of the derogatory behavior directed at female attorney's by male attorneys, however, took place out of the presence of the judge.

Female litigants and witnesses were also reported to have been subjected to derogatory or demeaning treatment which would not have been directed at their male counterparts. Interestingly, female counsel are apparently even more likely than male counsel to use informal forms of address to litigants and witnesses. Male counsel, however, were reported to be more likely to exhibit inattentiveness to female litigants and witnesses, to note their physical appearance, and to make remarks about their appropriate social roles.

Finally, men and women in the legal profession appear to have very different perceptions of gender bias. There are marked disparities in the percentages of men and women attorneys who report that they have observed differential or biased behavior toward women. One likely explanation is that men simply fail to notice instances of derogatory treatment when they occur, because they are not themselves the victims or because they are not sensitive to bias in its more subtle forms. Men also may interpret certain behavior, such as overly solicitous treatment of female attorneys by judges, as helpful to women, while female attorneys experience it as derogatory.

Nonetheless, the Task Force study reveals that a significant portion of the female lawyer population in Illinois believes that the professional community they have chosen to join has not fully accepted them. Moreover, any differential treatment which women do receive in the Illinois courts is a

cause for serious concern, not only because it may potentially affect the outcome of litigation, but also because it may undermine public confidence in the fairness and impartiality of our institutions of justice.

RECOMMENDATIONS

A. The Judiciary

1. The Illinois Supreme Court should direct a policy statement to all judges in Illinois, declaring that all forms of bias, including gender bias, have no place in the courts of Illinois.

2. The Illinois Supreme Court should mandate that training directed to issues of gender-biased conduct by both judges and attorneys be a component of judicial education programs.

3. Judges, who are responsible for the management of their courtrooms, are also responsible for ensuring that gender bias play no role in the courts.

4. As part of their responsibility to ensure that attorneys and litigants are treated fairly in the courts of Illinois, the presiding and chief judges in each district should take a leading role in preventing gender bias from playing any role in the courtrooms within their jurisdictions.

5. The presiding and chief judges should be responsible for becoming aware of gender bias issues in their jurisdictions and should take appropriate action when they become aware of a problem.

6. All judges should be models of unbiased behavior in their own conduct at the bench, at sidebar, and in their chambers.

7. Judges should take care to intervene whenever they see an instance of gender bias by an attorney.

8. Judges should exercise whatever control they have over non-judicial court personnel, to ensure that gender bias does not enter into those employees' conduct toward female attorneys or litigants.

B. Bar Associations

1. The Illinois State Bar Association, Chicago Bar Association, and Women's Bar Association, in conjunction with the Illinois Supreme Court, should establish an ongoing committee composed of representatives of each organization, a judge designated by the Supreme Court, and a law school representative to oversee implementation of the recommendations contained in the Task Force Report.

2. The bar associations should issue a policy statement that gender-biased conduct by attorneys is unacceptable and unprofessional behavior.

3. The bar associations should highlight the Task Force Report and recommendations during 1990-91

4. The bar associations should include attention to issues of gender bias as a component part of all continuing legal education courses.

5. The bar associations should also provide educational activities which focus on values and social policy, including the problem of gender bias in courtroom interactions and in law firms.

6. The bar associations should encourage and assist women and members of minority groups to seek judicial appointments and election.

7. Bar association committees charged with evaluating candidates for judicial office should be sensitive to issues of gender bias.

8. Bar asociations which interview judicial candidates in the course of evaluating them should probe those candidates' understanding of and sensitivity to issues of gender bias.

C. Court Administration

1. In selecting personnel, setting personnel policies, and exercising control over nonjudicial court personnel, the Administrative Office of the Illinois Courts should pay attention to issues of gender bias.

2. The clerk's offices in each district should review and revise the court forms used in their respective areas, in order to eliminate the use of gender-biased language in them.

D. Law Schools

1. Issues of gender bias should be included in law school curricula, not only in legal ethics courses but in other courses as well.

2. Law school professors and deans should be especially sensitive to issues of gender bias and serve as role models for the profession in this respect.

E. Courtwatcher Groups

1. Courtwatcher groups should educate themselves about gender bias issues and should report incidents of gender bias which their members observe to the courts.●

ENVIRONMENTAL POLICY MUST BE GUIDED BY SCIENCE

● Mr. MOYNIHAN. Mr. President, if there has been one point that I have tried to make as a member of the Committee on Environment and Public Works, it is this: environmental policy must be guided by science.

Recent accounts would indicate that the process of making environmental policy may yet be moving in this direction. This past Wednesday, September 26, 1990, Environmental Protection Agency Administrator William Reilly delivered an address before the National Press Club on the occasion of the release of a report by the EPA Science Advisory Board entitled, "Reducing Risk: Setting Priorities and Strategies for Environmental Protection."

What the report tells us, and what Administrator Reilly emphasized, is most significant. Put simply, the Advisory Board recommends that we rank our environmental problems on the basis of risk, and regulate accordingly. Risk to be determined by rigorous, hard, sound science.

I do feel that the very suggestion of such a change in policy is worthy of my colleagues' consideration and attention. To that end, I ask unanimous consent that a copy of Administrator Reilly's speech and related Science article be inserted in their entirety into the RECORD.

The material follows:

[From Science, Aug. 10, 1990]

COUNTING ON SCIENCE AT EPA

(By Leslie Roberts)

William Reilly, the Administrator of the Environmental Protection Agency, and his top advisers are plotting a quite revolution. They have embarked on a process that could fundamentally change the way EPA does business; an attempt to focus the agency's resources on the environmental problems that pose the biggest risks rather than those that have attracted the most political attention. "It's an effort to inject science more prominently into the policy process," says Hank Habicht, deputy administrator of the agency and Reilly's right-hand man.

That may not sound revolutionary, but Reilly is trying to reverse nearly 20 years of piecemeal environmental policy-making. Congress, reflecting public concerns, has written numerous laws instructing EPA to deal with individual environmental problems—hazardous waste one year, toxic substances or pesticides another, and medical wastes still another. The results: EPA's budget and priorities have been shaped more by "what the last phone call from Capitol Hill or the last public opinion poll had to say" than by a scientific assessment of risk, says Frederick Allen of EPA's office of policy analysis.

Now, Reilly has asked his Scientific Advisory Board to tell him which problems pose the biggest environmental or public health threats. The board's analysis, a draft of which has been obtained by Science, reveals that the environmental problems that dominate public concerns—and EPA's budget—are often not those that Reilly's scientific advisers deem the biggest threats (see table below). Radon and climate change, for example, are at the top of the list for EPA but near the bottom in the public's view.

But turning the agency around would be no mean feat, and even within EPA, opinion is divided on whether Reilly can pull it off. Without question, he starts with several strikes against him. For one thing, the EPA administrator has very little discretion in allocating funds: most of the agency's budget is needed to just to implement the major environmental laws, like Superfund, already on the books. And for another, Reilly faces inertia from within EPA, a bureaucracy that has a vested interest in maintaining the status quo. And then there is the public, which EPA is beholden to, whether or not it agrees with the latest scientific study. Reilly's new effort is "laudable," says Richard Morgenstern, director of the office of policy analysis and an old hand at EPA. "I am bullish on it. But I wouldn't bet the store on it."

But Terry Davies, assistant administrator for policy, planning and evaluation and one of the architects of the new plan, voices no doubts. "We're already doing it," he exclaims. "We are changing the way the agency thinks." But not even the optimists expert major shifts overnight. Deputy adminstrator Habicht, for instance, talks about "a rapid evolutionary change, not a revolutionary one," but he is convinced that it will be a different agency—if they can pull it off.

The new effort actually had its origins before Reilly came to EPA, in a much discussed 1987 report, Unfinished Business. In that time, EPA staff tried, for the first time, to take a broad look at all the environmental problems the agency deals with and figure out which pose the greatest risk to human health and the environment. Risk ranking, per se, was nothing new—people often ranked one air pollutant against another, for example. And EPA had even attempted to rank the cancer risks within small geographic areas, like Philadelphia and Silicon Valley. But this was different: it was an attempt to look at toxic air pollutants versus pesticides versus global warming.

The task proved to be a methodological nightmare, given the paltry data, uncertain techniques, and value-laden questions such as how to rank loss of wetlands against, say,

visibility degradation. But Morgenstern, who directed the study, and 75 senior staff plunged in nonetheless using whatever data they could muster and falling back on professional judgment when they couldn't. They ended up with a list of 31 problems, essentially in rank order. To their credit, they never pretended scientific rigor; they never claimed, for instance, that problem number 2 was definitely worse than problem 3, but said that it was certainly worse than 13, and 13 in turn was worse than 26.

Their list showed that the old assumptions were wrong. Many of the things that the public was most concerned about—and that EPA was devoting vast resources to—like hazardous waste and underground storage tanks, posed relatively small risks, while the biggest problems, like radon and climate change, were being virtually ignored. In 1987 the agency was spending several billion dollars for waste cleanup, for example, as opposed to several million for indoor air pollution and climate change.

"*Unfinished Business* revolutionized how people thought," says Jonathan Lash, a former environmental activist with the Natural Resources Defense Council who is now the secretary of natural resources in Vermont.

But while *Unfinished Business* may have changed thinking, it didn't change practice much at EPA, mostly because "you don't turn a tanker on a dime," says Morgenstern. Its impact was also limited by the fact that many in the agency saw the study as an "unscientific" first cut—not the kind of hard analysis on which to force a change in environmental policy.

But the study did influence Reilly. Soon after he was appointed but before he was confirmed as EPA administrator, Reilly was sitting around the World Wildlife Fund/Conservation Foundation headquarters with his colleagues, including Terry Davies and Dan Beardsley, a deputy assistant administrator for policy at EPA who was then on loan to the conservation group, talking about what he should do at EPA, and how. All were frustrated with the "chemical of the month" phenomenon and the sense that EPA was not spending its money as wisely as it could, recalls Davies. They wanted to find a way to focus the agency's resources where they would get the biggest payoff—which means, as Davies says, factoring in not only how risky a problem is but how feasible and costly the various "fixes" are.

They decided upon a two-part strategy: take another look at *Unfinished Business* and the whole issue of comparative risk; and at the same time, get the senior managers at EPA to start thinking about what actions would have the biggest payoff in terms of reducing the most significant problems.

Reilly wasted little time. Soon after he arrived at EPA he asked the agency's Scientific Advisory Board (SAB) to essentially peer review *Unfinished Business*—to go over the data again, see whether they agreed with the methodology and rankings, and, if not, to come up with their own. The board set up a committee of 45 experts, mainly scientists but a few people from state government as well, like Vermont's Johathan Lash and Fred Hansen, director of Oregon's Department of Environmental Quality, to keep the effort focused on political reality. Lash and Raymond Loehr, an environmental engineer at the University of Texas, Austin, cochair the committee.

That committee, in turn, divided itself into three subcommittees: one headed by William Cooper, an ecologist at Michigan State University, to look at ecological, economic, and aesthetic effects; another, headed by Arthur Upton, director of the Institute for Environmental Medicine at New York University Medical Center, to look at health risks; and a third, chaired by Alvin Alm, director and senior vice president of Science Applications International and a former deputy administrator of EPA under William Ruckelshaus, to look at strategies for reducing the major risks.

The SAB committee spent more than a year sifting through studies, all the while bemoaning the scanty data and uncertain analytical techniques, which make accurately characterizing a risk, much less ranking it against another, a tenuous business at best. Though they applauded Unfinished Business for its pioneering work, the committee had lots of problems with it, from the fact that the EPA staff had divided up the universe into problem areas that essentially reflect the agency's existing programs—which "makes no damn scientific sense," says Cooper—to some of its conclusions, which they call "provisional."

But for all their complaints, the SAB committee concluded that Unfinished Business was not that far off in its conclusions. Most of the "baddies" identified in the report—like climate change, stratospheric ozone depletion, air pollution, and radon—still looked bad. The earlier group had, however, overlooked a couple of big ones, habitat destruction and species extinction, which the SAB committee added. And once again, the things the public cares the most about, like hazardous waste, ended up in the middle or at the bottom of the heap.

Not everyone in the group, however, was willing to follow their predesesors out onto a scientific limb and actually rank the problems. Cooper's ecological effects group was perfectly willing to rank them, but Upton's health effects group wasn't, which led to some tussles on the committee. In the end, they agreed to simply list the 11 problems that everyone agreed were high risk—with the caveat that this is not an inclusive list.

Some of these problems, like the loss of biodiversity, do not fit handily into EPA's statutory mandate, but the committee urged EPA to exert leadership anyway. The committee also urged EPA to give greater weight to ecological risks, which they say have been given short shrift while EPA has concentrated on combating pollutants that pose a threat to public health. And perhaps most important, in terms of the agency's overall direction, the SAB committee gave its scientific seal of approval to comparative risk assessment, flawed as it is, as the best way to set priorities. They recommended that EPA set up a permanent process for comparing risks and then make its policy and budgetary decisions, as much as possible, on the basis of those risks. And they said, EPA should move beyond the conventional "end-of-the-pipe" approach and use alternatives, such as pollution prevention and market incentives.

The committee's final report will go to Reilly in late September. At this stage, it is not at all clear how the public and the environmental community will receive it because in the Reagan era, at least, "setting priorities was a euphemism for cutting," says Johathan Lash. "I don't see that happening here," he adds.

But Reilly and his aides have already embraced the report; in fact, they are using it in shaping the agency's 1992 budget. Their problem, of course, is that 80% of the budget is essentially cast in stone, estimates Dan Beardsley of the policy office. EPA must spend these dollars implementing the laws, paying salaries and rent, and so on. The administrator technically has discretion over perhaps 15% of the budget, but in reality, that too is sacrosanct. "You would be out of your political mind to exercise it," says Beardsley, since Congress has clearly indicated, if not insisted on, how that money ought to be spent.

That leaves only 5% of the budget that is truly flexible. While working to wrest more discretion and more flexibility from Congress, Reilly's aides are concentrating on that 5%. Last November, Reilly and Habicht asked the heads of the various programs to submit 4-year plans, describing where they want to go and how they are going to get there. The guiding principle, they were told, should be risk reduction—and not, say, how to meet the latest court-ordered deadline. In identifying the big risks, the program heads were to take direction first from Unfinished Business, and then, when it became available, the SAB report.

By all accounts, the first round "engendered grave suspicions," as Don Barnes, director of the SAB, puts it. "Any time a program is challenged, people wonder if the real goal is to take money away," he says. The plan did cause some resentment, concedes Habicht. But after some initial grumbling most, if not all, have come around.

But if this new thinking is really going to make a difference—if Reilly is really to get the greater flexibility and discretion he wants—then he and his aides will have to change the culture not only at EPA but in Congress and the Office of Management and Budget. Proponents of the effort point to some encouraging signs from Congress, such as rising budgets for global climate change and radon, while funding for hazardous waste has remained relatively steady.

"It is a big agenda, but you have to start somewhere," says Habicht. "We are planting seeds, most of which won't bear fruit until after we have left."

EPA'S TOP 11 (NOT IN RANK ORDER)

Ecological Risks: Global climate change; Stratospheric ozone depletion; Habitat alteration; Species extinction and biodiversity loss.

Health Risks: Criteria air pollutants (e.g. smog); Toxic air pollutants (e.g. benzene); Radon; Indoor air pollution; Drinking water contamination; Occupational exposure to chemicals; Application of pesticides; Stratospheric ozone depletion.

Scientists and the public draw different conclusions about the seriousness of various environmental problems. Above: the worst environmental problems, as identified by EPA's Scientific Advisory Board. Right: the public's top concerns, as reflected in a March 1990 Roper Poll. (Figures in parentheses are the percentages that rated each problem "very serious;" highlighted items also appear on EPA's list.)

PUBLIC CONCERNS (IN RANK ORDER)

1. Active hazardous waste sites (67%)
2. Abandoned hazardous waste sites (65%)
3. Water pollution from industrial wastes (63%)
4. Occupational exposure to toxic chemicals (63%)
5. Oil spills (60%)
6. Destruction of the ozone layer (60%)
7. Nuclear power plant accidents (60%)
8. Industrial accidents releasing pollutants (58%)
9. Radiation from radioactive wastes (58%)

10. Air pollution from factories (56%)
11. Leaking underground storage tanks (55%)
12. Coastal water contamination (54%)
13. Solid waste and litter (53%)
14. Pesticides risks to farm workers (52%)
15. Water pollution from agricultural runoff (51%)
16. Water pollution from sewage plants (50%)
17. Air pollution from vehicles (50%)
18. Pesticide residues in foods (49%)
19. Greenhouse effect (48%)
20. Drinking water contamination (46%)
21. Destruction of wetlands (42%)
22. Acid rain (40%)
23. Water pollution from city runoff (35%)
24. Nonhazardous waste sites (31%)
25. Biotechnology (30%)
26. Indoor air pollution (22%)
27. Radiation from x-rays (21%)
28. Radon in homes (17%)
29. Radiation from microwave ovens (13%)

RANKING THE RISKS PROVES CONTENTIOUS

If the deliberations of EPA's Scientific Advisory Board committee are any indication, then ranking environmental risks, as William Reilly is proposing to do, will not be easy. Indeed, the committee members almost came to academic blows over just how far they were willing to go on admittedly squishy data. The scientists fell out basically along subcommittee lines, with the ecological group taking a bolder or more foolhardy stance, depending on your perspective. But this says as much, if not more, about the personalties of the two subcommittee chairmen as it does about the nature of the problems they were wrestling with.

William Cooper, an ecologist at Michigan State who headed the subcommittee looking into ecological effects, dove right in. His group discarded the methodology of the earlier report, Unfinished Business, as unscientific and divided up the universe in a new way, and then promptly ranked the problems. His group came up with a complex set of matrices for evaluating risk, but the bottom line, says Cooper, is that problems are worse if they affect a broad area and have a long "time horizon"—in Cooper's words, a measure of how long it takes, once you shut off the stress, for the ecosystem to recover. According to their new scheme, global climate change and stratospheric ozone depletion came out way on top, as they did in Unfinished Business, and so did two other problems the earlier biodiversity toxics, toxics in surface water, and pesticides and herbicides.

While Cooper's group bulldozed through the uncertainties, a subcommittee on health effects, headed by Arthur Upton of the Institute for Environmental Medicine at New York Univesity Medical Center, got bogged down early on in the problems of missing data and inconsistent assumptions. The upshot was they declined to rank anything. "It was not scientifically feasible. It was more than a committee of scientists could do on a part-time basis over a few months," says Upton, especially since they were given the unenviable task of somehow combining cancer and noncancer risks. Instead, they laid out in great detail how one would go about ranking risks in a scientiically defensible way, if one had the time and money to do so. And central to that, they say, is separating out individual agents, like lead, instead of lumping it in with other "criteria air pollutants."

Their cautious stance was immensely frustrating to some committee members, like Jonathan Lash, secretary of natural resources in Vermont, and Fred Hansen of Oregon's Department of Environmental Quality, who pointed out that EPA and State agencies do not have the luxury of waiting for the definitive study but have to make decisions now. But Upton sticks to his guns. "In many cases, we simply don't have the data, either on human exposure to various agents or their toxicity." Upton recently chaired the National Academy of Sciences report, known as BIER V, which wrestled over the effects of ionizing radiation. "When you turn to chemicals, the information is even more incomplete," says Upton. "Unless one gets more data, these assessments will remain highly uncertain. Sure, one can rank risks, but the confidence one has in the rankings will not be great." And though Upton thinks comparative risk assessment is a good tool for setting priorities, he cautions that "you can carry it to absurd extremes."

The committee reached a compromise of sorts, with Upton's group identifying seven problems that would rank high by almost any reckoning: criteria air pollutants (for example, smog), toxic air pollutants (for example, benzene), radon, other indoor air pollutants, drinking water, worker exposure to chemicals, and worker application of pesticides. And though the data were "less robust," they threw in stratosphereic ozone depletion as well, because it looms so large compared with other problems. For all of these high-risk problems, the common denominator was direct exposure, says Upton, not something passed up through the food chain.

Upton cautions that this is not the final word; other problems—such as pesticide residues in food or exposure to consumer products, which were described as high risk in the earlier report—might also rank high if more data were available. But until they are, Upton's committee has "no problem" with Reilly giving extra attention to the seven they have identified.[S02OC0-M1]{S14404}dentified.

AIMING BEFORE WE SHOOT: THE "QUIET REVOLUTION" IN ENVIRONMENTAL POLICY

(Address by William K. Reilly, Administrator, U.S. Environmental Protection Agency)

The Bush Administration is now 20 months old. In two months the Environmental Protection Agency will be 20 years old. My message today is relevant to both milestones.

A year ago I spoke here at the National Press Club. Now, almost midway through President Bush's first term, I propose to take stock of where we are.

I am also here today to share a proposal for a way to begin charting a new course for environmental policy. This new course is suggested by a report that I am releasing today, a report by EPA's Science Advisory Board. In drawing attention to this report I want to stimulate a broad national debate on a fundamentally important question: How can our society, or any similarly developed country, most effectively use its resources to achieve the greatest possible benefits to human health and to the planet that sustains us? The answers to the environmental policy questions we pose today will determine just how green the next decade will be.

KEEPING OUR PROMISES: A REPORT CARD

First, I want to ask you to go back in time a year and a half or so ago. You remember where environmental policy was then.

Clean air legislation had been stalemated in Congress for ten years. Now it is on the point of passage, and I sincerely hope that the Congress will soon send the President a cost-effective clean air bill he can sign.

Acid rain was on the research agenda, but no President had ever proposed to do anything about it. Now Congress is close to approving a ten-million-ton reduction of sulfur dioxide, reducing by half the acid rain precursors, and doing so through a highly innovative and cost-effective new emissions trading system that will allow government to set the goals, and leave utility companies and their plant managers to choose the cheapest ways to achieve them.

Toxic air emissions would come down 70 to 90 percent if the Congress passed the President's air toxics initiative.

These proposals came from President Bush. He broke the stalemate.

President Bush has for nearly ten years been a prophetic and pioneering voice for clean fuels. After years in which we ignored the contribution of fuels to air pollution, the President proposed a new thrust, of requiring clean fuels in our most polluted cities. The debate has been fierce—clean fuels do represent a departure from past policies—but his proposal would significantly reduce air pollution in our cities, and also reduce this nation's dependence on foreign oil imports.

We learned from the great Alar/apple controversy and proposed sweeping new food safety reforms, including measures to reduce by half the time it takes to cancel a bad pesticide. I've said before that this nation suspends trading in a bad stock far faster than it stops sales of a bad chemical. The President proposed legislation to address this defect in our food safety laws, and this Congress should act to achieve this long-overdue reform of our pesticide laws.

We proposed to make it unlawful to ship hazardous waste to any nation with which we do not have an agreement that reassures us the waste will be safely disposed of. And we signed the Basel Convention committing the United States to that policy.

We've proposed a 12 percent increase in the crucial operating fund for EPA, added almost 2,000 more personnel bringing us close to 17,000, and begun to increase by 500 the number of staff working on Superfund enforcement.

I've set a new "enforcement first" priority for Superfund and it's no coincidence that last year we issued more administrative cleanup orders and entered into more settlements for responsible party action than in any previous year. And that pace only quickened further in 1990. Through the third quarter of this fiscal year, we issued 47 percent more emergency administrative cleanup orders than in the same period two years ago, and 16 percent more than in 1989. Civil referrals to the Department of Justice for court action for the same period were also up sharply—71 percent higher than two years ago, and 10 percent higher than last year.

We've made a record steady, far-reaching regulatory decisions, some of which had been pending for ten years: We moved to phase out asbestos use, significantly reduced exposure to benzene, proposed cancelling most food crop uses of the pesticide EBDC, set regulations to reduce the volatility of gasoline, required removal of sulfur from diesel fuel, proposed a rule to recapture evaporation from car engines, and proposed another regulation to make recycling

and source separation a condition of approving new incinerators.

Those are a few of our domestic initiatives. Add to them the President's proposal to plant a billion trees a year for the next ten years and to fund the Land and Water Conservation Fund, zero-budgeted in Administration proposals for years, at $250 million. Then there's the delay in drilling on sensitive offshore oil leases in California and Florida, foregoing a half billion dollars in revenues, in order to ensure a full measure of protection for the environment.

A major thrust of our foreign policy has been to give full expression to the nation's environmental priority. We have accordingly established a new Assistant Administrator for International Activities at EPA. At Secretary of State Baker's invitation, EPA is now part of the annual binational meeting with Mexico and we are working on border issues, proposing to fund construction of a new treatment plant for Tijuana, and advising on Mexico City's air pollution.

In July, I began in Ottawa on the President's behalf the process which will culminate in a new accord with Canada on acid rain and other air pollutants. With this accord we will achieve a long-sought objective, removing the one serious issue in contention from an otherwise congenial relationship. Such an accord, as Prime Minister Mulroney reminded me, has been priority of Canadian foreign policy for 15 years. And we will next move with Canada to give a higher priority to getting the toxics, the pesticides and the fertilizers out of the Great Lakes.

The President proposed a new Center on the Regional Environment of Central and Eastern Europe, and last month I represented him at the opening of this center. Known throughout the region as the Bush Center, this initiative represents a new venture in institution-building for the new East European democracies, and it promises to greatly strengthen the environmental policies of the region's countries—all of which seem to feel they are not totally responsible for the problem, since half their pollution comes from their neighbors.

Incidentially, let anyone who doubts the wisdom of pollution control—or who believes there is a conflict between economic growth and environmental protection—let them go to Eastern Europe. Let them see as I have seen, rivers like the Vistula in Poland, so corrosive it is useless over 80 percent of its length even for cooling machinery; let them experience sulfur dioxide levels in Cracow, where 500-year-old statues and monuments have crumbled in just 40 years; let them see the high rates of infant mortality, lung disorders, worker absenteeism and premature deaths, the vast land areas contaminated by heavy mental pollution. Poland's Environment Minister Kaminsky estimates that environmental contamination represents a drag on Poland's gross national product of 15 percent. Policies in Communist Europe designed to stimulate economic development by foregoing pollution controls ended by wrecking the economy and also ravaging the environment.

More than a year ago the President proposed that the United States fully phase out production and use of chemicals that destroy the world's stratospheric ozone, which functions as a shield against skin cancers and cataracts. In June the United States led the way on an agreement to commit the world community to that policy, and agreed to contribute funds to help the developing countries make the transition to subsitutes for CFC's.

In June of 1989 the President announced a ban on imports of elephant ivory. The European Community and Japan later acted also, and as a result, the price of ivory has plummented and the incentive to kill African elephants is diminished. Some 80 percent of East Africa's elephants fell to the poachers' machine guns in the 1980s; now, there is new hope for the elephants, thanks to a President and Secretary of State who believe in animal conservation.

Just last month the President proposed his Enterprise for the Americas Initiative, including a new readiness to renegotiate public debt owed to the U.S. government by Latin American countries and to apply the interest on the new debt to environmental protection and conservation. Altogether Latin American nations owe the United States some $12 billion in public debt. They owe governments in Europe and Japan another $38 billion. This proposal, which has been very warmly received in Latin America, has gone almost unnoticed here at home. And yet the prospects are that the budgets of parks and pollution and forest agencies can be substantially enhanced as a result of this decision. Should other creditor countries follow our example, this major new debt-for-nature commitment could serve to refocus the priorities of countries so rich in forests and species of plants and wildlife, and so burdened by debt.

Concern for the rapid loss of forests worldwide—new data suggest they are being lost twice as fast as had been believed—that concern led the President to propose an agreement on forestry at the G-7 Economic Summit last July. We hope that agreement will be signed no later than 1992, and will help arrest the destruction of the great forest systems, so many of which will be gone, at present rates of destruction, within 10 to 15 years.

Ah, but what about global climate change? When will you get serious about this issue, I often am asked.

In the first place, there is no question that this President clearly places a very high priority on the importance of the global change issue. Early on, he set up a special group under the Domestic Policy Council to address the issue, directing it to use "the best scientific and economic information available." He asked his Science Advisor, Dr. Allan Bromley, to chair that effort to help ensure that we develop our global change policy and actions using the best expertise available. I can tell you from my own participation on that group that some of the most senior Cabinet officers in our government are working hard to find the best approaches for our country to the challenge of the global change issue.

A number of nations have made ambitous commitments to reduce carbon dioxide emisions, or to arrest their increase by the year 2000. I would encourage the press to ask their leaders how they propose to achieve these reductions. I don't doubt for a moment the seriousness of some of these commitments. But I can tell you that answers to questions about specifics are difficult to come by.

Why? Because large reductions are hard to get without substantial new carbon or energy taxes, and without expansion of nuclear energy. The policies of several European nations will no doubt rely on one or both of these measures, with the French nuclear program filling a critical supply requirement.

And while other talk about ambitious—and perhaps unattainable—carbon dioxide emissions reductions in the future, the United States has been spending hundreds of millions of dollars a year—growing to more than $1 billion in the coming fiscal year—to learn more about the scope, causes, effects, and responses to the problem.

Nor are we sitting on our hands waiting for the science to jell. We already are committed to a series of actions that make sense in their own right and will yield benefits should climate change prove to be, as some have suggested, a problem of serious consequence. (It is also possible, as White House Science Advisor D. Allan Bromley points out in a soon-to-be-published article, that other global issues such as ozone depletion, deforestation and loss of genetic diversity "may * * * turn out to be more serious in terms of human impact than global climate change.")

As as a result of proposals we already have made—several pending in the Congress, others likely to be implemented—the United States should be generating no more greenhouse gas emissions in the year 2000 than we did in 1987. By passing a new Clean Air Act, phasing out CFC's, carrying out the President's "America the Beautiful" reforestation initiative, and promoting energy conservation—if all of these steps are taken effectively—we will reduce greenhouse gas emissions by about 25 percent from their projected levels in the year 2000.

Finally, the President has offered to host the opening session of international negotiations next February on a climate change framework convention.

So the next time you feel the urge to write about climate change, you might consider the question: "How many other countries can point to real action on this issue—and back it up?" How many others have laid before the public the details—if these even exist—of how they plan to cut greenhouse gas emissions while maintaining economic growth?

In total, by any objective measure, this Administration is serious, determined, and dedicated to the pursuit of an aggressive, innovative environmental agenda. Public expectations are high, and we have probably raised them further. President Bush has moved the environment from the margins to the mainstream. As a result, the opportunities for genuine environmental progress have never been greater than they are today.

THE COST OF A CLEAN ENVIRONMENT

At the same time, we in this Administration are profoundly conscious of the need to achieve continued environmental progress in harmony with the nation's economic aspirations. The Administration's policies are firmly grounded in the recognition that we do not have to choose between a healthy environment and a healthy economy. We can, and must, have both.

Our country's environmental gains over the past two decades—in cleaner air and water, in strict controls on hazardous waste, in protection of wildlife and valuable ecosystems—have not come cheaply. Our economists are now working on a report entitled, "The Cost of a Clean Environment," showing that total annual costs for pollution control in the United States, in 1986 dollars, went from $27 billion in 1972 to $85 billion in 1987. This is slightly more than any other Western industrialized nation for which we have data. For this year, we estimate that the public and private sectors are spending

more than $90 billion, also in 1986 dollars, for pollution control.

This increase in spending has been accompanied by, has in fact been made possible by, the nation's robust economic growth over much of the same period—a growth of 70 percent in real GNP. This is compelling evidence that environmental quality and economic expansion, far from being mutually exclusive, can go hand in hand. Economic growth financed higher standards of environmental protection. Higher environmental expectations made the growth we achieved good growth.

We also estimate that by the year 2000, pollution control costs from programs now in place will grow to about $155 billion a year, again in 1986 dollars, or about 2.7 percent of GNP. These figures represent only the "cost of clean," without taking into account any of the benefits from this investment; those benefits are, of course, substantial. Our economists are now looking at ways to add up the benefits of pollution control as well.

Most of the growth in costs over the next ten years will not be in the traditional areas of air and water pollution control, but instead will be in expenditures for cleaning up pollution on land—primarily from hazardous waste sites, Federal facilities, and leaking underground storage tanks. (Incidentally, speaking of Federal facilities, we now have in place about 70 new interagency agreements to clean up more athan 80 Federal facility sites on the Superfund list, and within the next six months we expect to have all 115 Federal facilities on that list covered by cleanup agreements. These agreements include cleanup targets, deadlines, enforceable penalties and fines. We are carrying out the President's policy of applying the same requirements to Energy Department and Defense Department facilities as we apply to the private sector. Only one interagency cleanup agreement was achieved prior to 1989.)

PIECEMEAL POLICY-MAKING

Given these substantial and growing costs, it seems only prudent to ask ourselves: Are we spending all this money on the right things? Are we spending it in the most effective possible way? Are society's resources being used in ways that will contribute most directly to the health and well-being of our citizens and our environment?

Not long after my EPA appointment was announced, I made the customary rounds of the members of the Senate Environment and Public Works Committee, to whom it would fall to consider my confirmation.

One of my most memorable visits was with Senator Pat Moynihan; as I expect many of you know, conversations with Senator Moynihan are always memorable.

He sat me in a very nice Windsor chair, about which he said, "This is a Republican chair * * * this is appropriate, I think, for the new EPA Administrator to sit in."

Then he perched his little half-reading glasses down on his nose, and he fixed these two fingers, picador-like, on me. And looking over his glasses, he said, "Above all—above all—do not allow your agency to become tansported by middle-class enthusiasms!"

What he meant was, "Respect sound science; don't be swayed by the passions of the moment."

All too often in the past, I think, the guiding principle for making environmental policy has been what has been referred to as the "ready-fire-aim" principle. Budget Director Dick Darman has described the Federal budget as a great "PacMan," gobbling up resources. Well, I have looked for a video game analogy for how the nation has made environmental policy.

Perhaps some of you have played a somewhat primitive, pre-Nintendo video game called "Space Invaders." In that game, whenever you see an enemy ship on the screen, you blast at it with both barrels—typically missing the target at least as often as you hit it. You never run out of ammunition, so even though you miss a lot you stay committed to the game.

The last two decades of environmental policy in this country have been similar in some ways to that video game: Every time we saw a blip on the radar screen, we unleashed an arsenal of control measures to eliminate it. In the late 1960s we saw that we had an air pollution problem, so we enacted ambitious clean air laws. At about the same time, we became aware of serious water pollution and passd an equally ambitious clean water act. We saw that exposure to toxic chemicals was causing human health problems and passed a sweeping law to control toxic substances. And so it went through the 1970s and 1980s: drinking water, radiation, pesticides, hazardous waste, medical wastes—each problem dealt with essentially in isolation, without reference to all the others.

As I noted, many of those efforts have been successful—up to a point. But the upshot of this piecemeal approach to pollution control has been that we have set our pollutant- and medium-specific goals over the last 20 years without adequately addressing our overall environmental quality objectives. Rarely did we evaluate the relative importance of individual chemicals or individal environmental media. We didn't assess the combined effects on ecosystems and human health from the total loadings of pollutants deposited through different media, through separate routes of exposure, and at various locations. We have never been directed by law to seek out the best opportunities to reduce environmental risks, in toto; nor to employ the most efficient, cost-effective ways of proceedings.

As a result of this fragmentation, today more than 80 congressional committees and subcommittees dip their spoons into the broth of environmental policy. EPA is pulled in many directions at once by Congress, other agencies of government, the public, constituency groups, the courts, and of course the news media. We answer to many taskmasters. Many problems, such as local land-use issues, are not in our jurisdiction, yet we tend to be held responsible for solving them. For its part, the press sometimes tends to focus on the "pollutant of the week," regardless of its importance relative to other environmental problems—or to other social problems, for that matter. This kind of crisis management is certainly not unique to the environment—but when we're dealing with critical issues of public health and safety every day, at significant economic cost, I think it's imperative that we step back from time to time and take a broader view.

SETTING RISK-BASED PRIORITIES

As we gear up to deal with the environmental problems of the 1990s and beyond, I think the time has come to start taking aim before we open fire. In short, we have to find a better way of setting environmental priorities. And this is where sound science comes in. Sound science can help us establish priorities and allocate resources based on risk, to the extent that statutory mandates allow. Obviously there are a number of other important factors that go into shaping our priorities—public values and perceptions, economic constraints—but sound science is our most reliable compass in a turbulent sea of siren songs. Science can lend much-needed coherence, order and integrity to the often costly and controversial decisions that must be made.

Risk is a common metric that lets us distinguish the environmental heart attacks and broken bones from indigestion or bruises. Despite the inherent uncertainties, comparative risk assessment is still one of the best indicators of where we should be directing our resources. I am very pleased that EPA's own efforts to bring more uniformity to our risk assessments are to be reenforced by Allan Bromley's initiative to ensure greater coherence Government-wide in risk assessment.

Four years ago my predecessor, Lee Thomas, recognized the need to do a better job of setting priorities across the range of EPA's programs. He instructed EPA's in-house scientists and environmental managers to look at the problems we deal with and to try to rank them based on risk. The result of this exercise was a brave and visionary report published in 1987 under the title, "Unfinished Business: A Comparative Assessment of Environmental Problems."

One of my first actions as Administrator was to ask EPA's Science Advisory Board, a distinguished and objective panel of independent scientists, engineers, and other technical experts, to review "Unfinished Business," assess its rankings applying the best technical and scientific knowledge available, and suggest ways to improve the comparative risk assessment process.

I also asked them to extend the original analysis and to identify risk reduction strategies that could be particularly effective for specific problems, or that could help to mitigate many problems at the same time.

The science board has done its job with great patience and perseverance, and it has produced a thoughtful and significant contribution to the debate over the future of environmental protection in this country. Let me take a moment to express my special thanks to the co-chairmen of this study: Dr. Ray Loehr of the University of Texas, who is the chairman of the Science Advisory Board, and Jonathan Lash, until recently the Secretary of the Agency of Natural Resources for the State of Vermont and now director of the Environmental Law Center at Vermont Law School.

The new report, which I am releasing today, is called, "Reducing Risk: Setting Priorities and Strategies for Environmental Protection." It builds on the pioneering work of the "Unfinished Business" report in comparing disparate environmental problems according to the degree of risk they pose. But the new report goes well beyond the earlier effort by spelling out a set of fundamental principles for achieving broader, more integrated, and more carefully targeted environmental policy-making. Taken together, these principles provide a basic framework for addressing some of the daunting environmental problems of the 1990s and beyond.

TARGETING RESOURCES FOR RISK REDUCTION

The report's first and most basic recommendation reflects the point I made a moment ago: We must do a better job of setting environmental priorities. We—EPA and society at large—must locate and focus our attention on the most promising opportuni-

ties for reducing risk to the environment and to human health and welfare.

To help us move toward that goal, the Science Advisory Board carefully reviewed the risk comparisons in the "Unfinished Business" study. Within the constraints of the limited information and analytical methodology now available—and we clearly need to do a great deal of work to improve both—the Board identified several problems that continue to pose relatively high risks to human health or the environment despite the progress of the last two decades. The human health risks highlighted in the report, based primarily on overall degree of direct public exposure to known toxic agents, are ambient air pollution, worker exposure to chemicals in industry and agriculture, indoor air pollution, including radon and other pollutants, and drinking water contamination. Additional data, which EPA is now working to gather and analyze, may reveal that other areas also pose high risk.

The report also identifies specific high-risk ecological problems, based especially on their geographic scope and the amount of time it will take to reverse them: habitat alteration and destruction, species extinction and loss of genetic diversity, stratospheric ozone depletion, and global climate change.

Let me be clear: the Science Advisory Board is not suggesting, nor am I, that conventional approaches to environmental problems not cited as high risks, such as hazardous wastes, should be abandoned. EPA is, in fact, firmly committed to continued, intensified enforcement of the environmental laws already on the books, as evidenced by our record enforcement figures last year. But we do need to think carefully about where our limited resources can most effectively be spent.

TOWARD INTEGRATED ENVIRONMENTAL POLICY

That brings me to a second basic principle discussed in the "Relative Risk" report: how we spend our resources is an important as what we spend them on. It's common sense to spend our money where we can do the most good, to best protect health and reduce risk. If we choose to do otherwise, we should at the least know why.

The traditional approach to environmental protection—prescriptive, command-and-control regulations—has brought us a long way. But by themselves, technology-based regulations are no longer sufficient to do the job before us. In some cases, they can actually be counterproductive, serving only to inhibit innovation and to discourage regulated industries from going beyond minimum legal requirements.

We need to take a broader, more integrated look at the range of environmental programs we administer, and the response tools available to us, with an eye toward finding the most efficient and effective ways to reduce risk. Among the tools identified by the Science Advisory Board are research, public education and information, technical assistance, and market incentives. And above all, we need to mobilize a national effort to prevent pollution before it's created in the first place. Based on the industry response so far, it is clear that one of the most effective instruments for reducing toxic air emissions has been the Community Right-to-Know law requiring industries to estimate and publicly announce them, by plant and by chemical.

RETHINKING THE ENVIRONMENTAL AGENDA

I am today, therefore, calling for a broad, robust national dialogue on the Science Advisory Board's findings and recommendations—including hearings before the relevant Congressional committees, and wide-ranging discussions by environmental and industry groups, scientists, academicians, and citizens everywhere. Clearly any effort to set environmental priorities based on relative risk—to rethink the environmental agenda for the 1990s and the 21st Century—is going to be difficult and contentious. There are many uncertainties inherent in such a process. But this report takes an essential first step. Much more information is needed; but now at least we have a better idea of what we do need, as well as some basic principles that can help us to better target our resources.

Changing the nation's environmental agenda will not be easy, and it won't happen overnight—but many of the science board's principles and recommendations already are being adopted by EPA. What Science Magazine recently called a "quiet revolution" in the way EPA does business is in fact well under way.

To further that revolution in our culture, all EPA programs are conducting a broad strategic planning effort which is aimed at focusing our attention and resources on areas of greatest risk and greatest potential for risk reduction.

Our budget decisions already are being guided by the risk reduction principles of EPA's long-term strategic planning process. Pollution prevention has become the slogan for all EPA programs, from municipal wastewater treatment to toxic air pollution to stronger, carefully targeted multi-media enforcement strategies to integrated ecosystem-wide programs, such as our new initiative to clean up the Great Lakes. The Great Lakes program also reflects the agency's stepped-up emphasis on ecology, in recognition of the fact that the health of natural systems is the foundation for economic health and the well-being of society at large.

Economic incentives, highlighted by the Science Advisory Board as an innovative option, have been central to the Administration's efforts to craft a cost-effective environmental policy—for example, in the groundbreaking emissions trading provisions of the President's Clean Air Act amendments.

A COMMITMENT TO RESULTS

Now, let me suggest a far-reaching response to the Science Advisory Board's report. I propose an ambitious strategy of toxics reduction, not just in air or water or land but wherever toxic chemicals may be found. Recently we asked each EPA program to identify the 15 or so toxics of greatest concern to them—the really "bad actors" in terms of health risk. We are now selecting those chemicals that are associated with serious environmental and health problems; the list is likely to include a number of heavy metals such as lead and mercury, as well as certain volatile organic compounds of concern across several programs.

Nationwide, releases of these contaminants are in the range of one billion pounds a year. By coordinating our activities and targeting our efforts, I want to achieve real and measurable reductions in these emissions—and the health risks they pose—over the next year.

I therefore propose the goals of reducing the total releases of these contaminants by one-third by the end of Fiscal Year 1992, and by more than half by 1995, through the most cost-effective methods possible.

These are ambitious goals, but they are within our reach. Our success with the phase-out of CFC's, and most recently our success in securing an industry commitment to reduce butadiene emissions by 80 percent through voluntary actions—accomplished through negotiations with nine chief executive officers of major chemical and petrochemical firms—demonstrates our ability to obtain results through cooperative action with the regulated community. This is not to say that we will in any way abandon our regulation and enforcement responsibilities. To the contrary, these new efforts will only have meaning if there is a credible regulatory and enforcement presence at EPA. But let us not forget that the public is expecting results—and accordingly, when voluntary action can obtain results more expeditiously, it should be employed.

With respect to recycling, I also want results. We have advocated a 25 percent recycling goal by 1992, and our proposed rules on municipal waste combustors and other initiatives should go a long way toward achieving that goal. But our commitment to recycling and solid waste reductions cannot be limited to command-and-control approaches. We need to stimulate demand and to fulfill our Federal role by providing technical assistance to help create markets.

In that spirit, I propose to:

—One, ask the Federal Trade Commission and the U.S. Office of Consumer Affairs to undertake a cooperative effort to begin defining the terms "recyclable," "recycled content," "bio-degradable," and so on, so that the consumer can make intelligent choices;

—Two, establish a nationwide network and clearinghouse to find markets for recycled goods; and

—Three, work with other Federal agencies to ensure that the Federal government uses all its current authority to procure recycled goods.

ENVIRONMENTAL STEWARDSHIP FOR A SUSTAINABLE FUTURE

Last year in this room I asserted that the Bush Administration has a clear, ambitious and unambiguous environmental vision:

—A vision of a nation moving steadily to provide a greater measure of protection for human health and for natural systems;

—A vision of a public informed and knowledgeable about its realistic choices in an industrialized, economically developed society;

—A vision of a people infused with an ethic of environmental stewardship, working to secure the vital link between sound, sustainable economic growth and a healthy, productive environment.

The broad review and re-evaluation of the nation's environmental agenda that I am calling for today can play a central role in turning that vision into reality. The decisions about how best to go about the task of environmental protection and risk reduction must be discussed and debated in the kitchens of American homes, in school classrooms, in the halls of Congress, the boardrooms of industry, the conference rooms of our vigorous environmental groups, in policy councils at all levels of government.

From those discussions and debates will emerge a new approach to environmental policy, and a new generation of environmental programs—programs that will carry the nation forward through the 1990s and into the 21st Century. The great and dramatic environmental battles are between "white hats" and "black hats," and there are still a good many around. But the significant new progress we need is with ourselves—our lifestyles, our energy use, the goods we buy and use and the waste we generate.

The questions we raise today can lead us to the answers we will need to safeguard our environmental legacy to future generations.

Thank you.●

WASHINGTON TOWNSHIP CELEBRATES ITS 150TH ANNIVERSARY

● Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to the 150th anniversary of the incorporation of Washington Township in Bergen County.

Originally settled by the Dutch in the 1600's, Washington Township has a special place in our history. Legend has it that George Washington once stayed in the community, hence the name. The town can take pride in its role in New Jersey history and future. Today, the town is a wonderful place to live, the atmosphere is that of a rural town with all of the luxuries of a big city nearby. The streets are filled with trees instead of traffic. The lifestyle in Washington Township is secure, with friendly neighbors and a school system geared toward providing individual attention. This community remains steadfast in their commitment to remember the past while working toward a better tomorrow.

I extend my warmest wishes to all the citizens of Washington Township and wish them well in the future.●

EDUCATION OF THE HANDICAPPED ACT AMENDMENTS

Mr. FORD. Mr. President, I submit a report of the committee of conference on S. 1824, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, October 2, 1990.)

Mr. HARKIN. Mr. President, I rise today to urge approval of the conference report to S. 1824 which reauthorizes for the next 4 years the discretionary programs of the Education of the Handicapped Act [EHA].

In the 15 years since the passage of Public Law 94-142, the Education for All Handicapped Children Act (part B of EHA), great strides have been made in providing a free appropriate public education for all children with disabilities. Parts C through G of the EHA support discretionary programs to keep our Nation's special education system on the cutting edge. With this reauthorization, we reaffirm our commitment to provide students with disabilities the opportunity to better themselves through quality education programs.

The legislation is responsive to the changing needs of students with disabilities and their families, research findings, and new technological advances which promise to enhance the learning capacity of students. An investment in education for students with disabilities will enable them to take full advantage of the recently passed Americans With Disabilities Act, which affords persons with disabilities increased opportunities to become independent and productive members of society.

I would like to thank Senator DURENBERGER, the ranking minority member of the Subcommittee on Disability Policy, for all his help and guidance in crafting this legislation. I also thank Senators KENNEDY and HATCH for their contributions. Special thanks to Senators DOLE, SIMON, JEFFORDS, COATS, DODD, PELL, METZENBAUM, ADAMS, MIKULSKI, CHAFEE, INOUYE, and KERRY for their cosponsorship.

I would also like to recognize Congressmen OWENS and BARTLETT for their work in developing the House companion bill and in crafting the conference agreement.

In addition, I would like to thank the Consortium of Citizens with Disabilities for their assistance in keeping the Education of the Handicapped Act as cutting edge legislation, Ms. Carla Lawson, director of the Iowa exceptional parents center, Fort Dodge, IA and the other witnesses who testified at the April 1989 hearings.

Finally, I would like to thank my staff, inluding Bob Silverstein, Chris DeGraw, Terry Muilenberg, and Stan Vitello, for their contributions.

The Senate bill addessed the major concerns raised in the testimony presented to the subcommittee. We included provisions to improve the effectiveness and efficiency in the management of discretionary programs. We addressed the immediate need to train a sufficient number of special education teachers and related services personnel, with a requirement to recruit individuals from minority backgrounds. We addressed the repeated plea that more be done to disseminate and translate research findings into classroom practice. We responded to the necessity of improving parent training programs.

In addition, we also recognized the need to strengthen discretionary programs for students with severe handicaps, serious emotional disturbance, and visual impairements. We included numerous provisions which address the important role assistive technology plays in enhancing opportunities for children with disabilities. We responded to the urgent need to develop programs to increase the understanding of, and address the early intervention and preschool needs of children exposed prematurely to maternal substance abuse, including the use of crack cocaine.

Finally, what may be regarded by some as an insignificant matter is the change in the title of the legislation from "The Education of the Handicapped Act" to "The Individuals with Disabilities Education Act." The use of the term "individuals with disabilities" instead of "handicapped" represents our effort to make use of up-to-date, currently accepted terminology. In regard to this legislation, as well as in other contexts, the Congress has been apprised of the fact that to many individuals with disabilities the terminology applied to them is a very significant and sensitive issue.

I am pleased to report that this reauthorization of the EHA, parts C through G, contains all of the major provisions in the Senate bill. Set out below is a more thorough description of the major provisions in the legislation.

GENERAL PROVISIONS

The legislation amends the current definition of the term "children with disabilities" to include children with "autism" and children with "traumatic brain injury."

The legislation also amends current law to clarify the settings in which special education services are to be delivered, including instruction in the classroom, in the home, in hospitals and institutions, and in other settings. The legislation also adds "social work services' under the definiton of related services, and clarifies recreation services to include therapeutic recreation and counseling services to include rehabilitation counseling.

The legislation also adds a definition of transition services. The definition of individualized education program is amended by the legislation to include a statement of transition services for students no later than the age of 16 years and, where appropriate, beginning at the age of 14 years or younger.

Definitions of "assistive technology device" and "assistive technology service" are also added to current law. Over the last few years, assistive technology has emerged as a critical support for many people with disabilities which can assist them in leading lives of dignity, choice, and independence. In terms of education, assistive technology can empower the student with the means to become an active participant in the school. I would like to compliment the office of special education programs for its interpretation

concerning the obligations of public agencies under part B to provide assistive technology to children with disabilities. This interpretation should be broadly disseminated to public agencies to ensure consistent implementation across the country.

One issue that prompted the concern of both bodies of Congress was how to address the developmental disorder now commonly referred to as attention deficit disorder [ADD]. ADD is a developmental disorder which is characterized by marked impairment of attention, often associated with impulsivity or hyperactivity. H.R. 1013 recognized ADD under the subcategory other health impaired in the definition of children with disabilities and included clarifying language in the report accompanying the bill. S. 1824 recognized ADD in report language under the category of "specific learning disability' to be included under the term "minimal brain dysfunction."

The final bill does not adopt either approach. Instead, we have set forth a notice of inquiry and the establishment of a national resource center. The notice will solicit public comments to describe the appropriate components of an operational definition under the Education of the Handicapped Act for the term "attention deficit disorder." I believe that over the coming months a consensus definition will be developed that recognizes the legitimate concerns of the parents with children who have ADD as well as the concerns enumerated by the education and minority communities. The center will help organize, synthesize, and disseminate current knowledge related to ADD.

STATE IMMUNITY

A new section is added to clarify the intent of Congress that a State is not immune under the Eleventh amendment of the Constitution of the United States from suit in Federal court for a violation of the Education of Handicapped Act. Not only does the legislation confer upon children with disabilities an enforceable substantive right to a free appropriate public education, it also explicitly authorizes any aggrieved party to bring an action in State or Federal Court, including an action for tuition reimbursement. This provison overturns the Supreme Court decision in Dellmuth versus Muth.

ADMINISTRATION

The legislation adds a new section increasing the administrative accountability of the Secretary of Education in the implementation of programs. Program plans for implementation must involve a number of special education groups, including parents and professionals. In awarding grants, there must be increased recognition and responsiveness by the Federal Government to the needs and problems in the education of minority populations. Independent evaluations of each program are required. Panels of experts to evaluate grant proposals are to be selected by the Secretary who are competent by virtue of their training and experience. The Secretary is required to conduct at least one site visit for each grant funded at $300,000 or more annually.

To the maximum extent possible, the Secretary is required to develop effective procedures for disseminating information derived from programs and projects funded under parts C through G, as well as information generated from studies and data collection.

EVALUATION

The legislation amends current law to specify the types of evaluations and special studies that are to be conducted to determine progress in implementation, program effectiveness, and studies which provide information for program and system improvement.

REGIONAL RESOURCE AND FEDERAL CENTERS

The legislation amends current law to give the Secretary authority to develop guidelines and criteria for the operation of regional resource and Federal centers. With regard to the regional centers, the priority needs identified by the States are to be addressed and these priorities need not be the same as those in federally mandated areas.

DEAF-BLIND

The legislation amends current law by expanding programs which enhance the adjustment and education of deaf-blind infants, toddlers, children and youth. Services are expanded to provide early intervention and transition from school to work. Preparation for independent living and competitive employment are emphasized. The Secretary is authorized to award a grant to establish a national clearinghouse for children and youth with deaf-blindness for the purpose of identifying, coordinating, and disseminating information on effective practices.

EARLY EDUCATION

The legislation amends current law to encourage an interdisciplinary approach in the delivery of early education programs. In continuing to recognize the important role of parents, the legislation also supports aggressive information dissemination to parents. Programs to facilitate the transition of infants with disabilities from medical care to early intervention programs, and from early intervention to preschool programs are authorized. The Secretary is also authorized to fund programs to promote the use of assistive technology devices and assistive technology services, where appropriate, to enhance the development of infants and toddlers with disabilities. Programs are also to be developed to address the early intervention needs of children exposed to maternal substance abuse.

SEVERELY HANDICAPPED

The legislation amends current law to focus more attention on the early intervention, transportation, and integration needs of infants, toddlers, children, and youth with severe disabilities. Given that instruction for students with severe disabilities must be continuous if they are to attain a level of self-sufficiency, a new section in the law provides for the development and operation of an extended school year demonstration program.

POSTSECONDARY EDUCATION

The legislation amends current law to encourage outreach activities that include the provision of technical assistance to strenghten efforts in the development, operation, and design of model programs that are adapted to the special needs of individuals with disabilities. Another amendment increases the minimum amount of funding for the four regional postsecondary programs for the deaf from $2 million to $4 million.

SECONDARY EDUCATION AND TRANSITION SERVICES

The legislation amends current law to strengthen transition services for youth with disabilities. Provisions not only address the development of job skills to transition into the workplace, but also the development of independent and community living skills to facilitate the full participation of youth with disabilities into community life. In an effort to build a cooperative relationship between special education and rehabilitation groups toward ensuring optimal transition, the legislation authorizes the Secretary to award 5-year grants upon joint State special education and rehabilitation agency application, to improve systems to provide transition services for youth with disabilities.

Another provision authorizes the development and dissemination of exemplary programs that meet the unique needs of students who utilize assistive technology devices and assistive technology services, as such students make the transition to postsecondary education, vocational training, competitive employment—including supported employment—and continuing education or adult services.

SEVERE EMOTIONAL DISTURBANCE

The legislation adds a new section which focuses attention on students with severe emotional disturbance. Projects will be supported to provide these students improvided special education and related services. Included among those projects are the development and demonstration of innovative approaches to assist and to prevent children with emotional and behavioral problems from developing serious emotional disturbance that require special education services.

PERSONNEL TRAINING

In recognition of the shortage of teachers and other special education personnel to serve students with disabilities, the legislation continues to provide support to prepare an adequate number of qualified early intervention, special education, and related services professionals. The need to prepare special education leadership, including administration and research personnel, is also emphasized. The legislation requires greater efforts be made to recruit, prepare, and retain qualified personnel from minority backgrounds, and persons with disabilities. The training of personnel to instruct children of limited English proficiency is also authorized.

PARENT TRAINING

If parents are to participate in providing their children an appropriate education, they must be trained and be provided with needed information. The legislation supports the continuation of existing parent training and information centers in each State, and is amended to establish additional centers in high density urban areas and rural areas serving large numbers of parents of children with disabilities. The importance of parent training and information is reflected in the creation of a separate line item, which significantly increases the authorization for this program.

CLEARINGHOUSES

The legislation continues support for the three national clearinghouses on children and youth with disabilities, postsecondary education, and careers in special education with amendments to expand their function to include: information dissemination, technical assistance, outreach activities, networking with other relevant national, State, and local organization information, and referral resources. Clearinghouses are also to provide for the synthesis of information for its effective utilization by parents, professionals, individuals with disabilities, and other interested parties.

RESEARCH

The legislation is amended to support research to advance and improve the knowledge base and practice of professionals, parents, and others providing early intervention, special education, and related services. Research outcomes are to be directed at providing students with disabilities effective instruction that enables them to learn successfully. To bridge the gap between research and teaching, increased efforts to synthesize and disseminate knowledge are supported.

INSTRUCTIONAL MEDIA

The legislation amends current law to specify that instructional media will be used to eliminate illiteracy among individuals with disabilities. This section is further amended to include the visually impaired as part of the population for whom this section is intended. Under a new section, the Secretary is authorized to bring to the visually impaired an understanding of textbooks, films, television programs, video material, and other educational publications and materials that play such an important part in their general and cultural advancement. The legislation continues the authorization of captioning for the hearing impaired and the awarding of grants to promote the integration of hearing and deaf individuals through shared cultural, educational, and racial experiences.

TECHNOLOGY

Legislation amends current law to include the awarding of grants to advance the use of assistive technology, and to determine how technology can be used more effectively, efficiently, and appropriately, in the education of individuals with disabilities. Another amendment ensures the access and use of assistive technology and other activities authorized under the Technology-Related Assistance Act of 1988.

Mr. SIMON. Mr. President, I am pleased to join my colleagues in support of the conference report for the Education of the Handicapped Act Amendments of 1990. This legislation, S. 1824, takes positive steps forward in our continuing efforts to improve the educational opportunities for children with disabilities.

I am pleased to note that among the amendments agreed to is a change in the name, to the Individuals with Disabilities Education Act. Some of us who have worked for years in this area may need some time to adjust to referring to the IDEA rather than the EHA. But it is not insignificant that we move away from terminology that focuses on a condition rather than a person. As we did in passing the Americans With Disabilities Act, we are recognizing the individual first. This is particularly appropriate in the IDEA since its educational services are designed to meet the needs of the individual.

I congratulate Senator HARKIN and his staff on the Subcommittee on Disability Policy for, once again, achieving consensus on difficult areas of controversy—and in a way that moves us forward. Specifically, I am pleased that agreement was reached on the issue of attention deficit disorder. There is a great deal of evidence indicating that this is a biologically based brain disorder, and that not all children who are educationally handicapped by this disorder, are receiving appropriate services.

This legislation requires the Secretary of Education to publish a notice of inquiry in the Federal Register to solicit comments on the appropriate components of an operational definition for attention deficit disorder under the IDEA. The inquiry will seek comment on aspects of the definition, the appropriate qualifications of those determining the existence of the disorder and what steps may be needed to ensure that racial, ethnic, and linquistic minorities are not misclassified under this definition. The summarized comments will be available to us when we reauthorize part H of the act next year.

In addition, this legislation calls for the establishment of a center or centers to gather and disseminate information on attention deficit disorder.

In a hearing I held in Springfield, IL, in July 1989, it became clear that there are a number of areas in which we need improvement in the implementation of part B of this act, the permanently authorized Public Law 94-142. Through the amendments to the discretionary parts of the act, S. 1824 responds to those areas of need. These include attention to the critical shortage of personnel in special education and to the specific problems faced by minority group children. I am concerned, for example, that misclassification and overclassification of African-American children appears to be continuing. In Springfield, for example, 3 of 10 African-American children are labeled as handicapped; nationally, about 1 child in 10 is classified as handicapped. In Chicago, a retesting of Educable Mentally Handicapped [EMH] children found 2,300 who did not belong in that category. These are children who were taken out of the regular classroom and placed in inappropriate settings.

In regard to Hispanic children, testimony at the hearing indicated that they are severely underidentified, underserved and inappropriately served. Although about 25 percent of the school population in Chicago is Hispanic, we were told that only 46 of the 3,500 special educators is Hispanic. The provisions of this current legislation that increase the involvement of minorities in all aspects of the Individuals with Disabilities Education Act should help to solve some of these remaining difficult problems, but it is an area that I will want to continue to watch for improvement in the future.

In these and other crucial areas such as services for the severely emotionally disturbed, this legislation covers new important ground and should be significantly helpful. Again, I commend Senator HARKIN and his hardworking staff for their diligent and successful work on this legislation.

Mr. KENNEDY. Mr. President, during this Congress we have reached several significant milestones in mainstreaming people with disabilities. By passing the Americans With Disabilities Act, the most sweeping civil rights legislation to be enacted since the Civil Rights Act of 1964, we began a new era of opportunity for the 43 million Americans who had been

denied full and fair participation in our society.

The Education of the Handicapped Act, which we are reauthorizing today, is another milestone in mainstreaming people with disabilities. This legislation reauthorizes the discretionary grants program of the EHA and ensures that a free and appropriate public education will continue to be the right of all children, regardless of their special needs.

One of the most contentious issues during the reauthorization was whether attention deficit disorder [ADD] should be recognized as a handicapping condition in order to qualify children for special education services. While some school systems have admitted ADD children to special education classes, others have not. The advocates of ADD children say that the only way to remedy this exclusion is for ADD to be explicitly recognized in the statute as a handicapping condition, thereby entitling them to a free and appropriate education under Public Law 94-142.

Opposition to including ADD as a handicapping condition arose from minority and child advocate organizations. They argued that the inclusion of ADD would lead to mislabeling and over-referral of minority, poor, and limited-English proficient children, thus exacerbating an already pervasive condition. As the House committee found, more minority children continue to be served in special education than would be expected from their percentage in the general school population; poor African-American children are 3½ times more likely to be classified as mentally retarded; and the limited-English school population with potential handicapping conditions are not well served by special education.

After much discussion with ADD experts and parents of ADD children, with child advocacy and civil rights groups, and with school professionals and administrators, the conferees adopted a compromise that directs the Secretary of Education to solicit public comments regarding an operational definition of ADD and permits the establishment of a center or centers to organize, synthesize, and interpret current knowledge relating to the disorder. That information will be available for use by the Congress when we reauthorize part H of the Education of the Handicapped Act next year.

It is the intent of the conferees that in both the notice of inquiry to be conducted by the Department of Education, and in congressional consideration thereafter, no perspective on the issue of ADD should be excluded, and that the potential benefits of identifying children as having ADD should be weighed against potential harm of misidentifying children when they do not.

Our Nation needs the skills and talents of all its people. The reauthorization of the Education of the Handicapped Act ensures that children and youth with disabilities receive a free and appropriate public education to enable them to participate fully in society.

Mr. HATCH. Mr. President, I am pleased that we have an agreement on this bill which provides for the education of children with disabilities. Both sides of the aisle have worked cooperatively to ensure that children would be able to receive an appropriate education in an environment which is best suited to their needs. I am proud of this legislation.

One of the more difficult issues we had to wrestle with in conference was the issue of children with attention deficit disorder. All of us agree that children should receive services that are needed. However, in our struggle to determine whether or not these services are appropriate for these children and, if so, what criteria should be used, we finally concluded that we needed more information. I hope that this study will help us make decisions about how we can best serve this group of children.

I also want to express my appreciation to the many teachers who work with children with disabilities. Congress can pass a lot of excellent legislation to ensure that children with disabilities receive services; but, it is ultimately the warm, caring teacher in the classroom who helps these children and creates an educational system that enables them to achieve their full potential. I salute those teachers in Utah and elsewhere who serve this Nation as teachers of young citizens with disabilities.

Mr. JEFFORDS. Mr. President, I rise in support of the conference agreement on S. 1824, the reauthorization of Education of the Handicapped Act [EHA] of 1989. The bill before us reauthorizes the discretionary programs under EHA and represents one of the most far-reaching programs for children with disabilities.

The discretionary programs provide support for research and demonstrations, dissemination, technical assistance, and training. The main goal is the improvement of the educational and related services provided to handicapped infants, children, and youth.

S. 1824 is the tangible evidence of the compromise reached between the House and Senate and the leadership provided by the chairman of the Subcommittee on Disability Policy, Senator HARKIN. I wish to commend him for his hard work and dedication to this bill.

Although I am pleased to see the final passage of this important bill, I must express my concern regarding one critical issue: the possible inclusion of attention deficit disorder [ADD] as a separate category under the statutory definition of "handicapping condition." Because of the confusion existing among professionals in the field as to the definition, prevalence, and even the very existence of this disorder, the conference committee agreed to require the Department of Education to gather professional input on this issue through the publication of a "Notice of Inquiry." Although I am pleased that the notice of inquiry will give us more time to gain expert, professional guidance on ADD, I do not believe that the language contained in the inquiry addresses the primary policy question: Is a change in EHA necessary to meet the needs of children with ADD?

Many experts, including psychologists, special education teachers, and others contend that students with ADD who require special education and related services are eligible for those services under other definitions, such as learning disability and serious emotional disturbance. We must ask ourselves, do students who do not qualify for services under the existing definitions belong in special education? Are we really helping a child when we give him/her a label and put him/her in special education when that child can and should be served by regular education? Clearly, a child must be adequately served, regardless of the disability—and I hope there is no question of that goal. However, does placing a child under a separate category actually help?

As we all know, once we give a child a label, it does not go away—that child has it for the rest of his/her school career. In Vermont, our schools are working hard to develop innovative methods for helping children, as much as possible, remain and succeed in the regular classroom. Rather than labeling children who are at risk of failing as handicapped in order to get them services, we have schools that are trying to provide children with the services they need in the regular classroom before they fail.

At this time, our schools must work to move forward and provide services to our growing at risk population in the regular class. Adding another category to EHA, when it may not be necessary to meet the needs of students believed to have ADD, will only take us backward—toward the unnecessary labeling and stigmatizing of children. Instead we should concentrate our efforts on educating students, not labeling them.

Mr. DURENBERGER. Mr. President, I rise in support of the conference report on S. 1824 the reauthorization of the discretionary programs under the Education of the Handicapped Act.

The discretionary programs under the Education of the Handicapped Act

supports a wide variety of programs that include research and demonstrations, personnel training, technical assistance, and dissemination of information. This reauthorization process has given us the opportunity to reassess these programs to make sure they are doing what they were intended to do.

We found, Mr. President, that for the most part, these programs were working well. And the bill before us reflects that position. The conference report makes important improvements, however, in the parent training centers, minority participation, personnel preparation, and adds new programs to address gaps in current service levels for children with serious emotional disturbances and for transitional services between school and work or other postsecondary options. I think these are important improvements that will help assure the vitality of the entire special education program.

I would like to take a moment to speak about the one issue that caused the most controversy during the conference, that is the issue of including attention deficit disorder within the definition of disabling conditions As you are aware, the House provision included statutory language that added ADD under the definition of "other health impaired." The Senate did not contain a similar provision. A number of questions were raised during the conference about how ADD could be added to the act to ensure that only those with severe ADD would be served, the medical feasibility to make such a diagnosis, what the addition of ADD would mean to the rest of the special education program, what special services are needed for ADD children, and whether or not the addition of ADD would lead to a disproportionate number of minority students being classified as ADD. These were just a few of the questions facing the committee.

It was our inability at this time to answer these questions to the satisfaction of all the members that lead us to reject the House provision and to propose an alternative that would require the Department of Education to publish a "Notice of Inquiry" in the Federal Register to gather information on ADD and to report back to Congress within 6 months. It is my hope that this notice of inquiry will be all inclusive so as to provide Congress with the best available information for which to base future decisions on the inclusion of ADD under Public Law 94-142. Mr. President, the issue of whether or not to include ADD under the act has been a very difficult one. But I think the bill before us strikes a reasonable balance that will allow us the time and provide us with the information to make the decision that will be in the best interest of all children with disabilities and their parents.

Again, Mr. President, I would like to thank all the members and their staffs who have worked so hard on this bill. I urge my colleagues to support the conference report.

The PRESIDING OFFICER. Is there further debate on the conference report? If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the conference was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTIONS IN THE ENROLLMENT OF S. 1824

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the concurrent resolution I now send to the desk on behalf of Senator HARKIN directing the Secretary of the Senate to make technical corrections in the enrollment of S. 1824.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 150) directing the Secretary of the Senate to make corrections in the enrollment of S. 1824.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Is there debate on the concurrent resolution? If not the question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 150

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1824), an Act to reauthorize the Education of the Handicapped Act, and for other purposes, the Secretary of the Senate shall make the following correction:

(1) In the amendment made by section 405, strike out "631(a)(6)" each place that such occurs and insert in lieu thereof "631(a)(7)".

Mr. FORD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TEMPORARY EXTENSION OF THE AUTHORITY FOR THE EXECUTIVE EXCHANGE PROGRAM

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5643, regarding a temporary extension of the authority for the Executive Exchange Program, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5643) to grant a temporary extension on the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to private sector positions while participating in an executive exchange program; and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I urge passage of H.R. 5643, a bill passed by the House under suspension of the rules on September 28.

The purpose of this bill is twofold—to grant a temporary 90-day extension of the Executive Exchange Program Voluntary Services Act of 1986 and to clarify that Federal executives participating in this program are on detail rather than leave-without-pay status.

The Executive Exchange Program was established to allow Federal executives to work for 1 year in the private sector, and private sector executives to work for 1 year in the Federal Government. The benefits to both groups can be great.

However, the disparity between private sector salaries and Government salaries created problems. Most of the private sector executives who were very interested in participating in the program would have to take a significant reduction in salary in order to do so.

The Voluntary Services Act established an experimental program to allow the private sector employer to reimburse the Government for the salaries of these executives during their detail to the Federal Government. The authority for the Government to accept this reimbursement for the services of these executives expires on September 30, 1990.

Mr. President, the September 30 expiration of this program will result in the early termination of the services of several executives, some of whom are serving overseas. This bill would simply extend the termination of this experimental program for 90 days in order to allow them to complete their assignments.

Section 2 of this bill clarifies that Federal executives who participate in this program are considered to be on detail from their employing agencies rather than on leave-without-pay status. This would allow these Federal executives to continue to receive full benefits during that year. This is only fair. Our employees should not be disadvantaged because they are selected to gain additional knowledge and expertise from the private sector which they will then use when they return to the Federal Government.

Mr. President, I urge immediate passage.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 5643) was ordered to a third reading, was read the third time, and passed.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURES PLACED ON CALENDAR—H.R. 3898, H.R. 5316, AND H.R. 5381

Mr. FORD. Mr. President, I ask unanimous consent that the following bills received from the House be placed on the Senate Calendar: H.R. 3898, the Civil Justice Court Reform Act; H.R. 5316, the Federal Judgeship Act, and H.R. 5381, the Federal Courts Study Commission Implementation Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACQUISITION OF ADDITIONAL LANDS FOR KNIFE RIVER INDIAN VILLAGES NATIONAL HISTORIC SITE

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1230.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1230) entitled "An Act to authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. ACQUISITION OF ADDITIONAL LANDS.

(a) The Secretary of the Interior is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange the lands comprising approximately 465 acres and described in subsection (b) as an addition to the Knife River Indian Villages National Historic Site, North Dakota: *Provided,* That no such lands may be acquired without the consent of the owner thereof unless the Secretary determines that, in his judgment, the property is subject to, or threatened with, uses which are having, or would have, an adverse impact on the archaeological, historical, or other values for which the site was established.

(b) The lands referred to in subsection (a) are those lands depicted on the map entitled "Proposed Boundary Knife River Indian Villages National Historic Site" numbered 468-80,039A and dated July 1990.

SEC. 2. ADDITIONAL AUTHORIZATIONS.

Section 104(c) of Public Law 93-486 (88 Stat. 1462) is amended by striking "$600,000" and inserting in lieu thereof "$1,000,000" and by striking "$2,268,000" and inserting in lieu thereof "$4,000,000".

Mr FORD. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REGARDING RETIREMENT OF MEMBERS OF CAPITOL POLICE

Mr. FORD. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5641, regarding retirement of members of the Capitol Police just received from the House.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5641) to amend title 5, United States Code, with respect to retirement of members of the Capitol Police.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 5641) was ordered to a third reading, was read the third time, and passed.

Mr. FORD. I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURES PLACED ON CALENDAR—H.R. 4299, H.R. 5390, H.R. 2840

Mr. FORD. Mr. President, I ask unanimous consent that the following be placed on the calendar when received from the House: H.R. 4299, regarding Great Lakes Fisheries; H.R. 5390, regarding zebra mussels; and H.R. 2840, the coastal barriers bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISCHARGE AND REFERRAL OF S. 2948

Mr. FORD. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 2948, regarding certain lands in Illinois as wilderness, and that the measure be referred to the Agriculture Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-498, reappoints Lynn M. Burns, of Rhode Island, to the Advisory Commission on Student Financial Assistance.

ORDERS FOR WEDNESDAY, OCTOBER 3, 1990

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m. Wednesday, October 3; that following the time for the two leaders, there be a period for morning business, not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each; and that the Senate stand in recess from 12:30 to 2:30 p.m. on Wednesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTENT TO PROCEED TO S. 1379, THE DEFENSE PRODUCTION ACT

Mr. FORD. Mr. President, the majority leader asked me to announce for the information of Senators that on tomorrow at 11 a.m., he will seek consent to proceed to the consideration of Calendar No. 697, S. 1379, the Defense Production Act bill, and that if consent is not granted, it would be his intention to move to proceed to the bill.

RECESS UNTIL 10 A.M. TOMORROW

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate now stand in recess under the previous order until 10 a.m. on Wednesday, October 3, 1990.

There being no objection, the Senate, at 7:07 p.m., recessed until Wednesday, October 3, 1990, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate October 2, 1990:

SUPREME COURT OF THE UNITED STATES

DAVID H. SOUTER, OF NEW HAMSPHIRE, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES.

HOUSE OF REPRESENTATIVES—*Tuesday, October 2, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May our eyes be lifted, gracious God, to see not only what must be accomplished in our lives and in our work, but also to see what should be accomplished. Make us aware and sensitive to what it means to be Your people doing the works of justice and mercy. May that word of justice and mercy give light to our tasks and open our minds so we can honestly see our goals and our daily responsibilities. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Oklahoma [Mr. INHOFE] please come forward and lead the House in the Pledge of Allegiance.

Mr. INHOFE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment joint resolutions of the House of the following titles:

H.J. Res. 398. Joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park, and

H.J. Res. 482. Joint Resolution designating March 1991 as "Irish-American Heritage Month."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3045) "An act to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities" disagreed to by the House, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DECONCINI, Mr. LEAHY, Mr. KENNEDY, Mr. HATCH, and Mr. GRASSLEY, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 2017. An act to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

S. 2415. An act to encourage solar, wind, waste, and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978, and for other purposes; and

S.J. Res. 342. Joint resolution designating October 1990 as "Ending Hunger Month."

APPOINTMENT OF CONFEREES ON S. 916, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MULTIYEAR AUTHORIZATION ACT OF 1990

The SPEAKER. The Chair appoints the following conferees on the Senate bill (S. 916) National Aeronautics and Space Administration Multiyear Authorization Act of 1990: Messrs. ROE, BROWN of California, NELSON of Florida, HALL of Texas, VOLKMER, MINETA, TORRICELLI, NAGLE, HAYES of Louisiana, TANNER, WALKER, SENSENBRENNER, LEWIS of Florida, PACKARD, BUECHNER, and CAMPBELL of California.

MODIFICATIONS AND APPOINTMENT OF ADDITIONAL CONFEREES ON S. 2830, FOOD AND AGRICULTURAL RESOURCES ACT OF 1990

The SPEAKER. Pursuant to the authority granted on September 19, 1990, the Chair appoints the following conferees and modification to the appointments previously made to the Senate bill, S. 2830, Food and Agricultural Resources Act of 1990:

From the Committee on Foreign Affairs, for consideration of titles XI (except sections 1124, 1125, 1134, 1137, and subtitle E), XXIII (except section 2306), sections 114, 1423, 1551, 1751-60, 1763, and 1765 of the Senate bill, and title XII (except sections 1241 and 1243-46) and sections 415, 1312(a), and 1833 of the House amendment, and modifications committed to conference: Messrs. FASCELL, HAMILTON, YATRON, SOLARZ, WOLPE, CROCKETT, GEJDENSON, DYMALLY, KOSTMAYER, LEVINE of California, BROOMFIELD, GILMAN, LAGOMARSINO, LEACH, ROTH, and BEREUTER.

From the Committee on Foreign Affairs, for consideration of subtitle E of title XI, section 1931-35 and 1937-39 of the Senate bill, and title XXX of the House amendment, and modifications committed to conference: Messrs. FASCELL, HAMILTON, YATRON, GEJDENSON, BROOMFIELD, and ROTH.

From the Committee on Merchant Marine and Fisheries, for consideration of subtitle E of title XI of the Senate bill, and title XXX of the House amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, HUBBARD, TAUZIN, HERTEL, LIPINSKI, DAVIS, YOUNG of Alaska, LENT, and FIELDS.

From the Committee on Merchant Marine and Fisheries, for consideration of sections 1238, 1286, and 1422 of the Senate bill, and sections 1314 and 1602 of the House amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, HERTEL, DAVIS of Michigan, and YOUNG of Alaska.

From the Committee on Ways and Means, for consideration of section 902, those portions of section 1121 adding new sections 101(5), 103(5), 113(c)(2), 114, 204(c)(2)(B), 404-05, 503(b)(3), 504, and 601(c) and (f) to the Agricultural Trade Act of 1978, sections 1122, 1124-25, 1137, 1716(c), that portion of section 2123 adding a new section 7A(e) to the Cotton Research and Promotion Act, sections 2140, 2155(g), 2178, 2188, 2203, 2306, 2452, 2454 of the Senate bill, and section 614, those portions of section 1221 adding new sections 101(4), 105(a), 106, 402(c) and (f) to the Agricultural Trade Act of 1978, sections 1223(i), 1241, 1243, 1245-47, 1428, 1445(g), 1468, 1475(3), 1485(d) and 1494 of the House amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, JENKINS, ARCHER, and CRANE.

Except that, for consideration of sections 2203, 2452 and 2454 of the Senate bill, Mr. JACOBS is appointed in lieu of Mr. JENKINS.

From the Committee on Ways and Means, for consideration of sections 1134, 1721 and 1730A of the Senate bill, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, JENKINS, DOWNEY, PEASE, RUSSO, GUARINI, MATSUI, ANTHONY, ARCHER, VANDER JAGT, CRANE, FRENZEL, SCHULZE, and THOMAS of California.

From the Committee on Energy and Commerce, for consideration of sections 1761 and 1762 of the Senate bill, and modifications committed to conference: Messrs. DINGELL, WAXMAN, SCHEUER, WYDEN, SIKORSKI, BRUCE, ROWLAND of Georgia, SYNAR, HALL of Texas, ECKART, LENT, DANNEMEYER, WHITTAKER, TAUKE, BLILEY, and FIELDS.

From the Committee on Energy and Commerce, for consideration of sections 1495, 1497, and 1498J-L of the Senate bill, and modifications committed to conference: Messrs. DINGELL, WAXMAN, ROWLAND of Georgia, LENT, and TAUKE.

From the Committee on Energy and Commerce, for consideration of sections 1437 of the Senate bill, and section 1367(b) of the House amendment, and modifications committed to conference: Messrs. DINGELL, WAXMAN, ECKART, LENT, and TAUKE.

From the Committee on Energy and Commerce, for consideration of title XVI (except sections 1615-16, 1620(b), (c), (d), (f)) and section 1716 of the Senate bill, and sections 1495-95G, 1495J-95L, 1495M(a), (e) and (g) and 1495N-95V of the House amendment, and modifications committed to conference: Messrs. DINGELL, WAXMAN, BRUCE, LENT, and TAUKE.

From the Committee on Energy and Commerce, for consideration of subtitle C of title XVII of the Senate bill, and modifications committed to conference: Messrs. DINGELL, WAXMAN, WYDEN, LENT, and BLILEY.

From the Committee on Energy and Commerce, for consideration of section 1773 of the Senate bill, and modifications committed to conference: Messrs. DINGELL, WAXMAN, ROWLAND of Georgia, LENT, and WHITTAKER.

From the Committee on Energy and Commerce, for consideration of section 1772 of the Senate bill, and section 1376A of the House amendment, and modifications committed to conference: Messrs. DINGELL, THOMAS A. LUKEN, SWIFT, LENT, and TAUKE.

From the Committee on Energy and Commerce, for consideration of section 1948 of the Senate bill, and modifications committed to conference: Messrs. DINGELL, THOMAS A. LUKEN, SWIFT, LENT, and WHITTAKER.

From the Committee on Energy and Commerce, for consideration of sections 2033(3)(F), 2079, and 2081 of the Senate bill, and modifications committed to conference: Messrs. DINGELL, MARKEY, SWIFT, LENT, and TAUKE.

From the Committee on Energy and Commerce, for consideration of section 1399 of the House amendment, and modifications committed to conference: Messrs. DINGELL, WAXMAN, TOWNS, LENT, and BLILEY.

From the Committee on Agriculture, for consideration of those portions of section 1121 adding new sections 101(5), 103(b), 113(c)(2), 114, 204(c)(2)(B), 404-05, 503(b)(3), 504, and 601(c) and (f) to the Agricultural Trade Act of 1978, of the Senate bill, and those portions of section 1221 adding new sections 101(4), 105(a), 106, 203 and 402(c) and (f) to the Agricultural Tradt Act of 1978, of the House amendment, and modifications committed to conference: Messrs. ESPY, HARRIS, SARPALIUS, EMERSON, and ROBERT F. (BOB) SMITH.

From the Committee on Education and Labor, for consideration of sections 1496(b), 1498-1498N, 1965, 1966, 2471, 2474, 2476, 2479 of the Senate bill, and sections 1382, 1774, 1842(b) of the House amendment, and modifications committed to conference: Messrs. HAWKINS, FORD of Michigan, GAYDOS, GOODLING, and TAUKE.

From the Committee on Science, Space, and Technology, for consideration of sections 1921-30, 1940, and 1944-46 of the Senate bill, and modifications committed to conference: Messrs. ROE, SCHEUER, MCMILLEN of Maryland, WALKER, and Ms. SCHNEIDER.

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 1350 the Senate bill, and modifications committed to conference: Messers. ERDREICH, KANJORSKI, CARPER, BEREUTER, and ROTH.

In the appointment of conferees previously announced from the Committee on Agriculture:

The appointment of Mr. CONDIT is amended by deleting section 1215 from the exception for title XII of the House amendment.

The appointment for Ms. LONG is amended by deleting section 1215.

Mr. ROBERT F. (BOB) SMITH is appointed in lieu of Mr. MARLENEE for title XII of the Senate bill and title XVI of the House amendment.

Mr. MORRISON of Washington is appointed in lieu of Mr. MARLENEE for title XIII of the Senate bill and title XXIX of the House amendment.

Mr. GRANDY is appointed in lieu of Mr. HOPKINS for all provisions except title VII and section 1962 of the Senate bill, and title VIII and section 1249 of the House amendment, on which Mr. HOPKINS will remain a conferee, and Mr. LEWIS of Florida is appointed in lieu of Mr. HOPKINS for subtitle A of title XVII of the Senate bill and title XIV of the House amendment.

The Clerk will notify the Senate of the change in conferees.

□ 1010

PRIVATE CALENDAR

The SPEAKER pro tempore (Mr. MONTGOMERY). This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

WILSON JOHAN SHERROUSE

The Clerk called the Senate bill (S. 1814) for the relief of Wilson Johan Sherrouse.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Wilson Johan Sherrouse shall be held and considered to be a child within the meaning of section 101(b)(1)(E) of such Act upon approval of a petition filed on his behalf by Victoria Sherrouse, a citizen of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, of Wilson Johan Sherrouse shall, by virtue of such relationship, be accorded any right, privilege or status under such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FIONA LAMONT DUVAL

The Clerk called the bill (H.R. 3920) for the relief of Fiona Lamont DuVal.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MICHAEL WU

The Clerk called the bill (H.R. 2863) for the relief of Michael Wu.

There being no objection, the Clerk read the bill as follows:

H.R. 2863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding paragraph (2) of section 312 of the Immigration and Naturalization Act (8 U.S.C. 1423(2); relating to the requirement of a demonstration of a knowledge and understanding of the fundamentals, and of the principles and form of government, of the United States), Michael Wu may be naturalized at any time after the date of enactment of this Act if he is otherwise eligible for naturalization under the Immigration and Naturalization Act.

With the following committee amendment:

Committee amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. NATURALIZATION OF MICHAEL WU.

(a) IN GENERAL.—For purposes of section 322(a) of the Immigration and Nationality Act, Michael Wu shall be considered a child under 18 years of ago.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall apply only if a petition under section 322(a) is filed by Chi Shiang Wu or Caroline Wu, citizens of the United States, within 2 years after the date of the enactment to this Act.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unani-

mous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SONANONG POONPIPAT (LATCH)

The Clerk called the bill (H.R. 2961) for the relief of Sonanong Poonpipat (Latch).

There being on objection, the Clerk read the bill as follows:

H.R. 2961

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMMEDIATE RELATIVE STATUS FOR SONANONG POONPIPAT (LATCH).

(a) IN GENERAL.—Subject to subsection (b), for the purposes of the Immigration and Nationality Act, Sonanong Poonpipat (Latch), the widow of a citizen of the United States, shall be considered to be an immediate relative within the meaning of section 201(b) of such Act, and the provisions of section 204 of such Act shall not be applicable in this case.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall only apply if Sonanong Poonpipat (Latch) applies to the Attorney General for relief pursuant to such subsection within 2 years after the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PAULA GRZYB

The Clerk called the Senate bill (S. 1683) for the relief of Paula Grzyb.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1683

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMMEDIATE RELATIVE STATUS FOR PAULA GRZYB.

(a) IN GENERAL.—Subject to subsection (b), for the purposes of the Immigration and Nationality Act, Paula Grzyb, the stepmother of a citizen of the United States, shall be considered to be an immediate relative within the meaning of section 201(b) of such Act, and the provisions of section 204 of such Act shall not be applicable in this case.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall only apply if Paula Grzyb applies for an immigration visa pursuant to such subsection within two years after the date of the enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIA LUISA ANDERSON

The Clerk called the Senate bill (S. 1229) for the relief of Maria Luisa Anderson.

There being no objection, the Clerk read the Senate bill as follows:

S. 1229

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Maria Luisa Anderson shall be classified as a child within the meaning of section 101(b)(1)(E) of that Act (8 U.S.C. 1101(b)(1)(E)), upon filing of a petition filed on her behalf by her adoptive parents, citizens of the United States, pursuant to section 204 of that Act (8 U.S.C. 1154). No natural parent, brother, or sister, if any, of Maria Luisa Anderson shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CATHERINE ANNE BARDOLE AKA KATHLEEN BARDOLE, ET AL

The Clerk called the bill (H.R. 2071) for the relief of Catherine Anne Bardole aka Kathleen Bardole and her minor children, Lisa Anne Farley, and Elaine Mary Farley.

There being no objection, the Clerk read the bill as follows:

H.R. 2071

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) subject to subsection (b), for the purposes of the Immigration and Nationality Act, Catherine Anne Bardole, Lisa Anne Farley, and Elaine Mary Farley shall be considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

(b) Subsection (a) shall only apply to a beneficiary under that subsection if the beneficiary applies to the Attorney General for permanent residence status under that subsection within two years after the date of enactment of this Act.

(c) Upon the granting of permanent residence to a beneficiary under subsection (a), the Secretary of State shall instruct the proper office to deduct one number from the total number of immigrant visas which are made available to natives of the country of the beneficiary's birth under section 203(a) of the Immigration and Nationality Act or, if section 202(e) of that Act is applicable to the country, from the total number of immigrant visas which are made available to natives of such country under that section.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. JOAN R. DARONCO

The Clerk called the bill (H.R. 3134) for the relief of Mrs. Joan R. Daronco.

There being no objection, the Clerk read the bill, as follows:

H.R. 3134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDITABLE CIVILIAN SERVICE.

(a) TIME OF CREDITABLE CIVILIAN SERVICE.—For the purposes of the entitlement of Mrs. Joan R. Daronco, of Pelham, New York, the widow of Judge Richard Daronco (a deceased judge of the United States District Court for the Southern District of New York), to benefits under section 376 of title 28, United States Code, Richard Daronco shall be deemed—

(1) to have completed eighteen months of creditable civilian service as a judicial official prior to his death on May 21, 1988, in addition to any other creditable civilian service, computed in accordance with subsection (k) of that section, he may have had;

(2) to have actually made the salary deductions as provided by subsection (b) of that section for those eighteen months; and

(3) to have received the salary paid to Federal district court judges for the eighteen-month period ending on the date of his death.

(b) EFFECTIVE DATE.—Subject to section 6, this section shall be effective as of May 21, 1988.

SEC. 2. LUMP SUM PAYMENT.

(a) APPROPRIATION OF LUMP-SUM PAYMENT.—Subject to section 4, the Secretary of the Treasury shall pay to Joan Daronco, out of any money in the Treasury not otherwise appropriated, an amount equal to the amount determined pursuant to paragraph (1) of section 3 less the amount determined pursuant to paragraph (2) of section 3. If the amount determined pursuant to this subsection is less than zero, the Secretary shall withhold any monthly annuity Joan Daronco may be entitled to under this Act until such deficit is eliminated.

(b) PAYMENT INTO FUND.—The Secretary of the Treasury shall pay into the Judicial Survivors' Annuity Fund, out of any money in the Treasury not otherwise appropriated, an amount equal to the amount determined pursuant to paragraph (2) of section 3.

(c) LIMITATION OF ATTORNEYS' AND AGENTS' FEES.—It shall be unlawful for an amount of more than 10 per centum of the amount determined pursuant to paragraph (1) of section 3 to be paid to or received by any attorney or agent for any service rendered in connection with the benefits provided by this Act. Any individual who is found guilty of a violation of this subsection shall be fined not more than $1,000.

SEC. 3. DETERMINATION OF AMOUNT OF PAYMENT.

The Director of the Administrative Office of the United States Courts shall determine, and certify to the Secretary of the Treasury, each of the following:

(1) AMOUNT OF ANNUITIES.—The amount equal to the total amount of annuities Joan Daronco would have received under section 1(a) for the period beginning on the effective date of section 1 and ending on the last day of the month which follows the month which this Act takes effect.

(2) AMOUNT OF SALARY DEDUCTIONS.—The amount equal to the sum of—

(A) the total of salary deductions, as provided by section 376(b) of title 28, United

States Code, that would have been deducted and withheld from the salary Judge Richard Daronco is deemed to have received under section 1(a)(3) had such deductions and withholdings been made for eighteen months prior to his death on May 21, 1988; and

(B) the amount of interest, computed at 3 per centum per annum compounded on December 31 of each year, that would accrue on the amount determined pursuant to subparagraph (A) of this paragraph.

SEC. 4. APPLICATION FOR ANNUITIES.

The lump sum payment, and any annuity, Joan Daronco is entitled to be paid pursuant to section 2(a) shall be paid only if she files an application for such payment with the Secretary of the Treasury within one year after the date of enactment of this Act.

SEC. 5. OTHER BENEFITS.

Benefits under this Act shall be paid notwithstanding Joan Daronco's eligibility or receipt of other Federal, State, or local benefits.

SEC. 6. EFFECTIVE DATE.

This Act shall be effective on the date the application referred to in section 4 is filed.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NORMAN R. RICKS

The Clerk called the bill (H.R. 5001) for the relief of Norman R. Ricks.

There being no objection, the Clerk read the bill, as follows:

H.R. 5001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REIMBURSEMENT FOR REAL ESTATE EXPENSES.

The relocation of Norman R. Ricks by the National Oceanic and Atmospheric Administration in June 1989 shall be considered to be a transfer from 1 official station to another for which reimbursement is permitted under section 5724(a)(4) of title 5, United States Code.

SEC. 2. LIMITATIONS ON AGENTS AND ATTORNEYS FEES.

No amount exceeding 10 percent of a payment made pursuant to section 1 may be paid to or received by any agent or attorney in consideration for services rendered in connection with the payment. Any person who violates the provisions of this section shall be guilty of an infraction and shall be subject to a fine in the amount provided under title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RODNEY E. HOOVER

The Clerk called the bill (H.R. 2937) for the relief of Rodney E. Hoover.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

JOHN BARREN

The Clerk called the bill (H.R. 4356) for the relief of John Barren.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin.

There was no objection.

BANFI PRODUCTS CORP.

The Clerk called the resolution (H. Res. 308) referring the bill (H.R. 3894) for the relief of Banfi Products Corp. to the chief judge of the U.S. Claims Court.

There being no objection, the Clerk read the resolution, as follows:

H. RES. 308

Resolved, That the bill (H.R. 3894) entitled, "A bill for the relief of Banfi Products Corporation", now pending in the House of Representatives, together with all accompanying papers, is referred to the chief judge of the United States Claims Court pursuant to section 1492 of title 28, United States Code, for proceedings in accordance with section 2509 of such title.

With the following committee amendment:

Committee amendment: Page 1, line 1, strike "3894" and insert "5148".

The SPEAKER pro tempore. The question is on the committee amendment.

The committee amendment was agreed to.

The resolution was agreed to.

The title was amended so as to read: "Resolution referring the bill (H.R. 5148) for the relief of Banfi Products Corporation to the chief judge of the United States Claims Court."

A motion to reconsider was laid on the table.

TRANSFERRING A PARCEL OF LAND LOCATED IN THE LOS PADRES NATIONAL FOREST, CA

The Clerk called the bill (H.R. 1330) to transfer a parcel of land located in the Los Padres National Forest, CA.

There being no objection, the Clerk read the bill as follows:

H.R. 1330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND TRANSFER.

The Secretary of Agriculture shall transfer, without consideration, to Florence F. Brown of Goleta, California, all right, title, and interest of the United States in and to the parcel of land located in the Los Padres National Forest which is comprised of approximately 40 acres and more particularly described as T. 5 N., R. 30 W., S.B.M., Section 18, NE¼ SW¼.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RICHARD SAUNDERS

The Clerk called the Senate bill (S. 1128) for the relief of Richard Saunders.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding the Act of March 4, 1931 (46 Stat. 1530), or Executive Order 5843 or any land classification based thereon, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey to Richard Saunders (hereinafter referred to as the "beneficiary"), subject to the provisions of section 2, approximately 15.69 acres of land in township 6 south, range 32 east, Mount Diablo Meridian, section 21, northeast ¼, in Inyo County, California, as depicted on a map entitled "BLM Land Conveyance to Richard Saunders/Inyo County, California" and dated April, 1990.

SEC. 2. The Secretary shall convey the land referred to in section 1 upon receipt of the fair market value of such land, as determined by the Secretary. Such land shall be conveyed subject to valid existing rights and any documentation of conveyance shall contain a reservation of all mineral rights to the United States. The beneficiary shall reimburse the Secretary for all administrative costs associated with the implementation of this Act, including, but not limited to the costs of a survey, if required.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WE NEED PRESIDENTIAL LEADERSHIP

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, last night on Air Force One, when asked about the reaction of senior citizens to cuts in Medicare, President Bush said, "I just didn't have the horses to do what I wanted in this budget agreement." Well, just what would the President have done if he had his horses?

He would have reduced benefits for all retirees including Social Security recipients by an additional $40 billion, a lot more than the summit package. He would have given additional tax breaks to the wealthiest among us while imposing still higher taxes on middle-income taxpayers. In fact, those making more than $200,000 a year would have received another $26,000 tax break.

He would have extracted still more money from the hide of Medicare beneficiaries, another $6 billion more than agreed to in the summit package.

It is all right here in the administration's working papers in the summit. The President needs to speak to the American people and to his own party's conference in the House.

If this compromise package is to pass, we need his leadership. We do not need recriminations.

SUMMIT VIOLATES 40-YEAR PACT WITH THE AMERICAN PEOPLE

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, the budget summit violates a 40-year compact between Congress and the American people. We promised the American people that, "We will impose a gas tax on you. It will be paid for by the users of our highways. That money will go into a trust fund to build a better transportation system for America, the fairest tax there is, and the users pay."

Now this summit comes along and says, "No, we are going to break that promise. We are going to put a 12-cent gasoline and petroleum tax on you." That is going to raise $57 billion, and an aviation tax that raises $12 billion, a total of $69 billion, or, get this, 42 percent of all the taxes raised come out of the transportation sector even though we have a crumbling infrastructure that we have got to deal with.

□ 1020

This is supposedly unfair to hit one sector of our economy so hard. Where is Wall Street on this agreement? Why not a transfer tax on stocks and bonds? Yet there are special breaks in this agreement for those who were luckiest to serve on the summit. Special break for Kansas. It escapes taxes on its airline industry. I salute the senior Senator from Kansas. A special break for Texas, a billion dollar break for oil drilling. Yes, $4 billion for the whole country, Texas at least a billion. Yes, yes, the senior Senator from Texas has buried in this bill a requirement that 90 percent of all highway dollars go back to the State from which they came without regard for what our transportation needs are. Guess who benefits most from this provision? Yes, it is Texas, even though 30 States lose.

This is a bad agreement. We should defeat it, set aside Gramm-Rudman, and start over.

ALTERNATE PLAN OFFERED

(Mr. INHOFE asked and was given permission to address the House for 1 minute.)

Mr. INHOFE. Mr. Speaker, it seems to be very popular to budget summit bash these days, and I guess I have to join that group because I cannot go for the agreement that they came out with.

However, they did work hard. They tried. The President cannot be blamed. He was in an uphill battle. I think we all know that.

I think the two objectionable things about the products that came out. No. 1, the gasoline tax increase which is on the backs of every American, rich, the poor. If anything, it is regressive. Second, the cuts in Medicare, which balance our budget on the backs of the senior citizens of this country. I find these two things I cannot support.

If we add these together over the next 5 years, they project these would bring a total of $118 billion. I have sent a letter out to Members, Mr. Speaker, offering an alternative. Instead of that, instead of raising the gas tax, instead of cutting the Medicare, I propose that we make a 12½-percent cut in the nondefense discretionary accounts, and leave it up to the appropriate committee in Congress or the budgeteers, whoever wants to do it, to decide which should be cut. A 12½ percent over the next 5 years would produce the $188 billion, and it would be a wash. I would find that more acceptable, and I think the American people would, too.

FURTHER DEFENSE CUTS WOULD IMPROVE BUDGET PACKAGE FOR AMERICANS

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, we have heard the gentleman from California [Mr. FAZIO] talk about what the President said about not "having the horses" in Congress. What he also said in response to the question, why was he proposing the deep Medicare cuts was, "You can't keep everybody happy," so he chose to keep the defense establishment happy," so he chose to keep the defense establishment happy. What the heck, we are only giving back in defense less than what defense received in 2 years of increases in the first 2 years of Ronald Reagan's term, but we are going to cut Medicare, which has been cut every year, another $60 billion.

The President did not have the horses to accomplish what he wanted. What he wanted was to keep the tax breaks for the rich and to take more out of, as the previous speaker just said, nondefense discretionary spending like that on children, poor people, Meals on Wheels. Just name it, that is what he wanted to cut.

The Democrats were able to stave that off, but frankly in staving that off, I think we have a package that is, for the American public a lousy package, too. We did not have to have excise taxes. We did not have to have raises in gasolines taxes. All we had to do was cut the defense budget a little bit more to accommodate what is a new world reality, but no, the President did not want that. The gentleman is right, he did not have the horses. Nobody wanted to pull his wagon.

INTRODUCTION OF PETROLEUM PRODUCERS BURDENSHARING ACT OF 1990

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, our economy is bleeding and the big oil sharks have gone on a feeding frenzy. Listen to what the Department of Energy says about how high oil prices affect our country.

DOE tells us that an oil price hike to just $30 per barrel $6 less than the current price means a 1.1-percent loss in GNP, a 0.5-percent increase in unemployment, and a total economic loss of approximately $94 billion.

Sound bad? It is, 1.1 percent of our GNP is approximately $50 billion. And a 0.5-percent increase in unemployment means the loss of about half a million jobs.

Big oil's making a killing at the expense of the American people. We know about the price hikes at the pump. We know that heating oil's up over a dollar a gallon. But like the DOE says, it's not only the consumers who are getting skinned. It is the whole economy.

Mr. Speaker, even the oil companies admit these hikes have nothing to do with a shortage—the chairman of British Petroleum himself said last week that supply and demand do not justify them.

And if we tell the oil companies that price gouging won't get them anywhere—if we levy a windfall profit tax—maybe we can rescue our economy before more damage is done. Cosponsor the Petroleum Producers Burden Sharing Act of 1990.

THANK GOODNESS DEMOCRATS CONTROL CONGRESS

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, the President was lamenting last night that he did not "have the horses" in Congress to get everything he wanted in the budget summit agreement.

What did the President want in this agreement? We all know it is not working papers, even deeper Medicare cuts to the elderly, cuts in Social Security, cuts in child support enforcement, cuts in foster care, cuts in the School Lunch Program. And all the while, the President was participating in the

World Summit for Children, saying "The noblest thing we can do is give our children a bright future." And then at midnight on Saturday, when $1 billion was needed, the President's horses were fighting for lower taxes on yachts and furs. They succeeded in getting luxury airplanes out of the luxury tax.

But the cruelest of all, and thank God he did not have the horses to do this, the President's men proposed $1 billion of cuts from the poorest, most vulnerable in this Nation, children with crippling disabilities. These children had been protected in the Supreme Court case, the Zebley case. The President's horses wanted to overturn that case.

So Mr. President, your horses are crueler horses, and I, for one, am glad that you did not have more of them. I, for one, am glad that this Congress is controlled by the Democrats.

PARLIAMENTARY INQUIRY

Mr. WALKER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman will state his parliamentary inquiry.

Mr. WALKER. Is it not the policy of the House that the Members are to address the Chair, and not persons outside of the body, including the President of the United States?

The SPEAKER pro tempore. The gentleman is correct.

Mr. WALKER. And further parliamentary inquiry, Mr. Speaker, is it not true that several Members have been reminded of that rather consistently, and seem to disobey it regularly on the House floor?

The SPEAKER pro tempore. The Chair has not been here during the 1 minutes for several weeks.

Mr. WALKER. I thank the Chair, but the caution of the Chair—further parliamentary inquiry. If the caution of the Chair is not obeyed by Members, is there any action that the Chair can take?

The SPEAKER pro tempore. The Chair will make that decision if this would happen again, and the gentleman would call it to the Chair's attention.

Mr. WALKER. I thank the Chair.

PORK ON THE PLATE AT SUMMIT

(Mr. THOMAS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of California. Mr. Speaker, the Washington Post tells us, "Prime rib was on the menu at the summit, but it is clear that pork was on the plate."

□ 1030

While congressional leaders were "crafting plans to save America" they could not resist wetting their fingers to pick up crumbs off the tablecloth.

Reading some of the tax portions of the summit agreement tells you more about where those congressional leaders were from than it does about the needs of America.

For example, why is a $31,000 car a luxury, but a $90,000 yacht is not?

And why is a $31,000 car a luxury, a $101,000 yacht a luxury, but an airplane at any price is not a luxury?

Summiteers, if you want a majority of the House to vote for this package, you have two choices: Put our pork in, or take yours out.

LEADERSHIP AT LONG LAST THAT DIDN'T LAST LONG

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, when the President stood with the congresssional leadership announcing a budget summit agreement, he was fulfilling one of the promises of his Presidency. He was at long last giving fiscal leadership to America, but it did not last long. Within hours he was speculating about how it would have been different if he had had his way, his own plan for solving our fiscal mess.

What was his plan? Devastating deep cuts in Medicare, postponing Social Security COLA's, reducing school lunches for children and housing programs for the elderly.

Yes, Mr. Speaker, the President did not have his way with the budget, and because of that, senior citizens, students, and the vulnerable were saved ravaging cuts, cuts which I see are bringing laughter to Republican Members of this House, but none to Democrats.

There is still time. If the President is going to lead us out of this fiscal difficulty, he has to start being President again and stop being just the leader of the Republican Party.

ADMINISTRATION'S PAYOFF TO TURKEY, 20,000 LOST U.S. TEXTILE AND APPAREL JOBS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, The Bush administration is considering giving in to Turkey's request and doubling Turkey's textile and apparel quotas into the United States market. This payoff was requested by the Turkish President yesterday and would increase Turkey's guaranteed access to the United States textile and apparel market to over 400 million square yards.

By doubling Turkey's share, the administration would trade away the jobs of 20,000 United States textile and apparel workers—the number of workers required to produce 200 million square yards of textile products.

The tragic irony of the situation is that under the Textile, Apparel, and Footwear Trade Act of 1990 legislation which President Bush intends to veto, Turkey's demands could have been met without costing any United States jobs. Under the bill, the administration can allocate textile and apparel quotas in any way it chooses—rewarding friends, taking away from others; transferring unused quotas.

Unfortunately, President Bush apparently prefers to take jobs and production from U.S. workers to reward or pay for favors of other governments.

TIME TO FISH OR CUT BAIT ON THE BUDGET

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, this budget package is a bitter pill to swallow for us all, but it is time to fish or cut bait.

There are only two games in town right now to take care of our fiscal woes—automatic across the board cuts or the bipartisan budget package.

Out of the choices available, the negotiated budget package is the one that offers managed controlled deficit reduction alternatives versus the dramatic automatic cuts that could wreak financial pandemonium on our already soft economy.

Virtually every American is going to feel some effect of the widespread deficit reduction attempts in the form of revenue increases and spending cuts.

This package offers a number of mandates that I do not like; however, reality demands that we do something and do something now.

There is no denying that we are at a fiscal crisis point—we can either manage the crisis or let it manage us.

BUDGET HAS NO REAL DEFICIT REDUCTION

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, when the negotiators met yesterday they ate prime rib and they doled out pork for their own districts. They gave beans to the rest of the American people, but with the beans came gas.

Now, you read the headlines and it says, "Deficit reduction accord

reached," but there is no deficit reduction. Taxes go up. Spending goes up. The deficit goes up.

In fact, the capital cost of the deficit for this 1 fiscal year alone will exceed the S&L bailout capital cost four times.

Now, the American people are just beginning to understand what S&L bailout cost is going to do to them. This accord in 1 year is four times the cost of the capital cost we put into the S&L thus far.

Let us remember that there was not one vote for the phony numbers in the original Presidential budget sent over here in the spring.

Then let us also remember this House went ahead and passed budget bills without a budget resolution.

Now, if we are going to deal with this crisis, we have to address the phoniness of the process, and this accord presumes gasoline at the pump selling for less than $1 a gallon. I will vote yes on this accord when I see gasoline at less than $1 a gallon at the pump.

BALANCE THE BUDGET WITHOUT TAXING MOM AND DAD TO DEATH

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, defense spending doubled the national debt and the deficit doubled. It is as simple as that. Let us not make brain surgery out of this.

Everybody is saying we have a better defense. I want to just caution you about a GAO report that says that $12 billion spent on the Apache antitank helicopters was worthless because they cannot fly for more than 2½ hours in peacetime, no less. Their rotors were supposed to last 1,600 hours, but they only last and turn about 140.

Now, figure this out. We got generals giving away battle secrets. We got missiles that cannot fly straight. We have helicopters, an Apache helicopter that Geronimo literally would not be caught dead in.

Let us cut the defense budget down to $250 billion.

Let us cut NATO spending and quit paying for the protection of Japan and Germany and let us balance the budget without taxing mom and dad.

What the hell is wrong with Congress?

CRUELEST PORTION OF SUMMIT PROPOSAL IS HIT ON SOCIAL SECURITY RECIPIENTS

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, the cruelest portion of the summit proposal is the $60 billion hit it makes upon Social Security recipients by raising Medicare premiums and deductibles. Tragically, Social Security is all that millions of Americans have to exist on. As these folks age, their health bills escalate. If this reduction of their incomes is approved by this Congress, tens of thousands of our citizens will be destitute and fall below the poverty line losing their dignity and independence. Why have the committees of this House abandoned their constitutional responsibility to recommend income and outgo for the consideration of our whole membership? Something has gone terribly wrong here and we, us, this House, needs to get it straight and quick.

OVERRIDE VETO OF TEXTILE BILL

(Mrs. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. PATTERSON. Mr. Speaker, one day last week I took my 13-year-old daughter shopping. She bought several items. The most expensive item she bought was a simple cotton shirt. It was the only item I allowed her to buy that was not made in the U.S.A. It was made in China, China where human rights abuses are rampant and where wages are slave wages.

At the same time, a shirt factory in my district is closed, a factory where shirts were made of better quality and sold for a cheaper price. Those people cannot buy the clothes that I bought for my children because they are out of work.

Now, we hear from retailers, "Oh, but we need to have imports." Let me tell you, last week alone in my district 300 textile and apparel people lost jobs. I know of no retail business in my district that employs 300 people.

So I say to our President, please do not veto our bill. Think about the American worker and the American consumer.

If the President does veto the bill, I urge my colleagues, vote for the American worker and for the American consumer. Vote to override the textile veto.

□ 1040

LET US STOP POLITICS AS USUAL

(Mr. SMITH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Vermont. Mr. Speaker, according to today's Burlington Free Press, the budget agreement is neither very brave nor very wise, but compared to the ideas of its instant congressional critics the agreement seems to be the bravest and wisest proposal going.

Said one Democratic Senator worried about reelection, "I may have to vote against it and hope it passes." Voters must refuse to countenance such hypocrisy, that is what they say.

There are parts of this budget summit agreement that I do not like, but the failure to pass it would be far worse for America. We must choose between devastating budget cuts and economic decline on the one hand and economic stability, jobs, and deficit reduction on the other. It is a fundamental test of whether the system works, whether this time we can bridge the widening gap between politics and usual and governing this country. The budget deficit is spinning out of control, and our failure to solve it risks a depression. Skyrocketing interest rates, economic decline, massive unemployment, those are the costs of politics as usual this time.

How can we ask our American men and women to protect the world's security in the Middle East if we are not willing to protect America's security here in Congress? That, Mr. Speaker, is what is at stake.

OMNIOUS TALK OF LINKAGE AT U.N. GENERAL ASSEMBLY DOES NOTHING MORE THAN ENCOURAGE VIOLENCE

(Mrs. LOWEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, recent references at the United Nations to a possible connection between an Iraqi pullout from Kuwait and settlement of the differences between Palestinians and Israel send the wrong message to international renegades like Saddam Hussein. Any implication of linkage at all between outrageous acts like the invasion of Kuwait and the resolution of other disputes will only encourage further acts of horror and terror.

French President Mitterand last week spoke of connections between the Kuwaiti occupation and the West Bank. Yesterday, President Bush made veiled references to opportunities, with specific reference to the conflict "that divides Arabs and Israel." Administration officials deny that implies any linkage. But I call on the President today to reiterate the unambiguous terms what has heretofore been U.S. policy: there is not and never will be any linkage between ending the Iraqi's illegal occupation of Kuwait and settlement of other differences in the region.

BUDGET CONTAINS SECOND LARGEST TAX INCREASE IN AMERICAN HISTORY

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, this House will soon consider a budget package whose primary distinction is that it contains the second largest tax increase in American history. As our economy teeters on the brink of recession, Government by committee has come up with the bright idea of massively increasing taxes. Mr. Speaker, a patient cannot be bled back to health; our economy cannot be taxed into expansion. Too much bleeding can kill the patient; too high a tax load will kill the economic vitality of this country.

This compromise is a roadmap to recession; it should be opposed vigorously.

We hear a chorus of big spenders singing the tune that our high level of deficit spending can be traced back to the Reagan tax cuts of the last decade. Some of us remember the economic decline, the high interest rates, the inflation, the malaise and stagflation of the days when tax policy was determined by liberal big spenders.

Mr. Speaker, they have been chipping away at the Reagan policy and, as they have, economic strength has been bled from our private sector.

If we had the same level of economic growth as we did under the Reagan policy in 1985, our deficit spending problem would be under control. Let us go to growth-oriented policies instead of high taxes for the American people.

AMERICAN TROOPS IN THE PERSIAN GULF SUBJECT TO NEW FORM OF CHEMICAL WARFARE

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, American troops in the Persian Gulf could be subjected to a new form of chemical warfare with the full approval of the U.S. Department of Defense.

Brown & Williamson of Louisville, KY, recently announced it was shipping free cigarettes to the U.S. troops in the Middle East to show their company's support and patriotism.

So, American servicemen, bored silly in the desert, will be invited to pass the time developing a nicotine addiction. Then they can return home like their fathers and grandfathers who served in World War II, hooked on smoking. What a magnificent show of patriotism by Brown & Williamson, to addict America's young men and women in uniform to a product which causes emphysema, lung cancer, heart disease, and stroke. What a stirring love of country for Brown & Williamson, to introduce our troops to a deadly habit which claims 1,000 American lives from tobacco-related diseases.

If Brown & Williamson really wants to help America's cause overseas, why don't they send their lethal products to the Iraqi army?

MEDICARE CUTS IN BUDGET PACKAGE

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, the budget package that has been handed to Congress is a horrible one that places the majority of deficit reduction on the backs of those who can least afford to pay for it. It is true we must all make sacrifices, but the American people will only agree to a budget deal that is sensible and fair. This package is neither.

I am especially upset over the proposal to cut Medicare. Here we are proposing to cut benefits and raise premiums in order to balance the budget. Raising taxes on seniors and cutting their benefits at the same time is wrong. The senior citizens of this country are already paying too much, and they are already burdened with incredible costs. We should not be placing a higher burden on their backs but instead should be looking forward to ways to solve the problems that already exist.

Additionally, this bill is geographically biased.

In Florida, the State that I am from, it is very dependent upon gasoline; there is a tax. In Florida, the State that I am from, there is a very heavy population of veterans. There is a $2.7 billion cut there. In addition, of course, we have 2.5 million people, 5 times the population of the State of Wyoming, who receive Medicare benefits. So it is geographically biased and it is an excessive burden on my State as it is on many of the States.

LET US OVERRIDE THE PRESIDENT'S VETO ON THE TEXTILE BILL

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, in all probability the House will be asked to reconsider the textile bill this week as the President is likely to veto the bill.

I ask my colleagues to seriously consider the devastating plight of the textile industry.

Ninety-one American textile apparel plants have closed in just 9 months. This decline in the textile business this year has made its impact on community after community in this Nation.

So far, there have been 47 textile plants shut forever, 45 apparel plants shut down forever.

The total of persons involved in these closings alone amounted to 16,000 workers.

With busines conditions as poor as they are, it is unlikely that these people will ever be reemployed in their former jobs.

There may well be more than the numbers that are actually reported because there are so many mom-and-pop operations that merely disappear.

Then these plant closings have such a devastating impact on community after community. The alternatives to unemployment are almost nonexistent. Their groceries have to be paid, their doctors have to be paid, and on and on.

So far this year, over 70,000 textile apparel workers have been laid off. Most of them are probably permanent. In fact, over the past 5 or 6 years, we can count 300 textile plants alone that have disappeared from production. It is a loss not only to these communities but to our Nation as a whole. It increases our trade deficit and reduces our gross national product; therefore, it is a loss and has an impact on the lives of all Americans.

I ask my colleagues to override the veto.

□ 1050

THE 2-CENT TAX ON HEATING OIL SHOULD BE WHITED OUT, TOO

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, these are difficult days for all of us. We are trying to balance representing the good of the Nation with representing and looking out for our home districts.

To add a third element to this, we must now try to understand why one individual would look to zap one particular part of the country. This is something beyond the bounds of what we should be involved in here.

Mr. Speaker, we cannot allow the 2-cent tax on home heating oil to stand as part of the deal. My understanding is that the exemption was whited out at the request of one individual in the other body.

We in New England do not just arbitrarily choose whether or not we heat our homes. If we do not turn on the heat, the pipes freeze. We just cannot say to the elderly, "Put on a sweater, and tough it out."

We in New England are facing the possibility of tripling our home heat-

ing bills. We are fighting to have low-income assistance for home heating oil increased, not decreased.

So, Mr. Speaker, I stand here today saying, "If one can defend petrochemicals being exempted from that 2-cent tax, it's beyond my understanding why we can't go back to the original piece of paper that said the 2-cent tax on heating oil is not part of the deal." I will stand here and say, "That only makes good sense, Mr. Speaker."

REPORT ON H.R. 5769, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION BILL, 1991

Mr. YATES, from the Committee on Appropriations, submitted a privileged report (Rept. No. 101-789) on the bill (H.R. 5769) making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1991. The bill provides regular annual appropriations for the Department of the Interior (except the Bureau of Reclamation) and for other related agencies, including the Forest Service, the Department of Energy, the Smithsonian Institute, and the National Foundation on the Arts and the Humanities which was referred to the Union Calendar and ordered to be printed.

Mr. CONTE reserved all points of order on the bill.

THE BATTLEGROUND FOR 1992

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michgan. Mr. Speaker, make no mistake. Reflecting who controls the White House, the budget summit agreement is more Republican than Democratic. Just look at who pays for the economic mess created by the 10 years of supply-side economics. Seniors face higher medical bills. Workers would pay more for gas, beer, and cigarettes. And the unemployed will wait longer for their checks.

However, Mr. Speaker, the wealthy will hardly feel the pain. What else should we expect from an administration that came to office on the pledge of no new taxes, for the very wealthy, as it turns out. John Sununu was an architect of that pledge and now claims the President has kept his promise. Basic tax rates for the wealthy are sacred, while taxes on middle class people will be higher.

This may well be the best deal that could be achieved under the circumstances. The budget deficit imperils this Nation, and this country must act now.

But this agreement cannot obscure the deep differences between Republicans and Democrats. The rhetoric of Republicans has been economic growth; their policies have meant economic decline.

There will be another day. Our differences will be the battleground for 1992.

GUNS FOR HIRE

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, the Japanese say that influence in Washington is for sale. The Japanese should know for sure, they have brought a lot in both places. The British think America has the most advanced influence-peddling industry in the world. Washington's culture of influence-for-hire is uniquely open to all buyers, foreign and domestic. Its lawful ways of corrupting public policy remain unrivaled. The Dutch, experienced internationalists for centuries, believe that a big part of the problem is that Americans can be bought so easily. We don't even pretend to be troubled by it all. For Americans, it is becoming more obvious that the real scandal in Washington is not what is done illegally, but what is done legally. Where else do top government officials become other nations' top lobbyists? What other nations have foreign-funded think tanks that determine these nation's long-term role in the world economy? What other nation tolerates so much foreign interference in its domestic affairs? As we get ready to vote on the veto override, perhaps we should ask how many of the thousands of foreign agents in Washington are lined up for and how many are lined up against the Textile, Apparel and Footwear Trade Act of 1990? Whose interests are your allies paid to represent? Override this veto.

THE CLEAN AIR BILL IS OUT OF WHACK WITH REALITY

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, a recent article in the Washington Post says that scientists have gathered preliminary evidence that sulfur dioxide, which is the major component part of acid rain, may be, in fact, helping to reduce global warming.

I ask my colleagues, "You hear that; reducing global warming"?

Perhaps, Mr. Speaker, this is only preliminary. The point is that we do not have all of the facts at our finger tips to pass a clean air bill.

The NAPAP study, which cost the taxpayers $600 million, also supports this by saying, "There is no environmental crisis."

Let us take a look at it. I think that Congress is rushing to judgment far too quickly, costing American businesses and residences $50 billion a year, and wait until we start getting our utility bills. Each week more truth and fact comes forth to support this.

Mr. Speaker, the conference committee is in complete disarray. They do not understand how to be able to deal with a bill that is completely out of whack with reality.

CIVIL RIGHTS ACT OF 1990 SHOULD BECOME LAW

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, either today, or very soon, the House and the other body will come to grips with the conference report on the Civil Rights Act of 1990. I rise in support of that conference report. I urge my colleagues in the House to support it, and I hope the Members of the other body will as well.

Everyone agrees that something has to be done with respect to the Supreme Court decisions of recent years which have wittingly, or unwittingly, weakened the Civil Rights Act of 1964's protection of people who are minorities, and people who because of gender, or age or disability are discriminated against. The difference between us is how to do it.

And, I believe that the question about quotas was resolved in this Chamber when we debated the bill, and the conference generally went along with the House provision. The question about punitive damages was disposed of in this Chamber and was followed by the conference.

Mr. Speaker, I would just hope that the President would be able to sign this bill into law. He may have some reservations about the bill, and they, I am sure, are good-faith reservations. But, I believe the bill ought to be passed, and I hope that the President will sign it into law.

CONGRESS SHOULD STAY IN SESSION UNTIL A BUDGET AGREEMENT PASSES

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, double tax, double talk. Budget agreement; where is it?

Let us not kid the American people. At this time there are not enough votes in this Capitol to pass a budget agreement. Let us be truthful with them. Nobody likes it.

Why would I vote for a budget that would directly fuel inflation with a gas tax? Why would I vote for a budget resolution that would raise interest rates? No deal for me on double tax, double talk.

The people of the United States of America should demand that Congress stay right here in this House of Representatives and in the other body, stay right here until we have a budget that cuts spending and brings revenue streams from utilization of our oil and gas resources, and ANWR, offshore and Rocky Mountain front until we have that budget agreement reached right here.

Join the revolution. Stay in session until the election, if necessary, to pass the budget.

AMERICAN CONSUMERS MUST NOT BE PENALIZED BY PROTECTIONIST LEGISLATION

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, it is true the President of the United States is going to be vetoing the textile bill. Not a great surprise to anyone around here, but it is very important that we sustain that veto.

We are in the midst of a real battle on this budget question, and who knows exactly what kind of cost the American consumer is going to be saddled with when it relates to the final budget package.

Mr. Speaker, if we include with that an incredible tax which says to them that they cannot buy the best quality product at the lowest possible price without our imposing a penalty on them, I think it would be a real mistake.

I hope very much, Mr. Speaker, that all of our colleagues join in lockstep supporting strongly President Bush as he works to ensure that the American consumer is not penalized by protectionist legislation.

UPDATE ON ANGOLA

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, in 1975, after the Portuguese had abandoned Angola, the freedom forces were moving to take control under an agreement established under a tripartite arrangement, and yet the Soviets began backing the MPLA to have a Communist regime in which there would be no election, and there would be no democracy. Right when the freedom forces were in sight of the Angolan capital, Luanda, the United States Congress, late in 1975, withdrew support and then voted in the United Nations to have no one else support the freedom forces, and that country has been cast into Communist oblivion for these remaining years.

□ 1100

However, these freedom forces have kept the torch of democracy alive, and they are now moving again, and it looks as though they are about to succeed in establishing a democracy just within a matter of months.

So again we will see an effort on the floor of Congress within the next 10 to 12 days to cut off any aid to those freedom forces.

Now, the Soviet-backed forces have a 15-year supply. They have an air hose from the Soviet Union, and they have as well the petrodollars with which they can purchase arms on the international market. Only those who stand for democracy are aiding UNITA.

Mr. Speaker, there will be an effort on the floor of the House to deny that aid moments before we leave for Christmas. I hope our colleagues are aware—that they understand what is at stake, and that one of the bastions of communism will fall to freedom and democracy.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken at the end of the legislative business day.

NATIONAL NUTRITION MONITORING AND RELATED RESEARCH ACT OF 1990

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1608) to strengthen national nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human Services to prepare and implement a 10-year plan to assess the dietary and nutritional status of the U.S. population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1608

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Nutrition Monitoring and Related Research Act of 1990".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) make more effective use of Federal and State expenditures for nutrition monitoring, and enhance the performance and benefits of current Federal nutrition monitoring and related research activities;

(2) establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program, and thereby provide a scientific basis for the maintenance and improvement of the nutritional status of the people of the United States and the nutritional quality (including, but not limited to, nutritive and nonnutritive content) of food consumed in the United States;

(3) establish and implement a comprehensive plan for the National Nutrition Monitoring and Related Research Program to assess, on a continuing basis, the dietary and nutritional status of the people of the United States and the trends with respect to such status, the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and the relevant policy implications;

(4) establish and improve the quality of national nutritional and health status data and related data bases and networks, and stimulate research necessary to develop uniform indictors, standards, methodologies, technologies, and procedures for nutrition monitoring;

(5) establish a central Federal focus for the coordination, management, and direction of Federal nutrition monitoring activities;

(6) establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health care professionals, and the public in support of the foregoing purposes; and

(7) provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such purposes.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "comprehensive plan" means the comprehensive plan prepared under section 103;

(2) the term "coordinated program" means the National Nutrition Monitoring and Related Research Program established by section 101(a);

(3) the terms "Interagency Board for Nutrition Monitoring and Related Research" and "Board" mean the Federal coordinating body established by section 101(c);

(4) the term "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" means the plan of that title dated August 18, 1981 and submitted by the Department of Agriculture and the Department of Health and Human Services under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178);

(5) the term "local government" means a local general unit of government or local educational unit;

(6) the terms "National Nutrition Monitoring Advisory Council" and "Council" means the advisory body established under section 201;

(7) the term "nutrition monitoring and related research" means the set of activities necessary to provide timely information about the role and status of factors that bear on the contribution that nutrition makes to the health of the people of the United States, including—

(A) dietary, nutritional, and health status measurements;

(B) food consumption measurements;
(C) food composition measurements and nutrient data banks;
(D) dietary knowledge and attitude measurements; and
(E) food supply and demand determinations;
(8) the term "nutritional quality" means—
(A) the appropriate levels of individual nutrients in the diet;
(B) the appropriate levels between nutrients in the diet;
(C) the bioavailability of nutrients such as absorption, digestion, and utilization; and
(D) the nutritional importance of non-nutrient substances such as fiber, phytate, and such substances that are naturally found in the food supply; and
(9) the term "Secretaries" means the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly.

TITLE I—NUTRITION MONITORING AND RELATED RESEARCH

SEC. 101. ESTABLISHMENT OF THE COORDINATED PROGRAM.

(a) IN GENERAL.—There is established a ten-year coordinated program, to be known as the National Nutrition Monitoring and Related Research Program, to carry out the purposes of this Act.

(b) IMPLEMENTATION RESPONSIBILITY.—The Secretaries shall be responsible for the implementation of the coordinated program.

(c) ESTABLISHMENT OF BOARD.—To assist in implementing the coordinated program, there is established an Interagency Board for Nutrition Monitoring and Related Research, of which an Assistant Secretary in the Department of Agriculture (designated by the Secretary of Agriculture) and an Assistant Secretary in the Department of Health and Human Services (designated by the Secretary of Health and Human Services) shall be joint chairpersons. The remaining membership of the Board shall consist of additional representatives of Federal agencies, as determined appropriate by the joint chairpersons of the Board. The Board shall meet no less often than once every three months for the two-year period following the date of the enactment of this Act, and when appropriate thereafter.

(d) ADMINISTRATOR.—To establish a central focus and coordinator for the coordinated program, the Secretaries may appoint an Administrator of Nutrition Monitoring and Related Research. The Administrator shall—
(1) be an individual who is eminent in the field of nutrition monitoring and related areas and be selected on the basis of the established record of expertise and distinguished service of such individual; and
(2) administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, serve as the focal point for the coordinated program, and serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council.

SEC. 102. FUNCTIONS OF THE SECRETARIES.

(a) IN GENERAL.—The Secretaries, with advice of the Board, shall—
(1) establish the goals of the coordinated program, identify the activities required to meet such goals and identify the responsible agencies with respect to the coordinated program;
(2) update the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System, and integrate it into the coordinated program;
(3) ensure the timely implementation of the coordinated program and the comprehensive plan prepared under section 103;
(4) include in the coordinated program and the comprehensive plan a competitive grants program, to be implemented to the extent funds are available, in accordance with the provisions of this Act to encourage and assist the conduct, by Federal entities, and by non-Federal entities on an appropriate matching funds basis, of research (including research described in section 103(a)(3)) that will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;
(5) include in the coordinated program and the comprehensive plan a grants program, in accordance with the provisions of this Act, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition services (including activities described in section 103(a)(5) and 103(b)(9));
(6) include in the coordinated program each fiscal year an annual interagency budget for each fiscal year of the program;
(7) foster productive interaction, with respect to nutrition monitoring and related research, among Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;
(8)(A) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Expermental Biology, to interpret available data analyses, and publish every two years, or more frequently if appropriate, except as provided in subparagraph (B), a report on the dietary, nutritional, and health-related status of the people of the United States and the nutritional quality (including the nutritive and nonnutritive content) of food consumed in the United States; or
(B) if the Secretaries determine that suffiicent data analyses are not available to warrant interpretation of such data analyses, inform Congress of such fact at the time a report required in subparagraph (A) would have been published, and publish such a report a least once every five years; and
(9)(A) foster cost recovery management techniques in the coordinated program; and
(B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and use the proceeds of such charges and fees for purposes of the coordinated program (except that no such charge or fee imposed on an educational or other nonprofit organization shall exceed the actual costs incurred by the coordinated program in providing the publications involved).

(b) BIENNIAL REPORT.—The Secretaries shall submit to the President for transmittal to Congress by January 15 of each alternate year, beginning with January 15 following the date of the enactment of this Act, a biennial report that shall—
(1) evaluate the progress of the coordinated program;
(2) summarize the results of such coordinated program components as are developed under section 103;
(3) describe and evaluate any policy implications of the analytical findings in the scientific reports required under subsection (a)(8), and future priorities for nutrition monitoring and related research;
(4) include in full the annual reports of the Council provided for in section 202; and
(5) include an executive summary of the report most recently published by the scientific body, as provided for in subsection (a)(8).

SEC. 103. DEVELOPMENT OF THE COMPREHENSIVE PLAN FOR THE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH PROGRAM.

(a) COMPREHENSIVE PLAN.—The Secretaries, with the advice of the Board, shall prepare and implement a comprehensive plan for the coordinated program which shall be designed to—
(1) assess, collate data with respect to, analyze, and report, on a continuous basis, the dietary and nutritional status of the people of the United States, and the trends with respect to such status (dealing with such status and trends separately in the case of preschool and school-age children, pregnant and lactating women, elderly individuals, low income populations, blacks, Hispanics, and other groups, at the discretion of the Secretaries), the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and relevant policy implications of findings with respect to such status, trends, and research;
(2) sample representative subsets of identifiable low income populations (such as Native Americans, Hispanics, or the homeless), and assess, analyze, and report, on a continuous basis, for a representative sample of the low income population, food and household expenditures, participation in food assistance programs, and periods experienced when nutrition benefits are not sufficient to provide an adequate diet;
(3) sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;
(4) develop and keep updated a national dietary and nutritional status data bank, a nutrient data bank, and other data resources as required;
(5) assist State and local government agencies in developing procedures and networks for nutrition monitoring and surveillance; and
(6) focus the nutrition monitoring activities of Federal agencies.

(b) COMPONENTS OF PLAN.—The comprehensive plan, at a minimum, shall include components to—
(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);
(2) provide, by 1991, for the continuous collection, processing, and analysis of nutritional and dietary status data through stratified probability samples of the people of the United States designed to permit statisically reliable estimates of high-risk groups and geographic area, and to permit accelerated data analysis (including annual analysis, as appropriate);
(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraphs (1) and (2);

(4) incorporate, in survey design, military and (where appropriate) institutionalized populations;

(5) complete the analysis and interpretation of the data sets from the surveys described in paragraph (1) collected prior to 1984 within the first year of the comprehensive plan;

(6) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends;

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring;

(9) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of—

(A) obtaining dietary and nutrition status data;

(B) developing related data bases; and

(C) promoting the development of regional, State, and local data collection services to become an integral component of a national nutritional status network;

(10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;

(11) compile an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;

(12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;

(13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities, and resources, and define the organization and management of the Board and the Council; and

(14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan that facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health care professionals, and that facilitates coordination with non-Federal activities.

(c) ADDITIONAL REQUIREMENTS OF PLAN.—The comprehensive plan shall—

(1) allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved;

(2) contain an affirmative statement and description of the functions to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program; and

(3) constitute the basis on which each agency participating in the coordinated program requests authorization and appropriation for nutrition monitoring and related research during the ten-year period of the program.

(d) PUBLICATION OF PLAN.—

(1) PROPOSED PLAN.—Within 12 months after the date of enactment of this Act, the Secretaries shall publish in the Federal Register a proposed comprehensive plan for public review for a comment period of no less than sixty days.

(2) FINAL PLAN.—Within sixty days after the comment period under paragraph (1) expires, and after considering any comments received, the Secretaries shall submit to the President, for submission to the Congress and for publication in the Federal Register, the final comprehensive plan.

(e) PROHIBITION ON CONSTRUING.—Nothing in this section may be construed as modifying, or as authorizing the Secretaries or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) that specifies—

(1) the department or agency to which funds are appropriated; or

(2) the obligations of such department or agency with respect to the use of such funds.

SEC. 104. IMPLEMENTATION OF THE COMPREHENSIVE PLAN.

(a) IN GENERAL.—The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 103(d)(2) and shall be—

(1) carried out in accordance with, and meet the program objectives specified in, section 103(a) and section 103(b);

(2) carried out, by the Federal agencies involved, in accordance with the allocation of functions and activities under section 103(c); and

(3) funded by appropriations made to such agencies for each fiscal year of the program.

(b) EXISTING LAW NOT AFFECTED.—Nothing in this title may be construed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

SEC. 105. SCIENTIFIC RESEARCH AND DEVELOPMENT IN SUPPORT OF THE COORDINATED PROGRAM AND COMPREHENSIVE PLAN.

The Secretaries shall coordinate the conduct of, and may contract with the National Science Foundation, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and other suitable Federal agencies for, such scientific research and development as may be necessary or appropriate in support of the coordinated program and the comprehensive plan and in furtherance of the purposes and objectives of this Act.

SEC. 106. ANNUAL BUDGET SUBMISSION

(a) ANNUAL REPORT.—The President, at the same time as the submission of the annual budget to the Congress, shall submit a report to the Committees on Agriculture and Science, Space, and Technology of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Governmental Affairs of the Senate on expenditures required for carrying out the coordinated program and implementing the comprehensive plan. The report shall detail, for each of the agencies that are allocated responsibilities under the coordinated program—

(1) the amounts spent on the coordinated program during the fiscal year most recently ended;

(2) the amounts expected to be spent during the current fiscal year; and

(3) the amounts requested in the annual budget for the fiscal year for which the budget is being submitted.

(b) EXISTING AUTHORITY NOT AFFECTED.—Nothing in this title is intended to either—

(1) authorize the appropriation or require the expenditure of any funds in excess of the amount of funds that would be authorized or expended for the same purposes in the absence of the coordinated program; or

(2) limit the authority of any of the participating agencies to request and receive funds for such purposes (for use in the coordinated program) under other laws.

TITLE II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

SEC. 201. STRUCTURE OF THE COUNCIL.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The President shall establish, within ninety days after the date of the enactment of this Act, a National Nutrition Monitoring Advisory Council. The Council shall assist in carrying out the purposes of this Act, provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and serve in an advisory capacity of the Secretaries.

(2) MEMBERSHIP.—The Council shall consist of nine voting members, of whom—

(A) five members shall be appointed by the President based upon recommendations from the Secretaries; and

(B) four members shall be appointed by Congress, of whom—

(i) one shall be appointed by the Speaker of the House of Representatives;

(ii) one shall be appointed by the minority leader of the House of Representatives;

(iii) one shall be appointed by the President pro tempore of the Senate; and

(iv) one shall be appointed by the minority leader of the Senate.

(3) EX OFFICIO MEMBERS.—The Council also shall include the joint chairpersons of the Board as ex officio nonvoting members.

(b) SELECTION CRITERIA.—Each person appointed to the Council shall be selected solely on the basis of an established record of distinguished service and shall be eminent in one of the following fields:

(1) public health, including clinical dietetics, public health nutrition, epidemiology, clinical medicine, health education, or nutrition education;

(2) nutrition monitoring research, including nutrition monitoring and surveillance, food consumption patterns, nutritional anthropology, community nutrition research, nutritional biochemistry, food composition analysis, survey statistics, dietary-intake methodology, or nutrition status methodology; or

(3) food production and distribution, including agriculture, biotechnology, food technology, food engineering, economics, consumer psychology, or sociology, food-system management, or food assistance.

(c) PARTICULAR REPRESENTATION REQUIREMENT.—The Council membership, at all times, shall include at least two representatives from each of the three areas of specialization listed in subsection (b), and shall have representatives from various geographic areas, the private sector, academia, scientific and professional societies, agriculture, minority organizations, and public interest organizations and shall include a State or local government employee with a specialized interest in nutrition monitoring.

(d) CHAIRPERSON.—The Chairperson of the Council shall be elected from and by the Council membership. The term of office of

the Chairperson shall not exceed 5 years. If a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill the vacancy.

(e) TERM OF OFFICE.—The term of office of each of the voting members of the council shall be 5 years, except that of the 5 members first appointed by the President, 2 shall be appointed for a term of 2 years, 2 for terms of 3 years, and one for a term of 4 years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed for the remainder of such term. No voting member shall be eligible to serve continuously for more than 2 consecutive terms.

(f) INITIAL APPOINTMENT.—The initial members of the Council shall be appointed or designated not later than ninety days of the date of the enactment of this Act.

(g) MEETINGS.—The Council shall meet on a regular basis at the call of the Chairperson, or on the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(b) LIMITATION ON FEDERAL EMPLOYMENT.—Appointed members of the Council may not be employed by the Federal Government and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

(i) EXECUTIVE SECRETARY.—The Administrator of Nutrition Monitoring and Related Research (if appointed under section 101(d)) shall serve as the Executive Secretary of the Council.

(j) TERMINATION.—The Council shall terminate 10 years after the final comprehensive plan is prepared under section 103.

SEC. 202. FUNCTIONS OF THE COUNCIL.

The Council shall—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(2) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(3) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated program; and

(4) submit to the Secretaries annual reports that—

(A) shall contain the components specified in paragraphs (2) and (3); and

(B) shall be included in full in the biennial reports of the Secretaries to the President for transmittal to Congress under section 102(b).

TITLE III—DIETARY GUIDANCE

SEC. 301. ESTABLISHMENT OF DIETARY GUIDELINES.

(a) REPORT.—

(1) IN GENERAL.—At least every five years the Secretaries shall publish a report entitled "Dietary Guidelines for Americans". Each such report shall contain nutritional and dietary information and guidelines for the general public, and shall be promoted by each Federal agency in carrying out any Federal food, nutrition, or health program.

(2) BASIS OF GUIDELINES.—The information and guidelines contained in each report required under paragraph (1) shall be based on the preponderance of the scientific and medical knowledge which is current at the time the report is prepared.

(b) APPROVAL BY SECRETARIES.—

(1) REVIEW.—Any Federal agency that proposes to issue any dietary guidance for the general population or identified population subgroups shall submit the text of such guidance to the Secretaries for a sixty-day review period.

(2) BASIS OF REVIEW.—

(A) IN GENERAL.—During the sixty-day review period established in paragraph (1), the Secretaries shall review and approve or disapprove such guidance to assure that the guidance either is consistent with the "Dietary Guidelines for Americans" or that the guidance is based on medical or new scientific knowledge which is determined to be valid by the Secretaries. If after such sixty-day period neither Secretary notifies the proposing agency that such guidance has been disapproved, then such guidance may be issued by the agency. If both Secretaries disapprove of such guidance, it shall be returned to the agency. If either Secretary finds that such guidance is inconsistent with the "Dietary Guidelines for Americans" and so notifies the proposing agency, such agency shall follow the procedures set forth in this subsection before disseminating such proposal to the public in final form. If after such sixty-day period, either Secretary disapproves such guidance as inconsistent with the "Dietary Guidelines for Americans" the proposing agency shall—

(i) publish a notice in the Federal Register of the availability of the full text of the proposal and the preamble of such proposal which shall explain the basis and purpose of the proposed dietary guidance;

(ii) provide in such notice for a public comment period of thirty days; and

(iii) make available for public inspection and copying during normal business hours any comment received by the agency during such comment period.

(B) REVIEW OF COMMENTS.—After review of comments received during the comment period either Secretary may approve for dissemination by the proposing agency a final version of such dietary guidance along with an explanation of the basis and purpose for the final guidance which addresses significant and substantive comments as determined by the proposing agency.

(C) ANNOUNCEMENT.—Any such final dietary guidance to be disseminated under subparagraph (B) shall be announced in a public notice in the Federal Register, before public dissemination along with an address where copies may be obtained.

(D) NOTIFICATION OF DISAPPROVAL.—If after the thirty-day period for comment as provided under subparagraph (A)(ii), both Secretaries disapprove a proposed dietary guidance, the Secretaries shall notify the Federal agency submitting such guidance of such disapproval, and such guidance may not be issued, except as provided in subparagraph (E).

(E) REVIEW OF DISAPPROVAL.—If a proposed dietary guidance is disapproved by both Secretaries under subparagraph (D), the Federal agency proposing such guidance may, within fifteen days after receiving notification of such disapproval under subparagraph (D), request the Secretaries to review such disapproval. Within fifteen days after receiving a request for such a review, the Secretaries shall conduct such review. If, pursuant to such review, either Secretary approves such proposed dietary guidance, such guidance may be issued by the Federal agency.

(3) LIMITATION ON DEFINITION OF GUIDANCE.—For purposes of this subsection, the term "dietary guidance for the general population" does not include any rule or regulation issued by a Federal agency.

(4) DEFINITION OF IDENTIFIED POPULATION SUBGROUPS.—For purposes of this subsection, the term "identified population subgroups" shall include, but not be limited to, groups based on factors such as age, sex, or race.

(c) EXISTING AUTHORITY NOT AFFECTED.—This section does not place any limitations on—

(1) the conduct or support of any scientific or medical research by any Federal agency;

(2) the presentation of any scientific or medical findings or the exchange or review of scientific or medical information by any Federal agency; or

(3) the authority of the Food and Drug Administration under the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 302. NUTRITION TRAINING REPORT.

The Secretary of Health and Human Services, in consultation with the Secretaries of Agriculture, Education, and Defense, and the Director of the National Science Foundation, shall submit, within one year after the date of enactment of this Act, a report describing the appropriate Federal role in assuring that students enrolled in United States medical schools and physicians practicing in the United States have access to adequate training in the field of nutrition and its relationship to human health.[H02OC0-V1]{H8609}health.

The SPEAKER pro tempore. Is a second demanded?

Mr. EMERSON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. EMERSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1608, the National Nutrition Monitoring and Related Research Act of 1989.

This legislation establishes a 10-year coordinated program to make more effective use of Federal and State expenditures for nutrition monitoring and requires a comprehensive plan to assess the dietary and nutritional status of the people of the United States. The legislation also provides for improvements in the quality of national nutritional and health status data and related data bases, and establishes mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments and the private sector. A procedure whereby dietary guidance issued by the Federal Government will be consistent with the Dietary Guidelines for Americans is included. Most importantly, the legislation establishes a central Federal

focus for the coordination, management, and direction of Federal nutrition monitoring activities.

The Committee on Agriculture has been involved in nutrition monitoring legislation since 1984 when our Subcommittee on Department Operations, Research and Foreign Agriculture joined with the Committee on Science and Technology's Subcommittee on Science, Research and Technology in public hearings on this subject.

I am very pleased that the problems that have been of concern in the past have been addressed in this legislation. It has the full support of the nutrition community, and the administration has advised us that it has no objection to the legislation.

To expedite consideration of this legislation prior to the end of the 101st Congress, both Chairman ROBERT ROE of the Committee on Science, Space, and Technology and Chairman JOHN DINGELL of the Committee on Energy and Commerce have agreed not to seek a sequential referral of this legislation. I appreciate very much this spirit of cooperation, and I recognize that this action does not in any way impinge on the jurisdiction of either the Committee on Science, Space, and Technology or the Committee on Energy and Commerce. In this regard, I wish to insert in the RECORD at this point an exchange of letters between Chairman ROE and Chairman DINGELL and myself on the matter of each committee's jurisdiction.

Mr. Speaker, the nutritional needs of our population must be addressed in an orderly and coordinated manner. This legislation provides that coordination, and I urge my colleagues to give their full support to H.R. 1608.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, September 28, 1990.

Hon. E. "KIKA" DE LA GARZA,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: On July 18, 1990, the Committee on Agriculture favorably reported H.R. 1608, the de la Garza/Leahy "Nutrition Monitoring Act of 1990." The Committee on Energy and Commerce has requested a sequential referral on this bill, which covers health and related matters that are of concern to the Committee.

Similar bills were passed by the House in both the 99th and 100th Congress, and in both cases the jurisdiction of the Committee on Energy and Commerce was recognized and preserved. On both occasions when the Committee chose to waive its jurisdiction in the interests of expediting consideration of the legislation, the jurisdictional prerogative of the Committee was recognized in the debate on the floor and in letters exchanged with the Chairman of the Committee on Science, Space, and Technology.

I understand that the Committee on Science, Space, and Technology will not seek a sequential referral on H.R. 1608, to allow the bill to be brought to the House for consideration before the close of the 101st Congress. Therefore, in a spirit of cooperation the Committee on Energy and Commerce will also not seek sequential referral of H.R. 1608. However, this action to expedite consideration of the bill should not be interpreted in any respect to waive jurisdiction of the Committee on Energy and Commerce over provisions in H.R. 1608 or any other legislation addressing matters within the jurisdiction of the Committee. I respectfully request that our Committee be included in any future discussions or conference on this bill.

I recognize that this is important and timely legislation, and I stand ready to work with you as the Chairman of the Agriculture Committee to bring this bill to the floor quickly.

Sincerely,

JOHN D. DINGELL,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, September 28, 1990.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter in regard to H.R. 1608, the National Nutrition Monitoring and Related Research Act.

As you know, this bill, as ordered reported by the Committee on Agriculture on July 18, 1990, is widely supported by national agricultural and nutrition organizations. Similar legislation passed the House in both the 99th and 100th Congresses.

The Committee on Agriculture has addressed the concerns of the Administration over several provisions of H.R. 1608, and I have been advised that the Administration will not oppose the legislation.

It has been the intention of the Committee on Agriculture and that of the Committee on Science, Space, and Technology, which has jointly considered similar nutrition monitoring bills with this Committee, to place this legislation on the suspension calendar for passage prior to the end of the 101st Congress.

Since the Committee on Energy and Commerce has a jurisdictional concern with the bill, I appreciate that you are not pursuing at this time your request for sequential referral of the bill in order to expedite House Floor action on H.R. 1608. I recognize that this action is taken without any prejudice to the jurisdictional interests of the Committee on Energy and Commerce.

When H.R. 1608 is considered on the Floor, I will ask to have the relevant correspondence between our Committees relating to this legislation included in the record of the debate.

With best regards, I am

Sincerely,

E. (KIKA) DE LA GARZA,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, July 18, 1990.

Hon. ROBERT A. ROE,
Chairman, Committee on Science, Space, and Technology, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter concerning your Committee's interest in H.R. 1608, the National Monitoring and Related Research Act. We appreciate your decision to expedite consideration of the bill by not seeking sequential referral of H.R. 1608 based on the text of the bill as reported by the Committee on Agriculture on July 18, 1990.

In no respect should this action be considered a waiver of the Committee on Science, Space, and Technology's jurisdiction over provisions of H.R. 1608. I fully support any requests made by your Committee to be represented on any discussion or conference with the Senate concerning this legislation, as well as your continued interest in the appropriate authorizing responsibilities and oversight contained in this legislation.

I view this agreement between the Committee on Agriculture and the Committee on Science, Space, and Technology as a statement of continuing cooperation. I will ask to have included in the Record the correspondence relating to this legislation when it is considered on the floor of the House.

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
SPACE, AND TECHNOLOGY,
Washington, DC, July 20, 1990.

Hon. E DE LA GARZA,
Chairman, House of Representatives, Washington, DC.

DEAR KIKA: I am writing in regard to H.R. 1608, the National Nutrition Monitoring and Related Research Act. As you know, similar legislation, H.R. 677 and S. 253 as amended and passed by the Senate on November 7, 1989 were jointly referred to the Committees on Agriculture and Science, Space, and Technology. I understand that on July 18, 1990 the Committee on Agriculture favorably reported H.R. 1608. I further understand that the bill as reported: incorporated H.R. 1608 as reported from the Subcommittee on Department Operations, Research and Foreign Agriculture which substituted S. 253 as passed by the Senate for the entire text of H.R. 1608; adopted the amendments submitted by the Administration and offered by Mr. Brown. The Science, Space, and Technology Committee concurred in the amendments and are pleased to learn that these amendments will alleviate the concerns of the Administration and they will thus not oppose the enactment of H.R. 1608.

Under normal circumstances, the Committee on Science, Space, and Technology would seek a sequential referral of H.R. 1608, especially since the bill now includes the entire text of S. 253 which was jointly referred to our Committee. However, we recognize the importance of H.R. 1608 and congratulate you on your efforts to bring the bill to the House for consideration before the close of the 101st Congress. Therefore, in a spirit of cooperation we will not seek sequential referral of H.R. 1608. However, this action to expedite consideration of the bill should not be interpreted, in any respect, to waive jurisdiction of the Committee on Science, Space, and Technology over provisions in H.R. 1608 or any other legislation addressing matters within the jurisdiction of the Committee on Science, Space, and Technology. Given that the subject matter of the legislation should be referred to our respective Committees, I respectfully request that our Committee be included in any future discussions or conference on this bill. Our Committee will, as we have over the past eight years, continue to share in the oversight and authorizing responsibilities of the legislation.

I am hopeful that the bill can be brought to the House for consideration immediately and that after many years of cooperative efforts between our two Committees on this bill a much needed public law will be realized. To clarify the history on this legislation, I would appreciate a letter confirming my understanding, and that our letters be placed in the Record during House consideration.

Sincerely,

ROBERT A. ROE,
Chairman.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Science, Space, and Technology, the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I thank the distinguished chairman of the committee for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 1608, the National Nutrition Monitoring and Related Research Act.

At this time I want to pay my high regards to our very distinguished chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA], to the gentleman from Missouri [Mr. EMERSON], the ranking member of the Subcommittee on Department Operations, Research and Foreign Agriculture, and to the gentleman from California [Mr. BROWN], who is his counterpart on the majority side.

Mr. Speaker, accurate and timely knowledge of the nutritional and health status of our citizens is directly related to the economic well-being of our Nation. We cannot maintain or improve the quality of life of our citizens without an understanding of the nutritional and health status of the population. We cannot develop prudent public policies regarding investments and priorities for research, education, regulation, public assistance, or health promotion and disease prevention programs without knowledge of trends in the nutritional and health status of the public. All other investments we authorize to maintain a strong and competitive U.S. position in science, technology, education, and defense will be of no avail unless we have a healthy America.

Yes, the Federal Government has implemented components of a nutrition monitoring system since the 1930's. However, past and current systems were neither coordinated nor comprehensive. The usefulness of the data to the food and health communities and to policymakers at the Federal, State, and local levels has proven to be limited because of inadequate methods, noncomparable standards, unlike population samples, and the lack of indicators to link food consumption patterns to nutrition and health.

The methods our family physicians use to determine and guide our health status are based on the methods developed for use in the nutrition monitoring system. Therefore, the accuracy of laboratory tests used to determine nutritional status would also be improved as the monitoring system is enhanced.

Scientific methods and technology to assess nutritional and dietary status were declared costly, imprecise, and unstandardized at hearings before the Committee on Science and Technology in 1979, and little has changed more than 10 years later. For example, the Department of Agriculture will release this month data from the 1987–88 decennial nationwide food consumption survey. Concerns have been expressed about the accuracy of the data and built-in bias due to response rates as low as 33 percent. It appears these concerns will become fact, based on preliminary results of the current General Accounting Office investigation requested by our colleague GEORGE E. BROWN, JR. If this is the case, our scare resources have been wasted, and once again users of the data will be left with inadequate tools to guide policy.

This situation must be corrected, since policy decisions based on these data and data from the health and nutrition examination survey conducted by the Department of Health and Human Services could affect, either positively or negatively, the physical health of individuals and the economic health of industries. For example, the Environmental Protection Agency relies on the food frequency data of these surveys to calculate risk assessments and to determine safe levels for pesticide use and related regulations. Therefore, these assessments must be as accurate as science and technology permit.

The legislative proposal before us today is designed to correct the deficiencies while maintaining the assets of Federal nutrition monitoring efforts. This is not a new proposal, but rather a slightly modified version of the measure which was passed in the 100th Congress by a vote of 311 to 84 in the House and by unanimous consent in the Senate. The public could have benefited from this measure over the past 2 years, if President Reagan had not pocket vetoed the bill in November 1988.

The Subcommittee on Science, Research and Technology held joint hearings on the bill in September 1989 with subcommittees of the Committee on Agriculture and has worked with the Committee on Agriculture to develop H.R. 1608. Therefore, to expedite passage of the bill, the Committee on Science, Space, and Technology has agreed to not seek sequential referral of the bill through an exchange of letters which Chairman DE LA GARZA will include in the RECORD. This same procedure was followed in reverse by the Committee on Agriculture when the Committee on Science, Space, and Technology brought a similar bill to the House in the 100th Congress.

We now have a new opportunity to enhance the benefits of our investment in nutrition monitoring. The Senate passed the bill by unanimous consent on November 3, 1989. The Bush administration has indicated they will not oppose H.R. 1608, as reported by the Committee on Agriculture.

I urge my colleagues to support H.R. 1608. The bill will provide the Congress the first opportunity to assess the adequacy of Federal nutrition monitoring efforts before authorizing and appropriating funding levels we deem necessary to meet the nutritional and health data needs of Federal, State, and local policymakers, food and agriculture industries, nutrition and health research communities, and health care providers and educators.

Mr. EMERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1608, the national nutrition monitoring and related research bill. The purpose of this bill is to establish a coordinated national nutrition monitoring and related research program and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population. I am advised that the USDA has no objection to this bill, with the addition of amendments in the Committee on Agriculture to the bill concerning contracts, reports, the advisory council, and dietary guidance.

The subject of nutrition monitoring has been before the Agriculture Committee and the Congress for the past several years. Nutrition monitoring legislation, with which I have been involved, began in 1984 with H.R. 4686. That bill was defeated on the floor of the House of Representatives under suspension of the rules. In 1986, the House passed a nutrition monitoring bill, H.R. 2436; however, the Senate did not complete action on a measure and the effort died with the 99th Congress. In 1987 and 1988, nutrition monitoring legislation was again considered by the Congress. Both Houses passed a nutrition monitoring bill, which was later pocket vetoed by the President. That is where we are today.

Two bills were introduced this year in the House of Representatives—H.R. 1608 and H.R. 677. These are similar bills, both of which have as their goals the improvement and coordination of nutrition monitoring activities of the Federal Government.

This issue is one that, as I mentioned earlier, has been before the Congress over the past several years. Maintenance of a proper diet with good nutrition habits plays a vital role in our Nation's health. Additionally, knowing the patterns of food consumption assists the Federal Govern-

ment in linking food production to human nutrition and food needs. It is important that the information gathered by Federal agencies be coordinated and analyzed so that the goal of improvement in the health of Americans through good diets can be achieved.

It is my hope that we will pass a bill in this Congress to improve the nutrition monitoring system and provide more accurate and up-to-date information on the nutritional status of Americans. It must be noted that since 1977 the Federal Government has been moving toward creation of a national nutrition monitoring system.

There are two national surveys that are the basis for data concerning the nutritional status of Americans. They are the national food consumption survey—conducted by the USDA—and the health and nutrition examination survey—conducted by HHS. These are national surveys of a sample of the population that is representative of the entire population. Both are useful in that they identify the general well-being of the population and provide reference points by which other surveys of more limited scope may be evaluated.

In addition, the USDA initiated a new type of survey in 1985 entitled the continuing survey of food intakes by individuals. A nationally representative sample of women from 19 to 50 years of age, at all income levels, and their children, from ages 1 to 5, were surveyed for the dietary intake and eating habits for 12 months. A similar survey was conducted for low-income women and children. This is an important survey because it provides timely information on the adequacy of the diets of a selected group of people and an early indication of dietary change.

Such information, coupled with the work of both USDA and HHS, will serve to improve our knowledge and the programs aimed at bettering the lives of all Americans. No one can conclude that the Federal Government is not active in the area of nutrition monitoring. Nevertheless, improvements can and should be made.

Legislation to accentuate the activities of the Federal Government and to provide the American people with a clear and comprehensive program aimed at assessing the nutritional status of the population is needed.

Another important issue related to nutritional monitoring is that of dietary guidance. We must ensure that the Federal Government speaks with one voice when it disseminates information on dietary guidance to Americans. The bill before the House provides that USDA and HHS must publish the document "Dietary Guidelines For Americans" at least every 5 years. In addition, there is included a procedure whereby all dietary guidance issued by Federal agencies, in whatever format, is consistent with the approved dietary guidelines for Americans and that the Federal agencies are not out in left field when advising Americans of proper and healthful diets.

Mr. Speaker, I support the bill before the House of Representatives today and congratulate the chairman of the committee and the gentleman from California [Mr. BROWN] for their hard work.

□ 1110

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield as much time as he may consume to our distinguished colleague, the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, I thank the chairman of the committee for yielding time to me.

Mr. Speaker, I rise in support of H.R. 1608, the National Nutrition Monitoring and Related Research Act.

A nutrition monitoring system is a basic tool necessary to examine the linkages between food consumption patterns, nutritional status, and health status. An effective national nutrition monitoring system is essential to assure: The safety and quality of the food supply; the nutritional needs of the public are met; and an appropriate data base exists for planning and guiding the expenditure of public funds for agriculture, nutrition and health research and intervention programs and policies. The purpose of the measure before us today is to ensure that our citizens receive a full measure of return from the Federal and State funds expended for nutrition monitoring activities.

The 1988 Surgeon General's Report on Nutrition and Health states that:

Diet has always had a vital influence on health. As the diseases of nutrition deficiency have diminished, they have been replaced by diseases of dietary excess and imbalance—problems that now rank among the leading causes of illness and death in the United States, touch the lives of most Americans, and generate substantial health care costs.

Thus, it is not surprising that today the American public is more concerned, than at any other time in history, about the role that nutrition and diet play in their physical and economic well-being.

A comprehensive national nutrition monitoring system will provide the data necessary to further define the relationship between diet and health and provide an early warning mechanism to identify any significant changes in the nutritional and health status of the population. Thus, the operation of an effective national nutrition monitoring system is imperative.

To achieve maximum benefit from both Federal and State expenditures for nutrition monitoring activities, these governments must coordinate their activities and share expertise and data. Each of our State health departments is charged with the responsibility of promoting and protecting the health of the public. Many States are beginning to develop nutrition monitoring and surveillance systems as a basis for establishing health care and delivery priorities, establishing baseline health status values, and for evaluating the effectiveness of State health and nutrition services and programs. Thus, ensuring that Federal nutrition monitoring activities incorporate State data needs and that technology developed at the Federal level as transferred to States will increase the effectiveness of the system and reduce expenditures.

Recent testimony before the Subcommittee on Science, Research and Technology, by the Association of State and Territorial Public Health Nutrition Directors and the Association of State and Territorial Health Officers, regarding the need for a national nutrition monitoring system stated that:

Perhaps our greatest need in the states is for technical assistance, the sharing of knowledge and expertise of those who work on these Federal projects with our staffs. Over the years, Federal agencies have become much more open and have shared vast amounts of data with us, but we need more than copies of computer tapes and printed reports. We would like assistance in interpreting and using the data. The plan required by this legislation would give a great deal of impetus to this sharing.

The Federal Government does have components of a nutrition monitoring system in place, but it is not adequately coordinated with all Federal agencies carrying out these activities or with State health agencies. The current system is far from comprehensive, and little attention has been given to developing the methods and technology which could improve the accuracy and usefulness of the resulting data. Improving biochemical methods used to assess nutritional status will not only enhance the value of the data, but the accuracy of the very tools the medical profession uses to determine our individual nutrition and health status.

The development of a coordinated and comprehensive national nutrition monitoring system is a complex task, and the scientists responsible for this task at the Federal level are to be congratulated for the improvements that have been implemented over the past several years. To allow additional improvements to move forward, a strategic plan is needed to integrate the activities of the seven or more agencies involved in nutrition monitoring and to identify budgetary resources the agencies propose to allocate to these activities.

At the present time, the resources each Federal agency either requests or expands for nutrition monitoring cannot be identified, because this activity is not documented in the budgetary request of any agency. Thus, for many years Congress has been blindly authorizing and appropriating funds for a piecemeal approach without any idea of the specific budgetary resources the seven or more agencies involved were allocating to this important national resource. As a result, Congress has had no means to review the direction of Federal nutrition monitoring activities and the funding excesses or deficiencies being allocated to these programs.

H.R. 1608 will sustain the advantages of current nutrition monitoring programs and assure the programs are upgraded through a systematic plan designed to meet the needs of the variety of users who rely on the data to accomplish their mission.

I wish to congratulate my colleagues who have worked so hard and persistently for passage of national nutrition monitoring legislation. I urge all of my colleagues to support H.R. 1608.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague from North Carolina for his statement.

Before yielding back the balance of my time, let me thank our distinguished colleague from Missouri, Mr. EMERSON, who is a dedicated Member in all aspects of our legislative work, but he is one of our experts in nutrition, nutrition monitoring, feeding the hungry of the world and within our country, and my special thanks to him.

Mr. BOEHLERT. Mr. Speaker, now I know for sure that it's fall. Passage of this bill has become a biennial fall rite. I hope that this can be the last year we need to go through this exercise.

H.R. 1608 is a modest bill that seeks nothing more than to ensure that the Government has a coherent system of nutrition monitoring. This is a step that should have been taken long ago—especially when one considers the enormous public appetite for nutrition information and the health claims for food that are purveyed to the public from all sides.

While the coordination between the agencies in charge of nutrition monitoring has improved in recent years, H.R. 1608 is still a necessary prod to adequate cooperation, consultation and planning.

A very similar bill to H.R. 1608 was passed at the end of the last Congress—our traditional time—but was pocket vetoed by President Reagan. The veto message indicated that no one in the White House had bothered to pay much attention to the bill; the President's complaints did not seem to relate to the bill's actual provisions.

This time around we paid attention to what legitimate concerns the administration did have—small matters, mostly—and my understanding is that President Bush will sign the measure.

The current nutrition monitoring system can devolve to easily into arguments like the one made famous in an old New Yorker cartoon in which a mother says, "Eat your broccoli, dear" and her young responds, "I say it's spinach, and I say the hell with it."

H.R. 1608 is long overdue. I urge its passage.

Mr. WALGREN. Mr. Speaker, I rise in support of H.R. 1608, the National Nutrition Monitoring and Related Research Act.

The Committee on Science, Space, and Technology and the Committee on Agriculture, in concurrence with the Committee on Energy and Commerce, have brought national nutrition monitoring legislation to the House for consideration during the past several Congresses. In the 100th Congress, the House passed legislation similar to that before us today by a vote of 311 to 84. The Senate passed the bill by unanimous consent. A public law to enhance national nutrition monitoring and related research could be in place today, if President Reagan had not pocket vetoed the bill in November 1988.

Over 20 years ago, the White House Conference on Food, Nutrition and Health called for improvements in the Nation's nutrition monitoring system. Since that time numerous reports of scientific and public health organizations, as well as advisory groups to the executive branch, have identified the need for enhancing the existing system and have developed recommendations for increasing the value of the system and the effectiveness of the Federal resources expended.

For example: In July 1986 the first report on Nutrition Monitoring in the United States, prepared by the DHHS-USDA Joint Nutrition Monitoring Evaluation Committee recommended that changes be made to:

Improve information exchange between data users and gatherers; increase use of data collected under the national nutrition monitoring system; improve methods and techniques for gathering information for assessing nutritional status; and increase resources for the national nutrition monitoring system.

The July 1988 Surgeon General's Report on Nutrition and Health stated:

Impressive evidence already links nutrition to chronic disease. However, much more information is needed to continue to identify changes in the national diet that will lead to better health for the Nation. Gaps in our knowledge of nutrition suggest further research and surveillance needs.

The March 1989 report of the National Research Council/National Academy of Sciences entitled, "Diet and Health: Implications for Reducing Chronic Disease Risk," recommended:

Improvement of the methodology for collecting and assessing data on the exposure of humans to foods and dietary constituents that may alter the risk of chronic diseases.

In April 1989, the Human Nutrition Board of Scientific Counselors, a USDA advisory board, adopted several resolutions relating to nutrition monitoring which urged the Secretary of Agriculture to support legislation to establish a plan for a national nutrition monitoring system, provide a mechanism for interdepartmental coordination of the various parts of such a system, and provide for cooperation between Federal and State systems.

In September 1989, DHHS and USDA released the second report on Nutrition Monitoring in the United States before joint hearings of the Subcommittee on Science, Research and Technology, which I chaired, and subcommittees of the Committee on Agriculture. The recommendations were very similar to those of the first report in 1986 and concluded that:

It is appropriate now to begin efforts to determine the most useful form of the (National Nutrition Monitoring System) NNMS in the future.

The report also notes that:

In addition, both the USDA and DHHS have developed plans for survey activities, to a large extent, through 1995; thus, recommendations offered now may not be implemented for some time.

This statement exemplifies the history of national nutrition monitoring—recommendations are out of phase with plans or are not included; and implementation and operational plan after plan are developed, but the ultimate goals are seldom achieved.

Witnesses at hearings of the Subcommittee on Science, Research and Technology, held almost every year since 1977, have stressed the importance of the need to improve dietary and nutritional status methods not only to improve the accuracy and value of the assessment to the health of the public, but to improve the costeffectiveness of both Federal and State expenditures.

I was dismayed to learn at our hearing last year that the administration's newest report addressed neither the adequacy of current methods nor specific recommendations for research to enhance nutritional status methods prior to forthcoming assessments already being planned. Administration witnesses conceded, however, that methods research was the most importnt element which could improve the value and usefulness of nutrition monitoring efforts and ensure that our investments produce the best possible data. Yet, the report did not focus on this critical aspect of nutrition monitoring.

Both the Reagan and Bush administration testified that much of the progress made in the nutrition monitoring system over the past 8 years was motivated by the threat of a public law such as the one we are considering today. However, that progress was made in a piece-meal fashion. A comprehensive system to meet the nutritional and health data needs of the 21st century and to ensure that public funds are not wasted on obsolete and ineffective systems is long overdue.

Before further patchwork plans are funded, the Congress and the executive branch must assure a plan is in place that will meet today's needs, and use today's technology and scientific knowledge. These essential elements were the objective of the legislation passed by the 100th Congress which was pocket vetoed by President Reagan in November 1988 and are the purpose of the proposed legislation before us today.

I am pleased to learn the Bush administration does not oppose this measure. I urge my colleagues to join our colleagues in the

Senate and support H.R. 1608 so the bill may be signed into law before the close of the 101st Congress.

Mr. BROWN of California. Mr. Speaker, I rise in support of H.R. 1608, the National Nutritional Monitoring and Related Research Act of 1990. This bill, cosponsored by 50 Members, is virtually identical to S. 257, which passed the Senate last year. H.R. 1608 has several minor amendments which we have incorporated to address the concerns of the administration. I would like to thank those in the administration who helped us perfect the bill this year, in particular I appreciate the assistance of Catherine Bertini, Assistant Secretary of USDA's Food and Nutrition Service. I would also like to thank the members of both the Agriculture and Science and Technology Committees for the efforts they have put into this bill over the past few years. This bill reflects the efforts of members on both committees; in fact, it goes back at least 10 years when we first identified the need to coordinate nutrition monitoring and research activities at the various Federal agencies.

As I've mentioned, this bill has a long history which I will not go into for the sake of time. Let me just say that after many years of refining this bill, we now have legislation that all interested parties have agreed upon. Nutrition groups such as the American Dietetics Association and the American Heart Association support this bill, alongside mainstream agricultural groups like the National Cattlemen's Association. Both the Committees on Agriculture and Science and Technology have perfected and approved versions of this bill. The Committee on Energy and Commerce has also lent the bill their support. Most importantly, those in the agencies who will carry out the provisions in this bill, principally the Departments of Agriculture and Health and Human Services, recognize that this legislation will strengthen and improve nutrition monitoring in this country and are not opposing its enactment.

For those of you who do not know what we mean by "nutrition monitoring," this term refers to all the Federal services which give us information on the diet and the nutritional status of Americans. There are two sides to nutrition monitoring: what we consume—the area where USDA is the expert, and how nutritious and healthy we are—the area where HHS is the expert. One side of this picture without the other is not very useful. That is precisely why we have worked so hard on this bill. For years, researchers have struggled to use disconnected information from various Federal agencies in an effort to get a complete picture of nutritional status in this country. This information is essential to the development of sound food, nutrition, and health policies at all levels of government. While the agencies involved have made great strides in the coordination of nutrition monitoring activities, there is still need for improvement, as has been identified through numerous committee hearings and in an ongoing GAO study which I requested earlier this year.

Again, for the sake of brevity, let me summarize how this bill will improve national nutrition monitoring. H.R. 1608 requires the leading agencies—USDA and HHS—to put together a coordinated nutrition monitoring program and to include specific activities in a comprehensive plan to achieve the goals of the program. Elements of the coordinated nutrition monitoring program include: a competitive grants program to develop uniform and cost-effective methods of measuring nutritional status, assistance to State and local governments to enhance nutrition monitoring capabilities, an interagency budget so that we in Congress know how much we're spending on the various nutrition monitoring activities across the agencies, coordination of publications and other nutrition information from the agencies, and regular reports on the nutritional status of the people of the United States and trends of food consumed in this country. The bill also establishes an advisory board to provide scientific advice on the development and implementation of the national nutrition monitoring system, and to serve as a link to the researchers and policy makers who use nutrition monitoring information. This advisory council will consist of experts from the private sector, academia, agriculture, and public interest organizations, among others. Finally, this bill will facilitate the publishing of nutrition information in this country by setting out specific procedures for the agencies to follow in reviewing nutrition information from sister agencies.

The links between nutrition and health have grown clearly evident in the past decade, and now more than ever we need to make the most of our resources by establishing an effective, interagency national nutrition monitoring system. Coordination of nutrition information and support for nutrition monitoring activities are what this bill provides. Let me just reiterate, that after years of refining this bill, we're all in agreement—the committees of jurisdiction, the nutrition and food and agriculture groups, and the agencies. Therefore, I urge my colleagues to support this bill.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 1608, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

OLDER WORKERS BENEFIT PROTECTION ACT

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1511) to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

The Clerk read as follows:

S. 1511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Older Workers Benefit Protection Act".

TITLE I—OLDER WORKERS BENEFIT PROTECTION

SEC. 101. FINDING.

The Congress finds that, as a result of the decision of the Supreme Court in Public Employees Retirement System of Ohio v. Betts, 109 S.Ct. 256 (1989), legislative action is necessary to restore the original congressional intent in passing and amending the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), which was to prohibit discrimination against older workers in all employee benefits except when age-based reductions in employee benefit plans are justified by significant cost considerations.

SEC. 102. DEFINITION.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end the following new subsection:

"(l) The term 'compensation, terms, conditions, or privileges of employment' encompasses all employee benefits, including such benefits provided pursuant to a bona fide employee benefit plan.".

SEC. 103. LAWFUL EMPLOYMENT PRACTICES.

Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended—

(1) in subsection (f), by striking paragraph (2) and inserting the following new paragraph:

"(2) to take any action otherwise prohibited under subsection (a), (b), (c), or (e) of this section—

"(A) to observe the terms of a bona fide seniority system that is not intended to evade the purposes of this Act, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by section 12(a) because of the age of such individual; or

"(B) to observe the terms of a bona fide employee benefit plan—

"(i) where, for each benefit or benefit package, the actual amount of payment made or cost incurred on behalf of an older worker is no less than that made or incurred on behalf of a younger worker, as permissible under section 1625.10, title 29, Code of Federal Regulations (as in effect on June 22, 1989); or

"(ii) that is a voluntary early retirement incentive plan consistent with the relevant purpose or purposes of this Act.

Notwithstanding clause (i) or (ii) of subparagraph (B), no such employee benefit plan or voluntary early retirement incentive plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12(a), because of the age of such individual. An employer, employment agency, or labor organization acting under subparagraph (A), or under clause (i) or (ii) of subparagraph (B), shall have the burden of proving that such actions are lawful in any

civil enforcement proceeding brought under this Act; or";

(2) by redesignating the second subsection (i) as subsection (j); and

(3) by adding at the end the following new subsections:

"(k) A seniority system or employee benefit plan shall comply with this Act regardless of the date of adoption of such system or plan.

"(l) Notwithstanding clause (i) or (ii) of subsection (f)(2)(B)—

"(1) It shall not be a violation of subsection (a), (b), (c), or (e) solely because—

"(A) an employee pension benefit plan (as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2))) provides for the attainment of a minimum age as a condition of eligibility for normal or early retirement benefits; or

"(B) a defined benefit plan (as defined in section 3(35) of such Act) provides for—

"(i) payments that constitute the subsidized portion of an early retirement benefit; or

"(ii) social security supplements for plan participants that commence before the age and terminate at the age (specified by the plan) when participants are eligible to receive reduced or unreduced old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.), and that do not exceed such old-age insurance benefits.

"(2)(A) It shall not be a violation of subsection (a), (b), (c), or (e) solely because following a contingent event unrelated to age—

"(i) the value of any retiree health benefits received by an individual eligible for an immediate pension; and

"(ii) the value of any additional pension benefits that are made available solely as a result of the contingent event unrelated to age and following which the individual is eligible for not less than an immediate and unreduced pension,

are deducted from severance pay made available as a result of the contingent event unrelated to age.

"(B) For an individual who receives immediate pension benefits that are actuarially reduced under subparagraph (A)(i), the amount of the deduction available pursuant to subparagraph (A)(i) shall be reduced by the same percentage as the reduction in the pension benefits.

"(C) For purposes of this paragraph, severance pay shall include that portion of supplemental unemployment compensation benefits (as described in section 501(c)(17) of the Internal Revenue Code of 1986) that—

"(i) constitutes additional benefits of up to 52 weeks;

"(ii) has the primary purpose and effect of continuing benefits until an individual becomes eligible for an immediate and unreduced pension; and

"(iii) is discontinued once the individual becomes eligible for an immediate and unreduced pension.

"(D) For purposes of this paragraph, the term 'retiree health benefits' means benefits provided pursuant to a group health plan covering retirees, for which (determined as of the contingent event unrelated to age)—

"(i) the package of benefits provided by the employer for the retirees who are below age 65 is at least comparable to benefits provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

"(ii) the package of benefits provided by the employer for the retirees who are age 65 and above is at least comparable to that offered under a plan that provides a benefit package with one-fourth the value of benefits provided under title XVIII of such Act.

"(E)(i) If the obligation of the employer to provide retiree health benefits is of limited duration, the value for each individual shall be calculated at a rate of $3,000 per year for benefit years before age 65, and $750 per year for benefit years beginning at age 65 and above.

"(ii) If the obligation of the employer to provide retiree health benefits is of unlimited duration, the value for each individual shall be calculated at a rate of $48,000 for individuals below age 65, and $24,000 for individuals age 65 and above.

"(iii) The values described in clauses (i) and (ii) shall be calculated based on the age of the individual as of the date of the contingent event unrelated to age. The values are effective on the date of enactment of this subsection, and shall be adjusted on an annual basis, with respect to a contingent event that occurs subsequent to the first year after the date of enactment of this subsection, based on the medical component of the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(iv) If an individual is required to pay a premium for retiree health benefits, the value calculated pursuant to this subparagraph shall be reduced by whatever percentage of the overall premium the individual is required to pay.

"(F) If an employer that has implemented a deduction pursuant to subparagraph (A) fails to fulfill the obligation described in subparagraph (E), any aggrieved individual may bring an action for specific performance of the obligation described in subparagraph (E). The relief shall be in addition to any other remedies provided under Federal or State law.

"(3) It shall not be a violation of subsection (a), (b), (c), or (e) solely because an employer provides a bona fide employee benefit plan or plans under which long-term disability benefits received by an individual are reduced by any pension benefits (other than those attributable to employee contributions)—

"(A) paid to the individual that the individual voluntarily elects to receive; or

"(B) for which an individual who has attained the later of age 62 or normal retirement age is eligible.".

SEC. 104. RULES AND REGULATIONS.

Notwithstanding section 9 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 628), the Equal Employment Opportunity Commission may issue such rules and regulations as the Commission may consider necessary or appropriate for carrying out this title, and the amendments made by this title, only after consultation with the Secretary of the Treasury and the Secretary of Labor.

SEC. 105. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, this title and the amendments made by this title shall apply only to—

(1) any employee benefit established or modified on or after the date of enactment of this Act; and

(2) other conduct occurring more than 180 days after the date of enactment of this Act.

(b) COLLECTIVELY BARGAINED AGREEMENTS.—With respect to any employee benefits provided in accordance with a collective bargaining agreement—

(1) that is in effect as of the date of enactment of this Act;

(2) that terminates after such date of enactment;

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)); and

(4) that contains any provision that would be superseded (in whole or part) by this title and the amendments made by this title, but for the operation of this section,

this title and the amendments made by this title shall not apply until the termination of such collective bargaining agreement or June 1, 1992, whichever occurs first.

(c) STATES AND POLITICAL SUBDIVISIONS.—

(1) IN GENERAL.—With respect to any employee benefits provided by an employer—

(A) that is a State or political subdivision of a State or any agency or instrumentality of a State or political subdivision of a State; and

(B) that maintained an employee benefit plan at any time between June 23, 1989, and the date of enactment of this Act that would be superseded (in whole or part) by this title and the amendments made by this title but for the operation of this subsection, and which plan may be modified only through a change in applicable State or local law,

this title and the amendments made by this title shall not apply until the date that is 2 years after the date of enactment of this Act.

(2) ELECTION OF DISABILITY COVERAGE FOR EMPLOYEES HIRED PRIOR TO EFFECTIVE DATE.—

(A) IN GENERAL.—An employer that maintains a plan described in paragraph (1)(B) may, with regard to disability benefits provided pursuant to such a plan—

(i) following reasonable notice to all employees, implement new disability benefits that satisfy the requirements of the Age Discrimination in Employment Act of 1967 (as amended by this title); and

(ii) then offer to each employee covered by a plan described in paragraph (1)(B) the option to elect such new disability benefits in lieu of the existing disability benefits, if—

(I) the offer is made and reasonable notice provided no later than the date that is 2 years after the date of enactment of this Act; and

(II) the employee is given up to 180 days after the offer in which to make the election.

(B) PREVIOUS DISABILITY BENEFITS.—If the employee does not elect to be covered by the new disability benefits, the employer may continue to cover the employee under the previous disability benefits even though such previous benefits do not otherwise satisfy the requirements of the Age Discrimination in Employment Act of 1967 (as amended by this title).

(C) ABROGATION OF RIGHT TO RECEIVE BENEFITS.—An election of coverage under the new disability benefits shall abrogate any right the electing employee may have had to receive existing disability benefits. The employee shall maintain any years of service accumulated for purposes of determining eligibility for the new benefits.

(3) STATE ASSISTANCE.—The Equal Employment Opportunity Commission, the Secretary of Labor, and the Secretary of the Treasury shall, on request, provide to States assistance in identifying and securing inde-

pendent technical advice to assist in complying with this subsection.

(4) DEFINITIONS.—For purposes of this subsection:

(A) EMPLOYER AND STATE.—The terms "employer" and "State" shall have the respective meanings provided such terms under subsections (b) and (i) of section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630).

(B) DISABILITY BENEFITS.—The term 'disability benefits' means any program for employees of a State or political subdivision of a State that provides long-term disability benefits, whether on an insured basis in a separate employee benefit plan or as part of an employee pension benefit plan.

(C) REASONABLE NOTICE.—The term "reasonable notice" means, with respect to notice of new disability benefits described in paragraph (2)(A) that is given to each employee, notice that—

(i) is sufficiently accurate and comprehensive to appraise the employee of the terms and conditions of the disability benefits, including whether the employee is immediately eligible for such benefits; and

(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

(d) DISCRIMINATION IN EMPLOYEE PENSION BENEFIT PLANS.—Nothing in this title, or the amendments made by this title, shall be construed as limiting the prohibitions against discrimination that are set forth in section 4(j) of the Age Discrimination in Employment Act of 1967 (as redesignated by section 103(2) of this Act).

(e) CONTINUED BENEFIT PAYMENTS.—Notwithstanding any other provision of this section, on and after the effective date of this title and the amendments made by this title (as determined in accordance with subsections (a), (b), and (c)), this title and the amendments made by this title shall not apply to a series of benefit payments made to an individual or the individual's representative that began prior to the effective date and that continue after the effective date pursuant to an arrangement that was in effect on the effective date, except that no substantial modification to such arrangement may be made after the date of enactment of this Act if the intent of the modification is to evade the purposes of this Act.

TITLE II—WAIVER OF RIGHTS OR CLAIMS

SEC. 201. WAIVER OF RIGHTS OR CLAIMS.

Section 7 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626) is amended by adding at the end the following new subsection:

"(f)(1) An individual may not waive any right or claim under this Act unless the waiver is knowing and voluntary. Except as provided in paragraph (2), a waiver may not be considered knowing and voluntary unless at a minimum—

"(A) the waiver is part of an agreement between the individual and the employer that is written in a manner calculated to be understood by such individual, or by the average individual eligible to participate;

"(B) the waiver specifically refers to rights or claims arising under this Act;

"(C) the individual does not waive rights or claims that may arise after the date the waiver is executed;

"(D) the individual waives rights or claims only in exchange for consideration in addition to anything of value to which the individual already is entitled;

"(E) the individual is advised in writing to consult with an attorney prior to executing the agreement;

"(F)(i) the individual is given a period of at least 21 days within which to consider the agreement; or

"(ii) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the individual is given a period of at least 45 days within which to consider the agreement;

"(G) the agreement provides that for a period of at least 7 days following the execution of such agreement, the individual may revoke the agreement, and the agreement shall not become effective or enforceable until the revocation period has expired;

"(H) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the employer (at the commencement of the period specified in subparagraph (F)) informs the individual in writing in a manner calculated to be understood by the average individual eligible to participate, as to—

"(i) any class, unit, or group of individuals covered by such program, any eligibility factors for such program, and any time limits applicable to such program; and

"(ii) the job titles and ages of all individuals eligible or selected for the program, and the ages of all individuals in the same job classification or organizational unit who are not eligible or selected for the program.

"(2) A waiver in settlement of a charge filed with the Equal Employment Opportunity Commission, or an action filed in court by the individual or the individual's representative, alleging age discrimination of a kind prohibited under section 4 or 15 may not be considered knowing and voluntary unless at a minimum—

"(A) subparagraphs (A) through (E) of paragraph (1) have been met; and

"(B) the individual is given a reasonable period of time within which to consider the settlement agreement.

"(3) In any dispute that may arise over whether any of the requirements, conditions, and circumstances set forth in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H) of paragraph (1), or subparagraph (A) or (B) of paragraph (2), have been met, the party asserting the validity of a waiver shall have the burden of proving in a court of competent jurisdiction that a waiver was knowing and voluntary pursuant to paragraph (1) or (2).

"(4) No waiver agreement may affect the Commission's rights and responsibilities to enforce this Act. No waiver may be used to justify interfering with the protected right of an employee to file a charge or participate in an investigation or proceeding conducted by the Commission.".

SEC. 202. EFFECTIVE DATE.

(a) IN GENERAL.—The amendment made by section 201 shall not apply with respect to waivers that occur before the date of enactment of this Act.

(b) RULE ON WAIVERS.—Effective on the date of enactment of this Act, the rule on waivers issued by the Equal Employment Opportunity Commission and contained in section 1627.16(c) of title 29, Code of Federal Regulations, shall have no force and effect.

TITLE III—SEVERABILITY

SEC. 301. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.[H02OC0-V2]{H8616}thereby.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we will consider S. 1511, the Older Workers Benefit Protection Act of 1990, a bill that restores important civil rights protections that were abruptly taken away from older workers last year by the Supreme Court in Public Employees Retirement System of Ohio versus Betts.

I want to express my sincere thanks to the ranking Republican member of the Committee on Education and Labor, Mr. GOODLING, and the other Republican members of the committee, for their cooperation. Protection of older workers' rights is obviously not a partisan issue and we are delighted that we were able to resolve our differences and bring this bill before the House today with bipartisan support. This bill is clearly a compromise and, like all compromises, neither side is entirely comfortable with the result. But we do greatly appreciate the support of the gentleman from Pennsylvania.

For more than 20 years, the Age Discrimination in Employment Act [ADEA] has prohibited employers from discriminating against older workers in compensation, a term that includes both pay and employee benefits. Yet the Supreme Court unexpectedly and wrongly concluded that Congress did not intend to include employee benefits when it prohibited age discrimination in compensation. In addition, the Court invalidated regulations that had been promulgated and enforced by six Presidential administrations—Republicans and Democratic alike. In reaching its decision in Betts, the court also repudiated virtually every Federal court that had considered the issue.

Immediately after Betts was decided, the distinguished chairman of the Special Committee on Aging, Chairman ROYBAL, introduced legislation, H.R. 3200, to reverse Betts. I am proud to be an original cosponsor of that bill with Chairman HAWKINS, Mr. MARTINEZ, and Mr. BILBRAY. We are joined

by over 100 other Members of the House. An identical bill, S. 1511, was introduced in the Senate. Our original bill would merely have reinstated the law to what it was prior to the Betts decision and applied it to all cases that were pending when Betts was decided.

H.R. 3200, as introduced, codified the 20-year-old regulations first issued by the Department of Labor and then adopted by the Equal Employment Opportunity Commission when it assumed jurisdiction over the ADEA in 1979. These regulations contained the so-called equal benefit or equal cost rule. This rule is quite simple. Generally, an employer must provide the same benefits to all workers. But if the cost to the employer of providing a particular benefit to an older worker is greater than the cost of providing the same benefit to a younger worker, the employer is permitted to provide smaller benefits to older workers, so long as the employer spends at least the same amount of money for all workers.

At both House and Senate hearings, the bill was endorsed by the Equal Employment Opportunity Commission, with one caveat: we were asked to clarify that voluntary early retirement incentive plans did not necessarily have to meet the "equal benefit or equal cost" rule, but rather that they should be lawful as long as they furthered the purposes of the ADEA. We agreed to their request.

As the process continued, however, we began to hear from others who were not as supportive of the introduced bill as the administration first appeared to be. Many in the business community and some unions urged us to make certain exceptions to the "equal benefit or equal cost" rule to accommodate practices that they felt were or should be lawful under the ADEA. H.R. 3200, as reported by the Committee on Education and Labor, reflects our efforts to meet their legitimate concerns.

A major controversy quickly emerged on the issue of retroactivity. Some in the business community actually tried to argue that it would be unfair to reinstate the law retroactively since, according to them, the law pre-Betts was unsettled. Some opponents of the bill had the audacity to claim that the regulations—first issued by the Department of Labor in 1969 and later adopted by the EEOC—that had been in existence for 20 years and had been consistently upheld by the courts were not, in fact, an accurate statement of the law. These few companies, many of whom had been successfully sued in the past by their own employees for violating the ADEA, have been trying for months, both on their own and within employer trade associations, to stir up enough confusion to keep this bill from moving forward.

In the course of our work on this issue over the past year, however, two things became very clear. First, while most private employers and State and local governments were complying with the EEOC regulations that formed the basis for pre-Betts law, a fair number of companies and States, including some rather large and vocal ones, were not. The Supreme Court provided these companies and States with an extraordinary and unexpected windfall—the opportunity to continue their blatant discrimination against older workers in employee benefits without penalty. As a result of the Supreme Court's decision, conduct that was clearly in violation of the EEOC regulations before Betts, now might not be unlawful, unless the employer was using the employee benefit plan to discriminate in some other aspect of employment, such as to retire an older worker involuntarily.

The second thing that was clear was that opponents of the bill were desparately trying to avoid dealing with the real issue: the fundamental unfairness and unlawfulness of denying older wokers an employee benefit solely on account of age. Instead, opponents sought to mischaracterize the issue, arguing that H.R. 3200 was another attempt by Congress to restrict employer flexibility to design employee benefit plans, and not a question of fundamental civil rights for older workers.

Opponents tried to argue that pensions and other benefits were already heavily regulated under the Employee Retirement Income Security Act of 1974 [ERISA] and the Internal Revenue Code [the code]. If a practice were lawful under ERISA and the code, it was not and should not be unlawful under the ADEA.

That is nonsense. The rules under ERISA and the code have an entirely different focus. They prohibit an unrelated type of discrimination: skewing the benefit plan to favor high-paid workers. That has nothing to do with age discrimination. A practice can be perfectly permissible under ERISA and the code and at the same time can be discriminatory under our civil rights laws.

For instance, an employer could design a plan that covers only its white employees. As long as this blatant race discrimination does not disproportionately favor high-paid workers, the employer may be in compliance with the code. Similarly, since the code rules prohibiting discrimination do not apply to health insurance benefits provided through insurance companies, an employer could design a health plan that excludes all female employees and not violate the code. Who would say that either of these programs are lawful or should be?

So my colleagues, don't be deceived. This is not a complicated employee benefits issue. It is a fundamental civil rights issue. We do not permit employers to pay an older worker less than a younger worker solely because of age; employers must be prohibited from providing older workers smaller benefits or no benefits solely because of their age or other proxies for age for example, pension or Medicare eligibility. Until the Supreme Court decided Betts last year, that was the law under ADEA since 1967 for private employers and since 1974 for State and local governments. The "equal benefit or equal cost" rule is not some new idea that we came up with in the last few months. It has been the law for many years, although some have clearly chosen to ignore it until now.

The Older Workers Benefit Protection Act reaffirms the original intent of Congress that employers may not discriminate against older workers in employee benefits. It also reaffirms the limited exception to that broad principle: the so-called "equal benefit or equal cost" rule.

Finally, the bill provides carefully crafted narrow and limited exceptions to the "equal benefit or equal cost" rule for certain practices that may have been unlawful under the EEOC regulations before Betts. As floor manager for S. 1511 and chairman of the Subcommittee on Labor-Management Relations which has primary jurisdiction over employee benefit plans, I have prepared an explanation of this important bill which summarizes the key issues addressed in the bill and briefly explains our concerns. I include this explanation of S. 1511 in the RECORD at this point.

EXPLANATION OF S. 1511

OVERVIEW

In general, the Older Workers Benefit Protection Act clarifies and restores one of the original purposes of the Age Discrimination in Employment Act (ADEA): the elimination of age discrimination in employee benefits. It does so by:

1. specifying that the ADEA's prohibition against age discrimination in "compensation, terms, conditions, or privileges of employment" covers employee benefits and employee benefit plans.

2. making clear that employers seeking to rebut a charge of age discrimination in employee benefits must prove (as an affirmative defense) that they have provided equal benefits to, or incurred equal costs for providing those benefits to, all workers. S. 1511 does this by codifying the regulations originally developed by the Department of Labor and adopted by the Equal Employment Opportunity Commission (EEOC) when it assumed jurisdiction over the ADEA in 1979.

3. reestablishing the principle that employers bear the burden of proving this "equal benefit or equal cost" affirmative defense.

4. clarifying that all forms of age discrimination in employee benefits are forbidden by the ADEA, regardless of whether the discriminatory provisions pre-date the Act.

More specifically, S. 1511:

1. revises section 4(f)(2) of the Act to eliminate the word "subterfuge", thus clarifying that, subject to the next three para-

graphs, the only justification for age discrimination in an employee benefit is the increased cost of prividing that particular benefit to older workers. In determining whether the "equal benefit or equal cost" rule is met, the practices that were permissible under the EEOC regulation (29 C.F.R. section 1625.10) remain permissible under the bill (e.g., 5-year age banding to aggregate costs and age-based cost-justified reductions in long-term disability and group term life insurance benefits).

2. protects certain employee benefit practices that might otherwise be challenged under the equal benefit or equal cost rule by creating additional safe harbors, beyond those previously contained in the EEOC regulations. For instance, new section 4(1) protects subsidized early retirement payments and social security "bridge" payments (payments designed to bridge the gap between early retirement and social security eligibility).

3. codifies, with limited exceptions, the strict prohibition contained in the EEOC regulations against using the value of a participant's previously earned pension benefits as a means to deny the participant any other employee benefit. The only exceptions to the prohibition involve disability benefits in certain specified circumstances and severance pay in very limited specified circumstances. These two forms of benefit packaging were not previously permitted under the EEOC regulations.

4. protects voluntary early retirement incentive plans that are consistent with the relevant purpose(s) of the ADEA. The employer has the burden of proving that such plan meets this test. The one purpose of the Act that is always relevant is the purpose of prohibiting arbitrary age discrimination in employment. The other two purposes ("to promote employment of older persons based on their ability rather than age" and "to help employers find ways of meeting problems arising from the impact of age on employment") may be relevant on a case by case basis.

In summary, no employee benefits plans or benefit practices that were lawful under the EEOC regulations that had been the basis for pre-*Betts* law would be unlawful under this bill. Some plans or practices that were either unlawful or questionable under pre-*Betts* law could be lawful for the first time under this bill, provided that these plans or practices do not result in requiring or permitting the involuntary retirement of a worker based on age.

DESCRIPTION OF MAJOR FEATURES OF THE BILL

I. Title I—Overruling Betts

Through this legislation, Congress intends to make unmistakably clear that the ADEA's purpose of eliminating arbitrary age discrimination in employment includes the elimination of age discrimination in all forms of employee benefits. It is little consolation to an older worker to be protected from discriminatory wage payments if an employer is free to discriminate based on age in the broad range of employee benefits that are included as part of an individual's compensation, benefits that often are valued between one-quarter and one-third of earned wages.

The decision of the Supreme Court in *Public Employees Retirement System of Ohio* v. *Betts*, 109 S. Ct. 2854 (1989), incorrectly sanctioned the creation of a two-tiered system of compensation under the ADEA, one in which older workers inevitably will be become targets. The bill clearly avoids this draconian result by overturning both the reasoning and the holding of the Court in *Betts*. Thus, in enacting this bill, Congress explicitly and completely rejects both the reasoning and the holding in Betts.

Congressional reaffirmation of the original "equal benefit and equal cost" principle, subject to the narrow exceptions the Congress has crafted, will ensure that productive older workers, an ever-growing segment of our labor force both in numbers and importance, are not discouraged from remaining actively employed. The elimination of mandatory retirement, the requirement of non-discriminatory pension accruals for employees working beyond normal retirement age, and recent changes in the social security system are designed to eliminate barriers, monetary and otherwise, to the continued employment of older persons.

The provisions of this bill are consistent with those overall changes in national policy and Congress intends, as it does with all remedial statutes, for any ambiguities in statutory language to be resolved in favor of protecting older workers. In addition, because many of the provisions in the bill are identical to or refinements of provisions in H.R. 3200, as reported by the Committee on Education and Labor on August 3, 1990 (H. Rept. 101-664, 101st Cong. 2d Sess.), we hereby incorporate by reference the discussions and explanations of the provisions of the bill contained in that report.

A. Codification of the "Equal Benefit or Equal Cost" Rule

The legislative history of the ADEA in 1967 reflects the awareness of Congress that a tension exists between the two major purposes of the act: promoting the employment of older workers and eradicating arbitrary age discrimination. Under other civil rights statutes, such as those involving race or sex, employers must provide the same employee benefits to all workers. In contrast, the Age Discrimination in Employment Act permits an employer either to provide equal benefits to all workers or to spend the same amount of money for a particular benefit, even though a lesser benefit for older workers might be the result. Congress recognized that the effect of requiring employers to provide all workers the same employee benefits, regardless of the type of benefit involved, might result in discouraging employers from hiring older workers because some types of benefits are simply more costly to provide for older workers.

Thus the EEOC regulations (like prior DOL regulations issued in 1969 and 1979) adopted the "equal benefit or equal cost" rule as a benchmark to assure that any differentiation between the benefits provided to older and younger workers was not the result of arbitrary age discrimination but rather was based on employer-specific, age-related cost justification. (See, *e.g.*, *EEOC* v. *City of Mt. Lebanon*, 842 F.2d 1480 (3d Cir. 1988). Under this approach, an employer that provides a particular employee benefit must generally provide the same benefit to all workers. But if the cost to that employer of providing that benefit is greater for older workers than younger workers, the employer may provide a smaller benefit to older workers, so long as the employer spends at least the same amount of money for all workers.

The bill codifies the "equal benefit or equal cost rule" as articulated in the EEOC regulation (29 CFR section 1625.10) with the enumerated exceptions described below. These exceptions were carefully crafted and should be narrowly construed, not used as the basis for creating further exceptions by analogy or otherwise. Nothing in the amendments to the ADEA contained in S. 1511 is intended to change those provisions in the regulations with respect to the type of benefits covered under section 4(f)(2) (e.g., consistent with the regulation, section 4(f)(2) as amended should not be interpreted to apply to benefits such as paid vacations and uninsured paid sick leave).

Since the ADEA covers only employees and those individuals seeking employment, nothing in the bill would apply the provisions of the ADEA to retirees. Thus, for example, it would not be a violation of the ADEA, if an employer provided an *ad hoc* cost-of-living adjustment to all current retirees above a certain age. Of course, nothing in the bill would alter the current protection under the ADEA for an employee whose retirement or health benefits are discriminatorily structured based on age at the time of retirement. Thus the "equal benefit or equal cost" rule would continue to apply to any such promise upon retirement.

B. Benefit Packaging or Integration

Prior to *Betts*, Federal courts had routinely upheld the long-standing prohibition against combining pension benefits with any other benefit (including specifically severance pay). See e.g., *EEOC* v. *Westinghouse Elec. Corp.*, 725 F.2d 211 (3rd Cir. 1983), cert. denied, 469 U.S. 820 (1984); *EEOC* v. *Borden's, Inc.*, 724 F.2d 1390 (9th Cir. 1984). Under the bill, however, employers are given flexibility to engage in a narrowly drawn form of benefit packaging that prior to *Betts* was unlawful under the EEOC regulations. An employer may not use these techniques if they have the effect of requiring or permitting the involuntary retirement of an individual because of age.

1. Severance

Under S. 1511, employers may use two specific types of benefit packaging in connection with severance. First, when a "contingent event unrelated to age" (i.e., a plan shutdown or layoff) occurs, the employer may reduce the severance benefits that would otherwise be provided to workers by the value of their retiree health benefits. Second, the value of additional pension benefits that are provided to workers solely because of the closing or layoff (so-called "shutdown sweeteners") may be offset against severance pay. In no other instance may an employer reduce or deny severance based on pension eligibility or pension receipt.

With respect to retiree health benefits, an employer may not use this exception to the pre-*Betts* rules governing benefit packaging contained in the EEOC regulation unless the retiree health benefits offered are at least as valuable as Medicare (or at least as valuable as 25% of Medicare for workers over age 65).

In order to simplify the offset calculation, S. 1511 provides specific dollar figures (based on General Accounting Office data) to calculate the retiree health benefit values (both pre-65 and post-65). Separate values also are provided distinguishing between employer promises of retiree benefits that are of limited duration or employer promises that are of lifetime duration. All values are adjusted annually based on the medical component of the Consumer Price Index.

For example, if the employer's promise of retiree health benefits is of limited duration, the employer may offset $3,000 per year up to age 65 for each year of promised benefits and $750 per year thereafter.

Assume an employee is 62 when the plan shutdown occurs and the employer is offering a severance benefit equal to $10,000. If the employer promises only to provide health benefits until the retiree is 65, the employer may only offset $9,300 (3 years × $3,000 per year) against the severance. Thus the employee would be entitled to $1,000 in severance as well as the retiree health benefit.

On the other hand, if the employer's promise of retiree health benefits is of unlimited duration, the employer may offset $48,000 for workers under age 65 and $24,000 for workers age 65 or older. Thus under the example described above, the employer may deny severance benefits to the 62-year-old since the value of retiree health benefits ($48,000) is larger than the severance payment ($10,000).

With respect to shutdown sweeteners, the bill permits the value of such sweeteners to be deducted from severance pay. For instance, suppose an employer provides that if a plant shuts down, pension-eligible employees would be eligible for an extra pension benefit of $100 a month for the next 2 years. The employer may deduct the value of the shutdown sweetener ($100 per month x 12 months x 2 years) from the employee's severance pay, provided that the employee is eligible (on the date of the shutdown) for a pension that is not reduced on account of the employee's age. No deduction is permitted for any employee who, at the time of the shutdown, will only be entitled to a pension that is reduced (either on an actuarial basis or otherwise) because the employee is younger than normal retirement age.

2. Long-term disability benefits

The only other exception to the pre-*Betts* rule governing benefit packaging found in the EEOC regulation relates to long-term disability benefits and pensions.

Under S. 1511, in two instances, long-term disability may be reduced by the amount of certain pension benefits. First, pension benefits which the employee voluntarily elects to receive could be offset. Second, if the employee is entitled to a pension that will not be reduced (either actuarially or otherwise) because of the employee's age, the value of that pension could be offset after the employee reaches the later of age 62 of normal retirement age.

Although the bill authorizes a monetary offset to long-term disability benefits for certain pension benefits, it does not authorize an employer to abrogate any rights an employee may have that are associated with disability (e.g., recall rights, continued pension accruals under section 4(j) of the ADEA), if those rights are otherwise protected under the ADEA.

The offset to long-term disability benefits (like the severance offset described above) may not be made if it requires or permits involuntary retirement. For example, in some cases, the offset may not have the effect of requiring involuntary retirement. An individual with an independent source of income and no immediate short-term income needs may receive a reduced long-term disability benefit and decide not to draw the pension benefit to which he or she may be entitled for several years, thus retaining the option to return to work and/or continuing pension accruals. On the other hand, to reduce the long-term disability benefit of an individual with critical short-term income needs and no other source of income except his or her pension may result in constructively forcing that individual to retire in order to meet those financial needs. Such involuntary retirement would be prohibited under these amendments, as it would be under the *Betts* decision itself.

C. Voluntary Early Retirement Incentive Plans

S. 1511 permits early retirement incentive plans that are both truly voluntary and consistent with the relevant purpose or purposes of the ADEA. In addition, a safe harbor is provided for two prominent types of early retirement programs: subsidized early retirement and social security "bridge" payments (see H. Rept. 101-664, 101st Cong. 2nd Sess. 37 for a description of these programs). As with all affirmative defenses, the employer has the burden of proving that any early retirement incentive plan is consistent with the relevant purpose of purposes of the ADEA when the defense is raised by the employer to rebut a plaintiff's claim of age discrimination.

The phrase "purposes of the Act" has been used as a standard in the ADEA for over 20 years, and the common approach has been to consider only the purpose or purposes that are relevant to the issue at hand. The bill endorses that approach. An early retirement incentive plan or a feature of the plan need not be shown to be consistent with every purpose of the ADEA in order to be found lawful. The one purpose that is always relevant, however, is "to prohibit arbitrary age discrimination in employment." The other two purposes ("to promote the employment of older persons based on their ability rather than age" and "to help employers and workers find ways of meeting problems arising from the impact of age on employment") may be relevant on a case by case basis. If the plan or a feature of the plan is challenged, however, the employer must prove that the plan or feature is consistent with every purpose that is relevant.

Early retirement incentive plans that withold benefits to older workers above a specific age while continuing to make them available to younger workers may conflict with the purpose of prohibiting arbitrary age discrimination in employment. *See Karlen* v. *City Colleges of Chicago*, 837 F.2d 314 (7th Cir.), cert. denied, 486 U.S. 1044 (1988); *Cipriano* v. *Board of Education of North Tonawanda*, 785 F.2d 51 (2d Cir. 1986); *EEOC* v. *Westinghouse Elec. Corp.*, 725 F.2d 211 (34rd Cir.) cert. denied, 469 U.S. 820 (1984); *EEOC* v. *Borden's Inc.*, 724 F.2d 1390 (9th Cir. 1984). This purpose is also undermined by denying or reducing benefits to older workers based on age-related stereotypes or some other commonly recognized proxy for age (e.g., pension eligibility or receipt). In determining whether a program is consistent with the purpose of prohibiting arbitrary age discrimination in employment, non-age related cost to the employer is never an acceptable basis for providing lesser benefits for older workers (*Metz* v. *Transit Mix Inc.*, 828 F.2d 1202, 1206 (7th Cir. 1987)).

D. Burden of Proof

The Supreme Court in Betts erroneously held that section 4(f)(2) of the Act is not an affirmative defense, and therefore, the employee bears the burden of proof under the exception for employee benefit plans. The bill reverses that holding and reestablishes the principle that employers bear the burden of proving the "equal benefit or equal cost" affirmative defense and any other affirmative defenses under sections 4(f)(2) or 4(1). This is consistent with the allocation of burden of proof with respect to other affirmative defenses under the ADEA. For instance, the courts and the executive branch have uniformly held that the "bona fide occupational qualification" exception in section 4(f)(1) is an affirmative defense for which the employer bears the burden of proof. See, *e.g.*, *Heiar* v. *Crawford County*, 746 F.2d 1197-98 (7th Cir. 1984), cert. denied, 472 U.S. 1027 (1985); *Hoefelman* v. *Conservation Commission*, 718 F.2d 281, 283 (8th Cir. 1983). Accord 29 CFR 1625.6. Similarly, the EEOC and some circuit courts have concluded that the "reasonable factors other than age" exception included in section 4(f)(1) is an affirmative defense for which the employer bears the burden of proof. *See Criswell* v. *Western Airlines*, 709 F.2d 544, 552-53 (9th Cir. 1983), affirmed on other grounds, 72 U.S. 400 (1985). Accord 29 CFR 1625.7.

E. Effective Date

The changes made by the bill apply to any employee benefit established or modified on or after the date of enactment and to other conduct occurring more than 180 days after the date of enactment. In other words, existing plans would have 180 days to be brought into compliance, but any new benefit or new plan (or an modification of any existing one) is immediately subject to the changes made by the bill.

S. 1511 contains two exceptions to that general effective date:

1. collectively bargained plans

If a collective bargaining agreement is in effect as of the date of enactment and contains provisions that would be superseded by the amendments to the ADEA contained in this bill, employers and unions would have until the date the contract expires or June 1, 1992, whichever is earlier, to bring their plans into compliance with respect to employees covered under the bargaining agreement, since unilateral employer action is not possible to conform the plan to these amendments.

2. state and local government plans

If a state or local government employee benefit plan contains provisions that would be superseded by the amendments to the ADEA contained in this bill, a deferred effective date for compliance (similar to that for collectively bargained plans) is provided. State and local governments would have two years from the date of enactment to bring their plans into compliance.

Because a number of state and local governments provide disability benefits in a manner that would be superseded by the amendments made by the bill, a special rule authorizing an election by state and local employees who were hired prior to the effective date is also contained in the bill. After reasonable notice and an election period of at least 180 days, these employees could make a one-time election to retain coverage under the old plan for disability benefits or to be covered under new disability benefits that conform to the amendments made by this bill. Of course, no state or local government would be required to offer this election. If the government chose, it could simply provide disability benefits to all its employees—existing and new—under a plan that fully complies with the amendments to ADEA made by the bill.

Finally, the bill requires the EEOC and the Secretaries of Labor and the Treasury to provide assistance to state and local governments in identifying and securing independent technical advice.

II. Title II—Waivers

S. 1511 also amends the ADEA to ensure that older workers are not coerced or manipulated into waiving their rights under ADEA. The bill establishes threshold requirements for judicial consideration of ADEA waivers executed after the date of enactment. A waiver is not valid unless it is knowing and voluntary.

The bill provides certain minimal procedural requirements that must be met: the waiver must be part of a written agreement; the individual may not waive rights that arise after the waiver is executed; the wavier must be in exchange for something of value in addition to whatever the individual is already entitled to receive; the individual must be advised in writing to consult with an attorney; and the individual must have a reasonable period of time in which to consider the agreement.

In addition, if a waiver is requested from a group of employees as part of an exit incentive program, the following additional procedural requirements must be met: the employer must provide specific information about the eligibliity factors for inclusion of individuals in the progrm and the age profiles of individuals who are included in and excluded from the program.

Regardless of whether the waiver is requested as part of the settlement of an individual claim of age discrimination or as part of a group exit program, the employer may not mislead or deceive the employee(s) with regard to any information provided as to any subsequent action (e.g., layoffs).

In summary, no employee benefit plans or benefit practices that were lawful under the EEOC regulations that formed the basis for pre-Betts law would be unlawful as a result of the passage of this bill. Some employee benefit plans or benefit practices that were unlawful or questionable before Betts could be lawful for the first time, provided that these practices do not require or permit the involuntary retirement of a worker based on age.

Today we are asking members of the House to accept the bill as it passed the Senate. We are also adopting the statement of managers on the part of the Senate. I include the Senate statment in the RECORD at this point.

S. 1511 FINAL SUBSTITUTE: STATEMENT OF MANAGERS

VOLUNTARINESS

1. The managers wish to make clear that it is the plaintiff's burden under the ADEA to demonstrate that his or her retirement was involuntary. Such a claim would be raised under section 4(a). Under the ADEA, an employer does *not* have to prove that an early retirement incentive plan is voluntary. Of course, no employee benefit plan—including an early retirement incentive plan—may require or permit the involuntary retirement of any individual.

2. The fifth sentence of the second full paragraph on page 27 of the Senate Committee Report is expressly disavowed. [This corresponds to the last sentence on page 43 of H. Rept. 101-664]

3. Because, by definition, early retirement incentive plans are made available exclusively to older workers, relevant circumstances must be carefully examined to ensure that older workers make a voluntary decision. In order to determine whether a voluntary decision has been made, among the factors that may be relevant are (1) whether the employee had sufficient time to consider his or her options; (2) whether accurate and complete information has been provided regarding the benefits available under the early retirement incentive plan; and (3) whether there have been threats, intimidation and/or coercion. The employee retains the burden of proof regarding the issue of involuntariness.

4. Some observers have construed language in the Committee Report to mean that an early retirement incentive offer that was very generous, in other words, almost too good to refuse, might also be challenged on the basis of voluntariness. Nothing in these amendments should be construed to give rise to any challenge to an early retirement incentive plan on the basis that the attractiveness of the offer induces employees to retire. The attractiveness of an early retirement incentive does not call into question the voluntariness of an employee's decision to take advantage of that incentive.

EARLY RETIREMENT INCENTIVE PLANS

1. At the outset, we wish to explain the meaning of the provision requiring that certain early retirement incentive plans must be "consistent with the relevant purpose or purposes of the Act." This standard does not apply to early retirement incentive plans described in paragraph 4(l)(1). It also does not apply to such plans unless a prima facie case of age discrimination has been established under section 4(a).

Under new paragraph 4(f)(2)(B), an early retirement incentive plan must be consistent with the relevant purpose or purposes of the ADEA. The phrase "purposes of the Act" has been used as a standard in the ADEA for over 20 years, and the common approach has been to consider only the purpose or purposes that are relevant to the issue at hand. We endorse that approach. An early retirement incentive plan need not be shown to be consistent with every purpose of the ADEA in order to be found lawful. That would be an impossible burden for an employer to meet. As a general matter, the purpose implicated in considering an early retirement incentive plan or any particular feature of such a plan is the purpose of prohibiting arbitrary age discrimination in employment.

Early retirement incentive plans that withhold benefits to older workers above a specific age while continuing to make them available to younger workers may conflict with the purpose of prohibiting arbitrary age discimination in employment. The purpose of prohibiting arbitrary age discrimination in employment also is undermined by denying or reducing benefits to older workers based on age-related stereotypes. For example, it would be unlawful under this substitute to exclude older workers from an early retirement incentive plan based on stereotypical assumptions that "older workers would be retiring anyway."

2. It is also clear that a wide variety of voluntary early retirement incentive plans would be lawful under the ADEA. For example, early retirement incentives that provide a flat dollar amount (e.g., $20,000), service-based benefits (e.g., $1,000 multiplied by the number of years of service), or a percentage of salary to all employees above a certain age were permissible before the Betts decision and would remain lawful under this substitute. Similarly, early retirement incentives that provide flat dollar increases in pension benefits (e.g., $200 per month) or percentage increases (e.g., 20%), would continue to remain lawful. Finally, early retirement incentives that impute years of service and/or age would satisfy the ADEA. For example, a plan that gives employees who have attained age 55 and who retire during a specified window period credit for 5 additional years of service and/or age would be lawful.

We recognize that employees may welcome the opportunity to participate in such programs, and we do not intend to deprive employees of such opportunities or to deny employers the flexibility to offer such programs rather than resorting to involuntary layoffs.

BURDEN OF PROOF IN SECTION 4(f)

1. Under section 4(f)(2)(A), the substitute provides that the employer bears the burden of proving that a bona fide seniority system is not intended to evade the purposes of the ADEA. The managers wish to make clear that this burden of proof does not disturb or affect the allocation of burdens of proof for seniority systems under Title VII.

2. The substitute deletes any reference to paragraphs 4(f) (1) and (3) of the Age Discrimination in Employment Act (ADEA). The Betts decision did not involve interpretation of those two paragraphs. The two paragraphs are removed because they are unchanged by Betts or by this bill.

In particular, the managers declare that they are not disturbing or in any way affecting the allocation of the burden of proof for paragraph 4(f)(1) under pre-Betts law. Prior to Betts, courts had allocated the burden of proof under paragraph 4(f)(1). This bill overturns the Supreme Court's allocation of the burden of proof under paragraph 4(f)(2). Because the allocation of the burden of proof under paragraph 4(f)(1) was not at issue in Betts, the managers find no need to address it in this bill.

ACTUARIAL PRACTICES

The substitute incorporates the equal benefit equal cost rule into section 4(f)(2). We note that in complying with this provision, the employer may base necessary cost data on generally accepted actuarial principles, such as actuarial extrapolation, smoothing and averaging, and on the use of reasonable related data—*e.g.*, as to the effects of aging on disability incidence and costs. In all circumstances, the employer must base calculations on the best reasonably available data.

STATE ELECTION PROCEDURES

The substitute allows state and local governments to offer existing employees an election between existing and newly-created disability benefits. The decision whether to have an election procedure is at the discretion of the affected state or local government. It is the managers' intent that the election provided for under section 105(c) of the bill be a one-time election to be used in the context of complying with this bill. The managers intend that once an employee either elects or does not elect to be covered by the new disability benefits under section 105(c)(2), the employee may not change his or her decision. Thus, an employee will not be permitted to opt in and out of the two plans. The flexibility that the substitute provides for state and local governments is negated if employees are given such discretion. An employer shall use an effective method of transmitting notice, such as the mailing of notice to an employee's last

known address, or the inclusion of notice in the employee's paycheck.

WAIVERS AS A DEFENSE

The managers intend that in any dispute over whether the requirements, conditions and circumstances set forth in paragraph 7(f)(1)(A)-(H) or 7(f)(2)(A)-(B) have been met, the party asserting the validity of the waiver shall have the burden of proving in a court of competent jurisdiction as an affirmative defense that the waiver process satisfied each of the factors in that paragraph. With respect to the allocation of burdens of proof and production on the issue of whether a waiver was "knowing and voluntary," the managers do not intend to disturb the law as it existed prior to passage of this bill, including the law under Rule 12 and Rule 56 of the Federal Rules of Civil Procedure.

RETIREE HEALTH

Many employer-sponsored retiree medical plans provide medical coverage for retirees only until the retiree becomes eligible for Medicare. In many of these cases, where coverage is provided to retirees only until they attain Medicare eligibility, the value of the employer-provided retiree medical benefits exceeds the value of the retiree's Medicare benefits. Other employers provide medical coverage to retirees at a relatively high level until the retirees become eligible for Medicare and at a lower level thereater. In many of these cases, the value of the medical benefits that the retiree receives before becoming eligible for Medicare exceeds the total value of the retiree's Medicare benefits and the medical benefits that the employer provides after the retirees attains Medicare eligibility. These practices are not prohibited by this substitute. Similarly, nothing in this substitute should be construed as authorizing a claim on behalf of a retiree on the basis that the actuarial value of employer-provided health benefits available to that retiree not yet eligible for Medicare is less than the actuarial value of the same benefits available to a younger retiree.

It is critical that we reverse Betts and restore the protection from age discrimination in employee benefits that the Supreme Court took away from older workers last year. I strongly prefer H.R. 3200 as the Committee on Education and Labor reported it. As this bill has evolved, we have had to make many difficult compromises and the Senate bill contains some of the more painful ones. But I have reluctantly concluded that the only way that Congress can pass a law this year is to adopt the Senate bill. Senators PRYOR, METZENBAUM, HEINZ, and JEFFORDS reached a compromise with Senator HATCH last week that resulted in the Senate passing the bill by 94 to 1.

If it were not so late in the legislative session, I would be unwilling to accept this Senate compromise. But there is not time for a conference with the Senate and time is of the essence.

Some of you have asked about the position of the administration on S. 1511. If we pass the Senate bill today, we have been informed that the President will sign it.

After all, the Bush Justice Department argued in the Supreme Court in favor of June Betts and in strong support of the EEOC regulations that we are codifying today. The Bush EEOC testified before both House and Senate committees in support of our original bills that were substantially tougher on employers than the bill before us today. The Senate bill addresses each and every concern raised in the letter last March from Roger Porter of the White House domestic policy staff.

The Senate passed S. 1511 by an overwhelming margin: 94 to 1. Today we must close the loophole opened by the Supreme Court in Betts once and for all and reaffirm the right of older workers to nondiscriminatory employee benefits.

I urge passage of S. 1511.

□ 1120

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, want to congratulate all who negotiated this legislation so that it is now coming to us in this form.

I am getting close to believing in modern miracles. When it left the committee I thought it smelled like a skunk, and now, as it returns from negotiations it almost smells like a rose, almost, as I said. So they have come a long, long way.

My greatest fear, of course, when it left committee was that a year from now we were going to have 50, 55, 60, 62-year-old workers descend upon Washington, DC, hoping that the only thing they were going to throw at us were tomatoes and eggs, because I had a feeling that it was going to be worse than catastrophic health care when they discovered that they believed we in the Congress prevented them from getting the same kind of early out that their neighbor got.

The Older Workers' Benefit Protection Act has been the focus of much discussion in the 14 months since its introduction. This is understandable given the bill's subject, the very complicated legal area of employee benefits and pensions.

While we are committed to ensuring that the rights of older Americans in the work force are protected, some of us have paused at certain of the bill's provisions which we believed were unnecessarily disruptive of existing benefit arrangements and which we felt would result in decreased benefits to workers of all ages.

One of the difficulties in providing older workers with protection against discrimination on the basis of age in the area of employee benefits is that certain benefits are structured around age-related factors. For example, one area where we felt the provisions of H.R. 3200 were particularly problematic were those which called into question the ability of employers to offer early retirement incentives. These popular incentives often use age eligibility criteria and were jeopardized by a combination of the bill's general prohibition on the use of age-based factors and the restrictions on the use of ADEA waivers.

We had similar concerns about the bill's effect on benefit packaging and ERISA features of many plans.

I would like to very quickly review the changes that were made that I think make this an acceptable piece of legislation. In the Hatch compromise, it provides that a voluntary early retirement incentive plan consistent with the relevant purpose or purposes of the act is not a violation of ADEA. It broadens the integration of disability and pension by allowing disability to be offset by pension whenever an employee voluntarily elects to receive a pension or when the employee reaches the latter of age 62 or normal retirement age. It allows severance to be offset by both retiree health benefits and pension sweeteners, that is, additional pension benefits. It provides a 6-month phase in after enactment for application to private employers and clarifies that the bill's provisions do not apply to ongoing benefits that began before the bill's effective date.

It modifies several of the burden-of-proof provisions in the bill and, particularly, clarifies that the employee has the burden of proof on the issue of whether he or she was involuntarily retired. It alters the coverage of State and local plans to provide that current employees may elect to receive either existing disability benefits or the disability benefits as modified to comply with the act and to require that EEOC and the Secretaries of Labor and the Treasury provide States with technical assistance in complying with the act.

It modified the ADEA waivers provision with respect to the burden of proof on knowing and voluntary.

With these changes, we have a bill that I think most people can support, not a perfect bill, but then we do not pass very many perfect bills out of either the House of Representatives or the Senate or out of conference.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding.

The gentleman from Missouri, the chairman of the subcommittee, alluded to the fact that the administration, in whatever way he described, has joined in the approval of this legislation. I wanted to make sure that that was the case. I have no documentation to indicate that that is so.

Mr. GOODLING. The administration has joined in saying that they would not veto the legislation.

Mr. GEKAS. I thank the gentleman.

Mr. GOODLING. Another member of the committee will tell us what they said, and I am just telling the gentleman what they will not do.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as I understand the administration's position on this specific bill, it is that the administration has no position, that is, the administration has said specifically that they do not plan to veto the bill, but they are in no way endorsing this bill either.

Mr. GOODLING. They have four concerns left in the legislation.

Mr. CLAY. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from Missouri.

Mr. CLAY. Mr. Speaker, I think what I said was that we had made many changes in this bill to accommodate the concerns of business, of labor and the administration.

Mr. GEKAS. So we are not in a place where we can say that it is completely settled, but at least the committee has done its work is what the gentleman is saying.

Mr. GOODLING. The administration will not have a signing ceremony where they will invite the gentleman and a band, et cetera, and so forth, because they are in love with the legislation.

Mr. GEKAS. That will not be the first time that I have not been invited.

I thank the gentleman.

Mr. GOODLING. Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Speaker, I rise to support Mr. CLAY and Chairman HAWKINS on this legislation to reverse the Betts Supreme Court case, which overturned 20 years of age antidiscrimination laws.

I support the passage of this bill only because it is necessary to clarify that the Age Discrimination in Employment Act does not allow the calculation of employee benefits to discriminate against older workers. But I have some very strong reservations about what we have done to the current ADEA law in order to get this bill through.

In my opinion, H.R. 3200 has violated a sacred principle that we have held for over 20 years, validated by amendments passed in 1987, that, with the exception of pension benefits, which are accrued on the basis of age, age should never be the basis of calculating the amount of benefits one employee receives over another. But in this bill, in order to settle political interests we had to carve out numerous exceptions to this rule, exceptions in areas that previous law governed and prohibited.

However, in the end, it comes down to protecting the interests of older workers. The question for us to resolve is whether the older worker community would be hurt more by us not passing a bill to limit and clarify the benefit discrimination in the workplace or by passing this bill which will dilute concrete laws and precedence in this area.

I have one further concern over the time of coverage of this legislation. All previous discriminatory conduct in benefit settings are immunized. This means that pending lawsuits—the EEOC has at least 130 cases—filed under the previous laws and guidelines, and in place before the Betts Supreme Court decision, are absolved by the newer discrimination standards of this bill. We say to those victims, sorry, but we changed the rules, your case is no longer viable under these newer standards of discrimination.

Mr. Speaker, I state these concerns out of a belief that older workers must be protected from discrimination and not be forced to retire by the conditions dictated against them. In the end, I have decided by a narrow balance that to protect these rights we should pass this legislation. We will be signaling that the Supreme Court was dead wrong in its conclusion of law in that case. What I am not certain is if we have in this bill extended or retreated from the protection of older workers' rights.

I urge my colleagues to vote this bill out of this Congress.

□ 1130

Mr. GOODLING. Mr. Speaker, I yield 4 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA], a member of the subcommittee, who has worked on these issues long and hard for many years.

Mrs. ROUKEMA. Mr. Speaker, I rise in support of the compromise embodied in S. 1511, the Older Workers Benefit Protection Act.

Because this compromise represents a very significant improvement over the original bill, I believe this legislation now provides reasonably clear guidance to employers as to what constitutes age discrimination in employee benefits, while preserving some customary benefit practices that are desirable to older workers and younger workers facing involuntary termination.

By no means is this a perfect bill. However, based upon the earlier versions of legislation intended to overturn the Supreme Court's decision in Public Employee Retirement System of Ohio versus Betts, this compromise is perhaps as much as we could hope to achieve in attempting to bring fairness and uniformity to the very complex undertaking of subjecting employee benefits to scrutiny under the Age Discrimination in Employment Act.

The purpose of this legislation is to ensure that older workers do not receive less benefits than younger workers. To that end, older workers cannot receive less severance than younger workers with certain specified exceptions, in the form of offsets for retiree health benefits, and pension sweetners. In addition, the bill provides that workers who are on disability cannot be forced to receive only their pension at retirement age. Under this bill, they will receive the difference between what is typically a lower pension benefit and the higher disability benefit. The end result is that older workers will not find themselves penalized by virtue of their age and pension eligibility when it comes to receiving benefits.

When we considered the original legislation in the Education and Labor Committee, I offered amendments concerning the effects of the bill on early retirement window programs, and its retroactive application to cases dismissed prior to the enactment of the bill. I am pleased to note that these concerns have been substantially resolved by the Senate compromise before us today.

The compromise does not include earlier language that required early retirement plans to be permanent features of benefit plans. As a result, early retirement window plans, which are typically offered for a temporary window in time during downsizing or restructuring, are retained under the Senate-passed version of the legislation. Problems of retroactively have been resolved. Further, these Amendments to the Age Discrimination in Employment Act of 1967 will only apply to conduct occurring 6 months after the date of enactment.

Of particular concern to myself and my Education and Labor Committee colleagues was the effect of this bill on public benefit plans enacted by State statute, and only capable of modification by the affirmative act of State Legislatures or local bodies.

This bill will potentially cost States millions of dollars per year in conforming their disability benefit practices to new law which prohibits placing an employee who is receiving disability payments and who reaches retirement age on their pension which may be less than the disability payments. The prohibition on this practice is still in force; however, affected States have 2 years from enactment to conform their statutory plans to the requirements of this bill. Moreover, those States which have a constitu-

tional prohibition against decreasing benefits may hold an election whereby individual employees may elect to be covered under new disability benefits or to remain under the preexisting plan. This provision mitigates some of the costs to States of conforming to this legislation.

I support this compromise because it addresses many problems contained in the original bill, and because I believe that the Congress should affirmatively bring employee benefits into the orbit of laws against age discrimination. While the compromise is not perfect, it is palatable to many in the business community with whom I have spoken since the Senate passed S. 1511 on September 24. I hope my colleagues will support this bill as being a fair resolution of many business concerns and as a real effort to maintain early retirement programs enjoyed by older workers.

Mr. CLAY. Mr. Speaker, I yield such time as he may consume to the original cosponsor of the bill and the chairman of the Select Committee on Aging, the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Speaker, as Chairman of the Select Committee on Aging, I rise in support of an important piece of legislation which will preserve the fundamental civil rights of this Nation's older workers. S. 1511, the Older Workers Benefit Protection Act, will overturn the U.S. Supreme Court's decision in Public Employees Retirement System of Ohio versus Betts, and reassert Congress's original intent that the Age Discrimination in Employment Act, the landmark Federal law protecting older workers from age discrimination in the workplace, prohibits arbitrary age discrimination in the provision of employee benefits.

For more than 20 years, older workers have been protected from age discrimination not only in hiring, firing, promotions, demotions, and wages, but also in the critical area of employee benefits. However, on June 23, 1989, the Supreme Court in the Betts decision essentially eliminated the applicability of the ADEA to employee benefits. The Court's view of the ADEA was contrary to the interpretations of the two Federal agencies that have had responsibility for enforcing the ADEA, the Department of Labor, and the Equal Employment Opportunity Commission, and numerous lower Federal courts. Justice Marshall, in his vigorous dissent in Betts stated that the decision gives employers a free hand to fashion discriminatory benefit programs.

In August of last year, I introduced the Older Workers Benefit Protection Act in the House, H.R. 3200, along with Representatives HAWKINS, CLAY, and MARTINEZ. Identical legislation, S. 1511, was introduced in the Senate by Senators PRYOR, METZENBAUM, and JEFFORDS. The sole purpose of this legislation was to reverse the Betts decision, and to reassert Congress's original intent in enacting the ADEA in 1967 to protect older workers from arbitrary age discrimination in all critical aspects of the employment relationship, including employee benefits. The legislation did this by putting into law the Federal agency rule in effect for 20 years prior to the Betts decision, the equal benefit—equal cost rule, which was invalidated by the Court.

Following the introduction of this legislation, the Select Committee on Aging together with two subcommittees of the House Education and Labor Committee, the Subcommittee on Labor-Management Relations, and the Subcommittee on Employment Opportunities, held a hearing on this matter. At that hearing we heard the moving testimony of Carolyn Betts, the daughter of June Betts, the claimant in the Betts case. We heard Carolyn Betts describe how her mother, who was severely disabled with Alzheimer's disease, was denied disability benefits by her employer simply because she was over the age of 60. I would like to enter into the record at this time a letter recently sent by Carolyn Betts to the White House. We also heard testimony from the EEOC, supporting the reversal of the Betts decision, and stating that if it was not reversed, older workers would face increasing uncertainty about their future benefits.

The House Education and Labor Committee subsequently approved H.R. 3200 on April 4, 1990, amending the legislation to reduce restrictions on certain employee benefit arrangements offered by employers, and providing special transition rules for collectively bargained, and State and local plans. The committee also strengthened the protections for older workers, adding a provision to protect older workers from unknowing and involuntary waivers of their ADEA rights.

The Senate legislation before us today, S. 1511, is a compromise version of the bill originally introduced and that was reported by the Education and Labor Committee. However, I believe this is still a very important and effective bill that will go far to protect the rights of older workers. It retains the basic protections of the House bill, by overturning the Betts decision, and preserving the employment and benefit rights of older workers.

Specifically, S. 1511 makes it clear that the ADEA's prohibition against age discrimination in compensation, terms, conditions, or privileges of employment covers employee benefits and employee benefit plans. Second, S. 1511 codifies the equal benefit—equal cost rule, requiring employers who seek to rebut a charge of age discrimination in employee benefits to prove that they have provided equal benefits to, or incurred equal costs for providing those benefits to all workers. In addition, it reaffirms that employers bear the burden of proving the equal benefit—equal cost affirmative defense. The bill also makes it clear that the ADEA applies to all employee benefit plans, regardless of whether the plans were established prior to ADEA's enactment in 1967.

I would like to make several additional clarifying points about the compromise provisions of S. 1511.

The bill, for the first time, gives employers some flexibility to engage in a very limited form of benefits packaging that was unlawful prior to the Betts decision. I would like to emphasize, however, that an employer cannot use these techniques if they have the effect of requiring or permitting the involuntary retirement of an individual because of age.

With specific regard to severance, S. 1511 allows employers to use two types of benefit packaging. When a contingent event unrelated to age occurs, for example a plant shutdown or layoff, an employer may offset severance benefits by the value of retiree health benefits. In addition, the value of additional pension benefits that are provided to workers because of the closing or layoff—shutdown sweeteners—may be offset against severance pay. S. 1511 does not allow an employer to reduce or deny severance to workers based on pension eligibility or pension receipt in any other instance.

S. 1511 also allows an employer to reduce long-term disability benefits by the amount of certain pension benefits. It should be noted, however, that S. 1511 does not authorize the abrogation of any rights an employee may have that are associated with disability, if those rights are otherwise protected by the ADEA.

With regard to early retirement incentive plans, S. 1511 permits these plans if they are truly voluntary and consistent with the relevant purpose or purposes of the ADEA. If a program is challenged however, the employer has the burden of proving that an early retirement incentive plan is consistent with the relevant purpose or purposes of the ADEA. It should also be noted that early retirement incentive plans that withhold benefits to older workers above a certain age while continuing to make them available to younger workers may conflict with the ADEA's purpose of prohibiting arbitrary age discrimination in employment. Moreover, in determining whether a program is consistent with this purpose of the ADEA, non-age related cost to the employer is never an acceptable basis for providing lesser benefits for older workers.

In closing, I would like to state that while S. 1511 is clearly not as strong as my original bill, I agree with the Senate sponsors that we must we pass legislation in the 101st Congress that overturns the Betts decision, and restores the ADEA to what it was when we passed it in 1967, the landmark Federal law that protects the full employment rights of older workers. S. 1511, will do this and ensure millions of older workers continued equality in the workplace.

WASHINGTON, DC, MAY 9, 1990.

President GEORGE BUSH,
The White House,
1600 Pennsylvania Avenue, NW.,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to you on behalf of my mother, June Betts. She is unable to write to you herself since she suffers from Alzheimer's disease and is bedridden in a nursing home. My mother is the plaintiff in Public Employees Retirement System of Ohio versus Betts. This is the case in which the Supreme Court said it was permissible for employers to discriminate against older workers in employee benefits.

Until recently, your administration has been a strong and important supporter of my mother's efforts to obtain her full and fair disability benefits from the State of Ohio, after being disabled due to Alzheimer's disease. Your strong support in the Supreme Court, not only in a brief but in oral argument, supporting my mother's case, as well as in testimony before Congress, encouraged my family to continue to fight for my mother's rights after losing our case in the Supreme Court.

Now, you have abruptly abandoned your support for my mother's cause. In a letter to Representative William Goodling dated March 27, 1990, Mr. Roger Porter ignored your administration's prior support for the Older Workers' Benefit Protection Act (S. 1511/H.R. 3200) and threatened a veto of this bill. This legislation was introduced to reverse the Supreme Court's ruling in my mother's case and to insure that she, and thousands of other older workers, do not lose benefits they have already earned.

Today, my mother is unable to recognize her family or to care for herself. She suffers from the final stages of Alzheimer's disease, partial paralysis due to a stroke, and inoperable breast cancer. Before her illness my mother was the most independent and resourceful person I knew. She was committed to public service and helping other, less fortunate people. For almost 30 years, she raised her children and served sincerely and conscientiously as the wife of a parish priest. When her children left home, mother returned to school, obtained a Master's degree and in 1978, at age 54, she began a career as a speech pathologist for retarded children and adults with the Hamilton County (Ohio) Board of Mental Retardation. In 1982, my parents were divorced.

About this time, mother began exhibiting signs of what doctors at first thought was an emotional breakdown. Although her condition got worse and worse, she continued working, paying her taxes and contributing to her church and community. The rapid onset of what was finally diagnosed as Alzheimer's meant that she was demoted to lower paying jobs with less responsibility. By the time she was too ill to work, she was babysitting for retarded adults. Mother was distraught, but not beaten—after losing her job, she continued to volunteer at a camp for retarded children for a short time until that, too, became impossible for her to do.

Mother was forced to leave work because of Alzheimer's at age 61, but Ohio PERS refused her a disability benefit solely because she became disabled after age 60. Frankly, Mr. President, if my mother had given up sooner, and left work when she first became ill at age 58, she would be getting a much higher benefit. But, mother didn't want to quit work and become dependent upon anyone. As a result, my mother receives only $158 per month in early retirement benefits, rather than $350 per month in disability retirement benefits that she would receive if she had left work when she was younger and first became ill.

Ohio PERS is penalizing my mother for working as long as she was physically and mentally able to work, by denying her the benefits she has earned. But, self-sufficiency and work were important to my mother; she would never have considered leaving before she had to. This summer, mother's financial assets will be exhausted and she will become a ward of the State and a recipient of Medicaid assistance. Of all these tragedies, this last is probably the one that would most appall and embarrass her.

My mother sued Ohio PERS for age discrimination, and won in the Federal district and appellate courts. When Ohio PERS appealed to the U.S. Supreme Court, your administration not only filed a friend of the court brief on my mother's behalf, but orally argued before the court, saying that for 20 years, the Age Discrimination in Employment Act [ADEA] had prohibited the type of discrimination Ohio PERS was engaged in. After we lost before the Supreme Court, the EEOC, testifying for your administration before the U.S. Senate and House of Representatives, supported legislation introduced to reverse my mother's case and restore this long-standing interpretation of the ADEA.

Despite all this, Mr. Porter's letter stated that you might veto this legislation. My family and I were shocked and disappointed to learn of this change of heart. Mr. Porter's letter never refers to your administration's Supreme Court brief, oral argument or congressional testimony. Indeed, it directly, and without explanation, contradicts your administration's previous public statements on many of the issues pertinent to this bill.

My family and I cannot understand what has caused this abrupt change in your position. Certainly, no one is more deserving of your support than my mother, who spent her life helping others. She is not asking for a handout—she is asking only for the benefits she worked for and earned.

My mother is just one person among many. And, her problem is one that faces many women who, after one career raising their families, return to the labor force. How many millions of other midlife and older women workers will lose their benefits before employers are once again prohibited from discriminating against them?

It was to prevent what happened to my mother that the ADEA for 20 years prohibited employers from discriminating on the basis of age in employee benefits. Most employers complied with the law; unfortunately for my mother, Ohio did not.

I plead for your support on my mother's behalf, because she is powerless to plead for herself. Please once again support this bill, for the same reasons you supported it before: older workers, like June Betts, deserve to be treated fairly and honestly in all aspects of their employment and deserve the benefits they have earned.

Very truly yours,

CAROLYN A. BETTS.

Mr. GOODLING. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in opposition to this legislation.

I want to start by saying that I am under no illusion that my simple statement here today would be able to defeat this legislation. It appears that it is going to pass by the requisite two-thirds vote, but I rise because House Members need to know what this legislation does and how in many ways it is similar to the catastrophic health insurance legislation that we passed several years ago and subsequently repealed.

Now, I have listened to the speakers here today rather carefully, and in fact the best comment I have heard about this legislation came from one Member who commented that this legislation is not worse than the catastrophic of 2 years ago, but I would contend that while indeed it is not worse than the catastrophic health insurance we passed, it is still catastrophic. The legislation still hurts retirees. It still hurts those workers who are covered by pension plans, and specifically defined benefit plans and it still hurts workers who are seeking retirement and severance benefits suited to their own particular needs, but I am under no illusion about whether the legislation will pass or not. It is likely to be passed and to indeed become law.

I would note, as has been said earlier, that there is no known organized group against this legislation.

I would also note that so far as I know there is no known organized group for this legislation, with the possible exception of the AARP who also advocated the catastrophic legislation some years ago.

I would note that the Department of Labor upon reviewing this legislation is not for it. The administration is not for it. The teachers' retirement systems are not for it. Public pension plans and private pension plan administrators are not for it. Retirees are not for it. The EEOC is not for it. The employer community is not for it.

Those who start or who might start pension plans or who choose to start or to stop pension plans are not for it.

The best that we can say is that there are no organized groups who are against it, and I would suggest the reason there is no organized group against it is that there is a great fear that unless we pass something that is a little bit bad, like this is, then the Congress could come along subsequently and pass something far worse.

I would suggest, Mr. Speaker, that this in fact is a victory for lobbyist

groups inside Washington and is a defeat for the Members that they represent in the rest of America. It is a defeat for retirees and it is a defeat for workers.

As each Member thinks about how to vote, I just ask that you judge this legislation against the standard of current law. As measured against current law, this legislation makes it worse for retires who are trying to retire early. It makes it worse for current retirees. It makes it worse for workers who are trying to retain their benefits.

Let me give the House just a little bit of background. First, neither the House nor the Senate, none of the committees of the House or the Senate, have had a chance to examine this legislation. This version of the bill emerged full grown on to the Senate floor, handed to the Senate and with no debate, with some discussion in which one of the Senators acknowledged that he was not sure what all was in it, and he was one of the principal sponsors. It was passed with no hearings, no markup, no debate.

It is being considered today without any consideration by any committee of jurisdiction or any other committee in the House, and it is being considered today under a suspension of the rules, so there is no opportunity today for amendments or any kind of real debate.

Let us talk about what this legislation does at its heart. At its heart this bill, and if you get nothing else, this is what you need to remember before you vote, at its heart this bill prohibits the payment of enhanced severance pay to persons who are not eligible for retirement unless an equal amount is paid to those who are eligible for retirement.

At its heart this bill prohibits an employer from offering on an early retirement package, on a voluntary retirement, this bill at its heart prohibits an employer from offering a package of benefits to workers that they voluntarily choose to accept and which workers who are not yet eligible for retirement receive a dollar amount under what is called severance, and workers who are eligible for retirement receive a package of dollar amounts and other monetary benefits, including their retirement package.

So at its heart this bill hurts the 50-year old worker who voluntary wants to retire and who is offered, Mr. Speaker, money, dollar amounts, an enhanced retirement package to voluntarily retire.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. GOODLING. Mr. Speaker, I yield 4 additional minutes to the gentleman from Texas.

Mr. BARTLETT. So in this case both lose, the worker who wants to retire and receive enhanced severance benefits would not be able to get those benefits, so if you have a 50-year-old worker in your district who wants to retire and go to a lake cabin or start another job and take his enhanced severance package with him, this stops him or her from doing it, and if you have a retiree who wants to get an enhanced retirement package for early retirement, you can forget the enhancement, because employers are prohibited from doing it, unless they make them exactly equal and not count the retirement cost, and not be able to count that, but to require the same dollar amount of severance package.

Second, there are no offsets permitted in this bill. That means that if a retirement system, as many do, offers a dollar amount for a death benefit for a disabled worker who is on a disability benefit, if that pension plan offers a larger dollar death benefit for that 40-year-old disabled worker than they do for a 70-year-old retiree, you can kiss that death benefit goodbye, and their families therefore suffer.

Third, H.R. 3200 requires what is called global information or the totality of information about the whole company's and early retirement packages to be provided in advance to every worker, an invitation to lawsuits. Current law says that each worker gets the total package of information relevant to his or her case.

This would say the global package in some kind of anticipatory way has to be offered, an advantage only to class action plaintiffs' lawsuits.

Last, I want to note that H.R. 3200 does not apply to Congress. Oh, there was an amendment offered in the subcommittee and another one at the full committee and another one at the Rules Committee that would apply just to congressional employees and congressional retirees, but that amendment is not included in this so once again the Congress of the United States is passing a law that we impose new retirement burdens on the rest of the world, everyone except for Federal workers in this case, and specifically for congressional retirees.

Last, defined pension plans, Mr. Speaker, are declining. We have had a 50-percent reduction in the number of defined benefit plans since 1974. This will reduce it further by giving an additional reason that defined benefit plans would not be started and others would be terminated.

□ 1150

I would say to my colleagues that this is catastrophic revisited. The best that you can say about it is this is not as the catastrophic health insurance bill several years ago was, but it is still worse than current law, it still hurts retirees and it hurts workers, young and old. It has not been debated. It has not been thought about. It is not subject to amendment.

We are exempting congressional employees from the coverage of this bill and exempting it deliberately. I would suggest that if the sponsor of the bill were willing to accept an amendment at this time, I have an amendment prepared, and I would say to the sponsor of the bill, to offer that amendment to apply this to Congress, per se, as a congressional protection for our own employees. I would be prepared to offer that at this time.

I would be prepared to offer that subsequent to suspension. I would be prepared to offer that at any time the sponsor of the bill would make it in order to allow an amendment for congressional coverage to be offered.

But I would suggest that that amendment will never be allowed to be offered because the House would be forced to vote for this bill without a debate and without amendments being made in order. Mr. Speaker, I thank the gentleman for the additional time.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to the eloquent statement by the gentleman that Federal employees are not included in this bill, I might say to him—and he is carrying the water for the President of the United States—that the Senate adopted a provision covering Federal employees and the White House insisted that that be dropped. So Mr. HATCH, Senator HATCH, offered the motion to drop it, and it carried.

So Federal employees are not covered in this bill because the administration was opposed to them being covered.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Speaker, would the gentleman accept the amendment at this time?

Mr. CLAY. I think the gentleman ought to talk to the administration, the one that he is carrying the water for, and see if they would accept it, see if they—if the gentleman calls them and they accept it, yes, I will accept it. Will you call the White House, please?

Mr. Speaker, let me say to the speaker that, despite the objections of the gentleman from Texas, that the Senate passed this bill by a vote of 94 to 1—overwhelmingly, some people might say.

Let me also reemphasize that the bill restores 20-year-old civil rights protections for older workers, unexpectedly stripped away last year in the Betts decision, when the Supreme Court, contrary to the position of both Mr. Bush's and Mr. Reagan's Justice Departments, misinterpreted congres-

sional intent. That is why it is necessary for us to enact this bill today.

Over on the Senate side there was a compromise that was structured by Senator HATCH and Senator PRYOR, and that compromise was approved by a vote of 94 to 1, because it was a fair and a balanced version of the bill, and that is why I do not believe that this bill is going to be defeated here in the House today.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding time to me.

Mr. Speaker, as a cosponsor of H.R. 3200, the House version of the Older Workers' Benefits Protection Act, I rise in support of S. 1511.

Since 1967 the Age Discrimination in Employment Act has guaranteed that equal treatment in all aspects of employment would not be selectively applied on the basis of age. In 1989, the Supreme Court's Ohio versus Betts decision denied this longstanding right for older workers by voiding ADEA coverage of employee benefits.

Congress never intended that age discrimination could be practiced in some areas of employment but not others. S. 1511 makes it clear that the ADEA protects workers from age discrimination in wages, promotions, and hiring—and employee benefits. S. 1511 codifies the equal benefit—equal cost rule, an ADEA regulation which, for over 20 years, has required employers to provide all workers with equal benefits or incur equal costs in all benefit plans. Finally, S. 1511 protects older workers from unknowing waivers of their ADEA rights.

Mr. Speaker, S. 1511 is a compromise measure which carries the support of an esteemed group of Senators on both sides of the aisle. If the House approves the bill today, the President will look favorably upon it. Unfortunately, the clarification of the ADEA comes too late for June Betts, the unhappy plaintiff who contracted Alzheimer's disease at age 61 and was denied disability benefits because of her age. But for millions of older workers in the future, equality in the workplace will once again be secure with the enactment of this bill.

Mr. GOODLING. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me just close my 1-minute by saying that the administration as well as Members of the House and Senate all agreed that the Betts decision had to be addressed. While we still have some concerns about the coverage of the employee benefit plans operated by State and local governments and about the restrictions on benefit packages, we believe the version of the Older Workers Benefits Protection Act is a reasonable compromise.

Obviously, in legislation that is the product of compromise, each side has to yield on issues which they believe their position is the correct policy choice. In agreeing to a compromise in this legislation, each of us was uniform in our belief that older workers should be protected from arbitrary discrimination on the basis of age in all phases of employment, including employee benefits.

This belief was strong enough to fuel this compromise legislation which I believe offers significant protection to older workers while retaining some flexibility to employers in developing benefit arrangements.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BRENNAN. Mr. Speaker, I urge my colleagues to join me in support of S. 1511, the Older Workers Benefit Protection Act. This measure reaffirms the basic tenets of the Age Discrimination in Employment Act [ADEA] of 1967—by making clear that discrimination on the basis of age in virtually all forms of employee benefits is unlawful and will not be tolerated.

For over 20 years, the ADEA has been interpreted as prohibiting employers from arbitrarily discriminating older workers in all areas of employment, including employment benefits.

However, last year, in a decision which effectively reduced the rights of older Americans, the Supreme Court ruled to permit age discrimination in employee health benefit plans. Despite a 20 year history of settled interpretations of the ADEA by the courts and Federal agencies, the Supreme Court ruled to allow employers to establish employee benefit plans that clearly discriminate against older workers.

Surely the Congress, in passing the Age Discrimination in Employment Act, did not intend to prohibit discrimination in all but one area of employment. Yet, as interpreted by the Supreme Court, employers are prohibited from discriminating in such areas as hiring, firing, wages, and promotions—but are allowed to discriminate with regard to employee benefits.

This Congress must continue to oppose discrimination in any form. I urge my colleagues to join me in support of the Older Workers Benefit Protection Act, to ensure equity for employees of all ages.

Mr. GUNDERSON. Mr. Speaker, after months of deliberation and negotiation, we finally have an older workers benefits protection package that truly protects older workers' benefits without harming a number of other benefits they currently enjoy. I am pleased to be able to support H.R. 3200.

While I still have reservations about a number of the aspects of this legislation, I appreciate the good faith efforts that went into the compromise we are considering today. In the absence of concerted opposition from the very groups that opposed the original bill, it's safe to say we've arrived at a reasonable solution.

As mentioned, some concerns remain. Specifically, I am still concerned that this bill: unduly restricts the ability of State and local governments and private employers to integrate benefits in employee benefit plans; requires that a retiree's health plan must have a specified minimum value before an employer is permitted to offset its value from severance payments otherwise due the employee—a provision making early retirement options less likely for older workers; only allows employers to offset the value of pension sweeteners from severance payments in the cases of immediate and unreduced pensions and; sets up a dual standard of judging age discrimination between State and local government and private employers on the one hand, and Federal employers on the other.

However, in the two most contentious areas of the original legislation—and those most objectionable to me and many older workers—an agreement was reached.

First, H.R. 3200 would only apply to prospective cases, not those in effect prior to enactment of this legislation. The original bill would have applied retroactively to all cases pending, allowing many previously agreed to, and pending cases to be reopened. The solution reached protects those older workers who have worked out early retirement programs from having to rehash new agreements.

Second, and most important to protecting older workers' options in "early out" programs, the compromise preserves the right of employers to offer certain severance plans. Prior to this agreement, H.R. 3200 would have eliminated an employee's opportunity for financial severance deals in place of outright layoffs in the event of downsizing by a company. Under the agreement, voluntary retirement incentive plans which are consistent with the relevant purpose of the Age Discrimination in Employment Act [ADEA] would be allowed.

Again, while I would have preferred outright guarantees for older workers' rights to take advantage of early severance plans, this agreement comes a long way. Recalling my efforts in committee deliberations on this provision of the bill, I appreciate the fact that much of my own views are reflected in the final agreement. I look forward to passage of this legislation which carefully and sensitively balances protecting older workers from discrimination in the workplace with assuring their rights to good early retirement opportunities.

Mr. HAWKINS. Mr. Speaker, today we are considering yet another piece of legislation which restores civil rights arbitrarily stripped away by the Supreme Court. In this instance, we are talking of millions of older Americans—and all younger Americans who will one day by older Americans—to equality and fairness in the workplace.

Since the passage of the Age Discrimination in Employment Act in 1967, older Americans have been guaranteed equal opportunity in the workplace. Prior to the Betts decision, no court had ever questioned whether this protection extended to employee benefits. Indeed, for over 20 years executive branch regulations expressly prohibited age discrimination with regard to employee benefits. Employers were required to provide employees with the same benefits regardless of age,

unless providing equal benefits would cost more for older workers. Every administration since passage of the ADEA has agreed that this is a proper interpretation of the ADEA.

In Betts, the Supreme Court repudiated this long-standing Federal regulation, leaving employers free to discriminate with regard to employee benefits provided that such discrimination is not a subterfuge for discrimination in hiring, promotion, or other areas of employment. The inequity and illogic of the Court's ruling are obvious: Employers are precluded from discriminating with regard to wages, but are free to do so with regard to benefits, which are simply another form of compensation. On average, employee benefits comprise over a quarter of an employee's overall compensation package, and become more imporant as an employee gets older. Yet under the Betts ruling, employers have virtual free rein to reduce older workers' benefits, or deny them altogether, because of age.

The Older Worker's Benefit Protection Act overturns the Betts decision and restores the equal benefits/equal cost rule. S. 1511 also makes clear that all employee benefit plans are covered by the ADEA regardless of the date on which they were established, contrary to the Supreme Court's reading of the act. Finally, the bill includes guidelines which govern employee waivers of ADEA rights, ensuring that such waivers are both knowing and voluntary. I should note that many of the provisions of S. 1511 parallel those in H.R. 3200, and as such the Education and Labor Committee's report on H.R. 3200 remains a valid and useful source of explanation for the provisions of S. 1511.

The bill before us today, which the Senate approved by an overwhelming vote of 94–1, also contains many provisions which are helpful to employers. Some of these provisions expressly sanction benefits practices which were not permitted by pre-Betts law.

In addition, the ADEA will expressly recognize for the first time that early retirement incentive programs may be lawful if consistent with the relevant purposes of the act. Under this provision, the courts shall continue to evaluate such programs on a case-by-case basis as they have in the past. Consistent with prior case law, early retirement incentive programs that deny benefits to workers above a specific age may conflict with the statutory purpose of prohibiting arbitrary age discrimination in employment. See *Karlen* v. *City Colleges of Chicago,* 837 F.2d 314 (7th Cir.), cert. denied, 486 U.S. 1044 (1988); *Cipriano* v. *Board of Education of North Tonawanda,* 785 F.2d 51 (2d Cir. 1986); *EEOC* v. *Westinghouse Electric Corp.,* 725 F.2d 211 (3d Cir.), cert. denied, 469 U.S. 820 (1984); *EEOC* v. *Borden's Inc.,* 724 F.2d 1390 (9th Cir. 1984).

Of course, these provisions should not be interpreted to alter the fundamental purposes and principles of the ADEA. Thus, subject to the narrow and limited exceptions contained in the bill, pension eligibility and early retirement eligibility continue to be proxies for age, and employment decisions based on such factors are unlawful under the ADEA. See *EEOC* v. *Westinghouse Electric Corp.,* 725 F.2d 211, 223 (3d Cir.), cert. denied, 469 U.S. 820 (1984); *EEOC* v. *Borden's Inc.,* 724 F.2d 1390 (9th Cir. 1984). Nor may an employer reduce or deny an individual's severance benefits based on his pension eligibility or pension receipt, except to the limited extent permitted under these amendments.

Similarly, employment decisions based on years of experience or higher salaries are prohibited where those factors are proxies for age. See *Geller* v. *Markham,* 635 F.2d 1027 (2d Cir. 1980), cert. denied, 451 U.S. 945 (1981); *Metz* v. *Transit Mix Inc.,* 828 F.2d 1202 (7th Cir. 1987). The Federal courts have regularly held that economic considerations are insufficient to justify discrimination based on age. See *EEOC* v. *Westinghouse Electric Corp.,* 725 F.2d at 223; *Leftwich* v. *Harris-Stowe State College,* 702 F.2d 686 (8th Cir. 1983); *Geller* v. *Markham,* 635 F.2d at 1034; *Smallwood* v. *United Airlines Inc.,* 661 F.2d 303. (4th Cir. 1981), cert. denied, 456 U.S. 1007 (1982). These principles will continue to apply in evaluating the legality of early retirement incentive programs as well as other benefit arrangements. Finally, these amendments do not alter existing regulations and case law defining what types of benefits are covered by section 4(f)(2).

The bill the Senate passed, and the bill before us now, fully overturns the Betts decision and its reasoning, although it does not fully restore pre-Betts law. Even with its many concessions and compromises, this legislation remains critically necessary to restore the basic rights of older workers to equal opportunity and equal treatment in the workplace. I therefore urge my colleagues to support and vote for the Older Worker's Benefit Protection Act.

Mr. RICHARDSON. Mr. Speaker, I rise today to express my support for S. 1511, the Older Worker's Benefit Protection Act. I am a cosponsor of similar legislation in the House and am pleased to have the opportunity to voice my support on the floor.

While many Americans continue to experience discrimination in the workplace, Congress is working hard to eliminate it. As a Hispanic, I have seen racial discrimination throughout our country. I have, however, also worked hard to do my share to eradicate such prejudices. That is why it is so disheartening to know that the Supreme Court would condone age discrimination through the Betts decision. Older workers provide an important role in our Nation's work force; they are knowledgeable, loyal, productive, and contribute a great deal to our country. It is unfair for their benefits to be reduced simply because they are older. Such discrimination cannot be tolerated.

S. 1511 restores basic civil rights protection to millions of older workers by preventing discrimination in benefit programs. This important piece of legislation will provide millions of older workers across the country with the knowledge that their benefits are secure.

Mr. Speaker, I am proud to support this legislation and I urge my colleagues to do the same.

Ms. SCHNEIDER. Mr. Speaker, I rise today in support of S. 1511, The Older Workers Benefit Protection Act. This measure will protect older workers from age discrimination in pension and benefit programs. It overrules a recent Supreme Court decision which would have allowed companies to offer reduced benefits to employees over 65 for programs like life insurance—that cost more to provide to an older worker.

Age discrimination is wrong. As our labor force shrinks, older workers will continue to make an increasingly important contribution to our economy. We need the expertise and productivity that our older workers can offer, and the last thing we should be doing is allowing businesses to discourage an important portion of the work force by reducing benefits.

My State of Rhode Island has the fourth highest percentage of elderly in the Nation. These older Americans deserve the right to work without the fear of discrimination. Older workers make a tremendous contribution to our society. We simply can't afford to discriminate against them. It is unfair, it hurts them, and it hurts our national economy as a whole.

The intent of this legislation is to ensure that no employer can discriminate on the basis of age. These provisions apply to private sector employers as well as to State and local governments. It specifically bans age discrimination in compensation, terms, conditions, or privileges of employment and applies to employee benefits and employee benefit plans as well as to wages, hiring and firing. It requires that employers seeking to rebut a charge of age discrimination in employee benefits provide that they have provided equal benefits for employees of all ages. The measure also includes provisions designed to ensure that older workers are not coerced or manipulated into waiving their rights under the Age Discrimination Employment Act.

I am proud to have been a cosponsor of this legislation. It is high time we passed legislation to ensure fair treatment of our older workers.

Mr. GUNDERSON. Mr. Speaker, after months of deliberation and negotiation, we finally have an older workers' benefits protection package that truly protects older workers' benefits without harming a number of other benefits they currently enjoy. I am pleased to be able to support H.R. 3200.

While I still have reservations about a number of the aspects of this legislation, I appreciate the good faith efforts that went into the compromise we are considering today. In the absence of concerted opposition from the very groups that opposed the original bill, it's safe to say we've arrived at a reasonable solution.

As mentioned, some concerns remain. Specifically, I am still concerned that this bill: unduly restricts the ability of State and local governments and private employers to integrate benefits in employee benefit plans; requires that a retiree's health plan must have a specified minimum value before an employer is permitted to offset its value from severance payments otherwise due the employee—a provision making early retirement options less likely for older workers; only allows employers to offset the value of pension sweeteners from severance payments in the cases of immediate and unreduced pensions and; sets up a dual standard of judging age discrimination between State and local government and private employers on the one hand, and Federal employers on the other.

However, in the two most contentious areas of the original legislation—and those most objectionable to me and many older workers—an agreement was reached.

First, H.R. 3200 would only apply to prospective cases, not those in effect prior to enactment of this legislation. The original bill would have applied retroactively to all cases pending, allowing many previously agreed to, and pending cases to be reopened. The solution reached protects those older workers who have worked out early retirement programs from having to rehash new agreements.

Second, and most important to protecting older workers' options in "early out" programs, the compromise preserves the right of employers to offer certain severance plans. Prior to this agreement, H.R. 3200 would have eliminated an employee's opportunity for financial severance deals in place of outright layoffs in the event of downsizing by a company. Under the agreement, voluntary retirement incentive plans which are consistent with the relevant purpose of the Age Discrimination in Employment Act [ADEA] would be allowed.

Again, while I would have preferred outright guarantees for older workers' rights to take advantage of early severance plans, this agreement comes a long way. Recalling my efforts in committee deliberations on this provision of the bill, I appreciate the fact that much of my own views are reflected in the final agreement. I look forward to passage of this legislation which carefully and sensitively balances protecting older workers from discrimination in the work place with assuring their rights to good early retirement opportunities.

Mr. RINALDO. Mr. Speaker, I rise in strong support of H.R. 5794, the Age Discrimination Claims Assistance Amendments of 1990. This bipartisan legislation provides important relief to older workers who have filed age discrimination cases and is very similar to the Claims Act of 1988.

H.R. 5794 would restore the legal rights of older workers. Because of the EEOC's and FEPA's inability to process older worker age discrimination cases within the 2- and 3-year limitation contained in the law, several thousand older workers who filed age discrimination charges under the Age Discrimination Employment Act lost their opportunity to file suits in Federal court.

As an original cosponsor of this legislation, I would like to commend the excellent job done by all the committees involved. Among them, my colleagues: Select Committee on Aging chairman, EDWARD R. ROYBAL; Education and Labor chairman, AUGUSTUS HAWKINS; ranking member of the Education and Labor Committee, WILLIAM GOODLING; chairman of the Subcommittee on Employment Opportunities, MATTHEW MARTINEZ; and the ranking member of that subcommittee, STEVE GUNDERSON.

In addition, I would like to thank officials at the EEOC for their acknowledgement that a problem currently exists and for their willingness to work with the appropriate committees to grant extensions for persons who filed claims under the ADEA. A permanent solution to this situation must be our immediate next step.

As members of the work force, older workers are an integral part of the economy. They are reliable, exhibit excellent skills, and bring a wealth of experience to their jobs. Unfortunately older workers are often forced out of their jobs to make room for younger employees. Too many times older workers are driven into early retirement, left without severance pay, and saddled with a reduction in their pension benefits. And frequently, older workers are pushed out of their jobs because an employer wishes to avoid paying higher health benefits.

The purpose of the Age Discrimination in Employment Act [ADEA] is to ensure that age discrimination cases I just alluded to are prevented, and that the enforcement process recognizes the abuses against older workers and swiftly acts to correct them.

It is my sincere hope that we are not back here in 2 years confronting this serious problem once again. I look forward to working with my colleagues on both sides of the aisle, and the agencies committed to enforcing the ADEA, to find a permanent resolution. I urge the Members of the House to vote in favor of the Age Discrimination Claims Assistance Amendments of 1990.

Mr. CLAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the Senate bill, S. 1511.

The question was taken.

Mr. BARTLETT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1511, the Senate bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

APPOINTMENT OF CONFEREES ON HOUSE CONCURRENT RESOLUTION 310, BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1991, 1992, 1993, 1994, AND 1995

Mr. PANETTA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 310), setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, with Senate amendments thereto, disagree to the Senate amendments and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, and I do not intend to object, I yield to the distinguished gentleman from Pennsylvania [Mr. WALKER] for the purpose of questioning what is taking place.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

I am just trying to ascertain exactly what we are doing here. This is now an action designed to take the budget to conference at this point; the assumption would be that the conferees will then adopt that which has been decided by the budget summit and then the House will be afforded the opportunity to vote on this action when that returns from the conference perhaps as early as tommorrow, is that correct?

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

□ 1200

Mr. PANETTA. The gentleman from Pennsylvania [Mr. WALKER] is absolutely correct. The purpose of this is to develop the conference; the conference will incorporate the summit agreement and then bring that conference report to the floor either tomorrow or Thursday.

Mr. WALKER. Mr. Speaker, will the gentleman from Minnesota yield further?

Mr. FRENZEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. So that this particular act is simply to get a document in place that has the numbers that should reflect what the agreement has done. There would be no particular point in holding anything up for any of us at the present time who may be opposed to the agreement, but rather our shot is going to come at the time that the gentleman brings the package back to the floor.

Is that correct?

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PANETTA. The gentleman from Pennsylvania [Mr. WALKER] is correct. He will have adequate opportunity at that time.

Mr. WALKER. And maybe many times.

I thank the gentleman from Minnesota [Mr. FRENZEL] for yielding.

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees: Messrs. PANETTA, GEPHARDT, and FRENZEL.

There was no objection.

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967 AMENDMENTS RELATIVE TO EMPLOYEE GROUP HEALTH PLANS

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5759) to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such act to employee group health plans.

The Clerk read as follows:

H.R. 5759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(1)(2) of the Age Discrimination in Employment Act of 1967, as added by the Older Worker's Benefit Protection Act, is amended—

(1) in subparagraph (A)—

(A) in clause (i) by striking "and" at the end,

(B) in clause (ii) by striking the comma at the end and inserting "; or", and

(C) by inserting after clause (ii) the following:

"(iii) the values described in both clause (i) and (ii);", and

(2) by adding at the end the following:

"(G) Nothing in this paragraph shall be construed to require a group health plan covering retirees to provide benefits both to—

"(i) retirees who are below age 65; and

"(ii) retirees who are age 65 and older; in order to make the deduction for retiree health benefits described in this paragraph.".

The SPEAKER pro tempore (Mr. MONTGOMERY). Under the rule, a second is not required on this motion.

The gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 5759, a bill introduced by my colleague from Pennsylvania [Mr. GOODLING], the ranking Republican member of the committee. As I said before, I appreciate his cooperation in assuring that important protections for older workers under the ADEA are restored through S. 1511, the Older Workers Benefit Protection Act. I also support his effort to clarify certain provisions in S. 1511 which we have just passed.

S. 1511 authorizes a specific type of benefit packaging in connection with severance pay that was prohibited under the EEOC regulations that formed the basis of pre-Betts law. Under S. 1511, an employer may reduce the severance benefits that might otherwise be provided to an employee by the amount of certain retiree health benefits or certain pension shutdown sweeteners or both. The first amendment contained in this bill is simply designed to clarify that fact.

The second amendment makes it clear that nothing in the paragraph providing for the offset for certain retiree health benefits under S. 1511 requires an employer to provide retiree health benefits for retirees both above and below age 65 in order to make the offset. Examples of how the rule works can be found in House Report 101-664—101st Cong. 2d Sess. In general, however, if the employer is trying to determine the amount of the offset for an employee age 62 in a case in which an employer provides health benefits to only age 65, the employer may only deduct $9,000—$3,000 per year times 3 years—from the amount of severance pay to which the employee might otherwise be entitled.

These two amendments are directed only at the technical issue of what can be offset against an employee's severance payment under the narrow exception for certain offsets under section 4(1)(2) of the ADEA, as added by S. 1511. These amendments are not intended to and do not alter in any way the current protection under the Age Discrimination in Employment Act for an employee who retiree health benefits are discriminatorily structured on age at the time of retirement.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5759 merely provides technical corrections to the Older Workers Benefit Protection Act which we just considered. This bill has the support of the chairman of the Education and Labor Committee and of both the chairman and ranking member of the Labor-Management Subcommittee.

The first provision clarifies the parameters of the offset against severance pay that is available to employers. An employer may offset severance by any retiree health benefits, by any pension sweeteners, or by both retiree health benefits and pension sweeteners. This language is intended to clarify that the offering of retiree health benefits is not a precondition to using the offset for pension sweeteners, and vice versa.

The second provision also relates to the severance offset by clarifying the definition of retiree health benefits. It provides that, in order to use the offset for retiree health benefits, an employer is not required to offer health benefits to both pre-Medicare eligible and post-Medicare eligible retirees. An employer may offer health benefits only to pre-Medicare eligible retirees.

Mr. Speaker, as I mentioned, this bill adds clarity to some of the provisions of the Older Workers Benefit Protection Act. I hope that everyone will support this legislation as we must be as precise as possible in legislating in the area of employee benefits.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I have no further requests for time.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in support of passage of H.R. 5759, introduced by ranking member BILL GOODLING to provide technical corrections to S. 1511, the Older Worker Benefit Protection Act.

This bill makes two important clarifying changes:

It clarifies that in order to make a deduction for retiree health benefits from severance pay, an employer may have a retiree health plan that covers an employee prior to age 65 or after age 65; that an employer may have a health benefit that covers either age bracket or both age brackets, and still avail of the offset against severance.

Further, this technical corrections bill ensures that the plain language of the statute states that an employer may deduct from severance the value of retiree health benefits, or the value of any additional pension sweeteners, and may deduct both these values in the event that the employer offers both benefits.

This technical corrections bill cures some weak drafting that would have raised interpretive difficulties for those employers attempting to conform their benefits practices to the Older Workers Benefit Protection Act.

Therefore, I join with the distinguished ranking member, Mr. GOODLING, and the other cosponsors of this bill, Chairman HAWKINS and Labor-Management Subcommittee Chairman BILL CLAY, in supporting this bill, and in urging my colleagues to pass H.R. 5759 under suspension of the rules.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 5759.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ASKING MEMBERS TO ADDRESS CONCERNS ON BUDGET

(Mr. SISISKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SISISKY. Mr. Speaker, today will be the first day of a meeting that the Committee on Armed Services will have on this very important markup. We have pretty well set the date that we will bring back the report from both Houses, a conference report on October 1.

Mr. Speaker, I would ask the membership of this body that, if they have any problems with any part of the bill, that they would see the members of the conference committee and, of course, address the issues there.

The strange phenomena this year is that the budget that the House passed and the budget authority is $282.8 billion. The budget agreement that we will be voting on tomorrow calls for a budget of $289.1 billion. The difference is $6.3 billion.

Mr. Speaker, hopefully we will come to some agreement on how we do this, and again I would ask the Members of the body, if they have any comments concerning this issue, to address their issues to the conferees.

MODIFY CUTBACKS IN MEDICARE FUNDING

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker and Members, I take the floor this afternoon to discuss for a short time this budget agreement which is before the Members of Congress.

I guess all of us, as we read the document, can provide some criticism. Somewhere there is a comma misplaced, and a T is misplaced, and some do not like the excise tax increase, but this Member, representing the Fourth District in Wisconsin, has a serious problem as relates to the cutbacks in Medicare funding.

Mr. Speaker, if my colleagues look at the agreement, they will find that about $120 billion in domestic spending is being cut. However one-half of that, or $60 billion, comes from one program, and the program is a Medicare Program. If my colleagues look at the $60 billion cut in Medicare, they are going to find that one-half is cut from providers, doctors, hospitals, the providers of the program. But fully one-half of the other $30 billion comes from the senior citizens around this country, through increased premiums, through increased deductibles.

So, Mr. Speaker, if my collleagues look at the total cuts in this agreement, 25 percent of those are on the backs of the senior citizens. I, as one Member, cannot support the budget agreement in its current form, and to those who did the negotiating, to those in power around here: If, in fact, between now and Friday that one portion could be modified, I am not saying totally eliminated, but modify it, cut it back, be less harsh, and be less cruel; if that could be accomplished between now and Friday, I sure would consider supporting the budget resolution.

SUPPORT THE CIVIL RIGHTS ACT OF 1990

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, as a member of the Hispanic caucus representing a large Hispanic native American constituency, I hope today we do support the conference report on the Civil Rights Act of 1990. By passing this legislation, we send a message to all Americans that we are not going to tolerate discrimination in the workplace. We assured them that we have not abandoned the cause of fairness and justice, as it seemed last year when the Supreme Court stripped away many protections, setting back the clock on civil rights.

Mr. Speaker, we are going to hear the same rhetoric, that this bill is antibusiness, and a quota bill, and that President Bush has indicated he will veto it. I am very concerned about these remarks because this bill has been compromised to the hilt, and I am concerned also about the administration's lack of response to recent derogatory comments made by the Japanese justice minister about American blacks. The Japanese had made similar comments about Hispanics some 2 years ago. Such remarks are an affront to all Americans and necessitate a strong response.

Despite this, a struggle for civil rights will endure because of the deep commitment of many who know what is fair and what is right. I say to my colleagues, "Let's move forward, not backward, in providing equal rights for all Americans," and I urge everyone to vote "yes" on this conference report.

□ 1210

FAMILY UNITY AND EMPLOYMENT OPPORTUNITY IMMIGRATION ACT OF 1990

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 484 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 484

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4300) to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed ninety minutes, with sixty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, as modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution, as an original bill for the purpose of amendment under the five-minute rule, said substitute, as modified, shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute shall be in order except those printed in part 2 of the report of the Committee on Rules. Said amendments shall be considered in the order and manner specified in the report, shall be considered as having been read, shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report, and said amendments shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order are hereby waived against the amendments printed in the report. It shall be in order to consider the amendments by Representative Richardson of New Mexico numbered 18 and printed in the report of the Committee on Rules en bloc. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 4300, it shall be in order to take from the Speaker's table the bill S. 358 and to consider the bill in the House. It then shall be in order to move to strike all after the enacting clause of S. 358 and insert in lieu thereof the provisions of H.R. 4300 as passed by the House, and all points of order against the motion

are hereby waived. It shall then be in order to insist on the House amendment and to request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for purposes of debate, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, today we have an opportunity to consider profamily legislation.

H.R. 4300—the Family Unity and Employment Opportunity Immigration Act—substantially revises our Nation's laws to help unite immigrant families.

The number of slots would be expanded so that children and spouses of permanent residents may join their families in this country.

The wait for family reunification can be long and painful. For natives of most countries, the wait averages 3 years. For countries with long backlogs, such as Mexico, families can be separated for as long as 15 years.

Not only is it antifamily to allow such long separations, it is also counterproductive. For it only encourages illegal immigration as the best way to become united with loved ones.

In addition to its family unity provisions, H.R. 4300 would also help diversify our immigrant population by broadening the numbers allowed from countries who have been largely shut out in the last quarter century.

Visas are specifically set aside for natives of Eastern Europe, for instance. The end of the cold war and the dramatic changes of the past year call for a revision in our existing East European immigration policies.

Individuals from countries adversely affected by current law—such as Ireland, Italy, Poland, and Argentina—will now have the opportunity to apply for conditional residence status if they have a firm offer of employment for 1 year.

The rule under which this bill will be considered also makes in order legislation to extend the time that Salvadoran and other political refugees may stay in this country.

Chairman MOAKLEY has worked long and hard on this issue, and the House already adopted similar provisions last October. The continuing wars in El Salvador and Lebanon, and the plunder of Kuwait, make this vehicle timely and appropriate for reconsideration of this issue.

Mr. Speaker, the world is dramatically changing. From time to time we must adjust our policies to reflect such changes.

America has been, and always will be, the beacon of freedom. We must do everything we can to preserve that heritage, and we should not be denying immigrant families the most fundamental right—the chance to be together.

House Resolution 484 is a modified open rule providing 90 minutes of general debate, with 1 hour equally divided between the chairman and ranking minority member of the Judiciary Committee, and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Education and Labor Committee.

All points of order against consideration of the bill are waived.

The rule makes in order a substitute—modified by the amendments printed in part 1 of the report—as an original bill for the purpose of amendment. Part 1 amendments include an amendment by the Ways and Means Committee to strike section 111, relating to admission fees for certain types of employment. A second amendment by Chairman MOAKLEY would provide temporary protected status for national in El Salvador, Lebanon, Liberia, and Kuwait.

All points of order against the substitute as modified are waived.

The rule makes in order no other amendments except the amendments printed in part 2 of the report, to be considered in the order and manner specified in the report, with debate time equally divided and controlled by the proponent and a Member opposed. All points of order against the amendments are waived.

The amendments are not subject to amendment except as specified in the report, nor to a demand for division of the question in the House or in the Committee of the Whole.

The rule makes it in order to consider amendments en bloc printed in the report, if offered by Representative RICHARDSON.

The rule provides one motion to recommit with or without instructions.

Finally, after passage of H.R. 4300, the rule makes it in order to insist on a conference with the Senate.

House Resolution 484 is a fair rule that will expedite passage of compassionate legislation that will allow families to be united.

Mr. Speaker, I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the gentleman from Michigan [Mr. BONIOR] has appropriately explained the provisions of the rule.

Mr. Speaker, this rule should be defeated because it prohibits the House from even considering several important amendments which should have been allowed.

During the Rules Committee hearing on this bill, the gentleman from Florida [Mr. MCCOLLUM] asked to have made in order an amendment designed to expedite the deportation of criminal aliens.

Out of the several amendments presented in the Rules Committee by the gentleman from Florida, this was the one that he requested be given top priority. But what this rules does is leave out the top priority amendment while making in order two amendments by the gentleman from Florida, which he described as having lower priority. According to testimony in the Rules Committee there have been only 22,000 aliens deported in the last 3 years out of 1.5 to 2 million that were eligible to be deported. From the time of apprehension, through the judge's decision and then through all the appeals the process can take years. The amendment of the gentleman from Florida is designed to expedite the deportation of aliens convicted of serious crimes. It should have been included.

Another amendment which should have been included was one offered by the gentleman from Michigan [Mr. DAVIS] to preserve traditional shipboard activities, but prohibit the flying in of aliens to load and unload cargo in U.S. ports.

The gentleman from Michigan [Mr. DAVIS] is the ranking Republican member of the Committee on Merchant Marine and Fisheries. When he appeared in the Rules Committee, he stated that he was also appearing on behalf of the committee's chairman. Such a request should have been honored.

An open rule which would have allowed these and other amendments was offered in the Rules Committee, but it was not accepted.

I ask for a "no" vote on this rule. If this rule is defeated, the Rules Committee could then go back and report a rule to allow the House to consider some of the important issues this rule does not allow.Payroll No.: 78255 -Name: Rogers, J.D. -Folios: 276-279 -Date: 10-01-90 -Subformat:

□ 1220

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I am compelled to rise in opposition to this rule. H.R. 4300 is far too important a bill than to be considered under the terms of a restrictive rule. Frankly, Mr. Speaker, I consider H.R. 4300 to be the sleeper of the year. This is a bill which has very far-reaching implications. Indeed, it virtually rewrites existing immigration law.

I don't know how many members other than those on the Judiciary Committee are even remotely familiar with what is in this bill. Only four times in the 201-year history of this Government has Congress considered a bill dealing with legal immigration.

The most recent time we did so was 25 years ago. I seriously question whether considering a bill of this importance is appropriate in the closing days of a contentious session of Congress.

However, I am confident that the likelihood of getting a conference report on H.R. 4300 is even smaller than the proportion of Members who know what is in the bill. And even if a conference report is reached, the administration has already announced very emphatically that the bill will be vetoed if it comes up in anything close to its present form.

Moreover, the administration would like to see this rule defeated. Why even waste our time on a bill that is going nowhere? We shouldn't be considering H.R. 4300 at all. But if we must, let's at least consider it under an open rule. Every Member should have a chance to get a crack at this bill.

I would remind my colleagues, particularly those on the other side of the aisle, that restrictive rules cut both ways. For example, in this rule, amendments filed by Mr. SOLARZ, Mr. SLATTERY, Ms. PELOSI, and one of two amendments filed by Mr. DORGAN were not made in order. So it's not just Republicans who suffer under restrictive rules.

One particular amendment that was not allowed is the McCollum amendment which would let the Secretary of State and the Attorney General negotiate with other countries to deport illegal aliens who are convicted felons incarcerated in our overcrowded prisons that cost the taxpayers $27,000 a year.

Vote no on this rule.

Mr. BONIOR. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I rise in support of the rule for the consideration of H.R. 4300. The bill, which was the subject of many hearings before the Immigration Subcommittee and 2 days of markup before the full Judiciary Committee, is a well-crafted and careful legislative response to serious immigration issues which confront the Nation. The Rules Committee has done an excellent job of sifting through the myriad amendments which were proposed, and coming up with a rule which deals with the majority of issues which are outstanding.

While I know that all Members' amendments were not made in order, the Rules Committee has made a complete analysis of the bill and has made in order a broad range of amendments that will permit full debate and discussion of the major issues in H.R. 4300 while also allowing the House to consider the bill expeditiously and move it forward through the legislative process. That rule is fair and appropriate, and I urge my colleagues to support it.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I am constrained to rise and comment on some of the things that have been said here. As one of the original authors of this legislation, I cannot see how this rule can be characterized as a closed rule when there are 23 amendments that have been made in order.

Second, I go back to a period of 11 years ago, and the formation of the Hesburgh Commission. Our results, which went to the President and Congress in January 1981, had basically two components. One dealt with the documented population of the country through employer sanctions and legalization, and the other dealt with legal migration. It took us 6 years to deal with half of that report.

In 1986 we did pass the Immigration Reform and Control Act, which dealt with undocumented aliens in the United States.

The second part of that report, which has been before the Congress now for 11 years, dealt with legal migration. That is what we are dealing with today.

Mr. Speaker, this measure has passed the Senate I think three times. If Members are not familiar with it, it is because of lack of interest in the subject matter. We are dealing with some new facts in that the American business community is interested in the employer-related provisions and the skilled workers that are included in the bill.

The cornerstone of our immigration policy in this legislation remains steadfast, what it has been since the middle 1960's, and that is family reunification. So I think that every argument we have heard can be turned around. This may be the last opportunity, rather than being too late in this session, for us to get it out, get about considering this measure, get to conference, and come back with legislation that will finally end this long trail of needed reform in our immigration laws.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just echo the remarks of the gentleman from New York [Mr. FISH]. I think he is absolutely correct in his assessment and view on this issue. We received I believe 47 amendments in the Committee on Rules. We made half of them in order. Of the 23, 11 were offered by Republicans, close to half.

My only regret is that we did not help the gentleman from Michigan [Mr. DAVIS]. I thought he had a reasonable request. We were not able to accommodate him. At some future point that may rectify itself.

Mr. Speaker, if a Member has Polish, Italian, Irish, or Lebanese constituents in their district, they ought to know that they are very, very interested in this bill. Those committees have a real interest in this bill, in bringing families together who emanate from those particular constituencies. So I hope Members will consider these factors as they consider this rule.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Connecticut [Mr. MORRISON], an expert on immigration policies.

Mr. MORRISON of Connecticut. Mr. Speaker, I rise in support of this rule and commend the Committee on Rules for doing a superb job with a piece of legislation that is comprehensive and complicated, but about which there are only a limited number of really controversial issues.

What the Committee on Rules has done is to make in order a balanced set of amendments that allows proponents and opponents of this legislation to put their arguments forth and allows Members of the House to be heard and to be counted on exactly what this legislation should look like.

This is a rule that ought to be passed. It shows that the Committee on Rules can craft a rule that is fair to both sides of the aisle on a complicated issue and allows Members to have their day before their colleagues to make their case.

□ 1230

This legislation is important legislation. I thank the gentleman for New York for pointing out how long it has been since our legal immigration system was reviewed and restructed to take account of changing times and suggestions that have been made by experts who have studied the system.

This legislation accomplishes three important goals.

First, it strengthens our system of family reunification, and it does it by focusing most on the most immediate relatives—the spouses and minor children of permanent residents of the United States, who under current law are separated year after year after year. This is not a profamily policy. We want to change the immigration law to reflect a profamily policy.

Second, it provides to the employers and the employees of this country a system of legal immigration for permanent residents of individuals who are needed in our economy, needed to save American jobs, needed because skilled workers are not available among American workers and their absence is causing factories to close and factories to go out of the country. This is not just for the benefit of employers; it is for the benefit of all, because it allows for growth in our economy and growth in American jobs.

Third, and also important, it ensures long-term diversity in our flow of immigrants from around the world. It is

in the interest of the United States to be a beacon to people from all over the world, and it is absolutely key to political support for our immigration system that all of the diverse groups that make up our country know that our immigration laws understand their interests and the concerns that they have that people from the parts of the world that their ancestors have come from will also be fairly considered under our immigration system.

This is legislation which will enhance and strengthen our immigration laws. The gentleman from New York [Mr. SOLOMON] suggested that somehow this legislation was not going anywhere because we had heard one of those vague veto threats that too frequently flows across his Chamber. The truth is that as the Wall Street Journal said yesterday, this is legislation that most Republicans should want to support because it is good for the American economy. It is a progrowth measure, and it has a lot of support over in the White House that is growing as people actually pay attention to what this legislation does.

I think this is legislation that, when worked out in conference with the Senate, will receive the President's support and the President's signature, as it should; and this rule certainly should receive the support of my colleagues in the House today.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. MCGRATH].

Mr. MCGRATH. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in support of the rule.

Mr. Speaker, the bill we are currently debating is the most important immigration legislation to come out of this Congress, and I am proud to voice my support for it. Family unification is the cornerstone of immigration to the United States. Prolonging the separation of spouses from each other, and from their children, is inconsistent with the principles on which this nation was founded. Yet current law, causes this to occur all too often. H.R. 4300 would substantially correct this shortcoming. Spouses and children of U.S. citizens are already exempted from the numerically limited preference system, so that close family members can be together. Recognition of the same special family relationship for the spouses and children of permanent residents would go a long way toward achieving the laudable and humanitarian goal of family reunification. Furthermore such provisions embody sound public policy. An immigration system which provides for the speedy reunification of close family members, will aid in defusing the frustration of separation families that often spurs illegal immigration.

Commonsense and compassion argue for adoption of this bill's provision for reduction of the backlog in the second and fifth preference categories. Lengthy backlogs, such as the ones of as long as 20 years currently suffered by some nationalities under the fifth preference would be substantially shortened. These measures reinforce the position of family values as the cornerstone of U.S. immigration policy.

The family structure is one of our great Nation's strongest assets. Promoting family immigration would show that we still believe that the family is this country's most important social network.

But families separated by harsh immigration policies are not the only ones who deserve to obtain the help this measure provides. The Irish and other adversely affected groups, would gain denied justice in the immigration arena from the enactment of H.R. 4300. Present law, by nearly excluding these groups from the competition for available visas, has virtually eliminated them from the immigration process. This measure would ensure the just treatment of such immigrants. It would establish a long-needed diversity visa program favoring those from currently underrepresented parts of the world, and providing temporary priority for those among these groups who are seeking employment here. Additionally, much-needed transition provisions would let a limited number of natives of adversely affected countries, already living here apply for permanent residence. As one who has witnessed a steady influx of illegal immigrants from these countries, especially the Irish, I am greatly encouraged by the prospect of allowing these people to stop living their lives in the shadows, as the flaws inherent in the present law, force them to do. I look forward to the day when these immigrants are allowed to become content, productive, legal residents of the United States.

Fairness and justice in the immigration system must be achieved. H.R. 4300 would bring fairness and justice to families separated from their loved ones, and to potential immigrants from under represented nations. Much of the frustration which incites illegal immigration would be drastically reduced.

I urge my colleagues to keep these worthy aims in mind, and join me in support of this bill. When the time comes to vote upon this legislation, I will be proud to cast my vote for H.R. 4300.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, I thank my colleague from Tennessee for yielding time to me.

Mr. Speaker, I rise in opposition to this rule.

First of all, I would like to thank the chairman of the Rules Committee for making a number of amendments in order. As he explained a while ago, the minority received about half of the amendments, and that is much appreciated. However, the fact that all amendments are important should not lead us to ignore the fact that many substantive amendments were not made in order, and that is a real concern to me, Mr. Speaker. I am concerned not only for myself, I am concerned for other Members, but I am especially concerned for the citizens of America, because their voice needs to be heard on the House floor, and by having so many amendments not be ruled in order their voice will not be heard.

There is simply no way to discuss so many issues of so much concern to so many people unless we have far more amendments that would have been approved. Other Members of Congress, and especially the administrations would have liked to have seen a number of substantive amendments ruled in order.

The administration itself feels so strongly, is so strongly opposed to this bill, Mr. Speaker, that they have given 14 reasons why they are opposed. The Attorney General, the Secretary of Labor, and the Secretary of Transportation have strongly recommended a veto of this bill.

Of the 14 objections that the administration have, amendments were allowed to respond to only 5. Nine of the administration's objections were not heeded.

□ 1240

Mr. Speaker, where is the amendment that would allow us to reimburse State and local governments for the costs that they are going to incur while providing educational services, health care, and government services to individuals in their communities? If we were to talk to any big-city mayor, if we were to talk to any Governor, we would realize that the expenses that are going to be incurred as a result of increased immigration are very real, yet there is no provision in this rule to allow an amendment to be offered to govern that concern.

Mr. Speaker, where is the amendment that would reply to the needs of the businesses? For example, for the first time ever in this bill, there is a cap on temporary skilled workers. These are individuals who are allowed to come into this country temporarily when there is a proven absence of an American worker who could fill that particular position.

The Wall Street Journal editorial yesterday has been quoted once, and I will quote it again; "The bill's 25,000 annual ceiling on temporary skilled workers makes no economic sense at all."

Mr. Speaker, we have a bill that is going to increase immigration by hundreds of thousands, and yet we put a cap on temporary skilled workers. I see no justification for that.

Mr. Speaker, where is an amendment that would deal with an issue that we all remember all so well, and that is the issue of amnesty? That was a major issue back when FIRCA was debated back in 1986. It was a very controversial issue then. In fact, a compromise was agreed to back in 1986. There was a solemn vow that we would bring up amnesty one time, once, and only once, and there would be no more amnesty. Yet, in this bill, there are two amnesty provisions, and yet no amendments to deal with either one.

Mr. Speaker, back in 1986, the issue of amnesty was so contentious that 192 Members of the House voted to strike the amnesty provision. Yet, those Members who are still in Congress today, the citizens they represent, are not going to be able to be heard when it comes to an amendment.

Mr. Speaker, there is a second amendment we might call the second amnesty program, or we might call it Amnesty II, for individuals who have overstayed their travel visas; they are here illegally, and they are going to be allowed to stay forever if they are from certain oppressed countries, countries like Japan and France.

Mr. Speaker, that is special-interest legislation at its best, and in any case, the whole House should be allowed to decide whether an amendment should be approved or not approved pertaining to that particular concern.

Mr. Speaker, there are other amendments that should have been allowed, amendments that tie an increase in legal immigration to our efforts to control illegal immigration.

The rule has denied the House the opportunity to vote on another very troublesome issue in H.R. 4300 concerning new prohibitions on longshore work. A amendment from the ranking Republican member of the Committee on Merchant Marine and Fisheries was precluded despite the serious adverse consequences that the bill's longshore provisions would have on U.S. ports, U.S. ships, and U.S. businesses.

The rule failed to provide consideration of an amendment by my colleague, the gentleman from Florida [Mr. MCCOLLUM], which would have created critical new tools for the Department of Justice to remove criminal aliens.

Mr. Speaker, there are a number of important issues that have not been addressed by the Committee on Rules, and, as such, in my judgment, the rule should be defeated because it does not really respond to the concerns of the other Members, and it does not respond to the concerns of the administration. It does not respond to the concerns of the citizens.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 245, nays 165, not voting 23, as follows:

[Roll No. 398]

YEAS—245

Ackerman	Dorgan (ND)	Kaptur
Alexander	Durbin	Kastenmeier
Anderson	Dwyer	Kennelly
Andrews	Dymally	Kildee
Annunzio	Dyson	Kleczka
Anthony	Early	Kolter
Applegate	Eckart	Kostmayer
Aspin	Edwards (CA)	LaFalce
Atkins	English	Lancaster
AuCoin	Erdreich	Lantos
Bateman	Espy	Laughlin
Bates	Evans	Leath (TX)
Beilenson	Fascell	Lehman (CA)
Berman	Fazio	Lehman (FL)
Bevill	Feighan	Levin (MI)
Bilbray	Fish	Levine (CA)
Bonior	Flake	Lewis (GA)
Borski	Flippo	Lipinski
Bosco	Foglietta	Lloyd
Boucher	Ford (MI)	Long
Boxer	Ford (TN)	Lowey (NY)
Brennan	Frank	Luken, Thomas
Brooks	Frost	Manton
Browder	Gaydos	Markey
Brown (CA)	Gejdenson	Martin (IL)
Bruce	Gephardt	Martinez
Bryant	Geren	Matsui
Bustamante	Gibbons	Mavroules
Byron	Gilman	Mazzoli
Callahan	Glickman	McCloskey
Campbell (CO)	Gonzalez	McCurdy
Cardin	Gordon	McDade
Carper	Gradison	McDermott
Carr	Gray	McGrath
Chapman	Guarini	McHugh
Clarke	Hall (OH)	McMillen (MD)
Clay	Hamilton	Mfume
Clement	Harris	Miller (CA)
Coleman (TX)	Hatcher	Mineta
Collins	Hawkins	Mink
Condit	Hayes (IL)	Moakley
Conte	Hayes (LA)	Molinari
Conyers	Hefner	Mollohan
Cooper	Hertel	Montgomery
Costello	Hoagland	Moody
Coyne	Hochbrueckner	Morrison (CT)
Darden	Hoyer	Mrazek
Davis	Huckaby	Murphy
de la Garza	Jenkins	Murtha
DeFazio	Johnson (CT)	Nagle
Derrick	Johnson (SD)	Natcher
Dicks	Jones (GA)	Nelson
Dingell	Jones (NC)	Nowak
Dixon	Jontz	Oakar
Donnelly	Kanjorski	Oberstar
Obey	Sabo	Tallon
Olin	Sangmeister	Tanner
Ortiz	Sarpalius	Thomas (GA)
Owens (UT)	Savage	Torres
Pallone	Sawyer	Torricelli
Panetta	Scheuer	Traficant
Parker	Schroeder	Traxler
Patterson	Schumer	Udall
Payne (NJ)	Serrano	Unsoeld
Payne (VA)	Sharp	Valentine
Pease	Sikorski	Vento
Pelosi	Sisisky	Visclosky
Perkins	Skaggs	Volkmer
Pickett	Skeen	Walgren
Pickle	Skelton	Watkins
Poshard	Slaughter (NY)	Waxman
Price	Smith (FL)	Weber
Rahall	Smith (IA)	Weiss
Ray	Solarz	Wheat
Richardson	Spratt	Williams
Roe	Staggers	Wise
Ros-Lehtinen	Stark	Wolpe
Rose	Stenholm	Wyden
Rostenkowski	Stokes	Yates
Rowland (GA)	Studds	Yatron
Roybal	Swift	Young (AK)
Russo	Synar	

NAYS—165

Archer	Henry	Ridge
Armey	Herger	Rinaldo
Baker	Hiler	Ritter
Ballenger	Holloway	Roberts
Barnard	Hopkins	Robinson
Bartlett	Horton	Rogers
Barton	Houghton	Rohrabacher
Bennett	Hubbard	Roth
Bentley	Hughes	Roukema
Bereuter	Hunter	Saxton
Bilirakis	Hutto	Schaefer
Billey	Hyde	Schiff
Boehlert	Inhofe	Schneider
Broomfield	Ireland	Schuette
Brown (CO)	Jacobs	Schulze
Buechner	James	Sensenbrenner
Bunning	Kasich	Shaw
Burton	Kolbe	Shays
Campbell (CA)	Kyl	Shumway
Chandler	Lagomarsino	Shuster
Clinger	Leach (IA)	Slattery
Coble	Lent	Slaughter (VA)
Coleman (MO)	Lewis (CA)	Smith (NE)
Combest	Lightfoot	Smith (NJ)
Coughlin	Livingston	Smith (TX)
Courter	Lowery (CA)	Smith (VT)
Craig	Lukens, Donald	Smith, Denny (OR)
Crane	Machtley	Smith, Robert (NH)
Dannemeyer	Madigan	Smith, Robert (OR)
DeLay	Marlenee	Snowe
Dickinson	Martin (NY)	Solomon
Dornan (CA)	McCandless	Spence
Douglas	McCollum	Stallings
Dreier	McCrery	Stangeland
Duncan	McEwen	Stearns
Emerson	McMillan (NC)	Stump
Fawell	Meyers	Sundquist
Fields	Michel	Tauke
Frenzel	Miller (OH)	Tauzin
Gallegly	Miller (WA)	Taylor
Gallo	Moorhead	Thomas (CA)
Gekas	Morella	Thomas (WY)
Gillmor	Morrison (WA)	Upton
Gingrich	Nielson	Vander Jagt
Goodling	Oxley	Vucanovich
Goss	Packard	Walker
Grandy	Parris	Walsh
Grant	Pashayan	Weldon
Green	Paxon	Whittaker
Gunderson	Penny	Wilson
Hall (TX)	Petri	Wolf
Hammerschmidt	Porter	Wylie
Hancock	Pursell	Young (FL)
Hansen	Quillen	
Hastert	Ravenel	
Hefley	Rhodes	

NOT VOTING—23

Boggs	Johnston	Rangel
Cox	Kennedy	Regula
Crockett	Lewis (FL)	Rowland (CT)
Dellums	McNulty	Saiki
DeWine	Myers	Towns
Downey	Neal (MA)	Washington
Edwards (OK)	Neal (NC)	Whitten
Engel	Owens (NY)	

□ 1304

The Clerk announced the following pair:

On this vote:

Mr. Engel for, with Mr. Lewis of Florida against.

Messrs. FAWELL, GOODLING, and RIDGE changed their vote from "yea" to "nay."

Ms. MOLINARI changed her vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. (Mr. MONTGOMERY). Pursuant to House Resolution 484 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4300.

□ 1305

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4300) to amend the Immigration of Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes with Mr. DARDEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes, the gentleman from Texas [Mr. SMITH] will be recognized for 30 minutes, the gentleman from Ohio [Mr. SAWYER] will be recognized for 15 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, H.R. 4300, the Family Unification and Employment Opportunity Immigration Act of 1990, reforms America's legal immigration quota system. It expands the annual immigration numbers from the current level of 530,000 to roughly 800,000 per year. The Senate has around 630,000 in their bill, and when we go to conference we will obviously have to adjust these numbers. This legislation will ease current U.S. immigration restrictions that hinder the reunification of immediate family members, reduce barrier on immigrants from countries which were traditional sources of immigrants to the United States. Most important, H.R. 4300 marks a shift in legal immigration policy to place greater emphasis on employment-based immigration. It will increase the number of highly skilled or otherwise needed foreign-born workers.

An important aspect of this bill is its provision to allow spouses and minor children of permanent residents to be treated as immediate relatives. This will permit the reunification of families without requiring them to wait at least 2 years under the current law. There are several hundred thousand spouses and children of permanent residents on the waiting list. The enactment of this bill would greatly reduce the backlog.

The provisions of the bill would also correct inequities against would-be immigrants of certain countries. Currently, most immigration is limited to families of recently arrived immigrants. Individuals from countries which are adversely affected by this policy will be able to become eligible for resident status if they have a firm offer of employment for 1 year and have been in the United States continuously since January 1, 1990. As a result, the flow of legal immigration will be restored from countries adversely affected by prior law.

The bill allows 75,000 principals to enter the United States for employment in order to remedy critical labor shortages in specific fields. These immigrants will require employer attestation that U.S. workers will be recruited in the future and that the wages and working conditions of present U.S. workers are not adversely affected.

The legislation also revises the terms and conditions under which foreign workers may come temporarily to the United States. Many of the provisions in this measure broaden the availability of visas to individuals to remedy U.S. labor shortages. Other changes in the bill modernize outdated laws or ease harmful consequences of the 1952 Immigration and Nationality Act.

In summary, Mr. Chairman, H.R. 4300, as amended, is a reasonable and carefully drafted reform of our Nation's legal immigration policy. I particularly want to congratulate the chairman of our Immigration, Refugees and International Law Subcommittee, the gentleman from Connecticut, for his tireless efforts in bringing this bill to the floor today.

□ 1310

I would add one other thing to the Members: I would hope that we could handle all of the amendments today. Those that are acceptable we can agree to; those that are not, we can vote on, and we would preferably not have too many record votes and could finish this bill by 6 p.m. I understand there are a lot of matters going on at 7 p.m. I would hope that would be our program for the afternoon.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] is recognized for 30 minutes.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from New York [Mr. FISH], the ranking member of the Committee on the Judiciary.

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 4300.

The United States of America was built on immigrants. From the English Pilgrims to the Irish and Italians at the turn of the century to the Asian and Hispanics of recent times, this country thrives on the new blood and vitality brought by immigrants.

Mr. Chairman, I believe that H.R. 4300 continues America's longstanding commitment to immigration.

H.R. 4300 enhances the unification of families who have been separated by their own unfortunate circumstances and by our immigration laws. It retains family unification as the cornerstone of American immigration law and policy.

H.R. 4300 also addresses America's needs in a global economy. At a time when the United States needs highly skilled workers—scientists, engineers, computer experts, and other professionals—H.R. 4300 responds to that need. By increasing the number of employment-based visas, H.R. 4300 allows business to import the necessary skills to help it remain competitive in the international economy.

H.R. 4300 rights some of the wrongs caused by past and current immigration laws. It creates opportunities to immigrate to natives of countries who are virtually shut out of the immigration system. The diversity and transition programs of H.R. 4300 will allow the Irish, Africans, Eastern Europeans, Tibetans, Western Europeans, and others to find their way back into the immigration flow which they had been excluded from for 25 years or more.

H.R. 4300 includes these currently disadvantaged without affecting the immigration opportunities of the Asians and Hispanics who, until recent times, were themselves excluded from immigration to the United States.

I do not believe that immigrants are a burden to the United States. Instead, I believe that immigrants are what makes America great.

Everyone knows a recent immigrant who owns the corner store or whose child has graduated first in his or her class. Among whom America counts among its immigrants are scientists and songwriters, athletes and artists, politicians and physicists.

Mr. Chairman, the Senate three times has passed a legal immigration bill. Now is the time for the House to

act, go to conference and achieve an updated law this Congress.

I have two amendments which I urge my colleagues to support. The first, offered on behalf of the State Department, extends the Visa Waiver Program which allows short-term visitors from certain countries to enter the United States without a visa. My second amendment extends the deadline of stage 2 of the legalization program from 1 year to 2 years, to achieve the goals of the 1986 Immigrant Reform and Control Act.

H.R. 4300 assures us that our great tradition of immigration will continue and grow.

I urge my colleagues to join me in supporting H.R. 4300.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all I want to compliment my colleagues who have been instrumental in writing this legislation and who support it. I know they are well motivated, and I admire their humanitarian impulses.

I want to say that the administration shares their desire to increase immigration. Where we part ways is on how to bring about that increase in immigration. The administration has different priorities.

The administration would like to give greater priority to immediate families. They would like to see us have more immigrants come in who are mothers and fathers and children. They would like to give less priority to the extended family members; that is, married brothers, sisters, for example, aunts, uncles, and cousins.

The administration would like to give more priority to skilled workers and, perhaps as a result, less priority to unskilled workers.

H.R. 4300 gives only 10 percent of its numbers specifically to skilled immigrants, so-called employment based.

H.R. 4300 is a radical departure from our current immigration laws. I would say that when we consider it today we need to remember several things.

First of all, as we stand here today, we are going to be debating a bill that professes to, proposes to change our immigration policy for only the fifth time in Congress' 203-year history.

The bill is going to have a dramatic impact on America's population, its work force, and the quality of life for decades to come.

I think we need to remember that America right now is already the most generous country in the world. We admit as many immigrants as the rest of the world combined.

We should continue to be the most generous country. No doubt we will continue to admit all those immigrants. We are all very, very familiar with the successes of hundreds of thousands, if not millions, of immigrants.

That is not the point here. The point is America simply cannot admit every single individual who wants to come to our shores.

One of America's most distinguished families, the Kennedy family, a member of that family wrote a book when he was a Senator, and I am referring to John F. Kennedy. He wrote a book in 1956 called "A Nation of Immigrants."

At that point, he said that we do need a limitation upon immigration:

> We not longer need settlers for virgin lands. Our economy is expanding more slowly than in the 19th and early 20th centuries.

Mr. Chairman, when he wrote that, our immigration level was one-half of what it is today. Unfortunately, because we cannot accommodate every individual who wants to come to this country, we are going to have to engage is some degree to some selectivity. We need to have individuals admitted to this country who can contribute to the productivity of America, who can help us better compete in the international workplace.

I know there are those who say that history would disprove those who are opposed to this bill, but that is not the point. We do not support a decrease in the levels of immigration; we do not want a limit as to which countries can have immigrants come to America. We support an increase. The question again is on what priorities should we have as a country.

□ 1320

Mr. Chairman, I think those priorities should be on immediate family members and upon skilled workers.

Mr. Chairman, we are going to hear a lot about fairness today, but I would like to ask my colleagues some questions.

First of all, is it fair for State and local governments to have to pick up almost the complete cost of educating, providing health care and government services to immigrants who will come to this country? And when I say, "Will State and local governments have to pick up the tab," of course I am talking about the taxpayers who ultimately are going to have to shoulder that burden. Is it fair for business, for the first time in history, to put a cap on the number of individuals who can come to this country temporarily as skilled workers.

Mr. Chairman, every study of which any of us is aware of points to the need to have more skilled workers in this country's future. In fact, one survey, called Work Force 2000, said that by the year 2000, 80 percent of our workers would need to be skilled workers. We need to give more preference to immigrants who are skilled workers and possess the necessary skills.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield for a question?

Mr. SMITH of Texas. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I thank the gentleman from Texas [Mr. SMITH], my colleague, for yielding, and I think he asked a very important question when he talked about who bears the cost.

However, Mr. Chairman, I think it is also fair to point out that again units of local government and States now bear the cost for those who are here illegally or for those who are inside the United States, residing here undocumented, and once again the Federal Government refuses to participate in providing the research necessary for units of local government and States to provide health care, as well as education, for those children of undocumented workers.

Mr. SMITH of Texas. Mr. Chairman, reclaiming my time, I just say to the gentleman from Texas [Mr. COLEMAN], my colleague, that I think he makes a legitimate point. But my concern is that we do not add to the burden of State and local governments that the gentleman from Texas [Mr. COLEMAN] would like to see reimbursed, and, if this bill passes, we are putting a massive burden, financial burden, on those same States, cities, and localities, and we do not need to make it a worse situation.

Mr. Chairman, another provision in this bill that I think is unacceptable, as well, is this bill has two amnesty provisions. Sometimes they are labeled using other phrases, but in point of fact we cannot hide two amnesty provisions in H.R. 4300. When we talk about amnesty, we are talking about rewarding law breakers and, in effect, penalizing law abiders. We are talking about giving amnesty to individuals who came to this country illegally, received amnesty and whose family members are now illegal aliens.

Mr. Chairman, we are going to allow illegal aliens who are in this country as recently as January 1 of this year to stay here forever. Meanwhile, we are saying to the other individuals who are likewise permanent residents that, "If you have tried your best to obey the law, if you have said, 'I'll go through the regular process and wait my turn in order to get my family in,'" we are saying to them, "You're a real dummy for obeying the law. You should have had your family come in illegally."

Mr. Chairman, that is no message to send. If this bill becomes law, and the amnesty provision becomes effective, what we are saying to individuals is, "If you have a family in this country, go on and come in illegally because sooner or later there will be another amnesty just like this one." That is

going to have an incredible magnet effect, and the result is going to be a dramatic increase in illegal aliens.

I might remind our colleagues, Mr. Chairman, that right now, as we stand here, any individual who has a preference visa, any individual who is a permanent resident, can become a citizen in anywhere from zero to 5 years, and at that point automatically can bring in all immediate family members.

So, Mr. Chairman, there are other alternatives to having an amnesty, and I would say again that, when it comes to amnesty, that issue was debated for long and hard back in 1986, and 192 of our colleagues voted against amnesty back then. That is a provision that was so controversial that there was an agreement made at that time that that would be a once and only amnesty. There would be no more because of this magnet effect, and here we are today talking about not one, but two, amnesty provisions in H.R. 4300.

The second amnesty provision basically says, "If you have come to this country and overstayed your travel visa, and you're now here illegally, and you happen to be from one of 35 so-called disadvantaged or oppressed countries, countries like Japan, and France, and so on, you could stay here forever." Well, Mr. Chairman, that is special interest legislation at its best.

Supposedly, in 1965 we took discrimination out of our immigration laws. What this bill does is to put discrimination back in, and it gives amnesty to illegal aliens, to countries that benefited from the discrimination of the pre-1965 law.

Mr. Chairman, there are a number of studies that have been conducted. Some have endorsed more immigration. Some have opposed any substantial increase in immigration. But I do not know of any study that has unequivocally endorsed this bill, H.R. 4300, because of its dramatic increase in immigration, 60 percent in the next few years. Every study that I am aware of that has endorsed an increase in immigration along the lines of H.R. 4300 has always conditioned their findings. Either they are talking about continued economic expansion being necessary to accommodate those individuals, or they use old data.

Mr. Chairman, let me read excerpts from a book by Julian Simon who is considered sort of the guru of those who would want to dramatically increase immigration levels, and I say that here is an individual who is often cited as someone who favors the levels of, say, H.R. 4300, and yet this is what he says in his book:

There is no doubt that workers in some industries suffer immediate injury from the addition of immigrants in the same category, and he goes on and suggests that immigrants be chosen more for their economic characteristics and less on the basis of family connections.

Mr. Chairman, that is exactly what I am saying, and that is exactly what the administration is saying, is give preference to those individuals who have the skills, who have the education, to be productive members of American society and help us compete in the international marketplace.

Mr. Chairman, the most recent study, and one which has superseded Mr. Simon's work, is one by Prof. George Borjas, and he raises these concerns. He talks about injury to American workers from a massive influx of immigrants. He, too, talks about the need to have skilled and educated immigrants. But more especially he says that contrary to all the other surveys of immigrants who have come to this country, the current wave of immigrants, who came in the 1970's, and we do not have the data on the immigrants who came in the 1980's yet, but those who came in the 1970's are participating in welfare to an extent larger than any other wave of immigrants. He uses the word that America has become a welfare magnet because we give individuals in government transfer payments, many instances more than they make in their own countries.

Mr. Chairman, Mr. Borjas says that the immigrants who came in the 1970's will cost American taxpayers $30 billion in those welfare payments. Well, if H.R. 4300 becomes law, we are talking about at least a 50-percent increase in immigrants. That means $45 billion in welfare payments, but it is actually more than that because one of Mr. Borjas' other findings is, unfortunately, that immigrants coming into this country are not only participating in welfare more than immigrants in the past, but the longer they are here in the country, the more they are taking those government transfer payments.

The point here is not to say that many immigrants are costing us money, because I think relatively few are, but the point is that those who do, have a dramatic impact on our taxpayers in this country.

Mr. Chairman, I point to another study, and this perhaps is the most important study of all, and these are public opinion polls taken over the past 5 years. Every single public opinion poll, whether it be by the New York Times, CBS, Roper, Gallup, whoever have you, has shown that fewer than 10 percent of the individuals in America want to increase immigration. The vast majority, in fact, want it to remain the same or actually have it decreased. Those individuals have a real concern about the cost of immigrants, and I think it is a concern that we need to address.

Every study, including the studies I have mentioned, talk about the need for skilled workers, and yet 4,300 does not go far enough in emphasizing those skilled workers and giving a priority to individual immigrants who might be able to come to this country with the skills and the talents that we need.

□ 1300

Mr. Chairman, there is another study that is often cited that has been the subject of several "Dear Colleague" letters, and that is the deTocqueville study. This is a study, just to put it in perspective for my colleagues, that was based upon opinions, not statistical evidence, not quantitative evidence, but on the opinions of 38 economists. Interestingly enough, this poll was sent out to 58 economists. Only 38 felt it necessary to respond. Obviously the poll picked who they were going to send the survey to, and on the basis of this survey, we are told that 80 percent of these economists want increased immigration.

But the actual question to these individuals was: "Do you think that 20th century immigration, looking backward, has been good for the country?" I think all of us would agree that that has been the case.

Mr. Chairman, let me conclude by simply saying that we also need to be concerned about the impact of immigrants on our own underclass. It is widely thought that immigrants who do not possess the skills and the education that we would think are necessary for them to be productive members of American society are going to, therefore, end up competing with the exact same type of individuals in American society, those who are underskilled when they come to America.

Gov. Richard Lamm of Colorado writes this:

Why is it that the other industrial countries who are beating us in the international marketplace take few or no immigrants? . . . . We can either import large numbers of low-skilled workers or we can reach down and train our own underclass. We cannot do both . . . . Wave after wave of immigrants arrive to take the jobs that can start our own underclass on the road to success. . . . No other nation in the world has the delusion that it can ignore its own poor while importing a whole generation of poor people every year. . . . Our first duty ought to be to our own poor. We are crazy to think we can bring in millions of low-wage, unskilled immigrants to do our basic work and ignore our own workers. Instead of incorporating our own poor into the economy, we are adding a second underclass to American society, and we shall pay a heavy price for this. America is heading toward an immigration crisis.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I will be happy to yield in just a moment.

In conclusion, Mr. Chairman, what I do simply say is that H.R. 4300 goes in the wrong direction. While all of us can be in favor of increased immigra-

tion and all of us consider ourselves to be pro-immigrant, nevertheless H.R. 4300 has the wrong priorities. We need to given greater priority to skilled immigrants who are coming to this country and greater priority to reunifying immediate family members and perhaps somewhat less priority to the unskilled and to the extended family members.

Mr. Chairman, I reserve the balance of my time.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Texas yield to the gentlewoman from Ohio?

Apparently not.

The gentleman from Ohio [Mr. SAWYER] is recognized for 15 minutes.

Mr. SAWYER. Mr. Chairman, I yield myself such time as I may consume, and I rise representing the Committee on Education and Labor in its particular interest in H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990.

I wish to thank the chairman of the full Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS] for his patience in preserving the jurisdictional claims of the Committee on Education and Labor, as well as facilitating our substantive considerations. I wish as well to express my deep appreciation to the gentleman from Connecticut [Mr. MORRISON], chairman of the Subcommittee on Immigration, Refugees, and International Law, for the courtesies he has extended to me as chairman of the Education and Labor Task Force on immigration, and for his willingness to recognize the importance of the labor market aspects of this legislation. He encouraged the active participation of the task force in the formulation and the presentation of H.R. 4300, and I thank him for that opportunity.

The Committee on Education and Labor has since 1985 maintained a Task Force on Immigration for the purpose of considering the labor aspects of any immigration proposal. It is clear, under the rules of the House of Representatives, that our committee has jurisdiction over the importation of foreign labor and the setting of wage and labor protections afforded those workers. In the last few years there have been a number of studies, including the one mentioned earlier in this debate today, the Hudson Institute's "Work Force 2000 Report," which graphically illustrates the interrelationship between immigration policies and the demands of the labor market.

These reports simply recognize that both the demographics of the domestic labor force and businesses' demand for both skilled and unskilled workers are changing. This is especially significant as we, as a nation, seek to establish our place in a more competitive global economy in an age of uncertainty, in a time of great change.

As we look toward a world of multinational and transnational corporations and global markets, with a greater and a freer flow of products and people in international commerce, we must also remember that our role in this marketplace should not be built on Third World wages and working conditions. We as a nation have a responsibility to first employ the domestic work force at wages and working conditions which are competitive and not substandard. In the name of global competition, we should not condone the admittance or use of any foreign workers at less than prevailing wages and benefits, particularly when domestic workers are available at those same wages and working conditions. It seems to me a simple proposition that foreign workers should be admitted only when there are real and measurable shortages in the occupation for which they are sought and not simply when an employer states he or she has a need and determines it is cheaper to use foreign workers.

It is also my view that we have a responsibility to not only employ domestic workers first but we have a concurrent duty to educate and train our people for the jobs where shortages now exist or are projected to occur in the future. This is a shared responsibility, and we must begin to take it seriously.

Mr. Chairman, I am pleased that H.R. 4300 reflects this necessary balance between the legitimate needs of business to meet labor shortages in a timely fashion with the equally important need to protect the jobs of American workers at sound wages and working conditions.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GOODLING] is recognized for 15 minutes.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990, represents the first major reform of our Nation's legal immigration laws since 1965 and would restructure the system for the admission of employment based immigrants. As reported by the Judiciary Committee, the bill contains numerous provisions that would impact on the supply of and the demand for labor including provisions that modify the existing categories for the admission of priority workers and other employment-based aliens, revise the labor certification process in cases of demonstrated labor shortages, require the payment of fees for the admission of certain employment-based aliens, and amend the Immigration Reform and Control Act.

In today's labor climate, one of the goals of immigration legislation should be to make our system for the admission of aliens more responsive to our need for workers in labor shortage areas. Given the projections in the Workforce 2000 report that the availability of workers in certain occupations may be insufficient to meet the demand, we must begin to develop a strategy to insure that the American enterprise is not handicapped by a shortage of labor. Along with the improving the recruitment, training and education of American workers, our immigration policy can and should play an important role in that strategy.

It is unclear whether H.R. 4300 does in fact make our legal immigration system more responsive to our labor needs. Several of the priority categories for the admission of employment-based aliens are too narrowly defined to allow for the admission of workers with needed skills. The bill also contains a cap on the number of employment-based nonimmigrants which will similarly limit the flexibility of U.S. companies to respond to changing labor needs. The labor attestation process for the admission of workers in labor shortage occupations will cause added delays and costs.

Several of my colleagues had drafted amendments which were directed at making the provisions of H.R. 4300 more receptive to the need for both skilled and unskilled labor while protecting the interests of American workers. I am disappointed that most of these amendments were not made in order. In their current form, the employment-based immigration provisions of H.R. 4300 make our legal immigration policy an obstacle to the ability of American businesses to compete in the world marketplace.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield 8 minutes to the gentleman from Connecticut [Mr. MORRISON].

□ 1340

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary, for yielding me this time. I thank the gentleman for his leadership in helping us move to the floor of this House a far-reaching and important reform of our immigration system. The last time the Congress acted upon the overall structure of the legal immigration system in this country was in 1965. That is 25 years ago, and those 25 years have seen many changes within the United States and around the world.

Those changes require that our immigration system be adjusted and updated and reformed in order to see to it that its fundamental goals are still pursued in a way that is relevant with the times.

Mr. Chairman, immigration has been a source of great strength to this country. Immigration has been the source of perhaps our greatest strength. It is what makes us a nation by choice, a nation which people have selected as the Nation to which they would come and live. No ethnic group, no religion, no geographical accident defines this Nation. This Nation is defined by a voluntary adherence to far-reaching principles of human rights and democracy.

People have come here in pursuit of these ideals, and to live them out day by day. Only through immigration and the continuation of our open and generous immigration policy can we continue to be for all the world a nation of choice, a nation composed of self-selected strivers, who seek to make their own lives better, to make the lives of their children more hopeful and, in doing so, to make the future of this Nation stronger and better for those who are here already, as well as those who come in the future.

This bill covers three major areas of concern in immigration, and I think it does so in an appropriate way.

First and foremost, it reforms and improves the fundamental principles of our immigration system as reformed in 1965 under the leadership of our esteemed past chairman of the Committee on the Judiciary, Peter Rodino.

That principle is one of a profamily immigration policy. Unifying families, especially the nuclear family, has been a critical priority of our immigration system.

Nonetheless, under our existing law the immediate relatives of people who have been admitted to live permanently in the United States may be prevented from joining their family members for years and years on end.

That is not conducive to good family life, good citizenship, nor is it conducive to adherence to the legal standards of immigration. What family stays apart from its children or its spouse for years and years on end? It does not happen. It ought not to happen. The law ought not to condone it nor seek to enforce those kinds of separations.

Mr. Chairman, this legislation moves in the direction of allowing the immediate families to unite immediately. That is the principle that our law should follow. That is a profamily immigration policy.

The bill also acts to reduce backlogs for other family members who are waiting to join their families here in the United States, a positive commitment to our profamily family unification principles in immigration.

Second, the bill speaks to the changes in the work force of this country. Some people misunderstand the double-edged sword of the lack of needed workers in our economy. Certainly if workers are brought into the United States and allowed to displace Americans from their jobs, that would be wrong. This bill does no such thing.

Equally true, however, is if employers in this country have a need for workers who they cannot find in the United States, and they are denied the opportunity to bring those workers to this country, if they are denied the opportunity to bring needed skilled workers into their work force, American workers are just as certainly displaced. American factories are closed and American workers are laid off. Companies go to other nations in the world to find the workers that they need, and they relocate American jobs out of this country. So those who are concerned about protecting American jobs must understand that this is a double-edged sword, and we must walk the careful path of an immigration law which admits needed workers to the country, but holds them up to the test that they are in fact needed.

This legislation does so. In fact, contrary to what the gentleman from Pennsylvania suggested, the attestation process in this legislation is more expeditious for the companies that would seek to bring skilled workers here than our current law. It is an important improvement.

Mr. Chairman, this moves in the direction of bringing in permanent workers, rather than temporary workers, and it is permanent immigrants who make sure that there is not an undercutting of labor, wages, and conditions here in this country.

In addition to that, this legislation originally contained a provision by which employers who brought individuals to this country would be required to provide funds for education and training. The Committee on Ways and Means objected to that provision as a tax. It has been stricken from the bill. I will offer an amendment that provides for a training requirement in order to see to it that as workers are brought to this country as immigrants because of the lack of necessary workers over here, there will also be a commitment on behalf of those employers to invest in the training of American workers to fill those jobs in the future.

Mr. Chairman, let me say that the employment-related provisions of this bill are employer oriented. They do not delegate to bureaucrats the question of who should come in, but rather provide to employers the choice. That is the answer to those who say they should be more skilled or less skilled. Let us have American employers in our market economy make the selection of which workers are, in fact, needed, rather than have Congress or the Department of Labor seek to make those decisions.

Mr. Chairman, I think that is why even the Wall Street Journal, which has not said nice things about most of my bills here, has said that this is the best Democratic bill they have seen in many years. So I would hope that Republicans would take a close look at it.

Finally, this legislation provides for diversity of immigration and the protection of people temporarily here in this country.

Mr. Chairman, I am pleased to speak today on behalf of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990.

H.R. 4300 is a comprehensive immigration bill addressing issues of family reunification, employment based immigration, immigration for the purpose of promoting cultural diversity, nonimmigrant employment of aliens, and miscellaneous immigration-related matters.

This bill represents the first major change in the law governing legal immigration in 25 years. In 1980, Congress passed the Refugee Act dealing with refugee and asylum issues. In 1986, the Immigration Reform and Control Act [IRCA] was passed, relating to the legalization of the undocumented and employer responsibility for the hiring of documents workers. But not since 1965 has Congress enacted legislation dealing with the wide scope of legal immigration issues, the family preference system and employment based immigration.

Under current law the United States admits about 530,000 immigrants annually—not including refugees. Under H.R 4300 this figure would go to 775,000, with a temporary increase of 50,000 annually for backlog reduction. These increases, cut way back from the bill as originally introduced, are nominal compared to the overall size of the existing U.S. labor force of 125 million.

The three linchpins of this legislation fully justify the additional numbers. The bill would allow: first, immediate family members to be united; second, U.S. businesses to be more competitive in work markets; and third, immigration from countries that have, in the last quarter century, been largely shut out by U.S. immigration law.

Many of you I'm sure saw the glowing editorial about H.R. 4300 in the Wall Street Journal yesterday. It describes the bill as one that will "* * * spur the economy, create new jobs and make the U.S. more competitive." The Journal quoted a survey of 38 leading economists from John Kenneth Galbraith to Milton Friedman and found that they all concurred that immigration has a favorable impact on U.S. economic growth; 80 percent of them found it to have a very favorable impact.

At the hearings conducted on the bill by my subcommittee, Members heard from a host of witnesses who testified that immigrants have a positive effect on the economy. The experts agree that within the next 50 years this Nation will face a declining rate of population growth. As the baby boom generation ceases to have children, we shall find ourselves with an aging work force.

The average age of an American worker in the year 2000 will be almost 40. More and more of our population will be dependent on Social Security, and fewer and fewer young, skilled, productive workers, will be paying taxes and contributing to the gross national product. Immigration and Naturalization Service [INS] Commissioner Gene McNary was quoted recently in Newsweek magazine as saying: "There is a pretty good argument that we need these people to complement our aging work force." Newsweek stated that Mr. McNary believes a healthy economy can absorb up to 1 million immigrations each year.

A study prepared for the U.S. Department of Labor, Workforce 2000, is one study among several, that indicates that the education and skills of the emerging U.S. labor force will be unable to match U.S. labor market needs. Because it is unlikely that a sufficient number of U.S. workers will be trained quickly enough to meet legitimate employment needs, and because such needs are already unmet, our committee was convinced that immigration has a part to play in an overall strategy creating a workforce that will keep America competitive in the global economy in the 21st century.

FAMILY UNIFICATION

H.R. 4300 makes two important change with respect to family reunification. The first is the provision allowed spouses and minor children of permanent residents to be treated as immediate relatives. Unlike the immediate relatives of citizens, who are allowed to enter the United States in unlimited number, the immediate relative spouses and minor children of permanent residents, under current law, have to wait for as many as 15 years to be reunited with their families.

Keeping nuclear families together is a cornerstone American value. It is a value central to my own concern, and central to this bill. There are over 400,000 spouses and children of permanent residents worldwide on the waiting list. H.R. 4300 will permit up to 115,000 of them to be admitted annually as immediate relatives. Adult children of permanent residents will continue to be admitted in the limited second preference category.

The other provision relating to family unification is the family fairness provision that was restored to the bill at the full committee markup. This provision requires a stay of deportation for spouses and minor children of legalized aliens who entered the United States before January 1, 1990. Its purpose is to allow husbands and wives, and parents, and children to remain together. This provision will keep us from wasting valuable enforcement resources on deporting children and spouses who will ultimately be allowed to enter the country anyway.

EMPLOYMENT BASED IMMIGRATION

The second major concern that H.R. 4300 responds to is the need of employers for certain types of workers. The bill would increase the annual number of employment based visas from slightly more than 20,000 under current law, to 75,000.

There are two groups of employment based admissions. The first is for those with extraordinary ability, executives, and university professors whose entry is in the national interest and for whom there is no U.S. labor displacement. The second category consists of those who fill a vacancy for which no American worker can be found. Important labor safeguards are incorporated into the bill, requiring recruitment efforts by employers and payment of prevailing wages.

Temporary visas would be facilitated under the bill for those of extraordinary ability, entertainers and athletes, people with special business expertise, and others. In order to assure that U.S. workers are not displaced, consultation with labor groups would be required for the issuance of certain employment-based visas. Visas for temporary workers have been expanded in some instances to allow multinationals to transfer employees from abroad for career development.

DIVERSITY

The third significant change rendered by the bill relates to the broadening of the regional bases from which people come to the United States. H.R. 4300 endeavors to reverse the unintended inequities that resulted from the 1965 Immigration and Nationality Act [INA]. Individuals from countries deemed "adversely affected" by the 1965 law, including Ireland, Italy, Poland, Argentina, and Japan, will now have the opportunity to apply for conditional residence status if they have a firm offer of employment for at least 1 year. This program will provide for 25,000 visas annually for 3 years.

Other temporary measures designed to enhance diversity include: First, priority for natives of adversely affected countries for certain employment based visas; second, 15,000 immigrant visas annually for natives of Eastern Europe and from the continent of Africa. Both of these provisions target areas of the world from which immigration to the United States has been notoriously low. Finally, in an effort to maintain an ongoing diverse flow of immigrants, the bill provides for a self-correcting program for natives of foreign states that have sent fewer than 50,000 immigrants to the United States over the preceding 5-year period.

Consideration of a new approach to legal immigration began with the work of the Select Commission on Immigration and Refugee Policy chaired by the Rev. Theodore Hesburgh, which submitted its final report to the President and Congress on March 1, 1981. Congressional focus during the 1980's then shifted to curbing illegal immigration, leaving the second portion of the Commission's recommendations, with respect to legal immigration, for future Congresses.

In the 101st Congress, S. 358 was passed by the Senate on July 13, 1989, by a vote of 81 to 17. On the House side my subcommittee began a series of hearings, sometimes held jointly with the Immigration Task Force of the House Education and Labor Committee, in September 1989. The subcommittee heard from some 50 witnesses, including administration officials, economists, state and local officials, immigrant advocates and immigrant opponents, and representatives of business and labor. On March 19, 1990, I introduced H.R. 4300 and the bill was marked up by the subcommittee in course of the following several weeks. The full Judiciary Committee considered the bill on July 31 and August 1, 1990, and on the latter date ordered the bill, as amended, favorably reported to the House by a recorded vote of 23 to 12.

H.R. 4300 enjoys significant bipartisan support in the House, and wide and diverse support in the community at large. Endorsements run the gamut from right to left; from conservative think-tanks to labor organizations and the Wall Street Journal. Supporters include the Catholic Conference, and the major Hispanic, Asian, Irish, Jewish, and Eastern European groups.

I look forward to the support of all my colleagues as well.

Mr. BERMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in strong support of this bill, particularly the provisions that have to do with the country of Lebanon and the immigrants from Lebanon to this country.

Mr. Chairman, it is a very difficult task to produce a bill which is fair, compassionate, and good for the economy. I believe H.R. 4300 meets these objectives.

Over the years, immigrants have been the lifeblood of this country, both economically and spiritually. I believe we have an obligation to share this experiment in freedom with other people in the world who are oppressed. We cannot shut the doors to them—diversity is good for this country. At the same time, we cannot simply throw the doors open and see what happens. We must control the flow of immigrants into this country so they can become productive members of American society.

I want to especially bring the attention of my colleagues an amendment I offered in the Judiciary Committee to provide some relief to the unfortunate citizens of Lebanon, who have lived trapped and under siege for over a decade. While the media seems to have lost interest in Lebanon, the country is politically very unstable and living conditions are impossible. Since February, over 1,000 people have been killed and 3,500 wounded, mostly in shelling of urban areas. Over half of the population are refugees in their own country, displaced by the war. Public water and electricity are almost nonexistent. Efforts to resolve the war have failed and there is no way of predicting whether all-out fighting will break out again tomorrow.

I venture to say I cannot imagine where else in the world conditions are as bad. I became involved in this crisis when a family member of a constituent was killed while awaiting approval of his application for a visa to come to the United States. There is something wrong when the immigration process puts people whose lives are in jeopardy on a daily basis on a list 8 years long. Fifth preference visa applicants who applied in 1982 are just now getting approval. If you were Lebanese and applied tomorrow for a fifth preference visa, the wait would be 25 years. The Lebanese do not have the luxury of waiting for their turn under the present system. My amendments may save some innocent lives.

My amendment addresses the desperate need of Lebanese trapped in random violence

to get out of the country to join family in the United States. It is a curious thing that these people do not qualify as refugees because they are threatened by general anarchy and violence, rather than specific persecution. The amendment attempts to address the backlog of second and fifth preference visa applicants by adding 5,000 new visas in years 1991 through 1995, or 1,000 new immigrant visas each year for 5 years. I want to make it very clear that these are additional visas to those provided in the bill, and that citizens of Lebanon are eligible on an equal footing for the other visas made available under the backlog reduction provisions of the bill. These additional visas should not in any way reduce their chances of obtaining a visa under other sections of H.R. 4300.

I understand concerns about special treatment for citizens of one country, but I fear that if we make them wait their turn in line, they may not be alive when their names are called. I believe this is a humanitarian gesture and the most fair way to do it.

I also want to thank and commend the chairman of the Rules Committee, Mr. MOAKLEY, for his amendment to grant temporary protected status to citizens of Lebanon, El Salvador, Kuwait, and Liberia who are presently to return Nicaraguans with justifiable fear of being sent home to face political persecution and even death. While the situation has changed for the better in Nicaragua, it may be worse in El Salvador. Congresswoman OAKAR and I introduced a similar measure specifically directed toward Lebanon last year, and I appreciate the chairman's including Lebanon in his amendment. This is the right thing to do.

I hope my colleagues will join me in supporting this important and worthwhile legislation.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I commend the committee for bringing this bill to the floor in its present form. In drafting H.R. 4300, the committee has shown a deep concern for and understanding of the problems that face Hong Kong as Communist Chinese takeover of the colony in 1997 nears.

After the brutal and bloody massacre at Tiananmen Square and the repression that followed, the people of Hong Kong have become extremely anxious about their homeland reverting to control of the People's Republic of China in 1997. As a consequence, Hong Kong is experiencing a brain drain which will see 62,000 people leave Hong Kong in 1990 alone. Most of those leaving are the better educated who held middle and higher level management positions in Hong Kong. This brain drain threatens to seriously disrupt the colony's economy, and with it United States interests in Hong Kong.

H.R. 4300 contains three provisions specifically designed to alleviate the unstable situation in Hong Kong.

The bill raises the per country ceiling for Hong Kong from 5,000—the allocation for colonies—to 20,000, the present allocation for countries. While we don't want people to leave, if they must leave, frankly we want these job-creating entrepreneurs to come here and help make our economy as vibrant and strong as they have made Hong Kong's.

In addition, H.R. 4300 waives the usual 4-month requirement and permits Hong Kong residents holding United States visas to exercise their visas at any time until 2001. This safety net is extremely important. The goal is not to drain the talented people from Hong Kong, but to give them confidence in the future. The purpose of this provision is to allow visa holders to remain in Hong Kong under Chinese control for several years after 1997. Hopefully, the Chinese under more enlightened leadership will adhere to their promises and many visa holders will choose not to exercise their visas and to stay after 2001.

In the last year, American firms in Hong Kong lost 24 percent of their key employees to emigration from Hong Kong and to transfer to non-American companies—managers, executives, and highly skilled employees who were offered immigration benefits as part of their employment package. The bill responds to this problem by providing an additional 15,000 visas for residents of Hong Kong who are employed in Hong Kong by a United States business and can be similarly employed in the United States.

I commend the committee for its measured and timely response to the problems facing Hong Kong. The provisions in this bill relating to Hong Kong will go far to reassure the people of Hong Kong and make the transition of 1997 tolerable.

□ 1350

Mr. SAWYER. Mr. Chairman, could the Chair clarify the amount of time remaining?

The CHAIRMAN. The gentleman from Ohio [Mr. SAWYER] has 11 minutes remaining; the gentleman from Texas [Mr. BROOKS] has 18 minutes remaining; the gentleman from Texas [Mr. SMITH] has 8 minutes remaining; and the gentleman from Pennsylvania [Mr. GOODLING] has 12 minutes remaining.

Mr. SAWYER. Mr. Chairman, I am pleased to yield 4 minutes to the distinguished gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Chairman, I rise in support of this very important piece of legislation.

Most of my colleagues probably remember that a few years ago I strongly opposed the so-called Simpson-Mazzoli bill. I opposed it at that time because it seemed to me that the presenters of the bill purposely ignored the unification of families, an important provision not included in that bill.

I also remember that that bill had a quota system that ignored the needs of people in this hemisphere, increasing quotas for Europe, but not Latin America; nor Canada.

The recommendations that are made in this bill were recommendations that I made to that bill at that particular time, and therefore, now, a few years later I am pleased that they are included in this piece of legislation before us. I agree that this is a good bill, that it is a real step forward, and of long-term benefit to this country.

I am pleased to see that H.R. 4300 increases the number of visas available to the most backlogged family preference category. It revises the current labor certification process which is designed to ensure that immigrant workers do not take jobs away from qualified Americans, and also establishes a new diversity program to permit increased immigration from countries that have received relatively few visas over the past several decades. These provisions are most important and must be included in this piece of legislation.

My colleagues probably also remember that just a few months ago we passed legislation right here in this House that made possible the immigration of people from Ireland with practically no restrictions whatsoever. I think that that was also good because they too add to the economic welfare of this Nation. But most importantly I see the fact that this piece of legislation establishes a more equitable visa category for spouses and children of permanent residents that would permit more rapid family reunification as they provide 115,000 more slots for permanent residents's spouses and minor children.

It provides also a backlog reduction in visas for second and fifth preference, which is most important. This is something that I proposed, several years ago, but it just seems that no one listened. I am glad that they are included in this piece of legislation.

This bill when passed would also prevent the deportation of spouses and children of legalized permanent residents who arrived in the United States before January 1 of 1990, and this indeed makes this bill a family unification proposal. We passed legislation and we gave amnesty to thousands upon thousands of individuals, but said to them that they can stay in the U.S., work on our farms, work in our restaurants, and our hotels, work wherever there is employment that Americans do not want, but you cannot be reunited with your families. Your children and your wife, we said if they are here will be subject to deportation, if they are elsewhere, they can not enter until they qualify under an unfair quota system, no matter how many years it will take.

What that piece of legislation did at that particular time was encourage the violation of immigration laws, as wives and children did in fact join a spouse or parent in the United States. It was a mistake then to have done what we did, but now this bill will rectify that mistake.

My colleagues, it is most important for the welfare of this Nation that we pass this legislation. The bill does improve immigration policy not only for people in this hemisphere, but improves immigration policy for people coming from all over the world.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. MILLER].

At the completion of his message, I yield the balance of my time to the gentleman from Texas [Mr. SMITH].

The CHAIRMAN. Without objection, after completion of the statement by the gentleman from Ohio, the remaining time of the gentleman from Pennsylvania [Mr. GOODLING] will be controlled by the gentleman from Texas [Mr. SMITH].

There was no objection.

Mr. MILLER of Ohio. Mr. Chairman, I appreciate the effort that my colleagues have put forth in order to bring this bill to the House floor, but Mr. Chairman, I must rise in opposition to H.R. 4300.

Though well intentioned, the Family Unity and Employment Opportunity Immigration Act of 1990 in my judgment would create more problems for American families and American workers than it would resolve.

Essentially, this legislation is another amnesty program for those who have been in the United States illegally from 1982 until January 1, 1990. Many of us have constituents, who have come to the United States legally, who have used legal channels to bring their family members to the United States, who have patiently waited for visa numbers to become available, because they wanted to obey the laws of our country. Now, we have again decided to give amnesty to illegal aliens, to people who have circumvented our laws, not honored them. We have already legalized nearly 3.1 million illegal aliens who were residing in this country prior to 1982. Is it fair for those immigrants who have chosen the legal route to come to this country to see us once again swing the door of citizenship open to those who have scorned our laws?

While we have added to the number of visas available to the second—spouses and children of permanent residents—and fifth preference—unmarried brothers and sisters of U.S. citizens—catagories to help eliminate the huge backlogs of individuals waiting to legally come to the United States, this is only a stopgap provision, which will end after 5 years. What is to eliminate another huge backlog of applicants in the future?

The majority of the costs of this program are being thrust upon the State and local governments. No provisions have been made for the Federal Government to share in the costs associated with enlarging the number of immigrants allowed to enter this country, estimates have shown that in the first year after implementation alone, State and local governments will spend approximately $3.8 billion in public welfare programs, food subsidies, housing, and education costs. With the country's current budgetary problems can our States and local governments afford the costs of H.R. 4300?

I agree that our current system of immigration needs to be improved, but, in my judgment H.R. 4300 is not a reform of the current immigration system, but simply an expansion of the current laws which allow for an increase in immigration by further extending amnesty to those who have come to the United States illegally. I feel this is not the way to go and that we have a long way to go if we want to make this legislation fair and equitable for all concerned. In its present form, I feel this is a bad bill and I urge my colleagues to vote against it.

□ 1400

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BRYANT], a distinguished member of the subcommittee and the committee.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, I rise to oppose H.R. 4300 unless we are able to radically amend it today. The bottom line is simply this: Today the United States of America admits 530,000 people every year, new immigrants, into the United States, which is more than all the countries of the world combined presently admit into their borders.

This bill before the House today would increase that number by over 300,000. I would suggest to the Members that it would take the whole figure up to as high as 900,000 new legal immigrants into the United States every year.

I think the fair question for us to ask is: Why? Why, with all the problems we have in this country, are we taking up a bill that is going to increase the number of people that come into the country every year by such a huge number? We cannot pay our bills. We are in the midst of an enormous debate at the present time about how to finance $200 billion to $250 billion a year in budget deficits. We have a crime rate that is unrivaled anywhere in the Western world. We have an education system that is creaking under the burden that it now has which it is not able to maintain. It is not educating our people adequately. We have street people by the thousands on the streets of every major American city. We have recession in progress. We have unemployment going up to as high as 6 percent projected by the end of the year.

The fact of the matter is we cannot take care of the people we have now. Why in the world are we taking up a bill at the present time that is going to increase the number of new Americans that will come into the country every year beyond the very generous figure of 530,000 that already exists?

There are three good reasons for immigration policy. One is to promote family unity, and if that is all this bill did, I would be standing here speaking for it. I am going to offer an amendment before the day is over that will restrict this bill's purposes to family unity, but this bill goes far beyond that.

Another legitimate purpose would be to take care of refugees and persecuted persons, which has been part of the American tradition, but beyond that legislation with regard to immigration ought to be crafted in such a way that it suits the national interest, not every group of special-interest-pleading organizations that come before the Congress asking that their particular concern be met in this, a patchwork piece of legislation which is designed not to pursue a coherent national purpose but which is designed to satisfy the demands of legions of special-interest groups that have come to this Congress.

They say that we need to increase diversity. We are already the most diverse country in the world. I would ask: How can it be that a bill which extends more visas and the right to enter to more Europeans than we are allowing to enter now which are already the majority group, white Europeans are already the majority group in America, how can that advance the cause of diversity, as though it need to be advanced in a country as diverse as ours already? How can bringing in so many people of the same race as the majority race encourage diversity?

They say we have a labor shortage. We have a job shortage.

Further, to me, we have a job shortage in America. We have an unemployment rate of 5½ percent that our economists tell us is headed up to 6 percent. What about the Americans who are already here who do not have jobs? Our obligation should be to train them to make them ready for the jobs that are available, not bring in a new competing group that is going to make it even more difficult for them ever to be able to work.

Family unity is a legitimate goal of immigration policy, and there are pro-

visions in this bill which would advance family unity, but we can do that without opening up the floodgates to so many other groups who do not fall under that category.

I will offer an amendment toward the end of the day, and in fact it is a substitute, which concentrates on family unity only and strikes the portions of the bill which open up our immigration laws to so many other persons who are not part of a family in the United States, and maintains those portions of the bill which would promote family unity. It maintains the section that prohibits the deportation of spouses and children of aliens who are legalized under the Immigration Reform Act of 1986, the family-fairness provisions. My amendment would hold that in the bill.

My amendment would also maintain the portion of the bill which grants 115,000 visas each year for immediate relatives, spouses and children, that is to say, for the spouses and children of permanent residents who are already in the United States. It would not include brothers and sisters, but it would include spouses and children.

Finally, it would also maintain the provisions of the bill allowing 10,250 visas a year for unmarried adult sons and daughters of persons who are legally present in the United States at the present time.

But that surely is enough. To go beyond that is to pursue a totally different purpose, and in fact, it is to pursue a purpose, which I submit to you, is not a coherent one, but one that results from a simple patching together of demands from special interest groups from across the United States who have come here and said, "We want to be allowed to bring in more and more and more people."

Mr. Chairman, I urge the Members of the House to turn down H.R. 4300 unless we can amend it by limiting its purpose to family unity which I submit to the Members is the only legitimate purpose that would meet the needs of the American people today.

Mr. SMITH of Texas. Mr. Chairman, I yield 4 minutes to my colleague, the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I find there are a number of good things in this bill, but, frankly, the number of bad things well overshadow the number of good.

One of the good things that is in the bill is some changes in the Marriage Fraud Act that several of us worked on a couple of years ago that will make things a whole lot better, I think, from the standpoint of hardships unintentionally created there.

But the problem with the bill basically is the thrust is wrong.

A lot of us believe in the appropriate immigration reform. We think there needs to be an opportunity for seed immigrants to come to this country.

I have been on the Immigration Subcommittee a number of years and fought through the major immigration battle that resulted in the bill in 1986. I think that is probably the one most glaring point that needed to be made, but this bill does not address that problem, in my opinion, correctly.

Instead of simply saying, OK, because of the fifth preference where you have enormous numbers of immigrants being consumed and brought into this country to have family unification with extended brothers and sisters becasue they eat up so many of these numbers, instead of saying, OK, we recognize that fact so we are going to add "X" number of new legal immigrants in a new category or carve out a category for skilled workers, seed immigrants, this bill goes about completely changing the preference, changing the whole system that we operate under in a way, that I think, is detrimental to the system and to the orderly progress, in terms of getting the kind of mix in this country of legal immigration that we need.

As the gentleman from Texas [Mr. BRYANT] also pointed out, it adds too many new numbers. I do not think we need to be bringing in that many.

Perhaps, first of all, it has two amnesty provisions in it. If we recall back in 1986, we legalized a lot of folks and brought them into this Nation. I happened to oppose that. I do not think that is a good idea because of the magnet effect. Sure enough, it has brought a lot more illegals into this country since then.

The fact of the matter is that we would, under this bill, be legalizing all of the children and the spouses of those who came forward and were granted legalization without their having to stand in line in the normal process that children and spouses of those who have been legalized in the past would do, and I do not think that is right.

□ 1410

I do not think that is right. That is a wrong, wrong approach from a standpoint of what is moral.

There are thousands, yea millions of people waiting in line to get into the United States legally, in countries throughout the world. Those should be given the priorities. Those should be given the opportunity to come in here first, not the people who come here illegally.

In my judgment, when we get all said and done with this, we do not address one of the most critical problems facing this Nation today in immigration. We do not address the problem of what we are going to do with all the criminals that are in our jails that are illegal aliens that are here. We need to have a process to expedite the deportation of those who are illegally here, and that process has not been granted, either through the committee structure, or through the Committee on Rules through an amendment I suggested might be offered on the floor. That is urgently needed.

What we see is, over the past 3 years, only about 22,000 have been deported from this Nation altogether, whether criminals or otherwise, out of the potential of 1 to 2 million. We do not know exactly how many are here in that category, but we definitely know we are only deporting about 1 or 2 percent of those available for deportation, and a large bulk of those who should be deported are in our jails, criminals flooding our jails in the States around this country. I think that that is the most important single thing that is missing from this legislation.

We need to reform the process for adjudication. We need to speed up the process of getting the criminal element who are here illegally, out of this country, instead of having them fill our jails. We also, at the same time, need to give new resources to the Immigration Service. They do not have enough investigators to go out and handle deportation cases. When we visit local immigration offices, what we notice more than anything else, they say, "Gosh, the case is made over in one division by some folks who know that there are illegals here that ought to be deported, but we do not have the personnel to follow up, so there are a bunch of people out there that ought to be deported that we are never looking into."

The bill takes a wrong thrust. It was a good idea. We need to reform it, definitely need to reform priorities, and we should add a few more in the category system, but we should not go in and screw it all around, changing the third and the fifth preferences, having amnesty and doing lots of other things I think are wrong, so I am opposed to this bill in the present form. I doubt seriously we will adopt amendments that will allow me to support it, but I urge my colleagues to look at the amendment, because there will be good ones offered, and hopefully there will be changes made.

Mr. SAWYER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Chairman, before we vote on the Family Unity and Employment Opportunity Immigration Act of 1990, we are likely to hear a lot about immigration numbers and the effects of the bill on the labor market. What should not go unsaid or unnoticed, however, is that the bill we have before us contains a small but significant provision which will literally free thousands of immi-

grant women from a nightmare of brutal physical abuse and mental cruelty.

Immigrant women are some of the most vulnerable to domestic violence, yet their plight is not well enough known to effect real change. Not long ago, I heard the heart wrenching story of an immigrant woman living in Rochester with her abusive American spouse. She was regularly beaten by her husband and subjected to unspeakable cruelties. She lived with two paralyzing fears—that of her husband's rage and that of being forced back to her native Haiti. The 1986 Marriage Fraud Act leaves this woman trapped in the abusive relationship for at least 2 years or face deportation to a country which is no longer her home.

Responding to this woman's circumstances and those of thousands of alien spouses nationwide, I introduced legislation to amend the Marriage Fraud Act and provide immigrant spouses in a bona fide marriage, an escape from the beatings, the insults and the fear. I thank Chairman MORRISON for including my legislation in the Family Unit and Employment Opportunity Act and expanding the battered spouse waiver provisions to protect children as well.

The Immigration Marriage Fraud Amendments Act of 1986 [IMFA] mandates a 2-year period of conditional permanent residency for foreigners who marry American citizens or permanent residents. At the end of this 2-year period, the American spouse with the foreign spouse must file a joint petition to gain full permanent residency for the foreign spouse. Due to a lack of clarity in the IMFA, a battered foreign spouse may be forced to choose between remaining in an abusive relationship or facing possible deportation to a country that is no longer his or her home.

Under the IMFA, if the resident spouse refuses to sign the joint petition, deportation proceedings can be initiated by the Immigration and Naturalization Service. The joint petition requirement may be waived if the foreign spouse can demonstrate: First, that his or her deportation would result in extreme hardship; or second, that she or he entered the marriage in good faith and sought termination of the marriage for good cause—good cause/good faith waiver. These waivers, which require the filing of INS form I-752, allow the foreign spouse to petition independently for permanent residency.

Potentially, an I-752 waiver based on the good cause termination of a good faith marriage can be requested in cases of spouse abuse. However, the likelihood of obtaining an I-752 waiver in States that have no fault divorce laws is unclear. A resident spouse, learning of his or her spouse's intent to file for divorce, need only file for divorce first to obtain the advantage in situations where the waiver of the joint petition requirement is being sought.

Because the law is new—final regulations appeared in the Federal Register on August 10, 1988—and the basis for obtaining a good cause/good faith marriage is vague, it is not always clear to victims of abuse how the IMFA will be applied to them. The lack of clarity in the law has acted as a deterrent to battered foreign spouses who want to leave their spouses but fear deportation if they do so. A further deterrent is the fact that the divorce proceedings bring the foreign spouse back into the physical proximity of the abuser with potentially serious consequences. While the regulations are just over 2-years old, there is no reason to allow more women and men to become victims of domestic violence.

Section 301 of H.R. 4300 would add a third provision to the IMFA that permits the joint petition requirement to be waived. Where a foreign spouse could demonstrate that he or she entered into a marriage with a resident spouse in good faith and could establish through credible evidence that he or she was battered by the American spouse, the foreign spouse would be allowed to waive the joint petition requirement and file independently to have the conditionality of his or her permanent residence removed. This waiver would not force the foreign spouse to seek a divorce and would thus avoid the question of good cause which must be considered in the good cause/good faith waiver and it would make it clear to abused spouses that there was an escape from their situations. In addition, section 301 stipulates that the exact address of the battered spouse would remain confidential during any INS proceeding.

While this additional waiver would not alter the spirit of the IMFA and the conditional permanent residence system established in 1986, it would be beneficial to a large number of persons trapped in abusive relationships. INS reports 3,747 filings of the I-752 form in the first half of fiscal 1989. While I-752 filings do not reflect the exact extent of the problem, they do offer some indication of the scope. The INS has approved many of these petitions, but anecdotal evidence would indicate that these numbers merely represent the tip of the iceberg. Those in this situation are often advised to remain with the abuser until the 2 years of conditional permanent residence have ended because of the lack of clarity in the law. Abused spouses should be sent a clearer signal that there is an escape from their dilemma and that the abusing spouse does not have complete control over their lives.

Section 301 intends to address two situations: the first in which a conditional resident spouse is subjected to battering or extreme mental cruelty by the citizen or resident spouse; the second in which a child or stepchild is subject to battering or extreme cruelty by the citizen or resident parent. By approving H.R. 4300, the House intends that when the citizen or resident spouse engages in battering or cruelty against a spouse or child, neither the spouse nor child should be entrapped in the abusive relationship by the threat of losing their legal resident status. It is the legislative's intent that the Attorney General will grant the waiver when battering of or cruelty to spouse or child is demonstrated. The House intends that the discretion given to the Attorney General to decide to deny waiver requests under this provision be limited to rare and exceptional circumstances such as when the alien poses a clear and significant detriment to the national interest.

As the original author of section 301 of H.R. 4300, I am also concerned with the situation in which the citizen or resident spouse abuses a child or alien child. It is the intent of the legislation, then, that the conditional resident spouse be able to protect the child without fearing that the citizen or resident spouse will refuse to cooperate in the joint petition, joint interview requirements for the alien spouse. In such a situation, the good faith or extreme hardship waiver will be granted to the alien spouse. The existence of a child of the marriage is evidence that the marriage was entered into in good faith. Both a child and the child's alien parent would suffer extreme hardship if the child were denied the protection and support of the alien spouse when the citizen or resident spouse abuses the child.

The group that would be targeted by the clarifications I have proposed is one of the most vulnerable in American society today. The vast majority of abused foreign spouses are women. Most are new to American society and many do not speak English as a first language. This group is in particular need of statutory language that clearly protects them from abusive spouses taking advantage of the necessity of filing a joint petition at the end of the 2 year period.

A "yes" vote on H.R. 4300 says "no" to the domestic violence which terrorizes thousands of immigrant spouses and their children. I urge all of my colleagues to support the bill, giving hope to battered spouses and children that they, too, might soon realize the American dream of living in freedom and safety.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished

gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding me this time. I want to salute my colleagues on the Subcommittee on Immigration for the wonderful work they have done on this bill.

Today the House is faced with a challenge, and that is to defy myths, misperceptions, and misplaced fears, and act with intelligence, insight, and reason, by enacting immigration reform. This legislation is the culmination of years of debate and wrangling, and enjoys the broad-based support of ethnic, religious, and civil rights groups, certain business concerns, and organized labor. Getting all those groups together was no small feat.

The bill rightfully recognizes the industry and valuable contributions that immigrants have made throughout the history of our Nation. It is based on the fundamental premise that immigrants are good for America, and despite the fact that immigrants are such an integral and evolving part of our identity as a Nation, our immigration policies have stagnated for the last 25 years. Meanwhile, the world turns.

Clearly, the world of nations has taken a giant leap since 1965 when we last overhauled our laws. Since then an increasingly interdependent and global economy has shown Members that the United States cannot afford to lose sight of one of its most valuable resources. The Einsteins, the Iacoccas, the immigrants from all corners of the world, the Wangs, who choose to live here and enrich citizens immeasurably by their contributions. Not every immigrant is an Einstein. No, many are just courageous, hard-working individuals. The doorman who works at one door 8 to 4, goes across the street and works at another door 4 to 12, to build America. The nurse who works 9 to 5 at a hospital, caring for patients, goes home, takes care of her children, and then goes out on a night job to earn a little more money so that her children might be better provided for.

Every story of an immigrant is the story of an American dream. My colleague from Texas [Mr. BRYANT] had mentioned, why do we need more people when we have so many problems already? That is the reason we need more people. Immigrants do not cause problems. They help solve problems. Immigrants built this country. They bring citizens new vigor and new ideas. They contribute far more than the considerable benefits they get from becoming American citizens. They do not steal jobs. They do not live off the public dole. They are productive members of society who add richness through their ethnic and cultural diversity.

The bill before Members today addresses many inequities in the law. Families divided, who might not be back without this bill, companies that are desperate for a certain kind of engineer, and yet cannot get it because of the immigration laws, people from countries in Europe and Africa who would love to come here but cannot because our laws are locked into the history of the past. The bill will permit families to reunite, will allow employers easier access to works where they can demonstrate they lack workers in the United States and permit greater diversity among the flow of immigrants. Those are three goals. We should not let this opportunity for meaningful reform pass Members by.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, throughout the incumbency which I had been so honored to serve, I have received as many other Members have received, a deluge of letters and calls and expressions of opinion on a thousand different issues. I can say to Members, and I can vouch for a substantial majority of the House of Representatives, that we have not received such deluges on the need, as people would see it, to increase immigration at this time in our history.

We have just undergone, very recently, an immigration act in the form of the amnesty that we granted to illegal aliens, that could have resulted in estimates between 10 and 20 million people becoming eligible for citizenship all in one fell swoop. We just did that in a recent session of the Congress of the United States. A substantial majority of the people of my district and of your district, and if interpolated into the public opinion polls nationwide, would show 75 percent or more of our people do not think it is an American societal need to increase immigration quotas.

□ 1420

Likewise, almost the same number, perhaps fewer than that, opened to those who collect these opinions that immigration quotas ought to be reduced.

Now, I am not here to advocate reduction of the immigration quotas. I am the son of immigrants who benefited from the quota that existed at that time that permitted them to come to this country. It would be unfair to their successors in line on the established system that we had to open up other kinds of capabilities of immigration that would deny the right to X or Y or Z elsewhere in the world waiting with anxiety as my parents did to come to the United States.

Mr. Chairman, I cannot support this bill in its present form. I can help and cast my vote and support any measure that will foster unification of families, but that will not require, notwithstanding the nods and glances of my fellow Members, that will not require opening the floodgates of immigration. We can do it ad hoc case by case and with sophisticated methodology that we can put into the immigration laws as they now exist.

I have had many occasions, as you have had, to be able to solve a family reunification situation out of the prestige of one's own office working with the State Department in many, many instances; so the law is not that much lacking today that would permit us to work on family reunification without opening, as I said, those floodgates.

We will debate this issue. Let us listen to the amendments. I oppose the bill as it now is constituted. If it is improved, I may still vote against it.

Mr. SAWYER. Mr. Chairman, I am pleased to yield 2 minutes to my friend and colleague, and neighbor, the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I rise in support of H.R. 4300, the Family Unity and Employment Opportunity Act of 1990.

We are a Nation of immigrants, and each immigrant has brought to this country something very, very important. Our country is really a gaint mosaic of cultures, and that is really part of the American dream.

I am proud that I grew up in a culturally diversified neighborhood consisting of people who trace their ancestry from all parts of the world. That is what makes our country the greatest country in the world, that we are able to embrace a variety of cultures.

Unfortunately, in my judgment, there is a cyclical discrimination in our immigration policy. It is nearly impossible just to obtain a visa under the current system from some areas of the world. People who want to visit our country, such as those from Poland, Ireland, the Ukraine, Czechs, Slovaks, Serbians, Hungarians, et cetera, are not able to do so under the current policy.

The bill before us gives people from these underrepresented regions of the world a chance.

Our Nation is a great nation because it is culturally diversified. We are stronger because of it. Let us go forward and be fair.

Mr. Chairman, I am delighted that there is a section in the bill that would reunify families of U.S. citizens and residents to relieve the tremendous backlog of applicants.

Mr. Chairman, today we have the opportunity to rectify the unfairness in our immigration policy. Let us not be afraid of cultural diversity. It is the strength of our Nation.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished

gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I want to start out by paying great tribute to the commitment of the chairman of our Judiciary Committee and the chairman of the subcommittee for all the work they have done to bring this bill to the floor.

Mr. Chairman, I rise in strong support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990. The immigration bill I first introduced 2 years ago contained more generous provisions; others made their own suggestions during our Judiciary Committee proceedings which have been incorporated in the chairman's bill to various degrees. I am convinced that the bill brought before us for our consideration today is the sound and judicious result of the efforts of many concerned members.

Reform of our legal immigration system is urgently needed to update laws that were last revised in 1965. What is more, legal immigration reform is directly related to our efforts to control illegal immigration. As the Select Commission on Immigration and Refugee Policy noted in its final report in 1981, we cannot expect to control illegal immigration until we also reform our system of legal immigration.

I believe strongly that family reunification must remain the cornerstone of our legal immigration system. But as long as spouses and parents and children have to wait over 10 years to be reunited under our present system, illegal immigration is the inevitable result. We can only keep immediate families apart for so long. Frustrating the ability of Americans to be with their close family members betrays our core American values.

That is why H.R. 4300 makes several critically needed changes in family-based immigration: First, allowing American permanent residents to immediately petition to be reunited with their spouses and minor children each year, just as citizens can, but capping the number of visas provided for this purpose at 115,000 per year; second, providing a total of 50,000 backlog reduction visas a year for 5 years in the two most backlogged family categories (second and fifth preferences); and third, barring the deportation of the spouses and minor children of aliens legalized under the Immigration Reform and Control Act of 1986, provided that the legalized alien has attained permanent resident status and has filed a declaration of intent to become a citizen when eligible to do so.

I want to make special mention of how important this legislation is to our fellow Americans of Asian descent. For almost a century, United States law barred the immigration of most Asians. It was not until 1965 that Congress created the present nationality-neutral family preference categories. Only one generation of Asians has been able to enter the United States under the 1965 law and to seek the reunification of their immediate families, which is why most of the countries with the longest waiting lists are Asian. It is also why Asian-Americans will bear so much of the brunt of amendments which will be offered today to eliminate some or all of the relief the bill affords to families attempting to be reunited.

At the same time, H.R. 4300 contains important provisions regarding employer-sponsored immigration which carefully balance the needs of American employers and workers, and provides transition visas to enhance the diversity of immigration to the United States. It is essential that we restore to our immigration system the chance—which for all intents and purposes does not now exist—for people from around the world to immigrate to the United States. Not solely because it is in their interest, but because it is in ours.

To be frank, you may hear this bill castigated as special interest legislation because it is strongly supported by Asian-Americans, Hispanics, Irish-Americans, East European-Americans, the U.S. Catholic Conference, the American Jewish Committee, and others. But these are not special interests; these are the American people, and I am delighted that the bill before us is fair to all of the many communities that comprise our national fabric.

I am delighted to join colleagues from around the country and on both sides of the aisle who have worked hard to bring this legislation before the House today. I urge opposition to amendments to restrict its provisions, and urge its passage.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

I would like to respond to a couple of points made by my colleague, the gentleman from California. He said that H.R. 4300 controlled illegal immigration. Well, yes, it does, but it does so by allowing people who are illegal immigrants to stay in this country indefinitely.

The gentleman made the statement that individuals from a number of countries have to wait 10 years, 12 years, any number of years in order to be admitted under current law.

Well, that is true, too, as far as it goes, but it leaves out a major truth, and that is that individuals who are in this country who are now permanent residents, depending on how long they have been in this country, can wait anywhere from 1 day to 5 years to become an American citizen, and at that point they can have automatically admitted every immediate member of their family.

Mr. BERMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. SMITH of Texas. I am happy to yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, would the gentleman not agree that this bill provides backlog numbers for people in the second and fifth preference who have been on the waiting list in some cases as far back as 1978 seeking to come to this country in legal proper order?

Mr. SMITH of Texas. Reclaiming my time, Mr. Chairman, this bill does provide for backlog reduction, but what I was responding to was the point made by the gentleman from California that individuals were going to have to wait these exorbitant amounts of time. That is not necessarily the case. If they have immediate family in this country who are permanent residents, those individuals who are permanent residents can become citizens in less than 5 years, or 5 years, depending on how long they have been in this country.

□ 1430

At that point automatically the immediate members of their family come to the United States.

Mr. BERMAN. Mr. Chairman, will the gentleman yield just on that point?

Mr. SMITH of Texas. I yield to the gentleman.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I agree with the gentleman. A permanent resident alien who becomes a U.S. citizen after a 5-year waiting period can petition for the immediate family members under present law. But why would we want to promote a policy that separates spouses and children from parents for 5 years of time?

Mr. SMITH of Texas. Let me reclaim my time to make these points:

These individuals who have come to this country and have received amnesty themselves left their family at one time to come to this country. Now that they are here, their families come over here legally. And now they want all those individuals who are here as recently as January 1 of this year to be able to stay here. My point is: If those individuals who received amnesty, who are now permanent residents, went through the process of becoming a citizen—it might be 1 day and it might be as long as 5 years, depending upon how long they are here—they would automatically be able to admit the rest of the members of their immediate families.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, the reason this bill is important is because it is good for American business, it is good for American global competition.

I could proceed and talk about the melting pot and how our country is strengthened culturally. That is important. But I think, once again, all you have to do is read Business Week, Forbes magazine, the Wall Street Journal; this legislation is good for our competitiveness.

That is what we have to ask ourselves in an era of increasing global competition where America must compete for its share of international markets: Are we going to allow outdated assumptions and nativism to hinder our progress and our growth?

There are a lot of myths and misperceptions surrounding this issue. First, immigrants do not cause unemployment. The overwhelming conclusion from economic studies on this issue is that immigration does not cause unemployment. In fact, immigrants create jobs by expanding markets and purchasing power.

Furthermore, immigrants have a higher rate of entrepreneurship than the nonimmigrant population. By starting businesses, immigrants create jobs. They do not drain public assistance programs.

Immigrants typically arrive when they are young and in their prime working years. Elderly immigrants are not eligible for Social Security.

Furthermore, studies have shown immigrant families pay $2,500 into public coffers every year.

Once again, immigrants provide the United States with a skilled and educated work force. Immigrants are more likely to have postgraduate degrees than the nonimmigrant U.S. population.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. I thank the gentleman for yielding.

Mr. Chairman, I missed the source of the quote the gentleman was reading from. What study is that or what book is he reading from?

Mr. RICHARDSON. These are from Julian Simon, an immigration specialist.

Mr. SMITH of Texas. I thank my colleague.

Mr. RICHARDSON. Mr. Chairman, it is critical that we base our immigration policy and position on H.R. 4300 on the full understanding of the benefits stemming from healthy immigration.

A fundamental question we all must ask is: In an era of increasing global competition, where America must compete for its share of international markets, are we going to allow outdated assumptions and nativism to hinder our progress—our growth?

The myths and misconceptions surrounding this issue must be addressed and corrected.

Immigrants do not cause unemployment. The overwhelming conclusion of economic studies on this issue is that immigration does not cause unemployment. In fact, immigrants create jobs by expanding markets and purchasing power.

Furthermore, immigrants have a higher rate of entrepreneurship than the nonimmigrant population. By starting businesses, immigrants create jobs.

Immigrants do not drain public assistance programs. Immigrants typically arrive when they are young and in their prime working years. Elderly immigrants are not eligible for Social Security. Further studies have shown immigrant families pay $2,500 into public coffers every year.

Immigrants provide the United States with a skilled and educated work force. Immigrants are more likely to have postgraduate degrees than the nonimmigrant U.S. population.

Finally, it is critical to consider the family reunification provisions of this legislation. Under present law, children and spouses of new legalized immigrants are subject to deportation. This was never the intent of Congress and it should be corrected.

This bill also addresses the issue of backlog for those separated families awaiting visas. The present backlog presents a 10-year waiting period for permanent residents from Mexico and other nations. This legislation would reduce the backlog and assure fairness in the processing of these visas.

[From the Washington Post, Sept. 1, 1990]

IMMIGRATION FOR A STRONGER AMERICA

(By Julian L. Simon)

High on Congress's agenda in September is immigration. The Morrison bill in the House could do more to advance all the goals of the United States during the next decade or two than any other pending legislation. Yet the Bush administration and organized labor—an unlikely couple—seek to gut the bill because of economic ignorance and nativism.

Worldwide, barriers to freedom have been collapsing. Messages and ideas now penetrate everywhere electronically, cheaply. And financial capital speeds from country to country and, like Mercury, eludes governmental control.

Mobility of goods and people has increased from a walker's pace to jet speed. And political barriers to trade have diminished, despite newspaper stories about trade hassles. All these changes mean more liberty.

Yet there remain barriers to the movement of the most important of "goods"—human beings. Against the economic and cultural welfare of individual nations, and against the interests of all civilization, countries still prevent people from going where they want to go. True, people are no longer penned up in the country in which they are born, except for in the Soviet Union, China, Albania, Vietnam and a few other countries. But without the freedom to enter where they want to go, freedom to leave is of diminished value. We still tell almost all people of talent and energy who wish to join our society, "You may not enter unless you have relatives in the United States."

What foolishness. An unassailable body of recent economic research proves that we are made richer by allowing people to enter freely. We also know from a body of indubitable historical and sociological research that migrants carry valuable ideas with them and create new ideas as a result of having lived in two cultures.

What cheats us of these benefits? Age-old "common sense," economic misunderstanding cum racism (or "nativism," in polite lingo). But sometimes there is an opportunity to drive back the forces of darkness. Now, Rep. Bruce Morrison's (D-Conn.) jmmigration bill, just voted out of the House Judiciary Committee, promises a bright morning for human liberty.

The main thrust of the Morrison bill is an increase in the number of persons who will be allowed to enter the United States. Keep your eyes focused upon the crucial overall number, and the attempt of the anti-immigration lobby and Sen. Alan Simpson (R-Wyo.) to put a "cap" on immigration. The total matters more than how the overall number will be divided among family reconstitution, skill-based immigration, a point system, this country or that one, etc.

Here are the key demographic and economic facts:

Immigrants do not cause native unemployment, even among low-paid and minority groups. Recent studies all agree that the bogey of "displacement" of natives does not exist. New entrants not only take jobs, they make jobs with their purchasing power and with the new businesses they start.

Immigrants do not rip off natives by overusing welfare services. Immigrants typically arrive when they are young and healthy. Hence new immigrant families use less welfare services than do native families, because immigrants do not receive expensive Social Security and other aid to the aged. And immigrant families pay more taxes than do native families. Therefore, an average immigrant family puts about $2,500 into the public coffers every year—enabling a native breadwinner to retire two years earlier than otherwise.

Immigrants bring high-tech skills that the economy needs badly. Immigrants are not "huddled masses." The proportion of new arrivals with post-graduate education is far higher than the average of the native labor force.

Immigration is low rather than high relative to historical rates of immigration in the peak years at the turn of the century. Immigration as a proportion of population is less than a fourth of what it was earlier. Even in absolute numbers, total immigration is nowhere near its volume a century ago.

The foreign-born population is only about 6 percent now—less than the proportion in such countries as Great Britain, France and Germany, vastly lower than in Australia and Canada and less than half of what it used to be here.

Natural resources and the environment are not at risk from immigration. The long-term trends reveal that our air and water

are getting cleaner rather than dirtier, and our supplies of natural resources are becoming more available rather than exhausted, contrary to common belief. Immigration increases the technical knowledge that speeds these benign trends.

Immigration reduces the social costs of the elderly, which can't be cut. More and more of the U.S. population is retired, with a smaller proportion of adults in the labor force. New immigrants typically are just entering the prime of their work lives and taxpaying years. Immigration is the only feasible way to lighten the Social Security burden of the aging U.S. population. It also reduces the federal deficit, which would not exist if people still lived the short lives and had the large numbers of children that they did early in this century.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. TORRES].

Mr. SAWYER. Mr. Chairman, I yield 1 additional minute to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I rise today to discuss the needed reform of our Nation's legal immigration policy. There was once little factual information on the effects of immigration. Instinctive popular wisdom arguments were accorded respect. But the body of research on immigration contradicts popular wisdom.

It now permits us to make sound and enlightened national choices. H.R. 4300 is a bill which reforms our Nation's system of legal immigration in a manner that safeguards the American worker promotes national economic interests, and is consistent with our most basic value, the unity of families.

H.R. 4300 is a bill which is supported by a bipartisan, multiethnic, liberal, and conservative coalition. It strikes the delicate balance among the interests of the American worker, his labor representatives, and parties seeking to promote diversity in immigration, while also protecting the integrity of the family unit.

And yet the bill allows our Nation to reap the economic prosperity, that social scientists tell us, have historically resulted from increased levels of immigration.

At the turn of the century immigrants made up 2 percent of our labor force. Today they constitute 10 times less that percentage.

This bill provides critically needed immigration reform to ensure that family reunification remains a cornerstone of our immigration law.

The rhetoric in this Chamber on the issue of criminality is just so much bugaboo.

In considering this bill I urge you to remember its important labor safeguards requiring recruitment of American workers, and its payment of prevailing wages. Remember also its provisions to strenghten the diversity of our flow of immigration.

Finally, I ask you to remember its protection of the basic building block of our society, the family.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. MRAZAK].

Mr. MRAZEK. Mr. Chairman, I wish to express my admiration for the leadership of the gentleman from Texas [Mr. BROOKS], which he has demonstrated on this very important legislation, and also I congratulate the chairman of the subcommittee with whom I hope to have a colloquy in just a moment, the gentleman from Connecticut [Mr. MORRISON].

Mr. Chairman, I would like to ask for clarification on the issue of student visas.

I had intended to offer an amendment that would set aside 5,000 1-year visas for students from Czechoslovakia, Poland, and Hungary, that would also permit them to work part time while studying here.

However, it was called to my attention that under current law foreign students can come here without numerical limitation, and that there is a new provision in the bill before us that would allow foreign students to work to support themselves while enrolled in American colleges, again with no numerical limitations.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. MRAZEK. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. I thank the gentleman for yielding.

That is correct. There is no numerical limitation; 5,000 or an even greater number of East European students could come to the United States, and would be eligible for work authorization, providing they meet the requirements set forth.

Mr. MRAZEK. I am very pleased to hear that. From my visit to Czechoslovakia earlier this year, and from numerous discussions with Czechoslovak officials and others, it is clear that there is a great desire for the young people from the emerging democracies of central and Eastern Europe to have at least a brief learning experience in the United States.

I am convinced that no other immigration program could do as much good as a low-cost "learn in America" experience. It would cultivate a firm belief in and support of democratic ideals among the next critical generation of East Europeans.

I appreciate the provisions that are in the bill, but I still think that it may be desirable to create a new program aimed specifically at bringing central and East European students here under favorable circumstances so that they can study and work. I hope that this is something that your subcommittee and other relevant committees will consider in the near future.

Mr. MORRISON of Connecticut. We certainly would be very pleased and happy to work with the gentleman from New York and other Members on such a program. But in the consideration of this bill, I hope that the gentleman will support the bill. As well, I would hope he will oppose the amendment of the gentleman from Texas [Mr. SMITH], which would restrict the program the gentleman is referring to.

Mr. MRAZEK. Mr. Chairman, I certainly urge my colleagues to support the gentleman's position.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, I would like to respond to my colleague from New Mexico when he quoted from Julian Simon and the recent book that he wrote.

First of all, Mr. Chairman, I think it should be pointed out that the data that Mr. Simon used to promulgate massive increases in immigration is data from 1975 or before, and that data has been superseded by George Borjas's volume.

Second of all, I want to read once again a quote from Mr. Simon himself so that we do not have the false impression of this rosy picture of unlimited numbers of immigrants. This is from Mr. Simon's book:

> There is no doubt that workers in some industries suffer immediate injury from the addition of worker immigrants in the same category.

Mr. Simon suggested that immigrants be chosen more for their economic characteristics and less on the basis of family connection.

Mr. Chairman, I favor increased numbers of immigrants; the administration favors increased numbers of immigrants; I think most of our colleagues probably support increased immigration as well. But not in the way that H.R. 4300 dictates.

The simple truth is that America cannot accommodate every single individual who wants to come into our country, as much as we would like to. The question is, What are going to be our priorities?

I think our priorities should be immediate family members, getting them into our country and give priority to immediate family over extended family; give priority to mothers, fathers, children over married brothers, sisters, aunts, uncles, and cousins.

□ 1440

I think that we ought to give priority to skilled workers. 4300 allows only 10 percent specifically of its members for employment based on skilled workers.

Mr. Chairman, the need, from every study that we have seen, is for more

skilled workers so that we can compete better in the international marketplace. That is the priority that should be given, which unfortunately, 4300 does not stop.

Furthermore, 4300 has these fatal flaws: There is no reimbursement for State and local governments for the costs that they would incur for educating, for providing health care and government services to hundreds of thousands of additional immigrants. Mr. Chairman, of course those burdens are going to fall directly on taxpayers. It has two major amnesty provisions. It rewards the lawbreaker, in effect penalizing the law abider, and Mr. Chairman, the amnesty provisions are such that many illegal aliens, who are here as recently as January 1 of this year, will be allowed to stay in this country. There is no attempt in 4300 to count illegal aliens in the total number of immigrants. There is a cap for the first time ever on the number of temporary skilled workers allowed to come to this country; 4300 bows to the pressure of special interest, and it singles out certain countries for special treatment.

Finally, Mr. Chairman, we have family fairness today. It is called citizenship, and those permanent residents can become citizens and can automatically have their immediate families come into this country.

Mr. Chairman, in conclusion we need to give priority to immediate family members, and we need to give priority to skilled workers. So, more immigration, yes. H.R. 4300, no.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Chairman, I rise in support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act.

Some of the debate surrounding this issue and some of the lobbying which has been undertaken by anti-immigration groups leads me to believe that Americans collectively, seem to have a limited memory regarding the principles upon which this country was founded.

All Americans owe their citizenship to immigration. Immigration built this Nation into the greatest country in the world. And, it should be noted that in proportion to our total population our current immigration levels are five times lower than they were at the peak immigration rates at the turn of the century. Our current immigration rate of three immigrants per thousand residents places the United States, the great melting pot, a mere seventh place internationally.

If this country is to continue to advance economically, politically, and culturally, we must not fear the talents and intelligence of those who want to come to this country and contribute their skills. Moreover, if we as a nation wish to hold our place as a beacon of democracy, we must refine our immigration laws to restore justice and compassion to our system of preferences.

The legislation before us today will advance those goals. It promotes values which are distinctly American—family values, economic growth, employment opportunities, and, most of all, fairness.

Nowhere is fairness more needed in our immigration policy than the priority to which we currently place on family reunification. Right now, there are U.S. citizens who will wait for more than 10 years to be reunited with their family members if we do not change current law.

H.R. 4300 will provide relief for these backlogs through a limited backlog reduction program just as was done in the late 1950's and early 1960's to accommodate European immigrants. The bill would also further distance ourselves from discriminatory policies of the past. For Asians in particular, current backlogs, which could grow to 20 or more years, are a painful reminder of the decades of immigration exclusion based on race, beginning with the Chinese Exclusion Act of 1882.

Mr. Chairman, this legislation will reaffirm the greatest of all American traditions—unifying families from around the world under the umbrella of American democracy. Bringing families together is the foundation of this legislation and of compassionate immigration policy in general. H.R. 4300 is a much-needed refinement of that cornerstone of immigration policy, and I urge my colleagues to support the bill.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman from Texas [Mr. BROOKS] for yielding, and I certainly want to commend him for what he has done in this bill, and I rise in support and commend the gentleman from Connecticut [Mr. MORRISON] for his leadership.

Mr. Chairman, as the chairman of the Judiciary Committee knows, south Florida is home to many cruise ships. The owners of these ships fear that section 311 of H.R. 4300 in some way will be interpreted as applying to passenger vessels. I do not believe that this is the case and wonder if you would clarify your interpretation of this provision.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Texas.

Mr. BROOKS. As the author of H.R. 2138, which became section 311 of H.R. 4300, I recognize that the amendment made to subsection 4(d) of section 274a(h) of the Immigration and Nationality Act defines longshore work as any activity relating or incident to the loading or unloading of cargo in the United States. I would like to clarify that this section will not expand longshore duties that are currently performed on passenger vessels engaged in foreign commerce. Where longshore labor is currently employed to load ship stores or load or discharge baggage, it is not intended that the duties performed by these workers will be expanded to include on-board loading or unloading activities that have not in the past been performed by longshore workers.

Mr. Chairman, I yield back the balance of my time.

Mr. BRENNAN. Mr. Chairman, I rise today in support of H.R. 4300, legislation which will benefit the U.S. economy while underscoring the most deeply-held American values.

It has long been observed by leading economists and historians that periods of high rates of immigration to the United States correspond with periods of economic growth. Research demonstrates that immigrants work hard, work more, save more of what they earn, start more new businesses, are more commonly self-employed, and use fewer social services than native-born Americans. In fact, immigrants pay more in taxes than they take in Government assistance funds. Immigrants do not steal jobs—they create jobs and meet labor shortages.

The current level of immigration is roughly half of what it was during peak immigration periods in our history, and our legal immigration policy has not been updated in 25 years. H.R. 4300 raises visa numbers by about 260,000 to allow for needed increased family-based and employer-sponsored immigration. It will also relieve the huge backlog in visa applications and attempt to correct inequities created by the 1965 immigration legislation, allowing for increased diversity within the immigrant population.

Important provisions of H.R. 4300 address the situation of natives of countries adversely affected by the 1965 legislation who are now living in the United States. The transition program included in this bill will allow a number of these people to apply for permanent residency if they can demonstrate an employment commitment for at least a year. Irish families living crowded together in Manhattan, Boston, and my home city of Portland are an example of those who stand to benefit from this portion of the bill.

Family reunification, one of the bill's highest priorities, reflects the strongest of American values. Americans should not have to wait years to be reunited with their spouses and children. Separations of this kind hinder the potential success of immigrants whose dream is to make better lives for themselves and their families. By not subjecting immediate family members of permanent residents to per-country limits, by reducing the backlog of family members waiting to reunite with American relatives, and by allowing the immediate family members of recently legalized aliens to

remain, H.R. 4300 demonstrates a real commitment to family unification.

For these reasons I urge my colleagues to support H.R. 4300.

Mr. SERRANO. Mr. Chairman, I rise today to urge my colleagues to join me in supporting the Family Unity and Employment Opportunity Immigration Act of 1990, H.R. 3000. This legislation is desperately needed to revise family sponsored immigration, and to expand employment-based admittance to the United States.

Mr. Chairman, thousands of legal residents of the United States who were granted amnesty under the Immigration Reform and Control Act of 1986, are parents of small children that are excluded from this policy. I am appalled that the Immigration and Naturalization Service regularly deports these children, many as young as 3 years, who do not have adequate documentation, separating them from their parents and families. Often, there is no family waiting to care for them; in essence these children become orphans. If their parents leave the United States to assume their responsibilities, they will lose their legal permanent resident status, and thus yield the right to petition for citizenship. What a deilemma we have created for these parents!

I would like to draw to my colleagues' attention the fact that more than 2 million legal permanent residents of the United States are eligible to sponsor their spouses and minor children for legal entrance to our Nation. Mr. Chairman, at this moment there are approximately 400,000 relatives waiting to be reunited with their families. In some cases, such in the cases of Mexico and the Philippines, immigrants are forced to wait 10 to 15 years to be legally reunited with their spouse or child.

Mr. Chairman, does this facet of our current legal immigration policy not directly encourage the illegal immigration of these family members? As a result of this incompassionate policy that violates the basic human need to live with loved ones, especially children, millions of temporary and permanent residents and U.S. citizens are suffering pain and frustration.

Mr. Chairman, let us never forget that this country was built on the stability and strength of the family. The support from the family has been crucial in the adjustment and success of new Americans throughout the history of our Nation. Is it inconsistent with our country's principles and ideals to promote or enforce so prolonged a separation of spouses from each other and from their families? We must remedy the heartless deportation of infants, and eliminate the tremendous backlog of families waiting to be reunited.

Opponents of this bill would argue that by increasing employer-based immigration, we would encourage new immigrants to take jobs away from American workers. But, a 1989 Department of Labor study shows that immigrants actually increase both aggregate employment and the wages and mobility opportunities for many groups of U.S. workers. These studies show that immigrants contribute to our economy and are easily absorbed by our labor market. I am aware of the concern that an increased number of immigrants would drive down American wages, that they would strain the Nation's natural resources and infrastructure, and that they would abuse our welfare system. However, the Department of Labor has shown that immigrants do not take jobs, instead they create jobs through consumption, and through entrepreneurship. Studies show that periods of heavy immigration have been followed by rates of low unemployment and high economic growth.

Another myth to dispel is that immigrants drain Federal public assistance programs. But the rate of those foreign-born collecting unemployment compensation, food stamps, and other programs is lower than those native born. Tax and welfare data together indicate that, on balance, immigrants contribute to public coffers an average of $1,300 or more per year. Thus, most immigrants pay more in taxes during their lifetime than they receive in Government benefits.

Mr. Chairman, immigrants entering the United States under H.R. 4300 employer-based provisions would be well-educated and highly skilled individuals, earning an estimated average salary of $30,000 a year. Why, in this time of our increasing dependence on the global market, are we depriving ourselves of valuable labor resources? I hope my colleagues would agree that based upon these statistics, immigrants are valuable assets, and not liabilities, to our Nation.

Mr. Chairman, the last significant immigrantion reform was the passage by Congress of the Immigration Act of 1965. This system clearly no longer adequately serves America today in either meeting our economic or social policy objectives. The time has arrived for us to scrutinize our laws and ask ourselves if our Nation's policies are consistent with our Nation's values. H.R. 4300 is urgently needed to reaffirm and sustain our country's commitment to family reunification, long the cornerstone of U.S. legal immigration policy. I strongly urge my colleagues to join me in reforming our immigration policy to reflect the profamily, progrowth attitude that has been the backbone of our Nation.

Mr. RAHALL. Mr. Chairman, I rise today in strong support of H.R. 4300, a measure of extreme importance to the Lebanese-American community. This bill has received widespread support as a vehicle for unification of families split by the quest for a promising future. While the crisis in the Persian Gulf rages on, we cannot forget about the continuing strife in Lebanon. Many Lebanese currently in America came here to escape the turmoil and bloodshed that marks daily life there, and passage of H.R. 4300 will promise that more Lebanese will have the opportunity to join their families in safety here in the United States.

Provisions in this bill allow for the setting aside of 1,000 visas for unsettled Lebanese in fiscal years 1991 through 1995. These visas would cover both spouses and unmarried sons and daughters or permanent U.S. residents, and brothers and sisters of U.S. citizens. While the Nation celebrates the renewal of Ellis Island and our proud immigrant heritage, let us send a message that America is still the light at the end of the tunnel for millions of people worldwide.

The family has always been the building block of American society, and we must show these new Americans that this has not changed. Just as our Irish, German, Italian, Jewish, and Japanese immigrants celebrate their forefathers' journeys across the Atlantic and Pacific, we must not close the door on new Americans. I urge to pass H.R. 4300 and look forward to the day when families—Lebanese-American, Mexican-American, Vietnamese-American and others—celebrate the stories of their families' arrival in the land of hope.

Mr. GILMAN. Mr. Chairman, I am pleased to rise today in support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990. I would first like to take this opportunity to commend the gentleman from Connecticut [Mr. MORRISON] for his outstanding work in this measure.

I would also like to commend members of the Judiciary Committee for their perseverance in crafting a piece of immigration reform legislation with which we can work and vote upon. In particular, the committee's compromise on the allocation of additional visa numbers is laudable. This legislation would revise our Nation's immigration system to allow the admission of aliens on the basis of family reunification and to meet identified labor shortages. The bill improves our current immigration law and covers many facets of immigration, reworking the reforms enacted in 1986.

In particular, the marriage fraud provisions, required our review and modification. The battered spouse or child waiver of the conditional residence requirement portion would allow the Attorney General to bestow permanent resident status if an alien can demonstrate that, while the marriage was entered into in good faith, evidence has shown that the spouse was battered by, or was the subject of extreme mental cruelty perpetrated by, his or her spouse or parent.

This provision would, in effect, create an avenue of relief for a spouse or child caught in a detrimental relationship. Under current law a damaging situation must be endured in order to maintain legal status in the United States. It would seem unconscionable that any human being should be required by our laws to remain in a situation in which they are abused in order to remain in legal status.

Also of particular note is the provision to make available additional visa numbers for displaced aliens native to Eastern Europe. While we are all pleased with the changes taking place in Eastern Europe, with the turmoil still facing many Eastern Europeans, the availability of these additional visas may be the only hope these good people may have of seeking decent jobs and a quality life.

Mr. Chairman, pursuing immigration reform should be considered an essential facet of our achievements to be listed as a major accomplishment of the 101st Congress. I hope that my colleagues will agree that H.R. 4300 is the appropriate vehicle toward that end and I urge their support for this bill.

Mr. ENGEL. Mr. Chairman, today we have an historic opportunity to take a giant step toward a fairer immigration system. H.R. 4300, the Family Unity and Employment Immigration Act of 1990, is a fair balance between the rights families have to remain united and the need to diversify the sources of immigration. In 1965, our immigration system was overhauled to allow, for the first time, significant

numbers into the United States from non-European nations. That goal was accomplished, but over the years the system has progressively tilted in favor of 13 nations who now receive over 65 percent of the visas allocated each year. It is time to rectify these inequities and attempt to set up a system that is balanced and which will remain balanced for years to come.

To achieve this goal, H.R. 4300 contains a crucial regional diversity provision. This provision divides the world into high admission regions and low admission regions. These regions are then given the inverse proportion of diversity visas relative to the percentage of immigrants sent to the United States in previous years. Not only will this provision diversify immigration sources, it is self-correcting. Once a particular region is no longer underepresented, its share of diversity visas will drop. The Family Unity and Employment Opportunity Act contains two other provisions that will diversify the immigration patterns of this country. The first is the preference given to citizens of the 36 countries adversely affected by the 1965 immigration laws when applying for employment-based visas. From fiscal years 1992 through 1996, 20,800, of a total of 65,000, employment based visas will be made specifically available to citizens of the countries that were hit the hardest by the 1965 law.

Second, section 201 of the bill would provide 25,000 transitional visas per year for natives of adversely affected countries who have entered the United States before 1990 and who have an employment commitment for one year or more. This is also a very important step towards bringing greater diversity to the system and, in addition, meets important needs of American employers.

I want to emphasize that while this bill is crucial to diversifying our immigration system, it also protects family unity, the principle that undergirds our entire immigration system. Waiting times for many relatives of permanent residents and citizens is measured in years and decades. These are spouses and children who are waiting, not second cousins and great grand aunts. This bill provides important relief for those on the waiting lists of the second and fifth preferences. Second preference includes spouses and unmarried sons and daughters of permanent residents and the fifth preference includes brothers and sisters of U.S. citizens. Under the provisions of H.R. 4300, 50,000 visas will be allocated each year for 5 years to address the problem of backlogs in these two preferences.

The Family Unity and Employment Opportunity Act is a compromise bill. It reflects the concerns and interests of the entire range of opinion on immigration matters. It has been carefully scrutinized at both the subcommittee and committee level and has been the subject of extensive hearings. It is not as comprehensive as I had hoped, but I believe it is a fair bill that we can all support. I urge my colleagues to oppose amendments that will upset the delicate balance contained in this bill and to support it on final passage.

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to H.R. 4300, the bill before the House that would totally restructure U.S. immigration law. While I believe that legal immigration reform is long overdue—the immigration system does need fixing in a serious way—this legislation as reported to the floor is not the answer. With its enactment, I fear we would be moving from bad to worse. This is not real reform and rather than railroad through a poorly crafted, flawed bill during these last few days of Congress and kidding ourselves that it's immigration reform, I recommend that we defeat this measure and, instead, work toward crafting a more reasonable and responsible reform program to be fully considered at the beginning of the 102d Congress.

There are portions of H.R. 4300 that need not be scrapped and could be incorporated into a new immigration reform bill. For example, improved geographical distribution in immigration would increase the diversity of America's newest citizens and makes the immigration process more equal. I also concur with the objective of facilitating the unification of families. Current labor certification procedures are far from perfect and need to be improved. However, while I agree with some of these objectives of H.R. 4300, I have strong reservations about the way this legislation seeks to achieve such results.

Basically, I am opposed to H.R. 4300 for the following reasons:

My No. 1 objection to this bill is its provision for conditional permanent resident status to aliens from so-called adversely affected foreign states. In other words, a new amnesty for illegal aliens who entered the United States prior to January 1, 1990. While I have seen no firm figures, it is estimated that 2 million illegal aliens could receive amnesty. I am strongly opposed to any new amnesties—whether direct or indirect.

The Immigration Reform and Control Act of 1986 granted a one-time-only amnesty for illegal aliens, that, unlike provisions in H.R. 4300, was clearly tied to new controls on illegal immigration. Passing H.R. 4300 only signals that the one-time amnesty was a farce. We're saying, "go ahead, break American law, cross our borders and reside here illegally, disregard those who have and continue to patiently wait for their turn to immigrate. You have nothing to lose because every couple of years Congress will come along and provide you with amnesty, legalizing your illegal actions." Is that the message we want to send? We already have a serious illegal immigration problem. Such a signal would make it 10 times worse.

Second, by granting the immediate relatives of lawful permanent residents the same immigration privileges as those of U.S. citizens, H.R. 4300 would eliminate an incentive for lawful permanent residents to seek naturalized citizenship, impending the full integration into the United States of certain immigrants.

Third, H.R. 4300 drastically increases the numbers of immigrants without compensating in any way the heavy financial impact on State and local governments. California is especially hard hit. Already local schools, hospitals, social agencies, water resources, and housing have been overburdened by illegal immigration. I have seen reports that California is estimated to receive 36.5 percent of the new, additional immigrants entering via H.R. 4300. With each immigrant adding approximately $2,600 in new responsibilities than in revenue for local and State governments, that means California will have to come up with an estimated $310 million annually extra. Neither the House Judiciary Committee nor its product, H.R. 4300, satisfactorily address this pressing issue.

Fourth, H.R. 4300 appears to respond to the demands of every organized special interest group over the interests of the American people and immigration policy in general by expanding the number of visas for legal immigration from 500,000 to a minimum of 840,000—again without considering or trying to accommodate the economic and social impact of increased immigration.

Fifth, H.R. 4300 fails to include the estimated 200,000 illegal aliens in overall immigration flow and legal levels despite their significant economic impact. In other words, H.R. 4300 seems to pretend that there isn't an illegal immigration problem and that illegal aliens do affect local services or economies. With illegal immigration out of control, we should not be doubling legal immigration without seriously addressing the illegal problem first.

Sixth, H.R. 4300 significantly impairs employers from a reasonable use of foreign workers even when the need is well-documented and demonstrated. For example, the bill assesses a fee on domestic employers of foreigner workers to pay for the training and education of American workers. This provision penalizes domestic employers who, in order to hire foreign workers in the first place under existing law, must attest that they have tried and have been unsuccessful in recruiting U.S. workers. The proposed changes in the labor certification procedures are very intrusive and provide third parties, like labor unions, with exceptional veto power where it is not needed or warranted.

Furthermore, H.R. 4300 places a new, arbitrary ceiling on certain nonimmigrant foreign professional experts or prominent individuals. These numerical restrictions would undoubtedly result in the type of horrendous backlogs the United States is currently experiencing with permanent immigrants. This would defeat the very purpose of employing these H–1 specialists in the United States. These foreign specialists have been helpful in creating new jobs and business opportunities. Such actions do not reflect business reality. All in all, they hurt U.S. competitiveness at a time when we need to reduce our trade imbalance and improve our competitiveness.

Another concern I have is that while new classes of employment-based immigration are designated in H.R. 4300, a distinction needs to be made within the permanent immigrant category between highly skilled and less skilled workers, as exists under current law. I understand that both types of workers are needed. However, without subdividing the two categories, one type of worker could easily dominate the immigrant visas at the expense of the other and the U.S. economy.

There is much opposition to H.R. 4300, due to the reasons I have outlined as well as others, some of which are described in the attached letters I've received that I am submitting for the RECORD and my colleagues' review. The U.S. Attorney General and the Secretaries of Transportation and Labor would

recommend a Presidential veto of this bill. The U.S. Chamber of Commerce is opposed to this bill. Hundreds of my constituents who have contacted me are strongly opposed to H.R. 4300. H.R. 4300 is a very flawed and unreasonable measure that should be defeated if it cannot be radically amended. We do need real immigration reform and we do need it now. Unfortunately, H.R. 4300 will do more damage than good and is not real immigration reform.

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC., September 25, 1990.

Hon. HAMILTON FISH,
Ranking Minority Leader, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR CONGRESSMAN FISH: The purpose of this letter is to express the opposition of the Administration to H.R. 4300, the legal immigration reform bill reported by the House Judiciary Committee on September 19, 1990. I understand that this bill is presently under consideration for House floor action. Should H.R. 4300 as reported be presented to the President for signature, the Secretaries of Labor, Transportation, and I would recommend that he disapprove the bill.

Although the bill as passed by the Judiciary Committee lowers somewhat the overall level of immigration from levels proposed in earlier versions of the bill, it fails to ensure that a sufficient number of employment-related immigrant visas would be utilized by skilled workers that we believe the U.S. economy needs. The bill also fails to provide for an appropriate balance of family-connected immigration as supported by the Administration and provided for in S. 358, the Senate-passed bill.

Aside from numerical concerns, the Administration remains opposed to H.R. 4300 because it retains the conceptual framework and modifications of current law to which we expressed opposition in letters to the Judiciary Committee of June 6 and July 30, 1990. Our principal conceptual objections are that the bill would (1) expand the term "immediate relatives" to include immediate relatives of permanent resident aliens; (2) inappropriately and prematurely revise the current employment-related nonimmigrant classifications; (3) assess a fee on employers of foreign workers; and, (4) effectively create an amnesty for aliens from so-called "adversely affected foreign states."

The essence of the Administration's first concern is that treating immediate relatives of legal permanent residents as equivalent to immediate relatives of United States citizens would trivialize the significance of United States citizenship. Furthermore, it would remove an incentive for "green card" holders to naturalize. The consequence of removing this could be a potentially permanent subclass of immigrants. While revisions of immigrant categories may be necessary, we believe that retention of the current distinction between the petitioning rights of legal permanent residents and those of U.S. citizens must not be erased.

Of equal concern to the Administration is the bill's sweeping revisions of the temporary, "nonimmigrant" categories. While we see the need to revise certain aspects of these categories, a legal immigration reform bill such as this is not the appropriate vehicle. Furthermore, many of the problems associated with nonimmigrant classification are due to the need for change in the immigrant classifications. Until reform has been accomplished in this area and its consequences are studied, reform of nonimmigrant classifications is premature.

Third, the Administration is especially concerned with provisions of the bill that assess a fee on domestic employees of foreign workers to pay for the training and education of American workers. This provision would penalize domestic employers who, in order to hire foreign workers in the first place, must attest that they have attempted unsucesssfully to recuit U.S. workers.

The final principal concern of the Administration involves the provision of H.R. 4300 which provide conditional permanent resident status to aliens from so-called adversely affected foreign states. This section of the bill affectively creates amnesty for illegal aliens who entered the U.S. prior to January 1, 1990, and who have maintained continous residence since that date. The Administration stongly objects to the creation of amnesties for illegal aliens subsequent to the 1986 Immigration Reform and Control Act. The 1986 amnesty constituted a one-time only legislation program that, unlike provisions in H.R. 4300, was clearly tied to new controls on illegal immigration.

A number of other provisions, added in the Judiciary Committee's markup of the bill, cause the Administration further concern. For example, the bill now directs immigration emergency funds to states and locatities on the basis of the number of asylum applicants in a particular INS district. This provision not only directs such funds arbitrarily, but it also removes my discretion to target appropriately those funds to true immigration emergencies. Another provision of the bill imposes employer sanctions on foreign vessels not otherwise subject to such sanctions. We have previously expressed our opposition to this provision as embodied in H.R. 2138, independent legislation that passed the House last session.

The Office of Management and Budget has advised this Department that enactment of this legislation would be in accord with the program of the President.

Sincerely,

DICK THORNBURGH,
Attorney General.

STATEMENT OF ADMINISTRATION POLICY

If H.R. 4300 were presented to the President in its current form, the Attorney General and the Secretaries of Labor and Transportation would recommend a veto. The Administration's principal concerns are that H.R. 4300 would:

Grant the immediate relatives of lawful permanent residents the same immigration privileges as those of U.S. citizens. H.R. 4300 would eliminate an incentive for lawful permanent residents to seek naturalized citizenship, impeding the full integration into U.S. society of certain immigrants.

Fail to ensure that a sufficient number of employment-related immigration visas would be utilized by skilled workers.

Fail to provide for an appropriate balance between levels of employment-related and family-connected immigration, as provided for in S. 358 as passed by the Senate.

Rewrite the law relating to "temporary" immigrants, i.e., non-immigrants. Revision to the admissions system for non-immigrants would be premature until the effect of changes to permanent immigration classifications on the demand for non-immigrant visas is ascertained.

As reported by the Judiciary Committee, assess a fee against employers who petition for the admission of foreign workers, even when the employers have attested that they have attempted unsuccessfully to recruit U.S. workers.

Increase FY 1991 outlays by $296 million by expanding the scope of the State Legalization Impact Assistance Grant (SLIAG) mandatory program.

Impose longshore employer sanctions requirements on owners of foreign vessels that would be unnecessary, inappropriate, and extremely burdensome.

Among the Administration's other concerns with H.R. 4300 are that it would:

Provide conditional permanent resident status to aliens from so-called "adversely-affected" foreign states. This would effectively create an amnesty for certain illegal aliens who entered the U.S. prior to January 1, 1990. The Administration opposes any expansion of the amnesty granted by the Immigration Reform and Control Act of 1986.

Remove the Attorney General's discretion to determine which immigration emergencies warrant the disbursement of "immigration emergency funds."

Establish a math and science scholarship program. The Administration urges, instead, enactment of the President's proposed National Science Scholars program.

Create an administrative burden which could not be borne under current budget constraints. The increased numbers of immigrants would require corresponsing increases in consular officers in embassies throughout the world.

Eliminate an essential element in the examination of applications for non-immigrant visas (i.e., whether the applicant had sought an immigrant visa or other permanent status). This provision could result in issuance of non-immigrant visas to all applicants, even those who clearly intend to remain indefinitely in the U.S.

Remove the requirement for exhaustion of administrative remedies and abandon current law regarding the limits of judicial remedies in immigration disputes.

Introduce an "attestation" process for permanent immigrants to replace the current labor certification process for foreign workers. This provision could weaken protections for U.S. workers and would be more costly and difficult to administer than the current process. As one example, it could result in fraudulent "employer" schemes for illegal immigration.

The Administration supports legal immigration reform that would enhance skill-based immigration while facilitating the unification of families Its also supports an increase in immigration levels above those in current law.

Mr. MARKEY. Mr. Chairman, I would like to commend the work of the House Committees on Judiciary and Ways and Means for expediting the consideration of the bill before us today, H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990.

This bill is a much needed and comprehensive remedy to legislation enacted by Congress in 1965 which modified the formula for determining the number of people allowed to immigrate into the United States from particular countries. This 1965 legislation adversely affected the number of visas available for immigrants, and especially from certain European countries, including Ireland.

There has been an effort over the last few years to address this problem and help equalize the visa distribution process. In 1986, Congress passed the Immigration Reform Act

which established a framework to increase the number of visas authorized to the countries that the State Department had designated as adversely affected by the 1965 legislation. In 1988 Congress also authorized the State Department to make available 15,000 additional NP-5 visas to these countries in each of fiscal years 1989 and 1990. Although this NP-5 program has been enormously successful in allowing legal entry for thousands of Irish immigrants, much more needs to be done to aid the estimated 200,000 Irish now residing illegally in the United States. H.R. 4300 is certainly a step in that direction.

H.R. 4300 addresses the regional labor shortages by facilitating immigration and unites family members with immigrants now residing in the United States. The bill authorizes the allocation of 25,000 visas per year for 3 years to undocumented aliens of the 35 adversely affected countries. This includes the undocumented Irish and it has been endorsed by the Irish Immigration Reform Movement.

As we celebrate the renovation of Ellis Island, it is important to remember that this is a nation of immigrants. Our country was built by people who left their native lands to seek greater opportunities in America. The majority who land on our shores continue to be hard-working, self-sufficient members of society, taxpaying contributors to State, local, and Federal Governments, and the source of new ambition and ideas necessary to a healthy free market economy. I urge support for H.R. 4300.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on the Judiciary, as modified by the amendments printed in part 1 of House Report 101-786 shall be considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute as modified, is as follows:

H.R. 4300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family Unity and Employment Opportunity Immigration Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION

Subtitle A—Admission and Status

Sec. 101. Separate levels for family-sponsored and employment-based immigration.
Sec. 102. Preference system for admission of immigrants.
Sec. 103. Labor attestation process.
Sec. 104. Nonimmigrant classifications.
Sec. 105. Admission of aliens in religious occupations.
Sec. 106. Denial of crewmember status in the case of certain labor disputes.
Sec. 107. Effective dates; transition.

Subtitle B—Education and Training of American Workers

Sec. 112. Educational assistance and training.
Sec. 113. Higher education scholarship program for mathematics and sciences.

TITLE II—OTHER PROVISIONS REGARDING IMMIGRANT VISAS

Sec. 201. Transition for aliens who are natives of certain adversely affected foreign states.
Sec. 202. Transition for certain displaced aliens.
Sec. 203. Transition for African immigrants.
Sec. 204. Backlog visa numbers for second and fifth preferences.
Sec. 205. Transition for third and sixth preference.
Sec. 206. Transition for employees of certain United States businesses operating in Hong Kong.
Sec. 207. Treatment of Hong Kong as separate foreign state for numerical limitation purposes.
Sec. 208. Permitting extension of period of validity of immigrant visas for certain residents of Hong Kong.

TITLE III—OTHER IMMIGRATION PROVISIONS

Subtitle A—Provisions Relating to Marriage Fraud

Sec. 301. Battered spouse or child waiver of the conditional residence requirement.
Sec. 302. Bona fide marriage exception to foreign residence requirement for marriages entered into during certain immigration proceedings.

Subtitle B—Provisions Relating to Immigration Reform and Control Act of 1986

Sec. 311. Application of employer sanctions to longshore work.
Sec. 312. Elimination of paperwork requirement for recruiters and referrers.
Sec. 313. Permitting court-ordered remedies in certain circumstances.
Sec. 314. Prohibition of deportation of spouses and children of legalized aliens.
Sec. 315. Treatment of certain legalization applicants.
Sec. 316. Reimbursement through Immigration Emergency Fund of localities impacted by increases in aliens applying for asylum.
Sec. 317. Clarification of authorization of appropriations for the Immigration Emergency Fund.

Subtitle C—Miscellaneous

Sec. 321. Special immigrant status for certain aliens declared dependent on a juvenile court.
Sec. 322. Statistical information system.
Sec. 323. Revision of health grounds for exclusion.
Sec. 324. Temporary Protected Status for Nationals of El Salvador, Lebanon, Liberia, and Kuwait, and other designated foreign states.
Sec. 325. Waiver of English language requirement for naturalization.
Sec. 326. Treatment of service in armed forces of a foreign country.

TITLE I—FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION

Subtitle A—Admission and Status

SEC. 101. SEPARATE LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION.

(a) IN GENERAL.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended to read as follows:

"WORLDWIDE LEVEL OF IMMIGRATION

"SEC. 201. (a) IN GENERAL.—Exclusive of aliens described in subsection (b), aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family-sponsored immigrants described in section 203(a) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a)) in a number not to exceed in any fiscal year 185,000 and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year;

"(2) employment-based immigrants described in section 203(b) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b)), in a number not to exceed 65,000 in each of fiscal years 1992 through 1996, and not to exceed 75,000 in each fiscal year thereafter and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year; and

"(3) for fiscal years beginning with fiscal year 1994, diversity immigrants described in section 203(c) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(c)) in a number not to exceed 55,000 in each fiscal year and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year.

"(b) ALIENS NOT SUBJECT TO NUMERICAL LIMITATIONS.—The following aliens are not subject to the worldwide levels or numerical limitations of subsection (a):

"(1)(A) Special immigrants described in section 101(a)(27).

"(B) Aliens who are admitted under section 207 or whose status is adjusted under section 209.

"(C) Aliens whose status is adjusted to permanent residence under section 210, 210A, or 245A.

"(D) Aliens provided permanent resident status under section 249.

"(2)(A)(i) Immediate relatives. For purposes of this clause, the term 'immediate relative' means a child or spouse of a citizen of the United States and a parent of a citizen of the United States who is at least 21 years of age, and includes, subject to subsection (c) and beginning with fiscal year 1991, a child or spouse of an alien lawfully admitted for permanent residence. In the case of an alien who was the spouse of a citizen of the United States for at least 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, the alien shall be considered, for purposes of this clause, to remain an immediate relative after the date of the citizen's death but only if the spouse files a petition under section 204(a)(1)(A) within 2

years after such date and only until the date the spouse remarries.

"(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative.

"(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

"(3) An alien who is provided immigrant status under section 203(d) as the spouse or child of an immigrant under section 203(b).

"(c) TREATMENT OF IMMEDIATE RELATIVES OF PERMANENT RESIDENT ALIENS.—In the case of aliens who are immediate relatives (as defined in subsection (b)(2)(A)(i)) as the spouse or child of an alien lawfully admitted for permanent residence, until otherwise provided by law, the number of such aliens who shall be treated as such immediate relatives in any fiscal year may not exceed 115,000. Visas shall be made available to such immediate relatives in the order in which a petition in behalf of each such alien is filed with the Attorney General as provided in section 204.".

(b) PER COUNTRY IMMIGRATION LEVELS.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(1) in subsection (a), by striking "paragraphs (1) through (7) of section 203(a)" and inserting "subsections (a) and (b) of section 203",

(2) in subsection (c), by striking "a special immigrant" and all that follows through "201(b)" and inserting "an alien described in section 201(b)", and

(3) by amending subsection (e) to read as follows:

"(e) Where it is determined that the maximum number of immigrant visas will be made available under this section to natives of any single foreign state or dependent area in any fiscal year, in determining whether to provide for immigrant visa numbers to natives under section 203(a) or under section 203(b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section and section 203) in a manner so that—

"(1) the ratio of the visa numbers made available under section 203(a) to the visa numbers made available under section 203(b) is equal to 3 to 1; and

"(2) the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the proportion of the total number of visas made available under the respective paragraph to the total number of visas made available under such section.

Nothing in this subsection shall be construed as limiting the number of visas which may be issued to natives of a state or dependent area under section 203(a) or 203(b) if there is insufficient demand for visas for such natives under section 203(b) or 203(a), respectively.".

(c) REMOVAL OF LIMITATION ON ASYLUM ADJUSTMENTS UNDER REFUGEE NUMERICAL LIMITATION.—Section 209(b) of such Act (8 U.S.C. 1159(b)) is amended by striking "Not more than five thousand of the refugee admissions" and inserting "Refugee admissions".

(d) CLERICAL AMENDMENT.—The item in the table of contents of the Immigration and Nationality Act relating to section 201 is amended to read as follows:

"Sec. 201. Worldwide level of immigration.".

SEC. 102. PREFERENCE SYSTEM FOR ADMISSION OF IMMIGRANTS.

(a) IN GENERAL.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively;

(2) by striking subsection (a) and inserting the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(a)(1) for family-sponsored immigrants shall be allotted visas as follows:

"(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 30 percent of such worldwide level.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence shall be allocated visas in a number not to exceed 19 percent of such worldwide level, plus any visas not required for the class specified in paragraph (1).

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 16 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas in a number not to exceed 35 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) through (3).

"(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(a)(2) for employment-based immigrants in a fiscal year shall be allotted visas as follows:

"(1) PRIORITY WORKERS.—Visas shall first be made available to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (D), except that not more than 2,000 such visa numbers may be made available in any fiscal year to aliens under subparagraph (D):

"(A) ALIENS WITH EXTRAORDINARY ABILITY.—An alien is described in this subparagraph if—

"(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

"(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

"(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

"(B) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien is described in this subparagraph if—

"(i) the alien is recognized internationally as outstanding in a specific academic area,

"(ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

"(iii) the alien seeks to enter the United States—

"(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

"(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

"(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

"(C) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

"(D) ALIENS WITH BUSINESS EXPERTISE.—An alien is described in this subparagraph if the alien is coming to the United States to perform services not of a temporary nature in business requiring special expertise and has an advanced degree in a field relating to that special expertise.

"(2) OTHER EMPLOYMENT-BASED ALIENS.—

"(A) IN GENERAL.—Visas made available under section 201(a)(2) for a fiscal year not otherwise made available under paragraph (1) shall be made available to qualified immigrants who are capable of performing specified labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

"(B) LABOR CERTIFICATION REQUIRED.—No immigrant visa shall be issued to an immigrant under this paragraph before the date the consular officer receives a certification made by the Secretary of Labor under section 212(a)(14).

"(C) PRIORITY FOR NATIVES OF ADVERSELY AFFECTED FOREIGN STATES.—

"(i) APPLICATION IN FISCAL YEARS 1992 THROUGH 1996.—Immigrant visas made available under this paragraph for any quarter in fiscal year 1992, 1993, 1994, 1995, or 1996, shall first be issued, in a number not to exceed 5,200 in any quarter, to eligible immigrants who are natives of an adversely affected foreign state (as defined in clause (iii)) in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204. Any remaining visas made available under this paragraph for such a quarter shall be issued to all eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204.

"(ii) SUBSEQUENT FISCAL YEARS.—Visas made available under this paragraph for any quarter in a fiscal year after fiscal year 1996 shall be issued to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204.

"(iii) ADVERSELY AFFECTED FOREIGN STATE DEFINED.—In this subparagraph, the term 'adversely affected foreign state' means a foreign state that is not contiguous to the United States and that was identified as an adversely affected foreign state for purposes

of section 314 of the Immigration Reform and Control Act of 1986.

"(c) DIVERSITY IMMIGRANTS.—

"(1) IN GENERAL.—Visas made available under section 201(a)(3) for a fiscal year shall be made available in each fiscal year to qualified immigrants who are natives of foreign states in a region as follows:

"(A) DETERMINATION OF PREFERENCE IMMIGRATION.—The Attorney General shall determine for the most recent previous 5-fiscal-year period for which data are available, the total number of aliens who are natives of each foreign state and who (i) were admitted or otherwise provided lawful permanent resident status (other than under this subsection) and (ii) were subject to the numerical limitations of section 201(a) (other than paragraph (3) thereof) or who were admitted or otherwise provided lawful permanent resident status as an immediate relative or other alien described in section 201(b)(2) or 201(b)(3).

"(B) IDENTIFICATION OF HIGH-ADMISSION AND LOW-ADMISSION REGIONS AND HIGH-ADMISSION AND LOW-ADMISSION STATES.—The Attorney General—

"(i) shall identify—

"(I) each region (each in this paragraph referred to as a 'high-admission region') for which the total of the numbers determined under subparagraph (A) for states in the region is greater than ⅙ of the total of all such numbers, and

"(II) each other region (each in this paragraph referred to as a 'low-admission region'); and

"(ii) shall identify—

"(I) each foreign state for which the number determined under subparagraph (A) is greater than 50,000 (each such state in this paragraph referred to as a 'high-admission state'), and

"(II) each other foreign state (each such state in this paragraph referred to as a 'low-admission state').

"(C) DETERMINATION OF PERCENTAGE OF WORLDWIDE IMMIGRATION ATTRIBUTABLE TO HIGH-ADMISSION REGIONS.—The Attorney General shall determine the percentage of the total of the numbers determined under subparagraph (A) that are numbers for foreign states in high-admission regions.

"(D) DETERMINATION OF REGIONAL POPULATIONS EXCLUDING HIGH-ADMISSION STATES AND RATIOS OF POPULATIONS OF REGIONS WITHIN LOW-ADMISSION REGIONS AND HIGH-ADMISSION REGIONS.—The Attorney General shall determine—

"(i) based on available estimates for each region, the total population of each region not including the population of any high-admission state;

"(ii) for each low-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the low-admission regions; and

"(iii) for each high-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the high-admission regions.

"(E) DISTRIBUTION OF VISAS.—

"(i) NO VISAS FOR NATIVES OF HIGH-ADMISSION STATES.—The percentage of visas made available under this paragraph to natives of a high-admission state is 0.

"(ii) FOR LOW-ADMISSION STATES IN LOW-ADMISSION REGIONS.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a low-admission region is the product of—

"(I) the percentage determined under subparagraph (C), and

"(II) the population ratio for that region determined under subparagraph (D)(ii).

"(iii) FOR LOW-ADMISSION STATES IN HIGH-ADMISSION REGIONS.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a high-admission region is the product of—

"(I) 100 percent minus the percentage determined under subparagraph (C), and

"(II) the population ratio for that region determined under subparagraph (D)(iii).

"(iv) REDISTRIBUTION OF UNUSED VISA NUMBERS.—If the Secretary of State estimates that the number of immigrant visas to be issued to natives in any region for a fiscal year under this paragraph is less than the number of immigrant visas made available to such natives under this paragraph for the fiscal year, subject to clause (v), the excess visa numbers shall be made available to natives (other than natives of a high-admission state) of the other regions in proportion to the percentages otherwise specified in clauses (ii) and (iii).

"(v) LIMITATION ON VISAS FOR NATIVES OF A SINGLE FOREIGN STATE.—The percentage of visas made available under this paragraph to natives of any foreign state for any fiscal year shall not exceed 7 percent.

"(2) REGION DEFINED.—Only for purposes of administering the diversity program under this subsection, Northern Ireland shall be treated as a separate foreign state, each colony or other component or dependent area of a foreign state overseas from the foreign state shall be treated as part of the foreign state, and each of the following shall be considered to be a separate region:

"(A) Africa.

"(B) Asia.

"(C) Europe.

"(D) North America (other than Mexico).

"(E) Oceania.

"(F) South America, Mexico, Central America, and the Caribbean.

"(d) TREATMENT OF FAMILY MEMBERS.—A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a), (b), or (c) be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.";

(3) in subsection (e) (as so redesignated)—

(A) by inserting "PRIORITY WITHIN PREFERENCE CLASS.—" before "In considering",

(B) by inserting "or (b)" after "under subsection (a)", and

(C) by inserting "or (b), respectively" after "in subsection (a)";

(4) in subsection (f) (as so redesignated)—

(A) by striking "Immigrant visas" and inserting "PRIORITY OF VISA ISSUANCE.—(1) Except as provided in subsection (b)(2)(C), immigrant visas",

(B) by striking "paragraphs (1) through (6) of subsection (a)" and inserting "subsection (a) or (b)", and

(C) by adding at the end the following:

"(2) Immigrant visa numbers made available under section 201(a)(3) in a fiscal year for natives of low-admission states shall be made available to qualified immigrants who have filed petitions under section 204(a)(1)(F) strictly in a random order established by the Secretary of State for the fiscal year involved.

"(3) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.";

(5) in subsection (g) (as so redesignated)—

(A) by striking the first sentence and inserting "REQUIREMENT FOR PETITION APPROVAL.—", and

(B) by striking "to be an immediate relative" and all that follows through "subsection (a)," and inserting "to be entitled to a status for which a petition is required under section 204(a)(1),"; and

(6) in subsection (h) (as so redesignated)—

(A) by inserting "USE OF ESTIMATES AND TERMINATION OF REGISTRATION.—" before "For the purposes", and

(B) by striking "of subsection (a)" and inserting "under subsections (a), (b), and (c)".

(b) CHANGES IN PETITIONING PROCEDURE.—Section 204 of such Act (8 U.S.C. 1154) is amended—

(1) in subsection (a)(1), by striking "(a)(1)" and all that follows through the end and inserting the following:

"(a)(1)(A) Any citizen of the United States claiming that an alien is entitled to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 203(a) or to an immediate relative status under section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification. An alien desiring to be classified as an immediate relative under the second sentence of section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification.

"(B) Any alien lawfully admitted for permanent residence claiming that an alien is entitled to an immediate relative status under section 201(b)(2)(A)(i) or a classification by reason of the relationship described in section 203(a)(2) may file a petition with the Attorney General for such classification.

"(C) Any alien desiring to be classified under section 203(b)(1)(A) (or any person on behalf of such an alien) (relating to aliens with extraordinary ability) may file a petition with the Attorney General for such classification.

"(D) Any employer (or representative of one or more employers) desiring and intending to employ within the United States an alien entitled to classification under section 203(b)(1)(B), 203(b)(1)(C), 203(b)(1)(D), or 203(b)(2) (relating to outstanding professors and researchers, certain multinational executives and managers, aliens with business expertise, and other employment-based aliens) may file a petition with the Attorney General for such classification.

"(E)(i) Any alien desiring to be provided an immigrant visa under section 203(c) (relating to diversity immigrants) with respect to a petitioning period may file a petition at the place and time determined by the Secretary of State for that period. The Secretary of State shall designate a period for the filing of petitions under this subparagraph with respect to one or two fiscal years. Only one such petition may be filed by an alien with respect to any petitioning period, and, if more than one petition is submitted, all such petitions submitted for the period by the alien shall be void. Petitions submitted for consideration with respect to any petitioning period shall be valid only with respect to such period and not with respect to subsequent periods.

"(ii) The Secretary of State shall establish a fee for the filing of such petitions in an amount sufficient to cover the costs of processing petitions under this subparagraph. The Secretary of State shall deposit payments received under this clause in a separate account and amounts in such account

shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this paragraph.";

(2) in paragraph (2)(A)—

(A) by striking "spousal second preference petition" each place it appears and inserting "spousal alien immediate relative petition", and

(B) by striking "preference status under section 203(a)(2)" and inserting "immediate relative status under section 201(b)(2)(A)(i)";

(3) in subsection (b)—

(A) by striking "After an investigation" and inserting "Except in the case of a petition under subsection (a)(1)(E), after an investigation",

(B) by striking ", and after consultation" and all that follows through "203(a) (3) or (6),",

(C) by inserting "or 203(b)" after "203(a)", and

(D) by inserting after the first sentence the following: "In making determinations under section 203(b)(1)(A)(i) (relating to demonstration of extraordinary ability) the Attorney General shall consult with peer groups in the area of the alien's ability, and in making determinations under section 203(b)(1)(B)(i) (relating to international recognition as outstanding in a specific academic area), the Attorney General shall consult with peer groups in the academic area of the alien's recognized ability.";

(4) in subsection (e), by inserting "or 203(b)" after "203(a)";

(5) by striking subsection (f);

(6) in subsection (g)(1)—

(A) by striking "201(b)" and inserting "201(b)(2)(A)(i)", and

(B) by striking "203(a)(4)" and inserting "203(a)(3)"; and

(7) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(c) PROCESSING FEE.—Section 204(b) of such Act (8 U.S.C. 1154(b)) is amended by inserting "(1)" after "(b)" and by adding at the end the following new paragraph:

"(2) The Attorney General shall require by regulation, as a condition for the acceptance and approval of a petition under this section with respect to immigrants described in section 203(b), the payment of a fee to recover the reasonable costs of processing such a petition with respect to immigrants described in such section.".

(d) DEFINITIONS OF MANAGERIAL CAPACITY AND EXECUTIVE CAPACITY.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

"(44)(A) The term 'managerial capacity' means an assignment within an organization in which the employee primarily—

"(i) manages the organization, or a department, subdivision, function, or component of the organization;

"(ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;

"(iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) or, if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

"(iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority.

A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

"(B) The term 'executive capacity' means an assignment within an organization in which the employee primarily—

"(i) directs the management of the organization or a major component or function of the organization;

"(ii) establishes the goals and policies of the organization, component, or function;

"(iii) exercises wide latitude in discretionary decision-making; and

"(iv) receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

"(C) If staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, the Attorney General shall take into account the reasonable needs of the organization, component, or function in light of the overall purpose and stage of development of the organization, component, or function. An individual shall not be considered to be acting in a managerial or executive capacity (as previously defined) merely on the basis of the number of employees that the individual supervises or has supervised or directs or has directed.".

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) is amended—

(A) by striking "or" at the end of subparagraph (H),

(B) by striking the period at the end of subparagraph (I) and inserting "; or", and

(C) by adding at the end the following new subparagraph:

"(J) an alien whose deportation was cancelled under section 244.".

(2) Section 212(a)(32) of such Act (8 U.S.C. 1182(a)(32)) is amended by striking "preference immigrant aliens described in section 203(a) (3) and (6) and to nonpreference immigrant aliens described in section 203(a)(7)" and inserting "preference immigrant aliens described in section 203(b)(2)".

(3) Section 245(b) of such Act (8 U.S.C. 1255(b)) is amended—

(A) by striking "or nonpreference",

(B) by striking "202(e) or 203(a)" and inserting "201(a)", and

(C) by striking "for the fiscal year then current" and inserting "for the succeeding fiscal year".

(4) Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended by striking "section 203(a)(7) or".

(5) Section 1614(a)(1)(B)(i) of the Social Security Act is amended by striking "section 203(a)(7) or".

(f) TECHNICAL CORRECTIONS TO IMMIGRATION NURSING RELIEF ACT OF 1989.—

(1) Section 2 of the Immigration Nursing Relief Act of 1989 (Public Law 101-238) is amended—

(A) in subsection (a)—

(i) by striking ", and the immigrant's accompanying spouse and children", and

(ii) by inserting after the first sentence the following:

"Such numerical limitations also shall not apply to the adjustment of status of, or issuance of an immigrant visa to, the immigrant's spouse and children if accompanying or following to join the immigrant."; and

(B) in subsection (b)—

(i) by striking "December 31, 1989" and inserting "September 1, 1989",

(ii) by striking "in the lawful status" and inserting "in the status",

(iii) by inserting "unauthorized employment performed before the date of the enactment of the Family Unity and Employment Opportunity Immigration Act of 1990 shall not be taken into account in applying section 245(c)(2) of the Immigration and Nationality Act and" after "spouse or child of such an alien,", and

(iv) by striking "lawful status as such a nonimmigrant" and all that follows through "subsection (a)" and inserting "lawful status throughout his or her stay in the United States as a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out the amendments made by section 102(f)(1)(A) of the Family Unity and Employment Opportunity Immigration Act of 1990".

(2) The amendments made by paragraph (1) shall apply as though included in the enactment of the Immigration Nursing Relief Act of 1989.

SEC. 103. LABOR ATTESTATION PROCESS.

(a) IN GENERAL.—Section 212(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14)) is amended to read as follows:

"(14) Aliens seeking admission or status as an immigrant under section 203(b)(2) or as a nonimmigrant under section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b) unless with respect to the aliens the Secretary of Labor certifies to the Secretary of State and the Attorney General that an attestation is on file and in effect under section 212(n) for the employer and occupational classification for which the alien will perform services;".

(b) USE OF ATTESTATIONS.—Section 212 of such Act, as amended by section 3(b) of Public Law 101-238, is amended by adding at the end the following new subsection:

"(n)(1) The attestation referred to in subsection (a)(14), with respect to an alien who is coming to the United States to be employed by an employer in an occupational classification, is an attestation as to the following:

"(A) Subject to paragraph (3), the employer—

"(i)(I) has made and is making positive recruitment efforts, in the recruitment area identified under paragraph (2)(A), reasonably designed to locate and employ able, willing, and qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts) workers, and

"(II) recites the specific actions the employer has taken with respect to such recruitment; and

"(ii) has been unable to find such workers who are available at the time and place of need.

"(B) The employer is offering and will offer (in the case of an nonimmigrant under section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b), during the period of authorized employment or, in the case of an immigrant under section 203(b)(2), during the first year of employment of the alien by the employer) to aliens and to other individuals employed in the occupational classification and in the recruitment area (identified under paragraph (2)(A)) wages that are no less than the base prevailing wage level (determined under paragraph (6)) and work-

ing conditions that are not less than the prevailing working conditions for the occupational classification in the recruitment area.

"(C) There is not a strike or lockout in the course of a labor dispute.

"(D) The employer, at the time of execution of the attestation, has provided notice of the intention to file the attestation under this paragraph to the bargaining representative (if any) of the employer's employees in the occupational classification and recruitment area for which aliens are sought, or, if there is no such bargaining representative, to such State or local governmental entity as the Secretary of Labor designates (after consultation with appropriate labor and management organizations) for the recruitment area for purposes of this subparagraph.

The obligation to engage in positive recruitment under subparagraph (A) shall not apply to nonimmigrants under section 101(a)(15)(H)(i)(b) and shall terminate on the date that the alien is provided immigrant or nonimmigrant status in response to the attestation.

"(2)(A) With respect to occupational classifications for which attestations may be filed, the Secretary of Labor (in this subsection referred to as the 'Secretary') shall identify recruitment areas which are the areas of traditional or expected labor supply.

"(B) The Secretary shall make available for public examination, within 2 working days after the date on which an attestation under paragraph (1) is filed, in Washington, D.C., a copy of each attestation (and accompanying documentation) filed under paragraph (1). The Secretary shall compile, on a current basis, a list (by employer and by occupational classification) of the attestations filed or in effect under paragraph (1).

"(3)(A) If 10 or more attestations meeting the requirements of paragraph (1) (including paragraph (1)(A)) within a region (as defined by the Secretary) (or 5 attestations within a rural region) have been filed within a 1-year period and are in effect with respect to employees in the same occupational classification, any succeeding attestation filed during the succeeding 2-year period for workers in that occupational classification and region may substitute, for the attestation as to the matters described in paragraph (1)(A), an attestation that the employer has not been able to find, after posting of the job offer and advertising to recruit for hire, workers for the occupational classification at the time and place needed.

"(B) In subparagraph (A), the term 'rural region' means a contiguous area of counties (no county of which is an urbanized area) which is identified by the Secretary as representing a labor market with respect to an occupational classification which is separate and distinct from those for adjoining urbanized areas.

"(4)(A) If a bargaining representative described in paragraph (1)(D) or employee representative, within 30 days after the date the employer files an attestation under paragraph (1), submits to the Secretary a written request for a hearing respecting the matters required to be attested to in paragraph (1) and includes with such request a written statement of particular facts contradicting such attestation, the attestation shall not become effective until the date the Secretary has made a determination, after such a hearing, that the facts attested to are true. No attestation shall be effective under this subsection before the end of such 30-day period.

"(B) Within 7 days after the date of submission of a written request under subparagraph (A), the Secretary shall provide for a determination as to whether or not a written statement of particular facts contradicting the attestation has been included. If it has, the Secretary shall provide for a notice of such determination to the interested parties and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, with respect to the attestation within 30 days of the date of the determination. After such a hearing, the Secretary shall make a determination with respect to whether the attestation meets the requirements of paragraph (1) by not later 30 days after the date of the hearing. In the hearing, the burden of proof on the truth of the facts attested to shall be on the employer.

"(C)(i) An attestation duly filed under paragraph (1) shall be deemed to have been certified by the Secretary and in effect under this subsection at the end of the 30-day period beginning on the date of its filing unless the Secretary otherwise notifies the employer and the Attorney General under clause (ii).

"(ii) If a written request for a hearing has been submitted on a timely basis under this paragraph, the Secretary shall notify the Attorney General and the employer in writing that an attestation, which would otherwise become effective under clause (i), shall not become effective.

"(D) The preceding provisions of this paragraph shall not apply to an attestation under paragraph (1) with respect to nonimmigrants described in section 101(a)(15)(H)(i)(b).

"(E) The Secretary may not refuse to accept for filing a completed attestation filed under this subsection or review in any way such an attestation with respect to which a complaint has not been filed under this subsection.

"(F) Subject to termination under paragraph (5), an attestation shall be effective only for petitions filed during the 1-year period beginning on the effective date of the attestation.

"(5)(A) The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to include an element of the attestation required under paragraph (1), failure to meet a condition attested to, or misrepresentation of material facts in an attestation that is in effect under this subsection. Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively, or to the extent that the complaint alleges a failure or misrepresentation for which there has been a determination on that issue in a hearing under paragraph (4)(B). The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

"(B) Under such process, the Secretary shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in subparagraph (C). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same petitioner, the Secretary may consolidate the hearings under this subparagraph on such complaints.

"(C) If the Secretary finds, after notice and opportunity for a hearing, an employer failure or that there was a misrepresentation of material fact in the attestation—

"(i) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per violation) as the Secretary determines to be appropriate, and

"(ii) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

"(D) In addition to the sanctions provided under subparagraph (C), if the Secretary finds, after notice and opportunity for a hearing, that an employer has violated a condition of an attestation relating to the payment of wages at a specified wage level, the Secretary shall order the employer to provide for payment of such amounts of back pay as may be required to comply with such condition.

"(6)(A) For purposes of this subsection and section 214(f), the term 'base prevailing wage level', with respect to an occupational classification in an area for which a petition or attestation is filed for purposes of the respective provision of law, means—

"(i) the actual wage level for the occupational classification at the place of employment, or

"(ii) the prevailing wage level for the occupational classification and area determined under subparagraph (B),

whichever is greater, determined as of the time of filing the respective petition or attestation.

"(B)(i) The Bureau of Labor Statistics in the Department of Labor shall periodically determine, for purposes of this subsection and section 214(f), the prevailing wage level for occupational classifications and areas for which determinations of prevailing wage levels are required under this subsection. In the case of a specific occupational classification for which a determination of prevailing wage level is not generally or readily available, the Bureau shall determine such a wage level within 30 days.

"(ii)(I) If the Bureau has not determined a prevailing wage level within 30 days of the date of filing of an attestation, subject to subclause (II), the application of clause (ii) of subparagraph (A) shall be suspended until the date such a determination is made.

"(II) When the Bureau makes such a determination, the employer shall provide, within 30 days of the date of the determination, for such adjustment of wages (including back pay) as provides for the application of such prevailing wage level under subparagraph (A) as though such level had been determined on a timely basis under subparagraph (B).".

(c) REPORT.—The Secretary of Labor shall conduct a study of the feasibility of determining, for purposes of section 212(n) of the Immigration and Nationality Act, national or regional labor shortages in particular occupational classifications, taking into consideration—

(1) the intensity and duration of each labor shortage;

(2) the supply and demand of workers in occupations affected by the shortage;

(3) industrial and geographic concentration of the shortage;

(4) wages for occupations affected by the shortage and how a 20 percent increase in the prevailing wage in the occupation affects the shortage;

(5) entry requirements for occupations affected by the shortage; and

(6) the need for continuous positive national recruitment.

The Secretary shall report to Congress on the results of the study by not later than 2 years after the date of the enactment of this Act. The Secretary shall include in the report such legislative recommendations as may be necessary to permit the use of national or regional labor shortages in the process of attestations under section 212(n) of the Immigration and Nationality Act.

SEC. 104. NONIMMIGRANT CLASSIFICATIONS.

(a) TREATY TRADERS.—

(1) Section 101(a)(15)(E)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(i)) is amended by inserting ", including trade in services or trade in technology" after "substantial trade".

(2) The largest foreign state in each region (as defined in section 203(c)(2) of the Immigration and Nationality Act) which has 1 or more dependent areas (as determined for purposes of section 202 of such Act) and which does not have a treaty of commerce and navigation with the United States shall be considered for purposes of section 101(a)(15)(E) of such Act to be a foreign state described in such section if the foreign state extends reciprocal nonimmigrant treatment to nationals of the United States.

(3) Section 101(a) of the Immigration and Nationality Act, as amended by section 102(d) of this Act, is amended by adding at the end the following new paragraph:

"(45) The term 'substantial' means, for purposes of paragraph (15)(E) with reference to trade or capital, such an amount of trade or capital as is established by the Secretary of State, after consultation with appropriate agencies of Government.".

(b) STUDENTS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(f) With respect to work authorization for aliens admitted as nonimmigrant students described in subparagraph (F) of section 101(a)(15), the Attorney General shall grant such an alien work authorization to be employed in a position unrelated to the alien's field of study and off-campus if—

"(1) the alien has completed 1 year as such a nonimmigrant and is maintaining good academic standing at the educational institution,

"(2) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer (A) has recruited for at least 60 days for the position and (B) will provide for payment to the alien and to other similarly situated workers at a rate equal to not less than the base prevailing wage level (determined under section 212(n)(6)), and

"(3) the alien will not be employed more than 20 hours each week during the academic term (but may be employed on a full-time basis during vacation periods and between academic terms).

If the Secretary of Labor determines that an employer has provided an attestation under paragraph (2) that is materially false or has failed to pay wages in accordance with the attestation, after notice and opportunity for a hearing, the employer shall be disqualified from employing an alien student under this subsection for a period of 3 years.".

(c) H NONIMMIGRANTS.—

(1) LIMITATION ON NUMBERS.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(g)(1) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year (beginning with fiscal year 1992)—

"(A) under section 101(a)(15)(H)(i)(b) may not exceed 25,000,

"(B) under section 101(a)(15)(H)(ii)(b), may not exceed 66,000, or

"(C) under section 101(a)(15)(P)(i) or section 101(a)(15)(P)(iii) may not exceed 9,000.

"(2) The numerical limitations under paragraph (1) shall only apply to principal aliens and not to the spouses or children of such aliens.

"(3) Aliens who are subject to the numerical limitations of paragraph (1) shall be issued visas (or otherwise provided nonimmigrant status) in the order in which petitions are filed for such visas or status.

"(4) In the case of a nonimmigrant described in section 101(a)(15)(H)(i)(b), the period of authorized admission as such a nonimmigrant may not exceed 6 years.".

(2) CONSTRUCTION RESPECTING INTENT WITH RESPECT TO ABANDONMENT OF FOREIGN RESIDENCE.—Section 214 of such Act, as amended by subsection (b) and by paragraph (1), is further amended—

(A) in subsection (b), by inserting "(other than a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15))" after "Every alien", and

(B) by adding at the end the following new subsection:

"(h) The fact that an alien is the beneficiary of an application for a preference status filed under section 204 or has otherwise sought permanent residence in the United States shall not constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a nonimmigrant or otherwise obtaining or maintaining the status of a nonimmigrant.".

(3) REVISION OF H-1B CATEGORY.—Subclause (b) of section 101(a)(15)(H)(i) of such Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking "who is of distinguished" and all that follows through "such institution or agency" and inserting the following: "who is coming temporarily to the United States to perform services (other than services described in subclause (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1) and who meets the requirements for the occupation specified in section 214(i)(2)".

(4) SPECIALTY OCCUPATION DEFINED.—Section 214 of such Act, as amended by subsection (b) and by paragraphs (1) and (2), is further amended by adding at the end the following new subsection:

"(i)(1) For purposes of section 101(a)(15)(H)(i)(b) and paragraph (2), the term 'specialty occupation' means an occupation that requires—

"(A) theoretical and practical application of a body of highly specialized knowledge, and

"(B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

"(2) For purposes of section 101(a)(15)(H)(i)(b), the requirements of this paragraph, with respect to a specialty occupation, are—

"(A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation;

"(B) completion of the degree described in paragraph (1)(B) for the occupation; or

"(C)(i) experience in the specialty equivalent to the completion of such degree, and (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.".

(5) LIMITATION ON TRAINEES.—Section 101(a)(15)(H)(iii) of such Act (8 U.S.C. 1101(a)(15)(H)(iii)) is amended by inserting before the semicolon at the end the following: ", in a training program not available in the country of nationality of the alien".

(6) TECHNICAL AMENDMENT CONCERNING FOREIGN RESIDENCE.—Section 101(a)(15)(H) of such Act (8 U.S.C. 1101(a)(15)(H)) is amended—

(A) by striking "having a residence in a foreign country which he has no intention of abandoning";

(B) in clause (ii), by striking "who is coming temporarily to the United States (a)" and inserting "(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States";

(C) in clause (ii)(b), by inserting "having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States" immediately after "(b)"; and

(D) in clause (iii), by inserting "having a residence in a foreign country which he has no intention of abandoning" after "(iii)".

(d) ESTABLISHMENT OF SPECIAL EDUCATION EXCHANGE VISITOR PROGRAM.—

(1) IN GENERAL.—Section 101(a)(15)(J) of such Act (8 U.S.C. 1101(a)(15)(J)) is amended—

(A) by inserting "(i)" after "abandoning", and

(B) by inserting after "212(j)," the following: "or (ii) who is coming temporarily to the United States (for a period not to exceed 18 months) as a participant in an special education training program described in section 214(j)(1),".

(2) PROGRAM REQUIREMENTS.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsections (b), (c)(1), (c)(2), and (c)(4), is further amended by adding at the end the following new subsection:

"(j)(1) An alien may not be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(ii) unless the alien is entering under a program which provides for practical training and experience in the education of children with physical, mental, or emotional disabilities.

"(2) The number of aliens who may be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(ii) in any fiscal year may not exceed 50.".

(e) AU PAIR CULTURAL EXCHANGE PROGRAM.—

(1) IN GENERAL.—Section 101(a)(15)(J) of such Act (8 U.S.C. 1101(a)(15)(J)), as amended by subsection (d)(1), is further amended—

(A) by striking "or" before "(ii)", and

(B) by inserting after "214(j)(1)," the following: "or (iii) who is coming temporarily to the United States (for a period not to exceed 14 months) as a participant in an au pair program under section 214(k)(1),".

(2) REQUIREMENTS.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsections (b), (c)(1), (c)(2), (c)(4), and (d)(2), is further amended by adding at the end the following new subsection:

"(k)(1) An alien may not be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(iii) unless—

"(A) the alien is entering to participate in a program, which participation and program the Secretary of Labor determines meets the requirements of paragraph (2) and will provide the alien a uniquely American cultural experience and additional education; and

"(B) the alien is entering to be placed with a family which has entered into an agreement described in paragraph (3) and which has not been found by the Secretary of Labor to have violated previously the terms of such an agreement.

If the Secretary determines that a sponsoring program no longer meets the requirements described in subparagraph (A), the Secretary shall disqualify the program under this subsection for a period of at least 3 years.

"(2) The requirements of this paragraph with respect to an alien participating in a program are as follows:

"(A) The alien participant must reside with a family that has entered into an agreement described in paragraph (3).

"(B) The alien participant must be enrolled on an on-going basis in a course of study at an educational institution or program approved by the Attorney General under section 101(a)(15)(F).

"(C) The alien participant must be provided, not less often than quarterly, a cultural experience (such as travel to national monuments, landmarks, or institutions) unique or specific to the United States.

"(D) If the alien participant provides child care or related services in connection with participation in the program—

"(i) the alien must be paid wages (as defined in section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) not less than the minimum wage applicable under section 6(a) of such Act (29 U.S.C. 206(a)), and

"(ii) the alien may not provide such care or services for more than 40 hours each week.

"(E) The program must provide a suitable bond or other undertaking, in an amount specified by the Attorney General (not to exceed $5,000 with respect to any alien participant) to assure that the alien departs from the United States at the time of expiration of the authorized period of stay under the program.

"(3) The agreement described in this paragraph between a family and an alien participant shall obligate the family to provide for meeting the requirements specified in subparagraphs (B) through (D) of paragraph (2). Such agreement shall be in a form approved by the Secretary of Labor and may be enforced by the alien.".

(f) AMENDMENTS RELATING TO "L" NONIMMIGRANTS.—

(1) CLARIFICATION OF TREATMENT OF CERTAIN INTERNATIONAL ACCOUNTING FIRMS.—In applying sections 101(a)(15)(L) and 203(b)(1)(C) of the Immigration and Nationality Act, in the case of a partnership that is organized in the United States to provide accounting services and that markets its accounting services under an internationally recognized name under an agreement with a worldwide coordinating organization that is owned and controlled by the member accounting firms, a partnership (or similar organization) that is organized outside the United States to provide accounting services shall be considered to be an affiliate of the United States partnership if it markets its accounting services under the same internationally recognized name under the agreement with the worldwide coordinating organization of which the United States partnership is also a member.

(2) USE OF BLANKET PETITIONS; DEADLINES FOR PROCESSING; PERIODS OF AUTHORIZED STAY; CONSTRUCTION.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended—

(A) by inserting "(1)" after "(c)", and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall provide for a procedure under which an importing employer which meets requirements established by the Attorney General may file a blanket petition to import aliens as nonimmigrants under section 101(a)(15)(L) instead of filing individuals petitions under paragraph (1) to import such aliens. Such procedure shall permit the expedited processing of visas for entry of aliens covered under such a petition.

"(B) For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

"(C) The Attorney General shall provide a process for reviewing and acting upon petitions under this subsection with respect to nonimmigrants described in section 101(a)(15)(L) within 30 days after the date a completed petition has been filed.

"(D) The period of authorized admission for—

"(i) a nonimmigrant admitted to render services in a managerial or executive capacity under section 101(a)(15)(L) shall not exceed 7 years, or

"(ii) a nonimmigrant admitted to render services in a capacity that involved specialized knowledge under section 101(a)(15)(L) shall not exceed 5 years.".

(3) PERIOD OF PRIOR EMPLOYMENT WITH COMPANY.—Section 101(a)(15)(L) of such Act (8 U.S.C. 1101(a)(15)(L)) is amended by striking "immediately preceding" and inserting "within 3 years preceding".

(g) NEW CLASSIFICATION FOR ALIENS WITH EXTRAORDINARY ABILITY, ACCOMPANYING ALIENS, AND ATHLETES AND ENTERTAINERS.—

(1) IN GENERAL.—Section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)) is amended—

(A) by striking "or" at the end of subparagraph (M),

(B) by striking the period at the end of subparagraph (N) and inserting a semicolon, and

(C) by adding at the end the following new subparagraphs:

"(O) an alien who—

"(i) has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim or, with regard to motion picture and television productions a demonstrated record of extraordinary achievement, and whose achievements have been recognized in the field through extensive documentation, and seeks to enter the United States to continue work in the area of extraordinary ability, but only if the Attorney General determines that the alien's entry into the United States will substantially benefit prospectively the United States; or

"(ii)(I) seeks to enter the United States temporarily and solely for the purpose of accompanying and assisting in the artistic or athletic performance by an alien who is admitted under clause (i) for a specific event or events,

"(II) is an integral part of such actual performance,

"(III)(a) has critical skills and experience with such alien which are not of a general nature and which cannot be performed by other individuals, or (b) in the case of a motion picture or television production, has skills and experience with such alien which are not of a general nature and which are critical either based on a pre-existing longstanding working relationship or, with respect to the specific production, because significant principal photography will take place both inside and outside the United States and the continuing participation of the alien is essential to the successful completion of the production, and

"(IV) has a foreign residence which the alien has no intention of abandoning; or

"(iii) is the alien spouse or child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien; or

"(P) an alien having a foreign residence which the alien has no intention of abandoning who—

"(i)(I) performs as an athlete, individually or as part of an group or team, at an internationally recognized level of performance, or performs as part of an entertainment group that has been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time and has had a sustained and substantial relationship with that group over a period of at least 1 year and provides functions integral to the performance of the group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete or entertainer with respect to a specific athletic competition or performance;

"(ii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a reciprocal exchange program which is between an organization or organizations in the United States and an organization in one or more foreign states and which provides for the temporary exchange of artists and entertainers, or groups of artists and entertainers, between the United States and the foreign states involved;

"(iii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a program that is culturally unique; or

"(iv) is the spouse or child of an alien described in clause (i), (ii), or (iii) and is accompanying, or following to join, the alien.".

(2) PERIODS OF ADMISSION, ETC.—Section 214 of such Act (8 U.S.C. 1184) is amended—

(A) in subsection (a), by inserting "(1)" after "(a)" and by adding at the end the following new paragraph:

"(2)(A) The period of authorized status as a nonimmigrant under section 101(a)(15)(O) shall be for such period as the Attorney General may specify in order to provide for the event for which the nonimmigrant is admitted.

"(B)(i) The period of authorized status as a nonimmigrant under section 101(a)(15)(P) shall be for such period as the Attorney General may specify in order to provide for the competition, event, or performance for which the nonimmigrant is admitted. In the case of nonimmigrants admitted as individual athletes under section 101(a)(15)(P), the period of authorized status may be for an initial period (not to exceed 5 years) during which the nonimmigrant will perform as an athlete and such period may be extended by the Attorney General for an additional period of up to 5 years.

"(ii) An alien who is admitted as a nonimmigrant under clause (ii) or (iii) of section 101(a)(15)(P) may not be readmitted as such a nonimmigrant unless the alien has remained outside the United States for at least 3 months after the date of the most recent admission."; and

(B) in subsection (c), as amended by subsection (f)(2)—

(i) in paragraph (1), by striking "or (L)" and inserting ", (L), (O), or (P)(i)", and

(ii) by adding at the end the following new paragraphs:

"(3) The Attorney General shall approve a petition—

"(A) with respect to a nonimmigrant described in section 101(a)(15)(O)(i) only after consultation with peer groups in the area of the alien's ability or, with respect to aliens seeking entry for a motion picture or television production, after consultation with the appropriate union representing the alien's occupational peers and a management organization in the area of the alien's ability, or

"(B) with respect to a nonimmigrant described in section 101(a)(15)(O)(ii) after consultation with labor organizations with expertise in the skill area involved.

In the case of an alien seeking entry for a motion picture or television production, (i) any opinion under the previous sentence shall only be advisory, (ii) any such opinion that recommends denial must be in writing, (iii) in making the decision the Attorney General shall consider the exigencies and scheduling of the production, and (iv) the Attorney General shall append to the decision any such opinion.

"(4)(A) A person may petition the Attorney General for classification of an alien as a nonimmigrant under clause (ii) of section 101(a)(15)(P).

"(B) The Attorney General shall approve petitions under this subsection with respect to nonimmigrants described in clause (i) or (iii) of section 101(a)(15)(P) only after consultation with labor organizations with expertise in the specific field of athletics or entertainment involved.

"(C) The Attorney General shall approve petitions under this subsection for nonimmigrants described in section 101(a)(15)(P)(ii) only after consultation with labor organizations representing artists and entertainers in the United States, in order to assure reciprocity in fact with foreign states.

"(5)(A) In the case of an alien admitted as a nonimmigrant and who is authorized to be employed in an occupation, if nonimmigrants constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer the alien—

"(i) continues to be authorized to be employed in the occupation for that employer, and

"(ii) is authorized to be employed in any occupation for any other employer so long as there is no strike or lockout with respect to that occupation and employer.

"(B) In the case of an alien admitted as a nonimmigrant and who is authorized to be employed in an occupation, if nonimmigrants do not constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer the alien—

"(i) is not authorized to be employed in the occupation for that employer, and

"(ii) is authorized to be employed in any occupation for any other employer so long as there is no strike or lockout with respect to that occupation and employer.

"(C) With respect to a nonimmigrant described in subparagraph (A) or (B) for whom such a strike or lockout occurs and who does not perform employment not authorized, any limit on the period of authorized stay shall be extended by the period of the strike or lockout.

"(D) In the case of an alien who is provided nonimmigrant status under section 101(a)(15)(H) (other than section 101(a)(15)(H)(ii)(a)) or section 101(a)(15)(P) and who is dismissed from employment by the employer before the end of the period of authorized admission, the employer shall be liable for the reasonable costs of return transportation of the alien abroad.

"(6) If a petition is filed and denied under this subsection, the Attorney General shall notify the petitioner of the determination and the reasons for the denial and of the process by which the petitioner may appeal the determination.

"(7) The Attorney General shall require by regulation, as a condition for the acceptance and approval of a petition under this section with respect to nonimmigrants under section 101(a)(15) (H), (L), (O), or (P)(i), the payment of a fee to recover the reasonable costs of processing a petition under this subsection with respect to such class of nonimmigrants.".

(h) NEW CLASSIFICATION FOR INTERNATIONAL CULTURAL EXCHANGE PROGRAMS.—Section 101(a)(15) of such Act, as amended by subsection (g), is further amended—

(1) by striking "or" at the end of subparagraph (O),

(2) by striking the period at the end of subparagraph (P) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(Q) an alien having a residence in a foreign country which he has no intention of abandoning who is coming temporarily (for a period not to exceed 15 months) to the United States as a participant in an international cultural exchange program designated by the Attorney General for the purpose of providing practical training, employment, and the sharing of the history, culture, and traditions of the country of the alien's nationality and who will be employed under the same wages and working conditions as domestic workers.".

SEC. 105. ADMISSION OF ALIENS IN RELIGIOUS OCCUPATIONS.

(a) AS SPECIAL IMMIGRANTS.—Subparagraph (C) of section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended to read as follows:

"(C) an immigrant, and his spouse and children if accompanying or following to join the immigrant, who—

"(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

"(ii) seeks to enter the United States—

"(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

"(II) in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

"(III) in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

"(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i);".

(b) AS NONIMMIGRANTS.—Section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)), as amended by sections 104(g)(1) and 104(h)(3) of this Act, is amended—

(1) by striking "or" at the end of subparagraph (P),

(2) by striking the period at the end of subparagraph (Q) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(R) an alien, and the spouse and children of the alien if accompanying or following to join the alien, who—

"(i) for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and

"(ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).".

SEC. 106. DENIAL OF CREWMEMBER STATUS IN THE CASE OF CERTAIN LABOR DISPUTES.

(a) IN GENERAL.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), as amended by section 104, is further amended by adding at the end the following new subsection:

"(l)(1) No alien shall be entitled to nonimmigrant status under section 101(a)(15)(D) if the alien intends to land for the purpose of performing service on board a vessel of the United States (as defined in section 2101(46) of title 46, United States Code) or on an aircraft of an air carrier (as defined in section 101(3) of the Federal Aviation Act of 1958) during a labor dispute where there is a strike or lockout in the bargaining unit of the employer in which the alien intends to perform such service.

"(2) An alien described in paragraph (1)—

"(A) may not be paroled into the United States pursuant to section 212(d)(5) unless the Attorney General determines that the parole of such alien is necessary to protect the national security of the United States; and

"(B) shall be considered not to be a bona fide crewman for purposes of section 252(b).".

(b) CONFORMING AMENDMENT.—Section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)) is amended by inserting "or

in section 214(l)" after "except as provided in subparagraph (B)".

(c) CONFORMING REPEAL.—Section 315(d) of the Immigration Reform and Control Act of 1986 (100 Stat. 3440) is hereby repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to admissions occurring on or after the date of the enactment of this Act.

SEC. 107. EFFECTIVE DATES; TRANSITION.

(a) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this subtitle (other than by sections 102(f)(1) and 106) shall take effect on October 1, 1991, and shall not apply with respect to visas issued before such date.

(b) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—

(1) EFFECTIVE DATE.—The provisions of sections 201(b)(2)(A), 201(c) and 204(a)(2) of the Immigration and Nationality Act (insofar as they relate to treatment of spouses and children of aliens lawfully admitted for permanent residence as immediate relatives), as amended by sections 101 and 102 of this subtitle, shall be effective beginning with fiscal year 1991.

(2) TRANSITION.—In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1990, for preference status under section 203(a)(2) of such Act (as in effect before such date) as a spouse or child of an alien lawfully admitted for permanent residence, such petition shall be deemed as of October 1, 1990, to be a petition for immediate relative status described in section 201(b)(2)(A)(i) of such Act (as amended by this subtitle).

(c) TRANSITION FOR FOURTH AND FIFTH PREFERENCE.—In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1991, for preference status under section 203(a)(4) or 203(a)(5) of such Act (as in effect before such date), such petition shall be deemed as of October 1, 1991, to be a petition for preference status under section 203(a)(3) or 203(a)(4), respectively, of such Act.

Subtitle B—Education and Training of American Workers

SEC. 112. EDUCATIONAL ASSISTANCE AND TRAINING.

(a) USE OF FUND.—From the fees deposited each year in the account established under section 286(q)(5) of the Immigration and Nationality Act which are not used for scholarships under section 113, the Secretary of Labor shall provide for grants to States to provide educational assistance and training for United States workers. The Secretary shall consult with the Secretary of Education in making grants under this section.

(b) ALLOCATION OF FUNDS.—Within the purposes described in subsection (a), funds in the account used under this section shall be allocated among the States based on a formula, established jointly by the Secretaries of Labor and Education, that takes into consideration—

(1) the location of foreign workers admitted into the United States,

(2) the location of individuals in the United States requiring and desiring the educational assistance and training for which the funds can be applied, and

(3) the location of unemployed and underemployed United States workers.

(c) DISBURSEMENT TO STATES.—

(1) Within the purposes and allocations established under this section, disbursements shall be made to the States, in accordance with grant applications submitted to and approved jointly by the Secretaries of Labor and Education, to be applied in a manner consistent with the guidelines established by such Secretaries in consultation with the States. In applying such grants, the States shall consider providing funding to joint labor-management trust funds and other such non-profit organizations which have demonstrated capability and experience in directly training and educating workers.

(2) Not more than 5 percent of the funds disbursed to any State under this section may be used for administrative expenses.

(d) LIMITATION ON FEDERAL OVERHEAD.—The Secretaries shall provide that not more than 2 percent of the amount of funds disbursed to States under this section may be used by the Federal Government in the administration of this section.

(e) ANNUAL REPORT.—The Secretary of Labor shall report annually to the Congress on the grants to States provided under this section.

(f) STATE DEFINED.—In this section, the term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

SEC. 113. HIGHER EDUCATION SCHOLARSHIP PROGRAM FOR MATHEMATICS AND SCIENCES.

Ten percent of the fees deposited each year in the account established under section 286(q)(5) of the Immigration and Nationality Act shall be available to the Secretary of Education for the awarding (in a manner and amount specified by the Secretary) of scholarships to assist in the cost of postsecondary education of needy individuals who—

(1) are enrolled as full-time students in an accredited postsecondary institution,

(2) pursuing a course of study leading to a degree in mathematics or one or more of the sciences, and

(3) maintain satisfactory progress, as determined by the postsecondary institution the recipient is attending.

The Secretary shall enter into agreements with States to provide for the actual awarding of such scholarships by the States.

TITLE II—OTHER PROVISIONS REGARDING IMMIGRANT VISAS

SEC. 201. TRANSITION FOR ALIENS WHO ARE NATIVES OF CERTAIN ADVERSELY AFFECTED FOREIGN STATES.

(a) IN GENERAL.—Subject to the numerical limitations established under subsection (b), the Attorney General shall provide for the adjustment of status to that of an alien lawfully admitted for permanent residence on a conditional basis of an alien who is a native of an adversely affected foreign state (described in section 203(b)(2)(C)(iii) of the Immigration and Nationality Act, as amended by this Act) if the alien—

(1) applies to the Attorney General (beginning on such date as the Attorney General may specify) for such adjustment, and

(2) establishes in the application that the alien—

(A) is a native of such an adversely affected foreign state,

(B) entered the United States before January 1, 1990, and any period of authorized stay as a nonimmigrant expired before such date through the passage of time (and has not been subsequently extended),

(C) has been continuously resident in the United States since before January 1, 1990,

(D) has a firm commitment for employment in the United States for a period of at least 1 year (beginning on the date of adjustment of status under this section), and

(E) except as provided in subsection (d)(1), is admissible as an immigrant.

If the Attorney General receives more than 250,000 applications for adjustment of status under this subsection, the Attorney General may stop accepting applications under paragraph (1) until such date (if any) as the Attorney General determines to be appropriate.

(b) NUMERICAL LIMITATIONS.—

(1) The number of aliens whose status may be adjusted under subsection (a) in each of fiscal years 1991, 1992, and 1993 may not exceed 25,000.

(2) An alien's status may not be adjusted for any fiscal year not specified in paragraph (1).

(3) If the number of aliens eligible for adjustment under this section in any fiscal year exceeds the numerical limitation specified in paragraph (1), consideration shall be given in the order in which the aliens applied for such adjustment.

(c) REMOVAL OF CONDITIONAL STATUS.—

(1) In order for the conditional basis of permanent resident status provided under subsection (a) to be removed, an alien must submit, in a time and a manner specified by the Attorney General, written documentation that the alien has been substantially employed on a full-time basis during the 1-year period beginning on the date the alien was provided such status.

(2)(A) In the case of an alien with permanent resident status on a conditional basis under subsection (a), if the alien fails to submit written documentation required under paragraph (1) by the deadline specified by the Attorney General under such paragraph, the Attorney General shall terminate the permanent resident status as of such date as the Attorney General may specify.

(B) In any deportation proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions described in paragraph (1).

(3) The Attorney General, in the Attorney General's discretion, may remove the conditional basis of the permanent resident status for an alien who fails to meet the requirements of paragraph (1) only if the alien demonstrates that extreme hardship would result if the alien is deported.

(4) Section 216(e) of the Immigration and Nationality Act shall apply to conditional permanent resident status under this section in the same manner as it applies to conditional permanent resident status under section 216 of such Act.

(d) MISCELLANEOUS PROVISIONS.—

(1) Aliens shall not be denied adjustment of status under this section on the grounds specified in paragraphs (20), (21), (25), or (32) of section 212(a) of the Immigration and Nationality Act, and the Attorney General may, in his discretion, waive the ground for exclusion specified in paragraph (19) of such section.

(2) Applications under subsection (a) shall be subject to paragraphs (5) and (6) of section 245A(c) of the Immigration and Nationality Act (relating to confidentiality and penalties for false statements) in the same manner as such paragraphs apply to applications under section 245A of such Act.

(3) In the case of a family, a single application for members of the family may be made under subsection (a).

SEC. 202. TRANSITION FOR CERTAIN DISPLACED ALIENS.

(a) AUTHORIZATION OF ADDITIONAL VISAS.—Notwithstanding the numerical limitations

in sections 201 and 202 of the Immigration and Nationality Act, there shall be made available to qualified displaced aliens described in subsection (b) not to exceed 15,000 immigrant visa numbers in each of fiscal years 1991, 1992, and 1993, of which not to exceed 1,000 of the total number of immigrant visas in all of such fiscal years shall only be available for qualified displaced aliens described in subsection (b)(1)(B) (or described in subsection (b)(2) as the spouse or child of such an alien).

(b) ELIGIBLE DISPLACED ALIENS.—

(1) An alien is eligible for a visa under this section if the alien—

(A)(i) is a native of a foreign state in Eastern Europe, and

(ii) since before October 1, 1989, has been continuously residing in another foreign state (other than the United States), but is not firmly resettled in that foreign state; or

(B)(i) is a native of Tibet, and

(ii) since before date of the enactment of this Act, has been continuously residing in India or Nepal.

For purposes of subparagraph (B)(i), an alien shall be considered to be a native of Tibet if the alien was born in Tibet or is the son, daughter, grandson, or granddaughter of an individual born in Tibet.

(2) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of an alien described in paragraph (1) shall, if not otherwise entitled to immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under subsection (c), if accompanying or following to join his spouse or parent.

(c) DISTRIBUTION OF VISA NUMBERS.—The Secretary of State shall provide for making visa numbers provided under subsection (a) available—

(1) to displaced aliens described in subsection (b)(1)(A) (or described in subsection (b)(2) as the spouse or child of such an alien) in the same manner as visa numbers are otherwise available to qualified immigrants under section 203(a)(7) of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act), except that—

(A) preference shall be given to aliens who, before October 1, 1989, filed an application for refugee status with the Immigration and Naturalization Service or otherwise sought such status by registering with a voluntary agency (which is recognized by such Service and provides services to refugees in the Europe) for admission to the United States as a refugee, and

(B) subject to subparagraph (A), visa numbers shall be made available strictly in the chronological order in which the immigrants qualify after the date of the enactment of this Act; and

(2) to displaced aliens described in subsection (b)(1)(B) (or described in subsection (b)(2) as the spouse or child of such an alien) in an equitable manner, giving preference to those aliens who are not firmly resettled in India or Nepal or who are most likely to be resettled successfully in the United States.

SEC. 203. TRANSITION FOR AFRICAN IMMIGRANTS.

(a) AUTHORIZATION OF ADDITIONAL VISAS.—Notwithstanding the numerical limitations in section 201(a) of the Immigration and Nationality Act, but subject to the numerical limitations in section 202 of such Act, there shall be made available to qualified immigrants who are natives of a foreign state or dependent area in Africa not to exceed 15,000 immigrant visa numbers in each of fiscal years 1991, 1992, and 1993.

(b) DISTRIBUTION OF VISA NUMBERS.—

(1) The Secretary of State shall first provide for making visa numbers provided under subsection (a) available to qualified immigrants who have classification petitions approved, as of the date of the enactment of this Act, for a preference status described in paragraph (1), (2), (3), (4), (5), or (6) of section 203(a) of the Immigration and Nationality Act. Subject to paragraph (3), visa numbers shall be made available to qualified individuals under, and in the order of, the respective paragraphs without regard to any percentage limitations specified under any such paragraph.

(2) The Secretary of State shall provide for making any remaining visa numbers available to qualified immigrants strictly in the order in which they apply after the date of the enactment of this Act.

(3) Not more than 3,000 visa numbers may be made available in any fiscal year under this section to natives of any single foreign state or dependent area.

(c) DERIVATIVE STATUS.—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of a qualified immigrant under this section shall, if not otherwise entitled to immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under subsection (b), if accompanying or following to join his spouse or parent.

SEC. 204. BACKLOG VISA NUMBERS FOR SECOND AND FIFTH PREFERENCES.

(a) IN GENERAL.—In addition to the number of immigrant visas otherwise made available in each of fiscal years 1991, 1992, 1993, 1994, and 1995 and without regard to the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act, there shall be made available—

(1) to second preference immigrants (as defined in subsection (b)) 10,000 immigrant visa numbers, and

(2) to fifth preference immigrants (as defined in subsection (c)) 40,000 immigrant visa numbers.

Not more than 27 percent of each such worldwide level for a fiscal year shall be made available in any of the first 3 quarters of the fiscal year. In addition to such visa numbers and without regard to the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act, there shall be made available in each of fiscal years 1991, 1992, 1993, 1994, and 1995, 250 immigrant visa numbers to second preference immigrants who are natives of Lebanon and are not firmly resettled in any foreign country outside Lebanon and 750 immigrant visa numbers to fifth preference immigrants who are natives of Lebanon and are not firmly resettled in any foreign country outside Lebanon.

(b) 2ND PREFERENCE IMMIGRANT DEFINED.—In subsection (a)(1), the term "second preference immigrant" means—

(1) an alien who is the beneficiary of a petition approved to accord status under section 203(a)(2) of the Immigration and Nationality Act, if the petition was filed before the date of the enactment of this Act, or

(2) the child of such an alien if accompanying or following to join the alien.

(c) 5TH PREFERENCE IMMIGRANT DEFINED.—In subsection (a)(2), the term "fifth preference immigrant" means—

(1) an alien who is the beneficiary of a petition approved to accord status under section 203(a)(5) of the Immigration and Nationality Act, if the petition was filed before the date of the enactment of this Act, or

(2) the spouse or child of such an alien if accompanying or following to join the alien.

(d) ORDER OF CONSIDERATION.—Immigrant visas shall be made available under this section in the order in which a petition in behalf of each such alien has been filed with the Attorney General under section 204 of the Immigration and Nationality Act.

SEC. 205. TRANSITION FOR THIRD AND SIXTH PREFERENCE.

(a) IN GENERAL.—In the case of any alien with respect to whom a classification petition has been filed under section 204(a) of the Immigration and Nationality Act for a classification described in paragraph (3) or (6) of section 203(a) of such Act (as in effect before the date of the enactment of this Act) before October 1, 1991, there shall be made available, in addition to the immigrant visas otherwise available in each of fiscal years 1991, 1992, 1993, 1994, and 1995, up to 25,000 additional immigrant visas which shall be made available to those aliens (and qualified relatives described in section 203(a)(8) of such Act, as in effect on the date of the enactment of this Act) without regard to section 202(a) of such Act.

(b) ALLOCATION.—Of the visa numbers made available each fiscal year under subsection (a)—

(1) visa numbers shall first be made available, in a number not to exceed 50 percent of the total number available, to qualified immigrants with respect to whom a classification petition was filed under section 203(a)(3) of the Immigration and Nationality Act, and

(2) visa numbers shall be made available in the same priority order in which such numbers were otherwise made available under section 203(a) of such Act.

(c) TRANSITION.—In the case of an alien—

(1) who, as of the date of the enactment of this Act, is in lawful status as a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15) of the Immigration and Nationality Act, and

(2) for whom an application for labor certification under section 212(a)(14) of such Act has been filed as of such date,

the alien shall be considered to be a qualified alien described in section 203(b)(2) of such Act (as amended by this Act) and to have met the requirements of section 212(a)(14) of such Act if the labor certification is approved. In applying such section 203(b)(2) with respect to such an alien, the priority date shall be the date the application for labor certification was filed.

SEC. 206. TRANSITION FOR EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.

(a) ADDITIONAL VISA NUMBERS.—

(1) TREATMENT OF PRINCIPALS.—In the case of any alien described in paragraph (3) with respect to whom a classification petition has been filed and approved under subsection (b), there shall be made available, in addition to the immigrant visas otherwise available in all of fiscal years 1992 through 1994 and without regard to section 202(a) of the Immigration and Nationality Act, up to 15,000 additional immigrant visas, of which not more than 7,500 may be made available in each of fiscal years 1992 and 1993.

(2) DERIVATIVE RELATIVES.—In the case of any alien who is the spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of an alien entitled to immediate issu-

ance of a visa under paragraph (1), visas shall be made available without regard to any numerical limitation under such Act or this section if accompanying, or following to join, the alien's spouse or parent.

(3) EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.—An alien is described in this paragraph if the alien—

(A) is a resident of Hong Kong and is employed in Hong Kong (and has been so employed during the 12 previous consecutive months) as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, by a business entity which (i) is owned and organized in the United States (or is the subsidiary or affiliate of a business owned and organized in the United States), (ii) employs at least 100 employees in the United States and at least 50 employees outside the United States, and (iii) has a gross annual income of at least $50,000,000, and

(B) has an offer of employment from such business entity in the United States as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, which offer (i) is effective from the time of filing the petition for classification under this section through and including the time of entry into the United States and (ii) provides for salary and benefits comparable to the salary and benefits provided to others with similar responsibilities and experience within the same company.

(b) PETITIONS.—Any employer desiring and intending to employ within the United States an alien described in subsection (a)(3) may file a petition with the Attorney General for such classification. No visa may be issued under subsection (a)(1) until such a petition has been approved.

(c) ALLOCATION.—Visa numbers made available under subsection (a) shall be made available in the order which petitions under subsection (b) are filed with the Attorney General.

(d) FEES.—The provisions of section 286(q) of the Immigration and Nationality Act (relating to fees for admission of certain employment-based aliens), as added by section 111 of this Act, shall apply to the aliens provided lawful permanent resident status under subsection (a)(1) in the same manner as they apply to aliens provided lawful permanent resident status under section 203(b)(2) of the Immigration and Nationality Act.

(e) DEFINITIONS.—In this section:

(1) EXECUTIVE CAPACITY.—The term "executive capacity" has the meaning given such term in section 101(a)(44)(B) of the Immigration and Nationality Act, as amended by section 102(d) of this Act.

(2) MANAGERIAL CAPACITY.—The term "managerial capacity" has the meaning given such term in section 101(a)(44)(A) of the Immigration and Nationality Act, as amended by section 102(d) of this Act.

(3) OFFICER.—The term "officer" means, with respect to a business entity, the chairman or vice-chairman of the board of directors of the entity, the chairman or vice-chairman of the executive committee of the board of directors, the president, any vice-president, any assistant vice-president, any senior trust officer, the secretary, any assistance secretary, the treasurer, any assistant treasurer, any trust officer or associate trust officer, the controller, any assistant controller, or any other officer of the entity customarily performing functions similar to those performed by any of the above officers.

(4) SPECIALIZED KNOWLEDGE.—The term "specialized knowledge" has the meaning given such term in section 214(c)(2)(B) of the Immigration and Nationality Act, as amended by section 104(f)(2) of this Act.

(5) SUPERVISOR.—The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

SEC. 207. TREATMENT OF HONG KONG AS SEPARATE FOREIGN STATE FOR NUMERICAL LIMITATION PURPOSES.

In applying section 202 of the Immigration and Nationality Act for fiscal years beginning with fiscal year 1991, Hong Kong shall be treated as a separate foreign state, and not as a colony or other component or dependent area of a foreign state.

SEC. 208. PERMITTING EXTENSION OF PERIOD OF VALIDITY OF IMMIGRANT VISAS FOR CERTAIN RESIDENTS OF HONG KONG.

(a) EXTENDING PERIOD OF VALIDITY.—

(1) IN GENERAL.—Subject to paragraph (2), the limitation on the period of validity of an immigrant visa under section 221(c) of the Immigration and Nationality Act shall not apply in the case of an immigrant visa issued, on or after the date of the enactment of this Act and before September 1, 2001, to an alien described in subsection (b), but only if—

(A) the alien elects, within the period of validity of the immigrant visa under such section, to have this section apply, and

(B) before the date the alien seeks to be admitted to the United States for lawful permanent residence, the alien notifies the appropriate consular officer of the alien's intention to seek such admission and provides such officer with such information as the officer determines to be necessary to verify that the alien remains eligible for admission to the United States as an immigrant.

(2) LIMITATION ON EXTENSION.—In no case shall the period of validity of a visa be extended under paragraph (1) beyond January 1, 2002.

(3) TREATMENT UNDER NUMERICAL LIMITATIONS.—In applying the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act in the case of aliens for whose visas the period of validity is extended under this section, such limitations shall only apply at the time of original issuance of the visas and not at the time of admission of such aliens.

(b) ALIENS COVERED.—An alien is described in this subsection if the alien is chargeable under section 202 of the Immigration and Nationality Act to Hong Kong (or is issued an immigrant visa under section 206(a) of this Act) and—

(1)(A) is residing in Hong Kong as of the date of the enactment of this Act and is issued an immigrant visa under paragraph (1), (2), (4), or (5) of section 203(a) the Immigration and Nationality Act (as in effect on the date of the enactment of this Act) or under section 203(a) or 203(b)(1) of such Act (as in effect on and after October 1, 1991), or

(B) is the spouse or child (as defined in subsection (d)) of an alien described in subparagraph (A), if accompanying or following to join the alien in coming to the United States; or

(2) is issued a visa under section 206(a) of this Act.

(c) TREATMENT OF CERTAIN EMPLOYEES IN HONG KONG.—

(1) IN GENERAL.—In applying the proviso of section 7 of the Central Intelligence Agency Act of 1949, in the case of an alien described in paragraph (2), the Director may charge the entry of the alien against the numerical limitation for any fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1996) notwithstanding that the alien's entry is not made to the United States in that fiscal year so long as such entry is made before the end of fiscal year 1997.

(2) ALIENS COVERED.—An alien is described in this paragraph if the alien—

(A) is an employee of the Foreign Broadcast Information Service in Hong Kong, or

(B) is the spouse or child (as defined in subsection (d)) of an alien described in paragraph (1), if accompanying or following to join the alien in coming to the United States.

(d) TREATMENT OF CHILDREN.—In this section, the term "child" has the meaning given such term in section 101(b)(1) of the Immigration and Nationality Act and also includes (for purposes of this section and the Immigration and Nationality Act) an alien who was the child (as so defined) of the alien as of the date of the issuance of an immigrant visa to the alien described in subsection (b)(1) or, in the case described in subsection (c), as of the date of charging of the entry of the alien under the proviso under section 7 of the Central Intelligence Agency Act of 1949.

TITLE III—OTHER IMMIGRATION PROVISIONS

Subtitle A—Provisions Relating to Marriage Fraud

SEC. 301. BATTERED SPOUSE OR CHILD WAIVER OF THE CONDITIONAL RESIDENCE REQUIREMENT.

(a) IN GENERAL.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) in subparagraph (B), by striking "by the alien spouse for good cause";

(3) in subparagraph (B), by striking the period at the end and inserting ", or";

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) the qualifying marriage was entered into in good faith by the alien spouse and after the marriage the alien spouse or child was battered by or was the subject of extreme cruelty perpetrated by his or her spouse or citizen or permanent resident parent and the alien was not at fault in failing to meet the requirements of paragraph (1).";" and

(5) by adding at the end the following: "The Attorney General shall, by regulation, establish measures to protect the confidentiality of information concerning any abused alien spouse or child, including information regarding the whereabouts of such spouse or child.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to marriages entered into before, on, or after the date of the enactment of this Act.

SEC. 302. BONA FIDE MARRIAGE EXCEPTION TO FOREIGN RESIDENCE REQUIREMENT FOR MARRIAGES ENTERED INTO DURING CERTAIN IMMIGRATION PROCEEDINGS.

(a) IN GENERAL.—Section 245(e) of the Immigration and Nationality Act (8 U.S.C. 1255(e)) is amended—

(1) in paragraph (1), by striking "An alien" and inserting "Except as provided in paragraph (3), an alien", and

(2) by adding at the end the following new paragraph:

"(3) Paragraph (1) and section 204(h) shall not apply with respect to a marriage if the alien establishes to the satisfaction of the Attorney General that the marriage was entered into in good faith and in accordance with the laws of the place where the marriage took place and the marriage was not entered into for the purpose of procuring the alien's entry as an immigrant and no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien spouse or alien son or daughter.".

(b) CONFORMING AMENDMENT.—Section 204(h) of such Act (8 U.S.C. 1154(h)) is amended by inserting "except as provided in section 245(e)(3)," after "Notwithstanding subsection (a),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to marriages entered into before, on, or after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Immigration Reform and Control Act of 1986

SEC. 311. APPLICATION OF EMPLOYER SANCTIONS TO LONGSHORE WORK.

(a) IN GENERAL.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES RESPECTING LONGSHORE WORK.—

"(A) TREATMENT OF CERTAIN LONGSHORE WORK.—For purposes of this section, any person or other entity, including but not limited to ships agents, brokers, charterers, and procurers of labor, acting independently or on behalf of any other such person or entity, who brings into the United States (or coastal waters thereof) an individual who performs longshore work (as defined in subparagraph (D)), shall be considered to have hired such individual for employment in the United States within the meaning of subsection (a) as of the first date that the individual first performs such work.

"(B) PAPERWORK REQUIREMENT FOR LONGSHORE WORK.—In applying the requirements of paragraph (3) of subsection (b) (relating to retention of verification forms) to employment described in subparagraph (A), the person or entity shall designate, in writing to the Attorney General, a person or entity located at a port in the United States in the vicinity of the location of the longshore work involved who agrees to be responsible for the retention and making available for inspection of such forms under such paragraph.

"(C) NO AUTHORIZATION MERELY THROUGH CLASSIFICATION AS ALIEN CREWMEN.—The mere classification of an alien as a nonimmigrant under section 101(a)(15)(D) (without the document or documents described in subsection (b)(1)(E)(i) with respect to the alien) shall not be considered to authorize, for purposes of this section and section 274B, the performance of longshore work by that alien.

"(D) LONGSHORE WORK DEFINED.—In this paragraph and subsection (b)(1), the term 'longshore work' includes activities relating or incident to the loading or unloading of cargo, including the operation of cargo-related equipment, whether or not integral to the vessel, and the securing of the vessel, in the United States or the coastal waters thereof; except that, for purposes of subsection (b)(1)(E)(ii), such term includes such activities with respect to vessels in (or in the coastal waters of) the reciprocal foreign state.".

(b) EMPLOYMENT VERIFICATION SYSTEM.—Section 274A(b)(1) of such Act (8 U.S.C. 1324a(b)(1)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking "or";

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by inserting after clause (ii) the following new clause:

"(iii) with respect to longshore work, the document or documents described in subparagraph (E)(i).."; and

(2) by adding at the end the following new subparagraph:

"(E) DOCUMENTS ESTABLISHING RECIPROCITY OF LONGSHORE WORK.—

"(i) IN GENERAL.—The document or documents described in this clause with respect to an individual's performance of longshore work are such a document or documents, in a form acceptable to the Attorney General, that establish that—

"(I) the individual is a national of a reciprocal foreign state (described in clause (ii)), and

"(II) the individual will perform such work in connection with a vessel that is documented and enrolled with a reciprocal foreign state.

"(ii) RECIPROCAL FOREIGN STATE DEFINED.—In clause (i), the term 'reciprocal foreign state' means a foreign state which the Attorney General has determined, in accordance with section 553 of title 5, United States Code—

"(I) has in effect immigration laws and regulations which authorize, on a nationwide basis, the performance of longshore work by United States nationals who are crewmembers of vessels which are documented and enrolled in the United States; and

"(II) in the territory or coastal waters of which United States nationals described in subclause (I) have performed such work during the six months preceding the application of clause (i) with respect to a national of the state or vessel documented and enrolled with the state.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed on or after the date of the enactment of this Act.

SEC. 312. ELIMINATION OF PAPERWORK REQUIREMENT FOR RECRUITERS AND REFERRERS.

(a) IN GENERAL.—Section 274A(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(1)) is amended—

(1) by striking "to hire, or to recruit or refer for a fee, for employment in the United States",

(2) in subparagraph (A), by inserting after "(A)" the following: "to hire, or to recruit or refer for a fee, for employment in the United States", and

(3) in subparagraph (B), by inserting after "(B)" the following: "(i) to hire for employment in the United States an individual without complying with the requirements of subsection (b) or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act), to hire, or to recruit or refer for a fee, for employment in the United States".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to recruiting and referring occurring on or after the date of the enactment of this Act.

SEC. 313. PERMITTING COURT-ORDERED REMEDIES IN CERTAIN CIRCUMSTANCES.

(a) IN GENERAL.—Nothing in the provisions of the Immigration Reform and Control Act of 1986, including the provisions inserted or amended by such Act, (all such provisions referred to collectively in this section as "IRCA") shall be construed—

(1) as preventing judicial review under chapter 7 of title 5, United States Code, under section 1331 of title 28, United States Code, or under section 279 of the Immigration and Nationality Act, of regulations, policies, and practices governing the adjustment of status under IRCA, or

(2) as preventing such a court from ordering, as a remedy in an action brought (before, on, or after the date of the enactment of this Act) challenging such regulations, policies, or practices, the Attorney General—

(A) to accept applications for adjustment of status under IRCA without regard to any application periods established under IRCA for a reasonable period (of not longer than 6 months with respect to any class, except as may be extended as a result of an appeal taken by the Government) specified by the court;

(B) to reopen and readjudicate applications for adjustment of status under IRCA that have been denied; and

(C) to grant temporary stays of deportation and temporary employment authorization for applicants whose applications for adjustment of status under IRCA are reopened or who are permitted to file such applications pursuant to a court-mandated remedy.

(b) EFFECTIVE DATE.—Subsection (a) shall apply as of the date of the enactment of the Immigration Reform and Control Act of 1986.

(c) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as permitting the Attorney General to appeal any court determination invalidating any rule, regulation, or policy governing the adjustment of status under IRCA if the Attorney General had an opportunity to appeal such a determination but failed to do so in a timely manner, or

(2) as applying to an applicant for adjustment to lawful temporary residence (or from lawful temporary resident status to lawful permanent resident status) who seeks to challenge a denial of an individual application for such adjustment based upon factual determinations made by the Immigration and Naturalization Service regarding the individual applicant's eligibility for such adjustment.

SEC. 314. PROHIBITION OF DEPORTATION OF SPOUSES AND CHILDREN OF LEGALIZED ALIENS.

(a) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN ELIGIBLE IMMIGRANTS.—

(1) IN GENERAL.—The Attorney General shall provide that in the case of an alien who is an eligible immigrant (as defined in subsection (b)(1)) as of January 1, 1990, who has entered the United States before such date, who resides in the United States on such date, and who is not lawfully admitted for permanent residence, subject to paragraph (2), the alien—

(A) may not be deported or otherwise required to depart from the United States, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(2) EFFECTIVE DATE OF APPLICABILITY.—For purposes of paragraph (1), in the case of an eligible immigrant who is the spouse or child of a legalized alien, paragraph (1) shall only apply on and after the date the legalized alien—

(A) has been granted permanent resident status,

(B) has completed a declaration of intention to become a citizen, and

(C) has submitted a classification petition under under section 204 of the Immigration and Nationality Act to classify the eligible immigrant as a preference immigrant described in section 203(a)(2) of such Act or as an immediate relative described in section 201(b) of such Act.

(3) TERMINATION OF APPLICABILITY.—

(A)(i) Paragraph (1) shall not apply 6 months after the date the Immigration and Naturalization Service has provided the legalized alien with written notice (described in clause (ii)) unless the alien has applied for such naturalization.

(ii) The written notice referred to in clause (i) is a written notice (by certified mail, return receipt requested, in the alien's native language) stating that—

(I) the alien has become (before the date the notice is provided) eligible (by virtue of period of lawful permanent residence) to apply for naturalization, and

(II) application for naturalization must be made within 6 months to continue the benefits of this subsection.

(B) Paragraph (1) shall not apply 2 years after the date of filing a timely application for naturalization unless the alien has been naturalized as a citizen or establishes that the alien has actively pursued naturalization. Time consumed in the Service's processing the application shall not be counted toward the 2-year period.

(b) ELIGIBLE IMMIGRANT AND LEGALIZED ALIEN DEFINED.—In this section:

(1)(A) The term "eligible immigrant" means a qualified immigrant who is the spouse or child of a legalized alien and who, except as otherwise provided under subparagraph (B), is admissible as an immigrant and is not described in subparagraph (C).

(B) In the determination of an alien's admissibility as an immigrant for purposes of subparagraph (A)—

(i) the provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply;

(ii) except as provided in clause (iii), the Attorney General may waive any other provision of such section in the case of individual aliens when it is in the public interest; but

(iii) the Attorney General may not waive—

(I) paragraphs (9) and (10) (relating to criminals) of such section;

(II) paragraph (23) (relating to drug offenses) of such section, except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana;

(III) paragraphs (27) and (29) (relating to national security) of such section; or

(IV) paragraph (33) (relating to those who assisted in the Nazi persecution) of such section.

(C) An alien shall not be eligible for the benefits of this section if the Attorney General finds that—

(i) the alien has been convicted of a felony or 2 or more misdemeanors in the United States, or

(ii) the alien is described in section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)).

(2) The term "legalized alien" means an alien lawfully admitted for temporary or permanent residence who was provided—

(A) temporary or permanent residence status under section 245A of the Immigration and Nationality Act,

(B) temporary or permanent residence status under section 210 of the Immigration and Nationality Act, or

(C) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

(c) APPLICATION OF DEFINITIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section.

(d) TEMPORARY DISQUALIFICATION FROM CERTAIN PUBLIC WELFARE ASSISTANCE.—Aliens provided the benefits of this section by virtue of their relation to a legalized alien described in subsection (b)(2)(A) or (b)(2)(B) shall be ineligible for public welfare assistance in the same manner and for the same period as the legalized alien is ineligible for such assistance under section 245A(h) or 210(f), respectively, of the Immigration and Nationality Act.

(e) APPLICATION OF SLIAG PROGRAM.—For purposes of section 204 of the Immigration Reform and Control Act of 1986, an alien who is the spouse or child of a legalized alien and whose deportation is suspended under this section shall be treated as an eligible legalized alien for the same period as such legalized alien is.

(f) CONSTRUCTION.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to obtain benefits under this section.

SEC. 315. TREATMENT OF CERTAIN LEGALIZATION APPLICANTS.

(a) IN GENERAL.—Section 204(c)(1) of the Immigration Reform and Control Act of 1986 is amended by adding at the end the following: "For purposes of subparagraphs (A) and (C), the term 'eligible legalized alien' includes an alien who applies on a timely basis to become an eligible legalized alien beginning on the date that the alien applies for lawful temporary status under section 210, 210A, or 245A of the Immigration and Nationality Act and ending on the date that there has been a final determination with respect to such application.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Immigration Reform and Control Act of 1986.

SEC. 316. REIMBURSEMENT THROUGH IMMIGRATION EMERGENCY FUND OF LOCALITIES IMPACTED BY INCREASES IN ALIENS APPLYING FOR ASYLUM.

(a) IN GENERAL.—Section 404(b) of the Immigration and Nationality Act (8 U.S.C. 1101 note), as added by section 113 of the Immigration Reform and Control Act of 1986, is amended—

(1) by inserting "to carry out paragraph (2) and" after "to be used",

(2) by inserting "(1)" after "(b)", and

(3) by adding at the end the following new paragraph:

"(2)(A) Whenever a district director of the Service certifies to the Commissioner that the number of asylum applications filed in the respective district during a calendar quarter exceeds by at least 1,000 the number of such applications filed in that district during the preceding calendar quarter, subject to subparagraph (B), funds in the immigration emergency fund provided for under paragraph (1) shall be available for reimbursement of localities that have provided assistance to aliens in that district who have asylum applications pending.

"(B) Not more than $20,000,000 shall be made available for all localities under this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to increases in the number of asylum applications filed in a calendar quarter beginning on or after January 1, 1989.

SEC. 317. CLARIFICATION OF AUTHORIZATION OF APPROPRIATIONS FOR THE IMMIGRATION EMERGENCY FUND.

(a) IN GENERAL.—Section 404(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101 note), as amended by section 316(a) of this Act, is amended—

(1) by inserting "(for fiscal year 1991 and any subsequent fiscal year)" after "appropriated", and

(2) by striking "$35,000,000" and inserting "an amount sufficient to provide for a balance of $35,000,000 in such fund".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of the Immigration Reform and Control Act of 1986.

Subtitle C—Miscellaneous

SEC. 321. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS DECLARED DEPENDENT ON A JUVENILE COURT.

(a) IN GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), as amended by section 102(e)(1) of this Act, is amended—

(1) by striking "or" at the end of subparagraph (I),

(2) by striking the period at the end of subparagraph (J) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(K) an immigrant who (i) who has been declared dependent on a juvenile court located in the United States and has been deemed eligible by that court for long-term foster care, and (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence.".

(b) WAIVER OF GROUNDS FOR DEPORTATION.—Section 241 of such Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(h) Paragraphs (1), (2), (5), (9), or (12) of subsection 241 (other than so much of subsection (a)(1) as relates to a ground of exclusion described in paragraph (9), (10), (23), (27), (29), or (33) of section 212(a)) shall not apply to a special immigrant described in section 101(a)(27)(K) based upon circumstances that exist before the date the alien was provided such special immigrant status.".

SEC. 322. STATISTICAL INFORMATION SYSTEM.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(c) The Commissioner, in consultation with interested academicians, government agencies, and other parties, shall provide for a system for collection and dissemination, to Congress and the public, of information (not in individually identifiable form) useful in evaluating the social, economic, environmental, and demographic impact of immigration laws. Such information shall include information on the alien population in the United States, on the rates of naturalization and emigration of resident aliens,

on aliens who have been admitted, paroled, or granted asylum, on nonimmigrants in the United States (by occupation, basis for admission, and duration of stay), and on aliens who have been excluded or deported from the United States. Such system shall provide for the collection and dissemination of such information not less often than annually.".

SEC. 323. REVISION OF HEALTH GROUNDS FOR EXCLUSION.

(a) IN GENERAL.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) Any alien who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services)—

"(A) to have a physical or mental disorder, and exhibits a current behavior or has a history of behavior (associated with the disorder) that (i) poses or has posed a threat to property or the safety or welfare of the alien or others and (ii) as to a history of behavior, has occurred so recently (taking into account the nature1 of the disorder) as to suggest the likelihood of its recurrence or the occurrence of other harmful behavior, or

"(B) to be a drug abuser or addict;";

(2) by striking paragraphs (2) through (5) and (11) of subsection (a); and

(3) in subsection (g)—

(A) by striking "who is excludable from the United States under paragraph (1) of subsection (a) of this section, or any alien", and

(B) by striking the second sentence and inserting the following: "The Attorney General may waive the application of subsection (a)(1)(A) in the case of any immigrant, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in his discretion after consultation with the Secretary of Health and Human Services, may by regulation prescribe.".

(b) CONFORMING AMENDMENTS.—

(1) Section 234 of such Act (8 U.S.C. 1224) is amended by striking "paragraphs (1), (2), (3), (4), or (5)" and inserting "paragraph (1)" each place it appears.

(2) Section 236(d) of such Act (8 U.S.C. 1226(d)) is amended by striking "paragraphs (1), (2), (3), (4), or (5) of section 212(a)" and inserting "section 212(a)(1)".

(3) Section 272(a) of such Act (8 U.S.C. 1322(a)) is amended—

(A) by striking "(1) mentally retarded" and all that follows through "(6) a narcotic drug addict" and inserting "excludable under section 212(a) (1) or (6)", and

(B) by striking "such disease or disability" and inserting "the excluding condition".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals entering the United States on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 324. TEMPORARY PROTECTED STATUS FOR NATIONALS OF EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT, AND OTHER DESIGNATED FOREIGN STATES.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 244 the following new section:

"TEMPORARY PROTECTED STATUS

"SEC. 244A. (a) GRANTING OF STATUS.—

"(1) IN GENERAL.—In the case of an alien who is a national of a foreign state designated under subsection (b) and who meets the requirements of subsection (c), the Attorney General, in accordance with this section—

"(A) shall grant the alien temporary protected status in the United States and shall not deport the alien from the United States during the period in which such status is in effect, and

"(B) shall authorize the alien to engage in employment in the United States and provide the alien with an 'employment authorized' endorsement or other appropriate work permit.

"(2) DURATION OF WORK AUTHORIZATION.—Work authorization provided under this section shall be effective throughout the period the alien is in temporary protected status under this section.

"(3) NOTICE OF RIGHTS.—

"(A) Upon the granting of temporary protected status under this section, the Attorney General shall notify the alien of the alien's rights and responsibilities under this section.

"(B) If, at the time of initiation of a deportation proceeding against an alien, the foreign state (of which the alien is a national) is designated under subsection (b), the Attorney General shall promptly notify the alien of the alien's potential rights and responsibilities under this section.

"(C) If, at the time of designation of a foreign state under subsection (b), an alien (who is a national of such state) is in a deportation proceeding under this title, the Attorney General shall promptly notify the alien of the alien's potential rights and responsibilities under this section.

"(D) Notices under this paragraph shall be provided in a form and language that the alien can understand.

"(4) TEMPORARY RIGHTS FOR ELIGIBLE ALIENS.—

"(A) In the case of an alien who can establish a prima facie case of eligibility for rights under paragraph (1), but for the fact that the period of registration under subsection (c)(1)(A)(iv) has not begun, until the alien has had a reasonable opportunity to register during the first 30 days of such period, the Attorney General shall provide for the rights described in paragraph (1).

"(B) In the case of an alien who establishes a prima facie case of eligibility for rights under paragraph (1), until a final determination with respect to the alien's eligibility for rights under paragraph (1) has been made, the alien shall be provided such rights.

"(5) CLARIFICATION.—Nothing in this section shall be construed as authorizing the Attorney General to deny temporary protected status to an alien based on the alien's immigration status or to require any alien, as a condition of being granted such status, either to relinquish nonimmigrant or other status the alien may have or to execute any waiver of other rights under this Act. The granting of temporary protected status under this section shall not be considered to be inconsistent with the granting of nonimmigrant status under this Act.

"(b) DESIGNATIONS OF EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT AND FOREIGN STATES IN GENERAL.—

"(1) DESIGNATION OF EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT.—El Salvador, Lebanon, Liberia, and Kuwait are hereby designated under this subsection.

"(2) DESIGNATION OF FOREIGN STATES IN GENERAL.—The Attorney General, after consultation with appropriate agencies of the Government, shall designate any foreign state (or, in the case of a finding under subparagraph (B), all or any part of such foreign state) under this subsection only if—

"(A) the Attorney General finds that there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state would pose a substantial threat to their personal safety;

"(B) the Attorney General finds that—

"(i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected,

"(ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and

"(iii) the foreign state officially has requested designation under this subparagraph; or

"(C) the Attorney General finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

A designation of a foreign state (or, in the case of a determination under subparagraph (B), all or any part of such foreign state) under this paragraph shall not become effective unless notice of the designation (including a statement of the findings under this paragraph and the effective date of the designation) is published in the Federal Register. In such notice, the Attorney General shall also state an estimate of the number of nationals of the foreign state designated who are (or within the effective period of the designation are likely to become) eligible for temporary protected status under this section and their immigration status in the United States.

"(3) EFFECTIVE PERIOD OF DESIGNATION FOR EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT.—The designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1) shall take effect upon the date of the enactment of this section and shall remain in effect until the effective date of the termination of the respective designation under paragraph (5)(B). For purposes of applying the succeeding provisions of this section, each of such states shall be considered to have been designated based upon findings described in subparagraphs (A) and (C) of paragraph (2). For purposes of this section, the initial period of designation for El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1) is 3 years.

"(4) EFFECTIVE PERIOD OF DESIGNATION FOR OTHER FOREIGN STATES.—The designation of a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) under paragraph (2) shall—

"(A) take effect upon the date of publication of the designation under such paragraph, or such later date as the Attorney General may specify in the notice published under such paragraph, and

"(B) shall remain in effect until the effective date of the termination of the designation under paragraph (5)(B).

For purposes of this section, the initial period of designation of a foreign state (or part thereof) under paragraph (2) is the period, specified by Attorney General, of not less than 6 months and not more than 18 months.

"(5) PERIODIC REVIEW, TERMINATIONS, AND EXTENSIONS OF DESIGNATIONS.—

"(A) PERIODIC REVIEW.—At least 60 days before end of the initial period of designa-

tion, and any extended period of designation, of a foreign state (or part thereof) under this section the Attorney General, after consultation with appropriate agencies of the Government, shall review the conditions in the foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) for which a designation is in effect under this subsection and shall determine whether the conditions for such designation under this subsection continue to be met. The Attorney General shall provide on a timely basis for the publication of notice of each such determination (including the basis for the determination, and, in the case of an affirmative determination, the period of extension of designation under subparagraph (C)) in the Federal Register.

"(B) TERMINATION OF DESIGNATION.—If the Attorney General determines under subparagraph (A) that a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) no longer continues to meet the conditions for designation under paragraph (2), the Attorney General shall terminate the designation by publishing notice in the Federal Register of the determination under the subparagraph (including the basis for the determination). Such termination is effective in accordance with subsection (d)(3), but shall not be effective earlier than 60 days after the date the notice is published or, if later, the expiration of the most recent previous extension under subparagraph (C) and, with respect to the designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1), shall not be effective before the end of the 3-year period beginning on the date of the enactment of this section.

"(C) EXTENSION OF DESIGNATION.—If the Attorney General does not determine under subparagraph (A) that foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) no longer meets the conditions for designation under paragraph (2), the period of designation of the foreign state is extended for an additional period of 6 months (or, in the discretion of the Attorney General, a period of 12 or 18 months).

"(6) INFORMATION CONCERNING PROTECTED STATUS AT TIME OF DESIGNATIONS.—Within the amounts otherwise appropriated to carry out this Act, at the time of a designation of a foreign state under this subsection (including the designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1)), the Attorney General shall make available information respecting the temporary protected status made available to aliens who are nationals of such designated foreign state.

"(7) REVIEW.—

"(A) DESIGNATIONS.—There is no judicial review of any determination of the Attorney General with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection.

"(B) APPLICATION TO INDIVIDUALS.—The Attorney General shall establish an administrative procedure for the review of the denial of rights to aliens under this subsection; except that such procedure shall not prevent an alien from asserting rights under this section in deportation proceedings.

"(c) ALIENS ELIGIBLE FOR TEMPORARY PROTECTED STATUS.—

"(1) IN GENERAL.—

"(A) SALVADORAN, LEBANESE, LIBERIAN, AND KUWAITI NATIONALS.—Subjects to paragraph (3), an alien who is a national of El Salvador, Lebanon, Liberia, or Kuwait (for the period such respective state is designated under subsection (b)(1)) meets the requirements of this paragraph only if—

"(i) the alien has been continuously physically present in the United States since the date of the enactment of this section;

"(ii) the alien has continuously resided in the United States since September 19, 1990;

"(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

"(iv) the alien registers under this section within the 270-day registration period (established by the Attorney General) beginning not later than 60 days after the date of the enactment of this section.

"(B) NATIONALS OF DESIGNATED FOREIGN STATES IN GENERAL.—Subject to paragraph (3), an alien, who is a national of a state designated under subsection (b)(2), meets the requirements of this paragraph only if—

"(i) the alien has been continuously physically present in the United States since the effective date of the most recent designation of that state;

"(ii) the alien has continuously resided in the United States since such date as the Attorney General may designate;

"(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

"(iv) to the extent and in a manner which the Attorney General establishes, the alien registers for the temporary protected status under this section during a registration period of not less than 180 days.

"(C) REGISTRATION FEE.—The Attorney General may require payment of a reasonable fee as a condition of registering an alien under subparagraph (A)(iv) or (B)(iv) (including providing an alien with an 'employment authorized' endorsement or other appropriate work permit under this section). The amount of any such fee shall not exceed $50.

"(2) ELIGIBLITY STANDARDS.—

"(A) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—In the determination of an alien's admissibility for purposes of subparagraphs (A)(iii) and (B)(iii) of paragraph (1)—

"(i) the provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not apply;

"(ii) except as provided in clause (iii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest; but

"(iii) the Attorney General may not waive—

"(I) paragraphs (9) and (10) (relating to criminals) of such section;

"(II) paragraph (23) of such section (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana;

"(III) paragraph (27) and (29) of such section (relating to national security); or

"(IV) paragraph (33) of such section (relating to those who assisted in the Nazi persecution).

"(B) ALIENS INELIGIBLE.—An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that—

"(i) the alien has been convicted of any felony or 2 or more misdemeanors committed in the United States; or

"(ii) the alien is described in section 243(h)(2).

"(3) WITHDRAWAL OF TEMPORARY PROTECTED STATUS.—The Attorney General shall withdraw temporary protected status granted to an alien under this section if—

"(A) the Attorney General finds that the alien was not in fact eligible for such status under this section,

"(B) except as provided in paragraph (4) and permitted in subsection (f)(4), the alien has not remained continuously physically present in the United States from the date the alien first was granted temporary protected status under this section, or

"(C) the alien fails, without good cause, to register with the Attorney General annually, at the end of each 12-month period after the granting of such status, in a form and manner specified by the Attorney General.

"(4) TREATMENT OF BRIEF, CASUAL, AND INNOCENT DEPARTURES AND CERTAIN OTHER ABSENCES.—

"(A) For purposes of paragraphs (1)(A)(i), (1)(B)(i), and (3)(B), an alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences from the United States, without regard as to whether such absences were authorized by the Attorney General.

"(B) for purposes of paragraphs (1)(A)(ii) and (1)(B)(ii), an alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence described in subparagraph (A) or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

"(5) CONSTRUCTION.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for temporary protected status under this section.

"(6) RESTRICTION ON DISCLOSURE OF INFORMATION.—The provisions of section 245A(c)(5) shall apply to information furnished by an alien in order to be granted temporary protected status under this section in the same manner as such provisions apply with respect to information furnished pursuant to an application section 245a.

"(d) DOCUMENTATION.—

"(1) INITIAL ISSUANCE.—Upon the granting of temporary protected status to an alien under this section, the Attorney General shall provide for the issuance of such temporary documentation and authorization as may be necessary to carry out the purposes of this section.

"(2) PERIOD OF VALIDITY.—Subject to paragraph (3), such documentation shall be valid during the initial period of designation of the foreign state (or part thereof) involved and any extension of such period. The Attorney General may stagger the periods of validity of the documentation and authorization in order to provide for an orderly renewal of such documentation and authorization and for an orderly transition (under paragraph (3)) upon the termination of a designation of a foreign state (or, in the case of a determination under subsection (b)(2)(B), all or any part of such foreign state).

"(3) EFFECTIVE DATE OF TERMINATIONS.—If the Attorney General terminates the designation of a foreign state (or, in the case of a determination under subsection (b)(2)(B), all or any part of such foreign state) under subsection (b)(4)(B), such termination shall only apply to documentation and authoriza-

tion issued or renewed after the effective date of the publication of notice of the determination under that subsection (or, at the Attorney General's option, after such period after the effective date of the determination as the Attorney General determines to be appropriate in order to provide for an orderly transition).

"(4) DETENTION OF THE ALIEN.—Nothing in this section shall be construed to authorize the detention of any alien who is eligible for temporary protected status under this section. An alien provided temporary protected status under this section shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States.

"(e) RELATION OF PERIOD OF TEMPORARY PROTECTED STATUS TO SUSPENSION OF DEPORTATION.—With respect to an alien granted temporary protected status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 244(a), unless the Attorney General determines that extreme hardship exists. Such period shall not cause a break in the continuity of residence of the period before and after such period for purposes of such section.

"(f) BENEFITS AND STATUS DURING PERIOD OF TEMPORARY PROTECTED STATUS.—During a period in which an alien is granted temporary protected status under this section—

"(1) the alien shall not be considered to be permanently residing in the United States under color of law;

"(2) the alien shall not be eligible for any program of cash assistance (furnished directly or through reimbursement) under Federal law, except for treatment for an emergency medical condition as described in section 1903(v) of the Social Security Act;

"(3) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance;

"(4) the alien may travel abroad with the prior consent of the Attorney General; and

"(5) for purposes of adjustment of status under section 245 and change of status under section 248, the alien shall be considered as being in, and maintaining, lawful status as a nonimmigrant.

"(g) EXCLUSIVE REMEDY.—Except as otherwise specifically provided, this section shall constitute the exclusive authority of the Attorney General under law to permit aliens who are or may become otherwise deportable or have been paroled into the United States to remain in the United States temporarily because of their particular nationality or region of foreign state of nationality.

"(h) ANNUAL REPORT.—Not later than March 1 of each year (beginning with 1991), the Attorney General, after consultation with the appropraite agencies of the Government, shall submit a report to the Congress on the operation of this section during the previous year. Each report shall include—

"(1) a listing of the foreign state or parts thereof designated under this section,

"(2) the number of nationals of each such state who have been granted temporary protected status under this section and their immigration status before being granted such status, and

"(3) an explanation of the reasons why foreign states or parts thereof were designated under subsection (b)(2) and, with respect to foreign states or parts thereof previously designated, why the designation was terminated or extended under such subsection.

"(i) CONGRESSIONAL REVIEW OF REPORT.—

"(1) REFERRAL OF REPORT.—Each report, when submitted under subsection (h), shall be referred, in accordance with the rules of the respective House of Congress, to the standing committee or committees having jurisdiction over the subjects of the report, and the report shall be printed as a document of the House of Representatives.

"(2) COMMITTEE HEARINGS.—No later than 90 days after the date of the referral of a report to a committee, in accordance with the rules of the respective House, the committee shall initiate hearings, insofar as such committee has legislative or oversight jurisdiction, to consider—

"(A) the findings of the report,

"(B) the designations of foreign states under subsection (b), and

"(C) whether it is appropriate to change the designations of foreign states under subsection (b) or otherwise to change the protections afforded under this section.

"(3) COMMITTEE REPORT.—No later than 180 days after the date of the referral of such a report to a committee, in accordance with the rules of the respective House, the committee shall report to its respective House its oversight findings and any legislation it deems appropriate.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 244 the following new item:

"Sec. 244A. Temporary protected status."

(c) NO AFFECT ON EXECUTIVE ORDER 12711.—Notwithstanding subsection (g) of section 244A of the Immigration and Nationality Act (inserted by the amendment made by subsection (a)), such section shall not supercede or affect Executive Order 12711 (April 11, 1990, relating to policy implementation with respect to nationals of the Peopls's Republic of China).

SEC. 325. WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR NATURALIZATION.

Section 312(1) of the Immigration and Nationality Act (8 U.S.C. 1423(1)) is amended by striking "is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence" and inserting "either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence".

SEC. 326. TREATMENT OF SERVICE IN ARMED FORCES OF A FOREIGN COUNTRY.

(a) IN GENERAL.—Section 315 of the Immigration and Nationality Act (8 U.S.C. 1425) is amended—

(1) in subsection (a), by inserting "but subject to subsection (c)" after "section 405(b)", and

(2) by adding at the end the following new subsection:

"(c) An alien shall not be ineligible for citizenship under this section or otherwise because of an exemption from training or service in the Armed Forces of the United States pursuant to the exercise of rights under a treaty, if before the time of the exercise of such rights the alien served in the Armed Forces of a foreign country of which the alien was a national.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to exemptions from training or service obtained before, on, or after such date.

The CHAIRMAN. Only amendments printed in part 2 of House Report 101-786 are in order to the substitute as modified. Such amendments shall be considered in the order and manner specified in House Report 101-786, shall be considered as having been read, shall not be subject to amendment, and shall be indivisible. Debate time specified in the report shall be equally divided and controlled by the proponent and a Member opposed.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas: Page 4, line 9, insert after "185,000" the following: "(reduced by the fraction described in subsection (d)(1))".

Page 4, line 17, insert after "65,000" the following: "(reduced by the fraction described in subsection (d)(1))".

Page 4, line 18, insert after "75,000" the following: "(reduced by the fraction described in subsection (d)(1))".

Page 5, line 3, insert after "55,000" the following: "(reduced by the fraction described in subsection (d)(1))".

Page 7, line 3, strike all that follows the first period.

Page 7, line 3, insert the following new subsection:

"(d) WORLDWIDE LEVELS OF IMMIGRATION.—

"(1) IN GENERAL.—The worldwide level of immigration described in this subsection for a fiscal year is equal to—

"(A) 630,000, minus

"(B) the number of certain aliens not subject to direct numerical limitations (as computed under paragraph (2)).

If, for any fiscal year, the sum of the numerical limitations for the fiscal year otherwise provided under subsection (a) (without regard to this subsection) is greater than the worldwide level of immigration described in the previous sentence, each of the numerical limitations specified for the fiscal year under paragraphs (1) through (3) of subsection (a) shall be multiplied by a fraction which is the ratio of such worldwide limitation to the sum of such numerical limitations.

"(2) REDUCTION FOR EXEMPT ALIENS.—The number computed under this paragraph for a fiscal year is the sum of—

"(A) the number of aliens described in subparagraph (A) or (B) of subsection (b)(2) who were provided lawful permanent resident status in the previous fiscal year, and

"(B) the number of aliens described in subsection (b)(3) who were provided lawful permanent resident status in the previous fiscal year.

The CHAIRMAN. Under this rule, the gentleman from Texas [Mr. SMITH] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Will the gentleman from Texas [Mr. BROOKS] seek recognition in opposition to the amendment?

Mr. BROOKS. Yes, Mr. Chairman.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me explain this amendment. What it does is to set the legal immigration level at 630,000 permanent immigrants per year compared to the 500,000 under the current law and compared to about 800,000 proposed under H.R. 4300. The reason for this 630,000 figure is that that is the same amount of immigration that was approved by the Senate earlier. So, the 630,000 figure is somewhere between the current level of 500,000 and that proposed in H.R. 4300 of 800,000.

Other than that, Mr. Chairman, the amendment does not change any definitions. It does not change transition programs.

The 630,000 immigrant level is allocated in this way: 430,000 to family based immigration, 150,000 to employment based immigrants, and 50,000 to diversity immigrants.

Mr. Chairman, once again this amendment focuses on priorities. I think we need to increase, even if it is slightly, the number of visas that go to immediate family members, and we need to increase, even if it is slightly, the percentage of employment based or skilled immigrants. That is the reason for this amendment. There are a number of considerations, Mr. Chairman, when it comes to this particular amendment.

□ 1450

The premise is that we either have to limit immigration or we have to open our borders, and if we are going to limit immigration, surely that means we cannot accommodate everyone who wants to come into this country, and once again some selectivity is absolutely mandatory. That is the core issue.

So my question is, Why not give preference to immediate family members, Why not give preference to employment-based, skilled immigrants?

The needs of this country are clearly demonstrated by a number of studies. I referred to them before, and it is important that we not forget them. That is that every study that has been taken that projects the employment needs of this country going into the future calls for more skilled immigrants and more educated immigrants. We are simply going to have to do that to remain competitive on an international level.

I might point out, Mr. Chairman, that there are two other countries—in fact, they rank second and third after the United States as far as the number of immigrants they admit—who have dramatically changed their immigration policies. I am referring to the countries of Canada and Australia. Just a few years ago those two countries had a very liberal immigration policy. They had an immigration policy that we might say followed along the lines of H.R. 4300. They have changed their immigration policy and are now much more restrictive in the sense that they emphasize skill, they emphasize education, and they regrettably are having to deemphasize the family-based immigration that applies especially to extended members of the family.

Mr. Chairman, these are the types of countries that we have to compete with. These are the countries that have immigration policies far different from ours. I mentioned Australia and Canada. I think it is also of interest that probably our main rival on the international scene, Japan, has virtually no migration. I am not suggesting that the United States have no immigration. In fact, as I said earlier, I favor increased immigration, but what I am pointing to is that the United States is competing with other countries that do emphasize skilled workers, that do emphasize education and skilled immigrants, and as a result those countries are getting from their pool of immigrants in the world many of those same types of individuals.

As George Borjas, the professor who wrote a book and has the most current data on this subject, said recently, we are basically losing the competition for the skilled and educated immigrants of the world, and that is because we have an immigration policy that H.R. 4300 hopes to expand, a policy of not giving enough emphasis to the skilled and educated immigrants who might come here.

Mr. Chairman, when we allow individuals to come into this country in great numbers who do not have the requisite skills and education, those individuals are going to compete directly with Americans who do not have the skills and education that they should have, and my question is this: If we are going to need to train individuals, if we are going to need to provide certain individuals with more education, and if we have limited resources with which to do that, why should we not train and educate American citizens first?

We simply cannot afford to train and educate hundreds of thousands of additional immigrants who are unskilled and do not have the education that is required by our own work force.

Mr. Chairman, there is a real cost associated with any increase in the number of people, whether it be immigrants or others, and this goes for people who might come to the United States, people of any kind from anywhere, and we simply cannot close our eyes to the impact they would have. I would love to be wonderfully idealistic. I would love for us to talk theory, but unfortunately we need to talk to mayors and members of city councils, and to Governors and to other individuals who bear the brunt of so many immigrants coming into their communities. They are the ones who are going to have to foot the bill for educational costs, health care costs, and government services.

It is often said, Mr. Chairman, that immigrants who are allowed to come into this country do so under the provision that they are not going to become a public charge for 5 years. I know individuals will use that as an argument that these immigrants are not going to use government services. But in point of fact, Mr. Chairman, that regulation that immigrants should not be a public charge for 5 years is absolutely meaningless. In 1989 only one immigrant was deported for being a public charge, despite the hundreds of thousands of immigrants who were in fact receiving welfare payments. So, Mr. Chairman, that is simply not an issue.

Mr. Chairman, here is another point: Most immigrants are law-abiding, upstanding individuals who contribute greatly to society. But some are not, and in fact one-third of the inmates in our Federal prisons today are not citizens. The individuals who are not citizens in our prisons today are there at four times their proportion to the population as a whole, and the cost to the criminal justice system is in the billions of dollars. Also, the type of immigrants who are coming into this country is changing. Mr. Borjas points out that years ago they had more skills to offer. Today the immigrants who are coming into this country are, comparatively speaking, less skilled and less educated than those immigrants who have gone before.

Mr. Chairman, this amendment sets priorities, and it sets priorities because we have to be selective in some way. We need to give priorities to immediate families and to skilled workers.

One final point, Mr. Chairman, is that this amendment increases the number of immigrants coming into this country. More than currently, this puts it at about 630,000 which is the same as that in the Senate bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from Texas. It would severely limit legal immigration and would cut back on the number of employment-based and diversity immigrants to be admitted to the United States. The effect of this amendment, if adopted, would be to increase the waiting periods for relatives of immigrants who already are

in the United States. Some of these waiting periods are already in excess of 5 years.

Mr. Chairman, the immigration numbers that are authorized in H.R. 4300 are the result of a rigorous process of examination and compromise that has gone on throughout this issue's consideration in the Judiciary Committee. These numbers will provide for the reunification of families and for an adequate number of skilled laborers into the United States. Therefore, I would urge rejection of this amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I rise in opposition to the amendment, and joining me in that opposition, I think it is important to point out, is a very interesting coalition of people.

The AFL–CIO is opposed to this amendment, the U.S. Chamber of Commerce is opposed to this amendment, the U.S. Catholic Conference is opposed to the amendment, and so is the National Association of Manufacturers, the Irish Immigration Reform movement, the National Council of LaRaza, and many, many others.

Why are they opposed to this amendment? Because for the first time ever this amendment would impose a cap on immigrants that counts within the numbers the spouses and the minor children of U.S. citizens, thereby impacting on every other form of immigration based on the number of spouses and minor children of U.S. citizens.

This is not rolling back something that was done in this bill. This is not some targeted effort to try to deal with something the gentleman thinks is not appropriate in this bill. This is an effort to set a precedent-shattering cap covering U.S. citizens for the first time that can wipe out employer-sponsored immigration, diversity immigration, and increase dramatically the backlog of family preference immigration.

The gentleman has spent a great deal of time talking about the importance of skill-based immigration and testifying to his belief in that. Nothing could be more destructive of the effort we are trying to make in this bill or even in existing law in permitting these kinds of very limited amendments than placing this kind of a cap on the bill. All sides and all parties involved in this legislation feel very strongly that this amendment is a terribly destructive one.

It is strictly a killer amendment, and I urge a no vote.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in opposition to the amendment, and I wish to join in the absolutely on-target comments both of the chairman of the committee and the gentleman from California [Mr. BERMAN]. I rise to underscore the inconsistency of this amendment with what the gentleman from Texas [Mr. SMITH] has been saying ought to be a priority in our immigration system.

The gentleman has said that he wants to see skilled workers brought into the country, and that the legislation needs to focus on that as a priority. This amendment would reduce and could even eliminate entirely the number of visas set aside in the legislation for employment-based immigration.

□ 1500

The amendment is at war with the statement of the gentleman about what his priorities are, and for that reason, as well as the reason that imposing this artificial cap does nothing for the other principles of our immigration system, preserving diversity and unifying families, means that this amendment is really internally inconsistent with the stated goals of the person who is proposing it.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Chairman, I do support this bill. It is a good bill. I urge Members to support it.

Mr. Chairman, I rise in support of this bill, the Family Unity and Employment Opportunity Immigration Act, H.R. 4300.

I commend the members of the Judiciary Committee, who have spent many long hours on putting together this bill, which will result in improving our Nation's immigration policy.

I support the bill's provisions which are designed to ensure family unity.

Our country's current immigration policy is simply not adequate to meet the needs of the many individuals who are legitimately seeking to abide by our Nation's laws and are having to endure waiting periods of as long as 15 years to reunite with close family members.

This bill also seeks to increase ethnic diversity in our country by increasing the number of immigrant visas to individuals from European countries while maintaining the the current immigration policy based on family relationship.

I believe this bill is successful in achieving that goal.

I urge my colleagues to support this bill.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first I would like to respond to what the gentleman from Connecticut [Mr. MORRISON] just said. I know the gentleman felt like he was making a statement of fact, but I want to set the record straight, and that is that in this amendment there are provisions for 150,000 employment-based immigrants, and that figure will not go down. That will remain constant.

Mr. Chairman, some opponents to the amendment say that a firm limit of 630,000 immigrants is somehow contrary to what I said before, is somehow antiimmigrant. But I want to point out again what this amendment does is raise current legal immigration by about 25 percent.

The level of 630,000 immigrants per year set by my amendment was supported in the U.S. Senate by a vote last summer of 81 to 17. Is this an unreasonable level?

The concept of a firm level of immigration was supported by the U.S. Senate in the 100th Congress by a vote of 88 to 4. This is not unreasonable.

Mr. Chairman, my amendment takes the immigration policy, that is more generous than the rest of the world combined, the current U.S. law, and increases it by about 25 percent. So I do not understand why all the criticism.

The critics of this amendment have fallen prey to a basic illogical fallacy: If you do not support all my increases, you must be supporting a decrease. Well, that is simply not true. This is a 25-percent increase in current levels. If that increase is kept firm and constant, we are going to be better for it. I do not support the 65-percent increase that H.R. 4300 proposes.

There is only one reason why critics of this amendment do not support a firm amendment. The 65-percent increase in immigration levels is apparently not enough, and they have built a system that automatically grows without congressional action. Most Americans do not want those kinds of automatic increases. They want Congress to vote on any significant increases. My amendment would require Congress to vote on such an increase, and limit it to 630,000 immigrants per year.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SMITH].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 143, noes 266, not voting 24, as follows:

[Roll No. 399]

AYES—143

Alexander	Barnard	Broomfield
Andrews	Beilenson	Browder
Applegate	Bentley	Brown (CO)
Archer	Bereuter	Bryant
Baker	Bevill	Buechner
Ballenger	Bliley	Bunning

Burton
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Crane
Dannemeyer
DeLay
Dickinson
Dorgan (ND)
Douglas
Duncan
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Flippo
Frenzel
Gallegly
Gallo
Gekas
Goodling
Goss
Grandy
Hall (TX)
Hancock
Hansen
Harris
Hayes (LA)
Hefley
Henry
Herger
Hiler
Hoagland
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hunter
Inhofe
James
Jenkins
Johnson (SD)
Kasich
Kyl
Lagomarsino
Lancaster
Leath (TX)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Marlenee
Martin (NY)
McCandless
McCollum
McCurdy
McMillan (NC)
Meyers
Miller (OH)
Montgomery
Moorhead
Nielson
Packard
Parris
Payne (VA)
Perkins
Petri
Quillen
Ravenel
Ray
Regula
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roukema
Rowland (GA)
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tallon
Taylor
Thomas (GA)
Thomas (WY)
Traxler
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weldon
Whittaker
Wilson
Wolf
Wylie
Young (AK)
Young (FL)

NOES—266

Ackerman
Anderson
Annunzio
Anthony
Armey
Aspin
Atkins
AuCoin
Bartlett
Barton
Bateman
Bates
Bennett
Berman
Bilbray
Bilirakis
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Clarke
Clay
Clement
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Courter
Cox
Coyne
Craig
Crockett
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hatcher
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Horton
Hoyer
Hughes
Hutto
Hyde
Ireland
Jacobs
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pashayan
Patterson
Paxon
Payne (NJ)
Pease
Pelosi
Penny
Pickett
Pickle
Porter
Poshard
Price
Rahall
Rangel
Richardson
Roe
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roybal
Russo
Sabo
Sangmeister
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Snowe
Solarz
Spratt
Staggers
Stallings
Stangeland
Stark
Stokes
Studds
Swift
Synar
Tanner
Tauke
Tauzin
Torres
Torricelli
Traficant
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Walgren
Walsh
Washington
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—24

Boggs
Callahan
Engel
Ford (TN)
Gillmor
Hastert
Hawkins
Martin (IL)
Mavroules
McCrery
McDade
Michel
Miller (CA)
Myers
Owens (NY)
Pursell
Rhodes
Rowland (CT)
Saiki
Schiff
Schuette
Slaughter (VA)
Thomas (CA)
Towns

□ 1528

The Clerk announced the following pair:

On this vote:

Mr. Callahan for, with Mrs. Saiki against.

Messrs. TRAFICANT, DINGELL, ROTH, PAXON and Mrs. BYRON changed their vote from "aye" to "no."

Messrs. QUILLEN, RAY, HALL of Texas, BEILENSON, HAYES of Louisiana, and BEVILL changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. SLAUGHTER of Virginia. Mr. Chairman, I was unavoidably detained at the White House in a meeting with the President concerning the budget proposal. Had I been present for rollcall vote No. 399, I would have voted in the affirmative.

□ 1530

The CHAIRMAN. It is now in order to consider amendment No. 2, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas: Page 4, line 9, strike "185,000" and insert "216,000".

Page 5, line 22, strike ", and includes" and all that follows through line 24.

Page 6, line 17, insert closing quotation marks after the period.

Page 6, strike line 18 and all that follows through page 7, line 3.

Page 9, beginning on line 10, strike "30 percent" and insert "25 percent".

Page 9, line 12, strike "UNMARRIED" and insert "SPOUSES AND UNMARRIED".

Page 9, line 14, insert "spouses or" after "who are the".

Page 9, line 16, insert after "lawfully admitted for permanent residence" the following: "and who are under 26 years of age or had a petition approved for classification under this paragraph as of the date of the enactment of the Family Unity and Employment Opportunity Immigration Act of 1990".

Page 9, line 17, strike "19 percent" and insert "32.5 percent".

Page 9, line 24, strike "16 percent" and insert "12.5 percent".

Page 10, line 7, strike "35 percent" and insert "30 percent".

Page 66, strike line 15 and all that follows through page 67, line 10, and redesignate the succeeding subsection accordingly.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. SMITH] will be recognized for 10 minutes, and the gentleman from Texas [Mr. BROOKS] the Member opposed, will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, H.R. 4300 places most of the second preference—spouses and children of permanent resident aliens—into the numerically unlimited immediate relative category, and places a 115,000 visa cap on these numbers. This change will increase overall immigration numbers.

Contributing to the increase in the unlimited category will be the numbers of aliens who have or will receive permanent resident status under the IRCA amnesty and SAW programs, and who may then bring in their families.

The number of persons receiving permanent residence through amnesty could reach 3 million, and the number of persons that amnesty might want to petition for under the second preference is not clear. We need to be able to numerically control this new flow, if the amnesty class petitions are at rates at all similar to traditional legal immigrants.

While this bill limits to 115,000 the additional visas for the second preference, once this change is made, it will be easy to remove the so-called cap and make this category unlimited. With so many amnestied immigrants in the pipeline to bring in their families, this change could bring millions

more into the country. The multiplier effect could be staggering.

Mr. Chairman, not only does this change in the second preference dramatically increase numbers, it would also further dilute the already blurred distinction between U.S. citizenship and permanent resident status. The only remaining distinctions are: First, the right to vote; and, second, the right to bring in close family immediately, and more distant family within certain numerical limits. Further, I believe we remove one of the few incentives left for permanent residents to become U.S. citizens, the incentive to bring in family.

Michael Teitelbaum, a well-respected demographer and expert in international migration and frequent witness before the Subcommittee on Immigration, Refugees, and International Law characterized this bill's change in the second preference as a "breathtakingly bad idea" because it creates another visa to which aliens are entitled. As we all know, Mr. Chairman, from our Gramm-Rudman experiences, entitlements are fine when the Government has lots of money, but they are a real problem when tight budgets are the rule.

The analogy applies here: As long as the country is able to sustain our current record high levels of immigration, H.R. 4300 may not raise too many eyebrows. However, what if our economy goes into a severe recession, or if other factors occur which make it clear we must reduce immigration levels? We should maintain control of the second preference numbers and simply be flexible in their allocation.

Finally, Mr. Chairman, it should be made clear that current law already does reunify existing families. If a person is the beneficiary of a preference visa, he or she may bring in accompanying spouses and dependent children. However, if the person is the beneficiary of amnesty, he or she may be joined by any person who also entered with him or her when the illegal entry was made. Any alien has the right to bring independent family members when that principal alien emigrates.

As my friend Senator ALAN SIMPSON stated in the CONGRESSIONAL RECORD on May 17, the change in the second preference goes beyond the unification of existing families. It rewards less compelling cases of family-connected immigration. That is, an alien who starts a family outside the United States after having emigrated to the United States. In this instance, an alien enters without immediate family, then marries someone from the home country, and petitions for their entry before the principal alien becomes a citizen. I do not find this instance compelling enough to create a whole new immigration entitlement.

Mr. Chairman, the second preference change in H.R. 4300 is also strongly opposed by the administration. My amendment keeps the family preference definitions as they are in current law and keeps the overall numbers the same as in current law. My amendment does, however, adjust current law, and that the percentages ascribed to each preference category are changed to give greater emphasis to nuclear family immigration, and thus a second preference will receive additional visas. My amendment also adopts the definition of the second preference in Senate 358, which enables the spouse and unmarried sons and daughters who are under 26 years of age of permanent resident aliens to obtain permanent residency. I believe that unmarried sons and daughters who are 26 years of age or older should not be considered part of the nuclear family of the permanent resident alien.

If we did not face a situation where there are fewer visas available than demand exists for them, then this amendment would not be necessary. However, we must face reality. We must choose to whom we should give priority. In my book, minor children and spouses should enter before children over 26 years of age are given visas.

Let me emphasize that the adult children over 26 are not completely cut out by the amendment. When their parents become citizens, these adult sons and daughters may be admitted under either the first preference, unmarried sons and daughters of U.S. citizens, or the fourth preference, married sons and daughters of U.S. citizens and their family.

Therefore, any rhetoric about this breaking up of families is simply that, rhetoric. There is no substance to such a charge.

Mr. Chairman, I urge my colleagues to vote for this amendment.

I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, this is the second gutting amendment of this legislation. It cuts the heart out of the pro-family provision of this bill. This legislation allows the immediate families, the spouses and minor children of permanent residents, people who have come to the United States to be here and to be Americans and to be here permanently, their immediate nuclear family would be delayed substantially in coming to reunite the family, if this amendment were adopted.

This amendment reduces the immediate family admissions below what the Senate adopted in its bill, S. 358. This amendment is an antifamily amendment, and it ought to be rejected.

□ 1540

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. Mr. Chairman, I rise before the Members today in support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act. This is an important bill needed to bring our immigration laws up to date. Today, you have heard many arguments in favor of this legislation and many arguments against it. Of the many amendments to be considered, there are some which address real concerns about H.R. 4300.

However, the attempt to portray this bill as an open-door immigration policy—one which will undercut our labor force, increase our budget deficit by millions of dollars a year, and increase illegal immigration—is a smoke screen which smacks of subtle and sometimes not-so-subtle racism.

The truth is that this bill enjoys broad support and is the result of a concerted effort by dedicated Members from both sides of the aisle, as well as interest groups, both liberal and conservative. The bill is criticized as being antibusiness. Well, just this week, the Wall Street Journal, hardly known for its antibusiness views, came out in support of H.R. 4300. The bill would supposedly displace thousands of American workers. Well, the AFL-CIO supports H.R. 4300.

In addition, this bill contains important family unit provisions, which are cticized by some as opening the flood gates. This is not true.

Family unity is a principle which must be returned to our immigration policy. It reflects and reinforces our own basic social values.

And do we really want to just shut the gates of this country to immigrants? Immigrants built the United States of America. Immigrants are constantly revitalizing the United States of America. If we deny new immigrants, we deny ourselves the benefits of their contributions. My friends, I urge you to support H.R. 4300. It is a good bill which calls for reasonable controls and humaneness in our immigration policy. Please do not support any amendments that will gut the full intent of this bill and destroy the momentum we have built for humanitarian reform of our legal immigration system.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise in support of the second amendment of the gentleman from Texas [Mr. SMITH] to this bill. I do so having not supported his first amendment.

I am one who believes in a more libertarian view of immigration, that we ought to have increased immigration; but to the extent that we place limitations on immigration, I believe that the law that we have now is flawed in that we do not put enough emphasis on what is absolutely vital for American competitiveness and for American productivity. We need to put more emphasis on employment-based reasons for immigration.

Now, the amendment that we have before us and the bill that we have before us will permit increased immigration, not perhaps as much as I would like, certainly not as much as some people would suggest we should have, but it does allow for increased immigration.

More importantly, it does allow, it does retain the reunification of the immediate family, that concept of family unity.

Now, the gentleman from Connecticut earlier said that the immediate nuclear family would be excluded. I think those were the words that he used. I think that is an incorrect statement to make, if you look at this amendment.

The fact of the matter is there is a backlog of people with families who are trying to get into this country. There is no way we can accomodate everybody. If we are going to establish some kind of criteria, it makes sense to me that the first ones in line ought to be the younger children. Those ought to be the nuclear families, the members of nuclear families that we give the first priority to.

I would say finally, to come to my original point of the overall reason why I believe this legislation is important, or this amendment is important, and that is that it restores or gives more balance in this legislation than we have today to employment-based reasons.

There is no question, Mr. Chairman, that the United States suffers today from a lack of productivity. It suffers from a lack of our ability to compete with other countries in other parts of the world.

I believe this legislation needs to emphasize more competitiveness.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I am happy to yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Chairman, I have no problem with the gentleman's statement. I am just a little surprised that it is being made in support of this amendment, because the specific change that this amendment makes in the bill is to go after just those numbers that the gentleman brought, in addition to the employment numbers, those numbers set aside for spouses and minor children. That is what is reduced. Other things are not reduced here. That is what reduced in this amendment.

Mr. KOLBE. Reclaiming my time, Mr. Chairman, what is increased is from 24,000 to 75,000, the number of those that would be based on employment-based immigration, and I think that is a vital factor to this amendment and is the reason I rise in support of this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. STUMP].

Mr. STUMP. Mr. Chairman, I rise in strong opposition to H.R. 4300, the Family Unity and Employment Act of 1990, which will increase immigration.

An overall 60-percent increase of immigration from the current level of about 500,000 is among the reasons why I am opposed to this bill. Moreover, the bill does not account for the financial impact on State and local governments and does not account for the number of illegal aliens entering into this country annually. Additionally, H.R. 4300 penalizes business for legitimate use of foreign workers and rewards illegal immigration through amnesty programs. Finally, H.R. 4300 is country specific, unfairly allowing additional visas to only specified countries.

About 500,000 people immigrate to the United States every year. If H.R. 4300 were to become law, the number of immigrants would increase at least 60 percent to an estimated 840,000 annually. We need to recognize the fact that it is the individual States that must foot the bill for the additional costs incurred when Congress mandates an increase in immigration. Health care and education are among such costs that must be incurred by the individual States.

In 1986, the Congress passed the Immigration Reform and Control Act which promised a one-time amnesty for aliens who had entered and been residing in this country illegally. H.R. 4300 violates our understanding of that one-time amnesty by granting amnesty to aliens who entered this country illegally after 1986. I am adamantly opposed to any proposal which would provide amnesty for illegal aliens already in this country. Such a measure is unfair to those who entered this country legally, it would condone law-breaking, and encourage an increased flow of illegal immigration.

A national poll recently conducted by the Roper organization found that an overwhelming majority of Americans oppose legislation doubling the number of legal immigrants admitted to the United States each year. Unfortunately, we do not have the domestic resources to accommodate everyone who would like to immigrate to this country. We can not afford at this time to put an additional strain on our already overstretched domestic resources.

Mr. Chairman, I would encourage my colleagues to join me in voting against H.R. 4300.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SMITH].

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORRISON of Connecticut: Page 3, strike line 4 and conform the table of contents accordingly.

Page 26, line 16, strike all that follows the first period.

Page 26, after line 16, insert the following new paragraph:

"(3)(A) Except as provided in subparagraph (C), no immigrant visa number may be issued, on or after October 1, 1991, to an alien under subparagraph (A), (B), (C), or (D) of section 203(b)(1) or under section 203(b)(2), and no certification may be issued under section 212(a)(14)(A) unless the alien's employer attests, as part of the attestation under section 212(n), or establishes, as a condition of obtaining the certification under section 212(a)(14)(A), with respect to each such alien, that the employer has entered into an enforceable agreement to do either of the following:

"(i) To provide, through a local school board, for the tutoring of students in mathematics, sciences, or computer skills in a primary or secondary public school for at least the number of hours specified in subparagraph (B) during the 1-year period beginning not later than the date of admission of the alien involved.

"(ii) To provide, in a manner determined to be satisfactory to the Secretary of Labor and for at least the number of hours specified in subparagraph (B) during the 1-year period beginning not later than the date of admission of the alien involved, for training of at least 3 employees of the employer in employment-related skills.

"(B)(i) Except as provided in clauses (ii) and (iii), the minimum number of hours specified under this subparagraph is 100 hours.

"(ii) In the case of a petitioner that—

"(I) has more than 49, but fewer than 200, employees, or

"(II) has 200 or more employees and is a nonprofit, charitable agency or governmental agency,

the minimum number of hours specified under this subparagraph is 50 hours.

"(iii) In the case of a petitioner for a nonimmigrant described in section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b), if the petition seeks the admission of the nonimmigrant for a period of less than 10 months, the number of hours specified under this subparagraph shall equal the number of hours otherwise specified multiplied by the ratio of the number of months of admission being sought to 10 months; except that the minimum number of hours under this clause may in no case be less than 20 hours.

"(C) The requirements of this paragraph shall not apply to—

"(i) the issuance of a visa to the spouse or children of the principal immigrant or nonimmigrant, and

"(ii) an employer which has fewer than 50 employees as of the date of filing the classification petition.".

Page 44, line 16, strike all that follows the first period.

Page 44, after line 16, insert the following new paragraph:

"(5) The provisions of section 204(b)(3) shall apply to the issuance, on or after October 1, 1991, of a nonimmigrant visa to a nonimmigrant described in section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b) in the same manner as such provisions apply to the issuance of an immigrant visa to an alien under section 203(b)(2).".

Page 67, strike line 19 and all that follows through page 72, line 6, and conform the table of contents accordingly.

The CHAIRMAN. Under the rule, the gentleman from Connecticut [Mr. MORRISON] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this legislation seeks to make sure that employers in the United States are able to bring into the country workers who are not available to them in the domestic work force. That goal is a very important one for our competitiveness and it is a very important one for American workers, because in the absence of the key employees who are not available, American employers are less competitive, go out of business and move overseas.

□ 1550

All three of those results cost American workers jobs and cost the American economy growth.

That is why it is critically important to see to it that we have an employment-based immigration system that works and one that is driven by employer choice, because we know in this country that we believe in a market economy, one where the judgments about what skills and personnel are needed are made by those people who have to compete in the marketplace, not made by bureaucrats and their theories.

Now, in order to be credible on the issue of bringing in workers from overseas for jobs where Americans are not available, we need to make a commitment to bring Americans into the labor force in those areas that are not now being filled by Americans. Many people have a hard time understanding how in a country of 250 million people it could possibly be true that there would be jobs for which we do not have workers with the necessary skills and that in a country where the unemployment rate is over 5 percent there would be jobs that are not being filled and yet there are workers who do not have jobs.

But the truth is there are mismatches in the skills of the workers to the jobs that are going begging. So the fact is that we must do two things in this legislation. No. 1, we must see to it that the jobs that we need to fill are filled, for the good of the American economy and the American worker.

We also have to see to it that we improve our employment and training commitment.

Now, what this amendment does—and it replaces a provision that was stricken by the Committee on Ways and Means which was based on a tax—what this amendment does is to require those large employers which bring individuals in under the employment-sponsored provisions of the law, requires them to make a commitment to basic training for basic skills for the American work force. It is a fair bargain. In fact, it is a necessary bargain to connect the readiness of Americans to fill our jobs with the short-term lack of Americans to fill particular positions at this time.

If we are to have fairness in our immigration law, we must always strike this balance: See to it that jobs that need to be filled now are filled, see to it that American workers are not prejudiced nor disadvantaged by those rules.

This amendment will make this legislation better with respect to that balance.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would create a new obstacle for U.S. employers to clear before being allowed to use foreign workers.

Mr. Chairman, under this amendment, a U.S. employer would have to attest to the Department of Labor that he or she is either: First, providing employment-related training to his own work force, or second, providing, through local school boards, for the tutoring of schoolchildren in math and the sciences.

If this attestation is not made, no foreign workers may be employed by that business—even if qualified U.S. workers are nowhere to be found.

I do agree that some U.S. workers need more training, and that our schoolchildren could use more assistance in the math and science area. But that is not the question. This goal will not be achieved by requiring another piece of paper to be filed with another Government bureaucracy. And that is exactly what this amendment requires.

U.S. employers who have demonstrated that no U.S. workers are available to fill critical jobs in their companies must nonetheless attest to the Department of Labor that they are providing tutoring to schoolchildren or providing training to their own workers before being able to receive the foreign workers.

Mr. Chairman, this is simply not an efficient way to run a company, nor is it a way to improve our Nation's education system.

For example, what if a French restaurant needs a new chef, and it cannot find a qualified United States chef to prepare French foods? I am not constructing an obscure hypothetical, this is a real example.

What are we going to require here—that the French restaurant tutor children in math and science? I doubt that will be very helpful.

Are we going to require that the restaurant retrain its own workers? About the only thing it could do is train an assistant chef to be the head chef. However, if the restaurant were capable of this, then it wouldn't have sought a foreign worker to be chef in the first place.

Mr. Chairman, this amendment is a classical example of something that sounds good but is actually impractical and will not work. The amendment will result in paperwork, bureaucracy, delays, and redtape for employers, with very few benefits for those Americans needing training or math and science education.

Mr. Chairman, this amendment should be rejected.

Mr. Chairman, I reserve the balance of my time.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. SAWYER], the chairman of the Task Force on Immigration of the Committee on Education and Labor.

Mr. SAWYER. I thank the Chairman of the subcommittee, the sponsor of the amendment, for yielding and for this opportunity to speak in support of the amendment.

Mr. Chairman, I rise in strong support of Mr. MORRISON's training and education amendment. As I indicated in my opening statement, I believe strongly that as a nation our first responsibility is to hire domestic workers and resort to the importation of foreign workers only when there are not domestic workers available after positive recruitment. It is my view that when this occurs we have a responsibility to educate and train our people for the jobs where shortages now exist or are projected to occur in the future.

This responsibility rests not only with Federal, State, and local units of government but with those who bene-

fit directly from this trained and available pool of workers—U.S. business. Mr. MORRISON's amendment makes this a clear responsibility for those businesses which benefit from the use of foreign workers, without being administratively or financially burdensome.

Mr. MORRISON's amendment provides businesses with a flexible system by allowing them to either arrange for student tutoring or employee training. The training requirements for businesses also vary according to the size of the company, recognizing the need to protect small businesses. This amendment successfully balances the responsibility that U.S. business has to continually educate and train U.S. workers in fields where there are current or projected labor shortages with their immediate needs for skilled labor and financial flexibility.

Mr. SMITH of Texas. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. MORRISON of Connecticut. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. Chairman. The question is on the amendment offered by the gentleman from Connecticut [Mr. MORRISON].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MORRISON of Connecticut. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 194, noes 229, not voting 10, as follows:

[Roll No. 400]

AYES—194

Ackerman	Coyne	Gaydos
Anderson	Crockett	Gejdenson
Annunzio	Darden	Gephardt
Applegate	de la Garza	Gilman
Aspin	DeFazio	Glickman
Atkins	Dellums	Gonzalez
AuCoin	Dicks	Gordon
Bates	Dingell	Gray
Beilenson	Dixon	Hall (OH)
Bennett	Donnelly	Hayes (IL)
Berman	Dorgan (ND)	Hertel
Bilbray	Downey	Hoagland
Bonior	Duncan	Hochbrueckner
Borski	Durbin	Hoyer
Boucher	Dwyer	Hutto
Boxer	Dymally	Jacobs
Brennan	Dyson	Johnson (SD)
Brooks	Early	Johnston
Brown (CA)	Eckart	Jones (GA)
Bruce	Edwards (CA)	Jones (NC)
Bryant	Erdreich	Jontz
Bustamante	Espy	Kanjorski
Byron	Evans	Kaptur
Carper	Fascell	Kennedy
Chapman	Fazio	Kennelly
Clay	Feighan	Kildee
Clement	Flake	Kleczka
Coleman (TX)	Flippo	Kolter
Collins	Foglietta	Kostmayer
Conte	Ford (MI)	LaFalce
Conyers	Ford (TN)	Lantos
Cooper	Frank	Leach (IA)
Costello	Frost	Lehman (CA)
Lehman (FL)	Nelson	Smith (FL)
Levin (MI)	Nowak	Smith (IA)
Levine (CA)	Oakar	Solarz
Lewis (GA)	Oberstar	Staggers
Lipinski	Obey	Stark
Lloyd	Ortiz	Stokes
Long	Pallone	Studds
Lowey (NY)	Panetta	Swift
Luken, Thomas	Payne (NJ)	Synar
Manton	Pease	Taylor
Markey	Pelosi	Torres
Matsui	Perkins	Torricelli
Mavroules	Pickett	Towns
McCloskey	Poshard	Traficant
McDade	Rahall	Traxler
McDermott	Rangel	Udall
McGrath	Richardson	Unsoeld
McHugh	Rostenkowski	Vento
McNulty	Roybal	Visclosky
Mfume	Russo	Walgren
Miller (CA)	Sabo	Washington
Mineta	Sangmeister	Waxman
Mink	Savage	Weiss
Moakley	Sawyer	Wheat
Mollohan	Scheuer	Whitten
Moody	Schroeder	Wilson
Morrison (CT)	Schumer	Wise
Mrazek	Serrano	Wolpe
Murphy	Sharp	Wyden
Murtha	Sikorski	Yates
Natcher	Skaggs	Yatron
Neal (MA)	Slaughter (NY)	

NOES—229

Alexander	Gibbons	McCrery
Andrews	Gillmor	McCurdy
Anthony	Gingrich	McEwen
Archer	Goss	McMillan (NC)
Armey	Gradison	McMillen (MD)
Baker	Grandy	Meyers
Ballenger	Grant	Michel
Barnard	Green	Miller (OH)
Bartlett	Guarini	Miller (WA)
Barton	Gunderson	Molinari
Bateman	Hall (TX)	Montgomery
Bentley	Hamilton	Moorhead
Bereuter	Hammerschmidt	Morella
Bevill	Hancock	Morrison (WA)
Bilirakis	Hansen	Myers
Bliley	Harris	Nagle
Boehlert	Hastert	Neal (NC)
Bosco	Hatcher	Nielson
Broomfield	Hayes (LA)	Olin
Browder	Hefley	Owens (UT)
Brown (CO)	Hefner	Oxley
Buechner	Henry	Packard
Bunning	Herger	Parker
Burton	Hiler	Parris
Callahan	Holloway	Pashayan
Campbell (CA)	Hopkins	Patterson
Campbell (CO)	Horton	Paxon
Cardin	Houghton	Payne (VA)
Carr	Hubbard	Penny
Chandler	Huckaby	Petri
Clarke	Hughes	Pickle
Clinger	Hunter	Porter
Coble	Hyde	Price
Coleman (MO)	Inhofe	Quillen
Combest	Ireland	Ravenel
Condit	James	Ray
Coughlin	Jenkins	Regula
Courter	Johnson (CT)	Rhodes
Cox	Kasich	Ridge
Craig	Kastenmeier	Rinaldo
Crane	Kolbe	Ritter
Dannemeyer	Kyl	Roberts
Davis	Lagomarsino	Robinson
DeLay	Lancaster	Roe
Derrick	Laughlin	Rogers
DeWine	Leath (TX)	Rohrabacher
Dickinson	Lent	Ros-Lehtinen
Dornan (CA)	Lewis (CA)	Rose
Douglas	Lewis (FL)	Roth
Dreier	Lightfoot	Roukema
Edwards (OK)	Livingston	Rowland (GA)
Emerson	Lowery (CA)	Sarpalius
English	Lukens, Donald	Saxton
Fawell	Machtley	Schaefer
Fields	Madigan	Schiff
Fish	Marlenee	Schneider
Frenzel	Martin (NY)	Schulze
Gallegly	Martinez	Sensenbrenner
Gallo	Mazzoli	Shaw
Gekas	McCandless	Shays
Geren	McCollum	Shumway
Shuster	Solomon	Valentine
Sisisky	Spence	Vander Jagt
Skeen	Spratt	Volkmer
Skelton	Stallings	Vucanovich
Slattery	Stangeland	Walker
Slaughter (VA)	Stearns	Walsh
Smith (NE)	Stenholm	Watkins
Smith (NJ)	Stump	Weber
Smith (TX)	Sundquist	Weldon
Smith (VT)	Tallon	Whittaker
Smith, Denny (OR)	Tanner	Williams
	Tauke	Wolf
Smith, Robert (NH)	Tauzin	Wylie
	Thomas (CA)	Young (AK)
Smith, Robert (OR)	Thomas (GA)	Young (FL)
	Thomas (WY)	
Snowe	Upton	

NOT VOTING—10

Boggs	Martin (IL)	Saiki
Engel	Owens (NY)	Schuette
Goodling	Pursell	
Hawkins	Rowland (CT)	

□ 1615

Messrs. PARKER, GUARINI, BOEHLERT, SHAW, VOLKMER, MARLENEE, and SHAYS, and Mrs. PATTERSON changed their vote from "aye" to "no."

Messrs. THOMAS A. LUKEN, POSHARD, GLICKMAN, HUTTO, and MOLLOHAN, Ms. SLAUGHTER of New York, and Mrs. BYRON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1620

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORRISON of Connecticut: Page 31, amend line 12 to read as follows:

SEC. 103. ALTERNATIVE LABOR ATTESTATION PROCESS.

Page 31, line 18, insert after "unless" the following:

"(A) the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that (i) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, (ii) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly situated, and (iii) the employer meets the requirement of section 204(b)(3) with respect to such aliens, or (B)".

Page 32, line 4, strike "(a)(14)" and insert "(a)(14)(B)".

The CHAIRMAN. Under the rules, the gentleman from Connecticut [Mr. MORRISON] will be recognized for 7½

minutes, and a Member opposed will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, unlike the immediately previous amendment, this is not a controversial amendment. The legislation as reported from the Judiciary Committee provides a new system for employers petitioning to bring workers into the country. That system is known as an attestation system.

The attestation system under the bill would replace the current labor certification system. It was designed and intended to be more efficient for employers than the current system.

The business community has raised a question about whether in fact it will turn out to be more efficient and more expeditious than the current system. For that reason, this amendment makes that attestation system an option rather than a requirement for immigrants being petitioned for by businesses. The business can choose either the new attestation system or the existing certification system.

People who prefer the new attestation system should be in favor of this amendment. People who oppose the attestation system and prefer the certification system should be for this amendment. No one really should be against this amendment. The only objection to it by some was that it does not go far enough, but it certainly goes in the direction of those who want to change from what the bill has in it.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member opposed to the amendment?

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] is recognized for 7½ minutes.

Mr. SMITH of Texas. Mr. Chairman, pending the answer to one question that I want to ask the subcommittee chairman, I will not oppose the amendment, even though there are some flaws with it that I would like to describe.

As reported by the Judiciary Committee, H.R. 4300 would have scrapped the existing system called labor certification now used to determine whether qualified U.S. workers are available before foreign workers are imported to fill the positions.

H.R. 4300 replaced the current labor certification system in current law with a labor attestation system. That system was fraught with difficulties for U.S. employers who had a demonstrated need for workers. It was also fraught with opportunities for unions to object to requests for foreign workers and to delay a final resolution of an employer's need for foreign workers by the Department of Labor.

The business community's concerns have been heard by my colleagues from Connecticut, and I believe he is now proposing to let an employer choose whether the certification or the attestation process will be used. I would like to ask my colleague from Connecticut a question.

Does an employer have a clear, unfettered right to choose to use current law's labor certification system over the labor attestation process? Is there no limit to the employer's choice of systems?

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Chairman, with respect to immigrants, the employer has a clear, unfettered choice of either the existing law, certification, or the new attestation procedure. With respect to nonimmigrants there is no existing certification system, and therefore the attestation program which comes after the nonimmigrant has arrived in the country, not before, still applies in the same manner as the rules applying to foreign nurses that was adopted by the Congress last year.

Mr. SMITH of Texas. I thank the gentleman.

Mr. Chairman, the amendment is better than the version of labor attestation in the Judiciary Committee bill, and I will not object to it.

Mr. Chairman, I yield back the balance of my time.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. MORRISON].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas: Page 42, strike line 15 and all that follows through page 43, line 17.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. SMITH] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would strike a provision in H.R. 4300 which allows foreign students on the F visa to work regardless of whether that student has an economic need to work or not.

H.R. 4300 changes the existing foreign student visa regulations which now allow a foreign student to work only after showing that changed economic circumstances which were unforeseen at the time of his entry into the United States make it necessary for him to work now. I believe this portion of H.R. 4300 sends an inappropriate signal to foreign students. It says it is OK to come here and work, even though you may use the ruse of being a student to do so.

I do not doubt that many foreign students come here only to study and would not abuse this provision. However, I am also confident that large number of aliens, perhaps some who today would not enter as students, would use this provision as a loophole to enter the United States and work. I believed that student visas are for studying and work visas are for working. The two should not be confused.

The administration has specifically recommended that we avoid dealing with nonimmigrant visa changes in this legislation, and my amendment heeds that advise.

Mr. Chairman, let us not turn the F visa program into a back door work program. Let us delete this section and retain current law, and also, and as importantly as anything else, make sure American students do not lose their jobs to foreign students who do not need those jobs.

Mr. Chairman, I reserve the balance of my time.

□ 1630

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment should not be adopted. The gentleman from Texas is incorrect about his interpretation of current law, at least if the Immigration and Naturalization Service is to be believed.

The INS has been in the process of proposing regulations that would have gone far beyond this provision in allowing foreign students to work in the United States, and it was because of that proposed regulatory change by the INS that this amendment was placed in the bill, that this provision was placed in the bill in order to see to it that any extension which would still require the regulations by the INS, but that any extension of the right of foreign students to work in the United States would be carefully tailored and narrow.

The bill requires the following: The students have to be students in good standing. So their cannot be phony

students who came here to work, They have to be students in good standing.

No. 2, they can only work 20 hours a week, and it is not easy to support yourself in this country on 20 hours a week, so I doubt we will have people flooding in to work 20 hours a week.

No. 3, the employers have to demonstrate that they have been unable to hire American workers including American students to do these jobs.

No. 4, they must pay comparable wages to the wages paid to American workers.

So what this provision in the bill actually does is strengthen the protection against abuse which could occur under current law as interpreted by the INS, and this is a benefit to American workers while legitimately allowing foreign students who have economic need to work in this country.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me respond very quickly to one point made by my colleague from Connecticut.

The program that he describes earlier in his remarks I do not think has been implemented or authorized. More importantly than that, my concern has nothing to do with whether these foreign students are working 20 hours or 30 hours or 10 hours. My concern there is that we are opening up to foreign students the opportunity to work that they have not had before, and this opportunity to work could well be at the expense of American students who need jobs.

If we allow foreign students to come to the United States, previously they had to show economic need before they would be allowed to work, and under this provision by my colleague from Connecticut, that is in 4300, they no longer would have to show that economic necessity and, therefore, are going to be competing with American students for those limited number of jobs.

Mr. Chairman, this is a clear amendment that basically says let us put American students first. If there is a job to be had out there, let us give it to an American student first before we give it to a foreign student who may not need it.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, just to be doubly certain that everyone understands, American students get these jobs first. There must be a demonstration that there are no Americans available to do these jobs before these individuals would be permitted to work.

Mr. SMITH of Texas. Mr. Chairman, I thank my colleague, the gentleman from Connecticut, for his comments.

That still does not allow for the instance, for instance, where wages may rise and attract more American students to those particular jobs. The point is we are opening up a loophole to allow foreign students to work in the United States without any proof of economic necessity to do so. That is a broadening, a liberalization, of current law, and it is sooner or later going to put American students at a disadvantage.

Mr. MORRISON of Connecticut. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I have no further requests for time, and yield back the balance of my time.

Mr. FAWELL. Mr. Chairman, I rise today in opposition to the amendment offered by Congressman SMITH to alter provision of the bill relative to the foreign student worker provisions having to show economic need.

This provision establishes an innovative worker program that benefits both business and labor. In fact, the provision has the support of normally adversarial actors, business and labor, Republicans and Democrats.

It carefully balances the needs of employers who are finding it difficult to find employees in certain geographic areas with protections for both United States and alien workers.

Make no mistakes about it, U.S. workers will not be displaced. The provision stipulates that the employer must actively recruit U.S. labor for at least 60 days before hiring a foreign student. The Department of Labor will set forth the regulations employers must follow in their recruitment efforts.

The provisions also protect U.S. workers from having their wages undercut by mandating that the wages paid to these students be the prevailing wage of the area.

The bill retains the ban on any off-campus work for a 1-year period and limits work to 20 hours a week during the academic year to assure that students emphasize their education over their work.

I urge Members to vote against this amendment and ensure that businesses across the country can find the employees they need without displacing American workers.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SMITH].

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer amendment No. 6 as printed in the report of the Committee on Rules.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORRISON of Connecticut: Page 45, beginning on line 7, strike "as a nonimmigrant or otherwise obtaining or maintaining the status of nonimmigrant" and insert "as a nonimmigrant described in subparagraph (h)(i)(b) or (L) of section 101(a)(15) or otherwise obtaining or maintaining the status of a nonimmigrant described in such subparagraph".

The CHAIRMAN. Under the rule, the gentleman from Connecticut [Mr. MORRISON] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a perfecting amendment of a provision in the bill. I would expect it not to be controversial.

What it does is to make clear that the only individuals who may come to the United States temporarily while also pursuing permanent admission to the country without making a special showing that they do not intend to come permanently are those who come on temporary employment visas for professional jobs or as transfers within multinational organizations.

The bill, as written, takes a much broader view of this question and presents certain problems, so this is in the nature of a narrowing amendment to see to it that there is no abuse but that those individuals who routinely would come first as temporary workers and then become permanent workers for multinational organizations or as professionals would be permitted to do so.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Chairman, I rise in strong opposition to the amendment offered by my colleague, the gentleman from Connecticut.

H.R. 4300 purports to solve a problem for those business-based immigrants who also have a permanent visa application outstanding. However, it, instead, would create a real problem for our consular bureau.

This amendment, while narrowing somewhat the scope of aliens covered, would still deny our consular officers the ability to refuse a visa to an alien who is clearly intending to stay in the United States permanently.

In pure and simple terms, this amendment will encourage an avalanche of visa fraud.

Mr. Chairman, I have a cable from the State Department that proves my point. It notes that 80 percent of all H-1 visa applications in India are now being denied. It describes how often those applying for the temporary visas described by this amendment are, in fact, attempting to immigrate permanently to the United States.

As the telegram notes:

It is extremely difficult for an applicant to convince us that he would voluntarily give up a lucrative position in the United States in order to return to India where he would earn only a small fraction of his U.S.

salary. A large portion of that 80 percent presently being denied would be allowed to immigrate under this amendment. I do not think that the executive branch or the American public would kindly look on this amendment's endorsement of fraudulent visa applications.

Mr. Chairman, if these people want to immigrate permanently, then let them apply for permanent visas. Let us not let permanent immigrants masquerade as temporary immigrants.

Unfortunately, H.R. 4300, even as amended by this Morrison amendment, would still let that masquerade go on. It would forbid U.S. consular officers from denying a temporary visa to an H or L visa applicant when it is clear to that officer that the alien really wants to stay permanently in the United States.

Vote against encouraging visa fraud and vote against this amendment.

Mr. MORRISON of Connecticut. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. MORRISON].

The amendment was agreed to.

□ 1640

The CHAIRMAN. It is now in order to consider amendment No. 7, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas: Page 44, strike line 17 and all that follows through page 45, line 9.

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. SMITH] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, this amendment seeks to delete one of the more mischievous provisions of H.R. 4300. H.R. 4300 overrides a rule in the Immigration and Naturalization Act that is now applied by consular officers who issue visas overseas.

If a person is applying for a nonimmigrant visa, that person must prove that his or her intention is truly for a temporary stay in the United States, not for a permanent stay. If that nonimmigrant visa applicant has a permanent visa on file, there is a presumption that this person has permanent intentions to come to the United States. That is common sense, Mr. Chairman.

The provision in H.R. 4300 says in effect, despite the fact that they have a permanent visa application on file, we will overlook it. It forces the consular officers to choose to close their eyes to what would otherwise be strong evidence of an alien's intention to come to the United States on a permanent basis.

What would be the effect of this amendment? Well, perhaps we could have the entire fifth preference backlog applying for nonimmigrant visas. Do we really want that effect? Do we really want people coming to the United States as visitors, when their true intention is to live here permanently? Ultimately, that is the effect that this provision could have because it forces the consular officer to disregard the outstanding permanent visa application in making a determination on the intentions of a nonimmigrant visa application. I urge my colleagues to support this amendment so that current law is preserved, and so that we do not force consular officers to close their eyes to evidence that otherwise indicates that visa fraud is about to be committed.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is the gentleman from Connecticut [Mr. MORRISON] opposed to this amendment?

Mr. MORRISON. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Connecticut [Mr. MORRISON] is recognized for 5 minutes.

Mr. MORRISON of Connecticut. Mr. Chairman, the gentleman's amendment relates to the section that was just perfected by the amendment that I offered and was adopted immediately prior to the gentleman offering his amendment. The bottom line here is that we have narrowed the category of people who may pursue jointly a temporary residence in the United States for employment and permanent residence in the United States to two narrow categories: Professional employees of American employers brought in temporarily, and individuals who are employed by multinational organizations who are transferred within the company, but coming into the United States. These are just the individuals that the business community has told Members are constantly put in a difficult problem by this particular provision in existing law.

This provision was put in H.R. 4300 to facilitate the activities of large employers in moving people around. Frankly, I do not think we are talking about a category about which visa fraud is an issue at all. Without the narrowing amendment that the House adopted immediately before the offering of this amendment, the gentleman would probably be correct. With the narrowing amendment, I think the gentleman is incorrect, and the amendment should be defeated.

Mr. SMITH of Texas. Mr. Chairman, first of all, I want to make the point that this amendment obviously goes beyond the amendment by the gentleman from Connecticut that was just passed. I believe there was reference to this doing the same thing, but in point of fact, he would not be opposed if it did the same thing.

The point of this amendment, even though as the gentleman from Connecticut [Mr. MORRISON] said, the number of categories of individuals that would be affected is narrowed. That does not erase the fact that individuals are basically going to be able to, on one hand, say they are only coming to the United States temporarily, and on the other side, they are going to be able to apply for a permanent visa as well.

Obviously, those intentions, the sworn testimony conflict, and it is an open invitation for voter fraud. If an individual has applied for permanent status, and also applies for temporary status, we can guess his real motives. Once again, we need to eliminate the opportunity of voter fraud in H.R. 4300. This amendment should be supported.

Mr. Chairman, I yield back the balance of my time.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question in on the amendment offered by the gentleman from Texas [Mr. SMITH].

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 8, printed in part 2 of the House Report 101-786.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MCCOLLUM: Page 45, line 22, insert after "214(i)(2)" the following: "or who is coming temporarily to the United States to perform services as a physical therapist".

Page 45, line 23, insert "AND PHYSICAL THERAPIST" after "SPECIALTY OCCUPATION".

Page 46, line 23, strike all that follows the first period.

Page 46, after line 23, insert the following new paragraph:

"(3) For purposes of section 101(a)(15)(H)(i)(b), the term 'physical therapist' means an individual who applies the art and science of physical therapy to the treatment of patients with disabilities, disorders, and injuries to relieve pain, develop or restore function, and maintain performance, using physical means such as exercise, massage, heat, water, light, and electricity.".

Page 83, line 5, insert before the period at the end the following: ", except that priori-

ty shall be given to qualified immigrants who are seeking admission to the United States to perform professional services as a physical therapist (as defined in section 214(i)(3) of the Immigration and Nationality Act)".

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. McCOLLUM] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, this amendment concerns physical therapists, and a special concern over whether or not the things that we are doing in this bill would exclude the process by which foreign physical therapists are able to come into this country with a severe labor shortage in that area, much like there is one for nurses. Foreign-trained physical therapists presently work in the United States under the existing H-1 Program. To qualify for H-1 status, a foreign-trained physical therapist must have his or her educational experience certified by a private educational credentialed review agency as at least the equivalent of domestic physical therapy programs. In addition, one must pass a State examination and practice under State licensure.

The bill as written can be interpreted as excluding physical therapists as a profession for inclusion into the H-1B Program. This can occur because a small minority of foreign-trained physical therapists, coming into the United States, graduate from programs with less than a bachelor's degree.

The nationwide shortage of physical therapists requires that the ability to employ foreign-trained physical therapists must not be impeded. The severity of the shortage is reflected in the fact that physical therapists and professional nurses are the only two health care professions that are on the Department of Labor's schedule A, the listing of those professions which are certified as having a labor shortage pursuant to 8 U.S.C. 1182(a)(14).

In 1989, Congress responded to the similar crisis in nursing by enacting the Immigration Nursing Relief Act of 1989.

My amendment would do the same thing with physical therapists, but in reviewing this with staff for both sides, and the gentleman from Connecticut [Mr. MORRISON] the chairman of the subcommittee, I believe a colloquy can resolve this matter. I would like to engage in a colloquy with the gentleman now, and perhaps I could clarify that and avoid this section 104(c)(3) establishes a new H-1B category, to be comprised of specialty occupations. For a profession to be designated as a specialty occupation it must require at least the attainment of a bachelor's degree or its equivalent in the specific specialty as a minimum for entry into the occupation, and State licensure is applicable. Graduation from a physical therapy program, which generally carries a bachelor's degree, is required for licensure as a physical therapist. However, a small minority of foreign-trained physical therapists from several countries graduate from programs which are equivalent to U.S. programs in the professional physical therapy education. They are presently permitted to enter United States under the H-1 Program and take State licensure examinations to practice as physical therapists. This is similar to the admissions standards for foreign-trained nurses who take State board examinations.

I would like to ask the gentleman if I am correct in my understanding that it is the intention of the author, the gentleman from Connecticut [Mr. MORRISON] of this particular language, that the current process of permitting physical therapists from such programs to enter the country and take State licensure examination would be allowed to continue under the H-1B Program, and not on the grounds of excluding physical therapists from specialty occupation status?

Mr. MORRISON of Connecticut. Will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. The gentleman's interpretation is the correct interpretation of this provision as I intended it in offering the provision, and consistently my intention as to how the H-1B provision should be administered.

Mr. McCOLLUM. With that in mind, I ask unanimous consent to withdraw my amendment, and let this colloquy stand as an interpretation of the law rather than cluttering up the bill with another amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

It is now in order to consider amendment No. 9, printed in part 2 of House Report 107-768.

AMENDMENT OFFERED BY MR. MORRISON OF CONNECTICUT

Mr. MORRISON of Connecticut. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORRISON of Connecticut: Page 47, after line 23, insert the following new paragraph:

(7) REPEAL OF PREVIOUS DEFINITION.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by striking paragraph (32).

Page 36, strike lines 21 through 23.

Page 36, line 24, strike "(E)" and insert "(D)".

Page 37, after line 2, insert the following new subparagraph:

"(E)(i) The preceding provisions of this paragraph shall not apply to an attestation under paragraph (1) with respect to nonimmigrants described in section 101(a)(15)(H)(i)(b).

"(ii) An attestation duly filed under paragraph (1) with respect to a nonimmigrant described in section 101(a)(15)(H)(i)(b) shall be deemed to have been certified by the Secretary and in effect under this subsection on the date of its filing with the Secretary.

"(iii) The Secretary may not refuse to accept for filing a completed attestation filed under this subsection with respect to a nonimmigrant described in section 101(a)(15)(H)(i)(b) or review in any way (other than under paragraph (5)) such an attestation with respect to which a complaint has not been filed under paragraph (5).

The CHAIRMAN. Under the rule, the gentleman from Connecticut [Mr. MORRISON] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, this is a highly technical amendment. It makes a change is current law to conform it to the provisions of this bill with respect to the definition of a professional, and it makes a correction in the attestation process to ensure that there is no misunderstanding of the requirements in the way in which the attestation procedures will work. I would expect there should not be any objection to this amendment.

The CHAIRMAN. The Chair recognize the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, there have been times in the past where I have rightly wanted to be aware of the technical amendments of the gentleman from Connecticut [Mr. MORRISON], but this is not one of those times. I have no objection to the amendment.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. MORRISION].

The amendment was agreed to.

□ 1650

The CHAIRMAN. It is now in order to consider amendment No. 10 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. DONNELLY

Mr. DONNELLY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DONNELLY: Page 91, after line 12, insert the following new section (and conform the table of contents accordingly):

SEC. 209. TRANSITION FOR ALIENS WHO HAVE BEEN NOTIFIED OF AVAILABILITY OF NP-5 VISAS.

Notwithstanding the numerical limitations in sections 201(a) and 202 of the Immigration and Nationality Act, there shall be made available in fiscal year 1991 immigrant visa numbers for qualified immigrants who—

(1) were notified by the Secretary of State before May 1, 1990, of their selection for issuance of a visa under section 314 of the Immigration and Control Act of 1986, and

(2) are qualified for the issuance of such a visa but for (A) numerical and fiscal year limitations on the issuance of such visas, (B) section 212(e) of the Immigration and Nationality Act, or (C) the fact that the immigrant was a national, but not a native, of a foreign state described in section 314 of the Immigration Reform and Control Act of 1986.

Visas shall be made available under this section to spouses and children of qualified immigrants in the same manner as such visas were made available to such spouses and children under section 314 of the Immigration and Nationality Act of 1986. The Attorney General may waive section 212(a)(19) of the Immigration and Nationality Act in the case of qualified immigrants described in the first sentence of this section.

The CHAIRMAN. Under the rule, the gentleman from Massachusetts [Mr. DONNELLY] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. DONNELLY].

(Mr. DONNELLY asked and was given permission to revise and extend his remarks.)

Mr. DONNELLY. Mr. Chairman, this amendment is an amendment which reflects the termination of the so-called NP-5 Program. I will not take much time to explain my amendment, and I urge its adoption by the House.

Mr. Chairman, in 1986, Congress created the NP-5 Program as part of the Immigration Reform and Control Act. The purpose of this temporary program was to enhance immigration from nations which were adversely affected by the 1965 Immigration Act. The Immigration and Naturalization Service identified 36 adversely affected countries.

The NP-5 Program authorized a total of 40,000 visas during its 4-year existence. It was an important and worthwhile program and greatly enhanced immigration from these adversely affected countries, and expired this past Sunday, the end of the fiscal year.

H.R. 4300 does not extend the NP-5 Program. The problem is this: Several applicants for NP-5 visas were notified that they were eligible for a visa under the program. However, before these individuals could respond, the State Department announced that all of the eligible and available visas had been allocated.

Consequently, there are probably on the order of 1,000 individuals in these 36 adversely affected countries who were promised a visa—only to have their hopes dashed by this bureaucratic snafu. My amendment merely authorizes the State Department to award visas to these individuals who were so notified. It is a humane and, I might add, fair response to these people who had such high hopes of coming to America.

As I said, Mr. Chairman, this is a very technical amendment to reflect the termination of the NP-5 Program and I urge its adoption by the House.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. DONNELLY. I am happy to yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut, Mr. Chairman, I thank the gentleman for yielding to me, and I want to commend the gentleman on his amendment.

I also want to commend the gentleman for his work leading this Congress early on in 1986 to adopt the NP-5 Program and to recognize the adverse effect on certain countries with respect to the admission policy.

I would say to the gentleman that his initial work has borne great fruit in H.R. 4300 in the use of his adversely affected definition for a transition program and in the adoption of a permanent diversity requirement in our immigration law going forward. Without the gentleman's leadership, I doubt we would be at this point in the process of being fair to people from all over the world.

Mr. DONNELLY. Mr. Chairman, I thank the gentleman very much for his very kind words, and I also thank the gentleman for his leadership and the work of all the members of the committee addressing the problems of those 36 adversely affected countries.

Mr. McGRATH. Mr. Chairman, will the gentleman yield?

Mr. DONNELLY. I yield to the gentleman from New York.

Mr. McGRATH. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the gentleman's amendment and congratulate him on the work he has done on this amendment.

Mr. DONNELLY. Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN. The gentleman from Texas is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Chairman, I would like to ask my colleague, the gentleman from Massachusetts, for several clarifications in regard to his amendment.

First of all, how long will this program last?

Mr. DONNELLY. Mr. Chairman, if the gentleman will yield, as the gentleman knows, the program was terminated on August 1. These individuals who would be covered by this amendment have already been notified by our embassies in the 36 countries that they will be eligible for one of these visas.

The paperwork process could begin immediately on enactment of this legislation and would last, I suspect, no more than 30 to 60 days after enactment of this legislation.

Mr. SMITH of Texas. Mr. Chairman, let me reclaim my time. What I am talking about is how long would this be in effect? For how long will we give entry to these individuals who would be encompassed by this amendment?

Mr. DONNELLY. Only as long as it takes.

Mr. SMITH of Texas. How long is that?

Mr. DONNELLY. Only as long as it takes for the State Department to call those individuals in, those 1,000 individuals that they have already notified and have on the computer to fill out the requisite necessary forms.

Mr. SMITH of Texas. Mr. Chairman, let me reclaim my time, because I think that answers my next question, which is, is there any limit to the number of individuals who might be given entry to the United States under this amendment?

Mr. DONNELLY. Mr. Chairman, if the gentleman will yield further, I have been notified by the people at the State Department who have administered this program that it is in the vicinity of only 1,000 individuals from 36 countries who have already been notified, they have received a visa, they have won the lottery. These were given out by lottery, a fair lottery system, so only those individuals would be eligible and the timeframe would only take a long as is necessary to complete the proper paperwork.

Mr. SMITH of Texas. Mr. Chairman, let me ask the gentleman if he is saying that there is a cap of 1,000 individuals who would be given entry to the United States under this amendment?

Mr. DONNELLY. I have been told that it is in the ballpark of 1,000 from the State Department, but all those individuals who were notified would be eligible.

Mr. SMITH of Texas. It may well be more than a 1,000 individuals?

Mr. DONNELLY. It could be more, but only in the vicinity of 100 or 200 additional, from the information I have received from the State Department.

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman for his clarification.

Mr. Chairman, I would say that even though we are not talking about an exceptionally large number of individuals who would come in under this program that would be proposed by this amendment, nevertheless we already have three special interest provisions in H.R. 4300 that go to immigrants from adversely affected countries. It seems to me we do not need more special interest legislation or amendments as a part of H.R. 4300.

Mr. Chairman, it has always been my understanding that the best immigration policy would be a policy that is fair and that applies equally to every country. Clearly, this amendment does not go toward that, nor does H.R. 4300.

In 1965, the last year that we passed a legal immigration bill, the whole point of that immigration bill was to make up for past discrimination and come up with a legal immigration bill that would be fair and equal to all countries, and here we are today debating a bill and now debating an amendment that once again is special interest legislation that gives special privileges only to individuals from certain countries. I think that violates the fairness and equity that we all should expect in our immigration laws.

Mr. DONNELLY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, I would just like to say that I think the legislation is eminently reasonable at this point. It covers only people who are already on the list. If you are not on the list, you are not covered. How many people are on the list, it might be over a 1,000, as the gentleman has said, but it could not be very many, so I do not think it is going to endanger our immigration policy in the least. I think we ought to pass it. I think there is no problem about it, and we ought to do it now.

Mr. DONNELLY. Mr. Chairman, I thank the gentleman for his kind words and for his support.

Very quickly in conclusion, Mr. Chairman, this amendment only deals with a very small group of individuals who were notified that they had won a lottery, they were eligible to receive a visa to come to the United States of America. Because of a bureaucratic snafu, they were not allotted those visas. I do not think it is fair to dash their hopes because of a Departmental mistake. I think this rectifies it and it is a fair and equitable solution to the problem.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. DONNELLY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. DONNELLY].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 11, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROOKS: Page 95, line 24, insert "(i)" before "In".

Page 95, line 25, insert "except as provided in clause (ii)," after "subsection (b)(1)".

Page 96, line 9, strike all that follows the first period.

Page 96, after line 9, insert the following new clause:

"(ii) The term 'longshore work' does not include the loading or unloading of any cargo where the Secretary of Transportation has, under the authority contained in chapter 37 of title 46, United States Code (relating to carriage of liquid bulk dangerous cargoes), in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), or in section 4106 of the Oil Pollution Act of 1990, prescribed regulations which govern—

"(I) the handling or stowage of such cargo,

"(II) the manning of vessels and the duties, qualifications, and training of the officers and crew of vessels carrying such cargo, and

"(III) the reduction or elimination of discharge during ballasting, tank cleaning, and handling of such cargo.".

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, section 311 is intended to restrict the performance of traditional longshore work by nonimmigrant alien crewmen. This section contains a definition of longshore work as it is commonly understood in the domestic maritime industry. The amendment which I am offering today would deal with the specialized situation involved with liquid cargoes such as petroleum, chemicals, and natural gas, in which American longshoremen are not used. Liquid cargo systems are sophisticated and individualized to a particular tanker and its cargo, and the slightest error in operations can lead to equipment damage, cargo contamination, spillage, and possibly fire and explosion.

As presently drafted, section 311 would prohibit foreign crewmen from performing any cargo handling work on tankers. I, therefore, am offering this amendment to provide that if the Secretary of Transportation has issued regulations regarding tanker manning, qualification, training, or cargo handling and stowage, section 311 will not apply. My amendment will simply maintain the status quo where bona fide tanker crews operate their vessels' cargo equipment for the enhancement of safety and the protection of the tankers, their crews, and the environment.

□ 1700

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member rise in opposition to the amendment?

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is an improvement on the language now in H.R. 4300 concerning longshore work, but it still contains very damaging provisions for the U.S. shipping industry and those who rely on it.

The amendment wisely provides an exemption from the "no alien crew may work" rule for oil tankers and other ships carrying hazardous cargo. It is important that specifically trained foreign crewmen be allowed to unload hazardous cargo, so that the danger of oilspills and chemical spills is minimized.

However, two serious problems remain: First, we should not require ships to use longshoremen to unload cargo that is connected to machinery that unloads the cargo automatically, and second, we should not discriminate against foreign ships whose countries allow U.S. crews to unload U.S.-flag ships when our ships are in the ports of that foreign country.

The Governments of Great Britain and Canada have registered formal protests against the longshore provisions of H.R. 4300, and this amendment does not remedy those concerns.

Let me emphasize that this is not an issue of foreign-country protectionism. If this bill is passed with the longshore amendment in it, the United States could fairly be accused of being protectionist in its own shipping and longshore laws.

The Rules Committee made a large error by not allowing Mr. DAVIS' amendment to be in order on this provision. It would have avoided much of the controversy that this provision has caused.

However, I will not oppose this amendment because it takes an awful committee provision and makes it merely bad, but I encourage the conferees to look seriously at deleting the provision entirely at conference.

Mr. Chairman, I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BROOKS].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 12, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment:

The text of the amendment is as follows:

Amendment offered by Mr. FISH: Page 109, after line 3, insert the following new section (and conform the table of contents accordingly):

SEC. 318. REVISION AND EXTENSION OF THE VISA WAIVER PILOT PROGRAM.

(a) IN GENERAL.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) in subsection (a)(2), by inserting ", and presents a passport issued by," after "is a national of";

(2) in subsection (a)(3)—

(A) by striking "ENTRY CONTROL AND WAIVER FORMS" and inserting "IMMIGRATION FORMS"; and

(B) by striking all that follows "such admission" and inserting "completes such immigration form as the Attorney General shall establish.";

(3) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) ENTRY BY SEA OR AIR.—If arriving by sea or air, the alien arrives at the port of entry into the United States on a carrier which has entered into an agreement with the Service to guarantee transport of the alien out of the United States if the alien is found inadmissible or deportable by an immigration officer.";

(4) by adding at the end of subsection (a) the following new paragraph:

"(7) ROUND-TRIP TICKET.—The alien is in possession of a round-trip transportation ticket (unless this requirement is waived by the Attorney General under regulations.";

(5) in subsection (b)—

(A) by striking the heading and paragraphs (1) through (3), and

(B) by redesignating paragraph (4) (and subparagraphs (A) and (B) thereof) as subsection (b) (and paragraphs (1) and (2) thereof, respectively);

(6) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "UP TO 8 COUNTRIES" in the heading and inserting "IN GENERAL", and

(ii) by striking all that follows "may designate" and inserting "any country as a pilot program country if it meets the requirements of paragraph (2)";

(A) in paragraph (2)—

(i) by striking "INITIAL QUALIFICATIONS" in the heading and inserting "QUALIFICATIONS",

(ii) by striking "For the initial period described in paragraph (4), a country" and inserting "A country", and

(iii) by adding at the end the following new subparagraphs:

"(C) MACHINE READIBLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readible passports to its citizens.

"(D) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States law enforcement interests would not be compromised by the designation of the country.";

(7) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (d) the following new subsection:

"(d) AUTHORITY.—Notwithstanding the other provision of this section, the Attorney General and the Secretary of State, acting jointly, may for any reason (including national security) refrain from waiving the visa requirement in respect to nationals of any country which may otherwise qualify for designation or may, at any time, rescind any waiver or designation previously granted under this section."; and

(8) in subsection (e)(1), as so redesignated—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(C) to be subject to the imposition of fines resulting from the transporting into the United States of a national of a designated country without a passport pursuant to regulations promulgated by the Attorney General."; and

(9) in subsection (f), as so redesignated, by striking all that follows "the period beginning" and inserting "on October 1, 1988, and ending on September 30, 1994.".

(b) PENALTY FOR TRANSPORT OF ALIENS WITHOUT VALID VISAS.—Section 273 of such Act (8 U.S.C. 1323) is amended—

(1) in subsection (a), by inserting "a valid passport and" before "an unexpired visa", and

(2) in subsection (c), by inserting "valid passport or" before "visa was required".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date of the enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. FISH] will be recognized for 5 minutes, and a Member opposed to the amendment will be recognized for 5 minutes.

The Chair recognzies the gentleman from New York [Mr. FISH].

Mr. FISH. I yield myself such time as I may consume.

Mr. Chairman, my amendment is designed to extend the visa waiver pilot program that now exists in current law.

This pilot program was created by IRCA in 1986. Its intention was to minimize the formal visa requirements for nationals of eight countries coming to the United States for a visit of 90 days or less. The eight countries to be picked were those with very low visa abuse, overstay, or refusal rates.

The benefits of the program were also only offered to those countries that offered U.S. visitors the reciprocal no-visa requirement. The report on the visa waiver pilot program this year by the Department of State reads:

Our experience with the visa waiver pilot program convinces us that the visa waiver program has successfully moved toward accomplishing both goals set by the Congress: To improve the use of United States Government resources and to encourage international travel. Through February 1990 more than 3.5 million visitors were admitted into the United States under the program, and 782 have been found ineligible for entry; 97 have been deported (a rate of less than .003 percent).

Importantly, the visa waiver program allows the Consular Bureau of the State Department to allocate its resources more efficiently. It allows the Department to reduce the number of officers that must process visas in countries where visa abuse rates are low, and enlarge the consular staff in countries where visa fraud and abuse is a much greater problem, or where drug trafficking and threats of terrorism require a more careful screening process.

The Department's report on the pilot program has this to say on the impact on consular operations:

The limited elimination of the visa requirement for some aliens has provided the Department of State with much-needed resources which have been reprogrammed to other areas. As of March 31, 1990 the Department has already transferred eleven Foreign Service officer and six Foreign Service national employee positions to posts in Eastern Europe in need of additional resources because of the historic changes taking place in that region.

Because the current visa waiver program will expire in 1 year, I am offering this amendment to extend and enlarge it.

This amendment would extend the visa waiver program for another 3 years, and it would drop the limitation of eight countries that may qualify. Under the amendment, any country with a sufficiently low visa abuse rate may be designated for visa waiver privileges by joint action of the Secretary of State and the Attorney General. That country must also grant reciprocal benefits to United States visitors.

The State and Justice Departments have also recommended other technical changes to ensure that the program is efficiently and effectively administered, and these changes are incorporated in the amendment.

In addition to our State Department a number of organizations promoting tourism support this amendment. President Bush expressed his interest in having this program extended in a recent meeting he had with European heads of state.

I encourage my colleagues to approve this noncontroversial amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. BROOKS. Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. FISH].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 13, printed in part 2 of House Report No. 101-786.

AMENDMENT OFFERED BY MR. FISH

Mr. FISH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FISH: Page 109, after line 3, insert the following new section (and conform the table of contents accordingly):

SEC. 318. 1-YEAR EXTENSION IN DEADLINE FOR FILING APPLICATIONS FOR ADJUSTMENT FROM TEMPORARY TO PERMANENT RESIDENCE FOR LEGALIZED ALIENS.

Section 245A(b) of the Immigration and Nationality Act (8 U.S.C. 1255a(b)) is amended—

(1) in paragraph (1)(A), by striking "one-year period" and inserting "2-year period", and

(2) in paragraph (2)(C), by striking "thirty-first" and inserting "43rd".

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. FISH] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this amendment on my behalf and on behalf of the gentlewoman from California [Ms. PELOSI].

Mr. Chairman, the Immigration Reform and Control Act of 1986 [IRCA] provided the opportunity of legalization for certain undocumented aliens who had lived in the United States since before January 1, 1982. IRCA established a two-stage process for legalization. In stage 1 of IRCA, persons who demonstrated that they fulfilled various IRCA requirements were given temporary resident status. The majority of applicants became temporary residents during 1987 and 1988, but some stage 1 petitions are still pending. During stage 1, the temporary residents must pursue basic citizenship skills, including a minimal understanding of English and knowledge of history and government. Continuous residence and qualifying as an admissible resident are also requirements.

Under stage 2 of IRCA, these qualified temporary residents are permitted to file for adjustment of status to permanent residence. Here lies the problem: Aliens are required to file for stage 2 permanent residence "during the 1-year period beginning with the 19th month that begins after the date that the alien was granted such temporary resident status," that is, within 31 months after stage 1 applications were approved.

Although IRCA basically requires applicants to make a stage 2 filing within 31 months of stage 1 approval, the law's imprecise statement of this requirement has caused much uncertainty and confusion on the part of not just aliens but the INS itself. The fact that the deadline for each individual applicant is different has made outreach programs very difficult. Due to this confusion, as many as 21,000 temporary residents may already have missed their stage 2 deadlines.

Almost 350,000 temporary residents have not yet filed for this second stage of legalization. They also could miss their deadlines due to this confusion. The result would be that qualified individual's revert to undocumented status.

H.R. 4300, as reported by the Subcommittee on Immigration to the full Judiciary Committee, contained a provision—section 321—that would have given temporary residents 2 years instead of 1 year to file for permanent residence. It was subsequently removed during full Judiciary Committee consideration. My amendment would simply reinstate the 2-year deadline for stage 2 legalization.

This allows the INS and voluntary agencies more time to develop and implement effective outreach programs so as to inform applicants of the importance of applying for stage 2.

Mr. Chairman, if no extension is granted, the legalization process adopted by Congress in 1986 would be undercut. Aliens who qualify for legalization will not be legalized. The undocumented population would swell with all the problems that entails.

Mr. Chairman, I urge the adoption of this amendment.

□ 1710

Ms. PELOSI. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, I thank the gentleman from New York [Mr. FISH] for yielding and for his hard work on this amendment. I have appreciated the opportunity to work with Mr. FISH on this very important change in H.R. 4300.

Before proceeding on the amendment, I wish to commend the chairman of the full committee, the gentleman from Texas [Mr. BROOKS], the chairman of the subcommittee, the gentleman from Connecticut [Mr. MORRISON], and the ranking member, the gentleman from New York [Mr. FISH] for their hard work on this Morrison bill, as well as the gentleman from Texas [Mr. SMITH], the ranking Republican on the subcommittee.

Mr. Chairman, this bill is legislation of great importance to my distict. In fact, it has been a unifying factor among the Asian-Americans, the Hispanic community and the Irish-American community, all of whom have problems on immigration which are redressed in this bill, so I am very grateful for the Morrison bill, and I thank the leaders of the Committee on the Judiciary for their hard work.

Mr. Chairman, I rise in strong support of the amendment of the gentleman from New York [Mr. FISH], which would prevent thousands of already legalized aliens from being returned to undocumented status. I will not go into the details of the amendment because the gentleman from New York [Mr. FISH] has already done so. I would just like Mr. Chairman, to proceed with two examples from my own district, cases of two individuals from the San Francisco Bay area which demonstrate the serious problems with the stage 2 application process.

A 35-year-old woman, who had already been approved for stage 1, went to an Immigration and Naturalization Service [INS] office on July 19 to find out when she needed to apply for stage 2. The woman is fluent in English and had been in the country for several years. She knew that the temporary resident card, the approval card for stage 1, did not specify the stage 2 deadline. The receptionist at the INS office looked at the woman's temporary resident card and informed her she had 2 months to complete the stage 2 application. When the applicant returned in 2 weeks, she was told that the deadline had been passed and that she missed her deadline.

A second applicant, a wife of a member of the U.S. Navy, tried to contact the INS about her stage 2 deadline. The applicant called an INS legalization hot line, but only encountered a recording. Her letters to the INS were never answered. When she went in person to the INS Office, she was informed that the deadline had passed for her stage 2 application.

These are only two of numerous examples reported by immigrant assistance organizations. It is clear that the immigrants are missing their deadlines because the stage 2 application process is unduly complicated, and the Immigration and Naturalization Service has not done an adequate job of informing applicants of their deadlines.

With all of their good intentions, with the hot line, and outreach, with correspondence, et cetera, the effort has not been good enough. Unlike stage 1, every applicant to stage 2 has a unique deadline. No document provided by the INS, either the stage 1 approval letter or the temporary resident card, identified that individual's deadline. The INS direct mail campaign to inform potential stage 2 applicants missed individuals who had moved or did not receive their mail. In the western region only, and 16 months after the legalization program began, the INS set up a hot line to deal with questions about the process. Numerous immigrant assistance orga-

nizations have found that the hot line frequently provided incorrect information. The hot line was eventually discontinued. The amendment of the gentleman from New York [Mr. FISH] would give the INS and private organizations an extra year to perform outreach and inform applicants of their stage 2 deadlines.

Mr. Chairman, 21,000 immigrants have already missed their stage 2 deadline, and an additional 46,000 immigrants may miss their deadlines by the end of the year.

I urge my colleagues to support the amendment of the gentleman from New York [Mr. FISH] and give already legalized immigrants an opportunity to become permanent residents of the United States

Again I thank the gentleman from Texas [Mr. BROOKS], the gentleman from Connecticut [Mr. MORRISON], and the gentleman from Texas [Mr. SMITH] for their hard work on this, and special thanks to the gentleman from California [Mr. BERMAN] for his hard work as well.

The CHAIRMAN. Is there any Member in opposition to the amendment offered by the gentleman from New York [Mr. FISH]?

Mr. BROOKS. Mr. Chairman, I have no opposition to the amendment, and I see no reason why we should not agree to it now.

Mr. FISH. Mr. Chairman, I want to thank the gentlewoman from California [Ms. PELOSI] for her comments on the Fish-Pelosi amendment, and the examples she gave from her district; I could have given many more across the country of people who are highly literate in the English language who simply got caught up in all the confusion on this, and I thank her for her comments.

Mr. Chairman, I yield back the balance of my time.

Mr. HOYER. Mr. Chairman, I rise in support of the amendment offered by the distinguished minority member of the Judiciary Committee, Mr. FISH, which would extend the visa waiver pilot program for another 3 years.

The 1986 Immigration Reform and Control Act allowed for eight countries to be visa free for a 3-year trial period.

The program had two goals: To facilitate international travel; and to improve the use of scarce Government resources. Countries that were selected for this program offer reciprocal treatment—that is they do not require visas of Americans—and have nationals who cause few immigration problems for us.

The eight that were chosen by workload, that is, number of visas issued in 1986, to have the greatest savings for the U.S. Government. These countries included: Great Britian, West Germany, Italy, Holland, Japan, France, Switzerland, and Sweden.

If we adopt this amendment, Mr. Chairman, I plan to encourage the State Department to add Denmark to this list. Embassy officials indicate that they would be able to cut between two and four staff positions in the Embassy in Copenhagen alone and would facilitate greater tourist and business travel to the United States. It would eradicate a persistent public relations problem in the form of the eternal question, "why do Danes need a visa to visit America when Americans don't need one to come here?"

We issue 80,000 Danish visas a year, denying only 1 out of 600 applicants. We are thus wasting the Danes time and Government resources by continuing to subject them to the visa process.

Mr. Chairman, the visa waiver pilot program has worked very well since its inception in 1986. I encourage my colleagues to continue this program and again thank the gentleman from New York for his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. FISH].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 14 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas: Page 109, after line 3, insert the following new section (and conform the table of contents accordingly:)

SEC. 318. EXTENSION OF STATE LEGALIZATION IMPACT ASSISTANCE GRANTS.

Section 204 of the Immigration Reform and Control Act of 1986, as amended by title II of Public Law 101-66 (Department of Health and Human Services Appropriations Act, 1990, is amended—

(1) in subsection (a)(1)(A), by striking "three" and inserting "seven", and

(2) in subsection (b)(4), by striking "1994" and inserting "1998".

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. SMITH] will be recognized for 5 minutes, and a Member opposed to the amendment will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, on that last amendment, which was passed without objection, we extended the deadlines for this SLIAG program, and, if we are going to do that, to be consistent we should also vote to extend the assistance given to the States for that very same program, and that is what my amendment does.

Mr. Chairman, this amendment would extend from 5 years to 8 the period of Federal financial reimbursement to States to offset their costs incurred due to the 1986 legalization program.

IRCA authorized 4 years worth of reimbursement to States for the public assistance, public health, and education costs that they might incur due to the participation of newly legalized aliens in these programs. This reimbursement provision was called "State legalization impact assistance grants," or "SLIAG."

Last year the 4 years of funding was extended to 5 because of the borrowing of $555 million of SLIAG funds by the Committee on Appropriations from the fiscal year 1990 SLIAG account. My amendment recognizes that illegal aliens will be granted a legal status through the broad family fairness amnesty that is contained in section 314 of H.R. 4300, so State and local governments will now have additional public assistance and education costs that must be reimbursed. This problem was recognized at the Immigration Subcommittee level, and an amendment was added which allowed SLIAG funds to be disbursed to States giving services to aliens receiving family fairness amnesty benefits. However it is not enough merely to use the existing pot of money for a greatly expanded class of aliens who will demand a greatly increased level of services.

Therefore, Mr. Chairman, my amendment would extend the annual appropriation for another 3 years because the family fairness aliens will almost certainly be demanding the services of our State and local governments in those same years.

There is a very simple policy here, Mr. Chairman. If we give immigration benefits to aliens, we have to pay for the State and local financial consequences. Congress recognized in 1986 that legalized aliens would cost the State and local governments money. SLIAG was created to offset those costs.

Mr. Chairman, we are giving benefits now to uncounted thousands of spouses and children of the aliens who received amnesty in 1986, so we should pay for them as well, and SLIAG is the appropriate vehicle.

Some might argue that the States have not used their entire SLIAG allotment so far and that giving them extra money right now is not necessary.

□ 1720

Mr. Chairman, I do not buy that argument. Congress understood that the States may not experience all of the costs immediately. The 4 years of initial SLIAG reimbursement was allowed to be spent over 7 years. My amendment continues that staggered time allowance and recognizes that while all costs might not be manifested immediately, there are certainly some substantial financial obligations for State and local governments looming in the near future.

Let us not grant a wealth of Federal immigration benefits to aliens, and then leave our State and local governments holding the fiscal bag. Mr. Chairman, I urge Members to support this amendment.

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in opposition to this amendment, and yield myself such time as I may consume.

Mr. Chairman, I am frankly shocked at this amendment. This amendment costs $4 billion. Not $4 billion in authorized spending, but $4 billion in appropriated spending. Not in an appropriations bill, not in an authorization bill, but in a regulatory measure that governs our legal immigration system.

Mr. Chairman, in a very unusual procedure, as part of the Immigration Reform and Control Act in 1986, a special fund of money of $4 billion was set aside for special expenses incurred by State and local governments with respect to the legalization program. This amendment seeks to bootstrap onto that program, to avoid the appropriation process in the fiscal years 1992, 1993, 1994, and 1995, in order to spend without further review $4 billion of taxpayer money.

This really is quite something. I wonder whether this $4 billion has been included in the budget summit that has just been concluded, where there was stressing and straining to find a way to save billions upon billions of dollars.

Were this money to be proposed to be spent in these years, the gentleman from Texas [Mr. SMITH] would have to find $1 billion per year in new taxes in order to pay for it. He seeks to avoid that discipline by this type of approach at this time.

Mr. Chairman, this is an irresponsible amendment. We do not have the money. The costs the gentleman is talking about in fact are not being created by anything in this bill.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding. I rise in opposition to the amendment. The gentleman from Connecticut [Mr. MORRISION] has pointed out the very unusual nature of what the gentleman is proposing, a piece of legislation that would appropriate by its own terms $4 billion.

In addition to the unusual nature of the amendment is the unjustified nature of the amendment. The gentleman from Texas [Mr. SMITH] was incorrect in talking about last year we extended SLIAG for 1 year. In 1986 we appropriated $1 billion a year for 4 years to be spent over a period of 7 years through 1994. That is still in place.

Our problem is not getting an addition $4 billion appropriated, it is to get the Committee on Appropriations, and particularly the Senate Committee on Appropriations, to keep faith with what we have in 1986, and to appropriate and not take away the funds we appropriated at that time.

Mr. Chairman, we have large amounts of sums in that original appropriation that not only have not been spent, but are being held back from the States.

Second, the whole logic of the SLIAG program was to cover the education and health benefits of the people in the legalization program. The massive part of this bill deals with legal immigration. We must stop sliding from the costs that many people believe come with illegal immigration, and applying that to the legal immigration system. Study after study shows that those are not people who go on welfare, they are not people who rely on county and public hospitals. They are people with family support, job support. They work. They produce taxes.

The small number of people that will be affected by the family fairness program are people who are here, who are being given a work authorization in the stay of deportation. They are not required to study the English language like the people in the legalization program. The various provisions that required SLIAG funding and justified it back in 1986 do not apply in this situation.

Mr. Chairman, I urge Members to reject the $4 billion appropriation request made in this amendment. It is not right, it is not needed, and it misapplies the term of what we are trying to do in this legislation.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me say first of all that I am absolutely delighted to hear the concern about spending that has been expressed by the gentleman from Connecticut [Mr. MORRISON], and the gentleman from California [Mr. BERMAN]. I can only assume that that represents a change in their political thinking, and I welcome it.

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding.

This week is a bad week to talk about $4 billion of new money. However, I also remember how many Californians persuaded us in 1986 to stick it in the bill just the way it was so we did have an appropriation in an authorization bill.

But the gentleman from Texas [Mr. SMITH] is raising an important point here, that the chairman of the full committee has raised himself at other times, and that is someone is going to have to pay for this.

This may not be precisely the vehicle, but I am concerned, because the Senate has no counterpart. So I don't know how we would resolve this in conference. But there will be charges that will be borne, not only for the family fairness part of this bill, but for other parts, by States and localities, if some provision is not made in this legislation.

Mr. Chairman, this will be a heavy burden on States. We know the States that normally will be impacted from a measure like this. So I think the gentleman from Texas [Mr. SMITH] has served a great purpose here in bringing this matter to our attention. We should be aware that what we are doing is we are laying a burden on States and localities.

Mr. MORRISON of Connecticut. Mr. Chairman, I yield myself such time as I may consume, just to underscore what the gentleman from California [Mr. BERMAN] said, that, in fact, the costs which were present in the 1986 law, that gave rise to the special appropriation, are not present in this legislation. Trying to bootstrap on that precedent is a very bad idea, and it is a very bad day to be talking about $4 billion in extra spending.

Mr. Chairman, I hope Members will reject the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, a minute ago the gentleman from California [Mr. BERMAN] said that the SLIAG program was unjustifed. Yet that very same program was approved by Congress in 1986.

The main point here is what is fair is fair. If we are going to shoulder States with the additional expense of taking care of those individuals who received amnesty, we ought to help them pay for it.

If the States are going to have the additional responsibility to incur the additional costs that all come with those hundreds of thousands of amnestied aliens, then we ought to do our fair share as well.

Mr. Chairman, I think this is an issue that should be clear to anybody, because it is absolutely essential that the local governments get some help in shouldering the burden of paying for the illegal aliens who received amnesty.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas. [Mr. SMITH].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 53, noes 368, not voting 12, as follows:

[Roll No. 401]

AYES—53

Ballenger	Campbell (CA)	Fascell
Bartlett	Combest	Fields
Barton	Dannemeyer	Gallegly
Bennett	Davis	Gekas
Bentley	DeFazio	Goodling
Bryant	DeLay	Goss

Gradison	Lagomarsino	Sarpalius
Grant	Leath (TX)	Schiff
Hall (TX)	Lehman (FL)	Shaw
Hancock	Lowery (CA)	Shumway
Hansen	Lukens, Donald	Skeen
Herger	McCollum	Smith (FL)
Hunter	Moorhead	Smith (TX)
Hutto	Morrison (WA)	Smith, Denny (OR)
Hyde	Nelson	Stearns
James	Packard	Stenholm
Johnston	Quillen	Vucanovich
Kolbe	Ros-Lehtinen	Young (FL)

NOES—368

Ackerman	Downey	Kleczka
Alexander	Dreier	Kolter
Anderson	Duncan	Kostmayer
Andrews	Durbin	Kyl
Annunzio	Dwyer	LaFalce
Anthony	Dymally	Lancaster
Applegate	Dyson	Lantos
Archer	Early	Laughlin
Armey	Eckart	Leach (IA)
Aspin	Edwards (CA)	Lehman (CA)
Atkins	Edwards (OK)	Lent
AuCoin	Emerson	Levin (MI)
Baker	English	Levine (CA)
Barnard	Erdreich	Lewis (CA)
Bateman	Espy	Lewis (FL)
Bates	Evans	Lewis (GA)
Beilenson	Fawell	Lightfoot
Bereuter	Fazio	Lipinski
Berman	Feighan	Livingston
Bevill	Fish	Lloyd
Bilbray	Flake	Long
Bilirakis	Foglietta	Lowey (NY)
Bliley	Ford (MI)	Luken, Thomas
Boehlert	Frank	Machtley
Bonior	Frost	Madigan
Borski	Gallo	Manton
Bosco	Gaydos	Markey
Boucher	Gejdenson	Marlenee
Boxer	Gephardt	Martin (NY)
Brennan	Geren	Martinez
Brooks	Gibbons	Matsui
Broomfield	Gillmor	Mavroules
Browder	Gilman	Mazzoli
Brown (CA)	Gingrich	McCandless
Brown (CO)	Glickman	McCloskey
Bruce	Gonzalez	McCrery
Buechner	Gordon	McCurdy
Bunning	Grandy	McDade
Burton	Gray	McDermott
Bustamante	Green	McEwen
Byron	Guarini	McGrath
Callahan	Gunderson	McHugh
Campbell (CO)	Hall (OH)	McMillan (NC)
Cardin	Hamilton	McMillen (MD)
Carper	Hammerschmidt	McNulty
Carr	Harris	Meyers
Chandler	Hastert	Mfume
Chapman	Hatcher	Michel
Clarke	Hayes (IL)	Miller (CA)
Clay	Hayes (LA)	Miller (OH)
Clement	Hefley	Miller (WA)
Clinger	Hefner	Mineta
Coble	Henry	Mink
Coleman (MO)	Hertel	Moakley
Coleman (TX)	Hiler	Molinari
Collins	Hoagland	Mollohan
Condit	Hochbrueckner	Montgomery
Conte	Holloway	Moody
Conyers	Hopkins	Morella
Cooper	Horton	Morrison (CT)
Costello	Houghton	Mrazek
Coughlin	Hoyer	Murphy
Courter	Hubbard	Murtha
Cox	Huckaby	Myers
Coyne	Hughes	Nagle
Craig	Inhofe	Natcher
Crane	Ireland	Neal (MA)
Crockett	Jacobs	Neal (NC)
Darden	Jenkins	Nielson
de la Garza	Johnson (CT)	Nowak
Dellums	Johnson (SD)	Oakar
Derrick	Jones (GA)	Oberstar
DeWine	Jones (NC)	Obey
Dickinson	Jontz	Olin
Dicks	Kanjorski	Ortiz
Dingell	Kaptur	Owens (UT)
Dixon	Kasich	Oxley
Donnelly	Kastenmeier	Pallone
Dorgan (ND)	Kennedy	Panetta
Dornan (CA)	Kennelly	Parker
Douglas	Kildee	Pashayan
Patterson	Scheuer	Tauzin
Paxon	Schneider	Taylor
Payne (NJ)	Schroeder	Thomas (CA)
Payne (VA)	Schulze	Thomas (GA)
Pease	Schumer	Thomas (WY)
Pelosi	Sensenbrenner	Torres
Penny	Serrano	Torricelli
Perkins	Sharp	Towns
Petri	Shays	Traficant
Pickett	Shuster	Traxler
Pickle	Sikorski	Udall
Porter	Sisisky	Unsoeld
Poshard	Skaggs	Upton
Price	Skelton	Valentine
Pursell	Slattery	Vander Jagt
Rahall	Slaughter (NY)	Vento
Rangel	Slaughter (VA)	Visclosky
Ravenel	Smith (IA)	Volkmer
Ray	Smith (NE)	Vucanovich
Regula	Smith (NJ)	Walgren
Rhodes	Smith (VT)	Walker
Richardson	Smith, Robert (NH)	Walsh
Ridge	Smith, Robert (OR)	Washington
Rinaldo	Snowe	Watkins
Ritter	Solarz	Waxman
Roberts	Solomon	Weber
Robinson	Spence	Weiss
Roe	Spratt	Weldon
Rogers	Staggers	Wheat
Rohrabacher	Stallings	Whittaker
Rose	Stangeland	Whitten
Rostenkowski	Stark	Williams
Roth	Stokes	Wilson
Roukema	Studds	Wise
Rowland (GA)	Stump	Wolf
Roybal	Sundquist	Wolpe
Russo	Swift	Wyden
Sabo	Synar	Wylie
Sangmeister	Tallon	Yates
Savage	Tanner	Yatron
Sawyer	Tauke	Young (AK)
Saxton		
Schaefer		

NOT VOTING—12

Boggs	Frenzel	Parris
Engel	Hawkins	Rowland (CT)
Flippo	Martin (IL)	Saiki
Ford (TN)	Owens (NY)	Schuette

□ 1750

Messrs. McCANDLESS, BROWDER, SKAGGS, ARCHER, TOWNS, HOLLOWAY, RINALDO, and ROHRABACHER changed their vote from "aye" to "no."

Messrs. LOWERY of California, KOLBE, NELSON of Florida, LEHMAN of Florida, and FASCELL, changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PARRIS. Mr. Chairman, I was inadvertently delayed and missed the vote on the Smith of Texas amendment to reimburse the States. Had I been present I would have voted no.

The CHAIRMAN. It is now in order to consider amendment No. 15 printed in part 2 of House Report No. 101-786.

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DORGAN of North Dakota; Page 113, after line 8, insert the following new section (and redesignate the succeeding sections, and conform the table of contents, accordingly):

SEC. 324. LIMITATION ON DETENTION OF CERTAIN ALIENS WITH DEPENDENT CHILDREN.

(a) IN GENERAL.—Section 242(c) of the Immigration and Nationality Act (8 U.S.C. 1252(c)) is amended—

(1) by striking "When" and inserting "(1) Except as provided in paragraph (2), when"; and

(2) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall not detain any alien described in subparagraph (B) who is deportable under section 241, except in connection with the immediate departure of such alien. The period of such detention shall not exceed a reasonable amount of time (not to exceed 24 hours) based upon the particular circumstances of the alien and the alien's dependent children.

"(B) An alien described in this paragraph is an alien—

"(i) who is not deportable under paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19) of section 241(a); and

"(ii) who is the mother of any child in the United States if the child is not older than 2 years of age and is dependent upon the alien for basic parental care."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any alien subject to a final deportation order on or after the date of enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from North Dakota [Mr. DORGAN] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, the amendment that I have offered today deals with the question of parent and child under immigration procedure.

Let me just tell Members a brief story. It is an anecdote. A woman named Maria Ventura was taken from her children and thrown into jail in Prince George's County for close to 6 days. Maria has three children. One was age 6, another 2½, and another 6 weeks old. A 6-week-old breast-feeding infant who had a viral infection, and the mother was received by the Immigration Service and thrown in jail. A story in the local newspaper pictures the children and describes the plight of the mother in Prince George's County Jail. A young woman who was not a threat to this community or this society was snatched in the jaws of the immigration system and thrown into jail for nearly 6 days.

Apparently, the Immigration Service says, "We don't care about the children. We don't care about a 6-week-old baby that is breast-feeding." We throw the mother in jail, and that should not happen in this country.

Mr. Chairman, my legislation prevents detention, except for 24 hours under deportation order, of a mother with children under 2 years of age. This legislation does not include protection for those involved in criminal

activities, violent crime. It does not include detention for those involved in drug activities, but it does say that those illegal aliens that are guilty of infractions, the kinds of infractions such as illegal entry or staying too long, should not be separated from 3-, 5-, and 6-week-old infants who are breast-feeding, and be thrown in jail as common criminals. That is inhumane treatment in this country. My legislation would provide protection for those kinds of people and would prevent the Immigration Service from detaining them for more than 24 hours.

Mr. Chairmam, I reserve the balance of my time.

The CHAIRMAN. Is there a Member in the Chamber in opposition to the amendment?

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Chairman, I would like to ask my colleague, the gentleman from North Dakota [Mr. DORGAN], for clarification in regard to his amendment. I very much appreciate and sympathize with the heartwarming story that my colleague just related a moment ago. I also appreciate the humanitarian instinct that has impelled him to offer this amendment.

If we could limit the amendment to the one circumstance that he has described, I would certainly support it. However, as a clarification of this amendment, I would like to ask my colleague several questions with the idea that it might well be an amendment that sweeps too broad.

Let me ask my colleague, first of all, does this amendment mean that if your situation was that a woman who was a single parent who had a child under 2 years old was accused of committing terrorist acts or first-degree murder, would that individual be unable to be detained for 24 hours because of having a child less than 2 years old?

Mr. DORGAN of North Dakota. Will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. The answer to that is no. First of all, this amendment does not attempt to intercept or impede in any way the jurisdictional process at the State or national level. State and local authorities can charge and detain at will, in the event that accusations are made against any citizen residing in this country.

Second, in the amendment I have described certain exceptions to this policy. Those exceptions include, as I indicated, those persons who are felons, those persons who are involved in drug activity and more.

Mr. SMITH of Texas. I thank the gentleman for that clarification. Let me ask a further question. If we were dealing with individuals who, say, had been detained in south Texas because of their pending adjudication of a solemn claim, and we had a situation where there is a single parent with children under 2 years old, would those individuals have to be released because under your amendment there could be no detention for beyond 24 hours?

Mr. DORGAN of North Dakota. If the gentleman will continue to yield, it would certainly depend upon the conditions under which they were detained.

There are, I think, nearly nine exceptions under my description of alien in this description. I might say, with respect other than these exceptions, my intention with this legislation would be to release those who are detained who have young infant children under the age of 2.

I find it completely unforgivable to have a policy in which the Immigration Service throws in jail a young woman who is breast-feeding a 6-week-old infant, who poses no danger to the society whatsoever.

Mr. SMITH of Texas. I already stated that I agree completely, and I sympathize with the case he has described. I am talking about what I am concerned about is the broadness of his amendment, and the gentleman has assured me on one point. However, I am still concerned it may be too broad.

□ 1800

Mr. DORGAN of North Dakota. Mr. Chairman, would the gentleman go over that again?

Mr. SMITH of Texas. Mr. Chairman, because we are not certain how broad the amendment is, I am going to still urge its rejection, but certainly would work with the gentleman between now and the conference committee to try to work out the situation that he described.

Mr. DORGAN of North Dakota. Mr. Chairman, let me in just 30 seconds say that I have heard objections from the Immigration Service as they insisted on their right to jail someone who had a 6-week-old nursing infant. It is wrong in this country to do that. This legislation is protective of society against those who commit heinous crimes, those involved in drug traffic and more.

I urge that the House adopt this policy by adopting this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. DORGAN of North Dakota. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Dakota [Mr. DORGAN].

The amendment was agreed to.

Mr. DAVIS. Mr. Chairman, I ask unanimous consent to engage the gentleman from Texas [Mr. BROOKS], the chairman of the full committee, in a colloquy.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The gentleman from Michigan [Mr. DAVIS] is recognized.

Mr. DAVIS. Mr. Chairman, may I say to the gentleman from Texas [Mr. BROOKS] this involves section 311, the amendment that was adopted some time ago concerning the handling of cargo on tank vessels. I was not here when we brought that amendment up.

Mr. Chairman, I rise in strong support of the amendment offered by Mr. BROOKS on the loading and unloading of cargo on oil tankers and hazardous chemical carriers. This amendment recognizes the significant safety and environmental problems relating to cargo handling on these types of vessels and will continue to recognize the critical role of the crew in these loading and unloading evolutions. This amendment represents a significant improvement to this section of H.R. 4300; however, it does not address an issue of significant concern to vessels transiting the Great Lakes. Although our respective staffs have been working over the last 4 days to deal with this complicated issue, we simply ran out of time. I know the gentleman is well aware of the concerns which relate specifically to the transportation and loading of raw materials such as iron ore and limestone. Is it the gentleman's intention to address these issues in the conference report?

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I am pleased to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, may I say to my friend, the gentleman from Michigan [Mr. DAVIS], I want to thank the gentleman for his comments.

To answer the gentleman's specific question, it is in fact my intention to consider the concerns that arise with respect to the so-called self-unloaders which transit the Great Lakes, and I will continue to work toward that end. I would hope that we could reach an acceptable solution.

Mr. DAVIS. Mr. Chairman, I want to thank the gentleman from Texas, the chairman of the full committee, for his assurances. I again urge support for this amendment.

The CHAIRMAN. It is now in order to consider amendment No. 16, printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCOLLUM: Strike section 324 (relating to temporary protected status for nationals of El Salvador, Lebanon, Liberia, and Kuwait, and other designated foreign States).

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. McCOLLUM] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, the amendment that I have proposed would strike a provision that has been put in this bill by the chairman of the Rules Committee, the gentleman from Massachusetts [Mr. MOAKLEY] to provide for extended voluntary departure for several countries, that is the illegals that are here from several countries, that is El Salvador, Lebanon, Liberia, and Kuwait.

Mr. Chairman, let me repeat, the amendment would strike the provision that would grant extended voluntary departure to El Salvador, Lebanon, Liberia, and Kuwait illegals who are here for a period of 3 years, just a flat-out grant of that kind of privilege, which the Immigration Service and the Justice Department could do nothing about. It would grandfather in all these folks and say, "You can't deport any of them for any reason."

I think that is fundamentally unsound policy and it is fundamentally wrong to do that.

We have laws on the books to deal with people who may be in reasonable fear of political persecution or religious persecution if they return to their countries of origin. Those laws on the books have been used time and again by the Immigration Service to protect those who are indeed in fear and could be jeopardized or harmed if they went back home.

We would in this provision that has been put into this bill adopt a procedure that we have never adopted before and is certainly not one that I think is good law or makes good sense.

Last year we had a similar debate over this process, did not get it into law, but it was a bill that was out here to be debated that included in addition to El Salvador, China and Nicaragua.

Now, that was also for 3 years, and in the intervening time conditions have changed in both those countries. Most dramatically, we know they have changed in Nicaragua now. The Government has changed, and we would not want to have a 3-year amnesty for the illegals who are here from Nicaragua. That is why I submit they are not in this proposal today.

The same thing could be true for one of these countries in the next year.

I would submit that having a 3-year amnesty for all the illegals is not the way to go. We need to continue to let the Immigration Service use existing laws for political asylum to protect people who are here from those countries that are in trouble and make that work and not bind their hands behind their backs so that we have to keep everybody here.

With regard to El Salvador in particular, we do not have people down there, very many of them, that are in this country who are in fear of being persecuted at all when they go back. We have thousands of Salvadorans here today. I do not advocate that we kick them all out. They are not going to be kicked out under the present laws we have. We cannot even begin to get to them if we wanted to. We do not have the personnel to do it; but if they are in fear of persecution, and there are some of them claiming that, there is a process to go through that is orderly in law today that would allow our Justice Department and its Immigration Service to grant them the kind of extended stay here that is something that we would all want to see happen, and that is called political asylum. That is a process again that is in current law.

The Moakley provisions that my amendment would strike are not only unnecessary, but again that are bad policy. They keep lots of illegals here indiscriminately for extended periods of time.

The administration obviously is very opposed to this provision, and I would urge my colleagues to vote for the McCollum amendment. Strike out this provision that has been put in there for a special 3-year sweetheart deal for amnesty of illegals from these particular four countries and let us go on with procedures that are in law today, make them work. Let them work and not have some extraneous material like this in this bill to clutter it up.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Florida, which would delete the provision to grant temporary protective status to certain nationals. Individuals who have fled from El Salvador, Liberia, Lebanon, and Kuwait should not be required to return to their war-torn homelands until the political situation in those countries is stabilized. This grant of temporary protective status is a compassionate and humanitarian action on the part of the United States and is in keeping with the finest of our national traditions. I would urge that this provision remain in H.R. 4300, and that the amendment be rejected.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, very briefly, I certainly rise in support of the amendment of the gentleman from Florida [Mr. McCOLLUM].

What we are dealing with here is just another amnesty program for another specific country. We seem to be piling on more special interest legislation on top of more special interest legislation tonight.

Mr. Chairman, this is a situation where we have amnesty now provided for the third time just passed in H.R. 4300.

Amnesty is not the right way to determine our immigration policy. Amnesty is not the right way to be fair to those who have been law abiding, and we should not reward lawbreakers to the detriment of the law abiders.

Mr. Chairman, I support the amendment of my colleague, the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I would just like to urge my colleagues again to vote for this amendment. It is a very positive amendment. It strikes a provision out of this bill that has no business being in here, granting amnesty to a bunch of illegals who are here from four for five countries and picking them out for 3 years.

I am not telling you these are bad people, but I am telling you that if they are in fear and you want to protect them because they are in fear of getting persecuted if they go back to their native countries, that you are talking about laws already on the books designed to protect that.

□ 1810

Instead what you are going to do is lock the hands of the administration and say absolutely under no conditions for 3 years are you going to let these people go. As I said earlier, last year when this was out here on the floor for debate, China and Nicaragua were included. Conditions have changed in less than a year. They are not included this time.

Suppose things change in these countries in less than a year. This is not good public policy. This is bad public policy. We need to let the existing laws work.

They do work, and we have absolutely no business going forward with the kind of proposal that is in the bill today, to lock in 3 years of amnesty for four special countries for all the illegals who are here and not do that same thing for everybody. It is ridiculous. It is absurd.

I urge my colleagues to vote "yes" on the McCollum amendment and strike this out of the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished whip on the Democratic side, the gen-

tleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Chairman, I rise in opposition to the McCollum amendment. Should this amendment pass, some 14,000 nonimmigrant Liberians would face the threat of detention and deportation to a country where there is no water, there is no electricity, there is no government and practically no hope.

Mr. Chairman, some 5,000 Liberian civilians have lost their lives in recent months as a result of the anarchy that has descended upon their country. There is a three-sided civil war there.

In addition, tens of thousands have been displaced and hundreds of thousands have had to flee to neighboring countries. The promises of the Department of Immigration and Naturalization Services to provide safe haven to the 14,000 Liberians stranded in this country have not borne fruit.

As a result, there are now as many INS policy responses to Liberians as there are INS offices.

The promised safe-haven status provided by the July 27 INS policy memo has not been implemented. What is needed now is the force of law to protect these people. They need to be removed from the whim of procedural discretion and administration lethargy. This is a matter of human compassion.

Mr. Speaker and my colleagues, we are not asking that these people be given permanent resident status in this country. We are not asking that they be allowed to live indefinitely in this country. We are simply asking that they be spared detention and deportation until the war in their land subsides. No one knows how long that will be. But the Moakley amendment provides a 3-year grace period in this bill.

I urge that we support the language in the bill, the Moakley amendment in H.R. 4300, and reject the attempts of my distinguished colleague, the gentleman from Florida, to strike that section.

I urge my colleagues to defeat the amendment of the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time, and I would like to take some time to engage the gentleman from Pennsylvania [Mr. GRAY]. I would appreciate it.

I know the gentleman is sincere about that plea. I am as concerned as he is about nationals who are here from Liberia as I am about those from Kuwait, for example. But I am sure the gentleman is aware that there is a procedure in law that some of us helped craft called political asylum, where each case individually has a right to be heard through a very extended process that takes, in many cases, all too long, from my perspective, but years. Everyone who is here can go through that process if they are in fear of being persecuted when they go back or are sent back.

Mr. Chairman, is the gentleman aware of that being in law today, that they have the right to protect themselves and keep from being deported under present law?

Mr. GRAY. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Pennsylvania.

Mr. GRAY. I thank the gentleman for yielding.

Mr. Chairman, asylum is not always fairly administered. There have been numerous examples of how it has been unfairly administered to Salvadorans and others.

Second, not everyone who needs protection meets the strict standard of asylum which is "well-founded fear of persecution."

In the case of Liberians, we are not talking about a well-founded fear of persecution which is the direct text of the law; we are talking about going back to a country where there is a three-sided civil war. People are being butchered.

So therefore the asylum method that the gentleman talks about really does not apply to many of these people. This bill is designed to help those who may qualify for asylum but nonetheless need protection.

Mr. McCOLLUM. Reclaiming my time, I think the gentleman made my point for me. If there is no well-founded fear of persecution, then maybe they ought to go back. If they are having a three-sided civil war over there, there is a well-founded fear of persecution. I do not think our Immigration Service judges are going to let them go back and certainly our courts are not. That is what that whole appellate process is designed for. We had it structured in the old immigration law that has been around here a while, since I have been here.

I would submit that this is the process that we ought to be having work; that the gentleman's concerns are there maybe in some individual cases, but overall, the system works exceedingly well, and we ought to let it work.

Mr. GRAY. I point out to the gentleman that my response was not to make his point but to point out the strict nature of the asylum language. It is often left open to interpretation. It is not administered fairly, particularly in the case of certain groups of immigrants with regard to this country.

I have got to say to the gentleman that as I have looked at the INS policy, we have a twofold policy with regard to defining persecution; one for Europe, one for the Caribbean, and one for the African people.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I rise in opposition to the McCollum amendment. I thank Chairman MOAKLEY for including my bill regarding Lebanese nationals, H.R. 3267. An orderly, systematic procedure for providing temporary protected status for nationals of countries undergoing war, civil war, or other extreme tragedy is needed to replace the current ad hoc haphazard procedure.

The current procedure for extended voluntary departure is so arbitrary and discretionary that aliens are reluctant to come forward. In the case of the Lebanese, this fear is compounded by the fact that Lebanese nationals in many areas of the country are placed into deportation hearings once they apply for extended voluntary departure or deferred departure. These are the same Lebanese nationals whose cases are supposed to be viewed sympathetically by the Immigration and Naturalization Service because of an INS directive last October to that effect. I ask unanimous consent that the telex be entered into the RECORD.

U.S. IMMIGRATION AND NATURALIZATION,
Washington, DC, October 12, 1989.

While there is still no blanket policy to grant deferred departure to nationals of Lebanon in the United States who have overstayed, the civil strife in Lebanon continues. This is to reaffirm that officers should, on a case-by-case basis, view sympathetically requests for deferred departure where such requests are based upon compelling humanitarian need. This is a lesser standard than a fear of persecution based on race, religion, nationality, membership in a social group, or political opinion.

One-third of the population of Lebanon is displaced (one million people) and 15 percent have suffered casualties. The United States Government recently withdrew Embassy personnel from Lebanon, the first time an American presence has been absent since World War II. A travel ban for American passport holders has been in effect for three years. The cease-fire called on September 23, 1989, has already been breached. However, there are some places of relative safety within Lebanon. These circumstances should be kept in mind when assessing individual requests for deferred departure from Lebanese nationals.

GERALD L. COYLE,
Acting Commissioner.

The INS should not be placed into deportation proceedings, if they are supposed to be treated sympathetically. Orders to show cause should not be issued for any Lebanese national. By placing the Lebanese who are trying to obey the law in deportation proceedings, which are terrifying to them, we only cause more immigration lawyers to be hired in this country by frightened people who face a horrible fate if they are forced to return to their home.

Some immigration lawyers have told me that the Extended Voluntary De-

parture Program is administered so badly that their clients have applied for political asylum, because it seemed that it would be easier for them to receive political asylum than to receive extended voluntary departure. These applications for extended voluntary departure then for political asylum only creates more work for the INS.

Immigration attorneys have also told me about people at the INS, ranging from people in docketing to a regional INS Director, who had not heard of the October INS directive to treat Lebanese applications for extended voluntary departure sympathetically and who had no idea which department within the regional INS Office would handle such a request. This problem is not confined to one office. I have heard this complaint from attorneys from many different areas of the country.

As a result immigration lawyers are reluctant to advise Lebanese nationals to apply for extended voluntary departure, because they have no assurance that their clients will be treated sympathetically.

I and 12 other Members of Congress wrote to the President last year asking for a blanket grant of extended voluntary departure for all Lebanese who are currently in the United States for just 1 year. This was within months of the most violent fighting in Lebanon's civil war.

Five months later I received a response from the Justice Department denying that request. The Justice Department said that the Lebanese nationals would not return to Lebanon and that granting the Lebanese Extended Voluntary Departure would set a bad precedent for people from other strife-torn countries.

While some people in the INS have been sympathetic to the plight of the Lebanese and have worked with the Arab-American community, their efforts have been rebuffed by the Justice Department.

Because the Justice Department is opposed to helping these people, the only solution is legislative. The gentleman from Kansas and I offered a very reasonable bill, H.R. 3267, to address these concerns. I am grateful to Chairman MOAKLEY for including Lebanese nationals in his section of the bill.

Under the Moakley section of the bill, people from Lebanon, Kuwait, El Salvador, and Liberia would be allowed to stay in the United States for at least the next 3 years, until it is safe for them to return home.

These people would register with the INS and would be given a work authorization card so that they can support themselves.

They would not be eligible for any Federal benefits, and State and local governments would not be obligated to provide them with benefits. We are offering them a haven. They will not be a burden.

The program would not act as a magnet, because it is designed only for those people who are here now.

Our Nation should act humanely toward those who are stranded at our doorstep. We cannot, in good conscience, send these people home to face their death.

I urge Members to defeat the McCollum amendment.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Chairman, I rise in opposition to this amendment. Mr. Chairman, I commend the gentleman from Massachusetts [Mr. MOAKLEY], for his aggressive pursuit of a better set of rules.

The gentleman from Florida suggests that we have rules to deal with these problems. We do not. We do not have a set of rules to deal with just what the gentleman from Pennsylvania said, not individualized persecution but warfare or famine or some other form of pestilence of violence in the country.

This provision not only specifies four countries to be protected but establishes a standard rule to be applied in future cases in other countries. It is just the kind of legal provision that we need. The gentleman from Massachusetts had been responsible for bringing it to the floor last year, and this House passed it, and the House should stand by its earlier decision and not strike it from the bill.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in strong opposition to the McCollum amendment to H.R. 4300, which would strike temporary protection provisions for nationals of Lebanon, Kuwait, Liberia, and El Salvador from the bill.

People who come to America from these countries are searching for some semblance of security in their lives. Unless one is completely oblivious to world events, it is common knowledge that all four of the nations at issue are experiencing civil strife. The United States has always been a leader in recognizing the rights of victims of inescapable violence, whether they are political prisoners or refugees of war, and we should continue to protect those who have no other choice than to leave their homelands. Who are we to argue that those who are willing to leave their lives behind are not worthy of special proteciton in the U.S. immigration system? It is a major adjustment for most Americans to relocate from one city to another, and it does not make sense to challenge the intentions of innocent victims of war who are merely looking for a safe home.

Mr. Chairman, my grandfathers came here from Lebanon. I cannot envison the impact that the McCollum amendment would have had on my family. People who have grown up with the daily hardships of life in wartorn countries covet the values of American freedom, for they do not know life without sudden losses and suffering. I urge my colleagues to extend our special consideration to these people, defeat the McCollum amendment, and maintain America's foremost position as a refuge for those with nowhere else to turn.

□ 1820

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the patron saint from El Salvador, Liberia, Lebanon, and Kuwait and the chairman of the Committee on Rules.

Mr. MOAKLEY. Mr. Chairman, let me close with an appeal to both the conscience and wisdom of Members on both sides of the aisle.

Today, by retaining my provision, we have an opportunity to uphold our country's commitment to provide safe haven for the innocent victims of war. We also have an opportunity to act upon our deep moral obligation to protect innocent victims.

I think it is particularly appropriate that we take this action in the case of El Salvador. For 10 long years these brave people of El Salvador—men, women, and children—have suffered the agony of the destruction of their homeland, the violation of their human rights, and the arbitrary killing of their love ones.

Mr. Speaker, El Salvador is the size of my State of Massachusetts. Over 70,000 civilians have been killed in the last decade. It is only human that people who live in fear will flee, seeking safety for their children and families. How can we deny their human needs and our moral obligations?

Mr. Chairman, just last week, Salvadoran President Cristiani reiterated his strong support for this measure. He recognizes that the continuing war in his tiny nation has displaced literally hundreds of thousands of his fellow countrymen who now desperately seek temporary protection.

The reality is that these people are here, but without the protection of our laws. It is long past the time when we should acknowledge their presence and have our laws recognize and regulate this reality. Otherwise, we turn our backs on their humanitarian needs and on the importance that our immigration laws control this situation.

In the cases of Kuwait, Lebanon, and Liberia, I have had urgent requests from colleagues to provide similar temporary protection for similar

reasons. I agree that these people—perhaps no more than 15,000 in total—who are now here have an equal claim upon the conscience and good will of the American people. As we seek to restore human decency and peace in the Middle East—as well as in Central America—the last we can do is treat with respect and basic humanity nationals of these countries who now live among us.

The opponents of this measure argue like chicken little, that the sky is falling, and that if we enact this measure America will be overrun by people who somehow pose a threat to our well-being. This is ludicrous and inhumane.

By its specific terms, only people already here today are entitled to temporary protected status. And these are good people, decent people, law-abiding people who are committed to the safety of their families.

By its terms, this measure denies protection to anyone convicted of criminal activity, or who would be inadmissable to the United States under our immigration laws.

By its terms, this measure provides no Federal benefits to those it protects.

By its terms, this measure requires those who are covered to register with the proper authorities.

In addition, this measure establishes a statutory framework for future uses of safe haven protection. It ends the current ad hoc approach to dealing with people in need.

Mr. Chairman, these are good people we seek to protect. Somehow I think we owe it to them.

We also owe it to ourselves to enact this measure.

Mr. Chairman, America is the beacon of freedom and hope for the people of the world because of our values and respect for human life and dignity. This is what makes us great and unique in the community of nations.

We owe it to ourselves to practice what we preach.

We owe it to ourselves to uphold our country's traditions.

We owe it to our posterity to act today in a manner which will make our children proud.

Let it not be said that the America of 1990 does not have the heart and soul to provide this modest temporary protection to refugees from war.

Defeat the motion to strike—and help save some lives.

Mr. BROOKS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I would like to rise in opposition to the McCollum amendment. The provisions of the bill to suspend the detention and deportation of illegal immigrants from El Salvador, Lebanon, Liberia, and Kuwait are very important. This bill creates a systematic approach to providing temporary protected status for certain foreign nationals whose countries are in the midst of a war or natural disaster.

Mr. Chairman, as you know, I cosponsored a similar piece of legislation that would have offered this same type of remedy to the Lebanese immigrants who can not return to their homes because of the civil war raging there. I support extending this same status to these four groups of people from Lebanon, El Salvador, Liberia, and Kuwait. I must therefore oppose this amendment because it would continue a policy that is uncertain and arbitrary. Instead, I support the provisions contained in the bill H.R. 4300, because this arbitrary policy will be replaced with a systematic set of procedures that will end the confusion and uncertainty for everyone.

Mr. BONIOR. Mr. Chairman, few of us could ever imagine the struggles faced daily by the people of Lebanon.

We could never imagine the daily battle for survival waged by people who can no longer afford food, find housing, clothe their children. All this while they pray that their family won't be killed in the war fought around them.

And it's hard to imagine the fear of Lebanese nationals residing in this country living under the threat of deportation back to war, back to that daily battle.

It may be hard for us to imagine unless we've lived it. But today, with this bill we have a chance to help. We have an opportunity to assist people living in Lebanon to escape the war and join their families here.

Many of those who hope to join their families here, must wait up to 15 years from the time they apply. Even those who have had their visas approved have to wait up to 6 years because of the quota limitations.

Mr. Chairman, no family should have to wait that long to be reunited. And in the case of the Lebanese, it's not safe—their lives are endangered.

The bill before us would allow visas for an additional 1,000 Lebanese each year beyond the increased number of visas provided for under the expanded preference system. I would work to eliminate the backlog that is literally endangering the lives of Lebanese applicants for visas.

We also have a chance to eliminate the burden of fear for Lebanese nationals in the country. As a member of the Rules Committee, I am proud to have worked with Chairman MOAKLEY to include in this bill protection for the Lebanese living here temporarily.

Under the Moakley provisions, Lebanese citizens residing in this country would not be sent back to their war torn country. They would be provided extended voluntary department status for 3 more years.

As the fighting escalated in Lebanon last year, I wrote to the administration requesting that they act quickly to protect the lives of the people of Lebanon here in this country. But the administration refused. The legislation before us may be our only chance.

Mr. Chairman, I urge my colleagues to support the Moakley provisions and to vote "no" on the McCollum amendment that would remove the protection provided for the Lebanese under this bill.

The CHAIRMAN. All time for debate on the amendment of the gentleman from Florida [Mr. MCCOLLUM] has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded was ordered.

The vote was taken by electronic device, and there were—ayes 131, noes, 285, not voting 17, as follows:

[Roll No. 402]

AYES—131

Archer	Grandy	Pursell
Armey	Hall (TX)	Regula
Baker	Hammerschmidt	Rhodes
Ballenger	Hancock	Ritter
Barnard	Hastert	Roberts
Bartlett	Herger	Robinson
Barton	Hiler	Rogers
Beilenson	Holloway	Roth
Bereuter	Hopkins	Roukema
Bilirakis	Hutto	Schaefer
Bliley	Inhofe	Schulze
Broomfield	Ireland	Sensenbrenner
Brown (CO)	James	Shaw
Bunning	Johnson (CT)	Shumway
Burton	Johnston	Shuster
Callahan	Kolbe	Skeen
Chandler	Kyl	Slaughter (VA)
Chapman	Lagomarsino	Smith (NE)
Clinger	Laughlin	Smith (TX)
Coble	Lewis (CA)	Smith, Denny (OR)
Coleman (MO)	Lewis (FL)	Smith, Robert (NH)
Combest	Lightfoot	Smith, Robert (OR)
Coughlin	Livingston	Solomon
Courter	Lowery (CA)	Spence
Cox	Lukens, Donald	Stangeland
Craig	Madigan	Stearns
Crane	Marlenee	Stenholm
Dannemeyer	Martin (NY)	Stump
DeLay	McCandless	Sundquist
DeWine	McCollum	Tauke
Dickinson	McCrery	Thomas (CA)
Dornan (CA)	Meyers	Thomas (WY)
Douglas	Michel	Vander Jagt
Dreier	Miller (OH)	Vucanovich
Duncan	Montgomery	Walker
Fawell	Moorhead	Weber
Fields	Myers	Whittaker
Frenzel	Nelson	Wolf
Gallegly	Nielson	Wylie
Gallo	Ortiz	Young (AK)
Gekas	Packard	Young (FL)
Geren	Parker	
Gillmor	Parris	
Gingrich	Paxon	
Goss	Porter	

NOES—285

Ackerman	Browder	Darden
Anderson	Brown (CA)	de la Garza
Andrews	Bruce	DeFazio
Annunzio	Bryant	Dellums
Anthony	Buechner	Derrick
Applegate	Bustamante	Dicks
Atkins	Byron	Dingell
AuCoin	Campbell (CA)	Dixon
Bateman	Campbell (CO)	Donnelly
Bates	Cardin	Dorgan (ND)
Bennett	Carper	Downey
Bentley	Carr	Durbin
Berman	Clarke	Dwyer
Bevill	Clay	Dymally
Bilbray	Clement	Dyson
Boehlert	Coleman (TX)	Early
Bonior	Collins	Eckart
Borski	Condit	Edwards (CA)
Bosco	Conte	Emerson
Boucher	Conyers	English
Boxer	Cooper	Erdreich
Brennan	Costello	Espy
Brooks	Coyne	Evans

Fascell	Lipinski	Rose
Fazio	Lloyd	Rostenkowski
Feighan	Long	Rowland (GA)
Fish	Lowey (NY)	Roybal
Flake	Luken, Thomas	Russo
Flippo	Machtley	Sabo
Foglietta	Manton	Sangmeister
Ford (MI)	Markey	Sarpalius
Ford (TN)	Martinez	Savage
Frank	Matsui	Sawyer
Frost	Mavroules	Saxton
Gaydos	Mazzoli	Scheuer
Gejdenson	McCloskey	Schiff
Gephardt	McCurdy	Schneider
Gibbons	McDade	Schroeder
Gilman	McDermott	Schumer
Glickman	McEwen	Serrano
Gonzalez	McGrath	Sharp
Goodling	McHugh	Shays
Gordon	McMillan (NC)	Sikorski
Gradison	McMillen (MD)	Sisisky
Grant	McNulty	Skaggs
Gray	Mfume	Skelton
Green	Miller (CA)	Slattery
Guarini	Miller (WA)	Slaughter (NY)
Gunderson	Mineta	Smith (FL)
Hall (OH)	Mink	Smith (IA)
Hamilton	Moakley	Smith (NJ)
Harris	Molinari	Smith (VT)
Hatcher	Mollohan	Snowe
Hayes (IL)	Moody	Solarz
Hayes (LA)	Morella	Spratt
Hefley	Morrison (CT)	Staggers
Hefner	Morrison (WA)	Stallings
Henry	Murphy	Stark
Hertel	Murtha	Stokes
Hoagland	Nagle	Studds
Hochbrueckner	Natcher	Swift
Horton	Neal (MA)	Synar
Hoyer	Neal (NC)	Tallon
Hubbard	Nowak	Tanner
Huckaby	Oakar	Tauzin
Hughes	Oberstar	Taylor
Hunter	Obey	Thomas (GA)
Hyde	Olin	Torres
Jacobs	Owens (UT)	Torricelli
Jenkins	Pallone	Towns
Johnson (SD)	Panetta	Traficant
Jones (GA)	Pashayan	Traxler
Jones (NC)	Patterson	Udall
Jontz	Payne (NJ)	Unsoeld
Kanjorski	Payne (VA)	Upton
Kaptur	Pease	Valentine
Kasich	Pelosi	Vento
Kastenmeier	Penny	Visclosky
Kennedy	Perkins	Volkmer
Kennelly	Petri	Walgren
Kildee	Pickett	Walsh
Kleczka	Pickle	Washington
Kolter	Poshard	Watkins
Kostmayer	Price	Waxman
LaFalce	Quillen	Weiss
Lancaster	Rahall	Weldon
Lantos	Rangel	Wheat
Leach (IA)	Ravenel	Whitten
Leath (TX)	Ray	Williams
Lehman (CA)	Richardson	Wilson
Lehman (FL)	Ridge	Wise
Lent	Rinaldo	Wolpe
Levin (MI)	Roe	Wyden
Levine (CA)	Rohrabacher	Yates
Lewis (GA)	Ros-Lehtinen	Yatron

NOT VOTING—17

Alexander	Engel	Owens (NY)
Aspin	Hansen	Oxley
Boggs	Hawkins	Rowland (CT)
Crockett	Houghton	Saiki
Davis	Martin (IL)	Schuette
Edwards (OK)	Mrazek	

□ 1844

Messrs. McCURDY, HOAGLAND, and WILLIAMS changed their vote from "aye" to "no."

Messrs. JOHNSTON of Florida, COLEMAN of Missouri, and DANNEMEYER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. COX. Mr. Chairman, on the McCollum amendment I entered my vote as "aye;" I intended to enter my vote as "no," and time had expired before I could change my vote.

The CHAIRMAN. It is now in order to consider amendment No. 17 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. LIPINSKI

Mr. LIPINSKI. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LIPINSKI: After section 325, add the following new section (and conform the table of contents accordingly):

SEC. 326. OPPORTUNITY FOR ADJUSTMENT OF STATUS BEFORE TERMINATION OF ASYLUM STATUS.

(a) IN GENERAL.—Section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158(b)) is amended by adding at the end the following new sentence: "The Attorney General may not terminate such status on the basis that the alien is no longer a refugee unless the alien has been provided notice of such termination and the right to apply for adjustment of status under section 209(b) and an opportunity (of not less than 90 days beginning one-year after the date the alien is granted asylum) to file an application for adjustment of status under such section to that of an alien lawfully admitted for permanent residence.".

(b) CONFORMING AMENDMENT.—Section 209(b) of such Act (8 U.S.C. 1159(b)) is amended by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to termination of asylum status occurring before, on, or after the date of the enactment of this Act. The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. LIPINSKI] will be recognized for 5 minutes, and a Member opposed to the amendment will be recognized for 5 minutes.

The Chair recognizes the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I offer this amendment on behalf of the gentleman from Illinois [Mr. ROSTENKOWSKI] and myself.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I am pleased to rise in strong support of the amendment offered by Mr. LIPINSKI. This amendment addresses the problem created by the current requirement that an asylee must prove that he or she still meets the definition of refugee in order to adjust his or her status to that of permanent resident.

As Members know, the cornerstone of the definition of refugee is that the person possesses a well-founded fear of persecution should he or she return to the homeland. The dramatic worldwide democratic movement of the past year has made the reproving of that hard-won finding an unfair burden.

It is incongruous that the otherwise welcome demise of a repressive regime in an asylee's home country should make it virtually impossible for the asylee to remain in the United States for failure to prove a continuing well-founded fear of persecution. Yet, under current law, this change in circumstances in the homeland permits the INS to deny adjustment to permanent resident status, to terminate asylee status, and to initiate deportation proceedings.

To make this general situation worse, the INS identified four specific emerging democracies this past July—Poland, Hungary, Panama, and Nicaragua—and strongly suggested that District Directors should henceforth deny adjustment to asyles from those countries. As a direct result, mass denials of status adjustment have begun. Under the INS guidance, termination of asylum status will inevitably follow.

The purpose of the Lipinski amendment is to bring this untoward treatment of Poles, Hungarians, Panamanians, and Nicaraguans to an end in the short run, and to approach the issue more reasonably in the long run. It does this by retaining all current requirements for adjustment to permanent resident status except the requirement that the asylee continue to satisfy the definition of refugee.

The Lipinski amendment also would install new procedural safeguards against summary termination of asylee status. Otherwise, summary termination would be available to the immigration authorities as a mechanism to short-circuit an asylee's attempt to adjust to permanent resident status under the new rules.

In offering this amendment, Mr. LIPINSKI asks us to recognize and acknowledge the very difficult position in which asylees from emerging democracies find themselves. When they left their homelands, they uprooted their lives, abandoned their means of earning a living, gave up their apartments or homes, and left family and personal property behind.

Now, in many cases, there is nothing to which to return. It is true that, in a vast majority of the cases, the fear of persecution has subsided or even disappeared, but the effect of the persecution lives on. The houses and apartments of the asylees have been confiscated, destroyed, or simply snapped up by others desperate for shelter and privacy. Their jobs have been eliminated or given away, while unemployment grows. The economies of these homelands are in shambles and are not likely to improve in the near term.

In the meanwhile, the asylees have begun to set down roots here in the United States. They have homes, and jobs. Their children are in our schools. They have joined American organizations, learned our language, and even taken an intense interest in our domestic and international affairs. Notably, they have also given us the benefit of their energy and their fresh outlook on our own dedication to democracy and freedom.

In short, they have proven themselves to be good, productive members of our society, reminding us of previous generations which have contributed so much to the growth of America.

I ask my colleagues to remember that these are the very people who did what we wanted them to do in their homelands under repressive regimes. They accosted tyranny, they fomented dissension, they worked in the underground, and they marched in the streets. For this they were persecuted or threatened with persecution. They came to fear for their safety, their lives, and their ability to support their families. So they came to America.

The safe haven we provided to them in their hour of fear and need should not now be taken away solely because their labors in the vineyard of freedom bore fruit.

Mr. Chairman, I thank Mr. LIPINSKI for his leadership in this important issue and I urge my colleagues to support the Lipinski amendment. It will give asylees from emerging democracies and elsewhere the protection they need and deserve.

Mr. LIPINSKI. Mr. Chairman, I yield myself such time as I may consume and I thank the gentleman from Illinois [Mr. ROSTENKOWSKI] for his statement. I would also like to thank his staff who worked very diligently and very long on this particular amendment.

Mr. Chairman, this amendment will permit those who were granted political asylum from Poland, Nicaragua, Hungary, and Panama to apply for permanent residency status without having to prove once again that they still meet the definition of refugees under United States immigration law.

□ 1850

These people would be permitted 15 months to apply for permanent residency status from the date on which they were originally granted asylum in the United States. We are talking here about 9,000 Nicaraguans, 1,000 Poles, 450 Hungarians, and approximately 350 Panamanians.

I ask the committee to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is well intended, but it would prohibit the Attorney General from exercising certain rights that he now has under the Immigration and Naturalization Act regarding persons who receive political asylum, but whose home countries are now safe enough for those persons to return.

Section 208(b) of the INA states:

Asylum grants may be terminated if the Attorney General determines that the alien is no longer a refugee owing to a change in circumstances in the alien's country of nationality.

The amendment offered by the gentleman from Illinois would not let the Attorney General terminate an alien's asylum grant despite a favorable change in that alien's home country until the alien has an opportunity to adjust to permanent residence.

I am very concerned about the policy behind this amendment. In effect, this amendment states that even though it is safe for an alien to return home now, we are not going to let the Attorney General return that alien.

Let me ask my colleague, the gentleman from Illinois, the following question: If these amendment inspired by the recent changes toward democracy in Eastern Europe whereby many Eastern Europeans in the United States could now safely return home? Would we not think that it would be a good idea for Eastern Europe's best and brightest to return home to help their countries make a smooth and position toward democracy?

If refugee visas were infinite in supply, I would not oppose this amendment. However, there are 15 million refugees worldwide today. The United States accepts 130,000 of them for resettlement each year. Our priorities should be those refugees who truly face persecution, not those who no longer do.

This amendment helps the latter group and unwittingly endangers our ability to help those who truly need refugee status.

Mr. Chairman, this amendment sets a dangerous precedent in refugee law. It removes important authority that the Attorney General now has to rescind refugee status grants when the threat of persecution no longer exists, and I oppose it.

Mr. Chairman, I yield back the balance of my time.

Mr. LIPINSKI. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BROOKS], the chairman of the full committee.

Mr. BROOKS. Mr. Chairman, we support the amendment and hope we can pass it now.

Mr. LIPINSKI. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. LIPINSKI].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 18 printed in part 2 of House Report 101-786.

AMENDMENTS EN BLOC OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc are as follows:

Amendments en bloc offered by Mr. RICHARDSON: Page 114, after line 15, insert the following new section (and conform the table of contents accordingly):

SEC. 327. TIMING OF PAYMENT OF FEE FOR APPLICATIONS TO FILE PETITIONS FOR NATURALIZATION.

Any fee charged by the Immigration and Naturalization Service for the filing of an application to file a petition for naturalization shall be paid by the applicant at the time of the filing of the petition for naturalization and, if no such petition for naturalization is filed, no fee shall be charged for the filing of such application.

Page 114, after line 15, insert the following new section (and conform the table of contents accordingly):

SEC. 327. USE OF IMMIGRANT EXAMINATIONS FEE ACCOUNT FOR PROMOTION OF CITIZENSHIP.

(a) IN GENERAL.—Section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)) is amended by adding at the end the following: "Not less than one percent of the funds deposited in the Account shall be expended by the Service to promote the opportunities and responsibilities of United States citizenship. The Attorney General shall submit to Congress annually a report on the promotional activities conducted by the Service under the preceding sentence.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to funds deposited in the Immigration Examinations Fee Account for fiscal years beginning with fiscal year 1991.

Page 114, after line 15, insert the following new section (and conform the table of contents accordingly):

SEC. 327. REPORT CONCERNING ADMINISTRATIVE DENIALS OF APPLICATIONS FOR NATURALIZATION.

The Commissioner of the Immigration and Naturalization Service shall submit to Congress annually a report on the number, and rate of denial administratively, of applications for naturalization. Each such report shall specify, for each district office of the Service and by national origin group—

(1) the number of applications classified as "returns" and the number classified as "non-files", and

(2) the number of applicants who reapply after an application for naturalization has been denied.

The CHAIRMAN. Under the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, increased naturalization benefits our Nation. Legal immigrants who naturalize demonstrate their commitment to this country, and when they partici-

pate in our civic life, our democracy is strengthened.

The legal resident community now stands at approximately 9 million individuals and growing. Congress and the INS should work to fully incorporate these individuals into citizenship, with all its rights and responsibilities.

My en bloc amendments aim to reduce barriers to naturalization and promote citizenship in the legal resident community.

AMENDMENT NO. 1

Since December 1989, applicants for U.S. citizenship pay $60 merely to initiate the naturalization process. This gateway fee, imposed by the INS bureaucracy, is the first such charge in the history of U.S. naturalization.

The new fee is charged whether or not the applicant completes the citizenship process and is in addition to an existing $50 fee for filing of a naturalization court petition.

In addition to these new filing fees, applicants frequently, incur substantial costs in obtaining photographs, fingerprints, and legal assistance. These costs are often prohibitive. Hispanic immigrants, for example, have a median annual household income of only $18,000.

My first amendment would ease the hardship resulting from the new fee by shifting its payment back to the moment applicants file the court petition—a time when they have satisfied the application review, and English and civics examinations—when they are on the verge of citizenship.

AMENDMENT NO. 2

The INS is authorized to promote U.S. citizenship in the legal resident community, but has limited its citizenship promotion activities to pamphlets. The legal resident population has been steadily growing over the past 10 years, signaling the need for more aggressive citizenship and naturalization promotion.

There are more than 9 million legal residents in the United States. The majority of them are eligible for naturalization, but delay their application because of lack of information and confusion regarding the application process.

This amendment would require the INS to expend no less than 1 percent of funds deposited into the immigration examinations fee account on promotion of responsibilities and opportunities for United States citizenship. This will result in more active INS efforts to promote citizenship.

Every year thousands of immigrants are denied naturalization administratively by the INS without benefit of judicial review. In 1988, for example, 24 percent of all applications processed by INS resulted in administrative denials.

A 1988 Senate report showed that administrative denial rates appear to be higher among immigrants from certain ethnic and racial backgrounds. These denial rates also vary dramatically between INS district offices. This raises serious questions as to the fairness of naturalization process.

This amendment requires the Commissioner of the INS to report annually to Congress on the numbers of applicants who are denied naturalization administratively. The report would specify rates of denial, return, nonfile, and reapplication for each district office and for each national origin group.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member in the Chamber in opposition to the amendments en bloc?

Mr. SMITH of Texas. Mr. Chairman, I rise not in opposition but in support of the amendments.

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. SMITH of Texas. Mr. Chairman, this amendment would spend money to encourage citizenship, and that is a good thing, but it is too bad we need to spend money to encourage naturalization, when there are so many provisions in H.R. 4300 that reduce incentives to become citizens by eliminating differences between citizens and permanent residents.

Mr. Chairman, I will not oppose this amendment. I only wish its provision on naturalization were unnecessary.

Mr. Chairman, one final note, to my knowledge, this is the last amendment that I will be speaking on tonight, and I just wanted to express my personal appreciation to you for the fair way in which you presided today.

The CHAIRMAN. The Chair thanks the gentleman very much.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from New Mexico [Mr. RICHARDSON].

The amendments en bloc were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 19 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. MOORHEAD

Mr. MOORHEAD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MOORHEAD: Page 114, after line 15, insert the following new section (and conform the table of contents accordingly):

SEC. 327. INCREASE BY 1,000 IN BORDER PATROL PERSONNEL.

There are authorized to be appropriated for fiscal year 1991 such additional sums as may be necessary to provide for an increase of 1,000 in the authorized personnel level of the border patrol of the Immigration and Naturalization Service, above the authorized level of the patrol as of September 30, 1990.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. MOORHEAD] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I yield myself 1¾ minutes.

Mr. Chairman, Mr. LOWERY, Mr. PACKARD, and I wish to offer an amendment to increase border patrol personnel by 1,000 in fiscal year 1991. As you know, the U.S. Border Patrol performs a nearly impossible task in policing our land borders with a relatively small group of dedicated personnel. Over the past several years, this task has grown even more difficult. Since mid-1989, there has been a dramatic increase in the number of illegal aliens crossing the U.S. border at vulnerable points in California and Texas. This has caused a disturbing outbreak of violent crime along the southwest border as drug smugglers and armed robbers take advantage of the large groups of aliens attempting to gain entry into the United States. In addition to their primary mission of stopping illegal crossings, the Border Patrol was involved in close to 5,000 narcotics seizures valued at over $1 billion in only the first 6 months of fiscal year 1989. This is greater than the amount seized in all of fiscal year 1988.

This amendment will bring the total border patrol force more in line with my original amendment to IRCA [Immigration Reform and Control Act] authorizing a 50-percent increase for the Border Patrol in fiscal years 1987 and 1988 above the fiscal year 1986 level. When IRCA went into effect, the Border Patrol consisted of approximately 3,600 agents, including support personnel—technicians, supervisors, and so forth. The authorized 50 percent increase should have brought the force up to 5,500 by the end of fiscal year 1988. Unfortunately, this did not happen.

Our Border Patrol force today stands at approximately 4,400 agents including support personnel and has actually decreased in size since December 1988. The lack of appropriations, a budget freeze, reprogramming, inflation and other uncontrollable factors have all been roadblocks to achieving the intended increase authorized by IRCA.

Earlier this year, the House Judiciary Committee approved unanimously by voice vote an amendment I offered to the DOJ authorization bill providing for $55 million in fiscal year 1991 to increase Border Patrol strength by

1,000. Both chairman BROOKS and Mr. MORRISON, the Immigration Subcommittee chairman, supported this amendment. Unfortunately, a DOJ authorization bill has not been brought to the House floor for a vote in the past decade, and it is not likely that we will have the opportunity to vote on it this year.

In a recent study, the center for immigration studies concluded that in spite of the 1986 Immigration and Control Act, illegal migration is rising because of three factors: First, rapid growth in the working age populations in Mexico, Central America and the Caribbean; second weakening of the 1986 law through use of false documents and other forms of subterfuge; and third, shrinking INS resources including fewer Border Patrol agents.

It is estimated that it will take two to three times the number of agents currently on board to become an effective deterrent to our illegal immigration problem. Illegal immigration along the southwest border has surged in recent months, reversing a 3-year downward trend that started after the enactment of IRCA. In today's climate, where the volume of drugs coming across the United States-Mexican border has exploded and the flood of illegal immigrants seems endless, it is eminently sensible that we increase the strength of our border patrol.

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment and take the opposition's time.

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

There was no objection.

Mr. BROOKS. Mr. Chairman, I rise in support of this amendment. It would provide for 1,000 additional Border Patrol personnel. The Border Patrol performs a vital mission in controlling the flow of illegal immigration across our borders and the need for additional personnel is clear. The amendment of the gentleman from California. [Mr. MOORHEAD], is consistent with a provision which was adopted by the Judiciary Committee when it acted on the Department of Justice Authorization Act for fiscal year 1991. I would urge its adoption.

Mr. Chairman, I yield back the balance of my time.

Mr. MOORHEAD. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. LOWERY].

Mr. LOWERY of California. Mr. Chairman, I want to express my strong support for this amendment which would authorize 1,000 new Border Patrol agents for fiscal year 1991.

Mr. MOORHEAD, Mr. PACKARD, and I have offered this amendment to address the long acknowledged need for more Border Patrol agents. The amendment is based on H.R. 4499, which Mr. MOORHEAD and I introduced earlier this year. It is noncontroversial and was accepted by the Judiciary Committee as an amendment to the fiscal year 1991 Justice Department authorization bill which will probably not be considered by the House. It should be added to this legislation.

The purpose of H.R. 4300 is to improve and expand our current system of legal immigration. Its intent is to give more opportunities for individuals to legally enter the United States. Unfortunately, the present state of security on our southern border is so weak that individuals do not have to wait to enter the country legally because they can enter illegally.

Despite the enactment of the 1986 Immigration Act, it is still far too easy to enter the United States illegally. From October 1989 on July 31, 1990, the Border Patrol apprehended 846,000 undocumented aliens along our southern border—a 25-percent increase over the previous year. In addition, for every alien apprehended, three enter the United States illegally. And this is a conservative estimate. The Border Patrol cannot begin to address this influx with their existing resources.

Mr. Chairman, Congress has not provided the Border Patrol personnel we promised in the 1986 act. The San Diego sector, which witnessed roughly 50 percent of all illegal entries, currently has 785 agents on board, compared to 850 agents prior to 1986.

The 1,000 agents authorized by this amendment will not end illegal immigration, but they will help secure the border and that is a vital step toward insuring the credibility of our system of immigration. The changes and reforms contained in H.R. 4300 cannot succeed without an effective deterrent to illegal immigration. I urge my colleagues to approve the Moorhead-Lowery-Packard amendment.

□ 1900

Mr. MOORHEAD. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, I rise in support of the Moorhead-Packard-Lowery border guard amendment to H.R. 4300. My district suffers as much from immigration as any other district in the country.

The Border Patrol catches almost 500,000 illegal aliens a year in the 12-mile San Diego border sector.

INS estimates for every one they catch, at least three get away.

These illegal aliens travel through my district to Los Angeles and the rest of the country.

Apprehensions of illegal aliens have increased 25 percent in the last year, and illegal immigration shows no signs of abating.

Mr. Chairman, the city officials and residents of the cities in my district have no answers to the social problems associated with illegal immigration. Local schools and hospitals, county health, housing, local police and law enforcement are overburdened.

One city, Encinitas, threw up its hands in frustration and declared a state of emergency. I don't know what this declaration means, but it indicates how desperate the officials in my district are for solutions.

Mr. Chairman, H.R. 4300 does not address the problem of illegal immigration. It is estimated that 200,000 illegal aliens permanently settle in the United States each year. This fact diminishes respect for immigration laws and inflames the residents of border States.

The Moorhead-Packard-Lowery border guard amendment will augment the Border Patrol by 1,000 agents. We feel this is a small first step toward controlling our borders. I can assure the House that these agents are sorely needed in California. This amendment would send a message in H.R. 4300 that illegal immigration must be controlled.

Mr. DREIER of California. Mr. Chairman, I rise today to cosponsor the MOORHEAD amendment which would assist the Border Patrol in containing the roughly 200,000 people who stream across our southern borders illegally. An amendment which I coauthored with Mr. Moorhead in 1986 expanded the border patrol funding by 50 percent. This amendment will further that effort.

Presently, our ability to protect our borders is ineffective. Four million illegal immigrants will arrive in the United States this year. At any one time, only 800 patrolmen stand duty along the 1,933-mile United States/Mexican border. Clearly, something has to be done in order to help these overextended officers enforce the law.

Mr. Chairman, we cannot underestimate the effects of illegal immigration on our country. Unfortunately, there is an undeniable connection between illegal immigrants and the war we are currently fighting against drug imports and drug-related crimes. As much as 50 percent of the cocaine entering the United States comes through Mexico. Last year, the Border Patrol confiscated cocaine and heroin valued at $1.2 billion. This year approximately 72,000 illegal aliens will be arrested for drug dealing. Los Angeles County reports that approximately 33 percent of the major crimes are committed by illegal immigrants. Nearly 20 percent of the inmates in Federal prisons are illegal aliens.

The Immigration Reform and Control Act of 1986 granted amnesty to 3.1 million illegal aliens across the country, an estimated 25 percent of these people were in the Los Angeles area. Between 1983 and 1989, Los Angeles spent $768.8 million in unreimbursed health care for illegal aliens alone. Together, with higher expenditures for education, housing, and other social services, Los Angeles can no longer bear the burden of illegal immigration alone.

Proponents of this immigration package feel that offering increased preferences for immediate family members will stem the tide of illegal immigrants. I hope that they are right, but I urge those same people to look at the effect of illegal immigration on the Southwestern States and vote for amendments, such as the Moorhead/Dreier amendment, to ensure that the brunt of reforms will not be isolated to a few areas of the country.

Though reform in legal immigration policies are needed, we also have a constitutional responsibility to defend our borders. The protection of the sovereignty of the United States by our Border Patrol sends a clear message to those who seek citizenship that they must obey our legal procedures.

Mr. SCHEUER. Mr. Chairman, I rise in support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990.

Only 2 weeks ago we celebrated the opening of a museum at Ellis Island, the gateway to America for thousands of immigrants over the past century. Immigrants who came to America with dreams in their eyes and heats, immigrants who came to this country with a vision of a better life, immigrants who lived those dreams and built those visions—who helped drive the economic machinery that made this Nation a thriving, productive, economic giant.

Today Ellis Island is an immigration museum. Notwithstanding, immigration has not been relegated to the history books, rather immigration is an ongoing process, an integral part of our heritage.

Yet this Nation's immigration policy, which since 1965 has been based on family reunification, has inadvertently resulted in a narrowly focused influx of immigrants into the United States.

Over the past quarter century, the vast majority of immigrants have hailed from Latin America or from Asia. Immigration from Europe, Africa, and other regions of the world has been virtually shut ott, dwindling to a mere trickle under current immigration policy.

H.R. 4300 sets aside visas for countries like Ireland, Italy, and Poland which are designated as under-represented. The bill seeks to preserve the diversity of the American society that we have come to view as our most valuable asset. It seeks to preserve the United States as the marketplace of ideas.

Mr. Chairman, H.R. 4300 is a well crafted bill that is good for this country.

Mr. MANTON. Mr. Chairman, I rise in strong support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act. I wish to offer my most sincere appreciation to the gentleman from Connecticut [Mr. MORRISON], the chairman of the Immigration Subcommittee, and the gentleman from Texas [Mr. BROOKS], the chairman of the full Judiciary Committee, for their tireless efforts in crafting this legislation and bringing it to the floor for consideration. They are to be commended for their fine work and dedication.

Mr. Chairman, H.R. 4300 represents a major reform of our Nation's antiquated and inadequate immigration policies. This much-needed and long-overdue piece revision of our Nation's immigration policies will ensure a more equitable legal immigration system, which will provide for family unification and greater diversity in immigration. The measure will also be helpful in facilitating greater immigration from historic sources, such as Ireland, the homeland of my parents.

Mr. Chairman, as so clearly stated by the Wall Street Journal in a recent editorial:

[t]he case of greater immigration is overwhelming on both economic and spiritual grounds. As a matter of spirit, immigrants—usually the best and most ambitious from other lands—enliven our society. We need more immigrants because we want to live in a dynamic, creative society * * * As for material benefits, no other issue unites economists from across the political spectrum. Eighty percent said immigrants have had a "very favorable impact" on U.S. economic growth in the 20th century. No one judged any negative effect.

Mr. Chairman, I urge my colleagues to support H.R. 4300. We must set aside unsubstantiated fears about immigration, and we must accept this very well thought out and urgently needed revision of our Nation's immigration polices.

Mr. DONNELLY. Mr. Chairman, I intend to vote in favor of H.R. 4300, but I do so with reservations. I want to take this opportunity to explain my reluctant support for this bill.

Mr. Chairman, much has been said about H.R. 4300, and its benefits for the Irish. The legislation has been embraced by Irish-American groups. The way I see it, there are really three provisions in this bill which will provide some benefit to the Irish: the Diversity Visa Program, the Transitional Visa Program authorized under section 201 of the legislation, and the employment-based visas of the bill. While all provisions have some merit, I am concerned that none go nearly far enough.

Let me address these provisions. The Diversity Visa Program establishes a complicated formula, dividing the world into low admission and high admission regions. Qualified imigrants can apply for a diversity visa on a lottery basis—one application per immigrant.

While I appreciate the underlying premise of the Diversity Visa Program, there are problems with it. First, the program does not begin until 1994—and the only existing immigration program remotely similar to the Diversity Visa Program in H.R. 4300 expires next year. Second, and more importantly, the fact that qualified immmigrants can apply for diversity visas only once blatantly discriminates against countries with low population.

For example, under the bill, Europe is a low admission region. By virtue of sheer numbers, Ireland will be disadvantaged. Ireland has a population of 3 million; Europe has a population of 500 million. Ireland is less than 1 percent of the total. It is not difficult to imagine that Ireland will qualify for very few of the 55,000 diversity visas made available under H.R. 4300.

The transition visas made available under the bill are only available for 3 years, and are targeted to adversely affected countries. This will provide some help to the Irish—but again, in competition with several other countries of the world. Moreover, this provision of the bill has provoked a threatened Presidential veto of H.R. 4300. If the bill is vetoed, Ireland will get nothing.

Finally, the employment-based visa provision of the bill contains some targeted visas to adversely affected countries, but really applies worldwide. there is no guarantee—none—that Ireland will get one of these visas. Again, I agree with the premise, but question the potential outcome.

Mr. Chairman, I am concerned about this bill because it has taken a quarter of a century for Congress to systemically reform America's immigration laws. Ireland was disadvantaged by the 1965 Immigration Act—badly disadvantaged. I do not want to be in a position in a few years of realizing that we did not do enough to address the systemic, long-term problems of America's current immigration structure. H.R. 4300 seems to represent a bottom-line approach to the many problems in our immigration laws—not an ambitious, farsighted approach that I think is badly needed.

That being the case, I do not want to see a compromise in conference which undercuts the already weak provisions of H.R. 4300. If either the diversity, transition, or employment-based visa provisions are weakened in conference—and let me stress, they should be strengthened, not weakened—I will not be able to support the conference agreement.

I urge all interested parties to carefully consider their support for H.R. 4300. Consider the decades it has taken for Congress to pass legal immigration reform. Consider the limited benefits which H.R. 4300 provides for the Irish. I will support this bill, but with great reluctance.

Mr. Chairman, let us make sure that members of Irish ancestry don't make the same mistake in 1990 that was made in 1965. Then, members were assured that the law would not penalize Ireland—but it did for 25 years. We can't afford to make that mistake again.

Mr. MCMILLEN of Maryland. Mr. Chairman, we have before us an immigration reform bill which embodies two ideas of central concern for all Americans: the reinvigoration of our economy and the strengthening of the family unit. My brief remarks today address the issue of the U.S. economy.

Creative spirit and entrepreneurialism, essential ingredients for growth and prosperity, form the backbone of Representative MORRISON's bill, H.R. 4300.

American business needs to propel itself and this country into the 21st century. Demographic indicators clearly show that our present population will not be able to fill future labor needs. And, indeed, it cannot do so based on skills now. The provisions in H.R. 4300 which specify the amounts and types of individuals to be granted permanent and temporary nonimmigrant employment-based visas are exemplary. Not only will these provisions enable businesses to fill their labor needs, they will translate into higher productivity and economic growth.

While giving to business the human capital it requires to expand, H.R. 4300 also establishes a system which will prevent the hiring of foreign workers for jobs that can be filled by workers that are U.S. citizens.

It is rare when a bill directly affecting our economic needs, supported by everyone from John Kenneth Galbraith to Milton Friedman, comes before the committee of the House. Today we have such an occurrence. This unprecedented unity on the benefits of in-

creased immigration compels us to support the rationality of codifying the employment-related aspects of this bill. Without these measures, we will be inadvertently facilitating the stagnation of the American economy and egregiously renouncing our claim to be the "land of opportunity."

Mr. MOORHEAD. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MOORHEAD].

The amend was agreed to.

Mr. BROOKS. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HOAGLAND) having assumed the chair, Mr. DARDEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4300) to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. McNULTY. Mr. Speaker, I was unavoidably detained earlier today and missed rollcall vote 398, the rule for consideration of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act.

Had I been present, I would have voted in the affirmative.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HOAGLAND). The Chair desires to make an announcement. The vote that was postponed earlier today on S. 1511 will be taken tomorrow.

INTRODUCTION OF A NEW CONTINUATING RESOLUTION TO COMPLETE APPROPRIATIONS ACTION

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

Yesterday, Mr. Speaker, I introduced House Joint Resolution 660, a new continuing resolution restoring to the Committee on Appropriations 15 days of the 20 days provided in House Joint Resolution 655, the resolution adopted by our committee on September 25, to complete action on the appropriations for fiscal year 1991. Sunday, September 30, during consideration of House Joint Resolution 655, on request of the leadership, that was reduced to 5 days and House Joint Resolution 655 expires this Friday.

Our committee, on request, has delayed completing its necessary action and now we find ourselves in a real jam. We have completed action on 12 bills and have another coming before the committee next week.

The House has passed 10 bills and the Senate has passed only 6 bills. This means we must complete action on 3 bills in the House, have conference, and complete conference action on all 13 and have all bills signed by October 20.

I point out again, appropriations bills are not what caused the problem. Since 1945, the total of appropriations bills has been $173 billion below budget requests. Just since 1974, entitlements and binding contracts, which were to have been controlled, have increased five times.

Mr. Speaker, for the record, here is a copy of my letter to the Rules Committee asking for a rule permitting consideration of House Joint Resolution 660 on Thursday, October 4, which shows the serious situation the Nation faces.

House Joint Resolution 660 is a clean bill. For the orderly continuation of the Government, it is what passed the House by a 382 to 41 vote on Sunday, September 30, and merely extends the date to October 20.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, October 2, 1990.

Hon. JOHN JOSEPH MOAKLEY,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you know, Mr. Chairman, the first continuing resolution expires on October 5. This extension is essential in order to provide time for the Committee and the Congress to complete action on the thirteen appropriations bills. We must pass 3 more bills through the House, go to conference on all thirteen, and secure approval of thirteen conference agreements. We cannot do this if we are forced to spend time every few days extending the expiration date of the existing continuing resolution.

Yesteday, I introduced House Joint Resolution 660, making further continuing appropriations for fiscal year 1991 through October 20, 1990 and suspending sequestration for this period. This will continue the orderly operation of the Government until October 20.

House Joint Resolution 660 does what House Joint Resolution 655, the first continuing resolution, did, except that the expiration date is changed from October 5, 1990, to October 20, 1990. Sections 114, 115, and Titles II and III have been deleted. These provisions related to fiscal year 1990 supplemental funding or to other matters which do not expire on October 5, 1990. What is retained is a clean continuing resolution making restrictive funding available through October 20, 1990, and a suspension of sequestration through that date.

Sequestration must be suspended because it would reduce current operations, programs, and projects by an estimated 30 percent, and would be disastrous not only to the Nation's economy, but it would cause a breakdown of government—air safety meat inspection, law enforcement, war on drugs, education, health, housing, veterans, research, and revenue collection. It would have a dangerous impact on a weak economy. Its effect on the Department of Defense during Operation Desert Shield could not be tolerated.

Appropriations bills are not what cause the problem. Since 1945, the total of appropriations bills has been below budget requests by $173 billion. During that same period, entitlements and binding contracts, which are not discretionary, have increased by five times.

It is evident that there is no possible way to complete our regular bills and have them signed into law by October 5th. Thus, it becomes necessary that this resolution, including the suspension of sequestration, be considered before the first continuing resolution expires.

I ask for the cooperation of the Rules Committee to act to continue the orderly operation of the Government by reporting a rule enabling consideration of House Joint Resolution 660 on October 4, 1990, in the House.

Sincerely,

JAMIE WHITTEN,
Chairman.

I call attention again to the committee report to House Joint Resolution 655 in which we show that unless we suspend sequestration we will have the approximately 32-percent reduction in vital operations of the Government, and it would mean that the whole Government would come to a standstill.

WARNING TO POLITICAL ACTIVITIES

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, this past weekend while I was in Yugoslavia representing the State of Maryland, I was asked by the State Department to aid them in effecting the release from prison of a 19-year-old young man from Illinois who had been arrested in a political demonstration on August 29.

Shaban Kastrati was charged with throwing rocks at the police and treated by the Government as a Yugoslav national. Although his father is Albanian and his mother Croatian, young Shaban was born in Illinois, and should have been recognized as an American.

Since I was in Belgrade, Ambassador Warren Zimmerman requested that I help—if possible—to free him. In a lengthy meeting with Sloboden Milosovic, the President of Yugoslavia Friday evening, I was able to have Shaban released. President Milosovic was most cooperative. Shaban's mother was in Yugoslavia at the time appealing his arrest and we were able to get them together on Sunday. Shaban rejected the offer made by the U.S. Embassy to return to America with me.

This incident should serve as a warning to any young American political activist. Demonstrations in foreign countries are not like demonstrations in the United States. The situation is so critical in Yugoslavia with fighting among the various ethnic minorities, that violent demonstrations could fuel a civil war.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 647, DISAPPROVING MOST-FAVORED-NATION TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-791) on the resolution (H. Res. 485) providing for the consideration of the joint resolution (H.J. Res. 647) disapproving the recommendation of the President to extend nondiscriminatory treatment—most-favored-nation treatment—to the products of the People's Republic of China, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 649, APPROVING EXTENSION OF MOST-FAVORED-NATION TREATMENT TO CZECHOSLOVAKIA

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-792) on the resolution (H. Res. 486) providing for the consideration of the joint resolution (H.J. Res. 649) approving the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of Czechoslovakia, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5422, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-793) on the resolution (H. Res. 487) providing for the consideration of the bill (H.R. 5422) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 310, BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1991, 1992, 1993, 1994, AND 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-794) on the resolution (H. Res. 488) providing for the consideration of the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN REQUIREMENTS FOR THE CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM THE COMMITTEE ON RULES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-795) on the resolution (H. Res. 489) waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF THE H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-796) on the resolution (H. Res. 490) providing for the consideration of the bill (H.R. 5269) to control crime, which was referred to the House Calendar and ordered to be printed.

DON'T VETO THE TEXTILE BILL, MR. PRESIDENT

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. RAY. Mr. Speaker, last Thursday the Hanes Hosiery Co. announced it was closing a plant in LaGrange, GA, in my district.

This action will put over 400 people out of work. This plant as recently as 2 years ago employed over 1,000 people. This plant closing will have a major impact on the local economy and certainly will cause a great deal of pain and uncertainty for the employees who will be forced to look for new jobs.

Unfortunately, Mr. Speaker, this is not an isolated case but is happening in cities around the Nation who are being unfairly impacted by foreign textile imports. However, at this very moment the President is poised with his pen ready to veto the textile bill which the House overwhelmingly passed just 2 weeks ago.

Mr. Speaker, this House should override this veto and protect American workers—not foreign workers.

[From the LaGrange (GA) Daily News, Sept. 27, 1990]

LOCAL HANES PLANT TO CLOSE: 425 WORKERS TO LOSE JOBS

The Hanes Hosiery plant in LaGrange will close on Nov. 30, leaving 425 people without jobs, according to Plant Manager Gene Williams.

The LaGrange plant, which had employed 1,050 people less than two years ago, is among 10 Hanes and L'eggs plants in the Sara Lee Hosiery Division.

"We told our employees this morning" about the closing, Williams said. "Quite a few cried. But there have been a lot of rumors and they're glad to know what the situation is. Now they know a date, so they can make better plans."

Because the LaGrange plant does not have knitting capabilities and is 400 miles from material sources, Sara Lee Hosiery began moving production to other facilities last May to become more efficient, company officials said.

"After further evaluation, the decision was made to phase out the LaGrange plant," according to a prepared statement today by Sara Lee Hoisery, headquartered in Winston-Salem, N.C.

"This decision was a difficult one for us to make because of the impact it will have on our employees and on the community," said Drew Mayse, vice president of operations for Hanes Hosiery." . . . Yet we are in an extremely competitive market and have to take the actions necessary to keep our operations efficient and costeffective. These steps are necessary for the long-term future of Sara Lee Hosiery and of our employees."

Employees will be offered help in finding jobs and receive severance pay of one week's salary for each year of service, according to a source.

Williams said Personnel Manager Roger Orange will assume the same duties at the company's Weeks plant in Winston-Salem. Wiliams, who has 25 years' service, said he expects the company to offer jobs to himself and the four department heads.

Last March, the LaGrange plant announced it was terminating 380 employees because of over-optimistic sales projections, cutting in half its production of 960,000 pair of pantyhose per week. The company had anticipated a growth of 20 percent or more and "it didn't happen," William said at the time.

The LaGrange plant receives pantyhose that has been knitted at other plants. The garment is sewed and dyed, heat set inspected and packaged.

Hanes began production here on May 7, 1979 at the site of what is now the Kroger store on Commerce Avenue. The plant moved to Cooley Industrial Way, its present location, on Feb. 15, 1980 with about 100 employees. By August 1986, the plant had 555 employees and was making 660,000 pair of pantyhose per week.

In March 1987, the plant started a third shift for the first time. Production reached a peak in late 1988 with 1,050 employees who were shipping 1.5 million pair per week.

The building, owned by Sara Lee, contains 100,000 square feet of manufactuing space, plus 10,000 square feet for offices and other uses.

A spokesman said the building apparently will be offered for sale.

□ 1910

IF YOU BELIEVE IT, YOU CAN ACHIEVE IT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, Archie Russom believes that if you conceive it, and believe it, you can achieve it.

Archie is a member of the Future Farmers of America Chapter in Delaplaine, a small town in the northeastern part of my district.

Along with the other members of the Delaplaine FFA chapter, Archie helped plan and build a fire truck to protect his community and surrounding area.

The project took on a special urgency and meaning for the residents of that community last January when flames swept through the Delaplaine fire station destroying all of the community's fire fighting equipment.

Immediately after that devastating fire, Archie and his fellow chapter members began working on their project 6 days a week.

Others pitched in to meet the emergency and when all of the planning, welding, grinding, painting and other work was done, Delaplaine had a fire truck.

Archie and his chapter have been recognized as one of the 50 State winners of the National FFA's Building Our American Communities Program.

He's here in Washington this week attending the 1990 FFA Conference on Community Development.

With the Nation facing so many problems, it is sometimes difficult to look to the future with any assurance.

But, when you meet Archie Russom, when you think what Archie and his schoolmates did for their community—the hours they devoted to make Delaplaine and surrounding area a better, safer place to live—your outlook on the future brightens considerably.

If you conceive it, and believe it, you can achieve it. Archie Russom and his fellow FAA chapter members in Delaplaine are living proof of this statement.

I congratulate them.

SUPPORT THE SUMMIT AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. PORTER] is recognized for 5 minutes.

Mr. PORTER. Mr. Speaker, we face a crisis in America today: a national debt of $3.1 trillion and continuing annual deficits of $250 billion and up. This outrageous burden of debt not only saps our current economic strength and forces us to rely on foreign money, but it is also destroying our children's and grandchildren's future opportunities. This is unconscionable, and I believe the time is past due for the Congress to end business as usual and address this crisis.

The budget agreement to come before us satisfies no one completely, and that includes me. It contains elements with which I disagree. I have always said that if it were left up to me, I would solve the deficit problem on the spending side alone. For a number of years I submitted my own budgets freezing all Federal spending by Function. But we have seen a decade of ideological and political gridlock as as each side insists that its way is the only way, and that the budget must be balanced by taking from the other side's priorities.

I believe that on balance, this budget is a tough but reasonable package which will achieve real deficit reduction for the first time in a long time. This budget does not cut COLA's for seniors and contains no increase in income tax rates. Although it may need some fine tuning, in my judgment it provides a balanced and fair distribution of the burdens required to cut the deficit and reach a balanced budget.

We in the Congress have been very good at saying what we won't do to solve the deficit crisis, but for the sake of our country, we must instead say what we will do to address this serious problem. It is time for Members of Congress to find political courage, the courage to say that continuing deficits are destroying our economy and that we must advance a solution and be willing to include some of our priorities in the final package.

Every special interest group in America—and I use the term "special interest" in a descriptive, not a pejorative sense—has become very sophisticated at excluding its programs from being part of balancing the budget. And each group has valid and compelling arguments to defend its priorities. But at a time of crisis we must stop viewing ourselves only as farmers, teachers, students, government workers, seniors, businessmen and women and other discrete groups and see ourselves first as Americans.

To those who reject the summit agreement, I would ask what they suggest as an alternative: automatic, indiscriminate cuts under Gramm-Rudman which unfairly distribute the burden of deficit reduction and don't get the job done? Or continued political impasse and even bigger deficits?

We were not sent to Congress to serve only our area or only certain interests—we were also sent here to serve the country and be responsible for the bottom line. This budget asks us to assume that responsibility, and I believe we must do so.

Mr. Speaker, there is a predicate for my support, and that is enactment of the enforcement provisions of the agreement. These enforcement provisions must be in statute—signed into law before or simultaneously with the revenue provisions—and must provide for no back door entitlement expansions, no backdoor supplemental spending, binding and enforceable reconciliation, and outyear 302(a) appropriations ceilings. If these provisions are in the form of amendments to the Budget Act—waivable at the whim of the Speaker and his Rules Committee—I will not support the budget deal.

These enforcement provisions will make budgeting over the coming years painful. As a member of the Appropriations Committee, no one needs to tell me that this agreement won't carry with it a measure of pain. But we've gone through the 1980's ignoring reality, and as a recession now looms, we all must do our part to save the national economy. I believe that real deficit reduction will encourage positive movement on interest rates, and I believe that such movement is critical to our economic well-being.

I hope that all Members will swallow hard, dig deep for political courage and support this budget summit agreement.

PRINCE GEORGES COUNTY'S "MR. AGRICULTURE" DIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, the "Mr. Agriculture" of Prince Georges County, MD, died in a tragic accident on his farm last Tuesday, September 25. Roland Darcey, who was 63, was part of a vanishing breed, the Maryland farmer, a man born on the farm who lived and worked his whole life on the farm. He was a friend of mine and one of Prince Georges County's great citizens.

In these days of booming housing developments and shopping malls in our county, a life lived as Roland Darcey did his is truly unique.

Roland Darcey was born in Camp Springs, MD, and—despite an early flirtation with the law—followed in the path of his father and grandfather before him and continued the family tradition of farming. By this year, his 150-acre farm near Upper Marlboro—

and another 150 acres in St. Marys County in Congressman DYSON's district, had fruit, vegetables, and a plethora of chrystanthemums—and indeed he once tried raising hogs—but his real love and specialty was always tobacco.

Roland Darcey served for many years as president and vice president of the Prince Georges County Farm Bureau, and became a familiar and well-respected advocate for farming in our county and in our State. Just this year, he helped form the Southern Maryland Tobacco Board.

The Darceys lived in a 100-year-old farmhouse near Upper Marlboro, our county seat, and raised three sons and a daughter.

Roland Darcey watched as Prince Georges County grew from a primarily rural area to the backdoor of the Nation's Capital; he saw the construction of major facilities that are now taken for granted, such as Andrews Air Force Base, the Capital Centre and the University of Maryland. He once said that he did not want to sell out, or retire, and I am sure his family is proud now that he kept his word to the last of his days.

Roland Darcey was a very special person; one who reminded many of us in office that even though Prince Georges County was becoming more suburban, agriculture is still important to our county and our State.

Mr. Speaker, Roland Darcey will be missed by those of us who knew him. Our hearts go out to his wife Mildred and to his four children.

Prince Georges County is a lesser place for the loss of Roland Darcey.

□ 1920

LET US NOT FORGET OUR HOSTAGES IN BEIRUT AND THROUGHOUT THE MIDDLE EAST

The SPEAKER pro tempore. (Mr. HOAGLAND). Under a previous order of the House, the gentleman from California [Mr. DORNAN], is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, I had planned on doing a special order tonight on our hostages in Beirut, the forgotten people in all of the turmoil that is going on in the Middle East right now, with hundreds of Americans, some of them in a "missing" category. They have not been heard from since August 2 in either Kuwait or Iraq. We do not even know in which country they are, with thousands of other European hostages, British hostages, with Saddam Hussein dribbling out nine Frenchmen yesterday, with rumors now that all men over 55 years of age will be released. But there is no real substance yet on that. People forget that there are eight Americans and a dozen or so Europeans still hostage in Beirut. I was going to bring in the remarks of Brian Keenan, the Irishman, the Irish-English dual citizenship school teacher who had just been most recently released. I will probably do that tomorrow night. His words are the most poignant words I have ever seen about what calls the "crucifixion of the person who is held hostage."

Keep in mind the dates, Terry Anderson, who was the bureau chief for Associated Press in Beirut for all of that Middle Eastern area on the Levant of the coastline, he was taken prisoner March 16, 1985. Just a few months later, on June 9, Tom Sutherland, who was the newly assigned person to teach agriculture at American University/Beirut. He was taken on the airport road as he departed from the airport. He was not a free man but a few minutes before he was put into captivity.

He began his sixth year last June 9. These people, I hope everyone will pray for them.

TRIBUTE TO MAJ. GEN. MOON MULLINS, U.S. AIR FORCE, RETIRED

Mr. Speaker, I am going to cut my special order short to talk very briefly about a friend of many, many Members on both sides of the aisle in this House, who died in the crash of a World War II P-51 Mustang warbird up in Massachusetts in the Cape Cod area over the weekend.

Air Force retired Maj. Gen. Moon Mullins was known to many of us in this House over the last decade and a half because he served for years as the commander of the Air Force liaison office on the House side in the Rayburn Building and then was moved up to command both the Senate and the House liaison, stationed at the Pentagon but spending many of his days over here on the Hill. He was the commander of all liaison for the Air Force.

He was a fighter pilot assigned to MacDill Air Force Base, the 1st Air Force Wing, to get the Navy F-4, Phantom—so early that we called it the F-110, then all the numbered system combined into two services and they ended up as one of those integrating the F-4C Phantoms into the U.S. Air Force. He had thousands of hours of flying time. After he left active duty, he rose again quickly to the pinnacle of his chosen profession to be a lobbyist for the aerospace industry.

He served most recently as a vice president of governmental affairs as one of the Nation's two or three largest aerospace companies, General Dynamics.

I saw him just earlier last month at the 50th anniversary of the Battle of Britain in the Farmborough Exposition in London, England. He was full of life, tall, handsome, white-blond hair, Irish ruddy face, just looking for all the world like he was on top on everything.

I told him I had just had a ride in a Spitfire up in Duxford, the old British airfield where we are building a great American museum to complement the British Air Museum that has actually flying aircraft, similar to some of our museums around this country.

I told him that CHARLIE WILSON, one of our colleagues on the majority side, had flown the Spitfire right after me and to be sure to catch CHARLIE and hear about how much we had enjoyed this memorable old warbird, especially during the 50th anniversary of the Battle of Britain.

He said, "I envy you," as I am sure he envied the winner of a golf tournament in Cape Cod Saturday, because the winner had won a ride in the P-51 Mustang. And the man who had won turned to Moon Mullins, who finished second, and said, "Moon, you probably will enjoy this more than I would." To my knowledge, he had never even been in what many people think, arguably, is World War II's greater fighter airplane, the North America, now Rockwell, P-51 Mustang.

Moon took advantage. He did not have to be asked twice. He took advantage of the kind offer and went up in the Mustang. The details are still unclear, but it looks like the pilot whose flying skill Moon was totally captive, with his thousands of hours, I just have a funny feeling that it was a pilot with a few hundred hours in the Mustang. Moon, a big man, would have had trouble getting into the jumpseat of the Mustang. There is only enough room for one person, and they carved out a little area, taking out some older, larger radio equipment.

You get in behind the pilot, you are kind of hunched over. I can barely picture a man of John Wayne's size in that cockpit.

But I am sure he enjoyed the first part of that Mustang flight. For a fighter pilot who loved flying as Moon did—it is too corney to say that is the way he would have wanted to go. He had a lovely family. It is not what his wife planned.

He will be buried tomorrow at 3 o'clock at Arlington National Cemetery. I just pray for God that our schedule around here leaves a gap so that a large delegation from both sides of the House can go across the river to that beautiful cemetery on those bluffs that overlook Washington, DC, and see Moon's mortal remains off on his last great flight.

I know he is up there in the clouds where he spent a great deal of his life. He was a true friend and a great friend of those of us who believe, on both sides of the aisle, that it was a strong defense buildup over the last few years that enabled Germany to have that remarkable ceremony tonight that is still going on at this moment—it is about 1:30 a.m. in the morning in

Berlin—the fireworks have been going on for 3 hours. As of midnight, World War II is finally really ended and Germany is now a unified country.

It is because of people like Moon Mullins serving on active duty, through the ranks up to two stars on each shoulder, serving so effectively as a strong and powerful and articulate proponent for peace through strength and a strong defense buildup. He contributed significantly to the very defense bills that we have before us in the Senate and the House at this very moment.

He will truly, truly be missed. A man who lived a full life and rose to the top of every profession in which he served.

I hope any friends of his who do not know of this sad news from last Saturday, who are in the area, will proceed to the old chapel at Fort Myers up on top of the hill at Arlington Cemetery at 3 o'clock to pay respects to a great American aviator and a great civilian proponent of a strong defense, bringing us a lasting peace.

WE ARE ON A BUDGET TRAIN RIDE TO OBLIVION—CONTINUED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, today and this evening many of my colleagues have made statements both here in the Chamber and elsewhere saying that we should rise above partisan politics and for the benefit of America support President Bush and this bipartisan agreement on the budget.

□ 1930

Mr. Speaker, I would like to be able to do that, but, unfortunately, I think this is going to be very, very bad for America, and it could end up causing America to be in, not only a recession, but something maybe even a little bit worse.

We have been poised on the precipice of a recession for some time, which has been exacerbated by the problems in the Middle East and the cost of oil going to $40 a barrel. I think it is back down to about $35 a barrel now.

However, Mr. Speaker, because of the economic problems we are facing already, to increase taxes and pass this budget, as it is presently drafted, I think would be disastrous for America.

I would like to just take a few minutes to tell my colleagues exactly what is in this in the form of tax increases, and maybe anyone else who is interested.

This is going to increase the gas tax over the next 12 to 15 months by 10 cents a gallon, costing the American taxpayers $45 billion in purchasing power. That is $45 billion they will not be able to spend on other products such as houses, cars, clothes and so forth, because that will be coming out of their pockets in the form of tax increase, 10 cents a gallon, at a time when our energy costs are going up because of the crisis in the Middle East. There is going to be a doubling of the tax on beer and an increase in taxes on other alcohol. That is going to cost $13.6 billion taken out of the purchasing power of America. It is going to be 2 cents a gallon on imported oil for other energy needs, which is going to cost America dearly as far as providing heat for their homes, electricty, and so forth. As a matter of fact, it is estimated that each American household will have to spend an additional $140 a year to heat and keep electricity in their homes because of that energy tax, and the gas tax is going to cost each American household, on average, another $20 a year in expenditures because of the gas tax. This will be much more for those who live in rural areas. In fact, it has been estimated it would cost an additional $120 on top of the $120 average for those who live in rural areas. It is going to increase the cigarette tax by 8 cents per pack over the next 3 years. It is going to create, for the first time, a national sales tax of 10 percent. It starts out this year on high priced automobiles, furs, jewelry and boats, but, as the needs of this country for spending increase, as has been the case year in and year out over the past 20 to 30 years, they will lower the amount that the cost of the car will be down to from 30,000 down to, maybe, 10,000, maybe all the way down to zero, and every American family will be hit by the sales tax of 10 percent, which is starting this year.

Mr. Speaker, these problems, these taxes, are going to cause, in my opinion, a major, major economic downturn.

In addition to that, the economic assumptions on which this budget is based are in error in my opinion. These economic assumptions include oil being at $21.15 barrel this year and $24.15 barrel next year. Oil is already between $35 and $40 a barrel, so these economic assumptions are extremely low. They are basing this budget on an economic assumption that economic growth will be seven-tenths of 1 percent this year and 3.8 percent in the next 24 months, and I believe, because we are on the precipice of a recession, these economic figures are in error. They are basing the budget on the basis that we will have 5.2 percent inflation this year, and 4.6 percent inflation next year. I think that is an error in judgment as well because, if we increased these taxes, then the cost of goods and services around this country are going to go up dramatically because America moves on the back of trucks, and those trucks run on oil products, and the cost of gasoline is going up 10 cents a gallon.

So Mr. Speaker, I say to my colleagues, "Every shirt you buy, every refrigerator you buy, every car you buy is transported on the back of a truck and is going to go up in cost. It is going to be an inflationary pressure because of this 10-cent-a-gallon gas tax increase."

So, I think those economic assumptions of 5.2 percent inflation this year and 4.6 percent next year are very low.

Now some of the leading pundits, political pundits, if my colleagues will, have been trashing this budget, and I think with some justification. Pat Buchanan said recently that there is a term for what is happening to Republicans. It is called internalizing appeasement; that is, making a cold, calculated judgment as what can reasonably be done with a liberal dominated Congress, then accepting that, rather than defying the Hill, and fighting it out and forcing the people to choose between us.

Mr. Speaker, I agree with that statement.

Paul Craig Roberts, a leading economist, said that, as the United States sinks into recession, Mr. Bush, the Office of Management and Budget Director Richard Darman and Treasury Secretary Nicholas Brady, together with Republican congressional leader Senator BOB DOLE of Kansas and Representative ROBERT MICHEL of Illinois are engage in a bidding game with Democrats to see who can pile the most onerous new taxes on the voters. I have to take issue with my leaders, but I think that is probably what has happened.

Now many people say there is no alternative to the budget that has been proposed. I want to say to my colleagues that about 3 months ago Congressman DELAY of Texas and myself got together with some other leading Members of Congress. We got together with some leading think tanks, in addition to the U.S. Chamber of Commerce, to try to come up with a budget that we believe would meet the targets without a tax increase and would solve our economic problems, and we worked on that for some time. We came up with a budget. That budget was submitted to all 535 Members of Congress, plus the executive branch and the budget summiteers, but nobody paid much attention to it.

More recently, Mr. Speaker, the Heritage Foundation came up with what was called the 4-percent solution, and what it does basically is freeze spending at no more than 4-percent over last year's actual spending levels. It provides for a capital gains tax cut of lowering the rate to 15 percent, which would create 2½ million new jobs over the next 5 years, which is the only progrowth program that I have heard

of. And that program would get us to our targets without a tax increase.

As a matter of fact, by 1997, the projections are that this budget would lead us to a surplus of $11 billion. That budget proposal, likewise, has not even been considered by anyone.

Now, if we are successful this week, those of us who oppose this budget program, if we are successful in killing it, then I hope the leaders of this Congress, the budget summiteers and those who are going to be in on the ground floor and are coming up with another budget will at least look at the 4-percent solution because I think it is something that America will embrace. It most certainly will pinch some toes, but it will not cause overly undue harm to any one segment of our society.

What it says very simply is that we are going to stop spending like we have been, going hell-bent for leather to spend this country into oblivion. It stops spending at no more than 4 percent over last year's level, and I think that is a responsible approach. That, coupled with the progrowth aspects of the capital gains cut would create, I think, instead of a recession, economic growth for the next 4 or 5 years.

Mr. Speaker, I want to read into the RECORD something that I think is very, very important, and it will take me about 5 to 10 minutes, but I think it is something that every one of my colleagues should hear, and I hope it will become part of the CONGRESSIONAL RECORD. I am sure it will.

The Heritage Foundation put out a statement today that I think is very important, and the title of this statement is "The Budget Summit Agreement: Serious Damage to the Economy, Part 2," and this updates a statement that they made a couple of days ago, and what they say is this:

After 5 months of negotiations, congressional and administration budget negotiators produced an agreement which can be only described as deplorable. The package combines the largest first year tax increase in America's history, dubious economic assumptions, phony spending cuts, and inadequate enforcement provisions. At a time when annual economic growth has collapsed to less than 1 percent, enactment of the agreement surely would throw the Nation into recession. Among the most damaging provisions in the agreement are; No. 1 new taxes. Tax revenues are already projected to increase by almost 400 billion between 1990 and 1995.

□ 1940

I want to repeat that. Because of the economic growth created by the Reagan tax cuts of 1982 and the 21 million new jobs that were created, over the next 5 years we are going to see a growth in projected tax revenues coming into the Treasury, without a tax increase, of $397.8 billion, almost $400 billion, between 1990 and 1995. That is an average of $80 billion in new money each year, without a tax increase. $80 billion in new revenues each year, without a tax increase.

Apparently this flood of new tax revenues is not enough to quench Capitol Hill's thirst. Thus, Congress has demanded and obtained from the budget agreement $133.8 billion in explicit tax increases over the next 5 years.

So the $80 billion a year that we are getting right now in new tax revenues is not enough. They want to increase that by almost $134 billion in new taxes over the next 5 years.

Major provisions include a 12-cents-a-gallon increase in gasoline taxes, 2 cents of which will be levied at the wholesale level, raising more than $50 billion over 5 years. To make matters much worse, rather than using gas tax revenues for repair and construction of highways and bridges, the agreement undermines the integrity of the highway trust fund by using half of the money for general Government spending.

This, thus, opens the sluice gates for future gas tax hikes simply to fund general revenue outlays.

Not only is this bad economics, it raises the cost of travel for every American and undermines one of the Nation's most prized characteristics, the easy mobility of Americans.

In addition, there are higher taxes on aviation. I hope everybody gets this. The air passenger ticket will jump by 25 percent.

My colleagues and I fly back and forth to our districts on a frequent basis. You can imagine that is going to cost the Government more, because everyone who travels at Government expense is going to have to pay 25 percent more for those tickets, just as every American will. That is another drain on the taxpayer's pocket, and a drain on Federal revenues.

Domestic air cargo taxes and aviation fuel taxes also will increase by 25 percent. These taxes will take nearly $12 billion from the traveling public. That is in addition to the tax increase that is going to come out of America's pockets.

America is a large country with a highly mobile population. Increasing transportation costs has a particularly deterimental impact on the American economy. Because of the long distances goods are shipped, consumers will be particularly hard hit, making it more expensive to visit family members and making business trips.

The package also increases tobacco, beer, wine, and alcohol excise taxes, raising $10 billion over the next 5 years.

What is most alarming about the kinds of taxes being raised is that the agreement sets the precedent for a national sales tax by imposing a 10-percent tax on so-called luxury items, raising nearly $2 billion.

I think that is just the camel's nose under the tent, because it will be much more down the road.

Exactly what constitutes a luxury is defined by Congress. It is certain that Congress will add new items to the list over time.

The negotiators pulled a tried and true budget gimmick out of the hat. They claimed that through stricter enforcement, the Internal Revenue Service can collect $9.4 billion in new revenues.

I think they have already said that in the past, and it never seems to prove out. They never collect quite what they think they are going to. I think that is a phony figure as well.

In addition to a wide range of taxes on American businesses, the package also destroys the insurance nature of Medicare by raising the cap on income subject to the payroll tax from $51,300 to $73,000.

Furthermore, the agreement undermines the protections in the Tax Code for home ownership, State and local taxation, and charitable deductions, by restricting the use of itemized deductions.

The agreement contains more tax increases than meet the eye. In what surely must be a deliberate attempt by the White House and Congress to deceive the public, they are including several tax increases in the so-called spending cut portion of the package. The monthly tax that senior citizens pay to Medicare will be increased, but the revenues generated by that change are counted as a spending cut.

I think that is misleading.

Seventeen different fees are to be increased, generating an additonal $14.2 billion in revenue for the Government over the next 5 years. Yet this money is to be counted as a spending cut.

Revenue increases, tax increase is counted as spending cuts.

Nearly $5.4 billion of the supposed 5-year spending cuts are actually revenues being transferred to the general budget from the Postal Service, which is now off budget, resulting in no real savings.

That is just a bookkeeping entry.

Worse still, the agreement contains an automatic tax increase provision by requiring that any future tax cuts be offset by tax increases.

This is extremely important, because the tax cuts that came into being in 1982 led to economic recovery and 21 million new jobs. This says that any new tax cuts which might stimulate economic growth have to be accompanied by tax increases. So there would be no incentive to cut taxes to increase economic growth, because you are going to offset those by tax increases.

Had this been in effect, this provision would have prevented the enactment of Ronald Reagan's Economic Recovery and Tax Act in 1981. At the

very least, this provision effectively eliminates any opportunity to pass tax cut legislation to pull the economy out of the recession which this budget agreement will cause.

I believe that is absolutely right. It will cause a recession.

Dubious economic assumptions. White House and congressional negotiators agreed to cook the books to minimize the obvious negative effects of the agreement. While most economists agree that the package will reduce economic growth, the budget summiteers somehow make the assumption that enactment of the package will nearly double the rate of economic growth next year from 0.07 percent to 1.3 percent, and almost triple growth in 1992 from 1.3 percent to 3.8 percent.

Herbert Hoover thought tax increases would strengthen the economy in 1930. He was wrong. A recession became a depression.

More ominously, the budget agreement would push taxes to nearly 20 percent of the gross national product. The only two occasions in peacetime that taxes reached 20 percent of GNP, in 1969 and 1981, the economy fell into recession the following year.

So this is a recipe for a definite recession next year.

A recession is the biggest enemy of the budget deficit. The Congressional Budget Office estimates that the deficit would increase by $32 billion for each percentage point that the unemployment rate is higher than projected.

I have been told that figure is more like $40 billion for each 1 percent of unemployment caused by a recession. That is added to the problem we already have.

Negotiators have stated explicitly that they want the Federal Reserve Board to adopt an easy money policy in response to the agreement. Yet they ignore the inflationary impact of such a policy by assuming that the inflation rate as measured by the GNP deflator will fall to 2.8 percent by 1995.

Since Government spending is often tied to the price level, a more realistic inflation estimate would expose how much spending will actually increase compared to what is claimed in the agreement.

Perhaps the most unrealistic element of the package is the assumption that the interest rates will decline. More than $64 billion of the alleged savings hinges on the interest rate on a 3-month Treasury bill falling to 4.2 percent, and rate for 10-year Treasury notes dropping to 5.3 percent.

Since interest rates normally rise and fall with changes in the inflation rate, this assumption has no credibility.

I cannot remember when Treasury bills were down to 4.2 percent or the Treasury notes dropped to 5.3 percent. Since I think we are going to be forcing an inflationary trend, I think these interest rates have to be inaccurate or phony.

Phony spending cuts. The negotiators are trying to sell the agreement as one of shared pain. Other than the fact that the defense budget is projected to decline by $8 billion, from $300 billion this year to $292 billion in 1993, there are absolutely no cuts in spending. None.

Even excluding the cost of the deposit insurance bailout, total spending under the agreement will rise by more than $220 billion over the next 5 years.

Listen to that. Even excluding the cost of the S&L problem, total spending under this agreement will rise by more than $220 billion over the next 5 years. And that is what we have got to get at.

Spending increases. Instead of dealing with that, we are raising taxes by $134 billion, plus other increases that are going to be tacked on to Medicare and so forth.

□ 1950

Since Congress has violated the spending limits in every previous budget agreement, it is a sure bet that spending actually will climb considerably more than the $220 billion already projected. Once realistic interest rate and inflation rate projections are included, any hope of limiting spending increases to $220 billion disappears. Furthermore, if a recession occurs, as many economists predict, spending on welfare and unemployment programs automatically will rise beyond currently projected levels.

INADEQUATE ENFORCEMENT

If history serves as a guide, the meager budget process reforms included in the agreement will fail to break the chronic cycle of tax and spend. Major reforms were completely rejected.

That is one of the things we said and President Bush said had to be in package, budget process reform, and it is just not there. Major reforms are not there.

The package does not include a balanced budget amendment. The President was not granted a line-item veto. The current services budget, the feature that allows the negotiators to pretend they are cutting spending when outlays are actually rising, remains untouched. Minor revisions are made by the agreement to strengthen the Gramm-Rudman Deficit Reduction Act. Yet even with these changes, the law can still be waived by the Rules Committee in the House and by 60 votes in the Senate.

CONCLUSION

In 1982, the Tax Equity and Fiscal Responsibility Act [TEFRA] was enacted with the promise that every dollar of higher taxes would be accompanied by $3 of spending cuts.

That was in 1982. The higher taxes became law, but the spending actually increased. We never realized the $3 in spending cuts for every $1 in new taxes. What we did get was $1 in new taxes and more spending.

The higher taxes became law, but spending actually increased by more than $200 billion over the following 3 years. This week's proposed budget agreement makes TEFRA look good by comparison. That was a rotten move.

If enacted, the current agreement is almost certain to push the economy into a recession. What few savings exist on the spending side are almost wholly dependent on unrealistic economic assumptions. The budget agreement effectively repeals Reaganomics and will put an end to the economic prosperity that America has experienced during the 1980's.

We have seen 21 million jobs created in the last 8 years, and we could see 2½ million more new jobs created if we had the capital gains tax cut accompanied by the 4-percent solution, but we are not going to see that if this budget passes. What we are going to see is an economic recession, higher unemployment, more spending, and a bigger deficit instead of a smaller one, with more new taxes on the backs of the American people at a time when they cannot afford the taxes they are already paying. Americans are already paying for all taxes about 40 cents to 45 cents of every dollar they earn, and we are loading them up with more.

The thing that is most disheartening to me is that I have been a big supporter of President Bush since he ran for office, when he was Vice President, and now as President. I think he is doing an excellent job in the Middle East and in many other areas. But he said to the American people: "Read my lips; no new taxes," many times, and he said he was going to hold out for a pro-growth budget that would include capital gains tax cuts, which would create 2½ million new jobs over the next 5 years. And he said he was going to hang tough for budget process reform, and all of those things have been negotiated away.

The New York Times on the front page had a statement that the Democrats had won, and I submit that this budget is largely drawn up by the Democrat leadership in both the House and the Senate. They have done a very effective job.

But what is most onerous about this agreement, in my opinion, is it is going to look like it is President Bush's budget. It is a Democrat budget, but tonight the President goes on national television telling the American people that this is a solution to our economic woes, that the burden is going to be

spread across the spectrum so everybody feels it, but no one in an undue way or too much, and it is going to be perceived after tonight, after he goes on national television in 1 hour and 5 minutes that it is his budget. And when the recession follows, as it most certainly will, in my opinion, then the President of the United States is going to be saddled with that recession as his recession, and not the recession of both Houses of Congress, and both the Democrat and Republican Parties and the Democrat leadership being participants in it.

Mark my words: In 6 months or a year when the recession hits, the Democrat leadership and the Democrats in this House and the Senate will be saying to the American people it is Bush's recession, and if you want a better economy then elect Democrats to the White House in 1992. And they might well get their wish, because we have bought on to a bad deal.

Mr. President, I think we have made a mistake, and I wish we could reevaluate and go back. I am afraid it may be too late.

I would just like to say that Herbert Hoover in 1930, at a time we were facing recession, raised taxes, and we know what happened, the Great Depression. I just hope that the recession we face is not that bad.

With that, Mr. Speaker, I yield back the balance of my time.

THE BUDGET SUMMIT AGREEMENT

The SPEAKER pro tempore (Mr. HOAGLAND). Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 60 minutes.

Mr. OBEY. Mr. Speaker, I am tempted to say that the last speaker took the words right out of my mouth, at least the last sentence or the last paragraph, but I will not say that.

Mr. Speaker, I hate special orders because they are almost always a waste of time. They are almost always a waste of time of the staff who have to stay here and listen to us talk, and they are almost always a waste of time for any member of the public looking in, and they most certainly are almost always a waste of time for the Members of Congress who have to deliver them, because in the interest of honest advertising I think it needs to be noted that there is nobody here, almost nobody. There almost always is never anybody here.

But once in a while, you simply have to use the device of a special order because you are angry enough about what is happening in this country and in this town to comment on it and to sound off. And I am going to sound off tonight about the budget summit, because I intend to vote no on that budget summit agreement, and I would urge every Member who believes that fairness ought to be a cornerstone of government policy to do the same.

I will take every possible step to try to obtain the right to offer an alternative which meets the test of fairness while spending less, taxing less, and borrowing less than the proposed summit agreement, embraced so heartily by President Bush.

The gentleman from North Dakota [Mr. DORGAN] and I testified before the Rules Committee tonight asking that an alternative be made in order which would do just that, and to provide and to restore a sense of fairness to this package.

I fundamentally oppose the package because first of all, based on sound economic assumptions, and on this statement I agree with the gentleman who just spoke, it will not reduce the deficit by nearly the amount promised. I would not be at all surprised to see over the next 5 years this deficit agreement miss the target by somewhere between $100 and $200 billion.

It will also not make our system more fair than it is today. In fact, it will make it more unfair. It continues the march begun in 1981 when the Reagan administration rammed through budget and tax changes which tripled America's deficit and dropped the word fairness from the vocabulary of Government.

Let us repeat a little history. In 1981 the Federal deficit stood at $57.9 billion the day that President Reagan took office. The defense budget was $160 billion. Tax rates at that time ranged from 14 percent in the lowest brackets up to 50 percent on income above $215,000.

The Reagan administration argued at that time that reducing Government involvement in the economy, cutting taxes primarily for high income people, would create a new era of generalized prosperity, and as a consequence, on May 7, 1981, the administration rammed through its Gramm-Latta budget by a vote of 253 to 176. Republicans voted for it 109 to 0, and Democrats opposed it by a vote of 176 to 63. But that was enough votes to pass.

□ 2000

The budget put us on the road to doubling the military budget over 5 years' time. Some 11 weeks later, the Reagan administration rammed through their tax package which reduced revenues by huge amounts.

I offered alternatives to both of those packages, both the budget package and the tax package. Our budget amendments in 1981 would have spent less and borrowed less and taxed less from middle-income people than the budget and tax packages which passed. We were beaten.

The President's package passed; the lion's share of those tax cuts went to the wealthy. Republicans voted for 190 to 1. Democrats voted against it 194 to 48. It passed 238 to 195.

Thus began the Republican experiment in supply-side economics which was described at the time by Senate Republican floor leader Howard Baker as being a riverboat gamble. Vice President Bush, who had described the Reagan supply-side experiment as voodoo economics, correctly so, when he campaigned against Mr. Reagan in New Hampshire, loyally supported the Reagan budget as Vice President.

The Reagan administration promised if their budget and tax package were passed we would create widespread prosperity and that income would rise enough to offset revenue losses, and that we would see the Federal budget balanced within 3 years.

On the passage of the Reagan tax bill, then Secretary of the Treasury Donald Regan said, "Our program is now in place." The results are now in. It is most certainly true that for some, the 1980's produced widespread prosperity, but the record shows that his antitrust litigation has been mothballed, public investment cut by 40 percent, and tax rates on the high-income people cut by more than 50 percent, the purchasing power of workers paid through wages has actually fallen.

Over the 1980's, families on the surface appeared to be keeping up, but only because more and more women went into the work force producing second earners for many American families.

In terms of income, the wealthiest 1 percent of people in our society have seen their incomes rise about 70 percent since the day Ronald Reagan passed his tax package, from slightly over $300,000 to well over $500,000 today. By contrast, the income for the 20 percent of families in the middle rose by a scant 3 percent, and income for the poorest 20 percent of American families has actually declined. The richest 1 million families saw their incomes grow, as I said, from over $300,000 to well over $500,000 today.

The income growth experienced by the wealthiest 1 percent of American families was greater than the income growth for 90 percent of American families combined.

If the tax payments for the richest 1 percent of Americans had kept pace with their income rise through the 1980's, the deficit today would be $75 billion lower. That is more than 50 percent, it is almost double the deficit-reduction package which we are being asked to vote on, the deficit reduction that would occur for the first year.

Even if their tax had kept pace with their income, they would still have

after taxes the largest increase in income of any group in our society.

On the tax side, if we combine all income and payroll taxes, 60 percent of all Americans, the bottom 60 percent, have actually had a tax increase. The second highest 20 percent of all American families have had a tax cut of about $45 on average, but the richest 1 percent have had an average income-tax cut of $12,000.

Yet, in the wake of all this, the President asked us 2 weeks ago when he was standing before us to support a capital gains tax package which would have added over $20 billion to the deficit over 5 years and have given 80 percent of the benefits of those tax cuts to the wealthiest people in our society.

The argument made by the Reagan revolutionaries that average working families would eventually benefit from those policies of the 1980's did not pan out. The evidence is in. The promises were wrong, and the budget summiteers wisely objected and rejected as unfair the President's proposition for yet a new goodie for the people who have had the most goodies in the 1980's.

But in the end, the President's willingness to shut down all of Government if he did not largely get his way backed the budget summiteers into accepting a 5-year budget deal which is even more unfair than the existing Tax Code. I have no quarrel with the Democratic Party leadership's efforts in the summit. I know they offered plan after plan to present the bill for the party of the 1980's to the people who had gone to the party, the high rollers, the well-connected and the wealthy. I know that the Democratic leadership fought to protect the interests of working Americans, but on the issue of tax fairness, be clear about it, they lost to the White House. I do not say that to criticize them. I simply say that to observe a fact.

In 1981 I could not support the Reagan budget and tax schemes because they produced fundamental unfairness to working people, and because I warned at the time that they would lead to runaway deficits. I cannot support this package this week for the same reason.

My objections to the package are many. First of all, it still spends too much money, especially in the area of wasteful defense spending. Oh, yes, the budget agreement eliminates the increases which had been expected in future Defense budgets because of inflation, but with the end of the cold war, we should have been able to do better than that.

In actual spending, the Defense budget outlays of $296 billion for 1991 will decline by only $5 billion over the following 2 years. So much for the peace dividend.

An excuse also used by many to justify these high military spending numbers for defense is that we face significant costs because of the Iraqi situation, but the problem is this budget agreement exempts from the defense spending ceilings money that will be spent on the Iraqi effort, so they get a double bang for the buck. In fact, the Defense budget is still so large that an additional amount of budget authority was added above previously agreed amounts in order to preserve the B-2 Stealth bomber. So much for fiscal sacrifice and discipline at the Pentagon.

This budget spends at least $50 billion too much on military spending over the next 5 years. If the gentleman from North Dakota [Mr. DORGAN] and I are given the opportunity, we will try to offer a substitute which cuts it by at least $35 billion more over the next 5 years.

Please remember this is a military budget which has been doubled over the last decade and could reasonably absorb a cut larger than that. This House just voted for one about a month ago.

In the 1980's, domestic discretionary programs have been reduced by almost 40 percent domestic investment programs have been reduced by almost 40 percent in real-dollar terms, and they should not be reduced more.

In the context of an overall budget agreement requiring fair sacrifice from everyone, we could cut domestic discretionary spending by at least $3 billion more over the next 3 years by eliminating low-priority items such as the $6 billion supercollider.

If given the opportunity, the alternative that the gentleman from North Dakota [Mr. DORGAN] and I would offer would reduce domestic discretionary spending in the fourth and fifth years by an additional amount to be spread also over foreign-aid spending and military spending.

Let us now take a look at taxes. The worst part of this new agreement is that it pounds the middle-class taxpayer, but it hardly lays a glove on the superrich with incomes of $200,000.

This budget raises $50 billion in new gasoline taxes, but it does nothing to guarantee that any of that money will be used to rebuild our energy research programs which were gutted by Reagan budgets in the 1980's. It does nothing to mitigate the effects of the gasoline tax on low-income and moderate-income people with limited purchasing power. It exempts corporate jets from the new tax on luxuries, but it takes away $3 billion from unemployed people by making them wait 2 weeks after they have lost their job to collect their first unemployment check.

The income Tax Code under which we are now operating, as we all know, has a special gimmick to protect the rich. The administration was adamant in refusing to change that gimmick known as the bubble. That gimmick produces the following result, that if you are a taxpayer earning less than $42, 000 a year, under the existing Tax Code which the White House successfully protected, you pay on that income a tax rate of about 15 percent. On income which ranges between $42,000 and about $75,000, you pay a marginal tax rate of 28 percent. On income between $75,000 and roughly $170,000, you pay a marginal tax of 33 percent.

□ 2010

However, on all income above $170,000, the effective marginal tax rate drops to 28 percent. That drop, that special favor for the super rich, costs the Treasury $9 billion a year, and $45 billion in lost revenues over 5 years. Two-thirds of the size of the cut which this package instead takes from Medicare.

Because the super rich were protected by the President's negotiating team at the summit, Medicare will be cut by $60 billion over the next 5 years. I talk to Medicare recipients every month. They do not expect to be exempted from sacrifice, but they should not have to accept a double hit because the super rich avoided even a glancing blow. The amendment that the gentleman from North Dakota [Mr. DORGAN] and I would seek to offer, if given a chance, would cut in half the attack that this budget summit makes on Medicare. That is essential, not just to ease the squeeze on lower and moderate Medicare recipients, but also to prevent hundreds of rural hospitals around this country from being put out of business, exposing millions of rural Americans to the charm and the risk of long-distance health care.

In many ways, this package is amazingly antirural. The gas tax falls most heavily on rural Americans. Medicare cuts will fall most heavily on the rural communities because of the impact on rural hospitals, and even entitlement cuts will fall most heavily on farmers who work and on their urban brothers and sisters who lose their work in the cities.

This budget also mandates an almost $3 billion cut for veterans at a time when we are likely to witness the creation of many more veterans of foreign wars, because of events in the Middle East. Do we really want to send a message to American veterans that we are going to ask them to make yet another sacrifice in their postwar years, while the super rich are avoiding any significant additional sacrifice? Again, I expect that they are willing to take their fair share of budget reductions. That is the veterans I am talking about. However, almost $3 billion a year is simply not fair, and the Obey-Dorgan amendment, if we were allowed to offer it,

would restore $1 billion to veterans' programs.

Mr. Speaker, I was amazed this morning to see the President being interviewed on Air Force One, America's newest flying palace. When he was asked by a reporter how he would handle the outcry from senior citizens because of Medicare cuts, he responded roughly as follows: "You can't keep everybody happy. You just have to do what is right, and you know, I didn't have the horses in Congress to do it my way." Well, all I can say, Mr. President, is thank God that you did not. Because if you look at the President's budget for this year, we would see that he proposed larger Medicare cuts in the first year than were adopted by the Senate or passed by the House in our original budget resolution.

In summit negotiations the administration proposed cuts on seniors almost 50-percent larger than those finally adopted, and those cuts recommended by the administration included long delays of cost-of-living increases for senior citizens. If the President had his way, defense spending would also have been larger. If the President had had his way, foreign aid spending would have been larger. If the President had had his way, it would have been even more tax breaks for the very rich, paid for by the working middle class. But because of the insistence of the White House, the injustice represented by the income tax bubble which protects the wealthiest taxpayers from paying their fair share of taxes, it is made worse by approximately 20 percent.

The nonpartisan congressional budget analysis, the President's budget summit package indicates that the wealthiest people in this society with an average after-tax income before the summit of $428,000 will see their after-tax income reduced by one-half of 1 percent. But the average American family making $33,000 in after-tax income would be hit three times as hard, and their income would go down by 1½ percent a year as opposed to the one-half percent for the super rich. If you have an income of over $700,000, then you will probably have an increase in income because of the creation of new tax shelters in this turkey of a budget summit proposal. That is grossly unfair, and I simply will not support it unless the package is changed to eliminate the middle-class ripoffs imposed on Members by White House negotiators who put the interest of the richest taxpayers in America ahead of the interest of the hardest working families in America.

Mr. Speaker, I want to make the observations that I made on the House floor several weeks ago. Today, government is unfortunately seen as being in cahoots with the high rollers in this society. It is seen accurately as being on the side of the wealthy. It is seen as being the instrument which puts the fix in, so that the wealthy and the well connected can do exactly what they did in the 1980's, increase their income by gargantuan amounts at the same time they are reducing their tax burden in comparison to that income, leaving middle-class taxpayers holding the bag. That has been the sad story of the 1980's on budget and tax policy, and that is what has to change. The single most important thing that any government official can do to restore public confidence is to put government back on the side of average families in this country by seeing to it that our deficit is reduced quickly and fairly. That means resisting the temptation to use the Persian Gulf crisis as an excuse to resurrect spending for every turkey weapons system which drains our strength rather than adds to it. Weapons which have absolutely nothing to do with our ability to fight in the Persian Gulf. I am talking about items like the B-2, star wars, the MX missile, and the like.

The second thing we must do is to say "no" when the President's economic team insists that we protect the interest of the wealthy, while gouging the interests of everyone else. The tax system simply must be made more progressive. Those at the very top income tax scale ought to be paying a higher tax rate so that the rest of Americans do not have to pay twice. Any so-called budget compromise coming out of Andrews Air Force Base that does not meet those changes, fails to meet the fundamental test of fairness, and it should be rejected. We have an obligation to see to it that middle-income families are treated fairly, and to see to it that people who were not invited to the party in the 1980's, do not get stuck with both the bill and the tip.

Now, I have heard the President and several budget negotiators say, "Well, we have to make tough decisions." Well, Mr. Speaker, that is right, but when the political system is tougher on middle-income workers than it is on the wealthiest people of our society, it is not very tough. It is flabby. It simply is not listening to what the American people have been trying to say.

I hope this House has an opportunity to turn down this poor excuse for a budget so that we have an opportunity to offer a substitute, which will be much more fair for working men and women of this country. If we do not have the right to offer a substitute, if the House does not give Members that right to offer a constructive substitute, then they give Members no option but to vote "no" on this package.

Mr. Speaker, a number of years ago when I served in the Wisconsin Legislature, I served with a friend of mine named Harvey Dueholm who was a retired farmer. He was the gutsiest man I have ever known. He observed once that the trouble with our politics is that all too often the poor and the rich get the same amount of ice, but the poor get theirs in the wintertime. This summit negotiation process, dominated by the White House negotiating team, is an outrageous example of just how that happens. It was put together, very frankly, by too many people who are too comfortable wearing suits seven days a week. It would be a quite different package if more people wearing jeans had been at the table when the fix was put in.

□ 2020

That unfortunately is why I have to vote against the package, because it does continue the march to unfairness which began in 1981 and which this budget package will exacerbate. It pounds the middle income taxpayer. It hardly lays a glove on the super rich, because the super rich were protected by their well-connected friends on the White House negotiating team.

I have used some numbers here tonight which have been based upon the CBO, the Congressional Budget Office and the Joint Tax Committee estimates of the budget summit package. I have just received updated estimates which change only slightly the numbers which I have used tonight and which indicate clearly that the wealthiest 1 percent of people still wind up with a kid glove treatment, while the other taxpayers in this country, especially middle class, take it on the jaw and they take it hard.

I have also seen other analyses of the budget which indicate that the tax breaks will once again recreate tax shelters. High income taxpayers will once again be allowed to debt-finance a sizeable portion of the so-called small business investments which are being created in this bill and they will then deduct the full cost of borrowing and obtain tremendous tax benefits on those investments, and those tax shelters will be used obviously by the super wealthy. Those above $700,000 will be able to use them, so that while everybody else in this society is experiencing a loss in after-tax income, they will experience an increase in after-tax income. That, Mr. Speaker, is backwards. That is what I thought the Democratic Party would always oppose. That is what the Democratic Party has tried to oppose.

Unfortunately, because there is only one big gorilla in our political system, and that is the fellow who occupies the big White House and because that fellow was willing to shut down the entire Government in order to get his way, the Democratic Party lost the fight on tax fairness.

I regret it. I wish I could do something about it. I am going to try to do something about it when we take up

the budget tomorrow, or the rule on the budget conference report tomorrow, and if we do not get that opportunity to offer a constructive alternative which spends less, borrows less, taxes less, but does it in a much more fair way to protect the interests of the middle class, just a mite for a change, unless we get that opportunity, we have no choice but to vote no, and that is what I will regrettably do if not given that opportunity.

IN SUPPORT OF THE COMPROMISE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. COOPER] is recognized for 60 minutes.

Mr. COOPER. Mr. Speaker, tonight we have had an unsual treat. We have just heard from two of our distinguished colleagues, each of whom is opposed to the President's budget compromise, but each of whom is opposed for almost completely different reasons.

First the gentleman from Indiana [Mr. BURTON] opposes the plan because he did not think it was fair to the rich in our society. He thought that the defense cuts were great.

Then we heard from the gentleman from Wisconsin [Mr. OBEY] who said that he thought defense was not cut enough and that the rich were taxed enough

During my 8 years in the House, the arguments we have heard tonight are all too familiar. they are a rehash of arguments that we have heard for many years. My friend, the gentleman from Wisconsin [Mr. OBEY] will probably never vote for a budget that the gentleman from Indiana [Mr. BURTON] is for, likewise the gentleman from Indiana [Mr. Burton] will probably never vote for a budget that the gentleman from Wisconsin [Mr. OBEY] is for, and yet these two men, one from the left and one from the right, are each opposed to President Bush's compromise plan.

Well, I stand foursquare behind the President's plan. I am a Democrat, but I want to see the budget deficit problem solved. I am tired of waiting for a solution. I am tired of the endless speeches, each well-reasoned, each thoughtful, each careful, but each in the end turning down a reasonable compromise to the budget deficit problem.

Mr. Speaker, I have had the privilege of serving in the House of Representatives for almost 8 years. During each of those years I have heard countless speeches made by my colleagues saying they really want to reduce the Federal budget deficit. I have given a few myself. Well, Mr. Speaker, this week we will have our first real opportunity in 8 years to reduce the deficit. We have the chance to back up our words with action. I hope that my colleagues have the courage to do what they have said they have wanted to do all these years: Vote for a serious deficit reduction package that has a real chance of passing the Senate and being signed into law by the President.

President Bush will speak to us in 35 minutes. He will speak on live television to every citizen in this Nation. I hope that the people of this country will listen and respond to his plea, because as the President said in his Inaugural Address, he wants Congress to stop bickering. He wants Congress to start acting, and this budget compromise is the best way to start reducing the budget deficit.

Mr. Speaker, those of us who care about reducing the deficit have had to wait many years for this vote. Although the Democrats who were elected in 1982 have been meeting almost every week for 8 years to push for deficit reduction, every previous effort has failed. This week we have our best chance to succeed.

For a decade we have been electing Presidents who have promised us balanced budgets just 4 years off, and the proposed budgets of these Presidents have had so little support in Congress that they have been considered dead on arrival. Many of these Presidential budgets were drafted with such unrealistic economic assumptions or political assumptions that their authors knew they were not serious attempts to solve the deficit problem. While many Democrats have opposed these Presidential budgets, the vast majority of House Republicans have as well. I remember one Reagan budget that was voted on the House floor, and it received only one vote, that of Jack Kemp, who made clear in his remarks that his was only a token vote of support for the President.

To give the apppearance of action on the deficit, Congress finally was presured into passing the Gramm-Rudman Act. This law also promised to give us balanced budgets in five years. Of course the 5 years is already up, and we are as far as we have ever been from a balanced budget.

Only this summer, a majority of the House voted for a balanced budget amendment to our Constitution so that we could prove to our constituents and to ourselves that we really wanted to reduce the deficit. Of course, the amendment failed to get the necessary two-thirds vote for passage, although it came close. And even if it had passed, Congress would still have had to come up with a specific plan to balance the budget, a plan very much like this plan.

Now, this week, we have a chance to do more than posture on the deficit issue. As a result of the budget summit, we have an agreement that the leaders of both political parties, and the leaders of the executive and legislative branches of Government support. The only question is whether a majority of the rank and file of Congress support the plan and the hard work of our own leadership.

My colleagues will recall that President Reagan refused, after 1982, to even conduct a summit with the Congress on the deficit issue.

POST MARKET CRASH SUMMIT

Many of us criticized him for failing to meet with us on such an important national issue. Many of us said that a summit was indispensable for solving the deficit problem. Well, now we not only have a summit, but a successful smmit, and many of my colleagues are regretting that their wish had ever been granted.

TIME TO ACT

Mr. Speaker, if we could only get the vote of every Member who has supported the balanced budget amendment, or who had opposed debt ceiling increases in the name of budget restraint, or who had denounced budget deficits in his speeches, we would not have any trouble passing the budget summit agreement.

What we are discovering, however, is that many Members are losing their courage. They talk tough on the deficit, but will not vote tough. They claim to be fighting against the deficit, but they are fair-weather warriors.

Mr. Speaker, it is time for the House of Representatives to put up or shut up on the deficit. In the last 10 years, we have increased the national debt from about $1 trillion to over $3 trillion. It took every President from George Washington to Jimmy Carter to give us that first trillion in debt, but while George Bush has been Vice President and President, we have added another 2 trillion to that debt.

It is time to stop the bleeding, and, to President Bush's credit, he and his staff have finally negotiated with Congress on a way to stop the fiscal hemorrhaging.

The vote this week may well be the most important vote that we will have cast in this, or any recent, Congress. The real question is whether the President and Congress are competent to govern the fiscal affairs of our Nation. Does our proud democracy still work? Or are we the slaves of parochial and special interests who don't mind our Nation living on borrowed money and borrowed time until we wake up and discover that we are a second-class economic power?

EASY TO CRITICIZE

The primary reason for the past deadlock on deficit issues has been the fact that it is almost impossible to please a majority of House and Senate Members, and the President, on a single deficit reduction package. This has been the tragic legacy of our Nation's longest experiment with divided

Government, with the White House controlled by one political party and most of the Congress by another.

Why has it been hard to achieve a consensus, or even a bare majority, over almost a decade? Because, as any politician can tell you, it is always easier to criticize something than to improve it.

There are many ways to state that fundamental political principle. It is notoriously easy to be a back-seat driver or a Monday-morning quarterback. Speaker Sam Rayburn said it even more strongly, "Any jackass can kick a barn down; it takes a carpenter to build one."

It would be easy for me to kick this budget summit agreement down, as many of our colleagues are doing. I hate the Medicare cuts; I hate the gasoline tax; I hate the lack of progressivity in the package; but I hate the deficit even more.

This is a spinach and broccoli package. We hate it, the President hates it, but it is good for both of us.

It is becoming harder and harder in modern politics to make good decisions in the long-term interest of our Nation and avoid a backlash in the polls and on election day. Put another way, the skills required to get elected to office do not necessarily serve you well once you are in office. There is a split between the needs of politics and the needs of governing. This is all too plain when you talk to our Nation's political experts.

The noted political consultant and pollster firm, the Garin-Hart Strategic Research Group, is quoted in today's Washington Post as saying:

> Voting for a budget settlement may be the most responsible course, but do not expect much credit from voters for doing the responsible thing . . . If you vote for the budget compromise, you should realize that many voters will resent it.

Another noted political adviser and pollster, Harrison Hickman, also realizes that his advice to candidates is against the national interest. He is quoted as saying, "The Republic is better off if no one asks me."

I may be completely wrong, but I think the voters are smarter than the so-called experts give them credit for. I think the voters want their representatives to be honest with them, even when the truth is unpleasant. I think that voters want what it is in the long-term best interests of the Nation, and are tired of politicians deceiving them with false hopes and false promises. I think that voters want the deficit reduced now; in fact I think they wanted the problem solved several years ago. They are tired of hearing about it and tired of us not solving the problem faster.

BEWARE SECRET PLANS

When Richard Nixon was running for President in 1968, he claimed to have a secret plan to end the Vietnam war. He was elected and, of course, he turned out not to have a secret plan. In fact the war escalated, contrary to what most voters had been led to believe by his campaign.

Today, many of our colleagues have, if not secret, at best partial plans to reduce the deficit. Each one of these plans, even if fleshed out and audited by the CBO and OMB, caters to every local interest in that Member's district. For years now, we have been campaigning against the deficit and keeping our plans ready in case any reporter questions us on the specifics. So far these individual plans have been good enough to fool reporters, but no longer. Why? Because individual solutions do not work; only plans with 218 votes have a chance of working.

We all know that there is no majority for any of our personal plans, so there is absolutely no danger of any of them passing. We have had 10 years to see whether there is such a majority. I personally have favored across-the-board budget freezes so that every American would be treated the same, and so that there would be no new taxes. But the last time this idea was voted on, it received 56 votes out of the necessary 218. Other plans have done about the same. I have voted for many of them as well.

When every Congressman has his or her own plan, Congress has no plan. Every congressional district is different and every deficit reduction plan is not only different but often contradictory. Our diversity as a nation has gridlocked Congress on the most important and persistent economic issue of our time.

Members have been unwilling to compromise, to set aside personal and local preferences, for the good of the whole Nation. Each member, and each special interest group across our Nation, wants the power to veto any measure that offends their parochial interest. The phrase "I got mine" has become more popular than "I did it for the good of the Nation."

I would like to suggest that, particularly in this time of prolonged divided Government, it is important for Members to make sacrifices for the good of the Nation. What excuse is going to be good enough for our grandchildren when they ask us why we carelessly piled additional trillions of dollars of debt on their shoulders? The Republicans wouldn't help us? The Democrats bailed out? Folks in my district would have been upset? I was afraid to take the heat?

These answers are not good enough. Individual solutions to a national problem are not good enough. We are a legislature and we must act as a legislature, not as a group of independent operators. While we are busy saving our own political hides, our Nation is getting scalped.

PAINLESSLY PAINFUL

As painful as particular parts of the budget summit agreement are, the pain is mild indeed when compared to a real solution of the deficit problem. This package will reduce the deficit by $40 billion this year, and by $500 billion over the next 5 years, but it is still not enough to guarantee us a balanced budget. We can continue to expect large deficits, just not as large as they would have been.

The most valid criticism of the package is that it is too little, too late. But this is criticism that can only be made by those who are willing to vote for this level of pain, not by those who say they want even more pain but are afraid of even this amount.

Another valid criticism of the package is that it still contains too much false savings, so-called smoke and mirrors. True, this package has less gimmickry in it than most recent reforms, but its' unrealistic interest rate assumptions, increased tax collection assumptions, and the estimated savings from the lump-sum civil service retirement termination, still mislead the public as to the real deficit reduction impact of the package.

For all of these faults, to have a package that makes a serious effort to reduce the deficit this year by $40 billion and by $500 billion over the next 5 years, all without touching Social Security, COLA's, or tax rates, is too good to pass up. The package looks even better when you compare it to the alternatives: Sequestration or continued record deficits.

Mr. Speaker, the hour is late and the stakes are high. This House has a chance to prove that it can responsibly manage the fiscal affairs of this Nation, or it can shirk its responsibility for yet another year. I hope that we will rise to the challenge of preserving the long-term economic health of our Nation by reducing the deficit, instead of thinking only of preserving our own political careers. This is a rare opportunity, to have a bipartisan agreement that begins to solve a painful problem in one of the most painless possible ways, I hope that we will not miss this chance. Let us support the President, let us support our own leadership, and let us support the budget summit agreement.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ENGEL (at the request of Mr. GEPHARDT), for today, on account of illness.

Mr. MYERS of Indiana (at the request of Mr. MICHEL), until 4 p.m. today, on account of family medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PORTER) to revise and extend their remarks and include extraneous material:)

Mr. PASHAYAN, for 1 hour, on October 9.

Mr. PORTER, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

Mr. OWENS of Utah, for 5 minutes each day, today and on October 4.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COOPER, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FAWELL today on Smith amendment No. 5 in H.R. 4300.

(The following Members (at the request of Mr. PORTER) and to include extraneous matter:)

Mr. COUGHLIN.

Ms. ROS-LEHTINEN in four instances.

Mr. BOEHLERT.

Mr. BAKER in two instances.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. TORRICELLI.

Mr. GORDON in two instances.

Mr. SOLARZ.

Mr. MRAZEK.

Mr. SKELTON

Mr. TRAFICANT.

Mr. SAWYER

Mr. MCNULTY.

Mr. PALLONE.

Mrs. PATTERSON.

Mr. MILLER of California.

Mr. MORRISON of Connecticut.

Mr. VENTO.

Mr. MCHUGH.

Mr. WEISS.

Mr. BONIOR.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1731. An act to provide for the creation, restoration, protection, enhancement, and conservation of coastal wetlands, and to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats, and for other purposes; to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

S.J. Res. 342. Joint resolution designating October 1990 as "Ending Hunger Month"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1243. An Act to require the Secretary of Energy to establish Centers for Metal Casting Competitiveness Research;

H.R. 2372. An Act to provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing;

H.R. 3897. An Act to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes;

H.R. 5725. An Act to extend the expiration date of the Defense Production Act of 1950;

H.J. Res. 398 vs. Joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park;

H.J. Res. 469. Joint resolution to designate October 6, 1990, as "German-American Day"; and

H.J. Res. 603. Joint resolution to designate the month of October 1990 as "Country Music Month."

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and a joint resolution of the Senate of the following titles:

S. 2588. An act to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances; and

S.J. Res. 301. Joint resolution designating October 1990 as "National Breast Cancer Awareness Month."

ADJOURNMENT

Mr. COOPER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 44 minutes p.m.), the House adjourned until tomorrow, Wednesday, October 3, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3987. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize urgent supplemental appropriations for fiscal year 1990 for the Department of Defense, and for other purposes; to the Committee on Armed Services.

3988. A letter from the Secretary of Defense, transmitting notification that the Air Force intends to obligate $7 million in active RDT&E funding for the ALQ-161A "Core" program; to the Committee on Armed Services.

3989. A letter from the Secretary of Defense, transmitting a letter urging Congress to extend for 2 years the provisions of the Defense Production Act; to the Committee on Banking, Finance and Urban Affairs.

3990. A letter from the Secretary of Health and Human Services, transmitting the 1989 annual report on expenditures with respect to AIDS, pursuant to Public Law 100-607, section 201 (102 Stat. 3063); to the Committee on Energy and Commerce.

3991. A letter from the Executive Director, National Mediation Board, transmitting the Board's annual report of its compliance with the Government in the Sunshine Act during calendar year 1989, pursuant to 5 U.S.C. 552b; to the Committee on Government Operations.

3992. A letter from the Secretary of Labor transmitting a copy of the annual report in compliance with the Government in the Sunshine Act for calendar year 1989, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3993. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report dated March 20, 1989, from the Chief of Engineers, Department of the Army, on Cattaraugus Creek, NY, together with other pertinent reports; to the Committee on Public Works and Transportation.

3994. A letter from the Secretary of Labor, transmitting a report on the labor market situation for certain disabled veterans and Vietnam Theater veterans, pursuant to 38 U.S.C. 2010A; to the Committee on Veterans' Affairs.

3995. A letter from the Secretary of Health and Human Services, transmitting a letter stating that in lieu of submitting a separate report to fulfill the requirements of section 9111 of Public Law 99-272, the Department will include an evaluation of potential modifications in payment policies for SCH's in the report mandated by section 6003(i) of Public Law 101-239; to the Committee on Ways and Means.

3996. A letter from the Secretary of Health and Human Services, transmitting a letter stating that in lieu of submitting a separate report to fulfill the requirements section 4005(d)(2) of OBRA 1987, the Department will include an evaluation of potential modifications in payment policies for RRC's in the report mandated by section 6003(i) of OBRA 1989; to the Committee on Ways and Means.

3997. A letter from the Secretary of Health and Human Services, transmitting notification that the Department will not be sending the report mandated by section 4049(b) of OBRA 1987 because the provision has been fully implemented and the need for this report is outdated; jointly, to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee on Agriculture. S. 319. An act to effect an exchange of lands between the United States Forest Service and the Salt Lake City Corporation

within the State of Utah and for other purposes; with an amendment (Rept. 101-547, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.[H02OC0-T3]{H8705}GARZA:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 1608. A bill to strengthen national nutrition monitoring by requiring the Secretary of Health and Human Services to prepare and implement a ten-year plan to assess the dietary and nutritional status of the United States population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes; with an amendment (Rept. 101-788). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. H.R. 5769. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-789). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4765. A bill to enable the people of Puerto Rico to exercise self-determination; with an amendment (Rept. 101-790, Pt. 1). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. H.R. 4765. A bill to enable the People of Puerto Rico to exercise self-determination; with an amendment (Rept. 101-790, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHEAT: Committee on Rules. House Resolution 485. Resolution providing for the consideration of H.J. Res. 647, joint resolution disapproving the recommendation of the President to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China (Rept. 101-791). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 486. Resolution providing for the consideration of H.J. Res. 649, joint resolution approving the extension of nondiscriminatory treatment (most favored nation treatment) to the products of Czechoslovakia (Rept. 101-792). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 487. Resolution providing for the consideration of H.R. 5422, a bill to authorize appropriations for fiscal year 1991 for intelligence and intellgence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 101-793). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 488. Resolution providing for consideration of the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995 (Rept. 101-794). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 489. Resolution waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules (Rept. 101-795). Referred to the House Calendar.

Ms. SLAUGHTER of New York. Committee on Rules. House Resolution 490. Resolution providing for the consideration of H.R. 5269, a bill to control crime (Rept. 101-796). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. YATES:

H.R. 5769. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

By Mr. THOMAS of California (for himself and Mr. LAGOMARSINO):

H.R. 5770. A bill to authorize the President to lease Naval Petroleum Reserve Numbered 1 and thereby assure the efficient production of oil, natural gas, and other hydrocarbon resources at that property; to ensure the Federal Government receives fair market value for leasing that property; to upgrade the Nation's energy security assets by establishing a Defense Petroleum Inventory; and to provide for the equitable sharing with the State of California of revenue from Naval Petroleum Reserve Numbered 1; jointly, to the Committees on Energy and Commerce and Armed Services.

By Mr. BARNARD (for himself, Mr. THOMAS of Georgia, Mr. HATCHER, Mr. RAY, Mr. JONES of Georgia, Mr. LEWIS of Georgia, Mr. GINGRICH, Mr. DARDEN, Mr. ROWLAND of Georgia, Mr. JENKINS, Mr. LEHMAN of California, and Mr. MCMILLEN of Maryland):

H.R. 5771. A bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1996 Olympic Games; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HUCKABY:

H.R. 5772. A bill to provide for Federal recognition of the Jena Band of Choctaws of Louisiana, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PICKETT:

H.R. 5773. A bill to require the President to submit a national energy policy plan, together with implementing legislation; to the Congress by March 31, 1991, and biennially thereafter through 1999, that will provide for energy self-sufficiency for the United States by the year 2000; to the Committee on Energy and Commerce.

H.R. 5774. A bill to amend the Internal Revenue Code of 1986 to allow the one-time exclusion on gain from the sale of a principal residence to be taken before age 55 if the taxpayer is permanently and totally disabled; to the Committee on Ways and Means.

By Mr. RIDGE:

H.R. 5775. A bill to use the income on depository institution reserves at the Federal Reserve banks to protect and enhance the deposit insurance system; to the Committee on Banking, Finance and Urban Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

531. By the SPEAKER: Memorial of the Legislature of the State of California, relative to cable television; to the Committee on Energy and Commerce.

532. Also, memorial of the Legislature of the State of California, relative to the World Summit for Children; to the Committee on Foreign Affairs.

533. Also, memorial of the Secretary of the State of Delaware, relative to the Delaware-New Jersey compact; to the Committee on the Judiciary.

534. Also, memorial of the House of Representatives of the State of Michigan, relative to judicially imposed taxation; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. McCOLLUM:

H.R. 5776. A bill for the relief of Global Exploration and Development Corp., Kerr-McGee Corp., and Kerr-McGee Chemical Corp.; to the Committee on the Judiciary.

By Mr. McCOLLUM:

H. Res. 491. Resolution for the relief of Global Exploration and Development Corp., Kerr-McGee Corp., and Kerr-McGee Chemical Corp.; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 303: Mr. TAUKE.

H.R. 446: Mr. DYSON, Mr. LANCASTER, Mrs. SMITH of Nebraska, Mr. BLILEY, Mr. GOSS, Mr. SIKORSKI, Mr. BARNARD, Mr. WYLIE, Mr. SMITH of New Jersey, Mrs. BENTLEY, Mr. GALLEGLY, Mr. FRANK, Mr. SAXTON, Mr. DUNCAN, Mr. WASHINGTON, Mr. PICKETT, Mr. KENNEDY, and Mrs. PATTERSON.

H.R. 659: Mr. GEREN of Texas.

H.R. 708: Ms. KAPTUR and Mr. TAUKE.

H.R. 1932: Mr. DORNAN of California.

H.R. 2870: Mr. WISE and Mr. PAXON.

H.R. 3004: Mr. CAMPBELL of Colorado.

H.R. 3243: Mr. GEREN of Texas, Mr. GILLMOR, Mr. PETRI, Mr. HANSEN, Mr. WALSH, Mrs. JOHNSON of Connecticut, Mr. NEAL of North Carolina, and Mr. FORD of Tennessee.

H.R. 3654: Mr. ROGERS and Mr. ROE.

H.R. 3735: Mr. VISCLOSKY and Mr. NEAL of Massachusetts.

H.R. 3818: Mr. ECKART and Mr. GEREN of Texas.

H.R. 4168: Mr. ECKART.

H.R. 4212: Mr. HUBBARD and Mr. BROOKS.

H.R. 4233: Mr. PICKLE.

H.R. 4424: Mr. CLINGER and Mr. HANSEN.

H.R. 4494: Mr. DYSON and Mr. SANGMEISTER.

H.R. 4513: Mr. PASHAYAN, Mr. BATES, Mr. ATKINS, Mrs. SCHROEDER, Mr. FRENZEL, Mr. CONDIT, and Mr. WAXMAN.

H.R. 4573: Mr. BROWN of California and Mr. FISH.

H.R. 4649: Mr. OWENS of New York.

H.R. 4770: Mr. FISH, Mr. AUCOIN, Mr. GORDON, and Mr. DYSON.

H.R. 4849: Ms. KAPTUR, Mr. FEIGHAN, Mr. ROSE, and Mr. SABO.

H.R. 4948: Mr. JONTZ, Mr. BENNETT, and Mr. HOCHBRUECKNER.

5185: Mr. WEISS.

H.R. 5212: Mr. WATKINS, Mr. LAGOMARSINO, Mr. DWYER of New Jersey, Mr. GEPHARDT, and Mr. TORRICELLI.

H.R. 5216: Mr. COYNE.

H.R. 5362: Mr. NEAL of North Carolina.

H.R. 5368: Mr. ECKART, Mr. BLILEY, and Mr. INHOFE.

H.R. 5379: Mr. PURSELL, Mr. EDWARDS of Oklahoma, and Mr. VANDER JAGT.

H.R. 5493: Mr. ROWLAND of Connecticut, Mr. RITTER, Mr. SHAYS, and Mr. FISH.

H.R. 5505: Mr. BILBRAY and Mr. FISH.

H.R. 5544: Mr. DWYER of New Jersey and Mr. ECKART.

H.R. 5551: Mr. VENTO, Mr. KOSTMAYER, and Mr. KOLTER.

H.R. 5568: Mr. REGULA, Mr. APPLEGATE, Mr. EVANS, Mr. HORTON, Mr. SYNAR, Mr. WISE, and Mr. BRYANT.

H.R. 5585: Ms. LONG.

H.R. 5603: Mr. JONTZ and Mr. PALLONE.

H.R. 5639: Mr. NEAL of Massachusetts, Mr. ROE, Mr. SMITH of Florida, and Mr. LIPINSKI.

H.R. 5652: Mr. WOLF, Mr. HORTON, Mr. EARLY, Mr. STAGGERS, Mr. LAGOMARSINO, Mr. CAMPBELL of Colorado, Mr. MCCLOSKEY, Mr. WELDON, Mr. FAUNTROY, and Mr. GALLO.{H02OC0-U1}{H8706s5658:

H.R. 5658: Mr. JENKINS.

H.R. 5689: Mr. EVANS.

H.R. 5722: Mrs. MARTIN of Illinois.

H.R. 5726: Mrs. JOHNSON of Connecticut, Mr. SUNDQUIST, Mr. WALKER, and Mr. THOMAS of Georgia.

H.R. 5739: Mr. HORTON, Mr. SCHEUER, Mr. ACKERMAN, Mr. DOWNEY, Mr. FISH, Mr. GILMAN, Mr. HOCHBRUECKNER, Mr. LAFALCE, Mrs. LOWEY of New York, Mr. MCGRATH, Mr. BOEHLERT, Mr. ENGEL, Mr. FLAKE, Mr. GREEN of New York, Mr. HOUGHTON, Mr. LENT, Mr. MANTON, Mr. MCHUGH, Ms. MOLINARI, Mr. NOWAK, Mr. PAXON, Mr. SERRANO, Ms. SLAUGHTER of New York, Mr. SOLOMON, Mr. WALSH, Mr. MARTIN of New York, Mr. MRAZEK, Mr. OWENS of New York, Mr. RANGEL, Mr. SCHUMER, Mr. SOLARZ, Mr. TOWNS, and Mr. WEISS.

H.J. Res. 87: Mr. SCHUETTE.

H.J. Res. 214: Mrs. VUCANOVICH, Mr. ROSE, Mr. SAXTON, Mrs. ROUKEMA, Mr. HAYES of Louisiana, Mr. RINALDO, Mr. QUILLEN, Mr. DICKS, Mr. LEACH of Iowa, Mr. GOODLING, Mr. DANNEMEYER, Mr. SHAW, Mr. HENRY, Mr. BROWN of Colorado, Mr. MCHUGH, Mr. LAFALCE, Mr. BROOKS, Mr. MADIGAN, Mr. SHAYS, Mr. BEREUTER, Mr. PETRI, and Mr. SKELTON.

H.J. Res. 248: Mr. ANTHONY, Mr. CHAPMAN, Mr. CLAY, Mr. ERDREICH, Mr. FLAKE, Mr. GIBBONS, Mr. HAYES of Louisiana, Mr. JOHNSTON of Florida, Mr. LAUGHLIN, Mr. LEHMAN of California, Mr. MILLER of California, Mr. ORTIZ, Mr. PARKER, Mr. COLEMAN of Texas, Mr. DARDEN, Mr. DICKS, Mr. ANDREWS, Mr. BROWN of Colorado, Mr. COYNE, Mr. FLIPPO, Mr. GALLO, Mr. HOAGLAND, Mr. JACOBS, Mr. MINETA, Mr. PAYNE of Virginia, Mr. PICKLE, Mr. RIDGE, Ms. MOLINARI, Mr. SKAGGS, Mr. CONDIT, Mr. GEREN of Texas, Mr. WALGREN, and Mr. WASHINGTON.

H.J. Res. 419: Mr. MURTHA.

H.J. Res. 543: Mr. VENTO, Mr. UPTON, and Mr. OXLEY.

H.J. Res. 562: Mr. GUARINI, Mr. MCDERMOTT, Mr. MCNULTY, Mr. SERRANO, Mr. ROE, Ms. KAPTUR, Mr. SYNAR, and Mr. WAXMAN.

H.J. Res. 571: Mr. GUARINI, Mr. PAYNE of New Jersey, Mr. HANSEN, Mr. LEWIS of Georgia, Mr. RANGEL, Mr. SCHEUER, Mr. SYNAR, and Mr. MAZZOLI.

H.J. Res. 583: Mr. JOHNSON of South Dakota and Mr. FRANK.

H.J. Res. 612: Mr. HEFNER.

H.J. Res. 628: Mr. ENGEL.

H.J. Res. 642: Mrs. MARTIN of Illinois, Mrs. MEYERS of Kansas, and Mr. HYDE.

H. Con. Res. 322: Mr. SKELTON, Mr. BROOKS, Mr. ROE, Mr. CRANE, Mr. FROST, Mr. SCHUMER, Mr. MCGRATH, and Mr. HERTEL.

H. Con. Res. 371: Mr. FISH, Mr. DWYER of New Jersey, and Ms. PELOSI.

H. Con. Res. 373: Mr. HUGHES, Mr. DEFAZIO, Mr. KLECZKA, Mr. ECKART, Mr. STARK, Mr. APPLEGATE, and Mr. BATES.

PETITIONS, ETC.

Under clause 1 of rule XXII,

240. The SPEAKER presented a petition of the Common Council of the city of Sheboygan, WI, relative to support of H.R. 5423; which was referred to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

ROBERT REDFORD SPEAKS OUT ON ENVIRONMENTAL ACTIVISM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. MILLER of California. Mr. Speaker, for many years I have admired Robert Redford's commitment to environmental protection and improvement. His dedication is a deep and personal one to which he has devoted enormous amounts of effort and resources.

For the past several years, I have worked closely with Robert and the Institute for Resource Management, which he founded to bring together environmentalists, business people, energy producers, utilities, and others in an effort to find solutions to the conflicts over the way we use our Nation's natural resources.

IRM has not just provided a vehicle for speechifying or discussion. Tough compromises have been hammered out on some very challenging and longstanding environmental conflicts, and crucial channels of communications have been opened up that help resolve ongoing disputes. Robert Redford has been the stimulus that kept that effort together and forced IRM's conferences to be as productive as they have been, and through his efforts, he has gained enormous credibility with both sides in disputes over resource use.

Robert has also looked beyond our domestic disputes, recognizing that many of our toughest ecological problems cannot be addressed on a nation by nation basis. Nuclear waste, ozone depletion, acid rain, global warming—all require innovative international cooperation. With that goal in mind, IRM has begun a valuable exchange with the Soviet Union, bringing scientists, political leaders, and environmentalists together.

Mr. Speaker, we all know celebrities who associate with one cause or another, and often, they frankly bring little more than political event. That's not Robert Redford. He has been a knowledgable leader on environmental concerns for more than two decades, and I very much look forward to his increased activity on the national scene, because we desperately need to raise the level of outrage and activism about the ongoing assault on the environment and the wasteful misuse of our natural resources.

Robert talked about his views on environmental issues to the National Press Club yesterday, and I want to share with my colleagues his remarks at that time:

REMARKS BY ROBERT REDFORD

It's always a challenge to step outside the role of an actor. You never know what's going to come your way.

During the 1988 campaign, I spoke at one of the 25,000 toxic dump sites in this country and tried to say that the "environmental candidate," should give us an inkling as to how we clean these places up.

When I finished my talk, one of the best-known national news reporters came running after me with his network crew, and I braced myself for a tough question on the waste problem. He got the camera in my face and shouted, who did I think was better-looking, me or Dan Quayle?

I guess Sam—let's call him Sam—Sam thought I was trying to pull a cover-up on this burning issue. Sometimes I have to face the facts that on some days, that's my environmental impact.

I'm here to share a concern on our environment. I'm not alone in realizing the environment has reached a point of no return. For years the struggle was to raise awareness, but now, thanks partly to the attention from the media, it is not any longer the issue. The issue is what are we going to do about it?

I guess my involvement began before I even knew it, when I was growing up in Los Angeles at the end of the Depression and during and after World War II. I remember the excitement when the country began to open up after the war and rebuild itself. We were the most powerful nation on Earth, no doubt about it. We had won the war, we had kept the world free. Our idea of progress was to build with no limit. It was exciting. We were taught this was our manifest destiny. But then something happened. I watched as the green, open spaces turned into concrete malls and freeways, and the clean, pure air turned into smog alerts. I watched as unbridled development became the order of the day. Oil drills appeared off the beaches, along with oilspills in the water and hunks of tar on the sand. The smell of orange blossoms turned into exhaust fumes.

It felt like my home was being taken away from me. I felt my roots being pulled out from under me. And I began to take it personally.

I had to go further and further away to find places where the natural environment still existed.

We are finding that we can't keep using up one place and moving on to the next. We have created a world that is tipping dangerously out of balance.

Like most people in my generation, I was brought up to believe in progress. I still do. But we're at a point where we have to ask ourselves if we are the beneficiaries of our progress—or the victims? Manifest destiny doesn't work anymore. Progress from now on has to mean something different. We are running out of places, we're running out of resources, and we're running out of time.

Scientists tell us the struggle to sustain life in this Earth's environment could be won in the next decade—or lost. As we approach the year 2000, we've now heard the hard facts.

Over 100 million people—half our population—already breathe air that is unhealthy.

Health experts tell us not to eat the fish from our own rivers, lakes, and oceans.

We've got chemical and nuclear wastes piling up at dump sites and leeching into our land and water.

Our oceans are warming, our ozone's layer's got a hole that's getting bigger—and according to Carl Sagan, a whole football field of rain forests is vanishing—not every hour, not every minute—but every second! With each tick, a field of trees gone.

It's a pretty lousy legacy we've left for our children. We should be apologizing.

Native Americans try to live with seven generations in mind. Recently we have been plunging ahead blindly, without plans for even one generation.

The environmental movement has been growing for over 20 years, and in the seventies, it seemed for a while the Government was responding, passing regulations, supporting research for things like alternative fuels. Some corporations came up with energy plans, and some discovered conservation is good business. But today, when people in every community put more and more concern into the environment, the Government in Washington seems to treat it as just one more special interest to be appeased.

What happened? There was so much good work done in the seventies. Where did we go off track? In the eighties, we had an executive branch whose major policy seemed to be to set loose selfishness. The idea was to open up all our institutions—banking, housing, real estate, energy—to fast-buck kings with a minimum of regulations. What a step backwards!

The results have been catastrophic. I think for the environment, there's never been such a time of naked greed and exploitation as we have seen in the last decade. The damage done we'll feel for a long time.

The Reagan administration filled key appointments with agents of private profit who were put in place to sell off or pay out public assets. There seemed to be a mean-spirited attitude behind them. Their idea of land use policy was just more real estate development. James Watt, Ann Burford, Rita LaValle, Samuel Pierce—all foxes guarding the chicken coop.

When the occasional critic got up to ask if something was going wrong, the strategy was to give a superior little chuckle and dismiss the "prophets of gloom and doom, running down America".

Well, I'm not a prophet of gloom and doom. I've always assumed love of land and love of country go together. I think I'm like a lot of other people who are tired of being humored and handled.

A high-water mark for trying to sucker the voters came during the 1988 campaign. No wonder so many Americans stayed home and didn't vote. The big issue we were always hearing about was who was most effective at manipulating the public.

So instead of policy-makers you hire image-makers. You create some backdrop like a Salem cigarette ad and you announce, "I'm an environmentalist!"

We all remember that famous Bush-for-President ad with sewage pipes emptying into Boston Harbor. But after the election, who was watching when the administration cut $400 million from funds to do the job?

When the President was campaigning and was pressed on global warming and the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

greenhouse effect, he said, "Wait till you see the White House effect!" We've seen it—it's a call for more study. Well, that's an old stall.

Of course scientists disagree on some things—but what they agree on in this matter is more than enough to take action. America has played a big role in causing this problem—and the world looks to us to take the lead in solving it.

You don't solve these problems just by labelling yourself an environmentalist. You solve them by planning and commitment.

I think the press taking political ads and holding them up against the facts is a good thing. I hope we see more of it. And it's important that you're beginning to analyze the contributions to Congress from vested interests. It makes sense to me to trace contributions to Congressmen and Senators from industries connected to the savings and loan scandal. But maybe we should start doing the same thing for the environment.

We need more perspective on messages like "read my lips". There's no point reading lips, if the lips aren't saying anything. That's called lip service. And it's no answer.

It used to be that environmentalism in the minds of some meant camping out, eating granola, and hugging a tree.

I remember Senator Jake Garn of Utah once called environmentalists "back-packing kooks." It later became clear the Senator was out in space.

Today, 3 out of every 4 Americans call themselves environmentalists.

Times have changed. More people see, for instance, that saving the environment is not a trade-off for losing jobs. Saying it is just an old political dodge. Environmentalism is good business. Advances in environmentally safe products can open new economic horizons. Whole industries will be created through energy conservation. And retooling existing industries will create more jobs than it takes away. Jobs with a sense of accomplishment and connection to others. A more human side to economics.

There is some good news. Almost every major city in the United States now has recycling programs—citizens are beginning to question the need when developers come into their neighborhoods. There are wonderful examples all over the country of people and communities taking things into their own hands. But individual action alone cannot solve our environmental problems. Pollution has no boundaries. Solutions require leadership.

We have seen in the last year people rising all over the world asking more from their leaders and beginning to get it. Poll after poll indicates that the people are way ahead of the politicians.

We can't wait around anymore for solutions to come from the top. It isn't going to happen. And as for Congress, the action there is too late, too slow, and too full of compromise.

American democracy has a long history of change won by popular movements—women's suffrage, labor laws, the civil rights movement, the end of the Vietnam War. It seems to me the grassroots activism we see around the country is evidence that there is a movement underway that wants action on behalf of the environment.

What we're living with is the result of human choices. And it can be changed by making better, wiser choices. As we've learned in the past, the media can play an important role in these events. I hope the work continues.

SILVER ANNIVERSARY OF NEW CRACOW FRIENDSHIP SOCIETY

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. MRAZEK. Mr. Speaker, I would like to take this opportunity to highlight the achievements of a group that for the past 25 years has promoted the principles of philanthropy and patriotism both here and abroad. The New Cracow Friendship Society was founded in 1965 for the purpose of gathering Jewish Holocaust survivors from Cracow, Poland, under a banner of friendship, and has for 25 years developed means of assisting the indigent here and abroad.

Remembering the martyrs of the Holocaust and the glorious past of Cracow Jewry has played a central role in the society's activities, benefiting Jews both in Cracow and Israel. In addition to providing scholarships to needy Israeli students, the society's fundraising efforts have benefited such Israeli institutions as the Beit Halochem Disabled War Veterans Society, the Akim Rehabilitation Center for Handicapped Children, and the Haifa Medical Center.

At a dinner dance in Great Neck, Long Island, on October 28, 1990, the society will honor its presidents and pay tribute to its founders. Through the publication of a silver anniversary journal, in conjunction with the October 28, event, the society will leave a legacy of Cracow Jewry's past for future generations, and give thanks for the new life and new opportunities that this country has been able to offer to these heroic survivors.

ICEAGE MAMMALS WORLD PREMIERE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, in celebration of the 41st anniversary of the Miami Museum of Science and Space Transit Planetarium and the world premiere of "Iceage Mammals: the Complete Kokoro Collection," the Science After Hours Committee will be hosting "Bearskin" event. Net proceeds will benefit the Miami Museum of Science.

I would like to make a special recognition to Mr. Russell Etling, executive director of the Miami Museum of Science, and Mr. Jack Horkheimer, executive director of the Space Transit Planetarium. Their devotion to educating our community and creating an enlightened atmosphere is exhibited every day.

There have been several people who have made outstanding contributions to the Miami Museum of Science. Among them are Mrs. Harriet Ehrhard, Mr. Walter Etling, and Dr. J. Manson who act as honorary curators for the museum. They are to be commended for their knowledge and experience which they bring to the operation of the museum.

I would also like to acknowledge the volunteer representatives to the Miami Museum of Science. They are Mrs. James Bedingfield, Ms. Mattie Lou Wessel, Mrs. Gerald C. Case, Ms. Anne Cruxant, Ms. Olga Pouget, Mrs. Stuart Lofberg, and Ms. Helene Schneker.

I would like to congratulate and commend the members of the board of trustees for all of their outstanding work in furthering public awareness of science and space. The board of trustees include: Mr. Jack Admire, Mr. Marcelo A. Alvarez, Mrs. Arthur J. August, Mrs. James Bedingfield, Mr. Herman Berger, Mrs. Bernard Blanck, Mrs. William Bradley, Mrs. Frederick Brenner, Mrs. Gerald C. Case, Mrs. Alvin Cassel, Mrs. William Cleveland, Mrs. Kenrick Clifford, Mr. Douglas Coffey, Mrs. Kenneth H. Constant, Mr. Clark Cook, Jr., Mrs. Leona H. Cooper, Hon. George Corrigan, and Mrs. Salvadore Cruxent.

Also included are: Mr. Mitchell Dauerman, Mrs. Louise Dessaint, Mrs. Albert Ehlert, Mrs. Robert Ellyson, Mrs. Martin Fine, Mr. Dennis Finneran, Mr. Jose A. Garrido, Jr., Mr. Martin J. Genauer, Mrs. William A. Graham, Mr. Dale M. Gregory, Mrs. R.H. Hammond, Mr. Herschel C. Hayo, Jr., Mrs. Jack A. Herget, Dr. William Heuson, Dr. James Hobbs, Mr. Peter E. Houghton, Mrs. John J. Hudiburg, Mrs. Lee Imbrie, Mrs. Charles Kantor, Ms. Annalea Kayar, Dr. Michael Krop, Mr. Harold G. Levell, Mr. Steve Lieberman, Mrs. E. Stuart Lofberg, Mr. Bruce Malec, Dr. Eugene H. Man, Mr. John Mann, Mrs. Ellis McKay, and Mrs. Joel Meyer.

Further included in the board of trustees are: Mr. James M. Miller, Mr. John O'Hare, Jr., Mr. Roderick N. Petrey, Mrs. Micajah Pickett, Dr. James O. Plinton, Mr. Austin Porrfiri, Ms. Olga Pouget, Mr. William F. Quesenberry III, Mr. Ambrosio Rodriguez, Dr. Peter A. Rona, Mr. Stanley Ross, Mr. Jack J. Sapia, Mrs. Marvin Schneker, Mr. James H. Scott, Mr. John Stokes, Mrs. Paul Strauss, Mrs. Edwin J. Tilton, Jr., Ms. Barbara Vicevich, Mr. Jeff B. Weiner, Mr. Albert L. Weintraub, Mrs. George Wessell.

I would also like to recognize the ex officio members of the trustees. They are Mr. Gus Loret de Mola representing the superintendent of schools, Mr. Richard Bezold representing Affiliates' Presidents Club, Mr. Richard S. Farwell representing the department of parks and recreation, and Mr. Tony Ojeda representing the county commissioners.

It is not often that we find museums that encourage our minds to explore. The Miami Museum of Science and Space Transit Planetarium do exactly that. They stimulate our senses and persuade us to broaden our outlook on space and the sciences. I congratulate everyone for their dedication and spirit and wish them much success with the "Bearskin" event.

BRENTWOOD GIRLS TAKE WORLD TITLE

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. GORDON. Mr. Speaker, as the major league baseball play-offs get underway and teams battle for a spot in the World Series, I'd

like Congress to recognize a team of 11- and 12-year-old girls from Brentwood, TN, who won a World Series title of their own this summer.

The Brentwood Civitan Pony Tail American Girls All-Star softball team, outplayed nine other teams from around the country to stake their claim to the title of Pony Tail World Champions during a tournament in Powhatan, VA, August 10–16, 1990.

The 12-member team, selected from the regular season league, won the district title at a tournament in Franklin, TN, July 14–18, to advance to the State tournament. The girls won the State crown in Covington, TN, July 27–31, to earn the right to play in the World Series.

In Congress, we often hear of a generation of youths that's being lost to television, a break-up of the family, and a lack of discipline.

To Congress and the Nation, I offer the Brentwood Civitan Pony Tail American Girls All-Star team as a shining example of what's right with today's youths. The girls combined their individual abilities with teamwork and discipline to win time and again. They worked hard to achieve a common goal but did not lose sight of the fact that it was just a game.

They supported each other in times of adversity. In times of victory, they were gracious winners, displaying a level of sportsmanship beyond their years.

With the support of their families and their community, the girls were able to bring home an experience and a memory they will cherish for life.

The city of Brentwood, the people of Williamson County and citizens of Tennessee should be proud that these girls, their coaches and their families call middle Tennessee home.

The members of the team are Beth Bayrd, Lisa Conn, Kelly Freeman, Jena Hunter, Heather Lannom, Sara Mayes, Leslie Miller, Leanne Parker, Emily Pearman, Brooke Siebel, Amy Whittemore, and Mandy Young. The team's coaches are Chuck Brewer, Len Lannom, and Elizabeth Whittemore.

TRIBUTE TO THE SUCCESS OF LOUISIANA BEACHSWEEP 1990

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. BAKER. Mr. Speaker, today I have the pleasure of honoring over 6,000 Louisiana volunteers who worked diligently on Saturday, September 22 to gather more than 125 tons of garbage from along many miles of gulf coast beaches, waterways, and roadside areas. Volunteers of all ages collected polystyrene cups, beverage cans, bottles, plastic trash bags, milk and water jugs, and egg cartons along 76 miles of grassy beaches and interior waterways. I am happy to announce that a good portion of this debris will be recycled.

I am very proud of the achievements of this program and I wholeheartedly support Louisiana's effort in cleaning up our environment. Louisiana Beachsweep, whose growth and popularity can be attributed to the hard work and commitment of Margie Vicknair and Barbara Coltharp, was first organized in 1985 and has now become a national coordinated event. Besides the many individuals who dedicated their time for the project, I am pleased that 22 corporations were also major participants.

With more and more attention focusing on the environment, it is critical in this day and age that everyone makes a conscientious effort to be good stewards toward our natural resources. Additionally, these individuals serve as an inspiration to all Americans to become involved in their own communities and in serving others.

TRIBUTE TO MR. EVERETT TILDEN

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to Mr. Everett Tilden for his 50 years of dedicated service to the Greenlawn Fire Department.

Mr. Tilden joined the Greenlawn Fire Department in 1940. During his long career as a firefighter, Mr. Tilden served the department in many capacities including fire chief. In addition to his exemplary record as a firefighter, Mr. Tilden served in the Armed Forces of the United States during World War II.

Mr. Speaker, the volunteer fire department is one of the great institutions in America today. Thousands of our citizens freely give their time, effort, and sometimes their lives in order to protect our communities.

For the past 50 years, Everett Tilden has proudly upheld this tradition. On countless occasions, Mr. Tilden answered the call for help in his community without regard to the time of day, or to the possible danger to himself. He has served his community with pride and distinction.

Mr. Speaker, I take great special pride in the many volunteer fire departments throughout the Third Congressional District of Long Island. Those who serve these departments prove that the values of community pride and voluntarism are still alive and well in America today.

On October 12, 1990, the Greelawn Fire Department and the entire community will honor Mr. Tilden at a reception to be held at the Greenlawn Fire Department headquarters. I am honored to add to this tribute and wish Mr. Tilden well in all of his future endeavors.

RECOGNIZING THE NAVY BALL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, the Navy League of the United States has diligently worked to bring to the attention of the American people the importance of our maritime forces. Through the dedication and hard work of members of the Navy League, the American people have expressed their encouragement and support for the maritime services.

On Friday, October 12, the Miami Council of the Navy League will be hosting the 1990 Annual Navy Ball at the Radisson Mart Plaza Hotel.

The committee for the Navy ball include the following outstanding individuals: Ms. Hilda Andrews, Capt. and Mrs. William V. Best, Ms. Carmen Boom, Mr. and Mrs. Jack Elmore, Mr. and Mrs. Paul Gilson, Mrs. Martha Hoskins, Mr. and Mrs. Jean Paul Jordan, Mr. and Mrs. C.W. Bill Kilpatrick, Mr. and Mrs. E. Albert Pallot, Gen. and Mrs. Frank Simokaitis, Mr. and Mrs. S.R. Bob Sprung, Mr. Dale Thorn, and Adm. and Mrs. Austin Wagner. I would also like to make special recognition of Mr. Nicholas Patrick Valeriani, who served as chairman of the ball.

There are many organizations who serve the community, but the Navy League works to serve as well as educate in the field of maritime services. The Navy League has been performing their varied services for communities across the country for many years and I have no doubt that they will continue their fine tradition of excellence.

CORDELL HULL BIRTHPLACE MUSEUM TURNS 1

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. GORDON. Mr. Speaker, 119 years ago today, Cordell Hull, one of this Nation's greatest statesmen, was born in a rented log cabin in the mountains of Pickett County in the Upper Cumberland region of Tennessee.

From those humble beginnings, Cordell Hull went on to serve eight terms in the Tennessee Legislature, served as a circuit court judge for 3 years, and was elected to Congress in 1906. From 1933 until 1944, he served as Secretary of State under President Franklin D. Roosevelt and helped guide the Nation through one of the Nation's worst critical eras from the New Deal to the end of World War II.

He advocated world peace in the midst of constant war and was virtually in complete control of planning for post-war cooperation that laid the foundation for the United Nations. Credited as the "father of the United Nations," he was awarded the Nobel Peace Prize in 1945.

Some of my colleagues in the House may have known Cordell Hull. Most of us certainly have studied his policies and praised the framework he established for the United Nations.

As a young man, Cordell Hull piloted log rafts down the Cumberland River to the Nashville sawmills, following the footsteps of his father.

Through his work and education at Montvale Institute in Celina, TN, and Cumberland University of Law in Lebanon, TN, he learned the value of hard work, lifetime friendships and diplomacy. Those traits were the cornerstone of his service to the people of the United States and the world.

Today, the Cordell Hull Birthplace Museum provides a fitting tribute to the backwoods life that molded the character and policy of Cordell Hull. Located southwest of Byrdstown on Star Point Road, the cabin features the handhewn, rough-cut logs that were Cordell Hull's early life. Period furnishings take the visitor back to life in the rural mountains of Tennessee a century ago.

A visitors' center near the cabin contains medals, photographs, and personal memorabilia that chronical Cordell Hull's career and world travels, allowing visitors, tourists, and historians to see and understand his life.

The museum is funded through a combination of private donations and State and Federal grants as well as museum association memberships. The museum's organizers and overseers have used hard work, persistence, and a dedication to their cause—the same attributes for which Cordell Hull himself was known—to build a legacy to the man. From that legacy, an entire nation can learn from the past to build a better future.

On October 6, 1990, the Cordell Hull Birthplace Museum celebrates its first birthday with a party on the grounds.

I hope my colleagues in Congress and people across the Nation will join me in congratulating the Cordell Hull Birthplace Museum on reaching this milestone and in wishing it all the luck in its promising future.

TRIBUTE TO RODOLFO J. AGUILAR

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. BAKER. Mr. Speaker, today I have the distinguished pleasure of recognizing a dear friend and constituent, Mr. Rodolfo Aguilar, who was recently chosen the most outstanding Hispanic of 1990 by the Louisiana State University Hispanic Chamber of Commerce.

As a longtime resident of Baton Rouge, Rudy has been professionally successful in architecture, civil engineering, and real estate. He is also an adjunct professor of real estate in the A.B. Freeman School of Business at Tulane University and a professor emeritus of architecture and finance at Louisiana State University.

Rudy has made an immeasurable contribution to the community and especially to his ethnic heritage. He has served as chairman of the Council for the Development of Spanish in Louisiana and he served for three years as director of the Louisiana State University Center for Latin American Affairs.

I commend Rudy's work ethic commitment and persistence—he is very deserving of this award. The free enterprise system is based on a competitive spirit which has built this country, and I commend Rudy on his success.

U.S. COAST GUARD—ON THE JOB

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. COUGHLIN. Mr. Speaker, every day the dedicated men and women of the U.S. Coast Guard put their lives on the line doing search and rescue, law and fisheries enforcement, marine environmental protection, aids to navigation, and now service in the Persian Gulf. Our constituents benefit, both directly and indirectly, from this wide range of activities.

Congressman BOB WALKER of Pennsylvania received a letter from one of his constituents who was rescued by the Coast Guard this summer. Congressman WALKER shared the letter with me as I am the vice chairman of the Transportation Appropriations Subcommittee which funds the Coast Guard. I want to share it with all my colleagues.

The last line reads "only those who have been rescued at sea can truly appreciate the U.S. Coast Guard's value." I insert the letter in the CONGRESSIONAL RECORD so that it will not take a marine emergency for people to realize the great value of the Coast Guard:

PAUL RISK ASSOCIATES, INC.,
Quarryville, PA, July 24, 1990.

Congressman ROBERT S. WALKER,
50 N. Duke Street, Lancaster, PA.

DEAR BOB: I know you hear from me on issues and concerns that I feel have negative impact on the needs of citizens and business people. However, this letter is written with deep respect and appreciation for one branch of service, the U.S. Coast Guard.

I have read articles both pro and con on their value, probably with a degree of skepticism, wondering if I would ever get stop boarded and cited for a violation. I never expected to be rescued at sea by them.

We were totally demasted on July 5 at 1:30 a.m. about 150 miles off the cost of Norfolk while crewing back from Bermuda on John Gibson's 43½-foot sailboat the *Festive Mood.* All rigging including sails had to be cut loose and dumped overboard. Fortunately, no member of the crew was hurt and the hull was not punctured. All emergency equipment was onboard and functioning. Most of the systems had a backup system with the exception of the motor and it had been worked on in Bermuda. The mechanic assured us we would have no problem starting it but the motor failed our second day out of Bermuda.

This boat has seen many heavy and hard sailing experiences since 1977 such as the Annapolis-to-Bermuda race, which we were returning from, Newport to Bermuda, and the New York Yacht Club race just to name a few. These were all sailed without incident or failures. This most recent trip represented equalizing the law of averages. Whatever could go wrong did.

This response is in deep respect, appreciation, and gratitude for all the Coast Guard members who took part in our rescue and tow nearly 190 miles off Norfolk. In spite of using every effort in sea anchors, the wind and wave action pushed us an additional 40 miles out to sea in the nearly 20 hours it took to reach us.

I wish to express a special thanks to the crew of the 82' sea rescue vessel *Point Arena* out of Little Creek, VA. Especially the three-man boarding party that boarded, inspected the boat, and hooked up the tow harness. There is no question this was accomplished at substantial risk to their own personal safety. The boarding was done at night and in rough, confused wave patterns.

It was my understanding they had returned from a 14-hour mission only 2 hours before they were dispatched to our rescue. Our call for help turned out to be a 50-hour mission to reach and then tow us back to port. We finally arrived at 4:30 a.m., Saturday, July 7. It was also my understanding that our rescue was either the 23d or 27th rescue for this crew and boat since January 1, 1990.

I also want to commend the base communication people both at Little Creek and the radio team at Cape Hatteras. They had to relay all radio communication until *Point Arena* reached us. The station's coordination with the owner's wife and my son could not have been more courteous and helpful as they came with a van and trailer to strip the boat and return us to Lancaster.

The care, concern and courtesy was far above what we could have hoped for from every single Coast Guard person we had voice contact with or observed. They maintained a bridge observer at all times and checked by radio at least hourly on how we were riding and to determine if any problems were developing.

We saw true dedication and experience in action. Otherwise a 50-hour mission under the conditions they faced would have taken its toll attitude wise. Surely, I will never forget those people and the sight of their lights coming over the horizon after 20 hours of drifting.

In closing BOB, if there is any way that I and other members of our crew can ever help the cause and mission of the Coast Guard please let me know. For only those who have been rescued at sea can truly appreciate the U.S. Coast Guard's value.

Sincerely,

PAUL D. RISK,
President.

THE PRIDE OF AMERICANS AND HAITIANS ALIKE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, the recent crowning of Miss America was a great personal triumph for Ms. Marjorie Vincent—but it was equally so for Haitians everywhere. Miami's Haitian community is a sizable one, and doubtless their cheers could be heard in Atlantic City, where Ms. Vincent was crowned Miss America.

Born and raised in Chicago, the 25-year-old Miss America is the daughter of Haitian parents—her father is Lucien Vincent from Cap Haitien, a doorman, and her mother is Florence Bredy Vincent from Port-au-Prince, a seamstress. Mrs. Vincent applied her skills by helping to make some of her daughter's pageant gowns; there were three attempts at the Miss Chicago title and three more for Miss Illinois. Her parent's love and support coupled with Ms. Vincent's perseverance made a longtime dream finally come true on September 10, when Ms. Vincent became Miss America.

That same evening, she also became a beacon of hope for many Haitians. Since becoming the new Miss America, Ms. Vincent has been much celebrated in Little Haiti in Miami, FL, where schoolchildren write essays about her, Creole-language radio stations dedicate love songs to her, and adolescent girls rejoice in her victory, hopeful they too will achieve the same honor.

Only the fourth black to be crowned Miss America since the pageant's beginning in 1921, Ms. Vincent has an impressive list of accomplishments to her name. Trained as a classical pianist, she had aspirations of playing at Carnegie Hall, that is until 3 years ago. It was at that time that she was offered a scholarship to attend Duke University Law School, and is currently in her third year there.

I congratulate Ms. Vincent not only for her achievement in becoming our 1991 Miss America, but also for giving an important group the hope that they too can accomplish anything they set their minds to in this land of opportunity we call America. I wish her great success in the coming year, as she travels the country representing American women everywhere.

TRIBUTE TO THE FIRST ANNUAL "HATS OFF TO KIDS"

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it is indeed my pleasure to bring to your attention the occasion of the first annual "Hats Off to Kids" to be held on Thursday, October 4, 1990, at the Radisson Center in Miami, FL. Proceeds from this event benefit the Mailman Center for Child Development and the Linda Ray Center for Abused and Abandoned Children. Many organizations will be participating in this worthwhile, charitable event.

The Mailman Center for Child Development of the University of Miami's Department of Pediatrics has helped serve the families of handicapped children for almost 20 years. In that time, the center has emerged as a national leader among child development institutions. This not-for-profit institution operates under a Federal grant with matching gifts from the A.L. Mailman and J.J. Mailman Foundation and the Joseph P. Kennedy, Jr., Foundation. The center has helped disabled children who range in age from birth to 20 years in Dade County and southern Florida, as well as the Caribbean. It is the center's continued hope to create effective therapy and to improve established treatment through diligent research, and lead the way in providing essential care to greater numbers of special children.

The Linda Ray Center for Abused and Abandoned Children began operation in 1987 as an emergency shelter for abused and abandoned children from birth to 1 year of age. The center is operated by Children's Home Society. Because of an increase in the number of reported child abuse cases to HRS, approximately 11,000 per month, the center has had to expand. In 1988, a not-for-profit organization was formed in the name of Infants In Need, Inc., in order to perform the invaluable service of helping to raise funds for the expansion and renovation of the Linda Ray Center. This wonderful organization has helped over 990 infants, many of which have progressed beautifully and meet the goals of their preschool peers.

For their efforts in bringing us this event, I greatly thank the following individuals: Jennifer Getz, chairperson; Linda M. Ray, honorary chairperson; Eric Javits (renowned hat designer), honorary judge; Marlene Berg, charities chairperson; Norman Jean Abraham, sponsorship chairperson; Sheila Natasha Friedman, judges chairperson; committee members Flora Aranson; Bobbie Berkman; Karell Campbell; Marty Cleveland; Leigh Cooper; Connie Danluck; Ana Yvette Diaz; Ann Dunev; Marge Fox; Julie Gaby; Denise Goldson; Garry Harkey; Roni Harkey; Monica Heftler; Janet Herron; Ruth-Ann Kaner; Ana Kardonsky; Areta Kaufman; Barbara McGlynn; Phoebe Morse; Luisita Pacheco; Diane Pastor; Linda Patty; Pat Patty; Elba Pines; Lourdes Sanchez; Bonnie Sepe; Susannah Shubin; Susan Soper; Doris Steele; Joyce Stevens; Ellen Weinkle, Ana Weissman; and Judy Zeder.

DOES THE PRESS ACCURATELY COVER LABOR ISSUES?

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. CLAY. Mr. Speaker, I commend to the attention of my colleagues a recent report conducted on behalf of FAIR [fairness and accuracy in reporting] by Jonattan Tasini. The report, entitled "Lost in the Margins: Labor and the Media," examines media coverage of American workers and their unions and concludes that "the lives of 100 million working people are being routinely ignored, marginalized or inaccurately portrayed in the media."

The study which serves as a basis for the nonclusions of the report reviewed media coverage of events and issues of concern to American workers in 1989 and utilized various methods of analysis—including minute count of nightly network news shows and a questionnaire circulated among the country's leading dailies. The report was issued on September 1, 1990.

In order that I may provide my colleagues with a better understanding of the basis of the study and its disturbing conclusions, I insert the "Introduction" from the report and its "Major Findings" section in the RECORD at this point:

FIRST IN THE MARGINS: LABOR AND THE MEDIA

(Jonathan Tasini has covered labor and work-related issues for seven years for Business Week, New York Times Magazine, The Atlantic, the Village Voice and many other publications. He is currently president of the National Writers Union. Additional research for this study was provided by Sara French, Joy Mitchell and Phil Mattera.)

INTRODUCTION

On Sept. 17, 1989, 98 members of the United Mine Workers of America took over a coal processing plant in southwestern Virginia owned by the Pittston Coal Group which the UMWA had struck in April 1989. For four days, the miners—and a local minister—occupied the facility as thousands of other miners and supporters from around the country, staying up around the clock, blocked the paths and prevented state troopers, federal marshals and heavily-armed, flak-jacketed company security guards from retaking the plant. It was the first major takeover of a plant since the 1937 sitdown strike by autoworkers at the Flint, Michigan, General Motors plant. The event had every element of a good journalistic story: conflict, drama, colorful characters and, for television, tremendous footage.

Yet, as far as the national media was concerned, the historic action did not occur. Unlike the widespread coverage given the Soviet miners strike in June 1989, the dramatic action by U.S. miners was not covered by the New York Times, or any of the three television networks—the four outlets that most influence what television stations and newspapers around the country run and, by extension, what the U.S. public is told is news. It rated one sentence in USA Today (9/19/89) and two brief mentions in the Wall Street Journal (9/20/89, 9/21/89). Miners at the seized plant expressed anger at the blackout. The media do not care about miners in America, they fumed.

This is by no means a feeling restricted to miners in southwestern Virginia. When the United Auto Workers lost a bid to represent workers at the Nissan plant in Smyrna, Tennessee, the New York Times ran a prominent front-page story with a huge picture. Where, several UAW members asked rhetorically, do you think the story would have been placed had the union won? Everywhere one travels—from paper mills in Maine to chemical plants in Louisiana to hotels in Las Vegas—the same complaint is heard: The corprate-owned media is anti-union and will not cover labor stories fairly or at all.

Is this criticism valid? The non-coverage of the Pittston plant takeover inspired a six-month study analyzing coverage of U.S. working people and their unions during 1989. A two-page questionnaire was sent to the 100 largest circulation newspapers. Computer databases—primarily Nexis—were used to analyze newspaper coverage. Using the Vanderbilt Television News Archive abstracts, the study compared an entire year's worth of labor coverage with general business or economic coverage on the three nightly network news broadcasts. Finally, labor reporters, other media professionals and union representatives were interviewed.

The study found that the lives of 100 million working people—those who make the U.S. economy and society run—are being routinely ignored, marginalized or inaccurately portrayed in the media. Although reporting about working people and organized labor has declined since the early 1960s, the last 10 years have seen an accelerated drop. This trend coincides with the rapid pace of concentration of the media in fewer and fewer corporate hands. The 1989 annual report of Time, Inc. (now merged with Warner Communications) brashly predicted that by "the mid-1990s, the media and entertainment industries will consist of a handful of vertically integrated worldwide giants. . . . Time, Inc. will be one of them."

The monopolization of the media has had a direct influence on labor reporting. More than any single institution, the media have turned the corporate executive into a star: the "Iaccocaing" of U.S business. Coversely, the message, stated as well as subliminal,

that the lives of workers are less important has spread into newsrooms in every corner of the United States.

MAJOR FINDINGS

Among the study's findings:

In 1989, during more than 1,000 broadcasts (roughly 22,000 minutes, based on 22 minutes of new per broadcast), the three network evening news programs devoted a little more than 2 percent of the total air time—511 minutes—to all workers' issues, including child care, the minimum wage, and workplace safety and health. While this total includes international labor stories, it does not count the massive—and almost entirely favorable—coverage given Poland's Solidarity union, because the story was generally framed as a political and foreign policy story. Of the 511 minutes, only 265 minutes—a little more than 1 percent of the total available air time—dealt with U.S. unions. And this coverage would have been practically undetectable if not for the Eastern strike, which accounted for 192 minutes—72 percent of the air time.

Business and economic reporting, on the other hand, received 1,012 minutes, almost double the time devoted to workers' issues. This figure includes stories on retail sales, the trade deficit, interest rate reports and corporate mergers. It also includes the daily report of the Dow Jones average, a regular feature (with its own special graphics) on all three networks, whose unstated message is that a rise in the Dow is good news for all.

Workers are virtually never interviewed or portrayed as experts, even though they are the people who know the most about safety and health issues, unemployment or equality in the factory. Instead, they are usually relegated to "person-in-the street" interviews featuring the Joe Six-Pack stereotype. They are more likely to be asked for their opinions about Leona Helmsley's tax-fraud conviction or Donald Trump's love affairs than about their work. Of all the people selected by ABC World News Tonight as "Person of the Week" in 1989, not one was a worker singled out for anything to do with work.

In the absence of a strike, stories about the campaigns of workers and their unions have, with few exceptions, virtually disappeared from the printed page and TV screen. Strike coverage itself tends to be superficial. The words Walter Lippmann wrote in 1922 ring even truer in 1990: "If you study the way many a strike is reported in the press, you will find, very often, that the issues are rarely in the headlines, barely in the leading paragraphs, and sometimes not even mentioned anywhere."

Labor, once a respected beat, no longer exists at most large to medium-sized U.S. newspapers. According to top former and current labor reporters, editors and producers simply are not interested in allocating resources—either time or money—to labor issues. Reporters seeking to advance their careers see the labor beat as a dead-end.

"Workplace" beats have replaced labor beats. Typically, workplace beats are under the purview of the business editor, whose coverage is aimed primarily at managers and professionals. As a result, the focus of these stories tends to soften or ignore corporate responsibility for the lack of health care, safe working conditions or dignity on the job. Needless to say, while most newspapers have a daily business section, none have a daily labor section.

There is a growing gap between the experiences of working people in the United States and the individuals who are supposed to report on their lives. In the workplace, workers' real wages are dropping, the female workforce is growing, and people of color are dominating the lowest-paid, dirtiest jobs. According to questionnaire responses and interviews, reporters and editors covering workers' issues are essentially white males from middle-class backgrounds making upwards of $40,000 a year (plus benefits). Only four out of 28 respondents were female; none of the women were full-time labor reporters and only one came from a working-class background.

THE BAKEHOUSE ART COMPLEX SUMMER EXHIBITION OF STUDENT WORK

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, this past summer, on August 12 the Bakehouse Art Complex sponsored the summer exhibtion of student work in Miami, FL. Other sponsors, included the Dade County Commission and Cultural Affairs Council, city of Miami Commission and the WARE Foundation.

The exhibition offered an array of workshops to both children and adults. Adult workshops included, "Papermaking/Sub-Tropical Plants and Betty Kjelson;" "Faux Finishes with Barbara Farrell;" "Basic Jewelry Making Skills with Pat Taylor;" and "Creating a Monotype/Papermaking with Helen Fredericks." Kids' Summer workshops included, "College with Rhoda Bloom;" "Tile Mosaics with David Packer;" "Watercolor with Maggie McClellan;" "Chinese Brush Painting with Sarina Poon;" "Pringting Methods with Norma Newman;" and "Mask Making with Connie Renaud."

The following schools were represented at the exhibition: Orchard Villa Elementary, Nautilus Middle School, Westview Elementary, South Miami Elementary, Booker T. Washington Elementary and U.M.C.A. The exhibition was made possible through the help of community assistants from Maimi County Day School and American Heritage School.

I greatly thank everyone at the Bakehouse Artists, as well as the other sponsors mentioned above, for providing a wholesome activity for our youngsters to further reinforce the concept that there are many positive contributions which our students can make to our society.

NORTHERN TELECOM SEMINAR

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. SKELTON. Mr. Speaker, on Monday, September 17, Northern Telecom Inc., held a seminar here in the Capitol for congressional staff on the applications of new telecommunications technologies to the delivery of services in rural areas.

As chairman of the congressional rural caucus, I am pleased that Northern Telecom has been involved in research and development that will assist in delivery of health and education services. As Congress continues its examination of telecommunications policy, it is vital for all of us to understand the potential opportunities these new technologies will create for our domestic telecommunications infrastructure and the positive impact they can have on the quality of life in rural America.

I want to thank Northern Telecom for its efforts in this area and encourage them to continue their work in this most important field.

A POEM BY WAYNE MASON

HON. ELIZABETH J. PATTERSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mrs. PATTERSON. Mr. Speaker, recently, the House passed H.R. 4328, the Textile Apparel and Footwear Trade Act of 1990.

I belive that the poem written by one of my constituents, Mr. Wayne Mason, aptly describes the plight of the textile industry and the millions of American workers whose jobs are in peril. I ask that this poem be printed in the CONGRESSIONAL RECORD.

(To the President of the United States)
DEAR MR. PRESIDENT:

Hearing protection no longer required.
The doors are locked, the sound had died.
Profits now are headed overseas.
Our once-proud industry is now on its knees.
The parking lot is grown over with brush.
It's easy to avoid the shift-change rush.
Not just the plants are closing their doors.
Also machinists, builders, and grocery stores.
"You are unemployed, after 40 years."
Grown men are breaking into tears.
We are not sweatshops anymore.
We're high-tech, efficient, and even more—
We are family and friends, our community's heart.
Your lack of support will tear us apart.
Like it or not, we built the South.
With the stroke of a pen, we can't put food in our mouths.
We are honest, dependable, we are not suits and ties.
Come get to know us, you will get a surprise.
The strength of our country is within our walls.
Will you watch them decay, rot and fall?
Dedicated workers who love their jobs.
Or would you prefer angry mobs?
If our clothing must come from foreign lands,
Who will clothe our fighting men?
Parachutes, uniforms, our glorious flag.
Made in China? A very poor gag.
So please stand beside us, give us the right.
We are fighting back with all our might.
The Korean child working for 10 cents a day.
When she should be able to go out and play.
They cut our prices because labor is cheap.
As suffering, starvation around us heap.
Instead of encouraging a child-labor world,
Let's build a school for this Korean girl,
Throughout the world, our quality is becoming the best.
Must we prove again we can stand the test.

VPB 13 AND 15 PILOTS AND AIRCREWMEN REUNION

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. HAYES of Louisiana. Mr. Speaker, it is my pleasure today to call attention to the brave men who served our country as pilots and aircrewmen on the VPB 13 and 15 in World War II. They are recognized as being amongst the most effective and versatile naval aircraft operators of WWII. They performed heroic duties as transport and hospital evacuation teams as well as serving in Pacific combat and Atlantic antisubmarine warfare.

For the first time since WWII, these outstanding men are meeting in my home district, Lafayette, LA, to reminisce about the war and answering to our Nation's call for help. I know that I speak for the rest of my colleagues when I say that their commitment and the sacrifices of their families to the furtherance of peace and democracy is one of the major reasons our Nation enjoys a reputation for being a world power. Their dedication was not without a price; therefore, it is correct that we honor them this month and always for their remarkable service to the United States.

NATIONAL KOREAN WAR MEMORIAL

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. TORRICELLI. Mr. Speaker, the Korean War Veterans Association recently issued the following proclamation, which I would like to bring to my colleagues' attention:

Dear Patriot:11We are now engaged in a fund drive to raise the money needed for the completion of a long overdue National Korean War Memorial in Washington, DC. It will be built near the Lincoln Memorial and will honor those who served our country during the Korean war. That war where our Nation and others of the United Nations did help rescue the Republic of South Korea from communist aggression. It required 38 months and many bitter battles to restore peace.

Many casualties, both military and civilian, resulted from that action. As an act of gratitude and to commemorate victory, South Korea erected many battle monuments. They have remembered that so many of our and their forces fought, suffered and died in that war. Let us now follow their example and contribute to build our own National Korean War Veterans Memorial.

We must show our concern for the following reasons: To properly record the deeds of our valiant forces into American history. Our proud history that has traditionally reflected the deeds of our patriots since the birth of our Nation. That history that does neither glorify nor advocate war; but does show appreciation for those patriots who did fight our wars when called to do so. Our history that has always inspired our schoolchildren with "love of country" and instilled values into them that lasted for life. Those values have been and are still the essence of "Americanism."

The National Korean War Veterans Memorial will acknowledge the fact that about half of them perished. We must also remember that the parents and relatives of the brave fallen have also suffered greatly. We can now show them that we care and will prove it by our donations. Recently in Bergen County, NJ, a Korean War Veterans Memorial was dedicated. Many speeches were delivered and there was a large audience. We of the Korean War Veterans Association were also there with many members. Soon after the monument was unveiled we noticed an elderly woman walk to and place her hand upon the face of that monument. She briefly stared at it through tearing eyes. Then she quietly departed through the crowd. God bless that dear mother for she now knows that her son has been at last remembered by that county and soon shall be by a grateful Nation; when the National Korean War Veteran Memorial is in place.

Let us join together and achieve a resounding victory in this the symbolic final campaign of the Korean war.

HONORING THE PELHAM BAY TAXPAYERS ASSOCIATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 2, 1990

Mr. ENGEL. Mr. Speaker, this month in my district a vital community group, the Pelham Bay Taxpayers and Civic Association, is celebrating its 25th anniversary. I would like to pay tribute to those people who have worked so hard to maintain the quality of life for their friends and neighbors in Pelham Bay.

The Pelham Bay Taxpayers Association was founded in October 1965, following a serious car accident at the intersection of Wilkerson and Mayflower Avenues. A group of local residents, led by Mrs. Florence Colucci and Mr. Michael Crescenzo successfully fought for the installation of a stop sign at the scene of the accident, and the civic association was born.

Since that time, the members of the Pelham Bay Taxpayers Association have worked tirelessly to improve their community. From the construction of the local playground and library, to the repair of streets and traffic lights, to the successful effort to close the Pelham Bay landfill, the Taxpayers Association has been an effective advocate for the community.

I have worked with its members on many issues and I know that they are committed to their cause. I congratulate the officers and members on their achievements, and I look forward to working with them to continue the organization's great tradition.

A TRIBUTE TO FATHER SAM CICCOLINI OF AKRON, OH

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. SAWYER. Mr. Speaker, I rise today to recognize a most outstanding and selfless individual, Father Sam Ciccolini, from Akron, OH. This recognition is well deserved because of his 20 years of dedication and service to those whose lives have been affected by drugs and alcohol.

When Father Sam, as he likes to be called, walked onto a grassy field in Coventry Township 20 years ago, he saw a city—an imaginary city full of generous, giving people willing to help the destitute, the addicted and the oppressed. Never mind that the 86-acre plot had no more than worn out chicken coops, toolsheds, dilapidated barns, and an old monastery converted from an even older schoolhouse. He had a vision. He knew all the pieces would come together and they have.

Father Sam, highly regarded for his foresight and determination, is watching his vision come true in what is now known as the Interval Brotherhood Home Alcohol Rehabilitation Center. It is a nonprofit, nonsectarian rehabilitation center whose mission is to provide treatment to those who cannot afford private programs. Today the former monastery has grown into a six-building complex, with the most recent addition providing a male adolescent center devoted to the treatment and rehabilitation of young males dependent on alcohol and drugs.

The son of a concert pianist, Father Sam grew up in a rough and tumble neighborhood. Seeing first-hand the prevalence of drugs and violence, Father Sam realized that most of the problems stemmed from untreated alcoholism. "If you can help this kind of person, then as a priest your life will have value," he told himself. But of more value is the quality of life and stewardship he has been able to provide and restore to the hundreds who have passed through the doors of the Interval Brotherhood Home since 1970.

Father Sam is recognized throughout Ohio as the founder of several of my State's first rehabilitation programs:

The first school to provide treatment for drunk drivers.

The first halfway houses for men, women, and adolescents.

The first comprehensive health and rehabilitation center for indigent men, women, and children.

In these times when it is easy to despair because of the seemingly overwhelming problems caused by the abuse of alcohol and drugs, Father Sam Ciccolini stands as a beacon of hope and inspiration to all of us. Equally important, Father Sam's work and commitment confirm that one person can make a difference in the lives of others.

TRIBUTE TO LEVON TER-PETROSIAN PRESIDENT OF THE REPUBLIC OF ARMENTIA

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. PALLONE. Mr. Speaker, tomorrow, October 3, 1990, our Capitol will have the honor of a visit from Levon Ter-Petrosian, the President of the Republic of Armenia.

President Ter-Petrosian is a 45-year-old scholar of ancient Armenian history and a

former Soviet political prisoner. Like Czechoslovak President Vaclav Havel and many of the other new leaders of the emerging democracies in the former Soviet bloc, President Ter-Petrosian was until recently a political outsider. His opposition to the bankrupt Soviet Communist system did not waver, even under the severe pressure and intimidation that the Soviet system was able to impose on its dissidents. His life story represents a dedication to the pursuit of truth and a deep love of country that can serve as an inspiration to us all.

Born in Syria, Mr. Ter-Petrosian immigrated to Armenia with his family at the age of one. His entire career has been marked by brilliant scholarship on the history of the Armenian culture, and he has attracted international recognition for his writings in Armenian, Russian, and French. He also has served as a guardian of the Armenian historical tradition in his role as scientific secretary at the Matenadaran Library of Ancient Manuscripts.

Mr. Ter-Petrosian's political activities began in earnest in 1988, when he played a key role in the founding of an organization dedicated to reuniting the disputed Nagorno-Karabagh region of the U.S.S.R. with Armenia. The mountainous enclave, with a predominantly Armenian population, has been under the administration of the neighboring Soviet Republic of Azerbaijan since the 1920's.

After the December 1988 earthquake in Armenia, Mr. Ter-Petrosian was imprisoned in Moscow for his role in organizing nationalist demonstrations in support of democracy for Armenia and reuniting the republic with Nagorno-Karabagh. He was jailed from December 10, 1988, until May 31, 1989. Three months after his release from prison, he was elected as a deputy to the Supreme Council of Armenia and chosen as a member of its Presidium in February 1990. He was reelected to the Armenian legislature in May of this year. Mr. Ter-Petrosian was also elected president of the Armenian National Movement, which now controls more than 50 percent of the seats in the legislature.

Under the leadership of President Ter-Petrosian, Armenia's legislature adopted a declaration of independence from the Soviet Union on August 24 by a vote of 194–0. The declaration, changing the Soviet Socialist Republic of Armenia to the Republic of Armenia, is the basis for a new constitution of a democratic society that guarantees freedom of speech, press, and conscience; separation of powers between the executive, legislative, and judicial branches; a multi-party system; and the de-politicization of law enforcement bodies and the armed services. The declaration also claims control over Nagorno-Karabagh, and extends the right of citizenship to all Armenians living abroad.

Mr. Speaker, 20th Century history has dealt some truly catastrophic blows to the Armenian people. During World War I, millions of Armenians perished as a result of the genocidal policies of the Ottoman Empire—a grave crime against humanity that was never acknowledged by its perpetrators or their successor regime in Turkey. Under decades of control by the Soviet Union, Armenian culture and nationalism were stricktly controlled, but still, somehow, managed to survive and prosper. Most recently, much of the country was devastated by a terrible earthquake. Through it all, the Armenian people drew on the inner strength and centuries—millenia—of proud history.

During much of this time, the United States has maintained a special relationship with Armenia, a long-term commitment recently acknowledged by President Bush. Armenian-Americans have distinguished themselves in virtually every field of endeavor, but have not allowed their success in the United States to cause them to forget their homeland. Now that the democratic reforms in the Soviet Union have made it possible for Armenians to fully claim their national sovereignty, the United States can play a major role in fostering Armenian independence and democracy. Tomorrow, we have the opportunity to meet one of the Founding Fathers of the emerging new Armenian nation and to show him our support.

On this occasion of your first visit to the United States, President Ter-Petrosian, let me say: Diar Nakhakah Paree Ulla Dzer Kaloustda.

DENIAL OF FEDERAL BENEFITS TO WOMEN WITH AIDS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. WEISS. Mr. Speaker, women are becoming infected with the AIDS virus faster than any other group in the United States. Their numbers increased by 30 percent in 1990 as compared with 1989. They are disproportionately black and Hispanic and the majority of them are poor. Most have received inadequate health care during their lifetime and thus, are likely to have medical problems before their encounter with the AIDS virus.

Women with AIDS are being denied access to immediate Social Security benefits because the Government's definition of AIDS does not include many conditions seen in women. Persons with AIDS as defined by the Government are able to get benefits immediately, whereas disabled persons with other forms of HIV disease must wait 60 to 90 days to be declared eligible. Women with AIDS die faster than any other group. A recent study of women in Newark, NJ, found their average life expectancy is only 27 weeks.

I call on the Social Security Administration to remedy this serious inequity by developing a more accurate definition of AIDS that will include women with HIV disease who are now being excluded.

IN TRIBUTE TO THE U.S.S. "SAINT PAUL"

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. VENTO. Mr. Speaker, on October 16–20, the fifth biennial reunion of crew members who served aboard the U.S. Navy cruiser U.S.S. *Saint Paul* will be held in San Antonio, TX. Approximately 400 former crewmembers of this illustrious Navy ship are expected to participate in this reunion.

The U.S.S. *Saint Paul,* named after the capital city of the State of Minnesota, was built at a cost of $43 million which was raised by the citizens of St. Paul, MN, through the purchase of savings bonds and stamps. The ship was commissioned in Boston on February 17, 1945. Although the U.S.S. *Saint Paul* was commissioned in the last year of World War II, nevertheless, the ship and her crew arrived in the Pacific in time to participate in various task force strikes against Japan and helped to expedite an end to the war. The *Saint Paul* was present in Tokyo Bay for the surrender ceremonies of September 2, 1945.

During the Korean conflict, the *Saint Paul* provided support for United Nations forces which were on the Korean Peninsula and helped in the rescue of downed pilots. On July 27, 1953, the *Saint Paul* fired the last salvo of the war only 2 minutes before the cease-fire began.

In 1959, the *Saint Paul* moved to a new home port at Yokosuka, Japan, and served for more than 3 years as the commander, 7th Fleet flagship. The ship hosted nearly a quarter million visitors during its extended Far East assignment. Later, the *Saint Paul* was deployed in the eastern Pacific region. The ship was featured in the movie "In Harm's Way" in 1964, which starred John Wayne and Kirk Douglas. During the late 1960's, the *Saint Paul* was again deployed in the western Pacific for five annual deployments with the 7th Fleet.

In 1970, the U.S.S. *Saint Paul* returned to San Diego. The ship was formally decommissioned at Bremerton, WA, on April 30, 1971.

In more than 25 years of service to the United States, the U.S.S. *Saint Paul* earned 18 battle stars in three wars, and fired more rounds of ammunition than any U.S. Navy cruiser in history. The *Saint Paul* hosted five visiting heads of state. Fifteen of the *Saint Paul*'s commanding officers later went on to achieve the rank of admiral.

I hope my colleagues will join me in saluting all of those sailors who served aboard the U.S.S. *Saint Paul* between 1945 and 1971. Obviously, the accomplishments of the *Saint Paul* noted above are attributable to all of those who served their country aboard this important Navy cruiser. They served their ship and their country with dedication and distinction. Many friendships which will last a lifetime were made during those years of service. The reunion of the former crew members of the *Saint Paul* provides a welcome opportunity to renew those friendships. I salute them and wish them and their families a happy and successful reunion.

TRIBUTE FOR FELIX AND CATHERINE YANEK

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Felix and Catherine Yanek of

my 17th Congressional District of Ohio on the special occasion of their 50th wedding anniversary.

Married on October 5, 1940, Felix and Catherine have enjoyed 50 years of wedded bliss with one another. They have spent the majority of these years together in the house that they built on East Florida Avenue in Youngstown, OH. Helping the Yaneks celebrate this momentous occasion are their two children, Jerome F. Yanek and Kathleen Yanek, four grandchildren, Candy Shives, Jay Yanek, Cathryn Yanek, and Robbie Cole, and their great grandchild Tommie Shives.

Felix is a retired pipe inspector from the Republic Steel Co. with 42 years of dedicated service. He has remained active in the Steel Workers Union Local 1331 and is a very active member of St. Matthias Church. Catherine was born in Czechoslovakia and entered the United States in 1929. She is an active member of the Slovak Catholic Sokol Group No. 17, where she is currently filling the position of president of Wreath 54.

Again, it is a great honor to rise today to pay tribute to Mr. and Mrs. Felix Yanek of my 17th Congressional District of Ohio on their 50th wedding anniversary. Their dedication to each other should stand as an example of the sanctity and honor that the institution of marriage should represent.

TRIBUTE TO WILLIAM PACA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. SOLARZ. Mr. Speaker, I rise today to honor an outstanding Italian-American, Mr. William Paca, on the 250th anniversary of his birthday, October 31, 1740.

William Paca was a great humanitarian, important statesman, and historic role model for Italian-Americans, was a member of the Continental Congress, the only Italian-American to sign the Declaration of Independence, and three-term Governor of Maryland. Paca was by far one of the most accomplished politicians of the Revolutionary era.

William Paca spent his life as a dedicated public servant. John Adams said of Paca, "he acted generously and nobly during the debate over independence." Mr. William Paca was one of the first people to push for American independence and was instrumental in convincing Maryland to support the Declaration of Independence. In 1778, Paca again made history as a member of the Maryland Convention that voted to adopt the Constitution of the United States.

Before his death in 1799, William Paca had helped to frame the Maryland State Constitution, served in the Maryland State Senate, and had been appointed Maryland's chief justice. Moreover, in 1789, George Washington appointed William Paca as a Federal district judge.

The Postal Service has honored William Paca with the issuance of a commemorative cancellation stamp to be used during the month of October, Italian-American Heritage Month. Mr. Speaker, I rise as well to pay tribute to this outstanding man.

CHILD FIND'S 10TH ANNIVERSARY

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, Oct. 2, 1990

Mr. McHUGH. Mr. Speaker, few concerns tear at the heart of Americans more than the plight of missing children. I therefore wish to recognize today the wonderful work of Child Find of America, Inc., a charitable organization located in my district in New Paltz, NY, which has devoted the last 10 years to bringing these children home.

The problem of missing children is an enormous one. The Department of Justice study "Missing, Abducted, Runaway and Thrownaway Children in America," issued last May, found that nearly a million children a year are missing from their homes and families.

Since its founding by a searching mother in 1980, Child Find has tirelessly worked to educate people about the problem of missing children and how to prevent their own children from becoming statistics. In fact, the presidentially proclaimed May 25, National Missing Children's Day was originated by Child Find.

Child Find has actively searched for these children and has succeeded in bringing many home. Through its wide distribution of missing children photos and active investigations, Child Find in its 10 years has helped locate more than 2,000 missing children, fulfilling the prayers of many anxious parents.

Perceiving that parental abduction accounts for a large number of missing children, Child Find has reached out with help to the often desperate abducting parent. The unique and innovative Child Find Mediation Program, through the 1-800-A-WAY-OUT number, has provided no-cost, confidential mediation services to recover children and even prevent abductions.

I am sure many of my colleagues join me in congratulating Child Find of America for its selfless dedication to the safety and welfare of America's children.

JUDGE BERNARD J. PODCASY HONORED AFTER 19 YEARS ON THE LUZERNE COUNTY BENCH

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. KANJORSKI. Mr. Speaker, I rise today to honor Judge Bernard J. Podcasy who, after 19 years on the Luzerne County bench, retired on August 12, 1990, his 70th birthday.

A highly respected jurist and well-liked member of the community, Judge Podcasy received his law degree from Georgetown University Law School. He served with the 45th Infantry Division of the U.S. Army during World War II where he was wounded three times. He was awarded the Purple Heart Medal and Combat Infantryman's Badge and was promoted from the rank of private to captain.

His honor later served as assistant district attorney, deputy attorney general and solicitor for Ashley Borough. He served for 10 years as Luzerne County prothonotary. Judge Podcasy was first elected to the county court bench in 1971 and was elected for a second 10-year term in 1981.

As a member of the bar, I had the unique pleasure and great distinction in January 1971 of having tried the first case heard by the newly sworn-in judge—some 15 minutes after he took the oath of office.

In tackling the Wyoming Valley Sanitary Authority case, one of Luzerne County's most famous cases, his honor developed is own theories and sensitivities to the issues involved. In doing so, he personally saved the citizens of Luzerne County several millions of dollars denying the award contract to the favored contractor, thus needlessly providing his fairness and impartiality.

Judge Podcasy is not only an active member of his community and a loyal member of the Democratic Party, he is a loving husband of 44 years and a dedicated father and grandfather.

Although retired, no one expects Judge Podcasy to slow down and, in fact, the same day as his retirement, he was assigned by the Commonwealth of Pennsylvania to senior judge status, thus continuing his court work in various counties throughout the State.

Mr. Speaker, it is with great pleasure that I salute Judge Bernard Podcasy today. All of use in northeastern and central Pennsylvania thank him for his service and his dedication. His experience and knowledge on the bench will be missed.

LONGTIME MISSOURI LEADER AND DECORATED WWI MARINE DIES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. SKELTON. Mr. Speaker, my high school Latin teacher died. But he was more than a Latin teacher, he was a friend and an inspiration throughout the years that I knew him.

Col. James McBrayer Sellers, 95, commandant, superintendent and president of Wentworth Military Academy over a span of 70 years, died September 5. Sellers was born in Lexington, MO, where lived his entire life except for 4 years in college and 3 years in the U.S. Marine Corps during World War I.

As a student at the University of Chicago, Colonel Sellers was a member of Beta Theta Phi and Phi Beta Kappa, graduating in 1917. Colonel Sellers was active in the community of Lexington. He was a Freemason, having served as Grand Master of the Masonic Lodge of Missouri. He was also active in the First Presbyterian Church.

Responding to a Marine Corps offer to commission 10 Westworth graduates, Sellers entered officer training at Quantico, VA with the first contingent to open the base. He received his commission as a second lieutenant and sailed to France in early 1918 as a platoon leader in the Sixth Marine Regiment of the

Second Division. He was seriously wounded in the first American engagement of that war in Belleau Woods on June 6. Returning to the regiment in August as company commander, he participated in major engagements at St. Mihiel, Mont Blanc, and the Argonne. For bravery in action he was decorated with the Distinguished Service Cross, Navy Cross, Silver Star, Purple Heart, World War I Victory Medal with four battle stars, and the French Croixde Guerre. For a number of years he has been the most highly decorated living Marine veteran of World War I. He retired from the Marine Reserves as a lieutenant colonel in 1945.

His wife Rebekah died in 1985, and he is survived by three sons, Stephen Wentworth Sellers, James McBrayer Sellers, Jr., and Fred Evans Sellers; six grandsons; and one granddaughter.

Colonel Sellers was truly a great Missourian. Those who knew him as a student, such as I, had the opportunity to know one of the finest role models in our country. He was my friend, and I will miss him, as will many others whose lives were touched by this outstanding officer and gentleman.

THE 79TH NATIONAL DAY

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1990

Mr. TANNER. Mr. Speaker, I rise today to extend my congratulations and best wishes to the people of the Republic of China on the occasion of their 79th National Day celebrated on the 10th of October.

Taiwan has enjoyed unprecedented prosperity and the fastest rate of modern development ever witnessed in the world. Indeed, Taiwan's rapid rise to the top echelon of industrial and trading power has been called an economic miracle. Today, Taiwan ranks among the top dozen trading countries in the world and is America's fifth largest trading partner worldwide. It ranks as the second wealthiest nation in all of Asia and enjoys one of the highest living standards in the entire Eastern Hemisphere.

In addition, Taiwan is recognized as a leading place to go for a genuine taste of traditional Chinese culture at its best. The human element and friendly people are perhaps Taiwan's greatest asset. This art of hospitality is experienced by all who visit.

Taiwan has blossomed into a model of successful economic development and a shining example of a free democratic nation. We should salute her accomplishments and encourage her continued growth in the future.

SENATE—*Wednesday, October 3, 1990*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Behold, how good and how pleasant it is for brethren to dwell together in unity!—Psalm 133:1.

E Pluribus Unum. Out of Many One.

God of peace, we thank Thee for the diversity of America. We thank Thee for its unity. We thank Thee that the Senate represents its diversity and is a symbol of its unity. Thank Thee for leaders who are united in their abhorence of war and who are united in purpose should war be imposed upon them. Grant to Thy servants wisdom to appreciate the immensity of the crises that face our Nation and the world, crises as serious and as threatening as war. Grant to them a vision, Father, of the immense power of their unity and save them from allowing diversity, the essence of the American spirit, to militate against the unity so desperately needed today.

God of peace, brood upon this place. Cover it with Your love and Your peace. In the name of the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 3, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BRYAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning following the time for the two leaders, there will be a period for morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

At 11 this morning, it is my intention to seek unanimous consent to proceed to Calendar item 697, S. 1379, the Defense Production Act. In the event unanimous consent is not granted, I will move to proceed to the bill.

It remains my hope that we can also proceed to the money laundering bill, important legislation which we have been trying to move to, but with respect to which objection has been made from the Republican side. We hope very much that we can get to that bill and enact it very soon.

The Senate will recess today from 12:30 p.m. until 2:30 p.m.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader, Mr. DOLE, is recognized.

THE BIPARTISAN DEFICIT REDUCTION PACKAGE

Mr. DOLE. Mr. President, I want to thank the distinguished majority leader for his response to the President last night. I thank both of them for their efforts to see enacted this bipartisan deficit reduction package. I think, for the reasons stated by the distinguished majority leader and the President of the United States, this is in the best interest of America.

There is no doubt in my mind that we can muster the votes in the U.S. Senate. I just hope the same can be said of the House of Representatives, particularly, in this case, on the Republican side. I hope that my colleagues in the House will heed the words of the President—if not the majority leader, the President; but both—because this was a very difficult task.

It is not perfect; it is imperfect. I assume each of us could find areas where we disagree or would like to add or subtract things that may be in the package. So I hope that the tone set last night in the two statements by the President of the United States and the majority leader will be followed by those of us in the Senate and the House, and that we will move, as we should, very quickly on this budget package.

There has not been much discussion of the alternatives, but the alternatives are a disaster, a disaster for everybody I represent from the State of Kansas, whether they be Federal employees or farmers or Medicare recipients, whoever they may be.

It seems to me that it is not a choice of this budget package or something else. At this moment, it is this budget package, period. I guess there will be fine tuning in some areas, and there probably should be fine tuning in some areas.

There may have been some mistakes made. There was a lot of drafting, a lot of work done in the last few days, and some of the staff were up all night. Sometimes there was not a full consensus on the precise agreement. But, in most areas, I think the negotiators and staff did an outstanding job.

So, again, I urge my colleagues in the House to listen to the President of the United States—he is their leader—and heed his advice, and to ignore the advice of those who may have their own agenda in the other body who never found it possible to cast a tough vote.

Leadership—you pay a penalty for leadership. If you do not want to pay the penalty, maybe you ought to find some other line of work.

RETIREMENT OF JOAN MARIE DONAHUE

Mr. MITCHELL. Mr. President, in the rush from one item of pressing business to the next, too often we do not find the time to acknowledge significant, individual contributions to the national effort. I would like to take just a minute to recognize the admirable career of one individual whose long service to her country is deserving of public recognition.

Joan Marie Donahue is retiring today, after 37 years with the Central

Intelligence Agency. For 30 of those years, Joan worked in the Office of Congressional Affairs, with responsibility for liaison to Senate and House offices and committees on a range of sensitive issues. Joan somehow managed to represent the Agency and protect its interests, while at the same time providing consistently valuable service to the Congress. Successfully to perform both of those tasks is an acheivement in itself; to do so for 30 years is remarkable.

One of Joan's most valuable contributions was made in the last few years of her career. Over the past 3 years, Joan has worked diligently with the staff of the Office of Senate Security, to implement an improved security program within the Senate. Joan's knowledge, experience and professionalism made easier the sensitive task of coordinating with the Intelligence community the new security program introduced by the joint Senate leadership 3 years ago.

In recognition of her outstanding service, Joan has been awarded the Career Intelligence Medal by the Director or Central Intelligence. To that honor, I would like to add the sincere thanks of the U.S. Senate.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

TRIBUTE TO COL. EDWARD WINSLOW SHAW

Mr. WARNER. Mr. President, it is with great pleasure that I rise today to pay tribute to Col. Edward "Win" Shaw for his dedicated military service to our country.

Colonel Shaw is retiring from active service in the U.S. Army after serving for 29 distinguished years as an armor officer. I came to know Colonel Shaw personally during his last 4 years of military service as the chief of the Army Senate Liaison Office, as he arranged for and accompanied me on several trips throughout the United States and around the world on critical national issues of defense and foreign affairs.

Colonel Shaw was born in Cambridge, MA, on February 21, 1938. He was commissioned as a second lieutenant in 1961 from Norwich University and entered active duty the same year. Throughout his military career, he consistently distinguished himself during times of peace and war, in both command and staff positions, and was highly decorated. Because of his heroic, courageous, and valiant combat efforts in the early days of the Vietnam war, he was recognized several times with some of the military's highest awards—the Silver Star, the fourth such medal bestowed during the entire Vietnam conflict for action that occurred on December 8, 1964; and the Bronze Star for Valor with three Oak Leaf Clusters. His other notable military awards include the Legion of Merit with one Oak Leaf Cluster, Combat Infantryman's Badge, Soldiers Medal, Army Commendation Medal with Valor and second Oak Leaf Cluster, and the Army General Staff Identification Badge.

Colonel Shaw's professionalism and leadership as a military officer has earned him the respect and admiration of his soldiers, fellow military officers, and Members of the U.S. Congress. He is known for his integrity, compassion, and unique ability to inspire and motivate people to exceed their own expectations. It is these qualities that will assure his success in his new endeavors during retirement.

Mr. President, while the Army will understandably miss the service of this devoted military officer, the Nation is proud of the professional and personal sacrifices he made throughout his military career. I salute Colonel Shaw for his distinguished military record and wish him, his wife, the former Sally Matthews Sawyer, and their two daughters, Wendy Mitchell Havens and Elizabeth Winslow Shaw, many years of happiness and good health in his retirement.

TRIBUTE TO WARREN KANE

Mr. RUDMAN. Mr. President, I rise today to pay tribute to a staff member of the Appropriations Committee, Warren W. Kane. After 34 years of Government service, Warren retired at the end of September. We all know him as the guiding light of the Appropriations Subcommittee on Commerce, Justice, and State, the Judiciary and related agencies. He has been a professional staff member of the committee—and I stress the word "professional"—since 1973, when former Senator Norris Cotton of my home State of New Hampshire brought him aboard. Since 1977 he has been assigned to the Commerce Subcommittee, where he has worked with Senator ERNEST F. HOLLINGS of South Carolina.

Warren has worked faithfully and conscientiously for every member of the committee, Republican and Democrat. No one can accuse him of partisanship or playing favorites. That is only one of many reasons it is especially unfortunate he is leaving the Senate.

Our loss is his family's gain, since Warren will now have more time to spend with his grandchild, Erica, as well as with two more grandchildren on the way.

I want to express my personal appreciation for Warren's long and devoted service to the Appropriations Committee and the Senate, and I wish him all the best in his retirement.

THE FAMILY SUPPORT ACT OF 1988 IS UNDERWAY

Mr. MOYNIHAN. Mr. President, last Sunday at the United Nations the largest number of heads of government ever to assemble at one place, met at the World Summit for Children. And the world was witness to the indomitable optimism of Canadian Prime Minister Brian Mulroney, the unblinking clarity of Vaclav Havel; in truth a succession of rarely fine addresses.

We may be equally proud of President Bush's remarks; his commitment and concern. One sentence especially notable.

> We want to see the day when every American child is part of a strong and stable family.

The importance of this statement is elemental. Unlike the problems of children in much of the world; age-old problems of disease, new problems of ecological disaster, the problems of children in the United States are overwhelmingly associated with the strength and stability of their families. Our problems do not reside in nature, nor yet are they fundamentally economic. Our problems derive from behavior.

This is worth noting for the day before yesterday, Monday, October 1, 1990, the Family Support Act of 1988 began full-scale operation.

Just 2 years ago the Family Support Act of 1988 became law. In a decade notable for its divisions this legislation was notable for the breadth of support it received. It passed both Houses with broad, bipartisan support, indeed near unanimity in the Senate, and was welcomed when it arrived on the President's desk.

At the time, and since then, and for the foreseeable future, the act was described as "welfare reform." Argument to the contrary was hopeless. Yet it bears repeating that something much larger was involved. Reform means "to restore to an earlier good state." There was no such earlier good state. AFDC—welfare—began as a widow's pension. A little noticed provision of the Social Security Act of 1935, designed to bridge the period until survivors insurance became generally available under Social Security, as it is today. In the meantime, we experienced a vast, still little understood social change involving a huge increase in the number and proportion of children born out of wedlock. Thus in 1988, as recently reported by the National Center for Health Statistics,[1]

[1] Footnotes at end of article.

the proportion of such births for the first time in our history crossed the one-quarter mark. With some 4 million births per year-3,909,519 in 1988—this means more than a million such children are now born each year. The AFDC Program has cared for these children, and their typically youthful mothers.

As this transformation took place the import of the term welfare changed as well. A once honorable standard, a stated public goal, proclaimed in the preamble of the Constitution, welfare became a term of opprobrium. The term even disappeared from the ranks of Cabinet departments. Although it was by far the most important function of the Department of Health, Education, and Welfare, when this Department was split up in the late 1970's, the term welfare vanished. None wished to be associated with the subject.

Hence the Family Support Act, the purpose of which was to establish a new regime to deal with a new reality. Congress laid down a set of mutual obligations. Things society owed to these parents; things these parents owed to society; things owed to children by both.

Society owed single mothers support while they acquired the means of self-sufficiency; mothers owed society the effort to become self-sufficient. Absent fathers owed child support to both.

A tremendous organizational effort would be required at every level, across the Nation, and to jurisdictions as far apart as the Virgin Islands and Guam. Each State and similar jurisdiction was required to have enabling legislation in place by October 1, 1990. For all its rumbling, bumbling antique idiosyncracy, American federalism has done it again. The returns are in; everyone is in compliance. The act is underway.

I know the Senate will wish to congratulate Secretary Sullivan on a huge administrative task well done, and of course especially thank his able and enterprising head of the Family Support Administration, Assistant Secretary Jo Anne B. Barnhart, and Martin Gerry, Assistant Secretary for Planning and Evaluation.

I now have something further to report which I believe will also interest the Senate. Little noticed at the time, and I suppose little noticed still, we wrote into the Family Support Act extensive provisions for the evaluation of the impact of the programs, especially the Job Opportunities and Basic Skills Training Program known by the acronym JOBS. Although our purpose was hardly concealed, at the time, it may be useful to restate it. Welfare had become a contentious, often vindictive area of political conflict in which liberals and conservatives clashed and children were lost sight of. We had one particular objective, which was to establish a set of social indicators which would tell us over time the extent to which child dependency was increasing or decreasing. Our hope was that over time we could wring the rhetoric out of the subject, and get down to facts.

We knew that poverty in the United States was now concentrated in single-parent families. The United States had become the first society in history in which the poorest group in the population were the children. Just last week, for example, the Bureau of the Census issued its annual report, "Money Income and Poverty Status in the United States, 1989." The general comment about the report concerned the fact that the poverty rate seems stuck; that a long period of economic growth, however modest perhaps, but certainly prolonged, had made no impact on the poverty rate. But this is no mystery; 64.7 percent of all poor families with children in 1989 were single-parent families.[2] Nothing changed for them in the 1980's.

Little wonder they were poor. The average payment for the typical AFDC family of 3 was $370 per month in 1988. Not enough to keep body and soul together; indeed, a third less than the value of AFDC benefits 30 years ago when the present crisis settled in.

The present crisis. It is not clear just when it began, but we can date exactly when it first showed up on our screens, if that term may be used. This was the period 1964-65 when data from various sources analyzed in the Bureau of Labor Statistics first revealed a growth in dependency unrelated to economic movements. This subject almost made its way into the antipoverty programs that were begun at this time. Almost but not quite: the data seemed tentative, open to different interpretations, and in understandable ways threatening.

Now, however, we know, finally, just how good that data was. One of the more foresighted initiatives of the War on Poverty was the financing at the University of Michigan's Institute for Social Research of the Panel Study of Income Dynamics, headed by a superb research scientist, Gregory Duncan, which has been systemically following successive cohorts and their earnings for the last several decades. Assistant Secretary Barnhart asked the Institute to calculate the percentage of children born 1967-69 who lived in a family receiving AFDC prior to the 18th birthday. These data have now been received.

Almost one-quarter—22.1 percent—of children born in the late 1960's were dependent on AFDC for at least 1 year of their life before reaching their 18th birthday. Keep in mind that by definition these families were paupers, an old but instructive term.

By race, 72.3 percent of black and 15.7 percent of nonblack children were supported by AFDC at one point or another during childhood.

It should be stressed that this data is subject to further analysis and possible correction. But it gives us the central fact: Welfare dependency is endemic in the United States today. It is a common experience of children.

We are also beginning to collect information on the effects, or the correlates, if that is a better term, of welfare dependency. The Family Support Administration has engaged the Manpower Demonstration Research Corporation [MDRC] in New York to evaluate the JOBS Program, a singularly happy choice in that much of the research data that went into shaping the Family Support Act came from the MDRC, a nonprofit research organization. MDRC has in turn engaged Child Trends Inc., a Washington based nonprofit research institution, to study the effects of the Family Support Act on child development.

In a recent paper given at George Washington University, Nicholas Zill of Child Trends reported on a study in which welfare mothers were given the Armed Forces Qualifying Test. For what it may be worth, the 1964 Department of Labor study "One Third of a Nation," recording the incidence of failure of this test by draft age males, formed the principal data base on which the war on poverty was launched. Zill finds that most AFDC mothers would not qualify for the U.S. Armed Forces. Forty-seven percent of AFDC mothers score more than one standard deviation below the overall mean. Eighty-three percent of a normal distribution will be found within the bounds of one standard deviation above or below the mean. For a particular group to have its mean score one standard deviation below the overall mean is to be, well, way down there. Similarly, Dr. Zill finds that welfare children are twice as likely to fail in school as other children. By the teen years—ages 12-17—36 percent of AFDC teens have repeated a grade, more than twice the 17 percent for nonpoor teens. And thus the data go.

What all this tells us is that it is not going to be easy to make the JOBS Program work, to break the cycle of dependency, to put an end to child poverty. We knew that when the legislation was crafted. We also knew that we face a complex problem concerning teenage pregnancy, the start of the welfare cycle. The plain but mysterious fact is that the species now becomes fertile much earlier—4 to 5 years earlier—today than, say, a century and one-half ago. Or so it would appear. Hence, many otherwise unexplained or unnoticed phenomenon. Who noticed that in the 1970's college dormitories in the United States

became sexually mixed after several centuries of the strictest separation? This declining age of menarche places a great pressure on conduct among, well, children. Just Friday Joseph Berger in the New York Times presented a powerful account of the new proposal by the Chancellor of the New York City school system to distribute condoms in the schools. Mr. Berger's report contained this passage:

Sean, a sturdily-built youngster who said he had been sexually active since he was 10, did not think condom distribution would have much impact, since he and the boys he knows do not like to use them.

"It's not really a good sensation," he explained. He might use condoms, he said, only with a girl who is poorly dressed, does not appear to keep herself clean and is sleeping with others. But he said he would not use condoms with his steady girlfriend—whom he calls his wife—even if she might get pregnant.

"If it happens, it happens," he said. "There's nothing I can do about it."

Nor yet his partner or partners. In 1970 a live birth to a mother aged 10 was recorded in New York City.

At minimum these biological changes mean that high rates of births to young, single women will be with us indefinitely. In Canada, always a useful comparison, unmarried mothers now account for one-fifth of all births, as against one-quarter here. But somehow this is not as conspicuous a problem there as it is here. We need to think. And to learn. This is the basic strategy of the Family Support Act. We will not even begin to know whether it is having any effect until at least the year 2000 at the earliest, perhaps the year 2010. To those who may wish to protest that this is too long, I would simply state that they should have thought of that a quarter century ago when we might have got going. But we do already see considerable cooperation between previously divided schools of social thought. Two weeks ago the Progressive Policy Institute here in Washington issued a fine report, "Putting Children First: A Progressive Family Policy for the 1990's"; written by Elaine Ciulla Kamarck and William A. Galston, with essays by Robert J. Shapiro and Margaret Beyer. Kamarck and Galston began one of their chapters with a quotation from Karl Zinsmeister taken from that fine conservative journal the American Enterprise.

There is a mountain of scientific evidence showing that when families disintegrate, children often end up with intellectual, physical, and emotional scars that persist for life. * * * We talk about the drug crisis, the education crisis, and the problems of teen pregnancy and juvenile crime. But all these ills trace back predominantly to one source: broken families.

Call this tough minded, call it what you will; we need more. At the world summit last Sunday the Americans passed out a 34-page document "Goals for the Year 2000: A National Program of Action for Children." There were two subjects. National Education Goals and National Health Objectives. The Education Goals were those set forth by the President and the Governors at Charlottesville, VA, a year ago September and restated in the State of the Union Address. To be blunt, they are illusory. et cetera.

Goal 4: By the year 2000, U.S. students will be first in the world in science and mathematics achievement.

In 1984 President Reagan set forth essentially the same set of education goals—for the year 1990. By contrast, the health goals, previously set forth by Dr. Sullivan in a publication "Healthy People: 2000" seem doable. "Reduce the death rate for children by 15 percent to no more than 28 per 100,000 children aged 1 through 14. * * *"

What was missing in our presentation at the United Nations was any reference—any—to family stability and its various correlates. Congress and the executive have got to start getting specific. It would be my hunch, for example, that the ratio of children on welfare before age 18 has risen from just over 22 percent for the cohort born in the late sixties to at least 25 percent for those born in the late eighties. Could we hope to get it back down to, say, 20 percent by the late nineties? Not possible? Well what would be possible? The time has come to count.

And to think. The French theologian put it as well as can be done. "The worst, most corrupting lies," he wrote in 1937, "are problems poorly stated." For a generation now we have avoided this central problem of American society with talk of welfare queens and welfare rights. Can we not get back to the children?

FOOTNOTES

[1] Monthly Vital Statistics Report, vol. 39, No. 4, Aug. 14, 1990, p. 7.

[2] "Money Income and Poverty Status in the United States," U.S. Department of Commerce, Bureau of the Census, September 1990, pp. 61-62.

S. 2415—THE SOLAR, WIND, WASTE, AND GEOTHERMAL POWER PRODUCTION INCENTIVE ACT OF 1990

Mr. CRANSTON. Mr. President, I want to take this opportunity to say a few words in support of S. 2415, the Solar, Wind, Waste, and Geothermal Power Production Incentive Act of 1990, which I cosponsored and which passed the Senate last week.

This bill would promote further development of clean, renewable, domestic sources of energy such as solar, wind, and geothermal by removing the 80-megawatt cap that currently exists under the Public Utilities Regulatory Policies Act [PURPA].

Under PURPA, independent producers of renewable energy such as geothermal and solar are exempted from the restrictions of the Public Utilities Holding Companies Act, but only if they produce no more than 80 megawatts of power at a single site. This 80-megawatt limitation prevents these renewable energy sources from taking advantage of economies of scale that would make them even more cost-competitive with traditional sources of energy.

In examining the legislative history of this matter there is no clear rationale for the existence of the cap. Other forms of independent power production which fall under PURPA's jurisdiction, such as cogeneration facilities powered by fossil fuels, are not subject to this limitation. Given the proven success and promise of these renewable sources, the 80-megawatt restriction does not make sense and should be eliminated.

In California, Luz International Ltd. has developed an increasingly cost-effective solar thermal trough technology. Luz is currently serving the people of southern California with the largest solar-powered facility ever built. The optimal size for Luz' system is 150-200 megawatts, not 80 megawatts. At the optimal size, power could be produced at 5 to 6 cents per kilowatt hour instead of the current 8 cents per kilowatt hour.

The California Energy Co., one of the largest and most successful geothermal power developers in the industry today, now supplies the city of Los Angeles with enough electrical power to meet the daily needs of over 250,000 homes.

At California Energy's COSO complex in China Lake, CA, total power generating capacity equals 240 megawatts. However, because of the 80-megawatt per site limitation, the COSO facility actually represents three 80-megawatt sites each placed more than 1 mile apart. The spacing of the sites is not because of technical, engineering, or geothermal reserve considerations. In fact, the spacing is dictated by the need to stay within the current 80-megawatt limit. I am told that with virtually no further investment—simply by turning a few valves—the COSO facility could immediately produce up to 25 more megawatts of electricity if the size limitation was removed.

Nationally, geothermal energy now saves the United States 24 million barrels of imported oil per year—and there is potential from geothermal energy for at least three times that amount. Wind energy has already produced the equivalent of billions of barrels of oil in electricity. Solar energy holds great potential to reduce our dependence on foreign oil.

Global warming, caused primarily by an increase in carbon dioxide, could be slowed by greater use of cleaner alternative energy sources. Geothermal

energy, for example, produces far less than 1 percent of the amount of carbon dioxide produced from either coal or gas. Solar and wind energy produce no carbon dioxide emissions.

It's time to utilize these cleaner sources to halt our growing dependence on foreign oil and address some of our burdensome environmental problems.

To unlock the full potential of these renewable energy resources we must allow these technologies to grow without placing arbitrary restrictions on them. The first step is to enact S. 2415.

Unfortunately, the Energy Committee has attached uranium enrichment legislation onto this bill. Given the time left in this session of Congress and other pressing items that must be dealt with before adjournment, I believe uranium enrichment legislation will only decrease the chances of enactment of the extremely important measure.

S. 2415, by itself, has a good chance of passage, and it should be passed this year. We need to take immediate steps to decrease our consumption of foreign oil and promote development of clean, domestic, renewable sources of energy. S. 2415 is a logical and necessary first step.

THE BUDGET

Mr. HOLLINGS. Mr. President, I want to speak about this budget deal which is being grandly characterized as tough and real. Specifically, the President on last evening characterized it as such. I ask unanimous consent that his comments be printed in the RECORD, his full talk as it appeared last night, at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 3, 1990]

BUSH: BUDGET DEFICIT IS "A CANCER GNAWING AWAY AT OUR NATION'S HEALTH"

(Following is the text of President Bush's televised address last night)

Tonight, I want to talk to you about a problem that has lingered and dogged and vexed this country for far too long: the federal budget deficit. Thomas Paine said many years ago, "These are the times that try men's souls." As we speak, our nation is standing together against Saddam Hussein's aggression. But here at home, there is another threat, a cancer gnawing away at our nation's health. That cancer is the budget deficit. Year after year, it mortgages the future of our children.

No family, no nation, can continue to do business the way the federal government has been operating and survive. When you get a bill, that bill must be paid, and when you write a check, you're supposed to have money in the bank. But if you don't obey these simple rules of common sense, there's a price to pay. But for too long, the nation's business in Washington has been conducted as if these basic rules did not apply. Well, these rules do apply. And if we fail to act, next year alone we will face a federal budget deficit of more than $300 billion, a deficit that could weaken our economy further and cost us thousands of precious jobs.

If what goes up must come down, then the way down could be very hard. But it doesn't have to be that way. We can do something. In fact, we have started to do something. But we must act this week, when Congress will hold the first of two crucial up-or-down votes. These votes will be on a deficit-reduction agreement, worked out between the administration and the bipartisan leaders of Congress. This budget agreement is the result of eight months of blood, sweat and fears—fears of the economic chaos that would follow if we fail to reduce the deficit.

Of course, I cannot claim it's the best deficit-reduction plan possible. It's not. Any one of us alone might have written a better plan. But it is the best agreement that can be legislated now. It is the biggest deficit-reduction agreement ever—half a trillion dollars. It's the toughest deficit-reduction package ever, with new enforcement rules to make sure that what we fix now stays fixed. And it has the largest spending savings ever—more than $300 billion. For the first time, a Republican president and leaders of the Democratic Congress have agreed to real cuts that will be enforced by law, not promises. No smoke, no mirrors, no magic act, but real and lasting spending cuts.

This agreement will also raise revenue. I'm not and I know you're not a fan of tax increases. But if there have to be tax measures, they should allow the economy to grow. They should not turn us back to higher income tax rates, and they should be fair.

Everyone who can should contribute something, and no one should have to contribute beyond their fair share.

Our bipartisan agreement meets these tests, and through specific new incentives, it will help create more jobs. It's a little-known fact, but America's best job creators and greatest innovators tend to be our smaller companies. So our budget plan will give small and medium-size companies a needed shot in the arm.

Just as important, I am convinced that this agreement will help lower interest rates, and lower interest rates means savings for consumers, lower mortgage payments for new homeowners, and more investment to produce more jobs. And that's what this agreement will do.

And now let me tell you what this agreement will not do. It will not raise income tax rates, personal or corporate. It will not mess with Social Security in any way. It will not put America's national security at risk. And most of all, it will not let our economy slip out of control.

Clearly, each and every one of us can find fault with something in this agreement. In fact, that is a burden that any truly fair solution must carry. Any workable solution must be judged as a whole, not piece by piece. Those who dislike one part or another may pick our agreement apart. But if they do, believe me, the political reality is: no one can put a better one back together again.

Everyone will bear a small burden. But if we succeed, every American will have a large burden lifted. If we fail to enact this agreement, our economy will falter, markets may tumble and recession will follow. In just a moment the Democratic majority leader, Senator [George] Mitchell [D-Maine], will offer what is known as the Democratic response—often a rebuttal, but not tonight.

Tonight, the Democratic and Republican leadership and I all speak with one voice in support of this agreement. Tonight, we ask you to help us move this agreement forward. The congressional leadership and I both have a job to do in getting it enacted, and tonight I ask for your help.

First, I ask you to understand how important, and, for some, how difficult this vote is, for your congressmen and senators. Many worry about your reaction to one part or another. But I know you know the importance of the whole. And so second, I ask you to take this initiative: Tell your congressmen and senators you support this deficit-reduction agreement.

If they are Republicans, urge them to stand with the president. Urge them to do what the bipartisan leadership has done, come together in the spirit of compromise to solve this national problem. If they're Democrats, urge them to stand with their congressional leaders. Ask them to fight for the future of your kids by supporting this budget agreement. Now is the time for you, the American people, to have a real impact.

Your senators and congressmen need to know that you want this deficit brought down. That the time for politics and posturing is over and time to come together is now. This deficit-reduction agreement is tough and so are the times. The agreement is fair, and so is the American spirit. The agreement is bipartisan, and so is the vote. The agreement is real, and so is this crisis.

This is the first time in my presidency that I have made an appeal like this to you, the American people. With your help we can at last put this budget crisis behind us and face the other challenges that lie ahead. If we do, the long-term result will be a healthier nation and something more. We will have once again put ourselves on the path of economic growth and we will have demonstrated that no challenge is greater than the determination of the American people.

Thank you, God bless you and good night.

Mr. HOLLINGS. Mr. President, the President claimed the agreement is "real." He said it does not mess around with Social Security. Wrong on both counts. It is supposed to solve the deficit problem. Instead it adds $1.2 trillion to the national debt over the 5-year period. That is using the figures given to us by Director Richard Darman of the Office of Management and Budget. Indeed this agreement expressly abandons any pretense of trying to eliminate the deficits. Instead, it talks about "proposed savings."

In a news conference I am asked about savings, not about the deficit. There is no serious deficit reduction purpose. There is a serious purpose of deceit and fraud upon the American people. They put up the false targets, false interest costs, false GNP growth predictions. And to make absolutely sure that they have free rein, they suspend Gramm-Rudman-Hollings for the first 2 years in order to get us by the 1992 election. What's more, they mess around with Social Security in two ways. One, it requires now-exempt State and local employees to start paying FICA payroll taxes to the tune

of $2 billion, and every dime of that new revenue will go into general operating revenues, not into the Social Security Trust Fund. Second, the agreement continues the current practice of raiding the Social Security Trust Fund to reduce the Gramm-Rudman-Hollings deficit and to fund the day-to-day operating expenses of the Federal Government. The agreement explicitly acknowledges that $21 billion will be quote-unquote borrowed from the Social Security Trust Fund in 1991, and a total of $169 will be quote-unquote borrowed over the 5 years of the agreement. So concerning the Social Security Trust Fund, this agreement ensures that there will continue to be no trust and no fund. Read my lips, the budget deal does indeed mess with Social Security.

Politically, they took care of Neil Bush and George Bush and their S&L tarbaby. We in Washington who are responsible, we will not have to listen to that anymore. Neatly tucked away in this agreement is the fact that all expenditures for the S&L bailout will be off budget for purposes of calculating the Gramm-Rudman-Hollings deficit. At the same time, the statutory debt-limit is left open-ended and is extended for a full 5 years. When you put these two provisions together, what you have is congressional authorization of carte blanche for bailout spending by the Resolution Trust Corporation. RTC can spend whatever it needs to cover up its incompetent handling of the S&L liquidations. Those tens of billions won't count against the deficit, and they won't bring about a crisis in terms of exceeding the statutory debt limit. The purposes, of course, is to solve Congress' and the administration's political problem by keeping the S&L mess out of sight and out of mind.

The fact that there was a budget summit this year is due to the pressure of Gramm-Rudman-Hollings. But now Gramm-Rudman-Hollings has been circumvented.

This is a shame, because the law worked. We had a partial sequester for 1986. We did not pass a budget until Christmas 1986. We had a partial sequester of $11 billion. Then we came in and for 1987, we reduced the deficit. People were running around saying, "This will never work." But we reduced the deficit from $221 billion to $150 billion. But then at Christmas of 1988 we had a political problem. We were all looking in 1987 at the 1988 election. We ran over to the White House with President Reagan, concocted a bogus agreement, and pleaded that a deal was a deal. That is how we got an even bigger deficit.

In 1989, less than a year ago, Thanksgiving, we agreed to pretend that we had met the deficit target of $100 billion, and now the President is on national TV, less than a year later, saying the deficit is $300 billion. The truth of the matter is, the deficit is over $400 billion. It is hard to get them to catch up to the truth. We can slightly move them in the right direction, but they sneak out from under us.

Believe me, if you like Gramm-Rudman-Hollings, you will love this latest agreement. I did not like Gramm-Rudman-Hollings. I thought it was a necessary evil, and I worked like the dickens for it and supported it and have continued to, for the discipline it imposes.

The hysteria this year about furloughs and sequesters was grossly overblown. Nobody in his right mind was going to allow a $100-plus billion sequester. Such huge sequesters never were intended back in 1985. We intended to have a balanced budget by 1991. So you would not have to use Social Security moneys, would not have to indulge in all of these monkeyshines.

The President claims that this deal results in the largest deficit reduction yet. The largest was Gramm-Rudman-Hollings. We cut $70 billion in one year. Not $40 billion. It did not cause a recession.

This latest agreement, however, puts government in a box. This is an abuse of parliamentary procedure in order to hog tie and deadlock government.

Under this agreement, the most deliberative body, will not be able to operate. Why not? You have the discretionary spending categories of defense, international, and domestic. We are put in a straitjacket providing only for current services.

Our distinguished chairman of the Appropriations Committee said he added on $14 billion, $1.8 billion of it in 1991. But we will need $7 billion more just this year. We are looking ahead to the space station, shuttle commitments, to the supercollider, to the magnetic levitation train, and so on. These things cannot be funded under this budget. And forget our urgent needs for child care, Head Start, chapter 1 and so on. Forget the Women, Infants, and Children Feeding Program.

We need to gear up to compete with Japan and Europe. But on account of these parliamentary political shenanigans right here in this body, over across the hall, and in the White House, we are going to padlock the Government. The minority party in this body can block any new initiative by exploiting the budget agreement's requirement of 60 votes to waive a point of order if a program exceeds the domestic ceiling.

We are not going to get anything done because, even on supplementals, you cannot amend them, they originate with the President. Reconciliation is for 5 years under this agreement. Once you approve that, you have locked it in. So for defense and foreign aid, and for Government itself to really get something done up here, forget it. Defense never goes below $292 billion under the agreement. Defense is unscathed. The budget agreement officially kills any idea of a peace dividend. Gone are the predictions of DOD's budget being pushed down toward $250 billion over the next several years. Instead, the budget deal locks in DOD budgets at no less than $292 billion annually right through fiscal year 1993. What's more, the cost of Desert Shield is not included under the DOD budget cap—it does not count against DOD's $292-plus billion spending limit. In other words, instead of a peace dividend to fund urgent domestic priorities, the budget deal awards the Pentagon a war dividend by exempting it from significant cuts and giving DOD carte blanche in the Persian Gulf.

Mr. President, I can tell you here and now this is the worst budget document I have ever seen gliding through this body. Everybody is saying, "what else are you going to do?" I have presented alternatives. I fought on this floor against Kemp-Roth, Reaganomics, which George Herbert Walker Bush called voodoo economics. Now he is a high priest of voodoo, a national distributor of voodoo last night on TV, I can tell you that.

I fought for a budget freeze. Then I fought for Gramm-Rudman-Hollings. Then when I saw it did not work, with the sham as I have described it, on Christmas of 1987 I appeared before the Finance Committee with a proposed across-the-board consumption tax to pay the bills. That would impact everything equitably. That would impact beer, wine, cigarettes, oil energy the whole kit and kaboddle.

The European average value-added tax is 17 percent. They are paying their bills, and beating us in world trade.

Out in the Pacific rim, the VAT average is 15 percent; Korea is beating the socks off us. Yet here we sit around providing for our own reelection.

So I proposed a VAT tax.

They said, well, you are going to raise $100 billion. Who is going to vote for it? We had eight in the Budget Committee vote for it; eight Democrats voted for it. I had Republicans vote for it in an earlier Budget Committee meeting. Yes, sir, they will vote for it if everybody gets together here to really solve this problem. When they talk about $100 billion, they act like that is a lot. That is only one-tenth of the deficit problem. We face a trillion-dollar problem, according to GAO. Everyone seems to have bought off on the summit's assumption that $500 billion in deficit reduction between 1991 and 1995 will balance the

budget. It won't come close. On September 12, Comptroller General Charles Bowsher released a GAO study which concluded that it would take closer to $1 trillion in deficit reduction between 1991 and 1995 to balance the budget.

The agreement's economic assumptions are basically sound for 1991, but the assumptions for 1992 through 1995 really put the rouge on old Rosy Scenario. Consider 1992, when OMB says we will have robust GNP growth of 3.8 percent and interest rates at only 5.7 percent. Or consider 1995, when OMB promises us 3.5 percent economic growth and 4.2 percent interest rates. These are just not in the real world.

At the same time, the summiteers were so desperate for gimmicks that they actually stole one from Mike Dukakis. The agreement claims some $10 billion in revenue from stricter IRS enforcement—$3 billion of it in 1991 alone. This is just so much fairy dust.

Meanwhile, a large portion of the Social Security, Medicare, highway, and airport trust funds will all be on budget for purposes of calculating the Gramm-Rudman-Hollings deficit. The surpluses in those funds will be used in their entirety to fund the operating expenses of the Government.

Nowhere in the media have I seen reported perhaps the most profound difference in this latest incarnation of Gramm-Rudman-Hollings as outlined in the agreement. Heretofore, Gramm-Rudman-Hollings has been premised on specific deficit targets aimed at achieving a balanced budget. That is now gone. In its place, this budget agreement talks only about targets for proposed savings. In other words, in 1991 we only have to reach the proposed savings of $40 billion, and no one is supposed to notice or care that the deficit skyrockets to $253 billion. By 1995, the last year of the agreement, even the wildly optimistic OMB projection foresees a $63 billion deficit—even after raiding the trust funds, factoring in rosy economic assumptions, and excluding S&L bailout costs. A more accurate deficit projection for 1995 would be closer to $200 billion. In other words, the deficit can continue to grow unchecked in each and every year of this agreement, but as long as we reach our target for proposed savings, then we get to claim that we did our job. Perhaps nothing more clearly illustrates the inadequacy and sham of this agreement. It is the sleaziest off-Broadway show you can find.

Somehow, somewhere it has to stop. We can get together in the House and Senate, on both sides of the aisle, work out a budget that truly gets the job done. We could send it to the President and tell him this is the best product the Representatives of the people in America up here in this national Congress. But, no, instead we are to be given a conference report when they have not even had conferees, with no amendments, and 10 hours of debate, and they say, by the way, we can cut it to 5 hours. They sweeten it by saying that if you want to agree, we will not have to vote on Friday and Monday. What kind of thing is this? The most important bill in a decade and you cannot even get an amendment up. They ask why did I not present something better? I would like to debate the merits of a value-added tax.

I ask unanimous consent to print a description in the RECORD at this particular point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VAT DESCRIPTION

A value added tax is a broad-based consumption tax that is imposed at each stage of production of goods or delivery of services. I have proposed a "destination-based, invoice-method" VAT of 5 percent, which exempts food, housing and medical care. It is "destination-based" because the tax is paid in the country where the goods or services are consumed. This means goods consumed in the United States are taxed here. Those consumed in other countries are not taxed here.

The "invoice-credit method" refers to the method of calculation of the VAT. The invoice method imposes a VAT at each stage of production and the tax is listed on the invoice. As a taxpayer, I have two entries on my ledger: one for VAT paid on purchases, and one for VAT received on sales. I receive credit for tax paid on purchases and use it to offset tax due on sales. The invoice acts as a paper trail for the IRS. This is repeated at each stage of production up to the point of retail sale.

Obviously, I view the VAT as the cleanest, most efficient method of raising sufficient revenue to eliminate the deficit and debt. It is a common-sense tax that offers a number of collateral benefits. Under the invoice method, the VAT tax is substantially self-enforcing. For instance, if I purchase a product from you, I pay for your value added tax in my purchase price. In order to receive credit for the payment of that tax, I must show, by invoice, offsetting sales including payment to me. My net VAT liability is determined by subtracting the tax paid on purchases from the tax received on sales. So, in order to cheat the government, you have to cheat your customers or your suppliers, and most businessmen are very good at not getting cheated.

Also, because it is destination based, the VAT carries with it very important trade benefits. A VAT is a "border neutral" tax, which means that when a good passes out of the country in which it is produced, the VAT is rebated to the seller. In addition, when the same product is imported into the country where it is to be consumed, that importing country's VAT is added to the product. So, a country without a VAT, like the United States, is getting the worst of both worlds: foreign goods are cheaper here because the VAT is deleted, and United States produced export items are more expensive because a VAT levy is added to the sale price by the importing country. Lester Thurow, Dean of the Sloan Business School at MIT, has said, with good reason, that "The rules of international trade are structured to make you stupid if you don't have a value added tax."

A VAT is also a consumption tax, and as such, has the effect of discouraging consumer binges and hence encouraging savings. The retired Senate sage Barry Goldwater has said, "If you want to discourage something, tax it. If you want to encourage it, subsidize it." Yet, in this country, we perversely tax savings and subsidize borrowing and spending. A VAT would reverse this.

The three most common criticisms of a VAT are that it is inflationary, that it is a machine for expanding by government, and that it is regressive. The first criticism, that it is inflationary, is overblown, and the other two I have addressed in my bill. Experience shows that while modest inflation can be attributed to a VAT, it is a one-time increase which does not feed the tax-price-wage spiral that most people fear. In addition, deficit reduction made possible by a VAT, and the corresponding lower interest rates would largely offset any inflationary pressure. In fact, it will unburden taxpayers from the cruelest tax of all, the $200 billion in annual interest costs on the rising national debt.

As for the regressive nature of a VAT, my version will exempt food, housing and medical care. Since the poorest Americans spend the bulk of their income on these necessities, these exemptions substantially eliminate regressivity.

Finally, the "money machine" argument is moot under S. 442. All of the revenue from the VAT would go into a sacrosanct dedicated Deficit and Debt Reduction Trust Fund. VAT revenues must not and will not go toward starting up the federal gravy train again.

Another important, but often ignored aspect of a VAT is its economic neutrality. One thing we all generally agree on is that free markets do a reasonably good job of guiding economic decisionmaking. As a corollary of this point, most tax experts agree that a "good" tax does not distort the economic decisions made by businesses and consumers, and the VAT I have proposed, with only one rate and minimal exemptions, is closer to the ideal of neutrality than any other method of taxation we currently have in place.

A VAT is also a stimulative tax for business. Under a consumption based VAT like I have proposed, business purchasers are allowed a credit for taxes on all of their expenses—capital, services and the like—and therefore, only consumer goods and services are ultimately taxed.

Mr. HOLLINGS. Mr. President, too many Senators are treating this politically. You go into your caucus and I go into my caucus; we fix this vote, and all those running for reelection say I tried to help the President. That is what got us Reaganomics. Men of reasonable, prudent, and sane minds said we are going to help the President. So they nearly all voted for it.

The debt has soared from $908 billion in 1981 to at least $3.2 trillion. The interest costs have gone to $286 billion. Interest is now going to exceed defense, at least, $286 billion gross interest cost over $200 billion net interest cost. The first thing we do each morning is borrow another $500 million, a half billion, and add to the debt.

The media have done a good job of pointing out that the new taxes in this agreement are overwhelmingly regressive in nature. But they fail to note how paltry these taxes are in the context of our monster deficits. With 10-cent gas tax increases and 8-cent cigarette tax increases, we are literally attempting to nickel and dime a trillion-dollar deficit problem. This agreement calls for only $16 billion in new taxes in 1991. Meanwhile, it calls for fully $5 billion in new tax cuts—all of them targeted for the affluent and wealthy. So excuse me for seeing Mr. GINGRICH's walk-out as a trumped-up charade. The fact is that, so far as President Bush's core GOP constituency of well-off voters is concerned, the President has fulfilled his campaign pledge not to raise their taxes. Indeed, he has succeeded in cutting their taxes by at least $25 billion over the 5 years of the agreement.

Mr. President, this proposed agreement brazenly understates the size of the deficit problem. Its solution is inequitable and inadequate. It is a clear and unmistakable admission that the budget mess is out of control. Today, we stand on the brink. It is not too late to step back from that brink and work out an agreement that gets the job done. The bipartisan budget agreement is a sham and a shame.

TRIBUTE TO GEN. CURTIS E. LEMAY

Mr. THURMOND. Mr. President, I rise today to honor the memory of a great American, Gen. Curtis E. Lemay, who passed away on Monday. General Lemay was an extraordinary individual and a true American hero who served his country with vigor and courage in peacetime as well as war. I join with his many friends and admirers in mourning his loss.

Curtis Lemay was born in 1906 in Columbus, OH, and grew up with a deep love for the outdoors. Although he was unable to achieve a childhood dream of attending West Point, he enrolled at Ohio State and joined the Reserve Officers Training Corps. He worked nights in a foundry to pay his way through school.

General Lemay's ROTC experience led to a stint in the Army Field Artillery, from which he transferred to flight cadet school. He was soon commissioned as a pilot and showed outstanding ability early on in his military career.

Lemay rose quickly through the ranks, gaining a reputation for toughness and bravery which grew to near-legendary proportions during World War II. In one of his earlier assignments, he commanded the 305th Bombardment Group, which was among the first U.S. Forces to fight the Germans over Europe.

During his time with the 305th he demonstrated the courage and iron will which were to become his hallmark. Believing that the evasive maneuvers which bombers undertook to avoid flak where causing them to miss targets, he personally led a straight-in bombing run through heavy enemy fire to prove his point.

Lemay later led bombing raids in the Pacific Theatre with conspicuous bravery. He is perhaps best known for relaying the direct order from President Truman to drop nuclear bombs on Hiroshima and Nagasaki in Japan.

The cigar-chewing general was regarded with something approaching awe by the men under his command, who called him "Iron Eagle" or "Old Iron Pants" because of his exacting standards and his blunt, impatient manner. However, he was just as renowned for his fairness and concern for the welfare of his troops, and asked nothing of them which he would not do himself.

General Lemay went on to become Chief of Air Force Research and Development and then commander of U.S. Air Forces in Europe. When fliers under his command were making history during the Berlin Airlift, the general often piloted transports himself, claiming he had a conference to attend in Berlin.

General Lemay served for 9 years as head of the Strategic Air Command, and as both Vice-Chief of Staff and Chief of Staff of the Air Force. He was honest, outspoken, and unapologetically anti-Communist, and he antagonized some with his strongly held views and unsparing candor. However, he was a man who fought fiercely for what he believed, and even those who disagreed with him respected his integrity.

General Lemay won many military honors, including the Distinguished Service Cross, two Distinguished Service Medals, the Silver Star, and numerous air medals. He retired in 1965 and was George Wallace's running mate in his unsuccessful Presidential bid in 1968. He remained a proponent of a strong national defense and a foe of communism all his life.

Mr. President, Curtis E. Lemay was a man of outstanding ability, whose tremendous achievements and flamboyant personality made him a legend in his own time. He was an individual of great physical and moral courage, and a true patriot. Our Nation owes him an enormous debt of gratitude for his faithful service. We are richer for his life and we will never forget him.

Nancy and I would like to extend our deepest sympathy to General Lemay's wife, Helen, and his daughter Jane during this difficult time.

DEFENSE PRODUCT ACT AMENDMENTS

Mr. BOND. Mr. President, the Defense Production Act has served as a tool that the President could use to ensure his ability to mobilize the Nation's industrial resources for defense purposes. Through limited and measured use of the authorities contained in the act, defense planners have, over the years, ensured continued production of critical materials. Even today, the act is being used to ensure supplies of critical items needed by our troops in the Persian Gulf.

Unfortunately S. 1379 goes far beyond the current act—expanding its breadth, creating new layers of Government bureaucracy and adding new layers of Government control on the backs of American companies. The bill starts from the premise that the Defense industrial base is in need of assistance and protection, and goes on to assert that that assistance must come from the Government.

Though I will agree that there are times when it is appropriate for the Government to be involved in assisting private business, I believe this bill goes too far and prescribes the wrong medicine for the ailment in the Defense industrial base that its supporters believe exists. The best thing the Government can do for the companies that make up the Defense industrial base is to reduce the burdens on them, not increase them. This means eliminating paperwork and unnecessary reporting requirements, not increasing them as this bill would do. It means enacting trade laws which facilitate free and fair competition in the world marketplace, not enacting new trade barriers as this bill would do. And it means providing payment and reimbursement policies which encourage research and development and investment in new plant and equipment, one area in which this bill does make some positive steps.

Mr. President, the companies and workers who make up America's defense industrial base would be better served by less far-reaching and better directed legislation. Though I will not oppose the bill today because I believe the sponsors have made positive steps to improve the bill, I would like to make the following points:

First, the bill passed by the House, H.R. 486, is an even more objectionable bill which would, if enacted, do significant damage not only to our Defense industrial base but also to our national security. I am strongly opposed to it, and if a conference report containing the major provisions of that bill comes back to the Senate, I will take all steps within my power to see that it is defeated.

Second, I do not need to remind my colleagues that we are currently involved in a massive overseas deploy-

ment of troops. Because of that deployment, the Pentagon is relying on the authorities contained within the DPA on a daily basis. Given these circumstances, it would be irresponsible for us to adjourn without insuring that the President retains his authority under the DPA. Thus, if the conferees are unable to agree on a compromise plan, I hope my colleagues will agree to a short-term extension of the existing act prior to our adjournment so that we do not leave the President unable to support our troops overseas.

I ask unanimous consent that several documents setting forth the opposition of the administration to both S. 1379 and H.R. 486 and expressing their desire to see the act extended be printed in the RECORD immediately following my remarks.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC, September 24, 1990.

Hon. ROBERT J. DOLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I urge the Congress to extend for two years the provisions of the Defense Production Act [DPA]. Although the Administration would prefer that Congress make the DPA permanent law, with the September 30, 1990, expiration of the Act approaching quickly the Administration urges that Congress extend the Act for two more years. Continuation of the Department's authority under the DPA without any lapse is particularly important when units of the United States Armed Forces are deployed, as they are now in the Middle East, in situations in which they could face combat.

The DPA enables the Nation's industry to give priority to weapons and military equipment production to meet defense needs under the Defense Priorities and Allocations System established pursuant to Title I of the Act. The Department has found it necessary to invoke this authority hundreds of times each year to ensure that the Armed Forces have the items they need when they need them.

The authority granted by the DPA is essential to keep the Armed Forces supplied with spare and consumable items, such as aviation fuel, munitions, chemical protective suits, and combat meals because the Department's suppliers would otherwise be unable to obtain the necessary inputs on a priority basis to produce these products. Since Operation Desert Shield began, DPA authority has been necessary to procure missile containers used to ship and store missiles, electronic countermeasures pods and radomes for Marine and Air Force tactical aircraft, secure computer workstations, and various components of the Bradley Fighting Vehicle.

We prefer that Congress consider acting favorably on the legislative recommendations of the Administration. However, expeditious extension of the DPA, without objectionable provisions that will complicate the enactment of the legislation is essential. I urge the Congress to proceed swiftly to ensure that the law is extended before it expires on September 30, 1990. Such an extension could include several provisions of H.R. 4766, H.R. 486, or S. 2168 that are directly related to the energy aspects of the current situation in the Persian Gulf.

A similar letter has been sent to Senator Mitchell and Congressmen Foley and Michel.

Sincerely,

D. J. ATWOOD.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 26, 1990.

STATEMENT OF ADMINISTRATION POLICY

(S. 1379—Defense Production Act Amendments of 1990—Dixon—Illinois)

The Administration opposes S. 1379 and urges Congress to adopt the Administration's proposal, S. 2168, which would provide for permanent re-authorization of the Defense Production Act (DPA). If there is insufficient support for S. 2168, the Administration would support an extension of the existing DPA for two years rather than enactment of S. 1379. Such an extension could include several provisions of S. 2168 that are directly related to the energy aspects of the current situation in the Middle East.

The DPA vests the President with the authority to direct materials and facilities from civilian to Federal use to ensure adequate industrial production and supply for national security purposes. Additionally, it authorizes loans, loan guarantees, purchase guarantees, antitrust protection, and the use of the National Defense Executive Reserves (NDER), S. 1379, however, would change the DPA to a statute which undermines antitrust laws, infringes upon the constitutional authority of the President, encourages protectionism and establishes unneeded authorities and unwarranted reporting requirements.

The Administration strongly objects to section 137 of the bill. This section would create a prior government approval and antitrust immunity program for a wide range of industry consortia engaged in joint research, development, and manufacturing activities. If S. 1379 is presented to the President in a form that includes section 137, the Attorney General would recommend that the President seriously consider vetoing the bill.

Moreover, S. 1379 contains provisions which impinge upon the President's constitutional authority to control diplomatic initiatives and to maintain the confidentiality of the Executive branch deliberative process. The Administration objects to the following sections which infringe upon this authority:

Section 124, which requires that the Secretary of Defense lead an interagency team to consult with foreign governments on limiting the adverse effects of offsets in defense procurement.

Section 125, which requires the Secretary of commerce to report on alternative findings or recommendations submitted to the Department of Commerce on international negotiations related to the DPA.

Furthermore, S. 1379 adds unnecessary new authorities or responsibilities and burdensome, duplicative reporting requirements to the DPA. Most objectionable are:

Section 123, which would establish an unnecessary revolving fund.

Sections 123–126 and 138, which establish or amend reporting requirements to Congress on industrial and technological issues.

Section 152(1), which would repeal the requirement for paying interest on the net amount of Federal capital used under sections 302 and 303 of the DPA.

The Administration opposes Title IV, which amends the International Banking Act and authorizes retaliatory measures against foreign governments found to be in violation of the Omnibus Trade and Competitiveness Act. The Administration consistently has opposed retaliatory measures which could close U.S. markets.

The Administration strongly supports those provisions which amend section 706 to enhance the utility of "voluntary agreements" in responding to serious national emergencies. The Administration also supports section 141 which clarifies contract priority authority. This authority would apply to "services" contracts, such as for standby pipeline repair services for the Strategic Petroleum Reserve. These provisions, which are based on the Administration's bill, S. 2168, are potentially relevant to the U.S. response to the current situation in the Persian Gulf.

Also, in light of the present Persian Gulf crisis, the Administration urges enactment of those provisions of S. 2168 which provide conflict of interest and antitrust protection for the NDER. This would facilitate the development and staffing of an NDER composed of representatives from the petroleum industry, which most oil companies have declined to support because of the lack of such protection.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 21, 1990.

STATEMENT OF ADMINISTRATION POLICY

(H.R. 486—Defense Production Act Amendments of 1990—Oakar—Ohio)

The Administration opposes H.R. 486 and urges Congress to adopt the Administration's proposal, H.R. 4766, which would provide for permanent re-authorization of the Defense Production Act [DPA].

If H.R. 4766 is not adopted, the Administration would support an extension of the existing DPA for two years rather than enactment of H.R. 486. Such an extension could include several provisions of H.R. 4766 or H.R. 486 that are directly related to the energy aspects of the current situation in the Persian Gulf.

The DPA vests the President with the authority to direct materials and facilities from civilian to national defense use to ensure adequate industrial production and supply for national security purposes. Additionally, it authorizes loans, loan guarantees, purchase guarantees, antitrust protection and the use of the National Defense Executive Reserves [NDER]. H.R. 486, however, would change the DPA to a statute which infringes upon the authority of the President and establishes unneeded authorities and unwarranted reporting requirements.

The provisions of H.R. 486 that are most troublesome to the Administration are sections 4, 5, 6 and 10. The Administration also opposes the approach used to remedy the conflicts of interest problem contained in section 8.

Section 4 of H.R. 486 would establish an array of industrial policy initiatives that could be counterproductive to the long term strengthening of the industrial base. Included in the aection are provisions that would require the President to limit the procurement of all "critical" weapons, parts, or components to domestic sources irrespective of cost or other consequences. The section mandates that a detailed cost comparison be made of "all defense-related procurement

actions" to determine the respective direct and indirect costs and benefits associated with domestic and offshore acquisition. Included in such analysis would be the estimated cost of complying with any Federal or state law including loss of Federal, state or local taxes.

Another provision (subsection (g)) would require that the procurement restrictions mandated in section 4 be included in all existing and future "Memorandums of Understanding." This would, in effect, be a unilateral amendment to previously negotiated international agreements. Such an override would impinge on the President's authority to conduct foreign policy and adversely affect the credibility of future negotiations.

Section 5 of H.R. 486 would authorize $7 million to enhance the existing Defense Information Network (DINET) and provide for the reporting of specific details on 12 authorized major weapon systems and all such systems started after the enactment of H.R. 486. The existing DINET system, as augmented by already planned improvements, will be adequate for Defense's needs.

Section 6 of H.R. 486 would authorize $130 million per year for Fiscal Years 1991 through 1995 for the loans, loan guarantees and purchase commitments authorized by Title III of the Defense Product Act. The Administration's proposal, H.R. 4766, requested only $50 million per year for these programs. The $50 million per year request contained in the Administration's proposal is considered adequate. Additional funding is not needed.

Section 10 of H.R. 486 would authorize $500,000 for a Congressional Commission on Evaluation of Defense Industrial Base Policy consisting of nine members appointed by Congress. Its purpose would be to develop criteria for evaluating national policy relative to the strength of the defense industrial base. The Commission would report to Congress and the President at the end of its first and second years. The defense industrial base has been studied numerous times over the last several years and further reports such as those proposed by the Commission are not considered necessary.

Finally, although the Administration endorses the purpose of section 8, relating to conflicts of interest, it disagrees with the approach used to remedy the problem. Section 10 of H.R. 4766, the Administration's proposed amendments to the DPA, addresses the need for a national interest waiver in a manner that will not only protect fully the public and any individual receiving such a waiver, but allow for the expanded use of any individual's service during a time of national emergency.

As noted above, several provisions of both H.R. 4766 and H.R. 486 are directly related to the energy aspects of the current situation in the Persian Gulf. These included the bills' improved authority for the use of "voluntary agreements," the clarification that the DPA's priority contract rating authority applies to "services" contracts, and the bills' provisions concerning the NDER. With the caveat just noted about the form of the language concerning the NDER, the Administration urges that these provisions be enacted in the context of any bill that otherwise would extend the existing DPA.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask unanimous consent to address the Senate for the next 10 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE BUDGET AGREEMENT

Mr. LOTT. Mr. President, to quote the great Roman poet and satirist Horace, "It seems to me that the mountains have labored mightily and produced a mouse." Only this mouse is infested with fleas and bloodsucking ticks. That is my opinion of what we see in the budget agreement.

I am somewhat amazed at the tomb, the silence in the Senate with regard to the components of this budget agreement. I realize that Members are trying to find out the details, and I, too, have been trying to do that. It is a very complex, very long budget agreement. But I am afraid it is not a good budget agreement.

We are being told now, "You must support it, because what is the alternative? The alternative is too horrible to contemplate." But why is that the case? Because the budget negotiators negotiated until the final minute. The whole plan was to put it right up against the wall so that the Congress, within 5 days, would have to take it, lock, stock and barrel. It is like swallowing a cannonball, but, "You must do it because the alternative is too horrible to contemplate."

So now we are in a position where we must accept the budget—no matter what is in it—because the alternative would be a budget maybe that is no better, or even a sequester. I do not like the alternatives. I think that is the only legitimate argument for this budget package in that the alternative does not look very good.

I think, though, that the Washington Post said it all on Sunday morning when the lead headline read, "Bargainers Agree on a Tax Package." That is all this really is, a tax package. It is business as usual. There is no difference. This is the way it has been for the last 10 years, when I have been watching budget agreements very closely. We always wind up raising taxes, not cutting spending.

Next year the spending level will be $1.2 trillion and more. Even with this budget agreement, there will be a 4.5-percent increase in Federal spending in fiscal year 1991 over 1990, a $55 billion increase. Who are we kidding? The problem still is we are spending too much money.

But who will the budget package affect the most? Middle income, working, taxpaying Americans, and retired workers. For example, there is the gasoline tax: 12 cents on a gallon. At the Texaco station on the corner of Market Street in Pascagoula, MS, gasoline is $1.66 a gallon. Put 12 cents on top of that, in a poor State like Mississippi? We already have the Federal gasoline tax and a State gasoline tax, and we even have a seawell tax on gasoline.

People say, well, look at the gasoline prices in Italy and Europe. Look, if I wanted to drive in Italy and pay what they pay in Italy, I would move to Italy. This is America.

We are going to raise taxes and fees on everybody. We are going to raise Coast Guard fees. If you have a boat, you are going to have to pay a fee to use the waters off the coast of an area in which you live. If you use a Corps of Engineers park or recreation area, you are going to have to pay a recreational fee. If you are a hunter who would like to go into the national forest and hunt a squirrel for lunch, you are going to have to pay a fee, even though you do not use anything. You use what is yours. But, we are going to charge you a fee.

We are going to charge a fee for the NOAA Weather Service. We are going to charge an additional fee for FEMA flood and crime insurance.

We are going to cut spending in a couple of places. Guess where? Veterans, student loans, and agriculture get hit once again.

In the poorest State in the Nation, Mississippi, working middle-income, low-income people will get hit three times with this budget. First with increased taxes, particularly on gasoline, where you have to drive 60 miles usually to make a minimum wage. We are going to cut agriculture, and we are going to cut Medicare.

Congratulations. This is a good deal? I do congratulate the Democratic leadership. They did a magnificent job. They waited until the last minute and figured if they stalled and held out, they would get everything they want, and they did just about. They had to give up a couple of minor points.

Are there any incentives to encourage growth in here, advancement? No. I took Economics 101. I tried to listen to my economics professor. He was a pretty impressive guy. One of the things he said is when the economy is soft and shaky, you need to provide incentives for people to buy and sell and invest and get the economy going, get interest rates down, or give them some tax cuts. You do not raise taxes when the economy is soft.

But in Washington we missed Economics 101 apparently. We think that the good thing to do when the economy is soft and on the verge of recession is to raise taxes.

The Democratic leadership, I think, had a political plan, a good strategy, and they knew what substance they wanted. They are to be commended.

Frankly, I find it hard to believe that the President would go on TV and endorse this package. I would like to support the President. I like to support budgets. Over the past 9 years I have supported seven of the budgets. Over the past 10 years I have supported all those tax packages, and I am sorry, I say to the people in this Chamber and to my constituents in Mississippi. I voted for TEFRA, and we got taken to the cleaners. I have promised myself that I am not going to continue to vote to raise taxes so that the Congress can spend it on more programs.

Do not give me this stuff, "We are controlling spending." Look at the numbers. Foreign aid? Zero cuts in international spending. Domestic discretionary spending? Zero cuts. In fact, we are giving it a 4-percent increase.

Oh, yes, the fix is in. I put my colleagues here in the Senate on notice.

We are going to forgive the $7 billion that Egypt owes us. Yes, they have done what they needed to do in the Middle East. But they did what they needed to do in their own interest. We are going to forgive Egypt's $7 billion debt, and we are going to raise the fees that people on Medicare have to pay and the gasoline prices that people have to pay to get to work. It makes no sense at all.

I also want to raise this point with my colleagues here in the Senate who always say they are worried about the elderly and poor. Even the House Ways and Means Committee released a study yesterday showing that the tax increases and benefit program cuts will hit hardest on the poor. The average taxpayer in the poorest fifth of all taxpayers would have after-tax income reduced by 2 percent under this agreement.

I guess this is a good budget because everybody you know gets hurt. Do the Democrats like this; do you like this cut in the poorest of the working poor? Republicans, do you like this tax increase package? What is it we stand for anymore? Capital gains? No, we threw that overboard. Are we opposed to taxes? Who knows any more? Do we want to cut any spending? Not really. You know, we all like to increase spending.

I have been catching pressure from the administration and from the leadership: "You have to vote for this package." I am a team player, but this time I cannot choke it down. This mouse will roar. This deal is going to hurt the economy; it is going to hurt the elderly; it is going to hurt my State of Mississppi. I cannot support it.

I yield the floor, Mr. President.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio [Mr. METZENBAUM] is recognized.

Mr. METZENBAUM. Mr. President, in this entire debate on the budget, we have heard a good deal of criticism from NEWT GINGRICH over in the House, and we have now heard from my distinguished colleague, TRENT LOTT, criticizing the budget. One would get the impression on that basis, knowing where they come from on so many issues, really, maybe there is something good in that budget for the average person in this country, for the middle-class wage earner, and that the wealthiest people in this country were being hurt. I do not think that is the case.

So it is almost with a little sense of embarrassment that I find myself in the same position as they, only for far different reasons.

Before addressing myself to the budget, I would like to publicly state my own sense of personal gratitude to the untold number of hours, to the dedication, to the devotion, to the effort, to the sincerity which the leader of the Senate, GEORGE MITCHELL, has put into trying to bring about a resolution of this whole issue.

I think the majority leader and those with whom he was working—TIM FOLEY; DICK GEPHARDT; LLOYD BENTSEN; the very able leader of the Budget Committee, JIM SASSER; ROBERT BYRD; WYCHE FOWLER; and so many others—have given much of themselves in order to avoid the need for sequestration. They have brought to us a budget that in my opinion does not do the job, will not do the job, and places the burden unfairly on middle-class Americans and provides new loopholes for the very wealthy, for the corporations of this country.

But I want to say that I do not blame them for having brought this document to us. They are not to be blamed, because the real blame lies with a man who is now out in California, and his successor. The Reagan-Bush proposal, their efforts, their direction over the past 9 years, puts us in this position, a former President, Ronald Reagan, who kept talking to us about balancing the budget and never sent us a balanced budget, who continually criticized the Congress of the United States, and meanwhile led us from a deficit of less than a $1 trillion when he took office to $3 trillion when he left office; and a President who was so much for deregulation that the unbelievable cost of the savings and loan fiasco is not even being put on budget because it is so great that it is just horrendous, and you do not want to even confuse the issue.

And why were the leaders of the Senate and the leaders of the House placed in the position that they were, for not only these 9 years of continued fiasco in leadership from the Presidency, but this President's insistence that capital gains had to be cut, and that was the be-all and the end-all? Capital gains had to be cut so that the rich of this country would not have to pay so much.

They have not been paying so much. Everyone knows that over the past several years, since the 1986 tax bill and even before that, the rich have been paying a lesser proportion of their income and middle-class Americans have been paying a greater proportion of their income. There has been no fairness about it. But that is the way the Reagan-Bush team wanted it to be.

So our leaders in the negotiations first had to deal with these 9 years of fiasco in fiscal leadership from the White House and then had to deal with the President who had made this claim during his campaign, "No new taxes," and also that they were going to lower the capital gains tax.

They had to take care of the wealthy. They could not let them buy and sell their stocks and pay a fair share of the tax; no. They had to pay a lower rate than anybody else. It was only in the closing hours that our leaders were able to bring about some changes with respect to that.

But I am concerned, and I will get to that later, that in bringing about that which looked like a victory, in getting him to back up on the whole issue of capital gains, what went out the front door came in the back door.

This budget that we have before us will not do the job. It is kidding the American people. It is based upon mirrors, and the Office of Management and Budget has to accept the responsibility for being a party to those mirrors. It is they who come up with the figures that tell us how much it is going to cost, and it is they who provide us with the mirrors that you find in this bill.

What am I talking about mirrors? They say that in this budget resolution there will be a savings of $65 billion toward the total savings of $500 billion, because interest rates will be going down. How do they know that? How do they know that by 1993, interest rates will be down on 30-day and 90-day bills to 4.9 percent—they are now at 7.7 percent—and that by 1995, they will be down to 4.2 percent? How do they know that 10-year notes, which are now at 8.7 percent will be down by 1993 to 6.1 percent and 5.3

percent in 1995? That is a pure figment of the imagination.

But at the Budget Office of the White House, that is what they want us to believe, so they can say there is going to be $65 billion in savings toward the $500 billion, and then they use some other assumptions. The inflation rate, they say, is going to be down. Now the inflation rate is 5.2 percent. They tell us in their crystal ball that they know that by 1995 the inflation rate will be down to 2.8 percent, or about half of that amount, and they tell us that our gross national product growth, which is today at 0.7 percent, by 1992 is going to be 3.8 percent.

Who are they kidding? The American people? Do we not have an obligation to level with the American people? As bad as it is, do we have to kid the American people and phony up the figures? I ask that of the White House. They are the ones that are providing these figures.

Let me give you another one. In their figures, they show that during this 5-year period we are going to have $5 billion more in the Bank Insurance Fund, that is the FDIC payments. Do they not realize that others in Government are telling us that there are going to be banks that fail during that period? Do they not realize that the head of the General Accounting Office tells us that one big bank failure at the present time would totally wipe out all the money in the FDIC fund?

So they say that these insurance payments that are going in are going to help balance the budget. But when you have the payments coming in, they fail to talk about the moneys that will be going out. We will be lucky to get away with that much. It is certainly not an income item. It is a phony figures.

(Mr. ROBB assumed the chair.)

Mr. METZENBAUM. They talk about the amount of money paid into the FEMA flood and insurance fund, $200 million. But what about the claims against the FEMA flood and insurance fund?

Then they tell us we are going to have $9.4 billion more income because the IRS is going to be enforcing the law better. Where have they been in enforcing the law for the last 9 years? Why are they not doing it today? Whey do they need a budget bill in order to see that we get stronger IRS enforcement? I know there is something in their proposal about putting on more agents, but that does not mean that you could not have, or should not have had, if their will was there stronger, enforcement. And they tell us we are going to have $9.4 billion in additional income.

That is bad enough on the assumptions and bad enough as to whether we are going to get to the figures that are in the bill, but that is really not why I am standing on my feet. I am standing on my feet because I believe that this is so retrogressive, so unfair to the average American that it would be wrong for me to be quite and not talk about it.

In 1986, we reduced the tax rates across the board at a very substantial amount and at the same time we wiped out many of the special tax credits—oil and gas tax credits, drilling tax credits, numerous other special kinds of tax credits. The idea was, let us get rid of all those tax credits and bring down the rates. And lo and behold, now in 1990, we find in this bill they say that there are $4 billion of energy incentives. What do you need energy incentives for? Look at the price of oil. It is $40 a barrel. That is enough incentive to go out and produce oil and produce natural gas. You do not need to have some special energy incentives. And I must say that I question totally the $4 billion cost of those so-called energy incentives. That is absurd. It is absurd for this President and for this administration to be pushing the Congress for energy incentives while oil is $40 a barrel and at the same time raising the price on gasoline 10 cents a gallon.

Then there is another figure in this budget, about $7 billion in new tax shelters. Well, we will get back to those in a bit.

But what else do we have in it? Who is really going to pay the price? The senior citizens, those least able to pay, those who need Medicare, those who need hospital assistance and doctors' assistance, who need other kinds of medical help. They are the ones that are going to be called upon, to raise the deductible from $75 to $150.

And middle-class Americans are going to be called upon to pay it. If their wages are between $50,000 and $73,000, their taxes are going to be increased for Medicare. But are the wealthy going to pay it? Oh, no. Oh, no. Is there anything in this bill which suggests that the wealthy who receive Social Security ought to be taxed more on that Social Security so that they contribute their fair share to the cost? No. It is the senior citizens that are called upon to bear that share of the burden. And it is middle-class Americans who are called upon for cigarette taxes and liquor taxes and tobacco taxes.

While we are cutting into Medicare, while we are cutting into the human service needs, there is one other item that nobody has talked about, and I would like to talk about it. That is how much we are going to be spending for the defense of our Nation.

I was amazed the other day, delightfully amazed, to have the privilege of meeting in the House Armed Services Committee with the Chief of Staff of the Soviet military and having him talk with us, one on one with a small group, as to what the Soviets are doing and how they are cutting back their military forces and, I believe, telling us about how many of their troops are being moved out of the Western European sector.

We have 310,000 troops in the Western European sector. Certainly, there ought to be an opportunity to bring thousands, tens of thousands, maybe hundreds of thousands of those home and to be saving money. Certainly we ought to be able to save money when the Soviet threat is no longer the Soviet threat that it was. Certainly we ought to be able to change our emphasis. Certainly we ought to be able to have a peace dividend saving some money from all these extravagant expenditures that we made over a period during the Reagan years.

And, yes, the House had concluded that over a 5-year period you could save $250 billion in defense cuts. That was their recommendation out of the House Armed Services Committee, and the Senate Budget Committee had concluded that you could save $220 billion in defense expenditures.

Do you know what is in this budget? Not the $250 billion figure that the House House Armed Services figured; it is not the $220 billion that the Senate Budget Committee had; it is $170 billion in savings over 5 years; $80 billion that could have been saved if we used the House Armed Service figure, and certainly I believe that is a responsible body. I do not claim to be an expert on armed services expenditures, but certainly the House Armed Services Committee is. If there were a difference between the Senate Armed Services Committee and the House Armed Services Committee, then could not the figure have been compromised? But instead what do we have? We have $170 billion in savings, nothing close to the Senate Budget Committee figure, nothing close to the House Armed Services Committee figure. It is shameful. It is shameful and it is embarrassing.

Then we come to the whole question of taxes in this bill, the President going on TV last night and saying that this is a fair bill, a step in the right direction. Well, this bill does not have that capital gains cut that the President was advocating from the front door, but it has a back-door approach to taxing middle-class Americans while making the rich richer. It is a back-door approach.

Let me read you what the New York Times had to say about that subject. The New York Times says, "Tax Rises Seen Hitting Hard at People of Moderate Means." And listen to these figures. If you earn $20,000 to $30,000 a year, under this proposal you will pay 3 percent more on your taxes—$20,000 to $30,000, 3 percent more. If you earn

$30,000 to $50,000, certainly middle-class America, you will be taxed 3.3 percent more. But if you earn a little higher income and you earn $50,000 to $100,000 of income, you will be taxed only 2 percent more. If you happen to do a little better in the economy and you earn $100,000 to $200,000 a year, you will be taxed only 1.5 percent more.

If you are truly doing extremely well and you are earning over $200,000 a year, you will be taxed at one-tenth the rate, the increase will be at one-tenth the rate of those earning $20,000 to $30,000 a year. The increase will be 0.3 percent.

It comes down as you earn more. How unbelievable can we be? How absurd can it be?

Then take a look at a paper that certainly is no advocate of middle-class Americans, poor Americans. It pretty much has a readership of wealthy Americans in this country. Let us see what they say in the Wall Street Journal about the tax provisions in this bill. Let me use some of the language that they use.

There is a provision in the bill, and most people are not aware of it. They are learning a little bit more about it. The President did not get his capital gains tax cut, but what he got was something new. Never before in this country's history have we had a provision that if you buy stock in a company that you have the right to deduct a portion of the price of that purchase. That is absolutely absurd. It is crazy. It is incomprehensible.

If you buy stock, up to 200,000 dollars' worth of stock, you may deduct 25 percent of the cost of that stock. How could anybody come up with that kind of a concept? It is new, innovative and stupid, and unfair. It is creative, but creative in the worst kind of way.

A deduction of 25 percent just for buying the stock? They say it is going to help the smallest companies. This is just to help small business. It will help people buying stock in 63 percent of the companies in this country, those that have a net worth of $50 million or less.

Now I am going to tell my colleagues something else. It will help some that nobody thought we would be helping, and that is those smart boys who were able to put together the leveraged buyouts and they issued all those junk bonds and they had very little equity in the company. If they had very little equity in the company, that would mean that people who invested in their stock would have a right to deduct 25 percent of the cost of that stock.

Let me tell my colleagues what the New York Times says today about that particular point.

Yet the sense yesterday on Wall Street was that the politicians would probably shudder to know that they were inadvertently helping some large, but overleveraged businesses ranging from R.H. Macy & Company, the New York retailer, to Owens Illinois Inc., the glass-container maker in Toledo, Ohio, as well as the advisers who plunged those companies into debt.

In every LBO, in every leveraged buyout, we had a situation where they got tremendous debt, junk bonds were issued and very little equity invested. People who were able to invest in those companies, to buy stock in a new issue, would be able to deduct 25 percent of the cost. If a larger corporation has a subsidiary or creates a subsidiary and works it out in such a way that they will have a net worth of less than $50 million, a purchase in that company would qualify.

We never had anything like this before in the history of this country. It is unbelievable.

As if that were not bad enough, we have the capital gains in reverse provision, and that is, first of all, instead of affecting the capital gains when you sell the stock, now we give the capital gains deduction when you buy the stock. But there is a second provision. The second provision provides—this does not have to be a company which has a net worth of less than $50 million—when you sell your stock under this proposal, you will be permitted to sell that and pay your taxes in one of two ways.

Either you will be permitted to figure the sales price at half what you get for it—yes, that is right. If you sell it for $100 you only have to pay taxes on $50 of it. If you sell it for $400 you pay taxes on $200. Or you have an alternative. You may take your original cost and if you held it for several years, you may include an inflation factor in order to establish what your cost is. So if the stock cost you $10 several years ago and inflation has gone up whatever percent, 40 percent, 50 percent in that period, then your base now becomes not $10 but $14 or $15.

This is a wonderful bill to place new taxes on cigarettes and alcohol and liquor; place new taxes and cut back on benefits for Medicare, but to take care of the wealthy, to see that they are protected in the sales of their stock and even when they buy new stock.

The Wall Street Journal called it the newest tax dodge for the rich, some of these provisions. The Wall Street Journal said it would revive tax shelters for wealthy investors.

We can read the papers that the smart boys and their lawyers are already starting to put together, the syndicates, in order to use the new deals that will be possible under these provisions. The syndicators are already going to work.

Even Richard Nixon's Commissioner of Internal Revenue said about this pending bill:

There's a good question of whether benefits of these massive types are really in the national economic interest.

Former Commissioner of Internal Revenue under Richard Nixon.

What we are talking about here is giving the rich a tax break when they buy stock, of somewhere between $14,000 and $16,667—just given to them on a platter for no logical reason that this Senator can understand.

Hobart Rowen today writes an article in the Washingon Post, "Too Much for the Rich?" I would say so.

Mr. President, I ask unanimous consent that article and an article from the New York Times of yesterday, "Tax Rises Seen Hitting Hard at People of Moderate Means," be printed in the RECORD at end of my remarks.

Mr. President, I also ask unanimous consent an article from the Wall Street Journal of yesterday be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. METZENBAUM. Mr. President, let me conclude by saying I would like to be for a budget proposal. I would like to be able to support the leaders who have worked so hard and in whom I have so much confidence. I would prefer that I not be standing here on the floor raising a question about new gasoline taxes of $57 billion and liquor taxes of $6 billion and cigarette taxes of $6 billion while Medicare recipients are being cut and forced to pay more. I would prefer that.

The most logical question one can ask is, well, Senator if you are not for this, are you for sequestration? No, I am not for sequestration.

Then what is our alternative? I will give my colleagues my alternative. I believe that we Democrats and as many Republicans who care to join us, and we have a concern about the kind of country in which we live, ought to send the President the right kind of budget, a fair budget, a budget that is equitable, reasonable, and decent for all people, and no tone that benefits the rich and hurts the middle class Americans; a budget that is based upon factual facts and realistic assumptions and not one that has smoke and mirrors to it.

I think we ought to send him what we think is the right budget. We are a Democratic Congress. We sent it to him. If the President wants to veto it, let him veto it. Let him put the sequestration on his back. But I do not think we ought to capitulate to the President of the United States who has forced our leadership into making some concessions that I know they do not want to make and would not have made, except that they were forced up against the wall.

I think that is our reponsibility. I believe that is what we can do. I believe that is what we should do. I believe that we Democrats, who may have some differences among ourselves as to what that budget could reflect, I think we can effect those compromises ourselves and send that budget down to him promptly before the date for sequestration, before Friday. I believe that the President should have on his desk the chance to decide whether or not he wants to force this country into sequestration.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Washington Post, Oct. 3, 1990]

TOO MUCH FOR THE RICH

(By Hobart Rowen)

At first, I thought that the deficit-reduction package would be better than nothing at all, and that Congress should hold its collective nose and vote for it: without some action, there would be a mindless across-the-board sequester bringing many elements of essential government to a screeching, irrational halt.

But after reflection, my conclusion is that the price is too high: the budget "summiteers" at the last minute sneaked into the deal a slew of new tax shelters that would cost $12 billion over five years.

It breaks faith with taxpayers who bought the 1986 Tax Reform Act, which cut the top tax rate for the wealthy to 28 percent, on the basis that tax loopholes and shelters were to be eliminated. Now, the wealthy would get the low tax rate and tax shelters.

The $12 billion cost is merely the official estimate: once tax lawyers and accountants go to work on such goodies as a 25 percent deduction of the cost of stock in one of the qualified small companies, that figure is likely to soar.

The Bush team appears to have put one over on the Democrats, selling the new tax-shelter provisions at the eleventh hour, ostensibly to provide "new incentives to stimulate economic growth." Billed as a consolation prize for Bush, who gave up his vaunted capital-gains tax-cut proposal, the new plan in some ways is worse than preferential rates for capital gains.

A capital gains tax cut would primarily benefit the rich but also provide some benefits to lower-income persons. The new tax shelter for stock purchases benefits only the rich, who can put up big chunks of money to reap an immediate tax credit.

It is nonsense to suggest, as did The New York Times, that "this year's ugly compromise is acceptable only if Congress rights the wrongs next year." The time to repair the damage of the tax-shelter gimmick is now, before it gets written into law.

Even then, the budget compromise won't be a thing of beauty. It won't help bring the economy out of recession. In fact, the small contraction in the deficit may make it worse, unless there is prompt offsetting action to lower interest rates. Such relief is desperately needed to prevent a collapse of American businesses and banks, which are in deeper trouble than anyone want to admit.

The proposed $40 billion reduction in the deficit for this fiscal year (not the highly ballyhooed $50 billion) doesn't even keep pace with the increase in the deficit as projected as recently as July. Then, the Bush administration estimated the red ink for fiscal 1991 at $231.4 billion. The new estimate has swelled—because of the dip in the economy, a worsening S&L crisis and the cost so far of the military buildup in Saudi Arabia—by $62.3 billion to $293.7 billion.

So the agreed-upon deal, even if the economy doesn't plunge into recession, only nibbles at the accumlated red ink. And whether it works to stimulate growth in the long run depends on the dubious proposition that future Congresses will keep a commitment that this Congress makes to cut spending and raise taxes.

Moreover, the package is regressive because it extracts most of the deficit reductions from lower- and middle-income groups that can least afford it. Excise taxes on beer, wine, liquor and cigarettes obviously take a bigger chunk of income from less-well-off taxpayers than from the rich.

Increased Medicare premiums also place a relatively greater burden on poor taxpayers than on the rich. A better alternative would have been to tax more of the Social Security benefits received by wealthier taxpayers.

Against regressive tax and spending measures, the only progressive element offered is a limitation on itemized tax deductions for taxpayers with incomes over $100,000 a year. That's equivalent to an extra marginal tax rate of 1 percent for richer taxpayers. In addition, there is a 10 percent luxury tax on expensive cars, yachts, jewelry and furs.

Balancing it all out, the Democrats, who promised to shift the burden more to upper-income backets, failed in their objective. As Tennessee Sen. James Sasser, chairman of the Senate Budget Committee, ruefully conceded, the package "has not corrected the regressivity, which has stormed through the tax structure over the last 12 years."

In particular, the package deal raises the question, once again, of whether the Democratic Party is a mere appendage of the Republican Party rather than a true opposition party, as banker Felix Rohatyn suggested earlier this year. Sen. George Mitchell, Speaker Tom Foley and Majority Leader Richard Gephardt have gone along with a compromise that puts the monkey on the back of the lower and middle class. It gets harder to see real differences between them and moderate Republicans such as George Bush, Bob Dole and Minority Leader Robert Michel.

[From the New York Times, Oct. 2, 1990]

TAX RISES SEEN HITTING HARD AT PEOPLE OF MODERATE MEANS

(By Robert D. Hershey, Jr.)

WASHINGTON, October 1.—The substantial tax increases agreed to by Administration and Congressional negotiators over the weekend would be paid mostly by people of moderate means, despite various provisions aimed specifically at buyers of yachts and others with six-figure incomes, private specialists said today.

The taxes, especially the 12-cent increase for gasoline to be phased in by next summer, also appear to cut across economic lines to favor urban over rural Americans and older taxpayers over younger ones.

According to a Government document made available to The New York Times, taxpayers in the income ranges of $30,000 to $40,000 and $40,000 to $50,000 would be hit hardest, paying an average 3.3 percent more under the plan. Those in the range of $20,000 to $30,000 would pay 3 percent more while those in the ranges of $50,000 to $75,000 and $75,000 to $100,000 would see their total tax bills rise 2 percent, assuming they do not alter their spending patterns.

1.5 PERCENT MORE FOR SOME

Taxpayers with incomes of $100,000 to $200,000 are to pay 1.5 percent more and those reporting $200,000 and more are expected to pay an extra three-tenths of 1 percent.

Only those in the lowest income rungs are expected to pay less. A 3.8 percent decline is forecast in overall taxes for those in the $10,000-to-$20,000 bracket and a drop of one-tenth of 1 percent for those with less than $10,000 a year. These taxpayers would benefit heavily from an increase in the earned income tax credit.

Over all, Federal collections—sales as well as income taxes—are to rise 1.6 percent, the calculation showed.

Despite the reduction for those with the lowest incomes, economists generally regarded the tax proposals as mildly regressive. This means that the burden would fall relatively more heavily on those of ordinary means—though the dollar amount of their increases may be no greater—than on the wealthy.

An extra 12 cents for a gallon of gasoline, for example, could be a serious blow to a $350-a-week clerk who drives long distances to work while the additional amount would scarcely be felt by a high-income corporate executive.

Unlike the major tax overhaul enacted in 1986, when economic theory was served by a slash in income tax rates and an expansion in the types of revenue subject to taxation, this year's negotiations were driven by a need to cut the budget deficit in some politically palatable way.

The only major assault on the principles governing the 1986 law appeared to be a limitation on itemized deductions for individuals or couples with adjusted gross incomes above $100,000 a year, a move that has the effect of raising their tax bracket—either 28 percent or 33 percent—by as much as one percentage point. This is to raise $18 billion over the 1991-95 period.

With medical expenses and investment-related interest payments exempted, such taxpayers would lose deductions equal to 3 percent of all income exceeding $100,000.

REGRESSIVITY BALANCED

Other big revenue raisers, $13 billion and $11.7 billion respectively, are an increase, to $73,000, in the cap on wages and self-employment income considered in calculating the tax for Medicare hospital insurance and a requirement that state and local government workers not covered by a public employee retirement system join the Social Security program and pay its taxes.

By including the deduction limitation and raising the cap for health insurance, which hit hardest at the better-off, the negotiators seem to have roughly balanced the regressivity that attaches to the excise levies on cigarettes and alcohol, as well as gasoline.

The package "doesn't seem to be highly regressive at all," said Isabel V. Sawhill, an economist at the liberally inclined Urban Institute.

According to the Congressional Budget Office, American families spent 2.7 percent of after-tax income on gasoline, 2 percent on liquor, wine and beer and 1.1 percent on tobacco. The poorest 20 percent, however, spent 6.9 percent for gasoline, 3.7 percent for alcohol and 4 percent on tobacco. The second-richest 20 percent, with incomes averaging $38,000, spent 2.9 percent for gasoline, 2.2 percent for alcohol and 1.1 percent for tobacco.

The budget office also reported earlier this year that families headed by someone under 30 spent a greater portion of their incomes on all three of these categories than did other age groups. Geographically, rural Americans spent 29 percent more of their incomes for gasoline than did those in the urban Northeast.

Norman Ture, president of the Institute for Research on the Economics of Taxation and a former Treasury Department official in the Reagan Administration, said, "My instinct tells me this is more regressive than not." But he added that this was a highly complex issue not amendable to quick analysis. He observed, for example, that it might be progressive to impose a luxury tax on fur coats as the budget negotiations propose, but a thorough analysis would also consider the fact that mink ranchers or the furriers who sell the coats might lose their jobs if demand fell, a result he called clearly regressive.

Much analyses of progressivity and regressivity, moreover, assume that higher taxes will not induce people to alter their behavior significantly—indeed, the proponents of the measures are counting on people to buy nearly as much gasoline. Otherwise, revenue targets would not be reached. Some groups, however, will undoubtedly cut purchases more than others, shifting the regressivity-progressivity balance.

"The budget process focuses on 'the deficit' to the exclusion of all other issues. No rational policy will emerge as long as this remains true."

Real estate tax and marketing experts suggested today that limits on deductions for people with incomes over $160,000 would probably have little impact on the real estate market. M. Jack Duksin, a partner with the law firm of Berlack, Israels, Liberman, calculated that the total additional Federal tax bill to someone making $250,000 would be about $1,260.

"Nobody making a quarter-million dollars is going to base a big decision about buying a new condo or vacation home on a tax impact of $1,260," he said, adding that he had already taken several calls from clients wondering about the impact of the budget compromise on their real estate purchasing plans.

"I think it's a step in the right direction," Mr. Duksin said, "because it's an attempt to redistribute wealth without seriously damaging the incentive to be a high wage-earner."

THE HARD HIT FAMILY AND ITS INCREASED COSTS

(Consumption figures are averages for each group. Yearly tax totals are for 1991)

Cigarettes: Mr. Hard Hit smokes 1.3 packs per day. The 4-cents-per-pack increase would cost him $18.98.

Medicare: Grandma Hard Hit would find that her monthly premiums for coverage of doctors' fees would go from $28.60 to $54.30, or $308.40 more next year. Her deductible would go from $75 to $100, and will increase $25 a year until it reaches $150.

Paycheck: Mrs. Hard Hit makes $60,000. Since the maximum wage taxed for Medicare increases to $73,000 from $51,300, and the tax is 1.45%, she would pay an additional $126.15.

Boat: The Hard Hits will have to purchase a Coast Guard decal for their boat. This would cost $25.

Car: The Hard Hits use 500 gallons of gasoline each year. The tax increase on gasoline would be 7 cents a gallon in the first half of next year and 12 cents per gallon in the second, so they would pay about $48 more in 1991.

In addition, they plan to buy a $31,000 car in 1991. The new excise tax on luxury items would add $100 to the cost.

Travel: When the Hard Hits go on vacation, they would find an additional 2% tax on their ticket, or $7.98 more on a $399 fare. They will also find it more expensive to visit the national forests, as admission fees would increase.

Wine: The Hard Hits drink a bottle of wine every 10 days. The 22-cents-per-bottle tax increase would mean an additional $8.03 next year.

Liquor: The Hard Hits buy 23 fifths of liquor a year. The increased 30-cent-per-fifth tax would cost them $6.90.

Beer: Mrs. Hard Hit drinks two beers a day. The additional tax of 16 cents per six-pack would cost her $19.47.

[From the Wall Street Journal, Oct. 2, 1990]

CONSOLATION PRIZE: TAX SHELTERS FOR RICH COULD RETURN IN PLAN TO AID SMALL BUSINESS

(By David Wessel and Jeffrey H. Birnbaum)

WASHINGTON.—President Bush calls them "important new incentives to stimulate economic growth." But they could turn out to be the newest tax dodges for the rich.

A surprise package of so-called growth incentives slipped into Sunday's budget accord at the last minute is billed as a way of encouraging investment in the small companies that drive the engine of economic growth. It was a consolation prize to the president, who lost out on his effort to foster economic expansion with a reduced tax rate on capital gains.

But look again. Depending on how the rules are written, the growth incentives may have the unintended effect of reviving tax shelters for wealthy investors. Experts say the law could spawn a new class of companies that give investors up-front write-offs and other tax goodies that could benefit them—not to mention tax lawyers, accountants and syndicators—more than they help the economy.

"These could be the seeds for the tax shelters of the 1990s," says David Brockway, former chief of staff of the bipartisan congressional Joint Committee on Taxation and now a tax lawyer at Dewey Ballantine Bushby Palmer & Wood. "They could be enormous."

SYNDICATORS RETURN

Indeed, Marvin Dickman, a partner at the accounting firm of Arthur Andersen in Chicago who specializes in closely-held companies, is already studying the possibilities. "You will see syndications of investments like this," he predicts.

That's just what worries tax experts in the private sector and in Congress, which essentially killed off shelters in the Tax Reform Act of 1986. "It's highly doubtful policy," Donald Alexander, commissioner of the Internal Revenue Service in the Nixon administration, says of the proposed new tax breaks. "There's a good question of whether benefits of these massive types are really in the national economic interest."

Mr. Bush, in announcing the budget accord Sunday, said that the small-business tax breaks would provide "powerful new incentives for productive investment in the kinds of companies that account for much of America's job growth." Small-business enthusiasts add that besides stimulating a sluggish economy the provisions could also invigorate the market for initial public offerings.

DEFENDING THE PLAN

The Treasury Department, now moving to sell the budget accord to a skeptical Congress, insists that concerns over abuse of the new proposal are ill-founded. "Some people see any tax incentive as a tax shelter," says Roger Bolton, assistant Treasury secretary for public affairs. "This is clearly a tax incentive."

He says that the law creating these new tax breaks, still being drafted, will prevent abuse. Regulators who will draft the fine print of the law will do likewise. "The incentives will do what they are intended to do," Mr. Bolton says. "They will direct new investment to small companies that are growing and creating jobs."

The most generous of the proposed tax incentives—and the one that caught even close budget observers by surprise—is a provision that would allow investors to deduct 25% of their investment in newly issued stock in eligible small companies, up to a maximum deduction of $50,000. In other words, an investor who sinks $200,000 into an eligible company would get an immediate tax break of about $14,000.

Investors in a stunning 2.3 million corporations would qualify, representing 63% of all companies in the U.S., according to the Treasury. These would be distinctly small businesses on the whole, however; they together they hold only 4% of the assets in the U.S.

MORE INCENTIVES

Additional tax breaks would become available when the share were sold. Although the text of the bipartisan agreement carefully avoids describing these as a capital-gains tax break, that's what they are. If an investor holds the shares for five years, he or she would be permitted to choose the more favorable of the following two choices:

Pay tax at the ordinary tax rate—28% for the highest-income taxpayers—on exactly half of the sales price, regardless of the amount of the initial investment;

Pay tax at the ordinary rate on the investment profit, adjusted for inflation as well as for initial deduction.

The Treasury says this option would be offered not only to investors who buy newly issued stock, but to investors trading in the secondary market—shares that have been issued in the past. But congressional aides say this particular point wasn't settled by the budget negotiators and remains to be resolved.

Eligible companies are those with paid-in capital and retained earnings of less than $50 million—except finance, insurance, securities, real-estate and personal service companies.

The fabled computer start-up would be covered, of course. So would more prosaic enterprises—cleaners, restaurants and boutiques, for instance. Investors in General Motors Corp, and International Business Machines Corp. wouldn't benefit. Indeed, one risk is that the plan would draw money away from big companies and shift it to smaller ones without increasing the capital available to business as a whole.

Treasury officials and congressional tax staffers swear that several potential loopholes would be closed before the provision is enacted. They say, for instance, that they will prevent big companies from setting up small affiliates to reap the small-business tax breaks. They also say they will prevent bigger companies and takeover artists from

subdividing big companies into smaller ones to capitalize on the new incentives.

But some outside tax specialists are skeptical. "How they're going to police it has got to be one of the most serious concerns," says James Gould, a former staff director of the Senate Finance Committee now at the law firm of Vinson & Elkins.

"There's no question that this will provide work for legions of accountants and lawyers to find out how to structure the deals and find out how to deal with the IRS and Treasury in so doing," he adds.

The entire package of incentives was all but an afterthought in the $500 billion, five-year deficit-reduction accord.

Congressional staffers say the portfolio of tax incentives surfaced only Saturday as the Bush administration struggled to find a substitute for the broad capital-gains tax cuts. When the administration concluded it was unable to win a lower capital-gains tax cut for all investments, Treasury Secretary Nicholas Brady explains, it decided, "Why not shift the incentive to those companies who produce the most growth?"

Although pieces of the proposal were drawn from initiatives floating around for years, the package was assembled so hastily that administration negotiators didn't initially have anything put down on paper to show the Democrats. Kenneth Gideon, the Treasury's top tax official, rushed to the talks to explain the incentives. "They were air-dropped in," says a congressional aide.

As a result, details were still fuzzy even yesterday, 24 hours after the agreement was announced. Some specifics won't be clear until congressional tax-writing committees turn the proposals into legislative language.

Tax experts say that a clever investor with a sharp accountant could borrow money to make the initial investment, deduct the interest, deduct 25% of his investment on top of that and then later benefit from the favorable tax treatment when he or she sells the stock.

Even House Majority Leader Richard Gephardt, the Missouri Democrat who served on the eight-member team that put together Sunday's budget package, expressed concerns about the effects. "I am worried about what is finally written and whether it can be abused and used as tax shelters," he said.

Some tax experts say the law and regulations can be written tightly enough to prevent a tax-shelter boondoggle. "I really don't think it's going to open up any stampede of tax shelters," says William Raby, an accounting professor at Arizona State University in Tempe.

And the Treasury promises the rules will keep abuse to a minimum. The agreement states, for instance, the estate of anyone who dies within two years of taking this new deduction will have to pay it back, an attempt to prevent deathbed tax dodges.

But history suggests that lawyers and accountants always find loopholes no matter how tough the rule-writers think they are being. "You never really know all the things people will think up to get around your rules," says Randall Weiss, a former deputy chief of staff at the Joint Tax Committee and now at the accounting firm of Deloitte & Touche.

And even if the abuse is kept to a minimum, others say, the tax break is extremely liberal—particularly the provision that allows an immediate, up-front deduction for investing in eligible companies.

Even Sen. Dale Bumpers, the Arkansas Democrat who chairs the Senate Small Business Committee, is taken aback. "This is a gigantic incentive for people to invest in small business," he says. "It's going to be a bonanza. The question is: Is it too generous?

"It ain't peanuts," he adds.

But Treasury Secretary Brady says that was exactly the point. "We are trying to make it forceful enough so that it has some effect on the economy," he explained.

The Treasury estimates that the new deduction would reduce tax revenues by about $7.3 billion over the next five years, about one-third the cost of Mr. Bush's earlier proposal to slash the top capital-gains tax rate to 15% from the current 33%. Overall, the administration estimates that the package of growth incentives outlined in the budget agreement would cost $12.1 billion over five years.

The costs could rise substantially, undercutting the deficit-reduction goals of the agreement, should investors, accountants, tax lawyers and syndicators exploit the new tax breaks more than the administration figures anticipate.

Clearly, the debate over the little-understood elements in the deficit-reduction plan is just beginning.

"The administration needs to show us that this is more than just expensive window dressing and that it won't open the door to abuse—the sheltering of income for purposes that are either nonproductive or would have occurred anyway," says Rep. Sander Levin, Democrat of Michigan, a member of the House Ways and Means Committee.

And the committee's chairman, Dan Rostenkowski, Democrat of Illinois, says that the plan would be "devastating" to the tax code—a hint that the plan may be altered before it reaches the House floor.

But supporters of the package dismiss the hand-wringing over rip-offs and tax breaks as so much rhetoric, saying it misses the point of these new incentives.

Robert Pavey, a partner in Morgenthaler Ventures of Cleveland and president of the National Venture Capital Association, says the incentives "will provide significant encouragement for early investment by individuals in the new enterprises that make the U.S. more competitive." The American Business Conference, comprising chief executives of successful, fast-growing companies, hails the tax breaks and says they "will spur creation of a whole new generation" of similar companies.

And Secretary Brady says he is convinced that assisting small business is vital to the economy. "The purity that is always alluded to in the Tax Reform Act of 1986 doesn't exactly exist," he says. "I don't think we ought to get hung up over that argument while we try to do something to stimulate the economy, which we absolutely think this will. I believe in the small-businessmen of this country."

The PRESIDING OFFICER (Mr. ROBB). Who seeks recognition?

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1990

Mr. DIXON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 697, S. 1379, a bill to authorize and amend the Defense Production Act.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, would my friend and colleague from Illinois be good enough to respond to a question?

Mr. DIXON. Yes.

Mr. METZENBAUM. Is it my understanding that it is the intention of the manager of the bill to pass it as is without amendment?

Mr. DIXON. We have a manager's amendment that deletes the provision my friend from Ohio is concerned about and will satisfy his objections, as I understand it.

Mr. METZENBAUM. I thank my friend from Illinois. That is my concern and, under those circumstances, I have no objection.

Mr. DIXON. I thank my friend from Ohio.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? If not, without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1379) to reauthorize and amend the Defense Production Act of 1950, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Defense Production Act Amendments of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title.
Sec. 2. Congressional findings.
TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950
PART A—DECLARATION OF POLICY
Sec. 101. Declaration of policy.
PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT
Sec. 111. Limitation on actions without congressional authorization.
Sec. 112. Limitations on the use of authority of the Defense Production Act.

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT
Sec. 121. Expanding the reach of existing authorities under title III.
Sec. 122. Sales or transfers of excess industrial resources.
Sec. 123. Defense Production Act Fund.
Sec. 124. Offset policy.
Sec. 125. Annual report on impact of offsets.
Sec. 126. Assessment of subcontractor and supplier base.
PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT
Sec. 131. Small business.
Sec. 132. Definitions.
Sec. 133. Delegation of authority; appointment of personnel.
Sec. 134. Rules, regulations, and orders.
Sec. 135. Antitrust protections for voluntary agreements initiated by the President.
Sec. 136. Information on the defense industrial base.
Sec. 137. Antitrust protections for industry consortia.
Sec. 138. Intelligence study.
Sec. 139. Exemption from Administrative Procedure Act.
PART E—TECHNICAL AMENDMENTS
Sec. 141. Priorities in contracts and orders.
Sec. 142. Loan guarantees.
Sec. 143. Investigations; records; reports; subpoenas.
Sec. 144. Employment of personnel.
Sec. 145. Authorization of appropriations.
PART F—REPEALERS AND CONFORMING AMENDMENTS
Sec. 151. Synthetic fuel action.
Sec. 152. Authorization of appropriations.
Sec. 153. Joint Committee on Defense Production.
Sec. 154. Persons disqualified for employment.
Sec. 155. Feasibility study on uniform cost accounting standards; report submitted.
Sec. 156. National Commission on Supplies and Shortages.
PART G—REAUTHORIZATION OF SELECTED PROVISIONS
Sec. 161. Authorization of appropriations.
Sec. 162. Sunset.
TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS
PART A—INDUSTRIAL CAPABILITY AND NATIONAL SECURITY
Sec. 201. Industrial capabilities assessment.
PART B—ENCOURAGING IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE
Sec. 211. Recognition of modernized production systems and equipment in contract award and administration.
Sec. 212. Procurement of critical components or critical technology items.
Sec. 213. Sense of the Congress regarding the encouragement of investment.
PART C—MISCELLANEOUS
Sec. 221. GAO study of State foreign investment incentive programs.
Sec. 222. Discouraging unfair trade practices.
TITLE III—AMENDMENT TO RELATED LAWS
Sec. 301. Defense Production Act Fund projects.
TITLE IV—FAIR TRADE IN FINANCIAL SERVICES
Sec. 401. Short title.
Sec. 402. Effectuating the principle of national treatment for banks and bank holding companies.
Sec. 403. Effectuating the principle of national treatment for securities brokers and dealers.
Sec. 404. Effectuating the principle of national treatment for investment advisers.
Sec. 405. Conforming amendments specifying that national treatment includes effective market access.
TITLE V—EFFECTIVE DATES
Sec. 501. Effective dates.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) provides essential authority for—

(A) preserving and enhancing the defense industrial and technology base of the United States during peacetime; and

(B) mobilizing the Nation's productive capacity for national defense during periods of national emergency; and

(2) amendments to such Act are needed to—

(A) improve its utility to effectively sustain and develop the efficiency of the Nation's existing productive capacity necessary to meet national defense requirements;

(B) establish a revolving fund for improved management of the resources dedicated to defense industrial preparedness and the conduct of the programs authorized under the Act;

(C) facilitate use of such Act to foster the development of emerging technologies and advanced processes by providing appropriate protections for joint undertakings in research, development, and production; and

(D) eliminate outdated provisions that detract from the Act's usefulness as a primary set of authorities for the maintenance and enhancement of the defense industrial and technology base of the United States.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

PART A—DECLARATION OF POLICY

SEC. 101. DECLARATION OF POLICY.

Section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended to read as follows:

"SEC. 2. DECLARATION OF POLICY.

"The vitality of the industrial and technology base of the United States is a foundation of national security. It provides the industrial and technological capabilities employed to meet national defense requirements, in peacetime and in time of national emergency. In peacetime, the health of the industrial and technology base contributes to the technological superiority of our defense equipment, which is a cornerstone of our national security strategy, and the efficiency with which defense equipment is developed and produced. In times of crisis, a healthy industrial base will be able to effectively provide the graduated response needed to effectively meet the demands of the emergency.

"To meet these requirements, this Act affords to the President an array of authorities to shape defense preparedness programs and to take appropriate steps to maintain and enhance the defense industrial and technology base.".

PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT

SEC. 111. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

Section 104 of the Defense Production Act of 1950 (50 U.S.C. App. 2074) is amended to read as follows:

"SEC. 104. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

"No provision of this Act shall be interpreted as providing for the imposition of wage or price controls without the prior authorization of such action by a joint resolution of Congress.".

SEC. 112. LIMITATIONS ON THE USE OF AUTHORITY OF THE DEFENSE PRODUCTION ACT.

Title I of the Defense Production Act of 1950 is amended by adding at the end the following new section:

"SEC. 104. CHEMICAL OR BIOLOGICAL WARFARE.

"No provision of this Act shall be exercised or interpreted to require action or compliance by any private person to assist in any way in the production of or other involvement in chemical or biological warfare capabilities except—

"(1) in time of war, or

"(2) in time of national emergency (A) as declared by joint resolution of Congress, or (B) upon the written authorization of the President, which power to authorize may not be delegated.".

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT

SEC. 121. EXPANDING THE REACH OF EXISTING AUTHORITIES UNDER TITLE III.

(a) GUARANTEE AUTHORITY.—Section 301 of the Defense Production Act of 1950 (50 U.S.C. App. 2091) is amended—

(1) in subsection (a)(1), by striking "to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense" and inserting "to expedite or expand production and deliveries or services under Government contracts for the procurement of industrial resources or a critical technology item for the national defense";

(2) by amending subsection (a)(3)(A) to read:

"(A) the guaranteed contract or operation is for industrial resources or a critical technology item which is essential to the national defense;";

(3) in subsection (a)(3)(B), by striking "the capability for the needed material or service" and inserting "the needed industrial resources or critical technology item";

(4) in subsection (e)(1)(A), by striking "Except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in subparagraph (D)";

(5) in subsection (e)(1)(C), by striking "$25,000,000" and inserting "$50,000,000"; and

(6) by adding at the end of subsection (e)(1) the following new subparagraph:

"(D) The requirements of subparagraphs (A), (B), and (C) may be waived during periods of national emergency declared by Congress or the President or upon a determination made by the President, on a nondelegable basis, that a specific guarantee must be promptly made to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(b) LOANS TO PRIVATE BUSINESS ENTERPRISES.—Section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended—

(1) in subsection (a), by striking "for the procurement of materials or the performance of services for the national defense" and inserting "for the procurement of industrial resources or a critical technology item for the national defense";

(2) in subsection (c)(1), by striking "No such loans may be made under this section, except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in paragraph (4), no loans may be made under this section";

(3) in subsection (c)(3), by striking "$25,000,000" and inserting "$50,000,000"; and

(4) in subsection (c), by adding at the end the following new paragraph:

"(4) The requirements of paragraphs (1), (2), and (3) of this subsection may be waived during periods of national emergency declared by Congress or the President, or upon a determination made by the President, on a nondelegable basis, that a specific guarantee must be promptly made to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(c) PURCHASES AND PURCHASE COMMITMENTS.—

(1) Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended to read as follows:

"(a)(1) To assist in carrying out the objectives of this Act, the President may make provision—

"(A) for purchases of or commitments to purchase an industrial resource or a critical technology item, for Government use or resale; and

"(B) for the encouragement of exploration, development, and mining of critical and strategic materials, and other materials.

"(2) Purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced except insofar as such domestically produced supply may be purchased for resale for industrial use or stockpiling.

"(3) No commodity purchased under this subsection shall be sold at less than—

"(A) the established ceiling price for such commodity, except that minerals, metals, and materials shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower, or

"(B) if no ceiling price has been established, the higher of the following: (i) The current domestic market price for such commodity, or (ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation as provided in section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427).

"(4) No purchase or commitment to purchase any imported agricultural commodity shall specify a delivery date which is more than one year after the expiration of this section.

"(5) Except as provided in paragraph (7), the President may not execute a contract under this subsection unless the President determines that—

"(A) the industrial resource or critical technology item is essential to the national defense;

"(B) without Presidential action under authority of this section, United States industry cannot reasonably be expected to provide the capability for the needed industrial resource or critical technology item in a timely manner;

"(C) purchases, purchase commitments, or other action pursuant to this section are the most cost-effective, expedient, and practical alternative method for meeting the need; and

"(D) the United States national defense demand for the industrial resource or critical technology item is equal to, or greater than the output of domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the purchase, purchase commitment, or other action.

"(6) Except as provided in paragraph (7), the President shall take no action under this section unless the industrial resource shortfall which such action is intended to correct has been identified in the Budget of the United States or amendments thereto, submitted to the Congress and accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of the preceding sentence. Any such action may be taken only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to the preceding sentence. If the taking of any action or actions under this section to correct an industrial resource shortfall would cause the aggregate outstanding amount of all such actions for such industrial resource shortfall to exceed $50,000,000, any such action or actions may be taken only if specifically authorized by law.

"(7) The requirements of paragraphs (1) through (6) may be waived during periods of national emergency declared by Congress or the President, or upon a determination made by the President, on a nondelegable basis, that a specific purchase or purchase commitment must be promptly made to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(2) Section 303(b) of such Act is amended by striking "September 30, 1995" and inserting "a date that is not more than 10 years from the date such purchase, purchase commitment, or sale was initially made".

SEC. 122. SALES OR TRANSFERS OF EXCESS INDUSTRIAL RESOURCES.

Section 303(f) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(f)) is amended to read as follows:

"(f) Industrial resources acquired pursuant to the provisions of this section which, in the judgment of the President, are in excess of the needs of programs under this Act, shall be sold for industrial use pursuant to such other Federal Government programs as are authorized by law or transferred to the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.), when the President deems such action to be in the public interest. Sales or transfers made pursuant to this subsection shall be charged against or reimbursed from funds appropriated to such other Federal Government programs or the National Defense Stockpile to which such resources were sold or transferred, at the current domestic market price for such industrial resources. For the purposes of subsection (c)(2), such sales or transfers shall be considered transactions entered into pursuant to the authority of subsection (a).".

SEC. 123. DEFENSE PRODUCTION ACT FUND.

(a) IN GENERAL.—Section 304 of the Defense Production Act of 1950 (50 U.S.C. App. 2094) is amended to read as follows:

"SEC. 304. DEFENSE PRODUCTION ACT FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a separate fund to be known as the Defense Production Act Fund (hereinafter referred to as 'the Fund').

"(b) MONEYS IN FUND.—The following monies shall be credited to the Fund:

"(1) All monies appropriated hereafter for the Fund, as authorized by section 711(c).

"(2) All monies received hereafter on transactions entered into pursuant to section 303.

"(c) USE OF FUND.—The Fund shall be available to carry out the provisions and purposes of this title, subject to the limitations set forth in this Act and in appropriations Acts.

"(d) DURATION OF FUND.—Monies in the Fund shall remain available until expended.

"(e) FUND BALANCE.—The Fund balance at the close of each fiscal year shall not exceed $250,000,000, excluding any monies appropriated to the Fund during that fiscal year. If at the close of any fiscal year the Fund balance exceeds such amount, the amount in excess of $250,000,000 shall be paid into the general fund of the Treasury.

"(f) FUND MANAGER.—The Secretary of the Treasury shall designate a Fund manager. The duties of the Fund manager shall include—

"(1) determining the liability of the Fund in accordance with subsection (g);

"(2) ensuring the visibility and accountability of transactions engaged in through the Fund to the Secretaries of Defense, Treasury, and Commerce, and to the Congress; and

"(3) reporting to Congress each year regarding fund activities during the previous fiscal year.

"(g) LIABILITIES AGAINST FUND.—

"(1) IN GENERAL.—When any agreement hereafter entered into pursuant to this title imposes contingent liabilities upon the United States, such liability shall be considered an obligation against the Fund. The amount of such obligation shall be determined for each fiscal year in accordance with paragraph (2).

"(2) DETERMINATION OF LIABILITY.—For purposes of paragraph (1), the amount of obligations against the Fund shall be equal to the aggregate outlays required by purchase or purchase commitment contracts or financing agreements less (A) the anticipated aggregate receipts from resale of materials purchased with moneys from the Fund, and (B) the anticipated receipts from the direct sale of materials by the producer to customers. Anticipated receipts and anticipated reductions in purchase commitments shall be included under the preceding sentence only if a written plan for sale of materials has been developed, specifying probable customers, amount, time of the sales, and sales price.".

(b) CAPITALIZATION OF FUND.—There shall be transferred to the Defense Production Act Fund, established by subsection (a) of this section, the sum of $200,000,000 from the unobligated balance of the National Defense Stockpile Transaction Fund.

SEC. 124. OFFSET POLICY.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by adding a new subsection (a) as follows:

"(a) OFFSET POLICY.—

"(1) IN GENERAL.—Recognizing that certain offsets for military exports are economically inefficient and market distorting, and mindful of the need to minimize the adverse effects of offsets in military exports while ensuring that the ability of United States

firms to compete for military export sales is not undermined, it shall be the policy of the United States Government that—

"(A) no agency of the United States Government shall encourage, enter directly into, or commit United States firms to any offset arrangement in connection with the sale of defense goods or services to foreign governments;

"(B) United States Government funds shall not be used to finance offsets in security assistance transactions except in accordance with policies and procedures that were in existence as of the date of enactment of this Act;

"(C) nothing in this section shall prevent agencies of the United States Government from fulfilling obligations incurred through international agreements entered into prior to the enactment of this Act;

"(D) the decision whether to engage in offsets, and the responsibility for negotiating and implementing offset arrangements, resides with the companies involved; and

"(E) any exceptions to the policy stated by this section shall be approved by the President after receiving the recommendation of the National Security Council.

"(2) CONSULTATION.—The Secretary of Defense, in coordination with the Secretary of State, shall lead an interagency team to consult with foreign nations on limiting the adverse effects of offsets in defense procurement. The Secretary of Defense shall report annually on the the date of enactment of this Act, on the results of these consultations to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.".

SEC. 125. ANNUAL REPORT ON IMPACT OF OFFSETS.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) (as amended by section 124 of this Act) is amended—

(1) in subsection (b)—

(A) by striking "(b) Not later" and inserting:

"(b) ANNUAL REPORT ON IMPACT OF OFFSETS.—

"(1) REPORT REQUIRED.—Not later";

(B) by striking the second sentence; and

(C) by adding at the end the following new paragraph:

"(2) DUTIES OF THE SECRETARY OF COMMERCE.—The Secretary of Commerce shall—

"(A) prepare the report required by paragraph (1);

"(B) consult with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative in preparation of such report; and

"(C) function as the President's Executive Agent for carrying out the requirements of this section.";

(2) by amending subsection (c) to read as follows:

"(c) INTERAGENCY STUDIES AND RELATED DATA.—

"(1) PURPOSE OF REPORT.—Each report required under subsection (a) shall identify the cumulative effects (indirect as well as direct) of offset agreements on—

"(A) the full range of domestic defense productive capability (with special attention to the firms serving as lower-tier subcontractors or suppliers); and

"(B) the domestic defense technology base as a consequence of the technology transfers associated with such offset agreements.

"(2) USE OF DATA.—Data developed or compiled by any agency while conducting any interagency study or other independent study or analysis shall be made available to the Secretary of Commerce to facilitate the Secretary in executing his responsibilities with respect to trade offset and countertrade policy development."; and

(3) by adding at the end the following new subsections:

"(d) NOTICE OF OFFSET AGREEMENTS.—

"(1) IN GENERAL.—If a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset agreement exceeding $5,000,000 in value, such firm shall furnish to the official designated in the regulations promulgated pursuant to paragraph (2) information concerning such sale.

"(2) REGULATIONS.—The information to be furnished shall be prescribed in regulations promulgated by the Secretary of Commerce. Such regulations shall provide protection from public disclosure for such information, unless public disclosure is subsequently specifically authorized by the firm furnishing the information. Nothing in this paragraph authorizes the withholding of such information from the Congress.

"(e) CONTENTS OF REPORT.—

"(1) IN GENERAL.—Each report under subsection (b) shall include—

"(A) a net assessment of the elements of the industrial base and technology base covered by the report;

"(B) recommendations for appropriate remedial action under the authorities provided by this Act, or other law or regulations;

"(C) a summary of the findings and recommendations of any interagency studies conducted during the reporting period under subsection (c);

"(D) a summary of offset arrangements concluded during the reporting period for which information has been furnished pursuant to subsection (d); and

"(E) a summary and analysis of any bilateral and multilateral negotiations relating to use of offsets completed during the reporting period.

"(2) ALTERNATIVE FINDINGS OR RECOMMENDATIONS.—Each report shall include any alternative findings or recommendations offered by any departmental Secretary, agency head, or the United States Trade Representative to the Secretary of Commerce.

"(f) UTILIZATION OF ANNUAL REPORT IN NEGOTIATIONS.—The findings and recommendations of the reports required by subsection (b), and any interagency reports and analyses shall be considered by representatives of the United States during bilateral and multilateral negotiations to minimize the adverse effects of offsets.".

SEC. 126. ASSESSMENT OF SUBCONTRACTOR AND SUPPLIER BASE.

Title III of the Defense Production Act of 1950 is amended by adding at the end the following new section:

"SEC. 310. ASSESSMENT OF SUBCONTRACTOR AND SUPPLIER BASE.

"(a) IN GENERAL.—

"(1) REPORT REQUIRED.—At the intervals prescribed by subsection (b), the President shall issue a report of an assessment of those subsectors of the economy of the United States which have been identified as being critical to the development and production of components required for the production of weapons systems and other items of military equipment, and the provision of services, essential to the national defense. The report may provide specific policy recommendations to correct deficiencies identified in the assessment, which would help to strengthen domestic sources.

"(2) MATTERS TO BE CONSIDERED.—The assessment shall consider—

"(A) capacity of domestic sources, especially commercial firms, to fulfill peacetime requirements and graduated mobilization requirements for various items of supply and services;

"(B) trends relating to the capabilities of domestic sources to meet such peacetime and mobilization requirements;

"(C) extent of foreign dependencies for various items of military materiel; and

"(D) reasons for the decline of the capabilities of selected sectors of the United States economy necessary to meet peacetime and mobilization requirements, including stability of defense requirements, acquisition policies, vertical integration of various segments of the industrial base, superiority of foreign technology and production efficiencies, foreign government support of nondomestic sources, and offset arrangements.

"(b) TIME FOR ISSUANCE.—(1) The report required by subsection (a) shall be issued not later than July 1 of each odd-numbered year, based upon data from the prior fiscal year and such prior fiscal years as may be appropriate.

"(2) The first report under this section shall be issued by July 1, 1993.".

PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT

SEC. 131. SMALL BUSINESS.

Section 701 of the Defense Production Act of 1950 (50 U.S.C. App. 2151) is amended to read as follows:

"SEC. 701. SMALL BUSINESS.

"(a) PARTICIPATION.—Small business concerns shall be given the maximum practicable opportunity to participate as contractors, and subcontractors at various tiers, in all programs to maintain and strengthen the Nation's industrial base and technology base undertaken pursuant to this Act.

"(b) ADMINISTRATION OF ACT.—In administering the programs, implementing regulations, policies, and procedures under this Act, requests, applications, or appeals from small business concerns shall, to the maximum extent practicable, be expeditiously handled.

"(c) ALLOCATIONS UNDER SECTION 101.—Whenever the President invokes the power to allocate any material pursuant to section 101 of this Act, small business concerns shall be accorded, so far as practicable, a fair share of such material, in proportion to the share received by such business concerns under normal conditions, giving such special consideration as may be possible to new small business concerns or individual firms facing undue hardship.".

SEC. 132. DEFINITIONS.

Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended to read as follows:

"SEC. 702. DEFINITIONS.

As used in this Act—

"(1) CRITICAL COMPONENT.—The term 'critical component' shall include such components, subsystems, systems, and related special tooling and test equipment essential to the production, repair, maintenance, or operation of weapon systems or other items of military equipment as are identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States.

"(2) CRITICAL TECHNOLOGY.—The term 'critical technology' shall include a technology that is included in one or more of the plans submitted pursuant to section 2508 of title 10, United States Code, unless subsequently deleted, or such other emerging or dual use

technology as may be designated by the President. The President shall cause an unclassified list of critical or emerging technologies to be maintained and published at least annually in the Federal Register.

"(3) CRITICAL TECHNOLOGY ITEM.—The term 'critical technology item' shall mean materials directly employing, derived from, or utilizing a critical technology.

"(4) DEFENSE CONTRACTOR.—The term 'defense contractor' means any person who enters into a contract with the United States to furnish materials, industrial resources, or a critical technology, or to perform services for the national defense.

"(5) DOMESTIC SOURCE.—The term 'domestic source' means a business entity—

"(A) that performs in the United States or Canada substantially all of the research and development, engineering, manufacturing, and production activities required of such firm under a contract with the United States relating to a critical component or a critical technology item, and

"(B) that procures from entities described in subparagraph (A) substantially all of the components and assemblies required under a contract with the United States relating to a critical component or critical technology item.

"(6) FACILITIES.—The term 'facilities' includes all types of buildings, structures, or other improvements to real property (but excluding farms, churches or other places of worship, and private dwelling houses), and services relating to the use thereof.

"(7) INDUSTRIAL RESOURCES.—The term 'industrial resources' means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) needed to establish or maintain an efficient and modern national defense industrial capacity.

"(8) MATERIALS.—The term 'materials' shall include raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, items of supply, and such technical information or services ancillary to the use thereof.

"(9) NATIONAL DEFENSE.—The term 'national defense' means programs for military and energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.

"(10) NONDOMESTIC SOURCE.—The term 'nondomestic source' means a business entity other than a 'domestic source'.

"(11) PERSON.—The term 'person' includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof, or any State or local government or agency thereof.

"(12) SERVICES.—The term 'services' includes any effort that is needed or incidental to—

"(A) the development, production, processing, distribution, delivery, or use of an industrial resource or a critical technology item, or

"(B) the construction of facilities.".

SEC. 133. DELEGATION OF AUTHORITY; APPOINTMENT OF PERSONNEL.

Section 703 of the Defense Production Act of 1950 (50 U.S.C. App. 2153) is amended to read as follows:

"SEC. 703. DELEGATION AND CIVILIAN PERSONNEL.

"(a) DELEGATION OF AUTHORITY.—Except as otherwise specifically provided, the President may—

"(1) delegate any power or authority conferred upon him by this Act to any civilian officer of the Government appointed by and with the advice and consent of the Senate;

"(2) except with regard to title I, authorize redelegation by that officer to an officer or employee of that officer who—

"(A) if a member of the armed forces, is a general or flag officer; or

"(B) if a civilian, is serving in a position in the grade GS-16 or above (or in a comparable or higher position under any other schedule for civilian officers or employees); and

"(3) establish such new agencies as may be necessary to manage Federal emergency preparedness programs.

"(b) CIVILIAN PERSONNEL.—Any officer or agency head may appoint civilian personnel without regard to section 5331(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may fix the rate of basic pay for such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule, as the President deems appropriate to carry out the provisions of this Act.".

SEC. 134. RULES, REGULATIONS, AND ORDERS.

Section 704 of the Defense Production Act of 1950 (50 U.S.C. App. 2154) is amended to read as follows:

"SEC. 704. RULES, REGULATIONS, AND ORDERS.

"The President may make such rules, regulations, and orders as he deems appropriate to carry out the provisions of this Act. This authority shall be exercised in conformity with section 709 of this Act.".

SEC. 135. ANTITRUST PROTECTIONS FOR VOLUNTARY AGREEMENTS INITIATED BY THE PRESIDENT.

Section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158) is amended—

(1) in subsection (a), by striking "subsection (j) of section 708A" and inserting "subsection (i) of section 708A";

(2) by striking subsection (b) and inserting the following:

"(b) As used in this section, the term—

"(1) 'antitrust laws' means—

"(A) the Sherman Act (15 U.S.C. 1 et seq.);

"(B) the Clayton Act (15 U.S.C. 12 et seq.);

"(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(D) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9);

"(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a); and

"(F) the Webb-Pomerene Act (15 U.S.C. 61-65).

"(2) 'plan of action' means any of one or more documented methods adopted by participants in an existing voluntary agreement to implement that agreement.";

(3) in subsection (c)(1)—

(A) by striking "Except as otherwise provided in section 708A(o), upon" and inserting in lieu thereof "Upon"; and

(B) by inserting "and plans of action" after "voluntary agreements";

(4) in subsection (c)(2), by striking out the last sentence;

(5) in subsection (d)(1), by striking ", and the meetings of such committees shall be open to the public." in the second sentence thereof the inserting in lieu thereof ". Meetings of such committees shall be open to the public unless the individual designated by the President in subsection (c)(2) finds that the matter or matters to be discussed at such meetings fall within the purview of matters described in subsection (b)(1), (b)(3), or (b)(4) of section 552 of title 5, United States Code.";

(6) in subsection (d)(2), by striking out "section 552 (b)(1) and (b)(3)" and inserting in lieu thereof subsections (b)(1), (b)(3), and (b)(4) of section 552";

(7) in subsection (e)(1), by inserting "and plans of action" after "voluntary agreements";

(8) in subsection (e)(3)—

(A) in subparagraph (D), by striking out "subsection (b)(1) or (b)(3) of section 552" and inserting in lieu thereof "subsection (b)(1), (b)(3), or (b)(4) of section 552"; and

(B) in subparagraph (G), by striking out "subsections (b)(1) and (b)(3) of section 552" and inserting in lieu thereof "subsection (b)(1), (b)(3), and (b)(4) of section 552";

(9) in subsections (f) and (g)—

(A) by inserting "or plan of action" after "voluntary agreement" each place it appears; and

(B) by inserting "or plan" after "the agreement" each place it appears;

(10) in subsection (h)—

(A) by inserting "and plans of action" after "voluntary agreements";

(B) by inserting "or plan of action" after "voluntary agreement" each place it appears;

(C) in subsection (h)(3) by striking out "subsections (b)(1) and (b)(3) of section 552" and inserting in lieu thereof "subsections (b)(1), (b)(3), and (b)(4) of section 552"; and

(D) in subsections (h)(7) and (h)(8) by striking out "subsection (b)(1) or (b)(3) of section 552" and inserting in lieu thereof "subsections (b)(1), (b)(3), or (b)(4) of section 552";

(11) by striking subsection (j) and inserting the following:

"(j)(1) There shall be available as a defense for any person to any civil or criminal action brought under the antitrust laws (or any similar law of any State) with respect to any action taken to develop or carry out any voluntary agreement or plan of action under this section (provided that such action was not taken for the purpose of injuring competition) that—

"(A) such action was taken—

"(i) in the course of developing either a voluntary agreement, the making of which was initiated by the President, or a plan of action adopted thereunder, or

"(ii) to carry out either a voluntary agreement authorized and approved in accordance with this section, the making of which was initiated by the President, or a plan of action adopted thereunder, and

"(B) such person complied with the requirements of this section and the rules promulgated hereunder, and acted in accordance with the terms of the voluntary agreement or plan of action.

"(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if and to the extent that the person asserting the defense demonstrates that the action was specified in, or within the reasonable contemplation of an approved voluntary agreement the making of which was initiated by the President or any approved plan of action adopted thereunder.

"(3) Persons interposing the defense provided by this subsection shall have the burden of proof upon the elements of the defense, except that the burden shall be on the person against whom the defense is asserted with respect to whether the action was taken for the purpose of injuring competition.";

(12) in subsection (k), by inserting "and plans of action" after "voluntary agreements" each place it appears;

(13) in subsection (l), by inserting "or plan of action" after "voluntary agreement"; and

(14) by adding a new subsection (o), as follows:

"(o) In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.".

SEC. 136. INFORMATION ON THE DEFENSE INDUSTRIAL BASE.

Title VII of the Defense Production Act is amended by inserting after section 705 the following:

"SEC. 705A. INFORMATION ON THE DEFENSE INDUSTRIAL BASE.

"(a) IN GENERAL.—The President shall implement a systematic, continuous procedure to collect and analyze information necessary to evaluate the adequacy of industrial capacity and capability in items and technologies essential to the execution of the national security strategy of the United States. Information generated by such procedure shall constitute a basis for decisions made with respect to the use of authority under title III and shall be integrated into the decisionmaking process pertaining to the use of such authority.

"(b) SOURCES OF INFORMATION.—

"(1) CONSULTATION REGARDING THE CENSUS OF MANUFACTURERS.—The Bureau of the Census shall consult with the Office of the Secretary of Defense and the Federal Emergency Management Agency with a view to improving the application of information derived from the Census of Manufacturers to the purposes of this section. Such consultations shall address improvements in the level of detail, timeliness and availability of input/output analyses derived from the Census of Manufacturers necessary to facilitate the purposes of this section.

"(2) ADDITIONAL DATA.—The President shall implement a systematic, continuous procedure to collect and analyze information regarding the extent of foreign dependence in industrial parts, components and technologies essential to defense production. Such procedure shall address defense production with respect to the operations of prime contractors and at least the first two tiers of subcontractors. To the extent feasible and appropriate, the President shall build upon existing methods of data collection and analysis and shall integrate information available from intelligence agencies with respect to industrial and technological conditions in foreign countries. In establishing such procedure, the Secretary may place initial emphasis on the production of parts and components relating to priority lists such as the Commanders' in Chief Critical Items List and the technologies identified as critical in the annual defense critical technologies plan submitted pursuant to section 2508 of title 10, United States Code.

"(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 137. ANTITRUST PROTECTIONS FOR INDUSTRY CONSORTIA.

Section 708A of the Defense Production Act of 1950 (50 U.S.C. App. 2158a) is amended to read as follows:

"SEC. 708A. INDUSTRY CONSORTIA.

"(a) ANTITRUST PROTECTION.—The President may authorize the establishment of industry consortia, in accordance with subsection (e), to provide industrial resources or critical technology items required for the preservation or enhancement of the industrial or technology base of the United States essential to the execution of the national security strategy of the United States. Except as provided in subsection (i) of this section, no action may be brought under the antitrust laws against any participant in an industry consortium for good faith activities conducted in determining whether to establish, in establishing such a consortium, or in undertaking an action if the action is within the scope of the charter of the consortium.

"(b) DEFINITIONS.—As used in this section—

"(1) The term 'antitrust laws' means—

"(A) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies and for other purposes', approved July 2, 1890, commonly referred to as the 'Sherman Act' (15 U.S.C. 1 et seq.);

"(B) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes', approved October 15, 1914, commonly referred to as the 'Clayton Act' (15 U.S.C. 12 et seq.);

"(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(D) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894, commonly referred to as the 'Wilson Tariff Act' (15 U.S.C. 8 and 9);

"(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(F) the Act entitled 'An Act to promote export trade and for other purposes', approved April 10, 1918, commonly referred to as the 'Webb-Pomerene Act' (15 U.S.C. 61-65); and

"(G) similar laws enacted by the several States.

"(2) The term 'flexible manufacturing network' means a specified program relating to the joint development, engineering, and production of one or more products by the network's participants for their common benefit, including—

"(A) the coordination of the individual engineering, purchasing, manufacturing, quality assurance, inventory control, and other activities by the participants reasonably required to attain the network's specified program objectives, or the joint undertaking of such activities by two or more of the network's participants;

"(B) the collection and sharing of information among the network's participants relating to manufacturing capacity, production costs, and distribution capabilities for potential markets for the specified products to be produced by such network reasonably required to attain the network's specified program objectives; and

"(C) the collection and sharing of such other technical or business information as may be reasonably required to undertake the network's specified program.

"(3) The term 'industry consortium' means an arrangement among two or more persons for the purpose of undertaking a specific program of basic research, research and development, production, or any specified combination of the foregoing activities, or a flexible manufacturing network, relating directly to industrial resources or critical technology items required for the preservation or enhancement of the industrial or technology base of the United States essential to the execution of the national security strategy of the United States. Such persons may include for-profit business concerns, not-for-profit entities, and educational institutions.

"(c) FORMATION OF INDUSTRY CONSORTIUM.—(1) Except as provided in paragraph (4), persons in the private sector interested in forming an industry consortium may make application to the Attorney General in a form and containing such information as required by the regulations issued pursuant to subsection (g).

"(2) Promptly after an application is received, the Attorney General shall publish a notice in the Federal Register announcing that an application for the establishment of an industry consortium has been submitted, identifying each participating person, describing the activities to be undertaken by such consortium, and providing such other information as may be required by the regulations issued pursuant to subsection (g).

"(3) A copy of the application shall be transmitted by the Attorney General to the Chairman of the Federal Trade Commission.

"(4) Two or more small business concerns shall be deemed to have formed a flexible manufacturing network or other industry consortia conforming to the requirements of subsection (d) of this section, if—

"(A) the aggregate of the total number of employees (or the 3-year annual gross receipts) of each small business concern participating in the network or consortia does not exceed the smallest numerical size standard for an individual small business concern established by the Small Business Administration pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)) for the Standard Industrial Classification which includes the activities to be undertaken by such network or consortia;

"(B) notice has been given to the Attorney General in a form and containing such information as required by the regulations issued pursuant to subsection (g) within 10 calendar days of any meeting at which such small business concerns established such flexible manufacturing network or industry consortia; and

"(C) the Attorney General has not given notice to such small business flexible manufacturing network or industry consortia to cease operations for failure to have established a network or consortia meeting the requirements of subsection (d) or for failure to comply with the regulations issued pursuant to subsection (g).

"(d) CRITERIA FOR APPROVING CONSORTIUM.—(1) A proposed consortium may be approved by the President if it is determined that such consortium—

"(A) will provide at least one domestic source for industrial resources or critical technology items required for the preservation or enhancement of the industrial or technology base essential to the execution of the national security strategy of the United States,

"(B) will not constitute unfair competition or a substantial restraint of trade with respect to other persons within the United States who may be sources of the same industrial resources or critical technology items, and

"(C) will not unreasonably increase, stabilize, or depress prices for the industrial resources or critical technology items that are the subject matter of such consortium's proposed activities.

"(2) Such application for the establishment of an approved industry consortium shall be reviewed by the Attorney General, the Chairman of the Federal Trade Commission, and such other officers of the Executive as may be designated by the President in accordance with the requirements of paragraph (1) and such other evaluation criteria as may be specified in the regulations promulgated pursuant to subsection (g).

"(3) Not later than 90 calendar days after the receipt of an application in accordance with subsection (c)(2) and not earlier than 30 calendar days after the publication of the notice required by subsection (c)(2), the application shall be approved or disapproved. The reasons for any disapproval shall be specified in writing.

"(4) Approval of an application shall be evidenced by the issuance of a charter which shall specify any special terms, conditions, or limitations which are deemed necessary by the President to assure compliance with the requirements of the section.

"(5) Upon approval of an industry consortium, the President shall designate a Federal official as the principal liaison to such consortium.

"(e) CONSORTIUM ADVISORY COUNCIL.—An industry consortium is authorized to organize an advisory council, specifying the membership, functions, and operating procedures of such council in its application.

"(f) CHARTER.—

"(1) MODIFICATION.—The charter of an industry consortium may be modified during its term. A request for a modification to the charter shall be considered in the same manner as an original charter application. An approved charter modification shall be implemented by the consortium within 30 calendar days of the receipt of a notice of such modification, or the consortium shall lose its protections under subsection (a).

"(2) TERMINATION.—(A) An industry consortium may be terminated by the President upon a finding that the industry consortium is no longer conducting its activities in conformity with this section or the terms of the consortium's charter. Such notice shall specify the reasons for the determination to terminate the consortium, and afford the consortium at least 30 calendar days to respond, in accordance with appeal procedures specified in the regulations promulgated pursuant to subsection (g).

"(B) An industry consortium may voluntarily terminate its charter upon providing notice of termination (including an effective date) to the Federal official assigned as the principal liaison to the consortium. Upon the effective date of the termination of its charter, the consortium shall lose its protections under subsection (a).

"(g) REGULATIONS.—(1) The President shall promulgate regulations to implement this section. The preparation of such regulations, and modifications thereto, shall include the participation of the Attorney General, the Chairman of the Federal Trade Commission, and such other officers of the Federal Government as the President may deem appropriate.

"(2) In addition to regulations required by this section and such matters as the President deems appropriate for the effective administration of the program, the regulations required by paragraph (1) shall address the following matters:

"(A) Except as provided in subsection (c)(4), persons interested in establishing an industry consortium shall furnish to the Attorney General and the Chairman of the Federal Trade Commission—

"(i) a notice within 5 calendar days of initiating discussions among the prospective participants in the consortium,

"(ii) a notice of and the opportunity for representatives of the Attorney General and the Chairman of the Federal Trade Commission to participate in all subsequent meetings, and

"(iii) a transcript of the proceedings of each such meeting.

"(B) Opportunity shall be provided for designated Government representatives to attend any meeting sponsored by such consortium.

"(C) Opportunity for public attendance in such consortium meetings shall be provided, unless the matters to be discussed at such meetings fall within a category described in paragraph (1), (3), or (4) of section 552(b) of title 5, United States Code.

"(D) Access shall be provided for inspecting and copying, at reasonable times and upon reasonable notice, the records of the industry consortium by representatives of the Attorney General, the Chairman of the Federal Trade Commission, and the Federal official designated as the principal liaison to such industry consortium, pursuant to subsection (d)(5).

"(E) Public access shall be provided to the Government's records relating to the establishment or conduct of an industry consortium, subject to the limitations of paragraphs (1), (3), and (4) of section 552(b) of title 5, United States Code.

"(h) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The activities of an industry consortium (including any advisory council established by such consortium) are exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), and the regulations promulgated thereunder, if such activities are conducted in compliance with this section, the regulations promulgated pursuant to subsection (g), and the terms of the consortium's charter.

"(i) REMEDIES.—(1) An industry consortium found to be operating outside the scope and limitations of its charter issued pursuant to this section shall be subject to criminal or civil actions under the antitrust laws as defined in subsection (b) of this section.

"(2) Any person who is aggrieved with respect to any act or failure to act committed in connection with the formation or operation of an industry consortium may bring a civil action for injunctive relief if—

"(A) such act or omission occurred—

"(i) in the course of forming an industry consortium pursuant to subsection (c), or

"(ii) while undertaking the activities of the consortium pursuant to its charter, and

"(B) the person committing such act or omission failed to comply with the scope and limitations of its charter or the requirements of this section.

"(3) A person injured as a result of an act or omission described in paragraph (2) may be awarded—

"(A) actual damages, including interest on such damages, and

"(B) in the case of any successful action to enforce liability under this section, the costs of such action together with reasonable attorney's fees.

"(4) Any action commenced under this subsection shall proceed as if it were an action commenced under section 4 or section 16 of the Clayton Act, except that the standards applicable to the industry consortium shall be the requirements of this section, the regulations promulgated pursuant to subsection (g) and the charter of such consortium. The remedies provided in this subsection shall be the exclusive remedies available to a plaintiff.

"(5) Any action under paragraph (2) shall be brought within 2 years of the discovery of the facts giving rise to the course of action, but not later than 4 years from the date the cause of action arises.

"(6) In any action brought under this subsection, if the court finds that the challenged conduct was undertaken by the industry consortium within the scope and limitations of its charter and the requirements of this section and that the action was brought for purposes of harassment or was otherwise without merit, the court may award to the person against whom the action is brought all costs of defending such action (including reasonable attorney's fees).".

SEC. 138. INTELLIGENCE STUDY.

(a) IN GENERAL.—In order to assist the Congress in its oversight responsibilities with respect to section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170), the Central Intelligence Agency jointly with the Federal Bureau of Investigation shall complete and furnish to the Congress within one year after the date of enactment of this section and upon the expiration of every 4 years thereafter a report which—

(1) evaluates whether there is credible evidence of a coordinated strategy by one or more countries or companies to acquire United States companies involved in research, development, or production of critical technologies for which the United States is a leading producer; and

(2) evaluates whether there are industrial espionage activities directed by foreign governments against private United States companies aimed at obtaining commercial secrets related to critical technologies;

(b) DEFINITION.—For purposes of this section, the term "critical technologies" means technologies identified under title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976 or other critical technology, critical components, or critical technology items essential to national defense identified pursuant to section 705A of the Defense Production Act.

(c) RELEASE OF UNCLASSIFIED STUDY.—The report required by this section may be classified. An unclassified version of the report shall be available to the public.

SEC. 139. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.

Section 709 of the Defense Production Act of 1950 (50 U.S.C. App. 2159) is amended to read as follows:

"SEC. 709. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.

"Any rule, regulation, order, or amendment thereto issued under the authority of this Act shall not be subject to the requirements of sections 551 through 559 of title 5, United States Code. Each proposed rule or regulation, and each amendment thereto, shall be published for public comment in the Federal Register in conformity with the requirements of section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) and chapter 6 of title 5, United States Code.".

PART E—TECHNICAL AMENDMENTS

SEC. 141. PRIORITIES IN CONTRACTS AND ORDERS.

Section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071) is amended—

(1) in subsection (a)(2) by striking "materials and facilities" and inserting "materials, services, and facilities";

(2) in subsection (c)(1) by striking "supplies of materials and equipment" and in-

serting "materials, equipment, and services";

(3) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) The authority granted by this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials, service, and facilities in the marketplace, unless the President finds that—

"(A) such materials, services, and facilities are scarce, critical, and essential—

"(i) to maintain or expand exploration, production, refining, transportation,

"(ii) to conserve energy supplies; or

"(iii) to construct or maintain energy facilities; and

"(B) maintenance or expansion of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection."; and

(d) by redesignating paragraph (4) as paragraph (3).

SEC. 142. LOAN GUARANTEES.

Section 301(e)(2)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(2)(B)) is amended by striking "and to the Committees on Banking and Currency of the respective Houses" and inserting "and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives".

SEC. 143. INVESTIGATIONS; RECORDS; REPORTS; SUBPOENAS.

Section 705 of the Defense Production Act of 1950 (50 U.S.C. App. 2155) is amended—

(1) in subsection (a), by striking "subpena" and inserting "subpoena";

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively;

(3) in subsection (c) (as redesignated by paragraph (2)), by striking "$1,000" and inserting "$10,000"; and

(4) in subsection (d) (as redesignated by paragraph (2)), by striking all after the first sentence.

SEC. 144. EMPLOYMENT OF PERSONNEL.

Section 710 of the Defense Production Act of 1950 (50 U.S.C. App. 2160) is amended—

(1) in subsection (b), by striking paragraph (6) and inserting the following:

"(6)(A) The Secretary of the Department or head of the agency making the appointment shall publish a notice in the Federal Register including the name of the appointee, the employing department or agency, the title of the position to which such individual is being appointed, the name of such individual's employer when selected for appointment, and a statement that the individual has made a filing in accordance with subparagraph (B) which is available for inspection.

"(B) Each individual selected for appointment under the authority of this subsection shall furnish to the departmental Secretary or agency head making the appointment—

"(i) a list of the names of each corporation, partnership, or other business in which such individual has an interest, and

"(ii) a list of any financial interest such individual had during the 60-day period preceding such appointment, including any office or directorship held in a corporation.

"(C) Each individual shall submit the information described in subparagraph (B) annually on the anniversary of such individual's appointment.";

(2) in paragraph (7) of subsection (b)—

(A) by striking "Chairman of the United States Civil Service Commission" and inserting "Director of the Office of Personnel Management";

(B) by striking "and the Joint Committee on Defense Production"; and

(3) in paragraph (8) of subsection (b), by striking "transportation and not to exceed $15 per diem in lieu of subsistence while away from their homes and regular places of business pursuant to such appointment" and inserting "reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions for which they were appointed in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code".

SEC. 145. AUTHORIZATION OF APPROPRIATIONS.

Section 711(a)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended by striking "Bureau of the Budget" and inserting "Office of Management and Budget".

PART F—REPEALERS AND CONFORMING AMENDMENTS

SEC. 151. SYNTHETIC FUEL ACTION.

Section 307 of the Defense Production Act of 1950 (50 U.S.C. App. 2097) is repealed.

SEC. 152. AUTHORIZATION OF APPROPRIATIONS.

Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended—

(1) by striking subsection (b),

(2) by striking "(a)(1) Except as provided in paragraph (2) and paragraph (4)" and inserting "(a) Except as provided in subsection (c)",

(3) by striking in subsection (a) in the parenthetical "and for the payment of interest under subsection (b) of this section", and

(4) by striking paragraph (2) and redesignating paragraph (3) as subsection (b), and

(5) by striking subparagraph (B) of paragraph (4) and redesignating paragraph (4)(A) as subsection (c).

SEC. 153. JOINT COMMITTEE ON DEFENSE PRODUCTION.

Section 712 of the Defense Production Act of 1950 (50 U.S.C. App. 2162) is repealed.

SEC. 154. PERSONS DISQUALIFIED FOR EMPLOYMENT.

Section 716 of the Defense Production Act of 1950 (50 U.S.C. App. 2165) is repealed.

SEC. 155. FEASIBILITY STUDY ON UNIFORM COST ACCOUNTING STANDARDS; REPORT SUBMITTED.

Section 718 of the Defense Production Act of 1950 (50 U.S.C. App. 2167) is repealed.

SEC. 156. NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES.

Section 720 of the Defense Production Act of 1950 (50 U.S.C. App. 2169) is repealed.

PART G—REAUTHORIZATION OF SELECTED PROVISIONS

SEC. 161. AUTHORIZATION OF APPROPRIATIONS.

Section 711(c) of the Defense Production Act of 1950 (as amended by section 143 of this Act) is amended to read as follows:

"(c) There are authorized to be appropriated for fiscal years 1991, 1992, and 1993 not to exceed $250,000,000 to carry out the provisions of sections 301, 302, and 303 of this Act.".

SEC. 162. SUNSET.

Section 717 of the Defense Production Act of 1950 (50 U.S.C. App. 2166) is amended to read as follows:

"SEC. 717. SUNSET.

"(a) IN GENERAL.—The following provisions of this Act shall terminate at the close of September 30, 1993:

"(1) Title I of this Act, and all authority conferred thereunder.

"(2) Sections 301, 302, 303, and 304 of this Act, and all authority conferred thereunder.

"(3) Sections 701, 702, 703, 704, 705, 706, 707, 708, and 711 of this Act, and all authority conferred thereunder.

"(b) EXPIRED PROVISIONS.—The following provisions of this Act terminate at the close of June 30, 1953:

"(1) Title II and title VI of this Act, and all authority conferred thereunder.

"(2) Title IV and title V of this Act, and all authority conferred thereunder.

"(c) CONTINUOUS EFFECT.—Except as otherwise provided, all other provisions of this Act, and all authority conferred thereunder, shall remain in effect.

"(d) SAVINGS PROVISION.—The termination of any section of this Act, or any agency or corporation utilized under this Act shall not affect the disbursement of funds under, or the carrying out of, any contract, guarantee, commitment or other obligation entered into pursuant to this Act prior to the date of such termination, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act, or the taking of any action (including the making of new guarantees) determined by a guaranteeing agency to be necessary to accomplish the orderly liquidation, adjustment or settlement of any loans guaranteed under this Act, including actions considered necessary to avoid undue hardship to borrowers in reconverting to normal civilian production; and all of the authority granted to the President, guaranteeing agencies, and fiscal agents under section 301 of this Act shall be applicable to actions taken pursuant to the authority contained in this subsection.".

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

PART A—INDUSTRIAL CAPABILITY AND NATIONAL SECURITY

SEC. 201. INDUSTRIAL CAPABILITIES ASSESSMENT.

(a) POLICY.—The national security of the United States would benefit from greater integration of national economic policies (including tax and trade) and national security policies.

(b) CONDUCT ASSESSMENT.—The President shall promptly conduct, through such means as may be appropriate, an Industrial Capabilities Assessment as described in subsection (c).

(c) MATTERS TO BE ASSESSED.—The assessment required by subsection (b) shall include:

(1) An analysis, on an ongoing basis, of the demands to be placed upon industry by the national defense plans and industry's capabilities to fulfill those expectations in peacetime as well as in time of war or national emergency.

(2) A review of major Government policies and their impact on the defense industrial and technology base.

(3) A process for periodic industry-wide assessment of technological advancement and production capabilities in relation to national security objectives.

(4) A review of existing industrial policy objectives, laws, and regulations, and recommendations to the President for their modification to foster industrial innovation, modernization, and productivity.

(5) Proposals for selectively expanding national defense production to respond to graduated levels of mobilization.

(6) One or more exercises to assess the capability of the defense industry's capability to respond to increased demands for defense materiel and services under various graduated mobilization response conditions.

PART B—ENCOURAGING IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

SEC. 211. RECOGNITION OF MODERNIZED PRODUCTION SYSTEMS AND EQUIPMENT IN CONTRACT AWARD AND ADMINISTRATION.

(a) IN GENERAL.—The President, acting through the Administrator for Federal Procurement Policy, shall prescribe an acquisition policy requiring, to the maximum extent practicable, that the acquisition plan for any major system acquisition, or any other acquisition program designated by the Secretary or agency head responsible for such acquisition, provide for contract solicitation provisions which encourage competing offerors to acquire for utilization in the performance of the contract modern industrial facilities and production systems (including hardware and software), and other modern production equipment, that increase the productivity of the offerors and reduce the costs of production.

(b) AUTHORIZED SOLICITATION PROVISIONS.—Contract solicitation provisions referred to in subsection (a) may include any of the following provisions:

(1) An evaluation advantage in making the contract award determination.

(2) An increase of not more than 10 percent in the amount which would otherwise be reimbursable to a contractor as the Government's share of costs incurred for the acquisition of production special tooling, production special test equipment, and production special systems (including hardware and software) for use in the performance of the contract.

(3) A provision for the contractor to share in any demonstrated cost savings that are attributable to increased productivity resulting from the following contractor actions not required by the contract—

(A) the acquisition and utilization of modern industrial facilities and production systems (including hardware and software), and other modern production equipment, for the performance of the contract; or

(B) the utilization of other manufacturing technology improvements in the performance of the contract.

SEC. 212. PROCUREMENT OF CRITICAL COMPONENTS OR CRITICAL TECHNOLOGY ITEMS.

(a) SUBCONTRACTING.—The President, acting through the Administrator for Federal Procurement Policy, shall prescribe an acquisition policy requiring that any solicitation for the procurement of critical components or critical technology items shall—

(1) specify the minimum percentage of the total estimated value of the contract that is to be performed by one or more domestic firms;

(2) provide for the attainment of such requirement by the firm as prime contractor, or by subcontractors pursuant to a subcontracting plan submitted with the prime contractor's offer;

(3) specify that a source selection factor relating to the requirement specified in paragraph (1) shall accord—

(A) such source selection factor a value not to exceed 10 percent of the total evaluation points for all source selection factors specified in the solicitation; and

(B) such evaluation points in proportion to the extent to which each offer meets or exceeds the specified percentage;

(4) provide that attainment of the percentage specified in the offer of the firm receiving the award shall be a material element of contractual performance; and

(5) require the contractor to—

(A) identify, at the conclusion of contract performance, each subcontractor whose performance is to be counted toward attainment of the contractual requirement specified pursuant to paragraph (1); and

(B) provide prompt notice to the contracting officer after replacing any such subcontractor.

(b) CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.—The President, acting through the Secretary of Defense, shall—

(1) determine the components or items that are critical components or critical technology items; and

(2) publish a list of such critical components and critical technology items in the Federal Acquisition Regulation.

(c) DEFINITIONS.—For the purpose of this section—

(1) the term "domestic firm" has the same meaning as the term "domestic source" in section 702 of the Defense Production Act of 1950; and

(2) the terms "critical components" and "critical technology items" have the same meanings as in section 702 of the Defense Production Act of 1950.

SEC. 213. SENSE OF THE CONGRESS REGARDING ENCOURAGEMENT OF INVESTMENT.

It is the sense of the Congress that, in order to encourage investment to maintain our Nation's technological leadership, to preserve the strength of our industrial base, and to encourage contractors to invest in advanced manufacturing technology, advanced production equipment, and advanced manufacturing processes, the Secretary of Defense as part of his study of the defense acquisition process under the Defense Management Review shall consider—

(1) the full cost allowability of independent research and development/bid and proposal; and

(2) an increase in the progress payment rate on defense contracts.

PART C—MISCELLANEOUS

SEC. 221. GAO STUDY OF STATE FOREIGN INVESTMENT INCENTIVE PROGRAMS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of State incentive programs used to attract foreign investment. In conducting such study, the Comptroller General shall evaluate the costs and benefits of such programs, including job creation and economic growth, as well as potential adverse economic effects on United States firms, and recommend what measures the States might take, if any, to ensure that the economic benefits of such programs warrant the costs.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Comptroller General shall transmit to the Congress a report on the study under subsection (a).

SEC. 222. DISCOURAGING UNFAIR TRADE PRACTICES.

(a) SUSPENSION OR DEBARMENT AUTHORIZED.—A finding that a contractor has engaged in an unfair trade practice, as defined in subsection (b), shall indicate a lack of business integrity or business honesty that seriously and directly affects the responsibility of the contractor to perform any contract awarded by the Federal Government or perform a subcontract under such a contract. Such contractor may be subject to suspension and debarment in accordance with subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation).

(b) DEFINITIONS.—For purposes of this section, the term "unfair trade practice" means the commission of any of the following acts by a contractor:

(1) An unfair trade practice, as determined by the International Trade Commission, for a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

(2) A violation of any agreement of the Coordinating Committee on Export Controls or any similar bilateral export control agreement, as determined by the Secretary of Commerce.

(3) A knowingly false statement regarding a material element of a certification concerning the foreign content of an item of supply, as determined by the Secretary of the department or the head of the agency to which such certificate was furnished.

TITLE III—AMENDMENT TO RELATED LAWS

SEC. 301. DEFENSE PRODUCTION ACT FUND PROJECTS.

Section 2502 of title 10, United States Code, is amended by adding at the end the following:

"(d) DEFENSE PRODUCTION ACT FUND PROJECTS.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall review and approve projects recommended for support through the Defense Production Act Fund pursuant to the authorities provided by title III of the Defense Production Act of 1950.".

TITLE IV—FAIR TRADE IN FINANCIAL SERVICES

SEC. 401. SHORT TITLE.

This title may be cited as the "Fair Trade in Financial Services Act of 1990".

SEC. 402. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"NATIONAL TREATMENT

"SEC. 15. (a) PURPOSES.—This section is intended to—

"(1) encourage foreign countries to accord national treatment to United States banks and bank holding companies that operate or seek to operate in those countries; and

"(2) seek an end to discrimination against United States banks and bank holding companies.

"(b) ANNUAL REPORTS REQUIRED.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(1) identifying each foreign country—

"(A) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States banks and bank holding companies; and

"(B) with respect to which no determination under subsection (d)(1) is in effect;

"(2) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(3) describing the results of negotiations conducted pursuant to subsection (c)(1).

"(c) NEGOTIATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall initiate negotiations with any foreign country described in subparagraphs (A) and (B) of subsection (b)(1) to ensure that that country accords national treatment to United States banks and bank holding companies.

"(2) NEGOTIATIONS NOT REQUIRED.—Paragraph (1) does not require the Secretary of

the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(d) DISCRETIONARY SANCTIONS.—

"(1) IN GENERAL.—A Federal banking agency may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed by a person of a foreign country if the Secretary has published in the Federal Register (and has not rescinded) a determination that the foreign country does not accord national treatment to United States banks and bank holding companies.

"(2) REVIEW.—The Secretary of the Treasury shall annually review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) PREVENTING EXISTING ENTITIES FROM BEING USED TO EVADE THIS SECTION.—

"(1) IN GENERAL.—If a determination under subsection (d)(1) is in effect with respect to a foreign country, no bank, foreign bank described in section 8(a), branch, agency, commercial lending company, or other affiliated entity that is a person of that country shall, without prior approval pursuant to paragraph (3) or (4), directly or indirectly, in the United States—

"(A) commence any line of business in which it was not engaged as of the date on which that determination was published in the Federal Register; or

"(B) conduct business from any location at which it did not conduct business as of that date.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to transactions under section 2(h)(2) of the Bank Holding Company Act of 1956.

"(3) STATE-SUPERVISED ENTITIES.—

"(A) This paragraph shall apply if—

"(i) the entity in question is an uninsured State bank or branch, a State agency, or a commercial lending company;

"(ii) the State requires the entity to obtain the prior approval of the State bank supervisor before engaging in the activity described in subparagraph (A) or (B) of paragraph (1); and

"(iii) no other provision of Federal law requires the entity to obtain the prior approval of a Federal banking agency before engaging in that activity.

"(B) The State bank supervisor shall consult about the application with the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act). If the State bank supervisor approves the application, the supervisor shall notify the appropriate Federal banking agency and provide the agency with a copy of the record of the application. During the 45-day period beginning on the date on which the appropriate Federal banking agency receives the record, the agency may, after consultation with the State bank supervisor, issue an order disapproving the activity in question. The period for disapproval under the preceding sentence may, in the agency's discretion, be extended for not more than 45 days.

"(4) FEDERAL APPROVAL.—If the transaction is not described in paragraph (3)(A), the entity in question shall obtain the prior approval of the appropriate Federal banking agency.

"(5) INFORMING STATE SUPERVISORS.—The Secretary of the Treasury shall inform State bank supervisors of any determination under subsection (d)(1).

"(6) EFFECT ON OTHER LAW.—Nothing in this subsection shall be construed to relieve the entity in question from any otherwise applicable requirement of Federal law.

"(f) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States banks and bank holding companies if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banks and bank holding companies.

"(g) PERSON OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is citizen of that country, or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraphs (1), (2), or (3).

"(h) EXERCISE OF DISCRETION.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Federal banking agencies shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Federal banking agencies, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States banks and bank holding companies; and

"(ii) whether that country would permit United States banks and bank holding companies already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this section.".

SEC. 403. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS.

Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at the end the following new paragraph:

"(11) NATIONAL TREATMENT.—(A) This paragraph is intended to encourage foreign countries to—

"(i) accord national treatment to United States brokers and dealers that operate or seek to operate in those countries; and

"(ii) seek an end to discrimination against United States brokers and dealers.

"(B) For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(i) identifying each foreign country—

"(I) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States brokers and dealers; and

"(II) with respect to which no determination under subparagraph (D)(i) is in effect;

"(ii) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(iii) describing the results of negotiations conducted pursuant to subparagraph (C)(i).

"(C)(i) The Secretary of the Treasury shall initiate negotiations with any foreign country described in subclauses (I) and (II) of subparagraph (B)(i) to ensure that that country accords national treatment to United States brokers and dealers.

"(ii) Clause (i) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(I) determines that such negotiations would be fruitless or would impair national economic interests; and

"(II) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(D) The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign country does not accord national treatment to United States brokers and dealers:

"(i) The Commission may, in consultation with the Secretary of the Treasury—

"(I) deny any application for registration under this subsection filed by a person of that foreign country; and

"(II) prohibit any person of that foreign country from acquiring control of a registered broker or dealer, irrespective of when the acquisition was initiated.

"(ii) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered broker or dealer unless—

"(I) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(II) the Commission has not prohibited the acquisition.

"(iii) The Commission may, by order, extend the notice period with respect to any particular acquisition for not more than 60 days.

"(iv) The Secretary of the Treasury shall annually review any determination under this subparagraph and decide whether that determination should be rescinded.

"(E) A foreign country accords national treatment to United States brokers and dealers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic brokers and dealers.

"(F) A person of a foreign country is a person that—

"(i) is organized under the laws of that country;

"(ii) has its principal place of business in that country;

"(iii) in the case of an individual—

"(I) is a citizen of that country, or

"(II) is domiciled in that country; or

"(iv) is directly or indirectly controlled by a person described in clause (i), (ii), or (iii).

"(G) In exercising discretion under this paragraph—

"(i) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(ii) the Commission, in consultation with the Secretary of the Treasury—

"(I) shall consider, with respect to a broker or dealer that is a person of a foreign country and is already operating in the United States—

"(aa) the extent to which that foreign country has a record of according national treatment to United States brokers and dealers; and

"(bb) whether that country would permit United States brokers or dealers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's brokers or dealers; and

"(II) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this paragraph.".

SEC. 404. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS.

Section 203 of the Investment Advisers Act of 1940 (12 U.S.C. 80b-3) is amended by adding at the end the following new subsection:

"(i) NATIONAL TREATMENT.—

"(1) PURPOSES.—This subsection is intended to encourage foreign countries to—

"(A) accord national treatment to United States investment advisers that operate or seek to operate in those countries; and

"(B) seek an end to discrimination against United States investment advisers.

"(2) ANNUAL REPORTS REQUIRED.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(A) identifying each foreign country—

"(i) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States investment advisers; and

"(ii) with respect to which no determination under paragraph (4) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of negotiations conducted pursuant to paragraph (3)(A).

"(3) NEGOTIATIONS REQUIRED.—(A) The Secretary of the Treasury shall initiate negotiations with any foreign country described in clauses (i) and (ii) of paragraph (2)(A) to ensure that that country accords national treatment to United States investment advisers.

"(B) Subparagraph (A) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(i) determines that such negotiations would be fruitless or would impair national economic interests; and

"(ii) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(4) DISCRETIONARY SANCTIONS.—The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign country does not accord national treatment to United States investment advisers:

"(A) The Commission may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed pursuant to this title by a person of that foreign country.

"(B) The Commission may, in consultation with the Secretary of the Treasury, prohibit any person of that foreign country from acquiring control of a registered investment adviser, irrespective of when the acquisition was initiated.

"(C) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered investment adviser unless—

"(i) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(ii) the Commission has not prohibited the acquisition.

"(D) The Commission may, by order, extend the notice period with respect to any particular acquisition for not more than 60 days.

"(E) The Secretary of the Treasury shall annually review any determination under this paragraph and decide whether that determination should be rescinded.

"(5) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States investment advisers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic investment advisers.

"(6) PERSON OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(A) is organized under the laws of that country;

"(B) has its principal place of business in that country;

"(C) in the case of an individual—

"(i) is a citizen of that country, or

"(ii) is domiciled in that country; or

"(D) is directly or indirectly controlled by a person described in subparagraphs (A), (B), or (C).

"(7) EXERCISE OF DISCRETION.—In exercising discretion under this subsection—

"(A) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(B) the Commission, in consultation with the Secretary of the Treasury—

"(i) shall consider, with respect to an investment adviser that is a person of a foreign country and is already operating in the United States—

"(I) the extent to which that foreign country has a record of according national treatment to United States investment advisers; and

"(II) whether that country would permit United States investment advisers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's investment advisers;

"(ii) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this subsection.".

SEC. 405. CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS.

(a) QUADRENNIAL REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS.—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in paragraph (3), by striking "and securities companies" and inserting ", securities companies, and investment advisers"; and

(2) by adding at the end the following: "For purposes of this section, a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities.".

(b) NEGOTIATIONS TO PROMOTE FAIR TRADE IN FINANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting "effective" after "banking organizations and securities companies have".

(c) PRIMARY DEALERS IN GOVERNMENT DEBT INSTRUMENTS.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342) is amended—

(1) by striking "does not accord to" and inserting "does not offer";

(2) by inserting "(including effective market access)" after "the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country"; and

(3) by striking "as such country accords to" and inserting "as are available to".

TITLE V—EFFECTIVE DATES

SEC. 501. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this Act shall take effect on August 10, 1990.

(b) SPECIAL RULES.—(1) Title IV of this Act takes effect on the date of enactment of this Act.

(2) The acquisition policies required by title II of this Act shall be incorporated as part of the Federal Acquisition Regulation within 270 days after enactment. Such policies shall apply to solicitations issued 60 days after such regulations are issued.[S03OC0-V1][S14440-issued.

PRIVILEGE OF THE FLOOR

Mr. DIXON. I ask unanimous consent that Mr. Charles Schneider be given the privilege of the floor during the consideration of S. 1379.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2925

Mr. DIXON. Mr. President, I send an amendment to the desk on behalf of the distinguished chairman and ranking member of the committee, Senators RIEGLE and GARN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON], for Mr. RIEGLE (for himself and Mr. GARN), proposes an amendment numbered 2925.

Mr. DIXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, line 8, strike "and".

On page 59, between lines 11 and 12, insert the following:

(C) responding to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which would adversely affect the national defense preparedness of the United States; and

On page 69, line 9, strike "(a) IN GENERAL.—".

On page 71, strike lines 18 through 22.

On page 85, strike lines 13 through 15 and insert the following:

(1) in subsection (a), by striking "and subsection (j) of section 708A";

Beginning with page 92, line 11, strike all through page 103, line 25.

On page 104, line 11, strike "countries" and insert "foreign governments".

On page 104, line 15, before the semicolon insert the following: "and assesses the extent and character of any such strategy".

On page 104, line 19, strike the semicolon and insert the following: "and assesses the extent and character of any such activities.".

On page 110, between lines 5 and 6, insert the following:

SEC. 152. VOLUNTARY AGREEMENTS.

Section 708A of the Defense Production Act of 1950 (50 U.S.C. App. 2158a) is repealed.

On page 115, strike lines 6 through 9 and insert the following:

(a) IN GENERAL.—The single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), shall be amended to specify the circumstances under which an acquisition plan for any major

On page 115, line 12, after the comma insert "shall".

Beginning with page 115, line 23, strike all thorugh page 116, line 3.

On page 116, line 4, strike "(3)" and insert "(2)".

Beginning with page 116, line 16, strike all through page 118, line 15, and insert the following:

SEC. 212. PROCUREMENT OF CRITICAL COMPONENTS OR CRITICAL TECHNOLOGY ITEMS.

(a) ACQUISITION REGULATIONS REQUIRED.—Within 180 days of the date of enactment of this Act, the single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), shall be modified to provide for the solicitation, award, and administration of contracts for the procurement of critical components or critical technology items in accordance with provisions of this section.

(b) REQUIRED SOLICATION PROVISIONS.—Except as provided in subsection (c), any solicitation for the procurement of critical components or critical technology items shall—

(1) specify the minimum percentage of the total estimated value of the contract that is to be performed by one or more domestic firms;

(2) provide for the attainment of such requirement by the firm as prime contractor, or by subcontractors pursuant to a subcontracting plan submitted with the prime contractor's offer,

(3) specify that a source selection factor relating to the requirement specified in paragraph (1) shall accord—

(A) such source selection factor a value not to exceed 10 percent of the total evaluation points for all source selection factors specified in the solicitation; and

(B) such evaluation points in proportion to the extent to which each offer meets or exceeds the specified percentage;

(4) provide that attainment of the percentage specified in the offer of the firm receiving the award shall be a material element of contractual performance; and

(5) require the contractor to—

(A) identify each subcontractor whose performance is to be counted towards attainment of the contractual requirement specified pursuant to paragraph (1); and

(B) provide prompt notice to the contracting officer after replacing any such subcontractor.

(c) WAIVER OF SOLICITATION PROVISIONS.—(1) The regulations required by subsection (a) may specify circumstances under which the solicitation provisions required by subsection (b) may be waived with respect to a specific solicitation upon a determination by the contracting officer that the use of such solicitation provisions is likely to result in a significant adverse impact on the national interest of the United States.

(2) The contracting officer's determination shall be—

(A) supported by specific written findings which justify such determination; and

(B) approved by the senior procurement executive of the department or agency (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) or a designee of such officer.

(3) Copies of waiver determinations approved pursuant to subsection (b) (including the supporting written justifications and approvals) shall be made available upon request to—

(A) the public, consistent with the provisions of section 552 of title 5, or

(B) any member, or duly constituted committee, of the Congress.

(d) CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.—The President, acting through the Secretary of Defense, shall—

(1) determine the components or items that are critical components or critical technology items; and

(2) publish a list of such critical components and critical technology items in the Federal Acquisition Regulation.

(e) DEFINITIONS.—For the purpose of this section—

(1) the term "domestic firm" has the same meaning as the term "domestic source" in section 702 of the Defense Production Act of 1950; and

(2) the terms "critical components" and "critical technology items" have the same meanings as in section 702 of the Defense Production Act of 1950.

Beginning with page 118, line 16, strike all through page 119, line 4, and insert the following:

SEC. 213. SUSTAINING INVESTMENT.

It is the sense of the Congress that, in order to encourage investment to maintain our Nation's technological leadership, to preserve the strength of our industrial base, and to encourage contractors to invest in advanced manufacturing technology, advanced production equipment, and advanced manufacturing processes, the Secretary of Defense as part of his implementation of changes to defense acquisition policies pursuant to the Defense Management Review shall consider—

(1) full allowability of independent research and development/bid and proposal costs;

(2) appropriate regulatory changes to increase the progress payment rates payable under contracts; and

(3) an increase of not more than 10 percent in the amount which would otherwise be reimbursable to a contractor as the Government's share of costs incurred for the acquisition of production special tooling, production special test equipment, and production special systems (including hardware and software) for use in the performance of the contract.

Beginning with page 119, line 22, strike through page 120, line 6, and insert the following:

(a) SUSPENSION OR DEBARMENT AUTHORIZED.—Subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) shall be amended to specify the circumstances under which a contractor, who has engaged in an unfair trade practice, as defined in subsection (b), may be found to presently lack such business integrity or business honesty that seriously and directly affects the responsibility of the contractor to perform any contract awarded by the Federal Government or perform a subcontract under such a contract.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2925) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, the principal purpose of this bill is to modernize and strengthen the Defense Production Act of 1950 to meet today's challenges, and to extend the President's authorities under the act through September 30, 1993. Today's events convince me that the Senate needs to give prompt and favorable consideration to this legislation.

During its 40-year history, the Defense Production Act has provided to the President an array of authorities with which to mobilize the Nation's productive capacities for national defense purposes, especially during times of national emergency. Provisions of the act are used during peacetime to give priority to contracts for essential national defense requirements. The demands of Operation Desert Shield have once again vividly displayed the importance of the authorities provided by the Defense Production Act. It is being frequently used on a daily basis today to be certain that our forces deployed in the Middle East have the equipment that they will need to successfully confront and overcome any aggression using conventional or

chemical weapons. The bill continues and enhances these important authorities, while offering amendments designed to assure that the use of these significant powers will only be delegated to senior officials of the executive branch.

To preserve and enhance the capacities and capabilities of those segments of the Nation's overall industrial base and technology base essential to the national defense, the Defense Production Act also provides authorities to support private sector initiatives to bring technology advances to production or to demonstrate how existing productive capacities may be made more efficient. These authorities have only been used very sparingly in peacetime during most of the act's 40-year history. The findings of a broad array of assessments of the condition of the Nation's defense industrial base conduct since the 1970's by Congress, the General Accounting Office, the Department of Defense, and various private sector groups suggest that steps must be taken to encourage investment by industry. During the late 1980's, the same concerns began to be voiced about the Nation's technology base supporting national defense, only recently perceived to be virtually unchallenged in its dominance. Through proposed enhancement to current Defense Production Act authorities, and the other provisions aimed at encouraging investment by industry in production modernization and technology advancement, the committee believes that this bill provides a valuable array of stronger tools for use by the President.

S. 1379 is the product of much thorough work spanning a period of almost 2 years. Several discussion drafts of the proposed bill were circulated for informal comment. Discussions were held with various segments of industry, representing small business as well as the leading firms of the aerospace industry. Similarly, informal comments were obtained from individuals in Government who had hands-on experience with the implementation of the Defense Production Act. Discussions were also held with representatives of private and governmental organizations that had conducted some of the most recent reviews of the current state of the defense industrial and technology base.

Mr. President, these informal dialogs continued through most of the committee's deliberations on the bill. We didn't always agree, but everyone had their views heard and carefully considered.

It is also important to note that throughout the committee's deliberations, S. 1379 has enjoyed bipartisan support. My good friend the senior Senator from Pennsylvania [Mr. HEINZ] is the bill's principal cosponsor. We were joined by several of our colleagues from the committee on both sides of the aisle, including Senators SHELBY, WIRTH, and D'AMATO. Although initially approaching many of the bill's provisions from quite different perspectives, an openminded, cooperative spirit generally prevailed under the leadership of the committee's chairman, Senator RIEGLE, and our ranking minority member, Senator GARN. Spirited debates on various issues took place during the hearings and at the markup, but in the end S. 1379 was reported without a dissenting vote.

The bill before the Senate also had the benefit of 6 days of especially thorough hearings before the committee. I will not recite the full litany of experienced and thoughtful witnesses from industry and Government, since it is fully presented in the committee's report. Suffice it to say, Mr. President, the committee had the benefit of many thoughtful comments on the overall health of the Nation's industrial and technology base, suggestions on techniques to strengthen it, the importance of the Defense Production Act, and the provisions of S. 1379.

S. 1379 is ready for action by the Senate. It has been modified in many important respects to address the concerns of various individual Senators and other committees, such as the Committee on Armed Services, on which I also serve. I believe that several of these provisions, deleted from the bill for jurisdictional and other reasons, still have merit. I may well pursue them further in the next Congress.

Mr. President, I ask unanimous consent that a summary of the managers' amendment which was peviously adopted be printed in the RECORD. These amendments make further changes to address additional concerns expressed since the committee reported the bill on May 24.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MODIFICATIONS TO S. 1379, THE DEFENSE PRODUCTION ACT AMENDMENTS OF 1990 MADE BY THE MANAGER'S AMENDMENT

1. SECTION 2—CONGRESSIONAL FINDINGS

The amendment restores a finding presently in current law that the authorities of the Defense Production Act are available to respond to shortages of strategic and critical materials, including energy, which would adversely affect defense preparedness.

2. SECTION 123—DEFENSE PRODUCTION ACT FUND

The amendment deletes subsection (b) which had provided that the DPA Fund established by Section 123 would be initially capitalized through the transfer of $200 million from the unobligated balance of the National Defense Stockpile Transaction Fund.

3. SECTION 137—ANTITRUST PROTECTIONS FOR INDUSTRY CONSORTIA

The amendment deletes this section. It also makes purely technical changes to Sections 135 and 152 required by the deletion of Section 137.

4. SECTION 138—INTELLIGENCE STUDY

The amendment makes minor technical changes to this section to clarify its purposes.

5. SECTION 211—RECOGNITION OF MODERNIZED PRODUCTION SYSTEMS AND EQUIPMENT IN CONTRACT AWARD AND ADMINISTRATION

The amendment modifies Section 211 to provide that it should be implemented on a government-wide basis through the Federal Acquisition Regulations. It also modifies and transfers to Section 213 provisions relating to reimbursement of costs for the acquisition of production special tooling and test equipment.

6. SECTION 212—PROCUREMENT OF CRITICAL COMPONENTS OR CRITICAL TECHNOLOGY ITEMS

The amendment deletes Section 212 of S. 1379 and replaces it with a new version that assures consistent government-wide implementation of its provisions by mandating changes to the Federal Acquisition Regulations. To provide flexibility in implementation, a waiver provision has been included.

7. SECTION 213—SUSTAINING INVESTMENT

The amendment adds to Section 213 a slightly modified version of the provision previously found in Section 211 relating to reimbursement of costs for the acquisition of production special tooling and test equipment.

8. SECTION 222—DISCOURAGING UNFAIR TRADE PRACTICES

The amendment modifies Section 222 to require that the government-wide Federal Acquisition Regulations be amended to specify the circumstances under which a contractor or subcontractor may be suspended or debarred from contracting with the government for having committed an unfair trade practice as defined in the section.

Mr. RIEGLE. Mr. President, I rise in support of S. 1379, the Defense Production Act Amendments of 1990, which the Senate Banking Committee reported on May 24, 1990. The Defense Production Act [DPA] has been called a "statutory cornerstone of our country's national security." Currently, the DPA gives the President the authority to require priority performance of contracts which have been determined to be necessary for the national defense. This is an authority the President is using right now in regard to Operation Desert Shield to ensure that our forces in the Persian Gulf have the equipment they need to do their job.

Let me read to you from a letter the Deputy Secretary of Defense sent to the majority leader on September 24:

The DPA enables the Nation's industry to give priority to weapons and military equipment production to meet defense needs under the Defense Priorities and Allocations System established pursuant to Title I of the Act. The Department has found it necessary to invoke this authority hundreds of times each year to ensure that the Armed Forces have the items they need when they need them.

The authority granted by the DPA is essential to keep the Armed Forces supplied with spare and consumable items, such as

aviation fuel, munitions, chemical protective suits, and combat meals because the Department's supplies would otherwise be unable to obtain the necessary inputs on a priority basis to produce these products. Since operation "Desert Shield" began, DPA authority has been necessary to procure missile containers used to ship and store missiles, electronic countermeasure pods and radomes for Marine and Air Force tactical aircraft, secure computer workstations, and various components of the Bradley Fighting Vehicle.

Admiral Matthews, the Secretary of Energy wrote to me on September 26 and stated:

The bill to reauthorize the Defense Production Act of 1950 (DPA) reported by the Committee, S. 1379, contains two provisions that could be extremely helpful in addressing the energy aspects of the current situation in the Middle East. Specifically, section 135 of S. 1379 would amend section 708 of the DPA to enhance the use of "voluntary agreements" in responding to serious national emergencies, and section 141 of the bill would clarify that the DPA section 101 contract priority rating authority applies to "services" contracts such as for standby emergency repair of Strategic Petroleum Reserve pipelines.

The Deputy Secretary of Commerce, Mr. Murrin, wrote to me on September 27 and stated:

I strongly urge the Congress to extend the authorities of the DPA and, if possible, to enact those energy-related provisions noted in Secretary Watkins' recent letter you, to ensure that the Federal Government can continue to support Operation Desert Shield.

So, it is very important that we proceed to the consideration of this bill without delay and get it enacted so we can go to a conference with the House. The House has already sent us a bill to amend and extend the DPA.

Aside from title I authorities needed for Operation Desert Shield, the DPA gives the President a broad range of economic authorities in the form of purchase agreements, loan guarantees, and loans to help maintain and expand the industrial base supporting national defense. To encourage joint undertakings by industry to improve industrial preparedness, the act also permits such undertakings pursuant to voluntary agreements initiated by the President. Operations under such agreements give companies a defense against suits brought under antitrust laws. The act also gives the President authority to suspend or prohibit the acquisition, merger, or takeover of a domestic firm by a foreign firm if such action by a foreign firm would threaten or impair national security.

S. 1379, a five title bill, significantly amends the Defense Production Act of 1950 and reauthorizes it until September 30, 1993. The bill institutes measures to improve information on the loss of industrial and technological capabilities in areas critical to national defense and begins to formulate methods for the Nation to respond to the continuing erosion of our defense industrial base. Such erosion must be reversed in order to alleviate our growing dependency on foreign suppliers for certain key components and technology items critical to U.S. national security.

Title IV of S. 1379, entitled "Fair Trade in Financial Services," does not amend the defense Production Act. Instead it amends banking and securities statutes in order to encourage foreign countries to offer U.S. financial institutions that operate or seek to operate in them de facto national treatment. Let me first discuss the titles which amend the Defense Production Act before addressing that important title.

Over the last 18 months the Banking Committee has held 12 hearings during which it heard testimony from many expert industry and Government witnesses regarding the declining health of the U.S. industrial and technology base, and global economic trends significant to our Nation's future. Two major themes emerged during these hearings: First, we are experiencing a decline in the ability of U.S. industry to meet our national defense needs; and second, we are also experiencing a growing degree of U.S. dependence on foreign suppliers for the procurement of technologies critical to national security.

The committee's hearings suggested that U.S. industrial competitiveness is being outpaced by the gains of foreign counterparts and that as our productivity growth has lagged, our technological edge is diminishing. One of our many expert private sector witnesses, Norman Augustine, chairman and CEO of Martin Marietta Corp., emphasized this point by stating that, "Our industrial base is being seriously eroded. Productivity growth has lagged, our technological edge is diminishing."

The United States faces stiff industrial and commercial competition from many determined and well-organized foreign counterparts in nearly every major public or private industry undertaking. At the committee's February 28 hearing, the Office of Technology Assessment (OTA) released its report entitled, "Making Things Better: Competing in Manufacturing." The report emphasizes that while American manufacturers have recognized the need for improvements in quality and productivity, it is not enough. According to that same OTA report, our ablest competitors are moving faster than we are, and it will take cooperative efforts on both the part of domestic manufacturers and the U.S. Government to stay competitive in the international marketplace.

The competitive standing of many industries vital to our military-industrial base is in decline. Since 1982, two-thirds of the contractors who sell manufactured goods to the Department of Defense [DOD] have left as suppliers to the DOD. In 1982, there were more than 118,000 companies providing goods to the DOD in relevant defense sectors. In 1987, only 38,000 companies in those sectors provided such goods. This shrinkage is even more remarkable in light of the fact that the defense procurement budget increased almost twofold during the same 5-year period.

The result of the departure of so many suppliers from the defense business combined with quality and productivity deficiencies in our industrial sector have made us increasingly dependent on foreign suppliers for the procurement of parts, components, and systems critical to U.S. national security. Former Secretary of Defense Frank Carlucci emphasized this point during his July 11, 1989, testimony before the committee by stating, "One could single out any number of areas where the Department of Defense is dependent on foreign imports for critical components."

It is my belief that growing dependence on foreign suppliers for critical defense components could be detrimental to the national security of the United States, since it raises the risk that foreign interests may gain undue influence over U.S. foreign and domestic policy by leveraging our need for their products and technology against their policy objectives.

Of equal concern is our ignorance regarding the extent of U.S. dependence on foreign suppliers. Although a great number of American industry and Government leaders believe the United States is dependent in certain defense-related industries, there is no precise knowledge of what those areas are or the extent to which we are dependent on foreign suppliers for key technologies. There is no single Governmentwide, or for that matter DOD-wide, system for gathering data that systematically reflects the extent to which defense contractors are dependent on materials provided by foreign sources. Our current knowledge is based on anecdotal information or on ad hoc studies of the defense industrial base by Government and non-Government organizations. This is not acceptable and the provisions of this bill attempt to deal with it.

The amendments to the Defense Production Act in S. 1379 address the problems I have just outlined. To improve the competitive position of domestic defense suppliers, the act provides the President authority to undertake peacetime projects to preserve and enhance the capacity and capabilities of segments of the Nation's overall industrial and technology base essential to the national defense. To achieve this end, S. 1379 establishes a separate revolving fund to act as a stable source of funding for eligible projects which foster development or

utilization of "critical technologies." Throughout the committee's hearings, the establishment of a revolving fund received strong support from both public and private sector witnesses. This fund is seen as an effective mechanism for reversing a long history of anemic and erratic funding for industrial resource projects.

S. 1379 also modifies the act's current offset reporting requirements. Section 309 of current law requires the President to annually prepare and submit a report on the impact of offsets on defense preparedness, industrial competitiveness, employment, and trade to the House and Senate Banking Committees.

Section 125 of this bill requires that a notice be furnished regarding any offset agreement exceeding $5 million. The notice requirement is not a prior approval requirement and any information submitted pursuant to this provision is accorded protection from public disclosure. The provision is merely designed to improve data gathering procedures so that such reports will better address the effects of offsets on our defense industrial base and nondefense industry sectors, including the effects resulting from technology transfers.

In order to better identify and analyze areas of growing U.S. dependence on foreign suppliers for critical defense components and technology items, which I discussed earlier, the bill establishes a continuous data collection and analysis system with respect to the operations of defense contractors and subcontractors. Such a system has become increasingly necessary as technology development and manufacturing have globalized during the 1980's. To the extent the United States builds down its defense posture in response to the thawing of the cold war, our national security will rely increasingly on contingent military capabilities such as our existing industrial and technological potential. It is imperative that we know where our strengths and weaknesses lie in areas of the industrial base that would have to be mobilized to meet a national emergency.

S. 1379 also calls for better integration of national security policy, national economic policy, and industrial capabilities planning. In addition, the bill includes provisions designed to encourage investment in modernized production systems and equipment so as to improve the defense industrial base.

The amendments to the Defense Production Act take an important step toward preserving and enhancing the defense industrial base by enlisting the help of the U.S. Government. Government support can play a crucial role in ensuring that critical technologies make it past the conceptual stage and into the development and production stages. In these latter stages such technologies can attain widespread defense and commercial applicability. They can then become more competitive with emerging foreign technologies which have long had government support.

I do not pretend that these amendments to the DPA will, by themselves, reverse the decline of our defense industrial base. That will take a much larger national effort and will require strong Presidential leadership. But these amendments will start a process of addressing this problem. President Kennedy used to say that a journey of a thousand miles begins with the first step. These amendments to the DPA constitute a first step in the long journey we must make as a nation to reverse our industrial base problems. It is for this reason that I strongly urge my colleagues to support them.

Now let me turn to title IV of S. 1379, Fair Trade in Financial Services, which was reported by the Banking Committee with broad bipartisan support on May 24, 1990. These provisions, which amend the International Banking Act of 1978, the Securities Exchange Act of 1934, and the Investment Advisers Act of 1940, are designed to give Department of Treasury officials new leverage in their negotiations to obtain competitive access to foreign banking and securities markets such as those in Japan.

Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 already requires the Treasury to identify and report to Congress every 4 years on countries that do not grant full national treatment to U.S. banking and securities firms. The first report under that provision is due on December 1, 1990.

The Fair Trade in Financial Services Act amends section 3602 to specify that national treatment includes "effective market access." This is designed to address situations where U.S. firms abroad may receive de jure national treatment—equality according to the letter of the law—but not de facto national treatment—equality of opportunity to compete in actual practice. The fair trade bill further provides that if foreign countries do not provide de facto national treatment to our financial firms, the Treasury Department should negotiate to obtain it.

To strengthen the Treasury's hand in any negotiations, the bill permits our banking and securities regulators, in consultation with the Treasury, to deny applications for regulatory approval filed by banking and securities firms from countries that discriminate against U.S. firms. Any denials would not force foreign financial firms to shrink their existing operations but could limit their opportunities for future expansion.

Before regulators could exercise their authority, however, the Secretary of the Treasury would have to publish in the Federal Register a determination that discrimination against U.S. financial institutions is taking place in a given foreign country. Let me stress that no action is mandated by this legislation. The Treasury Secretary and the regulators have discretion under it whether to use the grant of authority being given to them.

Let me explain why I feel so strongly about enacting the Fair Trade in Financial Services Act. During the 1950's and 1960's, U.S. banks dominated the global banking scene as they helped American companies finance their expanding export markets and funded the growth of overseas subsidiaries. In the 1970's, as the economies of Europe and Japan fully recovered from the war, many foreign banks also began to do business in the United States as companies from their countries expanded their export markets here. This was a direct result of the efforts our country made in the 1950's and 1960's to encourage the economic growth of Europe and Japan.

America, however, had no national policy dealing with the regulation of foreign banks in this country. As a result American banks rightfully began complaining that foreign banks actually enjoyed competitive advantages in their operations here. For example, foreign banks could branch and take deposits nationwide while the McFadden Act prohibited their American competitors from doing likewise.

The Congress responded by passing the International Banking Act of 1978, which established the rules under which foreign banks operate in America. That law was designed to establish a level playing field between American and foreign banks in this country. It did not discriminate against foreign banks and even grandfathered some of the competitive advantages they enjoyed. The Senate Banking Committee's 1978 report on that statute stated:

> Foreign chartered banks are accorded operating privileges in the United States which enable them to compete in the United States on terms which equal or exceed the domestic operating privileges of our own domestically chartered banks.

The report went on to state that with enactment of the International Banking Act of 1978:

> The United States has more than abided by the principles of national treatment for foreign banks operating here * * *. In contrast, our domestic banks operating abroad have not always received equal treatment in foreign countries with their host country competitors.

While Congress was concerned in 1978 about the inconsistency between our national treatment policy and the differing policies of some of our competitors, it hoped these matters could be resolved by U.S. negotiators with-

out further congressional action. It did require the Treasury Department to report to Congress by 1980 on the extent to which American banks were denied national treatment in their banking operations abroad.

In 1978, when the International Banking Act was passed, U.S. banks were still among the largest in the world and controlled the largest share of the international banking market. Two of the three largest banks in the world were American, and U.S. banks made over 30 percent of all international loans. But in 1988, U.S. banks did less than 15 percent of cross-border lending compared to 38 percent for Japan and 31 percent in Europe. Now the largest U.S. bank ranks 24th in the world in size.

Foreign banking institutions currently control over 25 percent of all banking assets booked in the United States. Japanese banks alone have 14 percent of all such assets. In some markets, such as California, Japanese banks have 25 percent of total assets. Furthermore, foreign bank loans in the United States are growing three times faster than domestic bank loans. In contrast, banking assets held by American and all other foreign banks in Japan have continued to decline. In recent years, the United States share of the Japanese market has declined from 3 percent to 1 percent. Foreign banks as a whole have less than a 3-percent share of the Japanese market and that is also declining.

I'm not arguing that a denial of market access for U.S. financial institutions in key foreign markets is the chief cause behind this trend in declining competitiveness of U.S. financial institutions. Certainly, America's macro-economic policies, along with our chronic current account deficits and low savings rates have fueled the growth of foreign banks in this country and have contributed to the new problems U.S. banks now face. However, the lack of competitive opportunity in certain important financial markets has contributed to the decline of the competitive position of U.S. financial institutions in the global marketplace. In fact, U.S. banks are finding it increasingly difficult to compete with foreign banks operating in the United States in part because they are often denied fair access to foreign capital markets that offer lower cost capital than is available in U.S. markets. If access by our financial firms to such markets is limited or denied, the access of U.S. borrowers to such lower cost funds becomes restricted as well. In addition, if foreign banks make use of such lower cost funds to penetrate the U.S. market, they will enjoy a unilateral competitive advantage.

We received testimony in the Banking Committee that the higher profits Japanese banks enjoy in their protected home market gives them the ability to offer lower spreads and lower fees in this country. Therefore, the United States Government must be more aggressive in ensuring that U.S. financial institutions are not discriminated against in Japanese or other foreign markets.

The provisions of this title are designed to give our officials the authorities they need to negotiate aggressively on these matters. I urge my colleagues to read report 101-367, the report filed by the Banking Committee on S. 2028 on July 13, 1990. It gives a fuller explanation of this important piece of legislation.

If we continue to allow unfair trade practices to exist in the international financial services sector, we undermine the profitability, safety, and soundness of U.S. financial institutions at a time when we need to do more to ensure their continued strength and stability. This matter becomes increasingly important because the strength of U.S. financial institutions is critical to the health of the U.S. economy. I strongly agree with the thoughts expressed by Deputy Secretary of State Lawrence Eagleburger in a cable recently sent to U.S. diplomatic posts around the world:

> We as a Government and as a society are going to have to acknowledge that our economic health and our ability to trade competitively on the world market may be the single most important component of our national security as we move into the next century.

I want to particularly commend Senator DIXON for his outstanding work on this legislation, as well as Senators GARN, HEINZ, and all the members of the Banking Committee for the bipartisan manner in which our committee worked to develop the bill being presented to the Senate today.

Making significant improvements to the DPA has been a high priority in the Banking Committee this session. The bill before the Senate achieves the priority we set for ourselves. I urge my Senate colleagues to pass it so we can begin our conference with the House and complete this legislation to renew and reform the Defense Production Act before it expires on October 5 of this year.

Mr. GARN. Mr. President, today I join Senator DIXON in supporting passage of S. 1379, the Defense Production Act Amendments of 1990. It is vital that the Congress act quickly to extend DPA authorities at this time. While I have always felt that the act is vitally needed even in peacetime situations, its authorities are now being used to support Operation Desert Shield. In particular, title I authority is being used to ensure adequate and timely supply of—

Missile shipping containers;

Radio and amplifier systems for satellite communications;

Lap top computers for battlefield use; and

Defense electronic countermeasure pods for Navy and Air Force aircraft.

It would be the height of irresponsibility on the part of the Congress to permit such vital authorities to lapse in a crisis situation.

I should add that my support for the bill goes beyond simple extension of basic authorities. Most importantly, S. 1379 makes several changes that the Department of Energy badly needs to deal with possible disruptions of world energy supplies if the gulf crisis intensifies. These provisions must be added to the law and I would expect to make further modifications needed by the Department that are contained in the House bill when we go to conference.

The bill is modified by a managers' amendment that addresses concerns raised by the administration and by members of the Armed Services and the Judiciary Committees. These changes will remove amendments to our antitrust laws and a shift of receipts from the stockpile fund to a new fund for critical technologies created by the bill that faced strong objections. With these changes, two of the administration's major concerns are eliminated.

Finally, I strongly support title 4 of the bill which incorporates the Fair Trade in Financial Services Act that I introduced with Senator RIEGLE. This legislation is intended to give the Treasury negotiating leverage to open up markets for U.S. financial services companies where they are now being denied national treatment, or equal market access.

Throughout my time in the Senate, I have been a strong proponent of the national treatment standard both as U.S. financial policy and as the international standard to be pursued in negotiations for foreign market access. This notion of equal treatment under domestic law promises fair treatment for all sides, without challenging the right of governments to establish the regulatory framework they judge appropriate within their own borders.

This bill strengthens the standard by including within its definition effective market access. This addition emphasizes that equal treatment must occur in practices as well as in statute. I believe this is a vitally important issue for U.S. competitiveness in world markets. It does not close our markets. Instead, it puts others on notice that we will not wait forever to receive fair play. Nearly identical language has passed the Senate twice before.

I have been disappointed with the administration for its unwillingness to accept even discretionary authority of this kind of pursue market liberalization. I am now happy to report that on further consideration the Treasury has decided that it can accept the pro-

vision with minor additional modifications. While we have only just received their suggestions, I hope to accommodate then in conference on this issue as well.

This bill is good legislation. We must pass it and move on to conference. I recognize that there are provisions of the House bill that must be changed if we are to get useful legislation that the President will sign. I hope to achieve that objective and urge my colleagues to pass this legislation so that we can do so.

Mr. SANFORD. Mr. President, I rise today in support of S. 1379, the Defense Production Amendments Act of 1990. I want to commend the bill's sponsor, Senator DIXON, for drafting this legislation and for his efforts and those of Senator RIEGLE, in illustrating for the committee the effects the declining defense industrial base has had on our entire national economy and our national security.

As the hearings began on the DPA in the Banking Committee last summer, the members of the committee were brought face to face with the inadequacies of the defense industrial base and the declining state of our national competitiveness posture in world markets. We heard testimony from industry representatives stressing the need for the United States to develop policies which would encourage them to undertake joint efforts in developing emerging technologies. And we have heard from government representatives citing numerous studies which show the erosion of U.S. leadership in high technology industries which have become vital to our national defense.

The Defense Production Act was originally adopted in 1950, in the early part of the cold war, and provided the President with an array of authorities to mobilize defense production, especially in times of national emergency. The legislation before us today expands the reach of the DPA and adapts it to reflect the changes that have occurred in the industry due to the reliance upon critical technologies that form the basis of defense industries as well as domestic industries.

At issue with this legislation is the sentiment that the defense industrial base and the civilian industrial base have become indistinguishable and that the United States no longer maintains its leadership in producing dual use technologies. As industry representatives have testified before the Senate Banking Committee, our industries today have come to rely increasingly upon foreign sources to supply key industrial products and we have "lost the indigenous capacity to produce key components of weapons systems essential to national defense." Provisions within S. 1379 offer support for American industries to foster new technologies and expand production capabilities.

The competitiveness problems our Nation faces with respect to both defense and civilian industries are critical to the stability of our national economy. The Office of Technology Assessment examined the issue and laid bare the steps we need to take before we see improvements. Those steps include getting out Federal deficit under control; investing in human resources—improving education, training the modern work force, stimulating research at universities; and shifting the focus away from short-term investments to long-term investments. Most of us recognize the need to improve in these areas, but we must not allow ourselves to be satisfied with the small accomplishments we may make in legislation today. We can no longer continue to mask the Federal deficit and get by with the appearances of improving the debt problem. We can no longer continue to make small contributions in the education of our children, offering them our support in name only. We can no longer continue our shortsighted investment practices.

Although S. 1379 does little to remedy our overall competitiveness situation, it has served to highlight the problem and establishes such issues as a priority for future legislation.

I support S. 1379 and the purposes for which it was drafted. I hope that we may build upon it as we work to improve our overall competitiveness position in the world market.

Mr. HEINZ. Mr. President, the procurement of critical components and critical technology items from onshore contractors is essential to the well-being of the U.S. defense industrial base, which is, in turn, an integral part of the entire manufacturing base.

Yet this critical relationship is confronted increasingly with the effects of economic globalization, which have thrown our manufacturing and technology sectors into the ring against foreign competition. The result has been our increasing reliance on offshore subcontractors at the expense of domestic suppliers. This increased dependence on foreign competitors also weakens our entire defense industrial base and in so doing undermines our ability to protect U.S. national interests around the globe. A study released in May 1989 by the Center for Strategic and International Studies, states:

> Some products no longer have more than one domestic provider, including nuclear projectiles, depth charge components, parachute recovery systems, some specialized marine vessels, tanks, several types of machinery, rope, nonmetallic pipe, piezoelectric crystals, and various textile and clothing products.

The semiconductor industry in particular is one which has been a growing source of concern to defense experts. The semiconductor is an American invention; however, its future in the United States is in serious jeopardy. Some of the most strategic weapons employed by the United States are solely dependent on foreign microchips. These include the Global Positioning System (satellites), Defense Satellite Communication System, F-16 Fighting Falcon, AIM-7 Sparrow air-to-air missile, M-1 Abrams MBT, and the FIA-18 Hornet. If in time of war, microchips for these items are needed in large supply on short notice, the United States would be highly vulnerable to the threat of a foreign power delaying or preventing the importation of such supplies into the United States.

The Banking Committee has taken the view that we have been complacent about this problem for loo long. The time has come to strengthen our manufacturing base, not add to its deterioration, and that is precisely what the bill before us would do. Former Under Secretary of Defense for Acquisition, Dr. Robert B. Costello, made the dependency point clear:

> The Department of Defense is becoming increasingly dependent on foreign-sourced hardware and technology in the acquisition of the technologically superior weapon systems that are fundamental to our strategy of offsetting numerical inferiority with technological superiority.

We cannot reasonably expect to offset potential adversaries' numerical superiority with only technological equivalence. The United States is rapidly losing its technological superiority to countries that have destroyed our capability to be self-sufficient in critical technology. For example, the November 1989 report of the National Advisory Committee on Semiconductors, "A Strategic Industry at Risk," refers to the notorious publication by Sony Chairman Akio Morita and former Japanese Minister Shintaro Ishihara, "The Japan That Can Say No." These two men suggest that the changes in the world of high technology:

> Highlights the growing issue of Japan's pivotal role in developing leading-edge military electronics technology that contributes to the United States-Soviet balance of power. They argue that because Japan has such dramaticallly advanced production skills, their semiconductors have achieved a level of sophistication unmatched anywhere. As a result, they contend the United States (where the semiconductor was originally developed) could become almost totally dependent on Japan to supply chips for its weapon systems. They go on to point out that if the supply of advanced Japanese chips to the United States were interrupted, and if Japan were to make these chips available to the Soviet Union instead, the balance of power could change dramatically.

While the prospect of Japan delivering quantities of chips to the Soviet Union may be remote—or no longer as

much a source of concern as it used to be—Japan's slowness in contributing to the United Nations' efforts against Iraq when it is the chief beneficiary of stability in the Middle East should make us think long and hard about the likelihood of timely support from our allies in other situations in the future. It is perhaps sad, but certainly true, that nations do what is good for them, not what is good for us.

We hope in cases like the Persian Gulf that many nations' interests will coincide, and we do our best to persuade everyone of that fact. But in the final analyses, national governments will decide for themselves, and we will have to live with the consequences. If we are dependent on foreign sources for critical defense items—as we are—then those consequences could be devastating indeed.

As Bernard Schwartz, chairman and chief executive officer of Loral Corp. has noted:

> Shipments could be cut off in a protracted crisis or war, either directly or through political pressure on the source nation, crippling this country's ability to sustain its defense effort.

Thus, the good health of American subcontractors at the heart of defense production is fundamental, especially during any protracted war; yet our at home surge capacity for rapid response during emergency buildups is seriously handicapped. The Department of Defense currently has no meaning of determining the full extent to which our defense forces rely upon foreign made components and parts. A report to the Secretary of Defense from his Under Secretary in July 1988 states,

> The Department of Defense does not know the extent to which foreign sourced parts and components are incorporated in the systems it acquires. Preliminary indications show that foreign dependencies are increasing. In a national emergency, the consequences of extensive dependence on foreign sources could be extreme.

Historically, other countries have suffered greatly by overreliance on other countries for critical components. In his study, "The Globalization of America's Defense Industries, Managing the Threat of Foreign Dependencies," Theodore H. Moran of Georgetown University states, "All of the major European powers have experienced the agony of dependence on companies and technologies controlled from abroad."

Starving countries of critical components in times of strife is nothing new—the oil crisis of 1973 proved this beyond any doubt. As I mentioned with respect to Japan, the uncertainties currently surrounding the world's oil supply have led us to question the reliability of some of our allies. Tepid reaction by Japan and Germany demonstrates that we may not be able to rely firmly on anyone. Our own industrial well-being will determine our ultimate fate. If a full scale war does break out in the Middle East, the United States could be held ransom by the very nations it depends on.

Fears of critical component shortages are not only confined to times of crisis. A report prepared by the Air Force Association states:

> The United States has depended for years on uncertain sources overseas for raw minerals. Now it is increasingly dependent on other nations for manufactured goods as well. The domestic industrial base is losing its capability to meet defense needs even in peacetime.

Having a healthy defense industrial base is crucial to U.S. national security and is a primary component of the strategy of deterrence, because increasingly in today's world, a nation's strength is defined in economic terms rather than simply military terms. Our ability to project our interests in far corners of the globe is directly related to others' perceptions of our strength, and that strength is defined in economic and technological terms. From that perspective strength means computers and semiconductors as much as it means tanks and missiles. Maintaining a technological advantage is fundamental to the continuation of our status as a world leader.

If our technological edge erodes, our entire security posture will weaken. A recent article in the New York Times states:

> Our national security is based upon a strategy of deterrence. * * * Deterrence is measured by the strength and competitiveness of our industrial base * * * When our industrial strength comes into question, our ability to deter potential aggressors is diminished and the threat of war increases.

The steady erosion of the U.S. industrial base has raised serious doubts as to whether or not it can meet the criteria for deterrence. In 1988 Under Secretary of Defense Costello stated:

> * * * the vitality of our manufacturing economy in general ultimately determines the war-fighting power of our nation's force structure. The economy's latent capability to enhance current forces in response to strategic threats is a critical element of our deterrence strategy.

The solution lies in nurturing the Defense Industrial Base. Dr. Allan Bromley, Director of the Office of Science and Technology Policy in the White House, put it like this:

> What is happening today is that the relatively small U.S. companies in the semiconductor industry and other high technology industries are competing with their Japanese counterparts that reside in large, vertically integrated corporations. It is an unequal competition.

"Deterrence in Decay," the report from CSIS, calls for the availability of selective incentives for firms in industries that are particularly disadvantaged in globally competitive critical defense markets or for industries in which a domestic production base is vital.

An Air Force Association study reported that many science and technology leaders experienced what they called a seat of the pants feeling that the U.S. technology shelf was not as full as it had been in the past. They contended that the United States could no longer inventory current technology and put together a superior weapon system. Now they said, "It's a challenge."

Import penetration of the defense industrial base has forced dependency on foreign suppliers for critical materiel which would not be available during time of crisis. The CSIS report notes that a 1986 Department of Defense exercise identified 17 critical items that could not be produced at required levels for a certain operational contingency of low-level conflict, even given an 18-month mobilization period of three shifts operating around the clock, with no constraints on funding or skilled production staff. The critical showstoppers were key parts, machine tools, raw materials, and test equipment that came from foreign suppliers that possibly would not be available in time of crisis.

A 1986 report from the Defense Department joint logistics commanders found foreign dependencies in eight of the 13 front-line weapons systems which were investigated. They found severe dependencies in six of them. The actual term "foreign dependency" can be defined as "an immediate serious logistics support problem that affects combat capability of the United States because of the unavailability of a foreign sourced item."

All of the following systems rely on at least one critical foreign part; most rely on several foreign parts.

Sidewinder missiles;
Sparrow air-to-air missile;
Phoenix air-to-air missile;
HARM-air-launched antiradiation missile;
Harpoon antiship missile;
Tomahawk C sea/or sub-launched missile;
Standard sea-to-air missile;
Mark 46 torpedo antisubmarine;
GBU 15 air-to-ground missile;
IR Maverick air-to-ground missile;
Laser Maverick air-to-ground;
Skipper air-to-ship or ground missile;
Copperhead artillery round, antiarmor weapon;
Tow antiarmor missile;
Hellfire helicopter launched antiarmor missile;
Patriot ground-to-air missile; and
Stinger ground-to-air missile.

The most vulnerable are the seeker missiles and designated target equipment missiles. Infra-red, sonar, optical laser systems are highly dependent on foreign parts.

The CSIS report also states that:

> The greatest import penetration in the defense industrial base is in the components

and subassemblies tier, with nearly 19 percent of domestic consumption coming from foreign sources in 1986.

The defense industrial base shrunk dramatically during the 1980's. According to Gen. Alfred G. Hansen, commander, Air Force Logistics Command, U.S. Air Force.

There were 118,000 vendors who sold products to the military in 1982. Within five years, that number had dropped to less than 40,000.

In a recent report released by Ernst and Young concerning the key issues for the 1990's, a majority of industry and Government representatives agreed that conscious efforts must be made to prevent foreign suppliers from becoming predominant on the component/subcontractor level. There was general agreement among all respondents that conscious efforts must be made to "prevent foreign future domination of the industry." The problem of insufficient domestic productivity in the face of foreign manufacturers has reached a crisis point and as a result of "onshore" subcontractors, a smaller and weaker industrial base is evident.

The U.S. Government's support of domestic subcontractors pales in comparison with the investments rendered to foreign manufacturers by their respective governments. Japanese companies are encouraged to use the money alloted to them for specifically targeted research and development, thus cutting out any redundancy. The report, "A Strategic Industry at Risk" says that despite high investment rates relative to other United States industries, the United States microchip industry is being substantially outspent by its major Japanese competitors in research and development and the gap is growing larger. In 1988, Japanese capital spending in the semiconductor industry was almost $2 billion more than in the United States. The low levels of research and development in the United States as opposed to that abroad is robbing the entire defense industrial base of its competitive future.

The consequences are severe for the entire U.S. industrial base, not only the U.S. defense base. Jeff Faux of the Economic Policy Institute has said, "If we fail to become competitive in the next generation of electronic communications technologies, we will undercut the living standards of the next generation of Americans."

In an article published by the New York Times in January 1990 Prof. Susan Sanderson of the Rensselaer Polytechnic Institute's School of Management noted that American companies had gradually decided to pull out of consumer electronics manufacturing at the same time that foreign companies were making a long-term commitment to improving their design and production.

The time has come to support our domestic subcontractors over both the long and short term, to bolster our ailing industrial defense base and restore it to its previous status.

By providing incentives for prime contractors to nurture a domestic subcontractor base, section 212 of the bill, which is modeled after legislation I introduced early in this Congress, S. 495, will help restore our manufacturing competitiveness.

The global environment has changed dramatically over the last two decades, and the place of the United States in that environment is at risk as it never has been before. Our continued ability to lead depends on a strong and viable defense industrial base. That base in turn depends on strong subcontractors and components manufacturers. We need to act now to alleviate our current decline, and section 212 represents an important step in that direction. For that reason I commend it to my colleagues.

Mr. DIXON. Mr. President, I would like to recognize several members of the staff who worked very hard on this bill. They are Bill Mattae, my legislative director, and Charles Smith, my legislative assistant for defense.

From the Banking Committee staff, I would like to recognize our senior counsel, Patrick Mulloy and Chuck Schneider, a Presidential management intern serving with the committee.

Very valuable contributions to S. 1379 were also made by Ric Samans, senior legislative assistant on Chairman RIEGLE's personal staff.

Finally, I want to recognize and thank Bill Montalto, procurement policy counsel to the Committee on Small Business. He served as the principal staff draftsman on the Defense Production Act Amendments of 1990.[S03OC0-V2]{S14447}of 1990.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. DIXON. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 882.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes.

Mr. DIXON. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and the text of S. 1379, as amended, be inserted in lieu thereof; that the bill be read for the third time and passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 486), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 486) entitled "An act to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes" do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Defense Production Act Amendments of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; Table of Contents.
Sec. 2. Congressional findings.
TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950
PART A—DECLARATION OF POLICY
Sec. 101. Declaration of policy.
PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT
Sec. 111. Limitation on actions without congressional authorization.
Sec. 112. Limitations on the use of authority of the Defense Production Act.
PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT
Sec. 121. Expanding the reach of existing authorities under title III.
Sec. 122. Sales or transfers of excess industrial resources.
Sec. 123. Defense Production Act Fund.
Sec. 124. Offset policy.
Sec. 125. Annual report on impact of offsets.
Sec. 126. Assessment of subcontractor and supplier base.
PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT
Sec. 131. Small business.
Sec. 132. Definitions.
Sec. 133. Delegation of authority; appointment of personnel.
Sec. 134. Rules, regulations, and orders.
Sec. 135. Antitrust protections for voluntary agreements initiated by the President.
Sec. 136. Information on the defense industrial base.
Sec. 137. Antitrust protections for industry consortia.
Sec. 138. Intelligence study.
Sec. 139. Exemption from Administrative Procedure Act.
PART E—TECHNICAL AMENDMENTS
Sec. 141. Priorities in contracts and orders.
Sec. 142. Loan guarantees.
Sec. 143. Investigations; records; reports; subpoenas.
Sec. 144. Employment of personnel.
Sec. 145. Authorization of appropriations.
PART F—REPEALERS AND CONFORMING AMENDMENTS
Sec. 151. Synthetic fuel action.
Sec. 152. Authorization of appropriations.

Sec. 153. Joint Committee on Defense Production.
Sec. 154. Persons disqualified for employment.
Sec. 155. Feasibility study on uniform cost accounting standards; report submitted.
Sec. 156. National Commission on Supplies and Shortages.
PART G—REAUTHORIZATION OF SELECTED PROVISIONS
Sec. 161. Authorization of appropriations.
Sec. 162. Sunset.
TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS
PART A—INDUSTRIAL CAPABILITY AND NATIONAL SECURITY
Sec. 201. Industrial capabilities assessment.
PART B—ENCOURAGING IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE
Sec. 211. Recognition of modernized production systems and equipment in contract award and administration.
Sec. 212. Procurement of critical components or critical technology items.
Sec. 213. Sense of the Congress regarding the encouragement of investment.
PART C—MISCELLANEOUS
Sec. 221. GAO study of State foreign investment incentive programs.
Sec. 222. Discouraging unfair trade practices.
TITLE III—AMENDMENT TO RELATED LAWS
Sec. 301. Defense Production Act Fund projects.
TITLE IV—FAIR TRADE IN FINANCIAL SERVICES
Sec. 401. Short title.
Sec. 402. Effectuating the principle of national treatment for banks and bank holding companies.
Sec. 403. Effectuating the principle of national treatment for securities brokers and dealers.
Sec. 404. Effectuating the principle of national treatment for investment advisers.
Sec. 405. Conforming amendments specifying that national treatment includes effective market access.
TITLE V—EFFECTIVE DATES
Sec. 501. Effective dates.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) provides essential authority for—

(A) preserving and enhancing the defense industrial and technology base of the United States during peacetime;

(B) mobilizing the Nation's productive capacity for national defense during periods of national emergency;

(C) responding to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which would adversely affect the national defense preparedness of the United States; and

(2) amendments to such Act are needed to—

(A) improve its utility to effectively sustain and develop the efficiency of the Nation's existing productive capacity necessary to meet national defense requirements;

(B) establish a revolving fund for improved management of the resources dedicated to defense industrial preparedness and the conduct of the programs authorized under the Act;

(C) facilitate use of such Act to foster the development of emerging technologies and advanced processes by providing appropriate protections for joint undertakings in research, development, and production; and

(D) eliminate outdated provisions that detract from the Act's usefulness as a primary set of authorities for the maintenance and enhancement of the defense industrial and technology base of the United States.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

PART A—DECLARATION OF POLICY

SEC. 101. DECLARATION OF POLICY.

Section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended to read as follows:

"SEC. 2. DECLARATION OF POLICY.

"The vitality of the industrial and technology base of the United States is a foundation of national security. It provides the industrial and technological capabilities employed to meet national defense requirements, in peacetime and in time of national emergency. In peacetime, the health of the industrial and technology base contributes to the technological superiority of our defense equipment, which is a cornerstone of our national security strategy, and the efficiency with which defense equipment is developed and produced. In times of crisis, a healthy industrial base will be able to effectively provide the graduated response needed to effectively meet the demands of the emergency.

"To meet these requirements, this Act affords to the President an array of authorities to shape defense preparedness programs and to take appropriate steps to maintain and enhance the defense industrial and technology base.".

PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT

SEC. 111. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

Section 104 of the Defense Production Act of 1950 (50 U.S.C. App. 2074) is amended to read as follows:

"SEC. 104. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

"No provision of this Act shall be interpreted as providing for the imposition of wage or price controls without the prior authorization of such action by a joint resolution of Congress.".

SEC. 112. LIMITATIONS ON THE USE OF AUTHORITY OF THE DEFENSE PRODUCTION ACT.

Title I of the Defense Production Act of 1950 is amended by adding at the end the following new section:

"SEC. 104. CHEMICAL OR BIOLOGICAL WARFARE.

"No provision of this Act shall be exercised or interpreted to require action or compliance by any private person to assist in any way in the production of or other involvement in chemical or biological warfare capabilities except—

"(1) in time of war, or

"(2) in time of national emergency (A) as declared by joint resolution of Congress, or (B) upon the written authorization of the President, which power to authorize may not be delegated.".

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT

SEC. 121. EXPANDING THE REACH OF EXISTING AUTHORITIES UNDER TITLE III.

(a) GUARANTEE AUTHORITY.—Section 301 of the Defense Production Act of 1950 (50 U.S.C. App. 2091) is amended—

(1) in subsection (a)(1), by striking "to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense" and inserting "to expedite or expand production and deliveries or services under Government contracts for the procurement of industrial resources or a critical technology item for the national defense";

(2) by amending subsection (a)(3)(A) to read:

"(A) the guaranteed contract or operation is for industrial resources or a critical technology item which is essential to the national defense;";

(3) in subsection (a)(3)(B), by striking "the capability for the needed material or service" and inserting "the needed industrial resources or critical technology item";

(4) in subsection (e)(1)(A), by striking "Except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in subparagraph (D)";

(5) in subsection (e)(1)(C), by striking "$25,000,000" and inserting "$50,000,000"; and

(6) by adding at the end of subsection (e)(1) the following new subparagraph:

"(D) The requirements of subparagraphs (A), (B), and (C) may be waived during periods of national emergency declared by Congress or the President or upon a determination made by the President, on a nondelegable basis, that a specific guarantee must be promptly made to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(b) LOANS TO PRIVATE BUSINESS ENTERPRISES.—Section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended—

(1) in subsection (a), by striking "for the procurement of materials or the performance of services for the national defense" and inserting "for the procurement of industrial resources or a critical technology item for the national defense";

(2) in subsection (c)(1), by striking "No such loans may be made under this section, except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in paragraph (4), no loans may be made under this section";

(3) in subsection (c)(3), by striking "$25,000,000" and inserting "$50,000,000"; and

(4) in subsection (c), by adding at the end the following new paragraph:

"(4) The requirements of paragraphs (1), (2), and (3) of this subsection may be waived during periods of national emergency declared by Congress or the President, or upon a determination made by the President, on a nondelegable basis, that a specific guarantee must be promptly made to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(c) PURCHASES AND PURCHASE COMMITMENTS.—

(1) Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended to read as follows:

"(a)(1) To assist in carrying out the objectives of this Act, the President may make provision—

"(A) for purchases of or commitments to purchase an industrial resource or a critical technology item, for Government use or resale; and

"(B) for the encouragement of exploration, development, and mining of critical and strategic materials, and other materials.

"(2) Purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced except insofar as such domestically produced supply may be purchased for resale for industrial use or stockpiling.

"(3) No commodity purchased under this subsection shall be sold at less than—

"(A) the established ceiling price for such commodity, except that minerals, metals, and materials shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower, or

"(B) if no ceiling price has been established, the higher of the following: (i) The current domestic market price for such commodity, or (ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation as provided in section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427).

"(4) No purchase or commitment to purchase any imported agricultural commodity shall specify a delivery date which is more than one year after the expiration of this section.

"(5) Except as provided in paragraph (7), the President may not execute a contract under this subsection unless the President determines that—

"(A) the industrial resource or critical technology item is essential to the national defense;

"(B) without Presidential action under authority of this section, United States industry cannot reasonably be expected to provide the capability for the needed industrial resource or critical technology item in a timely manner;

"(C) purchases, purchase commitments, or other action pursuant to this section are the most cost-effective, expedient, and practical alternative method for meeting the need; and

"(D) the United States national defense demand for the industrial resource or critical technology item is equal to, or greater than the output of domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the purchase, purchase commitment, or other action.

"(6) Except as provided in paragraph (7), the President shall take no action under this section unless the industrial resource shortfall which such action is intended to correct has been identified in the Budget of the United States or amendments thereto, submitted to the Congress and accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of the preceding sentence. Any such action may be taken only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to the preceding sentence. If the taking of any action or actions under this section to correct an industrial resource shortfall would cause the aggregate outstanding amount of all such actions for such industrial resource shortfall to exceed $50,000,000, any such action or actions may be taken only if specifically authorized by law.

"(7) The requirements of paragraphs (1) through (6) may be waived during periods of national emergency declared by Congress or the President, or upon a determination made by the President, on a nondelegable basis, that a specific purchase or purchase commitment must be promptly made to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(2) Section 303(b) of such Act is amended by striking "September 30, 1995" and inserting "a date that is not more than 10 years from the date such purchase, purchase commitment, or sale was initially made".

SEC. 122. SALES OR TRANSFERS OF EXCESS INDUSTRIAL RESOURCES.

Section 303(f) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(f)) is amended to read as follows:

"(f) Industrial resources acquired pursuant to the provisions of this section which, in the judgment of the President, are in excess of the needs of programs under this Act, shall be sold for industrial use pursuant to such other Federal Government programs as are authorized by law or transferred to the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.), when the President deems such action to be in the public interest. Sales or transfers made pursuant to this subsection shall be charged against or reimbursed from funds appropriated to such other Federal Government programs or the National Defense Stockpile to which such resources were sold or transferred, at the current domestic market price for such industrial resources. For the purposes of subsection (c)(2), such sales or transfers shall be considered transactions entered into pursuant to the authority of subsection (a).".

SEC. 123. DEFENSE PRODUCTION ACT FUND.

Section 304 of the Defense Production Act of 1950 (50 U.S.C. App. 2094) is amended to read as follows:

"SEC. 304. DEFENSE PRODUCTION ACT FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a separate fund to be known as the Defense Production Act Fund (hereinafter referred to as 'the Fund').

"(b) MONEYS IN FUND.—The following monies shall be credited to the Fund:

"(1) All monies appropriated hereafter for the Fund, as authorized by section 711(c).

"(2) All monies received hereafter on transactions entered into pursuant to section 303.

"(c) USE OF FUND.—The Fund shall be available to carry out the provisions and purposes of this title, subject to the limitations set forth in this Act and in appropriations Acts.

"(d) DURATION OF FUND.—Monies in the Fund shall remain available until expended.

"(e) FUND BALANCE.—The Fund balance at the close of each fiscal year shall not exceed $250,000,000, excluding any monies appropriated to the Fund during that fiscal year. If at the close of any fiscal year the Fund balance exceeds such amount, the amount in excess of $250,000,000 shall be paid into the general fund of the Treasury.

"(f) FUND MANAGER.—The Secretary of the Treasury shall designate a Fund manager. The duties of the Fund manager shall include—

"(1) determining the liability of the Fund in accordance with subsection (g);

"(2) ensuring the visibility and accountability of transactions engaged in through the Fund to the Secretaries of Defense, Treasury, and Commerce, and to the Congress; and

"(3) reporting to Congress each year regarding fund activities during the previous fiscal year.

"(g) LIABILITIES AGAINST FUND.—

"(1) IN GENERAL.—When any agreement hereafter entered into pursuant to this title imposes contingent liabilities upon the United States, such liability shall be considered an obligation against the Fund. The amount of such obligation shall be determined for each fiscal year in accordance with paragraph (2).

"(2) DETERMINATION OF LIABILITY.—For purposes of paragraph (1), the amount of obligations against the Fund shall be equal to the aggregate outlays required by purchase or purchase commitment contracts or financing agreements less (A) the anticipated aggregate receipts from resale of materials purchased with moneys from the Fund, and (B) the anticipated receipts from the direct sale of materials by the producer to customers. Anticipated receipts and anticipated reductions in purchase commitments shall be included under the preceding sentence only if a written plan for sale of materials has been developed, specifying probable customers, amount, time of the sales, and sales price.".

SEC. 124. OFFSET POLICY.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by adding a new subsection (a) as follows:

"(a) OFFSET POLICY.—

"(1) IN GENERAL.—Recognizing that certain offsets for military exports are economically inefficient and market distorting, and mindful of the need to minimize the adverse effects of offsets in military exports while ensuring that the ability of United States firms to compete for military export sales is not undermined, it shall be the policy of the United States Government that—

"(A) no agency of the United States Government shall encourage, enter directly into, or commit United States firms to any offset arrangement in connection with the sale of defense goods or services to foreign governments;

"(B) United States Government funds shall not be used to finance offsets in security assistance transactions except in accordance with policies and procedures that were in existence as of the date of enactment of this Act;

"(C) nothing in this section shall prevent agencies of the United States Government from fulfilling obligations incurred through international agreements entered into prior to the enactment of this Act;

"(D) the decision whether to engage in offsets, and the responsibility for negotiating and implementing offset arrangements, resides with the companies involved; and

"(E) any exceptions to the policy stated by this section shall be approved by the President after receiving the recommendation of the National Security Council.

"(2) CONSULTATION.—The Secretary of Defense, in coordination with the Secretary of

State, shall lead an interagency team to consult with foreign nations on limiting the adverse effects of offsets in defense procurement. The Secretary of Defense shall report annually on the the date of enactment of this Act, on the results of these consultations to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.".

SEC. 125. ANNUAL REPORT ON IMPACT OF OFFSETS.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) (as amended by section 124 of this Act) is amended—

(1) in subsection (b)—

(A) by striking "(b) Not later" and inserting:

"(b) ANNUAL REPORT ON IMPACT OF OFFSETS.—

"(1) REPORT REQUIRED.—Not later";

(B) by striking the second sentence; and

(C) by adding at the end the following new paragraph:

"(2) DUTIES OF THE SECRETARY OF COMMERCE.—The Secretary of Commerce shall—

"(A) prepare the report required by paragraph (1);

"(B) consult with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative in preparation of such report; and

"(C) function as the President's Executive Agent for carrying out the requirements of this section.";

(2) by amending subsection (c) to read as follows:

"(c) INTERAGENCY STUDIES AND RELATED DATA.—

"(1) PURPOSE OF REPORT.—Each report required under subsection (a) shall identify the cumulative effects (indirect as well as direct) of offset agreements on—

"(A) the full range of domestic defense productive capability (with special attention to the firms serving as lower-tier subcontractors or suppliers); and

"(B) the domestic defense technology base as a consequence of the technology transfers associated with such offset agreements.

"(2) USE OF DATA.—Data developed or compiled by any agency while conducting any interagency study or other independent study or analysis shall be made available to the Secretary of Commerce to facilitate the Secretary in executing his responsibilities with respect to trade offset and countertrade policy development."; and

(3) by adding at the end the following new subsections:

"(d) NOTICE OF OFFSET AGREEMENTS.—

"(1) IN GENERAL.—If a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset agreement exceeding $5,000,000 in value, such firm shall furnish to the official designated in the regulations promulgated pursuant to paragraph (2) information concerning such sale.

"(2) REGULATIONS.—The information to be furnished shall be prescribed in regulations promulgated by the Secretary of Commerce. Such regulations shall provide protection from public disclosure for such information, unless public disclosure is subsequently specifically authorized by the firm furnishing the information. Nothing in this paragraph authorizes the withholding of such information from the Congress.

"(e) CONTENTS OF REPORT.—

"(1) IN GENERAL.—Each report under subsection (b) shall include—

"(A) a net assessment of the elements of the industrial base and technology base covered by the report;

"(B) recommendations for appropriate remedial action under the authorities provided by this Act, or other law or regulations;

"(C) a summary of the findings and recommendations of any interagency studies conducted during the reporting period under subsection (c);

"(D) a summary of offset arrangements concluded during the reporting period for which information has been furnished pursuant to subsection (d); and

"(E) a summary and analysis of any bilateral and multilateral negotiations relating to use of offsets completed during the reporting period.

"(2) ALTERNATIVE FINDINGS OR RECOMMENDATIONS.—Each report shall include any alternative findings or recommendations offered by any departmental Secretary, agency head, or the United States Trade Representative to the Secretary of Commerce.

"(f) UTILIZATION OF ANNUAL REPORT IN NEGOTIATIONS.—The findings and recommendations of the reports required by subsection (b), and any interagency reports and analyses shall be considered by representatives of the United States during bilateral and multilateral negotiations to minimize the adverse effects of offsets.".

SEC. 126. ASSESSMENT OF SUBCONTRACTOR AND SUPPLIER BASE.

Title III of the Defense Production Act of 1950 is amended by adding at the end the following new section:

"SEC. 310. ASSESSMENT OF SUBCONTRACTOR AND SUPPLIER BASE.

"(a) IN GENERAL.—

"(1) REPORT REQUIRED.—At the intervals prescribed by subsection (b), the President shall issue a report of an assessment of those subsectors of the economy of the United States which have been identified as being critical to the development and production of components required for the production of weapons systems and other items of military equipment, and the provision of services, essential to the national defense. The report may provide specific policy recommendations to correct deficiencies identified in the assessment, which would help to strengthen domestic sources.

"(2) MATTERS TO BE CONSIDERED.—The assessment shall consider—

"(A) capacity of domestic sources, especially commercial firms, to fulfill peacetime requirements and graduated mobilization requirements for various items of supply and services;

"(B) trends relating to the capabilities of domestic sources to meet such peacetime and mobilization requirements;

"(C) extent of foreign dependencies for various items of military materiel; and

"(D) reasons for the decline of the capabilities of selected sectors of the United States economy necessary to meet peacetime and mobilization requirements, including stability of defense requirements, acquisition policies, vertical integration of various segments of the industrial base, superiority of foreign technology and production efficiencies, foreign government support of nondomestic sources, and offset arrangements.

"(b) TIME FOR ISSUANCE.—(1) The report required by subsection (a) shall be issued not later than July 1 of each odd-numbered year, based upon data from the prior fiscal year and such prior fiscal years as may be appropriate.

"(2) The first report under this section shall be issued by July 1, 1993.".

PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT

SEC. 131. SMALL BUSINESS.

Section 701 of the Defense Production Act of 1950 (50 U.S.C. App. 2151) is amended to read as follows:

"SEC. 701. SMALL BUSINESS.

"(a) PARTICIPATION.—Small business concerns shall be given the maximum practicable opportunity to participate as contractors, and subcontractors at various tiers, in all programs to maintain and strengthen the Nation's industrial base and technology base undertaken pursuant to this Act.

"(b) ADMINISTRATION OF ACT.—In administering the programs, implementing regulations, policies, and procedures under this Act, requests, applications, or appeals from small business concerns shall, to the maximum extent practicable, be expeditiously handled.

"(c) ALLOCATIONS UNDER SECTION 101.—Whenever the President invokes the power to allocate any material pursuant to section 101 of this Act, small business concerns shall be accorded, so far as practicable, a fair share of such material, in proportion to the share received by such business concerns under normal conditions, giving such special consideration as may be possible to new small business concerns or individual firms facing undue hardship.".

SEC. 132. DEFINITIONS.

Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended to read as follows:

"SEC. 702. DEFINITIONS.

As used in this Act—

"(1) CRITICAL COMPONENT.—The term 'critical component' shall include such components, subsystems, systems, and related special tooling and test equipment essential to the production, repair, maintenance, or operation of weapon systems or other items of military equipment as are identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States.

"(2) CRITICAL TECHNOLOGY.—The term 'critical technology' shall include a technology that is included in one or more of the plans submitted pursuant to section 2508 of title 10, United States Code, unless subsequently deleted, or such other emerging or dual use technology as may be designated by the President. The President shall cause an unclassified list of critical or emerging technologies to be maintained and published at least annually in the Federal Register.

"(3) CRITICAL TECHNOLOGY ITEM.—The term 'critical technology item' shall mean materials directly employing, derived from, or utilizing a critical technology.

"(4) DEFENSE CONTRACTOR.—The term 'defense contractor' means any person who enters into a contract with the United States to furnish materials, industrial resources, or a critical technology, or to perform services for the national defense.

"(5) DOMESTIC SOURCE.—The term 'domestic source' means a business entity—

"(A) that performs in the United States or Canada substantially all of the research and development, engineering, manufacturing, and production activities required of such firm under a contract with the United States relating to a critical component or a critical technology item, and

"(B) that procures from entities described in subparagraph (A) substantially all of the components and assemblies required under a contract with the United States relating to

a critical component or critical technology item.

"(6) FACILITIES.—The term 'facilities' includes all types of buildings, structures, or other improvements to real property (but excluding farms, churches or other places of worship, and private dwelling houses), and services relating to the use thereof.

"(7) INDUSTRIAL RESOURCES.—The term 'industrial resources' means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) needed to establish or maintain an efficient and modern national defense industrial capacity.

"(8) MATERIALS.—The term 'materials' shall include raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, items of supply, and such technical information or services ancillary to the use thereof.

"(9) NATIONAL DEFENSE.—The term 'national defense' means programs for military and energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.

"(10) NONDOMESTIC SOURCE.—The term 'nondomestic source' means a business entity other than a 'domestic source'.

"(11) PERSON.—The term 'person' includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof, or any State or local government or agency thereof.

"(12) SERVICES.—The term 'services' includes any effort that is needed or incidental to—

"(A) the development, production, processing, distribution, delivery, or use of an industrial resource or a critical technology item, or

"(B) the construction of facilities.".

SEC. 133. DELEGATION OF AUTHORITY; APPOINTMENT OF PERSONNEL.

Section 703 of the Defense Production Act of 1950 (50 U.S.C. App. 2153) is amended to read as follows:

"SEC. 703. DELEGATION AND CIVILIAN PERSONNEL.

"(a) DELEGATION OF AUTHORITY.—Except as otherwise specifically provided, the President may—

"(1) delegate any power or authority conferred upon him by this Act to any civilian officer of the Government appointed by and with the advice and consent of the Senate;

"(2) except with regard to title I, authorize redelegation by that officer to an officer or employee of that officer who—

"(A) if a member of the armed forces, is a general or flag officer; or

"(B) if a civilian, is serving in a position in the grade GS-16 or above (or in a comparable or higher position under any other schedule for civilian officers or employees); and

"(3) establish such new agencies as may be necessary to manage Federal emergency preparedness programs.

"(b) CIVILIAN PERSONNEL.—Any officer or agency head may appoint civilian personnel without regard to section 5331(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may fix the rate of basic pay for such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule, as the President deems appropriate to carry out the provisions of this Act.".

SEC. 134. RULES, REGULATIONS, AND ORDERS.

Section 704 of the Defense Production Act of 1950 (50 U.S.C. App. 2154) is amended to read as follows:

"SEC. 704. RULES, REGULATIONS, AND ORDERS.

"The President may make such rules, regulations, and orders as he deems appropriate to carry out the provisions of this Act. This authority shall be exercised in conformity with section 709 of this Act.".

SEC. 135. ANTITRUST PROTECTIONS FOR VOLUNTARY AGREEMENTS INITIATED BY THE PRESIDENT.

Section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158) is amended—

(1) in subsection (a), by striking "and subsection (j) of section 708A";

(2) by striking subsection (b) and inserting the following:

"(b) As used in this section, the term—

"(1) 'antitrust laws' means—

"(A) the Sherman Act (15 U.S.C. 1 et seq.);

"(B) the Clayton Act (15 U.S.C. 12 et seq.);

"(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(D) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9);

"(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a); and

"(F) the Webb-Pomerene Act (15 U.S.C. 61-65).

"(2) 'plan of action' means any of one or more documented methods adopted by participants in an existing voluntary agreement to implement that agreement.";

(3) in subsection (c)(1)—

(A) by striking "Except as otherwise provided in section 708A(o), upon" and inserting in lieu thereof "Upon"; and

(B) by inserting "and plans of action" after "voluntary agreements";

(4) in subsection (c)(2), by striking out the last sentence;

(5) in subsection (d)(1), by striking ", and the meetings of such committees shall be open to the public." in the second sentence thereof the inserting in lieu thereof ". Meetings of such committees shall be open to the public unless the individual designated by the President in subsection (c)(2) finds that the matter or matters to be discussed at such meetings fall within the purview of matters described in subsection (b)(1), (b)(3), or (b)(4) of section 552 of title 5, United States Code.";

(6) in subsection (d)(2), by striking out "section 552 (b)(1) and (b)(3)" and inserting in lieu thereof subsections (b)(1), (b)(3), and (b)(4) of section 552";

(7) in subsection (e)(1), by inserting "and plans of action" after "voluntary agreements";

(8) in subsection (e)(3)—

(A) in subparagraph (D), by striking out "subsection (b)(1) or (b)(3) of section 552" and inserting in lieu thereof "subsection (b)(1), (b)(3), or (b)(4) of section 552"; and

(B) in subparagraph (G), by striking out "subsections (b)(1) and (b)(3) of section 552" and inserting in lieu thereof "subsection (b)(1), (b)(3), and (b)(4) of section 552";

(9) in subsections (f) and (g)—

(A) by inserting "or plan of action" after "voluntary agreement" each place it appears; and

(B) by inserting "or plan" after "the agreement" each place it appears;

(10) in subsection (h)—

(A) by inserting "and plans of action" after "voluntary agreements";

(B) by inserting "or plan of action" after "voluntary agreement" each place it appears;

(C) in subsection (h)(3) by striking out "subsections (b)(1) and (b)(3) of section 552" and inserting in lieu thereof "subsections (b)(1), (b)(3), and (b)(4) of section 552"; and

(D) in subsections (h)(7) and (h)(8) by striking out "subsection (b)(1) or (b)(3) of section 552" and inserting in lieu thereof "subsections (b)(1), (b)(3), or (b)(4) of section 552";

(11) by striking subsection (j) and inserting the following:

"(j)(1) There shall be available as a defense for any person to any civil or criminal action brought under the antitrust laws (or any similar law of any State) with respect to any action taken to develop or carry out any voluntary agreement or plan of action under this section (provided that such action was not taken for the purpose of injuring competition) that—

"(A) such action was taken—

"(i) in the course of developing either a voluntary agreement, the making of which was initiated by the President, or a plan of action adopted thereunder, or

"(ii) to carry out either a voluntary agreement authorized and approved in accordance with this section, the making of which was initiated by the President, or a plan of action adopted thereunder, and

"(B) such person complied with the requirements of this section and the rules promulgated hereunder, and acted in accordance with the terms of the voluntary agreement or plan of action.

"(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if and to the extent that the person asserting the defense demonstrates that the action was specified in, or within the reasonable contemplation of an approved voluntary agreement the making of which was initiated by the President or any approved plan of action adopted thereunder.

"(3) Persons interposing the defense provided by this subsection shall have the burden of proof upon the elements of the defense, except that the burden shall be on the person against whom the defense is asserted with respect to whether the action was taken for the purpose of injuring competition.";

(12) in subsection (k), by inserting "and plans of action" after "voluntary agreements" each place it appears;

(13) in subsection (l), by inserting "or plan of action" after "voluntary agreement"; and

(14) by adding a new subsection (o), as follows:

"(o) In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.".

SEC. 136. INFORMATION ON THE DEFENSE INDUSTRIAL BASE.

Title VII of the Defense Production Act is amended by inserting after section 705 the following:

"SEC. 705A. INFORMATION ON THE DEFENSE INDUSTRIAL BASE.

"(a) IN GENERAL.—The President shall implement a systematic, continuous procedure to collect and analyze information necessary to evaluate the adequacy of industrial capacity and capability in items and tech-

nologies essential to the execution of the national security strategy of the United States. Information generated by such procedure shall constitute a basis for decisions made with respect to the use of authority under title III and shall be integrated into the decisionmaking process pertaining to the use of such authority.

"(b) SOURCES OF INFORMATION.—

"(1) CONSULTATION REGARDING THE CENSUS OF MANUFACTURERS.—The Bureau of the Census shall consult with the Office of the Secretary of Defense and the Federal Emergency Management Agency with a view to improving the application of information derived from the Census of Manufacturers to the purposes of this section. Such consultations shall address improvements in the level of detail, timeliness and availability of input/output analyses derived from the Census of Manufacturers necessary to facilitate the purposes of this section.

"(2) ADDITIONAL DATA.—The President shall implement a systematic, continuous procedure to collect and analyze information regarding the extent of foreign dependence in industrial parts, components and technologies essential to defense production. Such procedure shall address defense production with respect to the operations of prime contractors and at least the first two tiers of subcontractors. To the extent feasible and appropriate, the President shall build upon existing methods of data collection and analysis and shall integrate information available from intelligence agencies with respect to industrial and technological conditions in foreign countries. In establishing such procedure, the Secretary may place initial emphasis on the production of parts and components relating to priority lists such as the Commanders' in Chief Critical Items List and the technologies identified as critical in the annual defense critical technologies plan submitted pursuant to section 2508 of title 10, United States Code.

"(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 137. INTELLIGENCE STUDY.

(a) IN GENERAL.—In order to assist the Congress in its oversight responsibilities with respect to section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170), the Central Intelligence Agency jointly with the Federal Bureau of Investigation shall complete and furnish to the Congress within one year after the date of enactment of this section and upon the expiration of every 4 years thereafter a report which—

(1) evaluates whether there is credible evidence of a coordinated strategy by one or more foreign governments or companies to acquire United States companies involved in research, development, or production of critical technologies for which the United States is a leading producer and assesses the extent and character of any such strategy; and

(2) evaluates whether there are industrial espionage activities directed by foreign governments against private United States companies aimed at obtaining commercial secrets related to critical technologies and assesses the extent and character of any such activities.

(b) DEFINITION.—For purposes of this section, the term "critical technologies" means technologies identified under title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976 or other critical technology, critical components, or critical technology items essential to national defense identified pursuant to section 705A of the Defense Production Act.

(c) RELEASE OF UNCLASSIFIED STUDY.—The report required by this section may be classified. An unclassified version of the report shall be available to the public.

SEC. 138. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.

Section 709 of the Defense Production Act of 1950 (50 U.S.C. App. 2159) is amended to read as follows:

"SEC. 709. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.

"Any rule, regulation, order, or amendment thereto issued under the authority of this Act shall not be subject to the requirements of sections 551 through 559 of title 5, United States Code. Each proposed rule or regulation, and each amendment thereto, shall be published for public comment in the Federal Register in conformity with the requirements of section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) and chapter 6 of title 5, United States Code.".

PART E—TECHNICAL AMENDMENTS

SEC. 141. PRIORITIES IN CONTRACTS AND ORDERS.

Section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071) is amended—

(1) in subsection (a)(2) by striking "materials and facilities" and inserting "materials, services, and facilities";

(2) in subsection (c)(1) by striking "supplies of materials and equipment" and inserting "materials, equipment, and services";

(3) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) The authority granted by this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials, service, and facilities in the marketplace, unless the President finds that—

"(A) such materials, services, and facilities are scarce, critical, and essential—

"(i) to maintain or expand exploration, production, refining, transportation,

"(ii) to conserve energy supplies; or

"(iii) to construct or maintain energy facilities; and

"(B) maintenance or expansion of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection."; and

(d) by redesignating paragraph (4) as paragraph (3).

SEC. 142. LOAN GUARANTEES.

Section 301(e)(2)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(2)(B)) is amended by striking "and to the Committees on Banking and Currency of the respective Houses" and inserting "and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives".

SEC. 143. INVESTIGATIONS; RECORDS; REPORTS; SUBPOENAS.

Section 705 of the Defense Production Act of 1950 (50 U.S.C. App. 2155) is amended—

(1) in subsection (a), by striking "subpena" and inserting "subpoena";

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively;

(3) in subsection (c) (as redesignated by paragraph (2)), by striking "$1,000" and inserting "$10,000"; and

(4) in subsection (d) (as redesignated by paragraph (2)), by striking all after the first sentence.

SEC. 144. EMPLOYMENT OF PERSONNEL.

Section 710 of the Defense Production Act of 1950 (50 U.S.C. App. 2160) is amended—

(1) in subsection (b), by striking paragraph (6) and inserting the following:

"(6)(A) The Secretary of the Department or head of the agency making the appointment shall publish a notice in the Federal Register including the name of the appointee, the employing department or agency, the title of the position to which such individual is being appointed, the name of such individual's employer when selected for appointment, and a statement that the individual has made a filing in accordance with subparagraph (B) which is available for inspection.

"(B) Each individual selected for appointment under the authority of this subsection shall furnish to the departmental Secretary or agency head making the appointment—

"(i) a list of the names of each corporation, partnership, or other business in which such individual has an interest, and

"(ii) a list of any financial interest such individual had during the 60-day period preceding such appointment, including any office or directorship held in a corporation.

"(C) Each individual shall submit the information described in subparagraph (B) annually on the anniversary of such individual's appointment.";

(2) in paragraph (7) of subsection (b)—

(A) by striking "Chairman of the United States Civil Service Commission" and inserting "Director of the Office of Personnel Management";

(B) by striking "and the Joint Committee on Defense Production"; and

(3) in paragraph (8) of subsection (b), by striking "transportation and not to exceed $15 per diem in lieu of subsistence while away from their homes and regular places of business pursuant to such appointment" and inserting "reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions for which they were appointed in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code".

SEC. 145. AUTHORIZATION OF APPROPRIATIONS.

Section 711(a)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended by striking "Bureau of the Budget" and inserting "Office of Management and Budget".

PART F—REPEALERS AND CONFORMING AMENDMENTS

SEC. 151. SYNTHETIC FUEL ACTION.

Section 307 of the Defense Production Act of 1950 (50 U.S.C. App. 2097) is repealed.

SEC. 152. VOLUNTARY AGREEMENTS.

Section 708A of the Defense Production Act of 1950 (50 U.S.C. App. 2158a) is repealed.

SEC. 153. AUTHORIZATION OF APPROPRIATIONS.

Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended—

(1) by striking subsection (b),

(2) by striking "(a)(1) Except as provided in paragraph (2) and paragraph (4)" and inserting "(a) Except as provided in subsection (c)",

(3) by striking in subsection (a) in the parenthetical "and for the payment of interest under subsection (b) of this section", and

(4) by striking paragraph (2) and redesignating paragraph (3) as subsection (b), and

(5) by striking subparagraph (B) of paragraph (4) and redesignating paragraph (4)(A) as subsection (c).

SEC. 154. JOINT COMMITTEE ON DEFENSE PRODUCTION.

Section 712 of the Defense Production Act of 1950 (50 U.S.C. App. 2162) is repealed.

SEC. 155. PERSONS DISQUALIFIED FOR EMPLOYMENT.

Section 716 of the Defense Production Act of 1950 (50 U.S.C. App. 2165) is repealed.

SEC. 156. FEASIBILITY STUDY ON UNIFORM COST ACCOUNTING STANDARDS; REPORT SUBMITTED.

Section 718 of the Defense Production Act of 1950 (50 U.S.C. App. 2167) is repealed.

SEC. 157. NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES.

Section 720 of the Defense Production Act of 1950 (50 U.S.C. App. 2169) is repealed.

PART G—REAUTHORIZATION OF SELECTED PROVISIONS

SEC. 161. AUTHORIZATION OF APPROPRIATIONS.

Section 711(c) of the Defense Production Act of 1950 (as amended by section 143 of this Act) is amended to read as follows:

"(c) There are authorized to be appropriated for fiscal years 1991, 1992, and 1993 not to exceed $250,000,000 to carry out the provisions of sections 301, 302, and 303 of this Act.".

SEC. 162. SUNSET.

Section 717 of the Defense Production Act of 1950 (50 U.S.C. App. 2166) is amended to read as follows:

"SEC. 717. SUNSET.

"(a) IN GENERAL.—The following provisions of this Act shall terminate at the close of September 30, 1993:

"(1) Title I of this Act, and all authority conferred thereunder.

"(2) Sections 301, 302, 303, and 304 of this Act, and all authority conferred thereunder.

"(3) Sections 701, 702, 703, 704, 705, 706, 707, 708, and 711 of this Act, and all authority conferred thereunder.

"(b) EXPIRED PROVISIONS.—The following provisions of this Act terminate at the close of June 30, 1953:

"(1) Title II and title VI of this Act, and all authority conferred thereunder.

"(2) Title IV and title V of this Act, and all authority conferred thereunder.

"(c) CONTINUOUS EFFECT.—Except as otherwise provided, all other provisions of this Act, and all authority conferred thereunder, shall remain in effect.

"(d) SAVINGS PROVISION.—The termination of any section of this Act, or any agency or corporation utilized under this Act shall not affect the disbursement of funds under, or the carrying out of, any contract, guarantee, commitment or other obligation entered into pursuant to this Act prior to the date of such termination, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this Act, or the taking of any action (including the making of new guarantees) determined by a guaranteeing agency to be necessary to accomplish the orderly liquidation, adjustment or settlement of any loans guaranteed under this Act, including actions considered necessary to avoid undue hardship to borrowers in reconverting to normal civilian production; and all of the authority granted to the President, guaranteeing agencies, and fiscal agents under section 301 of this Act shall be applicable to actions taken pursuant to the authority contained in this subsection.".

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

PART A—INDUSTRIAL CAPABILITY AND NATIONAL SECURITY

SEC. 201. INDUSTRIAL CAPABILITIES ASSESSMENT.

(a) POLICY.—The national security of the United States would benefit from greater integration of national economic policies (including tax and trade) and national security policies.

(b) CONDUCT ASSESSMENT.—The President shall promptly conduct, through such means as may be appropriate, an Industrial Capabilities Assessment as described in subsection (c).

(c) MATTERS TO BE ASSESSED.—The assessment required by subsection (b) shall include:

(1) An analysis, on an ongoing basis, of the demands to be placed upon industry by the national defense plans and industry's capabilities to fulfill those expectations in peacetime as well as in time of war or national emergency.

(2) A review of major Government policies and their impact on the defense industrial and technology base.

(3) A process for periodic industry-wide assessment of technological advancement and production capabilities in relation to national security objectives.

(4) A review of existing industrial policy objectives, laws, and regulations, and recommendations to the President for their modification to foster industrial innovation, modernization, and productivity.

(5) Proposals for selectively expanding national defense production to respond to graduated levels of mobilization.

(6) One or more exercises to assess the capability of the defense industry's capability to respond to increased demands for defense materiel and services under various graduated mobilization response conditions.

PART B—ENCOURAGING IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

SEC. 211. RECOGNITION OF MODERNIZED PRODUCTION SYSTEMS AND EQUIPMENT IN CONTRACT AWARD AND ADMINISTRATION.

(a) IN GENERAL.—The single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), shall be amended to specify the circumstances under which an acquisition plan for any major system acquisition, or any other acquisition program designated by the Secretary or agency head responsible for such acquisition, shall provide for contract solicitation provisions which encourage competing offerors to acquire for utilization in the performance of the contract modern industrial facilities and production systems (including hardware and software), and other modern production equipment, that increase the productivity of the offerors and reduce the costs of production.

(b) AUTHORIZED SOLICITATION PROVISIONS.—Contract solicitation provisions referred to in subsection (a) may include any of the following provisions:

(1) An evaluation advantage in making the contract award determination.

(2) A provision for the contractor to share in any demonstrated cost savings that are attributable to increased productivity resulting from the following contractor actions not required by the contract—

(A) the acquisition and utilization of modern industrial facilities and production systems (including hardware and software), and other modern production equipment, for the performance of the contract; or

(B) the utilization of other manufacturing technology improvements in the performance of the contract.

SEC. 212. PROCUREMENT OF CRITICAL COMPONENTS OR CRITICAL TECHNOLOGY ITEMS.

(a) ACQUISITION REGULATIONS REQUIRED.—Within 180 days of the date of enactment of this Act, the single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), shall be modified to provide for the solicitation, award, and administration of contracts for the procurement of critical components or critical technology items in accordance with provisions of this section.

(b) REQUIRED SOLICITATION PROVISIONS.—Except as provided in subsection (c), any solicitation for the procurement of critical components or critical technology items shall—

(1) specify the minimum percentage of the total estimated value of the contract that is to be performed by one or more domestic firms;

(2) provide for the attainment of such requirement by the firm as prime contractor, or by subcontractors pursuant to a subcontracting plan submitted with the prime contractor's offer;

(3) specificy that a source selection factor relating to the requirement specified in paragraph (1) shall accord—

(A) such source selection factor a value not to exceed 10 percent of the total evaluation points for all source selection factors specified in the solicitation; and

(B) such evaluation points in proportion to the extent to which each offer meets or exceeds the specified percentage;

(4) provide that attainment of the percentage specified in the offer of the firm receiving the award shall be a material element of contractual performance; and

(5) require the contractor to—

(A) identify each subcontractor whose performance is to be counted towards attainment of the contractual requirement specified pursuant to paragraph (1); and

(B) provide prompt notice to the contracting officer after replacing any such subcontractor.

(c) WAIVER OF SOLICITATION PROVISIONS.—(1) The regulations required by subsection (a) may specify circumstances under which the solicitation provisions required by subsection (b) may be waived with respect to a specific solicitation upon a determination by the contracting officer that the use of such solicitation provisions is likely to result in a significant adverse impact on the national interests of the United States.

(2) The contracting officer's determination shall be—

(A) supported by specific written findings which justify such determination; and

(B) approved by the senior procurement executive of the department or agency (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) or a designee of such officer.

(3) Copies of waiver determinations approved pursuant to subsection (b) (including the supporting written justifications and approvals) shall be made available upon request to—

(A) the public, consistent with the provisions of section 552 of title 5, or

(B) any member, or duly constituted committee, of the Congress.

(d) CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.—The President, acting through the Secretary of Defense, shall—

(1) determine the components or items that are critical components or critical technology items; and

(2) publish a list of such critical components and critical technology items in the Federal Acquisition Regulation.

(e) DEFINITIONS.—For the purpose of this section—

(1) the term "domestic firm" has the same meaning as the term "domestic source" in section 702 of the Defense Production Act of 1950; and

(2) the terms "critical components" and "critical technology items" have the same meanings as in section 702 of the Defense Production Act of 1950.

SEC. 213. SUSTAINING INVESTMENT.

It is the sense of the Congress that, in order to encourage investment to maintain our Nation's technological leadership, to preserve the strength of our industrial base, and to encourage contractors to invest in advanced manufacturing technology, advanced production equipment, and advanced manufacturing processes, the Secretary of Defense as part of his implementation of changes to defense acquisition policies pursuant to the Defense Management Review shall consider—

(1) full allowability of independent research and development/bid and proposal costs;

(2) appropriate regulatory changes to increase the progress payment rates payable under contracts; and

(3) an increase of not more than 10 percent in the amount which would otherwise be reimbursable to a contractor as the Government's share of costs incurred for the acquisition of production special tooling, production special test equipment, and production special systems (including hardware and software) for use in the performance of the contract.

PART C—MISCELLANEOUS

SEC. 221. GAO STUDY OF STATE FOREIGN INVESTMENT INCENTIVE PROGRAMS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of State incentive programs used to attract foreign investment. In conducting such study, the Comptroller General shall evaluate the costs and benefits of such programs, including job creation and economic growth, as well as potential adverse economic effects on United States firms, and recommend what measures the States might take, if any, to ensure that the economic benefits of such programs warrant the costs.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Comptroller General shall transmit to the Congress a report on the study under subsection (a).

SEC. 222. DISCOURAGING UNFAIR TRADE PRACTICES.

(a) SUSPENSION OR DEBARMENT AUTHORIZED.—Subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) shall be amended to specify the circumstances under which a contractor, who has engaged in an unfair trade practice, as defined in subsection (b), may be found to presently lack such business integrity or business honesty that seriously and directly affects the responsibility of the contractor to perform any contract awarded by the Federal Government or perform a subcontract under such a contract.

(b) DEFINITIONS.—For purposes of this section, the term "unfair trade practice" means the commission of any of the following acts by a contractor:

(1) An unfair trade practice, as determined by the International Trade Commission, for a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

(2) A violation of any agreement of the Coordinating Committee on Export Controls or any similar bilateral export control agreement, as determined by the Secretary of Commerce.

(3) A knowingly false statement regarding a material element of a certification concerning the foreign content of an item of supply, as determined by the Secretary of the department or the head of the agency to which such certificate was furnished.

TITLE III—AMENDMENT TO RELATED LAWS

SEC. 301. DEFENSE PRODUCTION ACT FUND PROJECTS.

Section 2502 of title 10, United States Code, is amended by adding at the end the following:

"(d) DEFENSE PRODUCTION ACT FUND PROJECTS.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall review and approve projects recommended for support through the Defense Production Act Fund pursuant to the authorities provided by title III of the Defense Production Act of 1950.".

TITLE IV—FAIR TRADE IN FINANCIAL SERVICES

SEC. 401. SHORT TITLE.

This title may be cited as the "Fair Trade in Financial Services Act of 1990".

SEC. 402. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"NATIONAL TREATMENT

"SEC. 15. (a) PURPOSES.—This section is intended to—

"(1) encourage foreign countries to accord national treatment to United States banks and bank holding companies that operate or seek to operate in those countries; and

"(2) seek an end to discrimination against United States banks and bank holding companies.

"(b) ANNUAL REPORTS REQUIRED.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(1) identifying each foreign country—

"(A) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States banks and bank holding companies; and

"(B) with respect to which no determination under subsection (d)(1) is in effect;

"(2) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(3) describing the results of negotiations conducted pursuant to subsection (c)(1).

"(c) NEGOTIATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall initiate negotiations with any foreign country described in subparagraphs (A) and (B) of subsection (b)(1) to ensure that that country accords national treatment to United States banks and bank holding companies.

"(2) NEGOTIATIONS NOT REQUIRED.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(d) DISCRETIONARY SANCTIONS.—

"(1) IN GENERAL.—A Federal banking agency may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed by a person of a foreign country if the Secretary has published in the Federal Register (and has not rescinded) a determination that the foreign country does not accord national treatment to United States banks and bank holding companies.

"(2) REVIEW.—The Secretary of the Treasury shall annually review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) PREVENTING EXISTING ENTITIES FROM BEING USED TO EVADE THIS SECTION.—

"(1) IN GENERAL.—If a determination under subsection (d)(1) is in effect with respect to a foreign country, no bank, foreign bank described in section 8(a), branch, agency, commercial lending company, or other affiliated entity that is a person of that country shall, without prior approval pursuant to paragraph (3) or (4), directly or indirectly, in the United States—

"(A) commence any line of business in which it was not engaged as of the date on which that determination was published in the Federal Register; or

"(B) conduct business from any location at which it did not conduct business as of that date.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to transactions under section 2(h)(2) of the Bank Holding Company Act of 1956.

"(3) STATE-SUPERVISED ENTITIES.—

"(A) This paragraph shall apply if—

"(i) the entity in question is an uninsured State bank or branch, a State agency, or a commercial lending company;

"(ii) the State requires the entity to obtain the prior approval of the State bank supervisor before engaging in the activity described in subparagraph (A) or (B) of paragraph (1); and

"(iii) no other provision of Federal law requires the entity to obtain the prior approval of a Federal banking agency before engaging in that activity.

"(B) The State bank supervisor shall consult about the application with the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act). If the State bank supervisor approves the application, the supervisor shall notify the appropriate Federal banking agency and provide the agency with a copy of the record of the application. During the 45-day period beginning on the date on which the appropriate Federal banking agency receives the record, the agency may, after consultation with the State bank supervisor, issue an order disapproving the activity in question. The period for disapproval under the preceding sentence may, in the agency's discretion, be extended for not more than 45 days.

"(4) FEDERAL APPROVAL.—If the transaction is not described in paragraph (3)(A), the entity in question shall obtain the prior approval of the appropriate Federal banking agency.

"(5) INFORMING STATE SUPERVISORS.—The Secretary of the Treasury shall inform State bank supervisors of any determination under subsection (d)(1).

"(6) EFFECT ON OTHER LAW.—Nothing in this subsection shall be construed to relieve the entity in question from any otherwise applicable requirement of Federal law.

"(f) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States banks and bank holding companies if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banks and bank holding companies.

"(g) PERSON OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is citizen of that country, or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(h) EXERCISE OF DISCRETION.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Federal banking agencies shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Federal banking agencies, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States banks and bank holding companies; and

"(ii) whether that country would permit United States banks and bank holding companies already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this section.".

SEC. 403. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS.

Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at the end the following new paragraph:

"(11) NATIONAL TREATMENT.—(A) This paragraph is intended to encourage foreign countries to—

"(i) accord national treatment to United States brokers and dealers that operate or seek to operate in those countries; and

"(ii) seek an end to discrimination against United States brokers and dealers.

"(B) For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(i) identifying each foreign country—

"(I) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States brokers and dealers; and

"(II) with respect to which no determination under subparagraph (D)(i) is in effect;

"(ii) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(iii) describing the results of negotiations conducted pursuant to subparagraph (C)(i).

"(C)(i) The Secretary of the Treasury shall initiate negotiations with any foreign country described in subclauses (I) and (II) of subparagraph (B)(i) to ensure that that country accords national treatment to United States brokers and dealers.

"(ii) Clause (i) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(I) determines that such negotiations would be fruitless or would impair national economic interests; and

"(II) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(D) The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign country does not accord national treatment to United States brokers and dealers:

"(i) The Commission may, in consultation with the Secretary of the Treasury—

"(I) deny any application for registration under this subsection filed by a person of that foreign country; and

"(II) prohibit any person of that foreign country from acquiring control of a registered broker or dealer, irrespective of when the acquisition was initiated.

"(ii) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered broker or dealer unless—

"(I) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(II) the Commission has not prohibited the acquisition.

"(iii) The Commission may, by order, extend the notice period with respect to any particular acquisition for not more than 60 days.

"(iv) The Secretary of the Treasury shall annually review any determination under this subparagraph and decide whether that determination should be rescinded.

"(E) A foreign country accords national treatment to United States brokers and dealers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic brokers and dealers.

"(F) A person of a foreign country is a person that—

"(i) is organized under the laws of that country;

"(ii) has its principal place of business in that country;

"(iii) in the case of an individual—

"(I) is a citizen of that country, or

"(II) is domiciled in that country; or

"(iv) is directly or indirectly controlled by a person described in clause (i), (ii), or (iii).

"(G) In exercising discretion under this paragraph—

"(i) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(ii) the Commission, in consultation with the Secretary of the Treasury—

"(I) shall consider, with respect to a broker or dealer that is a person of a foreign country and is already operating in the United States—

"(aa) the extent to which that foreign country has a record of according national treatment to United States brokers and dealers; and

"(bb) whether that country would permit United States brokers or dealers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's brokers or dealers; and

"(II) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this paragraph.".

SEC. 404. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS.

Section 203 of the Investment Advisers Act of 1940 (12 U.S.C. 80b-3) is amended by adding at the end the following new subsection:

"(i) NATIONAL TREATMENT.—

"(1) PURPOSES.—This subsection is intended to encourage foreign countries to—

"(A) accord national treatment to United States investment advisers that operate or seek to operate in those countries; and

"(B) seek an end to discrimination against United States investment advisers.

"(2) ANNUAL REPORTS REQUIRED.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(A) identifying each foreign country—

"(i) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States investment advisers; and

"(ii) with respect to which no determination under paragraph (4) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of negotiations conducted pursuant to paragraph (3)(A).

"(3) NEGOTIATIONS REQUIRED.—(A) The Secretary of the Treasury shall initiate negotiations with any foreign country described in clauses (i) and (ii) of paragraph (2)(A) to ensure that that country accords national treatment to United States investment advisers.

"(B) Subparagraph (A) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(i) determines that such negotiations would be fruitless or would impair national economic interests; and

"(ii) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(4) DISCRETIONARY SANCTIONS.—The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign country does not

accord national treatment to United States investment advisers:

"(A) The Commission may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed pursuant to this title by a person of that foreign country.

"(B) The Commission may, in consultation with the Secretary of the Treasury, prohibit any person of that foreign country from acquiring control of a registered investment adviser, irrespective of when the acquisition was initiated.

"(C) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered investment adviser unless—

"(i) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(ii) the Commission has not prohibited the acquisition.

"(D) The Commission may, by order, extend the notice period with respect to any particular acquisition for not more than 60 days.

"(E) The Secretary of the Treasury shall annually review any determination under this paragraph and decide whether that determination should be rescinded.

"(5) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States investment advisers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic investment advisers.

"(6) PERSON OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(A) is organized under the laws of that country;

"(B) has its principal place of business in that country;

"(C) in the case of an individual—

"(i) is a citizen of that country, or

"(ii) is domiciled in that country; or

"(D) is directly or indirectly controlled by a person described in subparagraph (A), (B), or (C).

"(7) EXERCISE OF DISCRETION.—In exercising discretion under this subsection—

"(A) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(B) the Commission, in consultation with the Secretary of the Treasury—

"(i) shall consider, with respect to an investment adviser that is a person of a foreign country and is already operating in the United States—

"(I) the extent to which that foreign country has a record of according national treatment to United States investment advisers; and

"(II) whether that country would permit United States investment advisers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's investment advisers;

"(ii) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this subsection.".

SEC. 405. CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS.

(a) QUADRENNIAL REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS.—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in paragraph (3), by striking "and securities companies" and inserting ", securities companies, and investment advisers"; and

(2) by adding at the end the following: "For purposes of this section, a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities.".

(b) NEGOTIATIONS TO PROMOTE FAIR TRADE IN FINANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting "effective" after "banking organizations and securities companies have".

(c) PRIMARY DEALERS IN GOVERNMENT DEBT INSTRUMENTS.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342) is amended—

(1) by striking "does not accord to" and inserting "does not offer";

(2) by inserting "(including effective market access)" after "the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country"; and

(3) by striking "as such country accords to" and inserting "as are available to".

TITLE V—EFFECTIVE DATES

SEC. 501. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this Act shall take effect on August 10, 1990.

(b) SPECIAL RULES.—(1) Title IV of this Act takes effect on the date of enactment of this Act.

(2) The acquisition policies required by title II of this Act shall be incorporated as part of the Federal Acquisition Regulation within 270 days after enactment. Such policies shall apply to solicitations issued 60 days after such regulations are issued.[S03OC0-V3][S14456issued.

Mr. DIXON. I further ask unanimous consent, Mr. President, that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, the Chair will be authorized to appoint conferees.

The Parliamentarian informs the Chair conferees have not been suggested.

Mr. DIXON. I understand, Mr. President. They will be submitted shortly.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. I ask unanimous consent that I be allowed to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EFFICIENCY IN GOVERNMENT

Mr. KOHL. Mr. President, I wanted to speak for just a few minutes about the budget package, our deficit, and that problem which is so severe that we are facing in our country today. I would like to speak about all the anger and dissatisfaction that we are hearing in Washington from our constituents, a well-deserved anger that they do have about the sacrifice we are asking them to make in behalf of our country.

The President was on television last night and suggested this was a program that had to be enacted; that if we would enact this program, we would be well on our way toward having a balanced budget and this would be the pain and the suffering we would necessarily have to inflict on the citizens of our country in order to get it done.

I come from private enterprise, as some of my colleagues know, and in private enterprise if you do not run an efficient business, sooner or later you lose. Sooner or later you go out of business because more efficient, more effective competitors simply take away your enterprise.

The U.S. Government, on the one hand, is the largest enterprise in the world. On the other hand, it has no competition in our country. We do have competition, however, all around the world from competing economies, whether it is Japan or Germany, and all of us understand how serious that problem is in our country, how our inefficiency costs us jobs, a better standard of living, and all those things that are so precious to us.

In the process of costing us, all must understand that if there is to be warfare in the future between countries, it is mostly going to be economic warfare. People in this country are concerned about whether or not we are prepared to wage that economic warfare which relates to what we are being asked to do today by our President, by our Congress, myself, yourself, and our congressional leaders.

I have not heard anyone talk about the efficiency of our Government or lack thereof and what we intend to do at the same time we are asking the American people to endure pain and sacrifice. What are we prepared to do here? I did not hear the President talk—and frankly in our discussions between ourselves as Congress people, Senators and Representatives, there has not been one serious discussion that I have heard—what action we are prepared to take to assure the American people that all the money they are sending to Washington and the pain we are asking them to endure by way

of cuts in service is going to be well used in their behalf.

As we know, people feel that the money they send to Washington to a large extent is not being used efficiently and effectively, and they do not want to send any more money because they feel we do not use it efficiently, we do not use it effectively.

I want to talk about just one aspect on the budget this morning, and I would like to hear from somebody at OMB or our President or congressional leaders, uncollected taxes in this country, something that everybody understands.

The uncollected taxes in this country, corporate and personal, are $100 billion a year. I am not talking about underworld taxes that vanish. I am talking about normally due taxes that people just are not paying for whatever reason—people and corporations, $100 billion a year. Do we have a right to go to the American people and ask them to pony up all the money we are asking from them because we have a budget deficit when a significant part of that deficit is nothing more than uncollected taxes for which we are totally responsible? If we cannot provide the answer to that question, among all the other inefficiencies that exist in our Government, how can we go to the American people and ask them to endure all the pain and suffering we are asking of them? If, in fact, as I have heard, the real deficit is not just $400 billion or $300 billion, we are going to have to go back to the American people next year and the following year and tell them, as we told them in the past, we underestimated the problem—it is not $400 billion; it is $600 billion; it is $800 billion or as I heard this morning from the head of the GAO, Mr. Bowsher, it may be a trillion dollars.

It would not be surprising, would it, if we had to go back to the American people next year with a reestimate of our deficit, just like the deficit this year, which started out at $100 billion. You will recall that in January, when the President came before the Congress and gave his State of the Union speech, he said our deficit problem is $100 billion this year and it is manageable. How did it grow from $100 billion in January to $300 billion in August or September? What happened? Who is to say that he is not going to come back or we are not going to go back to the country next year with another estimate of half or twice again as big as what it is now?

Is there anybody here who says with a sense of confidence that they know our accounting is right and we know what we are talking about this time or would all of us have to admit to the American public that we do not know what we are saying? I think that is very serious. I think until we are prepared to address that problem, how we are going to assure the American people that we know how to manage this enterprise called the American Government, we have to be very cautious and very reluctant to go out to the American people and say we are going to inflict all kinds of pain and suffering on you if in fact maybe half the reason is because we do not know how to run our business in Washington. They know it and they sense it. That is why they are so upset with us.

So I hope that part of this dialog today and tomorrow, before we vote on the budget, is a dialog that includes the question of management and what we are going to do to assure the American people that their tax dollars are being managed efficiently and effectively in their behalf.

I thank the Chair.

Mr. KOHL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE INDEFINITELY POSTPONED—S. 1379

Mr. KOHL. Mr. President, I ask unanimous consent that S. 1379 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 2:30 P.M.

Mr. KOHL. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate stand in recess until 2:30 p.m. this afternoon.

There being no objection, at 11:48 a.m. the Senate recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

MONEY LAUNDERING ENFORCEMENT ACT AMENDMENTS

The PRESIDING OFFICER. Under the previous order, the pending business is the motion to proceed to the consideration of S. 3037.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Thank you, Mr. President.

Mr. President, the comanager of this bill, the Senator from Utah, is not yet here. I am not sure. I think this came back on to the order somewhat by surprise for some parties. So we are waiting for him to be able to come to the floor.

We had a discussion yesterday at which time there was some delay in our ability to move forward on the motion to proceed. We agreed with the Senator from Idaho [Mr. SYMMS] that we would wait until after the parties both had an opportunity to have a caucus during which time the issues surrounding this bill would be brought up; that subsequently we would hopefully be able to move forward.

The distinguished Senator from Ohio [Mr. METZENBAUM] I know had the possibility of an amendment. He wants to talk with the Senator from Utah. So there are still a few matters to be worked out with respect to this legislation.

What I might do at this point in time while we are waiting for the Senator from Utah to arrive to the floor is to explain further what this legislation is about. I remind colleagues again as I said yesterday that this is not or should not be controversial legislation. A companion bill passed in the House of Representatives 406 to nothing. This bill came out of the Banking Committee unanimously. There were one or two close issues in the Banking Committee which have subsequently been worked out among the parties. Notwithstanding their closeness, I think all parties are at this point prepared to move forward.

Mr. President, this is a bill with several components. The first component is the money laundering enforcement amendments of 1990. There are two parts to that. The third part is the Truth in Savings Act. Then there are some amendments with respect to Expedited Funds Availability Act, the Home Equity Consumer Protection Act, the Counterfeit Deterrence Act, and finally the Coin Redesign Act, all of which are very straightforward.

As I said yesterday, with respect to the money laundering amendments, Mr. President, there is not any question that the vast majority of banks in this country are diligently trying to ferret out money laundering where it occurs. I think that the cash transaction reporting process which has been in place for a number of years has assisted significantly in our ability to be able to do that. But the fact remains that notwithstanding that requirement there is a very significant money laundering business in this country. And because of the nature of the banking system in this modern age outside of this country they work together.

In point of fact, Mr. President, a year or so ago in conjunction with the passage of the drug bill the Senate faced up to this reality when we passed requirements that our Government negotiate with other banks in other countries in order to have them require cash transaction reports.

Today there is a huge loophole in the law whereby an American bank required in the United States to have cash transaction reports actually can have the ability to circumvent that law with an offshore account. And in the offshore account there is not a similar requirement. That is not in this bill.

I do not want to confuse matters here. None of that is in this legislation. It does not address any aspect of it. But what it does underscore is the fact that there are major loopholes in the law today. Money laundering is obviously a key part of the drug trade. We are fond of trying to deal with laws that deter at the street level. We try to aid our police in being able to make arrests. It is appropriate and proper that we do that. We ought to do more of it in fact.

But the reality is that the big launderer, the big money earner, the big kingpin sits distant from the street deal—sits distant from the havoc that is wreaked in our communities, receives the profits, and then plays some very fancy games with that money while it is sent through various corporate shells or other entities; finally winds up back in a bank account laundered, clean, distant from the drug transaction.

In testimony before the Senate Banking Committee just this month William Seidman, the Chairman of the Resolution Trust Corporation talked about "All the clever schemes employed by the scam artists." He was referring to the S&L's. According to Mr. Seidman "The cleverist schemes revolve around what happened to the money after they got hold of it." Mr. Seidman was talking about money laundering and the savings and loan scandal.

I am convinced that both the savings and loan institutions and savings and loan executives have been significantly involved in money laundering. Let me just note a few examples for the record here.

Last year a thrift in Missouri was indicted along with five individuals including the former executive in the thrift's Dallas office for allegedly laundering nearly a quarter of a million dollars through the purchase of money orders.

Another example, in 1987 a former executive vice president at Centennial Savings and Loan Association in Sonoma County, CA, was indicted for laundering tens of thousands of dollars for a west coast drug ring. The indictment alleged that this individual had invested money from the drug dealers in upscale real estate projects in the booming areas just north of San Francisco.

Another example: the U.S. attorney in Baltimore has indicted several businessmen for charges of looting Community Savings of Maryland of $28 million and of laundering those funds in Swiss banks.

Another example: regulators and examiners told the House Banking Committee this year that one of the top executives of the Lincoln Savings and Loan Association may have sheltered as much as $100 million in bank accounts in Switzerland, Panama, and the Bahamas.

There is a lawsuit now by the shareholders and the U.S. Government in an action to try to recover $40 million, and in conjunction with that action our Government issued a temporary cease and desist order restricting individuals from transferring any assets or funds outside the United States. As the Director of the Office of Thrift Supervision, Mr. Tim Ryan said of Mr. Keating himself that he has been saying to the press and public that he is broke. To quote Mr. Ryan "We just don't believe that."

Another example, the U.S. attorneys office in Houston is investigating the failure of Vision Bank Savings in Kingsville, TX. One former executive is identified in Federal law enforcement records as a known money launderer. He is suspected of having wired as much as $40 million to a company on the Isle of Jersey, which is a well-known tax haven in the English Channel.

Mr. President, here we are having listened to the President of the United States last night talking about the need to ask Americans to ante up more tax dollars. Here we are faced with a budget crisis where Americans are being asked to pay more and more money in order to cover the cost of a savings and loan scandal. Yet here we are with knowledge that money laundering could be a very significant, or some, portion of it—that money that has been looted from those banks.

I do not know how you can turn to people in this country and say pay more taxes unless we have taken all the steps necessary to try to deter that kind of activity, and to try to recoup those funds where possible.

It just does not make sense to me that you ask the middle class or the small wage earner of this country to do that, and we sit here knowing that money laundering is going on and not doing enough to stop it.

So, Mr. President, what this does is very simple. It does not cost money, but it gives the appropriate Federal depository institutions and the regulatory agencies the right to revoke the charter, to terminate deposit insurance, or to remove or suspend officers and directors of depository institutions of either a bank, a savings and loan or a credit union, when they are known to have been involved in money laundering or a monetary transaction reporting offense.

Before a charter can be revoked, the regulator has to consider the following factors. This is not just an arbitrary process. The Senator from Utah [Mr. GARN] and others, who are cosponsors of this, Senator HATCH, Senator BOND, Senator DIXON and others on our side, have worked out a process, and the American Banking Association supports this and believes it is fair.

What we would seek is to have a hearing to determine the degree to which a senior management official knew of or was personally involved in the solicitation of criminal funds of the money laundering operation, and you would examine the effect that a revocation would have on the adequacy of the depository or credit services in the local community. You would examine the institution's cooperation with law enforcement authorities. You would examine the potential losses to the Federal deposit insurance funds and the RTC, if there were to be a revocation, and you would examine whether or not the depository institution's compliance and deterrence programs clearly exceeded the programs that were required by law.

What this legislation does is it gives to our law enforcement officials a new tool in the war on drugs and in the effort to put the savings and loan swindlers in jail. It also contains some money laundering provisions, which were originally introduced by the distinguished Senator from New York [Mr. D'AMATO].

That particular section improves cooperation between Federal and State authorities. It improves the oversight and the enforcement of money laundering compliance programs of nonbank financial institutions. And it addresses wire transfer transactions that are currently not monitored by the detection process of money laundering.

Mr. President, in hearings which the Banking Committee held last fall, we received important testimony on the degree to which there are new problems of money laundering that are appearing in the nonbanking financial institutions. What I am talking about, nonbanking financial institutions are your money transmitters, check cashing boutiques, and money exchange houses.

This legislation makes it a Federal felony for these institutions to transmit money without a license, and the legislation also requires the Secretary of Treasury to issue final regulations concerning recordkeeping for international wire transfers.

We have learned in the course of our hearings that once money has been put into the banking system, there are innumerable ways in which that money can be simply wire transferred to become part of a larger pot of money, so much so that the detection process really becomes complicated, if not almost impossible.

According to the Federal Reserve, an estimated one trillion U.S. dollars in international wire transfers occurs each day. But despite this huge volume of transactions, law enforcement authorities believe there is very important information that can be gleaned from having some kind of restraints on those kinds of transactions, so that you can understand exactly how the system is working and where it originates and what the contributory factors may be to one of those large sums of money.

Senator D'AMATO's legislation requires that the Treasury Department, in promulgating regulavtions governing wire transfers, must consider the usefulness of the records in criminal tax or regulatory investigations or proceedings, and that they should factor in those advantages of recordkeeping in the cost and efficiency of the overall payment system.

Title III of the bill was really addressed by the Senator from Connecticut yesterday, and I see no reason, Mr. President, at this point, to go back into that. Title IV of the bill contains the Counterfeit Deterrence Act of 1990 which was drafted by the chairman of the committee, Senator RIEGLE, and by the ranking minority member, Senator GARN. The Counterfeit Deterrence Act simply modifies current law to further define counterfeit deterrence. I will let the Senator from Utah describe that further, if he desires to.

Title V is the design coin legislation, which authorizes the Secretary of Treasury to select and to mint new designs for the reverses of the half dollar, quarter, dime, nickel, and the cent. These will wind up being revenue raisers for the Government and I think are important in both the revenue they will raise, as well as modernizing some coinage of our country.

Mr. President, that is a brief overview of the legislation which is here before us.

I would be delighted at this point in time to yield to the distinguished ranking member, if he has any comments he would like to add to that.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, this bill provides additional penalties for banks that engage in money laundering violations.

It is a good proposal that I cosponsored.

The bill gives the bank regulators the authority to close down a financial institution that has been convicted of a money laundering crime. It does not mandate that any institution be closed, but simply permits the agencies to act.

In making this decision, the agencies are to consider the degree to which senior management was involved in the criminal activity.

The idea behind this bill is to shut down those institutions that are so riddled with corrupt management and officers that simply punishing the individuals involved is not sufficient.

The bill also encourages oversight by shareholders in the institution, whose investment would be put at risk by the illegal activities of the bank officers.

The bill makes it easier to remove corrupt officers, directors, and employees from an institution for violation of currency reporting requirements.

At my suggestion, the bill was modified so that the agencies also have to consider the effect of closing the institution on the provision of credit and depository services in the community. We do not want to punish honest local businesses that depend upon the financial institution, for the crimes of bank officers or directors.

At my suggestion, the bill also requires that the agencies consider whether closing the institution will result in losses to the FDIC or RTC. It does not make sense to close down a bank or savings association in order to punish its officers and directors, if the action will result in losses to the insurance funds. In this case it would be far better to punish the individuals involved than to shut down the institution.

The bill also contains provisions to improve the ability to the Treasury Department to enforce the money laundering laws, and to provide additional penalties for the operation of an illegal money transmitting business.

The money laundering provisions are supported by the Department of the Treasury.

I might also comment on some of the expedited funds availability amendments. These amendments were suggested by the Federal Reserve in a report to Congress about the implementation of the Expedited Funds Availability Act.

They are intended to fix some technical problems with the sweeping, complex funds availability law that we passed in 1987.

The Expedited Funds Availability Act was passed in response to abusive check hold practices at small minority or depository institutions.

It struck me at the time it passed as overkill and the implementation of the law has not changed my view on this issue.

During the markup of the expedited funds availability amendments, the Banking Committee narrowly rejected an amendment I offered to retain the temporary availability period for local checks. The vote on this amendment was 11 to 10, and the closeness of the margin suggested to me that this issue should be revisited when the legislation came to the Senate floor.

I offered the amendment in response to a letter from Federal Reserve Chairman Alan Greenspan. He urged the Banking Committee to retain the 3-day availability for local checks, which was reduced to 2 days on September 1, 1990, when the permanent schedule under the Expedited Funds Availability Act went into effect.

The Board of Governors urged the Banking Committee to adopt the amendment because with the permanent schedule in effect, banks are exposed to fraud losses since they are now compelled to make funds available before they know if checks have cleared.

The letter from the Federal Reserve stated:

The Board is very concerned that depository institutions could be exposed to significant risk of fraud loss under the act's permanent availability schedule for deposits of local checks, which becomes effective in September 1990. Therefore, the Board urges the committee to adopt an amendment to retain the current availability for local checks in the permanent schedule. This affords institutions a reasonable opportunity to learn of the return of an unpaid check before being required to make funds available for withdrawal; the availability required in the permanent schedule provides no such protection.

The Federal Reserve also noted:

More than 75 percent of institutions currently provide availability faster than that required by law, and we expect that they will continue to do so if this amendment is adopted. This amendment is particularly crucial, however, to institutions that are most vulnerable to check fraud, due to the composition of their customer base, and which feel it necessary to place holds on their customers' deposits.

There is compromise language in the managers' amendment which addresses these concerns to some extent. After my amendment was defeated, I asked the Federal reserve for some suggestions for compromise legislation.

Most of the compromise ideas suggested by the Fed were unacceptable to my Democratic colleagues, but we have agreed on the following two provisions in the managers' amendment.

Under current law, the Fed can only suspend the availability schedule for checks if there is an unacceptable level of fraud losses. This amendment gives the Fed authority to modify the availability schedules if there is a significant increase in check fraud losses. This suspension is good for 60 legislative days and the Fed is directed to make recommendations to Congress.

If the Fed were forced to modify the availability schedule, it would be our responsibility here in Congress to act quickly within the 60 legislative days to fix the problem.

The other major provision in the compromise is that the GAO is directed to study the effect of implementation of the permanent schedule on

fraud losses in the industry and recommend changes.

This amendment does not completely alleviate the Fed's concerns or my concerns, but it is an improvement over simply letting the banks incur check fraud losses under the permanent schedule.

We are all concerned about the financial soundness of the banking system; it is vitally important to protect the banks and FDIC fund from losses. I felt that keeping the temporary availability for local checks was a simple and effective way to protect the banking industry from fraud losses without inconveniencing consumers, however, I am pleased that we have been able to reach some accommodation on this issue.

TRUTH IN SAVINGS

Truth in savings has been passed by the House and Senate several times, but never been signed into law. The last time it passed the Senate was in 1988 as title VI of the Proxmire Financial Modernization Act. When Senator DIXON and I reintroduced the Proxmire bill (S. 305) in the 101st Congress, truth in savings was again included.

Senator DODD also introduced a truth in savings bill, S. 307, at the beginning of the 101st Congress. Senator DODD's bill was the basis for this section of S. 3037.

This legislation ensures that consumers will be able to comparison shop for deposit accounts by standardizing the disclosure of the terms and conditions of these accounts.

While I do have some concerns about any legislation that increases the regulatory burden on the banking industry, I do not believe that truth in savings will be terribly onerous for the industry to comply with.

There is a provision in the managers' amendment which responds to a concern raised by the banking industry about a provision in the committee-passed bill which requires banks to mail out statements describing the terms and conditions of the account to all depositors within 6 months. This has been modified in the managers' amendment to require the banks to mail out a notice within 3 months informing their customers that such information is available if they are interested.

My friend from Connecticut, Senator DODD, has worked on truth in savings for many years, and I congratulate him on getting truth in savings through the Senate once again.

FAIR LENDING

An amendment may be offered to include the fair lending enforcement bill on the money laundering bill, although I believe that is probably not going to be the case.

The fair lending bill would mandate that the Comptroller of the Currency, and the other banking agencies, establish a separate consumer compliance program.

The bill would mandate a separate onsite consumer compliance examination of each insured institution at least once every 2 years.

Consumer examinations would be conducted by examiners who must specialize in these exams.

In a time when financial institutions are under stress, it makes no sense to mandate that scarce examination resources be devoted to consumer exams.

The lack of adequate financial safety and soundness examiners has been implicated in the savings and loan problem.

Why should we force the agency to conduct consumer exams at the expense of safety and soundness exams?

I do not believe we should micromanage the agencies. They need the flexibility to deal with all different types of problems and economic circumstances.

Mr. President, all things considered, the accommodations that were made in the committee, as well as in the manager's amendment—although I would like to have seen further changes—I think address at least somewhat most of my concerns and therefore I still support the passage of this bill.

We are in a situation where there have been objections to proceeding and that is why we are still on the motion to proceed and the bill is not before us. I believe that at this time my colleagues should be aware that there does not appear to be any objections to the bill. The reason that some of my colleagues do not want it to pass is that they are concerned about certain amendments, and that is still the case. I would prefer to pass the bill clean and get it over to the House of Representatives but at this time it appears that we cannot move forward until we get some assurance. There are a number of amendments that are possible hanging out there.

Mr. KERRY. Mr. President, I thank the Senator.

The PRESIDING OFFICER. Does the Senator from Utah yield the floor?

Mr. GARN. I yield the floor to the Senator from Massachusetts.

Mr. KERRY. I thank the distinguished Senator from Utah, and I appreciate what he has said, and I have communicated that same thought to colleagues on our side of the aisle. It is my belief that it is possible to try to work this out.

What I would like to do is take a few minutes, if I can, so that we could caucus together and perhaps come to that arrangement and then we could hopefully dispose of this legislation very quickly. So with that purpose in mind, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MIKULSKI.). The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I suggest that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

Mr. KERRY. Mr. President, we have been trying to work out an expedited process here by which we can begin to move forward on this legislation. The distinguished Senator from Utah has been most accommodating, and I think would like very much to see this legislation go forward. Both of us agreed we would make an effort on both sides to reach an agreement whereby we would have no amendments on either side other than one group of amendments which had been agreed upon by the managers and by the committee members previously.

We have now cleared on our side of the aisle all amendments. There are no amendments pending on this side of the aisle; none whatsoever.

I am told by the Senator from Utah that he has no amendments that pertain to the money laundering and so forth but there remain some objections on the other side of the aisle to proceeding forward.

I would like to underscore the importance of this legislation. We have had an awful lot of rhetoric in Washington and around the country about the problems of the drug war. We are here now facing a potential budget agreement that involves taxes. We are talking about going back to our constituencies—some, anyway—and asking the average American to ante up money.

Here we have a piece of legislation, 406 to 0, not one objecting vote in the House of Representatives, not one objecting vote in the Banking Committee before it comes to the floor, and this legislation has the ability to raise revenue and to fight crime. Notwithstanding that, we seem to be delayed as people want to raise the ugly head of politics which sometimes gets in the way of doing business around here.

It seems to me, Mr. President, it is in the interests of the country and in the interests of this institution to step over those barriers and produce a piece of legislation that does some good.

We had an awful lot of talk on this floor about General Noriega for a long time. A lot of people do not like to be reminded about General Noriega. There was a period of time when an awful lot of people around here were pretty supportive of that fellow and what he was doing down in Panama. Then all of a sudden we began to discover what General Noriega was doing

with the banking system of this country, a bank in Florida by the name of BCCI which was subsequently indicted. Then we find BCCI, which has been laundering millions of dollars of drug profits, which was General Noriega's bank, situated in Florida, manages to walk away with a $14 million fine.

A lot of people said what is going on here? Are we serious about money laundering or are we not serious about money laundering? So the Banking Committee and others, after a long series of hearings examining the practices, came up with a tool to permit our banks to do a better job and to permit the law enforcement community to protect us against that kind of brazen corporate activity.

What we had in the BCCI case were bankers who, by admission in court, had a corporate policy of seeking out drug money. In point of fact, Mr. President, we have learned in New York and in other places of banks that have a similar policy. They would compete for certificates of deposit where people would put large amounts of cash in and there was competition among the bankers to get a particular drug dealer or dealers to deposit their funds there.

That is as serious an offense, Mr. President, as the drug dealing itself because it facilitates it. Without the safe harbor, without the safe haven for the money it is impossible for people to be able to make the profits or secure those profits advantageously, to launder them through the process and put them into the legitimate private sector.

Mr. President, this legislation has amendments of Senator D'AMATO, it has some important amendments which were put forward by Senator BIDEN on the crime bill previously, and it has some strengthening tools. It attempts to provide the law enforcement community with an important ability: To be able to punish and deter those who engage in that kind of activity.

If we have learned anything over the course of the last few years it is that the level of this particular activity threatens institutions themselves. If we look at what is happening in Colombia, the Colombian people are facing, day to day, devastation in their streets as a consequence of our ugly habit in this country. There is not 1 day that goes by that we do not read about a bank that has been bombed, a newspaper bombed, an editor killed, a Presidential candidate assassinated, children blown up. That happens as a consequence of drug lords who are able to filter their money through banks and hide it.

We are trying to provide a tool to the law enforcement community and the banking community to better police this process. The question has to be asked why it is that such a unanimously passed bill in the House of Representatives, such an unanimously passed bill from the Banking Committee itself, cannot now proceed.

In good faith the Senator from Illinois [Mr. DIXON] has agreed not to bring forward his amendments which were important with respect to fair lending practices. The distinguished Senator from Ohio [Mr. METZENBAUM] has agreed not to bring forward his amendments with respect to check cashing. So there are no amendments on this side of the aisle, Mr. President.

We are prepared with an agreement with Senator GARN to proceed with this, to voice vote it and to move this measure off the floor. I hope colleagues would think twice, and think hard, whether or not we can do that in order to improve the efficiency of the Congress and the efficiency of the Senate, and to produce a good product at this time.

I yield to my colleague from Utah.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Utah.

Mr. GARN. Mr. President, I think this bill should be passed. With the amendments that have been made to it, it is a good bill and was passed unanimously by the Senate Banking Committee. Therefore on its merits I believe it should be passed and sent over to the House. It would be helpful in some of these illegal problems we have had in the financial services industry.

I am still hopeful we can clear it for passage this afternoon. There are some objections. That is why I have not been on the floor. I have been trying to work out some of those individuals' problems. I can assure the Senator from Massachusetts that I will continue to try to remove those holds and hope we can move the bill today.

Mr. KERRY. I thank the distinguished Senator from Utah and again I appreciate enormously his good faith efforts here, and I know he very much would like to see this moved forward, as I know Senator D'AMATO would.

There are some Senators who wish to speak, I believe, on the money laundering aspects of this who have told me they will be coming to the floor to do so. It seems to me, Mr. President, perhaps we could work it out in the meantime and proceed.

I am certainly prepared to talk for some period of time about the importance of the war on drugs and the importance of money laundering, particularly with respect to that war.

Needless to say, I have no reason to talk other than to try to press the importance of this bill. I would be delighted not to have to do so, but I am prepared at some considerable length to try to wage an effort to guarantee that legislation that is as straightforward and as important and fundamental to a complete drug war pass.

We have had a long struggle with the drug war in this institution. There was a bill passed a couple of years ago around election time which promised $2.7 billion would be spent on the drug war. Lo and behold, after everybody went home and ballyhooed about the drug war, we found out that only $500 million of that money was being spent.

I know as a prosecutor back in 1975, we were able to prosecute because we had $875 million that came from the Federal Government to assist us through the Law Enforcement Assistance Administation. It was only because of that money that a county like Middlesex County, where I was the first assistant district attorney, was able to, in fact, prosecute people. We were one of the 10 largest counties in America. We had 12,000 backlog cases. So $875 million was available.

Then here we were a year ago with the declaration of the war on drugs and we had only $450 million in 1990 money, one-half the amount of money in real terms but figuring 15 years of inflation, far, far less than that, notwithstanding the war on drugs.

Here we are today talking about a war on drugs. We have only 19 out of 100 addicts who receive treatment, Mr. President—19 out of 100 addicts. Instead of treatment on demand, we have the paucity of treatment to such a degree that people are left out in the streets spreading the word that nobody is serious.

Only 55 percent of the kids in America receive education about drugs, Mr. President. What happens to the other 45 percent? Are they the forgotten? Are they the ones whose addictions and problems are not going to matter at all? Obviously, these are serious questions about the drug war and this is just one part of it. Money laundering is one part of the drug war. If you are going to tell the people in America that we are serious about a drug war, then you have to evenhandedly spread the pain. We have not been spreading it evenhandedly. There are a lot of people who have been able to secure that money in banks, launder it through with impunity, reap the profits of the drug war and walk away, none more so than the few bankers who have engaged in that kind of illicit practice and the few people who have profited by it.

Here we are with a bill that can do something about it; a bill that can put some teeth into what everybody says is such a critical effort. The question is, will the Senate have the good sense to try to move forward on that, or are we going to become mired and sidetracked by other matters?

It is my hope that we will not, Mr. President, because I think that the American people are getting sick and tired of a Congress that postures and a Congress that pontificates but does

not come through and does not talk reality and does not talk the truth. That is what this is about. We can hear it all over the Nation right now, and we can hear it particularly with respect to issues surrounding the budget. God knows we have seen that in Massachusetts recently in the last couple of years.

People want us to do something. They want us to make things happen. They are tired of the petty political games that stop things from happening. When you have a piece of legislation that passes 406 to nothing in the House and unanimously from the Banking Committee and there is no one on the floor to make an amendment but there are these mysterious things that block it, one can only ask: Are people putting something ahead of the interest of the country? Are people putting something ahead of the interest of the drug war?

I suggest the answer to that may be fairly evident. I hope not. I hope we can move forward on this, Mr. President, As I say, I am prepared to talk at considerable length.

I will now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are currently on the motion to proceed to S. 3037.

Mr. DANFORTH. I ask unanimous consent to proceed as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. DANFORTH. Mr. President, for a part of my Senate career I used to go back to my State and make speeches to Rotary clubs and Kiwanis and the like about the great difficulty of dealing with the Federal budget. After while, I decided that surely there were better subjects to talk about. Every time I would speak about the budget, it was very much like knocking the audience over the head with a club; people would either go to sleep or they would get very angry about the speech. So I decided that there must be better things to talk about than the Federal budget.

That was back maybe 4 or 5 years ago and, of course, matters have become much more urgent since those days. Now, because of the agreement that was reached last weekend among the summiteers, the issue of the budget is necessarily back before the Congress.

Yesterday, at a press conference, Senator BOND and I and Congressman TOM COLEMAN from the northwest corner of our State of Missouri announced that we were going to support the agreement on the budget.

Last night, the President made an appeal to the American people to contact Members of Congress and express their support, and I have received numerous phone calls already today. Total calls to my offices, both in Missouri and Washington as of about an hour or so ago, were 75 calls in support of the President, 280 calls in general opposition to the budget agreement and then, in addition to those 280 calls of general opposition, 233 opposed to any cuts in Medicare benefits, 73 opposed to the gas tax, 34 opposed to any more taxes at all.

About the only constructive suggestions were 4 calls suggesting that we cut congressional pay, and 19 suggested that we cut foreign aid. Of course, if we cut congressional pay to zero—and I am sure that there are a number of my constituents who think that is about what my services are worth—that would be a tiny fraction of 1 percent of the budget deficit. Foreign aid, last time I looked, accounted for something like 1.5 percent of the total budget.

I wish I could tell my constituents that there was some easy way to deal with the budget deficit. After all, politicians like to be popular, and the way to be popular is to tell people what they want to hear. What people want to hear is that we can deal with problems without causing any kind of pain at all. We do not have to raise taxes. We do not have to cut popular programs. All we have to do is cut congressional pay, cut foreign aid, or put in place the Grace Commission reports, which, of course, do amount to very substantial cuts for popular programs—something that does not require anybody to do anything.

I would only say that if there was an easy answer, I would have found it. Like all politicians, I do not relish telling people what they do not want to hear. If there was any easy answer, the budget summiteers would have found the easy answer. They met over a period of 150 days, and finally, literally on the eve of a budget sequester, they came up with their compromise program. Everybody hastens to say, "Well, we hate that program." We do. Everybody does. Nobody likes any part of it.

But if the budget summiteers cannot come up with any better program after 150 days of negotiation, who is going to come up with some better mix now? Are the summiteers supposed to go back to the summit? Are we supposed to write something on the floor of the U.S. Senate? Who has the plan?

The answer is that if it is not this plan, it is not going to be any plan at all, and we are going to be left with two alternatives. One is sequester, and there has been much comment about the practical effects of sequester. If people do not like the budget agreement, just wait until they get sequester.

Or, in the alternative—and I would say this really is the most likely alternative—we end up getting rid of the whole sequester process, finessing that, not putting in place the summit's agreement on the budget, and simply running up the score on the Federal deficit. That, I think, Mr. President, is the most likely thing that we will do.

Will the country collapse if we do that? No, it will not. Will we suddenly see some disaster fall? Well, maybe the stock market will collapse again as it did in 1987. But basically, people will still wake up in the morning and eat their breakfast, go to work, and go to bed at night.

I do not think that a failure to do anything will cause some immediate disaster as though we had fallen off a cliff. But I think if that really is going to be the decision—that anything is too painful, and therefore we should do nothing at all—the effect is that the country is going to get weaker and weaker and weaker and weaker and weaker, that America is no longer going to be a preeminent force in the world, that our economy is going to be shaky month after month, year after year, that job opportunities are not going to be provided for our children, that we are going to become progressively even less competitive with the Japanese or with united Germany or other parts of the world.

Somebody once said that running constant budget deficits is like eating arsenic. It does not kill you all at once; it just makes you weaker and weaker.

Well, we can turn down this budget package, and it may well be that we will. That appears to be the popular thing to do. But it is worth noting that there is a cost for doing so. The cost is that America will be a weaker country in the future than it is today, and our children, instead of inheriting from us a legacy of strength in which they can take great pride, will instead inherit a legacy of debt and a legacy of constant trade imbalances, and a very precarious economic situation in which their prospects for better jobs and better opportunities are much less than they are today.

Mr. BOND. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I want to join my distinguished senior colleague. We have received the same kind of mail, the same kind of response to the

budget agreement. People do not like a lot of things in it. Many people have not been well informed by the media, and a good portion of my calls are objecting to the fact that Social Security COLA's are being cut, and they are not. Some of them complain about taxation of Social Security benefits. That is not being changed in this budget agreement.

But clearly it is not overwhelmingly popular, even though the President went on television last night, and he was joined by our distinguished majority leader, to say why a budget agreement is necessary. When I campaigned for this job in 1986, I told the people of Missouri that somebody had to go to Washington to make some tough votes on the budget, to get the deficit under control, to do something about our continually increasing problem of spending money that we did not have. I told them that there were not any easy answers but that the future of this country and the future that we leave to our children depends upon whether we really can make some tough decisions, whether we can do something about the budget.

I have to tell you that in the 3½ years that I have been here I have been underwhelmed by the ability of this Congress, this body, to do something tough about the budget. We have done a lot of smoke and mirrors. We have ducked the hard choices. As a result, our economy has grown weaker and our Government has been brought closer to the brink of failure. Congress, too often, has been unwilling to make the needed reforms to implement the needed discipline to make sure that we just balance our checkbooks.

Well, finally, after much laboring and much effort, the summit negotiators have come forward with some tough medicine. I can tell you that it is easy to find things that you do not like in it. I am not excited at all about using the gas tax for deficit reduction. I think it should be used for building roads. I do not like to put the burden on seniors who depend on Medicare. I do not think it is right to single out agriculture, prior to a successful GATT negotiation, for a $13 billion cut. And I do not think it is fair to double the tax on beer.

Mr. President, we all know if easy answers would have done the job it would have been done long ago. I do not think this country or our economy can continue to go down this road where we do not exercise some discipline. We cannot stand more months of uncertainty, political paralysis, while we try to find some alternative.

I am not as optimistic as my colleague. I think if we do not do something, we will not only see a significant downturn in the stock market, but we will see interest rates shoot up as the international market has this weekend confirmed one more time if we are not able to balance our budget, and the costs will escalate at an escalating rate that we may never be able to get hold of.

We cannot afford to put off this package any longer to try to make an incremental improvement in it. Sure, you, Mr. President, or I, or any of us could probably write what we would consider to be a much better program. But the fact of the matter remains that, for the first time since I have been here, this plan includes some very tough discipline for the budget process.

Under it the projections are, by 1995 spending will decline, Federal Government spending, by 18.2 percent of our gross national product, the lowest level since 1966. That compares to 22.6 percent today. Under an agreement, for the first time, there will be a budget agreement with absolute spending caps for 5 full years. The OMB, at the direction of the President, will have the authority to cut spending anytime during the year, if Congress should exceed those caps. Any new spending that we adopt—and I am sure there will be new ideas that will come along—can only be adopted if we pay for them at the time we adopt them. Social Security surpluses will no longer be used to mask the size of the deficit, and there will be additional protections against raiding the Social Security funds.

There are those who do not like specific parts of the program. To them I say, if you want to go back to the table, as far as my State is concerned, it would be a lot worse to have a 25-cent gas tax increase; it would be a lot worse to have an 80-cent increase in the beer tax; it would be a lot worse to cut out agricultural programs entirely, and it certainly would be a lot worse to start messing around with Social Security.

On the other hand, if we try to do those things and fail, as I am sure we would, then the cuts that sequester would bring would be, I think, even worse for the people of my State and the people of this country. Farmers would face a 40 percent cut in their deficiency payments, 40 percent in CRP payments, and meat and poultry inspection would be shut down for 140 days. Our war on drugs would grind to a halt, and 1.2 million college students would lose their grants. I would hope that those who decide to fight this package, whether it is for special interests or their own ideas of the interests, realize that these are the real choices and not some utopian package that cuts the budget without any pain.

The people of our State will suffer greatly from continued stalemate and uncertainty. I really do not think our economy can sustain further delay by Congress in dealing with this very real problem.

Last night, I was most impressed that the President went forward, as many of us urged him to do, to sell the package. And he put his prestige on the line on national television. He asked the American people to join him, and he explained it. I think that we will be able here to get the votes on our side of the aisle, but this is a two-way street.

Mr. President, this morning I read in our St. Louis newspaper a headline story about the chairman of the budget negotiations, the one who led the discussions, the man who conducted the negotiations for the deal. He is quoted to have said, "I detest it; I think it is wrong."

Mr. President, when the President is asking Americans to, in a bipartisan effort, sacrifice for their future, and his partner in those negotiations is saying, "I think it is wrong," I think we have to pull together on both sides of the aisle, on both sides of this Capitol, to take the difficult medicine and to adopt the tough measures that we must, to save our economy, to put us on a path or responsible spending, so we can get about solving the many other problems this Nation faces.

I want to commend the budget summiteers. At one time, I would have loved to have been there to have had a say in it. On the other hand, I know how different it was for all of them. They have crafted an ugly duckling, but it is the only duckling around. It is something that we have to take. I join with my colleague in saying that I am committed to supporting it. I hope we can develop the support we need in this body, and in the other body, because it is essential to the future of this country and, more important, to the future of our children.

Mr. President, I yield the floor and suggest the absence of a quorum.

Mr. BUMPERS. Will the Senator withold that?

Mr. BOND. Mr. President, I told the floor managers I would seek a quorum call, and I suggested the absence of a quorum, subject to whatever action the floor managers wish to take.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I wanted to ask permission to proceed as if in morning business, but I see both floor managers on their feet. I do not want to impede the progress of the bill, if progress is about to be made.

Mr. KERRY. Mr. President, we hope we are still making progress, and the Senator from Arkansas would in no way impede that progress. We look forward to his counsel and wisdom.

The PRESIDING OFFICER. The Senator from Arkansas.

THE BUDGET AGREEMENT

Mr. BUMPERS. Thank you very much, Senator.

There are going to be an awful lot of speeches made on this Senate floor in the next few days, when the budget resolution embodying the budget agreement comes over from the House of Representatives tomorrow or Friday. I will speak further on the resolution at that time but I thought I would seize this opportunity, because I happened to be on the floor, and the pending bill is not making very much progress. I thought I would make a few comments from my own standpoint about the budget agreement.

I speak, obviously, for myself only, as a Senator from the great State of Arkansas.

Mr. President, that brings me to my first point, and that is, how does the budget agreement and the budget resolution affect my State of Arkansas?

Well, first, I would like for my colleagues to know that Arkansas is No. 2 among the 50 States in the percentage of its population over 65. We are just barely behind Florida in that category. We all know what this agreement does to Medicare.

Second, Arkansas is an agricultural State. We are not as dependent on agriculture as we once were, but we still consider ourselves to be an agricultural State. When you include the poultry industry, where my State is No. 1 in the Nation, agriculture is a very big item indeed. It is said in my State that one out of every 10 people in the State work in the poultry industry or some related part of it. We all know what this agreement does to agriculture.

Third, Arkansas holds the distinction—not a proud one—of being the highest consumer of gasoline per vehicle in the Nation. We all know what this agreement does to energy costs, especially gasoline.

Having given you those three statistics, you do not have to be a rocket scientist to know where I am leading in this discussion.

Medicine, agriculture programs and energy costs are the three categories that the budget agreement devastates in my State. A 12-cent gasoline tax, over a 5-year period, will cost Arkansas $1 billion. Mr. President, that is three times the entire budget of the State when I was Governor. It is not now quite enough to run my State for 1 year, but I can tell you that a $1 billion tax increase, for a State that ranks about 47th in per capita income, for gasoline taxes is devastating.

For the roughly 2 to 3 percent of the people in my State who make over $100,000 a year, it will simply be an annoyance, or maybe not even that, maybe not even an inconvenience to pay this tax. But for working people it is about $150 per year.

Senators make $100,000 a year, and I cannot help but notice that in this budget agreement our income category is not asked to make a single sacrifice that we will really feel. The gas tax will affect me, but not like it will affect someone in my State who commutes 60 miles each way into Little Rock to work.

So you are looking at a relatively poor State, and you are saying we want $1 billion in additional taxes from you over the next 5 years. Mr. President, that is a staggering sum of money in my State and it's only one part of this budget agreement.

Then this agreement says that if you receive Medicare, your deductible is going from $75 to $150 and your premiums for part A and part B are going to go up. That increase is $30 billion over 5 years. Think of the impact that has on a State that is relatively poor, but has a very high percentage of elderly people relying on Social Security and Medicare.

We have five rural hospitals in my State just barely hanging on. We have already lost eight hospitals in the last 3 or 4 years, rural hospitals, and we have five more struggling to stay open. The other $30 billion to be saved in the Medicare provisions in the budget agreement come from what they call provider benefits. In other words, we are going to reimburse doctors and hospitals less for the services they provide to Medicare recipients.

Mr. President, the five hospitals in my State that are barely hanging on, if you do not pay them more rather than less, they may go under. But it is almost a certainty that they will go under under the provisions of the budget agreement.

I mentioned agriculture a moment ago, Mr. President. It is now anticipated that the budget resolution will cut Commodity Credit Corporation payments by $13 billion over a 5-year period and that represents 24 percent of the total that would otherwise be spent. If that were the whole story, that would be bad enough. Unhappily, it is only half the story, because the farm bill that the Agriculture Committee is in conference on with the House right now had already provided for a 20-percent cut in those very same programs.

So, Mr. President, if we adopt the conference report that is going to come out of the Agriculture Committees of the two Houses, and the budget agreement you are talking about, a huge, and unprecedented 44 percent cut in agricultural programs. And for a segment of farmers in this country in my State, for example, you cut their agriculture benefits by this amount, and you can just say "adios amigos" to a lot of them. I can tell you it will be devastating to agriculture in my State, and every other State that has a heavy dependency on agriculture.

As I rode to work this morning, I thought, "why is it I am always being asked to sacrifice my values and my principles in the U.S. Senate?"

I want to use that old Patrick Henry quote, "is life so dear or peace so sweet," that I just have to jump in the tank on every compromise that is reached around here hoping that the people won't say "it is Congress' fault."

I want to say to my colleagues on both sides of the aisle the President's finger is longer than anybody's in this town. When it comes to finger pointing. You cannot even stay in the same league with the President when it comes to blame placing. He can command all three networks on a moment's notice. When he walks into the rose garden and coughs, it is front page news. And a Senator can stand on this floor and squeal like a pig under a gate all day long, and you will not see a word of it quoted on the networks or in the press.

Sometimes when I go out and deliver a speech at a political function, somebody will come up to me—I do not mean this to be self-serving Mr. President—and say: "Senator that was a fine speech. You expressed my feelings totally. Why aren't you and other people in the Senate saying that?"

You have to be kidding. That is what I have been saying here for 16 years, at the top of my voice. But there is not one single Senator here, not the majority leader, not the minority leader, the whips, nobody is even in the same league with the President, when it comes to getting the attention of the press and the American people.

When it comes to blame placing, you know, Mr. President, there's a real temptation for the chief executive officer to jump on the legislative body.

When I was Governor, as the presiding officer was also, it was just a given, that any time I wanted to go up in the polls, all I had to do was jump on the legislature. Everybody loved it and I used to do it occasionally, not as often as this President jumps on Congress, but I did it occassionally.

What do you think the American people thought last night after they heard the President's address? No specifics. You did not hear that the deficit is going to go up a trillion dollars more over the next 5 years under this agreement. You heard it said that we are finally dealing with the deficit and this is the final fix. You did not hear, for example, if you make between $20,000 to $50,000 a year, your taxes are going to go up over 3 percent. If you make under $10,000, your taxes go up 7.5 percent. But if you make over $200,000 a year your taxes are going up much less. The New York Times says three-tenths of 1 percent, and others say 1.7 percent. You did not hear that last night.

You heard last night, that if we do not pass this budget agreement, which

supposedly cuts the deficit this year by $40 billion—the year that started Monday, October 1—we face an economic disaster.

Do you want to analyze that a second? Listen. The deficit in 1991, counting Social Security trust funds and other trust funds, is going to be $430 billion. I repeat, $430 billion. That is twice as high as the biggest deficit ever in the history of this country.

Now, if we pass the this budget agreement, the deficit this year will be $390 billion. It's being said that a $40 billion cut in the deficit this year—if we do not reduce the deficit by $40 billion this year, we will have an economic disaster. If you do not reduce the deficit from $430 billion to $390 billion you will have an economic disaster.

That's nonsense. Not that we may not have an economic disaster, but that a $40 billion, or 10 cut will avoid it. The stock market had headed south long before Saddam Hussein invaded Kuwait. The market headed south a long time before that for totally different reasons, the budget deficit being one of the major ones.

Mr. President, let me make one other observation here about this budget resolution. Have you looked at the economic assumptions on which this agreement is based? You ought to look on parge 41 of this budget proposal. I think this table came from the Office of Management and Budget. I am not sure. Here are some of the economic assumptions and I invite you to listen carefully. In order to claim a $500 billion savings over a 5-year period of time, as does this budget resolution, interest rates in 1993 would have to be 4.9 percent, and in that same year the economic growth rate has to be 4 percent. Four percent is a fiery growth rate. Believe you me, I would like to believe we were going to be growing at a 4-percent growth rate with 4.9-percent interest rates. But bear in mind, that if we grow 3 percent, which is also a very respectable growth rate, instead of 4 percent, you can add $38 billion to the deficit figure, or rather reduce the $500 billion reduction in deficits by that amount.

Who here believes that 2 years from now interest rates will be 4.9 percent? How long has it been since you have seen an interest rate like that? The last time was when I bought my little house in Charleston, AR, 28 years ago, when I borrowed money on my home at 5¼ percent.

But in 1994 things are supposed to get even much, much better. Interest rates are going to be 4.4 percent. And the growth rate is going to be 3.7 percent.

I could go on and on with these economic assumptions, but there are not 10 people in this body naive enough to believe those estimates, and the whole agreement is based on them.

Mr. President, getting back to the war between the President and the Congress that seems to never end, sometimes I get asked a question, and I always welcome the question, "Why can you not do this, and why can you not do that, and why did the budget negotiators not do a lot better job?"

Let me ask first, "Why did they not come up with a much greater deficit saving." And, No. 2, "Why did they not tax the wealthy in the country?" How is it that the richest people in this country get off Scot-free under a proposal like this?"

Well, I will tell you how that happens. There are 535 Members of the U.S. Congress and the President only has to have the support of 34 of those 535 Members to get his way on anything he wants. Why? Because it takes a two-thirds majority of both Houses to override a Presidential veto. There are 100 Members of the Senate. Therefore if 34 Senators vote to uphold a Presidential veto, it is upheld. It makes no difference if all 435 Members of the House and 66 Senators have voted to override the veto. As long as 34 good, true, solid Republicans and Democrats in this body vote to sustain the veto, it is a done deal. The President wins.

Our negotiators went to the budget negotiating table because the President said, "Everything is on the table, everything is negotiable." And I must say, there are not 5 men on this side of the aisle in the U.S. Senate who have more respect and administration, at least from this Senator, than our negotiators at the summit. They did the best they could do. These negotiations went on for over 140 days. Then you look at the budget agreement that comes before us and you wonder, where did there idea come from since everything was supposed to be on the table? It seems to me nothing was really on the table, unless the President decided it was on the table.

There is a provision in here that says if you invest $200,000 in a small business—and small is defined as being worth $50 million—you can deduct $50,000 of it that same year. Now I think that provision is going to die regardless of what happens to the budget agreement. It is truly outrageous.

Mr. President, I guess the two things I object to more than anything else, and despite the devastation this agreement would do to my State, the two things that I resent more than anything else about this budget agreement, is its lack of fairness and the failure to deal with the deficit problem.

What kind of nonsense is it, Mr. President, when people who make less than $10,000 a year get zapped with a 7.6-percent tax increase under this proposal, and for the people who make over $200,000 a year, counting even the limitation on their itemized deductions, it is only a 1.7-percent increase. People who make $20,000 to $30,000 a year—and that is typical in my State—get an increase in taxes of 3.3 percent, and U.S. Senators, according to this, get only a 1.9-percent tax increase.

Mr. President, the people in this country who make over $100,000 a year will never know this budget agreement went into effect. If you drink liquor, beer, wine, smoke cigarettes, and you make over $200,000 a year, you are going to keep on smoking and drinking. I can tell you for other people it will make a difference. They won't drive as much, and they will make other lifestyle changes.

But what bothers me is that the people of this country who are best able and can afford to help us reduce this deficit, are called on for virtually nothing.

The second thing that I resent about this budget agreement, Mr. President, is it does not go far enough. We are going to be right here next September making these same speeches, these same arguments, about the terrible deficit crisis. No wonder people are cynical. It is difficult for me to believe that the President said what he did last night, that this agreement is the final solution to the deficit. It is no solution. And such as it is, it is palpably unfair.

Mr. President, I have a lot of other things that I will talk about in the coming days about this agreement. But I can tell you that I agree with a column I saw in the Washington Post this morning by Hobart Rowen. He said he initially thought this agreement was better than nothing. And at first was inclined to agree with him on that. I have really been laboring in my own mind: Is it better to vote for something like this in the knowledge that it will do something, even though it comes out of the hides and skins of the people of this country who can least afford it. Is it better to vote for that and do something, or is it better to cling to your values and your principles and say we can do better? Surely, an alternative can be presented to this body.

I do not believe, Mr. President—I may be wrong—but I do not believe the President when he says "I will veto anything else." There are 16 major points in this document that the summiteers agreed to. We have to have a budget resolution finished here by midnight Friday night or a sequester takes place. The resolution is not amendable. The agreement says their resolution has to be passed exactly the way it came back here from the summit. It is as though 95 of us in the Senate do not have any ideas. We are presented with a fait accompli that

says do not touch it, don't uncross a "t," do not undot an "i," because the President says it has to be his way or not at all. You have about 525 of the 535 Members—who were not negotiating this agreement deficit, who might have a few pretty good ideas on this but they will not get a chance to express them.

And then if we pass the budget resolution, the budget reconciliation process begins and we have to vote on that by October 19. Amendments will be in order then. But then under the 16-point agreement of the summiteers, no matter how good an idea you have, no matter if you want to add another $40 billion in deficit reduction, another $300 billion in deficit reduction over the next 5 years, do not think about it, do not even try it, because the President says he will not accept it. Everything must be exactly the way it came back here where 10 people negotiated it. It cannot be changed one iota, for better or for worse. The reconciliation process, once we adopt the budget resolution, has to conform totally to what the summiteers agreed to or the President will veto it.

I hate to be strident about the President. I just do not understand this. It just absolutely chills me to the marrow of my bones to think about this great country, which I love so much and the future of my children who are absolutely everything to me as they are to you—to believe that this is the best we can do. When the people of Arkansas and America sit around the dinner table in the evening and talk about what they love most, it is not that Mecedes in the driveway, it is not the farm out back, or that posh office downtown, or those two station wagons or a boat in the driveway, it is their children.

If we really love our children and we are concerned about the future of the Nation which we all love and we are concerned about their future, their health, their education, their environment, why do we not do here on the deficit what we know we have to do? Why are we trying to finesse this monumental problem one more year when at least 80 Senators in this body know we will be right back here next year fighting the same battle. What about the President, who told us in January the deficit this coming year would be $64 billion and now it is up to $430 billion? What about Budget Director Dick Darman coming out time and again saying, "We miscalculated." Think of the President's assertion in January that the deficit would be $64 billion in 1991—and now we know it's going to be $430 billion and he says he's tired of Congress' phony figures.

You do not have to be a rocket scientists to read this budget document and know what it does to the country—or, rather, what it does not do for the country.

So, Mr. President, I am hoping that something will happen. I do not know what it will be. Maybe the House will send us a substitute budget resolution and we will get a chance to at least offer the Members of the Senate a chance to really bite the bullet; instead of reducing the deficit next year $40 billion, I think we can double that. And we could balance the budget in just years, but not with deceit and happy talk. Unfair as this budget is, I might find it in my heart to vote for it if there were another $30 billion or $40 billion in there and being paid by people who can afford it. I might support it if we were reducing the deficit by $700 billion or $800 billion over the next 5 years instead of by $500 billion.

You know the old saw about "Oh, you cannot do that because it will shove us into a recession." I am not sure we are not already in one. But that old argument that you cannot tax this and you cannot tax that because you will shove us over the edge and we will go into recession. I concluded a long time ago that is just another saw to keep people from paying higher taxes and absorbing spending cuts.

I can tell my colleagues that we can find a lot more deficit reductions in a lot of places where nobody would be seriously effected. But this resolution asks entirely too much from people who are going to be seriously and adversely effected.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BINGAMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MONEY LAUNDERING ENFORCEMENT AMENDMENT

MOTION TO PROCEED

Mr. D'AMATO. I assure my colleagues, I will yield the floor at any time they request. I would like to make a statement as it relates to the money laundering bill, S. 3037

Let me say I rise in strong support of this legislation. This legislation has come about as a result of a number of years—not 1 hearing, not 2 hearings, not 6 hearings, not 10—but a number of years of intensive work. It has been my privilege to have the opportunity to work with Senator KERRY, going back on the money laundering and the problems attendant to that, to the days when Manuel Noriega was having his army help bring millions and millions of dollars into banks. It goes back some years ago. We held exhaustive hearings.

Now it is time to go after those who would use their establishments, their banks, for the same. One of the important elements of this legislation is the fact that banks could have a revocation of their charters after a hearing and after due process.

Title 1 of this bill addresses this. It was a major point, I believe, in attempting to set the record straight that the financial institutions of this country have a very real obligation to do something and not simply say, oh, well, it is too costly, it is too much paperwork, et cetera.

So I commend the Senator for his work, for that section which deals with money laundering as it relates to the financial institutions, and lets them know there are real penalties for that kind of flagrant abuse of the authority they have. And their charters should be revoked. It should not be just a penalty, if they willingly allow these kinds of activities to take place. Mr. President, for too many years we had far too many financial institutions doing just that.

I have spent a good deal of time on this bill because we have billions and billions of dollars today that are being laundered in many of our urban centers—in my great city of New York. There are hundreds and hundreds of money laundering centers. There are the wire transmitter centers, many illegal, because we have not set about to see that there is a sufficient punishment. Indeed, the State laws against not being chartered or properly registered bring about just a misdemeanor and consequently the Federal Government is not going to pursue a case where there is just a misdemeanor. We do not have the resources to do it.

One of the things this legislation does is it establishes this to be a Federal crime, a felony, so consequently maybe it will attract the kind of attention it should. If we want to stop the money laundering, which I think goes right to the heart of the drug problem, get at the money. They say, "Follow the dough." Here is an opportunity to follow it, to get it, and to get those people who are busy transmitting it.

There are sections after sections of this bill that the entire committee has worked on dealing with governments, dealing with wire transmitters.

I read, with incredible amazement, that our colleagues in the House of Representatives just learned through hearings that there are virtually thousands of people who do not follow the money-reporting requirements as they relate to cash transactions. I am amazed they just are finding that out now.

Of course there are certain things we all just find out. Maybe we should commend them for making that admission. Maybe we should say how is it that heretofore there has not been a greater awareness of the kinds of

problems attendant with dealing with the drug epidemic and attacking it. And we attack it by going after the money launderers. That is one of the ways of doing that.

I commend the chairman of the Banking Committee, Senator RIEGLE, for incorporating into the committee bill virtually all of S. 2651, the Money Laundering Enforcement Act, which I introduced on May 17. Why is this bill so important? Because, as the Treasury Department reported on October 31, 1989:

Worldwide gross drug revenues are estimated to be $300 billion. Illegal drug revenues in the United States are estimated to total $110 billion. Estimates are that only 20 percent of the money generated from narcotics trafficking goes to the cost of goods sold, with 80 percent available for profits. These profits are used to finance other narcotics and criminal activities, and acquire legitimate businesses. * * *

Illegal funds are being transferred from or to the United States and "cycled" through intricate money laundering schemes involving international payments, particularly wire transfers.

One recent case shows how extensive and sophisticated—how internationalized—money laundering has become. This case has come to be known as Operation Polar Cap. When the Attorney General and the Secretary of the Treasury announced a new phase in this investigation on April 17, 1990, they stated:

173 banks in 23 States have been ordered to produce records of more than 754 bank accounts into which nearly $400 million in illegal Colombian drug profits were deposited.

Phases I, II, and III of Polar Cap showed that drug sale profits over $1 billion were laundered through New York banks into foreign accounts controlled by the Cartel, mostly in Panama, Uruguay and elsewhere.

Through investigation of these New York and other U.S. accounts, formal requests were made to the governments of Colombia, Panama, Uruguay, Luxembourg, Switzerland, United Kingdom, Canada and Austria for records of accounts believed to be under the control of the Medellin Cartel.

Hearings held by the Senate Banking Committee on November 1, 1989, and May 18, 1990, documented the fact that drug dealers have been laundering billions of dollars not only through our banks, but through illegal storefronts, exchange houses along the United States-Mexico border, and a host of other financial institutions.

The illegal money transmitters operate with complete contempt for the law because the current law enforcement effort is totally inadequate. As one witness testified before the Banking Committee:

There aren't enough of us to go around. And the State Police and the Attorney General's Office basically have the same problem.

We need this bill because, as the director of special investigations for the New York State Banking Department testified before the Banking Committee:

As banks became more sophisticated in reporting currency transactions, drug dealers became more creative and began to rely increasingly on unlicensed and illegal money transmitters, on check cashers, and on money order vendors, all users and sources of huge amounts of cash. * * * It is primarily the unlicensed money transmitter who provides the best means of laundering money and is most often used to structure illegal transactions.

On November 15, 1989, then-Assistant Treasury Secretary for Enforcement Salvatore R. Martoche testified before the House Banking Committee:

Investigations by law enforcement authorities show that wire transfers increasingly are becoming the method of choice to launder money.

In an April 28, 1989, submission to the drug czar, the American Bankers Association stated:

Wire transfers, which are essentially unregulated, have emerged as the primary method by which high volume launderers ply their trade.

A September 25, 1989, article in the New York Times, entitled, "Unassuming Storefronts Believed to Launder Drug Dealers' Profits" quotes State banking regulators as saying that storefront money-transmitting operations are sending billions of dollars to drug dealers in South America and Asia.

As the House Banking Committee notes in its report (No. 101-446) on its money laundering bill:

Certain states have recognized a need for more effective regulation of these businesses, but most states have yet to act. Those who have required some form of licensure usually have little manpower available to properly supervise and monitor the activities of these business establishments.

S. 3037 does not solve these problems completely, but it does very significantly increase the Federal role in combating money laundering, both by wire and other transfers, and by unregulated financial institutions.

I urge my colleagues to give this bill their full support.

DETAILS

Among the bill's key provisions are those that: require Treasury to issue regulations by July 1, 1991 requiring that depository institutions—banks, saving associations, and credit unions—identify their nonbank financial institution customers—money transmitters, check cashers, foreign exchange dealers, issuers and redeemers of traveller's checks, and casinos; provide that Treasury will provide a list of such information to State supervisory agencies for supervisory purposes, because, as many witnesses testified before the Banking Committee:

It is the sharing of information that is crucial in the battle against drug dealing and money laundering;

Makes it a Federal crime to operate a money transmitting business in violation of State law; authorizes Treasury to issue rules requiring financial institutions to have stronger "know your customer" procedures.

While the Treasury Department already has authority to impose special reporting rules on financial institutions in certain geographic areas—for example, they can be required to report cash transactions of less than $10,000—this bill prohibits financial institutions from telling customers they are subject to geographic targeting.

Where the House bill (H.R. 3848) only requires record-keeping regulations for domestic depository institutions making international fund transfers, S. 3037 also requires Treasury to issue record-keeping rules for international fund transfer orders made by money transmitters and check cashers.

S. 3037 permits a Government agency to transfer, without customer notice, financial records to the money laundering investigations divisions within the Treasury Department, including the Financial Crimes Enforcement Network [FINCEN], for criminal or investigative purposes and with a written certification by the transferring agency that the records may be relevant to a violation of Federal criminal law.

S. 3037 also contains an amendment I offered at the Banking Committee markup in July requiring the Treasury Department to report to Congress in 90 days, after consultation with the Department of Justice and Drug Enforcement Administration, on the advantages and disadvantages of changing the size, denominations, or color of U.S. currency, or of providing that the color of U.S. currency in circulation in foreign countries shall be of a different color than currency circulating in the Unites States.

A number of proposals have been suggested in reference to the issue of changing currency.

DRUG ENFORCEMENT ADMINISTRATION PROPOSAL

The DEA, in a December 12, 1989, letter to the Department of Treasury, asked for consideration of printing two distinct forms of currency, one to serve as legal tender exclusively in the United States and the other form for use outside the United States.

The two forms would only be interchangeable at a U.S.-controlled financial institution. The effect on the drug trafficker, according to DEA, could be potentially devastating. Any U.S. currency smuggled out of the United States would be rendered worthless.

DONALD REGAN PROPOSAL

The former Secretary of the Treasury, in a September 18, 1989, New York Times article, advocated a similar idea. His suggestion is as follows: To get at the cash dealings of drug wholesalers, retailers, street pushers, we should print new $50 and $100

bills—either of a different color, or size, than the current ones.

With only a 10-day warning, we should make all $50 and $100 bills obsolete—no longer acceptable as legal tender. Everyone would have to exchange their large bills for new ones.

Banks and other financial institutions would have to keep a record of any cash transactions over $1,000. Reports would be furnished to the Comptroller and IRS by name and taxpayer identification.

Any drug money uncovered could go to financing our war on drugs, including money for treatment of addicts.

Honest, law-abiding citizens would have nothing to fear if we made such changes, but drug dealers and other criminals, who fail to pay billions of dollars in taxes, would find their illegal profits subject to seizure by the Government, because people turning in large amounts of old currency for new bills would have to explain where they got so much cash. Explaining that would be impossible for most drug dealers and other criminals evading taxes.

A LEAP FROM MADMAN TO MADMAN

Mr. D'AMATO. Mr. President, seeing there is no one here who would like to speak, let me take, while we are not in active pursuit of legislation, the opportunity to read into the RECORD a statement which I submitted to one of the great newspapers in our country dealing with the Middle East.

We go from crisis to crisis, but some things never change. I hope maybe things will change.

This piece is entitled, "A Leap From Madman To Madman."

I address this in the form of a narrative, but there is a question.

Don't we ever learn from history? We embraced Saddam Hussein and Iraq in order to stop the Ayatollah Khomeini, following the proverb that "my enemy's enemy is my friend." We turned a blind eye toward Hussein's use of poison gas against Iran and against Iraq's own Kurdish minority.

Are we now prepared to turn a blind eye toward Syrian President Hafez Assad's cries against humanity—and against Americans? Syria hosts the Popular Front for the Liberation of Palestine—General Command, Ahmad Jibril's notorious terrorist group. This group is reportedly the leading suspect in the December 21, 1988, bombing of Pan Am Flight 103. That attack killed 270 innocent people, mostly Americans who were flying home to be with their families during the holidays.

Have we forgotten the terrible 1983 attack against our U.S. Marine Corps barracks in Beirut that killed 241 of our boys? The attack was reportedly carried out with the sponsorship, knowledge, and authority of the Syrians.

Even now, Syria provides safe haven for Alois Brunner, Adolf Eichmann's former secretary, a hunted Nazi war criminal. Brunner was employed as a "security adviser" to Rifaat Assad, the Syrian President's brother. Brunner reportedly smuggles drugs when he is not teaching the finer points of genocide.

Syria, like Iraq, is heavily armed with Soviet weapons and reportedly has poison gas weapons of mass destruction. Assad leads the hard-line Arab "rejectionist front" and has opposed every move toward Middle Eastern peace settlement, while directly confronting Israel along the Golan Heights, posing a constant threat to Israel and Middle East peace.

We must not forget that Assad has laid claim to Lebanon, has more than 50,000 Syrian troops in Lebanon, and would like to annex it. Only Israel's determination has stopped Assad from building his "Great Syria."

We seek Assad's help against Hussein because Iraq invaded and annexed Kuwait. We must not confuse his support with friendship—and repeat the same mistake we made with Hussein. Assad is using our power to help crush an old enemy—and we are using Syrian support to help hold together the Arab coalition against Iraq. We must not, however, confuse the cold calculations of statecraft with friendship—we must not delude ourselves into thinking we can moderate Assad's policies by being his friend.

We can accept Assad's armored divisions, but we must continue to oppose his policies. The American people cannot be asked to make the sacrifices we are now undertaking to prevent Saddam Hussein's aggression, only to give Assad the opportunity to pursue similar goals under the Syrian flag. It is time to develop a more sophisticated policy for dealing with Arab states not leaping from madman to madman.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—H.R. 5158

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may proceed to the consideration of Calendar No. 854, H.R. 5158, the VA-HUD appropriations bill, at any time, notwithstanding the provisions of rule XXII; that the bill be considered under a 30-minute time limitation with the time equally divided and controlled between Senators MIKULSKI and GARN or their designees; that the committee-reported amendments be agreed to, en bloc, as original text for the purpose of further amendment; that the only amendments in order be the following, with 5 minutes on each amendment: An amendment by Senator MIKULSKI for Senators MITCHELL and COHEN dealing with the ASRM project in NASA; an amendment by Senator MIKULSKI for Senators ROBB, WARNER, and SARBANES with respect to the relocation of the NSF; an amendment by Senator GARN for Senator DOLE with respect to a homeless project in Kansas; an amendment by Senator GARN for Senator MCCAIN transferring funding from HUD to VA for a homeless demonstration project; and a managers' technical amendment with respect to HUD; that no motions to recommit be in order; that no points of order be deemed waived and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I will not object, but I would like to make it very clear, after listening to the amendments that are in there, particularly the ones in Kansas and elsewhere, this Senator, given the difficulties we have had in moving legislation most recently, certainly I think would have some cause to object. I hope that Senators on the other side of the aisle will respond with similar courtesy in an effort to try to see if we cannot move important legislation on the floor. I will withhold an objection with that spirit in mind.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, it is my hope that we will be able to proceed to a vote on the motion to proceed to the money laundering bill. I know that both the distinguished managers, Senator KERRY and Senator GARN, have made statements expressing support for the bill. It is something which I believe the President and the administration support. I see no reason why we cannot proceed to complete action on legislation which, at least all of those who have expressed themselves, have expressed themselves in support of.

So I am shortly going to call up the VA-HUD bill. That will, under the agreement, take a little less than an hour, at which time there will be a vote on that bill. In the meantime, I hope that we can be in a position to get an understanding or a process by which we can at least get on the motion to proceed to the money laundering bill and get on the bill itself so that we can proceed in that regard.

Mr. President, I now ask for the yeas and nays on final passage of the VA-HUD bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, just so Senators are aware, I will momentarily exercise the authority granted to me under this consent request. And I believe it has been the subject of discussion with the respective staffs so that it has the clearance of the distinguished Republican leader, that we will then proceed to the VA-HUD ap-

propriations bill. There is a 30-minute time limit on the bill itself and there are four amendments in order, each with a time limit of 5 minutes. If all of that time is used, there will then be 50 minutes and then there will be a vote on the bill. So we are talking about a vote within the next hour.

Then I hope, within that time, we will have been able to work something out with respect to the money laundering bill to which I hope we can proceed at that time.

VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATION, FISCAL YEAR 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 854, H.R. 5158.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 5158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes, namely:

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $15,684,551,000, to remain available until expended.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34-36, 39, 51, 53, 55, and 61), $502,500,000, to remain available until expended: *Provided, That, funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98-77, as amended.*

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $15,410,000, to remain available until expended.

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $670,200,000, to remain available until expended.

During 1991, the resources of the loan guaranty revolving fund shall be available for expenses for operations related to property acquisition, disposition, and other loan guaranty and insurance operations as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided,* That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1991, for transfer to the loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Secretary of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1991, within the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

GUARANTY AND INDEMNITY FUND

For purposes of making the credits to the Guaranty and Indemnity Fund authorized by law (38 U.S.C. 1825 and 1829), such sums as may be necessary to remain available until expended.

DIRECT LOAN REVOLVING FUND

During 1991, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); [$12,310,490,000] *$12,227,066,000,* plus reimbursements: *Provided,* [That of the sum appropriated, $7,904,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further,*] That of the funds made available under this heading, $278,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1991, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law, to remain available until September 30, 1992, [$216,795,000] *$226,537,000,* plus reimbursements: *Provided, That of the sum appropriated, $1,000,000 is available only for a survey and evaluation of the scientific evidence relating to dioxin and other toxic herbicides.*

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

For payment of Health Professional Scholarship Program grants, as authorized by law, to students who agree to a service obligation with the Department of Veterans Affairs at one of its medical facilities, and for related administrative expenses, $10,606,000.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, [$52,047,000] *$37,123,000,* plus reimbursements.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $484,000, to remain available until September 30, 1992.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed [$7,000] *$25,000* for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of four passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; [$902,514,000] *$865,415,000*[, including $616,658,000 for the Veterans Benefits Administration: *Provided,* That, during fiscal year 1991, jurisdictional

average employment shall not be less than 12,550 for the Veterans Benefits Administration]: *Provided, That funds shall be available, and authority granted, to enable the Secretary to enter into enhanced-use agreements under the terms and conditions of S. 2532 (101st Cong., 2d Sess. (1990)), as introduced, with respect to facilities located at the Department of Veterans Affairs Medical Center, Baltimore, Maryland (Loch Raven).*

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$26,859,000] *$24,859,000.*

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, [$575,456,000] *$522,459,000,* to remain available until expended: *Provided,* That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further,* That funds provided in this appropriation for fiscal year 1991, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1991, and (2) by the awarding of a construction contract by September 30, 1992: *Provided further,* That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further,* That no funds from any other account except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: *Provided further,* That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Department of Veterans Affairs medical facility must certify that the design of such project is acceptable from a patient care standpoint: *Provided further,* That not to exceed $3,300,000 of the funds available shall be used for the settlement of contractor claims arising from the modernization of a hospital at the Department of Veterans Affairs Medical Center, New Orleans, LA: *Provided further,* That not to exceed $3,100,000 of the funds available shall be used for the settlement of contractor claims arising from the construction of outpatient improvements at the Department of Veterans Affairs Medical Center, Pittsburgh, PA.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, [$146,140,000] *$130,640,000,* to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided,* That not more than $44,420,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further,* That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), [$28,900,000] *$18,900,000,* together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031-5037), [$65,000,000] *$70,000,000,* to remain available until September 30, 1993.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by law (38 U.S.C. 1008), $3,946,000, to remain available until September 30, 1993.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1991 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1991 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking garage revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1991 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1990.

Appropriations account available to the Department of Veterans Affairs for fiscal year 1991 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100-86, 1987, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

[For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $11,625,086,000, to remain available until expended and in addition, to be transferred to and merged under this head, not to exceed $70,000,000 from the reserve fund authorized by section 236(g), notwithstanding section 236 (f)(3) and (g): *Provided,* That of the new budget authority provided herein, $194,468,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $550,320,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $2,700,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), of which $5,000,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $890,800,000 shall be for assistance under section 8 of the Act for projects developed for the elderly under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $186,000,000 for amendments to section 8 contracts for projects developed for the elderly and handicapped under section 202 of the Housing Act of 1959, as amended; $1,767,125,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f) including project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987, of which $65,150,000 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occu-

pied by Indian families); $1,370,225,000 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)); $1,883,442,000 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, of which $70,000,000 shall be for rental adjustments resulting from the application of an annual adjustment factor in accordance with section 801 of the Department of Housing and Urban Development Reform Act of 1989; up to $1,486,850,000 shall be available for section 8 assistance for property disposition and loan management; and, any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that is less than five years: *Provided further,* That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families, who as a result of rental rehabilitation action are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 percent of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): *Provided further,* That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further,* That of the $11,625,086,000 provided herein, $321,762,000 shall be used to assist handicapped families in accordance with section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $52,000,000 shall be for amendments to contracts under section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q); and $25,000,000, shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242), but such amount shall be obligated under title VI of the Housing and Community Development Act of 1987, notwithstanding the sunset provision in section 613 thereof: *Provided further,* That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition cost of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1991, shall be rescinded: *Provided further,* That 50 percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: *Provided further,* That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families.]

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $10,810,000,000, to remain available until expended: Provided, That of the new budget authority provided herein, $233,361,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $733,760,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $2,750,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437i), including funds for the comprehensive testing, abatement, and risk assessment of lead, of which $5,000,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $1,657,807,200 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f) including project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987, of which $65,150,000 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occupied by Indian families) and $48,862,500 shall be for certificates to be used as replacement for units of public housing (including those for Indian families) lost through demolition or disposition; $1,098,516,800 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437(o)); $1,810,442,000 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended; up to $923,725,000 shall be available for section 8 assistance for property disposition and loan management; and, any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(i)) shall not be obligated for a contract term that is less than five years: Provided further, That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families, who as a result of rental rehabilitation action are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 per centum of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): Provided further, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under section 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: Provided further, That of the $10,810,000,000 provided herein, $35,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242), but such amount shall be obligated under title VI of the Housing and Community Development Act of 1987, notwithstanding the sunset provision in section 613 thereof, and, notwithstanding the language preceeding the first proviso of this paragraph, $50,000,000 shall be used for special grants in accordance with the terms and conditions specified for such grants in the Senate Appropriations Committee report on 1991 appropriations for the Departments of Veterans Affairs and Housing and Urban Development (Senate Report 101-474, pp. 46-47): Provided further, That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition costs of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1991, shall be rescinded: Provided further, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: Provided further, That notwithstanding the 20 per centum limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: Provided further, That the paragraph under the Administrative Provisions head in title II of Public Law 101-144 (approved November 9, 1989) (103 Stat. 839, 852-854), setting aside amounts for indemnification with respect to all or parts of claims arising from lead-based paint testing or abatement, is hereby amended by striking out "1992" and inserting "1998".

Of the $10,810,000,000 provided under this head, $586,300,000 shall be used for capital advances for supportive housing for the elderly under section 202 of the Housing Act of 1959, (as amended by section 601 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph)), which provision, and other provisions of the bill cited in this paragraph and the three paragraphs that follow, are deemed as enacted as of the enactment date of this Appropriations Act, of which $60,000,000 shall be for amendments for contracts for projects previously reserved under section 202 (as it existed before the date the bill was deemed enacted), including under section 601(d) of the bill, to remain available until expended: Provided, That to the extent such funds include an amount for a project that does not convert under section 601(c)(1) of the bill to assistance under section 202 (as amended by section 601 of the bill), such amount shall be transferred to the section 202 direct loan account for obligation for

such project; and such account shall be maintained as authorized under section 202(a)(4) of the Housing Act of 1959, as it existed before the date the bill was deemed enacted: Provided further, That to the extent that any funds remain after allocations under section 202(e), (as amended by section 601 of the bill), the Secretary shall make grants for retrofitting housing for the elderly in accordance with section 602 of the bill: Provided further, That the Secretary may transfer for use under this paragraph any funds reserved under section 202 (as it existed before the date the bill was deemed enacted) for which no loan has been executed and recorded, to which the Secretary applies section 202 (as amended by section 601 of the bill), as provided by section 601(c) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise available under this paragraph: Provided further, That at the election of a sponsor of a project under section 202 (as it existed before the date the bill was deemed enacted), the Secretary shall provide funding for amendments either under section 202 (as it existed before or after the date the bill was deemed enacted) or under section 601(c)(1), and any amount for amendments to be provided under section 202 (as it existed before the date the bill was deemed enacted) shall be transferred to the section 202 direct loan account for obligation for such project: Provided further, That of the amounts available under this paragraph, up to $5,000,000 shall be available for contracts for technical assistance in accordance with section 202(k)(1) (as amended by section 601 of the bill).

Of the amounts made available under this head, $449,619,000 shall be used for project rental assistance for supportive housing for the elderly under section 202 of the Housing Act of 1959, as amended by section 601 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph), of which $186,000,000 shall be for amendments for contracts for projects for the elderly previously reserved under section 202 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: Provided, That to the extent such funds include an amount for a project that does not convert to assistance under section 202 (as amended by section 601 of the bill), such amount shall be for obligation for such project as authorized under section 8 of the United States Housing Act of 1937 (as it existed before the date on which the bill was deemed enacted): Provided further, That the Secretary may transfer for use under this paragraph any funds previously reserved under section 8 of the United States Housing Act of 1937 for assistance for projects for the elderly under section 202 (as it existed before the date on which the bill was deemed enacted), for which no loan has been executed and recorded, to which the Secretary applies section 202 (as amended by section 601 of the bill) as provided by 601(c) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise available under this paragraph: Provided further, That following the election under section 601(c)(2) of a sponsor of a project under section 202 (as it existed before the date on which the bill was deemed enacted) as to whether the Secretary shall provide funding either under section 202, as it existed before or after the date on which the bill was deemed enacted, any theretofore reserved section 8 amounts that remain shall be transferred and merged with any other amounts available under this paragraph, and made available for other supportive housing for the elderly under section 202 (as amended by the bill).

Of the $10,810,000,000 provided under this head, $117,580,000 shall be used for capital advances under section 611 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph) for supportive housing for persons with disabilities (including 500 units for persons disabled as a result of infection with the human acquired immunodeficiency virus), of which $15,000,000 shall be for amendments for contracts for projects for the handicapped previously reserved under section 202(h) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: Provided, That to the extent such funds include an amount for a project that does not convert under section 611(m)(1) of the bill to assistance under section 611 of the bill, such amount shall be transferred to the section 202 direct loan account for obligation for such project; and such amount shall be maintained as authorized under section 202(a)(4) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted): Provided further, That the Secretary may transfer for use under this paragraph any funds reserved under section 202 or 202(h) (as it existed before the date on which the bill was deemed enacted) for which no loan has been executed and recorded, to which the Secretary applies section 611 of the bill, as provided by section 611(m) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise available under this paragraph: Provided further, That at the election of a sponsor of a project for housing for the handicapped under section 202 or 202(h) (as it existed before the date on which the bill was deemed enacted), the Secretary shall provide funding for amendments either under section 202 (as it existed before or after the date on which the bill was deemed enacted) or under section 611, and any amount for amendments to be provided under section 202 (as it existed before the date on which the bill was deemed enacted) shall be transferred to the section 202 direct loan account for obligation for such project: Provided further, That of the amounts available under this head, up to $5,000,000 shall be available for contracts for technical assistance in accordance with section 611(j)(1) of the bill.

Of the amounts provided under this head, $156,000,000 shall be used for project rental assistance for supportive housing under section 611 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph) for persons with disabilities (including 500 units for persons disabled as a result of infection with the human acquired immunodeficiency virus), of which $52,000,000 shall be for amendments for contracts for projects previously reserved under section 202(h) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: Provided, That to the extent such funds include an amount for a project for housing for the handicapped that does not convert to assistance under section 611 of the bill, such amount shall be for obligation for such project as authorized under section 8 of the United States Housing Act of 1937 and section 202(h) of the Housing Act of 1959 (as such sections existed before the date on which the bill was deemed enacted): Provided further, That the Secretary may transfer for use under this paragraph any funds previously reserved under section 8 of the United States Housing Act of 1937 and section 202(h) of the Housing Act of 1959 for which no loan has been executed and recorded, to which the Secretary applies section 611 of the bill, as provided by section 611(m) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise available under this paragraph: Provided further, That following the election under section 611(m)(2) of a sponsor of a project for the handicapped under section 202 (as it existed before the date on which the bill was deemed enacted) as to whether the Secretary shall provide funding either under section 202, as it existed before or after the date on which the bill was deemed enacted, any theretofore reserved amounts under section 8 and section 202(h), (as such sections existed before the date on which the bill was deemed enacted) that remain shall be transferred and merged with any other amounts available for use under this paragraph, and made available for other housing under section 202, as amended by the bill.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(INCLUDING TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $7,734,985,400, to remain available until expended, *of which $3,654,519,750 shall be for existing certificates, $3,102,872,600 shall be for housing vouchers and $977,593,050 shall be for loan management under section 8: Provided,* That funds provided under this paragraph may not be obligated for a contract term that is less than five years: *Provided further, That to the extent that the amount that is appropriated under this head is reduced as a result of sequestration under a final order issued under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(b)), the contract term may also be reduced from five years:* [*Provided further,* That to the extent the amount in this paragraph is insufficient, the Secretary may, from the Annual Contributions for Assisted Housing paragraph, transfer to, add to, and merge with the amounts appropriated under this paragraph up to $300,000,000 to fund such insufficiency, and the $1,883,442,000 earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, in the Annual Contributions for Assisted Housing paragraph, shall be reduced by an amount equal to the amount transferred:] *Provided further,* That the Secretary may maintain consolidated accounting data for funds disbursed at the Public Housing Agency or Indian Housing Authority or project level for subsidy assistance regardless of the source of the disbursement so as to minimize the administrative burden of multiple accounts.

RENTAL REHABILITATION GRANTS

For the rental rehabilitation grants program, pursuant to section 17(a)(1)(A) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437o), [$135,000,000] *$70,000,000,* to remain available until September 30, 1993.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1991 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

[In fiscal year 1991, $491,570,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided,* That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further,* That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further,* That 25 per centum of the direct loan authority provided herein shall be used only for the purpose of providing loans for projects for the handicapped, with the mentally ill homeless handicapped receiving priority: *Provided further,* That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further,* That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further,* That of the direct loan authority provided under this heading, an amount necessary to provide for 500 dwelling units shall be used only for the purpose of providing dwelling units for persons who have contracted the disease of acquired immune deficiency syndrome: *Provided further,* That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1991 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

[Section 202(h) of the Housing Act of 1959 (12 U.S.C. 1701q(h)) is amended by adding at the end the following new paragraph:

["(5) Notwithstanding section 504 of the Rehabilitation Act of 1973, the Secretary shall provide assistance under this subsection for housing and related facilities for handicapped families for which occupancy is limited to families and persons having acquired immune deficiency syndrome.".]

In fiscal year 1991, direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), using any resources transferred to the fund pursuant to the first proviso of the second paragraph and the first proviso of the fourth paragraph under the head "Annual Contributions for Assisted Housing" in title II of this Act: Provided, That, notwithstanding section 202(a)(3) of the Housing Act of 1959, any such obligations shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, [$7,000,000] *$12,000,000,* to remain available until September 30, 1992.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), [$2,000,000,000] *$2,001,300,000: Provided, That the Secretary of Housing and Urban Development shall report to the Committees on Appropriations by December 1, 1990, as to whether or not funds provided under this heading are sufficient to satisfy 100 percent of the performance funding system for fiscal year 1991, unadjusted by unrealized or estimated savings.*

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii), and section 106(a)(2), and section 106(c) of the Housing and Urban Development Act of 1968, as amended, [$5,000,000] *$8,000,000.*

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z-1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, all uncommitted balances of excess rental charges as of September 30, 1990, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1991, [which are in excess of the $70,000,000 authorized to be transferred to the annual contributions for assisted housing account,] to remain available until expended: *Provided,* That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $317,366,000, to remain available until expended.

During fiscal year 1991, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1991, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $75,000,000,000.

During fiscal year 1991, gross obligations for direct loans of not to exceed $151,125,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

[NONPROFIT SPONSOR ASSISTANCE

[During fiscal year 1991, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $1,100,000.]

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public housing agencies for use in eliminating drug-related crime in public housing projects authorized by 42 U.S.C. 11901-11908, and for drug information clearinghouse services authorized by 42 U.S.C. 11921-11925, [$100,000,000] *$150,000,000,* to remain available until expended: *Provided,* That $1,000,000 of the foregoing amount shall be available for grants, contracts, or other assistance for technical assistance and training for or on behalf of public housing agencies and resident organizations (including the costs of necessary travel for participants in such training)*: Provided further, That funds made available under this heading, with the exception of the $1,000,000 specified in the previous proviso, shall not be made available until September 1, 1991, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.*

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During fiscal year 1991, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $80,000,000,000 of loan principal.

HOMELESS ASSISTANCE

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, [$75,000,000] *$73,164,000* to remain available until expended.

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, [$150,000,000] *$143,592,000,* to remain available until expended.

SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

For grants for supplemental assistance for facilities to assist the homeless as authorized under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended [$15,000,000] *$11,263,000*, to remain available until expended.

SECTION 8 MODERATE REHABILITATION SINGLE ROOM OCCUPANCY

For assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for the section 8 moderate rehabilitation program, to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), [$100,000,000] *$105,000,000*, to remain available until expended.

[SOLAR ENERGY AND ENERGY CONSERVATION BANK

[ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

[All funds previously appropriated under this head that are recaptured or that otherwise are or become available for obligation in fiscal year 1991 or thereafter, including all such amounts affected by the order of the United States District Court, Southern District of New York, in Dabney v. Reagan, 82 Civ. 2231-CSH, dated March 20, 1985, shall be withdrawn, pursuant to 31 U.S.C. 1555 et seq.]

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), [$3,000,000,000] *$3,200,000,000*, to remain available until September 30, 1993: *Provided*, That *$31,930,000 shall be available for grants to Indian tribes pursuant to section 106(b)(7)(A) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301) and* not to exceed $14,500,000 shall be available for "special purpose grants" pursuant to section 107 of [the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301)] *such Act*: *Provided further*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds under section 107(b)(3) of such Act or funds set aside in the following [proviso] *provisos*) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further*, That $5,000,000 shall be made available from the foregoing [$3,000,000,000] *$3,200,000,000* to carry out a child care demonstration under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z-6 note): *Provided further, That $2,000,000 shall be made available from the foregoing $3,200,000,000 to carry out a neighborhood development demonstration under section 123 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181): Provided further*, That after September 30, 1990, no funds provided or heretofore provided in this or any other appropriations Act shall be used to establish or supplement a revolving fund under section 104(h) of the Housing and Community Development Act of 1974, as amended, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

During fiscal year 1991, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed [$140,000,000] *$250,000,000* of contingent liability for loan principal.

REHABILITATION LOAN FUND

During fiscal year 1991, collections, unexpended balances of prior appropriations (including any recoveries of prior obligations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1990, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act: *Provided*, That none of the funds in this Act may be used to sell any loan asset that the Secretary holds as evidence of indebtedness under such section 312.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Secretary of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Secretary of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, and for reimbursement to the Resolution Trust Corporation for properties conveyed by such Corporation for such use, in accordance with section 810(g)(3) of such Act, [$15,000,000] *$13,000,000*, to remain available until expended, and of which not to exceed $250,000 shall be available to provide technical assistance as authorized by section 810(c) of such Act.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, [$30,000,000] *$27,000,000*, to remain available until September 30, 1992.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, and section 561 of the Housing and Community Development Act of 1987, [$12,200,000] *$12,410,000*, to remain available until September 30, 1992: *Provided*, That not less than [$5,600,000] *$5,810,000* shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987 *and the demonstration period authorized in section 561(e) of such Act shall be deemed to be September 30, 1991.*

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

[For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $816,466,000, of which $390,342,000 shall be provided from the various funds of the Federal Housing Administration: *Provided*, That during fiscal year 1991, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,396 for Public and Indian Housing Programs.]

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $828,000,000, of which $396,000,000 shall be provided from the various funds of the Federal Housing Administration: Provided, That during fiscal year 1991, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average field employment of at least 2,000 staff years for multifamily insured mortgage programs and activities: Provided further, That during fiscal year 1991, expenses for travel and transportation of persons under the budget activity "Departmental Management" shall not exceed $283,000, of which not to exceed $100,000 may be expended by the Immediate Office of the Secretary and Under Secretary.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$37,840,000] *$39,283,000*, of which [$8,557,000] *$10,000,000* shall be transferred from the various funds of the Federal Housing Administration.

ADMINISTRATIVE PROVISIONS

[Notwithstanding any other provision of law or other requirement, the City of Lebanon, in the Commonwealth of Pennsylvania, is authorized to retain any land disposition proceeds from the financially closed-out Southside Urban Renewal Project (R-635(C)) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Lebanon shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.]

That on the date of enactment of this Act, the note or other obligation represented by loan number 070024914 under such section 312, together with any promise to repay the unpaid principal, unpaid interest that has accrued on the note or obligation, and any other fees and charges payable in connection with it, shall be forgiven, and any other term or condition specified by the note or other obligation shall be canceled.

Notwithstanding any other provision of law or other requirement, the City of Nanticoke, the Borough of Plymouth, and the Borough of Forty Fort, all in the County of Luzerne and in the Commonwealth of Penn-

sylvania, are authorized to retain any categorical settlement grant funds, urban renewal grant funds, and land disposition proceeds that remain after the financial closeout of the Lower Broadway Disaster Urban Renewal Project (No. B-79-UR-42-0001) in the City of Nanticoke, the Plymouth Disaster Urban Renewal Project (No. PA-R-617 and No. B-79-UR-42-0007) in the Borough of Plymouth, and the Forty Fort Disaster Urban Renewal Project (No. PA-R-613 and No. B-79-UR-42-0003) in the Borough of Forty Fort, respectively, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Nanticoke, the Borough of Plymouth, and the Borough of Forty Fort shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds, including any interest.

[Notwithstanding any other provision of law or other requirement, the City of Pittsfield in the Commonwealth of Massachusetts, is authorized to retain any land disposition proceeds from the financially closed-out Columbus Urban Renewal Project, Parcel 5 (No. Mass. R-90) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Pittsfield shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.]

Of the funds heretofore provided in Public Law 99-500 and Public Law 99-591 for grants pursuant to section 17(d)(4)(G) of the United States Housing Act of 1937, $1,450,000 shall be available for obligation for Dunes East Housing Development Grant project, number GA008HG501, through September 30, 1991, notwithstanding section 152 of the Housing and Community Development Act of 1987 and section 17(d)(4)(G) of the United States Housing Act of 1937.

The Secretary of Housing and Urban Development shall transfer title to the repossessed property known as the Roosevelt Homes Project (No. 074-84006) located in Davenport, Iowa, to a nonprofit organization selected by the city of Davenport. Such property shall be used only for the provision of an integrated program of shelter and social services to the homeless, or for other nonprofit uses, for a period of not less than 20 years following the date of the transfer. Use of the transferred property before the expiration of the 20-year period following the date of the transfer for any purpose other than those described herein shall cause title to revert back to the Secretary of Housing and Urban Development. The city of Davenport is released from any liability in connection with such project.

Notwithstanding any other provision of law or other requirement, the city of New Haven, Connecticut, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Church Street Urban Renewal Project (No. Conn. R-2), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of New Haven shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

[Notwithstanding any other provision of law or other requirement, the Borough of East Stroudsburg, in the Commonwealth of Pennsylvania, is authorized to retain any land disposition proceeds from the closed-out Courtland Plaza Urban Renewal Project (No. PA-R-352) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The Borough of East Stroudsburg shall retain such proceeds in a lump sum and shall be entitled to retain and use all past and future earnings from such proceeds, including any interest.]

Notwithstanding any other provision of law or other requirement, the City of Roanoke, in the Commonwealth of Virginia, is authorized to retain any land disposition proceeds from the financially closed-out Downtown East Urban Renewal Project (R-42) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing Community Development Act of 1974. The City of Roanoke shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.

The Secretary of Housing and Urban Development shall cancel the indebtedness of the Town of Fairmount Heights, Maryland, relating to the public facilities loan (project number MD-18-PFL0003) issued July 1, 1969, under title II of the Housing Amendments of 1955. The Town of Fairmount Heights is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall approve the use by the Housing Authority of the City of Seattle of excess residual reserve receipts from the Bay View Tower (No. 127-38044) and Market House Projects (No. WA19-8023-005) for any purpose which inures to the benefit of the low-income tenants of federally or locally financed projects owned by the Authority. Excess residual receipt funds are those receipts in excess of 25 per centum of the average annual operating costs during the immediately preceding five-year period.

[The $784,000 in the Housing Development Action Grant (HoDAG) funding previously awarded to the City of Santa Cruz, California by the Department of Housing and Urban Development under Section 17 of the U.S. Housing Act of 1937 (42 U.S.C. 1437o), as amended, are hereby restored to the City of Santa Cruz from previously appropriated funds for the construction of low-income housing at the site known as the Alborada project.]

Section 17(f) of the United States Housing Act of 1937 (42 U.S.C. 1437o(f) is amended by inserting after "or State of Vermont" the following: "or State of Maryland or City of West Hollywood, California". This amendment to section 17(f) shall also apply retroactively to any structure assisted under a program of the City of West Hollywood.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "(185 percent during fiscal year 1990)" and inserting the following: "(185 percent during fiscal year 1991)".

[During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the Department of Housing and Urban Development shall not exceed: (1) 28 staff years for the Immediate Office of the Secretary/Under Secretary, (2) 18 staff years for the Deputy Under Secretary for Field Coordination, (3) 29 staff years for the Office of Public Affairs, (4) 28 staff years for the Office of Legislation and Congressional Relations, (5) 1,117 staff years for the Assistant Secretary for Housing—Federal Housing Commissioner, (6) 148 staff years for the Assistant Secretary for Public and Indian Housing, (7) 271 staff years for the Assistant Secretary for Community Planning and Development, (8) 147 staff years for the Assistant Secretary for Policy Development and Research, (9) 170 staff years for the Assistant Secretary for Fair Housing and Equal Opportunity, and (10) 238 staff years for the Office of General Counsel.]

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the Department of Housing and Urban Development shall not exceed: (1) 28 staff years for the Immediate Office of the Secretary/Under Secretary, (2) 18 staff years for the Deputy Under Secretary for Field Coordination, (3) 14 staff years for the Office of Public Affairs, (4) 28 staff years for the Office of Legislation and Congressional Relations, (5) 1,142 staff years for the Assistant Secretary for Housing—Federal Housing Commissioner, of which 25 staff years shall be for data management reform and preservation activities only, (6) 157 staff years for the Assistant Secretary for Public and Indian Housing, (7) 271 staff years for the Assistant Secretary for Community Planning and Development, (8) 137 staff years for the Assistant Secretary for Policy Development and Research, (9) 170 staff years for the Assistant Secretary for Fair Housing and Equal Opportunity, and (10) 224 staff years for the Office of General Counsel of which not more than 15 staff years shall be for the Immediate Office of General Counsel: Provided, That the Office of Drug Free Neighborhoods shall be transferred from the Office of General Counsel to the Assistant Secretary for Public and Indian Housing and included within the staff years provided herein therefor: Provided further, That effective October 1, 1990, the Office of Public Affairs shall be terminated and its functions shall not be reassigned to any other element of the Department: Provided further, That no funds may be used from amounts provided in this or any other Act for details of employees from any organization in the Department of Housing and Urban Development to any organization included under the budget activity "Departmental Management."

Prior to the implementation of any final rule or directive imposing new limitations on the ability of any public housing agency or Indian housing authority to secure general liability and property insurance coverage, or special risk coverage for abatement of hazardous substances such as lead-based paint, from non-profit insurance entities owned by such housing authorities, the Secretary of the Department of Housing and Urban Development shall transmit a report to the appropriate Committees of the Congress detailing (1) the intent and purpose of

any such rule or directive; (2) the legislative authority and administrative precedent for such rule or directive; and (3) an assessment of the potential impact that such rule or directive will have on the ability of such housing authority-owned insurance entities to continue to effectively offer an alternative to other commercially available coverage on a long-term basis.

Section 102(a)(12) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(12)) is amended by inserting after the period at the end the following new sentence: "Where the boundaries for a metropolitan city or urban county used for the 1980 census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on the 1980 census within the boundaries used for the 1980 census to the population based on the 1980 census within the current boundaries.". The amendment made by this paragraph shall apply to the first allocation of assistance under section 106 that is made after the date of the enactment of this Act and to each allocation thereafter.

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; [$15,900,000] *$15,402,000*, to remain available until expended: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further*, That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further*, That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal Travel regulations.

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

SALARIES AND EXPENSES

For use in establishing and paying the salaries and expenses of the Commission on National and Community Service under subtitle G of title I of the National and Community Service Act of 1990, $2,000,000.

PROGRAMS AND ACTIVITIES

For use in carrying out the programs, activities and initiatives under subtitles B through F of title I of the National and Community Service Act of 1990, $98,000,000.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, [$37,109,000] *$36,709,000*: *Provided*, That not more than $365,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the U.S. Court of Veterans Appeals as authorized by 38 U.S.C. 4051-4091, [$9,560,000] *$4,127,000*: *Provided*, That such sum shall be available without regard to section 509 of this Act.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, and not to exceed $1,000 for official reception and representation expenses; $12,236,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $5,000 for official reception and representation expenses; [$995,000,000] *$949,700,000*: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, [$37,000,000] *$33,709,000*, of which [$13,107,000] *$11,941,000* shall be derived from the Hazardous Substance Superfund trust fund and [$575,000] *$524,000* shall be derived from the Leaking Underground Storage Tank Trust Fund.

RESEARCH AND DEVELOPMENT

For research and development activities, [$254,900,000] *$249,000,000*, to remain available until September 30, 1992: [*Provided*, That not more than $11,600,000 of these funds shall be available for procurement of laboratory equipment.] *Provided, That not more than $35,600,000 of these funds shall be available for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development.*

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, [$1,006,525,000] *$985,300,000*, to remain available until September 30, 1992: *Provided*, That up to $2,800,000 shall be available for grants and cooperative agreements to develop and implement asbestos training and accreditation programs: *Provided further, That notwithstanding any other provision of law, from funds appropriated under this heading, the Administrator is authorized to make grants to "Federally recognized Indian tribes" on such terms and conditions as he deems appropriate for the development of multimedia environmental programs*: *Provided further*, That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local, and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949).

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, [$34,000,000] *$19,000,000*, to remain available until expended *: Provided, That none of the funds previously appropriated for the design and renovation of a Superfund laboratory at Edison, New Jersey to test and evaluate innovative technologies shall be spent in fiscal year 1991.*

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), [$1,610,200,000, to be derived from the Hazardous Substance Superfund,] *$1,616,228,000, consisting of $755,328,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and $860,900,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA,* plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $135,000,000 during fiscal year 1991, with all of such funds to remain available until expended: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further*, That notwith-

standing section 111(m) of CERCLA or any other provision of law, not to exceed [$47,500,000] *$50,000,000* of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further*, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1991: *Provided further, That the Administrator of the Environmental Protection Agency shall pay not more than $7,000 in interest to the City of New Brighton, Minnesota: Provided further*, That no more than $233,000,000 of these funds shall be available for administrative expenses.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, [$75,000,000] *$65,000,000*, to remain available until expended: *Provided*, That no more than $6,000,000 shall be available for administrative expenses.

CONSTRUCTION GRANTS

[For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,000,000,000, to remain available until expended, of which $1,964,300,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $35,700,000 shall be for title V of the Water Quality Act of 1987, consisting of $15,700,000 for section 510 and $20,000,000 for section 513: *Provided*, That the $15,700,000 for section 510 shall be for the United States share of an international wastewater treatment plant in San Diego to treat Tijuana wastewater and these amounts shall only become available upon approval of a Minute of the International Boundary and Water Commission by Mexico and the United States in which Mexico agrees to finance: (1) all operating and maintenance costs of treating Tijuana wastewater at the plant; and (2) all construction, operations, and maintenance costs for any future capacity needed to treat Tijuana wastewater in excess of the 25 million gallon per day capacity to be provided at the international plant: *Provided further*, That, notwithstanding sections 602(b)(6) or 201(g)(1) of the Federal Water Pollution Control Act, as amended, of the funds appropriated in this paragraph, amounts awarded in a capitalization grant to an agency of any State, including funds transferred pursuant to section 205(m), shall be available for providing assistance in that State for the construction of publicly owned treatment works as defined in section 212 of that Act.]

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,100,000,000, to remain available until expended, of which $2,083,500,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $16,500,000 shall be for making grants authorized under section 104(b)(3) of the Federal Water Pollution Control Act, as amended.

ADMINISTRATIVE PROVISIONS

The Administrator of the Environmental Protection Agency shall, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including [the] *grants, loans, and* contracts for wastewater treatment and leaking underground storage tanks [grants] *grants*, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6)), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

Notwithstanding any provision of the Federal Water Pollution Control Act, the Delavan Lake Sanitary District shall be entitled to retain all funds received under EPA construction grants c550549-01 and c550549-02.

[During fiscal year 1991, notwithstanding any other provison of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 44 workyears for the Immediate Office of the Administrator, (2) 50 workyears for the Office of Congressional and Legislative Affairs, (3) 64 workyears for the Office of Communications and Public Affairs, (4) 146 workyears for the Office of General Counsel (5) 52 workyears for the Office of International Activities, (6) 35 workyears for the Office of Federal Activities, (7) 257 workyears for the Office of Policy, Planning, and Evaluation, and (8) 1,095 workyears for the Office of Administration and Resources Management.]

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 70 workyears for the Immediate Office of the Administrator, including 1 to support the Superfund program; (2) 52 workyears for the Office of Congressional and Legislative Affairs, including 2 to support the Superfund program; (3) 66 workyears for the Office of Communications and Public Affairs, including 3 to support the Superfund program; (4) 169 workyears for the Office of General Counsel, including 12 to support the Superfund program, 11 to support program management, 1 to support the Leaking Underground Storage Tank Trust Fund program, and 1 to support the implementation of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988; (5) 52 workyears for the Office of International Activities; (6) 35 workyears for the Office of Federal Activities; (7) 245 workyears for the Office of Policy, Planning, and Evaluation, including 13 to support the Superfund program and 1 to support the Leaking Underground Storage Tank Trust Fund program; (8) 1,367 workyears for the Office of Administration and Resources Management, including 263 to support the Superfund program, 9 to support the Leaking Underground Storage Tank Trust Fund program, and 13 to support the implementation of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988.

The Administrator of the Environmental Protection Agency is required, by November 30, 1990, to issue a final decision on the Sanitation Districts of Los Angeles County's pending 301(h) application.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, [$2,780,000] *$1,465,000.*

NATIONAL SPACE COUNCIL

For necessary expenses of the National Space Council, including services as authorized by 5 U.S.C. 3109; [$1,000,000] *$1,363,000: Provided*, That the National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, [$3,300,000] *$3,560,000: Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

POINTS OF LIGHT FOUNDATION

For necessary expenses of the President in carrying out title III of the National and Community Service Act of 1990 relating to the Points of Light Foundation's promotion of local problem solving through voluntary community service, $5,000,000: Provided, That not later than 6 months after the date of enactment of this Act, the President shall prepare and submit to the appropriate committees of Congress a report describing the use of funds made available by this appropriation.

FEDERAL EMERGENCY MANAGEMENT AGENCY

[DISASTER RELIEF

[For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $100,000,000, to remain available until expended.]

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses, [$143,459,000] *$143,000,000.*

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$3,905,000] *$2,751,000.*

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, [$275,423,000] *$267,042,000.*

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $11,078,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $46,023,000 shall, upon enactment of the Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1992. In fiscal year 1991, no funds in excess of (1) $32,000,000 for operating expenses, (2) $183,500,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $134,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77, as amended: *Provided,* That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

ADMINISTRATIVE PROVISIONS

The Superintendent of the Fire Academy, in exercising the powers and authority provided by section 7 of the Federal Fire Prevention Control Act of 1974, shall be subject to the exclusive direction of the Administrator, United States Fire Administration: Provided, That all funds appropriated by this or any other Act, with respect for any fiscal year, or otherwise made available, for the National Fire Academy in Emmitsburg, Maryland, or any Fire Academy field programs, shall be placed under the exclusive control of the United States Fire Administration.

Chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter VII—Temporary Reemployment for Emergency Disaster Relief

"§ 3598. Temporary reemployment for emergency disaster relief

"(a) For purposes of this section, the term—

"(1) 'active employee' means an employee within the meaning of section 8331(1) or 8401(11) of this title;

"(2) 'annuitant' means an annuitant within the meaning of section 8331(9) or 8401(2) of this title;

"(3) 'emergency' means a major disaster or emergency declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170);

"(4) 'temporary' means employment in any position—

"(A) not in excess of the lesser of—

"(i) 1-year duration; or

"(ii) a period during which appropriations are available for purposes of the emergency for which an individual is employed; and

"(B) which shall be considered strictly temporary for purposes of any provision of law relating to separations, suspensions, or reductions in rank or compensation, or any other provision of this title;

"(5) 'retired or retainer pay' has the meaning given that term by section 5531(3); and

"(6) 'uniformed services' has the meaning given that term by section 2101(3).

"(b)(1) This section shall apply with respect to service in any temporary position within the Federal Emergency Management Agency relating to an immediate and direct effort concerning an emergency.

"(2) In the administration of the provisions of this section, preference in hiring for the temporary positions described in paragraph (1) shall be given by the Director of the Federal Emergency Management Agency to individuals who are residents of the area of the emergency, as defined in subsection (a)(3).

"(c)(1)(A) subject to the provisions of subparagraph (B), an annuitant who becomes reemployed in a temporary position described in subsection (b)(1) shall, with respect to any period of service in such position, be exempt from section 8344 or 8468 (as otherwise applicable).

"(B) The provisions of this subsection shall not—

"(i) apply with respect to any annuitant who, immediately before being placed in the temporary position, was employed in a Government position in which pay for that annuitant was being reduced under either of the provisions referred to in subparagraph (A);

"(ii) have the effect of exempting a reemployed annuitant from section 8344 or 8468 after the expiration of the period of reemployment under this section; and

"(iii) apply to have the effect of reemploying an annuitant for an emergency who separates from service during the period of such emergency.

"(2) Nothing in this subsection shall have the effect of causing a reemployed annuitant to be treated as an active employee for purposes of any provision of chapter 83 or 84.

"(d)(1) Subject to the provisions of paragraph (2), the retired or retainer pay of a former member of a uniformed service employed in a temporary position described in subsection (b)(1) shall, with respect to any period of service in such position, be exempt from section 5532.

"(2) The provisions of this subsection shall not—

"(A) apply with respect to any former member of a uniformed service if, immediately before being placed in the temporary position, the retired or retainer pay of such former member was being reduced under section 5532 (or would have been reduced but for subsection (d)(2) of such section);

"(B) have the effect of exempting a former member of a uniformed service from section 5532 after the expiration of the period of reemployment under this section; and

"(C) apply to have the effect of reemploying a former member of a uniformed service for an emergency who separates from service during the period of such emergency.

"(3) For purposes of this subsection, the term 'former member of a uniformed service' means a member or former member of a uniformed service.

"(e) An individual may be reemployed under this section as successive appointments for any emergency as declared by the President.

"(f) No individual employed under the provisions of this section may receive pay for such service at a rate in excess of the lesser of—

"(1) the maximum rate of pay (payable at the time of such service) for the highest pay grade of which such individual was employed by the Federal Government or served in the uniformed service; or

"(2) the maximum rate of pay payable for GS-12.".

The table of sections for chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER VII—TEMPORARY REEMPLOYMENT FOR EMERGENCY DISASTER RELIEF

"3598. Temporary reemployment for emergency disaster relief.".

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,540,000, to be deposited into the Consumer Information Center Fund: *Provided,* That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1991 shall not exceed $2,172,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1991 in excess of $5,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, [$1,889,000] *$1,964,000.*

INTERAGENCY COUNCIL ON THE HOMELESS

SALARIES AND EXPENSES

For necessary expenses of the Interagency Council on the Homeless, not otherwise provided for, as authorized by title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311-11319), as amended, [$1,214,000] *$1,083,000,* to remain available until expended: *Provided,* That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act only through detail, on a non-reimbursable basis, of employees of the departments and agencies represented on the

Council pursuant to section 202(a) of such Act.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

[For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; purchase, lease, hire, maintenance, and operation of aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $7,027,994,000, to remain available until September 30, 1992: *Provided*, That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.]

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $5,600,000,000, to remain available until September 30, 1992, of which $1,587,400,000 is for the Space Station Freedom.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

[For necessary expenses, not otherwise provided for, including support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; tracking and data relay satellite services as authorized by law; purchase, lease, hire, maintenance, and operation of aircraft; $6,530,351,000, to remain available until September 30, 1992: *Provided*, That funds provided under this paragraph, with sums provided for "Research and development", may be utilized for the purchase of one mission management aircraft for replacement only (for which partial payment may be made by exchange of at least one existing mission management aircraft and such other existing aircraft as may be considered appropriate).]

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $6,319,132,000, to remain available until September 30, 1992, of which $1,209,732,000 shall be used only for the purpose of reducing all outstanding debt to the Federal Financing Bank.

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, [$485,000,000] *$497,900,000*, to remain available until September 30, 1993: *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further*, That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further*, That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

RESEARCH AND PROGRAM MANAGEMENT

[For necessary expenses for personnel and related costs and for travel expenses, $1,446,212,000.]

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards, lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $2,232,900,000: Provided, That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: Provided further, That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$10,500,000] *$11,000,000.*

ADMINISTRATIVE [PROVISION] *PROVISIONS*

The NASA Administrator shall, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6)), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the National Aeronautics and Space Administration shall not exceed: (1) 48 staff years for the Office of the Administrator; (2) 162 staff years for the Headquarters Operations; (3) 41 staff years for the Office of Commercial Programs; (4) 10 staff years for the Office of Explorations; (5) 39 staff years for the Office of General Counsel; (6) 180 staff years for Agency Management; (7) 70 staff years for the Office of External Relations; (8) 27 staff years for the Office of Legislative Affairs; (9) 222 staff years for the Office of Space Science and Applications; (10) 136 staff years for the Office of Aeronautics and Space Technology; (11) 233 staff years for the Office of Space Flight, including Level I activity for the Space Station; (12) 60 staff years for the Office of Space Operations; (13) 111 staff years for the Office of the Comptroller: Provided, That no funds may be used from amounts provided in this or any other Act for details of employees from any organization in the National Aeronautics and Space Administration to any organization included under the budget activity "Research and Program Management".

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1991, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1991 shall not exceed $893,000.

[NATIONAL INSTITUTE OF BUILDING SCIENCES

[PAYMENT TO THE NATIONAL INSTITUTE OF BUILDING SCIENCES

[For payment to the National Institute of Building Sciences, $250,000.]

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; [hire of passenger motor vehicles; not to exceed $6,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the Gener-

al Services Administration for security guard services; $1,854,000,000] *$1,744,650,000*, to remain available until September 30, 1992: *Provided,* [That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than $100,000,000 shall be available for program development and management in fiscal year 1991: *Provided further,* That contracts may be entered into under the program development and management limitation in fiscal year 1991 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,*] That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

ACADEMIC RESEARCH FACILITIES

For necessary expenses in carrying out an academic research facilities program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, [$20,000,000] *$20,478,000*, to remain available until September [20] *30*, 1992.

PROGRAM DEVELOPMENT AND MANAGEMENT

For necessary program development and management expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $6,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $99,000,000, to remain available until September 30, 1992: Provided, That contracts may be entered into under program development and management in fiscal year 1991 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: Provided further, That none of the funds made available by this or any other Act with respect to any fiscal year may be used to relocate the National Science Foundation headquarters, or any of its staff offices, from its current location.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; improvement of environmental practices and enhancements of safety; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; $100,000,000, to remain available until expended: *Provided,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES

For necessary expenses in reimbursing Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance, and operation of aircraft and purchase of flight services for research and operations support; improvement of environmental practices and enhancements of safety; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $75,000,000, to remain available until expended: *Provided,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

[SCIENCE EDUCATION ACTIVITIES

[For necessary expenses in carrying out science and engineering education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $285,000,000, to remain available until September 30, 1992: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.]

EDUCATION AND HUMAN RESOURCES ACTIVITIES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $322,350,000, to remain available until September 30, 1992: Provided, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$3,000,000] *$2,714,000*, to remain available until September 30, 1992.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), [$24,500,000] *$25,554,000*.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $26,635,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States: *Provided further,* That notwithstanding the provisions of 50 U.S.C. App. 460(g), none of the funds appropriated by this Act may be obligated in connection with the preparation of more than one report each year to the Congress covering the operation of the Selective Service System.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1991 for such corporation or agency except as hereinafter provided: *Provided,* That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1991, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101-73 are insufficient, [such sums as may be necessary] *$4,398,000,000*: *Provided,* That the Chairman of the Federal Deposit Insurance Corporation shall provide quarterly reports to the Committees on Appropriations beginning November 15, 1989, on the receipts, disbursements, cash balance, estimated Treasury payments required by fiscal year, and total estimated costs to the FSLIC Resolution Fund.

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $10,785,000.

TITLE V

GENERAL PROVISIONS

SECTION 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section

shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further,* That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) The expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided,* That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

SEC. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to any part of the appropriations contained in this Act for Offices of Inspector General personnel compensation and benefits.

SEC. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 515. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

[SEC. 516. None of the funds appropriated under title II of this Act under the heading entitled Community Planning and Development, Community Development Grants, to any department, agency, or instrumentality of the United States may be obligated or expended to any municipality that fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within the jurisdiction of said municipality against any individuals engaged in nonviolent civil rights demonstrations.]

SEC. 516. After January 1, 1991, and for the duration of fiscal year 1991, within the Department of Housing and Urban Development, the number of noncareer appointees to the Senior Executive Service shall not exceed 13 per centum of the total number of Senior Executive Service positions in such department, unless the Office of Personnel Management approves a waiver to exceed that limitation in accordance with 5 U.S.C. 3134. The Office of Personnel Management, in consultation with the Office of Management and Budget, shall undertake an expedited review of Senior Executive Service positions in the Department of Housing and Urban Development and report its findings, recommendations, and justification for any waiver determination to the Congress by December 15, 1990.

SEC. 517. None of the funds appropriated under title II of this Act, or otherwise available to the Department of Housing and Urban Development, shall be used for first-class travel of any Department official or employee, unless required by medical necessity.

SEC. 518. None of the funds appropriated under title I of this Act, or otherwise available to the Department of Veterans Affairs, shall be used to enter into leases above $50,000, unless specifically provided for in Appropriations Acts.

SEC. 519. Unless otherwise provided for in this Act, no part of any appropriation for the Department of Housing and Urban Development contained in this Act shall be available for any activity in excess of amounts set forth in the budget estimates submitted for the appropriations.

SEC. 520. Funds of the Department of Housing and Urban Development shall be used in accordance with the directives, set asides, tabular material, and reporting requirements included on pages 16 through 39 of House Report 101-556, as modified and added to by the directives, set asides, tabular material and reporting requirements included on pages 35 through 74 of Senate Report 101-474 accompanying this Act, which requirements shall have the force of law, to be modified and added to only by any directives, set asides, tabular materials, and report requirements included in the Joint Explanatory Statement of the Committee on Conference for H.R. 5158.

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991".

Mr. GARN. Will the majority leader yield?

Mr. MITCHELL. Certainly.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. I yield such time as is necessary to propound a question to the majority leader. There is an indication on my side that we would like to set a time certain to vote at 6:15. I feel certain we can accomplish it by then.

Mr. MITCHELL. There is absolutely no problem in that regard from my standpoint, if that will be convenient for Senators and for the distinguished manager.

Accordingly, Mr. President, I ask unanimous consent that the vote on final passage of the VA/HUD bill occur at 6:15 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I thank the Chair for the recognition.

I am pleased to bring to the Senate H.R. 5158, the 1991 VA-HUD and independent agencies appropriations bill.

This bill provides $78.6 billion for the VA, HUD, and 22 independent agencies in the Federal Government, about $61 billion of which is discretionary.

H.R. 5158, as reported by the Senate Appropriations Committee, is within the VA-HUD Subcommittee's 302(b) allocation for budget authority and outlays.

The needs of the agencies in this bill are among the most diverse within the Federal Government, and represent 30 percent of all Federal domestic discretionary spending. As a result, we are forced to make tough choices each year, choices that reflect competing priorities between space, basic science, veterans, the environment, housing, and the homeless.

302 (b) ALLOCATION

This year, these choices have been especially difficult because the Senate's VA-HUD 302(b) allocation was $2.1 billion less than House in budget authority, and $630 million in outlays.

We had less to work with because of the Senate Appropriations Committee's lower overall 302(a) allocation for discretionary spending—something which should be partially addressed once there is a reallocation in light of the budget summit agreement.

The net result of the subcommittee 302(b) shortfall is that all programs, in virtually every agency, receive less funds than I, and I know Senator GARN would like. In addition, since the subcommittee's shortfall is most acute on outlays, high outlay programs in the bill, particularly VA medical programs and NASA, face the greatest constraints.

Despite these limits, Senators should know that $3 out of every $4 in new outlays in the bill go to either veterans medical programs or space.

DEPARTMENT OF VETERANS AFFAIRS

For VA, the bill provides about $31 billion, $1.4 billion above last year, $600 million above the President's request, but about $200 million less than House.

VA medical care is funded at the level recommended in the President's budget, about $800 million, or 7 percent above last year.

VA's general operating expenses would receive $865 million, which is $54 million above last year. This is less than we want, it is less than what the veterans deserve, but enough to keep pace with inflation.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The bill includes about $25 billion for HUD, nearly $1.1 billion below the House level, but $3.5 billion above the budget request.

This large increase is somewhat deceiving, since nearly $8 billion of HUD's funds are needed just to renew 300,000 expiring section 8 units. Had it not been for the generosity of the full committee, we could have left 300,000 people homeless because of our failure to meet these obligations

The bill includes funds for 3,000 units of Indian housing, and 12,000 units of elderly and handicapped housing, both in response to the large number of Senators interested in these programs.

In addition, the bill includes $3.2 billion for the CDBG Program, probably HUD's most popular, and certainly one of its most important, programs.

ENVIRONMENTAL PROTECTION AGENCY

For EPA, the bill provides just over $6 billion, $437 million above the President's budget, and almost 10 percent above last year's appropriation.

Sewage treatment grants would receive $2.1 billion, $100 million above the House level and $500 million more than that requested by the President.

The Superfund Program would get an increase of $86 million above last year, and $6 million above the House level—the highest level in the Superfund Program's history.

NATIONAL SCIENCE FOUNDATION

The National Science Foundation would receive an increase of $27 million above the House recommendation, with modest boosts in funds for science education and basic research, above levels proposed in House bill.

It is this Senator's belief that we should do more for the National Science Foundation, but again the constraints of the budget mandate this type of discipline.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Now we turn to NASA. NASA is the one agency in this bill with needs that for exceed what is currently available within our 302(b) allocation.

The bill provides a NASA appropriation of about $13.5 billion, $1.2 billion, or 10 percent above 1990. The committee's recommendation would leave NASA with $1.6 billion less than that requested in the President's budget.

I am a strong supporter of the space program. They have a bit of a rock and roll time, but I know they are developing a navigational chart to take us into the 21st century. In fact, the percentage of new outlays in the bill going to NASA has actually increased from under 30 percent last year to over 33 percent this year.

So it is not that we have not increased funds for space, it is simply that the increase NASA has requested is much larger than what the subcommittee has room for in its current allocation.

In providing funds for NASA, the committee's recommendation tries to preserve NASA's core program:

The space shuttle;

NASA's infrastructure at its field centers; and

Its basic research programs in aeronautics and science.

The space station would be cut $656 million below the House by the bill in its current form. I consider this amount to be too deep to continue to do the station in its current form, but one we must make giving the limits of our 302(b) allocation.

Mr. President, I know our ranking and astronaut member will amplify that, so I will not take the Senate's time, but you should know I support his comments.

It is my desire to provide additional funds for station if and when the subcommittee's 302(b) allocation is enhanced after action on the budget resolution conference report.

CONCLUSION

This appropriations bill does not meet all of our wishes, and it should not. But it does not meet all of our needs, and it should.

It is my hope, that working with our full committee chairman, Senator BYRD, and my ranking member, Senator GARN, we can find ways to more completely address our needs, particularly in the space program.

I want to commend the staff of the subcommittee: on the majority side, Kevin Kelly, the majority clerk, Carrie Apostolou, Jack Durham, Paul Bryant, and Pam Duvall; and for the minority, Stephen Kohashi, the minority clerk, and Paul Brubacher.

Mr. President, I also particularly want to thank the ranking minority member for the comity and civility and thoughtfulness that he brings to this subcommittee's deliberation. I feel confident in what I bring to the Senate because of his advice, counsel, and active participation.

In closing, I urge my colleagues to support the bill as reported by the subcommittee.

Mr. President, I will yield the floor. I know that the ranking minority member has a statement to make.

Mr. GARN. Mr. President, while I rise in support of the legislation before us, as a floor manager, I find myself in the curious position of being strongly opposed to several of its key recommendations. Specifically, levels recommended for the National Aeronautics and Space Administration and for the National Science Foundation are wholly inadequate in terms of making investments critical to our Nation's future leadership, competitiveness, and security.

My concerns in this regard are certainly not new. For years I have protested our unwillingness to adequately fund crucial space and science activities and warned of the consequences. Unfortunately, the annual din of those clamoring for immediate gains and special benefits has virtually swept aside our concerns for investment in activities which promise only future benefits and awards.

What is needed is to ask whether we as a nation are adequately preparing for future needs and concerns.

Sadly, that is a question rarely asked during the consideration of budget measures. All too often we are merely presented with brokered deals reflecting current political demands rather than a balance between current and future needs.

That is the sad failing of the measure before us. Within the severe budgetary constraints imposed on our subcommittee, it was impossible to reach beyond the heavy demands to address the needs of the homeless and poor, medical needs of veterans, and of immediate environmental concerns.

Although substantial sums are recommended for NASA and NSF, the additional amounts needed to carry out these activities in a meaningful and adequate manner were ignored.

Mr. President, it was my original intent to offer an amendment to this bill which would have provided these additional amounts knowing full well that it would breach the subcommittee's budget allocation and be subject to a supermajority waiver vote. I felt strongly that the Senate should be confronted with the question of whether or not the bill adequately addressed the Nation's critical needs in science, space, and technology.

The reason I am not pursuing this course is that, since the bill was reported by the committee, a summit agreement on the budget has been announced which will require the Committees on Appropriations of the House and Senate to produce a new subcommittee budget allocation by next week. Budget caps on discretionary spending in the agreement effectively split the I difference between the lower Senate allocation and that currently used by the House.

I am therefore hopeful that when this bill gets to conference we will have a larger allocation in which to redress shortfalls in the NASA and NSF budgets.

We have been involved in this process long enough to realize that the competition for any additional budgetary resources will be fierce, and we will certainly not get all that we feel we would like or is necessary.

I also know that demands for current social activities are far from satisfied. They will also need to be addressed in conference with the House but I am hopeful that we will better balance these competing demands at that point.

Mr. President, I ask unanimous consent that the amendment that I had originally intended to offer to this bill be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GARN. Mr. President, since the distinguished Senator from Maryland, the chairman of the subcommittee has also summarized the major highlights of the measure, I merely wish at this point to compliment her on her activities, her mastery of this bill in just 2 years. It is a very detailed and complex bill covering the widest variety of services more than any other subcommittee. We deal from Army cemeteries abroad to NASA and NSF, to HUD, EPA, and you name it. We seem to be the catchall.

Under the circumstances of a very difficult and what I think was an unfair budget allocation from the full Appropriations Committee, I think the distinguished Senator from Maryland has done a remarkably good job under those difficult circumstances.

Despite my objections as I have outlined, I urge passage of the bill. It is the best we can do at this time.

EXHIBIT 1

AMENDMENT INTENDED TO BE PROPOSED BY MR. GARN

At the end of the bill, insert the following new section:

SEC. . For an addition amount, to sums otherwise provided by this Act, the following amounts are hereby appropriated for the following accounts and purposes:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

"Research and development", $700,000,000 for the Space Station Freedom, $50,000,000 for CRAF/Cassini, $80,000,000 for space research and technology and preliminary concept analysis of future human space exploratory missions, $25,000,000 for life sciences;

"Space flight, control and data communications", $80,000,000 for space shuttle operations, $40,000,000 for tracking and data communications;

"Research and program management", $20,000,000;

NATIONAL SCIENCE FOUNDATION

"Research and related activities", $25,000,000 for continuing development of the laser interferometer gravitational wave observatory, $25,000,000 for critical technologies research;

"Academic research facilities modernization", $20,000,000;

"Education and human resources activities", $20,000,000 for graduate traineeships in science and mathematics.

Mr. ROBB. Mr. President, as we consider the Veterans Affairs and Housing and Urban Development, and independent agencies appropriations bill for fiscal year 1991, I would like to thank the distinguished Chair of the subcommittee for her commitment to ensuring the American people that they are receiving the greatest value for their tax dollars in the siting and location of Federal agencies. And I would also like to thank the subcommittee chairperson for her help in connection with a relocation request for the National Science Foundation.

National Science Foundation [NSF], consolidation project will improve office automation, satisfy expansion needs, and improve the quality of NSF's facilities. This solicitation was metropolitanwide and initially included 18 sites in Maryland, the District of Columbia, and Virginia. When completed, the consolidation will mean an annual savings of approximately $3.5 million to the Foundation. During this period of Federal budget pressures, any project which can realize savings of this magnitude should be encouraged.

Mr. President, I look forward to working with the subcommittee chairperson to ensure that we continue to improve the process by which Federal agencies are relocated.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, will the distinguished chairman of the subcommittee yield me 3 minutes?

PRIVILEGE OF THE FLOOR

Ms. MIKULSKI. Mr. President, I am happy to yield to the distinguished chairman of the Appropriations Committee. I would like, if the Senator will withhold one second, to ask unanimous consent that Jack Durham, Paul Bryant, and Paul Brubacher of the subcommittee staff have floor privileges during consideration of the VA-HUD bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia is recognized.

Ms. MIKULSKI. I yield to the distinguished chairman of the subcommittee such time as he may need.

Mr. BYRD. Mr. President, I am grateful to Senator MIKULSKI.

Mr. President, today we are considering H.R. 5158, the VA-HUD and independent agencies appropriations bill for fiscal year 1991. This measure provides the necessary funds for the Department of Veterans Affairs, and the

Department of Housing and Urban Development, and the National Aeronautics and Space Administration, the Environmental Protection Agency, the National Science Foundation, and other independent agencies, boards, commissions, offices, and corporations.

The bill is above the President's request but it is below the House allowance. And with respect to the subcommittee 302(b) allocation, the bill as recommended is within both the budget authority and the outlay ceilings.

I wish to commend Senator MIKULSKI for her thoroughness in handling the bill, for her deep dedication, and for her high sense of purpose. And I state without any reservation whatsoever that she is a hard working, always pleasant, courteous and cooperative chairwoman. It is a pleasure to work with her.

I also wish to compliment the ranking member for his excellent work. The Senate is in the debt of both of these fine Senators for accommodating the priorities of the Senate within the difficult constraints of this budget allocation.

Their work was greatly assisted by the cooperation of their colleagues on the subcommittee. I feel that the kind of work that is done by Senator BARBARA MIKULSKI provides a model which should be emulated where possible by all of the subcommittee chairmen. She is a chairman sui generis.

I also commend the staffs of the subcommittee on both sides of the aisle, Kevin Kelly, Stephen Kohashi, Carolyn Apostolou, Pamela Duvall, and Dona Pate. These professionals have worked tirelessly to help get the measure before the Senate today.

I am exceedingly proud, Mr. President, of the chairman and ranking members of these subcommittees. I cannot express adequately, in my feeble efforts, my admiration and high esteem for the highly professional staff of the entire Appropriations Committee, and all of the subcommittees. They demonstrate a willingness to work at all hours, they are untiring, and they are entirely selfless in giving of themselves and their time to the important work of this great committee.

The managers have explained in greater detail the contents of the measure. I, of course, will not attempt to review those highlights. The bill as reported by the Appropriations Committee deserves the support of the Senate.

Again, my thanks to Senator MIKULSKI and Senator GARN.

Ms. MIKULSKI. I thank the chairman for those most gracious words, Mr. President.

AMENDMENTS NO. 2926

Ms. MIKULSKI. Mr. President, I send five amendments to the desk, and ask unanimous consent that they be considered and agreed to en bloc, and the motion to reconsider the votes be laid upon the table en bloc. All amendments have been cleared on both sides. None affect the bill's 302(b) allocation. The provisions modify the bill with respect to the National Science Foundation, designate funds for a portion of the advanced rocket motor project, and the amendment has a set-aside for $1 million for a soup kitchen in Kansas City. It provides funds for an innovative program to assist homeless veterans and a technical modification to portions of the bill related to HUD. I urge adoption of the amendments en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] proposes amendments No. 2926, en bloc.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 42, strike the proviso beginning on line 11 through line 16.

On page 94, strike lines 14 through 18.

On page 18, line 18, before the semicolon insert the following: "; from the foregoing $1,098,516,800 for vouchers, up to $23,208,800 shall be drawn from either or both amounts for demonstration projects for the homeless, as designated by the Department of Veterans Affairs, that shall provide the participants with comprehensive supportive services (from funding sources other than the Department of Housing and Urban Development) to more fully address the special needs of such homeless people and, to the extent that any of the $23,208,000 cannot be utilized for projects designated by the Department of Veterans Affairs, remaining balances may be used for similar demonstration purposes as designated by the Department of Housing and Urban Development".

On page 20, line 5, insert before the colon: "including $1,000,000 for the relocation of the St. Mary's Food Kitchen in Kansas City, Kansas".

On page 75, line 25, before the period insert the following: ": *Provided*, That of the amounts provided herein for development and production of the advanced solid rocket motor, $15,000,000 shall be available without fiscal year limitation only for the competitive award of a second domestic development and production source contract for the carbon/carbon integral throat entrance unless the President certifies to the Congress by January 1, 1991, that such application of funds is not in the best interest of the United States space program on the basis of cost, added assurance of reliable supply, expanded technology base, and technical risk reduction.

At page 82, line 14, strike all after the word "year" through line 18, and insert a period.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Maryland?

Without objection, it is so ordered.

The amendment (No. 2926) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE RISKS OF SPACE LEADERSHIP

Mr. HEFLIN. Mr. President, I rise today to express to this body, to this Nation, my continued support of the unparalleled accomplishments of this country's civilian space program. The National Aeronautics and Space Administration has spent the last 32 years expanding this Nation's frontiers, both spatially and technologically. NASA has spent 32 years discovering the undiscovered, inventing the uninvented, and in the eyes of the world, enhancing the United States' stature among men.

How is it, Mr. President, that we have come to the point that this program of excellence has become the target of those who would always find it easier to criticize than to contribute? Fortunately, the record of our civil space program is one of the openness. NASA has always encouraged an open dialog highlighting the successes and confronting the problems.

Innovation, invention, exploration. and research are a risky business. But that's the business NASA is in. There are no guarantees, no insurance policies. Things do not always go right the first time. And yet, we expect NASA to assemble complex systems which have never been assembled before, put them together with limited time and budget, do it under congressional scrutiny of the minutest technical detail, and do it right, the first time—every time.

We in Congress are telling NASA, in effect, that we want total reliability, total safety, and total premonition of all that could ever transpire, while at the same time, expecting invention and discovery to be equally predictable.

We must give NASA the resources it needs to do its job. NASA's funding has fallen by more than two-thirds since Apollo. At that time, the agency received nearly 4 percent of the budget. Now, it is only 1 percent. If we are to expect Apollo era accomplishments, we must provide the funds. It is impossible for NASA, its contractors and subcontractors, to start and stop major programs based on minor events that affect the budget. It lowers the morale of thousands of employees across America whose labor put us in space, stretched out technologies, and maintained our world position. The starting and stopping adds to our budget deficit and reduces NASA's ability to bring to its work the consist-

ency which is necessary to do the job right.

While recent events, more clearly than ever, tell us to be cautious in the restructuring of our defense priorities, it is certain that some reductions are bound to occur. NASA alone cannot absorb the relocation of all the scientists and engineers likely to be displaced. However, it will be vital to the Nation for NASA to be in an expansion posture to assist in preserving this skilled pool of expertise on behalf of our goals in the civil space program.

For the past 3 months, it has been difficult to read a newspaper or watch a television news program without being subjected to a barrage of what I would call, NASA-bashing. The media are giving the American people the impression that the premier space agency in the world is incompetent, mismanaged, and incapable of doing anything right. I submit, Mr. President, that this is a totally false and misleading picture of the most successful mission oriented agency of the U.S. Government. These news reports are often an unwarranted slander of the most technically competent and capable scientists, engineers, technicians, pilots, and administrators in our Government, and indeed in the world.

Nor do these assaults represent the views of the majority of Americans or the substantial majority of this body. I have here, Mr. President, a letter to the Senator from Maryland [Ms. MIKULSKI], the chair of the Committee on Appropriations Subcommittee on Veterans' Affairs, HUD, and Independent Agencies, which is signed by 64 Senators. Several other Senators strongly support the position outlined in the letter, but due to their committee assignments, felt it would be inappropriate for them to sign it.

I would like to quote a portion of this letter from so many of our distinguished colleagues:

Dear Madam Chair:

We are writing to express our concerns and support for the FY 1991 funding request for NASA and the International Space Station Freedom Program. * * *

Space Station Freedom is the key element of NASA's future space strategy. It will ensure America's continued excellence in space research and technology. The benefits of a robust civil space program are enormous. We use space to ensure our national security, broaden our scientific knowledge, and advance our international competitiveness. * * *

The letter concludes:

We believe that Space Station Freedom and its central role in our civil space program is an important investment in education, technology, and international leadership.

That, Mr. President, is precisely what NASA is all about. Education, technology, and international leadership.

This Nation was clearly the technological leader of the space-faring nations during the past 32 years. Already, the Soviets, the Europeans, and the Japanese are challenging us, and in some cases, have passed the United States in space technology. Clearly, they recognize the imperative nature of space use and exploration.

There are times when we may, as a body, have a spherical aberration like the Hubble space telescope. But, like the telescope, a repair is possible. While we struggle to deal with budget deficits, defense priorities, savings and loan crisis, housing problems, and literally hundreds of other national problems, it is no surprise that, sometimes, we develop a little myopia. Let us focus on the future. We must wisely invest in the growth technologies of the future. The best way to make this investment is to ensure that the Nation's premier science and engineering agency has the funding to avoid cost and scheduling delays of major programs. We can continue to lead the world's space nations, instill that national pride we've all felt before, provide inspiration for the young who want to become engineers and scientists, and, most importantly, keep this Nation's technology base fed with new innovations, permitting the American competitive spirit to soar with the future of NASA.

This year, we have had the opportunity of hearing Vaslav Hovel and Lech Walesa appear before joint sessions of Congress. A playwright and an electrician have come to remind us to believe in the power of ideas and the value of perseverance. The events in Eastern Europe over the past 12 months which arose from these powerful ideas were unpredictable. But, incredibly, in 1951, Wernher von Braun, through the artist and writer, Chesley Bonestell, predicted a future in space with a reusable space vehicle, a space telescope, and a space station. By the early 1980's, we had the shuttle, and in 1990, the space telescope. In 1955-96, the first element launch of the Space Station Freedom will begin our permanent presence in space, more than 10 years after the launch of the Soviet MIR space station. We, as a nation, are committed. We must not hesitate. As Dr. Benjamin Mays once said, "The tragedy of life doesn't lie in not reaching your goal. The tragedy lies in having no goal to reach. It is not a disgrace to reach for the stars, but it is a disgrace to have no stars to reach for." The leadership to achieve space goals will come from NASA visionary people, and not some nameless, faceless commission providing advice compromised by committee-style management.

So, NASA must push science, technology, and space engineering to the limit. It will cost enormous amounts of money, but the payoffs are even more enormous. Studies have repeatedly shown the payback to the economy to be in the 9-1 range, affecting everything down to the wristwatch that you are wearing, and the car that you drive. But how do you measure the value of the lives that can be extended and even saved by microgravity science research in the fields of cancer and other critical health matters? And perhaps as important, space technology has given us the ability to transmit television pictures instantaneously between continents by space satellites, opening up a new world of communication and understanding that is directly related to and in part responsible for the downfall of totalitarian governments in Eastern Europe. The dramatic Middle East events also demonstrate the value of immediate communication throughout the world, brought to the global population by NASA-developed technology.

NASA has a highly successful program which transfers literally thousands of technology advances to the private sector from the space agency. This technology transfer is a hallmark of a healthy, civilian space program, and it reaches all levels of our industrial base. The rapid transfer of NASA developed technologies is a major contributor to our industrial competitiveness. This is an important factor in making America competitive with the rest of the free world.

If NASA is to push the cutting edge of technology in full view of the public, the risk of failure must not deter the resolve of Congress or of NASA or of the American people to press on. Every success and every failure will be played out in full view of the American public, and, in fact, with the world as an audience. Open debate within NASA on the evolution of technical problems identified for engineering solutions is the way it is done in this agency and is a part of the attraction of NASA. How NASA proposes to solve advance technology issues is the real test. We cannot be intimidated by controversy, but must keep our resolve and insist on the same challenging standards and goals which have become the trademark of America's finest and most innovative group of scientists and engineers ever assembled. NASA must be an organization dedicated to accelerating the development of high-risk technologies.

We have had, over the years, some tragedies in the NASA program. Yet, the agency's safety and success records are comparable to the best in the world. The loss of the crew of *Challenger* was a real test of the American public's understanding of the risks of launching humans into space. They do understand that risk and rightfully insist upon maximum possible safety, as does NASA. But the press continues to misinterpret the openness with which NASA deals with the demand-

ing technological aspects of large-systems engineering.

It seems the announcement that NASA's Hubble space telescope could not focus as perfectly as planned and that the shuttle fleet would be grounded to find and fix a hydrogen leak has permitted the media image-makers an opportunity to drive up the negatives of America's premier research and development agency. Many writers began to follow their own path of logic by offering to the public simplistic but serious solutions to NASA's problems as they saw them. Some of these journalistic proposals are poorly founded in fact, others were merely parochial, while some are just outrageous. Efforts to provide balance in reporting often have done just the opposite and have provided a forum to those with educated opinions but no experience in building space hardware or responsibility in managing major programs. Enormous damage to the public perception of NASA is the result. Maybe we need higher standards for those who write well, but have marginal technical depth.

When evaluating journalistic efforts, we should remember the words of London's Fleet Street sage, Lord Northcliffe, who described journalism as a profession "whose business it is to explain to others what it, personally, does not understand." And we have had too much of this kind of writing about the space program recently.

As a nation, we are confronted by momentous and potentially perilous economic decisions. We face foreign competition that has never been more fierce. Congress is under pressure to reduce the budget deficit and find ways to reduce trade imbalance. This effort is long overdue. However, in the attempt to get our national financial house in order once again, we should take care to do it with a sense of meaningful deliberation.

History has proven, time and time again, that those nations which accept the challenge of exploration are the ones that develop and maintain economic and political leadership. Those who don't meet the challenge fade from the scene.

While we debate the budget for NASA projects such as the space station, the Soviet Union is already in space with its MIR space station, threatening to take the technology lead, learning some of the things we should be learning, accomplishing some of the things we should be achieving. And if that isn't enough to provoke us to action, other space-faring nations are also ready to begin their quest for manned orbiting stations.

Congress needs to solve the Nation's budget dilemma, but it needs to be selective and farsighted in doing so. The long-term benefits that NASA programs such as the space station can bring us as a nation should not be overlooked. Inadequate funding today will have the effect of shortchanging us all in the future.

If we want to challenge technology and explore the unknown we must be willing to deal with the discomforts that go with the rewards. As the Greek philosopher, Epicurus, said, "the greater the difficulty, the more glory in surmounting it. Skillful pilots gain their reputation from storms and tempests."

Mr. President, I am confident that NASA will weather this tempest because the NASA people are out there now, working quietly in the background to understand the problems and fix them. They are optimistic, ambitious, and adventuresome. They have a problem-solving record second to none to justify my optimism. They are frontier people, and they are in an environment where skill, experience, dedication, and innovation will guide their course on behalf of this Nation.

Mr. President, I ask unanimous consent that the letter to which I referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
Washington, DC, July 30, 1990.

Hon. BARBARA A. MIKULSKI,
Chair, Subcommittee on VA-HUD-Independent Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MADAM CHAIR: We are writing to express our concerns and support for the FY 1991 funding request for NASA and the International Space Station Freedom Program. It is with much appreciation that we recognize your outstanding leadership during the FY90 appropriations process and ask for your continued commitment during another critical year.

Space Station Freedom is the key element of NASA's future space strategy. It will ensure America's continued excellence in space research and technology. The benefits of a robust civil space program are enormous. We use space to ensure our national security, broaden our scientific knowledge, and advance our international competitiveness. One of the most important uses of space is to inspire the education of the youth of America and future generations. These national priorities are essential to our country's future economic health. The Space Station Freedom will be a catalyst for advancement in all these important areas.

As you know, the Space Station urgently needs consistent policy and funding support to maintain the program's capabilities and schedule as well as our international commitments.

The challenges facing your Subcommittee in providing for the diverse and important programs under your jurisdiction are considerable. However, we believe that Space Station Freedom and its central role in our civil space program is an important investment in education, technology and international leadership.

Your commitment to the space program has been instrumental in the program's progress to date. With that in mind, we ask for your continued support of the critical funding required to keep the program intact and on schedule. We look forward to working with you to achieve this worthwhile goal.

Sincerely,

Howell Heflin, Trent Lott, Thad Cochran, Chris Dodd, Orrin Hatch, John McCain, Al Gore, Brock Adams, J. Bennett Johnston, Chuck Robb, Bob Graham, Richard Shelby, Wyche Fowler, Jr., Terry Sanford, John B. Breaux, Conrad Burns, Daniel K. Inouye, John Glenn, Lloyd Bentsen, Slade Gorton, David Pryor, Phil Gramm, Dick Lugar, Bill Armstrong, Pete Wilson, Tim Wirth, Bob Dole, Jack Danforth, Steve Symms, Wendell Ford, Daniel K. Akaka, J. James Exon, Joe Lieberman, Jay Rockefeller, Connie Mack, Arlen Specter, Larry Pressler, Alan Cranston, John Warner, Frank R. Lautenberg, Ted Stevens, Tom Harkin, Nancy Landon Kassebaum, Quentin Burdick, Harry Reid, Strom Thurmond, Tom Daschle, Jim McClure, Kent Conrad, Al D'Amato, Dennis DeConcini, Warren Rudman, Don Nickles, Don Riegle, Dan Coats, Jake Garn, David L. Boren, Frank H. Murkowski, Alan J. Dixon, Al Simpson, Malcolm Wallop, Herbert H. Kohl, Rudy Boschwitz, and Bob Kasten.

CHICAGO AIR QUALITY MODEL

Mr. KASTEN. The Clean Air Act which this body overwhelmingly adopted provides for very dramatic sanctions for areas that do not meet air quality standards. Those so-called nonattainment areas could face severe restrictions on permitted development, regulation of transportation modes and other actions that constrain activity within the area.

In some cases, the air pollution may be generated outside of the boundaries of the area where these sanctions apply. For example, along Lake Michigan, there are several States that contribute to the air quality problems of the region.

In my home State of Wisconsin, there is a nonattainment area which I believe receives most of its pollution from outside of the State of Wisconsin. The representatives of those other States, however, may disagree on how much pollution generated in their States contributes to our pollution problem. As is often the case, there is not a conclusive body of scientific evidence on where these sources of pollution are and what transport mechanisms operate in the Lake Michigan Basin.

For that reason, our States have agreed to cooperate on implementing a scientifically based program to reduce emissions. However, that cooperation is predicated on the completion of an EPA regional air shed analysis and model.

I am concerned that the Senate legislation has not included a specific earmark for the Chicago area air quality model. This model is essential to coordinating reductions of air pollution in the air shed.

This earmark is contained in the House legislation. I understand the pressures on the subcommittee, but it is my hope that this issue will be favorably resolved in conference.

Ms. MIKULSKI. The senior Senator from Wisconsin has raised an excellent point. I too am concerned about interstate transport. We also get pollution from outside of my State that contributes to our air quality problems.

The Chicago area is especially complex, and the air movement mechanisms are not well understood. Conventional air models do not appear to be adequate to address that region.

Let me assure the Senator, I understand his concerns, and will work to accommodate them. It is clear that the implementation of several State air programs, as well as Federal action, are dependent on the completion of the Chicago area air quality assessment and model.

Mr. KOHL. The Federal Government recognized its obligation to develop this model in signing on to the consent agreement to settle a law suit between Wisconsin and Illinois, and the EPA. The commitment has been made by the Federal Government to help the States by conducting this regional air assessment. This was a key factor in Wisconsin's decision to settle the law suit because the State believes it will confirm our belief that most of the pollution in southeast Wisconsin is generated in other States.

Therefore I join Senator KASTEN in expressing my hope that this issue will be favorably resolved in conference. The $2.75 million included in the House bill represents the Federal Government's second contribution to this project. The information we learn here will directly benefit our State, as well as other States with interstate transport concerns.

FISCAL YEAR 1991 APPROPRIATIONS FOR NASA

Mr. DECONCINI. Mr. President, I rise today to applaud the distinguished chair of the HUD and Independent Agencies Appropriation Subcommittee for her leadership in putting together a well-balanced budget package for NASA in fiscal year 1991. We all know how difficult it is to set priorities, and balance programs during a time when we need to increase restrictions and controls to balance our national debt.

I realize there are many competing interests in our space program, and we need to set priorities. It is my understanding however, that a project critical to my State of Arizona, and the scientific community, the Comet Rendezvous Astroid Flyby or CRAF, has been significantly reduced in fiscal year 1991 as a result of budget trimming. The CRAF initiative is an important part of the CRAF/Cassini mission designed to gather evidence on the prebiotic molecular evolution of our solar system. It includes a penetrator that will be fired directly into the surface of a comet nucleus to measure it's composition. Data from the penetrator will be transmitted back to an orbiting spacecraft for about a week. The University of Arizona was selected in 1986 to design, build and operate the penetrator. I would like to ask the distinguished chair if funding for the CRAF initiative has been reduced below requested levels in fiscal year 1991?

Ms. MIKULSKI. The distinguished Senator from Arizona is correct. The original request of $148 million in fiscal year 1991 for CRAF/Cassini has been reduced by $50 million.

Mr. DECONCINI. It is my understanding that the $50 million reduction in the program would eliminate the entire CRAF project. Is this also the understanding of the Chair?

Ms. MIKULSKI. Yes, it is. Due to overall program increases it is unlikely that the CRAF mission as originally agreed to, is possible under the Senate-approved funding level. Even the funding level of $148 million provided in the House bill will require significant cutbacks to CRAF.

Mr. DECONCINI. I concur with our need to reduce costs and manage CRAF/Cassini within an agreed budgetary cap. The chair can be assured that the University of Arizona, and this Senator are sensitive to the need for curbing our expenditures. I believe that the CRAF mission, even if it is without the penetrator lander, is important science and the mission should be retained. I strongly urge the Chair to consider supporting the House funding level as recommended for CRAF in the conference.

Ms. MIKULSKI. I will certainly consider the House level for CRAF/Cassini in conference and appreciate the Senator's sincere support for the CRAF mission.

Mr. DECONCINI. On the subject of the penetrator lander, NASA's response to current controversies between the Jet Propulsion Laboratory and the University of Arizona is of great concern to me. I would hope that NASA and University of Arizona administrators will meet formally and review the issue of the penetrator's cost. It is the penetrator that truly defines American leadership in new science for comet investigations, as has been confirmed by many prestigious scientific reviews. Before a cancellation of the penetrator lander occurs, this Senator wants to be convinced that a comprehensive effort has been made in resolving the cost issue. Fair and honest people can, and do, disagree. But, I believe it is crucial that a fair and honest understanding of penetrator costs be established as a basis for any program reductions in the CRAF mission, which must be made within the established scientific priorities.

I am also dismayed that elimination of the penetrator lander from CRAF reduces university involvement to an alarmingly low level. NASA centers are becoming the nearly exclusive providers of spacecraft instruments. If we are to infuse NASA programs with new ideas and technologies, and create the next generation of American scientists, this trend must be reversed. I urge NASA to review this situation and take measures to reverse this negative trend.

Ms. MIKULSKI. I agree with the Senator from Arizona and as chair of this subcommittee will join in urging NASA to take these actions.

Mr. DECONCINI. I thank the distinguished chair for clarifying these issues for me. She has again demonstrated her leadership in this very important area. Our country's space program is very important to me, and my State of Arizona, and will continue to have my utmost support.

Mr. MCCAIN. Mr. President, the amendment that I am offering today is straightforward. It would allow the Department of Veterans Affairs to receive $23 million in section 8 vouchers from HUD so that the VA can establish residential treatment demonstration projects for homeless chronically mentally ill veterans.

The VA and the Department of Housing and Urban Development [HUD] have proposed this joint project to link long-term housing to clinical support services for our Nation's chronically mentally ill veterans.

This VA/HUD legislative proposal would allow Secretary Kemp the authority to set aside 750 section 8 vouchers for VA's use beginning in fiscal year 1991. At an average cost of $6,000 per voucher per year, these vouchers will expand VA's residential treatment capability for homeless chronically mentally ill veterans by $4.5 million per year and by $23 million over a 5-year period.

VA's contribution to this joint initiative includes ongoing case management services and clinical support for homeless mentally ill veterans receiving the section 8 vouchers. In addition, VA will monitor and evaluate the therapeutic and cost-effectiveness of this long-term housing/treatment program.

The VA is still working on a model for their demonstration project. But they felt it was important that the transfer occur so that VA could be assured of use of the vouchers during this fiscal year.

There are some costs VA would incur that are associated with the enactment of this measure—approximately $1.2 million—but I have been informed that these moneys would come from their substance abuse fund.

VA officials have notified me that they will be working closely with Senator MIKULSKI and her staff on this program, as well as Senator GARN and his staff. In addition, VA will coordinate its efforts on this demonstration program with both authorizing committees.

This amendment offers medical/psychiatric and transitional residential treatment for our homeless veterans and I hope it will merit the support of my colleagues.

HUD RELOCATION AND CONSOLIDATION OF THE HEADQUARTERS OF THE NATIONAL SCIENCE FOUNDATION

Mr. WARNER. Mr. President, I thank the distinguished Senator from the State of Maryland for her willingness to work with the two Senators from Virginia to ensure that an impending effort to relocate and consolidate the operations of the National Science Foundation is not interrupted.

This move is very important to the National Science Foundation for several reasons. It would allow them to consolidate the majority of their operations and their Science Resources Studies Division, responsible for gathering data on Federal R&D issues, both of which are currently located in separate downtown Washington sites. The combination of these two important operations will permit the foundation to streamline its administrative and technical overhead.

Furthermore, this move out of the center of Washington, DC will greatly reduce the office space expenses faced by the Foundation. Allowing for over 300,000 square feet of office space in the new headquarters, this move alone will result in an estimated annual rent savings of over $3.5 million.

Mr. President, I look forward to working with my distinguished colleagues from Maryland to ensure that future solicitations for new office space in the Washington, DC metropolitan area continue to be conducted in a fair and equitable manner taking into account the interests of all parties concerned.

Again, I thank the distinguished floor manager for the majority for her willingness to work with us to achieve a goal that is best for the National Science Foundation.

Mr. President, I wish to acknowledge the very professional assistance rendered to me by my staff assistant Andrew Hyde who worked timelessly to negotiate this matter with other staff.

Mr. GORTON. Mr. President, I rise today to laud the committee's fine work on the appropriations for the Department of Housing and Urban Development, the Department of Veteran's Affairs and the independent agencies for which the committee assumes host of responsibility. In this time of extraordinary budgetary restraint, the committee has done a commendable job of assuring that these important domestic programs are maintained at adequate levels.

I am particularly pleased that the committee, in its infinite wisdom, has seen fit to award a special purpose grant for my State of Washington in the amount of $1,500,000 for low-income housing and economic development to be applied in equal amounts to the highpoint neighborhood in Tacoma, WA, and the central area neighborhood in Seattle, WA.

Mr. President, both of these neighborhoods have long fallen victim to high crime rates and illegal drug activity. It is my hope that with the help of this Federal funding, and the commitment of some outstanding community groups, significant progress can be made toward restoring normalcy and security for the families in those neighborhoods.

In addition to those important economic development benefits, the committee also recognized the need for $2,385,000 in planning and site acquisition for a new national cemetery in the Seattle/Tacoma area as part of its allocations for the Department of Veterans Affairs. Further, the committee earmarked an additional $1,000,000 of Environmental Protection Agency moneys to help in the completion of the Spokane aquifer.

Mr. President, as pleased as I am with the committee's recognition of the needs of Washington State, I must register my concern on a broader issue. It is my understanding that the committee has drastically reduced the staffing levels in a number of offices within the Department of Housing and Urban Development. In particular, the Office of Public Affairs and the Office of General Counsel have been diminished or wiped out completely. It seems to me that as HUD and Secretary Kemp try to rebuild an agency once plagued with abuse—and now tarnished by that reputation—both the Office of General Counsel and the Office of Public Affairs will play a critical role in HUD's ability to restore integrity and confidence to its provisions. Mr. President, I hope that these issues wil be favorably addressed in conference with the House.

Mr. BIDEN. Mr. President, the fiscal year 1991 VA-HUD and independent agencies appropriations bill includes $3.2 million for the second phase of the clinical addition project at the Elsmere VA hospital. This funding represents a nearly 20-year struggle to better meet the health care needs of Delaware's veterans.

Back in 1973, the Veterans' Administration proposed dozens of projects that it said were needed to meet the changing needs of America's veterans. Today, 17 years later, over 90 percent of those projects have been completed. The Elsmere clinical addition is one of the few that has not.

Because of turf wars between the VA and the Office of Management and Budget, the clinical addition project has been shelved year after year. Last year, Congressman CARPER in the House and I in the Senate were able to break that administrative logjam with a $1 million appropriation to update the design plans for the clinical additon. Today, we are able to move one step closer to completing this much-needed project. The $3.2 million provided in this bill will help finish the design plans and begin the site preparation. With any luck, the actual construction will begin no later than fiscal year 1993.

This project is extremely important. Consider this: The current Elsmere outpatient facilities, built in 1948, were designed to serve about 25,000 patients; it has now been asked to handle up to 85,000 visits per year. There's more. The surgery unit was built in 1950 and has never been renovated. The laboratory and radiology services are outdated, cramped, and inadequate. And, veterans waiting for medical tests often stand in cramped hallways wearing only their hospital gowns.

Mr. President, this is not the kind of health care we promised our veterans when they risked their lives for our country. This is not the way we should be treating America's heroes. The veterans of Delaware and several surrounding States have earned and deserve the best health care available. A clinical addition at Elsmere is not enough, but it will go a long way to meeting the changing needs of our veterans.

Recent studies have shown that more outpatient care is desperately needed to meet those changing needs. The VA has recognized that fact for years. Delaware's veterans have known it for years. Congressman CARPER and I have been fighting for it for years. Now, at last, we are acting to meet those outpatient needs.

About 4 months ago, Michael Phaup became the new director of the Elsmere VA Hospital. In what little time I've had to speak with him, I know he is committed to our veterans. With the funding provided in this bill, Congress is showing that it, too, is committed to fulfilling a promise made to our men and women in uniform. At Elsmere, a new outpatient facility and a new director signify a new outpatient facility and a new director signify a new direction in veterans health care—a direction toward better and more convenient care, a direction that reverses the downward trend of the past 10 years.

Finally, Mr. President, I would like to thank Senator MIKULSKI and Senator GARN, the chair and ranking member of the VA-HUD Appropriations Subcommittee. Their commitment to this project has been demon-

strated over the past 2 years. On behalf of Delaware's veterans, I thank them for their help and look forward to working with them again in serving our veterans.

Mr. MACK. Mr. President, as we vote on the fiscal year 1991 HUD-VA appropriations, I would like to bring to the attention of my colleagues certain provisions of the bill.

There are numerous objectionable items in this year's appropriations for HUD. I understand the administration strongly opposes many provisions, which have serious implications for the implementation of Secretary Kemp's new housing policies. The Secretary has been a forceful advocate of the redirection of housing policies to focus attention on helping low-income families.

The bill eliminates the Office of Public Affairs; limits of noncareer SES to 13 percent of total HUD SES which cuts by half the number of politically appointed managers and others; limits staff in the Office of General Counsel to 224 staff years and PD&R staff to 137 staff years; incorporates into law all report language, including deadlines and tables; provides 10,000 units of new public housing construction; deletes the $250,000 million for funding for the HOPE Program; and includes $50 million for special projects.

I am told that the President's senior advisers would recommend the veto of this bill if passed in its current form. To avoid a veto of the bill, I strongly urge that the conferees of the bill address these issues with seriousness and diligence in an effort to remove those most objectionable.

I intend to vote against this bill, but I would like to stress that my vote reflects my concerns with these particular issues. It does not reflect my strong support for the renewal of section 8 expiring certificates and vouchers. These are critical programs which need additional appropriations.

On another note, I am pleased to see that my colleague from Idaho, Senator SYMMS, inserted into the RECORD an excellent article from today's Washington Times by Paul Craig Roberts entitled "Numerical Chicanery." This is a very timely and important piece and I commend it to my colleagues.

Ms. MIKULSKI. I yield the remainder of the time and I urge the third reading of the bill.

Mr. GARN. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The question is on the engrossments of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. Under the previous order, pursuant to unanimous-consent request, the vote will occur at 6:15 p.m.

Ms. MIKULSKI. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might proceed as in morning business for 1 minute.

I thank the managers of the bill for the interruption.

The PRESIDING OFFICER. Without objection, it is so ordered.

WASHINGTON TIMES ARTICLES REGARDING THE BUDGET AGREEMENT

Mr. SYMMS. Mr. President, today's commentary section of the Washington Times has what I think are three very, very interesting articles. The articles are entitled: "Lessons From the Duke" by Warren Brookes; "Creatures From the Budget Deep" by Paul Craig Roberts; "Bubba Takes the Tax Hit" by Patrick Buchanan.

I ask unanimous consent that all three articles be printed in the RECORD, along with a chart attached by Warren Brookes.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

LESSONS FROM THE DUKE

(By Warren Brookes)

Instead of trying to rally his Republican congressional delegation around the alleged deficit reduction, $134 billion tax-increase plan, President Bush would do well to remember who won the 1988 election, and observe what happened to the man he defeated.

While the pundits had a field day with the Sept. 18 political upset in Massachusetts by Boston University president and political neophyte John Silber, who won the Democratic nomination for governor over the party's endorsed candidate, former Attorney General Frank Bellotti, they have largely ignored the real target of that voter backlash, Gov. Michael Dukakis.

At the Democratic party "unity" meeting on Sept. 19, Mr. Dukakis was neither invited nor allowed to say anything. The man who came within 7 points of becoming president has now become the biggest albatross in that state's pungent political history.

While Mr. Silber is indeed an attractively fresh new face and voice for a national party that has sold its soul to every pleading and bleeding special interest, his support came as much or more from people voting against the well-known Dukakis/Bellotti axis as it did from those attracted to Mr. Silber's shocking candor.

To put it bluntly, what happened on Sept. 18 in Massachusetts was a revolution of contempt for the political establishment because of the fiscal nightmare into which Mr. Dukakis and his legislative cronies have led the people of Massachusetts, who have been hit with more than $2 billion in higher taxes and fees since the 1988 presidential campaign started.

Yet, despite those massive tax increases (or because of them?) the state is headed for its fifth straight budget deficit in fiscal 1991, and Mr. Dukakis is threatening to close old soldiers' homes to scare voters against supporting the Citizens for Limited Taxation ballot initiative calling for the rollback of those taxes.

The blatant cynicism of that effort explains why the taxpayers may now hate Mr. Dukakis and all incumbents enough not only to pass the potent CLT petition but throw still more "ins" out.

WHY MASSACHUSETTS IS IN FISCAL CRISIS

[In percent]

	Spending trends		Revenue trends		Cash flow deficit/surplus	
	Mass.	All States	Mass.	All States	Mass.	All States
1984	8.9	8.8	12.6	10.9	+3.7	+2.1
1985	9.4	9.2	13.4	10.1	+4.0	+0.9
1986	12.0	8.6	16.6	9.3	+4.6	+0.7
1987	12.8	6.8	8.6	5.3	−4.2	−1.5
1988	8.3	6.9	2.1	6.0	−6.2	−0.9
1989	11.2	7.8	5.2	7.4	−7.0	−0.3
1990	10.4	8.1	2.3	7.7	−12.8	−0.4
1984–90 average	10.4	8.0	9.6	8.2	−2.2	+1.6

Sources: State Budget Data—Massachusetts Civic Interest Council—U.S. Commerce Department.

As the Boston Globe's liberal columnist Mike Barnicle admitted more than a year ago, "hate is not too strong a word to use because the worst thing you can do to the public is regard the people as morons, incapable of figuring out truth and reality. And that is precisely what Dukakis has done: treat citizens like fools . . . and show contempt for those who cough up hard-earned money to float a fat, untouched bureaucracy."

Last week, even as the entire political establishment was warning that CLT would destroy government services, the public found out the state's bloated payrolls had dropped less than 1 percent since last June, and were still nearly 15,000 higher than when Gov. Edward King left office in 1982.

This news came while the Boston Globe was running a five-part investigative series showing a supposedly overburdened municipal court system in which judges with fat payrolls and pensions were routinely working only three- and four-hour days, while moonlighting lawyer/legislators on House and Senate judiciary committees were trading favors to judges for lenient treatment of drunk-driving clients.

All this, while state spending continues to rise well above the rate of inflation despite repeated alleged "spending cuts." In fiscal 1990, ending last June 30, state spending rose 10.4 percent over fiscal 1989, which in turn had risen 11.2 percent over fiscal '88. Yet in both of those fiscal years, Mr. Dukakis and the Legislature had supposedly "slashed services" to the bone. (See Table.)

Tax-cut guru Barbara Anderson, responding to the charge that her petition "went too far," told her fellow CLT members: "I'll tell what's 'too far.' A 92 percent increase in spending over the last seven years with inflation up 25 percent. That's too far. A per capita tax burden that is sixth-highest in the nation, while we're rated third-worst managed state; that's too far!"

In fact, since fiscal 1983, state spending has risen nearly 100 percent, more than triple the total consumer price index in that period (about 30 percent). Massachusetts spending has consistently averaged 20 to 30 percent faster growth than the average for all states. Had the state merely held its spending growth to the average for all states, it would now have a substantial budget surplus *without* the $2 billion in taxes enacted since 1988. This means CLT is merely retroactive fiscal prudence.

Instead, the state chose to outspend even its own incredibly strong revenues, which have grown nearly 20 percent faster than the national average for all states. While Massachusetts revenue growth from 1983-1989 averaged 9.6 percent, spending growth was 10.4 percent.

The predictable result is that a $600 million funds surplus in fiscal 1986 had become an effective $2 billion funds deficit by fiscal 1990 when state spending outraced revenues by $1.4 billion, which then had to be "bonded" in the way normally reserved for capital investments. Even after that bonding, serious observers agree the state is still at least $1 billion or more in the hole.

Yet, when Mr. Dukakis inherited the state in 1983, its economy was indeed in a miraculous turnaround. Its personal income growth in 1983 was third-fastest in the nation, compared with third-worst in 1978. Its total tax burden had fallen from 10 percent above the nation to 5 percent below it, a nearly 20 percent drop. Yet its revenues from 1983 to 1987 grew nearly 13 percent a year, 30 percent faster than all states' average.

But instead of using that "miracle-driven" revenue growth to reinforce the state's trend to lower taxes and a stronger economy, it all went to build a massive political machine. The huge tax and fee increases since 1988, supposedly to balance the budget, have merely kept that machine running, fueled spending growth and *increased* the deficits in a now Depression-style economy.

There's a message in there somewhere. Who's listening?

[From the Washington Times, Oct. 3, 1990]

CREATURE FROM THE BUDGET DEEP

NUMERICAL CHICANERY

(By Paul Craig Roberts)

The budget deal serves the needs of the handful of Washington insiders who put it together, but it totally ignores the needs of the economy.

Moreover, the agreement is a fraud, pure and simple. In fact, it is outrageously shameful, and it's easy to see why. The numbers reveal it. Do you believe that budget outlays in 1995 will only be $25 billion higher than in 1991-the equivalent of a five-year budget freeze? Over the previous five years (1987-1991) budget outlays rose by $380 billion.

Do you believe that the federal government is going to spend fewer dollars in 1993, 1994 and 1995 than it spends in 1992? Do you believe that the congressional budget negotiators, President Bush and budget director Richard Darman, believe that dollar outlays in 1994 will be $50 billion below the amount the government spends in 1992?

The outlay and revenue numbers agreed upon by the budget dealmakers show that federal outlays for the next five years peak in 1992—an election year—and that revenues are up $100 billion in 1992 over the adjusted base revenue path in 1991. There you have what the budget deal is about—buying the 1992 reelection.

The savings are based on the assumption that spending in absolute dollar terms in 1993, 1994 and 1995 is below the level of 1992. In other words, the savings are based on the assumption of three years of budget cuts that individually are more severe than the threatened 1991 budget sequester, the fear of which has allegedly driven Congress and the White House to a budget deal.

Do you believe that politicans, who fear a sequester that would still allow a spending increase in 1991, are going to implement a budget plan that actually cuts spending, not in relation to some projected growth figure but in relation to a previous year's spending?

And that's not the half of it. Consider the economic assumptions that underlie these "savings." There is no recession in the forecast, which assumes a 3.8 percent average rate of real economic growth over the four years 1992-1995.

We have here a "rosy scenario" with a tax increase! In 1981, when the Reagan administration, with a major tax rate reduction, forecast less real growth than had occurred over the previous five years, it was greeted by critics with hoots of "rosy scenario." Now the government is proposing comparable real growth numbers, but this time they will result from a tax increase.

But the government knows that this is not really true. It has secret paths for outlays and revenues that adjust the figures in the budget summit agreement of Sept. 30, 1990, for revisions in the economic assumptions showing slower growth in 1990 and 1991 than previously projected.

These revisions show that spending will be $75 billion higher than the advertised "agreed" amount for the 1991-95 period, while receipts for the five-year period will be only $8 billion above the previous baseline path. In other words, the economic slowdown eats up all but $8 billion of the $133.8 billion tax increase!

These adjustments reduce the claimed five-year savings from $500 billion to $300 billion, and that's with all the tricks and no recession.

This makes it clear that a progrowth budget would do far more to reduce the deficit than the absurd budget agreement that is before us. If the economy and the budget are to survive, Mr. Bush must quickly find a budget director with a pro-growth budget.

It remains to be seen whether the Reaganite-Kemp-populist members of Congress will allow this fraud against the public, or whether they will demand the resignations of Mr. Darman and the congressional leadership who together concocted this absurd collection of numbers.

Reporters no longer report. They just print whatever tricksters like Mr. Darman hand them. The Wall Street Journal, the New York Times, and The Washington Post all had front page stories on Monday emphasizing that the deal would "soak up $500 billion in federal red ink over five years." Not a single story revealed the unbelievable agreed outlay path that makes this claim ludicrous.

Mr. Darman succeeded in deflecting attention to the claimed deficit reduction and the various features of the proposed new taxes. "Bush May Be Winner in the Long Run" is a headline straight from Mr. Darman's office.

The fraudulent budget agreement is so blatant that it shows the government's total disrespect for the public. The national press' complicity in the fraud shows the media will perpetuate any lie in behalf of a tax increase. It would be a light sentence if the budget negotiators and the reporters were tarred and feathered and run out of town.

BUBBA TAKES THE TAX HIT

(By Patrick Buchanan)

A man defines himself by the choices he makes.

In breaking his pledge of "no new taxes," in surrendering his capital-gains tax cut for a budget "deal" imposing new taxes on the people who elected him, President Bush has defined himself. He is a Big Government man all the way.

What was the alternative to $134 billion in new taxes?

The federal government would have had to accept $85 billion in spending cuts Monday. To Mr. Bush, this was as intolerable as it was to liberal Democrats. He simply could not face the "chaos."

Inescapable conclusion: Mr. Bush believes that the U.S. government, which takes a fifth of America's income in taxes, and spends closer to a fourth, must grow. It cannot be reduced in size. Political conclusion: No major party in America still believes in reducing the size of government.

After this "deal" takes hold, the higher taxes will become a permanent fixture. Yet, somehow, the budget cuts will be restored, lest they result in "hardship." As Ronald Reagan, who called the 1982 budget deal the worst mistake of his presidency, learned, the $100 billion in new taxes he accepted proved permanent; the $300 billion in cuts he thought he had locked in proved illusory.

The Democrats were gracious in victory, as befits champions who have just humiliated their rivals on the field. They talked of what a hard-fought game it had been. But, everyone knows the real score. After a decade of dealing with Reaganite Republicans, the city is rid of them. We were routed, horse, foot and dragoons; George Bush, Big Government Republican, is prince of the city.

Who gets hit? Bubba gets hit. The fellow who was ready to vote Democratic in '88, until he got a look at the Little Duke's record on taxes and prison furloughs, on Willie Horton and gun control, on the American Civil Liberties Union and Pledge of Allegiance.

The price of Bubba's smokes is going up; the price of his Lone Star Beer is going up; the price of the Texaco he needs to commute 80 miles a day is going up. The price of Sunday at the Legion Hall watching Joe Montana lead the 'Niners to glory is going way up. Why? Because our congressional incorrigibles are unable to hold federal spending to that 20 percent of GNP they annually consume in taxes. And because Mr. Bush has thrown in with them. If Bubba takes a walk on the GOP next time out, who can blame him?

Our most successful citizens face an added income tax wallop of $18 billion. Washington is going to skim off the cream of America's investment capital from the individuals who earned it, so Teddy Kennedy and the Democratic Congress can invest the money more wisely. Good Republican doctrine, eh?

There is no modern economic theory—Keynesian, Friedmanite, supply-side—that argues for hitting an economy that is tottering on recession with new taxes. But there is a Republican precedent for what Mr. Bush has done: Herbert Hoover, rest his soul.

Mr. Bush's party has forfeited a grand opportunity. The mortgage interest deduction, the charitable deduction and the deduction for state and local taxes could have been traded in—for a reduction in the top rate on federal income taxes to 20 percent and the bottom rate to 12 percent. Add a 60 percent exclusion on capital gains and interest income—to promote saving and investment—and the Moynihan cut in Social Security taxes to bring along Democrats, and we could have left House Speaker Tom Foley and Senate Majority Leader George Mitchell out there sucking wind. The United States would have become again the most attractive investment bargain in the world; we could have blown Japan's doors off. Instead, we have a tax bill drafted by the firm of Scrooge & Marley.

In the television age, a party is defined in the minds of voters by its leader, and the policies he adopts. Consider, then, the GOP in 1990.

It stands for continued growth in social spending—paid for by cuts in defense—and higher taxes on working folks. It stands for sharpened oversight of business so the private sector does not behave bigotedly toward blacks, women or the handicapped. It stands for owls against loggers, feminists against Virginia Military Institute. It stands beside the Big Spenders and against the conservatives. It stands for a New World Order, where our wealth is spread around the globe through foreign aid and institutions like the United Nations and the World Bank.

Jack Kemp was right when he said in South Carolina that, if Mr. Bush were nominated, the Reagan Revolution would be over. Not only has the Democratic Congress taken the GOP into camp, it has persuaded Mr. Bush to provide political cover for tax increases and a huge congressional pay raise. President Michael Dukakis never could have gotten away with this. The GOP would have raised the roof, stopped him cold, routed the Democrats in '90, as prelude to a total government takeover in '92.

Where are the conservatives? Some are battling bravely in the House. Others, however, have stacked arms. They need the money the Big Man can raise; they need those presidential visits; they need the committee assignments GOP Hill leaders pass out to those who go along. They like going to White House socials, sitting in the president's box at the Kennedy Center. They love it here; they don't want to leave; and they don't want to be left outside in the cold.

Anybody got a fishing trip lined up for Election Day?

Mr. SYMMS. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARKIN). Without objection, it is so ordered.

VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATION, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

Mr. BUMPERS. Mr. President, I would like to engage the distinguished chairman of the subcommittee on three or four items, and I will be very brief. But there are three or four things in this bill that I'd like to ask about—I am not offering an amendment to take them out.

I regret that I did not spend more time in analyzing some of these programs. But I wanted to ask the distinguished floor manager if she could tell me how much money, if any, is in this bill for the so-called Moon-Mars Mission that President Bush has been talking about?

Ms. MIKULSKI. I will be happy to answer the questions of the Senator from Arkansas. First, the President of the United States really actively, along with his Vice President, urged a Moon-Mars project initially that would have encompassed an expenditure of $360 million.

Mr. BUMPERS. Three hundred and sixty million?

Ms. MIKULSKI. Three hundred and sixty-one million. That would have been this year. And our committee was gravely concerned about that because of our skimpy allocation that we had to work with and needed programs. We were concerned about the fact that this program could mushroom into $500 billion. But at the same time we tried to see what could strengthen our future human exploration of space. So we proposed $33.9 million for propulsion technology work in two programs which were worked on NASA Shuttle C and the advanced on to Mars system which we need anyway for our manned space program.

We do not believe we can afford any more, given our current allocation. And we have discussed the manned mission back to the Moon or on to Mars with both NASA and the President saying we needed a sustainable revenue source and a clear navigational chart about what exactly this program would entail.

Mr. BUMPERS. I want to commend the Senator for that very clear and precise answer. The reason I asked the question is precisely the reason she has just pointed out as to why the subcommittee decided to cut back on this $361 million request. When we are embarking on something that could cost $500 billion, these programs, which, in my opinion, are highly desirable but not necessarily affordable, have a tendency in this body to take on a life of their own. The first thing you know, you have $5, $10, $20 billion invested and then the argument becomes that we have so much invested we cannot quit.

So this is also to say that I am going to be—I do not mean just for myself—but I personally am going to be looking at this closely, given what is going on in the country right now and what we are all preoccupied with here now, namely, the budget. In my opinion this is no time to be taking on a $500 billion mission to Mars, as desirable as that might be.

I know the projected cost of the space station has risen very dramatically over the last 3 or 4 years. As a matter of fact, I think the first figure I ever saw on the space station—and I want the Senator to correct me if I am wrong—was $11 or $12 billion. I understand that that program is now projected to cost well over $30 billion.

So my questions are, No. 1, are those statements accurate, and, No. 2, how much is in this budget for the space station?

Ms. MIKULSKI. The original estimate of the space station was $8 billion. It is now estimated that the cost of the station will be $33 billion. To this date, the U.S. Government has spent approximately $4 billion on the development of a space station, and it continues to be at the design stage. What this committee did was fund the space station at the level of $1.6 billion. The President's figure was $2.4 billion. So we are below the President's for the space station.

Mr. BUMPERS. That is also a very clear and cogent answer. I started to say that my recollection was that the original estimate of the cost of the space station was $8 billion, but I thought since it now up to $33 billion that I must be wrong about that. But in any event, what year was that $8 billion projection made?

Ms. MIKULSKI. Our records indicate that that was a 1984 budget estimate.

Mr. BUMPERS. So in a period of 6 years the cost has gone up about 400 percent, is that correct?

Ms. MIKULSKI. That is correct.

Mr. BUMPERS. A little over 400 percent, as a matter of fact.

Ms. MIKULSKI. It is 400 percent plus $1 billion.

Mr. BUMPERS. So the cost estimates of the space stations have gone up about 70 percent a year.

Mr. GARN. Would the Senator yield for a comment?

Mr. BUMPERS. Yes.

Mr. GARN. My distinguished classmate of 1974. First of all, I think we need to put these figures in perspective. You cannot just run from $8 billion to $33 billion without factoring in inflation because, if we want to start playing those kinds of numbers, I can talk about the explosion of Senate staff and the payroll around this place or most any other budgets. You have

to at least take out the inflation factor and not leave the impression that it is all increased cost, and you also have to consider the fact that you have had delays and that if we had had provided more money up front.

One more point, because we are almost out of time. I do not know how you can place a value on certain things. I look back at arguments that were made against parts of the space program earlier, and a heart pacemaker came out of space research and development. I do not know how you place a value on a human life. There are tens of thousands of people walking around with pacemakers who are alive because of that development.

Now, I think when you talk about a space station, it is unfortunate that we are cutting the President's budget by $800,000, because we will save lives, we will have development out of that space station that will benefit every man, woman, and child on the face of this Earth, in curing disease, Mission to Planet Earth, ozone levels, global warming, all of that sort of thing. We make a terrible mistake if we do not proceed with that program.

Mr. BUMPERS. If the Senator will permit, I yielded for that observation, which is a perfectly good one. I want to make two comments and then we will go ahead and vote. I fully agree that this space station is a very laudable undertaking. But when you consider the cost of the space station, when you consider the cost of the Moon-Mars mission, you have to ask yourself, are those really that critical when we are running these kinds of deficits and this country is faced with this kind of budgetary trauma?

Second, let me just say we are putting $1.6 billion in the space station this year, and the Senator makes a perfectly cogent point about the medical experiments that can be conducted in space. But I would also point out that right here in Washington, DC, where the National Institutes of Health are located, the number of research grants that we have been able to make, good grants, has declined from about 35 percent of the grants submitted which are deemed worthy of funding. The Presiding Officer, who chairs the subcommittee that funds that operation, the National Institutes of Health, knows that this is correct. The number of grants we can fund has been declining steadily for 5, 6, 7 years. And if we were to put $1.6 billion into NIH, I submit we might get a lot more lives saved than we will on this program.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Under the previous order the hour of 6:15 having arrived, the question is on final passage. The question is, Shall the bill, H.R. 5158, pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. JOHNSTON] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The result was announced—yeas 90, nays 8, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—90

Adams	Durenberger	McCain
Akaka	Exon	McClure
Baucus	Ford	McConnell
Bentsen	Fowler	Metzenbaum
Biden	Garn	Mikulski
Bingaman	Glenn	Mitchell
Bond	Gore	Moynihan
Boren	Gorton	Murkowski
Boschwitz	Graham	Nickles
Bradley	Gramm	Nunn
Breaux	Grassley	Packwood
Bryan	Harkin	Pell
Bumpers	Hatch	Pressler
Burdick	Hatfield	Pryor
Burns	Heflin	Reid
Byrd	Heinz	Riegle
Chafee	Hollings	Robb
Coats	Inouye	Rockefeller
Cochran	Jeffords	Rudman
Cohen	Kassebaum	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerrey	Sasser
D'Amato	Kerry	Shelby
Danforth	Kohl	Simon
Daschle	Lautenberg	Simpson
DeConcini	Leahy	Specter
Dixon	Levin	Stevens
Dodd	Lieberman	Thurmond
Dole	Lott	Warner
Domenici	Lugar	Wirth

NAYS—8

Armstrong	Kasten	Symms
Helms	Mack	Wallop
Humphrey	Roth	

NOT VOTING—2

Johnston	Wilson

So, the bill (H.R. 5158), as amended, was passed.

Ms. MIKULSKI. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI. Mr. President, I move that the Senate insist upon its amendments to H.R. 5158 and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore [Mr. BRYAN] appointed Ms. MIKULSKI, Mr. LEAHY, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. FOWLER, Mr. KERREY, Mr. BYRD, Mr. GARN, Mr. D'AMATO, Mr. GRASSLEY, Mr. NICKLES, Mr. GRAMM, and Mr. HATFIELD conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President and Members of the Senate, there will be no further rollcall votes this evening. I will be discussing with the distinguished Republican leader and the managers the best way to proceed with respect to the pending legislation, and we will have an announcement later this evening as to the schedule for tomorrow. But there will be no more rollcall votes this evening.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent I might proceed for 5 minutes as if in morning business.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

VOTING RIGHTS OF MILITARY PERSONNEL

Mr. FORD. Mr. President, I have received a number of inquiries about what is being done to assure that our service men and women stationed abroad, and especially those now serving in the Middle East, will be able to vote in the elections next month. Today I asked my staff to meet with Henry Valentino, Director, and Phyllis Taylor, Deputy Director, of the Federal Voting Assistance Program in the Department of Defense to determine just what steps that office was taking to protect the voting rights of our military personnel and their dependents.

I am pleased to advise the Senate that the Federal Voting Assistance Program appears to have the situation well organized to make sure that all service men and women who wish to vote will be able to do so. Mr. President, I ask that a copy of the material provided me entitled "Summary of Military Voting Actions" and a copy of a letter sent to every Secretary of State advising them as to how they may be of assistance in this program be printed in the RECORD. I believe that this information will answer most of the inquiries about this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL VOTING ASSISTANCE PROGRAM, OFFICE OF THE SECRETARY OF DEFENSE,

Washington, DC.

SUMMARY OF MILITARY VOTING ACTIONS

The week of August 27 was Armed Forces Voters Week. During that week, commanders at all levels of command held a training session on the importance of voting and handed a Federal Post Card Application (FPCA) form to each member of their command. Additional forms were also given to eligible dependents.

Special distribution of FPCA's has been made to Desert Shield units in the event the FPCA was not submitted before deployment. In addition, 200,000 Federal Write-In Absentee Ballots have been pre-positioned with Desert Shield units.

In order to minimize the possibility that reservists who are called to active duty may be disenfranchised because of the timing of the callup, the following actions have been implemented:

Each reservist called to active duty is advised of his or her right to vote and how to do it. Any reservist who can register and vote before reporting to active duty is advised to do so.

The reservist is given an FPCA and provided assistance to register and/or request an absentee ballot.

If orders to report to active duty appear to disenfrancise a reservist, i.e. he/she has no time to register and vote or deadlines have passed to request a regular absentee ballot, the command has been instructed to provide the Federal Voting Assistance Program (FVAP) office immediately with the reservist's name, SSN, and legal residence address, to attempt to resolve the problem.

In order to expedite mail handling in the Middle East the military postal service has added 40 APO/FPO facilities. All units currently have daily mail service. Special instructions have been issued to all military postal clerks to expedite handling of voting materials which have the standardized markings prescribed by FVAP. All voting materials will receive priority handling in loading return mail, i.e. the mail pouch with voting materials will be loaded on the plane first.

We have arranged to use the Desert Fax service recently announced by AT&T so that in an emergency we can fax a ballot to an individual in Saudi Arabia who could then vote it and return it by mail to the local election official. We are also trying to arrange special phone circuits so military in the Middle East can access the DoD Voting Information Center for messages from candidates.

We have asked the States:

To be sure absentee ballots are mailed in a timely manner.

Accept the Federal Write-In Absentee Ballot for statewide offices, at least for Governor. Presently it can only be used to vote for federal offices.

Accept the Federal Write-In Absentee Ballot as a combination registration and actual ballot—waive the requirement for previous registration and request for a regular absentee ballot.

Accept a signed facsimile of an absentee ballot, or a preferred alternative, accept and count an electronic transmission of a voted vallot.

Allow the counting of ballots for all offices where they now allow late counting for federal offices. Some States count absentee ballots received after the election, but only for federal offices, this request would expand it to include all offices.

FEDERAL VOTING ASSISTANCE PROGRAM, OFFICE OF THE SECRETARY OF DEFENSE,

Washington, DC, September 17, 1990.

The Honorable SECRETARY OF STATE.

DEAR ——: The deployment of military units as a part of the Desert Shield operation in the Middle East and the callup of reservists to active duty, have prompted numerous questions pertaining to voting by these citizens. I want you to be aware of the specific actions we have taken and ask your assistance in possible alternatives to ensure these members of the military have the opportunity to vote and that their votes will be received in sufficient time to be counted.

This week of August 27 was Armed Forces Voters Week. During that week, commanders at all levels of command held a training session on the importance of voting and handed a Federal Post Card Application (FPCA) form to each member of their command. Additional forms were also given to eligible dependents.

Special distribution of FPCA's has been made to Desert Shield units in the event the FPCA was not submitted before deployment. In addition, 200,000 Federal Write-In Ballots have been pre-positioned with Desert Shield units.

In order to minimize the possibility that reservists who are called to active duty may be disenfranchised because of the timing of the callup, the following actions have been implemented:

Each reservists called to active duty is advised of his or her right to vote and how to do it. Any reservist who can register and vote before reporting to active duty is advised to do so.

The reservist is given an FPCA and provided assistance to register and/or request an absentee ballot.

The return address used for the reservist is where he/she will be during the first part of October. If that is unknown, arrangements will be made to forward election materials expeditiously to the individual. Spouses or dependents have been advised how to forward mail to the reservist.

If orders to report to active duty appear to disenfranchise a reservist, i.e. he/she has no time to register and vote or deadlines have passed to request a regular absentee ballot, the command has been instructed to provide this office immediately with the reservist's name, SSN, and legal residence address, and we will attempt to resolve the problem.

In order to expedite mail handling in the Middle East the military postal service has added 40 additional APO/FPO facilities. All units currently have daily mail service. Special instructions have been issued to all military postal clerks to expedite handling of voting materials which have the standardized markings prescribed by this office. All voting materials will receive priority handling in loading return mail, i.e. the mail pouch with voting materials will be loaded on the plane first.

We are trying to arrange for the availability of fax service so that in an emergency we might be able to fax a ballot to an individual who could then vote it and return it by mail to the local election official. I don't know if we can have this ready in time for the general election. We are also trying to arrange special phone circuits so they can access the DoD Voting Information Center for messages from candidates and incumbents.

The following are actions you can take to help:

Please make sure your absentee ballots are mailed in a timely manner. We will be monitoring the mailing dates and while we have allowed some flexibility in the past, we plan to seek court action if there are delays. We need at least 35 days ballot transit time. Be sure the proper envelopes are used.

In those states where there are statewide offices on the ballot, consider accepting the Federal Write-In Absentee Ballot for these offices, at least for Governor.

Consider accepting the Federal Write-In Ballot as a combination registration and actual ballot—waive the requirement to have been registered and have requested a regular absentee ballot.

Accept a signed facsimile of an absentee ballot which is returned by mail, or a preferred alternative, accept and count an electronic transmission of a voted ballot.

Those states that count, for federal offices, absentee ballots received after the election if mailed from overseas, allow the ballot to be counted for all offices.

Use the time slot allocated to you in the Voting Information Center to communicate special information for military from your state. If you haven't recorded your message, now is the time to do it. If you have a message in the system, check it to be sure it is timely. Enclosed are the procedures to follow to record messages. We are averaging about 100 calls a day now and this will increase as election day approaches.

You have always been most cooperative in facilitating absentee voting by military, their dependents and overseas citizens. I'm sure you realize that with Desert Shield we have a unique situation that may require special exceptions. I am confident that you will do everything within your resources to ensure citizens from your state who are a part of Desert Shield will not be disenfranchised. Please do not hesitate to contact me if you have any comments or suggestions. I can be reached at (202) 695-9330 or fax (202) 693-5507. We appreciate your continued support.

Sincerely,

HENRY VALENTINO,
Director.

A GIFT TO CONGRESS

Mr. FORD. Mr. President, one of my constituents, a Mr. Lowell Howard of Middlesboro, KY, recently presented me with a gift that I would like to share with my distinguished colleagues at this time.

At a time when the public's perception of Congress seems to be at an all-time low, the sentiments expressed by Mr. Howard—both in his letter to me and the poem he has written in honor of the U.S. Congress—should function as a reminder to us all of our purpose in being here.

I ask unanimous consent that Mr. Howard's letter and poem be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MIDDLESBORO, KY, *September 27, 1990.*

DEAR SENATOR FORD: This is one of two letters, the other is to Senator Byrd. I have much respect for you and Senator Byrd. I feel that you and Senator Byrd have done much for our wonderful Nation. I also wish to thank you for the things you've done for our great State of Kentucky. We are lucky to have a man such as yourself in Washington.

Sir, the reason I'm writing is to ask a great favor. I would like to show my appreciation not only to you, but to the Congress as a whole. I love this land and thank God that he has blessed it so.

I have enclosed to you, a poem I would like to present to Congress. I know Congress has been given many honored gifts, by people far more important than myself, for I'm just an ordinary citizen of this great land wishing to show my appreciation to its lawmakers.

As I told Senator Byrd, I will leave it up to your judgment as to if it would be possible to present this poem to Congress. No matter what your judgment I would like you to have it with my sincere thanks, and in closing it is my hope that God shall continue to bless our great land and may all decisions be weighed in the scales of the mutual comprehension of the ideal of true liberty, that our liberties and the Constitution that gives us these unparalleled freedoms shall only be enhanced.

Respectfully yours,

LOWELL HOWARD.

THESE VENERATE HALLS

(By Lowell Howard)

You are a chosen few that walk these venerate halls,
You walk by portraits of great men before,
That hang upon this building's walls.
Throughout our country's history,
You've helped to shape a nation.
Sometimes you've had our scorn,
Other times our admiration.
You are but mortal men and women,
We hold in high esteem.
The laws you make they shape our lives,
For good or bad they effect a people's dreams.
In times of peace, in times of war,
You've done the best you can.
In many matters perhaps you've been guided
By an unseen hand.
We've put our trust in you, that you'll do your best,
Our Nation is still standing, its stood the winds of change, this shows you've passed the test.
When others after you shall walk these venerate halls,
They may look and see your portraits hanging on its walls.
Knowing they are walking in footprints that shall be hard to fill.
But with the help of God, they will do their best upon Capitol Hill.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum haveing been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET AGREEMENT

Mr. CRANSTON. Mr. President, as the Senator from California, the State with more voters than any other State in the Union, I want to second President Bush's call for public support of the budget agreement which he and Congress worked so hard and long to achieve. I urge all Californians, I urge all Americans to phone your Senator and your Congressman to support this do or die budget.

This budget agreement is part of a $500 billion deficit reduction plan which we must approve if we are to avoid dire economic consequences. Hardly anybody likes this budget in its entirety. It calls for tax increases, which nobody likes. It calls for spending cuts in many important Government programs, programs which I, and many Members of Congress, strongly support. But while hardly anybody likes this budget, almost everybody hates the alternative, if they understand what that alternative is. As the President said, this is George Bush, "If we fail to enact this agreement, our economy will falter, markets may tumble, and recession will follow."

If that were to happen, everybody would lose. With this budget agreement, at least we have a chance to win, but only if we resist the temptation to pick the agreement apart and kick it around for political purposes; only if we resist the temptation to insist on protecting our own special interest; and only if we face up to making difficult choices among competing needs and priorities.

We face an all-or-nothing alternative. We either support this budget or we end up with something that probably almost surely will be far, far worse for everybody. We must all make sacrifices if we are to succeed in balancing the budget and reducing the deficit. Personally, I would have crafted a very different budget which would have better reflected our country's priorities and needs.

But the budget negotiators deserve a world of credit. They did the best they could to avert national disaster. But now the Congress as a whole must act.

If Congress fails to adopt a budget agreement and sequester ensues that means across-the-board sharp, heavy reductions, public health and safety could be compromised, social programs could be slashed, and our Nation's economy could severely suffer.

Clearly the most important aspect of the agreement is to the projected $500 billion deficit reduction. If the projected savings occur we will have taken a significant step toward bringing our vast national debt under control. By working together we will ensure a brighter future for all of Americans.

Mr. President, what I have heard around the Senate today is that more calls are coming in against the agreement than for the agreement. That is true in my case in calls from California. Now is the time for those that understand what is at stake and to put the general interest of the whole country and the avoidance of recession, the avoidance of very heavy meat-ax approaches in cutting many programs that millions of people depend upon. If those people will call in to say we do not like the program totally but we think that all in all it is the best that can be done now and the alternative is terrible, then we will have a better chance of passing this vitally necessary budget agreement. So now is the time to phone your Senator and your Congressman or women and tell them you will stand behind them if they support this deficit reduction budget.

I yield the floor.

MORNING BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 147

Mr. AKAKA. Mr. President, I join with my colleagues in approving President Bush's decisive action in sending U.S. military forces into the Persian Gulf. This action was needed as an immediate deterrent against any possible continuation of a march by Iraq from Kuwait through Saudia Arabia and beyond.

Mr. President, I have completed a review of the events and circumstances which led to the introduction of U.S. troops into the area. I feel the President had little alternative but to act in the manner that he did. There is no question that this action was necessary and appropriate in the face of Iraq's Hitler-like invasion and occupation of neighboring Kuwait. Such unprovoked aggression by any nation cannot be tolerated in a world governed by laws. The respect for international boundaries is fundamental to the maintenance of world peace.

It is for these reasons, Mr. President, that I am supporting the passage of Senate Concurrent Resolution 147.

It is important to note that Senate Concurrent Resolution 147 in no way authorizes the use of force against Iraq. It merely expresses support for the actions taken by the President to date and specifically endorses the resolutions that have been adopted by the U.N. Security Council with respect to economic sanctions against Iraq.

Mr. President, as a veteran of World War II, I believe militay force should be used only if absolutely necessary. The presence of multinational forces in the region have already discouraged Iraq from invading Saudi Arabia, and with time on our side, the economic embargo should result in Iraq's withdrawal from Kuwait.

Again, Mr. President, I want to make clear that nothing in this resolution authorizes President Bush to initiate offensive actions in the Persian Gulf region. Our presence at this point in time is solely for the purpose of defense and deterrence.

If circumstances change, I anticipate that President Bush will follow the guidelines set forth in the War Powers Resolution which was passed by Congress in 1973 to insure that both Congress and the President share in making decisions that may involve the United States in war.

Mr. President, there is one further point I would like to pursue concerning the involvement of U.S. military forces in the Persian Gulf region. It has to do with the emergence of the United Nations as a positive force in pursuing a peaceful resolution of the problems at hand.

Perhaps the time has come to give serious consideration to the creation of an effective peace-keeping force under the auspices of the United Nations. With the end of the cold war, it's time to explore collective security through the United Nations. The establishment of such a force would strengthen our position in the Persian Gulf. And the longer the time, the greater the strength we gain from relying on the United Nations to settle this matter.

For the first time in its history, Mr. President, I believe the United Nations has the capacity to play a pivotal role in fostering peace and securing justice not just in the Persian Gulf, but throughout the world.

GERMAN REUNIFICATION

Mr. AKAKA. Mr. President, on September 12 the four World War II powers that defeated Nazi Germany signed a treaty with the two Germanys sanctioning their unification. This action heralded the return of full sovereignty to the German people.

Today, Mr. President, the two Germanys become one. This is truly a historic event.

It is even more remarkable because this event occurs just 1 year and 1 day after thousands of East Germans in Leipzig participated in antigovernment demonstrations. These demonstrations led to the opening of the Berlin Wall and the subsequent collapse of 40 years of Communist rule.

The political unification of the two Germanys is just the first step in an integration and restructuring that will profoundly affect the entire world community. The deep wounds left in the aftermath of World War II have mostly healed. I sense the time is right to embark upon a new beginning.

The events which led to reunification prove that fundamental political and economic changes can occur under responsible leadership within the framework of a democratic process. Divided Germany was the focus of the cold war playing host to a collection of the most destructive weapons we know. The reunited Germany creates a new frontier as we pursue tolerance, understanding and a world at peace.

Mr. President, it saddens me to note, however, that the process leading to the reunification of Germany stands in stark contrast to the deplorable events we see occurring in the Persian Gulf. As a veteran, I know the human pain and devastating anguish families the world over suffer when armed conflicts occur. Resources that otherwise might be devoted to humanitarian activities are needlessly wasted on the acquisition of military hardware and the buildup and maintenance of an armed forces to be used for other than defensive purposes.

And so Mr. President, it is for these reasons that I welcome the unification of Germany, and I look forward to the practical impact it will have on the community of nations. I also look forward to a reduction of U.S. Armed Forces stationed in Europe; I look forward to an expansion of cultural and economic activity throughout the entire region; I look forward to emerging new governments focused on meeting basic human needs as the first order of business; and most of all Mr. President, I look forward to a new political order which accepts the concept of participatory democracy as its fundamental driving force.

It is, indeed, a pleasure for me to welcome the new Germany, the reunited Germany into the community of nations. I am confident, moreover, that our Government's support of this action has enabled us to take one giant step toward achieving lasting world peace.

Today Mr. President, we can all stand shoulder to shoulder with the German people and declare: "Ich bin eine Berliner."

THE NATIONAL CENTER FOR ATMOSPHERIC RESEARCH

Mr. WIRTH. Mr. President, I rise to point out a continuing problem I have had regarding the National Science Foundation and its allocation of funding to the National Center for Atmospheric Research. In constant 1982 dollars, NCAR's budget from NSF has declined by 11.6 percent during the past 5 fiscal years. Over the same time, the NSF budget has increased by 11.5 percent.

During that period, NCAR has lost 23 PhD. scientists—lured away by institutions with stable or expanding research programs. Most troubling, the team of researchers from different disciplines is breaking apart.

While this has been happening, the Nation's program for atmospheric research has been growing rapidly. Concerns about global warming and environmental degradation has spawned a massive Federal program to understand how our planet's environmental systems work. In this effort, there is no finer institution that we should be turning to than the National Center for Atmospheric Research. Don't take my word for it, listen to what the President's Science Adviser told me earlier this year. He said:

> The NCAR group is recognized worldwide as among the leaders, if not indeed the leaders, in the development of the large-scale general circulation models that require enormous mathematical investment. . . . It is one of the leading centers worldwide.

When he made that statement, the President's science adviser said that he, too, was extremely concerned about NCAR's funding problems. He told me that he would do something to help correct this situation. Dr. Bromley said that he could see the possibility of the Department of Energy support for NCAR and pledged to contribute to such a cooperative relationship.

I have also met with the Department, with OMB, and with others about developing a cooperative relationship among DOE and NCAR. My impression has always been that these officials thought this was a good idea. But nothing has happened and one of the Nation's research treasures is slowly but surely eroding.

NCAR is highly dependent on funding from the National Science Foundation—an agency that has numerous priorities and numerous demands. I can't say that I agree with all of NSF's funding priorities, but I respect the right of these experts to make the allocations. I could ask my colleagues to earmark NSF funds for NCAR, but that is bad policy and bad science.

I bring this up, Mr. President, not because I intend to insist on bad policy by offering an amendment to earmark funds for NCAR. Rather, I raise this issue to let it be known that President's Global Change Program is a sham if we are not fully funding the programs at the National Center for Atmospheric Research. I intend to follow this issue, and I can tell you that if this situation does not turn around, I'm going to ask that we convene some oversight hearings on this subject. I'm learning more and more about the Nation's investment in global change research, and at least some of those investments are highly questionable.

In conclusion, Mr. President, let me just say that it is nonsensical that NCAR is hemorrhaging at a time when the entire world wants to know more about atmospheric and global climate systems. I intend to continue doing all that I can to turn this situation around. And I want to say publicly that I intend to make sure this issue is discussed openly next year when we go through this process again.

NATIONAL WOMEN VETERANS RECOGNITION WEEK

Mr. CRANSTON. Mr. President, on Friday, September 27, the Senate passed Senate Joint Resolution 307, a joint resolution which I sponsored designating November 11 through 17, 1990, as National Women Veterans Recognition Week. The measure is substantively the same as House Joint Resolution 543, which was introduced in the House by Representative BILIRAKIS on April 4.

Because of my commitment to women veterans, I have, for the past 6 years, sponsored legislation designating a week near Veterans Day as National Women Veterans Recognition Week. I am proud to have sponsored this legislation for so many years and am equally proud of the strong support it has received from my colleagues in the Senate.

The goals of designating a week to honor these courageous women are twofold: To make the public more aware of the contributions of women veterans, and to make women veterans more aware of the many benefits available to them because of their service. These women, who served with honor and dedication, are a group of veterans who have too often been underestimated, forgotten, or ignored. For far too long, the term "veteran" has meant "male veteran". The American people have been quick to praise male combat veterans, but have been slow to acknowledge the valuable support provided by women who have served as medical and supply personnel in noncombat positions, for example, as medical and supply personnel. We must continue our efforts to change this distorted perception and to acknowledge the contributions women veterans make to our national defense. Women are performing a wider range of tasks in the Armed Forces than ever before, as demonstrated by the participation of women in the recent military action in Panama and in the current Operation Desert Shield.

Women veterans comprise approximately 4.2 percent of the total veteran population, a percentage that is growing as the percentage of women in the active military and in the reserves continues to grow. At the present time, 11 percent of active duty service personnel are women.

Many women veterans are not aware of the various benefits and services for which they are eligible, such as health care, home loans, and educational and employment assistance. We have a responsibility to inform them of these benefits and services, in order to ensure that they use them to at least the same extent as male veterans. We must ensure that they are provided equal and appropriate services, particularly in the area of health care, where there are important differences between the needs of men and women veterans. In response to that concern, I have requested that the General Accounting Office review VA's followup efforts regarding implementation of the recommendations for improving women veterans' access to VA health care which GAO made in its 1982 report.

Mr. President, the joint resolution designating the week of November 11 as National Women Veterans Recognition Week will continue the momentum built over the last 6 years to call attention to this important but often overlooked group of veterans. I want to thank my colleagues once again for supporting this joint resolution and women veterans.

GERMAN REUNIFICATION

Mr. DASCHLE. Mr. President, today marks a historic and happy occasion. The events of the past 24 hours signify the triumph of the forces of freedom, democracy, and progress. We have witnessed the birth of a new nation, perhaps I should say, the rebirth of an old, historic nation as we have witnessed the reunification of Germany.

This is a time to reminisce in our celebrations because this achievement marks the close of one of the turbulent chapters of World War II and the beginning of a new, more hopeful one.

We must never forget the lessons of World War II. But today's events highlight the opportunity we now have to move beyond that terrible time.

Closed also is another chapter in what we hope are the final days of the cold war—a war that has threatened a generation with the end of civilization. A divided Germany has been in the middle of a long twilight struggle that has seen the Berlin airlift, the Berlin Wall, and a young American President standing in front of that wall and declaring that all free people are citizens of Berlin. "Freedom is indivisible," President Kennedy proclaimed that day, "and when one man is enslaved, all are not free."

This is a time for celebration. The reunification of Germany will help restore the economic and political stability of Europe, as well as lift the curtain that once fell from Stettin in the Baltic to Trieste in the Adriatic. Families will be reunited. Divided cities as well as divided countries will be whole again.

It is a time for celebration because this reunification illustrates that wars are not always won with guns, but with ideas, perseverance, hope, and dedication to the causes of freedom and the right of people to choose their own leaders and destinies.

While this is a time for reminiscing and celebrating, this is also a time for looking toward the future. Reunification will be a crucial step in the rebuilding of Eastern Europe. For the United States, it provides an opportunity to strengthen our trade and cultural relations with Europe while reducing our military commitment there.

Toward that end, I am proud to say that the people of South Dakota have initiated their own efforts. Earlier this year the city of Sioux Falls signed a historic sister city agreement with Potsdam to strengthen the growing ties between the United States and Germany and to show their solidarity with the German people who have won the struggle for freedom.

"Real, lasting peace in Europe," proclaimed President Kennedy, "can never be assured as long as one German out of four is denied the elementary right of free men, and that is to make a free choice." This is a time to look forward because this historic event will help bring peace and prosperity to a world that has not seen enough of either.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,027th day that Terry Anderson has been held captive in Beirut.

On Sunday, September 30, family and friends from Fishkill to Beacon welcomed Robert Polhill home. Treatment of Mr. Polhill's throat cancer delayed the reunion by 5 months. But, in his wife Ferial's words, the ceremony on Sunday demonstrated that "Robert was not forgotten."

Mr. President, I rise today with the hope that Terry Anderson and the other hostages still in Lebanon will not be forgotten. I ask unanimous consent that an Associated Press article recounting Sunday's Parade be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TOWN WELCOMES FORMER HOSTAGE ROBERT POLHILL HOME

(By Michael Hill)

BEACON, NY.—Fluttering flags and yellow ribbons marked Robert Polhill's return home after 39 months as a hostage in the Middle East and five months fighting throat cancer.

Looking gaunt but happy, Polhill waved to well-wishers Sunday during a parade.

"The warmth of your welcome overwhelms me," Polhill, who was unable to speak, said in a statement read by his wife, Ferial. "I regret that I am not sufficiently fluent to greet you myself."

Telephone poles and signposts were festooned with ribbons along the eight-mile parade route from Fishkill, about 50 miles north of New York City, to Beacon. People held balloons, waved American flags and wore yellow ribbons.

"I'm overwhelmed with all these people," said Polhill's mother, Ruth, who lives in Fishkill. "It was a remarkable greeting."

Polhill, 56, was an accountant and assistant business professor at Beirut University in Lebanon when he and three other faculty members were captured by Moslem extremists on Jan. 24, 1987.

He was released April 22 but was hospitalized for diabetes and malnutrition. At Walter Reed Army Medical Center in Washington, a growth removed from his vocal cords was found to be cancerous. Polhill's voice box was removed during the operation.

The original homecoming plan this spring was scuttled while Polhill received treatment at Walter Reed, living in housing on the hospital grounds.

Folk singer Pete Seeger dedicated "God Bless America" to Polhill on Sunday. Police flanked the route, and fire trucks and a small band joined the procession, which was held in conjunction with Spirit of Beacon Day.

"It makes me happy to see that Robert was not forgotten," said Ferial Polhill. "Forgetfulness would have been easy and understandable."

Asked if he felt like a hero, Polhill shook his head.

"I don't care what he thinks. In my eyes he's a hero," his wife said.

EXTENSION OF PERIOD FOR MAXIMUM EFFICIENT RATE PRODUCTION OF THE NAVAL PETROLEUM RESERVES MESSAGE FROM THE PRESIDENT—PM 148

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Armed Services:

To the Congress of the United States;

In accordance with section 201(3) of the Naval Petroleum Reserves Production Act of 1976 (10 U.S.C. 7422(c)(2)), I wish to inform you of my decision to extend the period of maximum efficient rate production of the naval petroleum reserves for a period of 3 years from April 5, 1991, the expiration date of the currently authorized period of production.

I am transmitting herewith a copy of the report investigating the necessity of continued production of the reserves as required by section 201(3)(c)(2)(B) of the Naval Petroleum Reserves Production Act of 1976. In light of the findings contained in that report, I hereby certify that continued production from the naval petroleum reserves is in the national interest.

GEORGE BUSH.

THE WHITE HOUSE, *October 3, 1990.*

MESSAGES FROM THE HOUSE

At 2:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 1511) to amend the Age Discrimination on Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes, without amendment.

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 3134. An act for the relief of Mrs. Joan R. Daronco;

H.R. 3139. An act to amend title 5, United States Code, to authorize portability of benefits for employees of nonappropriated fund instrumentalities of the Department of Defense when such employees convert to the civil service system;

H.R. 3618. An act to authorize the lease of lands on the Mille Lacs Indian Reservation for a term not to exceed 99 years;

H.R. 3703. An act to authorize the Rumsey Indian Rancheria to convey a certain parcel of land;

H.R. 3954. An act to authorize the establishment of a memorial on Federal land in the District of Columbia or its environs to honor service in the Peace Corps;

H.R. 4131. An act to ensure that executive agencies have adequate authority to review the performance of foreign contractors and subcontractors under certain procurement contracts, and for other purposes;

H.R. 4205. An act to authorize appropriations for fiscal year 1991 for the Maritime Administration, and for other purposes;

H.R. 4299. An act to authorize a study of the fishery resources of the Great Lakes, and for other purposes;

H.R. 4593. An act to transfer to the Secretary of the Interior the administration of the surface rights in certain lands presently within the boundaries of the San Carlos Indian Reservation, AZ, and managed by the Forest Service as part of the Coronado National Forest, and for other purposes;

H.R. 5007. An act to designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, IL, as the "Robert McClory Post Office Building";

H.R. 5209. An act to amend title 39, United States Code, to make nonmailable any unsolicited sample of a drug of other hazardous household substance which does not meet child-resistant packaging requirments, and for other purposes;

H.R. 5235. An act to designate the Owens Finance Station of the United States Postal Service in Cleveland, Ohio, as the "Jesse Owens Building of the United States Postal Service";

H.R. 5390. An act to prevent and control infestations of the coastal inland waters of the United States by the zebra mussel and other nonindigenous aquatic nuisance species, to reauthorize the National Sea Grant College Program, and for other purposes;

H.R. 5409. An act to designate the post office building at 222 West Center Streat in Orem, Utah, as the "Arthur V. Watkins Post Office Building";

H.R. 5450. An act to amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals eligibility for Federal benefits;

H.J. Res. 602. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month"; and

H.J. Res. 610. Joint resolution designating October 1990 as "Ending Hunger Month."

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1230. An act to authorize the acquisition of additional lands for inclusion in the Knife Rive Indian Villages National Historic Site;

S. 1974. An act to require new televisions to have built in decoder circuitry;

HR. 1243. An act to require the Secretary of Energy to establish Centers for Metal Casting Competitiveness Research;

H.R. 2372. An act to provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing;

H.R. 3657. An act to amend the Securities Exchange Act of 1934 to strengthen regulatory oversight of the United States securities market, improve supervision of financial market participants, and improve the safety and efficiency of market mechanisms, and for other purposes;

H. R. 3897. An act to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes;

S.J. Res. 181. Joint resolution to establish calendar year 1992 as the "Year of Clean Water";

H.J. Res. 398. Joint resolution to commemorate the centennial of the creation of Congress of Yosemite National Park;

H.J. Res. 469. Joint resolution to designate October 6, 1990, as "German-American Day"; and

H.J. Res. 603. Joint resolution to designate the month of October 1990 as "Country Music Month."

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 6:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 247) to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such act, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1330. An act to transfer a parcel of land located in the Los Padres National Forest, California;

H.R. 2071. An act for the relief of Cathernine Anne Bardole aka Kathleen Bardole and her minor children, Lisa Anne Farley, and Elaine Mary Farley;

H.R. 2863. An act for the relief of Michael Wu;

H.R. 2961. An act for the relief of Sonanong Poonpipat (Latch);

H.R. 4174. An act to establish a comprehensive personnel system for employees of the Administrative Office of the United States Courts, and for other purposes;

H.R. 5001. An act for the relief of Norman Ricks; and

H.R. 5759. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such Act to employee group health plans.

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1330. An act to transfer a parcel of land located in the Los Padres National Forest, CA; to the Committee on Energy and Natural Resources.

H.R. 2071. An act for the relief of Catherine Anne Bardole aka Kathleen Bardole, and her minor children, Lisa Anne Farley, and Elaine Mary Farley; to the Committee on the Judiciary.

H.R. 2863. An act for the relief of Michael Wu; to the Committee on the Judiciary.

H.R. 2921. An act for the relief of Sonanong Poonpipat (Latch); to the Committee on the Judiciary.

H.R. 3134. An act for the relief of Mrs. Joan R. Daronco; to the Committee on the Judiciary.

H.R. 3618. An act to authorize the lease of lands on the Mille Lacs Indian Reservation for a term not to exceed 99 years; to the Select Committee on Indian Affairs.

H.R. 3703. An act to authorize the Rumsey Indian Rancheria to convey a certain parcel of land; to the Select Committee on Indian Affairs.

H.R. 3954. An act to authorize the establishment of a memorial on Federal land in the District of Columbia or its environs to Honor service in the Peace Corps; to the Committee on Energy and Natural Resources.

H.R. 4131. An act to ensure that executive agencies have adequate authority to review the performance of foreign contractors and subcontractors under certain procurement contracts, and for other purposes; to the Committee on Governmental Affairs.

H.R. 5001. An act for the relief of Norman R. Ricks; to the Committee on the Judiciary.

H.R. 5235. An act to designate the Owens Finance Station of the United States Postal Service in Cleveland, OH, as the "Jesse Owens Building of the United States Postal Service"; to the Committee on Governmental Affairs.

H.R. 5409. An act to amend to designate the post office building at 222 West Center Street in the Orem, UT, as the Arthur V. Watkins Post Office Building"; to the Committee on Governmental Affairs.

H.R. 5450. An act to amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals eligibility for Federal benefits; to the Committee on Governmental Affairs.

H.R. 5759. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the application of such act to employee group health plans; to the Committee on Labor and Human Resources.

H.J. Res. 602. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills and joint resolution were read the first and second times and placed on the calendar:

H.R. 4205. An act to authorize appropriations for fiscal year 1991 for the Maritime Administration, and for other purposes.

H.R. 4299. An act authorize a study of the fishery resources of the Great Lakes, and for other purposes.

H.R. 5007. An act to designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, IL, as the "Robert McClory Post Office Building."

H.R. 5390. An act to prevent and control infestations of the coastal inland waters of the United States by the zebra mussel and other nonindigenous aquatic nuisance species, to reauthorize the National Sea Grant College Program, and for other purposes.

H.J. Res. 610. Joint resolution designating October 1990 as "Ending Hunger Month."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2850. A bill to authorize demonstration projects in connection with providing health services to Indians (Rept. No. 101-488).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1831. A bill to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM (Rept. No. 101-489).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2165. A bill to establish the Glorieta National Battlefield in the State of New Mexico (Rept. No. 101-490).

S. 2262. A bill to designate segments of the Sudbury, Assabet, and Concord Rivers as a study area for inclusion in the national wild and scenic rivers system (Rept. No. 101-491).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2527. A bill to direct the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded environmental education program in New Mexico (Rept. No. 101-492).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2684. A bill to authorize a study of methods to protect and interpret the nationally significant fossil trackways found in the Robledo Mountains near Las Cruces, NM (Rept. No. 101-493).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 2804. A bill to amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes (Rept. No. 101-494).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2949. A bill to authorize a study of nationally significant places in American Labor History (Rept. No. 101-495).

H.R. 4111. A bill to amend the Mining and Mineral Resources Research Institute Act of 1984, and for other purposes (Rept. No. 101-496).

By Mr. BIDEN, from the Committee on the Judiciary, with amendments:

S. 3043. A bill for the relief of Nebraska Aluminum Castings, Inc.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH:

S. 3154. A bill to provide for the establishment and evaluation of performance standards and goals for expenditures in the Federal budget, and for other purposes; to the Committee on Governmental Affairs.

By Mr. RIEGLE:

S. 3155. A bill to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990; considered and passed.

By Mr. CRANSTON (for Mr. JOHNSTON):

S. 3156. A bill to correct a clerical error in Public Law 101-383; considered and passed.

By Mr. PELL (for himself, Mr. KENNEDY, Mrs. KASSEBAUM, Mr. METZENBAUM, Mr. JEFFORDS, Mr. COCHRAN, and Mr. ADAMS):

S.J. Res. 374. Joint resolution to declare it to be the policy of the United States that there should be a renewed and sustained commitment to Federal aid to elementary and secondary education; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRANSTON (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 333. A resolution to authorize certain appointments; considered and agreed to.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. Con. Res. 151. Concurrent resolution expressing the sense of the Congress of the desirability of promoting energy efficiency and conservation, setting energy efficiency and conservation goals for the United States, and calling an energy summit; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL (for himself, Mr. KENNEDY, Mrs. KASSEBAUM, Mr. METZENBAUM, Mr. JEFFORDS, Mr. COCHRAN, and Mr. ADAMS:

S.J. Res. 374. Joint resolution to declare it to be the policy of the United

States that there should be a renewed and sustained commitment to Federal aid to elementary and secondary education; to the Committee on Labor and Human Resources.

COMMITMENT TO FEDERAL AID TO ELEMENTARY AND SECONDARY EDUCATION

● Mr. PELL. Mr. President, I am very proud to introduce this joint resolution in celebration of the 25th anniversary of the landmark Elementary and Secondary Education Act of 1965. This historic legislation has been the major Federal effort devoted to ensuring that our Nation's economically disadvantaged children have access to an education of the finest quality.

I am also proud to have been one of the authors of the original act in 1965, to have helped reshape and improve this critical legislation over the years, and to be the Senate author of its most recent reauthorization legislation.

In 1965, those of us concerned about educational policy rejoiced in the passage of this legislation. No one expressed a greater hope for the potential impact of the ESEA than President Johnson. Words he spoke after signing the ESEA into law have, over the past 25 years, rung true time and time again:

> I will never do anything in my entire life, now or in the future, that excites me more, or benefits the Nation I serve more, or makes the land and all its people better and wiser and stronger, or anything that I think means more to freedom and justice in the world than what we have done with this education bill.

For over the course of the past 25 years, the ESEA has reached out again and again to address the educational needs of an increasing number of needy populations. Over time, the act was amended to serve children who were previously ineligible to receive chapter 1 assistance. This includes specific provisions for migrant children, neglected and delinquent children, and youth in correctional institutions.

The ESEA was amended in 1966 to include the massive Education for all Handicapped Children Act, which later became an independent act. Programs were added in 1968 to provide educational assistance for limited-English-proficient students, particularly the growing number of childern of recent immigrants. Today, that program, the Bilingual Education Act, serves hundreds of thousands of childern. In addition, the ESEA has been amended to include programs for native Americans and Hawaiians.

In serving our Nation's most economically disadvantaged children, the ESEA has helped to advance the education of women and minorities since its inception. In 1978, however, this mission became more targeted with the inclusion of the Women's Educational Equity Act. This important act was created to enforce nondiscrimination requirements of law and to support educational activities which promote educational equity for women and girls in the United States. The Women's Educational Equity Act continues to be a key source of Federal funds for equity projects in elementary, secondary and postsecondary education.

Federal assistance for desegregation efforts through the school systems has also become a strong mission of the ESEA. The current Magnet Schools Assistance Act provides well over $110 million to school districts which have either voluntarily implemented or are under court order to implement desegregation plans. This program uses the carrot of a magnet school offering quality education in a specific field to attract students from diverse racial backgrounds to the same school.

The ESEA has also reached out to address the needs of illiterate adults. The Adult Education Act and the Even Start Act—both part of ESEA—provide critical reading and mathematics skills to adults and to families so that the generational cycles of illiteracy can be eliminated.

As part of the 1988 reauthorization, the ESEA was amended to include the School Dropout Demonstration Assistance Act, the Jacob K. Javits Gifted and Talented Students Education Act, the Basic Skills for Secondary School Students Act and the Drug Free Schools and Communities Act. And, the ESEA also reflects a strong Federal commitment to improve math, science, and foreign language instruction, both through the Education for Economic Security Act and the Star Schools Program.

The FIRST Program was added to the ESEA to improve educational performance; improve teacher certification procedures; strengthen links between schools, families, and the community; and increase the number of minority teachers.

It is readily apparent that the Elementary and Secondary Education Act is really a compendium of targeted educational assistance designed to address the specific needs of special populations, to address areas of critical national interest such as math and science, and to provide leadership and incentives for educational quality and excellence.

The ESEA has assisted so many children, adults, and families in our country in so many ways it is impossible to estimate the many benefits to the Nation and the individual. That work, however, is far from complete. We have yet to reach the goal that all children who are eligible for these critical educational services receive them. We must renew our efforts to see to it that children be they poor, bilingual, handicapped, or minority be afforded the educational opportunities and assistance necessary to overcome the barriers that impede the full development of their talents.

I take great pride in celebrating the 25th anniversary of the passge of this most important legislation, which has made so significant a contribution to the goal of advancing equal opportunity and quality in education in this country.

I commend this resolution to my colleagues, and would ask that its full text be printed following my remarks. I would also ask that this anniversary serve to remind us not only of the importance of this act, but also of the need to fulfill, once and for all, the commitment we made to our children and our Nation a quarter of a century ago.●

ADDITIONAL COSPONSORS

S. 1676

At the request of Mr. PELL, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1676, a bill to strengthen the teaching profession, and for other purposes.

S. 2056

At the request of Mr. HARKIN, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 2056, a bill to amend title XIX of the Public Health Service Act to provide grants to States and implement state health objectives plans, and for other purposes.

S. 2246

At the request of Mr. BRADLEY, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2246, a bill to amend title XVIII of the Social Security Act to provide improved medicare home health benefits, and for other purposes.

S. 2574

At the request of Mr. CHAFEE, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 2574, a bill to amend the Social Security Act to improve old-age, survivors, and disability insurance benefits and supplemental security income benefits, and for other purposes.

S. 2614

At the request of Mr. GRASSLEY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2614, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 2729

At the request of Mr. CHAFEE, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S 2729, a bill to amend the Coastal Barrier Resources Act, and for other purposes.

S. 2782

At the request of Mr. WILSON, his name was added as a cosponsor of S. 2782, a bill to amend the Coastal Zone Management Act of 1972 to authorize appropriations for fiscal years 1991 through 1995 and to require State coastal zone management agencies to prepare and submit for the approval of the Secretary of Commerce programs for the improvement of coastal zone water quality, and for other purposes.

S. 2902

At the request of Mr. PRYOR, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 2902, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church and welfare benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits and for other purposes.

S. 3501

At the request of Mr. PRESSLER, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 3051, a bill to reduce the pay of Members of Congress corresponding to the percentge reduction of the pay of Federal employees who are furloughed or otherwise have a reduction of pay resulting from a sequestration order.

S. 3142

At the request of Mr. DOLE, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 3142, a bill to provide for recognition of costs of certain nursing and allied health education programs as allowable direct costs reimbursable to a hospital on a reasonable basis for purposes of payment under title XVIII of the Social Security Act, and for other purposes.

S. 3145

At the request of Mr. AKAKA, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 3145, a bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds and low-income housing credit, and for other purposes.

SENATE JOINT RESOLUTION 263

At the request of Mr. HELMS, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

SENATE JOINT RESOLUTION 329

At the request of Mr. KASTEN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Joint Resolution 329, a joint resolution to designate the week of June 17, 1990 through June 23, 1990 as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-1933", and to commemorate the Ukrainian famine of 1932-1933 and the policies of Russification to suppress Ukrainian identity.

SENATE JOINT RESOLUTION 350

At the request of Mr. BYRD, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Nebraska [Mr. EXON], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wisconsin [Mr. KOHL], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of Senate Joint Resolution 350, a joint resolution to designate October 18, 1990, as "National Hardwood Day".

SENATE JOINT RESOLUTION 356

At the request of Mr. DOLE, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Mississippi [Mr. LOTT], the Senator from Ohio [Mr. METZENBAUM], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Hawaii [Mr. AKAKA], the Senator from Montana [Mr. BAUCUS], the Senator from Missouri [Mr. BOND], the Senator from Mississippi [Mr. COCHRAN], the Senator from Illinois [Mr. DIXON], the Senator from Georgia [Mr. NUNN], the Senator from California [Mr. WILSON], the Senator from New York [Mr. D'AMATO], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Joint Resolution 356, a joint resolution designating November 4-11, 1990, as "National Key Club Week."

SENATE JOINT RESOLUTION 364

At the request of Mr. REID, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Nebraska [Mr. EXON], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the third week of February, 1991, as "National Parents and Teachers Association Week."

SENATE JOINT RESOLUTION 371

At the request of Mr. PRYOR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 371, a joint resolution to recognize the week of October 1-7, as "National Nursing Home Residents' Rights Week."

SENATE JOINT RESOLUTION 296

At the request of Mr. ROTH, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 296, a resolution to express the sense of the Senate the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE CONCURRENT RESOLUTION 151—RELATIVE TO ENERGY EFFICIENCY AND CONSERVATION AND SETTING A NATIONAL ENERGY POLICY AND GOALS

Mr. AKAKA (for himself and Mr. INOUYE) submitted the following concurrent resolution; which was referred to the Committee on Energy and Natural Resources:

S. CON. RES. 151

Whereas the United States imported nearly half of the oil it consumed in early 1990;

Whereas the crisis in the Persian Gulf has cut off an important supply of oil to the United States and disrupted the United States' domestic economy;

Whereas the rise in oil prices in the United States resulting from the Iraqi invasion of Kuwait on August 2, 1990, and the subsequent United Nations embargo against Iraq, represents the 3d significant rise in oil and fuel prices in the United States since 1989;

Whereas other significant oil price increases came after the Exxon Valdez ran aground in Alaskan waters in March 1989 and during the severe cold weather of December 1989;

Whereas the United States' dependency on foreign oil could be significantly reduced through energy efficiency and conservation measures;

Whereas energy efficiency is important in ensuring the Nation's economic stability, promoting the national security, ensuring the health and well-being of the people of the United States, and protecting the environment of the Nation and the world;

Whereas the Federal Government's energy efficiency and conservation programs received severe budget cuts throughout the 1980's;

Whereas the Federal Government is a major consumer of the Nation's energy resources;

Whereas programs to promote energy efficiency within the Federal Government and programs undertaken by the Federal Government to encourage and promote energy efficiency throughout the Nation are an integral part of reducing the United States dependency on foreign oil; and

Whereas other industrialized nations have adopted policies aimed at encouraging the efficient use of energy resources: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the legislative and executive branches share the responsibility of developing and overseeing energy efficiency and conservation policies. In furtherance of meeting that responsibility, the Congress—

(1) calls on the President to convene, before the end of 1991, a national energy summit to discuss and formulate new priorities and firm goals for the use of renewable and nonrenewable energy resources in the United States by the year 2000;

(2) urges the President, when convening the national energy summit, to include experts on energy and the environment from the Administration, the private sector, State and local governments, and the Congress;

(3) urges the President to utilize the energy summit to—

(A) explain to the people of the United States the current state of energy supplies

in this Nation and the world, and the rate of energy consumption in the United States;

(B) set goals to be attained for future energy efficiency and consumption;

(C) renew the United States' commitment to a national policy of energy efficiency;

(D) provide information to the people of the United States regarding issues of energy efficiency and conservation;

(E) adopt measures to make the Federal Government among the most efficient consumers of the Nation's energy sources; and

(F) set forth energy efficiency policies and measures that, in the event of an energy crisis, would protect the United States economy from volatile swings in the world energy prices; and

(4) believes the National Energy Strategy, being developed by the Department of Energy, should be an important part of the discussion of the future of energy efficiency and consumption in the United States at the energy summit.

SENATE RESOLUTION 333—AUTHORIZING CERTAIN APPOINTMENTS

Mr. CRANSTON (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 333

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the Majority Leader of the Senate, and the Minority Leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

AMENDMENTS SUBMITTED

DEFENSE PRODUCTION ACT AMENDMENTS

RIEGLE (AND GARN) AMENDMENT NO. 2925

Mr. DIXON (for Mr. RIEGLE, for himself and Mr. GARN) proposed an amendment to the bill (S. 1379) to reauthorize and amend the Defense Production Act of 1950, and for other purposes, as follows:

On page 59, line 8, strike "and".

On page 59, between lines 11 and 12, insert the following:

(C) responding to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which would adversely affect the national defense preparedness of the United States; and

On page 69, line 9, strike "(a) IN GENERAL.—".

On page 71, strike lines 18 through 22.

On page 85, strike lines 13 through 15 and insert the following:

(1) in subsection (a), by striking "and subsection (j) of section 708A";

Beginning with page 92, line 11, strike all through page 103, line 25.

On page 104, line 11, strike "countries" and insert "foreign governments".

On page 104, line 15, before the semicolon insert the following: "and assesses the extent and character of any such strategy".

On page 104, line 19, strike the semicolon and insert the following: "and assesses the extent and character of any such activities.".

On page 110, between lines 5 and 6, insert the following:

SEC. 152. VOLUNTARY AGREEMENTS.

Section 708A of the Defense Production Act of 1950 (50 U.S.C. App. 2158a) is repealed.

On page 115, strike lines 6 through 9 and insert the following:

(a) IN GENERAL.—The single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), shall be amended to specify the circumstances under which an acquisition plan for any major

On page 115, line 12, after the comma insert "shall".

Beginning with page 115, line 23, strike all thorugh page 116, line 3.

On page 116, line 4, strike "(3)" and insert "(2)".

Beginning with page 116, line 16, strike all through page 118, line 15, and insert the following:

SEC. 212. PROCUREMENT OF CRITICAL COMPONENTS OR CRITICAL TECHNOLOGY ITEMS.

(a) ACQUISITION REGULATIONS REQUIRED.—Within 180 days of the date of enactment of this Act, the single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), shall be modified to provide for the solicitation, award, and administration of contracts for the procurement of critical components or critical technology items in accordance with provisions of this section.

(b) REQUIRED SOLICATION PROVISIONS.—Except as provided in subsection (c), any solicitation for the procurement of critical components or critical technology items shall—

(1) specify the minimum percentage of the total estimated value of the contract that is to be performed by one or more domestic firms;

(2) provide for the attainment of such requirement by the firm as prime contractor, or by subcontractors pursuant to a subcontracting plan submitted with the prime contractor's offer,

(3) specify that a source selection factor relating to the requirement specified in paragraph (1) shall accord—

(A) such source selection factor a value not to exceed 10 percent of the total evaluation points for all source selection factors specified in the solicitation; and

(B) such evaluation points in proportion to the extent to which each offer meets or exceeds the specified percentage;

(4) provide that attainment of the percentage specified in the offer of the firm receiving the award shall be a material element of contractual performance; and

(5) require the contractor to—

(A) identify each subcontractor whose performance is to be counted towards attainment of the contractual requirement specified pursuant to paragraph (1); and

(B) provide prompt notice to the contracting officer after replacing any such subcontractor.

(c) WAIVER OF SOLICITATION PROVISIONS.—(1) The regulations required by subsection (a) may specify circumstances under which the solicitation provisions required by subsection (b) may be waived with respect to a specific solicitation upon a determination by the contracting officer that the use of such solicitation provisions is likely to result in a significant adverse impact on the national interest of the United States.

(2) The contracting officer's determination shall be—

(A) supported by specific written findings which justify such determination; and

(B) approved by the senior procurement executive of the department or agency (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) or a designee of such officer.

(3) Copies of waiver determinations approved pursuant to subsection (b) (including the supporting written justifications and approvals) shall be made available upon request to—

(A) the public, consistent with the provisions of section 552 of title 5, or

(B) any member, or duly constituted committee, of the Congress.

(d) CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.—The President, acting through the Secretary of Defense, shall—

(1) determine the components or items that are critical components or critical technology items; and

(2) publish a list of such critical components and critical technology items in the Federal Acquisition Regulation.

(e) DEFINITIONS.—For the purpose of this section—

(1) the term "domestic firm" has the same meaning as the term "domestic source" in section 702 of the Defense Production Act of 1950; and

(2) the terms "critical components" and "critical technology items" have the same meanings as in section 702 of the Defense Production Act of 1950.

Beginning with page 118, line 16, strike all through page 119, line 4, and insert the following:

SEC. 213. SUSTAINING INVESTMENT.

It is the sense of the Congress that, in order to encourage investment to maintain our Nation's technological leadership, to preserve the strength of our industrial base, and to encourage contractors to invest in advanced manufacturing technology, advanced production equipment, and advanced manufacturing processes, the Secretary of Defense as part of his implementation of changes to defense acquisition policies pursuant to the Defense Management Review shall consider—

(1) full allowability of independent research and development/bid and proposal costs;

(2) appropriate regulatory changes to increase the progress payment rates payable under contracts; and

(3) an increase of not more than 10 percent in the amount which would otherwise be reimbursable to a contractor as the Government's share of costs incurred for the acquisition of production special tooling, production special test equipment, and production special systems (including hardware and software) for use in the performance of the contract.

Beginning with page 119, line 22, strike through page 120, line 6, and insert the following:

(a) SUSPENSION OR DEBARMENT AUTHORIZED.—Subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation)

shall be amended to specify the circumstances under which a contractor, who has engaged in an unfair trade practice, as defined in subsection (b), may be found to presently lack such business integrity or business honesty that seriously and directly affects the responsibility of the contractor to perform any contract awarded by the Federal Government or perform a subcontract under such a contract.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND SUNDRY AGENCIES, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATIONS ACT, FISCAL YEAR 1991

MIKULSKI (AND GARN) AMENDMENT NO. 2926

Ms. MIKULSKI (for herself and Mr. GARN) proposed an amendment to the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 42, strike the proviso beginning on line 11 through line 16.

On page 94, strike lines 14 through 18.

On page 18, line 18, before the semicolon insert the following: "; from the foregoing $1,098,516,800 for vouchers, up to $23,208,800 shall be drawn from either or both amounts for demonstration projects for the homeless, as designated by the Department of Veterans Affairs, that shall provide the participants with comprehensive supportive services (from funding sources other than the Department of Housing and Urban Development) to more fully address the special needs of such homeless people and, to the extent that any of the $23,208,000 cannot be utilized for projects designated by the Department of Veterans Affairs, remaining balances may be used for similar demonstration purposes as designated by the Department of Housing and Urban Development".

On page 20, line 5, insert before the colon: "including $1,000,000 for the relocation of the St. Mary's Food Kitchen in Kansas City, Kansas".

On page 75, line 25, before the period insert the following: ": *Provided*, That of the amounts provided herein for development and production of the advanced solid rocket motor, $15,000,000 shall be available without fiscal year limitation only for the competitive award of a second domestic development and production source contract for the carbon/carbon integral throat entrance unless the President certifies to the Congress by January 1, 1991, that such application of funds is not in the best interest of the United States space program on the basis of cost, added assurance of reliable supply, expanded technology base, and technical risk reduction.

At page 82, line 14, strike all after the word "year" through line 18, and insert a period.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a hearing on October 4 at 9:30 a.m. in SR-328A. The purpose of the hearing is to investigate whistleblower problems in the Federal Grain Inspection Service. Senator BAUCUS will preside. For further information, please contact Tamara McCann in the Small Business Committee.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 3, 1990, at 10 a.m. on the nomination of Wayne Berman and Craig Helsing to be an Assistant Secretary of Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on October 3, 1990, at 10 a.m., to hold a hearing on refugee consultation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, October 3, 1990, at 9:30 a.m. to hold a hearing on the subject: OMB's response to government management failures.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TOXIC SUBSTANCES, ENVIRONMENTAL OVERSIGHT, RESEARCH AND DEVELOPMENT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, October 3, beginning at 9:30 a.m., to conduct a hearing on the OTA report, "Neurotoxicity, Identifying and Controlling Poisons of the Nervous System," and related research and regulatory issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

POLISH BUILDING TRADES CRAFT TRAINERS—MEMBERS OF SOLIDARITY

● Ms. MIKULSKI. Mr. President, I am delighted to welcome 11 Polish craftsmen from Warsaw, Poland, who came to the United States on September 12, 1990, as a result of an agreement reached between Robert Georgine, president, Building and Construction Trades Department, AFL-CIO and Elizabeth Dole, Secretary of Labor, U.S. Department of Labor. These individuals who are members of Solidarity will learn the latest teaching techniques at the George Meany Center, Silver Spring, MD, and will be instructed in modern U.S. construction techniques in Chicago.

On November 8, 1990, the Polish trainers will return to Warsaw along with five American Polish speaking trainers where they will set up the Pragda Training Center with the latest U.S. equipment and begin teaching other Polish trainers and workers. The skills they learn will enable the Poles to construct housing at a much faster rate which will help reduce the critical housing shortage. At the present time, a Polish family may have to wait 25 to 30 years to procure an apartment.

This Polish initiative is supported by Lane Kirkland, President, AFL-CIO, Lech Walesa, Solidarity, the Polish and American Governments. The five building and construction trades crafts involved in this program are the International Brotherhood of Electrical Workers headed up by President John J. Barry; International Union of Bricklayers & Allied Craftsmen headed up by President John T. Joyce; United Brotherhood of Carpenters & Joiners of America, headed up by President Sigurd Lucassen; International Association of Bridge, Structural & Ornamental Ironworkers headed up by President Jake West and, the United Association of Journeymen & Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada headed up by President Marvin J. Boede.

The 11 Polish trainers are Ryxzard Dabrowski, Leszek Szymanski, Piotr Sosnowski, Jan Bujarski, Czeslaw Nowak, Miroslaw Napiorkowski, Jozef Lecki, Marek Kurowski, Wieslaw Janowski, Jan Szubierajski, Marian Polinski, and Jadwiga Tworek. They visited the Capitol on September 12, 1990, along with Raymond J. Robertson, general vice president of the Ironworkers and chair of the Building Trades Joint Apprenticeship Committee who is coordinating this program along with George Bliss, Plumbers & Pipefitters; Dennis Scott, Carpenters;

Bruce Voss, Bricklayers; and Ken Edwards, Electricians.

I would like to note that, Senator PAUL SIMON, Democrat, Illinois had an opportunity to welcome the Polish delegation and talk with the group for several minutes.●

AVENUE OF THE SAINTS

● Mr. GRASSLEY. Mr. President, today I rise to update my colleagues on the status of a project popularly known in the Midwest as the Avenue of the Saints. This is a major north-south highway which would connect the cities of St. Paul, MN and St. Louis, MO.

The Avenue of the Saints Study Committee, which consisted of the departments of transportation from Iowa, Illinois, Wisconsin, Missouri, and Minnesota as well as the Federal Highway Administration [FHWA], was commissioned to determine the best route for the Avenue of the Saints. After exhaustive study, they determined that the best route would start in St. Louis and pass through the following communities: Hannibal, Keokuk, Mount Pleasant, Iowa City, Cedar Rapids, Waterloo/Cedar Falls, Mason City and up to Minneapolis/St. Paul.

It was expected that the Department of Transportation would support this recommendation by the study committee. In mid-May the DOT submitted its report which was to contain its decision on the best route. Unfortunately, the report was more of a nondecision and did not advocate any specific route. This nondecision opened the door to the possibility of two or more routes being considered for the Avenue of the Saints.

Needless to say, I was not happy with this nondecision. I called Secretary Sam Skinner and voiced my complaint to him personally. I also talked with Tom Larson, Administrator of the FHWA—both by phone and at a public hearing of the Senate Transportation Appropriations Subcommittee—and with Dean Carlson, Executive Director of the FHWA. I followed up these conversations with a formal letter expressing my dismay and requesting that the DOT revisit this issue and render a clear decision as to which route the DOT supported.

My office stayed in almost daily contact with the DOT continuing to lobby for a clear, unequivocal decision from the DOT on the best route for the Avenue of the Saints.

I was very pleased that in late July, Secretary Skinner responded to my lobbying and sent a letter to me stating that the DOT fully supports the Iowa route for the Avenue of the Saints.

Mr. President, I ask that the contents of this letter from Secretary Skinner be placed in the RECORD at this point.

The letter follows:

THE SECRETARY OF TRANSPORTATION,
Washington, DC, July 26, 1990.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: Thank you for your letter concerning the proposed Avenue of the Saints. I understand the concern you expressed for this project as you discussed it with Tom Larson at the appropriations hearing and as underscored in your letter to me.

As you pointed out, the Federal Highway Administration (FHWA) was to "* * * include recommendations concerning * * * the best route for such a highway * * *" in the report. In fact, the report did include a recommendation. I am writing to assure you that our recommendation is for Route B, based on the overall benefit/cost ratio in the technical data submitted with the FHWA's report.

What seems to have caused confusion is Tom's timely observation that we do not have an authorized Federal-aid highway program beyond next year. A project such as the Avenue of the Saints is an example of the type of highways to be included in a system of national significance, a Federal highway program envisioned for post-Interstate reauthorization. He also mentioned that this proposed system may include more than just the one route in this important corridor. Let me reinforce Tom's assurance, though, that his observations should not be construed as a lack of support for the development of Route B, such as the Iowa Department of Transportation's present efforts to improve segments of the route.

I hope this clarifies the Department's position. I look forward to working with you as we approach surface transportation reauthorization. I appreciate your dedicated concern for all of America's transportation needs.

Sincerely,

SAMUEL K. SKINNER.

This support will make the job of including the Avenue of the Saints in the 1991 highway bill that much easier. It is important to know that the Bush administration supports the route recommended by the study committee for the Avenue of the Saints.

Now it is up to the U.S. Congress to authorize and appropriate funds in order to make the Avenue of the Saints a reality.

In March, I introduced authorizing legislation for the Avenue of the Saints, S. 2299. This legislation was cosponsored in the Senate by my colleagues Senators BOND, DANFORTH, and BOSCHWITZ. Identical legislation was introduced in the House of Representatives. This legislation authorizes the Avenue of the Saints as a demonstration project.

In the 1987 highway reauthorization bill, there were 149 demonstration projects, so there is precedence for this type of approach. I recognize that this approach is frowned upon by some of my colleagues, especially those on the Environment and Public Works Committee, who are presently dealing with the 1991 highway bill. In fact, Mr. President, I agree with my colleagues that this approach is not the best approach for funding the infrastructure needs of our country. But, if there are going to be demonstration projects as part of this legislation, I would ask my colleagues to please give serious consideration to making the Avenue of the Saints one of those projects.

There are other possible methods to funding the Avenue of the Saints, such as designating it as a "highway system of national significance" and funding it through this category. This idea is not a new one. This concept has been discussed for many years and it is a concept that I support. In fact, during the Senate Transportation Appropriations Subcommittee at which Tom Larson appeared, I discussed this funding option with Mr. Larson at length. This approach to funding the Avenue of the Saints is potentially the best approach to completing this project in the near future. It allows the States the flexibility to fund the projects that are most important to them, instead of those of us in Washington making that decision.

Should my colleagues in the Senate and the House have other innovative legislative vehicles that would authorize and fund the Avenue of the Saints, I will be glad to cosponsor and support these vehicles. My only interest is to get the Avenue of the Saints funded—not in who gets credit for funding it.

I look forward to working with my colleagues on the 1991 highway reauthorization bill, and specifically on approaches to making the Avenue of the Saints a reality. This is the most important transportation project that the Midwest United States has seen in many years. I respectfully ask my colleagues to give it serious consideration.●

THE NEED FOR THOUGHTFUL CONSIDERATION OF OUR NATION'S MINERAL RESOURCE NEEDS

● Mr. McCLURE. Mr. President, in the present-day competition to be known as the best, or at least the most vocal, environmentalist, it would be easy to forget about a few things. I mean things such as jobs, cultural progress, and the continuation of a way of life which human beings have fought and struggled for millennia to achieve. I rise today to remind my colleagues of these precious possessions of the human race and of a few facts in danger of being lost amid increasingly jingoistic rhetoric.

Mr. President, it is possible to regulate ourselves into a box. I see it happening. I see us wringing our hands and painting blame for past environmental indiscretions so vigorously that we are limiting our own vision of

future possibilities. Particularly in the regulation of the minerals and mining industries we are in danger of limiting our future. We have a great and ongoing need for the supplies of civilization which come from the earth. They are ubiquitous in our society and there are no substitutes for them. Yet, incredibly, we are limiting our access to those very ingredients of our progress. I recently came across an article which makes these points very well, and I ask that it be inserted into the RECORD for the benefit of my colleagues who wish to consider all aspects of the so-called "environmental" issue. I am indebted to Mr. David S. Brown of the Bureau of Mines for his skill at summarizing and communicating complex ideas, and to the trade publication "Minerals Today" for publishing his thoughts in its May 1990 issue.

The article follows:

MINERALS IN THE ENVIRONMENTAL DECADE

(By David S. Brown)

No other problem has such a sense of urgency and poses as profound consequences to the quality of life and the creation and distribution of societal wealth as how we protect the environment. Certainly, the environment is the single biggest issue facing mining and mineral activities in the new decade.

The so-called "green issues" raise sharply divergent world views and value judgments. At the heart of the current debate is the relative importance of economic growth and whether that growth is still achievable or even desirable.

On the one hand, there is the view of a profligate world rapidly using up finite resources leaving an increasingly despoiled planet. General economic growth and technologic progress are seen, on balance, as making the world worse, not better. Extractive industries, like mining, are viewed as ecologic pariahs which give nothing worthwhile back to the world.

Counterpoint is the view that sees natural resources being extended through new sophisticated technologies, scientific knowledge and human ingenuity to meet rising expectations for higher standards of living. Economic growth and technology, on balance, are good, because they turn developing nations into developed nations. Modern mining is seen as not only compatible with a quality environment, but necessary for it.

NATURE VERSUS PEOPLE

This is not the first time that limits to the Earth's resources and carrying capacity have been hotly contested. More recently, in the early 70s, the Club of Rome report took a Malthusian-like view, forecasting dire resource depletions and irreversible pollution. While that report's methodologies and Armageddon assumptions were soon discredited, efforts persist to oversimplify the incredibly complex, mysterious world in which we live. There continues to be a preoccupation with the natural environment, to the near exclusion of the human environment. People, and particularly their economic activities and aspirations, are seen as unwarranted intruders on physical nature.

Last July, Newsweek magazine published a special report on the environment entitled "Cleaning up." That report asserted: "In the aftermath of events like the Exxon Valdez oil spill, every reference to the environment is prefaced with the adjective "fragile." Nothing could be further from the truth. The environment is damned near indestructible. It has survived ice ages, bombardments of cosmic radiation, fluctuations of the sun, reversals of the seasons caused by shifts in the planetary axis, collision of comets and meteors bearing far more force than man's doomsday arsenals. Though mischievous human assaults are pinpricks compared with forces of this magnitude, nature is accustomed to resisting."

While the environment itself may persist, there are nevertheless serious, legitimate environment problems that must be addressed if conditions for human life are to be sustained. Newsweek's somewhat interesting observation does suggest, however, that these problems should be approached with a realistic perspective about the natural world itself.

Much is not known or understood about climatic forces, natural earth processes that impact air, water and soils, and the overall ecologic webbing of our world. The physical world's resiliency and ability to regenerate itself from natural and man-made assaults indeed are remarkable. Mankind's knowledge about past and present interplay with the environment is imperfect and, in many ways, rudimentary, particularly as a basis for trying to project the future. In his zeal to protect and preserve the environment from man's impact, man himself cannot be left out of the policy equations, nor denied resources and freedom to improve his material wellbeing.

There should be a reasonableness in how to go about dealing with the natural environment. Public policy making should not be driven by fear or sensationalism. Quick fixes often reap unintended or underestimated results. It is said that when someone comes up with an unduly complicated solution to a problem you have not a solution but a new problem. Before society moves ahead with major policy initivatives, there needs to be a reasonable understanding of the technical and economic consequences of the policy options themselves. Science should not be bent to fit preconceived notions of what is practical or feasible but should be a dynamic source of innovative thought that leads to real progress and effective solutions.

Mankind should strive to balance realistic environmental goals with other competing societal goals, such as creating jobs, homes and hope for the millions in the world who are jobless, homeless, hungry and despairing. The environment cannot be considered in isolation from these kinds of human needs. Nor should a single-minded concentration on health risks of pollution blind decision makers to the health risks associated with joblessness, poverty and despair when economic growth is stymied.

In the White House annual report to the Congress, the President's Council of Economic Advisors states: "Environmental policies that pursue unrealistic goals through inflexible regulation waste the nation's resources. Such poorly designated programs not only slow economic growth and eliminate jobs, their exessive costs also reduce support for the goal of environmental protection."

The Council further observes: "Regulatory targets should be chosen by careful cost-benefit analyses, and the methods of regulation should minimize the cost and disruption of reaching their targets. Cost minimization often requires carefully structuring the incentives faced by the private sector, as well as granting firms and their workers flexibility in meeting regulatory requirements. Government policies should generally be designed to strengthen, not weaken, market forces and, when appropriate, to harness them in the public interest."

The collapse of central planning throughout the world and the increasing embrace of market principles should serve as a reminder. Paternalistic command and control regulations put government in the implausible position of picking and imposing technologies. Such regulations work against innovation and diversity in the marketplace. Government command and control not only imposes greater and greater complexities, but also can lead to industrial concertration and business oligopoly. Flexible, cost-effective, market-oriented regulations can better achieve both a strong economy and a clean environment. For instance, in the case of high-volume, low-hazard mine waste, regulations should be waste-specific, sitespecific and risk-based.

In the final analysis, environmental ethics are a matter of stewardship. As delegated stewards, this generation is expected to leave the created order, and the people who live in it, in better condition than it found them. This means not only cleaner air and cleaner water, but more freedom, more economic opportunity, more market competition, more diversity, and more security from war, disease and famine. These objectives are achievable through market-oriented policies. Good stewardship means making decisions on the use of natural resources for the common good, as well as for resource preservation. President John F. Kennedy once stated: "Our entire society rests upon-and is dependent upon-our water, our land, our forests, and our minerals. How we use these resoures influences our health, security economy and well being."

President George Bush and Interior Secretary Manuel Lujan, Jr., have established a stewardship program that among other things marshals millions of volunteers to help protect and enhance our natural resources so they can be used and enjoyed by this generation and future generations of Americans.

Economic growth provides the wherewithal to protect the environment. Only economically progressive nations can be good stewards of the natural environment. Where there is economic deprivation, environmentally devastating practices abound. Nations where economic growth is supported and innovation encouraged are the most willing and able to allocate significant resources to protect the environment. While developed nations may make impressive strides in cleaning up pollution within their respective borders, improving the global environment will require strong economic growth in the developing world.

If strong economies and a healthy environment go hand-in-hand, then minerals are necessary for both to work together effectively. These minerals are the building blocks of the complex human environmntal called civilization. Everything in the world that cannot be grown is taken from the earth, processed, refined, and used to make things, including so-called advanced materials which have become key to international competitiveness. These new mineral-based materials promise improved product performance, decreased energy consumption, longer service lives, and successful introduction of revoluntionary enabling technologies.

While air and water are recognizable resources, the role and importance of minerals is less appreciated, because their identity is often hidden in finished products. The food we eat, the clothing we wear, skyscrapers, satellites, transportation, toothpaste, computers, modern medicine—a thousand and one gadgets and conveniences that enrich, sustain and protect our lives are made possible only by the minerals drawn from the earth. Minerals are the source of new wealth that cannot be created from the sale of services.

Reducing pollution and cleaning up the environment also require minerals. For example, reductions in automobile emissions rely on the catalytic properties of platinum, palladium and rhodium to capture harmful gases in an iron and steel encased device hanging underneath 160 million automobiles in the United States. The environmental importance of these platinum group metals and their availability grows ever more significant, as the demands for cleaner air become stronger. The European Economic Community, for instance, is accelerating its schedule to impose tougher emission standards using the U.S.-style catalytic convertors on two-thirds of European automobiles.

Low-temperature superconductors promise to revolutionize transportation, communications and energy transmission, making them safer, cleaner and more efficient. Yet, these new materials will require enormous new quantities of special enabling mineral elements such as rare earths that will have to be located, mined, and processed.

Over the next 20 years, rebuilding a deteriorating U.S. infrastructure—roads, highways, ports, airports, bridges, waste disposal and treatment facilities, water and sewer systems, and public buildings will require unprecendented tonnages of sand, gravel, asphalt, and stone to be mined or quarried, not to mention steel and other structural materials.

Minerals are found where nature has placed them, not where people want them to be. Often, society would like minerals to be located more conveniently. Scenic natural beauty that is highly valued may be underlain with mineral wealth. The same geologic forces that created spectacular, mountainous grandeur also formed the mineral concentrations. Consequently, when the landscape is managed, use conflicts can arise. To be good stewards of the land, nations need to find out what they are managing by conducting careful inventories of their various resource values. Locking away land without knowing its resource potential, including its mineralization, is not good stewardship. Mankind cannot make use of resources that it doesn't know it has.

With careful planning, modern technologies and reasonable mitigation, society can have minerals as well as most other values. It must be remembered that mineral activity is an interim use of the land, not a final use. Moreover, in many cases, the reclamation work associated with mineral activities can enhance other values. As Interior Secretary Lujan has stated: "Mineral development on public lands does not need to be at the expense of the environment, nor does protection of the environment need to eliminate the mineral development that this country needs, if we expect to maintain our status as a leading world power, and if we wish to maintain our high standards of living."

Outside their geologic setting, minerals are also found stored in more organized form in finished products and byproduct wastes. In either case, the mineral values can be retrieved through recycling and processing. These stored minerals are increasingly important new resources to be used again to benefit consumers.

Under current superfund policy in the United States, cleaning up certain hazardous mine and processing wastes is considered strictly a pollution problem. If these waste piles were to be viewed as a resource, as ore bodies that contain commercial mineral values, the private sector could come in with appropriate recovery technology, turn a profit, increase overall minerals, availability, and, in the process, leave a cleaner, safer site. Yet, because of the present superfund legal liability, there is little incentive for the private sector to touch a metals contamination site in an attempt to remine waste dumps or tailing ponds. Here is an instance where a more flexible approach that encourages technologic innovation could harness the ingenuity and efficiency of industry to better achieve both environmental goals and increased resource availability.

Finally, it should be noted that it is the U.S. policy to foster economically sound and stable domestic mineral industries and encourage the orderly development of the nation's mineral resources. The United States is likewise committed to a healthy, sustainable natural environment. Protecting and enhancing valuable natural resources, as well as proceeding with their development in an environmentally sound manner, are not mutually exclusive. We can do both. We do not have to choose one over the other. With common sense, good science and flexible, market-based policies, we can be responsible stewards of our natural heritage.

(David S. Brown is Associate Director for Information and Analysis for the Bureau of Mines. This article was adapted from his address on March 21, 1990, at Globe '90 in Vancouver, B.C., Canada.)●

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 830, a bill to authorize the Blackstone River Valley National Heritage Corridor Commission to make grants for preservation and restoration.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 830) entitled "An Act to amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission," do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. IMPLEMENTATION OF THE PLAN.

Section 8 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647, 16 U.S.C. 461 note) (hereinafter referred to as the "Act"), is amended by inserting the following at the end thereof:

"(c)(1) In furtherance of the purposes of this Act, the Secretary is authorized to undertake a limited experimental program of financial assistance for the purpose of providing demonstration funds for projects within the corridor which exhibit national significance or provide a wide spectrum of historic, recreational, or environmental education opportunities to the general public in a manner consistent with the purposes of this Act.

"(2) Applications for funds under this section shall be made to the Secretary through the Commission. Each application shall include the recommendation of the Commission and its findings as to how the project proposed to be funded will further the purposes of this Act.

"(3) The Secretary is authorized to provide funds for the following purposes—

"(A) preservation and restoration of properties on or eligible for inclusion on the National Register of Historic Places;

"(B) design and development of interpretive exhibits to encourage public understanding of the resources of the Blackstone Valley; and

"(C) cultural programs and environmental education programs related to environmental awareness or historic preservation.

"(4) Funds made available pursuant to this subsection shall not exceed 50 percent of the total costs of the project to be funded. In making such funds available, the Secretary shall give consideration to projects which provide a greater leverage of Federal funds. Any payment made shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States of compensation of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Act is amended by inserting "(a)" after "SEC. 10", striking "250,000 for the next five fiscal years" and inserting "350,000 for each year in which the Commission is in existence" and inserting at the end thereof the following:

"(b) DEMONSTRATION FUNDS.—There are authorized to be appropriated to carry out the provisions of section 8(c), $1,000,000 annually for fiscal years 1991, 1992, and 1993, to remain available until expended.".

Mr. PELL. Mr. President, I am delighted that we are about to consider final passage of S. 830, a bill that I introduced to authorize the Federal funding programs needed for the Blackstone River Valley National Heritage Corridor Commission to carry out its mission of preserving and interpreting an important legacy of our nation's past.

We take a great deal of pride in the fact that America's industrial revolution was born on the banks of the hardworking Blackstone River, which flows from Worcester, MA, to Pawtucket, RI. This legislation will help to spotlight that legacy for the Nation.

I want to express my profound thanks to the Senior Senator from Arkansas [Mr. BUMPERS], chairman of

the Senate Subcommittee on Public Lands, and to the senior Senator from Wyoming [Mr. WALLOP], the ranking minority member of that subcommittee, and their staff members—particularly Tom Williams—for their assistance and guidance.

The national historic value of this area, and its role as cradle of our industrial revolution, was recognized by the Congress with the enactment of the Blackstone Valley National Heritage Corridor Act (Public Law 99-646) in 1986.

The Blackstone Corridor Commission, created by this law, has done an excellent job of planning to create a chain of linear parks along the banks of the river to preserve, protect and tell the national story of the Blackstone Valley.

This is truly a bipartisan effort and I am delighted that my colleagues, the junior Senator from Rhode Island [Mr. CHAFEE], the senior Senator from Massachusetts [Mr. KENNEDY], and the junior Senator from Massachusetts [Mr. KERRY] joined me in introducing this important measure.

Likewise, I am pleased that the true bipartisan nature of this effort continued in the House of Representatives, where Representative MACHTLEY of Rhode Island, joined by Representatives EARLY and ATKINS of Massachusetts, introduced a companion bill that recently passed that body.

When I testified in 1986 in support of the original authorization, which was sponsored by my colleague, the junior Senator from Rhode Island [Mr. CHAFEE], I noted that the Blackstone River is our link not only to the past, but to the future.

That, I think, is the most important point we can make about the Blackstone River Valley Heritage Corridor. By preserving and highlighting our pioneering industrial past, we can foster a better future and an increasing sense of pride for our citizens.

That was the vision I had back in the spring of 1983. It was then I initiated the first meeting of the National Park Service, the Rhode Island and Massachusetts Departments of Environmental Management and representatives of Congressional Delegations from both Rhode Island and Massachusetts to coordinate plans for the Blackstone River.

The birthplace of the American industrial revolution is well worth preserving and we, on the Federal level, should do what we can to support that effort. When we look at historic battlefields throughout America, we should not overlook one of our most important battles—the economic battle of the industrial revolution.

In these times of increasing international competition throughout the world's marketplaces, we owe it to ourselves and our children to make sure that this economic battle site is preserved and that we learn from its lessons.

Mr. CHAFEE. Mr. President, I welcome the final approval of S. 830, the amendments to the Blackstone River Valley National Heritage Corridor Act. I would like to thank the members of the Senate Energy Committee and the House Interior Committee for moving this bill forward, and especially Representative MACHTLEY, who has worked tirelessly on this bill. I would also like to give a great deal of credit to Jim Pepper and Bob Bendick and the other members of the Blackstone Valley Commission, all of whom have turned this project into a reality.

For centuries, the Blackstone River has been winding through 45 miles of Massachusetts and Rhode Island countryside. Slater's Mill, the river's first textile mill, was built in 1793, signaling the true beginning of our country's Industrial Revolution. The Blackstone Canal opened, the Providence-Worcester Railroad was inaugurated, and the valley flourished.

The sense of community that was so strong over a century ago still exists today. The people living in the Blackstone Valley—from Grafton to Uxbridge to Pawtucket—are proud of their region and are enthusiastic about its preservation and revitalization.

Conservation efforts are underway on all levels. With the help of the Rhode Island and Massachusetts congressional delegations, these efforts culminated in the 1986 act to establish the Blackstone River Valley National Heritage Corridor. This legislation established a unique type of urban park: A park to highlight the cultural, historic, and economic resources of the corridor.

As an author of the original Blackstone Valley legislation, I am pleased with the corridors steady progress. New land has been acquired, new projects have been started, and a comprehensive management plan has been developed. On June 4, with my urging, Secretary Lujan approved the Blackstone River Valley Cultural Heritage and Land Management Plan—a strong vote of confidence by the Federal Government in this project.

I would like to emphasize that the State of Rhode Island fully recognizes that this project is a joint effort between the States and the Federal Government. We have put into the corridor a significant amount—more than $2 million—of State resources.

We in Rhode Island, and our neighbors in Massachusetts, are ready to commit resources toward enhancing the corridor. But, as Congress recognized 4 years ago, we do need some Federal help.

S. 830, as amended by the House, will help the Commission achieve the goals set forth in the cultural and land management plan by fine tuning the original legislation. As I mention, some modifications were made to the bill. The funding for potential Blackstone Valley projects now will be routed, with an accompanying recommendation from the Commission, through the Office of the Secretary of the Interior for approval.

The bill provides for the necessary funding for the corridor's completion. It increases the Commission's annual operating funding by $100,000 to $350,000 for each of the next 3 years. In addition, $1 million is provided for fiscal year 1991-93. With these moneys, the Commission will be able to develop visual exhibit centers, restore historic structures, and establish educational and cultural programs on the environment.

This act has widespread support, from the local communities to the Governors of both States to the National Park Service. Thanks to these groups' hard work, the corridor has gone far and fast. It is truly on its way to becoming a "living corridor," and the passage of this bill goes a long way toward that goal.

Mr. PELL. Mr. President, subsection 8(c)(4) of this act would require that the funds made available do not exceed 50 percent of the total cost of the project to be funded. I would like to make it clear what that means.

A good example is the plan to build a visitor center in Woonsocket, RI. The city, the chamber of commerce and the State of Rhode Island are investing $4 million to restore an historic building for the visitor center. They have asked for assistance from the Blackstone Commission and the National park Service to develop the interpretation exhibit inside the center.

The initial indications are that the Commission would request pursuant to section 8(c) approximately $250,000 to $500,000 to develop the interpretive exhibit.

Since the total cost of the project includes the cost of restoring the building, that $4 million could be used to match the $250,000 requested for the exhibit. Is that a correct understanding of the intent of the Senate in approving this legislation?

Mr. BUMPERS. Mr. President, the senior Senators from Rhode Island [Mr. PELL] is correct in his understanding. With the example given, it would not be necessary for the Secretary to find a 50-percent match for the cost of the exhibit itself.

The Secretary could agree to fund the cost of the exhibit, and the restoration work of this building—which I understand is listed on the National Register—could be used as a match, because that work is part of the total cost of the project.

Mr. PELL. Am I correct that there is nothing in this bill which would prevent the Commission from being the

recipient of the demonstration project funding provided that the project qualified in all other respects under the law?

Mr. BUMPERS. That is correct.

Mr. PELL. A final clarification, Mr. President. Under the existing law the Commission's exhibits can be developed by the National Park Service on a reimbursable basis.

Using the same example in Woonsocket, S. 830 would continue to allow the Secretary, the Commission if it was the recipient, or other parties to the demonstration project to use the design services of the National Park Service on a reimbursable basis when appropriate.

I understand that the National Park Service is working closely with the interpretative projects in the corridor in an effort to keep the design standards high.

Mr. BUMPERS. That is correct. When appropriate, parties involved may agree to develop the project through the National Park Service, using demonstration project funds.

Mr. PELL. I thank the senior Senator from Arkansas [Mr. BUMPERS], the chairman of the Energy and Natural Resources Committee's Subcommittee on Public Lands, National Parks, and Forests, for his assurances and for his expert knowledge and guidance.

Mr. KERRY. Mr. President, I want to add my strong support for passage of S. 830, the Blackstone River Valley Heritage Commission.

This important legislation provides the Federal authority and framework for the development of this important region of central and southern Massachusetts and Rhode Island. This area, the Blackstone River Valley, represents enormous economic, cultural, historical, and recreational resources, not only to New England, but to our Nation.

The Blackstone River Valley Commission will be the focal point around which protection of our heritage and creation of tomorrow's heritage from Worcester to Grafton to Milbury, to Blackstone and into Rhode Island, will be designed, coordinated, planned, and stimulated.

This extraordinary private-public venture of 2 States and 20 communities is critically needed at this moment of great economic distress in central and southern Massachusetts. It is a critically important initiative to preserve and enhance the valuable resources in this important area, and I am very pleased to have played a role in enacting this important measure.

Mr. CRANSTON. I move that the Senate concur in the amendment of the House.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOMINATIONS PLACED ON THE EXECUTIVE CALENDAR

Mr. CRANSTON. Mr. President, as in executive session, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged of the following nominations and that they be placed directly on the executive calender:

Wayne L. Berman, to be an Assistant Secretary, Department of Commerce; Craig R. Helsing, to be an Assistant Secretary, Department of Commerce; Christopher L. Koch, to be a Commissioner, Federal Maritime Commission; Gail C. MCDonald, to be a member of the Interstate Commerce Commission; Sigmund R. Petersen, to be rear admiral and Director, Office of NOAA Corps Operations, National Oceanic and Atmospheric Administration; and Mary Sterling, to be inspector general, Department of Transportation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STUDENT ATHLETE RIGHT-TO-KNOW ACT

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 580.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the amendment of the House to the bill (S. 580) entitled "An Act to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Hawkins, Mr. Ford of Michigan, Mr. Williams, Mr. Owens of New York, Mr. Perkins, Mr. Goodling, Mr. Coleman of Missouri, and Mr. Henry be the managers of the conference on the part of the House.

Mr. CRANSTON. Mr. President, I move that the Senate insist on its amendment, agree to the request of the House for a conference on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Acting President pro tempore [Mr. BRYAN] appointed Mr. KENNEDY, Mr. PELL, Mr. DODD, Mr. METZENBAUM, Ms. MIKULSKI, Mr. HATCH, Mrs. KASSEBAUM, Mr. THURMOND, and Mr. COCHRAN conferees on the part of the Senate.

CORRECTION TO RESOLUTION OF RATIFICATION

Mr. CRANSTON. Mr. President, as in executive session,

I ask unanimous consent that the resolution of advice and consent to ratification, signed September 18, 1990, accompanying the Tax Convention with the Federal Republic of Germany approved by the Senate on that date, be superseded by a resolution correcting a clerical error as follows:

On page 1, line 8 of the understanding to the resolution, strike out the word "Federal" and insert the word "German".

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution is as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention between the United States of America, and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital and to Certain Other Taxes (the Convention), together with a related protocol, signed at Bonn on August 29, 1989 (Treaty Doc. 101-10), subject to the following understanding:

That in the event that the German Democratic Republic and the Federal Republic of Germany unite under the Government of the Federal Republic of Germany, the Convention will apply, according to its terms, to residents of the area currently comprising the German Democratic Republic, and to income from sources within, and to capital situated in, such area, only at such time as the laws imposing the covered national taxes in the area currently comprising the German Democratic Republic and the laws imposing the covered national taxes in the area currently comprising the Federal Republic of Germany are identical in substance. The preceding sentence shall not affect the application of the Convention to any income or capital to which the Convention would apply absent unification.

ADDITION OF LANDS TO VICKSBURG NATIONAL MILITARY PARK

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2437.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2437) entitled "An Act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

TITLE I—VICKSBURG NATIONAL MILITARY PARK

SEC. 101. ADDITION OF LANDS TO VICKSBURG NATIONAL MILITARY PARK.

(a) GRANT'S CANAL, LOUISIANA.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, approximately two and five-tenths acres of land in Madison Parish, Louisiana, known generally as the Grant's Canal property.

(b) WARREN COUNTY, MISSISSIPPI.—(1) The Secretary is authorized to acquire by donation approximately two and eighty-two one-hundredths acres of land adjacent to the entrance of Vicksburg National Military Park owned by Warren County, Mississippi.

(2) The Secretary may contribute, in cash or services, to the relocation and construction of a maintenance facility to replace the facility located on the land to be donated, all in accordance with an agreement between the Secretary and the Board of Supervisors.

(3) The Secretary is authorized to restore and landscape the property acquired pursuant to this subsection.

(c) BOUNDARY REVISION.—Upon acquisition of the properties referred to in subsections (a) and (b), the Secretary shall, after the publication of notice in the Federal Register, revise the boundary of Vicksburg National Military Park (hereinafter in this title referred to as the "park") to reflect the inclusion of such properties within the park.

SEC. 102. EXCLUSION OF LANDS FROM PARK.

(a) EXCLUSION OF CERTAIN LANDS.—The park boundary is hereby revised to exclude those lands depicted as "Proposed Deletions" on the map entitled "Vicksburg National Military Park" numbered 306-80,007 and dated May 1990, which map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Exclusive jurisdiction over the lands excluded from the park is hereby retroceded to the State of Mississippi.

(b) TRANSFER TO ADJACENT OWNERS.—(1) For a period ending four years after the date of enactment of this title and subject to the provisions of paragraph (2), the Secretary is authorized to convey title to all or part of the lands referred to in subsection (a) to an owner of property adjacent to such lands, upon the application of such owner.

(2) No property shall be conveyed unless the application referred to in paragraph (1) is accompanied by a payment in an amount equal to—

(A) the fair market value of the land to be conveyed; and

(B) the administrative costs of such transfer incurred by the Secretary, including the costs of surveys, appraisals, and filing and recording fees.

(c) EXCESS PROPERTY.—Any lands not conveyed pursuant to subsection (b) shall be reported to the Administrator of General Services as excess to the needs of the Department of the Interior and shall be subject to transfer or disposition in accordance with the Federal Property and Administrative Services Act of 1949, as amended.

SEC. 103. PARK INTERPRETATION.

In administering Vicksburg National Military Park, the Secretary shall interpret the campaign and seige of Vicksburg from April 1862 to July 4, 1863, and the history of Vicksburg under Union occupation during the Civil War and Reconstruction.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE II—MINNESOTA PUBLIC LANDS

SECTION 201. SHORT TITLE.

This title may be cited as the "Minnesota Public Lands Improvement Act of 1990".

SEC. 202. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress hereby finds and declares that—

(1) within the State of Minnesota there are a number of small scattered islands and upland tracts that are in Federal ownership and under the jurisdiction of the Bureau of Land Management;

(2) the public interest would be best served if these Federal islands and upland tracts continue to be managed for public recreation; preservation of open space; and for the protection of their fish, wildlife, and plants and their scientific, historic, cultural, geologic, and other resources and values;

(3) many such islands and upland tracts are not suitable for inclusion in the National Park System, National Forest System, National Wildlife Refuge System, or other Federal conservation system or for efficient management by the Bureau of Land Management;

(4) the State of Minnesota is prepared and willing to undertake to manage such islands and upland tracts for such purposes and subject to appropriate conditions, but existing mechanisms for enabling the State to undertake such management are cumbersome and inefficient as applied to such small, scattered islands and tracts;

(5) elsewhere in Minnesota there are unpatented lands which for many years have been in the possession of parties other than the United States but the title to which is clouded because of claims arising under public land laws or otherwise involving possible Federal residual interests;

(6) existing authorities for Federal resolution of such conflicts, and for removal of such clouds on title, are often not well suited for efficient, expeditious action that appropriately protects the interests of all parties, including the United States; and

(7) legislation to facilitate appropriate management by the State of Minnesota of such islands and upland tracts and to facilitate resolution of such claims and removal of such clouds would be in the public interest.

(b) PURPOSES.—This title is intended to provide for better management of public lands located in the State of Minnesota by—

(1) transferring certain specified unclaimed islands and uplands and certain other public lands to such State for purposes of public recreation, protection of fish, wildlife, and plants, and the protection of resources and values; and

(2) authorizing the Secretary of the Interior to resolve claims to certain other public lands in Minnesota and to transfer such lands to claimants thereof on terms that recognize the equities of such claimants in such lands.

SEC. 203. DEFINITIONS.

As used in this title—

(a) the term "listed uplands and islands" means those public lands located in the State of Minnesota which are specified in the list containing the legal description of such lands and entitled "Minnesota Uplands and Islands Appropriate for State Management" dated July 16, 1990, on file in the Office of the Secretary of the Interior, except for any lands to which Indian title has not been extinguished;

(b) the term "public lands" means federally owned lands or interests therein managed by the Bureau of Land Management;

(c) the term "claim" means a good faith assertion by a party other than the United States that—

(1) such party has title to a parcel or tract of land, or

(2) a parcel or tract of land is held in trust by the United States for the benefit of an Indian tribe or an individual member of an Indian tribe;

(d) the term "Recreation and Public Purposes Act" means the Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.);

(e) the term "Secretary" means the Secretary of the Interior; and

(f) the term "State" means the State of Minnesota.

SEC. 204. GRANT TO STATE.

(a) UNCLAIMED AREAS.—Effective one year after the date of enactment of this Act and subject to its terms and conditions, the right, title and interest of the United States in and to all listed uplands and islands, surveyed and unsurveyed, in Lake Superior, inland lakes and rivers, and other bodies of water within the State which as of one hundred and eighty days after the date of enactment of this Act were not subject to any claim identified on the records of, or filed with the Bureau of Land Management, are hereby granted to the State.

(b) CLAIMED AREAS.—Any listed uplands and islands which were subject to a claim identified on the records of, or filed with the Bureau of Land Management as of one hundred and eighty days after the date of enactment of this Act, may be sold by the Secretary to the claimant or claimants thereof under section 205 of this Act. No later than one year after the date of enactment of this Act, the Secretary shall notify such claimant or claimants concerning the Secretary's authority for such sales. The right, title, and interest of the United States in and to any such listed uplands and islands not purchased by such claimant or claimants within ten years after the date of enactment of this Act shall be transferred by the Secretary to the State under and subject to this Act at the end of such ten years, and any claim to any such listed uplands and islands by any party other than the State shall not thereafter be enforceable in any court of the United States, subject to the following exceptions:

(1) The ten-year period shall be tolled during pendency of any administrative appellate review of a decision by the Bureau of Land Management or of any judicial review of a final decision by the Secretary; and

(2) The Secretary may transfer lands to the State earlier than ten years after the date of enactment if a claim for said lands has been rejected or disallowed for any reason, or forfeited by the claimant.

(c) PRIOR TRANSFERS.—

(1) Title to the surface estate in all public land which on the date of enactment of this Act was subject to leases issued under the authority of the Recreation and Public Purposes Act to the State, its departments, agencies, and bureaus, shall be deemed to have been granted to and vested in the State under this title on such date and shall thereafter be exempt from the requirements of the regulations of the Department of the Interior governing leases under the Recreation and Public Purposes Act, but shall be subject to the provisions of this title.

(2) Upon reversion and acceptance of public land in Minnesota which prior to the

date of enactment of this Act was leased or patented under the Recreation and Public Purposes Act to entities other than the State, its departments, agencies and bureaus, and upon request of the State, the surface estate in such lands shall be transferred by the Secretary to the State pursuant to and subject to the provisions of this title.

(3) If, in order to bring lands under the provisions of this title, the State notifies the Secretary that the State desires to relinquish to the United States the right, title, and interest of the State in and to any lands which prior to the date of enactment of this Act were patented to the State (or to any department, agency, or bureau of the State) under the authority of the Recreation and Public Purposes Act, the Secretary shall accept such relinquishment and shall transfer such relinquished lands to the State under and subject to the provisions of this title. Such transfer shall be effective at the same time that the State's relinquishment is effective.

SEC. 205. RESOLUTION OF CLAIMS.

(a) SALES.—In accordance with the provisions of this section, the Secretary is authorized to sell and issue a patent to a tract of public land located in Minnesota to an applicant for such sale where the Secretary determines that—

(1) such tract does not exceed one thousand five hundred acres and, because of its location or other characteristics, is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency, and

(2) such sale would not be inconsistent with land use plans, if any, developed in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(b) PRICE ADJUSTMENTS.—Notwithstanding any other provision of law, following adjudication of any claims the Secretary may, at the Secretary's discretion, convey land pursuant to this section at fair market value, less equities presented by an applicant for such conveyance and less the value of any improvements that the applicant or the applicant's predecessors in interest have placed on the land. Such equities may include (but are not limited to)—

(1) the amount paid for the land by the applicant;

(2) longevity of applicant's claim;

(3) taxes paid on the land; and

(4) other equities as the Secretary may determine relevant.

(c) DESCRIPTIONS.—Any tract of public land conveyed pursuant to this section shall be described in accordance with the Public Land Survey System as reflected on the approved Federal plat of survey. Where a tract does not conform to an existing survey plat, the Secretary may either—

(1) convey title to a trustee, qualified under the laws of the State to act as a trustee and acceptable to the Secretary, acting on behalf of more than one applicant to whom such trustee shall be required to transfer such tract, in order to conform the legal description to such plat; or

(2) require an applicant to reimburse the United States for the cost of preparing a plat of survey. No cost incurred by a trustee in implementing this subsection shall be borne by the United States.

(d) APPLICABILITY AND PROCEDURE.—

(1) This section shall apply only to tracts specified in subsection 204(b) of this Act, and only if the Secretary has determined such claims to be sufficiently meritorious as to be appropriate for exercise of the Secretary's discretionary authority under this section.

(2) No sale under this section shall take place before thirty days after the Secretary has published in a newspaper of general circulation in the county where a tract proposed for sale is located a notice of the Secretary's determination that such tract is eligible for sale under this section and that the Secretary intends to offer such tract for sale. Such notice shall indicate the size and general location of the tract and the name or names of the claimant or claimants to whom the Secretary intends to sell such tract.

SEC. 206. RESERVATIONS AND CONDITIONS.

(a) MINERAL RESERVATION.—All lands granted by, and any patent or document of conveyance or other transfer issued pursuant to, this title shall be subject to the reservation to the United States of all minerals in the lands granted, conveyed, or otherwise transferred, together with the right to prospect for, mine and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except that in the case of sales under section 205 of this title the Secretary may convey the minerals together with the surface in accordance with section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

(b) OTHER CONDITIONS.—

(1) The lands granted or otherwise transferred to the State under this title shall not be conveyed or otherwise transferred by the State to any person or entity other than the United States or a political subdivision of the State.

(2) The lands granted or otherwise transferred to the State under this title shall be used only for purposes of—

(A) public recreation;

(B) protection of fish and wildlife (including habitat) and plants; or

(C) the protection of the scenic, scientific, historic, cultural, geologic, and other resources and values of such lands.

(3)(A) If the State attempts to convey or otherwise transfer title to any part of the lands granted or otherwise transferred to the State under this title to any person or entity other than the United States or a political subdivision of the State, all right, title, and interest in and to all such lands so granted or otherwise transferred to the State, together with all improvements thereon, shall revert to the United States.

(B) If any political subdivision of the State attempts to convey or otherwise transfer title to any part of any lands granted or otherwise transferred to the State under this title (and conveyed or otherwise transferred to such subdivision by the State) to any person or entity other than the State, all right, title, and interest in and to all such lands so conveyed or otherwise transferred to such subdivision, together with all improvements thereon, shall revert to the United States.

(4)(A) If any part of the lands granted or otherwise transferred to the State under this title (and not further conveyed or otherwise transferred by the State to a political subdivision thereof) are used for any purpose incompatible with the purposes specified in paragraph (2) of this subsection, all right, title, and interest in and to all such lands in the ownership of the State, together with all improvements thereon, shall revert to the United States.

(B) If any of the lands granted or otherwise transferred to the State under this title are conveyed or otherwise transferred by the State to a political subdivision of the State, use of part of any such lands for any purpose incompatible with the purposes specified in paragraph (2) of this subsection shall cause all right, title, and interest in and to all such lands so conveyed or otherwise transferred to such political subdivision, together with all improvements thereon, to revert to the United States.

(5)(A) If any land, or portion thereof, granted or otherwise conveyed to the State or political subdivision of the State shall become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601), or if such land, or portion thereof, has been used for purposes that the Secretary finds may result in the disposal, placement or release of any hazardous substance, such land shall not, under any circumstances, revert to the United States.

(B) In the event lands granted or conveyed to the State or political subdivision of the State shall be used for purposes that the Secretary finds: (1) inconsistent with the purposes of this Act, and (2) which may result in the disposal, placement or release of any hazardous substance, the State or political subdivision of the State shall be liable to pay to the Secretary, on behalf of the United States, the fair market value of the land, including the value of any improvements thereon, as of the date of conversion of the land to the nonconforming purpose. All amounts received by the Secretary pursuant to this subparagraph shall be retained by the Secretary and used, subject to appropriations, for the management of public lands and shall remain available until expended.

SEC. 207. NOTICE AND ENFORCEMENT.

(a) PUBLIC NOTICE.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary, in consultation with appropriate officials of the State, shall take steps to notify residents of the State as to the nature and location of the listed uplands and islands to be granted or otherwise transferred to the State under this title.

(2)(A) The State, or a political subdivision thereof, shall provide notice in writing to the Secretary with regard to any conveyance or other transfer by the State to a political subdivision thereof of any of the lands granted or otherwise transferred to the State under this title. In the event that such notice is not received within one year after any such conveyance or transfer, such conveyance or transfer by the State shall be void ab initio and all right, title, and interest in and to the land covered by such attempted conveyance or transfer shall revert to the United States.

(B) No later than five years after the date of enactment of this Act, and every five years thereafter, the State shall submit to the Secretary a report as to the present ownership, management, and use of the lands granted or otherwise transferred to the State pursuant to this title.

(3) The Secretary shall maintain in the appropriate office of the Bureau of Land Management a current listing of the lands granted or otherwise transferred to the State under this title, including a record of which, if any, of such lands have been conveyed or otherwise transferred by the State to a political subdivision thereof.

(b) ENFORCEMENT.—

(1) Any person may submit to the Secretary a complaint alleging that the State or a political subdivision thereof has failed to comply with the requirements of this title or

that actions have occurred which have had the effect of causing the reversion to the United States of some or all of the lands granted or otherwise transferred to the State under this title.

(2) In the event that the Secretary determines that a complaint received under this subsection is supported by evidence sufficient to warrant further investigation, the Secretary shall investigate the matter.

(3) If, as a result of an investigation under paragraph (2) or for any other reason, the Secretary determines that title to some or all of the lands granted or otherwise transferred to the State under this title has reverted to the United States pursuant to this title, the Secretary shall take all necessary steps to enforce such reversion and to stop use of any part of such lands for any purpose incompatible with the purposes specified in section 206(b)(2) of this title.

(4) Any lands which may revert to the United States under this title shall be retained and managed by the Secretary for the purposes specified in section 206(b)(2) of this title.

SEC. 208. HUNTING AND FISHING.

Nothing in this title shall be construed as affecting the jurisdiction or responsibilities of the State of Minnesota with respect to fish and wildlife (including the regulation of hunting, fishing, and trapping) in any lands granted or otherwise transferred to the State under this title, or as increasing or diminishing any rights with respect to hunting, gathering, or fishing on such lands arising under any Treaty or other agreement between the United States and any Indian Tribe or individual.

SEC. 209. CONFORMING AMENDMENT.

(a) Subsection 3(d) of the Michigan Public Lands Improvement Act of 1988 (Public Law 100-537) is hereby amended by striking the period at the end of paragraph (1) of such subsection and by inserting in lieu thereof, ", and only if the Secretary has determined such claims to be sufficiently meritorious as to be appropriate for exercise of the Secretary's discretionary authority under this section.".

(b) Subsection 4(b) of the Michigan Public Lands Improvement Act of 1988 (Public Law 100-537) is amended—

(1) by inserting "the United States or" after "any person or entity other than" in paragraph (1); and

(2) by inserting "the United States or" after "any person or entity other than" in subparagraph (3)(A).

TITLE III—FLORENCE BROWN RELIEF ACT

SEC. 301. LAND TRANSFER.

The Secretary of Agriculture shall transfer, without consideration, to Florence F. Brown of Goleta, California, all right, title, and interest of the United States in and to the parcel of land located in the Los Padres National Forest which is comprised of approximately 40 acres and more particularly described as T. 5 N., R. 30 W., S.B.M., section 18, NE¼ SW¼.

Amend the title so as to read: "An Act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, to improve the management of certain public lands in the State of Minnesota, and for other purposes.".

Mr. CRANSTON. Mr. President, I move that the Senate concur in the amendments of the House.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENDING THE EXPIRATION DATE OF THE DEFENSE PRODUCTION ACT OF 1950 TO OCTOBER 20, 1990

Mr. CRANSTON. Mr. President, I ask unanimous consent to proceed to the immediate consideration of S. 3155, a bill introduced early today by Senator RIEGLE to extend the expiration date of the Defense Production Act to October 20, 1990.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 3155) to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990.

The ACTING PRESIDENT pro tempore. Without objection, the bill is considered read three times, and passed.

So, the bill (S. 3155) was passed; as follows:

S. 3155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "October 5, 1990" and inserting "October 20, 1990".

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESOLUTION TO AUTHORIZE CERTAIN APPOINTMENTS

Mr. CRANSTON. Mr. President, on behalf of Senator MITCHELL and the Republican leader, Senator DOLE, I send a resolution to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution (S. Res. 333) was read, considered and agreed to as follows:

S. RES. 333

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the President of the Senate pro tempore, the majority leader of the Senate, and the minority leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON THE CALENDAR—H.R. 5732

Mr. CRANSTON. Mr. President, I ask unanimous consent that H.R. 5732, a bill promoting and strengthening aviation security, be placed on the calendar when received from the House.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CORRECTING AN ERROR IN PUBLIC LAW 101-383

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3156, introduced earlier today for Senator JOHNSTON.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 3156) to correct a clerical error in Public Law 101-383.

The ACTING PRESIDENT pro tempore. Without objection, the bill is considered read three times, and passed.

So, the bill (S. 3156) was passed; as follows:

S. 3156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLERICAL AMENDMENT.

Section 160 (g)(7) of the Energy Policy and Conservation Act, added by section 7 of the Energy Policy and Conservation Act Amendments of 1990 (Public Law 101-383), is amended by inserting "with regard to future storage of refined petroleum products and" after "recommendations".

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TOMORROW

Mr. CRANSTON. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon, Thursday, October 4; that following the time for the two leaders, there be a period for morning business not to extend beyond 1 p.m., with Senators permitted to speak therein for up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS

Mr. CRANSTON. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess, under the previous order, until 12 noon, Thursday, October 4.

There being no objection, the Senate, at 7:30 p.m., recessed until Thursday, October 4, 1990.

NOMINATIONS

Executive nominations received by the Senate October 3, 1990:

IN THE COAST GUARD

The following Regular officers of the U.S. Coast Guard are nominated for promotion to the grade of captain:

RODNEY E. SMITH
CRAIG F. EISENBEIS
WARREN E. COLBURN, JR.
RICHARD F. GUPMAN
FREDERICK J. SCHMITT
ANDREW L. GERFIN, JR.
WILLIAM R. BOWEN
RICHARD D. WHITE, JR.
THEODORE G. WHITE, III
ROBERT C. GRAVINO
DAVID K. ARNOLD
RODERICK A. SCHULTZ
DONALD R. GROSSE
GEORGE N. NACCARA
JAMES D. BURK
ROBERT W. THORNE
GERALD H. KEMP
ROBERT T. GLYNN
LAWSON W. BRIGHAM
TERRY M. CROSS
KYLE E. JONES, III
RICK A. SISTEK
LEE S. RUMLEY
JAMES P. WYSOCKI
STANLEY E. BREEDLOVE
LEWIS C. DUNN
JOHN A. DOTY
JOHNNIE L. JOHNSON
ROBERT J. WEAVER
CHARLES F. GULDENSCHUH
GERALD W. ABRAMS
JAMES C. PERRY
JAMES Q. NEAS, JR.
RICHARD E. FORD, JR.
PAUL J. BIBEAU
MALCOLM J. WILLIAMS, JR.
GARY R. MCGUFFIN
JOHN K. KIRKPATRICK
DAVID S. BELZ
RICHARD D. CRANE
WILLIAM B. THOMAS
ROBERT D. SIROIS
HAROLD G. KETCHEN
JAMES S. CARMICHAEL
KEVIN L. RAY
WILLIAM E. KOZAK
ROY J. CASTO
ALAN F. WALKER
TERRANCE M. EDWARDS
MARK A. O'HARA
GALE W. FISK
ROBERT J. WILLIAMSON, JR.
WILLIAM H. ANDERSON
ERNEST J. BLANCHARD, IV
RALPH D. UTLEY
THOMAS B. TAYLOR
ANTHONY S. TANGEMAN
FREDERIC N. SQUIRES, III
THOMAS M. DALEY
PAUL L. HAGSTROM
PHILIP E. SHERER
EDWARD J. DENNEHY
CHARLES R. BROWN

THE FOLLOWING RESERVE OFFICERS OF THE U.S. COAST GUARD ARE NOMINATED TO BE PERMANENT COMMISSIONED OFFICERS IN THE GRADES INDICATED:

To be lieutenant

MICHAEL G. LUPOW
IVAN A. PUPULIDY
JEFFREY S. SMITH
BRUCE R. APPLETON

To be lieutenant (junior grade)

JEFFREY L. KLINGENSMITH

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD ARE NOMINATED FOR PROMOTION TO THE GRADE OF COMMANDER:

PETER A. TEBEAU
JOHN C. REED
GARY P. KOSCIUSKO
STEPHEN H. FRANCIS
ROBERT A. HUGHES
JOHN G. SHAW
GREGORY B. KIRKBRIDE
KAY L. HARTZELL
MARK E. ASHLEY
MICHAEL J. CHAPLAIN
JEFFREY J. SEELEY
DOMENICO A. DIIULIO
KENNETH A. WARD
JEFFREY G. LANTZ
ROBERT N. PETERSEN
PAUL A. DUFRESNE
RICHARD A. HUWEL
DAVID W. REED
RICHARD J. FITZPATRICK
JOHN A. WCISLO
STEVEN L. NYLUND
STEVEN G. HEIN
THOMAS C. KING, JR.
CHRISTOPHER M. SCHOONMAKER
DAVID W. MACKENZIE
JAMES B. CRAWFORD
JAMES J. VALLONE
EDMOND R. MORRIS
JERZY J. KICHNER
STEPHEN J. HARVEY
RICHARD J. FORMISANO
STEPHEN E. SHARPE
ROGER D. KACMARSKI
DONALD R. OMALLEY
GLENN F. EPLER
PATRICK E. RYAN
JAMES F. REED
WILLIAM A. DANNER
JAMES RUTKOVSKY
THOMAS M. CURELLI
RAYMOND J. BROWN
THOMAS J. MACKELL
WALTER J. BRAWAND, III
ADAN D. GUERRERO
ALLEN L. THOMPSON, JR.
JOHN J. MCQUEENEY, II
DAN DEPUTY
ROBERT J. PAPP, JR.
DEREK A. CAPIZZI
ROBERT G. STEVENS
DEAN W. KUTZ
GERALD BOWE
ROBERT W. RENOUD
STEPHEN C. RAPALUS
ROBERT L. GRIFFIN
FREDERICK R. GALLOWAY
BRADFORD W. BLACK
JAMES W. SHAFOVALOFF
JAMES G. SIMPSON
ROBERT E. HEINS, JR.
SUSAN H. KINNER
JOHN B. MOORE, JR.
CORDELL S. VIEHWEG
CHRISTOPHER LEE
TIMOTHY M. KEEGAN
MICHAEL L. HUNT
KENNETH M. HAY
JOHN E. WILLIAMS
WILLIAM J. HUTMACHER
GARY E. GAMBLE
ANDREW J. CASCARDI
ROGER B. PEOPLES
MARK E. BENJAMIN
MICHAEL J. HALL
JOHN B. WHIDDON
DAVID F. BREUNINGER
JOHN P. GUYER, III
ROBERT T. DOUVILLE
THOMAS G. GORDON
ROBERT C. BOETIG
BILLY R. SLACK
JOHN J. STONEMAN, III
ROGER A. WHORTON
BEN R. THOMASON, III
LAWRENCE A. EPPLER
GARY T. BLORE
LAWRENCE A. HALL
JAMES J. HANKS
DENNIS J. IHNAT
DOUGLAS H. ALSIP
FRED M. ROSA, JR.
CRAIG L. SCHNAPPINGER
WAYNE C. RAABE
MICHAEL L. DOBRAVEC
MICHAEL BRAY
RANDALL R. FIEBRANDT
STEVEN M. CONWAY
DAVID W. JONES
WILLIAM T. BAILEY
JOHN E. CROWLEY, JR.
THOMAS J. MCDANIEL
HARLAN HENDERSON
CHARLES T. LANCASTER
WILLIAM M. PARKER, JR.
WALTER S. MILLER
LUTZ G. BUESING
GLENN L. SNYDER
MARTIN E. REEVES
MICHAEL F. HOLMES
CLYDE K. WATANABE
MARK E. BLUMFELDER
DOUGLAS P. RUDOLPH
DAVID W. BROUGHTON
JOHN F. PILLSBURY
HERBERT H. SHARPE, III
RICHARD P. PRINCE
RICHARD W. GOODCHILD
ERIK N. FUNK
JOHN L. GRENIER
JON T. BYRD
GEORGE A. CAPACCI

The following retired recalled officer of the U.S. Coast Guard is nominated for promotion to the grade of commander:

Cassius L. Lisk

IN THE MARINE CORPS

The following named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Martin L. Brandtner, xxx-xx-xxxx [redacted], USMC.

IN THE NAVY

The following named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, section 1370:

To be admiral

Adm. James R. Hogg, U.S. Navy, xxx-xx-x... [redacted].

The following named officer for appointment to the grade of Vice Admiral while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be vice admiral

Rear Adm. (Selectee) Jerry L. Unruh, U.S. Navy, xxx-xx-xxxx [redacted].

HOUSE OF REPRESENTATIVES—*Wednesday, October 3, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Help us to see, O God, not only the daily events of the world that seem so obvious to our eyes, but also to see the reality of Your spirit. Impress upon us the magnitude of the power of this spirit that calls us to repentance, that molds our attitudes, enlightens our minds, directs our actions, and sustains us when we fail or miss the mark. May Your spirit, O God, touch us in the depths of our hearts, this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Ohio [Mr. TRAFICANT] please come forward and lead the House in the Pledge of Allegiance?

Mr. TRAFICANT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 5641. An act to amend title 5, United States Code, with respect to retirement of members of the Capitol Police; and

H.R. 5643. An act to grant a temporary extension on the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to private-sector positions while participating in an executive exchange program; and for other purposes.

The message also announced that the Senate had passed a bill, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2111. An act designating the month of May as "Asian/Pacific American Heritage Month";

S.J. Res. 351. Joint resolution to designate the month of May, 1991 as "National Trauma Awareness Month";

S.J. Res. 369. Joint resolution designating 1991 as the "Year of Thanksgiving for the Blessings of Liberty";

S. Con. Res. 150. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 1824.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1824) "An act to reauthorize the Education of the Handicapped Act, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1230) "An act to authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes."

The message also announced that, pursuant to Public Law 99-498, the Chair on behalf of the President pro tempore, reappoints Lynn M. Burns of Rhode Island, to the Advisory Commission on Student Financial Assistance.

THE ULTIMATE TAX RIPOFF ACT OF 1990

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the election is over. We have gone from "Read my lips," and "No new taxes," and "Over my dead body," and comments like that, to "Sacrifice;" "Do the right thing;" "Save the Constitution;" "Save America;" "Save the Flag;" "Free our children;" "Raise taxes!"

But do you know what gets me, Mr. Speaker? The new twist, and this is a real good one, "Call your Congressmen and get them to support this tax. America needs it." Well, they called me—they're still against it.

Count me out. Count me out. We have had TEFRA, ATRA, COBRA, OEFRA, AMRA, All taxes, none vetoed, and now we have UTRO, the Ultimate Tax Ripoff of 1990 Act. I am not for it. Period. And everyone should figure it out. When a bottle of Mogen David wine and Ripple is taxed the same as a $5,000 bottle of champagne, something is wrong.

There is not a cancer in America, there is an elephant picking our pocket, and he's not even wearing sunglasses anymore. Think about that.

DO NOT BE FOOLED BY OMB LEGERDEMAIN

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, I would urge my colleagues not to be fooled by OMB's legerdemain. They sent a budget package up here to us originally which had in it $69 billion in transportation taxes, 42 percent of the entire tax package coming from the transportation sector of America.

Then later on they sent up a revised package. Now on page 19 of their revised package it says in a different type, squeezed in, added, "Fifty percent of the tax on gasoline goes to the trust fund."

Now that sounds nice, does it not? We called OMB and said what does that mean, and we were told, "Well, that's still up for negotiation."

Mr. Speaker, if that is up for negotiation, this whole package is up for negotiation. But beyond that, we asked them even if the money does go to the trust fund, can it be spent, and they said, "Well, not really, because it still comes under the domestic spending cap."

So think about that. We are perpetrating another fraud on the American people. We are going to put some money in the highway trust fund, but we are going to have a spending cap on it so that the money cannot be spent.

Do not be fooled by this legerdemain. Defeat this Herbert Hoover budget and send the summiteers back to the table.

And by the way, people have been calling my office, Mr. Speaker, following the President's speech, doing just what he said to do, to call and express themselves. It is running 20 to 1 against this budget.

A TEST FOR THE GERMAN PEOPLE

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, It has been 42 years since the Berlin airlift, when America and other democracies made a commitment to keep the spirit of freedom alive for the German people.

In the last four decades, the American people—and particularly men and women in America's Armed Forces—have made great sacrifices to help

defend the freedom of much of the German nation.

Today, the German people are united and free to pursue their dreams under a democratic form of government. Today the German nation has the strength and unity to pursue its national objectives.

I hope the German people will now use the support the democracies gave them to become a model for other nations—to show them that a strong nation can pursue its national destiny through peace, justice, and international cooperation.

JUNGLE DRUMS BEAT TROUBLED MESSAGE ON BUDGET

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, this budget crisis reminds me of an old Tarzan movie. At some point in the movie drums would begin to beat meaning the natives were restless.

If you listen you can hear the drums begin to beat outside the beltway.

Oh sure, the special interests are weighing in, objecting to this provision or that. There is not much that is lovable in this package but the drums I am beginning to hear are saying: "What's wrong with you people? You can't do the most fundamental thing we expect you to do—set the spending priorities of this Nation. Why should we rehire you?" And they are right. So I am going to vote for this agreement because the alternative is worse and I do not just mean sequestration. In my mind failure to pass the budget is an admission of failure—an admission that we do not have the political will to govern.

On my side of the aisle I keep hearing about other alternatives. There is talk about a 4-percent solution or going back to the budget process. That is just out of touch with reality. For two reasons. First we are out of time. There must be an end to this process. And second, we do not have the votes. It still takes 218 votes to pass anything and we are only 175 so I am going to vote for the budget even though like every Member there are things in it that are deeply repugnant to me—the gas tax for instance, hits too hard on my rural constituents. There are plenty of reasons for Republicans to vote against it and only one to vote for it. The President is asking us to. He needs a budget in order to govern. Failure to pass this budget will deeply embarrass our President while making ourselves irrelevant as the ship of state founders.

LET US CONSIDER ALTERNATIVES TO PROPOSED BUDGET

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, I applaud and respect the commitment of President Bush to eliminate our disastrous annual deficit. But despite last night's public exhortation, I can in no way support this specific budget deficit proposal. The citizens of Florida's Fourth Congressional District elected me to Congress to represent their interests while at the same time balancing the interests of all American citizens. I know that this tax and slash package is not in their best interests. Loudly and clearly they have let me know that.

In the past 3 days my office has logged over 600 phone calls from angry and disappointed Americans who believe that once again Congress is reaching into the pockets of hard-working middle-class Americans to pay for a national fiscal bailout. This is not partisan, this not political; for me and for the people I represent this is real life. The people have told me that this is a punishing and unfair package. And I agree. I cannot and will not cast aside my constitutional duty to represent their interests and needs. To vote for a package that neither I nor the people I represent believe in just because I am being asked to do so would be a repudiation of all that our unique form of representative democracy has stood for for over 200 years. Please, there are worthy alternatives to his proposal. Let us consider them. It is time to give all of Congress and the American people a voice in their Government.

BUDGET CONCERNS

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, I rise to express my strong concerns over the budget agreement. There are a number of items in the plan that I simply cannot support. In my view this proposal attempts to reduce the Federal deficit by placing a disproportionate burden on middle-income Americans in general and people in New England in particular.

The tax provisions of this plan fall squarely on those earning $20,000 to $70,000 a year. This vast group is already feeling the pinch of higher prices for energy and uncertainty over jobs. The consumer taxes in the budget plan will hit this group the hardest. I am dismayed that no effort has been made to shift a fair portion of these costs to the most affluent among us.

We in the North are already bracing for an expensive winter. The Mideast crisis has sent the cost of home heating oil soaring. Adding 2 cents per gallon to that cost is not fair and it is not wise. We risk putting many families on the brink of economic ruin, as well as pushing our economy toward recession.

For the 2 years I have been in Congress I have fought to keep the Medicare Program afloat. Now that beleaguered program—vital to millions of Americans—faces another huge hit—nearly $60 billion over 5 years. How is Medicare going to function as it faces cut after cut, even as premium costs are rising?

Finally, in my areas, there is great concern among those who work for insurance companies. The plan proposes changes in policy acquisition costs that will dramatically increase the amount of taxes paid by the companies. Huge layoffs are threatened. This seems to me to be an undue burden on a financial industry that has kept its house in order.

Mr. Speaker, all of us want to avoid sequestration, but we want to do so by voting for a fair and equitable plan. The budget plan we have before us is not that plan.

ARM TWISTING ON THE BUDGET

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, "they're twisting arms, they're twisting arms—the leadership is twisting arms. Well, let's twist back."

I am sick and tired of hearing about how there is no revenue when every day this Congress creates brandnew spending. Yesterday it was money for immigrants to teach them English. Last month it was foreign aid for family planning for Romania. Raise taxes to pay for all that? While cutting Medicare? What has the Congress done about new revenue streams from energy development? Moratoriums on offshore oil exploration—withdrawal of oil development on Anwar?

Those revenue streams would help balance the budget.

Those revenue streams would make America energy independent.

Anwar: An estimated $3.4 billion in bid bonuses in just the first year of production and billions and billions more beyond that.

The Outer Continental Shelf: At least $20 billion in the first 5 years.

Mr. President, you are right, these are the times that try men's souls.

Mr. President, when are you going to lift the moratorium on offshore drilling that you put on instead of propos-

ing cutting the agricultural budget by $13 billion?

What do we charge the cost of revenue forgone up to? Appeasement of the environmental obstructionists.

APPOINTMENT OF CONFEREES ON H.R. 1396, INTERNATIONAL SECURITIES ENFORCEMENT COOPERATION ACT OF 1989

The SPEAKER. The Chair will interrupt the 1-minute statements to appoint the following conferees on H.R. 1396, the International Securities Enforcement Cooperation Act of 1989:

From the Committee on Energy and Commerce, for consideration of the House bill, the Senate amendment (except sections 103, 104, and 502), and the House amendment, and modifications committed to conference:

Messrs. DINGELL, MARKEY, MCMILLEN of Maryland, LENT, and RINALDO.

From the Committee on Post Office and Civil Service, for consideration of sections 103, 104, and 502 of the Senate amendment, and modifications committed to conference:

Messrs. FORD of Michigan, CLAY, ACKERMAN, GILMAN, and MYERS of Indiana.

FRUSTRATION OVER THE BUDGET

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, last night the President spoke on the budget summit, the first time the President has taken a leadership position on a domestic issue, having avoided all of the tough ones in his past 2 years.

What I think is happening right now, as we approach the budget vote, is increasing frustration from Members. First, I want to consult with my constituents, but I cannot send out any town meeting notices or explain this agreement in the mail because of the restrictions that we have that have newly been placed because so-called do-gooders are telling us that this is bad government.

Second, I feel frustrated as a member of the Energy and Commerce Committee, where numerous provisions in the budget agreement deal with my committee and I have no say on this issue.

The budget negotiators from the Congress did a good job, but there were some unelected bureaucrats that do not have to account to anybody that have more say than 90 percent of the Members of Congress, and that is wrong.

Mr. Speaker, as we approach this vote, another fact is very imminent. Those wanting term limitation agreements around the country do not need to go any further. They have this vote on the budget agreement to get people out of office. I assure them that this is going to do it.

HARD CHOICES ON THE BUDGET

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, we all have a very difficult decision to make in the next 2 days. We must cast our vote on a budget package in which some see hope and some see hopelessness, and both are right. This budget is about big issues, it's about America's future, but it's also about people, about millions of individual sacrifices right here in the present.

In making a decision on this budget we must be guided first and foremost by compassion, compassion for the individuals who must live with the decisions we will make.

We can demonstrate that compassion by casting our vote for short-lived victories on the road to economic disaster, or we can demonstrate that compassion by casting our vote for hard choices that will pave the way toward economic health and a better quality of life for all Americans.

I believe that the long-range economic benefits of the budget compromise are just as real as the sacrifices that will have to be made if this budget package is approved. I acknowledge that there are problems with the bill. There are many things I do not like about the bill, but it is my conviction that we cannot do any better and we surely can do worse.

Mr. Speaker, I will cast my vote in favor of the budget agreement.

SOUTHEAST REGION DRUG FREE SCHOOL CENTER MOVES TO LOUISVILLE, KY

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I am proud to announce that, effective immediately, the Federal Department of Education's Southeast Region Drug Free School Center has been relocated from the city of Atlanta to my hometown, the city of Louisville, KY.

A consortium consisting of the University of Louisville and the Jefferson County, KY, school system succeeded in their effort, collaborative effort, to have the Drug Free School Center moved from Atlanta to Louisville.

This is a tribute to, among others, Dr. Raphael "Ray" Nystrand, who is the dean of education at the University of Louisville, which is my law school alma mater.

This relocation is expected over the period of the next 4 years, the length of this collaborative contract, to bring to Louisville and Jefferson County some $20 million, some 50 jobs, and this of course will be quite a nice boost to the local economy, as well as performing service in the southeast region of encouraging schools to set up drug free programs within their confines.

It was a pleasure to assist in this successful effort.

□ 1020

I would like to salute the efforts of the University of Louisville and Jefferson County. Job well done.

FETAL DISPOSAL LAW GOES INTO EFFECT

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, in yesterday's Washington Times there was a little wire dispatch notice that hit me rather hard. I could not even find a mention of this in the New York Times or yesterday's Washington Post out there in the Speaker's lobby.

Let me read this. The headline says, "Fetal Disposal Law Goes Into Effect."

> A state law requiring hospitals and clinics to arrange for the burial or cremation of aborted fetuses instead of flushing them into the sewer system became effective yesterday (October 1).
>
> The measure, considered the nation's strictest, was strongly opposed by medical groups, which contended that it added costs and risks to disposal. Abortion rights advocates charged it might have a chilling effect on women considering an abortion.

Oh, a chilling effect. In my 10 trips to Vietnam as a correspondent, I forced myself many times to visit our morgues to see the flesh and blood prices we were paying for another no-win stalemate war. We showed more respect to the severed limbs of our fighting heroes in that war, disposing of them with a proper burial at sea, than we are showing to living human beings that, when they were killed, had a beating heart and brain waves.

An amazing little item, Mr. Speaker. All 50 States should do the same.

POOREST AMERICANS HIT THREE TIMES HARDER THAN AVERAGE TAXPAYER

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, this morning I went to a meeting, and I was given a copy of an article that appeared yesterday in the Wall Street Journal prepared by the Joint Tax Committee of Congress. What it shows

is that the poorest Americans are going to pay in this budget summit agreement, if it is passed, better than three times the amount of increased taxes as the average taxpayer.

Mr. Speaker, this old boy from South Carolina has been in politics for 40 years, and I want to say to my colleagues, Mr. Speaker, that anybody that votes for something like that, with this budget summit agreement, is going to inherit a political turkey that is going to hang around his or her neck for the rest of their political life, and I am not going to do it.

DEMOCRATS CONGRATULATED FOR LARGEST TAX HIKE IN HISTORY

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, congratulations to my Democratic colleagues who have pushed for a tax increase since Bush took office and now have the largest tax hike in history in the budget agreement.

Every day I am amazed to see our congressional leadership, the administration, and the national media repeat the refrain that increased taxes are necessary to balance the budget.

We have not even tried to reduce spending.

So far this year, the House of Representatives has passed 10 out of the 13 major appropriation bills. In those bills, we have appropriated an additional $39 billion over last year's spending levels.

We are not trying to cut spending—we are not even attempting to stay with last year's spending levels. The House of Representatives is proceeding with business as usual.

We are conning the American taxpayer. We are saying to them: Let us raise taxes one more time, and the chronic budget deficits that have plagued Government financing for the past 20 years will magically disappear. Sensible Americans recognize that will never happen.

American taxpayers already suffer from the highest tax burden in peacetime history. Like many others in my party, I have promised those people that I would oppose any tax increase. I meant it when I made that promise.

But if some of you have your way, we will once again pick the pockets of the workers of America to pay for Congress, lack of responsibility.

CONGRESS SHOULD WALK THE PLANK

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the spectacle of our President and the majority leader from the other body on television last night was proof positive that taxpayers are being conned. At times I thought I was watching a broadcast by what Michael Dukakis would have said.

Americans are not overtaxed; Congress overspends. This body is addicted to spending, and I guess the President is, too.

I do not accept the claim that there is no longer any significant difference between the two parties, and I intend to fight in this body to maintain that difference for the American people. Americans have had enough of these new-world-order budgets designed to weaken citizens at home while we flood the rest of the Earth with our good will.

Enough is enough. American taxpayers have suffered for too long. Now it should be Congress' turn.

Mr. Speaker, I will be offering a budget alternative that puts the burden of our fiscal mess on those in this Chamber who have created it. There will be no new taxes, hidden or otherwise, no promises of taxes now and make-believe spending cuts later, no making senior citizens carry a burden that we do not apply to pornographers at the NEA.

Mr. Speaker, I am walking the plank. I can swim faster than a sinking ship can sail.

EVEN THE GOOD LORD'S BUDGET WOULD BE HACKED TO PIECES AROUND HERE

(Mr. HOUGHTON asked and was given permission to address the House for 1 minute.)

Mr. HOUGHTON. Mr. Speaker, we are talking about the budget, and it is so easy to criticize anything. Everybody has his own agenda. I can cite for my colleagues figures upon figures which will say this is a terrible deal.

However, as my collegues know, Harry Truman once said that any jackass can kick down a barn. It takes a carpenter to build one.

From the business standpoint there are three things which can be done: Accept this budget, do nothing, or go into sequester. And, if we go into sequester, the shock waves that this will have on our economy, already on the verge of a recession because of the oil problem; are going to be enormous.

Mr. Speaker, I think the Lord Himself could come down and propose a budget, and it would be hacked to pieces within half an hour around here.

The American people want action. They have it in the form of this budget. We ought to enact it.

GET IT FROM THOSE WHO GOT IT

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, go back to the drawing board. The summiteers goofed, and here is why. They want to blame, and now they want to punish, the elderly, the sick, the disabled, the poor, America's veterans, and America's low- and moderate-income families. Why do they want to do that? It is because of the windfalls of the richest. The wealthy people in this country gained by many hundreds of billions of dollars through the Reagan and Bush administrations during the 1980's as well as to the defense contractors.

Mr. Speaker, I say to my collegues, "Think about what you're doing. Get it from those who got it. Let's have a fair policy, but let's not penalize the people who really and truly deserve and need it."

There are a lot of avenues that could be explored. I do not think they have been. One of them is in the foreign corporations of this country who are only taxed at about 0.6 of a percent, and also to increased tax brackets. We should add one and add a 35 percent tax bracket for the Nation's wealthiest. I think we could come up with enough money that we would not have to hit on America's neediest.

LESS THAN $10,000, UP 7.6 PERCENT; MORE THAN $200,000, UP 1.7 PERCENT

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, the figures that I am about to use come from the Joint Committee on Taxes in Congress. There were many compromises made as a part of the budget summit, but the one thing which is clear throughout is that the Democrats want it as a part of the package to raise taxes, and so, therefore, they were given the opportunity to design a tax package. As the budget summit agreement appears before the House, the tax package within it is the Democrats' proposal. I think it is important to understand how the Democratic tax proposal affects people in this country.

Mr. Speaker, the people making less than $10,000 pay the biggest share of the taxes. Under the Democrats' tax package that will be on the floor here in a couple of days, those making less than $10,000 have their taxes go up by 7.6 percent. Now how about those people, $200,000 and more, the rich in this country? Do the Democrats give them an equal share of the burden? No. Their taxes go up by 1.7 percent.

□ 1030

Now, if we take the middle-income people, the people in the $20,000 to $30,000 category, how much do their taxes go up? Their taxes go up by 3.3 percent.

How about the people making over $100,000? That rate is 1.9 percent.

We have heard a lot from the Democrats in recent days about the fact that they want to do something about taxing the rich. Their tax package taxes the poor the most.

WORKING POOR, SENIOR CITIZENS FACE UNFAIR TAX BURDEN

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, I watched with great interest the television last night when the President was giving his expressions for the budget, but I also watched the faces of senior citizens this morning who were on the networks expressing great concern about this budget.

I saw one lady who said that it seemed like we here in Congress, the Government, do not want to give them the right to have food. Others said they do not know what they are going to do if they are going to have to pay more money for insurance when they get sick. It seems to me they should not have that kind of a burden.

One lady said she felt that we were treating unjustly the senior citizens. These are people who have been supportive of this country all their lives, and certainly they deserve to have a fair opportunity to know that they should not have to pay too much for their insurance, and that when they go to the hospital, they can stay there until they are medically sound enough to go home.

Mr. Speaker, they do not deserve this grief, and I think we as a Congress should not thumb our noses at those who have helped us all these years.

LAST-MINUTE TAX ON HOME HEATING OIL SEEN AS REGRESSIVE

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, I am most distressed to read the budget summit agreement and find that home heating oil was unmercifully taxed and at the same time $4 billion in tax breaks for oil companies were doled out. I am distressed because I was part of the summit negotiations.

Sunday morning I was at the White House. I was told by the big eight that home heating oil had been exempted. I do not know how one man could change all this.

And I am distressed because this tax on home heating oil—a necessity of life for many Americans—is unfair. It is regressive. And it is bad public policy.

Mr. Speaker, I heard a lot about progressivity from the Democratic negotiators out at Andrews and over the last 5 months. But where is the progressivity in the Democrats' proposal to tax home heating oil?

This tax hits the poor and elderly hard. and it is just plain unfair. How can we exempt businesses and agriculture from the tax and give billion dollar tax breaks to oil companies and not help the little guy who has to pay a home heating oil bill?

Mr. Speaker, I hope you and the majority leader in the other body help me restore the home heating oil exemption—because without it, support for the budget package among the Northeast and this Member is shaky.

RELIGIOUS PERSECUTION ESCALATING IN THE PEOPLE'S REPUBLIC OF CHINA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, in the past 2 years, persecution against Catholics and Protestants in the People's Republic of China, and against Buddhist in occupied Tibet, has increased dramatically. It is presently estimated that there are an estimated 400 to 500 religious prisoners in China, among them Catholic and Buddhist priests, Catholic nuns as well as Protestant house church leaders and church members. Some estimates are much higher.

Just in the past few weeks, the largest house church—of over 1,000 people—in Canton was closed. In Tibet it is estimated that over 450 people were murdered in a crackdown against the Buddhist community there last year. Dozens of Catholics, Protestants, and Buddhist have been rounded up and imprisoned. Torture of such prisoners is common. In fact, some have recently died as a result of being beaten—or worse—during incarceration. Despite the giant leap forward many nations are making toward democratic reform, China seems to be taking a giant leap backward.

In order to address this issue, I am asking that the House grant a rule which would allow an amendment to H.R. 4939 which would add religious persecution to the list of provisions toward which the People's Republic of China must make significant progress for extension of most-favored-nation status.

Mr. Speaker, the Congress, when it faced the issue of MFN for Romania, did the right thing. When this bill comes up, it is important that we allow the amendments to be offered to help the persecuted Christians, the Catholics, Protestants, the Buddhists, and other religious faiths in China, because if we do not, when Radio Free China sends the word back to the little peasant in China, he will know that this Congress did not stand with the Chinese people. Do we want to stand with the Chinese lobbyists, or do we want to stand with the Chinese people? Do we want to stand with the few people in the State Department who are opposed to this, or do we want to stand with the billions of people in China.

Mr. Speaker, I know that this Congress that stood firm for MFN in Romania and helped all those persecuted people, who stood firm for Jackson-Vanik in Russia, will stand firm with the Chinese people and vote to adopt these amendments.

PROPOSED BUDGET COULD RESULT IN RECESSION

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, for decades liberal, big-spending Democrats have dominated this Congress. We faced an energy challenge, and we got legislation that was basically antienergy production.

We faced a crime wave. Our people were being brutalized, and what legislation have we seen this year? It is legislation that further ties the hands of the police and all but eliminates the death penalty.

Now we face the challenge of a high level of deficit spending. It is so high that it threatens our well-being and weakens our economy.

What do liberal Democrats provide? What do they propose? They put the back of the President of the United States against the wall, saying that this Government is going to close down unless we give the American people the largest tax increase or the second largest tax increase in American history.

Just as our energy polices from this body gave us shortages in energy and our crime policies would give us an added crime wave, the policies we are talking about to handle the deficit will give us recession, higher taxes, and, in the end, a much higher deficit.

Mr. Speaker, I say, let us defeat this package. Let us talk about growth. Let us talk about opportunity. Let us talk about lower taxes rather than higher taxes, low growth, and recession.

MODIFICATIONS IN BUDGET PACKAGE SEEN AS CRUCIAL

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, I as one Member of the House listened very intently to the President's speech last night, and I can only sum it up in one short phrase, and it might go down in history with this phrase: It should be called the pig in a poke speech.

The President asked the American people to call us to encourage our support for this budget compromise, but never did he say that 50 percent of the domestic cuts are in the Medicare area and health insurance for the seniors. Never did he say that workers who are laid off will lose their first 2 weeks of their unemployment compensation checks. He never said that the proposal called for an increase in the cost of heating fuel. He never told us that we are instituting tax shelters in this product for the wealthy. He forgot to tell us there is a version of capital gains again in here for those who are more affluent in our economy.

Mr. Speaker, it is my hope that when the House takes up this product, we will defeat it, and at that point we will have sufficient time between tomorrow and midnight on Friday to moderate or to modify the Medicare portions, and I am sure a sufficient number of Democrats like myself will at that point swallow hard and support the package.

CHILD CARE PACKAGE MUST BE APPROVED BEFORE ADJOURNMENT

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, Congress must not adjourn until a child care package is finalized. There is a desperate shortage of affordable and quality child care in this country, and we simply cannot afford to further delay the approval of child care legislation until next year.

National statistics clearly demonstrate the urgency of this need. According to the Children's Defense Fund, almost two-thirds of all mothers in the work force are single, widowed, divorced, separated, or have husbands who earn less than $15,000 per year. Nationally, the average cost of child care is approximately $3,500 per child annually, with infant care significantly higher. Working parents with children rate child care as their fourth highest expense after food, housing, and taxes, In a family with two children in which both parents earn the minimum wage, more than half of family income is spent on child care.

Clearly, this situation must be addressed immediately. Surely, we can develop a compromise bill, with the support of Congress and the President, before adjournment this year. This issue must not be held over for still another year. We must stand firm and delay adjournment until a final child care package is approved.

□ 1040

CALL THE PRESIDENT

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, last night the President of the United States asked the American people to call their Member of Congress. I think that was a very good idea, and we have been receiving phone calls all week, but I think it is also important for the American people to call the President of the United States and let him know what you think of the package that he called all these negotiators to put together a few months ago.

Now, the President's phone number is area code 202-456-1414. That is the White House switchboard.

I hope every senior citizen in America gets on the phone today. That is 202-456-1414. You call the President of the United States and let him know what you think about him raising your Medicare premiums over $300 a year over the next 5 years.

And how about every worker who is unemployed in this country. You have got to wait 2 more weeks to get your unemployment benefits.

And how about the people in my district who have to pay more for heating oil this very cold winter, with prices already going up 2 cents more on every gallon that they buy.

Call the President at 202-456-1414.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would remind Members to address the Chair and not the TV audience.

IN SUPPORT OF THE CRIME BILL

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, I rise in support of the crime bill that is coming up later today. It is the beginning of an effective national crime strategy. We must rid our streets of drug dealers wielding assault weapons. We must beef up our crime capability. We must pass this anticrime and antidrug program.

Mr. Speaker, in my State we processed 50,000 prisoners through the law enforcement system last year. Our prison population in the last 15 years has quadrupled. It costs us a million dollars for every prisoner who is sentenced to 20 years or more, a million dollars of the taxpayers' money.

We cannot afford a system based only on law enforcement. Local law enforcement works, but what we have to do is get to the roots of crimes. We have to spend more on drug prevention, on drug education, and on enforcement.

Mr. Speaker, the American people are tired of their neighborhoods becoming war zones because of drugs and crime. They are outraged at citizens seeing innocent children stabbed and shot continuously and systematically. We must pass this tough anticrime measure.

FAMILY UNITY AND EMPLOYMENT OPPORTUNITY IMMIGRATION ACT OF 1990

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 484 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4300.

□ 1043

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4300) to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes, with Mr. DARDEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, October 2, 1990, amendment No. 19, offered by the gentleman from California [Mr. MOORHEAD] had been disposed of.

It is now in order to consider amendment No. 20 printed in part 2 of House Report 101-786.

AMENDMENT OFFERED BY MR. LEWIS OF FLORIDA

Mr. LEWIS of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. LEWIS of Florida:

Page 114, after line 15, insert the following new title (and conform the table of contents accordingly):

TITLE IV—REIMBURSEMENT OF STATE AND LOCAL GOVERNMENTS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS FOR STATE AND LOCAL COSTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000,000 for each of fiscal years 1991 through 1996 to reimburse State and local governments for the costs that such governments may incur due to the participation of eligible aliens in State or local programs providing—

(1) public cash assistance,

(2) public medical assistance, or

(3) educational services.

(b) ALLOCATION OF FUNDS.—The Secretary of Health and Human Services shall allocate funds made available by this section to the States in an amount determined in accordance with a formula, established by the Secretary by regulation, which takes into account—

(1) the number of eligible aliens residing in the State in that fiscal year;

(2) the ratio of the number of eligible aliens in the State to the total number of residents of that State and to the total number of such aliens in all the States in that fiscal year; and

(3) such other factors as the Secretary deems appropriate to provide for an equitable distribution of such funds.

(c) ELIGIBLE ALIENS DEFINED.—For the purposes of this section, the term "eligible alien" means—

(1) any alien admitted under section 201 of the Immigration and Nationality Act, and

(2) any alien admitted under section 208 of such Act, or who has filed a nonfrivolous application for asylum under section 208 of such Act.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. LEWIS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman my amendment today attempts to address the costs that State and local governments have and will continue to incur through the administration of Federal immigration policies.

Since the enactment of the Immigration Reform and Control Act of 1986, State and local governments have been forced to shoulder the burden of Federal immigration policy—this is policy for which they literally possess no control.

This amendment will authorize $500 million for each of fiscal years 1991 through 1996 in order to reimburse States for the costs incurred due to the participation of certain legal immigrants in social programs of cash and medical assistance, and in local educational programs. The funds will be allocated by the Secretary of Health and Human Services through a formula established by the Secretary.

While this amendment will by no means completely cover the immigration costs incurred by the States, it will begin to address those costs.

This amendment will also assist the Federal Government in documenting the expenses State and local governments incur due to Federal immigration policies.

In a recent study performed by the Center for Immigration Studies it is expected that H.R. 4300 will result in the projected settlement of 1,642,000 immigrants, refugees, asylees, and parolees in its first year of enactment, 1991. Mr. Chairman, this is an estimated 8.1 million new settlers by 1995.

The study estimated that public primary and secondary education programs would incur costs totaling $1.5 billion for an estimated immigrant public school population of 289,000 just in 1991.

This estimate does not include costs attributable to illegal immigrants.

As an example of the effects H.R. 4300 will have on my State of Florida, should this legislation be enacted, it is expected to contribute an additional 500,000 immigrants to Florida's population in the next 5 years.

Using a conservative estimate of $2,000 per immigrant for needed services, the cost to Florida taxpayers over the next 5 years is $1 billion.

The citizens of the State of Florida, as well as California, Texas, and other States that are heavily impacted by this legislation can no longer afford to bear the burden of this immigration policy.

Mr. Chairman, the question on this amendment is not whether to open our borders for increased immigration to the United States.

This amendment addresses the question of whether or not States can continue to administer the basic educational and medical programs that must be extended to the citizens of the States as well as the immigrants in that State.

I urge my colleagues to support this amendment that will assist State and local governments in their attempts to meet the educational and medical needs of legal immigrants covered in H.R. 4300.

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. BROOKS. Mr. Chairman, I am in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] is recognized for 5 minutes.

Mr. BROOKS. Mr. Chairman, the amendment of the gentleman from Florida [Mr. LEWIS] would authorize $500 million for the next 5 fiscal years to reimburse State and local governments for the costs they incur as a result of eligible aliens' participation in specified public assistance programs. The amendment recognizes that the burden of immigration falls disproportionately on certain regions of the country—most obviously, the border States, including my home State of Texas and his home State of Florida.

While I applaud the gentleman from Florida for recognizing this disproportionate burden we are faced on this issue, as on so many others, with the simple question: Where will the money come from? The Congress and the White House this week are wrestling with an effort to stitch together a budget package to deal with the massive deficits that we face. At such a point, when we are looking at the necessity of placing a burden on such basic services as Medicare and imposing excise taxes, I question how we can be looking at committing the Federal Government to the expenditure of additional billions of dollars as this amendment would do. Therefore, I regretfully must oppose the amendment.

This is one of those amendments that sounds good and has good intentions. It would be nice if we could do it, but we cannot afford to do it now.

Mr. LEWIS of Florida. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, the gentleman from Florida.

Mr. LEWIS of Florida. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Chairman, would the gentleman not agree that sooner or later we have to be honest with the people of this country as far as immigration policy and to pass legislation or previous legislation without providing the funds is being intellectually dishonest with the American people?

Mr. BROOKS. I have always been honest with my constituents. I believe that one facet of honesty would be if we are going to spend the money, we have to raise it, and the first thing we have to do to spend this $500 million per year is to find out where we are going to get it.

Mr. PACKARD. Mr. Chairman, will the gentleman be kind enough to yield?

Mr. BROOKS. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, if in fact it is going to cost money to implement the proposed increase in immigration and we have not got the money to do so, is it fair to pass that cost on to cities when they cannot afford to do it either? If we cannot afford it, why should then we increase the immigration quotas?

□ 1050

Mr. BROOKS. Well, this bill is not necessarily going to increase the impact on Florida or Texas or the border States. This bill deals primarily with legal immigrants, not illegals, and most of the cost that we incur in the border States are from illegals.

Mr. MORRISON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my friend.

Mr. MORRISON of Connecticut. I thank the gentleman for yielding.

Mr. Chairman, I just emphasize that the studies are clear that legal immigrants net out a positive economic contribution, not a negative one. And the suggestion that legal immigrants burden their communities more than Americans who are already here is a fallacious one. It is no more sensible to appropriate extra money for immigrants than to appropriate extra money because there is a higher birth rate in a particular part of the State or of the United States or in another part of the country. The fact is that this kind of proposal would suggest that immigrants are costing money when they are in fact contributing to our economy. And especially when we do not have the money to fund the budget we already have, let us not ask the taxpayers for $2.5 billion more money, which is what this amendment does.

Mr. LEWIS of Florida. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, I will have to vary from my prepared remarks simply to respond to what has been said here.

Mr. Chairman, I represent a district where we have literally hundreds of thousands of legal as well as illegal aliens in my district. The legal aliens are costing our Government a considerable amount of money. Hospitals have unpaid costs, our police departments are being inundated. They are not paying taxes in my district because they pass through my district to work in other parts of the country. So in my district that is not the case. But let me get to the fundamental point.

Mr. Chairman, I rise in support of the Lewis amendment to H.R. 4300. Federal immigration policy has a substantial effect on my district. For instance, the cities in my district are required to educate, house, and care for migrants legalized under the Immigration Reform and Control Act of 1986. However, the requirements for obtaining Federal reimbursement are overly stringent, and the reimbursement fund, the State legalization impact assistance grant fund, has not been appropriated fully in recent years.

Mr. Chairman, the Lewis amendment would authorize $500 million annually to pay State and local governments for the costs they will incur when H.R. 4300 becomes law. I estimate that H.R. 4300 will bring $300 million in new costs to California, particularly the Los Angeles and San Diego areas. State governments such as California's will have had no say in the matter. The Federal Government should not expect State and local governments to assimilate and care for new immigrants without compensating them in return.

Mr. Chairman, the Lewis amendment is not a big-spending amendment. H.R. 4300 is a big-spending bill—it will increase the costs of State and local social programs by hundreds of millions of dollars. The question before us is whether the States or the Federal Government should pay for the costs of Federal immigration policy. I urge the House to support our States by supporting the Lewis amendment.

Frankly, it is absolutely wrong for the Federal Government to set up programs and then require local government to pay for them.

Mr. LEWIS of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. Goss].

Mr. GOSS. Mr. Chairman, I rise in support of the Lewis amendment.

Mr. Chairman, when we adopt a national policy, we have got to be sure that we take national responsibility for the consequences—rather than permitting a disproportionate share of the burden to fall on specific States and regions.

That's just a matter of basic common sense—of fairness.

But, Mr. Chairman, we are here today debating the merits of expanding our national policy on immigration—of whether to encourage more people to come to this country.

The problem with this debate, Mr. Chairman, is that we are not discussing ways to ensure that the costs of expanded immigration policies are distributed evenly across the Nation.

Currently, border States in the South, Southwest, and West, including my own State of Florida, are being asked to shoulder the lion's share of the cost of providing additional housing, medical assistance, education, and other basic services for the hundreds of thousands of immigrants who arrive in this country every year.

The strain on our State resources and personnel is intense—our budgets are already strapped—we cannot do much more.

I commend my colleague from Florida, TOM LEWIS, for his insight into the difficult situation confronting Florida's State officials, who are continuously scrambling to keep pace with the area's tremendous growth. And I urge my colleagues to support the gentleman's amendment, providing financial assistance to help the States cope with expanded immigration policies.

Expanding the opportunities for people to come to this country is a worthy national goal. But that goal carries with it an enormous responsibility—not just for a few States, but for the whole country. Support the Lewis amendment—it is a matter of fairness.

Mr. LEWIS of Florida. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in closing, I would like to state that the state of taxes, whether they are State or Federal taxes, are still borne by the public and they will pay.

In response to legal immigrants not costing any more, let me state from a University of California study by Professors George Borjas and Steven Trejo. Their data from the 1970 and 1980 censuses found in 1970, 5.9 percent of immigrant households received welfare payments compared to 6.1 percent of native households. In 1980, 8.8 percent of immigrant households were on welfare and 7.9 percent of native households, showing an immigrant welfare dependency on the rise.

I believe, Mr. Chairman, that we have to be honest with the people of this country. If we are going to be passing immigration legislation, it certainly is necessary to make sure that if we tell them they have to pay the bills, to bear the burden of the costs, then we should provide the funds for them to bear that burden.

So I ask my colleagues to support this amendment that will assist State and local governments in their attempts to meet the educational and medical needs of legal immigrants covered in H.R. 4300.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the chairman for yielding.

Two points I would like to make to the sponsors and supporters of this amendment, which I oppose. First, their efforts would be better served by correcting the outrageous situation regarding our refugee policies where we shortchange State and local governments in reimbursements for the costs of our refugee program. We have the worst possible situation where the Federal Government has a policy that says we welcome refugees, and then we do not compensate Florida, Texas, California, New York, places where the refugees tend to congregate, for the cost of those programs.

Second, to fight, to make sure that the money that we appropriated that Mr. PACKARD talks about, the money for the newly legalized aliens and SLIAG, is actually given to the State and local governments. Every study done with objectivity, and I can cite many of them, report that legal immigrants, immigrants coming through the legal immigration system, do not cost money, they produce money for the State and local governments through sales taxes, through local income taxes, through all of their work activities.

Mr. FASCELL. Mr. Chairman, I rise in support of the amendment offered by my colleague from Florida [Mr. LEWIS], which provides for the reimbursement of State and local governments for some of the costs that they incur meeting the needs of refugees in ther jurisdictions.

As we consider this bill, one fact that we must keep in mind is that the influx of immigrants and refugees into our States and into our communities is far from cost-free. Rather, we are asking local governments, already

deeply pressed to provide decent education for our children and medical care for our aged and our indigent, to take on an enormous burden.

This year, the State of Florida will rank third in the country for reception of refugees. Dade County, which I have the honor to represent, will receive over half of the total. What that means, in concrete terms, is that our schools are absorbing more than 200 additional children per month, at an average annual cost of $4,000 per child or $33 million per year. We also have other educational and medical costs. It would be totally irresponsible on the part of this body to ignore the question of who is going to pay for the consequences of our decisions.

This amendment would provide some relief to localities which are bearing the greatest burden. Under this amendment, the Secretary of Health and Human Services would reimburse State and local governments based on the ratio of aliens eligible for services to the number of residents. This approach is both fair and comprehensive. It would apportion funds based on real potential liabilities for the education and medical care of all aliens.

I urge that you join me in demonstrating that the Federal Government is not going to leave State and local governments "holding the bag" for our decisions by voting for this amendment.

Mr. JAMES. Mr. Chairman, I would first like to commend my colleague from Florida [Mr. LEWIS], for offering this important amendment, and urge all Members to support it.

The question before us today is one of fairness. Quite simply, some States in this country must shoulder a much larger burden than others when it comes to paying for the cost of immigration. Florida is one of those States. My State already has a large bill to pay, and H.R. 4300 will increase that bill substantially. It is not fair to put the increased costs of immigration solely on the backs of State taxpayers like Florida. The Lewis amendment will correct that inequity by allowing for States to be reimbursed by the Federal Government for the increased cost. It is a good proposal, it is fair, and I urge its passage.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. LEWIS].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LEWIS of Florida. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 99, noes 319, not voting 15, as follows:

[Roll No. 403]

AYES—99

Anderson	Combest	Fields
Archer	Condit	Gallegly
Armey	Courter	Gekas
Ballenger	Cox	Geren
Bartlett	Craig	Gingrich
Barton	Dannemeyer	Goodling
Bennett	de la Garza	Goss
Bilirakis	DeFazio	Gradison
Bryant	DeLay	Grant
Chapman	Dornan (CA)	Hall (TX)
Coleman (TX)	Fascell	Hammerschmidt
Hansen	Martin (NY)	Schaefer
Hastert	McCandless	Schiff
Herger	McCollum	Shaw
Hopkins	McEwen	Shumway
Hunter	Miller (OH)	Sikorski
Hutto	Molinari	Skeen
Hyde	Moorhead	Smith (FL)
Inhofe	Morella	Smith (NJ)
Ireland	Morrison (WA)	Smith (TX)
James	Nelson	Smith, Denny (OR)
Jenkins	Nielson	Solomon
Johnson (SD)	Ortiz	Stearns
Johnston	Oxley	Stenholm
Kolbe	Packard	Sundquist
Lagomarsino	Parris	Thomas (CA)
Leath (TX)	Quillen	Vento
Lehman (CA)	Rinaldo	Walker
Lehman (FL)	Robinson	Weiss
Lewis (CA)	Rohrabacher	Wolf
Lewis (FL)	Ros-Lehtinen	Young (FL)
Lowery (CA)	Saiki	
Lukens, Donald	Sarpalius	
Madigan	Saxton	

NOES—319

Ackerman	Duncan	Kennelly
Alexander	Durbin	Kildee
Andrews	Dwyer	Kleczka
Annunzio	Dymally	Kolter
Applegate	Dyson	Kostmayer
Aspin	Early	Kyl
Atkins	Eckart	LaFalce
AuCoin	Edwards (CA)	Lancaster
Baker	Emerson	Lantos
Bateman	English	Laughlin
Bates	Erdreich	Leach (IA)
Beilenson	Espy	Levin (MI)
Bentley	Evans	Levine (CA)
Bereuter	Fawell	Lewis (GA)
Berman	Fazio	Lightfoot
Bevill	Feighan	Lipinski
Bilbray	Fish	Livingston
Bliley	Flake	Lloyd
Boehlert	Flippo	Long
Bonior	Foglietta	Lowey (NY)
Borski	Ford (TN)	Luken, Thomas
Bosco	Frank	Machtley
Boucher	Frenzel	Manton
Boxer	Frost	Markey
Brennan	Gallo	Marlenee
Brooks	Gaydos	Martin (IL)
Broomfield	Gejdenson	Martinez
Browder	Gibbons	Matsui
Brown (CA)	Gillmor	Mavroules
Brown (CO)	Gilman	Mazzoli
Bruce	Glickman	McCloskey
Buechner	Gonzalez	McCrery
Bunning	Gordon	McCurdy
Burton	Grandy	McDade
Bustamante	Gray	McDermott
Byron	Green	McGrath
Callahan	Guarini	McHugh
Campbell (CO)	Gunderson	McMillan (NC)
Cardin	Hall (OH)	McMillen (MD)
Carper	Hamilton	McNulty
Carr	Hancock	Meyers
Chandler	Harris	Michel
Clarke	Hatcher	Miller (CA)
Clay	Hawkins	Miller (WA)
Clement	Hayes (IL)	Mineta
Clinger	Hayes (LA)	Mink
Coble	Hefley	Moakley
Coleman (MO)	Hefner	Mollohan
Collins	Henry	Montgomery
Conte	Hertel	Moody
Conyers	Hiler	Morrison (CT)
Cooper	Hoagland	Murphy
Costello	Hochbrueckner	Murtha
Coughlin	Holloway	Myers
Coyne	Horton	Nagle
Crane	Houghton	Natcher
Darden	Hoyer	Neal (MA)
Davis	Hubbard	Neal (NC)
Dellums	Huckaby	Nowak
Derrick	Hughes	Oakar
DeWine	Jacobs	Oberstar
Dickinson	Johnson (CT)	Obey
Dicks	Jones (GA)	Olin
Dingell	Jones (NC)	Owens (NY)
Dixon	Jontz	Owens (UT)
Donnelly	Kanjorski	Pallone
Dorgan (ND)	Kaptur	Panetta
Douglas	Kasich	Parker
Downey	Kastenmeier	Pashayan
Dreier	Kennedy	Patterson
Paxon	Scheuer	Tallon
Payne (NJ)	Schneider	Tanner
Payne (VA)	Schroeder	Tauke
Pease	Schuette	Tauzin
Pelosi	Schulze	Taylor
Penny	Schumer	Thomas (GA)
Perkins	Sensenbrenner	Thomas (WY)
Petri	Serrano	Torres
Pickett	Sharp	Torricelli
Pickle	Shays	Towns
Porter	Shuster	Traficant
Poshard	Sisisky	Traxler
Price	Skaggs	Udall
Pursell	Skelton	Unsoeld
Rahall	Slattery	Upton
Rangel	Slaughter (NY)	Valentine
Ravenel	Slaughter (VA)	Vander Jagt
Ray	Smith (IA)	Visclosky
Regula	Smith (NE)	Volkmer
Rhodes	Smith (VT)	Vucanovich
Richardson	Smith, Robert (NH)	Walgren
Ridge	Smith, Robert (OR)	Walsh
Ritter	Snowe	Washington
Roberts	Solarz	Watkins
Roe	Spence	Waxman
Rogers	Spratt	Weber
Rose	Staggers	Wheat
Rostenkowski	Stallings	Whittaker
Roth	Stangeland	Whitten
Roukema	Stark	Williams
Rowland (GA)	Stokes	Wilson
Roybal	Studds	Wise
Russo	Stump	Wolpe
Sabo	Swift	Wyden
Sangmeister	Synar	Wylie
Savage	Tallon	Yates
Sawyer	Tanner	Yatron

NOT VOTING—15

Anthony	Edwards (OK)	Mfume
Barnard	Engel	Mrazek
Boggs	Ford (MI)	Rowland (CT)
Campbell (CA)	Gephardt	Weldon
Crockett	Lent	Young (AK)

□ 1116

Messrs. COSTELLO, ANDREWS, HOLLOWAY, and COBLE changed their vote from "aye" to "no."

Messrs. SIKORSKI, McCANDLESS, and WEISS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. PICKLE was allowed to speak out of order.)

"TEXAS CHILI DAY" IN HOUSE OF REPRESENTATIVES

Mr. PICKLE. Mr. Chairman, we convene today on the brink of another Washington, DC winter. There is a chill in the air that can go right through to the bone.

With the end of another session almost in sight, and lots of heavy lifting yet to be done, folks around here need a break. And I have got just what the doctor ordered—a steaming cup of Texas "red"—real, honest-to-goodness two-alarm Texas venison chili.

I want to advise my colleagues in this House and their staffs that today is our annual "Texas Chili Day," and we will be serving the bonafide, authentic dish in the Democratic and Republican Cloakrooms, and in the Member's private dining rooms, and also by request in the House Restaurant in the Capitol, beginning at lunch.

We've imported the very best venison from the Texas hill country and the perfect blend of south Texas

spices—no beans—to concoct a bowl of down-home Texas "red" worthy of unanimous-consent approval.

Mr. Chairman, I want to encourage all my colleagues to take advantage of the opportunity to warm their bellies and lift their hearts, and join us for a cup of Texas venison chili this afternoon.

The CHAIRMAN. It is now in order to consider amendment No. 21 printed in Part 2 of the House Report 101-786.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BRYANT

Mr. BRYANT. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. BRYANT:

Strike all after the enacting clause and insert the following:

SECTION 1. PROHIBITION OF DEPORTATION OF SPOUSES AND CHILDREN OF LEGALIZED ALIENS.

(a) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN ELIGIBLE IMMIGRANTS.—

(1) IN GENERAL.—The Attorney General shall provide that in the case of an alien who is an eligible immigrant (as defined in subsection (b)(1)) as of January 1, 1990, who has entered the United States before such date, who resides in the United States on such date, and who is not lawfully admitted for permanent residence, subject to paragraph (2), the alien—

(A) may not be deported or otherwise required to depart from the United States, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(2) EFFECTIVE DATE OF APPLICABILITY.—For purposes of paragraph (1), in the case of an eligible immigrant who is the spouse or child of a legalized alien, paragraph (1) shall only apply on and after the date the legalized alien—

(A) has been granted permanent resident status,

(B) has completed a declaration of intention to become a citizen, and

(C) has submitted a classification petition under section 204 of the Immigration and Nationality Act to classify the eligible immigrant as a preference immigrant described in section 203(a)(2) of such Act or as an immediate relative described in section 201(b) of such Act.

(3) TERMINATION OF APPLICABILITY.—

(A)(i) Paragraph (1) shall not apply 6 months after the date the Immigration and Naturalization Service has provided the legalized alien with written notice (described in clause (ii)) unless the alien has applied for such naturalization.

(ii) The written notice referred to in clause (i) is a written notice (by certified mail, return receipt requested, in the alien's native language) stating that—

(I) the alien has become (before the date the notice is provided) eligible (by virtue of period of lawful permanent residence) to apply for naturalization, and

(II) application for naturalization must be made within 6 months to continue the benefits of this subsection.

(B) Paragraph (1) shall not apply 2 years after the date of filing a timely application for naturalization unless the alien has been naturalized as a citizen or establishes that the alien has actively pursued naturalization. Time consumed in the Service's processing the application shall not be counted toward the 2-year period.

(b) ELIGIBLE IMMIGRANT AND LEGALIZED ALIEN DEFINED.—In this section:

(1)(A) The term "eligible immigrant" means a qualified immigrant who is the spouse or child of a legalized alien and who, except as otherwise provided under paragraph (B), is admissible as an immigrant and is not described in subparagraph (C).

(B) In the determination of an alien's admissibility as an immigrant for purposes of subparagraph (A)—

(i) the provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply;

(ii) except as provided in clause (iii), the Attorney General may waive any other provision of such section in the case of individual aliens when it is in the public interest; but

(iii) the Attorney General may not waive—

(I) paragraphs (9) and (10) (relating to criminals) of such section;

(II) paragraph (23) (relating to drug offenses) of such section, except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana;

(III) paragraphs (27) and (29) (relating to national security) of such section; or

(IV) paragraph (33) (relating to those who assisted in the Nazi persecution) of such section.

(C) An alien shall not be eligible for the benefits of this section if the Attorney General finds that—

(i) the alien has been convicted of a felony or 2 or more misdemeanors in the United States, or

(ii) the alien is described in section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)).

(2) The term "legalized alien" means an alien lawfully admitted for temporary or permanent residence who was provided—

(A) temporary or permanent residence status under section 245A of the Immigration and Nationality Act,

(B) temporary or permanent residence status under section 210 of the Immigration and Nationality Act, or

(C) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

(c) APPLICATION OF DEFINITIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section.

(d) TEMPORARY DISQUALIFICATION FROM CERTAIN PUBLIC WELFARE ASSISTANCE.—Aliens provided the benefits of this section by virtue of their relation to a legalized alien described in subsection (b)(2)(A) or (b)(2)(B) shall be ineligible for public welfare assistance in the same manner and for the same period as the legalized alien is ineligible for such assistance under section 245A(h) or 210(f), respectively, of the Immigration and Nationality Act.

(e) APPLICATION OF SLIAG PROGRAM.—For purposes of section 204 of the Immigration Reform and Control Act of 1986, an alien who is the spouse or child of a legalized alien and whose deportation is suspended under this section shall be treated as an eligible legalized alien for the same period as such legalized alien is.

(f) CONSTRUCTION.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to obtain benefits under this section.

SEC. 2. IMMEDIATE RELATIVE STATUS FOR SPOUSES AND CHILDREN OF ALIENS LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.

(a) IN GENERAL.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended—

(1) In subsection (b), by inserting after the first sentence the following: "The term 'immediate relative' includes, subject to subsection (c) and beginning with fiscal year 1991, a child or spouse of an alien lawfully admitted for permanent residence.", and

(2) by adding at the end the following new subsection:

"(c) In the case of aliens who are immediate relatives (as defined in subsection (b)) as the spouse or child of an alien lawfully admitted for permanent residence, until otherwise provided by law, the number of such aliens who shall be treated as such immediate relatives in any fiscal year may not exceed 115,000. Visas shall be made available to such immediate relatives in the order in which a petition in behalf of each such alien in filed with the Attorney General as provided in section 204.".

(b) ADUSTMENT OF VISA NUMBERS.—

(1) Section 201 of such Act is further amended by striking "seventy-two thousand" and "two hunderd and seventy thousand" and inserting "65,000" and "239,000", respectively.

(2) Sections 202(e) and 203(a) of such Act (8 U.S.C. 1152(e), 1153(a)) are each amended—

(A) in paragraph (1), by striking "20 per centum" and inseting "23 percent";

(B) in paragraph (2), by striking "spouses," and by striking "26 per centun" and inserting "15 percent";

(C) in paragraphs (3) and (6), by striking "10 per centum" and inserting "11.5 percent";

(D) in paragraph (4), by striking "10 per centun" and inserting "12 percent"; and

(E) in paragraph (5), by striking "24 per centum" and inserting "27 percent".

(c) EFFECTIVE DATE.—

(1) The amendments made by this section shall be effective only for fiscal years 1991 through 1995.

(2) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before the date of the enactment of this Act, for preference status under section 203(a)(2) of scuh Act as a spouse or child of an alien lawfully admitted for permanent residence, such petition shall be deemed as of such date to be a petition for immediate relative status described in section 201(b) of such Act.

SEC. 3. BACKLOG VISA NUMBERS FOR SECOND PREFERENCES.

(a) IN GENERAL.—In addition to the number of immigrant visas otherwise made available in each of fiscal years 1991, 1992, 1993, 1994, and 1995 and without regard to the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act, there shall be made available to second preference immigrants (as defined in subsection (b)) 10,000 immigrant visa numbers.

Not more than 27 percent of each such worldwide level for a fiscal year shall be made available in any of the first 3 quarters of the fiscal year.

(b) SECOND PREFERENCE IMMIGRANT DEFINED.—In subsection (a), the term "second perference immigrant" means—

(1) an alien who is the beneficiary of a petition approved to accord status under section 203(a)(2) of the Immigration and Nationality Act, if the petition was filed before the date of the enactment of this Act, or

(2) the child of such an alien if accompanying or following to join the alien.

(c) ORDER OF CONSIDERATION.—Immigrant visas shall be made available under this section in the order in which a petition in behalf of each such alien has been filed with the Attorney General under section 204 of the Immigration and Nationality Act.

□ 1120

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. BRYANT] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, H.R. 4300 before the House today increases the level of immigration in America from 530,000 persons a year, which is the current level, to 850,000 persons a year. In fact, I think it goes far beyond that.

I submit to Members that we already admit into our country more legal immigrants every year than all the rest of the countries of the world combined, and it is very difficult to understand the justification for coming forward in this particular era in our history, and increasing that level, in view of the fact that in our Nation today we obviously cannot pay our bills, we have an enormous crime rate, we also have an education system that is straining under its burden. In view of that, many Members of this House wonder why this bill is on the floor today.

I submit to Members the one defensible purpose is to promote the notion of family unity, and so I am bringing to the House an amendment which does exactly that. My amendment would strike from the bill all the provisions which increases the level of new immigration into this country except those that relate to family unity. In effect, what it does is maintain in the bill the section which prohibits the deportation of spouses and children of aliens, which were legal in 1986 under the Immigration Reform Act of that time, and also maintains the new category in the bill which grants 115,000 visas a year for the spouses and children of permanent resident aliens, but it limits that to 5 years, unlike the current bill, which allows it to go as long as 10 years.

Finally, it also allows 10,200 visas for the unmarried adult sons and daughters of legal immigrants who otherwise have to wait a long time to be processed.

I submit to Members that the legitimate defensible purpose of this bill which the American people might be willing to tolerate is family unity. This amendment restricts the purposes of this bill to family unity, and says "We are not going to increase the level of legal immigration beyond that which we already have today at 530,000 persons per year." I think it is an amendment which might make this bill useful and acceptable to the American people. I find it to be completely indefensible to come forward in this particular time in our history and say that we ought to allow another 300,000 legal immigrants every year to come into the United States.

I yield to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I have to say, while I personally would like to see this amendment set different priorities, and especially give a great increase to employment-based immigration, nevertheless it is still an improvement over H.R. 4300. For that reason the administration supports this amendment, and I urge my colleagues to do the same.

The CHAIRMAN. Is there a Member opposed to the amendment?

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] is recognized for 10 minutes.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment offered by my good friend and fellow Member of the Texas delegation, Mr. BRYANT. There is a demonstrable need for us to revise this Nation's legal immigration law and policy. The last time this issue was examined in a comprehensive manner was 1965. A great deal has changed over the past 25 years. In order to reflect changes in regional patterns of immigration into the United States, we need to take a fresh look.

In addition. Mr. Chairman, a critical element of H.R. 4300 is its provisions dealing with employment-based immigration. These changes are vitally necessary if the United States is to remain competitive in a global economic climate.

The bill that we have before us today is the product of a great deal of research and consideration. While not all of us are likely to agree with all of its elements, I believe that it is a straightforward and worthwhile effort to reform legal immigration. Therefore, I would urge a "No" vote on the Bryant amendment.

Mr. BRYANT. Mr. Chairman, it is very difficult, I think, for most Americans and for most Members of this House to accept the premise which is offered to Members that we have a labor shortage in this country that must be remedied by allowing an additional 300,000 persons a year to enter this country. I do not believe that, when I look at newspapers and see we have 5½ percent unemployment rate, moving up to 6 percent. If we have a shortage, it is a shortage of jobs, and a shortage of training. It is not a shortage of people.

I submit to Members that there is something cruel about the notion of saying to those unemployed in our country, that they have to compete even harder to find that job because we will have 300,000 more people here next year, and the year after that, and the year after that, to compete with, that we are going to permit to come into our country with new immigrants. I don't see how that can be justified.

The authors of this bill also tried to justify, on the basis somehow or another that we need to increase diversity in this country. Yet, the provisions of their bill make special allocations of additional visas for people from Europe, when in fact, Anglo-Europeans are the majority group in this country already, and it is very difficult to understand how bringing more of them into the country could in any way increase diversity when that is the majority group already.

I submit to Members that the bill before Members today is a patchwork of special interest pleadings from various groups who want to see the immigration laws changed, in order to pursue their own particular goals of their own community. I understand that. However, we have the obligation to make policy with a national purpose, to make policy in the national interest, not simply to respond to group after group after group that calls on this Congress and asks Members to change this law because of their particular longings.

I submit to Members that an effort that increases the ability of the families in America to unify is a good effort, and we ought to restrict the purposes of this bill to that effort, not to open it up to every group that wants to come into the United States that has come forward and managed to lobby its way into this bill. That is what the amendment before the House which I offered today does.

What it says simply is this: We are going to maintain the family unity provisions. We are going to allow 125,000 additional visas for the spouses and children of American residents; we are not going to allow the deportation of spouses and children legalized in 1986, but not going to increase by 530,000 a year the number of visas for legal immigration into the country.

I do not believe the American people would support this in a minute, and I am astonished to see this Congress come forward and advocate it in a time

when we cannot even pay our bills, we cannot educate our children, we cannot fight crime. We have enormous responsibility to deal with in our country today. Let Members make this bill apply to the needs of the people who are here today, and use the resources of this country for the benefit of the people of this country.

I urge Members to vote for my amendment and restore some sanity and some genuine purpose of this bill, genuine national purpose rather than allowing the bill to serve principles of those who came forward and lobbied in a particular way to get their personal aspirations written into the bill.

□ 1130

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding this time to me.

It is with great concern that I have to oppose the amendment of my friend, the gentleman from Texas. I rise in very strong opposition to it.

Make no mistake, this amendment is a gutting amendment.

H.R. 4300 is a profamily bill, yet this amendment offered in the name of belief in profamily immigration would delete a key family provision in the bill, the fifth preference backlog reduction.

H.R. 4300 is a probusiness bill. It expands opportunities for American employers, large and small, to bring employer-sponsored immigrants who have needed skills. This amendment would delete all of the provisions in the bill for employer-sponsored immigration and temporary workers.

H.R. 4300 as it now reads addresses a potentially disastrous takeover of Hong Kong by the People's Republic of China. This amendment would delete each and every one of those provisions, and this amendment would delete the provisions added to the bill by the gentleman from Massachusetts [Mr. MOAKLEY] dealing with the stay of deportation or people from four countries where civil war and major conflict is now going on.

This amendment destroys the coalition that supports this bill. If you believe in this bill, oppose this amendment.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. FISH], the ranking minority member of the Committee on the Judiciary.

Mr. FISH. Mr. Chairman, this amendment looks more like a motion to recommit with instructions than it does a serious amendment to a piece of legislation. I speak as a member of the minority because we are pretty good at these motions to recommit. If we adopt this, we might as well have never brought this bill to the House floor. If just takes away the principal reason for the Committee on the Judiciary addressing the whole issue of legal immigration.

We are, as I indicated in the debate yesterday, several years behind. The U.S. Senate has passed their version three different times.

The genius of this legislation is the meshing of the update on family reunification, keeping that as the cornerstone of our policy, plus recognizing the needs of American business in the employment-related provisions.

If this amendment is adopted, it simply means that this body has no interest whatsoever in updating a policy and law that is 25 years old and seriously needs the direction that your committee has brought to the House floor.

Mr. Chairman, I urge very, very strongly a "No" vote.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I rise today in strong support of H.R. 4300 and in opposition to the amendment offered by the gentleman from Texas [Mr. BRYANT]. H.R. 4300 comprehensively and fairly addresses many problems in present immigration law.

Although family reunification is an important component of the American immigration system, many other vital issues addressed by H.R. 4300 are essential to fair and sensible immigration policy. Particularly, the bill's provisions enhancing the U.S. labor force and promoting cultural diversity must not be eliminated. The Bryant amendment eviscerates H.R. 4300 by dealing with only one aspect of immigration reform. It also undermines many hours of deliberations and diligent work on the part of the Judiciary Committee, as well as work done here in the Committee of the Whole.

Immigrants who arrive on our shores specifically seeking employment are a particular boom to this Nation's economy. As much recent data indicates, immigrants pay far more in taxes than they receive in benefits. In fact, tax and welfare data together indicate that, on balance, immigrants contribute an average of $1,300 per year to public coffers. Furthermore, children of immigrants have a higher labor force participation rate and greater propensity to start new businesses than children of native-born Americans.

In addition, the Department of Labor projects 6.7 million new professional and managerial jobs will be created in the 1990's across the country. Unfortunately, the education and skills of the U.S. labor force will be unable to match labor market needs. This legislaiton's employment-based immigration provisions will supplement the threatening labor supply shortage.

H.R. 4300 also balances the interests of all populations that seek to begin a new life in America. Passage of the Bryant amendment would continue the present system which over the past 25 years has denied access to certain groups.

Mr. Chairman, we take pride in our Nation's immigrant heritage, and immigrants have repaid this country by enriching it culturally and economically. I urge my colleagues to strengthen both family life and equality of opportunity in our immigration system by supporting H.R. 4300 and defeating the Bryant substitute.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I rise in opposition to this amendment, and in support of H.R. 4300. It is time we recognize that the number of people wishing to emigrate to the United States is evidence that America is still the land of dreams for the world. Because the United States is a land of opportunity, a land of freedom, a land of liberty, people the world over wish to emigrate here. This is not something to bemoan, but instead something to be proud of. And without our history of open immigration, you and I would have less opportunity, less freedom, and less liberty.

Immigrants do not hurt our country, do not take jobs from us, do not take from the Government. Rather, they invigorate our country, enrich our economy, and ennoble our Government. Studies have found, including a study by the Labor Department, that immigration does not cause unemployment or a drop in wages. Immigrants create jobs by starting new businesses, by spending in the marketplace, by investing the capital they bring with them to this country.

According to another study by the U.S. Bureau of Labor Statistics, immigrants use less social services than U.S.-born residents. And, according to a study by Julian L. Simon of the University of Maryland, over their lifetimes, immigrants pay $12,000 to $20,000 more in taxes than they use in social services. With the labor shortages we are expected to face, and with the economic spur that immigrants provide, we should be forever thankful that the world wants to come to America.

We should also remember that historically immigration is not at a high level right now. As a percent of the U.S. population, immigration is five times lower than peak immigration rates. In fact, the U.S. immigration rate of 3 immigrants per 1,000 citizens ranks us behind Australia, Canada, Germany, Sweden, Switzerland, and the United Kingdom.

H.R. 4300 promotes job-related immigration, but it also recognizes the moral and social value of family reunification immigration. For promoting immigration which brings in family members is a moral, a social, and an economic virtue. It should not be U.S. policy to separate parent from child, husband from wife. As sociologists and economists bemoan the breakup of the traditional family structure, our immigration policy should not seek to separate

families. Once again, let me cite the Department of Labor, which reports that the family unit often takes the place of Government assistance in providing a safety net for immigrants.

Mr. Chairman, America is a nation of immigrants. Each generation of immigrants adds a new dimension to our Nation's character and well-being. I urge my colleagues to defeat this amendment, and to support H.R. 4300.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. MORRISON], the chairman of the subcommittee.

Mr. MORRISON of Connecticut. Mr. Chairman, there are many things wrong with this amendment, but one of the things that is most wrong with it is that it really fails to recognize the interests of American workers.

What it would strike out is a series of very important protections against the abuse of the American work force by bringing temporary workers from overseas. Those protections would be stricken from this bill. They are extremely important because they make sure that using temporary workers, American employers cannot undercut working conditions here in the United States or bring in excessive numbers of temporary workers. It is a serious source of abuse.

In contrast, it is not an abuse to bring in permanent workers when there are no Americans who are ready to fill those positions. That is why in opposition to this amendment we have such groups as diverse as the AFL-CIO, the U.S. Chamber of Commerce, the National Association of Manufacturers, and the U.S. Catholic Conference. I do not think those groups would be all together on this if this were something that were harmful to the U.S. labor force.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, this amendment would gut the bill and gut some of the new thinking parts out of the bill.

Basically in this bill we want to allow employers to bring people who are needed into this country. Right now only 4 percent of all immigration is employer-sponsored. Companies must wait for years, even when the Department of Labor certifies there are no available American workers. That hurts our economy. That hurts every American. That would be knocked out of this bill.

Second, we have countries throughout the world, primarily in Europe and Africa, countries like Ireland, Italy, Poland, and Nigeria who cannot get people into this country, even though there are many people of that ancestry here. This bill corrects that inequity as well.

So what these two provisions, this two-thirds of the bill that the Bryant amendment would knock out is, No. 1, it says that immigration should be job related. It should help America grow economically, and No. 2, immigration should be as diverse as it once was.

This bill has the support of a broad coalition of groups. The Bryant amendment would shatter that broad support. I urge its defeat.

Mr. BRYANT. Mr. Chairman, I think I agree with most of what I have heard my adversaries this morning say. This amendment does change from the bill the new thinking. It changes from the bill the new thinking that somehow or another it is in the interest of this Nation at a time of crisis to bring not only the 530,000 people here which we bring in now, but to bring in another 300,000 or 350,000 a year also. I submit to you that is not only new thinking, that is flawed thinking and it is thinking that is way out of step with the American people.

Our legitimate purpose for this bill would be to strengthen families and to allow family unity. My amendment pares this bill down in such a way that the family unity portions are maintained, the spouses and children will be allowed to come in to join their husbands or father or mother who is here already, but we are not going to go beyond that.

The authors of this bill want to go way behond that, and they have a variety of categories. They talk about labor shortages and so forth, but they do not ever talk about the amnesties that are in this bill for a large number of different nationalities that are in the country at the present time, provisions that were lobbied into this bill by special interest groups from all over the country all over the world.

We ought to be making immigration policy for the benefit of the American people, not for the benefit of whoever shows up here lobbying and asking us to put their particular wish into our wish list bill, which is what this is, unless it is amended.

□ 1140

My amendment simply says we are going to allow for family unity but we are not going to increase above the current levels the number of immigrants which we allow in or out of the country legally. It is a sound, prudent approach supported by the administration. I think it is supported by the American people.

Mr. Chairman, I urge the Members to vote for the amendment.

I yield back the balance of time.

Mr. BROOKS. Mr. Chairman, I hope that the Members will understand the urgency of this legislation. Vote "no" on this amendment.

Mr. Chairman, I yield back the balance of my time.

PARLIAMENTARY INQUIRY

Mr. HENRY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HENRY. Mr. Chairman, there are a number of meetings back and forth with the White House and all. I understand we have a series of three votes, a vote on this Bryant amendment, then a vote on recommittal, and on final passage. Would it be possible to have the other two votes be 5-minute votes?

The CHAIRMAN. The Chair does not have the authority in the Committee of the Whole. Under the rules pertaining to the Committee, the Chair respectfully denies the request of the gentleman.

Mr. HENRY. I thank the Chair.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. BRYANT].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BRYANT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 165, noes 257, not voting 11, as follows:

[Roll No. 404]

AYES—165

Alexander	Hall (TX)	Pallone
Andrews	Hammerschmidt	Parker
Anthony	Hancock	Parris
Archer	Hansen	Patterson
Baker	Harris	Paxon
Ballenger	Hastert	Payne (VA)
Bartlett	Hatcher	Petri
Barton	Hayes (LA)	Pursell
Bateman	Hefley	Quillen
Bennett	Hefner	Ravenel
Bentley	Henry	Ray
Bilirakis	Herger	Rhodes
Bliley	Hiler	Ridge
Bonior	Holloway	Ritter
Broomfield	Hopkins	Roberts
Browder	Hubbard	Robinson
Brown (CO)	Huckaby	Rogers
Bryant	Hunter	Rowland (GA)
Bunning	Hutto	Sarpalius
Burton	Inhofe	Saxton
Byron	Ireland	Schaefer
Callahan	James	Schuette
Chandler	Jenkins	Schulze
Chapman	Johnston	Sensenbrenner
Clinger	Kaptur	Shaw
Coble	Kasich	Shumway
Coleman (MO)	Kyl	Shuster
Combest	Lagomarsino	Skeen
Craig	Leath (TX)	Skelton
Crane	Lewis (CA)	Slaughter (VA)
Dannemeyer	Lewis (FL)	Smith (NE)
DeLay	Lightfoot	Smith (TX)
Douglas	Livingston	Smith, Denny (OR)
Duncan	Lloyd	
Early	Lowery (CA)	Smith, Robert (NH)
Emerson	Lukens, Donald	
English	Marlenee	Smith, Robert (OR)
Erdreich	Martin (NY)	
Espy	McCandless	Solomon
Fawell	McCollum	Spence
Fields	McCrery	Spratt
Flippo	McCurdy	Staggers
Gallegly	McMillan (NC)	Stearns
Gallo	Michel	Stenholm
Gaydos	Miller (OH)	Stump
Gekas	Montgomery	Sundquist
Gillmor	Moorhead	Tallon
Gingrich	Morrison (WA)	Tanner
Goodling	Myers	Tauzin
Goss	Olin	Taylor
Grandy	Packard	Thomas (CA)

Thomas (GA)	Vander Jagt	Wolf
Thomas (WY)	Volkmer	Wylie
Traxler	Walker	Yatron
Upton	Watkins	Young (AK)
Valentine	Whittaker	Young (FL)

NOES—257

Ackerman	Gray	Obey
Anderson	Green	Ortiz
Annunzio	Guarini	Owens (NY)
Applegate	Gunderson	Owens (UT)
Armey	Hall (OH)	Oxley
Aspin	Hamilton	Panetta
Atkins	Hawkins	Pashayan
AuCoin	Hayes (IL)	Payne (NJ)
Bates	Hertel	Pease
Beilenson	Hoagland	Pelosi
Bereuter	Hochbrueckner	Penny
Berman	Horton	Perkins
Bilbray	Houghton	Pickett
Boehlert	Hoyer	Pickle
Borski	Hughes	Porter
Bosco	Hyde	Poshard
Boucher	Jacobs	Price
Boxer	Johnson (CT)	Rahall
Brennan	Johnson (SD)	Rangel
Brooks	Jones (GA)	Regula
Brown (CA)	Jones (NC)	Richardson
Bruce	Jontz	Rinaldo
Buechner	Kanjorski	Roe
Bustamante	Kastenmeier	Rohrabacher
Campbell (CO)	Kennedy	Ros-Lehtinen
Cardin	Kennelly	Rose
Carper	Kildee	Rostenkowski
Carr	Kleczka	Roth
Clarke	Kolbe	Roukema
Clay	Kolter	Roybal
Clement	Kostmayer	Russo
Coleman (TX)	LaFalce	Sabo
Collins	Lancaster	Saiki
Condit	Lantos	Sangmeister
Conte	Laughlin	Savage
Conyers	Leach (IA)	Sawyer
Cooper	Lehman (CA)	Scheuer
Costello	Lehman (FL)	Schiff
Coughlin	Lent	Schneider
Courter	Levin (MI)	Schroeder
Cox	Levine (CA)	Schumer
Coyne	Lewis (GA)	Serrano
Darden	Lipinski	Sharp
Davis	Long	Shays
de la Garza	Lowey (NY)	Sikorski
DeFazio	Luken, Thomas	Sisisky
Dellums	Machtley	Skaggs
Derrick	Madigan	Slattery
DeWine	Manton	Slaughter (NY)
Dickinson	Markey	Smith (FL)
Dicks	Martin (IL)	Smith (IA)
Dingell	Matsui	Smith (NJ)
Dixon	Mavroules	Smith (VT)
Donnelly	Mazzoli	Snowe
Dorgan (ND)	McCloskey	Solarz
Dornan (CA)	McDade	Stallings
Downey	McDermott	Stangeland
Dreier	McEwen	Stark
Durbin	McGrath	Stokes
Dwyer	McHugh	Studds
Dymally	McMillen (MD)	Swift
Dyson	McNulty	Synar
Eckart	Meyers	Tauke
Edwards (CA)	Mfume	Torres
Edwards (OK)	Miller (CA)	Torricelli
Evans	Miller (WA)	Towns
Fascell	Mineta	Traficant
Fazio	Mink	Udall
Feighan	Moakley	Unsoeld
Fish	Molinari	Vento
Flake	Mollohan	Visclosky
Foglietta	Moody	Walgren
Ford (MI)	Morella	Walsh
Ford (TN)	Morrison (CT)	Washington
Frank	Mrazek	Waxman
Frost	Murphy	Weber
Gejdenson	Murtha	Weiss
Gephardt	Nagle	Wheat
Geren	Natcher	Whitten
Gibbons	Neal (MA)	Williams
Gilman	Neal (NC)	Wilson
Glickman	Nelson	Wise
Gonzalez	Nielson	Wolpe
Gordon	Nowak	Wyden
Gradison	Oakar	Yates
Grant	Oberstar	

NOT VOTING—11

Barnard	Crockett	Rowland (CT)
Bevill	Engel	Vucanovich
Boggs	Frenzel	Weldon
Campbell (CA)	Martinez	

□ 1201

Messrs. McEWEN. GORDON, and CONYERS changed their vote from "aye" to "no."

Messrs. SAXTON, YATRON, TRAXLER, and SPRATT changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BROWN of California) having assumed the chair, Mr. DARDEN Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4300) to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes, pursuant to House Resolution 484, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute, as modified, as amended? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill.

Mr. SMITH of Texas. I am opposed to the bill, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SMITH of Texas moves to recommit the bill, H.R. 4300, to the Committee on the Judiciary.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SMITH of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 176, noes 248, not voting 9, as follows:

[Roll No. 405]

AYES—176

Alexander	Goss	Paxon
Andrews	Grandy	Penny
Applegate	Grant	Petri
Archer	Hall (TX)	Pursell
Armey	Hammerschmidt	Ravenel
Baker	Hancock	Ray
Ballenger	Hansen	Regula
Barnard	Harris	Rhodes
Bartlett	Hastert	Ridge
Barton	Hefley	Ritter
Bateman	Henry	Roberts
Bennett	Herger	Robinson
Bentley	Hiler	Rogers
Bereuter	Hoagland	Roth
Bevill	Holloway	Roukema
Bilirakis	Hopkins	Sarpalius
Bliley	Houghton	Savage
Broomfield	Hubbard	Saxton
Browder	Huckaby	Schaefer
Brown (CO)	Hughes	Schuette
Bryant	Hunter	Schulze
Buechner	Hutto	Sensenbrenner
Bunning	Inhofe	Shaw
Burton	Ireland	Shumway
Byron	James	Shuster
Callahan	Johnston	Skeen
Chandler	Kasich	Slaughter (VA)
Chapman	Kolbe	Smith (NE)
Clement	Kyl	Smith (TX)
Clinger	Lagomarsino	Smith, Denny (OR)
Coble	Leath (TX)	Smith, Robert (NH)
Coleman (MO)	Lewis (CA)	Smith, Robert (OR)
Combest	Lewis (FL)	Solomon
Coughlin	Lightfoot	Spence
Cox	Livingston	Stallings
Craig	Lloyd	Stangeland
Crane	Lowery (CA)	Stearns
Dannemeyer	Lukens, Donald	Stenholm
Davis	Madigan	Stump
DeLay	Marlenee	Sundquist
Dickinson	Martin (NY)	Tallon
Dornan (CA)	McCandless	Tauke
Douglas	McCollum	Tauzin
Dreier	McCrery	Taylor
Duncan	McCurdy	Thomas (CA)
Early	McEwen	Thomas (WY)
Edwards (OK)	McMillan (NC)	Upton
Emerson	Meyers	Valentine
English	Michel	Vander Jagt
Erdreich	Miller (OH)	Walker
Fawell	Montgomery	Watkins
Fields	Moorhead	Whittaker
Flippo	Morrison (WA)	Wolf
Frenzel	Myers	Wylie
Gallegly	Nielson	Young (AK)
Gallo	Oxley	Young (FL)
Gekas	Packard	
Gillmor	Parker	
Gingrich	Parris	
Goodling	Pashayan	

NOES—248

Ackerman	Hatcher	Pallone
Anderson	Hawkins	Panetta
Annunzio	Hayes (IL)	Patterson
Anthony	Hayes (LA)	Payne (NJ)
Aspin	Hefner	Payne (VA)
Atkins	Hertel	Pease
AuCoin	Hochbrueckner	Pelosi
Bates	Horton	Perkins
Beilenson	Hoyer	Pickett
Berman	Hyde	Pickle
Bilbray	Jacobs	Porter
Boehlert	Jenkins	Poshard
Bonior	Johnson (CT)	Price
Borski	Johnson (SD)	Quillen
Bosco	Jones (GA)	Rahall
Boucher	Jones (NC)	Rangel
Boxer	Jontz	Richardson
Brennan	Kanjorski	Rinaldo
Brooks	Kaptur	Roe
Brown (CA)	Kastenmeier	Rohrabacher
Bruce	Kennedy	Ros-Lehtinen
Bustamante	Kennelly	Rose
Campbell (CO)	Kildee	Rostenkowski
Cardin	Kleczka	Rowland (GA)
Carper	Kolter	Roybal
Carr	Kostmayer	Russo
Clarke	LaFalce	Sabo
Clay	Lancaster	Saiki
Coleman (TX)	Lantos	Sangmeister
Collins	Laughlin	Sawyer
Condit	Leach (IA)	Scheuer
Conte	Lehman (CA)	Schiff
Conyers	Lehman (FL)	Schneider
Cooper	Lent	Schroeder
Costello	Levin (MI)	Schumer
Courter	Levine (CA)	Serrano
Coyne	Lewis (GA)	Sharp
Darden	Lipinski	Shays
de la Garza	Long	Sikorski
DeFazio	Lowey (NY)	Sisisky
Dellums	Luken, Thomas	Skaggs
Derrick	Machtley	Skelton
DeWine	Manton	Slattery
Dicks	Markey	Slaughter (NY)
Dingell	Martin (IL)	Smith (IA)
Dixon	Martinez	Smith (NJ)
Donnelly	Matsui	Smith (VT)
Dorgan (ND)	Mavroules	Snowe
Downey	Mazzoli	Solarz
Durbin	McCloskey	Spratt
Dwyer	McDade	Staggers
Dymally	McDermott	Stark
Dyson	McGrath	Stokes
Eckart	McHugh	Studds
Edwards (CA)	McMillen (MD)	Swift
Espy	McNulty	Synar
Evans	Mfume	Tanner
Fascell	Miller (CA)	Thomas (GA)
Fazio	Miller (WA)	Torres
Feighan	Mineta	Torricelli
Fish	Mink	Towns
Flake	Moakley	Traficant
Foglietta	Molinari	Traxler
Ford (MI)	Mollohan	Udall
Ford (TN)	Moody	Unsoeld
Frank	Morella	Vento
Frost	Morrison (CT)	Visclosky
Gaydos	Mrazek	Volkmer
Gejdenson	Murphy	Walgren
Gephardt	Murtha	Walsh
Geren	Nagle	Washington
Gibbons	Natcher	Waxman
Gilman	Neal (MA)	Weber
Glickman	Neal (NC)	Weiss
Gonzalez	Nelson	Wheat
Gordon	Nowak	Williams
Gradison	Oakar	Wilson
Gray	Oberstar	Wise
Green	Obey	Wolpe
Guarini	Olin	Wyden
Gunderson	Ortiz	Yates
Hall (OH)	Owens (NY)	Yatron
Hamilton	Owens (UT)	

NOT VOTING—9

Boggs	Engel	Vucanovich
Campbell (CA)	Rowland (CT)	Weldon
Crockett	Smith (FL)	Whitten

□ 1222

Mr. HOAGLAND changed his vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BROWN of California). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOKS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair will remind the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—231, nays 192, not voting 10, as follows:

[Roll No. 406]

YEAS—231

Ackerman	Gibbons	Mollohan
Alexander	Gilman	Moody
Anderson	Gingrich	Morella
Annunzio	Glickman	Morrison (CT)
Anthony	Gonzalez	Morrison (WA)
Aspin	Gradison	Mrazek
Atkins	Gray	Murphy
AuCoin	Green	Murtha
Bates	Guarini	Nagle
Berman	Gunderson	Neal (MA)
Bilbray	Hall (OH)	Nowak
Boehlert	Hamilton	Oakar
Bonior	Hawkins	Oberstar
Borski	Hayes (IL)	Obey
Bosco	Hertel	Ortiz
Boucher	Hochbrueckner	Owens (NY)
Boxer	Horton	Owens (UT)
Brennan	Hoyer	Pallone
Brooks	Hunter	Panetta
Brown (CA)	Hyde	Pashayan
Bruce	Jacobs	Payne (NJ)
Bustamante	Johnson (CT)	Pease
Campbell (CO)	Johnson (SD)	Pelosi
Cardin	Jones (NC)	Penny
Carper	Jontz	Pickett
Carr	Kanjorski	Pickle
Clarke	Kaptur	Porter
Clay	Kastenmeier	Poshard
Coleman (TX)	Kennedy	Price
Collins	Kennelly	Rahall
Condit	Kildee	Rangel
Conte	Kleczka	Richardson
Conyers	Kolter	Rinaldo
Costello	Kostmayer	Roe
Courter	LaFalce	Rohrabacher
Coyne	Lantos	Ros-Lehtinen
Darden	Leach (IA)	Rose
de la Garza	Lehman (CA)	Rostenkowski
DeFazio	Lehman (FL)	Roybal
Dellums	Lent	Russo
DeWine	Levin (MI)	Sabo
Dicks	Levine (CA)	Saiki
Dingell	Lewis (GA)	Sangmeister
Dixon	Lipinski	Sawyer
Donnelly	Lowey (NY)	Scheuer
Dorgan (ND)	Luken, Thomas	Schiff
Dornan (CA)	Machtley	Schneider
Downey	Madigan	Schroeder
Durbin	Manton	Schumer
Dwyer	Markey	Serrano
Dymally	Martin (IL)	Sharp
Eckart	Martinez	Shays
Edwards (CA)	Matsui	Sikorski
Espy	Mavroules	Skaggs
Evans	McCloskey	Skeen
Fascell	McDade	Slattery
Fazio	McDermott	Slaughter (NY)
Feighan	McGrath	Smith (FL)
Fish	McHugh	Smith (IA)
Flake	McMillen (MD)	Smith (NJ)
Foglietta	McNulty	Smith (VT)
Ford (MI)	Mfume	Snowe
Ford (TN)	Miller (CA)	Solarz
Frank	Miller (WA)	Staggers
Frost	Mineta	Stangeland
Gaydos	Mink	Stark
Gejdenson	Moakley	Stokes
Gephardt	Molinari	Studds
Swift	Unsoeld	Wheat
Synar	Vento	Williams
Tauke	Visclosky	Wilson
Thomas (CA)	Walgren	Wise
Torres	Walsh	Wolpe
Torricelli	Washington	Wyden
Towns	Waxman	Yates
Traxler	Weber	Yatron
Udall	Weiss	Young (AK)

NAYS—192

Andrews	Hall (TX)	Patterson
Applegate	Hammerschmidt	Paxon
Archer	Hancock	Payne (VA)
Armey	Hansen	Perkins
Baker	Harris	Petri
Ballenger	Hastert	Pursell
Barnard	Hatcher	Quillen
Bartlett	Hayes (LA)	Ravenel
Barton	Hefley	Ray
Bateman	Hefner	Regula
Beilenson	Henry	Rhodes
Bennett	Herger	Ridge
Bentley	Hiler	Ritter
Bereuter	Hoagland	Roberts
Bevill	Holloway	Robinson
Bilirakis	Hopkins	Rogers
Billey	Houghton	Roth
Broomfield	Hubbard	Roukema
Browder	Huckaby	Rowland (GA)
Brown (CO)	Hughes	Sarpalius
Bryant	Hutto	Savage
Buechner	Inhofe	Saxton
Bunning	Ireland	Schaefer
Burton	James	Schuette
Byron	Jenkins	Schulze
Callahan	Johnston	Sensenbrenner
Chandler	Kasich	Shaw
Chapman	Kolbe	Shumway
Clement	Kyl	Shuster
Clinger	Lagomarsino	Sisisky
Coble	Lancaster	Skelton
Coleman (MO)	Laughlin	Slaughter (VA)
Combest	Leath (TX)	Smith (NE)
Cooper	Lewis (CA)	Smith (TX)
Coughlin	Lewis (FL)	Smith, Denny (OR)
Cox	Lightfoot	Smith, Robert (NH)
Craig	Livingston	Smith, Robert (OR)
Crane	Lloyd	Solomon
Dannemeyer	Long	Spence
Davis	Lowery (CA)	Spratt
DeLay	Lukens, Donald	Stallings
Derrick	Marlenee	Stearns
Dickinson	Martin (NY)	Stenholm
Douglas	Mazzoli	Stump
Dreier	McCandless	Sundquist
Duncan	McCollum	Tallon
Dyson	McCrery	Tanner
Early	McCurdy	Tauzin
Edwards (OK)	McEwen	Taylor
Emerson	McMillan (NC)	Thomas (GA)
English	Meyers	Thomas (WY)
Erdreich	Michel	Traficant
Fawell	Miller (OH)	Upton
Fields	Montgomery	Valentine
Frenzel	Moorhead	Vander Jagt
Gallegly	Myers	Volkmer
Gallo	Natcher	Walker
Gekas	Neal (NC)	Watkins
Geren	Nelson	Whittaker
Gillmor	Nielson	Wolf
Goodling	Olin	Wylie
Gordon	Oxley	Young (FL)
Goss	Packard	
Grandy	Parker	
Grant	Parris	

NOT VOTING—10

Boggs	Flippo	Weldon
Campbell (CA)	Jones (GA)	Whitten
Crockett	Rowland (CT)	
Engel	Vucanovich	

□ 1232

Messrs. EDWARDS of Oklahoma, NATCHER, and GEREN of Texas changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, pursuant to the rule, I call up the Senate bill (S. 358) to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike out all after the enacting clause of the Senate bill, S. 358, and to insert in lieu thereof the provisions of the bill, H.R. 4300, as passed by the House, as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family Unity and Employment Opportunity Immigration Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION

Subtitle A—Admission and Status

Sec. 101. Separate levels for family-sponsored and employment-based immigration.
Sec. 102. Preference system for admission of immigrants.
Sec. 103. Alternative labor attestation process.
Sec. 104. Nonimmigrant classifications.
Sec. 105. Admission of aliens in religious occupations.
Sec. 106. Denial of crewmember status in the case of certain labor disputes.
Sec. 107. Effective dates; transition.

Subtitle B—Education and Training of American Workers

Sec. 111. Educational assistance and training.
Sec. 112. Higher education scholarship program for mathematics and sciences.

TITLE II—OTHER PROVISIONS REGARDING IMMIGRANT VISAS

Sec. 201. Transition for aliens who are natives of certain adversely affected foreign states.
Sec. 202. Transition for certain displaced aliens.
Sec. 203. Transition for African immigrants.
Sec. 204. Backlog visa numbers for second and fifth preferences.
Sec. 205. Transition for third and sixth preference.
Sec. 206. Transition for employees of certain United States businesses operating in Hong Kong.
Sec. 207. Treatment of Hong Kong as separate foreign state for numerical limitation purposes.
Sec. 208. Permitting extension of period of validity of immigrant visas for certain residents of Hong Kong.
Sec. 209. Transition for aliens who have been notified of availability of NP-5 visas.

TITLE III—OTHER IMMIGRATION PROVISIONS

Subtitle A—Provisions Relating to Marriage Fraud

Sec. 301. Battered spouse or child waiver of the conditional residence requirement.
Sec. 302. Bona fide marriage exception to foreign residence requirement for marriages entered into during certain immigration proceedings.

Subtitle B—Provisions Relating to Immigration Reform and Control Act of 1986

Sec. 311. Application of employer sanctions to longshore work.
Sec. 312. Elimination of paperwork requirement for recruiters and referrers.
Sec. 313. Permitting court-ordered remedies in certain circumstances.
Sec. 314. Prohibition of deportation of spouses and children of legalized aliens.
Sec. 315. Treatment of certain legalization applicants.
Sec. 316. Reimbursement through Immigration Emergency Fund of localities impacted by increases in aliens applying for asylum.
Sec. 317. Clarification of authorization of appropriations for the Immigration Emergency Fund.
Sec. 318. Revision and extension of the visa waiver pilot program.
Sec. 319. 1-year extension in deadline for filing applications for adjustment from temporary to permanent residence for legalized aliens.

Subtitle C—Miscellaneous

Sec. 321. Special immigrant status for certain aliens declared dependent on a juvenile court.
Sec. 322. Statistical information system.
Sec. 323. Revision of health grounds for exclusion.
Sec. 324. Temporary protected status for nationals of El Salvador, Lebanon, Liberia, and Kuwait, and other designated foreign states.
Sec. 325. Limitation on detention of certain aliens with dependent children.
Sec. 326. Waiver of English language requirement for naturalization.
Sec. 327. Treatment of service in armed forces of a foreign country.
Sec. 328. Opportunity for adjustment of status before termination of asylum status.
Sec. 329. Timing of payment of fee for applications to file petitions for naturalization.
Sec. 330. Use of immigration examinations fee account for promotion of citizenship.
Sec. 331. Report concerning administrative denials of applications for naturalization.
Sec. 332. Increase by 1,000 in border patrol personnel.

TITLE I—FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION

Subtitle A—Admission and Status

SEC. 101. SEPARATE LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRATION.

(a) IN GENERAL.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended to read as follows:

"WORLDWIDE LEVEL OF IMMIGRATION

"SEC. 201. (a) IN GENERAL.—Exclusive of aliens described in subsection (b), aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family-sponsored immigrants described in section 203(a) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a)) in a number not to exceed in any fiscal year 185,000 and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year;

"(2) employment-based immigrants described in section 203(b) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b)), in a number not to exceed 65,000 in each of fiscal years 1992 through 1996, and not to exceed 75,000 in each fiscal year thereafter and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year; and

"(3) for fiscal years beginning with fiscal year 1994, diversity immigrants described in section 203(c) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(c)) in a number not to exceed 55,000 in each fiscal year and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under this paragraph for all of such fiscal year.

"(b) ALIENS NOT SUBJECT TO NUMERICAL LIMITATIONS.—The following aliens are not subject to the worldwide levels or numerical limitations of subsection (a):

"(1)(A) Special immigrants described in section 101(a)(27).

"(B) Aliens who are admitted under section 207 or whose status is adjusted under section 209.

"(C) Aliens whose status is adjusted to permanent residence under section 210, 210A, or 245A.

"(D) Aliens provided permanent resident status under section 249.

"(2)(A)(i) Immediate relatives. For purposes of this clause, the term 'immediate relative' means a child or spouse of a citizen of the United States and a parent of a citizen of the United States who is at least 21 years of age, and includes, subject to subsection (c) and beginning with fiscal year 1991, a child or spouse of an alien lawfully admitted for permanent residence. In the case of an alien who was the spouse of a citizen of the United States for at least 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, the alien shall be considered, for purposes of this clause, to remain an immediate relative after the date of the citizen's death but only if the spouse files a petition under section 204(a)(1)(A) within 2 years after such date and only until the date the spouse remarries.

"(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative.

"(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

"(3) An alien who is provided immigrant status under section 203(d) as the spouse or child of an immigrant under section 203(b).

"(c) TREATMENT OF IMMEDIATE RELATIVES OF PERMANENT RESIDENT ALIENS.—In the case of aliens who are immediate relatives (as defined in subsection (b)(2)(A)(i)) as the spouse or child of an alien lawfully admitted for permanent residence, until otherwise provided by law, the number of such aliens who shall be treated as such immediate relatives in any fiscal year may not exceed 115,000. Visas shall be made available to such immediate relatives in the order in which a petition in behalf of each such alien is filed with the Attorney General as provided in section 204.".

(b) PER COUNTRY IMMIGRATION LEVELS.—Section 202 of such Act (8 U.S.C. 1152) is amended—

(1) in subsection (a), by striking "paragraphs (1) through (7) of section 203(a)" and inserting "subsections (a) and (b) of section 203",

(2) in subsection (c), by striking "a special immigrant" and all that follows through "201(b)" and inserting "an alien described in section 201(b)", and

(3) by amending subsection (e) to read as follows:

"(e) Where it is determined that the maximum number of immigrant visas will be made available under this section to natives of any single foreign state or dependent area in any fiscal year, in determining whether to provide for immigrant visa numbers to natives under section 203(a) or under section 203(b), visa numbers with respect to natives of that state or dependent area shall be allocated (to the extent practicable and otherwise consistent with this section and section 203) in a manner so that—

"(1) the ratio of the visa numbers made available under section 203(a) to the visa numbers made available under section 203(b) is equal to 3 to 1; and

"(2) the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the proportion of the total number of visas made available under the respective paragraph to the total number of visas made available under such section.

Nothing in this subsection shall be construed as limiting the number of visas which may be issued to natives of a state or dependent area under section 203(a) or 203(b) if there is insufficient demand for visas for such natives under section 203(b) or 203(a), respectively.".

(c) REMOVAL OF LIMITATION ON ASYLUM ADJUSTMENTS UNDER REFUGEE NUMERICAL LIMITATION.—Section 209(b) of such Act (8 U.S.C. 1159(b)) is amended by striking "Not more than five thousand of the refugee admissions" and inserting "Refugee admissions".

(d) CLERICAL AMENDMENT.—The item in the table of contents of the Immigration and Nationality Act relating to section 201 is amended to read as follows:

"Sec. 201. Worldwide level of immigration.".

SEC. 102. PREFERENCE SYSTEM FOR ADMISSION OF IMMIGRANTS.

(a) IN GENERAL.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended—

(1) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively;

(2) by striking subsection (a) and inserting the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(a)(1) for family-sponsored immigrants shall be allotted visas as follows:

"(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 30 percent of such worldwide level.

"(2) UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the unmarried sons or unmarried daughters of aliens lawfully admitted for permanent residence shall be allocated visas in a number not to exceed 19 percent of such worldwide level, plus any visas not required for the class specified in paragraph (1).

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 16 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas in a number not to exceed 35 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) through (3).

"(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(a)(2) for employment-based immigrants in a fiscal year shall be allotted visas as follows:

"(1) PRIORITY WORKERS.—Visas shall first be made available to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (D), except that not more than 2,000 such visa numbers may be made available in any fiscal year to aliens under subparagraph (D):

"(A) ALIENS WITH EXTRAORDINARY ABILITY.—An alien is described in this subparagraph if—

"(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

"(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

"(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

"(B) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien is described in this subparagraph if—

"(i) the alien is recognized internationally as outstanding in a specific academic area,

"(ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

"(iii) the alien seeks to enter the United States—

"(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

"(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

"(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

"(C) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

"(D) ALIENS WITH BUSINESS EXPERTISE.—An alien is described in this subparagraph if the alien is coming to the United States to perform services not of a temporary nature in business requiring special expertise and has an advanced degree in a field relating to that special expertise.

"(2) OTHER EMPLOYMENT-BASED ALIENS.—

"(A) IN GENERAL.—Visas made available under section 201(a)(2) for a fiscal year not otherwise made available under paragraph (1) shall be made available to qualified immigrants who are capable of performing specified labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

"(B) LABOR CERTIFICATION REQUIRED.—No immigrant visa shall be issued to an immigrant under this paragraph before the date the consular officer receives a certification made by the Secretary of Labor under section 212(a)(14).

"(C) PRIORITY FOR NATIVES OF ADVERSELY AFFECTED FOREIGN STATES.—

"(i) APPLICATION IN FISCAL YEARS 1992 THROUGH 1996.—Immigrant visas made available under this paragraph for any quarter in fiscal year 1992, 1993, 1994, 1995, or 1996, shall first be issued, in a number not to exceed 5,200 in any quarter, to eligible immigrants who are natives of an adversely affected foreign state (as defined in clause (iii)) in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204. Any remaining visas made available under this paragraph for such a quarter shall be issued to all eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204.

"(ii) SUBSEQUENT FISCAL YEARS.—Visas made available under this paragraph for any quarter in a fiscal year after fiscal year 1996 shall be issued to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204.

"(iii) ADVERSELY AFFECTED FOREIGN STATE DEFINED.—In this subparagraph, the term 'adversely affected foreign state' means a foreign state that is not contiguous to the United States and that was identified as an adversely affected foreign state for purposes of section 314 of the Immigration Reform and Control Act of 1986.

"(c) DIVERSITY IMMIGRANTS.—

"(1) IN GENERAL.—Visas made available under section 201(a)(3) for a fiscal year shall be made available in each fiscal year to qualified immigrants who are natives of foreign states in a region as follows:

"(A) DETERMINATION OF PREFERENCE IMMIGRATION.—The Attorney General shall determine for the most recent previous 5-fiscal-year period for which data are available, the

total number of aliens who are natives of each foreign state and who (i) were admitted or otherwise provided lawful permanent resident status (other than under this subsection) and (ii) were subject to the numerical limitations of section 201(a) (other than paragraph (3) thereof) or who were admitted or otherwise provided lawful permanent resident status as an immediate relative or other alien described in section 201(b)(2) or 201(b)(3).

"(B) IDENTIFICATION OF HIGH-ADMISSION AND LOW-ADMISSION REGIONS AND HIGH-ADMISSION AND LOW-ADMISSION STATES.—The Attorney General—

"(i) shall identify—

"(I) each region (each in this paragraph referred to as a 'high-admission region') for which the total of the numbers determined under subparagraph (A) for states in the region is greater than 1/6 of the total of all such numbers, and

"(II) each other region (each in this paragraph referred to as a 'low-admission region'); and

"(ii) shall identify—

"(I) each foreign state for which the number determined under subparagraph (A) is greater than 50,000 (each such state in this paragraph referred to as a 'high-admission state'), and

"(II) each other foreign state (each such state in this paragraph referred to as a 'low-admission state').

"(C) DETERMINATION OF PERCENTAGE OF WORLDWIDE IMMIGRATION ATTRIBUTABLE TO HIGH-ADMISSION REGIONS.—The Attorney General shall determine the percentage of the total of the numbers determined under subparagraph (A) that are numbers for foreign states in high-admission regions.

"(D) DETERMINATION OF REGIONAL POPULATIONS EXCLUDING HIGH-ADMISSION STATES AND RATIOS OF POPULATIONS OF REGIONS WITHIN LOW-ADMISSION REGIONS AND HIGH-ADMISSION REGIONS.—The Attorney General shall determine—

"(i) based on available estimates for each region, the total population of each region not including the population of any high-admission state;

"(ii) for each low-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the low-admission regions; and

"(iii) for each high-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the high-admission regions.

"(E) DISTRIBUTION OF VISAS.—

"(i) NO VISAS FOR NATIVES OF HIGH-ADMISSION STATES.—The percentage of visas made available under this paragraph to natives of a high-admission state is 0.

"(ii) FOR LOW-ADMISSION STATES IN LOW-ADMISSION REGIONS.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a low-admission region is the product of—

"(I) the percentage determined under subparagraph (C), and

"(II) the population ratio for that region determined under subparagraph (D)(ii).

"(iii) FOR LOW-ADMISSION STATES IN HIGH-ADMISSION REGIONS.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a high-admission region is the product of—

"(I) 100 percent minus the percentage determined under subparagraph (C), and

"(II) the population ratio for that region determined under subparagraph (D)(iii).

"(iv) REDISTRIBUTION OF UNUSED VISA NUMBERS.—If the Secretary of State estimates that the number of immigrant visas to be issued to natives in any region for a fiscal year under this paragraph is less than the number of immigrant visas made available to such natives under this paragraph for the fiscal year, subject to clause (v), the excess visa numbers shall be made available to natives (other than natives of a high-admission state) of the other regions in proportion to the percentages otherwise specified in clauses (ii) and (iii).

"(v) LIMITATION ON VISAS FOR NATIVES OF A SINGLE FOREIGN STATE.—The percentage of visas made available under this paragraph to natives of any foreign state for any fiscal year shall not exceed 7 percent.

"(2) REGION DEFINED.—Only for purposes of administering the diversity program under this subsection, Northern Ireland shall be treated as a separate foreign state, each colony or other component or dependent area of a foreign state overseas from the foreign state shall be treated as part of the foreign state, and each of the following shall be considered to be a separate region:

"(A) Africa.

"(B) Asia.

"(C) Europe.

"(D) North America (other than Mexico).

"(E) Oceania.

"(F) South America, Mexico, Central America, and the Caribbean.

"(d) TREATMENT OF FAMILY MEMBERS.—A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a), (b), or (c) be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.";

(3) in subsection (e) (as so redesignated)—

(A) by inserting "PRIORITY WITHIN PREFERENCE CLASS.—" before "In considering",

(B) by inserting "or (b)" after "under subsection (a)", and

(C) by inserting "or (b), respectively" after "in subsection (a)";

(4) in subsection (f) (as so redesignated)—

(A) by striking "Immigrant visas" and inserting "PRIORITY OF VISA ISSUANCE.—(1) Except as provided in subsection (b)(2)(C), immigrant visas",

(B) by striking "paragraphs (1) through (6) of subsection (a)" and inserting "subsection (a) or (b)", and

(C) by adding at the end the following:

"(2) Immigrant visa numbers made available under section 201(a)(3) in a fiscal year for natives of low-admission states shall be made available to qualified immigrants who have filed petitions under section 204(a)(1)(F) strictly in a random order established by the Secretary of State for the fiscal year involved.

"(3) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.";

(5) in subsection (g) (as so redesignated)—

(A) by striking the first sentence and inserting "REQUIREMENT FOR PETITION APPROVAL.—", and

(B) by striking "to be an immediate relative" and all that follows through "subsection (a)," and inserting "to be entitled to a status for which a petition is required under section 204(a)(1),"; and

(6) in subsection (h) (as so redesignated)—

(A) by inserting "USE OF ESTIMATES AND TERMINATION OF REGISTRATION.—" before "For the purposes", and

(B) by striking "of subsection (a)" and inserting "under subsections (a), (b), and (c)".

(b) CHANGES IN PETITIONING PROCEDURE.—Section 204 of such Act (8 U.S.C. 1154) is amended—

(1) in subsection (a)(1), by striking "(a)(1)" and all that follows through the end and inserting the following:

"(a)(1)(A) Any citizen of the United States claiming that an alien is entitled to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 203(a) or to an immediate relative status under section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification. An alien desiring to be classified as an immediate relative under the second sentence of section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification.

"(B) Any alien lawfully admitted for permanent residence claiming that an alien is entitled to an immediate relative status under section 201(b)(2)(A)(i) or a classification by reason of the relationship described in section 203(a)(2) may file a petition with the Attorney General for such classification.

"(C) Any alien desiring to be classified under section 203(b)(1)(A) (or any person on behalf of such an alien) (relating to aliens with extraordinary ability) may file a petition with the Attorney General for such classification.

"(D) Any employer (or representative of one or more employers) desiring and intending to employ within the United States an alien entitled to classification under section 203(b)(1)(B), 203(b)(1)(C), 203(b)(1)(D), or 203(b)(2) (relating to outstanding professors and researchers, certain multinational executives and managers, aliens with business expertise, and other employment-based aliens) may file a petition with the Attorney General for such classification.

"(E)(i) Any alien desiring to be provided an immigrant visa under section 203(c) (relating to diversity immigrants) with respect to a petitioning period may file a petition at the place and time determined by the Secretary of State for that period. The Secretary of State shall designate a period for the filing of petitions under this subparagraph with respect to one or two fiscal years. Only one such petition may be filed by an alien with respect to any petitioning period, and, if more than one petition is submitted, all such petitions submitted for the period by the alien shall be void. Petitions submitted for consideration with respect to any petitioning period shall be valid only with respect to such period and not with respect to subsequent periods.

"(ii) The Secretary of State shall establish a fee for the filing of such petitions in an amount sufficient to cover the costs of processing petitions under this subparagraph. The Secretary of State shall deposit payments received under this clause in a separate account and amounts in such account shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this paragraph.";

(2) in paragraph (2)(A)—

(A) by striking "spousal second preference petition" each place it appears and inserting "spousal alien immediate relative petition", and

(B) by striking "preference status under section 203(a)(2)" and inserting "immediate

relative status under section 201(b)(2)(A)(i)";

(3) in subsection (b)—

(A) by striking "After an investigation" and inserting "Except in the case of a petition under subsection (a)(1)(E), after an investigation",

(B) by striking ", and after consultation" and all that follows through "203(a) (3) or (6),",

(C) by inserting "or 203(b)" after "203(a)", and

(D) by inserting after the first sentence the following: "In making determinations under section 203(b)(1)(A)(i) (relating to demonstration of extraordinary ability) the Attorney General shall consult with peer groups in the area of the alien's ability, and in making determinations under section 203(b)(1)(B)(i) (relating to international recognition as outstanding in a specific academic area), the Attorney General shall consult with peer groups in the academic area of the alien's recognized ability.";

(4) in subsection (e), by inserting "or 203(b)" after "203(a)";

(5) by striking subsection (f);

(6) in subsection (g)(1)—

(A) by striking "201(b)" and inserting "201(b)(2)(A)(i)", and

(B) by striking "203(a)(4)" and inserting "203(a)(3)"; and

(7) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(c) PROCESSING FEE.—Section 204(b) of such Act (8 U.S.C. 1154(b)) is amended by inserting "(1)" after "(b)" and by adding at the end the following new paragraph:

"(2) The Attorney General shall require by regulation, as a condition for the acceptance and approval of a petition under this section with respect to immigrants described in section 203(b), the payment of a fee to recover the reasonable costs of processing such a petition with respect to immigrants described in such section.".

(d) DEFINITIONS OF MANAGERIAL CAPACITY AND EXECUTIVE CAPACITY.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

"(44)(A) The term 'managerial capacity' means an assignment within an organization in which the employee primarily—

"(i) manages the organization, or a department, subdivision, function, or component of the organization;

"(ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;

"(iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) or, if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

"(iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority.

A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

"(B) The term 'executive capacity' means an assignment within an organization in which the employee primarily—

"(i) directs the management of the organization or a major component or function of the organization;

"(ii) establishes the goals and policies of the organization, component, or function;

"(iii) exercises wide latitude in discretionary decisionmaking; and

"(iv) receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

"(C) If staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, the Attorney General shall take into account the reasonable needs of the organization, component, or function in light of the overall purpose and stage of development of the organization, component, or function. An individual shall not be considered to be acting in a managerial or executive capacity (as previously defined) merely on the basis of the number of employees that the individual supervises or has supervised or directs or has directed.".

(e) ADDITIONAL CONFORMING AMENDMENTS.—(1) Section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) is amended—

(A) by striking "or" at the end of subparagraph (H),

(B) by striking the period at the end of subparagraph (I) and inserting "; or", and

(C) by adding at the end the following new subparagraph:

"(J) an alien whose deportation was cancelled under section 244.".

(2) Section 212(a)(32) of such Act (8 U.S.C. 1182(a)(32)) is amended by striking "preference immigrant aliens described in section 203(a) (3) and (6) and to nonpreference immigrant aliens described in section 203(a)(7)" and inserting "preference immigrant aliens described in section 203(b)(2)".

(3) Section 245(b) of such Act (8 U.S.C. 1255(b)) is amended—

(A) by striking "or nonpreference",

(B) by striking "202(e) or 203(a)" and inserting "201(a)", and

(C) by striking "for the fiscal year then current" and inserting "for the succeeding fiscal year".

(4) Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended by striking "section 203(a)(7) or".

(5) Section 1614(a)(1)(B)(i) of the Social Security Act is amended by striking "section 203(a)(7) or".

(f) TECHNICAL CORRECTIONS TO IMMIGRATION NURSING RELIEF ACT OF 1989.—(1) Section 2 of the Immigration Nursing Relief Act of 1989 (Public Law 101-238) is amended—

(A) in subsection (a)—

(i) by striking ", and the immigrant's accompanying spouse and children", and

(ii) by inserting after the first sentence the following:

"Such numerical limitations also shall not apply to the adjustment of status of, or issuance of an immigrant visa to, the immigrant's spouse and children if accompanying or following to join the immigrant."; and

(B) in subsection (b)—

(i) by striking "December 31, 1989" and inserting "September 1, 1989",

(ii) by striking "in the lawful status" and inserting "in the status",

(iii) by inserting "unauthorized employment performed before the date of the enactment of the Family Unity and Employment Opportunity Immigration Act of 1990 shall not be taken into account in applying section 245(c)(2) of the Immigration and Nationality Act and" after "spouse or child of such an alien,", and

(iv) by striking "lawful status as such a nonimmigrant" and all that follows through "subsection (a)" and inserting "lawful status throughout his or her stay in the United States as a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out the amendments made by section 102(f)(1)(A) of the Family Unity and Employment Opportunity Immigration Act of 1990".

(2) The amendments made by paragraph (1) shall apply as though included in the enactment of the Immigration Nursing Relief Act of 1989.

SEC. 103. ALTERNATIVE LABOR ATTESTATION PROCESS.

(a) IN GENERAL.—Section 212(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14)) is amended to read as follows:

"(14) Aliens seeking admission or status as an immigrant under section 203(b)(2) or as a nonimmigrant under section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b) unless, (A) the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that (i) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, (ii) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly situated, and (iii) the employer meets the requirement of section 204(b)(3) with respect to such aliens, or (B) with respect to the aliens the Secretary of Labor certifies to the Secretary of State and the Attorney General that an attestation is on file and in effect under section 212(n) for the employer and occupational classification for which the alien will perform services;".

(b) USE OF ATTESTATIONS.—Section 212 of such Act, as amended by section 3(b) of Public Law 101-238, is amended by adding at the end the following new subsection:

"(n)(1) The attestation referred to in subsection (a)(14)(B), with respect to an alien who is coming to the United States to be employed by an employer in an occupational classification, is an attestation as to the following:

"(A) Subject to paragraph (3), the employer—

"(i)(I) has made and is making positive recruitment efforts, in the recruitment area identified under paragraph (2)(A), reasonably designed to locate and employ able, willing, and qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts) workers, and

"(II) recites the specific actions the employer has taken with respect to such recruitment; and

"(ii) has been unable to find such workers who are available at the time and place of need.

"(B) The employer is offering and will offer (in the case of an nonimmigrant under section 101(a)(15)(H)(i)(b) or 101(a)(15)(H)(ii)(b), during the period of authorized employment or, in the case of an immigrant under section 203(b)(2), during the first year of employment of the alien by the employer) to aliens and to other individuals employed in the occupational classification and in the recruitment area (identi-

fied under paragraph (2)(A)) wages that are no less than the base prevailing wage level (determined under paragraph (6)) and working conditions that are not less than the prevailing working conditions for the occupational classification in the recruitment area.

"(C) There is not a strike or lockout in the course of a labor dispute.

"(D) The employer, at the time of execution of the attestation, has provided notice of the intention to file the attestation under this paragraph to the bargaining representative (if any) of the employer's employees in the occupational classification and recruitment area for which aliens are sought, or, if there is no such bargaining representative, to such State or local governmental entity as the Secretary of Labor designates (after consultation with appropriate labor and management organizations) for the recruitment area for purposes of this subparagraph.

The obligation to engage in positive recruitment under subparagraph (A) shall not apply to nonimmigrants under section 101(a)(15)(H)(i)(b) and shall terminate on the date that the alien is provided immigrant or nonimmigrant status in response to the attestation.

"(2)(A) With respect to occupational classifications for which attestations may be filed, the Secretary of Labor (in this subsection referred to as the 'Secretary') shall identify recruitment areas which are the areas of traditional or expected labor supply.

"(B) The Secretary shall make available for public examination, within 2 working days after the date on which an attestation under paragraph (1) is filed, in Washington, D.C., a copy of each attestation (and accompanying documentation) filed under paragraph (1). The Secretary shall compile, on a current basis, a list (by employer and by occupational classification) of the attestations filed or in effect under paragraph (1).

"(3)(A) If 10 or more attestations meeting the requirements of paragraph (1) (including paragraph (1)(A)) within a region (as defined by the Secretary) (or 5 attestations within a rural region) have been filed within a 1-year period and are in effect with respect to employees in the same occupational classification, any succeeding attestation filed during the succeeding 2-year period for workers in that occupational classification and region may substitute, for the attestation as to the matters described in paragraph (1)(A), an attestation that the employer has not been able to find, after posting of the job offer and advertising to recruit for hire, workers for the occupational classification at the time and place needed.

"(B) In subparagraph (A), the term 'rural region' means a contiguous area of counties (no county of which is an urbanized area) which is identified by the Secretary as representing a labor market with respect to an occupational classification which is separate and distinct from those for adjoining urbanized areas.

"(4)(A) If a bargaining representative described in paragraph (1)(D) or employee representative, within 30 days after the date the employer files an attestation under paragraph (1), submits to the Secretary a written request for a hearing respecting the matters required to be attested to in paragraph (1) and includes with such request a written statement of particular facts contradicting such attestation, the attestation shall not become effective until the date the Secretary has made a determination, after such a hearing, that the facts attested to are true. No attestation shall be effective under this subsection before the end of such 30-day period.

"(B) Within 7 days after the date of submission of a written request under subparagraph (A), the Secretary shall provide for a determination as to whether or not a written statement of particular facts contradicting the attestation has been included. If it has, the Secretary shall provide for a notice of such determination to the interested parties and an opportunity for a hearing in accordance with section 556 of title 5, United States Code, with respect to the attestation within 30 days of the date of the determination. After such a hearing, the Secretary shall make a determination with respect to whether the attestation meets the requirements of paragraph (1) by not later 30 days after the date of the hearing. In the hearing, the burden of proof on the truth of the facts attested to shall be on the employer.

"(C)(i) An attestation duly filed under paragraph (1) shall be deemed to have been certified by the Secretary and in effect under this subsection at the end of the 30-day period beginning on the date of its filing unless the Secretary otherwise notifies the employer and the Attorney General under clause (ii).

"(ii) If a written request for a hearing has been submitted on a timely basis under this paragraph, the Secretary shall notify the Attorney General and the employer in writing that an attestation, which would otherwise become effective under clause (i), shall not become effective.

"(D) The Secretary may not refuse to accept for filing a completed attestation filed under this subsection or review in any way such an attestation with respect to which a complaint has not been filed under this subsection.

(E)(i) The preceding provisions of this paragraph shall not apply to an attestation under paragraph (1) with respect to nonimmigrants described in section 101(a)(15)(H)(i)(b).

"(ii) An attestation duly filed under paragraph (1) with respect to a nonimmigrant described in section 101(a)(15)(H)(i)(b) shall be deemed to have been certified by the Secretary and in effect under this subsection on the date of its filing with the Secretary.

"(iii) The Secretary may not refuse to accept for filing a completed attestation filed under this subsection with respect to a nonimmigrant described in section 101(a)(15)(H)(i)(b) or review in any way (other than under paragraph (5)) such an attestation with respect to which a complaint has not been filed under paragraph (5).

"(F) Subject to termination under paragraph (5), an attestation shall be effective only for petitions filed during the 1-year period beginning on the effective date of the attestation.

"(5)(A) The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to include an element of the attestation required under paragraph (1), failure to meet a condition attested to, or misrepresentation of material facts in an attestation that is in effect under this subsection. Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively, or to the extent that the complaint alleges a failure or misrepresentation for which there has been a determination on that issue in a hearing under paragraph (4)(B). The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

"(B) Under such process, the Secretary shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in subparagraph (C). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same petitioner, the Secretary may consolidate the hearings under this subparagraph on such complaints.

"(C) If the Secretary finds, after notice and opportunity for a hearing, an employer failure or that there was a misrepresentation of material fact in the attestation—

"(i) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per violation) as the Secretary determines to be appropriate, and

"(ii) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

"(D) In addition to the sanctions provided under subparagraph (C), if the Secretary finds, after notice and opportunity for a hearing, that an employer has violated a condition of an attestation relating to the payment of wages at a specified wage level, the Secretary shall order the employer to provide for payment of such amounts of back pay as may be required to comply with such condition.

"(6)(A) For purposes of this subsection and section 214(f), the term 'base prevailing wage level', with respect to an occupational classification in an area for which a petition or attestation is filed for purposes of the respective provision of law, means—

"(i) the actual wage level for the occupational classification at the place of employment, or

"(ii) the prevailing wage level for the occupational classification and area determined under subparagraph (B),

whichever is greater, determined as of the time of filing the respective petition or attestation.

"(B)(i) The Bureau of Labor Statistics in the Department of Labor shall periodically determine, for purposes of this subsection and section 214(f), the prevailing wage level for occupational classifications and areas for which determinations of prevailing wage levels are required under this subsection. In the case of a specific occupational classification for which a determination of prevailing wage level is not generally or readily available, the Bureau shall determine such a wage level within 30 days.

"(ii)(I) If the Bureau has not determined a prevailing wage level within 30 days of the date of filing of an attestation, subject to

subclause (II), the application of clause (ii) of subparagraph (A) shall be suspended until the date such a determination is made.

"(III) When the Bureau makes such a determination, the employer shall provide, within 30 days of the date of the determination, for such adjustment of wages (including back pay) as provides for the application of such prevailing wage level under subparagraph (A) as though such level had been determined on a timely basis under subparagraph (B).".

(c) REPORT.—The Secretary of Labor shall conduct a study of the feasibility of determining, for purposes of section 212(n) of the Immigration and Nationality Act, national or regional labor shortages in particular occupational classifications, taking into consideration—

(1) the intensity and duration of each labor shortage;

(2) the supply and demand of workers in occupations affected by the shortage;

(3) industrial and geographic concentration of the shortage;

(4) wages for occupations affected by the shortage and how a 20 percent increase in the prevailing wage in the occupation affects the shortage;

(5) entry requirements for occupations affected by the shortage; and

(6) the need for continuous positive national recruitment.

The Secretary shall report to Congress on the results of the study by not later than 2 years after the date of the enactment of this Act. The Secretary shall include in the report such legislative recommendations as may be necessary to permit the use of national or regional labor shortages in the process of attestations under section 212(n) of the Immigration and Nationality Act.

SEC. 104. NONIMMIGRANT CLASSIFICATIONS.

(a) TREATY TRADERS.—

(1) Section 101(a)(15)(E)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(i)) is amended by inserting ", including trade in services or trade in technology" after "substantial trade".

(2) The largest foreign state in each region (as defined in section 203(c)(2) of the Immigration and Nationality Act) which has 1 or more dependent areas (as determined for purposes of section 202 of such Act) and which does not have a treaty of commerce and navigation with the United States shall be considered for purposes of section 101(a)(15)(E) of such Act to be a foreign state described in such section if the foreign state extends reciprocal nonimmigrant treatment to nationals of the United States.

(3) Section 101(a) of the Immigration and Nationality Act, as amended by section 102(d) of this Act, is amended by adding at the end the following new paragraph:

"(45) The term 'substantial' means, for purposes of paragraph (15)(E) with reference to trade or capital, such an amount of trade or capital as is established by the Secretary of State, after consultation with appropriate agencies of Government.".

(b) STUDENTS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(f) With respect to work authorization for aliens admitted as nonimmigrant students described in subparagraph (F) of section 101(a)(15), the Attorney General shall grant such an alien work authorization to be employed in a position unrelated to the alien's field of study and off-campus if—

"(1) the alien has completed 1 year as such a nonimmigrant and is maintaining good academic standing at the educational institution,

"(2) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer (A) has recruited for at least 60 days for the position and (B) will provide for payment to the alien and to other similarly situated workers at a rate equal to not less than the base prevailing wage level (determined under section 212(n)(6)), and

"(3) the alien will not be employed more than 20 hours each week during the academic term (but may be employed on a full-time basis during vacation periods and between academic terms).

If the Secretary of Labor determines that an employer has provided an attestation under paragraph (2) that is materially false or has failed to pay wages in accordance with the attestation, after notice and opportunity for a hearing, the employer shall be disqualified from employing an alien student under this subsection for a period of 3 years.".

(c) H NONIMMIGRANTS.—

(1) LIMITATION ON NUMBERS.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(g)(1) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year (beginning with fiscal year 1992)—

"(A) under section 101(a)(15)(H)(i)(b) may not exceed 25,000,

"(B) under section 101(a)(15)(H)(ii)(b), may not exceed 66,000, or

"(C) under section 101(a)(15)(P)(i) or section 101(a)(15)(P)(iii) may not exceed 9,000.

"(2) The numerical limitations under paragraph (1) shall only apply to principal aliens and not to the spouses or children of such aliens.

"(3) Aliens who are subject to the numerical limitations of paragraph (1) shall be issued visas (or otherwise provided nonimmigrant status) in the order in which petitions are filed for such visas or status.

"(4) In the case of a nonimmigrant described in section 101(a)(15)(H)(i)(b), the period of authorized admission as such a nonimmigrant may not exceed 6 years.".

(2) CONSTRUCTION RESPECTING INTENT WITH RESPECT TO ABANDONMENT OF FOREIGN RESIDENCE.—Section 214 of such Act, as amended by subsection (b) and by paragraph (1), is further amended—

(A) in subsection (b), by inserting "(other than a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15))" after "Every alien", and

(B) by adding at the end the following new subsection:

"(h) The fact that an alien is the beneficiary of an application for a preference status filed under section 204 or has otherwise sought permanent residence in the United States shall not constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a nonimmigrant described in subparagraph (H)(i)(b) or (L) of section 101(a)(15) or otherwise obtaining or maintaining the status of a nonimmigrant described in such subparagraph.".

(3) REVISION OF H-1B CATEGORY.—Subclause (b) of section 101(a)(15)(H)(i) of such Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking "who is of distinguished" and all that follows through "such institution or agency" and inserting the following: "who is coming temporarily to the United States to perform services (other than services described in subclause (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1) and who meets the requirements for the occupation specified in section 214(i)(2)".

(4) SPECIALTY OCCUPATION DEFINED.—Section 214 of such Act, as amended by subsection (b) and by paragraphs (1) and (2), is further amended by adding at the end the following new subsection:

"(i)(1) For purposes of section 101(a)(15)(H)(i)(b) and paragraph (2), the term 'specialty occupation' means an occupation that requires—

"(A) theoretical and practical application of a body of highly specialized knowledge, and

"(B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

"(2) For purposes of section 101(a)(15)(H)(i)(b), the requirements of this paragraph, with respect to a specialty occupation, are—

"(A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation;

"(B) completion of the degree described in paragraph (1)(B) for the occupation; or

"(C)(i) experience in the specialty equivalent to the completion of such degree, and (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.".

(5) LIMITATION ON TRAINEES.—Section 101(a)(15)(H)(iii) of such Act (8 U.S.C. 1101(a)(15)(H)(iii)) is amended by inserting before the semicolon at the end the following: ", in a training program not available in the country of nationality of the alien".

(6) TECHNICAL AMENDMENT CONCERNING FOREIGN RESIDENCE.—Section 101(a)(15)(H) of such Act (8 U.S.C. 1101(a)(15)(H)) is amended—

(A) by striking "having a residence in a foreign country which he has no intention of abandoning";

(B) in clause (ii), by striking "who is coming temporarily to the United States (a)" and inserting "(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States";

(C) in clause (ii)(b), by inserting "having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States" immediately after "(b)"; and

(D) in clause (iii), by inserting "having a residence in a foreign country which he has no intention of abandoning" after "(iii)".

(7) REPEAL OF PREVIOUS DEFINITION.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by striking paragraph (32).

(d) ESTABLISHMENT OF SPECIAL EDUCATION EXCHANGE VISITOR PROGRAM.—

(1) IN GENERAL.—Section 101(a)(15)(J) of such Act (8 U.S.C. 1101(a)(15)(J)) is amended—

(A) by inserting "(i)" after "abandoning", and

(B) by inserting after "212(j)," the following: "or (ii) who is coming temporarily to the United States (for a period not to exceed 18 months) as a participant in an special education training program described in section 214(j)(1),".

(2) PROGRAM REQUIREMENTS.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsections (b), (c)(1), (c)(2), and (c)(4), is further amended by adding at the end the following new subsection:

"(j)(1) An alien may not be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(ii) unless the alien is entering under a program which provides for practical training and experience in the education of children with physical, mental, or emotional disabilities.

"(2) The number of aliens who may be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(ii) in any fiscal year may not exceed 50.".

(e) AU PAIR CULTURAL EXCHANGE PROGRAM.—

(1) IN GENERAL.—Section 101(a)(15)(J) of such Act (8 U.S.C. 1101(a)(15)(J)), as amended by subsection (d)(1), is further amended—

(A) by striking "or" before "(ii)", and

(B) by inserting after "214(j)(1)," the following: "or (iii) who is coming temporarily to the United States (for a period not to exceed 14 months) as a participant in an au pair program under section 214(k)(1),".

(2) REQUIREMENTS.—Section 214 of such Act (8 U.S.C. 1184), as amended by subsections (b), (c)(1), (c)(2), (c)(4), and (d)(2), is further amended by adding at the end the following new subsection:

"(k)(1) An alien may not be admitted as (or otherwise be provided the status of) a nonimmigrant described in section 101(a)(15)(J)(iii) unless—

"(A) the alien is entering to participate in a program, which participation and program the Secretary of Labor determines meets the requirements of paragraph (2) and will provide the alien a uniquely American cultural experience and additional education; and

"(B) the alien is entering to be placed with a family which has entered into an agreement described in paragraph (3) and which has not been found by the Secretary of Labor to have violated previously the terms of such an agreement.

If the Secretary determines that a sponsoring program no longer meets the requirements described in subparagraph (A), the Secretary shall disqualify the program under this subsection for a period of at least 3 years.

"(2) The requirements of this paragraph with respect to an alien participating in a program are as follows:

"(A) The alien participant must reside with a family that has entered into an agreement described in paragraph (3).

"(B) The alien participant must be enrolled on an on-going basis in a course of study at an educational institution or program approved by the Attorney General under section 101(a)(15)(F).

"(C) The alien participant must be provided, not less often than quarterly, a cultural experience (such as travel to national monuments, landmarks, or institutions) unique or specific to the United States.

"(D) If the alien participant provides child care or related services in connection with participation in the program—

"(i) the alien must be paid wages (as defined in section 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(m)) not less than the minimum wage applicable under section 6(a) of such Act (29 U.S.C. 206(a)), and

"(ii) the alien may not provide such care or services for more than 40 hours each week.

"(E) The program must provide a suitable bond or other undertaking, in an amount specified by the Attorney General (not to exceed $5,000 with respect to any alien participant) to assure that the alien departs from the United States at the time of expiration of the authorized period of stay under the program.

"(3) The agreement described in this paragraph between a family and an alien participant shall obligate the family to provide for meeting the requirements specified in subparagraphs (B) through (D) of paragraph (2). Such agreement shall be in a form approved by the Secretary of Labor and may be enforced by the alien.".

(f) AMENDMENTS RELATING TO "L" NONIMMIGRANTS.—

(1) CLARIFICATION OF TREATMENT OF CERTAIN INTERNATIONAL ACCOUNTING FIRMS.—In applying sections 101(a)(15)(L) and 203(b)(1)(C) of the Immigration and Nationality Act, in the case of a partnership that is organized in the United States to provide accounting services and that markets its accounting services under an internationally recognized name under an agreement with a worldwide coordinating organization that is owned and controlled by the member accounting firms, a partnership (or similar organization) that is organized outside the United States to provide accounting services shall be considered to be an affiliate of the United States partnership if it markets its accounting services under the same internationally recognized name under the agreement with the worldwide coordinating organization of which the United States partnership is also a member.

(2) USE OF BLANKET PETITIONS; DEADLINES FOR PROCESSING; PERIODS OF AUTHORIZED STAY; CONSTRUCTION.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended—

(A) by inserting "(1)" after "(c)", and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall provide for a procedure under which an importing employer which meets requirements established by the Attorney General may file a blanket petition to import aliens as nonimmigrants under section 101(a)(15)(L) instead of filing individuals petitions under paragraph (1) to import such aliens. Such procedure shall permit the expedited processing of visas for entry of aliens covered under such a petition.

"(B) For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

"(C) The Attorney General shall provide a process for reviewing and acting upon petitions under this subsection with respect to nonimmigrants described in section 101(a)(15)(L) within 30 days after the date a completed petition has been filed.

"(D) The period of authorized admission for—

"(i) a nonimmigrant admitted to render services in a managerial or executive capacity under section 101(a)(15)(L) shall not exceed 7 years, or

"(ii) a nonimmigrant admitted to render services in a capacity that involved specialized knowledge under section 101(a)(15)(L) shall not exceed 5 years.".

(3) PERIOD OF PRIOR EMPLOYMENT WITH COMPANY.—Section 101(a)(15)(L) of such Act (8 U.S.C. 1101(a)(15)(L)) is amended by striking "immediately preceding" and inserting "within 3 years preceding".

(g) NEW CLASSIFICATION FOR ALIENS WITH EXTRAORDINARY ABILITY, ACCOMPANYING ALIENS, AND ATHLETES AND ENTERTAINERS.—

(1) IN GENERAL.—Section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)) is amended—

(A) by striking "or" at the end of subparagraph (M),

(B) by striking the period at the end of subparagraph (N) and inserting a semicolon, and

(C) by adding at the end the following new subparagraphs:

"(O) an alien who—

"(i) has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim or, with regard to motion picture and television productions a demonstrated record of extraordinary achievement, and whose achievements have been recognized in the field through extensive documentation, and seeks to enter the United States to continue work in the area of extraordinary ability, but only if the Attorney General determines that the alien's entry into the United States will substantially benefit prospectively the United States; or

"(ii)(I) seeks to enter the United States temporarily and solely for the purpose of accompanying and assisting in the artistic or athletic performance by an alien who is admitted under clause (i) for a specific event or events,

"(II) is an integral part of such actual performance,

"(III)(a) has critical skills and experience with such alien which are not of a general nature and which cannot be performed by other individuals, or (b) in the case of a motion picture or television production, has skills and experience with such alien which are not of a general nature and which are critical either based on a pre-existing longstanding working relationship or, with respect to the specific production, because significant principal photography will take place both inside and outside the United States and the continuing participation of the alien is essential to the successful completion of the production, and

"(IV) has a foreign residence which the alien has no intention of abandoning; or

"(iii) is the alien spouse or child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien; or

"(P) an alien having a foreign residence which the alien has no intention of abandoning who—

"(i)(I) performs as an athlete, individually or as part of an group or team, at an internationally recognized level of performance, or performs as part of an entertainment group that has been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time and has had a sustained and substantial relationship with that group over a period of at least 1 year and provides functions integral to the performance of the group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete or entertainer with respect to a specific athletic competition or performance;

"(ii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or

with such a group under a reciprocal exchange program which is between an organization or organizations in the United States and an organization in one or more foreign states and which provides for the temporary exchange of artists and entertainers, or groups of artists and entertainers, between the United States and the foreign states involved;

"(iii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a program that is culturally unique; or

"(iv) is the spouse or child of an alien described in clause (i), (ii), or (iii) and is accompanying, or following to join, the alien.".

(2) PERIODS OF ADMISSION, ETC.—Section 214 of such Act (8 U.S.C. 1184) is amended—

(A) in subsection (a), by inserting "(1)" after "(a)" and by adding at the end the following new paragraph:

"(2)(A) The period of authorized status as a nonimmigrant under section 101(a)(15)(O) shall be for such period as the Attorney General may specify in order to provide for the event for which the nonimmigrant is admitted.

"(B)(i) The period of authorized status as a nonimmigrant under section 101(a)(15)(P) shall be for such period as the Attorney General may specify in order to provide for the competition, event, or performance for which the nonimmigrant is admitted. In the case of nonimmigrants admitted as individual athletes under section 101(a)(15)(P), the period of authorized status may be for an initial period (not to exceed 5 years) during which the nonimmigrant will perform as an athlete and such period may be extended by the Attorney General for an additional period of up to 5 years.

"(ii) An alien who is admitted as a nonimmigrant under clause (ii) or (iii) of section 101(a)(15)(P) may not be readmitted as such a nonimmigrant unless the alien has remained outside the United States for at least 3 months after the date of the most recent admission."; and

(B) in subsection (c), as amended by subsection (f)(2)—

(i) in paragraph (1), by striking "or (L)" and inserting ", (L), (O), or (P)(i)", and

(ii) by adding at the end the following new paragraphs:

"(3) The Attorney General shall approve a petition—

"(A) with respect to a nonimmigrant described in section 101(a)(15)(O)(i) only after consultation with peer groups in the area of the alien's ability or, with respect to aliens seeking entry for a motion picture or television production, after consultation with the appropriate union representing the alien's occupational peers and a management organization in the area of the alien's ability, or

"(B) with respect to a nonimmigrant described in section 101(a)(15)(O)(ii) after consultation with labor organizations with expertise in the skill area involved.

In the case of an alien seeking entry for a motion picture or television production, (i) any opinion under the previous sentence shall only be advisory, (ii) any such opinion that recommends denial must be in writing, (iii) in making the decision the Attorney General shall consider the exigencies and scheduling of the production, and (iv) the Attorney General shall append to the decision any such opinion.

"(4)(A) A person may petition the Attorney General for classification of an alien as a nonimmigrant under clause (ii) of section 101(a)(15)(P).

"(B) The Attorney General shall approve petitions under this subsection with respect to nonimmigrants described in clause (i) or (iii) of section 101(a)(15)(P) only after consultation with labor organizations with expertise in the specific field of athletics or entertainment involved.

"(C) The Attorney General shall approve petitions under this subsection for nonimmigrants described in section 101(a)(15)(P)(ii) only after consultation with labor organizations representing artists and entertainers in the United States, in order to assure reciprocity in fact with foreign states.

"(5)(A) In the case of an alien admitted as a nonimmigrant and who is authorized to be employed in an occupation, if nonimmigrants constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer the alien—

"(i) continues to be authorized to be employed in the occupation for that employer, and

"(ii) is authorized to be employed in any occupation for any other employer so long as there is no strike or lockout with respect to that occupation and employer.

"(B) In the case of an alien admitted as a nonimmigrant and who is authorized to be employed in an occupation, if nonimmigrants do not constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer the alien—

"(i) is not authorized to be employed in the occupation for that employer, and

"(ii) is authorized to be employed in any occupation for any other employer so long as there is no strike or lockout with respect to that occupation and employer.

"(C) With respect to a nonimmigrant described in subparagraph (A) or (B) for whom such a strike or lockout occurs and who does not perform employment not authorized, any limit on the period of authorized stay shall be extended by the period of the strike or lockout.

"(D) In the case of an alien who is provided nonimmigrant status under section 101(a)(15)(H) (other than section 101(a)(15)(H)(ii)(a)) or section 101(a)(15)(P) and who is dismissed from employment by the employer before the end of the period of authorized admission, the employer shall be liable for the reasonable costs of return transportation of the alien abroad.

"(6) If a petition is filed and denied under this subsection, the Attorney General shall notify the petitioner of the determination and the reasons for the denial and of the process by which the petitioner may appeal the determination.

"(7) The Attorney General shall require by regulation, as a condition for the acceptance and approval of a petition under this section with respect to nonimmigrants under section 101(a)(15) (H), (L), (O), or (P)(i), the payment of a fee to recover the reasonable costs of processing a petition under this subsection with respect to such class of nonimmigrants.".

(h) NEW CLASSIFICATION FOR INTERNATIONAL CULTURAL EXCHANGE PROGRAMS.—Section 101(a)(15) of such Act, as amended by subsection (g), is further amended—

(1) by striking "or" at the end of subparagraph (O),

(2) by striking the period at the end of subparagraph (P) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(Q) an alien having a residence in a foreign country which he has no intention of abandoning who is coming temporarily (for a period not to exceed 15 months) to the United States as a participant in an international cultural exchange program designated by the Attorney General for the purpose of providing practical training, employment, and the sharing of the history, culture, and traditions of the country of the alien's nationality and who will be employed under the same wages and working conditions as domestic workers.".

SEC. 105. ADMISSION OF ALIENS IN RELIGIOUS OCCUPATIONS.

(a) AS SPECIAL IMMIGRANTS.—Subparagraph (C) of section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended to read as follows:

"(C) an immigrant, and his spouse and children if accompanying or following to join the immigrant, who—

"(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

"(ii) seeks to enter the United States—

"(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

"(II) in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

"(III) in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

"(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i);".

(b) AS NONIMMIGRANTS.—Section 101(a)(15) of such Act (8 U.S.C. 1101(a)(15)), as amended by sections 104(g)(1) and 104(h)(3) of this Act, is amended—

(1) by striking "or" at the end of subparagraph (P),

(2) by striking the period at the end of subparagraph (Q) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(R) an alien, and the spouse and children of the alien if accompanying or following to join the alien, who—

"(i) for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and

"(ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).".

SEC. 106. DENIAL OF CREWMEMBER STATUS IN THE CASE OF CERTAIN LABOR DISPUTES.

(a) IN GENERAL.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), as amended by section 104, is further amended by adding at the end the following new subsection:

"(l)(1) No alien shall be entitled to nonimmigrant status under section 101(a)(15)(D) if the alien intends to land for the purpose

of performing service on board a vessel of the United States (as defined in section 2101(46) of title 46, United States Code) or on an aircraft of an air carrier (as defined in section 101(3) of the Federal Aviation Act of 1958) during a labor dispute where there is a strike or lockout in the bargaining unit of the employer in which the alien intends to perform such service.

"(2) An alien described in paragraph (1)—

"(A) may not be paroled into the United States pursuant to section 212(d)(5) unless the Attorney General determines that the parole of such alien is necessary to protect the national security of the United States; and

"(B) shall be considered not to be a bona fide crewman for purposes of section 252(b).".

(b) CONFORMING AMENDMENT.—Section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)) is amended by inserting "or in section 214(l)" after "except as provided in subparagraph (B)".

(c) CONFORMING REPEAL.—Section 315(d) of the Immigration Reform and Control Act of 1986 (100 Stat. 3440) is hereby repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to admissions occurring on or after the date of the enactment of this Act.

SEC. 107. EFFECTIVE DATES; TRANSITION.

(a) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this subtitle (other than by sections 102(f)(1) and 106) shall take effect on October 1, 1991, and shall not apply with respect to visas issued before such date.

(b) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—

(1) EFFECTIVE DATE.—The provisions of sections 201(b)(2)(A), 201(c) and 204(a)(2) of the Immigration and Nationality Act (insofar as they relate to treatment of spouses and children of aliens lawfully admitted for permanent residence as immediate relatives), as amended by sections 101 and 102 of this subtitle, shall be effective beginning with fiscal year 1991.

(2) TRANSITION.—In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1990, for preference status under section 203(a)(2) of such Act (as in effect before such date) as a spouse or child of an alien lawfully admitted for permanent residence, such petition shall be deemed as of October 1, 1990, to be a petition for immediate relative status described in section 201(b)(2)(A)(i) of such Act (as amended by this subtitle).

(c) TRANSITION FOR FOURTH AND FIFTH PREFERENCE.—In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1991, for preference status under section 203(a)(4) or 203(a)(5) of such Act (as in effect before such date), such petition shall be deemed as of October 1, 1991, to be a petition for preference status under section 203(a)(3) or 203(a)(4), respectively, of such Act.

Subtitle B—Education and Training of American Workers

SEC. 111. EDUCATIONAL ASSISTANCE AND TRAINING.

(a) USE OF FUND.—From the fees deposited each year in the account established under section 286(q)(5) of the Immigration and Nationality Act which are not used for scholarships under section 113, the Secretary of Labor shall provide for grants to States to provide educational assistance and training for United States workers. The Secretary shall consult with the Secretary of Education in making grants under this section.

(b) ALLOCATION OF FUNDS.—Within the purposes described in subsection (a), funds in the account used under this section shall be allocated among the States based on a formula, established jointly by the Secretaries of Labor and Education, that takes into consideration—

(1) the location of foreign workers admitted into the United States,

(2) the location of individuals in the United States requiring and desiring the educational assistance and training for which the funds can be applied, and

(3) the location of unemployed and underemployed United States workers.

(c) DISBURSEMENT TO STATES.—

(1) Within the purposes and allocations established under this section, disbursements shall be made to the States, in accordance with grant applications submitted to and approved jointly by the Secretaries of Labor and Education, to be applied in a manner consistent with the guidelines established by such Secretaries in consultation with the States. In applying such grants, the States shall consider providing funding to joint labor-management trust funds and other such non-profit organizations which have demonstrated capability and experience in directly training and educating workers.

(2) Not more than 5 percent of the funds disbursed to any State under this section may be used for administrative expenses.

(d) LIMITATION ON FEDERAL OVERHEAD.—The Secretaries shall provide that not more than 2 percent of the amount of funds disbursed to States under this section may be used by the Federal Government in the administration of this section.

(e) ANNUAL REPORT.—The Secretary of Labor shall report annually to the Congress on the grants to States provided under this section.

(f) STATE DEFINED.—In this section, the term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

SEC. 112. HIGHER EDUCATION SCHOLARSHIP PROGRAM FOR MATHEMATICS AND SCIENCES.

Ten percent of the fees deposited each year in the account established under section 286(q)(5) of the Immigration and Nationality Act shall be available to the Secretary of Education for the awarding (in a manner and amount specified by the Secretary) of scholarships to assist in the cost of postsecondary education of needy individuals who—

(1) are enrolled as full-time students in an accredited postsecondary institution,

(2) pursuing a course of study leading to a degree in mathematics or one or more of the sciences, and

(3) maintain satisfactory progress, as determined by the postsecondary institution the recipient is attending.

The Secretary shall enter into agreements with States to provide for the actual awarding of such scholarships by the States.

TITLE II—OTHER PROVISIONS REGARDING IMMIGRANT VISAS

SEC. 201. TRANSITION FOR ALIENS WHO ARE NATIVES OF CERTAIN ADVERSELY AFFECTED FOREIGN STATES.

(a) IN GENERAL.—Subject to the numerical limitations established under subsection (b), the Attorney General shall provide for the adjustment of status to that of an alien lawfully admitted for permanent residence on a conditional basis of an alien who is a native of an adversely affected foreign state (described in section 203(b)(2)(C)(iii) of the Immigration and Nationality Act, as amended by this Act) if the alien—

(1) applies to the Attorney General (beginning on such date as the Attorney General may specify) for such adjustment, and

(2) establishes in the application that the alien—

(A) is a native of such an adversely affected foreign state,

(B) entered the United States before January 1, 1990, and any period of authorized stay as a nonimmigrant expired before such date through the passage of time (and has not been subsequently extended),

(C) has been continuously resident in the United States since before January 1, 1990,

(D) has a firm commitment for employment in the United States for a period of at least 1 year (beginning on the date of adjustment of status under this section), and

(E) except as provided in subsection (d)(1), is admissible as an immigrant.

If the Attorney General receives more than 250,000 applications for adjustment of status under this subsection, the Attorney General may stop accepting applications under paragraph (1) until such date (if any) as the Attorney General determines to be appropriate.

(b) NUMERICAL LIMITATIONS.—

(1) The number of aliens whose status may be adjusted under subsection (a) in each of fiscal years 1991, 1992, and 1993 may not exceed 25,000.

(2) An alien's status may not be adjusted for any fiscal year not specified in paragraph (1).

(3) If the number of aliens eligible for adjustment under this section in any fiscal year exceeds the numerical limitation specified in paragraph (1), consideration shall be given in the order in which the aliens applied for such adjustment.

(c) REMOVAL OF CONDITIONAL STATUS.—

(1) In order for the conditional basis of permanent resident status provided under subsection (a) to be removed, an alien must submit, in a time and a manner specified by the Attorney General, written documentation that the alien has been substantially employed on a full-time basis during the 1-year period beginning on the date the alien was provided such status.

(2)(A) In the case of an alien with permanent resident status on a conditional basis under subsection (a), if the alien fails to submit written documentation required under paragraph (1) by the deadline specified by the Attorney General under such paragraph, the Attorney General shall terminate the permanent resident status as of such date as the Attorney General may specify.

(B) In any deportation proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions described in paragraph (1).

(3) The Attorney General, in the Attorney General's discretion, may remove the conditional basis of the permanent resident status for an alien who fails to meet the requirements of paragraph (1) only if the alien demonstrates that extreme hardship would result if the alien is deported.

(4) Section 216(e) of the Immigration and Nationality Act shall apply to conditional permanent resident status under this section in the same manner as it applies to conditional permanent resident status under section 216 of such Act.

(d) MISCELLANEOUS PROVISIONS.—

(1) Aliens shall not be denied adjustment of status under this section on the grounds specified in paragraphs (20), (21), (25), or (32) of section 212(a) of the Immigration and Nationality Act, and the Attorney General may, in his discretion, waive the ground for exclusion specified in paragraph (19) of such section.

(2) Applications under subsection (a) shall be subject to paragraphs (5) and (6) of section 245A(c) of the Immigration and Nationality Act (relating to confidentiality and penalties for false statements) in the same manner as such paragraphs apply to applications under section 245A of such Act.

(3) In the case of a family, a single application for members of the family may be made under subsection (a).

SEC. 202. TRANSITION FOR CERTAIN DISPLACED ALIENS.

(a) AUTHORIZATION OF ADDITIONAL VISAS.—Notwithstanding the numerical limitations in sections 201 and 202 of the Immigration and Nationality Act, there shall be made available to qualified displaced aliens described in subsection (b) not to exceed 15,000 immigrant visa numbers in each of fiscal years 1991, 1992, and 1993, of which not to exceed 1,000 of the total number of immigrant visas in all of such fiscal years shall only be available for qualified displaced aliens described in subsection (b)(1)(B) (or described in subsection (b)(2) as the spouse or child of such an alien).

(b) ELIGIBLE DISPLACED ALIENS.—

(1) An alien is eligible for a visa under this section if the alien—

(A)(i) is a native of a foreign state in Eastern Europe, and

(ii) since before October 1, 1989, has been continuously residing in another foreign state (other than the United States), but is not firmly resettled in that foreign state; or

(B)(i) is a native of Tibet, and

(ii) since before date of the enactment of this Act, has been continuously residing in India or Nepal.

For purposes of subparagraph (B)(i), an alien shall be considered to be a native of Tibet if the alien was born in Tibet or is the son, daughter, grandson, or granddaughter of an individual born in Tibet.

(2) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of an alien described in paragraph (1) shall, if not otherwise entitled to immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under subsection (c), if accompanying or following to join his spouse or parent.

(c) DISTRIBUTION OF VISA NUMBERS.—The Secretary of State shall provide for making visa numbers provided under subsection (a) available—

(1) to displaced aliens described in subsection (b)(1)(A) (or described in subsection (b)(2) as the spouse or child of such an alien) in the same manner as visa numbers are otherwise available to qualified immigrants under section 203(a)(7) of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act), except that—

(A) preference shall be given to aliens who, before October 1, 1989, filed an application for refugee status with the Immigration and Naturalization Service or otherwise sought such status by registering with a voluntary agency (which is recognized by such Service and provides services to refugees in the Europe) for admission to the United States as a refugee, and

(B) subject to subparagraph (A), visa numbers shall be made available strictly in the chronological order in which the immigrants qualify after the date of the enactment of this Act; and

(2) to displaced aliens described in subsection (b)(1)(B) (or described in subsection (b)(2) as the spouse or child of such an alien) in an equitable manner, giving preference to those aliens who are not firmly resettled in India or Nepal or who are most likely to be resettled successfully in the United States.

SEC. 203. TRANSITION FOR AFRICAN IMMIGRANTS.

(a) AUTHORIZATION OF ADDITIONAL VISAS.—Notwithstanding the numerical limitations in section 201(a) of the Immigration and Nationality Act, but subject to the numerical limitations in section 202 of such Act, there shall be made available to qualified immigrants who are natives of a foreign state or dependent area in Africa not to exceed 15,000 immigrant visa numbers in each of fiscal years 1991, 1992, and 1993.

(b) DISTRIBUTION OF VISA NUMBERS.—

(1) The Secretary of State shall first provide for making visa numbers provided under subsection (a) available to qualified immigrants who have classification petitions approved, as of the date of the enactment of this Act, for a preference status described in paragraph (1), (2), (3), (4), (5), or (6) of section 203(a) of the Immigration and Nationality Act. Subject to paragraph (3), visa numbers shall be made available to qualified individuals under, and in the order of, the respective paragraphs without regard to any percentage limitations specified under any such paragraph.

(2) The Secretary of State shall provide for making any remaining visa numbers available to qualified immigrants strictly in the order in which they apply after the date of the enactment of this Act.

(3) Not more than 3,000 visa numbers may be made available in any fiscal year under this section to natives of any single foreign state or dependent area.

(c) DERIVATIVE STATUS.—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of a qualified immigrant under this section shall, if not otherwise entitled to immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under subsection (b), if accompanying or following to join his spouse or parent.

SEC. 204. BACKLOG VISA NUMBERS FOR SECOND AND FIFTH PREFERENCES.

(a) IN GENERAL.—In addition to the number of immigrant visas otherwise made available in each of fiscal years 1991, 1992, 1993, 1994, and 1995 and without regard to the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act, there shall be made available—

(1) to second preference immigrants (as defined in subsection (b)) 10,000 immigrant visa numbers, and

(2) to fifth preference immigrants (as defined in subsection (c)) 40,000 immigrant visa numbers.

Not more than 27 percent of each such worldwide level for a fiscal year shall be made available in any of the first 3 quarters of the fiscal year. In addition to such visa numbers and without regard to the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act, there shall be made available in each of fiscal years 1991, 1992, 1993, 1994, and 1995, 250 immigrant visa numbers to second preference immigrants who are natives of Lebanon and are not firmly resettled in any foreign country outside Lebanon and 750 immigrant visa numbers to fifth preference immigrants who are natives of Lebanon and are not firmly resettled in any foreign country outside Lebanon.

(b) 2ND PREFERENCE IMMIGRANT DEFINED.—In subsection (a)(1), the term "second preference immigrant" means—

(1) an alien who is the beneficiary of a petition approved to accord status under section 203(a)(2) of the Immigration and Nationality Act, if the petition was filed before the date of the enactment of this Act, or

(2) the child of such an alien if accompanying or following to join the alien.

(c) 5TH PREFERENCE IMMIGRANT DEFINED.—In subsection (a)(2), the term "fifth preference immigrant" means—

(1) an alien who is the beneficiary of a petition approved to accord status under section 203(a)(5) of the Immigration and Nationality Act, if the petition was filed before the date of the enactment of this Act, or

(2) the spouse or child of such an alien if accompanying or following to join the alien.

(d) ORDER OF CONSIDERATION.—Immigrant visas shall be made available under this section in the order in which a petition in behalf of each such alien has been filed with the Attorney General under section 204 of the Immigration and Nationality Act.

SEC. 205. TRANSITION FOR THIRD AND SIXTH PREFERENCE.

(a) IN GENERAL.—In the case of any alien with respect to whom a classification petition has been filed under section 204(a) of the Immigration and Nationality Act for a classification described in paragraph (3) or (6) of section 203(a) of such Act (as in effect before the date of the enactment of this Act) before October 1, 1991, there shall be made available, in addition to the immigrant visas otherwise available in each of fiscal years 1991, 1992, 1993, 1994, and 1995, up to 25,000 additional immigrant visas which shall be made available to those aliens (and qualified relatives described in section 203(a)(8) of such Act, as in effect on the date of the enactment of this Act) without regard to section 202(a) of such Act.

(b) ALLOCATION.—Of the visa numbers made available each fiscal year under subsection (a)—

(1) visa numbers shall first be made available, in a number not to exceed 50 percent of the total number available, to qualified immigrants with respect to whom a classification petition was filed under section 203(a)(3) of the Immigration and Nationality Act, and

(2) visa numbers shall be made available in the same priority order in which such numbers were otherwise made available under section 203(a) of such Act.

(c) TRANSITION.—In the case of an alien—

(1) who, as of the date of the enactment of this Act, is in lawful status as a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15) of the Immigration and Nationality Act, and

(2) for whom an application for labor certification under section 212(a)(14) of such Act has been filed as of such date,

the alien shall be considered to be a qualified alien described in section 203(b)(2) of such Act (as amended by this Act) and to have met the requirements of section 212(a)(14) of such Act if the labor certification is approved. In applying such section 203(b)(2) with respect to such an alien, the

priority date shall be the date the application for labor certification was filed.

SEC. 206. TRANSITION FOR EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.

(a) ADDITIONAL VISA NUMBERS.—

(1) TREATMENT OF PRINCIPALS.—In the case of any alien described in paragraph (3) with respect to whom a classification petition has been filed and approved under subsection (b), there shall be made available, in addition to the immigrant visas otherwise available in all of fiscal years 1992 through 1994 and without regard to section 202(a) of the Immigration and Nationality Act, up to 15,000 additional immigrant visas, of which not more than 7,500 may be made available in each of fiscal years 1992 and 1993.

(2) DERIVATIVE RELATIVES.—In the case of any alien who is the spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) of an alien entitled to immediate issuance of a visa under paragraph (1), visas shall be made available without regard to any numerical limitation under such Act or this section if accompanying, or following to join, the alien's spouse or parent.

(3) EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.—An alien is described in this paragraph if the alien—

(A) is a resident of Hong Kong and is employed in Hong Kong (and has been so employed during the 12 previous consecutive months) as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, by a business entity which (i) is owned and organized in the United States (or is the subsidiary or affiliate of a business owned and organized in the United States), (ii) employs at least 100 employees in the United States and at least 50 employees outside the United States, and (iii) has a gross annual income of at least $50,000,000, and

(B) has an offer of employment from such business entity in the United States as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, which offer (i) is effective from the time of filing the petition for classification under this section through and including the time of entry into the United States and (ii) provides for salary and benefits comparable to the salary and benefits provided to others with similar responsibilities and experience within the same company.

(b) PETITIONS.—Any employer desiring and intending to employ within the United States an alien described in subsection (a)(3) may file a petition with the Attorney General for such classification. No visa may be issued under subsection (a)(1) until such a petition has been approved.

(c) ALLOCATION.—Visa numbers made available under subsection (a) shall be made available in the order which petitions under subsection (b) are filed with the Attorney General.

(d) FEES.—The provisions of section 286(q) of the Immigration and Nationality Act (relating to fees for admission of certain employment-based aliens), as added by section 111 of this Act, shall apply to the aliens provided lawful permanent resident status under subsection (a)(1) in the same manner as they apply to aliens provided lawful permanent resident status under section 203(b)(2) of the Immigration and Nationality Act.

(e) DEFINITIONS.—In this section:

(1) EXECUTIVE CAPACITY.—The term "executive capacity" has the meaning given such term in section 101(a)(44)(B) of the Immigration and Nationality Act, as amended by section 102(d) of this Act.

(2) MANAGERIAL CAPACITY.—The term "managerial capacity" has the meaning given such term in section 101(a)(44)(A) of the Immigration and Nationality Act, as amended by section 102(d) of this Act.

(3) OFFICER.—The term "officer" means, with respect to a business entity, the chairman or vice-chairman of the board of directors of the entity, the chairman or vice-chairman of the executive committee of the board of directors, the president, any vice-president, any assistant vice-president, any senior trust officer, the secretary, any assistant secretary, the treasurer, any assistant treasurer, any trust officer or associate trust officer, the controller, any assistant controller, or any other officer of the entity customarily performing functions similar to those performed by any of the above officers.

(4) SPECIALIZED KNOWLEDGE.—The term "specialized knowledge" has the meaning given such term in section 214(c)(2)(B) of the Immigration and Nationality Act, as amended by section 104(f)(2) of this Act.

(5) SUPERVISOR.—The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

SEC. 207. TREATMENT OF HONG KONG AS SEPARATE FOREIGN STATE FOR NUMERICAL LIMITATION PURPOSES.

In applying section 202 of the Immigration and Nationality Act for fiscal years beginning with fiscal year 1991, Hong Kong shall be treated as a separate foreign state, and not as a colony or other component or dependent area of a foreign state.

SEC. 208. PERMITTING EXTENSION OF PERIOD OF VALIDITY OF IMMIGRANT VISAS FOR CERTAIN RESIDENTS OF HONG KONG.

(a) EXTENDING PERIOD OF VALIDITY.—

(1) IN GENERAL.—Subject to paragraph (2), the limitation on the period of validity of an immigrant visa under section 221(c) of the Immigration and Nationality Act shall not apply in the case of an immigrant visa issued, on or after the date of the enactment of this Act and before September 1, 2001, to an alien described in subsection (b), but only if—

(A) the alien elects, within the period of validity of the immigrant visa under such section, to have this section apply, and

(B) before the date the alien seeks to be admitted to the United States for lawful permanent residence, the alien notifies the appropriate consular officer of the alien's intention to seek such admission and provides such officer with such information as the officer determines to be necessary to verify that the alien remains eligible for admission to the United States as an immigrant.

(2) LIMITATION ON EXTENSION.—In no case shall the period of validity of a visa be extended under paragraph (1) beyond January 1, 2002.

(3) TREATMENT UNDER NUMERICAL LIMITATIONS.—In applying the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act in the case of aliens for whose visas the period of validity is extended under this section, such limitations shall only apply at the time of original issuance of the visas and not at the time of admission of such aliens.

(b) ALIENS COVERED.—An alien is described in this subsection if the alien is chargeable under section 202 of the Immigration and Nationality Act to Hong Kong (or is issued an immigrant visa under section 206(a) of this Act) and—

(1)(A) is residing in Hong Kong as of the date of the enactment of this Act and is issued an immigrant visa under paragraph (1), (2), (4), or (5) of section 203(a) the Immigration and Nationality Act (as in effect on the date of the enactment of this Act) or under section 203(a) or 203(b)(1) of such Act (as in effect on and after October 1, 1991), or

(B) is the spouse or child (as defined in subsection (d)) of an alien described in subparagraph (A), if accompanying or following to join the alien in coming to the United States; or

(2) is issued a visa under section 206(a) of this Act.

(c) TREATMENT OF CERTAIN EMPLOYEES IN HONG KONG.—

(1) IN GENERAL.—In applying the proviso of section 7 of the Central Intelligence Agency Act of 1949, in the case of an alien described in paragraph (2), the Director may charge the entry of the alien against the numerical limitation for any fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1996) notwithstanding that the alien's entry is not made to the United States in that fiscal year so long as such entry is made before the end of fiscal year 1997.

(2) ALIENS COVERED.—An alien is described in this paragraph if the alien—

(A) is an employee of the Foreign Broadcast Information Service in Hong Kong, or

(B) is the spouse or child (as defined in subsection (d)) of an alien described in paragraph (1), if accompanying or following to join the alien in coming to the United States.

(d) TREATMENT OF CHILDREN.—In this section, the term "child" has the meaning given such term in section 101(b)(1) of the Immigration and Nationality Act and also includes (for purposes of this section and the Immigration and Nationality Act) an alien who was the child (as so defined) of the alien as of the date of the issuance of an immigrant visa to the alien described in subsection (b)(1) or, in the case described in subsection (c), as of the date of charging of the entry of the alien under the proviso under section 7 of the Central Intelligence Agency Act of 1949.

Page 91, after line 12, insert the following new section (and conform the table of contents accordingly):

SEC. 209. TRANSITION FOR ALIENS WHO HAVE BEEN NOTIFIED OF AVAILABILITY OF NP-5 VISAS.

Notwithstanding the numerical limitations in sections 201(a) and 202 of the Immigration and Nationality Act, there shall be made available in fiscal year 1991 immigrant visa numbers for qualified immigrants who—

(1) were notified by the Secretary of State before May 1, 1990, of their selection for issuance of a visa under section 314 of the Immigration Reform and Control Act of 1986, and

(2) are qualified for the issuance of such a visa but for (A) numerical and fiscal year limitations on the issuance of such visas, (B) section 212(e) of the Immigration and Nationality Act, or (C) the fact that the immigrant was a national, but not a native, of a foreign state described in section 314 of

the Immigration Reform and Control Act of 1986.

Visas shall be made available under this section to spouses and children of qualified immigrants in the same manner as such visas were made available to such spouses and children under section 314 of the Immigration Reform and Control Act of 1986. The Attorney General may waive section 212(a)(19) of the Immigration and Nationality Act in the case of qualified immigrants described in the first sentence of this section.

TITLE III—OTHER IMMIGRATION PROVISIONS

Subtitle A—Provisions Relating to Marriage Fraud

SEC. 301. BATTERED SPOUSE OR CHILD WAIVER OF THE CONDITIONAL RESIDENCE REQUIREMENT.

(a) IN GENERAL.—Section 216(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1186a(c)(4)) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) in subparagraph (B), by striking "by the alien spouse for good cause";

(3) in subparagraph (B), by striking the period at the end and inserting ", or";

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) the qualifying marriage was entered into in good faith by the alien spouse and after the marriage the alien spouse or child was battered by or was the subject of extreme cruelty perpetrated by his or her spouse or citizen or permanent resident parent and the alien was not at fault in failing to meet the requirements of paragraph (1).''; and

(5) by adding at the end the following: "The Attorney General shall, by regulation, establish measures to protect the confidentiality of information concerning any abused alien spouse or child, including information regarding the whereabouts of such spouse or child.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to marriages entered into before, on, or after the date of the enactment of this Act.

SEC. 302. BONA FIDE MARRIAGE EXCEPTION TO FOREIGN RESIDENCE REQUIREMENT FOR MARRIAGES ENTERED INTO DURING CERTAIN IMMIGRATION PROCEEDINGS.

(a) IN GENERAL.—Section 245(e) of the Immigration and Nationality Act (8 U.S.C. 1255(e)) is amended—

(1) in paragraph (1), by striking "An alien" and inserting "Except as provided in paragraph (3), an alien", and

(2) by adding at the end the following new paragraph:

"(3) Paragraph (1) and section 204(h) shall not apply with respect to a marriage if the alien establishes to the satisfaction of the Attorney General that the marriage was entered into in good faith and in accordance with the laws of the place where the marriage took place and the marriage was not entered into for the purpose of procuring the alien's entry as an immigrant and no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien spouse or alien son or daughter.".

(b) CONFORMING AMENDMENT.—Section 204(h) of such Act (8 U.S.C. 1154(h)) is amended by inserting "except as provided in section 245(e)(3)," after "Notwithstanding subsection (a),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to marriages entered into before, on, or after the date of the enactment of this Act.

Subtitle B—Provisions Relating to Immigration Reform and Control Act of 1986

SEC. 311. APPLICATION OF EMPLOYER SANCTIONS TO LONGSHORE WORK.

(a) IN GENERAL.—Section 274A(h) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES RESPECTING LONGSHORE WORK.—

"(A) TREATMENT OF CERTAIN LONGSHORE WORK.—For purposes of this section, any person or other entity, including but not limited to ships agents, brokers, charterers, and procurers of labor, acting independently or on behalf of any other such person or entity, who brings into the United States (or coastal waters thereof) an individual who performs longshore work (as defined in subparagraph (D)), shall be considered to have hired such individual for employment in the United States within the meaning of subsection (a) as of the first date that the individual first performs such work.

"(B) PAPERWORK REQUIREMENT FOR LONGSHORE WORK.—In applying the requirements of paragraph (3) of subsection (b) (relating to retention of verification forms) to employment described in subparagraph (A), the person or entity shall designate, in writing to the Attorney General, a person or entity located at a port in the United States in the vicinity of the location of the longshore work involved who agrees to be responsible for the retention and making available for inspection of such forms under such paragraph.

"(C) NO AUTHORIZATION MERELY THROUGH CLASSIFICATION AS ALIEN CREWMEN.—The mere classification of an alien as a nonimmigrant under section 101(a)(15)(D) (without the document or documents described in subsection (b)(1)(E)(i) with respect to the alien) shall not be considered to authorize, for purposes of this section and section 274B, the performance of longshore work by that alien.

"(D) LONGSHORE WORK DEFINED.—(i) In this paragraph and subsection (b)(1), the term 'longshore work' includes activities relating or incident to the loading or unloading of cargo, including the operation of cargo-related equipment, whether or not integral to the vessel, and the securing of the vessel, in the United States or the coastal waters thereof; except that, for purposes of subsection (b)(1)(E)(ii), such term includes such activities with respect to vessels in (or in the coastal waters of) the reciprocal foreign state.

"(ii) The term 'longshore work' does not include the loading or unloading of any cargo where the Secretary of Transportation has, under the authority contained in chapter 37 of title 46, United States Code (relating to carriage of liquid bulk dangerous cargoes), in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), or in section 4106 of the Oil Pollution Act of 1990, prescribed regulations which govern—

"(I) the handling or stowage of such cargo,

"(II) the manning of vessels and the duties, qualifications, and training of the officers and crew of vessels carrying such cargo, and

"(III) the reduction or elimination of discharge during ballasting, tank cleaning, and handling of such cargo.".

(b) EMPLOYMENT VERIFICATION SYSTEM.—Section 274A(b)(1) of such Act (8 U.S.C. 1324a(b)(1)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking "or";

(B) in clause (ii), by striking the period and inserting ", or"; and

(C) by inserting after clause (ii) the following new clause:

"(iii) with respect to longshore work, the document or documents described in subparagraph (E)(i).''; and

(2) by adding at the end the following new subparagraph:

"(E) DOCUMENTS ESTABLISHING RECIPROCITY OF LONGSHORE WORK.—

"(i) IN GENERAL.—The document or documents described in this clause with respect to an individual's performance of longshore work are such a document or documents, in a form acceptable to the Attorney General, that establish that—

"(I) the individual is a national of a reciprocal foreign state (described in clause (ii)), and

"(II) the individual will perform such work in connection with a vessel that is documented and enrolled with a reciprocal foreign state.

"(ii) RECIPROCAL FOREIGN STATE DEFINED.—In clause (i), the term 'reciprocal foreign state' means a foreign state which the Attorney General has determined, in accordance with section 553 of title 5, United States Code—

"(I) has in effect immigration laws and regulations which authorize, on a nationwide basis, the performance of longshore work by United States nationals who are crewmembers of vessels which are documented and enrolled in the United States; and

"(II) in the territory or coastal waters of which United States nationals described in subclause (I) have performed such work during the six months preceding the application of clause (i) with respect to a national of the state or vessel documented and enrolled with the state.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed on or after the date of the enactment of this Act.

SEC. 312. ELIMINATION OF PAPERWORK REQUIREMENT FOR RECRUITERS AND REFERRERS.

(a) IN GENERAL.—Section 274A(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(1)) is amended—

(1) by striking "to hire, or to recruit or refer for a fee, for employment in the United States",

(2) in subparagraph (A), by inserting after "(A)" the following: "to hire, or to recruit or refer for a fee, for employment in the United States", and

(3) in subparagraph (B), by inserting after "(B)" the following: "(i) to hire for employment in the United States an individual without complying with the requirements of subsection (b) or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act), to hire, or to recruit or refer for a fee, for employment in the United States".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to recruiting and referring occurring on or after the date of the enactment of this Act.

SEC. 313. PERMITTING COURT-ORDERED REMEDIES IN CERTAIN CIRCUMSTANCES.

(a) IN GENERAL.—Nothing in the provisions of the Immigration Reform and Control Act of 1986, including the provisions inserted or amended by such Act, (all such pro-

visions referred to collectively in this section as "IRCA") shall be construed—

(1) as preventing judicial review under chapter 7 of title 5, United States Code, under section 1331 of title 28, United States Code, or under section 279 of the Immigration and Nationality Act, of regulations, policies, and practices governing the adjustment of status under IRCA, or

(2) as preventing such a court from ordering, as a remedy in an action brought (before, on, or after the date of the enactment of this Act) challenging such regulations, policies, or practices, the Attorney General—

(A) to accept applications for adjustment of status under IRCA without regard to any application periods established under IRCA for a reasonable period (of not longer than 6 months with respect to any class, except as may be extended as a result of an appeal taken by the Government) specified by the court;

(B) to reopen and readjudicate applications for adjustment of status under IRCA that have been denied; and

(C) to grant temporary stays of deportation and temporary employment authorization for applicants whose applications for adjustment of status under IRCA are reopened or who are permitted to file such applications pursuant to a court-mandated remedy.

(b) EFFECTIVE DATE.—Subsection (a) shall apply as of the date of the enactment of the Immigration Reform and Control Act of 1986.

(c) CONSTRUCTION.—Subsection (a) shall not be construed—

(1) as permitting the Attorney General to appeal any court determination invalidating any rule, regulation, or policy governing the adjustment of status under IRCA if the Attorney General had an opportunity to appeal such a determination but failed to do so in a timely manner, or

(2) as applying to an applicant for adjustment to lawful temporary residence (or from lawful temporary resident status to lawful permanent resident status) who seeks to challenge a denial of an individual application for such adjustment based upon factual determinations made by the Immigration and Naturalization Service regarding the individual applicant's eligibility for such adjustment.

SEC. 314. PROHIBITION OF DEPORTATION OF SPOUSES AND CHILDREN OF LEGALIZED ALIENS.

(a) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN ELIGIBLE IMMIGRANTS.—

(1) IN GENERAL.—The Attorney General shall provide that in the case of an alien who is an eligible immigrant (as defined in subsection (b)(1)) as of January 1, 1990, who has entered the United States before such date, who resides in the United States on such date, and who is not lawfully admitted for permanent residence, subject to paragraph (2), the alien—

(A) may not be deported or otherwise required to depart from the United States, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(2) EFFECTIVE DATE OF APPLICABILITY.—For purposes of paragraph (1), in the case of an eligible immigrant who is the spouse or child of a legalized alien, paragraph (1) shall only apply on and after the date the legalized alien—

(A) has been granted permanent resident status,

(B) has completed a declaration of intention to become a citizen, and

(C) has submitted a classification petition under section 204 of the Immigration and Nationality Act to classify the eligible immigrant as a preference immigrant described in section 203(a)(2) of such Act or as an immediate relative described in section 201(b) of such Act.

(3) TERMINATION OF APPLICABILITY.—

(A)(i) Paragraph (1) shall not apply 6 months after the date the Immigration and Naturalization Service has provided the legalized alien with written notice (described in clause (ii)) unless the alien has applied for such naturalization.

(ii) The written notice referred to in clause (i) is a written notice (by certified mail, return receipt requested, in the alien's native language) stating that—

(I) the alien has become (before the date the notice is provided) eligible (by virtue of period of lawful permanent residence) to apply for naturalization, and

(II) application for naturalization must be made within 6 months to continue the benefits of this subsection.

(B) Paragraph (1) shall not apply 2 years after the date of filing a timely application for naturalization unless the alien has been naturalized as a citizen or establishes that the alien has actively pursued naturalization. Time consumed in the Service's processing the application shall not be counted toward the 2-year period.

(b) ELIGIBLE IMMIGRANT AND LEGALIZED ALIEN DEFINED.—In this section:

(1)(A) The term "eligible immigrant" means a qualified immigrant who is the spouse or child of a legalized alien and who, except as otherwise provided under subparagraph (B), is admissible as an immigrant and is not described in subparagraph (C).

(B) In the determination of an alien's admissibility as an immigrant for purposes of subparagraph (A)—

(i) the provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply;

(ii) except as provided in clause (iii), the Attorney General may waive any other provision of such section in the case of individual aliens when it is in the public interest; but

(iii) the Attorney General may not waive—

(I) paragraphs (9) and (10) (relating to criminals) of such section;

(II) paragraph (23) (relating to drug offenses) of such section, except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana;

(III) paragraphs (27) and (29) (relating to national security) of such section; or

(IV) paragraph (33) (relating to those who assisted in the Nazi persecution) of such section.

(C) An alien shall not be eligible for the benefits of this section if the Attorney General finds that—

(i) the alien has been convicted of a felony or 2 or more misdemeanors in the United States, or

(ii) the alien is described in section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)).

(2) The term "legalized alien" means an alien lawfully admitted for temporary or permanent residence who was provided—

(A) temporary or permanent residence status under section 254A of the Immigration and Nationality Act,

(B) temporary or permanent residence status under section 210 of the Immigration and Nationality Act, or

(C) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

(c) APPLICATION OF DEFINITIONS.—Except as otherwise specifically provided in tis section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section.

(d) TEMPORARY DISQUALIFICATIONS FROM CERTAIN PUBLIC WELFARE ASSISTANCE.—Aliens provided the benefits of this section by virtue of their relation to a legalized alien described in subsection (b)(2)(A) or (b)(2)(B) shall be ineligible for public welfare assistance in the same manner and for the same period as the legalized alien is ineligible for such assistance under section 245A(h) or 210(f), respectively, of the Immigration and Nationality Act.

(e) APPLICATION OF SLIAG PROGRAM.—For purposes of section 204 of the Immigration Reform and Control Act of 1986, an alien who is the spouse or child of a legalized alien and whose deportation is suspended under this section shall be treated as an eligible legalized alien for the same period as such legalized alien is.

(f) CONSTRUCTION.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to obtain benefits under this section.

SEC. 315. TREATMENT OF CERTAIN LEGALIZATION APPLICANTS.

(a) IN GENERAL.—Section 204(c)(1) of the Immigration Reform and Control Act of 1986 is amended by adding at the end the following: "For purposes of subparagraphs (A) and (C), the term 'eligible legalized alien' includes an alien who applies on a timely basis to become an eligible legalized alien beginning on the date that the alien applies for lawful temporary status under section 210, 210A, or 245A of the Immigration and Nationality Act and ending on the date that there has been a final determination with respect to such application.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Immigration Reform and Control Act of 1986.

SEC. 316. REIMBURSEMENT THROUGH IMMIGRATION EMERGENCY FUND OF LOCALITIES IMPACTED BY INCREASES IN ALIENS APPLYING FOR ASYLUM.

(a) IN GENERAL.—Section 404(b) of the Immigration and Nationality Act (8 U.S.C. 1101 note), as added by section 113 of the Immigration Reform and Control Act of 1986, is amended—

(1) by inserting "to carry out paragraph (2) and" after "to be used",

(2) by inserting "(1)" after "(b)", and

(3) by adding at the end the following new paragraph:

"(2)(A) Whenever a district director of the Service certifies to the Commissioner that the number of asylum applications filed in the respective district during a calendar quarter exceeds by at least 1,000 the number of such applications filed in that district during the preceding calendar quarter, subject to subparagraph (B), funds in the immigration emergency fund provided for under paragraph (1) shall be available for reimbursement of localities that have provided assistance to aliens in that district who have asylum applications pending.

"(B) Not more than $20,000,000 shall be made available for all localities under this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to increases in the number of asylum applications filed in a calendar quarter beginning on or after January 1, 1989.

SEC. 317. CLARIFICATION OF AUTHORIZATION OF APPROPRIATIONS FOR THE IMMIGRATION EMERGENCY FUND.

(a) IN GENERAL.—Section 404(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101 note), as amended by section 316(a) of this Act, is amended—

(1) by inserting "(for fiscal year 1991 and any subsequent fiscal year)" after "appropriated", and

(2) by striking "$35,000,000" and inserting "an amount sufficient to provide for a balance of $35,000,000 in such fund".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of the Immigration Reform and Control Act of 1986.

SEC. 318. REVISION AND EXTENSION OF THE VISA WAIVER PILOT PROGRAM.

(a) IN GENERAL.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) in subsection (a)(2), by inserting ", and presents a passport issued by," after "is a national of";

(2) in subsection (a)(3)—

(A) by striking "ENTRY CONTROL AND WAIVER FORMS" and inserting "IMMIGRATION FORMS", and

(B) by striking all that follows "such admission" and inserting "completes such immigration form as the Attorney General shall establish.";

(3) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) ENTRY BY SEA OR AIR.—If arriving by sea or air, the alien arrives at the port of entry into the United States on a carrier which has entered into an agreement with the Service to guarantee transport of the alien out of the United States if the alien is found inadmissible or deportable by an immigration officer.";

(4) by adding at the end of subsection (a) the following new paragraph:

"(7) ROUND-TRIP TICKET.—The alien is in possession of a round-trip transportation ticket (unless this requirement is waived by the Attorney General under regulations).";

(5) in subsection (b)—

(A) by striking the heading and paragraphs (1) through (3), and

(B) by redesignating paragraph (4) (and subparagraphs (A) and (B) thereof) as subsection (b) (and paragraphs (1) and (2) thereof, respectively);

(6) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "UP TO 8 COUNTRIES" in the heading and inserting "IN GENERAL", and

(ii) by striking all that follows "may designate" and inserting "any country as a pilot program country if it meets the requirements of paragraph (2)";

(A) in paragraph (2)—

(i) by striking "INITIAL QUALIFICATIONS" in the heading and inserting "QUALIFICATIONS",

(ii) by striking "For the initial period described in paragraph (4), a country" and inserting "A country", and

(iii) by adding at the end the following new subparagraphs:

"(C) MACHINE READIBLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readible passports to its citizens.

"(D) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States law enforcement interests would not be compromised by the designation of the country.";

(7) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (d) the following new subsection:

"(d) AUTHORITY.—Notwithstanding the other provision of this section, the Attorney General and the Secretary of State, acting jointly, may for any reason (including national security) refrain from waiving the visa requirement in respect to nationals of any country which may otherwise qualify for designation or may, at any time, rescind any waiver or designation previously granted under this section."; and

(8) in subsection (e)(1), as so redesignated—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(C) to be subject to the imposition of fines resulting from the transporting into the United States of a national of a designated country without a passport pursuant to regulations promulgated by the Attorney General."; and

(9) in subsection (f), as so redesignated, by striking all that follows "the period beginning" and inserting "on October 1, 1988, and ending on September 30, 1994.".

(b) PENALTY FOR TRANSPORT OF ALIENS WITHOUT VALID VISAS.—Section 273 of such Act (8 U.S.C. 1323) is amended—

(1) in subsection (a), by inserting "a valid passport and" before "an unexpired visa", and

(2) in subsection (c), by inserting "valid passport or" before "visa was required".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date of the enactment of this Act.

Page 109, after line 3, insert the following new section (and conform the table of contents accordingly):

SEC. 319. 1-YEAR EXTENSION IN DEADLINE FOR FILING APPLICATIONS FOR ADJUSTMENT FROM TEMPORARY TO PERMAMENT RESIDENCE FOR LEGALIZED ALIENS.

Section 245A(b) of the Immigration and Nationality Act (8 U.S.C. 1255a(b)) is amended—

(1) in paragraph (1)(A), by striking "one-year period" and inserting "2-year period", and

(2) in paragraph (2)(C), by striking "thirty-first" and inserting "43rd".

Subtitle C—Miscellaneous

SEC. 321. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS DECLARED DEPENDENT ON A JUVENILE COURT.

(a) IN GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), as amended by section 102(e)(1) of this Act, is amended—

(1) by striking "or" at the end of subparagraph (I),

(2) by striking the period at the end of subparagraph (J) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(K) an immigrant who (i) who has been declared dependent on a juvenile court located in the United States and has been deemed eligible by that court for long-term foster care, and (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence.".

(b) WAIVER OF GROUNDS FOR DEPORTATION.—Section 241 of such Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(h) Paragraphs (1), (2), (5), (9), or (12) of subsection 241 (other than so much of subsection (a)(1) as relates to a ground of exclusion described in paragraph (9), (10), (23), (27), (29), or (33) of section 212(a)) shall not apply to a special immigrant described in section 101(a)(27)(K) based upon circumstances that exist before the date the alien was provided such special immigrant status.".

SEC. 322. STATISTICAL INFORMATION SYSTEM.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

"(c) The Commissioner, in consultation with interested academicians, government agencies, and other parties, shall provide for a system for collection and dissemination, to Congress and the public, of information (not in individually identifiable form) useful in evaluating the social, economic, environmental, and demographic impact of immigration laws. Such information shall include information on the alien population in the United States, on the rates of naturalization and emigration of resident aliens, on aliens who have been admitted, paroled, or granted asylum, on nonimmigrants in the United States (by occupation, basis for admission, and duration of stay), and on aliens who have been excluded or deported from the United States. Such system shall provide for the collection and dissemination of such information not less often than annually.".

SEC. 323. REVISION OF HEALTH GROUNDS FOR EXCLUSION.

(a) IN GENERAL.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) Any alien who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services)—

"(A) to have a physical or mental disorder, and exhibits a current behavior or has a history of behavior (associated with the disorder) that (i) poses or has posed a threat to property or the safety or welfare of the alien or others and (ii) as to a history of behavior, has occurred so recently (taking into account the nature of the disorder) as to suggest the likelihood of its recurrence or the occurrence of other harmful behavior, or

"(B) to be a drug abuser or addict;";

(2) by striking paragraphs (2) through (5) and (11) of subsection (a); and

(3) in subsection (g)—

(A) by striking "who is excludable from the United States under paragraph (1) of subsection (a) of this section, or any alien", and

(B) by striking the second sentence and inserting the following: "The Attorney General may waive the application of subsection (a)(1)(A) in the case of any immigrant, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in his discretion after consultation with the Secretary of Health and Human Services, may by regulation prescribe.".

(b) CONFORMING AMENDMENTS.—

(1) Section 234 of such Act (8 U.S.C. 1224) is amended by striking "paragraphs (1), (2),

(3), (4), or (5)" and inserting "paragraph (1)" each place it appears.

(2) Section 236(d) of such Act (8 U.S.C. 1226(d)) is amended by striking "paragraphs (1), (2), (3), (4), or (5) of section 212(a)" and inserting "section 212(a)(1)".

(3) Section 272(a) of such Act (8 U.S.C. 1322(a)) is amended—

(A) by striking "(1) mentally retarded" and all that follows through "(6) a narcotic drug addict" and inserting "excludable under section 212(a) (1) or (6)", and

(B) by striking "such disease or disability" and inserting "the excluding condition".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals entering the United States on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

SEC. 324. TEMPORARY PROTECTED STATUS FOR NATIONALS OF EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT, AND OTHER DESIGNATED FOREIGN STATES.

(a) IN GENERAL—The Immigration and Nationality Act is amended by inserting after section 244 the following new section:

"TEMPORARY PROTECTED STATUS

"SEC. 244A. (a) GRANTING OF STATUS.—

"(1) IN GENERAL.—In the case of an alien who is a national of a foreign state designated under subsection (b) and who meets the requirements of subsection (c), the Attorney General, in accordance with this section—

"(A) shall grant the alien temporary protected status in the United States and shall not deport the alien from the United States during the period in which such status is in effect, and

"(B) shall authorize the alien to engage in employment in the United States and provide the alien with an 'employment authorized' endorsement or other appropriate work permit.

"(2) DURATION OF WORK AUTHORIZATION.—Work authorization provided under this section shall be effective throughout the period the alien is in temporary protected status under this section.

"(3) NOTICE OF RIGHTS.—

"(A) Upon the granting of temporary protected status under this section, the Attorney General shall notify the alien of the alien's rights and responsibilities under this section.

"(B) If, at the time of initiation of a deportation proceeding against an alien, the foreign state (of which the alien is a national) is designated under subsection (b), the Attorney General shall promptly notify the alien of the alien's potential rights and responsibilities under this section.

"(C) If, at the time of designation of a foreign state under subsection (b), an alien (who is a national of such state) is in a deportation proceeding under this title, the Attorney General shall promptly notify the alien of the alien's potential rights and responsibilities under this section.

"(D) Notices under this paragraph shall be provided in a form and language that the alien can understand.

"(4) TEMPORARY RIGHTS FOR ELIGIBLE ALIENS.—

"(A) In the case of an alien who can establish a prima facie case of eligibility for rights under paragraph (1), but for the fact that the period of registration under subsection (c)(1)(A)(iv) has not begun, until the alien has had a reasonable opportunity to register during the first 30 days of such period, the Attorney General shall provide for the rights described in paragraph (1).

"(B) In the case of an alien who establishes a prima facie case of eligibility for rights under paragraph (1), until a final determination with respect to the alien's eligibility for rights under paragraph (1) has been made, the alien shall be provided such rights.

"(5) CLARIFICATION.—Nothing in this section shall be construed as authorizing the Attorney General to deny temporary protected status to an alien based on the alien's immigration status or to require any alien, as a condition of being granted such status, either to relinquish nonimmigrant or other status the alien may have or to execute any waiver of other rights under this Act. The granting of temporary protected status under this section shall not be considered to be inconsistent with the granting of nonimmigrant status under this Act.

"(b) DESIGNATIONS OF EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT AND FOREIGN STATES IN GENERAL.—

"(1) DESIGNATION OF EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT.—El Salvador, Lebanon, Liberia, and Kuwait are hereby designated under this subsection.

"(2) DESIGNATION OF FOREIGN STATES IN GENERAL.—The Attorney General, after consultation with appropriate agencies of the Government, shall designate any foreign state (or, in the case of a finding under subparagraph (B), all or any part of such foreign state) under this subsection only if—

"(A) the Attorney General finds that there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state would pose a substantial threat to their personal safety;

"(B) the Attorney General finds that—

"(i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected,

"(ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and

"(iii) the foreign state officially has requested designation under this subparagraph; or

"(C) the Attorney General finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

A designation of a foreign state (or, in the case of a determination under subparagraph (B), all or any part of such foreign state) under this paragraph shall not become effective unless notice of the designation (including a statement of the findings under this paragraph and the effective date of the designation) is published in the Federal Register. In such notice, the Attorney General shall also state an estimate of the number of nationals of the foreign state designated who are (or within the effective period of the designation are likely to become) eligible for temporary protected status under this section and their immigration status in the United States.

"(3) EFFECTIVE PERIOD OF DESIGNATION FOR EL SALVADOR, LEBANON, LIBERIA, AND KUWAIT.—The designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1) shall take effect upon the date of the enactment of this section and shall remain in effect until the effective date of the termination of the respective designation under paragraph (5)(B). For purposes of applying the succeeding provisions of this section, each of such states shall be considered to have been designated based upon findings described in subparagraphs (A) and (C) of paragraph (2). For purposes of this section, the initial period of designation for El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1) is 3 years.

"(4) EFFECTIVE PERIOD OF DESIGNATION FOR OTHER FOREIGN STATES.—The designation of a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) under paragraph (2) shall—

"(A) take effect upon the date of publication of the designation under such paragraph, or such later date as the Attorney may specify in the notice published under such paragraph, and

"(B) shall remain in effect until the effective date of the termination of the designation under paragraph (5)(B).

For purposes of this section, the initial period of designation of a foreign state (or part thereof) under paragraph (2) is the period, specified by Attorney General, of not less than 6 months and not more than 18 months.

"(5) PERIODIC REVIEW, TERMINATIONS, AND EXTENSIONS OF DESIGNATIONS.—

"(A) PERIODIC REVIEW.—At least 60 days before end of the initial period of designation, and any extended period of designation, of a foreign state (or part thereof) under this section the Attorney General, after consultation with appropriate agencies of the Government, shall review the conditions in the foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) for which a designation is in effect under this subsection and shall determine whether the conditions for such designation under this subsection continue to be met. The Attorney General shall provide on a timely basis for the publication of notice of each such determination (including the basis for the determination, and, in the case of an affirmative determination, the period of extension of designation under subparagraph (C)) in the Federal Register.

"(B) TERMINATION OF DESIGNATION.—If the Attorney General determines under subparagraph (A) that a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) no longer continues to meet the conditions for designation under paragraph (2), the Attorney General shall terminate the designation by publishing notice in the Federal Register of the determination under this subparagraph (including the basis for the determination). Such termination is effective in accordance with subsection (d)(3), but shall not be effective earlier than 60 days after the date the notice is published or, if later, the expiration of the most recent previous extension under subparagraph (C) and, with respect to the designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1), shall not be effective before the end of the 3-year period beginning on the date of the enactment of this section.

"(C) EXTENSION OF DESIGNATION.—If the Attorney General does not determine under subparagraph (A) that a foreign state (or, in the case of a determination under paragraph (2)(B), all or any part of such foreign state) no longer meets the conditions for designation under paragraph (2), the period of designation of the foreign state is extended

for an additional period of 6 months (or, in the discretion of the Attorney General, a period of 12 or 18 months).

"(6) INFORMATION CONCERNING PROTECTED STATUS AT TIME OF DESIGNATIONS.—Within the amounts otherwise appropriated to carry out this Act, at the time of a designation of a foreign state under this subsection (including the designation of El Salvador, Lebanon, Liberia, and Kuwait under paragraph (1)), the Attorney General shall make available information respecting the temporary protected status made available to aliens who are nationals of such designated foreign state.

"(7) REVIEW.—

"(A) DESIGNATIONS.—There is no judicial review of any determination of the Attorney General with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection.

"(B) APPLICATION TO INDIVIDUALS.—The Attorney General shall establish an administrative procedure for the review of the denial of rights to aliens under this subsection; except that such procedure shall not prevent an alien from asserting rights under this section in deportation proceedings.

"(c) ALIENS ELIGIBLE FOR TEMPORARY PROTECTED STATUS.—

"(1) IN GENERAL.—

"(A) SALVADORAN, LEBANESE, LIBERIAN, AND KUWAITI NATIONALS.—Subject to paragraph (3), an alien who is a national of El Salvador, Lebanon, Liberia, or Kuwait (for the period such respective state is designated under subsection (b)(1)) meets the requirements of this paragraph only if—

"(i) the alien has been continuously physically present in the United States since the date of the enactment of this section;

"(ii) the alien has continuously resided in the United States since September 19, 1990;

"(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

"(iv) the alien registers under this section within the 270-day registration period (established by the Attorney General) beginning not later than 60 days after the date of the enactment of this section.

"(B) NATIONALS OF DESIGNATED FOREIGN STATES IN GENERAL.—Subject to paragraph (3), an alien, who is a national of a state designated under subsection (b)(2), meets the requirements of this paragraph only if—

"(i) the alien has been continuously physically present in the United States since the effective date of the most recent designation of that state;

"(ii) the alien has continuously resided in the United States since such date as the Attorney General may designate;

"(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

"(iv) to the extent and in a manner which the Attorney General establishes, the alien registers for the temporary protected status under this section during a registration period of not less than 180 days.

"(C) REGISTRATION FEE.—The Attorney General may require payment of a reasonable fee as a condition of registering an alien under subparagraph (A)(iv) or (B)(iv) (including providing an alien with an 'employment authorized' endorsement or other appropriate work permit under this section). The amount of any such fee shall not exceed $50.

"(2) ELIGIBILITY STANDARDS.—

"(A) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—In the determination of an alien's admissibility for purposes of subparagraphs (A)(iii) and (B)(iii) of paragraph (1)—

"(i) the provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not apply;

"(ii) except as provided in clause (iii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest; but

"(iii) the Attorney General may not waive—

"(I) paragraphs (9) and (10) (relating to criminals) of such section;

"(II) paragraph (23) of such section (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana;

"(III) paragraphs (27) and (29) of such section (relating to national security); or

"(IV) paragraph (33) of such section (relating to those who assisted in the Nazi persecution).

"(B) ALIENS INELIGIBLE.—An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that—

"(i) the alien has been convicted of any felony or 2 or more misdemeanors committed in the United States; or

"(ii) the alien is described in section 243(h)(2).

"(3) WITHDRAWAL OF TEMPORARY PROTECTED STATUS.—The Attorney General shall withdraw temporary protected status granted to an alien under this section if—

"(A) the Attorney General finds that the alien was not in fact eligible for such status under this section,

"(B) except as provided in paragraph (4) and permitted in subsection (f)(4), the alien has not remained continuously physically present in the United States from the date the alien first was granted temporary protected status under this section, or

"(C) the alien fails, without good cause, to register with the Attorney General annually, at the end of each 12-month period after the granting of such status, in a form and manner specified by the Attorney General.

"(4) TREATMENT OF BRIEF, CASUAL, AND INNOCENT DEPARTURES AND CERTAIN OTHER ABSENCES.—

"(A) For purposes of paragraphs (1)(A)(i), (1)(B)(i), and (3)(B), an alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences from the United States, without regard as to whether such absences were authorized by the Attorney General.

"(B) For purposes of paragraphs (1)(A)(ii) and (1)(B)(ii), an alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence described in subparagraph (A) or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

"(5) CONSTRUCTION.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for temporary protected status under this section.

"(6) RESTRICTION ON DISCLOSURE OF INFORMATION.—The provisions of section 245A(c)(5) shall apply to information furnished by an alien in order to be granted temporary protected status under this section in the same manner as such provisions apply with respect to information furnished pursuant to an application section 245A.

"(d) DOCUMENTATION.—

"(1) INITIAL ISSUANCE.—Upon the granting of temporary protected status to an alien under this section, the Attorney General shall provide for the issuance of such temporary documentation and authorization as may be necessary to carry out the purposes of this section.

"(2) PERIOD OF VALIDITY.—Subject to paragraph (3), such documentation shall be valid during the initial period of designation of the foreign state (or part thereof) involved and any extension of such period. The Attorney General may stagger the periods of validity of the documentation and authorization in order to provide for an orderly renewal of such documentation and authorization and for an orderly transition (under paragraph (3)) upon the termination of a designation of a foreign state (or, in the case of a determination under subsection (b)(2)(B), all or any part of such foreign state).

"(3) EFFECTIVE DATE OF TERMINATIONS.—If the Attorney General terminates the designation of a foreign state (or, in the case of a determination under subsection (b)(2)(B), all or any part of such foreign state) under subsection (b)(4)(B), such termination shall only apply to documentation and authorization issued or renewed after the effective date of the publication of notice of the determination under that subsection (or, at the Attorney General's option, after such period after the effective date of the determination as the Attorney General determines to be appropriate in order to provide for an orderly transition).

"(4) DETENTION OF THE ALIEN.—Nothing in this section shall be construed to authorize the detention of any alien who is eligible for temporary protected status under this section. An alien provided temporary protected status under this section shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States.

"(e) RELATION OF PERIOD OF TEMPORARY PROTECTED STATUS TO SUSPENSION OF DEPORTATION.—With respect to an alien granted temporary protected status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 244(a), unless the Attorney General determines that extreme hardship exists. Such period shall not cause a break in the continuity of residence of the period before and after such period for purposes of such section.

"(f) BENEFITS AND STATUS DURING PERIOD OF TEMPORARY PROTECTED STATUS.—During a period in which an alien is granted temporary protected status under this section—

"(1) the alien shall not be considered to be permanently residing in the United States under color of law;

"(2) the alien shall not be eligible for any program of cash assistance (furnished directly or through reimbursement) under Federal law, except for treatment for an emergency medical condition as described in section 1903(v) of the Social Security Act;

"(3) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance;

"(4) the alien may travel abroad with the prior consent of the Attorney General; and

"(5) for purposes of adjustment of status under section 245 and change of status under section 248, the alien shall be considered as being in, and maintaining, lawful status as a nonimmigrant.

"(g) EXCLUSIVE REMEDY.—Except as otherwise specifically provided, this section shall constitute the exclusive authority of the Attorney General under law to permit aliens who are or may become otherwise deportable or have been paroled into the United States to remain in the United States temporarily because of their particular nationality or region of foreign state of nationality.

"(h) ANNUAL REPORT.—Not later than March 1 of each year (beginning with 1991), the Attorney General, after consultation with the appropriate agencies of the Government, shall submit a report to the Congress on the operation of this section during the previous year. Each report shall include—

"(1) a listing of the foreign states or parts thereof designated under this section,

"(2) the number of nationals of each such state who have been granted temporary protected status under this section and their immigration status before being granted such status, and

"(3) an explanation of the reasons why foreign states or parts thereof were designated under subsection (b)(2) and, with respect to foreign states or parts thereof previously designated, why the designation was terminated or extended under such subsection.

"(i) CONGRESSIONAL REVIEW OF REPORT.—

"(1) REFERRAL OF REPORT.—Each report, when submitted under subsection (h), shall be referred, in accordance with the rules of the respective House of Congress, to the standing committee or committees having jurisdiction over the subjects of the report, and the report shall be printed as a document of the House of Representatives.

"(2) COMMITTEE HEARINGS.—No later than 90 days after the date of the referral of a report to a committee, in accordance with the rules of the respective House, the committee shall initiate hearings, insofar as such committee has legislative or oversight jurisdiction, to consider—

"(A) the findings of the report,

"(B) the designations of foreign states under subsection (b), and

"(C) whether it is appropriate to change the designations of foreign states under subsection (b) or otherwise to change the protections afforded under this section.

"(3) COMMITTEE REPORT.—No later than 180 days after the date of the referral of such a report to a committee, in accordance with the rules of the respective House, the committee shall report to its respective House its oversight findings and any legislation it deems appropriate.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 244 the following new item:

"Sec. 244A. Temporary protected status."

(c) NO AFFECT ON EXECUTIVE ORDER 12711.—Notwithstanding subsection (g) of section 244A of the Immigration and Nationality Act (inserted by the amendment made by subsection (a)), such section shall not supercede or affect Executive Order 12711 (April 11, 1990, relating to policy implementation with respect to nationals of the People's Republic of China).

SEC. 325. LIMITATION ON DETENTION OF CERTAIN ALIENS WITH DEPENDENT CHILDREN.

(a) IN GENERAL.—Section 242(c) of the Immigration and Nationality Act (8 U.S.C. 1252(c)) is amended—

(1) by striking "When" and inserting "(1) Except as provided in paragraph (2), when"; and

(2) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall not detain any alien described in subparagraph (B) who is deportable under section 241, except in connection with the immediate departure of such alien. The period of such detention shall not exceed a reasonable amount of time (not to exceed 24 hours) based upon the particular circumstances of the alien and the alien's dependent children.

"(B) An alien described in this subparagraph is an alien—

"(i) who is not deportable under paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19) of section 241(a); and

"(ii) who is the mother of any child in the United States if the child is not older than 2 years of age and is dependent upon the alien for basic parental care.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any alien subject to a final deportation order on or after the date of the enactment of this Act.

SEC. 326. WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR NATURALIZATION.

Section 312(1) of the Immigration and Nationality Act (8 U.S.C. 1423(1)) is amended by striking "is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence" and inserting "either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence".

SEC. 327. TREATMENT OF SERVICE IN ARMED FORCES OF A FOREIGN COUNTRY.

(a) IN GENERAL.—Section 315 of the Immigration and Nationality Act (8 U.S.C. 1425) is amended—

(1) in subsection (a), by inserting "but subject to subsection (c)" after "section 405(b)", and

(2) by adding at the end the following new subsection:

"(c) An alien shall not be ineligible for citizenship under this section or otherwise because of an exemption from training or service in the Armed Forces of the United States pursuant to the exercise of rights under a treaty, if before the time of the exercise of such rights the alien served in the Armed Forces of a foreign country of which the alien was a national.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to exemptions from training or service obtained before, on, or after such date.

SEC. 328. OPPORTUNITY FOR ADJUSTMENT OF STATUS BEFORE TERMINATION OF ASYLUM STATUS.

(a) IN GENERAL.—Section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158(b)) is amended by adding at the end the following new sentence: "The Attorney General may not terminate such status on the basis that the alien is no longer a refugee unless the alien has been provided notice of such termination and the right to apply for adjustment of status under section 209(b) and an opportunity (of not less than 90 days beginning one-year after the date the alien is granted asylum) to file an application for adjustment of status under such section to that of an alien lawfully admitted for permanent residence.".

(b) CONFORMING AMENDMENT.—Section 209(b) of such Act (8 U.S.C. 1159(b)) is amended by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to termination of asylum status occurring before, on, or after the date of the enactment of this Act. The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 329. TIMING OF PAYMENT OF FEE FOR APPLICATIONS TO FILE PETITIONS FOR NATURALIZATION.

Any fee charged by the Immigration and Naturalization Service for the filing of an application to file a petition for naturalization shall be paid by the applicant at the time of the filing of the petition for naturalization and, if no such petition for naturalization is filed, no fee shall be charged for the filing of such application.

SEC. 330. USE OF IMMIGRATION EXAMINATIONS FEE ACCOUNT FOR PROMOTION OF CITIZENSHIP.

(a) IN GENERAL.—Section 286(n) of the Immigration and Nationality Act (8 U.S.C. 1356(n)) is amended by adding at the end the following: "Not less than one percent of the funds deposited in the Account shall be expended by the Service to promote the opportunities and responsibilities of United States citizenship. The Attoney General shall submit to Congress annually a report on the promotional activities conducted by the Service under the preceding sentence.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to funds deposited in the Immigration Examinations Fee Account for fiscal years beginning with fiscal year 1991.

SEC. 331. REPORT CONCERNING ADMINISTRATIVE DENIALS OF APPLICATIONS FOR NATURALIZATION.

The Commissioner of the Immigration and Naturalization Service shall submit to Congress annually a report on the number, and rate of denial administratively, of applications for naturalization. Each such report shall specify, for each district office of the Service and by national origin group—

(1) the number of applications classified as "returns" and the number classified as "non-files", and

(2) the number of applicants who reapply after an application for naturalization has been denied.

SEC. 332. INCREASE BY 1,000 IN BORDER PATROL PERSONNEL.

There are authorized to be appropriated for fiscal year 1991 such additional sums as may be necessary to provide for an increase of 1,000 in the authorized personnel level of the border patrol of the Immigration and Naturalization Service, above the authorized level of the patrol as of September 30, 1990.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4300) was laid on the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4300, FAMILY UNITY AND EMPLOYMENT OPPORTUNITY IMMIGRATION ACT OF 1990

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4300, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 4300, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

OLDER WORKERS BENEFIT PROTECTION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 1511.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the Senate bill, S. 1511, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 406, nays 17, not voting 10, as follows:

[Roll No. 407]

YEAS—406

Ackerman	Baker	Bevill
Alexander	Barnard	Bilbray
Anderson	Barton	Bilirakis
Andrews	Bateman	Bliley
Annunzio	Bates	Boehlert
Anthony	Beilenson	Bonior
Applegate	Bennett	Borski
Aspin	Bentley	Bosco
Atkins	Bereuter	Boucher
AuCoin	Berman	Boxer
Brennan	Gordon	McCandless
Brooks	Goss	McCloskey
Broomfield	Gradison	McCollum
Browder	Grandy	McCrery
Brown (CA)	Grant	McCurdy
Brown (CO)	Gray	McDade
Bruce	Green	McDermott
Bryant	Guarini	McGrath
Buechner	Gunderson	McHugh
Bunning	Hall (OH)	McMillan (NC)
Burton	Hall (TX)	McMillen (MD)
Bustamante	Hamilton	McNulty
Byron	Hammerschmidt	Meyers
Callahan	Hansen	Mfume
Campbell (CO)	Harris	Michel
Cardin	Hastert	Miller (CA)
Carper	Hatcher	Miller (OH)
Carr	Hawkins	Miller (WA)
Chandler	Hayes (IL)	Mineta
Chapman	Hayes (LA)	Mink
Clarke	Hefley	Moakley
Clay	Hefner	Molinari
Clement	Henry	Mollohan
Clinger	Herger	Montgomery
Coble	Hertel	Moody
Coleman (MO)	Hiler	Moorhead
Coleman (TX)	Hoagland	Morella
Collins	Hochbrueckner	Morrison (CT)
Condit	Holloway	Morrison (WA)
Conte	Hopkins	Mrazek
Conyers	Horton	Murphy
Cooper	Houghton	Murtha
Costello	Hoyer	Myers
Coughlin	Hubbard	Nagle
Courter	Huckaby	Natcher
Coyne	Hughes	Neal (MA)
Craig	Hunter	Neal (NC)
Crockett	Hutto	Nelson
Darden	Hyde	Nielson
Davis	Inhofe	Nowak
de la Garza	Ireland	Oakar
DeFazio	Jacobs	Oberstar
Dellums	James	Obey
Derrick	Jenkins	Olin
DeWine	Johnson (CT)	Ortiz
Dickinson	Johnson (SD)	Owens (NY)
Dicks	Johnston	Owens (UT)
Dingell	Jones (GA)	Oxley
Dixon	Jones (NC)	Packard
Donnelly	Jontz	Pallone
Dorgan (ND)	Kanjorski	Panetta
Dornan (CA)	Kaptur	Parker
Downey	Kasich	Parris
Dreier	Kastenmeier	Pashayan
Duncan	Kennedy	Patterson
Durbin	Kennelly	Paxon
Dwyer	Kildee	Payne (NJ)
Dymally	Kleczka	Payne (VA)
Dyson	Kolbe	Pease
Early	Kolter	Pelosi
Eckart	Kostmayer	Penny
Edwards (CA)	LaFalce	Perkins
Edwards (OK)	Lagomarsino	Petri
Emerson	Lancaster	Pickett
Engel	Lantos	Pickle
English	Laughlin	Porter
Erdreich	Leach (IA)	Poshard
Espy	Leath (TX)	Price
Evans	Lehman (CA)	Pursell
Fascell	Lehman (FL)	Quillen
Fawell	Lent	Rahall
Fazio	Levin (MI)	Rangel
Feighan	Levine (CA)	Ravenel
Fields	Lewis (CA)	Ray
Fish	Lewis (FL)	Regula
Flake	Lewis (GA)	Richardson
Flippo	Lightfoot	Ridge
Foglietta	Lipinski	Rinaldo
Ford (MI)	Livingston	Ritter
Ford (TN)	Lloyd	Roberts
Frank	Long	Robinson
Frenzel	Lowery (CA)	Roe
Frost	Lowey (NY)	Rogers
Gallegly	Luken, Thomas	Rohrabacher
Gallo	Lukens, Donald	Ros-Lehtinen
Gaydos	Machtley	Rose
Gejdenson	Madigan	Rostenkowski
Gekas	Manton	Roth
Geren	Markey	Roukema
Gibbons	Marlenee	Rowland (GA)
Gillmor	Martin (IL)	Roybal
Gilman	Martin (NY)	Russo
Gingrich	Martinez	Saiki
Glickman	Matsui	Sangmeister
Gonzalez	Mavroules	Sarpalius
Goodling	Mazzoli	Savage
Sawyer	Smith, Robert (NH)	Traficant
Saxton	Smith, Robert (OR)	Traxler
Schaefer	Snowe	Udall
Scheuer	Solarz	Unsoeld
Schiff	Solomon	Upton
Schneider	Spence	Valentine
Schroeder	Spratt	Vento
Schuette	Staggers	Visclosky
Schulze	Stallings	Volkmer
Schumer	Stangeland	Walgren
Sensenbrenner	Stark	Walsh
Serrano	Stearns	Washington
Sharp	Stenholm	Watkins
Shaw	Stokes	Waxman
Shays	Studds	Weber
Shuster	Sundquist	Weiss
Sikorski	Swift	Wheat
Sisisky	Synar	Whittaker
Skaggs	Tallon	Williams
Skeen	Tanner	Wilson
Skelton	Tauke	Wise
Slattery	Tauzin	Wolf
Slaughter (NY)	Taylor	Wolpe
Slaughter (VA)	Thomas (CA)	Wyden
Smith (FL)	Thomas (GA)	Wylie
Smith (IA)	Thomas (WY)	Yates
Smith (NE)	Torres	Yatron
Smith (NJ)	Torricelli	Young (AK)
Smith (VT)	Towns	Young (FL)
Smith, Denny (OR)		

NAYS—17

Archer	Crane	Rhodes
Armey	Dannemeyer	Shumway
Ballenger	DeLay	Smith (TX)
Bartlett	Hancock	Stump
Combest	Kyl	Walker
Cox	McEwen	

NOT VOTING—10

Boggs	Rowland (CT)	Weldon
Campbell (CA)	Sabo	Whitten
Douglas	Vander Jagt	
Gephardt	Vucanovich	

□ 1252

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON THURSDAY, OCTOBER 4, 1990

Mr. MARKEY. Mr. Speaker, this unanimous consent request has been cleared with the minority leader and the Speaker.

I ask unanimous consent that when the House adjourns on today, it adjourn to meet at 11 a.m. on Thursday, October 4, 1990.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 490 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 490

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5269) to control crime, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed three hours, with two hours and forty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and with twenty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, as modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution, as an original bill for purpose of amendment under the five-minute rule, said substitute, as modified, shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute, as modified, shall be in order except those printed in part 2 of the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report, and may be offered only by the Member specified or his designee. Said amendments shall be considered as having been read, shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report, or be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are hereby waived. It shall be in order at any time for the chairman of the Committee on the Judiciary to offer amendments en bloc, consisting of amendments and modifications in the text of any amendment which are germane thereto, printed in part 2 of the report to the Committee on Rules. Such amendments en bloc, shall be considered as having been, read, shall be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. Such amendments en bloc shall not be subject to amendment, or a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments en bloc are hereby waived. The original proponents of the amendments en bloc shall have permission to insert statements in the Congressional Record immediately before the disposition of the amendments en bloc. It shall be in order to consider the amendments numbered 6 offered by Representative Hughes of New Jersey en bloc. If both amendments numbered 14 and 15 are adopted, only the latter amendment which is adopted shall be considered as finally adopted and reported back to the House. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one mission to recommit.

The SPEAKER pro tempore. The gentlewoman from New York (Ms. SLAUGHTER) is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield the customary 30 minues, for purposes of debate only, to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 490 is a modified open rule providing for the consideration of H.R. 5269, the Comprehensive Crime Control Act of 1990.

The rule waives all points of order against consideration of the bill.

It provides for 3 hours of general debate, with 2 hours and 40 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 20 minutes to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Ways and Means.

The rule makes in order the Judiciary Committee amendment in the nature of a substitute now printed in the bill, as modified by the Ways and Means Committee reported amendments printed in part one of the report of the Committee on Rules, as an original bill for the purposes of amendment. The substitute, as modified, shall be considered as read and all points of order against the substitute, as modified, are waived.

No amendments to the substitute are to be in order except those printed in part 2 of the report of the Committee on Rules and amendments en bloc as specified in the rule. The amendments are to be considered only in the order and the manner specified in the report and are considered as read when offered. The debate time specified in the report for each amendment is to be equally divided and controlled by the proponent and a Member opposed to the amendment.

All points of order against the amendments printed in part 2 of the report are waived. The amendments are not subject to amendment, except as specified in the report, and are not subject to a demand for a division of the question in either the House or the Committee of the Whole.

It shall be in order to consider the amendments numbered 6 en bloc. Of the two amendments on the subject of habeas corpus, numbered 14 and 15, only the last one adopted will be considered as finally adopted.

In addition, the rule makes in order amendments en bloc, if offered by Chairman BROOKS, consisting of some or all of the amendments printed in part 2 of the report, including germane modifications. En bloc amendments are debatable for 20 minutes and are not subject to amendment nor a division of the question in the House or the Committee of the Whole. All points of order are waived against the en bloc amendments. The original proponents of amendments included in an en bloc amendment may insert statements in the CONGRESSIONAL RECORD to appear immediately before the vote on the en bloc amendments.

Finally, the rule provides one motion to recommit.

Mr. Speaker, crime touches all of our lives. Even if we have not been direct victims, we have been affected by increased insurance rates, fear in our neighborhoods, and the additional tax burden to pay for fraud in our Nation's savings and loans.

The Comprehensive Crime Control Act, for which the Rules Committee has recommended this rule, is a multifaceted attack on crime. It increases penalties for drug offenses, authorizes funds for new prison projects, provides additional assistance for police, and further protects the rights of victims. The bill also contains strong provisions to increase our ability to prosecute and punish those responsible for the savings and loan crisis. Finally, it establishes new judicial procedures designed to streamline the court process and assure adequate representation during trials and appeals.

Mr. Speaker, this rule, House Resolution 490, differs from the rule considered last week primarily in that it will allow the full House to consider four additional amendments. Both the Hyde substitute habeas corpus title and the Wylie amendment to allow the preemption of State homestead exemptions in cases where individuals have committed fraud or acted recklessly at federally insured financial institutions are now in order.

In all the House will have the opportunity to debate and vote on 47 amendments embodying a wide variety of approaches to our Nation's criminal justice system. I ask my colleagues to support this rule so that we may proceed with consideration of the merits of this vital legislation.

□ 1300

Mr. QUILLEN. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlewoman from New York has ably explained the provisions of the rule. It is similar to the one we debated for a couple of hours last week except the Hyde amendment has been made in order, the Martinez

amendment has been made in order, the Unsoeld amendment has been made in order, subject to an up or down vote, and the Wylie amendment has been made in order.

I am not going to repeat what I said last week when I led the fight to defeat the rule because of its unfairness.

I am not going to point out to the gentlewoman from New York anything about trying to change the rule in the middle of the stream last week. We all know we need a crime bill; it is overdue.

Many amendments were requested in the Rules Committee, and many were not granted on both sides of the aisle. But I would like to call attention to one that I thought should have been made in order, and that is the Kanjorski amendment, authored by my friend from Pennsylvania. It provides for allowng private civil suits to help recover assets from individuals who have defrauded banks or savings and loans, or whose actions have violated Federal banking laws or regulation and led to the failure of a bank or a savings and loan.

It seems to me this should have been made in order. We know the greed and the corruption in some of these failings. It should have been made in order. I refer to it as the bounty amendment.

But it was not made in order. Others were not made in order. But those amendments which were made in order will give the House an opportunity to make this into a good bill. I encourage the adoption of the rule so that we can get down to the business of debating the merits of the bill itself.

Mr. Speaker, I would like to advise the gentlewoman from New York that I have three additional requests for time.

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON.

Mr. SOLOMON. Mr. Speaker, my colleagues, I thank the gentleman for the time. I rise in support of this rule. If we had been asked to consider such a rule as this last week, we could have saved ourselves an awful lot of time and trouble.

You know, sometimes it really does pay to listen to the Republicans on the Committee on Rules. In this particular case, we have a modified open rule. It is not a fully open rule, but it was done so by agreement. No Republican or Democrat is being gagged, including myself, who gave up three amendments just so we could get this agreement.

That is the way we ought to do business on the floor of this House. You can see how it works.

Mr. Speaker, we have before us today a fair rule. H.R. 5269 is a very large and complicated piece of legislation—and this rule does justice to it. The problem last week was simply the fact that we had a rule which didn't do justice to this bill. You can't fight crime with a process which is criminal in and of itself—and that was the dilemma we were faced with last week.

It was just too obvious under the rule last week that a large majority of the Members of this House, from both sides of the aisle, was being thwarted in its efforts to get the Hyde amendment concerning habeus corpus made in order. The rule we are considering today does make the Hyde amendment in order.

The rule today also makes in order the Wylie amendment—which is very important to the effort of cleaning up the savings and loan scandal.

If the Wylie amendment is passed, and I am sure it will be, our Government will be able to go after the tangible personal assets, especially the homes, of the S&L crooks.

I needn't go any further, Mr. Speaker, suffice to say that this House always works best when the process is fair. This is a fair rule. It does justice to the importance of the comprehensive anticrime bill. And I urge the Members to support it.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 7 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I want to thank the gentlewoman from New York for yielding time to me. I too support the rule. I think the rule is fair and balanced. There are some 49 amendments directed, not just to the controversial titles, but there are a lot of amendments that the committee will join in support of, and will accept.

It is a good bill. H.R. 5269 is a good, strong anticrime bill. It is unfortunate that we have gotten bogged down with a lot of rhetoric directed to about six or seven different provisions in the bill, most of which did not come out of the Subcommittee on Crime.

You understand of course, that jurisdiction in this body is divided among various committees and subcommittees. The first 11 titles of the bill that you do not hear much about, are the provisions that were written in my Subcommittee on Crime.

While there are several amendments directed toward those titles, they are not the controversial amendments that you most frequently hear about, which are habeas corpus, racial justice, and the exclusionary rule.

The death penalty provisions were written in my subcommittee, but not the procedures about which you have heard a great deal of debate, and will hear more today.

There are a number of amendments that are directed to the first 11 titles, many of which we will accept.

They are good amendments. We supported them in the Committee on Rules.

Some amendments directed to the first 11 titles we are going to challenge, such as Mr. CONYER'S amendment directed to military facilities that we want to free up. We worked with Armed Services on this provision, so that we can develop these surplus facilities for intermediate types of prisons, if you will, for the States where we have a major problem with prison overcrowding.

So it is with a number of other provisions, such as the assembly of assault weapons.

Guns generate a lot of debate around here. So we will have an amendment to modify a section that we took right from the President's crime bill, that bans the assembly of assault-type weapons in this country. We have banned the importation of those assault weapons, but there is an amendment, noticed on the floor, that will in fact, weaken that section of the bill, which comes from the President's crime package.

But getting back to the controversial provisions in the package—the death penalty, habeas corpus, racial justice, and the exclusionary rule—let me say to my friends and colleagues, please listen to the debate. I realize we have an election coming up in a month and a half, but as always happens on the floor when we deal with crime, if something sounds tough, whether it is really tough or not, whether it makes sense, whether it is constitutional, it has a better than even chance of winning. Those provisions only generate more litigation, and provide uncertainty in the criminal justice system.

Once again, what we want is a good, tough crime bill that will pass constitutional muster and will make a positive contribution to the fight against crime.

Now, there will be a lot of arguments in this debate about whether or not a particular provision is tough or not. Please listen to the debate—I know you will—so that we can develop a package that is fair, that is balanced, and constitutional.

Insofar as the death penalty is concerned, I support the death penalty. I have always supported the death penalty. I believe it is a deterrent. Just as we attempt to increase the penalty for drug trafficking offenses, for superkingpins and for those engaged in continuing criminal enterprises, I believe it does act as a deterrent.

□ 1310

However, Mr. Speaker, the reason it is not a deterrent today, is because we do not have certainty in the process. Unfortunately today, in many parts of our country, when someone is sentenced to jail, the judge has to send them home because we do not have prison space. How in the world can we convince somebody that they are

going to go to jail when they know that, first of all, the chances are they are not going to get caught, and, if they are caught, they are not going to go to jail?

And the same thing with the imposition of the death penalty. Frankly, while I support the death penalty, it is not working today, because nobody believes it is going to be carried out, and, while we have increased the incidence of the death penalty around the country, we have people who have been on death row for as long as 18-19 years, and that just undercuts the value of capital punishment. So, we are trying to reform the habeas corpus process to try to eliminate many of the delays.

We have habeas corpus provisions in the bill. I did not write the habeas corpus provisions. I attempted to move them to where I think they should be. I worked with the gentleman from Wisconsin, whose subcommittee has jurisdiction over habeas corpus. I believe that the amendment we finally developed, the gentleman from South Carolina [Mr. DERRICK] and myself, in fact provides a process that is fair and reasonable and should be adopted by this Congress.

One of the things that the gentleman from Illinois [Mr. HYDE], my colleague, would have us do is to set up two standards in this country, one for the rich and one for the poor. I say to my colleagues: "If you want to take advantage of the new streamlined rules for habeas corpus, the statute of limitations and the sections dealing with repetitious petitions and procedural default, if you want to take advantage of those, you provide competent counsel. In those States that do not want to take advantage of those procedures, but want to continue doing business as usual and not appoint competent counsel, we have a different standard."

Now let me ask my colleagues, "Can we have two standards for a basic fundamental process called habeas corpus, one for the rich and one for the poor?" Because that is the net effect of Hyde. The gentleman from South Carolina [Mr. DERRICK] and myself will offer an amendment, that in fact, provides a balanced process for habeas corpus that will cut down on delays and that tracks the Powell Commissions recommendations. It takes the best of Powell, some of the Senate bill and some of the things that we developed in committee. It will provide a fair and balanced process for habeas corpus.

My colleagues will hear a lot about racial justice, and I have an amendment, which I will offer, that will attempt to reform the racial justice provisions. I opposed those provisions in committee. I think they totally undercut the death penalty. I believed that in committee, argued against those provisions and lost that case in committee.

Mr. Speaker, I am going to try to make the case here on the floor to try to correct the deficiencies in the racial justice provision.

My colleagues will hear a lot of debate, they will hear a lot of talk, about how tough we are on crime. But let me tell my colleagues, "We need to be tough, but we have to be fair, and we have to be constitutional," and I think that when we end this process, hopefully at the end of a couple days of debate and work on these particular amendments, we will have just that. We will strengthen H.R. 5269, and have a bill that we can all be proud of and go home and campaign on.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I thank the gentlewoman from New York [Ms. SLAUGHTER] for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 5269, and I want to congratulate the chairman, Mr. MOAKLEY, and members of the Rules Committee for their work in bringing this resolution for the consideration of the crime bill before us today. They faced a difficult task in selecting which amendments to make in order.

An amendment that will not be in order, is one I had authored that was directed at officers, directors, and borrowers of failed financial institutions, who conceal their assets by transferring them to trusts or family members. Under my amendment, these intrafamily transfers would have been presumed to have been made with the intent to hide the assets from the Federal Deposit Insurance Corporation.

This amendment would have put the burden of proof on the officer, director, or borrower, to show that the transfer was for fair consideration, and not intended to hide the assets.

This amendment is a reaction to reports of directors of failed savings and loans who have purchased new and expensive houses in their wives names and of borrowers from savings and loans who now claim they are penniless, while their spouse has numerous trusts owning mansions, cars and other luxuries. In both cases, the officer and borrower live in these houses and enjoy their benefits, while the taxpayer is left with a $1 billion bill.

The taxpayer cannot be denied the right to recover the crooks ill-gotten loot because of a clever legal scheme to shield the loot from recovery.

I realize that the Rules Committee could not have made every amendment in order. I thank it for considering my amendment, but I want the crooks to know that I intend to include this amendment in other appropriate legislation.

It is time we stop allowing the financial institution crooks to keep their loot.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Speaker, it is with great disappointment today that I must address the lack of a handgun waiting period in the omnibus crime package. I am equally disappointed that an amendment embodying the Brady bill, which would require a Federal 7-day waiting period prior to the sale, delivery or transfer of a handgun, has not been made in order. I believe that a 7-day waiting period is critical to eradicating our Nation's crime problem.

Contrary to opponent's claims, it is clear that handgun waiting periods are effective in lowering crime rates. According to the superintendent of the New Jersey State Police, in the 20 years that New Jersey has required a background check for handgun purchasers, more than 10,000 convicted felons have been caught trying to buy handguns. In addition, the California Department of Justice reports that in 1989 the State's 15-day waiting period caught 1,803 criminals and other prohibited purchasers trying to purchase guns from gun dealers. Without Federal participation, however, many local and State laws are rendered less effective.

A mandated Federal handgun waiting period is imperative if we are truly serious about wiping out crime. Without one, those who wish to purchase a hundgun for immediate use will buy one in neighboring States where less stringent State laws exist. In fact, a Treasury Department study found that only four percent of those handguns used in New York City crimes were bought in New York State. Why? Because New York State has a strict handgun law on its books. The vast majority of handguns used in New York City crimes were purchased in States without a waiting period or background check.

Since February 1, on New York City streets alone, 11 children under the age of 16 have been killed by stray bullets from handguns. Earlier this year, the president of the Citizens Crime Commission of New York said the "streets have turned into shooting galleries."

The simple fact is, that Congress will fail to address fully the crime issue if it does not speak to the handgun problem. A truly effective crime bill must contain a handgun waiting period provision.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. GREEN of New York. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I want to congratulate the gentleman from New York [Mr. GREEN]. He makes a very important point. One cannot talk about drugs today without talking about guns. We have shooting galleries in the neighborhoods, and it is interesting that the only amendment that is made in order in this bill was an amendment to take out gun provisions that the President asked for, and

it is absolutely disgraceful that we do not have in this bill the assault weapon bill, as well as the so-called Brady bill, the handgun waiting bill.

So, I congratulate the gentleman from New York. He is absolutely right.

Mr. GREEN of New York. Mr. Speaker, I thank the gentleman from New Jersey [Mr. HUGHES] for his support.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I support the rule. I will support the bill. I want to commend the gentleman from New Jersey [Mr. HUGHES], the chairman of the Subcommittee on Crime, as much as anybody in America, for protecting the rights of all Americans, including policemen, law enforcement personnel, public officials, witnesses, and civilians involved in cases.

Mr. Speaker, I particularly would have liked to have seen the bill go a little further. I would have liked to have seen it made in order for an amendment that would make the killing of a law enforcement officer a Federal offense. Murder committed by an individual using a machine gun or semiautomatic weapon; I wanted to see that made into a specific Federal offense subject to the Federal courts and Federal laws.

However, Mr. Speaker, the committee and the Committee on Rules decided to separate the Federal interests from the State interests, and hopefully at some point we will revisit this issue and do something in the States requiring that policemen and law enforcement personnel are protected.

However, Mr. Speaker, today I have an amendment in that particular regard that I feel is very appropriate. Many times we have organized crime strike forces at the Federal level and Federal drug task forces that work hand in hand with the local and State officials and policemen, and what we have here in effect today is there can be a joint operation of the city of New York where an FBI agent could be shot down and a detective from the city of New York could be shot down, but the Federal law would extend the death penalty for murder of the FBI agent, but not for the murder of the New York detective. So, the Traficant amendment would extend, in the furtherance of a Federal criminal investigation, the same protections to State and local law enforcement personnel, prosecutors, judges, and witnesses and civilians, including those on witness protection programs in our country.

In addition, Mr. Speaker, this amendment is also very important in organized crime investigations. The mob intimidates witnesses; those witnesses know that they will be killed, so they will not speak. With the arm of the law being able to go out and grab those perpetrators, it will break some of that code of silence. I want my colleagues' support.

Mr. Speaker, the second amendment deals with child abuse. I brought forward a bill several years ago that called for closed circuit testimony in child abuse cases where many times these youngsters are terrified by the presence of the rapist or the abuser, and they cannot get convictions. This was added in the committee, and I again really want to commend the committee. But what it did; it was only for Federal cases, and that is almost nonexistent.

So, Mr. Speaker, the Traficant amendment puts in place an amendment that calls for the creation of participatory grants whereby the Federal Government will give up to 50 percent to the local communities who establish that particular program that has a State statute the conforms to the Supreme Court ruling of Maryland versus Craig which sets down the criteria that, in fact, makes it constitutional and affords for the rights of those young who were abused.

□ 1320

Mr. Speaker, we are going to have a lot of rights debates here today. Let me say this: Murders' rights are so plentiful that we cannot count all of them, but the victims' rights are simply carved in record numbers on tombstones in cemeteries all over America, and it is time that Congress protect victims and families of victims.

I know there will be some tough votes in here placed on the Members. I hope the Members will look at my two amendments with favor. I believe they strengthen the bill.

In closing, Mr. Speaker, I want to say on the floor that no one in the country has done any more than the chairman of this subcommittee, the gentleman from New Jersey [Mr. HUGHES]. I appreciate that as a former sheriff, and I think everybody around the country appreciates that. I am hopeful that in the future we can look forward to protecting all law enforcement personnel, especially in those States where they have chosen not to do that.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I just want to congratulate the gentleman from Ohio [Mr. TRAFICANT]. Both of the amendments to be offered by the gentleman are good amendments.

The gentleman has found, first of all, a gap in the coverage, particularly with respect to Federal task forces. We have a number of drug enforcement task forces on organized crime where local police officers work with us in pursuing Federal investigations, and obviously we want to make sure that we treat the local officers as we treat the Federal officers if, God forbid, any of those are killed in the line of duty.

Insofar as the videotaping of children is concerned, the gentleman has worked very, very hard for many years, and he has been the leader really in trying to develop legislation to permit the videotaping of children who have been abused in connection with criminal activities.

Mr. Speaker, both amendments are good amendments, and I want to tell the gentleman that I intend to vote for both of them.

Mr. TRAFICANT. Mr. Speaker, I appeciate that very much, and I would hope that Congress will support them also. I want to commend the chairman and the vice chairman of the Rules Committee for their support in bringing out this rule.

Mr. QUILLEN. Mr. Speaker, I yield two minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I rise in support of the rule that is now before us, and I invite the gentleman from Ohio who just spoke from the well to look very closely and to look very carefully—as tough on criminals as he wants to be and in favor of law enforcement—at the Gekas amendment on the death penalty, because that is in conformity with his overall plan to bring culprits to justice in this country.

That brings me to the nub of my remarks for this portion of the debate, and that is that it is no secret that the death penalty is favored in every poll among American citizens by an overwhelming margin, 80 percent or more in many cases, and that it acts as a deterrent, almost by the same figures. So we have no duty other than to implement the will of the American people for that purpose.

Let us look very closely at how this debate will evolve. I ask each Member, if you favor the death penalty, to look at the three options that we will be considering: the bill, which is a few crumbs toward the imposition of the dealth penalty at the hands of a jury; the Hughes amendment, which brings about half a loaf of the needed product; and the Gekas amendment, which will give us the whole loaf of the needed law enforcement in the area of capital punishment.

Mr. MOODY. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Speaker, does the gentleman stand before the body to tell us that capital punishment is a serious deterrent to crime?

Mr. GEKAS. Yes, I believe it is; 67 percent or more of the American people believe that.

Mr. MOODY. What does the gentleman believe?

Mr. GEKAS. I do also.

Mr. MOODY. So the gentleman is not here proposing it for punishment; he is here proposing it for deterrence?

Mr. GEKAS. Mr. Speaker, it acts as a deterrent, it acts as punishment, it acts as a societal remedy, and it acts as a law enforcement tool.

Mr. MOODY. Mr. Speaker, is the gentleman aware that States like mine that do not have capital punishment and have not had it for 100 years have lower crime rates than many States that do have capital punishment?

Mr. GEKAS. Then the gentleman should vote against it.

Mr. MOODY. But my point is that there is no evidence that it is an effective deterrent.

Mr. GEKAS. Well, if the polls that include the gentleman's State are accurate, then I say to the gentleman that his State legislature may be in error.

Mr. Speaker, I ask the Members to look at the progression of the death penalty to the point until finally we can adopt the Gekas amendment.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I rise today in strong support of the rule on H.R. 5269. I am particularly pleased because an amendment I submitted to the Rules Committee to help taxpayers recover moneys from S&L crooks has been made in order under this rule. I want to commend and thank Chairman MOAKLEY and ranking member QUILLEN for the fine work they have done to see that my amendment is in order for floor consideration. I believe that unlike the earlier rule on H.R. 5269 that was defeated last week, the rule we are considering today is a fair and inclusive rule. I urge my colleagues to support the rule on this important legislation.

The amendment that I will be later offering authorizes the FDIC and RTC to preempt generous State homestead exemptions in cases where an individual has committed fraud against a failed insured financial institution. I am a strong supporter of States rights, and I would like to note that my amendment would only preempt State law in a very limited situation. My amendment would not generally authorize the FDIC and RTC to preempt State homestead laws in routine bankruptcy situations. It would only apply in those situations where the debtor had committed fraud against the insured financial institution. I believe that this is a very limited exemption that does not threaten State sovereignty and is one small step Congress can take to recover from the S&L crooks.

My amendment is strongly supported by the FDIC and RTC. A similar provision has been sponsored by Senator DOLE and has been included in the Senate crime bill. Additionally, the language of my amendment was included in the S&L crime package that was reported out of the Banking Committee's Financial Institutions Subcommittee by a 42 to 0 vote.

I believe there is strong support for this amendment in both Houses of Congress and the administration. I urge my colleagues to join me in voting for the rule on H.R. 5269 and then later supporting my amendment on State homestead exemptions. We must do everything possible to hold the S&L crooks accountable and I believe that is a modest step to protect the taxpayer.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I intend to vote for this rule, but I am disappointed that the Rules Committee did not make the Brady bill in order. Last week's Gallup Poll shows that 95 percent of Americans support a 7-day waiting period for the purchase of a handgun, but we can't even get a rule to consider the bill.

I can think of no legislation that is more germane to a crime bill than H.R. 467, the Brady bill. The Justice Department reports that 639,000 violent crimes are committed each year with handguns; 407,000 assaults, 210,000 robberies, 12,000 rapes, and 9,200 murders every year are committed with handguns.

Handgun control estimates that handguns cause 22,000 deaths every year—suicides, murders, and accidents.

Mr. Speaker, I urge the Democratic leadership to allow an up or down vote on the Brady bill before we adjourn the 101st Congress.

Otherwise, the rule is now a fair one and urge the membership to support it.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I thank the gentlewoman from New York [Ms. SLAUGHTER] for yielding this time to me, and I want to thank the gentlewoman and the members of the committee for once again having the Committee on Rules bring to us a rule for the consideration of H.R. 5269, the Comprehensive Crime Control bill.

I want to commend the committee and the chairman of the committee, the gentleman from Massachusetts [Mr. MOAKLEY], as well as the manager of this rule, the gentlewoman from New York [Ms. SLAUGHTER].

Throughout this long and difficult process the Rules Committee has made every effort to craft a rule that would permit discussion and debate of the major issues contained in this legislation, while still permitting us to complete consideration in a timely manner and move the bill through the remainder of the legislative process before the end of the session.

Mr. Speaker, this is a good rule and a fair rule, and I urge its adoption.

□ 1330

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, just a few thoughts on capital punishment as we wrap up this debate on the rule.

There is no issue in my life that I have changed my mind on more often or been on all sides of an argument on more often, and you are not supposed to admit that as a politician. But this issue is one that honorable people can argue with great passion on both sides on.

Mr. Speaker, I just wanted to submit as food for thought something that I think has probably put me on the pro-capital-punishment side for the rest of my life. It involves the mass killer Ted Bundy.

We do not know if even in his death heave confessions if they accounted for all of the young women he had tortured and murdered in his rapid accounting at the end. That was certainly a reason not to execute him when they did, to put it off for a few more months, when he finally started to give all this evidence.

The victims—the mothers, the fathers, the brothers, the sisters—one of the national news magazines gave narrative stories of how all of these people were affected by his final execution. In almost every case, for the first time in 15 years for some of them, they had peace of mind.

One mother I remember lost her only child, her daughter. She had her picture next to a picture of the Blessed Virgin, the Mother of Jesus. She had black ribbons around it. She said she never slept one night until Bundy was given his eternal judgment day through the State of Florida.

I think that we have to focus the debate on capital punishment on not just deterrence, something that can be debated forever, but on what the victims want, what it does for them. Not out of a sense of vengeance, but when somebody's child has been tortured to death, raped, murdered, degraded, then I think we owe it to these suffering people. If this gives them some sort of psychological solace, to take the most heinous of the killers that are popping up with increasing and terrible frequency in our modern educated Nation, we owe it to the families of the tortured and the murdered to

put some of these people to death symbolically, to say there is a crime that can be committed in modern American life that sends you to your eternal judgment day.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I want to compliment the Committee on Rules, I know, as my chairman has said, it has been through a great deal. I do not know that this particular rule is any fairer than the rule we had last week, but many in this Chamber may believe so.

On the other hand, we have heard from people here whose amendments have not been made in order on a number of issues, including, as one has related, the Brady gun bill. Perhaps we need an open rule on an issue like this after all, rather than to try to contain the debate. But let us look at the subject.

In this morning's national newspaper, USA Today, their lead editorial deals with, "Congress' Get-Tough Act Is a Real 'Crime.'"

There ought to be a law, they went on to say, against Congress getting tough on crime right before an election. Congress has cracked down on crime every election year since 1984, yet crime is more out of control than ever.

They go on to develop that theme. Like its predecessors, they conclude, the past three election years, the 1990 crime bill is taking shape in Washington, and it won't do much to protect us from crime. At best, it will only help its perpetrators get reelected. That kind of bill would be a real crime.

What is my purpose in reciting that? The fact is that there is a great deal of cynicism in the land about producing crime bills just before an election, omnibus crime bills, that include everything.

That is one of the problems, and I think increasingly, this is not the only newspaper editorial from a major national newspaper critical of our dealing with the subject in the manner we deal with it.

Mr. Speaker, the reason I raise this issue is because we are going to have an opportunity to act with some restraint this afternoon and perhaps tomorrow on this bill. I hope that Members will not get carried away seeking the most extreme of all proposals because it appears at this point in time to be politically desirable.

Mr. Speaker, we have to act responsibly on this bill. I would encourage Members to resist amendments, even though they may be "tougher," but in the long run what they will undo is our system of justice.

Mr. QUILLEN. Mr. Speaker, I urge the adoption of the rule, and I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I rise today in strong support of the amendment from the gentleman from Illinois [Mr. HYDE]. Without this amendment, I cannot support this bill. Without this amendment, neither can the President.

Our criminal justice system is exploited. Ask the everyday American and he'll tell you the same thing. How can we go on explaining to our constituents that our system is working while only a little over 100 people have been executed in the past 20 years? Currently there are 2,350 convicted murderers awaited their death sentence. Due to our seemingly endless system of repetitive appeals and reviews, how long will these murderers continue to live at your and my expense? Another 29 years?

It's time to listen to the experts. A great Virginian, former U.S. Supreme Court Justice Lewis Powell, has concluded that as stands, H.R. 5269 could lead to "increased delay, piecemeal litigation, and more last minute appeals." He warns that without the Hyde amendment, sentencing challenges in successive habeas corpus petitions would be allowed, further delaying the imposition of the sentence.

And it's not just great Virginians who support the Hyde amendment; an overwhelming number of States' attorney generals support Mr. HYDE's amendment, as evidenced in a letter sent to the committee chairman on July 13, 1990. Mr. Chairman, the legislation as it stands now is beneficial only to the murdering criminals awaiting their final judgments.

Mr. Chairman, Mr. HYDE sensibly makes sure that indigent prisoners receive competent counsel in habeas corpus hearings. In the cases in which a death sentence is handed down, the defendant and their competent counsel would then have 6 months to file a habeas corpus petiton. The defendant would be allowed one full course through both the Federal and State courts up to the Supreme Court. After this, only in extreme cases which deal with the questioned guilt of the defendant would further Federal review be allowed.

Let's put some teeth into this crime bill. Our district attorneys want this amendment, our police want this amendment, our attorney generals want this amendment, anyone who wants to get tough on the criminals supports this. I urge passage of this amendment so that we can work to strengthen our criminal justice system.

Mr. HUGHES. Mr. Chairman, I rise in strong opposition to the amendment of the gentleman from Massachusetts.

The amendment would prohibit Federal Prison Industries from entering into production, or expanding the production, of a wide range of products. Unless already approved by the Federal Prison Industries Board, no future expansion would be permitted if the product involved is manufactured by the footwear, apparel, textile, or furniture industries.

This amendment makes absolutely no sense. Tougher sentencing laws and enforcement practices have greatly expanded our Federal prison population. Our Federal prison system is presently operating at more than 170 percent of capacity.

Furthermore, this trend is likely to continue. The Attorney General estimates that the Federal prison population will double in the next 10 years.

More Federal prisoners means we need more prison jobs, not fewer. More prison jobs means we need to expand the production of prison industries, not reduce or freeze that production.

Federal Prison Industries play an important role in our correctional system. FPI provides jobs for inmates who would otherwise be idle. Idleness in a prison can produce attitudinal and behavioral problems among the inmate population.

Jobs provide an opportunity for inmates to contribute to their own support and that of their families, and to make restitution to their victims.

FPI employment provides training and improves postrelease employment chances for inmates. This benefits all of us in the form of reduced recidivism by released inmates.

Contrary to the claims of proponents of this amendment, Federal Prison Industries are not a substantial economic threat to private industry.

Several features of Federal Prison Industries support this conclusion.

One, by law FPI may sell its products only to the Federal Government. It may not compete in the private sector. It must nonetheless function in the private marketplace and comply with Federal procurement and personnel regulations, which are more rigid and inflexible than those in the private sector.

While FPI pays lower initial cost for labor, this factor is more than offset by several features endemic to the prison setting. These include low inmate worker skills, high turnover, and the increased inefficiency and costs of maintaining a secure prison environment. For example, there must be greater tool accountability and frequent prison searches.

Prison Industries are, by design, quite labor-intensive, to create the greatest number of jobs. This produces lower efficiency and higher unit costs.

Freezing Prison Industries and reducing job opportunities in Federal prisons is absolutely the wrong direction in which to go. We should defeat the Frank amendment.

Ms. SLAUGHTER of New York. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 971. An act to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practice in the provision of operator services, and for other purposes; and

H.R. 5313. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5313) "An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SASSER, Mr. INOUYE, Mr. REID, Mr. FOWLER, Mr. BYRD, Mr. GRASSLEY, Mr. GARN, Mr. STEVENS, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 147, Concurrent resolution supporting the actions taken by the President with respect to Iraqi aggression against Kuwait.

TELEPHONE OPERATOR CONSUMER SERVICES IMPROVEMENT ACT OF 1990

Mr. MARKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 971) to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practices in the provision of operator services, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Operator Consumer Services Improvement Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the divestiture of AT&T and decisions allowing open entry for competitors in the telephone marketplace produced a variety of new services and many new providers of existing telephone services;

(2) the growth of competition in the telecommunications market makes it essential to ensure that safeguards are in place to assure fairness for consumers and service providers alike;

(3) a variety of providers of operator services now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business from consumers;

(4) the mere existence of a variety of service providers in the operator services marketplace is significant in making that market competitive only when consumers are able to make informed choices from among those services providers;

(5) however, often consumers have no choices in selecting a provider of operator services, and often attempts by consumers to reach their preferred long distance carrier by using a telephone billing card, credit card, or prearranged access code number are blocked;

(6) a number of State regulatory authorities have taken action to protect consumers using intrastate operator services;

(7) from January 1988 through February 1990, the Federal Communications Commission received over 4,000 compliants from consumers about operator services;

(8) those consumers have complained that they are denied access to the interexchange carrier of their choice, that they are deceived about the identity of the company providing operator services for their calls and the rates being charged, that they lack information on what they can do to complain about unfair treatment by an operator service provider, and that they are, accordingly, being deprived of the free choice essential to the operation of a competitive market;

(9) The Commission has testified that its actions have been insufficient to correct the problems in the operator services industry to date; and

(10) a combination of industry self-regulation and government regulation is required to ensure that competitive operator services are provided in a fair and reasonable manner.

SEC. 3. AMENDMENT.

Title II of the Communications Act of 1934 is amended by inserting immediately after section 225 (47 U.S.C. 225) the following new section:

"SEC. 226. TELEPHONE OPERATOR SERVICES.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'access code' means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence.

"(2) The term 'aggregator' means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services.

"(3) The term 'call splashing' means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the subsequent provider is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location.

"(4) The term 'consumer' means a person initiating any interstate telephone call using operator services.

"(5) The term 'equal access' has the meaning given that term in Appendix B of the Modification of Final Judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia), as amended by the Court in its orders issued prior to the enactment of this section.

"(6) The term 'equal access code' means an access code that allows the public to obtain an equal access connection to the carrier associated with that code.

"(7) The term 'operator services' means any interstate telecommunications service initiated from an aggregator located that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than—

"(A) automatic completion with billing to the telephone from which the call originated; or

"(B) completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer.

"(8) The term 'presubscribed provider of operator services' means the interstate provider of operator services to which the consumer is connected when the consumer places a call using a provider of operator services without dialing an access code.

"(9) The term 'provider of operator services' means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services.

"(6) REQUIREMENTS FOR PROVIDERS OF OPERATOR SERVICES.—

"(1) IN GENERAL.—Beginning not later than 30 days after the date of enactment of this section, each provider of operator services shall, at a minimum—

"(A) identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

"(B) permit the consumer to terminate the telephone call at no charge before the call is connected;

"(C) disclose immediately to the consumer, upon request and at no charge to the consumer—

"(i) a quote of its rates or charges for the call;

"(ii) the methods by which such rates or charges will be collected; and

"(iii) the methods by which complaints concerning such rates, charges, or collection practices will be resolved;

"(D) ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of subsection (c) and, if applicable, subsection (e)(1);

"(E) withhold payment (on a location-by-location basis) of any compensation, including commissions, to aggregators if such provider reasonably believes that the aggregator (i) is blocking access by means of "950" or "800" numbers to interstate common carriers in violation of subsection (c)(1)(B) or (ii) is blocking access to equal access codes in violation of rules the Commission may prescribe under subsection (e)(1);

"(F) not bill for unanswered telephone calls in areas where equal access is available;

"(G) not knowingly bill for unanswered telephone calls where equal access is not available;

"(H) not engage in call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred;

"(I) except as provided in subparagraph (H), not bill for a call that does not reflect the location of the origination of the call; and

"(J) not bill an interexchange telephone call to a billing card number which—

"(i) is issued by another provider of operator services, and

"(ii) permits the identification of the other provider,

unless the call is billed at a rate not greater than the other provider's rate for the call, the consumer requests a special service that

is not available under tariff from the other provider, or the consumer expressly consents to a rate greater than the other provider's rate.

"(2) ADDITIONAL REQUIREMENTS FOR FIRST 3 YEARS.—In addition to meeting the requirements of paragraph (1), during the 3-year period beginning on the date that is 30 days after the date of enactment of this section, each presubscribed provider of operator services shall identify itself audibly and distinctly to the consumer, not only as required in paragraph (1)(A), but also for a second time before connecting the call and before the consumer incurs any charge.

"(c) REQUIREMENTS FOR AGGREGATORS.—

"(1) IN GENERAL.—Each aggregator, beginning not later than 30 days after the date of enactment of this section, shall—

"(A) post on or near the telephone instrument, in plain view of consumers—

"(i) the name, address, and toll-free telephone number of the provider of operator services;

"(ii) a written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and

"(iii) the name and address of the enforcement division of the Common Carrier Bureau of the Commission, to which the consumer may direct complaints regarding operator services; and

"(B) ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer; and

"(C) ensure that no charge by the aggregator to the consumer for using an "800" or "950" access code number, or any other access code number, is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.

"(2) EFFECT OF STATE LAW OR REGULATION.—The requirements of paragraph (1)(A) shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are substantially the same as those required in paragraph (1)(A).

"(d) GENERAL RULEMAKING REQUIRED.—

"(1) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding pursuant to this title to prescribe regulations to—

"(A) protect consumers from unfair and deceptive practices relating to their use of operator services to place interstate telephone calls; and

"(B) ensure that consumers have the opportunity to make informed choices in making such calls.

"(2) DEADLINES.—The Commission shall initiate the proceeding required under paragraph (1) within 60 days after the date of enactment of this section and shall prescribe regulations pursuant to the proceeding not later than 210 days after such date of enactment. Such regulations shall take effect not later than 45 days after the date the regulations are prescribed.

"(3) CONTENTS OF REGULATIONS.—The regulations prescribed under this section shall—

"(A) contain provisions to implement each of the requirements of this section, other than the requirements established by the rulemaking under subsection (e) on access and compensation; and

"(B) contain such other provisions as the Commission determines necessary to carry out this section and the purposes and policies of this section.

"(4) ADDITIONAL REQUIREMENTS TO BE IMPLEMENTED BY REGULATIONS.—The regulations prescribed under this section, shall, at a minimum—

"(A) establish minimum standards for providers of operator services to use in the routing and handling of emergency telephone calls; and

"(B) establish a policy for requiring providers of operator services to make public information about recent changes in operator services and choices available to consumers in that market.

"(e) SEPARATE RULEMAKING ON ACCESS AND COMPENSATION.—

"(1) ACCESS.—The Commission, within 9 months after the date of enactment of this section, shall require—

"(A) that each aggregator ensure within a reasonable time that each of its telephones presubscribed to a provider of operator services allows the consumer to obtain access to the provider of operator services desired by the consumer through the use of an equal access code; or

"(B) that all providers of operator services, within a reasonable time, make available to their customers a "960" or "800" access code number for use in making operator services calls from anywhere in the United States; or

"(C) that the requirements described under both subparagraphs (A) and (B) apply.

"(2) COMPENSATION.—The Commission shall consider the need to prescribe compensation (other than advance payment by consumers) for owners of competitive public pay telephones for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones. Within 9 months after the date of enactment of this section, the Commission shall reach a final decision on whether to prescribe such compensation.

"(f) TECHNOLOGICAL CAPABILITY OF EQUIPMENT.—Any equipment and software manufactured or imported more than 18 months after the date of enactment of this section and installed by any aggregator shall be technologically capable of providing consumers with access to interstate providers of operator services through the use of equal access codes.

"(g) FRAUD.—In any proceeding to carry out the provisions of this section, the Commission shall require such actions or measures as are necessary to ensure that aggregators are not exposed to undue risk of fraud.

"(h) DETERMINATIONS OF RATE COMPLIANCE.—

"(1) FILING OF INFORMATIONAL TARIFF.—

"(A) IN GENERAL.—Each provider of operator services shall file, within 30 days after the date of enactment of this section, and shall maintain, update regularly, and keep open for public inspection, an informational tariff specifying rates, terms, and conditions, and including commissions, surcharges, any fees which are collected from consumers, and reasonable estimates of the amount of traffic priced at each rate, with respect to calls for which operator services are provided. Any changes in such rates, terms, or conditions shall be filed no later than the first day on which the changed rates, terms, or conditions are in effect.

"(B) WAIVER AUTHORITY.—The Commission may, after 4 years following the date of enactment of this section, waive the requirements of this paragraph only if—

"(i) the findings and conclusions of the Commission in the final report issued under paragraph (3)(B)(iii) state that the regulatory objectives specified in subsection (d)(1)(A) and (B) and have been achieved; and

"(ii) the Commission determines that such waiver will not adversely affect the continued achievement of such regulatory objectives.

"(2) REVIEW OF INFORMATIONAL TARIFFS.—If the rates and charges filed by any provider of operator services under paragraph (1) appear upon review by the Commission to be unjust or unreasonable, the Commission may require such provider of operator services to do either or both of the following:

"(A) demonstrate that its rates and charges are just and reasonable, and

"(B) announce that its rates are available on request at the beginning of each call.

"(3) PROCEEDING REQUIRED.—

"(A) IN GENERAL.—Within 60 days after the date of enactment of this section, the Commission shall initiate a proceeding to determine whether the regulatory objectives specified in subsection (d)(1) (A) and (B) are being achieved. The proceeding shall—

"(i) monitor operator service rates;

"(ii) determine the extent to which offerings made by providers of operator services are improvements, in terms of service quality, price, innovation, and other factors, over those available before the entry of new providers of operator services into the market;

"(iii) report on (in the aggregate and by individual provider) operator service rates, incidence of service complaints, and service offerings;

"(iv) consider the effect that commissions and surcharges, billing and validation costs, and other costs of doing business have on the overall rates charged to consumers; and

"(v) monitor compliance with the provisions of this section, including the periodic placement of telephone calls from aggregator locations.

"(B) REPORTS.—(i) The Commission shall, during the pendency of such proceeding and not later than 5 months after its commencement, provide the Congress with an interim report on the Commission's activities and progress to date.

"(ii) Not later than 11 months after the commencement of such proceeding, the Commission shall report to the Congress on its interim findings as a result of the proceeding.

"(iii) Not later than 23 months after the commencement of such proceeding, the Commission shall submit a final report to the Congress on its findings and conclusions.

"(4) IMPLEMENTING REGULATIONS.—

"(A) IN GENERAL.—Unless the Commission makes the determination described in subparagraph (B), the Commission shall, within 180 days after submission of the report required under paragraph (3)(B)(iii), complete a rulemaking proceeding pursuant to this title to establish regulations for implementing the requirements of this title (and paragraphs (1) and (2) of this subsection) that rates and charges for operator services be just and reasonable. Such regulations shall include limitations on the amount of commissions or any other compensation given to aggregators by providers of operator service.

"(B) LIMITATION.—The requirement of subparagraph (A) shall not apply if, on the

basis of the proceeding under paragraph (3)(A), the Commission makes (and includes in the report required by paragraph (3)(B)(iii)) a factual determination that market forces are securing rates and charges that are just and reasonable, as evidenced by rate levels, costs, complaints, service quality, and other relevant factors.

"(i) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to alter the obligations, powers, or duties of common carriers or the Commission under the other sections of this Act."

Mr. MARKEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Massachusetts [Mr. MARKEY]?

Mr. RINALDO. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from Massachusetts [Mr. MARKEY], the distinguished chairman of the Subcommittee on Telecommunications and Finance, for the purpose of explaining H.R. 971 and the Senate amendment thereto.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding.

The Senate amendment to H.R. 971 represents a compromise between H.R. 971, which passed the House on September 25, 1989, and S. 1660 as it was passed by the other body. The differences between the two bills are minimal and in most regards are technical drafting changes. The most significant change in the legislation is that it now establishes specific statutory requirements for operator service providers and "aggregators," hotels and other intuitions who make telephones available to the public, rather than initiating an FCC rulemaking procedure to impose the same requirements as H.R. 971. In addition, to ensure that the FCC has the full administrative authority embodied in the Communications Act, the legislation is redrafted as an amendment to title II of the Communications Act of 1934.

There has been a litany of consumer complaints about overcharges and unacceptable business practices in the operator services industry. This bill will ensure that consumers are protected from the unfair prices and practices of the fast-buck artists without jeopardizing the legitimate business interests of many in this infant industry.

Since the breakup of AT&T, new and unregulated companies, have entered the marketplace to provide service. In many cases, the new providers have charged their customers substantially higher prices—sometimes as much as 400 percent more than AT&T.

Alternative operator services, or [AOS] providers, are new companies that lease telephone lines from major carriers, such as AT&T and MCI, and then utilize those lines to sell "Dial O" services to businesses and institutions such as airports, hospitals, and universities. This legislation is a comprehensive package which addresses the abuses that have occurred in some segments of the operator services industry.

This legislation will ensure that those who use public telephones have unblocked access to the long-distance carrier of their choice and adequate information for making informed decisions regarding those carriers. In addition to unblocking access and providing adequate information, the compromise contained in H.R. 971 addresses and combats the excessive rates charged by some less-scrupulous operator service providers.

Under the legislation, the FCC must review the rates filed by each operator service provider and if they appear unjust or unreasonable, require that the operator service provider either justify its rates or announce the availability of its rates to the consumer at the beginning of each call. In addition, if the FCC finds after a full proceeding, that an operator service provider's rates are unjust and unreasonable, it must then regulate the operator service companies' rates including imposing limits on the compensation paid by operator service companies to hotels and pay phones.

This legislation provides the FCC with the full administrative authority necessary to correct the unprincipled elements in the operator services industry. Ultimately, it will create lower prices in a truly competitive marketplace.

Mr. Speaker, this bill is the result of a bipartisan effort on the part of committee members to ensure that we move forward to prevent these unfair and unresolved abuses in the industry. The gentleman from New Jersey [Mr. RINALDO], the ranking minority member of our subcommittee has made it possible for us to construct a bill that will adequately resolve this issue, one which has become increasingly onerous to consumers.

I would like to commend the gentleman from Tennessee [Mr. COOPER] for his leadership in introducing this legislation and for bringing national attention to this issue. I would also like to applaud the constructive efforts of the gentlemen from Texas, Mr. BRYANT and Mr. FIELDS and other subcommittee colleagues who have worked diligently in drafting this legislation.

Mr. RINALDO. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MARKEY]. I strongly support the legislation.

Mr. Speaker, I yield to the gentleman from Tennessee [Mr. COOPER].

□ 1340

Mr. COOPER. I would just like to thank the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY], and the ranking member, the gentleman from New Jersey [Mr. RINALDO], for their outstanding leadership and hard work on this measure. I feel that as a result of this legislation we will be able to protect countless consumers across this country who have been upset and frustrated with the way the public pay telephones and telephones in hotel rooms have been sometimes taken over by unscrupulous alternative operator service operators.

So I thank the gentleman for their hard work.

Mr. RINALDO. I thank the gentleman for his contribution.

Further reserving the right to object, I yield to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. I thank the gentleman for yielding. I would just like to say that this is the bill of the gentleman from Tennessee [Mr. COOPER]. He initiated it. He was the driving force, and he deserves the compliments that attach to passage of a successful piece of legislation, as this is.

Mr. RINALDO. Further reserving the right to object, Mr. Speaker, I just want to acknowledge what the gentleman is saying. All of us worked hard, the gentleman from Massachusetts, the gentleman from Tennessee, and myself. I feel that it is a good piece of legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

COMPREHENSIVE CRIME CONTROL ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 490 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5269.

□ 1340

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5269) to control crime, with Mr. Bosco in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 1 hour and 20 minutes; the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 1 hour and 20 minutes; the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 10 minutes; and the gentleman from Texas [Mr. ARCHER] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I consider bringing H.R. 5269, the Comprehensive Crime Control Act of 1990 to the floor of the House today to be one of the most important acts of my first Congress as chairman of the Committee on the Judiciary. A prime responsibility of government is to ensure that the people can live in peace and safety. The damage inflicted by criminals, whether it be physical, emotional or monetary, exacts a heavy toll on our society. Ultimately, each of us is a victim of such activity, and it diminishes the quality of our civilization.

To meet the challenge posed by both violent and white collar crime, the subcommittees of the Committee on the Judiciary have undertaken a vigorous and comprehensive program of investigation and legislation over the past 2 years. The spearhead of this effort has been the Subcommittee on Crime, chaired by my good friend and colleague, the gentleman from New Jersey [Mr. HUGHES].

Other aspects of this multifaceted problem have been handled by the Subcommittee on Courts, chaired by the gentleman from Wisconsin [Mr. KASTENMEIER]; the Subcommittee on Civil and Constitutional Rights, chaired by the gentleman from California [Mr. EDWARDS]; the Subcommittee on Criminal Justice, chaired by the gentleman from New York [Mr. SCHUMER]; and the Subcommittee on Immigration, Refugees, and International Law, chaired by the gentleman from Connecticut [Mr. MORRISON].

In addition, the Subcommittee on Economic and Commercial Law, which I chair, looked into several aspects of the crime problem dealing with our bankruptcy laws.

The product of this effort is H.R. 5269, the bill which is before us today. Its 22 titles deal comprehensively with matters ranging from reimposition of the Federal death penalty to child abuse to financial institutions law enforcement. It is a landmark piece of legislation.

Some of the major features of H.R. 5269 include the following:

On the death penalty—the bill adopts new procedures that will allow Federal courts to impose the death penalty for the first time since the Supreme Court struck down all death penalty laws in 1972. The bill also provides for imposition of the death penalty for crimes including assassination of the President, intentional killing of a Federal Judge or law enforcement officer, and other crimes in which the Federal Government has a clear and particular interest. Several amendments to be considered today will allow Members to vote to expand the crimes for which the death penalty may be imposed in the Federal criminal justice system.

On habeas corpus—the bill reforms the process by which habeas corpus petitions come before Federal courts, setting time limits for death row prisoners to bring habeas petitions, tightening the rules regarding second or successive petitions, and specifying the law to be applied in these cases. An amendment will be offered to tighten these procedures further, in order to meet many of the concerns that have been expressed by law enforcement officials and prosecutors.

On savings and loans—the bill enhances the enforcement powers of the Department of Justice and Federal financial institutions regulatory agencies to crack down on criminal activities affecting federally insured financial institutions.

On drug abuse—the bill toughens the sentencing process for methamphetamine offenses, cracks down on illegal anabolic steroid use, tightens Federal drug paraphernalia laws, and expands the list of chemicals that are used in manufacturing illicit drugs.

Mr. Chairman, H.R. 5269 is a well-crafted and comprehensive effort to combat crime—from the streets of our cities where violent crime threatens our tranquility to the boardrooms of savings and loans where white collar criminals steal with ledger sheets and calculators. Numerous other amendments have been made in order by the rule. While I, personally, may not agree with the content of all of them, debating them will enable the House to work its will in a free and open manner and produce a bill that reflects the collective judgment of this body. I urge the Members' support for this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we do have a very serious work product today before us, a crime bill that the public has been waiting for some time for us to get to the floor and to be able to amend and hopefully get with the Senate in a few days and get to the President before the end of this term.

Crime in the streets is the No. 1 issue in most people's minds consistently. From day to day on the screen of world affairs there is something else that supersedes it, but day in and day out for the last several years crime and drug have been at the heart of the problems that most Americans in their daily lives are most concerned about. It is a very, very serious problem for us in large measure, in my judgment, because we do not have the proper deterrence in the laws that we have on the books today. And it is not that the laws themselves are all bad, it is that we are not carrying those laws out. There is not a certainty and swiftness of punishment that sends a message out to society and would-be criminals that if they do certain things then their conduct is going to result in some very undesirable results as far as punishment is concerned.

There have been academicians over the last few years who have written a great deal about deterrence, how deterrence is not occurring in the criminal justice process in this country and won't work, and I do not agree with that. I think that is a very bad mistake. I think deterrence for our criminal laws are a very, very important part, in fact the primary reason why we have most of these laws on the books today. We do not want to people to commit crimes. We want to discourage that. We want to stop that, and we want to get the criminals off the street when they do commit crimes.

But deterrence is more important than simply taking criminals off the streets, because they have already committed the crime, maybe several crimes, before they are taken off the streets today.

We have a lot of work to do on both taking criminals off the streets and deterring crime in this bill. I would commend to my colleagues several of the amendments that will be out here on the floor in the next few hours and in the next couple of days. It is not that the bill that is coming out itself is inherently a bad bill. There are features with which I agree. The drug provisions in particular I think reflect a good deal of bipartisan work that will result in an improvement of the law structure for our law enforcement officials.

□ 1350

But in the drug area, we have for the most part done yeoman work here in the past in putting laws into place in the last two Congresses which we

need to see carried out and implemented including user accountability and provisions that will allow for those who are using drugs to go through rehabilitation and hopefully our schoolkids to be educated against drug use.

One of the things that is in this bill that I very strongly support and want to comment on before I mention the amendments, is the provision in the bill that the gentleman from New Jersey and I have worked out to reinforce the user-accountability laws in this country so that when somebody is convicted of a simple possession of narcotics, they will automatically lose their Federal benefits in many areas. I think that is a deterrent. It is an important deterrent. It goes to the drug area in specific, and it is not something that ought to be very controversial.

A couple of years ago we passed a user-accountability law on the floor in a big drug bill. Unfortunately when it got out of conference with the other body, we wound up with provisions that allowed judges to make the decision on a case-by-case basis. There is some question as to whether delegation of powers to State court judges is constitutional even, and we do not have at the present time a very effective system of getting the user-accountability laws into effect dealing with simple possession and use of narcotics. The provisions in this bill will result in automatic loss of Federal benefit upon conviction of a narcotics possession crime. So that is what I want to particularly mention and highlight that is in the bill that I very warmly embrace, and I think is a good example of the fine bipartisan work product that our Subcommittee on Crime has had and the full Judiciary has in working up a good deal of this bill.

I am not going to itemize all the good features in the bill. I think the Members themselves can recognize most of these and will recognize them, and I am sure others in general debate will be able to point them out.

I would like to highlight briefly five or six key amendments that will be offered that I think Members should watch for, look for, that I think are absolutely essential to making this bill the tough kind of crime bill that the American public deserves and is needed to put that deterrent into general criminal laws and to put certainty and swiftness of punishment back there for those who go out and commit these crimes, some of them very heinous crimes.

First and foremost, while the bill has some provisions that move in this direction, there will be an amendment by the gentleman from Pennsylvania [Mr. GEKAS] that I think is essential to restoring the procedures for the death penalty for Federal crimes that are currently on the books. We have a number of those crimes where the death penalty could be imposed theoretically, but in 1973 the U.S. Supreme Court struck down all of the procedures in the United States including the Federal ones on the death penalty and said you have got to go back and put in place certain procedures that have to be followed before the death penalty may be imposed.

It has been nearly 20 years, and we have failed to address the restoration of procedures of the death penalty at the Federal level. We now have that opportunity.

The debate will be over two things. One is the nature of those procedures, getting to the point where we have the right combination so the death penalty can truly be carried out, and the other will be over whether we should remove from the books any of the presently existing provisions that provide for the death penalty for certain Federal crimes.

I would submit to my colleagues that now is not the time to be messing around with our criminal laws to remove from the books crimes that we think maybe should not have the death penalty. I have reviewed those, and I would submit to the Members that every single one of the crimes that are on the books today that have the death penalty attached to them at the Federal level ought to remain there. Members should look long and hard before they allow anything to pass this body that omits a single one of those crimes that now is punishable with the death penalty.

The amendment to be offered by the gentleman from Pennsylvania [Mr. GEKAS] would assure that would be the case, plus he would assure there would be only one aggravating factor required. We would not have too much of a complex procedure out here involved in the process of awarding the death penalty, and we could again, once again, finally after nearly 20 years, get the death penalty back on the Federal lawbooks for crimes ranging from the assassination of the President to the killing of a Federal prison guard to a number of other things that will be debated here over time when the amendments are here.

A second amendment is one that I will be offering that the President has supported for some time that I introduced in the last Congress, and that is to provide the death penalty for drug kingpins who traffic in very large quantities of narcotics. We are talking now about twice the amount of narcotics necessary for life imprisonment today under Federal law. If you have that much narcotics you are trafficking in, it seems to me we should be giving the death penalty to those who perform that kind of crime. We are talking now about somebody who is trafficking in so much narcotics that it is logical to assume that several people are dying from every transaction of this large nature.

In addition to that, our society needs to have the ultimate penalty there to discourage and to deter these very large drug-kingpin dealers from going ahead with these kinds of transactions. I submit to the Members this is an essential amendment to make sure that the laws are acting as the deterrent that they are supposed to be in the area of drug trafficking.

The amendment that I will offer also provides for the death penalty for drug kingpins where there is a reckless disregard during the course of a drug transaction of the life of another person and somebody dies, even if the person who is committing the crime does not intend for somebody to die. If you are reckless about it, you are spraying the whole area with a machinegun or something, it seems to me that there ought to be a death penalty available in that case, in drug trafficking at the Federal level.

The third and perhaps most significant of all the amendments I am going to mention today that will be offered out here will be an amendment to be offered by the gentleman from Illinois [Mr. HYDE] dealing with the question of habeas corpus, dealing with the Powell Commission report, that law enforcement agencies, States' attorneys and district attorneys around this country have been clamoring to be enacted into law.

We have a provision in the bill now that there will be an effort by the gentleman from New Jersey [Mr. HUGHES] and the gentleman from South Carolina [Mr. DERRICK] to offer to modify that. I am sure it will be an improvement over what is in the bill presently, but the type of procedures that are desired to reform the habeas corpus area that the law enforcement community of this country says is the only way it will work and the only way we can do this and not effectively eliminate the death penalty in this country is to go with the Hyde amendment which embraces the terms of the Powell, former Justice of the U.S. Supreme Court, Powell Committee report.

What is important about this is that we are talking about the opportunity for those on death row to appeal and appeal and appeal their conviction and their sentence to death, not only through the normal process through their State supreme court to the U.S. Supreme Court, but then to go back into Federal district court with appeal after appeal after appeal on all kinds of different grounds trying to delay carrying out of their sentences. We have seen that again and again in this country where people sit on death row for years, and we did not have the carrying out of the sentences. We certainly do not have the swiftness and certainty of punishment necessary for de-

terrence in our criminal laws where the death penalty is concerned where that condition exists.

The Hyde amendment is critical to making sure we can end that process, put some time limits on it that are responsible and not go overboard which the other proposals do, in my judgment and that of most law enforcement officials, in giving them actually more procedures that will cause more delays than we even have today.

I urge my colleagues to really listen to that debate when it comes down.

The fourth amendment, I think, is crucial in this legislation which deals with the what we call exclusionary rule. The gentleman from New Hampshire [Mr. DOUGLAS] will be offering that amendment to modify the procedures that currently are out there on evidence that is admitted into court in cases where there has been searches and seizures, and a court determines that there has been a constitutional defect by the police officer in the search, especially in this case specifically a warrantless search.

The rules of evidence today allow for good-faith exception for the police officer who does not intend to commit any kind of constitutional infringement if he has gone and gotten a search warrant first. Most of our drug offenses occur when somebody has been apprehended in an automobile, for an example, and he is carrying drugs, there is no search warrant, and he has been stopped. There is a search and there is a seizure, and we are missing a lot of convictions. We are letting a lot of these criminals back out on the streets again, because the laws and rules of evidence are not tailored the right way. They are out to punish the police, and instead they are punishing the public.

I urge my colleagues to adopt this amendment, a very important amendment, to this bill that the gentleman from New Hampshire [Mr. DOUGLAS] will be offering to modify the so-called exclusionary rule to allow more evidence in and to get more convictions.

Then there is an amendment to be offered by the gentleman from Wisconsin [Mr. SENSENBRENNER] dealing with the racial question in capital punishment. Race or anything else of that nature has no place in determining capital punishment or determining sentences of this nature.

The gentleman from Wisconsin [Mr. SENSENBRENNER] is going to offer an amendment that says that it has no place, and I urge my colleagues to look at that, because law enforcement and those involved in prosecution around the country say that the provisions, however well meaning, that are in the bill presently would be an effective elimination of the death penalty in most States today because of the process and the appeals and the extraneous things that will be put in, the hoops that have to be gone through in a process that is not appropriate, in my judgment, and I think in most, to the capital punishment area.

Last but not least, the amendment that I want to call to the Members' attention, the sixth amendment on this list, is an amendment to be offered by the gentleman who is the ranking Republican on the Committee on Banking, Finance and Urban Affairs, the gentleman from Ohio [Mr. WYLIE], that will give us the tools to the FDIC, the insurance group over there, dealing with the savings-and-loan crisis, to go into States and break through their homestead laws and break through laws in bankruptcy and let the Federal Government get at the big huge mansions that people have bought with their ill-gotten gains in these bad fraud cases involving savings and loans.

□ 1400

There is no sense in allowing these big guys who come through and made the really bad deals in extremely bad cases out there of savings and loan frauds, to be able to get their wealth that they have accumulated from the depositors', ripping off the folks who have put their money in these institutions. There is no way we should allow them to get away with taking that money and hiding it in a mansion somewhere in Florida or Texas or anywhere else that we cannot get at.

The exception to the homestead laws is very narrowly defined by the gentleman from Ohio, Mr. WYLIE's amendment, and I encourage a vote in favor of this provision to give our law enforcement and insurance folks in the savings and loan area the opportunity to get at those assets of the really bad guys in the fraud area.

There is a lot more to the bill. It is not my intent to talk on every issue that can come up here today. There are several key amendments that I have not mentioned that others would think were very key, but I would and have wanted to call attention to the Members, these particular ones because I think they are the part of what is necessary to be adopted as part of this bill if we really are going to bring a deterrent back in our criminal laws, and once again put swiftness and certainty in punishment, which deserves to be implemented in the way the American public wants them justly to operate.

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Chairman, title XIII—the Hughes-Kastenmeier provision on habeas corpus—will speed up Federal review of death sentences and bring rationality to the death sentencing process. It ensures that the death penalty will be focused on the most heinous offenses. It also recognizes that the surest way to speed up Federal habeas review of death sentences is to appoint competent counsel at trial. Only title XIII does this.

Attorney General Thornburgh says that enforcement of the Bill of Rights through habeas corpus review will end the death penalty and promote crime. Regrettably, like Ed Meese before him, the Attorney General argues that the Bill of Rights is procriminal. Nothing could be more wrong. The Bill of Rights is part of the Constitution. It is the highest law of the land. It is irresponsible for the Nation's highest law enforcement officer, who is charged with the responsibility for enforcing all the Nation's laws—including the Bill of Rights—to seek political advantage by attacking those rights.

I believe that the facts surrounding the debate over the crime bill in the House during the last few weeks have been distorted, and I intend to clear the air. A solid majority of the American public rejects the notion that enforcement of the Bill of Rights is inconsistent with and frustrates law enforcement, and rejects the idea that the war on crime means a war on the Constitution.

Title XIII will preserve Federal habeas corpus in this country. It will dramatically shorten and speed up the review process, and not frustrate legitimate law enforcement one whit.

Current and former Federal and State prosecutors from around the country are strongly in support of title XIII. Many former prosecutors have written that:

> The strong, clear message of the Hughes-Kastenmeier measure is that the death penalty will be enforced with swiftness and fairness, and that the days of endless litigation and delays over the dotting of I's and the crossing of T's are over.

Nebraska Attorney General Robert Spire has written that:

> You may be told by others, including some of my fellow Attorneys General, that [Kastenmeier-Hughes is] simply [a] backhanded effort to implicitly repeal the death penalty. I disagree strongly. Whether or not the death penalty should be imposed for State crimes is a matter the States are and should be free to decide. However, if the death penalty is imposed, it should only be carried out in a fair, consistent, racially neutral manner. I think the Hughes-Kastenmeier provisions accomplish that fundamental goal.

Former Deputy Attorney General and Federal judge Harold Tyler has written:

> I definitely prefer Hughes-Kastenmeier's bill because of the historical importance in this country of the free ability to appeal to our Federal courts for habeas corpus relief. Moreover, the Hughes-Kastenmeier bill takes care of a number of problems which has been raised by the Judicial Conference and other commentators in recent years.

Prosecutors have claimed that title XIII's statute of limitations extends

the time for filing a petition by 1 year. Do not be misled. Title XIII does not extend the time for filing by 1 year any more than the Hyde amendment's statute or limitations extends it 6 months. Both limit current law, which has no statute of limitations.

Title XIII's statute of limitations, however, is the one recommended by the American Bar Association and experienced practitioners. It is also the one contained in the President's crime bill.

Do not be misled that title XIII permits unlimited multiple petitions. It limits them, as does the Hyde amendment. The basic difference is that title XIII, based on the recommendation of the U.S. Judicial Conference and the ABA, will not permit people to be executed on the basis of deliberately perjured testimony of the sentencing hearing. The Hyde amendment does. This is wrong.

Do not be misled that title XIII decreases the finality of State court judgments. It simply says that death sentences must not be implemented based on outdated and unconstitutional procedures. Yet this is what the Hyde amendment does. This is unconscionable.

Do not be misled that title XIII permits defendants to raise claims in habeas corpus that they have deliberately not raised at trial. It only says that people should not be executed because their lawyers made mistakes or were ignorant. Surely this country has not sunk to the level where we will execute people because their lawyers in good faith made a mistake. The Hyde amendment says he have sunk to this level, but I say that we have not.

And do not be misled. Those lawyers will make mistakes because, as Publitizer prize winning columnist Anthony Lewis wrote last Monday morning:

> The level of legal representation in capital cases is shockingly low in this country. [Title XIII] would limit the right of State prisoners to bring Federal habeas corpus cases. But it also gets at the underlying reason for the problem [of delay]: Capital trials flawed by inadequate defense:

The Hyde amendment imposes strict limits on the filing of habeas corpus petitions, but fails completely to do what is essential to ensure that those limits are complied with: Provide competent counsel at trial and on appeal.

Only title XIII requires all States to provide competent counsel at trial. Prosecutors have attacked this provision as unnecessary and burdensome. To the contrary, no matter what one's view of the death penalty, competent counsel is essential to eliminating wasteful appeals, retrials, and resentencings. Providing competent counsel at trial ensures that the Bill of Rights is enforced and the death penalty is fairly applied.

Distinguished Federal judges, heading most of the Federal circuits, believe that:

> Title XIII is a carefully crafted, hard-minded, balanced piece of legislation that will bring order, finality, and fairness to the criminal justice system.

The American Bar Association, after extensive hearings where prosecutors, judges, and defense lawyers testified, concluded that, "we strongly believe that the Kastenmeier-Hughes provisions will promote both fundamental fairness and finality."

Demagoguery should have no place in the debate over this Nation's crime problem, and only serves to cheapen the values embodied in the Bill of Rights. The interests of justice are not served by suggesting that distinguished Federal and State judges, the American Bar Association, and respected civil rights leaders are champions of the criminal lobby for supporting habeas reform.

The level of the debate brings shame on this body. We debate here peoples' lives. Time and time again, we have seen Federal habeas corpus resue innocent people from unjust executions. Do not be misled. Title XIII will not abolish the death penalty any more than the Hyde amendment will. Those who are guilty—those who deserve the death penalty—will be executed under title XIII just as surely as under the Hyde amendment.

But the Hyde amendment will allow innocent people to die. I do not believe that the American people seek vengeance at all costs. I do not believe that the American people are bloodthirsty. I do not believe that they are misled by demagoguery. We can do better. Vote for title XIII.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, it is ironic, but if the direct funding provision in the crime bill is passed, drug traffickers and other criminals will be able to operate with less fear because there will be fewer cops to catch them.

The direct funding provision will take Federal funding away from over 1,000 drug interdiction task forces nationwide. Eliminating these task forces means pulling our people off the front lines of the drug war—taking law enforcement away from rural trafficking centers, manufacturing labs, and border crossings.

The reason for this very debate on the floor is unfounded. The Conference of Mayors claim in their report that cities nationwide receive little or no Federal funding. This is simply not true. Let's use the State of Texas for an example, The Conference of Mayors report stated that the State of Texas has passed through zero funds to any localities for 1990. In truth, Bill Clements, the Governor of Texas passed through $21.9 million out of a total of $23.9 million in Federal funds by April 30, 1990. The six major cities in Texas received 37 percent of the Federal money, not zero.

The issue is control. Should a few of the largest cities receive funding directly from the Federal Government or do we continue a coordinated effort that involves both local and State governments?

There is one problem—drugs. Reason warns that one war should be fought with one coordinated effort. The criminals will love us, if we divide up into isolated groups and try to counter their organized, multijurisdictional trafficking efforts. Drugs and the criminals who traffick them have no boundary lines. Neither should we.

In 1986 and 1988, Congress voted for a coordinated approach to stop drug related crime. Congress was right. Before the State Block Grant Program there were only 800,000 drug related arrests nationwide. After the coordinated State Block Grant Program was implemented, arrests went up 50 percent, to 1.3 million.

The drug problem is bigger than urban dealers. Inner city crime would be prevented if we cut off the drug supply. We need multijurisdictional task forces to halt the influx of drugs at our borders. We need to shut down clandestine labs, located in isolated rural areas. We need to stop the supply of drugs before it ever reaches our inner cities.

Let us not pull our people off the front lines.

Cooperation stops crime.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the subcommittee, the gentleman from California [Mr. EDWARDS].

□ 1410

Mr. EDWARDS of California. Mr. Chairman, an amendment will be offered to strike the Radical Justice Act, title XVIII of the bill. This effort to strike should be strongly resisted. The Racial Justice Act should stay in the bill. It is a civil rights measure. Let me tell you why.

The Racial Justice Act addresses the shocking racial disparity that exists in the application of the death sentence in some areas of this Nation. In some jurisdictions, there is clear evidence that the death penalty is imposed on blacks far out of proportion to their numbers among murder defendants. For example, in one judicial district in Georgia, the prosecutor has sought the death penalty in 28 cases; 22 of them involved black defendants.

The General Accounting Office examined the evidence in 28 studies and found the evidence reliable. The GAO concluded that a person who kills a white is far more likely—in one juris-

diction 4.3 times more likely—to receive the death sentence than a person who kills a black.

This type of racial bias is a blot on our criminal justice system. It is intolerable that someone should be executed based on racial considerations. Whatever one's views on the death penalty, one should support the elimination of racial bias from the death sentencing process.

The problem is how to prove that race is a factor. None of the prosecutors or jurors in these cases would admit that they were influenced by race. They may not even be aware of it themselves. The Racial Justice Act creates a mechanism to identify hidden racial bias. It allows the use of statistical evidence to raise an inference of racial bias.

The courts already use statistics in the criminal justice area. For example, a black defendant can raise an inference of bias in the selection of the grand jury that indicated him by using statistical evidence showing the exclusion of blacks from the jury pool.

When the Supreme Court ruled in 1987 that statistical evidence could not be used in the capital punishment area, it was a radical departure from precedent. The purpose of the Racial Justice Act is to overturn the Supreme Court's 1987 decision and allow the use of statistical evidence in death cases, just as it is used in other cases.

Let me correct a few misconceptions about the Act. This Act will not abolish the death penalty. It will not even cover all types of cases. For example, in Georgia, the evidence shows that there is no racial discrimination in the imposition of the death sentence to the most highly aggravated cases. It turns out that the death penalty is consistently applied in those cases, without regard to race. The execution of death sentences in those cases will not be affected by this Act.

Under the amendment to be offered by Mr. HUGHES, it is clear that the Act does not create a presumption of racial bias. The Act does not mandate the acceptance of any particular study or analysis. Under an amendment offered by Mr. FISH and incorporated in the Hughes amendment, it is clear that it will not be enough to show a gross racial disparity. A defendant's evidence must take into account relevant nonracial considerations, such as the brutality of the offenses and the prior records of the defendants, and must compare similar cases.

It is also clear that the Act will not impose an unrealistic or impossible burden of proof on the States. The Hughes amendment lowers the States' burden of proof from "clear and convincing" to a mere "preponderance of the evidence."

Moreover, under the Hughes amendment, the burden does not shift to the State until after the defendant has made a statistical showing that takes into account the relevant nonracial factors and the court has concluded that the evidence is accurate and valid and supports an inference of race discrimination. Before the burden shifts, the State has a full opportunity to dispute that any racial pattern exists.

And the Hughes amendment does not limit the grounds on which the State can rebut the inference of discrimination.

Another misconception is that the Act will invalidate death sentences when there is any statistical disparity in death sentences. This is clearly not true, since the Act itself requires a significant disparity.

Finally, it should be clear that this is not a quotas bill. Every time we bring to the floor a measure dealing with race, someone claims that it is a quotas bill. But adopting a quota system would not bring a State into compliance with the Act. Quotas would violate the Act. The Act requires the comparison of similar cases. This means that an overall racial balance in death sentencing is irrelevant. What matters is similar treatment of similar cases. Similar treatment of similar cases does not produce quotas.

I want to quote from a letter written by the attorney general of Nebraska, a State with the death penalty. The highest law enforcement officer of that State writes:

> The Racial Justice Act establishes an evidentiary mechanism for addressing racial bias claims in the capital sentencing context which I believe to be both fair and appropriate. I add my whole hearted support and endorsement for this legislation.

The Nebraska attorney general goes onto say:

> You may be told by some of my fellow Attorneys General that this provision is simply a backhanded effort to repeal the death penalty. I strongly disagree. If the death penalty is imposed, it should only be carried out in a fair, consistent, racially neutral manner. I think the Racial Justice Act accomplishes that fundamental goal.

These words were written by a State attorney general responsible for defending his State's death penalty law.

Mr. Chairman, the Supreme Court has long recognized that death as a punishment is different from all other penalties. It deserves unique attention to fairness and due process. Supporters of the death penalty should be among the first to support the Racial Justice Act, for they should want to ensure that race plays no role in the imposition of the death sentence on any person.

I urge support for the Hughes amendment and a "no" vote on the motion to strike by Mr. SENSENBRENNER.

Mr. BROOKS. Mr. Chairman, I yield 13 minutes to the distinguished gentleman from New Jersey [Mr. HUGHES], the chairman of the Subcommittee on Crime.

Mr. HUGHES. Mr. Chairman, I thank the distinguished chairman of the full Judiciary Committee, the gentleman from Texas [Mr. BROOKS] for yielding me this time and for leadership of the full Judiciary Committee.

I want to congratulate my colleagues, the gentleman from California [Mr. EDWARDS] for his work over the years in protecting the civil and constitutional rights of the citizens of this country, and my colleague, the gentleman from Wisconsin [Mr. KASTENMEIER] for his work on the Courts Subcommittee. I also want to thank my colleague, the gentleman from Florida, who is the ranking Republican on the Subcommittee on Crime for his work on this particular crime bill and a number of crime bills in the previous session which were developed in the Subcommittee on Crime and which resulterd in the enactment of provision such as money laundering, forfeiture, State Justice assistance programs, legislation directed at child pornography, and a whole host of other issues.

I am pleased to speak today in support of H.R. 5269, the Comprehensive Crime Control Act of 1990. This bill is the culmination of the hard work and commitment on the part of the entire Committee on the Judiciary. It is a comprehensive bill which deserves your support.

The first 11 titles are the product of this year's efforts by the Subcommittee on Crime. I am very proud of the contribution these titles represent as they touch on the spectrum of criminal issues which are of the utmost importance to our society. In deference to our time constraints, I will highlight just some of these areas.

To better understand the death penalty provisions we are voting on today, a quick review of recent history may be in order.

In the 1972 case of Furman versus Georgia, the United States Supreme Court effectively invalidated all existing death penalty laws-both State and Federal—in the United States.

Furman, of course, did not end the death penalty in the United States. It did require the States and the Federal Goverment to reformulate and narrow their death penalty laws if they wished to resume its application.

Most States have done so. The Federal Government has not.

This bill, H.R. 5269, is the first opportunity since that nullification that the House will have to adopt a comprehensive Federal death penalty. We did adopt a death penalty in the Drug Abuse Act of 1988, which was limited to drug related kilings.

H.R. 5269 as reported extends the death penalty to some 12 separate Federal offenses, including treason, espionage, attempted assassination of

the President, as well as numerous homicide offenses.

In an amendment I will offer today, I propose to extend the death penalty still further. All the offenses for which the death penalty was available before their invalidation in 1972 would be restored.

Obviously, these are very real and very substantial expansions of the Federal death penalty beyond the current coverage which is limited to drug related intentional killings.

I support the death penalty for the most egregious of offenses. As a State prosecutor, I successfully sought the death penalty.

Sadly, despite this reality, some of my Republican colleagues want to play political football with this critical issue. Their Members' dissenting views to the committee report labels this substantial death penalty little more than a phrase. The Justice Department calls it regressive, despite its substantial expansion of death eligible offenses.

The vast majority of Americans support the death penalty. These Republicans are wrong, however, in their belief that the American public will award the moral high ground to whoever claims to be the most blood thirsty. Americans want a death penalty that is actually used for those offenses which are so horrible that no other response is adequate. They will not be fooled by one that merely shouts of its toughness on crime because it is so extreme, but can rarely if ever be applied because it is tied up by endless legal challenges.

Although our proposal and that of Mr. GEKAS cover essentially the same offenses, this does not mean that there are not substantial differences between our two versions. There are.

In most cases, our proposal authorizes the death penalty only if an intentional killing is involved—attempted assassination of the President/Vice President and treason/espionage are the exceptions. In this respect, our proposal is similar to the Gekas death penalty for intentional drug-related killings, enacted in 1988. However, Mr. GEKAS is now offering a Republican substitute that calls for the death penalty based on reckless conduct by a defendant who did not have an intent to kill.

In testimony on earlier death penalty proposals, the Regan Justice Department expressed doubts whether such a proposal would be held constitutional. I share this concern.

In this regard, I believe that there is little if any deterrent effect of a death penalty for reckless conduct where there is no intent to kill. Furthermore, while retribution—just deserts—is a legitimate grounds for imposing the death penalty, the death penalty in these circumstances is excessive retribution for persons who did not intend to kill.

There are also sound practical reasons not to push the death penalty to the outer constitutional limits, if not beyond. Constitutional scholars who testified before the Judiciary Committee were unanimous in cautioning against such a step.

Typical of this advice was that of Bruce Fein, a noted conservative constitutional scholar. Mr. Fein testified that the limited deterrent of the death penalty for reckless conduct, balanced against the litigation ad infinitum that would surely result, led him to conclude that the gain isn't worth the candle.

That's what conservative supporters of the death penalty said. Experts who have spent their professional careers fighting the death penalty testified that the Republican proposals has so many flaws that they look forward to the opportunity to challenge it in the courts.

My amendment would make five changes to the procedures utilized to determine if a defendant convicted of a death-eligible offense is actually sentenced to the death penalty. The first of these changes regards the number of aggrevating factors required to be found in order for the defendant to qualify for the death sentence. In its present form, the bill requires that the jury find two aggravating factors; my amendment would reduce that number to one. This change will help ensure that the death penalty is imposed on those defendants who deserve to receive it.

My amendment will also heighten the standard employed by the jury when it decides whether any mitigating factors exist. At present, the bill allows the jury to find the existence of a mitigating factor based on any evidence at all. My amendment would permit the jury to find the existence of a mitigating factor only if the factor is supported by a preponderance of the evidence.

Third, my amendment would make a change in the effect of an aggravating factor being overturned on appellate review. At present, the reviewing court must vacate the death sentence and remand the case for resentencing proceedings if for any reason the finding of an aggravating factor is reversed. My amendment would allow the sentence to stand if there is at least one remaining aggravating factor that substantially outweighs any mitigating factor or factors that were found to exist.

Fourth, it strikes language prohibiting the use of illegally seized evidence in the sentencing phase of the trial. And finally, the fifth change adds an additional aggravating factor for injury to the national security by killing the President.

I believe that with these modifications, the procedures contained in the bill are sound, workable, and fair. Moreover, because they are designed to survive constitutional challenge, they will help ensure that the death penalty will actually be imposed upon those defendants sentenced to death.

Our death penalty provisions will make it available in all circumstances in which it is justified and needed. By resisting the political temptation to extend it to other conduct for which it is not appropriate, we have assured that it will be upheld and applied. The same cannot be said for the Gekas substitute, which seems to have been prepared with the objective of maximizing the number and the intensity of court challenges, as well as to insure countless years of delay before the penalty is actually applied, if ever.

Several of the remaining titles make significant contributions in other areas including:

Bringing anabolic steroids within the purview of the Controlled Substances Act and establishing criminal penalties for coaches and other physical trainers and advisers who endeavor to persuade or induce young athletes to illegally possess or use anabolic steroids;

Improving the provisions dealing with asset forfeiture so as to prevent circumvention of State laws regarding the distribution of criminal assets seized by law enforcement officers;

Correcting current firearms provisions by adopting numerous provisions from the President's crime bill, including his provision banning the domestic assembly of the identical weapons which have been banned from importation. While this has become a somewhat controversial provision, it would be an important addition to our present firearms laws;

Expanding the list of regulated chemicals to include some 11 chemicals which have been found to be used most frequently in manufacturing ice and crank and creating an interagency council on the abuse of ice; and

Authorizing $30 million in matching grant funds for college scholarships for law enforcement officers.

Title 13 of the bill deals with reform of the Federal habeas corpus process, especially as it applies to defendants sentenced to death by State courts. The present title incorporates the Kastenmeier/Hughes substitute to the original bill, H.R. 4737, which was the result of a great deal of hard work by the chairman of the Subcommittee on Courts. This substitute represented a substantial toughening of the provision from the original and was made after careful consultation with State attorneys general, local district attorneys, and other prosecutors.

I will be offering an amendment in the nature of a substitute that repre-

sents an even further strengthening of the provisions and adopts many of the recommendations of the Powell Commission. It makes more than half a dozen additional and significant modifications supported by State attorneys general and local prosecutors.

My substitute is tough. It addresses the problems of prisoner abuse of habeas corpus while also maintaining the viability of the writ as a means of vindicating constitutional rights. My amendment adopts many of the Powell recommendations while improving on some of the weaknesses of those recommendations. It sets a time limit of 180 days, as recommended by the Powell Commission, for a defendant to file his habeas corpus petition, it requires States to establish authorities for the appointment of counsel but gives them great flexibility in choosing the nature of the authority and the qualifications of counsel. It severely restricts a prisoner's ability to bring successive petitions and substantially narrows the retroactive application of new rules of law. It prohibits defense counsel from sandbagging by intentionally failing to raise claims in State court so they can be raised in habeas petitions. And finally, it strikes language allowing relitigation of previously litigated claims—something very important to Mr. HYDE.

We have endeavored to bring before you a bill that reflects our best collective thinking. I believe we have been successful and I urge your support of H.R. 5269.

□ 1420

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to follow up on the comments made by Mr. HUGHES. I neglected to be as much a commentator as I should have been, to thank him for the work he has done specifically on this bill, and over the years he has been kind enough to mention that. We worked together on the Subcommittee on Crime for quite some time.

Many of the products that have been brought to the floor over the years are due to his leadership. I am very, very appreciative of the opportunity to work with him. Of course, this year Chairman BROOKS has done a marvelous job of steering this bill to the floor. We have our disagreements over substance, all of us, but the basic process has worked rather well up to this point.

I would like to point out a couple of things that are not in this bill that I wish were and not in the amendments that were approved by the Committee on Rules that I think should have been but were not.

Just to remind the folks and our colleagues that there are other things that could be done, and I think should be done.

One of them is an amendment that could have been offered here today to allow or to require, really, mandatory drug testing of those who leave our Federal prisons. It has turned out in the statistical data collected in the experimental program that we have ongoing now in a few of our Federal districts today that a very high percentage of those who are released from prison, from Federal prison at least, are found within a period of a year to have been on drugs and then brought back into the system because they are out on a conditional basis and they are required to undergo testing and treatment and otherwise are kept off the streets in that way.

I think that is a fundamentally important thing to do.

An amendment was before the Committee on Rules that would have allowed opportunity for the Members to vote to expand this program to require every single Federal prisoner who is released to have mandatory drug testing for up to a year.

I think even though that has not been addressed and will not be able to be addressed in this Congress because of the rules decision, that it is something that we need to do something about sooner rather than later because the longer that we allow this to go and fester, then the more difficulties we are going to encounter, it seems to me, with regard to repeat offenders. That is one of the great problems we have out there right now, as most people know, that most crimes, particularly the really tough crimes, are done by people who go out again and again and again and repeat crimes because we are not keeping them off the streets. That is particularly true of the drug crimes, or crimes related to drugs. Almost all crime today is in some way drug related. People commit the crime in order to get the money to go buy the drug, they steal this, they steal that or the other, and there is some basis for it in that regard.

A second amendment that I am concerned we do not have out here today that I wish we did deals with a number of firearms and explosives penalties. We have proposed amendments on our side of the aisle that would have expanded the predicate offense to the armed career criminal statute by including serious drug offenses committed by juveniles. Currently, crimes of violence by juveniles are included as predicates to the statutes.

We would have had a provision that would have made it more difficult for a convicted felon to have the right to possess a firearm restored.

We had a number of other areas that we are concerned about, such as the revocation of supervised release. It would have established a mandatory revocation of supervised release for anyone in possession of a firearm, if the court had imposed such a restriction.

We had a number of these things; for example, increased penalties for using an explosive while committing a violent drug-related crime. This proposal would have increased the penalty for a second conviction involving the use of an explosive during a violent or drug trafficking crime. It would have corresponded to certain laws now which provide 20-year sentences for using a firearm during a violent or felony crime.

We wanted to increase the penalties for false statements to licensees, would have raised the maximum penalty from 5 to 10 years in prison for making a knowingly false material statement to a licensee in connection with the acquisition of a firearm.

All of these types of amendments were proposed. One for possession of explosives by a felon, and others, that would fill a loophole in current law by prescribing the possession of explosives by convicted felons and other persons such as those who have been in mental hospitals.

□ 1430

Mr. Chairman, the current law makes it an offense for persons under certain disabilities, such as a convicted felon and a person who has been in a mental institutions, who ships or transports explosives in interstate commerce, or foreign commerce, or to receive an explosive, which has been transported or shipped in interstate or foreign commerce, but the Gun Control Act that we have passed a couple of years ago does not prescribe the simple possession of explosives by a convicted felon as another listed disability. There are occasions when it is harder to prove a receipt offense than a simple possession offense. For example, to prove a receipt offense, it is necessary for the purposes of establishing venue to show that the defendant received the explosives in the district in which he is charged with the offense. This may not be possible in certain situations, such as where search of the defendant's home reveals commercially manufactured explosives made in another State or district. The lack of a possession offense comparable to that for firearms would have allowed certain dangerous persons who have no business having access to explosives to escape punishment in situations where it is likely they intend to use the material for criminal purposes.

So, there are a number of amendments that were not allowed by the Committee on Rules which really we ought to have out here today that are for another day, hopefully, in another crime bill, but unfortunately we should have them out now. It would

be great to have these enhanced penalties for firearms and explosives, but we simply do not have them.

Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I thank the gentleman from Florida [Mr. MCCOLLUM] for the time which he has yielded to me. Let me commend the chairman and the subcommittee chairman, as well as the ranking Members on this side of the aisle, for the way they have now brought this bill to the floor.

Mr. Chairman, we agreed on the Republican side to let this bill come to the floor under this rule, even though all of the amendments were not allowed, because we felt passing an anti-crime bill is so terribly important. I, for one, did not get the chance to offer all of my amendments; one of them is very, very important. It deals with the death penalty for murderers of correctional officers and State prison employees.

Mr. Chairman, we have a terrible situation in New York, as we do in many States across this Nation, where we have overcrowded prisons with people serving life sentences, people convicted of drug felonies, living in situations of double-bunking, and even triple-bunking. I was hopeful that we could include in the death penalty provisions of this bill a proposal of mine that would have made it a capital offense to murder employees and prison guards in State prisons, that receive Federal Fund, as well as in Federal prisons. Right now, where we have Federal programs that in turn fund State organizations, those state programs come under a Federal mandate.

For example, when State employees participate in a program which is federally funded, those State employees come under the restructions of the Hatch Act. My amendment would have applied the same principle to State prisons which receive Federal funds. A correctional officer or guard in such a State prison would have been protected just the same as correctional officers, and guards in Federal prisons are protected.

Mr. Chairman, I would just hope that, even though this amendment cannot be considered under the rule today, perhaps the Committee on the Judiciary and other appropriate committees could take this under consideration.

I have several other amendments, one of which is made in order. I will be discussing it during the amendment process. But I thank the gentleman from Florida [Mr. MCCOLLUM] for the time he yielded to me.

The CHAIRMAN. The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 10 minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5269, the Comprehensive Crime Control Act of 1990.

The Committee on Ways and Means, as one of the committees of original jurisdiction over H.R. 5269, approved several amendments that have been included in the bill before the House today. These amendments would advance the war on crime while improving the Federal tax system.

In particular, one provision would prohibit persons convicted of financial institution crimes from deducting court-ordered payments made to reimburse losses of the U.S. Government.

The bill would also temporarily extend two expiring provisions that: First, assist the Internal Revenue Service in funding its undercover operations against criminal activities; and Second, provide Federal law enforcement agencies with taxpayer information which would help them detect money laundering. However, as under current law, the bill would preserve the confidentiality of that taxpayer information filed with the Internal Revenue Service.

Finally, the bill, as amended by the Committee on Ways and Means, does not include one provision that was in H.R. 5269, as originally introduced. That provision would have allowed the U.S. Treasury Department, for the first time, to sell forfeited firearms to dealers, who could then sell them to the general public. The Committee on Ways and Means agreed to strike this provision based on the belief that the Federal Government should not get into the business of selling firearms that might wind up in the hands of criminals.

In conclusion, Mr. Chairman, the Committee on Ways and Means has carefully deliberated those provisions of the crime bill within its jurisdiction and has reported out a responsible package, which is now part of the crime bill under consideration today. I urge my colleagues to support it.

Mr. Chairman, I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, crime in America is on the rise. All types of criminal activity, from violent felonies to securities fraud, are increasing in ever rising percentages. The damage that these crimes do to ordinary people is both real and shocking. Drugpushers deal in death, both in the violence on the streets and the violence that drugs do to the people themselves. All of us have been stunned by the brutal stabbings and rapings that have occurred in our cities, and massacres of innocent civilians by madmen with assault weapons are national tragedies. Less violent, but no less destructive to the fabrics of our society, are the crimes committed by white collar criminals that steal money from the pockets of the taxpayers of this country. The savings and loan crooks, the big wheelers and dealers who rob the taxpayers to line their own pockets, are just a destructive as any violent felon or drug dealer.

The solution is simple. We must get tough on criminals, tough on crime, and take these dangerous people out of society. After all, that is what we in Congress are here to do. We are suppose to protect the rights of the citizens of this country, and that means protecting them from criminal activity. It is for precisely that reason that we want to pass a strong crime bill, to protect the citizens.

Yet, a quick look at this bill tells us that it would do the exact opposite and protect criminals. At a time when we must untie the hands of the judicial system, so that it can function properly and work to get criminals off the streets, this bill moves to tie their hands even further. A perfect example is the current provisions in this bill regarding the death penalty. As an attorney that practiced law for some years before coming to the House, I can tell you that the death penalty can be an effective deterrent against particularly heinous crimes. Note that I said can be, because in order for it to work, it must cover capital crimes and others. The current bill makes so many exceptions to the rule, that it effectively makes the death penalty moot.

Even if these problems were corrected, criminals who are convicted under the death penalty currently abuse the judicial system by instigating endless appeals and twisting the rules to find a way to prevent the will of the people from being carried out. While the right to appeal must be preserved, endless appeals over various minutiae must be ended. The current procedures in this bill for the Federal death penalty take the opposite course, and make it even more difficult for the courts to use the death penalty the way that it was meant to be used.

Mr. Chairman, the American people have spoken out in even stronger voices against crime. Its time that we in Congress listened to those voices and pass a strong crime bill. I urge all of my colleagues to pay close attention, and to join me in passing a strong crime bill.

Mr. MCCOLLUM. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana [Mr. HILER].

□ 1440

Mr. HILER. Mr. Chairman, I rise to express serious concerns over the crime package under consideration

today. The bill contains several important and needed provisions, such as additional funding to improve Justice Department investigations into thrift industry fraud, provisions to improve the investigation and prosecution of child abuse cases, disability benefits for public safety officers, and penalties to make drug users and dealers more accountable for their actions.

The bill has several good points, but as a package remains seriously flawed. While problems with H.R. 5269 are many, I would like to focus on a couple of areas where the bill has considerable room for improvement.

H.R. 5269 contains provisions which would alter current habeas corpus procedures. Unfortunately, instead of providing for meaningful habeas corpus reform, passage of H.R. 5269 could open a floodgate of habeas corpus litigation, allowing convicted murders—whose guilt is not in question—to raise repetitive technical challenges to their convictions and sentences. The bill would also overturn current retroactivity rules in both capital and noncapital cases, broadening the opportunities for prisoners to clog the legal system with new appeals. In effect, the bill as written could eliminate capital punishment in the United States altogether.

The amendment being offered by Congressman HENRY HYDE offers a far better solution for habeas corpus reform, and I am encouraged that we are finally being permitted to vote on his amendment. Real reform is sorely needed, as retired Supreme Court Justice Lewis Powell reported that the average time between conviction and execution is over 8 years. As I'm certain you would agree Mr. Chairman, our judicial system simply cannot be effective should this be allowed to continue, and I strongly urge my colleagues to support the Hyde amendment.

The Federal Asset Forfeiture Program also suffers under H.R. 5269. Section 402 of the bill would prohibit local law enforcement authorities from sharing in the proceeds from seized assets in situations where State laws on such assets would somehow be circumvented. This concerns me, as Indiana law enforcement would be severely impacted should this provision become law. The asset forfeiture program has provided over $450 million to State and local police departments across the country, including well over $500,000 to the region which includes my district this year alone.

To further emphasize the importance of this program, a recent letter from the superintendent of the Indiana State Police indicated that moneys provided through asset forfeiture amounted to 59 percent of his total budget for the department's drug enforcement training program last year, greatly enhancing the quality of training provided to State police officers for antidrug operations. He added that prior to the asset sharing program, the Indiana State Police struggled to provide the training necessary for drug enforcement investigators.

Perhaps the biggest selling point for asset forfeiture is that it encourages cooperation between local and Federal law enforcement authorities, enhancing our abilities to fight the drug trade by putting ill-gotten gains to very good use. Should section 402 become law, the only ones cheering would be criminals. I strongly support the amendment being offered by Congressman MOORHEAD and Congressman THOMAS to delete section 402 from the bill, and I urge my colleagues to do the same.

Finally, I will be strongly supporting the amendment offered by Congressman WYLIE to authorize the FDIC and RTC to preempt State homestead exemptions in cases of fraud committed against an insured financial institution. The Wylie amendment is derived from H.R. 3982, the Taxpayer Recovery Act of 1990 that I authored with Mr. WYLIE earlier this year and was adopted overwhelmingly in the House Banking Committee. I am disgusted with the lavish lifestyles of S&L crooks who have cost the taxpayers billions of dollars. The Wylie amendment is a modest step to ensure that these S&L crooks cannot take advantage of generous State laws to shelter assets from the taxpayer. The Wylie amendment is a very narrow preemption of State law that is designed to deal strictly with cases of fraud and I urge my colleagues to join me in supporting this amendment.

As I mentioned before, H.R. 5269 has a few very important and needed provisions, but as a package is a far cry from what is needed to fight crime. The American people are sick and tired of the crime and violence which has taken hold in our streets, brought on largely because of the drug trade, and it is incumbent upon Congress to produce a tough and effective response to this problem. As written, H.R. 5269 simply doesn't cut it. We can do much better, and I hope that my colleagues will join me in support of the amendments I've mentioned, as well as several others being offered to make what is now a bad bill a good one.

Mr. McCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. BUECHNER].

Mr. BUECHNER. Mr. Chairman, I thank the gentleman for yielding. I certainly recognize all of the work that both sides have put into this bill, but I think when we talk about a crime bill, the average American believes that it should be a bill that ultimately does something to make things tougher for criminals, not make things easier for criminals.

If we are to enact a bill which does noting except complicate the whole process of habeas corpus, or complicate the process of moving expeditiously sentences that have been meted out requiring the death of those criminals that deserve it, then I think we have lied to the American public when we say that this is a crime bill.

This should be something that betters the lives of victims, that betters the lives of the American citizens, and dwells on the issue of expeditious execution of penalties.

There are some problems with the bill which I hope we can remedy through the amendment process. I think it has been stated by previous Members that we need to make the death penalty one that is enforceable and can truly be shown not only to the criminal, to the person who is convicted, but to the American people, that we, the lawmakers, believe that when the death penalty is meted out, that it should be done fairly, but it should be done expeditiously; that the system should not be used to obfuscate the law; that the system should not be used to run up more and more thousands and thousands of dollars for the taxpayers, when, in effect, the law should be done that having all of the rights protected, that the penalty should be brought to an expeditious conclusion, and that is the enactment of the ultimate sentence, the death penalty.

Mr. Chairman, I am not going to argue whether the death penalty is a deterrent, but I do believe it is an ultimate penalty. When the State has given that penalty, it should be enforced. If we in this body enact a law which says that yes, there is a death penalty in here, but we know in our hearts and we know procedurally that it cannot be enforced, that everybody on death row will be there interminably, then I think the cruel and unusual punishment that we will have meted out is to the American who sits and watches us and hopes we will do something to stem the crime that is existent.

Mr. Speaker, I would hope that what we do is the right thing, and that is to have a crime bill that punishes criminals, that stems crimes, that does not offer to the American public false hope that we will do something more. Rather than offering to those on death row another gimmick, another way to extend things, another way to exact more punishment on the American taxpayer, then I think we can do the right thing, and that is to make sure that this law does not allow people to say that they are for a limited death penalty, and by that they mean that there will not be the final conclusion.

Mr. Speaker, last I would add that it is imperative that local law enforcement agencies be given the right to keep their confiscated properties. It is

the only way in which many areas can have an undercover operation and truly be involved in what is breaking up drug sales in many school districts and many small municipalities.

Mr. McCOLLUM. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. DEWINE].

Mr. DEWINE. Mr. Chairman, I would like to talk about one of the noncontroversial provisions of this bill for just a moment, because I think it will be of interest to Members, and I think it does have a great deal of significance.

The gentleman from California [Mr. LEVINE], the gentleman from New York [Mr. SCHUMER], and many other members of the Committee on the Judiciary and I, have been directly involved in putting this provision together into the bill. It is a provision that protects children who are victims of crime.

Mr. Chairman, this provision makes it easier for them to get through the judicial process. It sets up a standard in the Federal law and the Federal courts that we hope many of the States will follow.

Mr. Chairman, I know from my experience as a former county prosecuting attorney that one of the more traumatic things many times for a child who has been victimized is to then have to go into the courtroom, a very sterile situation, a very foreign situation for anybody, whether it is an adult or a child, and go into that courtroom and face the person who has victimized that particular child, to look across just a few feet away and see that defendant. So what our bill does is make it easier for that child to testify in court.

□ 1450

Let me just cite some of the things it does. It allows for the use of anatomical dolls, for example, in a sex case. It allows, for example, for a closed circuit television so that the child does not actually have to be in the same building or in the same room at least as the defendant is. It also sets up some very good and tough reporting requirements for any kind of child abuse that may occur on a Federal enclave.

So it is a provision of this bill, as I said at the beginning, that is not controversial, a provision of the bill that I think will be supported by everyone. But I did want to bring it to the Members' attention because I think it is a significant breakthrough in the law.

I would like to thank the National Organization of Victims and the many other victims' advocacy groups that have been very influential in helping us and helping to get the committee to pass the bill. We relied upon their expertise and their background, and we talked to many experts in the field, and we believe that with the passage of this bill we will have in Federal law a very tough, very firm standard in this area.

Let me cite a couple of specific things the bill does. It allows a child to testify in a room other than the courtroom to reduce emotional stress. It allows the testimony of a child to be taken by recorded deposition for use at trial. It allows the use of anatomical dolls to describe sexual abuse, and forbids the release of a child witness's name and address.

This bill of rights also helps ensure speedy trial in a case where a child is a victim, and many times, Mr. Chairman, many times these cases are delayed, and no one worries about the victim. This will ensure that the court will have to take that into consideration, and will have to be concerned with the delay and the impacts on a victim of a crime, particularly a child.

The bill also allows the child to be accompanied to the court proceedings by a guardian. It states the child is presumed to be a competent witness unless otherwise determined by a court of law.

Further, it extends the statute of limitations so that a victim who was under the age of 18 years at the time of the crime can have that case prosecuted up until the time of the age of the victim is 25 years. This is a particularly important provision I think because many times the child abuse cannot be reported because the particular victim is in the custody of the person who perpetrated the crime.

Let me just conclude, Mr. Chairman, by saying that this is a good provision of the bill. I want to thank all of the victim advocacy groups that were a part of putting this together, and the ideas that they gave us, the experience that they had are really a part of this bill, and with the passage of the bill will become Federal law.

Mr. McCOLLUM. Mr. Chairman, I yield 8 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, let me speak for a moment in my capacity and from the perspective of my position as the vice chairman of the Select Committee on Narcotics Abuse and Control.

As all Americans know, and as well Members of this body know, crime and drugs are inextricably interwoven. It is tremendously important that we have a crime bill and have one this year if we are going to help to call a halt to the scourge of crime as well as the scourge of drugs.

But the bill as it has been brought to this body is not a crime bill; it is a criminals' bill, and it is going to take a lot of work by this body to amend it in a fashion that would make it indeed a crime bill.

Let me cite some of the amendments that will be offered that will go a long way to making this a crime bill.

Mr. GEKAS will have an amendment that is a substitute to the death penalty title of the bill. It contains additional crime and additional procedures.

Mr. MCCOLLUM will also have an amendment that will apply the death penalty to certain drug kingpins.

Mr. MOORHEAD will have an amendment that strikes language in the bill which prohibits certain transfers of forfeited property to State and local law enforcement agencies if it circumvents existing State law.

Mr. MCCOLLUM has an amendment that strikes the provisions of the bill relating to prerelease custody and place of imprisonment.

Mr. GINGRICH has an amendment that establishes mandatory prison literacy programs for all individuals in Federal prisons.

Mr. SMITH has an amendment which makes improvements in our ability to remove criminal aliens, particularly drug offenders.

Mr. SENSENBRENNER has an amendment that calls for striking of the quota system as it applies to criminal penalties.

Mr. GEKAS has an amendment that facilitates cooperation between the Secret Service and the FBI involving jurisdiction of financial fraud investigations.

Mr. DOUGLAS has an amendment that provides for a good faith exception of the exclusionary rule for evidence.

Mr. OXLEY's amendment establishes a series of victims' rights and services, and requires convicted offenders to pay restitution to their victims.

I will have two amendments that are part of the President's drug package that have been made in order in this bill. Both of them have been proposed and before this body for more than a year at this time.

One amendment will require the States to establish statewide drug treatment plans so that we can have some accountability in the enormous sums of money that we are now spending for drug treatment, so that we can improve those programs, and so that we can find the right kinds of programs to provide drug treatment that will be effective.

A second amendment will grant new authorities to our interdiction agencies to combat airborne drug trafficking. This would allow revocation of licenses and confiscation of aircraft and require aircraft and pilots to comply with the authorities' and the military's requirements when they are asked to turn about or heave to.

Mr. Chairman, these amendments, if adopted, will go to making this a true crime bill, one that will help protect the public, one that will indeed do something about crime and drugs. I urge as these amendments come up that Members adopt the amendments,

and that we have a true crime bill, that we have a bill that is not a criminals' bill.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I am happy to yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding. I consider my colleague from Pennsylvania a good friend and colleague. I find it interesting though that my colleague would recite a litany of Republican amendments. There are a lot of Democratic strengthening amendments that this committee has developed which we are going to take, and I hope that my colleague could refrain—and I realize it is an election year and we are close to election—would refrain from trying to characterize this as a bill for the criminals and not for law enforcement.

That is a characterization that I do not think befits my colleague from Pennsylvania, who is always a very throughful legislator, who I work with on the Select Committee on Narcotics Abuse and Control. Frankly, I cannot believe that the gentleman really believes that, for instance, the first 11 titles of the bill that came out of the Subcommittee on Crime are not good initiatives. They were developed with my colleague from Florida.

Mr. COUGHLIN. There are at least four points that the administration objects to very strongly that really favor criminals rather than improving law enforcement. One is habeas corpus; the second is the exclusionary rule; third, the death penalty area; and fourth is the quota system. If those measures are in there, those are really detrimental to law enforcement and not efficacious. If those stay in there I am advised that the President will be advised to veto the bill.

Mr. HUGHES. Will the gentleman yield further?

Mr. COUGHLIN. I am happy to yield to the gentleman from Pennsylvania.

Mr. HUGHES. The first 11 titles of the bill that we worked on a bipartisan fashion had some amendments addressed to them, but basically I do not know that any are controversial provisions, with the exception of capital punishment, and we can argue as to what offenses should warrant capital punishment, and I suppose reasonable men could differ on that issue, but when the gentleman characterizes the bill basically as anti-law-enforcement, he is basically characterizing the work product to the committee that worked for 2 years in a bipartisan fashion as being anti-law-enforcement, not anti-crime. That is not fair, and that is not becoming, as I said.

Mr. COUGHLIN. Those four provisions I think are anti-law-enforcement and are sufficiently serious impediments to good law enforcement that they would warrant vetoing of the bill.

□ 1500

Mr. HUGHES. If the gentleman will yield further, I have some problems with some of the provisions the gentleman recited, and have some amendments noticed that will attempt to correct what I consider to be some of the deficiencies, but I still do not think it is fair to characterize the bill as an anti-law-enforcement bill. That is not fair. That is not becoming.

Mr. COUGHLIN. I think in its present form it would not help law enforcement. It would hinder law enforcement. The amendments that I cited are, most of them, parts of the President's crime and drug package.

If the gentleman will notice, I did not make any mention of the political party affiliation of any of the authors of the particular amendments. They were part of the President's package which I hope will be considered.

Mr. HUGHES. I know, but I found it interesting that the gentleman only recited Republican amendments. We have as many Democratic amendments that are toughening amendments, many of which we are going to take.

Mr. COUGHLIN. I am sure you have some very good ones. I am sure you have some very good ones.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I am happy to yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I think that the point that the gentleman made is really well made in one sense and that is that while this bill as a whole has a lot of very good, strong things we as a bipartisan group can support on both sides of the aisle, the gentleman is correct in regard to these death penalty provisions, with regard to habeas corpus provisions in particular, with regard to the fact that the way the present bill coming to the floor is shaped, the President would be probably inclined to veto this bill, from all I have heard, and in fact I know that the recommendation would go to him from the Justice Department, because law enforcement around the country has said that by virtue of the provisions currently in this bill, the way it is written, you would virtually end the death penalty in the States around the Nation as a practical matter, even though that may not have been the intent of the authors of these provisions.

So I think the gentleman is correct in it. I do not think it is intended at all as a partisan statement. I think he is just stating a fact. I agree with him that this is something that law enforcement could not live with, and this bill would be vetoed if the amendments were not made that corrected those.

The HYDE amendment is a good example. It is absolutely essential that the Powell Committee version get in, as I understand it, because law enforcement around the country says anything else would mean that the death penalties in the State courts would not be able to be executed and carried out.

I think the gentleman has made a very valid point.

Mr. COUGHLIN. We have heard from law enforcement officials around the country from both political parties saying that if this bill were enacted in its present form it would be disastrous for law enforcement and for control of crime.

Mr. GALLEGLY. Mr. Chairman, I rise to address the capital punishment provisions in the bill before us, H.R. 5269, the Comprehensive Crime Control Act of 1990.

My personal interest in this matter stems from the cold-blooded murder in 1988 of a DEA agent who was a constituent of mine. Although suspects were apprehended, Federal prosecutors felt obligated to drop charges and defer to local prosecutors because California has a death penalty. The U.S. attorney with responsibility for the case remarked how it was astonishing that he could not obtain the death penalty under Federal law for such murder.

On March 1, 1989, I introduced legislation that addressed this deficiency in Federal statutes by proposing that the death penalty be allowed in cases where a Federal law enforcement officer had been murdered. A bipartisan group of over 100 Members of Congress cosponsored this legislation, and the essence of the bill has been included in H.R. 5269.

Under the provisions of the committee bill, the intentional killing of a Federal law enforcement officer, Federal judge or a variety of other Federal officials could be punished by death. This is an important and necessary change in law to establish justice and protect the lives and credibility of our law enforcement system.

However, other provisions in this legislation countermand this improvement. For example, the bill would require a jury to find two aggravating factors, instead of one, to impose a sentence of death. In addition, H.R. 5269 would further delay the current process by allowing repetitive appeals.

It is obviously essential that legal safeguards exist to prevent innocent people from being executed. But it is equally important that the rights of victims, their families, and society also be protected. For this reason, I view with strong opposition the provisions of H.R. 5269 that purport to "reform" the death penalty process.

This is an issue of great importance to the American people because they have witnessed firsthand the effect violent crime and lax punishment has had on their neighborhoods and communities. In California, the case of Robert Alton Harris riveted attention and symbolized the flaws in the current system. Though convicted of a brutal murder and sentenced to die by the State, Harris has

filed appeal after appeal and delayed the process for over 12 years.

These provisions have received widespread and bipartisan criticism from law enforcement officials who feel the reforms would have the effect of abolishing the death penalty. It makes no sense to expand the application of the death penalty, while at the same time making it impossible to impose the sentence. Justice is not served by allowing convicted murderers to indefinitely postpone their execution.

The House should correct this error in H.R. 5269 by adopting the Hyde amendment to implement the recommendations made by the Advisory Committee headed by retired Supreme Court Justice Powell. These recommendations would protect the defendant's right to competent counsel while preventing the abuses of the appeals process that lead to delay. If we do not take this necessary and logical step, then the House will jeopardize enactment of any crime legislation for this year. Therefore, I urge the adoption of the amendment.

Mr. FAZIO. Mr. Chairman, among its many provisions, H.R. 5269 contains important language which addresses the growing threat of methamphetamine, also known as speed, crank, or ice. Law enforcement officials believe that these drugs have the potential to become the crack cocaine of the 1990's.

Several of my colleagues and I have each introduced legislation dealing with this growing threat. Earlier this year, I introduced H.R. 4231, the Regulated Precursor Chemical Act of 1990, legislation which largely addresses the issue of easy access to the chemicals used to produce crank and ice. It is based on an effective California State law and some of its provisions have been incorporated in H.R. 5269. However, since the Federal law regulating the sale and manufacture of the chemicals used to make crank and ice is relatively weak, I would hope that in the near future, the remaining provisions of H.R. 4231 to strengthen the Federal law would be enacted.

My colleague from California, Congressman MEL LEVINE, has also introduced legislation addressing the threat of methamphetamine. Some of the provisions in his bill, which deal with penalties for ice abusers, have also been incorporated in H.R. 5269. And, Congressman NORM MINETA also has introduced legislation in this area, and will be offering an important amendment today which addresses this issue.

The Mineta amendment will authorize funds for at least four model methamphetamine abuse demonstration programs. The amendment also requires the Department of Education and National Institute on Drug Abuse to jointly develop a model, community-based curricula for disseminating comprehensive information on methamphetamine to every primary and secondary school in the country. The amendment also requires the National Institute on Drug Abuse to give priority to developing treatments for addictions to these substances. I wholeheartedly support the Mineta amendment as well as the other methamphetamine provisions in the bill.

Mr. BORSKI. Mr. Chairman, it is now over 20 years since Bobby Kennedy was assassinated with a handgun. It is almost 10 years since a mentally unstable man with a Saturday night special attempted to take the life of then-President Reagan. But still, we have no effective national method of keeping handguns out of the wrong hands.

And, while President Bush has banned the importation of semiautomatic assault rifles and pistols, domestic manufacturers continue to make combat-ready assault weapons, complete with silencers, folding stocks, bayonets and 90-round ammunition magazines. These guns are widely available, and are used by drug traffickers, street gangs, terrorists, and other violent criminals.

Congress now has the opportunity to help prevent crazies and criminals from obtaining handguns and reduce the number of combat weapons on the streets—without infringing on the rights of sports-minded men and women and other law-abiding citizens.

H.R. 5269, the Comprehensive Crime Control Act that we are now debating, would prohibit the domestic manufacture of a semiautomatic rifle or shotgun which is identical to any weapon currently banned from importation. This provision would decrease the number of deadly weapons like copies of the South African Striker 12 "Street Sweeper," a semiautomatic shotgun banned from importation, but now made and sold in the United States.

That would be a good start. These guns have no legitimate sporting use. The "Street Sweeper" is a weapon whose target can only be police or other innocent people.

A 90-round magazine has no real sporting use either. Congress should go a step further by limiting the number of rounds a magazine can hold. We can allow plenty of room for hunters and target shooters and still give the police a fighting chance against drug thugs and other organized criminals. Smaller magazines will also mean less destruction in the drive-by shootings now practiced by street gangs.

Another thing that Congress can do is pass the Brady bill. This legislation is named after James Brady, the Presidential Press Secretary who was seriously wounded in the assassination attempt on former President Reagan.

The Brady bill would establish a national 7-day waiting period for handgun purchases. That would give law enforcement officials time to run a background check to determine if a potential purchaser were prohibited by law from buying a handgun.

The Brady waiting period is not a national gun registration system and it will not take weapons away from law-abiding citizens. It would simply help weed out felons and the mentally imbalanced, people who clearly should not be sold guns.

In fact, there is nothing in this proposal that law-abiding citizens should object to. Convicted felons, drug dealers and others involved in criminal activity are the only people who should be concerned about a 7-day waiting period. Someone who would be ineligible to buy a handgun in Philadelphia, which has a 48-hour-waiting period, could drive to some other State without a waiting period and pick up a gun.

A waiting period for handgun purchases can also get criminals off the streets and into prison. In States that already have waiting periods, thousands of criminals have been caught trying to buy guns. A national waiting period might help catch thousands more. Without the Brady bill, thousands of additional criminals go unapprehended every year because they can simply cross State lines to evade the background check.

Opponents of these gun control measures say that we need tougher penalties to reduce crime and keep criminals off the street. I agree with them.

But I also think that the police and other law enforcement officials need all the help they can get. They are outnumbered and outgunned, fighting a losing battle against people who have almost unlimited access to whatever weapons they want.

In the United States, about 60 people are killed each day with guns, 23,000 a year. In June of this year alone, two Philadelphia police officers were killed by firearms. Reasonable proposals to prevent the wrong people from obtaining handguns and reduce the number of combat weapons on the street will save lives.

The police and the public need and want help in the war on crime and drugs. Congress should give it to them.

Mr. CLAY. Mr. Chairman, I rise against the Omnibus Crime Control Act as it does not address the crime problem which is a growing menace in our society. The legislation before us today is not much more than a hysterical over reaction to a serious problem which we have failed to address with rational understanding. The increasing peril of criminal activity in American society demands our attention, but the Omnibus Crime bill is not the solution to the problem.

During just 1 week last month in New York City, four innocent children were murdered by stray bullets intended for others. This year a clothing manufacturer in New York introduced a line of bullet proof clothing for schoolchildren. In response to the crisis in the streets of America this Congress is debating mandatory Federal death penalties for crimes against public officials.

Mr. Chairman, the death penalty did not discourage the killer of the five college students who were savagely murdered in their homes near the campus of the University of Florida in Gainesville last month. The residents of capital punishment States—like California, Texas, and Florida, are not any safer than the residents of noncapital punishment States like New York, Michigan and Massachusetts. In 1985, the Texas murder rate per 100,000 was 30; in Florida it was 11.4 and in California it was 10.5. Implementing capital punishment did not cause these States to experience lower murder rates than Michigan, New York or Massachusetts where the murder rates per 100,000 were 11.2, 9.5 and 3.5 respectively. Condemning to death the mass murderers of California, the drug kingpins of Florida or the cowboy killers of Texas has not made Los Angeles' Sunset Boulevard, Miami's Flagler Street, or Houston's Main Street any safer than the streets of New York City.

If the death penalty effectively deterred major crime as its proponents claim, those States without the penalty should be experiencing a higher incidence of capital offenses. It would also follow that those States applying the death penalty should be experiencing a

lower incidence of capital crimes. But the facts do not establish any such correlation.

Mr. Chairman, the so called omnibus crime bill is not about curbing the scourge of criminal activity in our Nation. It is mostly about levying punishment. The Omnibus Crime Control Act is a draconian attempt to stop criminal behavior by threatening and frightening the would be criminals. This naive and improbable, eye for an eye approach will hardly influence the brazen drug trafficker or the homeless, illiterate drug thief. The omnibus crime bill is a shocking revelation of how little this Congress cares to address the crime problem facing our Nation.

Those social and economic problems which underlie the burgeoning crime rate are not addressed in the legislation before us today. The history of violence in America, the tradition of racial injustice, the failure of our schools and our families to prepare children to lead productive roles in our society, and the double standard which allows some members of society to be above our laws—all combine to undermine our system of values and perpetuate rampant criminal activity.

Increasing the list of Federal crimes punishable by the death penalty is an absurd attempt by those in Congress to shield public officials from the terrifying conditions that millions of children face every day on the streets of America.

There is no question that criminal activity is eroding the quality of life in our communities. But there is no reason to believe that the legislation before us today will facilitate better law enforcement in America.

Mr. Chairman, in many American communities it is easier to buy cocaine than it is to buy condoms. It is also more common for citizens to protest abortion clinics than crack houses. And, at the same time the glorification of violence and the drug culture is a multibillion dollar entertainment industry. These are just a sampling of the ironies facing our society.

We must have the courage to face these realities. We must address the need to improve our educational programs and ensure that all children grow up to be contributing members of our society. We must enact public policies which support family life and reinforce family values and we must be willing to address unpopular issues like the need for gun control, prison reform, structural unemployment, illiteracy and homelessness. Until we—as a society—exercise a genuine respect and commitment to solving the real problems undermining the quality of life in our Nation, we cannot escape our responsibilities by killing off, one by one, those who have become a danger to themselves and a threat to an orderly society.

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to H.R. 5269 as it has been reported to the floor from the Judiciary Committee. Last year's crime statistics show that there was a violent crime committed every 19 seconds in the United States, and someone was murdered every 24 minutes. At a time when many Americans have lost the right to feel safe in their own communities, Congress must not pass this legislation which will help criminals feel safer on our streets. I hope it will be amended.

In all of my time as a public servant, I have consistently supported the death penalty as both a punishment for heinous crimes and an effective deterrent to future violence. H.R. 5269 would effectively abolish the death penalty in the 37 States that currently have death penalty provisions. My State of California is one of those 37 States.

The provisions of H.R. 5269 which would effectively establish racial quotas in sentencing convicted murderers are an affront to our Nation's foundation of justice. Judges and juries must be able to render decisions based on the facts of a particular case rather than consider the statistical history of previous, unrelated cases. The rights of all victims and all accused criminals rest on the courts employing this factual basis for the determination of justice.

Additionally, the provisions of H.R. 5269 affecting habeas corpus and the exclusionary rule would be a giant step backwards, walking over previous decisions by the U.S. Supreme Court that were aimed at limiting prisoners' attempts to beat the system. Without certainty of justice in its implementation, the death penalty is greatly weakened as a deterrent.

H.R. 5269 also severely weakens the Federal death penalty, and in fact, repeals the death sentence completely for such heinous acts as murdering hundreds of innocent victims by bombing a plane, train, bus or Federal building, or the murdering of a civil rights activist by using a mail bomb.

I have been asked to oppose these and other provisions of H.R. 5269 by many of our colleagues in the House, in addition to the U.S. Attorney General, and the California State attorney general. However, one of the most influential requests to oppose these provisions came from Michael Bradbury, the district attorney for Ventura County, CA. As a district attorney on the county level, Mr. Bradbury is on the front lines in the fight to ensure justice and keep dangerous criminals off the street. His telegram simply states that the provisions described above would "effectively cripple or end the use of the death penalty in the United States."

I will continue to support the passage of tough, comprehensive legislation that puts the word out on the streets that if an individual chooses to commit a crime, they will be caught, prosecuted and punished. However, I will not support a bill that eases the minds of criminals by ensuring their ability to make a mockery of justice.

I strongly agree with U.S. Attorney Richard Thornburgh, who has stated that this bill is "a clear step backwards" and I join him in urging my colleagues to oppose its procriminal provisions.

Mr. McGRATH. Mr. Chairman, without the passage of several rectifying amendments, I regret that I cannot support H.R. 5269, the Comprehensive Crime Control Act of 1990.

As the 101st Congress winds down, we are once again faced with the task of voting for an omnibus crime bill just as we are aiming to adjourn and go back to our districts to tell constituents about the good things we are doing in Washington. It seems that every 2 years at this time, passage of a crime bill makes for good cannon fodder for incumbents who campaign that they are tough on crime and have proved it with gutsy votes in the House Chamber.

The 1990 version of Capitol Hill's attack on crime provides Members with another opportunity to prove that they are indeed friends of law enforcement and those charged with putting criminals in jail. Messrs. HYDE, GEKAS, MCCOLLUM, and SENSENBRENNER have all offered amendments that I believe will give the bill the strength needed to effectively combat crime. Without these amendments, the attorney general will undoubtedly recommend that the President veto the bill.

Mr. Chairman, a crime bill that is not even remotely supported by this country's top law enforcement official, needs to be corrected. The bill in its present form, presents an enigma to the American people. The bill presents a false security to citizens ravaged by violent crime. If adopted in its present form, the legislation will lack the teeth to fight this country's No. 1 social problem.

I urge my colleagues to carefully dissect this legislation and strongly consider the amendments favored by the Justice Department, the Powell Commission, and the National District Attorneys Association. This year, when we are approached by the electorate, let us to be able to proudly state that the Congress has enacted a bill that will put criminals in jail and help rid the terror that has held an unrelenting grip on our neighborhoods.

Mr. McCOLLUM. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BUSTAMANTE) having assumed the chair, Mr. Bosco, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5269) to control crime, had come to no resolution thereon.

EXPLANATION FOR ABSENCE

Mr. CAMPBELL of California. Mr. Speaker, Wednesday, October 3, I was in Chicago, IL, attending a memorial service for my father, Judge William J. Campbell. My father served as a U.S. District Judge for 48 years, and as chief judge of the U.S. District Court for the Northern District of Illinois for 15 years. On Wednesday, he was honored by his former colleagues in a special en banc session of the U.S. district court in Chicago, which my mother and all seven brothers and sisters attended. I could not be absent from that ceremony, and I trust my constituents and colleagues here can understand that.

However, my presence in Chicago required my missing several votes on the crime and immigration bills. On the immigration votes, had I been present, I would have voted "yea" on the Lewis of Florida amendment to reimburse States for their cash and medical assistance to aliens. I would have voted "nay" on the Bryant amendment to delete all provisions of the bill, except those relating to family reunifi-

cation. The employer-sponsored provisions of the bill, which would have been deleted by this amendment, are extremely important to American competitiveness. They allow our country to retain talented, trained scientists, technicians, and engineers—rather than sending them overseas to compete with us from there. I also would have voted against the motion to recommit, and in favor of final passage.

On the crime bill (H.R. 5269), I would have voted against the Bustamante amendment to strike section 106 of the bill; section 106 would have required direct pass-through of Federal antidrug money to localities most in need. I would have voted in favor of the Martin of Illinois amendment, which would cut 10 percent of a State's block grant allocation if that State does not have in effect a law requiring a convicted rapist to be tested for the AIDS virus, at the request of the victim. I would have voted against the Staggers amendment, which would have replaced the death penalty with a mandatory life sentence without parole, plus restitution to the victim's family.

I also would have voted in favor of S. 1511, making technical amendments to Older Workers Benefit Protection Act.

PROVIDING FOR SERIATIM CONSIDERATION OF FOUR AMENDMENTS MADE IN ORDER TO TITLE I OF H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that it be in order to debate the four amendments made in order to title I of H.R. 5269 seriatim and any recorded votes on the amendments be postponed until the conclusion of debate on all four amendments.

The SPEAKER pro tempore (Mr. BUSTAMANTE). Is there objection to the request of the gentleman from Texas?

Mr. McCOLLUM. Mr. Speaker, reserving the right to object, I do not intend to object, it is my understanding that this is being requested because we have gotten finished with the general debate earlier than anticipated, and there are inconveniences to Members who would otherwise have expected us not to have votes during the next hour. If that is the case and we are just really proceeding in order except holding the votes in abeyance until the end of the time that we debate these four amendments, I have no objection.

Am I correct in my understanding?

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. Further reserving the right to object, I am happy to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, the gentleman is correct.

Mr. McCOLLUM. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMPREHENSIVE CRIME CONTROL ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 490 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5269.

□ 1505

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5269) to control crime, with Mr. Bosco in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose earlier today, all time for general debate had expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on the Judiciary, as modified by the amendments printed in part 1 of House Report 101-796 shall be considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute as modified, is as follows:

H.R. 5269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Crime Control Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—CORRECTIONAL OPTIONS INCENTIVES AMENDMENTS

Sec. 101. Correctional options grants.
Sec. 102. Conveyance of property and facilities at military installations.
Sec. 103. Improvement of criminal justice records.
Sec. 104. Notice of certain underutilized military facilities.
Sec. 105. Matching requirement.
Sec. 106. State distribution of funds to units of local government.
Sec. 107. Direct distribution of funds to units of local government.
Sec. 108. Revocation of drivers' licenses of individuals convicted of drug offenses.
Sec. 109. Improved effectiveness of court process.

TITLE II—FEDERAL DEATH PENALTY

Sec. 201. Presidential assassination and related crimes.
Sec. 202. Intentional killings of certain Federal officials.
Sec. 203. Intentional killings of foreign officials.
Sec. 204. Intentional killings of Federal judges and law enforcement officers.
Sec. 205. Intentionally killing a Federal witness in the witness protection program.
Sec. 206. Intentionally killing the victim of a kidnapping or hostage taking.
Sec. 207. Contract murders.
Sec. 208. Espionage and treason.
Sec. 209. Terrorism.
Sec. 210. Skyjacking.
Sec. 211. Drug kingpin conforming amendment.
Sec. 212. Death penalty procedures.

TITLE III—ANABOLIC STEROIDS

Sec. 301. Anabolic steroid penalties.
Sec. 302. Exemption Relating to Steroids.
Sec. 303. Penalty for distribution of human growth hormone.
Sec. 304. Clerical correction.
Sec. 305. Interagency coordinating council on the abuse of anabolic steroids.

TITLE IV—ASSET FORFEITURE

Sec. 401. Amendments relating to the special forfeiture fund.
Sec. 402. Prohibition of certain transfers of forfeited property to State and local law enforcement agencies if such transfers circumvent State law.
Sec. 403. Clarification of Attorney General's authority to warrant clear title upon transfer of forfeited property.
Sec. 404. Summary seizure and forfeiture of money and similar items under the Controlled Substances Act.
Sec. 405. Conforming amendment relating to the equitable transfer of forfeited property to a participating foreign nation.
Sec. 406. Clarification of Attorney General's forfeiture sale authority.
Sec. 407. Forfeiture and destruction of dangerous, toxic, and hazardous materials.
Sec. 408. Additional forfeiture award authority.
Sec. 409. Report to Congress.
Sec. 410. Forfeiture of drug paraphernalia.
Sec. 411. Forfeiture of a firearm used to facilitate a drug offense.

TITLE V—COMPUTER CRIME

Sec. 501. Section 1030 amendment.

TITLE VI—LAW ENFORCEMENT SCHOLARSHIPS AND RECRUITMENT INCENTIVES

Sec. 601. Definitions.
Sec. 602. Allotment.
Sec. 603. Program established.
Sec. 604. Scholarships.
Sec. 605. Eligibility.
Sec. 606. State application.
Sec. 607. Local application.
Sec. 608. Scholarship agreement.
Sec. 609. Reports to Congress.
Sec. 610. Authorization of appropriations.

TITLE VII—FIREARMS PROVISIONS

Sec. 701. Prohibition against transferring firearms to nonresidents.
Sec. 702. Commerce nexus for trafficking in stolen firearms.
Sec. 703. Technical amendments.
Sec. 704. Disposition of forfeited firearms.
Sec. 705. Amendments relating to the domestic assembly of nonimportable firearms.
Sec. 706. Prohibition Against Possession of Firearms in Federal Court Facilities.

Sec. 707. Enhanced Penalties for Possession of Short-Barreled Rifle, Short-Barreled Shotgun, or Destructive Device in a Crime of Violence or Drug Trafficking Crime.

TITLE VIII—CHEMICAL DIVERSION AND TRAFFICKING

Sec. 801. Chemical diversion and trafficking.

TITLE IX—DRUG PARAPHERNALIA

Sec. 901. Drug Paraphernalia.

TITLE X—LICIT OPIUM IMPORTS

Sec. 1001. United States policy regarding importation of narcotic raw material.

TITLE XI—SENTENCING FOR METHAMPHETAMINE OFFENSES

Sec. 1101. Sentencing commission guidelines.
Sec. 1102. Interagency Coordinating Council on the Abuse of Smokable Crystal Methamphetamine.

TITLE XII—OBSTRUCTION OF JUSTICE

Sec. 1201. Protection of court officers and jurors.
Sec. 1202. Prohibition of retaliatory killings of witnesses, victims, and informants.

TITLE XIII—HABEAS CORPUS

Sec. 1301. Limitations period in capital cases.
Sec. 1302. Stays of execution in capital cases.
Sec. 1303. Successive petitions in capital cases.
Sec. 1304. Certificates of probable cause.
Sec. 1305. Law applicable in chapter 153 proceedings.
Sec. 1306. Procedural default in State court.
Sec. 1307. Counsel in capital cases.

TITLE XIV—PRISONS

Sec. 1401. Study.
Sec. 1402. Report with respect to Federal prison industries.
Sec. 1403. Prerelease custody.
Sec. 1404. Place of imprisonment.
Sec. 1405. Drug treatment for prisoners.

TITLE XV—REMOVAL OF CRIMINAL ALIENS

Sec. 1501. Clarification of aggravated felony definition.
Sec. 1502. Enhancing enforcement authority of INS officers.
Sec. 1503. Clarification of custody pending determination of deportability.
Sec. 1504. Elimination of judicial recommendations against deportation.
Sec. 1505. Clarification respecting discretionary authority in deportation proceedings for incarcerated aliens.
Sec. 1506. Requiring coordination plan with INS as a condition for receipt of drug control and system improvement grants under the Omnibus Crime Control and Safe Streets Act of 1968.
Sec. 1507. Deportation for attempted violations of controlled substances laws.
Sec. 1508. Good moral character definition.
Sec. 1509. Report on criminal aliens.
Sec. 1510. Notices of deportation hearings and in absentia hearings for aliens convicted of aggravated felonies.
Sec. 1511. Limitation on waiver of exclusion for returning permanent residents convicted of an aggravated felony.

TITLE XVI—SHOCK INCARCERATION

Sec. 1601. Shock incarceration program.
Sec. 1602. Authorization of appropriations.

TITLE XVII—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

Sec. 1701. Public safety officers' disability benefits.
Sec. 1702. Effective date.

TITLE XVIII—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

Sec. 1801. Amendment to title 28.
Sec. 1802. Actions prior to the date of enactment.

TITLE XIX—INTOXICATION AND RESTITUTION

Sec. 1901. Nondischargeability of certain debts arising from unlawful driving while intoxicated or impaired.
Sec. 1902. Nondischargeability of certain debts for restitution imposed for committing crimes.
Sec. 1903. Effective date; application of amendments.

TITLE XX—CHILD ABUSE

Subtitle A—Improving Investigation and Prosecution of Child Abuse Cases

Sec. 2001. Grants for multidisciplinary programs.
Sec. 2002. Grants for specialized technical assistance and training programs.
Sec. 2003. Authorizations of appropriations.

Subtitle B—Court Appointed Special Advocate Program

Sec. 2004. Strengthening court-appointed special advocate program.
Sec. 2005. Authorization of appropriations.

Subtitle C—Child Abuse Training Programs for Judicial Personnel and Practitioners

Sec. 2006. Grants for juvenile and family court personnel.
Sec. 2007. Specialized technical assistance and training programs.
Sec. 2008. Authorization of appropriations.

Subtitle D—Federal Victims' Services, Protections, and Rights

Sec. 2009. Special procedures applicable to child victim witnesses and victims in criminal cases.
Sec. 2010. Statute of limitations in cases relating to children.
Sec. 2011. Use of multidisciplinary teams.
Sec. 2012. Child abuse reporting.
Sec. 2013. Abrogation of testimonial privileges in certain criminal cases involving children.

Subtitle E—Child Care Worker Employee Background Check

Sec. 2014. Child care worker employee background checks.

TITLE XXI—BANKING LAW ENFORCEMENT

Subtitle A—Enhanced Criminal Penalties

Sec. 2101. Concealment of assets from FDIC, RTC, or NCUA established as criminal offense.
Sec. 2102. Prohibition on control of or participation in depository institution by certain convicted persons.
Sec. 2103. Crime of obstructing an examiner.
Sec. 2104. Increasing bank fraud and embezzlement penalties.
Sec. 2105. Statute of limitations for rico offenses involving financial institutions.
Sec. 2106. Money laundering involving bank crimes.
Sec. 2107. Increased penalties in major bank crime cases.
Sec. 2108. Restitution for victims of bank crimes.
Sec. 2109. Enhancement of ability to order restitution in certain fraud cases.
Sec. 2110. Financial crime kingpin statute.

Subtitle B—Protecting Assets From Wrongful Disposition

Sec. 2121. Limitation on disposition of certain assets.
Sec. 2122. Attachment of assets.
Sec. 2123. Disallowing use of bankruptcy to evade commitments to maintain the capital of a federally insured depository institution or to evade civil or criminal liability.
Sec. 2124. Fraudulent conveyances avoidable by conservators, receivers, and liquidating agents.
Sec. 2125. Regulation of golden parachutes and other benefits which are subject to misuse.
Sec. 2126. Amendments relating to civil forfeiture.
Sec. 2127. Civil and criminal forfeiture for fraud in the sale of assets by the Resolution Trust Corporation, FDIC, or NCUA.
Sec. 2128. Prohibition on acquisitions from conservators, receivers, and liquidating agents of depository institutions by convicted felons.

Subtitle C—Improved Procedures for Handling Banking-related Cases

Sec. 2131. Wiretap authority for bank fraud and related offenses; technical amendments to wiretap law.
Sec. 2132. Foreign investigations by federal banking agencies and investigations on behalf of foreign banking authorities.
Sec. 2133. Extension of statute of limitations for civil penalties.
Sec. 2134. Clarification of subpoena authority for FDIC, RTC, and NCUA acting as conservator, receiver, or liquidating agent.

Subtitle D—Structural Reforms to Improve the Federal Response to Crimes Affecting Financial Institutions

Sec. 2141. Establishment of Financial Institutions Crime Unit and Office of Special Counsel for Financial Institutions Crime Unit.
Sec. 2142. Appointment responsibilities and compensation of the special counsel.
Sec. 2143. Assignment of personnel.
Sec. 2144. Financial institutions fraud task forces.
Sec. 2145. Interagency coordination.
Sec. 2146. Additional authority for the secret service.

Subtitle E—Reporting Requirements

Sec. 2151. Reporting requirements.
Sec. 2152. Report on court business impact of savings and loan crisis.

Subtitle F—National Commission on Financial Institution Reform, Recovery, and Enforcement

Sec. 2161. Commission established.
Sec. 2162. Duties of commission.

Sec. 2163. Membership.
Sec. 2164. Powers of commission.
Sec. 2165. Staff of commission; experts and consultants.
Sec. 2166. Reports.
Sec. 2167. Termination.
Sec. 2168. Authorization of appropriations.

Subtitle G—Authorizations

Sec. 2171. Additional funding for investigators and prosecutors for bank crime cases.
Sec. 2172. Authorizing additional funds for the federal judiciary.

TITLE XXII—MISCELLANEOUS

Sec. 2201. Authorization of appropriations for humanitarian expenses.
Sec. 2202. Lotteries.
Sec. 2203. Ineligibility for Federal benefits.
Sec. 2204. Codification of exceptions to exclusionary rule.
Sec. 2205. Railroad police authority.
Sec. 2206. Clarification of mandatory minimum penalty for serious crack possession.
Sec. 2207. Correction of an error relating to the quantity of methamphetamine necessary to trigger a mandatory minimum penalty.
Sec. 2208. Conforming amendments to Controlled Substances Import and Export Act relating to methamphetamine.
Sec. 2209. Enhancement of penalties for drug trafficking in federal prisons.
Sec. 2210. Conforming amendment to definition of mental element term in the money laundering statute.
Sec. 2211. Conforming amendment to conspiracy and attempt penalty under the maritime drug law enforcement act.
Sec. 2212. Special rule for certain habeas corpus petitions.
Sec. 2213. Expansion of the private sector/prison industry enhancement certification program.

TITLE I—CORRECTIONAL OPTIONS INCENTIVES AMENDMENTS

SEC. 101. CORRECTIONAL OPTIONS GRANTS.

(a) AUTHORITY TO MAKE GRANTS.—Subpart 2 of part E of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3760 et seq.) is amended—

(1) by inserting after the heading relating to subpart 2 the following:

"CHAPTER A—GRANTS TO PUBLIC AND PRIVATE ENTITIES".

(2) in section 510 by striking "subpart" each place it appears and inserting "chapter",

(3) in section 511—

(A) in the heading by striking "DISCRETIONARY", and

(B) by inserting "(other than chapter B of this subpart)" after "this part",

(4) in section 513—

(A) in subsection (a)(1) by inserting "or 515" after "511", and

(B) in subsection (b) by inserting "applicable" after "all the" each place it appears,

(5) in section 514(2) by striking "public agency or private nonprofit organization within which the program or project has been conducted" and inserting "applicant that conducts such program or project",

(6) by redesignating sections 513 and 514 as sections 517 and 518, respectively, and

(7) by inserting after section 514 the following:

"CHAPTER B—GRANTS TO PUBLIC AGENCIES

"CORRECTIONAL OPTIONS GRANTS

"SEC. 515. (a) The Director, in consultation with the Director of the National Institute of Corrections, may make—

"(1) 4 grants in each fiscal year, in various geographical areas throughout the United States, to public agencies for correctional options (including the cost of construction) that provide alternatives to traditional modes of incarceration and offender release programs—

"(A) to provide more appropriate intervention for youthful offenders who are not career criminals, but who, without such intervention, are likely to become career criminals or more serious offenders;

"(B) to provide a degree of security and discipline appropriate for the offender involved;

"(C) to provide diagnosis, and treatment and services (including counseling, substance abuse treatment, education, job training and placement assistance while under correctional supervision, and linkage to similar outside services), to increase the success rate of offenders who decide to pursue a course of lawful and productive conduct after release from legal restraint;

"(D) to reduce criminal recidivism by offenders who receive punishment through such alternatives;

"(E) to reduce the cost of correctional services and facilities by reducing criminal recidivism; and

"(F) to provide work that promotes development of industrial and service skills in connection with a correctional option; and

"(2) grants to private nonprofit organizations—

"(A) for any of the purposes specified in subparagraphs (A) through (F) of paragraph (1);

"(B) to undertake educational and training programs for criminal justice personnel;

"(C) to provide technical assistance to States and local units of government; and

"(D) to carry out demonstration projects which, in view of previous research or experience, are likely to be a success in more than one jurisdiction;

in connection with a correctional option (excluding the cost of construction).

"(b) The selection of applicants to receive grants under subsection (a) shall be based on their potential for developing or testing various innovative alternatives to traditional modes of incarceration and offender release programs.

"(c) The Director shall consult with the Commission on Alternative Utilization of Military Facilities created by Public Law 100-456 in order to identify military facilities that may be used as sites for correctional programs receiving assistance under this chapter.

"ALLOCATION OF FUNDS; ADMINISTRATIVE PROVISIONS

"SEC. 516. (a) Of the total amount appropriated for this chapter in any fiscal year, 80 percent shall be used to make grants under section 515(a)(1).

"(b)(1) Except as provided in paragraph (2), a grant made under section 515(a)(1) may be made for an amount up to 50 percent of the cost of the correctional option contained in the approved application.

"(2) On the basis of financial hardship, the Director may waive the limitation specified in paragraph (1). If the Director waives such limitation, a grant made under section 515(a)(1) may be made for an amount up to 75 percent of the cost of the correctional option contained in the approved application.

"(c) The Director shall—

"(1) not later than 90 days after funds are first appropriated to carry out this chapter, issue rules to carry out this chapter; and

"(2) not later than 180 days after funds are first appropriated to carry out this chapter—

"(A) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report describing such rules; and

"(B) request applications for grants under this chapter.

"CHAPTER C—GENERAL REQUIREMENTS".

(b) EVALUATION.—Section 520(a)(2) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766(a)(2)) is amended by striking "section 511" and inserting "sections 511 and 515".

(c) DEFINITION.—Section 901(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended—

(1) in paragraph (20) by striking "and" at the end,

(2) in paragraph (21) by striking the period at the end, and

(3) by adding at the end the following:

"(22) 'correctional option' includes community-based incarceration, weekend incarceration, boot camp prison, electronic monitoring of offenders, intensive probation, and any other innovative punishment designed to have the greatest impact on offenders who can be punished more effectively in an environment other than a traditional correctional facility; and

"(23) 'boot camp prison' includes a correctional facility in which inmates are required to participate in a highly regimented program that provides strict discipline, physical training, and hard labor, together with extensive rehabilitative activities and with educational, job training, and drug treatment support.".

(d) TECHNICAL AMENDMENTS.—The table of contents of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by inserting after the heading relating to subpart 2 of part E the following:

"CHAPTER A—GRANTS TO PUBLIC AND PRIVATE ENTITIES",

(2) in the item relating to section 511 by striking "discretionary", and

(3) by striking the items relating to sections 513 and 514, and inserting the following:

"CHAPTER B—GRANTS TO PUBLIC AGENCIES

"Sec. 515. Correctional options grants.
"Sec. 516. Allocation of funds; administrative provisions.

"CHAPTER C—GENERAL REQUIREMENTS

"Sec. 517. Application requirements.
"Sec. 518. Period of award.".

(e) CONFORMING AMENDMENTS.—Section 1001(a) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) in paragraph (5)—

(A) by striking "$400,000,000 for fiscal year 1991;",

(B) by striking "fiscal year 1992" and inserting "fiscal years 1991 and 1992", and

(C) by inserting "(other than chapter B of subpart 2)" after "and E",

(2) by redesignating paragraph (6) as paragraph (7), and

(3) by inserting after paragraph (5) the following:

"(6) There are authorized to be appropriated $300,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out chapter B of subpart 2 of part E of this title.".

SEC. 102. CONVEYANCE OF PROPERTY AND FACILITIES AT MILITARY INSTALLATIONS.

(a) IN GENERAL.—Chapter 159 of title 10, United States Code, is amended by adding at the end the following:

"§ 2693. Conveyance of certain property

"(a) Except as provided in subsection (b), before any real property or facility of the United States that is under the jurisdiction of any department, agency, or instrumentality of the Department of Defense is determined to be excess to the needs of such department, agency, or instrumentality, the Secretary shall—

"(1) provide adequate notification of the availability of such real property or facility within the Department of Defense;

"(2) if the real property or facility remains available after such notification, notify the Attorney General of its availability; and

"(3) if the Attorney General certifies that a determination has been made by the Director of the Bureau of Justice Assistance within the Department of Justice to utilize the real property or facility under the correctional options program carried out under section 515 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, convey the :eal property or facility, without reimbursement, to the public agencies referred to in section 515(a)(1) of title I of such Act for such utilization.

"(b) The provisions of this section shall not apply—

"(1) to real property and facilities to which title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) is applicable; and

"(2) during any portion of a fiscal year after four conveyances have been made under this section in such fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2693. Conveyance of certain property.".

SEC. 103. IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.

(a) AMENDMENT.—Subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"IMPROVEMENT OF CRIMINAL JUSTICE RECORDS

"SEC. 509. (a) Subject to subsection (d), each State which receives funds under section 506 in a fiscal year shall allocate not less than 5 percent of such funds to the improvement of criminal justice records.

"(b) The improvement referred to in subsection (a) shall include—

"(1) the completion of criminal histories to include the final dispositions of all arrests for felony offenses;

"(2) the full automation of all criminal justice histories and fingerprint records; and

"(3) the frequency and quality of criminal history reports to the Federal Bureau of Investigation.

"(c) The Director, in consultation with the Director of the Bureau of Justice Statistics, shall establish guidelines for the fulfillment of the requirements specified in subsections (a) and (b) of this section.

"(d) In accordance with such guidelines as the Director shall issue and on the request of a State, the Director may—

"(1) waive compliance with subsection (a) by such State; or

"(2) authorize such State to reduce the minimum amount such State is required to allocate under subsection (a);

if the Director, in the discretion of the Director, finds that the quality of the State's criminal justice records does not warrant expending the amount allocated under subsection (a).".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 508 the following:

"Sec. 509. Improvement of criminal justice records.".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall not apply with respect to any fiscal year beginning before the date of the enactment of this Act.

SEC. 104. NOTICE OF CERTAIN UNDERUTILIZED MILITARY FACILITIES.

Section 7302 of the Anti-Drug Abuse Act of 1988 (18 U.S.C. 4042 note) is amended—

(1) in paragraph (2) by striking "and" at the end,

(2) in paragraph (3) by striking the period at the end and inserting a semicolon, and

(3) by inserting after paragraph (3) the following:

"(4) notifying State and local government corrections agencies of the existence of underutilized military facilities identified by the Commission on Alternative Utilization of Military Facilities which may be suitable for use as minimum security institutions, correctional options (as defined in section 901(a)(22) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3791(a)(22)), boot camp prisons (as defined in section 901(a)(23) of such title I), or facilities for nonviolent State and local offenders; and

"(5) assisting State and local corrections agencies to adapt the facilities described in paragraph (4) for use as such institutions, such options, such prisons, or facilities for nonviolent State and local offenders.".

SEC. 105. MATCHING REQUIREMENT.

Section 504(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)) is amended by striking "not—" and all that follows through "per centum;" the last place it appears, and inserting the following: "not for any fiscal year be expended for more than 75 percent".

SEC. 106. STATE DISTRIBUTION OF FUNDS TO UNITS OF LOCAL GOVERNMENT.

Section 506(b)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756l(b)(1)) is amended—

(1) by inserting "(A) Except as provided in subparagraph (B)," after "(1)",

(2) by adding at the end the following:

"(B) Except as provided in subparagraph (C), each State that receives funds under subsection (a) shall distribute to a unit of local government (or to a combination of units of local government) in such State for the purposes specified in section 501 of this title that portion which bears the same ratio to the aggregate amount of such funds as the amount expended by such unit of local government (or such combination of units of local government) for criminal justice in the preceding fiscal year bears to the aggregate amount expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year. Each unit of local government (or combination of units of local government) that receives funds under this subparagraph shall make a good faith effort to participate in the development of the State plan and priorities and to comply with the principles of the State plan and priorities.

"(C)(i) A single unit of local government, or a combination of units of local government, is ineligible to receive funds under subparagraph (B) if the aggregate amount distributable to such unit or such combination (without regard to this clause) is less than $50,000.

"(ii) A unit of local government is ineligible in a fiscal year to receive funds under subparagraph (B) both in its capacity as a single unit of local government and in its capacity as a part of a combination of units of local government.".

SEC. 107. DIRECT DISTRIBUTION OF FUNDS TO UNITS OF LOCAL GOVERNMENT.

(a) APPLICATIONS TO RECEIVE GRANTS.—Section 503 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756j) is amended—

(1) by striking "this section" each place it appears and inserting "this subsection", and

(2) by adding at the end thereof the following:

"(c)(1) To request a grant under section 501 of this title, the chief executive of a unit of local government (or a duly authorized executive officer of any single unit of local government that is part of a combination of units of local government and who is selected by such combination to represent such combination) shall submit to the Director an application at such time and in such form as the Director may require.

"(2) Such application shall include—

"(A) a certification that Federal funds made available under section 501 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would otherwise be made available for drug law enforcement activities;

"(B) a certification that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for drug law enforcement by the recipient of such grant;

"(C) an assurance that the applicant has submitted a copy of the application referred to in paragraph (1) to the appropriate State office designated under section 507 of this title; and

"(D) an assurance that the application referred to in paragraph (1), and any amendment thereto, was made public before submission to the Bureau and, to the extent provided under State or local law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.".

(b) REVIEW OF APPLICATIONS.—Section 505(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755k(a)) is amended in the section heading and in the matter preceding paragraph (1) by striking "State".

(c) ALLOCATION OF FUNDS AND DISTRIBUTION OF FUNDS.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756l) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1)" and inserting "(A)",

(B) in paragraph (2) by striking "(2)" and inserting "(B)",

(C) by striking "(a) Of" and inserting "(a)(1) Except as provided in paragraph (2), of", and

(D) by adding at the end the following:

"(2) If a State fails to submit an application for a grant under section 501 of this title, before the expiration of the preference period for such fiscal year, then except as provided in paragraph (4)—

"(A) there shall be allocated to each eligible unit of local government (or combination of units of local governments) in such State an amount that bears the same ratio to the aggregate amount allocable to such State under paragraph (1) without regard to this paragraph as the amount of funds expended by such unit of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by all units of local government in such State for criminal justice in the preceding fiscal year; and

"(B) there shall be allocated to such State the amount by which the aggregate amount allocable to such State under paragraph (1) without regard to this paragraph exceeds the aggregate amount allocated under subparagraph (A) to units of local government in such State.

"(3) For purposes of paragraph (2)(A), the term 'eligible unit of local government' means a unit of local government that submits an application for a grant under section 501 of this title for a fiscal year not later than 90 days after the expiration of the preference period for such fiscal year.

"(4)(A) A single unit of local government, or a combination of units of local government, is ineligible to receive an allocation under paragraph (2)(A) for a fiscal year if the amount of such allocation determined under such paragraph with respect to such unit, or all units of local government that are part of such combination, would be less than $50,000.

"(B) A unit of local government is ineligible to receive an allocation under paragraph (2)(A) for a fiscal year both in its capacity as a single unit of local government and in its capacity as a part of a combination of units of local government.

"(5) For purposes of this subsection, the preference period consists of the aggregate of—

"(A)(i) for fiscal year 1991, the 120-day period beginning on the date any funds are appropriated to carry out this part for fiscal year 1991; or

"(ii) for any other fiscal year, the 60-day period beginning on the date any funds are appropriated to carry out this part for such fiscal year; and

"(B) the 60-day period beginning on the expiration of the applicable period referred to in subparagraph (A) if the Director determines that good cause exists for the failure of a State to submit an application for a grant under section 501 of this title for the fiscal year involved within such applicable period.",

(2) in subsection (b)(1)(A), as amended by section 106 of this Act, by inserting "(excluding such units and such combinations that receive funds under subsection (a)(2))" after "in such State" the first place it appears, and

(3) in subsection (c) by inserting "or to a unit of local government (or combination of units of local government)" after "to a State".

(d) REPORTS.—Section 522 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766b) is amended—

(1) in subsection (a)—

(A) by striking "Each State" and inserting "Each applicant", and by inserting "(or combination of units of local government)" after "government",

(B) in paragraph (1) by inserting "in the case of a State applicant," after "(1)", and

(C) in paragraph (2) by striking "State" and inserting "applicant", and

(2) in subsection (b) by striking "State" the first two places it appears and inserting "applicant".

SEC. 108. REVOCATION OF DRIVERS' LICENSES OF INDIVIDUALS CONVICTED OF DRUG OFFENSES.

Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756), as amended by section 107(c), is amended—

(1) in subsection (a)(1) by inserting "and subject to subsection (e)" after "paragraph (2)",

(2) by redesignating subsection (e) as subsection (f), and

(3) by inserting after subsection (d) the following:

"(e)(1) For any fiscal year beginning more than 2 years after the effective date of this subsection—

"(A) 90 percent of the funds allocated under subsection (a), without regard to this subsection, to a State described in paragraph (2) shall be distributed by the Director to such State; and

"(B) 10 percent of such amount shall be allocated equally among States that are not affected by the operation of subparagraph (A).

"(2) Paragraph (1)(A) refers to a State—

"(A) that does not have in effect, and does not enforce, in such fiscal year, a law that requires in all circumstances, except as provided in paragraph (3)—

"(i) the mandatory revocation of the driver's license for at least 1 year of any person who is convicted, after the enactment of such law, of—

"(I) a violation of section 404 of the Controlled Substances Act (21 U.S.C. 844) or any other Federal or State offense consisting of the possession of illegal drugs; and

"(II) any other Federal or State drug offense for which a person serves less than 1 year's imprisonment; and

"(ii) the mandatory denial of any request for the issuance or reinstatement of a driver's license to such a person if the person does not have a driver's license, or the driver's license of the person is suspended, at the time the person is so convicted; and

"(B) in which the State legislature has not voted, before such fiscal year, to exempt the State from the operation of this subsection.

"(3) The State law referred to in paragraph (2) may provide that the driver's license of a first offender, but not of a second or subsequent offender, may be reinstated on performance of 3 months' community service by such first offender who passes periodic drug tests administered during the period of community service.

"(4) For purposes of this subsection—

"(A) the term 'driver's license' means a license issued by a State to any person that authorizes the person to operate a motor vehicle on highways;

"(B) the term 'drug offense' means any criminal offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act (21 U.S.C. 801 et seq.) and such offenses under State laws; and

"(C) the term 'convicted' includes adjudicated under juvenile proceedings.".

SEC. 109. IMPROVED EFFECTIVENESS OF COURT PROCESS.

Section 501(b)(10) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)(10)) is amended to read as follows:

"(10) improving the operational effectiveness of the court process by expanding prosecutorial, defender, and judicial resources and by implementing court delay reduction programs.".

TITLE II—FEDERAL DEATH PENALTY

SEC. 201. PRESIDENTIAL ASSASSINATION AND RELATED CRIMES.

Section 1751 of title 18, United States Code, is amended—

(1) by inserting after subsection (e) the following:

"(f) Whoever—

"(1) intentionally kills an individual during the course of an offense under this section, on account of that individual's duties or status as an official protected under this section; or

"(2) engages in conduct in the course of an attempted killing in violation of this section, that results in serious bodily injury (as defined in section 1365 of this title) to the President or Vice President, or the President-elect or Vice President-elect;

shall be subject to the death penalty under chapter 228 of this title."; and

(2) by redesignating subsections (f) through (k) as subsections (g) through (l).

SEC. 202. INTENTIONAL KILLINGS OF CERTAIN FEDERAL OFFICIALS.

Section 351(a) of title 18, United States Code, is amended by adding at the end "Whoever intentionally kills any individual listed in this subsection on account of that individual's duties or status as an official or nominee protected under this section shall be subject to the death penalty under chapter 228 of this title.".

SEC. 203. INTENTIONAL KILLINGS OF FOREIGN OFFICIALS.

Section 1116(a) of title 18, United States Code, is amended by adding at the end the following: "Whoever violates this section by intentionally killing a foreign official or an internationally protected person because of such official's or person's duties or status as a foreign official or internationally protected person, or a member of the family of such an official or person, because of that family member's relationship to the official or person, shall be subject to the death penalty under chapter 228 of this title.".

SEC. 204. INTENTIONAL KILLINGS OF FEDERAL JUDGES AND LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever kills"; and

(2) by adding at the end the following:

"(b)(1) Whoever violates this section by intentionally killing a listed Federal law enforcement officer, on account of the officer's status or duties as a law enforcement officer, shall be subject to the death penalty under chapter 228 of this title.

"(2) As used in this subsection, the term 'listed Federal law enforcement officer' means an individual who is—

"(A) a law enforcement officer (as defined in section 1515(4) of this title) in—

"(i) the Department of Justice;

"(ii) the Department of the Treasury;

"(iii) the Coast Guard; or

"(iv) the United States Postal Service; or

"(B) employed in a Federal correctional facility.

"(c) Whoever violates this section by intentionally killing a judge of the United States on account of that judge's duties or status as a judge shall be subject to the death penalty under chapter 228 of this title.".

SEC. 205. INTENTIONALLY KILLING A FEDERAL WITNESS IN THE WITNESS PROTECTION PROGRAM.

Section 1512 of title 18, United States Code, is amended—

(1) by inserting after subsection (c) the following:

"(d) Whoever violates this section by intentionally killing an individual provided protection under section 3521 of this title shall be subject to the death penalty under chapter 228 of this title."; and

(2) by redesignating subsections (d) through (h) as subsections (e) through (i).

SEC. 206. INTENTIONALLY KILLING THE VICTIM OF A KIDNAPPING OR HOSTAGE TAKING.

(a) IN GENERAL.—Chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"§ 1204. Intentionally killing the victim

"Whoever in the course of an offense under section 1201 or 1203 of this title intentionally kills the victim of the offense shall be subject to the death penalty under chapter 228 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"1204. Intentionally killing the victim.".

SEC. 207. CONTRACT MURDERS.

Section 1958(a) of title 18, United States Code, is amended by adding at the end the following: "Whoever violates this section by traveling in or causing another (including the intended victim) to travel in interstate or foreign commerce with intent that a murder be committed, and intentionally kills the victim shall be subject to the death penalty under chapter 228 of this title.".

SEC. 208. ESPIONAGE AND TREASON.

(a) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by adding at the end the following: "Chapter 228 of this title applies to the death penalty under this section.".

(b) TREASON.—Section 2381 of title 18, United States Code, is amended by adding at the end the following: "Chapter 228 of this title applies to the death penalty under this section.".

SEC. 209. TERRORISM.

Section 2331(a)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death under chapter 228 of this title" after "so imprisoned".

SEC. 210. SKYJACKING.

Subsection (c) of section 903 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1473) is amended to read as follows:

"(c) Chapter 228 of title 18, United States Code, applies to the death penalty under this section.".

SEC. 211. DRUG KINGPIN CONFORMING AMENDMENT.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) in subsection (e) by inserting at the end the following: "Chapter 228 of title 18, United States Code, applies to the death penalty under this subsection.";

(2) by striking subsections (g) through (p), and (r);

(3) by striking paragraphs (1) through (3) of subsection (q);

(4) by redesignating paragraphs (4) through (10) of subsection (q) as paragraphs (1) through (7);

(5) within such redesignated paragraphs (other than in their designations), by striking "(4)" each place it appears and inserting "(1);

(6) within such redesignated paragraphs, by striking "(5)" each place it appears and inserting "(2);

(7) within such redesignated paragraphs, by striking "(6)" each place it appears and inserting "(3);

(8) within such redesignated paragraphs, by striking "(7)" each place it appears and inserting "(4);

(9) within such redesignated paragraphs, by striking "(8)" each place it appears and inserting "(5);

(10) within such redesignated paragraphs, by striking "(9)" each place it appears and inserting "(6);

(11) within such redesignated paragraphs, by striking "(10)" each place it appears and inserting "(7); and

(12) by redesignating subsection (q) as subsection (f).

SEC. 212. DEATH PENALTY PROCEDURES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Application of chapter.
"3592. Notice required.
"3593. Bifurcated trial.
"3594. Aggravating and mitigating factors.
"3595. Special findings as to factors.
"3596. Weighing of factors and appropriateness of sentence.
"3597. Imposition of a sentence of death.
"3598. Review of a sentence of death.
"3599. Implementation of sentence of death.
"3599A. Use of State facilities.

"§ 3591. Application of chapter

"This chapter applies to each defendant charged with an offense for which the law defining the offense provides a possible sentence of death under this chapter.

"§ 3592. Notice required

"(a) IN GENERAL.—

"(1) CONTENTS.—If the Government intends to seek the death penalty under this chapter for an offense, the attorney for the Government, a reasonable time before the trial begins, or before acceptance by the court of a plea of guilty, shall sign and file with the court, and serve on the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth each aggravating factor that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

"(2) AMENDMENT.—The Government may, for good cause shown, amend a notice given under this subsection not later than 10 days before the sentencing phase of the trial begins.

"(b) APPROVAL BY COURT OF ADDITIONAL AGGRAVATING FACTORS.—The court shall consider each aggravating factor the Government gives notice of under this section that is not listed specifically in section 3594(d) of this title as an aggravating factor. The Government shall not seek to prove as part of the basis for the death penalty any factor the court considers under this subsection unless the court approves the Government's doing so. The court shall not approve such a factor unless, after a hearing that is completed before the sentencing phase of the trial begins, the court determines that the proposed aggravating factor addresses the nature of the crime or the character of the defendant so as to narrow the class of persons eligible for the death penalty and justify the imposition of the death penalty on this particular defendant as opposed to others convicted of the same offense. No appeal by the United States shall lie under section 3731 of this title from a decision or order of the court disapproving such a factor.

"§ 3593. Bifurcated trial

"(a) IN GENERAL.—The trial of a case under this chapter shall be divided into two phases. The first phase shall determine guilt or innocence of the defendant, and the second phase shall determine sentencing.

"(b) SPECIAL RULES PERTAINING TO SENTENCING PHASE.—The judge who presided at the first phase of the trial, or another judge if that judge is unavailable, shall conduct the second phase, a hearing to determine the punishment to be imposed. Notwithstanding the Federal Rules of Criminal Procedure, no presentence report shall be prepared by the United States Probation Service before such a hearing.

"(c) JURY.—The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted by the court sitting without a jury;

"(C) the jury that convicted the defendant was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

"§ 3594. Aggravating and mitigating factors

"(a) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—

"(1) EVIDENCE.—At the hearing, all information (other than information that was or would be subject to suppression because of a constitutional violation had it been offered in the first phase of the trial) that relates to any mitigating factor, or to any of the aggravating factors properly before the court, may be presented. Such information is admissible without regard to the requirements of the Federal Rules of Evidence. However, information is not admissible unless there are sufficient indicia of reliability to support its probative value, and not even then if the danger of prejudice outweighs its probative value.

"(2) BURDEN.—The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is supported by any evidence.

"(b) SPECIFIC MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongful-

ness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant's conduct was affected by the defendant's being under duress, coercion, threat, or compulsion, regardless of whether it was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) YOUTHFULNESS OF THE DEFENDANT.—The defendant, though over the age of 18 years, was youthful or immature.

"(5) INSIGNIFICANT PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior criminal record.

"(6) MENTAL DISEASE OR DEFECT.—At the time of the offense, the defendant was suffering from a mental disease or defect, personality disorder, or emotional disturbance.

"(7) OTHERS NOT PUNISHED.—Another defendant, equally culpable in the crime, will not be punished by death.

"(8) CONSENT OF VICTIM.—The victim consented to the conduct constituting the offense.

"(c) ADDITIONAL MITIGATING FACTORS.—The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstances of the offense exists that would constitute a mitigating factor. At the request of the defendant, the court shall instruct the jury as to any mitigating factor for which evidence has been presented.

"(d) SPECIFIC AGGRAVATING FACTORS FOR HOMICIDE AND ATTEMPTED HOMICIDE.—In determining whether a sentence of death should be imposed for an offense consisting of homicide or attempted homicide, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given under this chapter and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping apprehension, knowingly created a grave risk of death to another person in addition to any victims of the offense.

"(4) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value, unless this is an element of the offense.

"(5) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value, unless this is an element of the offense.

"(6) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity, and the defendant was or should have been aware of that vulnerability.

"(7) MOTIVATION.—The defendant's motivation for the offense was bias, prejudice or hatred based on religion, race, ethnicity, sex, or sexual preference.

"(8) PRISON ESCAPE.—The offense was committed while the defendant was escaping or a fugitive from any facility in the United States where the defendant was serving a sentence of imprisonment for conviction of a crime.

"(9) RELEASED OFFENDER.—The offense was committed while the defendant was released on probation, parole, supervised release, furlough, or other conditional or temporary release from imprisonment for a State or Federal offense (including an offense against the law of a territory or possession of the United States) punishable—

"(A) by death or imprisonment for life; or

"(B) by imprisonment for a period greater than one year, and the offense involved the infliction or attempted infliction of serious bodily injury or death on another person.

"(10) EXTREME PREMEDITATION.—The offense was characterized by an extreme degree of premeditation as exhibited by a substantial amount of planning or preparation over a sustained period of time.

"(11) TORTURE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved serious torture or physical abuse to a victim over a period of time, thus causing extreme physical pain and suffering to that victim.

"(12) COMMISSION DURING ANOTHER OFFENSE.—The defendant committed the offense during the commission of another offense for which the death penalty is an authorized punishment under Federal law.

"(13) LIFE PRISONER.—The defendant committed the offense while the defendant was a prisoner serving a life sentence without possibility of release or one or more life sentences with no reasonable expectation of release.

"(e) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense consisting of espionage or treason, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors for which notice has been given under this chapter and no others and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense—

"(A) involving espionage or treason; or

"(B) a Federal or State offense for which a sentence of life imprisonment or death was authorized by statute.

"(2) SERIOUS INJURY TO NATIONAL DEFENSE.—In the commission of the offense the defendant compromised war plans, cryptographic information, or information concerning a major weapons system, in a way that intentionally caused serious injury to the national defense.

"(3) DEATH OF ANOTHER.—In the commission of the offense the defendant knowingly caused the death of another person.

"(4) MANAGERIAL POSITION.—In the commission of the offense, the defendant acted in concert with 5 or more persons with respect to whom the defendant occupied a position of organizer, a supervisory position, or any other position of management.

"(f) ADDITIONAL AGGRAVATING FACTORS.—In the case of homicide or attempted homicide only, the jury, or if there is no jury, the court, may, if the court approves doing so under section 3592 of this title, consider whether any other aggravating factor exists.

"§ 3595. Special findings as to factors

"(a) SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying each aggravating and mitigating factor found to exist under this chapter.

"(b) MITIGATING FACTORS.—A special finding with respect to a mitigating factor may be made by one or more members of the jury, and if any member of the jury finds the existence of a mitigating factor supported by any evidence, that factor is established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(c) AGGRAVATING FACTORS.—A finding with respect to any aggravating factor must be unanimous. Unless 2 or more aggravating factors are found to exist under this chapter—

"(1) in the case of a treason or espionage offense, all of which are specifically listed in section 3594 as aggravating factors for treason and espionage; and

"(2) in any other case, at least one of which is listed specifically in section 3594 as an aggravating factor for homicide;

the court shall impose a sentence, other than death, authorized by law.

"(d) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—If the sentencing proceeding is held before a jury, the court shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to find for a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return findings under this section, shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching the juror's individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3596. Weighing of factors and appropriateness of sentence

"(a) WEIGHING OF FACTORS.—If 2 or more aggravating factors are found under this chapter, the jury, or if there is no jury, the court, shall then consider whether the aggravating factors found to exist sufficiently outweigh any mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factors alone are sufficient to justify a sentence of death. If the jury finds that the aggravating factors do not outweigh the mitigating factor or factors, then the court shall impose any sentence, other than death, authorized by law.

"(b) APPROPRIATENESS OF SENTENCE.—If, in the case of a jury proceeding, every juror finds beyond a reasonable doubt that the aggravating factors found to exist outweigh

any mitigating factors, the jury shall consider whether in light of all the information presented in mitigation and aggravation, and all the information presented regarding the character, background, and record of the defendant, and the nature and circumstances of the offense, the imposition of the death sentence in this case is appropriate and justified. If the jury finds that the death sentence is appropriate and justified then it may impose a sentence of death. Such finding must be made unanimously and beyond a reasonable doubt. The jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence and shall be so instructed. If the jury does not impose the death sentence, the jury may impose a sentence of life imprisonment without the possibility of release or furlough. If the jury does not impose either of these sentences, the court shall impose a sentence, other than death, authorized by law. In the absence of a jury, the court shall make these determinations and impose sentence accordingly.

"§ 3597. Imposition of a sentence of death

"(a) IN GENERAL.—

"(1) DETERMINATION BY COURT.—Upon a determination under section 3596 of this title that a sentence of death should be imposed, the court shall determine whether or not to sentence the defendant to death.

"(2) FINDINGS REQUIRED.—The court shall impose the sentence of death if the court finds that the evidence supports the jury's findings regarding the existence of aggravating factors and the jury's weighing of those factors against the mitigating factor or factors, and the decision of the jury was not the result of passion or prejudice. In making these findings, the court shall affirm the jury's decision unless the court finds, in the light of all the information presented to the jury, that no reasonable juror could have reasonably found as jury did. If the court is unable to make these findings, then the court shall impose any other sentence authorized by law.

"(3) SENTENCE OF LIFE IMPRISONMENT.—If the jury recommends life imprisonment without the possibility of release or furlough, the court shall impose a sentence of life imprisonment without the possibility of release or furlough if the court makes with respect to the jury's decision the same findings required to affirm a jury decision for a sentence of death. If the court is unable to make these findings, then the court shall impose any other sentence authorized by law.

"(4) OTHER SENTENCES.—If the court is unable to make the findings required to support a jury decision for a sentence of death or a sentence of life imprisonment without possibility of release or furlough, as the case may be, the court shall impose a sentence, other than death, authorized by law.

"(b) CERTAIN PERSONS NOT SUBJECT TO DEATH SENTENCE.—The death penalty shall not—

"(1) be imposed or carried out on an individual—

"(A) who had not attained the age of 18 years at the time of the offense; or

"(B) who is mentally retarded or incompetent; or

"(2) be carried out on a pregnant woman.

"§ 3598. Review of a sentence of death

"(a) RIGHT TO APPEAL IN GENERAL.—

"(1) AUTOMATIC REVIEW.—In a case in which a sentence of death is imposed, the court of appeals shall review the sentence as if upon appeal by the defendant, unless the defendant knowingly and intelligently waives such review and the district court after a competency hearing determines the defendant is competent to do so. Such review may be combined with an appeal from the conviction.

"(2) SCOPE OF REVIEW.—Such review shall consider—

"(A) each relevant issue of fact or question of law; and

"(B) whether the sentence is proportional to the sentences given other similarly situated Federal defendants in similar cases on a national basis.

"(3) SUPREME COURT REVIEW.—If the court of appeals affirms the sentence, the Supreme Court shall also review the case in the manner prescribed for review by the appeals court under this section.

"(4) EFFECT OF OVERTURNING AGGRAVATING FACTOR.—If any reviewing court determines that any aggravating factor was not supported by the evidence or is not a proper aggravating factor, the sentence shall not be affirmed.

"(b) INCOMPETENCE.—Any person having reason to believe that an individual who is sentenced to death is mentally retarded or incompetent may on behalf of that individual seek review or other appropriate relief.

"(c) STATEMENT OF REASONS.—Each reviewing court shall state in writing the reasons for its disposition of a matter under this section.

"§ 3599. Implementation of sentence of death

"(a) CUSTODY.—A person who has been sentenced to death under this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State or other place in which the sentence is imposed. If the law of such State or place does not provide for implementation of a sentence of death, the court shall designate a State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by law.

"(b) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3599A. Use of State facilities

"A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part II of title 18, United States Code, is amended by inserting after the item relating to chapter 227 the following new item:

"228. Death penalty procedures ..... 3591".

TITLE III—ANABOLIC STEROIDS

SEC. 301. ANABOLIC STEROID PENALTIES.

(a) COACHES AND OTHERS PERSUADING OR INDUCING USE.—Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following:

"(b)(1) Whoever, being a physical trainer or adviser to an individual, endeavors to persuade or induce that individual to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both. If such individual has not attained the age of 18 years, the maximum imprisonment shall be 5 years.

"(2) As used in this subsection, the term 'physical trainer or adviser' means any professional or amateur coach, manager, trainer, instructor, or other such person, who provides any athletic or physical instruction, training, advice, assistance, or other such service to any person.".

(b) ADDITION OF ANABOLIC STEROIDS TO SCHEDULE III.—Schedule III of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by adding at the end the following:

"(e) Anabolic steroids.".

(c) DEFINITION OF ANABOLIC STEROID.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

"(41)(A) The term 'anabolic steroid' means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes—

"(i) Boldenone.
"(ii) Chlorotestosterone.
"(iii) Clostebol.
"(iv) Dehydrochlormethyltestosterone.
"(v) Dihydrotestosterone.
"(vi) Drostanolone.
"(vii) Ethylestrenol.
"(viii) Fluoxymesterone.
"(ix) Mesterolone.
"(x) Methandienone.
"(xi) Methandranone.
"(xii) Methandriol.
"(xiii) Methandrostenolone.
"(xiv) Methyltestosterone.
"(xv) Mibolerone.
"(xvi) Nandrolone.
"(xvii) Norethandrolone.
"(xviii) Oxandrolone.
"(xix) Oxymesterone.
"(xx) Oxymetholone.
"(xxi) Stanolone.
"(xxii) Stanozolol.
"(xxiii) Testolactone.
"(xxiv) Testosterone.
"(xxv) Trenbolone; and
"(xxvi) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

"(B)(i) Except as provided in clause (ii), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration.

"(ii) If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of subparagraph (A).".

SEC. 302. EXEMPTION RELATING TO STEROIDS.

The Attorney General, upon the recommendation of the Secretary of Health and Human Services, may, by regulation, exempt any compound, mixture, or preparation containing a substance listed in paragraph (41) of section 102 of the Controlled Substances Act from the application of all or any part of the Controlled Substances Act if, because of its concentration, preparation, mixture, or delivery system, it has no significant potential for abuse.

SEC. 303. PENALTY FOR DISTRIBUTION OF HUMAN GROWTH HORMONE.

Subsection (e) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended—

(1) by striking "anabolic steroid" each place it appears and inserting "human growth hormone"; and

(2) by adding at the end the following:

"(3) As used in this subsection, the term 'human growth hormone' means somatrem, somatropin, or an analogue of either of them.".

SEC. 304. CLERICAL CORRECTION.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting "(a)" before "It shall be unlawful" in the first undesignated paragraph.

SEC. 305. INTERAGENCY COORDINATING COUNCIL ON THE ABUSE OF ANABOLIC STEROIDS.

(a) ESTABLISHMENT.—There is established the Interagency Coordinating Council on the Abuse of Anabolic Steroids. The Council shall consist of—

(1) the Secretary of Health and Human Services,

(2) representatives of—

(A) the Food and Drug Administration,

(B) the Drug Enforcement Administration,

(C) the Department of Education, and

(D) the Department of Defense,

appointed by the Secretary of Health and Human Services from nominations of the heads of such agencies, and

(3) 5 members of the general public appointed by the Secretary of Health and Human Services from persons who represent secondary school athletic coaches, persons engaged in research on anabolic steroids, and physicians with experience with anabolic steroids.

The Secretary of Health and Human Services shall be the Chairman of the Council.

(b) PURPOSE.—The Council established under subsection (a) shall develop a comprehensive strategy for the control of the improper use and abuse of anabolic steroids and shall report the strategy to the Congress and shall otherwise make the strategy available to the public.

(c) TERMINATION.—The Council established under subsection (a) shall terminate one year after the date of the enactment of this Act.

TITLE IV—ASSET FORFEITURE

SEC. 401. AMENDMENTS RELATING TO THE SPECIAL FORFEITURE FUND.

(a) ASSETS FORFEITURE FUND AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is amended—

(1) in the first sentence, by striking out "(9) There" and inserting in lieu thereof "(9)(A) There"; and

(2) by striking out the second sentence and inserting in lieu thereof the following:

"(B) Subject to subparagraph (C), in each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General may transfer from the Fund not more than $150,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988. Such transfers shall be made at the end of each quarter of the fiscal year involved and on a quarterly pro rata basis.

"(C) Transfers under subparagraph (B) may be made only from excess unobligated amounts and only to the extent that, as determined by the Attorney General, such transfers will not impair the future availability of amounts for the purposes under paragraph (1).

"(D) At the end of each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General may retain in the Fund not more than $15,000,000, or, if determined by the Attorney General to be necessary for asset-specific expenses, a greater amount equal to not more than one-tenth of the total of obligations from the Fund in preceding fiscal year.".

(b) SPECIAL FORFEITURE FUND AMENDMENT.—Section 6073(b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509(b)) is amended to read as follows:

"(b) DEPOSITS.—Deposits in the Fund shall be made by transfer from the Department of Justice Assets Forfeiture Fund in the manner provided in section 524(c)(9) of title 28, United States Code.".

SEC. 402. PROHIBITION OF CERTAIN TRANSFERS OF FORFEITED PROPERTY TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES IF SUCH TRANSFERS CIRCUMVENT STATE LAW.

(a) PARTICIPATION REQUIREMENT.—Section 511(e)(3) of the Controlled Substances Act (21 U.S.C. 881(e)(3)) is amended to read as follows:

"(3) The Attorney General shall assure that any property transferred to a State or local law enforcement agency under paragraph (1)(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based.".

(b) ANTI-CIRCUMVENTION REQUIREMENT.—Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by adding at the end the following new paragraph:

"(4) The Attorney General shall assure that property is not transferred following utilization of an adopted seizure process to circumvent any requirement of State law that limits the disposition of property forfeited to State or local agencies. An adopted seizure process is one in which investigative and prosecutive activity related to the seizure (other than activity relating to the actual forfeiture) was carried out exclusively by State and local agencies. In determining whether the transfer would be in circumvention of State law, the Attorney General may rely upon a written opinion of the attorney general of the pertinent State that such a process is not being utilized to circumvent State law. A decision by the Attorney General under this subsection is not subject to review by any court.".

(c) EFFECTIVE DATES.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. The amendment made by subsection (b) shall take effect on October 1, 1991.

SEC. 403. CLARIFICATION OF ATTORNEY GENERAL'S AUTHORITY TO WARRANT CLEAR TITLE UPON TRANSFER OF FORFEITED PROPERTY.

Section 524(c) of title 28, United States Code, is amended—

(1) by redesignating paragraph (10) as paragraph (11); and

(2) by inserting after paragraph (9) the following new paragraph:

"(10) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.".

SEC. 404. SUMMARY SEIZURE AND FORFEITURE OF MONEY AND SIMILAR ITEMS UNDER THE CONTROLLED SUBSTANCES ACT.

Section 511 of the Controlled Substances Act (21 U.S.C. 881) is amended—

(1) by redesignating subsection (l) as subsection (k); and

(2) by adding at the end the following new subsection:

"(l) Notwithstanding any other provision of this title, the Attorney General may carry out seizure and forfeiture of moneys in the manner provided with respect to seizure and forfeiture of conveyances by the Secretary of the Treasury under section 607 of the Tariff Act of 1930.".

SEC. 405. CONFORMING AMENDMENT RELATING TO THE EQUITABLE TRANSFER OF FORFEITED PROPERTY TO A PARTICIPATING FOREIGN NATION.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking out the matter before paragraph (1);

(2) by realigning paragraphs (1) through (5) 2 ems to the left, so that the left margins of such paragraphs are flush;

(3) by striking out "(1) Notwithstanding" in paragraph (1) and all that follows through the end of the second sentence of that paragraph and inserting in lieu thereof the following:

"(i)(1) Whenever property is civilly or criminally forfeited under this chapter, the Attorney General or the Secretary of the Treasury, as the case may be, may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

"(A) has been agreed to by the Secretary of State;

"(B) is authorized in an international agreement between the United States and the foreign country; and

"(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.";

(4) by inserting after "Attorney General" in the third and fifth sentences of paragraph (1) the following: "or the Secretary of the Treasury"; and

(5) by striking out the last sentence of paragraph (1).

SEC. 406. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY.

Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting after "sell" the following: ", by public sale or any other commercially feasible means,".

SEC. 407. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting after "this title" each place it appears the following: "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container sub-

ject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products".

SEC. 408. ADDITIONAL FORFEITURE AWARD AUTHORITY.

Section 524(c)(1)(C) of title 28, United States Code, is amended to read as follows:

"(C) at the discretion of the Attorney General, the payment of awards for information or assistance leading to—

"(i) a civil or criminal forfeiture under the Controlled Substances Act or the Controlled Substances Import and Export Act;

"(ii) a criminal forfeiture under chapter 96 of title 18;

"(iii) a civil forfeiture under section 981 of title 18; or

"(iv) a criminal forfeiture under section 982 of title 18.".

SEC. 409. REPORT TO CONGRESS.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) in the matter before subparagraph (A), by striking out "two";

(2) by striking out "and" at the end of subparagraph (A);

(3) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new subparagraph:

"(C) a report for such fiscal year, containing audited financial statements, in the form prescribed by the Comptroller General, including profit and loss information with respect to forfeited property (by category), and financial information on forfeited property transactions (by type of disposition).".

SEC. 410. FORFEITURE OF DRUG PARAPHERNALIA.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new paragraph:

"(10) Any drug paraphernalia (as defined in section 1822 of the Mail Order Drug Paraphernalia Control Act).".

SEC. 411. FORFEITURE OF A FIREARM USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new paragraph:

"(11) Any firearm (as defined in section 921 of title 18, United States Code) used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

TITLE V—COMPUTER CRIME

SEC. 501. SECTION 1030 AMENDMENT.

(a) OFFENSE.—Section 1030(a) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (5);

(2) by inserting "or" at the end of paragraph (6); and

(3) by inserting after paragraph (6) the following:

"(7) recklessly accesses a Federal interest computer without authorization, and by means of one or more instances of such conduct alters, damages, or destroys information in any such Federal interest computer, or prevents authorized use of any such computer or information;".

(b) PENALTY.—Section 1030(c) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking "and" at the end of paragraph (2);

(3) by striking the period at the end of paragraph (3) and inserting "; and" in lieu thereof; and

(4) by adding at the end the following:

"(4) a fine under this title or imprisonment for not more than one year, in the case of an offense under subsection (a)(7).".

TITLE VI—LAW ENFORCEMENT SCHOLARSHIPS AND RECRUITMENT INCENTIVES

SEC. 601. DEFINITIONS.

As used in this title—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the same meaning given such term in section 1401(a) of the Higher Education Act of 1965;

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 602. ALLOTMENT.

From amounts appropriated under section 610, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State; and

(2) 20 percent of such funds to States on the basis of the State's shortage of law enforcement personnel and the need for assistance under this title.

SEC. 603. PROGRAM ESTABLISHED.

(a) IN GENERAL.—From amounts available pursuant to section 602 each State may pay the Federal share of the costs of—

(1) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(2) providing—

(A) full-time employment in summer; or

(B) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year;

by State and local law enforcement agencies for students who are enrolled at least part time in an accredited institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) FEDERAL SHARE.—(1) The Federal share of the cost of scholarships and student employment provided under this title shall not exceed 50 percent.

(2) The non-Federal share of the cost of scholarships and student employment provided under this title shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 602 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this title.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this title and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this title.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 602 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section 602 shall ensure that each scholarship recipient under this title be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this title shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 604. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this title shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this title may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 605. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this title if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) STUDENT EMPLOYMENT.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this title.

SEC. 606. STATE APPLICATION.

Each State desiring an allotment under section 602 to carry out a scholarship program, a student employment program, or both shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this title;

(2) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this title and that the State will use such programs to enhance recruitment efforts;

(3) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this title;

(4) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(5) contain assurances that under such scholarship program the State will make scholarship payments to institutions of

higher education on behalf of individuals receiving scholarships under this title;

(6) with respect to such student employment program identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(7) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(8) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 607. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this title shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as the case may be.

(b) PRIORITY.—In awarding scholarships and providing student employment under this title, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State; and

(2) pursuing an undergraduate degree.

SEC. 608. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual who receives a scholarship under this title shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this title in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this title may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this title.

(c) SERVICE OBLIGATION.—(1) Except as provided in paragraph (2), each individual awarded a scholarship under this title shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this title shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 609. REPORTS TO CONGRESS.

Not later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate. Such report shall—

(1) state the number of present and past scholarship recipients under this title, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(2) state with respect to student employees under this title—

(A) the number of present and past student employees;

(B) the number of such employees who complete a course of study at an accredited institution of higher education; and

(C) the number of such employees who subsequently accept a law enforcement position;

(3) describe the geographic, racial, and gender dispersion of such scholarship recipients and such employees; and

(4) describe the progress of the scholarship program and the student employment program, and make recommendations for changes in such programs.

SEC. 610. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $30,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out this title.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 603(1); and

(2) 25 percent shall be available to provide employment described in section 603(2).

TITLE VII—FIREARMS PROVISIONS

SEC. 701. PROHIBITION AGAINST TRANSFERRING FIREARMS TO NONRESIDENTS.

Section 922(a)(5) of title 18, United States Code, is amended by striking "resides" the first place such term appears and all that follows through "(or other than that in which its place of business is located if the transferor is a corporation or other business entity);" and inserting "does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides;".

SEC. 702. COMMERCE NEXUS FOR TRAFFICKING IN STOLEN FIREARMS.

(a) IN GENERAL.—Section 922(j) of title 18, United States Code, is amended by striking "or which constitutes," and inserting "which constitutes, or which has been shipped or transported in,".

(b) ALTERATION OF SERIAL NUMBER OF FIREARM.—Section 922(k) of title 18, United States Code, is amended by inserting "or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce" after "altered".

SEC. 703. TECHNICAL AMENDMENTS.

(a) AMENDMENT TO SECTION 923(d)(1)(B).—Section 923(d)(1)(B) of title 18, United States Code, is amended by striking "(h)" and inserting "(n)".

(b) AMENDMENT TO SECTION 925(a)(1).—Section 925(a)(1) of title 18, United States Code, is amended by inserting "possession," before "or importation".

(c) AMENDMENTS TO SECTION 925(c).—Section 925(c) of title 18, United States Code, is amended—

(1) by striking "conviction" the first and third places such term appears and inserting "disability"; and

(2) by striking "by reason of such a conviction".

(d) AMENDMENTS TO SECTION 924(a).—Section 924(a) of title 18, United States Code, is amended by striking ", and shall become eligible for parole as the Parole Commission shall determine" each place such term appears. This amendment shall be effective with respect to any offense committed after November 1, 1987.

SEC. 705. AMENDMENTS RELATING TO THE DOMESTIC ASSEMBLY OF NONIMPORTABLE FIREARMS.

(a) SEMIAUTOMATIC RIFLE DEFINED.—Section 921(a) of title 18, United States Code is amended by adding at the end the following:

"(25) The term 'semiautomatic rifle' means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

(b) PROHIBITIONS.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(q) It shall be unlawful for any person to assemble any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—

"(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

"(2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Secretary.".

(c) PENALTY.—Section 924(a)(1)(B) of title 18, United States Code is amended by striking "or (k)" and inserting "(k), or (q)".

SEC. 706. PROHIBITION AGAINST POSSESSION OF FIREARMS IN FEDERAL COURT FACILITIES.

(a) PROHIBITION.—Section 930 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "(other than a Federal court facility)" before the second comma;

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following:

"(d)(1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm in a Federal court facility, or attempts to do so, shall be fined under this title, imprisoned not more than 2 years, or both.

"(2) Paragraph (1) shall not apply to conduct which is described in paragraph (1) or (2) of subsection (c).";

(4) in subsection (f) (as so redesignated by paragraph (2) of this subsection), by adding at the end the following:

"(3) The term 'Federal court facility' means the courtroom, judges' chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the United States marshal, probation and parole offices, and adjoining corridors of any court of the United States."; and

(5) in subsection (g) (as so redesignated by paragraph (2) of this subsection)—

(A) by inserting "and notice of subsection (d) shall be posted conspicuously at each public entrance to each Federal court facility," after the first comma;

(B) by inserting "or (d)" before "with respect to"; and

(C) by inserting "or (d), as the case may be" before the period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to conduct engaged in after the date of the enactment of this Act.

SEC. 707. ENHANCED PENALTIES FOR POSSESSION OF SHORT-BARRELED RIFLE, SHORT-BARRELED SHOTGUN, OR DESTRUCTIVE DEVICE IN A CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

Section 924(c)(1) of title 18, United States Code, is amended in the first sentence—

(1) by inserting "and if the firearm is a short-barreled rifle or a short-barreled shotgun, to imprisonment for 10 years," after "five years,"; and

(2) by inserting "or a destructive device" after "a machinegun".

TITLE VIII—CHEMICAL DIVERSION AND TRAFFICKING

SEC. 801. CHEMICAL DIVERSION AND TRAFFICKING.

(a) NEW LISTED PRECURSOR CHEMICALS.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended by adding at the end the following:

"(M) Methylamine.
"(N) Ethylamine.
"(O) D-lysergic acid.
"(P) Propionic anhydride.
"(Q) Insosafrole.
"(R) Safrole.
"(S) Piperonal.
"(T) N-Methylepherdrine.
"(U) N-ethylephedrine.
"(V) N-methylpseudoephedrine.
"(W) N-ethylpseudoephedrine.
"(X) Hydriotic acid.".

(b) CONFORMING REPEAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended by striking subparagraph (E).

TITLE IX—DRUG PARAPHERNALIA

SEC. 901. DRUG PARAPHERNALIA.

(a) IN GENERAL.—The Controlled Substances Act is amended by adding at the end of part D the following:

"DRUG PARAPHERNALIA

"SEC. 418. (a) It is unlawful for any person—

"(1) to sell or offer for sale drug paraphernalia;

"(2) to use the mails or any other facility of interstate commerce to transport drug paraphernalia; or

"(3) to import or export drug paraphernalia.".

(b) TRANSFER OF REMAINING EXISTING PROVISIONS RELATING TO DRUG PARAPHERNALIA.—Subsections (b) through (f) of section 1822 of the Anti-Drug Abuse Act of 1986 (21 U.S.C. 857) are transferred to appear as subsections (b) through (f) of the section 418 added to the Controlled Substances Act by this section.

(c) TECHNICAL CORRECTIONS TO TRANSFERRED PROVISIONS.—The provisions of law transferred by subsection (b) are amended—

(1) in subsection (b), by striking "not more than $100,000" and inserting "under title 18, United States Code"; and

(2) in subsection (f), by striking "this subtitle" and inserting "this section".

(d) CONFORMING REPEAL.—Subtitle O of title I of the Anti-Drug Abuse Act of 1986 is repealed.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 1991 through 1995 to the Attorney General to create and implement task forces consisting of appropriate Federal, State, and local personnel to enforce the section 418 of the Controlled Substances Act added by this section.

TITLE X—LICIT OPIUM IMPORTS

SEC. 1001. UNITED STATES POLICY REGARDING IMPORTATION OF NARCOTIC RAW MATERIAL.

(a) REVIEW REQUIRED.—The President shall conduct a review of United States narcotics raw material policy to determine the advisability of continued reliance on the "80-20 rule" (21 C.F.R. sec. 1312.13) by which at least 80 percent of United States imports of narcotics raw material must come from India and Turkey.

(b) AGENCIES TO BE INVOLVED.—This review shall include information and views from the Department of State, the Administrator of the Drug Enforcement Administration, and the Secretary of the Department of Health and Human Services, the Secretary of Commerce and any other agencies the President determines appropriate.

(c) NATURE AND CONTENTS.—This review shall include—

(1) a report on the extent of the diversion taking place from the licit to the illicit market in India from the farm gate through the stockpile;

(2) an evaluation of the efforts being made by the Government of India to stop diversion from the licit to the illicit market, to limit its stockpile of opium gum, and to limit and regulate the amount of land and number of farmers devoted to poppy cultivation, and the success or failure of these efforts;

(3) a description of the steps the President has taken to encourage these actions on the part of the Indian government, what further steps are contemplated and what action will be taken if Indian action proves ineffective;

(4) an assessment of whether continued reliance on the 80-20 rule serves to encourage these actions, an assessment of what circumstances would make continued reliance on the rule unacceptable to the President, and proposals for executive or legislative modification of the rule under those circumstances;

(5) an assessment of the feasibility of India converting from the opium gum to the concentrated poppy straw method of opium production;

(6) an assessment of the effects on United States supplies of narcotic raw material in the absence of 80-20; and

(7) an evaluation of the potential for market manipulation under the 80-20 rule.

(d) REPORT TO CONGRESS.—The President shall report the results of this review to Congress not later than April 1, 1991.

TITLE XI—SENTENCING FOR METHAMPHETAMINE OFFENSES

SEC. 1101. SENTENCING COMMISSION GUIDELINES.

The United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, for sentences for offenses involving methamphetamine, so that more substantial penalties are imposed if the substance is smokable crystal methamphetamine.

SEC. 1102. INTERAGENCY COORDINATING COUNCIL ON THE ABUSE OF SMOKABLE CRYSTAL METHAMPHETAMINE.

(a) ESTABLISHMENT.—There is established the Interagency Coordinating Council on the Abuse of Smokable Crystal Methamphetamine (hereinafter in this section referred to as the "Council". The Council shall consist of—

(1) the Attorney General; and

(2) representatives of—

(A) the Drug Enforcement Administration;

(B) the Attorney General's Office of the State of California;

(C) local law enforcement officers from districts where clandestine laboratories for the manufacture of smokable crystal methamphetamine have been found; and

(D) research and treatment facilities;

appointed by the Attorney General from nominations made by the heads of such entities.

(b) ATTORNEY GENERAL TO CHAIR.—The Attorney General shall be the Chairman of the Council.

(c) PURPOSE.—The Council shall—

(1) assess the movement of smokable crystal methamphetamine nationally, including places of origin, storage, and usage; and

(2) develop a strategy to control its spread.

(d) TERMINATION.—The Council established under subsection (a) shall report its recommendations and the results of the study to Congress and terminate one year after the date of the enactment of this Act.

TITLE XII—OBSTRUCTION OF JUSTICE

SEC. 1201. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by striking "Whoever corruptly" and inserting "(a) Whoever corruptly";

(2) in subsection (a) (as so designated), by striking "fined not more than $5,000 or imprisoned not more than five years, or both" and inserting "punished as provided in subsection (b)"; and

(3) by adding at the end the following:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, imprisonment for not more than 20 years; and

"(3) in any other case, imprisonment for not more than 10 years.".

SEC. 1202. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS, AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c) respectively;

(2) by inserting before subsection (b) (as so redesignated) the following:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer;

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than 20 years.".

TITLE XIII—HABEAS CORPUS

SEC. 1301. LIMITATIONS PERIOD IN CAPITAL CASES.

Section 2254 of title 28, United States Code, is amended by adding after subsection (f) the following:

"(g)(1) In the case of an applicant under sentence of death, any application for habeas corpus relief under this section must be filed in the appropriate district court within one year from the following date, whichever is appropriate:

"(A) The date of denial of a writ of certiorari, if a petition for a writ of certiorari to the highest court of the State on direct appeal or unitary review from the conviction and sentence is timely filed in the Supreme Court.

"(B) The date of issuance of the mandate of the highest court of the State on direct appeal or unitary review from the conviction and sentence, if a petition for a writ of certiorari is not filed in the Supreme Court.

"(C) The date of issuance of the mandate of the Supreme Court, if on a petition for a writ of certiorari the Supreme Court, upon consideration of the case, disposes of it in a manner that leaves the capital sentence undisturbed.

"(2) The time requirements established by this section shall be tolled—

"(A) during any period in which the State has failed to provide counsel as required in section 1307 of the Comprehensive Crime Control Act of 1990;

"(B) during the period from the date the applicant files an application for State post-conviction relief until final disposition of the application by the State appellate courts, if all filing deadlines are met;

"(C) during any period authorized by law for the filing of any petitions for rehearing, if all filing deadlines are met; and

"(D) during an additional period not to exceed 90 days, if counsel moves for an extension in the district court that would have jurisdiction of a habeas corpus application and makes a showing of good cause.".

SEC. 1302. STAYS OF EXECUTION IN CAPITAL CASES.

Section 2251 of title 28, United States Code, is amended—

(1) by inserting "(a)(1)" before the first paragraph;

(2) by inserting "(2)" before the second paragraph; and

(3) by adding at the end the following:

"(b) In the case of an individual under sentence of death, a warrant or order setting an execution date shall be stayed upon application to any court that would have jurisdiction over an application for habeas corpus under this chapter. The stay shall be contingent upon reasonable diligence by the individual in pursuing relief with respect to such sentence and shall expire if—

"(1) the individual fails to apply for relief under this chapter within the time requirements established by section 2254(g) of this title;

"(2) upon completion of district court and court of appeals review under section 2254 of this title, the application is denied and—

"(A) the time for filing a petition for a writ of certiorari expires before a petition is filed;

"(B) a timely petition for a writ of certiorari is filed and the Supreme Court denies the petition; or

"(C) a timely petition for a writ of certiorari is filed and, upon consideration of the case, the Supreme Court disposes of it in a manner that leaves the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel qualified under section 2257 of this title, and after being advised of the consequences of the decision, an individual waives the right to pursue relief under this chapter.".

SEC. 1303. SUCCESSIVE PETITIONS IN CAPITAL CASES.

Section 2244(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting ", in the case of an applicant not under sentence of death," after "When"; and

(3) by adding at the end the following:

"(2) In the case of an applicant under sentence of death, a claim presented in a second or successive application, that was not presented in a prior application under this chapter, shall be dismissed unless—

"(A) the applicant shows that—

"(i) the factual basis of the claim could not have been discovered by the exercise of reasonable diligence before the applicant filed the prior application;

"(ii) the claim relies on a new rule, announced by the Supreme Court of the United States after the prior application was filed, that is applicable under section 2256 of this title; or

"(iii) the failure to raise the claim in the prior application was due to action by State officials in violation of the Constitution of the United States; and

"(B) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the applicant's guilt of the offense or offenses for which the capital sentence was imposed, or in the validity of that sentence under Federal law.

"(3) In the case of an applicant under sentence of death, a claim presented in a second or successive application, that was previously determined in a prior application under this chapter, shall be dismissed unless the interests of justice would be served by reconsideration of the claim.".

SEC. 1304. CERTIFICATES OF PROBABLE CAUSE.

The third paragraph of section 2253, title 28, United States Code, is amended to read as follows:

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, unless the justice or judge who rendered the order or a circuit justice or judge issues a certificate of probable cause. However, an applicant under sentence of death shall have a right of appeal without a certificate of probable cause, except after denial of a second or successive application.".

SEC. 1305. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§ 2256. Law applicable

"(a) Except as provided in subsection (b) of this section, each claim under this chapter shall be governed by the law existing on the date the court determines the claim.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.

"(d) For purposes of this section, a claimant's sentence becomes final at the conclusion of State court appellate and collateral (or unitary) litigation on the claimant's conviction and sentence and any review in the Supreme Court of the United States of that litigation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"2256. Law applicable in Federal proceedings.".

SEC. 1306. PROCEDURAL DEFAULT IN STATE COURT.

Section 2254 of title 28, United States Code, is amended by adding after the subsection added by section 1301 of this Act the following:

"(h) A district court shall decline to consider a claim under this section if—

"(1)(A) the applicant previously failed to raise the claim in State court at the time and in the manner prescribed by State law;

"(B) the State courts, for that reason, refused to entertain the claim; and

"(C) such refusal would constitute an adequate and independent State law ground that would foreclose direct review of the State court judgment in the Supreme Court of the United States; and

"(2) the applicant fails to show cause for the failure to raise the claim in State court and prejudice to the applicant's right to fair proceedings or to an accurate outcome resulting from the alleged violation of the Federal right asserted, or that failure to consider the claim would result in a miscarriage of justice.

"(3) An applicant may establish cause by showing that—

"(A) the factual or legal basis of the claim—

"(i) could not have been discovered by the exercise of reasonable diligence before the applicant could have raised the claim in State court, or

"(ii) was not discovered or asserted due to ignorance or neglect of the applicant's counsel;

"(B) the claim relies on a decision of the United States Supreme Court, announced after the applicant might have raised the claim in State court;

"(C) the failure to raise the claim in State court was due to interference by State officials; or

"(D) the failure to raise the claim in State court was due to counsel's ineffective assistance in violation of the United States Constitution.".

SEC. 1307. COUNSEL IN CAPITAL CASES.

(a) REQUIREMENT.—A State in which capital punishment may be imposed shall provide legal services to—

(1) indigents charged with offenses for which capital punishment is sought;

(2) indigents who have been sentenced to death and who seek appellate or collateral (or unitary) review in State court; and

(3) indigents who have been sentenced to death and who seek certiorari review of State court judgments in the United States Supreme Court.

(b) ESTABLISHMENT OF APPOINTING AUTHORITY.—The State shall establish an appointing authority, which shall be—

(1) a statewide defender organization, appointing staff attorneys, members of the private bar, or both; or

(2) a resource center established under section 3006A(g)(2) of title 18, United States Code, appointing staff attorneys, members of the private bar, or both.

(c) FUNCTIONS OF APPOINTING AUTHORITY.—The appointing authority shall—

(1) solicit applications from all attorneys qualified to be appointed in the proceedings specified in subsection (a);

(2) draft and annually publish rosters of all applicants determined to be qualified attorneys;

(3) draft and annually publish procedures by which attorneys are appointed and standards governing the qualifications and performance of counsel appointed; and such standards shall include—

(A) membership in the bar of the jurisdiction or admission to practice pro hac vice;

(B) knowledge and understanding of pertinent legal authorities regarding the issues in capital cases in general and any case to which an attorney is appointed in particular;

(C) skills in the management and conduct of negotiations and litigation in capital cases;

(D) skills in the investigation of capital cases, the background of clients, and the psychiatric history and current condition of clients;

(E) skills in trial advocacy, including the interrogation of defense witnesses, cross examination, and jury arguments;

(F) skills in legal research and in the writing of legal petitions, briefs, and memoranda; and

(G) skills in the analysis of legal issues bearing on capital cases;

(4) periodically review the rosters, monitor the performance of all attorneys appointed, and delete the name of any attorney who—

(A) fails satisfactorily to complete regular training programs on the representation of clients in capital cases;

(B) fails to meet performance standards in a case to which the attorney is appointed; or

(C) fails otherwise to demonstrate continuing competency to represent clients in capital cases;

(5) conduct or sponsor specialized training programs for attorneys representing capital clients;

(6) appoint two attorneys, lead counsel and co-counsel, to represent a client in a capital case at the relevant stage of proceedings, promptly upon receiving notice of the need for the appointment from the relevant State court; and

(7) report such appointment or the client's failure to accept counsel in writing to the court requesting the appointment.

(d) DETERMINATION OF COMPETENCY AND WAIVER.—Upon receipt of notice from the appointing authority that an individual entitled to the appointment of counsel under this section has declined to accept such an appointment, the court requesting the appointment shall conduct, or cause to be conducted, a hearing, at which the individual and counsel proposed to be appointed under this section shall be present, to determine the individual's competency to decline that appointment, and whether the individual has knowingly and intelligently declined it.

(e) ROSTERS.—

(1) IN GENERAL.—The appointing authority shall maintain two rosters of attorneys: one roster listing attorneys qualified to be appointed for the trial and sentencing stages of capital cases, the other listing attorneys qualified to be appointed for the appellate, collateral, unitary review, and certiorari stages. Each of the rosters shall be divided into two parts, one listing attorneys qualified to be appointed as lead counsel, the other listing attorneys qualified to be appointed as co-counsel.

(2) LEAD COUNSEL AT TRIAL OR SENTENCING STAGE.—An attorney qualified to be appointed lead counsel at the trial or sentencing stages shall—

(A) be a trial practitioner with at least 5 years of experience in the representation of criminal defendants in felony cases; and

(B) have served as lead counsel or co-counsel at the trial or sentencing stages in at least 2 homocide cases tried to a jury and in at least one case in which a capital sentence was sought;

(C) be familiar with the law and practice in capital cases and with the trial and sentencing procedures in the relevant State;

(D) have completed such training or refresher courses in current developments in the representation of capital defendants at the trial or sentencing stages as the State appointing authority shall require; and

(E) demonstrate the proficiency and commitment necessary to the provision of legal services to capital clients.

(3) CO-COUNSEL AT TRIAL OR SENTENCING STAGE.—An attorney qualified to be appointed co-counsel at the trial or sentencing stages shall—

(A) be a trial practitioner with at least 3 years of experience in the representation of criminal defendants in felony cases; and

(B) meet the standards in paragraph (2) (C), (D), and (E) for lead counsel at the trial or sentencing stages.

(4) LEAD COUNSEL AT APPELLATE, COLLATERAL, UNITARY REVIEW, OR CERTIORARI STAGE.—An attorney qualified to be appointed lead counsel at the appellate, collateral, unitary review, or certiorari stages shall—

(A) be an appellate practitioner with at least 5 years of experience in the representation of criminal clients in felony cases at the appellate, collateral, unitary review or certiorari stages;

(B) have served as lead counsel or co-counsel at the appellate, collateral, unitary review, or certiorari stages in at least 3 cases in which the client had been convicted of a felony offense and in at least one case in which a capital sentence had been imposed;

(C) be familiar with the law and practice in capital cases and with the appellate, collateral, unitary review, and certiorari procedures in the relevant State courts and the United States Supreme Court;

(D) have completed such training or refresher courses in current developments in the representation of capital clients at the appellate, collateral, unitary review, and certiorari stages as the State appointing authority shall require; and

(E) demonstrate the proficiency and commitment necessary to the provision of legal services to capital clients.

(5) CO-COUNSEL AT APPELLATE, COLLATERAL, UNITARY REVIEW, OR CERTIORARI STAGE.—An attorney qualified to be appointed co-counsel at the appellate, collateral, unitary review, or certiorari stages shall—

(A) be an appellate practitioner with at least 3 years of experience in the representation of criminal clients in felony cases at the appellate, collateral, unitary review, or certiorari stages; and

(B) meet the standards in paragraph (4) (C), (D), and (E) for lead counsel at the appellate, collateral, unitary review, or certiorari stages.

(f) APPOINTMENT OF NONROSTER ATTORNEYS IN CERTAIN CASES.—An attorney who is not listed on the relevant roster shall be appointed only on the request of the client concerned and in circumstances in which the attorney requested is able to provide the client with high quality legal representation and justice would be served by the appointment.

(g) PAYMENT OF ATTORNEYS FROM PRIVATE BAR.—

(1) IN GENERAL.—Attorneys appointed from the private bar shall be—

(A) compensated for actual time and service, computed on an hourly basis and at a reasonable rate in light of the attorney's qualifications and experience and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases;

(B) reimbursed for expenses reasonably incurred in the representation of the client; and

(C) reimbursed for the costs of law clerks, paralegals, investigators, experts, or other support services reasonably needed in the representation of the client.

(2) COMPUTATION OF CERTAIN PAYMENTS.—Payments under subsection (g)(1)—

(A) with respect to law clerks and paralegals, shall be computed on an hourly basis reflecting the local market for such services; and

(B) with respect to investigators and experts, shall be commensurate with the schedule of fees paid by State authorities for such services.

(h) PROMPT PAYMENT OF ATTORNEYS FROM PRIVATE BAR.—Appointed attorneys from the private bar shall receive prompt payment for legal services and reimbursement for expenses and support services upon the submission of periodic bills, receipts, or other appropriate documentation to the appointing authority or other appropriate State agency. The appointing authority shall promptly resolve any disputes with respect to such bills. Attorneys appointed as staff counsel for a defender organization or resource center shall be entitled to the support services listed in subsection (g)(1) (B) and (C) at public expense.

(i) SANCTIONS.—If—

(1) a State fails to provide counsel in a proceeding specified in subsection (a);

(2) counsel appointed for such a proceeding fails substantially to meet the qualification standards specified in subsection (e); or

(3) counsel appointed for such a proceeding fails substantially to meet the performance standards established by the appointing authority;

subsection (h) of this section and section 2254(d) of title 28, United States Code, shall not apply with respect to such proceeding in a case under chapter 153 of such title.

TITLE XIV—PRISONS

SEC. 1401. STUDY.

Federal Prison Industries, Incorporated is directed to make contracts to carry out a study, at a cost not to exceed $250,000, that identifies new areas of business growth and

to report the results of that study to Congress not later than May 1, 1991.

SEC. 1402. REPORT WITH RESPECT TO FEDERAL PRISON INDUSTRIES.

Section 4124 of title 18, United States Code, is amended—

(1) in the first paragraph by inserting "(a)" before "The";

(2) in the second paragraph by inserting "(b)" before "Disputes"; and

(3) by adding at the end the following:

"(c) Each Federal department, agency, and institution subject to the requirements of subsection (a) shall separately report to the General Services Administration all of its acquisitions of products and services from Federal Prison Industries, and that reported information shall be entered in the Federal Procurement Data System referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act. Each report published by the Federal Procurement Data System that contains the information collected by the System shall include a statement to accompany the information reported by the department, agency, or institution under the preceding sentence as follows: 'Under current law, sales by Federal Prison Industries are considered intragovernmental transfers. The purpose of reporting sales by Federal Prison Industries is to provide a complete overview of acquisitions by the Federal Government during the reporting period.'

"(d) Within 90 days after the date of the enactment of this subsection, Federal Prison Industries shall publish a catalog of all products and services which it offers for sale. This catalog shall be updated periodically to the extent necessary to ensure that the information in the catalog is complete and accurate.".

SEC. 1403. PRERELEASE CUSTODY.

(a) IN GENERAL.—Section 3624(c) of title 18, United States Code, is amended by striking ", not to exceed six months, of the last 10 per centum".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to each prerelease custody transfer decision of the Bureau of Prisons after the date of the enactment of this section.

SEC. 1404. PLACE OF IMPRISONMENT.

(a) IN GENERAL.—Section 3621(b) of title 18, United States Code, is amended by striking "penal or correctional facility that meets minimum standards of health and habitability established by the Bureau," and inserting ", suitable, and appropriate institution, facility, or program, and where appropriate, to a home detention program,".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to each designation and transfer decision by the Bureau of Prisons on or after the date of the enactment of this section.

SEC. 1405. DRUG TREATMENT FOR PRISONERS.

Section 3621(b) of title 18, United States Code, is amended by adding at the end the following: "The Bureau shall make available appropriate substance abuse treatment for each prisoner the Bureau determines has a treatable condition of substance addiction or abuse.".

TITLE XV—REMOVAL OF CRIMINAL ALIENS

SEC. 1501. CLARIFICATION OF AGGRAVATED FELONY DEFINITION.

(a) IN GENERAL.—Paragraph (43) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended—

(1) by aligning its left margin with the left margin of paragraph (42),

(2) by inserting "any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including" after "murder,", and

(3) by adding at the end the following: "Such term applies to offenses described in the previous sentence whether in violation of Federal or State law.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 7342 of the Anti-Drug Abuse Act of 1988.

SEC. 1502. ENHANCING ENFORCEMENT AUTHORITY OF INS OFFICERS.

(a) BROADENING AUTHORITY.—Section 287(a) of the Immigration and Nationality Act (8 U.S.C. 1357(a)) is amended—

(1) by striking "and" at the end of paragraph (3), and

(2) in paragraph (4), by striking "United States" the second place it appears and all that follows and inserting the following: "United States, and

"(5) to make arrests—

"(A) for any offense against the United States, if the offense is committed in the officer's or employee's presence, or

"(B) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony,

if the officer or employee is performing duties relating to the enforcement of the immigration laws at the time of the arrest and if there is a likelihood of the person escaping before a warrant can be obtained for his arrest.

Under regulations prescribed by the Attorney General, an officer or employee of the Service may carry a firearm and may execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States. The authority to make arrests under paragraph (5)(B) shall only be effective on and after the date on which the Attorney General publishes final regulations which (i) prescribe the categories of officers and employees of the Service who may use force (including deadly force) and the circumstances under which such force may be used, (ii) establish standards with respect to enforcement activities of the Service, (iii) require that any officer or employee of the Service is not authorized to make arrests under paragraph (5)(B) unless the officer or employee has received certification as having completed a training program which covers such arrests and standards described in clause (ii) and has received human relations training, and (iv) establish an expedited review process for persons aggrieved by violations of such standards, which process is consistent with standard agency procedure regarding confidentiality of matters related to internal investigations.".

(b) REQUIRING FINGERPRINTING AND PHOTOGRAPHING OF CERTAIN ALIENS.—(1) Section 287 of such Act is further amended by adding at the end the following new subsection:

"(f)(1) Under regulations of the Attorney General, the Commissioner shall provide for the fingerprinting and photographing of each alien 14 years of age or older against whom a proceeding is commenced under section 242.

"(2) Such fingerprints and photographs shall be made available to Federal, State, and local law enforcement agencies, upon request.".

(2) Section 264(b) of such Act (8 U.S.C. 1304(b)) is amended by inserting "(1) pursuant to section 287(f)(2), and (2)" after "only".

SEC. 1503. CLARIFICATION OF CUSTODY PENDING DETERMINATION OF DEPORTABILITY.

(a) IN GENERAL.—Section 242(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)) is amended—

(1) in the first sentence, by striking "upon completion of the alien's sentence for such conviction" and inserting "upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense)",

(2) in the second sentence, by striking "subsection (a)" and inserting "paragraph (1) or subsections (c) and (d) but subject to subparagraph (B)",

(3) by inserting "(A)" after "(2)", and

(4) by adding at the end the following new subparagraph:

"(B) The Attorney General shall release from custody an alien who is lawfully admitted for permanent residence on bond or such other conditions as the Attorney General may prescribe if the Attorney General determines that the alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1504. ELIMINATION OF JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION.

(a) IN GENERAL.—Section 241(b) of the Immigration and Nationality Act (8 U.S.C. 1251(b)) is amended—

(1) in the first sentence—

(A) by striking "(1)", and

(B) by striking ", or (2)" and all that follows up to the period at the end; and

(2) in the second sentence, by inserting "or who has been convicted of an aggravated felony" after "subsection (a)(11) of this section".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions entered before, on, or after such date.

SEC. 1505. CLARIFICATION RESPECTING DISCRETIONARY AUTHORITY IN DEPORTATION PROCEEDINGS FOR INCARCERATED ALIENS.

(a) IN GENERAL.—Section 242A(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1252a(d)(2)) is amended by striking ", unless" and all that follows up to the period at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1506. REQUIRING COORDINATION PLAN WITH INS AS A CONDITION FOR RECEIPT OF DRUG CONTROL AND SYSTEM IMPROVEMENT GRANTS UNDER THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) IN GENERAL.—Section 503(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(11) An assurance that the State has established a plan under which the State will provide without fee to the Immigration and Naturalization Service, within 30 days of the date of their conviction, the certified records of conviction of aliens who have been convicted of violating the criminal laws of the State.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to grants for fiscal years beginning with fiscal year 1991.

SEC. 1507. DEPORTATION FOR ATTEMPTED VIOLATIONS OF CONTROLLED SUBSTANCES LAWS.

(a) IN GENERAL.—Section 241(a)(11) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(11)) is amended by inserting "or attempt" after "conspiracy".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to convictions occurring on or after the date of the enactment of this Act.

SEC. 1508. GOOD MORAL CHARACTER DEFINITION.

(a) IN GENERAL.—Section 101(f)(8) of the Immigration and Nationality Act (8 U.S.C. 1101(f)(8)) is amended by striking "the crime of murder" and inserting "an aggravated felony (as defined in subsection (a)(43))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions occurring on or after such date.

SEC. 1509. REPORT ON CRIMINAL ALIENS.

(a) IN GENERAL.—The Attorney General shall submit to the appropriate Committees of the Congress, by not later than December 1, 1991, a report that describes the efforts of the Immigration and Naturalization Service to identify, apprehend, detain, and remove from the United States aliens who have been convicted of crimes in the United States.

(b) CRIMINAL ALIEN CENSUS.—Such report shall include a statement of—

(1) the number of aliens in the United States who have been convicted of a criminal offense in the United States, and of such number, the number of such aliens who are not lawfully admitted to the United States;

(2) the number of aliens lawfully admitted to the United States who have been convicted of such an offense and, based on such conviction, are subject to deportation from the United States;

(3) the number of aliens in the United States who are incarcerated in a penal institution in the United States, and, of such number, the number of such aliens who are not lawfully admitted to the United States;

(4)(A) the number of aliens whose deportation hearings have been conducted pursuant to section 242A(a) of the Immigration and Nationality Act, and (B) the percentage that such number represents of the total number of deportable aliens with respect to whom a hearing under such section could have been conducted since November 18, 1988; and

(5) the number of aliens in the United States who have reentered the United States after having been convicted of a criminal offense in the United States.

Within each of the numbers of aliens specified under this subsection who have been convicted of criminal offenses, the Attorney General shall distinguish between criminal offenses that are aggravated felonies (as defined in section 101(a)(43) of the Immigration and Nationality Act, as amended by this Act) and for other criminal offenses.

(c) CRIMINAL ALIEN REMOVAL PLAN.—The Attorney General shall include in the report a plan for the prompt removal from the United States of criminal aliens who are subject to exclusion or deportation. Such plan shall also include a statement of additional funds that would be required to provide for the prompt removal from the United States of—

(1)(A) aliens who are not lawfully admitted to the United States and who, as of the date of the enactment of this Act, have committed any criminal offense in the United States, and (B) aliens who are lawfully admitted to the United States and who, as of such date, have committed a criminal offense in the United States the commission of which makes the alien subject to deportation; and

(2)(A) aliens who are not lawfully admitted to the United States and who, in the future, commit a criminal offense in the United States, and (B) aliens who are lawfully admitted to the United States and who, in the future, commit a criminal offense in the United States the commission of which makes the alien subject to deportation.

Such plan shall also include a method for identifying and preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States.

SEC. 1510. NOTICES OF DEPORTATION HEARINGS AND IN ABSENTIA HEARINGS FOR ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) IN GENERAL.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

"(j)(1) Each order to show cause issued to an alien under this section which alleges deportability under section 241(a)(4)(B) shall contain a notice that the alien shall—

"(A) immediately provide the Attorney General in writing with an address and telephone number (if any) at which the alien may be contacted respecting proceedings under this section, and

"(B) shall immediately provide the Attorney General, at the time of change of such address or telephone number, with the new address or telephone number.

"(2) If, after notice in person or by certified mail (return receipt requested) of the time and place that hearings will be held in relation to proceedings under this section has been given (or attempted to be given) at the address or telephone number provided by an alien under paragraph (1), the alien fails to appear at such proceedings, such proceedings shall be held in absentia and the alien may move to reopen such proceedings only upon a prima facie showing (accompanied by documentation) that the alien could not be present at the proceeding because of exceptional circumstances (such as serious illness of the alien requiring hospitalization or death of an immediate relative of the alien, but not including less compelling circumstances) beyond the control of the alien.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to notices of deportation proceedings initiated on or after such date (not later than 90 days after the date of the enactment of this Act) as the Attorney General shall specify.

SEC. 1511. LIMITATION ON WAIVER OF EXCLUSION FOR RETURNING PERMANENT RESIDENTS CONVICTED OF AN AGGRAVATED FELONY.

(a) IN GENERAL.—Section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by inserting "who have not been convicted of an aggravated felony," after "order of deportation,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to admissions occurring after the date of the enactment of this Act.

TITLE XVI—SHOCK INCARCERATION

SEC. 1601. SHOCK INCARCERATION PROGRAM.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"§ 4046. Shock incarceration program

"(a) The Bureau of Prisons may place in a shock incarceration program any person who is sentenced to a term of imprisonment of more than 12, but not more than 30, months, if such person consents to that placement.

"(b) For such initial portion of the term of imprisonment as the Bureau of Prisons may determine, not to exceed 6 months, an inmate in the shock incarceration program shall be required to—

"(1) adhere to a highly regimented schedule that provides the strict discipline, physical training, hard labor, drill, and ceremony characteristic of military basic training; and

"(2) participate in appropriate job training and educational programs (including literacy programs) and drug, alcohol, and other counseling programs.

"(c) An inmate who in the judgment of the Director of the Bureau of Prisons has successfully completed the required period of shock incarceration shall remain in the custody of the Bureau for such period (not to exceed the remainder of the prison term otherwise required by law to be served by that inmate), and under such conditions, as the Bureau deems appropriate.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"4046. Shock incarceration program.".

SEC. 1602. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1990 and each fiscal year thereafter such sums as may be necessary to carry out the shock incarceration program established under the amendments made by this Act.

TITLE XVII—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

SEC. 1701. PUBLIC SAFETY OFFICERS' DISABILITY BENEFITS.

(a) PAYMENT.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsections (c) and (d) by striking "(b)" each place it appears and inserting "(c)",

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively,

(3) by inserting after subsection (a) the following:

"(b)(1) Subject to paragraph (2), in any case in which the Bureau determines, under regulations issued pursuant to this part, that a public safety officer has become permanently and totally disabled as the direct and proximate result of a personal injury sustained in the line of duty, the Bureau shall pay a benefit of $100,000, adjusted in accordance with subsection (h), to such officer.

"(2)(A) In any fiscal year, the aggregate amount of benefits paid under paragraph (1) shall not exceed $5,000,000.

"(B) If the aggregate amount of benefits payable under paragraph (1) in a fiscal year without regard to subparagraph (A) would exceed $5,000,000, then the individual benefit paid under paragraph (1) in such fiscal year shall equal the result obtained by dividing $5,000,000 by the number of public safety officers to whom such a benefit is paid.", and

(4) by adding at the end thereof the following:

"(j)(1) No benefit is payable under this part with respect to the death of a public safety officer if a benefit is paid under this part with respect to the disability of such officer.

"(2) No benefit is payable under this part with respect to the disability of a public safety officer if a benefit is payable under this part with respect to the death of such public safety officer.".

(b) LIMITATIONS.—Paragraphs (1), (2), (3), and (4) of section 1202 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) are each amended by inserting "or personal injury" after "death".

(c) TECHNICAL AMENDMENT.—Section 1201(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)) is amended by striking "subsection (g)" and inserting "subsection (h)".

SEC. 1702. EFFECTIVE DATE.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this title shall take effect on October 1, 1990.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall not apply with respect to injuries occurring before the effective date of such amendments.

TITLE XVIII—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

SEC. 1801. AMENDMENT TO TITLE 28.

(a) PROCEDURE.—Part VI of title 28, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 177—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

"Sec.
"2921. Prohibition against the execution of a sentence of death imposed on the basis of race.
"2922. Data on death penalty cases.
"2923. Enforcement of the chapter.
"2924. Construction of chapter.

"§ 2921. Prohibition against the execution of a sentence of death imposed on the basis of race

"(a) IN GENERAL.—No person shall be put to death under color of State or Federal law in the execution of a sentence that was imposed based on the race, color, or national origin of the defendant or of the victim.

"(b) PRIMA FACIE CASE.—A prima facie case that a sentence of death was based on the race, color, or national origin of the defendant or the victim shall be established where ordinary methods of statistical proof, which take into account, to the extent it is compiled and publicly available, evidence of the statutory aggravating factors of the crimes involved, show that death sentences are being imposed significantly more frequently—

"(1) upon persons of one race charged with or convicted of capital offenses than upon persons of another race charged with or convicted of capital offenses; or

"(2) as punishment for capital offenses against persons of one race than as punishment for capital offenses against persons of another race.

"(c) REBUTTAL.—If a person under sentence of death offers evidence establishing a racially discriminatory pattern under subsection (b), the sentence may not be executed unless the prosecution shows by clear and convincing evidence that—

"(1) identifiable and pertinent nonracial factors explain the racially discriminatory pattern; or

"(2) the sentence being challenged does not fall within a racially discriminatory pattern.

"§ 2922. Data on death penalty cases

"(a) Any State or Federal entity that provides by law for death to be imposed as a punishment for any crime shall collect from local officials responsible for the prosecution of capital crimes pertinent data on the charging, disposition, and sentencing results for all cases of capital crimes.

"(b) Each State or Federal entity covered by subsection (a) shall compile, index, and make publicly available all pertinent information on capital cases.

"(c) The pertinent data collected shall include, at a minimum, the following information:

"(1) demographic information on all persons charged with the crime and all victims (including race, sex, age, and national origin);

"(2) information on the principal features of the crime;

"(3) information on the aggravating and mitigating factors of the crime, including the background and character of every person charged with the crime; and

"(4) a narrative summary of the crime.

"§ 2923. Enforcement of the chapter

"In any proceeding brought under section 2254, the evidence of a prima facie case supporting a claim under this chapter may be presented in an evidentiary hearing and need not be set forth in the petition. Notwithstanding section 2254, no determination on the merits of a factual issue made by a State court pertinent to any claim under section 2921 shall be presumed to be correct unless—

"(1) the State is in compliance with section 2922;

"(2) the determination was made in a proceeding in a State court in which the person asserting the claim was afforded rights to the appointment of counsel and to the furnishing of investigative, expert and other services necessary for the adequate development of the claim; and

"(3) the determination is one which is otherwise entitled to be presumed to be correct under the criteria specified in section 2254.

"§ 2924. Construction of chapter

"Nothing contained in this chapter shall be construed to affect in one way or the other the lawfulness of any sentence of death that does not violate section 2921.".

(b) AMENDMENT TO TABLE OF CHAPTERS.—The table of chapters of part VI of title 28, United States Code, is amended by adding at the end thereof the following new item:

"177. Racially discriminatory Capital Sentencing..... 2921.".

SEC. 1802. ACTIONS PRIOR TO THE DATE OF ENACTMENT.

No person shall be barred from raising any claim under section 2921 of title 28, United States Code, as added by this Act, on the ground of having failed to raise or to prosecute the same or a similar claim before the enactment of the Act, nor by reason of any adjudication rendered before that enactment.

TITLE XIX—INTOXICATION AND RESTITUTION

SEC. 1901. NONDISCHARGEABILITY OF CERTAIN DEBTS ARISING FROM UNLAWFUL DRIVING WHILE INTOXICATED OR IMPAIRED.

(a) AMENDMENT TO CHAPTER 5.—Section 523(a)(9) of title 11, United States Code, is amended to read as follows:

"(9) for death or personal injury caused by the debtor's operation of a motor vehicle if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance; or".

(b) AMENDMENT TO CHAPTER 13.—Section 1328(a)(2) of title 11, United States Code, is amended by inserting "or 523(a)(9)" after "523(a)(5)".

SEC. 1902. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR RESTITUTION IMPOSED FOR COMMITTING CRIMES.

Section 1328(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end,

(2) in paragraph (2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(3) for restitution included in a sentence on the debtor's conviction of a crime.".

SEC. 1903. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

TITLE XX—CHILD ABUSE

Subtitle A—Improving Investigation and Prosecution of Child Abuse Cases

SEC. 2001. GRANTS FOR MULTIDISCIPLINARY PROGRAMS.

(a) IN GENERAL.—The Director of the Office for the Victims of Crime, in consultation with officials of the Department of Health and Human Services, shall make grants to develop and implement multidisciplinary child abuse investigation and prosecution programs.

(b) GRANT CRITERIA.—(1) The Director shall establish the criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a program include one or more of the following elements:

(A) Written agreements between local law enforcement, criminal justice, social service, health, and other related agencies to coordinate child abuse investigation, prosecution, treatment, and counseling services.

(B) Identification of an appropriate site or sites for referring, interviewing, treating, and counseling child victims of sexual abuse and serious physical abuse and neglect.

(C) Referral of all child sexual abuse and serious physical abuse and neglect cases to the appropriate law enforcement agency not later than 24 hours after notification of an incident of abuse.

(D) Joint initial investigative interviews of child victims by specially trained personnel from the involved law enforcement, criminal justice, health and social service agencies.

(E) A requirement that, to the extent practicable, the same agency representative who conducts an initial investigative interview of a child victim conduct all subsequent interviews of that child.

(F) Coordination of each step of the investigation process to minimize the number of interviews that a child victim must attend.

(G) Provision for regular meetings of the professionals and agencies involved in child abuse intervention.

(H) Assignment of a volunteer or staff advocate to each child in order to assist the child and, when appropriate, the child's family, throughout each step of the judicial proceedings.

(I) Such other requirements as the Director shall establish by regulation.

(c) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Director shall ensure that grants are distributed to both large and small sites, and to rural, suburban, and urban jurisdictions.

SEC. 2002. GRANTS FOR SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Director of the Office for Victims of Crime shall make grants to national organizations to provide technical assistance and training to attorneys and others instrumental to the criminal prosecution of child abuse cases in State or Federal courts, for the purpose of improving the quality of investigation and criminal prosecution of such cases.

(b) GRANTEE ORGANIZATIONS.—Any organization to which a grant is made pursuant to subsection (a) shall be one that has, or is affiliated with one that has, broad membership among attorneys who prosecute criminal cases in State courts and has demonstrated experience in providing training and technical assistance for prosecutors.

(c) GRANT CRITERIA.—(1) The Director shall establish the criteria to be used for evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a program provide training and technical assistance which includes information regarding improved child interview techniques, thorough investigative methods, interagency coordination, and effective presentation of evidence in court.

SEC. 2003. AUTHORIZATIONS OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

(1) $15,000,000 for fiscal year 1990; and

(2) such sums as may be necessary for each of fiscal years 1991, 1992, and 1993.

Subtitle B—Court Appointed Special Advocate Program

SEC. 2004. STRENGTHENING COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) IN GENERAL.—The Director of the Office for the Victims of Crime may make grants to expand the court-appointed special advocate programs.

(b) GRANT CRITERIA.—(1) The Director shall establish the criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a program provide screening, training, and supervision of court-appointed special advocates in accordance with guidelines developed by the National Court-Appointed Special Advocate Association.

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

(1) $5,000,000 for fiscal year 1990; and

(2) such sums as may be necessary for each of fiscal years 1991, 1992, and 1993.

Subtitle C—Child Abuse Training Programs for Judicial Personnel and Practitioners

SEC. 2006. GRANTS FOR JUVENILE AND FAMILY COURT PERSONNEL.

The Director of the Office for the Victims of Crime shall make grants to provide technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts, to improve the judicial system's handling of child abuse and neglect cases.

SEC. 2007. SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) GRANTS TO DEVELOP MODEL PROGRAMS.—(1) The Director shall make grants to organizations to provide model technical assistance and training programs to improve the judicial system's handling of child abuse and neglect cases.

(2) Any organization to which a grant is made pursuant to paragraph (1) shall be one that has demonstrated experience in providing training and technical assistance for judges, attorneys, child welfare personnel, or lay child advocates, in particular for juvenile and family courts.

(b) GRANTS TO JUVENILE AND FAMILY COURTS.—(1) The Director may make grants to or for juvenile and family courts and State judicial systems for programs that implement model child abuse and neglect programs.

(2) In general, the grant criteria established pursuant to paragraph (1) shall give priority to programs which improve—

(A) procedures for determining whether child service agencies have made reasonable efforts to prevent placement of children in foster care;

(B) procedures for determining whether children at imminent risk of placement in foster care to child service agencies can be safely maintained at home with appropriate, intensive services, characterized by small caseloads, 24-hour, 7-day availability, primary delivery in the child's home with a demonstrated ability to protect children;

(C) procedures for determining whether child service agencies have, after placement of children in foster care, made reasonable efforts to reunite the family; and

(D) procedures for coordinating information and services among health professionals, school personnel, social workers, law enforcement professionals, prosecutors, defense attorneys, and juvenile and family courts personnel.

SEC. 2008. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

(1) $10,000,000 for fiscal year 1990; and

(2) such sums as may be necessary for each of fiscal years 1991, 1992, and 1993.

(b) USE OF FUNDS.—Of the amounts appropriated in subsection (a), no less than 80 percent shall be used for grants under section 402(b).

Subtitle D—Federal Victims' Services, Protections, and Rights

SEC. 2009. SPECIAL PROCEDURES APPLICABLE TO CHILD VICTIM WITNESSES AND VICTIMS IN CRIMINAL CASES.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"§ 3509. Special procedures applicable to child witnesses and victims

"(a) GUARDIAN AD LITEM.—

"(1) IN GENERAL.—The court may, where appropriate, appoint a guardian ad litem at the earliest possible stage of all criminal proceedings where a child was a victim of a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider the person's background in, and familiarity with, the judicial process, social service programs and child abuse issues. The guardian shall not be a person who is or may be a witness in any proceeding associated with the alleged offense.

"(2) DUTIES AND POWERS OF GUARDIAN.—The guardian may attend all the depositions, hearings and trial proceedings, and make recommendations to the court. The guardian may have access to all reports, evaluations and records, except attorney's work product, necessary to be an effective advocate for the child. The guardian shall marshal and coordinate the delivery of available resources and special services to the child. The guardian may assert claims to privilege or confidentiality on behalf of the child. The guardian shall not be compelled to testify in any court action or proceeding about any information or opinion received from or about the child in the course of serving as a guardian.

"(3) IMMUNITIES.—The guardian shall be immune from civil and criminal liability for carrying out lawful duties in good faith.

"(b) CHILD ATTENDANT.—A child testifying at a criminal proceeding shall have the right to be accompanied by an adult to provide emotional support to the child. The court, at its discretion, may allow the attending adult to remain in close physical proximity to or in contact with the child while the child testifies. The attending adult shall not provide the child with an answer to any question directed toward the child during the course of the child's testimony or otherwise prompt the child.

"(c) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.—

"(1) GENERALLY.—The court may order, upon application by the prosecution, that—

"(A) a child's testimony be taken in a room outside the courtroom and televised by two-way closed circuit television; or

"(B) a deposition be taken of the child's testimony and that deposition be recorded and preserved on videotape.

"(2) CRITERIA FOR ISSUING ORDER.—The court may issue an order under paragraph (1) if—

"(A) the person seeking such an order applies for such an order with reasonable notice to opposing parties before or during the trial; and

"(B) the court finds it necessary, based on a finding by clear and convincing evidence of one or more of the factors listed in paragraph (3).

"(3) FACTORS.—The factors referred to in paragraph (2) are:

"(A) The child is or would be so intimidated, or otherwise inhibited, by the physical presence of the defendant that the child is or would be rendered incompetent or unable to testify.

"(B) Substantial likelihood that the child will suffer such serious emotional trauma or is suffering such serious emotional trauma from testifying in the same room as the defendant that the child would be rendered incompetent or unable to testify.

"(C) Conduct on the part of the defendant or defense counsel during the hearing or trial which causes the child to be unable to continue the child's testimony.

"(4) REQUIREMENT OF EXPERT WITNESS.—Only a finding based on a factor under paragraph (3)(B) must be supported by expert testimony, unless, during the course of the child's testimony, the child exhibits behavior that to the court's satisfaction sufficiently supports such a finding without the use of expert testimony.

"(5) QUESTIONING OF CHILD BY COURT.—In determining whether the impact on an individual child of one or more of the factors described in paragraph (3) is so substantial as to justify an order under paragraph (1), the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the child attendant, the prosecutor, guardian ad litem, and the defense counsel present.

"(6) PROCEDURES AT TIME OF CHILD'S LIVE TESTIMONY BY TWO-WAY CLOSED CIRCUIT TELEVISION.—

"(A) WHO PRESENT.—The prosecuting attorney and the defense attorney shall be present in the room with the child and the child shall be subject to direct and cross-examination. The only other persons allowed to be present in the room with the child during the child's testimony are the child's attorney or guardian ad litem, or both, the child attendant, those persons necessary to operate the closed-circuit equipment and any other person whose presence is determined by the court to be necessary to the welfare and well-being of the child.

"(B) TRANSMISSION.—The child's testimony shall be transmitted by closed circuit television into the courtroom. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall display an image of the defendant into the room in which the child is testifying, and within the child's field of vision, and the child's testimony into the room in which the defendant is viewing the proceeding.

"(C) IMAGE OF CHILD ATTENDANT TO BE RECORDED.—A videotape shall record the image of the child attendant.

"(7) PROCEDURES AT TIME OF VIDEOTAPED DEPOSITIONS OF CHILD WITNESSES.—

"(A) JUDGE TO PRESIDE.—The trial judge shall preside at the videotape proceeding and shall rule on all questions as if at trial. Subject to subparagraph (B) of this paragraph, the only other persons who may be present at the proceeding are the operator of the recording equipment, the attorney for the prosecution, the defendant, the defendant's attorney, the attorney or guardian ad litem for the child, and any other person whose presence is determined by the court to be necessary to the welfare and well-being of the child during the child's testimony. The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney and the right to cross-examine the child.

"(B) PRESENCE OF DEFENDANT.—If the order for videotaping is based upon evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant be excluded from the room in which the deposition is being conducted. If the court orders that the defendant be excluded from the deposition room, it shall order that two-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, and the child's testimony into the room in which the defendant is viewing the proceeding. The defendant shall also be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.

"(C) The court shall allow the videotaped deposition to be used at trial in lieu of the live testimony of the child if the court, at the time such deposition is to be so used, finds under the standards of paragraph (2) that the child continues to be unavailable.

"(8) HANDLING OF VIDEOTAPE.—The complete record of the examination of the child, including the image and voices of all persons who in any way participate in the examination, shall be made and preserved on videotape in addition to being stenographically recorded. The videotape shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant, and the defendant's attorney during ordinary business hours.

"(9) PROTECTIVE ORDER.—Any videotape which is taken under this rule is subject to a protective order of the court for the purpose of protecting the privacy of the child.

"(d) TESTIMONIAL AIDS.—The court may permit the child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.

"(e) CLOSING THE COURTROOM.—When a child testifies the court may order the exclusion from the courtroom of all persons who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate.

"(f) RULES RELATING TO COMPETENCY EXAMINATION OF CHILD.—

"(1) EFFECT OF FEDERAL RULES OF EVIDENCE.—Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) REQUIREMENT OF WRITTEN MOTION.—The court shall conduct a competency hearing regarding a child witness only upon written motion and offer of proof by a party and after the court finds a compelling reason to hold such hearing. The age of the child is not in itself a compelling reason.

"(3) PERSONS PERMITTED TO BE PRESENT.—Only the judge, prosecutor, defense attorney, court reporter, and person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the child, may be present at the hearing.

"(4) NOT BEFORE JURY.—The hearing shall be conducted out of the sight and hearing of the jury.

"(5) NATURE OF QUESTIONING.—The court shall take appropriate action to protect the child from excessively overbearing questioning and to assure that the child is asked questions appropriate to the age and developmental level of the child. Questions shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(6) USE OF EXAMINATIONS.—Psychological and psychiatric examinations to assess the competency of child witnesses shall not be ordered by the court without a showing of compelling need.

"(g) PRIVACY AND ADDRESS PROTECTION.—The name of, or other identifying information about, the child victim or child witness shall not be released except as authorized by the court. The name and any identifying information shall not appear in the information, indictment, or any other public record. Instead a nondescriptive designation shall appear in all public records. Whoever violates this subsection shall be fined under this title or imprisoned not more than one year, or both. This subsection does not prevent the release of such information to the accused or the accused's counsel.

"(h) VICTIM IMPACT STATEMENT.—A child victim or witness has the same right to submit victim impact statements before sentencing as an adult victim or witness has under rule 32(c) of the Federal Rules of Criminal Procedure.

"(i) SPEEDY TRIAL.—In any proceeding when a child is called to give testimony, upon motion by the prosecutor, the guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the presiding judge shall, consistent with the rules of criminal procedure, expedite the action and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the judicial process. In cases in which the judge is deciding whether or not to grant a continuance, the judge shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance.

"(j) DEFINITION OF CHILD.—As used in this section the term 'child' means an individual under the age of 15 years and includes an individual up to age 18 who has been documented by the appropriate professionals to be of a developmental age less than 15 years.".

(b) CONFORMING AMENDMENT TO RULES OF EVIDENCE.—Rule 804(a)(4) of the Federal Rules of Evidence is amended by inserting "(including in the case of a child declarant the condition described in section 3509(c)(3)(B) of title 18, United States Code)" after "infirmity".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3509. Special procedures applicable to child witnesses.".

SEC. 2010. STATUTE OF LIMITATIONS IN CASES RELATING TO CHILDREN.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3294. Extension of child statute of limitations

"No statute of limitation that would otherwise preclude prosecution for an offense involving the sexual or physical abuse of a child under the age of 18 years shall preclude such prosecution before the child reaches the age of 25 years.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"3294. Extension of child statute of limitations.".

SEC. 2011. USE OF MULTIDISCIPLINARY TEAMS.

(a) USE OF MULTIDISCIPLINARY TEAMS.—

(1) IN GENERAL.—It is the sense of Congress that the use of multidisciplinary teams to respond to cases of the sexual or physical abuse, or the sexual exploitation, of children should be strongly encouraged. Such teams may be composed of representatives of appropriate health, social service, law enforcement, legal service agencies, and victim services agencies. In each case coming before the courts of the United States, the appropriate officials and child advocates should work and consult with multidisciplinary teams (including State and local teams) designed to assist child victims or child witnesses. The nondisclosure requirements of Federal law should not be construed to impede the efforts of such teams in child victimization uses.

(2) DESCRIPTION OF ROLE OF MULTIDISCIPLINARY TEAMS.—The role of the multidisciplinary team is to provide for the child victim or child witness those of the following services that the members of the team in their professional roles are capable of providing:

(A) Medical diagnosis and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of relevant findings.

(B) Telephone consultation services in emergencies and in other situations.

(C) Medical evaluation related to abuse or neglect.

(D) Psychological and psychiatric diagnosis and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case.

(E) Expert medical, psychological, and related professional testimony in court cases;

(F) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(G) Training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, to enable them to develop and maintain their professional skills and abilities in handling child victims and child witnesses.

SEC. 2012. CHILD ABUSE REPORTING.

(a) IN GENERAL.—All—

(1) physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners or medical examiners, alcohol or drug treatment personnel;

(2) psychologists, psychiatrists, mental health professionals;

(3) social workers, licensed or unlicensed marriage, family, or individual counselors;

(4) teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials and administrators;

(5) child care workers and administrators;

(6) law enforcement personnel, probation officers, juvenile rehabilitation or detention facility employees;

(7) foster parents; and

(8) commercial film and photo processors,

who, while involved in any of these capacities on Federal land or in a federally operated (or contracted) facility, have reason to believe that a child is a victim of child exploitation, abuse, or neglect shall within 24 hours make a report of this suspected abuse or neglect to the appropriate authorities as specified below.

(b) AGENCY DESIGNATED TO RECEIVE REPORT AND ACTION TO BE TAKEN.—On all Federal lands, and in all federally operated (or contracted) facilities in which children are cared for or reside, there shall be an officially designated agency that is given responsibility to receive and investigate such reports. By formal written agreement, this may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, physical injury, or serious neglect of a child, there shall be an immediate referral of such report to a law enforcement agency with authority to take emergency actions related to the protection of the child. All reports received shall be promptly investigated, and whenever appropriate, investigations should be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

(c) REPORTING FORM.—In every federally operated (and contracted) facility, and on all Federal lands, there shall be available a standard written reporting form, with instructions, that is disseminated to all mandated reporter groups. Use of this form shall be encouraged, but its use should not be construed as replacing the requisite immediate making of oral reports, telephonically or otherwise.

(d) IMMUNITY FOR REPORTING AND ASSOCIATED ACTIVITIES.—Any person who, acting in good faith, makes any report required under this section or any other report of child abuse, neglect or exploitation, to Federal officials, or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report required under this section, shall have civil and criminal immunity with respect to those activities. There shall be a presumption that any such individuals acted in good faith. If a person prevails in a civil action arising out of such person's performance of one of such activities, and has legal expenses in that litigation, the court may order that the losing party pay the prevailing party's legal expenses.

(e) CRIMINAL PENALTY FOR FAILURE TO REPORT.—Whoever knowingly or willfully fails to make a report required under this section shall be fined not more than $10,000, or imprisoned not more than 6 months, or both.

(f) TRAINING OF PROSPECTIVE REPORTERS.—All individuals in the occupations listed in subsection (a) who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

(g) RULEMAKING BY ATTORNEY GENERAL.—The Attorney General shall make rules to carry out this section.

SEC. 2013. ABROGATION OF TESTIMONIAL PRIVILEGES IN CERTAIN CRIMINAL CASES INVOLVING CHILDREN.

Article V of the Federal Rules of Evidence is amended by adding at the end the following:

"**Rule 502. Privileges Not Applicable to Certain Cases Involving Children**

"In any criminal action or proceeding after a report of the abuse, neglect, or sexual exploitation of an individual who has not attained the age of 18 years, the privileged nature of any communications between physician and patient, psychotherapist and patient, psychologist and client, social worker and client, any other health care provider and patient, or husband and wife privileges shall not apply.".

Subtitle E—Child Care Worker Employee Background Check

SEC. 2014. CHILD CARE WORKER EMPLOYEE BACKGROUND CHECKS.

(a) IN GENERAL.—

(1) REQUIREMENT.—Each agency of the Federal Government that hires (or contracts for hire) individuals involved with the provision to children under 18 of child care services shall assure that all existing employees and applicants undergo a criminal history records check, as specified in this section, and shall also, to the extent practicable, obtain such checks for volunteers and other nonemployed individuals involved with the provision of such services.

(2) DEADLINES FOR IMPLEMENTATION.—All existing staff shall receive such checks not later than 6 months after the enactment of this Act and no additional staff shall be hired without a check having been completed.

(3) DEFINITION.—As used in this section, the term "child care services" means child day-care away from the home of the child.

(b) CRIMINAL HISTORY CHECK.—(1) The criminal history record check required under subsection (a) shall be based on a set of the employee's/applicant's fingerprints.

(2) The criminal history record check shall be—

(A) based on fingerprints and other identifying information, requested by the Federal Bureau of Investigation Inspection Division;

(B) conducted through the Identification Division of the Federal Bureau of Investigation, as well as through the State criminal history repositories of all States that the employee, or prospective employee, lists as residences in their employment application; and

(C) initiated through, and the results communicated to, the personnel programs of the applicable Federal agencies.

(c) APPLICABLE CRIMINAL HISTORIES.—Any conviction for a sex crime, an offense involving a child victim, or a felony drug offense, shall be grounds for denying employment or for dismissal of an employee providing child care services. An incident in which an individual has been charged with one of these offenses, but where the charge has not yet been disposed of, shall permit an employer to suspend an employee from having any job-related contact with children until the case is resolved. Convictions of crimes other than a sex crime may be considered if they bear on an individual's fitness to have responsibility for the safety and well-being of children.

(d) EMPLOYMENT APPLICATIONS.—(1) All employment applications for individuals who are seeking child care services work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, shall contain a question about whether the individual has ever been arrested for or charged with a crime involving a child, and if so the disposition of that arrest or charge. The application shall notify the applicant of penalties under section 1001 of title 18, United States Code.

(2) The Federal agency seeking a criminal history record check shall first obtain the signature of the employee/applicant indicating that the employee/applicant has been notified that fingerprints will be used to check the criminal history records of the Federal Bureau of Investigation and various States and the employee's/applicant's right to review a copy of the criminal history record made available to the requesting Federal agency and the right to challenge the accuracy and completeness of any information contained in the record.

TITLE XXI—BANKING LAW ENFORCEMENT

Subtitle A—Enhanced Criminal Penalties

SEC. 2101. CONCEALMENT OF ASSETS FROM FDIC, RTC, OR NCUA ESTABLISHED AS CRIMINAL OFFENSE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"**§ 1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution**

"Whoever—

"(1) knowingly conceals or endeavors to conceal an asset or property from the Federal Deposit Insurance Corporation, acting as conservator or receiver, the Resolution Trust Corporation, or the National Credit Union Administration Board, acting as conservator or liquidating agent;

"(2) knowingly impedes or endeavors to impede the functions of such Corporation or Board; or

"(3) corruptly places or endeavors to place an asset or property beyond the reach of such Corporation or Board,

shall be fined under this title or imprisoned not more than 5 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1031 the following new item:

"1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution.".

SEC. 2102. PROHIBITION ON CONTROL OF OR PARTICIPATION IN DEPOSITORY INSTITUTION BY CERTAIN CONVICTED PERSONS.

(a) FDIC INSURED DEPOSITORY INSTITUTIONS.—Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended to read as follows:

"(a) PROHIBITION.—

"(1) IN GENERAL.—Except with the prior written consent of the Corporation—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured depository institution;

"(ii) own or control, directly or indirectly, any insured depository institution; or

"(iii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured depository institution; and

"(B) any insured depository institution may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—If the offense of which any person referred to in paragraph (1) has been convicted under—

"(A) sections 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, and 1956 of title 18, United States Code; or

"(B) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title),

the Corporation may not consent to any exception for such person from the application of this section during the 10-year period beginning on the date the conviction becomes final.".

(b) NCUA INSURED CREDIT UNIONS.—Section 205(d) of the Federal Credit Union Insurance Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with the prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—If the offense of which any person referred to in paragraph (1) has been convicted under—

"(A) sections 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, and 1956 of title 18, United States Code; or

"(B) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title),

the Board may not consent to any exception for such person from the application of this section during the 10-year period beginning on the date the conviction becomes final.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) shall be fined not more than $1,000,000 for each day such prohibition is violated, imprisoned not more than 5 years, or both.".

SEC. 2103. CRIME OF OBSTRUCTING AN EXAMINER.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code (relating to obstruction of justice) is amended by inserting after section 1516 the following new section:

"§ 1517. Obstructing examination of financial institution

"Whoever corruptly obstructs or attempts to obstruct any examination of a financial institution by an agency of the United States with jurisdiction to conduct an examination of such financial institution shall be fined under this title, imprisoned not more than 5 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1516 the following new item:

"1517. Obstructing examination of financial institution.".

SEC. 2104. INCREASING BANK FRAUD AND EMBEZZLEMENT PENALTIES.

(a) RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS.—Section 215(a) of title 18, United States Code, is amended by striking "20" and inserting "30".

(b) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended by striking "20" and inserting "30".

(c) LENDING, CREDIT, AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended by striking "20" and inserting "30".

(d) BANK ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended by striking "20" and inserting "30".

(e) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended by striking "20" and inserting "30".

(f) FEDERAL DEPOSIT INSURANCE CORPORATION TRANSACTIONS.—Section 1007 of title 18, United States Code, is amended by striking "20" and inserting "30".

(g) FALSE STATEMENTS IN LOAN, CREDIT, AND CROP INSURANCE APPLICATIONS.—Section 1014 of title 18, United States Code, is amended by striking "20" and inserting "30".

(h) FRAUDS AND SWINDLES AFFECTING FINANCIAL INSTITUTIONS.—The last sentence of section 1341 of title 18, United States Code, is amended by striking "20" and inserting "30".

(i) WIRE FRAUDS AFFECTING FINANCIAL INSTITUTIONS.—The last sentence of section 1343 of title 18, United States Code, is amended by striking "20" and inserting "30".

(j) BANK FRAUD.—Section 1344 of title 18, United States Code, is amended by striking "20" and inserting "30".

SEC. 2105. STATUTE OF LIMITATIONS FOR RICO OFFENSES INVOLVING FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Section 3293 of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by inserting "or" at the end of paragraph (2); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) section 1963, to the extent that the racketeering activity involves a violation of section 1344;".

(b) SCOPE OF APPLICATION.—The amendments made by subsection (a) shall apply to any offense committed before the date of the enactment of this section, if the statute of limitations applicable to that offense had not run as of such date.

SEC. 2106. MONEY LAUNDERING INVOLVING BANK CRIMES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "section 1005 (relating to fraudulent bank entries), 1006 (relating to fraudulent Federal credit institution entries), 1007 (relating to Federal Deposit Insurance transactions), 1014 (relating to fraudulent loan or credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by inserting "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution," after "section 1203 (relating to hostage taking),".

SEC. 2107. INCREASED PENALTIES IN MAJOR BANK CRIME CASES.

(a) INCREASED PENALTIES.—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of title 18, United States Code, or section 1341 or 1343 affecting a financial institution (as defined in section 20 of title 18, United States Code), shall be assigned not less than offense level 24 under chapter 2 of the sentencing guidelines if the defendant derives more than $1,000,000 in gross receipts from the offense.

(b) AMENDMENTS TO SENTENCING GUIDELINES.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

SEC. 2108. RESTORATION OF PROPERTY FOR VICTIMS OF BANK CRIMES.

Section 981(e) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding after paragraph (5) the following new paragraph:

"(6) in the case of property referred to in subsection (a)(1)(C), restore forfeited property to any victim of an offense described in subsection (a)(1)(C); or".

SEC. 2109. ENHANCEMENT OF ABILITY TO ORDER RESTITUTION IN CERTAIN FRAUD CASES.

Section 3663(a) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) For the purposes of restitution, a victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity means any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.

"(3) The court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement.".

SEC. 2110. FINANCIAL CRIME KINGPIN STATUTE.

(a) CONTINUING FINANCIAL CRIME ENTERPRISES.—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Continuing financial crimes enterprise

"(a) Whoever—

"(1) organizes, manages, or supervises a continuing financial crimes enterprise; and

"(2) receives $5,000,000 or more in gross receipts from such enterprise during any 24-month period,

shall be fined not more than $10,000,000 if an individual, or $20,000,000 if an organization, and imprisoned not less than 10 years.

"(b) For purposes of subsection (a), the term 'continuing financial crimes enterprise' means a series of violations under section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title committed by at least 4 persons acting in concert.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"225. Continuing financial crimes enterprise.".

Subtitle B—Protecting Assets From Wrongful Disposition

SEC. 2121. LIMITATION ON DISPOSITION OF CERTAIN ASSETS.

Section 1345 of title 18, United States Code, is amended—

(1) by striking the 1st sentence and inserting the following:

"(a)(1) If a person is—

"(A) violating or about to violate this chapter or section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title; or

"(B) committing or about to commit a banking law violation (as defined in section 3322(d) of this title),

the Attorney General may commence a civil action in any Federal court to enjoin such violation.

"(2) If a person is alienating or disposing of property, or intends to alienate or dispose of property, obtained as a result of a banking law violation (as defined in section 3322(d) of this title) or property which is traceable to such violation, the Attorney General may commence a civil action in any Federal court—

"(A) to enjoin such alienation or disposition of property; or

"(B) for a restraining order to—

"(i) prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such property or property of equivalent value; and

"(ii) appoint a temporary receiver to administer such restraining order."; and

(2) by redesignating the material remaining in such section as subsection (b).

SEC. 2122. ATTACHMENT OF ASSETS.

(a) APPLICATION BY CONSERVATOR OR RECEIVER FOR FDIC INSURED DEPOSITORY INSTITUTION.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end the following new paragraphs:

"(17) ATTACHMENT OF ASSETS.—Subject to paragraph (18), any court of competent jurisdiction may, at the request of the Corporation (in the Corporation's capacity as conservator or receiver for any insured depository institution), place the assets of any person designated by the Corporation under the control of the court and appoint a trustee to hold such assets if the Corporation demonstrates the likelihood that—

"(A) such person is—

"(i) an institution-affiliated party who is financially obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of such person will be dissipated or otherwise placed beyond the jurisdiction of the court or Corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.

"(18) DUE PROCESS PROTECTIONS.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (17) unless, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65.".

(b) APPLICATION BY CONSERVATOR OR LIQUIDATING AGENT FOR INSURED CREDIT UNION.—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by redesignating subparagraph (G) as subparagraph (I) and by inserting after subparagraph (F) the following new subparagraphs:

"(G) ATTACHMENT OF ASSETS.—Subject to subparagraph (H), any court of competent jurisdiction may, at the request of the Board (in the Board's capacity as conservator or liquidating agent for any insured credit union) place the assets of any person designated by the Board under the control of the court and appoint a trustee to hold such assets if the Board demonstrates the likelihood that—

"(i) such person is—

"(I) an institution-affiliated party who is financially obligated to the credit union or otherwise may be required to provide restitution to the credit union; or

"(II) a debtor of the credit union; and

"(ii) the assets of such person will be dissipated or otherwise placed beyond the jurisdiction of the court or Board before any recovery in favor of the credit union may be completed unless a trustee is appointed.

"(H) DUE PROCESS PROTECTIONS.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under subparagraph (G) unless, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65.".

(c) APPLICATION BY APPROPRIATE FEDERAL BANKING AGENCY.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end the following new paragraph:

"(4) ATTACHMENT OF ASSETS.—

"(A) EX PARTE ORDERS. In connection with any action brought by any appropriate Federal banking agency under this subsection in any capacity or any other civil or administrative action under this section for money damages, restitution, or injunctive relief to which the agency is a party, any Federal court may, upon application by the agency, issue ex parte a restraining order which—

"(i) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property; and

"(ii) appoints a temporary receiver to administer such restraining order.

"(B) PROPER SHOWING REQUIRED.—Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted, without bond.".

(d) APPLICATION BY NATIONAL CREDIT UNION ADMINISTRATION BOARD.—Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended by adding at the end the following new paragraph:

"(4) ATTACHMENT OF ASSETS.—

"(A) EX PARTE ORDERS.—In connection with any action brought by the Board under this subsection in any capacity or any other civil or administrative action under this section for money damages, restitution, or injunctive relief to which the Board is a party, any Federal court may, upon application by the Board, issue ex parte a restraining order which—

"(i) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets, or other property; and

"(ii) appoints a temporary receiver to administer such restraining order.

"(B) PROPER SHOWING REQUIRED.—Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted, without bond.".

SEC. 2123. DISALLOWING USE OF BANKRUPTCY TO EVADE COMMITMENTS TO MAINTAIN THE CAPITAL OF A FEDERALLY INSURED DEPOSITORY INSTITUTION OR TO EVADE CIVIL OR CRIMINAL LIABILITY.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (32) through (53) as paragraphs (36) through (61), respectively;

(2) by inserting before paragraph (36), as so redesignated, the following:

"(33) 'institution-affiliated party'—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), has the meaning given it in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)); and

"(B) with respect to an insured credit union, has the meaning given it in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r));

"(34) 'insured credit union' has the meaning given it in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

"(35) 'insured depository institution'—

"(A) has the meaning given it in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)); and

"(B) includes an insured credit union (except in the case of paragraphs (3) and (33)(A) of this subsection);";

(3) by redesignating paragraphs (3) through (31) as paragraphs (4) through (32), respectively; and

(4) by inserting after paragraph (2) the following:

"(3) 'Federal depository institutions regulatory agency' means—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) for which no conservator or receiver has been appointed, the appropriate Federal banking agency (as defined in section 3(q) of such Act); and

"(B) with respect to an insured credit union (including an insured credit union for which the National Credit Union Administration has been appointed conservator or liquidating agent), the National Credit Union Administration;

"(C) with respect to any insured depository institution for which the Resolution Trust Corporation has been appointed conservator or receiver, the Resolution Trust Corporation; and

"(D) with respect to any insured depository institution for which the Federal Deposit Insurance Corporation has been appointed conservator or receiver, the Federal Deposit Insurance Corporation;".

(b) ASSUMPTION OF COMMITMENTS AS EXECUTORY CONTRACTS.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(o) In a case under chapter 11 of this title, the trustee shall be deemed to have assumed, consistent with the debtor's other obligations under section 507, any commitment by the debtor to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution. This subsection shall not extend any such commitment which would otherwise be terminated due to any act of such agency.".

(c) EXCEPTION TO DISCHARGE IN GENERAL.—Section 523 of title 11, United States Code (as amended by section 1901 of this Act) is amended—

(1) in subsection (a)—

(A) in paragraph (2)(B)(iii) by inserting before the semicolon the following ", except that this clause shall not apply in the case of a Federal depository institutions regulatory agency seeking, in its capacity as conservator, receiver, or liquidating agent for an insured depository institution, to recover a debt owed to such institution by an institution-affiliated party";

(B) by striking "or" at the end of paragraph (9);

(C) by striking the period at the end of paragraph (10) and inserting "; or"; and

(D) by adding at the end the following:

"(11) for failure to fulfill any commitment by the debtor to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution, except that this paragraph shall not extend any such commitment which would otherwise be terminated due to any act of such agency.";

(2) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following:

"(2) Paragraph (1) shall not apply in the case of a Federal depository institutions regulatory agency seeking, in its capacity as conservator, receiver, or liquidating agent for an insured depository institution, to recover a debt owed to such institution by an institution-affiliated party."; and

(3) by adding at the end the following:

"(e) For purposes of subsection (a)(4), any institution-affiliated party of an insured depository institution or of an insured credit union shall be deemed to have been acting in a fiduciary capacity with regard to any debt owed to the Federal depository institutions regulatory agency.".

(d) EXCEPTION TO DISCHARGE UNDER CHAPTER 11.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(14) The plan provides that, following the completion of the plan, the debtor will maintain any commitment to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution and will continue to be obligated for any debt to such agency resulting from any failure to fulfill any such commitment. This paragraph shall not extend any such commitment which would otherwise be terminated due to any act of such agency.".

(e) EXCEPTION TO DISCHARGE UNDER CHAPTER 13.—Section 1328(a) of title 11, United States Code, as amended by section 1902 of this Act, is amended—

(1) in paragraph (2) by striking "or" at the end;

(2) in paragraph (3), as added by such section 1902, by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) of a kind specified in paragraph (2), (4), (6), or (7) of section 523(a) of this title owed by an institution-affiliated party—

"(A) to a Federal depository institutions regulatory agency; or

"(B) to an insured depository institution which a Federal depository institutions regulatory agency is seeking, in its capacity as conservator, receiver, or liquidating agent for such institution, to recover for the institution.".

SEC. 2124. FRAUDULENT CONVEYANCES AVOIDABLE BY CONSERVATORS, RECEIVERS, AND LIQUIDATING AGENTS.

(a) FDIC INSURED DEPOSITORY INSTITUTIONS.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by inserting after paragraph (18) (as added by section 2122(a) of this title) the following new paragraph:

"(19) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Corporation, as conservator or receiver for any insured depository institution, may avoid a transfer of any interest of an institution-affiliated party, or any person who the Corporation determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Corporation was appointed conservator or receiver if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the insured depository institution, the Corporation, or any other appropriate Federal banking agency.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Corporation may recover, for the benefit of the insured depository institution, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Corporation may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

"(ii) any immediate or mediate good faith transferee of such transferee.

"(D) RIGHTS UNDER THIS PARAGRAPH.—The rights of the Corporation under this paragraph shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.".

(b) NCUA INSURED CREDIT UNIONS.—Section 207(b) of the Federal Credit Union Act (12 U.S.C. 1787(b)) is amended by adding at the end the following new paragraph:

"(16) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Board, as conservator or liquidating agent for any insured credit union, may avoid a transfer of any interest of an institution-affiliated party, or any person who the Board determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Board becomes conservator or liquidating agent if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the insured credit union or the Board.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Board may recover, for the benefit of the insured credit union, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Board may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

"(ii) any immediate or mediate good faith transferee of such transferee.

"(D) RIGHTS UNDER THIS PARAGRAPH.—The rights of the Board under this paragraph shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.".

SEC. 2125. REGULATION OF GOLDEN PARACHUTES AND OTHER BENEFITS WHICH ARE SUBJECT TO MISUSE.

(a) FDIC INSURED DEPOSITORY INSTITUTIONS.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

"(k) REGULATION OF CERTAIN FORMS OF BENEFITS TO INSTITUTION-AFFILIATED PARTIES.—

"(1) GOLDEN PARACHUTES.—Except as provided in paragraph (5), any insured depository institution or depository institution holding company which does not meet the minimum capital requirements (as determined by the appropriate Federal banking agency) applicable with respect to such institution or holding company may not make any golden parachute payment or enter into any contract or other agreement to make any golden parachute payment.

"(2) COVERED BENEFITS.—Except as provided in paragraph (5), no insured depository institution or depository institution holding company may make any covered benefit payment or enter into any contract or other agreement to make any covered benefit payment.

"(3) CERTAIN PAYMENTS IN ANTICIPATION OF INSOLVENCY PROHIBITED.—No insured depository institution or depository institution holding company may prepay the salary or any liability or legal expense of any institution-affiliated party in contemplation of the insolvency of such institution or holding company, or any insured depository institution subsidiary of such holding company, or after the commission of an act of insolvency, if such payment is made with a view to, or has the result of—

"(A) preventing the proper application of the assets of the institution or holding company to creditors; or

"(B) preferring 1 creditor over another.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) GOLDEN PARACHUTE PAYMENT.—The term 'golden parachute payment' means any payment in the nature of compensation to (or for the benefit of) any institution-affiliated party by any insured depository institution or depository institution holding company pursuant to an obligation of such institution or holding company (to make such payment) which—

"(i) is contingent on the termination (for any reason) of such party's affiliation with the institution or holding company; and

"(ii) is received on or after the date on which—

"(I) the insured depository institution or depository institution holding company is insolvent;

"(II) any conservator or receiver is appointed for such institution; or

"(III) with respect to an insured depository institution or depository institution holding company which does not meet the minimum capital requirements applicable with respect to such institution or holding company, the date such institution or holding company first fails to meet such requirement.

"(B) COVERED BENEFIT PAYMENT.—The term 'covered benefit payment' means any payment by any insured depository institution or depository institution holding company to or for the benefit of any person who is or was an institution-affiliated party to pay or reimburse such person for any liability or legal expense with respect to any administrative proceeding or civil action instituted by the appropriate Federal banking agency—

"(i) in which the action, inaction, or the violation of any law, regulation, or order by, the institution-affiliated party is at issue; and

"(ii) which results in a final order under which the institution-affiliated party—

"(I) is assessed a civil money penalty;

"(II) is removed or prohibited from participating in conduct of the affairs of the insured depository institution or depository institution holding company; or

"(III) is required to take any affirmative action described in section 8(b)(6) with respect to such institution.

"(C) LIABILITY OR LEGAL EXPENSE.—The term 'liability or legal expense' means—

"(i) any legal or other professional expense incurred in connection with any claim, proceeding, or action;

"(ii) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

"(iii) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

"(D) PAYMENT.—The term 'payment' includes—

"(i) any direct or indirect transfer of any funds or any asset; and

"(ii) any segregation of any funds or assets for the purpose of making, or pursuant to an agreement to make, any payment after the date on which such funds or assets are segregated.

"(5) AGENCY APPROVAL FOR CERTAIN GOLDEN PARACHUTE AND COVERED BENEFIT PAYMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any insured depository institution or depository institution holding company referred to in paragraph (1) or (2) may take any action described in such paragraph if the appropriate Federal banking agency provides written approval of such action by the institution or holding company.

"(B) CORPORATION APPROVAL REQUIRED FOR FALTERING INSTITUTIONS.—Any insured depository institution which—

"(i) has a composite rating by the appropriate Federal banking agency of 4 or 5 under the Uniform Financial Institutions Rating System;

"(ii) is subject to a proceeding initiated by the Corporation to terminate or suspend deposit insurance for such institution;

"(iii) has substantially insufficient capital to meet the minimum capital requirements (as defined and determined by the appropriate Federal banking agency) applicable with respect to such institution; or

"(iv) is in danger of default,

may take any action described in paragraph (1) or (2) only if the Corporation provides written approval for the institution to take such action (in addition to the approval of the appropriate Federal banking agency under subparagraph (A) of this paragraph).

"(6) CERTAIN INSURANCE COVERAGE NOT TREATED AS COVERED BENEFIT PAYMENT.—No provision of this subsection shall be construed as prohibiting any insured depository institution or depository institution holding company from purchasing any directors' or officers' liability insurance policy or fidelity bond, except that such insurance policy or bond may not cover any legal or liability expense of the institution or holding company which is a covered benefit payment.".

(b) NCUA INSURED CREDIT UNIONS DEPOSITORY INSTITUTIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(t) REGULATION OF CERTAIN FORMS OF BENEFITS TO INSTITUTION-AFFILIATED PARTIES.—

"(1) GOLDEN PARACHUTES.—Except as provided in paragraph (5), any insured credit union which does not meet the minimum capital requirements (as determined by the Board) applicable with respect to such credit union may not make any golden parachute payment or enter into any contract or other agreement to make any golden parachute payment.

"(2) COVERED BENEFITS.—Except as provided in paragraph (5), no insured credit union may make any covered benefit payment or enter into any contract or other agreement to make any covered benefit payment.

"(3) CERTAIN PAYMENTS IN ANTICIPATION OF INSOLVENCY PROHIBITED.—No insured credit union may prepay the salary or any liability or legal expense of any institution-affiliated party in contemplation of the insolvency of such credit union, or after the commission of an act of insolvency, if such payment is made with a view to, or has the result of—

"(A) preventing the proper application of the assets of the credit union to creditors; or

"(B) preferring 1 creditor over another.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) GOLDEN PARACHUTE PAYMENT.—The term 'golden parachute payment' means any payment in the nature of compensation to (or for the benefit of) any institution-affiliated party by any insured credit union pursuant to an obligation of such credit union (to make such payment) which—

"(i) is contingent on the termination (for any reason) of such party's affiliation with the credit union; and

"(ii) is received on or after the date on which—

"(I) the insured credit union is insolvent;

"(II) any conservator or liquidating agent is appointed for such institution; or

"(III) with respect to an insured credit union which does not meet the minimum capital requirements applicable with respect to such credit union, the date such credit union first fails to meet such requirement.

"(B) COVERED BENEFIT PAYMENT.—The term 'covered benefit payment' means any payment by any insured credit union to or for the benefit of any person who is or was an institution-affiliated party to pay or reimburse such person for any liability or legal expense with respect to any administrative proceeding or civil action instituted by the Board—

"(i) in which the action, inaction, or the violation of any law, regulation, or order by, the institution-affiliated party is at issue; and

"(ii) which results in a final order under which the institution-affiliated party—

"(I) is assessed a civil money penalty;

"(II) is removed or prohibited from participating in conduct of the affairs of the insured credit union; or

"(III) is required to take any affirmative action described in section 206(e)(3) with respect to such credit union.

"(C) LIABILITY OR LEGAL EXPENSE.—The term 'liability or legal expense' means—

"(i) any legal or other professional expense incurred in connection with any claim, proceeding, or action;

"(ii) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

"(iii) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

"(D) PAYMENT.—The term 'payment' includes—

"(i) any direct or indirect transfer of any funds or any asset; and

"(ii) any segregation of any funds or assets for the purpose of making, or pursuant to an agreement to make, any payment after the date on which such funds or assets are segregated.

"(5) BOARD APPROVAL FOR CERTAIN GOLDEN PARACHUTE AND COVERED BENEFIT PAYMENTS.—Any insured credit union referred to in paragraph (1) or (2) may take any action described in such paragraph if the Board provides written approval of such action by the credit union.

"(6) CERTAIN INSURANCE COVERAGE NOT TREATED AS COVERED BENEFIT PAYMENT.—No provision of this subsection shall be construed as prohibiting any insured credit union from purchasing any directors' or officers' liability insurance policy or fidelity bond, except that such insurance policy or bond may not cover any legal or liability expense of the credit union which is a covered benefit payment.".

SEC. 2126. AMENDMENTS RELATING TO CIVIL FORFEITURE.

Section 981 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(C)—

(A) by inserting "1032," after "1014,"; and

(B) by inserting "or a violation of section 1341 or 1343 of such title affecting a financial institution" before the period;

(2) in subsection (b)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(B) by striking all that appears before subparagraph (A) (as so redesignated by subparagraph (A) of this paragraph) and inserting the following:

"(b)(1) Any property—

"(A) subject to forfeiture to the United States under subparagraph (A) or (B) of subsection (a)(1) of this section—

"(i) may be seized by the Attorney General; or

"(ii) in the case of property involved in a violation of section 5313(a) or 5324 of title 31, United States Code, or section 1956 or 1957 of this title investigated by the Secretary of the Treasury or the United States Postal Service, may be seized by the Secretary of the Treasury or the Postal Service; and

"(B) subject to forfeiture to the United States under subparagraph (C) of subsection (a)(1) of this section may be seized by the Attorney General, the Secretary of the Treasury, or the Postal Service.

"(2) Property shall be seized under paragraph (1) of this subsection upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—";

(3) in subsection (e)(3), by striking "(if the affected financial institution is in receivership or liquidation)"; and

(4) in subsection (e)(4), by striking "(if the affected financial institution is not in receivership or liquidation)".

SEC. 2127. CIVIL AND CRIMINAL FORFEITURE FOR FRAUD IN THE SALE OF ASSETS BY THE RESOLUTION TRUST CORPORATION, FDIC, OR NCUA.

(a) CIVIL FORFEITURE.—

(1) IN GENERAL.—Section 981(a)(1) of title 18, United States Code, is amended by adding the following new subparagraphs:

"(D) Any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, from a violation of—

"(i) section 666(a)(1) (relating to Federal program fraud);

"(ii) section 1001 (relating to fraud and false statements;

"(iii) section 1031 (relating to major fraud against the United States);

"(iv) section 1032 (relating to concealment of assets from conservator or receiver of insured financial institution);

"(v) section 1341 (relating to mail fraud); or

"(vi) section 1343 (relating to wire fraud), if such violation relates to the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution.

"(E) With respect to an offense listed in subsection (a)(1)(D) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, which thereby is obtained, directly or indirectly.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 981(e) of title 18, United States Code, is amended by inserting after paragraph (6) (as added by section 2108(3) of this title) the following new paragraph:

"(7) In the case of property referred to in subsection (a)(1)(D), to the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any other Federal financial institution regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act).".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding the following new paragraphs:

"(3) The court, in imposing a sentence on a person convicted of an offense under—

"(A) section 666(a)(1) (relating to Federal program fraud);

"(B) section 1001 (relating to fraud and false statements);

"(C) section 1031 (relating to major fraud against the United States);

"(D) section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of insured financial institution);

"(E) section 1341 (relating to mail fraud); or

"(F) section 1343 (relating to wire fraud), involving the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution, shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violation.

"(4) With respect to an offense listed in subsection (a)(3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations, or promises, the gross receipts of such an offense shall include any property, real or personal, tangible or intangible, which is obtained, directly or indirectly, as a result of such offense.".

SEC. 2128. PROHIBITION ON ACQUISITIONS FROM CONSERVATORS, RECEIVERS, AND LIQUIDATING AGENTS OF DEPOSITORY INSTITUTIONS BY CONVICTED FELONS.

(a) FDIC INSURED DEPOSITORY INSTITUTIONS.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(p) CERTAIN CONVICTED DEBTORS PROHIBITED FROM PURCHASING ASSETS.—Any individual who—

"(1) has been convicted of an offense under section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, affecting any insured depository institution for which any conservator or receiver has been appointed; and

"(2) is in default on any loan or other extension of credit from such insured depository institution which, if not paid, will cause substantial loss to the institution, the Corporation, or the Resolution Trust Corporation,

may not purchase any asset of such institution from the conservator or receiver (other than with respect to the repayment in full of such loan or other extension of credit).".

(b) NCUA INSURED CREDIT UNIONS.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by adding at the end the following new subsection:

"(q) CERTAIN CONVICTED DEBTORS PROHIBITED FROM PURCHASING ASSETS.—Any individual who—

"(1) has been convicted of an offense under section 215, 657, 1006, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, affecting any insured credit union for which the Board is appointed conservator or liquidating agent; and

"(2) is in default on any loan or other extension of credit from such insured credit union which, if not paid, will cause substantial loss to the credit union or the Board,

may not purchase any asset of such credit union from the conservator or liquidating agent (other than with respect to the repayment in full of such loan or other extension of credit).".

Subtitle C—Improved Procedures for Handling Banking-Related Cases

SEC. 2131. WIRETAP AUTHORITY FOR BANK FRAUD AND RELATED OFFENSES; TECHNICAL AMENDMENTS TO WIRETAP LAW.

Section 2516 of title 18, United States Code, is amended—

(1) in paragraph (1)(c)—

(A) by inserting "section 215 (relating to bribery of bank officials)," before "section 224";

(B) by inserting "section 1014 (relating to loans and credit applications generally; renewals and discounts)," before "sections 1503,";

(C) by inserting "section 1344 (relating to bank fraud)," before "sections 2251 and 2252"; and

(D) by striking "the section in chapter 65 relating to destruction of an energy facility,"; and

(2) in paragraph (1)—

(A) by striking the 1st subparagraph which is designated as "(m)";

(B) by striking "and" at the end of the 2d subparagraph designated as "(m)" (as determined before the amendment made by subparagraph (A) of this paragraph);

(C) by striking the period at the end of subparagraph (n) and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(o) any conspiracy to commit any offense described in any subparagraph of this paragraph."; and

(3) in paragraph (1)(j), by striking "any violation of section 1679(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 or subsection (i) or (n) of section 902 of the Federal Aviation Act of 1958".

SEC. 2132. FOREIGN INVESTIGATIONS BY FEDERAL BANKING AGENCIES AND INVESTIGATIONS ON BEHALF OF FOREIGN BANKING AUTHORITIES.

(a) APPROPRIATE FEDERAL BANKING AGENCIES, GENERALLY.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(v) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the appropriate Federal banking agency may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—Any appropriate Federal banking agency may, at the request of any foreign banking authority, assist such authority if such authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking

matters or currency transactions administered or enforced by the requesting authority.

"(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—Any appropriate Federal banking agency may, in such agency's discretion, investigate and collect information and evidence pertinent to a request for assistance under subparagraph (A). Any such investigation shall comply with the laws of the United States and the policies and procedures of the appropriate Federal banking agency.

"(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the appropriate Federal banking agency shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.

"(D) TREATMENT OF FOREIGN BANKING AUTHORITY.—For purposes of any Federal law or appropriate Federal banking agency regulation relating to the collection or transfer of information by any appropriate Federal banking agency, the foreign banking authority shall be treated as another appropriate Federal banking agency.

"(3) RULE OF CONSTRUCTION.—Paragraphs (1) and (2) shall not be construed to limit the authority of an appropriate Federal banking agency or any other Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter.".

(b) FOREIGN INVESTIGATIONS BY FDIC AND RTC AS CONSERVATOR OR RECEIVER.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (p) (as added by section 2128(a) of this title) the following new subsection:

"(q) FOREIGN INVESTIGATIONS.—The Corporation and the Resolution Trust Corporation, as conservator or receiver of any insured depository institution and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution—

"(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 8(v); and

"(2) may each maintain an office to coordinate foreign investigations or investigations on behalf of foreign banking authorities.".

(c) NATIONAL CREDIT UNION ADMINISTRATION, GENERALLY.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by inserting after subsection (t) (as added by section 2125(b) of this title) the following new subsection:

"(u) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the Board may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—The Board may, at the request of any foreign banking authority, assist such authority if such authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters or currency transactions administered or enforced by the requesting authority.

"(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—The Board may, in the Board's discretion, investigate and collect information and evidence pertinent to a request for assistance under subparagraph (A). Any such investigation shall comply with the laws of the United States and the policies and procedures of the Board.

"(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the Board shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of the Board or any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.

"(D) TREATMENT OF FOREIGN BANKING AUTHORITY.—For purposes of any Federal law or Board regulation relating to the collection or transfer of information by the Board or any appropriate Federal banking agency, the foreign banking authority shall be treated as another appropriate Federal banking agency.

"(3) RULE OF CONSTRUCTION.—Paragraphs (1) and (2) shall not be construed to limit the authority of the Board or any other Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter.".

(d) FOREIGN INVESTIGATIONS BY BOARD AS CONSERVATOR OR LIQUIDATING AGENT.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by inserting after subsection (q) (as added by section 2128(b) of this title) the following new subsection:

"(r) FOREIGN INVESTIGATIONS.—The Board, as conservator or liquidating agent of any insured credit union and for purposes of carrying out any power, authority, or duty with respect to an insured credit union—

"(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 206(u); and

"(2) may maintain an office to coordinate foreign investigations or investigations on behalf of foreign banking authorities.".

SEC. 2133. EXTENSION OF STATUTE OF LIMITATIONS FOR CIVIL PENALTIES.

Section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833a) is amended by adding at the end the following:

"(g) STATUTE OF LIMITATIONS.—A civil action under this section may not be commenced later than 10 years after the cause of action accrues.".

SEC. 2134. CLARIFICATION OF SUBPOENA AUTHORITY FOR FDIC, RTC, AND NCUA ACTING AS CONSERVATOR, RECEIVER, OR LIQUIDATING AGENT.

(a) FDIC AND RTC AUTHORITY.—Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by redesignating subparagraph (I) as subparagraph (J) and by inserting after subparagraph (H) the following new subparagraph:

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—The Corporation may, as conservator, receiver, or exclusive manager and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution (including determining any claim against the institution and determining and realizing upon any asset of any person in the course of collecting money due the institution), exercise any power established under section 8(n), and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.

"(ii) AUTHORITY OF BOARD OF DIRECTORS.—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Board of Directors or their designees (or, in the case of a subpoena or subpoena duces tecum issued by the Resolution Trust Corporation under this subparagraph and section 21A(b)(4), only by, or with the written approval of, the Board of Directors of such Corporation or their designees).

"(iii) RULE OF CONSTRUCTION.—This subsection shall not be construed as limiting any rights that the Corporation, in any capacity, might otherwise have under section 10(c) of this Act.".

(b) NCUA AUTHORITY.—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by redesignating subparagraph (I) (as so redesignated by section 2122(b) of this title) as subparagraph (J) and by inserting after subparagraph (H) (as added by such section) the following new subparagraph:

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—The Board may, as conservator or liquidating agent and for purposes of carrying out any power, authority, or duty with respect to an insured credit union (including determining any claim against the credit union and determining and realizing upon any asset of any person in the course of collecting money due the credit union), exercise any power established under section 206(p), and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.

"(ii) AUTHORITY OF BOARD.—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Board or their designees.

"(iii) RULE OF CONSTRUCTION.—This subsection shall not be construed as limiting any rights that the Board, in any capacity, might otherwise have under section 206(p).".

Subtitle D—Structural Reforms To Improve the Federal Response to Crimes Affecting Financial Institutions

SEC. 2141. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT.

(a) ESTABLISHMENT.—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be headed by a special counsel (hereafter in this subtitle referred to as the "Special Counsel").

(b) RESPONSIBILITY.—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

(c) SUNSET.—The provisions of this section shall cease to apply at the end of the 5-year period beginning on the date of the enactment of this Act.

SEC. 2142. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL.

(a) APPOINTMENT.—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Special Counsel shall—

(1) supervise and coordinate investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry, including, to the extent consistent with the independent counsel provision of chapter 40 of title 28, United States Code, any such activity by any current or former elected official or high-level executive branch official or any member of the immediate family of any such official;

(2) ensure that Federal law relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

(3) ensure that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(c) COMPENSATION.—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

SEC. 2143. ASSIGNMENT OF PERSONNEL.

There shall be assigned to the Financial Institutions Fraud Unit such personnel as the Attorney General deems necessary to provide an appropriate level of enforcement activity in the area of fraud and other criminal activity in and against the financial services industry.

SEC. 2144. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.

(a) ESTABLISHMENT.—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available to investigate and prosecute crimes in or against financial institutions and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

(b) SUPERVISION.—The Attorney General shall determine how each task force shall be supervised and may provide for the supervision of any task force by the Special Counsel.

(c) SENIOR INTERAGENCY GROUP.—(1) The Attorney General shall establish a senior interagency group to assist in identifying the most significant financial institution fraud cases and in allocating investigative and prosecutorial resources where they are most needed.

(2) The senior interagency group shall be chaired by the Assistant Attorney General for the Criminal Division and shall include senior officials from—

(A) the Department of Justice;

(B) the Department of the Treasury;

(C) the Office of Thrift Supervision;

(D) the Resolution Trust Corporation;

(E) the Federal Deposit Insurance Corporation;

(F) the Office of the Comptroller of the Currency;

(G) the Board of Governors of the Federal Reserve System; and

(H) the National Credit Union Administration.

(3) This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.

SEC. 2145. INTERAGENCY COORDINATION.

(a) IN GENERAL.—The Attorney General may accept, and a department or agency of the United States may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of such department or agency to assist the Department of Justice in the investigation and prosecution of criminal or unlawful activity in or against financial institutions.

(b) AUTHORITY AND SUPERVISION OF DETAILED PERSONNEL.—Any attorney of any department or agency of the United States whose services are accepted pursuant to subsection (a), may, subject to the general supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform, whether or not the attorney is a resident of the district in which the proceeding is brought. Any law enforcement personnel or other employee of a Federal department or agency whose services are accepted pursuant to subsection (a) shall also serve subject to the general supervision of the Attorney General.

SEC. 2146. ADDITIONAL AUTHORITY FOR THE SECRET SERVICE.

(a) IN GENERAL.—Section 3056(b)(1) of title 18, United States Code, is amended—

(1) by inserting "financial institutions, and the Resolution Trust Corporation, and concurrent with the authority of any other Federal law enforcement agency," after "land bank associations,";

(2) by inserting "215," after "213,";

(3) by inserting "656," after "493,";

(4) by inserting "1005," after "709,"; and

(5) by inserting "1341 or 1343 affecting a financial institution, 1344, 1510(b)," after "1014,".

(b) SUPERVISION BY ATTORNEY GENERAL.—Investigations conducted pursuant to the authority conferred by these amendments shall be at the direction and under the supervision of the Attorney General.

(c) EFFECT OF AMENDMENTS.—The amendments made by this section—

(1) shall not alter the authority of any other Federal law enforcement agency;

(2) shall expire coterminously with the authority of the Resolution Trust Corporation.

Subtitle E—Reporting Requirements

SEC. 2151. REPORTING REQUIREMENTS.

(a) IN GENERAL.—The Attorney General shall report quarterly to Congress regarding activities of the Department of Justice with respect to crimes affecting financial institutions.

(b) CONTENTS OF REPORTS.—The report shall contain the following information to be assembled according to judicial district:

(1) The number of criminal referrals received by the Department of Justice.

(2) A breakdown of the referrals by the following loss categories:

(A) Under $25,000.

(B) $25,000 to $99,999.

(C) $100,000 to $499,999.

(D) $500,000 to $999,999.

(E) $1,000,000 and above.

(3) Actions taken with respect to the referrals.

(4) The number, and status of investigations, prosecutions, and civil actions.

(5) A description of sentences obtained pursuant to conviction.

(6) The number and type (investigator, prosecutor) of resources allocated in pursuit of these investigations, prosecutions, and civil actions.

SEC. 2152. REPORT ON COURT BUSINESS IMPACT OF SAVINGS AND LOAN CRISIS.

Section 604(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(24) Lay before Congress, annually, statistical tables that will accurately reflect the business imposed on the Federal courts by the savings and loan crisis.".

Subtitle F—National Commission on Financial Institution Reform, Recovery, and Enforcement

SEC. 2161. COMMISSION ESTABLISHED.

There is hereby established a commission to be known as the National Commission on Financial Institution Reform, Recovery, and Enforcement (hereafter in this subtitle referred to as the "Commission").

SEC. 2162. DUTIES OF COMMISSION.

The Commission shall—

(1) investigate the causes of the savings and loan crisis, including the role of Government regulation, supervision, and deposit insurance, as well as economic and competitive factors;

(2) recommend methods and procedures for disposition of assets held by the Resolution Trust Corporation;

(3) recommend methods and procedures for regulation and supervision of the financial services industry;

(4) recommend methods for financing financial services industry resolutions;

(5) recommend any other administrative or legislative action necessary or appropriate to protect the safety and soundness of the financial services industry;

(6) recommend methods and procedures for improving interagency cooperation in the investigation and prosecution of financial crimes;

(7) investigate and develop recommendations for strategies and specific tactics for law enforcement officers for the successful investigation and prosecution of financial crimes;

(8) investigate the causes of fraud and abuse in the financial services industry; and

(9) recommend any other administrative or legislative actions necessary or appropriate to prevent financial crimes from occurring in the future.

SEC. 2163. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed as follows:

(1) 4 individuals appointed by the President.

(2) 4 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(3) 4 individuals appointed by the President pro tempore of the Senate, 3 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate.

(b) TERMS.—

(1) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) PROHIBITION ON COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with

sections 5702 and 5703 of title 5, United States Code.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(e) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the Commission from among the members of the Commission.

(f) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

SEC. 2164. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—

(1) IN GENERAL.—The Commission may, for the purpose of carrying out this title, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) ADMINISTRATION OF OATHS.—The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission.

(2) ADMINISTRATIVE ASPECTS OF SUBPOENA.—

(A) ATTENDANCE OR PRODUCTION AT DESIGNATED SITE.—The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) FEES AND TRAVEL EXPENSES.—Persons served with a subpoena under this subsection shall be paid the same fees and mileage for travel within the United States that are paid witnesses in Federal courts.

(C) NO LIABILITY FOR OTHER EXPENSES.—The Commission and the United States shall not be liable for any expense, other than an expense described in subparagraph (B), incurred in connection with the production of any evidence under this subsection.

(3) FAILURE TO OBEY A SUBPOENA.—

(A) APPLICATION TO COURT.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a district court of the United States for an order requiring that person to appear before the Commission to give testimony or produce evidence, as the case may be, relating to the matter under investigation.

(B) JURISDICTION OF COURT.—The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business.

(C) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (3) may be served in the judicial district in which the person required to be served resides or may be found.

(d) OBTAINING OFFICIAL DATA.—

(1) AUTHORITY TO OBTAIN.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this subtitle.

(2) PROCEDURE.—Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish the information requested to the Commission.

(3) UNAUTHORIZED RELEASE OF CONFIDENTIAL MATERIAL.—

(A) OFFENSE ESTABLISHED.—Any member of the Commission and any person employed by the Commission under this subtitle who discloses the name of any borrower from any insured depository institution or the collateral for any loan made by any such institution without the prior written consent of the appropriate Federal banking agency, shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to information provided—

(i) to any court of competent jurisdiction, the Congress of the United States, either House of the Congress, or any committee of the Congress or either House which is authorized by the Congress or such House to obtain such information; and

(ii) at the direction of the court, the Congress, either House of Congress, or any such committee.

(C) DEFINITIONS.—For purposes of subparagraph (A), the terms "insured depository institution" and "appropriate Federal banking agency" have the meanings given to such term by subsections (c)(2) and (q), respectively, of section 3 of the Federal Deposit Insurance Act.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

SEC. 2165. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this subtitle.

SEC. 2166. REPORTS.

(a) INTERIM REPORTS.—The Commission may submit to the President and the Congress such interim reports as the Commission considers appropriate.

(b) FINAL REPORT.—

(1) REQUIRED.—The Commission shall submit a final report to the President and the Congress before the end of the 1-year period beginning on the date of the enactment of this Act.

(2) CONTENTS.—The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with such recommendations for legislation or administrative action as the Commission considers appropriate.

SEC. 2167. TERMINATION.

The Commission shall terminate on 30 days after submitting the final report pursuant to section 2166(b)(1).

SEC. 2168. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated not to exceed $1,000,000 to carry out the purposes of this subtitle.

Subtitle G—Authorizations

SEC. 2171. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR BANK CRIME CASES.

Section 966(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—There are authorized to be appropriated to the Attorney General, without fiscal year limitation, $153,000,000 for each of fiscal years 1991 through 1993, for purposes of investigations, prosecutions, and civil proceedings involving financial institutions to which the Act and amendments made by this Act apply.

"(2) ALLOCATIONS.—With respect to fiscal years 1991 and 1992, the amount authorized to be appropriated under paragraph (1) shall be allocated as follows:

"(A) Federal Bureau of Investigation: $100,000,000.

"(B) The offices of the United States attorneys: $39,000,000.

"(C) The criminal division of the Department of Justice: $3,000,000.

"(D) The civil division of the Department of Justice: $10,000,000.

"(E) The tax division of the Department of Justice: $1,000,000.".

SEC. 2172. AUTHORIZING ADDITIONAL FUNDS FOR THE FEDERAL JUDICIARY.

Section 967 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

"SEC. 967. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL JUDICIARY.

"(a) IN GENERAL.—There are authorized to be appropriated to the Federal court system $25,000,000 for fiscal year 1991 and $28,000,000 for each of fiscal years 1992 and 1993 to carry out the Federal court system's increased duties resulting from this Act, title XXI of the Comprehensive Crime Control Act of 1990, and amendments made by such Act or title to other provisions of law.

"(b) ADDITIONAL AUTHORIZATION.—Sums authorized by this section shall be in addition to any other authorization of appropriation for such purposes.".

TITLE XXII—MISCELLANEOUS

SEC. 2201. AUTHORIZATION OF APPROPRIATIONS FOR HUMANITARIAN EXPENSES.

(a) FEDERAL BUREAU OF INVESTIGATION.—For each fiscal year beginning after September 30, 1990, there is authorized to be appropriated for the Federal Bureau of Investigation $25,000, to be expended in the discretion of the Director of the Federal Bureau of Investigation to pay humanitarian expenses incurred—

(1) by an employee of the Bureau as a result of serious illness, serious injury, or death occurring while on official business; or

(2) by any member of the immediate family of such employee, incident to the serious illness, serious injury, or death of such employee occurring while on official business.

(b) Drug Enforcement Administration.—For each fiscal year beginning after September 30, 1990, there is authorized to be appropriated for the Drug Enforcement Administration $25,000, to be expended in the discretion of the Administrator of the Drug Enforcement Administration to pay humanitarian expenses incurred—

(1) by an employee of the Administration as a result of serious illness, serious injury, or death occurring while on official business; or

(2) by any member of the immediate family of such employee, incident to the serious illness, serious injury, or death of such employee occurring while on official business.

SEC. 2202. LOTTERIES.

Section 1307 of title 18, United States Code, is amended—

(1) in subsection (a)(1) by inserting ", except a sports-related lottery," after "lottery";

(2) in subsection (a)(2) by inserting ", except a sports-related lottery," after "lottery";

(3) in subsection (b)(1) by inserting ", except a sports-related lottery," after "lottery";

(4) in subsection (b)(2) by inserting ", except a sports-related lottery," after "lottery";

(5) in subsection (d) by striking " 'Lottery' does not include the placing or accepting of bets or wagers on sporting events or contests."; and

(6) by adding at the end the following:

"(e) For purposes of this section—

"(1) the term 'sports-related lottery' means an undertaking—

"(A) that involves the sale of tickets or chances and the awarding of cash or prizes based, directly or indirectly, on the games of a professional or amateur sporting event or contest, other than a horse race, and

"(B) which is—

"(i) conducted by a State acting under authority of State law;

"(ii) conducted by a not-for-profit organization or a governmental organization; or

"(iii) conducted as a promotional activity by a commercial organization and is clearly occasional and ancillary to the primary business of that organization; and

"(2) the term a 'not-for-profit organization' means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.".

SEC. 2203. INELIGIBILITY FOR FEDERAL BENEFITS.

Section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a) is amended to read as follows:

"SEC. 5301. INELIGIBILITY FOR FEDERAL BENEFITS.

"(a) IN GENERAL.—Any individual, other than a person who has not attained the age of 18 years—

"(1) who is—

"(A) convicted of a drug or narcotic offense that consists of the distribution of a controlled substance; and

"(B) sentenced to a term of imprisonment that is not suspended or made probationary and exceeds one year; or

"(2) who is convicted of two or more drug or narcotic offenses within a 10-year period;

shall be ineligible for any Federal benefit during the period described in subsection (b).

"(b) PERIOD OF INELIGIBILITY.—The period of ineligibility referred to in subsection (a) begins on the date of the conviction creating the ineligibility and ends—

"(1) 10 years thereafter if the ineligibility is under subsection (a)(1);

"(2) 5 years thereafter if the ineligibility is under subsection (a)(2); or

"(3) the date (not later than the date otherwise provided under paragraph (1) or (2)) when the individual completes a supervised drug rehabilitation program after becoming ineligible under this section or has otherwise been rehabilitated.

"(c) SUSPENSION OF PERIOD OF INELIGIBILITY.—The period of ineligibility referred to in subsection (a) shall be suspended during any period in which the individual is successfully participating in a drug treatment program or seeking admission to a drug treatment program the completion of which would qualify such individual for termination of ineligibility under subsection (b).

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'Federal benefit'—

"(A) means any grant, contract, loan, license, or public housing provided by an agency of the United States or by appropriated funds of the United States;

"(B) includes a veteran's benefit (other than a benefit described in subparagraph (C)), but only if the offense giving rise to the ineligibility consisted of the distribution of a controlled substance; and

"(C) does not include any retirement, welfare, social security, health, disability, or other similar benefit; and

"(2) the term 'drug or narcotic offense' means an offense defined as a drug or narcotic offense in section 404(c) of the Controlled Substances Act;

"(3) the term 'drug treatment program' means any drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, local or tribal health, law enforcement, or other appropriate agency.

"(e) RULES.—The Secretary of Health and Human Services shall make rules to carry out this section.

"(f) NOTICE.—The Secretary of Health and Human Services and the Attorney General shall take steps to assure that the provisions of this section are disseminated to the public, to courts, prosecutors and the criminal defense bar.

"(g) EFFECTIVE DATE.—This section as amended by the Comprehensive Crime Control Act of 1990 shall take effect on the same date as the rules of the Secretary of Health and Human Services implementing this section take effect."

SEC. 2204. CODIFICATION OF EXCEPTIONS TO EXCLUSIONARY RULE.

Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States if the evidence—

(1) was obtained in reasonable reliance on a search warrant issued by a detached and neutral magistrate even though the warrant is ultimately determined to be invalid, unless—

(A) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

(B) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

(C) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid;

(2) would have inevitably been lawfully discovered within a reasonable time in essentially the same condition; or

(3) was obtained pursuant to a valid warrant, which was based on facts from an independent source, unconnected to unlawfully discovered evidence or unlawful action.

SEC. 2205. RAILROAD POLICE AUTHORITY.

A railroad police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of any State shall, in accordance with regulations issued by the Secretary of Transportation, be authorized to enforce the laws of any jurisdiction in which the rail carrier owns property, for the purpose of protecting—

(1) the employees, passengers, or patrons of the rail carrier;

(2) the property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and materials moving via railroad that are vital to the national defense,

to the extent of the authority of a police officer properly certified or commissioned under the laws of that jurisdiction.

SEC. 2206. CLARIFICATION OF MANDATORY MINIMUM PENALTY FOR SERIOUS CRACK POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended in the third sentence by striking "shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both," and inserting "shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000,".

SEC. 2207. CORRECTION OF AN ERROR RELATING TO THE QUANTITY OF METHAMPHETAMINE NECESSARY TO TRIGGER A MANDATORY MINIMUM PENALTY.

Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by striking "or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting "or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 2208. CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO METHAMPHETAMINE.

(a) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended—

(1) by striking "or" at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting "; or"; and

(3) by adding at the end the following:

"(H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

(b) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended—

(1) by striking "or" at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting "; or"; and

(3) by adding at the end the following:

"(H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

SEC. 2209. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN FEDERAL PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the following: "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting "(d)".

SEC. 2210. CONFORMING AMENDMENT TO DEFINITION OF MENTAL ELEMENT TERM IN THE MONEY LAUNDERING STATUTE.

Section 1956(c)(1) of title 18, United States Code, is amended by striking "under State or Federal law" and inserting "under State, Federal, or foreign law".

SEC. 2211. CONFORMING AMENDMENT TO CONSPIRACY AND ATTEMPT PENALTY UNDER THE MARITIME DRUG LAW ENFORCEMENT ACT.

Section 3(j) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(j)) is amended by striking "is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment" and inserting "shall be subject to the same penalties as those".

SEC. 2212. SPECIAL RULE FOR CERTAIN HABEAS CORPUS PETITIONS RELATING TO DEATH SENTENCES.

(a) IN GENERAL.—Any existing race bias claim, whether or not previously raised or determined, may be raised in a proceeding commenced under chapter 153 of title 28, United States Code, not later than 1 year after the date of the enactment of this Act and shall be determined on the merits. In determining the merits of that claim, the law in effect at the time of the determination shall apply.

(b) DEFINITION.—As used in this subsection, the term "existing race bias claim" means a claim of race discrimination, or bias on the basis of race—

(1) made by a person seeking relief with respect to a sentence of death imposed before the date of the enactment of this Act; and

(2) based on a Supreme Court decision announced before such date of enactment.

SEC. 2213. EXPANSION OF THE PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM.

Section 1761(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(2) by striking the matter preceding paragraph (2), as redesignated by paragraph (1) of this section, and inserting the following:

"(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who—

"(1) are participating in one of not more than 50 non-Federal prison work pilot-programs designated by the Director of the Bureau of Justice Assistance; and".

TITLE XXIII—REVENUE PROVISIONS

SEC. 001. UNDERCOVER OPERATIONS OF INTERNAL REVENUE SERVICE.

(a) EXTENSION OF PROGRAM.—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by striking "1989" and "1990" and inserting "1991" and "1992", respectively.

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of undercover investigative operations of the Internal Revenue Service which were conducted using any authority provided in subsection (c) of section 7608 of the Internal Revenue Code of 1986. The study shall include an evaluation of—

(A) the use of the proceeds of such operations,

(B) the results of such operations, and

(C) the financial audits conducted by the Internal Revenue Service under such subsection.

(2) REPORT.—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

SEC. 002. DISCLOSURE OF RETURNS ON CERTAIN CASH TRANSACTIONS.

(a) EXTENSION OF PROGRAM.—Paragraph (3) of section 7601(b) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by striking "2-year period" inserting "4-year period".

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the disclosure of returns to Federal agencies under paragraph (8) of section 6103(i) of the Internal Revenue Code of 1986. The study shall include an evaluation of—

(A) the Federal agencies requesting disclosure under such paragraph,

(B) the use of the information so disclosed, and

(C) the effect of the use of such information on the administration of Federal criminal statutes.

(2) REPORT.—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

SEC. 003. FELONY CLASSIFICATION FOR FAILURE TO FILE RETURN ON CERTAIN CASH TRANSACTIONS.

(a) IN GENERAL.—The last sentence of section 7203 of the Internal Revenue Code of 1986 (relating to willful failure to file return, etc.) is amended by striking "by substituting" and inserting "by substituting 'felony' for 'misdemeanor' and".

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the criminal penalties established under section 7203 of the Internal Revenue Code of 1986 for violations of section 6050I of such Code. The study shall include an evaluation of—

(A) the number of cases in which such penalties have been sought for such violations, and

(B) any change in the effectiveness of such penalties by reason of the amendment made by subsection (a).

(2) REPORT.—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

SEC. 004. CONFIDENTIALITY OF TAX RETURN INFORMATION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, no commission established by this Act shall have access to any return or return information, except to the extent authorized by section 6103 of the Internal Revenue Code of 1986.

(b) DEFINITIONS.—For purposes of this section, the terms "return" and "return information" have the respective meanings given such terms by section 6103(b) of the Internal Revenue Code of 1986.

SEC. 005. DENIAL OF DEDUCTION FOR RESTITUTION IN CONNECTION WITH FINANCIAL INSTITUTION OFFENSES.

(a) IN GENERAL.—Section 162 of the Internal Revenue Code of 1986 (relating to deduction for trade or business expenses) is amended by inserting after subsection (h) the following new subsection:

"(i) RESTITUTION IN CONNECTION WITH FINANCIAL INSTITUTION OFFENSES.

"(1) IN GENERAL.—No deduction shall be allowed under this chapter for any specified restitution paid or incurred in connection with any financial institution offense.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) SPECIFIED RESTITUTION.—The term 'specified restitution' means restitution ordered under section 3663 of title 18, United States Code, to be paid to or for the benefit of the United States or any agency or instrumentality of the United States.

"(B) FINANCIAL INSTITUTION OFFENSE.—The term 'financial institution offense' means—

"(i) any offense referred to in section 3293 of title 18, United States Code, or

"(ii) any violation of, or conspiracy to violate, section 226, 1032, or 1517 of such title."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to restitution ordered under section 3663 of title 18,

United States Code, after the date of the enactment of this Act.

The CHAIRMAN. Only amendments printed in part 2 of the House Report 101-796 are in order to the substitute, as modified. Such amendments shall be considered in the order and manner specified in House Report 101-796, shall be considered as having been read, shall not be subject to amendment, and shall be indivisible. Debate time specified in the report shall be equally divided and controlled by the proponent and a Member opposed.

The chairman of the Committee on the Judiciary may offer at any time amendments printed in part 2 of House Report 101-796 en bloc. Such amendments en bloc shall be considered as read, shall not be subject to amendment, and are indivisible. The amendments en bloc shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The original proponents of the amendments en bloc have permission to insert statements in the CONGRESSIONAL RECORD immediately before the disposition of the amendments en bloc.

It shall be in order to consider the amendment numbered 6 offered by Representative HUGHES of New Jersey en bloc. If both amendments numbered 14 and 15 are adopted, only the latter amendment which is adopted shall be considered as finally adopted and reported back to the House.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CONYERS: Strike section 102.

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment would strike section 102 of H.R. 5269, which establishes a permanent program under title 10, United States Code, requiring transfer of certain unneeded Defense Department real property to non-Federal public agencies for correctional facility uses.

Section 102 of H.R. 5269 conflicts with the clear, well-understood system of property utilization and disposal under the Federal Property Act and title V of the Stewart B. McKinney Homeless Assistance Act. Under that title, unneeded Federal real property that is determined by GSA to be suitable, is made available for the increasingly urgent needs of organizations and local governments that provide assistance to the homeless. Section 102 of this bill disregards the needs of the homeless and Federal agencies by eliminating their access to this surplus property.

Mr. Chairman, section 102 of H.R. 5269 is unnecessary. Its purposes can be served by existing law and policies. In 1984, the Congress added section 203(p) to the Federal Property Act and Administrative Services Act of 1949, authorizing no-cost transfers of surplus real and related personal property to States and political subdivisions for correctional facilities, which include correctional options. Thus, the legal authority to use unneeded Department of Defense [DOD] property for correctional options already exists.

The General Services Administration [GSA] and the Department of Justice [DOJ] already have in place procedures which give preference for unneeded DOD property for correctional facilities including those under the correctional options program. Our staff has been in touch with the GSA and Justice Department officials directly concerned with the implementation of section 203(p). It is the considered judgment of those officials that current procedures appear to be working very well and that potential beneficiaries under the correctional options program could be effectively served under the existing section 203(p) program.

The procedures established in section 102 would also create a sharp deviation from the long-established property-disposal policies, requirements, and procedure of the Federal Property Act. That statute is within the legislative jurisdiction of the Committee on Government Operations, which has maintained a continuous, intensive watchfulness over the property utilization and disposal provisions of the 1949 act. Therefore, any proposed legislative impingement on the purpose and effect of those provisions becomes a matter of prime concern to the Committee on Government Operations.

I received a letter yesterday from Maria Foscarinis, executive director of the National Law Center on Homelessness and Poverty urging support for this amendment. In her letter she states, "Over 3 million people are still homeless. Congress must ensure its commitment to its poorest citizens. The situation is still urgent, and the need is still dire." She urges that we keep the priorities of the McKinney Act intact and for Congress to strike section 102 of the crime bill.

I respectfully urge that my colleagues support me in offering my amendment to strike section 102 of H.R. 5269.

□ 1510

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] is recognized for 5 minutes.

Mr. HUGHES. Mr. Chairman, I yield myself 2 minutes. I rise in opposition to the amendment. As the gentleman knows, this amendment strikes section 102 of title I which is the correctional options or intermediate sanction portion of the crime bill. This title, I believe, can have the most positive influence on the major problem in our criminal justice system today, overpopulated correctional systems.

This crisis is due not only to the number of people in our correctional systems, an estimated 1 million today, which has doubled since the early 1980's, but also to the recidivism rates of these systems which vary between 40 percent to 60 percent.

The Crime Subcommittee's extensive hearings on this subject indicate we are, by and large, merely warehousing many defendants at incredible costs varying from $43 to $113 per inmate per day and then releasing them to a society as more adept and often more savage criminals. To be sure, we have incapacitated them for a short time, but with the present prison overcrowding, there is really no way to find out what is wrong with them or what can be done to enable them to cope in the outside world even if they wanted to.

At this juncture, I will emphasize that we must continue to build more prisons for certain violent and intransigent offenders and require long sentences under maximum security. For them we must provide traditional prison space and the Department of Justice and the General Services Administration are helping in this area already through their normal procedures. Yet, with an average per inmate construction cost ranging from $22,000 to almost $40,000, we cannot afford to keep producing these individuals at the rate we did in the 1980's.

As a matter of policy, however, we need not follow this endless and mindless path for many of our defendants.

Our hearings have also shown us that there are successful alternative community-based programs out in the country that do work. Whether it be the privately sponsored Paint Creek Youth Center in Cincinnati, OH, or the New Jersey State Court's intensive supervision program, there are concrete examples of alternative approaches that can lead us out of this very expensive revolving door.

This title would assist in this alternative process and would provide critical financial assistance to develop and test correctional options around the country. This could include, for example, community-based incarceration, weekend incarceration, boot camp prisons, intensive probation and other punishments designed to respond to the nature of a defendant's offense and have the greatest impact on offenders who can be punished more effectively in one of these alternative programs.

What section 102 would do is allow, and I want to emphasize this, allow the transfer of a maximum of four excess military installations a year for 2 years to State and local public agencies for the use of these proposed correctional options projects. This would only be done after certification by the Attorney General that these properties are to be used for correctional options. The amendment exempts property and facilities designated under title II of the defense authorization amendments and base closure and realignment act which are needed to finance the consolidated program envisioned by that act. Under the 1984 Comprehensive Crime Act, the Federal Government [GSA] already can transfer excess Federal property on a nonreimbursement basis to State and local governments for correctional purposes. What this section would do is give these correctional experiments priority over other Federal agency proposals for the use of these facilities.

Section 102 was worked out with the Armed Services Committee and the gentleman from Michigan, as a member of the Subcommittee on Crime and the Committee on the Judiciary, was well aware of this procedure during that process, but I am hearing of his problems only now.

I believe that if there are a maximum of eight excess military installations over 2 years that would facilitate this worthwhile experiment, it is the least we can do. In so doing, we will not simply punish but provide opportunities for certain offenders who may be able to change their behavior.

I urge my colleagues to reject the motion to strike section 102.

Mr. Chairman, I yield 2½ minutes to my colleague, the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I wholeheartedly concur with what the distinguished chairman of the Subcommittee on Crime had to say just then. We have the most pressing problem in all of criminal justice today, as overcrowding in our State prisons. We are letting hundreds, thousands of convicted felons back out on the streets, far too soon, and most of them demonstrate or at least a very high percentage, that they are not, indeed, now all of a sudden rehabilitated. They go out and commit other crimes. It is the repeat offenders that are the big problem: repeat, repeat, repeat, repeat, We cannot keep them off the streets. We need the place to build the jails and house the people, and the military excess property in the bill is where it should come from.

I, too, share concern over the homeless, but this is a very limited program. If I had my way, it would be a bigger program. I think we need to build extra prisons at low cost to house prisoners. So the amendment is bad. I respect the gentleman from Michigan [Mr. CONYERS], but I urge its defeat.

Mr. HUGHES. Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, I rise in opposition to the Conyers amendment. I agree with the gentleman from New Jersey [Mr. HUGHES] and the gentleman from Florida [Mr. MCCOLLUM].

I have had extensive experience with the systems that we have in Florida as an attorney, and it is essential that we expand our available options with these military bases. Therefore, I must rise in opposition to the amendment of the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, before we become hysterical on the very first amendment, I would like the gentleman who chairs the Subcommittee on Crime and my friend on the Committee on the Judiciary to know that I am totally supportive of correction options being used for surplus property.

I come to the floor as the chairman of the Government Operations to reassure the gentleman that this already exists, and what we are doing is not just for 2 years. What we are doing is saying that this is going to happen at the rate of four pieces of property, military property, every year. I would merely point out to the gentleman that under the Federal Project Act authorizing no-cost transfers of surplus real and related property to States and political subdivisions for correctional facilities, which include correctional options that already exist in the law.

This would be disturbing that order of preference as the Department of Justice has already told Members.

Mr. HUGHES. Mr. Chairman, I yield 45 seconds to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I would like to ask the gentleman from Michigan [Mr. CONYERS] if it is not true that there is no bar now to a legitimate request from the prison authority to the GSA and to other authorities to get release of that property now?

Mr. CONYERS. Will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Michigan.

Mr. CONYERS. That is precisely what I have been trying to say in my 5 minutes is that the Department of Justice is perfectly satisfied with the way the correctional options work in authorizing no-cost tranfers now, and this amendment inadvertently would be destabilizing the process that already exists.

Mr. HUGHES. Mr. Chairman, I say to my colleague that I think this provision is one of the few things that the Department of Justice likes about the bill, in that we are giving a priority, and it is only eight projects, eight projects, because it is only a 2-year authorization, four in each year.

For that reason, I would urge my colleagues to reject the amendment, if Members are serious about the crime problem and want to do something about prison overcrowding. This is the only game in town. Reject the amendment.

Mrs. SCHROEDER. Mr. Chairman, I rise in opposition to the Conyers amendment to strike section 102. Section 102 does what many of my colleagues have been clamoring to do for the last couple of years: Use closed military bases for prisons. As chairwoman of the Military Installations and Facilities Subcommittee of Armed Services, I have fought earlier efforts to do this because they would undermine the 1988 base closure law, under which we successfully closed 86 bases.

Section 102 deals with future base closures and I can assure my colleagues that there will be plenty. The Department of Defense is going on a diet and will lose 25 percent of its weight over the next 5 years. While most of those cuts can and should be made abroad, some domestic bases will be hit.

Section 102 requires conveyances of property to certain public agencies if the Attorney General certifies the need for the facilities for use as prisons, drug treatment centers, or boot camp incarceration facilities. No more than four properties a year may be so conveyed.

My good friend, JOHN CONYERS, objects primarily on jurisdictional grounds. And, there is no doubt that changing the priority listing for the disposal of surplus Federal property falls squarely within the jurisdiction of Government Operations. But, what we are voting on here is not committee jurisdictions. We are voting on the right public policy. I believe that section 102, which transfers closed military bases for prisons, is the right policy.

I urge a "no" vote on the Conyers amendment.

Mr. VENTO. Mr. Chairman, I rise in support of the Conyers amendment to the Comprehensive Crime Control Act of 1990 which will protect the provisions of title V of the McKinney Homeless Assistance Act with regard to surplus Federal property.

Current law is clear, Mr. Chairman that following the determination that the Federal Government has no use for a property, that property should become available for use as a facility for the homeless. Despite the apparent simplicity, this portion of the law has been extremely difficult to enforce and in fact, is now

basically being implemented by a court order. We do not need to complicate this law any further. That is why the Conyers amendment is so important.

Mr. Chairman, I do not deny that the need for prisons is great. The law provides, however, an opportunity for the Federal Government and in fact, the State and local governments to access this property for correctional facilities' use. Instead of adding more layers to the bureaucracy of Federal surplus property law, we should be simplifying it for all uses—prisons, homeless facilities, or other uses.

The gentleman from Michigan and the gentlewoman from Illinois [Mrs. COLLINS] have been instrumental in assuring that Federal surplus property law isn't squandered while the needs of our homeless are so great. Indeed, as we proceed to consider the McKinney amendments in the House and in a future conference, I look forward to their continued good work on technical corrections to the surplus properties title of the McKinney Homeless Assistance Act—corrections that will further foster the viability of this program.

I urge my colleagues to support this amendment which will allow current law to work as it was designed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to the order of the House earlier today, this vote will be postponed until after debate on all four amendments.

It is now in order to consider amendment No. 2, presented in part 2 of House Report 101-796.

□ 1520

AMENDMENT OFFERED BY MR. BUSTAMANTE

Mr. BUSTAMANTE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The Clerk read as follows:

Amendment offered by Mr. BUSTAMANTE: Page 19, strike line 1 and all that follows through line 14 on page 25 (sections 106 and 107).

The CHAIRMAN. The gentleman from Texas [Mr. BUSTAMANTE] will be recognized for 10 minutes, and a Member opposed to the amendment will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, over the past several years, our Nation's war on drugs has been hampered by the myth that this war is only being fought in the streets of our major cities. That's why, Mr. Chairman, I am offering an amendment to strike a provision in the bill known as the Mazzoli amendment, which would essentially defund rural antidrug task forces nationwide. The administration and most State Governors across the country oppose the Mazzoli amendment because they believe, as do I, that it would undermine our war on drugs by taking away from law enforcement one of its most effective weapons—the rural antidrug task force. For Members to have a proper context in which to make an informed decision on this issue, I believe a little legislative history is now in order. In 1986, Congress enacted the first Omnibus Anti-Drug Act, which included a provision allowing Federal funding for State and local drug enforcement initiatives.

Under the 1986 act, the States are permitted to draw up statewide antidrug strategies and to distribute Federal drug enforcement funding based on that statewide plan. In Texas, New York, Pennsylvania, and most other States, Statewide antidrug strategies have been formulated on the basis not of getting the most Federal funding to the largest populations, but on the principle of getting Federal funding to the areas with the greatest need. To preserve this original provision of the 1986 Antidrug Act, which up to this point has worked exceedingly well, I have offerred this amendment. Opponents of my amendment will try to convince you that no rural task forces will be adversely affected by the current language in the bill. They are wrong. Over 1,000 multijurisdictional antidrug programs will be defunded as a result of the Mazzoli amendment. My opponents will try to also convince you that cities receving a direct allocation under the Mazzoli language in the bill will do so solely on a voluntary basis. They will try to give you the argument that large cities will be allowed to maintain the status quo if they want to.

But who do they think they're fooling. With the opportunity to get their hands directly on Federal antidrug funding, you can bet your bottom dollar that the majority of cities are going to do so to the detriment of rural America. The fact that we've made direct allocations to large cities voluntary is just another way of saying that they have congressional permission to take from the drug enforcement funding and allocate whatever meager funding is left over to communities with 300,000 or less in population. Whether this ransacking of Federal funding for State and local drug enforcement is done voluntarily or not, the effect is the same: Our war on drugs will be substantially crippled. I say that objectively as a Congressman who represents one of the 10 largest cities in the United States—San Antonio, TX. I also represent a south Texas rural community in which large quantities of illegal drugs are interdicted daily by rural antidrug task forces.

Rural America is on the frontline of the war on drugs. Rural America is our first line of defense against the illegal drugs. So if you want to go back and tell your constituents that you are truly working to solve the drug epidemic, then vote for the Bustamante amendment.

I urge Members to support my amendment. Show your constituents that you are tough on illegal drugs and fair to rural and middle America.

To do otherwise, my colleagues, would leave our borders virtually defenseless to the flow of illegal drugs and result in a major retrenchment on the war on drugs.

Mr. Chairman. I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I rise in strong support of the Bustamante amendment to strike sections 106 and 107 from this bill. Sections 106 and 107 change law that has been in effect—and worked well—for 4 years. In providing for direct funding, sections 106 and 107 bypass State coordination of the war on drugs and frustrate the intent of Congress.

You may have heard complaints that antidrug money is bogged down in State bureaucracies. But look a little more closely. States are already required by law to respond to applications within 45 days. And in many instances, some of the localities that are complaining most vocally have not even applied for their share of the funds.

We have also heard complaints, no doubt, that big cities haven't been getting a big enough share of the Federal antidrug money. States are also required by law to pass through a certain percentage—generally around 60 percent—of their block grant to localities. In many cases, the States have responded above and beyond the call of duty, voluntarily passing through a much greater percentage of the money than they are required to do.

We have heard that direct funding is a voluntary option. But its not an option for any locality or group of localities with less than $50,000 in local criminal justice expnditures. In small towns where the folks have trouble paying their sheriffs without the help of State and Federal law enforcement funds, that $50,000 threshold is tough to meet.

Let us not forget how much it would cost to implement direct funding. The Census Bureau has the necessary criminal justice expenditure data for only 49 cities with 300,000-plus population, and for only 72 large counties. Aggregate data for smaller jurisdictions is available, but what we need for direct funding is individual data—and that's not available. The Bureau of

Justice statistics estimates that the collection of this data would take up to 18 months and cost $3 million. Our summiteer colleagues are already frantically trying to come up with a budget agreement. Do we want to spend another $3 million to fix something that ain't broke?

States are best able to look at the big picture and allocate these funds based on the cooperative State strategy. We all know that to fight the war on drugs, we must work as a team. No matter how talented our individual players are, if they run haphazardly about the field, lacking central coordination by the coach, our ultimate performance will be mediocre at best. The direct funding provisions that the Judiciary Committee agreed to at the last minute will effectively take the coach out of the game. Let us stick with the strategy, work as a team, and win the war on drugs.

Mr. BUSTAMANTE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas.

The Federal funds provided to State governments under the Drug Control and System Improvement Grant Program play a vital role in assisting State and local law enforcement officers on the front lines of the battle against the drug dealers peddling death on our Nation's streets.

The current funding formula for this program provides States a sufficient degree of flexibility in allocating their funds to achieve the most bang for the buck. In my own State of Texas, the funds have been used to implement a statewide network of drug law enforcement task forces that has achieved tremendous success. Many of these task forces are located in rural, sparsely populated areas. These rural task forces concentrate on locating and destroying secret drug laboratories and on intercepting drugs coming across the border and landing on airstrips in those rural counties—before they reach the major cities.

The provisions in the bill providing for direct entitlement passthrough funding to major metropolitan areas on a strict formula basis poses a grave threat to continued funding for smaller communities in Texas—and I am sure the same can be said for many other States as well. It is essential to preserve the flexibility needed to design drug fighting strategies tailored to the varying circumstances found in different States. The gentleman's amendment would achieve this goal and I urge my colleagues to support it.

Mr. BUSTAMANTE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, we have a saying out in the country, "If it's not broke, don't fix it."

Under the Anti-Drug Act of 1986, we set up a funding mechanism that gave each State the discretion on how to allocate its anti-drug funds. With that discretion, over 1,000 multi-jurisdictional anti-drug task forces have been set up across this country. These task forces are working wonderfully. They are fighting the war on drugs, and in many people's opinion they are winning the war on drugs.

The current bill changes the funding mechanism, ostensibly because urban areas have not received their fair share of antidrug grants. Actually, the reverse is true. Under the existing funding mechanism, urban areas have received funds. In my State of Texas there have been significant funds awarded to the Houston area, the Dallas area, the Forth Worth area, and the San Antonio area, but we have also given antidrug funds to the rural areas of Texas.

I guess an analogy would be for fire protection. Obviously, if you are in downtown Houston or downtown New York, you have a greater need in a concentrated area for fire protection, but that does not mean there are no fires out in the rural areas around. The same thing holds true for drugs. Drugs are everywhere. In many cases drugs are transported in the rural areas. They are manufactured in the rural areas and they are stored in the rural areas.

The current funding mechanism gives the States the discretion to set the antidrug forces up where the need is, where there is a demand and that is out in the rural areas.

Mr. Chairman, I would urge adoption of the Bustamante amendment. It basically retains current law. It is current law that has been working.

Mr. BUSTAMANTE. Mr. Chairman, I yield 2 minutes to my friend, the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I appreciate the gentleman from Texas [Mr. BUSTAMANTE] yielding me this time. I also appreciate the opportunity to cosponsor this amendment with him.

Mr. Chairman, we are here today to discuss an issue that is quite critical to fighting the war on drugs here in our country. Instead of preserving the current drug grant program and allowing States to target moneys according to need, the crime bill would directly fund localities based solely on past criminal justice expenditures. Striking these direct funding provisions is critical, Mr. Chairman, to the continued success of this program.

In discussing defense policy, being a member of the Armed Services Committee, I also discuss the need for a strategy, a blueprint, for national security. In the war on drugs as well as military battles, we must have coordinated efforts and not individual, disjointed efforts. With current budget constraints, distributing money based solely on statistical data would be penny wise and pound foolish. The direct funding mechanism would undo statewide strategies that have been in place now for 4 years. It is critical to the continued success of this program that States maintain the flexibility to target resources where they are most needed.

The most effective component of these drug control strategies is the use of multijurisdictional task forces, most of which will be rendered obsolete if the direct funding language is not removed. Currently, more than 1,000 task forces combine several jurisdictions and levels of government in cooperative efforts. The drug trade knows no jurisdictional boundaries, Mr. Chairman. We must maintain funding for task forces which have been the cornerstone of this program.

I am pleased to join the gentleman from Texas [Mr. BUSTAMANTE] on this. I congratulate my colleague, the gentleman from Missouri [Mr. EMERSON] who has been so active on this amendment. It is indeed needed if we are to continue the strong fight against drugs in our country.

Mr. BUSTAMANTE. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise before you in strong support of the Bustamante-Skelton amendment which strikes a provision in the bill that will seriously jeopardize rural law enforcement efforts to reduce criminal activity associated with drug crimes. The current funding formula which this body established in 1986 and again in 1988 during consideration of anticrime legislation required the States to establish a coordinated, comprehensive, statewide strategy to fight the war on drugs. In my home State of Texas this strategy has worked well, very well. Forty-two of the forty-nine Texas antidrug task forces serve rural jurisdictions.

Here is an example of what they have done: 89 percent of all illicit drugs were seized by rural task forces; 81 percent of all drug related arrests were effected by rural task forces; and 57 percent of all clandestine labs were seized by rural task forces.

Look folks, if it ain't broke, don't fix it. This program works. I ask my colleagues to join me in support of the Bustamante-Skelton amendment which will retain current law and strikes provisions in the bill which will adversely affect a perfectly good program which is helping law enforcement to get the upper hand on illegal drug activity.

Mr. BUSTAMANTE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. WILSON].

Mr. WILSON. Mr. Chairman, I will not take the full 2 minutes, but I would like to rise in very, very strong support of this amendment.

There are three task forces that operate in my congressional district. I

have spent time with all three of them. They have all three been extremely effective. They have been the cause of an enormous number of arrests and the cause of an enormous number of amphetamine labs being shut down in the rural areas of Texas. I just cannot stress how important this is to us.

I would like to point out to the urban Members that if we do not have Federal assistance with drug law enforcement in the rural areas, it simply means that the rural areas will become havens for drug operators and would have a seriously bad effect on the cities, as well as the rural areas.

□ 1530

Mr. BUSTAMANTE. Mr. Chairman, I reserve the balance of my time.

Mr. MAZZOLI. Mr. Chairman, I rise to claim time for those in opposition to the gentleman's amendment.

The CHAIRMAN. The gentleman from Kentucky [Mr. MAZZOLI] is recognized for 10 minutes.

Mr. MAZZOLI. I thank the Chair.

Mr. Chairman, I rise in opposition to the gentleman's amendment, and I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, listening to this debate, you would not recognize the problem. The problem is a turf problem. We wrote the legislation out of my subcommittee many years ago with an automatic passthrough to the State and local governments on the basis of the amount of money they expended on the criminal justice system. Surprise; the States have not done that. So now all the committees around the country, the Mayors Conference, and so forth, are complaining because they have not gotten a fair share of what was always intended to be their moneys.

It is no argument to suggest that it is rural versus urban issue or that in some way they are not going to participate in the planning process or that in some way we are not going to have these multijurisdictional initiatives such as the task force operations.

I represent a very, very rural district. My largest city is about 50,000 people. It is very rural.

I would not be supporting something that is going to inure to the detriment of the rural areas around the country. That is a red herring.

The fact of the matter is we are going to continue to have statewide planning, but if we have an automatic passthrough as we always envisioned, the mayors throughout the country are going to get what they are entitled to. As it is now, they are not getting what they are entitled to because the States are only passing a portion of the money through to the municipalities.

Insofar as the multijurisdictional entities, we are going to still have the task force operation because there is every incentive in the bill for the jurisdictions to work together, to try to deal with the crime problem, the drug problems, in rural areas in particular.

Finally, municipalities will be better assured of participating in the planning process if in fact we have the automatic passthrough. That is not the case now. They are not participating, in many jurisdictions, in the statewide planning process. They have been left out of the loop. That is why we supported this in the full committee and that is why this is the exact formula we wrote in the 1988 bill. It is interesting, the same ones who are opposing it today voted for it in 1988 and in previous bills.

This has always been the automatic passthrough. We changed it, unfortunately, in 1988.

Mr. MAZZOLI. Mr. Chairman, I yield myself 2 minutes in opposition to the gentleman's amendment.

I would, with great respect to my friend from Texas, who is the offeror of the amendment, say that I really do not think there is anything mischievous about this amendment that would somehow unwittingly hurt the rural areas of the country. What this is meant to do, Mr. Chairman, is one very simple thing, and that is to put the money where the problem is.

The money, which is currently at the State level, distributed under existing law, does come through the local areas but only after application grants are filed and only then after time elapses and sometimes the need is otherwise taken care of.

It should also be noted that the money would come through under the Mazzoli amendment, which is in this bill, and the language we are trying to preserve, it would come to the local areas in proportion to which they are using their own local funds. In effect, this money is granted to those who have already made the commitment of local funds.

This would, I think, once again sanctify the principle that we try to put our resources where the real problems exist. The problems are clearly, in America, in rural areas as well as urban areas, but they do tend to be more exaggerated in urban areas like the one I am privileged to represent.

That is way we are trying to make this mechanism, which as the gentleman from New Jersey aptly pointed out, was in the 1988 bill, we want to say that those communities that are exercising their own initiatives and spending their own money for antidrug efforts are able to receive passthrough from the State those Federal moneys which are granted for the purpose of fighting crime, particularly the drug-related crimes at the local level.

So I see this to be a carrying out of the highest traditions of Federal, State, local participation; Federal, State, local partnership, and I certainly believe that the amendment offered by my friend from Texas ought to be defeated.

Mr. Chairman, I yield 3 minutes to my congressional classmate, the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I thank the gentleman.

I rise in opposition to the amendment.

I would like to point out that this is nothing that we should be fighting each other on the floor about because it is the local governments and State governments that are spending $53 billion a year in this war, and we are talking about $330 million, or less than 1 percent. The existing law that is in the bill that is being struck does not change any formulas, does not give anything to cities that they are not already entitled to. And they must participate and put their money up before they are considered.

The only thing that we are saying is that it is not working the way Congress intended for it to work before; that we have 20 States that have not passed through three-fourths of their money to the cities. The cities cannot plan or depend on what the Congress promised. State capitals are not where the trenches are; the trenches are in the cities.

This does not take away from any suburban community or any rural community. We are not talking about $1 less being given to someone else that has not proven that they are eligible for it.

So we are asking, do not change this. It went through the Crime Subcommittee before, it went through the Judiciary, passed the House. The Conference of Mayors, the League of Cities say all of this makes sense. We are not taking anything away from the Governors.

All we are saying to the statehouses if that the congressional formula dictates that these cities are eligible, that these cities that put up their own tax levy money, for God's sake, let it pass to them directly without it getting hooked up in a bureaucracy.

If the States are doing such a great job that the mayors want to be hooked up directly with them and wait for their funds to come, then they can just opt out of this plan and say, "I like the way the Governor is doing it, and I can wait for the money to come if it comes."

But when you find 20 States that are saying that as of mid-August none of the cities has received any of the money, then you know it is time for us not to change the direct passthrough,

as written in the law or as written in this legislation, but we should support it.

I have the statement here which says three-fourths of the money, in August, they have not awarded any of the funds received under the block grants to cities, and the 20 States are listed here, and these facts come from the Justice Department.

Mr. MAZZOLI. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I think it is important to remember what the gentleman from New York, my esteemed congressional classmate, has said, and that is that there are now many cities which have waited for the bulk of this fiscal year without having received their passthrough money.

I am proud to report that the city of Louisville and the county of Jefferson are very well treated by the State of Kentucky from Frankfurt. Basically, the money comes through with reasonable dispatch.

But as the gentleman from New York [Mr. RANGEL] has said, that is not the norm, that is not the case across the country. So I would just respectfully ask our colleagues, those who are here and those who are not in the Chamber to think very carefully on this amendment.

This language in the bill, this language is the language that was reported by our distinguished colleague, the gentleman from New Jersey [Mr. HUGHES], 2 years ago, passed by this body 2 years ago, incorporated into the bill until it went to conference.

It certainly does not do anything that is unworkable. As a matter of fact, it might make this whole antidrug effort workable because it once again, Mr. Chairman, would put the money where the problems are. That is in the finest interest of law enforcement in this country.

Mr. BUSTAMANTE. Mr. Chairman, I yield 30 seconds to my friend, the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. I thank the gentleman for yielding.

I just rise to support his amendment. I think it is essential Members know, from the States' perspective and from the administration's perspective the bill, the provisions in the bill as they are now would cripple the ability of States to coordinate drug and crime efforts. So I support his efforts to let the States control those efforts. I support the amendment. I think the gentleman has offered a good one.

□ 1540

Mr. BUSTAMANTE. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Chairman, I support the amendment of the gentleman from Texas [Mr. BUSTAMANTE] and the gentleman from Missouri [Mr. SKELTON]. I think it is a good amendment, and I would appreciate if my colleagues would vote in favor of it.

Mr. Chairman, I rise today in support of the Bustamante/Skelton/Smith/Wilson amendment which would strike a provision in the 1990 crime bill that would allow direct funding for antidrug moneys. If direct funding is allowed, most of the antinarcotic money would go to the larger cities. My State, Texas, works on a multijurisdictional drug enforcement program; if this provision is kept intact, these task forces will be gone. My congressional district reaches the Texas-Mexico border. Three county drug enforcement task forces in my district would lose an estimated $1.2 million. Due to their proximity to the United States-Mexico border, these task forces play an important and dangerous role in interdicting drugs in south Texas. I realize larger, urban areas have severe drug problems, but without these task forces, a larger percentage of drugs are going to make it into this country much easier. I urge my colleagues to support this amendment and make sure that all money to combat drugs does not only go the large urban areas.

Mr. BUSTAMANTE. Mr. Chairman, let me say that some of our friends have said that the formula that my friend from Kentucky has devised under his amendment is one that will allow some of the big cities to share in this. If this is to take place, we understand that there will be over 1,000 cities that would be left without funding, and most of the cities under 300,000 would be in the rural areas.

Mr. Chairman, I ask my colleagues to support the Bustamante amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BUSTAMANTE].

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUGHES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. A recorded vote is ordered. Due to the order of the House earlier today, we will postpone the vote until after all four amendments designated have been heard.

It is now in order to consider amendment No. 3 printed in part 2 of House Report 101-796.

For what purpose does the gentleman from New York rise?

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SOLOMON: Section 108, after line 13, insert the following:

"(4) Any person convicted of a violation of a Federal or State drug offense who is below the legal age to obtain a driver's license, shall be ineligible to obtain a driver's license for one year after their legal application for such a license.".

Section 108, line 14, strike "(4)", and insert "(5)".

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. SOLOMON] will be recognized for 5 minutes, and any Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I would like to commend the committee for including in the crime bill provisions similar to my amendment which passed this House a month ago and called for the suspension of driver's licenses for individuals convicted of drug offenses. I support this provision, and my amendment is simply technical in nature to clarify the language in the bill. My original amendment, which now is in the Department of Transportation appropriation bill, temporarily suspended all driver's licenses of convicted drug felons. This amendment before us today suspends and delays future driver's licenses of beginning drivers, young people.

Mr. Chairman, everyone in this Chamber knows about the effect of peer pressure on our young kids. Think about how this Nation's drug crisis is affecting our own children. They are vulnerable, and it is frightening to think that they are being pressured to try drugs as early as 11 years old, maybe even younger.

Mr. Chairman, today I am introducing an amendment which requires a youth who is convicted of a drug offense to have his right to drive suspended for 1 year from the date of his application to receive such a permit. That means when a 14-year-old is convicted of a drug offense, and they are being convicted out there at that age, that 1 year suspension of his driver's license privileges does not begin at 15 years old, when he is eligible to learn to drive. The suspension begins from the date he applies for his driver's license.

Mr. Chairman, this would send a strong message to our youth at a time in their lives when they are yearning for that great rite of passage into adulthood, their driver's license, and even more importantly, it would give them a very good reason to resist peer pressure and say no to drugs.

When a drugpusher walks up to a 14-year-old and says try it, use it, that teenager can reply no thanks. I want to be able to drive.

Congress not only has a responsibility to its voters, but to everyone. We must help our impressionable, vulnerable children. We must send out the message that we are not going to tolerate drug use anymore! And I would urge the adoption of my amendment.

Also, Mr. Chairman, I would like to request that my statement which ap-

peared in the August 23 edition of USA Today entitled, "Yank Highway Funds if Licenses Aren't Lifted," be printed in the CONGRESSIONAL RECORD.

YANK HIGHWAY FUNDS IF LICENSES AREN'T LIFTED

(By Gerald B. Solomon)

LAKE GEORGE, N.Y.—Recently, the House of Representatives overwhelmingly approved my proposal to cut federal highway funds to states which fail to suspend the driver's licenses of individuals convicted of drug offenses.

The states of New Jersey and Oregon have implemented this law with great success. Last year alone, New Jersey suspended the driver's licenses of 10,000 drug offenders. My proposal encourages all 50 states to implement similar laws.

As a conservative congressman, I have opposed the federal government placing new requirements on state governments. Yet, given the seriousness of the drug crisis, I felt it was necessary to make an exception. I would also note that my amendment passed with most of the states' rights advocates in Congress voting in the affirmative.

The taxpayers are spending billions of dollars on drug interdiction, education and rehabilitation, and we're jailing pushers by the thousands. Yet people are asking, where are the results? We could jail every pusher in the world today and new ones would pop up tomorrow because of the enormous profits from the deadly trade.

There is only one solution to this crisis and that is to reduce the demand for illegal drugs. My initiative, the suspension of driver's licenses, will cost the taxpayers little but will decrease the demand for drugs created by casual users.

It's time to realize that casual drug use is a major part of the drug problem. According to a recent Rand Corp. study 78% of cocaine users live in the suburbs. The study concluded that the most effective strategies involve stiffening the sanctions on drug users, particularly the non-poor, so-called "recreational" users.

The money derived from the sale and casual use of drugs has caused the death of thousands of law-enforcement officials. The drug trade is also destroying the lives of a large segment of an entire generation. Today, one in six inner-city youths are arrested and charged with drug distribution. Within 10 years, the ratio will be closer to one in three. Casual users must be held accountable.

Conditioning the privilege of driving to the responsibility of staying drug free sends a meaningful message to our youth at a time in their lives when they are yearning for that great rite of passage into adulthood, obtaining their drivers licenses.

When people were asked by the Gallup Organization if they would support penalties against casual users of illegal drugs, such as temporary suspension of a driver's license, their response was 85% in support, 11% in opposition and 2% undecided.

Money and rhetoric aren't going to win the war against drugs. Casual drug users are going to finance the drug trade as long as they go unpunished. We can show that we are serious about putting an end to casual drug use in this country by linking privileges such as driving to the responsibility of remaining drug free.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I strongly support the amendment. We have been attempting for a number of years to find ways to get States to withdraw the privilege of driving for anybody who has been convicted of drug possession or use. The amendment of the gentleman from New York [Mr. SOLOMON] is a very specialized amendment dealing with a young person under age. I think that it is a minimum that should be in the law today so they cannot get the driving privileges if they have been convicted for 1 year, and I am very pleased the gentleman from New York [Mr. SOLOMON] organized this amendment, and I support it.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman from Florida [Mr. MCCOLLUM]; he has certainly been a leader in this field, and we take our hats off to him.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BARTON].

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, I rise in strong support of the Solomon amendment that would require States to prohibit minors from obtaining a drivers license if they have been convicted of a drug-related offense. The ability to obtain a driver's license is a privilege not a right.

A minor convicted of a drug-related offense has not shown that he or she has the responsibility to be given a driver's license. I believe adoption of the Solomon amendment will greatly reduce the number of fatalities and injuries associated with minors involved in drunk or drug impaired accidents. If a teenager knows that he or she will lose the freedom of driver's license for 1 year, then they may think twice about drug use.

I urge my colleagues to join me in supporting the Solomon amendment and do something that will be extremely effective in combating teenage drug abuse.

Mr. SOLOMON. Mr. Chairman, I yield back the balance of my time.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment of the gentleman from New York [Mr. SOLOMON].

Mr. Chairman, I rise in reluctant opposition to the amendment of the gentleman from New York [Mr. SOLOMON] because I consider the gentleman to be a very thoughtful, deliberate Member of this body, and, if we were in the State legislature, I would be joining the gentleman as his cosponsor.

However, Mr. Chairman, we are not in the State legislature, we are in the Congress, and it is a State legislature that decides whether or not somebody should drive and under what conditions they should drive. They license in the various States the drivers. They determine whose license is to be revoked and on what grounds.

Mr. Chairman, I just do not think it is the province of the Federal Government to be using a hammer to try to get the States to pass legislation that we think they should pass.

Mr. Chairman, New Jersey has a very similar piece of legislation, and I say to my colleague, the gentleman from New York, that, if I were in the State legislature, I would have supported this bill. I think it is a good initiative. There is nothing that hits young people harder than the realization that, when they have done something wrong, they are not going to get their driver's license. That is probably more severe punishment than a flogging.

So, Mr. Chairman, I agree with the amendment of the gentleman from New York [Mr. SOLOMON]. It is just that to deprive the State of 10 percent of their State assistance funds because they do not have a piece of legislation in place I do not think is good Federal legislation. I do not think that is good policy. We have got enough problems at the Federal level trying to deal with Federal problems without telling States how they should run their own trains.

So, I reluctantly rise in opposition to the amendment of the gentleman from New York [Mr. SOLOMON].

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MRS. MARTIN OF ILLINOIS

Mrs. MARTIN of Illinois. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. MARTIN of Illinois: At the end of title I of the bill add the following (and conform the table of contents of the bill accordingly):

SEC. 110. TESTING CERTAIN SEX OFFENDERS FOR HUMAN IMMUNODEFICIENCY VIRUS.

Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756), as amended by sections 107(c) and 108, is amended—

(1) in subsection (a)(1) by striking "subsection (e)" and inserting "subsections (e) and (f)",

(2) by redesignating subsection (f) as subsection (g), and

(3) by inserting after subsection (e) the following:

"(f)(1) For any fiscal year beginning more than 2 years after the effective date of this subsection—

"(A) 90 percent of the funds consideration subsection (e) but without regard to this subsection, to a State described in para-

graph (2) shall be distributed by the Director to such State; and

"(B) 10 percent of such amount shall be allocated equally among States that are not affected by the operation of subparagraph (A).

"(2) Paragraph (1)(A) refers to a State that does not have in effect, and does not enforce, in such fiscal year, a law that requires the State at the request of the victim of a sexual act—

"(A) to administer, to the defendant convicted under State law of such sexual act, a test to detect in such defendant the presence of the etiologic agent for acquired immune deficiency syndrome; and

"(B) to disclose the results of such tests to such defendant and to the victim of such sexual act.

"(3) For purposes of this subsection—

"(A) the term 'convicted' includes adjudicated under juvenile proceedings; and

"(B) the term 'sexual act' has the meaning given such term in subparagraph (A) or (B) of section 2245(1) of title 18, United States Code.".

The CHAIRMAN. Under the rule, the gentlewoman from Illinois [Mrs. MARTIN] will be recognized for 5 minutes, and Members opposed will be recognized for 5 minutes.

The Chair recognizes the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Chairman, I am offering this amendment to the Comprehensive Crime Control Act to facilitate the ability of a rape victim to find out if, through the attack, there could have been exposure to the AIDS virus. It is an amendment intended to help rape victims, who already face the difficulty of trying to recover and regain control of their lives, from being victimized again—this time by the legal system.

My amendment creates a new section, section 110, in title I of this bill. Section 110 revises the Drug Control and System Improvement Formula Grant Program, currently used by States to develop and implement programs to provide assistance to victims of crimes.

Under the provisions of the amendment I offer, a State will lose 10 percent of its grant allocation if it does not have in effect and enforce a law requiring a defendant who has been convicted of the crime of rape to be tested for the presence of the AIDS virus. The test would be conducted at the request of the victim, and the results would be disclosed to both the victim and the convicted defendant. States would have 2 years to comply with the minimum standard.

I offer this amendment because rape victims should not have to live in fear about exposure to the AIDS virus. Illinois, my home State, requires mandatory AIDS testing of convicted rapists. Illinois is one of only 16 States, however, that either authorize or mandate AIDS testing in cases of rape and permits disclosure of the test results to the victim. My amendment simply says all States should make it possible for rape victims to find out if they have been placed at risk. They have the right to know. This does not replace rape counseling which is also needed.

Mr. Chairman, through legislation we cannot hope to alleviate all the pain and anguish experienced by rape victims. We can, however, demonstrate our compassion by preventing further traumatization of these victims who also face the possibility of exposure to the AIDS virus.

I urge my colleagues to support this amendment.

□ 1550

The National Network of Victims of Sexual Assault supported this amendment. I ask Members to support it.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. For what purpose does the gentleman from New Jersey [Mr. HUGHES] arise?

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] is recognized for 5 minutes.

Mr. HUGHES. Mr. Chairman, I once again rise in reluctant opposition. If we were in the State legislature I would be joining with the gentlewoman from Illinois [Mrs. MARTIN]. What happened to the concept of States rights around here? Frankly, I do not think anyone would argue that a victim of rape should not be given the right to demand that her attacker, once convicted, should be tested for AIDS. I would suspect that nobody would argue with that. But we are talking about street crime, and we do not prosecute street crime at the Federal level.

If this legislation were directed to a Federal statute and a Federal initiative, I would not be arguing against it. But it is directed to State laws. Here once again we are going to use a hammer to persuade the States that they should have such a law, and if they do not, we are going to take away 10 percent of their State and local assistance. That is terrible public policy.

Mr. Chairman, I could think of a dozen things I would like to see my State do. I can think of one way I could do it, since basically we have developed in my Subcommittee on Crime the State and Local Assistance Program. I could have started that 10 years ago when we first worked on that, when Hal Sawyer of Michigan and I developed the State and Local Assistance Program back in the early 1980's. I could have easily told the States the things I want them to change. But I think that that would be a terrible way to try to sledgehammer the States into adopting legislation that they in their wisdom should decide what to do about.

I hope that Members would reject this amendment. It is terrible public policy for the Federal Government to be telling the States what to do. We have enough to get our own house in order around here and deal with our problems, which are immense, without telling the States how to run their business.

Mr. Chairman, I reserve the balance of my time.

Mrs. MARTIN of Illinois. Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. MCCOLLUM], the ranking minority leader on this subcommittee.

Mr. MCCOLLUM. Mr. Chairman, I thank the gentlewoman for yielding. I strongly support the Martin amendment. I respect States rights, but I do not respect that argument. I know the gentleman from New Jersey [Mr. HUGHES] and I differ on our ability to control Federal funds up here. I do not think the States have any right to these funds, and we have every right to carve out exceptions if they do not comply with what we want.

Mr. Chairman, the gentlewoman from Illinois [Mrs. MARTIN] is asking for some provisions in the law that require testing for HIV virus in rape victims. It seems perfectly logical that States comply. I urge support of the Martin amendment.

Mrs. MARTIN of Illinois. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, a few facts: The courts have recognized the right of the Federal Government and this Congress to draw legislation in precisely this manner. We are talking about a time that has moved ahead for States. I believe States will quickly pass this. Just as the gentleman says, we will be acting as a leader here.

Mr. Chairman, I regret that victims, who might therefore miss the chance for this knowledge under the archaic argument that the courts have already really thrown out of States rights, ignore ultimately the victims' rights.

A few items might convince Members: 32 percent of those convicted of rape were under the influence of drugs at the time of the offense. Since one of the primary means of transmitting AIDS is through the sharing of needles, the possibility that the rapist might be infected with the AIDS virus exists.

The most recent data shows that convicted rapists are more likely to repeat the crime of rape than convicted persons of other crimes. Released rapists were 10½ more times likely than nonrapists to have a subsequent arrest.

Members of the House, this particular crime affects people in ways I think beyond most of our understanding. I will just say please, accept the chance for Congress to lead, to make an extraordinarily difficult time in a person's life not have to wait for 9

years to find out if something else is the matter.

Mr. Chairman, I ask Members to put that first. I believe a victim should be able to have her voice heard in this House.

Mr. HUGHES. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, let me just take what we are doing to the next step. We just passed a 10-percent takeaway for driver's licenses. This would take away 10 percent if they do not adopt legislation dealing with rape. We have taken 10 percent away for other causes. There will not be any left. So you are going to have States with a State and local assistance program that is going to be meaningless. They will not be able to determine what their priorities are.

Mr. Chairman, I think States are best able to determine where they want to put their resources, whether in the area of drug enforcement, or where. So what we are doing is taking the flexibility away. Each time we pass an amendment that disentitles a State to 10 percent of the money, we are taking away their flexibility and reordering their priorities.

Mr. Chairman, in essence, we have basically taken away their State and local assistance program from them. If in fact we had a situation where States were unwilling to pass important public policy initiatives, and the Congress wants to debate that and pass a sense of the Congress resolution, or an incentive program, such as providing additional moneys for such a program, that would be one thing. We have not done that. What we are going to do is hammer them and say if you do not do this, we are going to take your funds away, when no State has in fact refused to do that.

Mr. Chairman, for all the reasons I have suggested, it is poor policy, and the amendment should be rejected.

Mr. BROWN of Colorado. Mr. Chairman, I rise in support of the Martin amendment which provides that a State would lose 10 percent of the funds it receives under the Drug Control and System Improvement Formula Grant Program if the State does not adopt and enforce a law requiring that a defendant convicted of rape be tested for the AIDS virus.

Should a victim of rape be required to live in fear for months, perhaps years, that she has been exposed to AIDS? The answer is clearly "no." A victim of rape has the right to know whether she has been exposed to the AIDS virus, and this responsible amendment would ensure that rape victims are given the opportunity to know.

We cannot possibly alleviate the trauma suffered by victims of rape. However, we can ensure that a victim of rape, who has already suffered tremendous pain, is not subjected to needless anguish.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois [Mrs. MARTIN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. MARTIN of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to the unanimous consent request previously agreed to, the vote will be delayed until later.

RECONSIDERATION OF ACTION ON CONYERS AMENDMENT

Mr. CONYERS. Mr. Chairman, I ask unanimous consent that the question on amendment No. 1 be put de novo.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. McCOLLUM. Mr. Chairman, reserving the right to object, would the gentleman explain what he is about here so Members generally can understand that?

Mr. CONYERS. Mr. Chairman, if the gentleman will yield, this is the parliamentary method of withdrawing a recorded vote.

Mr. McCOLLUM. The gentleman does not want a recorded vote on this?

Mr. CONYERS. Mr. Chairman, I do not. I wish to merely have it put on a voice vote, and on that we would let the matter rest.

Mr. McCOLLUM. Mr. Chairman, would the Chair clarify the ruling of the Chair on the vote?

The CHAIRMAN. The Chair would advise Members that the previous time this vote was taken, the amendment was defeated on a voice vote. Then the gentleman from Michigan [Mr. CONYERS] asked for a recorded vote.

Mr. McCOLLUM. Mr. Chairman, he is now withdrawing his request and I will withdraw my reservation of objections.

The CHAIRMAN. Under this request, the Chair will put the question de novo, so all Members will have an opportunity once more on this issue. The gentleman from Florida [Mr. MCCOLLUM] has withdrawn his reservation of objection and hearing no objection, it is so ordered

There was no objection.

The CHAIRMAN. The question is on amendment No. 1 offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

So the amendment was rejected.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. BOXER) having assumed the chair, Mr. Bosco, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5269) to control crime had come to no resolution thereon.

□ 1600

MAKING IN ORDER THE CONSIDERATION AND THE POSTPONEMENT OF VOTES ON CERTAIN AMENDMENTS TO H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Mr. BROOKS. Madam Speaker, I ask unanimous consent that it be in order to consider the following numbered amendments in an order other than that prescribed by House Resolution 490: 10, 11, 13, 19, 22, 33, 37, 38, and 39. I further ask unanimous consent that the voting time on any amendment after the first roll call in this series be reduced to 5 minutes and that any recorded votes ordered on these amendments and any prior recorded vote be postponed until later today.

The SPEAKER pro tempore (Mrs. BOXER). Is there objection to the request of the gentleman from Texas?

Mr. McCOLLUM. Madam Speaker, reserving the right to object, I would like to understand which amendments these are. They were read very fast to the minority. We have not seen these before.

My understanding is the gentleman is requesting that the amendments that he listed by number be considered out of order and be considered now, I assume, and that the recorded vote on them be postponed. Is that the way it will work, and then 5-minute votes on them?

Mr. BROOKS. If the gentleman will yield, that is correct.

Mr. McCOLLUM. Could we go back over those numbers again, because the gentleman read them so fast that I could not put them down here.

Mr. BROOKS. Numbers 10, 11, 13, 19, 22, 33, 37, 38.

Mr. McCOLLUM. I will have to object if we cannot get these more slowly. ten, eleven——

Mr. BROOKS. One more time. Surely the gentleman has them by now.

Mr. McCOLLUM. Number 22, what is after 22?

Mr. BROOKS. Numbers. 33, 37, 38, and 39.

Mr. McCOLLUM. Madam Speaker, I would like to be able to consider these for a few moments. I am going to have to object unless I have a chance to look these over and examine what we are dealing with, because, for example, Mr. MOORHEAD is No. 10. I do not even believe the gentleman is here to be able to offer that amendment at this time.

He was not anticipating we would skip over these others, but I do not know where the Members are who may be wanting to offer them. Unfortunately, because of that, I cannot agree to this at this moment in time, though I understand the effort is

trying to avoid some more votes. Perhaps there are a few we can agree to.

Mr. HUGHES. Madam Speaker, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from New Jersey.

Mr. HUGHES. Madam Speaker, I wonder if the chairman would consider removing No. 10, which is the Moorhead amendment, from that list. That is fairly controversial. I would hesitate to rush our colleagues. They should understand that. We have voted on that a couple of times in the last few Congresses. It is an important amendment.

Mr. BROOKS. If the gentleman will yield, do you not want to discuss it?

Mr. HUGHES. I wonder if the chairman would remove that one. Would that satisfy my colleague from Florida, because the rest seem to be fairly noncontroversial?

Mr. McCOLLUM. I understand what everybody is working on here, but we are delaying the consideration of the death penalty altogether here. I am wondering why we are doing that. If we take up all of these numbers, we would not even get to the death penalty provision at all today.

Mr. BROOKS. That is a possibility. We are still waiting on the funeral. Some of the Members have not returned.

Mr. McCOLLUM. I understand the gentleman's concern.

Mr. BROOKS. It was not my original proposal. I did not dream up this idea of hopscotching around the numbered amendments from the Rules Committee.

Mr. McCOLLUM. Madam Speaker, if I could just say, I understand.

Mr. BROOKS. That is the original request the gentleman and I agreed to. I want to extend that so that Members who have gone to the funeral can return. Then we can get back to the regular order.

Mr. McCOLLUM. I understand.

Mr. BROOKS. We will not finish it tonight, I guarantee, and we will quit at 6:30 because I am going to dinner.

Mr. McCOLLUM. I understand what the gentleman is saying in this regard. I am still reserving my right to object.

I would suggest that we take up maybe three of these at a time or four of them.

Mr. BROOKS. And go through this three or four times? This is not going to take long.

Mr. McCOLLUM. Because this gentleman wants to get back to the regular order as soon as possible. The gentleman would be willing to consider amendments 11, 12, and 13 at this point in time. That would take us through at least it looks like 30 or 40 minutes of debate. The Members ought to be back from the funeral by that time.

Mr. BROOKS. Mr. RANGEL is here now and ready to go on his amendment, which is 38 or 39.

Mr. McCOLLUM. If you would like to skip over to that, but I just want all of these numbers not to be taken at one time. Maybe you want to go to 38 and do that first, I do not care about the number, but I care about how many, and I am concerned about how much time is taken up because I would like to see us get back to the regular order as soon as possible.

Mr. BROOKS. Not as much as I would.

Mr. McCOLLUM. I understand. If the gentleman would like to go to the Rangel amendment, No. 38 first, and then maybe 11 and 12, I would be willing to take up about three, but I do not think we ought to skip around and take 6, 8, or 10 of these at one time out of order.

Mr. BROOKS. Why not go then 10, 11, 13?

Mr. McCOLLUM. Not 10. How about 11, 19, and 39. Is that Mr. RANGEL's? Thirty-eight, so it would then be 11, 13, and 38. I would be happy to take those out of order and see those taken out of order.

Mr. BROOKS. Did the gentleman say 19?

Mr. McCOLLUM. Eleven, 19, and 38. If the gentleman could modify his request for those three and then go back to the regular order of business, I would be happy to consider that.

Mr. BROOKS. We are taking up a good bit of time in this debate. We can probably cut that down a couple of more and just argue about it a little more.

The SPEAKER pro tempore. Does the gentleman from Texas modify his request?

Mr. BROOKS. I modify the request, and if the Members do not like that, I would move that.

The SPEAKER pro tempore. That is not a proper motion for the gentleman from Texas at this time. He can restate his unanimous-consent request, and then if the gentleman does not object, we will proceed.

Mr. BROOKS. Proceed.

Mr. McCOLLUM. The unanimous-consent request is amendment 11, 19, and 38 be moved up?

The SPEAKER pro tempore. That is the Chair's understanding.

Mr. McCOLLUM. Continuing to reserve my right to object, we would debate those three amendments, am I correct, and if this is adopted, then we would postpone the votes on those again to the end? Is that what the unanimous-consent request is, those three amendments?

The SPEAKER pro tempore. The gentleman is correct. Those votes would be delayed until after the other postponed votes.

Does the gentleman from Florida still object?

Mr. McCOLLUM. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Thee was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

COMPREHENSIVE CRIME CONTROL ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 490 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5269.

□ 1607

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5269) to control crime, with Mr. Bosco in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, amendments to title 1 had been debated and the votes postponed.

Pursuant to the order of the House of earlier today, it is now in order to consider amendment No. 11 printed in House Report 101-796.

AMENDMENT OFFERED BY MR. MARTINEZ

Mr. MARTINEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MARTINEZ:
Page 76, after line 6, add the following:

PART B—STUDENT LOAN CANCELLATION

SEC. 621. POLICE RECRUITMENT EDUCATION PROGRAM.

(a) AMENDMENT.—Section 465(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; or "; and

(3) by adding at the end the following new subparagraph:

"(F) as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies.".

(b) CONFORMING AMENDMENT.—Section 465(a)(3)(i) of such Act (20 U.S.C. 1087ee(a)(3)(i)) is amended by striking "(A) or (C)" and inserting "(A), (C), or (F)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to loans made on or after the date of enactment of this Act under part E of title IV of Higher Education Act of 1965.

Page 52, after line 18, insert the following:

PART A—JUSTICE DEPARTMENT PROGRAMS

The CHAIRMAN. Under the rule, the gentleman from California [Mr. MARTINEZ] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Police Recruitment and Education Program [PREP], is a simple, much-needed program that will greatly enhance this country's ability to fight crime and demonstrate this Nation's commitment to the war on drugs and crime.

The text of this amendment was favorably reported out of the Committee on Education and Labor by voice vote in July, and has garnered the support of police organizations across the Nation.

PREP builds upon the law enforcement scholarship provision already in the bill and helps bolster the front line in the war on drugs and crime. PREP will increase the number and enhance the skills of this Nation's peace officers by providing an incentive for dedicated and capable youths to pursue a career in law enforcement.

I would like to emphasize the fact that implementation of this program requires only a minimal investment and could be administered using an existing framework.

Last year the Perkins Loan Program maintained a surplus of approximately $10 to $15 million. CBO estimates that my amendment would only cost $8 million after 3 years. It does not cost a great deal of money, and would enhance the ability of police departments to attract dedicated youths into law enforcement.

This amendment simply broadens existing provisions of a Federal student loan program to provide forgiveness of Perkins student loans to those who choose to serve their community on the front lines in the war on drugs and crime.

The front line in this war is the cop on the street. However, in our effort to enact tough anticrime legislation, we forgot the most fundamental element—the police officer.

Over 80 percent of all police departments report severe recruitment and retention shortfalls. While retention levels decline, the number of violent and drug-related crimes continues to spiral upward.

Our effective strength in police per violent crime is one-ninth what it was in 1950's.

As is the inevitable result when demand exceeds supply, the quality of our officers has also suffered.

In effect, police chiefs have been forced into lowering their standards in hiring and promotion decisions in order to meet force personnel requirements.

The bottom line is that with all the publicity surrounding the declared war on drugs and crime, we have not been able to persuade enough dedicated youths to pursue a career in law enforcement and many of those that do enter the force leave after a short time.

The Perkins loan forgiveness program is already available to a specific list of occupations which provide unique and urgently needed benefits to our communities. These include Head Start, chapter 1 and special education teachers, military personnel in areas of hostility, and Peace Corps and VISTA volunteers.

PREP authorizes cancellation of these loans once the officer fulfills his commitment as a full-time sworn officer.

This loan program is the smallest and most needs-tested of all Federal student loan programs. Only the neediest and most dedicated students would benefit from this provision.

This is a simple piece of legislation that is desperately needed.

I have in my hand letters of support and endorsements from police organizations; from Federal agents, cops who walk the beat every day, and police chiefs from every size department. They all say that it is time to backup our anticrime position with practical proven programs.

Mr. Chairman, we have passed numerous anticrime bills and have repeatedly told our constituents that we will get tough on crime. This amendment allows us to put our votes where our speeches are.

□ 1610

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member in opposition?

Mr. HENRY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. HENRY] is recognized for 5 minutes.

Mr. HENRY. Mr. Chairman, I am not going to raise formal objection or call for a vote on the amendment other than to point out here that we have an awkward situation because the consideration of these amendments has come up on a changed calendar, and I know that there were individuals from the Committee on Education and Labor who would have at least liked to have had the membership understand the other side of this question.

Under the budget agreement that we will be voting on tomorrow, the House of Representatives and the Senate, should it be adopted, are going to be challenged in reconciliation with reducing the cost of the Student Loan program by several million dollars each year, several billion dollars, as a matter of fact, in the multiyear agreement.

Every time we carve out an exemption for loan repayment, no matter how meritorious it is, it adds substantially to the cost of the program. No one is questioning the meritorious nature of what is at issue or the gentleman's intent obviously, and the gentleman is correct, we have carved out exceptions for Vista. I am not sure that we have for the Peace Corps. I had not realized we had done that for the Peace Corps.

We attempted, as the gentleman will recall, or members of the committee attempted unsuccessfully just last week or 2 weeks ago to create yet other exemptions in the student-loan repayment for those who work in drug counseling and therapy programs, and if my memory serves me correctly, the House voted to eliminate that loan forgiveness on the basis that you can hardly call this voluntary service if, in fact, you are getting monetary reward.

Here we have a situation where we are already talking about trying to stretch out or create alternative repayment mechanisms for low- and middle-income people who have taken student loans and yet cannot afford currently to repay those loans on the established arbitrage or mortgage schedule for paying off those loans.

To the extent that you have loan forgiveness for some, you are going to make it even harder to create possibilities for those who are having difficulty.

Mr. MARTINEZ. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I am happy to yield to the gentleman from California.

Mr. MARTINEZ. Mr. Chairman, the gentleman is aware that just a couple of weeks ago, we passed out a Republican amendment that gave loan forgiveness to people that work in defense because it is a vital service to our country, $6,000 per year up to $40,000 total. If we can do that for defense, we can certainly do it for law enforcement that in many people's estimation is just as important, and maybe more important, especially when we have said over and over again in our speeches that we want to fight drugs and that we are committed to the war on drugs.

Mr. HENRY. The gentleman knows that I am aware of that, and that is why I am not questioning what is at issue in terms of trying to be of assistance to encourage people to go into law enforcement and to respect that.

I just want to point out to this body that we are going to possibly be charged, by this time tomorrow afternoon, to come up with reconciliation instructions that take several billion dollars out of this program in the next 5 years, and that every time we carve

out an exception such as the gentleman offers, it makes it harder for us to do that, and even under the existing dimensions of authority and obligating authority under this program, we have problems with middle-income people who are working, maybe, and have families and children and trying to figure out alternative means of loan repayment, and for simply that reason, I have to object particularly since no one on our side of the aisle and the committee was given advance notice to be here to represent the other side of the question.

Mr. Chairman, I yield back the balance of my time.

Mr. MARTINEZ. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I rise in support of this amendment, the Police Recruitment and Education Program [PREP], introduced by my California colleague MATTHEW MARTINEZ and hope to see its inclusion in H.R. 5269, the Comprehensive Crime Control Act. I ask unanimous consent to revise and extend my remarks.

Every poll I have seen from my district reveals that crime is the first and foremost concern of my constituents. People want more and better law enforcement to solve the problem, while local law enforcement is undermanned and underequipped to handle the problem.

This amendment goes to the heart of this issue. It is precisely the type of assistance the Federal Government can lend to the local level to solve the law enforcement manpower shortage by increasing the numbers, capabilities, and quality of the local police and sheriff departments. I feel that this program is an ideal vehicle for recruiting qualified, motivated young people and, even more importantly, retaining men and women who have been on the force and are seeking futher education. Working toward further degrees while serving on a police force is very common, especially since the overwhelming majority of officers come to the force with just a high school degree. This legislation would help officers improve themselves and, consequently, improve law enforcement to the community. Finally, the district I represent, Long Beach, is very high cost compared to the rest of the country. Assisting officers in meeting their educational expenses can determine whether higher educational opportunities are pursued at all.

As in any war, it is the strength of the foot soldier that determines victory. Winning the war against drugs and gangs means helping our police officers to the greatest extent we possibly can. The PREP Program will provide the incentive and means for better educated people to choose law enforcement as a career and keep them in that career. It is supported by virtually every major law enforcement organization. Finally no new money will have to be authorized for this program; it simply extends low-interest Perkins loans and the possibility of loan forgiveness to qualified law enforcement officers.

Again, I hope to see this amendment incorporated into the crime bill. This amendment makes a strong bill against crime that much stronger. To effectively combat crime, we must have a good, educated law enforcement team.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MARTINEZ].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 19 printed in part 2 of House Report No. 101-796.

□ 1620

AMENDMENT OFFERED BY MR. SMITH OF TEXAS

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SMITH of Texas:

At the end of title XV, add the following new section (and conform the table of contents accordingly):

SEC. 15. AUTHORIZATION OF ADDITIONAL IMMIGRATION JUDGES FOR DEPORTATION PROCEEDINGS INVOLVING CRIMINAL ALIENS.

There are authorized to be appropriated in each of fiscal years 1991 through 1995 such sums as are necessary to provide for 20 additional immigration judges in the Department of Justice, to be used solely to conduct proceedings under section 242A(d) of the Immigration and Nationality Act (8 U.S.C. 1252a(d)).

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. SMITH] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I would like to say at the outset that I understand there is no opposition to this amendment, by the majority and their support is much appreciated.

Criminal aliens are a real problem. About one-third of our Federal inmate population today are noncitizens. About 77 percent of the noncitizens convicted of felonies go on to be arrested at least one more time. Criminal aliens are currently not being deported. Approximately 30,000 aliens will be arrested for crimes that make them deportable. Yet, for example last year, only 7,000 criminal aliens in that category were actually deported.

This amendment would simply authorized 20 new immigration judges for the purposes of conducting deportation hearings of criminal aliens who are in prison. Current law allows for expedited deportation procedures for aliens convicted of aggravated felonies before the alien is released. Unfortunately, these hearings are not taking place because there are not enough judges. Instead, criminal aliens are released from custody or retained at great expense to the INS.

Mr. Chairman, this amendment would help alleviate those problems by authorizing 20 new immigration judges.

I urge its support.

Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding time to me. I want to rise to express very strong support for this proposal. However, I would like to make the comment that this is a very small portion of what is needed to control the criminal alien problem we have in this country.

We had an opportunity to put the whole package the administration wants out here on the floor for debate, that would have allowed Members to expedite deporting these criminals who are illegal aliens who are in our prisons today. Unfortunately in my judgment, the Committee on Rules did not allow that in the immigration bill the other day, so when we were voting today on that bill earlier, we did not have an opportunity to vote on that subject.

What the gentleman is doing in a small way here today is to get at some of the criminal aliens by the resources that he is putting into this bill. However, I do think that it behooves all Members to work as expeditiously as possible to get expedited procedures into the law as soon as possible to handle the fact that we have these tremendous overcrowding problems in certain regions of the country with illegal aliens who have been convicted of very serious offenses that we simply cannot get deported, both because the resources are not available, we do not have the manpower in the Immigration Service to deal with, and because of the fact that we have a problem in connection with the procedures themselves being rather stiff and extended and protracted.

So while I support the gentleman very strongly, I want to point that out to my colleagues.

Mr. Chairman, I yield to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, we support the amendment. It is a good amendment. The deportation of illegal aliens is a major problem in this country. It certainly is a good first step in the right direction. I would urge my colleagues to support the amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SMITH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RANGEL

The CHAIRMAN. Pursuant to the order of the House of earlier today, it is now in order to consider amendment No. 38 printed in House Report No. 101-796.

Mr. RANGEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RANGEL: Add at the end the following new title:

TITLE .—NATIONAL COMMISSION TO STUDY THE CAUSES OF THE DEMAND FOR DRUGS IN THE UNITED STATES

SEC. 001. ESTABLISHMENT.

There is established a National Commission to Study the Causes of the Demand for Drugs in the United States (referred to in this title as the "Commission").

SEC. 002. DUTIES.

(a) IN GENERAL.—The Commission shall study the causes of drug abuse in the United States and assess the needs of Government at all levels to create a socially supportive environment that reduces the overall desire of individuals to experiment with and abuse illicit drugs.

(b) EXAMINATION.—The Commission shall examine the factors that contribute to drug abuse and the efforts being made to prevent drug abuse, including the following:

(1) CHARACTERISTICS.—The characteristics of potential drug abusers or drug traffickers, including age and social and educational backgrounds.

(2) ENVIRONMENT.—Environmental factors that contribute to drug abuse, including the correlation between unemployment, poverty, and homelessness on drug experimentation and abuse.

(3) FAMILY AND FRIENDS.—The effects of substance abuse by a parent, sibling, grandparent, or friend in contributing to the likelihood and desire of an individual to experiement with illicit drugs.

(4) ATTRACTION.—The physiological and psychological attractiveness of illicit drugs.

(5) EFFORTS OF GOVERNMENTS.—The current status of Federal, State, and local efforts regarding the causes of drug abuse, including a review of existing alternatives being promoted by Federal, State, and local authorities to address the causes of drug abuse.

SEC. 003. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall consist of 13 members as follows:

(1) PRESIDENT.—3 individuals appointed by the President.

(2) SENATE.—5 individuals appointed jointly by the majority and minority leaders of the Senate. Not more than 3 members appointed under this paragraph may be of the same political party. At least 1 member appointed under this paragraph shall be a recovering drug user.

(3) HOUSE OF REPRESENTATIVES.—5 individuals appointed jointly by the Speaker, majority leader, and minority leader of the House of Representatives. Not more than 3 members appointed under this paragraph may be of the same political party. At least 1 member appointed under this paragraph shall be a recovering drug abuser.

(b) PROHIBITION AGAINST OFFICER OR EMPLOYEE.—Each individual appointed under subsection (a) shall not be an officer or employee of any government and shall be qualified to serve the Commission by virtue of education, training, or experience.

(c) DEADLINE FOR APPOINTMENT.—Members of the Commission shall be appointed within 60 days after the date of the enactment of this Act for the life of the Commission.

(d) MEETINGS.—The Commission shall have its headquarters in the District of Columbia, and shall meet at least once each month for a business session that shall be conducted by the Chairperson.

(e) QUORUM.—7 members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRPERSON AND VICE CHAIRPERSON.—The Chairperson and the Vice Chairperson of the Commission shall be designated by the President at the time of appointment.

(g) CONTINUATION OF MEMBERSHIP.—If a member of the Commission later becomes an officer or employee of any government, the individual may continue as a member until a successor is appointed.

(h) VACANCIES.—A vacancy in the Commission shall be filled not later than 30 days after the Commission is informed of the vacancy in the manner in which the original appointment was made.

(i) COMPENSATION.—

(1) NO PAY, ALLOWANCE, OR BENEFIT.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 004. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—The Commission shall have a director appointed by the Chairperson and paid the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the director may appoint personnel as the director considers appropriate.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist in carrying out its duties under this title.

(f) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress, as well as agencies and elected representatives of the executive and legislative branches of government. The Chairperson of the Commission shall make requests in writing where necessary.

(g) PHYSICAL FACILITIES.—The General Services Administration shall find suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning.

SEC. 005. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may conduct public hearings or forums at its discretion, at any time and place it is able to secure facilities and witnesses for the purpose of carrying out its duties.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devices of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devices shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 006. REPORTS.

(a) MONTHLY REPORTS.—The Commission shall submit monthly activity reports to the President and the Congress.

(b) FINAL REPORT.—The Commission shall submit a final report to the President and the Congress not later than 30 days before the termination of the Commission. The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for legislative and administrative action. A strategy for disseminating the report to Federal, State, and local authorities shall be formulated and submitted with the formal presentation to the President and the Congress.

SEC. 007. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $5,000,000 to carry out this title.

SEC. 008. TERMINATION.

The Commission shall cease to exist on the date 2 years after the date the President designated the first chairman of the Commission.

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. RANGEL] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, this amendment creates a national commission to study the causes for the demand for drugs. We are now in a position that millions of dollars are going into this war against drugs, and yet we have yet to come up with any scientific data that can explain to Members why young people are entering the

drug abuse arena, whether black or white, whether they come from affluent families, whether they are poor. It seems to me while we are trying to build bigger jails and larger treatment centers and running toward education and prevention projects, that we really ought to have someone to bring together all of the data that has been created by House and Senate investigative committees, to the private sector, and to see whether or not we can come up with some basic ideas where the Government and the private sector can come together and to see what we are doing wrong that allows so many people to be tempted into getting involved in this dangerous practice of abusing themselves.

So this bill, which will set up a 13-member committee, 3 appointed by the President of the United States, 5 by the House and Senate, including the majority and minorities of the House, we give them 2 years to compile the data and to come back to this Congress, and they are authorized to have public hearings and studies and to work closely with Members to share the information so that at least we would know, not necessarily where we had gone wrong, but what we can really do to set our goals to prevent it from continuously happening.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I want to first of all congratulate the gentleman who is, in addition to being a valued member of the Committee on Ways and Means, he is the chairman of the Select Committee on Narcotics Abuse and Control, on which I serve as a member.

It is amazing that here we are, 10 years into this serious, acute drug epidemic in this country, yet we know so little about the causes and effects of drugs. I was amazed at some of the testimony we took in the Select Committee from Cabinet officers who confessed to Members that there was very little research ongoing, very little information that they could share with Members. Basically, what are some of the attitudinal problems we have to deal with, what are the problems and why are youngsters, in particular, lured to these substances.

The 13-member commission will attempt to enable Members to get at some of the root causes, some of the attitudes we have to deal with. I commend the gentleman for that. I just hope we can do something on the treatment side also to try to better understand, in working with the world community on how we are going to deal with substances like ice. We still do not have any idea how to deal with a craving that ice creates in our young people. I congratulate the gentleman for offering this amendment, and we support it on this side.

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] is recognized for 5 minutes.

Mr. McCOLLUM. Mr. Chairman, I reluctantly oppose the amendment, not because the purposes are not noble, and they are indeed noble. My friend from New York is offering an amendment to do some things that I think need to be done.

However, I rise in opposition because it is already the function of the National Drug Control Strategy, the drug czar, the coordinator from the 1989 and 1990 legislation, to do these things. Mr. Bennett's shop, as I understand, is already involved in research in fields of drug treatment, education, prevention, criminal justice, and all of these programs I think now. What I am suggesting is that this is being done now. I am wondering why the gentleman feels it is necessary to have a separate commission to do this, when we already have it being done, as I understand it, from the administration?

Mr. RANGEL. If the gentleman will yield, I appreciate the gentleman for doing this, and the reasons that the gentleman stated, that it should be unnecessary, is the exact reason why I am doing it. We have had hearings on this. We have had the administration to participate in this. We have included the Secretary of Health and Services, the National Institute of Drug Abuse, and we have reached a conclusion that as President Reagan saw fit with the AIDS epidemic to go outside of the administration to bring in the experts to really focus, the billions of dollars that the Federal Government is adding to the local and State, that we really ought to do it.

Take my word for it, Mr. Bennett has too much on his plate to really sit down and do the type of job that is necessary. We have asked for this. We also had our studies from the General Accounting Office that have told Members that nothing is being done in this area at all. That is the reason we are moving forward.

Some people have said, from your side of the aisle, why shouldn't the committee conduct something like this? I have indicated with the broadest legislative agendas that we have in the House, that this item is just too important to the Nation and the world not to have a sophisticated commission set up very much like former President Reagan's commission was against AIDS, and to come back to our Congress, our Nation, and indeed the world, to tell citizens what we should be doing.

□ 1630

Mr. McCOLLUM. Reclaiming my time, Mr. Chairman, I am not going to call for a recorded vote. I suspect the gentleman will win on a voice vote on this, but I really do believe from all my experience with Mr. Bennett that he is doing a good job in this research and that the work the gentleman wants to be done is indeed going forward. There is $5 million involved for a commission, and another commission is not necessary in a time of budget constraints. If it were, I certainly would be the first one to support it.

But as I said, I suspect the gentleman is going to win this on a voice vote. I am not going to ask for a recorded vote, but I do not think we need another commission.

Mr. RANGEL. Mr. Chairman, I thank the gentleman for his cooperation.

Mr. McCOLLUM. Mr. Chairman, I yield back the balance of my time.

Mr. CONYERS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York [Mr. RANGEL] to establish a commission to study the root causes of drug abuse.

Over the last year I have conducted a comprehensive series of hearings to examine the implementation of the national drug control strategy. In Detroit, in Los Angeles and in Chicago the committee heard testimony about the decline in the casual use of cocaine while simultaneously, inner-city drug use and addiction has increased dramatically.

Increasingly it has become apparent that we are fighting two very different drug wars—and we are only winning one of them. Prevention and education efforts directed at the educated middle class appear to be having a dramatic effect. Treatment programs only have room for clients who can afford to pay.

But meanwhile drugs are causing even greater devastation in our inner cities, populated primarily by poor people and people of color. We will never win this war on drugs until we rethink and refocus the priorities of the drug strategy. Spending over 70 percent of the budget on law enforcement leaves inadequate dollars for prevention and treatment.

The focus must be on the demand side of the drug war by providing appropriate drug treatment and prevention programs in the inner cities alongside of the suburbs. The statistics in the inner city are not going to change until we refocus the drug war to include an analysis of the root causes of drug use, and refocus our funding priorities to include the racial and economic factors that underlie so much of hard core drug addiction in America.

The victims of the war on drugs are disproportionately poor and minority. The emphasis on law enforcement is felt primarily in our inner cities because it is easier to focus on street level pushers than it is to break up larger drug cartels. We heard testimony around the country about the extent to which the war on drugs has become a vehicle to crack down on our inner cities. Twenty-three percent of young African American men are involved in the criminal justice system in the United States—in prison, on probation or on parole. The majority of these are drug related. Only 12 percent of the drug using population

is black, yet 40 percent of drug related arrests are black.

Common sense tells us that young people use drugs because they face lives of hopelessness and despair. But the majority of people in our inner cities are not drug users. We think that the lack of education, lack of job skills and job opportunities, and poor housing all contribute to drug use in our inner cities. The time has come to study the risk factors that cause some people to turn to drugs when others do not. It is only then that we can better focus the scarce dollars allocated to prevention and education programs.

The creation of a commission to study the root causes of drug abuse is an important step in expanding our thinking about the war on drugs and finding long-term solutions.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. RANGEL].

The amendment was agreed to.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mrs. BOXER) having assumed the chair, Mr. Bosco, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5269), to control crime, had come to no resolution thereon.

MAKING IN ORDER THE CONSIDERATION OF AND THE POSTPONEMENT OF VOTES ON CERTAIN AMENDMENTS TO H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Mr. BROOKS. Madam Speaker, I ask unanimous consent that it be in order in the Committee of the Whole to consider the following numbered amendments in an order other than that prescribed by House Resolution 490: amendments Nos. 22 and 33.

I further ask unanimous consent that the voting time on any amendment in this series be reduced to 5 minutes, and that any recorded votes ordered on these amendments and any prior recorded vote be postponed until the conclusion of these two amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. McCOLLUM. Reserving the right to object, Madam Speaker, I do not plan to object.

Mr. BROOKS. Madam Speaker, if the gentleman will yield, does the gentleman have those numbers down all right?

Mr. McCOLLUM. I have got them down.

I am not planning to object, Madam Speaker, but I would like to take this opportunity to inquire if we can then, after these two are finished, go back to the regular order to have the votes, and so forth. It seems like the funeral service is at 3 o'clock.

Mr. BROOKS. Madam Speaker, if the gentleman will yield further, it is my anticipation that this is the last time I am going to make this request.

Mr. McCOLLUM. Oh, good. I am sure the gentleman would be just as happy as I were if it were the last.

Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMPREHENSIVE CRIME CONTROL ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 490 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5269.

□ 1635

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5269) to control crime, with Mr. Bosco in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose earlier today, amendment No. 38 offered by the gentleman from New York [Mr. RANGEL] had been disposed of.

Pursuant to the order of the House of earlier today, it is now in order to consider amendment No. 22 printed in House Report 101-796.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT:

Subtitle F—Grants for Televised Testimony

SECTION 2021. GRANTS FOR CLOSED-CIRCUIT TELEVISING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE.

(a) ESTABLISHMENT OF GRANT PROGRAM.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in part N—

(A) in the heading by striking "Part N" and inserting "Part O", and

(B) by redesignating section 4101 as 1501, and

(2) by inserting after part M the following:

"PART O—GRANTS FOR CLOSED-CIRCUIT TELEVISING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE

"FUNCTION OF THE DIRECTOR

"SEC. 1401. The Director shall provide funds to eligible States and units of local government pursuant to this part.

"DESCRIPTION OF GRANT PROGRAM

"SEC. 1402. The Director is authorized to make grants to States, for the use of States and units of local government in the States to provide equipment and personnel training for the closed-circuit televising of the testimony of children in criminal proceedings for the violation of laws relating to the abuse of children.

"APPLICATIONS TO RECEIVE GRANTS

"SEC. 1403. To request a grant under section 1402, the chief executive officer of a State shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include—

"(1) a certification that Federal funds made available under section 1402 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of such funds, be made available for criminal proceedings for the violation of laws relating to the abuse of chidren;

"(2) a certification that funds required to pay the non-Federal portion of the cost of equipment and personnel training for which such grant is made shall be in addition to funds that wold otherwise be made available by the recipients of grant funds for criminal proceedings for the violation of laws relating to the abuse of children;

"(3) an assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted); and

"(4) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

"REVIEW OF APPLICATIONS

"SEC. 1404. (a) The Bureau shall provide financial assistance to each State applicant under section 1402 of this title to provide equipment and personnel training for the closed-circuit televising of the testimony of children in criminal proceedings for the violation of laws relating to the abuse of children, upon determining that—

"(1) there is in effect in such State a law that permits the closed-circuit televising of testimony of children in criminal proceedings for the violation of laws relating to the abuse of children;

"(2) such State law shall meet the following criteria:

"(A) the judge's determination that a child witness will be traumatized by the presence of the defendant must be made on a case-by-case basis;

"(B) the trauma suffered must be more than de minimus;

"(C) the child witness must give his/her statements under oath;

"(D) the child witness must submit to cross-examination; and

"(E) the finder of fact must be permitted to observe the demeanor of the child witness in making his or her statement.

"(3) the application submitted under section 1402 or amendment to such application is consistent with the requirements of this title; and

"(4) before the approval of such application and any amendment thereto the Bureau has made an affirmative finding in writing that such equipment and personnel training has been reviewed in accordance with section 1403 of this title.

Each application or amendment made and submitted for approval to the Bureau pursuant to section 1043 shall be deemed approved, in whole or in part, by the Bureau not later than 60 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(b) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

"ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS

"SEC. 1405. (a) The total amount appropriated for this part in any fiscal year shall be set aside for section 1402 and allocated to State as follows:

"(1) $50,000 shall be allocated to each of the participating States.

"(2) Of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each participating State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, in such State for the purpose specified in section 1402 of this title that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government in the preceding fiscal year for prosecution of child abuse offenses bears to the aggregate amount of funds expended by the State and all units of local government in such State in such proceding fiscal year for prosecution of child abuse offenses.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any use other than a use specified in an approved application.

"(d) If the Director determines, on the basis of information available to the Director during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 1402 of this title, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Director to units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

"REPORTS

"SEC. 1406. (a) Each State which receives a grant under this title shall submit to the Director, for each year in which any part of such grant is expended by a State or unit of local government, a report which contains—

"(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State application submitted under section 1403 of this title; and

"(2) such other information as the Director may require by rule.

Such report shall be submitted in such form and by such time as the Director may require by rule.

"(b) Not later than 90 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that includes with respect to each State—

"(1) the aggregate amount of grants made under this title to such State for such fiscal year; and

"(2) a summary of the information provided in compliance with subsection (a)(1).

"EXPENDITURE OF GRANTS; RECORDS

"SEC. 1407. (a) A grant made under this part may not be expended for more than 75 percent of the cost of the identified uses, in the aggregate, for which such grant is received to carry out section 1402, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 percent of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.

"(b) Not more than 10 percent of a grant made under this part may be used for costs incurred to administer such grant.

"(c)(1) Each State which receives a grant under this title shall keep, and shall require units of local government which receive any part of such grant to keep, such records as the Director may require by rule to facilitate an effective audit.

"(2) The Director and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of States which receive grants, and of units of local government which receive any part of a grant made under this part if, in the opinion of the Director or the Comptroller General, such books, documents, and records are related to the receipt or use of any such grant.

"STATE OFFICE

"SEC. 1408. (a) The chief executive of each participating State shall designate a State office for purposes of—

"(1) preparing an application to obtain funds under section 1402 of this title; and

"(2) administering funds received under this part from the Director, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"DEFINITIONS

"SEC. 1409. For purposes of this part—

"(1) the term 'child' means an individual under the age of 15 years and includes an individual up to age 18 who has been documented by the appropriate professionals to be of a developmental age less than 15 years; and

"(2) the term 'abuse' means physical or mental injury, sexual abuse or exploitation, or maltreatment.".

(b) TECHNICAL AMENDMENTS.—(1) Section 402(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "part E" and inserting "parts E and N".

(2) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is amended by striking "and M" and inserting "M, and N".

(3) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "or M" and inserting ", M, or N".

(4) Section 808 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789) is amended by striking "or 1308" and inserting ", 1308, or 1408".

(5) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(A) by striking the items relating to part M and sections 1301 through 1312, as added by section 1552(b)(5) of the State and Local Law Enforcement Assistance Act of 1986 (Public Law 99-570; 100 Stat. 3207-46), and

(B) by striking the items relating to part N and section 1401, and inserting the following new items:

"PART N—GRANTS FOR CLOSED-CIRCUIT TELEVISING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE

"Sec. 1401. Function of Director.
"Sec. 1402. Description of program.
"Sec. 1403. Application to receive grants.
"Sec. 1404. Review of applications.
"Sec. 1405. Allocation and distribution of funds under formula grants.
"Sec. 1406. Reports.
"Sec. 1407. Expenditure of grants; records.
"Sec. 1408. State office.

"PART O—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1501. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in subsection (a)—

(A) in paragraph (3) by striking "and M" and inserting "M, and N";

(B) by redesignating paragraph (6) as paragraph (7); and

(C) by inserting after paragraph (5) the following:

"(6) There is authorized to be appropriated $25,000,000 for each of the fiscal years 1991, 1992, and 1993 to carry out the programs under part N of this title."; and

(2) in subsection (b) by striking "and M" and inserting "M, and N".

SEC. 2022. EFFECTIVE DATE.

The amendments made by this Act shall take effect on October 1, 1990.

The CHAIRMAN. Under the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in the wisdom of this committee, they have recognized that our criminal justice system was designed to pit men against men, and certainly it does not work well when child is pitted against adult.

There are over 2 million child abuse cases. Child abuse has risen dramatically. In an effort to stop and to thwart this particular phenomenon, many of the States have moved toward closed circuit testimony and televising these abused youngsters, who literally panic and are intimidated in front of their attackers and abusers.

In that regard, there have been two major questions brought forward. The committee found wisdom to in fact include in the law that opportunity for closed circuit testimony in Federal courts, but there are relatively few of those cases which are basically in the State courts.

The Trafficant amendment deals with two issues, the constitutionality and the cost, and also the fact that most of those cases are in the State province.

First, under Maryland versus Craig, the Supreme Court took this issue to task and their findings were complete and has set forth a number of criteria.

The Trafficant amendment states that for any State that conforms to or meets the statutory requirements of the Maryland versus Craig states that in fact they are eligible for State grants, Federal grants to the States on a 50-50 basis.

There is $25 million in the bill for this State participation program to encourage the creation of these child abuse closed circuit testimony programs. That I think is fundamentally the thrust of the amendment. It is supported widely and I think the Congress would do very well by going beyond the normal scope of what the committee has placed in order by creating this grant program that would take and extend this child abuse protection to all youngsters throughout all our 50 States.

I would like to state that the cases of child abuse and neglect increased from 625,100 reported children in 1980, which was 9.8 children per 1,000, to an estimated 1,026,000 children in 1986, which increased at that time statistically to 16.3 children per 1,000.

There is no question that America's children are being abused in greater and greater numbers and Congress has found fit to take issue with that; but again, the greater number that would be served are in the States, and the bill does not address it. The amendment will.

With that, Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I am glad to yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I have no opposition. I want to rise in strong support of this amendment. I think it is a great amendment. The Justice Department and the administration strongly support it.

I think what the gentleman is doing is in the good name of law enforcement. It will help a great deal, and I commend the gentleman for offering this amendment.

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentleman's support.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding this time to me.

I want to commend the gentleman for his leadership in putting this amendment together. The gentleman recognizes in introducing this amendment that child abuse has become an epidemic in our country, with over 2 million children reported abused and neglected every year.

Sadly, Mr. Chairman, our criminal justice system is often not equipped to handle the special needs of child victims and witnesses. I authorized title XX of this crime bill to meet those needs and allocate funds to help set up critical State and national programs.

My colleague's amendment would also provide another admirable and important step toward better protecting our Nation's abused children once they have entered the court system.

States are in desperate need of the funds authorized in this amendment to implement innovative in-court protection programs, in particular closed circuit TV testimony.

The Traficant amendment works as an excellent compliment to the grant programs in title XX of this bill. The careful use of closed circuit TV, under the conditions laid out in my legislation, can be a valuable tool in affording our abused children the protection they deserve.

Mr. Chairman, I want to commend the gentleman from Ohio [Mr. TRAFICANT] for this addition and urge my colleagues to support this amendment.

Mr. TRAFICANT. Mr. Chairman, I would just like to thank the gentleman from California for his leadership in attaching this language which was in my bill 4 years ago, to this legislation.

I want to personally thank the gentleman from New Jersey [Mr. HUGHES], the gentleman from Texas [Mr. BROOKS], the gentleman from Florida [Mr. McCOLLUM], and all those who have been so instrumental in helping to bring this child abuse section to this bill.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

□ 1640

The CHAIRMAN pro tempore (Mr. Bosco). It is now in order to consider amendment No. 33, to be offered by the gentlewoman from Washington, printed in part 2 of House Report 101-796.

For what purpose does the gentlewoman from Washington rise?

AMENDMENT OFFERED BY MRS. UNSOELD

Mrs. UNSOELD. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. UNSOELD:

Page 239, after line 5, add at the end of title XXII the following new section:

SEC. 2214. DRUG ABUSE RESISTANCE EDUCATION.

(a) RESERVATION OF FUNDS.—Section 5112(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3182)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of pargraph (6) and inserting "; and "; and

(3) by adding at the end the following:

"(7) $15,000,000 for grants under section 5136.".

(b) PROGRAM AUTHORIZED.—Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211 et seq.) is amended by adding at the end the following:

"SEC. 5138. DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to consortia of local educational agencies and entities that have experience in assisting local educational agencies to provide instruction to students in kindergarten through grade 6 designed to teach such students to recognize and resist pressures that influence such students to use illicit drugs or alcohol.

"(b) SERVICES.—A consortium described in subsection (a) shall not be eligible for a grant under this section unless such consortium agrees to use assistance provided under such grant to provide or arrange for the provision of services that shall include—

"(1) drug abuse resistance education instruction for students in kindergarten through grade 6 that is designed to teach such students to recognize and resist pressures that influence such students to use illicit drugs or alcohol, including instruction in the areas of—

"(A) drug use and misuse;

"(B) understanding the consequences;

"(C) resistance techniques;

"(D) assertive response styles;

"(E) managing stress without taking drugs;

"(F) decisionmaking and risk-taking;

"(G) media influences on drug use;

"(H) positive alternatives to drug abuse;

"(I) interpersonal and communication skills;

"(J) activities designed to build self-esteem;

"(K) resistance to peer pressure;

"(L) role modeling;

"(M) forming a support system; and

"(N) the role of police and practices for student safety;

"(2) provisions for parental involvement;

"(3) classroom instruction by uniformed law enforcement officials, coupled with activities taught by the regular classroom teacher;

"(4) the use of positive student leaders to influence younger students not to use drugs;

"(5) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations; and

"(6) the awarding of a certificate of achievement to each student who participates in a drug abuse resistance education program.

"(c) APPLICATION.—A consortium described in subsection (a) that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information and assurances as the Secretary may reasonably require. Each such application shall contain—

"(1) an assurance that the consortium concerned will provide assistance, in cash or in kind, for the services assisted under the grant in an amount equal to not less than 10 percent of the amount provided under the grant:

"(2) an assurance that funds received under the grant shall be used to supplement, not supplant, the amount of other Federal, State, and local funds expended for support of services of the type described in subsection (b).".

The CHAIRMAN pro tempore. Under the rule, the gentlewoman from Washington [Mrs. UNSOELD] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer an amendment to the Comprehensive Crime Control Act of 1990. This amendment targets $15 million to the Drug-Free Schools and Communities Act for the program known as DARE, drug abuse resistance education.

My only regret, Mr. Speaker, is that I did not think in bigger terms and ask for more money for DARE, because this program has been proven. Law enforcement agencies throughout the United States now—and it is found in all 50 States and four other nations—rise to its defense. They tell us we have tried locking up kids, we have tried scaring them, we have tried so many things, and this program is the best that has come along to give us the opportunity to dry up the market by reducing the demand. It teaches children, fifth and sixth graders, along with a law enforcement officer in the classroom, not only why to say "no" to drugs but how.

The recent hearing that we had on this in my State, the sheriffs, the police chiefs and sergeants who are the DARE instructors, stepped forward and said it is not just what it does for our kids to strengthen their positions so that they are not going to get hooked on drugs and alcohol, but what it does in their attitude toward homework, their relationships with their parents, their relationship with their communities and with law enforcement officers. This is an excellent program. I appreciate the support that we have had.

Mr. Chairman, I rise today to offer an amendment to the Comprehensive Crime Control Act of 1990. My amendment targets $15 million of the Drug Free Schools and Communities Act to the Drug Abuse Resistance Education Program known as DARE. My only regret, Mr. Speaker, is that I didn't think bigger and ask for more money for DARE.

My amendment makes DARE a priority in our national defense strategy because DARE is proving to be one of the most effective weapons in fighting drugs and crime in our country. It gives local law enforcement agencies, schools, and parents the real ammunition to fight drugs and crime.

According to the National Office of Drug Control Policy there are 23 million drug abusers in this country. In my State of Washington, 80,000 children under 18 have a drug or alcohol abuse problem. If we are to succeed in the war on drugs, we must dry up the demand. Prevention is the key to stopping the demand and DARE is becoming the model, proactive drug prevention program.

The Education and Labor Committee recently held a hearing on the DARE Program in my district and the support for DARE among the law enforcement community was overwhelming. Every single law enforcement officer testified that DARE was the most effective program they had ever seen

Mr. Chairman, sheriffs told me that DARE is literally their last hope to stop the scourge of drugs in their communities. Sheriffs who have been in law enforcement for more than 30 years are telling me that they have tried everything and nothing seems to work. Arresting people over and over again and putting them in jails does not solve the problem. But DARE brings them renewed hope. Sheriff Scharf of Snohomish County, WA, claims that if DARE had not come along they would have failed. Chief Johnson of Battleground, WA, reports that DARE produces better results than enforcement efforts. Their first message: DARE is prevention through education—the only way to really make a difference.

Their second message: DARE builds positive partnerships between law enforcement and the community. Before DARE their communities were divided; with DARE, law enforcement officers are regaining a rapport and respect from citizens. Sergeant Kessel of Vancouver told me that DARE returns the law enforcement officer to the community as the most visible, approachable representative of our Government. Police officers claim that DARE has so improved relations within the community that it is even helping them more effectively fight crime.

Chief Johnson of Battleground revealed that if parents in his community had one wish it would be to keep their kids off drugs. And the only long-term solution is teaching kids not to want drugs. Commander Mitchell of the LAPD affirmed that DARE kids are better students, have more respect for the law, and their parents report they are better kids at home. DARE kids are taught life skills to deal with the difficult pressures they may face. The bottom line is that DARE kids feel better about themselves.

Finally, officers said that funding was the only factor holding up the expansion of DARE. Costs to replace an officer on partrol in the State of Washington can reach $60,000. Many communities want DARE but cannot afford it. The program is proven, the public is demanding it, we just need a greater Federal commitment to fund it.

When sheriffs, police chiefs, prosecutors, teachers, parents, and students all say this is a program that works, we should act. DARE has gone far beyond anyone's expectations. DARE is one of the most successful strategies for fighting drugs and crime. It is an effective way to target our antidrug funds. I urge this body to fight drugs and crime—at the same time—by supporting DARE.

Mr. Chairman. I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I rise in support of the Unsoeld amendment to the crime bill.

As you know, this amendment would earmark a much needed $15 million for the DARE Program.

This is one Federal program that really works. Not only in helping our youth to resist the temptation of illegal drugs, but in improving study habits, grades, relations between ethnic groups, and the outlook of students toward their schools. It has also decreased truancy and vandalism.

I strongly urge you to support this amendment in behalf of this excellent program, which has already been a tremendous success in reducing drug use among our schoolchildren. One of the great success stories is in my district, where the Saratoga Springs Police Department and Officer Coppernell have an excellent program.

Mr. Chairman, I support the amendment of the gentlewoman from Washington.

Mrs. UNSOELD. I thank the gentleman from New York for his statement.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, it is my pleasure to join my distinguished colleague from Washington, JOLENE UNSOELD, in supporting Federal funding for this excellent program.

She has been extremely active and successful in getting the word out about DARE, and she deserves to be commended for her work.

DARE started in my district as a cooperative effort between the school district and the Los Angeles Police Department.

It nows reaches 4½ million children all over the globe.

It is the single comprehensive drug education program of its kind with proven results, and has become one of our most effective weapons in fighting the war on drugs.

I urge my colleagues to vote in favor of this amendment and to show support for such a worthy program.

The CHAIRMAN. Are there further requests for time? If not, the question is on the amendment offered by the gentlewoman from Washington [Mrs. UNSOELD].

The amendment was agreed to.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the prior orders of the House of earlier today, recorded votes on the amendments will be taken in the following order: Amendment No. 2, offered by the gentleman from Texas [Mr. BUSTAMANTE], will be voted on first, and that will be a 15-minute vote. Then amendment No. 4, offered by the gentlewoman from Illinios [Mrs. MARTIN], will be taken, and that will be a 5-minute vote.

The Chair announces it will reduce to a minimum of 5 minutes the time for the vote on the amendment offered by the gentlewoman from Illinois [Mrs. MARTIN].

AMENDMENT NO. 2

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BUSTAMANTE] on which a recorded vote is ordered.

Members will record their votes by electronic device.

The vote was taken by electronic device, and there were—ayes 236, noes 189, not voting 8, as follows:

[Roll No. 408]

AYES—236

Andrews	Byron	Dixon
Applegate	Callahan	Dorgan (ND)
Archer	Campbell (CO)	Dornan (CA)
Armey	Chapman	Douglas
Ballenger	Clarke	Dreier
Barton	Clement	Dyson
Bateman	Clinger	Eckart
Bentley	Coble	Emerson
Bereuter	Coleman (TX)	English
Bevill	Combest	Espy
Bliley	Cooper	Fawell
Boehlert	Craig	Fazio
Bosco	Crane	Fields
Brennan	Dannemeyer	Fish
Brooks	Darden	Flippo
Broomfield	Davis	Ford (MI)
Browder	de la Garza	Frenzel
Buechner	DeLay	Frost
Bunning	Derrick	Gallegly
Burton	DeWine	Gallo
Bustamante	Dickinson	Gekas
Gillmor	Markey	Sharp
Gilman	Marlenee	Shaw
Gingrich	Martin (IL)	Shumway
Gonzalez	Martin (NY)	Shuster
Gordon	McCandless	Sikorski
Gradison	McCloskey	Sisisky
Grandy	McCollum	Skaggs
Grant	McCurdy	Skeen
Gunderson	McEwen	Skelton
Hall (TX)	McHugh	Slattery
Hamilton	McMillen (MD)	Slaughter (VA)
Hammerschmidt	McNulty	Smith (IA)
Hancock	Meyers	Smith (NE)
Hansen	Michel	Smith (TX)
Harris	Miller (OH)	Smith (VT)
Hastert	Mink	Smith, Denny (OR)
Hefner	Mollohan	Smith, Robert (NH)
Henry	Montgomery	Smith, Robert (OR)
Herger	Morrison (WA)	Snowe
Hiler	Murtha	Solomon
Hoagland	Myers	Spence
Holloway	Natcher	Spratt
Hopkins	Neal (NC)	Staggers
Horton	Nielson	Stallings
Houghton	Obey	Stangeland
Hubbard	Olin	Stearns
Huckaby	Ortiz	Stenholm
Hunter	Oxley	Stump
Hutto	Packard	Sundquist
Hyde	Parker	Swift
Ireland	Pashayan	Synar
James	Patterson	Tallon
Jenkins	Payne (VA)	Tanner
Johnson (SD)	Penny	Tauke
Jones (NC)	Perkins	Tauzin
Jontz	Petri	Taylor
Kanjorski	Pickett	Thomas (CA)
Kaptur	Pickle	Thomas (WY)
Kasich	Porter	Traxler
Kolbe	Price	Upton
Kyl	Pursell	Valentine
LaFalce	Quillen	Vander Jagt
Lagomarsino	Rahall	Volkmer
Lancaster	Ray	Vucanovich
Laughlin	Rhodes	Walsh
Leach (IA)	Richardson	Watkins
Leath (TX)	Roberts	Weber
Lehman (CA)	Robinson	Whittaker
Lent	Rogers	Whitten
Lewis (CA)	Rose	Wilson
Lewis (FL)	Roth	Wise
Lightfoot	Roukema	Wolpe
Lloyd	Saiki	Wylie
Long	Sarpalius	Young (AK)
Lowery (CA)	Saxton	Young (FL)
Lowey (NY)	Schneider	
Luken, Thomas	Schuette	
Lukens, Donald	Schulze	
Madigan	Sensenbrenner	

NOES—189

Ackerman	Conyers	Goodling
Alexander	Costello	Goss
Anderson	Coughlin	Gray
Annunzio	Cox	Green
Anthony	Coyne	Guarini
Aspin	Crockett	Hall (OH)
Atkins	DeFazio	Hatcher
AuCoin	Dellums	Hawkins
Barnard	Dicks	Hayes (IL)
Bartlett	Dingell	Hayes (LA)
Bates	Donnelly	Hefley
Beilenson	Downey	Hertel
Bennett	Duncan	Hochbrueckner
Berman	Durbin	Hoyer
Bilbray	Dwyer	Hughes
Bilirakis	Dymally	Inhofe
Boggs	Early	Jacobs
Bonior	Edwards (CA)	Johnson (CT)
Borski	Edwards (OK)	Johnston
Boucher	Engel	Jones (GA)
Boxer	Erdreich	Kastenmeier
Brown (CA)	Evans	Kennedy
Brown (CO)	Fascell	Kennelly
Bruce	Feighan	Kildee
Bryant	Flake	Kleczka
Cardin	Foglietta	Kolter
Carper	Ford (TN)	Kostmayer
Carr	Frank	Lantos
Chandler	Gaydos	Lehman (FL)
Clay	Gejdenson	Levin (MI)
Coleman (MO)	Gephardt	Levine (CA)
Collins	Geren	Lewis (GA)
Condit	Gibbons	Lipinski
Conte	Glickman	Machtley
Manton	Pallone	Serrano
Martinez	Panetta	Shays
Matsui	Paxon	Slaughter (NY)
Mavroules	Payne (NJ)	Smith (FL)
Mazzoli	Pease	Smith (NJ)
McCrery	Pelosi	Solarz
McDade	Poshard	Stark
McDermott	Rangel	Stokes
McGrath	Ravenel	Studds
McMillan (NC)	Regula	Thomas (GA)
Mfume	Ridge	Torres
Miller (CA)	Rinaldo	Torricelli
Miller (WA)	Ritter	Towns
Mineta	Roe	Traficant
Moakley	Rohrabacher	Udall
Moody	Ros-Lehtinen	Unsoeld
Moorhead	Rostenkowski	Visclosky
Morella	Rowland (GA)	Walgren
Morrison (CT)	Roybal	Walker
Mrazek	Russo	Washington
Murphy	Sabo	Waxman
Nagle	Sangmeister	Weiss
Neal (MA)	Savage	Weldon
Nelson	Sawyer	Wheat
Nowak	Schaefer	Williams
Oakar	Scheuer	Wolf
Oberstar	Schiff	Wyden
Owens (NY)	Schroeder	Yates
Owens (UT)	Schumer	Yatron

NOT VOTING—8

Baker	Livingston	Rowland (CT)
Campbell (CA)	Molinari	Vento
Courter	Parris	

□ 1709

Mr. WHEAT, Mr. JONES of Georgia, Mrs. SCHROEDER, and Messrs. BARNARD, TRAFICANT, DYMALLY, PALLONE, GAYDOS, HOYER, CONDIT, MARTINEZ, YATRON, ROWLAND of Georgia, KOLTER, DICKS, McMILLAN of North Carolina, PAXON, GOODLING, COLEMAN of Missouri, KOSTMAYER, and GUARINI changed their vote from "aye" to "no."

Mr. NIELSON of Utah, Mrs. MINK, Mrs. LLOYD, and Messrs. RHODES, KYL, NATCHER, HENRY, HORTON, McHUGH, GILLMOR, DELAY, WHITTEN, GILMAN, JENKINS, and FAWELL changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 4

The CHAIRMAN. The next order of business is a recorded vote on amendment No. 4 offered by the gentlewoman from Illinois [Mrs. MARTIN], on which a recorded vote is ordered.

The vote will be taken by electronic device.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 415, noes 3, not voting 15, as follows:

[Roll No. 409]

AYES—415

Ackerman	Barnard	Bliley
Alexander	Bartlett	Boggs
Anderson	Barton	Bonior
Andrews	Bateman	Borski
Annunzio	Bates	Bosco
Anthony	Beilenson	Boucher
Applegate	Bennett	Boxer
Archer	Bentley	Brennan
Armey	Bereuter	Brooks
Aspin	Berman	Broomfield
Atkins	Bevill	Browder
AuCoin	Bilbray	Brown (CA)
Ballenger	Bilirakis	Brown (CO)

Bruce	Grandy	McDade
Bryant	Grant	McDermott
Buechner	Gray	McEwen
Bunning	Green	McGrath
Burton	Guarini	McHugh
Bustamante	Gunderson	McMillan (NC)
Byron	Hall (OH)	McMillen (MD)
Callahan	Hall (TX)	McNulty
Campbell (CO)	Hamilton	Meyers
Cardin	Hammerschmidt	Mfume
Carper	Hancock	Miller (CA)
Carr	Hansen	Miller (OH)
Chandler	Harris	Miller (WA)
Chapman	Hastert	Mineta
Clarke	Hatcher	Mink
Clay	Hawkins	Moakley
Clement	Hayes (IL)	Mollohan
Clinger	Hefley	Montgomery
Coble	Hefner	Moody
Coleman (MO)	Henry	Moorhead
Coleman (TX)	Herger	Morella
Collins	Hertel	Morrison (CT)
Combest	Hiler	Morrison (WA)
Condit	Hoagland	Mrazek
Conte	Hochbrueckner	Murphy
Conyers	Holloway	Murtha
Cooper	Hopkins	Myers
Costello	Horton	Nagle
Coughlin	Houghton	Natcher
Cox	Hoyer	Neal (MA)
Coyne	Hubbard	Neal (NC)
Craig	Huckaby	Nelson
Crane	Hunter	Nielson
Crockett	Hutto	Nowak
Dannemeyer	Hyde	Oakar
Darden	Inhofe	Oberstar
Davis	Ireland	Obey
de la Garza	Jacobs	Olin
DeFazio	James	Ortiz
DeLay	Jenkins	Owens (NY)
Dellums	Johnson (CT)	Owens (UT)
Derrick	Johnson (SD)	Oxley
DeWine	Johnston	Packard
Dickinson	Jones (GA)	Pallone
Dicks	Jones (NC)	Panetta
Dingell	Jontz	Parker
Dixon	Kanjorski	Pashayan
Donnelly	Kaptur	Patterson
Dorgan (ND)	Kasich	Paxon
Dornan (CA)	Kastenmeier	Payne (NJ)
Douglas	Kennedy	Payne (VA)
Downey	Kennelly	Pease
Dreier	Kildee	Pelosi
Duncan	Kleczka	Penny
Durbin	Kolbe	Perkins
Dwyer	Kolter	Petri
Dymally	Kostmayer	Pickett
Dyson	Kyl	Pickle
Early	LaFalce	Poshard
Eckart	Lagomarsino	Price
Edwards (CA)	Lancaster	Pursell
Emerson	Lantos	Quillen
Engel	Laughlin	Rahall
English	Leach (IA)	Rangel
Erdreich	Leath (TX)	Ravenel
Espy	Lehman (CA)	Ray
Evans	Lehman (FL)	Regula
Fascell	Lent	Rhodes
Fazio	Levin (MI)	Richardson
Feighan	Levine (CA)	Ridge
Fields	Lewis (CA)	Rinaldo
Fish	Lewis (FL)	Ritter
Flake	Lewis (GA)	Roberts
Flippo	Lightfoot	Robinson
Foglietta	Lipinski	Roe
Ford (MI)	Lloyd	Rogers
Ford (TN)	Long	Rohrabacher
Frank	Lowery (CA)	Ros-Lehtinen
Frenzel	Lowey (NY)	Rose
Frost	Luken, Thomas	Rostenkowski
Gallegly	Lukens, Donald	Roth
Gallo	Machtley	Roukema
Gaydos	Madigan	Rowland (GA)
Gejdenson	Manton	Roybal
Gekas	Markey	Russo
Gephardt	Marlenee	Sabo
Geren	Martin (IL)	Saiki
Gibbons	Martin (NY)	Sangmeister
Gillmor	Martinez	Sarpalius
Gilman	Matsui	Savage
Gingrich	Mavroules	Sawyer
Glickman	Mazzoli	Saxton
Goodling	McCloskey	Schaefer
Gordon	McCollum	Scheuer
Goss	McCrery	Schiff
Gradison	McCurdy	Schneider
Schroeder	Snowe	Unsoeld
Schuette	Solarz	Upton
Schulze	Solomon	Valentine
Schumer	Spence	Vander Jagt
Sensenbrenner	Spratt	Visclosky
Serrano	Staggers	Volkmer
Sharp	Stallings	Vucanovich
Shaw	Stangeland	Walgren
Shays	Stark	Walker
Shumway	Stearns	Walsh
Shuster	Stenholm	Watkins
Sikorski	Stokes	Waxman
Sisisky	Studds	Weber
Skaggs	Stump	Weiss
Skeen	Sundquist	Weldon
Skelton	Swift	Wheat
Slattery	Synar	Whittaker
Slaughter (NY)	Tallon	Whitten
Slaughter (VA)	Tanner	Williams
Smith (FL)	Tauke	Wilson
Smith (IA)	Tauzin	Wise
Smith (NE)	Taylor	Wolf
Smith (NJ)	Thomas (CA)	Wolpe
Smith (TX)	Thomas (GA)	Wyden
Smith (VT)	Thomas (WY)	Wylie
Smith, Denny (OR)	Torres	Yates
	Torricelli	Yatron
Smith, Robert (NH)	Towns	Young (AK)
	Traficant	Young (FL)
Smith, Robert (OR)	Traxler	
	Udall	

NOES—3

Gonzalez	Hughes	Washington

NOT VOTING—15

Baker	Fawell	Molinari
Boehlert	Hayes (LA)	Parris
Campbell (CA)	Livingston	Porter
Courter	McCandless	Rowland (CT)
Edwards (OK)	Michel	Vento

□ 1720

Mr. GONZALEZ changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. McCANDLESS. Mr. Chairman, on rollcall 409, I inadvertently missed this vote due to a set of circumstances beyond my control. Had I been present I would have voted "aye."

The CHAIRMAN. It is now in order to consider amendment No. 5 offered by the gentleman from West Virginia [Mr. STAGGERS].

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. STAGGERS: Amend title II to read as follows:

TITLE II—MANDATORY LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE

SEC. 201. PRESIDENTIAL ASSASSINATION AND RELATED CRIMES.

Section 1751 of title 18, United States Code, is amended—

(1) by inserting after subsection (e) the following: "(f) Whoever—

"(1) intentionally kills an individual during the course of an offense under this section, on account of that individual's duties or status as an official protected under this section; or

"(2) engages in conduct in the course of an attempted killing in violation of this section, that results in serious bodily injury (as defined in section 1365 of this title) to the President or Vice President, or the President-elect or Vice President-elect;

shall be sentenced to life imprisonment without possibility of release."; and

(2) by redesignating subsections (f) through (k) as subsections (g) through (l).

SEC. 202. INTENTIONAL KILLINGS OF CERTAIN FEDERAL OFFICIALS.

Section 351(a) of title 18, United States Code, is amended by adding at the end "Whoever intentionally kills any individual listed in this subsection on account of that individual's duties or status as an official or nominee protected under this section shall be sentenced to life imprisonment without possibility of release.".

SEC. 203. INTENTIONAL KILLINGS OF FOREIGN OFFICIALS.

Section 1116(a) of title 18, United States Code, is amended by adding at the end the following: "Whoever violates this section by intentionally killing a foreign official or an internationally protected person because of such official's or person's duties or status as a foreign official or internationally protected person, or a member of the family of such an official or person, because of that family member's relationship to the official or person, shall be sentenced to life imprisonment with possibility of release."

SEC. 204. INTENTIONAL KILLINGS OF FEDERAL JUDGES AND LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever kills"; and

(2) by adding at the end the following:

"(b)(1) Whoever violates this section by intentionally killing a listed Federal law enforcement officer, on account of the officer's status or duties as a law enforcement officer, shall be sentenced to life imprisonment without possibility of release.

"(2) As used in this section, the term 'listed Federal law enforcement officer' means an individual who is—

"(A) a law enforcement officer (as defined in section 1515(4) of this title) in—

"(i) the Department of Justice;

"(ii) the Department of the Treasury;

"(iii) the Coast Guard; or

"(iv) the United States Postal Service; or

"(B) employed in a Federal correctional facility.

"(c) Whoever violates this section by intentionally killing a judge of the United States on account of that judge's duties or status as a judge shall be sentenced to life imprisonment without possibility of release.".

SEC. 205. INTENTIONALLY KILLING A FEDERAL WITNESS IN THE WITNESS PROTECTION PROGRAM.

Section 1512 of title 18, United States Code, is amended—

(1) by inserting after subsection (c) the following:

"(d) Whoever violates this section by intentionally killing an individual provided protection under section 3521 of this title shall be sentenced to life imprisonment without possibility of release."; and

(2) by redesignating subsections (d) through (h) as subsections (e) through (i).

SEC. 206. INTENTIONALLY KILLING THE VICTIM OF A KIDNAPPING OR HOSTAGE TAKING.

(a) IN GENERAL.—Chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"§ 1204. Intentionally killing the victim

"Whoever in the course of an offense under section 1201 or 1203 of this title intentionally kills the victim of the offense shall be sentenced to life imprisonment without possibility of release.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of title 18, United States Code, is amended by adding at the end the following:

"1204. Intentionally killing the victim.".

SEC. 207. CONTRACT MURDERS.

Section 1958(a) of title 18, United States Code, is amended by adding at the end the following: "Whoever violates this section by traveling in or causing another (including the intended victim) to travel in interstate or foreign commerce with intent that a murder be committed, and intentionally kills the victim shall be sentenced to life imprisonment without possibility of release.".

SEC. 208. ESPIONAGE AND TREASON.

(a) ESPIONAGE.—Section 794 of title 18, United States Code, is amended by adding at the end the following:

"(e) Any person convicted of a violation of this section shall be sentenced to life imprisonment without possibility of release if the court finds—

"(1) the defendant has previously been convicted of another offense—

"(A) involving espionage or treason; or

"(B) a Federal or State offense for which a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant compromised war plans, cryptographic information, or information concerning a major weapons system, in a way that intentionally caused serious injury to the national defense;

"(3) in the commission of the offense the defendant knowingly caused the death of another person; or

"(4) in the commission of the offense, the defendant acted in concert with 5 or more persons with respect to whom the defendant occupied a position of organizer, a supervisory position, or any other position of management.

(b) TREASON.—Section 2381 of title 18, United States Code, is amended by striking "shall suffer death, or shall be imprisoned not less than five years and fined not less than $10,000" and inserting "shall be sentenced to life imprisonment without possibility of release.".

SEC. 209. TERRORISM.

Section 2331(a)(1) of title 18, United States Code, is amended by striking "be fined" and all that follows through the end of paragraph (1) and inserting "be sentenced to life imprisonment without possibility of release;".

SEC. 210. RESTITUTION.

Section 3663 of title 18, United States Code, is amended by adding at the end the following:

"(i) Notwithstanding any other provision of law, any defendant sentenced to life imprisonment without possibility of release shall be ordered to pay restitution, which shall include not less than 50 percent of any income received, directly or indirectly, during imprisonment, and which shall be paid to the family or the estate of the victim of the crime for which the defendant is sentenced, unless the victim was engaged in criminal activity at the time of the crime for which the defendant is sentenced. In the event that a defendant is sentenced for the death of more than one victim, the amounts paid to the families or the estates of the victims shall be apportioned by the court.".

The CHAIRMAN. Under the rule, the gentleman from West Virginia will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we are faced with a clear choice concerning Federal criminal policymaking. During your legislative careers, most of you have already cast a vote on the question of capital punishment. Regardless of your past votes on this issue, I would ask that you consider my amendment for what it is—a tough, certain, and cost-effective alternative to capital punishment.

In those instances where the crime bill would call for the death penalty as an option, my amendment would provide for a mandatory life sentence without release. Moreover, it would require restitution of not less than 50 percent of the offender's earnings to be paid to the family of the victim.

Let me make it clear that this amendment would provide for mandatory life imprisonment without release—it is not simply a life sentence, which we all know allows for possible release. Society would be protected because the criminal would remain in prison and off the streets.

Be aware that the death penalty in the bill is only a sentencing option. My amendment would provide a certain and harsh penalty for those crimes made subject to the death penalty in the bill. If we believe that these crimes are the most serious and therefore deserve the most uncompromising penalty, then my amendment would provide this by mandating a life sentence without release. Moreover, under my amendment, the offender would be required to pay restitution for the remainder of life to the family of the victim, thereby requiring the criminal to pay a debt to society and the family as well. While some may say that a prison industry job will not produce much earnings, my language would also cover indirect income such as earnings from a book or movie. This financial restitution requirement would remain in place for the remainder of the offender's life in prison.

Let me be clear, I do oppose the death penalty for several reasons. First, studies show that it does not deter murder; indeed, an American sociological review study concluded that one is more likely to be murdered in a State with the death penalty than in a State without it. Those States with the highest murder rates—Georgia, South Carolina, Florida, Alabama, and Texas—all use the death penalty, while States with the lowest murder rates—Minnesota, Iowa, Wisconsin, North Dakota, and Vermont have abolished the death penalty.

Studies show that the biggest factor in deterrence is the certainty of punishment—not its severity. Many people are convicted of murder in this country, yet very few are sentenced to death and executed. For certainty of punishment, support my amendment which provides a mandatory life sentence without release.

The death penalty is imposed in an arbitrary manner. For the same crime, one person is sentenced to death while another is not. There is no consistency nor deterrence in such a system.

Until our criminal justice system can insure infallibility, the one form of punishment which makes no allowance for error should not be used. The irrevocability and finality of the death penalty makes it different from any other form of punishment. If a mistake is made, a life is lost—at the hands of the State.

A recent study identified 23 cases in which innocent defendants were executed during this century. Many of you are familiar with the case of Randall Adams—made famous by the movie, "The Thin Blue Line." In 1976, he was sentenced to death in Texas, a week before his execution, the Supreme Court ordered a stay and a year later the death sentence was overturned. Mr. Adams was released in 1989, 12 years after his trial. While his life was saved, how many others are not as lucky?

Much has been said of public support for the dealth penalty, yet several recent studies show a sharp decline in this support when respondents are presented an option which provides society the same protection by denying release from prison for the remainder of the offender's life.

A Georgetown University survey conducted in West Virginia last year revealed that while 69 percent of those polled responded they supported the death penalty, when presented with the specific alternative of life with no possibility of parole, an even larger majority, 73 percent, supported the latter.

Other polls from around the country show similar findings. Surveys conducted in California, Florida, New York, Nebraska, and Virginia all revealed a preference among the public for life without parole, plus financial restitution, over the death penalty.

All these surveys call into question previous public opinion surveys which have been interpreted as suggesting a public clamor in favor of the death penalty. When taken together, these surveys point to a desire by the public for certainty of punishment and protection from violent criminals. My amendment would accomplish this.

Another misconception to dispell is that of cost. While many believe that it is less expensive to simply put someone to death, the facts support just the opposite. It is less expensive to sentence someone to life without release than impose a penalty of death. For instance, in Florida, it is estimated that the full cost of an execution is approximately $3.2 million—six times as much as it would cost to incarcerate the person until he died of natural causes.

In Maryland, a study revealed that death sentence murder cases cost 42 percent more than non-death-sentence murder cases. The due process procedures required for a death penalty case, such as a bifurcated trial—one stage to determine guilt and another to impose sentencing, are more extensive and therefore more costly than non-death-penalty cases. Keeping these facts in mind, my amendment becomes the cost-efficient alternative.

I believe that the State sanctioned taking of a life is morally wrong. It is not consistent to advocate the death penalty and then go home and teach our children that all human life is sacred. Likewise, our Nation must consider human life sacred. If we sanction the criminal penalty of death then we are only perpetuating the cycle of violence and vengeance.

My amendment allows you an opportunity to vote for substance over rhetoric. This is a fair, balanced, and tough proposal and one which you should support.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. DURBIN). Is there a Member in opposition to the amendment?

Mr. BROOKS. Mr. Chairman, I rise opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Texas [Mr. BROOKS] is recognized for 10 minutes in opposition to the amendment.

□ 1730

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from West Virginia.

This amendment would strike the death penalty provisions of the bill reported by the full committee and substitute provisions requiring mandatory life imprisonment without possibility of release. The amendment also includes provisions requiring defendants sentenced to life without possibility of release to pay restitution to the families or estates of their victims.

I want to emphasize that I have tremendous respect for my friend from West Virginia. He is a hardworking and conscientious member of the Judiciary Committee. In addition, I know this proposal reflects his deeply held personal views on this most sensitive of public policy questions. Nevertheless, I must oppose the amendment.

Simply put, I believe there are certain crimes that are so despicable that those who commit them must pay with their lives. The committee bill reflects this philosophy and I believe it should be preserved. I, therefore, urge my colleagues to oppose this amendment.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, proponents of the death penalty argue that capital punishment means fewer murders. FBI statistics for the period 1976-1987 prove just the opposite. In the 12 States where executions have taken place, the murder rate is exactly twice the murder rate in the 13 States without the death penalty. More police officers are killed in States with the death penalty than in States without it.

There is no scientific proof to support the effectiveness of executions versus long-term imprisonment. The State of Michigan has not had a death penalty since 1846. Its homicide rate is not higher than that of Ohio, which has a death penalty.

Texas, California, and Florida lead the Nation in the number of death sentences imposed. Yet all these States have experienced significant increases in homicides from 1965 to the present.

The death penalty makes irrevocable any possible miscarriage of justice. It has been documented that at least 25 Americans who were later found innocent have been executed in this country. The death penalty has been imposed on at least 350 innocent persons in the U.S. since 1900; 50 innocent people received the death penalty since 1970. Some argue that the benefits of capital punishment outweigh the risk of erroneous execution. Yet, if just one innocent person dies, who among us can claim justice has been served?

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I rise in opposition to this amendment. While I appreciate the spirit in which it is offered by my colleague, I cannot support it as I believe in the availability of the death penalty as punishment for the most heinous of crimes. This amendment would substitute mandatory life imprisonment without possibility of release for the death penalty as a sentencing option.

I fully understand the emotional nature of the death penalty issue and respect those of my colleagues who, like the author of this amendment, do not believe that we should have a death penalty in this country. However, I believe that there are certain crimes which are so egregious, so repugnant to an ordered society that the option of imposing the death penalty should be available. The Subcommittee on Crime worked on this complex issue for most of this year, and I believe that the death penalty title in H.R. 5269 will withstand both public and judicial scrutiny.

After you have voted on this amendment, you will have the opportunity to vote on my amendment which would add 12 more offenses to the list of death penalty offenses already in H.R. 5269. With the passage of my amendment, we will have covered some 25 Federal offenses which warrant this most irrevocable of sentences.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I, too, rise in opposition to the amendment of the gentleman from West Virginia [Mr. STAGGERS] today. I have great respect for the gentleman, as my colleagues all do. We have worked together on a lot of things.

When it comes to the death penalty, we have a fundamental disagreement. I do join with my colleagues from Texas and New Jersey in expressing my strong support for the death penalty in certain cases. I think we have egregious crimes where the death penalty is warranted. There are a number of those situations.

In my State of Florida, we have been fortunate enough to have the procedures back on the book for some time to carry out the death penalty. Our death penalty laws are in place there. I think that they are less effective, because we have the opportunity for continual appeals that occur to Federal courts to delay the carrying out of the sentence, and that, of course, lessens the deterrent effect of the death penalty, and reduces the entire magnitude of the whole issue of giving the death penalty, because we really do need to have swiftness and certainty in punishment. However, it does not make the death penalty any less valid, the fact that it has occurred. We need to have the death penalty.

I urge the defeat of the amendment by the gentleman from West Virginia. I urge Members to get on with the efforts of the other amendments in the death penalty.

Mr. STAGGERS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I join with my colleague, the gentleman from West Virginia [Mr. STAGGERS], who sponsored a tough and hardening amendment that provides for life without parole, life without mercy, that I

think is probably a tougher penalty in many ways than capital punishment.

I just ask Members to look at the statistics, look at other States. Our State of West Virginia, for instance, which has not had the death penalty since 1965, for the 16 years running has had the lowest crime rate in the country, but I compare to other States that historically have had the death penalty that have it today, and they have people stacked up on death row awaiting execution, more coming. Does anyone think the death penalty made our streets any safer anywhere in the country? I submit to Members not.

I guess I am concerned because the United States also joins some other distinguished nations in the world when it comes to the death penalty: Iran, for instance, and Iraq, and some of those nations that we have all come to think so much of like South Africa. They have capital punishment. The European nations do not see much to believe in in capital punishment, and for a large part therefore have abolished. I do not like to be part of that community of nations. I do not think of Iraq and Iran exactly being creatures of civilized thought.

I have to ask whether the death penalty is doing any good on the books in the many areas for many years? Does anyone think our streets are safer? A tougher measure, I think, is what the gentleman from West Virginia [Mr. STAGGERS] has offered, life without mercy, life without parole, pay the victims back, and a criminal sits there forever and forever, and knows that they are not going anywhere. I appreciate the gentleman offering his amendment.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding time to me. I rise also to oppose the Staggers amendment. The lifer in prison, as everyone knows, gets a free kill or two or three under the amendment offered by the gentleman from West Virginia. In the conditions that any prison has in the United States, there are ample opportunities today for one inmate to kill another.

This amendment, no matter what kind of restrictions or qualifications one makes for the imprisonment of a lifer, the opportunity to kill in prison presents itself time and time again. Adoption of this amendment would forego the possibilities of a death penalty, if one believes in it as I do, for the lifer who kills in prison.

Furthermore, I must state, as I stated many times before, there is documented evidence that the death penalty does act as a deterrent, and the Supreme Court of California cited several instances of that reality. Just to give Members one example where a woman named Margaret Elizabeth Daily of San Pedro, CA, assaulted Pete Gibbons with a knife. This is right out of the case, and she said, "Yes, I cut him. I should have done a better job. I would have killed him, but I didn't want to go to the gas chamber."

□ 1740

This decision carries with it 13 other examples of that kind. These are recited by the judge in that particular case.

The death penalty does act as a deterrent. The Staggers amendment prevents the imposition of the death penalty by a jury to a lifer who kills in prison.

Mr. STAGGERS. Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut [Mr. MORRISON], my colleague on the committee.

Mr. MORRISON of Connecticut. Mr. Chairman, I thank the gentleman for yielding this time to me.

I rise in support of this amendment. The gentleman's amendment sentences people to death, death in prison. Individuals who are sentenced to life in prison without parole have no opportunity for a real life and they suffer severe penalty, but the society which puts them there does not act as the agent to take their lives, and that is the distinction between these two provisions, one in which the person is sentenced to death in prison and the other in which the person is sentenced to death at the hands of the State.

I want to be a Representative in a State which understands this severe punishment, but does not want to be the agent of killing.

We make a stronger statement about our respect for life and our opposition to death if we sentence these individuals to death in prison, with life imprisonment without parole and with the restitution that is involved in the gentleman's amendment, it is a stronger and a better law enforcement measure and it is a far stronger statement that this socity is opposed to killing.

Mr. STAGGERS. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, mandatory life without parole is tough. Mandatory life without parole is far less divisive within, American society. Mandatory life without parole is less costly, avoiding the financial expense to society guaranteed in death penalty cases by the nature of that penalty.

For reasons of effective law enforcement, as well as others, I support the Staggers amendment.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, you ask any prisoner on death row which he would prefer, the life sentence or the electric chair, and at that moment of the curtain call I assure you it will be overwhelming. They will take the life sentence.

I just want to let Congress know. I want to cite one case to take off on what the gentleman from Pennsylvania [Mr. GEKAS] was talking about.

Charles Gacey killed 33 juvenile boys. He buried 20 underneath the crawl space of his kitchen, threw 4 out in the creek. Charles Gacey is in jail for life. If Charles Gacey kills a police officer, a security guard in jail, what are you going to do, give him another life sentence?

I say defeat this amendment. This is a great Member, and I think Members who feel this way mean well, but I think we have 23,000 murders because we have been feeling this way for too long. Let us defeat this amendment and get on with our business.

Mr. STAGGERS. Mr. Chairman, I yield myself the remaining 30 seconds.

Mr. Chairman, a former speaker mentioned that we are going to allow other people to kill, and that is clouding the issue. We are not doing that with this amendment. If that is the issue, we should be voting more money for adequate prisons so that we could separate some of these prisoners.

My amendment is mandatory. It is not an option, like the death penalty is in this bill.

My amendment says restitution to the victims of these people, so it is tough.

My amendment is fair. My amendment is balanced. My amendment is tough, and every Member of this body should vote for my amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. BRENNAN. Mr. Chairman, I rise in strong support of the Staggers amendment to provide for life imprisonment, without the possibility of parole, while also providing for restitution by the criminal to the family of the victim.

This crime bill touts the death penalty as a solution to violent crime. However, studies have shown that the death penalty does not work as a deterrent. A 1987 FBI study showed that murder rates were actually higher in States with the death penalty than those without.

Also, while capital punishment has been shown to have the support of a majority of Americans, recent polls show that Americans prefer the sentence of life imprisonment, without parole, as an alternative.

Polls conducted by the New York Times, Georgetown University, and the University of Louisville, have all shown that Americans, when given a choice, support life imprisonment, without the possibility of a parole, over the death penalty.

Finally, it is an unfortunate fact in this country, that the death penalty has been generally applied in an arbitrary and discriminatory manner, to those Americans of limited means and less than adequate counsel.

As Senator PAUL SIMON said recently in a similar debate, "No one receives the death

penalty who has good counsel. There are no millionaires on death row."

I urge my colleagues to vote in favor of the Stagger amendment to provide for a certain, strong penalty to those guilty of violent crimes.

Mr. WEISS. Mr. Chairman, I rise today in strong support of the amendment offered by the gentleman from West Virginia [Mr. STAGGERS]. In my 25 years of public service as a district attorney, city councilman, and Member of Congress from New York, I have seen firsthand the pernicious spread of crime. I, therefore, recognize the importance or rigorous law enforcement to protect our citizens.

Rather than being a solution, the death penalty diverts attention from the myriad social and economic problems which are the true causes of crime. By striking the death penalty from H.R. 5269 and substituting a tough mandatory life sentence along with financial restitution for victims' families, this amendment replaces election-year bravado with thoughtful respect for civil liberties and human life.

It seems ironic that at a time when many foreign governments have realized that the death penalty cannot be reconciled with regard for human rights, H.R. 5269 propels us in the opposite direction by expanding the Federal death penalty for 10 additional offenses. According to statistics assembled by Amnesty International, 35 countries have abolished the death penalty for all crimes. Another 18 have abolished the punishment for all but exceptional offenses such as wartime crimes. An additional 27 countries and territories may be considered abolitionist in practice because they no longer carry out executions. That totals 80 countries, over 40 percent of all countries in the world, that have abolished the death penalty in law or practice.

One of the most compelling reasons for abolishing the death penalty is the risk of executing the innocent. A 1987 study published by the Standford Law Review, concluded that at least 23 innocent people are known to have been executed this century in our country alone. The fact that human error can translate into loss of life is unconscionable.

Mr. Chairman, I firmly believe that there is no place for capital punishment in a democracy such as ours which endeavors to ensure life, liberty, and justice to every citizen. I urge my colleagues to support the Staggers amendment.

Mr. BROOKS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia [Mr. STAGGERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STAGGERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 103, noes 322, not voting 8, as follows:

[Roll No. 410]

AYES—103

Ackerman	Hochbrueckner	Rangel
Anderson	Hoyer	Roybal
AuCoin	Jacobs	Sabo
Bates	Jontz	Savage
Berman	Kastenmeier	Schroeder
Bonior	Kildee	Serrano
Brennan	Kleczka	Sharp
Brown (CA)	Kostmayer	Shays
Clay	LaFalce	Sikorski
Collins	Lehman (FL)	Skaggs
Conyers	Levin (MI)	Slaughter (NY)
Coyne	Levine (CA)	Smith (IA)
Dellums	Lewis (GA)	Smith (NJ)
Dixon	Lowey (NY)	Solarz
Dorgan (ND)	Markey	Staggers
Downey	Matsui	Stangeland
Dwyer	McDermott	Stark
Dymally	McHugh	Stokes
Edwards (CA)	McNulty	Studds
Engel	Mfume	Swift
Evans	Miller (CA)	Tauke
Fazio	Mineta	Towns
Feighan	Mink	Udall
Flake	Mollohan	Vento
Ford (MI)	Moody	Visclosky
Ford (TN)	Morrison (CT)	Washington
Frank	Mrazek	Waxman
Gejdenson	Nagle	Weber
Gonzalez	Neal (MA)	Weiss
Goodling	Oberstar	Wheat
Gray	Obey	Wise
Hamilton	Owens (NY)	Wolpe
Hawkins	Pelosi	Yates
Hayes (IL)	Penny	
Hertel	Rahall	

NOES—322

Alexander	Conte	Grant
Andrews	Cooper	Green
Annunzio	Costello	Guarini
Anthony	Coughlin	Gunderson
Applegate	Courter	Hall (OH)
Archer	Cox	Hall (TX)
Armey	Craig	Hammerschmidt
Aspin	Crane	Hancock
Atkins	Dannemeyer	Hansen
Baker	Darden	Harris
Ballenger	Davis	Hastert
Barnard	de la Garza	Hatcher
Bartlett	DeFazio	Hayes (LA)
Barton	DeLay	Hefley
Bateman	Derrick	Hefner
Beilenson	DeWine	Henry
Bennett	Dickinson	Herger
Bentley	Dicks	Hiler
Bereuter	Dingell	Hoagland
Bevill	Donnelly	Holloway
Bilbray	Dornan (CA)	Hopkins
Bilirakis	Douglas	Horton
Bliley	Dreier	Houghton
Boehlert	Duncan	Hubbard
Boggs	Durbin	Huckaby
Borski	Dyson	Hughes
Bosco	Early	Hunter
Boucher	Eckart	Hutto
Boxer	Emerson	Hyde
Brooks	English	Inhofe
Broomfield	Erdreich	Ireland
Browder	Espy	Jenkins
Brown (CO)	Fascell	Johnson (CT)
Bruce	Fawell	Johnson (SD)
Bryant	Fields	Johnston
Buechner	Fish	Jones (GA)
Bunning	Flippo	Jones (NC)
Burton	Foglietta	Kanjorski
Bustamante	Frenzel	Kaptur
Byron	Frost	Kasich
Callahan	Gallegly	Kennedy
Campbell (CO)	Gallo	Kennelly
Cardin	Gaydos	Kolbe
Carper	Gekas	Kolter
Carr	Gephardt	Kyl
Chandler	Geren	Lagomarsino
Chapman	Gibbons	Lancaster
Clarke	Gillmor	Lantos
Clement	Gilman	Laughlin
Clinger	Gingrich	Leach (IA)
Coble	Glickman	Leath (TX)
Coleman (MO)	Gordon	Lehman (CA)
Coleman (TX)	Goss	Lent
Combest	Gradison	Lewis (CA)
Condit	Grandy	Lewis (FL)
Lightfoot	Patterson	Slaughter (VA)
Lipinski	Paxon	Smith (FL)
Livingston	Payne (NJ)	Smith (NE)
Lloyd	Payne (VA)	Smith (TX)
Long	Pease	Smith, Denny (OR)
Lowery (CA)	Perkins	Smith, Robert (NH)
Luken, Thomas	Petri	Smith, Robert (OR)
Lukens, Donald	Pickett	Snowe
Machtley	Pickle	Solomon
Madigan	Porter	Spence
Manton	Poshard	Spratt
Marlenee	Price	Stallings
Martin (IL)	Pursell	Stearns
Martin (NY)	Quillen	Stenholm
Martinez	Ravenel	Stump
Mavroules	Ray	Sundquist
Mazzoli	Regula	Synar
McCandless	Rhodes	Tallon
McCloskey	Richardson	Tanner
McCollum	Ridge	Tauzin
McCrery	Rinaldo	Taylor
McCurdy	Ritter	Thomas (CA)
McDade	Roberts	Thomas (GA)
McEwen	Robinson	Thomas (WY)
McGrath	Roe	Torres
McMillan (NC)	Rogers	Torricelli
McMillen (MD)	Rohrabacher	Traficant
Meyers	Ros-Lehtinen	Traxler
Miller (OH)	Rose	Unsoeld
Miller (WA)	Rostenkowski	Upton
Moakley	Roth	Valentine
Molinari	Roukema	Vander Jagt
Montgomery	Rowland (GA)	Volkmer
Moorhead	Russo	Vucanovich
Morella	Saiki	Walgren
Morrison (WA)	Sangmeister	Walker
Murphy	Sarpalius	Walsh
Murtha	Sawyer	Watkins
Myers	Saxton	Weldon
Natcher	Schaefer	Whittaker
Neal (NC)	Scheuer	Whitten
Nelson	Schiff	Williams
Nielson	Schneider	Wilson
Nowak	Schuette	Wolf
Oakar	Schulze	Wyden
Olin	Schumer	Wylie
Ortiz	Sensenbrenner	Yatron
Owens (UT)	Shaw	Young (AK)
Oxley	Shumway	Young (FL)
Packard	Shuster	
Pallone	Sisisky	
Panetta	Skeen	
Parker	Skelton	
Pashayan	Slattery	

NOT VOTING—8

Campbell (CA)	James	Rowland (CT)
Crockett	Michel	Smith (VT)
Edwards (OK)	Parris	

□ 1806

Mr. BEILENSON changed his vote from "aye" to "no."

Messrs. VENTO, FEIGHAN, MFUME, and NEAL of Massachusetts changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. JAMES. Mr. Speaker, on the last vote, unfortunately I was at a location away from the House Chamber and missed that vote. Had I been here to vote on rollcall 410, the Staggers amendment to H.R. 5269, I would have voted no.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore, Mr. JOHNSON of South Dakota, having assumed the chair, Mr. Bosco, Chairman of the Committee of the Whole House on the State of the Union, reported

that that Committee, having had under consideration the bill (H.R. 5269) to control crime, had come to no resolution thereon.

EXPLANATION OF VOTE

Mr. PORTER, Mr. Speaker, I was inadvertently absent from the House floor during the vote on the Martin of Illinois amendment today. Had I been able to be present and voting on rollcall No. 409, I would have voted "aye."

PERSONAL EXPLANATION

Mr. LIVINGSTON. Mr. Speaker, due to circumstances out of my control, I was unable to cast my vote on rollcall votes 408 and 409.

Mr. Speaker, I would have voted aye on both rollcall vote 408 and rollcall vote 409.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 660, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-792) on the resolution (H.R. 492) providing for the consideration of the joint resolution (H.J. Res. 660) making further continuing appropriations for the fiscal year 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR TRANSFER OF CERTAIN LANDS TO CALIFORNIA

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2809) to provide for the transfer of certain lands to the State of California, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. FINDING AND PURPOSE.

(a) FINDINGS:—The Congress finds and declares that—

(1) in order to protect certain outstanding examples of ponderosa pine, sugar pine, and giant sequoia trees located in the North and South Calaveras Groves, on the western slope of the Sierra Nevada Mountains, the State of California has established the Calaveras Big Trees State Park;

(2) for similar purposes, the United States has designated certain adjacent Federal lands, amounting to approximately 379 acres, as the Calaveras Big Trees National Forest; and

(3) this National Forest (managed as part of the Stanislaus National Forest) is the smallest National Forest in the United States and could be more appropriately and efficiently managed as part of the Calaveras Big Trees State Park.

(b) PURPOSE.—The purpose of this Act is to improve the management of the lands located in the Calaveras Big Trees National Forest, and to protect certain examples of ponderosa pine, sugar pine, and giant sequoia trees, by unifying the management of the lands in such National Forest and in the California Calaveras Big Trees State Park.

SEC. 2. LAND CONVEYANCE.

(a) CONVEYANCE.—Subject to valid existing rights and the provisions of this Act, the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") is authorized and directed to convey all right, title, and interest of the United States in and to lands and interests therein within the Calaveras Big Trees National Forest, as generally depicted on a map numbered 20435 and dated June 5, 1989, prepared by the California Department of Parks and Recreation, to the State of California for inclusion within the Calaveras Big Trees State Park.

(b) MAP AND DESCRIPTION.—As soon as practicable after the enactment of this Act, the Secretary shall submit a map and legal description of the lands referred to in subsection (a) to the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the Senate. Such map and legal description shall have the same force and effect as if included in this Act, except that any clerical or typographical errors in such map or legal description may be corrected. The Secretary shall place such map and legal description on file, and make them available for public inspection, in the Office of the Chief of the Forest Service.

(c) CONDITIONS OF CONVEYANCE.—Conveyance of the lands and interests described in subsection (a) of this section shall be subject to the following conditions—

(1) The conveyance shall take place only if within two years after the date of enactment of this Act, there is concluded an agreement between the State of California and the Secretary whereby the State of California agrees to provide the United States, in exchange for the lands described in subsection (a) and pursuant to terms and conditions which the Secretary finds acceptable, consideration of approximately equal value. Such consideration shall include either lands in California that the Secretary finds suitable for addition to, and are contiguous to, one or more units of the National Forest System, cash payment, or monetary grants awarded to the United States after June 1, 1990, or any combination thereof:

(2) No harvest of timber (except as may be necessary for the control of fire, insects, or disease) and no mining, mineral leasing, or geothermal exploration or development shall be permitted on such lands;

(3) Any action by the State of California to convey any portion of such lands or interests to any entity other than the United States shall be void ab initio and shall result in the reversion to the United States of all right, title, and interest in such lands;

(4) Any action by the State of California to permit the use of any portion of such lands for any purpose prohibited by this subsection or any purpose incompatible with the continued ability of such lands to support ponderosa pine, sugar pine, or giant sequoia trees, shall result in the reversion of all right, title, and interest in such lands to the United States. Any such lands which revert to the United States shall be incorporated into the Stanislaus National Forest and managed to preserve and protect the stands of ponderosa pine, sugar pine, and giant sequoia trees located on such lands;

(5) The Secretary, acting through the Forest Service, shall be afforded by appropriate officials of the State of California reasonable opportunities to collect seeds from trees located on such lands for scientific or silvicultural purposes;

(6) The Secretary, upon prior notification to the State of California, shall be entitled at any time to enter upon such lands for the purpose of monitoring the management of such lands and the compliance of the State of California with the provisions of this subsection; and

(7) The conveyance shall be subject to the following reservations or exceptions:

(A) existing ditches and canals as authorized by the Act of August 30, 1890 (43 U.S.C. 945); and

(B) any existing rights-of-way to provide the United States and its assigns access to federally owned lands.

(d) ENFORCEMENT.—Upon the request of the Secretary, the Attorney General shall bring any action or take any other steps necessary to enforce the provisions of subsection (c) of this section.

(e) TIMING, VALUE, AND STATUS.—(1) Conveyance of lands to the State of California pursuant to this Act shall occur when the agreement described in paragraph (1) of subsection (c) has been reached. The restrictions and conditions specified in paragraphs (2), (3), (4), (5), (6), and (7) of subsection (c) shall be included in the instruments of conveyance of lands to the State of California.

(2) Effective upon the conveyance to the State of California of lands described in subsection (a) of this section, or two years after the date of enactment of this Act, whichever is sooner, the National Forest designation of such lands shall terminate. Any such lands not conveyed to the State of California shall thereupon be incorporated into the Stanislaus National Forest and managed to preserve and protect the stands of ponderosa pine, sugar pine, and giant sequoia trees located on such lands.

(3) Any lands conveyed to the United States pursuant to this Act shall be deemed national forest lands and managed according to the laws governing the management of the National Forest System. If any such lands are outside existing boundaries of one or more National Forests, the Secretary shall modify such boundaries as he deems appropriate to include such lands.

(4) Values of the respective lands exchanged between the United States and the State of California pursuant to this Act shall be of "approximately equal value" as that term is defined by regulations implementing the Act of January 12, 1983, known as the Small Tracts Act (16 U.S.C. 521c-521i).

Amend the title so as to read "An Act to provide for the conveyance of certain lands to the State of California, and for other purposes.".

The Speaker pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. LIGHTFOOT. Mr. Speaker, reserving the right to object, but I do not plan to object, I yield to the gentleman from Minnesota [Mr. VENTO] to explain his request.

Mr. VENTO. Mr. Speaker, H.R. 2809 is a bill introduced by our colleague from California, Mr. LEHMAN, that the House passed last year. It provides for transfer to State management of some national forest lands in California that are effectively surrounded by the Calaveras Big Three State Park. Under the bill as passed by the House, that transfer would be required to be in exchange for State lands to be added to the National Forest System. The Senate amendment makes a number of minor revisions, and gives the State the option of providing money instead of or in addition to land. The Senate amendment retains the protections concerning future management of the lands that are to be added to the State park, and I believe that the amendment is acceptable. My unanimous consent request is for us to concur in the Senate amendment, and thus clear this bill for signature by the President.

□ 1810

Mr. LEHMAN of California. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOD. Further reserving the right to object, I yield to the gentleman from California.

Mr. LEHMAN of California. Mr. Speaker, I rise in support of H.R. 2809, the Calaveras Big Tree land exchange, a bill that I introduced earlier this year, which will complete a project Congress began in 1909—the protection of Calaveras big trees.

Inspired by the conservation policies of Theodore Roosevelt and a group called the California Club, Congress enacted legislation in 1909 to authorize the Calaveras Bigtree National Forest in California. The act empowered the Secretary of Agriculture to acquire land on both sides of the North Fork of the Stanislaus River to protect majestic groves of big trees (especially giant sequoias) and to promote their reproduction. The 1909 act was was not implemented by the U.S. Government until 1953 when the Calaveras Big Tree National Forest was carved from private land in the area. The new national forest, with only 379 acres, became the smallest national forest in the Nation, and its management was delegated to the nearby Stanislaus National Forest.

In the intervening years between congressional recognition of the big trees area and its actual creation as a national forest, California State officials—worried by Federal inaction—moved at a faster pace to protect the Calaveras big trees. These Californians enlisted the help of Frederick Law Olmsted, Jr. Olmsted visited the Calaveras groves in 1928 and included them in a list of potential sites which were the foundation of the California state park system. In the 1930's and 1940's, California acquired land on both sides of the North Fork of the Stanislaus River. This land became known as the Calaveras Big Trees State Park.

Today, the 379 acres of the Calaveras Big Trees National Forest lies between the north and south groves of the 6,000 acres Calaveras Big Trees State Park. Although the State and Federal land is set aside for the protection of big trees, because of the size and location of the Federal parcel, the U.S. Forest Service can provide custodial care only—with no one assigned to actively manage the big trees on an ongoing basis. As a result, the sugar pine, ponderosa and sequoia big trees in the Calaveras National Forest are fast succumbing to an encroaching understory of white fir trees. If this situation remains unchanged, all non-fir species will eventually decline.

H.R. 2809, as amended by the Senate, directs the U.S. Forest Service to transfer the Calaveras Big Trees National Forest to the State of California for inclusion in the Calaveras Big Trees State Park and allows the State to offer land, money or a combination of both to the Forest Service in an equal value exchange for that land.

Mr. Speaker, this is a small bill which will have long lasting benefits. If you take a walk through the Calaveras Big Trees State Park, you will see the descendants of the Calaveras big trees which lived 180 million years ago. You will see the stump of a thousand year old tree which is 13 feet in diameter, standing as a reminder of man's willingness to dismantle one of the largest living things on Earth.

This bill, which the Forest Service and the State of California endorse, will further the protection of untouched stands of sugar pine, ponderosa and giant sequoia trees and will further the enjoyment of visitors to the Calaveras Big Trees State Park. I believe that we have an unique opportunity to leave this small, but important legacy to future generations. I urge my colleagues to vote in favor of passage for this bill.

Mr. LIGHTFOOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

DESIGNATING CERTAIN COMPONENTS OF NATIONAL TRAILS SYSTEM

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1109) to amend the National Trail System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System, with Senate amendments thereto, and concur in the Senate amendments numbered 1, 3, and 5, and to disagree to the Senate amendments numbered 2 and 4.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments:

Page 2, line 1, strike out " "( ) The" and insert " "(18) The".

Page 2, line 17, after "thereof" insert ": *Provided,* That within the States of Utah and Wyoming, no lands or interests therein may be acquired by the United States for the California National Historic Trail except with the consent of the owner thereof".

Page 2, line 18, strike out " "( ) The" and insert " "(19) The".

Page 3, line 8, after "thereof" insert ": *Provided,* That within the States of Utah and Wyoming, no lands or interests therein may be acquired by the United States for the California National Historic Trail except with the consent of the owner thereof".

Page 3, strike out lines 9 through 15.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mr. LIGHTFOOT. Mr. Speaker, reserving the right to object, I do so to yield to the gentleman from Minnesota [Mr. VENTO] for an explanation.

Mr. VENTO. Mr. Speaker, H.R. 1109 amends the National Trails System Act to designate the California National Historic Trail and the Pony Express National Trail as components of the National Trails System. The legislation originally passed the House on March 6, 1990. Subsequently, the Senate considered the measure on June 6, 1990 and returned the bill to the House with amendments.

The Senate amendments include three technical and two substantive changes to the bill. The technical changes are housekeeping in nature and I have no problem with their acceptance. The two substantive changes, though, deal with special exemptions within the States of Utah and Wyoming from the customary authorities on the acquisition of lands and interests in lands for national historic trails. These exemptions would create a process whereby acquisitions within federally administered areas would occur on one basis within Utah and Wyoming and on another basis within the five other States through which these historic trails pass. These exemptions are neither necessary nor desirable and I would urge that the House disagree with these two Senate

amendments so that the bill can be passed in a manner that conforms to our policies and practices for national historic trails.

Mr. LIGHTFOOT. Mr. Speaker, I thank the gentleman from Minnesota for his explanation. We on the minority side are in agreement with the gentleman's position on this and think this is the correct thing to do.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2809 and H.R. 1109.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PERSONAL EXPLANATION

Mr. WELDON. Mr. Speaker, earlier today I was absent for several votes.

Had I been present, I would have voted as follows:

On rollcall No. 403, no; rollcall No. 404, no; rollcall No. 405, yes; rollcall No. 406, yes; and rollcall No. 407, yes.

PERSONAL EXPLANATION

Mr. PARRIS. Mr. Speaker, I was detained at the White House in a meeting with the President and missed rollcall vote No. 408, on which I would have voted yes; rollcall vote No. 409, on which I would have voted yes; and rollcall vote No. 410, on which I would have voted, no.

EISENHOWER EXCHANGE FELLOWSHIP ACT OF 1990

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2017) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MEYERS of Kansas. Mr. Speaker, reserving the right to object, I yield to my friend the gentleman from California [Mr. DYMALLY] to explain the bill.

Mr. DYMALLY. Mr. Speaker, the purpose of my request is to bring up the Senate bill, S. 2017, to authorize an endowment for the Eisenhower Exchange Program and provide for the continuation of the au pair program, with an amendment to expand the Fascell Fellowship Program.

S. 2017 authorizes $5 million for a grant to the Eisenhower Exchange Fellowship Program in order to fund a permanent endowment for the program. The bill also would authorize up to $2.5 million over the next 4 years to match funds collected by the program from the private sector. Mr. Speaker, I believe that a funding authorization for the organization is appropriate at this time to commemorate the centennial year of President's birth.

This legislation, as passed by the Senate, refleects the amendments offered by the Committee on Foreign Affairs to the bill as introduced by Representative ROBERTS of Kansas. The Foreign Affairs Committee amended the House companion bill to fund the program from the Treasury in the same manner as the Harry S. Truman Trust Fund. The funds are invested by the Secretary of the Treasury and the interest used by the endowment. The committee's amendment also provided for: First, access to the financial records of the organization by the General Accounting Office; second, fellowships for agricultural exchange programs; and third, that at least 10 percent of the funds available under U.S. Government-sponsored fellowships be used for participants who are members of minority groups. The Senate-passed bill includes these amendments.

The bill also extends the mandate of the au pair programs beyond September 30, 1990. The provision will allow au pair programs to remain in operation until such time as the programs are authorized and implemented by another agency of the U.S. Government. Without this legislation, the Department of State can no longer issue visas for au pairs who are expected to arrive in the this country to begin their year-long exchange, and the INS must deny entry to J visa holders who are designated under the au pair program.

My amendment to the Senate bill concerns the Fascell fellowhip program under which U.S. citizens can serve in positions traditionally held by foreign national employees at U.S. missions abroad. Currently, this program has been limited to the Soviet Union and Eastern Europe. This amendment would simply enable such fellows to serve at any appropriate U.S. post abroad. Such service enhances the language abilities and area knowledge of students scholars and schools who can serve as fellows.

I urge my colleagues to support this bill and the amendment thereto.

Mr. Speaker, as I have previously stated, my amendment simply expands the authority of the State Department to extend the Fascell Fellowship Program, currently restricted to the Soviet Union and Eastern Europe, to U.S. missions around the globe. I urge colleagues to support the amendment.

The Eisenhower Exchange Program—

Establishes in the Treasury a trust fund known as the Eisenhower Exchange Fellowship Program Trust Fund.

Directs the Secretary of the Treasury to invest amounts appropriated to the fund in interest-bearing obligations of the United States. This arrangement tracks the system created for the Harry S. Truman memorial scholarships which were founded in 1975.

Authorizes the Secretary to pay the Eisenhower fellowships the amount of interest of the fund, subject to appropriation.

Provides for audits by the GAO.

Authorizes the appropriation of $5 million to the trust fund, and up to $2.5 million in funds matching those collected by the fellowship from the private sector.

Requires the fellowship to use a portion of the fund to be used for agricultural exchange programs.

Requires that at least 10 percent of the funds be available for participation by members of minority groups.

This amendment simply expands the authority of the State Department to extend Fascell fellowships, presently applicable only to the Soviet Union and Eastern Europe, to positions at U.S. missions throughout the world.

Fellowships were originally created to meet the need for low cost assistance to U.S. Embassy staffs in the U.S.S.R. caused by restrictions on the hiring of local employees.

There have been about 15 Fascell fellows over the past 2 years. Two are now receiving training before they go out to the field.

The President is authorized to place up to 100 fellows in eastern Europe and the U.S.S.R.

The fellowships have been highly successful and have received praise from participants and from U.S. Embassies.

The program enables postgraduate students, teachers, and experts with a language skills to serve for a short period on the staff of U.S. Posts carrying out duties normally fulfilled by local employees.

The fellowship is a unique opportunity for qualified young Americans to serve their country and gain valuable experience regarding the diplomatic service and international affairs.

It has provided U.S. embassies with low-cost help from skilled Americans.

Fellows are chosen by the Secretary of State after a careful selection process carried out by a bipartisan board of representatives of the State Department and U.S. Information Agency as well as qualified academic experts.

Section 8 of the bill provides that the USIA will continue to implement AU pair programs until such time as they are authorized and implemented by another agency of Government.

The committee supports the continuation of the AU pair program, but believes that another agency, other than USIA should oversee and implement the program.

Because of the strong labor component to the AU pair program and because of the potential scope of the program as it expands,

the committee was sensitive to the conclusions of the GAO report that the AU pair program exceeded USIA'S authority under the Mutual Educational and Cultural Exchange Act of 1961.

The GAO further concluded that some of the activities involving work or training programs now authorized under the J visa would be more appropriate under other visa categories.

Therefore the committee felt it the best course of action to assist the AU pair program in its current operations by providing this bridging authority until the AU pair program could be transferred to another Government entity more suited to its oversight and administration.

Mr. ROBERTS. Mr. Speaker, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from Kansas.

□ 1820

Mr. ROBERTS. Mr. Speaker, I simply want to rise to thnk the chairman of the subcommittee for his real leadership and his efforts in improving this bill. This is a very fine Eisenhower Federal Scholarship Program. The subcommittee has done an outstanding job, and more particularly in regard to the Eisenhower centennial years, it is most appropriate that we expand and really improve this program.

I want to thank my colleague and good friend [Mrs. MEYERS] the gentlewoman from Kansas for her efforts in this regard.

Mr. Speaker, I am pleased that the House is considering S. 2017, legislation to create a permanent endowment for the Eisenhower Exchange Fellowship Program. S. 2017 is similar to a bill I introduced—H.R. 4054—into the House for consideration.

We in Kansas are understandably proud of Dwight David Eisenhower, our most famous native son. This year, the centennial year of Ike's birth, is the fitting time to recall his memory.

Kansans continue to believe in the former President's strong convictions for freedom around the world. For that reason, I am especially proud to call to your attention S. 2017, legislation to support the work of a foundation established in President's Eisenhower's name.

After working with the Eisenhower family and the Eisenhower Exchange Fellowships Inc., I joined my colleague, Senator ROBERT DOLE, in introducing this legislation into the House and Senate.

The Eisenhower Exchange Foundation, founded in 1953, was developed to promote international understanding through the exchange of information, ideas and perspectives among emerging world leaders.

Simply, S. 2017 authorizes the creation of a permanent $5 million endowment for the Eisenhower Exchange Fellowships. In addition, for the next 4 years the Federal Government would match private donations raised by the program up to $2.5 million. This endowment would be created to focus exchanges with emerging democracies in Europe.

Throughout the last 12 months, the world has witnessed unimaginable changes through the world as democratic changes have taken hold. Undeniably, the most dramatic changes occurring throughout Eastern Europe.

Just last night, thousands of Germans, from east and west, met before Berlin's Reichstag building before the Brandenburg Gate to witness the reunification of their nation. Many challenges lie ahead for the German people and they continue to face it with pride and courage. Today, the celebration continues.

I have a deep commitment in continuing to support the legacy of President Eisenhower and am well aware of the great success the Eisenhower Exchange Program has experienced in previous years. I believe ths is both a fitting tribute to the Eisenhower Exchange Fellowship and President Eisenhower. This centennial year provides us with a rare opportunity to deepen our appreciation of the hard work, intelligence and foresight of Dwight David Eisenhower. I appreciate your support.

Mr. DYMALLY. Mr. Speaker, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from California.

Mr. DYMALLY. Mr. Speaker, this bill is before us today because of the leadership of the gentleman from Kansas [Mr. ROBERTS]. It was because of his testimony before the committee, convincing the committee of the need for this significant piece of legislation, that the committee unanimously passed the legislation on to the full committee, and I want to commend the gentleman from Kansas for bringing it to the committee and making such a good case for this piece of legislation.

Mr. ROBERTS. I thank the gentleman, and all of the Eisenhower family thank him, and I thank him, and Kansas thanks him, and Abilene thanks him. The gentleman from California has a bundle of thanks.

Mrs. MEYERS of Kansas. Mr. Speaker, further reserving the right to object, I join the chairman of the Foreign Affairs Committee, DANTE FASCELL, and the ranking member, Mr. BROOMFIELD, in supporting the passage of S. 2017.

This bill accomplishes three worthwhile objectives—the permanent endowment of the Eisenhower Exchange Fellowship Program; the continued authorization for the Au Pair Program currently being administered by the U.S. Information Agency; and expands the existing Fascell fellowships.

The permanent endowment of the Eisenhower Exchange Fellowship Program is in honor of the birth, 100 years ago, of our great President and military leader, Dwight David Eisenhower. Through this program, the educational opportunities of young leaders in the United States and in the emerging European democracies will be expanded for the promotion of peace through international understanding.

This program will help deepen the relationships between future leaders of the United States and Europe—relationships that will carry us into the 21st century as we face common problems such as the preservation of the environment, and the expansion of freedoms and economic opportunities of those in once-Communist Europe. These are objectives that were fostered by President Eisenhower, and objectives that deserve to be supported by all of us.

With regard to the au pair provisions, S. 2017 provides a bridging authorization requiring USIA to continue implementation of this program until it is transferred to another agency of the Federal Government.

This is a successful program that works well and is widely supported. It provides a unique opportunity for young people from Europe, with limited financial means, to live in the United States as a member of an American family for 1 year. These young people provide child care for the host family during the year, and in return receive their transportation, housing, spending money, and the chance to learn about life in the United States.

While there have been disagreements as to what Federal agency should administer this program, there have never been disagreements about the quality of the program.

Mr. Speaker, S. 2017 is a worthy bill, and I urge its passage.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Eisenhower Exchange Fellowship Act of 1990".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower's leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America's need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower's name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower's crusade to liberate the people's of Europe from oppression;

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange Fellowships, to increase educational opportunities for young leaders in preparation for and enhancement of their professional careers, and advancement of peace through international understanding.

SEC. 3. EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the Eisenhower Exchange Fellowship Program Trust Fund (hereinafter in this Act referred to as the "fund"). The fund shall consist of amounts authorized to be appropriated under section 5 of this Act.

(b) INVESTMENT IN INTEREST BEARING OBLIGATION.—It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interests by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) SALE AND REDEMPTION OF OBLIGATIONS.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) CREDIT TO THE FUND OF INTEREST AND PROCEEDS OF SALE OR REDEMPTION.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

SEC. 4. EXPENDITURE AND AUDIT OF TRUST FUND.

(a) AUTHORIZATION OF FUNDING.—For each fiscal year, there is authorized to be appropriated from the fund to Eisenhower Exchange Fellowships, Incorporated, the interest and earnings of the fund.

(b) ACCESS TO BOOKS, RECORDS, ETC. BY GENERAL ACCOUNTING OFFICE.—The activities of Eisenhower Exchange Fellowships, Incorporated, may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by Eisenhower Exchange Fellowships, Incorporated, pertaining to such activities and necessary to facilitate the audit.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

To provide a permanent endowment for the Eisenhower Exchange Fellowships Program, there are authorized to be appropriated to the Eisenhower Exchange Fellowships Program Trust Fund—

(1) $5,000,000; and

(2) the lesser of—

(A) $2,500,000, or

(B) an amount equal to contributions to Eisenhower Exchange Fellowships, Incorporated, from private sector sources during the 4-year period beginning on the date of enactment of this Act.

SEC. 6. USE OF INCOME ON THE ENDOWMENT.

(a) REQUIREMENT FOR FUNDING OF UNITED STATES FELLOWS IN EMERGING EUROPEAN DEMOCRACIES.—For any fiscal year, not less than 50 percent of the amount made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available only to assist United States fellows in traveling to and studying in emerging European democracies.

(b) LIMITATION ON STUDY IN UNITED STATES.—For any fiscal year, not more than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available to assist foreign fellows in traveling to and studying in the United States.

(c) AGRICULTURAL EXCHANGE PROGRAM.—For any fiscal year, as may be determined by Eisenhower Exchange Fellowships, Incorporated, a portion of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be used to provide fellowships for agricultural exchange programs for farmers from the United States and foreign countries.

(d) PARTICIPATION BY UNITED STATES MINORITY POPULATIONS.—In order to ensure that the United States fellows participating in programs of the Eisenhower Exchange Fellowships, Incorporated, are representative of the cultural, ethnic, and racial diversity of the American people, of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) which are obligated and expended for United States fellowship programs, not less than 10 percent shall be available only for participation by individuals who are representative of United States minority populations.

SEC. 7. REPORT TO CONGRESS.

For any fiscal year for which Eisenhower Exchange Fellowships, Incorporated, receive funds pursuant to section 4(a) of this Act, Eisenhower Exchange Fellowships, Incorporated, shall prepare and transmit to the President and the Congress a report of its activities for such fiscal year.

SEC. 8. EXTENSION OF AU PAIR PROGRAMS.

The United States Information Agency shall continue to implement the au pair programs designated by the Director of United States Information Agency as of July 10, 1990, until such au pair programs are authorized and implemented by another agency of the United States Government.

AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DYMALLY: At the end of the bill insert the following new section:

SEC. 9. FASCELL FELLOWSHIP PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Fascell Fellowship Amendments Act of 1990".

(b) SERVICE OF FASCELL FELLOWS.—

(1) ESTABLISHMENT.—Section 1002(a) of the Fascell Fellowship Act (22 U.S.C. 4901(a); hereinafter in this section referred to as "the Act") is amended—

(A) by striking out "formerly" and inserting in lieu thereof "which would otherwise be"; and

(B) by striking out "in the Soviet Union or Eastern European countries" and inserting in lieu thereof "abroad".

(2) PURPOSE OF THE FELLOWSHIPS.—Section 1002(c) of the Act (22 U.S.C. 4901(c)) is amended—

(A) by striking out "in the Soviet Union or an Eastern European country" and inserting in lieu thereof "abroad"; and

(B) by striking out "Soviet or Eastern European" and inserting in lieu thereof "that country's".

(3) INDIVIDUALS WHO MAY RECEIVE A FELLOWSHIP.—Section 1002(d) of the Act (22 U.S.C. 4901(d)) is amended by striking out "Soviet or Eastern European area studies or languages" and inserting in lieu thereof "international affairs, foreign languages, or career and professional experience or interest in international affairs,".

(c) FELLOWSHIP BOARD.—

(1) MEMBERSHIP.—Section 1003(b) of the Act (22 U.S.C. 4902(b)) is amended in paragraph (4) by striking out "Soviet or Eastern European area studies or languages," and inserting in lieu thereof "international affairs or foreign languages,".

(2) TRANSITION.—The amendment made by paragraph (1) shall apply only to appointments to the Fascell Fellowship Board after the date of the enactment of this section and shall not affect the service of members of such board on the date of the enactment of this section.

(d) POSTING OF FELLOWS.—Section 1005(a) of the Act (22 U.S.C. 4904(a)) is amended by striking out "in the Soviet Union or Eastern Europe" and inserting in lieu thereof "abroad".

Mr. DYMALLY (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. DYMALLY].

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

VACATING SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. JAMES. Mr. Speaker, I ask unanimous consent to vacate the 60-minute special order today of the gentleman from Indiana [Mr. BURTON] and that instead he be granted a 5-minute special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

THE BUSINESS CASH REPORTING COMPLIANCE ACT OF 1990

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

Mr. PICKLE. Mr. Speaker, today I introduced the bill entitled "the Business Cash Reporting Compliance Act of 1990." This legislation will strengthen section 6050I, a provision in the Internal Revenue Code that requires businesses to report to the IRS all transactions that involve more than $10,000 in cash.

This requirement was enacted because Congress believed that having businesses report the spending of large amounts of cash would enable the IRS to identify taxpayers with sizable cash incomes that might otherwise be underreported.

On September 20, the Subcommittee on Oversight held a hearing in which its undercover investigators testified on the results of a 2-month investigation demonstrating the business community's predisposition to violate section 6050I. The results were astonishing and alarming.

Oversight Subcommittee investigators traveled across the country to 9 cities randomly visiting 79 different retailers. The investigators made arrangements to purchase 4.2 million dollars' worth of expensive items, including a $55,000 Persian rug, a $250,000 condominium, a $22,000 antique mirror, a $73,000 Porsche, a $15,000 Mazda Miata, and a $17,000 Rolex watch; 76 out of 79 businesses agreed to take the cash, without question, and not report the transactions to the IRS; 95 percent of the merchants were willing to take false names; and more than 25 percent suggested ways to avoid the reporting rules. The fact that any merchant would knowingly accept large sums of cash and deliberately conceal these transactions is unconscionable—but more importantly a violation of the law.

As a result of the investigation and hering, several problems were identified that need to be addressed in legislation. Section 6050I must be improved if we are to have an effective program to prevent tax evasion and money laundering.

We heard that many businesses are not reporting sales to the IRS because the transactions are structured with multiple cashier's checks or money orders in addition to cash. We need to expand the definition of cash subject to reporting to include monetary instruments, such a cashier's and money orders of less than $10,000, and close the loophole that allows these transactions to go unreported.

We heard that businesses are eager and willing to take cash without reporting the transaction. Clearly the penalty of $100 or 10 percent of the transaction is not a deterrent to nonreporting. The profit made on the sale of a luxury item almost always exceeds existing sanctions. We need to treat businesses just like banks, where the penalty for intentional violations would be $25,000 or 100 percent of the transaction.

We heard that many businesses were willing to provide a quick course on how to circumvent the law. We need to clarify section 6050I so that it is illegal for any party, including the business itself, to cause or attempt to cause a business not to file a report with the IRS.

Lastly, the Government's enforcement efforts in this area leave a lot to be desired. Section 6050I has been on the books for the last 6 years and yet, only 94,000 transactions have been reported to the IRS representing $2.7 billion in sales. Last year, the business community filed only 22,000 reports. Since the first of the year, only four transactions have been reported in the District of Columbia. Despite the low number of filing each year, the IRS has only recently begun efforts to educate the business community on their reporting responsibilities. There has never been a section 6050I examination program and only in selected cities has the IRS conducted compliance checks. The IRS could not tell the Oversight Subcommittee the extent to which civil sanctions have been imposed for any failure to file these reports. There are also serious questions about the usefulness and availability of the information filed under section 6050I. We need to legislatively mandate a study that would force the Treasury Department and its agency's to review their educational efforts, compliance programs, and examination procedures directed at businesses engaged in large cash transactions and report to the Congress their findings.

Business Cash Reporting Compliance Act of 1990 will accomplish these objectives. I urge my colleagues to support this important piece of legislation. Everyone has a role in supporting our tax system. The time has certainly come for the business community to do their share. This bill will send a clear message to unscrupulous businesses that civic duty is more important than a quick buck. A description of the measure is as follows:

DESCRIPTION OF BUSINESS CASH REPORTING COMPLIANCE ACT OF 1990

1. Penalty: The bill modifies the section 6050I civil penalty applicable for "intentional disregard" of the reporting requirements to mirror the civil penalty applicable for currency transaction reports filed under the Bank Secrecy Act. The penalty would be the greater of $25,000 or the amount of the cash received not to exceed $100,000, rather than present law of $100 or 10% of the transaction.

2. Cashier's checks/money orders: The bill would expand the term "cash" subject to reporting to include any monetary instrument as prescribed in regulations. The regulations would address the problems associated with monetary instruments such as cashiers checks and money orders, whether or not in bearer form, with a face amount of not more than $10,000. "Personal checks" would be specifically excluded.

3. "Anti-structuring" provision: The bill would clarify that it is illegal for any party, including the business itself, to cause or attempt to cause a business not to file a report with the IRS.

4. Study: The bill would mandate a Treasury Department study to examine the extent of section 6050I compliance by businesses, the effectiveness of civil penalties, methods to enhance compliance, and appropriate methods to increase the usefulness and availability of the information filed under section 6050I.

□ 1830

THE AMERICAN PEOPLE HAVE ANSWERED THE CALL: THEY DO NOT WANT HIGHER TAXES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, last night the President of the United States and the majority leader of the U.S. Senate appeared on national television urging the American people to support the budget compromise, so-called compromise, that was presented to the Congress. The President and the majority leader said it was absolutely essential that the American people let their elected representatives know how they felt about the budget compromise and the tax increases that were involved in that compromise.

The tax increases totaled about $134 billion, including a 10-cents-a-gallon gasoline tax and 2 cents on oil that was going to translate into higher energy costs. It included beer, liquor, wine, cigarette taxes, and a number of other taxes. I think there were 16 or 17 in all. But, nevertheless, they went to the American people and urged them to contact their Congressmen and Senators to let them know how they felt about it.

Mr. Speaker, I have before me a list of Congressmen who received telephone calls from the American people

in their offices, and I thought my colleagues might find some of this information of interest. One Congressman from Texas, the gentleman from Texas [Mr. DELAY], my good colleague, received, I believe, 300 calls against the package and 34 for, almost 10 to 1. Originally it was about 4 to 1, and it escalated as the day went on. The gentleman from California [Mr. DORNAN] had calls mostly against. He said the phones were ringing off the hook in the district, and most of those were against the agreement. The gentleman from New Hampshire [Mr. DOUGLAS] said it was 41 to 2 against. That was early in the day. The gentleman from California, and maybe I should not mention all of my colleagues' names, so I will eliminate their names now, because it might cause them some heartburn later on. One of my colleagues from California said it was 50-50 in his office. Another Congressman, it was about even. Another Congressman, it was very much against. Another Congressman, it was 80 against the package and 10 for the package, 8 to 1. A Congressman from Texas, it was 100 against and 2 for, and the two that were for it were from outside his district. A gentleman from Georgia, it was overwhelmingly against it. Another gentleman, in one of his offices, it was 50-50, and another one of his offices it was 105 against and 42 for, and a Congressman from Illinois, it was 140 against and 9 for, and one of the Congressmen who came out in favor of the package yesterday reversed himself today because in his office he received 232 against and 51 for. It was almost 5 to 1 against the package.

Mr. Speaker, what this says is that the American people have, as the President of the United States requested and as the majority leader in the Senate requested last night, they have answered the call to contact their Congressmen and Senators.

As far as I can tell, it has been overwhelmingly rejected. The American people do not want these tax increases, the largest tax increase in our history, and some say the second largest tax increase in our history.

Nevertheless, it is a very, very large tax increase but the American people realize we are on the precipice of a recession, and that a tax increase of the magnitude we are talking about would only make the recession deeper, and so I just say to my friends at the White House, for whom I have the greatest respect, and my friends in the other body for whom I have the greatest respect, and the leaders of this body for whom I have the greatest respect. You asked the American people what they thought, and the American people have answered loud and clear. They do not like this budget package. Go back to the drawing boards. They do not want higher taxes.

BUDGET SUMMIT AGREEMENT IS FAULTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 5 minutes.

Mr. DELAY. Mr. Speaker, we are going through a horrendous exercise this week in trying to decide what to do about the budget, and as most of America knows, the agreement that is presented to us is a faulty one.

I wanted to point out one thing to the Members of this House, that the U.S. Chamber of Commerce has come out today in opposition to the agreement for some very poignant reasons that they outlined, and I just wanted to point out a couple of these reasons. The agreement, in their opinion, and I agree, would impose economically destructive new and higher taxes at a time when the economy is slipping into recession. It is their opinion, and I agree, that the summit agreement would cost 200,000 jobs in 1991, and reduce employment by 400,000 jobs in 1995, and lower the GNP by $70 billion by 1995 and $168 billion over the period of the agreement.

The agreement is unbalanced between spending reductions and tax increases, and the spending reductions, to the extent that they actually exist, are unbalanced in their makeup.

□ 1840

If the reduced interest payments component is removed from the deficit reduction numbers, 71 percent of the deficit reduction from fiscal year 1993 is due to tax increases and deficit cuts—$2.4 billion of the fiscal year 1991 spending cuts, 20 percent of the so-called spending reductions, are really fees, taxes, and premium increases.

Now, the proponents of the agreement will say that that may be true in the first year or two, but in the outyears we will see some real spending reductions and spending cuts.

What I say to the proponents is, this House has, time and time again, made agreements that last 5 years. We have had more 5-year plans around here than Members can imagine, but not one 5-year plan lasts longer than 1 to 2 years. The Gramm-Rudman discipline, which I favor and has been very instrumental in lowering the increase in spending of this Government, has been changed every year, every year during the 5 years that we had agreed on target to the Gramm-Rudman.

Now, we are told to, "Trust me" that if we vote for this agreement we will get some good things out of it, and there are a few good things in this agreement, but it takes 5 years to do it in. Well, Members, it bothers me that we are to trust the Democrat-controlled Congress to provide the spending cuts and spending reductions in the outyears, if we will just come up with big defense cuts and raise big taxes in the first year.

That may be the case, but in the St. Louis Post-Dispatch in today's paper, front page headline says, "Gephardt Detests the Budget Proposal." It says, if we read the article to be fair, he does not like the proposal but he will work very hard to pass it, but he also says, and this proves the point, that "Gephardt blames Bush and his Republican administration for insisting on a regressive tax package." Well, the Bush administration has never been for raising taxes. They gave in to get an agreement. Ever since the agreement has been reached, the Democrats of this House and the Democrats in the Senate have tried to portray to the American people that this is the President's package, and that it is bad, but they would help him pass it, and they will help him compromise. It is not their package. It is the President's package, but they will be magnanimous in helping form the package, and then pass it.

We are asked to believe these people that went into a summit to agree on an agreement, and it is supposed to have been on a bipartisan basis, and yet they come out of it calling it the President's package, and we are going to believe these people, and write a contract for 5 years with these people that are already designing ways to get around it? We have to look at the package as a 1-year package. What are we getting out of it? Higher taxes and defense cuts, and we are getting very little spending cuts in the outyears, and very little in the first year. That is for sure.

Therefore, I urge my colleagues of the House to vote no on the agreement. Let Members go back and write a decent agreement and get this country rolling again, and try to avoid a recession.

REMARKS ON RESOLUTION TO URGE THE SENATE TO RATIFY THE STCW

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, today I am introducing a resolution expressing the support of the House of Representatives for the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, the STCW. The resolution calls on the Senate to expeditiously ratify the STCW to permit full U.S. participation in this vital treaty.

Earlier this year, Congress completed work on far-reaching legislation that strengthens our ability to prevent and respond to oilspills. As a member of the Subcommittee on Coast Guard and Navigation, I was proud to have the opportunity to contribute to this important legislation. One of the law's key provisions,

which I inserted at the committee level, is the requirement that the Coast Guard check the driving records of mariners applying for certification in order to improve our ability to assess the fitness of oil tanker personnel.

This provision, as well as others that address the manning and certification issue, recognize the vital role that personnel standards must play in dealing with thousands of oilspills each year that wreak havoc on our coastal waters. The Coast Guard estimates that up to 80 percent of all oilspills occur as a result of human error.

We can require double hulls on oil tankers and improve ship communications equipment and vessel tracking procedures, and that certainly helps. But it still leaves us vulnerable to incompetence on the bridge of an oil tanker. The world's finest equipment cannot prevent personnel from making mistakes that lead to environmental tragedies. Training and strong certification standards can.

The new oilspill law requires the Coast Guard to revise domestic manning and certification standards for merchant mariners, and requires periodic studies to evaluate manning, training, and qualification standards of foreign tankers to ensure that they meet minimum international standards. Those standards are based on the STCW. But today we are not a full member of the STCW.

The United States and 71 other nations signed the STCW in 1978. Since then, 78 nations, representing 50 percent of the world's shipping tonnage, have ratified the treaty. The United States, which took a leading role in writing and urging passage of the treaty, has not formalized its own participation in the convention. With thousands of foreign-flagged oil tankers entering our waters every year, it is vital that the United States participate in efforts to maintain tough minimum qualifications for mariners responsible for assuring safe passage of these vessels.

New York Harbor was victimized this summer by a foreign-flagged oil tanker, manned by a multinational crew which ran the vessel aground in the Kill van Kull. I understand from the Coast Guard that the ship's foreign-certified crew made fundamental errors that point toward incompetence. New York Harbor, which has already suffered more than 1 million gallons' worth of oilspills, cannot afford these kinds of mistakes.

By not actively participating in the STCW, the United States has little choice but to take it on faith that other nations adequately train and certify their oil tanker personnel. That's not good enough for New York Harbor. That's not good enough for Long Island Sound. America must demand better. Unfortunately, the only way for our demands to have impact is for us to ratify the international treaty that sets vital personnel standards.

Full U.S. participation in the STCW would place us in a stronger position to require foreign vessels entering its territorial waters to adhere to minimum personnel standards that we help set. By not ratifying the treaty, the United States forfeits its opportunity to participate in efforts to strengthen those very international standards to better protect the marine environment.

In addition, U.S. participation in the convention would help ensure the entry of American vessels into countries which have ratified the treaty. Some countries have threatened to refuse entry to American ships on the grounds that the United States is not a party to the STCW.

Ratification of the STCW is supported by a broad coalition of groups including the Coast Guard, major oil corporations, merchant shipping associations, and maritime labor. Coast Guard regulations governing vessel crew qualifications already meet or exceed the STCW. The United States only stands to gain from participating in efforts to ensure international adherence to these standards. We don't even have a say over these issues if we don't ratify the STCW.

With America more dependent on foreign oil than ever, it is time for the Senate to act on this treaty so that we can more effectively guard our waters from the threat of poorly trained mariners guiding foreign-flagged vessels.

Ratifying the STCW would strengthen and build upon the excellent work of the Congress in developing comprehensive oilspill legislation and send a clear signal to the world that America is serious about protecting its coastal environment.

THE TRAGEDY OF PARTNERSHIP ROLLUPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker I rise today to commend my colleague from Massachusetts, Mr. MARKEY. As chairman of the Subcommittee on Telecommunications and Finance, he held a hearing this morning on partnership roll ups. It was clear from all the testimony presented that there is serious abuse in this area. Even the most proroll up witnesses not only acknowledged problems, but actively called for reform.

I understand the interest in this area. Congresswoman BOXER testified that she polled her constituents about roll ups; so did I. And the responses I received ranged from sad to tragic. Let me quote from a few of the letters I have received:

In 1981, through a financial planner (certified) my husband and I purchased $35,000 worth of shares in a Limited Partnership Damson Oil and Gas Income Fund.

In 1985, this was exchanged for 1,091 units in Damson Energy Co. L.P. and is traded over the American Stock Exchange at such a low price it is practically useless.

In 1983 we purchased $50,000 worth of shares in H.C.W.* * * which in 1987 was transferred * * * to Parker and Parsley Development Partners and * * * Again the "shares" were exchanged for units and are not worth liquidating.

My husband (who has Alzheimers now) and I put our trust in the financial planner with the hopes of increasing our income in our old age. We are now 80 and 78 years old.

And another letter:

In soliciting a yes vote from us [for the roll up], many promises were made including liquidity of our investment plus a very nice quarterly dividend. Since the [rolled up] partnership was formed all dividends have ceased; we have been the victims of a Reverse 5-for-1 stock split and our original $15,000 is now worth about $32,000.

Finally, an excerpt from one of the many letters I've received from individuals in the financial community. It seems that they've been cheated too:

My primary business is finding decent products that match my clients' investment objectives. There are a few limited partnerships trading in today's markets which qualify. After sorting through the many partnerships available, analyzing the current holdings in them, searching out the current market value, then educating the client, the last thing I need is to be "sucker punched" by a general partner who decided to rollup the partnership and give everyone a fraction of the true value.

I have proposed a bill, H.R. 4670 which would assess a hefty 50 percent excise tax on those general partners who don't give their limited partners an honest opportunity to opt out of these deals. Enactment of this bill will take care of the problem of general partners making huge profits while their investors suffer losses. I urge any of my colleagues who wish to support this effort to cosponsor H.R. 4670.

I have introduced H.R. 4670 to penalize those who would take unfair advantage. I also strongly support the subcommittee's inquiries and am sure their activities will lead to a system much fairer to investors.

VICTIMS OF AGENT ORANGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, thank goodness there are still those in the media who are willing to take at least a cautious view of the issue of agent orange and who have not been swept away by emotionalism. I refer to a September 30 column by Richard Harwood in the Washington Post in which he takes a refreshingly objective look at the matter.

Reason must prevail in determining whether or not compensation should be awarded for long-term health effects presumably associated with herbicide exposure. Over the past decade, however, reason has been rare in media analyses of the subject.

The fact is that no reputable scientific study—and there have been many—supports a direct link or even a significant statistical association between herbicide exposure and long-term health effects experienced by Vietnam veterans.

Now that we are nearing the conclusion of a long, arduous but successful scientific search for answers about agent orange—answers which should ease the anxieties of Vietnam veterans—perhaps it is time, as Mr. Harwood suggests, for the media to "demythologize the subject."

His excellent column follows:

[From the Washington Post, Sept. 30, 1990]

VICTIMS OF AGENT ORANGE?

(By Richard Harwood)

The press for many years took a skeptical view of veterans and the veterans' lobby, led by the American Legion. Their demands on the public treasury were not more outrageous than those of other special interest groups, the farm lobby and the professional educators, for example. But their hawkish tendencies in foreign affairs, their "Americanism" crusades and their obsession with Communists here and abroad gave them a bad image in intellectual circles and many newsrooms.

Over the past 15 years or so, a metamorphosis has occurred. Veterans, and most especially the Vietnam cohort, are now commonly depicted in the press as "victims" of an evil or unthinking system that inflicted upon them sufferings that may never heal. Their "victimization" is seen as a collective and indiscriminate experience, affecting equally all who wore (or who now claim to have worn) a uniform during those years: the mail clerk in Saigon and the Pentagon chauffeur as well as that small minority of men who, in all modern wars, carry the burden of battle and pay its price.

Perhaps that is why little critical or analytical attention is being paid by the press these days to the prospective giveaway of untold billions of dollars in compensation to veterans for "service-connected disabilities" that may have no connection whatever with any war or term of military service. The magic words, calculated to unlock the Treasury doors, are "Agent Orange."

This is the infamous herbicide used to defoliate large areas in Vietnam. It contained minuscule amounts of dioxin, an industrial byproduct that has been described in news stories as "the deadliest chemical known to man." Its presence in a landfill on Love Canal in upstate New York inspired panic leading to the evacuation of an entire neighborhood and the permanent abandonment of scores of homes. The experience was repeated at two sites in Missouri. When Vietnam veterans or their children fell to cancer and other diseases, Agent Orange became a prime suspect.

The Baltimore Evening Sun assigned to the story its respected science writer, Jon Franklin, who had won two Pulitzer prizes for his work. As a college student he had taken part in antiwar demonstrations and in protests against Dow Chemical, a producer of both napalm and Agent Orange: "It would be, I thought, the story of my science-writing career. I gathered about me the righteous fervor that is the armor of the crusading reporter, and I went to work."

Months later, after countless interviews and thorough review of the scientific journals, he came to a dismaying conclusion: no medical evidence supported the dioxin horror stories. He came to another conclusion: "The Agent Orange story was a myth created by a group of Vietnam-era protesters, seized upon by Viet vets and disseminated by the press. That discovery and the more shaking discovery that my colleagues [in the press] didn't care much about the truth of the matter and had never bothered to look into the substance very deeply, changed my life." He took up a teaching career and is now the journalism dean at Oregon State University.

His medical conclusions about Agent Orange have been validated in many studies, most comprehensively in a $43 million research effort by the Centers for Disease Control. Nevertheless, the Department of Veterans Affairs, cheered on by the veterans' lobby, by dissident researchers and by politicians in Congress is opening the door, inch by inch, to Agent Orange claims that, theoretically, could extend to each of the 3.1 million men and women who served in Southeast Asia. Veterans Affairs Secretary Edward Derwinski recently awarded "service-connected" disability payments to a group of Vietnam veterans suffering from a rare form of cancer. The highest incidence of these tumors was among sea-going sailors who had not been exposed to the defoliant. Mr. Derwinski claimed no "scientific" basis for his action but explained it with a quip: "Remember, this is a kinder, gentler administration." President Bush approved.

A new study of several thousand workers exposed to dioxin in manufacturing plants is to be issued soon by the National Institute of Occupational Health and Safety. If it supports the CDC studies and Mr. Franklin's researches, the "media" will have an opportunity to demythologize the subject. One might even say we would have an obligation to do so. But often we are more diligent in defining the responsibilities of others than examining our own.

TECHNICAL CORRECTIONS TO CERTAIN CUSTOMS AND TARIFF LAWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today, I am introducing legislation to make technical corrections to certain customs and tariff laws.

This bill simply corrects several errors in the Customs and Trade Act of 1990, enacted on August 20. In particular, the bill corrects drafting errors in several miscellaneous tariff provisions, and reinstates two statutory provisions of the customs forfeiture fund that were inadvertently deleted from existing law. This correction is necessary to provide permanent budgetary authority for carrying out nondiscretionary uses of the fund and is urgently needed to ensure uninterrupted operation of the Customs-Seized Property Program.

These amendments are strictly technical and completely noncontroversial. Yet, they are essential to preserve the ability of the U.S. Customs Service to administer these provisions as intended by Congress.

THE BUDGET SUMMIT—AN UNMITIGATED DISASTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DELLUMS] is recognized for 5 minutes.

Mr. DELLUMS. Mr. Speaker, I rise this evening to share with you the position taken by the members of the Congressional Black Caucus in response to the announced provisions of the 1990 budget summit. To the American people and our colleagues in the Congress, we share with you our statement for the RECORD:

STATEMENT OF THE CONGRESSIONAL BLACK CAUCUS

October 3, 1990. The Congressional Black Caucus today attacked the Budget Summit Agreement as an "unmitigated disaster" and assailed the process that will bring to the Congress a package to devastate programs for the elderly, minorities and the poor. Angered by elements of the proposal which benefit the wealthy while placing regressive taxes on middle and low income Americans, the Caucus raised vehement objections to "concerted" efforts to circumvent the legislative process with a five-year program which renders the Congress impotent and removes the responsibility of federal legislators from the budget process. The Caucus Members leveled a scathing attack on those who have abdicated their duties to the people of this nation by making a mockery of national fiscal policy while savaging already decimated federal programs.

The Caucus stated: "As Members of the Congress who are elected as Democrats, we deem it our responsibility to adhere to the basic and fundamental principles of that Party as legislators. This package which increases defense, cuts medicare, student loans, and federal pensions, while providing further tax relief for the rich, is not a compromise. It is a Republican package to balance the budget on the backs of the poor and middle class Americans. Acceptance of this package by Democrats in the name of compromise is a further merger of the Democratic Party into the Republican Party. We oppose the process which has been substituted for our constitutional form of government. The founders never envisioned a process of government in which a small group of men called "Summiteers", meeting in a back room would be delegated the power to circumvent the legislative process in the halls of Congress. This new process by which the "Summiteers" usurp the powers of the people and deprive their elected officials from full participation in the electoral process is unacceptable to us. An up or down vote on the "Summiteers Package" is no vote at all."

Advocates for the "Summiteer's Package" contend that as Democrats we are between a rock and a hard place. They contend that if we don't vote for the "Summiteer Package" that the alternative, Gramm-Rudman and sequestration is worse. Hence, they will vote for the compromise to eliminate more severe cuts. We answer this argument by reminding them that there is something fundamentally wrong with a Democratically-controlled House and Senate finding itself between a rock and hard place on anything. To vote for this package under the rationale that it is the lesser of two evils, is fallacious reasoning. When you consider the devastating consequences of either the Summiteer package or sequestration, the difference in the devastation is only in degree. Moreover, we voted against Gramm-Rudman, and predicted then that this hideous monster would come back to haunt Congress. It should never have been enacted and should now be repealed."

Provisions challenged by the Caucus:

(1) REGRESSIVE TAXES

It is an insult added to the injury of the last decade on the lower and middle income taxpayer to rely so heavily on excise taxes in this budget package. We are about to impose additional regressive taxes on top of

a tax code which became even more regressive during the Reagan-Bush era.

Data clearly shows that since 1980, one-fifth of the population with the lowest income has seen their effective tax rates climb, while the one-fifth with the highest income has seen their effective rates go in the opposite direction, down. This has occurred even while we have lowered and even eliminated income taxes for the poor. Lower income families pay as much as five times higher a percentage of their income for excise taxes than do upper income families. Raising excise taxes, as in this Budget Agreement, will only exacerbate the relative regressivity of the tax code upon the lower income families of America.

Excise taxes on beer, wine, tabocco and heating oil take a greater share from low and middle-income earners—Ten cents a gallon additional gasoline tax severely impacts low-income, inner city workers who are compelled to drive to work in suburban areas because there is inadequate public transportation and the rural working poor who must drive long distances where there is no public transportation at all.

Provisions to exclude private airplanes and expensive electronic equipment from the luxury tax clearly helps only the very rich and Japanese electronic imports.

(2) HIGHER EDUCATION BUDGET SLASHES

The impact on small and historically Black colleges will be devastating if the Summit Agreement is ratified.

The Bush Administration recommended, and this week a Senate panel voted to forgive $7 billion in loans for Egypt—yet the Summit Agreement insists on reducing the Guaranteed Student Loan Program by $2 billion which poses the potential closure of one-third of the historically Black universities and colleges in America.

(3) MEDICARE & MEDICAID

The Summit Agreement would destroy the "safety net" for the nation's elderly, ravaging programs which provide both health care services and medicine for aged on fixed incomes and limiting access and closing facilities. Proposals include an increase in doctor insurance deductibles of 100% over five years.

(4) THE S & L SECRET

The Budget Summit process has functionally ignored the multi-billion dollar reality of the S & L crisis yet under "Major Technical Revisions" they have casually referenced $74.2 billion dollars for the Resolution Trust Corporation.

The Congressional Black Caucus contends that passage of the Budget Summit Agreement will inflict cruel and unusual punishment on the people of this nation and Caucus Members pledge to stand firm as the "conscience" of the Congress in their opposition to its passage.

CONGRESSIONAL BLACK CAUCUS ANALYSIS OF THE BUDGET SUMMIT AGREEMENT OF SEPTEMBER 30, 1990

RENEGING ON OUR COMMITMENT TO THE ELDERLY

The elderly and the disabled would be particularly hard hit by the terms of the budget accord. The summiteers agreed to cut over $60 billion from the Medicare program over five years. This would result in a $4.85 billion cut in the program this fiscal year. Roughly $3.1 billion would have to come from changes in reimbursement to hospitals, doctors and other providers. This could have the effect of reducing services for Medicare patients, which we have fought to improve.

In addition, Medicare recipients would directly bear the brunt of the agreement on Medicare. They would see their Medicare deductible doubled, from $75 to $150. Some 33 million elderly and handicapped persons rely on Medicare in this country. We cannot support any measure that balances the budget on the backs of senior citizens and the handicapped.

REGRESSIVE EXCISE TAXES

The agreement proposes to raise the federal gas tax from 9 cents a gallon to 14 cents December 1 of this year and to 19 cents a gallon July 1, 1991. In addition, a tax of two cents per gallon would be imposed on refined petroleum products, apparently including home heating oil. Given the situation in the Persian Gulf and the uncertainty of the oil markets, this is not an appropriate time to raise the tax on gas and other petroleum products. The price of oil has risen 50% over the past two months. With the onset of winter approaching, the Northwest and Midwest regions of our country will be hit hard by an increase in home heating oil.

Despite an outcry from consumers around the country, the budget agreement also includes increases in the federal taxes on cigarettes and alcoholic beverages. Under the agreement, the federal tax on tobacco products would rise from 16 cents a pack to 20 cents next year and to 24 cents in 1993. The tax on a six-pack of beer would increase from 16 cents to 32 cents. The tax on a bottle of table wine would go up to 25 cents from 3 cents. The tax on distilled spirits would rise from $12.50 per proof gallon to $14.

We oppose increasing these taxes, because they are "regressive" in nature. That is, they disproportionately affect those in the lower income brackets because they are levied without regard to ability to pay. According to the Congressional Budget Office, the poorest 20 percent of the American families spent 6.9 percent of after-tax income on gasoline, 3.7 percent on alcohol and 4 percent on tobacco, while people with income averaging $38,000 spent 2.9 percent on gasoline, 2.2 percent on alcohol and 1.1 percent on tobacco. This means that the tax increases will hit harder on the poor since they spend a larger portion of their income on the goods affected by the tax increases.

MUGGING THE UNEMPLOYED

The unemployed would hear the wolf at the door a lot sooner, if a provision is enacted prohibiting States from paying employment benefits for the first two weeks of job separation. In 41 states, the waiting period is only one week. Extending the waiting period for unemployment benefits is perhaps the ultimate indignity heaped on the poor and disadvantaged by this ill conceived and unfair budget reduction agreement. The thought of attempting to reap $4.6 billion rom those who have lost their jobs is totally unconscionable.

PENALIZING FEDERAL WORKERS

Although they have been rescued from the certain furlough that would have accompanied sequestration, federal employees will still shoulder some of the burden of deficit reduction. The budget agreement contains a provision repealing the popular lump sum option for Civil Service retirees, effective November 1, 1990. The lump sum option is a widely used and popular alternative to the traditional annuity for federal retirees, enabling them to withdraw their own contributions to their annuity fund over a two-year period. We would like to see this option continue to be available to federal retirees.

SHORTCHANGING VETERANS

The agreement would require that $3.4 billion in savings over five years be found in the housing loan guarantee program administered by the Department of Veterans' Affairs. The summiteers proposed that this be accomplished by increasing the borrower's initial fees, reducing eligibility for the program by imposing a 10 year limit on the amount of time veterans are eligible for the program, and imposing new criteria for deciding when the agency will absorb the full cost of default.

As we understand it, the change in eligibility could potentially eliminate veterans from World War II, Korea, and Vietnam from obtaining a V.A. housing loan. This is particularly troublesome in light of the sacrifices we are currently asking military families to make at this time.

SUFFOCATING DOMESTIC PRIORITIES

We are very concerned about the agreement on domestic discretionary spending, which would be limited to spending at the baseline level for each year during the FY 1991 through FY 1993 period. This would result in a level just sufficient to keep pace with inflation. At the time the agreement was announced, the House of Representatives had already passed 10 appropriations bills this year. This capping provision flies in the face of priorities already established in these bills.

We are particularly troubled about the ramifications for education programs for the disadvantaged, which the Appropriations Committee regarded as high priorities items in the Labor/HHS/Education bill for FY 1991. Shortly after the House approved the Committee's recommended increases for these programs, the summiteers are suggesting that we cut $2 billion from the Guaranteed Student Loan program. The cuts, as proposed by the agreement, would result in fewer students from low and middle-income families being able to pursue higher education.

DEFENSE REPRIORITIZED

The summit participants protected defense spending. They agreed to spend $289.1 billion for defense in FY 1991. This is $6.2 billion more than the levels provided for in the recent House-passed defense authorization bill and about $200 million more than the Senate version of the bill. By reprioritizing defense, a small group of men working out of the light of public scrutiny have overturned the work of the entire Congress.

TARGETING ENTITLEMENTS

We are concerned about changes made to the so-called Gramm-Rudman-Hollings Act, which seeks to reduce the deficit by imposing across the board spending cuts, or "sequestration" on federal programs. Under current law, entitlement programs are exempt from these across-the-board cuts. The summit agreement calls for any future increase in entitlement or other mandatory spending or decreases in revenues to be on a "pay-as-you-go" basis. Any spending increases or revenue decreases must be offset to avoid increasing the deficit.

For entitlements and other mandatory spending programs, this requirement would be enforced by automatic sequestration within the entitlement category, which would be triggered by enactment of legislation increasing spending without an appropriate offset. This will result in entitlement

programs being pitted against each other and for the first time, at risk for sequestration.

THE RICH ESCAPE

Ironically, the rich escaped unscathed. Those with incomes above $200,000 would only see their taxes increased by $0.3%, while those with incomes between $20,000 and $50,000 will have their taxes increased by 3.0% to 3.3%. In addition, the higher income earners will also see tax breaks from investments in small companies, and research and development. The accord puts too much emphasis on regressive excise taxes increases rather than on progressive measures to reduce the deficit. Those with the highest incomes are not being asked to share the burden of deficit reduction.

BACK TO THE DRAWING BOARD

There is no question that the nation sorely needs a deficit reducion package. The federal deficit was estimated to total over $275 billion at the end of of Fiscal Year 1990. It is one of the most serious issues confronting our nation. A large federal budget deficit raises interest rates and absorbs private savings that would otherwise be available for private investment. Over the long term, this will result in slower economic growth. The federal deficit, combined with a low domestic savings rate, has also contributed to heavy government borrowing from foreign countries and, in turn, to the large U.S. trade deficit. If left unchecked this will result in Americans having to make large repayments to foreigners in the future.

However, the solution to our deficit problem must be a fair one. We cannot ask those who can least afford it to pay for the majority of the reduction effort. We must ask those who have done so well for the past ten years under the Reagan and Bush Administrations to pay their fair share of the cost. The budget accord presented to us does not do this and we will not support it.

THOUGHTS ON SADDAM HUSSEIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, the budgetary problem that we have inflicted upon ourselves in this Chamber, and that dominate the domestic news, all of this amounts to a hard, burning problem for the President of the United States, but it does not even approach in intensity the part of his problem that will wear on him, and it is his primary responsibility, and that is safety and protection and security of American citizens wherever they may be in the world.

The opening stories on some of the evening news shows are more frightening than ever in their portent for what kind of a human being the world is up against with Saddam Hussein of Iraq. He visited today, the 3rd of October, a day that should be recorded in the history books as the final chapter in World War II the split Germanies came back together again as one nation, a much deserved 45-year punishment for the bloodshed and havoc that the German Third Reich government wreaked upon the world. But the images tonight from Kuwait City of Saddam Hussein, the conqueror visiting it for the first time and traveling around the deserted streets of an actual ghost town, this large thriving city that I have visited twice and marveled at how a modern city has risen up out of the desert coastal sands along the Persian Gulf, or what the Arab nations call the Arabian Gulf. As with Ho Chi Minh City, once Saigon and probably will be again someday, as with all of the cities throughout history that dictators renamed, generally with blood, that have regained their original historical titles, I hope that the name of the Katouma, and I cannot even help our reporters because I do not know how to spell it. I heard it phonetically over the television news. Katouma is the new name given to Kuwait City by Saddam Hussein. The images of him driving around the city recall instantly to me Adolf Hitler's only trip out of Germany during his conquests, other than his trip to the Wolf's Lair command bunker on the Eastern Front, his only trip out of the old boundaries of Germany was to go to Paris, France in June, late June, after the French capitulation, what Churchill called the Battle of France, lost. Hitler took a big open Mercedes phaeton car ride, big four-door, six-wheel Mercedes, and saw the Eiffel Tower and all the highlights, Notre Dame Cathedral, and went back up around the top of the area, the area called the Trocadero, blocked out to a modern area that was just completed in the 1930's. On one side is the museum dedicated to the history of mankind or mankind humanité nusée, he walked out to the edge of the Trocadero. I have taken several Members and stood them on the exact spot and said that I would show them in my office someday showing them a film clip of Hitler standing on this spot and gesturing and looking at the Eiffel Tower, and surveying his conquest.

Here is Saddam Hussein, going beyond Adolf Hitler's arrogance, hubris, hutzpah. Here he is getting in foxholes today, along the beach of Kuwait City, and showing individual soldiers how to use their machinegun in the foxhole. He is swaggering around in his camouflage or his fatigues, with a gun on his hip, and beret jauntily on the side of his head. One soldier comes up to him and kisses first one hand, then the other. I have never seen this before, and then he kissed him on the front of his shoulder, and then kissed the other shoulder in the front. Saddam Hussein is taking it all in. Then there is a break in the camera. We see them with modern video cameras on all three sides of them, in addition to the one that is filming. Then one camera catches this moment where there is a break in soldiers that are not approaching Saddam Hussein. It is amazing they released this tape. Maybe they were showing it live over Baghdad TV on a satellite feed from Katouma, Kuwait City. He goes like this [indicating] to one of the soldiers, "Get over here." Yes, master. Here comes this supplicant soldier that is digging up the public beach of Kuwait City. This man is so arrogant that I did not know I would open up with this sad relating of his conduct today, like a two-bit Adolf Hitler in the conquered Province 19, as the Iraqi conquering government has renamed the nation of Kuwait.

When I was going to start talking about was the visit of the Kuwaiti Ambassador to the United Sates of America, leading nation in the free world. He came by to thank me for a compliment that I sincerely paid him in front of his head of state, Sheikh Sabah, the Emir of Kuwait, who is in exile now, in Tiev, on the western side of Saudi Arabia.

□ 1850

He was in the United States this last week up at the United Nations where he received a sincere ovation, because it was a slow and then a spontaneous standing ovation. He met with some of us in the Speaker's dining room downstairs, about 10 of us.

I said:

Sheik Sabah, you can truly be proud of your Ambassador. No country has had a more forceful and articulate spokesman.

And realizing I was laying on a little heavy, but I meant every word of it, I said, "Well, Mr. Ambassador, that secures your job for about a year." Everybody laughed, but it was a good-natured laugh with the Ambassador, not against him. I thought he was coming over to tell me I had broken some Islamic code complimenting him in front of his superior, but he thanked me and said that if there was anything he could do to help me get the word out that his country was literally being destroyed. I said:

Can you come with me over to a meeting in Congressman CRANE's office of what we call the Acorn Group?

Supposedly out of little acorns of ideas, big oak-like ideas will grow, and I had him repeat, because none of these 10 Members tonight had been in the Speaker's dining room last week, I had him repeat the following, and I still do not see enough of this on American television.

By the way, he makes the point that the Iraqis are twisting and turning our TV by manipulating the demonstrations in the streets of Cairo and Amman and the crying children in Iraq. He maintains that the Kuwaitis will be starved to the last person, and all the hundreds of thousands of Yemenese and citizens of India who are

trying to get home because he has turned that country economically upside-down, torn it apart. These people will all starve before any Iraqi baby is going to go for want of food or formula.

He said that all of that is manipulated in our media, but here is truly what has happened. Some of this has been reported in the media, but I do not think enough.

He said first they stripped every school in Kuwait. By the way, the Ambassador had his fine handsome teenage son with him. He said that they stripped every school, starting with the high schools, working their way up to the universities, every blackboard, every desk, every school book, the chalk, and then the boards. everything that was not nailed down, and then everything that was nailed down and then some of the lighting fixtures and the toilet facilities.

Then they went to the hospitals. He told me that his daughter, this is the Iraqi Ambassador, his daughter and his wife were an eyewitness to this because they were visiting some of the wounded soldiers from the initial attack on August 2 who had made it back to the hospital before it was overrun within the next day. He said they came into the hospitals and took little tiny preemie babies, babies that have not been in existence for 9 months, you know, fetuses that were delivered at 6 and 7 and 8, 9 months, took these premature babies, human beings, took them out of the incubators and just threw them on the beds and they died within an hour or so. They took all the incubators up to Baghdad, all the dialysis machines, every single piece of surgery equipment, the lights, the fixtures, and stripped the hospitals. Then they went back to the universities for more there.

And I said,

Is it true they are taking the fixtures and all that is going to be left is a ghost town, like some failed California real estate development, streets and basic plumbing?

And the Ambassador's son said,

Oh, they are taking some of the streets, too. They will rip up the streets and take the asphalt back and reprocess it.

They are literally turning this country into a wasteland, and he had not finished telling this to 10 Congressmen in the office of my colleague, PHIL CRANE, and I am turning on the evening news with the sight, color, and sound. I am watching him drive like Adolf Hitler through the streets of Katouma. It was formerly Kuwait City, and as the narrator said, or Peter Jennings, not a single Kuwaiti citizen could be seen on the streets.

You know what chilling images this brings back? Phnom Penh, one of the most beautiful cities that I ever visited in Southeast Asia, I had been there first in 1966, back three times during the war, a lovely city that reminded me of the vacation cities in the Southwestern United States with manicured lawns, nice open homes.

Phnom Penh was turned into a ghost town by the Communist Khmer Rouge. There were no cameras there until years later, so the world did not notice.

Here is a man, Saddam Hussein, going one better on the Khmer Rouge. He is letting the world see him strut around, gun on hip, on this conquered city. Back to 50 years ago, June of 1940, Adolf Hitler.

Now, what do we do with this man who holds so many hostages?

Let me tell you a story of something that happened to me during the Vietnam war. I was talking in I think it was 1970 about the plight of our POW's. My best friend in the Air Force, Dave Herdlecker, I am wearing his bracelet today. He had been a prisoner already for 5 years in Laos from the date on the bracelet, May 18, 1965. This was in 1970. I am giving a speech in Pasadena and a young student walks up to me and says,

Do you think it's possible that the North Vietnamese would stake our POW's out in villages so that we would not bomb any longer, just put them spread-eagled out in the middle of the center of town?

I looked around to see if anybody had heard, said goodbye to my guest, asked him to step into the side of this auditorium, and I said,

Let me tell you something. The radical left in this country is sending ideas and biographies to Hanoi to be used against our prisoners. They manipulate through Cora Wise their mail.

The man who has been released, who escaped actually, Nick Roe 2 years ago, Nick was the colonel killed in the Philippines last year, a prototype real Green Beret, speaks several languages. Nick had escaped after 5 years, 1963. We did not even know we had a prisoner from 1963. From 1963 to 1968. When he came out, he had run under the cover that he was an engineer, not a Green Beret, a West Point graduate, and some of the radical left in this country had finally gotten the information through Hanoi down the Ho Chi Minh Trail into the jungle cells down in the southern area down in Vietnam that he was a West Pointer and they were going to execute him, and he made his fourth escape attempt the night before his execution, and made good. I said:

Please don't speak about this idea. Don't ever bring it up publicly. Purge it out of your mind, because someone who has evil intent will pick up that idea and tell Hanoi and they will do it.

Well, to make a long story short, guess who finally came up with that idea in 1971? A U.S. Congressman from California, long gone, so I will not besmirch his reputation with this ugly thing he did, but he suggested openly that the North Vietnamese should stake our POW's. This guy was a high-ranking marine. His fellow marines were there, stake them out in the middle of villages and that would hold us off from bombing.

Amazingly, even though Jack Kemp, who was then a freshman in 1971, had to come to this well in the name of the League of American Prisoners and Missing in Southeast Asia, and denounce this Congressman's words, Hanoi never picked it up. They never put POW's on boats to go out past the blockade after May 1972 to bring in the equipment and supplies from all those Third World ships that were bringing supplies in to Haiphong in defiance of our blockade. They never did that, the Hanoi conquerers of Ho Chi Minh City, Saigon; but guess what. Saddam Hussein did not need help from anywhere in the world to give him ideas on how to manipulate hostages.

Here is the new ones that I read last night. He is going to put hostages on any airliners, including the ones he stole from Kuwait, some DC-10's and 747's. He is going to start a Berlin airlift type of operation, probably from Libya, where people cheat on the blockade and feed it into Libya. I hope we do not let him get away with it. Then these planes will fly from Libya to Baghdad, shuffling back and forth. He needs about 224 tons of food per day, it is doable, to survive this blockade up until May when the hadj, the pilgrimage to Mecca puts so much unbelievable pressure on the Islamic world that nobody wants to think about it, including the Kuwait Ambassador. It will all be resolved by then, the Amir of Kuwait says. Nobody want to think about this thing dragging on until May of next year and the hadj.

□ 1900

So I look at this, and I say how could he make this Berlin airlift-type arrangement work? He is going to put hostages on the airplanes, and he is not above doing it. Not that we shoot airplanes out of the sky anyway. But my suggestion the other day on television was that we take out any airplanes either at Baghdad airport or wherever they land, military airport, or at the receiving end if they are cheating in the middle of the night with a remote-piloted vehicle or undercover teams and just blow the landing gear off of these people, just put a little sapper charge of gelignite, just blow the gear off or blow one tip of a wing off and they are grounded for months. No, he will have hostages chained inside the airplanes or whatever he is using as he has hostages spread all around the chemical plants.

This is George Bush's toughest problem. He is trying not to let it drive his policy. I hope that he succeeds in that. He should not. But don't think that he

is not losing sleep over hundreds, hundreds of Americans, including many missing in action. And even more British and, as I said before, Yemenis, citizens of India, from all over the area, people that come to work in the oil fields.

Now, what is it like to be a hostage? Let us come to Beirut, which I spoke about yesterday, where we still have Terry Anderson from March 16, 1985; Tom Sutherland from June 9, 1985. What is life like for these people now into their 6th year? Here is what it was like for Brian Keenan, an Irish schoolteacher whom God has given the capability to express his thoughts of pain beautifully. Here is Friday, August 31—the Times of London, the mother of all the Times newspapers around the world, including the great Los Angeles Times— here is the front-page center headline: "Hostage is crucifying aloneness. There is a silent screaming slide into the bowels of ultimate despair. Hostage is a man hanging by his fingernails." Then it says, "Keenan recalls the horror of his captivity."

Let me just read the opening paragraph, August 31, 1990, 29 days after Saddam picked up more hostages than anybody since Hitler or Stalin in the Second World War.

> The voice was of someone who had been chained up in a pit and the key thrown away. Under the great gilded pilasters of the Great Hall of Dublin Castle, Brian Keenan yesterday faced reporters, who could never know what it was like to be confined to darkness for weeks on end. His voice creaked and sometimes came to a stop before being driven on again.

Keenan was haggard and still as pale as ivory after his release earlier this week from his 4½-year ordeal in Lebanon. Eight people had been there as long as he had; 8, not 80 or 800 or 800,000 hostages of varying types of imprisonment in Iraq. He wanted to tell his story to the world while his heart was full. Now, what does it mean to be a hostage? Listen to this paragraph from a man gifted in language, an English teacher:

> Hostage is crucifying aloneness. There is a silent screaming slide into the bowels of despair. Hostage is a man hanging on by his fingernails over the edge of chaos and feeling his fingers are slowly straightening. Hostage is the humiliating stripping away of every sense and every fiber of body and mind and spirit that make what you are.

This is what Saddam Hussein is doing at this moment to hundreds of our fellow Americans.

> Hostage is a mutant creation full of self-loathing, guilt and death-wishing. But he is a man, a rare, unique and beautiful creation of which these things are no part.

He then appeals to the press:

> Please exercise restraint in reporting the hostage story.

Now, get the dilemma here: He is beautifully creating in language the pain of the hostage and then he tells the press that he is creating these great images and for us to use restraint in reporting. All of us, he says, are but teeth on a comb and if one of us is snapped off in a sudden rage, it cannot be put back. He says, this 33-year-old man, that experience taught him that the creative impulse in the human spirit was ultimately stronger than any destructive force.

He spoke with the feeling of his friend whom he called his soulmate, John McCarthy, a 33-year-old British journalist of Irish descent whose friend Jewell Morrell—I guess the British mean girlfriend when they say that—was on the platform along with Mr. Keenan's friends and many of his relations.

Here are his words:

> My soulmate and cellmate, John-boy, I called him, how can I put across his abundant love of life which so many times seemed to menace almost to extinction those grinding moments of hopelessness we all face.

Just one or two more words, and then, Mr. Speaker, I would like to ask unanimous consent at this point in my remarks to put in the RECORD this excellent article, as good as anything, maybe better because they are closer to the scene of the crime than anything I have seen in American stories.

He tells how he lived through all the days of darkness. Here is John McCarthy's beautiful, young, intelligent looking friend, Jewell Morrell, sitting there listening to these anecdotes. He says about McCarthy, "We gave and lived inside one another." Here is a line from Terry Anderson that comes out from this 5½-year hell, comes out from Terry to us through the mind and words of Brian Keenan, "In times of despair I seek solace in my family." A child that he has never even seen.

Listen to this. Keenan recited the first lines of a ditty that he had composed about John-boy McCarthy and his ability to mimic for which "John would give me a crack on the head," he would say.

John is a journalist, he would say,

> He is quite out of his head. He thinks he is Peter Sellars, but we all know he is dead. He can do a Hindu, an Aussie, he can do a Chinaman, a Jew; anyone you want, John can do and he does them and he does them and he does them.

That is the kind of gallows humor that other prisoners who have come out have said kept Terry Anderson's sanity, and Tom Sutherland's.

The problem with Iraq is I have been trying to track as assiduously as I could because of my Vietnam experience with so many of my friends while I am a peacetime reservist begging to join them, they are all being shot down over North Vietnam. So I tried not to break faith with them. That is how the idea of the bracelet came up to me. To make me feel closer to my friends. Go over there as a journalist, get as close as I could, volunteer as a combat photographer to go on missions with them. My wife, to this day, said I had a wish, not a death wish but a wish to get shot down and join them in Hanoi so I could chronicle them there, the events there and afterwards bring them a little humor and after my squadron commander, Robbie Reisner, had gone any longer than any prisoner in World War II, 3 years and 8 months, and had gone into his fourth year and fifth year and sixth year and seventh year. I am desperate, living the good life, hosting a television show and trying not to forget my friends rotting in Hanoi, and now these Beirut hostages who have gone a year and a half longer, 2 years longer than any prisoner in World War II. Our oldest prisoners were marines, pilots, officers, construction workers, aircraft mechanics; three of them beheaded on the prison ship on the way to Yokahama, captured at Wake Island on the eve of Christmas, 1941. Those were our longest held prisoners. Almost all the Beirut prisoners at the end of this year will have served an equal amount or, in the case of Anderson and Sutherland, 2 years longer. That is Beirut, folks. What are we going to do with Iraq? I said on television the other night I want only the blockade, I want it to be as leakproof as is humanly possible. Who would have dreamed a year ago that a situation would come up like this with a madman like the ayatollah, not with an embassy, not with an embassy violating diplomatic standards of decency through centuries of recorded history with 80, 90-some people and then releasing the women and then releasing an older sick man and getting down to the hardcore 52 that they kept for 444 days; not that but thousands of Americans, thousands of Brits and a couple hundred French and Germans, violating embassies, swallowing a country whole, President Bush's expression, and having, I repeat, almost a million Yemenis. Not imprisoned but taken out to chemical and biological warfare plants and airbases and every other sick thing this man has developed, but just let them go forage at the border and truly begin to starve to death.

What was the figure again for India? Four hundred thousand to 500,000 Indians, with no checks going home to India. Imagine 500,000 Indians if they could get home, get home and tell the Government, well, not only do you not get our checks from the oil fields of Iraq but we are here at the mercy of the State now.

So here is another little debt burden for you.

Oil has gone up to over $40 a barrel, and most economists—and that is what is going to give us a fit here tomorrow. I understand the budgetary

vote is going to be put off until Friday. What is giving us fits here now that will kick us into a recession because we slowed down to an even keel in the economy and now we may be pushed into a recession because of this pompus, swaggering dictator walking about Kuwait City today with his men kissing his hand, the fronts of his shoulders, and him telling them, "Come here, give me the handshake and the kiss while I perform for the cameras."

No, this is George Bush's major problem, what do we do in the beginning of the last decade of the world's bloodiest century ever, what to do about a dictator?

□ 1910

Mr. Speaker, it is one thing, and an important thing, to say, "Let's pray for peace." It is another thing to say, as I have heard people say in both Cloakrooms, and I am not putting them down; I understand it, "Take this guy out. We ought to rewrite our rules on assassination. We ought to go in with an Air Force surgical strike."

Mr. Speaker, that cost a four-star Chief of Staff his job, speculating about those types of plans.

No, no; it is George Bush that will have to watch the film of coffins coming home to Dover Air Force Base, if they die by the dozens, but, when they start dying by the thousands or dying from poison gas, sarin gas, nerve gas, and biological warfare that they could throw out near our ships in the gulf, and biological warfare sucked into the air conditioning system of our ships—would this guy consider doing that, a man who said just last year that he would incinerate half of Israel, men, women, and children?

Mr. Speaker, he would do anything. There is nothing beyond this guy.

But George Bush is the one that has to make the decision, and I am afraid that there is no decision that he can make for military action until this man takes his first move, something very provocative.

The Ambassador said that Saddam is very clever, that although his intelligence may not equal ours, he has good intelligence. He has got more human intelligence in the field than we do, as a matter of fact, in the streets, spies; and the Middle East is as old in spying as anywhere in the world, and he will be able to find out, the Ambassador from Kuwait said, when we are ready to make a move, when we feel we are secure in our buildup there, and he thinks that, if he thought we were going to strike, that there was a slight standdown of our aircraft to be refueled, armed, suddenly there is no gunnery practice out there in the desert. Everything is quiet. He thinks that, if that point is reached, Saddam will then leave Kuwait, having raked it down to the sand and that then, well, he will be giving up the 10 percent of the world's oil that he has added to his 10 percent of the world's oil reserves, but he will have stolen the $1½ billion, stripped the country down to the silverware, because he is nothing but the petty thief of Baghdad.

And then what do we do? Then will we have German businessmen and French businessmen cheating again, not only on a blockade that I think should stay in effect until we get some sort of reparations out of this man, but then will he get help again in building up his biological warfare capability, his nerve gas capability, his mustard gas capability that my father got two Purple Hearts for in 1918, that British soldiers first suffered at the Somme Battle of May 1916, of something new in this century, 16 years into this century, poison gas?

Mr. Speaker, I kind of think that the British Government took the right approach the other day. They said, "You use poison gas; don't be too sure we won't use nuclear power back."

I mean what is so horrendous and unthinkable about nuclear power? It is a sheer explosive power? No, because we killed more people in Tokyo under Gen. Curtis LeMay, who just died yesterday, under his 20th Bomb Command, 20th Air Force Command. We killed more people in Tokyo with incendiary, with explosions and fires. We killed three times as many in a 3-night period in March 1945 than we killed in Hiroshima on August 6.

Now what makes nuclear warface unthinkable is the radiation sickness. This is what moved it into an area that the world abhors and has now passed rules and controls on to keep it contained. Radiation sickness, giving people cancer, people who will die 10 years later, 20 years later, 30 years later.

Well, what is poison gas, what is biological warfare, but an unseen, ghastly type of killing device, most similar to radiation sickness or radiation poisoning of any of the weapons of war?

So, he should maybe be put on notice. I am glad we did not do it, but I am glad the British did do it. We should say we consider this as abhorrent, as ugly and as equal a war crime, using poison gas, as it would be if we responded with neutron bombs.

Now what is going to happen in the Middle East? I do not know. I do not think anybody knows. I do not think anybody in the National Security Council or in all these think tanks that spend hours and hours into the wee hours of every night trying to think this thing through; I do not think anybody knows.

The sad thing is, as with most dictators, is what goes on in the gray matter, in the brain, of Saddam Hussein. That may be in the end what determines what we do and what resolution we come to in that area.

The Ambassador asked 10 bright, conservative Republican Congressmen, "Have you got any ideas? Can you help me?"

None of us came up with anything. The one little shread that I could offer him was a word, a word that is a beautiful word in any language. It is "rescue."

Mr. Speaker I watched a show on television last night, "911" where two young boys are hit by lighting, and the sister calls the mother, and they call 911, and they reenact this, and the rescue team comes, and suddenly I am choked up. My wife says, "Isn't it amazing? Anything to do with rescue, and it moves people."

And I said:

Mr. Ambassador, I think what we have to start talking about is, not oil, and not Saddam Hussein's potential to destroy countries with starting a nuclear war or using biological warfare. I think we have to focus in on the word "rescue," that your little country, monarchy or not—good heavens, Great Britain is a monarchy. How many Congressmen would love to be received by the Queen in Buckingham Palace in this constitutional monarchy?

We can talk about refining the Government in Kuwait because it is an uncomfortable thing that we cannot ever seem to find a fight that involves the United States defending a country that is like the United States in all of its fulsome democracy. Korea was flawed, still is. Vietnam was flawed, and it cost them their freedom, and now they are a basket case economically. We sold out Poland, and all the East European countries, so that a whole life has been lived by a nation under communism on top of the 6 years of fascism that Poland, for example, because they were the first victims suffered under in World War II.

Rescue; that is what we have to think of in terms of Kuwait. Somehow or other how can we rescue this nation? Our young teenage males are kidnaped off the streets, 13, 14, 15 years of age. Then days later, they are called to the police station. Their parents are told, "We're going to rescue your child we believe was involved with the resistance," and whatever resistance has been has been brutally crushed out using Gestapo tactics, and an Iraqi soldier is killed by a sniper. They immediately murder in the streets 6 to 10 people. That is exactly what the Germans did in the occupied countries. You kill 1 German, we kill 10 until the Czech underground, the Czech underground men trained and bailed out by the British into Czechoslovakia killed Reinhardt Hiddrich, and then they destroy a whole village because of the third man in the heirarchy of the Third Reich was killed, died after 10 days, painful back injury, blown up in his open convertible by the side of a road. They wiped out the village of Ludivici, a whole village.

Mr. Speaker, this is what Saddam is building to. You kill one of his high-ranking officers or somebody in his family, and he will wipe out some whole community. He will blow up a whole section of whatever is left of Katuma, Kuwait city.

Now we have to look at this situation in terms of the United Nations of the world, united as we have ever been before in that organization, with China and the Soviet Union saying the right things. We simply have to figure out how to rescue Kuwait before it no longer exists.

Does that mean putting American young men and the women who are right there in the combat areas with them into a fighting situation where the body count starts and these young people in the prime of their lives comes home? I hope not. But what is the key? What is George Bush to do when we resolve our budget problems, which we will resolve one way or the other in order to get out of here by October 20 or 21 to get home and campaign. What do we do in the Middle East?

Mr. Speaker, that is the burning question today, not how do we balance our budget, as tough as that domestic problem is.

Mr. Speaker, I want to ask permission to have these two full pages of the agony of Irish schoolteacher Brian Keenan put into the RECORD, and imagine that this is multiplied by hundreds and hundreds of suffering people and the suffering of his family is multiplied by the thousands of all the families from all over the world who had people stuck in Kuwait when it was swallowed whole or in the crushed country of Iraq suffering under this posturing, jackanapes of a dictator, sad, dam, Hussein.

The material referred to follows:

HOW WE LIVED THROUGH THE DARK DAYS OF HOPELESSNESS

Brian Keenan, the freed Beirut hostage, yesterday gave a moving account of how he and the three hostage who shared much of his four-and-half years in captivity had faced up to their ordeal.

He recalled the petty tensions of their life together and the deep companionship that grew between them, as they struggled to keep fit and to keep each other's spirits up with marathon games of dominoes and imaginary projects for the benefit of the world, worked out in obsessive detail.

He also urged journalists to be careful, explaining that after the release of two American hostages, U.S. media reports had suggested that the kidnappers had given them coded tapes to take out. These reports "came within a hair's breadth of having some of the remaining hostages summarily executed", he said.

Close to tears, during a press conference at Dublin Castle, Mr. Keenan described John McCarthy, the British journalist, as his soul mate. He said, however, that he had not seen Terry Waite, the Archbishop of Canterbury's envoy, and did not know anything about him. Even so, he said: "I felt in the last place we were in there was another hostage whom I heard in the early hours of the morning saying 'Oh no, oh no', but I don't know who it was. That could be French, that could be anything."

Speaking of Mr. McCarthy, he said: "How can I forget him, his humour, his abundant love of life which at so many times seemed to diminish to almost extinction those grinding moments of hopelessness. In John Boy [named after the character in The Waltons] I saw a man grow, I watched a man deepen and it was a real joy to be a witness to that.

"John in the beginning, when he was kept alone and during the first months we were together was somewhat withdrawn, fearful and initially found person-to-person communication difficult. It was a matter of slowly relearning how to socialize. We all of us thought, how could we relate to anyone what we had been thinking?

"John and I spoke at great length about our familes and eventually exchanged families and friends without thinking. He would suddenly begin conversations talking about my friends as if they were his. We gave and lived inside one another."

Mr. McCarthy's friend Jill Morrell, who has been campaigning for his release and was seated behind Mr. Keenan, broke into a bright smile as he talked about him.

Mr. Keenan said he particularly cherished Mr. McCarthy's irrepressible sense of humour, which infected them all. He said it was "the golden kernel of John" which would always emerge through the darkness of captivity. Mr. McCarthy would imitate some of the guards with "a precision and zaniness that reduced their sometimes brutality to insignificance."

Mr. Keenan recited the first lines of a ditty he had composed about Mr. McCarthy's ability to mimic—"for which John would give me a crack on the head," he joked:

"John is a journo, he's quite out of his head.

He thinks he's Peter Sellers, but we all know he's dead.

He can do a Hindu, an Aussi, a Chinaman, a Jew.

Anyone you want John can do.

And he does them and he does them and does them again."

He said that they called themselves "the Bounty bar boys" because they were occasionally given Bounty bars. At one stage they had no reading material for a year so they played 17-hour games of dominoes. They also dreamed up bizarre projects to pass the long hours. He had it in mind, he said, to open an underwater public bar.

In a remark directed at the British Government, Mr. Keenan said: "John McCarthy is a great giver. It is now time for some people to start giving to John McCarthy."

Mr. Keenan spoke with affection and with stoical humour of Terry Anderson, chief Middle East correspondent for Associated Press, who would vex his companions with his "voracious hunger for intellectual conversation, and when he could not get it would pace the floor endlessly in his patched and re-patched socks . . . I think he debated with himself a lot when we tried to plug our ears.

"Terry would also have his periods of despair and seek solace in his family. Terry and myself would sit through those long nights and speak with great pain and remorse and longing for his daughter. With many tears he would elaborate his plans when he was finally back in the States to help her to shape and discover her future. In those confessional moments which were common to us all a deep and enduring and unbreakable bond was formed."

He said that Mr. Anderson had used his time in captivity to design and evolve a project for a school for young delinquent boys in America. "The doyen of hostages, as he has been called, is a man who felt so committed to these things that he inspired us to our own survival projects."

Mr. Anderson was nicknamed Thunderbum because of his frequent bouts of "Beirut belly." Although often debilitated with pain, Mr. Anderson stoically suffered "for in truth all pain and illness was generally dismissed by our keepers, though they would eventually supply us with some form of antibiotics. But some were not specifically for the illness we had."

Mr. Keenan said that he was held with Mr. Anderson for about eight months and last saw him 11 months ago.

He went on to speak of Tom Sutherland, dean of agriculture at the American University in Beirut, as "a man courteous and very, very brave at heart . . . of all of us perhaps the man least prepared by life for the horror he now endures." Mr. Sutherland, who suffered long periods of crushing depression, had passed the time for his fellow hostages by delivering "fascinating lectures in genetics and animal husbandry, which came to us in those awful places as a kind of light, illuminating the darkness, warming the chill of despair.

"Sutherland was unfortunate in that his career never allowed him to develop much skill at poker, much to our advantage." Sutherland used to talk to his companions about his 20-year-old Volvo car. "It now seems he has lost many parts of that Volvo, doors and windows, which were put up as stakes in the innumerable games of cards we played among ourselves. He doesn't know it, but his Volvo has gone."

Mr. Keenan said that he was kept alone for the first three-and-a-half months of his captivity "in a very, very, very bad, dirty, filthy prison. It was very small and I was taken out, walked ten paces to the toilet where I could wash and ten paces back, back to the cell, and I was given my food for the day, and that was it."

Asked if religion had helped him, he replied: "I am not and never was religious in terms of an institutionalised church. But in the days when I was kept locked up alone, I found that one cannot keep the mind alive by talking just to itself. If you are asking me did I pray, the answer is yes. If you ask me am I religious then no."

Mr. Keenan, who was taken hostage outside his Beirut home four days before the American bombing of Libya, said he thought it was because his kidnappers believed he was British. He said that a car pulled up, a door was opened blocking his passage and he was forced into the car by men carrying Kalashnikov rifles.

"After many days fighting with the guys who took me, not physically, I demanded to know on several occasions why I'd been taken. They seemed somewhat confused that they had an Irish person," he said. "I refused to eat for six days until they told me [why he had been kidnapped] and they brought me a copy of The Times covering the incidents in Libya and told me that was the reason, and I didn't believe them. They thought I was British."

He did now know at what point during his captivity his captors had acknowledged that he was Irish.

Mr. Keenan described his time as a hostage saying: "Every day was the same and they gave you bread, processed cheese and juice or a cup of tea. In the afternoon you had a bowl of rice or lentils or a bowl of rice and spinach, or a bowl of rice and dog's head soup or some other food."

He said that conditions had improved dramatically in the last nine months or so when the hostages were transferred to the southern suburbs of Beirut. "Then we had an excellent canteen and we were frequently asked if we wanted anything, and if it was possible the men holding us would get it. They gave us fresh fruit and let us watch the occasional video. The situation had markedly changed."

Mr. Keenan was reluctant to offer advice about how the campaign to release his fellow hostages should be conducted. "You're asking me for my analysis or my solution. What shall I say? I have known nothing for four-and-a-half years. The world has changed very greatly for me. I can only say this, look at my hands. Hands are the most complex and perhaps most beautiful structure. With these hands I can do many things. With this hand (he raised his left hand) I can curse, I can make it a driving force of such power that I can make a wasteland about me. With this hand (he raised his right hand) I can play music, make sculpture, do beautiful things, but above all with this right hand I can overcome the other hand. I can contain it, I can conquer it. This power in all of us is creative, passionate, unconquerable."

He thanked "all the people of this island. Hundreds and thousands of people who I have never met who sent me messages, cards, flowers and gifts. To experience such love is to partake of something sublime, I thank them all, I embrace them all, I must, of course, without any hesitation thank the Irish Government, the civil servants and particularly Mr. Conor Murphy for his work."

Thanking the other governments that helped to secure his release, he particularly mentioned the Dutch, who assisted the Irish authorities in Damascus.

Mr. Keenan added: "I am more than greatly indebted to the medical and other staff of the Mater hospital, and while I am on this subject I thought perhaps I would ask if the Irish government could facilitate me with a large container lorry, as I would like to kidnap Sister Mercer and about 55 of the nurses."

Mr. Keenan made it clear, answering questions after his statement, that he felt no desire for revenge or retribution. "I do not see that as positive or meaningful. For myself I would find that self-maiming and I do not intend maiming myself by going into a rage of anger. Some of our captors were reasonable . . . others had an element of hysteria not subject to reasoning."

He said that his captors' knowledge of the world was limited. They had sometimes talked of their faith, Islam, and had given the hostages copies of the Koran when there was nothing else to read. On some occasions, the captives were asked about converting to the faith of the people holding them in Beirut. In response, Mr. Keenan said: "We simply held up our chains."

Asked to describe his captors, he said: "Some were men of around 30 years of age, but perhaps with 12-year old mentalities, with Kalashnikovs in their hands. Some of them had not known how to control the power they had and had resorted to very bad beatings." He refused to go into details about the brutality. "I feel myself that to talk about that is indulging in a degree of voyeurism. I am not happy to talk about it. Perhaps when I have found my trust with the world and with one or two individuals I will."

Asked how Mr. McCarthy would be feeling now his companion had left, Mr. Keenan said: "It's like a man comes and tears your right arm off and walks away with it. It's gone—something wholly and intrinsically part of yourself. I'm sure for the first few days there will be waves of feeling, up and down. But John is a very strong man now. I know he will come through it. His first thoughts will be, 'It's good Brian is home: Brian is seeing my family'."

Mr. Keenan was asked what he would do towards the release of Mr. McCarthy. He said: "I will do anything, anything I am requested to do by the Friends of John McCarthy or anyone else asking me. I am here, ask me to help."

He would say nothing about any escape bids which may have been made while he was a hostage. But he said he had never given up hope of getting free although he had worried about how long he would stay in captivity. "I knew I would get home or be released at some stage. But I was frightened it would be a long time. I continually told myself that they could only take my liberty, not my freedom."

He went on to describe how he had held a baby in his arms a few days earlier and had felt "more alive than I have ever felt before".

Mr. Keenan said he had never encountered the leaders of the group which had held him. "The top leadership was never shown to me directly. When they came they stayed in another room."

Mr. Keenan indicated he was unlikely to return to his Belfast home for some days. He said he still had to have more interviews with psychiatrists and to receive dental treatment. It is thought likely he will stay in Dublin's Mater private hospital, where he has been receiving treatment since returning from the Middle East on a government jet late last Saturday night.

As he ended his news conference, Mr. Keenan paid a glowing tribute to his Belfast-based sisters Brenda Gillham and Elaine Spence, who spearheaded the intensive campaign for his release. He said he had been dumbfounded, amazed and thunderstruck by his sister's work. "They have changed so much in their personalities and now I am a little bit afraid of them," he said.

After he finished speaking, Mrs. Gillham presented her brother with a bodhran, a traditional Irish drum. She told him: "We have been beating the drum for you for a long time, now it's your turn."

INFLUENCE OF SPECIAL INTEREST GROUPS OVER BUDGET NEGOTIATIONS OUTRAGEOUS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, as the details unfold on the budget package, the power of special interests in this city continues to outrage me. A Washington Post story this morning points out that the exclusion of electronic equipment from the luxury tax occurred because, quoting directly from the story, "Less than 36 hours after the luxury tax was first proposed in the secret budget talks, Japanese electronic equipment makers had obtained a copy of the plan and met with their Washington lobbyists to figure out how to stop the measure. Their representatives wrote background papers that United States manufacturers used to lobby congressional leaders, while the Japanese companies kept a low profile, according to a source involved in the lobbying effort."

Well, I am a member of the Budget Committee, and I am a Member of Congress. To be told that the representatives of a foreign government have access to secret negotiations, when the representatives of the United States cannot know, really frightens me to death.

What in the world is going on here? There are many who recognize that some of these deals are business as usual, that some of the participants would exempt particular constituents of theirs in these deals, and I am told that that has been going on forever. But when foreign companies, who already are suspected of not paying a fair share of income tax in this country, come in and get an exemption for their major exports into this country, well, I have to say, what next?

My Medicare people are being hit, and our constituents who have to drive many miles every day are going to pay 12 cents a gallon additional in gasoline taxes.

I am going to read these three paragraphs from this story about the lobbyists, how the lobbyists rushed to influence details of the budget plan, because I am so angry about it.

The decision to exclude electronic equipment had an ironic twist. Less than 36 hours after the luxury tax was first proposed in the secret budget talks, Japanese electronic equipment makers had obtained a copy of the plan and met with their Washington lobbyists to figure out how to stop the measure. Their representatives wrote background papers that U.S. manufacturers used to lobby congressional leaders while the Japanese companies kept a low profile, according to a source involved in the lobbying effort.

With the help of the Japanese firms and their representatives, a "grass-roots" campaign was organized to get electronic equipment plant managers in the United States to call their congressional representatives. An opinion article was drafted for possible publication under the name of John Roach, chairman of Tandy. And Montgomery Ward wrote a letter to every budget negotiator saying a luxury tax on electronic equipment would hurt its business.

In the end, one Democratic negotiator who urged that the luxury tax exclude electronic equipment was House Majority Leader Richard A. Gephardt (D-Mo.), an advocate of many protectionist measures. Gephardt, whose district includes the headquarters of Anheuser-Busch Cos., is also credited with limiting an increase in the beer tax that is part of the budget agreement.

Well, when I talked to one or two of the participants in the negotiations about this, they said, "Well, Helen, you know electronic equipment includes computers, and we did not feel that computers should have been hit with a luxury tax."

Mr. Speaker, I say that the computers could have been exempt where they were considered vital and the other electronic equipment could have been hit and included with the luxury tax.

It is very difficult for me to go back to my constituency and explain in a tax-raising measure that one industry, for example, ethanol, with only one major producer in the field, will receive an extension of a 60-cents-a-gallon subsidy for grain fuel, while the American taxpayer will be paying an additional 12 cents a gallon for tax?

As there are winners, there are also losers. If we are hard pressed on energy costs, it seems strange to me that nuclear energy will have to pay more in fees to the Nuclear Regulatory Agency, and, you know, of course, that the consumer again will be hit with this cost. And on and on, one after another.

It really amazes me, not the ones that people know about so much yet, but when they do, Mr. Speaker, the phone calls are going to be coming in even heavier than they are. I have heard numbers here tonight about phone calls. Well, I am getting about an average of 50 against the bill to 1 for it of those who are calling in. My people are outraged.

Mr. Speaker, I have to say that we in this House need to really look very carefully at our responsibility, because the Congress many years ago was given the power to protect the American people, and our forefathers carefully meted out the power to the various branches, and the control of raising taxes was put in the hands of the House, because they are the ones most readily called upon by the people and in biennial elections.

Mr. Speaker, when you say that the people are up in arms, they are. We will have a test of the concept, the test of the concept of who is closest to the people, when there is a vote of confidence or an election just 5 or 6 weeks away.

Mr. Speaker, yes, we do have to get a handle on the deficit, but that means let us get a handle on ourselves first. I want to know why no effort was made to stop the agencies from their annual year-end spending binge which just ended September 30, this past Sunday.

I have had reports from all over town that the paint pots have been out, that a whole lot of contracts were let in the past month, and the push has been on to spend it quick, before it gets taken away from us.

Why hasn't somebody come up with a formula on how we can reward these agencies for saving money, rather than causing them to spend and spend and spend in that last month? Like the pie being cut at the top, this has been going on, business as usual.

Well, forget it. The telephone calls into my office suggest that the American people are getting tired of business as usual.

A typical call from one gentleman started with, "Does Congress think we are fools? The American people understand what is happening."

Our colleague, the gentleman from Texas [Mr. PICKLE], chairman of the Ways and Means subcommittee, exposed in his oversight subcommittee hearing in July that billions of dollars of taxes by foreign companies in this country are going unpaid. The figure was estimated to be upwards of $35 billion, without interest or penalties added on.

I want to know why we and the American people are being put through this kind of agony, and our economy being put at risk, if this is the case?

Furthermore, in the hearing testimony was given that these companies, when found to be underpaying, have never been requested to pay any fines, any penalties, any interest.

□ 1930

Let me repeat that, that even those foreign firms who have been found guilty of underpaying or paying no taxes, they have not paid any interest or penalties, and in many cases no taxes at all.

Now if the underpayment has been over $35 billion and penalties are added to that, as they would be added to the bill of any American company, and many of these firms have incorporated as U.S. firms, then it is possible that the total amount of what we are looking for this year in savings against our deficit resides in the bank accounts and assets of those foreign scofflaw firms.

And if they truly are American companies incorporated here, then the IRS has the power to freeze their bank accounts, recover the money, and let them go to court and prove that they do not owe these sums exactly as a real American company would have to do.

While we are being pressed by the administration in the budget process, we should keep in mind that the first question to ask is why foreign companies enjoying the benefits of America are not paying their fair share of taxes.

According to the September 10 Washington Times:

> From 1979 to 1987, the assets of foreign controlled corporations grew 368 percent to $959 billion. Their receipts grew 183 percent to $685 billion.
>
> Those are the latest figures available. But in 1986, when they reported about $550 billion in sales in the U.S., according to the Treasury Department, these firms also reported a net loss of $1.5 billion.

No wonder the constituent called me yesterday and asked, "Do you think the American people are fools; we know what is happening."

Foreign companies save money on their taxes and then the money comes back to the United States to buy up another piece of America's heart, like Columbia Pictures, MCA, Rockefeller Center, Pebble Beach, et cetera. And of course, the biggest single offender in the process has been the Japanese. And those saved dollars can be turned into advertising or contributions to local charities. Tax write-offs?

Yesterday my staff received a call from U.S. Nippon Communications in New York. They are interested in what can be done to help the Japanese in becoming good corporate citizens.

Good corporate citizens are ones who will give to a charity, go to the black tie ball or art auction and make polite conversation. They are not the foreign companies who try to scramble the American value system by providing trips to Japan, contribute to school boards and then requesting students and participants to write their school boards and Congressmen and tell them good things that require them to change the contents in their history books.

A New York Times story about the chamber of commerce revealed what their goal really is. A businessman stated that they were interested in the community organizations because that was where the policy was made. The Japanese certainly showed they understood the policy process this weekend on the budget affairs. The fact that they had a copy of the plan when Congress did not is testimony to the power of the purse.

The Japanese own 40 percent of our debt, and we sell approximately many many billions of dollars in Treasury notes every quarter. With that kind of money, I guess you can get your hands on almost anything in government.

Early this spring I gave a speech which contained a quote from the managing director of Keidanren, the largest Japanese business association. The director stated on the MacNeil/Lehrer Report that we, meaning the Japanese, will continue to invest in you, meaning the United States, "until you are incurably ill." When pressed by a reporter on what he meant, the director replied, "It is almost a tautology, you see, you will know you are incurably ill when we stop investing."

Do they want to be our friends? Do they want to be our allies? Do they want to be good corporate citizens of the United States?

They are sure going about it the wrong way. No good corporate citizen pulls what they did on the budget talks by getting a package before Con-

gress did, and by getting their products exempt from a fair share of the tax burden, and letting John Q. Public and the senior citizens bear the brunt of the tax burden.

I really think that Americans are getting tired of being told by the Japanese how lazy we are, that our businessmen are shortsighted, and we no longer have the ability to lead. They do not need an ad campaign to change their image with Americans. We know what they are, and they showed that by their behavior on the budget, and by dragging their feet and their pocketbooks in the current Middle East crisis while we are protecting their oil supplies.

Then if you read Pat Choate's book about agents of influence you will know even more and more about it. These agents who got the plan knew how to do it because of their previous Government service, and they knew what the budget process ultimately means to working men and women in this country. They knew it would mean belt-tightening for everyone, and just a few dollars means a lot to these working people.

The Japanese lobbyists were interested in getting their big buck and put foreign interests ahead of the American people.

The time has come to stop this, Mr. Speaker. The exemption of luxury tax on electronic products primarily benefits Japan. If they truly want to be good corporate citizens of the United States, then they should step forward and voluntarily get their exemption rescinded.

It is time that they begin to behave as well-mannered guests in this country.

THE BUDGET SUMMIT

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Mr. Speaker, it is on everybody's mind these days. The budget is the most important function of the Government. It is the most important function of any government. The process by which the budget is generated is the most important thing we do as Members of Congress, or it used to be the most important thing we do as Members of Congress.

The summit process takes away some of our involvement as elected Representatives from our various districts in this most important process. I have never liked the summit process when it is applied to the budget negotiation. When it is used to determine what a budget is all about it lessens the power of elected officials, all elected officials including representatives of Congress, our leadership. Our leadership, elected Members of Congress, go to a room that is half filled with unelected representatives, appointees of the President. The President is a 50-percent partner of this process, in the legislation, and the legislative leaders are the other 50 percent, yet the President initiated the process.

□ 1940

The President promulgated a budget at the beginning of the process when the year first started, and now he sits in a room negotiating with the people who had his budget long ago and were forced to respond by law, had to respond to that budget, and should be negotiating a document that they, as legislators, had prepared, Democrats in the House, negotiating with Republicans in the House, the other body following the same process where the parties display their differences openly in public, they debate them, they arrive at some conclusion, and after they have arrived at a conclusion, the two Houses coming together in conference as they do on all other bills, and they decide through the conference process what the budget is going to be.

It does not have to go to the President. Most people do not realize it. He does not get a chance to veto a budget. If the legislative leaders in both Houses reach an agreement on the budget, that is the budget. The budget then proceeds to drive the appropriations process, and the President can then veto appropriations bills if he deems it necessary.

The summit process that has been going on for quite a long time locks out part of the legislative process.

I was not happy with the summit process when it first started. I wrote a little rap poem which started something like this:

In that big white D.C. mansion, there is a meeting of the mob; the question on the table is which beggars will they rob. There is a meeting of the mob. All of these gentlemen make a deal, and the poor have no appeal. There is a meeting of the mob.

That is the way I feel about it. That is the way I feel about it even more strongly now. The mob has come back with its report, and this is not criticism of the individuals who were involved in the process. It is a criticism of the process, because the process is antidemocratic. It is a substitute of a democratic process with a process that tends to be moving in the direction of totalitarianism. It is a closed-circle decision, and the few who are in that closed circle who may do a very good job, and I think it was a long, difficult job, and I salute the members of the leadership who were involved in that negotiation, but, you know, there is a possibility that human beings will get worn down, that there reaches a point where exhaustion influences decisions, and I am afraid that some of the decisions that were finally made I attribute only to exhaustion. I can attribute it only to the fact that they were negotiating with a force that had unity because they were under one executive commander while the legislators were spread out and had to approach things quite differently.

This budget that has been brought back to us, the proposal for a budget, the summit agreement, the summit negotiation product is flawed in many ways, and I have a great respect for the people who were involved in it. I do not think it should be casually dismissed. I do not think we should zero in on our particular hatreds and blow it up out of proportion.

I have been trying very hard to look at the totality of the document. The fact that the taxes in it, in the final analysis, the burden of the tax burden falls disproportionately on low-income people, and I represent the 10th poorest district in the country. Most of my constituents are low-income people. That fact does not close my mind to the fact that some of these taxes are acceptable.

I could vote for a tax on tobacco. I can vote for a tax on beer and liquor. We have seen scientific proof, you know, that there is no dissent anymore about the problems that are caused to health, health problems that are caused by smoking, so we need to discourage people from smoking. I do not care how poor they are, if there is an extra penny on there that is going to discourage it, that is one approach. People are dying from smoking. People are dying from drinking too much.

There was a study reported in the New York Times this week which said that people who drink a lot live and have a shorter lifespan, and people who drink two drinks a day definitely, a study has proven, that they are at risk in terms of a shorter lifespan, so, you know, with all the scientific evidence that is marshaled about drinking and smoking, I am not against a tax on drinking and smoking even though I know it falls disproportionately on the average guy who gets his pleasure and his recreation via the six-pack in front of the television set, because he cannot do other things that people with more money can do. I still do not want to be a part of encouraging that person to go on shortening their lifespan, creating health problems that all of us later have to pay for. We are our brother's keeper, and I fight for national health care. I think we ought to have medicine which is available for everybody who needs it. But part of that deal has to be that people take better care of themselves. You have to make some rules. So I am not against a tobacco tax, and I am not against a liquor tax even though it

falls disproportionately on my constituents.

I am against a gasoline tax if it just is imposed indiscriminately.

If we wanted to really deal with taxing in order to encourage conservation of gasoline, there are many ways to do it which will not throw a burden on the poorest people in our society who need to use cars to get to work, who need to have cars for basic use. There are ways to work it out. There are ways that we could protect the poorest people and provide for gasoline that is not taxed to meet basic needs while you tax at a certain point for people who go joyriding and people who take long vacations. There are a number of ways that, through coupons or other devices, you can take care of those basic needs and see that the tax does not impact if you really wanted to have a fair and effective conservation policy via taxation.

But we have not been serious about that. And after not being serious about it, we throw, in a very sloppy manner, a tax on people which is going to hurt them a great deal. Of course, it is inhumane. The fuel oil tax is inhumane. We indiscriminately are going to tax everybody a little bit more for fuel oil that is already rising rapidly as a result of the Middle East conflict.

We have an energy program for the poor where we provide some assistance during the winter for the poor who are elderly mainly, and that is a very inadequate program. I live in a district where they try to make use of it all the time. It helps a little bit, but it is totally inadquate. It covers only a small percentage of the people who need help. People freeze to death every winter in my district. I am sure they freeze to death all across the Northeast, and they freeze to death in the Midwest. This is no small matter to add a tax on fuel oil at a time when fuel oil prices are going up.

I read where one Senator from Texas was very upset when that was left out, and he insisted it be put back in. He used his influence and clout. He put it back in in the name of fairness, that it is only fair that fuel oil should also be taxed although it will hurt the Northeast and the Midwest most, but it is fair for the Northeast and the Midwest to bear the burden.

These same people, particularly Senators from Texas, do not talk so much about fairness when it comes time to talk about the S&L bailout, the S&L bailout, the S&L scandal, the S&L swindle, part of the problem, a great part of the problem. Seventy percent of the failed S&L's are in Texas.

Let us have more talk about fairness. I am interested in this theory of fairness. I want to see more talk about fairness as we go forward to use the taxpayers's money from all parts of the country.

Nobody is talking about taxing the people in Texas inordinately for them to bail themselves out of a mess that they created disproportionately to other States. Nobody is talking about the fact that Texas had its own regulatory agencies that regulated banks which were guaranteed by the Federal Government. You had Federal guarantee deposits, guaranteed by the Federal Government, and on the other hand, the Federal Government was not the regulatory body. The State officials were regulating while we were doing the guaranteeing for all the citizens across the country. So fairness applied to the S&L bailout is something all of us ought to take a very close look at and see if we can get more fairness into that.

It would not be such an outrage that the Northeast and the Midwest and the people in the colder parts of the country have to freeze because of the extra amount of money they are going to have to pay on oil as long as we are going to be fair and they do not have to pay also the tremendous cost of the S&L bailout.

So I sympathize with the difficulties faced by our negotiating teams. I sympathize with the leadership. I do not approve the process, and I think I hope that we never have a similar process, and that the leadership is not put in that kind of position.

The clock is ticking away. Sequestration is a horrible monster. Nobody wants sequestration. I think there are other ways to do it.

I would like to ask the negotiators and particularly the Democratic leadership negotiators, and let me just say that I think there are great differences between the Democratic Party and the Republican Party. I think there are great differences. I think that they are not great enough, but there are differences. The negotiations would have been ended long ago if both parties were similar and the leadership of both parties thought the same; we would have a capital gains tax for certain if they had not held out, the Democratic leadership. We would have a number of other things happening in that package in terms of massive domestic cuts if the leadership of the Democratic Party was not different in its mindset from the leadership of the Republican Party.

On and on it goes. There are differences which are still very important, but not great enough differences. Our party is not distinguishing itself by using some common sense and understanding that here we are in a state of emergency. We have an emergency, an urgent situation. There is an emergency existing fiscally. We have a war in the Mideast that everybody seems to think is going to pay for itself through donations from places like Japan who is not going to give but so much, I assure you.

□ 1950

The Saudi Arabians and the Kuwatis in exile, a number of people over there who are rich enough to pay for the war. We have an abundance of riches in very sparsely populated countries, so they can pay for it, but I suspect they will only pay for part of it. In addition to the hardship imposed on our soldiers and military personnel, in addition to the hardships, the inconvenience and the risk we are taking, we will end up paying for most of it. Let Members assume we do not have to pay for it. Then I ask the question, why did we not make greater cuts in the military budget? Why did we not make greater cuts in the military budget, in this day and age, when the Soviet Union is cooperating with the United States in Iraq, when negotiations are going forward to lessen the tensions in the world. We just reunite Germany as a result of these peace agreements, and a new order of things following the cold war. Why did we not cut the military budget more so that we would not have to cut Medicare so much?

I think everybody ought to get specific that writes their Congressman. Get specific, talk about specific taxes. Do not just write and say, "We don't want any cuts." Yes, we are willing to cut, have to cut in certain places, but why did they not cut the bases in Japan and Germany? Why do we need bases in Japan and Germany 40 years after the war? Why are American taxpayers paying for the security of Japan and Germany? Keep asking your Congressman, why are we doing such a stupid, ridiculous, costly thing in this day and age, especially when we have an emergency, why do we need that? Why do we need to continue to carry the CIA at such a high cost? It is estimated, and we have to estimate it since Congress really cannot scrutinize it closely, it is estimated that the CIA spends between $8 and $10 billion. We have a cold war that has wound down. Why do we continue to have to spy on the Russians in the cloak-and-dagger operations that never produce that much anyhow? We got more information from our libraries and our weather satellites, and from our satellites in the sky. We got more information from other places about what is going on around the world than we did in cloak-and-dagger operations that employ so many would-be Perry Masons and all kinds of folks who like that world, but do not produce very much.

Let all those folks in the CIA in the cloak-and-dagger operations go out and get honest jobs. As President Nixon used to say about social workers, "When you tax social programs, let's close down the social programs and make the social workers go out

and get honest jobs." Let Members close down at least half of the CIA, and let the cloak-and-dagger people go out and get some honest jobs. We have police jobs, law enforcement jobs in numerous cities. So why do we have to maintain the CIA and the military at almost the same level, if we have an emergency? Let Members move with dispatch. Let Members move quickly.

I cannot say it was an original idea. I got it from my continuous reading about what is happening in the Soviet Union. The people of the Soviet Union are demanding that the KGB be shut down. At least, the KGB should be slashed drastically, and the equivalent of the KGB is our CIA. The people of the Soviet Union are demanding that the military budget be slashed drastically, while they cannot get enough food and enough clothing, and they are experiencing all kinds of hardships. They have an emergency. So they want their government to move rapidly to get rid of the military. I think we should follow suit. We should demand that the CIA be cut drastically. We should demand that, starting with the bases in Japan and Germany, two wealthy competitive nations that are giving the United States a hard time all the time, competing in the economic sphere, why continue to pay for the bases? If we were to begin to shut down the bases in Japan, we can save $25 billion this year. Take it from an emergency point of view. Put the eviction notices up, start the process of closing them down. We cannot do it all at once, but we can start it. We can do enough to recover $25 billion, because those bases cost the United States more than $100 billion. Bases in Japan and Germany are costing more than $100 billion in 5 years. This budget plan covers 5 years. In 5 years we could close them down completely, and closing them down does not mean literally they will be closed down. Everyone knows as well as I do that the Japanese will move in to occupy the bases and the Germans will move in to occupy the bases. They will make use of the material and the construction that we leave behind. They will spend their money. They have been laughing at the United States for the last 20 years. They think Americans are the biggest chumps on the face of the Earth. Chumps, stupid fools, to keep paying for the defense of countries that can well pay for their own defense. They think we are fools.

Of course, probably some Americans are benefitting. Somebody is making money off these bases who is in America, some groups with influence are continuing this nonsense. Otherwise, why do we continue an illogical, costly, stupid process? Somebody is profiting from it. Maybe the military construction industry, maybe the PX's. Somebody is making a lot of money off of it. But it is not the American taxpayer. Let Members get serious about the situation with respect to the budget. Let Members consider this an emergency. Let Members rush to close down the bases in Germany. Let Members rush to close down the bases in Japan. Let Members rush to cut the budget of the CIA in half. We might come out with $40 billion.

All of the people concerned about Medicare cuts, the Medicare cuts are $60 billion. They did not hesitate, under the pressure of the emergency, they did not hesitate to rape Medicare. Our senior citizens are going to take the brunt of the domestic cuts. Why can we not, if there is such an emergency that we have to do such a drastic thing to the Medicare Program, why can we not close the bases in Germany and Japan? I realize that there are Members that have great problems with rapid cutbacks in military expenditures and the closing of bases inside this country, in districts. I realize we need to deal with the problem of restraining the work force and relocating people who are employees of bases, as well as many of the members of the military. There are a number of problems that we have to take into consideration. So I am not a wild-eye radical standing here saying, "Shut down the military operation by half all over." I am saying that it makes good sense to close down the bases in Germany and Japan. It makes good sense to cut the cloak-and-dagger operation of the CIA by half. There are numerous other expenditures where we can find the same kind of good sense.

I asked the question of our leadership, why did we not press harder in this area? Are we afraid the Democrats are going to be accused of being wimps, soft on the military? I do not think the American people are still in that mood anymore. I think they recognized that we have an emergency, we have shown we are not soft in the Mideast. Why do we need bases in Germany and Japan when the action is in the Mideast? Why do we have to continue to spend enormous amounts of money in two countries that are not contributing very much to the Mideast, but if we pulled out, they could take care of themselves? They could take care of those bases. Those are my two basic questions.

I have one additional basic question to all the Members who were there negotiating. Why did you not come back with a report to Members which honestly and openly discussed the savings and loan crisis? The savings and loan crisis swindle, or whatever we want to call it, the savings and loan situation is a heavy burden upon the American taxpayers right now, and it will become even more of a burden. However, the report that was handed to the members of the Democratic Party on Sunday night, and I do not know what happened to the Republicans, the report that was handed to the Democrats had nothing, absolutely nothing about the savings and loan problem. The savings and loan debacle was not discussed in the meeting. It was not discussed in subsequent caucuses. They just said, here is a multibillion-dollar problem, General Accounting estimates that in the next 20 years it will cost the United States $500 billion. Stanford University has an estimate of $1 trillion, and yet a budget negotiation took place which was to cover 5 years instead of 1 year, and no mention of a savings and loan solution came out in the first document we saw. It turned out later on, I don't know where this came from, but a document which has scribbled on it "the OMB description of the summit, not reviewed by Congress." It should be "not described to Congress." I do not know where it came from. My staff had it when I came back from the office. I was complaining of the fact that the savings and loan had not been discussed, but I am sure anybody with sense, any sophomore with economics, knows part of the negotiating process was very much influenced by an attempt to make the budget safe for the S&L's, or to deal with somewhere, to deal with the S&L problem somewhere down the line.

□ 2000

Of course, it turns out, yes, they did discuss it. I am not going to impugn the integrity of the Democratic leadership. I want to know why they did not bring it back to us with the first document summarizing the budget package, but it did not come. I have it here now. It is called budget summit agreement. That is the overall outline of the total agreement, but underneath there are some pieces that were not in our original package. One is labeled "miscellaneous additional understandings," and behind that is a table called "major technical revisions."

Now, it turns out that the S&L's not only were discussed, but the S&L crisis, that huge monstrous obligation that has been foisted upon the American people, that was put in the budget. It is going to be in that package. They have so little respect for the intelligence of Congressmen that they are going to put it in the package and not discuss it with us, so little respect for the American people that the President makes speeches, the Democratic leadership makes speeches and they do not mention the fact that part of the money for the S&L bailout has now been put on budget. At least we are honest enough to put it on budget. I congratulate Mr. Darman and whoever is responsible. I congratulate the leadership of the Democrats who probably insisted that we come clean and put it on the budget. I do not con-

gratulate them for keeping it a secret, but I congratulate them for pressing for it to be put on the budget.

You have it listed under "major technical revisions." Now, technical revisions or technical corrections is a term that is used often here in the Congress. It is the parts of the bill that are of little consequence when we have to put some commas in, dot some extra i's, and cross some t's. We do not bring it back to the Congress for approval. We give the leeway to the staff to make technical revisions. Technical revisions are usually something done by staff, not by elected officials, but here we have an item called "major technical revisions." It is a budget line for the Resolution Trust Corporation, and that budget line says that in 1991 we will give the Resolution Trust Corporation an additional $29.9 billion. In 1992, we will give them another $29.5 billion. In 1993, we will give them another $18.8 billion. That is in the budget. It adds up to $74 billion.

Since when do we place $74 billion into a budget and call it a technical revision?

This document makes history. It is the costliest technical revision ever made by the House of Representatives, and it ought to be the last one of that magnitude made by the House of Representatives. I am certain my colleagues are not going to accept it as a major technical revision.

The credibility of the whole process, the credibility of the leadership is undermined when they present to us a more than $74 billion bill and call it a technical revision.

The S&L's not only need to be discussed openly, but in great detail. Here is the essence of the problem that Democrats have with this package. The savings and loan associations debacle is a problem created by rich people, educated people with MBA's. It was created by accountants. It was created by high-paid lawyers. It was created by executives of savings and loan associations. It was created by members of bank boards. These are not poor people.

We have always insisted that the mess was created by the weathly and the wealthy ought to pay to clean it up.

Herein lies our argument that there should have been an increase in the tax rate for the wealthiest people in the country. They are the ones who went to the party. They should pay for the party, but we have slipped it in as an expenditure on the one hand, and on the other hand the tax structure shows that when you look at the way these taxes are set up, there is a 7-percent increase in taxes for the people with the lowest incomes in the country. There is more than a 3-percent increase in taxes for people in the middle-income bracket, and there is less than a 1-percent increase for the people at the very top.

We have stood logic on its head and we have demonstrated what has been happening all along, that the rich have no intention to pay for the S&L's. They were at the party. They got fat and rich and they are going to walk away from it, and the Republican Party is going to protect them, just as the Republican Party through its Attorney General is not seriously prosecuting anybody. There are no prosecutions going forward on the scale that is necessary. Charles Keating, the worst offender, had to be prosecuted by the Los Angeles district attorney. Charles Keating is in jail now because the Los Angeles district attorney was fed up and took steps to treat him like the criminal that he is. Our Government is just suing him. On and on it goes with numerous other S&L's with the conspiracy of the administration that wants to prosecute as few as possible.

Before I proceed further, I would like to include in its entirety the three pages headed, "OMB Description of Summit Not Reviewed by Congress."

BUDGET SUMMIT AGREEMENT, SEPTEMBER 30, 1990

I. Summary Tables
A. Deficit Reduction.
B. Deficit Targets and Proposed Savings.
C. Baseline Amounts and Reductions by Category.
II. Agreement by Major Category
A. Discretionary Programs.
B. Mandatory/Entitlements/User Fees—OMB and CBO Scoring.
C. Tax and Receipt Changes.
III. Budget Process Reform and Enforcement
IV. Agreement Concerning Enactment
V. Note on Economic Assumptions and Major Technical Revisions
A. Economic Assumptions.
B. Major Technical Revisions.
VI. Miscellaneous Additional Understandings

VI. MISCELLANEOUS ADDITIONAL UNDERSTANDINGS

Scorekeeping guidelines reflecting general budget accounting conventions that will be used in measuring compliance with the Budget Agreement will be included in the reports accompanying the budget resolution presenting this agreement. Attached to the scorekeeping guidelines will be a complete listing of budget accounts included within each budget agreement category.

Additional funding for losses and working capital requirements of the Resolution Trust Corporation are included in this agreement and displayed on-budget. However, GRH baselines will be held harmless for these requirements to remove uncontrollable mandatory spending from sequester calculations.

International discretionary spending will be held harmless for the periodic assessment to the International Monetary Fund (IMF). The U.S. and other IMF countries have agreed to a 50% increase in the special drawing rights (SDR). The U.S. participation will require budget authority in 1992, but will not result in outlays. Budget authority will be exchanged for SDRs of the IMF, a monetary asset of equal value.

Baselines will be held harmless for Egyptian debt forgiveness. International discretionary budget authority and outlays will be adjusted for not more than the amounts specified below as a result of debt relief proposed by the President and approved by the Congress. New scoring procedures will be developed by OMB and CBO that reflect the real value of debt relief proposals. These procedures will be developed for use at least in time for the FY '92 budget.

[In billions of dollars]

	Fiscal year—				
	1991	1992	1993	1994	1995
Budget authority	.157	.177	.205	.246	.300
Outlays	.207	.294	.361	.446	.522

TABLE V.B.—MAJOR TECHNICAL REVISIONS

[Outlays in billions]

	1991	1992	1993	1994	1995
Bank Insurance Fund	3.7	4.5	1.8	0.5	0.8
Resolution Trust Corporation	25.9	29.5	18.8	−14.2	−25.9
Credit Reform:					
International					
Discretionary:					
Budget authority		−0.1	−0.1	−0.2	−.2
Outlays		.3	−.2	−.1	0
Domestic Discretionary:					
Budget authority		1.6	1.7	1.7	1.8
Outlays		1.1	1.3	1.3	1.3
Mandatory:					
Budget authority		1.5	−.3	−1.1	−4.3
Outlays		3.5	2.2	−.2	.6
Interest (budget authority and outlays)		.2	.5	.6	.6

The savings and loan crisis is as much alive now as it ever was during the course of the negotiations. It was very much alive. Why have they been so silent about it?

Our Democratic caucus issued a statement on September 24, which was not very long ago, which said that 87 percent of the American public now view the savings and loan crisis as serious. That is a Harris Poll that told us that 87 percent of the American public are ahead of the members of Government.

There are men and women in the negotiating process who think so little of the savings and loan crisis that they have sent it back to us as a technical revision.

Over half of all Americans consider the S&L issue extremely important to themselves, and 57 percent of Americans feel that the problem will get worse, will only get worse in the future.

The American public strongly agrees that it is important to recover assets, to jail lawbreakers and to establish strong guidelines to prevent similar tragedies from befalling any of our Nation's other financial systems.

Eighty percent of them are worried about our other loan programs, guaranteed loan programs.

An overwhelming number of Americans, 72 percent, feel that the policy of keeping hands off business clearly

works to discourage tougher regulation of the S&L's and encouraged crooked S&L executives to get away with as much as they could, an overwhelming number of Americans, 72 percent.

The people are ahead of the leadership. The people are ahead of Thornburgh in the Justice Department. The people are ahead of the closed circle that negotiated this budget agreement.

Very dangerous things are about to happen to our society when the people get that far ahead of the leadership.

In the Soviet Union a recent poll shows that only 7 percent of the people have any faith in the Government, or think that the Government can do anything of significance to help improve conditions. In the Soviet Union only 7 percent of the people believe that the Communist Party is relevant anymore or has any role to play in the society. We are not that bad yet, you know. We have a little more than 50 percent of the people who bothered to come out and vote for the Government. We are not down to the point where people are totally disgusted and knocked out of the process, but we are headed in that direction.

If the people are so much wiser and can see so much more clearly the obvious, then why do they need the Government? When they begin to feel that way, of course, it does not hurt the people who are at the top making all these decisions. It only strengthens them. We move toward a more totalitarian approach. We move toward a small group seeking to twist the arms and intimidate the Members of Congress to vote a certain way. We move toward a small group determining what is the truth and packaging that, putting it on the floor with no amendments possible except the amendments that they want and forcing a vote on it. That is where we are going if we do not allow the wisdom of the people and we do not believe in the wisdom and the effectiveness of the democratic process.

Here we have in this document a secret budget line that was secret until the last 24 hours, I guess, as far as the Congress was concerned, that $74.2 billion is being proposed for the S&L bailout.

□ 2010

Why are we perpetrating that kind of lie on the American people?—$74.2 billion is a lot of money, and we are saying that that is all we need in the next 5 years. In fact, we are saying, to fully state the case, we are saying that in fiscal year 1994 and fiscal year 1995 we are going to make money by selling the assets of the failed savings and loan associations. So that we will get back $14.2 billion in 1994, we will get back $25.9 billion in 1995, to help bring down the cost. Only the Budget Committee, budget officials who produced the figures for the negotiators and only the negotiators believe this is anywhere close to the truth. It is a lie. It is a grand lie.

The Ways and Means Committee estimates that $122 billion, $122 billion is needed just for fiscal year 1991. The General Accounting Office Comptroller Charles Bowsher reported to Congress the total cost of the cleanup now approaches $500 billion. That is not all needed in fiscal 1995, but that was an estimate given by Mr. Seidman recently in an article that $90 billion would be needed this fall.

We are in the fall right now. We need $90 billion right now. But what does this document say? It says for fiscal year 1991 an additional $25.9 billion will be needed. This is a lie. Why continue to lie about the problem? Why insult the intelligence of the Congress and the intelligence of the American people? Why do we not come clean, recognize and admit the magnitude of the problem and come forward with a solution to make the people who created the problem pay for the cleanup?

The book value of the S&L caseload, Resolution Trust Corporation has accumulated 600 billion dollars' worth of assets which they have gathered to themselves. It is estimated the amount of money they will recover on that book value of $600 billion is only going to be about $240 billion. We are going to make up the difference, the taxpayers are going to have to make up the difference between $240 billion and $600 billion.

Nothing like the small amount of $25.9 billion, or $18.8 billion over the next few years contained in this document. This shows no signs of getting better.

The S&L criminal investigations are still stagnant. The New York Times reports today that they will only have 116 institutions under investigation—these are the same statistics that I gave more than a month ago and are still the only statistics available. They filed cases against defendants in 47 institutions. They have actually produced criminal charges against 79 people. They have gotten convictions of 46 people. Not a very impressive record, considering the billions of dollars that are involved.

We continue not to pursue the "good ole boys" in the network and not to treat them as criminals.

Finally, I would like to comment on another aspect to the savings and loan swindle that keeps coming up and being dismissed lightly. That is that there are so many millions of dollars that are being made up for, replaced, so many millions of dollars being replaced by you, the taxpayers.

The taxpayers are replacing millions of dollars that we have no obligation to replace. Deposits that are not guaranteed are being covered because Mr. Seidman thinks it is okay to do it, or some other people within the administration think it is okay to bend the law.

Whatever they think is appropriate, they do. Starting back with the Continental Bank failure years ago, Mr. Seidman came up with the theory that there are some banks that are too big to fail. So not only were they going to take care of the guaranteed depositors, that the taxpayers were obligated to take care of, but they took care of other deposits, especially foreign deposits.

When foreigners have money in banks and they are not guaranteed, we still cover it. We are not legally obligated to cover it. In fact, there is some question about its legality, just how legal what they are doing is.

A taxpayer suit is possible, it seems to me, to challenge decisions being made to cover deposits that are not guaranteed.

The New York Times is obviously troubled by it because they have written another article in today's New York Times, October 3. The New York Times has an article which is headlined "Foreign Depositors Covered by FDIC at Failed Banks." They are talking about one bank that failed.

A decision was made to cover $37 million that was not covered by the FDIC. No taxpayer guarantees were on this $37 million. The money is in the Bahamas, Nassau, a branch of a bank here in Washington, the National Bank of Washington.

A decision was made, even though this $37 million in the Bahamas, in the branch bank there, was not covered, we should cover it. Now, under what authority? It is "considered appropriate."

I do not know what appropriate means, but it is your money, the taxpayers' money, and they make decisions based on what they consider appropriate, case by case.

They will not say, Mr. Seidman and his cohorts will not say, they are going to do this all the time, it is only when they feel like it, that they will throw away millions of dollars of the taxpayers' money.

There is no policy, there is no regulation, there is no law; it is just when they feel like it.

I personally think Mr. Seidman should hurry up and resign. He has given enough of the taxpayers' money away. He started this, as I said before, with Continental Bank of Illinois, declaring some banks are too big to not save. So we give away taxpayers' money and cover all the deposits whether they are guaranteed or not.

Now we have the policy almost in place, and the small banks are up in arms because small savings and loans associations and other banks do not

have large foreign depositors. But according to the New York Times, this swindle is so outrageous that the larger banks which have large deposits from foreign depositors are able to guarantee coverage for their foreign depositors without paying a premium like they pay a premium on the money that is put in by American depositors.

The FDIC, the taxpayer-guaranteed deposit system, does have a private sector participation. The banks do pay a premium in order to cover the cost of the guaranteed deposits as far as that goes. As we see, it did not go very far. It has run out.

Taxpayers stand behind those deposits after the money runs out.

While the premiums are paid by all banks, the big banks have not been paying it on the foreign deposits.

Let me read from the New York Times:

The small banks Mr. Guenther represents have long opposed extending deposit insurance to foreign depositors. Most small banks have no significant overseas accounts and the banks that do are not required to pay additional insurance premiums to cover them—

Those overseas accounts or deposits on accounts here—

Assuming a deposit insurance premium of 19 cents per $100, large banks saved more than $620 million a year by not paying insurance premiums on the $326.7 billion of foreign deposits they held at the end of March. Most large banks belong to the American Bankers Association, which supported the move.

Why not? They do not pay a premium on $326.7 billion, they save $620 million by not having any kind of insurance on these foreign deposits. But if the bank gets in trouble, the taxpayers will pay those foreigners for their deposits. We will cover the $326.7 billion if they get in trouble. The banks in the meantime save the money.

One final quote from this article:

While Mr. Seidman favored—

Mr. Seidman is the head of RTC, and he was the head of the Federal Deposit Insurance Corporation for decades. He is the biggest force in banking in America. So therefore he must bear a great deal of the blame for what has happended. I do not know why he does not go and resign and move off the scene.

□ 2020

While Mr. Seidman favored backing foreign deposits at the National Bank of Washington, he stopped short of promising that the FDIC backing for foreign depositors, banking for foreign depositors at other banks, since the government in effect covered the National Bank's domestic accounts above the insurance limit of $100,000 per account—

And that is another way we lose it. Our own domesic depositors who put in more than a hundred thousand, and they do not have a guarantee legally covering their deposits also. Mr. Seidman said, it would be inappropriate not to cover the foreign depositors and treat them differently by not providing Government backing. "As far as we can, we will treat all depositors the same," Mr. Seidman said.

In cases where the FDIC cannot find any buyers of a failed bank and decides to pay off deposits, Mr. Seidman left open the possibility that foreign depositors from now on could bear a loss. When there is no buyer for a failed bank, the FDIC's normal practice has been to pay domestic accounts up to the $100,000 insurance limit, and in many cases, when banks are too big to fail, they have operated differently.

The Federal Reserve Chairman, Alan Greenspan, backs up this approach. He told Congress in September that the Fed, the Federal Reserve Bank, opposes a policy that requires that uninsured depositors must bear part of the loss of failed banks. In other words, if a bank fails, they should be guaranteed even though they are uninsured.

As my colleagues know, it is taxpayers' money. It is generously being given away.

Most people believe that we have to bear the burden of the savings and loan swindle, all that has happened. We have to bear it, and we do in the same senses that we are responsible for those deposits. The average American family, who has deposits in the bank, need the comfort and security of knowing that their Government stands firmly behind them. The Government must pay off the depositors, but I do not think the taxpayers know, and I do not think the taxpayers want to be a part of this scheme of giving away generous amounts of money to foreign depositors who did not have any insurance, giving it away to big banks who refuse to pay the premiums on the insurance and left their people uncovered and giving it away even to Americans who deposit more than a hundred thousand dollars in a particular bank and are not legally insured under the program.

Mr. Speaker, it is just one more example of how there is a double standard applied in this world of financiers, this world of accountants, and lawyers and MBA's, this world of old boys and their networks that can get on the phone to powerful people.

The final bill is paid by the American taxpayer. The American taxpayer is being called upon in the latest budget proposal. They are being called upon to pay the bill, and they will not even itemize the bill.

Mr. Speaker, that S&L piece has been hidden. Nobody is talking about the bill, one of the biggest pieces of the bill. They are not even stating an honest figure as to what the S&L cost is going to be.

Taxpayers, rightly are revolting against this budget package. Taxpayers rightfully, are revolting against the budget process. It does not matter what kind of crisis is created. Even sequestration is better than swallowing this wholesale swindle that is being forced upon us by the summit.

REPORT ON CONTINUED PRODUCTION FROM THE NAVAL PETROLEUM RESERVES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Armed Services.

(For message, see proceedings of the Senate of today, Wednesday, October 3, 1990.)

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. JAMES) to revise and extend their remarks and include extraneous material:)

Mr. DELAY, for 5 minutes, today.

Mr. KASICH, for 5 minutes, today.

(The following Members (at the request of Mrs. BOXER) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. COYNE, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. DELLUMS, for 5 minutes, today.

Mr. OWENS of New York, for 60 minutes each day, on October 15, 16, 17, 18, and 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. JAMES) and to include extraneous matter:)

Mr. BILIRAKIS.

Mr. GILMAN in two instances.

Mr. PORTER.

Mr. SHAW.

Mr. MCEWEN.

Mr. BEREUTER.

Mr. CRANE in three instances.

Mr. HUNTER in two instances.

Ms. SCHNEIDER.

Mr. BAKER.

Mr. DUNCAN.

Mr. CONTE.

Mr. GREEN of New York.

Mr. GUNDERSON.
Mr. PORTER.
Mr. GALLEGLY.
Mr. DORNAN of California.

(The following Members (at the request of Mrs. BOXER) and to include extraneous matter:)

Mr. FEIGHAN.
Mr. HAMILTON.
Mr. MRAZEK.
Mr. MORRISON of Connecticut.
Mr. MONTGOMERY.
Mr. NOWAK.
Mr. LANTOS in three instances.
Mr. STARK.
Mr. STOKES.
Mr. BORSKI in two instances.
Mr. RICHARDSON.
Mr. THOMAS A. LUKEN.
Mr. LAFALCE.
Mr. DYSON.
Mr. APPLEGATE.
Mr. ROSE.
Mr. HERTEL.
Mr. JACOBS.
Mrs. SCHROEDER.
Mr. DURBIN.
Mr. AUCOIN.
Mr. BATES.
Mr. YATES.
Mr. FAUNTROY.

SENATE BILL JOINT RESOLUTIONS, AND CONCURRENT RESOLUTION

A bill joint resolutions and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2111. An act designating the month of May as "Asian/Pacific American Heritage Month", to the Committee on Post Office and Civil Service.

S.J. Res. 351. Joint resolution to designate the month of May, 1991 as "National Trauma Awareness Month", to the Committee on Post Office and Civil Service.

S.J. Res. 369. Joint resolution designating 1991 as the "Year of Thanksgiving for the Blessings of Liberty"; to the Committee on Post Office and Civil Service.

S. Con. Res. 147. Concurrent resolution supporting the actions taken by the President with respect to Iraqi aggression against Kuwait; to the Committee on Foreign Affairs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3657. An act to amend the Securities Exchange Act of 1934 to strengthen regulatory oversight of the United States securities markets, improve supervision of financial market participants, and improve the safety and efficiency of market mechanisms, and for other purposes;

H.R. 5641. An act to amend title 5, United States Code, with respect to retirement of members of the Capitol Police;

H.R. 5643. An act to grant a temporary extension on the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to private-sector positions while participating in an executive exchange program; and for other purposes; and

H.J. Res. 482. Joint resolution designating March 1991 as "Irish-American Heritage Month."

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bill and a joint resolution of the Senate of the following titles:

S. 647. An act to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws and to eliminate abuses in transactions in penny stocks, and for other purposes;

S. 1128. An act for the relief of Richard Saunders;

S. 1229. An act for the relief of Maria Luisa Anderson;

S. 1230. An act to authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes;

S. 1511. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes;

S. 1683. An act for the relief of Paula Grzyb;

S. 1814. An act for the relief of Wilson Johan Sherrouse;

S. 1974. An act to require new televisions to have built in decoder circuitry; and

S.J. Res. 181. Joint resolution to establish calendar year 1992 as the "Year of Clean Water."

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 5725. An act to extend the expiration date of the Defense Production Act of 1950; and

H.R. 3007. An act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations.

ADJOURNMENT

Mr. OWENS of New York. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, October 4, 1990, at 11 a.m.

OATH OF OFFICE, MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The Oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 101st Congress, pursuant to the provisions of 2 U.S.C. 25:

Hon. PATSY T. MINK, Second District of Hawaii.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3998. A letter from the Administrator, Environmental Protection Agency, transmitting a report on the accomplishments of the Sole Source Aquifer Demonstration [SSAD] Program, pursuant to section 1427 of the Safe Drinking Water Act; to the Committee on Energy and Commerce.

3999. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a report on the extent to which significant progress has been made toward ending the system of apartheid in South Africa, pursuant to section 501 of the Comprehensive Anti-Apartheid Act of 1986; to the Committee on Foreign Affairs.

4000. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4001. A letter from the Acting General Counsel, Office of Management and Budget, transmitting the annual report on credit management and debt collection, dated June 1990; jointly, to the Committees on Government Operations and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the

Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 492. Resolution providing for the consideration of H.J. Res. 660, a joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes. (Rept. 101-797). Referred to the House Calendar.

Mr. FASCELL: Committee on Foreign Affairs. H.R. 4054. A bill to provide a permanent endowment for the Eisenhower Exchange Fellowship Program; with an amendment (Rept. 101-798). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4515. A bill to authorize a high speed rail transportation development and commercialization program, to establish a national high speed rail transportation policy, to promote development and commercialization of high speed rail transportation by providing Federal guarantees of certain investments in high speed rail transportation facilities, and for other purposes; with an amendment (Rept. 101-799). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DINGELL (for himself, Mr. MARKEY, and Mr. MCMILLEN of Maryland):

H.R. 5777. A bill to amend the Federal securities laws to equalize the regulatory treatment of participants in the securities industry, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ROSTENKOWSKI:

H.R. 5778. A bill to make technical corrections to certain customs and tariff laws; to the Committee on Ways and Means.

By Mr. PICKLE (for himself, Mr. SCHULZE, Mr. ANTHONY, Mr. FLIPPO, Mr. DORGAN of North Dakota, Mr. FORD of Tennessee, Mr. RANGEL, Mr. JACOBS, Mr. MCGRATH, Mr. CHANDLER, and Mr. SHAW):

H.R. 5779. A bill to amend the Internal Revenue Code of 1986 to prevent the avoidance of the requirement to file returns when businesses receive more than $10,000 in cash, and for other purposes; to the Committee on Ways and Means.

By Mr. SKAGGS (for himself and Mrs. SCHROEDER):

H.R. 5780. A bill to designate certain lands in the State of Colorado as wilderness, and for other purposes; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. DURBIN (for himself, Mr. EVANS, Mr. MICHEL, Mr. LEACH of Iowa, Mr. TAUKE, and Mr. VOLKMER):

H.R. 5781. A bill to authorize the Secretary of the Army to provide shoreline projects to maintain certain flood control projects on the Mississippi and Iowa Rivers; to the Committee on Public Works and Transportation.

By Mr. JENKINS (for himself, Mr. ANTHONY, Mr. FLIPPO, Mr. MATSUI, Mr. SUNDQUIST, and Mr. VANDER JAGT):

H.R. 5782. A bill to amend the Internal Revenue Code of 1986 to technically clarify the calculation of the basis of real property for purposes of computing gain or loss from sale; to the Committee on Ways and Means.

By Mr. JOHNSON of South Dakota (for himself and Mr. DORGAN of North Dakota):

H.R. 5783. A bill to provide disaster assistance for agricultural producers, and for other purposes; to the Committee on Agriculture.

By Mr. JONES of Georgia:

H.R. 5784. A bill to provide that the 25 percent pay increase under the Ethics Reform Act of 1989 be deferred with respect to Members of Congress and officials in the executive branch until a balanced Federal budget is achieved; jointly, to the Committees on House Administration and Post Office and Civil Service.

By Mr. LEHMAN of California (for himself and Mr. HILER):

H.R. 5785. A bill to require the redesign of the reverse side of a circulating coin to commemorate the bicentennial of the U.S. Constitution and to provide for the redesign of all circulating coins other than the dollar; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MCEWEN (for himself, Mr. BAKER, Mr. DELAY, and Mr. INHOFE):

H.R. 5786. A bill to require the President to make an annual report on the national energy and environmental strategy of the United States to Congress; to the Committee on Energy and Commerce.

By Mrs. SCHROEDER (for herself and Mr. SKAGGS):

H.R. 5787. A bill to protect the wilderness qualities of certain lands in the State of Colorado pending enactment of legislation designating those lands as components of the National Wilderness Preservation System or releasing those lands for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SYNAR (for himself and Mr. DARDEN):

H.R. 5788. A bill to provide for domestic livestock grazing fees for public rangelands reflecting the fair market value of forage on those lands; to the Committee on Interior and Insular Affairs.

By Mr. WHEAT (for himself, Mr. DELLUMS, Mr. CLAY, Mrs. COLLINS, Mr. CONYERS, Mr. CROCKETT, Mr. DIXON, Mr. DYMALLY, Mr. ESPY, Mr. FAUNTROY, Mr. FLAKE, Mr. FORD of Tennessee, Mr. GRAY, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. LEWIS of Georgia, Mr. MFUME, Mr. OWENS of New York, Mr. PAYNE of New Jersey, Mr. RANGEL, Mr. SAVAGE, Mr. STOKES, Mr. TOWNS, and Mr. WASHINGTON):

H. Con. Res. 378. Concurrent resolution to express the sense of Congress regarding racially offensive remarks by the Justice Minister of Japan to the Committee on Foreign Affairs.

By Mrs. LOWEY of New York (for herself Mr. JONES of North Caroline, Mr. STUDDS, Mr. DOWNEY, Mrs. BENTLEY, Mr. MILLER of Washington, Mr. HOCHBRUECKNER, Mr. BLAZ, Mr. RAVENEL, Mr. GILMAN, Mr. PALLONE, Mr. MANTON, Mrs. SAIKI, Mr. GEJDENSON, Mr. HUGHES, Mr. TALLON, and Mr. CARPER):

H. Res. 493. Resolution expressing the support of the House of Representatives for the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers and calling upon the Senate to expeditiously give its advice and consent to ratification of that convention; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 5789. A bill for the relief of Craig A. Klein; to the Committee on the Judiciary.

By Mr. COX:

H.R. 5790. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 633: Mr. LEHMAN of Florida and Mr. SUNDQUIST.

H.R. 1085: Ms. PELOSI and Mr. BARNARD.

H.R. 1652: Mr. BILIRAKIS and Mr. WALSH.

H.R. 2460: Mr. FEIGHAN.

H.R. 2707: Mr. ORTIZ.

H.R. 2816: Mr. LEVIN of Michigan.

H.R. 3986: Mr. CARDIN, Mr. ENGLISH, Mr. FISH, Mr. HOAGLAND, Mr. BROWDER, Mr. RAHALL, Mrs. MARTIN of Illinois, and Mr. CRANE.

H.R. 4125: Mr. VENTO.

H.R. 4287: Mr. MRAZEK, Mr. GEJDENSON, Mr. KOLBE, Mr. WISE, Mr. EDWARDS of Oklahoma, Mr. STANGELAND, Mr. HORTON, and Mr. LEWIS of Florida.

H.R. 4353: Mr. TALLON.

H.R. 4369: Mr. BLILEY.

H.R. 4690: Mr. OBERSTAR.

H.R. 4859: Mr. SHAYS.

H.R. 4860: Mr. SHAYS.

H.R. 5088: Mr. FISH, Mr. LEWIS of Georgia, and Mr. MACHTLEY.

H.R. 5302: Mr. JAMES.

H.R. 5397: Mr. KOLTER, Mr. BLAZ, Mr. HERTEL, and Mr. DWYER of New Jersey.

H.R. 5460: Mr. ECKART, Mr. MCCOLLUM, Mr. LIPINSKI, Mrs. JOHNSON of Connecticut, Mr. WOLPE, Mr. LAGOMARSINO, Mr. FUSTER, Mr. INHOFE, Mr. HILER, and Mr. JAMES.

H.R. 5562: Mr. DELAY and Mr. DOUGLAS.

H.R. 5569: Mr. WILSON, Mr. SMITH of Florida, Mr. BLAZ, Mr. HERTEL, Mr. STOKES, Mr. MCCANDLESS, Mr. BILIRAKIS, Mr. FUSTER, and Mr. EVANS.

H.R. 5587: Mr. RITTER.

H.R. 5622: Mr. JACOBS.

H.R. 5710: Mr. MARTINEZ.

H.J. Res. 214: Mr. ANNUNZIO, Mr. OXLEY, Mr. WEBER, Mr. RIDGE, Ms. MOLINARI, Mr. CLINGER, Mr. DICKINSON, Mrs. SMITH of Nebraska, Mrs. BENTLEY, Mr. EDWARDS of Oklahoma, Mr. HOUGHTON, Mr. MILLER of Ohio, Mr. HUNTER, Mr. MORRISON of Washington, Mr. YOUNG of Florida, Mr. SERRANO, Mr. WYDEN, and Mr. CHANDLER.

H.J. Res. 353: Ms. SLAUGHTER of New York.

H.J. Res. 492: Mrs. BENTLEY, Mr. FEIGHAN, Mr. MAVROULES, Mr. FROST, Mr. BROOKS, Mr. MACHTLEY, Mr. ROSE, Mr. ARCHER, Mr. MORRISON of Connecticut, Mr. LEHMAN of Florida, Mr. SMITH of Texas, Mr. GEJDENSON, Mr. ROWLAND of Connecticut, Mrs. MORELLA, Mr. MOODY, Mr. WILSON, Mr. SPRATT, and Mrs. PATTERSON.

H.J. Res. 542: Mr. LEHMAN of Florida, Mr. SAVAGE, Mr. JONTZ, Mr. OWENS of Utah, Mr. NIELSON of Utah, Mr. CONTE, Mr. RANGEL, Mr. DWYER of New Jersey, Mrs. BOXER, Mr. WALSH, Mr. SPENCE, Mr. SCHEUER, Mr. KOLTER, Mr. DAVIS, Mr. QUILLEN, Mr.

CARPER, Mr. KENNEDY, Mr. EMERSON, Mr. WYDEN, Mr. SOLOMON, Mr. HUGHES, Mrs. MEYERS of Kansas, Mr. ENGEL, Mr. HOCHBRUECKNER, Mr. FISH, Mr. PORTER, Mr. SAXTON, Mr. TANNER, Mr. UPTON, Mr. JENKINS, Mr. GALLO, Mr. BUSTAMANTE, Mrs. LLOYD, Mr. KLECZKA, Mr. MAZZOLI, Mr. CHANDLER, Mr. LEVINE of California, Mr. ERDREICH, Mr. BLILEY, Mrs. JOHNSON of Connecticut, Mr. ROYBAL, Mr. SHEEN, Mrs. BOGGS, and Mrs. MORELLA.

H.J. Res. 595: Mr. HUTTO, Mr. IRELAND, Mr. KENNEDY, Mr. LANTOS, Mr. PICKETT, Mr. PORTER, Mr. ROYBAL, Mr. SCHAEFER, Mr. SOLARZ, Mr. ANDERSON, Mr. CLARKE, and Mr. COUGHLIN.

H.J. Res. 611: Mr. ACKERMAN, Mr. ALEXANDER, Mr. ANDERSON, Mr. APPLEGATE, Mr. ARCHER, Mr. ASPIN, Mr. ATKINS, Mr. AUCOIN, Mr. BARNARD, Mr. BATES, Mr. BENNETT, Mrs. BENTLEY, Mr. BERMAN, Mr. BEVILL, Mr. BILIRAKIS, Mrs. BOGGS, Mr. BONIOR, Mr. BORSKI, Mr. BOSCO, Mr. BOUCHER, Mrs. BOXER, Mr. BRENNAN, Mr. BROWN of California, Mr. BUSTAMANTE, Mrs. BYRON, Mr. CALLAHAN, Mr. CARDIN, Mr. CARPER, Mr. CARR, Mr. CLEMENT, Mr. COBLE, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. CONTE, Mr. CONYERS, Mr. COOPER, Mr. COUGHLIN, Mr. CROCKETT, Mr. DAVIS, Mr. DEFAZIO, Mr. DE LA GARZA, Mr. DELAY, Mr. DELLUMS, Mr. DE LUGO, Mr. DICKS, Mr. DINGELL, Mr. DIXON, Mr. DONNELLY, Mr. DORNAN of California, Mr. DURBIN, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. DYSON, Mr. EARLY, Mr. EDWARDS of California, Mr. ERDREICH, Mr. ESPY, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FASCELL, Mr. FAUNTROY, Mr. FAZIO, Mr. FISH, Mr. FLIPPO, Mr. FOGLIETTA, Mr. FRANK, Mr. FRENZEL, Mr. FROST, Mr. FUSTER, Mr. GEJDENSON, Mr. GEKAS, Mr. GIBBONS, Mr. GILMAN, Mr. GOODLING, Mr. GORDON, Mr. GOSS, Mr. GRANT, Mr. GRAY, Mr. GREEN, Mr. GUARINI, Mr. HALL of Ohio, Mr. HAMILTON, Mr. HAMMERSCHMIDT, Mr. HARRIS, Mr. HATCHER, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HEFNER, Mr. HENRY, Mr. HERTEL, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. HOYER, Mr. HUGHES, Mr. HUNTER, Mr. HUTTO, Mr. IRELAND, Mr. JOHNSTON of Florida, Mr. JONES of North Carolina, Mr. JONTZ, Ms. KAPTUR, Mr. KASICH, Mr. KASTENMEIER, Mr. KENNEDY, Mr. KILDEE, Mr. KOLTER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LANTOS, Mr. LEACH of Iowa, Mr. LEHMAN of California, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LEWIS of California, Mr. LEWIS of Florida, Mr. LIPINSKI, Mr. LIVINGSTON, Mrs. LLOYD, Ms. LONG, Mr. LOWERY of California, Mr. THOMAS A. LUKEN, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MCDERMOTT, Mr. MCGRATH, Mr. MCHUGH, Mr. MCMILLEN of Maryland, Mr. MCNULTY, Mr. MACHTLEY, Mr. MANTON, Mr. MARKEY, Mr. MARTINEZ, Mr. MATSUI, Mr. MAVROULES, Mrs. MEYERS of Kansas, Mr. MFUME, Mr. MILLER of California, Mr. MILLER of Washington, Mr. MINETA, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MONTGOMERY, Mr. MOODY, Mr. MOORHEAD, Mrs. MORELLA, Mr. MRAZEK, Mr. MURTHA, Mr. NAGLE, Mr. NATCHER, Mr. NEAL of North Carolina, Mr. NELSON of Florida, Ms. OAKAR, Mr. OBEY, Mr. ORTIZ, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PALLONE, Mr. PANETTA, Mr. PARKER, Mr. PARRIS, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PICKLE, Mr. PORTER, Mr. PRICE, Mr. PURSELL, Mr. QUILLEN, Mr. RAHALL, Mr. RANGEL, Mr. RAVENEL, Mr. RICHARDSON, Mr. ROE, Ms. ROS-LEHTINEN, Mr. ROSE, Mrs. ROUKEMA, Mr. ROYBAL, Mr. RUSSO, Mr. SABO, Mr. SANGMEISTER, Mr. SAVAGE, Mr. SAWYER, Mr. SCHEUER, Mr. SHARP, Mr. SHAW, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. SMITH of Iowa, Mr. SOLARZ, Mr. SPENCE, Mr. SPRATT, Mr. STAGGERS, Mr. STARK, Mr. STEARNS, Mr. STENHOLM, Mr. STUDDS, Mr. SYNAR, Mr. TANNER, Mr. TAUZIN, Mr. TOWNS, Mr. TRAFICANT, Mr. TRAXLER, Mrs. UNSOELD, Mr. VENTO, Mr. VISCLOSKY, Mr. WALGREN, Mr. WATKINS, Mr. WAXMAN, Mr. WEBER, Mr. WEISS, Mr. WHEAT, Mr. WILSON, Mr. WISE, Mr. WOLF, Mr. WOLPE, Mr. WYDEN, Mr. YATES, Mr. YATRON, Mr. YOUNG of Florida, and Mr. YOUNG, of Alaska.

H.J. Res. 612: Mr. MONTGOMERY, Mr. ROWLAND of Georgia, Mr. GUNDERSON, and Mr. AUCOIN.

H.J. Res. 637: Mr. HUTTO, Mr. MOORHEAD, Mr. VENTO, Mr. SABO, Mr. ORTIZ, Mr. ANDREWS, Mr. GRANDY, Mr. GUNDERSON, Mr. HATCHER, Mr. INHOFE, Mr. DONALD E. LUKENS, Mr. MARLENEE, Mr. MOODY, Mr. MORRISON, of Washington, Mr. ROBERTS, Mrs. SAIKI, Mr. SCHUETTE, Mr. SERRANO, Mr. ROBERT F. SMITH, Mr. SPENCE, Mr. TAUKE, Mr. WALSH, Mr. ARCHER, Ms. PELOSI, Mr. HAWKINS, Mr. YOUNG of Florida, Mr. BEVILL, Mr. MRAZEK, Mr. MOLLOHAN, Mr. MURTHA, Mr. PERKINS, Mr. DWYER of New Jersey, Ms. KAPTUR, Mr. TRAXLER, Mr. PICKLE, and Mr. ROSE.

H.J. Res. 642: Mr. ROE.

H.J. Res. 643: Mr. MORRISON of Washington, Mr. VOLKMER, Mr. BURTON of Indiana, Mr. FLIPPO, Mr. HENRY, Mr. SLATTERY, Mr. CALLAHAN and Mr. DICKINSON.

H. Con. Res. 355: Mr. SKAGGS Ms. PELOSI, Mr. MCDERMOTT, Mr. YATES, Mr. LEWIS of Georgia, Mr. FEIGHAN, Mr. BOUCHER, Mr. BEILENSON, Mr. NEAL of Massachusetts, Mr. ENGEL, Mr. ATKINS, Mr. PANETTA, Mr. MILLER of California, and Mr. BROWN of California.

H. Con. Res. 373: Mr. ROWLAND of Georgia, Mr. JONTZ, and Mr. MILLER of California.

H. Con. Res. 374: Mr. PORTER.

H. Res. 407: Mr. ROE.

EXTENSIONS OF REMARKS

HONOR THY PLEDGE

HON. FORTNEY PETE STARK
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. STARK. Mr. Speaker, following is an editorial from the Wall Street Journal of October 2, 1990, concerning the 103 Members who signed a pledge not to increase taxes.

I, for one, strongly support progressive tax changes designed to ensure that the wealthy, who benefited so much from the excesses of the 1980's, pay for their repair of that decade. But the budget summit is not progressive; it is regressive—and I oppose it.

Since our worth as elected officials is only as good as our word, I trust that the 103 Members will all oppose this regressive package.

I would also like to enter into the RECORD the column by the Washington Post's chief economic writer, Hobart Rowen, entitled, "The Budget Deal: Too Much for the Rich."

HONOR THY PLEDGE

"I pledge to the taxpayers of the District of the State of —— and to the American people that I will:

"One, oppose any effort to increase marginal tax rates from the 15% and 28% rates for individuals and the 34% top rate for businesses; and

"Two, oppose any further reduction or elimination of deductions and credits, unless matched dollar for dollar by further reducing tax rates."

For the past few years, the Washington-based Americans for Tax Reform has circulated the above pledge as an insurance policy that the 1986 tax reform would not be easily subverted. Well, the budget deal is subverting that reform, so it's time to revisit the tax pledge.

The pledge's importance is simple. The budget agreement includes an effective increase in marginal tax rates by forcing taxpayers to reduce their itemized deductions by $300 for every $10,000 in income over $100,000. In effect, it blows the so-called "bubble" up higher and longer so that more taxpayers pay higher marginal tax rates over more of their income.

The budget agreement stipulates that a majority of the Members of each party in both Houses must vote for the entire agreement for it to take effect. To date, 101 Republicans and two Democrats in the House have signed statements saying they will honor the anti-tax pledge. Only 75 House Republicans have not signed the pledge. The White House must persuade at least 14 House Republicans to break a sworn promise or risk defeat of the agreement.

Grover Norquist, the head of Americans for Tax Reform, says that everyone who signed the pledge was told at the time that they would be held to it. "Any politician who took the pledge and votes for the present budget package was elected on a falsehood," he says. "We will hand their opponents their signed pledges so that the voters can decide whether there was some justification for their vote in favor of the second largest tax increase in American history." Half a dozen other tax groups announced yesterday that they will publicize the names of those who break the pledge.

A great many Members will have reasons to support the "bipartisan" budget agreement. Voters deserve to know whether or not their representative earlier promised, without any qualifications, to hold the line on income taxes. Here is the list of Members who have taken the pledge against higher taxes:

Dick Armey (R., Texas).
Richard Baker (R., La.).
Cass Ballenger (R., N.C.).
Doug Barnard (D., Ga.).
Steve Bartlett (R., Texas).
Joe Barton (R., Texas).
Michael Bilirakis (R., Fla.).
Thomas Bliley (R., Va.).
William Broomfield (R., Mich.).
Hank Brown (R., Colo.).
Jack Buechner (R., Mo.).
Jim Bunning (R., Ky.).
Dan Burton (R., Ind.).
Sonny Callahan (R., Ala.).
Howard Coble (R., N.C.).
Larry Combest (R., Texas).
Jim Courter (R., N.J.).
Chris Cox (R., Calif.).
Larry Craig (R., Idaho).
Phil Crane (R., Ill.).
Bill Dannemeyer (R., Calif.).
Kika de la Garza (D., Texas).
Tom DeLay (R., Texas).
Bob Dornan (R., Calif.).
Chuck Douglas (R., N.H.).
David Dreier (R., Calif.).
Mickey Edwards (R., Okla.).
Bill Emerson (R., Mo.).
Jack Fields (R., Texas).
Elton Gallegly (R., Calif.).
Dean Gallo (R., N.J.).
George Gekas (R., Pa.).
Newt Gingrich (R., Ga.).
Bill Goodling (R., Pa).
Porter Goss (R., Fla.).
Fred Grandy (R., Iowa).
Steve Gunderson (R., Wis.).
John Hammerschmidt (R., Ark.).
Mel Hancock (R., Mo.).
James Hansen (R., Utah).
Dennis Hastert (R., Ill.).
Joel Hefley (R., Colo.).
Wally Herger (R., Calif.).
John Hiler (R., Ind.).
Clyde Holloway (R., La.).
Duncan Hunter (R., Calif.).
Henry Hyde (R., Ill.).
Jim Inhofe (R., Okla.).
Andy Ireland (R., Fla.).
Jim Kolbe (R., Ariz.).
Jon Kyl (R., Ariz.).
Bob Lagomarsino (R., Calif.).
Norm Lent (R., N.Y.).
Jerry Lewis (R., Calif.).
Jim Lightfoot (R., Iowa).
Bob Livingston (R., La.).
Bill Lowery (R., Calif.).
Buz Lukens (R., Ohio).
Ron Marlenee (R., Mont.).
Lynn Martin (R., Ill.).
Al McCandless (R., Calif.).
Bill McCollum (R., Fla.).
Bob McEwen (R., Ohio).
Carlos Moorhead (R., Calif.).
Howard Nielson (R., Utah).
Michael Oxley (R., Ohio).
Ron Packard (R., Calif.).
Stan Parris (R., Va.).
Bill Paxon (R., N.Y.).
Tom Petri (R., Wis.).
John Porter (R., Ill.).
James Quillen (R., Tenn.).
Arthur Ravenel (R., S.C.).
John Rhodes (R., Ariz.).
Matt Rinaldo (R., N.J.).
Don Ritter (R., Pa.).
Pat Roberts (R., Kan.).
Tommy Robinson (R., Ark.).
Dana Rohrabacher (R., Calif.).
Toby Roth (R., Wis.).
Jim Saxton (R., N.J.).
Dan Schaefer (R., Colo.).
Bill Schuette (R., Mich.).
Clay Shaw (R., Fla.).
Norman Shumway (R., Calif.).
Bud Shuster (R., Pa.).
Chris Smith (R., N.J.).
Denny Smith (R., Ore.).
Lamar Smith (R., Texas).
Peter Smith (R., Vt.).
Robert Smith (R., N.H.).
Gerald Solomon (R., N.Y.).
Floyd Spence (R., S.C.).
Arlan Stangeland (R., Minn.).
Bob Stump (R., Ariz.).
Don Sundquist (R., Tenn.).
Guy Vander Jagt (R., Mich.).
Barbara Vucanovich (R., Nev.).
Bob Walker (R., Pa.).
Vin Weber (R., Minn.).
Bob Whittaker (R., Kan.).
Bill Young (R., Fla.).
Don Young (R., Alaska).

THE BUDGET DEAL: TOO MUCH FOR THE RICH

(By Hobart Rowen)

At first, I thought that the deficit-reduction package would be better than nothing at all, and that Congress should hold its collective nose and vote for it: without some action, there would be a mindless across-the-board sequester bringing many elements of essential government to a screeching, irrational halt.

But after reflection, my conclusion is that the price is too high: the budget "summiteers" at the last minute sneaked into the deal a slew of new tax shelters that would cost $12 billion over five years.

It breaks faith with taxpayers who bought the 1986 Tax Reform Act, which cut the top rate for the wealthy to 28 percent, on the basis that tax loopholes and shelters were to be eliminated. Now, the wealthy would get the low tax rate and tax shelters.

The $12 billion cost is merely the official estimate: once tax lawyers and accountants go to work on such goodies as a 25 percent deduction of the cost of stock in one of the qualified small companies, that figure is likely to soar.

The Bush team appears to have put one over on the Democrats, selling the new tax-shelter provisions at the eleventh hour, ostensibly to provide "new incentives to stimu-

late economic growth." Billed as a consolation prize for Bush, who gave up his vaunted capital-gains tax-cut proposal, the new plan in some ways is worse than preferential rates for capital gains.

A capital gains tax cut would primarily benefit the rich but also provide some benefits to lower-income persons. The new tax shelter for stock purchases benefits only the rich, who can put up big chunks of money to reap an immediate tax credit.

It is nonsense to suggest, as did The New York Times, that "this year's ugly compromise is acceptable ony if Congress rights the wrongs next year." The time to repair the damage of the tax-shelter gimmick is now, before it gets written into law.

Even then, the budget compromise won't be a thing of beauty. It won't help bring the economy out of recession. In fact, the small contraction in the deficit may make it worse, unless there is prompt offsetting action to lower interest rates. Such relief is desperately needed to prevent a collapse of American businesses and banks, which are in deeper trouble than anyone wants to admit.

The proposed $40 billion reduction in the deficit for this fiscal year (not the highly ballyhooed $50 billion) doesn't even keep pace with the increase in the deficit as projected as recently as July. Then, the Bush administration estimated the red ink for fiscal 1991 at $231.4 billion. The new estimate has swelled—because of the dip in the economy, a worsening S&L crisis and the cost so far of the military buildup in Saudi Arabia—by $62.3 billion to $293.7 billion.

So the agreed-upon deal, even if the economy doesn't plunge into recession, only nibbles at the accumulated red ink. And whether it works to stimulate growth in the long run depends on the dubious proposition that future Congresses will keep a commitment that this Congress makes to cut spending and raise taxes.

Moreover, the package is regressive because it extracts most of the deficit reductions from lower- and middle-income groups that can least afford it. Excise taxes on beer, wine, liquor and cigarettes obviously take a bigger chunk of income from less-well-off taxpayers than from the rich.

Increased Medicare premiums also place a relatively greater burden on poor taxpayers than on the rich. A better alternative would have been to tax more of the Social Security benefits received by wealthier taxpayers.

Against regressive tax and spending measures, the only progressive element offered is a limitation on itemized tax deductions for taxpayers with incomes over $100,000 a year. That's equivalent to an extra marginal tax rate of 1 percent for richer taxpayers. In addition, there is a 10 percent luxury tax on expensive cars, yachts, jewelry and furs.

Balancing it all out, the Democrats, who promised to shift the burden more to upper-income brackets, failed in their objective. As Tennessee Sen. James Sasser, chairman of the Senate Budget Committee, ruefully conceded, the package "has not corrected the regressivity, which has stormed through the tax structure over the last 12 years."

In particular, the package deal raises the question, once again, of whether the Democratic Party is a mere appendage of the Republican Party rather than a true opposition party, as banker Felix Rohatyn suggested earlier this year. Sen. George Mitchell, Speaker Tom Foley and Majority Leader Richard Gephardt have gone along with a compromise that puts the monkey on the back of the lower and middle class. It gets harder to see real differences between them and moderate Republicans such as George Bush, Bob Dole and Minority Leader Robert Michel.

THE LAST BASTION OF CONSERVATISM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. CRANE. Mr. Speaker, lately, an increasing number of colleges and universities depend on the Federal Government for the remedies to their financial woes. As a result, these institutions have become beholden to ludicrous government standards. Every aspect of the hiring and education policies must follow the mandates set forth by the bureaucratic monster.

Hillsdale College has freed itself from such institutional controls. In the 146 years since its founding, the college has never taken 1 cent of Government money and refuses to submit to Government control. In the 1970's and 1980's the school set out to establish private financial aid for all those students in need. The school quickly raised the money needed and it has been a resounding success. Hillsdale is now embarking on a new fundraising campaign to raise $151 million to ensure the integrity of the school. It is nice to see a school that can settle its own problems rather than running to the Federal Government for financial security. For all of my colleagues who said private non-government-funded education is impossible, I commend to your attention the following article.

[From the Detroit News, September 21, 1990]

THE LITTLE COLLEGE THAT COULD

Hillsdale College fought a protracted legal battle in the 1970s and early '80s to remain free of government hiring and educational policies. When the courts ruled that accepting students with federal scholarship aid meant that Hillsdale would have to knuckle under to Washington's red tape, the southern Michigan school simply replaced the government aid with scholarship money of its own.

Now Hillsdale has embarked on a $151-million fund-raising campaign of its own, and we wish it well. If successful, the campaign will ensure that the small liberal arts school will be able to continue going its own way. It's refreshing to see an institution that's willing to sink or swim on its merits, rather than run to Uncle Sam every time it feels a pinch.

The specific issue over which Hillsdale battled the government was its refusal to report on the numbers of women, blacks and other minorities enrolled. Hillsdale has never felt it had to explain anything to anybody about its hiring and admissions practices. The school was founded in 1844 by Free-Will Baptists dedicated to the abolition of slavery. It claims to be the second college in the nation to admit women on an equal basis with men, and it granted degrees to former slaves even before the Civil War.

With only 1,100 students and a faculty of 75, Hillsdale is often dismissed by its larger brethren as insignificant. We suspect their real beef is that Hillsdale's president, George Roche, makes no effort to mask his conservative values at a time when liberalism is the nearly universal dogma on the nation's campuses. Mr. Roche doesn't impose his own conservatism on faculty and students, but he does insist that students be offered a balanced curriculum. Not surprisingly, many Michigan parents find that an attractive notion.

It's interesting to note that the University of Michigan is considering a $650-800 million fund-raising campaign in the mid-1990s. Officials say their aim would be to reduce U-M's dependence on state funding. It's a wise decision: Government money tends to come with onerous strings attached that ultimately could threaten academic freedom and U-M's commitment to excellence. Hillsdale, the little college that could, has helped to keep alive the flame of true independence.

TRIBUTE TO SUCCESS OF U.S. AIR FORCE ACADEMY'S ACADEMY AWARENESS TEAM

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. HUNTER. Mr. Speaker, I would like to bring to the attention of the House of Representatives the tremendous success the U.S. Air Force Academy's Academy Awareness Team has achieved in motivating San Diego's students to excel in leadership and academic areas.

The Academy Awareness Team is made up of representatives from the U.S. Air Force Academy, the San Diego Unified School District, the Urban League of San Diego, the San Diego Air Force Association, and the USAFA Parents Association of San Diego. These groups are to be commended for joining together to motivate minority and needy students in the San Diego area to do well in school and eventually pursue a college education.

The Urban League of San Diego, the USAFA Parents Association, and the San Diego Air Force Association are to be especially commended for providing both support to the program's steering committee and financial assistance enabling the students to receive achievement awards at the conclusion of the program.

The following have been singled out for their roles in making the 1990 Academy Awareness Program a success: Lt. Gen. Charles Hamm, superintendent, USAFA; Col. Thomas C. Wilkinson, USAFA; Col. J. Michel, USAFA; Maj. Danny Moore, USAFA; Maj. Raymond Barrows, USAFA; Lt. Charles Newton, USAFA; Ibrahim Naeem, president, Urban League of San Diego; Jacqueline Jackson, Urban League of San Diego; and Herbert Goodman, president, Air Force Association.

THE GERMAN SOURCES OF SADDAM HUSSEIN'S WEAPONS CAPABILITY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. LANTOS. Mr. Speaker, as we face the prospect of a protracted struggle in the Persian Gulf to restrain and ultimately roll back the vicious, ruthless dictator of Iraq, Saddam Hussein, there have been very alarming reports about his stockpiles of weapons, military equipment, and—most seriously—the industrial means to manufacture advanced weapons.

Yesterday's Wall Street Journal has an excellent report about the very disturbing role of German industry in providing Saddam Hussein with the capability to produce chemical and other weapons.

The German people, formerly citizens of two separate German states, have made a democratic decision to unite in a single state. That decision was democratically made, and the united Germany will be a democratic state. At the same time, Mr. Speaker, it is important that German Government, German industry, and the German people understand that they must be a responsible participant in the family of nations. The report in yesterday's Wall Street Journal raises very serious and very disturbing questions with which the government of the united Germany must now deal.

The world is watching. The world is concerned.

Mr. Speaker, I insert this article in the RECORD, and I ask my colleagues to give it careful and thoughtful attention:

[From the Wall Street Journal, Oct. 1, 1990]

SUPPLYING SADDAM—GERMANS HAD BIG ROLE IN HELPING IRAQ ARM, INTERNAL REPORT SHOWS

(By Frederick Kempe)

BONN.—For weeks, the dismaying reports had trickled in: West German companies were supplying weapons factories to Iraq, shipping it poison gas equipment, maybe even helping Saddam Hussein develop a nuclear bomb. Trying to separate fact from fiction, members of the German parliament in August demanded a confidential briefing from Economics Minister Helmut Haussmann. What they heard surpassed their worst fears.

Mr. Haussmann read off a long list of companies believed to have supplied Iraq with the means to manufacture arms. The French and Soviets had sold Iraq far more missiles and bombs, but the Germans were shipping, right up until the trade embargo on Iraq, something far more important to Saddam Hussein in the face of an international blockade: the wherewithal to build his own advanced weapons.

Last year, a leading German role was revealed in Libya's chemical-weapons program. Mr. Haussmann made clear that in respect to Iraq, his country's corporate sins were far broader: German companies were involved in virtually every major Iraqi weapons project, and were probably the most important suppliers in President Hussein's crash project to develop weapons autonomy.

"From poison gas plants to rocket factories, from cannon forges to the nuclear sector . . ., the danger has already been spread," he said.

CRIMINAL PROCEEDINGS

A text of Mr. Haussmann's secret statement makes clear that German links to the Iraqi arms industry are far more widespread than previously believed, raising questions whether the world's largest exporter is discriminating enough about who buys its sensitive technologies. The laxity is now clearly under attack in Germany, however: Investigators have so far made inquiries into 170 companies, and started criminal proceedings against 25.

The Haussmann report names more than 20 of these companies and points to at least a dozen more. It lists six Iraqi projects in which it says Germans have played important roles.

Nuclear weapons: Three German companies have provided machinery, special steel and components that are being used to build the gas centrifuges needed for producing weapons-grade uranium, Mr. Haussmann said. West German intelligence believes this has helped bring Iraq within perhaps two years of "the bomb."

Poison gas; A German company was the chief supplier for six plants in Samarra, Iraq, that make nerve and mustard gases, gases already used against the Iraqi Kurds and the Iranians.

Upgrading of missiles: Five German companies have helped improve Iraq's Scud-B missiles so they can carry chemical or conventional warheads farther and more accurately.

The "Big Gun": Six German firms have provided parts for a 150-meter-long "supercannon" Iraq has tried to build.

The Saad 16 project: A German contractor built Iraq's most advanced weapons research facility—President Hussein's pet project—where work on chemical and nuclear arms takes place.

The Taji project: A German company led the consortium that built what Mr. Haussmann called "the best-know project in the weapons sector," which makes artillery and other arms.

BIOLOGICAL WEAPONS

Beyond this, at least one German company sold Iraq deadly mycotoxins, TH-2 and T-2, that Western intelligence reports say Iraq has used in research on biological weapons. (U.S. officials in Washington say Iraq has developed such weapons and will have enough by year-end for battlefield use.) The company, Plato-Kuehn G.m.b.H., delivered the small amount of mycotoxins under legitimate license, and a principal of the firm, Josef Kuehn, has said he didn't know what they were to be used for.

Such reports haven't come at a convenient time, what with Germans preparing to celebrate their historic unification at midnight tonight. To German chagrin, they lead inescapably to an unearthing of the past. Germany was the first country to use poison gas, when in 1915 its scientists opened several hundred cans of liquid chlorine along the trenches at Ypres, Belgium, killing 5,000 soldiers. By World War II, German chemists had developed nerve gas and modified a powerful insecticide to make Zyklon-B, the gas the Nazis used for mass-killings in the concentration camps.

"We have a political and a moral problem," comments Wilfried Penner, a member of the Bundestag intelligence committee trying to curb weapons-related exports. "We should be showing more restraint than other countries due to our inescapable history."

It was American pressure that forced West Germany to begin looking inward, in late 1988. Initially, its leadership was bellicose when the U.S. charged that Libya's poison gas plant in Rabta was German-made. But anger turned to embarrassment when German investigators found that a chemical company run by industrialist Juergen Hippenstiel-Imhausen, Imhausen Chemie AG, had planned and built the plant. Mr. Imhausen eventually drew the maximum jail sentence under the weak laws of the time: three years.

Since then, the West German government has tightened its controls, increasing penalties, tripling the number of export-control officials and cooperating more with U.S. and Israeli intelligence in tracking down suspect companies.

It was West Germany's industrial know-how that attracted Iraq. The country makes some of the most sophisticated machinery in the world, is the international leader in chemicals production, and, of notable importance to Iraq, has a relatively small customs control force. However, Germany's postwar constitution was designed to prevent the country from building a huge weapons industry. For one thing, it made it illegal to ship weapons to *Spannungsgebiete*, or areas of tension in the world.

But it doesn't bar the export of machinery of dual use, civilian and potentially military. To penalize a company, authorities have to prove it knew its export would be used to make weapons. Some German exporters to Iraq may not have had any idea their deliveries would be used in weapons manufacture, and many are now coming forward to volunteer information about their business with Iraq.

"The Iraqis have been more refined" than Libya in acquiring chemical-weapons capability, notes Lutz Stavenhagen, the West German chancellery's intermediary with intelligence services. "They have bought bits and pieces everywhere" and made sure each supplier knew nothing about the bigger picture. The vast majority of German technology used in Iraq's chemical and nuclear weapons programs was sent out of the country piecemeal under legitimate export licenses.

Still, the various German investigations have uncovered a series of murky business relationships. Karl Kolb G.m.b.H., a laboratory and medical supplier based near Darmstadt, says a facility it helped Iraq build in 1983 was merely for pesticide production, and wasn't built so it could produce chemical weapons. But German investigators conclude that the facility, a group of six plants in Samarra, is actually making chemical weapons, and that Karl Kolb knew it all along. The firm's lawyer denies this. A few days after Iraq invaded Kuwait, Darmstadt officials arrested Helmut Maier, the company's managing director; so far, he hasn't been charged with any wrongdoing.

Police also arrested several executives of another small company, Water Engineering Trading G.m.b.H., which had provided parts for the Samarra facility. Investigators believe Water Engineering, which has closed down operations, sold Iraq special machine tools to convert conventional 122 millimeter shells into poison-gas projectiles.

As it turns out, one of Water Engineering's four partners, Peter Leifer, worked for two years as a West German intelligence informant, a senior West German official says. The official says Mr. Leifer apparently used his intelligence contacts to help shield his illegal activities, adding that German in-

telligence knew nothing of these activities. Mr. Leifer, who is in custody, couldn't be reached for comment. His lawyer declined to comment.

Darmstadt prosecutors fear they may have to drop the case against Karl Kolb; besides the difficulty of proving guilty knowledge, German courts recently nullified a new law governing weapons exports (Bonn is appealing). However, prosecutors believe they have a stronger case against Water Engineering; it had no license for its exports.

Fingers are being pointed too at H&H Metalform G.m.b.H., a small company based in the farming town of Drensteinfurt. Ten days after Iraq invaded Kuwait, customs officials at Frankfurt airport seized crates H&H was trying to ship to Baghdad. The packing list read "parts for a dairy plant."

The contents, however, were high-quality steel components that investigators believe may have been destined for Iraq's rocketry program. Also inside were catalogs and product lists printed by the American Institute for Aeronautics and Astronautics.

Authorities seized the company's records and searched the homes of its two owners. They concluded that H&H is one of several suppliers of advanced machinery for Iraq's nuclear weapons program, among other things. What worries West German officials most is their conclusion that H&H has already sold Iraq machinery suitable for making gas centrifuges, an indication Iraq is in an advanced stage of nuclear-weapons development. Centrifuges separate inert uranium 238 from radioactive uranium 235, an essential step in creating weapons-grade material.

Officials at the Frankfurt airport also seized hundreds of gas centrifuges bound for Iraq that they believe were to be used to align machinery provided by H&H. Experts in Germany conclude that Iraq doesn't yet have a prototype gas centrifuge plant up and running, though they add it probably isn't far from that goal.

German authorities believe other German businessmen and companies have helped Iraq get there. Mr. Haussmann said that two former employees of MAN Technologien G.m.b.H. may have provided Iraq access to construction plans for different centrifuge types. He said they were investigated on suspicion of acting as foreign agents for Iraq, but authorities didn't find any evidence of illegal technology transfer. The company isn't suspected of any wrongdoing in this case.

The economics minister also said Export Union G.m.b.H. of Duesseldorf is suspected of providing special steels for the nuclear program. (It denies delivering special-grade steels under its steel-delivery license.) Authorities have arrested the director of a Bonn company believed to have sold special ring magnets that reduce friction in the critical centrifuge process.

The West Germans say H&H is also linked to two companies in London controlled by Iraq. Technology Development Group and Meed International. Both company names appear on contracts H&H has signed, and investigators believe Technology Development has acquired a 50% stake in H&H. One document sent by H&H to the Nassr Establishment for the Mechanical Industry (an arm of Iraq's war-materials ministry), through Meed International, offered to sell a "drop tank" that specialists say could be used to release chemical weapons from aircraft. "They are of such good quality that they cannot only be used for one single mission but can be used several times for deep penetration actions . . . ," the letter said.

The West Germans believe Technology Development has spent billions of dollars acquiring companies in the West, many of them makers of industrial equipment that has weapons applications. Sometimes it merely bought a stake in a company, and other times it placed huge orders and paid rich premiums for the goods.

Investigators believe the Iraqi strategy was to make the network of European firms in one way or another dependent on Iraq's business, and therefore more willing to supply sensitive materials. The result is a sophisticated web of contacts that German authorities say includes companies in England, Northern Ireland, Germany, Switzerland and even the U.S. that could deliver virtually everything Iraq has needed.

German officials say a number of prominent Iraqis have visited H&H Metalform over the past three years, driving across Drensteinfurt's single set of railway tracks, past a couple of grain silos, then left at a large cornfield that marks the entrance to H&H.

Peter Huetten, one of its owner-managers, strongly denies links to any Iraqi arms network and says the government has made him and other businessmen scapegoats. He insists the supposed centrifuge machinery he sold Iraq isn't precise enough for that application, and is actually equipment to make customized aluminum wheels for Middle East hot-rodders. He also says Technolgy Development Group doesn't own an interest in his company, though he says he has done business with it and knows its erstwhile chairman, Safar al-Habobby.

Mr. al-Habobby is also head of the Nassr State Enterprise for the Machine Industry, the war-materials firm.

Mr. Huetten notes that H&H had legal export licenses for the machines it shipped to Iraq and that no charges have been filed against the company. "Everyone wanted to help Iraq stop the Ayatollah," he complains. "Now great politicians stand before the cameras crying crocodile tears, and they leave their businessmen standing in the rain."

As for the rocketry materials found with the suspect "dairy equipment," Mr. Huetten dismisses them with a laugh. The explanation, he says, is simple: H&H was really sending the journals to a library in Baghdad, not to the war ministry. His employees, under orders to help cut costs, merely enclosed the periodicals in an outgoing shipping crate, which coincidentally contained the load of sophisticated steel. They were just trying to save postage, he shrugs.

THE BOWEN GULCH WILDERNESS ACT OF 1990

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. SKAGGS. Mr. Speaker, I am today introducing legislation to expand Colorado's Never Summer Wilderness to include an area in the Arapaho National Forest known as Bowen Gulch.

This beautiful area was considered for wilderness desingation during the Roadless Area Review and Evaluation [RARE II] process in the late 1970's; however, the Forest Service, to allow for harvesting the area's timber, did not recommend Bowen Gulch for inclusion in the Never Summer Wilderness. That decision was made before compelling new scientific information about the ecological significance of old-growth forests helped change both public attitudes and Forest Service policy with respect to logging old growth.

Bowen Gulch is a unique forest that is one of the best stands of old-growth trees in Colorado. The area is adjacent to the Continental Divide, which leads to unusually high levels of rainfall for Colorado, as the prevailing westerly winds force clouds higher into the air to carry them across the mountains. Largely as a result of the abundant rainfall, some of the trees in the Bowen Gulch area are over 600 years old, and as large as five feet in diameter. They tower over lush undergrowth and support an ecosystem that may not be able to survive in their absence. Stands like this are rarely found in Colorado because in most of Colorado there's a short growing season, poor soil, and little water. According to the Forest Service, its on-going old-growth inventory of the Arapaho National Forest indicates this is the best single stand of old-growth trees in the national forest. It would be a terrible shame to lose this rare resource. Yet, we almost did.

The Forest Service signed a contract with Louisiana Pacific Co. [LP] in 1988, giving LP the right to harvest timber in Bowen Gulch. Unfortunately, the environmental assessment of the then-proposed sale was prepared by the Forest Service in 1984, before the Service adopted its new policy of protecting old-growth trees. Contractually, LP has every right to proceed with logging; however, because of the growing controversy surrounding the sale, it has agreed not to log Bowen Gulch if it is provided with comparable substitute timber. I think LP deserves a great deal of credit for their cooperation and willingness to work with the Forest Service on this matter.

For my part, I have worked with my colleague from Colorado, Representaive BEN NIGHTHORSE CAMPBELL, to see to it that the Forest Service has the statutory authority to sell LP the substitute timber. At our request, the Committee on Appropriations has included language in the fiscal year 1991 Interior appropriations bill to give the Forest Service the authority to make the trade. I have every hope and expectation that, once given this authority, the Forest Service will be able to come up with an alternative sale. The question is: How should this unique area be managed after the LP contract is canceled?

The bill I'm introducing today, the Bowen Gulch Wilderness Act of 1990, provides that once the timber exchange is completed and the contract for Bowen Gulch timber is canceled, 9,960 acres in the Bowen Gulch area and in adjacent wild lands would become part of the contiguous Never Summer Wilderness and be managed forever under the provisions of the Wilderness Act. This is the only way we can be sure Bowen Gulch survives, along with all of the species that flourish in the damp shadows of its towering trees.

An unusually high moisture level is a major reason for the old-growth ecosystem in Bowen Gulch. So it's essential to reserve the

water necessary to fulfill the purposes of this particular wilderness designation. My bill would do just that. The water provision in this bill is patterned after the language worked out by the Committee on Interior and Insular Affairs and the Arizona congressional delegation for inclusion in the Arizona wilderness bill the House passed earlier this year. That language does not reserve all the unappropriated water in the area—only the amount necessary to fulfill the purposes of the wilderness designation.

In the case of Bowen Gulch, where an abundance of water is essential to the purposes of wilderness designation, it would be a larger quantity of water than is necessary in other wilderness areas in the State. According to the Forest Service, there are no private inholdings in the proposed Bowen Gulch wilderness, and it would include only headwaters areas. Therefore, there should be no conflict between the wilderness water rights and any future water rights. In fact, since the wilderness reserved rights are to in-stream flows, those rights would ensure that water remains in the streams and is available for consumptive use downstream of the wilderness addition.

Unfortunately, since there has already been some logging activity and road building in one part of the Bowen Gulch area, that portion of the area cannot qualify for wilderness designation. My bill would preserve this 860-acre area from further development or disruption by providing that the Forest Service manage it as a "research natural area." Under this administrative classification, the Forest Service would manage the area primarily to promote research in this ecologically significant area. Further timber harvesting would not be allowed.

We almost lost the chance to preserve this ancient stand. Let's not make that same mistake again. Let's save Bowen Gulch so that future generations have the opportunity to experience its majesty.

Mr. Speaker, at this time I'd like to insert a brief section-by-section summary of the Bowen Gulch Wilderness Act of 1990.

SECTION-BY-SECTION SUMMARY OF THE BOWEN GULCH WILDERNESS ACT OF 1990

Section 1: Short Title.—This provides that the bill may be referred to as the "Bowen Gulch Wilderness Act of 1990."

Section 2: Non-Competitive Alternative Timber Sale.—This section, which is identical to language approved by the House Committee on Appropriations (but not yet enacted into law) would permit the Forest Service to offer a substitute timber sale to Louisiana-Pacific on a non-competitive basis, in exchange for cancellation of its current contract for the sale of timber in the Bowen Gulch area of the Arapaho National Forest in Colorado. The Forest Service and LP have agreed to cancel that sale once an agreement is reached on a new contract for LP to harvest timber of equal value elsewhere. The Forest Service does not currently have the authority to make that exchange without going through its advertisement and competitive bidding requirements.

Section 3(a): Wilderness Designation.—This section designates 9,960 acres of federal lands in the Arapaho National Forest as wilderness and incorporates them in the Never Summer Wilderness, designated by Congress in 1980. The designated areas would include most of the lower half of Bowen Gulch (the upper half is already in the Never Summer Wilderness) and adjacent unspoiled lands near the Continental Divide south of Fairview Mountain, on the western slope of Cascade Mountain, north of Porphyry Peaks, and in Hatchet Park (which the Forest Service is currently studying for a possible timber sale).

Section 3(b): Water Rights.—This section explicitly creates a Federal reserved water right for an amount of water necessary to fulfill the purposes of the wilderness designation. The language is identical to the water rights language included in H.R. 2570, the Arizona Desert Wilderness Act of 1990, passed by the House of Representatives on February 28, 1990. The priority date of the wilderness water rights would be the effective date of the wilderness designation; the water rights would be adjudicated in Colorado water court; and the bill expressly provides that this provision shall not be construed to imply the existence of, or extent of, reserved water rights in any other wilderness areas, including the original Never Summer Wilderness.

Section 3(c): Effective Date.—This section specifies that the wilderness designation shall take effect only after an agreement has been reached between the Secretary of Agriculture and Lousiana-Pacific to cancel the current timber sale contract in Bowen Gulch.

Section 3(d): Maps.—This section requires the Secretary to file a map and a legal description of the wilderness addition. This is standard language included in all wilderness bills.

Section 3(e): Management.—This section provides that the Secretary of Agriculture shall manage the designated area in accordance with the Wilderness Act. This is standard language included in all wilderness bills.

Section 4(a): Research Natural Area.—This section provides that an 860-acre portion of Bowen Gulch (which, because of prior logging and road building activity, is unsuitable for wilderness designation), as a research natural area. This is an administrative, Forest Service classification of areas to be managed primarily to promote environmental research. The bill explicitly prohibits further timber harvesting in the area.

Section 4(b): Effective Date.—This section specifies that the proposed research natural area shall be managed as such only after an agreement has been reached between the Secretary of Agriculture and Louisiana-Pacific to cancel the current timber sale contract in Bowen Gulch.

Section 4(c): Water Rights.—This section specifies that there are no express or implied water rights reserved for the research natural area.

RESTRICTED WEAPONS ACT OF 1990

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. PORTER. Mr. Speaker, we will soon consider H.R. 4225 and H.R. 1154, assault weapon legislation. These bills restrict importation, transfer, and possession of semiautomatic assault weapons and large capacity magazines and ammunition belts, both domestic and foreign. By definition, these weapons have no recreational or sporting purpose. Evey major police organization, including the Fraternal Order of Police and the National Association of Police Organizations, supports assault weapon legislation. Two-thirds of gun owners support a total ban on assault weapons.

Mr. Speaker, this legislation hits criminals who use assault weapons by increasing mandatory sentences for violent or drug-related crimes committed with a restricted weapon.

I support the rights of hunters and recreational shooters. These people are skilled and able gun users. They don't need assault weapons that are designed to take the skill out of gun use.

Mr. Speaker, we aren't going to confiscate a single gun that is legally registered today. But we should halt the proliferation of weapons whose only purpose is to kill in a quick and indiscrminate fashion.

Vote for H.R. 4225 and H.R. 1154.

AN $800 MILLION WINDFALL

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. CRANE. Mr. Speaker, many Members feel unnecessarily compromised by the results of last weekend's budget agreement. Our liberal colleagues claim the package shelves integral social programs while conservatives are angered by the added tax provisions. I suggest there is a way to meet both parties' demand and inject $800 million in the Treasury. The solution lies in a simple proposal authored by Lawrence J. White, professor of economics at New York University. In less than 500 words, Professor White does what lately has been considered impossible: He explains how to raise revenue without entitlement cuts and without new taxes. I encourage my disillusioned colleagues to read Professor White's New York Times article. It is insightful. It is encouraging. But most of all it is realizable.

[From the New York Times, Sept. 14, 1990]

AN $800 MILLION WINDFALL

(By Lawrence J. White and Edward L. Golding)

With differences between Congressional budget negotiators narrowing, an extra billion a year in found money could be the grease that makes the wheels spin. We know a place where that sort of money can be found—$800 million a year for the next eight years, with no new taxes and no strings attached.

All that's required is a simple paper transaction: paying off notes issued by the Federal Home Loan Bank Board on behalf of the Federal Savings and Loan Insurance Corporation in its efforts to dispose of insolvent S.&L.'s.

From 1985 to 1988, the F.S.L.I.C. honored its insurance obligations to depositors by disposing of 329 insolvent S.&L.'s. Of this total, 64 were liquidated; the remaining 265 were placed with acquirers. Short on cash to make up the inadequate assets in the insolvent thrifts, the agency issued notes to the

acquirers. As of last July, there were approximately $20 billion of these notes outstanding.

Most of the notes carry interest rates that are linked to interest rates in the states or region of the savings and loans' operations; the interest rates are adjusted quarterly. In the second quarter of 1990, the average interest rate on these notes was about 9.4 percent.

Though the notes typically have a nominal 10-year term, most of them can be paid off at any time by the Resolution Trust Corporation, the successor to the F.S.L.I.C. That's because the F.S.L.I.C. explicitly negotiated these "call" provisions into the transactions so that their costs could be reduced at a future time. This action by the R.T.C. would thus be a completely legal and acceptable exercise of its contractual rights; it would not require any renegotiations and it would open up two sources of savings.

First, the Treasury debt would cost less. During the same second quarter of 1990, the average interest cost on three-month Tresasury bills was only 8.2 percent, compared with the 9.4 percent paid on the F.S.L.I.C. notes. Thus the transaction would mean an immediate annual cost saving of about 1.2 percent on the full $20 billion, or $240 million a year.

Second, by substituting Treasury debt for the F.S.L.I.C. notes, there would be a substitution of taxable for tax-free investments. Taxes on the 8.2 percent interest on the $20 billion of Treasury bills, at the corporate tax rate of 34 percent, would amount to $560 million a year.

Thus the two sources together would yield about $800 million annually, if the full $20 billion could be called in. Since most of the notes were issued in 1988 and still have eight years to run, these annual savings would apply to those eight years.

Where would the R.T.C. find $20 billion? This question should be addressed immediately in the budget talks. The Treasury should be authorized to borrow an additional $20 billion, with the proceeds to be transferred to the R.T.C.

This refinancing would largely be a paper transaction, with one arm of the Government paying off the obligations of another. It would have few if any effects on the budget deficit or on the Gramm-Rudman-Hollings ceilings. That's because most of the F.S.L.I.C. notes were already recorded as part of the pervious deficits of the 1980's.

In essence, this transaction would be a close equivalent to the Treasury's common practice of rolling over old debt with new debt—except that this rollover would save $800 million a year over the next eight years.

In a perfect world, these notes would have been called as part of the cleanup legislation a year ago and saved the Government $800 million already. But the R.T.C. was given a limited budget and understandably chose to use its money to dispose of additional insolvent thrifts.

Given the confusion surrounding the cleanup legislation and the F.S.L.I.C.'s 1988 transactions, inaction on the notes was probably unavoidable. Still, every day of delay costs another $2.2 million—clearly a case where haste avoids waste.

THE LOSS OF PROF. CHARLES WILLIAM THOMAS II

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. HUNTER. Mr. Speaker, I wanted to let you and my friends here in the House know of a great loss to the community of San Diego. Last Friday night, around 11:15 p.m., Prof. Charles William Thomas II was found in his car bleeding from stab wounds to the chest and abdomen. Around 2 a.m. on September 30, Thomas was pronounced dead.

Thomas, a longtime University of California, San Diego teacher, was considered by many to be the father of black psychology. His colleagues have said that it will be impossible to replace his combination of talents and unique views.

Thomas will also be remembered for his record of public service and community activity. As one of San Diego's prominent Republicans, he was a voice for conservative blacks across the Nation.

As a voice in local politics, I owe him a great deal for his past support. Many owe Thomas much, and we will miss his presence in our lives.

TRIBUTE TO CAPTAIN JAMES B. POULET—A VICTIM OF OUR PERSIAN GULF OPERATIONS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. LANTOS. Mr. Speaker, I rise today to pay tribute to Capt. James B. Poulet, a weapons system officer in the United States Air Force who was killed in a tragic accident on Sunday in Saudi Arabia. Captain Poulet was one of two officers in the F-15 jet which crashed in the Saudi desert while on a training mission.

Captain Poulet, only 34 years old, was born in Redwood City, CA, and lived in neighboring San Carlos during his school years. He played football at Carlmont High School in Belmont, and he attended the College of San Mateo. Captain Poulet's parents, Marie and Marcel Poulet, still live in San Carlos.

After receiving a degree in engineering technology from California Polytechnic State Unversity at San Luis Obispo in 1981, Captain Poulet joined the Air Force and was commissioned as a second lieutenant. He wanted to fly, and he achieved his dream—he was trained as a weapons systems officer and had a distinguished flying record in the Air Force.

During his military career, he served in the Philippines, West Germany, and South Korea. In January of 1989, he was assigned to the 4th Tactical Fighter Wing, based at Seymour Johnson Air Force Base in Goldsboro, NC. When the Wing was mobilized for service in the Persian Gulf just a few weeks ago, Captain Poulet answered the call to duty.

Mr. Speaker, I invite my colleagues in the Congress to join me in extending our most sincere condolences to Captain Poulet's parents, Marcel and Marie Poulet, his sister Chantal Strickland, and his two brothers, John and Alain. Capt. James Poulet's willing response to the call of our Nation is in the finest tradition of our military services. Mr. Speaker, all Americans owe this fine young man and his family a debt of gratitude.

THE INTERIM COLORADO WILDERNESS PROTECTION ACT OF 1990

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. SKAGGS. Mr. Speaker, we are blessed in Colorado to have some of the most majestic and pristine lands in the world. It was Colorado's magnificent mountains which drew many of us and our ancestors to the State. Those mountains draw millions of people to Colorado from around the Nation, and indeed, the world.

Our wilderness is vital to our economy. That alone would be a strong reason for protecting this precious resource. But, as important as economic reasons are, they pale beside the larger philosophical and moral reasons to protect wilderness.

Colorado's wild lands existed in their untrammeled perfection long before our ancestors settled there. We who are here today are merely a link in a chain of stewards. Do we have the right during our watch to rob the future of the chance to experience the simple splendor and wonder of Colorado's natural lands? I say no, we don't have that right. Instead, we have the duty to do all we can to preserve enough of our State's wonders so that future generations will thank us, not curse us.

Unfortunately, differences in our State and in our State's congressional delegation have led to a frustrating, decade-long deadlock over the designation of additional wilderness areas. As a result, less than 3 percent of Colorado's land has been given the permanent protection of wilderness designation—less proportionately than has been set aside in California, Idaho, Montana, Washington, and Wyoming. The real tragedy is that during this decade-long impasse lands that once qualified for wilderness have been compromised or degraded. And this paralysis continues to threaten Colorado's remaining wild lands.

That's why I am today sponsoring, with my colleague Congresswoman PAT SCHROEDER, the House counterpart of a bill first introduced by Senator TIM WIRTH to protect for 5 years all lands which have been proposed for wilderness designation in Colorado. Immediate action on this interim measure would avoid compromising the natural character of these lands while giving Congress time to pass a bill desginating some or all as wilderness.

The bill does not establish any reserved water rights during this interim period, thus eliminating the principal obstacle to current wilderness legislation. It simply closes the lands off for 5 years to development and man-

agement practices that would degrade the area's wilderness qualities. It gives us the option of passing a wilderness bill. Without this kind of protection—we may well lose that option for some areas; and if so, we lose that much of our future.

I urge my colleagues not to let that happen. I urge you to help us preserve these magnificent lands so that we may pass on to our children that which was passed on to us.

NATIONAL SYMPHONY ORCHESTRA'S FALL 1990 EUROPEAN TOUR

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. CARR. Mr. Speaker, as chairman of the Congressional Arts Caucus, I would like to take this opportunity to express my appreciation to Northern Telecom for sponsoring the National Symphony Orchestra Tour of Europe this fall. The orchestra is celebrating 60 years of great music by staging performances around the world, starting with the historic and highly successful tour earlier this year of the Soviet Union and Japan.

Earlier this year Northern Telecom showed its commitment to the arts by being a major sponsor of Wolf Trap Center for Performing Arts.

Last year, on September 29, 1989, Northern Telecom donated a Meridian SL-1 business communications system to the Kennedy Center. The system, which is now in service, has a value of $1 million. It is providing the center with state-of-the-art communications. This is vital to ensuring excellence in serving the public.

Northern Telecom's activities range across the spectrum when it comes to supporting civic organizations and public service programs: hospitals, schools, environmental groups, cultural groups, and a wide variety of nonprofit agencies.

The commitment Northern Telecom, and its chairman and CEO Dr. Paul Stern, has shown is a shining example of good corporate citizenship; an example of a company with a vision.

Support of the performing arts is important to the fabric of our culture, indeed it is the signature of our society.

Northern Telecom should be proud of the support to our community and the arts. I would like to thank Dr. Stern for his leadership in this area.

Mr. Speaker, I ask that this article from the Washington Post describing the NSO's fall tour be published following my remarks.

[From the Washington Post, Sept. 25, 1990]

NSO To Tour Europe—10-Day October Visit Has Corporate Sponsor

(By Joseph McLellan)

The National Symphony Orchestra will go on a whirlwind tour of Europe next month, giving concerts in nine cities of Belgium, France, Switzerland and Germany between Oct. 11 and 21, orchestra President Albert J. Beveridge announced yesterday.

The tour, costing an estimated $900,000, will be a deficit operation, as such tours always are. The balance of the costs—after the orchestra's income from the tour is subtracted from its expenses—will be paid by Northern Telecom, an international telecommunications equipment manufacturer. Northern Telecom, which maintains corporate headquarters in Toronto, is setting up an American base in Vienna, Va., and says it plans to make extensive financial contributions in the Washington community.

This will be the orchestra's second overseas tour within eight months and its 10th (not counting six North American tours and four to the Casals Festival in Puerto Rico) during the 14-year tenure of music director Mstislav Rostropovich. In February the orchestra toured Japan and the Soviet Union—in Rostropovich's first visit to his native land since he was exiled in 1974.

Northern Telecom's CEO, Paul G. Stern, said the sponsorship "is part of our 60th-birthday present to the National Symphony." Under Rostropovich's leadership, he said, it has become "one of the world's most acclaimed orchestras and one of the most admired in America." A year ago, Northern Telecom donated a business communications system valued at $1 million to the Kennedy Center, and Stern said the corporation is also interested in "supporting civic organizations and public service programs: hospitals, schools, environmental groups, cultural groups and a wide variety of nonprofit agencies."

The tour will include concerts in Brussels and Leuven in Belgium; Paris and Strasbourg in France; Zurich, Switzerland; and Bonn, Duesseldorf, Cologne and Hanover in Germany. The repertoire for the tour will be mostly music of Tchaikovsky (Symphony No. 4, the Serenade for Strings and "Romeo and Juliet"), but the orchestra also will play Mozart's Symphony No. 39, the Mussorgsky-Ravel "Pictures at an Exhibition," Shostakovich's 10th Symphony and Barber's Adagio for Strings in some programs. The orchestra will fly to Brussels on Oct. 8 and return from Hanover on Oct. 22.

Beveridge gave credit to Kennedy Center Chairman James D. Wolfensohn for securing the sponsorship. "His work on behalf of the orchestra has been vital to our success," he said in a press release. "He really hustled this one," he said at the press conference. Overseas tours and recordings, he added, "are very important for the orchestra's image."

Rostropovich, who will conduct all the concerts on the tour, also praised Wolfensohn ("we have financial sickness, but here is a very good doctor") and smiled politely when Stern described him as "also a cellist of some note."

THE MOOD OF THE VOTERS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 3, 1990, into the CONGRESSIONAL RECORD:

The Mood of the Voters

I find among the voters a rising mood of disenchantment with politicians and politics. I do not see how any present office holder can take much solace in the recent polls and primaries. People just do not think very well of the Congress, and feel less favorable about it than they did a few years ago.

The voter is just plain upset. He sees too much of a gap between problems and performance, and he is beginning to get angry. In the Massachusetts primary the voters dumped the establishment politicians, and in Oklahoma voters by 2 to 1 approved a measure to limit state legislators to a total of 12 years in office. Similar measures are on the California and Colorado ballots in November. They are expected to pass.

Often I find voters who say that things are so bad they want to fire everybody and start over again. People are demanding better performance from government. They want action on the deficit. The want better schools, cleaner air, safer streets, better and less expensive health care. But they do not have much faith, if any, in the ability of politicians to run things honestly and efficiently. In my public meetings I am amazed at the number of Hoosiers who think government is wasteful, wasting as much as 25 to 50 cents of every dollar, and that politicians are not in touch with the people. Their concerns extend beyond politicians. Many have the same view of high company officials or labor union leaders or other establishment figures. They see all leaders acting to protect their own positions and privileges and unable to make difficult decisions.

I am not at all sure that this mood will result in incumbents being defeated at the polls. After all, incumbents still have many advantages that give them the power to retain office, and the Persian Gulf crisis has distracted many voters from domestic discontent. In addition, voters continue to display the tendency of liking their own congressman while disliking the Congress. But nonetheless I find an aggressive alienation and hostility toward the system and the people who are a part of it.

The deep cynicism toward the political system seems to be directed against both political parties. Recent polls show that the public in unprecedented numbers associates Republicans with wealth and greed and Democrats with incompetence. More Americans now view themselves as independents (39%) than either Republicans (28%) or Democrats (33%). In general the voters say that the Republican Party can foster economic growth and manage foreign affairs better than the Democrats, but they say that the Democratic Party is more concerned with "people like me". Yet the Democrats are viewed as a hapless party, not sure of its direction, and the Republicans are viewed as the champions of the rich.

While disillusionment and distrust are not new moods in American politics, there certainly has been a significant increase in the intensity of these feelings among the people. So many Americans are now expressing not only a feeling of powerlessness but a disconnection from society and its leadership. They believe that elected officials have lost touch with them and really do not care what they think.

The feeling of alienation has increased as people have become more sensitive to the growing gap between the rich and the poor. They see more social inequity and feel more economic pressure. Many tell me that they do not have enough money to make ends meet and are only one step away from the bill collector. A large percentage of the people subscribes to the view that in America the rich get richer and the poor get poorer.

As a politician I am always interested in how people feel about the government. I often hear the view that the government does more harm than good and is inefficient. But I am also impressed that large numbers of the same people express support for quite liberal social welfare positions. many people express the desirability of government activity to help with many of the deep-seated social problems in America. While I frequently hear the view that the less government regulation the better, I also hear increasing calls for environmental controls.

It is quite clear that the Cold-War mindset which has dominated the thinking of most Americans for almost half a century is melting away. Remarkable events in Europe, with the end of communism in Eastern Europe and the beginning of political pluralism in the Soviet Union, have clearly had an impact. Yet voters still believe strongly that the way to ensure peace is through military strength and they have a deep commitment to their country. Despite all of the media publicity about large cuts in defense spending and the peace dividend, people still support a strong military.

As people become more pessimistic about the economic future of the United States, they focus on competition from Japan and their dislike for Japan grows. Concern about our economic standing in the world has quite clearly replaced communism as a major theme in voter opinion. There is strong support for protecting U.S. jobs, usually with taxes on imports. The voters think that America's ability to compete in the world market is not improving. But among many voters there is a clear perception that Japan has its economic problems too, and I do find some increase in the number who think that America's economic position is number one.

I am impressed over and over again with the high levels of concern about education and health care. People are quite prepared to support increased spending for improvements in the nations' health care system. Voters frequently express to me their worries about affording quality and accessible medical care. They are also prepared to support increased spending to improve the public school system and for aid for college students.

Among the most important problems worrying voters, drugs remain at the top of the list. Americans continue to be strongly opposed to drugs and most favor very stiff penalties, including capital punishment, for major drug dealers. But crime is also cited and people are increasingly concerned about the needs of the poor. The budget deficit also remains high on Americans' worry list, much higher than inflation.

H.R. 4300, THE FAMILY UNITY AND EMPLOYMENT OPPORTUNITY IMMIGRATION ACT OF 1990

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. ANDERSON. Mr. Speaker, today, the House convenes to consider H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990. This legislation comes before the House as the first substantial piece of legal immigration reform since 1965. I believe this legislation addresses some serious deficiencies in our current immigration policy; primarily by providing new diversity visas to people from countries virtually shut out of the system and by increasing the number of visas for highly skilled workers and those with special expertise. The latter is desperately needed to allow us to compete in the tough world marketplace. At the same time, it maintains the commitment to the family that is the cornerstone of current immigration policy.

Even with these positive aspects, I approach this bill with serious reservations. Thirty five percent of immigrants end up in California, and the majority of those go to southern California. The combination of tremendously large numers of illegal immigrants and the fact that the population of the United States is moving from east to west, and especially to California, has generated extraordinary population growth throughout California over the last two decades. The people of my district feel overwhelmed by people, no matter where they come from. I sympathize deeply with that feeling. The fact that many of my constituents don't distinguish between illegal and legal immigration is entirely understandable.

Based on these concerns, let me explain how I approach this legislation. As you know, our current immigration policy is based primarily on the principle of family unification, and secondarily on the skills of the applicant. An immigrant may only come to this country if he or she is sponsored through a family member who is a citizen or permanent resident, or through an American employer. Someone seeking to enter the United States without these qualifications is not qualified to enter. We currently let in 270,000 legal immigrants a year and cap immigrants from any one country at 20,000 per year. The immediate family members—spouses, unmarried children, and parents—of U.S. citizens are not subject to any limitations. Refugees—those meeting special standards based on humanitarian and political concerns—some special category immigrants, and the immediate family members of U.S. citizens are also exempted from the overall total. Adding these people, we admit approximately 530,000 new immigrants each year.

I strongly believe in the family and employment foundations of our immigration policy. In an age when we have seen an increasing dissolution of the family unit in American life, our immigration system seeks to counteract what I believe is a discouraging phenomenon. By stressing the importance and bonds of parents, marriage, and chidren, this bill maintains our American commitment to the family, and then goes on to strengthen that commitment by allowing permanent residents of the United States, those who are working their way toward citizenship, to bring in their immediate family members without some of the harsh restrictions of current policy. We must remember that permanent residents will soon become full-fledged citizens of this Nation, and will then have the right to bring in their immediate family without limitation. By giving these soon-to-be citizens a greater ability to bring in their unmarried children and their spouses we simply cut the waiting time they face, and shorten the heartache of enforced separation from their family. The bill also addresses the great problem of backlogs, or those who have been waiting great periods of time, in some cases for more than 10 to 15 years, to enter this country. Primarily this provision affects the brothers and sisters of U.S. citizens who wish to come to this country. It is obvious that a brother or a sister is an extremely important element of the family unit.

By letting in skilled workers and those who have special knowledge or technical ability, we improve the competitive structure of the U.S. economy, allowing us to better perform in the world marketplace. When we are under economic attack by nations like Japan, we must use all possible advantages of the brainpower and expertise that immigrants offer us. It is important to understand that economic studies are nearly unanimous in their findings that immigration is a great benefit to our economy. In a poll of 31 leading economists, 80 percent of them believe that immigration has a "very favorable impact" on the economy, while 20 percent feel immigration has a "slightly favorable impact" on the Nation's economy. Not one felt that there were negative economic aspects of immigration. Both the Census Bureau and the Labor Department have found that legal immigrants quickly earn as much as native-born workers of the same age; that immigrants work more and tend to be better educated and better trained; and are more likely to start new businesses and contribute far more in taxes than they collect in social benefits. One study shows that immigration would reduce the Government deficit by $75 billion to $110 billion over the next decade and while increasing Social Security fundings by $72 billion over 25 years. Immigrants not only use less social services than native Americans, but, on average, they contribute between $12,000 and $20,000 more in taxes than they use in social services. A 1986 Rand Corp. study on the arrival of 2 million immigrants to California in the 1970s states: "Immigrants appear to have provided a net benefit to the California economy by supporting industrial and manufacturing growth." The Labor Department, in a study entitled, "The Effects of Immigration on the U.S. Economy and Labor Market," found that "Neither U.S. workers in complementary jobs nor most minority workers appear to be adversely affected by immigration."

It has been estimated that 20 million new jobs will be created in this country during the 1990's, yet the American work force will grow at its slowest rate ever and, therefore, won't be able to match this demand. Furthermore, 41 percent of new jobs will be in occupations requiring high levels of skill and educational capacities. Immigration helps meet these needs. Not only have I studied this bill, I have also talked to business and labor representatives that support it. Based on my review and conversations, I feel that by forcing employers to prove they can't find the necessary workers for positions in the United States, as included in this bill, we insure that new immigrants aren't taking jobs away from Americans. I would also note that this bill is supported by major labor groups like the AFL-CIO. When a country like Canada requires that 25 percent of its immigrants be highly skilled, we may

even question why H.R. 4300 does not go further in admitting additional skilled workers and immigrants with the knowledge and know-how that America will need in the 20th century.

One provision of this legislation I find quite attractive is its focus on increasing the diversity of immigrants coming to America. Until 1965, we had an immigration system that was weighted heavily in favor of European immigrants and was stacked against other ethnic groups. The 1965 Immigration Act family unification provisions constructed a system whereby most immigrants today are Asian and Hispanic, while all but closing the door to more traditional groups of immigrants like Europeans. Under H.R. 4300, immigrants from under represented countries would be eligible for special diversity visas. I find this especially fitting in the post-cold war world when many Eastern Europeans do not have the opportunity to emigrate freely. Previously, the people of Eastern Europe and the Soviet Union were forced to stay in their own countries at gunpoint. They are now left with no immediate family to sponsor their immigration into this country. H.R. 4300 would change this by allowing Poles and Czechs and Germans, as well as Irish and Englishmen, the chance to again, come to this country and continue the proud ethnic and cultural heritage of their forbearers that has so enriched this country.

Legal immigration has been a cornerstone of this Nation since its inception. It is clear that none of us would be here if not for a 200-year commitment to the principle of legal immigration. Our history is rich with the contributions and sacrifices that immigrants have made to the economic welfare and the cultural fiber of America. Each day, we take for granted those things that would not exist but for the genius and hardwork of generations of immigrants. Recently we celebrated the restoration of the Statue of Liberty and Ellis Island, the main immigration entry point to this country for many a decade. I believe these two monuments are fitting symbols of America's commitment to freedom, liberty, and the ideals of a democractic nation. I do not find it surprising that the peoples of other nations search to come to this country so that they, too, may share and be a part of our ideals.

Many of my constituents write me and call me telling of their concerns: overcrowded streets and schools, smoggy air, unemployment, and illegal aliens. Let me assure you that I hear you and understand your concerns. I live among you and have witnessed since a small child the tremendous growth of our community and its changing nature. I do not, however, consider immigration the scapegoat for these problems. Instead, I see immigration as full of possibilities and potential to solve our community's and our Nation's problems. Legal immigration, as set forth in H.R. 4300, can continue, to expand, the great heritage of the United States. I take comfort in studies that show immigrants create jobs, not take them away; that immigrants pay more taxes than they ever receive in benefits. In addition, I take comfort in the many examples of hard work and diversity that immigrants bring to us all.

Immigration has always been a controversial subject. While I am deeply appreciative of the views of my constituents who do not feel I should support this bill, I think we approach immigration in this legislation in a balanced, reasonable fashion. I will support this bill because it is profamily, proemployment, prodiversity, and pro-America.

PRIVATIZE DEPOSIT INSURANCE IN UNITED STATES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. CRANE. Mr. Speaker, on September 11, 1990, the General Accounting Office issued a report stating that the Bank Insurance Fund has grave deficiencies. Not only does the FDIC lack sufficient funds to cover deposits, it also expects another $2 billion loss this year. In response to this report, Chairman GONZALEZ introduced a four-point plan to cure the ills of the FDIC. The remedy includes more regulation and the restructuring of the program. I propose that instead of wasting the taxpayers' money on a failing system, we allow private insurance companies to take over the responsibilities of the FDIC.

Federal deposit insurance insulates banks from the real market arena where there is a clearly understood relationship between risk and reward, and for every category of investment—commercial loans, home mortgages, and bonds—there is a spectrum of return in which risky investments are avoided. Deposit insurance administered by the private sector would instill real market discipline in the banking industry, and thus prevent another multibillion dollar bailout.

Certainly there would be costs involved with private insurance, but they would not be in the range of $2,000 per taxpayer nor would they be involuntary as in the case of the recent S&L debate. I recommend the following article from the Asian Wall Street Journal to my colleagues. It clearly outlines the concept of privately insured funds.

[From the Asian Wall Street Journal, Aug. 21, 1990]

PRIVATIZE DEPOSIT INSURANCE IN UNITED STATES

(By Peter J. Wallison)

WASHINGTON.—The root cause of the S&L mess in the U.S. is the deposit insurance system itself. While permitting private institutions to use the federal government's credit without limit, it relies on government supervision and regulation to correct for the fact that depositors have no incentive to control how their funds are used. Federal Deposit Insurance Corporation Chairman William Seidman announced earlier this month that his agency, which insures bank deposits, may lose an additional $2 billion this year. There is, unfortunately, reason to believe that this is not the last FDIC loss we will see. Nor are the banks themselves the beneficiaries of this flawed system. Last week, the FDIC announced that it would raise premiums by 63%—an enormous charge to bank earnings. More increases are in prospect.

As shown by the S&L debacle, the deposit insurance system tends to make disasters out of difficulties. In the real economy there is a clearly understood relationship between risk and reward, and for every category of investment—commercial loans, home mortgages, junk bonds—there is a spectrum of return in which the riskiest investments are perceived to produce the greatest rewards. Although regulators can make rules limiting the kinds of loans federally insured institutions can make, and supervisors can inspect bank portfolios to assure that these rules are observed, a loan committee or a board of directors that is under pressure to produce high yields will almost always prefer risky investments in the permissible categories to prudent ones with lower yields.

This would not be a serious problem if the federal deposit insurance system did not suppress natural market forces. In a normally functioning credit market, investors deny funds to institutions that have dim prospects for using them prudently.

As long as the incentives for taking risks are small, the federal deposit insurance system functions satisfactorily, as indeed it did for 50 years. But when the S&Ls began to suffer losses or diminished earnings, high-yield investments became necessary for their continued prosperity or even survival. At this point, the incentives to take risks overwhelmed the weak restraints of regulation.

TOUGH MEASURES

Now many banks may be in a similar predicament. And if so the engines of speculation—fueled by federally insured dollars—may be revving up. Under these circumstances, the only thing standing between the taxpayers and another S&L-type bailout is the willingness and ability of government regulators to take tough and politically unattractive measures when the chips are down. FSLIC blinked at the challenge. We can only hope that bank regulators will behave differently.

But all this raises deeper questions. Should the taxpayers have to gamble at such high stakes on the judgments of a few bank regulators? Is it necessary for the government to be the front-line insurer of banks? The answer to these questions is no. The risks taken on by banks and S&Ls can be controlled and disciplined not by government regulators but by the market itself—that is, by giving someone other than the government an incentive to assure that depository institutions are investing prudently.

But market discipline is easier to conceive than to achieve. Although federal deposit insurance makes depositors indifferent to how their funds are used, it does not necessarily follow that making depositors worry a little will address the system's problems. Proposals have been advanced by some, including the American Bankers Association, to require depositors to suffer some minimum loss in any bank or thrift failure. This, it is thought, will force depositors to look carefully at the banks in which they invest and place a limit on the resources they make available to managements unlikely to use them profitably.

Depositors, however, are an inherently poor source of market discipline. It is unlikely they are treating their deposits as investments, subject to the usual risk/reward analysis. Instead, they expect to take no risks with their funds, and, if there are rumors of instability or possible loss, will simply withdraw their deposits—causing a "run." Moreover, depositors have little effective power to discipline management. They can withhold or withdraw funds to be sure, but they lack the shareholders' power

to remove management and alter its policies.

The most promising form of market discipline is private insurance, where the premiums are related to risk. This is a direct and effective form of market discipline since risky behavior by management results in higher insurance costs—directly affecting management's risk/reward calculation. As management seeks higher profitability through greater risk, increasing insurance premiums tax away larger and larger portions of the benefits management is seeking. Eventually, decreasing profitability causes the company's equity capital to lose value, stimulating a takeover or a recapitalization in which the management is replaced or its policies substantially altered.

Risk-based deposit insurance won't work, however, if it is administered by the government. An effective system will require the insurer to impose widely varying premiums on institutions competing in the same market. Only if premiums are modest at the low end and truly painful at the high end will they have the intended effect of disciplining management.

The history of the S&L crisis shows clearly that regulators cannot impose differential treatment on institutions without generating strong opposition in Congress. When all of the current hoopla over the Keating Five and Jim Wright blows over, we may be sure that members of Congress will be back to putting pressure on government agencies on behalf of constituents.

Risk-based deposit insurance—if administered by the government—would be an inevitable victim of this process. The government insurer that assessed significantly higher deposit insurance premiums against Bank X than against Bank Y would face the displeasure of Bank X's congressional supporters. Since a differential premium is essentially a matter of an insurer's judgment, it will inevitably appear arbitrary. Add the complications that would arise if the CEO of Bank X were a Republican and the CEO of Bank Y were a Democrat.

Instead, any system of risk-based deposit insurance should be left to the private sector, and administered through negotiated contractual arrangements without the interference of government. Indeed, the banking system could insure itself, with associations or syndicates of banks formed to guarantee the deposits of other banks in return for a risk-based premium. The competition among syndicates—which would bid for the opportunity to insure particular banks at a specified initial premium—would assure that the premium is based on the market's assessment of the insured institution's inherent risk.

The premium would be reset frequently, according to a formula established by contract between the guarantor and the guaranteed institutions, and would be enforced by a comprehensive monitoring system in which the day-to-day risks taken on by the insured institution would be incorporated in the premium rate. Management would be able to 'price' its risk-taking, because its decisions to take on or shed risk would have predictable consequences in terms of premium cost.

Insurance is an option on the capital of the insurer, and there is ample capital available in the banking system to provide 100% insurance coverage for the deposits and other liabilities of participating banks. The 550 largest banks and S&Ls—those with assets in excess of $1 billion—have aggregate capital of approximately $165 billion. This is more than 10 times the reserves in the FDIC and 150% of all the capital in the property and casualty insurance industry. Placing this aggregate capitalization behind the deposits and other liabilities of U.S. banks and S&Ls would increase their stability and creditworthiness, lower their cost of funds, and enhance their international competitiveness.

BACKUP INSURER

Moreover, once the banking industry itself has taken responsibility for the solvency of its individual members, the government can function as back-up insurer. In this case, there would be little risk to the government or the taxpayers and the ordinary depositor would continue to have the peace of mind conveyed by the FDIC sticker on the door.

Thus, it is possible to design a system of real market discipline that eliminates the current incentives for management risk-taking, and places the risk of bank insolvency on the private sector and not on the taxpayers. Washington policy makers will have to understand, however, that the federal deposit insurance system is inherently unstable. No amount of tinkering with the current system will eliminate the risk of a taxpayer bailout of the FDIC.

(Mr. Wallison, White House counsel and the U.S. Treasury Department counsel during the Reagan administration, is an attorney in Washington.)

LAURENCE SISSON

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. RICHARDSON. Mr. Speaker, in these days of hard choices and difficult decisions, I have acquired a renewed appreciation for the beautiful artwork that hangs in my office and its power to both soothe and inspire.

My friend Laurence Sisson is one of the many New Mexico artists whose work I admire. Mr. Sisson and his career as a painter were the subject of a recent article in the Rio Grande Sun, which I would like to call to the attention of my colleagues.

[From the Rio Grande Sun, Aug. 16. 1990]

SISSON: CLASSICIST AND INNOVATOR

(By Jules Heritier)

Renowned Santa Fe Painter Laurence Sisson is at once a classicist and an innovator. His painting style, like his personality, is grounded in the bedrock of traditional academic training, while flaunting an earthy, swashbuckling freedom of style.

I interviewed the 63-year-old Sisson at his studio in Santa Fe last week, and only once or twice in my life have felt elevated so from such an event. It was one of those "mountaintop" experiences.

Sisson's paintings are available for viewing at the Wadle Galley on West Place Avenue. I first saw them there in 1986, on my almost obligatory tourist tour of the galleries which almost every newcomer to the area is wont to take. The paintings impressed me as going far beyond anything I expected to see for sale.

They actually looked like the quintessence of what I wanted, deep in my desperate little soul, for New Mexico to look like. I stared at all of them like a fool until I'm sure the galley owner thought I was going to do them some harm.

Using a variety of painterly techniques, Sisson shows us images of Northern New Mexico at its most virginal; as if it perhaps appeared to an earlier, more spiritual people.

The works are multi-dimensional; with each layer, from the lean, bedrock and gravely underpainting on up through the rich, playful impastos of the wild, yet cooly neutralized skies. The artist seems to want us in turn to be soothed, then to love, and finally to be obsessed.

But Laurence Sisson the human being would have none of this. In fact, he claims not to know where any of the scenes he paints are located. He insists he paints directly, using the voluminous files in his mind which have accumulated over the years of struggle and from the many trips abroad he's taken. I got the impression Sisson was actually somewhat embarrased by his success; that there was a salty seacaptain of a man at the core of the artist. A man who really wanted to break free of his gift and embrace the cameraderie of everyday people with endless stories and colorful, philosophical anecdotes.

But the course that would be impossible for a man who paints seven days a week and can only count three weeks in the last 30 years when he didn't have a brush in his hand. Sisson is totally dedicated to his work, and admits he is progressively seeking more and more detached privacy. Yet he is most approachable, and shares freely his gift; both philosophically and technically.

"I'm a classicist who always wanted to be an abstract expressionist," chuckles Sisson. Delicately dabbing a rather heterogeneous mix of semi-dry oils onto an arroyo scene, he instantly achieves a believeable boulder in the process, letting the serendipitous mix of paints from yesterday's palette do the job with a carpenter's putty knife.

And that one technical movement, that one dab that has taken sixty years of heartache and adulation to be able to do, is the essence of both Sisson's painting and personality: a balance of controlled emotion and passion.

Sisson came from "a very wonderful middle class, Boston family," with his father a writer and his mother a musician. With two creative parents, he grew up with what he described as "a precise sense of creativity; a mixture of classical training and homespun storytelling. I'm a blend of those two." Sisson paced leisurely back and forth in his studio, expounding with carefully chosen words on his work, his life and his feelings. It was as though he was delivering a lecture, albeit a casual one;

"Sometimes the reasons I have for painting are very far-removed from conscious decision-making. I might, for instance, feel like painting some snow. Some crisp, loose passages. Often times, the painting I begin is totally lost after I'm three hours into it. Suddenly I might screw it up in some wonderful fashion, and before I know it, I've got something different—it's never preconceived."

I asked Sisson how it's decided which works are to be found in the galleries. "For many years, it simply was what would fit into my station wagon. I lived in Maine for many years, and my gallery was in Boston.

"One winter, I got caught in a blizzard with 20 paintings and four kids on the Maine Turnpike. I had to take all the paintings out of the car to get at the spare tire, and all the wooden stretcher frames warped in the weather. And I had to suffer the in-

dignities of motorists going by and pointing at the scene."

Sisson has dealers in New York, Boston and Santa Fe, but prefers, unlike other artists, not to keep track of who buys his work or where it ends up. "I made a point years ago not to ask where my stuff goes. I used to know, but I felt really guilty once when I learned that a family had sacrificed a European trip just so they could afford one of my paintings.

"I don't want to know where they are. It's lost in space in time. The process of painting is the only thing I concentrate on. I don't treat my works, as others do, as significant births. I've had more abortions than children."

"If there's anything I have learned, it's that painting is constant failure. Not that I'm depressed or anything, but I just don't know what a successful painting is anymore. A synthesis of something? I know that even if I tried to paint like Rothko, a classical image would always be there. I don't know what my work represents anymore. Maybe when I get my new studio built I'll do some epic works—magnificent allegories using all my pebbles, my mannerisms and all the influences from Japan, from Alaska, and of course here."

After moving to Northern New Mexico from Maine, Sisson spent a few years in Nambe, and just recently moved to southeast Santa Fe. He says of his decision to uproot from his native east, "Being a painter out here is more exciting than anywhere else. The people of the Valley have a heightened sensitivity to light and life. The people here are part of a much broader culture. In the east, there is an inherent fear of art—a sneaky prejudice about artists being a treat to upset the conservative world. There's something out here which is the finest, most maternal environment for painters; there's almost a holistic aesthetic society here, allowing for every kind of work to thrive, from coyotes to buffalo chips to majestic scenes."

Currently he is deeply involved in the building of a new studio which he says "will function as a Petri dish in which I can grow my aesthetic culture."

Just recently having toured Alaska, Sisson and wife Judy will travel next month to attend some of the premier art shows of the year in Denver, Jackson Hole, Wyo., and Portland, Maine. Sisson is a finalist in the National Park competition this year, and competing with thousands of entrants for the $50,000 first prize. For this event, Sisson entered a canvas depicting the awesome coastal beauty of Acadia National Park.

Sisson has four grown children, whom he described using terms such as "renaissance daughter" and "world class kid." Although none of the children have become painters in the sense that their father has, each has their own angle on creativity.

Daughter Kerri is a singer about to cut her first record, David is a house-painter who writes poetry, Mark is a world class triathlete and Scott is a computer scientist and writer.

As if to encourage the literally thousands of struggling painters here, Sisson summed up the craft by saying, "I paint seven days a week, ten hours a day. You see, the act of painting is so masochistic that unless you develop the discipline to paint every day, you never fall enough for your work to take on a distinctive character. It's the willingness to fail that separates you from the dilettante. Each time, I just try to paint it more beautifully."

A TRIBUTE TO SEYMOUR H. KNOX, JR.

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. LaFALCE. Mr. Speaker, I rise today to pay tribute to a man who fully understood and acted upon the idea of civic responsibility; a man whose contributions in education, business and the arts greatly improved the lives of many western New York residents and the Nation as a whole—Seymour H. Knox, Jr.

Mr. Knox, who passed away last week at his home in Buffalo, NY, enjoyed 92 years of life filled with personal accomplishments and public endeavors. He was a man who greatly improved all that he encountered, whether it was in business, the community or at home.

Mr. Knox's efforts to improve the University of Buffalo, and later the State University of New York at Buffalo, helped transform the school into an internationally recognized institution of higher education. Knox joined the university's council in 1920 and was its chairman from 1949 to 1969, providing significant advisory and financial support. SUNY Buffalo has since enhanced the cultural and academic life of the area and has provided high quality education with low tuition costs to students from New York, the United States, and abroad. Mr. Knox's commitment to education extended beyond regional service; he was appointed to and served on a Presidential committee formed by President Eisenhower to consider our Nation's higher education system.

As chairman of the Marine Midland Trust Co. of western New York from 1943 to 1970, and chairman emeritus until his death, Knox presided over the growth of the bank into its vast financial network. Throughout these years, the bank served the community by employing residents, adding to tax revenues of local governments and providing home mortgages, business loans, and other financial services of vital importance to area growth and national growth. Knox was also a director on the boards of the F.W. Woolworth Co., the New York Central Railroad, the Penn Central Railroad, and the American Steamship Co.

Finally, Seymour H. Knox, Jr. was a benefactor of the arts whose namesake and powerful influence remains in Buffalo's Albright-Knox Gallery. Knox, who donated millions of dollars worth, of paintings, sculptures, drawings and prints—more than 700 works—to the museum, amassed a daring, contemporary collection. Knox's foresight and willingness to experiment with new modes of art led to the purchase of abstract expressionist painters including Gorky, Rothko, Hofmann, and Motherwell before they had gathered public acceptance and before they had become prohibitively expensive. The gallery Mr. Knox effected and left for the enjoyment of area residents is thought to be one of the world's preeminent collections of modern art. Indeed, the importance of contributing to one's community was the linchpin of his drive to enrich the gallery. Instead of purchasing art solely for his private collection, he gave his love of art to the gallery and the general public. Knox once explained his donations by saying that art should be acquired for all to see, not to be hidden away in a warehouse. As with education, Knox's contributions to art extended beyond the western New York region. He was chairman of the New York State Council on the Arts from 1960 to 1975 which sponsored cultural events throughout the State.

I urge my colleagues to join me in expressing sympathy to Seymour H. Knox Jr.'s sons and grandchildren. The art gallery and its symbol of public generosity will serve as the family's legacy to the people of Buffalo and western New York.

SALUTE TO MR. J. EVANS McKINNEY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. DYSON. Mr. Speaker, I rise today to salute Mr. J. Evans McKinney, a commissioner from the town of Elkton, MD, who has retired after 21 years as an elected official. Evans will be missed by his colleagues and by the citizens of Elkton whom he has served so well since 1960. On October 6, Elkton Mayor James Crouse and the town commisioners, Constance Dunbar, Kennard Merrey, Jesse Boyd, and Edward Ginder will host a town reception honoring Evans for his dedicated public service. I would like to take this opportunity to share with my colleagues a brief biography of J. Evans McKinney.

J. EVANS McKINNEY

J. Evans McKinney was born in Elkton, Md. in 1913. He was educated in the public schools of Cecil County and graduated from Elkton High School and West Nottingham Academy, followed by attendance at Johns Hopkins University.

From 1936 until 1944 he worked for the Corps of Engineers at Chesapeake City, Curtis Bay Ordnance and New Castle Air Base. In 1942 he was prepared to enter the Service but was turned down because of an injury suffered while playing soccer. He went to work for DuPont in Wilmington "for the duration." This "duration" lasted until April, 1974 when he retired.

Evans and Janet were married in May, 1941. They have two sons, Robert and James, and two grandsons, Michael and Joseph.

Evans has always been interested in politics. He has served on the Cecil County Democratic Central Committee, was appointed to the Planning Commission of the Town of Elkton in 1960, and was elected Elkton Town Commissioner in May 1969. He served in this capacity for 21 years before retiring in 1990. He has always been interested in serving his local community and in improving local conditions. He is very proud of his part in securing from the Dept. of Natural Resources of the State the fish ponds out beyond Meadow Park and also the land for Meadow Park East.

He has had a love of hunting and fishing since childhood, and this has developed into his lobby of decoy collecting. Now he has a great collection and has written a book, "Decoys of the Susquehanna Flats and their Makers" which has just been updated and reprinted. Now he doesn't do much hunting

or fishing but spends a great deal of time carving decoys.

I congratulate Evans and wish him and his wife, Janet, continued success and good luck in his retirement.

TEN VOLUNTEERS RECEIVE CONGRESSIONAL ACHIEVEMENT AWARDS

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. MRAZEK. Mr. Speaker, as a way of both rewarding and encouraging the volunteer spirit that characterizes one of the finest impulses of American life, I have presented the Congressional Achievement Award to 10 outstanding Long Island leaders who contribute to several important community programs. The award is presented to those who have shown through their voluntary service an inspiring commitment to the improvement and enhancement of the quality of life for the people of Long Island. Selected from several highly qualified nominees, the recipients were chosen by past winners of the Congressional Achievement Awards.

On September 15, a tribute was held to honor the humanitarian efforts of the recipients, all personally dedicated to the enrichment of life in our communities. The honorees are:

Priscilla Ciccariello, chairperson of the National Marfan Foundation, for her commitment to fostering a greater public awareness about Marfan syndrome and its effects following the loss of her husband and young son to this debilitating hereditary disease. Mrs. Ciccariello has led the foundation's growth into a nationally recognized organization that has captured the attention of clinicians, researchers, care providers, educators, and donors. Her dedication and determination have turned personal and devastating loss into an organized crusade against this tragic disease.

Ann Harper, district chairperson, Nathan Hale District, Suffolk County Council of the Boy Scouts of America, for the community spirit she exhibits as a volunteer working tirelessly to promote Scouting and its ideals in Huntington Township. Mrs. Harper is credited with reaching about 2,500 Scout-aged boys yearly in the township despite a shrinking youth population. She has devoted her considerable skill and talent toward the recruitment of a broad range of people to assist with fundraising, membership, and programming, activities which are all vital to a flourishing organization dependent on public support.

The Huntington Community First Aid Squad and its 175 volunteer members, for its state-of-the-art response capability. Staffed 24 hours a day and 7 days a week entirely by volunteer in-house crews, the Huntington Community First Aid Squad has been providing hands-on lifesaving and emergency medical services for the past 25 years to the 35 square miles that comprise Huntington. The first rescue operation to implement on-duty, in-house crews, the Huntington Community First Aid Squad credits this 25-year practice as a cornerstone of its rapid response.

Frank Lourenso, executive vice president, Chemical Bank, for his considerable organizational skill and financial expertise in generating and maintaining the support of Long Island's corporate, civic, and philanthropic leaders for the Family Service Association, an agency providing a wide range of innovative programs serving Nassau County. An active board member for the past 14 years, Mr. Lourenso also maintains a personal commitment to serving organizations ranging from the American Cancer Society to the Youth Adult Institute. It is certain his efforts have touched the lives of countless people.

The Make-A-Wish Foundation of Suffolk County, for granting wishes to children suffering from life-threatening or terminal illness. This county chapter of the nationally known agency relies entirely on its core of dedicated volunteers, whose sole purpose is to bring joy to young patients and their anguished families. The true test of achievement can be seen in the eyes of the children as they experienced their wish come true and to listen to the fond memories their families will have forever because of the volunteer efforts of the Make-A-Wish Foundation of Suffolk County.

Fran Mattera, founder and director of For Our Children and Us, for years of extraordinary paralegal support to families with children. Realizing the need for family services after she was left to support herself and her three children, Ms. Mattera nutured the growth of FOCUS from its beginning as a hotline in her own home into a five-county agency that, to date, has assisted over 30,000 families seeking assistance. She has inspired and guided its staff, directors, and the community it serves to make it a flourishing center of activity providing a multitude of services.

Lillian McCormick, for many years of enlightened leadership and valued devotion to a countless number of community programs. In 1974, Mrs. McCormick founded a residence for abused children which later became known as Children's House. To date, she remains a leading advocate for the rights and welfare of children. Mrs. McCormick developed a nonprofit agency, Women On the Job, to address women's employment issues as women assumed greater numbers in the work force. Mrs. McCormick saw the need for affordable senior citizen housing in her hometown, and sought to make it succeed. Said to be contagious in her conviction, Mrs. McCormick believes that education is the key to building a great society.

Edward W. Stack, for an outstanding commitment to community service through his leadership and support of many voluntary organizations on Long Island. One such agency, the St. Christopher-Ottilie Services for Children and Families, honored Mr. Stack with its 1990 Humanitarian Award. Especially valued for his vibrant leadership and fine counsel, Mr. Stack is always on call and in demand, and usually the first called upon to resolve complex issues and crises. His business acumen continues to benefit a wide range of charitable and cultural organizations so dependent on the varied resources Mr. Stack is capable of summoning.

Frances Storrs, for over 30 years of dedication to the youth of Oyster Bay. A founding member of the Boys and Girls Club of Oyster Bay-East Norwich, which provides recreational and educational programs for over 700 children annually, Mrs. Storrs continues to be its "guiding light" and "guardian angel." As current vice president in charge of fundraising, Mrs. Storrs assumes the responsibility for conceptualizing, organizing, and sustaining the club's annual fund drive, which remains, to date, its chief source of funding. Her talent for understanding the needs of her community combined with a willingness to bring together the various constituencies needed to realize a dream have made the lives of countless youngsters happier.

Donald Tomasello, for years of devotion to the work of the Long Island Association for AIDS Care. One of the first, and few, people who came forward to provide advocacy and companionship to AIDS and HIV-infected patients. Mr. Tomasello has become a driving force at LIAAC, inspiring and supporting others who volunter their care. Instrumental in establishing a bi-county referral and resource directory for the agency, Mr. Tomasello is involved in fundraising efforts and has recently been appointed to the LIAAC board of directors. His long-term, dedicated commitment to the agency and its purpose reflect his hope that victims of AIDS and HIV can live with dignity.

Mr. Speaker, I congratulate these honorees for the inspirational examples they have set for our community at large. I commend their stories to my colleagues and I wish them success as they continue their life's work to the benefit of all of Long Island.

"STRONGER NATIONAL SECURITY PROVISIONS NEEDED NOW"

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. WALGREN. Mr. Speaker, the House recently passed H.R. 486, a bill reauthorizing the Defense Production Act [DPA]. This act provides critical authorities needed to ensure our country has a strong industrial base for defense production.

Our colleague, Ms. OAKAR deserves tremendous credit in pursuing this area until an agreement could be found that the administration will support. These authorities are too important to allow to lapse.

However, important issues that involve controversy were unable to be dealt with this year. There is a real need to strengthen the Exon-Florio provisions enacted as part of the 1988 Trade Act, which gives the President authority to block foreign takeovers of U.S. firms that threaten to impair the national security.

The subcommittee I chair has held extensive hearings on the implementation of this national security takeover provision of the DPA. The record of those hearings is quite clear—the administration has failed to effectively enforce its responsibility. To date, more than 450 notices of foreign takeovers have been provided to the Committee on Foreign Investment in the United States. Only 11 investigations have been conducted. Only one takeover has been prohibited.

In the one case in which the President prohibited the foreign takeover, the foreign acquiring firm, an agency of the Peoples' Republic of China, has so far failed to comply with the President's order to divest itself of Mamco, Inc., an aerospace company located in Seattle, WA. In his order, the President gave the China Aero-Technology Export and Import Corp. until May 1, 1990, to divest its acquisition of Mamco.

When this deadline was not met by the Chinese, they were given until August 1, 1990. And now, with all deadlines having expired, the Chinese have still not sold Mamco. What credibility can the President hope to have when orders he gives under the authority of Exon-Florio are ignored?

While certain kinds of foreign investment are clearly important and necessary, there can be no longer any doubt that foreign investment has seriously undermined industries in the electronics sector like semiconductors and others that in the long run are essential to U.S. national security. Not a single action has been taken under Exon-Florio to block foreign takeovers of U.S. equipment and materials manufacturers that supply the critical semiconductor industry, despite the well-recognized importance of the semiconductor industry to our Nation's security and defense.

Foreign investors now own 13 percent of the U.S. manufacturing base, and in 1 year—1987 to 1988—foreign direct investment in the United States jumped more than 60 percent. Foreign direct investment in the U.S. electronics industry, alone, tripled to over $12 billion between 1980 and 1988. Foreign investors now own 50 percent of the vital consumer electronic industry.

According to the Defense Science Board [DSB], which has recently looked at both the question of foreign control of U.S. industries and the problem of defense access to critical technologies, foreign dependence puts the Defense Department's access to leading edge technology at real risk. In addition, the DSB concludes that, "The military and economic dimensions of national security are inseparable."

The rate of change in technology requires that any nation which wants to be a leader in military and commercial technology must have within its own control the ability to be the innovator of new technology. The ability to be an innovator requires the full participation in the development of new technology at every stage.

As a result, foreign acquisitions in critical industries not only threaten to deny U.S. firms state-of-the-art products and technolgoy, but they also deny our firms access to the next stage of important products and important technologies. In addition, foreign control of U.S. high technology prevents the United States from benefiting from the technology spinoffs that come to those who participate in the development of technology.

If the Defense Production Act is to provide the protection our country needs against foreign takeovers of U.S. companies that threaten the national security, changes are badly needed. The major provisions of the legislation I have introduced, and reported from my subcommittee, H.R. 5225, respond directly to the concerns and recommendations of the Defense Science Board.

The Defense Science Board recommended that conditions should be placed on foreign purchasers to protect our national security from the erosion of the industrial base that transfer of technology from the United States often causes. H.R. 5225 provides the authority needed to seek and to enforce such conditions.

The Defense Science Board recommended a primary role for the Defense and Commerce Departments in identifying the national security impact of foreign acquisitions of U.S. firms. H.R. 5225 gives Commerce and Defense this responsibility while leaving in place the President's designation of the Committee on Foreign Investment in the United States to carry out the authority granted to him under section 721 of the Defense Production Act.

The Defense Science Board recommends that our Government identify those technologies essential to the U.S. industrial base. H.R. 5225 requires the identification of essential technologies and provides that thorough investigations be conducted of foreign mergers, acquisition, and takeovers that involve these critical technologies.

H.R. 5225 goes a long way toward addressing the major concerns and problems that have been identified with the process we now use to deal with the national security implications of foreign takeovers. It is my hope that this legislation can be acted on early next year. Without these needed changes the Defense Production Act will remain nothing more than a paper tiger in our efforts to protect the United States against foreign takeovers of U.S. firms that threaten the national security.

A TRIBUTE TO FREE FRANK McWORTER

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. DURBIN. Mr. Speaker, on Saturday I will attend a ceremony honoring Free Frank McWorter whose pioneering spirit and entrepreneurship led to freedom from slavery for himself, his family, and many others he helped escape through the underground railroad.

His great-great-granddaughter, Prof. Juliet E.K. Walker, has worked long and hard to secure Free Frank's place in history. Her efforts have made many people more aware of an aspect of African-American history and business that is little known to most Americans. Her most recent undertaking involves an effort to put his gravesite, in Barry, IL, on the map. She set out on September 20, to trace Free Frank's 1831 journey from Somerset, KY, which he left in search of better opportunities, to Barry, IL, where he is buried.

Free Frank was a man with remarkable determination and courage. As a slave, he earned extra wages by hiring out his labors to other masters during the little spare time he had. Eventually, while still a slave, he established his own business, mining and selling saltpeter for the manufacture of gunpowder, which was in high demand during the War of 1812. He used the money he earned to buy his freedom and that of his wife, Lucy; two sons; two daughters; seven grandhildren; two great-grandchildren; and a daughter-in-law. The total cost of this struggle for freedom is estimated to have been $15,000.

After their liberation, Free Frank and his family set out for Illinois, where land was cheap. They bought 160 acres from the Federal Government for $100, in what is now known as Pike County. It is believed that at age 53, Free Frank was the first black man to legally establish a town, which he called New Philadelphia, in this country. Free Frank and his family played an important role in shuttling runaway slaves to Canada through the underground railroad station in their basement.

Ms. Walker's efforts to ensure her great-great-grandfather's place in history, including years of research leading to a book entitled "Free-Frank: A Black Pioneer on the Antebellum Frontier"; and a listing of his gravesite in the National Registry of Historic Places, have generated public interest in Free Frank. A well-deserved profile of Free Frank appeared in the Chicago Tribune on September 28.

It is my hope that the remarkable accomplishments of Free Frank McWorter will be read by many more people for years to come. He deserves to go down in history as the dedicated pioneer that he was.

CONGRATULATIONS AND BEST WISHES TO THE PEOPLE OF NEW ZEALAND

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. McEWEN. Mr. Speaker, in commemoration of the sesquicentennial of the signing of the Treaty of Waitangi, the people of New Zealand have requested that rather than extending material gifts, countries share "Living Treasures" as an expression of honor and appreciation. I am honored to rise today to recognize a group of young Americans who will visit New Zealand as the living treasure of our youth. As a representation of this treasure, young men and women from many of our States will visit New Zealand on October 22 through November 3, 1990 to meet with the Parliament and the people of that great nation.

Just as Americans attach great significance to the Fourth of July and its meaning, New Zealanders accord the Treaty of Waitangi special significance. In 1840 a pact was signed with good and true intent, and that was the beginning of the nation called New Zealand. Over the past 150 years, New Zealanders have forged a great nation based upon the principles of freedom and democracy.

Mr. Speaker, I urge my colleagues to join these "Living Treasures" of American youth by extending congratulations and best wishes to the people of New Zealand. The young Americans that are scheduled to visit New Zealand include:

Matthew Anderson, Washington.
Randy Barira, Oregon.
Jeffrey Barnett, Idaho.

Jodie Buchholz, Wisconsin.
Joshua Buchholz, Wisconsin.
Joel Buchholz, Wisconsin.
Tracey Collins, Ohio.
Jennifer Coriell, Ohio.
Shawna Corley, Texas.
Jonathan Custer, Virginia.
Karee Daniel, California.
Ashley Davis, Georgia.
Kirsten Deiter, Illinois.
Mandy Dennis, Texas.
Tiffany Drake, California.
April Futhey, Kansas.
Kimberly Gattie, Georgia.
Karen Hart, Michigan.
Nathan Hawkins, Arizona.
Lewis Hensley IV, Florida.
Matthew Hoopes, California.
Julie Hovey, Texas.
Prem Jacob, Illinois.
Rochelle Jensen, California.
Ed Johnson, California.
Phillip Jones, Georgia.
Tony Jones, Georgia.
Anique Kinchen, Texas.
Nicole Kinchen, Texas.
Campbell Maskell, Illinois.
Kelly Nall, Texas.
Amber Olsen, Louisiana.
Karna Pickard, Oklahoma.
Kristine Shoemaker, Indiana.
Michelle Sommerfeld, Minnesota.
Mark Stanley, Minnesota.
Joel Steege, Oregon.
Dane Sternecker, Wisconsin.
Jonathan Thorne, Kansas.
Shannon Toombs, Indiana.
Eric True, California.
Heather True, California.
Michael Vause, Texas.
Jamie Ward, Oklahoma.
Tanya Williams, Texas.
Kim Worley, Texas.

I would like to express my best wishes for an enjoyable and informative visit on October 22 through November 3, as they take part in the historic celebration of the sesquicentennial of the Treaty of Waitangi.

NEBRASKA COUNTY ATTORNEYS ASSOCIATION'S VIEWS ON HABEAS CORPUS REFORM

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. BEREUTER. Mr. Speaker, there has been great controversy surrounding H.R. 5269, the Comprehensive Crime Control Act, especially the portions concerning habeas corpus reform and the Racial Justice Act.

The Nebraska Country Attorneys Association has written a letter stating their opinion on the legislation.

Mr. Spire's (The Honorable Robert Spire, Attorney General of Nebraska) views stand in opposition to the position taken by the National District Attorneys Association, the National Association of Attorneys General and other national law enforcement organizations and representatives which oppose this legislation as an effort to cripple further our ability to fight the nationwide problem of violent crime.

This association has 285 members, including county attorneys, deputy county attorneys, the U.S. attorney, the Attorney General and Assistant Attorney General, city attorneys for both Lincoln and Omaha, and other State government attorneys.

At the request of the Nebraska County Attorney's Association this Member is providing this information to my colleagues today in order to present another point of view from Nebraska, a State with the death penalty. The letter follows:

NEBRASKA COUNTY
ATTORNEYS ASSOCIATION,
Lincoln, NE, October 2, 1990.

Hon. DOUG BEREUTER,
2446 Rayburn House Building, Washington, DC.

DEAR DOUG: The Congressional Record reflects that on September 25, 1990, Mr. Hughes of New Jersey read into the record portions of a letter from Nebraska Attorney General Robert Spire in which he supports the Kastenmeier-Hughes habeas corpus proposals and the "Racial Justice Act". We want to make it clear that Mr. Spire must be expressing his personal views and that those views are not those of the membership of the Nebraska County Attorneys Association. While we have great respect for Mr. Spire, on these issues we very much disagree with him.

Mr. Spire's views stand in opposition to the position taken by the National District Attorneys Association, the National Association of Attorneys General and other national law enforcement organizations and representatives which oppose this legislation as an effort to cripple further our ability to fight the nationwide problem of violent crime.

The provisions of Title XIII of H.R. 5269 which deal with habeas corpus revision would only make that process more cumbersome and expensive than it presently is. There is not a single suggested provision of this subtitle which would enhance the judicial process, assist the state or insure any greater degree of justice in criminal proceedings. If passed, it would simply make a mockery of the concept of finality in state criminal court proceedings.

Title XVIII, also personally endorsed by Mr. Spire, is likewise objectionable to us. The misnamed "Racial Justice Act" does not create or insure racial justice in any manner. It was originally drafted by the Coalition to End the Death Penalty and its goal is clearly not to insure justice in any form, but to eliminate capital punishment. This Bill attempts to use statistics in a manner rejected by all courts which have reviewed this type of claim in efforts to establish proof of system-wide discrimination based upon the race of either the defendant or the victim. If this legislation were passed all capital defendants could raise such claims either before or after trial. The cost alone of supplying individual defendants in all cases with expert statisticians would be prohibitive as would the cost to the state in defending each case. Passage of this subtitle would only force increased state taxation to fund this new and unwarranted panoply of rights to be afforded defendants in murder cases. Cost should not be a factor in achieving justice, but that is not what this legislation would accomplish. This bill creates presumptions about the criminal justice system on the basis of a statistical model rather than examining each case on an individual basis to extract from the record the factors which resulted in the sentence of the court. The Supreme Court of Nebraska currently reviews each capital case on a case by case basis. That review best insures that defendants receive fair, individualized sentences and that racial discrimination, among other considerations, is avoided.

Considering the many safeguards now in place against discrimination, from jury selection through appellate review, throughout the state and federal court process, a vote for the "Racial Justice Act" suggests a lack of faith in those persons who are sworn to insure that justice prevails in our court systems.

The membership of the Nebraska County Attorneys Association urges you to vote for the rights of victims and the people of this state by voting against the Hughes-Kastenmeier-Butler Derrick habeas corpus proposals and the "Racial Justice Act".

On House Crime Bill (H.R. 5269), we urge you to take the following action:

(1) *Racial Justice Act.*—Vote for "Sensenbrenner Amendment" which strikes Title XVIII of the present bill, "Racially Discriminatory Capital Sentencing" (which could encourage a quota system based upon race).

(2) *Habeas Corpus Reform.*—Vote for the "Hyde Amendment" which (a) strikes Title XIII of the existing bill and substitutes the Powell Commission approach and (b) strikes Section 2212 of Title XXII, "Special Rule for certain Habeas Corpus Petitions" (Berman Amendment). VOTE AGAINST ALL OTHER SUBSTITUTE AMENDMENTS ON HABEAS CORPUS.

(3) *Asset Forfeiture.*—Vote for the "Moorhead Amendment" that would strike Section 402 of Title IV prohibiting adoptive forfeitures that "circumvent" state law.

In most states, this provision will have a severe adverse impact on forfeiture revenues to prosecutors and law enforcement.

Very truly yours,
MICHAEL D. WELLMAN,
President,
Nebraska County Attorneys Association.

REMEMBERING THE FOREIGN SERVICE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. FASCELL. Mr. Speaker, there has been a great deal of concern since the Iraqi invasion of Kuwait, about the fate of Americans trapped in those countries. Of equal concern, have been the well-being and preparedness of members of our Armed Forces who are only too well, aware of the poisonous weapons in the arsenal of a ruthless Saddam Hussein. But all but forgotten are the diplomatic personnel who remain in a beseiged U.S. mission, and who may be the first and most visible targets for a strike against America and its allies in the Middle East crisis.

Perhaps it is because the word "diplomat" connotes a pampered existence in exotic locales that the public sympathies do not appear to be with these Americans overseas. However, it is clear that in a crisis such as this that it is our diplomats who remain on the

front lines of defense without a battalion to defend them. For this reason, I submit for the RECORD an editorial from the New York Times of September 25, 1990 which highlights our failure to recognize the courage of current and past members of the Foreign Service who have served their country abroad.

FORGOTTEN SENTINELS

President Bush has inadvertently slighted the U.S. Foreign Service. In his Sept. 11 speech to Congress, Mr. Bush spoke generously and at length about "our brave servicemen and women" in the Persian Gulf. But he failed even to mention the brave men and women serving as diplomats in Baghdad and Kuwait, the hazardous cockpits of the conflict. It does not belittle the sacrifices of uniformed Americans to note that Foreign Service officers are in more immediate peril.

More of these civilian officers have been killed in the line of duty than all the generals and admirals who have died in combat since World War II. The names of these diplomats are honored on plaques in the State Department lobby. In 1955 there were 75 names. Since then, 90 more career diplomats have been killed, most victims of terrorism.

Americans treat the Foreign Service shabbily. Congress routinely slashes State Department budgets, since diplomacy has no domestic constituency. Salaries are kept low and training programs starved of funds by legislators. Presidents treat ambassadorial posts as choice booty for chums and contributors.

Perversely, career diplomats go unrecognized and unrewarded even as their skills are required for new problems, from narcotics and pollution to vanishing rain forests. Neglect of the Foreign Service is ignominious in normal times, but incomprehensible in crisis. American diplomats in Kuwait are captives in a combat zone; embassy defenders rely on a swimming pool for drinking water. Their courage calls for a salute; at the first opportunity, Mr. Bush should make full amends.

A SPECIAL TRIBUTE TO COUNCILWOMAN WILHELMINA J. ROLARK

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. FAUNTROY. Mr. Speaker, I am honored to take this opportunity to bring to the attention of my colleagues the noteworthy accomplishments of Wilhelmina J. Rolark, an outstanding citizen, a dedicated and accomplished attorney, and a councilmember who has been serving the citizens of Ward Eight since 1976.

Mrs. Rolark earned a bachelor of arts degree and a master of arts degree in political science from Howard University. She earned a bachelor of law degree from the Robert H. Terrell Law School in Washington, DC. She is a practicing attorney, as well as the founder and president-emeritus of the National Association of Black Women Attorneys. Presently, Mrs. Rolark chairs the Committee on the Judiciary and is a member of the Human Services, Public Services, and the Housing and Economic Development Committees of the Council of the District of Columbia.

As a legislator, Mrs. Rolark has to her credit, very substantial pieces legislation which she authored and introduced to demonstrate her concern and commitment to improve the quality of life for the citizens of the District of Columbia. That which follows is among some of the legislation which she has introduced over the years in her capacity as councilmember for Ward Eight: The Bank Depository Act, which brings millions of dollars to the District of Columbia annually; a law which triples the penalties for persons who are caught distributing PCP; a law which brought cable television to the District of Columbia; the Pedestrian Protection Act, which increases protection for pedestrians at District intersections; the mandatory seat belt law; the Juvenile Protection Act which protects small children involved in the criminal justice system; and the child support guideline legislation, which establishes a presumptive guideline for the determination and payment of child support for children residing in the District of Columbia.

As a dedicated leader committed to the improvement of the quality of life in Ward Eight, Mrs. Rolark is one of the founders of the Annual Ward Eight Martin Luther King, Jr. birthday parade sponsored by the Wilhelmina J. Rolark Constituent Service Committee. Mrs. Rolark has been successful in obtaining funding for the new Ward Eight fire station and the seventh district police headquarters. Mrs. Rolark has identified the funds for a senior citizens center to be located in Ward Eight.

Mrs. Rolark is a sterling example of one who willingly accepts the many challenges that are brought before her, and for her bravery, commitment and dedication she has been awarded the following: Women of the Year Award; Seventh District Award; Metropolitan Police Department Award; Outstanding Service to Seniors Award; Senior Citizens Counseling and Delivery Service Award; Unfoldment, Inc. Award; Ollie Mae Cooper Service Award; Washington Bar Association Award; Distinguished Service Award; National Association of Black Women Attorney's Award; George H. Richardson Civil Rights Award; District of Columbia Federation of Civic Association Award; Outstanding Service Award; National Bar Association Award; Legislative Leadership Award; "Living the Dream" Award; and District of Columbia Association for Retarded Citizens Distinguished Service Award.

It is my pleasure to bring the attention of my distinguished colleagues the many substantial accomplishments of Councilwoman Wilhelmina Rolark.

ALVA "BUD" FORD—A NAVY WORKHORSE

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. APPLEGATE. Mr. Speaker, I would like to take this opportunity to tell my colleagues in the House of Representatives about a truly outstanding American veteran who is attempting to keep alive the memories of World War II and to honor the sailors who served nearly a half century ago.

Alva Bud Ford of Toronto, OH, is orchestrating efforts to bring back to America one of the last remaining LST's [landing ship tank] as a memorial to the thousands of men who served on these craft during the Second World War. Mr. Ford, who served for more than 2 years during World War II on LST 603 in the Mediterranean, is the driving force behind Operation LST Homecoming which seeks to bring back to America LST 859, currently in Taiwan. Mr. Ford is contemplating a 7-month long journey of the vessel halfway around the globe and up the Mississippi River to a final resting place in Seneca, IL, the birthplace of LST's, where it will serve as a monument to the service provided by these crafts during the war.

I would like to commend Bud Ford for all of his hard work and efforts to secure this fitting memorial to an important naval vessel and to the sailors who served aboard LST's during World War II. I'm very proud to have such an outstanding constituent and wish Bud and his supporters every best wish to realizing his dreams in securing this memorial.

Mr. Speaker, I would like to submit the following article from the Steubenville, OH, Herald-Star which tells the story of Bud Ford. It's an interesting story, one that I hope can come true.

REMEMBERING A NAVY WORKHORSE—TORONTO MAN WILL HELP LST TRAVEL HOME

(By Paul Giannamore)

TORONTO.—In World War II, Alva Ford served as a motor mechanic on LST 603, a "Landing Ship Tank," one of the Navy workhorses that carried freight and men and served as invasion landing craft.

In 1990, Ford, now 65, is looking forward to the chance to take a seven-month LST journey halfway around the world as part of Operation LST Homecoming, a voyage to return another of the ships, LST 859, to its Seneca, Ill., birthplace for use as a monument.

Ford said that although many people in World War II rode on LSTs, there are none of the ships in the United States as monuments to their service. Ford said LSTs, for the most part, were converted for use as ferries or tankers after the war. Some, like LST 859, ended up under foreign registry.

LST 859 has been used as a training ship by the Republic of Taiwan, Ford explained. The idea for returning the ship to Seneca came from a meeting there four years ago of its 65 surviving crew members, according to Operation LST Homecoming literature.

Seneca, population 2,200, was the home of the Prarie Shipyard of the Chicago Bridge and Iron Co., where more than 150 of the ships were built during the war.

Ford said he decided he "just wanted to go" on the full journey as a member of the Seneca Navy, as the group is calling itself.

He noted LSTs haven't received the recognition of such "glamour" ships as aircraft carriers or battleships.

"But they won the war. They put the guys on the beach. That had to be done with a shallow draught ship," he said. "We hauled everything imaginable."

Once, Ford recalled, his ship, LST 603, even hauled mules.

"They were for a group of night fighters in a French-Moroccan outfit fighting in Italy," he said.

Ford said LST 603 served in the invasion of southern France and in Africa and Italy.

LST 859, according to the second-edition of "Large Slow Targets," a book on LSTs by Robert Busch of Perrysburg, was launched Dec. 15, 1944, and served the Navy until 1958, including service in World War II and the Korean conflict.

LST 859 even sailed through atomic fallout from Hiroshima, Busch writes. After decommissioning, LST 859 was used by the Republic of Taiwan, modernized and given more powerful diesel engines.

Ford is planning to be one of the men paying $1,000 who will bring the ship all the way back from Taiwan.

Ford's wife, Frances, wants to ride through the Panama Canal and on the last day's journey from Peoria to Seneca.

She feels no worry about her husband serving seven months at sea at his age.

"At our age, if there's something you truly want to do, do it. Life's too short not to do the things you want," she said.

According to Jack Goddard of San Diego, the lieutenant of the Seneca Navy, crew members have to pass both physical and psychological examinations.

"To pass the physical examination, they must prove that they are alive. To pass the psychological examination, they will have to demonstrate that they are crazy enough to want to go on this trip and that they honestly believe that we will be able to get LST 859 back home safely to Seneca," Goddard writes in the application package for LST 859 sailors.

Ford said the Seneca Navy may have to tow LST 859 away from Taiwan if the government there doesn't approve her as seaworthy.

Goddard said cost estimates for towing the ship to Seneca are about $1.3 million, while the Seneca Navy estimates the reconditioning and fuel to return her by piloting her home will cost about $700,000 plus supplies for the journey. That's why the sailors are putting up money.

Ford said interest in the project is so great that the group may have to revert to a lottery system for taking on sailors from Hawaii to Seneca over the last legs of LST 859's journey home.

The ship may not be able to sail back into the United States as an American-flagged vessel because of strict Coast Guard requirements and the fact that she's no longer a Navy ship, Ford explained.

"We have to bring it back as a yacht—bigger than Donald Trump's. Even if we have to sail her back under the skull-and-crossbones, we'll bring her back," he said.

AMENDMENT OF 1986 CODE

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. JENKINS. Mr. Speaker, I am today introducing, along with a number of my colleagues from the Committee on Ways and Means, the Real Estate Tax Basis Calculation Technical Correction Act of 1990. This bill preserves the historically recognized ability of real estate developers to include in basis, for computing gain or loss on the sale of units of real estate, the costs of improvements to such real estate that the developers are obligated by contract to make. Such legislation is needed because of a recent announcement by the Internal Revenue Service [IRS] that it intends to eliminate this historic treatment. This announcement was contained in the "Preamble" to proposed regulations which the IRS has issued under section 461(h) of the Internal Revenue Code, a provision governing the deductibility of expenses, not the calculation of the basis in property. This bill clarifies that the IRS interpretation is not consistent with the congressional intent contemplated when section 461(h) was enacted.

Since at least 1928, it has been settled law with respect to subdivided real estate that estimated costs of future improvements are includable in the basis of property sold, if the improvements to the property are contractually required. See for example, *Milton* v. *Mackay,* 11 B.T.A. 569 (1928); MIM. 4207, XII–1 C.B. 60 (1933). One of the compelling reasons for that rule is that such treatment permits the gain or loss from a sale to reflect accurately a portion of all related costs. In other words, it insures that economic income is appropriately calculated and that income is properly matched with related expenses.

In 1975, the IRS issued a revenue procedure confirming and restating the above rule, and providing certain administrative guidelines which could be utilized by real estate developers in applying the long-established practice whereby estimated future costs would be included in computing tax basis for subdivided real estate. The concepts incorporated by this revenue procedure, Revenue Procedure 75–25, insure that gain or loss on the sale of subdivided real estate will be properly reflected and that a proper matching occurs between expenses and related income. We believe, therefore, that this procedure should be continued.

However, when the IRS issued proposed regulations on June 7, 1990, under section 461(h) of the Internal Revenue Code, it suggested that section 461(h) and its proposed regulations override Revenue Procedure 75–25, for taxable years beginning after December 31, 1989. Thus, the IRS took the position in the introductory statement accompanying the proposed regulations that the estimated costs of future improvements to subdivided real estate may not be added to the basis of lots sold because economic performance has not occurred with respect to those costs.

We believe the above described position by the Service is an incorrect interpretation of section 461(h), which deals with the timing of deductions of accrual taxpayers, and not the computation of tax basis for purposes of computing gain on sales. The intent was to keep taxpayers from prematurely accruing deductions. Revenue Procedure 75–25, however, does not allow premature accruals since a portion of the obligated expenses is added to basis rather than allowed as a current year deduction. Under this procedure, there is no deductibility preceding income recognition. There is a reduction of gain as lots are sold, but no benefit is received from this adjustment until income is generated. This procedure insures the proper matching of expenses with related income. The revoking of this revenue procedure, in fact, would mismatch related income and expenses, a result that was surely not intended.

The legislative history of section 416(h) does not reflect any intention by Congress to overturn the concepts reflected in Revenue Procedure 75–25, which have its antecedents in case law going back more than 60 years. If Congress had intended to reverse such a basic and longstanding set of concepts, at a minimum, it would have indicated such an intent through its legislative history.

If real estate developers can no longer include the estimated costs of future improvements in the basis of lots sold, gain on the sale of such property will be significantly overstated to the extent that it will exceed the actual economic gain realized on such sales. Therefore, to prevent this overstatement, this bill would amend section 1011 of the Internal Revenue Code, the section under which Revenue Procedure 75–25 was promulgated, to clarify that a seller of real property is permitted to include in the basis of such property the estimated costs of future improvements to such property that the seller is contractually obligated to make.

If Revenue Procedure 75–25 and its underlying principles are not maintained, the economic effect on the land development industry could be devastating. This industry is suffering from a severe decline in land prices, and most developers are already faced with a credit shortage that has worsened the cash-flow problem that occurs even during healthy times.

We strongly urge the IRS not to wait for the passage of this legislation, but instead to announce that it will continue to apply the concepts reflected in Revenue Procedure 75–25 consistent with what we believe was intent of the Congress in enacting section 461(h). We encourage my colleagues to cosponsor this necessary legislation, and to work for its prompt enactment, so that the real estate industry will have fair and proper tax treatment in computing its gains and losses from real estate sales. Mr. Chairman, I ask that a copy of the bill be inserted immediately following my statement.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

SECTION 1. SHORT TITLE.

This Act may be cited as the "Real Estate Tax Basis Calculation Technical Correction Act of 1990".

SEC. 2. BASIS CALCULATION CLARIFICATION.

(a) IN GENERAL.—Section 1011 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

"(c) BASIS OF REAL PROPERTY.—Notwithstanding any other provision of law, the cost of real property shall include the estimated costs of future improvements to such property that the seller is contractually obligated to make at the time of sale."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply ato taxable years beginning before, on, or after December 31, 1990.

MAKING ORGANIZED SPORTS RESPONSIVE

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. BATES. Mr. Speaker, last week I introduced a bill to insure fair and comprehensive access to professional sports programming. I am sorry to say that this bill was prompted by the less-than-responsible behavior of the National Football League. Before the start of this football season, the NFL, along with CBS and NBC, decided they would encrypt their signals, thereby denying access to television viewers who might otherwise want to watch games other than those dictated by the NFL.

In many ways Mr. Speaker, this is a story about a privileged organization abusing its powers, an organization granted special exemption from antitrust rules in 1961, an organization which recently signed a $3.6 billion contract to provide its programming to five distributors. Yet, in light of all its material successes, this organization seems intent on restricting access, grossly intent on preventing oversaturation of its product line, as the commissioner of the NFL put it recently.

This fear of saturating the airwaves has taken on ridiculous proportions. Through legal means the NFL has taken on the so-called sports bars who pick up nonlocal football games. Needless to say it's been less than a fair fight.

The owner of a sports club in my district asks, What's wrong with allowing displaced Chicago Bears fans in San Diego from watching their favorite team? The NFL replies, you're taking away audience share and thereby hurting advertising revenues for the network affiliate. In addition we have protection under the Copyright and the Communications Act.

The NFL is right. They do have protection under both these laws, but I would argue that they also have special responsibilities, in large part, because they were granted an antitrust exemption in 1961. Establishing an open and fair marketplace, to the greatest extent possible, which will result in payment of a fair fee is the issue here. If the NFL monopoly and the other sports organizations don't want to act that way, in other words, responsibly, then it should be incumbent upon Congress to make them do so.

As for the question of whether providing access will hurt advertising revenue for network affiliates, it is important to recognize that the size of the market for nonlocal games is not clear. The NFL assumes it is significant. I imagine it is somewhat limited; but even if it is not, what kind of policy is it to deny programming to a product whose essence depends so heavily on consumer loyalty. There is no generic brand available. To Bears fans in San Diego, there really is no substitute.

A market for nonlocal games exists. Just looking at the proliferation of bars that now own satellite dishes and have become sports clubs is testimony to this. Not only bars, but restaurants, hotels, and other public accommodations have bought satellite dishes. And homeowners, those in rural areas, those unable to receive broadcast transmissions clearly have invested in dishes. Right of access to this programming is not an inherent right. Programming of this nature is expensive to produce and the NFL's legitimate rights certainly should be protected.

Some critics of the NFL have come straight out and said they would like to see the NFL's antitrust exemption challenged. Tackling that exemption, however, would affect the other sports leagues as well, and clearly the National Basketball Association and the National Hockey League have not taken similar steps. Moreover, such an approach would represent a greater challenge to the Copyright and Communications Act than simply mandating that the sports leagues offer their product reasonably and fairly.

In short, Mr. Speaker, if the NFL and the sports leagues want special privileges, then I would suggest that they show some restraint and some fairness in their dealings with the public.

THE BUDGET: UGLY BUT UNAVOIDABLE

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. ANDREWS. Mr. Speaker, I have decided to support the budget summit package. I do not believe this is the best possible agreement. I would have crafted a different package. The alternative to this budget, however, is no alternative—only the mindless sequestration of Gramm-Rudman and chaos.

For the benefit of my colleagues, I am including the editorials from newspapers across my State along with the New York Times and the Washington Post. In general, they share my sentiment on the decisions we now face.

[From the New York Times, Oct 2, 1990]

THE BUDGET: UGLY BUT UNAVOIDABLE

The Budget agreement between Congressional leaders and the Bush Administration cuts defense too little. It increases energy taxes too little. It taxes rich families too little. Even so, the course compromise would cut the deficit by half a trillion dollars in five years and would accomplish that without savaging any one class, cohort or region. That doesn't warrant enthusiasm but it does warrant Congressional approval.

Detailed evaluation of the plan is futile given the way it is being presented—on an all-or-nothing basis. The "nothing" is scary. Were Congress to reject the agreement, financial markets would be rocked by the message that even modest deficit reduction is impossible. And millions of Americans would be rocked by inevitable, massive program cuts that would continue until Congress figured out a way to pass a budget.

Budget chaos might be worth trying if there were reason to believe it would produce better. In truth, it is likely to lead to worse.

The best part of the package is what it will not do. It won't throw the economy into recession, because next year's actual hit will be less than $35 billion, considerably less than the $50 billion target. Neither will the agreement wreck the tax code by giving in to President Bush's relentlessly misguided call for sweeping reductions of the capital gains tax.

And the budget bargainers wisely agreed to reduce, but not cap, the total amount of deductions that rich families are allowed to take. Reducing, but not capping, deductions is much fairer to urban areas like New York, which must impose high taxes to meet high social welfare burdens.

The biggest "losers" in the budget package are farmers, Medicare providers and Medicare beneficiaries. Yet the proposals affecting them are just. Farm subsidies do little more than subsidize wealthy farmers at the expense of urban consumers. Cuts are long overdue.

Medicare is more complicated. The program would be unchanged. But beneficiaries would have to pay more; doctors and hospitals would have to accept less. For political reasons, the summiteers exempted Social Security, leaving Medicare to bear the brunt of the domestic cuts. But the cut is hardly catastrophic—$30 billion out of approximately $700 billion over the next five years, or 4 percent.

If there is a calamity in the plan, it is that the summiteers are squandering the peace dividend. Many billions should now be shifted from the military to domestic programs because of the end of the cold war. But the plan calls for maintaining defense outlays at the $290 billion level for three years. The pretext for such spending surrender is Saddam Hussein's invasion of Iraq. In fact, outlays could prudently drop to $275 billion by the third year.

Likewise, the negotiators settled for a mere 12 cents a gallon in energy taxes, rather than the 25 cents or more that the economy could stand and the environment deserves.

Such wrongs can be corrected. The budget law empowers Congress to fund new initiatives—for highways and other infrastructure, education and Eastern Europe—if it raises the necessary revenue. That would allow Congress to trim defense, set higher energy prices and impose more progressive taxes. This year's ugly compromise is acceptable only if Congress rights the wrongs next year.

[From the Washington Post, Oct. 1, 1990]

THE BUDGET AGREEMENT

The budget agreement announced yesterday is imperfect, but the solid deficit reduction it promises is more important than its flaws. Some of the largest tax increases would be regressive—but the ultimate regressive step of cutting the capital gains tax was staved off. On the benefit side, the negotiators again flinched at cutting Social Security, even though it represents a fifth of all spending.

Still, the enactment of the agreement would be a major fiscal accomplishment, a shift toward responsible policy long overdue. The president and congressional Democrats both had to abandon cherished positions to achieve it, and particularly so close to the election they deserve great credit for having done so. The compromise is fair; the members must show the same courage as their leaders and pass it. The alternative is not just the insupportable chaos of Gramm-Rudman; that would not last. If the compromise fails, the deficit continues to erode the ability to govern.

The excise tax increases the parties contemplate on gasoline, energy generally, alcohol and tobacco would be felt less by rich than poor. The flip side is that they would

be socially useful, in stimulating energy conservation and possibly deterring alcohol and tobacco consumption. An income tax increase would have been fairer. The president resisted, in effect trading his proposal to cut the capital gains tax in order to keep the income tax rates as they are. Still, the plan contains a sleeper; it would raise $18 billion over five years, more than the alcohol and tobacco taxes combined, by limiting the itemized deductions upper-income households can take—in effect the same as a rate increase. It would also require high earners to pay higher Medicare taxes, and contains protection for about a fifth of the poor—working families with children—in the form of an increase in the earned-income tax credit. Overall, an acceptable if not exemplary list—and the best that can likely be achieved.

In benefits, having balked at cutting Social Security, the negotiators went after the same population by proposing large savings in Medicare, in part by raising the premiums, deductibles and the rest that patients must pay. At one point both parties were contemplating tilting these payments so that the better-off would pay most; for the usual reason of fear of the political consequences, they abandoned this good idea. The poorest would still be protected; for people below the poverty line, the states must make such payments (in part with federal matching funds) through Medicaid. Other major entitlements, notably farm supports, would also be cut.

The defense budget would be reduced in real terms, not as much as some Democrats have urged but more than the administration wanted. That seems about right to us. The range of domestic spending subject to the appropriations process would not be cut, but could rise no more than inflation. That also seems fair; it means that in budgets as tight as those ahead, if some programs prosper it will have to be at other programs' expense. Meanwhile, government workers will report to work; the great furlough threat has been suspended. It seems a shame that the politicians require such a wasteful charade to do their work, but they do. Maybe next time they could just pretend the world was ending . . . but of course that is what they did this time, too.

[From the Dallas Times Herald, Oct. 2, 1990]

APPROVE BUDGET PLAN

President Bush and congressional leaders finally have agreed to a compromise that will reduce the federal deficit by $40 billion in the next fiscal year and by $500 billion over the next five years. Congress has until Friday to make substantial progress toward approving the package before the Gramm-Rudman-Hollings cuts, which were postponed for a week, go into effect. Mr. Bush has said he then would agree to another extension to October 19 if Congress has met specific goals.

There is nothing pleasant about this program. Medicare premiums and deductibles will go up. Students loans will go down. Higher taxes on gasoline will make driving more expensive. Higher taxes on beer will make it costlier to get some relief from it all.

Nonetheless, the plan is about as good as could be forged. Higher levies on boats, furs and jewelry cannot be contested. Nor can 24 cents on a pack of cigarettes by 1993. A raise from 8 percent to 10 percent in taxes on airline tickets is unwelcome but inevitable.

Defense spending will be cut by $67 billion over the next three years and by $170 billion over the next five. The Persian Gulf crisis will make it mandatory that the military dollars that remain be spent carefully.

Benefit programs, such as Medicare, farm subsidies and civil service retirement will be cut by $120 billion over the next five years. Other domestic spending will rise only with inflation.

We especially regret the failure of the negotiators to cut capital gains taxes and to eliminate the bubble for taxpayers earning over $217,000. Both of these measures were needed to make the tax code stimulative to investment and fair to middle-income people. Also, putting a cap on deductions for those earning over $100,000 may well hurt arts and charitable organizations.

It's good to see some incentives for investing in small business, research and development, and oil and gas exploration and production.

With a few changes this program should be approved by Congress. Nobody said it would be painless.

[From the Dallas Morning News, Oct. 2, 1990]

BUDGET PAIN: COMPROMISE PLAN MAY NOT STOP THE BLEEDING

They were hardly dancing in the streets of Washington Sunday when budget negotiators emerged from Andrews Air Force Base with a budget compromise, but in the cold light of Monday's dawn, whatever cheer there had been quickly turned to weeping and wailing and gnashing of teeth. Republicans were wailing that their President's tax compromises were one with the sellouts in Munich and Yalta. Democrats were weeping that the victims of spending cuts were mostly the meek and the mild. Both were grieving over the political consequences they felt were sure to follow from voters.

The American people, in instant interviews, were equally unhappy. The idea of paying more for gasoline even as gas pump prices were rising drew unanimous scorn. Cuts in farm subsidies brought threats from farmers to march on Washington. Business loudly pooh-poohed tax incentives that are supposed to spur economic development.

With so many people so upset, it would appear the plan does the one thing it needed to do to have any chance of passage: spread the pain.

Each new tax hurts someone; each spending cut hurts someone. The question is whether the individual pain can add to national health. The American people must finally accept that there is no free lunch, no tooth fairy, no fiscal sanity without loss.

This message has been brought home courtesy of the Gramm-Rudman-Hollings automatic budget executioner. If Americans don't like what the negotiators did, they can let the Gramm reaper do the job, and watch their air traffic system, their meat inspection system and just about every other system shut down. Sans Gramm-Rudman, there would be no agreement—good or bad.

Cutting $500 billion from the deficit over the next five years is a meaningful, if not quite adequate, bottom line—if the economic assumptions on which the agreement is based prove correct. To do so, the U.S. economy will have to grow at an average clip of nearly 3 percent over the five-year period. So far this year, the economy has slowed from 1.7 percent growth in the first quarter to 0.4 percent in the second quarter.

The real likelihood is that without significant incentives to spur growth, U.S. economic growth will be far below that figure. If so, the deficit will balloon far beyond current projections, and the current cuts will look like a mere nick. Imagine the pain required to balance that future budget gap.

There is no real alternative to accepting the current budget agreement. Yet what seems to be missing from the whole equation is any substantial, overall policy to spur growth. True, this agreement alone should allow interest rates to fall and that is good economic tonic. But possible lower interest rates are not enough. Once the smoke has cleared from the budget battle, the White House and Congress need to turn their attention to policies intended to get the national economy moving once more.

[From the Houston Chronicle, Oct. 2, 1990]

THE BUDGET DEAL

The federal budget agreement would only have been more disappointing if no agreement at all had been reached. In that event, the artificial paralysis of government operations caused by the Gramm-Rudman law could easily have been taken care of by just postponing the law. But we are not sure the fragile U.S. economy and the uneasy financial markets would have withstood a demonstration that the government could not reach a budget agreement.

The real problem with the deficit-cutting deal reached by President Bush and congressional leaders is that Washington seems to have made income tax rates sacred. By putting off-limits the fairest and most efficient way to raise revenue—across-the-board and progressive rate hikes—the budget deal is forced for the most part to use tax increases which are inflationary, economically damaging and socially embittering. The tax hikes on gasoline and other forms of energy and the increases in Medicare premiums and deductibles are the prime examples.

Few things could be more inflationary in an already inflationary climate, or more damaging to the economy as a whole, than increased taxes on gasoline and energy coming on top of large price hikes due to the Persian Gulf crisis and market speculation. While the stock market jumped 63 points Monday, it is an open question whether that was due so much to the budget agreement or to the price of oil dropping $2.42 a barrel.

In initial reaction, there would appear to be real doubts that Congress as a whole will approve the budget agreement as made. That may be more sounding off than reality. The stark fact facing Congress is that if it doesn't approve this agreement, it is unlikely to find another. The consequences of no budget agreement are worse than this agreement. In the final analysis, that is the best thing that can be said for it.

[From the Houston Post, Oct. 2, 1990]

NO PAIN, NO GAIN—BUDGET DEAL A BITTER PILL THAT WOULD SHRINK THE DEFICIT

Nobody is cheering about the budget compromise congressional leaders and the Bush administration reached Sunday. Small wonder. It would raise federal taxes by $134 billion, while curtailing some popular government programs.

Nevertheless, Congress should pass the new agreement without undue delay. The alternative would be far worse—an $85 billion across-the-board mandatory spending slash for fiscal 1991, which began Monday.

The cuts, mandated by the Gramm-Rudman deficit-reduction law, would cripple many government functions and furlough

thousands of federal workers if they are allowed to go into effect. But in a rare Sunday session, Congress postponed them for five days.

Still, both this stopgap action and the 11th hour budget deal are examples of government by crisis—something we are seeing with growing frequency at all levels. This is a poor way to make decisions about matters critical to the nation's well-being.

As the president noted in endorsing the plan, both sides gave up something. He backed off his no-new-taxes pledge, and his insistence on a capital-gains tax cut. Democratic negotiators retreated from their opposition of cuts in certain federal domestic programs, such as Medicare. They also acquiesced to tax increases on key consumer items such as gasoline.

At the same time, however, the package does not raise income tax rates, nor does it tinker with Social Security benefits. It should also be noted that many of the "cuts" would merely reduce projected spending increases.

Besides raising the gasoline tax in stages from 9 to 21 cents a gallon by next July 1, the accord would hike taxes on alcoholic beverages, cigarettes, energy, and such luxury items as expensive boats, cars, jewelry and furs. Those making more than $100,000 a year would lose part of their deductibility. And the wage limit on which Medicare payroll taxes are paid would rise from $51,300 to $73,000.

Budget negotiators say the tax boosts and the spending cuts would reduce the deficit—projected at $293.7 billion for 1991—by $40 billion in the new fiscal year and by $500 billion over five years. At the same time, the year for balancing the budget under Gramm-Rudman was changed from 1993 to 1996.

Now comes the really hard part—selling the new budget package to members of Congress seeking re-election Nov. 6. The plan would inflict widespread discomfort, if not outright pain, in some cases. But unlike other such accords of recent years, this one at least doesn't rely heavily on smoke and mirrors to back up claimed reductions in the deficit.

[From the Fort Worth Startelegram, Oct. 2, 1990]

BUDGET PACKAGE: CONGRESS WILL JUNK IT AT ITS OWN RISK

The budget and deficit-reduction agreement that now goes to Congress engendered so much instant opposition from the fringes—the most liberal Democrats and the most conservative Republicans—that it cannot be all bad.

The proposed budget trims $35 billion-$40 billion from what is now revealed as a back-breaking 1991 budget deficit (almost $300 billion before the cuts), staves off $82 billion in Gramm-Rudman sequestration and, most important, attempts to stem the deficit tide in coming years.

Considering the size of the deficit, the size of the national debt and the immense burden of paying the interest on that debt, the agreement is weak-kneed—barely a start toward correcting the situation. But it *is* a start, and it was forged the only way the political process allows: by spreading the pain around and making almost everyone angry.

It is a more honest deficit-reduction sortie than most, relying less on smoke and mirrors and more on real cuts—in Medicare, farm subsidies and defense—and increased revenues—higher cigarette, alcohol, gasoline and luxury taxes; higher Medicare premiums; limits on tax deductions for upper-income taxpayers.

Nay-sayers can complain to the heavens, but this is obviously the best economic package that this year's politician-negotiators could agree upon. There is something for everyone to like (real spending cuts, some tax incentives for economic growth) and something for everyone to hate.

Congress should approve the package for those reasons. Otherwise, Congress will have to go to the voters next month with the budget unresolved and the economy in jeopardy.

A TRIBUTE TO JUDGE ROBINSON O. EVERETT

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. ROSE. Mr. Speaker, I rise today to offer tribute and praise to Judge Robinson O. Everett.

On September 30, 1990, Robinson O. Everett of Durham, NC, will be retiring after serving for more than a decade as chief judge of the U.S. Court of Military Appeals. Under his brilliant and charismatic leadership, the Court of Military Appeals has evolved into one of the most respected and innovative courts in America. The indefatigable, personal effort he exerted toward realizing this goal represents one of the most remarkable examples of judicial commitment and dedication that could be displayed.

His ceaseless concern has always been to reconcile the demands of highest justice with the requirements of military discipline. He has written hundreds of judicial opinions, many of which have resolved some of the most difficult questions in military and constitutional law. His many landmark decisions will surely have a lasting influence on military jurisprudence for decades to come.

Chief Judge Everett's other major accomplishments are equally stupendous. Within a year after his arrival at the court, he converted the court's docketing system to a completely electronic computerized system, which resulted in a great reduction in the cost of managing and retaining the court's recorded docket entries on all cases. This electronic capability also gave the court instantaneous access to all the court's docketing records. Furthermore, during his first year as chief judge, the court accomplished an astonishing 82 percent increase in the court's final dispositions on the master docket over the previous year, cutting in half the number of cases pending on the master docket. In recent years, the year-end pending cases have been reduced to a record low, and the time required to process cases before the court has also been dramatically reduced.

Judge Everett has been a model educator who has relentlessly sought to improve the professional skills of both military and civilian practitioners. In 1983, he reshaped the court's annual Homer Ferguson Conference and redesigned it not only to give military lawyers—but civilian lawyers as well—an opportunity to develop and maintain excellent skills required for appellate court practice within the military justice system and elsewhere. To make these training programs readily available to all lawyers, he had the conferences videotaped and made special arrangements to have portions of the conferences televised on C–SPAN. He also conceived and developed a documentary videotaped program produced for use by military lawyers and military educational institutions, as well as distribution and use by civilian law schools and community education program both in the United States and overseas. This video, the first of its kind, explained the entire process of trial and appellate procedures in a military court-martial case with particular emphasis on the appellate judicial responsibilities of the civilian U.S. Court of Military Appeals.

The Judge has been exceptionally devoted to promoting public awareness of the fairness and progressiveness of military justice. He has never been too busy to say no, and addressed military and civilian conferences, seminars, training workshops, meetings of various bar associations, and law schools throughout the country. These judicial visitations and speeches have kept the military and civilian communities fully appraised of the court's responsibility in the administration of military justice; have improved the professional and legal education of military and civilian lawyers; have provided an interchange of ideas beneficial to the military community in general; have provided the court an opportunity to ascertain the impact of its decisions on the administration of military justice; and have helped to develop a better appreciation of the operational problems in the various services.

One of Chief Judge Everett's most innovative programs was reaching out and taking the court to the people. For the first time in the court's history, the judges traveled outside its own courthouse to hear oral arguments in several actual appeal cases. Some of the cases were held at various law schools and at the West Point Military Academy. These convenient hearings provided an excellent opportunity for members of the academic community, military, civilian judges, lawyers, law students, and future military leaders of the U.S. military academies to meet with the judges and view how court-martial cases are presented by appellate advocates for decision by the court.

The court also had televisioned an actual hearing conducted in the courthouse, which was later televised nationwide on the C–SPAN Television Network as a part of a 3-hour special program on military justice and the appellate review of court-martial cases under the Uniform Code of Military Justice. The project exemplified great visionary and very creative leadership on Judge Everett's part. The military community, the legal profession, and the general public have become more aware and appreciative of military justice and the Court of Military Appeals, as they have never before, by seeing on television how efficiently and well it works. The court's remarkable success in allowing the first telecast of an actual Federal court proceeding may have been the catalyst of the recent decision of the Judicial Conference of the United States to reverse a ban in effect for decades in this country to

allow televisions in some of the article III courts in a 3-year experimental program.

Actually, during the last decade, under the consummate leadership of Chief Judge Everett, the U.S. Court of Military Appeals has become one of the most public and most utilized courts in the Nation today. There have been various moot court competitions held in the court; various law school alumni meetings and functions; meetings and receptions held by different voluntary bar associations; and the court was recently the site of the historic administering of the first national junior high school bar examination. Furthermore, students—from preschool to college—are always visiting the court and meeting with the judges. Cadets from the military academies have worked on special projects at the court, and law schools students also have done summer interns there. Even weddings and marriages have been performed in the courtroom for the first time. It is clear that the U.S. Court of Military Appeals has now become one of the most accessible and most utilized public courthouses in America.

Perhaps, there are few judges who have so enthusiastically and relentlessly devoted so much time at promoting better understanding of the American legal system by the youth of our country than Judge Everett has In 1987, Judge Everett directed the national student law day project, which has been described as "one of the truly most ambitious and most successful projects ever undertaken" in an effort to celebrate the Bicentennial of the U.S. Constitution. The project won first-place award in the American Bar Association's 1987 Law Day USA Competition. Over 1,000 students, 30 different courts, and over 61 judges across the country participated in the project; and the project extended from Puerto Rico to Guam, and from Boston to San Francisco. Through Chief Judge Everett's magnificant leadership, a major goal was accomplished of encouraging and coordinating the nationwide cooperation of judges and court officials to sponsor courthouse visits and informal meetings with trial and appellate judges and court staffs by school students throughout the country. His impact and influence have had no limits.

Chief Judge Everett was exceptionally well-prepared for his judicial service. Earlier he had served as a commissioner on the court. He has been a law professor at Duke University for almost 35 years. Also, he has practiced law in North Carolina as well as in the District of Columbia and has held many positions in the organized Bar. In fact, he was the chairman of the American Bar Association Committee on Military Law from 1977–79. During the early 1960's, he served as a special counsel to Senator Sam Ervin's Subcommittee on Constitutional Rights in conducting the hearings and studies which led to the Military Justice Act of 1968. He has written a book "Military Justice in the Armed Forces of the United States" and numerous articles on military law, criminal procedure, and evidence. Prior to his retirement in 1978 as a colonel in the Air Force Reserve, Judge Everett had acquired many years experience as a judge advocate. Moreover, during his tenure as the chief judge, he served as the first chairman of the Federal Bar Association's Judiciary Committee and the chairman of the FBA's Administration of Justice Section.

Judge Everett has been honored and has received various recognition across the country for his brilliant accomplishments as the head of the U.S. Court of Military Appeals. Recently, the Judge Advocates Association sponsored a special testimonial banquet in his honor where many, including all the Judge Advocates General of the various services, bestowed upon him abundant praise. A number of bar associations across the country have also recognized his unparalleled accomplishments during the last decade. This ubiquitous praise and recognition appear to be shared by everyone.

Chief Judge Everett will be returning to the Duke Law School, where he has been a tenured professor for many years. Fortunately, as a senior judge, he still will be available to assist the Court of Military Appeals from time-to-time. We wish to express our gratitude to this very distinguished jurist from our home State of North Carolina for his extraordinary service and dedication to his country. We extend to him our best wishes for the future.

TRIBUTE TO MSGR. JAMES N. LUNN

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. THOMAS A. LUKEN. Mr. Speaker, as Representative of the First Congressional District of Ohio, I ask my colleagues to join me in extending sincere congratulations to Msgr. James N. Lunn, pastor emeritus of St. Ann Church, on the occasion of his 60th anniversary as a priest.

Ordained into the priesthood on October 10, 1930, Monsignor Lunn was the pastor of St. Ann Church when the church was founded in 1953. The first mass was held on June 28, 1953, in the Colerain Community Building with a congregation of 425 families. Services were held there until September 1954, when St. Ann's was built. Mass was then held in four classrooms until the sanctuary was completed in 1959. Father Lunn served St. Ann's faithfully until his retirement in August 1976. To honor Father Lunn, a multipurpose center was built during renovation of St. Ann's in 1989 in his name, the Monsignor Lunn Parish Center.

Please join me in congratulating Father Lunn on the occasion of his 60th year in the priesthood. By the length of his service, he has shown that his loyalty to God and community are enduring. A man of such high character is well deserving of this honor and commendation.

CHILDREN'S MEDICAL CENTER OF ISRAEL

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. FEIGHAN. Mr. Speaker, I rise to pay tribute to the real future of the Middle East. That future is one of peace, healing, and medical care that is blind to race, color, creed, religion or national origin; one that is committed to the future of the children of that embattled portion of the globe.

Under the clouds of a possible Middle East war, a ceremony has been held marking the completion of a crucial stage of construction for the Children's Medical Center of Israel—a facility that will provide unprecedented expert pediatric care for children throughout the Middle East and Africa. Sponsored here in the United States by the Medical Development for Israel, Inc., this milestone event occurred because Americans, Europeans, and Israelis came together to provide the leadership and the funds needed to create this $60 million, 224 bed facility.

One of the key moving forces behind this effort is a quiet man who avoids publicity for his worthy efforts. Irving Schneider is a man who has already proven what an outstanding pediatric hospital can do. Along with his wife Helen, he helped create the Schneider Children's Hospital at Long Island Jewish Medical Center in New Hyde Park, NY, after which the Israeli medical center is modeled.

Speaking during ceremonies marking the topping out of the Children's Medical Center of Israel [CMCI], Mr. Schneider noted, "There won't be a children's medical center in the world that will be superior to this one." These are the words of a man whose generosity was predicated on one condition: that this facility be open to every child in the Middle East who needs medical attention.

He recognized that for there to be peace in the Middle East we must rescue Arab and Israeli children from pain and disease, from fear and illness. It will be within the walls of the Children's Medical Center of Israel that all children from throughout the region will find love and caring, comfort and healing. The children of Chernobyl, the malnourished youngsters of Africa, and all others will find an unprecedented level of medical care available nowhere else between Bangkok and Athens. In fact, there is no such care currently available to the children of the Middle East and Africa.

As rooms are prepared to allow parents to sleep down the hall from their anxious children, as the operating suites are constructed, as equipment is assembled for international pediatric specialists, as all the preparations are made to complete this sophisticated medical center, let us not forget that what is also being built is an opportunity to provide the common ground that will enable the next generation to live together in peace and understanding.

That is the future being built at the Children's Medical Center of Israel. William A. Brown, the United States Ambassador to Israel, has said, "by Septemer 1991 this will be the best in the world. It'll be the Children's Medical Center of Israel, which will admit children from anywhere in the world, regardless of race, creed, color, religious background—that's part of its charter—I think it's in our national interest."

CMCI also exemplifies a unique level of cooperation between the United States and Israel The medical center represents bination-

al cooperation in all phases from inception to planning, construction, medical supervision, training of professional personnel, financing and, most important of all, learning from the experience of top level children's hospitals throughout the United States.

This will be an American style hospital which Americans can be truly proud of.

FAIR MARKET GRAZING FOR PUBLIC RANGELANDS ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. SYNAR. Mr. Speaker, I rise today to introduce the Fair Market Grazing for Public Rangelands Act. This measure will be good for both the taxpayers and the environment.

The goal of establishing fair market value for grazing domestic livestock on publicly owned land administered by the Bureau of Land Management and the U.S. Forest Service had long eluded Congress and the administration. In 1934, in the midst of the Dust Bowl era, Congress enacted the Taylor Grazing Act in an effort to stop injury to public grazing lands by preventing overgrazing and soil deterioration, and to provide for their orderly use, improvement, and development. But it has not been an easy job. Those who graze their livestock on public lands often have very different views about the use of the land than do members of the public.

Indeed, despite the important legislative and administrative changes initiated under the Federal Land Policy and Management Act and the Public Rangelands Improvements Act, the end result has been unsatisfactory. Today, more than 55 years after passage of the Taylor Grazing Act, much of the public rangeland is still in unsatisfactory condition. The Bureau of Land Management [BLM] own data shows that 60 percent of our public rangeland will continue to be in fair to bad condition well into the next century. In many cases this is due to overgrazing. Meanwhile, some authorities estimate that grazing has reduced the biological productivity of Western lands to one-tenth their former levels.

Only 2 percent of the 1.6 million cattle producers in the country graze their cattle on BLM and Forest Service lands. Eight percent of the 336,765 farms and ranches with livestock in the 16 Western and Great Plains States graze their livestock on public lands. Despite this figure, livestock grazing is currently the dominant use of most public lands in the West—89 percent of BLM lands and 69 percent of Forest Service lands are leased for grazing, totaling about 250 million acres. Grazing is also allowed on most of the larger Western wildlife refuges, including 103 of 109 wildlife refuges in the U.S. Fish and Wildlife Service's Rocky Mountain region. And although national parks and monuments were specifically designated to preserve natural biological communities, grazing is allowed in many, including Grand Teton, Great Basin and Capitol Reefs National Parks, and the Black Canyon of the Gunnison National Monument. This encompasses almost all Federal lands suitable for grazing. Indeed, the acreage not leased is usually inaccessible, heavily forested, rocky, or otherwise unusable by livestock.

This year, domestic livestock grazers using public lands administered by the BLM and the Forest Service paid a fee of only $1.81 per animal unit month [AUM]. This is far below the fair market rate and contrasts with fees ranging as high as $14 per AUM on other Federal lands, State lands, and private lands. Ironically, the Bureau of Land Management currently charges a fee of $8.70 per AUM for trespass on public lands.

As chairman of the Subcommittee on Environment, Energy, and Natural Resources, I have had Federal grazing practices under review for several years. Our review has led me to conclude that grazing on our public lands is producing an ecological and fiscal disaster. Unless grazing fees are increased immediately, the Government will continue to encourage overgrazing of our public lands; the costs of the grazing program will continue to exceed receipts; and the taxpayer will continue to subsidize livestock that represents only 2 percent of total U.S. meat production.

I think it is time for a change. Over the past 5 fiscal years, the taxpayers have lost more than $500 million because grazing fees were lower than fair market value. As much as $150 million may be lost during fiscal year 1991 because the administration will not charge fair market value for the privilege of grazing cattle on 307 million acres of Federal lands in Western States.

I believe Congress should begin to phase in a more realistic grazing fee beginning in fiscal year 1991. For example, I believe that using the present trespass fee, $8.70 per AUM, as a standard for fair market value is reasonable as a goal to achieve over the next 4 years. Accordingly, this measure will establish a fiscal year 1991 grazing fee for Bureau of Land Management and Forest Service lands of $4.35 per AUM, or 50 percent of the trespass fee. Beginning in fiscal year 1992, the balance of the fair market value for Federal grazing rights would be phased in over 3 years. That would set the fiscal year 1992 fee at $5.80 per AUM, or 66.7 percent of fair market value, while the fiscal year 1993 fee would be raised to $7.25 per AUM, or 83.4 percent of fair market value. Finally, in fiscal year 1994, the grazing fee would be raised to $8.70 or fair market value, whichever is higher.

As a result of this action, Congress can reduce the domestic livestock grazing subsidy on public rangelands by more than $325 million over the next 4 fiscal years. In turn, these savings can be used to put the Federal range improvement activities on a pay as you go basis, reducing the need for annual appropriations and easing the enormous strain on the Federal deficit.

In recent days, the American people have been presented with a budget summit package that calls for deep cuts in vital domestic programs such as Medicare and stiff new taxes. Whether that package wins support of the Congress remains to be seen. However, I am convinced that we must move as quickly as possible to require the few who benefit from public rangelands grazing subsidies to pay their fair share.

Mr. Speaker, I urge my colleagues to join me in ending the abuse of our public lands by saving the taxpayer from unfairly subsidizing livestock production on public rangelands. Support the Fair Market Grazing for Public Rangelands Act.

ACHIEVEMENTS OF THREE HARNESS RACING ENTHUSIASTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. GILMAN. Mr. Speaker, permit me to call the attention of our colleagues the outstanding achievements of three harness racing enthusiasts all of whom will soon be honored with awards by the Monticello-Goshen Chapter of the U.S. Harness Writers Association: Richard Corbisiero, Jr., Jeana Yeager, and Barbara Galbraith.

Richard Corbisiero, Jr., chairman of the New York State Racing and Wagering Board will be presented with the Presidents Leadership Award for his hard work, integrity, dedication, and accomplishments in behalf of harness racing.

Mr. Corbisiero, who has been the chairman of the racing and wagering board since his appointment by Governor Cuomo in 1986, has statewide responsibility for harness, thoroughbred, and quarterhorse racing, six off-track betting corporations, as well as bingo and games of chance. All of these activities provide a major source of employment, in addition to generating tens of millions of dollars in revenues for the State and local governments.

Mr. Corbisiero, a graduate of Cornell, class of 1956, was a commissioned officer in the U.S. Army infantry after attending La Salle Military Academy in 1952. Before being appointed chairman, Mr. Corbisiero served as director of wagering systems from 1975 to 1979 and executive director from 1979 to 1986 for the New York State Racing and Wagering Board. He is also the chairman of the thoroughbred breeding fund and the standardbred breeding fund distributing millions of dollars annually to horsemen.

Jeana Yeager will be presented with the Good Gal Award for her many efforts in promoting harness racing. Jeana Yeager acquired expert riding and training abilities at an early age. Since then Jeana has established herself as a national heroine and become one of the most famous people in aviation history. She copiloted the Voyager in the first ever nonstop flight around the world in 1986. For this achievement Jeana received the Presidential Citizen's Medal of Honor. Jeana still loves harness racing and travels great lengths to participate in races. She has competed in the celebrity races at historic tracks over the past few seasons.

Barbara Galbraith, who will be the recipient of the Amateur Driver of the Year Award, has been an avid driver for many years and she is a co-owner of the Rodney Farms in Scottsville, NY. Barbara displayed her talents on July 1 at Goshen's historic track by winning the $10,000 final of the Billings Amateur Classic.

Mr. Speaker, Goshen, NY, in my congressional district, is proud of its heritage as the birthplace of harness racing and takes pride in housing the home of the trotter. The Monticello-Goshen Chapter of Harness Writers has eloquently portrayed the colorful history and charm of Goshen's leading role in harness racing.

Mr. Speaker, I invite my colleagues to join in congratulating Richard F. Corbisiero, Jr., Jeana Yeager, and Barbara Galbraith for their stellar achievements.

THE REUNIFICATION OF GERMANY AND GERMAN-AMERICAN DAY

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. BILIRAKIS. Mr. Speaker, today we truly come face to face with history.

Today we celebrate with the joyful German people in seeing their nation made whole again: reunited under the banner of the Federal Republic of Germany.

Out of the rubble of one of the century's most bitter symbols of repression, the Berlin wall, dynamited by and for freedom, is rising today a great engine for democracy, a strong and resolute economic power, a dependable ally for the West.

The frontier of freedom has been pushed forward several hundred miles to the East, Eastern Europe is being reclaimed and the shock waves of democracy are even now reverberating throughout the Soviet Union.

Yes, Mr. Speaker, German-Americans, those of German descent everywhere and lovers of freedom and opportunity around the globe truly have reason to celebrate on this day.

In fact, this is a special week for German-Americans. The reunification celebration will barely have time to subside before they will have the opportunity to strike up the band again in honor of German-American Day, October 6.

Steuben Society units and German-American clubs throughout my district and the entire Florida suncoast certainly will be no exception in observing the President's proclamation honoring German-American Day.

I have often said in the past that America owes Germany a great debt, for German nationals have played crucial roles in the very formation of our Nation.

Had it not been for General Von Steuben, who joined America's struggle for freedom in one of its darkest hours, the United States ifself might be a very different place today.

Indeed, in the numbing cold of a Valley Forge winter, Von Steuben taught General George Washington's army how to march and how to fight for its freedom. Without that instruction, the great Democratic Republic we know today might never have been.

But Von Steuben is only one of an honorable legion of Germans who have strengthened our society, improved our quality of life and generally helped make America what it is today. There was John Roebling's Brooklyn Bridge, Henry Steinway's magnificent pianos, and thousands of other unknown but skilled and dedicated artisans and craftsmen, brewers, carpenters and bakers.

Each of these people, great and unknown alike, have contributed to the spirit of America. Though they may not have had many advantages, they rose up in America to make a contribution. That is an important lesson for all of us to remember this week as we cheer with the German people and celebrate the friendship between our two nations.

REGARDING THE NOXIOUS MELALEUCA PLANT

HON. E. CLAY SHAW, JR.

OF FLORDIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. SHAW. Mr. Speaker, environmental experts often tell us that one of the best ways the average person can help the environment is by planting a tree. After all, trees are aesthetically pleasing, they help cool the Earth, they help remove the pollutants in the atmosphere, and perhaps most importantly, they produce the oxygen we breath. President Bush has set a policy goal of planting 1 billion trees a year for our Nation. And on the last Earth Day, untold numbers of Americans took their own initiative and planted countless trees themselves.

Although I am a strong believer in the environmental benefits of planting trees, there is one tree that grows in my home State of Florida that no one should plant. In fact, I would prefer if all growths of this particular tree would be cut down and forever banished from the State. This tree multiplies prodigiously, crowds out native plants, uses four to five times more water than other plants, and is turning a fragile ecosystem teeming with life into a dry, monospecific forest. On top of all this, many people are allergic to it. Its name: *Melaleuca quinquenervia,* or Melaleuca.

Melaleuca was introduced to Florida from Australia in the early 1900's. It was originally brought in as a potential lumbertree, and also to help dry up the Everglades, which was then considered a wasteland. Since it was introduced, Melaleuca has spread so rapidly throughout South Florida's native Everglades that it has become a serious pest. It now threatens to permanently replace and eliminate natural plant communities and the animals that live in them. Surveys of Melaleuca done in 1980 showed that it had infested over 1.5 million acres of the Everglades, with over 50,000 acres being dense, pure stands of Melaleuca. These pure, monospecific forests of Melaleuca are often so dense that neither animals nor people can move through them.

Predictions of the spread of Melaleuca indicate that over 50 percent of the Everglades wetlands would be infested by the end of the century. In many areas, these infestations are well ahead of predictions. More recent surveys have shown that over 3 million acres have been infested with Melaleuca. Intense and extensive wildfires which have recently plagued the Everglades have only helped to increase their spread.

Another serious problem with Melaleuca is that Melaleuca forests use four to five times more water per acre than do the sawgrass praires which are usually found before Melaleuca takes over. The Everglades provides all of the water that supplies the Biscayne aquifer, which is the primary water source for South Florida. With an already overburdened water supply, the addition of Melaleuca to the water recharge system of the Everglades may further lower our regional water tables, straining these already overused water supplies even more.

This tree is so hardy it is almost comical. I was told a story that a few years ago a local part-time winter resident spread Melaleuca chips over a section of his property, and then left to spend the summer in the North. When he returned to Florida the following October, his lawn was knee-deep in Melaleuca trees.

Another amusing story which illustrates the resiliency of this tree is the story of a gentleman who cut down a Melaleuca to make a picket fence for his yard. Incredibly, this gentleman later noticed that some of the pickets were found to be actually sprouting roots into the ground!

Because of the obvious threat the further spread of Melaleuca poses, the entire Florida delegation joined me in petitioning Agriculture Secretary Clayton Yuetter to list Melaleuca as a Federal noxious weed. After some long and arduous negotiations with USDA officials, USDA finally agreed to hold two public meetings on adding Melaleuca to the Federal noxious weed list. The first meeting will be held in my hometown of Fort Lauderdale, FL on October 29, 1990, and a second meeting is scheduled to be held in Sacramento, CA.

In addition to the Florida congressional delegation, the following people, Government agencies and organizations have also requested that Melaleuca be placed on the Federal noxious weed list. They are: Broward County (by unanimous resolution) Dade County (by unanimous resolution) the State of Florida Department of Natural Resources, Gov. Bob Martinez of Florida, Friends of the Everglades, the Everglades National Park, and the Exotic Pest Plant Council.

While USDA is in the process of listing Melaleuca, numerous Florida counties and communities have taken their own initiatives by passing ordinances that restrict the use of Melaleuca or require its removal from natural lands. They are: Dade, Martin, Collier, Broward, Lee, Palm Beach, and Charlotte counties, as well as the communities of St. Lucie, Sanibel Island, and Hollywood.

Unfortunately, the inclusion of Melaleuca to the Federal noxious weed list alone will be only the first small step to bring this pest under control. I requested, and the House passed as part of the fiscal year 1991 energy and water appropriation bill, (H.R. 5019) a small $250,000 appropriation for research into Melaleuca biocontrol. According to experts most acquainted with the Melaleuca problem, the best, long-range hope like Melaleuca is an approach called classical biocontrol. What is entailed with classical biocontrol is a careful survey of insects, and sometimes pathogens, in the pest plant's native habitat, which in this case is Australia. Once it is determined that

such insects exist, the ones deemed most promising are tested in their native habitat to be sure they only eat the one species of plant you wish to control; in this case, Melaleuca. It is then tested on native, horticultural and ornamental plants that occur in the area where control is desired; in this case, South Florida. Once the Australian testing is completed, the best insect species would be brought into strict quarantine in specially designed USDA facilities and tested again using strict criteria to ensure that these insects only eat Melaleuca. Only after this thorough testing are any of the insects released to begin their work. This approach comes from an understanding of the natural history and biology of a species and does not rely on a high-tech quick fix. While chemical control methods can be very useful and quite successful, they are only short-term, stop-gap methods designed to minimize the further spread of Melaleuca until the biological control agents are able to bring it under control.

Currently, a Melaleuca biocontrol project is under way at the Fort Lauderdale Research and Education Center in Fort Lauderdale, Florida, called the Aquatic Plant Management Lab, which is under the direction of the Agriculture Research Service, an arm of the USDA. Testing in Australia has begun, and over two hundred potential insects have been identified. Funding and support for this project is provided by USDA, the Army Corps of Engineers, the National Park Service, Everglades National Park, the Florida Department of Natural Resources, the South Florida Water Management District, and the Dade County Department of Environmental Resources.

Unfortunately, if one of the above donors decides to withdraw funding, the entire effort could collapse. This is why a $250,000 appropriation to accelerate the research, support staff in this country and Australia, and to fund a plan to build a modest quarantine facility in Fort Lauderdale is urgently needed. Clearly, the costs seem low when compared to the impending losses, especially the damage that will be caused to Florida's jewel, the Everglades.

Mr. Speaker, I am optimistic that this small $250,000 appropriation for Melaleuca biocontrol will be preserved in conference committee. I am also confident that Melaleuca will soon be listed on the Federal Noxious Weed List. While these actions will not eliminate Melaleuca from South Florida's unique ecosystem, it will help to bring this previously unchecked pest under control.

SUPPORT FOR THE "BRADY BILL"

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. YATES. Mr. Speaker, today, the House proceeded with consideration of a crime package which did not include an opportunity to consider the addition of the "Brady Bill," 7-day waiting period on the purchase of handguns.

This is a serious mistake. A 7-day waiting period on the purchase of handguns is a commonsense measure essential to a strong crime control program.

Seven days does not abridge individual rights. Seven days does not deny responsible citizens the right to purchase a gun.

Seven days does allow for a proper check of the individual who will receive this gun. Seven days will save some from an act committed in the heat of the moment. Seven days will save lives.

I would go much farther than a waiting period but I realize that many in the House do not share this view. For several years, I have authored legislation which would ban the sale, manufacture, and distribution of handguns to all except law enforcement and armed service personnel. I served in the Congress when our Nation reeled from the Kennedy and King assasinations. Congress acted by passing the 1968 Gun Control Act. It was a tremendous first step but we have much farther to go.

Today, we lost the opportunity to consider a reasonable and sound approach to address the insanity of gun violence raging now throughout the country. Cities are no longer safe from indiscriminate actions with deadly weapons. There must be an end to the senseless violence.

Seven days is not much to ask. Owning a gun is a great responsibility. Many States have seen the merits of a waiting period but many have not. We ask homebuyers to wait for the approval of their mortgage. Why do we not ask even the minimum of a gun buyer?

The House should have an opportunity to consider this legislation before the Congress adjourns for this session. It is plain common sense.

THE INTERIM COLORADO WILDERNESS PROTECTION ACT OF 1990

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mrs. SCHROEDER. Mr. Speaker, for years, Coloradans have tried to determine which areas should be designated as wilderness lands. Senator WIRTH and Senator ARMSTRONG have introduced separate wilderness bills to protect some of the most breathtaking land in the Nation. Representative CAMPBELL and Representative SKAGGS have also proposed wilderness areas. It is clear that there is broad support among the people of Colorado and the nation for legislation to protect the natural values of certain lands in the State of Colorado.

Despite support for expanded wilderness lands, there are many unresolved issues that have delayed any expansion of wilderness lands in Colorado. Everyone agrees that doing nothing only opens up more land to mining, logging, and other activities that could permanently threaten these areas.

That is why I am introducing the Interim Colorado Wilderness Protection Act of 1990. The purpose of this bill is to protect the proposed wilderness areas from development until the Congress makes final decisions on which areas would be designated as wilderness and which should be released for other purposes.

Some of the proposed wilderness areas are already threatened.

The Forest Service plans to sign a contract to allow logging to start next summer in the Sand Bench area of the proposed Piedra Wilderness Study Area in southwestern Colorado. Logging proposals are expected in other areas such as the Davis Peak additions to the Mount Airkel Wilderness Area near Steamboat Springs.

This bill is the same as Senator WIRTH's interim wilderness bill except that my bill includes land in the Bown Gulch Wilderness Act, which Representative SKAGGS introduced today.

This bill does not create any new water rights, and sets no precedent for past or future wilderness designations in the state. It explicitly states that it "shall not be construed to effect an express or implied reservation of water."

There is no disagreement about the need to protect portions of Colorado's wilderness for generations to come. It would be a shame to lose these areas while we work out issues such as water rights and boundaries. This bill gives us time to work out those difficult issues.

LAUGH AND THE GRAMMATICAL GOOF OF THE WEEK

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. JACOBS. Mr. Speaker, all rolled in one, here is the laugh and the grammatical goof of the week.

From a dear colleague's Dear Colleague letter:

There is perhaps no other position as (sic) sensitive as a member (sic) of Congress.

Now the brain surgeons and airline pilots can relax.

HONORING THE 75TH ANNIVERSARY OF THE DANTE CLUB

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. CONTE. Mr. Speaker, I rise today to congratulate the Dante Club of West Springfield, MA, on its 75th anniversary.

On November 7, 1915, a group of men gathered for the purpose of forming a club. These 29 men became the Dante Club Inc., named after Dante Alighieri, the greatest Italian poet and founder of the Italian language. This group set out to preserve and promote their Italian culture and tradition, as well as to help one another adjust to the United States.

The spirit of Dante lived in many of the Dante Club's chartered members, and initially membership in the club was restricted to Italians and sons of Italians from the region of Emilia, Italy. Later the Dante Club amended its rules and opened its membership to people

from other regions of Italy and men of other ethnic groups who married Italian women.

As the group grew they needed to purchase a new club house to accommodate all of its members. Through a bank loan and loans from each member, the Dante Club purchased a two-story brick building, which was formally dedicated on November 21, 1926. The new club contained a banquet hall, a kitchen, a bar and room for card playing and other functions. Bocce courts were also on the grounds, and Dante members constructed courts in the basement for inclement weather.

The Dante Club struggled through financial troubles, as well as building problems throughout the thirties. It was the determination and commitment of the members that made it possible to preserve the club.

A junior Dante Club was organized in 1926 for the sons of members. This group later disbanded, as the young men grew and became regular members of the club.

In 1935, the Dante Club's women's division was formed. The women's division has acted independently of the men's organization and the scope of the women's division has been to promote friendship, social activities, and service to the community.

Also in 1935, a bocce league was organized. Bocce is an ancient Italian game that requires nerve control and precision, and the Dante Club teams were dominant in this league for many years.

The Dante Club has also offered several banquets, raffles, and numerous other special events for its members over the years. It was able to increase its offerings in 1954 when the Dante Club relocated to its present location, the old Memorial School building in the town of West Springfield.

The old school was renovated in 1955, and the banquet hall has been maintained and improved regularly. The banquet hall is available to the general public for weddings and other large social functions, and in 1961, air conditioning was installed to make the club more appealing for these functions. And in its tradition of community service the Dante Club has donated the use of the hall on countless occasions to charitable and non-profit organizations.

In 1963, the club's constitution was amended to admit non-Italians to the membership. Today, there are approximately 850 members of the Dante Club, including 500 associates.

In the early-to-mid 1960's, many younger people became active in the club. These youths rejuvenated the club and its activities. This group gained election to the club's board of directors, and the board worked to generate more interest in the club by sponsoring dances, dinners, and other activities. Members of the club have also donated money to such organizations as the Shriners' Hospital, the Association for the Blind, the Open Pantry and the Holyoke Veteran's Hospital.

The large increase in membership in the club over the past 25 years is largely attributable to the construction of the Dante Club's racquetball courts and health center in 1970. It now runs a racquetball league that contains more than 6 divisions with more than 100 players participating.

There have been numerous improvements to the club over the past 25 years. After a fire in the kitchen, it was reconstructed. The banquet hall was remodeled as was the bar, a sattelite dish was installed for better television sports reception, and a jacuzzi hottub was added to the health center.

Mr. Speaker, this weekend, the Dante Club will host an open house, a ball, and a picnic to celebrate its 75th anniversary. I am proud to have such a club in my First Congressional District; one that has promoted community spirit among all its members. I would like to take this opportunity to congratulate all the members for their past successes and wish them all a very happy 75th Anniversary.

TRIBUTE TO DOMINICAN HIGH SCHOOL

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. HERTEL. Mr. Speaker, I rise today in celebration of the 50th anniversary of Dominican High School in Detroit, MI. On October 7, 1940, the feast of the Holy Rosary, Archbishop Edward Mooney blessed the Dominican campus marking the opening of the school.

This fine school is known as "A banyan tree on the east side of Detroit." A banyan tree is unique because of its process of sending out roots that reach the ground and form secondary trunks. Dominican High School has a similar characteristic. It has consistently graduated fine young women who, through their high school experiences, develop into pillars of society and positive reflections on Dominican, just like the secondary trunks of the banyan tree.

There have been important constants through the years at Dominican High School. The school was founded, and has always been run by, the Adrian Dominican Sisters. Throughout the last 50 years, the Adrian Dominican Sisters have fostered an atmosphere of academic growth based on the founding motto of the school: "Education for girls—Catholic, Cultural, Complete".

Along with these constants, Dominican has undergone numerous changes. These changes help keep the school competitive and help it maintain its ability to provide a strong education. Two of the most important changes involved the physical structure of Dominican High School. The first change was the building of a residence for the Adrian Dominican Sisters connected with the school. The second change occurred just recently when Dominican opened its doors to sixth, seventh, and eighth grade girls in response to the closing of several Catholic schools in the area.

The Adrian Dominican Sisters and the students at this extraordinary school have committed their minds, hearts, and souls in a continued effort to preserve and advance the Dominican High School community. Since its founding, Dominican High School has graduated 10,140 young women well prepared for life's challenges.

My dear colleagues, please join me in congratulating the Adrian Dominican Sisters and the Dominican High School students for this great accomplishment.

TRIBUTE TO ERLENE JONES

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, it gives me great pleasure and a wonderful sense of pride to bring to the attention of my colleagues the wonderful work of an outstanding New Jerseyan—Mrs. Erlene Jones. Mrs. Jones will be honored this weekend at the Christian Education Congress of the General Baptist State Convention of New Jersey.

In 1926, she came with her parents from Georgia, to live in New Brunswick, NJ, where she attended public schools. In 1937, she received a certificate from Middlesex County College. Further study was completed at the National Bible Institute in New York City.

Mrs. Jones acknowledging the suffering, as well as the joy, of the human condition, made a lifetime commitment to assist her community and its people. In addition to her employment at the Middlesex County Office of Economic Opportunity, an outreach and social services program, she was active with many organizations. These organizations include: The New Brunswick Area Council of Churches, the Vacation Church School and Youth Work Commissions, the Middlesex County Kiddy-Keep Well Camp, the YWCA, the NAACP, the Parenting Support Program at Middlesex County College, the Mayor's Neighborhood Task Force Pilot Program, the Nyerere Education Institute, the Police Athletic League, the Paul Robeson Community School Advisory Board, and the Committee for Neighborhood Improvement. Additionally, she is the founder and past president of the Second Ward Neighborhood Committee; founder of the Scholarship Fund Commission, Middlesex Central Baptist Association; and founder and president emeritus of the Christian Congress, General Baptist Convention of New Jersey.

While her commitment to people and community has indeed been a serious one, she has also taken that commitment one step further, making it extremely personal. She and her late husband, Robert L. Jones, became the foster parents to seven children. Erlene Jones has lived her life demonstrating her belief that to be of service to others and to meet the needs of others is her heritage and under God, her duty.

Mr. Speaker, I know my colleagues would like to join me as I congratulate Mrs. Erlene Jones and extend my heartfelt best wishes for continued success.

TO ERR IS HUMAN

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. AuCOIN. Mr. Speaker, on Thursday, the House is expected to consider several amend-

ments expanding the Federal death penalty in the Comprehensive Crime Control Act. I urge you to defeat each such amendment. The unavoidable, inherent flaw in these amendments is this: Humans are fallible, the human criminal justice system is fallible, and the death penalty denies us any opportunity to correct the all too frequent errors of judgment.

It has been noted before that to say that someone deserves to be executed is to make a godlike judgment with no assurance that it can be made with anything resembling godlike perspicacity. Indeed, the flow of the criminal justice system contains within it many points at which errors can be made, including arrest, investigation, trial, conviction, and sentencing. And at all these points exists the possibility for human error, whether it arise from the egotism of cops and prosecutors, the political insecurity of judges, or the eagerness of jurors.

The case of Marvin Wells demonstrates the opportunities for human fallibility. In September 1986, Wells was released from a jail in Michigan after waiting 8 months to be tried for a murder he did not commit. A commentary in the Washington Post described the system's defects well:

* * * The cops failed to follow a lead pointing to the man who later confessed to the killing; prosecutors were willing to ask for the death penalty with no significant evidence other than statements from witnesses who could not make positive identification; a judge, after learning Wells was innocent, left him behind bars for several more days partly to avoid the accusation that he was soft on crime.

The case of Marvin Wells is by no means an isolated incident in our criminal justice system. A 1987 study published in the Stanford Law Review by Hugo Bedau and Michael Radelet found that in this century 350 people were wrongly convicted of offenses potentially punishable by death and that 23 were actually executed. The actual number of wrongful convictions and executions is probably much higher, as the study reports: "After four years of sustained investigation, we do not know whether we have more than scratched the surface of the whole subject."

Ultimately, to put someone to death in our society means to assume that our criminal justice system is infallible. It is an assumption that cannot be made. Two more cases demonstrate the mistakes that are often made. In the first, Joseph Green Brown, now known as Shabaka Walini, came within 15 hours of his execution in 1983 when a courageous Federal court intervened to temporarily stay the death warrant. But it wasn't until 1987 that he was released after the key witness against him, and the only eyewitness to the crime, admitted that he lied when he testified that Brown was involved in the crime. This came after the defense for Brown had failed in three courts, and only one avenue of appeal would have remained.

Unfortunately, James Adams was not as lucky. He was convicted of first degree murder and sentenced to death in 1974. The evidence against him was considerable: Witnesses located his car at the time of the crime at the home of the victim; some of the victim's jewelry was found in the car trunk; and a witness identified him as driving the car away from the victim's home shortly after the crime.

It was later found that this witness was angry with Adams for allegedly dating his wife. Furthermore, a second witness testified that he heard a woman's voice inside the victim's house at the time of the crime, and that the fleeing person was not Adams. A month before the execution in 1984, a skilled investigator discovered evidence that proved Adams' innocence. A hair sample found clutched in the victim's hand, which must have come from the assailant, did not match Adams' hair. Despite such compelling evidence of Adams' innocence, Governor Graham refused to grant even a short stay, and Adams was put to death.

The stories of Adams and Brown are both tremendously tragic. How can Brown make up for 15 years lost serving time in jail for a crime he did not commit? How do we feel, as part of a system that has put Adams and at least 22 other innocent people to the grave? I think that, ultimately, the question is: How much do we value human life? As Bedau and Radelet state in their study: "Given the irreversibility of the death penalty and the availability of an adequate alternative punishment, the execution of any defendant is unnecessary and cannot be justified."

It is nobody's fault that the system is fallible. Any human institution will be fallible. What we can do to improve our system is minimize cases in which mistakes will be final. Thus, I urge you to oppose the expansion of the Federal death penalty in the Comprehensive Crime Act, and minimize the mistake which we cannot correct.

SUPPORT FOR H.R. 4300

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. WELDON. Mr. Speaker, today H.R. 4300 passed the House of Representatives. Although I have reservations about the huge increase in the overall level of immigration set forth by the legislation, I support H.R. 4300.

H.R. 4300 increases immigration by a minimum of 65 percent or roughly 300,000 people per year. It is truly a drastic step, and one I do not favor. This feeling is shared by the vast majority of my Republican colleagues, and there is little question that a Republican Congress would have passed a vastly different bill.

While I do not support the overall numerical limits in H.R. 4300, I am a strong advocate of the bill's provisions to remedy the imbalance in the ethnic makeup of immigrants to the United States. The current numerical limits on immigration discriminate against 34 old seed sources of immigrants such as Ireland.

Since 1965 United States immigration policy has focused on family reunification rather than country of origin, and the number of Irish allowed to immigrate has fallen by a full two-thirds. H.R. 4300 should reverse this trend by setting aside a full 55,000 visas for immigrants from the 34 old seed nations.

To reconcile the need to address the current inequity in immigration policy, while preventing the wholesale opening of U.S. borders, I voted for Representative LAMAR SMITH's amendment to cap immigration at 630,000 people per year, the same limit adopted by the Senate earlier this year. The amendment, which unfortunately failed, would have allowed for 130,000 additional visas per year and, more importantly for the Irish, included 50,000 visas for citizens of the 34 countries disadvantaged by current immigration quotas.

Although Representative SMITH's amendment failed, I feel that the need to address the current imbalance in U.S. immigration policy outweighs the detrimental impact of this increase in immigration, and I am pleased that H.R. 4300 passed the House. I am hopeful that the House-Senate conference committee can craft a compromise that ensures that both the current ethnic imbalance is adequately addressed and that the overall increase in annual immigration is reasonable.

A SPECIAL SALUTE TO MELVIN AND ROBERT FINCH, NATIONAL 8(A) GRADUATES OF THE YEAR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. STOKES. Mr. Speaker, I am proud to rise today to salute Melvin and Robert Finch, founders of M&R Mechanical Contractors, Inc., which is located in my congressional district of Cleveland, OH. The Finch brothers are the recipients of the U.S. Small Business Administration's "1990 National 8(A) Graduate of the Year Award."

This national award honors the success and contributions of firms who have graduated from the SBA's 8(A) program. The award will be presented by President Bush today at a White House ceremony that is being held in conjunction with Minority Enterprise Development Week.

Mr. Speaker, Bob and Melvin Finch are certainly deserving of this special honor and recognition. Melvin, who serves as president and Bob, who is vice president of M&R Mechanical Contractors, founded the company in 1978. The company specializes in the installation and maintenance of heating, ventilating, plumbing, and air-conditioning systems in commercial and industrial buildings. The company also installs and services fire protection sprinkler systems and provides maintenance for electrical systems.

M&R Mechanical Contractors is the fourth largest contractor in the State of Ohio. In its 12 years of operation, the company has grown to employ 40 people full-time and generates annual sales of more then $4 million. M&R Mechanical has grown because of its ability to complete projects on schedule while demonstrating quality workmanship.

Mr. Speaker, the U.S Small Business Administration certified M&R Mechanical Contractors for participation in the 8(A) program in July 1981. At the time of graduation, April 12,

1988, the firm had successfully completed 25 8(A) contracts totaling $3.3 million.

I want to share with my colleagues the remarks of Susan S. Engeleiter, Administrator for the Small Business Administration, in announcing the "National 8(A) Graduate of the Year Award" to M&R Mechanical Contractors. She said, "M&R Mechanical Contractors is a shining example to countless potential entrepreneurs across the Nation. The success of this family-owned firm shows that economic and social disadvantages can be overcome with commitment, good business sense, and no small amount of grit."

Mr. Speaker, I share the pride expressed by Administrator Engeleiter and join the Cleveland community and others throughout the Nation in saluting Bob and Melvin Finch on this occasion. They are innovative entrepreneurs who are changing the world today, and building a better tomorrow. I ask that my colleagues join me in honoring Bob and Melvin Finch—"8(A) Graduates of the Year."

IMMIGRATION BILL—GOOD FOR U.S. BUSINESS

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. TORRICELLI. Mr. Speaker, today the House passed H.R. 4300, the Family Unity and Employment Opportunity Immigration Act. I would like to call the attention of my colleagues to a provision that is based on H.R. 3128, legislation that I introduced earlier in this Congress.

This provision will restore stability to U.S. businesses operating in Hong Kong by significantly reducing the mass exodus of qualified personnel from that territory. With the approach of 1997 and the scheduled incorporation of Hong Kong into the People's Republic of China, thousands of professionals, fearing for their futures, are seeking opportunities in other countries.

Last year, in a discussion with Maurice Greenberg, chairman and chief executive of American International Group, I learned of the problems of U.S. firms in Hong Kong in attracting and retaining qualified professional personnel. For many years, Mr. Greenberg has been an important voice in the U.S. business community and a creative leader in shaping U.S. interests in the international arena.

The bill I introduced, and whose provisions are now found in H.R. 4300, would provide special nonimmigrant permits with deferred starting dates to Hong Kong resident employees of United States companies in order to help smooth the transition of Hong Kong from British to Chinese control.

Mr. Speaker, I am pleased that the Judiciary Committee, and now the full House, has approved this provision, which will make an important statement in U.S. foreign policy and strengthen U.S. businesses seeking to remain competitive in the vital Asian market.

TRIBUTE TO PROFESSOR B. L. HALE ON HIS 100TH BIRTHDAY

HON. JOHN J. DUNCAN, JR

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. DUNCAN. Mr. Speaker, Prof. B.L. Hale of Athens, TN, will turn 100 years old on November 4, 1990.

Professor Hale has left an imprint on each of the lives of his students over his long career as an educator. For more than 60 years, the taught and served as an administrator in east Tennessee schools.

Professor Hale has attributed his love for teaching to three people: To one of his own teachers in elementary school, to an uncle, and to Prof. J.C. Ridenour, who later became superintendent of Athens City schools.

The real heroes in life are those who inspire us to pursue excellence in whatever we each may do. These three people were the real heroes in the life of Professor Hale.

I am certain, too, that Professor Hale has in turn been a hero, an inspirer of many of his students. The 100th birthday party being held this year in his honor clearly shows that this is indeed the case.

Mr. Speaker, the class of 1933 of the McMinn County High School initiated a reunion in 1988 on Professor Hale's birthday. These former students have invited other classes at the school to join in honoring Professor Hale this year.

I commend these efforts on behalf of their beloved teacher. Also, I wish all the best to Professor Hale and his family. He is a truly remarkable man and a distinguished educator, and he fully deserves every kindness being shown to him on this occasion.

THE 79TH ANNIVERSARY OF FOUNDING OF REPUBLIC OF CHINA

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. GREEN of New York. Mr. Speaker, October 10, 1990, marks the 79th anniversary of the founding of the Republic of China. Many Chinese Americans and the Chinese Consolidated Benevolent Association [CCBA] of Manhattan, an organization consisting of 60 associations dating back to 1890, are preparing to celebrate that anniversary. I should like to offer a hearty endorsement of the CCBA's proposal to proclaim October 10 as Founding of The Republic of China Day in New York City.

Since October 10 is the 10th day of the 10th month, it is often referred to as the "Double Ten". Double Ten celebrations will take place throughout the city of New York in observance of China's anniversary.

October 10 will honor the Americans of Chinese origin who have made New York City their home. The social, cultural, and economic contributions of the Chinese-American Community have greatly enhanced the aura of that city. Likewise, we owe a great deal of gratitude to those Americans of varied descent, Asian Americans, Latin Americans, Italian Americans, and all those who give our country's citizenry its heterogeneous makeup.

At this time, I should like to offer my thanks to the Chinese Consolidated Benevolent Association and hope that its 79th anniversary celebration is an overwhelming success. Happy anniversary China.

CHILD CARE

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Ms. SCHNEIDER. Mr. Speaker, child care has been a growing problem ever since I came to office in 1980. In Rhode Island, the situation has become steadily worse—13,000 children now live in poverty, yet only 1,861 received child care assistance last year. Rhode Island only has the capacity to serve 25 percent of its child care needs. Mothers in Rhode Island who make less than $15,000 per year are paying at least 35 percent of their salary for child care. And 45 percent of working women in Rhode Island have children under 6. These figures are echoed nationwide, and the need will become increasingly serious as more women enter the work force. By 1995, 90 percent of women ages 25 to 44 will be working.

Finally, after lots of hard work and effort, we did something about it. On March 19, 1990, the House of Representatives passed the Early Childhood Education and Development Act. This comprehensive package is good news for Rhode Island and for the rest of the Nation. If we don't address our child care needs now, we will be paying the price in the future. But if we invest in child care now, we will be reaping the benefits in the future. For every $1 spent on preschool education, we get a return of $4.75 in benefits due to lower welfare costs and higher worker productivity. Sixty percent of AFDC recipients said lack of child care keeps them out of the work force.

This paper chain is a small section of over 200,000 loops which were made by children and their parents throughout the country to demonstrate the need for child care. Each link represents a child, parent provider, or community member advocating immediate completion of the House/Senate conference on child care. Volunteers held it from the White House to the Capitol as a visual symbol of support.

These are times of difficult budgetary discussions. Many needed and worthwhile programs may be cut in order to meet our deficit reduction targets. This is an expensive bill. But, I honestly believe now is the time for passage of this bill. We cannot lose the momentum we've gained so far, and have worked so long and so hard for. We must not forget that an investment in child care is an investment in our future. We cannot afford to let this measure die. If we do, we will be paying an even greater price.

DINNER TO HONOR PETER J. RYBKA

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. NOWAK. Mr. Speaker, on October 18, a testimonial dinner will be held for Peter J. Rybka, a long-time pillar of community service and activism in the Buffalo, NY, community who has devoted more than half a century of his life to organized labor. I would like to take this opportunity to share some of the many accomplishments of Mr. Rybka with my colleagues.

Mr. Rybka began his involvement in organized labor in 1930 when he went to work for Allied Mills. There he was an instrumental force behind the creation of the Flour, Feed, and Cereal Workers Union. He served in many capacities, from steward to business representative, until 1959. Along the way, the union joined with the AFL–CIO and became known as the American Federation of Grain Millers Union, Local 110.

In 1959 he was elected executive vice president for the American Federation of Grain Millers International Union and served with distinction in that post until 1983. Currently, he is president of the American Federation of Grain Millers Retirees, Local 110 and 36, chapter No. 1.

He currently serves on many labor related boards including; president of the Buffalo and Western New York AFL–CIO Retirees, vice president of National Council of Senior Citizens, and vice president of the New York State Senior Citizens Council.

Mr. Rybka has also served the community by donating his considerable talents in other civic arenas. He is a member of the Cheektowaga, NY, Zoning Board of Appeals, a member of the local and New York State Committee on Political Education. At one time he was elected councilman-at-large on the Buffalo City Council and briefly as its majority leader.

For the past half-century Mr. Rybka has served the community with great distinction. It is only fitting that the community take time to recognize his invaluable service.

I would like to take this opportunity to join many others in thanking Mr. Rybka for his selfless dedication to organized labor specifically and the western New York community in general and wish him continued success and good health.

TRIBUTE TO COMMANDER SIEFRIED HONIG

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. BORSKI. Mr. Speaker, I rise today to honor Commander Siefried Honig on his 25 years of service to veterans.

Born in Munich, Germany in 1930, Siefreid Honig came to the United States in 1947. From 1952 to 1954, he served in the United States Army in the Korean conflict and in Frankfort, Germany. After spending 2 years on active duty, Commander Honig spent 8 years in the Army Reserves.

Commander Honig was selected by Presidential appointment to serve in the U.S. Selective Service System. He also heads the Philadelphia Draft Board as its chairman.

Over the years, Commander Honig has served the American Legion as Mid-City Post Commander, Philadelphia County Commander, and Second District Commander. Throughout his 25 years of service, he has demonstrated a dedicated commitment to the welfare of veterans.

Commander Honig has been honored by the Philadelphia City Council, the State senate, and the State house of representatives for his many contributions to the well-being of our veterans, and their widows and children.

Mr. Speaker, I join family, friends and members of the American Legion in honoring Siefried Honig for his lifetime of dedication to veterans.

COMMENDING THE VOLUNTEER'S PARTICIPATING IN THE COMMUNITY PHONATHON SEPTEMBER 9–OCTOBER 4, 1990

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1990

Mr. BAKER. Mr. Speaker, I would like to take the opportunity to commend all of the volunteers who are participating in the Community Phonathon. Over 1,000 volunteers consisting of teachers, principals, parents, and community volunteers are calling at least 25,000 East Baton Rouge residents to rally support for the programs and operations of the Academic Distinction Fund.

The Campaign for Academic Distinction is a private sector initiative, fostering academic entrepreneurship, by investing directly in the work of individual teachers and schools through grants for innovative ideas and programs for schools in the East Baton Rouge Parish Public School System.

The phonathon aspect of the Campaign for Academic Distinction has already been highly successful. Over 4,300 pledges have been received for a total of over $79,000. Another 3,000 positive responses have occurred for over a 50-percent positive response rate. In addition, responses from other phases of this program have netted a total of $3.1 million to help support the education community.

The funds will to toward realizing the major goals of the Campaign for Academic Distinction:

Support educational projects of enterprising teachers.

Address special academic opportunities in a school-wide setting.

Will further academic excellence in our schools.

Brings a vehicle into the community to remind us of our moral obligation to provide funding for public education.

Attracts new industries into the area by providing an upgraded school system.

The astronomical success of all the phases of this program ensures excellence in the quality of education for all of us. It also shows that our community is actively making positive changes to our local education system.

All of the volunteers and contributors should be given our utmost respect and gratitude. I compliment all those who took part in this vital volunteer project.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 4, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 5

9:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine alleged fraud, waste and abuse in Federal student loan programs, focusing on activities of the Culinary School of Washington.
SD–342

9:30 a.m.
Joint Economic
To hold hearings on the employment-unemployment situation for September.
2359 Rayburn Building

10:00 a.m.
Foreign Relations
To hold hearings on the nomination of Ryan C. Crocker, of Washington, to be Ambassador to the Republic of Lebanon.
SD–419

2:00 p.m.
Judiciary
To hold hearings on the nominations of Thomas G. Nelson, of Idaho, to be United States Circuit Judge for the Ninth Circuit, Joseph M. McLaughlin, of New York, to be United States Circuit Judge for the Second Circuit, Donna M. Owens, of Ohio, to be Director of the Bureau of Justice Assistance, Department of Justice, Diane G. Weinstein, of the District of Columbia, to be a Judge of the United States Claims Court, and James B. Loken, of

Minnesota, to be United States Circuit Judge for the Eighth Circuit.

SD-226

OCTOBER 9

9:00 a.m.
Foreign Relations
To resume hearings on the nomination of Frederick Vreeland, of New York, to be Ambassador to the Union of Burma (Myanmar).

SD-419

9:30 a.m.
Governmental Affairs
To hold hearings to examine proliferation in the 1990's.

SD-342

10:00 a.m.
Foreign Relations
To hold hearings on the nominations of Linton F. Brooks, of Virginia, for the rank of Ambassador as Deputy Head of Delegation to the Nuclear and Space Talks, Juliette C. McLennan, of the District of Columbia, for the rank of Ambassador as U.S. Representative on the Commission on the Status of Women of the Economic and Social Council of the United Nations, Paula J. Dobriansky, of Virginia, to be Associate Director for Programs, United States Information Agency, and Robert A. Flaten, of Minnesota, to be Ambassador to the Republic of Rwanda.

SD-419

OCTOBER 10

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to review the sale of Semi-Gas Company, focusing on anti-trust issues and the Committee on Foreign Investment's views.

SR-253

Environment and Public Works
To hold hearings to review the recent Environmental Protection Agency Science Advisory Board report, "Reducing Risk: Setting Priorities and Strategies for Environmental Protection."

SD-406

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine alleged fraud, waste and abuse in Federal student loan programs.

SD-342

OCTOBER 11

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study to examine the bleaching of Atlantic tropical coral caused by the coral releasing algae and the resulting deterioration of the species.

SR-253

Governmental Affairs
To continue hearings on the Office of Management and Budget's response to the Federal government's management failures.

SD-342

10:00 a.m.
Foreign Relations
Business meeting, to consider pending calendar business.

SD-419

OCTOBER 12

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Mary S. Brunette, of Virginia, to be an Assistant Secretary of Housing and Urban Development.

SD-538

FEBRUARY 26

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.

345 Cannon Building

FEBRUARY 28

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Blinded Veterans Association, Vietnam Veterans of America, Military Order of the Purple Heart, and Non-Commissioned Officers Association.

345 Cannon Building

APRIL 17

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of AMVETS, Ex-Prisoners of War, Jewish War Veterans, and World War I Veterans.

345 Cannon Building

SENATE—*Thursday, October 4, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Is any thing too hard for the Lord? * * **—Genesis 18:14.

Dear God, this question directed to Abraham, Father of the faithful, is always relevant but especially at this critical time in our Nation. The magnitude of the issues, domestic and foreign, which the 101st Congress faces in its closing days, transcends imagination.

Omnicient, omnipresent, omnipotent Lord of the macrocosm and the microcosm, help us to walk in the light of Thy truth. Thou art the alpha and the omega. Thou knowest the end from the beginning and beyond to infinity both ways. Thou knowest the condition of our Nation, the nature and measure of the crises—moral, spiritual, and economic. Grant to the U.S. Senate and the leadership of the Nation wisdom beyond their knowledge and experience that they may be abundantly equipped in responding to the cosmic needs confronting them. Help us to understand that we are most independent when we are most dependent upon Thee.

We ask this in His name in whom dwells all power in Heaven and on Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 4, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. AKAKA thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, today following the time for the two leaders, there will be a period for morning business not to extend beyond 1 p.m., with Senators permitted to speak therein for up to 5 minutes each.

The pending business at 1 p.m. will remain the motion to proceed to S. 3037, the money laundering bill. As there is such broad support for this measure in the Senate, it is my hope that some agreement can be reached on this measure and that the Senate can proceed to consider, debate, and vote on this bill.

DEVELOPMENTS IN EUROPE: CONVENTIONAL FORCES AGREEMENT, THE UNIFICATION OF GERMANY

Mr. MITCHELL. Mr. President, the announcement by Secretary Baker and Foreign Minister Shevardnadze that an agreement has been reached on the Conventional Forces in Europe Treaty is welcome news. While the details of the agreement reached in New York have not yet been released, it appears that the two sides have satisfactorily resolved the major outstanding issues, making it possible for the treaty itself to be ready for signature in November.

When the Senate receives the treaty for advice and consent early next year, I hope there will be early and enthusiastic approval.

The CFE Treaty is highly significant. In conjunction with the dramatic political changes occurring throughout Europe, it will serve to transform the political and military landscape of the postwar world. For nearly half a century the most powerful military forces ever assembled faced each other poised for war. Now those forces will be reduced, armaments will be destroyed, the dangers of imminent conflict will diminish, and the basis for new order and security will be firmly established.

Resolving the outstanding CFE issues on the same day on which German unification occurred makes yesterday, October 3, 1990, an important watershed in the evolution of European politics and, indeed, of world history. The Federal Republic of Germany is now the government of all Germany. The former Communist state of East Germany has ceased to exist. It will not be missed.

Like many of my colleagues, I have visited Germany in the past year and have spoken with many of the individuals, from all sides of the political spectrum, who made this historic day possible. I particularly remember the account of one of the leaders of last November's peaceful revolution in East Germany, who told me that having spent his entire life trying to work within and reform the system in the East, he could no longer counsel his children to stay in East Germany. There was no hope for a better future under the old regime. He then became active in seeking that regime's end. Hundreds of similar courageous decisions by ordinary people, fed up with living under authoritarianism and state repression, have made this day possible. They are as responsible for this moment as anyone.

The achievement of a free, democratic, and united Germany—like the achievement of agreement on the reduction of conventional armaments—is a tremendous victory for the policies pursued by the United States and the Western Alliance since the end of World War II. More than once our resolve was tested, our commitment to a free Berlin and a free Germany was challenged, our ability to stay for the long haul was doubted. But the American people never wavered in their commitment to freedom and democracy in Europe. That commitment has now been rewarded, as a united Germany takes its place in the community of democratic nations.

The notion that we would be today acknowledging the unification of Germany would have seemed preposterous even a year ago. It might even have seemed unlikely 6 months ago. But the processes of change and reform set in motion last November, symbolized by the opening of the Berlin wall, accelerated rapidly, bringing us to the histor-

ic developments we have witnessed in the past 2 days. We have entered an era when history has speeded up, when the normal accounting units of time cannot capture the speed and the significance of events as they unfold. Faced with this dramatic pace of change, we must take special efforts to look forward, not backward, and to focus our common energies on the challenges of the future, not the legacies of the past.

The unification of Germany occurs against a backdrop of enormous change in East and Central Europe—and in the Soviet Union as well. These events are linked. German unification could not have happened so fast or so peacefully were it not for the simultaneous transitions to democracy occurring elsewhere in Europe. The long struggle by the brave men and women of Solidarity in Poland, the "Velvet Revolution" in Czechoslovakia, democratic elections and reforms in Hungary and the continuing efforts at reform in the Soviet Union all contributed to this dramatic moment in German history.

German unification could not have occurred if the leadership of the Soviet Union had not recognized that its continued effort to control Eastern Europe could not be sustained, and that the future lies in the voluntary association of free peoples, not in empires imposed and sustained by force.

Thus it can truly be said that we celebrate not only the unification of Germany, but also the democratic transition throughout Europe. It is because the unification of Germany takes place in the context of these larger political events that we can celebrate not only for the Germans, but also for all the people of Eastern Europe for whom the prospect of liberty and democracy are now more real than they have been at any time for 50 years.

German unity also takes place within the context of increasing unity in West Europe as well. As the European Community progresses toward a single market in the next 2 years, the critical role played in that process by Germany will be increasingly significant. Likewise, the political and security arrangements in Europe are changing in light of the developments of the past year and the outcome of the arms control negotiations. NATO will change its orientation and many of its functions as the Conventional Forces Agreement is implemented. Other institutions, such as the Conference on Security and Cooperation in Europe, will take on new and more important roles.

Within this changing context, the relationship of the United States and the uniting Europe will also undergo a transformation. This should be a transformation toward an even closer relationship, one founded not only on shared political interests and security concerns, but also on shared visions of the future, shared commitments to shaping the new Europe and a new century of peace on the European continent. The cooperation of the United States and Europe—all of Europe—must include not only working to consolidate the democratic victories in Europe itself, but must expand across the spectrum of global problems urgently needing solutions, such as poverty, environmental deterioration, regional conflicts, and the spread of weapons of mass destruction.

It is with this bright and exciting future in mind, I believe, that Americans have embraced enthusiastically the prospect of a united Germany. A united Germany is more than a vindication of American policy, American commitments, and American steadfastness for nearly half a century. It is also one element of the evolving Europe which provides opportunities for even greater progress in the future.

Through cooperation and common partnership, the United States and Europe can help shape the next century, turning it into a stark contrast between the century past. A century not for conflict and bloodshed on the European continent, as this century has been, but a century of cooperation, progress, development, and peace worldwide.

On Tuesday of this week the Senate Foreign Relations Committee voted favorably on the treaty on the final settlement with Germany. This treaty will be available for consideration in the Senate prior to our adjournment later this month. I believe it is only fitting that the Senate approve this treaty for ratification as soon as possible, thereby making the United States the first of the four victorious powers of World War II to acknowledge officially the end of that war's legacy and the beginning of the new era. The CFE Agreement will be the next concrete step in building that new era.

As was the case with the treaty on Germany and the CFE Treaty, the United States and Europe will address the future in partnership, confident that, having overcome the Berlin Wall and the division of Europe no challenge in the future will prevent us from being able to build together a world of freedom, human dignity, progress, and peace.

RESERVATION OF REPUBLICAN LEADER'S TIME

Mr. MITCHELL. Mr. President, I reserve the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN addressed the Chair.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business for not to extend beyond the hour of 1 p.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from New York is recognized.

Mr. MOYNIHAN. I thank the distinguished Presiding Officer.

THE REMARKS OF THE MAJORITY LEADER

Mr. MOYNIHAN. Mr. President, I would like to associate myself with the remarks of the majority leader both on the unification of Germany and the agreement announced in New York about the conventional forces agreement.

It was just 40 years ago I was first in Germany as a young ensign called back from the Korean war—Bremerhaven—Brahme, Hamburg, Berlin. I surely did not think then that I would be alive in 1990, or in 1989, to see the extraordinary events in Berlin and Germany as we did in all of Europe. As we struggle with some of our problems here, it might do well to realize what extraordinary things thought impossible were done in matters of weeks, and days even, in Europe in the last 18 months and more.

THE BUDGET SUMMIT AGREEMENT

Mr. MOYNIHAN. Mr. President, I rise to speak to the question of the budget summit agreement and to announce that tomorrow on the debt ceiling I will offer an amendment to return Social Security to a pay-as-you-go basis. Now that we have a large surplus in the trust fund—and a clear determination on the part of the administration to use the continuing surpluses as if they were general revenues, a great breach of trust—my proposal to return to our original pay-as-you-go basis seems to me to be enhanced.

A moment of background, Mr. President: On March 1, 1989, the National Economic Commission made its report to the President. It said that he had a serious budget deficit problem. We gave him the numbers for the year 1991—a deficit of $289 billion. And we learned on Sunday it is $289 billion. We were exactly on the mark. Next year, we said, it will be $292 billion. The budget summit thinks it will be $294 billion. We were close. It does not matter if were exactly on the mark. We said you will have a $300 billion deficit as far as the eye can see if we do not balance the current operating budget, and use the Social Security re-

serve to buy down the privately held debt.

The Democratic members said,

do not suppose that, if this does not happen, we are going to allow a surplus in a payroll pension contribution to be used to pay the interest on a $3 trillion debt.

The Democratic Party risks its soul if it lets the moneys collected from the first dollar of every waitress, every working wage earner, and every person in this country, pay the interest of people who own million-dollar Treasury bonds. That is what the budget summit proposes to do—on a permanent basis. Mr. President, I think the Senate is going to have to vote.

I will make the proposal to cut the Social Security tax rate over a period of 6 years. Beginning next January 1, 132 million wage earners will have an immediate increase in take-home pay. At the end of the transition period, a two-earner family will have an increase in yearly income of up to $1,544. Not a lot, some would say, but enough, Mr. President, finally to return median family income in constant dollars to the level of 1973. We were, in 1989, still $452 short of the 1973 level. We have had 17 years in which the average family has had no increase in the real earnings. There has been no other such period in the history of the American republic.

Returning to the traditional pay-as-you-go basis will in no way jeopardize the OASDI Trust Fund Reserve. At the end of this year, it will be $226 billion, 94 percent of annual outlay. By the end of 1995, it will be over $500 billion—half a trillion dollars—or 150 percent of annual outlay, which is more than enough.

And the case, sir, for returning to pay-as-you-go seems to be overwhelming in light of the budget summit agreement. Under the tax rates proposed from in that agreement, persons with an adjusted gross income under $10,000, will see their taxes will go up 7.6 percent. By contrast, those with incomes of $200,000, will see their taxes go up 1.7 percent. Taxes will go up five times as much for the people in the lowest tax brackets as for people in the highest. Mr. President, this simply continues the trend of the last decade toward a more regressive tax system.

In the summit agreement there was a little surprise, Mr. President, with respect to unemployment compensation. Unemployment Compensation is a title of the original Social Security Act. In the manner of the 1930's, the general program was established in Washington; it was left to the States to provide specific levels of benefits.

The labor movement has been trying to get national standards on unemployment insurance and, sir, I can report that they may be about to do so. The summit proposes that there is going to be a national standard: Everybody has to wait 2 weeks before getting any unemployment compensation, after having been laid off, having lost their job, whatever. Forty-one States already have a 1-week delay. Now it will be 2 weeks; a total of 8 million wage earners next year will lose 1 week's unemployment compensation. That is what we do in the name of a progressive income tax structure of deficit reduction.

As regards the prospects of a recession, any number of able economists have, over the course of the year, said that we need the stimulus of an increase in take-home pay for persons paying Social Security. It surely can be seen that an immediate increase in take-home pay, which, under my proposal, would take place the first week in January, is very much in order in a flat economy with no growth—possibly negative growth—and is needed. I do not think, Mr. President, we absorb this fact easily, because it is a fact we have never known before in our national history. Average weekly earnings in our country today are lower than they were when Dwight D. Eisenhower was President. Families have made do by having wives go to work.

The hardest part of the budget summit agreement from a point of view is that it treats Social Security revenues as general revenues. But every penny of Social Security taxes paid by employers and employees goes into a numbered account with someone's name on it. These are no general revenues. Yet, we are using them as such, and the budget summit, incredibly, proposes to make the use of them as general revenues permanent. It brings Social Security back into the consolidated budget. That is something I never thought I would see agreed to and which I, for one, as chairman of the subcommittee on Social Security, will not abide by, will not countenance. Mr. President, these are trust funds. These are not general revenues.

To use them in any other way is to abuse that trust. In the meantime, employers, particularly small businesses, need the increase in retainable revenues that they will gain through a reduction in the payroll tax. Employees need it, and the integrity of the system needs it as well.

I see on the floor my able friend and colleague from Pennsylvania, Senator HEINZ, who was once asked what did he think of the way we were using the trust funds. He said there is a word for it—"embezzlement." Well, sir, now we are institutionalizing it, and I say the opportunity to say so will come tomorrow when I offer that amendment.

I thank the distinguished Presiding Officer.

Mr. HEINZ addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, I am not actually here to rise on the subject mentioned by the Senator from New York, but I associate myself with a good part of his comments. I reserve judgment, because I did not hear all of his comments. But I particularly appreciate the small footnote that he accorded me with respect to embezzlement and, indeed, that is the term that I used to describe this misapplication of the Social Security surplus. I will have more to say about that at another time.

HUGH SCOTT'S 90TH BIRTHDAY

Mr. HEINZ. Mr. President, I rise today because the day before yesterday a number of us, Senator SPECTER, Senator DOLE, and I, held a small reception in honor of Hugh Scott, my predecessor, the man whose seat I hold. It was in honor of his 90th birthday. It is easy to remember the year in which he was born, 1900, and to figure out how old he is. I wanted to reflect on that occasion and the fact that his birthday is going to take place in a few weeks. The U.S. Senate is privileged to serve as a very unique institution, because there is no other body where a legislator's rights are more expansive, nor where accomplishing the great work of a nation is more dependent on the sacrifice of those rights.

The principle of comity, that is to say, the voluntary surrender of our individual rights as Senators, is indeed so ingrained in our behavior that it does become routine. The issues we address may be as current as today's headlines, but the manner in which we do so is ingrained in history. To enter the Senate is to serve, temporarily, in a Chamber of timeless tradition.

These observations reflect truths which are never far from our minds, but they are particularly salient for me, as I rise to bring to the Senate's attention the significant milestone in the life of one of our colleagues, Senator Hugh Scott, who will celebrate his 90th birthday on November 11 of this year.

When Hugh Scott retired from the Senate in 1976, after three terms, it was his seat and his vote with which the people of Pennsylvania entrusted me. Although I now have served for 14 years, there remains about this seat the aura of Hugh Scott, of Pennsylvania, for he is indeed the empitome of what it means to be a Senator of the United States.

Sometime words are clumsy tolls, Mr. President. That is certainly so when it comes to expressing the depth of my affection and respect for Hugh Scott. This is a man I was proud to call "boss" for the year in which I served him as a Senate aide. This is a man to whom I turned for a good deal of advice at the outset of my own politi-

cal career. He is a man who gave very freely of his time, energy and wisdom, and this is a man I have been privileged to call my friend for over a quarter of a century.

Mr. President, from time to time it is important to pause in our work around here to reflect on how we can best serve America's interests. On those occasions, we look to those who served this institution extremely well. They are archtypes for our own conduct. In offering the resolution that we will be offering about Hugh Scott, we pay tribute not only to his achievements for Pennsylvanians but also to elevate, as a model before us, his legacy of comity and courtesy for the good of the Senate and for the good of our Nation.

In Hugh Scott's years of service, America faced challenges no less serious than those before us today, because in that time America reeled from successive crises in our Nation's leadership, the assassination of one President, the impeachment of another, the murder of Martin Luther King, Jr., and Bobby Kennedy. For the better part of his service, this Nation was torn apart by the struggle in Vietnam; that war and the struggle for civil rights. Americans grappled with the issues of evident inequality between North and South, black and white, young and old; and ever on the horizon, the burdens of international leadership: The Cuban missile crisis, the nuclear arms race, and the race to space.

It is undeniable that Hugh Scott's voice and his vision made a difference. Four times he was chosen to lead his party in the Senate. And while his Senate colleagues took note of his accomplishments in many legislative fields—foreign policy and opening the door to China, law enforcement and his antitrust and anticrime reforms, or constitutional issues and crafting of the War Powers Act—that is not what was foremost in their minds when they bid him farewell in 1976.

What his colleagues appreciated most was his charm and his quick wit. Senator Mansfield, the Democratic Leader at the time, quipped that the thing he would miss most about Hugh Scott would be the daily exchanges with him, particularly "the bon mot of which he is master and so often sent the media to the dictionaries and myself to distraction."

His fellow Senators remembered his profound scholarship, his decency and grace, and the times when they turned to him for advice, counsel, and help.

The Senators who served with him recalled his passion for human dignity, his powerful and moving eloquence, reflected in his leadership in forging landmark civil rights legislation: The Civil Rights Act of 1964, the Voting Rights Act of 1965, the Fair Employment Practices Act, the Fair Housing Act, and so many more.

Above all, his colleagues valued what he had done for this institution. His colleagues remarked on the many times that the policies enunciated in the Chamber were the policies of the joint leadership, not just the Democratic leadership, but the joint leadership. They marveled at the ability of Senator Scott and Senator Mansfield to compromise, to reach an understanding, and to present a unified front so that the business of this Chamber and this country would be accomplished.

As one of his colleagues put it, Hugh Scott, "Preserved the comity of the Senate for 7 of the most trying years in our Nation's history."

So, as we commemorate Senator Scott's birthday, I would hope that my colleagues would reflect for a moment not only on what this man has done for this country, but also what he means to this institution, what his life here tells us about being Senators of the United States and what it takes to make this body worthy of the high ideals and achievements to which we are heirs.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Indiana is recognized.

THE BUDGET AGREEMENT

Mr. COATS. Mr. President, I have little enthusiasm for what I am forced, by conviction, to say this morning. The President and the budget negotiators have given a full measure of their effort to the budget plan that is before us. Each side has made concessions that require a little courage. They have shown persistence, have shown a great deal of patience and they have produced what seems to be the best political compromise possible.

But, our task is not to soothe the extremes between the parties or conflicts within the Government. Our task is to ensure that Americans continue to work and families are not forced to live with the strains of an uncertain future. And in this respect, the budget package fails.

I may be a reluctant critic of this budget plan, but I am a realist. Over the last few days I suspended making a final decision. I listened to the argument as made by the administration, by the leadership. I read all the fine print because I think every Senator owes the President an open mind.

But every Senator owes the people of his State an independent judgment. And in my judgment, my conviction is that this package is a destructive combination of poor timing and misplaced suffering.

As I approached the budget debate over the past few months, I set four standards to guide my considerations, standards that I thought were determined by economic reality and some common sense principles.

First, the plan would need to include real, fairly distributed, budget cuts.

Second, it would need to reform the budget process itself, a process that currently encourages deception and mass waste.

Third, it needs to encourage economic growth, particularly as a recession threatens us.

Finally, it would need to avoid putting new tax burdens on Americans who are already bled dry.

On each of these reasonable standards, the package before us fails. First, its budget cuts are uneven, sometimes illusory and basically inadequate to the problem at hand. The defense is the only major discretionary cut in the first 3 years, but in that same period domestic discretionary spending will rise by $23.6 billion, an increase of 12 percent.

In addition, many user fees are actually considered spending cuts, including new Medicare charges, creating an illusion of restraint. Seventeen different fees are to be increased generating $14.2 billion in revenue, but all are mysteriously counted as spending reductions, even excluding the cost of deposit insurance bailout. Total spending will actually increase by more than $220 billion over the next 5 years, 18.4 precent.

Second, the budget reforms are partial and inadequate, disappointing my own hopes and the hopes of many others of real change. Caps on appropriation spending are a useful idea and could help instill some restraint. Even these can be violated in emergencies that the Congress itself finds, including the later discovery of faulty economic assumptions. In fact, a special budget summit is called for 1993 to adjust economic estimates. Higher spending explained by these changes would be exempt from spending limits.

In addition, several large accounts are exempt from spending cuts in the first place, such as the International Monetary Fund and Egyptian debt forgiveness.

We had here a real opportunity to make some meaningful budget reforms, changes that could actually enforce spending restraint in the future. A balanced budget amendment to the Constitution could have been included or at least proposed.

I have had a plan for several years now for a legislative line-item veto, giving the President real power to cut congressional waste and excess. But these were rejected. Real budget reforms that would assure the American people that Congress has at long last faced up to its spending addiction are nowhere to be found in this agreement.

Third, the budget plans few growth incentives, and tax credits are finding themselves—or maybe they play out as intended, but they adopted an approach that has no history of success. Instead of cutting taxes across the board, they target particular kinds of investors for special treatment. Targeted growth does not work. It needs to be broad based to have the effect that we want. No real incentives to stimulate savings, investment and growth are evident in this package. The incentives that do exist may misdirect investment simply in the tax shelters.

And since the tax policy of the Congress is required in the package to be deficit neutral, in the future every tax cut to stimulate economic growth is mandated to be balanced by equal tax increases elsewhere. That will be a major handicap if we end up in a recession, a recession that this package could cause.

Finally, and most importantly, though many of the spending cuts are phantoms, its taxes are very real. This package is the second largest tax increase in our history, the largest if you count its fees as taxes. Over the next 5 years, explicit taxes would raise over $130 billion. Including hidden taxes, that burden rises to well over $170 billion. With the recession predicted this year, taxes would still increase $16.2 billion in fiscal year 1991 alone. These burdens are imposed even though tax revenues are already expected to increase by $397.8 billion over the next 5 years due simply to economic growth.

There seems to be no end to our appetite for public funds. And who suffers? It is the middle class that always seems to pay the bills for bigger Government; that is, after all, where the real money is for legislators. There is simply more of them to tax. Gasoline taxes, tobacco taxes, alcohol taxes, these are the things that hurt average Americans with limited resources, farmers who drive their produce to market, workers who commute to their jobs.

The fallacy of the hour in Washington is that Americans are somehow undertaxed. But nothing could be further from the truth. Tax freedom day, the day when Americans stop working for the Government and begin working for themselves, was May 5 this year, the latest it has ever been. People do not believe they are taxed too little nor should they. They feel these burdens are already destroying their hopes and limiting their future. They have reason to fear. The greatest danger of new taxes is not even their direct effect, it is the fact that they bring recession 10 steps closer.

Most people I talked to in Indiana, in the back of their minds, are still haunted by the fear of recession. Memories of 1982 and 1983 are still fresh and the wounds go very deep. I have friends, personal friends, who lost their jobs. I saw respected businesses close their doors; families live with the strains of unemployment and despair.

I came to Congress to be part of the solution to that problem. Our goal is growth. We started with lower taxes, we fought unnecessary regulation, and we laid the foundation for America's longest peacetime expansion.

In Indiana the lower taxes of the 1980's brought lasting prosperity and increased taxable income. From 1983 to 1989, my State saw a 16-percent increase in total employment. We underwent a construction boom with a 38-percent increase in construction jobs. We had a 13-percent increase in real earnings. But now the lessons of a decade are being forgotten in a moment. We stand at the edge of a cliff. When you venture to the edge, it is difficult to see the bottom.

Taxation now takes 19.6 percent of our gross national product. Only twice before since World War II has that figure gone over 20 percent. Each time America was immediately thrown into a sharp recession. Never has it be so obvious that the power to tax is the power to destroy. Paradoxically, it is tax revenues that are among the first to suffer in a slump. A mild recession next year of 1 percent negative growth for four quarters would cause revenues to decline by $300 billion over 5 years. Our carefully constructed budget plan will lay in ruins, a victim of its own blindness.

This economy is currently just treading water. GNP is stalled. Job growth is slow. There is no economic theory yet devised by the human mind, not monitorists, not Keynesianists, not supply side, not socialism that would recommend a tax increase in times like these. It is a suggestion without a father of thought in any school of economic thought. It is an idea that has lost its root in reality. A recesssion, simply put, will not raise revenue. The cost will be even higher than that. In such a recession, the rich might lose some investments, but working Hoosiers will lose their jobs. The wealthy might feel the pinch in the portfolios, but Hoosier workers would know the pain in their families.

There is only one way out of this mess. We must reaffirm our commitment to growth. This is the way to serve pressing social needs. This is the way to increase tax revenue without increasing tax rates. This is the way to secure our future and help our families. I have heard it argued that we must support this plan because there are no real alternatives. But we do not lack for good economic ideas. We lack for political will.

I support the imposition of a real spending cap, the so-called 4-percent solution. Under this plan, ironclad outlay targets would be set at 4 percent above the previous year's actual spending level. The decision to extend and increase Gramm-Rudman targets allows us to use this cap to prevent draconian cuts in individual programs. Each program could be kept at its current level, but this would allow us to reduce spending increases this year, $42 billion worth alone. Coupled with yearly revenue increases, which this year are estimated to be more than $70 billion, we could have a balanced budget by 1977.

Mr. President, I also support a pay-as-you-go clause in the budget process, the requring that any spending increase be offset by a corresponding spending decrease. I support giving the President a line-item veto to shed some light into the dark corners of the congressional budget process, and I support indexing of capital gains to end the taxation of inflation, stimulate growth, and to increase American competitiveness.

There are any number of things we can do, but new taxes provide only the illusion of responsibility. They deliver nothing that they promise because our real challenge is growth, our real problem is spending, and our real need is to resist a return to the tired politics of tax and spend.

Mr. President, I oppose this package for a simple reason: I fear the cure will kill the patient.

Mr. President, I yield the floor.

RETIREMENT OF JOAN MARIE DONAHUE

Mr. DOLE. Mr. President, the most valuable service to the people and Government of the United States is often rendered by quiet professionals, who work diligently over many years, in relative anonymity. Largely unknown to the American people, their extraordinary careers end without public recognition. Whenever possible, such contributions should be acknowledged.

Yesterday marked the end of one such extraordinary career: Joan Marie Donahue is retiring after a 37-year career with the Central Intelligence Agency. During her many years with the Office of Congressional Affairs, Joan provided valuable assistance to the Senate on numerous occasions. At times, the Office of Congressional Affairs may have been the toughest Assignment at CIA; but Joan Donahue stayed with it for more than three decades. In recognition of her outstanding service, Joan was awarded the Agency's highest award: the "Career Intelligence Medal."

Mr. President, Joan Donahue remained true to her oath to "support and defend the Constitution of the United States" for 37 years. She is one of the quiet professionals who deserve

our gratitude and whose efforts are worthy of public recognition.

Mr. President, I ask unanimous consent that the citation issued by the Central Intelligence Agency in awarding the "Career Intelligence Medal" to Joan Marie Donahue be printed in the RECORD.

There being no objection, the citation was ordered to be printed in the RECORD, as follows:

Joan Marie Donahue is hereby awarded the Career Intelligence Medal in recognition of her exceptional achievements with the Central Intelligence Agency for more than thirty-seven years. Throughout her productive career, she displayed the personal characteristics of extraordinary industriousness, perseverance and sound judgment. Wherever she was assigned, she was diligent and effective in every task she was given. As a result, she was given positions of increasing responsibility, culminating in her designation as Chief of Administrative Support for the Office of Congressional Affairs. During her more than thirty years in the Office, she developed a knowledge of congressional matters and personnel that was invaluable to its successful operations. Her commitment to excellence, to the Office of Congressional Affairs, and to the Agency is indeed deserving of the recognition provided by this award. Her entire career reflects high honor upon herself and the Central Intelligence Agency.

MANUFACTURED HOME OWNER'S BILL OF RIGHTS

Mr. REID. Mr. President, almost 13 million American live in manufactured homes. Nationwide, 26 percent of those in manufactured homes are retired, 29 percent hold blue collar jobs, 23 percent have income less than $10,000 and 35 percent have income between $10,000 and $19,999.

In my State of Nevada, 150,000 people, 18 percent of the population, are housed in 63,000 manufactured homes. The numbers are similar throughout the South and Southwest. In Arizona it is 9.3 percent and in Florida 16 percent. These statistics indicate mobilehomes are an attractive housing alternative for millions of American particularly those of modest income.

A significant number of Americans now live in manufactured housing. Yet, these Americans are subject to attacks any other group of a similar size would never experience.

Many low-income residents of manufactured homes do not qualify for Federal assistance to help defray the cost of space rentals. The Department of Housing and Urban Development refuses to exercise any flexibility on this issue and thus denies rental assistance to thousands of otherwise qualified Americans.

Legislation approved by the House will enable producers of manufactured housing to build poor quality homes. In addition, the manufacturers would be exempt from repairing such flaws.

Some mobile home park owners take advantage of their residents on fixed incomes. They will raise rents well above the rate of inflation knowing full well residents will not move to a cheaper park due to the expenses associated with moving a mobile home.

Many municipalities restrict the location of manufactured housing—particularly mobile homes—to only the most undesirable and dangerous areas of a community.

This assault on the rights of manufactured housing residents is unfair. It must be stopped. The National Federation of Manufactured Home Owners have developed a manufactured home owner's bill of rights. This document established a 10-point program to protect owners and residents of manufactured housing. I urge all of my colleagues to study and support these 10 goals. Furthermore, the Senate Committee on Banking, Housing and Urban Affairs should include the provisions of this document in housing legislation it considers during the next Congress. It is the fair thing to do.

Mr. President, I ask unanimous consent that the Manufactured Home Owner's Bill of Rights be entered into the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

MANUFACTURED HOME OWNER'S BILL OF RIGHTS

1. The right to a safe, durable, quality constructed, affordable home which has been built, inspected and delivered to the homeowner's installation site in compliance with applicable federal and state construction safety standards which are updated and maintained to be kept current to equivalent safety requirements for other types of housing.

2. The right to a safe, professionally installed home which shall be sited in conformance with applicable state and/or local manufactured home installation requirements by qualified, competent personnel.

3. The right to have any defects found in a new home corrected by either the manufacturer or dealer in a safe and expeditious manner to the satisfaction of the purchaser and in accordance with applicable federal, state and local laws.

4. Contractual obligations made by a manufacturer or dealer of manufactured housing to a purchaser or any obligation the owner of a manufactured housing community makes to any resident contained in a lease or rental agreement shall be honored and met expeditiously.

5. Residents of manufactured housing communities shall be entitled to clean air, safe drinking water, sanitary sewage disposal, utility services, open space, police and fire protection, trash disposal, and similar services enjoyed by residents of conventional single-family homes.

6. Regulations governing residency in a manufactured housing community shall be fair and equitable to all residents.

7. Regulations promulgated by any manufactured housing community owner shall not have the effect of discriminating against any resident on the basis of religion, nationality, sex, marital status, fair housing standards, or number of members in a family or in any way deprive them of the rights and privileges of single-family homeownership enjoyed by owners of conventional single-family homes.

8. The right that residents of manufactured housing communities shall not be subject to unconscionable, unreasonable, and unjustified lot rental increases nor shall the regulations promulgated by any owner of a manufactured housing community unduly restrict the resale of a manufactured home located in that community by the home owner to prevent the purchaser from keeping the home in the community after ownership.

9. Zoning ordinances, and state and local building and housing codes shall not be discriminatory with respect to the amount, type or location of suitable land where manufactured housing can be located.

10. Statutes enacted by the Federal or State Governments shall treat newly constructed manufactured housing whether located on private property or in a residential manufactured housing community the same as conventional single-family housing.

RETIREMENT OF ROBINSON O. EVERETT, CHIEF JUDGE, U.S. COURT OF MILITARY APPEALS

Mr. SANFORD. Mr. President, on September 30, 1990, Robinson O. Everett of Durham, NC, will be retiring after serving for more than a decade as chief judge of the U.S. Court of Military Appeals. Under his brilliant and charismatic leadership, the Court of Military Appeals has evolved into one of the most respected and innovative courts in America. The indefatigable, personal effort he exerted toward realizing this goal represents one of the most remarkable examples of judicial commitment and dedication that could be displayed.

His ceaseless concern has always been to reconcile the demands of highest justice with the requirements of military discipline. He has written hundreds of judicial opinions, many of which have resolved some of the most difficult questions in military and constitutional law. His many landmark decisions will surely have a lasting influence on military jurisprudence for decades to come.

Chief Judge Everett's other major accomplishments are equally stupendous. Within a year after his arrival at the court, he converted the court's docketing system to a completely electronic computerized system, which resulted in a great reduction in the cost of managing and retaining the court's recorded docket entries on all cases. This electronic capability also gives the court instantaneous access to all the court's docketing records. Furthermore, during his first year as chief judge, the court accomplished an astonishing 82-percent increase in the court's final dispositions on the master docket over the previous year, cutting in half the number of cases pending on the master docket. In recent years, the year-end pending cases have been

reduced to a record low, and the time required to process cases before the court has also been dramatically reduced.

Judge Everett has been a model educator who has relentlessly sought to improve the professional skills of both military and civilian practitioners. In 1983, he reshaped the court's annual Homer Ferguson Conference and redesigned it not only to give military lawyers—but civilian lawyers as well—an opportunity to develop and maintain excellent skills required for appellate court practice within the military justice system and elsewhere. To make these training programs readily available to all lawyers, he had the conferences videotaped and made special arrangements to have portions of the conferences televised on C-SPAN. He also conceived and developed a documentary videotaped program produced for use by military lawyers and military educational institutions, as well as distribution and use by civilian law schools and community education programs both in the United States and overseas. This video, the first of its kind, explained the entire process of trial and appellate procedures in a military court-martial case with particular emphasis on the appellate judicial responsibilities of the civilian U.S. Court of Military Appeals.

The judge has been exceptionally devoted to promoting public awareness of the fairness and progressiveness of military justice. He has never been too busy to say no, and addressed military and civilian conferences, seminars, training workshops, meetings of various bar associations, and law schools throughout the country. These judicial visitations and speeches have kept the military and civilian communities fully apprised of the court's responsibility in the administration of military justice; have improved the professional and legal education of military and civilian lawyers; have provided an interchange of ideas beneficial to the military community in general; have provided the court an opportunity to ascertain the impact of its decisions on the administration of military justice; and have helped to develop a better appreciation of the operational problems in the various services.

One of Chief Judge Everett's most innovative programs was reaching out and taking the court to the people. For the first time in the court's history, the judges traveled outside its own courthouse to hear oral arguments in several actual appeal cases. Some of the cases were held at various law schools and at the West Point Military Academy. These convenient hearings provided an excellent opportunity for members of the academic community, military, civilian judges, lawyers, law students, and future military leaders of the U.S. military academies to meet with the judges and view how court-martial cases are presented by appellate advocates for decision by the court.

The court also had televised an actual hearing conducted in the courthouse, which was later televised nationwide on the C-SPAN Television Network as a part of a 3-hour special program on military justice and the appellate review of court-martial cases under the Uniform Code of Military Justice. The project exemplified great visionary and very creative leadership on Judge Everett's part. The military community, the legal profession, and the general public have become more aware and appreciative of military justice and the Court of Military Appeals, as they have never before, by seeing on television how efficiently and well it works. The court's remarkable success in allowing the first telecast of an actual Federal court proceeding may have been the catalyst of the recent decision of the Judicial Conference of the United States to reverse a ban in effect for decades in this country to allow televisions in some of the article III courts in a 3-year experimental program.

Actually, during the last decade, under the consummate leadership of Chief Judge Everett, the U.S. Court of Military Appeals has become one of the most public and most utilized courts in the Nation today. There have been various moot court competitions held in the court; various law school alumni meetings and functions; meetings and receptions held by different voluntary bar associations; and the court was recently the site of the historic administering of the first national junior high school bar examination. Furthermore, students—from preschool to college—are always visiting the court and meeting with the judges. Cadets from the military academies have worked on special projects at the court, and law schools students also have done summer interns there. Even weddings and marriages have been performed in the courtroom for the first time. It is clear that the U.S. Court of Military Appeals has now become one of the most accessible and most utilized public courthouses in America.

Perhaps, there are few judges who have so enthusiastically and relentlessly devoted so much time at promoting better understanding of the American legal system by the youth of our country than Judge Everett has. In 1987, Judge Everett directed the National Student Law Day project, which has been described as "one of the truly most ambitious and most successful projects ever undertaken" in an effort to celebrate the bicentennial of the U.S. Constitution. The project won first-place award in the American Bar Association's 1987 Law Day U.S.A. Competition. Over 1,000 students, 30 different courts, and over 61 judges across the country participated in the project; and the project extended from Puerto Rico to Guam, and from Boston to San Francisco. Through Chief Judge Everett's magnificent leadership, a major goal was accomplished of encouraging and coordinating the nationwide cooperation of judges and court officials to sponsor courthouse visits and informal meetings with trial and appellate judges and court staffs by school students throughout the country. His impact and influence have had no limits.

Chief Judge Everett was exceptionally well prepared for his judicial service. Earlier he had served as a commissioner on the court. He has been a law professor at Duke University for almost 35 years. Also, he has practiced law in North Carolina as well as in the District of Columbia and has held many positions in the organized bar. In fact, he was the chairman of the American Bar Association Committee on Military Law from 1977 to 1979. During the early 1960's, he served as a special counsel to Senator Sam Ervin's Subcommittee on Constitutional Rights in conducting the hearings and studies which led to the Military Justice Act of 1968. He has written a book "Military Justice in the Armed Forces of the United States" and numerous articles on military law, criminal procedure, and evidence. Prior to his retirement in 1978 as a colonel in the Air Force Reserve, Judge Everett had acquired many years experience as a judge advocate. Moreover, during his tenure as the chief judge, he served as the first chairman of the Federal Bar Association's Judiciary Committee and the chairman of the FBA's Administration of Justice Section.

Judge Everett has been honored and has received various recognition across the country for his brilliant accomplishments as the head of the U.S. Court of Military Appeals. Recently, the Judge Advocates Association sponsored a special testimonial banquet in his honor where many, including all the judge advocates general of the various services, bestowed upon him abundant praise. A number of bar associations across the country have also recognized his unparalleled accomplishments during the last decade. This ubiquitous praise and recognition appear to be shared by everyone.

Chief Judge Everett will be returning to the Duke Law School, where he has been a tenured professor for many years. Fortunately, as a senior judge, he still will be available to assist the Court of Military Appeals from time to time. We wish to express our gratitude to this very distinguished jurist from our home State of North Carolina for his extraordinary service and dedication to his country. We extend to him our best wishes for the future.

BULLETPROOF CLOTHES FOR SCHOOL CHILDREN

Mr. KOHL. Mr. President, I have here an article that is a grim sign of our times. It is from the September 9 edition of the Washington Post.

The headline of the article reads, "For New York School Days, Bulletproof Blazers." It then describes bullet-resistant children's clothes and school accessories, such as clipboards and book bags. It is a sad and frightening commentary that violence in our schools and on our streets has reached such a level that there is a market for these products.

Small children—toddlers and infants, are being cut down in the crossfire of handguns and automatic weapons on the streets, in the school and even in their homes. These incidents are so commonplace that parents must now dress their children in body armor before sending them off to school.

The National School Safety Center estimates that more than 100,000 students carry guns to school every day. In New York City alone, school authorities confiscated almost 200 weapons from students in 1988. Last year in my home State of Wisconsin, the Milwaukee school system expelled more than a dozen students for weapons violations.

The problems that have led to this deplorable situation are many and complex. As a step in the right direction, I am pleased that this body unanimously adopted S. 2070, my Gun-Free School Zones Act, as part of the omnibus crime bill. The act would make it a Federal crime to bring a gun within 1,000 feet of a school or to fire a gun in that zone.

Mr. President, our schools should be islands of safety, away from the constant fear of random violence and premature, tragic death. At a minimum, that means children should not need flak vests while playing in their local schoolyards. I hope that the House will pass the crime bill—and accept the Senate's gun-free school zones provision—so that we can take an important step toward fighting gun violence, and keeping our teachers and children safe.

I ask unanimous consent to include the Washington Post article in the RECORD following my statement.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 9, 1990]

FOR NEW YORK SCHOOL DAYS, BULLETPROOF BLAZERS

NEW YORK, September 8.—Bulletproof back-to-school clothes are the latest thing for New York City children who run a dangerous gauntlet to and from class.

School blazers and other jackets fitted with bullet-resistant Kevlar .129 pads are providing a feeling of security to parents undaunted by price tags ranging from $250 to $600.

Added shielding from flying bullets can be had from a bulletproof book bag or clipboard.

The items are being offered by former New York City police officer Stephen D'Andrilli, who runs a security firm, Guardian Group International Corp., which D'Andrilli said already has taken three dozen orders.

The demand comes after a rash of summertime child deaths in New York, some by random gunfire. Four children were slain in an eight-day period in August.

New York is on its way to a record number of homicides for the third straight year. There were 1,905 homicides citywide in 1989.

Hairdresser John DeLoca, 41, recently bought $450 jackets for himself and his two sons, age 8 and 4.

"God forbid if they should be caught in a cross-fire or a random shooting, then $450 would seem like a pretty good investment," he said. "We're talking about my children's lives and the bottom line is: You can't buy another kid."

Kevlar is a synthetic material five times stronger than steel and relatively light. It is used in police bulletproof vests and vehicle armor. Its composition is a closely guarded trade secret, but recent technological advances made it 25 percent lighter and 40 percent thinner than before, so it is less noticeable and more comfortable.

D'Andrilli admits no clothing is ever truly "bulletproof," but demonstrates that Kevlar pads will stop slugs and can saves lives.

"See here," said D'Andrilli, pointing to a swatch of Kevlar fabric showing dents from two Uzi bullets. "You may get bruises from the impact, some trauma such as broken ribs, but the bullets won't pierce the body."

In his office, D'Andrilli has a row of fashion dummies sporting jackets, vests and T-shirts with panels of Kevlar concealed in pouches. Joining the back-to-school lineup are Kevlar-lined fur coats and business suits, briefcases and umbrellas.

The line of fur and leather coats starts at about $3,000 and tops out with a Russian sable coat for $80,000. The bulletproof clipboard goes for $300.

An 8-year-old boy named Palmer, in bow tie and red-and-white pin-striped shirt, snapped on a denim jacket featuring Kevlar "Silent Armor" and said it felt only slightly heavier than normal. "It feels good, it feels like you have good protection and nobody even knows you have it on," he said.

VA-HUD, INDEPENDENT AGENCIES APPROPRIATIONS—1991

Mr. LAUTENBERG. Mr. President, I would like to commend the subcommittee chair, the Senator from Maryland, and the ranking minority member, the Senator from Utah, for their hard work in putting together this bill. The subcommittee faced many constraints. And I know they share my wish that we could have done more in a number of areas, including, of course, Superfund.

But on the whole, this is a good bill. It provides over $400 million more for EPA than the President requested, exceeding the President's request by $500 million for construction grants, by $37 million for nonpoint water pollution, by about $10 million for right to know, and by $54 million for asbestos. I worked with the chairman to provide adequate funds for these programs, and I am pleased that we also provided $7 million for pollution prevention activities.

I would also like to thank the chairman, for her attention to a number of New Jersey and national programs for which I requested funding. These include provisions I authored to allocate about $35 million for the Federal Right-to-Know Program. Included in the Right-to-Know funding is $5 million for a national State grants program for emergency training.

I also authored a provision adding $500,000 for restoration activities at New Jersey lakes, including Lake Hopatcong, Swartswood Lake, and Musconetocong Lake.

Another provision, which I authored provided $250,000 for a New Jersey demonstration project to enhance the technical and economic efficiency of community recycling programs. In addition, I sponsored a measure providing $83,000 for restoration of Alcyon Lake, which is near the Lipari Landfill Superfund site.

The bill also includes a provision I authored restricting the spending of funds for the design and renovation of a Superfund laboratory at Edison, NJ, to test and evaluate innovative technologies. In fiscal year 1988 Congress appropriated $5.6 million for the design and renovation of a Superfund laboratory at Edison to test and evaluate innovative technologies. Recently, representatives of the regional office of EPA have suggested that an additional $8 million would be needed to construct and complete the project. No formal administration request has been made. This raises serious questions about the overall scope and design of the project. Moreover the EPA has failed to satisfy environmental concerns of local officials and to secure the State's support. Until such time as the agency prepares a formal plan for the project and secures local and State cooperation, serious questions exist about proceeding with the expenditure of appropriated funds for design and renovation of the laboratory.

Overall, the Environmental Protection Agency would receive about $6 billion under the bill. Again, I note that I would have liked more for Superfund. But I realize that the President's failure to fund so many other vital EPA programs forced some tough choices. Nonetheless, at $1.616 billion, the bill provides the highest Superfund appropriation level to date, a level which is about $80 million higher than last year's level. As I discussed with the chairman in subcommittee, should additional funds become available for Superfund as the bill moves ahead, I would look forward to working with the Senator from Maryland to increase the funding level.

Finally, I am particularly pleased that this bill includes full funding, $150 million, for the Public Housing Drug Elimination Program. Too many public housing projects have become virtual war zones, controlled by armies of drug dealers. This program, which I developed in 1988, gives housing authorities and residents the tools to fight back.

Mr. President, I look foward to working with the Senator from Maryland as we move the bill forward.

THE HRAWI GOVERNMENT BLOCKADE

Mr. HEFLIN. Mr. President, I have received numerous letters from the many Lebanese Americans residing in the State of Alabama. They are outraged by the alleged inhumane actions of the Syrian-installed Hrawi regime in cutting off food, fuel, and financial assistance to the beleaguered residents of the eastern area of Lebanon. They say that the events of the last several months are being exploited in an attempt to subjugate the democratic movement struggling to survive in the unoccupied areas of Lebanon.

According to these Lebanese Americans in Alabama, the Hrawi Government is imposing a total blockade on the eastern conclave of Lebanon, which is under the protection of Prime Minister Aoun. Mr. President, you will recall that Mr. Aoun was named to head an interim government of Lebanon by outgoing President Amin Gemayel when the country was hindered from choosing a new President because of certain actions by the occupying Syrian regime.

According to Mr. Ed Kahalley, Sr., chairman of the board of the Mobile, AL, area chapter of the National Alliance of Lebanese-Americans [NALA], this blockade is bringing untold hardship bordering on starvation, to the people of the enclave. He says that the Syrian and other supporters of the Talf Agreement, are hoping that depriving the Lebanese people in that area of the bare necessities of life will force the removal of Prime Minister Aoun. Mr. Kahalley goes on to say that surely there must be some convention, either from Geneva or the U.N. Charter, which says this is wrong.

Mr. President, my Lebanese-American constituents feel very strongly that it is inconceivable that the free world would stand by and allow this barbaric blockade to continue. They also feel that these actions are against the will of the Lebanese people, and against the principle of democratic human rights.

Again, Mr. Kahalley says that there are some 800,000 people living in the unoccupied regions. He also says that there has been a steady stream of refugees out of these areas as the conspiracy against Lebanon continues to exact a heavy toll on human endurance. During this crisis there have been thousands of demonstrators gathered around the palace of the people in Baabda in support of Prime Minister Aoun and to protest this assault on their very existence.

Mr. President, the Lebanese-Americans in Alabama say that they are astounded that our own United States of America, while condemning the actions of Saddam Hussein of Iraq and coming to the defense of Kuwait, a monarchy, ignores the plight of Lebanon, a democracy.

Mr. Kahalley says that some in the State Department and in the National Security Council have told them that they deplore this blockade, but that now is not the time for them to condemn the blockade or take action in this matter. The Lebanese-Americans say, "Why not? Are we being blackmailed by Syria?"

If the blockade is a violation of human rights and the principles of democracy, the Lebanese-Americans feel very strongly that the free world, and especially the United States, must condemn it immediately and take action to stop this inhumane action.

Mr. President, I urge President Bush to stand up for democracy in Lebanon.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,028th day that Terry Anderson has been held captive in Beirut.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 827, S. 273 regarding deceptive mailing practices.

The ACTING PRESIDENT pro tempore. The clerk will state the bill by title.

Mr. HEINZ. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

The clerk is going to state the title. The Senator may object after that.

Mr. HEINZ. No. I have to object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mrs. KASSEBAUM. Mr. President, I have a parliamentary inquiry, if I may?

The ACTING PRESIDENT pro tempore. The Senator from Arkansas has the floor.

Mrs. KASSEBAUM. Will the Senator from Arkansas yield?

Mr. PRYOR. Is the Senator from Kansas seeking recognition?

Mrs. KASSEBAUM. Mr. President, it was my understanding we were going to be in morning business until 1 p.m., and I was wishing to speak in morning business.

Mr. PRYOR. Mr. President, until we iron out our little difficulties, maybe we ought to go forward with the original plan of having morning business until 1 p.m. and allow the Senator from Kansas to proceed as in morning business.

I withdraw my request, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized as in morning business for 5 minutes.

THE BUDGET PACKAGE

Mrs. KASSEBAUM. Mr. President, it is my understanding sometime today or tomorrow the Senate will be voting on the budget package that has been devised by our leadership and the White House. For the past several days, all of us have been studying this package, the agreement, and seeking additional information about it.

From that research I have reached a conclusion that I am sure has been shared by many. There are many provisions of this that I think are extremely important, particularly the enforcement provisions. There are, of course, several items I strongly dislike, as would be the case with many of us; and some, of course, about the budget agreement, is simply unknown.

It is clear our leadership found itself over the last few days in a very tight box. Clearly now we are all in that box together. There is no painless way to reduce the Federal deficit. That has been said so many times I think we are tired of hearing it. But we have to find a way that is fair and engenders the confidence of the public in what we are doing here.

The key in many ways is deciding what spending should be cut and which taxes should be raised. As one who has helped shape bipartisan budget packages in the past, and seen them fail, I am well aware that the devil is always in the details when it comes to the Federal budget.

Mr. President, I would guess every one of us would say, as I do now, that this is not the budget I would write. I would have cut spending more deeply, reducing or eliminating inflation adjustments in domestic spending, and I would have cut, for instance, foreign aid by at least $2 billion.

On the tax side, I would have supported either a rate increase or a temporary surcharge on upper-income taxpayers.

As our leaders have said repeatedly over the past few days, every Senator has a budget plan, and that is true. But the question we face is on this specific plan. As I understand it, the budget resolution cannot be amended. We must vote up or down on the pack-

age. The choice before us is stark. We either pass this budget resolution or face a shutdown of the Government.

Why, after months of meetings, we have reached this impasse is beyond me. The process of representative government has not worked as it should. Given these circumstances, however, I will vote for the budget resolution with the proviso that there can and should be changes made during the next 2 weeks as we work on the reconciliation bill. This will be the test. But I want to say right now I do not accept the idea that followup legislation, the reconciliation bill, cannot be changed or amended. If two specific provisions in this budget are not changed I will vote against the reconciliation bill.

The first of these is the increase in Medicare premiums. While I certainly agree that beneficiaries should bear part of the burden in cutting Federal spending, I believe this increase in premiums for part B coverage is unwarranted and unwise at this time.

At some point we must devise a plan to address the problem of long-term health care for the elderly. If we are ever to achieve this, we will have to increase Medicare premiums in order to pay for what will be a very expensive new program. If we increase premiums now we forfeit any opportunity to achieve that goal.

The second item I believe must be to either eliminate or sharply decrease the revenue-losing tax breaks. Raising taxes to fund new tax breaks is fundamentally wrong.

I support the expansion of the earned income tax credit for low-income taxpayers, but the other provisions, costing about $20 billion or more over 5 years, should be cut back or dropped.

If we want to stimulate economic growth, and we do, as these provisions purport to do, the single best way to do so is to cut the deficit and get interest rates down. Nothing we do through the Tax Code can stimulate as much growth as a 1-percent cut in interest rates.

Mr. President, that is going to be very difficult to do no matter what we do with the budget agreement. I have already been told by several Senators these changes cannot be made, that they would violate the spirit and letter of the budget agreement, and that the Finance Committee will not have the discretion or flexibility to alter the package. I hope that is not the case, Mr. President. But if it is, then I will vote against reconciliation.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. HUMPHREY. Mr. President, I ask unanimous consent that morning business be extended for 10 minutes.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered.

THE BUDGET RESOLUTION

Mr. HUMPHREY. Mr. President, if the House approves the budget resolution and it comes to the Senate, I intended to vote against it.

I am going to vote against the budget resolution because, in my view, it is a formula for disaster, both for the economy and for the President's party. I am going to vote against it, because, frankly, I am fed up with the backroom politics that has displaced wholesome, public competition between the parties relative to their ideas on the budget.

Some argue, including the President, that we must pass this resolution, flawed as it may be, because the economy will be weakened further by delay in resolving the budget crisis. They argue interest rates will remain high and the economy will be further depressed. My response, Mr. President, is bunk. My sense, based on 12 years experience here, is just the opposite. I believe we are likely to cause more damage to the economy by adopting this budget resolution than if we reject it. Massive tax increases and using the IRS to wage class warfare cannot be good for a weak economy.

Mr. President, we do not have a coalition government in the executive branch. The American people elected George Bush to the office of President. They rejected the other candidate and his platform of more spending and more taxes. Yet, President Bush has abdicated his leadership responsibilities in the area of the budget. For months and months on end, when he should have been fighting for his own budget, he has bargained privately with his political adversaries. The result is a budgetary mish-mash that leaves the American people utterly confused about what the President and his party stand for. Some wag said that a camel is a horse designed by a committee. The budget resolution is something worse. As the Wall Street Journal noted this morning, this budget is a cross between a donkey and an elephant. And it is not a pretty sight.

One would think the President would have learned by now, in all of his years in the executive branch and in all of his years in Washington, that a Republican President is not going to get what he wants from a Congress in which the Democrats are the majority party. This whole mess began when the President offered "the hand of friendship," as he called it, to the Congress 2 years ago. What nonsense. Washington is not a country club. George Bush has been around here long enough to know that a President must set his own agenda—his own agenda—and then go out—go out beyond the beltway—and rally the American people to support it.

The election in November should be about which party has the better ideas, which party has the greater vision for America. If we adopt this Rube Goldberg of a budget resolution, the economy will be further weakened and the election will be a muddle and, frankly, is likely to be a disaster for the President's party. Therefore, I urge the President to drop his veto threat against another continuing resolution.

I urge the President to lay out his own budget plan, including the capital gains tax cut and including line item veto. I urge the President to make his budget plans the issue in November. He ought to go out and fight for it. It is time for him to be as tough at home as he is in the Persian Gulf. Never was there a more opportune time because the American people are utterly and completely fed up with the Congress, and for good reason.

If the other party wants to campaign on the notion that Americans are undertaxed, fine. Let them do it. If the other party wants to campaign for a doubling of the Federal gas tax, fine. Let them do it. If the other party wants to campaign for a 2-cent-a-gallon hike in the tax on heating oil, fine. Let them do it. If the other party wants to campaign for using the IRS to wage class warfare, fine. Let them do it. But do not let them get away with this, Mr. President, in some private back room dealing, such that the American people have no idea of who stands for what. In my view, George Bush and the Republican Party should continue to stand on the pledge of no new taxes. It is important to keep the faith, both for the sake of the economy and for the health of our political system.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. PRYOR. Mr. President, on behalf of the majority leader, I ask unanimous consent that the time for

morning business be extended not beyond 1:40 p.m. today under the same conditions as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, at this point I am waiting for Senator HEINZ. We are getting ready to move forward on the deceptive mailings bill. He will momentarily be on the floor. Until he arrives, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DECEPTIVE MAILINGS PREVENTION ACT

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 827, S. 273, regarding deceptive mailing practices.

The PRESIDING OFFICER. The clerk will state the bill by title for the information of the Senate.

The legislative clerk read as follows:

A bill (S. 273) to amend title 39, United States Code, to designate as non-mailable matter solicitations of donations which could reasonably be construed as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement, unless such matter contains an appropriate conspicuous disclaimer, and for other purposes.

The PRESIDING OFFICER. Is there objection to proceeding to the bill? Without objection, it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deceptive Mailings Prevention Act of 1990".

SEC. 2. AMENDMENTS TO TITLE 39.

(a) PROHIBITION OF DECEPTIVE MAILINGS.—Section 3001 of title 39, United States Code is amended by redesignating subsections (f) and (g) as subsections (i) and (j) respectively, and by inserting after subsection (e) the following:

"(f) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for the purchase of or payment for a product or service; and contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

"(1) such nongovernmental entity has such expressed connection, approval or endorsement;

"(2)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT.', or a notice to the same effect in words which the Postal Service may prescribe; and

"(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS IS NOT A GOVERNMENT DOCKET.', or a notice to the same effect in words which the Postal Service may prescribe; or

"(3) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher or the publication.

"(g) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for the contribution of funds or membership fees and contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

"(1) such nongovernmental entity has such expressed connection, approval or endorsement;

"(2)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS ORGANIZATION HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT.', or a notice to the same effect in words which the Postal Service may prescribe, and

"(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS IS NOT A GOVERNMENT DOCUMENT.', or a notice to the same effect in words which the Postal Service may prescribe; or

"(3) Such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

(b) DECEPTIVE MAILINGS AS FALSE REPRESENTATIONS.—Section 3005(a) of title 39, United States Code, is amended by striking out "section 3001(d)" each place that it appears and inserting in lieu thereof "section 3001 (d), (f), or (g)".

SEC. 3. REVIEW AND REPORT BY THE UNITED STATES POSTAL SERVICE.

No later than 90 days after the date of enactment of this Act, the United States Postal Service shall—

(1)(A) conduct a comprehensive review to determine if the provisions of section 123.33 of the Domestic Mail Manual (as in effect on such date of enactment) are being appropriately observed; and

(B) take appropriate measures to ensure that any misapplication or misunderstanding of such provisions is corrected among any postal personnel who are responsible for carrying them out;

(2) conduct a comprehensive review to determine the feasibility of establishing a procedure whereby a sender of mail matter which is denied entry into the mails on the basis of incorrect mail preparation, postage due, or addressing may, through expedited proceedings, obtain a final agency decision as to the mailability of such matter; and

(3) submit a written report to the Senate and the House of Representatives describing its findings and actions under this section.

SEC. 4. COORDINATION OF FUNCTIONS WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

The United States Postal Service shall consult and coordinate the functions and administration of the provisions of this Act and the amendments made by this Act with the Secretary of Health and Human Services and the functions of the Secretary in the administration of section 428 of the Medicare Catastrophic Coverage Act of 1988 (42 U.S.C. 1320b-10).

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply to matter deposited for mailing and delivery on or after 180 days after the date of the enactment of this Act.

Amend the title so as to read: "To amend title 39, United States Code, to designate as nonmailable matter solicitations for the purchase of goods or services, or solicitation for donations which could reasonably be construed by implying any Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes.".

AMENDMENT NO. 2927

(Purpose: To provide for the expansion of postal services at diplomatic missions abroad, to clarify solicitations of certain information as nonmailable matter, and for other purposes)

Mr. PRYOR. Mr. President, I have an amendment that I send to the desk at this time and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislation clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] (for himself, Mr. GLENN, Mr. LIEBERMAN, and Mr. KOHL), proposes an amendment numbered 2927.

Mr. PRYOR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 15, insert "information or" before "the contribution".

On page 11, strike out lines 10 through 13 and insert in lieu thereof:

SEC. 5. STATE DEPARTMENT POST OFFICES ABROAD.

(a) POSTAL SERVICES AT DIPLOMATIC POSTS.—Chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 413. Postal services at diplomatic posts

"(a) The Postal Service and the Department of State may enter into 1 or more agreements for field testing to ascertain the feasibility of providing postal services through personnel provided by the Department of State at branch post offices established by the Postal Service in United States diplomatic missions at locations abroad for which branch post offices are not established under section 406.

"(b) To the extent that the Postal Service and the Department of State conclude it to be feasible and in the public interest, the Postal Service may establish branch post offices at United States diplomatic missions in locations abroad for which branch post offices are not established under section 406, and the Department of State may enter into an agreement with the Postal Service to perform postal services at such branch post offices through personnel designated by the Department of State.

"(c) The Department of State shall reimburse the Postal Service for any amounts, determined by the Postal Service, equal to the additional costs incurred by the Postal Service, including transportation costs, incurred by the Postal Service in the performance of its obligations under any agreement enterd into under this section.

"(d) Each agreement entered into under this section shall include—

"(1) provisions under which the Department of State shall make any reimbursements required under subsection (c);

"(2) provisions authorizing the Postal Service to terminate the agreement, and the services provided thereunder, in the event that the Department of State does not comply with the provisions under paragraph (1); and

"(3) any other provisions which may be necessary, including provisions relating to the closing of a post office under this section if necessary because a post office under section 406 is established in the same location.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following:

"413. Postal services at diplomatic posts.".

SEC. 6. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of the enactment of this Act, except the amendments made by section 2 shall apply to matter deposited for mailing and delivery on or after 180 days after the date of the enactment of this Act.

Mr. HEINZ. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2927) was agreed to.

Mr. PRYOR. I move to reconsider the vote.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PRYOR. Mr. President, I am just going to speak very briefly on this matter and then I will certainly yield to my colleague from Pennsylvania, who has been such a trustworthy ally in the attempt to prevent deceptive mailings, especially to many of our vulnerable and elderly citizens in our country.

We have seen a growing number of organizations, profit and nonprofit, that have adopted the use of Government look-alike mailings as a marketing technique. They use words and phrases and names and symbols, envelope designs in a manner that mislead the recipient into believing the mail has come from a Government agency or an organization connected with or endorsed by the Government.

Mr. President, a disproportionate amount of this deceptive mail seems to be targeted at the elderly with the apparent aim of instilling fear among Social Security recipients and Medicare recipients oftentimes these are financially hard-pressed senior citizens who are urged to make a contribution to one cause or another or to purchase a service or product.

It is infrequent at best that contributions solicited under such circumstances are used for the stated purpose or that the cost of products or services bears any relationship whatsoever to actual value. More often than not, the contributions are used to cover an organization's administrative costs or for future direct mail solicitations.

An individual might also find, for example, that he or she has paid several dollars for a cheap plastic replica of a Social Security card. Senior citizens today are not the only targets of Government look-alike mail. Lawyers are targeted with mailings purporting to contain time-sensitive documents from the Department of Justice, only to find themselves on the receiving end of a solicitation. Parents find themselves being offered assistance, for a fee, in obtaining the IRS required Social Security number for their newborn child. The assistance is usually nothing more than instructions and a form that is already available at no charge from the Government. Individuals become confused when they receive a census form that in reality seeks marketing information or support for some cause.

As chairman of both the Senate's Postal Oversight Subcommittee and the Special Committee on Aging, Mr. President, I can tell you that deceptive mail today is a growing problem. It is mushrooming in this country. Moreover, once an individual responds to one of these overtures, a floodgate literally opens, as an individual's name finds its way from mailing list to mailing list.

I recently heard from a constituent of mine who has written many organizations in requesting that his mother, who is 75 years of age, living in Bryant, AR, and suffering from Alzheimer's disease, be finally removed from their mailing lists. Unfortunately, as a result of his efforts to curtail these mailings to his mother with Alzheimer's disease he and his mother are now getting more mail than ever.

In fact, Mr. President, I asked my constituent recently, through a member of my staff, if he would just document and send to me 1 month's mail, just 1 month of mail that his mother was receiving from various organizations and most from profit-oriented ventures asking for contributions or asking this 75-year-old individual to make contributions to certain causes.

Mr. President, I have in my hand 1 month's mail that this lady is now receiving. For example, she got this one, marked "official business." It was a request of a politician to send a check.

Here is another, Mr. President. I must say that several of these letters are from political parties and from political subgroups and committees asking for contributions. I might also say, Mr. President, in addition, that some of these are Federal look-alike letters. Here is one from the National Securities Center, Washington, DC. And this, of course, has the American flag. It is very, very official looking.

Here is a letter, Mr. President, addressed to my constituent from the Legal Affairs Council, Capitol Area Office, Washington, DC. Once again, this is a mere solicitation.

In addition, we have also in this stack the now famous or infamous, $25 check that this woman received. If she would just endorse this check, put it in her bank account, and then sign a little statement, $12.50 for the next 2 months would be removed from her bank account and sent to political candidates.

What they did not say very clear to this woman is that at the expiration of that 60 days, after the $25 had been withdrawn from her account, she had to affirmatively send back and say "Do not draft my account anymore." I assume they would continue drafting $12.50 a month on into eternity, if this poor lady fails to send a stop notice or could not reach the right person and have them stop drafting this account.

Mr. President, what this legislation is attempting to do to afford the basics of protection for the unsuspecting by requiring Government look-alike mail that sells a product or a service or solicits membership or contribution, to carry a clear notice both on the envelope and in its contents disclaiming any connection with not only the U.S. Government but any Government entity. And failure to do so would render the material in question totally nonmailable.

S. 273 is the Deceptive Mailing Prevention Act. It was introduced earlier in this session, Mr. President, by the

Senator from Pennsylvania [Mr. HEINZ] and myself. We have done it in behalf of several of our colleagues who have sent us letters from their constituents who feel that they are unduly having their privacy invaded and certainly are being taken advantage of.

The Subcommittee on Federal Services, Post Office and Civil Service, held hearings last year, at which time we heard from a number of witnesses, including Senator ROTH and Senator LIEBERMAN. Senator LIEBERMAN's firsthand knowledge in this area gained serving as Connecticut's attorney general, proved to be very, very helpful to us in drafting this legislation. We also heard from legitimate business mailers who expressed concern about the manner in which the Postal Service might enforce the new law. I believe these concerns were addressed in the particular amendment that we are about to approve.

I am also offering an amendment to the bill as reported by the Governmental Affairs Committee. The amendment makes clear that the disclaimer requirement applies to Government look-alike mail that solicits information. It also adds a new section to the bill codifying a Postal Service-State Department agreement concerning mail service for U.S. officials in foreign countries.

Once again, Mr. President, I have no illusion that this is going to be a cure-all to the massive problem that we face. It is a good bill; a good first step. However, in my opinion, it doesn't go far enough. Where there is money to be made, the charlatans are going to find ways to exploit the unsuspecting and the vulnerable. And they are doing it now.

Next year, Mr. President, I think that we should go much further. For example, we might consider legislation requiring that if an individual writes back to a nonprofit organization and says take me off of your mailing list and if the organization fails to honor the individual's request that organization should lose its nonprofit mailing status. That is hardball. But I think it is going to take something like this in order for us to get to the root of this problem, and to cut out these charlatans who are preying on a very, very vulnerable sector of our society.

Once again, Mr. President, I thank my colleague from Pennsylvania. It has been a pleasure working with him on this matter. I know that he has some illuminating charts and some samples that he has received from his own constituency.

Mr. HEINZ. Mr. President, at the outset, I would like to say what a pleasure it is to work with my friend and colleague from Arkansas, DAVE PRYOR. This has been a mutual labor since I introduced this legislation with his original and strong cosponsorship back on the very first legislative day of this Congress, in fact January 25, the legislative day of January 3.

His contributions have indeed been invaluable. He has added to the record to make clear to our colleagues and the administration the urgent need for this legislation. He has made suggestions and improvements at every turn. He has been, as I have tried to be, responsive to the legitimate concerns of other mailers.

I just want to say to my friend from Arkansas that, once again, it is my great privilege and pleasure to work with him as we do in a number of other capacities.

Mr. President, today this Chamber has the opportunity to neutralize those unscrupulous individuals who use our Postal Service to deceive millions of vulnerable older Americans. A vote for this legislation, S. 273, the Deceptive Mailings Prevention Act of 1990, will prevent the use of look-alike envelopes and sound-alike titles to sell bogus benefits that purport to have the Federal Government's seal of approval.

My own interest in this issue goes back almost a decade, back when I was chairman of the Special Committee on Aging, the position now held indeed by my friend and colleague, DAVE PRYOR. I heard, shortly after becoming chairman, from seniors who were confused by some of the materials they had received in the mail. Out of an investigation that our committee conducted came evidence of a disturbing number of cleverly designed mailings intended to achieve only one thing: To milk the elderly out of their hard-earned dollars by instilling fear about the future of Social Security, Medicare, and indeed, our entire Federal Government.

A constituent of mine, for example, from Gibsonia, PA, not far from Pittsburgh, wrote that she had sent $10 after receiving a letter from an organization shown in here—and it is blown up in the back of the Chamber—from the National Committee to Preserve Social Security and Medicare. She said, "I soon found out that he was going to constantly demand money," the constituent wrote. "You might as well shoot old people as worry them to death," she concluded.

Well, Mr. President, there is no question that these unscrupulous mailers are creative. Take a second example, and there is a blowup in the back, a very official looking envelope, says "Buy U.S. savings bonds." Through the window you see what looks like an official Government mailer check, with an eagle, half of an eagle, peeking through; the upper left-hand corner says, Department of Information Management, Herndon, VA, which is close to the District of Columbia. The color is the same color as the envelopes the Treasury Department and Social Security use. On the back is a sign that says, "Postmaster, please expedite delivery in accordance with postal regulation." Every bell and whistle is used to make this look as official as possible; even the contents, as you can see, Mr. President, down at the bottom, when you open are extremely official. It is a check, you think, from the Federal Government, maybe, for $732.26 cents. Only after you have opened it and begin to read the fine print do you realize it is from an automobile dealer trying to get you to come in and spend some of your hard-earned money on a car.

This, of course, is not a bonus from Uncle Sam. It is, in fact, a very creative effort by a car dealer to peddle his merchandise through the very powerful implication of Government endorsement, which it certainly does not have and does not merit.

I might add that there is endless variation on these schemes and scams. They entice the unsuspecting and the desperate with promises ranging from a larger Social Security check, to potential sweepstakes winnings, to access to records that are already accessible for free under the law.

I think, Mr. President, one of the rights that we Americans value above all, understandably, is our freedom of speech. But the right of freedom of speech does not extend to allowing a private citizen or a business to falsely represent that they are speaking for someone else. No private interest has the right to pretend to be a public interest organization, institution, or Government agency. That is what our legislation is designed to halt.

In sum, everybody has the right to say anything they want, as long as they do not put the words in somebody else's mouth.

Mr. President, the legislation that we are considering today gives the Postal Service a sharp legal knife to carve out deceptive practices and a longer enforcement stick to punish those who persist in those practices. This, of course, is similar to legislation that I sponsored and introduced back in 1987 with Senator CHILES and others. I am pleased, as I said at the outset, that DAVID PRYOR of Arkansas, the chairman of the subcommittee, has been such a booster and supporter of this effort, and we strongly urge our colleagues to proceed to speedy passage. I do ask, Mr. President, that a section-by-section description of this bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 273, DECEPTIVE MAILINGS PREVENTION ACT OF 1990—SECTION-BY-SECTION ANALYSIS

Section 1 contains its short title, the Deceptive Mailings Prevention Act of 1990.

Section 2 amends 39 U.S.C. 3001 by creating two new categories of "nonmailable" matter:

The first—new section (f)—provides that mail from a non-governmental entity that solicits for the purchase or payment for goods or service, and which contains words or symbols such that the mail could reasonably be construed as having some government connection, is nonmailable unless the mailer: (1) has an express connection with the government, as in the case of certain veterans groups; (2) the otherwise objectionable matter is contained in advertising in a publication mailed by other than the advertiser, such as a newspaper; or, (3) the mailed matter carries a conspicuous notice both on the envelope and the contents disclaiming any connection with the government.

The second—new section (g)—provides the same restrictions and conditions with respect to the mail that solicits contributions or membership fees.

Section 3 requires the Postal Service to study and report to the Congress, within 90 days of enactment, on the sufficiency of existing enforcement mechanisms and the feasibility of establishing a procedure for expedited consideration of inquiries concerning mailability.

Section 4 requires the Postal Service to coordinate its enforcement activities with those of the Secretary of Health and Human Services pursuant to section 428 of the Medicare Catastrophic Coverage Act of 1988.

Section 5 sets the effective date of the Act as 180 days after enactment.

Mr. ROTH. Mr. President, I would like to commend my distinguished colleagues, Senator PRYOR and Senator HEINZ, for the outstanding work they have done in bringing the Deceptive Mailings Prevention Act of 1990, S. 273, before the Senate. As a cosponsor of this bill, I share their view that the American people, particularly our seniors, need this legislation to protect against unscrupulous operators who use the U.S. mail to prey on unsuspecting consumers.

I have maintained a longstanding interest in this important issue. Several years ago, I sent a questionnaire to the senior citizens of Delaware on this subject, and I was overwhelmed by the number of seniors who had received deceptive mail and who wanted the Federal Government to do something about this problem. From discussions with my colleagues, I know that this problem is not limited to Delaware.

I was disturbed by the reports of many retirees being frightened unnecessarily by mailings which they perceived as coming from government entities soliciting money lest they lose their Social Security, Medicare, or other Government-sponsored benefits. I directed my staff on the Permanent Subcommittee on Investigations to investigate these complaints and, unfortunately, that investigation uncovered substantial evidence pointing to the need for this legislation.

A common theme of these deceptive mailers is to design their solicitations so that consumers perceive the mailings as coming from or having the support of a government entity. This is done to lend credence to their outlandish claims. Some mailers accomplish this by mentioning government agencies or programs prominently in their solicitations. Some mail their material in envelopes designed to resemble those used for Social Security checks and other official government documents. Others will attempt to show a government connection by including on their envelopes slogans like "Buy and Hold U.S. Savings Bonds."

While their methods may very, the goals of the these government look-alike mailers are all the same—to solicit the hard-earned money of American consumers, in many cases, of senior citizens, by playing on their fears and insecurities. I had seniors write to me, fearful that if they did not contribute to these organizations, their Social Security benefits would be discontinued or that, without their contributions, the Social Security system would become insolvent. The individuals who profit from this kind of fear-mongering are truly beneath contempt.

Today, we have the opportunty to do something about these deceitful operators who enrich themselves at the expense of unwitting consumers under the guise of government sanction or control. The Deceptive Mailings Prevention Act on 1990, S. 273, would require any solicitation which could reasonably be construed as implying any Federal Government connection to include a conspicuous disclaimer in order to be mailed. I commend Senator PRYOR and Senator HEINZ for introducing this legislation and I am delighted to support this bill now as I did in the previous session.

We all recognize that many direct mail solicitations are forthright, come from legitimate organizations and the funds are used for legitimate purposes. These mailings will not be adversely affected by this legislation. Neither would this bill cause the mere use of a word or symbol in a logo to constitute a deceptive mailing. Under this legislation, the Postal Service must make such a determination based upon the appearance of the mailing as a whole, as to whether a reasonable person could infer any Federal Government connection. As such, I believe this legislation is a responsible vehicle that ensures that American consumers will be protected from those who attempt to use the mail to bilk them of their hard-earned savings. I urge the prompt adoption of this timely and important piece of legislation.

Mr. PRYOR. Mr. President, I thank the Senator from Delaware [Mr. ROTH] for the fine statement previously given. I would say, Mr. President, he has been a very strong advocate not only of the legislation which we are about to approve in the Senate, but also of protecting especially those very vulnerable and sometimes very elderly senior citizens who are receiving deceptive mail.

I want to congratulate my colleague, Senator ROTH. We have had the privilege in the past several years of working in the Governmental Affairs Committee together on these and other issues.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. PRYOR. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 2311, the House companion bill, and that the Senate then proceed to its immediate consideration, that all after the enacting clause be stricken, and that the text of S. 273, as amended, be inserted in lieu thereof, that the bill be advanced to third reading and passed, and that the title amendment be agreed to, that the motion to reconsider the passage of the bill be laid on the table, and that S. 273 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2311), as amended, was passed.

The title was amended to read: "A bill to amend title 39, United States Code, to designate as nonmailable matter solicitations for the purchase of goods or services, or solicitation for donations which could reasonably be construed as implying any Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes."

Mr. KOHL. Mr. President, I am pleased to be a cosponsor of this amendment to the Deceptive Mailings Prevention Act of 1990. This amendment is of extreme importance because it would require that a disclaimer be put on mailings by nongovernmental entities that use terms that imply a connection to the Government for purposes of soliciting information as well as the contribution of funds, as it is written in the original legislation. Further, it would require the Postal Service to treat such mailings as nonmailable.

During the conduct of the 1990 decennial census, the Census Bureau received numerous complaints from the public about mailings from private organizations that were presented as being connected with the official census. An example of such a mailing was brought to my attention. The envelope of this mailing said "Census Documents Enclosed * * * Must be returned before deadline." The contents

of the envelope were a brief questionnaire asking about the respondents lifestyle, and a lengthy advertisement for bull denim jeans.

We are all aware of the lower than expected mail response rate to the 1990 census which caused the Census Bureau a huge budgetary shortfall earlier this year. I am concerned that such marketing techniques may have greatly contributed to the number of households who did not respond to the 1990 census. It is essential that such deceptive mailings are not allowed to hinder any future census efforts.

Again, I am pleased to be a cosponsor of this amendment. Thank you, Mr. President.

Mr. LIEBERMAN. Mr. President, I am very gratified that the Senate today will pass S. 273, the Deceptive Mailings Prevention Act. This bill prohibits the mailing of solicitations that use symbols and designs that make the unwary consumer believe that the mail comes from a government agency or organization. S. 273 is an excellent piece of legislation that provides much needed protection for consumers. I commend Senators PRYOR and HEINZ for their fine work on this bill, which I am pleased to have cosponsored.

Few issues are of greater concern to me than protecting consumers from ripoffs. As attorney general of Connecticut, I spent much of my time investigating and prosecuting those who commited consumer fraud—and some of the most outrageous scams were those that arrived in the mail. Every day, millions of Americans receive some kind of fraudulent solicitation by mail—solicitations that steal hard-earned dollars from ordinary citizens.

This bill has given me an opportunity to help address one serious type of mail fraud—Government look-alike mailings—which are designed to appear as official government documents, but are really solicitations from private con artists. These include solicitations that look like they contain government information concerning the recipient's Social Security or Medicare benefits, or official papers from the Internal Revenue Service. Sometimes they appear to contain a Government check. Not long ago, a Connecticut woman received a Government look-alike check for $1,000, which in reality was merely an advertising gimmick. Unfortunately, a bank actually cashed the check, and some time later, tried to get the money back from her.

Unsuspecting recipients of look-alike mailings often end up paying for useless services that are available for free directly from the Government. For example, as attorney general I warned Connecticut consumers about a Government look-alike solicitation from the "Federal Record Service," which intimidated parents into thinking, incorrectly, that they had to get a Social Security number for a new child, and offered to provide that unnecessary service for a fee.

S. 273 would help put a stop to these scams. It would render nonmailable any Government look-alike mailing that solicits money, services, or information, unless the envelope and its contents have a clear disclaimer of any connection with the Government. Stripped of their pseudo-official trappings of authority, con artists specializing in Government look-alike scams will have a much harder time persuading consumers to open the envelope, let alone part with their dollars.

Mr. President, I am proud to have testified before Senator PRYOR's subcommittee on the problem of government look-alike mail fraud and to have cosponsored this bill, and I am pleased that it was reported favorably by the Governmental Affairs Committee, on which I serve. I am confident that, by passing this legislation today, the Senate can provide important protection for consumers.

Mr. COATS. Mr. President, I am pleased to be an original cosponsor of the Deceptive Mailings Prevention Act of 1990. This legislation is designed to address the problem of misleading and deceptive mail solicitation practices affecting the elderly.

Increasingly nonprofit organizations and companies are resorting to the marketing technique of using the mails to solicit contributions and sell products and services. Using official-looking mail can be very misleading, causing to general confusion among the recipients of such mail, many of whom are senior citizens on Social Security or Medicare. As a consequence, there is widespread congressional concern about those nongovernmental entities which ulitize in their mailings official insignia, trade names, or other symbols or terms with governmental ties or associations in order to misrepresent themselves as having Federal endorsement, support, or connections.

Because these mailings appear to be directed primarily at the elderly and involve organizations offering products or services to or of interest to older Americans, many legitimate groups representing the elderly, such as the AARP, have expressed strong concern about the need to stop such deceptive mailing practices. In recent years my office has received numerous complaints, mostly from senior citizens, about this matter.

The vast majority of companies and nonprofit groups which use the mails to reach potential customers and contributors are responsible organizations which offer and sell legitimate products and services or solicit on behalf of legitimate causes. Unfortunately a few organizations, through the misuse of these mailings, give the false impression that they represent the Federal Government or are offering services or products sanctioned by the Federal Government. Many solicitations and offers come in envelopes which could reasonably be interpreted to be an official mailing from a Federal agency. Most use titles which imply association with the Federal Government. As a consequence, customers are induced into paying for products or services which they do not need or which the Government can otherwise provide without charge.

As an example, I cite one organization that mails solicitations to Medicare recipients. On the outside, the envelopes indicate the mailing pertains to supplemental Medicare benefits. Inside the reader is informed that Medicare benefits have been drastically reduced by Congress. The point of this mailing is to sell Medigap insurance policies. The advertisement uses scare tactics to cause some elderly recipients to submit their names. As a consequence, they find themselves paying for an expenditure they do not fully understand.

Another organization encloses sweepstakes tickets designed to look like Social Security cards. The recipient is told that for a fee, he or she has the chance to win $50,000, and can receive a gold-embossed Social Security card, an earnings statement, a guide to retirement, and representation in Washington to protect his or her Social Security benefits. Still another organization uses the Statue of Liberty as a logo and, in a brown official-looking envelope, offers to provide a Social Security card for all children under the age of 5 for a cost varying from $12 to $20 for the first child, with a supplemental charge for each additional charge. The enclosed material states: "Federal law requires that you must have this completed before your (annual) income taxes are filed."

Recently a senior constituent of mine, Mr. Alfred S. Silverman of Hammond, IN, received a mailing from an outfit called Grant Hotline in San Diego. The envelope read "Official Notification" and indicated "A $10,000 Free Grant from the U.S. Government that you never have to pay back could be yours." Inside a letter headed "Important" told of billions of free cash grants "to common everyday people like you" from the U.S. Government "regardless of your education or poor credit status." "Priority is given to minorities, women, handicapped and needy people with poor credit and low-financial status," the notice added. Finally, the recipient was told that "those who want cash grants" should call a certain telephone number "within the next 4 days." Fortunately Mr. Silverman did not bite, but he asked ironically how he could apply for such "free" cash and what we intended to do about it. S. 273 is certainly one answer.

Most of these deceptive mailings target our Nation's elderly, focusing on Medicare or Social Security benefits, the most important concerns to senior citizens. It is important that we protect those persons who must rely on fixed incomes from these kinds of deceptive or misleading mailing practices which seek to rob them of their limited resources.

That is why last year I introduced a bill, S. 1356, also known as the Deceptive Mailings Prevention Act, to render deceptive government look-alike mail as nonmailable unless such matter contains a conspicuous disclaimer. My bill is identical to legislation introduced in the House of Representatives by my Indiana colleague, Congressman FRANK MCCLOSKEY, which the House passed earlier. Similar legislation passed the House last year, but the Senate failed to act on it. Thus, corrective action on this matter is long overdue. I am pleased that the Senate Governmental Affairs Committee has reported a bill which is similar to and would accomplish the same objectives as my own bill.

S. 273, as amended, provides that matter mailed from a nongovernmental entity that solicits for the purchase of or payment for goods or services, and which contains a seal, insignia, trade or brand name, or other words or symbols such that the mailing could reasonably be construed as having some government connection is nonmailable unless: First, the mailer has an express connection with the Government, as in the case of certain veterans organizations; second, the otherwise objectionable matter is contained in advertising in a publication mailed by other than the advertiser, such as a newspaper; or third, the mailed matter carries a conspicuous notice, both on the mailing envelope and on the mailed contents, disclaiming any connection with or endorsement by the Government. The bill also provides the same restrictions and conditions with respect to mailed matter that solicits contributions or the payment of membership fees.

S. 273 also requires the Postal Service to study and report to the Congress, within 90 days of enactment, on the sufficiency of existing enforcement mechanisms and the feasibility of establishing a procedure for expedited consideration of inquiries concerning mailability. The Postal Service is also directed to coordinate its enforcement activities with those of the Secretary of Health and Human Services pursuant to section 428 of the Medicare Catastrophic Coverage Act of 1988.

The principal difference between S. 273 and my own proposal is that S. 1356 also included a provision expanding current law to declare false billing statements for the solicitation of donations as nonmailable unless such matter bears on its face a disclaimer stating "This is a solicitation of donations, and not a bill or invoice or statement of accounts due." Under title 39 of the United States Code, false billing statements for goods and services are nonmailable without a disclaimer. S. 273 contains no such provision. I regret this omission. The House bill contains a false billing disclaimer requirement. I hope that the conference will retain such a requirement so that this deceptive practice will also be ended.

S. 273 will address deceptive mailing practices without infringing on the rights of honest persons and legitimate organizations to communicate their ideas and to have access to mass mailings so that they can reach postal patrons nationwide. Most importantly, S. 273 will strengthen the rights of consumers, especially the elderly, against the real threat posed by organizations that resort to these deceptive mailing practices. This legislation will also ensure that those who provide a genuine service through honest advertising of legitimate, needed products and services are also protected.

Mr. President, I urge my colleagues to support this important and overdue legislation.

Mr. PRYOR. Once again, let me thank my good friend from Pennsylvania, Senator HEINZ. We had the privilege, going back many years, of serving together as Members of the House of Representatives. He beat me to the Senate by a few years. He has been a very, very fine colleague on the Aging Committee. He has chaired the Aging Committee, and we are both in strong agreement that this legislation, as passed, is going to be the beginning of even stronger legislation, even stronger enforcement in the future, to prevent deceptive mailing for those very, very vulnerable citizens in our country.

Mr. HEINZ. Mr. President, I want to conclude by saying that I look forward to working with the Senator from Arkansas, my friend and colleague, DAVID PRYOR, on additional legislative steps in the coming Congress, during which we both hope to be in attendance. Since Senator PRYOR is, as I understand it, unopposed for reelection, his chances of return, I understand, are fairly good. Therefore, I think I can, with some certainty, predict that, the good Lord willing, we will have that opportunity to so represent our country.

Mr. PRYOR. Mr. President, I appreciate the fine comments and very generous comments of my friend from Pennsylvania. But I must remind the Chair and my friend from Pennsylvania that about 2 years ago the people of Leningrad had their first opportunity to vote in a public election, and the mayor of Leningrad had no opposition, Mr. President, in his race for reelection; no one opposed the mayor of Leningrad in that race, and he was defeated by a vote of 2 to 1. So I must keep that in perspective, as we must say, there is a very, very restless group of constituents out there today, with some degree of justification.

Mr. HEINZ. I want the record to show I did not say it was certain that our colleague would return. I said the chances were very good.

The PRESIDING OFFICER. The Chair took note of that observation.

Mr. PRYOR. Mr. President, one final point on deceptive mail. I am sure the Senator from Pennsylvania will agree with me. If any citizen in our country receives any of these letters asking for a contribution or asking for money, I urge that citizen, if that citizen wants to know whether this is a real, valid organization, to just write back a letter asking them "what do you do with your money, how is that money being spent; give me a statement from your accountant so I can see where this money is coming from and how it is being used."

Most of the time you will not hear from them again. I might say that because they do not want to reveal this information. But I think it would be, certainly in the idea and in the hope of public service, that we inform our people not to send their money back unless they know full well the groups they are sending to.

EXTENSION OF MORNING BUSINESS

Mr. PRYOR. Mr. President, I ask unanimous consent that the period for morning business be extended not beyond 2 p.m. today under the previous conditions.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I am just inquiring as to the order of business. Is it morning business until the hour of 2 p.m.?

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. I thank the Chair.

Mr. President, I wanted to just speak a moment on the issue that is certainly consuming all of us, the issue shortly to become the business of Congress. I do not speak so that our colleagues who will listen carefully find I possess unique and dazzling insights into the

budget deficit we find ourselves in but I speak because of the true enormity and magnitude of the problem and enormity of our responsibility to see that it is corrected.

This is our responsibility. It is Congress' responsibility. It is not previous Democrat or Republican Presidents that got us here. It is Congress that got us here—Democrats and Republicans alike in the years pass. And it is told to me in the phone calls that come to my office saying, "What are you doing" or "How can you do this to the senior citizens? How can you do this to the veterans?" How can you do this to this group or that group? And we have done very little to those groups.

I was here on the floor when we set aside the veterans so that they were not affected by anything under Gramm-Rudman-Hollings except for a very minor ding of 1 or 2 percent while the rest of the country would suffer a 35 percent reduction. I helped do that. I am a veteran. I am very proud of that. But all veterans, especially veterans who fought for their country, know that it is time now to fight for our country once more in its fiscal chaos which is to come if we do not do this.

Then they will say, "Look what you did to the senior citizens." And I say, what did we do to the senior citizens? We did not touch the cost-of-living allowance on Social Security, not one penny. We did not do a single thing of increasing the money they would pay, even for those who are affluent; we never increased the amount that would be subject to tax. We did not do a thing with that, nothing. All we really did was raise the deductible 75 bucks a year to 150 bucks a year. Now that is all.

Plus one other thing. Part B. Part B premiums under Medicare is an absolutely voluntary operation. You do not have to be in it. You really do not. You can go buy your own insurance. But if you are in it, it is going to go up about 4½ bucks a month. That is what is going to happen. Then it is going to be up to about 54 bucks a month in the out years over the 5-year period. And that is what we did. Nothing more.

I have had some of the most wearisome calls I have ever heard from people saying, "What did you do to senior citizens?" I said well, nothing very much, except raise your deductible on this extraordinary health care system which costs 600 billion bucks a year; health care in the United States of America is 600 billion bucks a year. And under part B premiums they go to now where the beneficiary will have to pay 30 percent instead of 25 percent. Is that an act of thoughtful Democrats and Republicans or people who are going to do in senior citizens or do not care? Are they unthoughtful, cruel, hideous? Of course not.

Then people say—this is the good one—"How come it took you this long? What is the purpose of putting the country through this exercise down to the last minute?" I almost have to chuckle at that one because it is because of the interest groups of the United States and the citizens who listen to the drivel they pour out that make it so difficult to govern. If you listen to the news, pick up the paper, you would think that we are riding senior citizens into the ground. That is a phony, phony argument.

I have just outlined the only two areas where seniors are affected—a $150 per year deductible, and up 4½ bucks a month on part B voluntary part of the Medicare. You do not have to be in it. If you do not like it, get out of it. And that is it.

And they say, why are you taking so long; why is this done? Let me tell you, why that is. Because every time we try to do something realistic, the interest groups get up their stuff and beat your brains in. And boy, are they out there. And their executive directors live right here in this community. They have marvelous jobs. Most of them make much more than we do. And their sole purpose in life is to juice up their membership; that is their sole purpose in life, to juice up the membership and come in here and hack us to shreds. And they are doing a magnificant job. My question to them is, "What do you do as an alternative? Do you have anything to suggest? Because I really want to see the look on your face when we go to a sequester between October 15 and election day." It is called a permanent sequester.

The PRESIDING OFFICER. The Chair would inform the Senator that his 5 minutes in morning business are up.

Mr. SIMPSON. Mr. President, I appreciate the courtesy of the Chair. I see my colleague from Illinois.

Mr. DIXON. I was very interested to listen, may I say, Mr. President, to my dear friend's comments and I would like to listen longer if he will give us more of his thoughts.

Mr. SIMPSON. I would love it. I thank my colleague from Illinois.

The PRESIDING OFFICER. Does the Senator request additional time to speak?

Mr. SIMPSON. I ask unanimous consent for an additional 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. So these groups, I asked them, "What do you have for an alternative for us?" Well, they do not have much. They blanch, kind of scratch themselves, jump up and down, shake, and get apoplectic and then they say, "Well, if you people would just use self-discipline and will power, we would not be here." I said, "Are you kidding? You have been hanging around me like a poor relative for 5 years, asking for this, asking for that, in an insatiable quest for everything you can imagine." And it never ceases.

There is not one of us here that does not know that the whole budget year and the whole entire time of our opportunity here to help govern consists of people who are sitting in front of us saying, I hope you get this deficit under control but before you start I want my money and I want my loan guarantee and I want this tax credit and I want this change in the Internal Revenue Code and I want this and I want that, and all of it is destined to suck something out of the Federal Treasury.

That is where we are. It is still a representative Government. And if the people really want this, because here is your pitch now, the people who are going to vote for this package are going to receive unshirted hell in this election and they are going to be the subject of 30-second spots and they are going to be called evil and foul and defilers of the public trust and many of them will lose. And the American public will get just what they asked for, and that is people who will give them everything they want. And any government that is big enough to give you everything you want is big enough to take away everything you have.

OPPOSITION TO DEBT FORGIVENESS FOR EGYPT

Mr. DIXON. Mr. President, when I was young, my parents always reminded me that Finland, as small a country as she was, repaid her debt to the United States from the war. If my parents were alive today, they would be appalled at what we are being asked to do in terms of forgiving debts to foreign nations.

I rise today to announce my opposition to the administration's proposal to forgive some $7 billion in outstanding debt owed to the United States by Egypt. At a time when the American people are being urged to swallow more taxes and higher Medicare premiums, this debt forgiveness proposal leaves a bad taste in the mouths of all Illinoisans.

I make this promise: If any legislative vehicle retains the debt forgiveness language in the foreign operations appropriations bill, I will offer an amendment on the floor to strike the language when it comes before the full Senate.

I have consistently opposed debt forgiveness proposals. Debt forgiveness costs the American people money. How so? Debt repayment figures are part of the revenue projections in the President's budget. It is assumed in

fiscal year budgets that a certain amount of debt will be repaid by those countries who maintain outstanding debts. While the administration has acknowledged that the Egyptians were unlikely to be able to repay the $7 billion owed the United States, we are led to believe that the only solution to the problem is debt forgiveness. I do not think so.

Just because this country believes one of its debtors is unable to pay up is not sufficient reason to forgive their debt. Debt forgiveness has real budget impact.

According to the budget summit agreement, over $1.8 billion in projected repayments are forgiven over the next 4 fiscal years. One billion, eight hundred million dollars is real money, Mr. President. This proposal is similar to the banker who holds your mortgage, ripping up your loan, liquidating not only the principal owed, but the interest as well.

Egypt is a friend and ally, and its effort to rally Arab support against Iraq have been important. However, it should not be the policy of the United States to reward countries with debt forgiveness when they take actions we support. Debt forgiveness sets bad precedent. Debt forgiveness is bad policy.

It is especially galling to the people of my State, a State which gives a great deal more money to the Federal Government than it gets in return, and who even now face more taxes and less benefits from their Federal Government.

I have here a couple of letters out of numerous communications from my constituents in Illinois, and they are outraged about this proposal. A gentleman from Harvard, IL, sent me a copy of a letter he sent to President Bush. It reflects the overall sentiment of the letters I have received on this issue. He states:

> Write off $7 billion that Egypt owes us as a symbol of appreciation? No, no, a thousand times no.

A woman, from Lemont, IL, writes:

> I think that before we retire any of Egypt's debt we should retire $7 billion of our national debt * * * or spend it on legal fees to convict the white collar thugs that raided the S&L industry * * * my point is that $7 billion is $7 billion and we need it here.

The folks back home are tired of bailing out every other debtor. They do not see anyone bailing them out. They just do not understand this debt forgiveness business, and this Senator agrees with them. Who are we here to represent, if we are not here to represent our own citizens?

We have been giving Egypt over $2 billion of assistance a year for a number of years. To forgive this debt on top of the aid we give them every year sets terrible precedent. I do not believe that Egypt will be the last country asking for such relief.

The United States needs this money here at home. Our citizens have justifiable reason to expect that debts, rightfully due and owing, be repaid. The American people, who are wallowing in the costs of our own internal debt, see no such relief coming our way. The American people and the people of Illinois have a valid point on this issue, Mr. President. It is time we listened to them.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed, save, and except for a unanimous-consent request. The Senator may proceed.

THE BUDGET SUMMIT AGREEMENT

Mr. EXON. Mr. President, it is with a degree of unhappiness that I rise today to express my opposition to the President's budget summit agreement. As a member of the Senate Budget Committee who has time and time again come to this floor to offer tough alternative deficit reduction plans based on the freeze concept, I want very much to support a long-term deficit reduction which is both fair and effective.

Unfortunately, the plan put forward by the President and the bipartisan leadership budget summit fails with regard to fairness and effectiveness and would have a staggering negative effect on not only the economy of the State of Nebraska and rural America in general, but upon the Nation as a whole. We are in, or are going into a recession. The package agreed to is the wrong tonic at the wrong time.

Mr. President, I took a very careful look at the budget summit agreement, giving it full and fair consideration. Even if other numerous shortcomings in fairness where ignored, the last minute horrendous deal to further emasculate the Tax Code with the tax loophole for the 25-percent stock investment credit proves its unworthiness. I do not enjoy going against the wishes of the President and the bipartisan leadership of the House and Senate.

Despite those efforts, I am left with no choice, in all good conscience, but to oppose this package. I may be accused of parochialism becaue of the severe hit agriculture takes. This, at the very time when corn, to mention only one commodity, brings a cash price of $2 per bushel, about 50 cents below production costs. So be it.

Mr. President, I say that in all good conscience, after reviewing the proposal and coming to a negative conclusion, I reviewed it all over again, under the assumption that agriculture would take no hit whatsoever. My conclusion was, that even then this package, however well-intentioned, would be an economic disaster for my State and for our country of a major magnitude.

I must concede that a portion of my concern is that too many of the key players in this scenario to cure the problem supposedly solved it 5 years ago with Gramm-Rudman that promised a balanced budget by October 1, 1990. We can conclude that was a complete exercise in futility since we are now faced with an additional $1 trillion in debt, that now has mushroomed to over $3 trillion. In fact, the true deficit is worse than it has ever been.

Having worked with a bipartisan corps of fiscally conservative Senators to craft alternative budget packages, I know how difficult it is to find agreements which produce meaningful deficit reduction. If any of the many alternate plans which we have offered since 1982 would have been adopted and implemented, the Nation would not be on the present brink of fiscal meltdown. Do we need to do something to correct all of this?

We surely do. But forcing this tortured compromise born more out of mindless frustration than wise economic concepts and reason and reasonableness is, in my opinion, dangerous folly. No amount of Presidential armtwisting and veto threat rumblings can improve upon, or make this proposal a sound one.

Senator GRASSLEY and I recently received a report from the General Accounting Office which appropriately identified the budget as "out of control." It is time that those who had their fingerprints all over the Gramm-Rudman law and the 1986 Tax Reform Act which has already increased the deficit by $31 billion, after being sold to the American people as a revenue neutral plan, admit their terrible mistakes. The Gramm-Rudman law has failed.

The tax reform was not revenue neutral, as the Congress and the President said.

This should have been so stated and been a part of the budget summit. It is time that we come out and say very di-

rectly and very sincerely that it is way past the time when we should face this problem with reality.

We should embrace not the summit plan but the Senate Budget Committee proposal and abandon the fiscal monkeyshines of the Gramm-Rudman law and the political deal which was made at the President's budget summit.

Just as the Gramm-Rudman law was designed to push aside serious action on the deficit, the budget summit seems poised to again push this serious crisis beyond consideration until the 1992 Presidential election. That is political convenience but had fiscal policy. It is no accident, Mr. President, that the budget summit agreement clearly contemplates a renegotiation in 1993. This proposition can best be called "son of Gramm-Rudman"—same song, same sour second verse.

In short, the budget summit asks pain from working and elderly Americans with little real gain in terms of overall deficit reduction. It is long on promises and, if enacted, would be woefully short of stated accomplishments. I illustrate this point by the fact that the first year reduction which started out to be a promised $50 billion was reduced to a stated claim of $40 billion and ends up as a possible maximum of $34 billion when Desert Shield costs are finally recognized. Even further deterioration of that figure is probable by economic and technical adjustments. We will be billions of dollars out of whack under this proposal even before we get out of the starting gate.

In terms of fairness, the President's approved budget summit tax package takes dead aim at the middle class working Americans who already bear an increasingly heavy tax burden and on seniors with fixed incomes. These are the same Americans who had their Social Security taxes raised last January and the proceeds used to hide the deficit.

While I do not favor a tax increase, if one is necessary at least it should be progressive. Under the President's budget summit agreement, very little is asked of the rich. Where are the recovered revenues from the ill-gotten gains of the S&L thieves, or the seizure of assets from the fraudulent directors who helped the Nation get into this mess?

The tax portion of the agreement is peppered with tax giveaways to business and to the very oil companies which have been gouging American consumers at the pump. Is it not enough that working Americans have had their pockets picked once already by the international oil conglomerates? Uncle Sam should not reach into already nearly empty pockets.

To illustrate how the package socks it to the working American families, according to the New York Times, total tax changes will increase taxes by 3.3 percent for families earning in the range of $30,000 to $50,000 per year but only increase taxes three-tenths of 1 percent—three-tenths of 1 percent—for families earning over $200,000.

On the spending side, it appears that seniors and rural Americans are the central focus of the package. For Nebraska, the impact of the gas tax, the Medicare tax increases, the insurance tax increases, and the unrelenting attack on agriculture programs spells serious economic harm. For farmers, the President's economic package is a disaster. Over 5 years agriculture is cut 24 percent in nominal terms and 40 percent, Mr. President, in real terms. Agricultural commodity program spending has already been reduced from $26 billion just back 4 years ago, in 1986, to only a little over $8 billion in 1990. For Nebraska, the total farm payments have dropped from that figure that I just cited of 4 years ago, which resulted in a payment to Nebraska farmers totaling $1.04 billion, to just $299 million in 1990. To ask even more from farmers when other areas of spending are given a pass is unconscionable.

Nebraska will also pay a heavy price in terms of gas taxes. Initial calculations indicate that a 12-cent-per-gallon increase in the gas tax would cost the average Nebraskan at least $105 a year.

When the three biggest chunks of the agreement are considered together for State impact, specifically agriculture, the gas tax increase and Medicare changes, Nebraska is hit to the extent of the third hardest, the third hardest, Mr. President, of any State in the Union per capita, ranking only behind our two rural neighbors to the north, North Dakota and South Dakota.

That is not fairness, Mr. President, for middle America.

Make no mistake about it. Nebraska seniors, farmers, and workers are willing to contribute to deficit reduction as long as it is fair and effective. This package is far from that. The budget summit agreement is perhaps most notable in that it asks virtually no savings from the domestic discretionary programs or international affairs. It also appears to give a blank check to the Department of Defense for the Desert Shield operation which essentially cancels even the most modest savings produced by the President's budget summit agreement.

I am further concerned that the President's proposal to cancel $7 billion of debt to Egypt and increase contributions to the Internatinal Monetary Fund are exempt from the restraints of the agreement. Another blank check seems to be written for the costs of the savings and loan bailout which is among one of the so-called held harmless items in the President's budget that was reached in the summit agreement.

The package also fails in terms of effectiveness. The ill-fated and failed Gramm-Rudman law, which I opposed from its very inception, is extended again for 5 more years—5 more years—5 more years—with one change that measures progress in the first 3 years against the deficit reduction targets—get that, Mr. President, against the deficit reduction targets—rather than the bottom line deficit. Gramm-Rudman is a cat that has far, far more than 9 lives.

The effect, I predict, is to produce 3 years of only compliance with the agreement and no significant downward movement on the bottom line deficit, forcing a renegotiation that I earlier referred to in 1993, which, conveniently, is after—after, Mr. President—the next Presidential election.

The most outrageous provision of this agreement, however, is the 5-year extension of the debt ceiling in an unspecified amount. We can just go on borrowing and borrowing at will and not have to vote on it.

Once again, a political compromise is evident and necessary to avoid confronting ever-increasing Federal borrowings and to bypass a congressional pressure point of fiscal restraint. I emphasize, Mr. President, that this compromise simply lets an awful lot of institutions off the hook and smoothes everything over past the 1992 election.

Although the agreement mysteriously omits a total debt figure, it is safe to say that a vote for the budget summit agreement is a vote for at least a $4.5 to $5 trillion debt limit, $2 trillion more than we have right now and five times what it was in 1980.

To some, the options appear to be a classic case of a choice between two evils. Supporters of the plan plot the only choice between the budget summit agreement and the devastating chaos of a Gramm-Rudman sequester. Neither is infallable or industructible. Gramm-Rudman is a unwelcome monster created like Frankenstein by mankind.

Gramm-Rudman is not 10 stories high and has loose bolts and nuts in its head. The only thing the villagers have to fear, to paraphrase F.D.R., is fear itself manifested by the President and the summitteers.

Mr. President, I say to my colleagues, there is a better way. It may be messy, politically difficult and disruptive of the traditional campaign season, but given the magnitude of the crisis, and inequities of the budget summit package, it is the only appropriate course. The House and Senate should reassert control of the budget process and fulfill their constitutional roles to craft a budget, and implement

legislation which can be presented to the President for signature or veto.

Let us quit making formal Presidential-congressional deals that then are forced upon the rest of the elected officials as a take it or leave it proposition. There is something in the Constitution about separation of powers that seemingly is being blurred. We may be heading for a form of government not envisioned by the framers of the Constitution. What is next? When a problem arises will the President, a few congressional leaders, and the Chief Justice of the Supreme Court, the third separate branch of government located across the park—they could get together and make a deal, and then Congress and the other Justices be told to accept it or they will collapse the Republic? It is long past time that both the President and the Congress lift their sights from the next election to the next generation.

The path I propose would reject the budget summit agreement, which would allegedly save maybe $34 billion in 1991 and adopt a freeze budget built on the foundation of the budget endorsed by the Senate Budget Committee earlier this spring.

The package I recommend would freeze most domestic programs at last year's level, grant a full cost-of-living adjustment to retirees, cancel the congressional pay raise, freeze new Federal hiring, freeze total foreign aid programs and include the fair share modified tax amnesty proposal put forward by Senator CONRAD and endorsed by the Senate Budget Committee.

On the revenue and fees side of the equation, the package should include the same level endorsed by the Senate Budget Committee, viewed at that time as consistent with the President's 1988 no new taxes pledge. This combination of policies would produce total savings in excess of $54 billion and hard savings in excess of $43 billion in 1991.

The key advantage of the freeze approach which I have advocated for so long would be that it would focus on reducing spending in an essentially equal level of sacrifice from all programs. Beyond the freeze, there needs to be reductions in defense programs. The dramatic changes in Europe, the Soviet Union, and now even between North and South Korea pose significant opportunities for long-term defense savings, with or without the Desert Shield Operation. Look at the defense numbers proposed for spending in the summit package. In fiscal 1990 we spent $297 billion on defense. In the summit proposal, its $297 for 1991, $294 for 1992, and $292 for 1993. In addition, all costs of Desert Shield would be on top of those figures. Some savings.

Mr. President, the budget summit is not in the best interests of the Nation. Selected and selective gas taxes and Medicare cuts as key parts of a package will not produce the hoped for result of serious deficit reduction. As key parts, the former is regressive and the later pointed unfairly at one segment of our society. It is a lose/lose proposition which is bad for America. I say, let the whole Congress bear the pain of crafting a new budget deal, sending it to the President for his signature or veto.

The President claims there is no smoke-and-mirrors in this proposal. That is nonsense. With Federal borrowings going up to $5 trillion or more, can anyone believe interests rates can go down to 4.2 percent in 1995? Without that happening the numbers fall apart and the package is meaningless.

There are even more examples of smoke-and-mirrors in this agreement. Only part of the Social Security trust fund is taken off budget. That portion which represents interest earnings remains on budget and is still used to hide the true size of Federal borrowing. In addition, highway and aviation trust funds are still used to hide larger portions of the deficit. Another example of rosy scenarioism is in the budget agreement's assumption that oil prices will register between $21 and $24 per barrel. Today oil is trading in the $35 per barrel range.

In conclusion Mr. President, even if fully adopted, this package will not "put this budget crisis behind us" as the President suggests. Once the cost of Desert Shield is counted, the savings and loan and banking system bailouts counted and trust fund surpluses excluded, there is very little real progress on the deficit. The GAO report I referenced earlier indicates that at least another $500 billion over the next 6 to 7 years will be needed to produce any hope of a truly balanced budget by the end of the century.

Mr. President, the Congress can do better, and the Nation deserves better.

Mr. President, I ask unanimous consent that two excellent articles, one by Art Hovey of the Lincoln Star and one by Robert Pear of the New York Times be printed into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Lincoln (NE) Star, Oct. 3, 1990]

BUDGET AX FALLING ON FARM DOLLARS

(By Art Hovey)

Federal budget negotiators have set a course that can be expected to cut deeply into the hundreds of millions of dollars Nebraska's farmers get annually in price support payments, analysts of farm policy said Monday.

Nebraska used more than $2 billion in price supports in 1986-87 to dig its way out of the farm crisis. In the process, the average farmer reached a point where he was getting more than half his net farm income from the government.

A drought in other major farm states and resulting high prices brought the annual total down considerably in 1988, but the so-called safety net could become much smaller now at a time when production is up and prices for Nebraska corn and wheat are weakening.

Roy Frederick, a farm economist at the University of Nebraska-Lincoln, said the total cost for the five-year run of the 1985 farm bill could top $80 billion. The spending forecast for 1991-95 coming from the budget summit is for $41 billion.

"We're going to have significant adjustments to make over the next few years," said Frederick, former state director of agriculture in the Orr administration. "There's not much question about that. And the adjustments could well go beyond the farmers' pocketbook."

Also placed at risk are land values, state tax receipts and the economies of rural communities.

"I want to be cautious because I don't have enough details," Frederick said. "What I have at this point does not cheer me a great deal."

John Neuberger, state director of the Agricultural Stabilization and Conservation Service, said a weekend summit agreement amounted to only "a week's reprieve" on many ASCS funding uncertainties.

Because Congress has yet to act, he has been advised to hold back this week in making an estimated $70 million in payments under the Conservation Reserve Program. ASCS issues both CRP and price support payments.

The CRP payments to farmers for withdrawing highly erodible land from production normally go out the first week in October.

Sen. Jim Exon, D-Neb., facing a reelection challenge in five weeks, is among those gritting their teeth this week. He noted that the projected $8 billion in farm bill spending in 1991 was down from $26 billion four years ago. "If you put that in perspective with all the other spending programs, and see how unfair it is, I think it sticks out like a sore thumb," he said.

Fellow-Democratic Sen. Bob Kerrey said he needed to be convinced that there were more pluses than minuses in the budget agreement. "No one should underestimate the potential negative impact that agreement will have on the entire state of Nebraska."

Bryce Neidig of Madison, state president of the Nebraska Farm Bureau Federation, and John Hansen of Lincoln, president of the Nebraska Farmers Union, were not dispensing upbeat messages Monday.

"Agriculture, no matter how you cut it, is going to bear a disproportionate share of the budget balance," Neidig said.

Hansen said the U.S. Department of Agriculture had been ignoring ways to hold down farm program costs during the budget-balancing debate. "They're bound to beat on us," he said.

[From the New York Times, Oct. 2, 1990]

BEARING THE BURDEN

Effect of all tax changes in the new budget agreement on individuals and couples in each income group.

	Percent
Less than $10,000	−0.1
$10,000 to $20,000	−3.8
$20,000 to $30,000	3.0
$30,000 to $40,000	3.3
$40,000 to $50,000	3.3
$50,000 to $75,000	2.0
$75,000 to $100,000	2.0

	Percent
$100,000 to $200,000	1.5
$200,000 and over	.3
All taxpayers	1.6

[From the New York Times, Oct. 3, 1990]

SAVINGS SEEN AS LESS THAN PREDICTED

(By Robert Pear)

WASHINGTON.—Experts on the Federal budget said today that the deficit-reduction package announced Sunday would not save as much money as President Bush predicted, and they raised questions about the arithmetic used by the budget negotiators.

Mr. Bush said the package would save $500 million over five years, including $40 billion this year.

Although budget estimates beyond one or two years are notoriously unreliable, a projected decline in spending outlined in the budget agreement appears to be particularly questionable.

SPENDING DECLINE IS SEEN

Under the budget agreement, Federal spending would increase in the fiscal year 1991, which began this week. But the agreement envisions an $11 billion decline in total Federal spending, from $1,392 billion in the fiscal year 1992 to $1,381 billion in 1993. It then calls for a further decline of $38 billion, to $1,343 billion in 1994.

The projected decline in spending would mark a striking change. Total Federal spending has not declined in any year since 1965.

Lawrence A. Kudlow, chief economist at Bear, Stearns & Company, who served as chief economist at the Office of Management and Budget from 1981 to 1983, said it was highly unrealistic to expect such a drop. "To suggest that the level of total Federal spending will fall by $38 billion indicates that there is some hocus-pocus in these numbers," Mr. Kudlow said. "I am becoming very suspicious that there is much less here than meets the eye."

TOO MODEST FOR GAO CHIEF

Comptroller General Charles A. Bowsher, the head of the General Accounting Office, an investigative arm of Congress, said the deficit-reduction package, even if it achieved savings of $500 billion over five years, was "considerably more modest than we believe necessary" to maintain the health of the American economy and the United States' competitive position in the world.

The savings represent reductions from the level of Government spending needed to continue Federal operations at current levels, with an allowance for inflation but with no change in policy.

The Congressional Budget Office says the deficit for the fiscal year just ended will probably be the highest in American history, more than $220 billion, despite five years of supposed austerity and fiscal discipline under the Gramm-Rudman-Hollings law. The original law, signed by President Ronald Reagan in December 1985, said the Federal budget was supposed to be balanced in the fiscal year that began this week.

"OPTIMISTIC ASSUMPTIONS"

In 1987, Congress amended the law, deferring the goal of a balanced budget till the fiscal year that starts Oct. 1, 1992.

Stanley E. Collender, director of Federal budget policy at Price Waterhouse, and other experts said the budget agreement was unlikely to reduce the deficit as much as advertised for several reasons. The economic assumptions, while realistic for the years from 1991 through 1993, are overly optimistic for the next two years, they said

"Most of the savings for the last two years are the result of optimistic economic assumptions," Mr. Collender said. "In fact, we don't have the slightest idea what will happen in 1994 and 1995."

The deficit is sensitive to assumptions about the economy. If the economy grows less than projected, Federal tax receipts are normally less than projected. Likewise, if unemployment is higher than expected, the Government typically spends more for unemployment benefits, food stamps and other types of assistance. A recession would throw off many of the calculations in the budget summit agreement.

The fragility of economic assumptions is dramatically illustrated by changes in President Bush's estimate of the Federal budget deficit for the fiscal year 1991, which began Monday. On July 16, Mr. Bush told Congress that the 1991 deficit would total $231.4 billion under current law. But on Sunday he and Congressional leaders disclosed that they were now projecting a 1991 deficit of $293.7 billion if no changes were made in current law.

Richard G. Darman, director of the Office of Management and Budget, listed three reasons for the $62.3 billion increase in his deficit projection, which startled many economists outside the Government. Deterioration of the economy, which causes a reduction in Federal revenue, increased his projection of the deficit by $30.4 billion. "Technical changes," mainly unforeseen costs of the savings and loan debacle, increased the deficit by $31.2 billion, while minor changes in laws and regulations added $700 million.

Much of the cost of deploying American troops in the Middle East was omitted from the calculations in the budget summit agreement, also distorting the savings to be achieved. While negotiators said they had achieved $9.8 billion in savings in military programs for the current fiscal year, the military effort in the Middle East will cost $5.7 billion

As a result, the "total deficit reduction" to be achieved this year is not $40.1 billion, as listed in the budget agreement, but $34.4 billion.

Mr. EXON. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS

Mr. KERRY. Mr. President, I thank my distinguished colleague from Minnesota, and I will not be very long. I know he wants to speak for a few moments.

What I would like to do is simply bring colleagues up to date as to where we are proceeding here, and it is my hope that we are going to be able to proceed forward with the money laundering bill which we were on yesterday.

Senator GARN will be coming over momentarily and we will be, I hope, able to work out the issues on both sides so that we could dispose of this piece of legislation.

I might just say that yesterday I discussed the importance of the money laundering amendments in the context of the drug war. I would like to add just a few quick comments to that, because each of those people within the administration who are most involved in the drug war would very much like to see this kind of action taken by the Senate.

In a speech before the American Bar Association not very long ago, Attorney General Thornburgh said:

The laundering of these billions is far more crucial to their operations—and much more difficult, and high risk—than the actual trafficking in drugs. If the DEA seizes cocaine with a street value of $19 million, it does not cost the Medellin cartel $19 million to replace that cocaine. Far less, somewhere between $2 and $4 million at Colombian prices. But when $19 million in cash is confiscated from a New York drug warehouse, there is no discount. That loss is $19 million.

The loss is $19 million, and those amounts of money make their way through our banking system.

The Attorney General said:

That is also why money laundering has now been declared an international crime, under the United Nations Antidrug Convention signed in Vienna last December.

Among the signatory nations is our country. And we are mutually pledged to assist each other, other nations who are signatories, in enforcing the laws against money laundering.

Obviously, it is critical for us to take the action that enables us to do that. It is impossible for us to keep good faith with these other countries if we are saying to them: Make money laundering a crime; they sign a convention partly as a result of our pushing them, and then we sit here unwilling to put the measures in place that help us to do what we have asked them to do.

In addition, the drug czar, Mr. Bennett, has suggested that there is nothing more important than moving on the drug money laundering issue. In his strategy on drugs and narcotics, which he was required to issue, he specifically suggested that we must take additional steps in order to enforce money laundering.

So, Mr. President, what is really at stake here is a question of whether or not the Senate is going to move to a very straightforward, noncontroversial piece of legislation in an effort to try to reinforce what we have asked other countries to do, and in an effort to make real our own words about money laundering and the drug war. I hope that without further delay it will be possible for us to do that.

I will have more to say on this in a short time, but I do want to honor my agreement with the Senator from Minnesota, who I know would like to speak. I think Senator GARN is on his way over here now.

So I will suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. Mr. President, I also ask unanimous consent that I be allowed to proceed as in morning business for a period up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET AGREEMENT

Mr. BOSCHWITZ. Mr. President, I rise today to ask my Minnesotans to call and talk to me about the budget agreement that has been reached here in the Congress. Hundreds have already called me. I really have not gotten a reading about it today, but there was a fairly even split with more people really calling opposing than for, though, as the day wore on yesterday, more people called who favored the budget agreement.

When folks call me, I hope they have a good understanding of the budget agreement. I know many who are elderly and are on Medicare have called, feeling that the end was near. Many have called and felt that some great new burden was being cast upon them. So let me describe how this agreement affects the elderly directly. Indirectly, of course, it affects them in a number of ways. If they drive a car, it affects them at the gas station, and so forth.

But the budget agreement is directed in part at the Medicare Program. The Medicare Program is the fastest growing program of any program in the Federal Government, not by a little but by a great deal. They say that 10 or 12 years from now it will be the largest program in the Federal Government, larger than Social Security, larger than defense, and it will take a larger and larger part of the gross national product, as it has over the last 20 years or so.

What we have done to Medicare is to increase the part B premium. There are two parts to Medicare, as most people know, particularly the elderly: Part A, which deals with hospitals, and part B, which deals basically with doctors and office visits and emergency room visits.

Part A is untouched. It is unchanged. It is the largest part of Medicare, and that we have not impacted. Part A is funded by the HI—insurance; by the 1.45 percent that is deducted from the payrolll of those who work in our country.

Part B, that deals with doctors, was intended originally to be paid 50 percent by the taxpayers and 50 percent by the elderly through a monthly premium. Over the years that proportion changed so that now 75 percent is paid by the taxpayer and only 25 percent is paid by the elderly on Medicare through a monthly premium.

We are changing that proportion. We are changing it from 75–25 to 70–30. As a result, the premium under part B for the elderly will rise. In the first year I believe the amount is $3.60. That is the principal thing we are doing to Medicare part B that affects the elderly.

Yet there is another half, another principal thing I really should say, and that is we are increasing the deductible. The elderly who now go to the doctor or use part B of Medicare pay for the first $75 themselves. That $75 is being raised to $100, and then the year after to $125, and in the third year of this budget plan it is being raised to $150 for the entire year.

Is that fair or is it unfair? That is a rather rapid rise. It has to be put in context with the fact that for 15 years or so that figure has not risen at all. Even though during that time medical costs have tripled, the deductible has not risen during that course of time. So it is not unfair, I do not believe, that the deductible will now rise.

That is the principal way that the elderly are affected under this budget agreement. Medicare part B, and part A as well, is somewhat affected by the fact that the providers, the doctors, the hospitals, are going to be limited. But that really is not coming out of the pockets of the elderly and it should not affect their care. So, totally, the elderly are playing an important role in making this budget fix work, but nevertheless I think it is not an unreasonable role.

If farmers from Minnesota call me, they have more cause to call because, of any group of programs, perhaps the agricultural programs are being hit harder than any other single group. The farm programs, on the other hand, have risen to great heights in cost in recent years, and I say to my farmers that we had our advocates at the table. We on the budget conference, on the conference of the leadership of the House and the Senate, had our advocates. TOM FOLEY, the Speaker of the House, has been a member of the Agriculture Committee, or at least active in agriculture, for the entirety of his service there. So has BOB DOLE. Both of them. BOB DOLE has been on the Agriculture Committee here in the Senate for, I think, 22 years, his entire term, and in the House before that. And no one I know has a stronger understanding of agriculture, a more intuitive understanding, than BOB DOLE. His father ran a grain elevator, and BOB DOLE has, all of his life, represented farmers and has done so well. So we had our advocates at the table and they have been successful time and time again in advocating the needs of agriculture.

This time they were not as successful. Hopefully, next time they will be more successful. And we think that we will be able to arrange those programs so they still will give a safety net for the farmers of the United States.

Having said those things, Mr. President, let me also address the whole budget package. I believe I am going to vote for it. I am inclined to vote for it. I think the time to govern has come. I think we have gone this path so many times and have failed that we simply have to go for it, even if it is 4½ weeks before an election and that is not a particularly good time to vote for some of the elements of this budget package. Yet, this is the soundest budget package in many respects of any that I have worked on since I have been in the Senate in the last 12 years. I say that principally because of the enforcement provisions that are found in this package. The enforcement provisions are severalfold.

First, in reconciliation, while the Budget Committee can only reconcile for a single year, under this package there is reconciliation that will take place for 5 years. Not all of my constituents, nor all of my Minnesotans understand reconciliation, but reconciliation is essential directions from the Budget Committee to the other committees of the Congress saying you cannot spend more than this amount. So we are supposed to lock them into a figure.

Of course, there are the famous smoke and mirrors. Since reconciliation in the Budget Committee only applies to a single year, it is easy to move expenditures from 1 year to another, and avoid reconciliation. Not so in this budget agreement where the reconciliation applies for the entirety of the 5-year term.

Also, there are spending caps on the appropriated accounts, and the appropriated accounts are about 40 percent of the budget, if we include defense. The caps in this case also are enforceable. Where caps in the past have not been enforceable, they are enforceable here. Indeed, if the spending goes beyond the caps, these are automatic reductions that are applied to the entire function. So this is a strong, enforceable agreement with respect to the appropriated accounts of Government.

There is also a strong agreement with respect to the entitlements. They constitute just a little bit less than 50

percent of the whole budget. Entitlements, of course, are that to which you are entitled. If you are out of work, you are entitled to unemployment insurance. If you are below a certain income level, you are entitled to various benefits of the Federal Government. If you are above a certain age, you are entitled to Social Security or Medicare. If you find yourself in one condition or another, if you are handicapped, there are some entitlements. They constitute about 47 percent of the budget, and they are on automatic pilot; that is, entitlements. If you are entitled, no matter what the cost is to the Federal Government, you are entitled. No matter what the deficit position of the Federal Government is, you are entitled. There are no constraints to entitlements, and you do not need an annual appropriation.

In this bill, at least there is a constraint that new entitlements cannot be brought forward. If a new entitlement is brought forward, it has to be on a pay-as-you-go basis. That is, if you want to bring forward a new entitlement, you have to find some revenue somewhere to pay for it. Or you have to cancel some other entitlements so that there is a wash economically. That is kind of unusual around here.

New entitlements, therefore, cannot be brought forward, entitlements that constitute nearly half the budget. New entitlement programs cannot be brought forward unless it is done on a pay-as-you-go basis. That is, we can do away with other entitlements, or we find new revenues, we impose a new tax in order to raise the money to pay for the new entitlement.

It is very easy in this body to get 51 votes to pass a new entitlement. It is very hard in this body to get 51 votes to cancel another entitlement, and it is very difficult in this body to also raise taxes. So, therefore, this is a pretty good safeguard against expansion of entitlement programs and spending in that area.

In addition, there are some safeguards in this budget package that apply to a dire emergency supplemental. I was somewhat amused the first time I heard that term. Supplemental was a supplemental appropriation that was requested and it was called a dire emergency supplemental. I wondered what would happen if there was a real emergency, what they would call it in that case. There were also safeguards with respect to that.

Finally, Mr. President, let me just outline the whole budget package, if I may. It is $500 billion; $170 billion, somewhat more than a third, comes from defense and there is not much argument here that that is OK. That is the amount set by people on both sides of the aisle. That amount is going to be saved. So we are a third of the way.

Furthermore, in the event the package goes through, we are going to save $65 billion in interest payments over the years. So now we have $170 billion and $65 billion that nobody will argue with. We are almost halfway toward the $500 billion mark.

Now things get a little more difficult. There are about $140 billion of new taxes, some maintain even somewhat more than that. Those new taxes are onerous. People do not like to pay them. They are spread over 5 years. Nevertheless, I believe it must be done. Whether they are precisely the right taxes, whether it is precisely what I would have done, I suppose not, but we are a group of 535 souls, and certainly have about 535 different viewpoints.

So there is about $140 billion in taxes, and then there is about $120 billion in programmatic reductions. Over the next 5 years, there will be approximately $5 trillion spent on programs from which $120 billion is going to be taken away; somewhat less than 3 percent and, indeed, closer to 2 than to 3. That has to be done. It has to be achievable. If you cannot do that much, we will never get the budget to balance.

And so, Mr. President, I end as I started. I hope that my constituency will call me. I hope that they will have an understanding of what we are trying to do, and I believe, as I said, that I will vote for this package. The time has come to govern. The time has come to take the steps that are necessary to bring this budget into balance. Of all the economic issues that face this body, it is the most important.

And so, Mr. President, I call upon my friends from Minnesota to advise me and to counsel me, and I hope that they will have a good understanding and will see the necessity of this budget package. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan [Mr. LEVIN] is recognized.

Mr. LEVIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan [Mr. LEVIN] is recognized.

THE BUDGET PACKAGE

Mr. LEVIN. I thank the Chair. Mr. President, the Senate may shortly be considering the budget package negotiated by the President and the congressional leaders. The leaders have worked hard on this package, but I cannot support it.

The first problem with this budget package is who is asked to do the heavy fighting against the deficit and who is allowed to take things easy?

This package asks middle-income taxpayers to do almost twice as much of the fighting against the deficit as it asks the wealthiest taxpayers, those making over $200,000 a year.

For example, this budget package would increase taxes on those making between $20,000 and $30,000 a year by 3.3 percent, at the same time that it increases the taxes on those making over $200,000 by 1.7 percent; that is twice as heavy a dose for middle-income families.

To add insult to injury, or more precise, to add injury to injury, these tax increases come on top of a trend in the 1980's in which the wealthiest among us got way ahead and the rest of the us had to do their darndest just to stay even. Look at the family which was making $22,000 in 1980. After taking into account taxes and inflation and after 10 years of hard work, that family found that it was making about the same in 1990 as it was in 1980.

Now compare that with the family that was making $200,000 in 1980 and 10 years later found itself with its income about doubled after taxes and inflation. That was the tax unfairness of the 1980's. The wealthiest 1 percent doubled their real income, while middle-income people got nowhere.

That is more than a tale of two cities. It is a tale of toil by the middle class with little return and a tale of many happy returns for those on top. When it comes to protecting our families, our towns and our country from the dangers of the budget deficit, it is fundamental fairness to ask those who benefited the most and those who are the most financially fit to carry the heaviest burden.

This budget package fails that test of fundamental fairness. Now can we possibly explain to a public that is already cynical about what we do here in Washington that any of this makes sense? We cannot because it does not make sense.

It makes no sense to those who drive automobiles anywhere or those who produce automobiles in my State of Michigan to take the Saddam Hussein gas hike and then be asked to bear a further big increase in gas taxes, courtesy of Uncle Sam.

And it makes no sense for working men and women in Michigan and elsewhere to face not only the prospect of unemployment in a recession, but also a brand new cut in unemployment benefits.

Mr. President, when we look at this package in the detail that I believe a strong appeal from the President of the United States and the congressional leadership demand, when we look at it line by line and dollar by dollar, this proposal makes no sense for middle-income Americans, for senior citizens and, ultimately, it makes no sense for our kids.

But this budget package is more than unfair. It is unwise. The victims

of that shortsightedness will include many of those who are asked to carry an unfair load of the burden by it. Included in this package is a provision that will effectively take in a level of defense spending that may turn out to be more than we need to confront the reduced threat abroad. In the past year, the Berlin Wall has fallen and the Warsaw Pact has virtually collapsed but the proposed level of defense spending in this package is holding about steady. We should not be effectively prohibited for 3 years from transferring dollars from defense to domestic needs or vice versa.

If our goal is to limit spending—and it should be—then let us focus on that goal in this agreement. The near ironclad subcategories for spending are not necessary to achieve that goal of spending restraint and are in fact counterproductive to our ability to meet the challenges of today which are likely to become more pressing in the few years ahead unless we have the resources to deal with them.

But the fact that this budget package is unacceptable to me does not mean that we should say no to every budget package. Rather, I hope that if this budget package is voted down, then it will quickly become clear that the reason for its defeat is because it does not pass the primary test of fundamental fairness. I hope that negotiations would resume in that event, with the goal of achieving a package which is fairer, so that we can put in place a budget that will allow us to avoid the across-the-board budget cuts which otherwise will take place.

Mr. President, I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I ask unanimous consent that I may speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME TO DEFEND DEMOCRACY IN THE PHILIPPINES

Mr. CRANSTON. Mr. President, there is very disturbing news of unrest in the Philippines.

I am concerned that the long-threatened next coup attempt is now beginning. Military rebels in the southern island of Mindanao appear to have attacked Government positions in three cities. The situation is confused in that very isolated area. But given the number of bombings and verbal threats by military rebels, these attacks in the south may be a prelude to a larger action against the Philippine Government.

In the past President Aquino's government has succeeded in defeating the rebels. I hope that they will be able to do so again. But one has to be honest about the troubled Philippine situation. Opposition to the Government by elements of the military is strong and economic deterioration partly brought on by the rise in world oil prices have undermined the Government's support.

Now is the time for the United States to demonstrate anew its support for Philippine democracy.

The Senate will have an opportunity to do so next week when funding for the multilateral aid initiative [MAI] in the Philippines will be considered. I hope the Congress will fully fund the program according to the administration's request. At this very moment when democracy is once again being challenged by totalitarian elements we must not be pusillanimous.

However, we must also make clear to those groups trying to destabilize Aquino's government that the cost of their success will be dear, very dear indeed. I want to serve notice that as chairman of the relevant Subcommittee on Pacific Affairs of the Foreign Relations Committee that according to American law, all economic and military assistance will be terminated immediately if the Government is overthrown by force and violence. This would deprive the Philippines of about $500 million, half a billion dollars, at once.

The actual, whole cost to the Philippines of reversing democracy is immeasurable.

This might not matter to the Philippine military rebels but it should to their civilian supporters and to the rest of the population who must now decide their fate.

If Cory Aquino is overthrown, I am willing to predict that the world will turn its back on the Philippines in disgust. In 20 years the Philippines will have become an economic backwater—similar to that of Burma today. The Philippines will be set adrift in the Pacific having missed its one opportunity to join the emerging world of democratic, newly industrializing states.

I do not think Filipinos want that future either for themselves or their children. America certainly does not want that future for them. Over the years Americans have had no greater or more dedicated friends than Filipinos. They have stood by us in our time of need during World War II. We have stood by them in their efforts to reestablish democracy.

Once the United States supported dictatorship in the Philippines when the late President Ferdinand Marcos declared martial law in 1972. That was a mistake. We have learned from that mistake. We will not be idle if others try to establish a dictatorship once again.

Mr. President, I hope my colleagues will follow closely the situation in the Philippines over the next few days. What we are seeing is a dramatic test of democracy's strength. At the same time we are being tested in our resolve to support democracy. I pray that we will all be equal in these tasks.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

The Senator from Arizona is recognized.

THE BUDGET

Mr. DECONCINI. Mr. President, I rise today to announce a difficult decision. We are faced with two awful possibilities: A budget summit agreement that is not at all acceptable, or a nightmare called a sequester. There are other options. We could pass a short-term continuing resolution, go back to negotations and try to do a better job, and produce an agreement which is more equitable and fair.

No one likes this budget, and no one wants the budget, because it simply cannot be justified in the eyes of the majority of the American people. I have not really heard anyone speak up for the budget. Maybe I have missed a speech or two. Some people have said they are going to vote for it, but I have not heard anyone say this is really a good thing for the American people.

If we are to be the people's voice, then it behooves us to go back to the bargaining table, admit that we failed, or come to the floor with a budget and do it the old-fashioned way, stay out here until we pass something, go to the House, conference it, send it to the President. If he cannot stand it, let him veto it, and we continue to work. Obviously, what we have done has not worked. The process, in my judgment, has failed.

The bargainers have worked hard, and they have spoken loud and clear. Despite the President's plea, the leadership's plea, the American public does not support this package.

I believe we can do better. The American public expects us to do a better job. The President refuses to give us additional time for a continuing resolution. If he vetoes such a continuing resolution, causes a sequester or a great disaster, some say let him take the responsibility. We are taking

the responsibility by going forward and trying to do a better job than what we have done so far.

I am not here to criticize. I am here to lay all the accolades I can on those who were in the summit. They worked endless hours; they really sacrificed and did what they could. They represented their cause as best they could to try to come up with something. In the process, however, I fear they have fashioned an agreement that is unacceptable to the majority of the Members of Congress. Their efforts deserve our praises, and I give it to them, but the product does not deserve our vote.

I was startled to hear how many Republicans oppose this budget, particularly in the House of Representatives, at least as reported in the press.

A number of Republicans call this a Democratic budget. This is not a Democratic budget in the tradition of Jefferson and Roosevelt. It is more a budget in the tradition of Harding and Hoover, if anything. No budget devised by Democrats would so mercilessly attack the elderly. No Democratic budget would ever institute new regressive taxes.

A basic tenet of U.S. tax policy has been progressivity. Throughout the Reagan years, this principle was repeatedly violated. The basic belief that those who have more should pay more is not unique and it is not new; it is something that has been around since the 16th amendment of the Constitution was passed. Yet, the bulk of the revenues raised in this budget summit agreement are regressive.

The alcohol tax is regressive, and the tobacco tax is regressive. Most especially, the gas tax is regressive. The tobacco tax and alcohol tax may be justified in being regressive because of the damage tobacco and alcohol cause people. Nevertheless, it is a regressive tax. The alcohol and tobacco taxes are perhaps acceptable to many; they are to me. I would vote for those taxes because of the disease and damage they cause. Even the gas tax, though regressive, would be acceptable to this Senator. Gas prices are disproportionately low in this country in comparison to other industrial nations. An increase will encourage conservation and improve our air quality.

While each of these taxes may promote sound policy objectives, the problems remain that the package, in its entirety, is truly regressive in nature and cannot pass a fairness test under anybody's guidelines. If we are going to have to raise taxes to solve our budget deficit, as the President has agreed we must, they must be fair and equitably distributed. The budget agreement meets neither of those tests.

According to preliminary information, taxes for middle-income Americans under this agreement will rise by a greater percentage than for the wealthy. Taxes for Americans with adjusted gross income between $20,000 and $30,000 would increase by approximately 3.3 percent. Those with incomes between $30,000 and $50,000 will see tax increases of about 2.9 percent, almost 3 percent. But the very wealthy, those making over $200,000 a year, would see increases of only 1.7 percent.

This is crazy. Are we trying to eliminate the middle class in the United States? Are we trying to create a country of "haves" and "have nots?" I am not advocating soaking the rich. I am only advocating fairness. Those who have been blessed with good fortune and prosperity, as I have, must at the very least fairly share in the cost of preserving this great democracy.

The Reagan-Bush administration has been kind to the very wealthy over the past decade. The wealthiest 1 percent of our citizens have seen their income rise nearly 70 percent, from $300,000 a year to $500,000 a year, while the real income of the poorest members of our society has actually declined.

The income of the great middle class of America, which has made this country what it is, has risen a mere and a meager 3 percent over that period of time.

These statistics made it abundantly clear that the fairest option for raising revenues would be to raise the top tax rate on the very wealthy. No, we did not get that. The White House refused it. And I am very sorry that that happened.

Would it be too much to ask those who are making over $175,000 or $200,000 to raise their rate to 35 percent? I say, no, it would not.

That is not what we have here. Those of the wealthiest still pay only 28 percent above that figure of $200,000. That is not fair.

I know the Democratic negotiators offered plan after plan to make the wealthiest share a large share of the deficit reduction burden. Those efforts were repeatedly rejected by the administration. So we are now asked to vote up or down on a package that no one likes and no one thinks is fair. I cannot in good conscience, Mr. President, support this endeavor.

There are other elements of this package that also cause me a great deal of heartburn. This Senator has never been accused of being soft on defense. I believe in a strong defense and have consistently supported levels needed to maintain our society. However, this budget agreement locks in specific levels of defense spending for the next 3 years regardless of world realities. The whole world has been totally transformed in the past 10 months. How can we possibly know what our defense will be 3 years hence? There must have been something in the water that was being drunk out there at Andrews Air Force Base because this budget makes certain that there will be no peace dividend. Instead, the Defense Department makes out like a bandit.

We are facing aggression in the Middle East, and we have brave young men and women in the desert safeguarding our national interests in Saudi Arabia. But our allies in this struggle are beginning to share the costs so I think we can, and should, make deeper cuts in certain parts of our defense budget. More than 40 percent of our defense budget is spent in the defense of Europe. The reunification of Germany, the blossoming of democracy in Eastern Europe, and the remarkable thaw in our relations with the Soviet Union, force us to ask why so many United States tax dollars are going to the defense of Europe instead of into fighting some battles here at home. The people of this country have borne more than their fair share of the defense burden of Europe over the past decade. Now that the cold war is thawing out and may be over its America's turn to have some of those dollars invested here.

Under this budget summit agreement, however, we would be forced to maintain high levels of defense spending, higher than many experts feel is necessary or supportable, regardless of world events that occur over the next 3 years. If 2 years from now we wanted to transfer a measly $10 million from the defense budget to a program for drug addicted mothers and their babies, we could not do it.

Mr. President, if this comes down to making a choice between B-2 bombers or healthy babies, I will choose healthy babies any time.

The Medicare provisions of the summit agreement are even more regressive than the tax proposals and impose a particularly onerous burden upon the most vulnerable citizens of our society. Approximately half of all the savings achieved in this agreement and almost one-eighth of the entire package are financed through Medicare cuts. How can anyone justify this element of the package is beyond me. It is unfair; it singles out the elderly in our deficit reduction effort. Under the proposal, Medicare beneficiaries will have their out-of-pocket expenses increased by about $22 billion over the next 5 years by requiring them to pay higher premiums, by doubling their deductibles and by charging them a new 20-percent copayment for critical clinical lab services. These additional costs will hit the low- and middle-income elderly Americans hardest. Over half, 54.8 percent, of the increased costs will be paid by beneficiaries with incomes under $20,000. The agreement imposes the same costs on all beneficiaries regardless of ability to pay.

I ask this body, is that fair? And I answer the question. It is not fair.

The agreement imposes the same costs on all beneficiaries regardless of their ability to pay. Is that what we are about to do here? I hope the votes will not sustain it.

This flies in the face of the concept of fairness and our commitment that no one segment of the population should take a disproportionate share in cuts in Federal programs.

Yet we are talking about forcing America's poorest adult group—older Americans—to make the biggest personal sacrifice. Approximately 66.5 percent of seniors would lose income equivalent to at least one-half of their Social Security cost-of-living increase. Most seniors live on fixed incomes. They must struggle to meet their most basic medical needs in the face of spiraling health care costs. Many are already foregoing necessary medical treatment. Others cannot afford prescribed medications. This budget proposal will only exacerbate the problem. Do we want to make health care for our elderly a privilege rather than a right? That is exactly the direction in which we are heading with the summit proposal that may be voted on by the House today or tomorrow. It places an unacceptable burden on our neediest seniors, and I cannot in good conscience support that.

Finally, Mr. President, everybody keeps saying that this summit agreement is great because there are no smoke and no mirrors; I believe the President even used those terms. Tuesday night, the President in his speech said: There are "no smoke; no mirrors; no magic act." Those are his quotes. Well, either the President has not read the economic assumptions listed on page 44 of OMB's summit agreement document or we have very different understandings of those words. They are quite clear, I think.

I was surprised, as no doubt many American people would be surprised, to discover that interest rates on 3-month Treasury certificate bills in 1995 will be 4.2 percent. Who are we kidding and who would really honestly suggest that that might occur 4 years from this time? When was the last time that interest rates were that low? I cannot remember. Not since I have been here, nowhere near, and that is 14 years.

Last week, domestic oil prices nearly reached $40 a barrel; yet the budget summit agreement anticipates oil prices at $21 a barrel for this year and $24 a barrel for next year. Is that realistic? Of course it is not realistic. Unless Saddam Hussein gives up tomorrow, pulls out of Kuwait and turns over all his oil wells to pay for all the damage and gives the oil away, there is no way the oil price for this year is going to be $21 a barrel on the average. It is just not going to happen. This year we will be lucky if the GNP creeps along at 0.7 percent, 0.7 percent, not even 1 full percent. Yet Mr. Darman of OMB anticipates a 1.3-percent GNP for next year and 4.1 percent in 1993. I am kind of getting the feeling that this country is headed in the other direction economically. We may be or are already in a recession. And yet next year and the year after that in 1993 we are going to have 4.1 GNP growth? Is that not fantastic? I mean, I can really be uplifted by that. The only trouble is it is not true. We are not all experts like Mr. Darman and his people at OMB, but even amateurs can see through this kind of nonsense.

In the end, where does the budget summit agreement leave us at the end of 5 years? Even if Mr. Darman's rosy economic forecasts should be accurate, and there is no way this Senator can swallow that nonsense, at the end of 5 years we will be worse off financially than we are today, much worse. The deficit will have increased by $1.2 trillion between now and 1995 even if we pass. Even with this $500 billion package we will be much worse off.

Even with the agreement that is an additional 4,500 dollars' worth of debt for every American man, woman, and child on top of the more than $3 trillion of debt we already have accumulated.

Mr. President, I would like to be able to vote with the President and the leaders of my party, but my conscience will not let me do so.

The debate has been framed as a choice between this budget summit agrement or the unthinkable—a sequester. But there are other choices. Let me mention one choice, too, that was mentioned recently.

President Bush when he ran for office after serving as Vice President under President Reagan made a commitment, he made a promise that, by gosh, we are going to have a balanced budget by 1992 and we are going to meet the Gramm-Rudman targets; we are not going to raise taxes.

Well, I am prepared to support the President's promise if we have to because it is his doing that we are in this position that we are in today. And in lieu of that, I propose that we pass a short-term continuing resolution and go back and try to negotiate if we have to. But I prefer it to come to the floor, to bring the budget here and let people put their stamp on it, let them offer their amendments, pass whatever we can, and send it to the President in a reconciliation bill. Let him veto it and tell the American public that we are going to shut down the Government.

I do not think it has to happen. And if it does, the responsibility lies with the White House.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS

The Senate proceeded to consider the motion to proceed.

Mr. KERRY. Mr. President, what is the regular order?

The PRESIDING OFFICER. The pending question is the motion to proceed to S. 3037, the Money Laundering Enforcement Amendments of 1991.

Mr. KERRY. I know of nobody on our side who wishes to speak at this point, and we are prepared to go to a vote.

The PRESIDING OFFICER. Is there further debate?

Mr. GARN. Mr. President, this vote would be on the motion to proceed to the bill?

The PRESIDING OFFICER. That is correct.

Is there further debate?

Mr. GARN. Mr. President, I have been requested to wait for one moment to check with a Member, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, the money laundering bill, the present legislation before us, is legislation which, as I think our colleagues know, will contain several important titles: the money laundering and enforcement amendments of 1990, titles I and II which also includes amendments to the Expedited Fund Availability Act and the Home Equity Loan Consumer Protection Act, the Counterfeit Deterrence Act, title IV, and title V, the Coin Redesign Act.

The money laundering provisions contained in these titles themselves address some very real and quite clear gaps in money laundering deterrence and enforcement schemes. And the legislation authorizes penalties for convicted institutions and for bank personnel in order to enhance the deterrence and enforcement, and exchanges necessary to improve cooperation between Federal and State authorities, improved oversight enforcement of money laundering compliance programs of nonbank financial institutions, and addresses wire and other fund transfers transactions, that are currently not monitored for detection for money laundering.

Those two titles represent really the heart of the money laundering legislation.

In taking action, as we hope to do here today, we hope to significantly strengthen our ability to detect at any point, those who would seek to subvert our current law that is aimed at pro-

hibiting the kinds of illegal activities that shuttle massive amounts of money potentially without regard to the source of that money in an effort to evade the detection of drug-related activities, of gambling and other illegal types of activities that might otherwise be detected.

The third title of this bill, as I mentioned, reforms the disclosure in advertising savings accounts to enable consumers to compare different savings and investment products so that they can make better-informed decisions about investing their money. The legislation also corrects technical problems which have arisen with the implementation of the expedited funds availability tax, and I will have more to say about that in a moment.

Title III also amends the marginal disclosure requirement of the Home Equity Loan Consumer Protection Act, to ensure that such disclosure is made.

Title IV updates several sections of title 18 of the United States Code regarding counterfeiting of Federal Reserve notes and obligations to expand the definition of instruments of counterfeiting to include a variety of new technologies.

The legislation also broadens the term "counterfeit deterrence" to take into account emerging technologies that the Treasury Department will ultimately employ. Stronger penalties are authorized to deter counterfeiting.

The last title of the bill, title V, authorizes the modernization of the designs on the reverse side of U.S. circulating coins, some of which are 52 years old—about my age, I am sorry to say—in order to better reflect today's values and accomplishments. The legislation eliminates the requirement that the eagle be placed on the quarter dollar and half dollar, thereby paving the way for new designs on circulating coins. The exception is the Susan B. Anthony dollar coin which does not meet the 25-year design requirement outlined in title XXXI.

Mr. President, during the markup of the expedited funds availability amendments, the Banking Committee narrowly rejected an amendment that Senator GARN, ranking minority member, offered with my support to retain the temporary availability period for local checks. The vote on that amendment could not have been closer. It was 11 to 10. The closeness of the margin suggests that this issue should be revisited, either here today on the floor, or in conference.

The Chairman of the Federal Reserve, Alan Greenspan, who testified before our committee on this subject, wrote to the committee and to Senator GARN in support of an amendment to retain the 3-day availability for local checks which was reduced to 2 days on September 1, 1990, when the permanent schedule under the Expedited Funds Availability Act, went into effect.

The board of governors urged the Banking Committee to adopt the amendment, because, with the permanent schedule in effect, banks are exposed to fraud and losses, since they are now compelled to make funds available before they know if the collections have cleared.

The letter from the Federal Reserve stated:

> The board is very concerned that depository institutions can be exposed to significant risk of fraud loss under the act's permanent availability schedule for deposits of local checks, which becomes effective September 1990.
>
> Therefore, the board urges the committee to adopt an amendment to retain the current availability for local checks in the permanent schedule. This affords institutions a reasonable opportunity to learn the origin of an unpaid check before being required to make funds available for withdrawal. The availability required in the permanent schedule provides no such protection.

The Federal Reserve also noted:

> More than 75 percent of institutions currently provide availability faster than that required by law, and we expect that they will continue to do so if this amendment is adopted.
>
> This amendment is particularly crucial, however, to institutions that are most vulnerable to check fraud due to the composition of their customer base, and which feel it necessary to place holds on the customers' deposits.

Mr. President, a number of us—Senator GARN, Senator BOND, and myself, to name three—agree that the amendment that we offered would not change the availability policies at the majority of banks, but it would have given those banks, that have problems with fraud, the ability to protect themselves from substantial losses. And at a time when losses are very much a concern of the FDIC, the bank insurance fund in particular, we should be taking every precaution and safeguard to prevent unnecessary exposure of those funds, which are insured by the taxpayer, in effect, from any additional and unnecessary exposure.

The only certain way for banks to protect themselves against check fraud, is to know if checks have been dishonored before they have to make the funds available. That stands to reason. Otherwise, somebody who has kited the check will literally take the money and run. With the permanent schedule in effect, the banks are no longer able to use this method to protect themselves from losses on local checks.

According to a March 1990 report to Congress from the Federal Reserve, only 3 percent of the local checks that clear through the Fed, are returned by the time that funds have to be made available for withdrawal.

Mr. President, some have argued that banks can rely on certain narrow exceptions to the availability schedule to protect themselves. These exceptions—for example, reason to believe that a check is uncollectible—allow banks to hold local checks an additional 5 days. These exception holds do not apply in all cases, however, and do not really offer any systematic protection from check fraud.

In any case, it is a perverse policy to force banks to use the exception holds more often to try to protect themselves, when simply retaining the temporary availability for local checks would do the job.

During our committee's markup, some argued that the banks are protected from losses, because under current law, the Federal Reserve has the authority to suspend the availability schedule if the banks experience unacceptable losses. This is not an adequate solution either, I am sorry to say, because the losses would have to be incurred to trigger the provision. That is to say, the horse would be out of the barn. And the taxpayer, once again, would be left holding the bag. In addition, it is difficult to collect the data to prove that there have been losses which meet this statutory test.

So the amendment that we offered, Mr. President, is in fact a very simple proposition. It merely keeps the temporary availability schedule in place. Both the Federal Reserve and consumer groups testified before the committee that consumers were satisfied with availability policies under the temporary schedule, the one we would keep in place.

The amendment does not allow unjustifiably long check holds. That is a thing of the past, the abuses which inspired the Expedited Funds Availability Act for banks placing 10-day holds on cashier's checks. This amendment simply keeps the availability for local checks where it was before September 1 of this year, just a little over a month ago.

We are all concerned about the financial soundness of the banking system. It is vitally important to protect the banks and the FDIC fund from losses. Keeping the temporary availability for local checks is a simple and effective way to protect the banking industry from fraud losses, without inconveniencing or costing consumers.

When this legislation comes to the Senate floor, as it has now, we sincerely hope that there will be the opportunity to rectify this, either now during this consideration, or at conference.

Mr. President, I see other Senators on the floor.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I was just conferring with the distinguished Senator from Utah. We are prepared to vote on the motion to proceed on this side of the aisle, and I ask my colleague—apparently about an hour ago, we were going to wait to see whether anybody wanted to speak. We have one person who has now spoken.

I do not know if anybody else wants to speak, but we are ready to proceed to a vote on the motion to proceed.

The PRESIDING OFFICER. Is there further debate?

Mr. GARN. Mr. President, once again, that is fine with me. I prefer not to go to the bill, but to pass it. I suggest if someone is not here to speak very soon—the majority or minority leader or Members on either side—that this game is getting a little tiresome, and we ought to go to a vote.

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might speak as though in morning business for 10 minutes and that the Senate then return to the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

Mr. SYMMS. I thank the managers of the bill, and I thank the distinguished Presiding Officer.

PRESIDENT REAGAN'S ACHIEVEMENTS

Mr. SYMMS. Mr. President, I rise today to bring to the attention of my colleagues an article which appeared in the Sunday, September 15 edition of the New York Times.

Mr. President, sometimes the demands of current world and domestic crises prevent us from reflecting upon our success.

This article by Carlyle C. Douglas reminds us of the great distance we have traveled in the last decade. The article is headlined, "Reagan Hailed for Taking the Evil Out of the Empire" and, yes, it is about our former President, Ronald Reagan.

Mr. President, today we have deployed thousands of American men and women in the Middle East to halt international aggression. This would not be that amazing if it were not for the fact that nearly the entire world supports this position—yes, even the Soviet Union.

Ten years ago, this multilateral, multinational operation which has the support of East and West—of former adversaries—would not have been possible.

It is only because of the strong, focused leadership of Ronald Reagan that this country was able to guide the rest of the world into a new era of freedom.

The first sentence of this article, Mr. President, says it all:

Historians may continue to debate exactly why communism fell, but Eastern European leaders last week rained gratitude on Ronald Reagan for giving it a push.

Now I know that Time magazine has proclaimed Mikhail Gorbachev as "Man of the Decade," but what are the people in Eastern Europe saying? The Polish newspaper Rzeczpospolitia called President Reagan "the real father of perestroika."

In Gdansk, where a common welder launched a revolution called Solidarity, banners flew proclaiming "Thank you, our President."

Mr. President, we are still living in a dangerous world. The situation in the Middle East is a powder keg. I, for one, am grateful that the United States and the Soviet Union are not lined up on opposite sides in this dispute. It is comforting to know that we are not facing a superpower showdown. Instead, the world community is united in an effort to confront an outlaw and bring him to justice.

I do not believe this world reaction would have been possible if not for the strong, principled leadership of Ronald Reagan, and I want to thank him for providing the world a means to deal with tyrants without blowing our precious planet to kingdom come.

Mr. President, I ask unanimous consent to print this article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REAGAN HAILED FOR TAKING THE EVIL OUT OF THE EMPIRE

(By Carlyle C. Douglas)

Historians may continue to debate exactly why Communism fell, but Eastern European leaders last week rained gratitude on Ronald Reagan for giving it a push.

In East Berlin, where preparations are under way for ceremonies next month marking the reunification of Germany, the former President met Sabine Bergmann-Pohl, the President of the East German Parliament, who said, "Mr. President, we have much to thank you for." Later, near the site where in 1987 he had challenged Mikhail S. Gorbachev to "tear down this wall," the 79-year-old Mr. Reagan himself took a few symbolic hammer swings at a remnant of the Berlin divider and said he found it "damned hard."

Continuing an 11-day trip that will take him to Moscow and Rome this week, the former President next stopped in Poland, where the Government newspaper Rzeczpospolita hailed him as "the real father of perestroika," and called his European tour "a symbolic harvest" of his Presidency.

(Mr. Reagan's aides hastened to make it clear that that was the only sort of harvest the former President and his wife Nancy would be receiving on this trip. Mr. Reagan, who was roundly criticized for accepting $2 million in honorariums during a trip to Japan earlier this year, would be getting no speaking fees this time around, they said.)

In Warsaw, the Speaker of the Polish Parliament, Mikolaj Kozakiewicz, welcomed the former President with words reminiscent of some of Mr. Reagan's old speeches. "You are the President who returned to America its sense of greatness," said Mr. Kozakiewicz. "You raised the spirit of the American nation after a series of failures it endured."

Later, Mr. Reagan paid a courtesy call on President Wojciech Jaruzelski, the Communist party leader whose efforts to crush the Solidarity union a decade ago prompted Mr. Reagan to impose economic sanctions on Poland. These days Solidarity, from whence sprang the Polish democracy movement is split into factions that will oppose each other, perhaps bitterly, in coming elections. Lech Walesa, the Solidarity leader, has been at outs with some of his former comrades from the Gdansk shipyard strike days, and is mulling over a run for the presidency.

Doubtless mindful of this, Mr. Reagan, who was to meet the next day with Mr. Walesa, offered his hosts some tips on keeping family conflicts under control. "To protect the liberty you have won, you will need a full measure of the tolerance and openness that are Poland's tradition," he said. "You must fight as opponents, not as enemies."

Later in Gdansk, praise was exchanged all around. Speaking to a cheering throng at the site of the historic strike, Mr. Reagan said, "One might say this is the shipyard that launched a half-dozen revolutions." Solidarity banners aloft around the yard read, "Thank you, our President."

THE BUDGET AGREEMENT

Mr. SYMMS. Mr. President, on the subject of the budget that is before us, I know that our budget summit negotiators, for whom I have the highest respect, worked very hard in order to come up with a budget that would have some semblance of saving money for the taxpayers in their view and guaranteeing a strong future full of economic growth.

The more I study this budget—and I must say that I have told the leadership and the White House that I would withhold making any public statements until I had time to study it, though my gut reaction when it came out on Sunday was that this is a raw deal, it is not a good package. The more I look at this budget, Mr. President, the more concerned I become.

Out of the $500 billion package, we have the largest peacetime tax increase in American history, to the tune of $134 billion. We have $67 billion in defense cuts with a possibility that in 1994 and 1995 there will be more cuts out of defense since there are no controls on the agreement where they come from in the discretionary accounts in 1994 and 1995. So that amounts to $182.4 billion. In other words, 75 percent or three-

fourths of this package is made up of either tax increases on working Americans or it comes from real and potential defense cuts.

Mr. President, I think there are some severe problems with it, and I know we could all nitpick the package. Although I do not intend to do that at this point, I would like to go back and just reiterate some points I made on October 27, 1989, on the Senate floor about the strength of the American dollar and what was happening. There seems to be a thought in many respected people's minds in this country that somehow a weak dollar is good for America's economy. I know of no nation in history that has operated under a policy of weakened dollar, which ends up weakened currency, that does not end up in a lot of trouble.

I also have a letter from the distinguished economists from Johns Hopkins University and an article written by economist Keith D. Bronstein. I ask unanimous consent that my remarks on October 27, 1989, be printed in the RECORD along with these two articles.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the CONGRESSIONAL RECORD, Oct. 27, 1989]

THE VALUE OF THE AMERICAN DOLLAR

Mr. SYMMS. Mr. President, it seems it has become a very popular issue nowadays to discuss the appropriate exchange value of the American dollar. There are many people in this country, largely among major exporters, who would like to see the dollar depressed in price. Exporters believe they may sell more goods and make more profits. But, Mr. President, it is a fallacy—an example of the "broken window" fallacy.

A cheaper dollar may bring in more dollars for some U.S. exporters, but it won't bring in more yen, or more francs, or more marks. And everything we import would cost some other American more dollars. We would not be better off even if we did finally export more and import fewer goods. Some Americans may be better off, but they will be better off at the expense of some other Americans, who will be worse off.

Mr. President, I just want to make a few comments about currrencies. I have some articles I want to have printed in the RECORD. I think first I will say that it is not worthy of a great nation to have a weak currency. Weak currencies are a sign of distrust of a government's future policies, both by its own citizens and by others. The value of our currency is a measure of what other citizens in other countries think of us.

If we think somehow having a weak currency is going to make America a greater nation or make our economy stronger, then I think we should take heed to what Lawrence Kudlow recently said. He was formerly an economist with the Office of Management and Budget. He said, "Were it true that a weak currency would pave the way for a trade surplus, then Argentina should be the center of today's global economy."

I think one should just look at Brazil, Argentina, and Mexico. They would be the world's most successful trading nations. Japan would be one of the weakest traders in the world if, in fact, it paid to have a weak currency when, in fact, it is just the opposite. If the intervention of the Fed and Treasury is effective, it will only raise the price of all imported goods for all consumers in this country. It will generate price inflation, which can lead to further monetary inflation. This would be very destructive to the real growth in the economy and not be at all helpful to the American economy.

In addition to that, Mr. President, a weaker dollar would allow foreign countries to buy America's engines of production more cheaply. So while major exporters, and some of my friends in the agriculture business in Idaho are involved in exporting agriculture products abroad, sometimes get excited about the dollar going down so they can be more price-competitive in those foreign markets, they fail to look at the question all the way through. I always make the point to them, if you are willing to sell your farms to the Japanese, then go ahead and let the dollar go on down. That is exactly the situation that will happen when they come in and start buying up these assets with an undervalued dollar.

I think the real question is, Should we be intervening to try to drive our currrency down? I personally think what we need to do is go to the C-7 meetings—and I have discussed this with Secretary Brady—and ask each country to run a sound monetary and sound fiscal policy. That is what we should do and let the currencies seek their own level.

In 1988, the Federal Reserve reported $500 million in losses from its foreign exchange intervention, realized losses. Unrealized losses were greater. The Fed purchased $23 billion in foreign exchange in 1988 and 1989 and already has unacknowledged losses of approximately $4.5 billion. This whole idea of currency intervention is a loser, Mr. President.

So I think rather than berate the dollar and talk the dollar down, what we should do is to encourage a strong, sound policy here in this Congress. That would mean a reduction in spending to meet the targets of Gramm-Rudman and a reduction in the capital gains rate of taxation, and avoiding excessive intervention with respect to our business policy in the country so we can, in fact, produce and maintain a competitive stance.

Mr. President, I ask unanimous consent that an article from the Washington Times newspaper yesterday by a very distinguished economist, Mr. Warren Brookes, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Oct. 26, 1989]

WOBBLY CURRENCY QUANDARY

(By Warren Brookes)

One of the three key planks of the 1980 supply-side agenda was the reform of the monetary system back to some kind of commodity standard and away from central bank manipulation.

Unfortunately, it was largely ignored by President Ronald Reagan, and casually dismissed by President George Bush. But the nation is continuing to pay the price of world monetary instability, which has produced massive trade imbalances, excessively high interest rates, and ever-threatening inflation.

It also produces periodic financial idiocy, as represented by the current efforts of the Treasury to drive the dollar down, even as the Federal Reserve pursues policies that push it up. Obviously, no one can agree about the dollar's "correct" value. That disagreement could badly damage the world economy.

The irony of all this monetary schizophrenia is that last September, Federal Reserve Board Gov. Wayne Angell, along with supply-side guru Jude Wanniski, were invited to the Soviet Union specifically to instruct its leadership on how and why to adopt the gold standard as a way of making the ruble convertible in international markets. Mr. Angell compared the present ruble to a thermometer with lines, but no mercury and no numbers, and thus no common reference of measurement.

But that analogy applies in degree to all the world's major currencies since the United States terminated the Bretton Woods Agreement in 1971 and severed the dollar's final tenuous link to gold.

Since that severance, world interest rates have soared, along with inflation, debt and exchange-rate volatility. As economist David Ranson of H.C. Wainwright in Boston said in a recent paper:

"Prices cannot be stable when they must be expressed in terms of an unstable [paper] unit. Nor can interest rates be stable when the future value of the currency is unpredictable.

"Monetary instability confuses markets, distorts supply and demand, and makes it harder for the economy to operate."

Most of all, it results in the kind of economic nonsense of wasting $5 billion in net taxpayer costs in the last 13 months trying to drive the United States dollar down in value, on the fatally flawed theory that strong currencies produce trade deficits, and weak paper currencies produce trade surpluses.

As Bear Stearns economist Larry Kudlow notes, if this were literally true "Argentina would be the center of today's global economy . . . and Japan and Germany would be first and second on the IMF's debtor watch list." Since the 1971-73 Bretton Woods breakdown, the yen has been the strongest world currency. "Yet contrary to Keynesian assertions Japan over this period has accumulated huge trade and financial surpluses. What's more the yen's strength has been accompanied by the lowest inflation and interest rate structure of any of the major industrialized nations."

In other words, anti-inflationary policies that promote price stability and strong currencies produce very low interest costs of capital and those cost advantages more than offset the competitive disadvantage of the higher exchange rate.

Conversely, inflationary policies that promote currency devaluation, also drive up domestic costs, which more than offset the competitive advantage of lower currency valuations.

The problem is, without any real value standard for paper currencies, all interest rates have to be much higher to reassure investors and give otherwise worthless paper currencies some credibility. This makes anti-inflationary policies, as desirable as they are, economically much more risky in the short run.

Great Britain is a case in point. Even though it is running a huge fiscal budget surplus, it is running a massive trade deficit, which is relatively equivalent in size to a $190 billion trade deficit in the United States. That deficit was fueled in part by inflationary monetary policies followed by Chancellor of the Exchequer Nigel Lawson

after the 1987 stock market crash, when interest rates were lowered to 7.5 percent, and the pound fell sharply as U.K. inflation rates suddently doubled, to more than 8 percent.

If the floating-exchange-rate Keynesians had been right, the falling pound should have produced a trade surplus. Instead, it coincided with the worst trade deficit in U.K. history.

Yet, to fight soaring inflation and support the pound, Mr. Lawson has now had to put interest rates up to 15 percent, and this in turn has made Britain even less competitive.

This illustrates the basic dilemma of purely paper currency systems managed by fallible central bankers. In the long run, Federal Reserve Chairman Alan Greenspan's stated commitment to zero inflation, and against foolish currency-market intervention or pegging is surely the best way to promote U.S. competitiveness.

Unfortunately, in a purely paper money world, Mr. Greenspan has discovered it is very difficult to get real price stability without waging a Phillips-curve interest-rate war against growth, and risking driving up the dollar and the trade deficit.

Mr. Kudlow correctly argues that "the goal of U.S. monetary policy should not be a higher dollar or a lower dollar but a stable dollar," and he salutes "the Fed's effort to maintain monetary discipline by linking the dollar to broad commodity indexes including gold" which he argues "could lead to astonishing results if it continues."

Those results, he says, could be 2 percent or less inflation, interest rates of 6 percent or less, and "American business and capital costs could be sufficiently low and competitive so as to generate a flood of exports and a virtual end to the trade deficit."

But Mr. Kudlow argues the only way that will happen is if the Treasury Department "moves away from willy-nilly currency intervention" and pushes for "an international commodity standard. Exchange rates should be anchored to gold and commodity indexes. This is a prescription for expanded world trade, economic growth, international cooperation and prosperity."

Unfortunately, Mr. Kudlow fails to note that central bankers, finance ministers and their bureaucracies understand all too well that taking such a prescription would be institutional suicide, while monetary instability gives them power and well-paid employment.

This is why the ruble is more likely to become gold-convertible than the dollar or the pound.

Mr. SYMMS. Mr. President, I ask unanimous consent that an article by Keith Bronstein of Glencoe, IL, entitled "Neville Chambelain Economics" be printed in the RECORD. I think it is signficant for my colleagues to read this. When he talks about how for us to think we can solve our trade problems by manipulating the value of the dollar he makes my central point clear. What we have to do is be more competitive, make better goods and services available to export and that will do for us everything that needs to be done.

Mr. President, I also ask unanimous consent that a letter from Prof. Steve Hanke at Johns Hopkins University, dated September 27, to me with reference to the Federal Reserve policy be printed in the RECORD. Dr. Hanke has documented how much our government has wasted on behalf of this misguided policy of currency intervention.

There being no objection, the material was ordered to be printed in the Record, as follows:

JOHNS HOPKINS UNIVERSITY,
DEPARTMENT OF ECONOMICS,
Baltimore, MD, September 27, 1989.

Senator STEVE SYMMS,
Senate Hart, Room 509, Washington, DC.

DEAR STEVE: The Federal Reserve has pursued monetary restraint since May 1988. To date, this has proven to be a prudent policy, since the economy has continued to grow and inflation has moderated. In consequence, the nominal exchange value of the dollar has risen.

The dollar's strength has motivated politicians to claim that our competitiveness is being damaged. This claim is largely unfounded. Our competitiveness depends on real, inflation-adjusted exchange rates, not nominal rates. To appreciate this point, consider that, if our inflation rate fell five percentage points relative to our foreign competitors', an increase of five percent in the nominal exchange value of the dollar would be required to keep dollar's real exchange rate and our competitiveness constant.

To accommodate political pressures, the Federal Reserve has engaged in sterilized intervention on a massive scale. This policy has no lasting effect on exchange rates.

Intervention (the acquisition of foreign currency) requires the Federal Reserve take a speculative position: that foreign currencies will appreciate vis-a-vis the dollar. In other words, it requires the Federal Reserve to gamble that its inflation control policies will fail.

If this type of government speculation were not bad enough in principle, it is very costly. In 1988 the Federal Reserve reported $500 million in losses on foreign exchange intervention. However, the Shadow Open Market Committee points out that the losses are much greater because (1) the Federal Reserve only reports realized losses (unreported losses on the $23 billion of foreign exchange purchased in the 13-month period ending in July 1989 were about $4.5 billion), and (2) the Federal Reserve fails to report losses on the Treasury's secret Exchange Stablization Fund.

Allow me to urge you to do everything in your power to convince your colleagues (and the Federal Reserve) that foreign exchange intervention is a misguided and costly policy. In addition, you should insist that the Federal Reserve be required to report all of the realized and unrealized losses from U.S. foreign exchange intervention if it should occur.

With my best wishes, I am

Yours sincerely,

STEVE H. HANKE,
Professor of Applied Economics.

NEVILLE CHAMBERLAIN ECONOMICS

(By Keith Bronstein)

The United States administration's economic policy makers have somehow been mistakingly convinced that the road to economic prosperity is through making exchange rates the principle focus of policy. One need only to look at Great Britain's obsession with the value of the pound, to see the folly in this idea. If all a country sets out to do is to manage its exchange rate, then that economy is destined for trouble.

Exchange rates in a free environment are a reflection of monetary, fiscal and macroeconomic policy, economic trend developments and investments and capital formations strategy with sound responsible exchange rates arriving at efficient levels. Nevertheless, United States administration economic policy makers have chosen to manipulate the exchange rate policy as a panacea for whatever economic problems appear to exist in the world today.

This exchange rate policy can take us into the 1990's on one of two paths. The first path is that a country with a strong currency, which in turn makes the cost of imports low, reduces inflation pressures and allows our economcy to expand vigorously. This is possible with the low interest rates and a strong monetary growth that a strong currency make possible.

The second path and preferably "the road not taken", is that of the dollar debasement. This bumpy road brings with it inflationary pressures, economically strangling monetary growth restraint and high interest rates. All of this will eventually lead to economic stagnation at best and more probably, to a worse-case scenario of a severe contraction. Lacking in the necessary fundamental understanding of economic history, these strategists have chosen to follow this road and will thus fall prey to "history repeating itself" with the most negative consequences.

All of this leads, even the casual observer, to ponder if those in charge of our economy have discussed the following questions. "Has there ever been a time when a nation prospered by pursuing a policy of debasing its currency?" "Are we modeling exchange rate policy after that pursued by economic 'sick men' like Great Britain and our more immediate neighbors of Mexico and Brazil. Or, are we trying to copy the economic titans like Japan and West Germany?" "Is there any logic to the arguments put forward by the other G-7 nations at these semi-annual U.S. bashings?"

If, in fact, any of these questions had been asked, they would lead to some tragic conclusions. For just a moment, let's review our recent history with regards to the debasement of currency. In the 70's, the Nixon administration presided over a dollar debasement process. This was accompanied by a rapidly expanding money supply which led to an explosion of inflation. This was then followed by the most severe economic contraction since the great Depression. On the heels of this collapse, the 70's Carter administration also pursued a dollar debasement strategy. Again exploding money supply growth and a collapsing dollar, resulted in inflation and ultimately, very high interest rates and another severe economic contraction.

Since 1987, we have been practicing "Dollar Debasement—Part III". This time, however, there is a difference, Now, Federal Reserve officials have refused to play the game. Money supply growth has been held at very constrained levels. By almost any measure, liquidity has grown at the lowest rate in 20 years. Thus, without the complicity of monetary officials, the treasury, and its foreign "bosses", (or the more benign sounding "G-7 Partners") can only lower the dollar by selling dollars. Federal Reserve officials clearly understand that if they pursue a constructive pro-growth, anti-inflations policy, that the market forces will assure the fair economic exchange rate.

This brings us to G-7 and Neville Chamberlain. Reading the reams of public statements that surround these talks, I continue to wonder why, U.S. officials seem so unable to grasp economic reality. For example, during the late 70's, our trading partners rightfully accused the U.S. of being the international "engine of inflation" because of our double-digit money supply growth and collapsing currency flooding the world. They maintained responsible money supply growth and were rewarded with low interest

rates and very strong currencies. Ultimately market discipline forced much higher interest rates in the U.S. and after a severe economic shake-out, we returned to monetary sanity.

Now, just a few years later, these same trading partners insist that by running a responsible monetary policy which has contributed, along with our firm economic growth, to a strong dollar, that the U.S. is again the "engine of inflation". The fact that Japan's money supply grows at double digit rates, flooding the world with Yen liquidity and European Central Banks follow a similar, although less dramatic policy, makes the U.S. again the villain in the inflation debate. Even a child can see that this is a case of "heads I win, tails you lose". Could it possibly be that our economic policy decisions are being made by someone less astute than a child?

Our trading partners say that we should protect their relative monetary profligacy by bashing our currency so that they can maintain relatively low interest rates with buoyant money growth and booming domestic economies. Then as an added bonus, they have the leverage to purchase U.S. assets at fire-sale prices. These fire-sale prices exist since all U.S. assets become cheaper denominated in Yen and Deutschemarks, et al. This, of course, includes the fact that there are a phenomenal amount of Yen being created and loaned to Japanese businesses and investors at 5 percent interest rates versus much higher rates in the U.S. Is it any wonder that our property and desirable productive assets are being snapped up?

Japanese capital spending is growing at the fastest rate in 15 years. They are investing in all of the productive assets and capital improvements that will assure them control of the world's economic future. Certainly, they are entitled to whatever economic success they achieve, but why are we financing this expansion through our mindless exchange rate policy? Can we really compete if we finance our competition?

How about this awful trade imbalance the G-7 asks? Since 1987, the U.S. trade balance has narrowed to some degree. Since 1985, however, the dollar has been virtually halved against the Yen and our trade balance has improved only imperceptively. Are there some other dynamics at work here? Are we debasing our currency, and subsidizing the economic growth of our international competitors at a tremendous cost, with little or no benefit?

Thus our economic policy makers surely deserve comparison to the famous Prime Minister of Great Britain. Neville Chamberlain lacked vision and understanding of dynamic foreign affairs in Europe between the wars. This lack of vision, understanding, will, and the courage to stand up for the right principles, allowed him to be bullied into fatal errors in negotiations with Hitler's Germany.

Now, 50 years later in the arena of international economic relation, the U.S. has lost its vision, its belief in rational economic thought and clearly its will to negotiate on an equal footing with our G-7 partners. If we fail to quickly get our wits about us, raise our sights and pursue national policies, including the vision to realize that with fundamentally sound monetary and fiscal policy, we must undertake domestic, long-term projects like education and rebuilding our infrastructure, that our standard of living will decline dramatically.

Now is the time to stop subsidizing everyone else's growth at our own expense by bashing the dollar. Instead, we must allow the dollar to seek, in the world market place, a value that is commensurate with economic and monetary fundamentals. If we fail to heed the warnings of the past, then the year 2000 will look very different for the people of the United States. The U.S. runs the risk of matching the rest of the Western Hemisphere with its high external debt, a "junk" currency, sky-high interest rates, a depressed standard of living and all worthwhile property and worthwhile productive assets, owned by everyone . . . but ourselves.

It is not too late to learn a lesson in tactics from Neville Chamberlain's failure . . . but the clock is ticking very fast.

Mr. SYMMS. Mr. President, I ask unanimous consent to have printed in the RECORD a Wall Street Journal article entitled "Pull the Plug on the Budget Deal"; an article entitled "Lessons From the Duke"; an article entitled "Bubba Takes the Tax Hit"; and an article entitled "Numerical Chicanery."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PULL THE PLUG ON THE BUDGET DEAL

(By Jim Miller)

As one who participated in a (1987) budget summit lasting half as long, my heart goes out to those brave, honorable souls who did their duty as they saw it in the negotiations at Andrews Air Force base. However, the result deserves to be rejected by Congress.

The agreement's greatest deficiency is that it contains no budget process reforms to rectify the bias toward ever-expanding government and increasing reliance on deficit finance. There is no line-item veto, no balanced budget amendment, no legally enforceable budget resolution.

The spending caps don't apply to some accounts, such as the International Monetary Fund and Egyptian debt forgiveness and to presidential requests for "emergency supplementals." The caps do not apply during the first two years of the agreement to revisions in spending because of "technical and economic adjustments."

Nor do they apply during the remaining three years if the president's representatives and the congressional leadership agree that revisions are in order. Since the economic assumptions for the out years are especially optimistic—for example, 4.1% real growth, 3.2% inflation and 4.9% T-bills in 1993—revisions almost certainly will be found to be in order. Moreover, the caps can always be waived by a three-fifths vote in both Houses.

It is truly remarkable that the compromise is so unbalanced. Roughly speaking, one side (led by the president) wanted to avoid increases in taxes and reductions in defense spending. The other side wanted to avoid cuts in domestic spending. Even if we were to take the results of the deal at face value, the president's side would have been outfoxed: The agreement calls for 1991 tax increases of $16.2 billion, defense cuts of $9.8 billion, and entitlement cuts of $12.1 billion.

However, the face value is inaccurate. $1 billion of the alleged $12.1 billion in domestic spending cuts is phony: It replaces a lump-sum payment to retiring civil-service employees with an annuity. Another $4 billion of "cuts" consists of new user fees that are counted as "negative outlays." Disregard the phony cut and count the user fees as what they are—taxes—and the "cost" of the agreement to the president's side is on the order of $30 billion in the first year, while the "cost" to the Democratic leadership's side is only $7.1 billion. And this imbalance persists throughout the five-year term of the agreement.

The agreement says that revenues are to rise by $73.9 billion next year, a 7.1% increase. Spending would go up by $109 billion, an 8.6% increase. Domestic spending would rise even faster. Evidently, the taxes raised by the agreement would be used to finance spending, not reduce the deficit.

Despite all the hype, the current agreement would not reduce the deficit, which would rise from approximately $218.5 billion this year to an estimated $253.6 billion next year. On the other hand, if there were an $85.4 billion initial sequester (as required by Gramm-Rudman-Hollings), the deficit would fall to $168.2 billion.

President Bush gave up a lot for this agreement, and he has little to show for it. He broke his "no new taxes" pledge, and even accepted an increase in rates in the disguised form of a limitation on deductions. He cast aside the jewel of his negotiating demands—a cut in the tax rate on capital gains—which would have done much to stimulate economic growth and would have more than "paid for itself" through higher federal receipts.

Although he is honor-bound to support the agreement, the president should be ready with a quick response if Congress refuses to pass it. He should order a sequester. This would result in something approximating a nominal spending freeze. Then, he should challenge Congress to reorder spending priorities. Even if spending were permitted to rise as fast as inflation and even if there were no tax increase, the deficit would still be lower next year than it would be under this much ballyhooed but fatally flawed agreement.

LESSONS FROM THE DUKE

Instead of trying to rally his Republican congressional delegation around the alleged deficit reduction, $134 billion tax-increase plan, President Bush would do well to remember who won the 1988 election, and observe what happened to the man he defeated.

While the pundits had a field day with the Sept. 18 political upset in Massachusetts by Boston University president and political neophyte John Silber who won the Democratic nomination for governor over the party's endorsed candidate, former Attorney General Frank Bellotti, they have largely ignored the real target of that voter backlash, Gov. Michael Dukakis.

At the Democratic party "unity" meeting on Sept. 19, Mr. Dukakis was neither invited nor allowed to say anything. The man who came within 7 points of becoming president has now become the biggest albatross in that state's pungent political history.

While Mr. Silber is indeed an attractively fresh new face and voice for a national party that has sold its soul to every pleading and bleeding special interest, his support came as much or more from people voting against the well-known Dukakis/Bellotti axis as it did from those attracted to Mr. Silber's shocking candor.

To put it bluntly, what happened on Sept. 18 in Massachusetts was a revolution of contempt for the political establishment because of the fiscal nightmare into which Mr. Dukakis and his legislative cronies have led

the people of Massachusetts, who have been hit with more than $2 billion in higher taxes and fees since the 1988 presidential campaign started.

Yet, despite those massive tax increases (or because of them?) the state is headed for its fifth straight budget deficit in fiscal 1991, and Mr. Dukakis is threatening to close old soldiers' homes to scare voters against supporting the Citizens for Limited Taxation ballot initiative calling for the rollback of those taxes.

The blatant cynicism of that effort explains why the taxpayers may now hate Mr. Dukakis and all incumbents enough not only to pass the potent CLT petition but throw still more "ins" out.

As the Boston Globe's liberal columnist Mike Barnicle admitted more than a year ago, "hate is not too strong a word to use because the worst thing you can do to the public is regard the people as morons, incapable of figuring out truth and reality. And that is precisely what Dukakis has done: treat citizens like fools . . . and show contempt for those who cough up hard-earned money to float a fat, untouched bureaucracy."

Last week, even as the entire political establishment was warning that CLT would destroy government services, the public found out the state's bloated payrolls had dropped less than 1 percent since last June, and were still nearly 15,000 higher than when Gov. Edward King left office in 1982.

This news came while the Boston Globe was running a five-part investigative series showing a supposedly overburdened municipal court system in which judges with fat payrolls and pensions were routinely working only three- and four-hour days, while moonlighting lawyer/legislators on House and Senate judiciary committees were trading favors to judges for lenient treatment of drunk-driving clients.

All this, while state spending continues to rise well above the rate of inflation despite repeated alleged "spending cuts." In fiscal 1990, ending last June 30, state spending rose 10.4 percent over fiscal 1989, which in turn had risen 11.2 percent over fiscal '88. Yet in both of those fiscal years, Mr. Dukakis and the Legislature had supposedly "slashed services" to the bone.

Tax-cut guru Barbara Anderson, responding to the charge that her petition "went too far," told her fellow CLT members: "I'll tell what's 'too far.' A 92 percent increase in spending over the last seven years with inflation up 25 percent. That's too far. A per capita tax burden that is sixth-highest in the nation, while we're rated third-worst managed state; that's too far!"

In fact, since fiscal 1983, state spending has risen nearly 100 percent, more than triple the total consumer price index in that period (about 30 percent). Massachusetts spending has consistently averaged 20 to 30 percent faster growth than the average for all states. Had the state merely held its spending growth to the average for all states, it would now have a substantial budget surplus without the $2 billion in taxes enacted since 1988. This means CLT is merely retroactive fiscal prudence.

Instead, the state chose to outspend even its own incredibly strong revenues, which have grown nearly 20 percent faster than the national average for all states. While Massachusetts revenue growth from 1983-1989 averaged 9.6 percent, spending growth was 10.4 percent.

The predictable result is that a $600 million funds surplus in fiscal 1986 had become an effective $2 billion funds deficit by fiscal 1990 when state spending outraced revenues by $1.4 billion, which then had to be "bonded" in the way normally reserved for capital investments. Even after that bonding, serious observers agree the state is still at least $1 billion or more in the hole.

Yet, when Mr. Dukakis inherited the state in 1983, its economy was indeed in a miraculous turnaround. Its personal income growth in 1983 was third-fastest in the nation, compared with third-worst in 1978. Its total tax burden had fallen from 10 percent above the nation to 5 percent below it, a nearly 20 percent drop. Yet its revenues from 1983 to 1987 grew nearly 13 percent a year, 30 percent faster than all states' average.

But instead of using that "miracle-driven" revenue growth to reinforce the state's trend to lower taxes and a stronger economy, it all went to build a massive political machine. The huge tax and fee increases since 1988, supposedly to balance the budget, have merely kept that machine running, fueled spending growth and increased the deficits in a now Depression-style economy.

There's a message in there somewhere. Who's listening?

BUBBA TAKES THE TAX HIT

A man defines himself by the choices he makes.

In breaking his pledge of "no new taxes," in surrendering his capital-gains tax cut for a budget "deal" imposing new taxes on the people who elect him, President Bush has defined himself. He is a Big Government man all the way.

What was the alternative of $134 billion in new taxes?

The federal government would have had to accept $85 billion in spending cuts Monday. To Mr. Bush, this was as intolerable as it was to liberal Democrats. He simply could not face the "chaos."

Inescapable conclusion: Mr. Bush believes that the U.S. government, which takes a fifth of America's income in taxes, and spends closer to a fourth, must grow. It cannot be reduced in size. Political conclusion: No major party in America still believes in reducing the size of government.

After this "deal" takes hold, the higher taxes will become a permanent fixture. Yet, somehow, the budget cuts will be restored, lest they result in "hardship." As Ronald Reagan, who called the 1982 budget deal the worst mistake of his presidency, learned, the $100 billion in new taxes he accepted proved permanent; the $300 billion in cuts he thought he had locked in proved illusory.

The Democrats were gracious in victory, as befits champions who have just humiliated their rivals on the field. They talked of what a hard-fought game it has been. But, everyone knows the real score. After a decade of dealing with Reaganite Republicans, the city is rid of them. We were routed, horse, foot and dragoons; George Bush, Big Government Republican, is prince of the city.

Who gets hit? Bubba gets hit. The fellow who was ready to vote Democratic in '88, until he got a look at the Little Duke's record on taxes and prison furloughs, on Willie Horton and gun control, on the American Civil Liberties Union and Pledge of Allegiance.

The price of Bubba's smokes is going up; the price of his Lone Star Beer is going up; the price of the Texaco he needs to commute 80 miles a day is going up. The price of Sunday at the Legion Hall watching Joe Montana lead the 'Niners to glory is going way up. Why? Because our congressional incorrigibles are unable to hold federal spending to that 20 percent of GNP they annually consume in taxes. And because Mr. Bush has thrown in with them. If Bubba takes a walk on the GOP next time out, who can blame him?

Our most successful citizens face an added income tax wallop of $18 billion. Washington is going to skim off the cream of America's investment capital from the individuals who earned it, so Teddy Kennedy and the Democratic Congress can invest the money more wisely. Good Republican doctrine, eh?

There is no modern economic theory—Keynesian, Friedmanite, supply-side—that argues for hitting an economy that is tottering on recession with new taxes. But there is a Republican precedent for what Mr. Bush has done: Herbert Hoover, rest his soul.

Mr. Bush's party has forfeited a grand opportunity. The mortgage interest deduction, the charitable deduction and the deduction for state and local taxes could have been traded in—for a reduction in the top rate on federal income taxes to 20 percent and the bottom rate to 12 percent. Add a 60 percent exclusion on capital gains and interest income—to promote saving and investment—and the Moynihan cut in Social Security taxes to bring along Democrats, and we could have left House Speaker Tom Foley and Senate Majority Leader George Mitchell out there sucking wind. The United States would have become again the most attractive investment bargain in the world; we could have blown Japan's doors off. Instead, we have a tax bill drafted by the firm of Scrooge & Marley.

In the television age, a party is defined in the minds of voters by its leader, an the policies he adopts. Consider, then, the GOP in 1990.

It stands for continued growth in social spending—paid for by cuts in defense—and higher taxes on working folks. It stands for sharpened oversight of business so the private sector does not behave bigotedly toward blacks, women or the handicapped. It stands for owls against loggers, feminists against Virginia Military Institute. It stands beside the Big Spenders and against the conservatives. It stands for a New World Order, where our wealth is spread around the globe through foreign aid and institutions like the United Nations and the World Bank.

Jack Kemp was right when he said in South Carolina that, if Mr. Bush were nominated, the Reagan Revolution would be over. Not only has the Democratic Congress taken the GOP into camp, it has persuaded Mr. Bush to provide political cover for tax increases and a huge congressional pay raise. President Michael Dukakis never could have gotten away with this. The GOP would have raised the roof, stopped him cold, routed the Democrats in '90, as prelude to a total government takeover in '92.

Where are the conservatives? Some are battling bravely in the House. Others, however, have stacked arms. They need the money the Big Man can raise; they need those presidential visits; they need the committee assignments GOP Hill leaders pass out to those who go along. They like going to White House socials, sitting in the president's box at the Kennedy Center. They love it here; they don't want to leave; and they don't want to be left outside in the cold.

Anybody got a fishing trip lined up for Election Day?

NUMERICAL CHICANERY

The budget deal serves the needs of the handful of Washington insiders who put it together, but it totally ignores the needs of the economy.

Moreover, the agreement is a fraud, pure and simple. In fact, it is outrageously shameful, and it's easy to see why. The numbers reveal it. Do you believe that budget outlays in 1995 will only be $25 billion higher than in 1991—the equivalent of a five-year budget freeze? Over the previous five years (1987-1991) budget outlays rose by $380 billion.

Do you believe that the federal government is going to spend fewer dollars in 1993, 1994 and 1995 than it spends in 1992? Do you believe that the congressional budget negotiators, President Bush and budget director Richard Darman, believe that dollar outlays in 1994 will be $50 billion below the amount the government spends in 1992?

The outlay and revenue numbers agreed upon by the budget dealmakers show that federal outlays for the next five years peak in 1992—an election year—and that revenues are up $100 billion in 1992 over the adjusted base revenue path in 1991. There you have what the budget deal is about—buying the 1992 reelection.

The savings are based on the assumption that spending in absolute dollar terms in 1993, 1994 and 1995 is below the level of 1992. In other words, the savings are based on the assumption of three years of budget cuts that individually are more severe than the threatened 1991 budget sequester, the fear of which has allegedly driven Congress and the White House to a budget deal.

Do you believe that politicians, who fear a sequester that would still allow a spending increase in 1991, are going to implement a budget plan that actually cuts spending, not in relation to some projected growth figure but in relation to a previous year's spending?

And that's not the half of it. Consider the economic assumptions that underlie these "savings." There is no recession in the forecast, which assumes a 3.8 percent average rate of real economic growth over the four years 1992-1995.

We have here a "rosy scenario" with a tax increase! In 1981, when the Reagan administration, with a major tax rate reduction, forecast less real growth than had occurred over the previous five years, it was greeted by critics with hoots or "rosy scenario." Now the government is proposing comparable real growth numbers, but this time they will result from a tax increase.

But the government knows that this is not really true. It has secret paths for outlays and revenues that adjust the figures in the budget submit agreement of Sept. 30, 1990 for revisions in the economic assumptions showing slower growth in 1990 and 1991 than previously projected.

These revisions show that spending will be $75 billion higher than the advertised "agreed" amount for the 1991-95 period, while receipts for the five-year period will be only $8 billion above the previous baseline path. In other words, the economic slowdown eats up all but $8 billion of the $133.8 billion tax increase!

These adjustments reduce the claimed five-year savings from $500 billion to $300 billion, and that's with all the tricks and no recession.

This makes it clear that a pro-growth budget would do far more to reduce the deficit than the absurd budget agreement that is before us. If the economy and the budget are to survive, Mr. Bush must quickly find a budget director with a pro-growth budget.

It remains to be seen whether the Reaganite-Kemp-populist members of Congress will allow this fraud against the public, or whether they will demand the resignations of Mr. Darman and the congressional leadership who together concocted this absurd collection of numbers.

Reporters no longer report. They just print whatever tricksters like Mr. Darman hand them. The Wall Street Journal, the New York Times, and The Washington Post all had front page stories on Monday emphasizing that the deal would "soak up $500 billion in federal red ink over five years." Not a single story revealed the unbelievable agreed outlay path that makes this claim ludicrous.

Mr. Darman succeeded in deflecting attention to the claimed deficit reduction and the various features of the proposed new taxes. "Bush May Be Winner in the Long Run" is a deadline straight from Mr. Darman's office.

The fraudulent budget agreement is so blatant that it shows the government's total disrespect for the public. The national press' complicity in the fraud shows the media will perpetuate any lie in behalf of a tax increase. It would be a light sentence if the budget negotiators and the reporters were tarred and feathered and run out of town.

(Paul Craig Roberts, an economist at the Center for Strategic and International Studies, is a columnist for The Washington Times.)

Mr. SYMMS. Mr. President, the Federal Reserve, which has tried under difficult circumstances to watch commodity prices and also watch the yield curve between short-term rates and long-term rates, that if this budget package does not pass Congress, and it may well pass and I know many of my colleagues are very sincere who think that, if it does not pass, we are going to have some kind of a calamity in the financial markets. However, I invite my colleagues to look at what is happening in the financial markets since the budget package has been announced. The U.S. dollar is very weak. People are buying yen, Swiss francs, and foregin currencies and are getting away from the dollar. It is a severe, serious problem for our economy when people try to get out of dollar-denominated accounts and try to invest in other countries.

We cannot overlook that here in the Congress. I know many of my colleagues are under the opinion that we have to pass this package or else real financial calamity will come.

Mr. President, I do not buy that. When you analyze this package, a rather small amount of cuts that are made in the first year in the budget in terms of lasting spending restrictions. I know my colleague from Texas, whom I respect and admire as much as any Member of this Senate, Senator GRAMM, has given me some numbers where he predicts the Federal budget will be $1.385 trillion in 1995. If I thought that were true I would be the first one to jump on board and vote for this package. I do not happen to believe that is true.

I believe what we are doing with this so-called budget package is, we are asking the working men and women in the country to spend 12 cents a gallon for gasoline taxes, not put the money in the highway trust fund to build roads with it, but so that we can allow the bureaucratic welfare state to continue to grow. I do not think that is a good deal for the country.

I do not feel that foreign investors are going to think it is a good deal for the country. I do not think it is going to attract capital in the United States. Capital is going to flow when tax policy is positive, toward what used to be called Reagonomics when all the money flowed into this country, where people thought it was a good place to invest and get a good return to investment. We cannot overlook that.

Mr. President, when you look through some of the things contained in this tax-and-spend package, this country would be better off to have gone ahead on the policy the President started out on, a sequester. The President was the one who ran on the platform that he did not want new taxes. I must say, as a Republican, I wept the other night when I watched the speech of the President and of our very distinguished majority leader on television. Then I weep even more when I see the President say in the press, as it is reported today, "Blame me; for those people that are having trouble on voting for it, blame me."

All I can say, Mr. President, is I thought the President had to compromise with the majority leader and the Speaker and the majority in the Congress, who wanted taxes on the table and a tax-increase package, to get a package through the budget negotiators. I do not criticize my colleagues because I know the fiscal year came to an end. You are under pressure. Everybody is on the diving board, diving off, and they have to jump in the water feet first or head first. So they came out with the best package they could get.

In my opinion, Mr. President, this country would be way better off if we did have a modified sequester. There is no reason why we would have to close the airlines and close the meat inspectors and not have milk for the children in the inner city. We can do those things, but have a modified sequester that will, in fact, actually save $50 billion in outlays for fiscal year 1991 that the markets and the world can see, and they would know that the Congress was serious and the administration was serious about restraining growth and spending.

My fear is that when you look at a $500 billion package with most of the savings to be made in the outyears, they will not become a reality. The only thing that will become a reality is that the working men and women of the country, yes, the middle-class people who work for wages, raise their families, try to educate their children and get up in morning and go to work every day, are going to be asked to pay more money for gasoline and other excise taxes that will come right out of their budgets. That will be real. But the Congress will somehow, in the end, get around the actual savings in those other appropriated accounts and the money will not be saved.

It just appears to this Senator that we would be way better off, and the White House, I think, would be way better off, if the President would simply say, "I tried; we could not get the budget package I wanted," and let us have this sequester. Make some modifications in it so we can live with it. Adjourn this Congress and then let the American people vote on this issue on November 7.

Those that want to raise taxes can go out and say so, and those that do not can say they do not. We can either solve this budget crisis by one or two ways, either spend more money and raise more taxes and have more Government, or hold the line on spending and let the private sector grow.

What has attracted capital and investment in the United States has been a favorable view of tax policy the last few years in this country. We are running rapidly away from that.

I, in good conscience, just do not believe I can vote for a budget that, in my opinion, will push this country into a recession. Let me tell you why I think it will. Look at the financial markets, Mr. President. The dollar is going down every day. I think we all know that the responsible people at the Fed are going to say we must protect and defend the dollar.

When they start defending the dollar with short-term rates, by raising interest rates to flatten out the yield curve between long-term and short-term rates, it will tumble this country into a recession. If you think you have a budget problem now, Mr. President, we really will have a budget problem if we see a slowdown in our economy.

So it just seems to me that this is not Armageddon. If this first package is rejected, we would be better off to take some of the other suggestions that have been introduced. Our colleague, Senator ROTH, has a proposition.

I ask unanimous consent to have printed in the RECORD at this point a statement by Senator BILL ROTH on his alternative budget, a plan for economic growth, and the tables that accompany it to show that there is another way that this can be done without raising taxes.

I also would call attention to my colleagues that last week Senator BURNS along with several other Senators introduced a package called the 4-percent solution, where there is no new taxes. You slip the targets on Gramm-Rudman and freeze all Federal spending at the baseline projected to grow from $1.2 trillion in fiscal 1990, allow it to increase only at a rate of 4 percent. This can be accomplished.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ROTH UNVEILS ALTERNATIVE BUDGET PROPOSAL FOR ECONOMIC GROWTH

WASHINGTON.—Emphasizing the need to "above all else, promote growth in the U.S. economy," Senator William V. Roth Jr., R-DE, today unveiled a budget proposal designed to break the gridlock in the budget negotiations while saving the American people from a tax increase.

Calling it "The Roth Alternative," Roth said his plan would drop proposed increases in taxes, would cut $400 billion over five years, and would institute several policies to stimulate economic growth, without the proposed cut in the capital gains tax rate.

"My budget plan is straightforward and easy to understand. First, I abandon the budget negotiators' proposed tax increases. Warning signs point to a recession," Roth said. "A tax increase would throw the nation into a recession headfirst.

"Second, I lay aside a proposed cut in the capital gains tax.

"Third, I cut the federal deficit by $400 billion over five years, a significant cut, but one which will not have damaging effects on an already weakened U.S. economy.

"Fourth, the Roth Alternative expands Individual Retirement Accounts to enhance savings incentives as well as raise federal revenue," he said. "In addition, the R&D credit is made permanent and education incentives are broadened to keep our industries competitive and our employment base strong.

"The American people have had enough. They are tired of excuses. They are tired of tax increases. They are tired of excessive federal spending." Roth said. "It's time for Congress to set aside the bickering and cut the finger pointing. It's time for us to initiate real reform that will address the needs of our nation today. We are days away from a sequester that is both dangerous and embarrassing.

"Above all else, the budget passed by the Congress this year must promote growth in the U.S. economy," he said. "We need to advance internal reforms that strengthen our economy here at home, expand our markets abroad, and meet our responsibilities in the emerging global community."

Specifically, Roth would: (1) reduce defense spending by $6 billion in the first year and $176 billion over the next five years. (2) Reduce entitlement spending $6 billion in the first year and $56 billion over five years. (3) Reduce discretionary spending by $12 billion in the first year and $70 billion over five years. In addition, the Roth Alternative would Raise $11.5 billion in new user fees and $29 billion in additional revenues, primarily through a rollover provision in the expanded IRA.

SEPTEMBER 26, 1990 OUTLINE

Item	Fiscal year—					
	1991	1992	1993	1994	1995	1991–95
Revenue items:						
IRS (w/rollover)	$1.50	$3.40	$3.30	$3.30	$3.30	$14.80
Extension of current law tax provisions	1.85	3.04	2.97	2.90	2.81	13.57
Retiree health benefits rollover	0.20	0.40	0.20	0.00	0.00	0.80
Subtotal of increases	3.55	6.84	6.47	6.20	6.11	29.17
Spending cuts:						
Defense	6.00	17.00	34.00	50.00	69.00	176.00
Nondefense discretionary ($12 billion off final appropriations)	12.00	13.00	14.00	15.00	16.00	70.00
Entitlement changes	6.30	9.11	10.54	13.43	16.89	56.27
User fees	5.49	1.45	1.55	1.36	1.65	11.50
Net interest	1.60	5.60	10.50	16.00	23.40	57.10
Subtotal of cuts	31.39	46.16	70.59	95.79	126.94	370.87
Total	34.94	53.00	77.06	101.99	133.05	400.04

SENATOR WM. V. ROTH, JR. PLAN—SEPTEMBER 26, 1990—DETAIL OUTLINE

Item	Fiscal year— 1991	1992	1993	1994	1995	1991–1995
Revenue items: IRA (w/rollover)	$1.50	$3.40	$3.30	$1.30	$3.30	$14.80
Extension of expiring provisions:						
(a) Permanent research and development credit	(0.50)	(.90)	(1.10)	(1.30)	(1.60)	(5.40)
(b) Educational Assistance Act	(.23)	(.33)	(.35)	(.36)	(.37)	(1.63)
(c) Health insurance for self-employed	(.25)	(.31)	(.36)	(.41)	(.46)	(1.79)
(d) Foreign allocation of R&D	(.50)	(.71)	(.77)	(.84)	(.90)	(3.72)
(e) Mortgage revenue bonds and credit certificate	(.01)	(.05)	(.14)	(.24)	(.33)	(.77)
(f) Airport and airway trust fund taxes	.88	1.56	1.67	1.81	1.99	7.91
(g) IRS user fees	.06	.06	.06	.06	.06	.30
(h) Administrative expense limits of private foundations	0	0	0	0	0	0
(i) Tax on deep seabed hard minerals	0	0	0	0	0	0
(j) Telephone excise tax extension	1.50	2.50	2.70	2.90	3.10	12.70
(k) FUTA 0.2 percent surtax extension	.77	1.09	1.12	1.15	1.18	5.31
(l) Extension of leaking underground storage tax	.13	.13	.13	.13	.14	.66
Retiree health benefits	.20	.40	.20	0	0	.80
Subtotal of increases	3.55	6.84	6.47	6.20	6.11	29.17
Spending cuts:						
Defense	6.00	17.00	34.00	50.00	69.00	176.00
Nondefense discretionary ($12 B off final appropriation)	12.00	13.00	14.00	15.00	16.00	70.00
Agriculture subsidies:						
(a) Reduce price supports	1.50	2.10	2.40	3.00	3.50	12.50
(b) Reduce REA loan subsidies	.07	.19	.33	.43	.50	1.52
Medicare:						
(a) Secondary payer reform	.31	1.27	1.63	1.98	2.33	7.52
(b) Part B premium floor 25 percent	.00	.67	1.75	3.13	4.81	10.36
(c) Rural hospital capital at 85 percent	.17	.21	.23	.25	.27	1.13
(d) Urban hospital capital at 75 percent	1.36	1.72	1.88	2.05	2.22	9.23
(e) Overvalued procedures	.11	.18	.21	.24	.26	1.00
(f) Durable medical equipment	.11	.20	.22	.25	.27	1.05
Medicaid:						
(a) Eliminate Federal Medicare match	.61	.66	.71	.76	.81	3.55
(b) Pay employee premium if cost effective	.18	.22	.26	.31	.97	1.94
General government and Postal Service:						
(a) Federal retirement lump sum	.96	.72	(.06)	(.07)	(.07)	1.48
(b) Federal Employee Health Program	.32	.37	.38	.50	.42	1.99
(c) Postal Service indirect subsidy	.60	.60	.60	.60	.60	3.00
User fees:						
(a) Customs	.81	.82	.84	.86	.88	4.21
(b) Nuclear Regulatory Commission	.30	.32	.33	.34	.36	1.65
(c) Naval petroleum reserve	1.00	(.09)	(.03)	(.27)	(.03)	.58
(d) Food and Drug Administration	.16	.16	.16	.17	.17	.82
(e) Strategic petroleum Reserve	3.00	0	0	0	0	3.00
(f) Additional user fees	.22	.24	.25	.26	.27	1.24
Net interest	1.60	5.60	10.50	16.00	23.40	57.10
Subtotal of cuts	31.39	46.16	70.59	95.79	126.94	370.87
Total	34.94	53.00	77.06	101.99	133.05	400.04

Estimates based on CBO, OMB and JCT figures.

THE 4-PERCENT SOLUTION

FACTS

Baseline spending is projected to grow from $1.207 trillion in fiscal 1990 to $1.297 in fiscal 1991. This is an increase of $90.2 billion.

Baseline tax revenues are projected to grow from $1.044 trillion in 1990 to $1.121 trillion in fiscal 1991. this is an increase of $77.7 billion in new tax revenues. Thus, baseline spending increases will exceed revenue increases by $12.5 billion in fiscal 1991.

True deficit reduction can only be achieved if new spending does not exceed new revenues.

SOLUTION: CONTROL FEDERAL SPENDING

Amend Gramm-Rudman-Hollings to link GRH deficit targets to a 4 percent cap on the total amount that federal outlays can increase over the previous years' level. A 4 percent cap in total outlays would allow for about $45 to $50 billion in new spending per year, but it would require Congress and the President to choose how to allocate the funds.

GRH targets would be changed and linked to the following outlay targets:

[In billions of dollars]

	Fiscal year— 1990	1991	1992	1993	1994	1995	1996	1997
OMB:								
Outlays [1]	1,208	1,256	1,306	1,358	1,413	1,469	1,528	1,589
Revenues	1,044	1,122	1,196	1,279	1,363	1,441	[2] 1,521	[2] 1,600
Deficit	−164	−134	−112	−80	−50	−28	−8	+11
CBO:								
Outlays [1]	1,192	1,240	1,289	1,341	1,394	1,450	1,508	1,568
Revenues	1,044	1,123	1,188	1,260	1,337	1,417	[2] 1,506	[2] 1,601
Deficit	−148	−117	−101	−81	−57	−33	−2	+33

[1] Does not include cost of S&L bailout.
[2] Estimated from OMB and CBO trends.

Expand the number of sequesters. There should be at least a mid-year sequester, or, perhaps, even quarterly sequesters. This is essential to prevent spending increases from being enacted mid-session.

Eliminate current-services budgeting.

1-YEAR DEFICIT REDUCTIONS UNDER THE 4-PERCENT SOLUTION: SPENDING REDUCTION OFF BASELINE

[In billions of dollars]

	Fiscal year 1990	Increase	Fiscal year 1991
OMB:			
Baseline outlays	1,207.7	90.2	1,297.90
4-percent solution	1,207.7	48.3	1,256.02

1-YEAR DEFICIT REDUCTIONS UNDER THE 4-PERCENT SOLUTION: SPENDING REDUCTION OFF BASELINE—Continued

[In billions of dollars]

	Fiscal year 1990	Increase	Fiscal year 1991
Spending reduction			41.88
CBO:			
Baseline outlays	1,192	86.0	1,278.0

1-YEAR DEFICIT REDUCTIONS UNDER THE 4-PERCENT SOLUTION: SPENDING REDUCTION OFF BASELINE—Continued

[In billions of dollars]

	Fiscal year 1990	Increase	Fiscal year 1991
4-percent solution	1,192	48.0	1,240.0
Spending reduction			38.0

4-PERCENT SPENDING VERSUS REVENUES BASELINE

[In billions of dollars]

	Fiscal year 1990	Increase	Fiscal year 1991
OMB:			
4-percent solution	1,207.7	48.3	1,256.02
Revenues	1,044.0	77.7	1,121.70
Deficit reduction		29.39	[1] −134.32
CBO:			
4-percent solution	1,192.0	48.0	1,240.0
Revenues	1,044.0	79.0	1,123.0
Deficit reduction		31.0	[1] −117.0

[1] Deficit.

SPENDING OPTIONS USING THE FOUR PERCENT SOLUTION

Fiscal 1990 Outlays (minus S&L bailout costs) are $1.208 trillion (OMB) or $1.192 trillion CBO). Using either figure, a four percent increase above that level allows for about $48 billion in new spending. The following programs can be fully funded—with scheduled baseline increases—in FY 1991 with $48 billion. All other programs would make do with FY 1990 spending levels.

FISCAL 1991 BASELINE INCREASES

[In billions of dollars]

Program	OMB	CBO
Social Security	18.0	18.0
Interest	14.2	13.0
Medicare	8.5	9.0
Medicaid	7.3	6.0
Total	48.0	46.0
Military Retire		1.0
Veterans benefits		1.0
Total		48.0

Under this option the following entitlement programs would not receive full baseline increases:

Fiscal year 1991 increase (CBO)

Food stamps	$3
Supplemental security income	3
Family support	2
Federal civilian Retired	4
Total	12

Budget summit negotiators have been discussing changes in Medicare that would cut $6 billion off the baseline. This $6 billion could be used to fund the baseline increases in Food Stamps and SSI.

Implementing the Four Percent Solution could save at least $2 billion in Net Interest payments. These saving could be applied to the remaining entitlement programs.

A list of billions of dollars in spending and entitlement reforms is contained in the last section of this document.

This, of course, is not the only allocation option available with the Four Percent Solution. It is, perhaps, the most politically attractive option one month before an election. Certainly, increases for other high-priority programs, such as drug enforcement, could be traded for reforms in other programs, the Food Stamp program for example.

COMMON-SENSE SPENDING CUTS

If the goal is: (1) to match the $50 billion deficit reduction package requested by the President (ie: $50 billion off the baseline) then $8 billion in real program cuts can be chosen from the menue below and added to the 4 percent solution; or (2) to find additional savings off the baseline to fully fund all entitlement programs, then the following cuts can be traded dollar for dollar.

Repeal the Davis-Bacon Act and the Contract Services Act. Savings: $2 billion.

Require that unemployed workers wait two weeks before they can begin the 26 weeks of unemployment benefits. Savings: $2 billion.

Raise the federal civil service retirement age from 55 to 65, and eliminate the lumpsum retirement option. Savings: $3 billion.

Hold States liable for all erroneous AFDC overpayments. Savings: $1.2 billion.

Reduce overlapping AFDC benefits for those who live in subsidized housing. Savings: $500 million.

Combine expenditures on all food assistance programs into a block grant to the States, with a 20 percent reduction in spending (to recapture excess administrative and benefit payments associated with program overlap), and allow the States to redesign their assistance programs to better meet the needs of their citizens. Savings: $5 billion.

Reduce overlapping benefits between Food Stamps and Child nutrition programs. Savings: $1 billion.

Retarget Food Stamp benefits to more accurately reflect the nutritional needs of household members. Savings: $1.1 billion.

Restore the Food Stamp purchase requirement. Savings: $1 billion.

Establish a State matching requirements for the Food Stamp program. Savings: $2.5 billion.

Hold States liable for all Food Stamp overpayment errors. Savings: $1 billion.

Merge WIC with Medicaid. Savings: $800 million.

Lower the minimum Federal matching rate for Medicaid to States with high per capita incomes. Savings: $4.5 billion.

Hold States liable for all erroneous Medicaid overpayments. Savings: $1.3 billion.

Mr. SYMMS. People have said to me: "Well, that is not a program, that is just simply a slogan." That is just because we do not want to bite the bullet and face the music, Mr. President. I, personally, feel that the Congress is not looking very good in the eyes of the American people and it probably should not. But I say that advisedly, and not out of great disrespect for my colleagues that have worked for this. But in good conscience, there is no way that I believe, when you look closely at this $500 billion package, that it is a good package.

Surely a limited growth of the Federal Government—if you left it up to me, I would only allow the Federal Government to grow 1 or 2 percent a year. I am talking about making a compromise. If you are not happy with 4 percent, let us limit it to a little less.

But I predict that, with the package that is before the Congress, the Government will grow at a rate much greater than the budget summiteers think it will, and the defense budget will be the area that will suffer. We put ourselves and our young men and women in this country, that are in the forces of peace and freedom, at undue risk and in harm's way, if we cut the defense budget dramatically in order to meet some targets because we do not have the courage to reduce spending on the domestic side.

I think that there are actions that we can take and I will support those actions. But I think this budget simply is not meeting those criteria and those qualifications.

The PRESIDING OFFICER. The Senator's request for time for morning business has expired. If there is a request to continue in morning business, we will return to morning business.

Mr. INOUYE. Mr. President, I ask unanimous consent that I be permitted to speak for 10 minutes as though in morning business, and upon completion of my statement, return to the pending business, the consideration of S. 3037.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Does the Senator from Oklahoma need time?

Mr. NICKLES. If the Senators would yield just for a second, I wanted to compliment Senator SYMMS for his statement and also for his suggestions on the need for more deficit reduction. I will speak further on that after the conclusion of my friend from Hawaii.

CHEMICAL WEAPONS DESTRUCTION

Mr. INOUYE. Mr. President, on September 27, the junior Senator from Hawaii [Mr. AKAKA] introduced a bill of extreme importance to the people of Hawaii and the Pacific Basin. His measure will prohibit the transport and destruction or storage of any additional chemical munitions after those from Germany arrive at Johnston Island. I wholeheartedly support the Akaka plan.

Exactly 2 months ago, I came to the Senate floor to discuss with my colleagues the planned shipment of chemical munitions to Johnston Island, and to address the concerns of my constituents. Two modified cargo vessels carrying approximately 100,000 chemical artillery shells have begun their voyage from Nordenham, West Germany, to Johnston Island, and are scheduled to arrive on or about November 10.

Of all the horrible weapons produced by man, perhaps none instills fear as readily as chemical agents. These weapons are to be feared, because they are extraordinarily dangerous. I do not deny or disparage the fears of my constituents. Indeed, I

share them. We must resolve to seek the adoption of the presently negotiated international treaty which will restrict the further production of these weapons, and destroy most of those which currently exist throughout our planet.

In doing so, we must take every precaution to avoid an accidental release of chemicals. For this reason, on August 14, I visited Johnston Atoll for an onsite inspection to ascertain for myself the safety of the destruction procedures. At my invitation, media representatives accompanied my delegation to Johnston Island. I sought to guarantee that what I saw—they and the people of Hawaii would see. I wanted the facts to be reported with no coverup, no secrets. At that time, I vowed that, if there were any reasonable doubts that the weapons could not be safely destroyed, I would take every measure at my disposal to block the shipment of chemical weapons from Germany to Johnston Island.

In the course of my visit, I became convinced that the increasingly stringent tests that have been repeatedly conducted to ensure the integrity of construction, the adequacy of safeguards, and the safety of the processes employed meant the Johnston Island Chemical Disposal System is as safe as any human endeavor can be. I believe the media representatives who accompanied me shared this view.

Mr. President, there have been some startup delays in the operation of the disposal system at Johnston Island. But these have been taken to ensure the continued safe and efficient operation of the facility. I believe that our Government and military officials have taken the proper course of action—they are cautious, they stress safety, and they endeavor to ensure the proper operation of the system.

Johnston Atoll is our Nation's first large-scale incinerator for the destruction of chemical weapons. It is also the model for eight others to be constructed throughout the continental United States. I believe it is fair to say that the vast majority of Americans agree with the policy of destroying these gruesome weapons. However, I believe it is also fair to say that the vast majority of Americans will fight to keep it "out of their backyards."

Mr. President, fairness and equity—as well as safety—dictate that these chemicals be destroyed in place. The incineration of chemical weapons is the best available means to rid the world of these deadly chemicals. Let me state a simple truth—if we are to rid the world of chemical weapons, they must be destroyed. We, in the Pacific, are the first to shoulder our share of this national responsibility. Many of my Hawaii constituents, as well as the citizens of the U.S. territories in the Pacific which are under the protection of our flag, are fearful of the impending shipment. Some are outraged.

However, they are even more concerned that Johnston Island, which is 825 miles west-southwest of Honolulu, will become the dumping ground for U.S. chemical weapons. Mr. President, I want to assure my constituents that no more than 6.6 percent of the U.S. chemical weapons stockpile will be destroyed on Johnston Island. The remainder will be destroyed within the continental United States at locations where they are currently stored.

The proposal of Senator AKAKA ensures it. As chairman of the Senate Appropriations Subcommittee on Defense, I intend to incorporate the Akaka Johnston Island plan into the fiscal year 1991 Defense appropriations bill. I believe the Akaka plan is sound. For Hawaii, it accepts our share of the national responsibility to begin the process of destroying these deadly chemical agents, while concurrently guaranteeing that we will not be called upon, again and again, to accept a disproportionate burden of chemical weapons destruction. We must now accept as our destiny the challenge to make this world a safer place for our children, grandchildren, and the generations to follow. I embrace it. I intend to carry it through. We will destroy these chemical weapons from Germany on Johnston Island. We, in the Pacific, will fulfill our responsibility. We will then look to others to do their share.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET AGREEMENT

Mr. NICKLES. Mr. President, I heard my friend and colleague Senator SYMMS talk about the deficit, and I heard him mention a lot of the problems and the dilemma we are faced with today. We are faced with some serious problems. The deficit is far too high, and it is growing. We need to work together, Democrats and Republicans, conservatives and liberals, with the administration, and bring the deficit down.

Is the package before us good enough? I am not sure. Frankly, I do not think it is. I do not think it is enough. Is it better than nothing? Maybe. I think we have to weigh it versus a sequester, and frankly everybody in town is scared to death of sequester. No one knows how much it will be, or how serious it will be. I think we have to weigh those two alternatives.

First we have to look at where we are and how we got into this situation. Mr. President, the deficit this year through the month of August is $241 billion. That is an enormous deficit. That is a deficit that is hard to comprehend. It is a deficit that is over $1,000 for every man, woman and child in the United States. That is how much our indebtedness has grown this year alone, $241 billion.

That compares to a deficit last year at the same time of $145.9 billion. In other words the deficit this year alone is 65 percent more than it was last year. So the deficit is really widening, it is growing. That cannot continue. That is not healthy. That is not a good thing for our country, it is not a good thing for the financial markets, it is not a good thing for our children. It needs to be reversed.

We might ask ourselves, why is the deficit so large? Why did it grow? How did it expand up to $241 billion this year? Let me mention a couple of things.

Spending is growing much faster than the revenues. As my friend from Idaho is well aware of, spending this year to date has increased 12.8 percent more than last year. That is two or three times the rate of inflation. Actually, we have spent this year $133 billion more than we spent last year for the first 11 months of the fiscal year, all the way through August; this year we spent $133 billion more than we did last year.

Revenues are not growing as fast. Revenues this year have grown at 4.2 percent. We actually have more money to spend this year than last year, but the growth rate is a lot slower. The growth on the revenue side has only increased 4.2 percent. So if expenditures are growing at 12.8 percent, and revenues are growing at 4.2 percent, you realize the deficit is increasing. This year, we actually spent about $100 billion more than we did last year. So spending continues to escalate.

I make mention of the fact that spending is $133 billion over last year because everyone is so concerned about a sequester. I am concerned about a sequester. I do see that a furlough would put a lot of people out of work. I know in my State, and a lot of other States, the sequester could have a very negative impact on a lot of people. It will disrupt their lifestyle. It will put some people out of work probably permanently. It will put a lot of people in the position where they will

miss several days per year. In other words, they might miss as many as 22 days for the entire year. Those were days they planned on being paid for. They will not be paid for. Why? Because they chose to work for the Federal Government? Because we could not get our fiscal house in order?

I do not think that is fair for public employees. I do not think it is a fair way to manage our financial affairs. But I also look at a $100 billion sequester and compare that with the total amount we are spending. We are spending $1.3 trillion. If we are going to spend $1.3 trillion, and if we are to reduce that by $100 billion, and actually spending is anticipated to increase by another $100 billion between 1990 and 1991, that means you can actually have a sequester and you will still be spending about the same amount of money in fiscal year 1991 as we did in fiscal year 1990. The outlays will be almost identical. Therefore, why would it be so painful?

One of the reasons it will be so painful is the way we set up Gramm-Rudman. We exempt about half the budget from the sequester. That means the other half is hit twice as hard. We say, that will be from 8 percent to 16 percent, but yet most of the figures that we hear on the sequester are reductions in spending of 33 or 34 percent. I am still not sure why we exempt military personnel, we exempt Social Security, we exempt veterans pensions, we exempt a lot of programs targeted and designed toward lower income levels.

Those groups that might be hit are civilian personnel in the Navy at Norfolk. They might be civilian personnel in the FBI or the Secret Service. They might be civilian personnel in the Bureau of Indian Affairs or the Park Service. Those areas that are not exempt get hit and they get hit very hard; probably too hard.

What should we do? We have to weigh this; we have to weigh this difficult decision in passing this budget as proposed. Maybe it can be modified; maybe it can be improved. I think it should be improved.

I happen to serve on the Appropriations Committee, and I see appropriations growing at every single level. My colleagues will be kind of surprised at this—and I will include in the RECORD some CBO estimates on the amount of appropriations increases. They are very large in a whole variety of areas. I can go through individual areas, but the bill we passed yesterday the VA/HUD bill, increased budget authority by 16 percent and outlays by 10 percent. I can go all the way through, but that is common. On outlays, on the so-called budget package, we provide that nondefense discretionary spending actually increases with inflation for at least 3 years. I do not know if that is fair.

Is it fair for us on the Appropriations Committee to say we are going to grow with inflation for the next 3 years, but we are going to ask American citizens to pay more taxes in order to fund that? Should we not have maybe at least 1 year to have a freeze on domestic discretionary spending? If we are going to have a freeze on defense spending, why not have it on domestic discretionary spending? I would support that. My guess is we could probably get the votes for it. Maybe not. I know the negotiators were not successful in getting it. Maybe it is too much to ask. I do not think it is. I personally think we should have that. I know it was tried. I compliment my friend and colleague, Senator GRAMM, because he did try that in the negotiations. Unfortunately, he was not successful. It takes both sides, and both sides fashioned the package that we have before us.

Mr. President, I am concerned about the growth in spending. I am concerned about the fact spending this year has already grown at 12.8 percent. I look at the projections for next year, and I see that spending is projected again to grow at 10 percent. I personally think, instead of fueling the fires of more and more Federal spending, that we should really be stronger in our desire and in our attempt and in our efforts to reduce the growth of spending. Instead of allowing spending to compound at 12 percent or 10 percent, I think we should try and contain the growth of spending in the 3 or 4 percent range.

Yes, that may require sacrifice upon all Americans, but I think it is a fair sacrifice. And then I think it would also give us the tools and the mechanism to have real significant deficit reduction. It will be very, very difficult to have real deficit reduction if we allow spending to continue to escalate at 9 or 10 or 12 percent. What we will do in that regard is allow the tax increases that are generated to basically fund the spending increases. To me that is not fair.

I will compliment those who have negotiated this agreement. They say we have caps and budget reform and they project in the outyears that spending will not really grow. In the years 1992, 1993, 1994, and 1995, the outlay growth is relatively constant. It does not even increase with inflation. I hope that is the case.

I heard my friend from Idaho say that if that was the case, he would support the package. He remains to be convinced. I remain to be convinced. I told Governor Sununu and others in the administration, if I was really convinced we would keep a level cap on outlays for the next 4 or 5 years, I would be the first Senator to sign onto this package and I would be most enthusastic for its passage. I think it is vital for the economic health of this country for us to contain the growth of Federal spending.

I am not sure this package does it. This package may be better than nothing, and I may support the initial step. At least in the authorizing committees we should work on it and see if we can make improvements. I think improvements need to be made.

There are several provisions in this bill, in my opinion, which will not work. The bill has a tax on reversions on pension plans up to 40 percent. The net impact of that would be that we are going to discourage people from fully funding their pension plans. That is going to make a lot of pension plans underfunded.

Therefore, beneficiaries will find over the course of years, all of a sudden their pension plan will not have enough money in it and then will be coming to the Pension Benefit Guarantee Corporation and say give me more money. They will say, we do not have it.

Congress decided to tax the reversions so heavily it is not in the plans. I think we have to change that. It does not raise much money, but I think it will cause a whole lot of problems with the private pension community.

There is another provision that says it will increase the fines and penalties of OSHA, the Occupational Safety and Health Administration, which OSHA imposes on employers. It will increase those penalties five times. What sense does that make? OSHA is supposed to encourage and work with employers and employees for a safe and sound environment within which to work; increase safety, not to raise money for the Federal Government; not to harass employers, not to be walking in and say, "You have that ladder in the wrong place. That is a $5,000 fine." "Oh, that exit sign is not posted" or "painted brightly enough; that is a $5,000 fine." That is not the purpose of OSHA.

But yet that happens to be in this proposal. It needs to be changed. I happen to be one of the few businessmen in the Chamber—and I know the Presiding Officer made a career in business before coming to the Senate. There are provisions to enhance small business. I happen to be a small businessman. I will tell my colleagues, the provisions that I have seen supposedly to enhance small business will not work. They might attract a lot of people into financial schemes to reduce taxes but, in my opinion, that is not sound. That is not good economics. And it should not be in the final part of the package.

I support capital gains reductions. I think that would help the economy. I do not think several of the changes proposed so-called to benefit small businesses in this package are worth it.

39-059 O-91-25 (Pt. 19)

Why should we raise taxes on other people in this regard to try and cram money into certain small enterprises, as defined in this bill, with tax credits, et cetera, all designed supposedly for small business? As I said, I come from a small business background. I think that is a mistake. I hope and expect it will be changed. If not, we will come back and change it in a few years.

There are a lot of other things that I think could, should, and I hope will be done in this package. I hope we will come up with a real reduction package. I hope we will come up with significant savings. When I say savings, I am talking about real savings. I am talking about compared to what we spend in fiscal 1990, not just reductions in the rate of growth.

I do not think we can afford to continue to allow Federal spending to climb in double digit figures. I think we on the Appropriations Committee have to take control. We have what we call controllable and mandatory spending. Frankly, what we show for domestic nondefense controllable spending is only $220 billion out of a $1.3 trillion budget. I think appropriators have to take total control over all the money in those committees and not assume that spending is mandatory and just disregard it.

Mr. President, spending is compounded in a variety of committees, in almost every committee. I see the Presiding Officer is my friend and colleague from the Transportation Subcommittee. Budget authority—these are all CBO estimates, I will tell my colleagues—for the Transportation Subcommittee declines by 18 percent, a rather striking thing, and outlays only increase by 1 percent. That is very unusual, because almost all other committees increase in both budget authority and outlays by double digit figures.

I will just mention outlays, for example, but HUD increased by 10 percent; Treasury, 10 percent; Transportation, only 1 percent; military construction, 1 percent; legislative branch, 11 percent—we have not brought that bill up. I am involved in that committee and I will try to reduce that—labor, 10 percent; foreign ops, 3 percent—that may be changed—defense, a minus 1 percent in outlays. In other words, we will actually be spending less next year than we did the previous year; District of Columbia, it shows a minus 5 percent. I am not sure that that is what we actually passed. That is what CBO shows in their chart; Commerce Department, an increase of 9 percent; Energy, 10 percent; Agriculture, 10 percent; and Interior, 12 percent.

Again, Mr. President, it is obvious, with one or two exceptions, Federal spending in almost all appropriations bills is compounding, at double digit figures, more than twice the inflation rate. I personaly think we need to hold the growth of spending down to no more than 3 or 4 percent. That happens to be what revenues are growing at right now, 4 percent. I think we need to contain the growth of expenditures to 3 or 4 percent as well.

That will not be easy. Congress is used to spending more money. Congress is going to have to break its habits.

Mr. President, I ask unanimous consent to print in the RECORD CBO estimates.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPROPRIATIONS SUBCOMMITTEE SPENDING

[Dollar amounts in millions]

	Fiscal year 1989 actuals	Fiscal year 1990 estimates	Change from 1989		Fiscal year 1991 Senate	Change from 1990	
			Dollars	Percent		Dollars	Percent
Interior:							
Budget authority	10,200	11,200	1,000	10	[1] 12,871	1,671	15
Outlays	10,000	10,700	700	7	[1] 11,997	1,297	12
Agriculture:							
Budget authority	35,700	45,200	9,500	27	52,690	7,490	17
Outlays	29,800	31,400	1,600	5	34,419	3,019	10
Energy:							
Budget authority	16,600	18,700	2,100	13	20,893	2,193	12
Outlays	16,400	17,900	1,500	9	19,758	1,858	10
Commerce:							
Budget authority	15,400	18,000	2,600	17	20,185	2,185	12
Outlays	15,400	17,500	2,100	14	19,133	1,633	9
District of Columbia:							
Budget authority	600	500	(100)	−17	[1] 570	70	14
Outlays	600	600	0	0	[1] 570	(30)	−5
Defense:							
Budget authority	282,400	284,300	1,900	1	[1] 263,489	(28,811)	−7
Outlays	278,300	280,200	1,900	1	[1] 276,243	(3,957)	−1
Foreign Ops:							
Budget authority	14,400	15,500	1,100	8	[1] 15,353	(147)	−1
Outlays	12,300	12,900	600	5	[1] 13,301	401	3
Labor:							
Budget authority	141,800	154,400	12,600	9	[1] 173,477	19,077	12
Outlays	146,000	160,100	14,100	10	[1] 176,108	16,008	10
Leg Branch:							
Budget authority	1,900	2,000	100	5	[1] 2,340	340	17
Outlays	1,900	2,000	100	5	[1] 2,227	227	11
Mil-Con:							
Budget authority	9,000	8,300	(700)	−8	7,797	(321)	−4
Outlays	9,000	8,500	(500)	−6	8,617	117	1
Trans:							
Budget authority	10,900	16,000	5,100	47	13,189	(2,811)	−18
Outlays	26,900	29,300	2,400	9	29,475	175	1
Treasury:							
Budget authority	16,100	18,700	2,600	16	20,710	2,010	11
Outlays	16,000	18,100	2,100	13	19,881	1,781	10
VA/HUD:							
Budget authority	61,700	67,500	5,800	9	78,588	11,088	16
Outlays	65,000	71,200	6,200	10	78,439	7,239	10
Totals:							
Budget authority	616,700	660,400	43,700	7	682,334	21,934	3
Outlays	626,600	660,500	33,900	5	690,168	29,668	4

[1] 302(B) allocation.

Source: Office of U.S. Senator Don Nickles CBO estimates.

MONTHLY TREASURY STATEMENT COMPARISON

[In millions of dollars and fiscal years]

	Receipts	Cumulative	Outlays	Cumulative	Deficit/(surplus)	Cumulative
October	63,582	63,582	90,590	90,590	27,009	27,009
November	64,320	127,902	93,454	184,044	29,134	56,143
December	93,655	221,557	105,097	289,141	11,442	67,585
January	89,306	310,863	86,500	375,641	(2,806)	64,779
February	61,897	372,760	89,769	465,410	27,871	92,650
March	68,205	440,965	103,984	569,394	35,779	128,429
April	128,892	569,857	88,320	657,714	(40,572)	87,857
May	71,025	640,882	96,491	754,205	25,466	113,323
June	108,249	749,131	100,460	854,665	(7,789)	105,534
July	66,191	815,322	84,430	939,095	18,239	123,773
August	76,136	891,458	98,285	1,037,380	22,150	145,923
September	99,233	990,691	105,299	1,142,679	6,066	151,988
1989 total		990,691		1,142,680		151,988
1990						
October	68,426	68,426	94,581	94,581	26,155	26,155
November	71,213	139,639	101,018	195,599	29,805	55,960
December	89,130	228,769	103,906	299,505	(14,776)	70,736
January	99,538	328,307	91,286	390,791	(8,252)	62,484
February	65,170	393,477	100,437	491,228	35,267	97,751
March	64,819	458,296	118,165	609,393	53,346	151,097
April	139,624	597,920	97,865	707,258	(41,760)	109,337
May	69,212	667,132	111,769	819,027	42,558	151,895
June	110,614	777,746	121,747	940,774	11,133	163,028
July	72,357	850,103	98,291	1,039,065	25,934	188,962
August	78,486	928,589	131,240	1,170,305	52,754	241,716
September						
1990 total						
1990 Compared to 1989 (in percent)						
October	7.6	7.6	4.4	4.4	−3.2	−3.2
November	10.7	9.2	8.1	6.3	2.3	−0.3
December	−4.8	3.3	−1.1	3.6	29.1	4.7
January	11.5	5.6	5.5	4.0	194.1	−3.5
February	5.3	5.6	11.9	5.5	26.5	5.5
March	−5.0	3.9	13.6	7.0	49.1	17.7
April	8.3	4.9	10.8	7.5	2.9	24.4
May	−2.6	4.1	15.8	8.6	67.1	34.0
June	2.2	3.8	21.2	10.1	−242.9	54.5
July	9.3	4.3	16.4	10.6	42.2	52.7
August	3.1	4.2	33.5	12.8	138.2	65.6
September						
1990 total						

Source: Office of U.S. Senator Don Nickles.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator may not reserve the right to object.

Mr. KERRY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The PRESIDING OFFICER. Is there any objection? The Chair hears none, and it is so ordered.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as if in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLINICAL LABORATORY IMPROVEMENT ACT REGULATIONS

Mr. NICKLES. Mr. President, I am gravely concerned about a set of proposed regulations which will have a devastating effect on the quality of rural health care in America—the Clinical Laboratory Improvement Act of 1988 regulations which were published in the Federal Register on May 21 of this year.

The Oklahoma State Medical Association estimates that these regulations could force up to 40 percent of the affected hospitals in Oklahoma to close. In Oklahoma, there are 165 licensed hospitals, 126 have labs that would be affected by the regulations but only 39 labs would currently meet the proposed regulations according to the State medical association.

This is not only a problem in Oklahoma, the problem will affect most States, especially those with rural health care systems. Each Member of this body should be concerned about the affect that certain provisions of these regulations will have on their States.

I am sure that many offices have received letters and calls from concerned constituents. I have heard from over 6,000 Oklahomans on this issue alone. Hospital administrators, physicians, and many people who are concerned about the delivery of health care in their communities have written or called my office. When I traveled back to the State over the August recess, CLIA was mentioned at the meetings which I held in rural communities.

The aspect of the regulations which I am most concerned about deals with the personnel standards set forth in subpart L of the regulations. As part of the laboratory certification procedures established by CLIA 1988, the law states that laboratories shall "use only personnel meeting such qualifications as the Secretary may establish" for performance of various duties within the laboratory.

HCFA, in implementing the law, has proposed requiring a doctoral-level scientist or board-certified pathologist to be director and technical supervisor at every laboratory where "Level II" diagnostic testing is performed. Additionally, a medical technologist with a bachelor's degree and 3 years of experience is required to be in the laboratory whenever such testing is performed.

Oklahoma health care officials indicate there are not enough of such highly qualified personnel even if hospitals and physicians could afford to pay them. At a result, clinical laboratory testing will become centralized, competition will be reduced and patients will experience difficulty in obtaining needed tests and will face frustrating delays in obtaining the results of such tests.

In order to address the concerns related to HCFA's proposed personnel requirements, I am considering offering an amendment to the fiscal year 1991 Labor, HHS appropriations bill which would direct the Secretary of Health and Human Services to consider access, cost, and the delivery of other health care services when issuing final regulations. I also plan to address my concerns that the personnel standards not be implemented prior to the completion of a study mandated under the CLIA Act of 1988.

HCFA officials indicate that work on the study which was ordered by CLIA 1988 has not begun. The study has not yet even been contracted out. Nevertheless, the proposed rule sets out new personnel standards when the proposed rules at the same time admit that:

> CLIA 1988, in recognition of the absence of reliable information linking the performance of testing with specific personnel qualifications, requires PHS (Public Health Service) to study the relationship between personnel and test performance.

This study was ordered reported to Congress by May 1, 1990, far in advance of the July 1, 1991, effective date of personnel standards for laboratories not previously subject to section 353 of the Public Health Service Act. HCFA officials indicate that the study will not be completed prior to 1992.

If the proposed personnel standards go into effect in present form, hospitals will be forced to close, doctors will not be able to provide certain tests in their offices causing treatment to be delayed jeopardizing patients health care and further increasing the cost of health care.

The president of the Oklahoma State Medical Association happens to be a pathologist himself and serves on the American Medical Association Committee on Laboratories. He cites the following examples of the effect of these regulations:

A patient who is having open heart surgery. During this operation it is the anethesiologist's responsibility to test for blood clotting and oxygen levels. Under these regulations, the testing that is usually done in the operating room as the operation proceeds would have to be sent out to the lab in another part of the hospital. This would obviously endanger the life of the patient.

A patient who may have asthma who is in his physician's office. The physician could not do the necessary blood test for gases in his office but would have to send the testing out to another lab.

Again, that is another example of the denying speedy access to test results which may endanger a person's health.

Another example, an Oklahoma hospital administrator in Shattuck, OK, said:

How can you tell a heart patient or a possible diabetic. Well, come back in 24 or 48 hours or longer when we get the results of your lab tests, and then we'll treat you.

That may be too late.

An Oklahoma lab technician who works in an office lab in Hydro, OK, said:

The trouble is someone could die waiting for test results from an out-of-town medical lab. I don't think there is a hospital in western Oklahoma that could afford to hire the personnel to meet these new regulations.

I could go on and on. The fact is that the original law for which the regulations are being written mandates that certain studies take place prior to when these regulations go into effect. Let me read from the Clinical Laboratory Improvement Act, section 4 which was passed in October 1988:

SEC. 4. STUDIES.

(a) STUDIES.—The Secretary of Health and Human Services, acting through the Public Health Service, shall conduct studies of—

(1) the validity, reliability, and accuracy of proficiency testing of clinical laboratories under section 353 of the Public Health Service Act (as amended by section 2 of this Act),

(2) the correlation between established standards for personnel employed in clinical laboratories and the accuracy and reliability of the results of the tests performed by the laboratories which are subject to such standards,

(3) the correlation between internal quality assurance and quality control programs for clinical laboratories and the accuracy and reliability of the results of the tests performed by the laboratories,

(4) the extent and nature of problems in the diagnosis and treatment of patients caused by inaccurate laboratory test results, and

(5) the effect on laboratory test accuracy of errors in each of the components of the clinical testing process, including the communication between the attending physician and the clinical laboratory which it to conduct the tests, the selection of the tests to be performed, the limits applicable to the tests selected, the acquisition of the material to be tested, the transportation of the material to the laboratory, the storage of the material by the laboratory, the analysis of the material by the laboratory, and the reporting of the results by the laboratory.

(b) REPORT.—Not later than May 1, 1990, the Secretary shall report to the Congress the results of the studies conducted under subsection (a).

HCFA has not complied. They have not finished the study. I do not think we in Congress should allow that study to go forward or allow these regulations to go forward to mandate very strict, very severe, very costly personnel standards without knowing the effect on health care, without knowing what it will do to the quality of health care, without having any idea of what it will cost. I think all of those things are important.

I have the strong support of the leading associations in the medical field. At this time, I have been contracted by the following groups which are fully supportive of my efforts: The American Medical Association; the American Society of Internal Medicine; the American Academy of Family Physicians; and the American Academy of Pediatrics.

In closing, I would like to stress that it is not my intention to stop the implementation of the Clinical Laboratory Improvement Act. I think that the intent of the regulation and certainly the original law is a positive step to ensure that patients receive the most accurate of test results.

However, we cannot lose sight of the actual effect of these regulations on the quality of health care in rural communities whether it be in Oklahoma, Iowa, Texas, or any other State. Let us not mandate expensive, unworkable, regulations which will result in reducing health care in rural areas which are already struggling to survive.

Mr. President, I ask unanimous consent that letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, September 11, 1990.

Hon. DON NICKLES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR NICKLES: The AMA strongly supports your proposed amendment to the FY '91 Labor-HHS appropriations bill that would prohibit the use of funds for the implementation of personnel requirements under the Clinical Laboratory Improvement Amendments of 1988 (CLIA 88) until studies are completed establishing the correction between personnel standards and the accuracy and reliability of test results.

Congress recognized the significant potential for adverse impact on patient care by specifically mandating a study of these critical factors as part of the enabling legislation. These studies must be completed and their results carefully analyzed prior to implementation of any regulations. Patient access to vital laboratory services must not be jeopardized by precipitious implementation.

In the AMA comments on these proposed regulations, submitted on August 20, 1990, we addressed the issue of personnel standards and patient access to laboratory services:

"Personnel standards for Level II testing as proposed in the regulation are too restrictive and unnecessary. Furthermore, sufficient qualified unnecessary. Furthermore, sufficient qualified personnel with these overly stringent qualifications are unavailable in many areas of the country. In addition, as HCFA states in the preamble to the proposed regulation at page 20911, there is no reliable data or scientific information to correlate proficiency testing performance with personnel education and experience. For these reasons, the AMA urges that the personnel standards for Level II testing be modified to be more realistic. Furthermore, we strongly urge HCFA to rely on outcome as the primary determinent of quality, not procedural or educational requirements.

"Section 493.1415, which establishes the qualifications for the Level II laboratory director, should be modified to allow the laboratory director to be a physician who is qualified to assume professional, organizational, and administrative responsibility for the facilities and for the services rendered. This is the same standard as required by the standards of JCAHO for hospital laboratories. This physician is knowledgeable about the laboratory services offered and is available as required by the laboratory staff to render administrative decisions, to provide consultation concerning the medical significance of laboratory results, and to assist in obtaining other required professional consultations."

The AMA fully shares your concerns that the highly restrictive laboratory personnel standards proposed in the CLIA 88 regulations issued on May 21, 1990 will severely jeopardize health care to patients. Again, the AMA fully supports your amendment and stands ready to assist you.

Sincerely,

JAMES S. TODD, M.D.,
Executive Vice President.

AMERICAN SOCIETY OF INTERNAL MEDICINE,
Washington, DC, September 12, 1990.

Hon. DON NICKLES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR NICKLES: The American Society of Internal Medicine (ASIM) supports your proposed amendment to the FY '91 Labor-HHS appropriations bill that would prohibit the use of funds for the implementation of personnel standards under the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88) until studies are completed to determine the correlation between established personnel standards and the accuracy and reliability of test results, and to assess whether these benefits, if established, outweigh the increased costs associated with personnel standards, including the impact on patient access to timely test results.

Because of our long standing commitment to quality physician office lab testing, ASIM was involved early on as Congress began to look at the need for a new approach to clinical lab regulation and was the first medical organization to support enactment of CLIA '88. We continue to support timely implementation of the law. ASIM is concerned however, with the adverse impact of the regulations, as proposed by the Department of Health and Human Services (HHS), on patient access to timely lab results and inevitably patient care. Specifically, ASIM believes that HHS has placed undue reliance on overly restrictive and unnecessary personnel standards—that of the pathologist director, in addition to other trained laboratory personnel (i.e., medical technologist requirement)—in assuring accuracy of lab results. ASIM believes a combination of reasonable personnel standards, participation in an approved proficiency testing program and quality control requirements will provide necessary assurance of accurate lab results. Attached are excerpts from ASIM's formal comments on these proposed regulations, submitted on August 20, providing statistical data which indicates that the stringent Level II personnel requirements would have a devastating impact on patient access.

Congress recognized this significant potential for adverse impact on patient care in the report of the House Committee on

Energy and Commerce on CLIA '88 (see excerpts) and by specifically mandating a study of these factors as part of the enabling legislation. Although the legislation does not specifically state that access to office testing must be maintained, the extent to which Congress sought to avoid onerous and impractical regulation of less complex testing sites indicates an intent to preserve access to office testing. For all these reasons, ASIM believes that these studies must be completed and their results fully evaluated prior to implementation of the personnel standards. Patient access to convenient and timely testing must be preserved.

You have targeted the central problem of the regulation that would present access problems. ASIM fully shares your concerns that highly restrictive personnel standards will jeopardize patient care. The Society supports the objectives of your amendment and the corresponding provisions of CLIA '88 ASIM stands ready to assist you.

JOSEPH F. BOYLE,
Executive Vice President.

AMERICAN ACADEMY OF PEDIATRICS,
Washington, DC, September 13, 1990.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: The American Academy of Pediatrics (AAP) supports your amendment pertaining to the Clinical Laboratory Improvement Amendments of 1988 (CLIA). This amendment will ensure that no funds will be appropriated to implement the personnel standards of CLIA until a study has been done which determines the correlation between established personnel standards and the accuracy and reliability of test results.

The AAP consists of 39,000 pediatricians dedicated to the principle of a meaningful and healthy life for every child. Our members provide health care for the majority of children in this country, and most of this care is provided in pediatricians' offices. We support the intent of CLIA for quality control and quality assurance, but we see the regulations imposing barriers to care, particularly in rural areas; sharply increasing costs for laboratory services for which patients, insurers and employers will ultimately pay; fragmenting the delivery of health care; delaying treatment; and reducing patient compliance.

The AAP agrees that it is necessary to perform this study before the law is fully implemented. When the law was passed two years ago, Congress asked the Health Care Financing Administration (HCFA) to do five different studies which were to be completed before implementation of the regulations. For various reasons, none of the studies have been undertaken, and HCFA said it will contract out to have these studies done simultaneously as the regulation is implemented. We are particularly concerned about the study dealing with the extent and nature of problems in diagnoses and treatment of patients caused by inaccurate lab tests, and the effect of errors in each component of the clinical testing process. This study directly impacts on the classification of tests, and therefore the degree of regulation to which a laboratory must be subjected.

The Academy thanks you for your initiative in this area. CLIA will dramatically affect the delivery of quality pediatric care and therefore needs to be thoroughly studied to assess its impact. The American Academy of Pediatrics would be pleased to lend its expertise to ensure this law is implemented in a way which will achieve the goal of quality health care.

Sincerely yours,

BIRT HARVEY, M.D.,
President.

THE AMERICAN ACADEMY OF FAMILY PHYSICIANS,
Washington, DC, September 12, 1990.

Hon. DON NICKLES,
713 Senate Hart, Washington, DC

DEAR SENATOR NICKLES: On behalf of the more than 69,000 members of the American Academy of Family Physicians I want to express our deep appreciation and support for your efforts to delay implementation of personnel standards for clinical laboratories pending completion of studies.

As you know the personnel standards proposed by the Health Care Financing Administration in implementing the Clinical Laboratory Improvement Act of 1988 (CLIA-'88) are essentially unworkable. If implemented as proposed, millions of patients no longer will be able to receive laboratory testing as an integral part of the services provided by their physicians. A recent survey by the Academy indicates that approximately 93 percent of family physicians in active practice perform laboratory testing in their offices and that 62 percent of these physicians office labs would fall into the Level II category as proposed in the regulations. These physicians will be unable to meet the personnel requirements as proposed.

The Academy therefore supports your amendment.

Sincerely,

JOSEPH C. CZARSTY, M.D.,
Chair, Board of Directors.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS—MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. Are we in morning business?

The PRESIDING OFFICER. The motion to proceed to S. 3037 is the pending business.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for up to 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE AND THE BUDGET AGREEMENT

Mr. DOMENICI. I thank the Chair.

Mr. President, I want to speak for a few minutes tonight to my colleagues in the Senate, and to those groups in this country, responsible groups, that are concerned about senior citizens and concerned about our country because I believe the last 72 hours has been more misinformation about what the so-called summiteers recommended regarding Medicare than anything that I have seen in my years in the Senate.

That is not to say that those who want to leave the status quo do not have a case. But for those who have stated the case in error, I will just assume that it is because this is a very complicated and difficult area. And I would like very much to try in a few minutes to explain as best I can what the recommendations regarding Medicare were in the budget summit.

Before I do that, let me suggest that there is no way that a budget solution could be prepared by a group of Democrats and Republicans and a President that satisfied everyone. Certainly it could not be a Republican package. It could not be a Democratic package. It had to be something that the Democrats, Republicans, and the President would support.

Having said that, let me also say as a Senator who has worked on these kinds of matters for a long time that clearly this is a tough package. But I think people know that the deficit is large and growing, and the time has come to try to fix it. If we do not, it is going to hurt everyone. It is not going to leave people out.

For those who are worried about programs, we might be nearing a point in time where, if we do not fix this deficit, it will not be a question of what programs are affected by this agreement, but rather would we be able to pay for any of them?

Having said that, let me just in my own way try to explain the $60 billion recommendation regarding savings in the budget summit from Medicare.

First of all, Mr. President, fellow Senators, that should be immediately broken into two parts. Thirty billion of it is supposed to come from the so-called providers; that is, the hospitals, doctors, and others who provide health care under all of Medicare. And I am not sure, but I do not believe we are hearing a great complaint from the providers.

I do not think the officers are getting besieged by the hospitals or the doctors of America, because I do not believe the $30 billion—that is, the package that will reduce the escalating price of providers—is that onerous.

As a matter of fact, I do not think the hospitals are going to complain because almost half of this package of $30 billion comes from keeping current law as it is; about $14 billion of the $30 billion. So for starters, let me say to the senior citizens that none of that $30 billion that has been alluded to in Medicare has anything to do with increased costs to the beneficiaries. What we are trying to do is reduce the cost of health care. So the providers are going to bear a share of this reduction, and that is what half of this is. Let me repeat, almost half of it is to extend the current limitations on pay-

ments out for another 5 years, about $14 billion of the $30 billion. We will have ample time to digest and discuss that $30 billion in detail. But I believe, my assessment is, that the doctors and hospitals are not going to claim they are going to close down or that this is unfair. So that is $30 billion.

The other $30 billion over 5 years, I would like to explain briefly. First, seniors of this country, it would be wonderful if we did not have to do anything on Medicare. But I remind you, we did nothing to the cost of living on Social Security or pensions. I remind you that we did not change the taxation of Social Security benefits. That was in the wind; seniors were worried. We did not do that.

I wish we could say to all Americans that there will be no increase in your health care costs in the next 5 years. Would that not be wonderful? Would it not be wonderful if we could tell the working men and women of this country, a young couple with two children, "Your health care costs are not going to go up in the next 5 years." For those who have bought health insurance policies, either through their company's group plan or otherwise, would it not be wonderful if we could say that is not going to go up in the next 5 years? Would it not be wonderful if we could say, "Your deductible is not going to change"?

I am afraid we cannot say that, Mr. President, I am afraid the working men and women in America, and those who have insurance policies and health care plans, know that health care costs are going up. We are not doing anything about that, because we do not know what to do about that. It is just going to go up.

What we have done in this proposed package is to ask the seniors of the country, to share the increase in health care costs under part B health care, which is not hospitalization. Many who have called are already confused; they are wondering if their hospital plan has changed. It has not. That is paid for out of the paychecks of workers and the self-employed who pay into the health insurance fund. That is hospitalization. That is not changed, Mr. President.

There is another program called part B premium health coverage. It came along after hospitalization, and we decided that the taxpayers of our country wanted to be helpful, and they would pay half the price of this part B health care program and seniors would pay half. Over the years, Congress has said, "We want to be more generous." So, instead of 50 percent, we have gone down, and now we are at 25 percent that the senior pays. Twenty-five percent. The taxpayers pay 75 percent. I repeat, this is no trust fund that comes out of paychecks. This comes right out of the general taxes of the Nation. We are a generous people. We really want to take care of our senior citizens. This little program that started out 50-50, we will match you dollar for dollar, we will help you pay for this premium, is now 75 percent from the taxpayer and 25 percent from the senior, this little program. It costs, Mr. President, $40 billion a year from the taxpayers of the country. Not $40 million, but $40 billion. The working people, the taxpayers send us their taxes, and we write a check for $40 billion for our share—which we are glad to do for this health care plan. It is 75 percent paid for by the taxpayer, $40 billion, and 25 percent by a premium that the seniors pay.

Let me stop there for a moment. We are trying to solve a deficit problem. Mr. President, what is the fastest growing program in the Government? I think you probably know that, because I asked the question in this discussion. It is that program, the one I just discussed. It is going up 15 to 16 percent a year. The $40 billion that we put in now, because we want to help our seniors with this health care for doctor and outpatient care, not hospitals, will be $57 billion in 2 years, from the general taxpayer who want to help senior citizens. It has nothing to do with the trust fund that comes out of the paychecks of workers out of the self-employed of America. This comes out off regular taxes to help pay for an insurance policy. It is $40 billion, and it will be $57 billion in 2 years.

All that was asked in this particular summit agreement was, could we recommend that the Federal Government pay 70 percent of that premium, and the beneficiary, the senior who we want to help, pay 30 percent, and we hold it at 30 percent for 5 years? For those who are saying that this is way slanted against Medicare, let me repeat. For the beneficiaries, the seniors of america, what I have just described is the entire out-of-pocket change or alteration in this premium, from 25 percent of program costs to 30 percent.

Some may say, is there not more to it? Yes, there is. I used the words "out-of-pocket," what it will be in premium cost. Everybody that has an insurance policy knows there is a deductible. It would be wonderful if every working man and woman in America that has insurance could say the deductible, whether $100 or $200—somebody called me today and said, "For my family I can only affort it at $1,000 deductible." It would be wonderful if the deductible was frozen and never changed.

But I just told you the fiscal facts, the reality. So the agreement said, can we change the deductible by $25, so that instead of $75 deductible for the whole year, it is $100, then the next year $125 until it gets to $150 3 years from now? That is the extent of what we are asking.

Mr. President, I am not going to cloud the issue of cost, other than to tell you whatever numbers have been bandied around as to the added premium cost, there is room for some confusion. But there is no room for the kind of confusion that has been around, because there are only two possible numbers that are right. It is either the premium is going up $2.60 a month next year, or it is going up $3.60 a month next year, not $5.50, not $9.

Let me explain. For any senior that would look at next year's premium without the budget agreement and say, "I want to know, from that premium, how much would it go up next year with the budget agreement." The answer is $3.60, not $6, not $9, but $3.60 cents. But if Congress had said it is going to stay at 25 percent, then indeed it would only go up $2.60.

So let us make it simple and say $3.60 is what it is going up in 1991 as a premium adjustment.

Mr. President, I am going to reduce all of this to charts in writing and send it to my fellow Senators, but I want to make one more point.

Some have now said, what about the poor people or the near poor and this premium? I would like to make two points.

When people say "this group," that put together the budget agreement, you know who they were, some of the best people around: The Speaker of the House, Senator DOLE, all of the people you have heard of. When they put it together they understood that even $3.60 a month might hurt some people, maybe the very poor or the near poor. Let me suggest to my fellow Senators that before they conclude that those who are poor are going to get hurt by this, let me suggest two things:

The way the law is right now, if you are at 95 percent poverty (100 percent by 1992) or below, the Medicaid law of the land says you do not pay the premium at all. Medicaid taxpayers pay it for you. This understanding says anyone who is in poverty, defined as poor, will have that premium, not the new add on, the entire premium paid for by the Medicaid Program, by the taxpayer. That takes care of one concern.

But, Mr. President, that did not go far enough. So if anyone will read the understanding and read it thoroughly, you will find another thing $2 billion was provided in addition. And it was stated that this was so the committees that work on this could hold as many of the near poor as possible harmless from any increase. And essentially what can be done—and I will close with this—with that $2 billion, you can hold harmless from any increase, those well beyond poverty, perhaps up

to 150 percent of poverty. The premiums will be held harmless and there will be no increase for them to pay.

Mr. President, I wish we did not have to do any of these things. In fact, I wish we did not have this $500 billion deficit package. I submit to you with reference to this, out of all the things that the Federal Government does and wants to do for our seniors, to ask this much in the area of health care seems reasonable in light of what everybody else is being asked to do. I thank the Chair for recognizing me and I yield the floor.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from Massachusetts.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS—MOTION TO PROCEED

Mr. KERRY. Mr. President, I know the distinguished Senator from Alaska is waiting, and we have been here most of the afternoon on this effort, to proceed forward on the money laundering legislation. I have just met with the distinguished majority leader and the minority leader and it is our hope that it may be possible to proceed forward under some kind of an agreement before to long. But that still remains uncertain and I know colleagues are anxious to have a sense of what is happening. If I might I would just like to ask the distinguished Senator from Alaska for how long he is considering speaking?

Mr. MURKOWSKI. I thank my friend from Massachusetts. I intend to speak on the pending business, the motion to proceed on the money laundering bill. I probably will be utilizing about 12 or 15 minutes.

Mr. KERRY. Mr. President, as I say, we have been waiting to proceed forward on this and debate it for some time. I am going to yield to my colleague from Alaska, though I have things I would like to say about this and I have been waiting some time today to do so, but I will ask for the floor, I think, after the distinguished Senator from Alaska has had a chance to address it.

I see the Senator from Pennsylvania is also here. Is he wishing to address the question of money laundering or does he come for some other purpose?

Mr. SPECTER. If the Senator will yield, I have been on the floor for some time waiting for the Senator to conclude and Senator MURKOWSKI, and I intended to make a relatively short statement on the pending issue of linkage.

Mr. KERRY. Mr. President, given the circumstances of the afternoon, I ask unanimous consent that the distinguished Senator from Alaska speak at this time for a period of about 8 minutes.

Mr. MURKOWSKI. The Senator from Alaska prefers not to be tied down to a specific time. I indicated about 12 or 15 minutes to the Senator from Massachusetts, which I think I could comply with.

Mr. KERRY. Mr. President, I then suggest perhaps a period of 15 minutes to be followed by the Senator from Pennsylvania for a period of——

Mr. SPECTER. Not to exceed 15 minutes.

Mr. KERRY. Not to exceed 12 minutes, at which time I would ask I be able to reclaim the floor. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank my friend.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I appreciate the concern of the Senator from Massachusetts over the lengthy time this matter has taken. I rise to speak on the motion to proceed on the Money Laundering Enforcement Act of 1990.

I think we would all agree the primary goal of this legislation is worthy: Early detection of money laundering activities and severe sanctions for savings institutions that participate in this illegal activity.

I am a member of the Foreign Relations Committee and the junior Senator from Alaska on the Subcommittee on Narcotics and Terrorism has attended hearings on the issue. We have developed a series of recommendations to curb what is believed to be a $300-billion-a-year industry in laundering illegal drug profits.

Many of the subcommittee's recommendations have been incorporated into this legislation by the Banking Committee.

But, Mr. President, the Senator from Alaska has a concern over a portion of the bill and the portion is title III, for which I know that there has been a good deal of concern from a number of my colleagues because this bill goes further than the purpose of addressing money laundering enforcement. It goes into direct consumer legislation.

Title III has nothing to do with money laundering. It is a consumer provision dealing with bank disclosures and bank advertising. It would require the computing yield according to a formula on deposits. It does not sound like much. It cost $130 million. That is going to be passed on to you and me, the taxpayer or the depositor, the user of the services. This is known as truth in savings. The title requires any solicitation or advertisement to make certain disclosure to the consumer using a standardized formula. It sounds harmless on the surface, but it is another instance of Government micromanagement and overregulation that will needlessly increase the cost of doing business for the banking system.

To those out there who suggest that we need this, I think we need to examine why we need it. If they are guilty of utilizing inaccurate yields in their advertising, that is against the law. We have fraud laws against it. They should be charged with fraud. But, do you have to make every bank in the country communicate to every customer?

This is the kind of legislation that brings extreme cost and hardship, not to the big banks. The big banks can have a department to do it, but the small country bank, the guy sitting on the corner with a few employees, he has to comply with this.

Why do we need another layer of enforcement when we have laws against fraud? Banks will deal with the increased cost, as I have indicated, in two ways: Passing it on to consumers in the form of higher fees and lower deposit rates, or cutting into their already weak capital base, neither of which alternative is unacceptable to the Senator from Alaska. It is the wrong time to add more costs to the banking system.

So the Senator from Alaska is not against the bill on money laundering, but why throw in a provision dealing with consumers?

It is kind of interesting to cite the specifics, because I am sure none of my colleagues are too impressed with the reference that we add simply one more requirement, a requirement that we mandate computing yield according to a formula on deposit interest rates.

But let us take a look at the system and what we have done already. We had one this month, one next month.

The regulatory burden on banks is so overwhelming that we have a sea of regulations. In less than 7 years, Congress has passed seven consumer banking regulations related to: Expedited funds availability; adjustable rate mortgage caps; credit card disclosures; Equal Credit Opportunity Act; home equity line disclosures; the Community Reinvestment Act; and the Home Mortgage Disclosure Act.

These regulations are in addition to existing regulations. The list of consumer legislation alone already includes: the Truth in Lending Act; the Electronic Funds Transfer Act; the Consumer Leasing Act; the Equal Credit Opportunity Act; the Real Estate Settlement Procedures Act; the Fair Credit Reporting Act; and the Fair Housing Act.

Of grave concern is that more and more of these statutes are unrelated to safety and soundness. They just cost the banks more money and the banks pass it on to their depositors.

If they do not, there is already a cadre of attorneys. It is almost a full

employment act for attorneys if there are violations of these areas. So let us realistically look at how much is enough. What is a reasonable burden?

Additional staff is required for compliance. One effect of the accumulation of regulations is that additional staff must be devoted entirely to compliance. Now this is difficult, as I have suggested, in a small bank. Some banks have reported, for example, that they must employ three or more people devoted entirely to the issue of compliance to a single regulation; and that is the Community Reinvestment Act.

Reduction of service and products. Mr. President, truth in savings could have a chilling effect on new deposit product designs. The cost of potential liability and the cost of regulatory compliance will inhibit new products to be introduced for the benefit of consumers and bank customers. Regulations already in place illustrate this chilling effect. For example, some banks have determined that disclosure requirements for adjustable rate mortgages are so complicated that they cannot afford to offer them. So they are noncompetitive in the marketplace. It pits the larger institution that can underwrite all the compliance costs against the country banker on the corner. He is trying to provide a competitive atmosphere and he is eliminated by regulation. Talk about helping small business in America, Mr. President. Well, charity begins at home. Consumers are thus denied a valuable and a desirable product because of the additional regulatory burden.

While no single regulatory is most burdensome, the aggregate burden of the litany of banking regulations ultimately affects banks' operations and their ability to serve customers effectively. The aggregate burden consumes valuable officer and staff time and deprives consumers of products for which associated regulatory compliance costs are prohibitive.

The cost of compliance with consumer regulations adds significantly to the cost of the business of banking, with a substantial impact on banks' bottom line when that bottom line should have the earnings infused into the capital base. Moreover, the regulatory costs ultimately are passed on to consumers in the form of higher fees and lower interest rates on deposit instruments and higher fees and interest rates on loans.

Mr. President, make no mistake, the Senator from Alaska has had 24 years of experience in the banking industry as a commercial banker in Alaska. What I am telling you about overregulation is very real. What I am suggesting to you concerning the cost of compliance is very real. We have the oversight. The necessity of having more, in the mind of the Senator from Alaska, is not relevant to this particular piece of legislation which is worthy in the sense that we must curb the money laundering. But to put a consumer title in it, in the opinion of the Senator from Alaska, just has no application.

Mr. President, the cost of compliance with consumer regulations, as I have indicated, is substantial. The regulatory costs ultimately are passed on to the consumer.

Elements of the expense which apply to all regulations, including truth in savings go even further. As I have mentioned, they include legal fees for interpretation and implementation. The average banker has to hire counsel to get an opinion on his position on the interpretation of these regulations because they can be misunderstood and as a consequence the banker is subject to the legal liability associated therewith.

The collection and destruction of old forms; whether you throw out the old ones and get new ones; devising and drawing up of new forms; labor; meetings; the preparation of reports; development of new technology; computer technology; computer resources; printing of new forms; postage; handling inquiries and misunderstandings; the staff training; purchasing compliance education and auditing tools; training and retraining personnel; monitoring compliance; and assisting compliance examiners.

Mr. President, the issue goes on, and on, and on. How much is enough?

While compliance with requirement of the truth in savings bill may appear to be simple and inexpensive, as other, earlier statutes have shown, an apparently simple statute translates into an expensive regulation. For example, the direct cost of a single provision is estimated to be in excess of $123 million. That figure only covers the requirement that depository institutions mail to all account holders a copy of the account schedule of fees, terms, conditions of deposit and so forth.

The invitation to expensive litigation is staring them in the eyes. As the history of the Truth in Lending Act and other consumer statutes demonstrate, banks and other financial institutions pay dearly for minor and inadvertent compliance mistakes. Such statutes invite expensive class action suits regardless of the merits of the suits. The truth in savings title presents the same invitation.

I can assure you, Mr. President, the bankers do not do very well when they go before a jury in a compliance suit for compliance oversight.

The question, Mr. President, is, why do we need more unnecessary legislation? There is no great outcry coming from the consumers for this that they are being misled or are uninformed about the fees, charges, and interest rates on deposit accounts and so forth.

Indeed, most of the banks already provide such disclosures which are substantially similar to those required by the truth in savings title. Nevertheless, banks will incur significant expenses to do what they are already doing. Banks will be required to pay to review the new regulations and current disclosures, revise, redesign, reprint, and mail new disclosures and so forth. This will be one more area where Congress will be overkilling, as the benefits do not outweigh the costs of the new truth in savings regulations.

Finally, Mr. President, I hope that my colleague and the sponsors of the legislation would consider the merits of eliminating entirely title III, the consumer provision, from the bill. Then I can assure my colleague that the Senator from Alaska would support the Money Laundering Enforcement Act of 1991.

I yield the floor to my friend from Pennsylvania.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum. I would like to consult with the distinguished Senator from Alaska for a moment on another matter. I shall remain on the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LINKAGE

Mr. SPECTER. Mr. President, I have sought recognition to make a statement that the policy of the United States is and should remain solidly against linkage between Iraq's invasion of Kuwait and the Israeli-Arab conflict. A suggestion has been made by former President Carter and President Saddam Hussein of Iraq and some others that linkage of those issues should be established.

I submit, Mr. President, that the policy of the United States has been articulated clearly to the contrary and there are powerful policy considerations that determine why a policy against linkage should remain. Simply stated, linkage would reward aggression by giving something of value, a reward to the kind of naked aggression, as characterized by President Bush, which has occurred in Iraq's action against Kuwait.

Mr. President, the factual proof that the United States has an established policy against such linkage is found in the statement of President Bush at the news conference at the summit on September 9, as shown in the tran-

script of the summit in the New York Times on September 10, 1990. President Bush was asked this question which in pertinent part states:

Do you think, Mr. President, that the conflict of the gulf gives the opportunity to solve the Palestinian problem?

President Bush then responded, in pertinent part:

Well, let me say that I see the implementation of the United Nations resolution separate and apart from the need to solve the other question.

Then the President continues a few lines later:

But the thing that I feel strongly about is that these issues are not linked. And any effort to link them is an effort to dilute the resolutions of the United Nations.

The same issue was raised at a news conference earlier in the State Department where Ms. Margaret Tutwiler, spokesman for the State Department, responded to a similar question. I now read the pertinent part:

Is there some kind of correlation or comparison to be made between the Israeli occupation of the West Bank and the Iraqi occupation of Kuwait? Do you see any comparison there?

Ms. Tutwiler, speaking for the State Department responded:

We think it's absurd, ridiculous and ludicrous. The two are not linked and we do not plan to link the two. He, obviously—Saddam Hussein—would like to change the focus away from his agression and it simply will not work.

It is hard to contemplate any stronger statement by the U.S. spokeswoman than, "absurd, ridiculous, and ludicrous" to contemplate such linkage.

There has been a grasping of a straw, when President Bush made a statement on October 1 at the United Nations to this effect:

In the aftermath of Iraq's unconditional departure from Kuwait, I truly believe that there may be opportunities for Iraq and Kuwait to settle their differences permanently, for the states of the gulf themselves to build new arrangements for stability, and for all the states and peoples of the region to settle the conflicts that divide the Arabs from Israel.

That statement—because a number of subjects were addressed in the same sentence—has been grasped as a straw in the wind by some to contend that there may be a suggestion by President Bush of linkage. I suggest, the statement that President Bush made in no way, fairly read, has any suggestion at all of linkage. The President is not stating in any way that he is going to trade Iraq's withdrawal from Kuwait for an unrelated issue. That is especially obvious in view of the prior explicit statement President Bush made on the subject coupled with the unequivocal declaration by Ms. Tutwiler, speaking for the Department of State.

There is an interesting analysis of former President Carter's contentions by former Ambassador Jeane Kirkpatrick which appears in the New York Post on Monday, Septeber 24 captioned, "Jimmy Carter flunks history."

Ambassador Kirkpatrick makes this statement:

Former President Jimmy Carter was wholly serious—and wholly mistaken—when he tried to make the case the two matters—

Referring to linkage—

have the same legal status."

Ambassador Kirkpatrick refers to an assertion by former President Carter that "there have been six or eight unanimous [resolutions] by the United Nations calling for" Israeli withdrawal.

After summarizing a number of other factors Ambassador Kirkpatrick says, "How could Carter have imagined that there were 'six or eight unanimous Security Council resolutions'?"

Then Ambassador Kirkpatrick, in very strong, really harsh terms, makes this statement about President Carter's position.

Or—a more basic question—how could he have seen the cases—

Referring to what former President Carter had argued—

of Kuwait and the West Bank as parallel when Iraq invaded and occupied Kuwait, a sovereign State, and Israel was itself invaded three times?

When our President, George Bush, said in the final line in his U.N. speech that I had previously quoted that, "the people of the region can settle the conflicts that divide the Arabs and Israel," that of course is to be desired. And Israel stands ready, willing, and able to enter into bilateral negotiations with any of the Arab States. It is a fact, admitted by all, that aside from Egypt which has entered into a peace arrangement with Israel through the Camp David accords, that as we speak all of the other Arab nations remain at a state of war with Israel. No other Arab nation recognizes Israel's right to exist. And no other Arab state has recognized the existence of a State of Israel.

I have said on a number of occasions, on this floor, that the central powers in the region—Syria and Iraq—had the potential through bilateral relations to establish peace. That was prior to Iraq's invasion of Kuwait.

There may be opportunities in the future for Syria to undertake Israel's offer for bilateral negotiations. Hopefully, when the current controversy in the Mideast ends and Iraq withdraws or is compelled to withdraw from Kuwait, there will be an occasion for these bilateral talks to go forward.

Israel has unequivocally stated its interest to achieve the objective which President Bush has articulated, and that is a settlement of the conflicts that divide Arabs from Israel in the Mideast.

Mr. President, I cannot find any better words than Ms. Tutwiler's words when she says, "absurd and ridiculous and ludicrous" to reward Iraq for their aggression, which is about as bad as any which can be contemplated. To reward Iraq's aggressive conduct by linking their invasion of Kuwait to any of the Israeli-Arab conflicts is ridiculous.

Fortunately, former President Carter does not speak for the United States. Fortunately, President Bush does speak for the United States. The idea of linkage is repugnant and abhorrent, and it would be my hope that the weight of logic and the weight of history and the weight of relevant authority would be persuasive to conclude that what former President Carter would like to see by way of linkage and what President Saddam Hussein would like to seek by way of linkage would be categorically rejected.

First, I ask unanimous consent the full text of Ambassador Kirkpatrick's article in the New York Post for Monday, September 24, 1990, be printed in the RECORD.

I further ask unanimous consent that the full relevant text of the transcript of the news conference involving President Bush and President Gorbachev at the summit from the New York Times on September 10, 1990, be printed in the RECORD.

I further ask unanimous consent that the page of the text of the transcript of the news conference of State Department spokesman Margaret Tutwiler from August 13, 1990, be printed in the RECORD.

Finally, I ask unanimous consent that an article from the Jerusalem Post dated Spetember 7, 1990, captioned "Soviets Reject Iraqi Linkage of Kuwaiti and Palestinian Issues" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Post, Sept. 24, 1990]

JIMMY CARTER FLUNKS HISTORY

(By Jeane Kirkpatrick)

Saddam Hussein was only half-serious when he linked Iraq's conquest of Kuwait to Israel's occupation of the West Bank and Gaza. Former President Jimmy Carter was wholly serious—and wholly mistaken—when he tried to make the case that the two matters "have the same legal status."

In an interview with CNN's Bernard Shaw on Sept. 16, Carter made the weirdly mistaken assertion that "there have been six or eight unanimous [resolutions] by the United Nations Security Council calling for Israel to withdraw from the occupied territories, to restore the rights of the Palestinians, to come to an international conference—these have the same legal status as the resolutions demanding that Iraq withdraw from Kuwait."

But, Carter added, "The world has not marshalled its efforts to make sure that

these United Nations resolutions have been fulfilled."

Carter's comments are important because the unanimous Security Council resolutions to which they refer do not exist. This fiction is dangerous to Israel and dangerous to an understanding of realities in the Middle East.

As of Sept. 19, seven Security Council resolutions had been passed concerning Iraq's invasion of Kuwait. The first condemned Iraq's invasion and called for an unconditional withdrawal of Iraqi troops from Kuwait. The remaining six resolutions built on this.

There is no parallel resolution concerning Israel's presence in the West Bank and Gaza.

There is a resolution that calls for Israel's withdrawal from territories occupied in the 1967 war and also calls for Arab governments to end "all states of belligerency" against Israel and accept that "every state in the area," including Israel, has "a right to live in peace within secure and recognized boundaries free from threats and acts of force."

This, of course, is Security Council Resolution 242, passed at the end of the 1967 war in which Israel successfully fended off an attack by all her Arab neighbors.

Resolution 242 is the basis of the famous "land for peace" formula, which was reaffirmed in Resolution 338 passed after the next Arab war against Israel in 1973 and supplemented by a call for direct negotiations between the parties.

These resolutions were the basis of the 1978 Camp David accords negotiated by Israel's Menachem Begin and Egypt's Anwar Sadat with the help of then-President Carter. Those accords were a remarkable achievement because they were the only instance in which an Arab state was willing to negotiate with Israel or to make peace with the Jewish state.

For the crime of making peace with Israel, Egypt was expelled from the Arab League and Anwar Sadat was murdered.

All other Arab states have ever since refused negotiation, peace or normal relations with Israel. Most have continued to call for the destruction of Israel and to support terrorists attacks against Israel, and have ever since refused to reaffirm Resolutions 242 and 338. (The exception was Lebanon in the brief period of Bashir Gemayel's presidency—also terminated by assassination.)

How could Carter have imagined that there were "six or eight unanimous Security Council resolutions"?

Or—a more basic question—how could he have seen the cases of Kuwait and the West Bank as parallel when Iraq invaded and occupied Kuwait, a sovereign state, and Israel was itself invaded three times?

The answer, I think, is that a false version of the Arab-Israeli conflict has been so often repeated that many people—including some very high officials—have come to feel that Israel is somehow guilty of aggression.

It was, in fact, the victim of repeated wars of aggression.

They have also come to feel that Israel's occupation of the West Bank is as clearly "illegal" as Iraq's conquest of Kuwait, when Israel acted in self-defense against neighbors (including Jordan) who not only attacked but have been unwilling to make peace.

These mistakes have serious implications. They lead Carter and others who have come to believe them to feel that Israel is a lawbreaker and that the U.S. failure to "pressure" Israel is evidence of an American double standard.

This mythical version of the Arab-Israeli conflict ignores the reality of the hostility that has surrounded the state of Israel from its founding until today, and makes the Israeli government's conern with survival look like paranoia. It is not.

So far, the only relevance of the Gulf crisis to Arab-Israeli problems is to exacerbate them.

Israel's qualitative edge in weapons is being eroded by the United States' proposed massive arms sales ($23 billion) to Saudi Arabia.

Jordan has associated itself with the most radical, rejectionist, terrorist-minded Palestinians.

PLO leaders—together at last in Baghdad—have made clearer than ever their commitment to violent politics.

Saddam Hussein has threatened that, if attacked, he will retaliate against Israel.

If there is a double-standard in this situation, it exists only in the minds of those who, like Jimmy Carter, think there is a parallel between Iraqi aggression and Israeli defense.

[From the New York Times, Sept. 10, 1990]

TRANSCRIPT OF BUSH-GORBACHEV NEWS CONFERENCE AT SUMMIT

PALESTINIAN ISSUE'S FATE

Q. My question to Mr. President—my name is Panyl. Do you think, Mr. President, that the conflict of the—do you think, Mr. President that the conflict of the gulf gives the opportunity to solve the Palestinian problem through an international peace conference for the Middle East? And my second question is if this problem was discussed today with Mr. Gorbachev?

Bush: Well, let me say that I see the implication of the United Nations resolutions separate and apart from the need to solve the other question. That question has been on the agenda of many countries for many years, and it is very important that that question be resolved.

The Secretary of State said the other day, and I strongly support that, that under certain circumstances the consideration of a conference of that nature would be acceptable—indeed, it's been a part of our policy from time to time. But, the thing that I feel strongly about is that these issues are not linked. And any effort to link them is an effort to dilute the resolutions of the United Nations.

U.N.'S PALESTINIAN RULINGS

Q. O.K., my question is—good evening; Doris Akatarian from Palestine News Agency, WAFA. My question is for President Bush, and I would also like to hear President Gorbachev's comment on that.

Interpreter: The question is to President Bush, and also wants to hear President Gorbachev's comment.

Q. President Bush mentioned that you failed to see the link between the Palestinian question and the present situation. I would like to know how come it is so important to implement U.N. resolutions in this particular instance when other standing ones have—have been frozen and overlooked and disregarded for so long? So, I'd like to know how come this aggression is so different from other ones? And I would also like to add that I personally feel that the Palestinian dilemma and question need the attention of the superpowers more than ever. Thank you very much.

Bush: I agree that it needs it, and we are very much interested in implementing resolution 242 of the United Nations. We've been zealously trying to do that, as have many other powers for many years.

But the fact that that resolution hasn't been fulfilled when it calls for withdrawal to secure and recognize boundaries, and it should be, and hopefully we can be catalytic in seeing that happen, does not mean that you sit idly by in the face of a naked aggression against Kuwait.

And the United Nations has moved, and the United Nations' resolutions should be implemented on their face without trying to tie it into some other undissolved—unresolved dispute. But I couldn't agree more that it is important, it is very important that that question eventually, and hopefully sooner than later, be resolved.

Q. I have a question for both Presidents—Oh, excuse me, sir.

Interpreter: Microphone, please, for Mr. Gorbachev.

Gorbachev: I think that everything that is taking place in the Middle East is a matter of concern to us, of equal concern. And even more than in the case of the Persian Gulf, we need to act more energetically in order to resolve the complex of problems in the Middle East, and to come up with decisions and to devise a system, to devise guarantees that would insure the interests of all peoples and of the whole world community, because it's a matter which is of vital concern to all of us.

And it seems to me that there is a link here because the failure to find a solution in the Middle East at large also has a bearing on the acuteness of the particular conflict we've been talking about here.

STATE DEPARTMENT/REGULAR BRIEFING/ BRIEFER: MARGARET TUTWILER, AUG. 13, 1990

Ms. TUTWILER. I also said—in the second part of my answer, I said, but that does not preclude them from having an offensive quick strike. So we're basically the same position we were in over the weekend. I just gave you the—our best number of how many Iraqi troops are there. And further characterization of what they may or may not be doing—moving around, et cetera—we didn't have anymore to give to you today.

Q. Okay. On another subject, does US policy entertain at all the possibility raised by Saddam over the weekend that there is some kind of correlation or comparison to be made between the Israeli occupation of the West Bank and the Iraqi occupation of Kuwait? Do you see any comparison there?

Ms. TUTWILER. We think it's absurd, ridiculous and ludicrous. The two are not linked and we do not plan to link the two. He obviously—Saddam Husayn—would like to change the focus away from his aggression and it simply will not work. The whole world knows what he has done and the whole world has condemned it and the whole world is insisting that he end it. No tricks are going to change that, or false linkage.

Q. Well, regardless of linkage of "if they'll get out, I'll get out," just the basic principle that there are comparisons to be made, how does the US feel about that?

Ms. TUTWILER. We don't think that's an issue and we're not even going to entertain the discussion; it's absurd. And we have been, as forcefully as we could, said there is absolutely, positively no linkage.

Q. You don't think it's an issue that the Arabs see some kind of comparison between the two? That's not an issue to the US?

Ms. TUTWILER. I've stated as best I can, Candy, what our position is on Saddam Husayn's attempt at cleverness, attempt at false tricks, as we've characterized it, changing the focus or changing the issue. Nothing has changed. He is the aggressor. He is the one who the world has condemned and the world has, by and large, 100 percent isolated.

[From the Jerusalem Post, Sept. 2, 1990]

SOVIETS REJECT IRAQI LINKAGE OF KUWAITI AND PALESTINIAN ISSUES

(By Walter Ruby)

Moscow.—Soviet citizens in Iraq are free to leave whenever they want, and Iraq would welcome a Soviet intermediary role in the Gulf crisis, Iraqi Foreign Minister Tariq Aziz said here yesterday.

Speaking at a press conference the day after his meeting with President Mikhail Gorbachev, Aziz described the Soviet Union as a "friend," despite its support for an international naval blockade against Iraq. He also reiterated the Iraqi position that the Gulf crisis is "interconnected" with the Palestinian problem and can only be considered in the context of a general Middle East settlement.

Speaking to reporters several hours later, Soviet Foreign Ministry spokesman Gennadi Gerasimov said that while there was "an element of truth" to Aziz's analysis of the interrelatedness of the Kuwaiti and Israeli-Palestinian situations, the two issues are not linked.

"The Security Council must have all its resolutions implemented," Gerasimov stated, "and we continue to urge Israel to implement all Security Council resolutions and withdraw from all occupied territories."

However, while theorizing that Israel might be encouraging the U.S. to attack Iraq, Gerasimov emphasized that the Soviet Union disagrees with Iraq's linkage of the Palestinian and Kuwaiti situations. Noting that Aziz "did not give a direct answer" to a journalist's question as to whether Iraq would withdraw from Kuwait if Israel left the territories, Gerasimov said flatly, "Iraq's aggression against Kuwait should be at the top of the [international] agenda."

Aziz said he had come to Moscow to brief Gorbachev on the Iraqi position in the Gulf crisis in advance of the Soviet leader's Sunday summit meeting in Helsinki with U.S. President George Bush. He said he did not carry a message for Gorbachev to deliver to Bush.

Gerasimov also announced yesterday that Israeli and Soviet experts would meet soon to plan the upcoming meetings of Foreign Ministers David Levy and Eduard Shevardnadze at the opening session of the UN General Assembly.

Gerasimov said that consultations are now in progress to set dates for these meetings. A delegation of Israeli Foreign Ministry experts is expected to arrive in New York by September 14 to meet with their Soviet counterparts.

Mr. SPECTER. Mr. President, so even the Soviets realize the ridiculousness of any idea of linkage on these issues.

I yield the floor.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senate from Massachusetts retains his right to the floor at this time.

Mr. KERRY. Mr. President, I thank the Chair. I understand the distinguished Senator from Minnesota would like the floor for a period of time. I ask unanimous consent that he be permitted to speak for such time as he might need, and then that the Senator from Massachusetts again be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might proceed for 4 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I first express my appreciation to my colleague from Massachusetts for permitting me the time on his very important piece of legislation to do this piece of morning business.

I would like to begin by associating myself with the remarks of my colleague from Pennsylvania on the subject that he has just addressed. I know him to be not only an expert on the subject which he addressed, but someone who feels very strongly about the appropriateness of the role that Iraq may have played in the Middle East, and certainly somebody who, when he speaks to the subject of linkage, does so with not antipathy for anyone but a desire to address issues in the sense of appropriate priority.

BUDGET RECONCILIATION

Mr. DURENBERGER. Mr. President, I rise to speak to the budget reconciliation issue and to note that the debate over the budget package has become very noisy and very complicated. But it seems to boil down, to this Senator, to one simple vital question, that is: What is the most important obligation of this Government at this time?

My answer to that question is simple: Reduce the fiscal deficit. Every other obligation—and I am on enough very complicated committees to recognize there are others—every other obligation for once has to take a back seat to that.

Our recent history over the last dozen years has been exactly the opposite. Everything at one time or another has taken precedence to the deficit: cutting taxes, the military buildup, farm programs, AIDS, the drug wars, child care, foreign military assistance and on and on. In the process, the American people have lost a war of attrition against Federal debt. This package is the day of reckoning for all of that. Finally we have a chance to make a decision of a united government, a chance to be responsible.

Having participated in 1985 in a failed attempt to do just that on a 50-to-49 vote in the middle of the night with a hospital gurney transporting one of our colleagues, and having seen the bitter consequences of inaction, I am praying that the Congress will find the guts to do the right thing this week.

I used to tell a little joke that I learned on a trip to Texas once. It went something like this. The question is: Why were there so many heroes at the Alamo? The answer was: There was no back door.

Since this agreement was announced on Sunday, many of our colleagues have been looking for a back door of some kind, and my hope and my conclusion, Mr. President, is that there is not any.

I heard many criticisms of the package: It is unfair, regressive, unbalanced and represents the views of only a few. To some degree, Mr. President, I agree with each of these criticisms. But before we label this a bad agreement, I must ask: Compare it to what? Is sequester the right policy for Americans? Is it balanced, thoughtful, and fair? Of course not.

Gramm-Rudman-Hollings has been much maligned, but today it is doing its job. It has raised the cost of inaction to an intolerable level and, to put it another way, it cuts through the political fog and it shows us what the true cost of inaction will be.

Mr. President, I have been doing business in this city for 12 years now. I think the thing that disturbs me the most is the fact that we have the ability to do microscopic analyses of parts of a problem and at the same time be totally blind to the whole.

Yes, there is an unfairness in elements of this package, but how minor those concerns are compared to the catastrophic and wanton unfairness of this generation spending hundreds of billions of dollars it does not have and passing the bill to its children. Can anything be more important than addressing that?

Mr. President, we do not have a range of options to choose from. We cannot go back and remake the compromise to be more to our liking. There are only two real alternatives: the sequester or the summit agreement. A vote against this agreement is a vote for the sequester or a decision to do nothing at all. The deficit is either the most important thing or it is not. My vote says it is.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from Massachusetts is recognized.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS—MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

Mr. KERRY. I thank the Chair and I thank the Senator from Minnesota.

Mr. President, the ranking member of the Banking Committee, Senator GARN, and I have chatted about this. We are awaiting the leaders who are currently discussing the schedule and making some determination about how we will proceed. It appears as though we will be proceeding to a series of cloture votes, though I am not certain of that at this point in time.

Yesterday, Mr. President, I had an opportunity to present my views on why this legislation is important, and I really talked from a personal perspective of how I believe that money laundering is a key component of the overall drug war. As all of us know, as long as people can walk up to the door of a bank or find some scheme by which they can use cutout corporations and shells in order to be able to move money through the system, then the big guy who is involved in nacotics tends to be able to get away with it, and we wind up focusing all our energy on the street crime itself and fighting something of a frustrating battle.

I would like to share with my colleagues some thoughts about what the administration has had to say about money laundering and the importance of this kind of legislation in this particular bill. I think it is a shame that this bill is being held up for purposes that appear not to be particularly germane to the merits of the bill. The administration, I think, would like to see this legislation pass, and there is a strong reason for it.

Let me share the words of the Attorney General of the United States who gave us a speech before the American Bar Association last November. This is what he had to say. He said:

> The laundering of these billions is far more crucial to their operations—

Referring to the drug lords—

> and much more difficult and high risk than the actual trafficking in drugs. If the DEA seizes cocaine with a street value of $19 million, it does not cost the Medellin cartel $19 million to replace that cocaine. Far less. Somewhere between $2 to $4 million at Colombian prices. Though when $19 million in cash is confiscated from a New York drug warehouse, there is no discount. That loss is $19 million, $19 million that does not make its way underground into the worldwide economy to further capitalize the international drug trade which must have these ill-gotten funds to stay malevolently solvent.

Mr. COCHRAN. Mr. President, I take this time to express my concern over the continuing trend of placing on the smaller banks of this country more and more regulatory burdens which do not serve to improve the soundness of their operations or the safety of their customers' deposits.

The small banks in my State have a very high cost of compliance with what some have called social regulations.

One example is the Community Reinvestment Act, which requires certain kinds of community involvement and outreach to attract low-income or minority customers. Even though the goals are worthy, the regulations under this act are ambiguous and unnecessarily burdensome. Regulators who should be spending their time monitoring a bank's financial well-being must spend time judging intentions on social matters; their "ratings" are subjective, and their reasoning sometimes reflects a lack of knowledge of the community in which the bank is located.

One banker from a small town in my State who wanted me to see how much paperwork his bank was required to deal with, sent me a copy of every document he received over the past year from the Federal Deposit Insurance Corporation and the Federal Reserve. These included regulations, proposed regulations, request for comments on regulations, and other items. It came to me in a very large box because it was so voluminous. He said the shipment did not include paperwork received from the Internal Revenue Service, the Securities and Exchange Commission, or other regulatory agencies with jurisdiction over various aspects of bank activities. Neither did it include the reports and other paperwork required to respond to or comply with all these items.

Mr. President, small banks receive the same regulatory information that big banks do. Big banks can afford to employ people to comment on regulations and to assure their compliance with them. Small banks obviously do not have the resources that large banks have and cannot spread their compliance costs over a large customer base.

The situation boils down to this: small banks deserve a better break than they are getting from the Congress and the administration. Placing more regulatory burdens on them increases neither the safety of their depositors' money nor does it improve the soundness of their decisions.

On the contrary, when a small bank is forced to give attention to unnecessary and often frivolous, irrelevant matters, it is diverted from giving attention to the soundness of loans and the legitimate needs of the community. Furthermore, the money spent on compliance with these social regulations might otherwise be used to increase capital and to strengthen the safety and soundness of the bank.

If this regulatory trend continues, I am concerned that the cumulative effect eventually will be the financial failure of many small banks. If this occurs, the FDIC may have to close the banks, at a cost to the bank insurance fund, and possibly the taxpayers—all of this as a result of unnecessary regulations. The cost of such failures would go beyond the stockholders of these banks. Small communities survive and grow in large part because of the services offered by their hometown financial institutions. These communities would be the real losers if the nonfinancial regulatory burden continues to grow.

I do not know exactly what the solution is to this problem. Maybe we should stipulate that every new requirement we legislate must be offset by a reduction in other requirements. I do not know if that would pass, but it is something to consider.

Maybe we should exempt small banks from certain aspects of the Community Reinvestment Act. Maybe we should require that a charge of irresponsibility be brought against a bank before it is inspected for violation of these societal regulations. Maybe some here should stop presuming that all banks are guilty of some wrongdoing until proven innocent.

Mr. President, I hope the Senate will reconsider its tendency to respond to problems, real or imagined, by requiring more paperwork and regulations and consider the cumulative burden these requirements place on smaller banks.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

THE BUDGET AGREEMENT

Mr. LEAHY. Mr. President, I would like to say a word or two about the budget impasse we appear to be in.

We have a fiscal firestorm going on here, Mr. President. The irony is that the people who began the firestorm back in the Reagan era are not getting any blame for the fire they started. But it seems now that the American people want to blame those who are being asked to put out the fire.

I cannot help but think that we are going to see much of what we saw at the end of the Vietnam war. We had a lot of Senators of both parties who voted over and over again for the Vietnam war. Every time the appropriations bills came up, they voted for them. Every time an effort was made to cut the appropriations for the war, they voted it down.

But then I recall arriving here in Washington. I came in the class of 1974. My good friend, the distinguished Senator from Nevada, Mr. Laxalt and so many other Senators

were in that class, and many are still serving here. And we watched. Within 3 months of the time we came here the Vietnam war ended. It was interesting going in the cloakrooms among conservatives, liberals, and moderates. It was almost impossible to find anybody who had ever supported the Vietnam war. Yet, of 435 Members of the House, and 100 Members of the Senate, a majority had to vote for it over and over again.

We had people who raised questions about it. We had one Senator who said we should declare victory and pull out. But the war went on. Then when it finally ended everybody said, "My God, how did we ever get there? Is not this terrible?" But the blame or the credit fell on those in the last few days of the war. Hardly anybody went back to the beginning of the war and found out who made the mistakes to get us there.

Now that is where we are on the budget. We have a horrendous mess.

We are having wonderful speeches about balancing the budget. We have those who still want sloganeering. I heard one Member say that if we had a line-item veto, the deficit would be taken care of. Balderdash. A line-item veto would not do a darned thing. It would affect one-hundredth of 1 percent of the overall budget. In all likelihood, it would only affect Members whose vote the President might need at that time, no matter who the President might be.

We hear the sloganeering about constitutional amendments to balance the budget, but we have a law now that requires the President to submit a balanced budget. I have not seen any President submit a balanced budget since I have been here. President Reagan gave wonderful speeches on a balanced budget. He got elected twice on that speech. Every year he submitted a budget that had larger and larger deficits.

President Bush, who I admire in many ways, and respect greatly, campaigned on the same issue. Immediately he submitted a budget with an even greater deficit than had been there before. We saw, during the time of the last Presidential election, trying to hide the savings and loan bailout costs to keep it off budget. No one would do anything that might rock the boat during the campaign.

Mr. President, actions have consequences. As I look at the budget resolution before us, I do not see just numbers. I see the faces of the people of Vermont. These are real people, 580,000 real people. I see senior citizens forced to spend more of their limited incomes on health care and heating oil, farmers trying to survive yet another year when the Federal Government seems determined to drive them off their land. I see men and women, who go to work every day to pay the mortgage and feed their children, facing new taxes that are going to strain their already extremely tight budgets.

I see their faces, Mr. President. I think my feelings are a mixture of sorrow and anger at what I see. Anger, because the people who started this fiscal forest fire are not even being asked to pick up a bucket and join the line to help put it out. In fact, many of those who presided over the worst fiscal calamity in this country's history have now made money on it and have moved on to other things.

This fire did not start last week or last year. It started back in 1981. That was the year that President Reagan proposed, and the Congress enacted, the largest tax cuts and Pentagon increases for a nation at peace.

President Reagan had a very good set of slogans when he ran for office. A lot of people in this body and in the other body, in both parties, realized how important those slogans were, and they jumped on them and held on for dear life.

What were those slogans? They would make a huge, huge tax cut. Cut billions of dollars of taxes out of our revenue bases. Was that popular in 1980? You better believe it.

Also, they looked at those Iranians holding our people hostages in Tehran, and they said, "We are going to beef up our Pentagon spending so that cannot happen again. We should build every single weapons system that could be designed, and we are going to be second to none." Was that popular in 1980? Mr. President, you better believe it was popular.

And then the popularity of those two positions, cutting the taxes and increasing the Pentagon budget, if that was not popular enough to get somebody elected, you had the trump card. What was that? "We will balance the budget." My, God, you could hear the cheers from Vermont to West Virginia, from West Virginia to California, from California to Texas, from Texas up to Alaska, down to Iowa, Indiana, and everywhere else.

What could be more popular? A huge tax cut. Hurrah. Stand up America, double that Pentagon budget; hurrah again, balance the budget. Thank God, somebody is paying attention to the fiscal security of this country. Hurrah again.

Now maybe the problem was that we cut too much out of the education budget, Mr. President. Simple addition and substraction. The tables I learned and you learned when we were in grade school would have taught us that you cannot do that. Somehow the Congress thought you could, the President thought you could, and the President's people thought you could. We had people who overwhelmingly wanted to balance the budget, cut taxes and increase defense spending. It was the most popular position taken—so popular that in this body, alone, 89 Senators voted for it. Republican and Democratic alike. I happened to be one of the 11 who voted against it.

Just as I said during my campaign, I could not support that part of the plan. Ninety percent of the poeple in my State agreed with all three parts of it. I was one of the 10 percent who said I do not agree. You cannot do all three. Like the war in Vietnam, we cannot find the people who wanted it back then. Now those same people are calling—and phones ring off the hook—saying, my God, how could we have this kind of budget agreement, because look at what is going to happen. They seem to forget—a lot of people do—what happened back in 1981. Everybody went along with it.

In fact, I said in a speech on the floor at that time that "the budget before us today proposes huge budget deficits for the next several years, deficits which the Congressional Budget Office estimates may exceed $200 billion by 1984."

I was not the only person saying that, Mr. President. David Stockman—remember him?—President Reagan's Director of the Office of Management and Budget. He knew what was coming. He said, "The massive deficit inherent in the true supply side fiscal equation was substantially covered up. Eventually, it would become the belly slap that was heard around the world."

I should point out that Mr. Stockman did not admit this until he was in another line of work. President Reagan got his tax cuts. He got his defense buildup.

But he did not get his balanced budget. Instead he got the record-breaking deficits. It was like the sorcerer's apprentice: here they come, out they would come, march, one after another, bigger, and bigger, and bigger, until unfortunately the numbers became almost meaningless.

Certainly they became meaningless to the policymakers, hundreds of billion of dollars' worth. We went from the largest creditor Nation in the world to the largest debtor Nation on President Reagan's watch. You no longer had to point to some other countries in South America and talk about their huge national debt. Ours overwhelmed it.

As a nation, we began to put our expenses on a government credit card, running up debts that we could not pay and we could not afford. Our defense budget increased by 100 percent during President Reagan's two terms in office.

Now, are we 100 percent more secure today than we were then? Come, come, come. Look what our defense build up went into: Spending billions on expensive and ineffective systems like star

wars. We wanted to keep the Soviet Union on the other side of the Berlin Wall. Fortunately the Berlin Wall was only concrete and that came down. With that came the wave of democracy. But we keep on pouring money into star wars even though most people admit it is not going to work.

There was the MX missile. We built the B-2 Stealth bomber immediately after we spent $30 billion on the B-1B.

I remember one of my distinguished colleagues standing here on the floor arguing against a resolution on the farm bill that would have punished Saddam Hussein. We would have held back credit and subsidized shipments of food to Saddam Hussein because of the fact that he gassed his own people. He sponsored terrorism and was saying bellicose words about the independent country of Kuwait. One of our distinguished colleagues argued against the amendment. Two weeks later, that same Senator was on the floor saying we have to do something about that terrible Saddam Hussein.

Do we need the B-2 bomber. Well, for what? What would the B-2 bomber do for us right now, if we had it?

Another person suggested the other day that we could save ourselves $100 billion: Tell everybody we built 100 B-2 bombers. They cannot see them by radar. They do not know the difference. We can pocket the change. That is all it is worth. We are never going to risk a billion dollar airplane to fly to Baghdad or over the Middle East. Why not tell them we have the plane anyway? They will never know the difference and we would be $100 billion ahead of the game.

What finally do we need, however? We find exactly those things we cut out. We failed to treat operations and maintenance with the same high priority. We cut out planes like the A-10 because it is slow and ugly. Even though its very effective, its so simple so we do not need it. We failed to pay more attention to things we find we need. We need better maintenance, training and equipment that can work in the sands of Saudi Arabia.

Spending billions on sophisticated weaponry does not translate into more security. Our sealift capability is proving far less effective than advertised by the Pentagon. Instead of spending money on fast sealifts, we spend $1.5 billion to bring a World War II battleship out of mothballs. When we got it out there, by God, we had the best World War II battleship that we could have. If anybody asks for a rematch of World War II, we are ready to go.

Now the Pentagon has asked to spend millions to put it back in mothballs. Would it not be better if we spent a fraction of that on sealift capability? We are even towing some ships to the Persian Gulf. We need two ships, one to tow the other ship to go over to Saudi Arabia.

Let us be clear. Domestic spending did not cause this huge deficit. That is not what did it.

So now we have this situation today, Mr. President, results of the budget summit. People who had the party are not paying the tab. The people who do not party at all are being asked to pay. The people in the low- to middle-income bracket will be asked to pay a higher percentage of their taxes than any other group of citizens. Poor pregnant women, who cannot buy food are going to find that their eligibility for Women, Infant, and Children Program [WIC] is going to be cut off; 50 percent of eligible women in this country are already cut off from that program.

In this country we spend hundreds of millions of dollars to store food we cannot use. We have people stand on this floor of this Senate saying we have to stand up for the unborn child. I agree that is a noble thought. But these same people pause if it is going to cost us something, if we have to feed that pregnant woman, feed that child, or do something to help take care of the child once he or she is born. No, we cannot do that because that adds to the deficit and there will not be money for the B-2 bomber. But we are in favor of the unborn child?

Are we? Or is this the same kind of hypocritical sloganeering that got us here in the first place? I think Mr. President, each one of us better ask ourselves when we vote for this budget package, assuming it comes over from the other body, are we just perpetuating the arrogant myth and irresponsibility that got us here in the first place, ignoring the people who want to look to Government for some kind of help and some kind of direction? Ours is a country where we have fallen behind the rest of the industrialized nations in our education system, where the infant death rate is something like 19th. Iceland, Singapore, countries like that do a better job than we do. Canada certainly does. What do we do about them? Are we just going to cut further, drop from 19th to 20th or 22d, as though it is a sweepstakes to ruin this country.

We sit here with slide rules—actually, we do not use slide rules any more, we use computers which we buy from the Japanese of course because Lord knows we do not want to spend money in developing these products any further here, not when we can have leveraged buyouts and spend the money on debt. So we use the computer to figure out, look, listen. We can save ourselves $13 billion here if we just get rid of these 50,000 farmers. We can save so much more if we just take these pregnant women off anything that might give them nutrition for themselves and their unborn child.

Mr. President, as I said, if anybody is going to vote for this budget agreement they better start to thinking for a moment in making their decision that we are not talking about numbers on a piece of paper. We are talking about real people.

I know people worked hard in putting this agreement together. They have worked hard. I do not think there is a Senator here who does not appreciate the hard work that went into that. A lot of these Senators are out there until 2 and 3 o'clock in the morning getting answered no, no, no, to just about everything they came up.

After all the White House has some responsibility in this. They are the ones that proposed the budget every year. I think it was not until it probably got way down to the end or the cruch that they began to recognize the responsibility. I let the budget summiteers speak to that.

I think the package we have before us would be a heck of a lot worse than it is if it was not for people like JIM SASSER of Tennessee, GEORGE MITCHELL of Maine, TOM FOLEY, DICK GEPHARDT, senior Republicans, BOB DOLE and BOB MICHEL, and others who worked very, very hard on it.

But I cannot help but think if the kind of realization, or not just realization, but acknowledgment of what was going on had been made a year or so ago, or 2 or 3 years ago, we would not be in this fix today.

As one individual Senator, one of the 11 who voted against getting us in this mess in the first place, I wonder if I could even bring myself to vote now for the sort of ratification of the process that brought us here. It bothers me greatly.

As I said, I would be very happy if we could have had a package put together just by our distinguished majority leader or by our distinguished budget chairman. But that is not what we have. A package from the two of them presented to us, I think if they were left unrestrained, would be a package I could vote for; not that I could agree with every point any more than they could to one that I would put together.

I have to ask myself, with all the restrictions put into this package by the White House and all the restrictions put in by others, whether it is one I can vote for.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS—MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. KERRY. Mr. President, 3 days ago now, on Tuesday, a totally noncontroversial bill was brought to the floor of the U.S. Senate, a bill that has passed the House of Representatives unanimously, 406 to 0, a bill that passed the Banking Committee unanimously.

Here we are, the U.S. Senate, supposedly the world's greatest deliberative body, with people all over the face of this planet struggling to be like the United States of America, some of them taking life risks in order to do that. We watched Germany unite a couple of days ago, an extraordinary moment of celebration and a democracy breaking out. Here we are for 3 days, at a moment when people all over this country are saying, why can they not make a decision? Why can they not make a choice? Why can they not decide something in our interest, not in theirs, but in our interest, the people of this country? That is what they sent us here to do.

Three days, not an amendment proposed, not a vote taken, just a process, a little ducking there, a little bobbing and weaving. Nobody knowning where the ghosts and goblins are.

Mr. President, what we are talking about is drug kingpins. We are talking about money laundering. We are talking about $100 billion a year to get siphoned through the banks of this country. We are looking at a U.S. Senate that for 3 days has done nothing about it.

It is extraordinary. How do you go back to people and tell them that this is a serious place? How do you go back and tell them that you care about what is happending in this country to kids? How do you tell them you care about the communities where cops are going out and risking their lives on a daily basis, because some fat kingpin somewhere is sitting with a bank account, and we are unwilling to take the action in the U.S. Senate that puts a penalty on these people who engage in that kind of activity? I am asking why have we not done this? I am not going to suggest all the reasons that are possible. I do not want to do that. I have refrained from even this comment for 3 days in an effort to try to establish the comity that really belongs here, by which we do business.

It seems to me absolutely extraordinary that a bill so unanimously endorsed and so unanimously brought to the floor with the committee support and other people's support is just sitting here languishing. No wonder the people of the United States of America are asking about their Government. No wonder people are wondering whether they can rely on us to make fundamental choices. Here we are with this extraordinary budget collision that we face right now and they expect us to deal with billions and billions of dollars of choice and we cannot even deal with a piece of legislation that makes money for the Government.

I do not think this is a proud moment for the U.S. Senate. I must say so, Mr. President. I hope before we have to deal with the issues of why or what is happening here we can clear this process up and begin to move forward.

The distinguished ranking member of the U.S. Senate Banking Committee, Senator GARN, has spent his 3 days here in an effort to try to move this legislation. The distinguished Senator from New York [Mr. D'AMATO] has amendments here which are important he thinks to this bill and wants it passed.

My hope is that we can try to break whatever the stealth logjam is in an effort to try to deal with this. I have to tell you, Mr. President, as you know, there is not a person here who has not expressed the seriousness of the drug problem. There is not a person here who probably has not campaigned on the basis of the fact that they are going to try to improve our ability to fight narcotics trafficking. I think we are going to have a hard time or some people are going to have a hard time—I am not going to have a hard time, but some people are going to have a hard time explaining how seriously they really are when a bill that is so broadly supported sits for 3 days on the floor of the Senate without people seriously addressing it.

I have a strong suspicion that I have a sense of what may be happening here, Mr. President, and I hope that it is not what I believe it might be. But I really believe that in the interest of the enforcement efforts of our Justice Department, of our DEA, of our Customs, in the interest of those who are on the front lines of waging this effort that the Senate will finally deliberate in the very frankly brief manner that needs to be addressed in terms of real deliberation for this particular legislation.

Let me say for the record that on our side of the aisle there is no pending problem. We are ready to vote. We are ready to vote the entire passage of the bill. There is not a Democrat in the U.S. Senate who has an objection to or an amendment for this particular piece of legislation.

So, it is my hope that maybe over the course of the next few hours we will break this free from the current bondage in which it is held and be able to pass an important piece of legislation without having to resort to cloture and to a lot of needless votes and a lot of wasted time of people who have an awful lot of important things to pay attention to and some very, very big issues on the table.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. KERRY. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

GODSPEED TO WARREN KANE

Mr. HOLLINGS. Mr. President, the U.S. Government may be on the skids this week, but I am pleased to report that Warren Kane, my top aide on the Commerce, State, Justice Appropriations Subcommittee, has entered the prime of his life. Last night his beloved Red Sox won the American League East, this morning he became a grandfather for the third time, and last week he began a youthful and well-deserved retirement. I personally think that retirement at age 55 is ridiculous. But, then again, I must admit that I have aged Warren at an accelerated rate over the last 16 years.

Mr. President, I will miss Warren Kane's services more than I can say. His knowledge of the Commerce, State, Justice jurisdiction is nothing short of encyclopedic. But Warren's value goes way beyond knowledge and expertise. I can tell you that few staffers can match the long hours he puts in, the high standards, the professionalism, the simple decency and courtesy that are his trademarks. The fact is, he has spoiled Senator RUDMAN and me. We have had the peace of mind of knowing that our bill is in the best of hands. I will genuinely miss his day-to-day counsel, though I take consolation in knowing that our friendship will continue.

Mr. President, Warren Kane is well known to most of us in this body. His service in the Senate goes back to 1971, when he signed on as legislative assistant to Senator Norris Cotton. Certainly, Warren can take pride in many accomplishments down through the years. The Senate Red Cross will remember his incredibly generous donations to their blood drives, giving a total of nearly 9 gallons down through the years. What's more, I know that Warren takes a special, well-deserved pride in the role he played in the 1970's in heading off misguided efforts

to massively alter the west front of the Capitol Building.

Mr. President, Warren Kane is looking forward to becoming even more active in service to his church, Arlington Forest United Methodist, and to his alma mater, Hope College. I've also heard rumors that, after years on the links, he intends to learn how to play golf. I certainly wish Warren and Dale the very best of luck. He has done a superb job for me, and a superb job for the U.S. Senate. We will miss him.

MINORITY BUSINESS MONTH

Mr. RIEGLE. Mr. President, October is "Minority Business Month" in Michigan, and I would like to speak briefly about the importance of encouraging the development of businesses owned and operated by minority citizens.

International competition becomes tougher every day. One of our greatest strengths as a nation is our diversity; no other nation in the world has such a rich marketplace of ideas and perspectives as the United States. We need to better convert this strength to the world economic marketplace.

The playing field on which minority businesses compete is tough. About half of all enterprises fail within 5 years. A recent Supreme Court decision in the City of Richmond versus Crosin has made it more difficult for minority businesses to obtain government contracts. In addition, Federal support for programs that assist minority business has declined. Yet, despite these forces, many minority-owned businesses are succeeding.

Over the past decade, minority-owned business has grown as a percentage of the economy, creating much needed jobs in communities all over the country. There are over 13,000 minority-owned enterprises in my State of Michigan, generating over $700 million of revenue a year. Most of these enterprises are small family-owned businesses, led by hardworking and innovative entrepreneurs. These firms have enormous potential for growth. In fact, from 1976 to 1986, small business contributed to over 80 percent of all jobs created in Michigan. In a time of limited job opportunity for minorities, particularly in inner cities, it is particularly critical that we do all we can to promote the growth of minority-owned businesses.

The past decade has also seen unprecedented growth in the number of minorities who are obtaining business degrees and rising in major corporations. While progress has been slow, a number of individuals from minority backgrounds have broken through the glass ceiling that has prevented many talented individuals from taking leadership positions in major corporations.

A recent survey among black entrepreneurs indicated that over 70 percent cited inadequate funding as the No. 1 problem confronting minority-owned business. Too often in our society, black and other minorities do not have sufficient access to capital that is needed to build a business. For this reason, the government plays a vital role in promoting minority economic development. The Michigan Department of Commerce set up a Minority Business Enterprise Office to help the minority business community obtain funding and technical expertise that is necessary to build a solid enterprise. The Federal Government assists minority business through the Minority Business Development Agency and through a number of other programs designed to enhance the ability of minority businesses to succeed. I strongly believe that we need to support these important programs and I will fight for adequate funding for them.

Minority Business Month provides us with the opportunity to call attention to the need to promote the development of minority-owned businesses. I urge my colleagues in the Senate to help in advancing minority-owned business so we can build a prosperous future for all Americans.

WHEN MEDICINE GREW UP

Mr. METZENBAUM. Mr. President, earlier this year, Dr. Harold Klein of my home city of Cleveland addressed the 50th reunion of his Georgetown University medical school class. Dr. Klein is a member of the staff of the Mount Sinai Medical Center in Cleveland, a fine physician, and a dear friend of many years. During his 50 years of dedicated service in the medical profession, Dr. Klein has witnessed staggering changes in the practice of medicine. In his talk at Georgetown, Dr. Klein spoke movingly to his classmates about his deep love of his profession and his exhiliration at being part of this exciting period of medical history—a period which included the triumph over so many diseases through the development of new medicines, surgical techniques, and technologies. Yet, as Dr. Klein pointed out, there is a catch. Along with these important new technologies have come soaring hospital costs and the practice of medicine as big business.

Mr. President, Dr. Klein offers a valuable perspective and insight into the fundamental conflict facing our health care system today. I ask unanimous consent that an article from the Cleveland Plain Dealer excerpting his reunion address be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Cleveland Plains Dealer, June 29, 1990]

50 ASTOUNDING YEARS WHEN MEDICINE GREW UP

(By Harold Klein, M.D.)

Unlike Winston Churchill, who said his life had been an exciting voyage but one he would not care to repeat. I would love to relive mine, because for me the practice of medicine has always been an exhilarating, challenging and statisfying pursuit.

My generation had the extreme good fortune of living through the truly halcyon days of medicine. In our 50 years, we were both audience and players in the greatest and most exciting drama in the entire history of our calling—the explosive development of a solid science out of a tattered group of hand-me-down facts and fancies.

When we started in medical school, we were subjected to a brutal memory process of diagnosis, disease and drugs, and became versed in the jargon of the profession. By the end of four years, we had acquired a rather crude overview of the differences between sick and well, but the treatments we were offered were woefully lacking. We had learned the names of dosages of many palliative drugs, but in essence, there were only a few worthy staples on the shelf: digitalis, morphine, quinine, belladonna and aspirin.

Surgery was potentially curative, but we medical people were so limited that even a serious infection like pneumonia was treated by swabbing down the fever and providing lots of fresh air.

Oh yes, we were taught about the noble heritage of the healing arts, the dignity of the body and the sanctity of the human mind and spirit. We were instructed in ethics and pride and morality. We were taught to be kind and caring and, above all, to do no harm. Yes, there was honor and striving in our group, but what we really started with were some vague projections: the laying on of hands, the patient ear, some kind, reassuring words, and a dignified professional air.

Shortly after our graduation, our world began to change. Antibiotics and antisera were discovered and started to proliferate in dizzying procession, saddling and taming the ravaging infections diseases so that an illness-free millennium seemed to be just around the corner.

Nature, however, can be a tricky adversary. Germs soon developed resistance and new forms appeared. Even now, although the new and mysterious miasma that is AIDS has come over the horizon and threatens to envelop us in its deadly embrace, and a new and potent global flu could suddenly explode to scourge and plague us, we have made dramatic progress in treating infectious diseases.

You and I have lived through many wonderous changes in medicine. We have seen Kolff's dialysis machines made small enough and practical enough to be used universally to rescue end-stage renal disease patients from what formerly was a death sentence.

We have marveled as the heart became an open book—on the angiography table and in the operating room. New vessels and new valves can now turn back the human odometers on many a deadend road.

The development of fiber optics has taken the word "rigid" out of endoscopy, and made it possible for us to navigate the curls and convolutions of the lung and the gastrointestinal tract—plucking their polyps on the way.

The nitrogen mustards, conceived as satanic dealers of death during wartime, have been tempered, harnessed and converted into angels of mercy for the treatment of lymphomas, leukemia and cancer.

We have learned how to replace steamy, worn-out lenses almost as easily as changing batteries in a toy, and we can toy with the batteries of our cardiac pacemakers.

With the development of computers and scanners, we now can find the proverbial needle in the diagnostic haystack, and with guided needle biopsy, the guesswork has been taken out of many previously puzzling disorders, making pinpoint therapy a possibility.

The crutches and braces that used to hang in rows in the storerooms of the orthopedic departments have been replaced by a wide assortment of gleaming new hips, new knees, new elbows and new shoulders.

We are living in a new and wonderful world of medicine, replete with magical machines and miraculous therapeutic tools and techniques to relieve pain and prolong life.

But there is a catch. All the paraphernalia in this exotic arsenal are just as costly to store and to operate as they are to buy. Only highly trained technicians can run them, and only very specialized physicians can interpret them. In addition, these megabuck machines become obsolete within months and need to be replaced with improved versions for more millions.

The $2 and $3 medical visits of the 1940s have skied to hundreds of dollars, and hospital costs have soared to multiple thousands, The practice of medicine has become big business and in many of our specialties, disproportionately lucrative. The pot of medical honey has gotten so full and so sweet that it has enticed all the big-time predators. Business advisers, soothsayers, machinery makers drug peddlers and the media have jumped in to keep the pot boiling. By a kind of natural accretion, we have acquired a vast overlay of non-medical people who are blanketing the entire kaleidoscope of the life and function of medical practice.

In addition, with the tremendous input of third-party payment, there is a countless cast of non-practicing physicians, nurses, attorneys, insurance brokers and executives, business consultants and many others—reviewing, censoring, controlling—all feeding at the trough of the medical dollar.

All this ancillary intrusion on the physician adds immeasurably to the overall "cost of medical care" but in no way contributes to the actual care of a single patient. So it is the patient who is penalized by the escalating costs, costs that never enhance the quality of his care. There must be a way to scrape these barnacles off our hull before their weight causes us to sink.

Just as all of America has changed in the last 50 years, the kindly old painstaking physician has had to become more worldly and business-wise to survive. The family "Doc" has been replaced by the medical corporation, busily harvesting and investing in accordance with the best corporate diligence and business know-how.

Although the majority of our fellows still hew to the ethical lines of the profession, there are too many who have detoured from Hippcrates to hype, from caring to coining—which unfortunately, besmirches the whole fraternity in the eyes of the public. We cannot go back to the horse and buggy or even to the Fords of the '40s, but we must try to rededicate ourselves to the concept that the patient and his needs belong higher up on the totem pole of our social structures than they are now.

We must not allow the proliferating enterpreneurial trappings in medicine today to compromise the noble heritage of the profession.

GERMAN AMERICAN DAY

Mr. RIEGLE. Mr. President, October 6 marks the fourth annual German-American Day. Unanimously passed by both the House and the Senate, the joint resolution designating Saturdays as German-American Day acknowledges the special historical and cultural contributions that German-Americans have made to our society. I am proud to have introduced this joint resolution with Senator LUGAR each year since 1987. This year there is even more reason to celebrate. After more than 40 years of division, the two Germanies—East and West—have been united.

On October 18 of last year, East German Communist Party leader Erich Honecker was ousted from power. On December 1, 1989, the East German Parliament abolished the constitutional clause guaranteeing the leading governmental role of the Communist Party. And, on November 9, 1989, all restrictions on East German travel to the West were ended, effectively marking the beginning of the dismantling of the Berlin Wall which, for more than 28 years, symbolized the cold war and stood as a bulwark against peace and the reunification of Germany.

After 7 months of negotiations, East and West Germany, along with the United States, Great Britain, France, and the Soviet Union—the four legal occupying powers of WWII—finally reached agreement on the reunification of Germany. And as of Tuesday, the two Germans are once again a single nation.

German immigrants first reached America's shores more than 300 years ago. First settling in Germantown, PA, on October 6, 1683, Americans of German descent have since enriched American culture, scholarship, science, religion, and all other dimensions of life in this country. German-Americans have consistently distinguished themselves as a very industrious and prosperous community.

Among the most distinguished German-Americans have been two great leaders of our Armed Forces. America is forever grateful to the contributions of the brave Revolutionary War General Von Steuben and President Dwight David "Ike" Eisenhower who both fought valiantly on behalf of the democratic values for which America stands.

Today, 1 in 5 Americans—some 50 million of us—can now claim German ancestry. I am proud to be counted among the 2.5 million citizens in my own State of Michigan who are of German descent.

The unification of Germany marks not only the beginning of a new day in Germany, but represents the dawn of a new and more peaceful age for the European continent. Because of these recent events, the German-American friendship we have embraced and fostered over the past 45 years has even greater meaning and significance. So, this year, as we honor German-Americans on this special day, let America also celebrate the ending of the division of Germany.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Energy and Natural Resources.

(The nominations received today are printed at the end of the Senate proceedings.)

DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 149

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on the Judiciary, and the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report seven deferrals of budget authority now totalling $1,120,243,863.

The deferrals affect the International Security Assistance Program, as well as programs of the Departments of Agriculture, Defense, Health and Human Services, State, and Transportation. The details of the deferrals are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *October 4, 1990.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:32 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 647. An act to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws and to eliminate abuses in transactions in pennystocks, and for other purposes;

S. 1128. An act for the relief of Richard Saunders;

S. 1229. An act for the relief of Maria Luisa Anderson;

S. 1511. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes;

S. 1683. An act for the relief of Paula Grzyb;

S. 1814. An act for the relief of Wilson Johan Sherrouse;

H.R. 5641. An act to amend title 5, United States Code, with respect to the retirement of members of the Capitol Police;

H.R. 5643. An act to grant a temporary extension of the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to private-sector positions while participating in an executive exchange program; and for other purposes; and

H.J. Res. 482. Joint resolution designating March 1991 as "Irish-American Heritage Month."

The enrolled bills and joint resolution S. 647, S. 1511, H.R. 5643, H.R. 5643, and H.J. Res. 482 were subsequently signed by the President pro tempore [Mr. BYRD].

The enrolled bills S. 1128, S. 1229, S. 1683, and S. 1814 were subsequently signed by the Acting President pro tempore [Mr. AKAKA].

At 12:40 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 1396) to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Energy and Commerce for consideration of the House bill, the Sente amendment (except sections 103, 104, and 502), and the House amendment, and modifications committed to conference: Mr. DINGELL, Mr. MARKEY, Mr. MCMILLEN of Maryland, Mr. LENT, and Mr. RINALDO.

From the Committee on Post Office and Civil Service, for consideration of sections 103, 104, and 502 of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. CLAY, Mr. ACKERMAN, Mr. GILMAN, and Mr. MYERS of Indiana.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 971) to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practices in the provision of operator services, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2809) to provide for the transfer of certain lands to the State of California, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate numbered 1, 3, and 5 to the bill (H.R. 1109) to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System; and that the House disagrees to the amendments of the Senate numbered 2 and 4 to the bill.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5732. An Act to promote and strengthen aviation security, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5732. An act to promote and strengthen aviation security, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, October 4, 1990, he had presented to the President of the United States the following enrolled bills and joint resolution:

S. 647. An act to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws and to eliminate abuses in transactions in penny stocks, and for other purposes;

S. 1230. An act to authorize the acquisition of additional lands for inclusion in the Knife River Indian villages National Historic Site, and for other purposes;

S. 1511. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes;

S. 1974. An act to require new televisions to have built in decoder circuitry; and

S.J. Res. 181. Joint resolution to establish calendar year 1992 as the "Year of Clean Water".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3652. A communication from the Secretary of Agriculture transmitting, pursuant to law, the annual Animal Welfare Enforcement Report for fiscal year 1989; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3653. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, notification of the intention to use certain funds to complete testing on a system for the B-1B bomber; to the Committee on Appropriations.

EC-3654. A communication from the Secretary of Defense, transmitting, pursuant to law, notice that the current five-year defense program fully funds the support costs associated with the Bradley Fighting Vehicle Program; to the Committee on Armed Services.

EC-3655. A communication from the Secretary of Defense, transmitting, pursuant to law, notice that the current five-year defense program fully funds the support costs associated with the family of Heavy Tactical Vehicles Program; to the Committee on Armed Services.

EC-3656. A communication from the Acting General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation to authorize the Federal Deposit Insurance Corporation to increase deposit insurance premiums and to borrow working capital funds, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC-3657. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Thrift Resolutions: Estimated Costs of FSLIC's 1988 and 1989 Assistance Agreements Subject to Change"; to the Committee on Banking, Housing, and Urban Affairs.

EC-3658. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report on the Rental Rehabilitation Program for fiscal year 1990; to the Committee on Banking, Housing, and Urban Development.

EC-3659. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the options available to control the infestation of the waters of the United States, including the Great Lakes, by exotic species from the ballast water of vessels; to the Committee on Commerce, Science, and Transportation.

EC-3660. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, a draft of proposed legislation to extend the deadline by which foreign nations must meet the requirements of the Marine Mammal Protection Act, to limit the embargo of tuna and tuna products from intermediary nations, to provide limited imports of dolphin-safe tuna from embargoed nations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-3661. A communication from the Assistant General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-3662. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3663. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3664. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3665. A communication from the Assistant Secretary of the Interior (Policy, Management, and Budget), transmitting, pursuant to law, reports of the Bureau of Land Management and the Fish and Wildlife Servide on the implementation of section 318 of the 1990 Department of the Interior and Related Agencies Appropriations Act; to the Committee on Energy and Natural Resources.

EC-3666. A communication from the Chairman of the National Commission on Superconductivity, transmitting, pursuant to law, the final report of the Commission; to the Committee on Energy and Natural Resources.

EC-3667. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, notice that a report on the establishment of a relative value scale and fee schedules for Medicare payment for radiologist services will not be submitted; to the Committee on Finance.

EC-3668. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, notice that a report on payment adjustment for sole community hospitals that add new inpatient facilities or services will be included in a forthcoming comprehensive report; to the Committee on Finance.

EC-3669. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, notice that a study of the criteria used to classify hospitals as rural referral centers will be included in a forthcoming comprehensive report; to the Committee on Finance.

EC-3670. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to September 27, 1990; to the Committee on Foreign Relations.

EC-3671. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, a determination signed by the Secretary of the Treasury pursuant to Title I of the Foreign Operations, Export Financing, and Related Programs Appropriations Act; to the Committee on Foreign Relations.

EC-3672. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report and recommendation on a claim of an individual to be reimbursed for relocation expenses; to the Committee on Governmental Affairs.

EC-3673. A communication from the Acting General Counsel of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the annual Status Report on Credit Management and Debt Collected dated June 1990; to the Committee on Governmental Affairs.

EC-3674. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, a brief statement on the activities of the Office under the Equal Access to Justice Act for the period ended June 30, 1990; to the Committee on the Judiciary.

EC-3675. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the fifteenth annual report on the state of handicapped children in Head Start programs; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-587. A joint resolution adopted by the Legislature of the State of California; to the Committee on Governmental Affairs.

"ASSEMBLY JOINT RESOLUTION No. 72

"Whereas, State laws enacted to assure responsibility and competency of contractors, as well as to protect employees of those contractors against injury, are of value to agencies of the United States; and

"Whereas, Application of these state requirements to federal contractors and subcontractors would not impede the ability of federal agencies to obtain timely performance; and

"Whereas, Many federal contracts are joint ventures with state public entities and many are performed on nonfederal lands where the states' interests in protecting their citizens are paramount; and

"Whereas, The application of state standards and employee protections to federal contractors and subcontractors is uncertain because of inadequate and conflicting judicial precedent; and

"Whereas, It is appropriate that the Congress clarify the status of these contractors and subcontractors under state laws in order to promote the interests of the United States and its individual states; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress to enact legislation specifically making federal contractors and subcontractors subject to state licensing laws and state laws for the protection of employees; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-588. A resolution adopted by the City Council of Slidell, Louisiana favoring a constitutional amendment to protect the American flag; to the Committee on the Judiciary.

POM-589. A resolution adopted by the Catholic War Veterans of the United States of America, Inc. favoring the early consideration of an amendment to the Constitution to protect the American flag; to the Committee on the Judiciary.

POM-590. A resolution adopted by the Catholic War Veterans of the United States of America, Inc. opposing the funding of certain projects and exhibits by the National Endowment for the Arts; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

H.R. 2015. A bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 3791. A bill for the relief of Beulah C. Shifflett.

S. Res. 332. Resolution to refer S. 1301, entitled "For the relief of Hoar Construction, Inc., of Birmingham, Alabama, to settle certain claims filed against the Small Business Administration" to the Chief Judge of the United States Claims Court for a report thereon.

S. 293. A bill to amend the Judicial Survivors' Annuity Act to eliminate the requirement that a Federal justice or judge, who is assassinated, must serve a specific period of time before his or her survivors become eligible for benefits under this Act.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Benjamin F. Marsh, of Ohio, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1992;

Stephen B. Higgins, of Missouri, to be U.S. attorney for the Eastern District of Missouri for the term of 4 years;

Doris Swords Poppler, of Montana, to be U.S. attorney for the District of Montana for the term of 4 years; and

Arthur D. Borinsky, of New Jersey, to be U.S. Marshal for the District of New Jersey for the term of 4 years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LUGAR:

S. 3157. A bill to confirm Federal recognition of the Miami Tribe of Indiana; to the Select Committee on Indian Affairs.

Mr. COATS:

S. 3158. A bill to improve the provision of health services in rural areas, and for other purposes; to the Committee on Finance.

By Mr. HEINZ:

S. 3159. A bill to amend the Internal Revenue Code of 1986 to more fairly apportion between foreign and domestic sources interest attributable to environmental control assets; to the Committee on Finance.

By Mr. BOSCHWITZ (for himself, Mr. DURENBERGER, Mr. DOLE, Mr. MOYNIHAN, Mr. LUGAR, Mr. HATFIELD, Mr. SIMPSON, Mr. SIMON, Mr. KERRY, Mr. WILSON, Mr. D'AMATO, and Mr. HATCH):

S.J. Res. 375. Joint resolution to designate October 30, 1990, as "Refugee Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR:

S. 3157. A bill to confirm Federal recognition of the Miami Tribe of Indiana; to the Select Committee on Indian Affairs.

FEDERAL RECOGNITION OF MIAMI TRIBE OF INDIANA

● Mr. LUGAR. Mr. President, today I have introduced legislation to rectify an injustice imposed upon thousands of my constituents for over 90 years. I speak of the Miami Indians of Indiana who have resided in the north-central region of my State for centuries.

In 1897, officials of the U.S. Department of the Interior administratively terminated the Indiana Miamis. In this case, would no longer formally recognize the tribe. In following decades this has meant that the Miamis have been unable to take advantage of the many Federal programs created by Congress to benefit native Americans.

Mr. President, there is no such thing as administrative termination. Congress has never granted the Department of the Interior the authority to terminate the formal relationship between an Indian tribe and the Federal Government. Only Congress has such authority.

Consequently, in a purely legal sense, the Miami Indians of Indiana are today a formally recognized Indian tribe. In fact, the Bureau of Indian Affairs [BIA] later admitted that their 1897 decision was inappropriate. Nevertheless, the Department of the Interior continues to prevent the Miamis from enjoying the benefits of many Federal programs.

The legislation I have introduced today, seeks to correct this injustice by reaffirming the Miamis' legitimate status and directing the Department of the Interior to make available to the tribe all rights and privileges enjoyed by other federally recognized Indian tribes.

For decades, the Miamis sought to take action to correct this injustice. The tribe considered both legislative and legal avenues to reaffirm their status. Fearing that these approaches would be too time consuming, in 1980 the tribe decided to pursue the administrative recognition process established by the BIA in 1979.

The tribe made a mistake. Their foray into the Federal recognition process and the BIA bureau has taken an entire decade of effort. After years of costly research, the tribe first submitted a petition for Federal recognition to the Department of the Interior—Bureau of Indian Affairs on July 10, 1984. I have followed the petition's slow and difficult progress over the past 6 years and in doing so have become familiar with the serious flaws and problems of the Federal recognition process. These problems have not gone unnoticed. Both Senators INOUYE, chairman of the Select Committee on Indian Affairs, and Senator MCCAIN, ranking member of that committee, have introduced legislation to fine tune this program.

On July 12, 1990, the Miami's petition for Federal recognition received a preliminary denial. After a decade of effort and 6 years of processing, this was an incredible blow to both the tribe and myself.

Many native American experts were certain that the Miami's petition would be approved. The denial has surprised and concerned the many other tribes awaiting decision on their petitions. Questions are now being raised as to the future of the administrative recognition process. Clearly, these are questions for the Select Committee on Indian Affairs to address.

Regardless of the Miami's decision to participate in the administrative recognition process and regardless of the outcome of that process, the reality of the Miami's status has not changed. The U.S. Congress entered into treaties with this tribe, and in doing so, formally recognized them. Since that time, Congress has not terminated its relationship with this tribe. I urge my colleagues to join me in taking action to reaffirm the Miamis legitimate status.

Mr. President, with only weeks remaining prior to the end of the 101st Congress, it is unlikely that the Select Committee on Indian Affairs will be able to consider this legislation prior to adjournment. Let me clearly state my intent to immediately reintroduce this measure at the beginning of the 102d Congress and continue my efforts to rectify this injustice.

Mr. President, I ask that the full text of my legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Miami Nation of Indiana Tribal Status Confirmation Act".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATIONS.

The Congress finds that—

(1) at the time of removal of the Miami Nation from Indiana, approximately 300 Miamis under the leadership of Meshingomesia remained in or returned to Indiana pursuant to Federal treaty stipulations;

(2) after removal, the Indiana Miamis were known as the Eastern Band of Miamis, and were recognized as a self-governing Indian tribe by the Department of the Interior;

(3) on June 5, 1854, the Eastern Band of Miamis signed a treaty with the United States, which treaty was ratified by the Senate on August 4, 1854;

(4) since the Treaty of 1854, the United States Congress has not by statute or otherwise terminated the Federal relationship with the Eastern Band of Miamis;

(5) until 1897, the Department of the Interior acknowledged the Federal relationship with the Eastern Band of Miamis and, in that year, administratively terminated the tribe based on an erroneous interpretation of Acts of Congress that partitioned the Indiana reservation and granted citizenship to the members of the Eastern Band of Miamis;

(6) the Department's action in 1897 was unauthorized by Act of Congress and, thus, ultra vires and without force and effect; and

(7) the Eastern Band of Miamis, now known as the Miami Nation of Indiana, has not abandoned tribal relations since the Treaty of 1854.

SEC. 3. CONFIRMATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

(a) IN GENERAL.—Notwithstanding any provision of law or determination of the Department of the Interior, Federal recognition of the Miami Nation of Indian and all enrolled members of the tribe is hereby confirmed. All laws and regulations of the United States of general application to Indians and Indian tribes shall apply to the Miami Nation of Indiana.

(b) ELIGIBILITY OF TRIBE FOR FEDERAL BENEFITS.—Notwithstanding any provision of law or determination of the Department of the Interior, the Miami Nation of Indiana and its members shall be eligible immediately upon the enactment of this Act for all Federal services and benefits furnished to Indiana and Indian tribes because of their status as Indians and without regard to the existence of a reservation for the tribe.

(c) DEEMED STATUS.—For the purposes of the delivery of Federal services, all enrolled members of the Miami Nation of Indiana residing in Allen, Huntington, Wabash, Miami, Howard, Grant, Elkhart, and St. Joseph counties in the State of Indiana shall be deemend to be residing on or near a reservation. Enrolled members residing in such counties shall continue to be eligible to receive such Federal services notwithstanding the establishment of a reservation for the tribe in the future.

SEC. 4. FEDERAL RECOGNITION OF STATE JURISDICTION.

(a) IN GENERAL.—The Government of the United States grants jurisdiction to the State of Indiana over all criminal offenses that are committed on, and all civil actions that arise on lands located within the State of Indiana that are owned by, or in the futre held in trust by the United States for, the Miami Nation of Indiana, any member of the Miami Nation of Indiana, or any dependent Indian community of the Miami Nation of Indiana.

(b) TRANSFER OF AUTHORITY.—The Secretary of the Interior is authorized to accept on behalf of the United States, after consulting with the Attorney General of the United States, any transfer by the State of Indiana to the United States of any portion

or all of the jurisdiction of the State of Indiana described in subsection (9a).

(c) NONAPPLICATION OF PROVISIONS TO CERTAIN LAW.—Th provisions of this Act shall not affect the application of section 109 of the Indiana Child Welfare Act of 1978 (25 U.S.C. 1919).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. COATS:

S. 3158. A bill to improve the provisions of health services in rural areas, and for other purposes; to the Committee on Finance.

IMPROVEMENT OF RURAL HEALTH SERVICES

● Mr. COATS. Mr. President, there are few needs more basic than the security and confidence of a hospital just a short ride away. It plays a part in the concern of every parent for their child, of every adult for an aging parent.

But for many rural communities, particularly in my own State, that source of security and help is being replaced by concern, worry, and grief. Our rural health system is deteriorating with alarming speed and those who depend on it have found little help.

In the 1988 Indiana Hospital Association survey, rural hospital officials projected that, in the next 5 years, 13 percent of our State's rural hospitals would close.

Rural Hospitals in Indiana have voiced concerns over financial viability. This is a need that cannot, in good conscience, be ignored.

The Indiana State Board of Health indicates rural hospitals already serve counties with a greater proportion of older Hoosiers than the State average and jobs common to a rural economy—mining, lumbering, and farming—are more prone to injury, increasing the importance of accessible health care in rural areas.

Most rural hospitals say that a root cause of their difficulties in providing accessible health care is the rural/urban Medicare reimbursement differential. This unequal treatment is making it difficult for rural hospitals to provide quality care. It put an unfair burden on strained resources and handicaps rural medicine.

Mr. President, the bill that I am offering today will directly address this problem. It will ensure that the urban/rural differential be abolished by 1992. This will aid rural hospitals in keeping pace with new technologies, and providing the best health care available.

I believe this measure is vital to maintaining and strengthening the quality of health care in rural America. It is addressed to the justified concerns of rural families. It is aimed at providing them with security and confidence. And I strongly urge my colleagues to support this bill.●

By Mr. HEINZ:

S. 3159. A bill to amend the Internal Revenue Code of 1986 to more fairly apportion between foreign and domestic sources interest attributable to environmental control assets; to the Committee on Finance.

ALLOCATION OF INTEREST TO ENVIRONMENTAL CONTROL ASSETS

Mr. HEINZ. Mr. President, today I am introducing legislation to eliminate an unintended tax penalty that has a detrimental effect on the international competitiveness of U.S. business and provides a disincentive to reducing pollution in the United States.

U.S. companies must compete in today's global markets if we are going to prosper. They must also help protect the environment at home. American companies will have to shoulder the burden of investing billions of dollars in new environmental control equipment while still producing the goods and services we need at home and in international trade. That is simply a fact. Within present budget constraints, there may not be much we can do right now to make that job easier.

On the other hand, we should not make the job more difficult than necessary and certainly should not impose an outright penalty that increases the more a U.S. company competes in international trade and, simultaneously, seeks to invest in needed environmental control assets. I am confident that my colleagues will agree.

When a company that is also engaged in international trade has to purchase new environmental control equipment for its U.S. plant, it will tend to incur additional debt and additional interest expense. Section 864(e) of the Internal Revenue Code will, however, allocate a portion of the company's additional interest expense to its assets that are located abroad in connection with its international operations. The result is in most cases to make nondeductible the portion of interest allocated to foreign assets. The Treasury regulations allocate to foreign assets far more interest expense than is justified based on a fair comparison of the relative amounts of the company's assets located in the United States and abroad. A severe overallocation to the foreign assets occurs because the Treasury regulations make the allocation by comparing the more rapidly declining tax basis of the company's environmental control and other U.S. assets to the less rapidly declining tax basis of the foreign assets.

If instead of making this apples and oranges comparison, the Treasury regulations compared the generally similar earnings and profits bases of assets, a more fair allocation would occur consistent with the intent of Congress in enacting section 864(e) to start with.

I doubt that Congress ever intended an overallocation penalty in any case and I am certain that we never intended to so severely penalize companies that seek to control pollution. This penalty is especially counterproductive at a time when we are asking U.S. companies to invest substantially in equipment designed to reduce pollution. American companies already spend many billions of dollars each year controlling pollution, and the Clean Air Act amendments are expected to add at least another $22 billion in additional pollution control costs. These compliance expenditures generally will not generate new income for American companies that pay them. Instead, they will increase borrowing and decrease profits. To magnify these costs by effectively denying interest deductions would be terribly unfair.

The interest penalty is also unfair because it applies only to U.S. companies that participate in foreign markets—and the greater the participation the greater the penalty. The penalty does not apply to U.S. companies that do not seek to compete in international markets. It does not apply to foreign-owned companies that compete in our markets.

My proposed legislation would eliminate this anticompetitive, counterproductive and unintentional penalty by reducing the overallocation of interest attributable to the acquisition or construction of assets needed to reduce pollution, increase recycling and otherwise improve our environment. It would directly allocate interest to new environmental assets and generally treat that interest as U.S. source. To ensure that the bill does nothing more than eliminate a penalty, the total interest apportioned to U.S. sources will be no greater than the amount that would be apportioned if the location of an asset did not affect how rapidly the asset is depreciated for tax purposes. I strongly urge my colleagues to support this legislation that is essential to our continuing efforts to improve the environment.

Mr. President, I ask unanimous consent that a technical explanation of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TECHNICAL EXPLANATION OF PROPOSED LEGISLATION THAT FAIRLY APPORTIONS INTEREST ALLOCABLE TO ENVIRONMENTAL CONTROL ASSETS

SUMMARY

The provision would directly allocate a portion of a taxpayer's interest expense to environmental control assets ("ECAs"). The portion generally would be apportioned to U.S.-source income and, therefore, would not reduce the taxpayer's foreign source income. The remainder of the taxpayer's interest expense would be apportioned in accordance with the principles of present law. The total interest apportioned to domestic

sources would not exceed the total amount that would be so apportioned if E&P basis were used for apportionments based on assets.

ALLOCATION TO ENVIRONMENTAL CONTROL ASSETS

A taxpayer would determine for each taxable year its weighted average interest rate on its debt. The average would be based only on "fungible" interest and debt; the average would include only interest (and the related debt) that is subject to apportionment based on asset values (basis or fair market value) under current law. For example, interest on nonrecourse debt and other interest that is directly allocated to specific assets under Temp. Reg. §1.861-10T would not be included in the average. The interest allocable to ECAs would be determined by multiplying the weighted average interest rate by the average adjusted basis (as determined for earnings and profits) of ECAs. As under current law (Temp. Reg. §1.861-9T(g)(2)), the average adjusted basis for the year would be the average of adjusted bases at the beginning and end of the year.

The allocation rules described above would not apply to ECAs to the extent that the direct allocation rules of Temp. Reg. §1.861-10T apply. Thus, the present direct allocation rules for nonrecourse debt and integrated financial transactions would prevail over the allocations under the proposed legislation.

APPORTIONMENT OF INTEREST

Interest expense that is allocated to ECAs would be apportioned in accordance with the source of the income generated by the ECAs or the assets to which they relate. All other interest expense would be apportioned in accordance with the applicable interest expense apportionment rules under Code section 864 and Treasury regulations under section 861. However, under the principles of present regulations (Temp. Reg. §1.861-9T(g)(iii), which for general apportionment purposes reduces the value or basis of assets to which interest is directly allocable), the basis or fair market value of ECAs generally would not be taken into account when applying the rules for apportionment based on assets.

CAP ON REAPPORTIONMENT

The total amount of fungible interest that can be apportioned to domestic sources under these rules may not exceed the interest that would be apportioned to domestic sources if E&P basis, rather than tax basis or fair market value, were used for apportionments based on assets.

ENVIRONMENTAL CONTROL ASSETS

The term "environmental control assets" includes equipment and facilities that reduce or eliminate the emission of pollutants into the environment, reduce the generation of waste, convert or recycle waste into usable products, or allow taxpayers to comply with environmental law. Only assets used in the United States would qualify. The provision would apply in tax years beginning after December 31, 1989, with respect to assets placed in service after such date.

By Mr. BOSCHWITZ (for himself, Mr. DURENBERGER, Mr. DOLE, Mr. MOYNIHAN, Mr. LUGAR, Mr. HATFIELD, Mr. SIMPSON, Mr. SIMON, Mr. KERRY, Mr. WILSON, Mr. D'AMATO, and Mr. HATCH):

S.J. Res. 375. Joint resolution to designate October 30, 1990, as "Refugee Day"; to the Committee on the Judiciary.

REFUGEE DAY

● Mr. BOSCHWITZ. Mr. President, it is with great pride that I introduce this joint resolution to designate October 30, 1990, as "Refugee Day."

I am pleased that Senators DURENBERGER, DOLE, MOYNIHAN, LUGAR, HATFIELD, SIMPSON, SIMON, KERRY, WILSON, D'AMATO, and HATCH have joined me in cosponsoring this important joint resolution.

As the only refugee serving in the U.S. Senate, I am particularly concerned about the plight of the world's 15 million refugees. During my time in the Senate, I have worked hard to give others the same chance I had—to find refuge and opportunity within the United States.

It's appropriate and necessary that we recognize the efforts of the United States as a world leader in refugee issues. One challenge that we continually face is maintaining an appropriate balance between assistance for resettling refugees within our country and assistance for refugees residing in other parts of the world. While the United States is committed to resettling refugees within our Nation, we are also a major contributor to international efforts to meet the basic needs of refugees.

Furthermore, we should also take time out to recognize the significant contributions made by refugees who've resettled in our country. Our country's heritage has been enriched by the flow of refugees and immigrants into our Nation. If there is one thing that distinguishes us from other countries, it is that virtually all of us are descendants of refugees and immigrants—refugees and immigrants who energize the U.S. culturally and intellectually and who help fuel the economy.

When refugees arrive in the United States they often have nothing but ambition. That's why our economy expanded fastest when immigration was highest. Refugees spur growth through their commitment to work and their driving desire to gain a better life for themselves and their families. They show us again and again what promise and opportunity are available to all Americans—if we are just willing to work at it.

With more than 15 million refugees throughout the world, those of us who are committed to resettling refugees recognize that we continue to face many challenges. Situations can change suddenly, and we must remember that there are still several trouble spots throughout the world for refugees.

I urge my colleagues to support this important resolution and ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 375

Whereas in the past decade the world refugee population has more than doubled from 7,300,000 to 15,000,000;

Whereas the United States has always played a leading role in refugee matters worldwide;

Whereas the origins of the United States as a land of refuge for those escaping persecution and the development of the United States as a nation of immigrants gives the country a deep understanding of and sympathy for the plight of the 15,000,000 refugees in the world;

Whereas refugees who have come to the United States have made significant contributions to the country;

Whereas the United States consistenly encourages other countries to expand efforts to help the needy population of refugees;

Whereas the current world refugee situation requires that the United States continue to be a leader in refugee affairs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) October 30, 1990, is designated as "Refugee Day"; and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 273

At the request of Mr. HEINZ, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 273, a bill to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes.

S. 567

At the request of Mr. BOREN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 567, a bill to amend the Internal Revenue Code of 1986 to allow income from the sale of certain used automobiles to be computed on the installment sales method, and for other purposes.

S. 1273

At the request of Mr. BOREN, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1273, a bill to amend the Internal Revenue Code of 1986 with respect to treatment by cooperatives of gains or losses from sale of certain assets.

S. 1815

At the request of Mr. BOSCHWITZ, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1815, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer Social Security taxes on cash tips.

S. 1890

At the request of Mr. THURMOND, the names of the Senator from Texas [Mr. BENTSEN] and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 1890, a bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

S. 2044

At the request of Mr. BIDEN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes.

S. 2319

At the request of Mr. GARN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2410

At the request of Mr. LEVIN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2410, a bill to amend the Internal Revenue Code of 1986 to prevent avoidance of tax by certain foreign-owned corporations and to impose a tax on dispositions of stock in domestic corporations by 10-percent foreign shareholders.

S. 2637

At the request of Mr. REID, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2637, a bill to amend the Toxic Substances Act to reduce the levels of lead in the environment, and for other purposes.

S. 2807

At the request of Mr. MCCAIN, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 2807, a bill to direct the Secretary of the Interior to establish and implement power operating criteria at Glen Canyon Dam, to protect the environmental and recreational resources of Grand Canyon National Park, and for other purposes.

S. 3004

At the request of Mr. LEVIN, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Indiana [Mr. COATS], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 3004, a bill to amend the Public Health Service Act to extend the time for the filing of certain claims for compensation for vaccine-related injuries, and for other purposes.

S. 3047

At the request of Mr. DECONCINI, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 3047, a bill to amend the antitrust laws in order to preserve and promote wholesale and retail competition in the retail gasoline market.

S. 3116

At the request of Mr. BURNS, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 3136, a bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to limit increases in outlays to 4 percent per year, to provide for midyear sequesters in order to assure that deficit and outlay targets are achieved, and to amend the Congressional Budget Act of 1974 to extend the deficit targets.

SENATE RESOLUTION 314

At the request of Mr. HEINZ, the names of the Senator from Missouri [Mr. BOND], the Senator from Alaska [Mr. STEVENS], the Senator from New York [Mr. MOYNIHAN], the Senator from New York [Mr. D'AMATO], the Senator from Michigan [Mr. LEVIN], the Senator from Massachusetts [Mr. KERRY], the Senator from North Carolina [Mr. SANFORD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Idaho [Mr. MCCLURE], the Senator from Iowa [Mr. GRASSLEY], the Senator from Iowa [Mr. HARKIN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Vermont [Mr. JEFFORDS], the Senator from South Dakota [Mr. DASCHLE], the Senator from Oregon [Mr. PACKWOOD], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Connecticut [Mr. DODD], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Nevada [Mr. REID], the Senator from Georgia [Mr. FOWLER], the Senator from Georgia [Mr. NUNN], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 314, a joint resolution to commemorate the 50th anniversary of the National Federation of the Blind.

SENATE JOINT RESOLUTION 350

At the request of Mr. BYRD, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Joint Resolution 350, a joint resolution to designate October 18, 1990, as "National Hardwood Day."

SENATE JOINT RESOLUTION 364

At the request of Mr. REID, the names of the Senator from Kansas [Mr. DOLE], the Senator from Texas [Mr. BENTSEN], the Senator from Washington [Mr. GORTON], and the Senator from Massachusetts [Mr. KENNEDY] were added as a cosponsor of Senate Joint Resolution 364, a joint resolution to designate the third week of February 1991 as "National Parents and Teachers Association Week."

AMENDMENTS SUBMITTED

DECEPTIVE MAILINGS PREVENTION ACT

PRYOR (AND OTHERS) AMENDMENT NO. 2927

Mr. PRYOR (for himself, Mr. GLENN, Mr. LIEBERMAN, and Mr. KOHL) proposed an amendment to the bill (S. 273) to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes, as follows:

On page 8, line 15, insert "information or" before "the contribution".

On page 11, strike out lines 10 through 13 and insert in lieu thereof:

SEC. 5. STATE DEPARTMENT POST OFFICES ABROAD.

(a) POSTAL SERVICES AT DIPLOMATIC POSTS.—Chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 413. Postal services at diplomatic posts

"(a) The Postal Service and the Department of State may enter into 1 or more agreements for field testing to ascertain the feasibility of providing postal services through personnel provided by the Department of State at branch post offices established by the Postal Service in United States diplomatic missions at locations abroad for which branch post offices are not established under section 406.

"(b) To the extent that the Postal Service and the Department of State conclude it to be feasible and in the public interest, the Postal Service may establish branch post offices at United States diplomatic missions in locations abroad for which branch post offices are not established under section 406, and the Department of State may enter into an agreement with the Postal Service to perform postal services at such branch post offices through personnel designated by the Department of State.

"(c) The Department of State shall reimburse the Postal Service for any amounts, determined by the Postal Service, equal to the additional costs incurred by the Postal Service, including transportation costs, incurred by the Postal Service in the perform-

ance of its obligations under any agreement entered into under this section.

"(d) Each agreement entered into under this section shall include—

"(1) provisions under which the Department of State shall make any reimbursements required under subsection (c);

"(2) provisions authorizing the Postal Service to terminate the agreement, and the services provided thereunder, in the event that the Department of State does not comply with the provisions under paragraph (1); and

"(3) any other provisions which may be necessary, including provisions relating to the closing of a post office under this section if necessary because a post office under section 406 is established in the same location.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following:

"413. Postal services at diplomatic posts.".

SEC. 6. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of the enactment of this Act, except the amendments made by section 2 shall apply to matter deposited for mailing and delivery on or after 180 days after the date of the enactment of this Act.

DWIGHT D. EISENHOWER INTERSTATE HIGHWAY SYSTEM

BURDICK AMENDMENT NO. 2928

Mr. KERRY (for Mr. BURDICK) proposed an amendment to the bill (S. 2806) to redesignate the Interstate Highway System as the Dwight D. Eisenhower Interstate Highway System, as follows:

After the enacting clause, insert "SEC. 1."

On page 1, line 5, strike "the Interstate Highway System" and insert "The National System of Interstate and Defense Highways".

On page 1, line 6, strike "the Dwight D. Eisenhower Interstate Highway" and insert "The Dwight D. Eisenhower System of Interstate and Defense Highways".

On page 1, line 7, strike "System".

On page 1, line 10, strike "the Interstate Highway System" and insert "The National System of Interstate and Defense Highways".

On page 2, line 2, strike "the" and insert "The".

On page 2, line 2, strike "Interstate Highway System" and insert "System of Interstate and Defense Highways".

ZEBRA MUSSEL RESEARCH AND CONTROL PROGRAM

MOYNIHAN AMENDMENT NO. 2929

Mr. KERRY (for Mr. MOYNIHAN) proposed an amendment to the resolution (S. Res. 312) to express the sense of the Senate regarding the need to develop a zebra mussel research and control program through the Great Lakes Fishery Commission, as follows:

On page 3, line 9, strike out "Clerk" and insert "Secretary".

PROTECTION OF ANTARCTICA AS A GLOBAL ECOLOGICAL COMMONS

GORE AMENDMENT NO. 2930

Mr. KERRY (for Mr. GORE) proposed an amendment to the joint resolution (S.J. Res. 206) calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons, as follows:

On page 2, line 4, strike "managed under" and insert "subject to".

On page 2, lines 4–7, strike "among the Antarctic Treaty Consultative Parties or a protocol to the Convention on the Regulation of Antarctic Mineral Resource Activities to the same effect, either of" and insert "or protocol to the Antarctic Treaty of 1959,".

On page 3, line 1, strike "agreement," and insert "agreement or protocol,".

On page 3, lines 8–9, strike "is not adequate in and of itself to provide the necessary level of protection for" and insert "does not guarantee protection of".

On page 3, line 13, strike "among Antarctic Treaty Consultative Parties" and insert "or protocol to the Antarctic Treaty of 1959,".

On page 3, lines 15–17, strike "or of a protocol to the Convention on the Regulation of Antarctic Mineral Resource Activities to the same effect,".

On page 3, lines 17–18, strike "the President should not present the Convention on the Regulation of Antarctic Mineral Resource Activities to" and insert "the Convention on the Regulation of Antarctic Mineral Resource activities should not be presented to".

NEGOTIATED RULEMAKING ACT

STEVENS AMENDMENT NO. 2931

Mr. KERRY (for Mr. STEVENS) proposed an amendment to the amendment of the House to the bill (S. 303) to establish a framework for the conduct of negotiated rulemaking by Federal agencies, as follows:

In section 583(b)(1)(A) of title 5, United States Code, as added by section 3(a) of the bill, insert ", including residents of rural areas" before the semicolon.

In section 583(b)(2) of title 5, United States Code, as added by section 3(a) of the bill, insert ", including residents of rural areas" before the period in the second sentence.

In section 585(a)(2) of title 5, United States Code, as added by section 3(a) of the bill, insert before the period "and, as appropriate, in trade or other specialized publications, a copy of which shall be sent to any person who applied for, or nominated another person for membership on the negotiating rulemaking committee to represent such interests with respect to the proposed rule".

RUDMAN AMENDMENT NO. 2932

Mr. KERRY (for Mr. RUDMAN) proposed an amendment to the amendment of the House to the bill S. 303, supra, as follows:

Strike out subsection (d) of section 585 of title 5, United States Code, as added by section 3(a) of the bill.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. KERRY. Mr. President, I ask unanimous consent that the full Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 4, at 10 a.m. to conduct hearing on proposed arms sales to Saudi Arabia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. KERRY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session during the session of the Senate on Thursday, October 4, 1990, at 2 p.m. to receive testimony on implications of the Treaty on Final German Settlement for NATO Strategy and U.S. Military Presence in Europe.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

KATHLEEN ADAMS: A PRINCIPAL WHO IS MAKING A DIFFERENCE

● Mr. PELL. Mr. President, I rise today to pay tribute to Ms. Kathleen Adams, principal of the Cranston-Johnston Catholic Regional School in Cranston, RI.

I applaud this very capable young educator for her enthusiastic leadership, and commitment to providing a quality education to those in her charge. Ms. Adams has proven to be the type of eductor who is very much needed in today's schools. She is willing to face challenges and to put forth the necessary effort to bring about change, and the result of her work has been the success of the Cranston-Johnston Catholic Regional School.

In July 1986, Ms. Adams was selected as the new principal at this Catholic grammar school. Upon acceptance of the position she found herself presented with two very significant challenges. First, only 82 children were registered, 1 month prior to the date when the school was scheduled to open. And second, of the nine teachers in the school who were given the option of staying or leaving, only two chose to stay.

Undeterred, Kathleen Adams optimistically moved forward and created a positive and exciting learning environment at the Cranston-Johnston school. She organized events at the school and invited prospective stu-

dents to attent. By opening day student enrollemnt had risen to 160. She hired new teachers to replace those who had departed, and took steps to involve parents in their children's education. In a short period of time Ms. Adams significantly changed both the composition and direction of the school.

The Cranston-Johnston Catholic Regional School opened for the 1990-91 school year with 330 students enrolled, a 25-percent increase over the previous year. The school has now earned a reputation as an enjoyable and exciting place to learn. In fact, many parents interested in registering their children at the school had to be turned away.

For her efforts Ms. Adams has been nominated as a Reader's Digest Hero in American Education. She has also been elected by her fellow principals as Northeastern representative to the National Catholic Education Association.

Kathleen Adams exemplifies the type of individual who, when provided with an opportunity, will make a significant difference. I commend her for her outstanding accomplishments.●

HONORING BOB MAYBERRY OF LAKE ARTHUR, NM

● Mr. DOMENICI. Mr. President, it gives me great pleasure to speak to you today of a clearly outstanding young farmer and his accomplishments.

Bob Mayberry was born and raised on his family farm in southeastern New Mexico. Today he and his family are still farming the same crops of cotton, alfalfa, grains, and chili, on their farm in the Pecos Valley. Bob is also a member of the New Mexico Cotton Advisory Council, the New Mexico Crop Improvement Association, an alternate delegate to the National Cotton Council, and a member of the American Farm Bureau Vegetable and Potato Advisory Committee. He is clearly an active leader in his community.

From his early adulthood, Bob has shown leadership qualities. In 1978 he received his Future Farmers of America [FFA] State Farmer degree, in 1979 he graduated as the valedictorian of Artesia High and was a Star Chapter Farmer. From his high school years Bob started on a solid progression of achievement and success.

Bob attended New Mexico State University [NMSU] for both his bachelors and masters degree, where his hard work and expertise earned him one award after the other. In 1983 and 1984, he was awarded NMSU Dean's Award of Excellence for Service; in 1984 he was NMSU Agricultural Economics Outstanding Senior. Also in 1984, he was not only the Alpha Chi University Student of the Year, but was the Outstanding Senior, College of Agriculture and Home Economics and the recipient of the Roberts Memorial Award for Service to NMSU. During his college career Bob came to show what kind of metal he was made of and what he was going to take back to his home in the Pecos Valley.

Bob's leadership and enthusiasm has now been recognized on a national level. The National Cotton Council of America recognized Bob's potential and included him in the 1990 Cotton Leadership Class. The class is the National Cotton Council's program to groom the future leaders and innovators of the cotton industry.

Many people are not aware that cotton is grown in my home State. New Mexico is known more for its cattle, Chili, and pecans than of the high quality cotton it produces. In 1989, New Mexico produced more than 125,000 bales of Upland and Pima cotton. This year it is estimated that New Mexico will be the 14th largest cotton producer in the Nation. Determined and ambitious farmers, like Bob Mayberry, add to New Mexico's agricultural bounty.

Bob was 1 of 10 young cotton producers who were chosen from the cotton-producing States of America. Each student has been traveling across the country learning about every aspect of the industry. These future leaders spent 1990 in an accelerated program of four 1-week trips to various parts of America studying the expertise of their associates.

Bob is now on the last leg of his trip, and has come to Washington to see how the Congress affects his industry. When the class ends, Bob will be better prepared to meet the rigors of his industry, and we will have the benefit of a citizen who is well versed in all aspects of his livelihood. I am grateful to the Cotton Council of America for giving cotton's future farm leaders this opportunity to expand their horizons, and for choosing such a fine example of New Mexico's commitment to agriculture.●

GULF CRISIS ENDANGERS POLISH RECOVERY

● Mr. BOSCHWITZ. How ironic it will be, Mr. President, if the emerging democracies of Eastern Europe collapse under the weight of their commitment to joining the worldwide opposition to the threats posed by Saddam Hussein.

Poland was one of the first countries to support United States and United Nations calls to isolate Iraq and impose sanctions. That decision was not a simply gesture but very costly commitment. Poland's decision came at great expense because Iraq was a major source of oil and an important trading partner. Thus the gulf crisis has had a very serious impact on Poland's economy recovery program.

Compounding the Polish economic crisis is the impact of German unification and the collapse of the Soviet economy—the loss of major markets and trading partners, a possible reduction in expected aid from Germany, and new demands for hard currency.

The costs to Poland are set forth clearly in a report in today's Washington Post from its correspondent in Warsaw, Blaine Harden. I commend this article to my colleagues to assist in understanding the courage of the new democratic government in Poland and the importance of our support for its transition to democracy and a free market.

I ask that the Post article be inserted in the RECORD at this point.

The article follows:

[From the Washington Post, Oct. 4, 1990]

GULF CRISIS, KREMLIN FUEL CUTBACKS CREATE ENERGY SHORTAGE IN POLAND

(By Blaine Harden)

WARSAW.—The Persian Gulf crisis and Soviet cutbacks in deliveries of oil and gas have combined to threaten Poland with crippling energy shortages this fall and winter.

Clouding the picture still further, Polish officials say that the continuing political confusion and economic disarray in the Soviet Union—Poland's largest trading partner and purchaser of one-fifth of Polish exports—is fostering a sharp decline in Soviet imports of Polish coal, steel and copper.

The waning of Soviet trade will be felt acutely throughout Polish industry but is likely to prove disastrous for manufacturers of heavy machinery and high-voltage electric equipment, Foreign Trade Minister Marcin Swiecicki said recently. Many of these producers make goods for which there is little demand outside the Soviet Union or its former East European client states, and they are already opeating at a loss.

The double dose of economic woe comes at a time when Poland, Eastern Europe's largest and most debt-encumbered nation, is struggling to climb out of a recession that in the first nine months of this year has put more than 800,000 Poles out of work and shrunken industrial production and incomes by a third.

In the past, Poland had obtained about 90 percent of its annual 98 million barrel oil needs from the Soviets, and before the Iraqi invasion of Kuwait had been counting on Baghdad to provide—at no hard-currency cost—the remaining 10 percent for this year.

Iraq had promised to supply 7 million barrels of crude oil as payment on a $500 million debt for tanks and other weapons bought from the Poles. Only about a quarter of that arrived before the Aug. 2 invasion.

Meanwhile, the Soviet Union is 21 percent behind on 1990 fuel deliveries to Poland. After the gulf crisis began, Poland—along with Hungary and Czechoslovakia—asked Moscow to catch up on late deliveries, but Polish officials say Moscow has refused. Worse still, government officials here say, the uncertain Soviet domestic situation and Kremlin demands that new foreign oil sales be paid for in hard currency will mean that inter-government oil transactions between Moscow and Warsaw "will amount to zero" in 1991.

As for natural gas—for which the Soviet Union is Poland's only foreign supplier—inter-government contract sales are scheduled to be cut by more than a third next year, forcing some Polish industries to shut down, according to Polish industry minister Tadeusz Syryjczyk. Polish officials say they may be able to make up part of the shortfall by buying from individual Soviet republics and from semi-autonomous Soviet oil and gas enterprises.

"The Soviet side has suggested that in order to get any oil supplies, Poland should establish direct contact and cooperation with the republics and distributors interested in this," said Jerzy Osiatynski, head of the Polish Government Planning Office. The additional cost to Poland of paying hard currency for its energy imports next year is estimated at $3 to $4 billion, the planning office said.

The new reluctance of the Soviet Union to supply oil and gas to Poland and its other former satellites stems in part from Moscow's announced intention to sell its resources only for hard currency and at world prices beginning next year.

In years past, member-nations in the Soviet-dominated Comecon trading bloc could count on Soviet oil and gas at bargain prices, and countries such as Poland bartered manufactured and farm goods for petroleum products. But with the collapse of communism in Eastern Europe and with Moscow's economic problems worsening as it tries to implement a free-market system, the Soviet Union is no longer willing to trade oil for Polish potatoes.

International oil market analysts also have been reporting serious problems in the Soviet Union's capacity to export oil—at any price. Industry specialists said last month that the Soviets had even begun importing gasoline—for the first time since World War II. Analysts said the cause of the production shortfall appears to include labor troubles and lack of hard currency to invest in production hardware.

Leszek Plodczyk, head of Poland's largest state-run fuel distributor, said a 33 percent increase in the price of gasoline that went into effect Sept. 1 has slowed consumption somewhat, but pump rates here—$1.40 a gallon—remain well below those in Western Europe. The price is expected to double by the end of the year.

Polish officials have asked the United States and other Western nations to help offset losses caused by Poland's support of the embargo against Iraq. Although these officials say they have been assured of some aid, no firm commitments have been announced.●

TRIBUTE TO OFFICER WILLIAM T. LUCAS

● Mr. D'AMATO. Mr. President, I rise today to recognize Officer William T. Lucas on the occasion of his retirement from the Nassau County Police Department.

Officer Lucas joined the police force after returning from service in the U.S. Army during World War II. He was appointed to the Nassau County Police Department on March 3, 1947. His first assignment was car 56, which covered West Hempstead and Franklin Square. Later, as the communities developed and the need for police increased, Mr. Lucas' patrol post was limited to the northeast section of West Hempstead.

Officer Lucas reached the age of mandatory retirement 2 years ago, but was granted an extention by the commissioner of police, Samuel J. Rozzi. Now, at age 72, Officer Lucas retires with the distinction of being the oldest active police officer in the State of New York, and possible the country.

The commitment and dedication of law enforcement officers such as Officer Lucas establishes the thin line between social order and the chaos that today's ever more dangerous criminals would unleash against decent, law-abiding citizens. Our police community is engaged in nothing less than the maintenance of a civilian society, with each man and woman in uniform risking their lives on a daily basis on our behalf.

Officer Lucas has followed the proud tradition of our brave law enforcement officers for more than three decades. For this we salute him on the occasion of his retirement from the Nassau County Police Department.●

ADULT TRAINING CENTER, ELKINS, WV

● Mr. ROCKEFELLER. Mr. President, I rise to speak about a center for the mentally and/or physically challenged in West Virginia. The Adult Training Center in Elkins has been providing a needed service in an exceptional way since it was founded 15 years ago.

The mentally and/or physically challenged have the opportunity to learn in the public school system while they are of school age, but as adults, their educational needs continue. The Elkins Adult Training Center serves as a resource that helps these adults to continue to learn and develop throughout their adult lives. Because they are mentally and/or physically challenged in varying degrees, the center evaluates clients one by one and fits each into a curriculum according to his or her particular needs. The curriculum includes basic skills such as reading, writing, arithmetic, social skills, and independent living skills, taught by four full-time certified instructors. Most clients also participate in recreation and physical education activities.

One of the most important accomplishments of the center is the extensive employment opportunities that it has created for its clients. Some work in the center in Elkins, side-by-side with nonhandicapped workers, either in the center's own woodshop or at computer data terminals, or in the local community of Elkins doing lawn work or landscaping. Others work away from Elkins at ski resorts or in restaurants where they are supervised occasionally, but not constantly. All of the workers are paid for their work. The wooden toys made in their woodshop are renowned for their craftsmanship and have often been on display at arts and crafts shows in different parts of West Virginia.

This impressive program reflects the enormous dedication and creativity of its director, Josie Cuda, and its supported employment coordinator, Lucille McGee, both of whom should be commended for all the work they have done to make the program at the center so ambitious. The center and its staff demonstrate a spirit of caring and concern that we can all admire. The clients of the center are deeply grateful to Josie and Lucille and to everyone else at the center who has helped to create opportunities to learn and work that might be difficult to find elsewhere. The Elkins Adult Training Center should be a model for all such services for the mentally and physically challenged in West Virginia and across the country, and I applaud the center for its continuing accomplishments.●

HONORING FORMER CONGRESSMAN SAM STRATTON

● Mr. D'AMATO. Mr. President, the passing of former Congressman Sam Stratton occassioned many reflections on his lifelong service to New Yorkers and to the Nation. That is as expected and as deserved by his distinguished tenure.

We in Washington who knew him and worked with him rightly praised his labors and his memory. His friends and neighbors from Schenectady and the Capitol region continue to share their personal reminiscence and respect for Sam with the grief of his wife, Joan, and his family.

What we often forget when we are close to someone of national repute is that others in distant cities share our pride in his achievements even without our proximity. Such a sentiment was expressed on the editorial page of the Richmond News Leader on September 20. Such testament amplifies our own heartfelt regard and make the further honors to be paid to Sam Stratton all the more significant and notable.

Mr. President, I ask that the editorial be printed at this point in the RECORD so that its message may be broadly appreciated and echoed.

The editorial follows:

[From the Richmond News Leader, Sept. 20, 1990]

SAM STRATTON

For 30 years Sam Stratton represented an Upstate New York district in the House. Last week he died at 75. Although few outside Albany had heard of him, many benefitted from his commitment to defending America's founding principles.

He was a Democrat, but when his party became mired in the fever swamps of disar-

mament and appeasement, he remained true to the legacy of Franklin Roosevelt and Harry Truman. Stratton supported a military second to none—and a vigorous foreign policy.

He voted to aid anti-Communists in Angola, Nicaragua, and elsewhere. He opposed the nuclear freeze. And his convictions cost him politically. Although he had the seniority to serve as chairman of the Armed Services Committee, his Democratic colleagues passed him over for lesser men. Many Congressmen would have changed their positions to win the fleeting fame of a committee chairmanship. Not Sam Stratton.

He fought the good fight. And before he died, he had the satisfaction of seeing—in the crumbling of Communism—the vindication of his views.●

CHILDREN'S MEDICAL CENTER OF ISRAEL

● Mr. BOSCHWITZ. Mr. President, In these volatile days in the Middle East, we have very few opportunities to take even the smallest concrete steps to promote a peaceful future. I rise today, Mr. President, to applaud one such step.

The Children's Medical Center of Israel [CMCI] has recently been topped off outside of Tel Aviv at Petah Tikvah. Construction on this $60 million, 224-bed facility is progressing on schedule and it is expected to open its doors to the region's children late next year. It will be one of the most modern, state-of-the-art, tertiary care pediatric centers in the world. Under one roof, there will be a tremendous array of physicians from all specialties, of medical equipment ranging from the high technology to the surgical implement, of children with illnesses from the horrible to the typical.

The special part of this hospital will be its open-door policy. Children from all nations will be welcome under its vast wings. The founders and sponsors of this expansive project have stipulated from the outset that no child shall ever be barred from its doors.

This will be the most advanced children's hospital in the entire Middle East, and indeed in Africa and Western Asia as well. Here research will take place on ailments specific to children. This will be the first teaching children's facility in that part of the world. Surgery, ambulatory care, diagnostic treatment, psychiatry and every other available service a pediatric hospital could provide will be available at the CMCI. It is inspired by the success of the many children's hospitals in the United States.

The importance of this American-sponsored project cannot be underestimated. It has often been said that our children are our future. By treating all children with the utmost care, regardless of nationality, race, creed, sex or religion, this medical center will set an example for all people in the Middle East. Showing these children that they can be friends and that they feel the same pain and share the same hopes can only contribute to relieving tensions among the next generation.

The children of the Middle East are ultimately our best chance for change, our best hope for a peaceful future. With the completion of construction of the Children's Medical Center of Israel the healing process in that wartorn part of the world can begin.

I wish to congratulate the CMCI on the milestone of its topping off, and commend its American sponsors, Medical Development for Israel, and I look forward to the opening of the medical center approximately 1 year from now.●

TRIBUTE TO ST. MARY'S HOSPITAL OF BROOKLYN

● Mr. D'AMATO. Mr. President, I rise today to pay recognition to the Franciscan Sisters of St. Joseph's who have been caring for the patients of St. Mary's Hospital of Brooklyn, NY, for 50 years.

In 1882, St. Mary's opened as a 270-bed acute care facility in Bedford-Stuyvesant. The Franciscan Sisters of St. Joseph's have been caring for the citizens of Brooklyn since the 1940's. It is through dedication and courage of the Franciscan Sisters that St. Mary's remains a respected institution in the Brooklyn community.

Over the last 50 years the Franciscan Sisters of St. Joseph's have played a key role in the success of St. Mary's Hospital. Between 1940 and 1950, under the administration of the Franciscan Sisters, St. Mary's Hospital received approvals for residency programs in medicine, surgery, pediatrics, OB/GYN, and Pathology. In 1947 the Council of Medical Education of the American Medical Association approved the School of Medical Technology, the School of Medical Record Librarians. St. Mary's Hospital was accredited by the Joint Commission on Accreditation of Hospitals in 1951 and became a division of the Catholic Medical Center in 1967.

I would like to thank the Franciscan Sisters of St. Joseph's for their hard work and commitment to the St. Mary's Hospital. I wish to send these dedicated individuals my best on this happy occasion and hope their future is filled with many more successes.●

INTERNATIONAL SECURITIES ENFORCEMENT COOPERATION ACT

Mr. KERRY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1396.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the amendment of the Senate to the bill (H.R. 1396) entitled "An Act to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Energy and Commerce, for consideration of the House bill, the Senate amendment (except sections 103, 104, and 502), and the House amendment, and modifications committed to conference: Mr. Dingell, Mr. Markey, Mr. McMillen of Maryland, Mr. Lent, and Mr. Rinaldo.

From the Committee on Post Office and Civil Service, for consideration of sections 103, 104, and 502 of the Senate amendment, and modifications committed to conference: Mr. Ford of Michigan, Mr. Clay, Mr. Ackerman, Mr. Gilman, and Mr. Myers of Indiana.

Mr. KERRY. Mr. President, I move that the Senate disagree with the House amendment, agree to the request for a conference with the House, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to.

The PRESIDING OFFICER. The Chair is authorized to appoint conferees.

STATE ENERGY EFFICIENCY PROGRAMS IMPROVEMENT ACT

Mr. KERRY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 247.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 247) entitled "An Act to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Energy Efficiency Programs Improvement Act of 1990".

SEC. 2. STATE ENERGY EFFICIENCY GOALS AND DEFINITIONS.

(a) GOALS.—(1) Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

"STATE ENERGY EFFICIENCY GOALS

"SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after October 1, 1991, shall contain a goal, consisting of an improvement of 10 percent or more in the efficiency of use of energy in the State concerned in the calendar year 2000 as

compared to the calendar year 1990, and may contain interim goals.".

(2) The table of contents of such Act is amended by striking out the item for section 364 and inserting in lieu thereof the following:

"Sec. 364. State energy efficiency goals.".

(b) DEFINITIONS.—Section 366(4) of such Act (42 U.S.C. 6326(4)) is amended—

(1) by striking out "building or industrial" and inserting in lieu thereof "building, building system, energy consuming device associated with the building, or industrial";

(2) by striking out "the date of enactment of the Energy Conservation and Production Act" and inserting in lieu thereof "May 1, 1989"; and

(3) by inserting "maintain or " before "improve the efficiency" in the first sentence.

SEC. 3. REQUIRED ELEMENTS OF STATE ENERGY CONSERVATION PLAN.

(a) PLAN REQUIREMENTS.—Section 362(c) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)) is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and";

(3) by adding at the end thereof the following new paragraph:

"(6) procedures for ensuring effective coordination among various local, State, and Federal energy conservation programs within the State, including any program administered within the Office of Technical and Financial Assistance of the Department of Energy and the Low Income Home Energy Assistance Program administered by the Department of Health and Human Services.".

(b) ADDITIONAL CONDITIONS.—Section 363 of Act (42 U.S.C. 6323) is amended by adding at the end thereof the following new subsections:

"(d) Each State receiving Federal financial assistance pursuant to this section shall provide reasonable assurance to the Secretary that it has established policies and procedures designed to assure that Federal financial assistance under this part and under part G of this title will be used to supplement, and not to supplant, State and local funds, and to the extent practicable, to increase the amount of such funds that otherwise would be available, in the absence of such Federal financial assistance, for those programs set forth in the State energy conservation plan approved pursuant to subsection (b).

"(e)(1) Effective October 1, 1991, to be eligible for Federal financial assistance pursuant to this section, a State shall submit to the Secretary, as a supplement to its energy conservation plan, an energy emergency planning program for an energy supply disruption, as designed by the State consistent with applicable Federal and State law. The contingency plan provided for by the program shall include an implementation strategy or strategies (including regional coordination) for dealing with energy emergencies. The submission of such plan shall be for informational purposes only and without any requirement of approval by the Secretary.

"(2) Federal financial assistance made available under this part to a State may be used to develop and conduct the energy emergency planning program requirement referred to in paragraph (1).".

SEC. 4. OPTIONAL ELEMENTS OF STATE ENERGY CONSERVATION PLAN AND CONSOLIDATION OF SUPPLEMENTAL STATE ENERGY CONSERVATION PLAN.

(a) IN GENERAL.—Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(1) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles, fleet vehicles, taxies, mass transit, and privately owned vehicles;";

(2) by striking out "and" at the end of paragraph (4);

(3) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) programs for financing energy efficiency and renewable energy capital investments, projects, and programs—

"(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of energy efficiency and renewable energy measures; or

"(B) in addition to or in lieu of programs described in subparagraph (A), which may be used in connection with public or nonprofit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(6) programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State;

"(7) programs to promote the adoption of integrated energy plans which provide for—

"(A) periodic evaluation of a State's energy needs, available energy resources (including greater energy efficiency), and energy costs; and

"(B) utilization of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;

"(8) programs to promote energy efficiency in residential housing, such as—

"(A) programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and

"(B) programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing;

"(9) programs to identify unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures and to educate consumers concerning such acts or practices;

"(10) programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems;

"(11) programs to promote energy efficiency as an integral component of economic development planning conducted by State, local, or other governmental entities or by energy utilities;

"(12) in accordance with subsection (g), programs to implement the Energy Technology Commercialization Services Program; and

"(13) any other appropriate method or programs to conserve and to promote efficiency in the use of energy.".

(b) ENERGY TECHNOLOGY COMMERCIALIZATION SERVICES PROGRAM.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by adding at the end thereof the following new subsection:

"(f)(1) The purposes of this subsection are to—

"(A) strengthen State outreach programs to aid small and start-up businesses;

"(B) foster a broader application of engineering principles and techniques to energy technology products, manufacturing, and commercial production by small and start-up businesses; and

"(C) foster greater assistance to small and start-up businesses in dealing with the Federal Government on energy technology related matters.

"(2) The programs to implement the functions of the Energy Technology Commercialization Services Program, as provided for by subsection (d)(12), shall—

"(A) aid small and start-up businesses in discovering useful and practical information relating to manufacturing and commercial production techniques and costs associated with new energy technologies;

"(B) encourage the application of such information in order to solve energy technology product development and manufacturing problems;

"(C) establish an Energy Technology Commercialization Services Program affiliated with an existing entity in each State;

"(D) coordinate engineers and manufacturers to aid small and start-up businesses in solving specific technical problems and improving the cost effectiveness of methods for manufacturing new energy technologies;

"(E) assist small and start-up businesses in preparing the technical portions of proposals seeking financial assistance for new energy technology commercialization; and

"(F) facilitate contract research between university faculty and students and small start-up businesses, in order to improve energy technology product development and independent quality control testing.

"(3) Each State energy technology commercialization services program shall develop and maintain a data base of engineering and scientific experts in energy technologies and product commercialization interested in participating in the service. Such data base shall, at a minimum, include faculty of institutions of higher education, retired manufacturing experts, and national laboratory personnel.

"(4) The services provided by the energy technology commercialization services programs established under this subsection shall be available to any small or start-up business. Such service programs shall charge fees which are affordable to a party eligible for assistance, which shall be determined by examining factors, including the following: (A) the costs of the services received; (B) the need of the recipient for the services; and (C) the ability of the recipient to pay for the services.

"(5) For the purposes of this subsection, the term—

"(A) 'institution of higher education' has the same meaning as such term is defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

"(B) 'small business' means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632) for the

Standard Industrial Classification (SIC) codes designated by the Secretary of Energy; and

"(C) 'start-up business' means a small business which has been in existence for 5 years or less.".

(c) ELIMINATION OF SSECP.—(1) Section 367 of such Act (42 U.S.C. 6327) is repealed.

(2) The table of contents of such Act is amended by striking out the item for section 367.

SEC. 5. STATE ENERGY ADVISORY BOARD.

Section 365 of the Energy Policy and Conservation Act (42 U.S.C. 6325) is amended by adding at the end the following:

"(g)(1)(A) There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the 'Board') which shall consist of at least 18 and not more than 21 members appointed by the Secretary as soon as practicable but no later than September 30, 1991. At least eight of the members of the Board shall be persons who serve as directors of the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to section 362. At least four members shall be directors of State or local low income weatherization assistance programs. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs from the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, financial institutions, local government energy programs, or research institutions. A majority of the members of the Board shall be State employees.

"(B)(i) Except as provided in clause (ii), the members of the Board shall serve a term of three years.

"(ii) Of the members first appointed to the Board, one-third shall serve a term of one year, one-third shall serve a term of two years, and the remainder shall serve a term of three years, as specified by the Secretary.

"(2) The Board shall—

"(A) make recommendations to the Assistant Secretary for Conservation and Renewable Energy within the Department of Energy with respect to—

"(i) the energy efficiency goals and objectives of the programs carried out under this part, part G of this title, and under part A of title IV of the Energy Conservation and Production Act; and

"(ii) programmatic and administrative policies designed to strengthen and improve the programs referred to in clause (i), including actions that should be considered to encourage non-Federal resources (including private resources) to supplement Federal financial assistance;

"(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs; and

"(C) encourage transfer of the results of research and development activities carried out by the Federal Government with respect to energy efficiency and renewable energy resource technologies.

"(3) The Secretary shall designate one of the members of the Board to serve as its chairman and one to serve as its vice-chairman. The chairman and vice-chairman shall serve in those offices no longer than two years.

"(4) The Secretary shall provide the Board with such reasonable services and facilities as may be necessary for the performance of its functions.

"(5) The Board shall be nonpartisan.

"(6) The Board may adopt administrative rules and procedures and may elect one of its members secretary of the Board.

"(7) Consistent with Federal regulations, the Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

"(8) The Board shall meet at least twice a year and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including an accounting of the expenses reimbursed under paragraph (7) with respect to the year for which the report is made and any recommendations it may have for administrative or legislative changes concerning the matters referred to in subparagraphs (A), (B), and (C) of paragraph (2).

"(9) The Board shall continue until terminated by law.".

SEC. 6. ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.

(a) NON-FEDERAL SHARE OF A PROJECT.—Section 396(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6371e(b)(1)) is amended by adding at the end thereof the following: "The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects (including, but not limited to, loan programs and performance contracting), even if, pursuant to such financing, clear title to the equipment does not pass to the school or hospital until after the grant is completed.".

(b) DEFINITIONS.—Section 391 of such Act (42 U.S.C. 6371) is amended—

(1) in paragraph (1), by striking out "April 20, 1977" and inserting in lieu thereof "May 1, 1989";

(2) in paragraph (2), by striking out "reduce energy consumption" and inserting in lieu thereof "maintain or reduce energy consumption and reduce energy costs" in the material preceding subparagraph (A);

(3) in paragraph (2)(C), by inserting "and load management systems" before the semicolon;

(4) in paragraph (8), by inserting "administrative facilities," after "dormitories,"; and

(5) in paragraph (17)(A), by striking out "and related cost savings" and inserting in lieu thereof "or energy cost savings".

(c) REPEAL OF EDUCATIONAL AGENCY EXCLUSION.—Section 396(e) of such Act (42 U.S.C. 6371e(e)) is repealed.

(d) USE OF FUNDS.—Section 396(d) of such Act (42 U.S.C. 6371e(d)) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) The"; and

(2) by adding at the end the following new paragraphs:

"(2) A State may utilize up to 100 percent of the funds provided by the Secretary under this part for any fiscal year for program and technical assistance and up to 50 percent of such funds for marketing and other costs associated with leveraging of non-Federal funds for carrying out this part and may administer a continuous and consecutive application and award procedure for providing program and technical assistance under this part in accordance with regulations that the Secretary shall establish, if the State—

"(A) has adopted a State plan in accordance with section 394, the administration of which is in accordance with applicable regulations; and

"(B) certifies to the Secretary that not more than 15 percent of the aggregate amount of Federal and non-Federal funds used by the State to provide program and technical assistance, implement energy conservation measures, and otherwise carry out a program pursuant to this part for the fiscal year concerned will be expended for program and technical assistance and for marketing and other costs associated with leveraging of non-Federal funds for such program.".

SEC. 7. WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS.

(a) COOLING MATERIALS.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by adding after subparagraph (F) the following:

"(G) cooling efficiency modifications, including, but not limited to, replacement air-conditioners, ventilation equipment, screening, window films, and shading devices; and".

(b) RENTAL HOUSING.—(1) Section 413(b)(2) of such Act (42 U.S.C. 6863(b)(2)) is amended—

(A) by striking out "and" at the end of subparagraph (A); and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) that provide guidance to the States in the implementation of this part, including guidance designed to ensure that a State establishes (i) procedures that provide protection under paragraph (5) to tenants paying for energy as a portion of their rent, and (ii) a process for monitoring compliance with its obligations pursuant to this part; and

"(C) that secure the Federal investment made under this part and address the issues of eviction from and sale of property receiving weatherization materials under this part.".

(2) Section 413(b) of such Act (42 U.S.C. 6863(b)) is amended by adding at the end the following:

"(5) In any case in which a dwelling consists of a rental unit or rental units, the State, in the implementation of this part, shall ensure that—

"(A) the benefits of weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

"(B) for a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed;

"(C) the enforcement of subparagraph (B) is provided through procedures established by the State by which tenants may file complaints and owners, in response to such complaints, shall demonstrate that the rent increase concerned is related to matters other than the weatherization work performed; and

"(D) no undue or excessive enhancement will occur to the value of such dwelling units.

"(6) As a condition of having assistance provided under this part with respect to multifamily buildings, a State may require

financial participation from the owners of such buildings.".

(c) ALLOCATION FORMULA.—Section 414 of such Act (42 U.S.C. 6864) is amended—

(1) in subsection (a)(D), by inserting ", such as the cost of heating and cooling," after "necessary"; and

(2) by adding at the end the following:

"(c) Effective with fiscal year 1991, and annually thereafter, the Secretary shall update the population, eligible households, climatic, residential energy use, and all other data used in allocating the funds under this part among the States pursuant to subsection (a).".

(d) WAIVER OF 40-PERCENT REQUIREMENT.—Section 415(a) of such Act (42 U.S.C. 6865(a)) is amended—

(1) in the first sentence, by striking out "An average" and inserting in lieu thereof "(1) Except as provided in paragraph (2), an average";

(2) by inserting the following before the period at the end of the second sentence: ", and a State may provide in the plan adopted pursuant to subsection (b) for recipients of grants of less than $350,000 to use up to an additional 5 percent of such grant for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by the Secretary pursuant to this part"; and

(3) by adding at the end the following:

"(2)(A) The Secretary shall approve a State's application to waive the 40-percent requirement established in paragraph (1) if the State includes in its plan energy audit procedures and techniques which (i) meet standards established by the Secretary after consultation with the State Energy Advisory Board established under section 365(g) of the Energy Policy and Conservation Act, (ii) establish priorities for selection of weatherization measures based on their cost and contribution to energy efficiency, (iii) measure the energy requirement of individual dwellings and the rate of return of the total conservation investment in a dwelling, and (iv) account for interaction among energy efficiency measures.

"(B) The Secretary shall make information on energy audit procedures and techniques available to States applying for a waiver under subparagraph (A) and shall provide training for State and local agencies in the implementation of such procedures and techniques.".

(e) DWELLING UNIT LIMITATION.—Section 415(c) of such Act (42 U.S.C. 6865(c)) is amended—

(1) in paragraph (1), by striking out "The expenditure" and inserting in lieu thereof "Except as provided in paragraphs (3) and (4), the expenditure"; and

(2) by adding at the end the following:

"(3) Beginning with fiscal year 1991, the $1,600 per dwelling unit limitation provided in paragraph (1) shall be adjusted annually by increasing the limitation amount by an amount equal to—

"(A) the limitation amount for the previous fiscal year, multiplied by

"(B) the lesser of (i) the percentage increase in the Consumer Price Index (all items, United States city average) for the most recent calendar year completed before the beginning of fiscal year for which the determination is being made, or (ii) three percent.

"(4)(A) In addition to the average per dwelling unit limitation applicable in a State under paragraphs (1) and (3), the Secretary shall, upon application by a State, establish a separate average per dwelling unit limitation for dwelling units in such State—

"(i) which conform to program requirements; and

"(ii) which, in addition to any other weatherization modifications, have furnace efficiency modifications made under this part.

"(B) The average per dwelling unit limitation applicable in a State to units described in subparagraph (A) shall not exceed an amount equal to—

"(i) the amount permitted for the expenditure of financial assistance for labor, weatherization materials, and related matters for dwelling units in such State under paragraphs (1) and (3), plus

"(ii) an amount determined by the State to be the average amount that is appropriate for furnace efficiency modifications of dwelling units of the type assisted under this part in such State.".

(f) REPEAL OF PERFORMANCE FUND.—Section 415(d) of such Act (42 U.S.C. 6865(d)) is repealed.

(g) NON-FEDERAL FUNDING REQUIREMENT.—Section 414(b)(3) of such Act (42 U.S.C. 6864(b)(3)) is amended by striking out "and (B)" and inserting in lieu thereof the following: "(B) for using Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C)".

(h) ADDITIONAL REPORTING REQUIREMENT.—Section 421 of such Act (42 U.S.C. 6871) is amended—

(1) by striking out "through 1979"; and

(2) by adding at the end the following: "Such report shall include information and data furnished by each State on the average costs incurred in weatherization of individual dwelling units, the average size of the dwellings being weatherized, and the average income of households receiving assistance under this part.".

(i) INCENTIVE PROGRAM.—Section 415 of such Act (42 U.S.C. 6865) is amended by adding at the end the following:

"(d) Beginning with fiscal year 1992, the Secretary may allocate funds appropriated pursuant to section 422(b) to provide supplementary financial assistance to those States which the Secretary determines have achieved the best performance during the previous fiscal year in achieving the purposes of this part. In making this determination, the Secretary shall—

"(1) consult with the State Energy Advisory Board established under section 365(g) of the Energy Policy and Conservation Act; and

"(2) give priority to those States which, during such previous fiscal year, obtained a significant portion of income from non-Federal sources for their weatherization programs or increased significantly the portion of low-income weatherization assistance that the State obtained from non-Federal sources.

"(e)(1)(A) Beginning with fiscal year 1992, the Secretary may allocate, from funds appropriated pursuant to section 422(b), among the States an equal amount for each State not to exceed $100,000 per State. Each State shall make available amounts received under this subsection to provide supplementary financial assistance to recipients of grants under this part that have achieved the best performance during the previous fiscal year in advancing the purposes of this part.

"(B) None of the funds made available under this subsection may be used by any State for administrative purposes.

"(2) The Secretary shall, after consulting with the State Energy Advisory Board referred to in subsection (d)(1), prescribe guidelines to be used by each State in making available supplementary financial assistance under this subsection, with a priority being given to subgrantees that, by law or through administrative or other executive action, provided non-Federal resources (including private resources) to supplement Federal financial assistance under this part during the previous fiscal year.".

(j) CONFORMING AMENDMENT.—Section 411 of such Act (42 U.S.C. 6861) is amended to read as follows:

"FINDINGS AND PURPOSE

"SEC. 411. (a) The Congress finds that—

"(1) a fast, cost-effective, and environmentally sound way to prevent future energy shortages in the United States while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units;

"(2) existing efforts to encourage and facilitate such measures are inadequate because—

"(A) many dwellings owned or occupied by low-income persons are energy inefficient;

"(B) low-income persons can least afford to make the modifications necessary to provide for efficient energy equipment in such dwellings and otherwise to improve the energy efficiency of such dwellings;

"(3) weatherization of such dwellings would lower shelter costs in dwellings owned or occupied by low-income persons as well as save energy and reduce future energy capacity requirements; and

"(4) States, through Community Action Agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to alleviate the adverse effects of energy costs on such low-income persons, to supplement other Federal programs serving such low-income persons, and to increase energy efficiency.

"(b) It is, therefore, the purpose of this part to develop and implement a weatherization assistance program to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential energy expenditures, and improve their health and safety, especially low-income persons who are particularly vulnerable such as the elderly, the handicapped, and children.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) STATE PLAN PROGRAM.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended to read as follows:

"(f) For the purpose of carrying out this part, there are authorized to be appropriated not to exceed $25,000,000 for fiscal year 1991, $35,000,000 for fiscal year 1992, and $45,000,000 for fiscal year 1993.".

(b) ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.—Section 397 of the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated not to exceed $40,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1992, and $60,000,000 for fiscal year 1993.".

(c) WEATHERIZATION ASSISTANCE PROGRAM.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. (a) There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, other than under subsections (d) and (e) of section 415, not to exceed $200,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, and 1994.

"(b) There are authorized to be appropriated for purposes of carrying out the weatherization program under subsections (d) and (e) of section 415, not to exceed $20,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994.".

Mr. DOMENICI. Mr. President, I am pleased to support passage of S. 247, the State Energy Efficiency Programs Improvement Act of 1990. This bill includes provisions providing for an Energy Technology Commercialization Services Program. These provisions will strengthen State efforts to aid small and startup businesses that pursue applications of energy technologies involving engineering principles and techniques.

I first proposed this program in May of last year in the bill S. 1031, then calling it the Engineering Extension Service. I am very pleased it is included in the final version of the bill. It will do much to aid the economic development of energy-related technologies, and will help greatly many new and small businesses to develop exciting new applications of engineering advances.

I want to thank Dr. Larry Lattman of the New Mexico Institute of Mining and Technology, who helped develop this proposal. I also want to thank House and Senate committee members for their efforts on these provisions, and, in particular, I would like to thank Richard Grundy, staff of the Senate Energy and Natural Resources Committee, for his trremendous work on this.

Mr. KERRY. Mr. President, I move to concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration, en bloc, of calendar numbers 843, 845, 846, 847, 848, 849, 851, and 853; that the bills be read a third time and passed; that the motion to reconsider the passage of these bills be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOB SIKES VISITOR CENTER

The bill (S. 427) to designate the Federal building located at 1801 Gulf Breeze Parkway, Gulf Breeze, FL, as the "Bob Sikes Visitor Center," was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 1801 Gulf Breeze Parkway, Gulf Breeze, Florida, shall hereafter be known and designated as the "Bob Sikes Visitor Center".

SEC. 2. REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Bob Sikes Visitor Center".

MAINTENANCE, REPAIR, ALTERATION, AND SERVICES FOR THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

The bill (S. 2879) to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration, and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2879

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAINTENANCE, REPAIRS, AND OTHER BUILDING SERVICES.

Section 6(e) of the John F. Kennedy Center Act (20 U.S.C. 761(e)) is amended to read as follows:

"(e) MAINTENANCE, REPAIR, ALTERATION, SECURITY, INFORMATION AND OTHER SERVICES.—

"(1) PROVISION OF SERVICES.—The Secretary of the Interior, acting through the National Park Service, and the Board shall provide for maintenance, repair, and alteration of the building and security, information, interpretation, janitorial, and all other services necessary for operating the building.

"(2) AGREEMENT.—The Secretary and the Board shall enter into a cooperative agreement setting forth their respective responsibilities under paragraph (1) of this subsection.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior to carry out this subsection—

"(A) for fiscal year 1991, not more than—

"(i) $6,750,000 for annual maintenance, repairs, alterations, and operating services; and

"(ii) $15,000,000 for deferred maintenance, repairs, and alterations; and

"(B) for fiscal year 1992, not more than—

"(i) $9,850,000 for annual maintenance, repairs, alterations, and operating services; and

"(ii) $15,512,000 for deferred maintenance, repairs, and alterations.".

SEC. 2. REPEAL OF OUTDATED PROVISIONS.

Sections 6(d), 7, and 8 of the John F. Kennedy Center Act (20 U.S.C. 761(d), 76m, and 76n) are repealed.

SEC. 3. TECHNICAL AMENDMENT.

Section 9(d) of the John F. Kennedy Center Act (20 U.S.C. 60(a)) is amended by striking "the Second Liberty Bond Act, as amended," each place it appears and inserting "chapter 31 of title 31, United States Code,".

CLAUDE PEPPER FEDERAL BUILDING

The bill (S. 2965) to designate the Federal building located at 51 Southwest 1st Avenue in Miami, FL, as the "Claude Pepper Federal Building," was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 51 Southwest 1st Avenue in Miami, Florida, shall be known and designated as the "Claude Pepper Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Claude Pepper Federal Building".

ALEXANDER HAMILTON UNITED STATES CUSTOM HOUSE

The bill (S. 3046) to redesignate the Federal building located at 1 Bowling Green in New York, NY, as the "Alexander Hamilton United States Custom House," was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 3046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 1 Bowling Green in New York, New York, and known as the United States Custom House, shall be known and designated as the "Alexander Hamilton United States Custom House".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Alexander Hamilton United States Custom House".

TRANSFER OF AUTHORITY FOR OPERATION AND MAINTENANCE OF HIGHWAY 82 BRIDGE

The bill (S. 3062) to transfer the responsibility for operation and maintenance of the Highway 82 Bridge at Greenville, MS, to the States of Mississippi and Arkansas, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 3062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) all the authorities conferred upon the city of Greenville, Mississippi, and Washington County, Mississippi, by the Act of June 14, 1938 (52 Stat. 681) to operate and maintain a bridge across the Mississippi River (known as the Greenville/Lake Village Bridge or the "Highway 82 Bridge") are transferred, upon the certification required by subsection (b), to the State Highway Commissions of Mississippi and Arkansas, acting jointly.

(b) Whenever the Secretary of Transportation determines that the States of Mississippi and Arkansas have entered into a suitable agreement for the continued operation and maintenance of the Highway 82 Bridge at Greenville, Mississippi, the Secretary shall so certify to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

TAKE PRIDE IN AMERICA ACT

The bill (S. 3068) to establish the Office of Take Pride in America, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 3068

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Take Pride in America Act".

SEC. 2. ESTABLISHMENT OF TAKE PRIDE IN AMERICA OFFICE.

(a) IN GENERAL.—There is hereby established the Take Pride in America Office within the Department of the Interior (hereinafter referred to as the "TPIA Office").

(b) PURPOSES OF OFFICE.—The purposes of the TPIA Office shall include the following:

(1) To establish and maintain a public awareness campaign in cooperation with public and private organizations and individuals—

(A) to instill in the public the importance of the wise use of Federal, State, and local lands, facilities, and natural and cultural resources;

(B) to encourage an attitude of stewardship and responsibility toward these lands, facilities, and resources; and

(C) to promote participation by individuals, organizations, and communities in caring for these lands, facilities, and resources.

(2) To conduct a national awards program to honor those individuals and entities which, in the opinion of the TPIA Office, have distinguished themselves in the activities described in paragraph (1) of this subsection.

SEC. 3. GIFTS, BEQUESTS, AND DEVISES OF PROPERTY.

(a) AUTHORITY.—The TPIA Office may solicit, accept, hold, administer, invest, and use gifts, bequests, and devises of property, both real and personal, to aid or facilitate its purposes.

(b) USE OF PROPERTY.—Any property and the proceeds thereof shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise of such property.

(c) STATUS OF PROPERTY.—Property donated to and accepted by the TPIA Office pursuant to this section shall not be regarded as appropriated funds and shall not be subject to any requirements or restrictions applicable to appropriated funds.

(d) TREATMENT OF DONATIONS, ETC.—For purposes of Federal law, property accepted pursuant to this section shall be considered as a gift, bequest, or devise to the United States.

SEC. 4. ADMINISTRATIVE SERVICES.

The Secretary of the Interior shall provide such facilities, administrative services, personnel, and support to the TPIA Office as the Secretary determines is appropriate.

SEC. 5. VOLUNTEERS.

(a) AUTHORITY TO USE VOLUNTEERS.—The TPIA Office is authorized to recruit, train, and accept the services of individuals or entities, without compensation, as volunteers for or in aid of the purposes of the TPIA Office, without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, that relate to classification and General Schedule pay rates.

(b) INCIDENTAL EXPENSES.—The TPIA Office is authorized to provide for the incidental expenses of volunteers, such as transportation, uniforms, lodging, or subsistence.

(c) VOLUNTEERS' STATUS AS FEDERAL EMPLOYEES.—(1) Except as otherwise provided in this subsection, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those provisions relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) For purposes of the Federal Tort Claims Act, a volunteer under this subsection shall be considered an employee of the government (as defined in section 2671 of title 28, United States Code).

(3) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, a volunteer under this subsection shall be considered an employee (as defined in section 8101 of title 5, United States Code).

SEC. 6. AUTHORITY TO EXECUTE CONTRACTS.

The TPIA Office is authorized to enter into contracts or cooperative agreements, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to further its purposes.

SEC. 7. DISTRIBUTION OF NOVELTIES.

The TPIA Office is authorized to distribute pamphlets or other novelties in order to promote its purposes.

SEC. 8. SLOGAN AND LOGO.

The "Take Pride in America" slogan and logo, which are registered by the Department of the Interior, and the goodwill associated with such slogan and logo, are hereby transferred to the TPIA Office.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF THE INTERIOR.—There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out the purposes of this Act.

(b) OTHER FEDERAL AGENCIES.—There are authorized to be appropriated to other Federal agencies such sums as may be necessary to carry out the provisions of any Take Pride in America programs established by such agencies.

EXTENSION OF THE AMERICAN CANAL AT EL PASO, TX

The bill (H.R. 4758) to provide for the construction, operation, and maintenance of an extension of the American Canal at El Paso, TX, was considered.

EXTENSION OF THE AMERICAN CANAL IN EL PASO, TX

Mr. BENTSEN. Mr. President, I am pleased the Senate takes this action today to authorize the State Department, through the International Boundary and Water Commission, to construct, operate, and maintain a 13-mile extension of the American Canal in El Paso, TX. For the last several years, I have been trying to get this legislation passed. We got it passed in the Senate in early August on the water resources bill, but that legislation now seems bogged down. With today's action, the Senate is again expressing its will on this matter. It is much-needed legislation, and I congratulate my good friend and colleague, Representative RON COLEMAN, for introducing it in the House.

Some of my colleagues may not be familiar with this issue and why I have pressed so hard for it to be resolved. Let me explain it briefly. Since 1935, Mr. President, the American Canal has provided a mechanism to control waters from the Rio Grande belonging to the United States. It has enhanced water quality in the international delivery system. More than 50 years later, it is time for these water quality and control features to be extended. Growth and urbanization in El Paso around the Rio Grande have increased the need for water in that area of my State. Furthermore, garbage and contamination in the river—something about which I have urged aggressive measures to correct—have created serious health and safety hazards. Water conservation goals are being defeated. The amount of annual water loss amounts to many thousand acre feet per year. The proposed extension would capture some 12,000 to 22,000 acre feet of water loss due to seepage and piracy—losses the water users in the El Paso area can no longer afford to lose.

The construction of the canal extension provides many other benefits to El Paso and its water users. In addi-

tion to the jobs it would create in the area, it has several environmental and health benefits. The canal extension would lie wholly in the United States, and it would be 13 miles long. It could serve as a conveyance channel for water to the city of El Paso. For maximum efficiency and effectiveness, it enlarges 1¼ miles of the existing channel, and it replaces portions of the old Franklin Canal in downtown El Paso. The canal extension has received favorable comment from the State Department and the Bureau of Reclamation. It is supported by the community of El Paso as well. The International Boundary and Water Commission will be pleased to see it can now move forward with plans to extend the canal.

The canal extension would also provide optimal control over water belonging to the United States under a 1906 treaty with Mexico. Hopefully, it would, once and for all, remove the potential for disagreements with our good neighbor, Mexico, about the commingling or diversion of water. As many of our colleagues from the southwestern and western part of our great land know, water is a life line, and it is particularly so in the arid Southwest.

For the people of El Paso, the extension of the American Canal is essential to the conservation of this life-giving resource that is tragically lost not only through seepage and piracy, but also through the aging canal system in the area and natural erosion from the Rio Grande itself. The farmers and citizens in this region of my State have long known, as have I, that water loss must be stopped. By making the canal permanent, we solve several problems at once.

Mr. President, this bill contains many of the features suggested in the State Department's comments. It includes a cost sharing formula which requires local sponsors both to share in the cost of construction and to contribute to the canal's operation and maintenance on an annual basis. This agreement was worked out between the local sponsors and the International Boundary and Water Commission.

I am very pleased that Congress has taken this step. I hope the President will sign this bill into law so that we can leap forward in building this canal.

The bill (H.R. 4758) was ordered to a third reading, read the third time, and passed.

INCLUSION OF COLUMBIANA COUNTY, OH, IN THE APPALACHIAN REGION

The bill (H.R. 435) to amend the Appalachian Regional Development Act of 1965 to include Columbiana County, OH, as part of the Appalachian region, was considered, ordered to a third reading, read the third time, and passed.

DWIGHT D. EISENHOWER INTERSTATE HIGHWAY SYSTEM

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 844, S. 2806, to redesignate the Interstate Highway System.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2806) to redesignate the Interstate Highway System as the Dwight D. Eisenhower Interstate Highway System.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2928

Mr. KERRY. Mr. President, I send a technical amendment to the desk on behalf of Senator BURDICK and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for Mr. BURDICK, proposes an amendment numbered 2928.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

After the enacting clause, insert "SEC. 1."

On page 1, line 5, strike "the Interstate Highway System" and insert "The National System of Interstate and Defense Highways".

On page 1, line 6, strike "the Dwight D. Eisenhower Interstate Highway" and insert "The Dwight D. Eisenhower System of Interstate and Defense Highways".

On page 1, line 7, strike "System".

On page 1, line 10, strike "the Interstate Highway System" and insert "The National System of Interstate and Defense Highways".

On page 2, line 2, strike "the" and insert "The".

On page 2, line 2, strike "Interstate Highway System" and insert "System of Interstate and Defense Highways".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2928) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, October 14 of this year marks President Dwight D. Eisenhower's centennial birthday. This year also marks the completion of the National System of Interstate and Defense Highways—as it is officially known—a project envisioned, authored, and realized by our Nation's 34th President.

In his February 22, 1955, special message to the Congress regarding a National Highway Program President Eisenhower said:

Our unity as a nation is sustained by free communication of thought and by easy transportation of people and goods. The ceaseless flow of information through the Republic is matched by individual and commercial movement over a vast system of interconnected highways criss-crossing the country and joining at our national borders with friendly neighbors to the north and south. * * * A sound Federal highway program, I believe, can and should stand on its own two feet, with highway users providing the total dollars necessary for improvement and new construction.

Mr. President, these words are no less true today than they were over 35 years ago.

In recognition of President Eisenhower's foresight, S. 2806 would redesignate the National System of Interstate and Defense Highways the Dwight D. Eisenhower National System of Interstate and Defense Highways. The late President demonstrated tremendous conviction to a visioin of safe and expansive highways. From the moment he assumed the Presidency, Eisenhower's aspirations for an efficiently mobile America translated into concrete and significant advances, paving the way toward a modern highway system.

Dwight D. Eisenhower proposed creating more than 41,000 miles of interstate roadway; joining 42 State capitals and 90 percent of all cities with populations exceeding 50,000. The Federal Highway Acts of 1954, 1956, and 1958 had as their impetus Eisenhower's insistence that Congress and the administration act swiftly to address the Nation's severe infrastructure needs.

This legislation is intended as a symbolic act; it would not change any existing interstate signage or markings.

Now is a fitting time to pay tribute and remember this great President by giving his name to the Interstate Highway System he conceived. Among Ike's many, many lasting contributions to our Nation, none has more profoundly changed the shape of American life than the legacy of a modern system of highways. Let us honor the late President's efforts for a modernized Interstate System through this symbolic and appropriate gesture.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

39-059 O-91-26 (Pt. 19)

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows.

S. 2806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) notwithstanding any other provision of law, the National System of Interstate and Defense Highways shall be redesignated as The Dwight D. Eisenhower System of Interstate and Defense Highways; and

(b) any reference before the date of enactment of this Act in any provision of law, regulation, map, sign, or otherwise to The National System of Interstate and Defense Highways shall be deemed to refer, on and after such date, to The Dwight D. Eisenhower System of Interstate and Defense Highways.

The title was amended so as to read: "A bill to redesignate the National System of Interstate and Defense Highways as The Dwight D. Eisenhower System of Interstate and Defense Highways."

Mr. KERRY. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEVELOPMENT OF ZEBRA MUSSEL RESEARCH AND CONTROL PROGRAM

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 850, Senate Resolution 312.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 312) to express the sense of the Senate regarding the need to develop a zebra mussel research and control program through the Great Lakes Fishery Commission.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

AMENDMENT NO. 2929

Mr. KERRY. Mr. President, I send an amendment to the desk on behalf of Senator MOYNIHAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for Mr. MOYNIHAN, proposes an amendment numbered 2929.

On page 3, line 9, strike out "Clerk" and insert "Secretary".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2929) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, as an original cosponsor of Senate Resolution 312, I wish to express my support for its adoption as an important step in controlling the spread of the zebra mussel in the Great Lakes. This legislation would encourage the President to work with the Government of Canada to develop a coordinated, bilateral research and control effort to deal with the zebra mussel.

This year we have had the misfortune to become all too familiar with the aquatic nuisance. This creature was first discovered in 1988 in Lake Saint Clair, located between Lakes Huron and Erie. Reports indicate that in only 2 years, the mussel spread over a 10,000 square mile area, infesting the Lake Erie shoreline from Detroit to Buffalo. I am advised that the zebra mussel is able to produce 30,000 offspring in a single season. Experts anticipate that this creature will spread to the Mississippi, Ohio, and Hudson River basins, and within 10 years is likely to be found in two-thirds of the United States.

The rapidly reproducing zebra mussel, though only the size of a quarter, is already causing problems which far exceed its size. Because the mussels are able to grow on nearly any surface, including each other, they are able to block water intake pipes that are several meters in diameter. The resulting blockages pose a serious threat to industry and municipal water supplies. In Ontario, expansion of a housing development came to a halt because zebra mussels in the water had cut the water supply in half. The city of Buffalo has proposed a 15-percent increase in water rates to provide funds to deal with the mussel. Company officials at a Detroit Edison plant in Munroe, MI, estimate the cost of removing the creatures from their water intake system at $100,000 per treatment. Not only do zebra mussels threaten water supplies by blocking water pipes, but they also often die in the pipes in large numbers, giving the water a putrid odor and taste and rendering it undrinkable.

The zebra mussel pose further economic problems for the tourism and fishing industries. Given the concentrations in which the mussel is found (up to 700,000 per square meter in Lake Erie), officials at the Presque Isle State Park in Erie, PA, fear the possible negative impact of sharp shells littering the beach, as well as obnoxious smells from decomposing mussels.

Experts fear that the prolific zebra mussel could endanger fish populations by competing with newly spawned fish for nutrients essential to their development. The fishing industry in Lake Erie generates $600 million annually, and according to the U.S. Fish and Wildlife Service, the zebra mussel may cost the industry a third of that each year, or $2 billion over the next decade.

Projections of the economic damage caused by the zebra mussel are $500 million each year in Lake Erie alone and $3 to $4 billion for all areas impacted by the mussel in the next 10 years.

The United States has begun to grapple with the threat posed by the zebra mussel. This resolution will pave the way for a cooperative attack on this problem by this Nation and our neighbor to the north, Canada. A pooling of knowledge and a coordination of programs will only enhance the effectiveness of our efforts to deal with this menace. Accordingly, Mr. President, I urge my colleagues to join me in supporting Senate Resolution 312.

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended.

The resolution (S. Res. 312), as amended, was agreed to

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 312

Whereas the zebra mussel (Dreissena polymorpha) is a filter feeding mollusk able to filter approximately a quart of water a day, and in doing so substantially reduce the quantity of phytoplankton essential to a health fishery;

Whereas the zebra mussel is native to temperate freshwater habitats of the Black, Caspian, and Azov Seas in Southern Asia, and canals built during the late 18th century allowed the species to expand into Western Europe by the 1830's;

Whereas the zebra mussel is believed to have arrived in North America in the ballast water of a ship arriving from Europe in the summer of 1986, and discharged into the Great Lakes system at Lake St. Clair and the St. Clair River;

Whereas by the year 1990 this infestation has spread eastward through Lakes Erie and Ontario into the St. Lawrence River, and westward into Green Bay, Lake Michigan, and Duluth Harbor, Lake Superior;

Whereas it is likely that within the coming two decades, if left unchecked, the zebra mussel will have infested the majority of the surface water system of the United States and Canada; and that this migration is irreversible and cannot be quarantined;

Whereas the United Fish and Wildlife Service has estimated that the zebra mussel in the Great Lakes will cost $5,000,000,000 over the next ten years in environmental and economic losses; and

Whereas the Great Lakes Fishery Commission was established in 1955 by Convention between the United States and Canada to develop and coordinate fishery research and management, and to advise the governments on measures to improve the fisheries: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the zebra mussel, if left unchecked, may devastate the fisheries of the Great Lakes; and

(2) the President of the United States should direct the Secretary of State to negotiate with the Government of Canada to establish a program of zebra mussel research and control, through the auspices of the Great Lakes Fishery Commission. This program shall be coordinated with other research and control activities taking place within and outside the Great Lakes Basin.

SEC. 2. The Secretary of the United States Senate shall transmit a copy of this resolution to the President of the United States with the request that the President further transmit a copy to the Secretary of State.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the resolution, as amended, was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROTECTION OF THE ANTARCTIC SYSTEM

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 829, Senate Resolution 186, a resolution relating to the protection of the Antarctic System.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 186) relating to the protection of the Antarctic System.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HELMS. Mr. President, I am delighted that the Senate is about to approve Senate Resolution 186, expressing the sense of the Senate that the protection of the Antarctic system, including dependent and associated ecosystems, must be a basic consideration in decisions relating to all activities conducted in the Antarctic.

The University of North Carolina at Wilmington has a renowned department of marine sciences. Professors there have conducted important undersea research in the Antarctic region, and last year, when our friend Jacques Cousteau visited Washington, I asked staff to work with him to develop a resolution on this subject.

The resolution before the Senate today is the product of these efforts. It was submitted by this Senator on September 26, 1990, and ordered reported by the Committee on Foreign Relations on September 14 of this year.

Specifically, the resolution declares that the Antarctic system is of fundamental importance to the global environment. It calls attention to the special legal and political status of Antarctica and to the special responsibility of the Antarctic Treaty Consultative Parties to ensure that all activities in Antarctica are consistent with the purposes and principles of the Antarctic Treaty.

It also reiterates that the Antarctic system has unique ecological, scientific, and wilderness value—something about which most Senators are already aware.

Mr. President, in order to continue scientific advancement in relation to the Antarctica, as well as to promote the general well-being of the global environment, it is fundamental that the Antarctic system be protected. This resolution is a constructive step forward to this objective, and I am pleased that it will be approved by the Senate.

Mr. KERRY. Mr. President, we are ready to agree to the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 186) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 186

Whereas the Antarctic System is of fundamental importance to the global environment;

Whereas the special legal and political status of Antarctica and the special responsibility of the Antarctic Treaty Consultative Parties to ensure that all activities in Antarctica are consistent with the purposes and principles of the Antarctic Treaty; and

Whereas the Antarctic System has unique ecological, scientific, and wilderness value: Now, thereofore, be it

Resolved, That it is the sense of the Senate that the protection of the Anarctic System, including dependent and associated ecosystems, must be a basic consideration in decisions relating to all activities conducted in the Antarctic.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROTECTION OF ANTARCTIC AS A GLOABL ECOLOGICAL COMMONS

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 828, Senate Joint Resolution 206, a joint resolution to encourage negotiations toward a new agreement among Antarctic Treaty Consultative Parties.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution which had been reported from the Committee on Foreign Relations, with amendments, as follows:

S.J. RES. 206

Whereas Antarctica, like the great oceans and the atmosphere, is a part of the global commons;

Whereas the Antarctic region, including the continent and the Southern Ocean, is a fragile ecosystem that supports an amazing abundance of life, and is, in turn, crucial to other life on Earth;

Whereas Antarctica is a critical area in the study and documentation of global change;

Whereas negotiations of the Antarctic Treaty Consultative Parties have resulted in the Convention on the Regulation of Antarctic Mineral Resource Activities;

Whereas the Convention on the Regulation of Antarctic Mineral Resouces Activities, while requiring consideration of environmental impacts prior to allowing minerals development in Antarctica, does not guarantee preservation of the Antarctic environment; and

Whereas the challenge to humankind is to ensure that Antarctica is stewarded in a manner that conserves its unique environment and preserves its value for scientific research: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Antarctica is a global ecological commons, and should therefore be managed under a new agreement among the Antarctic Treaty Consultative Parties or a protocol to the Convention on the Regulation of Antarctic Mineral Resource Activities to the same effect, either of which shall be subject to periodic review, and should for an indefinite period establish Antarctica as a region closed to commerical mineral development and related activities;

That under such new agreement, information about mineral or other resources in Antarctica should be obtained under strictly controlled arrangements, and that such information should be openly shared in the international scientific community;

That the Convention on the Regulation of Antarctic Mineral Resource Activities, though a considerable step forward, is not adequate in and of itself to provide the necessary level of protection for the fragile environment of Antarctica and could actually stimulate movement toward commerical exploitation;

That pending the negotiation and entry into force of a new agreement among Antarctic Treaty Consultative Parties ensuring the full protection of Antarctica as a global ecological commons, or of a protocol to the Convention on the Regulation of Antarctic Mineral Resource Activities to the same effect, the President should not present the Convention on the Regulation of Antarctic Mineral Resource Activities to the Senate for advice and consent to ratification;

That, for the duration, the United States should support the interim restraint measures presently in force among the Consultative Parties to the Antarctic Treaty; and

That the negotiation of a new agreement to provide compensive environmental protection for Antarctica should be fully supported by the United States at the November 1990 meeting of the Antarctic Treaty Consultative Parties in Santiago, Chile.

Mr. GORE. Mr. President, I am glad to rise today, on the occasion of Senate passage of Senate Joint Resolution 206. This joint resolution, which I first introduced almost 1 year ago, calls on the United States to enter into

immediate negotiations aimed at securing an agreement providing for comprehensive protection of the Antarctic environment.

At the time that I introduced this joint resolution, the country and the world was in a state of uncertainty regarding Antarctica's future. Pending was the fate of the Convention on the Regulation of Antarctic Mineral Resource Activities, also known as the Wellington Convention. The question for the Senate, was whether the Wellington Convention would be ratified when it was forwarded by the President.

Today, we know the answer to that question. Senate Joint Resolution 206, as passed by the Senate on this day, calls for the President to set aside the pending Wellington Convention, and instead to enter into negotiations with the other Antarctic Treaty Consultative Parties, to forge a new agreement for comprehensive protection of the Antarctic environment. As a first step toward this end, the resolution calls on the United States to fully support a new round of negotiations, beginning this fall in Santiago, to craft a new agreement that will provide comprehensive protection of Antarctica's environment, including a permanent prohibition on minerals activities.

Mr. President, I first became involved in this issue after discussions last year with Comdr. Jacques Cousteau, with Prime Minister Hawke of Australia, and with other leaders involved in the issue from this Nation and around the world. I became deeply concerned that the proposed Wellington Convention, though it marked an important step forward in the history of international efforts to protect the environment, did not go far enough to protect the Antarctic environment. Even though the convention represents a solid accomplishment, it has been overtaken by the swiftly changing global political context in which the struggle to preserve the environment is taking place.

Now that the Senate has spoken on this issue, I hope that the President wil not submit the convention to the Senate for ratification. I do not believe it is good enough, and I believe dramatic changes have taken place in the world's attitude regarding protection for Antarctica's environment since its negotiation. These changes should lead our Nation to speak out in the world community for the far more comprehensive measure needed to protect one of the most fragile parts of our Earth against commercial exploration.

Anyone who has visited the Antarctic faces a humbling experience. It is a place that dwarfs all human scale and reduces an individual to insignificance. You cannot help but be awed by the place itself. But the Antarctic is, in fact, a fragile environment, vulnerable to the destructive effects of organized human activity.

Next to the Sun and the rotation of the Earth, the Antarctic continent is the most powerful engine driving the world's climate, a rich storehouse of historical climate data, and the place where ozone destruction and global warming are likely to occur most dramatically. Yet it remains the most pristine continent on Earth—a place that has so far withstood, for the most part, the impact of the global ecological crisis.

Ninety percent of all the ice in the world is there; its ice and snow contain 70 percent of all the fresh water on Earth, but Antarctica gets so little precipitation, it is classified as the world's largest desert. The continent goes dark for 6 months in winter, yet still receives more sunlight during its 6-month summer than the equatorial regions receive in an entire year—light that, for the most part, is reflected right back into space. The cold waters surrounding the continent absorb more carbon dioxide from the atmosphere than all the rain forests, and create the nutrient-rich bottom water for most of the world ocean, of which Antarctica is the epicenter.

To this point, of course, the only kind of activity in the Antarctic has been scientific. But that could change quickly, if exploration uncovered large-scale mineral deposits or offshore oil. From that point on, the Antarctic could well be subjected to industrial abuse that could cause irreparable damage not merely to the region, but to ourselves.

Last year, the *Exxon Valdez* disaster in Prince William Sound provided vivid, heartbreaking illustrations of the devastating consequences of an environmental disaster in a pristine wilderness. Also last year, an Argentinian ship, the *Bahia Paraiso,* ran aground in the waters of Antarctica. This incident did not attract the widespread public attention of the Valdez spill; it was not a drama played out nightly on the evening news. It was a smaller spill, but it was disastrous nonetheless, destroying years of research, and leaving behind an indelible stain.

In Alaska, the argument was that careful protection can do the job. Now, the same argument is being applied to possible commercial exploitation of Antarctica.

It was 9 years ago when the Antarctica Treaty Consultative Parties began work on the Wellington Convention, struggling to balance political forces involving national sovereignty, economic interests, and the environment. It was a time when the environmental consensus was not nearly as strong as it has become.

The convention's rules to control commercial exploitation of Antarctica—crafted in that 9 years—are all to the good, but in the meantime, we have been overtaken by the realization that the Antarctic may well be worth far more to humanity intact than it could ever be worth as a source of minerals or oil.

Not everyone sees it that way. But for those who do, the convention has its dark side, because it may encourage a process of commercial exploration and development, which, once begun, will outrace efforts to devise, impose, and to police restraints. For that reason, I believe that the convention, in and of itself, is inadequate for the task of providing the kind of complete protection needed in the Antarctic.

I believe that we can do better. Senate Joint Resolution 206 urges the United States to help lead the way to a new agreement that emphasizes environmental protection and recognizes the Antarctic region as a protected ecological commons. In order to accomplish this goal, the United States should support a new round of negotiations, beginning this fall in Santiago, to craft a new convention that will provide comprehensive protection of Antarctica's environment, including a permanant prohibition on minerals activities.

It will be argued by many whose opinions I deeply respect that we should ratify the Wellington Convention first, and then move on to negotiating further protection for Antarctica. Failure to ratify, they will say, and a decision to press for an optimum agreement, risks complete failure: failure to reach a new agreement, and in the meantime, the collapse of the agreement now in our grasp; in its place, no international law at all.

Worse, others have argued, failure to ratify the convention risks unraveling the whole network of agreements known collectively as the Antarctic Treaty System, all built since the Antarctic Treaty went into effect in 1961. With that would come the risk that national sovereign claims to the Antarctic, held in abeyance under the terms of the Antarctic Treaty, will be reasserted—to be followed by the end of the era of peaceful scientific exploration, and the beginning of a new era of rivalries whose potential for mischief among nations should not be underestimated: we saw what it could do in the Falklands.

I am extremely sensitive to those arguments. They are arguments I have supported on other occasions, when the Law of the Sea Treaty was denounced by the Reagan administration; and when SALT II was denounced. It is not a casual thing to recommend that the product of 9 years of negotiations—the Wellington Convention—be replaced by a new agreement. Certainly, the burden is on those of us who believe this is the right course, to explain why, and to persuade others that this is a prudent,

rather than a reckless course of action.

The original 1961 Antarctic Treaty is unique. At the time, the dominant concern was that military rivalry would take hold in that area. The treaty dealt with this threat in a highly imaginative fashion. Just as militarism was seen as the dominant issue in the 1950's, however, the global environment is now emerging as the dominant issue of the 1990's. A convention designed to protect the Antarctic environment ought to be no less imaginative: no less of a leap forward.

In 1961, the Antarctic Treaty was possible in part because Antarctica had not yet been used as a theater for military rivalry: All concerns dealt with by the treaty were prospective, rather than actual; the treaty created a positive precedent, without having to contend with the influence of negative ones. We are at a comparable stage in terms of Antarctica's development as a theater for economic competition. Pending the discovery of a major mineral or oil deposit, there is no focused pressure to get on with the exploitation of Antarctica's resources. We have the same opportunity to solve the problem of commercial development in Antarctica by optimum means, as we earlier had for dealing with the problem of military and nationalistic rivalry.

Even so, I would be very hesitant to propose this course of action to the Senate, were it not for the fact that the future of the Wellington Convention is already in doubt. Under the terms of the convention, it may not enter into force if just one of the key consultative parties refuses to ratify it. Prime Minister Hawke of Australia has declared that his government will not ratify the Wellington Convention, because he believes Antarctica ought to be protected by a new convention calling for comprehensive protection of Antarctica's environment. The Governments of France and New Zealand have joined Australia in this initiative. All of these nations are considered to be key consultative parties under the terms of the Wellington Convention.

Until and unless these governments reserve their positions, and assuming that no other government expresses opposition in the meantime, the convention cannot go into force. Instead, under customary international law, an interim regime of respect for the terms of the convention has come into existence. It cannot last indefinitely, because sooner or later it would have to be accepted that the convention is not merely dormant, but dead. Until that time, however, Antarctica is effectively governed by a prohibition on development.

Under these conditions, we can afford to look at the potential for gaining consensus on an international agreement offering comprehensive protection for Antarctica's environment. We should not be held back by a conventional calculation of how national governments will behave in this situation. Certainly, there is a risk that agreement on comprehensive protection for the Antarctic will not be forthcoming. But that risk is substantially mitigated by the political seachange now taking place in every part of the world.

Around the world, in my opinion, public opinion is ready to support the treatment of Antarctica as a global ecological commons, where exploration should be for the purpose of generating openly shared scientific knowledge, rather than for staking out the corporate claims of the future. The transforming effects on public policy of this change of perspective are evident in a willingness of governments to recognize the environmental challenge, and to begin to concert efforts in order to deal with it. Antarctica provides a major opportunity to put this emerging concensus to work creatively.

Times have changed since our negotiators backed the Wellington Convention. We know a great deal more about Antartcita's role in the world environment, and we feel a new urgency about the global environmental crisis. The emerging political consensus for environmental protection is making possible solutions we once considered impossible.

Today, we face an issue and an opportunity. The issue: Whether Antartctica should be opened at all for commercial exploitation. The opportunity: Environmental concerns are finally on the world's agenda—in part because leaders see their urgency, but also because they know that many of the world's people are alert to the threat and demand action.

Antarctica represents not only a valuable wilderness, but also a point to which our global perspective ought to be pulled, because it is from the Antarctic that the future of the Earth can be seen. In the words of the World Commission on Environment and Development—the Brudtland Commission—the challenge is to ensure that Antarctica is managed in the interests of all humankind, in a manner that conserves its unique environment, preserves its value for scientific research, and retains its character as a demilitarized, nonnuclear zone of peace.

We can measure the future of the Earth in the frozen breezes of Antartica. As we confront the global ecological crisis, it is time to change our understanding of what is possible. We can not afford to settle for less.

AMENDMENT NO. 2930

Mr. KERRY. Mr. President, on behalf of Senator GORE, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for Mr. GORE, proposes an amendment numbered 2930.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 4, strike "managed under" and insert "subject to".

On page 2, lines 4–7, strike "among the Antarctic Treaty Consultative Parties or a protocol to the Convention on the Regulation of Antarctic Mineral Resource Activities to the same effect, either of" and insert "or protocol to the Antarctic Treaty of 1959,".

On page 3, line 1, strike "agreement," and insert "agreement or protocol,".

On page 3, lines 8–9, strike "is not adequate in and of itself to provide the necessary level of protection for" and insert "does not guarantee protection of".

On page 3, line 13, strike "among Antarctic Treaty Consultative Parties" and insert "or protocol to the Antarctic Treaty of 1959,".

On page 3, lines 15–17, strike "or of a protocol to the Convention on the Regulation of Antarctic Mineral Resource Activities to the same effect,".

On page 3, lines 17–18, strike "the President should not present the Convention on the Regulation of Antarctic Mineral Resource Activities to" and insert "the Convention on the Regulation of Antarctic Mineral Resource Activities should not be presented to".

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 2930) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to be considered?

The question is on agreeing to the committee amendments, as amended.

The committee amendments, as amended, were agreed to.

The joint resolution, as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, as amended, with its preamble, is as follows:

S.J. RES. 206

Calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons.

Whereas Antarctica, like the great oceans and the atmosphere, is a part of the global commons;

Whereas the Antarctic region, including the continent and the Southern Ocean, is a fragile ecosystem that supports an amazing abundance of life, and is, in turn, crucial to other life on Earth;

Whereas Antarctica is a critical area in the study and documentation of global changes;

Whereas negotiations of the Antarctic Treaty Consultative Parties have resulted in the Convention on the Regulation of Antarctic Mineral Resource Activities;

Whereas the Convention on the Regulation of Antarctic Mineral Resource Activities, while requiring consideration of environmental impacts prior to allowing minerals development in Antarctica, does not guarantee preservation of the Antarctic environment; and

Whereas the challenge to humankind is to ensure that Antarctica is stewarded in a manner that conserves its unique environment and preserves its value for scientific research: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Antarctica is a global ecological commons, and should therefore be subject to a new agreement or protocol to the Antarctic Treaty of 1959, which shall be subject to periodic review, and should for an indefinite period establish Antarctica as a region closed to commercial minerals development and related activities.

Sec. 2 Under such new agreement information about mineral or other resources in Antarctica should be obtained under strictly controlled arrangements, and that such information should be openly shared in the international scientific community.

Sec. 3. The Convention on the Regulation of Antarctic Mineral Resource Activities, though a considerable step forward, does not guarantee protection of the fragile environment of Antarctica and could actually stimulate movement toward commercial exploitation.

Sec. 4. Pending the negotiation and entry into force of a new agreement or protocol to the Antarctic Treaty of 1959, ensuring the full protection of Antarctica as a global ecological commons, the convention on the regulation of antarctic mineral resource activities should not be presented to the Senate for advice and consent to ratification.

Sec. 5. For the duration, the United States should support the interim restraint measure presently in force among the Consultative Parties to the Antarctic Treaty; and

The negotiation of a new agreement to provide comprehensive environmental protection for Antarctica should be fully supported by the United States at the November 1990 meeting of the Antarctic Treaty Consultative Practices in Santiago, Chile.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NEGOTIATED RULEMAKING ACT

Mr. KERRY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 303.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 303) entitled "An Act to establish a framework for the conduct of negotiated rulemaking by Federal agencies," do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Negotiated Rulemaking Act of 1990".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Government regulation has increased substantially since the enactment of the Administrative Procedure Act.

(2) Agencies currently use rulemaking procedures that may discourage the affected parties from meeting and communicating with each other, and may cause parties with different interests to assume conflicting and antagonistic positions and to engage in expensive and time-consuming litigation over agency rules.

(3) Adversarial rulemaking deprives the affected parties and the public of the benefits of face-to-face negotiations and cooperation in developing and reaching agreement on a rule. It also deprives them of the benefits of shared information, knowledge, expertise, and technical abilities possessed by the affected parties.

(4) Negotiated rulemaking, in which the parties who will be significantly affected by a rule participate in the development of the rule, can provide significant advantages over adversarial rulemaking.

(5) Negotiated rulemaking can increase the acceptability and improve the substance of rules, making it less likely that the affected parties will resist enforcement or challenge such rules in court. It may also shorten the amount of time needed to issue final rules.

(6) Agencies have the authority to establish negotiated rulemaking committees under the laws establishing such agencies and their activities and under the Federal Advisory Committee Act (5 U.S.C. App.). Several agencies have successfully used negotiated rulemaking. The process has not been widely used by other agencies, however, in part because such agencies are unfamiliar with the process or uncertain as to the authority for such rulemaking.

SEC. 3. NEGOTIATED RULEMAKING PROCEDURE.

(a) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER IV—NEGOTIATED RULEMAKING PROCEDURE

"§ 581. Purpose

"The purpose of this subchapter is to establish a framework for the conduct of negotiated rulemaking, consistent with section 553 of this title, to encourage agencies to use the process when it enhances the informal rulemaking process. Nothing in this subchapter should be construed as an attempt to limit innovation and experimentation with the negotiated rulemaking process or with other innovative rulemaking procedures otherwise authorized by law.

"§ 582. Definitions

"For the purposes of this subchapter, the term—

"(1) 'agency' has the same meaning as in section 551(1) of this title;

"(2) 'consensus' means unanimous concurrence among the interests represented on a negotiated rulemaking committee established under this subchapter, unless such committee—

"(A) agrees to define such term to mean a general but not unanimous concurrence; or

"(B) agrees upon another specified definition;

"(3) 'convener' means a person who impartially assists an agency in determining whether establishment of a negotiated rulemaking committee is feasible and appropriate in a particular rulemaking;

"(4) 'facilitator' means a person who impartially aids in the discussions and negotiations among the members of a negotiated rulemaking committee to develop a proposed rule;

"(5) 'interest' means, with respect to an issue or matter, multiple parties which have a similar point of view or which are likely to be affected in a similar manner;

"(6) 'negotiated rulemaking' means rulemaking through the use of a negotiated rulemaking committee;

"(7) 'negotiated rulemaking committee' or 'committee' means an advisory committee established by an agency in accordance with this subchapter and the Federal Advisory Committee Act to consider and discuss issues for the purpose of reaching a consensus in the development of a proposed rule;

"(8) 'party' has the same meaning as in section 551(3) of this title;

"(9) 'person' has the same meaning as in section 551(2) of this title;

"(10) 'rule' has the same meaning as in section 551(4) of this title; and

"(11) 'rulemaking' means 'rule making' as that term is defined in section 551(5) of this title.

"§ 583. Determination of need for negotiated rulemaking committee

"(a) DETERMINATION OF NEED BY THE AGENCY.—An agency may establish a negotiated rulemaking committee to negotiate and develop a proposed rule, if the head of the agency determines that the use of the negotiated rulemaking procedure is in the public interest. In making such a determination, the head of the agency shall consider whether—

"(1) there is a need for a rule;

"(2) there are a limited number of identifiable interests that will be significantly affected by the rule;

"(3) there is a reasonable likelihood that a committee can be convened with a balanced representation of persons who—

"(A) can adequately represent the interests identified under paragraph (2); and

"(B) are willing to negotiate in good faith to reach a consensus on the proposed rule;

"(4) there is a reasonable likelihood that a committee will reach a consensus on the proposed rule within a fixed period of time;

"(5) the negotiated rulemaking procedure will not unreasonably delay the notice of proposed rulemaking and the issuance of the final rule;

"(6) the agency has adequate resources and is willing to commit such resources, including technical assistance, to the committee; and

"(7) the agency, to the maximum extent possible consistent with the legal obligations of the agency, will use the consensus of the committee with respect to the proposed rule as the basis for the rule proposed by the agency for notice and comment.

"(b) USE OF CONVENERS.—

"(1) PURPOSES OF CONVENERS.—An agency may use the services of a convener to assist the agency in—

"(A) identifying persons who will be significantly affected by a proposed rule; and

"(B) conducting discussions with such persons to identify the issues of concern to such persons, and to ascertain whether the establishment of a negotiated rulemaking committee is feasible and appropriate in the particular rulemaking.

"(2) DUTIES OF CONVENERS.—The convener shall report findings and may make recommendations to the agency. Upon request of the agency, the convener shall ascertain the names of persons who are willing and qualified to represent interests that will be significantly affected by the proposed rule. The report and any recommendations of the convener shall be made available to the public upon request.

"§ 584. Publication of notice; applications for membership on committees

"(a) PUBLICATION OF NOTICE.—If, after considering the report of a convener or conducting its own assessment, an agency decides to establish a negotiated rulemaking committee, the agency shall publish in the Federal Register and, as appropriate, in trade or other specialized publications, a notice which shall include—

"(1) an announcement that the agency intends to establish a negotiated rulemaking committee to negotiate and develop a proposed rule;

"(2) a description of the subject and scope of the rule to be developed, and the issues to be considered;

"(3) a list of the interests which are likely to be significantly affected by the rule;

"(4) a list of the persons proposed to represent such interests and the person or persons proposed to represent the agency;

"(5) a proposed agenda and schedule for completing the work of the committee, including a target date for publication by the agency of a proposed rule for notice and comment;

"(6) a description of administrative support for the committee to be provided by the agency, including technical assistance;

"(7) a solicitation for comments on the proposal to establish the committee, and the proposed membership of the negotiated rulemaking committee; and

"(8) an explanation of how a person may apply or nominate another person for membership on the committee, as provided under subsection (b).

"(b) APPLICATIONS FOR MEMBERSHIP ON COMMITTEE.—Persons who will be significantly affected by a proposed rule and who believe that their interests will not be adequately represented by any person specified in a notice under subsection (a)(4) may apply for, or nominate another person for, membership on the negotiated rulemaking committee to represent such interests with respect to the proposed rule. Each application or nomination shall include—

"(1) the name of the applicant or nominee and a description of the interests such person shall represent;

"(2) evidence that the applicant or nominee is authorized to represent parties related to the interests the person proposes to represent;

"(3) a written commitment that the applicant or nominee shall actively participate in good faith in the development of the rule under consideration; and

"(4) the reasons that the persons specified in the notice under subsection (a)(4) do not adequately represent the interests of the person submitting the application or nomination.

"(c) PERIOD FOR SUBMISSION OF COMMENTS AND APPLICATIONS.—The agency shall provide for a period of at least 30 calendar days for the submission of comments and applications under this section.

"§ 585. Establishment of committee

"(a) ESTABLISHMENT.—

"(1) DETERMINATION TO ESTABLISH COMMITTEE.—If after considering comments and applications submitted under section 584, the agency determines that a negotiated rulemaking committee can adequately represent the interests that will be significantly affected by a proposed rule and that it is feasible and appropriate in the particular rulemaking, the agency may establish a negotiated rulemaking committee. In establishing and administering such a committee, the agency shall comply with the Federal Advisory Committee Act with respect to such committee, except as otherwise provided in this subchapter.

"(2) DETERMINATION NOT TO ESTABLISH COMMITTEE.—If after considering such comments and applications, the agency decides not to establish a negotiated rulemaking committee, the agency shall promptly publish notice of such decision and the reasons therefor in the Federal Register.

"(b) MEMBERSHIP.—The agency shall limit membership on a negotiated rulemaking committee to 25 members, unless the agency head determines that a greater number of members is necessary for the functioning of the committee or to achieve balanced membership. Each committee shall include at least one person representing the agency.

"(c) ADMINISTRATIVE SUPPORT.—The agency shall provide appropriate administrative support to the negotiated rulemaking committee, including technical assistance.

"(d) PARTICIPATION IN PROCEEDINGS.—A recipient of funds under the Legal Services Corporation Act may participate in a negotiated rulemaking proceeding only on behalf of an eligible client under that Act.

"§ 586. Conduct of committee activity

"(a) DUTIES OF COMMITTEE.—Each negotiated rulemaking committee established under this subchapter shall consider the matter proposed by the agency for consideration and shall attempt to reach a consensus concerning a proposed rule with respect to such matter and any other matter the committee determines is relevant to the proposed rule.

"(b) REPRESENTATIVES OF AGENCY ON COMMITTEE.—The person or persons representing the agency on a negotiated rulemaking committee shall participate in the deliberations and activities of the committee with the same rights and responsibilities as other members of the committee, and shall be authorized to fully represent the agency in the discussions and negotiations of the committee.

"(c) SELECTING FACILITATOR.—Notwithstanding section 10(e) of the Federal Advisory Committee Act, an agency may nominate either a person from the Federal Government or a person from outside the Federal Government to serve as a facilitator for the negotiations of the committee, subject to the approval of the committee by consensus. If the committee does not approve the nominee of the agency for facilitator, the agency shall submit a substitute nomination. If a committee does not approve any nominee of the agency for facilitator, the committee shall select by consensus a person to serve as facilitator. A person designated to represent the agency in substantive issues may not serve as facilitator or otherwise chair the committee.

"(d) DUTIES OF FACILITATOR.—A facilitator approved or selected by a negotiated rulemaking committee shall—

"(1) chair the meetings of the committee in an impartial manner;

"(2) impartially assist the members of the committee in conducting discussions and negotiations; and

"(3) manage the keeping of minutes and records as required under section 10 (b) and (c) of the Federal Advisory Committee Act, except that any personal notes and materials of the facilitator or of the members of a committee shall not be subject to section 552 of this title.

"(e) COMMITTEE PROCEDURES.—A negotiated rulemaking committee established under this subchapter may adopt procedures for the operation of the committee. No provision of section 553 of this title shall apply to the procedures of a negotiated rulemaking committee.

"(f) REPORT OF COMMITTEE.—If a committee reaches a consensus on a proposed rule, at the conclusion of negotiations the committee shall transmit to the agency that established the committee a report containing the proposed rule. If the committee does not reach a consensus on a proposed rule, the committee may transmit to the agency a report specifying any areas in which the committee reached a consensus. The committee may include in a report any other information, recommendations, or materials that the committee considers appropriate. Any committee member may include as an addendum to the report additional information, recommendations, or materials.

"(g) RECORDS OF COMMITTEE.—In addition to the report required by subsection (f), a committee shall submit to the agency the records required under section 10 (b) and (c) of the Federal Advisory Committee Act.

"§ 587. Termination of committee

"A negotiated rulemaking committee shall terminate upon promulgation of the final rule under consideration, unless the committee's charter contains an earlier termination date or the agency, after consulting the committee, or the committee itself specifies an earlier termination date.

"§ 588. Services, facilities, and payment of committee member expenses

"(a) SERVICES OF CONVENERS AND FACILITATORS.—

"(1) IN GENERAL.—An agency may employ or enter into contracts for the services of an individual or organization to serve as a convener or facilitator for a negotiated rulemaking committee under this subchapter, or may use the services of a Government employee to act as a convener or a facilitator for such a committee.

"(2) DETERMINATION OF CONFLICTING INTERESTS.—An agency shall determine whether a person under consideration to serve as convener or facilitator of a committee under paragraph (1) has any financial or other interest that would preclude such person from serving in an impartial and independent manner.

"(b) SERVICES AND FACILITIES OF OTHER ENTITIES.—For purposes of this subchapter, an agency may use the services and facilities of other Federal agencies and public and private agencies and instrumentalities with the consent of such agencies and instrumentalities, and with or without reimbursement to such agencies and instrumentalities, and may accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31. The Federal Mediation and Conciliation Service may provide services and facilities, with or without reimbursement, to assist agencies under this subchapter, including furnishing conveners, fa-

cilitators, and training in negotiated rulemaking.

"(c) EXPENSES OF COMMITTEE MEMBERS.—Members of a negotiated rulemaking committee shall be responsible for their own expenses of participation in such committee, except that an agency may, in accordance with section 7(d) of the Federal Advisory Committee Act, pay for a member's reasonable travel and per diem expenses, expenses to obtain technical assistance, and a reasonable rate of compensation, if—

"(1) such member certifies a lack of adequate financial resources to participate in the committee; and

"(2) the agency determines that such member's participation in the committee is necessary to assure an adequate representation of the member's interest.

"(d) STATUS OF MEMBER AS FEDERAL EMPLOYEE.—A member's receipt of funds under this section or section 589 shall not conclusively determine for purposes of sections 202 through 209 of title 18 whether that member is an employee of the United States Government.

"§ 589. Role of the Administrative Conference of the United States and other entities

"(a) CONSULTATION BY AGENCIES.—An agency may consult with the Administrative Conference of the United States or other public or private individuals or organizations for information and assistance in forming a negotiated rulemaking committee and conducting negotiations on a proposed rule.

"(b) ROSTER OF POTENTIAL CONVENERS AND FACILITATORS.—The Administrative Conference of the United States, in consultation with the Federal Mediation and Conciliation Service, shall maintain a roster of individuals who have acted as or are interested in serving as conveners or facilitators in negotiated rulemaking proceedings. The roster shall include individuals from government agencies and private groups, and shall be made available upon request. Agencies may also use rosters maintained by other public or private individuals or organizations.

"(c) PROCEDURES TO OBTAIN CONVENERS AND FACILITATORS.—

"(1) PROCEDURES.—The Administrative Conference of the United States shall develop procedures which permit agencies to obtain the services of conveners and facilitators on an expedited basis.

"(2) PAYMENT FOR SERVICES.—Payment for the services of conveners or facilitators shall be made by the agency using the services, unless the Chairman of the Administrative Conference agrees to pay for such services under subsection (f).

"(d) COMPILATION OF DATA ON NEGOTIATED RULEMAKING; REPORT TO CONGRESS.—

"(1) COMPILATION OF DATA.—The Administrative Conference of the United States shall compile and maintain data related to negotiated rulemaking and shall act as a clearinghouse to assist agencies and parties participating in negotiated rulemaking proceedings.

"(2) SUBMISSION OF INFORMATION BY AGENCIES.—Each agency engaged in negotiated rulemaking shall provide to the Administrative Conference of the United States a copy of any reports submitted to the agency by negotiated rulemaking committees under section 586 and such additional information as necessary to enable the Administrative Conference of the United States to comply with this subsection.

"(3) REPORTS TO CONGRESS.—The Administrative Conference of the United States shall review and analyze the reports and information received under this subsection and shall transmit a biennial report to the Committee on Governmental Affairs of the Senate and the appropriate committees of the House of Representatives that—

"(A) provides recommendations for effective use by agencies of negotiated rulemaking; and

"(B) describes the nature and amounts of expenditures made by the Administrative Conference of the United States to accomplish the purposes of this subchapter.

"(e) TRAINING IN NEGOTIATED RULEMAKING.—The Administrative Conference of the United States is authorized to provide training in negotiated rulemaking techniques and procedures for personnel of the Federal Government either on a reimbursable or nonreimbursable basis. Such training may be extended to private individuals on a reimbursable basis.

"(f) PAYMENT OF EXPENSES OF AGENCIES.—The Chairman of the Administrative Conference of the United States is authorized to pay, upon request of an agency, all or part of the expenses of establishing a negotiated rulemaking committee and conducting a negotiated rulemaking. Such expenses may include, but are not limited to—

"(1) the costs of conveners and facilitators;

"(2) the expenses of committee members determined by the agency to be eligible for assistance under section 588(c); and

"(3) training costs.

Determinations with respect to payments under this section shall be at the discretion of such Chairman in furthering the use by Federal agencies of negotiated rulemaking.

"(g) USE OF FUNDS OF THE CONFERENCE.—The Administrative Conference of the United States may apply funds received under section 575(c)(12) of this title to carry out the purposes of this subchapter.

"§ 590. Judicial review

"Any agency action relating to establishing, assisting, or terminating a negotiated rulemaking committee under this subchapter shall not be subject to judicial review. Nothing in this section shall bar judicial review of a rule if such judicial review is otherwise provided by law. A rule which is the product of negotiated rulemaking and is subject to judicial review shall not be accorded any greater deference by a court than a rule which is the product of other rulemaking procedures.".

(b) The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—NEGOTIATED RULEMAKING PROCEDURE

"Sec. 581. Purpose.
"Sec. 582. Definitions.
"Sec. 583. Determination of need for negotiated rulemaking committee.
"Sec. 584. Publication of notice; applications for membership on committees.
"Sec. 585. Establishment of committee.
"Sec. 586. Conduct of committee activity.
"Sec. 587. Termination of committee.
"Sec. 588. Services, facilities, and payment of committee member expenses.
"Sec. 589. Role of the Administrative Conference of the United States and other entities.
"Sec. 590. Judicial review.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

In order to carry out this Act and the amendments made by this Act, there are authorized to be appropriated to the Administrative Conference of the United States, in addition to amounts authorized by section 576 of title 5, United States Code, not in excess of $500,000 for each of the fiscal years 1991, 1992, and 1993.

SEC. 5. SUNSET AND SAVINGS PROVISIONS.

Subchapter IV of title 5, United States Code, as added by section 3 of this Act, and that portion of the table of sections at the beginning of chapter 5 of title 5, United States Code, relating to subchapter IV, are repealed, effective 6 years after the date of the enactment of this Act, except that the provisions of such subchapter shall continue to apply after the date of the repeal with respect to then pending negotiated rulemaking proceedings initiated before the date of repeal which, in the judgment of the agencies which are convening or have convened such proceedings, require such continuation, until such negotiated rulemaking proceedings terminate pursuant to such subchapter.

Mr. LEVIN. Mr. President, today I am pleased to speak in support of Senate passage of S. 303, the Negotiated Rulemaking Act of 1990.

Negotiated rulemaking is a regulatory reform based upon the concepts of fairness and common sense. In essence, it allows the people who will be required to live by Federal regulations to have a hand in drafting them.

In a negotiated rulemaking session, the people who will be significantly affected by a proposed rule sit down with the Government, and they jointly draft the regulation. The proposed rule is then published in the Federal Register under normal procedures for notice and comment. Past experience has shown that the benefits from this joint undertaking include regulations which are more effective, more workable, more acceptable to the community, and less costly to implement.

Some agencies have already tried negotiated rulemaking and—like the Environmental Protection Agency and the Transportation Department—have enjoyed significant successes. But many other agencies have not tried the process, at least in part due to confusion over their authority and how to proceed. S. 303 resolves both problems. It provides clear statutory authority for using negotiated rulemaking and, based upon expert advice, provides a step-by-step guide on how to proceed.

The act does not force any agency or any person into using the process. It preserves the voluntary nature of negotiated rulemaking, while providing a stautory framework to maximize the chances for success. The actual procedure laid out in the act does not preclude or curtail any other type of rulemaking procedure or interaction between regulators and the regulated community. Even within the realm of negotiated rulemaking, the act explicitly encourages experimentation and innovation. In sum, it provides a supplement—an additional voluntary option—rather than a replacement for existing rulemaking procedures.

S. 303 first passed the Senate, by unanimous consent, on August 3, 1989. The bill passed the House on May 1, 1990, with several changes. Today, we have a few more changes in amendments offered by my colleagues Senator STEVENS and Senator RUDMAN. These amendments have been cleared by both sides of the aisle, and I understand that they are also acceptable to the House. My hope is that my colleagues will join me in accepting the amendments and in voting for final passage and that the bill will then return to the House where it will be accepted without change and sent to the President.

I extend my thanks to Senators GLENN and ROTH and to Congressmen PEASE, BROOKS, and FRANK who have worked so hard on this bill. I thank them for their efforts and for their attention to this good government bill.

Finally, Mr. President, I want to commend Elise Bean, counsel for the Subcommittee on Oversight of Government Management, which I chair and which reported this bill. Her work on this bill has been superior and, as with every task she undertakes, she has handled this with great intelligence, common sense, and a commitment to good Government.

The way we write Federal regulations is far from perfect, and the regulatory reform instituted by this legislation does not resolve all the problems we face. But the bill does strike a blow for greater openness and participation by the citizens who have to dance to the tune that the Federal Government plays. For this reason, I urge my colleagues to join with me once more in supporting this legislation.

Mr. KERRY. Mr. President, I move that the Senate concur in the House amendments with further amendments which I now send to the desk, en bloc, on behalf of Senators STEVENS and RUDMAN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for Mr. STEVENS proposes an amendment numbered 2931, and for Mr. RUDMAN proposes an amendment numbered 2932, as follows:

AMENDMENT No. 2931

In section 583(b)(1)(A) of title 5, United States Code, as added by section 3(a) of the bill, insert ", including residents of rural areas" before the semicolon.

In section 583(b)(2) of title 5, United States Code, as added by section 3(a) of the bill, insert ", including residents of rural areas" before the period in the second sentence.

In section 583(a)(2) of title 5, United States Code, as added by section 3(a) of the bill, insert before the period "and, as appropriate, in trade or other specialized publications, a copy of which shall be sent to any person who applied for, or nominated another person for membership on the negotiating rulemaking committee to represent such interests with respect to the proposed rule".

AMENDMENT No. 2932

Strike out subsection (d) of section 585 of title 5, United States Code, as added by section 3(a) of the bill.

Mr. STEVENS. Mr. President, the Negotiated Rulemaking Act of 1990 is designed to improve the regulatory process by providing a framework for and encouraging Federal agencies to use negotiated rulemaking when it is appropriate. This bill was before the Senate last year and was recently returned to us from the House with amendments.

The intent of S. 303 is laudable. Those affected by Federal rules and regulations should have the opportunity to participate in the preparation of those rules and regulations. I support that goal. However, I believe that there is an important element missing from the legislation.

Those of us who represent rural States know that most of our citizens are not made aware of Federal regulations until they try to do something which is covered by a rule or regulation. Rural Americans do not have a lobby group looking out for their interests, nor do they have access to a communications network to keep them informed. Negotiated rulemaking could be a significant benefit to rural Americans, but only if they know about a proposed regulation negotiating committee.

My amendment makes three changes to S. 303. First, rural Americans should be specifically considered when agencies discuss the identification of persons who will be significantly affected by a proposed rule and who should be included in a regulation negotiating committee. The inclusion of this language will require that all agencies contemplating the use of a regulation negotiating committee review the effect of the proposed rule on residents in rural areas in particular.

One of the House additions to this bill requires agencies to publish notices of proposed regulation negotiating committees in trade and speciality journals in addition to the Federal Register. This is an excellent suggestion but it should be taken one step farther. My second modification of S. 303 would require agencies to also publish in trade and speciality journals subsequent decisions not to proceed with a regulation negotiating committee.

S. 303 provides that groups or individuals may apply for membership of a regulation negotiating committee, or nominate another person for membership. My third addition is to require that agencies also notify these people of their decision not to proceed with a regulation negotiating committee.

I am very pleased that the sponsors of this bill have agreed to my amendment. With the protections for rural Americans and the expanded communication requirements as outlined, the Negotiated Rulemaking Act of 1990 is a major step forward for all of our citizens.

Mr. RUDMAN. Mr. President, I rise to offer a simple amendment relating to the participation of legal services recipients in negotiated rulemaking proceedings. The House bill contained a provision that specifically permits recipients of Legal Services Corporation funds to participate in negotiated rulemaking proceedings on behalf of an eligible client. This amendment would delete this provision because it is unnecessary and the language could become a potential source of confusion. I urge the Senate to adopt this amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 1014, 1015, 1036, 1037, 1038, and 1039; I further ask unanimous consent that the nominees be considered and confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

I further state for the record that the nominees from Calendar Nos. 1036 through 1039 have made a commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Steven B. Kelmar, of Pennsylvania, to be an Assistant Secretary of Health and Human Services.

DEPARTMENT OF THE TREASURY

Jerome H. Powell, of New York, to be an Assistant Secretary of the Treasury.

DEPARTMENT OF COMMERCE

Craig R. Helsing, of the District of Columbia, to be an Assistant Secretary of Commerce.

FEDERAL MARITIME COMMISSION

Christopher L. Koch, of Virginia, to be a Federal Maritime Commissioner for a term expiring June 30, 1995.

INTERSTATE COMMERCE COMMISSION

Gail C. McDonald, of Oklahoma, to be a member of the Interstate Commerce Commission for a term expiring December 31, 1994.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rear Adm. (lower half) Sigmund R. Petersen for appointment to the grade of rear admiral, while serving in a position of importance and responsibility as Director, Office of NOAA Corps Operations, National Oceanic and Atmospheric Administration, under the provisions of title 33, United States Code, section 853u.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

CONGRATULATING CYPRUS ON THE 30TH ANNIVERSARY OF THEIR INDEPENDENCE

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 824, Senate resolution 324, a resolution congratulating the people of Cyprus on the 30th anniversary of independence.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 324) congratulating President 30th Vassiliou, the government and the people of Cyprus on the 30th anniverary of their independence.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. PELL. Mr. President, today, on the 30th anniversary of the establishment of the Republic of Cyprus, it is appropriate that the Senate congratulate President Vassiliou, the government, and the people of Cyprus.

The resolution we are considering today was reported unanimously from the Committee on Foreign Relations with the active support of Senators BIDEN, SARBANES, DODD, KERRY, SIMON, SANFORD, KENNEDY, HELMS, LUGAR, AND PRESSLER.

The civilization of Cyprus dates back to the seventh millenium B.C. Because of its strategic location among the civilization of classic antiquity, Cyprus has had many masters. In relatively recent times, the Ottoman Empire ruled Cyprus for three centuries, relinquishing control but not sovereignty to Great Britain in 1878. In 1914, the island was formally annexed by the British, who made it a crown colony in 1925. In the context of the post World War II trend toward decolonization, and in light of increasing opposition to British colonial administration, Britain prepared to relinquish control. At the United Nations, Greek Cypriot leaders, with the backing of Greece, argued the case for enosis, or union with Greece. Turkish Cypriots, with Turkish support, argued for partition of the island. In 1959, Greece, Turkey, and the United Kingdom worked out a compromise arrangement for an independent Cyprus which precluded either partition or enosis. A complex constitution provided intricate formulae for power sharing in all branches of the government, with a series of measures to protect Turkish Cypriot minority rights. In 1960, Cyprus become an independent republic.

The inherent difficulties of the early years of any new nation were exacerbated on Cyprus by continuing strife between the two communities on Cyprus. Then, in 1974, after just 14 years of independence, the Turkish invasion and military occupation, which continues to this day, left some 200,000 Cypriots homeless in their own land.

Mr. President, the people of Cyprus have endured many, many years of crippling ethnic and political turmoil. Despite the extraordinary efforts of President Vassiliou and United Nations Secretary General Javier Pérez de Cuéllar to bring democracy and justice to the people of Cyprus, a just solution to the Cyprus problem remains elusive. While it is important that we recognize this 30th anniversary of independence, it is far more important that we redouble our efforts to assure that the United States takes every opportunity to press for a unified, democratic Cyprus.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 324

Whereas on October 1, 1990, the Republic of Cyprus will mark the thirtieth anniversary of its independence; and

Whereas the United States strongly supports the resumption of meaningful United Nations-sponsored talks aimed at reaching a just and lasting solution to the Cyprus problem in accordance with relevant United Nations resolutions and decisions: Now, therefore, be it

Resolved, That—

the Senate hereby congratulates President Vassiliou, the government, and the people of Cyprus on the thirtieth anniversary of independence; and

it is the sense of the Senate that the United States continue its strong support of the U.N. Secretary General in his efforts to resolve the Cyprus problem.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, the House just a short time ago began consideration of a rule relating to the pending budget resolution. If the House completes action favorably on that matter this evening, it is likely not to occur until around midnight. We do not know yet what the outcome will be and we will not know that for some time.

That being the case, I have decided, after consultation with the distinguished Republican leader, that there is no point in the Senate remaining in session to await that action because under the circumstances the earliest the Senate could begin consideration of that matter would be sometime well after midnight, into the early morning hours of tomorrow.

Since there are 10 hours of debate permitted on the measure, it is conceivable that we would have to proceed through the night, and I do not see any useful purpose to be served in asking Senators to return from their homes in the middle of the night to debate all night and vote tomorrow morning.

Accordingly, I am momentarily going to ask that the Senate stand in recess until 9 a.m. tomorrow. By that time we will know what action has occurred in the House and will be able to judge what our course of action will be at that time with respect to the budget, the continuing resolution, and the debt limit, all of which we hope to act on prior to their expiration at midnight tomorrow night.

In addition, I have discussed with the distinguished Republican leader the pending measure, the money laundering bill, and it is our hope that this matter can be resolved tomorrow morning. We will continue our efforts in that direction tomorrow morning. If we are not able to reach agreement on how to proceed, we will have an announcement as to what the next step and our course of action will be at that time.

Accordingly, Senators should be aware that we will come in at 9'clock in the morning. I am not yet able to say precisely what business will be before the Senate at that time because

we do not know what action will be taken.

The motion to proceed to the money laundering bill will be the pending business, and I hope to resolve that early tomorrow. Beyond that, with respect to the budget resolution, the continuing resolution, and the debt limit, until the House completes action on those matters this evening one way or the other, we will not know what we will do in that regard tomorrow in the Senate. We will obviously have an announcement early tomorrow morning.

Accordingly, Mr. President, there will be no further votes this evening. Senators are free to leave.

I have a brief statement that I wish to make on a matter of considerable importance to our Nation, following which I will seek consent to recess until tomorrow morning.

STATUS OF THE NATION'S CHILDREN

Mr. MITCHELL. Mr. President, last weekend an historic event took place in New York City. Leaders from over 70 nations gathered at the first World Summit on Children. The leaders signed a declaration on children and pledged support for the Convention on the Rights of the Child.

While the United States participated in the summit, President Bush did not sign the declaration nor the convention. I think it is time that the Senate receives this treaty and determines the manner in which the United States may pledge its support for children—not only in America, but throughout the world.

Children are the future of this Nation. But the status of children in America today is lacking.

The Census Bureau reported last week that 12 million of the 31.5 million Americans living in poverty are children. This means that nearly 40 percent of those living in poverty are children.

For one of the richest nations in the world, it is a disgrace that one in five American children live in poverty.

We have some of the world's finest doctors and yet the United States ranks 19th among industrialized nations for infant mortality. And, more than 20 percent of all children have no health insurance.

Surveys have found child abuse and neglect increasing at an alarming rate. And, it seems as if every week there is an article in the New York Times describing children caught in gunfire near their homes.

Several weeks ago mothers met in my office to discuss children who had died or were severely and permanently injured in unregulated child care facilities. Yet the debate about whether or not there should be improvements in child care facilities and family day care homes still lingers before a conference committee.

Families with children are a fast growing group among the homeless. Yet the debate about the need for funds for low-income housing and homeless assistance continues.

Education is an issue with which all families are concerned. Studies have shown that young children who receive a preschool experience fare much better throughout their elementary and secondary school years.

For poor children, this has meant that they are more likely to perform at grade level, more likely to graduate from high school, more likely to aspire to a college education, and less likely to engage in drugs.

Yet Head Start, the Federal Government's major program for children younger than school age, reaches only 20 percent of eligible children.

Too many students are dropping out of high school today. And, the achievements of those who are preparing to graduate are too low. Studies have found that for 8th graders in 20 countries, Americans ranked 10th in arithmetic, 12th in algebra, 16th in geometry, and 18th in measurements.

The achievement of college-bound seniors is no better. For college-bound high school seniors in 13 countries, American students ranked 9th in physics, 11th in chemistry, and last in biology.

The National Commission on Children, chaired by my colleague Senator ROCKEFELLER of West Virginia, issued its interim report in April. While the final report is due to be released next year, the interim report found that "America is failing its children."

I look forward to reviewing the recommendations contained in the final report. Strengthening Federal efforts to address the needs of children will strengthen American families and the Nation as well.

While this year Congress will enact a number of pending measures to assist families with children, I intend to designate children's issues among the Senate's highest priorities of the 102d session of Congress.

Mr. LEAHY. Mr. President, I will be brief. I know, not only the Members but the hard-working staff want to break from what has been a very long day.

I wish to commend the distinguished Senator from Maine [Mr. MITCHELL], our majority leader, for his statement. It is a matter, I know, of great concern to the Senator from Maine, as it is to me, again, that in the wealthiest, most powerful nation on Earth, we have this type of poverty among our children. One out of five children go hungry. We do not have the adequate food and food programs to feed those children. We point to the rest of the world and say, "Here is what you should do." That is what we should do here. I can assure him that I will join with him, as I have before, on issues of this nature, because after all, our country ultimately will be judged on what we do with our children in the next generation. It is not a political issue, a partisan issue, or an economic issue. It is truly a moral issue.

I yield the floor.

Mr. MITCHELL. Mr. President, I thank the distinguished Senator from Vermont, the chairman of the Agriculture Committee, who has been a leader in the effort to provide for child nutrition in this country and to combat the scourge of hunger throughout the world. I am especially grateful for his comments, in light of his experience and record in this important area.

RECESS UNTIL 9 A.M. TOMORROW

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate stand in recess until 9 a.m. on Friday, October 5; that following the prayer, the Journal of the proceedings be approved to date; that following the time for the two leaders, there be a period for morning business not to extend beyond 9:30 a.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 9:23 p.m. recessed until Friday, October 5, 1990, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 4, 1990:

ALASKA NATURAL GAS TRANSPORTATION SYSTEM

MICHAEL JOSEPH BAYER, OF OHIO, TO BE FEDERAL INSPECTOR OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM, VICE THEODORE J. GARRISH, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 4, 1990:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

STEVEN B. KELMAR, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF THE TREASURY

JEROME H. POWELL, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DEPARTMENT OF COMMERCE

CRAIG R. HELSING, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

FEDERAL MARITIME COMMISSION

CHRISTOPHER L. KOCH, OF VIRGINIA, TO BE A FEDERAL MARITIME COMMISSIONER FOR A TERM EXPIRING JUNE 30, 1995.

INTERSTATE COMMERCE COMMISSION

GAIL C. MCDONALD, OF OKLAHOMA, TO BE A MEMBER OF THE INTERSTATE COMMERCE COMMISSION FOR A TERM EXPIRING DECEMBER 31, 1994.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

REAR ADM. (LOWER HALF) SIGMUND R. PETERSEN FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL, WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY AS DIRECTOR, OFFICE OF NOAA CORPS OPERATIONS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNDER THE PROVISIONS OF TITLE 33, UNITED STATES CODE, SECTION 853U.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, October 4, 1990*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. BONIOR].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 4, 1990.

I hereby designate the Honorable DAVID E. BONIOR to act as Speaker pro tempore on today.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

Dr. Tom Garrison, Brainerd Church of Christ, Chattanooga, TN, offered the following prayer:

O Lord our God, before whom all pretenses fall away. We seek Your guidance and Your blessings.

We pray for the President of the United States, members of the Cabinet, the Representatives of the people, the judges of the land, and all those in authority, that it may please You so to rule their hearts that they may rightly use the trust committed to them for the good of all people.

We offer a special request for our men and women in the Persian Gulf. It is our prayer that peace may prevail. Thank You for the men and women committed to our country and preserving our Nation of freedom. Bless them and give them safety.

Love us and guide us in Jesus' name, Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. INHOFE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. INHOFE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 293, nays 121, not voting 19, as follows:

[Roll No. 411]

YEAS—293

Ackerman	Espy	Lipinski
Alexander	Evans	Livingston
Anderson	Fascell	Lloyd
Andrews	Fazio	Long
Annunzio	Feighan	Lowey (NY)
Applegate	Fish	Luken, Thomas
Archer	Flake	Manton
Aspin	Flippo	Markey
AuCoin	Foglietta	Martinez
Barnard	Ford (TN)	Matsui
Bartlett	Frank	Mavroules
Bateman	Frost	Mazzoli
Bates	Gejdenson	McCloskey
Beilenson	Gephardt	McCollum
Bennett	Geren	McCurdy
Berman	Gibbons	McDermott
Bevill	Gillmor	McEwen
Bilbray	Glickman	McHugh
Boggs	Gonzalez	McMillen (MD)
Bonior	Gordon	McNulty
Borski	Gradison	Mfume
Bosco	Grant	Mineta
Boucher	Gray	Mink
Boxer	Green	Moakley
Brennan	Guarini	Montgomery
Brooks	Gunderson	Moody
Broomfield	Hall (TX)	Morella
Browder	Hamilton	Morrison (WA)
Brown (CA)	Harris	Mrazek
Bruce	Hatcher	Murtha
Bryant	Hawkins	Myers
Bustamante	Hayes (IL)	Nagle
Byron	Hayes (LA)	Natcher
Campbell (CO)	Hefner	Neal (MA)
Cardin	Hertel	Neal (NC)
Carper	Hoagland	Nelson
Carr	Hochbrueckner	Nielson
Chapman	Horton	Nowak
Clarke	Houghton	Oakar
Clement	Hoyer	Oberstar
Clinger	Hubbard	Obey
Coleman (TX)	Huckaby	Olin
Collins	Hughes	Ortiz
Combest	Hutto	Owens (NY)
Condit	Hyde	Owens (UT)
Conte	Jenkins	Oxley
Conyers	Johnson (CT)	Pallone
Cooper	Johnson (SD)	Panetta
Costello	Johnston	Parker
Cox	Jones (GA)	Patterson
Coyne	Jones (NC)	Payne (NJ)
Darden	Jontz	Payne (VA)
Davis	Kanjorski	Pease
DeFazio	Kaptur	Pelosi
Derrick	Kasich	Penny
Dicks	Kastenmeier	Perkins
Dingell	Kennedy	Petri
Dixon	Kennelly	Pickett
Donnelly	Kildee	Pickle
Dorgan (ND)	Kleczka	Porter
Downey	Kolter	Poshard
Dreier	Kostmayer	Price
Durbin	LaFalce	Pursell
Dwyer	Lancaster	Quillen
Dymally	Lantos	Rahall
Dyson	Laughlin	Rangel
Early	Leath (TX)	Ravenel
Eckart	Lehman (CA)	Ray
Edwards (CA)	Lehman (FL)	Richardson
Emerson	Lent	Rinaldo
Engel	Levin (MI)	Ritter
English	Levine (CA)	Robinson
Erdreich	Lewis (GA)	Roe
Rose	Skelton	Torricelli
Rostenkowski	Slattery	Towns
Roth	Slaughter (NY)	Traficant
Rowland (GA)	Slaughter (VA)	Traxler
Roybal	Smith (FL)	Unsoeld
Russo	Smith (IA)	Valentine
Sabo	Smith (NE)	Vander Jagt
Saiki	Smith (NJ)	Vento
Sangmeister	Snowe	Visclosky
Sarpalius	Solarz	Volkmer
Savage	Spratt	Walgren
Sawyer	Staggers	Washington
Scheuer	Stallings	Watkins
Schiff	Stark	Waxman
Schneider	Stenholm	Weiss
Schulze	Stokes	Wheat
Schumer	Studds	Whitten
Serrano	Swift	Williams
Sharp	Synar	Wise
Shaw	Tallon	Wolpe
Shumway	Tanner	Wyden
Shuster	Tauzin	Wylie
Sisisky	Taylor	Yates
Skaggs	Thomas (GA)	Yatron
Skeen	Torres	

NAYS—121

Armey	Henry	Ridge
Baker	Herger	Roberts
Ballenger	Hiler	Rogers
Barton	Holloway	Rohrabacher
Bentley	Hopkins	Ros-Lehtinen
Bereuter	Hunter	Roukema
Bilirakis	Inhofe	Saxton
Bliley	Ireland	Schaefer
Boehlert	Jacobs	Schroeder
Brown (CO)	James	Schuette
Buechner	Kolbe	Sensenbrenner
Bunning	Kyl	Shays
Burton	Lagomarsino	Sikorski
Campbell (CA)	Leach (IA)	Smith (TX)
Chandler	Lewis (CA)	Smith (VT)
Clay	Lewis (FL)	Smith, Denny (OR)
Coble	Lightfoot	Smith, Robert (NH)
Coleman (MO)	Lowery (CA)	Smith, Robert (OR)
Coughlin	Lukens, Donald	Solomon
Courter	Machtley	Spence
Craig	Madigan	Stangeland
Crane	Marlenee	Stearns
Dannemeyer	Martin (IL)	Stump
DeLay	Martin (NY)	Sundquist
DeWine	McCandless	Tauke
Dickinson	McCrery	Thomas (CA)
Douglas	McGrath	Thomas (WY)
Duncan	McMillan (NC)	Upton
Edwards (OK)	Meyers	Vucanovich
Fawell	Michel	Walker
Fields	Miller (CA)	Walsh
Gallegly	Miller (OH)	Weber
Gallo	Miller (WA)	Weldon
Gekas	Molinari	Whittaker
Gingrich	Moorhead	Wolf
Goss	Murphy	Young (AK)
Grandy	Packard	Young (FL)
Hammerschmidt	Parris	
Hancock	Pashayan	
Hansen	Paxon	
Hastert	Regula	
Hefley	Rhodes	

NOT VOTING—19

Anthony	Ford (MI)	Mollohan
Atkins	Frenzel	Morrison (CT)
Callahan	Gaydos	Rowland (CT)
Crockett	Gilman	Udall
de la Garza	Goodling	Wilson
Dellums	Hall (OH)	
Dornan (CA)	McDade	

□ 1129

Messrs. CONYERS, DREIER of California, and PICKLE changed their vote from "nay" to "yea."

Mr. GIBBONS changed his vote from "present" to "yea."

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, this morning I was unavoidably detained away from the Capitol while at a briefing at the White House. Unfortunately, I was not present to vote on rollcall No. 411, regarding the Speaker's approval of the Journal. Had I been present, I would have voted "yea."

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. BONIOR). Will the gentleman from California [Mr. PACKARD] please lead the House in the Pledge of Allegiance?

Mr. PACKARD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 520. Joint resolution granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 3155. An act to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990, and

S. 3156. An act to correct a clerical error in Public Law 101-383.

The message also announced that the Senate insists upon its amendment to the amendment of the House to the bill (S. 580) "An act to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions," disagreed to by the House and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. PELL, Mr. DODD, Mr. METZENBAUM, Ms. MIKULSKI, Mr. HATCH, Mrs. KASSEBAUM, Mr. THURMOND, and Mr. COCHRAN, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2437) "An act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 830) "An act to amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce at this point that the 1 minutes will be limited to 10 per side.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be permitted to sit tomorrow, Friday, October 5, 1990, during the 5-minute rule in the House.

This request has been cleared by the minority leadership of both the House and the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

WELCOMING GUEST CHAPLAIN DR. TOM GARRISON

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, I would like to thank Dr. Ford for permitting Dr. Tommy Garrison to lead the House of Representatives in prayer this morning. It is a special time for me, as well, because Dr. Garrison is minister of the Brainerd Church of Christ in Chattanooga, TN, where my family and I have worshipped for the past 25 years. Dr. Garrison received his doctorate from Columbia Theological Seminary, and his master's and bachelor's from Alabama Christian School of Religion. He is a native of Tuscaloosa, Alabama. He is married to the former Carole Burke from Pensacola, FL, a veteran of the Air Force. He has been a minister for the last 12 years.

Mr. Speaker, he is a man of great talents, one of the great pulpit ministers, with a unique gift of communication. He is certainly an avid golfer, and one does not have to be around him very much to find out that he is an avid University of Alabama football fan.

DON'T STACK THE DECK AGAINST A FAIR DEBATE ON THE BUDGET

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, do not stack the deck against the fair debate on the budget. This is the most important debate we probably will face in this Congress, and we all know this House is evenly divided. Possibly even there is a majority against the budget.

Yet we are told, sadly, that the supporters insist upon controlling all of the time. One hundred percent of the time, Mr. Speaker. This is fundamentally unfair. The time should be evenly divided.

So, I would implore my colleagues and the leadership in the Budget Committee to reconsider their position. Surely we can respect each other, even though we disagree. Let us at least have a fair debate here. Give the opposition the opportunity to control half the time.

NATIONAL DRUG-FREE SCHOOLS AND COMMUNITIES EDUCATION AWARENESS DAY

(Mr. ERDREICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERDREICH. Mr. Speaker, I rise today to urge passage of my joint resolution (H.J. Res 639) to designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day." This joint resolution expresses the urgency of the drug abuse crisis in this country.

We are all concerned by studies that show 1 out of every 2 high school seniors graduating in 1989 used an illegal drug before graduation. What this says is that we are on the verge of losing an entire generation of our young people to the scourge of drug abuse. We hear stories daily of young people dying of drug overdoses, or murdered in disputes over the buying and selling of drugs. The playgounds and streets of too many of our neighborhoods are becoming open markets for drug dealers to sell their wares.

The horrors of addiction are affecting growing numbers of the most vulnerable members of our society: the newborn. Our hospitals have become inundated with babies born addicted

to cocaine. As our children go, so goes our Nation. We must put forth a concerted effort to stop the spread of drug abuse throughout the Nation.

Mr. Speaker, this resolution recognizes that the problem of drug abuse is not the province of one geographic area or of one particular group. The drug menace is affecting all parts of our country, from the urban core to the Nation's heartland. Almost all of our communities are experiencing the effects of drug abuse. If we delude ourselves into thinking that drug abuse is someone else's problem, then we all are doomed in our efforts to fight it.

Education must play a key role in our commitment to combat drug abuse. We must devise programs that raise the awareness of our young people to the dangers of drugs. The message of living a drug-free life should be instilled in our children at every step of the education process. We must make them aware that the decision to live drug free is not only a healthy choice but a moral one as well; a choice that will open the door for them to achieve any goal they pursue.

Finally, this resolution recognizes the importance of uniting all members of the community in combatting the problem of drug abuse. Each day ther are thousands of people in our communities who are on the front line, fighting to create drug-free zones in their homes, schools, and neighborhoods. They should not struggle alone. It is imperative that we muster the resources of our governmental and community based social service organizations, churches, schools, medical community, and families in this important fight for the future of our children and our Nation.

The goal of achieving drug-free schools, communities, Nation and lives is attainable. But only through the combined efforts of each and everyone of us can the battle against drugs be won.

Mr. Speaker, I urge my colleagues to join me in supporting this resolution.

DO NOT ASSIST IN THE LEBANONIZATION OF AMERICA

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, I do not like this budget package. It stinks. There is something bad in it for everybody.

However, Mr. Speaker, I did not write it, and neither did President Bush. It was a settlement between adversaries, and, while no one likes it, I have decided that it beats the heck out of any alternatives we are liable to get back should this package go down.

Mr. Speaker, the President is doing a superb job in foreign policy. Communism is collapsing. Saddam Hussein has been stopped. We have got agreements on arms control and reduction with the Soviets.

For us Republicans, we owe it to our President to listen to his fears. There could be recession, inflation, and rampant unemployment if this package fails.

I was elected to act in what I believe to be is in the best interests of my constituents and the Nation and choose between the options available to me, as bad as they may be. I was not elected to assist in the Lebanonization of America, and so I intend to vote for this budget package.

LOUISVILLE PROGRAM TO IMPROVE EDUCATION AND EMPLOYMENT RANKED FIRST IN NATION

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, this Chamber is swirling with a lot of bad news concerning sequesters, and deficits, and Government, which may come to a shutdown. Let me give my colleagues a little relief with some good news.

Mr. Speaker, I would like to announce that the Louisville Education and Employment Partnership has been adjudged to run the best education and employment program in the entire Nation by the National Alliance for Business. Kentucky, as a State, was recognized as the outstanding State of the year and as a leader of the Nation for passing educational reform legislation and for creating a cabinet at the State level for work force development. The Louisville program is recognized as a leader, therefore, in educating and giving employment opportunities to disadvantaged high school students. The Louisville program is a joint venture of the city of Louisville, the County of Jefferson, the Private Industry Council, the Louisville Chamber of Commerce and private industries and Metro United Way.

Governor Wilkinson said yesterday, correctly, that employment opportunities begin with prenatal care and go through the workplace.

I salute the State and the city on a job well done.

MESSAGE TO THE PRESIDENT

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, we often receive in this body a message from the President. I would like to send a message to the President.

Mr. President, if you don't have the courage to stand up to the environmental activists, don't ask me to peddle your budget plan.

Mr. President, if you won't lift your moratorium on offshore oil and gas development to take advantage of $20 billion in revenue, don't ask me to take $13 billion out of the hide of agricultural producers.

Mr. President, if you won't drill the Rocky Mountain front, or the Arcitic Wildlife Refuge, for $3 billion in additional revenue, don't ask me to take it out of Medicare.

And by the way, Mr. President, with EPA Administrator Reilly calling Members and advocating this as an environmental vote, it indicates that dancing to the tune of the environmentalists is more important than oil and gas prices, more important than budgets and inflation. If you don't believe me, ask Bob Grady of OMB, the farm bill wrecker.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DURBIN). The Chair would remind all Members not to direct their remarks to the President of the United States.

THE SILENT MAJORITY STILL EXISTS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, even though the census did not count them, the silent majority still exists, and they have been calling our offices, and they are saying, "Vote no on this budget."

It was bad before the President's speech, and it is just as bad now. In fact, they are saying they want Congress to straighten out the priorities. They would like us to hold Pentagon spending, cut foreign aid, send a bill instead of cash to Japan and Germany, and raise some taxes on the guys who ripped off the savings and loans and the banks, and sort of take it easy on mom and dad.

Mr. Speaker, I say to my colleagues, "You know what? I like that, and, if Democrats are listening, America is asking for a true Democratic budget, and we should give them one."

□ 1140

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would tell our guests that it is improper under the House rules to have any demonstrations in the House gallery.

ALL THE WAY IN 1990 WITH THE BOSTON RED SOX

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, I rise today in praise of a baseball team. Last night, the Boston Red Sox, our Boston Red Sox, completed the first leg of their drive to a world championship. One week ago the cynics, the mopes, and the pessimists had them down and out.

But our boys faced down the Toronto Blue Jays and the Chicago White Sox and brought the title back home to Fenway.

You know, those same cynics are at it again. They say the Red Sox doesn't have the experience.

They remind us that Oakland has won the pennant 3 years in a row. On and on it goes. Well, that is exactly what they said in 1975. And some of us recall what happened that year, when the A's came to Fenway for the playoffs.

Remember it? Sweep, Mr. Speaker, sweep!

The same four teams—the Sox, the A's, the Pirates, and the Reds—are back again this year. And Mr. Speaker, this year the Sox are a team possessed.

On Rocket, on Dwight, on Bruno, on Pena, on Reed. The Sox are going all the way.

PENDING INTRODUCTION OF AN ALTERNATIVE BUDGET PACKAGE

(Mr. OBEY asked and was given permission to address the House for 1 minute.)

Mr. OBEY. Mr. Speaker, the White House won its fight to protect the very richest of all Americans from paying their fair share of the taxes, and the result is the budget summit agreement on tax burdens which we are asked to vote on this week. That package hits middle class taxpayers twice as hard as it hits the taxpayer making more than $200,000 a year.

The gentleman from North Dakota [Mr. DORGAN] and I will offer an alternative, which we are introducing at noon, which would spend less, tax less, and borrow less. The amendment which we will introduce would spend less, tax less, and borrow less than the budget summit. It would move $30 million out of the military budget into Medicare. It would move the tax burden in a major way from people making $20,000–$50,000 a year onto those making more than $200,000 a year.

Mr. Speaker, this represents what we think is elemental justice. If Members are interested in cosponsoring it, please call either of our offices before noon.

WEALTHY TAXPAYERS WOULD GET SPECIAL BENEFITS IN PROPOSED BUDGET PACKAGE

(Mr. MOODY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, I would like to comment briefly on why some Democrats find it hard to swallow this package. It is not, as the previous speaker said, that there are some taxes in there, because even President Bush recognizes that there must be some taxes. We simply cannot get those kinds of huge deficit reduction numbers out of the spending side of the budget without eviscerating or destroying essential services.

But whose taxes go up in this package? The fact of the matter is that the wealthy of this Nation, those that have enjoyed tremendous tax cuts—and I did not hear any complaint about that from the previous speaker—over the last decade, those folks, the folks who make over $400,000 a year, get off scot-free. There are no taxes in there for them. In fact, they even have some tax benefits.

The taxes in this bill hit the middle class twice as hard as those making over $200,000 a year. Those who make over $200,000 pay 1.7 percent. By the table the gentleman himself is disputing, those who make in the middle ranges pay 3.3 percent or virtually double. Also in this package there is a series of tax breaks for people who want to put together syndication specials, so there will be another recreation of the tax shelter industry which we thought we had done away with in 1986.

So, Mr. Speaker, there are very good reasons regarding taxes not to vote for this package. We should go back to the drawing board and come up with a fair and balanced result.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3613

Mr. HERGER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 3613.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CRIME BILL

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, yesterday the House began debate on a very important piece of legislation. The omnibus crime package now under consideration is important to America, because crime is eating away at the fabric of our society.

If we are going to get serious about eliminating crime, then we need to pass a tough bill that will address the tough issues and create tough remedies. The new rule that we adopted yesterday allows us to consider those decisions. We started consideration of the bill yesterday, and we have made progress. Now, however, we will begin to address some of the most difficult issues of this bill. Some of those issues include the scope and effectiveness of the death penalty, savings and loan criminals, and others. I hope that all of my colleagues will carefully review the issues, examine the need, and vote to enact a crime bill that will truly address the crime problem of this Nation.

EXTENDED DEBATE ON BUDGET RAISES DOUBTS ABOUT AMERICAN DEMOCRACY

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, the debate that is going on in the country, in the Oval Office, and here on Capitol Hill this week may be about something far more important than the figures at the bottom of the Federal ledger sheet, about something far more critical than an artificial drop-dead budget date this Friday. Rather, what may be happening in America is the failure of this experiment which is now in its third century as to whether or not a free people who would dare to rule themselves can do it under this system called representative democracy.

It is perhaps this Republic that is beginning to stutter and slowly to fall back toward parliamentary government. That may be what is at issue, whether or not America is moving ever so subtly toward a monarchy. Perhaps what is at question is in our great variety and wealth are we signaling that 535 of us on Capitol Hill and one in the White House cannot cooperate in a way that can keep this ship of state under sail.

Mr. Speaker, it may be that historians will look back at this time and say that in those 4 years, America had to abandon the prescribed constitutional arrangements and in their place have three budget summits in order to manage the Nation's fiscal affairs.

REPUBLICANS ARE NO POPULISTS

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the American people I am sure are tired of the biplay on this budget. They want a government that works. They want lower deficits. They want us to stop this crippling fiscal policy from injuring this country anymore.

The question is not whether we do that. The question is how we do that. There are differences.

On the Republican side of the aisle they want more for defense in an already bloated defense budget, and they want to protect the rich from having to pay their share of the taxes. Then they call it economic populism.

Give us a break! If they are populists, then I am a brain surgeon.

AMERICA CAN SURVIVE SEQUESTRATION

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, this Member from California was active in State government in 1977 and 1978. We adopted at that time proposition 13, which began the tax revolution across this country. We cut the revenue to local government from the property tax by 50 percent approximately.

It was said at the time that civilization would come to a halt in California because of this denial of revenue to government at the local level. But California has prospered immensely since that tax reduction in 1978, I believe for the simple reason that when you lower taxes on people you produce more economic activity. California has enjoyed that in the decade of the 1980's.

This claim is made today that if we have sequestration it will also bring Government to a halt. I say nonsense. If California can survive with a 50-percent reduction of revenue from the property tax, somehow the Federal Government can survive with a 16-percent reduction in the revenue that we spend around this country.

It is time to shrink Government, not the pockets of the American taxpayer.

SUMMITEERS ARE OUT OF TOUCH WITH AMERICA

(Ms. PELOSI asked and was given permission to address the House for 1 minute to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, we have heard a lot about the famous summit agreement on the budget, and I would like to comment on the budgeteers.

The look from my district, Mr. Speaker, is that the people who wrote this budget agreement are severely out of touch. They are out of touch with young families in America, families with small children. When was the last time any member of that summit went to the store and bought a bag of groceries? How many could tell you what the price of ground beef is? When was the last time any member of that summit took his growing child to buy shoes?

That is my complaint about this agreement. While middle and lower income people are affected by the taxes increases, the wealthier Americans are unaffected. The tax increase of $400 for a family of four making a moderate income in this country is regressive. Where are young families going to get the $400?

It is time, Mr. Speaker, for us to burst the tax bubble of wealthy Americans. It is time for us to have a tax policy that is fair. People cannot afford to go out anymore. Now they can barely afford to stay home.

CONGRESS MEETING THE TEST OF ITS RESPONSIBILITIES

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Well, Mr. Speaker, we are nearing the fateful moment when the American people find out whether we have the courage to govern or whether it will be business as usual here in Washington.

For the past 8 years or so, it's been business as usual—no courage to hold down spending, no courage to raise taxes, philosophical gridlock with resulting deficits averaging $250 billion of net new borrowing every year as far as the eye can see.

Our debt has grown $2 trillion in 8 years to $3.1 trillion, drawing off money desperately needed for new domestic investment, pushing up real interest rates and raising interest costs to the third largest budget item, making us so dependent on foreign investment we can't say no, and dragging our economy into stagnation and perhaps even recession.

This wonderful and free system of ours, when the people have chosen a Congress of one party and a Presidency of the other, requires compromise to function. The leaders of our two parties have worked for 5 months to find that compromise.

They have produced an agreement, one that, though far from perfect and walking on each of our philosophies, asks contribution from every American to bring this terrible problem under control.

Now we are tested, Mr. Speaker, not to say what we won't do, not to make the easy throwaway votes, but to affirm our positive commitment to the future of our country.

We were not sent here simply to express our philosophies. We were not sent here to mirror opinion polls or to serve special interests. We were sent to govern, to take responsibility for the bottom line. Now is the time when we find out who can meet the test.

NO WOMEN SUMMITEERS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, of late there has been a huge furor because they have allowed women into the locker room. Well, let me tell you, on the budget I do not think there would have been such a furor had they allowed women into the summit.

The gentleman from California and many others this morning pointed out how very, very clearly this budget leaves out families, leaves out the middle class, forgets children in this week where we had the World Summit on Children.

All I can say is I would hope that this body would be as progressive as others, and we ought to let women into the summit, especially if they can get into the locker room.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Under the previous announcement of the Chair, that concludes the 1 minutes from the Democratic side.

THE BUDGET SUMMIT AGREEMENT

(Mr. GRANDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRANDY. Mr. Speaker, I, like hopefully a majority of colleagues in this body, will support the bipartisan agreement on the budget. But I want everybody to know that in so doing I am breaking the no tax pledge. It has been in the papers; it is not news to anybody. And I also broke the pledge not to support any continuing resolution. I have done that. I have done that happily.

Not as a defense of my hyprocrisy, but maybe as an explanation, I would merely say, and I would quote Lennon—John, not Vladmir—that life is what is happening while you are making other plans.

When most of us signed that pledge, we were completely unaware of what would happen with Operation Desert Shield. When most of us signed that pledge, we though Hussein was the King of Jordan. When most of us signed that pledge, we though the S&L bailout would cost $50 billion, and none of us had been through 8 months of excruciating deadlines resulting in the Democrats thinking the Republicans won and the Republicans thinking the Democrats won.

But I am also reminded of another pledge that we take in this body, which is to defend the Constitution of

the United States against enemies, foreign and domestic, and there is not a bigger domestic enemy in this country than the deficit, which we are so blithely willing to override if we defeat this package.

If that happens, Mr. Speaker, then I do not care how many pledges you take. The domestic enemy to the United States will be us.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under the previous announcement of the Chair, all the 1-minute speeches on the Republican side will have been concluded after the next one.

SUPPORT GEKAS AMENDMENT TO CRIME BILL

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, very shortly we will be considering the death penalty provisions of the comprehensive crime bill of 1990. The first issue which will confront Members will be whether or not to support the Hughes amendment on the death penalty.

Although it sounds good and looks good, even on paper, and will sound even better I am sure when the gentleman from New Jersey expounds in favor of it, I warn Members, I urgently warn them that the Gekas amendment which follows is the one that allows a jury in the final count to determine whether or not the death penalty ought to be applied to the serious, drastic, tragic murders that appear across the horizon. It is the Gekas amendment following the Hughes amendment that will implement the possibility of the death penalty, which 80 percent of Americans want to be allowed to be imposed on the most brutal killings, and where 67 percent or more feel acts as a deterrent to serious crime.

□ 1200

Help the law enforcement community and defeat the Hughes bill, and accord a "yes" vote for the Gekas amendment.

SUNDRY DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-)

The SPEAKER pro tempore (Mr. MAZZOLI) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of today, Thursday, October 4, 1990.)

COMPREHENSIVE CRIME CONTROL ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 490, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5269.

□ 1200

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5269) to control crime, with Mr. Bosco in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 3, 1990, amendment No. 5, offered by the gentleman from West Virginia [Mr. STAGGERS] had been disposed of.

It is now in order to consider amendment No. 6, printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. HUGHES: Page 52, after the matter following line 11, insert the following:

SEC. 212. MAILBOMBING.

Section 1716 of title 18, United States Code, is amended—

(1) by inserting "(j)" at the beginning of the paragraph immediately following the paragraph designated as paragraph (2) of subsection (i);

(2) by inserting "(k)" at the beginning of the paragraph immediately following the paragraph amended by paragraph (1);

(3) by inserting "(l)" at the beginning of the paragraph immediately following the paragraph amended by paragraph (2); and

(3) by adding at the end the following:

"(m) Whoever in the course of a violation of this section intentionally kills another person shall be subject to the death penalty under chapter 228 of this title.".

SEC. 213. DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end thereof the following:

"(b) Whoever in the course of an offense under section 32 of this title intentionally kills another person shall be subject to the death penalty under chapter 228 of this title.".

SEC. 214. DESTRUCTION OF MOTOR VEHICLES OR MOTOR VEHICLE FACILITIES.

Section 33 of title 18, United States Code, is amended by adding at the end the following:

"Whoever in the course of a violation of this section intentionally kills any person shall be subject to the penalty of death under chapter 228 of this title.".

SEC. 215. TRANSPORTING EXPLOSIVES.

Section 844 of title 18, United States Code, is amended—

(1) in each of subsections (d), (f), and (i)—

(A) by striking "if death results to" and inserting "if the defendant intentionally kills"; and

(B) by striking "as provided in section 34" and inserting "under chapter 228".

SEC. 216. MURDER.

(a) IN GENERAL.—Section 1111 of title 18, United States Code, is amended by striking "suffer death" and all that follows through "imprisonment for life" and inserting "be subject to the death penalty under chapter 228 of this title if the killing was intentional, and shall be imprisoned for life in any other case".

(b) INDIAN COUNTRY.—Section 1152 of title 18, United States Code, is amended—

(1) by inserting "(a)" at the beginning of the first paragraph;

(2) by inserting "(b)" at the beginning of the second paragraph; and

(3) by adding at the end the following:

"(c) A person subject to the criminal jurisdiction of an Indian tribal government is not subject to the death penalty solely by reason of this chapter for an offense within the boundaries of the Indian country, unless the governing body of the tribe has made an election to have this chapter so apply.".

SEC. 217. MURDER BY FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§ 1118. Murder by a Federal prisoner.

"(a) Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, intentionally murders another shall be subject to the death penalty under chapter 228 of this title.

"(b) For the purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least 15 years and a maximum of life, or an unexecuted sentence of death.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1118. Murder by a Federal prisoner.".

SEC. 218. VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Section 1959 of title 18, United States Code, is amended—

(1) by inserting after subsection (a) the following:

"(b) Whoever violates this section by intentionally killing an individual shall be subject to the death penalty under chapter 228 of this title."; and

(2) by redesignating subsection (b) as subsection (c).

SEC. 219. TRAINWRECKING.

Section 1992 of title 18, United States Code, is amended by striking the penultimate paragraph and inserting the following:

"Whoever, in the course of an offense under this section, intentionally kills any individual shall be subject to the death penalty under chapter 228 of this title.".

SEC. 220. BANK ROBBERY AND INCIDENTAL CRIMES.

Section 2113(e) of title 18, United States Code, is amended—

(1) by striking ",or punished by death if the verdict of the jury shall so direct"; and

(2) by adding at the end "Whoever, in committing or in attempting to commit any offense under subsection (a) or (b) of this section, intentionally kills any individual shall be subject to the death penalty under chapter 228 of this title.".

SEC. 221. GENOCIDE.

Section 1091 of title 18, United States Code, is amended by adding at the end the following:

"(f) DEATH PENALTY.—Whoever, in the course of a violation of this section, intentionally kills any individual shall be subject to the death penalty under chapter 228 of this title.".

Page 30, beginning in line 8, strike "intentionally" and all that follows through "judge" in line 24 and insert "an intentional killing".

Page, 45, strike line 11 and all that follows through line 22 and insert the following:

"(c) AGGRAVATING FACTORS.—A finding with respect to any aggravating factor must be unanimous. Unless an aggravating factor is found to exist under this chapter—

"(1) in the case of a treason or espionage offense, which is specifically listed in section 3594 as an aggravating factor for treason and espionage; and

"(2) in any other case, which is listed specifically in section 3594 as an aggravating factor for homicide;

the court shall impose a sentence other than death authorized by law.

Page 46, line 19, strike "2" and insert "one".

Page 46, line 22, insert "factor or" before "factors".

Page 46, line 25, insert "factor or" before "factors".

Page 47, lines 1 and 6, insert "factor or" before "factors".

Page 48, line 10, insert "factor or" before "factors".

Page 50, beginning in line 18, strike "not be affirmed" and insert "be affirmed if the court finds that a remaining aggravating factor is one required under section 3595(c) and that the remaining aggravating factor or factors substantially outweigh any mitigating factors found to exist.".

Page 45, beginning in line 6, strike ", and if any member" and all that follows through "evidence" in line 7 and insert ". Such finding may be made if it is supported by a preponderance of the evidence. If any member of the jury finds the existence of a mitigating factor,".

Page 38, line 11, strike "any" and insert "a preponderance of the".

Page 43, after line 12, insert the following:

"(14) DEATH OF THE PRESIDENT.—The defendant, in the course of the offense or in escaping apprehension, created a risk of injury to the national security by causing the death of the President.

Page 37, beginning in line 19, strike "'(other than" and all that follows through "first phase of the trial)".

Page 237, strike line 22 and all that follows through line 13 on page 238 (section 2212).

The CHAIRMAN. Under the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

PARLIAMENTARY INQUIRY

Mr. GEKAS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GEKAS. There is a bit of confusion reigning in my mind, if nowhere else, as to whether or not under previous instructions and rules of this type as to whether or not the Hughes-Gekas amendment are in the posture of king of the hill. Specifically, I would ask the Chair to let me know, at this juncture, is it so that if both pass, that the latter one, the Gekas amendment, would prevail?

The CHAIRMAN. The Chair will advise the gentleman momentarily, as the Chair must now be advised on this and review both amendments.

The Chair would advise the gentleman from Pennsylvania [Mr. GEKAS] as soon as the Chair has examined the two amendments.

Mr. GEKAS. I thank the Chair.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is very straightforward. It will strengthen what is already a tough but a well crafted and constitutionally sound death penalty title. It adds 12 more substantive offenses to the list of the some 12 death penalty crimes already in H.R. 5269 and expands another. It makes needed modifications in death penalty procedures and strikes section 2212 relating to appeals in death penalty cases.

The net effect of adopting this amendment is that H.R. 5269 will contain all of the substantive offenses present in the Gekas amendment; that is, there are not capital offenses in Gekas not found in my title.

Now the Republicans will argue that even if my amendment is passed, that H.R. 5269 still won't reach the sheer number of people who could be facing the death penalty under the Gekas amendment. Well, that happens to be correct—and that also happens to be the reason you should vote against the Gekas amendment.

That one crucial and constitutionally significant difference between our approach and that of the Gekas amendment is that our death penalty for homicide is limited to intentional killings. That is a difference we deliberately selected both on policy and constitutional grounds. The Republicans would impose the death penalty in instances where someone acted solely with reckless disregard, where there was no intent to kill anyone.

Under the Gekas approach, the death penalty would be a sentencing option for a conviction for manslaughter—such as when reckless driving leads to death. That is not how the death penalty should be imposed and I cannot believe that this body would want to be on record for such a policy.

The choice you're facing is this: Do you want to just sound tough on crime or do you want a death penalty that can actually be used by our prosecutors? Because no matter what the Republicans may try and argue, the Supreme Court has never approved the death penalty for a conviction involving the kind of minimal level of criminal culpability envisioned by the Gekas amendment.

The gentleman from Pennsylvania knows this. That's why the drug kingpin death penalty that he wrote in 1988, and which we enacted, has the same standard as our bill—an intent to kill.

So you can vote for the Gekas amendment and enact a law of dubious constitutionality, guaranteed to generate years of litigation, create more grounds for appeals and ensure less rather than more certainty. That's what a leading conservative expert—Bruce Fein of the Washington Legal Foundation—predicted would happen under the Republican proposal when he testified before our subcommittee this year. Or you can vote for my amendment and enact the death penalty for the exact offenses as in the Gekas amendment but with sound policy limitations which will ensure that it can be used by our prosecutors. That is the fundamental ethical and policy decision which you will have to make.

Mr. Chairman, there are also several significant changes that my amendment would make concerning procedures. These are the basic rules utilized by a court and jury to determine whether a defendant charged with a capital offense will actually be sentenced to death.

My subcommittee was not assigned responsibility for writing the procedures portion of the death penalty. When I first reviewed the procedures in the bill, I identified a number of the same concerns that our Republican colleagues have since spoken on. My amendment today would make all those corrections.

With the addition of the five modifications in my amendment, these procedures are sound, fair, and workable.

The first of the changes pertain to the number of aggravating factors required to be found before the defendant can qualify for the death sentence. In its present form the bill requires that the jury find two aggravating factors—my amendment would reduce that number to one.

Second, the amendment will raise the standard employed by the jury when it decides whether any mitigating factors exist. At present, the bill allows the jury to find the existence of

a mitigating factor based on any evidence. My amendment would permit the jury to find the existence of a mitigating factor only if that factor is supported by a preponderance of the evidence. Third, my amendment would make a change in the effect of an aggravating factor being overturned on appellate review. Under the bill as reported, the reviewing court must vacate the death sentence and remand the case for resentencing proceedings if the finding of an aggravating factor is reversed for any reason. My amendment would allow the sentence to stand if, after such invalid aggravating factors are struck down, there is at least one remaining valid aggravating factor and that factor substantially outweighs any mitigating factor or factors found to exist.

Fourth, my amendment would add an additional aggravating factor to the statutory list of aggravating factors that the jury may consider when deciding whether to impose the death penalty where the defendant has caused the death of the President of the United States and thereby caused a risk of injury to the national security.

And finally, Mr. Chairman, my amendment would strike the portion of the present procedures that prohibits the government from introducing illegally obtained evidence from the sentencing phase of the trial.

With these five improvements the procedures in the bill will be tough, but, fair and balanced and therefore likely to survive constitutional challenge.

In addition to these improvements in the Federal death penalty provisions, my amendment makes a much needed change in the bill as it regards State death penalties.

The bill as reported contains a provision, section 2212, relating to new landmark decisions of the Supreme Court regarding race discrimination in capital cases. Section 2212 was written with the commendable objective of giving a handful of defendants on death row the chance to have such Supreme Court decisions taken into consideration if it might require the reversal of their death sentences.

However, as it came out of committee, the provision is not so limited. It is written so broadly that every defendant on death row, regardless of his race, could get another review of his case.

It is an amendment which the full Judiciary Committee should not have adopted. My amendment strikes it, and presents an additional reason why you should vote for my amendment, and then reject the Gekas substitute.

Mr. Chairman, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

The CHAIRMAN. The Chair will respond to the parliamentary inquiry just posed.

The Hughes amendments offered en bloc, if adopted, would insert several new sections, sections 212 through 218, into title II, and would make a minor change in title XXII. The Gekas amendment would rewrite all of title II as amended by Hughes and insert a new title.

In effect, the Gekas amendment, if adopted, would replace most of the Hughes amendment en bloc.

Mr. GEKAS. I thank the Chair. That was our suspicion, and we wanted to have it confirmed from the summit itself.

□ 1210

Mr. McCOLLUM. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] is recognized for 10 minutes.

Mr. McCOLLUM. Mr. Chairman, I thank the Chairman for his courtesy in that parliamentary ruling.

I must reluctantly oppose the gentleman from New Jersey on this issue, although he and I have been comrades in many of the criminal justice matters on this floor in the past.

The reason I oppose the amendment, I think the Members ought to understand this very clearly, is that the Hughes amendment on the death penalty laws of this country change existing law. The idea of going to the position where you have to have an intent to kill as an element of every crime before you can receive the death penalty is a change from existing law. Under present law, reckless disregard is satisfactory.

I think it is very important that we not change existing law one bit in this regard and simply restore the constitutionally valid procedures for giving the death penalty.

I think at this time it would be most appropriate for me to yield to the gentleman who is so knowledgeable about the death penalty and is going to offer his own amendment in a few minutes.

Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, there is a clear delineation between what the gentleman from New Jersey now proposes and what you will later have a chance to consider in the Gekas amendment.

I am going to ask the Members, including the gentleman from New Jersey, as to whether or not you think a jury should have the right to determine whether a drive-by killer, one who sprays bullets into a crowd, kills a three-year old child in California indiscriminately, or in New York or in New Jersey, a drive-killer that we read headlines about every day, whether or not that kind of killing should accord a jury of peers to determine whether or not the death penalty ought to be imposed.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. Not as yet. Let me finish. I did not interrupt the gentleman.

Mr. HUGHES. Of course, it is covered.

Mr. GEKAS. If the drive-by killing, which is now a part of the headlines of every newspaper in the country, conforms to the Hughes amendment which has been presented here, the jury would have to be convinced that the killer of the innocent bystanders in such a case, that the killer intended to kill and the court would have to instruct the jury that you cannot find this individual guilty of this offense unless you determine that the drive-by killer, who did not know his victims and who can say, "I didn't intend to kill, I just wanted to make noise. I just wanted to scare people. I just was out on a lark. I didn't intend to kill anybody." Under the Hughes amendment, that jury would not be able to impose the death penalty.

Now, that is all right if you are against the death penalty. That is all right if you feel that a drive-by killer should not be dealt with, but that is a part of our society today in the headlines in every corner of our Nation.

I say to you that the reckless disregard of human life that a drive-by killer perpetrates, that reckless disregard should permit a jury to decide with all aggravating circumstances that might be available, that indeed, the capital punishment portion of our law enforcement should be allowed to take place.

Mr. HUGHES. Mr. Chairman, if the gentleman will yield, it is covered. How can you shoot into a crowd of people with an automatic or semiautomatic and not intend to kill? Who is the gentleman trying to kid?

Mr. GEKAS. It has been shown in the past, unless you adopt the Gekas amendment, there is no way, but that individual will try to determine and confuse a jury and the judge, and the judge will instruct, I warrant you, he will instruct that you cannot find a drive-by killer guilty unless you find that he intentionally killed X, Y, and Z, who happened to be playing on a playground as he drove by and did his dastardly act.

Furthermore, how would you feel as a Member in supporting the Hughes amendment where in a bank robbery three or four hoods in the perpetration of their heinous act shoot down a group of policemen who rushed to the scene to apprehend the bank robber, they shoot indiscriminately into the

crowd of young policemen who have come there to thwart the robbers, and two or three or one or more are killed.

Now, that under the Hughes amendment, I tell you, when it finally comes down to a jury deliberation, the jury is going to have to be instructed by the court to say, under the Hughes amendment—of course, I am paraphrasing, if that were the law—the judge would have to say that in order for you to find any of these bank robbers guilty of a murder, you would have to determine that he intentionally killed one of those guards.

Now, the defense in that kind of case says, "I didn't intend to kill anyone. All I did was try to protect myself. I thought they were trying to kill me," or "I just wanted to scare them off from trying to catch me. Therefore, I didn't intend to kill."

The judge would have to instruct that that kind of defense is warranted under the Hughes amendment.

Under the Gekas amendment, the reckless disregard for life, the inordinate risk of shooting into a crowd of policemen that rush to the scene, would allow a jury to say that kind of recklessness deserves the death penalty in a proper case. That is a significant difference.

What about the terrorists? Are you, the Members of this House, ready to deal with the terrorists who have threatened to be a part of our society and who in many cases are already a part of the scene? A terrorist, under the Hughes amendment, who plants a bomb in a crowded scene, whether it is at a courthouse, whether it is at a Federal installation——

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. McCOLLUM. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. GEKAS. That terrorist, Mr. Chairman, under the Hughes amendment has the defense, "I didn't intend to kill anybody. I wanted to make a political point. I wanted to prove something. The fact that those people died, I didn't intend to kill them."

Do you want that result or do you want the Gekas amendment which would say that the reckless disregard, the tragic consequences of a killing of this type, no matter what the terrorist says about what he intended or intended not to do, killing one or more people, should the jury have the right, our fellow American citizens sitting on a panel on a jury, should they have the right to impose the death penalty in such a case?

The Hughes amendment forbids it. The Gekas amendment permits it, and the Supreme Court of the United States has said that the Gekas amendment—I say egotistically that the Supreme Court has said that the circumstances in the Gekas amendment are proper, in Tyson versus Georgia, and in the State of New Jersey parallels or comes closer to the Gekas amendment than it does the Hughes amendment.

Mr. HUGHES. Mr. Chairman, if the gentleman will yield to me, the gentleman is wrong, he is wrong.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BROOKS], the chairman of the full Judiciary Committee.

Mr. BROOKS. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, the Hughes amendment is a significant improvement to the bill we have before us. It authorizes capital punishment for 12 additional Federal offenses, tightens the bill's provisions on death penalty procedures, and strikes provisions in the bill that would permit prisoners under sentence of death to have one additional review process in the courts.

Crimes that will be newly subject to the death penalty include transporting explosives that result in death, murder by mail bomb, death resulting during a bank robbery, and murder by Federal prisoners under life sentence. In addition, the bill expands the list of those Federal law enforcement officers whose killings will be capital offenses. All of these crimes will be subject to the death penalty only if they were intentionally committed. This is constitutionally sound and fundamentally fair.

Mr. Chairman, the amendment also tightens death penalty procedures to assure that defendants who truly deserve to receive the death penalty do not escape that penalty for procedural reasons.

The amendment, therefore, requires that only one aggravating factor be proven in order to impose the death penalty, instead of two aggravated factors, as is currently in the bill. In addition, the amendment establishes "a preponderance of the evidence" as the burden of proof required before a jury can find a mitigating factor. This is a tougher standard than the "any evidence" requirement currently in the bill. The amendment also revises the appellate review of death sentences contained in the bill by requiring that a more stringent standard be applied.

Mr. Chairman, the amendment also strikes the provision in the bill that permits all prisoners on death row to have one more review in the courts if, after the first review is completed, a prisoner raises a claim that his sentence was imposed because of racial bias.

Mr. Chairman, the Hughes amendment provides well-reasoned and eminently fair, but tough improvements in the bill as reported by the Judiciary Committee, and I urge all Members to vote in favor of it.

□ 1220

Mr. McCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. I appreciate the gentleman yielding.

Mr. Chairman, I appreciate the gentleman from Texas, the chairman of our illustrious committee, and his statement in support of the Hughes amendment. I am certain that the gentleman from Texas would not want to rob the Texan jury in a Federal case, would not want to rob that jury of the right to determine that a drive-by killer should have the death penalty as a possible penalty simply because that drive-by killer would say "I didn't intend to kill anyone. I did shoot into that crowd." I am sure that the gentleman from Texas would not want that drive-by killer to escape the possibility of the death penalty.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the chairman.

Mr. BROOKS. I thank the gentleman for yielding.

Mr. Chairman, to my distinguished friend: in Texas when you point a gun at somebody it generally is an intent to kill him if you have got ammunition in it. If I point a gun at you I have got an intent to kill you because I am not planning to shoot McCollum at that point.

Mr. GEKAS. That is correct. And under the Hughes amendment the court, the judge would have to instruct the jury "If you do not find a specific intent to kill in opposition to what the defendant says 'I didn't intend to kill anyone'" that jury would be forced to find that defendant innocent of that particular crime with respect to the death penalty.

So it comes down to this: intentional killing, "Oh, yes, we want those to be considered by a jury to impose the death penalty. But reckless disregard to human life "which is tantamount, according to the Supreme Court, tantamount to an intent to kill. In Tison versus Arizona it says:

> Similarly, we hold that the reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making a capital sentencing judgment when that conduct causes its natural, though also not inevitable, lethal result.

That, Mr. Chairman, gives you enough to defeat the Hughes amendment and support the Gekas amendment yet to follow.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SMITH], a member of the subcommittee.

Mr. SMITH of Florida. I thank the gentleman for yielding and commend him for this amendment.

Mr. Chairman, my colleague Mr. GEKAS from Pennsylvania is giving you scenarios that do not reflect actual reality. What he is saying is that a jury will never be able to prove intent when sifting through the evidence. That is just not so. What he is attempting to do is remove all of the jury's capability to make a decision on intent. The Hughes amendment allows the jury to decide for itself whether the defendant intended or not to kill the victim.

That is all the Hughes amendment does. That comports better with existing law than what Mr. GEKAS would do in his amendment, No. 1.

No. 2, the Hughes amendment in fact has 12 additional death penalties in it.

No. 3, Mr. GEKAS says that if a bank robber shoots a cop who comes to respond to a bank robbery that the jury could not find intent. That is just not so. In felony murder cases the threshold is crossed almost by proving the felony.

Without question all of those cases that he cited in fact would be death penalty cases under the Hughes amendment and the jury could find so.

I urge you to reject the Gekas approach which is the mindless way, just to try to get more people killed for the purpose of the election on November 6, than the rational approach for death penalty cases by the Hughes amendment.

Mr. MCCOLLUM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, a couple of things have been said that need to be set straight on the RECORD in my judgment.

One of them is that the Hughes amendment adds 12 new death penalties. It does not add 12 new death penalties to current law. It simply restores them from what was taken out of the bill before us. Mr. GEKAS of course keeps current law in all respects.

Second, a vote for the Hughes amendment does change current law on the death penalty. It takes away the "reckless disregard" option and leaves us strictly with an intent to kill. That means in many cases where people have been convicted of transporting explosives, devices or kidnaping or terrorism or whatever, that we will not be able to get convictions because the proof will not be there that they intended to kill a particular individual.

The present law is what we need to keep and simply change the procedures so that there is constitutional validity.

To vote for Hughes is to vote to change the present law in the wrong way, to weaken the death penalty. If you want to keep a strong death penalty, we have got to vote down the Hughes amendment and vote for the Gekas amendment.

So I urge my colleagues to vote no on the Hughes amendment and keep the present conditions in the present parameters of the death penalty laws in this country and keep them sound and solid. Vote no on Hughes.

Mr. HUGHES. Mr. Chairman, I yield 45 seconds to the distinguished gentleman from Ohio [Mr. TRAFICANT], a former sheriff.

Mr. TRAFICANT. Mr. Chairman, Thomas Jefferson said beware of the appointment of Federal judges because they take the Constitution and mold it like clay in their hands.

He said God bless juries.

I support the Hughes amendment because he does not make Congress an executioner. He lets the greatest and most sacred right of our Constitution, trial by peer and juries to make the most important decision of their life, God-given right.

I am going to say one other thing to you: I think it is a sad day here today. We must protect America but we cannot shred the Constitution doing it. If we are going to weaken the most important right in America, take away the right of a jury to make that decision or to weaken it and to strengthen the position of a judge appointed for life, then we will have failed today.

The Hughes amendment is an amendment that preserves the most sacred right we have. When you go into that jury room and that ballot box, that is what separates us from the Soviet Union and all of the rest of these other countries trying to jump on board. I appreciate the efforts of Mr. GEKAS. He is a great American. But I think his amendment goes too far. I am asking everyone to Support the Hughes amendment.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, history is repeating itself. In 1972 the Supreme Court threw out all death penalty cases throughout the country. They have never said that an intent to kill is not required or at least conduct which suggests and intent to kill. My colleague has misread Tison versus Arizona. What he is doing is reversing once again the death penalty in this country. If you want to make reckless driving where death ensures a capital offense, you vote for Gekas. If you think that is going to pass constitutional muster, you vote for it. If you think that is good policy to make death-by-auto a capital offense, you vote for Gekas.

But if you want a serious, tough, fair, balanced death penalty statute that will pass constitutional muster, you will vote for Hughes and against Gekas.

Vote for the Hughes amendment.

The CHAIRMAN. All time has expired.

The question is on the amendments en bloc offered by the gentleman from New Jersey [Mr. HUGHES].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 108, noes 319, answered "present" 1, not voting 5, as follows:

[Roll No. 412]

AYES—108

Anderson	Frost	Mrazek
Andrews	Gejdenson	Neal (MA)
Aspin	Gephardt	Nowak
Atkins	Gibbons	Obey
Bates	Glickman	Olin
Beilenson	Gonzalez	Ortiz
Boggs	Gordon	Owens (UT)
Borski	Grandy	Pallone
Bosco	Gray	Panetta
Boucher	Green	Patterson
Boxer	Hall (OH)	Perkins
Brooks	Hamilton	Pickle
Brown (CA)	Hoagland	Poshard
Bruce	Hughes	Price
Bryant	Jacobs	Rahall
Bustamante	Johnson (CT)	Rangel
Campbell (CO)	Johnston	Ray
Carper	Jones (NC)	Roe
Carr	Jontz	Rose
Chapman	Kennelly	Sangmeister
Clarke	Kleczka	Schneider
Clay	Lancaster	Schumer
Clement	Leach (IA)	Slattery
Coleman (TX)	Leath (TX)	Slaughter (NY)
Conte	Lehman (FL)	Smith (FL)
Conyers	Lipinski	Spratt
Cooper	Long	Stallings
Costello	Manton	Studds
de la Garza	Martinez	Swift
Derrick	Matsui	Synar
Dickinson	Mazzoli	Tanner
Dwyer	McNulty	Tauke
Dymally	Mineta	Torres
Early	Moakley	Traficant
Fazio	Moody	Unsoeld
Fish	Morella	Walgren

NOES—319

Ackerman	Clinger	English
Alexander	Coble	Erdreich
Annunzio	Coleman (MO)	Espy
Anthony	Collins	Evans
Applegate	Combest	Fascell
Archer	Condit	Fawell
Armey	Coughlin	Feighan
AuCoin	Courter	Fields
Baker	Cox	Flake
Ballenger	Coyne	Flippo
Barnard	Craig	Foglietta
Bartlett	Crane	Ford (MI)
Barton	Crockett	Frank
Bateman	Dannemeyer	Frenzel
Bennett	Darden	Gallegly
Bentley	DeFazio	Gallo
Bereuter	DeLay	Gaydos
Berman	Dellums	Gekas
Bevill	DeWine	Geren
Bilbray	Dicks	Gillmor
Bilirakis	Dingell	Gilman
Billey	Dixon	Gingrich
Boehlert	Donnelly	Goss
Bonior	Dorgan (ND)	Gradison
Brennan	Dornan (CA)	Grant
Broomfield	Douglas	Guarini
Browder	Downey	Gunderson
Brown (CO)	Dreier	Hall (TX)
Buechner	Duncan	Hammerschmidt
Bunning	Durbin	Hancock
Burton	Dyson	Hansen
Byron	Eckart	Harris
Callahan	Edwards (CA)	Hastert
Campbell (CA)	Edwards (OK)	Hatcher
Cardin	Emerson	Hawkins
Chandler	Engel	Hayes (IL)

Hayes (LA)	Miller (CA)	Shumway
Hefley	Miller (OH)	Shuster
Hefner	Miller (WA)	Sikorski
Henry	Mink	Sisisky
Herger	Molinari	Skaggs
Hertel	Mollohan	Skeen
Hiler	Montgomery	Skelton
Hochbrueckner	Moorhead	Slaughter (VA)
Holloway	Morrison (CT)	Smith (IA)
Hopkins	Morrison (WA)	Smith (NE)
Horton	Murphy	Smith (NJ)
Houghton	Murtha	Smith (TX)
Hoyer	Myers	Smith (VT)
Hubbard	Nagle	Smith, Denny (OR)
Huckaby	Natcher	
Hunter	Neal (NC)	Smith, Robert (NH)
Hutto	Nelson	
Hyde	Nielson	Smith, Robert (OR)
Inhofe	Oakar	
Ireland	Oberstar	Snowe
James	Owens (NY)	Solarz
Jenkins	Oxley	Solomon
Johnson (SD)	Packard	Spence
Jones (GA)	Parker	Staggers
Kanjorski	Parris	Stangeland
Kaptur	Pashayan	Stark
Kasich	Paxon	Stearns
Kastenmeier	Payne (NJ)	Stenholm
Kennedy	Payne (VA)	Stokes
Kildee	Pease	Stump
Kolbe	Pelosi	Sundquist
Kostmayer	Penny	Tallon
Kyl	Petri	Tauzin
Lagomarsino	Pickett	Taylor
Lantos	Porter	Thomas (CA)
Laughlin	Quillen	Thomas (GA)
Lehman (CA)	Ravenel	Thomas (WY)
Lent	Regula	Torricelli
Levin (MI)	Rhodes	Towns
Levine (CA)	Richardson	Traxler
Lewis (CA)	Ridge	Udall
Lewis (FL)	Rinaldo	Upton
Lewis (GA)	Ritter	Valentine
Lightfoot	Roberts	Vander Jagt
Livingston	Robinson	Vento
Lloyd	Rogers	Visclosky
Lowery (CA)	Rohrabacher	Volkmer
Lowey (NY)	Ros-Lehtinen	Vucanovich
Luken, Thomas	Rostenkowski	Walker
Lukens, Donald	Roth	Walsh
Machtley	Roukema	Washington
Madigan	Rowland (CT)	Watkins
Markey	Rowland (GA)	Waxman
Marlenee	Roybal	Weber
Martin (IL)	Russo	Weiss
Martin (NY)	Sabo	Weldon
Mavroules	Saiki	Wheat
McCandless	Sarpalius	Whittaker
McCloskey	Savage	Whitten
McCollum	Sawyer	Williams
McCrery	Saxton	Wilson
McCurdy	Schaefer	Wise
McDade	Scheuer	Wolf
McDermott	Schiff	Wolpe
McEwen	Schroeder	Wyden
McGrath	Schuette	Wylie
McHugh	Schulze	Yates
McMillan (NC)	Sensenbrenner	Yatron
McMillen (MD)	Serrano	Young (AK)
Meyers	Sharp	Young (FL)
Mfume	Shaw	
Michel	Shays	

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—5

Davis	Kolter	Pursell
Ford (TN)	LaFalce	

□ 1250

Messrs. VALENTINE, JOHNSON of South Dakota, STEARNS, RICHARDSON, ERDREICH, CROCKETT, STARK, WHEAT, McHUGH, and GUNDERSON, Mrs. COLLINS, Messrs. MARKEY, HEFNER, BERMAN, PAYNE of Virginia, WAXMAN, and SAXTON, Mrs. SCHROEDER, Mrs. ROUKEMA, and Messrs. ACKERMAN, ESPY, KOSTMAYER, KASTENMEIER, TRAXLER, HORTON, VISCLOSKY, SABO, LEVINE of California, EDWARDS of California, HOYER, MAVROULES, WASHINGTON, SAVAGE, OBERSTAR, HAYES of Illinois, DIXON, STOKES, and ALEXANDER changed their vote from "aye" to "no."

Messrs. BROWN of California, DE LA GARZA, and COLEMAN of Texas changed their vote from "no" to "aye."

So the amendments en bloc were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 7 to be offered by the gentleman from Pennsylvania [Mr. GEKAS].

AMENDMENT OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GEKAS: Strike title II and insert the following:

TITLE II—DEATH PENALTY

SEC. 201. DEATH PENALTY.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral attack on judgment imposing sentence of death.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) an offense described in section 1751(c) of this title if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593 either—

"(A) intentionally killed the victim;

"(B) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(C) acting with reckless disregard for human life, engaged or substantially participated in conduct which the defendant knew would create a grave risk of death to another person or persons and death resulted from such conduct;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held under section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstances of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) DEATH OCCURRED DURING COMMISSION OF ANOTHER CRIME.—The death occurred during the commission or attempted com-

mission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnapping), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following a finding of not guilty only by reason of insanity), or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping apprehension used or possessed a firearm as defined in section 921 of this title; or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if that official is in the United States on official business; or

"(D) a public servant who is a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant is engaged in the performance of the public servant's official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2; a 'Federal law enforcement officer' is a public servant authorized by law or by a government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a magistrate.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice—

"(1) that the Government in the event of conviction will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors enumerated in section 3592 and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) of this section and the defendant is found guilty of an offense described in section 3591 of this title, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Before such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a)(2) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

Information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 of this title found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A find-

ing with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 of this title is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1) of this title, an aggravating factor required to be considered under section 3592(b) of this title is found to exist; or

"(2) an offense described in section 3591 (2) or (6) of this title, an aggravating factor required to be considered under section 3592(c) of this title is found to exist;

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factor or factors. The jury, or if there is no jury, the court, shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (e) of this section, shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e) of this section, shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching the juror's individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) of this title that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release or furlough.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d) of this title.

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 of this title or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) IMPAIRED MENTAL CAPACITY, AGE, OR PREGNANCY.—A sentence of death shall not be carried out upon a person who is under 18 years of age at the time the crime was committed. A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section, if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3597. Use of State facilities

"A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) FEDERAL CAPITAL CASES.—

"(1) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other provision of law, this subsection shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) of this title has occurred.

"(2) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this subsection shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(3) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within 10 days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this subsection for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order (A) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (B) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (C) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this paragraph shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a

continuation or renewal of the earlier representation.

"(4) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this subsection, at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(5) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this subsection, the provisions of section 3006A of this title shall apply to appointments under this subsection.

"(6) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(b) STATE CAPITAL CASES.—The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a State court or other State proceeding in a capital case, other than any requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28, United States Code, relating to a State capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by the provisions of section 3006A of this title.

"§ 3599. Collateral attack on judgment imposing sentence of death

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which a sentence of death has been imposed, and the judgment has become final as described in section 3598(a)(3) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(a)(3) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 3600. Application in Indian country

"No person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has made an election that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part II of title 28, United States Code, is amended by inserting after the item relating to chapter 227 the following new item:

"228. Death penalty procedures ..... 3591".

SEC. 202. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and all that follows and inserting a period.

SEC. 203. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18, United States Code, is amended by inserting before the period at the end the following: ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 of this title that the offense directly concerned nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; sources or methods of intelligence or counterintelligence operations; or any other major weapons system or major element of defense strategy".

SEC. 204. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 205. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 206. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 207. CONFORMING AMENDMENT RELATING TO MURDER.

The second paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. 208. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

SEC. 209. MURDER BY FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release or furlough.

"(b) For the purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least 15 years and a maximum of life, or an unexecuted sentence of death.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1118. Murder by a Federal prisoner.".

SEC. 210. DEATH PENALTY RELATING TO KIDNAPING.

Section 1201(a) of title 18, United States Code, is amended by inserting "and, if the death of any person results, shall be punished by death or life imprisonment" after "or for life".

SEC. 211. DEATH PENALTY RELATING TO HOSTAGE TAKING.

Section 1203(a) of title 18, United States Code, is amended by inserting "and, if the death of any person results, shall be punished by death or life imprisonment" after "or for life".

SEC. 212. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and all that follows and inserting a period.

SEC. 213. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) of this section shall be punished—

"(1) by imprisonment for any term of years or for life, or

"(2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. 214. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined under this title, or both".

SEC. 215. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Paragraph (1) of section 1959(a) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine in accordance with this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both;".

SEC. 216. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The second to the last paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and all that follows and inserting a period.

SEC. 217. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

SEC. 218. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Paragraph (1) of subsection 2331(a) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, or be fined under this title, or both; and

"(B) if the killing is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;".

SEC. 219. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. APP. 1473), is amended by striking subsection (c).

SEC. 220. APPLICATION TO UNIFORM CODE OF MILITARY JUSTICE.

Chapter 228 of title 18 of the United States Code, as added by this Act, does not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

SEC. 221. CONFORMING AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act is amended—

(1) by striking subsections (g) through (r); and

(2) in subsection (e), by adding at the end the following:

"(3) The procedures relating to the death penalty in chapter 228 of title 18, United States Code, shall apply to an offense under this subsection.".

SEC. 222. CONFORMING AMENDMENT RELATING TO GENOCIDE.

Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 and imprisonment for life" and inserting in lieu thereof "by death or imprisonment for life, or a fine of not more than $1,000,000, or both".

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are now poised at a position where we can strike a blow in full support of the law enforcement community of our Nation.

It is no secret to anyone in the entire Nation anymore, that the state of crime in our Nation requires the strongest law enforcement tools that we can make available to our brave officers on the street and who constantly patrol our neighborhoods. It is no secret that the American people by a tremendous, substantial majority, favor the imposition of the death penalty in proper cases of the most heinous, most severe, most brutal, the likes of which we read about every single day in our newspapers, and hear about on television.

The proposition that we lay before Members here in the form of the Gekas amendment, restores the death penalty to the Federal criminal justice system in ways in which it has been contemplated from the very beginning, with the new safeguards that the Supreme Court has mandated to allow a jury, when it deliberates, to have a balanced participating view, as to whether or not, to impose the death penalty.

They must, as you know, determine that there are aggravating circumstances outweighing mitigating circumstances. That is what we do in this bill.

This amendment parallels what we were able to accomplish in 1988, with respect to the Drug-Kingpin Act. You recall that. We had the same battle at that time, and a substantial majority of this House voted in favor of allowing a jury to impose the death penalty through the new bifurcated system of aggravating and mitigating circumstances and resoundingly said to the American people, "We are ready to create a statute that will allow a jury," and that is all we do is allow a jury, "to impose the death penalty in a proper case."

That is what this amendment does. The other thing it does, and I want to make sure the Members are clear in their thinking, in 1988, Members may recall that the Gekas amendment then carried with it the salutary provisions of not permitting the death penalty to appy to the mentally retarded, not permitting the death penalty to be applied indiscriminately.

The safeguards that the gentleman from Michigan [Mr. CONYERS] wanted to put in about appointment of counsel, all of those are built into this present Gekas amendment.

Furthermore, there is a special provision to protect the native American who has been accorded over the years, a special category in all of our doings, by virtue of their place in our society.

Mr. RICHARDSON. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I am happy to yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, I do want to clarify that with my colleague.

It is my understanding that the gentleman has included language in his amendment that provides for self-determination for Indian tribes?

As the gentleman knows, the Federal Government has a special relationship with Indian tribes and actively seeks their input on policies that affect them greatly. I just wanted to ensure that the gentleman has incorporated language of an amendment that I was intending to offer that protects the self-determination of Indian tribes.

Mr. GEKAS. The gentleman is correct. His views are protected in this amendment.

Mr. RICHARDSON. Mr. Chairman, I thank the gentleman.

Mr. GEKAS. Mr. Chairman and Members, I will not belabor the issue, but I must repeat for the record the other specific important thing that the Gekas amendment does that brings us to a point where we can proudly help our law enforcement community, the drive-by killer, to which I alluded in previous argument, the kidnaper where the victim dies even though the kidnaper can say he did not intend to kill, the bank robber who shoots indiscriminately not to be

captured who can no longer say, "I did not intend to kill" and be safeguarded. Those acts, even though they do not have a specific "I intended to kill" "X" in it would be allowed at the hands of a jury to contemplate whether or not they should be accorded the death penalty.

That is an important difference, and one that the American people substantially support.

Can the Members imagine if we did not adopt the Gekas amendment, we would be saying that the drive-by-killer in California who killed a 3-year-old, the drive-by-killer in New York City where daily occurrences now reach the newspapers, that that kind of killer can plead, "I did not intend to kill." We cannot permit that.

The reckless disregard of human life in the action of an individual should be just as punishable by the death penalty at the hands of a jury as one where the victim was intended, and malice aforethought, and deliberation, and all the constant American theories that we have in murder, whether or not they apply.

So I ask the Members to consider that. And, remember, the Supreme Court, and I have to repeat this for the record, has acknowledged and supported in the Tyson case, the theory which has always been a part of American jurisprudence, that reckless disregard for human life can be just as deadly, can be just as, of course, lethal as an intentional killing, and a jury should be permitted, under the circumstances, to decide in those circumstances, should the jury have the right to impose the death penalty.

Do the Members know what happened in Tyson? In Tyson, there were two people who escaped from prison. They were then met by the sons of one of the escapees who then aided and abetted their escape and then were a part of a scene where the escapees actually killed other people in cold blood, were there, witnessed it, did not rush to the aid of the victims, but still continued to help the escapees and then later, after the whole episode was over, they were charged with murder. They did not pull the trigger. The did not do it. They did not intend to kill anybody. They did not wonder about what the consequences were of the killings by the escapees of those innocent people.

When they were charged with murder, they said, "I did not intend to kill." The final result was that they were convicted of murder because of the reckless disregard for human life in the conduct in which they had permitted themselves to move, and the Supreme Court has said, in striking language, that that kind of reckless disregard is the kind of circumstance where a jury ought to be permitted to impose the death penalty.

The other thing that I want to end with, and keep harping upon, is this: That the Congress is not imposing the death penalty. The Congress is reposing the full faith and credit of its office to the jury in a particular case, assigning to our fellow Americans who sit on a jury panel, the grave duty of determining whether or not a death penalty ought to be applied. That is what we are doing. We are giving them rules to abide by, a balanced approach, a bifurcated hearing.

They can hear mitigating circumstances of why the individual should not be put to death. But in the final analysis, what we are doing is helping the law enforcement community by giving them the right, our fellow Americans sitting on that panel, to say that this is so brutal, this is so reckless, this is so inhuman, that there is no other result possible except to impose the death penalty.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I am happy to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I thank the gentleman for yielding.

My question is on the counsel provisions of the Anti-Drug Abuse Act of 1988 which the gentleman referred to. And my understanding was, and I am not sure about this version, but that he had repealed the counsel provisions of the 1988 law.

Mr. GEKAS. Without doing offense to the gentleman, I cannot yield for that purpose. I will answer the gentleman's question if he takes his own time. I need the time. I am sorry. Maybe the gentleman from New Jersey can grant the gentleman the time. I will answer the question.

I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Chairman, the gentleman will not answer the question under that circumstance?

Mr. BROOKS. Mr. Chairman, I rise in opposition to the Gekas amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] is recognized for 10 minutes.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

This amendment contains additional death penalties for crimes, changes the standards for imposition of the death penalty from intentional killing to reckless disregard, changes the procedures for imposition of death penalty and contains additional habeas corpus provisions.

Title II of the crime bill already has procedures for the imposition of the death penalty for a specified list of crimes, including assassination of the President or the intentional killing of a Federal judge or a law enforcement officer. In addition, the bill provides for the imposition of the death penalty for eight other crimes where the Federal Government has a particular interest. For example, the death penalty may be imposed for anyone convicted of espionage or treason, or for conviction of intentional killing while traveling in interstate or foreign commerce. This list of death penalty crimes was carefully constructed and its expansion serves no useful purpose. Other crimes where the death penalty may be appropriate should be left up to the States to consider.

H.R. 5269 also contains the procedures for the imposition of death penalty in a constitutionally permissible manner. Anything more may subject the procedures to constitutional challenges and years of litigation.

Finally, the bill reforms the process by which habeas corpus petitions are brought before Federal courts. These procedures set a time limit on petitions, restrict second or successive petitions and specifies the law to be applied. The proposed amendment would not give a fair habeas corpus hearing to a petitioner.

Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES].

Mr. GEKAS. Mr. Chairman, is it proper for even the chairman of the Committee on the Judiciary to depict the offering of my amendment as a disgrace, to allow another Member to call it mindless? I am sincere about these proposals.

Mr. HUGHES. Mr. Chairman, regular order. I do not yield to the gentleman.

Mr. GEKAS. And I do not consider them whimsical or folly.

Mr. HUGHES. Regular order, Mr. Chairman.

Mr. WASHINGTON. Mr. Chairman, the gentleman should make a point of order or a parliamentary inquiry.

The CHAIRMAN. The Chair will not be prepared to rule on the property of words used in debate unless the gentleman or anyone else wants to make a point of order. Then the Speaker would rule.

Would the gentleman from New Jersey [Mr. HUGHES] please proceed?

Mr. HUGHES. Mr. Chairman, I hope we never, but never, bring up another crime bill a month out from an election, because we are today about tearing up a document that has served us well for many, many years.

My colleague, the gentleman from Pennsylvania, knows better than to quote Tison as the authority for creating a capital offense out of death by auto or other similar circumstances where there has been a felony committed. We have never gone that far.

Tison was a unique set of circumstances where the court read into that particular set of circumstances where four people were brutally executed by two jailbreakers, an intent to kill, cul-

pability, because they were present, they made it possible, they provided the guns, they broke them out of prison.

How in the world you can suggest that is going to lead us down the path my Republican colleagues want to take us is beyond me.

□ 1310

It is a sad commentary on our system when people walk in the doors, as they did today, and they ask, "Which is tougher?" That is what they asked Members as they came in, when they voted on the Hughes amendment, "Which is tougher?"

My colleague on the other side of the aisle was passing out material that was garbage suggesting some way we were going to do away with capital punishment for terrorist acts, kidnappings where death is involved. They know better than that. In the legislation before Members and in the Hughes amendment, we covered each and every one of the areas where they said we were, in fact, changing existing laws or denying the imposition of capital punishment.

It is a sad day around here when Members walk in and all they want to know is whether or not it is tougher. Not whether it is fair, not whether it is constitutional, not whether it is balanced.

I tell Members, what we will end up with if we pass the Gekas amendment, we will end up with another 1972 Furman decision where capital punishment is again declared unconstitutional, and they would have put Members in that position. I say reject the Gekas amendment because we are going to regret the day we vote for Gekas. I know Members are going to do it, because we are a month away from election and Members will go back to their districts and will all say, "I was tough, I was tough on crime." Shame on those Members. If those Members vote for Gekas and make death by auto willfull indifference the standard in this country, shame on Members if they do that.

Mr. BROOKS. Mr. Chairman, I yield 1 additional minute to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I will say one additional thing to my colleagues. I will take a back seat to no Members. I do not know how many of the Members ever tried a capital punishment case. Did the gentleman from Pennsylvania [Mr. GEKAS]? I did, too. I tried a lot of murder cases over the years. Frankly, I want to tell the gentleman, your standards will not see the light of day. The amendment does several things that the court is going to scrutinize very carefully and throw out.

No. 1, the amendment makes the substantive elements of an offense aggravating factors. That is not going to pass constitutional muster. In the amendment standards, there is some vague standards, and they have three mitigating factors, which means that a court only is going to consider three mitigating factors from a defendant in attempting to weigh whether the aggravating factors in a particular case outweigh the mitigating factors. It will not pass constitutional muster.

We have talked about the substantive offenses here, but take a look. I say to my colleagues, before they come over here and vote, to take a look at the gentleman from Pennsylvania, Mr. GEKAS' procedures. They are patently unconstitutional.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Chairman, this amendment purports to deal with counsel in Federal prosecutions where capital punishment would apply under the new death penalty provisions of the crime bill. But the amendment would do much more than that, and none of it appropriate.

First, the amendment would repeal a provision of the Anti-Drug Abuse Act of 1988, enacted only 2 years ago, that provides counsel in Federal habeas corpus to indigent prisoners under sentence of death. This provision of current law—offered by the gentleman from Pennsylvania [Mr. GEKAS], relates not to people who have been convicted of Federal crimes and sentenced to death under this crime bill. They are State prisoners, convicted and sentenced in State court, who file Federal habaes corpus petitions in Federal court raising Federal constitutional claims. In these cases, the Congress decided 2 years ago that counsel should be provided to ensure efficient, expeditious, and fair Federal court proceedings.

The habeas corpus reforms included in title XIII and in the Derrick, amendment assume that counsel will be appointed to represent indigent death row prisoners. That is why it is realistic and fair to establish a strict statute of limitations for filing petitions in Federal court and why it is appropriate to cut off successive petitions from the same prisoner.

It would make no sense at all to establish these new requirements for death row petitioners and then to repeal the existing statute providing those prisoners with the lawyers needed to comply with the new requirements. Yet this is what the Gekas amendment would do. If adopted, the Gekas amendment would obliterate the one habeas corpus reform he managed to make before this year. That would be bad policy and bad law.

Second, the amendment would repeal the provisions in title XIII requiring the States to provide counsel to indigent defendants in State death penalty cases. Because the Anti-Drug Abuse Act already guarantees counsel for Federal court proceedings involving State prisoners, the habeas corpus provisions in the crime bill before us today concentrate on the need for counsel in State court—before cases get to Federal habeas corpus. Opinion is virtually unanimous that this is where counsel is needed the most. If adopted, the Gekas amendment would be completely inconsistent with the habeas corpus reform in this bill. On this grounds alone, the Gekas amendment should be rejected.

Third, the amendment would establish a series of restrictions on the ability of Federal prisoners convicted and sentenced in Federal court to raise Federal claims in Federal postconviction proceedings. These are cases in which Federal prisoners file motions to vacate sentence under section 2255 of title XXVII—a substitute for habeas corpus, but for Federal prisoners. The Congress enacted section 2255 in 1948 as a streamlined method for adjudicating Federal claims that are not resolved at trial or on appeal after Federal convictions. Previously, Federal prisoners had been forced to file habeas corpus petitions to raise these claims.

The Gekas amendment would upset this longstanding and effective system. It would establish an unrealistically short, 90-day, statute of limitations for section 2255 motions. There is no evidence that section 2255 motions are delayed in the current system. This new procedural cutoff is simply not needed.

The amendment also incorporates wholesale all the restrictions contained in the original Powell Committee report, but applies those restrictions in an entirely different context. The Powell Committee focused exclusively on habeas corpus proceedings involving State prisoners and did not recommend that its plan should be adopted for section 2255 cases involving prisoners convicted in Federal court. The same concerns for the interests of the States are simply not present in this different context.

Finally, the amendment would make all the mistakes that the Powell Committee made—in these different cases. For example, the amendment would not allow a successive section 2255 motion from a Federal prisoner even if the prisoner proves that he was sentenced to death because the Federal prosecutor knowingly used perjury at his sentencing proceeding and the prisoner did not discover the prosecutor's flagrant constitutional violation until later.

This is not a well-thought out amendment. If adopted, it would repeal the good reform measure we adopted 2 years ago when we provided for the appointment of counsel for State prisoners on death row who peti-

tion the Federal courts for habeas corpus relief.

It would also frustrate our attempt in this very bill finally to do something about the need for counsel in State death penalty cases. And it would needlessly hamstring our modern system of section 2255 motions for Federal prisoners. I urge you to reject this amendment for all of these reasons.

MEMO ON THE MCCOLLUM AND GEKAS AMENDMENTS

These two amendments deal with habeas corpus and, should they come up, will need to be addressed.

I. COUNSEL IN STATE COURT

Both amendments would specify that "the laws of the United States shall not be construed" to require the appointment of counsel in any state court proceeding. The section number is the same in both amendments—sec. 3598(b). This language was originally drafted (I think) to eliminate any argument that ambiguous language in the 1988 Drug Act already requires the states to appoint counsel in capital cases. Anyway, the adoption of either of these amendments would be inconsistent with Title 13's provision on counsel. It would not (formally) be inconsistent with the Hyde amendment (which doesn't actually *require* the states to provide counsel even in state collateral proceedings).

II. FEDERAL MOTIONS TO VACATE SENTENCE

These amendments deal primarily with motions to vacate sentence under 28 U.S.C. sec. 2255 (the equivalent of habeas corpus) by *federal* prisoners convicted of federal crimes and sentenced to death under the provisions of this new crime bill.

1. Under current law, 2255 motions can be filed within any reasonable time. These amendments would fix a 90-day statute of limitations, running from the date when counsel is appointed for the 2255 proceeding.

2. On the other hand, both also require the appointment of counsel in (capital) 2255 cases. And both specify what I *think* are standards borrowed from the Drug Act—five years of law practice and three years in felony cases.

3. Then both simply incorporate the Powell Committee plan on stays of execution and successive motions—warmed over for application to these federal prisoners. For example, the successive petition rule specifies that a claim must go to guilt, not the validity of a capital sentence.

4. Neither amendment deals with procedural default (at trial or on appeal in federal court) or Teague. Accordingly, these amendments contemplate that current Supreme Court cases would control those matters—having the same effect on 2255 motions by federal prisoners that they have on habeas corpus petitions from state prisoners.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from California.

Mr. EDWARDS of California. Is it not also true, and I ask the gentleman from Pennsylvania [Mr. GEKAS] that 2 years ago he approved of those very same provisions that he is now repealing in his amendment? As a matter of fact, this is what the gentleman from Pennsylvania [Mr. GEKAS] said:

I approve of these appointment of counsel provisions because,

And here are his exact words—

they afford the defendant all the rights I feel are already his and expand them to the extent that the qualifications of counsel all be without question.

Those are the gentleman from Pennsylvania, Mr. GEKAS' words, 2 years ago. I might add that the President of the United States approved of them then.

Mr. KASTENMEIER. Mr. Chairman, we should not turn back the clock. Let Members reject the Gekas amendment.

Mr. BROOKS. Mr Chairman, I yield 2 minutes to the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Chairman, I think that the chairman, the gentleman from New Jersey [Mr. HUGHES] has said all that needs to be said about the amendment, but I would invite the gentleman from Pennsylvania [Mr. GEKAS] to help me, and I invite him to take the microphone and engage in a colloquy if he would.

Mr. GEKAS. By all means.

Mr. WASHINGTON. Has the gentleman from Pennsylvania ever tried a death penalty case?

Mr. GEKAS. I have.

Mr. WASHINGTON. How many?

Mr. GEKAS. I think more than one, and less than half a dozen.

Mr. WASHINGTON. Was the gentleman prosecuting or defending?

Mr. GEKAS. Both.

Mr. WASHINGTON. How many of each?

Mr. GEKAS. I think one defense, and the rest prosecutions.

Mr. WASHINGTON. It is, of course, of no moment, but I just wanted to know whether the gentleman had a background in the trial of those cases. The gentleman alluded several times, and put great emphasis on the fact that a jury would make the determination, did the gentleman not?

Mr. GEKAS. Yes.

Mr. WASHINGTON. Does the gentleman believe fundamentally that jurors are intelligent in our society? They elect the Members, do they not?

Mr. GEKAS. Absolutely.

Mr. WASHINGTON. Would the gentleman agree with me then, if in respect to any legislation we should never take the right of a jury to make determinations?

Mr. GEKAS. No, no, I cannot agree to that.

Mr. WASHINGTON. The gentleman does not agree that jurors are smart enough?

Reclaiming my time.

Mr. GEKAS. Am I going to be able to answer?

Mr. WASHINGTON. Reclaiming my time. In other words, the gentleman is saying they are smart enough to decide who gets death but not smart enough to make other decisions in the judicial system?

Mr. GEKAS. That is the gentleman's interpretation, but I will say, as every lawyer knows, there are many things that occur evidentiary in a court case that the judge decides cannot be presented to the jury because of hearsay, because of evidentiary words.

Mr. WASHINGTON. I am not talking about that.

Mr. GEKAS. Therefore——

Mr. WASHINGTON. Reclaiming my time. I am talking about admissible, not inadmissible, sir. I know what is inadmissible is not going to the jury.

My question is, if the gentleman believes that juries have the right to make the ultimate decision as to who lives or dies, they are certainly smart enough to make all the other decisions on admissible evidence under our system of jurisprudence?

Mr. GEKAS. Only within the rules. That is what I am saying. If we decide in creating statutes.

Mr. WASHINGTON. The gentleman does not understand the question.

Mr. GEKAS. Of what the jury shall hear, they have to abide by that law, so long as it is constitutional. The jury can be restricted to a certain degree of where and when they can determine the death penalty.

Mr. WASHINGTON. I thank the gentleman for not answering my question.

Mr. GEKAS. I thank the gentleman for not posing a good question.

Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I rise to strongly support the Gekas amendment. This is the death penalty vote of this entire bill. I urge my colleagues to vote for the Gekas amendment. It will keep in place all the existing Federal death penalty laws which otherwise would not be on the books because of the current bill. It changes the procedures to allow it to be constitutional.

This is the death penalty vote for the Gekas amendment of this Congress on this bill. A vote for the death penalty is an aye vote, and any Member who votes no clearly can be understood to be voting to remove the possibility of Federal death penalty. Therefore, vote aye on the Gekas amendment for the death penalty.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. MOODY].

□ 1320

Mr. MOODY. Mr. Chairman, I rise only because I feel something should be put in the RECORD here. I represent a State that has not had the death penalty since its inception, since its

creation. We do not have it because we do not believe that the death penalty is a serious deterrent and the evidence does not indicate it is a deterrent. It is punishment. If you want to make a death penalty truly a deterrent, I would suggest you recommend putting in your amendment that people be executed on television, or at public locations to be televised, so that it could be a deterrent; but simply putting someone to death is not the way to handle it.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. BROOKS. Mr. Chairman, I yield the last 30 seconds to the gentleman from Wisconsin.

Mr. MOODY. It is not a deterrent, Mr. Chairman. It is punishment. So if you want the best penalty, please sell it on this basis. If you want it as punishment, let us call it that. It is not a deterrent.

In our State, we do not have it. We have a lower rate of capital crime than most States that have it, so it is not a deterrent. Let us get that straight. The States that do not have it, consciously do not have it because it does not deter.

Let us at least get the record straight on the deterrent versus the punishment question.

Mr. GEKAS. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, to end the debate, please be apprised of something that is well known already, but for the record, the law enforcement community of our Nation backs the Gekas amendment, from the Justice Department to the Attorneys' General of the United States, to the cop on the beat, and the citizen on the street.

Mr. Chairman, I yield back the balance of my time.

Mr. ROWLAND of Connecticut. Mr. Chairman, today, October 4, 1990, the U.S. House of Representatives has an unique opportunity to answer the pleas of the countless victims of heinous crimes in our Nation. Today, October 4, 1990, we have an opportunity to firmly and correctly declare that the rights of victims of these gruesome crimes, as well as the rights of the bereaved families—who are no less victims—deserve to be upheld and protected. Today, October 4, 1990, we have the opportunity to demand that the ultimate penalty—the death penalty—be given to all who would callously, maliciously, and premeditatedly take an innocent life.

Today the House can restore the balance of justice in our Federal Penal Code with respect to the death penalty. Drug kingpins, cop killers, and drug dealers who cause the death of our children with their poison, or their bullets, these are the animals which the House will remove from our streets and our society by our actions today.

In my own State of Connecticut, the senseless killings and the victims numbering in the hundreds and clear evidence of the need for a stronger death penalty. In 1960, the last death penalty was carried out in Connecticut. That year, there were 41 murders; 30 years later, the annual number of murders has grown, with a total of 3,082 murders since 1960. In 1989 alone a record 190 murders were committed, and the likelihood that 1990 will hold even more murders is coming closer to reality with each and every passing day.

Mr. Chairman, the time has come for Congress to make the law work for the victims of capital crimes; the time has come for Congress to make the law work for the law enforcement community, which daily fights to stem the rising tide of murder and drug-related violence; the time has come, my colleagues, for Congress to pass a stronger and more effective Federal death penalty.

PARLIAMENTARY INQUIRY

Mr. OBEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. OBEY. Mr. Chairman, would it be possible to bring the guillotines directly to the House floor, rather than bothering with courts in the future?

The CHAIRMAN. The gentleman is not stating a proper parliamentary inquiry.

The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 271, noes 159, answered "present" 1, not voting 2, as follows:

[Roll No. 413]

AYES—271

Alexander	Clarke	Fields
Andrews	Clement	Fish
Annunzio	Clinger	Flippo
Anthony	Coble	Frenzel
Applegate	Coleman (MO)	Frost
Archer	Combest	Gallegly
Armey	Condit	Gallo
Baker	Cooper	Gaydos
Ballenger	Costello	Gekas
Barnard	Coughlin	Geren
Bartlett	Courter	Gibbons
Barton	Cox	Gillmor
Bateman	Craig	Gilman
Bates	Crane	Gingrich
Bennett	Dannemeyer	Glickman
Bentley	Darden	Gordon
Bereuter	Davis	Goss
Bevill	DeLay	Gradison
Bilbray	Derrick	Grandy
Bilirakis	DeWine	Grant
Bliley	Dickinson	Green
Boehlert	Dingell	Guarini
Borski	Donnelly	Gunderson
Broomfield	Dornan (CA)	Hall (TX)
Browder	Douglas	Hammerschmidt
Brown (CO)	Dreier	Hancock
Bruce	Duncan	Hansen
Buechner	Dyson	Harris
Bunning	Early	Hastert
Burton	Eckart	Hatcher
Byron	Edwards (OK)	Hayes (LA)
Callahan	Emerson	Hefley
Campbell (CA)	English	Hefner
Campbell (CO)	Erdreich	Henry
Chandler	Espy	Herger
Chapman	Fawell	Hiler
Holloway	Molinari	Shumway
Hopkins	Montgomery	Shuster
Horton	Moorhead	Sisisky
Houghton	Morrison (WA)	Skeen
Hubbard	Murphy	Skelton
Huckaby	Murtha	Slattery
Hunter	Myers	Slaughter (VA)
Hutto	Natcher	Smith (NE)
Hyde	Neal (NC)	Smith (TX)
Inhofe	Nelson	Smith, Denny (OR)
Ireland	Nielson	Smith, Robert (NH)
James	Ortiz	Smith, Robert (OR)
Jenkins	Oxley	Snowe
Johnson (CT)	Packard	Solomon
Johnson (SD)	Pallone	Spence
Jones (GA)	Parker	Spratt
Jones (NC)	Parris	Stallings
Kasich	Pashayan	Stangeland
Kolbe	Patterson	Stearns
Kolter	Paxon	Stenholm
Kyl	Payne (VA)	Stump
Lagomarsino	Petri	Sundquist
Lancaster	Pickett	Tallon
Laughlin	Porter	Tanner
Leath (TX)	Poshard	Tauzin
Lehman (CA)	Quillen	Taylor
Lent	Ravenel	Thomas (CA)
Lewis (CA)	Ray	Thomas (GA)
Lewis (FL)	Regula	Thomas (WY)
Lightfoot	Rhodes	Torres
Lipinski	Richardson	Torricelli
Livingston	Ridge	Traxler
Lloyd	Rinaldo	Upton
Long	Ritter	Valentine
Lowery (CA)	Roberts	Vander Jagt
Lukens, Donald	Robinson	Volkmer
Machtley	Roe	Vucanovich
Madigan	Rogers	Walgren
Manton	Rohrabacher	Walker
Marlenee	Ros-Lehtinen	Walsh
Martin (IL)	Rostenkowski	Watkins
Martin (NY)	Roth	Weldon
Matsui	Roukema	Whittaker
McCandless	Rowland (CT)	Whitten
McCollum	Rowland (GA)	Wilson
McCrery	Russo	Wolf
McCurdy	Saiki	Wyden
McDade	Sangmeister	Wylie
McEwen	Sarpalius	Yatron
McGrath	Saxton	Young (AK)
McMillan (NC)	Schaefer	Young (FL)
McMillen (MD)	Schiff	
Meyers	Schuette	
Michel	Schulze	
Miller (OH)	Sensenbrenner	
Miller (WA)	Shaw	

NOES—159

Ackerman	Edwards (CA)	Lehman (FL)
Anderson	Engel	Levin (MI)
Aspin	Evans	Levine (CA)
Atkins	Fascell	Lewis (GA)
AuCoin	Fazio	Lowey (NY)
Beilenson	Feighan	Luken, Thomas
Berman	Flake	Markey
Boggs	Foglietta	Martinez
Bonior	Ford (MI)	Mavroules
Bosco	Ford (TN)	Mazzoli
Boucher	Frank	McCloskey
Boxer	Gejdenson	McDermott
Brennan	Gephardt	McHugh
Brooks	Gonzalez	McNulty
Brown (CA)	Gray	Mfume
Bryant	Hall (OH)	Miller (CA)
Bustamante	Hamilton	Mineta
Cardin	Hawkins	Mink
Carper	Hayes (IL)	Moakley
Carr	Hertel	Mollohan
Clay	Hoagland	Moody
Coleman (TX)	Hochbrueckner	Morella
Collins	Hoyer	Morrison (CT)
Conte	Hughes	Mrazek
Conyers	Jacobs	Nagle
Coyne	Johnston	Neal (MA)
Crockett	Jontz	Nowak
de la Garza	Kaptur	Oakar
DeFazio	Kastenmeier	Oberstar
Dellums	Kennedy	Obey
Dicks	Kennelly	Olin
Dixon	Kildee	Owens (NY)
Dorgan (ND)	Kleczka	Owens (UT)
Downey	Kostmayer	Panetta
Durbin	LaFalce	Payne (NJ)
Dwyer	Lantos	Pease
Dymally	Leach (IA)	Pelosi

Penny	Sharp	Tauke
Perkins	Shays	Towns
Pickle	Sikorski	Traficant
Price	Skaggs	Udall
Rahall	Slaughter (NY)	Unsoeld
Rangel	Smith (FL)	Vento
Rose	Smith (IA)	Visclosky
Roybal	Smith (NJ)	Washington
Sabo	Smith (VT)	Waxman
Savage	Solarz	Weber
Sawyer	Staggers	Weiss
Scheuer	Stark	Wheat
Schneider	Stokes	Williams
Schroeder	Studds	Wise
Schumer	Swift	Wolpe
Serrano	Synar	Yates

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—2

Kanjorski Pursell

□ 1341

Messrs. LIGHTFOOT, ORTIZ, GLICKMAN, and GORDON changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT: Add at the end of title II the following:

SEC. . KILLING PERSONS AIDING FEDERAL INVESTIGATIONS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§ 1118. Killing persons aiding Federal investigations

"Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any civilian or witness assisting a Federal criminal investigation, while that assistance is being rendered and because of it;

shall be subject to the death penalty under chapter 228 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1118. Killing persons aiding Federal investigations.".

The CHAIRMAN. Under the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 10 minutes, and a Member opposed, the gentleman from Pennsylvania [Mr. GEKAS], will be recognized for 10 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, my amendment would extend the death penalty provisions to those State and local policemen who are assisting Federal officers or are involved with the furtherance of a Federal criminal investigation, if they should be so murdered.

Mr. Chairman, there are many joint Federal and State, and Federal and local, task forces, joint strike forces, that deal with fighting organized crime, narcotics, and other types of organized crime activities in our Nation. The bill that we have before us could potentially have an FBI agent and a New York City detective on a Federal criminal activity investigation, and both would be murdered. The murderers would be subject to the capital offense for the murder of the FBI agent, but not so in not extending that same protection for the murder of that local law enforcement agent.

Mr. Chairman, my amendment would also cover any civilians or any witnesses that are involved in that Federal criminal investigation; anyone under protective custody, as well.

I would like to bring to my colleagues' attention the fact that this is an important amendment that deals with organized crime investigations. The unspoken word in organized crime is, "If you're a part of assisting the Government, you're going to die," and the Congress should say, "Fine, and, if you're going to kill someone that's assisting our government in that organized crime investigation, you're going to be subject to the death penalty that the Congress has put in order in this bill."

Mr. Chairman, with that I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to be honest with the Chair at the outset. I was going to state that I was opposed to the bill in its present form only to preserve the time that was available here. I want to make that clear because I support the concept and the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

PARLIAMENTARY INQUIRY

Mr. HUGHES. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HUGHES. Mr. Chairman, my parliamentary inquiry is whether the gentleman from Pennsylvania [Mr. GEKAS], who supports the amendment, is entitled to claim the time.

The CHAIRMAN. The Chair will make a ruling on that.

Under the rule, time is divided, 10 minutes to those in favor of the amendment, and 10 minutes to those opposed to it.

If the gentleman from Pennsylvania [Mr. GEKAS] is not opposed to it, he is not entitled to the time.

Mr. GEKAS. Then, Mr. Chairman, I have to say I am not entitled to the time.

Mr. Chairman, I ask the gentleman from Ohio [Mr. TRAFICANT] to yield 1 minute to me.

Mr. TRAFICANT. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, we support the amendment and say for the record that the gunning down of a law enforcement officer, which we find so reprehensive, cannot be allowed. Distinguishing between a local law enforcement officer and an FBI agent cannot be allowed, and, therefore, the truth of the amendment of the gentleman from Ohio [Mr. TRAFICANT] comes through boldly. We want to have a special category for the gunning down of the fabric of safety in our society, our law enforcement officers.

Mr. Chairman, I support the amendment of the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I appreciate the support of the gentleman from Pennsylvania [Mr. GEKAS].

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New Jersey [Mr. HUGHES], the distinguished chairman of the Subcommittee on Crime.

Mr. HUGHES. Mr. Chairman, I thank the gentleman from Ohio [Mr. TRAFICANT] for yielding.

I, too, rise in support of this amendment. It is a good amendment, and I want to compliment our colleague from Ohio. He has found an area that needs some attention.

Mr. Chairman, we are talking about organized drug task forces around the country where we draw upon local resources. They are working together in Federal cases, and it would be ludicrous to apply the death penalty if a Federal officer is involved, but not make that available if a local officer is involved in that investigation.

Mr. Chairman, the amendment of the gentleman from Ohio [Mr. TRAFICANT] addresses what basically is a major blind spot, and I congratulate the gentleman for his work on this and on other initiatives to try to strengthen this crime bill.

Mr. TRAFICANT. Mr. Chairman, I thank the gentleman from New Jersey [Mr. HUGHES].

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I thank my distinguished colleague, the gentleman from Ohio [Mr. TRAFICANT] for yielding, and I simply rise in support of his amendment and commend him for his insight.

Mr. TRAFICANT. Mr. Chairman, I would just like to conclude by stating to the House, and I know the House wants to get on with their business, that I am not going to ask for a vote. I wanted it to be a Federal offense for the murder of any law enforcement officer in our Nation. I wanted it to be a Federal offense for the murder of any public official dispatching their duties; prosecutors, judges, jurors, witnesses. I was not able to do that. I am going to ask the committee in the next year to consider that type of legislative initiative that would make it a specific Federal offense for the murder of anyone in that category, No. 1, and, No. 2, place that investigative practice in the Federal Government's hands.

Mr. Chairman, I think that we have a situation in Columbus that should teach us all something, and I do not think judges should be getting packages in the mail, and law enforcement officers should not be shot down.

With that, Mr. Chairman, I wish to let my colleagues know that I appreciate the support Congress has shown, especially the chairman of the Subcommittee on Crime, the gentleman from New Jersey [Mr. HUGHES]. I consider his help to be immense in what I am trying to do.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Are there any Members present who wish to speak in opposition to the amendment offered by the gentleman from Ohio [Mr. TRAFICANT]? The Chair hears none.

The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

□ 1350

The CHAIRMAN. It is now in order to consider amendment No. 9 printed in part 2 of House Report No. 101-796.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MCCOLLUM: Page 34, after line 9, insert the following:

SEC. . MAJOR DRUG DEALERS.

(a) IN GENERAL.—The Controlled Substances Act is amended by inserting after section 417 the following:

"DEATH PENALTY FOR MAJOR DRUG DEALERS

"SEC. 418. (a) A defendant who has been found guilty of—

"(1) an offense referred to in section 408(c)(1), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B); or

"(2) an offense constituting a felony violation of this title or title III, or the Maritime Drug Law Enforcement Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation;

shall be subject to the death penalty under chapter 228 of title 18, United States Code.

"(b) AGGRAVATING FACTORS.—For the purposes of chapter 228 of title 18, United States Code, in determining whether a sentence of death is justified for an offense described in subsection (a), the jury, or if there is no jury, the court, shall consider each of the following agravating factors and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisoment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act) for which a sentence of 5 or more years of imprisonment was authorized by statute.

"(4) USE OF A FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm (as defined in section 921 of this title) to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405A of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405B of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act) mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.".

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1971 is amended by inserting after the item relating to section 417 the following:

"Sec. 418. Death penalty for major drug dealers.".

Page 45, line 20, strike "for homicide" and insert "for the relevant type of offense".

The CHAIRMAN. Under the rule, gentlemam from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman form Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is the death penalty amendment regarding drug kingpins which the President has supported for some time and which I introduced late in the last Congress and reintroduced in this Congress. It would allow the courts to give the death penalty to drug kingpins convicted of trafficking in extremely large quantities of narcotics. That would be twice the amount necessary under the present law for life imprisonment to be imposed. That is an enormous quantity, an enormous quantity of cocaine, an enormous quantity of marijuana, an enormous quantity of narcotics of any type, but if you are trafficking in twice the amount necessary for life imprisonment, my amendment would allow the courts to give the death penalty in those situations.

It also would allow the death penalty for felony drug crimes where the death of another person results in the course of the crime or from narcotics use and the person convicted with reckless disregard for human life or intended to cause death. This is a similar provision to one that is in the bill of the other body.

I would submit to my colleagues that it is long overdue for us to enact a death penalty provision for these drug kingpins who traffic in very, very large quantities of narcotics. We are talking now about those kinds of quantities that are not only large in general volume but guaranteed, because of the nature of the cocaine particularly, to cause the death of another, not just one person but probably many people in the quantities being trafficked in, cause death not only because there may be overdoses taken but cause death because when you traffic in this amount it goes all out through society, it goes out into the streets and gang wars take place and people commit crimes of violence in order to get the money to purchase the narcotics that

the big trafficker is bringing into this country and trafficking in; and it causes death because there are fellows out there who are shooting at each other and killing each other because they are interested in making a profit and they are both competitors in selling.

There are many different ways, if you traffic in these large quantities of narcotics, that death can be ensuing to American citizens.

I would submit to my colleagues that there is not one death penalty provision in this country that is more needed, that the American public wants more than for us to put this on the books, as a deterrent and as a way to say as a society that it is so heinous and so reprehensible to have drug kingpins trafficking in these large quantities of narcotics and bringing them here into our country for our schoolchildren, it is so reprehensible that there is no choice but to have it on the books of the Federal Government so that the death penalty may be imposed.

Mr. Chairman, I urge an aye vote for the McCollum amendment, to put the death penalty in for drug kingpins.

Mr. Chairman, I reserve the balance of my time.

Mr. WASHINGTON. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. Mr. Chairman, before I yield, may I ask the Chair how much time I have remaining?

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] has 7 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I yield briefly to the gentleman from Texas.

Mr. WASHINGTON. Mr. Chairman, I have just a brief question. I agree with the gentleman, we are going to have a death penalty. I oppose it on moral grounds. But if we are going to have one, we ought to be able to have it reach the people the gentleman is talking about. My concern is, though, that I always thought that the Supreme Court had only given the imprimatur to the death penalty where a death occurred, and I do not believe the gentleman's amendment requires a death to have occurred.

Does the gentleman have any question about the constitutionality of the amendment?

Mr. McCOLLUM. Reclaiming my time, Mr. Chairman, I do not have any question as to the constitutionality. No death is indeed required under my amendment. If you traffic in large enough quantities, no death has to be proven. But the fact of the matter is that the Supreme Court does make very clear that in cases like treason and espionage and in many other ways, you can have a death penalty that is constitutionality valid if the public feels it is so insulted and it is so necessary and the crime is so heinous. And I cannot imagine any crime that rises to the degree of heinousness that this does, and, therefore, I would think it would be perfectly constitutional and long overdue.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the gentleman's amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] is recognized for 10 minutes in opposition to the amendment.

Mr. HUGHES. Mr. Chairman, this is a tough day for the Constitution. I rise in opposition to the amendment.

There are two components to the amendment. The first would impose the death penalty on drug kingpins. The second would extend the death penalty for any drug felony if someone died, by accident or otherwise, in connection with the offense.

The drug kingpin provision in this amendment should not be confused with the provision of the same name which we enacted as part of the 1988 Drug Act. That provision was limited to major drug offenders who intentionally killed. I supported that provision, and it is in the law today. Today, however, we are asked to extend the death penalty to drug cases were no one died, not even by accident.

There is not much point in drawing out the debate on this question. Each Member has probably already made up his or her mind as to whether he or she thinks we should execute people simply because they deal in drugs. Members have decided that, and we are going to discover how they feel about that in a few minutes.

The fact, however, is that there is no reason to believe that the courts would ever uphold such a provision. Earlier we debated the question of whether a reckless killing, as opposed to an intentional one, could form the basis of a valid death penalty. This goes much further. No death need occur. The Supreme Court has drawn few bright lines in death penalty cases, but it has drawn one here. For example, the Court has thrown out the death penalty for rape, even when a serious injury occurs, because no death was involved.

In determining what is and what is not "cruel and unusual punishment" within the constitutional prohibition, the Court is guided by whether a substantial number of States have enacted such a death penalty. No State in the union has the death penalty for simply being a drug dealer. That is another fact which indicates that the Supreme Court would reject it.

The second part of the McCollum amendment provides for the death penalty for anyone involved in a drug offense in which somebody dies, that is, anyone. The death can be by accident, or it can be by an overdose. This is about as far as you can get from intentional killing. It goes even further than the most extreme case to date, the Tison case that involved a brutal multipile execution-style murder, and the question was: When can a major participant, who did not actually pull the trigger, be given the death penalty? But the Court said they were there, they made it possible, and they knew when they gave the guns to those two jail escapees, that they made it possible to execute the Lyons family, four innocent people. They read into that an intent to kill. The conduct involved was directly related to the offense.

But even there the Court required that the death result from the defendant's direct culpability. Here it only has to happen in the course of a drug offense or from the use of the drug.

Let us put aside a legal analysis, because I think that perhaps will not carry today in real terms. What we are talking about right here in traffic accidents which occur anytime a drug offense is taking place. We are talking about every case of death, from taking an illegal drug, including when it results in a medical condition unknown to the victim or the defendant. And we are even talking about a drug offense of simple possession, if 2 ounces of crack is involved. And bear in mind that trafficking deals in drugs, including the sharing of a drug for free with a friend.

Yes, they ought to be punished. I am talking about users that also engage in selling. They need to be severely punished, but—capital punishment? It does not matter that the particular defendant played a minor role, whether they are mules, messengers, or lookouts, they are equally guilty as kingpins and equally subject to the death penalty.

Doubtless prosecutorial discretion is expected to narrow the actual application of the death penalty in those cases. That is what they are relying upon. However, where the death penalty is concerned, broad prosecutorial discretion is a red flag. It adds uncertainty and gives rise to claims that this death penalty is arbitrary, capricious, and unpredictable—the very characteristics that led to the rejection of death penalty statutes in 1972. So we are repeating history here today if we pass the McCollum amendment.

Constitutional challenges will be endless, adding still more uncertainty. Even if we are willing to endure these challenges, and even if such a death penalty is upheld, if by remote chance it is ever upheld, a fundamental question would still remain. That question is: Do we really want to execute people who have no intention or desire to cause death, because they are involved in some remote way with drugs that cause accidental death?

If the person in question is Rodriguez Gacha or the Burmese heroin kingpin, Kuhn Sah, the answer is yes. But what if it is your own kids, or the neighbor's kid, who gives an illegal drug to a friend at a rock concert or a college fraternity party and an accidental death results?

Yes, they should be severely punished, but where is the proportionality? Where is the commonsense application? I say that it does not make sense under these circumstances.

□ 1400

The death penalty has to be a measured response. We must not, no matter how great our frustration is over the drug problem, throw out the Constitution and abandon our common sense.

Mr. Chairman, I reserve the balance of my time.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, I rise in strong support of the McCollum amendment on drug kingpins. When we look across this country and look for the problems that need the greatest attention, the problem of drug abuse stands above the rest. Drugs kill, and they do not discriminate as to who they will destroy. Everyone, from the crack babies to the elderly, from the inner-city youth to the rural American family, drugs are ripping apart the fabric of this Nation.

The leaders of this assault on the American way of life are the drug kingpins that peddle their trade on the streets of America. They are selling nothing short of death.

The death penalty for drug kingpins is appropriate, it is fair, and it is right. We should not let those who wreak so much havoc upon the lives of so many people get away with it. Passage of this amendment will assure the citizens of America that drug kingpins will pay the price for their actions, and I urge all of my colleagues to vote for the McCollum amendment.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, the death penalty should be saved for the most harmful, most egregious, offenses that occur in society. It should be reserved for where murder has occurred as a direct result of the acts of a defendant.

I urge Members to please consider this very untimely and more than likely unconstitutional proposal that is before us. I urge Members to remember that the death penalty for drug traffickers is a meaningless gesture. The drug traffickers put the death penalty on each other every day in the week. So what is the deterrent for some Members in this Chamber, is not deterrent for them.

Mr. Chairman, I would ask Members to please consider that where conduct occurs in death that is not intentional, we cannot bring the death penalty here. I agree with and commend the gentleman from New Jersey [Mr. HUGHES], the chairman of the Crime Subcommittee, and agree with the arguments he has presented. I urge Members not to get down this road of vengeance, of revenge. I know that the drug situation is onerous, but this amendment makes no sense. It certainly makes no constitutional logic.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, I rise in support of the amendment. This calls for providing for the possibility of the death penalty for merchants of death. That is exactly what drug kingpins are, they are merchants of death.

It has been proposed and supported by the President of the United States as part of his package of legislation. I cannot believe that the President would be proposing legislation that would be unconstitutional, having been reviewed by the Attorney General and the Department of Justice.

Mr. Chairman, we have in other cases the possibility of the death penalty, in cases of treason, and in other cases that do not necessarily involve a death. There is no earthly reason why it should not apply to those people who engage in major trade in death-dealing substances that affect our children, that cause death on our streets, that cause death of people who are overdosing, that cause the flood of people into our emergency rooms. The people who conduct those enterprises, the drug kingpins, the merchants of death, should be subject to the death penalty in the same way as others.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I just urge Members to reject the McCollum amendment. It does not make sense. Insofar as drug kingpins are concerned, it does not relate just to kingpins. It covers anybody that is trafficking.

Insofar as youngsters that are engaged in abuse, we have serious penalties on the books to deal with those situations. It does not warrant the imposition of the death penalty. Let us do something that makes sense, and reject the McCollum amendment.

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I wish to respond to a number of points that have been made about this amendment. It does provide the death penalty for drug kingpins. Some have asked about the question of the fact that there may be no death that is required on a couple of points to it. Under one circumstance there is a death penalty for felony drug crimes where there is reckless disregard for human life. Always that caveat has to be there, that reckless disregard for human life standard, the one we just debated on the other amendments. It is the standard used in current law, in addition to an intent to kill.

When the amendment of the gentleman from Pennsylvania [Mr. GEKAS] prevailed and the amendment of the gentleman from New Jersey [Mr. HUGHES] went down a few moments ago on death penalty procedures, we are keeping the current law standard in a lot of the laws on the Federal books, and I would submit that that is appropriate here in this case for drug kingpins as well.

I would also submit that in talking about what a drug kingpin is, we understand precisely what it is. I know some Members asked and were confused.

My amendment follows existing laws on the books with regard to quantities. Again, to get the death penalty as a drug kingpin you have to be trafficking in very large quantities of narcotics. By that I mean the amount equal to the amount now necessary for life imprisonment. That is 300 kilos of cocaine, or the equivalent of 660 pounds. That is twice the amount of cocaine necessary in the bill that was passed by the other body.

It is 60 kilos of heroin. That is an enormous quantity of heroin. You can go on down the list. It is codified, and it is tied down by statute.

As far as Supreme Court decisions are concerned, there are Supreme Court decisions on the death penalty where there is no death. At the present time there is a so-called proportional or subjective standard that is used, though at least four of the Justices have said that they would go to an objective standard that would be even more likely to find my proposal constitutional.

But under the proportionality test, the gravity of the injury caused, the moral culpability, and the public interest, are all taken into account.

Mr. Chairman, I would submit once again to Members there is nothing more grievous today that is not addressed by the death penalty in this country than the huge narcotics trafficker who is out there trafficking in these very, very large quantities of narcotics, $20 million or more in narcotics, 660 pounds of cocaine. This is enough to kill lots of people and to have all kinds of drug wars on the streets with death resulting.

We need to put on the books for our law enforcement officers, our U.S. attorneys, for our attorneys general, the procedures and opportunity for our Federal courts, when they get convictions for these kinds of organized crimes dealing with these large quantities of drugs, to be able to ask the jury and to be able to ask the court to

impose the death penalty. It is an omission from current law.

Mr. Chairman, I urge Members to vote yes on the McCollum amendment for a death penalty for drug kingpins. It is the right vote for your children, it is the right vote for America, and it is the right vote to win the war against drugs. Vote yes on the McCollum amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MCCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 295, noes 133, answered "present" 1, not voting 4, as follows:

[Roll No. 414]

AYES—295

Alexander	DeLay	Houghton
Andrews	Derrick	Hubbard
Annunzio	DeWine	Huckaby
Anthony	Dickinson	Hunter
Applegate	Dicks	Hutto
Archer	Dingell	Hyde
Armey	Donnelly	Inhofe
Aspin	Dornan (CA)	Ireland
Atkins	Douglas	James
Baker	Dreier	Jenkins
Ballenger	Duncan	Johnson (CT)
Barnard	Durbin	Johnson (SD)
Bartlett	Dyson	Johnston
Barton	Early	Jones (GA)
Bateman	Eckart	Jones (NC)
Bennett	Edwards (OK)	Jontz
Bentley	Emerson	Kanjorski
Bereuter	English	Kaptur
Bevill	Erdreich	Kasich
Bilbray	Espy	Kolbe
Bilirakis	Fascell	Kolter
Bliley	Fawell	Kyl
Boehlert	Fields	Lagomarsino
Bosco	Fish	Lancaster
Boucher	Flippo	Laughlin
Broomfield	Frenzel	Leach (IA)
Browder	Frost	Leath (TX)
Brown (CO)	Gallegly	Lehman (CA)
Bruce	Gallo	Lehman (FL)
Bryant	Gaydos	Lent
Buechner	Gekas	Lewis (CA)
Bunning	Geren	Lewis (FL)
Burton	Gibbons	Lightfoot
Bustamante	Gillmor	Lipinski
Byron	Gilman	Livingston
Callahan	Gingrich	Lloyd
Campbell (CO)	Gordon	Long
Carper	Goss	Lowery (CA)
Carr	Gradison	Lukens, Donald
Chandler	Grandy	Machtley
Chapman	Grant	Madigan
Clarke	Green	Manton
Clement	Guarini	Marlenee
Clinger	Gunderson	Martin (IL)
Coble	Hall (OH)	Martin (NY)
Coleman (MO)	Hall (TX)	Martinez
Coleman (TX)	Hammerschmidt	Matsui
Combest	Hancock	Mavroules
Condit	Hansen	McCandless
Cooper	Harris	McCollum
Costello	Hastert	McCrery
Coughlin	Hatcher	McCurdy
Courter	Hayes (LA)	McDade
Cox	Hefley	McEwen
Craig	Hefner	McGrath
Crane	Herger	McMillan (NC)
Dannemeyer	Hiler	McMillen (MD)
Darden	Holloway	Meyers
Davis	Hopkins	Michel
de la Garza	Horton	Miller (OH)
Miller (WA)	Robinson	Solomon
Moakley	Roe	Spence
Molinari	Rogers	Spratt
Montgomery	Rohrabacher	Stallings
Moorhead	Ros-Lehtinen	Stangeland
Morrison (WA)	Rose	Stearns
Murphy	Roth	Stenholm
Murtha	Roukema	Stump
Myers	Rowland (CT)	Sundquist
Natcher	Rowland (GA)	Tallon
Neal (NC)	Russo	Tanner
Nelson	Saiki	Tauzin
Nielson	Sangmeister	Taylor
Nowak	Sarpalius	Thomas (CA)
Ortiz	Saxton	Thomas (GA)
Oxley	Schaefer	Thomas (WY)
Packard	Schiff	Torres
Pallone	Schneider	Torricelli
Parker	Schuette	Traficant
Parris	Schulze	Traxler
Pashayan	Schumer	Upton
Patterson	Sensenbrenner	Valentine
Paxon	Shaw	Vander Jagt
Payne (VA)	Shays	Volkmer
Perkins	Shumway	Vucanovich
Pickett	Shuster	Walker
Pickle	Sisisky	Walsh
Porter	Skeen	Watkins
Poshard	Skelton	Weldon
Price	Slattery	Whittaker
Quillen	Slaughter (VA)	Whitten
Ravenel	Smith (NE)	Wilson
Ray	Smith (TX)	Wolf
Regula	Smith, Denny (OR)	Wyden
Rhodes	Smith, Robert (NH)	Wylie
Richardson	Smith, Robert (OR)	Yatron
Ridge	Snowe	Young (AK)
Rinaldo		Young (FL)
Ritter		
Roberts		

NOES—133

Ackerman	Hertel	Pelosi
Anderson	Hoagland	Penny
AuCoin	Hochbrueckner	Petri
Bates	Hoyer	Rahall
Beilenson	Hughes	Rangel
Berman	Jacobs	Rostenkowski
Boggs	Kastenmeier	Roybal
Bonior	Kennedy	Sabo
Borski	Kennelly	Savage
Boxer	Kildee	Sawyer
Brennan	Kleczka	Scheuer
Brooks	Kostmayer	Schroeder
Brown (CA)	LaFalce	Serrano
Campbell (CA)	Lantos	Sharp
Cardin	Levin (MI)	Sikorski
Clay	Levine (CA)	Skaggs
Collins	Lewis (GA)	Slaughter (NY)
Conte	Lowey (NY)	Smith (FL)
Conyers	Luken, Thomas	Smith (IA)
Coyne	Markey	Smith (NJ)
DeFazio	Mazzoli	Smith (VT)
Dellums	McCloskey	Solarz
Dixon	McDermott	Staggers
Dorgan (ND)	McHugh	Stark
Downey	McNulty	Stokes
Dwyer	Mfume	Studds
Dymally	Miller (CA)	Swift
Edwards (CA)	Mineta	Synar
Engel	Mink	Tauke
Evans	Mollohan	Towns
Fazio	Moody	Unsoeld
Feighan	Morella	Vento
Flake	Morrison (CT)	Visclosky
Foglietta	Mrazek	Walgren
Ford (TN)	Nagle	Washington
Frank	Neal (MA)	Waxman
Gejdenson	Oakar	Weber
Gephardt	Oberstar	Weiss
Glickman	Obey	Wheat
Gonzalez	Olin	Williams
Gray	Owens (NY)	Wise
Hamilton	Owens (UT)	Wolpe
Hawkins	Panetta	Yates
Hayes (IL)	Payne (NJ)	
Henry	Pease	

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—4

Crockett	Pursell
Ford (MI)	Udall

□ 1429

Mr. MRAZEK and Mr. CONTE changed their vote from "aye" to "no."

Mr. ROSE and Mr. DICKS changed their vote from "no" to "aye."

PERSONAL EXPLANATION

Mr. LEHMAN of Florida. Mr. Speaker, on rollcall No. 414, I was recorded as voting aye. It was my intent to vote no, and I want the record to show that I should have been recorded as voting no.

I ask unanimous consent that this statement appear in the permanent RECORD.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Florida?

There was no objection.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 10, printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. MOORHEAD

Mr. MOORHEAD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MOORHEAD: Page 58, strike out line 19 and all that follows through line 6 on page 60.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. MOORHEAD] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair now recognizes the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Chairman, I rise in support of the amendment offered by the distinguished gentleman from California, Mr. MOORHEAD which seeks to delete section 402(b) of the Comprehensive Crime Control Act of 1990. Section 402(b) would effectively eliminate a crucial part of the drug asset forfeiture program. The current language in section 402(b) would severely limit police departments which are already fighting a major drug war from receiving their fair share of the assets seized in drug related cases.

Currently, State and local law enforcement agencies qualify for a share of the forfeited drug assets proportionate to their participation in a joint investigation which lead to the drug seizure.

Sometimes State and local agencies request that a Federal agency adopt the seizure if the seizure results from an investigation conducted exclusively by the agency making the request, the

activity resulting in the seizure is in violation of both State and Federal law, and the property is forfeitable under Federal law. State or local agencies rely on this adoptive forfeiture procedure at times when State procedures are more restrictive, cumbersome, and time consuming.

While the distinguished chairman of the Subcommittee on Criminal Justice is well intentioned in his concern about the possibility of circumventing State laws, I would like to assure him that this is not the case. According to the Department of Justice, there is no State law which purports to govern the distribution of Federal forfeiture proceeds.

I can tell you from my own experience that to maintain the integrity of the Federal equitable sharing program, is of great value to local and State police departments who are fighting the drug war.

In my 31st District of California, the Compton Police Department obtained close to $800,000 in drug forfeiture funds. These funds provided the Compton Police Department with badly needed resources to continue fighting the drug war. Compton in particular, and Los Angeles County in general, disporportionately suffer in the drug war as Federal statistics show that 50 percent of the Nation's cocaine goes through Los Angeles County. You can imagine the level of violence and crime associated with this incredible level of drug smuggling. It is the local police officers who are at the front lines of the drug war. At a time when there are no funds for these law enforcement officials, the forfeiture equitable sharing program is an integral weapon providing seized funds to local police departments which are in dire need for the money.

I urge my colleagues to support the Moorhead-Thomas amendment.

Mr. MOORHEAD. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. THOMAS].

Mr. THOMAS of Georgia. Mr. Chairman, I rise in strong support of the amendment that I and Mr. MOORHEAD have introduced to strike section 402.

First, let me say that my action in no way reflects any disrespect for the accomplishments of the gentleman from New Jersey or his fine subcommittee. They have demonstrated time and time again their legislative accomplishments in the war on crime and drugs. However, I do disagree with section 402 of the bill.

I say that because 1 year ago, I held a law enforcement conference down in my district, at the Federal Law Enforcement Training Center. The objective of the conference was to discuss ways to increase the participation among local, State, and Federal law enforcement officials.

However, the only thing my sheriffs and police chiefs wanted to talk to me about was the fact that they were about to lose the Federal adoptive seizure law. It had provided them and their colleagues in Georgia some $8 million in the past 4 years, and a half-billion dollars nationwide.

Here I was holding a conference with local police to try to increase their cooperation with Federal authorities. All they wanted to hear was why was Congress going to kill a law that led to greater cooperation, and had worked to such great advantage for local drug enforcement.

If you are like me, and do not have any way to explain that to your local law officers, then you support my amendment.

If you believe that seized assets should be used for more law enforcement equipment and investigative resources—then you support our amendment.

And if you think your State and local police and sheriffs should have access to the tougher Federal seizure powers, under the control of the U.S. Department of Justice, then you support our amendment.

Remember, our amendment would not change the current system. It leaves it like it is. If it ain't broke, let's not fix it. State and local law officers should be able to use the asset seizure law and have the money to go back to law enforcement.

Let's pick the pocket of the drug dealer and turn that money into the weapons of law enforcement.

Do not vote to disarm the police. Vote for law enforcement and against drug dealers. Support the Moorhead-Thomas amendment to the House crime bill.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] is recognized for 10 minutes.

Mr. BROOKS. Mr. Chairman, we are for law and order, and we want to require everybody to follow the law and not circumvent it.

I rise in opposition to this amendment because it proposes to delete section 402 of the crime bill, a prohibition against the transfer of forfeited property contrary to State law.

What this section does is to direct the U.S. Attorney General not to transfer property when the seizure process itself is intended to circumvent State law on the disposition of forfeited property.

Since 1984, Federal law has encouraged the Justice Department to give State and local law enforcement agencies a fair share of the property seized from drug dealers. However, some State laws require that seized property be given to schools or to libraries, or a part thereof, and not all to the law enforcement agencies.

Section 402 of the bill, if deleted by this amendment, would encourage a disregard or violation of State laws throughout this country. Section 402 does not affect joint or true cooperative investigations where sharing of seized property is proper. When they honestly work together, the States can get the forfeited properties. When the proceeds are turned over to local agencies after they have done nothing in the seizure, that is an effort to divert money from State operations to the law enforcement within the State in obvious violation of the State law.

Now, that is what we would condone with a vote for the Moorhead amendment. This section affects only seizures and dispositions of property where there has not been any Federal involvement. That is what we ought to be aware of, and we ought to vote against this amendment.

The CHAIRMAN. The gentleman from California [Mr. MOORHEAD] has 7½ minutes remaining, and the gentleman from Texas [Mr. BROOKS] has 7½ minutes remaining.

Mr. MOORHEAD. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. FISH], the ranking Republican on the Committee on the Judiciary.

Mr. FISH. Mr. Chairman, I rise in strong support of the amendment offered by my friend, the gentleman of California [Mr. MOORHEAD]. The Adoptive Forfeiture Program is one of the most effective tools that law enforcement has in the war against drugs. It takes the profit out of the drug trade and has an element of poetic justice—as the ill-gotten profits of the drug lords are seized and then used to strengthen anticrime efforts and additional antidrug enforcement programs.

Section 402 of H.R. 5269 would place limits on the ability of State and local police to participate in the Adoptive Forfeiture Program. This provision would damage Federal-State cooperation in law enforcement and could seriously impair a most effective legal tool against drug trafficking. It jeopardizes a program that has provided over $450 million in forfeited cash and property to State and local police agencies throughout the Nation.

State and local police departments, plain and simple, have a valid claim to asset forfeiture proceeds, when their investigations lead to apprehension and conviction. This is not a "States rights" issue. It is just common sense Federal policy to provide State and local police departments with additional resources in the war against drugs.

The current law on asset seizure and forfeiture should remain the same and a vote for the Moorhead amendment to strike section 402 will achieve this goal. The administration fully supports the Moorhead approach.

□ 1440

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. HUGHES], the chairman of the subcommittee.

Mr. HUGHES. Mr. Chairman, there is a lot of confusion about this amendment. Let me just see if I can once again reiterate what the chairman has indicated.

We are not talking about equitable sharing with local units of government. That is something of which I am very proud. We developed that in our committee many years ago in the forfeiture bill, and I am proud of that section. I helped write that section. I believe in it.

We are talking about obeying the law. That is what we are talking about. The Attorney General has supported a provision that enables us to circumvent State law.

In California, for instance, that is where the major abuses took place, and that is why my colleague, the gentleman from California, is pursuing the amendment. California law says that in the distribution of funds, 76.5 percent will go to the law enforcement agency that actually seizes the assets, 13.5 percent will go to the State prosecutors, and 10 percent goes to the Office of Criminal Justice Planning. All the money goes to law enforcement, but the State of California, in their wisdom, decided how they wanted to distribute State assets.

Now, Mr. Chairman, somebody cooked up a little device where they could run these through Federal courts which are already congested and get more money. They could get 90 percent, not the total of 76.5 percent, so they basically violate State law and frustrate the will of the State legislatures who have decided how these moneys are to go.

Now, how in the world can the Attorney General, the Department of Justice, support a violation of law?

You know, we tell our kids all the time, "We want you to do right. We want you to set an example." The Justice Department should be setting an example by honoring States' law, not permitting law enforcement agencies to save a few bucks to run these things through the Federal process. That is what it is all about.

We cannot reach Federal cases today because we are so backlogged that we cannot forfeit assets fast enough. Now we have this little device that somebody cooked up that bypasses State law.

Look, if the State of Georgia, I say to my distinguished colleague who I respect, and he is a friend——

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. BROOKS. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. HUGHES. Mr. Chairman, I say to my colleague, the gentleman from Georgia, I understand his concerns. If the State of Georgia does not like the way their State funds are being distributed, change State law, change the State law. Do not encourage the Feds to violate your law.

And I say to my colleague, the gentleman from California, the legislature just changed the law to respond to some of the complaints of the law enforcement community. They increased the percentage going to the seizing agency to 76.5 percent. If California does not like their State law for state-seized assets, change it again. Do not try to pull this end run and encourage the Feds to violate your law.

Mr. Chairman, let us reject the Moorhead amendment. It is bad law, bad principle.

Look, let us get some principle back into our descision making around here. We seem to have lost our way, our moral compass seems to be off around here.

Mr. Chairman, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DREIER], a cosponsor of this amendment.

Mr. DREIER of California. Mr. Chairman, I thank my friend from Glendale for yielding me this time. I would like to congratulate him for sponsorship of this amendment.

The question that was raised by the distinguished chairman of the subcommittee has to do with principle. Well, I will tell you something that is a very important principle in California. In Los Angeles we have had 14 drug busts since last October. We have been able to have in excess of $8 million returned for law enforcement. In San Francisco, 38 drug busts brought in nearly $4 million, which went to law enforcement agencies.

It is very clear that as the gentleman from Georgia said, "If it ain't broke, don't fix it."

We have a very effective program here which is playing an integral role in addressing the problem of drug proliferation, and I think this amendment gets right to the point, and I am proud to join my friend, the gentleman from California, as a cosponsor.

Mr. Chairman, I rise today in full support of Mr. Moorhead's amendment to strike section 402 of this comprehensive crime legislation regarding the Federal equitable asset forfeiture program.

Since the asset forfeiture program was established in 1986, local authorities have received $510 million in total assets. Through adoptive provisions of the asset forfeiture program, current law allows local authorities to keep up to 90 percent of the cash that they confiscate in drug related cases. This also applies to other assets seized, such as property, boats, and cars. Local police departments can use the money for any purpose relating to law enforcement except salary increases.

In my State of California, law enforcement agencies will receive up to 40 percent of the total assets seized in drug cases. Equitable sharing with California law enforcement agencies by the Federal Government since 1986 now totals more than $135 million. Some States put the cash from drug assets into State or local treasuries, some to police, some toward education, and Virginia uses it for a literacy program. In the States and U.S. territories, with the current bill language, 32 will be negatively impacted, 16 will be impacted in some way, and only 5 will not be affected.

The real impact of the adoptive measures of asset seizure are clearly seen at the local level. Since last October, 146 drug busts in Los Angeles has put an additional $8,136,479 into law enforcement agencies; thirty-eight busts have been made in San Francisco for a total of $3,994,090. On June 27, 1990, Attorney General Thornburgh distributed $5.5 million from the Department of Justice asset forfeiture program to 14 Los Angeles law enforcement agencies, including $3,094,680 to Los Angeles County Sheriff Sherman Block and $307,713 to Whittier Police Chief James F. Bale within the 33d Congressional District.

Finally, an unseen, and perhaps the most important, benefit from the adoptive program is that Federal, State, and local law enforcement agencies are forced to work together in order to achieve their objectives. Working together in this arena has led to better law enforcement. It would be criminal to upset a program which has not only been monetarily beneficial, but improved our ability to fight drug-related crime.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SMITH], who originally located and determined in public hearings this little scam.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

Let me say that we have no quarrel with what the gentleman from California just indicated, and that is getting money to law enforcement, but let me tell you how they are going it. It is by money laundering. This is a money-laundering scheme. The State forfeits assets under State law, no Federal involvement, no Federal crime, no Federal law officers, nothing. It is State seizure of assets by State officers.

That State, and I give you the example of North Carolina, says that money seized under that has to go back into educational rehabilitation.

The law enforcement community says, "We don't like that. We don't care that it's a State law."

They give it to the Feds. The Feds launder it, take a 10-percent commission and give back 90 percent to the local law enforcement. They have ef-

fectively rerouted the money and they have rewritten State law.

We had a hearing in my home town of Hollywood where this was discovered. The Attorney General of North Carolina had the temerity to sit in front of us and say, "I don't care if we violate my own State's law, I don't like the law, so I allow for adoptive forfeiture."

Do you want to be part of a money-laundering scheme? Let the State pass laws that give it back to law enforcement. The State of Florida did that. The gentleman from Florida [Mr. MCCOLLUM] will tell you that the State of Florida allows those forfeitures be given to law enforcement.

Do not participate in a fraud on the taxpayers of your own State. They are being cheated because their legislatures pass laws to do otherwise with the money than what the law enforcement community wants.

This is wrong. All they have to do is pass a law at that level saying what will happen with the money. They are not foreclosed, but if you vote for the Moorhead amendment you are voting to violate your own State's law and you are participating in money laundering, and to say that is not violative of principle, My God, that is the worse possible thing that you could do.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I thoroughly agree with my colleague, the gentleman from Florida, and the gentleman from Texas, the chairman of my committee. This is a bad amendment, even though I respect the gentleman from California very much.

It is indeed unfortunate, but the facts of life are this amendment would change the law as it has now been. We want to see things go through the States. It is responsible to let things go through the States. Let them make the determination on what the law enforcement officials use their money for, how it is used and so forth.

We were, and are, having the Federal laws abused every time you turn around by the forfeiture procedures of the Federal Government being used by the local law enforcement people who do not like what their State laws read.

I would encourage my colleagues to vote against this amendment and let us have a situation where the States make the determination, instead of using the Federal forfeiture laws to go around State laws. That is what it is all about. Let the States decide it, and as has been said out here before, you can lobby your State legislature if you do not like the way it is, if the local sheriff does not like it, whether it is in California, Texas, Florida or North Platt, wherever it is. Maybe those laws ought to be changed, but it is the State laws that ought to be changed. It is the States who ought to decide how these forfeited proceeds are used, not to overburden our Federal Government and our Federal forfeiture laws to go around the State laws because of the preemption that otherwise would be, so that is why there is the opposition to the Moorhead amendment. I think it is a bad amendment and I urge a no vote.

Mr. MOORHEAD. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I rise in support of my amendment.

□ 1450

This amendment is considered the most important one in this legislation to law enforcement in the United States. The Department of Justice, the National Association of Attorneys General, the Federal Law Enforcement Officers Association, the Fraternal Order of Police, the International Association of Chiefs of Police, the International Brotherhood of Peace Officers, major cities' chief administrators, National Association of Police organization, States attorneys general, law enforcement across the board in the United States of America supports this amendment.

I am not changing the present law. I am only changing the provision of this bill that has been put in this bill, the provisions in the bill that would deny to the local police the right to share in proceeds where they have been a part of a drug bust.

While the sponsors of section 402 are well intended, their contention that sharing of Federal forfeiture proceeds somehow circumvents State laws in the case of adoptive forfeitures is simply unfounded. There is no State law which purports to govern the distribution of Federal forfeiture assets. More importantly, the Federal Government does not adopt a single forfeiture that State and local government does not want them to adopt. Under the Controlled Substances Act and other related statutes, the Attorney General has the authority to equitably transfer forfeited property and cash to State and local agencies that directly participate in the law enforcement effort leading to the seizure and forfeiture of property. Congress established the forfeiture equitable sharing programs in the Comprehensive Crime Control Act of 1984, which our chairman supported. Since fiscal year 1986, the Department of Justice has shared over a half billion dollars in forfeited cash and property with hundreds of State and local agencies. All Members' offices have received a chart showing the number and value of equitable sharing disbursements received by your State over the past 3 fiscal years.

The Federal equitable sharing program has been a dramatic success and accounts in large measure for the more than 20-fold increase in Federal forfeitures from fiscal year 1985 to fiscal year 1989, from $27.2 million in fiscal year 1985 to $580 million in fiscal year 1989. As the overwhelming majority of forfeitures develop from drug cases, equitable sharing is the catalyst for thousands of successful forfeitures which are hitting drug traffickers where it hurts them most—in the pocketbook.

There are the three primary goals of the DOJ asset forfeiture program which are: First, to punish and deter criminal activity by depriving criminals of property used or acquired through illegal activities; second, to enhance cooperation among Federal, State, and local law enforcement agencies through equitable sharing of assets recovered through this program; and third, to produce additional revenues that assist in strengthening State and local law enforcement. If section 402 is enacted, these objectives will be far more difficult to achieve. To restrict the ability to file a seizure under Federal statute, as section 402 would, could result in the loss of millions of dollars in potential revenues and the curtailment of narcotics enforcement programs currently in place. If assets could not be returned to State and local agencies, it is believed that Federal and State law enforcement coordination and cooperation would be irreparably damaged by instilling and creating a spirit of competition rather than cooperation.

There are two ways that State and local law enforcement agencies financially benefit from the Federal asset forfeiture program. The first is known as equitable sharing. This is when State or local and Federal law enforcement agencies cooperate in an investigation resulting in the forfeiture of assets. The forfeiture law provides that a State or local law enforcement agency should receive from the forfeited property a share equal to the percentage of effort and assistance it provided in the case.

I ask for an "aye" vote on my amendment. I believe it is good law, supported by all law enforcement agencies in this country.

Mr. BROOKS. Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. SMITH].

The CHAIRMAN. The gentleman from Florida [Mr. SMITH] is recognized for 30 seconds.

Mr. SMITH of Florida. Let me just say I have a great deal of respect for the gentleman from California [Mr. MOORHEAD]. But this is not what he says it is. There is no equitable sharing here, because the money that is being utilized for local purposes coming from the Federal "adoptive

forfeiture procedures" is money that came solely from the seizure of assets at the local level with no Federal involvement at all. What they are doing is circumventing State law. All that a State has to do—or at the local level—pass an ordinance or a statute that allows for the police agencies to get the money, and they will get it.

The Federal Government should not be doing this.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. MOORHEAD].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MOORHEAD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 309, noes 120, not voting 4, as follows:

[Roll No. 415]

AYES—309

Anderson	DeFazio	Herger
Andrews	DeLay	Hiler
Annunzio	Derrick	Hoagland
Archer	DeWine	Holloway
Armey	Dickinson	Hopkins
Atkins	Dixon	Horton
AuCoin	Dornan (CA)	Houghton
Baker	Douglas	Hubbard
Ballenger	Dreier	Huckaby
Barnard	Duncan	Hunter
Bartlett	Dymally	Hutto
Bateman	Dyson	Hyde
Bates	Edwards (CA)	Inhofe
Beilenson	Edwards (OK)	Jacobs
Bennett	Emerson	James
Bereuter	Engel	Jenkins
Berman	English	Johnson (CT)
Bevill	Erdreich	Johnson (SD)
Bilbray	Espy	Jones (GA)
Bilirakis	Fawell	Jones (NC)
Bliley	Fazio	Jontz
Boehlert	Fields	Kanjorski
Boggs	Fish	Kasich
Boxer	Flippo	Kennedy
Broomfield	Frenzel	Kolbe
Browder	Frost	Kolter
Brown (CA)	Gallegly	Kyl
Brown (CO)	Gallo	LaFalce
Bryant	Gaydos	Lagomarsino
Buechner	Gekas	Lantos
Bunning	Geren	Laughlin
Burton	Gibbons	Leach (IA)
Byron	Gilman	Leath (TX)
Callahan	Gingrich	Lehman (CA)
Campbell (CA)	Glickman	Lent
Campbell (CO)	Gonzalez	Levin (MI)
Carper	Goodling	Levine (CA)
Carr	Gordon	Lewis (CA)
Chapman	Goss	Lewis (FL)
Clarke	Grandy	Lightfoot
Clement	Grant	Livingston
Clinger	Gray	Lloyd
Coble	Green	Lowery (CA)
Coleman (MO)	Guarini	Lowey (NY)
Coleman (TX)	Gunderson	Luken, Thomas
Combest	Hall (OH)	Lukens, Donald
Condit	Hall (TX)	Machtley
Conte	Hammerschmidt	Madigan
Cooper	Hancock	Manton
Coughlin	Harris	Martin (IL)
Courter	Hastert	Martin (NY)
Cox	Hatcher	Martinez
Craig	Hawkins	Matsui
Crane	Hayes (LA)	Mazzoli
Dannemeyer	Hefley	McCandless
Darden	Hefner	McCloskey
Davis	Henry	McCrery
McDade	Regula	Smith, Robert (NH)
McEwen	Rhodes	Smith, Robert (OR)
McGrath	Richardson	Snowe
McHugh	Rinaldo	Solarz
McMillan (NC)	Ritter	Solomon
McNulty	Roberts	Spence
Meyers	Robinson	Spratt
Michel	Rogers	Stallings
Miller (OH)	Rohrabacher	Stangeland
Miller (WA)	Ros-Lehtinen	Stark
Mink	Rose	Stearns
Molinari	Rostenkowski	Stenholm
Mollohan	Roth	Stump
Montgomery	Roukema	Sundquist
Moody	Rowland (CT)	Tallon
Moorhead	Rowland (GA)	Tanner
Morella	Roybal	Tauke
Morrison (CT)	Russo	Tauzin
Morrison (WA)	Saiki	Taylor
Murphy	Sarpalius	Thomas (CA)
Murtha	Saxton	Thomas (GA)
Myers	Schaefer	Torres
Natcher	Scheuer	Torricelli
Neal (MA)	Schiff	Upton
Neal (NC)	Schuette	Valentine
Nielson	Schulze	Vander Jagt
Nowak	Sensenbrenner	Volkmer
Olin	Sharp	Vucanovich
Owens (UT)	Shaw	Walgren
Oxley	Shays	Walker
Packard	Shumway	Walsh
Pallone	Shuster	Watkins
Parker	Sikorski	Weber
Parris	Sisisky	Weldon
Pashayan	Skaggs	Wheat
Patterson	Skeen	Whittaker
Paxon	Skelton	Whitten
Payne (NJ)	Slattery	Wilson
Payne (VA)	Slaughter (NY)	Wolf
Pelosi	Slaughter (VA)	Wolpe
Penny	Smith (IA)	Wyden
Porter	Smith (NE)	Wylie
Price	Smith (NJ)	Yatron
Quillen	Smith (TX)	Young (AK)
Rangel	Smith (VT)	Young (FL)
Ravenel	Smith, Denny (OR)	
Ray		

NOES—120

Ackerman	Frank	Obey
Alexander	Gejdenson	Ortiz
Anthony	Gephardt	Owens (NY)
Applegate	Gillmor	Panetta
Aspin	Gradison	Pease
Barton	Hamilton	Perkins
Bentley	Hansen	Petri
Bonior	Hayes (IL)	Pickett
Borski	Hertel	Pickle
Bosco	Hochbrueckner	Poshard
Boucher	Hoyer	Rahall
Brennan	Hughes	Ridge
Brooks	Ireland	Roe
Bruce	Johnston	Sabo
Bustamante	Kaptur	Sangmeister
Cardin	Kastenmeier	Savage
Chandler	Kennelly	Sawyer
Clay	Kildee	Schneider
Collins	Kleczka	Schroeder
Conyers	Kostmayer	Schumer
Costello	Lancaster	Serrano
Coyne	Lehman (FL)	Smith (FL)
de la Garza	Lewis (GA)	Staggers
Dellums	Lipinski	Stokes
Dicks	Long	Studds
Dingell	Markey	Swift
Donnelly	Marlenee	Synar
Dorgan (ND)	Mavroules	Thomas (WY)
Downey	McCollum	Towns
Durbin	McDermott	Traficant
Dwyer	McMillen (MD)	Traxler
Early	Mfume	Unsoeld
Eckart	Miller (CA)	Vento
Evans	Mineta	Visclosky
Fascell	Moakley	Washington
Feighan	Mrazek	Waxman
Flake	Nagle	Weiss
Foglietta	Nelson	Williams
Ford (MI)	Oakar	Wise
Ford (TN)	Oberstar	Yates

NOT VOTING—4

Crockett	Pursell
McCurdy	Udall

□ 1516

Mr. BONIOR changed his vote from "aye" to "no."

Messrs. STALLINGS, MARTINEZ, COLEMAN of Texas, HEFLEY, ESPY, WHITTEN, PENNY, RUSSO, McHUGH, and DICKINSON, Ms. PELOSI, Mr. JONTZ, Mr. BRYANT, Mrs. BOGGS, Mr. ANNUNZIO, and Mr. McCLOSKEY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 12 printed in part 2 of House Report No. 101-796.

AMENDMENT OFFERED BY MRS. UNSOELD

Mrs. UNSOELD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. UNSOELD: Page 80, line 1, insert "from imported parts" after "assemble".

The CHAIRMAN. Under the rule, the gentlewoman from Washington [Mrs. UNSOELD] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are today debating crime control, not gun control. I am optimistic that should my amendment pass, many of my colleagues concerned with protecting our second amendment rights will support this crime package.

Mr. Chairman, Congress, not a nameless, faceless bureaucrat in the Treasury Department, should decide which firearms Americans can own. Congress will have an opportunity to set that extremely controversial policy when Chairman HUGHES' bill, H.R. 4225, comes up for a vote in the near future.

As it stands now, section 705 of H.R. 5269 may be interpreted to authorize a bureaucrat to prohibit the domestic assembly of any semiautomatic rifle or shotgun by declaring it identical to a foreign, nonimportable model. Treasury officials have already stated that most semiautomatics are functionally identical. Thus, several American-made target and other sporting rifles could be banned under this provision, including the Springfield Armory M-1A, which is used by thousands of rifle competitors, and the Ruger Mini-14, a popular hunting rifle. My amendment would clarify that the ban refers to domestic assembly of nonimportable firearms only.

My amendment preserves the promised noncontroversial nature of H.R.

5269. My amendment clarifies that section 705 refers only to foreign-made parts. My amendment puts the power to choose the types of weapons Americans can own in the hands of elected officials. Mr. Chairman, I urge my colleagues to support my amendment.

□ 1520

The CHAIRMAN. Does any Member rise in opposition to the amendment?

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] is recognized for 10 minutes.

Mr. HUGHES. Mr. Chairman, there is a lot of confusion about this amendment. Let us make sure that all Members understand what we are talking about.

The President asked for the provisions that are in the bill. In fact, our Subcommittee on Crime took the provisions dealing with the assembly of assault type weapons right from the bill of the President. The provisions were requested by the police of this country, who support the provisions in the bill.

What the gentlewoman from Washington [Mrs. UNSOELD] would do would be to change the provisions of the bill to say that if in fact the parts are assembled from parts overseas, then the prohibition attaches and they cannot be manufactured.

However, if these assault type weapons that the President has already declared to be not in the public interest and have been banned from import are made from scratch in this country from domestic parts, even though they are the identical weapon, such as the AK-47 or the Uzi, that is OK.

Now, I ask Members whether you think it is going to make any difference whether a police officer that faces an AK-47, a weapon that was manufactured for military purposes, an assault type weapon, a weapon of war that has the capacity to get 20 to 25 rounds off in a matter of seconds, whether it makes any difference whether the parts were made in China or the parts were made in our country?

Mr. Chairman, if any Member can explain that, I would like to hear it. I do not think it makes any difference when a police officer faces these weapons, and they do so every day throughout this country with increased frequency, I do not know that it makes any difference whether it was made in China, whether the parts were made in China, or whether it was made in our country.

How in the world can one say it is in the public interest to ban the import of these weapons, but it is OK to manufacture them in this country? That is the issue.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, the gentleman from New Jersey [Mr. HUGHES] is absolutely correct. The people who are supporting sensible and reasonable control over assault weapons are absolutely disturbed by this amendment that we are debating here. I would urge Members to vote no.

Mr. Chairman, we always have a problem when a law becomes effective, and which law passed the House last and which one became law last. All this amendment would do would be to completely gut the ban the President has already put on, the ban that this Congress will probably put on. It just should not be adopted.

I assign no motive to the sponsor of the amendment, but I do say, having studied this matter and having worked on it and having brought forth legislation on it that will be considered on this floor, that this amendment just does a terrible injustice to a process that is already working.

Mr. Chairman, we are talking about horrible weapons. We are not talking about sportsmen's weapons, we are talking about concealable weapons with unlimited fire power. These are just weapons of murder. That is the only purpose they are used for in this country.

I have always thought it was a travesty that we limit sportsmen with semiautomatic weapons to taking three shots at a deer or a dove or a duck or a goose, but you can shoot as many shots as you want at a human being.

Mr. Chairman, I would ask Members to vote no on this amendment.

Mrs. UNSOELD. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from Washington. The Unsoeld amendment would correct a blatant flaw in section 705. This section is written so loosely that it would authorize the Treasury Secretary to prohibit the domestic manufacture of any semiautomatic rifle or shotgun—simply by declaring it identical to a foreign-made, nonimportable model. The proponents of this language tell me not to worry—that the Secretary wouldn't think of banning the Springfield Armory M-1A, the Armscorp M-14, and models of the Ruger Mini-14. These firearms are not used by drug dealers or criminals. They are essential to both hunters or other sportsmen who shoot firearms competitively. Many of the firearms section 705 could ban are weapons that I've used for hunting or shooting targets. The Unsoeld amendment is really a perfecting amendment. Adding "from imported parts" to the language of section 705, makes it clear and unambiguous that our goal is to prohibit persons from end running the current ban on certain foreign made firearms by importing their parts and assembling them in the United States. I believe the gentlelady from Washington is proposing a truly excellent improvement to section 705 and I urge the adoption of the amendment.

Mrs. UNSOELD. Mr. Chairman, I yield 1 minute to the gentleman from Idaho [Mr. CRAIG].

Mr. FIELDS. Mr. Chairman, will the gentleman yield?

Mr. CRAIG. I yield to the gentleman from Texas.

Mr. FIELDS. Mr. Chairman, I rise in support of the Unsoeld amendment and in support of sporting Americans.

Mr. CRAIG. Mr. Chairman, reclaiming my time, I thank the gentlewoman from Washington [Mrs. UNSOELD] for yielding.

Mr. Chairman, I would say to Members that the amendment that is proposed to section 705 of this bill is fundamentally important to those of us who believe in second amendment rights. We are talking about three little words, three little words that are, "from imported parts."

Let me suggest to Members that those three little words make all the difference in the world. They take the power to ban some guns out of our hands and put them in the hands of administrative officials who make arbitrary decisions on "does this apply."

They prevent this section of the bill from circumventing the intent of our Founding Fathers. They allow tens of thousands of law-abiding citizens the right to use these kinds of weapons, and others, for sporting events and for self-protection, as was determined under the second amendment.

Mr. Chairman, three little words make all the difference in the world, and those are "from imported parts."

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI], a valued member of the committee.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding. I rise in opposition to the amendment of the gentlewoman from Washington [Mrs. UNSOELD].

Mr. Chairman, I would like to sort of go on the words of our friend, the gentleman from Idaho [Mr. CRAIG], who said that there are three little words. I think there are three other little words involved in this debate, and that is, "Don't kill Americans." "Don't kill Americans."

That is exactly what is involved here. The American who is about to be killed or who is killed does not know the difference between imported parts and not imported parts. Certainly what the spirit of this bill before this Congress is, is to try to preserve the

opportunity for life of some Americans who would otherwise be blown away by these assault weapons. So the committee, under the distinguished leadership of the gentleman from New Jersey [Mr. HUGHES], has said these assault weapons which cannot be imported ought not to be able to be made in the United States. I do not see any reason why we should be able to assemble these weapons.

Mr. Chairman, I certainly hope that this amendment is defeated, and defeated resoundingly. Let us vote for the American people and vote for a safer America.

□ 1530

Mrs. UNSOELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, I rise in support of the Unsoeld amendment to section 705 of the Comprehensive Crime Control Act of 1990.

Section 705, as written, prohibits any person to assemble any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of the 1968 Gun Control Act, as amended. The problem with this language is that it could allow some faceless, nameless bureaucrat the authority to prohibit the assembly of domestically manufactured semiautomatic rifles and shotguns which he may deem supposedly identical to those weapons banned from importation.

In testimony before the Senate Judiciary Committee, the Bureau of Alcohol, Tobacco, and Firearms [BATF] stated that nearly all semiautomatic firearms are identical.

If this is the case, it seems reasonable to assume that at some time BATF could use the present language in section 705 to prohibit American companies from assembling semiautomatic weapons which have been owned and used by millions of law-abiding Americans for many years.

The Unsoeld amendment would prevent the circumvention of the current import ban on semiautomatic weapons by clarifying that the section would only apply to the assembly of semiautomatic weapons currently banned from importation.

I would prefer that this section not be included in a crime control bill because no evidence suggests gun control legislation leads to crime control. In fact, no evidence exists that shows semiautomatic assault weapons are the weapons of choice of drug dealers and criminals. Statistics from the Florida Assault Weapons Commission indicated that less than 3 percent of all crimes involving guns in the State of Florida last year were committed by semiautomatic weapons.

Additionally, in Chicago, in 1988–89 the Chicago Police Department murder figures show 29 people were killed with baseball bats and no murders were committed with semiautomatic assault weapons, which are currently banned from importation or those which are domestically manufactured.

If further evidence is needed that gun control laws do not reduce crime, we only have to look at the streets of our Nation's Capital. In Washington, DC, a private citizen cannot legally purchase and register a handgun, much less a semiautomatic "assault weapon," yet the District of Columbia, has the highest per capita murder rate in the Nation.

I support a strong crime bill. We must reduce violent crime, incarcerate convicted criminals and keep them off our streets. The Unsoeld amendment to section 705 will insure that semiautomatic weapons which are banned from importation will not be assembled from imported parts, and continue to allow law-abiding gun owners access to semiautomatic guns which have been used lawfully by millions of Americans for years.

I support and strongly urge my colleagues to support the Unsoeld amendment to the Comprehensive Crime Control Act of 1990.

Mrs. UNSOELD. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I rise in support of the Unsoeld amendment and against the unamended section 705 of the crime bill. There are three reasons for this. First of all, I think this fight today is on the crime bill. It should not be between good guns and bad guns, but rather the fight should be between good guys and bad guys.

This House has already expressed its will on strengthening criminal penalties in the crime bill, including the death penalty, which is a position I applaud.

The second reason I am against section 705 as unamended is that it is a back door way to impose universal gun control, including the ban of all semiautomatic weapons, which is violative of the second amendment freedoms and against the interests of millions of Americans who want to own and collect firearms, including semiautomatic weapons, for recreation, collection, and competition.

The third reason, Mr. Speaker, is the fact that all semiautomatic weapons are the same. Some may look more sinister than others, but in fact the action is the same. So I support the Unsoeld amendment, which would satisfy the committee's intention to stop the circumvention of the President's import ban.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I oppose the Unsoeld amendment. Despite the Bush administration order to restrict the import of foreign semiautomatic assault rifles, current law permits domestic manufacturers to assemble exact facsimilies of banned imports. Section 705 of the crime bill closes this loophole by prohibiting the domestic assembly of semiautomatic assault weapons identical to those barred from importation.

The Unsoeld amendment would only prohibit the assembly of assault rifles from foreign made parts, and would completely exempt domestic facsimilies from the prohibition. It simply duplicates current prohibitions on assembly of foreign made parts, while eliminating the important prohibition on the domestic assembly of identical facsimilies.

The Unsoeld amendment would completely undermine the President's import ban by allowing American made replicas of the AK-47, Uzi, and other banned weapons. Section 705, as currently written, would effectively prevent manufacturers from circumventing the President's import ban.

I urge the Members to vote down the Unsoeld amendment.

Mrs. UNSOELD. Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise in support of the amendment offered by my friend from Washington [Mrs. UNSOELD].

Once again I find myself debating an issue that should be moot. An issue that was settled by our founding fathers over 200 years ago. Once again I find myself quoting the second amendment to our Constitution, which states, Mr. Chairman, that "the right of the people to have and to bear arms, shall not be infringed."

Mr. Chairman, it seems to me that this right, like all constitutionally enumerated rights, should not be denied by this or any governing body. In fact, it seems to me that even the consideration of legislation that denies fundamental rights to the American people is a breach of our duty as Members of Congress.

My State, Nevada, has considerably less State regulation on firearms than most States, and it is clear that most Nevadans would like to see it stay that way.

The Unsoeld amendment will clarify that it is not Congress' intent to ban domestically made firearms, and that it is not Congress' intent to further Federal Government infringement of our second amendment rights.

Mr. Chairman, I urge the adoption of the Unsoeld amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois [Mr. DURBIN]

Mr. DURBIN. Mr. Chairman, every debate on a crime bill is a debate on law and order. The choice on this amendment is clear. The gun lobby supports this amendment; the police oppose this amendment. The law and order position is against this amendment.

Why? Because every morning in America tens of thousands of men and women get up, put on a uniform, put a badge on their chest and go out to put their lives on the line to protect our families and communities. They beg us to keep these murderous assault weapons out of the hands of the drug armies that are taking over many parts of America.

Unfortunately, this amendment will expand those numbers of weapons that can be used to kill law enforcement officials and bring pure chaos to the urban centers of America.

Sure, this amendment will put some disadvantage and some regulation on sportsmen and hunters. Is that too high a price to pay to protect the men and women who put their lives on the line every day to defend us?

Mrs. UNSOELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, I rise in support of the Unsoeld amendment.

Her amendment would put the gun control genie back in the bottle. Her amendment would prevent unelected bureaucrats from telling me which gun I can own. While I would have preferred that this section be totally eliminated and the President revoke his initial ban on so-called nonsporting imported semiautomatics, this amendment is a much better alternative to what is in the bill.

Mr. Chairman, where did this smokescreen language of sporting firearms come from? Where is it in the Constitution saying that I can't own a nonsporting gun? Why are we so willing to trash the second amendment to satisfy the demands of the gun control crowd?

The sporting firearm language was created to allow a proven antigun bureaucracy the opportunity to selectively and effectively march down the list of firearms eliminating anything at their discretion.

Is a nonsporting firearm a .357 revolver that I keep in my home for protection?

Is a seven shot-short barrel shotgun my daughter keeps in her home for defense against robbery, rape, and assault a nonsporting firearm?

Is a nonsporting firearm a birdshot gun that my wife keeps in her home for defense against rape, assault, and robbery?

Ask the buraucrat who some would give the authority to decide to do this. Now you know the rest of the story. Now you know why you should vote for the Unsoeld amendment.

The amendment offered by the gentlewoman from Washington restores some common sense to an absurd situation. I urge my colleagues to vote for the Unsoeld amendment.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would inform those sitting in the Gallery that they should not express themselves by applause or any other audible form of expression.

Mrs. UNSOELD. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I rise in support of the Unsoeld amendment because section 705 is at best inadequate, and at worst coercive.

Section 705, in its present form, is coercive. It would unsurp the gun ownership rights of law-abiding citizens without the mitigating effect of controlling crime.

Law enforcement officer Steven Arthur, from Bedford, IN, States:

It seems to me that one of the main problems we face now and in the past is that, for some of our elected leaders, it is easier to attack the issue of crime control by attacking an inanimate object * * * rather than letting the criminal bear personal responsibility for his or her actions. The crisis we now face in the proposed banning of "assault weapons" is a case in point. These semi-automatic weapons are little different than the numerous hunting rifles and pistols that have been on the market since before World War II.

Mr. Chairman, section 705 is inadequate, if its goal is to control crime. Have strict gun control laws worked in Washington or in New York City? Is there any correlation with restrictive gun control and a decrease in crime? The answer is no. All the evidence points to the contrary. The overwhelming majority of police officers agree that banning so-called assault weapons will not realistically decrease violent crime, gang activity, or narcotics trafficking.

I urge my colleagues to vote yes on the Unsoeld amendment.

PARLIAMENTARY INQUIRY

Mr. HUGHES. Mr. Chairman, may I ask the Chair, as chairman of the subcommittee, do I have the right to close debate?

The CHAIRMAN. The gentleman is correct.

Mr. HUGHES. I reserve the balance of my time. I am the last speaker.

Mrs. UNSOELD. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentlewoman for yielding me the minute.

Mr. Chairman, I think this whole debate has blown the issue out of proportion. The gentlewoman offered a very simple clarifying amendment.

We do not have the whole gun issue out here on the floor and should not have today. The committee print, the bill we have out here is very simple. Section 705 is amendments relating to the domestic assembly of nonimportable firearms. The explanation of that says in the print we have out:

The purpose of this provision is to prevent the circumvention of the importation restrictions by persons who would simply import the firearms in a disassembled form and then reassemble them in the United States.

The gentlewoman is simply putting after the words in a subparagraph in the amendment where the word assembly appears, "for imported parts." So it is very clear that it shall be unlawful for any person to assemble from any imported parts any semiautomatic rifle.

This is nothing more than a clarifying amendment. We will get the bigger firearms bill after this one. All of the people who want to have that debate over banning domestic firearms will get a couple of bills out here that follow the crime bill. This one needs to be put in just so that the statute itself is clear on its plain face that we are talking about assembly from imported parts. That is all this is, nothing more, and I urge an aye vote.

□ 1540

Mrs. UNSOELD. Mr. Chairman, I yield the remainder of my time to the gentleman from Texas [Mr. BROOKS], the distinguished chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from Washington.

The bill as reported by the Judiciary Committee prohibits the domestic assembly of any semiautomatic rifle or shotgun that is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of title 18 of the United States Code.

The gentlewoman's amendment would specify that the bill's ban on domestic assembly applies to imported gun parts. The amendment is fully consistent with language on this provision in the committee's report which states:

The purpose of this provision is to prevent the circumvention of the importation restrictions by persons who would simply import the firearms in a disassembled form and then reassemble them in the United States.

Thus, the amendment would simply assure that the purpose of the bill as reported by the committee is achieved.

I urge my colleagues to support this amendment.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I am happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I wish to commend the gentleman for his statement in support of the Unsoeld amendment, and I, too, rise in support of that amendment and speak in the name of the sportsmen and hunters throughout our Nation who also support this amendment and also law enforcement.

I thank the gentleman very much for his support.

Mr. HUGHES. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, it is not often I find myself in disagreement with my distinguished and affable chairman, the gentleman from Texas. I understand where he is coming from.

Let us put it where it is. The police of the country want us to oppose Unsoeld, and the gun lobby and the NRA, the rest of the gun lobby, want us to support it. This is an NRA-sponsored amendment. Make no mistake about it.

We have been tough; boy, have we been tough on crime. For the past 3 hours, as we wade through this crime bill, we have been tough.

Members came through on the last amendment and adopted forfeiture, and they said, "What do the police in this country want?" That is the only question they asked when they adopted forfeiture.

Make no mistake about it, the police on this amendment want us to vote against Unsoeld. Why? They want us to vote against it because they see what is happening every day in the streets. You read the newspapers. It has become a carnage.

The weapon of choice by drug traffickers and organized crime officials, the thugs on the streets today, are the Uzis, the AK-47's, the other assault-type weapons.

I have always considered myself a sportsman, and I will take a back seat to nobody. I have not hunted in years, but I am still a member of a club. I went to my club a few months back, and I took in a few of these ugly assault-type weapons, and I said, "How many in the room," and there were about 75 to 100, "own one of these things?" There was no answer. One guy got back with an NRA cap and in the back of the room, and he said, "Well, I have had a 30.06 for years." I said, "Look, I have used a 30.06. I do not own one. But you do not see a 30.06 up here."

These are weapons with grenade-launcher attachments on the end, flash suppressors, they have fixtures for a bayonet in some instances, they have a grip so you can spray the weapons, they have clips that carry up to 50 rounds, and they are weapons of war. They kill.

The AK-47 took how many lives in Stockton, CA?

What UNSOELD wants to do is she wants to make a distinction. It is OK to ban the import of parts to make these weapons that the President already has banned, but when the President says, "I do not want these made with domestic parts as well as imported parts," she will not have that, as if it makes any difference.

Do you think it makes any difference whether an AK-47 is made by parts in China or this country when a police officer looks down the muzzle of that gun?

What is so bad about these weapons is they can take out 20 people in 25 seconds. That is the difference, and we have an arms race. It is taking place on the floor. We may not pass this today, ladies and gentlemen, and maybe there has not been enough blood in the streets, but we are going to pass it, because I want to tell you, it is coming. It is coming. The police are going to prevail, because we are going to be going to their funerals, and you explain to them why you voted the way you did.

I will not have any problems with that, because I am going to vote against Unsoeld.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Washington [Mrs. UNSOELD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 172, not voting 4, as follows:

[Roll No. 416]

AYES—257

Alexander	Duncan	Kolter
Andrews	Dyson	Kostmayer
Anthony	Eckart	Kyl
Applegate	Emerson	Lagomarsino
Archer	English	Lancaster
Armey	Erdreich	Laughlin
Aspin	Espy	Leath (TX)
Baker	Fields	Lent
Ballenger	Fish	Lewis (CA)
Barnard	Flippo	Lewis (FL)
Bartlett	Ford (MI)	Lightfoot
Barton	Frenzel	Livingston
Bentley	Frost	Lloyd
Bereuter	Gallegly	Long
Bevill	Gallo	Lowery (CA)
Bilbray	Gaydos	Lukens, Donald
Bilirakis	Gekas	Madigan
Billey	Geren	Marlenee
Boehlert	Gillmor	Martin (IL)
Boggs	Gilman	Martin (NY)
Boucher	Gingrich	Martinez
Brooks	Goodling	McCandless
Browder	Gordon	McCollum
Brown (CO)	Grandy	McCrery
Bruce	Grant	McDade
Buechner	Gunderson	McEwen
Bunning	Hall (OH)	McMillan (NC)
Burton	Hall (TX)	McMillen (MD)
Bustamante	Hamilton	Michel
Byron	Hammerschmidt	Miller (OH)
Callahan	Hancock	Molinari
Campbell (CO)	Hansen	Mollohan
Carr	Harris	Montgomery
Chapman	Hastert	Moorhead
Clarke	Hatcher	Morrison (WA)
Clement	Hayes (LA)	Murphy
Clinger	Hefley	Murtha
Coble	Hefner	Myers
Coleman (TX)	Herger	Natcher
Combest	Hiler	Neal (NC)
Condit	Holloway	Nielson
Cooper	Hopkins	Oberstar
Costello	Horton	Obey
Cox	Houghton	Olin
Craig	Huckaby	Ortiz
Crane	Hunter	Owens (UT)
Dannemeyer	Hutto	Oxley
Darden	Hyde	Packard
Davis	Inhofe	Parker
de la Garza	Ireland	Parris
DeFazio	Jacobs	Pashayan
DeLay	James	Patterson
Derrick	Jenkins	Paxon
Dickinson	Johnson (SD)	Payne (VA)
Dingell	Jones (NC)	Penny
Dorgan (ND)	Jontz	Perkins
Dornan (CA)	Kanjorski	Petri
Douglas	Kasich	Pickett
Dreier	Kolbe	Pickle
Poshard	Sisisky	Tauzin
Quillen	Skeen	Taylor
Rahall	Skelton	Thomas (CA)
Ravenel	Slattery	Thomas (GA)
Ray	Slaughter (VA)	Thomas (WY)
Regula	Smith (IA)	Traxler
Rhodes	Smith (NE)	Udall
Richardson	Smith (TX)	Unsoeld
Ridge	Smith, Denny (OR)	Upton
Ritter	Smith, Robert (NH)	Valentine
Roberts	Smith, Robert (OR)	Vander Jagt
Robinson	Snowe	Volkmer
Rogers	Solomon	Vucanovich
Rohrabacher	Spence	Walker
Rose	Staggers	Walsh
Roth	Stallings	Watkins
Rowland (CT)	Stangeland	Weber
Rowland (GA)	Stearns	Weldon
Sarpalius	Stenholm	Whittaker
Schaefer	Stump	Whitten
Schiff	Sundquist	Williams
Schuette	Swift	Wilson
Schulze	Tallon	Wise
Sensenbrenner	Tanner	Wyden
Sharp	Tauke	Yatron
Shaw		Young (AK)
Shumway		Young (FL)
Shuster		

NOES—172

Ackerman	Gray	Owens (NY)
Anderson	Green	Pallone
Annunzio	Guarini	Panetta
Atkins	Hayes (IL)	Payne (NJ)
AuCoin	Henry	Pease
Bateman	Hertel	Pelosi
Bates	Hoagland	Porter
Bellenson	Hochbrueckner	Price
Bennett	Hoyer	Pursell
Berman	Hubbard	Rangel
Bonior	Hughes	Rinaldo
Borski	Johnson (CT)	Roe
Bosco	Johnston	Ros-Lehtinen
Boxer	Jones (GA)	Rostenkowski
Brennan	Kaptur	Roukema
Broomfield	Kastenmeier	Roybal
Brown (CA)	Kennedy	Russo
Bryant	Kennelly	Sabo
Campbell (CA)	Kildee	Saiki
Cardin	Kleczka	Sangmeister
Carper	LaFalce	Savage
Chandler	Lantos	Sawyer
Clay	Leach (IA)	Saxton
Coleman (MO)	Lehman (CA)	Scheuer
Collins	Lehman (FL)	Schneider
Conte	Levin (MI)	Schroeder
Conyers	Levine (CA)	Schumer
Coughlin	Lewis (GA)	Serrano
Courter	Lipinski	Shays
Coyne	Lowey (NY)	Sikorski
Dellums	Luken, Thomas	Skaggs
DeWine	Machtley	Slaughter (NY)
Dicks	Manton	Smith (FL)
Dixon	Markey	Smith (NJ)
Donnelly	Matsui	Smith (VT)
Downey	Mavroules	Solarz
Durbin	Mazzoli	Spratt
Dwyer	McCloskey	Stark
Dymally	McDermott	Stokes
Early	McGrath	Studds
Edwards (CA)	McHugh	Synar
Engel	McNulty	Torres
Evans	Meyers	Torricelli
Fascell	Mfume	Towns
Fawell	Miller (CA)	Traficant
Fazio	Miller (WA)	Vento
Feighan	Mineta	Visclosky
Flake	Mink	Walgren
Foglietta	Moakley	Washington
Ford (TN)	Moody	Waxman
Frank	Morella	Weiss
Gejdenson	Morrison (CT)	Wheat
Gephardt	Mrazek	Wolf
Gibbons	Nagle	Wolpe
Glickman	Neal (MA)	Wylie
Gonzalez	Nelson	Yates
Goss	Nowak	
Gradison	Oakar	

NOT VOTING—4

Crockett	Hawkins
Edwards (OK)	McCurdy

□ 1604

The Clerk announced the following pair:

On this vote:

Mr. McCurdy for, with Mr. Hawkins against.

Mr. MATSUI, Mr. TORRICELLI, and Ms. DAPTUR changed their vote from "aye" to "no."

Mr. OWENS of Utah changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 13 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. MINETA

Mr. MINETA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MINETA: At the end of title XI, insert the following:

SEC. 1103. EDUCATION AND PREVENTION.

(a) Not later than 6 months after the date of enactment of this section, the Department of Education and the National Institute on Drug Abuse shall jointly develop model, community-based curricula for disseminating comprehensive information on methamphetamine, crystal methamphetamine, and chemically related stimulants.

(b) Not later than 12 months after the date of enactment of this section, the Department of Education shall establish not less than 4 statewide or regional methamphetamine prevention demonstration programs, including 1 such project in California, Hawaii, Oregon, and such other States that are experiencing serious methamphetamine abuse problems as determined by the Secretary of Education.

(c) There are authorized to be appropriated $4,000,000 in fiscal years 1992 and 1993 to establish and operate the model demonstration programs required under subsection (b) of this section.

(d) Not later than 18 months after the date of enactment of this section, the Department of Education and the National Institute on Drug Abuse, in consultation with the Secretaries of Education from the States listed under subsection (b), conclude that the model curricula developed under subsection (a) demonstrate practical educational merit, the Department of Education shall distribute such model curricula to every primary and secondary school in the country.

SEC. 1104. RESEARCH AND TREATMENT.

(a) The Director of the National Institute on Drug Abuse shall conduct research on effective treatments, including drugs, for addictions to—

(1) amphetamine;

(2) methamphetamine;

(3) crystal methamphetamine; and

(4) chemically related stimulants.

(b) The Director shall investigate or cause to be investigated the syndrome that results from addiction at birth to methamphetamine and its chemical derivatives.

(c) The Director shall, on the basis of the findings from subsection (b), develop a protocol for treating, physically and mentally, newborns addicted to methamphetamine and its chemical derivatives.

(d) Not later than 2 years after the date of the enactment of this section, the Director shall submit to the Congress a report of the research, investigation, and protocol referred to in subsections (a), (b), and (c), respectively.

The CHAIRMAN. Under the rule, the gentleman from California [Mr. MINETA] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, my amendment is aimed at a dangerous new drug. The new drug is ice, a crystalized form of methamphetamine—or speed—which users smoke like crack.

In many ways, this drug is more dangerous. Its effects last from 7 to 24 hours and can induce extreme and uncontrolled violent behavior. In contrast, a crack high lasts only 20 or 30 minutes.

Because of its long-lasting effects, drug users consider the drug a good value.

The drug is extremely harmful. Habitual users can develop mental disorders and are prone to hallucinations caused by this drug.

Babies born to mothers addicted to the drug ice are afflicted with the same problems we have seen in crack babies. They are sickly. They are unable to bond with parents and are prone to developing sociopathic traits as they grow older. They do not learn quickly as other children do and never catch up. Nurses report that ice babies are more impaired than crack babies in this respect.

There is already compelling evidence that shows that ice could compete with crack as the drug of choice on our Nation's streets.

Perhaps most dangerously, ice is much easier to make than crack. Illegal methamphetamine manufacturers do not need an imported base of coca as cocaine chemists do. Instead, the ingredients for ice are available here in the United States and can be processed in simple laboratories into rocks of smokeable methamphetamine.

And it is profitable. It costs about $300 to buy equipment and chemicals to make methamphetamine. The drugs produced can be sold for over $70,000 at current rates.

Most ice in the United States right now is imported from Asia. Situated between the mainland United States and the Pacific Rim, Hawaii has borne the brunt of ice's spread so far.

The use of ice has unfortunately become widespread in the State of Hawaii, where its damaging effects are burdening its schools, its health care system, and its drug treatment centers. In only 4 years, it has passed marijuana and cocaine as that State's top drug problem.

Rehabilitation clinics in Hawaii now have as many ice addicts as they have cocaine addicts. Withdrawal from methamphetamine is even more difficult than withdrawal from cocaine for many people.

Experts in Hawaii estimate that up to 70 percent of all domestic violence cases there are linked to ice.

And now ice is spreading to the mainland United States.

Last year, there was a 70-percent increase in ice-related hospitalizations across the country. Emergency rooms in my own district and in cities along the coast have seen cases increase recently.

And law enforcement officers in the past year have uncovered illegal laboratories making ice in Sacramento, Los Angeles, and San Francisco. Oregon has found labs in that State's cities.

The fact is, established distribution networks of regular methamphetamine are already in place throughout the country. If methods used to make crystalized ice instead of regular methamphetamine become more widely known, these established manufacturing and distribution networks could be used to spread ice as effectively as speed now travels.

Our experience in Hawaii can show us how quickly this damaging drug can spread. And our experience with crack cocaine shows us how new drugs can take us by surprise.

We must have in place effective strategies to prevent and treat ice use should the drug spread throughout the mainland United States.

To accomplish this goal, and to give Hawaii the tools to combat ice there, I introduced the Ice Enforcement and Prevention Act on June 28, 1990. The bill has received support from both sides of the aisle and from all parts of the political spectrum.

Because of the urgent nature of the problem, I was happy to work with Committee Chairmen JOHN DINGELL of Energy and Commerce and GUS HAWKINS of Education and Labor, as well as with HENRY WAXMAN of the Energy and Commerce Subcommittee on Health and the Environment, to bring the treatment and prevention provisions of my bill to the House floor as an amendment to the Comprehensive Crime Control Act.

My amendment calls upon the National Institute on Drug Abuse and the Department of Education to develop model curricula to prevent ice and speed use.

It authorizes $4 million in each of fiscal year 1992 and fiscal year 1993 to set up at least four regional or State demonstration programs to prevent ice and speed use.

Then, drawing on this experience, it requires the Department of Education to distribute these model curricula to schools throughout the country.

On the treatment side, my amendment calls on NIDA to research treatments for ice addiction.

And finally, my amendment requires NIDA to study babies born addicted to ice and develop a method of treating them.

Mr. Chairman, to help law enforcement deal with the problem of ice, we also need tough sentences to allow our police and our courts to punish ice dealers.

Mr. Chairman, at this point I yield to the gentleman from New Jersey [Mr. HUGHES] for the purpose of a colloquy.

Mr. HUGHES. Mr. Chairman, I would be happy to respond.

Mr. MINETA. Mr. Chairman, I am very concerned about ice, the new form of methamphetamine that we have seen spreading throughout California and am convinced that we must have stronger penalties for ice offenses. I see from H.R. 5269 that you believe the best way for achieving such sentences is through the U.S. Sentencing Commission guidelines and would appreciate hearing how that will work.

Mr. HUGHES. I am pleased to enter into this colloquy with my esteemed colleague, the gentleman from California [Mr. MINETA] concerning the approach we have taken in H.R. 5269 on the issue of ice which is a smokable form of crystal methamphetamine. Ice is making its way across country, and has been showing up on both coasts although still most heavily concentrated on the west coast. However, police in New York City report that least one youth gang has already tried bringing ice into that city.

Experts are saying that the effects of ice are both physical and psychological, with ice users experiencing such physical effects as increased blood pressure and breathing rate and severe weight loss. However, even more frightening are the psychological effects being seen among ice users.

Ice use can trigger such serious reactions as depression, tremors, rage and paranoia and some users may become extremely violent and need to be restrained. Equally significant, people using ice are not as able to regulate the amount of smoke they inhale so the overdose rate is very high. It appears that ice is a very psychologically addictive drug, with some users reporting being addicted after the first hit.

In recognition of the seriousness of the threat posed by ice H.R. 5269 will require that the U.S. Sentencing Commission either promulgate or revise its guidelines to reflect the fact that for methamphetamine offenses, more substantial penalties should be imposed if the substance for which the defendant has been convicted is ice.

I have been assured by the U.S. Sentencing Commission that once H.R. 5269 has been passed that acting on this provision will receive the highest priority. The appropriate guideline will be formulated so that the Commission could move to adopt it during its next amendment cycle which begins on January 1. The Commission will make this guideline—and its adoption—the very first item on its list of amendments covered in the amendment cycle.

I think the gentleman's proposals concerning additional research efforts on treatments for ice and other forms of stimulants as well as the education demonstration programs are right on target and I support them.

Mr. MINETA. Mr. Chairman, I would like to commend the gentleman from New Jersey [Mr. HUGHES] for inclusion of language aimed at ice in the crime bill. His support for tough measures to combat ice at an early stage has been critical in moving to head off this problem.

I would like also to commend my colleague VIC FAZIO, who is responsible for restricting access to the chemicals used to make ice.

I also commend my colleague MEL LEVINE, LARRY SMITH, and chairman CHARLIE RANGEL of the Select Committee on Narcotics, along with many others, for having the foresight to fight ice before it spreads.

I was pleased to work with committee chairman GUS HAWKINS, JOHN DINGELL, and HENRY WAXMAN to include these provisions in the crime bill and I thank them for their expertise.

Mr. Chairman, we should learn from the past that we need to act before a drug becomes a serious problem. The social costs of inaction are simply too high. An investment in fighting ice and speed now will save lives, human potential, and a great deal of money in the future.

I urge my colleagues to support the Mineta amendment.

□ 1610

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LEVINE], my fine colleague and the coauthor of this amendment.

Mr. LEVINE of California. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in full support of this amendment, and want to commend my colleague, Mr. MINETA, for all his hard work on this important subject.

Ice has already invaded my home State and threatens to become the next deadly drug plague unless Congress acts to respond to this new threat.

Experts predict that ice could be the crack of the 1990's.

The powerful allure of this drug should be an early warning to us.

In just 3 years, ice has become the most abused drug in Hawaii.

With the advance warning, we have a unique chance to halt this deadly drug before an epidemic on the mainland strikes.

This amendment, complimentary to the ice provisions already in the crime bill, lets us invest in model education, prevention, and rehabilitation programs.

I urge you to stand with my colleague, Mr. MINETA, and me in support of this crucial amendment.

The CHAIRMAN. Is there any Member wishing to speak in opposition to this amendment?

Mr. MINETA. Mr. Chairman, I yield to the gentleman from Florida.

The CHAIRMAN. The Chair would advise that all the time of the gentleman from California [Mr. MINETA] has expired.

Mr. McCOLLUM. Mr. Chairman, I will rise in opposition, then.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. I thank the chairman.

At this point in time I am opposed to the amendment because I would like to have it clarified.

I may withdraw my opposition if I can have the author's attention, the gentleman from California [Mr. MINETA], and ask him a few questions about it.

I recognize the problem of ice in this country. It is a problem. We do need to have some studies and some work done on it.

The administration appears to be reluctant to allow this type of program to proceed because they are worried about the costs and so forth.

My own judgment is it is a pretty good idea.

The one concern I have is that the gentleman has four statewide or regional prevention or demonstration programs as a minimum, set up in this. You have one such project in California, Hawaii, Oregon, and only the possibility perhaps, if the administration is real reluctant, of one other State.

Why did the gentleman choose to name three out of the four specifically in here instead of leaving that to the discretion of the department to decide that question?

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from California, the author.

Mr. MINETA. I thank the gentleman for yielding.

Mr. Chairman, the reason that the States are named in there is because of the scourge of ice right now in the State of Hawaii and the transmission or the movement of that to the west coast at the present time. That is the reason why the States have been named in the amendment, specifically, because of its movement to the west

coast and wanting to prevent this from happening in other parts of the country.

Mr. McCOLLUM. Reclaiming my time, I am concerned because my State of Florida has an ice problem as well. I am sure there are a lot of other States that do. I would hope that this would not too much restrict the whole effort by the department to get out the programs in other parts of the country rather than all on the west coast. That is my concern.

Mr. MINETA. If the gentleman would yield further, this is, as it relates to the ice portion of the amendment, as it relates to speed, which is a problem across the other parts of the country. You would be able to set up those centers in other parts of the country on the basis of the speed problems but not on the ice.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. Mr. Chairman, I thank the gentleman from Florida for yielding this time to me.

Mr. Chairman, the opportunity to serve in this body has only come very recently to me. But I did want to take the opportunity to commend the gentleman from California [Mr. MINETA] for engaging this body in this very, very crucial matter which affects the policies within my State with regard to drug abuse prevention and the whole matter of the recent scourage of ice in our State, which is known I think to most of the law enforcement officials throughout the country. We need the support of this body for the various provisions that are included in the Mineta amendment.

In particular, the funds that are set aside for the development of an educational, prevention curriculum that could be useful not only to my State but as a pilot project can be used then for other parts of the country that are infected by this very, very serious problem.

It is a new problem, but it is important that we tackle it at an early stage where the prevention concepts could work.

Mr. Chairman, I hope the House will support this amendment.

Mr. McCOLLUM. Mr. Chairman, reclaiming my time, I yield 1 minute to the gentleman from California [Mr. FAZIO].

The CHAIRMAN. The gentleman will suspend for a moment.

The Chair would advise Members that this time is allotted under the rule for those opposing this amendment.

The Chair would inquire is that the proper way to characterize the gentleman's remarks?

Mr. McCOLLUM. Mr. Chairman, I have been opposed to this amendment, if no one else is opposed to it. I have risen in opposition.

The CHAIRMAN. The gentleman may yield to the gentleman from California.

Mr. McCOLLUM. I yield 1 minute to the gentleman from California [Mr. FAZIO], and we will find out what his position is.

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Chairman, I am supportive of this amendment. As I know the gentleman from New Jersey [Mr. HUGHES] knows, I have certainly been interested in this renewed interest in methamphetamines, not only in the case of crank, which is a major problem in California and the Western States in part, but also in the case of ice, which has been imported from the Far East. Now it has begun to be produced in this country. We confiscated the first U.S. ice laboratory in Elk Grove, a suburb of Sacramento, CA.

This is a problem of the 1990's. I think we are going to need to do more than is in this bill. But I appreciate what is in this bill, and I appreciate what Mr. HUGHES and Chairman BROOKS and others have agreed to do. I hope the committee will be watching the evolution of this problem, which is growing, over the next year. I know that Congressmen LEVINE, MINETA, BROWN, and myself and others from our State will be bringing back additional legislation dealing with penalties and also trying to put into law a list of precursor chemicals that make these drugs. California has a law which does not protect us because of the importation of those chemicals continues from other States.

Mr. McCOLLUM. Reclaiming my remaining minute, Mr. Chairman, I would like to point out to my colleagues that the structure of this amendment is not good. The fact that it designates, for the ice demonstrations only three States, all on the west coast, and only leaves one other possibility, is not a very fair way to proceed. But I do think the ice problem is a big problem, and the speed problem is. Even though the administration, I think, would be opposed to this because we already have structures in place, I will withdraw my opposition at this time because I think the problem is great enough that we do need this.

Mr. Chairman, I withdraw my opposition.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. MINETA].

The amendment was agreed to.[H04OC0-X4]{H8870}agreed to.

□ 1620

The CHAIRMAN. It is now in order to consider amendment No. 14 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HUGHES: Strike title XIII and insert the following:

TITLE XIII—HABEAS CORPUS

SEC. 1301. LIMITATIONS PERIOD IN CAPITAL CASES.

Section 2254 of title 28, United States Code, is amended by adding after subsection (f) the following:

"(g)(1) In the case of an applicant under sentence of death, any application for habeas corpus relief under this section must be filed in the appropriate district court within 180 days from the following date, whichever is appropriate:

"(A) The date of denial of a writ of certiorari, if a petition for a writ of certiorari to the highest court of the State on direct appeal or unitary review from the conviction and sentence is timely filed in the Supreme Court.

"(B) The date of issuance of the mandate of the highest court of the State on direct appeal or unitary review from the conviction and sentence, if a petition for a writ of certiorari is not filed in the Supreme Court.

"(C) The date of issuance of the mandate of the Supreme Court, if on a petition for a writ of certiorari the Supreme Court, upon consideration of the case, disposes of it in a manner that leaves the capital sentence undisturbed.

"(2) The time requirements established by this section shall be tolled—

"(A) during any period in which the State has failed to provide counsel as required in section 1307 of the Comprehensive Crime Control Act of 1990;

"(B) during the period from the date the applicant files an application for State post-conviction relief until final disposition of the application by the State appellate courts, if all filing deadlines are met;

"(C) during any period authorized by law for the filing of any petition for rehearing, if all filing deadlines are met; and

"(D) during an additional period not to exceed 60 days, if counsel moves for an extension in the district court that would have jurisdiction of a habeas corpus application and makes a showing of good cause.".

SEC. 1302. STAYS OF EXECUTION IN CAPITAL CASES.

Section 2251 of title 28, United States Code, is amended—

(1) by inserting "(a)(1)" before the first paragraph;

(2) by inserting "(2)" before the second paragraph; and

(3) by adding at the end the following:

"(b) In the case of an individual under sentence of death, a warrant or order setting an execution date shall be stayed upon application to any court that would have jurisdiction over an application for habeas corpus under this chapter. The stay shall be contingent upon reasonable diligence by the individual in pursuing relief with respect to such sentence and shall expire if—

"(1) the individual fails to apply for relief under this chapter within the time requirements established by section 2254(g) of this title;

"(2) upon completion of district court and court of appeals review under section 2254 of this title, the application is denied and—

"(A) the time for filing a petition for a writ of certiorari expires before a petition is filed;

"(B) a timely petition for a writ of certiorari if filed and the Supreme Court denies the petition; or

"(C) a timely petition for a writ of certiorari is filed and, upon consideration of the case, the Supreme Court disposes of it in a manner that leaves the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel qualified under section 2257 of this title, and after being advised of the consequences of the decision, an individual waives the right to pursue relief under this chapter.".

SEC. 1303. SUCCESSIVE PETITIONS IN CAPITAL CASES.

Section 2244(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by inserting ", in the case of an applicant not under sentence of death," after "When"; and

(3) by adding at the end the following:

"(2) In the case of an applicant under sentence of death, a claim presented in a second or successive application, that was not presented in a prior application under this chapter, shall be dismissed unless—

"(A) the applicant shows that—

"(i) the factual basis of the claims could not have been discovered by the exercise of reasonable diligence before the applicant filed the prior application;

"(ii) the claim relies on a new rule, announced by the Supreme Court of the United States after the prior application was filed, that is applicable under section 2256 of this title; or

"(iii) the failure to raise the claim in the prior application was due to action by State officials in violation of the Constitution of the United States; and

"(B) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the applicant's guilt of the offense or offenses for which the capital sentence was imposed, or in the validity of that sentence under Federal law.".

SEC. 1304. CERTIFICATES OF PROBABLE CAUSE.

The third paragraph of section 2253, title 28, United States Code, is amended to read as follows:

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, unless the justice or judge who rendered the order or a circuit justice or judge issues a certificate of probable cause. However, an applicant under sentence of death shall have a right to appeal without a certificate of probable cause, except after denial of a second or successive application.".

SEC. 1305. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§ 2256. Law applicable

"(a) In an action filed under this chapter, the court shall apply a new rule only if the new rule—

"(1) places the claimant's conduct beyond the power of the criminal law-making authority to proscribe or punish with the sanction imposed; or

"(2) requires the observance of proceeding without which the likelihood of an accurate conviction is seriously diminished.

"(b) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 158 of title 28, United States Code, is amended by adding at the end the following:

"2256. Law applicable in Federal proceedings.".

SEC. 1306. PROCEDURAL DEFAULT IN STATE COURT.

Section 2254 of title 28, United States Code, is amended by adding after the subsection added by section 1301 of this Act the following:

"(h) A district court shall decline to consider a claim under this section if—

"(1)(A) the applicant previously failed to raise the claim in State court at the time and in the manner prescribed by State law;

"(B) the State courts, for that reason, refused to entertain the claim; and

"(C) such refusal would constitute an adequate and independent State law ground that would foreclose direct review of the State court judgment in the Supreme Court of the United States; and

"(2) the applicant fails to show cause for the failure to raise the claim in State court and prejudice to the applicant's right to fair proceedings or to an accurate outcome resulting from the alleged violation of the Federal right asserted, or that failure to consider the claim would result in a miscarriage of justice.

"(3) The court shall not find cause in any case in which it appears that the applicant or counsel deliberately withheld a known claim from the State courts for strategic purposes. An applicant may establish cause by showing that—

"(A) the factual or legal basis of the claim—

"(i) could not have been discovered by the exercise of reasonable diligence before the applicant could have raised the claim in State court, or

"(ii) was not discovered or asserted due to ignorance or neglect of the applicant's counsel;

"(B) the claim relies on a decision of the United States Supreme Court, announced after the applicant might have raised the claim in State court?

"(C) the failure to raise the claim in State court was due to interference by State officials; or

"(D) the failure to raise the claim in State court was due to counsel's ineffective assistance in violation of the United States Constitution.".

SEC. 1307. COUNSEL IN CAPITAL CASES.

(a) GENERALLY.—A state in which capital punishment may be imposed shall—

(1) provide for counsel to indigents charged with offenses for which capital punishment is sought, to indigents who have been sentenced to death and who seek appellate or collateral review in State court, and to indigents who have been sentenced to death and who seek certiorari review of State court judgments in the United States Supreme Court; and

(2) provide for the entry of an order of a court of record appointing one or more counsel to represent the prisoner except upon a judicial determination (after a hearing, if necessary) that (A) the prisoner is not indigent; or (B) the prisoner knowingly and intelligently waives the appointment of counsel.

(b) CERTIFICATION.—

(1) AT least one attorney appointment pursuant to this section before trial and at least one attorney appointed pursuant to this section after trial shall have been certified by a statewide certification authority. The States may elect to create one or more certification authorities (but not more than three such certification authorities) to perform the responsibility set forth below. the certification authority for counsel at any stage of a capital case shall be—

(A) a special committee, constituted by the State court of last resort or by State law, appointing staff attorneys of a defender organization, members of the private bar, or both;

(B) a capital litigation resource center, appointing staff attorneys, members of the private bar, or both; or

(C) a statewide defender organization, appointing staff attorneys, members of the private bar, or both. (2) The certification authority shall—

(A) certify attorneys qualified to represent persons charged with capital offenses or sentenced to death;

(B) draft and annually publish procedures and standards by which attorneys are certified and rosters of certified attorneys; and

(C) periodically review the roster of qualified attorneys, monitor the performance of all attorneys certified, and withdraw certification from any attorney who fails to meet high performance standards in a case which the attorney is appointed or fails otherwise to demonstrate continuing competence to represent prisoners in capital litigation.

(c) EXPERIENCE REQUIREMENT FOR BEFORE TRIAL APPOINTMENTS.—In the case of an appointment made before trial, at least one attorney appointed under this section must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have not less than 3 years' experience in the trial of felony prosecutions in that court.

(d) EXPERIENCE REQUIREMENT FOR AFTER TRIAL APPOINTMENTS.—In the case of an appointment made after trial, at least one attorney appointed under this section must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have not less than 3 years' experience in the handling of appeals in that State court in felony cases.

(e) COURT APPOINTMENT.—A court, for good cause and with the consent of the client concerned, may appoint another attorney whose background, knowledge or experience would otherwise enable the attorney to properly represent the client with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

(f) ADDITIONAL SERVICES.—Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the client, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the client's attorney to obtain such services on behalf of the client and shall order the payment of fees and expenses therefor, under subsection (g). Upon finding that timely procurement of such services could not practically await prior authorization, the court may authorize the provision of any payment of services nuno pro tuno.

(g) COMPENSATION.—The court shall fix the compensation to be paid to an attorney appointed under this section (other than State employees) and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (f), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this section.

(h) SANCTION.—If—

(1) a State fails to provide counsel in a proceeding specified in subsection (a)(1);

(2) counsel appointed for such a proceeding fails substantially to meet the qualification standards specified in subsections (c), (d), and (e); or

(3) counsel appointed for such a proceeding fails substantially to meet the performance standards established by the certification authority;

subsections (d) and (h) of section 2254, title 28, United States Code, shall not apply with respect to such proceeding in a case under chapter 153 of such title.

The CHAIRMAN. Under the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 10 minutes, and a Member in opposition will be recognized for 10 minutes.

Mr. HUGHES. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I have an amendment at the desk.

Mr. Chairman, I have an amendment in the nature of a substitute to the habeas corpus reform provisions in Title XIII that I am pleased to offer together with the gentleman from South Carolina [Mr. DERRICK]. This amendment represents tough but fair, and long overdue reform of the habeas corpus process.

The writ of habeas corpus is an ancient and highly cherished right with roots reaching back well over 500 years into English common law. The writ is guaranteed by article II of the Constitution and was codified by the very first Congress in the Judiciary Act of 1789. Today, it serves as the primary means by which State capital convictions are reviewed for violations of Federal law.

The process, however, is in dire need of reform. For one thing, prisoners on death row are playing the system to avoid execution, frequently causing delays of 10 years or more. Second, indigent capital defendants are not receiving competent and qualified legal representation at trial. Because of this, as many as 60 percent of State capital convictions are eventually overturned—sometimes over a decade after conviction. In most of these cases, decent counsel at trial would have prevented much of the sebsequent delay.

You will be offered two habeas corpus alternatives today—the Derrick-Hughes habeas reform package and the Hyde amendment. The claim being made by the Republicans that Derrick-Hughes does not address the abuse of habeas corpus and would nullify State death penalty statutes is patently political and absolutely absurd. The Derrick-Hughes reform of Federal habeas corpus corrects the serious problems caused by prisoner abuse of the process and ensures that indigent defendants will be appointed qualified counsel so that convictions are not reversed years later. Derrick-Hughes is real reform that will apply uniformly across the country.

By contrast, the Hyde amendment would create a two-tiered system of justice—one for the rich and one for the poor. It would do nothing to ensure that indigent defendants are properly represented, thus leaving untouched the primary source of delay. The Hyde Amendment would fail to reform the entire system because it would allow the States themselves to choose whether or not to participate. This would create two habeas corpus systems in this country and would leave the present unworkable and unacceptable system in place in those States that choose not to opt-in in a fundamental constitutional process with two basic systems even within the same judicial circuit. It is absurd. Any reform that fails to apply uniformly is no reform at all.

Now, there is no dispute that many prisoners on death row, have been abusing the Federal habeas corpus process. That is beyond dispute. As it exists today, there is no time limit within which defendants must file Federal habeas petitions. There is no limit on the number of last minute and repetitious habeas petitions that can be filed in Federal court to try to avoid execution. The system encourages prisoners to delay and drag their feet and then run around at the last minute to get a Federal stay of execution. As a result, 8 to 10 years or more often elapse between the pronouncement of a death sentence and its actual imposition. This haphazard, needless approach undermines public confidence in the criminal justice system and weakens the deterrent effect of capital punishment in my judgment.

It is also true that quality of legal representation that many indigent capital defendants receive is totally disgraceful. Some of the stories are truly unbelievable. Listen to this. It is not uncommon for lawyers appointed to represent capital defendants to have just gotten out of law school and never tried a case before. Some lawyers have been drunk or on drugs during the trail. One lawyer appointed to represent a black capital defendant was a prominent member of the Ku Klux Klan. In one instance the defense attorney left the courtroom during critical periods to put money in his parking meter during a capital case. In some States, absurdly low limits are placed on the compensation paid to appointed counsel. In others, the appointment goes to the lowest bidder.

Mr. Chairman, who would ever want to try a capital case for $1,000 and yet that has happened often, and that is why it probably was reversed on appeal. In one case the lawyer admitted he only knew two criminal cases and, as it turns out, one of them was not even a criminal case.

This unacceptable level of representation is what causes most of the litigation and delay. If you deal with the problem at its source—the quality of counsel at trial—you will do much to decrease the volume of habeas corpus litigation that follows down the road. A great deal of time is spent correcting these flagrant injustices and redoing what could have been done right the first time.

The Derrick-Hughes amendment corrects both of these problems and does so in a way that creates uniform reform for everyone. First, it contains mandatory provisions that for the first time will set limits on a defendant's ability to file Federal habeas petitions, 180 days, the same as the Powell Connission. It addresses the successive petition provisions, reduces that, eliminates the problem with lawyers sandbagging. It does a number of other things that the district attorneys around the country rightly complained about.

Mr. Chairman, it is a good provision.

Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I rise in opposition to the amendment of the gentleman from New Jersey [Mr. HUGHES].

Mr. Chairman, as much, again, and I respect the gentleman from New Jersey, he and I seem to find ourselves on the floor of the House opposed to each other more often than in harmony, even though in committee that is not usually the case. Today I have to rise in opposition to this amendment.

Mr. Chairman, this is the same amendment to the habeas corpus area that we saw offered out here to the rule last week which we defeated in order to be able to go back to the amendment of the gentleman from Illinois [Mr. HYDE].

What the law enforcement officials of this Nation want, the states attorneys associations, the district attorneys associations, Fraternal Order of Police, and on down the line, is an opportunity for us to enact true reform in the appelate process on the death penalty, and that true reform is only under the Powell Commission recommendation that the gentleman from Illinois [Mr. HYDE] will offer next.

Mr. Chairman, I must oppose the amendment of the gentleman from New Jersey [Mr. HUGHES] because it does leave open the loopholes that will allow those who are on death row to continue to be able to appeal, and appeal, and appeal their convictions

and their sentences and delay the carrying out of the death sentence. The objective of reform is to limit that, to still provide constitutional rights for normal appeals, but I say to my colleagues, "But once you finish your normal appeal, to say you've only got one bite at the apple in Federal district court under habeas corpus petitions, to let the Federal judge see if you had a bad lawyer, or whatever, and that will be the end of it."

Mr. Chairman, the Powell Committee has crafted a very fair and responsible method of doing that that all the law enforcement officials in this Nation support, and they feel, if we adopt the amendment of the gentleman from New Jersey [Mr. HUGHES], and I agree, we are going to effectively eliminate the death penalty for many States around the country instead of reforming the appellate process of habeas corpus.

Mr. Chairman, because I think he is the best one suited to explain the details of this and to counter the gentleman from New Jersey [Mr. HUGHES], I yield 5½ minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I thank the gentleman from Florida [Mr. MCCOLLUM] for yielding to me.

Mr. Chairman, I will not take up a great deal of time on this amendment because at its conclusion I am going to offer an amendment that will give this House the opportunity to adopt some true habeas corpus reform.

□ 1630

This amendment is not habeas corpus reform. It retains nearly all of the major flaws contained in the current title XIII of the bill. But you do not have to take my word for it. Listen to what various law enforcement organizations have to say about the Hughes-Derrick amendment.

For example, in a letter dated September 25, the National District Attorneys Association had this to say:

The National District Attorney Association strongly opposes the Hughes substitute amendment to title XIII of H.R. 5269. This particular amendment does nothing to cure the major flaws in title XIII of H.R. 5269 to which the NDAA vigorously objected in a recent letter sent to you.

The Hughes substitute amendment does not address the abuse of habeas corpus that has virtually nullified the death penalty laws of the states. Rather, it grossly increases the opportunities for prisoners under sentence of death and all other convicted offenders to abuse the judicial process and thwart justice.

Several procedural rules relative to collateral review which have been established by certian decisions of the U.S. Supreme Court would be legislatively overruled if this amendment is passed. This would dramatically increase the opportunity for delay, abuse and repetitive litigation in habeas corpus proceedings.

The nation's prosecutors will be hampered in their efforts to uphold and enforce the law if H.R. 5269 is enacted, with or without the Hughes substitute amendment.

Now, that is not me, that is not some conservative Republican group, that is the National District Attorneys Association.

Let us move to the National Association of Attorneys General. That is a bipartisan group, and they wrote on the same date:

In sum, the Hughes substitute amendment is no better than the provisions of the present title XIII. The whole title represents a step backward in the area of habeas corpus law. It continues to impose onerous counsel requirements on the States, while affirmatively undermining what little finality State capital convictions are presently given in habeas corpus proceedings. The practical effect of the enactment of the Hughes substitute amendment into law would be to abolish the death penalty as a sanction for murder in this country and remove the finality of judgment in all criminal proceedings.

Thus sayeth the National Association of Attorneys General, including my own attorney general from Illinois, who is a Democratic candidate for Governor.

Moreover, the Attorney General of the United States came to the same conclusion. Here is what he says:

The Hughes amendment, like its predecessors, imposes onerous counsel requirements on the States, while decreasing the finality of State court judgments in capital cases. By authoring successive sentencing challenges and overruling recent Supreme Court decisions favorable to the States, the Hughes proposal would set back the clock on this issue. A vote for the Hughes substitute amendment is a vote against the enforcement of the death penalty laws in 37 States.

Now, let us move out west to the great State of California, where the attorney general, John Van De Kamp, who recently was running for Governor and certainly is no conservative and is personally opposed to the death penalty, but recognizes the adverse impact the Hughes amendment would have in noncapital as well as capital cases. Here is what attorney general of California John Van De Kamp said:

Although the Hughes amendment rearranges the deck chairs, it will not prevent the sinking of the death penalty in this country. Rather, every capital case will remain submerged in endless, costly litigation over issues that could not have affected the basic accuracy and fairness of the State proceedings.

Mr. Chairman, I think these statements leave no doubt that the law enforcement community, the professionals in the trenches, fighting these cases in court, are just as adamantly opposed to the Hughes amendment as they are to the provisions currently in title XIII. The alternative approach, that is actively supported by the overwhelming majority of the law enforcement community, is embodied in the amendment I will be offering shortly at the conclusion of this amendment.

The Hughes amendment allows convicted murderers, whose guilt is not in doubt, to raise new claims alleging technical defects in their capital sentences in a second, third, fourth, or even later habeas corpus petition.

The Hughes amendment is no reform at all. It is a step backward. That is the opinion of the Association of Chief Justices, the Powell Commission, the district attorneys, and the attorneys general. So the gentleman from New Jersey [Mr. HUGHES] has support from a small group who really do not like the death penalty, and they figure this is a way to cancel it out indirectly, if not through the front door directly. I hope Members reject the Hughes amendment and support my amendment, which will be offered next.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] has 5 minutes remaining, and the gentleman from Florida [Mr. MCCOLLUM] has 2½ minutes remaining.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER], the chairman of the Subcommittee on Courts, Intellectual Property, and the Administration of Justice.

Mr. KASTENMEIER. Mr. Chairman, the Hughes/Derrick amendment represents the merger of important values in our criminal justice system and our society—sureness and finality on the one hand, and fundamental fairness on the other.

The Hughes/Derrick amendment ensures that the death penalty will continue to be imposed if States elect to do so. It preserves the integrity of the writ of habeas corpus in the Federal courts, while assuring that death row inmates will have one and only one opportunity for Federal review. I believe this proposal meets the criticisms of both title 13 and the Hyde amendment.

One of the most important provisions of the amendment is the requirement of counsel at all stages of death penalty cases in State court. The Powell committee plan would only encourage the States to provide counsel, and then not at trial, but only in State postconviction proceedings. It is at trial where qualified counsel are needed most, and the amendment guarantees that we will have competent lawyers at that stage.

Second the Hughes/Derrick amendment accepts the 6-month statute of limitations recommended by the Powell committee and advocated by the attorneys general and other prosecutors who have said that 1-year statute of limitations of title VIII is too long.

In my judgment, 6 months is a reasonable amount of time when coupled with the strong counsel provision included in the amendment. I would like to remind my colleagues that a statute of limitations alone is a significant change in our current habeas corpus

statutes. Traditionally, the write has never been subject to time limits—if a prisoner believed his rights were violated—5 years or 10 years later—a petition for habeas corpus was available. Today, with this amendment, we end that practice and we say, if we are to have criminal law that is respected, if we are to have a judicial system that is understood and supported by the people, then at some point the States must be able to carry out their judgments.

Third, I agree with the Powell committee that one fair opportunity should mean just that. Except in the rarest instances, 11-hour appeals and successive petitions must be eliminated. We cannot allow Federal courts to be manipulated for purposes of delay. In that regard, the committee bill goes too far by permitting repetitious petitions if they serve the interests of justice. That standard invites abuse. We have eliminated it and instead included the standard adopted by the Powell committee.

Therefore in all but exceptional instances, successive petitions must be limited to claims going to guilt or innocence or the validity of a death sentence—and then only where there is new law, new evidence or State misconduct. The amendment recognizes that a successive petition is appropriate in very rare instances such as the discovery of perjured testimony at the sentencing phase of a capital case, which directly draws the validity of the death sentence itself into question. A successive petition in this instance is not only appropriate but is necessary to preserve the integrity of the sentence under established constitutional standards. This standard is far more restrictive than current law. It is a tough standard. It is a fair standard, and it will create finality and certainty where none now exists.

Fourth, the Hughes/Derrick amendment will ensure that the State courts do not have to anticipate changes in the law. The Hughes-Kastenmeier bill would overrule the Supreme Court's decision in Teague versus Lane on when new rules of law can be applied to cases already final. This amendment codifies Teague's rules for determining the applicability of new rules. When a new rule is established after a case becomes final, it will almost never be applicable retroactively. The only exceptions the amendment would allow are the exceptions that Chief Justice Rehnquist and Justice O'Connor have allowed in Teague.

Fifth, the Hughes/Derrick amendment will eliminate sandbagging. Under this amendment, if a defense attorney deliberately withholds a known claim from the State courts for strategic purposes, the Federal courts cannot consider that claim in habeas corpus.

While the Hughes/Derrick amendment moves toward the Hyde amendment in many respects, it is different from that amendment in two critical respects. First, the amendment is mandatory. If we pass it, we will have a statute of limitations for all capital cases in the country. We will have a strict limit on successive petitions for every death row inmate. We will create for every death row inmate in the country a streamlined system for Federal appeals.

With the Powell committee plan, all we would get is a suggestion, a concept, but no statute of limitations and no limit on successive petitions if the States do not opt in to that plan. In other words, we will have no change at all.

The Hughes/Derrick amendment takes the best of the Powell committee recommendations, the Specter-Thurmond bill as passed by the Senate, and the American Bar Association and Judicial Conference recommendations. It will reform a system that badly needs it and I urge your support.

The CHAIRMAN. The Chair would advise that the proponents of this amendment will be afforded the opportunity to close.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, I thank the gentleman for yielding. I say to Members today, as a former prosecutor for 10½ years and a judge for 8½ years, I stand with my DA's and my law enforcement people and say to vote down the Hughes amendment. I stand in strong support of the Hyde amendment, which is to be offered later.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. DERRICK], a coauthor of the amendment.

Mr. DERRICK. Mr. Chairman, I am grateful to the gentleman from New Jersey for his amendment, which I believe is constructive and adds an important new viewpoint to this debate. While I believe that the amendment goes too far in some circumstances, I will support it. It is a responsible and fair attempt to resolve any remaining issues relating to a reform of our habeas corpus laws.

Everyone agrees that our habeas corpus laws must be reformed. At least it seems that way. I have come to believe, however, that the Justice Department, and many attorneys general and district attorneys, do not want real reform. They want speed at the expense of fairness. They want executions no matter what the cost.

We have attempted, time and time again, to seek fair compromises with these prosecutors. Time and time again, they have flatly refused even to talk about the issue. They have told us that they want this bill vetoed. I am sorry to say that this is not a responsible or constructive way to legislate. The Congress should not follow in their footsteps.

In my view, the original bill that I introduced on habeas corpus was a good bill that balanced fairness with efficiency, and that responded to legitimate complaints from all sides. The bill reported by the Judiciary Committee made 14 major changes to my original bill. In almost every instance, those changes were proposed by, and strongly advocated by, the prosecutors of this country. I supported those changes in the interests of compromise, and I am grateful to the gentleman from New Jersey for his efforts in that regard.

The amendment proposed by the gentleman from New Jersey goes even further toward the position of the prosecutors. In fact, it alters certain provisions of this legislation that I believe are important to any real reform of our habeas corpus laws. I support the amendment because it still retains the essence of fairness, and because it is a fair compromise.

There is a great deal of misinformation being generated about this bill, apparently in the hopes of having the President veto it. For example, title XIII has been criticized for guaranteeing a 1-year delay in the filing of habeas petitions. By this reasoning, the Powell committee guarantees a 6-month delay in filing. Surely the President should not veto this bill because of a difference of 6-months.

In fact, title XIII provides a 1-year statute of limitations for the first time. Under current law, there is none at all. In the interests of compromise, however, the Hughes amendment adopts the Powell committee's recommendation on the statute of limitations.

Second, title XIII's counsel provisions have been attacked for setting unreasonable standards and for being too expensive. This, too, is false. These provisions are almost identical to those in States such as Ohio, which has written to use to urge adoption of its system. They have told us that the system eliminates delays, and that its costs have beem minimal.

These provisions have been strongly urged by State and Federal judges through out the country, who have seen the terrible mistakes and consequent injustice and delays caused by incompetent lawyers in death penalty cases. The American Bar Association developed these provisions after extensive hearings at which prosecutors and defense lawyers, academics and judges alike, testified.

The Hughes amendment alters these provisions in favor of tracking the approach taken by the Specter-Thurmond habeas bill in the Senate. Under this approach, States are permitted to

set up their own entities to determine counsel qualifications and to appoint them. The only standard set out is that required by Specter-Thurmond and by the Gekas amendment, adopted in the 1988 Anti-Drug Abuse Act, that lawyers have 5 years experience at the bar and 3 years experience in felony cases.

Title XIII has been criticized for permitting successive petitions raising claims that have been raised before. What the criticism does not acknowledge is that title XIII simply carries forward current law. The Powell committee does so as well. By not addressing this issue, the Powell committee retains current law.

The Hughes amendment adopts the approach of the Powell committee, and deletes title XIII's provision entirely.

I regret that one of title XIII's most important provisions, relating to the application of new rules, has been curtailed. Title XIII set forth when new rules of law would apply to Federal habeas corpus cases. Criticisms that title XIII would upset the finality of State court decisions were simply untrue, since new rules would have applied retroactively only in very narrow circumstances.

The Hughes amendment narrows those circumstances even further. New rules will rarely, if ever, be applied. In fact, the amendment adopts the very language from Teague versus Lane, which the prosecutors favor, about when new rules will apply. According to Justice O'Connor, who wrote the opinion in Teague, it is unlikely that there are any such instances when new rules will apply retroactively to convictions that are already final.

Finally, the amendment addresses one other issue that has drawn criticism. I believe that title XIII's language was sufficient to prohibit sandbagging, or the deliberate withholding of a claim for strategic purposes so that it may be raised on appeal. However, others argued that this language was inadequate. The Hughes amendment therefore sets forth specific language that prohibits sandbagging, and that permits the courts to dismiss claims if sandbagging has occurred.

The amendment offered by the gentleman from New Jersey is a tough one. It changes title XIII in areas that I believe are important to real habeas corpus reform. However, in the interest of compromise, I support the gentleman's amendment.

□ 1640

Mr. McCOLLUM. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] is recognized for 2 minutes.

Mr. McCOLLUM. Mr. Chairman, the Hughes amendment is an amendment that I know the gentleman crafted, and the gentleman from South Carolina [Mr. DERRICK] worked with him, and they crafted something they think is a middle ground, somewhere in between. The problem with middle grounds sometimes are they are not a good product. They are not the type of result that we have to have, especially when we deal with something as important as making the death penalty effective in States and not giving endless appeals to people and finally getting the restrictions that we want.

The gentleman argues about some two-tier system that he is worried about. We have two-tier systems, and I do not even think that is really what is in the Hyde amendment anyway. But we have two-tier systems in lots of States, State and Federal there are two tiers, so that is not a problem.

There has been lots of heretical argument here, but the Hyde amendment rather than the Hughes amendment is the amendment which is endorsed and will be endorsed by all of the associations of prosecutors around this country. They say the Hughes amendment does not do the job, and in fact is worse than present law in many cases. They say the Hyde amendment is the one that is right. That is the States' Attorneys General Association, the District Attorneys, Fraternal Order of Police, the International Association of Police Chiefs, I could go on and on.

I simply urge my colleagues to listen to those who are enforcing the laws of this Nation, the prosecutors and the police of this country. They do not want the Hughes amendment. They are worried it will make it more difficult if not impossible to carry out State imposed death penalties. They want the Hyde amendment instead.

I urge a no vote on the Hughes amendment and I urge an aye vote when the time comes on the Hyde amendment. But for now let us vote no on Hughes and send the message that we want real, true reform of habeas corpus and reject the Hughes amendment.

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the amendment offered by Mr. HUGHES makes drastic changes in the habeas corpus provisions included in title XIII. It draws from recommendations of the Powell committee, provisions adopted by the other body, and recommendations of this country's prosecutors.

Mr. Chairman, title XIII, which was approved by the Committee on the Judiciary, responds to a need to reform habeas corpus proceedings in this country, a need which has been recognized by many Americans. Current procedures have permitted entirely too much time to pass before final execution of a sentence imposed by an impartial jury. Heinous murderers have seemed to be able to circumvent the judicial system through seemingly endless habeas petitions.

Title XIII is well-balanced between human rights and the rights of the State. It first allows petitioners to have one complete Federal habeas corpus review; second, encourages judicial review of the merits of a case by clarifying when procedural default will occur, third; requires competent counsel in all capital proceedings; fourth, provides a 1-year statute of limitations and automatic stays of execution while habeas review is on-going among other things.

Many voices were raised in opposition to title XIII. However, many feel that the provisions adopted by the Judiciary Committee were balanced too far in the direction of prisoners.

The Hughes amendment recognizes valid concerns that have been raised, in conjunction with the need for habeas corpus reform, and offers to the members an alternative to title XIII, which I recommend that we all support.

The amendment reduces the statute of limitations from 1 year to 6 months. It responds to arguments that provisions requiring competent counsel are too expensive and burdensome for the States by simply requiring that attorneys be experienced and authorizing that their compensation be fixed by the courts. In addition, the amendment reduces a defendant's ability to file successive petitions, alters the applicability of "new rules" in habeas cases, and eliminates the ability for petitioners to deliberately withhold certain claims in State courts in order to gain strategic advantage. Courts will be permitted to dismiss claims if they have been deliberately withheld.

Mr. Chairman, all in all the Hughes amendment addresses the major need for reform while responding to concerns that the reforms in title XIII do not go far enough. I urge all Members to vote for the amendment.

Mr. HUGHES. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. As we debate this crime bill before us today, I rise in support of the Hughes amendment to reform habeas corpus procedures.

In November of 1989, I introduced H.R. 3584, legislation to reform procedures for collateral review of criminal judgements. This legislation provides that State prisoners who are afforded qualified counsel at trial and throughout a State's death penalty proceedings, shall have only a single opportunity to litigate their habeas corpus claim in Federal court. The Hughes amendment and the legislation I filed last year are quite similar.

I have heard from many , all over the State of Florida about the abuses that currently take place in the review of habeas corpus cases.

Too often, I have received complaints about delays in Federal habeas corpus actions that result in massive expense to the taxpayers as well as a backlog in our Federal courts. In addition, prisoners who may have a legitimate claim find themselves caught up in a bureaucratic system that does little to weed out those claims which are legitimate as opposed to those that are not. A Florida Supreme Court justice recently calculated that courts spend up to 50 percent of their time on capital punishment cases.

The focus of debate is this—there is a great amount of delay in State capital cases that has been attributed to repetitive applications for habeas corpus review in Federal courts. The review of death sentences is a serious and important procedure. Safeguards must be worked into the system to ensure a fair and just opportunity for prisoners to make their claim.

Presently, most abuses during a defendant's course through the judicial process occur at the trial level—making inevitable wasteful appeal, retrials, resentencing and repetitive refilings of writs of habeas corpus. It is imperative that we provide for qualified representation during this crucial stage and continue that representation throughout the process. The Hughes amendment provides for this qualified counsel every step of the way.

The Hughes amendment provides one opportunity for a prisoner to file a writ of habeas corpus and requires that this writ be filed within a 6 month time frame. While this amendment limits a defendant's ability to present successive petitions except under very limited conditions, it provides for the appointment of competent counsel at every stage of the capital litigation for defendants.

The Hughes amendment responds to concerns expressed by attorney generals by: First, adopting the same 6-month statute of limitations; second, eliminating the provision in the bill allowing prisoners to raise the same claim more than once; third, barring claims if defense counsel withheld them in State court for strategic reasons; fourth, adopting the standards in Teague versus Lane for deciding when new rules of law will apply; and fifth, eliminating specific and expensive standards for the appointment and compensation of counsel.

Mr. Chairman, crime is foremost on the minds of our citizens. No crime is acceptable, yet those that are heinous are even harder to deal with on an emotional and judicial level. This reform is necessary in order for our judicial system to remain effective. Therefore, I urge my colleagues to support the Hughes amendment.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, what do the judges around the country want? What does the Judicial Conference want? I have not heard the gentleman from Illinois. [Mr. HYDE], or the gentleman from Florida [Mr. MCCOLLUM] tell us what the judges want.

I will tell Members what they want. They want the Hughes-Derrick or Derrick-Hughes amendment. One of the reasons is if Members vote for the Hyde amendment and do not vote for the Hughes amendment here is what is going to happen: The one difference on successive petitions is one of the differences between Hyde and Hughes. In Hughes, Hughes says that if you have somebody on death row and it is discovered before he is executed that his conviction and sentence was based on perjured testimony, Hyde would not permit it to be used. Hyde would not permit that to be raised in a habeas corpus process. Hughes would.

There are not very many other differences between Hughes and Hyde. The second major difference is Hyde wants two systems in this country, one for the rich and one for the poor. If you are wealthy, if you are affluent, you can afford competent counsel. But if you happen to come from a State that has not opted in, you may get incompetent counsel, and that is the reason we have a 60- percent reversal rate in capital cases in this country, because we have been appointing incompetent counsel.

I urge Members to support the Hughes amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. HUGHES].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

The HUGHES. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 189, noes 239, answered "present" 1, not voting 4, as follows:

[Roll No. 417]

AYES—189

Ackerman	Dorgan (ND)	Hughes
Anderson	Downey	Jacobs
Applegate	Durbin	Johnson (CT)
Aspin	Dwyer	Johnston
Atkins	Dymally	Jontz
Bates	Eckart	Kaptur
Beilenson	Edwards (CA)	Kastenmeier
Bennett	Espy	Kennelly
Berman	Evans	Kildee
Boggs	Fascell	Kleczka
Bonior	Fazio	Kolter
Boucher	Feighan	Kostmayer
Boxer	Fish	LaFalce
Brooks	Flake	Lancaster
Brown (CA)	Foglietta	Lantos
Bruce	Ford (TN)	Leach (IA)
Bryant	Frank	Lehman (FL)
Bustamante	Frost	Levin (MI)
Cardin	Gejdenson	Levine (CA)
Carper	Gephardt	Lewis (GA)
Clay	Gilman	Lipinski
Clement	Glickman	Long
Coleman (TX)	Gonzalez	Lowey (NY)
Collins	Gordon	Luken, Thomas
Conte	Gray	Manton
Conyers	Green	Markey
Cooper	Guarini	Martinez
Costello	Gunderson	Matsui
Courter	Hall (OH)	Mazzoli
Coyne	Hamilton	McDermott
de la Garza	Hayes (IL)	McHugh
DeFazio	Hefley	McMillen (MD)
Dellums	Hertel	Mfume
Derrick	Hoagland	Miller (CA)
Dicks	Hochbrueckner	Miller (WA)
Dingell	Hoyer	Mineta
Dixon	Hubbard	Mink
Moakley	Rahall	Stallings
Mollohan	Rangel	Stark
Moody	Roe	Stokes
Morella	Rose	Studds
Morrison (CT)	Roybal	Swift
Mrazek	Sabo	Synar
Murphy	Sangmeister	Tauke
Nagle	Sawyer	Torres
Neal (MA)	Saxton	Towns
Nelson	Scheuer	Traficant
Nowak	Schneider	Udall
Oakar	Schroeder	Unsoeld
Oberstar	Schumer	Upton
Obey	Serrano	Vento
Ortiz	Sharp	Visclosky
Owens (NY)	Shays	Volkmer
Pallone	Sikorski	Walgren
Panetta	Skaggs	Washington
Patterson	Slattery	Waxman
Payne (NJ)	Slaughter (NY)	Weiss
Pease	Smith (FL)	Wheat
Pelosi	Smith (IA)	Williams
Penny	Solarz	Wise
Pickle	Spence	Wolpe
Poshard	Spratt	Wyden
Price	Staggers	Yates

NOES—239

Alexander	Frenzel	McCurdy
Andrews	Gallegly	McDade
Annunzio	Gallo	McEwen
Anthony	Gaydos	McGrath
Archer	Gekas	McMillan (NC)
Armey	Geren	McNulty
AuCoin	Gibbons	Meyers
Baker	Gillmor	Michel
Ballenger	Gingrich	Miller (OH)
Barnard	Goss	Molinari
Bartlett	Gradison	Montgomery
Barton	Grandy	Moorhead
Bateman	Grant	Morrison (WA)
Bentley	Hall (TX)	Murtha
Bereuter	Hammerschmidt	Myers
Bevill	Hancock	Natcher
Bilbray	Hansen	Neal (NC)
Bilirakis	Harris	Nielson
Bliley	Hastert	Olin
Boehlert	Hatcher	Owens (UT)
Borski	Hayes (LA)	Oxley
Bosco	Hefner	Packard
Brennan	Henry	Parker
Broomfield	Herger	Parris
Browder	Hiler	Pashayan
Brown (CO)	Holloway	Paxon
Buechner	Hopkins	Payne (VA)
Bunning	Horton	Perkins
Burton	Houghton	Petri
Byron	Huckaby	Pickett
Callahan	Hunter	Porter
Campbell (CA)	Hutto	Pursell
Campbell (CO)	Hyde	Quillen
Carr	Inhofe	Ravenel
Chandler	Ireland	Ray
Chapman	James	Regula
Clarke	Jenkins	Rhodes
Clinger	Johnson (SD)	Richardson
Coble	Jones (GA)	Ridge
Coleman (MO)	Jones (NC)	Rinaldo
Combest	Kanjorski	Ritter
Condit	Kasich	Roberts
Coughlin	Kennedy	Robinson
Cox	Kolbe	Rogers
Craig	Kyl	Rohrabacher
Crane	Lagomarsino	Ros-Lehtinen
Dannemeyer	Laughlin	Rostenkowski
Darden	Leath (TX)	Roth
Davis	Lehman (CA)	Roukema
DeLay	Lent	Rowland (CT)
DeWine	Lewis (CA)	Rowland (GA)
Dickinson	Lewis (FL)	Russo
Donnelly	Lightfoot	Saiki
Dornan (CA)	Livingston	Sarpalius
Douglas	Lloyd	Savage
Dreier	Lowery (CA)	Schaefer
Duncan	Lukens, Donald	Schiff
Dyson	Machtley	Schuette
Early	Madigan	Schulze
Emerson	Marlenee	Sensenbrenner
Engel	Martin (IL)	Shaw
English	Martin (NY)	Shumway
Erdreich	Mavroules	Shuster
Fawell	McCandless	Sisisky
Fields	McCloskey	Skeen
Flippo	McCollum	Skelton
Ford (MI)	McCrery	Slaughter (VA)

Smith (NE)	Stenholm	Vucanovich
Smith (NJ)	Stump	Walker
Smith (TX)	Sundquist	Walsh
Smith (VT)	Tallon	Watkins
Smith, Denny (OR)	Tanner	Weber
	Tauzin	Weldon
Smith, Robert (NH)	Taylor	Whittaker
	Thomas (CA)	Whitten
Smith, Robert (OR)	Thomas (GA)	Wilson
	Thomas (WY)	Wolf
Snowe	Torricelli	Wylie
Solomon	Traxler	Yatron
Stangeland	Valentine	Young (FL)
Stearns	Vander Jagt	

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—4

Crockett	Hawkins
Edwards (OK)	Young (AK)

□ 1706

Mr. MAVROULES and Mr. TRAXLER changed their vote from "aye" to "no."

Messrs. OBERSTAR, FLAKE, SHAYS, STOKES, and LEACH of Iowa changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 15 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HYDE: Amend title XIII to read as follows:

TITLE XIII—HABEAS CORPUS

SEC. 1301. DEATH PENALTY HABEAS CORPUS PROCEEDINGS.

Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to State unitary review procedures.

"SEC. 2256. PRISONERS IN STATE CUSTODY SUBJECT TO CAPITAL SENTENCE; APPOINTMENT OF COUNSEL; REQUIREMENT OF RULE OF COURT OR STATUTE; PROCEDURES FOR APPOINTMENT.

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel under subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 or this chapter. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"SEC. 2257. MANDATORY STAY OF EXEUCTION; DURATION; LIMITS ON STAYS OF EXEUCTION; SUCCESSIVE PETITIONS.

"(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court; or

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"SEC. 2258. FILING OF HABEAS CORPUS PETITION; TIME REQUIREMENTS; TOLLING RULES.

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within 180 days after the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition, if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for post-conviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed 60 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus petition within the time periods established by this section.

"SEC. 2259. EVIDENTIARY HEARINGS; SCOPE OF FEDERAL REVIEW; DISTRICT COURT ADJUDICATION.

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas

corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State post-conviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it.

"SEC. 2260. CERTIFICATE OF PROBABLE CAUSE INAPPLICABLE.

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"SEC. 2261. APPLICATION TO STATE UNITARY REVIEW PROCEDURES.

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter applies, as provided in this section, to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Sections 2257, 2258, 2259, and 2260 apply to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The reference in sections 2257(a) and 2258 to 'an order pursuant to section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or the prisoner's counsel.".

Page 237, strike line 22 and all that follows through line 13 on page 238.

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. HYDE] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, we are going to talk about the need for habeas corpus reform. Habeas corpus is a complicated subject and it would take about a month and a half for a very short course on trying to understand the complexities. However, it is very important.

Habeas corpus is the name of the petition a defendant files who has been convicted in a criminal trial, and who has gone through direct appeal in a State court, and then wants to attack his conviction in a collateral appeal by raising questions of the constitutionality of the proceedings in the State court and any other error, reversible error, he urges, and this is litigated in a secondary or a collateral proceeding.

□ 1710

Now you can do that through the State courts and then you go over to the Federal court and you revisit those issues and you have a collateral appeal through the Federal court.

The problem with habeas corpus is that it has been abused. It has been terribly abused in our country, so there is almost no finality to any criminal sentence.

Now, if you are sentenced to a term of years for a crime, you want a speedy hearing on your habeas corpus petition because you want to get out of there, but if you have been sentenced to death, you are fighting for time and you want delay and delay and more delay. The problem is these delays have frustrated the law and some people remain on death row for 8 years, for 12 years, and the law is made to look foolish and unenforceable and people develop contempt for the law.

We are here today to reform that law, to make it meaningful in a fair and balanced way.

There are 37 States which have capital punishment, and today as we speak there are over 2,350 murderers on death row waiting for something to happen. They are under sentence of death, but in 1988, the last year for which I have statistics, there were only 11 executions. The problem—endless, endless collateral appeals permitted by the law.

Now, there were two solutions offered to really reform the habeas corpus law. One was the amendment we just voted down and the other is my amendment.

I have asserted that the Hughes amendment was really not habeas reform, but the amendment that I offer now is not my product. It is the product of a commission headed by former Justice Lewis Powell of the Supreme Court and some distinguished jurists who worked long and hard at the direction of the Chief Justice of the U.S. Supreme Court to come up with recommendations for habeas corpus reform.

The amendment that is before us now is approved by the Conference of Chief Justices, the National Association of Attorneys General, the Attorney General of the United States, and the National District Attorneys Association.

The gentleman from New Jersey [Mr. HUGHES] does remind us from time to time, appropriately so, that he has been a prosecuting attorney in New Jersey and that gives him some authority, but the resort to authority is a useful rhetorical device, and I too have enlisted a lot of fine authorities, including the Powell Commission, who support my amendment.

But let me resort to another authority, a good Democratic Member of this body. That may be redundant, a good Democrat, they are all good, but this one is especially good.

Mr. Chairman, I yield 3 minutes to the gentleman from Alabama [Mr. HARRIS], who holds the distinction of having been a prosecuting attorney and having prosecuted capital cases and sitting as a judge on capital cases.

Mr. HARRIS. Mr. Chairman, I thank the gentleman for yielding me this time.

This House should adopt the Hyde amendment, which incorporates verbatim the Powell committee bill. Law enforcement adamantly opposes the habeas provisions now in the bill before the House and strongly supports the Hyde amendment.

The National Association of Attorneys General, by resolution adopted without a dissenting vote, strongly opposes any habeas legislation which would undermine or weaken the procedural default doctrine or broaden any exception to it; strongly opposes any legislation which would weaken the nonretroactivity doctrine; and strongly opposes any legislation which would create new requirements concerning counsel. The bill before the House does all three of those things. The Powell committee bill, which is incorporated into the Hyde amendment, does not contravene the National Association of Attorneys General's statement of policy contained in the resolution. That is why that law enforcement organization opposes the bill as presently written and supports the Hyde amendment.

The National Association of District Attorneys, by letter from its President, has also expressed its strong oppostion to the habeas provisions in the bill now before this House. As the President of that organization of prosecutors told the Speaker in a letter last week, the bill as now written "grossly increases the opportunities for prisoners under sentence of death and all other convicted offenders to abuse the judicial process and thwart justice." The Hyde amendment will prevent that.

The Powell committee report bill, which is contained in the Hyde amendment, is also supported by the vast majority of State and Federal judges. The Appellate Judges Conference of the American Bar Association adopted a resolution supporting the Powell committee proposals as a practical and fair resolution of the problems arising in the habeas process. That resolution opposed legislation, like that now in the bill, which would exacerbate the problem of repetitious review rather than ameliorate it.

The National Conference of Chief Justices is composed of the chief justice of every State supreme court. It has adopted a resolution supporting enactment of the Powell committee bill, which is now the Hyde amendment. In that same resolution, the chief justices expressed their opposition to other legislation, like that now in the bill, which would increase rather than decrease habeas delay.

I intend to vote for the Hyde amendment, which is the Powell report bill, because I agree with the National Association of Attorneys General, with the National District Attorneys Association with the Alabama District Attorneys Association, with the Appellate Judges Conference, and with the National Conference of Chief Justices. The bill as written will make the problems with habeas corpus even worse than they are now. On the other hand, the Hyde amendment is an important step toward solving those problems.

Mr. HYDE. Mr. Chairman, I reserve the balance of my time.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Wisconsin is recognized for 10 minutes.

Mr. KASTENMEIER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BROOKS], the chairman of the Judiciary Committee.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Illinois [Mr. HYDE].

The Chairman. The gentleman from Texas [Mr. BROOKS] is recognized for 10 minutes.

Mr. BROOKS. Mr. Chairman, there is good reason for this body to proceed carefully but firmly in its treatment of habeas corpus. Some would have you believe that the concept of habeas corpus was created out of whole cloth—the work of some overzealous, activist judge in the late 1960's looking for a novel way to help criminals escape their just punishment under the law. This view not only distorts history but also ignores the development of fundamental rights in this Nation.

The doctrine of habeas corpus goes back at least 500 years to the laws of England. In his classis commentaries on Anglo-Saxon law, Blackstone referred to habeas corpus simply as the "Great Writ" whose antecendents lie deep in "the genius of our common law." Habeas corpus was called the great writ because it affored the most basic of rights to a wronged individual—that of a swift and imperative remedy to cases of illegal restraint or confinement. The doctine immediately became part of our own law in the colonial period, was given explicit recognition in article I, section 9 of the Constitution, and was incorporated in the first grant of Federal court jurisdiction in the Judicial Act of 1789. Early in his tenure, Chief Justice John Marshall termed habeas corpus as perhaps our greatest constitutional privilege.

These were not the extravagant pronouncements of men who had no regard for order in society or for swift and sure punishment for wrongdoing. Rather, they embodied the recognition of our greatest lawmakers that in a civilized society, the government must always be accountable to the judiciary for an individual's imprisonment: If a person's denial of liberty is due to his being deprived of the most fundamental requirements of law, then a demand for immediate release should be heard by the courts forthwith.

Justice Holmes succinctly expressed the rationale behind the use of Federal habeas corpus:

"Habeas corpus cuts through all forms and goes to the very tissue of structure. It comes in from the outside, and does not lie in subordination to proceedings . . . . Whatever disagreement there is about the phrase 'due process', there can be no doubt that it embraces the fundamental conception of a fair trial." (*Frank* v. *Magnum*, 237 U.S. AT 346-347).

In short, while habeas corpus deals with a mode of procedure for those detained, it is inevitably interewined with concepts of due process and personal liberty. All these considerations must be balanced if the work product of this body is to be responsive to the complex and multiple needs of our society.

The Judiciary Committee has kept these principles in mind by crafting a usable set of uniform procedures for implementation in the courts. To those who choose to ignore the long history of the great writ, to those who conveniently forget the central role habeas corpus has played in times of national crises when the claims of order and liberty have clashed most acutely, I would advise them to think twice before clamoring for the emasculation of a doctrine that is as deeply rooted in our history and rule of law as any that exists today.

□ 1720

Mr. KASTENMEIER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I appreciate very much the historical perspective given this body by the gentleman from Texas. The fact is we are today confronted with two options: One, a mandatory uniform reform of habeas corpus that makes habeas corpus respond only once, you get one shot at it, that foreshortens the periods for which you can either file a habeas corpus petition, or you can vote for the Hyde amendment.

The Hyde amendment is not mandatory and is not uniform, and you should know it.

It requires States to opt in, then it is operational. For those States that do not opt in, you have the present habeas corpus applying. And to opt in requires of the States representation by counsel.

Mr. HYDE has that in his bill. But if they do not opt in, you have the same habeas corpus in those States that has preexisted that everybody has been complaining about, you have a dual system.

So I ask you urgently to turn down the Hyde option.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I know it is not going to make any difference, but I have to say something that I feel very strongly about: I served in the National District Attorneys Association for about 10 years, and I was proud of that service. I tried a lot of criminal cases, and I am as sensitive as anybody to the absolute certainly we need in the system.

What troubles me about Powell and Hyde, the Powell Commission report and Hyde, is that we are going to have in this country two basic systems, one for the very rich and one for the very poor.

States do not have to opt in and take advanage of the new reform rules.

We need to reform habeas corpus. They do not have to do that. The price for them to opt in is to appoint competent counsel.

That does not make sense, to have a fundamental process in this country that is going to see two standards, one for the rich and one for the poor.

That is bad enough, but what troubles me even more is that the Hyde amendment has a provision dealing with successive petitions that deny the defendant on death row to have a Federal court review his habeas corpus

process even if it is based upon perjured testimony directed to the sentence. If it is directed—I see the gentleman shaking his head. If it is directed to the verdict, not to the sentence, it is reviewable.

But if it is directed to the sentence, it is not reviewable if in fact he has petitioned for habeas corpus.

If the gentleman wants to say that is not true, I will yield to the gentleman from Illinois, if he will say it is not true.

Mr. HYDE. I am sorry. If I say what is not true?

Mr. HUGHES. If you would say that what I am claiming, that if in fact a defendant has exhausted his habeas corpus process——

Mr. HYDE. You mean he has gone up the State system, he has had a direct appeal, a Federal collateral appeal before the judges——

Mr. HUGHES. Mr. Chairman, I reclaim my time. The gentleman was not listening. I reclaim my time.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. KASTENMEIER. I yield 30 seconds additional to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I thank the gentleman.

I will explain it again, I will state it again. If the defendant is sitting on death row and has exhausted his State habeas corpus process after the direct appeal and has gone through his review, and 180 days, his Federal habeas corpus review process, and newly discovered evidence suggests that the defendant was sentenced based upon perjured testimony, that is not reviewable under the Hyde amendment, not reviewable.

Now, what has happened to our basic fundamental fairness in this country? How in the world can you go back to your districts and suggest that that is fair? I cannot.

Mr. KASTENMEIER. Mr. Chairman, I believe I have 2½ minutes remaining.

The CHAIRMAN. The gentleman is correct.

Mr. KASTENMEIER. Mr. Chairman, I reserve my remaining time.

Mr. HYDE. Mr. Chairman, I have 3 minutes left, do I not?

The CHAIRMAN. The gentleman is correct.

Mr. HYDE. I have the right to close, do I not?

The CHAIRMAN. Yes, the gentleman is correct.

Mr. HYDE. Then I will reserve my time, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, the habeas reforms in the bill will guarantee competent legal representation at the trial of capital cases. If you want genuine habeas reform, trial counsel is the key. The committee bill sets clear standards for the competency of trial counsel in capital cases. But the Hyde amendment does not address the issue of trial counsel at all. The Hyde amendment's counsel provisions apply only after trial. By then its too late—the errors have been made, and either you send a person to the electric chair who was unconstitutionally sentenced or you send the case back for a new trial.

My subcommittee held a hearing on the types of lawyers who currently represent capital defendants at trial. Here are some examples:

In one death case in Mississippi, the defendant was represented by a third-year law student.

In one Georgia circuit, capital cases were assigned to defense lawyers on a low bid system. The only qualification to submit a bid was membership in the Georgia bar. The lowest bidder got the case.

In four different capital trials in Georgia, at some point in the proceeding the defense lawyers referred to their clients as "niggers." The death sentence was imposed in all four cases.

There have been capital cases in Mississippi and Georgia where the defense attorney's first criminal jury trial was a capital trial.

Last year in Alabama, a capital case had to be stopped midtrial because the defense lawyer was drunk. He was held in contempt and sent to jail to dry out. The next morning he and his client were both produced from jail, the trial resumed, and the death penalty was imposed a few days later.

Lawyers like these would continue handling death cases under the Hyde amendment.

One reason for this scandalous situation is money. Alabama, Mississippi, and Arkansas limit the compensation of defense counsel in a capital case to $1,000. South Carolina pays up to only $1,500. Any lawyer who wants to do a good job ends up working for less than the minimum wage.

Would any Member in this body trust his life to a lawyer getting paid less than the minimum wage? Yet the Hyde amendment would allow States to continue appointing lawyers to represent capital defendants for less than minimum wage.

With legal representation like this, the death sentence becomes a lottery in which the death penalty is imposed not on the most horrendous offenders but on the defendants with the most horrendous lawyers.

Under the Hyde amendment, capital defendants would continue to be represented at trial by incompetent attorneys who failed to recognize and raise constitutional issues, and defendants would continue being sentenced to death not because of their culpability but because of the mistakes of their lawyers. In contrast, the Hughes reform provisions will provide competent counsel at trial, so trials are properly conducted at the outset and the death penalty is not a lottery.

Mr. HYDE based his amendment on the recommendations of the Powell Commission, which he claims is the responsible and respectable solution to the habeas corpus issue.

The truth is that the Powell proposal is the result of a plot by Chief Justice Rehnquist to enact his personal destructive agenda for habeas.

In 1988, ignoring the separation of powers principle, Rehnquist appointed an ad hoc committee of the Judicial Conference to write proposed habeas legislation.

The committee, chaired by former Justice Powell, was stacked with conservative judges from the two southern "death circuits" where more than three-quarters of the executions since 1976 have taken place. Ignoring the wishes of the full Judicial Conference, the Chief Justice adopted their recommendations. This amendment is solely the work of the Chief Justice and his handpicked opponents of habeas corpus. It is not the neutral, responsible product Mr. HYDE claims.

I urge a yes vote on Hughes and a no vote on Hyde.

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] has 3 minutes remaining.

□ 1730

Mr. HYDE. Mr. Chairman, I do not know where to start. I have never heard so many falsehoods, misstatements and errors in my life.

The Judicial Conference made two modifications in the Powell Commission suggestions. Then they accepted the rest of the Rehnquist agenda. Justice Powell, who chaired this committee, is against the death penalty, just like the gentleman from Wisconsin [Mr. KASTENMEIER], and just like the gentleman from California [Mr. EDWARDS]. Judge Rooney on the commission is against the death penalty. To imply that Justice Rehnquist stacked the commission is outrageous.

Now do not destroy habeas corpus under the Hyde amendment. We must have competent counsel. Under the U.S. Constitution and Supreme Court cases, at the trial level there must be competent counsel. At the appeal level there must be competent counsel.

Then we go to habeas corpus in the State system, trial court, appeals court, Supreme Court. Now we move to the Federal courts, trial court, appellate court, writ of certiorari, to the Supreme Court. Twenty-seven judges have heard the case by this time, and

my colleagues say that is murdering habeas corpus.

It is common sense. That is why the prosecutors are for my amendment. It is habeas corpus reform.

The amendment that the gentleman want, do my colleagues know what it says? On page 208 it says that the applicaton shall be dimissed unless the interests of justice would be served by reconsideration of claim. Mr. Chairman, that means endless, endless, endless delay.

I say to my colleagues, "If you are convicted because of perjured testimony, your guilt or innocence is always open to be explored in successive petitions with a stay of execution, not the validity of your sentence after 27 judges have passed on it." We want it to be final.

However, Mr. Chairman, I say, "Then you go to the Governor and say, 'Hey, I was sentenced on perjured testimony,' but, as to your guilt or innocence, you can always raise that."

Now let me simply say to my colleagues that the attorneys general of this country, Democrats and Republicans, the prosecuting attorneys, even the attorney general of the gentleman from New Jersey [Mr. HUGHES] and, if I had that letter—here is his letter. Now here is his own attorney general, the prosecutor, that we have with us, which we are lucky to have. He says that there are also provisions in the proposed statute aimed solely at capital cases. The effect of these provisions would be to add so much delay, so many new issues and so much relitigation to the process that very few, if any, death sentences would ever be carried out, even in the most aggravated cases.

Mr. Chairman, that is why the gentleman from California [Mr. EDWARDS] is for it.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. HYDE. No, I will not.

Mr. HUGHES. But I yield to the gentleman.

Mr. HYDE. I know the gentleman from New Jersey did, and he is a generous guy.

Mr. Chairman, I will yield to the gentleman from New Jersey [Mr. HUGHES] if he will tell me this is not from his attorney general.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New Jersey.

Mr. HUGHES. No, the attorney general of my State was directing his remarks to the previous one, not to the Hughes amendment.

I say to the gentleman that he had not seen the amendment that I offered along with the gentleman from South Carolina [Mr. DERRICK] and that is the problem. There is so much confusion.

Mr. HYDE. Mr. Chairman, I reclaim my time because we are talking at cross purposes.

Now, the Attorney General of the United States says that the amendment of the gentleman from New Jersey [Mr. HUGHES], which is gone, I am happy to say; the underlying goal of this strategy has nothing to do with fairness. It has everything to do with frustrating enforcement of the death penalty by excessive delay through redundant and repetitive habeas corpus appeals.

Mr. JAMES. Mr. Chairman, I rise today in support of the Hyde amendment. Federal habeas corpus reform is long overdue. The Hyde amendment provides us with the provisions to bring some semblance of order and finality to what is currently a chaotic and virtually endless process.

Last year, the Powell Committee issued their report on the use of habeas corpus petitions in State death penalty cases. It was the conclusion of the committee that the present system of collateral review operates to frustrate the law of 37 States. The unnecessary delays and repetitions result in judicial proceedings which average 8 years and 2 months. Mr. Chairman, I find it unconscionable that the American taxpayers are oftentimes forced to bear the costs of these successive petitions which are, in most cases, meritless, and that are filed at the 11th hour seeking nothing more than to delay justice.

The amendment before us seeks to rectify this situation. By incorporating the Powell recommendations, the Hyde amendment strives to create a nexus between a subsequent habeas corpus petition and the defendant's guilt or innocence. I firmly believe that the current provisions in the crime bill fail to accomplish this. Therefore, I urge my colleagues to support the Hyde amendment and achieve true habeas corpus reform.

Mr. COUGHLIN. Mr. Chairman, I rise in strong support of the Hyde amendment which represents the genuine habeas corpus reform so desperately needed in our criminal justice system.

The committee bill before us today would overturn or seriously weaken numerous Supreme Court decisions that currently limit the delay and abuse of the judicial process. It greatly increases the opportunities for prisoners sentenced to death and all convicted offenders to abuse the judicial process and thwart justice. It creates numerous obstacles of procedural delay and abuse that have absolutely nothing to do with a defendant's guilt or innocence. All in all, this bill does not address the abuse of habeas corpus that has virtually nullified the death penalty laws of the States and clearly makes an already intolerable situation even worse.

Mr. Chairman, the Hyde amendment incorporates the basic reforms recommended by the Powell Committee which have the strong support of the Bush administration, the National District Attorneys Association, and the National Association of Attorneys General. This amendment strengthens the hand of law enforcement without sacrificing fairness to the defendant. I urge my colleagues to enact a tough anticrime bill by supporting the Hyde amendment.

Mr. MATSUI. Mr. Chairman, I rise in support of the habeas corpus reforms before us today, and against the amendment being offered by Representative HYDE to strike these reforms from H.R. 5269, the Comprehensive Crime Control Act.

H.R. 5269 would provide defendants the opportunity to appeal their case on the basis of the sentence. The language in the Hyde amendment limiting appeals to the conviction only is far too limited. This is an important distinction. Evidence shows that a disproportionate number of those on death row are minorities, particularly African-Americans. According to the General Accounting Office, individuals who were convicted of murdering a white victim were more likely to be sentenced to death than those who murdered a black victim.

The Hyde amendment is far too restrictive, because not all sentences are clear cut. But limiting appeals to challenging on the verdict and not the sentence ignores the reality that not all sentences are just.

The provisions in the bill requiring competent counsel to defendants are also of great importance. The language included in H.R. 5269 requires that competent counsel be provided at both the trial and appeal levels. These provisions are about fairness. Everyone deserves a fair trial and competent counsel, regardless of the crime of which he or she is accused or convicted. The Hughes amendment will ensure that competent counsel is provided to all defendants, regardless of their crime.

The State of California has in place habeas corpus provisions similar to those included in H.R. 5269. The experience in the State has been far from cataclysmic. In fact, the opposite has occurred. While the standards established in California far exceed those included in H.R. 5269, there has not been a tremendous drop in the number of available counsel for capital cases. There remains a sufficient pool of attorneys to handle these cases.

I urge my colleagues to oppose the attempt before us to weaken the habeas corpus reforms included in H.R. 5269. It is imperative that we provide due process to all defendants, regardless of how offensive we find the crime they committed.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Illinois [Mr. HYDE].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KASTENMEIER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

Vote was taken by electronic device, and there were—ayes 285, noes 146, answered "present" 1, not voting 1, as follows:

[Roll No. 418]

AYES—285

Alexander	Goss	Parker
Andrews	Gradison	Parris
Annunzio	Grandy	Pashayan
Anthony	Grant	Patterson
Applegate	Guarini	Paxon
Archer	Gunderson	Payne (VA)
Armey	Hall (TX)	Perkins
Atkins	Hammerschmidt	Petri
Baker	Hancock	Pickett
Ballenger	Hansen	Pickle
Barnard	Harris	Porter
Bartlett	Hastert	Poshard
Barton	Hatcher	Pursell
Bateman	Hayes (LA)	Quillen
Bennett	Hefley	Ravenel
Bentley	Hefner	Ray
Bereuter	Henry	Regula
Bevill	Herger	Rhodes
Bilbray	Hiler	Richardson
Bilirakis	Holloway	Ridge
Bliley	Hopkins	Rinaldo
Boehlert	Horton	Ritter
Borski	Houghton	Roberts
Bosco	Hubbard	Robinson
Boucher	Huckaby	Roe
Broomfield	Hunter	Rogers
Browder	Hutto	Rohrabacher
Brown (CO)	Hyde	Ros-Lehtinen
Bruce	Inhofe	Rostenkowski
Buechner	Ireland	Roth
Bunning	Jacobs	Roukema
Burton	James	Rowland (CT)
Bustamante	Jenkins	Rowland (GA)
Byron	Johnson (CT)	Russo
Callahan	Johnson (SD)	Saiki
Campbell (CA)	Jones (GA)	Sangmeister
Campbell (CO)	Jones (NC)	Sarpalius
Carr	Kanjorski	Saxton
Chandler	Kasich	Schaefer
Chapman	Kolbe	Schiff
Clarke	Kolter	Schneider
Clement	Kyl	Schuette
Clinger	Lagomarsino	Schulze
Coble	Lancaster	Sensenbrenner
Coleman (MO)	Lantos	Shaw
Coleman (TX)	Laughlin	Shays
Combest	Leath (TX)	Shumway
Condit	Lehman (CA)	Shuster
Cooper	Lent	Sisisky
Costello	Lewis (CA)	Skeen
Coughlin	Lewis (FL)	Skelton
Courter	Lightfoot	Slaughter (VA)
Cox	Lipinski	Smith (IA)
Craig	Livingston	Smith (NE)
Crane	Lloyd	Smith (TX)
Dannemeyer	Lowery (CA)	Smith (VT)
Darden	Lukens, Donald	Smith, Denny (OR)
Davis	Machtley	Smith, Robert (NH)
de la Garza	Madigan	Smith, Robert (OR)
DeLay	Manton	Snowe
Derrick	Marlenee	Solomon
DeWine	Martin (IL)	Spence
Dickinson	Martin (NY)	Spratt
Dicks	Martinez	Stallings
Dingell	Mavroules	Stangeland
Donnelly	Mazzoli	Stearns
Dornan (CA)	McCandless	Stenholm
Douglas	McCollum	Stump
Dreier	McCurdy	Sundquist
Duncan	McDade	Tallon
Dwyer	McEwen	Tanner
Dyson	McGrath	Tauke
Early	McMillan (NC)	Tauzin
Edwards (OK)	Meyers	Taylor
Emerson	Michel	Thomas (CA)
English	Miller (OH)	Thomas (GA)
Erdreich	Moakley	Thomas (WY)
Espy	Molinari	Torricelli
Fascell	Montgomery	Traficant
Fawell	Moorhead	Traxler
Fields	Morrison (WA)	Upton
Flippo	Murphy	Valentine
Frenzel	Murtha	Vander Jagt
Gallegly	Myers	Volkmer
Gallo	Natcher	Vucanovich
Gaydos	Neal (MA)	Walker
Gekas	Neal (NC)	Walsh
Geren	Nelson	Watkins
Gibbons	Nielson	Weber
Gillmor	Ortiz	Weldon
Gilman	Oxley	Whittaker
Gingrich	Packard	Whitten
Gordon	Pallone	Wilson
		Wolf
		Wyden
		Wylie
		Yatron
		Young (AK)
		Young (FL)

NOES—146

Ackerman	Hamilton	Owens (NY)
Anderson	Hawkins	Owens (UT)
Aspin	Hayes (IL)	Panetta
AuCoin	Hertel	Payne (NJ)
Bates	Hoagland	Pease
Beilenson	Hochbrueckner	Pelosi
Berman	Hoyer	Penny
Boggs	Hughes	Price
Bonior	Johnston	Rahall
Boxer	Jontz	Rangel
Brennan	Kaptur	Rose
Brooks	Kastenmeier	Roybal
Brown (CA)	Kennedy	Sabo
Bryant	Kennelly	Savage
Cardin	Kildee	Sawyer
Carper	Kleczka	Scheuer
Clay	Kostmayer	Schroeder
Collins	LaFalce	Schumer
Conte	Leach (IA)	Serrano
Conyers	Lehman (FL)	Sharp
Coyne	Levin (MI)	Sikorski
Crockett	Levine (CA)	Skaggs
DeFazio	Lewis (GA)	Slattery
Dellums	Long	Slaughter (NY)
Dixon	Lowey (NY)	Smith (FL)
Dorgan (ND)	Luken, Thomas	Smith (NJ)
Downey	Markey	Solarz
Durbin	Matsui	Staggers
Dymally	McCloskey	Stark
Eckart	McDermott	Stokes
Edwards (CA)	McHugh	Studds
Engel	McMillen (MD)	Swift
Evans	McNulty	Synar
Fazio	Mfume	Torres
Feighan	Miller (CA)	Towns
Fish	Miller (WA)	Udall
Flake	Mineta	Unsoeld
Foglietta	Mink	Vento
Ford (MI)	Mollohan	Visclosky
Ford (TN)	Moody	Walgren
Frank	Morella	Washington
Frost	Morrison (CT)	Waxman
Gejdenson	Mrazek	Weiss
Gephardt	Nagle	Wheat
Glickman	Nowak	Williams
Gonzalez	Oakar	Wise
Gray	Oberstar	Wolpe
Green	Obey	Yates
Hall (OH)	Olin	

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—1

McCrery

□ 1753

Mr. RAHALL changed his vote from "aye" to "no".

Mr. TAUKE changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 16 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FRANK: Page 106, line 14, insert "(a) IN GENERAL.—" before "Federal Prison Industries".

Page 106, after line 18, insert the following:

(b) LIMITATION ON PRODUCTION.—Before the report is made to Congress under subsection (a), Federal Prison Industries shall not produce a new specific product or expand the production of an existing specific product if—

(1) the product is manufactured by the footwear, apparel, textile, or furniture industries, and

(2) the production or expansion of production was not approved by the Federal Prison Industries Board of DIrectors on or before July 1, 1990.

The CHAIRMAN. Under the rule, the gentleman from Massachusetts [Mr. FRANK] will be recogized for 5 minutes, and the gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 5 minutes in opposition.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I yield myself 90 seconds.

Mr. Chairman, we have an entity called Prison Industries. They employ prisoners. We have no objection to that.

My amendment says that this program shall not expand into several very sensitive areas, sensitive in the notion that we are losing jobs to imports, until a study is done of the impact of those jobs.

The Senate adopted an amendment mandating signficant expansion in these areas. We are saying with regard to clothing and textiles, furniture, and shoes, because people here have already lost their jobs—we are not trying to put any existing prision industry out of business—but we are saying that they should not go ahead with a Senate-mandated expansion until we can do a study.

The Senate language specifically said that they are targeting in the expansion those jobs where we have already had high foreign penetration. Yes, we should be supportive of proper rehabilitation programs, but not at the expense of the hard-working, poorly compensated prople who are already at risk.

The amendment does not put a stop to anything the Prison Industries is now doing. It says that they may not expand their job operations in those three areas, clothing and textilies, furniture, and shoes, until we have completed a study on the job impact.

We recently passed legislation on the textile bill trying to protect these people. This is another way to do it.

Mr. KASTENMEIER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, for those who may not among our colleagues be familiar with the Federal Prison Industries Program, let me briefly explain what it is. All of our Federal prison inmates work. Prison Industries employs inmates to produce goods and services for the Federal Government, not for private consumption, for the Federal Government.

Work keeps these inmates busy, keeps the prisons relatively safe and well-managed in the face of unprecedented prison overcrowding, and I

must say to my colleagues, by this bill, and that is what you will intend by this bill, you plan to send a lot of additional people to these Federal penitentiaries. As a matter of fact, we had 24,000 in 1980. Now we have nearly 60,000, and we will nearly double that in 4 or 5 years.

□ 1800

If that is the case, you cannot have it both ways. You had better make sure the people you are sending to Federal prisons have work. They must have work.

This amendment, however well-intentioned, means that in areas of special concern to prisons in terms of their industries, they will not be able to expand; footwear, furniture, textiles—you are forcing them from one of the most important areas, and while I sympathize with the gentleman from Massachusetts, because I have urged them myself to drop the proposal to increase the ability to make footwear in the Federal prisons, a highly import-sensitive area, at least until they considered it at their board level; but if we adopted the Frank amendment, it only will be a matter of time before we would adopt other exclusions; They cannot make anything.

Then what are you going to have these people do in prison? It would be, I think, highly irresponsible to single out specific industries for special treatment. Every industry in America would line up and ask to be added to the list.

We are operating now at 170 percent of capacity in the Federal system. We are going to double by the year 1995.

I urge my colleagues to reject this amendment.

I reserve the balance of my time.

Mr. FRANK. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I rise in strong support of the Frank amendment.

Let me make very clear that this does not reduce Prison Industries one bit. It calls for a freeze of the expansion of Prison Industries into those three market areas in which Prison Industries already accounts for 60 percent of the total FPI product.

All this amendment does is seek to ensure that as Prison Industries expands, it expands in such a way as to not have a deleterious impact on particular areas of the economy—furniture, apparel, textiles, the same areas that this House voted two out of three to product our textile workers against unfair foreign competition, and now it addresses the problem of unfair competition at home.

This amendment is supported by the United Auto Workers, the Steelworkers, the Food and Commercial Workers, the Brotherhood of Carpenters, the National Office Products Association, the National Federation of Independent Business, the National Association of Manufacturers, the Ladies' Garment Workers Union, the Footwear Industries of America, the Coalition for Government Procurement, the American Clothing and Textile Workers Union.

This has broad labor support and broad business support, and it simply calls for a study before we expand in this area.

Mr. KASTENMEIER. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

The Federal Prison Industries Program is one of the most important tools that the Bureau of Prisons has to manage a prison population that is now 170 percent of capacity. The prison industries provide much needed meaningful activity and training for Federal prison inmates.

Complaints about the Prison Industries Program usurping private industry are already being addressed. The Judiciary Committee in both this Congress and the previous Congress placed restrictions on the ability of the Federal Prison Industries to expand existing markets or enter new markets without first carefully assessing the effect on private industry. These restrictions have already begun to work. For instance, just this year, a proposal to manufacture boots was turned down by the Bureau of Prisons. Moreover, in order to limit competition with private industry, the law prohibits Federal Prison Industries from selling its products in the private marketplace—Federal Prison Industries can only sell to the Federal Government.

If we continue to whittle away at this important prison program, we in Congress will be looking for other, more costly, ways to rehabilitate prisoners—or at the very least, keep them busy. Such new programs could cost as much as $250 million, probably more—in appropriated funds—to replace a program that now returns over 80 percent of its sales dollars to the private sector, including the purchase of almost half of its raw material from small business and the hiring of civilians to supervise and train prisoners in these industries.

The Federal prisons are model prisons in this country. Prof. John J. DiIulio, Jr., professor at Princeton University, who has made a study of prisons says that:

> Federal prisons * * * are far more decent and less costly to operate than they would be in the absence of the meaningful work opportunities [Federal Prison Industries] affords.
>
> Every systematic study has shown that the B.O.P.'s Industry Program improves inmate-staff relations; enhances staff morale; reduces tensions related to overcrowding; and checks inmate idleness, unrest, and violence.

In short, Federal Prison Industries contribute vastly to the safety of the civilians who work within the prison walls, the people who live in the communities surrounding the prisons, and the prisoners themselves.

Mr. Chairman, we are looking at a prison system that is expected to double the number of its inmates by the year 1995. It would be a disaster to begin now to dismantle a program that has served Federal prisons and the American people so will over the years.

I urge members to defeat the amendment.

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, I thank my colleague, the gentleman from Wisconsin, for yielding me this time.

I rise in strong opposition to the Frank amendment.

Mr. Chairman, I rise in opposition to this amendment. The Congress has an obligation to ensure that Federal prisoners are safeguarded against cruel and unusual punishment. To ensure order and safety for prisoners, the Congress in 1934 established Federal Prison Industries as a means of offering prisoners some form of gainful employment.

Correction professionals all believe that this employment results in a lessening of tensions for prisoners and thus contributes in an important way to maintaining order and safety among them. This belief has never been challenged and the Congress for almost 60 years has supported that belief.

Federal Prison Industries may sell its products only to other Federal agencies and then only at "not to exceed current market prices". This ensures that prison labor does not compete in the private sector with private sector jobs. It also ensures that the taxpayer is not paying exorbitant prices for prison industry products.

Federal Prison Industries creates many private sector jobs by purchasing component parts which are then assembled into finished products by prison labor. Federal Prison Industries seeks to increase the component of value added by the prison workers to the basis material furnished by the private sector suppliers. One argument that is made is that Federal Prison Industries simple buys kits for assembly by the prisoners. That argument is totally false.

While it is true that Federal Prison Industries purchases component parts from private sector industries, there is a continuing effort to increase the skill of prison labor to add more value to each product. In the end, however, it must be remembered that the average stay of a Federal prisoner is less than 5 years so that there is a limit to the level of skills that prison workers can reach.

There are over 40 State and local prisons which are under Federal court orders because they fail to meet constitutional standards. The Federal Bureau of Prisons has never been under such an order, but without Federal Prison Industries the Federal prison system

would most surely be a candidate for such litigation.

For all of these reasons I urge my colleagues to oppose this amendment.

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I rise in strong opposition to the Frank amendment.

I would just observe that I thought incarceration in this country was still about rehabilitation, and if we deny people in our correctional system the opportunity to learn basic skills, we are failing in the fundamental mission of our correctional systems, and that is to rehabilitate the prisoners who are incarcerated there.

Mr. Chairman, I rise today in opposition to the amendment offered by my distinguished colleague from Massachusetts [Mr. FRANK]. This amendment would severely restrict the operation of the Federal Prison Industries, known as UNICOR.

UNICOR is a proven program that provides prison inmates with skills that will allow them to become productive members of society. UNICOR also reduces prison tension by keeping prisoners occupied, teaching them useful skills, and creating jobs with supplier in surrounding communities. UNICOR also saves the Federal Government money because it is self-supporting.

I would note most States, including Kansas and Massachusetts, have similar successful State prison programs that produce furniture and apparel for the State. They provide jobs for suppliers and save the State money.

Mr. FRANK's amendment would restrict UNICOR expansion and changes in the production lines that form the basis for the UNICOR Program.

This amendment would be crippling. Rather than being limited, UNICOR needs to be expanded to meet the needs of the growing prison population. In addition, prohibiting modifications to the product line will kill the market in furniture and apparel, where frequently product lines changes are required to keep supply in line with customer demand.

Charges that the UNICOR Program has quality control problems, even if true, are not addressed by this amendment.

At a time when the existing prisons are operating over capacity, and Federal prisons may have to furlough one-third of their staff, it is unwise to enact legislation which idles 30 percent of the prisoners, reduces the level of prison safety, and increases operating costs. I urge you to vote against this amendment.

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I rise in opposition to the Frank amendment.

Mr. Chairman, this amendment would place a moratorium on new products or the expansion of production of certain furniture and apparel items by Federal Prison Industries until a market study, mandated by the legislation before us, is completed. This amendment should be rejected for several reasons.

First, under the Frank amendment, Federal Prison Industries would be prohibited from expanding in industries which constitute 60 percent of their sales. This means that major prison industries would be without work. Second, Federal Prison Industries, under the amendmemt, would be without products to manufacture in the factories of new institutions coming on-line to handle the explosion in the prison population. Third, the precedent that Frank amendment sets would be pernicious as it provides favored treatment to specific industries. Remaining industries, which are import-sensitive, and in fact all other industries, would demand similar favored treatment by the Congress.

If the study mandated by the bill recommends major restructuring of prison work programs, the Bureau of Prisons has indicated they will move in that direction. Finally colleagues, Prison Industries receive no appropriated funds. The Frank amendment would in effect require the Congress to appropriate tens of millions of new dollars for substitute programs to occupy inmates.

Some here would have us believe this amendment is a simple moratorium on the production of certain products. That is far from the truth. This amendment, pure and simple, in an effort to protect certain industries and to bias the study required by the bill. As the Attorney General and the Director of the Federal Bureau of Prisons have indicated in opposition to the Frank amendment, by statute, Prison Industries are limited to a "reasonable share" of the market and may not place an undue burden on the private sector. In order to ensure that the concerns of business and labor are considered before any new product is produced, Congress passed legislation in 1988 requiring Prisons Industries to follow a set of comprehensive and stringent new product development guidelines. These guidelines require that affected businesses have an opportunity to present their views to Prison Industries private board of directors. And in recent cases, the board of directors denied Prison Industries request to produce two new products. The Footwear Industry of America, one affected business interest, wrote in a letter to Senate Majority Leader GEORGE MITCHELL "we are impresssed with the sincere concern expressed by them, Federal Prison Industries, about the conflicting interest in keeping inmates working but not adversely affecting already stricken industries in the process."

Mr. Chairman at a time when our Federal prison facilities are operating at 170 percent of capacity and Federal prison officials are already having a difficult time keeping inmates gainfully occupied, let us reject this untimely amendment.

Mr. FRANK. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I rise in strong support of the Frank amendment to the 1990 crime bill. This amendment would essentially freeze the expansion of Federal Prison Industries until the market development study already in the bill is concluded early next year.

This is an issue of great importance to the furniture industry of western Michigan. This amendment is very reasonable—designed to briefly prevent FPI from further damaging private industries in which FPI offers products. The Judiciary Committee has recognized that FPI needs to broaden its product line because of its undue impact on a few industries, and has authorized a study of new market areas. The freeze would last only as long as the market study takes to complete.

As you may be aware, in the 100th Congress FPI expansion was a controversial topic. Provisions tucked into the 1988 drug bill, which had been earlier defeated on the House floor, greatly increased Federal Prison Industries ability to expand. This bypass of established congressional intent fueled existing concerns about FPI's superpreference in the Federal procurement process.

Now, FPI, a government-operated corporation, has unprecedented and unlimited ability to borrow from the U.S. Treasury at below prime rates to expand manufacturing capacity. In addition, as evidenced by FPI's recent decision to enter into the capital-intensive—and not prison labor-intensive—arena of envelope production, the process under which FPI expansion is now approved, is substantially flawed.

It is not surprising that we are now revisiting this subject in the 101st Congress. In the short period since enactment, the adverse impact of FPI market expansion on the furniture industry in western Michigan is already being felt. My colleague PAUL HENRY and I appeared before the House Judiciary Committee earlier this year to raise this and other issues about FPI.

We reported to the committee how FPI sales of furniture to Federal agencies had increased 14 percent in 1989, and that FPI had captured 23 percent of the Federal office furniture market. Furthermore, in a Small Business Procurement Subcommittee hearing called by Chairman SKELTON at my suggestion on August 1, Members learned of the extreme market share percentages FPI has garnered in other products it offers, such as 38 percent of the Federal drapery market and 100 percent of GSA's glove needs. Testimony taken at that hearing stated that FPI had effectively driven out all competition for Federal mattress needs.

Opponents of this amendment have pointed to the small percentage of Federal procurements that FPI encompasses. That only further proves our point that in the few areas FPI offers products, it gobbles up market share because of its built-in advantages. To date, FPI has focused primarily in furniture, textiles, printing, and electronics. In these few areas,

FPI raked in enough Federal sales in 1988 to put it ahead of major Federal contractors such as Chrysler. FPI's market fix in certain product areas blatantly contradicts its statutory obligation not to unduly burden any given industry.

I am pleased that the Judiciary Committee has recognized that there is an expansion problem. I commend Subcommittee Chairman KASTENMEIER for incorporating into the crime bill an independent study that would investigate areas in which FPI could expand without—as stated in the Judiciary Committee report on this bill—"costing American jobs or displacing American industry." The study would be completed by May 1, 1991. I believe that this study is an important part of an overall solution to FPI expansion that should include making FPI's operation more labor intensive, and less dependent on subcontractor assemblies.

The amendment at hand would simply freeze FPI market levels as of July 1, 1990, until the market development study is over, specifically pointing out job-sensitive areas of furniture, textiles, footwear, and apparel. This is an extremely reasonable approach. There is absolutely no reason to exacerbate a recognized problem while the market study is being completed.

I urge you to support the Frank amendment; it is common sense and good policy.

Mr. FRANK. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I was tempted to clinch this by amending my amendment so that the penalty for violating it would be death, and clearly I would have won easily. But I do not want to take unfair advantage. I want to win this on the merits.

Yes, I want to help prisoners and be rehabilitative, but not at the expense of working people in this country.

The Senate amendment that led me to offer this amendment targets for an expansion of this program those industries where working people are not well paid and are already vulnerable to imports. The great maority of this House who voted for the textile bill recognized that. This is a far lesser proposal.

As for rehabilitation, I am all for it. I encourage them to find new ways and new products. If they are doing this for rehabilitation, let them experiment with some products. Remember, the value of this, as thy describe it, is the work performed, not the ultimate sale. Let them experiment with work, but let them not do what this amendment would do in the Senate version, expand into those areas where people are already vulnerable.

I would add that they said these are only sold to the Federal Government. Right, and it is the Federal Government that only buys American in precisely those areas where we most need it.

Let us find ways to help prisoners that do not target working people in industries where there have already been great difficulties.

I hope the amendment is adopted.

□ 1810

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I oppose the Frank amendment.

Mr. KASTENMEIER. Mr. Chairman, I yield the balance of my time, to close the debate, to the gentleman from Florida [Mr. MCCOLLUM].

The CHAIRMAN. The gentleman has 45 seconds remaining.

Mr. MCCOLLUM. Mr. Chairman, I rise in very strong opposition to the Frank amendment. It literally guts the Federal Prison Industry system as we know it now. The products that are made and sold by the prison industry system are sold only to the Federal Government, not on the general marketplace. The key product effects are the key products they make. The fact is, the Department of Justice said it would effectively eliminate the Federal prison industry status as a preferred source for government industry procurement. It is a ridiculous amendment. It is a special interest amendment.

I urge my colleagues to vote no.

Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, I am speaking today on an amendment that, if passed, would seriously damage the Federal Inmate Work Program known as Federal Prison Industries [FPI].

The amendment will place a moratorium on expansion or the production of products in footwar, apparel, textiles, and furniture made by prisoners through FPI.

Federal prisoners often operate at 170 percent of capacity these days. We need to be working toward effective maintenance of our Federal correctional system, not setting up roadblocks to achieving these goals.

Congressman FRANK's amendment will put at stake whether or not our prisons will continue to have a viable correctional industries program and whether we will be able to ensure the safe and secure management of our seriously crowded corrections institutions.

I appreciate the concerns raised regarding the conflicting interest of keeping inmates working while not adversely affecting our industries in the process. But by statute Federal Prison Industries is limited to a reasonable share of the market and may not place an undue burden on the private sector. In 1988, Congress passed legislation requiring the FPI to follow strict new product development guidelines. And, FPI was recently denied a request to produce two new products because the request would have adversely affected the footwear industry.

The crime bill itself requires a study of prison industries, which FPI supports. Attorney General Thornburgh has indicated that the Justice Department fully supports a study of prison industries but is fundamentally opposed to any moratorium prior to examination of the findings in such a study.

If the Federal correctional system population were declining, these temporary restrictions might make sense. But prison populations are growing at an alarming rate. These work inmate programs provide inmates with the opportunity to be productive while serving their Federal sentences. Federal Prisons Industries is an extremely worthwhile program and placing restrictions on it will cause more disruptions than this already overworked Federal system deserves.

Mr. MCCOLLUM. Mr. Chairman, if the gentleman will yield, I urge a no vote on the Frank amendment.

Mrs. KENNELLY. Mr. Chairman, I rise today in strong support of Congressman BARNEY FRANK's amendment to the crime bill. This amendment would prohibit the Federal Prison Industry from expanding the production of certain products—footwear, apparel, textile, or furniture—until a market report is presented to Congress.

I support programs that teach inmates valuable skills by providing them with work. However, I do not approve of the program's expansion into industries that cannot absorb the loss of contracts. Such expansion threatens the jobs of our working citizens in the private sector.

Another problem with current law is the absolute preference granted to Federal Prison Industries. The Federal Prison Industries has 38 percent of the Federal drapery market. A constituent of mine, Thomas W. Raftery, Inc., a mid-sized drapery manufacturer, has lost nearly $3 million in contracts with the Federal Government over the last 4 years because of the expansion of the Federal Prison Industry. Even worse, in 1985, the Raftery company underbid Federal Prison Industries by $6,000 on a drapery contract with Sheppard Air Force Base in Texas. But still, the contract went to the higher bidder because it was the Federal Prison Industry.

The crime bill authorizes a market study to identify new products and services into which Federal Prison Industries could expand. Until this study is completed, I believe like Representative FRANK does, that no further damage should be levied against the sensitive industries covered by his amendment.

Congressman FRANK's amendment is simple and reasonable—wait until the results of the market study before expanding into other sensitive industries. I urge my col-

leagues to vote in support of this reasonable amendment.

Mrs. LLOYD. Mr. Chairman, I rise in strong suport of the Frank amendment—to place a temporary moratorium on expansion of production of Federal Prison Industries [FPI] products in footwear, apparel, textiles, and furniture.

As chairman of the Congressional Textile Caucus, I am very pleased that the House recently issued a strong show of support for the textile industry by the resounding passage of the Textile, Apparel, and Footwear Trade Act of 1990. I believe this legislation is vitally important and its ultimate enactment one of the top legislative priorities for the remainder of the 101st Congress. Millions of Americans depend on the domestic textile, apparel, and shoe industries for their livelihood which makes the Frank amendment all the more important.

It simply seeks to limit unfair competition by Federal Prison Industries, Inc. [FPI] in selling goods and services to the Federal Government. FPI takes good jobs away from hard working men and women in the textile and apparel industry and gives them to Federal prisoners. The Frank amendment is not intended to shut down FPI operations; far from it. It simply directs FPI expansion away from import-sensitive industries.

I urge you to support the Frank amendment and help create a more level playing field for the textile industry.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRANK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 204, not voting 3, as follows:

[Roll No. 419]

AYES—226

Ackerman	Coyne	Frank
Alexander	Crockett	Frost
Annunzio	Dannemeyer	Gaydos
Applegate	Davis	Gejdenson
Atkins	de la Garza	Gephardt
Ballenger	DeFazio	Gillmor
Bates	DeLay	Glickman
Bentley	Dellums	Gonzalez
Berman	Derrick	Gordon
Bliley	Dicks	Grandy
Boehlert	Dingell	Grant
Boggs	Dixon	Gray
Bonior	Donnelly	Gunderson
Borski	Douglas	Hall (OH)
Bosco	Downey	Hall (TX)
Boxer	Duncan	Hammerschmidt
Brennan	Dwyer	Hancock
Broomfield	Dymally	Hatcher
Bruce	Dyson	Hawkins
Bryant	Eckart	Hayes (IL)
Bustamante	Emerson	Hefner
Campbell (CO)	Engel	Henry
Cardin	Espy	Hertel
Clarke	Evans	Hochbrueckner
Clay	Feighan	Horton
Coble	Fish	Hyde
Collins	Flake	Ireland
Conte	Foglietta	Jenkins
Cooper	Ford (MI)	Johnson (CT)
Costello	Ford (TN)	Johnson (SD)
Jones (GA)	Morrison (CT)	Slaughter (VA)
Jones (NC)	Mrazek	Smith (FL)
Jontz	Murphy	Smith, Denny (OR)
Kanjorski	Murtha	Smith, Robert (NH)
Kaptur	Nagle	Snowe
Kasich	Neal (MA)	Solarz
Kennedy	Neal (NC)	Solomon
Kennelly	Oakar	Spratt
Kildee	Olin	Staggers
Kleczka	Owens (NY)	Stangeland
Kolter	Owens (UT)	Stark
Kostmayer	Pallone	Stokes
LaFalce	Patterson	Studds
Lancaster	Payne (VA)	Stump
Lantos	Pelosi	Swift
Laughlin	Perkins	Tallon
Leath (TX)	Porter	Tanner
Lehman (CA)	Poshard	Thomas (CA)
Levine (CA)	Price	Torres
Lewis (GA)	Pursell	Torricelli
Lipinski	Quillen	Towns
Lloyd	Rahall	Traficant
Long	Richardson	Traxler
Lowey (NY)	Rinaldo	Udall
Luken, Thomas	Ritter	Unsoeld
Lukens, Donald	Roe	Upton
Machtley	Rogers	Valentine
Madigan	Rose	Vander Jagt
Manton	Rowland (CT)	Volkmer
Markey	Rowland (GA)	Vucanovich
Martin (IL)	Roybal	Walgren
Martin (NY)	Russo	Walker
Martinez	Sangmeister	Washington
McDermott	Savage	Waxman
McGrath	Schaefer	Weiss
McMillan (NC)	Scheuer	Weldon
McMillen (MD)	Schneider	Wheat
McNulty	Schuette	Whittaker
Mfume	Schumer	Williams
Miller (CA)	Sensenbrenner	Wilson
Mineta	Serrano	Wise
Mink	Sharp	Wolpe
Moakley	Shuster	Wylie
Mollohan	Sikorski	Yates
Moody	Skelton	
Morella	Slaughter (NY)	

NOES—204

Anderson	Dickinson	James
Andrews	Dorgan (ND)	Johnston
Anthony	Dornan (CA)	Kastenmeier
Archer	Dreier	Kolbe
Armey	Durbin	Kyl
Aspin	Early	Lagomarsino
AuCoin	Edwards (CA)	Leach (IA)
Baker	Edwards (OK)	Lehman (FL)
Barnard	English	Levin (MI)
Bartlett	Erdreich	Lewis (CA)
Barton	Fascell	Lewis (FL)
Bateman	Fawell	Lightfoot
Beilenson	Fazio	Livingston
Bennett	Fields	Lowery (CA)
Bereuter	Flippo	Marlenee
Bevill	Frenzel	Matsui
Bilbray	Gallegly	Mavroules
Bilirakis	Gallo	Mazzoli
Boucher	Gekas	McCandless
Brooks	Geren	McCollum
Browder	Gibbons	McCrery
Brown (CA)	Gilman	McCurdy
Brown (CO)	Gingrich	McDade
Buechner	Goodling	McEwen
Bunning	Goss	McHugh
Burton	Gradison	Meyers
Byron	Green	Michel
Callahan	Guarini	Miller (OH)
Campbell (CA)	Hamilton	Miller (WA)
Carper	Hansen	Molinari
Carr	Harris	Montgomery
Chandler	Hastert	Moorhead
Chapman	Hayes (LA)	Morrison (WA)
Clement	Hefley	Myers
Clinger	Herger	Natcher
Coleman (MO)	Hiler	Nelson
Coleman (TX)	Hoagland	Nielson
Combest	Holloway	Nowak
Condit	Hopkins	Oberstar
Conyers	Houghton	Obey
Coughlin	Hoyer	Ortiz
Courter	Hubbard	Oxley
Cox	Huckaby	Packard
Craig	Hughes	Panetta
Crane	Hutto	Parker
Darden	Inhofe	Parris
DeWine	Jacobs	Pashayan
Paxon	Sarpalius	Stearns
Payne (NJ)	Sawyer	Stenholm
Pease	Saxton	Sundquist
Penny	Schiff	Synar
Petri	Schroeder	Tauke
Pickett	Schulze	Tauzin
Pickle	Shaw	Taylor
Rangel	Shays	Thomas (GA)
Ravenel	Shumway	Thomas (WY)
Ray	Sisisky	Vento
Regula	Skaggs	Visclosky
Rhodes	Skeen	Walsh
Ridge	Slattery	Watkins
Roberts	Smith (IA)	Weber
Robinson	Smith (NE)	Whitten
Rohrabacher	Smith (NJ)	Wolf
Ros-Lehtinen	Smith (TX)	Wyden
Rostenkowski	Smith (VT)	Yatron
Roth	Smith, Robert (OR)	Young (AK)
Roukema	Spence	Young (FL)
Sabo	Stallings	
Saiki		

NOT VOTING—3

Hunter	Lent	McCloskey

□ 1830

Messrs. WHITTAKER, DYMALLY, GAYDOS, and TALLON changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1830

AMENDMENTS EN BLOC OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, pursuant to the rule, I offer amendments en bloc, amendments Nos. 18, 25, 26, 27, as modified, 31, 32, 34, 37, 39, 40, 44, 46, and 47.

The CHAIRMAN. The Clerk will designate the en bloc amendments.

The texts of the amendments are as follows: Amendments en bloc offered by Mr. BROOKS, as follows:

18. The amendment to be offered by Representative GINGRICH of Georgia, or his designee, debatable for not to exceed 10 minutes.

At the end of title XIV, insert the following:

SEC. . FUNCTIONAL LITERACY REQUIREMENT FOR ALL INDIVIDUALS IN FEDERAL CORRECTIONAL INSTITUTIONS.

Section 3624 of title 18, United States Code, is amended by adding at the end the following:

"(f) MANDATORY FUNCTIONAL LITERACY REQUIREMENT.—

"(1) The Attorney General shall direct the Bureau of Prisons to have in effect a mandatory functional literacy program in each Federal correctional facility before the end of the 2-year period beginning on the date of the enactment of the Comprehensive Crime Control Act of 1990.

"(2) Each mandatory functional literacy program required by this section shall include—

"(A) a requirement that each individual convicted of a felony who is incarcerated in the Federal corrections institution and who is not functionally literate participate in such program until such individual—

"(i) achieves functional literacy;

"(ii) completes that prisoner's sentence; or

"(iii) is released; and

"(B) adequate opportunities for individuals required to participate in such program to be tested for functional literary.

"(3) As used in this section, the term 'functional literacy' means the ability to demonstrate, in English, educational skills

at not less than the 8th grade level. Skills required to be demonstrated under the preceding sentence shall include all skills necessary to function independently in society, such as reading, writing, comprehension, and arithmetic computation skills.

"(4) An individual serving a life sentence, under a sentence of death, or mentally impaired shall not be required to participate in a mandatory functional literacy program.".

SEC. . MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted prisoners confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved. Such labor may include, but not be limited to—

(A) local public works projects and infrastructure repair;

(B) construction of new prisons and other detention facilities;

(C) prison industries; and

(D) other appropriate labor.

(2) It is the policy of the Federal Government that States and local governments have the same authority to require all convicted prisoners to work.

(b) PRISONERS SHALL WORK.—Medical certification of 100 percent disability, security considerations, or disciplinary action shall be the only excuse to remove a Federal prisoner from labor participation.

(c) USE OF FUNDS.—(1) Subject to paragraph (2), any funds generated by labor conducted pursuant to this section shall be deposited in a separate fund in the Treasury of the United States for use by the Attorney General for payment of prison construction and operating expenses or for payment of compensation judgments. Notwithstanding any other law, such funds shall be available without appropriation.

(2) Prisoners shall be paid a share of funds generated by their labor conducted pursuant to this section.

25. The amendment to be offered by Representative OAKAR of Ohio, or her designee, debatable for not to exceed 10 minutes.

Page 183, strike line 8, and insert the following:

first fails to meet such requirement,

or, if received before such date, was paid by the institution or holding company in contemplation of the occurrence of any condition described in subclause (I), (II), or (III).

Page 189, strike line 3, and insert the following:

meet such requirement,

or, if received before such date, was paid by the credit union in contemplation of the occurrence of any condition described in subclause (I), (II), or (III).

26. The amendment to be offered by Representative OAKAR of Ohio, or her designee, debatable for not to exceed 10 minutes.

Page 198, after line 8, insert the following new section:

SEC. 2129. PROHIBITION ON ACQUISITIONS FROM CONSERVATORS AND RECEIVERS OF DEPOSITORY INSTITUTIONS BY CERTAIN INSTITUTION-AFFILIATED PARTIES.

(a) FDIC.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding after subsection (p) (as added by section 2128) the following new subsection:

"(q) Certain Institution-Affiliated Parties Prohibited From Purchasing Assets.—Any person who—

"(1) is or was an institution-affiliated party with respect to any insured depository institution for which the Corporation has been appointed conservator or receiver; and

"(2) in the determination of the Corporation and while an institution-affiliated party, caused a substantial loss to the insured depository institution, the Corporation, or the Federal Savings and Loan Insurance Corporation (before such Corporation was abolished),

may not purchase any asset of such institution from the Corporation.".

(b) RTC.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) Certain Institution-Affiliated Parties Prohibited From Purchasing Assets.—Any person who—

"(1) is or was an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act) with respect to any institution described in subsection (b)(3)(A); and

"(2) in the determination of the Corporation and while an institution-affiliated party, caused a substantial loss to the institution or the Corporation,

may not purchase any asset of such institution from the Corporation.".

Page 202, line 15, strike "(p) (as added by section 2128(a)" and insert "(q) (as added by section 2129(a)".

Page 202, line 17, strike "(q)" and insert "(r)".

27. The amendment to be offered by Representative GEKAS of Pennsylvania, or his designee, debatable for not to exceed 10 minutes.

Page 212, strike line 16 and all that follows through line 10 (sections 2145 and 2146) and insert the following:

SEC. 2145. INTERAGENCY COORDINATION.

(a) IN GENERAL.—Notwithstanding any other law—

(1) the Attorney General may accept, and Federal departments and agencies, including the United States Secret Service, the Internal Revenue Service, the Resolution Trust Corporation, and the appropriate Federal banking agency, may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of any other departments or agencies of the Federal Government to assist the Department of Justice, subject to the supervision of the Attorney General, in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution; and

(2) any attorney of a department or agency whose services are accepted pursuant to paragraph (1) may, subject to the supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform, whether or not the attorney is a resident of the district in which the proceeding is brought; and

(3) any law enforcement personnel of the United States Secret Service whose services are accepted pursuant to paragraph (1) may, subject to the supervision of the Attorney General, conduct or perform any kind of investigation, civil or criminal, which the Department of Justice law enforcement personnel are authorized by law to conduct or perform.

(b) LIMITATIONS.—This section—

(1) shall not otherwise alter the authority of any Federal law enforcement agency; and

(2) shall expire coterminously with the authority of the Resolution Trust Corporation or six years from the date of enactment of this section, whichever date occurs earlier, except that the Attorney General may extend the authority conferred herein as he deems appropriate.

27. Amendment of Mr. GEKAS as modified.

In title XXI, delete Sections 2145 and 2146 and insert in lieu thereof the following:

SEC. 2145. INTERAGENCY COORDINATION.

(a) Notwithstanding any other law—

(1) the Attorney General may accept, and Federal departments and agencies, including the United States Secret Service, the Internal Revenue Service, the Resolution Trust Corporation, and the appropriate Federal banking agency, may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of any other departments or agencies of the Federal Government to assist the Department of Justice, subject to the supervision of the Attorney General, in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution or against the Resolution Trust Corporation; and

(2) any attorney of a department or agency whose services are accepted pursuant to paragraph (1) may, subject to the supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform, whether or not the attorney is a resident of the district in which the proceeding is brought; and

(3) any law enforcement personnel of the United States Secret Service whose services are accepted pursuant to paragraph (1) may, subject to the supervision of the Attorney General, conduct or perform any kind of investigation, civil or criminal, which the Department of Justice law enforcement personnel are authorized by law to conduct or perform.

(b) This section—

(1) shall not otherwise alter the authority of any Federal law enforcement agency; and

(2) shall expire coterminously with the authority of the Resolution Trust Corporation or six years from the date of enactment of this section, whichever date occurs earlier, except that the Attorney General may extend the authority conferred herein as he deems appropriate.

31. The amendment to be offered by Representative WAXMAN of California, or his designee, debatable for not to exceed 10 minutes.

Page 239, after line 5, add the following new section:

SEC. 2214. DEMONSTRATION PROGRAMS REGARDING ANABOLIC STEROIDS.

Section 508(b) of the Public Health Service Act (42 U.S.C. 290aa-6(b)) is amended—

(1) in paragraph (10)(B), by striking "and" after the semicolon at the end;

(2) in paragraph (11)(B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(12) develop and support innovative demonstration programs designed to identify and deter the improper use or abuse of ana-

bolic steroids by students, especially students in secondary schools.".

32. The amendment to be offered by Representative WAXMAN of California, or his designee, debatable for not to exceed 10 minutes.

Page 239, after line 5, add the end of title XXII the following new section:

SEC. 2214. BANNING OF ISOPROPAL NITRITE AND OTHER NITRITES.

(a) IN GENERAL.—Except as provided in subsection (b), volatile alkyl nitrite shall be considered a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057).

(b) LAWFUL PURPOSES.—For the purposes of section 8 of the Consumer Product Safety Act, it shall not be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States volatile alkyl nitrites for any commercial purpose or any other purpose approved under the Federal Food, Drug, and Cosmetic Act.

(c) DEFINITIONS.—For purposes of this section, the term "commercial purpose" means any commercial purpose other than for the production of consumer products containing volatile alkyl nitrites that may be used for inhaling or otherwise introducing volatile alkyl nitrites into the human body for euphoric or physical effects.

(d) EFFECTIVE DATE.—This section shall take effect 90 days after the date of the enactment of this Act.

34. The amendment to be offered by Representative SCHUMER of New York, or his designee, debatable for not to exceed 10 minutes.

Add at the end of title XXII the following:

SEC. . VICTIMS OF CRIME.

Section 1402(c)(1)(B)(i) of the Victims of Crime Act of 1984 is amended by striking "1991" and inserting "1990".

37. The amendment to be offered by Representative SLAUGHTER of New York, or his designee, debatable for not to exceed 10 minutes.

Add at the end the following new title:

TITLE XXIII—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

SEC. 2301. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review 25 years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 2302. ESTABLISHMENT.

There is hereby established the National Commission to Support Law Enforcement (hereafter in this title referred to as the "Commission").

SEC. 2303. DUTIES.

(a) IN GENERAL.—The Commission shall study and include in the report made under section 2307 recommendations for changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 2304. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 19 members as follows:

(1) 5 individuals from national law enforcement organizations representing law enforcement officers, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(2) 5 individuals from national law enforcement organizations representing law enforcement management, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(3) 2 individuals with academic expertise regarding law enforcement issues, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(4) 2 Members of the House of Representatives, appointed jointly by the Speaker and the minority leader of the House of Representatives.

(5) 2 Members of the Senate, appointed jointly by the majority leader and the minority leader of the Senate.

(6) 1 individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) 1 individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 2305. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 2306. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 2307. REPORT.

Not later than the expiration of the 18-month period beginning on the date of the enactment of this title, the Commission shall submit to the Congress a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate.

SEC. 2308. TERMINATION.

The Commission shall cease to exist upon the expiration of the 60-day period beginning on the date on which the Commission submits its report under section 2307.

39. The amendment to be offered by Representative LOWEY of New York, or her designee, debatable for not to exceed 10 minutes.

At the end of the bill, add the following new title:

TITLE XXIII—DRUG ABUSE EDUCATION AND STUDENT SAFETY

SEC. 2301. STRENGTHENING OF DRUG-FREE SCHOOL ZONES.

(a) GENERAL AUTHORITY.—Paragraph (8) of section 5122(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192(a)) is amended by striking the period and inserting the following: ", which shall include—

"(A) the determination, with the assistance of municipal authorities and local law enforcement agencies, as appropriate, of the

geographical boundaries of schools within the State and the posting of signs identifying school properties as drug-free school zones;

"(B) drug-abuse education and prevention programs and enforcement policies designed to eliminate the illicit use of alcohol and drugs in such zones;

"(C) assisting teachers, administrators, athletic directors, and other school personnel in cooperating fully with law enforcement officials to punish violations of laws relating to illegal drugs;

"(D) informing the community—

"(i) of the content and intent of laws relating to school safety and laws relating to illegal drugs as they affect schoolchildren; and

"(ii) of the perimeters of the drug-free school zones;

"(E) employing the services of the local or substate regional advisory council on drug abuse education and prevention established or designated by the local application submitted under section 5126(a) as a resource for advice and support with respect to implementation of such zones; and

"(F) communication to students, teachers, athletic directors, and other school personnel by administrators that activities that are illicit and harmful to the health and well-being of the students will not be tolerated within schools and their surrounding environments.".

(b) CONFORMING AMENDMENT.—Subsection (a) of section 5137 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3217) is amended by inserting before the period at the end of the first sentence the following: "as described in section 5122(a)(8)".

SEC. 2302. REPLICATION OF SUCCESSFUL DRUG ABUSE EDUCATION PROGRAMS.

(a) RESERVATION OF FUNDS.—Section 5112(a) of the Drug-Free Schools and Communities Act of 1986 (29 U.S.C. 3182(a)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) $5,000,000 for grants under section 5138.".

(b) PROGRAM AUTHORIZED.—Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211 et seq.) is amended by adding at the end the following:

"SEC. 5138. PROGRAMS OF DRUG ABUSE EDUCATION, PREVENTION, OR COUNSELING.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to local educational agencies or consortia of local educational agencies and private nonprofit entities to provide drug abuse education, prevention, or counseling services to students in kindergarten through grade 12.

"(b) ELIGIBILITY.—A local educational agency or consortium described in subsection (a) shall not be eligible for a grant under this section unless such agency or consortium agrees—

"(1) to use assistance provided under such grant to provide or arrange for the provision of programs offering drug abuse education, prevention, or counseling to students of compulsory school age, including—

"(A) programs to provide drug abuse counseling in the schools by trained personnel;

"(B) programs that stress the use of peers to combat student abuse of drugs and alcohol;

"(C) programs that stress parental involvement in combating student abuse of drugs and alcohol; and

"(D) other appropriate programs;

"(2) that programs provided with assistance under the grant shall be designed to prevent or eliminate student abuse of drugs or alcohol;

"(3) to use assistance provided under the grant to expand or replicate a program that has a demonstrated record of success at either the State or local level in prevention or eliminating student abuse of drugs or alcohol; and

"(4) to ensure that the program to be expanded or replicated is appropriate for the students to be served, based on an assessment of their most important needs.

"(c) APPLICATION.—A local educational agency or consortium described in subsection (a) that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information and assurances as the Secretary may reasonable require. Each such application shall contain—

"(1) a discussion of why the particular program to be assisted under the grant is appropriate for and responds to the particular needs of the students to be served;

"(2) a complete description of the success of the program to be assisted under the grant in reducing or eliminating drug or alcohol abuse among students of compulsory school age;

"(3) an assurance that the consortium concerned will provide assistance, in cash or in kind, for the program assisted under the grant in an amount equal to not less than 10 percent of the amount provided under the grant; and

"(4) an assurance that funds received under the grant shall be used to supplement, not supplant, the amount of other Federal, State, and local funds expended for support of programs of the type described in subsection (b).".

SEC. 2303. SUPPORT OF SCHOOL-BASED RECREATIONAL ACTIVITIES.

Section 5125(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (16);

(2) by redesignating paragraph (13) the second place it appears as paragraph (14);

(3) by striking "and" at the end of paragraph (14) (as redesignated by paragraph (2) of this section); and

(4) by inserting after paragraph (14) the following:

"(15) in the case of a local educational agency that determines that it provides sufficient drug and alcohol abuse education during regular school hours, after-school programs that provide drug and alcohol abuse education for school-aged children, including children who are unsupervised after school, and that my include school-sponsored sports, recreational, educational, or instructional activities; and".

SEC. 2304. SUPPORT OF SCHOOL-BASED DRUG ABUSE COUNSELING PROGRAMS.

(a) GENERAL AUTHORITY.—Part C of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3201) is amended to read as follows:

PART C—TRAINING OF TEACHERS, COUNSELORS, AND SCHOOL PERSONNEL

"SEC. 5128. GRANTS FOR TRAINING OF TEACHERS.

"(a) IN GENERAL.—From amounts appropriated pursuant to the authorization contained in section 5111(a)(2), the Secretary shall make grants to State educational agencies, local educational agencies, and institutions of higher education for teacher training programs in accordance with this section.

"(b) USE OF FUNDS.—Amounts made available under grants under this section shall be used to establish, expand, or enhance programs and activities for the training of elementary and secondary school teachers and administrators, and other elementary and secondary school personnel concerning drug and alcohol abuse education and prevention.

"SEC. 5129. GRANTS FOR TRAINING OR COUNSELORS.

"(a) IN GENERAL.—

"(1) From amounts appropriated pursuant to the authorization contained in section 5111(a)(2), the Secretary shall give priority to making a substantial number of grants to qualified State educational agencies, local educational agencies, and institutions of higher education for programs to train counselors, social workers, psychologists, or nurses in accordance with this section.

"(2) The Secretary may also make a grant under this part to any private nonprofit agency that has an agreement with a local educational agency to provide training in drug abuse counseling for individuals who will provide such counseling in the schools of such local educational agency.

"(b) USE OF FUNDS.—Amounts made available under grants under this section shall be used to establish, expand, or enhance programs and activities for the training of counselors, social workers, psychologists, or nurses who are providing or will provide drug abuse prevention, counseling, or referral services in elementary and secondary schools.

"SEC. 5130. APPLICATIONS.

"(a) IN GENERAL.—Any State or local educational agency, institution of higher education, or consortium of such agencies or institutions that desires to receive a grant under this part in any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

"(b) CONTENTS.—Each application submitted under this section shall—

"(1) set forth the activities and programs to be carried out with funds paid under this part;

"(2) contain an estimate of the cost for the establishment and operation of such activities and programs;

"(3) provide assurances that the Federal funds made available under this section shall be used to supplement, and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds;

"(4) provide assurances of compliance with this part;

"(5) in the case of a grant under section 5129, contain a discussion of how the training to be assisted under the grant will assist the applicant to—

"(A) increase the number of school personnel who are trained to provide drug abuse counseling services; and

"(B) improve the quality of drug abuse counseling services offered by the applicant or the local educational agency concerned; and

"(6) include such other information and assurances as the Secretary reasonably determines to be necessary.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Subparagraph (A) of section 5111(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3181(a)(2)) is amended by striking "$35,000,000" and inserting "$50,000,000".

SEC. 2305. ADDITIONAL REQUIREMENTS FOR LOCAL APPLICATIONS.

Section 5126(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196(a)(2)) is amended—

(1) by redesignating subparagraphs (N) and (O) as subparagraphs (P) and (Q), respectively; and

(2) by inserting after subparagraph (M) the following:

"(N) describe how, to the extent practicable, assistance provided under the grant will be used to provide drug abuse counseling services to children of all ages, including students in the elementary schools;

"(O) describe how, to the extent practicable, activities assisted under the grant will be coordinated with local law enforcement agencies in order to improve security on school grounds and in the surrounding community and to educate students about—

"(i) the dangers of drug use and drug-related violence;

"(ii) the penalties for possession of or trafficking in illegal drugs;

"(iii) techniques for resisting drug abuse; and

"(iv) the importance of cooperating with law enforcement officials in eliminating drug abuse and identifying individuals who supply drugs to students;".

SEC. 2306. IDENTIFICATION OF FEDERALLY-ASSISTED PROGRAMS.

Part G of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3231 et seq.) is amended by adding at the end the following:

"SEC. 5193. IDENTIFICATION OF FEDERALLY-ASSISTED PROGRAMS.

"Every local recipient of funds under this title shall, in any publication of public announcement, clearly identify any program assisted under this title as a Federal program funded under the Drug-Free Schools and Communities Act of 1986.".

SEC. 2307. TECHNICAL AMENDMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 2 of the Drug-Free Schools and Communities Act Amendments of 1989 is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by striking paragraph (1) and inserting the following:

"(1) in paragraph (1), by inserting after "part C" the following: "and section 5136"; and

"(2) in paragraph (2)—

"(A) in subparagraph (A), by striking 'and $20,000,000' and all that follows and inserting the following: '$20,000,000 for the fiscal year 1990, and $35,000,000 for each of the fiscal years 1991, 1992, and 1993."; and

"(B) in subparagraph (B), by striking '$230,000,000' and inserting '$215,000,000'; and".

(b) RESERVATIONS AND STATE ALLOTMENTS.—Subsection (a) of section 5112 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3182) is amended in the matter preceding paragraph (1) by inserting ", from" after "subsection (c)".

(c) RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.—

(1) CORRECTION OF PUNCTUATION.—Section 5124(a)(4)(B) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3194(a)(4)(B)) is amended by striking the comma at the end of clause (ii) and inserting a period.

(2) CORRECTION OF REFERENCE.—Section 7(2) of the Drug-Free Schools and Communities Act Amendments of 1989 is amended in subparagraph (A) by inserting "the first place it appears" before "the following".

(d) FEDERAL ACTIVITIES.—Section 45132(b) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3212) is amended by striking "and" at the end of paragraph (5).

(e) EMERGENCY GRANTS.—The heading for section 5136 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3216) is amended to read as follows:

"SEC. 5136. EMERGENCY GRANTS.".

(f) CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAMS.—Section 22(b) of the Drug-Free Schools and Communities Act Amendments of 1989 is amended—

(1) in paragraph (1), by striking "Part D" and inserting "Part E"; and

(2) in paragraph (2), by striking "5126(e)" and inserting "5126(a)".

(g) DISSEMINATION OF INFORMATION AND TECHNICAL ASSISTANCE.—Section 18 of the Drug-Free Schools and Communities Act Amendments of 1989 is amended by striking "Part D" and inserting "Part E".

(h) LIMITATION.—The amendments made by this section shall not take effect if the Drug Abuse Resistance Education Act of 1990 is enacted before the Enactment of this Act.

40. The amendment to be offered by Representative FASCELL of Florida, or his designee, debatable for not to exceed 10 minutes.

At the end of the bill (page 239, after line 5), add the following:

TITLE XXIII—INTERNATIONAL NARCOTICS CONTROL

SEC. 2301. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "International Narcotics Control Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE XXIII—INTERNATIONAL NARCOTICS CONTROL

Sec. 2301. Short title and table of contents.
Sec. 2302. Economic assistance and administration of justice programs for Andean countries.
Sec. 2303. Military and law enforcement assistance for Andean countries.
Sec. 2304. General provisions relating to assistance for Andean countries.
Sec. 2305. International narcotics control assistance.
Sec. 2306. Assistance for agricultural and industrial alternatives to narcotics production.
Sec. 2307. Exceptions to requirement that aircraft provided to foreign countries for narcotics control purposes be leased rather than sold.
Sec. 2308. Number of members of United States Armed Forces in Andean countries.
Sec. 2309. Nonapplicability of certification procedures to certain major drug-transit countries.
Sec. 2310. Authority to transfer military assistance funds to economic programs.
Sec. 2311. Extradition of United States citizens.
Sec. 2312. Congressional review of narcotics-related assistance for Afghanistan.
Sec. 2313. Training of foreign pilots.
Sec. 2314. Review of riverine program.
Sec. 2315. Uses of excess defense articles transferred to certain major illicit drug producing countries.
Sec. 2316. Export-Import Bank financing for sales of defense articles and services.

SEC. 2302. ECONOMIC ASSISTANCE AND ADMINISTRATION OF JUSTICE PROGRAMS FOR ANDEAN COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $300,000,000 for fiscal year 1991 for assistance for Andean countries under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) or under chapter 1 of part I of that Act (22 U.S.C. 2151 and following; relating to development assistance).

(b) ADMINISTRATION OF JUSTICE PROGRAMS.—

(1) ADDITIONAL ASSISTANCE FOR BOLIVIA, COLOMBIA, AND PERU.—Of the funds authorized to be appropriated by subsection (a) that are appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, up to $16,000,000 should be used to provide assistance for Bolivia, Colombia, and Peru—

(A) pursuant to section 534 of that Act (22 U.S.C. 2346c; relating to the administration of justice program), in addition to funds otherwise used for those countries under that section for fiscal year 1991; and

(B) pursuant to paragraphs (2) and (3) of this subsection.

(2) PROTECTION AGAINST NARCO-TERRORIST ATTACKS.—Funds used in accordance with paragraph (1) may be used to provide to Bolivia, Colombia, and Peru, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance to law enforcement agencies), such assistance as the government of that country may request to provide protection against narco-terrorist attacks on judges, other government officials, and members of the press.

(3) ASSISTANCE FOR COLOMBIA'S OFFICE OF SPECIAL INVESTIGATIONS AND SPECIAL PROSECUTOR FOR HUMAN RIGHTS.—It is the sense of the Congress that up to $2,000,000 of the funds used in accordance with paragraph (1) should be used for assistance for Colombia to provide training, technical assistance, and equipment for the Office of Special Investigations and the Special Prosecutor for Human Rights, both of which are within the Office of the Attorney General of the Government of Colombia.

(4) ADDITIONALITY OF ASSISTANCE.—Funds may be used in accordance with paragraph (1) of this subsection without regard to the dollar limitation contained in section 534(c) of the Foreign Assistance Act of 1961.

(5) PERIOD OF AVAILABILITY.—Funds allocated for use in accordance with paragraph (1) of this subsection shall remain available until expended notwithstanding any other provision of law.

(6) EXTENSION OF AUTHORITY FOR AOJ PROGRAM.—Section 534(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c(e)) is amended—

(A) in the second sentence by striking out "$7,000,000 may be made available in fiscal year 1990" and inserting in lieu thereof "$10,000,000 may be made available in fiscal year 1991"; and

(B) in the third sentence by striking out "1990" and inserting in lieu thereof "1991".

SEC. 2303. MILITARY AND LAW ENFORCEMENT ASSISTANCE FOR ANDEAN COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $67,500,000 for fiscal year 1991 for assistance for Andean countries under the "FOREIGN MILITARY FINANCING PROGRAM" account under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(b) PURPOSES OF ASSISTANCE.—Assistance under subsection (a) shall be designed to—

(1) enhance the ability of the government of the recipient country to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with that government by offering concrete assistance in this area of great mutual concern;

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking; and

(4) assist the armed forces of the Andean countries in their support roles for those countries' law enforcement agencies, which are charged with the main responsibility for the control of illicit narcotics production and trafficking.

(c) CONDITIONS OF ELIGIBILITY.—Assistance may be provided for an Andean country under subsection (a) only—

(1) so long as that country has a democratic government; and

(2) the government of that country, including the armed forces and law enforcement agencies, does not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(d)(1))).

(d) LAW ENFORCEMENT TRAINING AND EQUIPMENT.—Subject to subsection (e), funds made available to carry out subsection (a) may be used, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance to law enforcement agencies)—

(1) to provide to law enforcement agencies, that are organized for the specific purpose of narcotics enforcement, education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts;

(2) for the expenses of deploying, upon the request of the Government of Bolivia, the Government of Colombia, or the Government of Peru, Department of Defense mobile training teams in that country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction; and

(3) for the procurement of defense articles or commodities (as defined in section 644(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(c))) for use in narcotics control, eradication, and interdiction efforts by law enforcement agencies that are organized for the specific purpose of narcotics enforcement.

(e) LIMITATION ON LAW ENFORCEMENT ASSISTANCE FOR BOLIVIA, COLOMBIA, AND PERU.—Not more than $67,500,000 of the aggregate amount of funds authorized to be appropriated by this title for fiscal year 1991 for assistance under the "FOREIGN MILITARY FINANCING PROGRAM" account under section 23 of the Arms Export Control Act (22 U.S.C. 2763) and assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance) may be obligated for assistance for the law enforcement agencies of Bolivia, Colombia, and Peru.

(f) LIMITATIONS ON AMOUNT OF EXCESS DEFENSE ARTICLES TRANSFERRED TO BOLIVIA, COLOMBIA, AND PERU.—

(1) ESTABLISHMENT OF LIMIT.—The aggregate acquisition cost to the United States of excess defense articles ordered by the President in fiscal year 1991 for delivery to Bolivia, Colombia, and Peru under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) may not exceed $60,000,000.

(2) WAIVER OF EXISTING GRANT EDA LIMITATION.—The dollar limitation in section 517(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k(e)) shall not apply with respect to Bolivia, Colombia, and Peru in fiscal year 1991.

(3) WORLDWIDE LIMITATION ON AMOUNT OF EXCESS DEFENSE ARTICLES TRANSFERRED.—Section 31(d) of the Arms Export Control Act (22 U.S.C. 2771(d)) shall not apply to excess defense articles ordered for transfer to Bolivia, Colombia, or Peru under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) in fiscal year 1991.

(g) ASSISTANCE FOR LEASING OF AIRCRAFT.—

(1) USE OF FUNDS.—For purposes of satisfying the requirement of section 484 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c), funds made available under subsection (a) may be used to finance the leasing of aircraft under chapter 6 of the Arms Export Control Act.

(2) COST OF LEASES.—Section 61(a)(3) of the Arms Export Control Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

(3) REIMBURSEMENT OF SDAF.—To the extent that aircraft so leased were acquired under chapter 5 of the Arms Export Control Act, funds used pursuant to this subsection to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.

SEC. 2304. GENERAL PROVISIONS RELATING TO ASSISTANCE FOR ANDEAN COUNTRIES.

(a) PRESIDENTIAL DETERMINATION REQUIRED.—Assistance may be provided for an Andean country pursuant to the authorizations of appropriations provided in section 2302(a) and section 2303(a), and excess defense articles may be transferred to Bolivia, Colombia, or Peru in fiscal year 1991 pursuant to section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k), only if the President determines that—

(1) that country is implementing programs to reduce the flow of cocaine to the United States in accordance with a bilateral or multilateral agreement, to which the United States is a party, that contains specific, quantitative and qualitative, performance criteria with respect to those programs;

(2) the armed forces and law enforcement agencies of that country are not engaged in a consistent pattern of gross violations of internationally recognized human rights, and the government of that country has made significant progress in protecting internationally recognized human rights, particularly in—

(A) ensuring that torture, cruel, inhuman, or degrading treatment or punishment, incommunicado detention or detention without charges and trial, disappearances, and other flagrant denials of the right to life, liberty, or security of the person, are not practiced; and

(B) permitting an unimpeded investigation of alleged violations of internationally recognized human rights, including providing access to places of detention, by appropriate international organizations (including nongovernmental organizations such as the International Committee of the Red Cross) or groups acting under the authority of the United Nations or the Organization of American States; and

(3) the government of that country has effective control over police and military operations related to counternarcotics and counterinsurgency activities.

(b) NOTIFICATIONS TO CONGRESS.—Not less than 15 days before funds are obligated pursuant to section 2302(a) or section 2303(a), the President shall transmit to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) a written notification in accordance with the procedures applicable to reprogrammings under that section. Such notification shall specify—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) in the case of assistance provided pursuant to section 2303(a), the law enforcement agencies or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will further—

(A) the objectives specified in subsection (a) of this section, and

(B) in the case of assistance under section 2303(a), the purposes specified in section 2303(b).

(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance authorized by section 2302(a) and section 2303(a) shall be coordinated with assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance).

(d) CONDITIONAL WAIVER OF BROOKE-ALEXANDER AMENDMENT.—For fiscal year 1991, section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) and section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, shall not apply with respect to narcotics-related assistance for an Andean country, provided the President has made the determination described in subsection (a) of this section.

(e) AUTHORITY TO WAIVER REQUIREMENT TO WITHHOLD 50 PERCENT OF ASSISTANCE PENDING CERTIFICATION.—Section 481(h)(1)(A) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(A)) shall not apply with respect to Bolivia, Colombia, and Peru for fiscal year 1991 if the President—

(1) determines that its application would be contrary to the national interest; and (2) transmits written notification of that determination to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) in accordance with the procedures applicable to reprogrammings under that section.

SEC. 2305. INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

There are authorized to be appropriated $150,000,000 for fiscal year 1991 for assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance).

SEC. 2306. ASSISTANCE FOR AGRICULTURAL AND INDUSTRIAL ALTERNATIVES TO NARCOTICS PRODUCTION.

(a) WAIVER OF RESTRICTIONS.—For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, the President may provide assistance to a foreign country under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) and chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund) to promote the production, processing, or the marketing of products or commodities, notwithstanding any other provision of law that would otherwise prohibit the provision of assistance to promote the production, processing, or the marketing of such products or commodities.

(b) EFFECTIVE DATE.—Subsection (a) applies with respect to funds made available for fiscal year 1991 or any fiscal year thereafter.

SEC. 2307. EXCEPTIONS TO REQUIREMENT THAT AIRCRAFT PROVIDED TO FOREIGN COUNTRIES FOR NARCOTICS CONTROL PURPOSES BE LEASED RATHER THAN SOLD.

Section 484 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c) is amended by adding at the end the following: "The requirement of this section does not apply with respect to aircraft made available to a foreign country under section 2(b)(6)(B) of the Export-Import Bank Act of 1945 or under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.".

SEC. 2308. NUMBER OF MEMBERS OF UNITED STATES ARMED FORCES IN ANDEAN COUNTRIES.

(a) MONTHLY REPORTS.—Within 15 days after the end of each month, the President shall submit to the Congress a report listing the number of members of the United States Armed Forces who were assigned or detailed to, or otherwise performed functions in, each Andean country at any time during that month.

(b) LIMITATION.—Section 515(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321i(c)) is amended by adding at the end the following:

"(3) If more than 6 members of the Armed Forces may be assigned to Bolivia, Colombia, or Peru under this section pursuant to an authorization by the Congress or an exercise by the President of the waiver authority provided in paragraph (1), the number so assigned to any such country may not exceed 12 unless the President determines and reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, 30 days prior to the introduction of the additional military personnel, that the United States national interests require that a greater number be assigned to that country to carry out international security assistance programs under this section.".

SEC. 2309. NONAPPLICABILITY OF CERTIFICATION PROCEDURES TO CERTAIN MAJOR DRUG-TRANSIT COUNTRIES.

Section 8 of the International Narcotics Control Act of 1989 is amended by inserting "or fiscal year 1991" after "fiscal year 1990".

SEC. 2310. AUTHORITY TO TRANSFER MILITARY ASSISTANCE FUNDS TO ECONOMIC PROGRAMS.

(a) APPLICABILITY OF TRANSFER AUTHORITY TO FOREIGN MILITARY FINANCING PROGRAM FUNDS.—Section 610(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2360(a)) is amended—

(1) by inserting "or for section 23 of the Arms Export Control Act" after "part I)"; and

(2) by striking out "other".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to funds made available for fiscal year 1991 or any fiscal year thereafter.

SEC. 2311. EXTRADITION OF UNITED STATES CITIZENS.

(a) IN GENERAL.—Chapter 209 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3196. Extradition of United States citizens

"If the applicable treaty or convention does not obligate the United States to extradite its citizens to a foreign country, the Secretary of State may, nevertheless, order the surrender to that country of a United States citizen whose extradition has been requested by that country if the other requirements of that treaty or convention are met.".

(b) SECTION ANALYSIS.—The section analysis for chapter 209 of title 18, United States Code, is amended by adding at the end the following:

"§ 3196. Extradition of United States citizens.".

SEC. 2312. CONGRESSIONAL REVIEW OF NARCOTICS-RELATED ASSISTANCE FOR AFGHANISTAN.

Not less than 15 days before obligating funds made available for any fiscal year to carry out the Foreign Assistance Act of 1961 or the Arms Export Control Act for any assistance for Afghanistan that has narcotics control as one of its purposes, the President shall notify the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) in accordance with the procedures applicable to reprogramming notifications under that section.

SEC. 2313. TRAINING OF HOST COUNTRY PILOTS.

(a) INSTRUCTION PROGRAM.—Not less than 90 days after the date of enactment of this Act, the President shall implement, under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance), a detailed program of instruction to train host country pilots, and other flight crew members, to fly the aircraft involved in counternarcotics efforts in Andean countries that have been made available by the United States Government under that chapter or any other provision of law. Such program shall be designed to eliminate direct participation of the United States Government (including participation through the use of either direct hire or contract personnel) in the operation of such aircraft.

(b) REQUIREMENT FOR REPLACEMENT OF UNITED STATES GOVERNMENT PILOTS BY HOST COUNTRY PILOTS.—The President shall ensure that, within 18 months after the date of enactment of this Act, flight crews composed of host country personnel replace all United States Government pilots and other flight crew members (including both direct hire or contract personnel) in airborne counternarcotics operations in the Andean countries.

SEC. 2314. REVIEW OF RIVERINE PROGRAM.

Funds made available to carry out the Foreign Assistance Act of 1961 or the Arms Export Control Act may not be used for the procurement of surface water craft for counternarcotics programs in the Andean countries until the Secretary of State and the Secretary of Defense have jointly assessed and audited, and have submitted a report to Congress on—

(1) the specific goals and objectives of such programs;

(2) how such craft will further the attainment of those goals and objectives;

(3) the cost and utility of craft to be provided; and

(4) how such craft will be sustained through maintenance and training.

SEC. 2315. USES OF EXCESS DEFENSE ARTICLES TRANSFERRED TO CERTAIN MAJOR ILLICIT DRUG PRODUCING COUNTRIES.

Section 517(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k(c)) is amended by striking out "only" the second place it appears and inserting in lieu thereof "primarily".

SEC. 2316. EXPORT-IMPORT BANK FINANCING FOR SALES OF DEFENSE ARTICLES AND SERVICES.

Section 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(B)(vi)) is amended by striking out "1990" and inserting in lieu thereof "1992".

44. The amendment to be offered by Representative DINGELL of Michigan, or his designee, debatable for not to exceed 10 minutes.

Insert at the appropriate place the following new section:

SEC. . AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.

(a) REPORTS AND AUDIT REQUIREMENTS.—The Securities Exchange Act of 1934 is amended by inserting after section 13 (15 U.S.C. 78m) the following new section:

"MANAGEMENT AND AUDITOR REPORTS

"SEC. 13A. (a) EVALUATION OF INTERNAL CONTROLS REQUIRED: ANNUAL REPORT.—Every issuer to which section 13(b)(2) of this title applies shall—

"(1) periodically evaluate the issuer's internal control structure for the purpose of complying with paragraph (2)(B) of this subsection;

"(2) set forth in each annual report filed pursuant to this title and in any annual report required to be provided to security holders—

"(A) a description and statement of management's responsibilities for preparation of such issuer's financial statements and other financial information and for establishing and maintaining an adequate internal control structure;

"(B) an assessment, as of the issuer's most recent fiscal year end, of whether such internal control structure (after any corrections of the type referred to in subparagraph (C) of this paragraph) reasonably assures the preparation, in conformity with generally accepted accounting principles, of annual and quarterly financial statements required to be filed pursuant to this title; and

"(C) the disclosure of any material weaknesses that have been identified in such internal control structure and that have not

been substantially corrected by management as of the date of the filing of the annual report.

"(b) AUDITORS INTERNAL CONTROL EXAMINATION AND REPORTING REQUIREMENTS.—In addition to the annual audit made of the financial statements of each issuer to which subsection (a) of this section applies, the issuer's independent public accountant shall examine and report on management's assessment, pursuant to subsection (a)(2)(B) of this section, of the adequacy of an issuer's internal control structure. The accountant's examination for purposes of expressing an opinion on the issuer's assessment and the accountant's report shall be in accordance with applicable standards of recognized auditing standards setting bodies. The resulting report shall be included by the issuer in each annual report filed pursuant to this title and in any annual report required to be provided to security holders. The independent public accountant's report as it relates to management's assessment under subsection (a)(2)(B) may, to the extent permitted by Commission rule, address that assessment only with respect to annual financial statement preparation.

"(c) AUDIT REQUIREMENTS.—Each audit required pursuant to this title of an issuer's financial statements by an independent public accountant shall include, in accordance with applicable auditing standards of recognized auditing standards setting bodies, the following:

"(1) procedures designed to identify related party transactions which are material to the financial statements or otherwise require disclosure therein;

"(2) procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts; and

"(3) an evaluation of whether there is substantial doubt about the issuer's ability to continue as a going concern over the ensuing fiscal year.

"(d) REQUIRED RESPONSE TO AUDIT DISCOVERIES.—(1) If, in the course of conducting any audit pursuant to this title to which subsection (c) applies, the independent public accountant detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the issuer's financial statements) has or may have occurred, the accountant shall, in accordance with applicable auditing standards of recognized auditing standards setting bodies—

"(A)(i) determine whether it is likely that an illegal act has occurred, and (ii) if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including any contingent monetary effects, such as fines, penalties, and damages; and

"(B) inform the appropriate level of the issuer's management and assure that the issuer's audit committee, or the issuer's board of directors in the absence of such a committee, is adequately informed with respect to illegal acts that have been detected or otherwise come to the attention of such accountant in the course of the audit, unless the illegal act is clearly inconsequential.

"(2)(A) If, having first assured itself that the audit committee of the board of directors of the issuer or the board (in the absence of an audit committee) is adequately informed with respect to illegal acts that have been detected or otherwise come to the accountant's attention in the course of such accountant's audit, the independent public accountant concludes that—

"(i) any such illegal act has a material effect on the financial statements of the issuer,

"(ii) senior management has not taken, and the board of directors has not caused senior management to take, timely and appropriate remedial actions with respect to such illegal act, and

"(iii) the failure to take remedial action is reasonably expected to warrant qualification of such accountant's report, when made, or warrant resignation from the audit engagement,

the independent public accountant shall directly report its conclusions to the board of directors.

"(B) An issuer whose board of directors has received a report pursuant to this paragraph shall inform the Commission by notice within one business day of receipt of such report and shall furnish the independent public accountant making such report with a copy of the notice furnished the Commission. If the independent public accountant making such report shall fail to receive a copy of such notice within the required one-business-day period, the independent public accountant shall —

"(i) resign from the engagement; or

"(ii) furnish to the Commission a copy of its report (or the documentation of any oral report given) within the next business day following such failure to receive notice.

"(C) An independent public accountant electing resignation shall, within the one business day following a failure by an issuer to notify the Commission under subparagraph (B), furnish to the Commission a copy of the accountant's report (or the documentation of any oral report given).

"(e) AUDITOR LIABILITY LIMITATION.—No independent public accountant shall be liable in any manner to any person for any finding, conclusion, report, or statement made in connection with subsections (b) and (d)(2) of this section, including any rules promulgated pursuant thereto, if such finding, conclusion, report, or statement is made in good faith, based upon the independent public accountant's compliance with such subsections or rules (or both). With respect to subsection (b), the limitation on liability provided by this subsection shall not be effective with respect to any finding, conclusion, report, or statement made with respect to fiscal years beginning on or after January 1, 1996.

"(f) PRESERVATION OF EXISTING AUTHORITY.—Nothing in this section shall be construed to limit or otherwise affect the authority of the Commission under this title.

"(g) DEFINITIONS.—As used in this section:

"(1) The term 'illegal act' means any action or omission to act that violates any law, or any rule or regulation having the force of law.

"(2) The term 'material weakness' means a weakness in the issuer's internal control structure in which the design or operation of the specific internal control structure elements do not reduce to a relatively low level the risk that errors or irregularities, in amounts that would be material in relation to the financial statements, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

"(3) The term 'internal control structure' includes the internal accounting controls required by section 13(b)(2)(B) of this title.".

(b) EFFECTIVE DATES.—As to any registrant that is required to file selected quarterly financial data pursuant to item 302(a) of Regulation S-K (17 CFR 229.302(a)) of the Securities and Exchange Commission, the amendments made by subsection (a) of this section shall apply to any annual report for any period beginning on or after January 1, 1991. As to any other registrant, such amendment shall apply for any period beginning on or after January 1, 1992.

46. The amendment to be offered by Representative COUGHLIN of Pennsylvania, or his designee, debatable for not to exceed 10 minutes.

Page 239, after line 5, add the following new title:

TITLE XXIII—INTERDICTION IMPROVEMENTS

SEC. 2301. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Order to land or bring to

"(a)(1) In the enforcement of the laws of the United States, relating to controlled substances, as that term is defined in the Controlled Substances Act, or money laundering (sections 1956-57 of this title), it shall be unlawful for the pilot, operator, or person in charge of any aircraft which has crossed the border of the United States, or any aircraft subject to the jurisdiction of the United States operating outside the United States, to refuse to obey the order of an authorized Federal law enforcement officer to land.

"(2) The Administrator of the Federal Aviation Administration and the Commissioner of Customs, upon consultation with the Attorney General, shall prescribe regulations governing the means by which an order to land may be communicated to the pilot, operator, or person in charge of an aircraft by Federal law enforcement officers.

"(3) This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(b) It is unlawful for any master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States to fail to bring to that vessel on being ordered to do so by a Federal law enforcement officer authorized to issue such an order.

"(c) Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under this section may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(d) For purposes of this section—

"(1) a 'vessel of the United States' or a 'vessel subject to the jurisdiction of the United States' has the meaning set forth in the Maritime Drug Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) an aircraft 'subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation where the nation of registry has consented or waived objection to the enforcement of United States law by the United States;

"(3) the term 'bring to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state; and

"(4) the term 'Federal law enforcement officer' has the meaning set forth in section 115 of this title.

"(e) A person who intentionally violates this section shall be subject to—

"(1) imprisonment for not more than 2 years; and

"(2) a fine under this title.

"(f) Any vessel or aircraft that is used in a violation of this section may be seized and forfeited. The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. Any vessel or aircraft that is used in a violation of this section is also liable in rem for any fine imposed under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"2237. Order to land or bring to.".

SEC. 2302. FAA SUMMARY REVOCATION AUTHORITY.

Section 501(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401(e)) is amended by adding at the end the following:

"(3)(A) The registration of an aircraft shall be immediately revoked upon the failure of the operator of the aircraft to follow the order of a law enforcement officer to land an aircraft, as provided in section 2237 of title 18 of the United States Code. The Administrator shall notify forthwith the owner of the aircraft that the owner of the aircraft no longer holds United States registration for the aircraft.

"(B) The Administrator shall establish procedures for the owner of the aircraft to show cause—

"(i) why the registration was not revoked, as a matter of law, by operation of subparagraph (A); or

"(ii) why circumstances existed pursuant to which the Administrator should determine that, notwithstanding subparagraph (A), it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by operation of subparagraph (A).".

SEC. 2303. COAST GUARD AIR INTERDICTION AUTHORITY.

(a) AIR INTERDICTION AUTHORITY.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"§ 96. Air interdiction authority

"The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft over the high seas or waters over which the United States has jurisdiction. Any order under this section to land an aircraft shall be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18, United States Code.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by adding at the end the following:

"96. Air interdiction authority.".

SEC. 2304. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) CIVIL PENALTY.—Chapter 17 of title 14, United States Code, is amended by inserting after section 639 the following:

"§640. Civil penalty for failure to comply with a lawful boarding or order to land

"(a) The master, operator, or person in charge of a vessel, or the pilot or operator of an aircraft, who intentionally fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable to the United States Government for a civil penalty of not more than $25,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(b) The master, operator, or person in charge of a vessel, or the pilot or operator of an aircraft, who negligently fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable to the United States Government for a civil penalty of not more than $5,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(c) Any vessel or aircraft used in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable in rem for the penalty assessed under this section.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 639 the following:

"640. Civil penalty for failure to comply with a lawful boarding or order to land.".

SEC. 2305. CUSTOMS ORDERS.

Section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) is amended by adding at the end the following:

"(i) As used in this section, the term 'authorized place' includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States customs officers are permitted to conduct inspections, examinations or searches; and

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act or regulations issued thereunder, or section 2237 of title 18 of the United States Code, any location outside of the United States, including a foreign country at which United States customs officers are permitted to conduct inspections, examinations, or searches.".

SEC. 2306. CUSTOMS CIVIL PENALTY PROVISIONS.

Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 581 et seq.) is amended by adding after section 590 the following:

"SEC. 591. CIVIL PENALTY FOR FAILURE TO OBEY AN ORDER.

"(a) The pilot or operator of an aircraft who intentionally fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 581 of this Act, or of section 2237 of title 18 of the United States Code, is subject to a civil penalty of not more than $25,000 which may be assessed by the appropriate customs officer.

"(b) The pilot or operator of an aircraft who negligently fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 581 of this Act or of section 2237 of title 18 of the United States Code, is subject to a civil penalty of not more than $5,000, which may be assessed by the appropriate customs officer.".

47. The amendment to be offered by Representative SCHUMER of New York, or his designee, debatable for not to exceed 10 minutes.

Add at the end the following:

TITLE —TECHNICAL AND MINOR SUBSTANTIVE AMENDMENTS

Subtitle A—Penalties and Sentencing Amendments

SEC. 0101. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OF PROBATION FOR POSSESSION OF A CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended by striking "the court shall revoke the sentence of probation and sentence the defendant to not less than one-third of the original sentence" and inserting in lieu thereof "the court shall revoke the sentence of probation and impose any other sentence under subchapter A that results in greater punishment".

SEC. 0102. MODIFICATION OF APPROVAL REQUIREMENTS FOR GOVERNMENT SENTENCE APPEALS.

Section 3742(b) of title 18, United States Code, is amended—

(1) by striking ", with the personal approval of the Attorney General or the Solicitor General; and

(2) by adding at the end the following: "The Government may not further prosecute such appeal without the personal approval of the Attorney General, the Solicitor General, or a deputy solicitor general designated by the Solicitor General.".

SEC. 0103. PENALTY FOR CERTAIN ACCESSORY AFTER THE FACT OFFENSES.

Section 3 of title 18, United States Code, is amended by striking "10 years" and inserting in lieu thereof "15 years".

SEC. 0104. DELETION OF REQUIREMENT FOR SOLICITOR GENERAL APPROVAL OF APPEAL TO A DISTRICT COURT FROM A SENTENCE IMPOSED BY A MAGISTRATE.

Section 3742(g) of title 18, United States Code, is amended by inserting "(except for the requirement of approval by the Attorney General or the Solicitor General in the case of a Government appeal)" after "and this section shall apply".

SEC. 0105. ELIMINATION OF REDUNDANT PENALTY IN 18 U.S.C. 1864.

Section 1864(c) of title 18, United States Code, is amended by striking "(b)(3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

SEC. 0106. AMENDMENT TO CLARIFY APPLICATION OF SENTENCING REFORM ACT TO ASSIMILATIVE CRIMES.

Section 3551(a) of title 18, United States Code, is amended by inserting "including sections 13 and 1153 of this title," after "any Federal statute,".

SEC. 0107. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by adding at the end "However, this paragraph does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

Subtitle B—Miscellaneous Amendments

SEC. 0201. CONFORMING AMENDMENTS TO SUBSTITUTE A REFERENCE TO THE FDIC FOR THE NOW ABOLISHED FSLIC IN TWO BANKING OFFENSES.

Sections 657 and 1006 of title 18, United States Code, are each amended by striking "the Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "the Federal Deposit Insurance Corporation".

SEC. 0202. DELETION OF ERRONEOUS REFERENCE FOR JUVENILE PROCEEDINGS.

Section 5032 of title 18, United States Code, is amended in the first paragraph by striking "or section 922(p) of this title,".

SEC. 0203. CLARIFICATION OF APPLICABILITY OF SECTION 1952 TO USE OF THE MAILS.

Section 1952(a) of title 18, United States Code, is amended—

(1) by inserting "the mail or" after "uses"; and

(2) by striking "including the mail,".

SEC. 0204. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(a) CIVIL DISORDERS.—Section 232 of title 18, United States Code, is amended by adding at the end the following:

"(8) The term 'State' includes a State of the United States, and any Commonwealth, territory, or possession of the United States.".

(b) FEDERALLY PROTECTED ACTIVITIES.—Section 245 of title 18, United States Code, is amended by adding at the end the following:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(c) CONTEMPTS.—Section 402 of title 18, United States Code, is amended by adding at the end the following:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(d) FEDERALLY FUNDED PROGRAM THEFT OR BRIBERY.—Section 666(d) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(e) IDENTIFICATION DOCUMENT FRAUD.—Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "Commonwealth," before "possession or territory of the United States".

(f) ACCESS DEVICE FRAUD.—Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(g) WAGERING INFORMATION.—Section 1084(e) of title 18, United States Code, is amended by inserting "Commonwealth," before "territory or possession of the United States".

(h) PROTECTION OF OFFICERS AND EMPLOYEES OF UNITED STATES.—Section 1114 of title 18, United States Code, is amended by inserting "or any other Commonwealth, territory, or possession" after "the Virgin Islands".

(i) HOBBS ACT.—Section 1952(b) of title 18, United States Code, is amended—

(1) by striking "(b) As used in this section" and inserting the following:

"(b) As used in this section (1)";

(2) by striking "(1)", "(2)", and "(3)" and inserting "(A)", "(B)", and "(C)", respectively; and

(3) by striking the period and inserting ", and (2) the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(j) MONEY LAUNDERING.—Section 1956(c) of title 18, United States Code, is amended by adding at the end the following:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(k) MURDER FOR HIRE.—Section 1958(b) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following:

"(3) 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(l) STOLEN VEHICLES.—Section 2313 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(m) STOLEN GOODS.—Section 2315 of title 18, United States Code, is amended by adding at the end the following:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States.".

(n) JUVENILE DELINQUENCY.—Section 5032 of title 18, United States Code, is amended—

(1) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States."; and

(2) in the third undesignated paragraph, by striking "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 0205. REPEAL OF ANTIQUATED OFFENSE AND DELETION OF TABLE REFERENCES TO REPEALED OFFENSES.

(a) REPEAL.—Section 45 of title 18, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 18, United States Code, is amended by striking the item relating to section 45.

SEC. 0206. REPEAL OF OTHER OUTMODED OFFENSES AND RELATED PROVISIONS.

(a) SECTION 969.—(1) Section 969 of title 18, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 45 of title 18, United States Code, is amended by striking out the items relating to sections 968 and 969.

(b) SECTIONS 2198 AND 3286.—(1) Sections 2198 and 3286 of title 18, United States Code, are repealed.

(2) The tables of sections in chapter 107 and 213 of title 18, United States Code, are amended by striking out the items relating to sections 2198 and 3286, respectively.

SEC. 0207. CONFORMING JURISDICTIONAL AMENDMENT FOR SECTION 2314 TO COVER FRAUDULENT SCHEMES INVOLVING FOREIGN AS WELL AS INTERSTATE TRAVEL.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or foreign" after "interstate".

SEC. 0208. CLARIFICATION OF ONE YEAR PERIOD.

Section 666(d) of title 18, United States Code, (as amended by section 206) is further amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) the term 'in any one year period' means a continuous period of 12 months that commences no earlier than 12 months before the commission of the offense or that ends no later than 12 months after the commission of the offense and such period may include time both before and after the commission of the offense.".

SEC. 0209. REPEAL OF PROVISIONS JUDICIALLY DETERMINED TO BE INVALID.

(a) SECTION 1730.—Section 1730 of title 18, United States Code, is amended by striking ", if the portrayal does not tend to discredit that service".

(b) SECTION 1714.—Section 1714 of title 18, United States Code, is repealed and the table of sections at the beginning of chapter 83 of title 18 is amended by striking the item relating to such section.

(c) SECTION 1718.—Section 1718 of title 18, United States Code, is repealed and the table of sections at the beginning of chapter 83 of title 18 is amended by striking the item relating to such section.

SEC. 0210. DELETION OF REQUIREMENT OF PERSONAL APPROVAL OF ATTORNEY GENERAL FOR PROSECUTIONS UNDER THE ATOMIC ENERGY ACT.

Section 221(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)) is amended by striking "That no action shall be brought under section 222, 223, 224, 225, or 226 except by the express direction of the Attorney General: *And provided further*,".

SEC. 0211. TECHNICAL CORRECTION TO PROVISION FOR COMPUTING MARSHAL'S COMMISSION.

Section 1921(c)(1) of title 28, United States Code, is amended in the second sentence by striking "If the property is to be disposed of by marshal's sale" and inserting "If the property is not disposed of by marshal's sale".

SEC. 0212. SEXUAL ABUSE AMENDMENTS RELATING TO MINORS.

(a) INCLUSION OF 12 AND 13 YEAR-OLDS.—Subsection (c) of section 2241 of title 18, United States Code, is amended to read as follows:

"(c) WITH CHILDREN.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

"(1) has not attained the age of 12 years; or

"(2) has attained the age of 12 but has not attained the age of 14 years, and the person so engaged is at least 18 years of age;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.".

(b) CONFORMING AMENDMENT FOR STATE OF MIND PROOF REQUIREMENT.—Subsection (d) of section 2241 of title 18, United States Code, is amended by striking "knew" and all that follows and inserting in lieu thereof "knew—

"(1) the age of the other person engaged in the sexual act; or

"(2) that the requisite age difference existed between the persons so engaging.".

(c) CONFORMING AMENDMENTS TO SECTION 2243.—Paragraph (1) of section 2243(a) of title 18, United States Code, is amended by striking "12" and inserting in lieu thereof "14".

(d) DEFINITIONS OF SEXUAL ACT REGARDING PERSONS UNDER 16 YEARS OF AGE.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C), by striking "; and" and inserting "; or"; and

(3) by inserting at the end the following:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 0213. CORRECTION OF MISPLACED PHRASE IN SECTION 3289.

Section 3289 of title 18, United States Code, is amended by striking "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," and inserting the matter so stricken after "within six months of the expiration of the applicable statute of limitations,".

SEC. 0214. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) In General.—Chapter 211 of title 18, United States Code, is amended by inserting:

"§3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947; or

"(3) section 4(b) or 4(c) of the Subversive Activities Control Act of 1950;

may be in the District of Columbia.".

(b) Clerical Amendment.—The item relating to section 3239 in the table of sections at the beginning of chapter 211 of title 18, United States Code, is amended to read as follows:

"3239. Optional venue for espionage and related offenses.".

SEC. 0215. DEFINITION OF FINANCIAL INSTITUTIONS.

Section 2113 of title 18, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'savings and loan association' means any Federal saving association (as defined in section 3(b) of the Federal Deposit Insurance Act), any State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) having accounts insured by the Federal Deposit Insurance Corporation, and any corporation (other than a bank, as defined in section 3(a) of the Federal Deposit Insurance Act) that the Board of Directors (as defined in section 3(k) of the Federal Deposit Insurance Act) and the Director of the Office of Thrift Supervision jointly have determined to be operating in substantially the same manner as a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act), and which is operating under the laws of the United States.".

SEC. 0216. ARREST OF FUGITIVE ABOUT TO ENTER UNITED STATES.

Section 3184 of title 18, United States Code, is amended by inserting "or, if there is reason to believe the person will shortly enter the United States" after "if the whereabouts within the United States of the person charged are not known".

SEC. 0217. AUTHORITY OF PROBATION OFFICERS TO SUPERVISE PERSONS RELEASED UNDER THE INSANITY DEFENSE REFORM ACT.

Section 3603 of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by inserting after paragraph (7) the following:

"(8) when directed by the court, keep informed, to the degree required by the regimen of care or treatment ordered by the court as a condition of release, as to the conduct of a person conditionally released under chapter 313 of this title, and report that person's conduct and condition to the court and to the United States Attorney; and"; and

(3) by redesignating paragraph (8) as paragraph (9).

SEC. 0218. EXTENSION OF DEADLINE FOR CERTAIN PROVISIONS IN VICTIMS OF CRIME ACT.

Section 7129 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 10601 note) is amended by striking "1990" and inserting "1991".

Subtitle C—Continued Phase Out of Parole

SEC. 0301. PRISONER REVIEW AND SUPERVISION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting before chapter 313 the following:

"CHAPTER 312—PRISONER REVIEW AND SUPERVISION

"Sec.
"4220. Federal Offender Review Board; members.
"4221. Authority and jurisdiction of the Board.
"4222. Powers and duties of the Chairman.
"4223. Decisions of the Board.

"§ 4220. Federal Offender Review Board

"There is established as an independent agency in the Department of Justice a Federal Offender Review Board, which shall consist of 5 members appointed by the President, by and with the advice and consent of the Senate. The term of office of each member appointed to the Board shall expire on November 1, 1997. A member who is appointed to fill a vacant but unexpired term shall be appointed for the remainder of the vacant term. The President shall designate one member of the Board to serve as Chairman. The Chairman of the Board shall be compensated at the rate now or hereafter prescribed for Executive Level IV and the members of the Board shall be compensated at the rate now or hereafter prescribed for Executive Level V.

"§ 4221. Authority and jurisdiction of the Board

"The Board shall have the independence of, be subject to the statutory procedures governing, and have and exercise the powers, duties, and jurisdiction vested in, the former United States Parole Commission by statutes of the United States and the District of Columbia in effect, or saved as to particular offenders, on October 31, 1992.

"§ 4222. Powers and duties of the Chairman

"The Chairman of the Board shall have and exercise the powers and duties vested in the Chairman of the United States Parole Commission by section 4204 of chapter 311 of this title as such section existed immediately before the repeal of that section took effect.

"§ 4223. Decisions of the Board

"The Board shall be empowered to render and reconsider decisions in the case of any individual within the Board's jurisdiction, to prescribe regulations and guidelines to carry out the Board's responsibilities, and to delegate authority to hearing examiners. The decisions of the Board shall be considered actions committed to agency discretion for the purpose of section 701(a)(2) of title 5.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part III of title 18, United States Code, is amended by inserting before the item relating to chapter 313 the following new item:

"312. PRISONER REVIEW AND SUPERVISION..... 4220.".

SEC. 0302. TRANSFER OF PERSONNEL.

There are transferred to the Federal Offender Review Board all personnel (except the Commissioners), liabilities, contracts, property and records, as are employed, held, used, arising from, or available to, the United States Parole Commission on October 31, 1992. This transfer shall be governed by section 3503(b) of title 5, United States Code.

SEC. 0303. REPEAL OF OLD RULE RELATING TO CONTINUATION IN EFFECT OF PREVIOUS LAW.

Section 235(b)(4) of the Comprehensive Crime Control Act of 1984 is repealed.

SEC. 0304. NEW RULE RELATING TO CONTINUATION IN EFFECT OF PREVIOUS LAW.

(a) CHAPTER 311 CONTINUATION.—Section 235(b)(1) of the Comprehensive Crime Control Act of 1984 is amended to read as follows:

"(b)(1) Chapter 311 of title 18, United States Code, shall remain in effect for 5 years after the effective date as to an individual who committed an offense or an act of juvenile delinquency before the effective date, and as to a term of imprisonment described in subsection (a)(1)(B).".

(b) CONTINUATION OF CRIMINAL PENALTIES AS TO INDIVIDUAL OFFENDERS.—Section 235(b)(3) of the Comprehensive Crime Control Act of 1984 is amended to read as follows:

"(3) All laws in effect on the day before an effective date set forth in subsection (a)(1) of this section, and which are applicable to

a person who committed an offense or an act of juvenile delinquency before such effective date, shall remain in effect as to such person until the expiration of such person's sentence.".

SEC. 0305. CONFORMING AMENDMENTS.

(a) GENERALLY.—Sections 4106 and 4106A of title 18, United States Code, are each amended by striking "United States Parole Commission" each place it appears and inserting "Federal Offender Review Board".

(b) SECTION 4106(D).—Subsection (d) of section 4106 of title 18, United States Code, is amended—

(1) by striking "and the United States Parole Commission's performance of its responsibilities under this section shall be subject to section 235 of the Comprehensive Crime Control Act of 1984"; and

(2) by striking the comma after "November 1, 1987" and inserting a period.

(c) SECTION 3522.—Section 3522(c) of title 18, United States Code, is amended by striking "United States Parole Commission" and "Commission" and inserting "Federal Offender Review Board" and "Board", respectively.

SEC. 0306. TRANSFER OF FUNCTIONS IN 1997.

(a) IN GENERAL.—(1)(A) Effective November 1, 1997, the functions of the Federal Offender Review Board are transferred to 3 Federal Offender Review Commissioners.

(B) Each such Federal Offender Review Commissioner shall be appointed by the President, by and with the advice and consent of the Senate for a term of 5 years. The President shall designate one of those appointed as Chief Commissioner.

(2) A Commissioner may be reappointed at the expiration of that Commissioner's term. A Commissioner who is appointed to fill a vacancy shall be appointed for the remainder of the vacant term.

(3) Each Commissioner shall be compensated at the highest rate now or hereafter prescribed for Executive Level V, except that the Chief Commissioner shall be compensated at the highest rate now or hereafter prescribed for Executive Level IV.

(4) If the President determines that the anticipated caseload for the Federal Offender Review Commissioners is unlikely to equal or exceed the per capita caseload experienced by the Commissioners during the 12-month period ending October 31 of any year in which the terms of the Commissioners expire, the President may set the number of Commissioners at 1 rather than 3 as of November 1 of that year.

(b) INDEPENDENCE.—The Commissioners shall be independent adjudicators within the Department of Justice, and a decision of the Commissioners shall be considered an action committed to agency discretion for the purpose of section 701(a)(2) of title 5.

(c) RELATED TRANSFERS.—Effective November 1, 1997, all liabilities, contracts, property and records, as are employed, held, used, arising from, or available to, the Federal Offender Review Board are transferred to the Department of Justice. The Department of Justice shall thereafter provide such administrative support, including the employment of hearing examiners, as may be required by the Commissioners to fulfill the Commissioners' functions.

SEC. 0307. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect November 1, 1992.

(b) EXCEPTION.—Sections 303 and 304 shall take effect on the date of the enactment of this Act.

Subtitle D—Typographical and Other Similar Amendments

SEC. 0401. CORRECTION OF TABLE OF CHAPTERS FOR PART.

The table of chapters at the beginning of part I of title 18, United States Code, is amended—

(1) in the item relating to chapter 39, by striking "and combustibles" and inserting "and other dangerous articles";

(2) in the item relating to chapter 114, by striking "Contraband Cigarettes" and inserting "contraband cigarettes"; and

(3) by inserting after the item relating to chapter 117 the following:

"119. Wire and electronic communications interception and interception of oral communications..... 2510".

SEC. 0402. CORRECTION OF TABLE OF SECTIONS FOR CHAPTER 1.

The item relating to section 17 in the table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by striking "Defense" and inserting "defense".

SEC. 0403. CORRECTION TO SECTION 12.

Section 12 of title 18, United States Code, is amended by striking "every officer and employee of that Service, whether he has taken the oath of office" and inserting "every officer and employee of that Service, whether or not such officer or employee has taken the oath of office".

SEC. 0404. CORRECTION OF TABLE OF SECTIONS FOR CHAPTER 3.

The table of sections at the beginning of chapter 3 of title 18, United States Code, is amended—

(1) in the item relating to section 47, by inserting "; pollution of watering holes" after "burros"; and

(2) by striking the items related to sections 42 through 44 and inserting the following:

"42. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations."

SEC. 0405. CORRECTION TO SECTION 114.

Section 114 of title 18, United States Code, is amended by striking "and imprisoned" and inserting "or imprisoned".

SEC. 0406. CORRECTION TO SECTION 115.

Section 115 of title 18, United States Code, is amended by striking "The Central" and inserting "the Central".

SEC. 0407. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 11.

The table of sections at the beginning of chapter 11 of title 18, United States Code, is amended—

(1) in the item relating to section 203, by striking "of Members" and inserting "to Members"; and

(2) in the item relating to section 204, by striking "Court of Claims" and inserting "United States Claims Court or United States Court of Appeals for the Federal Circuit".

SEC. 0408. CROSS REFERENCE UPDATE FOR SECTION 209.

Subsection (d) of section 209 of title 18, United States Code, is amended by striking "Government Employees Training Act" and all that follows through the end of such subsection and inserting "chapter 41 of title 5.".

SEC. 0409. CORRECTION TO SECTION 219.

Section 219(c) of title 18, United States Code, is amended by striking "Governments" and inserting "Government".

SEC. 0410. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 23.

The table of sections at the beginning of chapter 23 of title 18, United States Code, is amended—

(1) by striking the item relating to section 434; and

(2) in the item relating to section 437, by striking "Indian" and all that follows through "supplies" and inserting "Federal employees contracting or trading with Indians.".

SEC. 0411. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 25.

The table of sections at the beginning of chapter 25 of title 18, United States Code, is amended—

(1) in the item relating to section 491, by striking "used" and all that follows through "coins" and inserting "or paper used as money.";

(2) in the item relating to section 496, by striking "entry certificates" and inserting "matters"; and

(3) in the item relating to section 501, by inserting ", postage meter stamps," after "stamps".

SEC. 0412. MARGIN CORRECTION IN SECTION 510.

Subsection (a) of section 510 of title 18, United States Code, is amended—

(1) by inserting a semicolon after "or signature" in paragraph (2); and

(2) so that the matter beginning with "shall be fined" and all that follows through the end of such subsection is flush against the left margin.

SEC. 0413. CORRECTIONS TO SECTION 513.

Section 513(c)(3) of title 18, United States Code, is amended—

(1) by striking "(15 U.S.C. 1693(c))"; and

(2) by inserting a comma after "profit-sharing agreement".

SEC. 0414. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 29.

The table of sections at the beginning of chapter 29 of title 18, United States Code, is amended—

(1) in the item relating to section 603, by striking "Place of solicitation" and inserting "Making political contributions"; and

(2) in the item relating to section 607, by striking "Making political contributions" and inserting "Place of solicitation".

SEC. 0415. CORRECTION OF HEADING OF SECTION 665.

(a) The heading of section 665 of title 18, United States Code, is amended by striking the colons and inserting semicolons.

(b) Section 665(c) of title 18, United States Code, is amended by striking "Any person whoever" and inserting "Whoever".

SEC. 0416. PUNCTUATION CORRECTION TO HEADING FOR CHAPTER 33.

The heading at the beginning of chapter 33 of title 18, United States Code, is amended by inserting a comma after "insignia".

SEC. 0417. REDESIGNATION OF SECOND SECTION 798.

(a) GENERALLY.—The second section 798 of title 18, United States Code, is redesignated as section 798A.

(b) TABLE OF SECTIONS.—The item relating to the second section 798 in the table of sections at the beginning of chapter 37 of title 18, United States Code, is amended by striking "798" and inserting "798A".

(c) CROSS-REFERENCE CONFORMING AMENDMENT.—Section 14 of title 18, United States

Code, is amended by striking "798" the first place it appears and all that follows through "799" and inserting "798, 798A, 799".

SEC. 0418. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 40.

The item relating to section 843 in the table of sections at the beginning of chapter 40 of title 18, United States Code, is amended by striking "Licensing" and inserting "Licenses".

SEC. 0419. CORRECTION TO SECTION 842.

Section 842 of title 18, United States Code, is amended—

(1) in subsection (d)(5), by striking the period and inserting "; or"; and

(2) in subsection (i)(3), by striking the period and inserting "; or".

SEC. 0420. CORRECTION TO SECTION 844.

Section 844 of title 18, United States Code, is amended by striking the comma that immediately follows a comma.

SEC. 0421. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 44.

The item relating to section 928 in the table of sections at the beginning of chapter 44 of title 18, United States Code, is amended by striking "clause".

SEC. 0422. CORRECTION TO SECTION 922.

Section 922(b)(1) is amended by striking the period at the end and inserting a semicolon.

SEC. 0423. CORRECTION TO SECTION 923.

Section 923(a)(3)(B) is amended by inserting a comma after "devices".

SEC. 0424. AMENDMENTS RELATING TO THE UNDETECTABLE FIREARMS ACT OF 1988.

(a) REDESIGNATION IN TITLE 18.—Section 924 of title 18, United States Code, is amended by redesignating the second subsection (f) and subsection (g) as subsections (g) and (h), respectively.

(b) REDESIGNATION IN ORIGINAL ACT.—Section 2(f)(2)(B) of the Undetectable Firearms Act of 1988 is amended by inserting "and subsections (g) and (h) of such section are hereby redesignated as subsections (f) and (g), respectively" before the semicolon.

SEC. 0425. ELIMINATION OF REDUNDANT WORDS.

Section 924(c)(1) of title 18, United States Code, is amended by striking "imprisonment for" the 4th place it appears.

SEC. 0426. INSERTION OF MISSING PARENTHESES.

Section 924(a)(1) is amended by striking "3" and inserting "(3)".

SEC. 0427. ADDITIONAL CORRECTIONS TO SECTION 924.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(2)—

(A) by striking "subsections" and inserting "subsection"; and

(B) by inserting a comma after "years".

(2) in subsection (e)(2)(A)(ii), by striking "and"; and

(3) in subsection (e)(2)(B)(ii), by striking the period and inserting "; and".

SEC. 0428. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 45.

The table of sections at the beginning of chapter 45 of title 18, United States Code, is amended by striking the item relating to section 968.

SEC. 0429. CORRECTION TO SECTION 981.

Section 981(d) of title 18, United States Code, is amended by adding a period at the end.

SEC. 0430. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 47.

The item relating to section 1031 in the table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting a period after "1031".

SEC. 0431. CORRECTION OF CROSS REFERENCE IN SECTION 1030.

Section 1030 of title 18, United States Code, is amended by striking "paragraph r" and inserting "paragraph y".

SEC. 0432. ELIMINATION OF SUPERFLUOUS PUNCTUATION IN SECTION 1113.

Section 1113 of title 18, United States Code, is amended by striking the final period.

SEC. 0433. CAPITALIZATION AND AGENCY REFERENCE CORRECTIONS IN SECTION 1114.

Section 1114 of title 18, United States Code, is amended—

(1) by striking "secret service" and inserting " Secret Service";

(2) by striking "any officer or employee of the Department of Health, Education, and Welfare," and inserting "any officer or employee of the Department of Education, the Department of Health and Human Services,"; and

(3) by striking "the Federal Savings and Loan Insurance Corporation,".

SEC. 0434. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 53.

The table of sections at the beginning of chapter 53 of title 18, United States Code, is amended by striking the item relating to section 1157.

SEC. 0435. CORRECTION TO SECTION 1168.

Section 1168(a) of title 18, United States Code, is amended by striking "and be imprisoned for" and inserting "or imprisoned".

SEC. 0436. CROSS REFERENCE CORRECTION IN SECTION 1201.

Section 1201(a)(3) of title 18, United States Code, is amended—

(1) by striking "101(36)" and inserting "101(38)"; and

(2) by striking ", as amended (49 U.S.C. 1301(36))".

SEC. 0437. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 57.

The table of sections at the beginning of chapter 57 of title 18, United States Code, is amended by striking the item relating to section 1232.

SEC. 0438. CORRECTION OF HEADING OF SECTION 1262.

The heading of section 1262 of title 18, United States Code, is amended by striking "state" and inserting "State".

SEC. 0439. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 63.

The item relating to section 1342 in the table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by striking "and" and inserting "or".

SEC. 0440. CORRECTION TO SECTION 1345.

Section 1345 of title 18, United States Code, is amended by inserting a comma after "of this title".

SEC. 0441. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 65.

The item relating to section 1366 in the table of sections at the beginning of chapter 65 of title 18, United States Code, is amended by inserting a period after "1366".

SEC. 0442. CORRECTION OF QUOTATION MARK.

Section 1365(g)(1)(A) of title 18, United States Code, is amended by inserting an open quotation mark before "device".

SEC. 0443. CORRECTION OF CROSS REFERENCE.

Section 1366(c) of title 18, United States Code, is amended by striking "49 U.S.C. 1671" and inserting "section 2 of the Natural Gas Pipeline Safety Act of 1968".

SEC. 0444. ELIMINATION OF EXECUTED CLERICAL AMENDMENT.

Section 1366 of title 18, United States Code, is amended by striking subsection (d).

SEC. 0445. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 67.

The table of sections at the beginning of chapter 67 of title 18, United States Code, is amended by striking the item relating to section 1383.

SEC. 0446. CORRECTION TO SECTION 1466.

Section 1466(b) of title 18, United States Code, is amended—

(1) by striking "this subsection" and inserting "this section"; and

(2) by striking "subsection (b)" and inserting "this subsection".

SEC. 0447. CROSS REFERENCE CORRECTION TO SECTION 1467.

Section 1467(h)(4) of title 18, United States Code, is amended by striking "in accordance" and all that follows through "United States Code" and inserting "under section 616 of the Tariff Act of 1930".

SEC. 0448. CORRECTION TO SECTION 1546.

Section 1546(a) of title 18, United States Code, is amended by striking "Shall be fined not more than in accordance with this title" and inserting "Shall be fined under this title".

SEC. 0449. CORRECTION TO SECTION 1716A.

Section 1716A(a) of title 18, United States Code is amended by striking "shall be under this title" and inserting "shall be fined under this title or".

SEC. 0450. CORRECTION TO HEADING OF SECTION 1717.

(a) GENERALLY.—The heading of section 1717 of title 18, United States Code, is amended by striking "; opening letters".

(b) CONFORMING AMENDMENT.—The item relating to section 1717 in the table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by striking "; opening letters".

SEC. 0451. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 84.

The table of sections at the beginning of chapter 84 of title 18, United States Code, is amended by adding at the end the following:

"1752. Temporary residences and offices of the President and others.".

SEC. 0452. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 91.

The table of sections at the beginning of chapter 91 of title 18, United States Code, is amended by striking the item relating to section 1862.

SEC. 0453. CORRECTION TO SECTION 1864.

Section 1864 of title 18, United States Code, is amended—

(1) by striking "and" at the end of subsection (d)(1)(D); and

(2) in subsection (d)(2)(E), by striking the period at the end and inserting "; and".

SEC. 0454. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 93.

The table of sections at the beginning of chapter 93 of title 18, United States Code, is amended—

(1) in the item relating to section 1906, by striking "by bank examiner" and inserting "from a bank examination report"; and

(2) by striking the item relating to section 1914.

SEC. 0455. CORRECTIONS TO SECTION 1956.

Section 1956 of title 18, United States Code, is amended—

(1) in subsection (c)(7)(A), by striking "the Currency and Foreign Transactions Reporting Act" and inserting "subchapter II of chapter 53 of title 31";

(2) in subsection (c)(7)(D)—

(A) by striking "or section 2113" and inserting "section 2113";

(B) by striking "theft) of this title," and inserting "theft), or"; and

(C) by inserting "of this title" after "2319 (relating to copyright infringement);

(D) by striking "paraphenalia" and inserting "paraphernalia"; and

(E) by striking the final period.

SEC. 0456. CORRECTION TO SECTION 1958.

Section 1958(b) of title 18, United States Code, is amended by striking "1952B" and inserting "1959".

SEC. 0457. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 96.

The item relating to section 1962 in the table of sections at the beginning of chapter 96 of title 18, United States Code, is amended by striking "racketeering".

SEC. 0458. CORRECTION TO SECTION 1961.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "section 1029 (relative" and inserting "section 1029 (relating"; and

(2) by striking "sections 2251 through 2252 (relating to sexual exploitation of children),".

SEC. 0459. CORRECTION TO SECTION 1963.

Section 1963(a) of title 18, United States Code, is amended by striking "or both." and inserting "or both".

SEC. 0460. CORRECTION OF HEADING OF SECTION 2114.

The heading of section 2114 of title 18, United States Code, is amended by inserting a comma after "money".

SEC. 0461. PUNCTUATION CORRECTION TO SECTION 2251(a).

Section 2251(a) of title 18, United States Code, is amended by striking "in,," and inserting "in,".

SEC. 0462. CORRECTIONS TO SECTION 2253.

Section 2253(a) of title 18, United States Code, is amended—

(1) by striking "sections 2251" and inserting "section 2251"; and

(2) in subsection (h)(4), by striking "in accordance" and all that follows through "United States Code" and inserting "under section 616 of the Tariff Act of 1930".

SEC. 0463. CORRECTIONS TO SECTION 2254.

Section 2254 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "sections 2251" each place it appears and inserting "section 2251";

(2) in subsection (e), by inserting "INAPPLICABILITY OF CERTAIN SECTIONS.—" after "(e)"; and

(3) in subsection (f)—

(A) by striking "subchapter" and inserting "section"; and

(B) in paragraph (1), by striking "pursuant to section 1616 of title 19" and inserting "under section 616 of the Tariff Act of 1930".

SEC. 0464. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 111.

The item relating to section 2271 in the table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by striking "vessel" and inserting "vessels".

SEC. 0465. CORRECTION OF HEADING OF SECTION 2318.

The heading of section 2318 of title 18, United States Code, is amended by striking the comma.

SEC. 0466. CROSS REFERENCE CORRECTIONS IN SECTION 2516.

Section 2516(j) of title 18, United States Code, is amended by striking "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) or section 902(i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy)".

SEC. 0467. CORRECTION OF TABLE OF CHAPTERS FOR PART II.

The table of chapters at the beginning of part II of title 18, United States Code, is amended—

(1) in the item relating to chapter 204, by striking "terrorists" and inserting "terrorist"; and

(2) in the item relating to chapter 206, by striking "Trap and Trace Devices" and inserting "trap and trace devices".

(3) in the item relating to chapter 229, by striking "Post-Sentence Administration" and inserting "Postsentence administration".

SEC. 0468. CORRECTIONS TO SECTION 3013.

Section 3013 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B)(i), by striking "a infraction" and inserting "an infraction"; and

(2) in subsection (a)(1)(B)(iii), by striking the period at the end and inserting a semicolon.

SEC. 0469. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 203.

The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by striking the item relating to section 3054.

SEC. 0470. CORRECTION TO SECTION 3058.

Section 3058 of title 18, United States Code, is amended by striking "beligerent" and inserting "belligerent".

SEC. 0471. CORRECTION TO SECTION 3077.

Section 3077 of title 18, United States Code, is amended—

(1) in paragraph (4), by striking the comma before the close quotation mark and inserting a comma after that mark;

(2) in each of paragraphs (1), (2), (3), and (5), by striking the period at the end and inserting a semicolon; and

(3) in paragraph (6), by striking the period at the end and inserting "; and".

SEC. 0472. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 205.

The table of sections at the beginning of chapter 205 of title 18, United States Code, is amended—

(1) by striking the item relating to section 3112; and

(2) by striking "3117" the last place it appears and inserting "3118".

SEC. 0473. REDESIGNATION OF DUPLICATE SECTION 3117.

The section 3117 of title 18, United States Code, that relates to implied consent for certain tests, is redesignated as section 3118.

SEC. 0474. CORRECTION TO SECTION 3124.

Section 3124(b) of title 18, United States Code, is amended by striking "subsection 3123(b)" and inserting "section 3123(b)".

SEC. 0475. CORRECTIONS TO SECTION 3125.

(a) Section 3125(d) of title 18, United States Code, is amended by striking "A provider for a wire or electronic service," and inserting "A provider of a wire or electronic service,".

(b) Section 3125(a)(2) of title 18, United States Code, is amended—

(1) by striking the quotation marks;

(2) by inserting a comma after "installation and use"; and

(3) by beginning the indentation of the text following such comma at the margin.

SEC. 0476. CLARIFYING REENACTMENT OF PORTION OF SECTION 3154.

Paragraph (1) of section 3154 of title 18, United States Code, is amended by striking "community" and all that follows through the end of such paragraph and inserting "community, and, where appropriate, include a recommendation as to whether such individual should be released or detained and, if release is recommended, recommend appropriate conditions of release.".

SEC. 0477. PUNCTUATION CORRECTION TO SECTION 3165.

Section 3165(e)(2) of title 18, United States Code, is amended by striking "twelve-calendar month" and inserting "twelve-calendar-month".

SEC. 0478. SPELLING CORRECTION TO SECTION 3166.

Section 3166(b)(8) of title 18, United States Code, is amended by striking "extention" and inserting "extension".

SEC. 0479. STYLE CORRECTION TO SECTION 3170.

Subsections (a) and (b) of section 3170 of title 18, United States Code, are each amended by striking "(c)" and inserting "3166(c)" in lieu thereof.

SEC. 0480. CORRECTION TO SECTION 3289.

Section 3289 of title 18, United States Code, is amended by inserting a comma after "information" the second place it appears.

SEC. 0481. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 224.

The item relating to section 3526 in the table of sections at the beginning of chapter 224 of title 18, United States Code, is amended by inserting "; reimbursement of expenses" after "governments".

SEC. 0482. CORRECTION TO SECTION 3521.

Section 3521 of title 18, United States Code, is amended—

(1) in the final sentence of subsection (b)(1), by inserting "(G)" after "subparagraph"; and

(2) in subsection (d)(3), by inserting "the" before "Civil Rights Division".

SEC. 0483. CORRECTION TO SECTION 3562.

Section 3562(b)(2) of title 18, United States Code, is amended by inserting "of the Federal Rules of Criminal Procedure" after "rule 35".

SEC. 0484. CORRECTION TO SECTION 3563.

Section 3563 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "defendent" and inserting "defendant"; and

(2) in subsection (b)(3)—

(A) by striking "pursuant to the provisions of section 3663 and 3664" and inserting "under sections 3663 and 3664"; and

(B) by inserting "section" before "3663(a)".

SEC. 0485. CORRECTION TO SECTION 3565.

Section 3565(a)(1) of title 18, United States Code, is amended by striking "of modifying" and inserting "or modifying".

SEC. 0486. CORRECTION OF TABLE OF SECTIONS FOR SUBCHAPTER C OF CHAPTER 227.

The table of sections at the beginning of subchapter C of chapter 227 of title 18, United States Code, is amended—

(1) in the item relating to section 3572, by inserting "and related matters" after "fines"; and

(2) in the item relating to section 3573, by striking "revision" and inserting "remission".

SEC. 0487. CORRECTION TO SECTION 3572.

Section 3572(c)(2) of title 18, United States Code, is amended by inserting "of the Federal Rules of Criminal Procedure" after "rule 35".

SEC. 0488. CORRECTION TO SECTION 3582.

Section 3582(b)(2) of title 18, United States Code, is amended by inserting "of the Federal Rules of Criminal Procedure" after "rule 35".

SEC. 0489. CORRECTION TO SECTION 3583.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d)(2), by inserting a comma after "3553(a)(2)(B)";

(2) in subsection (e)—

(A) by striking "or" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; or"; and

(C) by redesignating paragraph (5) as paragraph (4).

SEC. 0490. CORRECTION OF TABLE OF SECTIONS FOR SUBCHAPTER A OF CHAPTER 229.

The item relating to section 3607 in the table of sections at the beginning of subchapter A of chapter 229 of title 18, United States Code, is amended by striking "possessor" and inserting "possessors".

SEC. 0491. CORRECTION TO SECTION 3611.

Section 3611 of title 18, United States Code, is amended by striking "604(a)(17)" and inserting "604(a)(18)".

SEC. 0492. CORRECTION TO SECTION 3612.

Section 3612(a) of title 18, United States Code, is amended by striking "604(a)(17)" each place it appears and inserting "604(a)(18)".

SEC. 0493. CORRECTION TO SECTION 3613.

Section 3613(c) is amended by striking the period before the final quotation mark and inserting a period after such mark.

SEC. 0494. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 232.

The item relating to section 3669 in the table of sections at the beginning of chapter 232 of title 18, United States Code, is amended by striking "Conveyance" and inserting "Conveyances".

SEC. 0495. CROSS REFERENCE UPDATE FOR SECTION 3663.

Section 3663(f)(4) of title 18, United States Code, is amended by striking "604(a)(17)" and inserting "604(a)(18)".

SEC. 0496. CROSS REFERENCE UPDATE FOR SECTION 3664.

Section 3664(a) of title 18, United States Code, is amended by striking "3579" and inserting "3663".

SEC. 0497. CORRECTION TO TABLE OF CHAPTERS FOR PART III.

The table of chapters for part III of title 18, United States Code, is amended—

(1) by inserting after the item relating to chapter 305 the following:

"306. Transfer to or from foreign countries..... 4100"

; and

(2) by inserting after the item relating to chapter 317 the following:

"319 National Institute of Corrections..... 4351".

SEC. 0498. CROSS REFERENCE CORRECTION TO SECTION 4109.

Section 4109(a) of title 18, United States Code, is amended—

(1) by striking "the Criminal Justice Act (18 U.S.C. 3006A)" and inserting "section 3006A of this title"; and

(2) by striking "the Criminal Justice Act (18 U.S.C. 3006(a))" and inserting "section 3006A of this title".

SEC. 0498A. CORRECTION TO SECTION 4013.

Section 4013 of title 18, United States Code, is amended by striking "(a)".

SEC. 0498B. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 307.

The item relating to section 4126 in the table of sections at the beginning of chapter 307 of title 18, United States Code, is amended by striking "fund" and inserting "Fund".

SEC. 0498C. CORRECTION TO HEADING OF SECTION 4106A.

The heading at the beginning of section 4106A of title 18, United States Code, is amended by inserting "of" before "offenders".

SEC. 0498D. CORRECTION TO SECTION 4106A.

Section 4106A(b)(1)(C) of title 18, United States Code, is amended by adding a period at the end.

SEC. 0498E. CORRECTION TO SECTION 4246.

Section 4246(g) of title 18, United States Code, is amended by striking "subchapter" and inserting "chapter".

SEC. 0498F. CORRECTION TO SECTION 4285.

Section 4285 of title 18, United States Code, is amended by striking "exced" and inserting "exceed".

SEC. 0498G. CORRECTION TO SECTION 4352.

Section 4352(c) of title 18, United States Code, is amended by striking "this shall" and inserting "this chapter shall".

SEC. 0498H. CORRECTION TO SECTION 5032.

The 4th paragraph of section 5032 of title 18, United States Code, is amended by striking "offenses set forth in this subsection" and inserting "offenses set forth in this paragraph".

SEC. 0498I. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 403.

The item relating to section 5042 in the table of sections at the beginning of chapter 403 of title 18, United States Code, is amended by striking "Probation" and inserting "probation".

SEC. 0498J. DEFINITIONS FOR CONTROLLED SUBSTANCES ACT.

Section 102(32)(A) of the Controlled Substances Act (21 U.S.C. 802(32)(A)) is amended by striking "stimulent" each place it appears and inserting "stimulant".

SEC. 0498K. SECTION 1010 OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking "supervised" each place it appears and inserting "supervised".

SEC. 0498L. SECTION 401 OF THE CONTROLLED SUBSTANCES ACT.

Sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)(IV) and 841(b)(1)(B)(ii)(IV)) are each amended by striking "any of the substance" and inserting "any of the substances".

SEC. 0498M. SECTIONS 405, 405A, and 405B OF THE CONTROLLED SUBSTANCES ACT.

Sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b), and 845b(c)) are each amended by striking "have become final" and inserting "has become final".

SEC. 0498N. SECTION 510 OF THE CONTROLLED SUBSTANCES ACT.

Section 510(b)(3) of the Controlled Substances Act (21 U.S.C. 880(b)(3)) is amended by striking "paragraph (5)" and inserting "paragraph (4)".

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 10 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR] on her amendments Nos. 26 and 27.

Ms. OAKAR. I thank the chairman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R 5269, the Comprehensive Crime Control Act of 1990. I want to commend the distinguished chairman of the Judiciary Committee, JACK BROOKS, and the chairman of the Criminal Justice Subcommittee, Mr. SCHUMER, for their hard work on this important measure.

Mr. Chairman, I want to offer my thanks to Chairman BROOKS for including my two amendments in the en bloc amendment. Both of my amendments address one particular portion of this bill, title 21, which will help to bring some measure of justice to the continuing S&L crime situation. Currently, there are over 500 failed institutions under investigation by the FBI, over 7,000 pending cases of bank and thrift crime, and over 21,000 criminal referrals. This is incredible—and more to the point—it is intolerable. For some time, we have needed a bill that can effectively be used to prosecute wrongful S&L executives and prevent similar future crimes. Clearly, this is the correct legislation for the job.

In particular, there is one portion of title 21 which addresses the problem of golden parachutes. I am pleased to be able to offer an amendment that will improve this provision of the bill. My colleague, DAVID PRICE, first offered a bill that relates to golden parachutes. My amendment is designed to allow Federal regulators to recover the golden parachute money given out to financial institution executives before the institution was taken over by the Federal Government. In some cases, these enormous cash bonuses and other benefits totaled hundreds of thousands of dollars. These people rewarded themselves for their failures—so let's recapture this money for the taxpayers.

A typical scenario for giving out golden parachutes is that financial institution executives first get approval from their board of directors to establish executive benefit plans. The plans are set up in a trust that is accessible to creditors in case the institution should fail. However, just before the institution is declared insolvent, the terms of the trust are suddenly changed so that creditors can no longer access the trust. Consequently, the hundreds of thousands of dollars are paid out to the executives in the

form of bonuses, severance pay, and other expensive benefits. My amendment will allow Federal regulators to recover this money which has disappeared from the institution before it was taken over by the Federal Government.

In addition, I am offering an amendment to improve the bill by prohibiting S&L executives from purchasing RTC- or FDIC-controlled assets. The current language in the bill prohibits only those individuals who are convicted of a felony from purchasing these assets. In contrast, I strongly believe the bill should contain my amendment which prohibits an officer, director, or any other institution-affiliated party of an insured depository institution who caused a substantial loss to that institution, which is in conservatorship or receivership, from purchasing any of its assets from the FDIC or the RTC. This provision will eliminate the special unfair insider advantage that some executives of failed institutions have regarding their own failed savings and loan's assets. There is no valid reason why these people should be able to purchase the best assets at discounted prices. I urge all of my colleagues to support the en bloc amendment and help to bring some measure of justice to the savings and loan bailout.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of these amendments. They are all very, very good amendments.

I want to particularly note a couple of them. One of them is Mr. GINGRICH's amendment.

Mr. Chairman, his amendment is one which I think is a very fine amendment on functional literacy programs.

I also want to say that I appreciate particularly Ms. OAKAR's amendment. I did not get to speak on it on her time, but I am going to do it on mine. I think the golden parachute issue and how we get control of some of this fraud in the savings and loan area is very important.

The fact that these amendments are bundled together does not make them any less important. They are all very important amendments.

Mr. COUGHLIN's amendment on drugs is very important, also Mr. FASCELL's amendment.

During my time, and before I ramble on, I would like to yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS], who is the author of one of these amendments.

Mr. GEKAS. I thank the gentleman from Florida for yielding to me.

Mr. Chairman, this bloc of amendments includes a particular one in which we were interested, where for the first time the investigators and other personnel of the Secret Service will be permitted to join forces in cooperative efforts with agents of the FBI and other law enforcement officials to continue the drive to bring the savings and loan crisis to a worthy conclusion.

Mr. Chairman, up to now we have not had the jurisdictional ability to have the benefit of the Secret Service personnel and their commitment and help in this arena.

Now, with the adoption of this amendment, we put into place a cooperative effort that allows the Secret Service and the FBI, for instance, to work together.

And I thank the gentleman again for yielding.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. WYDEN] on his amendment No. 44.

□ 1840

Mr. WYDEN. Mr. Chairman, I thank Chairman BROOKS for yielding to me and for his support for the Energy and Commerce Committee's amendment to restore confidence to the Nation's financial reporting system.

Mr. Chairman, a key aspect of the American financial system is the trust and confidence in the safety of investments in public corporations. People decide to invest in public corporations based on their evaluation of the relative soundness of the corporation.

Investor confidence is uniquely dependent on the partnership between Federal agencies such as the Securities and Exchange Commission, and private, independent public accounting firms. Those firms audit corporate financial records and certify the reports given to the public.

Over the 1980's we saw that confidence in the accounting profession shaken by a string of cases in which outside auditors failed to detect or report fraud or illegality by their corporate clients.

These problems occurred in virtually every type of corporation in America, leading many people to ask why public accountants can't be more accountable. This problem has come to the fore in the spectacular savings and loan debacle.

In August, U.S. District Court Judge Stanley Sporkin, in his memorandum opinion in the Lincoln Savings and Loan and American Continental Corporation case, stated:

> What is difficult to understand is that with all the professional talent involved (both accounting and legal), why at least one professonal would not have blown the whistle to stop the overreaching that took place in this case.

He called for the private sector to "put in place a system that would prevent the kinds of excesses that took place in Lincoln from recurring." Our amendment is a strong and positive step in addressing these concerns.

Our amendment would: Require management reports on internal financial control structure and auditor reporting thereon to assure the integrity and reliability of the financial reporting process; establish standards for audit design to include procedures to identify material related party transactions and detect illegal acts, and to evaluate and report when substantial doubt exists about an entity's ability to continue as a going concern; and require direct reporting of illegal acts to the Securities and Exchange Commission. The amendment applies to all corporations currently required to file reports with the SEC.

In July, the Resolution Trust Corporation stated that, "40 percent of the savings and loan failures were caused by fraud and abuse by insiders * * * by criminal action by the owners, directors, and managers." The RTC found widespread evidence of kickbacks, worthless loans, falsified appraisals, excessive loans to insiders, and criminal activity at almost half of the S&L's that have been taken over by the Government.

Each of these insolvent institutions were supposed to have had important accounting safeguards in place to deter such wrongdoing. Each institution had in-house accountants charged with implementing responsible internal controls for their S&L. Each institution had outside accountants charged with making an independent assessment of the institution's books to ensure the financial statements correctly reflected the condition of the S&L's.

Together, these accountants were supposed to have been the Nation's first line of defense against fraud and illegality at S&L's. Clearly, these defenses failed. Accountants did not cause the S&L mess, but the breakdown of these so-called accounting safeguards will cost taxpayers billions in the years ahead.

I am particularly disturbed by the evidence that the auditors did not promptly inform Government regulators of the horrifying acts of fraud and illegality at S&L's that now fill up our morning newspapers. Why didn't they?

The current financial reporting system simply doesn't require accountants to directly inform regulators when their client engages in fraud or illegalities. The current system is a convoluted morass that consists of little more than accountants telling management they've uncovered fraud at the company. It does virtually nothing to protect the public from the kind of ripoffs that took place with the S&L's.

The S&L scandal shows the consequences of our loophole-ridden system of financial reporting:

Twenty-nine of thirty-one insolvent California S&L's had clean audits shortly before they were taken over by the Government. The Office of Thrift Supervision told Congress last year that faulty 1986 and 1987 audits of California-based Lincoln Savings & Loan were "proof positive that any thrift in America could obtain a clean audit opinion despite being grossly insolvent."

The GAO, in a 1989 study of 11 failed S&L's, found that in more than half of those cases, "CPA's did not adequately audit and/or report the S&L's financial or internal control problems in accordance with professional standards."

The FDIC is now alleging in court that, by delaying regulatory action, Arthur Young & Co.'s faulty audits of Western Savings Association in Dallas cost taxpayers an additional $500 million. The FDIC now has more than 20 suits pending against accounting firms for fraud, negligence, and other professional failures in auditing insolvent S&L's.

Congress now has the opportunity to reform the financial reporting system and prevent another debacle. There are several areas we should zero in on to correct the system's flaws.

First, let us understand who an accountant is ultimately responsible to. The U.S. Supreme Court has made it clear that even though a private client pays for a CPA's services, the accountant's obligation is first to the public.

In the 1984 case, United States versus Arthur Young & Co., the Court summed it up succinctly:

> By certifying the public reports that collectively depict a corporation's financial status, the independent auditor assumes a public responsibility transcending any employment relationship with the client.

Second, direct reporting of fraud is working well elsewhere—both in the United States and overseas. In the United States, precedents already exist for direct reporting. Accountants of broker dealers are currently required to report fraud to the SEC if the broker dealer does not itself report to the SEC within 24 hours of notification by the accountant.

And overseas, England's Banking Act of 1987 clearly states that auditors are required to report frauds by top management directly and confidentially to the Bank of England. If this report is done in good faith, the Act provides the auditor protection from liability for any violations of confidentiality or other agreements.

Third, accountants who report fraud are not becoming representatives of the U.S. Government, regulators, or prosecutors. Besides discharging the obligations laid out by the Supreme Court, accountants will be providing an early warning system, an alarm bell, so that those with law enforcement responsibilities—such as the power to prosecute—can step in before enormous public harm has been done.

Had accountants sounded an early alarm about S&L fraud the billions American taxpayers are going to have to pay would be far less.

And I ask my colleagues, if accountants aren't the ones to sound the early warning bells, who is?

Chairman JOHN DINGELL, through his Subcommittee on Oversight and Investigations, has held more than 25 hearings over the last 5 years to examine these issues. Case studies included ESM Government Securities Inc., American Savings & Loan Assocation of Florida, Best Co., Home State Savings & Loan of Ohio, and Beverly Hills Savings & Loan Association.

Shortly after hearings in 1985 on the Beverly Hills case, I introduced with Chairman DINGELL the Financial Fraud Detection and Disclosure Act to prevent the problems the subcommittee found from happening again. After further consultation with the accounting profession, I introduced a second version with changes made to accommodate additional concerns of the profession.

A revised version of that legislation was the focus of a hearing August 2 before the Subcommittee on Telecommunications and Finance, chaired by Mr. MARKEY. I have been working with Mr. MARKEY and the subcommittee's ranking Republican, MATTHEW RINALDO, Chairman DINGELL, Congressman NORM LENT, and other committee members to fashion legislation that would reform our financial reporting systems so Congress won't be back in a few years facing another calamity like the S&L disaster.

Our pursuit of accounting reform legislation is made easier because at the August 2 hearing, Charles A. Bowsher, Comptroller General of the United States, supported each of the concepts proposed in the July legislation I circulated to committee members and other interested parties. Mr. Bowsher, a leader in the accounting field at the Big Six firm, Arthur Andersen, before he went into public service, said it is now in the public interest to enact legislation including these reforms:

Public companies should be required to periodically evaluate and report on the effectiveness of their internal accounting controls and management controls.

Auditors should be required to evaluate internal control systems established by corporate managers to ensure that the internal controls are sufficient so that corporate assets are handled properly and lawfully.

Auditors should be required to file a separate report on their evaluation of internal control systems and those reports should be included in the annual reports filed by public companies.

All audits of public companies should be conducted in a manner that reasonably ensures the detection of substantial illegalities that would have a material impact on the financial statements or operations of the audited company.

Audits of public companies should include procedures designed to identify related party transactions which are material to the financial statements or which otherwise require disclosure under the 1934 Securities Exchange Act.

Audits should include procedures designed to review risks, uncertainties, and other conditions which may affect the issuer's ability to continue its business, and which permit the auditor to conclude whether there is substantial doubt about the issuer's ability to continue as a going concern over the ensuing fiscal year.

Auditors of public companies should be required to report substantial illegalities detected during the course of an audit to regulators, if the auditor first reports the illegality to the appropriate level of the company's management and action is not taken promptly to terminate and correct the illegality.

Auditors who in good faith inform regulators of substantial illegalities on the part of management, that management has refused to correct, should be provided protection against liability.

I am very pleased that Mr. Bowsher supports these needed accounting reforms to prevent future debacles like the savings and loan mess. The amendment before you embodies most of the provisions he has advocated and is clearly a substantial improvement over the status quo.

The amendment has the active support of the American Institute of Certified Public Accountants and the Big Six firms who collectively audit 98 percent of the assets subject to audit. Consumer organizations led by public citizens also support it.

I again thank Chairman MARKEY and Chairman DINGELL for their leadership on this vital issue. They have worked very hard and very diligently for these important reforms, and I thank them for all their support. I urge that the amendment be adopted.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I rise in support of a bipartisan Energy and Commerce amendment to H.R. 5269, the Comprehensive Crime Control Act of 1990. This amendment seeks to prevent the next savings and loan crisis by expanding the responsibilities of public accountants to investigate and report on fraud they discover in finan-

cial institutions and other publicly held corporations.

The Energy and Commerce amendment is the natural followup to more than 20 hearings on accounting issues conducted since 1984 in the Oversight and Investigations Subcommittee by Chairman DINGELL. The Subcommittee on Telecommunications and Finance, which I chair, held a legislative hearing to consider this proposal last month. I want to note the extraordinary foresight and leadership of Chairman DINGELL, and especially that of the gentleman from Oregon [Mr. WYDEN] on this issue. Their tireless efforts have truly helped bring the problem into its current focus, and formed the foundation for the legislation.

This amendment is not an attack on the accounting profession. In fact, the American Institute of Certified Public Accountants has worked closely with the committee and is now in support of this amendment. The profession itself recognizes that no one can ignore the troubling testimony of numerous government and private witnesses about lapses in the profession that may well have contributed substantially to the scale of government exposure in the savings and loan crisis.

The Federal Deposit Insurance Corporation has initiated 21 separate legal actions against public accountants for alleged misdeeds in connection with the collapse of federally insured savings and loans. Nearly all of these cases involve Big Six accounting firms and the alleged damages for these suits runs in excess of $1.5 billion. These actions, and their targets, raise very substantial concerns about what kind of work auditors are doing today, and compel the adoption of this new approach.

While the public has only relatively recently focused on the S&L crisis, there are other potential flashpoints looming where the public could be similarly exposed to massive loss liability, such as the areas of Government-sponsored enterprises, insurance companies and underfunded pension funds. Recently, the General Accounting Office announced that the Federal Deposit Insurance Corporation is in precarious condition and that we may well face taxpayer liability in the commercial banking sector. The amendment seeks today to avoid another disaster tomorrow.

The Energy and Commerce amendment would expand the responsibilities of both corporate management and the accounting profession in a number of key areas. First, the bill would mandate that both management and auditors review management internal control structures and report on any weaknesses. The Foreign Corrupt Practices Act of 1977 mandated that all SEC-reporting public companies establish internal controls to prevent the misuse of corporate funds and the perpetration of financial fraud. But that system has not worked adequately. According to Comptroller General Bowsher, GAO review of a number of bank failures in 1988 and 1989 showed that "serious internal control weaknesses contributed to their failure." This amendment seeks a mechanism to assure full compliance with the requirements of the 1977 law and the avoidance of future adverse consequences from inadequate internal controls.

The amendment would also require the design of audits to detect illegalities material to the financial statements of corporate issuers and require auditors to report detected illegalities to management and, in the face of management intransigence, report directly to the SEC. It is time that accountants live up to the word "public" in their title by taking on the responsibility to blow the whistle on crime when they confront it. As Judge Stanley Sporkin pointed out in his recent court opinion on the Keating case, we must expect more out of the private sector if we are to avoid future S&L crises.

We are still in the early stages of bailing ourselves out of the S&L debacle, and now await with great trepidation the other possible consequences of an economic downturn. Today, not tomorrow, is the time to assure the honesty and integrity of corporate financial reporting and avoid a future with more bailout horror stories.

I urge my colleagues to support this critically important amendment.

Mr. MCCOLLUM. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, I rise in strong support of the Oakar amendment. The current savings and loan bailout is one of the worst financial disasters that this country has ever faced. The taxpayers of this Nation are mad, as well they should be. Although the present problem was not their fault, they are being stuck with the bill for carrying out this bailout. However, we can move to ease that burden by shifting the bill to the backs of those who are most responsible for this debacle. Those who have committed fraud should pay for that which they have created, and we in Congress should do whatever is needed to make sure they pay.

The Oakar amendment takes a step toward doing that. Currently, many S&L officials are setting themselves up with golden parachutes in anticipation of a takeover by the Government. When they leave, they leave with a severance package that costs tens if not hundreds of thousands of dollars. Golden parachutes are a questionable practice in normal business transactions, but it is unacceptable when the taxpayers are being stuck with a bill of the size that they are now facing. The Oakar amendment will reverse this situation. I want to commend my colleague, Ms. OAKAR, for offering this important amendment, and I urge my colleagues to vote in support of the amendment.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, this en bloc amendment contains the text of a bill, the Anti-Drug Education Act of 1990, which will help make our schools drug-free and improve the safety of our students.

This bill passed the House of Representatives by a unanimous voice vote on July 10, 1990. It received strong bipartisan support in the Committee on Education and Labor and on the floor of the House.

It is my understanding that the chairman and the ranking minority member of the judiciary committee, Mr. BROOKS and Mr. FISH, support the amendment. In addition, the chairman and the ranking member of the crime subcommittee, Mr. HUGHES and Mr. MCCOLLUM, also support this amendment.

In fact, I am not aware of any opposition to this amendment whatsoever. Its inclusion in the crime bill will simply ensure that the Senate acts on this important measure prior to the end of this congressional session.

Clearly, the drug problem is a national emergency. It is bad enough that many of our neighborhoods have been turned into open-air drug markets, and our streets have been turned into battlezones. But it is absolutely intolerable when the poison of drugs invades our schools and our classrooms, threatening our Nation's children.

If we hope to meet the challenges we face as a nation in the 21st century, we need to give each of our youngsters the education they need to succeed in the workplace. And that means their schools must be free of drugs. Drugs and learning do not mix, and we have a responsibility as a nation to make our schools drug-free.

My amendment will strengthen our Nation's anti-drug education programs, and increase cooperation between school officials and local law enforcement agencies, and I thank Chairman BROOKS and ranking member Mr. FISH for their cooperation in including it.

My amendment contains key provisions which are designed to improve anti-drug education, prevention and counseling programs in the school:

It reserves $5 million of appropriated funds under the Drug-Free Schools and Communities Act [DFSCA] for grants to replicate suc-

cessful drug abuse education, prevention, or counseling programs.

It allows local education agencies to use funds under the Drug-Free Schools Act for After-School Programs that are designed to prevent drug and alcohol abuse.

And it increases the authorization for training programs for teachers, counselors and school personnel from $35 million to $50 million.

The amendment also contains several key provisions aimed at improving the ability of law enforcement agencies to fight drugs in schools:

The amendment strengthens drug-free school zones, which are designed to eliminate the illicit use of alcohol and drugs on or near school property, by providing criteria for the establishment of such zones.

And the amendment calls on all local school districts to coordinate antidrug activities with local law enforcement agencies in order to improve security for students.

These essential provisions dealing with cooperation between local law enforcement and local education agencies will be of significant value in fighting drugs in our schools.

Again, this amendment has already been approved in bill form by the full House of Representatives without objections from any quarter. It is fully consistent with the goals of the comprehensive crime bill, and its inclusion in this bill will ensure that the Senate addresses these issues seriously before adjournment.

I would urge the unanimous adoption of the amendment.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. COUGHLIN], the author of amendment No. 46.

Mr. COUGHLIN. Mr. Chairman, I rise in support of the en bloc amendment and want to thank the distinguished chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], for including my amendment relating to interdiction improvements.

Mr. Chairman, I would like to point out that the amendment contains language relating to title XIV, which falls in the jurisdiction of the Committee on Merchant Marine and Fisheries. I have agreed with the committee to work with them during conference to accommodate any concerns they might have.

Mr. McCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to emphasize that the amendment that the gentleman from Pennsylvania [Mr. COUGHLIN] has just discussed and offered has a very, very important aspect to it from my perspective in the war on drugs, and that is that it creates a new crime that says it is unlawful for a pilot, or operator, or person in charge of any aircraft, which is across the board in the United States, or any aircraft subject to the jurisdiction of the United States, operating outside of the United States, and involved in any kind of controlled substance or money laundering, any matter relating to that, that it is unlawful for such a pilot to refuse to obey an order of an authorized Federal law enforcement officer to land. While the gentleman from Pennsylvania is to be commended for organizing it, I just want to amplify this one point because I think it is a very important amendment for lots of reasons.

There are other features to that that en bloc one just does not go out and discuss all the details, but I think anybody who might be thinking about flying a plane around, carrying some narcotics, ought to be aware that there is going to be an additional crime out there on the books after tonight, if this gets to become law, that says, "If you don't obey the order to land, you're going to be committing a crime just in and of itself, if that law enforcement agency is attempting to get you to come down because they suspect you of carrying these sorts of things."

So, Mr. Chairman, I think it is exceedingly important, and I reserve the balance of my time, but I wanted to let the Members know about that.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gracious gentlewoman from New York [Ms. SLAUGHTER] on amendment No. 37 and any other matter she may wish to discuss.

Ms. SLAUGHTER of New York. Mr. Chairman, I do not exaggerate when I say that a wave of violence is sweeping this country and overwhelming our local police departments. Violent crime has risen 24 percent during the past 5 years and is now occurring at an astounding rate of at least one murder, rape, robbery, or aggravated assault every 19 seconds.

We have all heard about the frightening increases in homicides in cities like New York and Washington, DC. But according to the latest figures from the FBI, murders are also up dramatically—by 14 percent last year—in the smaller cities of our congressional districts with populations between 25,000 and 50,000.

Congress has not ignored these trends. We have appropriated millions to help fight drugs on the streets. We have passed tougher laws and swifter penalties against criminals. But local law enforcement agencies need more tools to combat crime in both urban and rural America.

The truth is that Federal support for local crime fighting has not kept pace with increases in the crime rate. Make no mistake about it, the war against crime is being fought largely on the local level. In our battle against drugs, for example, 90 percent of all drug arrests are made by local police officers. These officers, who serve on the front lines of our war against drugs and crime, are looking for help in becoming more effective and efficient at a time of dwindling resources from all levels of government.

As a first step, we need to review what we can do on the Federal level to improve local law enforcement. Specifically, we need to consult with precinct commanders and patrol officers and engage in a dialog that is not confined to testimony given in committee hearing rooms in Washington. We need to examine training programs and working conditions on the precinct level and assess the kind of cooperation local police receive from State and Federal agencies. We need a thorough, up-to-date review of resources available to local agencies. In short, we need to take stock of our troops in this all-important domestic war on crime.

My amendment would accomplish these goals within 18 months without any additional appropriations. It calls for the creation of a 19-member commission headed by the Comptroller General—who brings with him the research resources of the General Accounting Office—to examine issues relating to police benefits, conditions of employment, the communications and information infrastructure and the adequacy of Federal resources for local law enforcement agencies. It will then recommend changes to Congress.

Not since the mid-1970's has the Federal Government reviewed Federal support for local police efforts, and every law enforcement expert I have consulted says such a review is long overdue. Crime has changed dramatically in the past 15 years. Any new assessment of local police needs, for example, must recognize the more dangerous type of criminal that officers in many cities are now confronting. All too often these criminals are armed with automatic weapons and under the influence of drugs. Indeed, one recent survey of crime in 21 cities found that over half of those arrested for violent crimes last year tested positive for drugs.

This amendment has bipartisan support in both the House and the Senate. It also has won strong support from more than one dozen national and local law enforcement organizations including the National Association of Police Organizations, the Fraternal Order of Police, the International Brotherhood of Police Officers, the National Sheriffs' Association, and the International Association of Chiefs of Police. I have even had calls from police in Canada who are interested in instituting this type of examination of local police needs in their country.

Police want this amendment. Let's give ourselves the chance to hear what local law enforcement officers have to say about the conditions and problems they face each day as they protect us from violent crime and get drugs out of our schools and off of our streets.

Vote for the Slaughter amendment. Give police one more weapon in the battle against crime.

□ 1850

Mr. McCOLLUM. Mr. Chairman, may I inquire how much time each side has left?

The CHAIRMAN. The gentleman from Florida [Mr. McCOLLUM] has 4½ minutes remaining, and the gentleman from Texas [Mr. BROOKS] has 3 minutes remaining.

Mr. McCOLLUM. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the International Narcotics Control Act of 1990, which is being offered as an amendment to this omnibus crime bill.

This narcotics control legislation reflects a serious effort by both the majority and the minority of the Foreign Affairs Committee to reach a consensus position on the President's Andean initiative for fighting international drug trafficking. Although this consensus language does not provide the administration with everything it has requested, particularly in terms of funding levels, it does give the broad flexibility the President has been seeking to help him in his negotiations with Andean leaders—both those who have been newly elected and also those who have faced for some time the challenges of meeting the drug trafficking crisis.

The very nature of the menace that international drug trafficking poses against the citizens of this country requires that we in the Congress respond strongly and effectively. We are literally fighting a war, and international drug traffickers have not hesitated to use deadly force and apparently unlimited resources to carry out their drug trafficking activities. If we are really serious about our opposition to this menace, we have to be prepared to fight the traffickers on their terms, if necessary. The fight requires unusual measures and the availability of many different resources. The authority we are giving the administration with this legislation provides the needed flexibility and variety of resources that should enable the President to elicit the type of cooperation we want from our Andean allies in the fight.

I am confident that once the administration has been able to demonstrate success with its approach and with the cooperation of our Andean partners, then it will be possible to increase the funding in future years to levels closer to those requested by the administration. In the meantime, I believe this legislation represents the best we can do now, and requires our support and prompt action.

I urge Members to vote in favor of this legislation.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, the amendment I am offering is the product of an effort undertaken with the ranking minority member of the Subcommittee on Criminal Justice, the gentleman from Pennsylvania [Mr. GEKAS], in cooperation with the Justice Department and other interested organizations, including the National Network for Victims of Sexual Assault, the National Association of Criminal Defense Lawyers, and the National Association of Crime Victim Compensation Boards. The amendment makes both technical and minor substantive amendments to various provisions of title 18 of the United States Code and to other Federal criminal laws. At least 90 percent of the bill consists of clerical and conforming changes that correct spelling, punctuation, cross-references, and the like.

The amendment also makes several relatively minor substantive changes, all of which were developed in cooperation with the interested organizations. For example, the amendment repeals two antiquated offenses, one making it a crime to kill or detain a carrier pigeon belonging to the United States and the other making it a crime to seduce a female passenger on board a steamship. Perhaps the two most noteworthy changes are, first, an increase in the penalty for a sexual assault offense involving a 12- or 13-year-old victim and a perpetrator who is 18 years of age or older. This has been endorsed not only by the Justice Department, but also by victims groups. The other noteworthy change addresses a constitutional problem resulting from the phaseout of parole enacted in the Sentencing Reform Act. The amendment establishes mechanisms and procedures to deal with inmates who, under the ex post facto clause of the Constitution, must continue to be evaluated by an independent body of adjudicators. These mechanisms and procedures are fully supported by the Justice Department.

Mr. Chairman, the amendment is not controversial, and I urge my colleagues to support it.

SECTION-BY-SECTION ANALYSIS—MINOR SUBSTANTIVE AND TECHNICAL AMENDMENTS

The amendment makes minor substantive amendments and conforming and other technical amendments to various parts of title 18, United States Code. The amendment is divided into four parts, dealing with penalties and sentencing amendments, miscellaneous amendments, amendments concerning the continued phase-out of parole, and typographical and other similar amendments.

SUBTITLE A—PENALTIES AND SENTENCING AMENDMENTS

Section 0101

Section 0101 of the amendment amends 18 U.S.C. § 3565(a), which requires that a sentence of probation be revoked and the defendant sentenced to "not less than one-third of the original sentence" if the court finds that the defendant unlawfully possessed a controlled substance, thereby violating a condition of probation imposed by 18 U.S.C. § 3563(a)(3).[1] This requirement is an attempt to ensure that a probationer serves time in prison if the probationer unlawfully possesses a controlled substance. The attempt is flawed, however, because probation is a sentence,[2] not, as under the law in effect before November 1, 1987, a suspension of imposition or execution of a sentence of imprisonment. There is therefore no "original sentence" of imprisonment from which to calculate the prison term if probation is revoked.

Requiring the imposition of a sentence of at least one-third the statutory maximum term of imprisonment for a violation of this condition of probation would be too harsh and inflexible, as well as inconsistent with the purpose of sentencing, because the court determined initially that probation was the appropriate sentence. Section 0101, therefore, amends 18 U.S.C. § 3565(a) to authorize the court to impose any other sentence available at the time of the original sentencing that results in punishment greater than that originally imposed.[3] This amendment will make 18 U.S.C. § 3565(a) parallel 18 U.S.C. § 3565(b), which deals with revocation of probation for possession of a firearm.

Section 0102

Section 0102 of the amendment amends 18 U.S.C. § 3742(b), which requires the Attorney General or Solicitor General personally to approve a government appeal of sentence. The amendment (1) eliminates the requirement of "personal" approval by the Attorney General or Solicitor General, so that a deputy Solicitor General designated by the Solicitor General can authorize such an appeal when appropriate or necessary; and (2) provides that the approval need not take place before a notice of appeal is filed, but may take place after that notice is filed. In the latter instance, if such approval is not forthcoming, the appellate court must dismiss the government's appeal.

Section 0103

Section 0103 of the amendment amends 18 U.S.C. § 3, which provides that the maximum penalty for an accessory after the fact is one-half of the maximum penalty for the offense to which the defendant is an accessory, or ten years if the offense to which the defendant is an accessory has a maximum penalty of life imprisonment. Under current law, the accessory after the fact to a 25 year offense faces a greater maximum penalty than an accessory after the fact to an offense with a maximum of life imprisonment. Section 0103 eliminates this anomaly by increasing from 10 to 15 years the maximum penalty when the penalty for the offense to which the defendant is an accessory is life imprisonment.

Section 0104

Section 0104 of the amendment amends 18 U.S.C. § 3742(g), to eliminate the requirement of that section that the Attorney General or Solicitor General approve the filing of a notice of appeal when a sentence imposed by a United States Magistrate is appealed to a district court, to eliminate that requirement. Requiring high-level approval in order to appeal a magistrate's sentence not only is inappropriate, but also unrea-

[1] Footnotes at end of article.

listc. An appeal of a magistrate's sentence must be made within 10 days, an insufficient amount of time in which to obtain meaningful high-level review.

Section 0105

Section 0105 amends 18 U.S.C. § 1864, which deals with the use of hazardous or injurious devices on Federal land. The penalty for a second or subsequent offense under 18 U.S.C. § 1864(c) is 10 years. Section 0105 deletes the reference in subsection (c) of section 1864 to subsections (b)(3) and (4). The reference to those provisions is unnecessary because a second or subsequent conviction under those provisions already carriers a maximum of 10 years imprisonment.

Section 0106

Section 0106 of the amendment amends 18 U.S.C. § 3551(a), which provides that except as othewise specifically provided, a defendant must be sentenced under the provisions of 18 U.S.C. ch. 227 (sentences) if the defendant is convicted of "an offense described in any Federal statute, other than an Act of Congress applicable exclusively in the District of Columbia or the Uniform Code of Military Justice". There has been some question as to whether the "otherwise specifically provided" language makes 18 U.S.C. ch. 227 inapplicable to offenses that assimilate the punishment provisions of State law—the "Assimilative Crimes Act" and the "Major Crimes Act".[4] Lower courts have held chapter 227 inapplicable,[5] but the 8th, 9th, and 10th Circuits have held differently.[6]

The Legislative history of 18 U.S.C. § 3551(a) indicates that the "otherwise specifically provided" language was intended to preserve the few mandatory-sentence provisions that predated the taking effect of 18 U.S.C. ch. 227 as amended by the Sentencing Reform Act of 1984.[7] Exempting the Assimilative Crimes Act and Major Crimes Act from 18 U.S.C. ch. 227, therefore, is not compelled by the legislative history. Exempting the Assimilative Crimes Act and Major Crimes Act from 18 U.S.C. ch. 207, moreover, would promote disparity in punishment meted out to persons convicted of Federal offenses.

Section 0106 amends section 3551(a) to eliminate any ambiguity about the applicability of 18 U.S.C. ch. 227 to offenses under 18 U.S.C. §§ 13 and 1153. As amended by section 0106, section 3551(a) would specifically provide that a defendant convicted of a criminal offense under 18 U.S.C. §§ 13 or 1153 is to be sentenced under 18 U.S.C. ch. 227.

Section 0107

Section 0107 of the amendment amends 18 U.S.C. § 3561(a)(3), which provides that a defendant who has been found guilty of an offense may not be sentenced both to probation and a term of imprisonment for the same or a different offense. The reason for this provision is that a similar result can be achieved by imposing a term of supervised release under 18 U.S.C. § 3583.[8] Supervised release, however, is unavailable for petty offenses.[9] Thus, where the sentencing court is imposing sentence for more than one petty offense, the court is restricted to imprisonment or probation; the court cannot impose both. Section 0107 provides additional sentencing flexibility by amending 18 U.S.C. § 3651(a)(3) to authorize the sentencing court to impose a term of probation for a petty offense, notwithstanding that the court, at the same time, has imposed a term of imprisonment for another such offense.

SUBTITLE B—MISCELLANEOUS AMENDMENTS

Section 0201

Section 0201 of the amendment amends 18 U.S.C. §§ 657 and 1006 to substitute the Federal Deposit Insurance Corporation for the now-abolished Federal Savings and Loan Insurance Corporation.

Section 0202

Section 0202 of the amendment amends 18 U.S.C. § 5032, which sets forth the grounds upon which a Federal court may determine that a juvenile may be proceeded against as an adult (i.e., be subject to criminal prosecution). One basis for such a determination is whether the conduct constitutes one of several specified serious violent or drug felonies set forth in the fourth paragrph of 18 U.S.C. § 5032. Congress amended the fourth paragraph of section 5032 in 1988, adding a reference to an offense under 18 U.S.C. § 922(p). In the Senate-passed version the legislation amending section 5032, 18 U.S.C. § 922(p) was a guns-in-the-schoolyard offense. The Senate-passed version was not enacted, however, and 18 U.S.C. § 922(p), by virtue of the enactment of the Undetectable Firearms Act of 1988[10], now is an offense involving the manufacture or possession of undetectable firearms. Because that offense was not meant to be included in the fourth paragraph of 18 U.S.C. § 5032 and is not appropriate for the purposes of section 5032, section 0202 of the amendment deletes the reference to 18 U.S.C. § 922(p).

Section 0203

Section 0203 of the amendment amends 18 U.S.C. § 1952, which punishes, *inter alia*, use of "any facility in interstate or foreign commerce, including the mails," with intent to promote any "unlawful activity", a term defined to encompass several offenses characteristic of organized crime enterprises. The language and history of section 1952 are, unfortunately, less than clear as to whether the phrase "including the mails" requires an interstate mailing for federal jurisdiction, or whether any mailing suffices. Until 1989, the only appellate court interpretation supported the view that any use of the mails was covered.[11] A recent decision by the Sixth Circuit has determined that section 1952 reaches only an interstate (or foreign) use of the mail.[12]

Section 0203 amends section 1952(a) to read "uses the mail or any facility in interstate or foreign commerce," thereby clarifying that any use of the mail (whether intrastate, interstate, or foreign) suffices.

Section 0204

Section 0204 of the amendment amends various sections of title 18, United States Code, to ensure uniform coverage when "State" is used. Federal offenses are haphazard and inconsistent in covering territories and possessions. Many, such as 18 U.S.C. §§ 513 and 1961, define the term "State" to include territories and possessions, while others do not, although frequently the Congressional purpose underlying the offense suggests inclusion. In some instances, where the intent of Congress seems clear, the courts have construed "State" to include territories and possessions.[13] In other cases, the courts have adopted a strict reading of "State" and declined to extend the offense's reach to territories and possessions.[14]

Section 0204 amends 14 provisions to ensure that each of the 14 covers any State of the United States, the District of Columbia, and any Commonwealth, territory, or possession of the United States. The 14 provision are:

(a) 18 U.S.C. § 232, which sets forth definitions for the chapter on civil disorders.

(b) 18 U.S.C. § 245, a civil right provision that prohibits the use of force or threats to injure, intimidate, or interfere with any person, because of race, religion, color, or national origin, in that person's participation in a number of protected activities.

(c) 18 U.S.C. § 402, which deals with contempt of court.

(d) 18 U.S.C. § 666, which deals with Federal program fraud and bribery. Although the Ninth Circuit has held that section 666 is inapplicable to bribery of a former governor in connection with a federally supported program in Guam, because Guam is not a State[15], this amendment is appropriate. Section 666 seeks to safeguard Federal monies from misuse *after* title has passed to the recipient government agency, so extension of section 666 to territories and possessions is appropriate.[16] Section 666 was amended in 1986 to include Indian tribal agencies and officials for the same reason.[17]

(e) 18 U.S.C. §§ 1028 and 1030, relating to fraud and related offenses involving identification documents and computers, respectively. Each section defines the term "State" to include the "Commonwealth of Puerto Rico, and any other possession or territory of the United States." Because of the specific reference to the "Commonwealth of Puerto Rico", and because the sections were enacted in the 1980s, after the effective date of the Covenant to Establish a Commonwealth of the Northern Mariana Islands,[18] the definition of "State" in these sections may not be sufficient to include the Commonwealth of the Northern Mariana Islands.[19] There is no reason to treat the Commonwealth of the Northern Mariana Islands differently from the Commonwealth of Puerto Rico in sections 1028 and 1030.

(f) 18 U.S.C. § 1029, which proscribes fraud in connection with access devices.

(g) 18 U.S.C. § 1084, which proscribes the transmission of wagering information in interstate or foreign commerce.

(h) 18 U.S.C. § 1114, which makes it a crime to kill or attempt to kill certain officers and employees of the United States.

(i) 18 U.S.C. § 1952, which proscribes interstate or foreign travel, or the use of a facility of interstate or foreign commerce, in aid of a racketeering enterprise. Although the term "State" as used in section 1952 is not defined, case law has construed section 1952 to extend to the territories and possessions, because the section seeks to combat certain criminal activities of organized crime that had become a national problem.[20]

(j) 18 U.S.C. § 1956, which proscribes laundering of monetary instruments.

(k) 18 U.S.C. § 1958, which punishes travel in, or use of a facility of, interstate or foreign commerce in the commission of murder-for-hire.

(l) 18 U.S.C. § 2313, which punishes interstate transportation of a stolen motor vehicle or aircraft.

(m) 18 U.S.C. § 2315, which makes it an offense knowingly to sell or receive stolen goods, securities, monies, or fraudulent State tax stamps.

(n) 18 U.S.C. § 5032, which deals with juvenile delinquency proceedings in United States district court.

Section 0205

Section 0205 of the amendment repeals an antiquated offense, 18 U.S.C. § 45, which makes it unlawful to capture, kill, possess, or detain a carrier pigeon owned by the United States.

Section 0206

Section 0206 of the amendment repeals two antiquated offenses. First section 0206(a) repeals 18 U.S.C. 969, enacted early this century, which punishes a person who exports arms, liquors, or narcotics to "any aboriginal native of any of the Pacific Islands" lying in a specified part of the Pacific Ocean, including Guam, Samoa, and parts of the Northern Mariana Islands and Hawaii. Second, section 0206(b) repeals 18 U.S.C. § 2198, which punishes a master, officer, seaman, or other person employed on board an American vessel who during a voyage seduces a female passenger. Section 0206(b) also repeals 18 U.S.C. § 3286, a statute of limitation provision for 18 U.S.C. § 2198.

Section 0207

Section 0207 of the amendment amends 18 U.S.C. § 2314 ("transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting.") Section 2314 sets forth several offenses, for all but one of which there is Federal jurisdiction if there is transportation in *interstate or foreign* commerce. The second paragraph of section 2314, however, proscribes a scheme to defraud if any person travels, or is transported, in *interstate* commerce in executing the scheme. Section 0207 expands that the second paragraph to cover foreign commerce, making the coverage of the second paragraph the same as that of the other parts of section 2314.

Section 0208

Section 0208 of the amendment amends 18 U.S.C. § 666, which deals with Federal program theft and bribery. Section 666 provides for Federal jurisdiction over the offense if an organization, government, or agency receives more than $10,000 in Federal funds "in any one year period". Section 0208 of the amendment amends section 666 to define the term "in any one year period" to mean any continuous 12 month period that commences no earlier than 12 months before the claimed offense, and ends no later than 12 months after the offense. Thus, the 12 months can include a period of time both before and after the alleged offense.

Section 0209

Section 0209 of the amendment repeals provisions that court decisions make invalid. Section 0209(a) repeals language in 18 U.S.C. § 1730, that prohibits a person, "not being connected with the letter-carrier branch of the Postal Service", from wearing the uniform or badge prescribed by the Postal Service for letter carriers. Section 1730 exempts any actor or actress who wears the uniform or badge during a theatrical, television, or motion picture production, provided that "the portrayal does not tend to discredit that service." Section 0209 amends section 1730 to repeal the phrase about discrediting the Postal Service because a similar provision in 18 U.S.C. § 702, which deals with a uniform of the armed services, was found to violate the First Amendment.[21]

Section 0209(b) repeals 18 U.S.C. § 1714, which makes it criminal knowingly to mail any written or printed material "giving or offering to give information concerning where or how or through whom a divorce may be secured in a foreign country, and designed to solicit business in connection with the procurement thereof". In the only reported prosecution, the Fifth Circuit held that section 1714 is too broad and violates the First Amendment.[22] Section 1714 is unnecessary because the interests that section 1714 seeks to protect are adequately protected by the mail fraud offense (18 U.S.C. § 1341).

Finally, section 0209(c) repeals 18 U.S.C. § 1718, which deals with libelous matter on wrappers or envelopes placed in the mail. Two courts have found section 1718 to violate the First Amendment.[23] The provision appears not to have been used in over 15 years, and the Justice Department believes the decisions holding the sections unconstitutional are correct. The Postal Service concurs in the repeal.

Section 0210

Section 0210 of the amendment amends 42 U.S.C. § 2271(c), which requires the Attorney General's personal approval before any action can be brought under 42 U.S.C. §§ 2272–76, which relate to offenses involving atomic and nuclear material. The original reason for requiring the Attorney General's personal approval was that the death penalty could be imposed. The Committee on the Judiciary has comprehensively addressed the procedures to be followed when determining whether to impose a sentence of death,[24] so there is no longer reason to require the Attorney General's personal approval.

Section 0211

Section 0211 of the amendment amends 28 U.S.C. § 1921(e)(1) to correct a drafting error in section 7608 of the Anti-Drug Abuse Act of 1988, which enacted 28 U.S.C. § 1921. The first sentence of 28 U.S.C. § 1921(c) sets forth a formula for computing the commission on a marshal's sale of seized or levied property. The second sentence should have addressed the setting of a commission when seized or levied property is not disposed of by the traditional marshal's sale. Instead, the second sentence also applies to the traditional marshal's sale by virtue of the words "If the property is to be disposed of by marshal's sale." Section 0211 corrects this drafting error by substituting the word "not" for the words "to be" in the quoted phrase.

Section 0212

Section 0212 of the amendment amends several provisions that relate to sexual abuse crimes involving 12 and 13 year old children. The sexual abuse chapter of title 18, United States Code, comprehensively defines Federal sexual abuse offenses. Whenever a sexual abuse offense is carried out by force or threats, the maximum punishment—no matter what the age of the victim—is life imprisonment (if force or threats of death or serious bodily injury were used) or 20 years (if threats of death or serious bodily injury were used). If no force or threats are used, the seriousness of the offensse turns upon the age of the victim and the perpetrator: If the victim is under the age of 12, the maximum prison term is life. if the victim is 12 to 15 years old, and the perpetrator is at least four years older than the victim, the maximum prison term is five years.[25]

Section 0212(a) of the amendment modifies this scheme. Where no force or threats are used, and the victim is 12 or 13 years old, the maximum prison term is life if the perpetrator is at least 18 years old. Section 0212(b) makes a conforming change to a proof requirement to 18 U.S.C. § 2241, and section 0212(c) makes a conforming amendment to 18 U.S.C. § 2243(a).

The term "sexual act" is currently defined by 18 U.S.C. § 2245(2) to mean contact between the penis and the vulva or anus; and provides that "contact involving the penis occurs upon penetration, however slight; contact between the mouth and the penis, vulva or anus; or penetration (by a finger, hand, or other object) of the anus or genital opening of another, with the intent to "abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of another person." Section 0212(d) amends the definition to add the phrase "intentional touching, not through the clothing, of the genitalia" of a person who is less than 16 years old, with the intent to "abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person." This form of molestation can be detrimental to a child as the conduct presently covered by the term "sexual act."

Section 0213

Section 0213 of the amendment amends 18 U.S.C. § 3289 to correct a drafting error in section 7081(b) of the Anti-Drug Abuse Act of 1988. Section 7081 amended two companion provisions, 18 U.S.C. §§ 3288 and 3289, providing time to file a new indictment or information in the event of dismissal either shortly before the statute of limitation period expires (section 3289) or after that period has expired (section 3288). In each instance, the intended result was to permit a new indictment or information to be filed within six months of the date of the dismissal or, in the event of appeal, within 60 days of the date the dismissal becomes final. This result was accurately effected for section 3288, but the operative phrase in section 3289 was inserted in the wrong place. Section 0213 remedies this mistake and makes section 3289 parallel to section 3288.

Section 0214

Section 0214 of the amendment amends 18 U.S.C. ch. 211 (jurisdiction and venue) to add a venue provision for certain espionage and related offenses. Under existing law, 18 U.S.C. § 3238, venue for an espionage offense committed outside of the United States ordinarily is prosecuted where the defendant resides. Thus, the target of an investigation can determine venue by choice of residence, and can change the venue during the course of investigation by changing residence. This, in fact, happened several years ago in the investigation of a soldier whose acts of espionage were committed in Europe during active duty. Most of the FBI's lengthy investigation was conducted in the western district of New York, where the target lived. Shortly before the target was to be arrested, the target moved to Florida, causing considerable disruption in the investigation. Section 0214 of the amendment adds a section providing venue for espionage and related offenses that are begun or committed outside of the United States in the District of Columbia or in any other place authorized by law.

Section 0215

Section 0215 of the amendment amends 18 U.S.C. § 2113 (bank robbery) to define the term "savings and loan association". The definition is derived from section 3(b) of the Federal Deposit Insurance Act, as amended by section 204(b) of the Financial Institutions Reform, Recovery, and enforcement Act of 1989.[26]

Section 0216

Section 0216 of the amendment amends 18 U.S.C. § 3184, which authorizes the United States District Court for the District of Columbia, whenever a treaty or convention exists, to issue an arrest warrant for a fugitive from a foreign country, even if the

whereabouts of the person within the United States is not known. Interpol has requested that section 3184 be expanded to cover a situation where a foreign fugitive is believed to be about to enter the United States, and section 0216 of the amendment complies with that request.

Section 0217

Section 0217 of the amendment amends 18 U.S.C. § 3603, which sets forth the duties of probation officers. Section 0218 amends section 3603 to authorize probation officers to supervise a person conditionally released under 18 U.S.C. § 313 (offenders with mental disease or illness).

Section 0218

Section 0218 of the amendment enlarges the time within which a State must comply with new requirements in order to receive crime victim compensation grants under the Victims of Crime Act of 1984. The Victims of Crime Act sets forth several criteria that a State must meet in order to be eligible for crime victim compensation grants from the Crime Victims Fund.[27] The Anti-Drug Abuse Act of 1988 added two new criteria and required State crime victim compensation programs to offer crime victim compensation to victims of drunk driving crimes and domestic violence.[28] That Act gave the State until October 1, 1990 to meet the new requirements.[29] Section 0218 extends the deadline to October 1, 1991.

SUBTITLE C—CONTINUED PHASE-OUT OF PAROLE

Subtitle C addresses a constitutional problem created by the repeal of Federal parole provisions by the Sentencing Reform Act of 1984. The Sentencing Reform Act repealed those provisions effective November 1, 1987,[30] and abolishes the United States Parole Commission effective November 1, 1992.[31] The Sentencing Reform Act requires that the Parole Commission, before going out of existence, make final parole release determinations for all prisoners within the Parole Commission's jurisdiction on the day the Parole Commission ceases to exist.[32]

The Sentencing Reform Act's abolition of parole creates substantial questions under the *ex post facto* clause of the Constitution. The Sentencing Reform Act provides that a person convicted after November 1, 1992 of a crime committed before November 1, 1987, is entitled to parole consideration.[33] After November 1, 1992, however, there will be no agency to make parole determinations, thereby depriving such a person of the parole consideration to which that person is entitled. Further, the parole provisions applicable to persons convicted before November 1, 1992 of an offense committed before November 1, 1987, entitle an inmate to a periodic review of the inmate's status. The abolition of the Parole Commission on November 1, 1992 means that after that date no agency will be empowered to conduct the required review.

Subtitle C, which is derived from recommendations of the Department of Justice, resolves the constitutional problems by establishing a Federal Offender Review Board to conduct parole hearings and make parole determinations for persons convicted of offenses committed before November 1, 1987. The Board will have the independence of, and starting November 1, 1992 be able to exercise the powers formerly exercise by, the Parole Commission. To reflect the probable decline in workload, subtitle C structures the Board as a smaller agency (5 members) than the current Parole Commission (9 members).

Section 0301

Section 0301(a) of the amendment adds a new chapter, entitled "Prisoner Review and Supervision", to title 18 of the United States Code. The new chapter consists of sections 4220 through 4223.

New section 4220 establishes the Federal Offender Review Board "as an independent agency within the Department of Justice".[34] The five members of the Board are appointed by the President, with the advice and consent of the Senate, for terms that expire on November 1, 1997. The President designates one of the members to serve as the Board's chair.

New section 4221 gives the Federal Offender Review Board all of the powers, duties, and jurisdiction of the United States Parole Commission, giving the Board the ability to perform the functions assigned to the Board.[35] Thus, the Board can, for example, reduce the number of regions presently operated by the Parole Commission.[36] New section 4221 also provides that the Board will have "the independence of" the Parole Commission, thereby assuring that the determinations of the Board, like those of the Parole Commission, will be based soley upon the merits of case and will not be unduly influenced by the Justice Department.[37] New section 4222 provides that the powers and duties of the chairman of the Board are the same as those of the chairman of the Parole Commission. New section 4223 authorizes the Board to make decisions in the case of an individual within the Board's jurisdiction, to prescribe regulations and guidelines, and to delegate authority to hearing examiners, and provides that, for purposes of 5 U.S.C. § 701(a)(2), a decision of the Board is to be treated as an action committed to agency discretion. New section 4223, by authorizing the Board to prescribe regulations and guidelines, ensures that the Board has the power to change policies established by the Parole Commission whenever circumstances make such changes appropriate.

Section 0302

Section 0302 of the amendment transfers to the Federal Offender Review Board all of the personnel of the United States Parole Commission, other than the Commissioners. Section 0302 also transfers to the Board all of the liabilities, contracts, property, and records of the Parole Commission.

Section 0303

Section 0303 of the amendment repeals section 235(b)(4) of the Comprehensive Crime Control Act of 1984.[38]

Section 0304

Section 0304(a) of the amendment repeals a provision of the Comprehensive Crime Control Act of 1984 that transfers parolees to the jurisdiction of Federal courts on November 1, 1992. Section 0304(a) thereby eliminates a substantial addition to the workload of Federal courts and avoids the *ex post facto* questions that are raised by the provision as presently written.

Section 235(b)(3) of the Comprehensive Crime Control Act of 1984[39] currently directs the Parole Commission to set a release date for every individual who will be within the Parole Commission's jurisdiction on October 31, 1992. Section 0304(b) of the amendment revises section 235(b)(3) to provide that all laws in effect as to a person who has committed an offense that is not governed by the new sentencing system established by the Comprehensive Crime Control Act of 1984 continue in effect as to that person until that person's sentence has expired. Thus, a person who committed an offense before November 1, 1987 but who is not sentenced until after October 31, 1992 (the last day of the Parole Commission's existence) will, as the ex post facto clause of the Constitution requires, be sentenced under the law in effect on the date when the offense was committed, which includes the possibility of release on parole. The Federal Offender Review Board established by section 0301 of the amendment will make the parole determinations for such a person.

Section 0305

Section 0305 of the amendment makes conforming changes to other provisions of law. Section 0305(a) amends 18 U.S.C. §§ 4106 and 4106A, which relate to prisoners transferred from foreign countries for service of sentence, to replace references to the Parole Commission with references to the Federal Offender Review Board. Section 0305(c) of the amendment makes similar changes in 18 U.S.C. § 3522(c), a witness protection provision. Section 0305(b) of the amendment amends 18 U.S.C. § 4106(d) to delete a phrase that is no longer necessary.

Section 0306

Section 0306 of the amendment is premised upon the expectation that after October 31, 1997 the caseload of the Federal Offender Review Board will not justify the existence of a separate agency. There will still be a need for presidentially-appointed, independent adjudicators to make paroling determinations, however.

Section 0306(a)(1)(A) of the amendment transfers the functions of the Federal Offender Review Board, effective November 1, 1997, to 3 Federal Offender Review Commissioners. Section 0306(a)(1)(B) provides that the Federal Offender Review Commissioners are appointed by the President, with the advice and consent of the Senate, for 5 year terms. Section 0306(a)(2) authorizes the reappointment of a Federal Offender Review Commissioner, and provides that a person appointed to fill a vacancy is appointed only for the remainder of the vacant term. Section 0306(a)(3) sets the salary for the Federal Offender Review Commissioners. Section 0306(a)(4) authorizes the President to set the number of Federal Offender Review Commissioners at fewer than 3 starting with the terms beginning on November 1, 2002. If the President determines that the anticipated caseload for 3 Commissioners is unlikely to equal or exceed the per capita caseload experienced by the Federal Offender Review Commissioners during the 12 month period ending October 31 of the year in which the terms expire (2002, 2007, and so forth), the President can set the number of Federal Offender Review Commissioners at one, rather than three.

Section 0306(b) of the amendment provides that the Federal Offender Review Commissioners are "independent adjudicators within the Justice Department"[40] and that a decision by those Commissioners is, for purposes of 5 U.S.C. § 701(a)(2), an action committed to agency discretion.

Section 0306(c) of the amendment transfers to the Justice Department, effective November 1, 1997, all the liabilities, contracts, property, and records of the Federal Offender Review Board. Section 0306(c) also requires the Justice Department to provide such administrative support (including the hiring of hearing examiners) as the Federal Offender Review Commissioners require to fulfill their functions.

Section 0307

Section 0307(a) of the amendment provides that the changes made by the amendment take effect November 1, 1992, except as provided in section 0307(b) of the amendment. Section 0307(b) provides that sections 0303 and 0304 of the amendment take effect upon enactment of the legislation.

SUBTITLE D—TYPOGRAPHICAL AND OTHER SIMILAR AMENDMENTS

Section 0401

Section 401 of the amendment amends the table of chapters at the beginning of part I of title 18, United States Code, (1) to conform the entry for chapter 39 to the actual chapter heading; (2) to correct a capitalization error in the caption of chapter 114; and (3) to insert an entry for chapter 119.

Section 0402

Section 0402 of the amendment amends the table of sections at the beginning of chapter 1 of title 18, United States Code, to correct a capitalization error.

Section 0403

Section 0403 of the amendment amends the language in 18 U.S.C. § 12, which defines United States Postal Service, to eliminate the use of a personal pronoun and thereby make the statutory language clearer.

Section 0404

Section 0404 of the amendment amends the table of sections at the beginning of chapter 3 of title 18, United States Code, (1) to make the entry for section 47 conform to that section's catchline, and (2) to delete reference to sections 43 and 44, which have been repealed.

Section 0405

Section 0405 of the amendment amends 18 U.S.C. § 114 to correct a typographical error.

Section 0406

Section 0406 of the amendment amends 18 U.S.C. § 115 to correct a typographical error.

Section 0407

Section 0407 of the amendment amends the table of sections at the beginning of chapter 11 of title 18, United States Code, (1) by conforming the entry for section 203 to the catchline of that section, and (2) by conforming the entry for section 204 to the catchline of that section.

Section 0408

Section 0408 of the amendment amends 18 U.S.C. § 209(d) to correct a cross-reference.

Section 0409

Section 0409 of the amendment amends 18 U.S.C. § 219(c) to correct a typographical error.

Section 0410

Section 0410 of the amendment amends the table of sections at the beginning of chapter 23 of title 18, United States Code, by (1) deleting the entry for section 434, which has been repealed, and (2) conforming the entry for section 437 to that section's catchline.

Section 0411

Section 0411 of the amendment amends the table of sections at the beginning of chapter 25 of title 18, United States Code, by conforming the entries for sections 491, 496, and 501 to the catchline of those sections.

Section 0412

Section 0412 of the amendment amends 18 U.S.C. § 510(a) to (1) correct punctuation, and (2) correct the format of a portion of the provision in order to clarify that the penalty provision applies to the conduct described in paragraph (1) and (2) of section 510(a).

Section 0413

Section 0413 of the amendment amends 18 U.S.C. § 513(c)(3) to delete an erroneous cross-reference and correct punctuation.

Section 0414

Section 0414 of the amendment amends the table of sections at the beginning of chapter 29 of title 18, United States Code, to conform the entries for sections 603 and 607 to the catchlines of those sections.

Section 0415

Section 0415 of the amendment amends the heading of 18 U.S.C § 665 to correct the punctuation, and amends subsection (c) of that section to remove superfluous language.

Section 0416

Section 0416 of the amendment amends the heading to chapter 33 of title 18, United States Code, to correct punctuation.

Section 0417

Section 0417 of the amendment redesignates the second section 798 of title 18, United States Code, as section 798A; amends the table of sections at the beginning of chapter 37 of title 18 to reflect that change; and amends a cross-reference in 18 U.S.C. § 14 to reflect the redesignation.

Section 0418

Section 0418 of the amendment amends the table of sections at the beginning of chapter 40 of title 18, United States Code, to conform the entry for section 843 to that section's catchline.

Section 0419

Section 0419 of the amendment amends 18 U.S.C. § 842 to correct a punctuation error in subsections (d)(5) and (i)(3).

Section 0420

Section 0420 of the amendment amends 18 U.S.C. § 844 to correct a typographical error.

Section 0421

Section 0421 of the amendment amends the table of sections at the beginning of chapter 44 of title 18, United States Code, to conform the entry for section 927 to that section's catchline.

Section 0422

Section 0422 of the amendment amends 18 U.S.C. § 922(b)(1) to correct punctuation.

Section 0423

Section 0423 of the amendment amends 18 U.S.C. § 923(a)(3)(B) to correct punctuation.

Section 0424

Section 0424 of the amendment amends 18 U.S.C. § 924 by redesignating two subsections to eliminate a duplication. Section 0424 also amends section 2(f)(2)(b) of the Undetectable Firearms Act of 1988 to reflect this correction.

Section 0425

Section 0425 of the amendment amends 18 U.S.C. § 924(c)(1) to delete a redundant phrase.

Section 0426

Section 0426 of the amendment amends 18 U.S.C. § 924(a)(1) to correct punctuation.

Section 0427

Section 0427 of the amendment additionally amends 18 U.S.C. § 924 to correct grammar and punctuation in subsections (a)(2) and (e)(2).

Section 0428

Section 0428 of the amendment amends the table of sections at the beginning of chapter 45 of title 18, United States Code, to delete an entry for a repealed section.

Section 0429

Section 0429 of the amendment amends 18 U.S.C. § 981(d) to correct punctuation.

Section 0430

Section 0430 of the amendment amends the table of sections at the beginning of chapter 47 to correct punctuation.

Section 0431

Section 0431 of the amendment amends 18 U.S.C. § 1030 to correct an erroneous cross-reference.

Section 0432

Section 0432 of the amendment amends 18 U.S.C. § 1113 to correct punctuation.

Section 0433

Section 0433 of the amendment amends 18 U.S.C. § 1114 by (1) correcting a capitalization error, (2) correcting the designation of two Federal agencies, and (3) removing a reference to the now defunct Federal Savings and Loan Insurance Corporation.

Section 0434

Section 0434 of the amendment amends the table of sections at the beginning of chapter 53 of title 18, United States Code, to remove an entry for a repealed section.

Section 0435

Section 0435 of the amendment amends 18 U.S.C. § 1168(a) to clarify the language of the section.

Section 0436

Section 0436 of the amendment amends 18 U.S.C. § 1201(a)(3) to correct an erroneous cross-reference and to delete unnecessary language.

Section 0437

Section 0437 of the amendment amends the table of sections at the beginning of chapter 57 of title 18, United States Code, to remove an entry for a repealed section.

Section 0438

Section 0438 of the amendment amends the heading of 18 U.S.C. § 1262 to correct a capitalization error.

Section 0439

Section 0439 of the amendment amends the table of sections at the beginning of chapter 63 to conform the entry for section 1342 to that section's catchline.

Section 0440

Section 0440 of the amendment makes a punctuation correction in 18 U.S.C. § 1345.

Section 0441

Section 0441 of the amendment amends the table of sections at the beginning of chapter 65 to correct punctuation.

Section 0442

Section 0442 of the amendment amends 18 U.S.C. § 1365(g)(1)(A) to correct punctuation.

Section 0443

Section 0443 of the amendment amends 18 U.S.C. § 1366(c) to correct a cross-reference.

Section 0444

Section 0444 of the amendment deletes 18 U.S.C. § 1366(d), a clerical amendment which was already been executed.

Section 0445

Section 0445 of the amendment amends the table of sections at the beginning of chapter 67 of title 18, U.S.C., to delete an entry for a repealed section 1383.

Section 0446

Section 0446 of the amendment amends 18 U.S.C. § 1466 to correct two cross-references.

Section 0447

Section 0447 of the amendment amends 18 U.S.C. § 1467(h)(4) to correct a cross-reference.

Section 0448

Section 0448 of the amendment amends 18 U.S.C. § 1546(a) to clarify the language pertaining to a fine.

Section 0449

Section 0449 of the amendment amends 18 U.S.C. § 1716A(a) to insert a missing word.

Section 0450

Section 0450 of the amendment (1) corrects the heading for 18 U.S.C. § 1717, and (2) conforms the entry for section 1717 in the table of sections at the beginning of capter 83 of title 18, United States Code, to the catchline 1717.

Section 0451

Section 0451 of the amendment amends the table of sections at the beginning of chapter 84 of title 18, United States Code, to add an entry for section 1752.

Section 0452

Section 0452 of the amendment amends the table of sections at the beginning of chapter 91 of title 18, United States Code, to remove an entry for a section that has been repealed.

Section 0453

Section 0453 of the amendment amends 18 U.S.C. § 1864(d) to correct punctuation.

Section 0454

Section 0454 of the amendment amends the table of sections at the beginning of chapter 93 of title 18, United States Code, to (1) conform the entry for section 1906 to that section's catchline, and (2) remove an entry for a repealed section.

Section 0455

Section 0455 of the amemdment amends 18 U.S.C. § 1956 by correcting a cross-reference, correcting a spelling error, and making grammatical and punctuation corrections.

Section 0456

Section 0456 of the amendment amends 18 U.S.C. § 1958(b) to correct an erroneous cross-reference.

Section 0457

Section 0457 of the amendment amends the table of sections at the beginning of chapter 96 of title 18, United States Code, to conform the entry for section 1962 to that section's catchline.

Section 0458

Section 0458 of the amendment amends 18 U.S.C. § 1961(1) by (1) correcting a clerical error, and (2) removing a duplicative cross-reference.

Section 0459

Section 0459 of the amendment amends 18 U.S.C. § 1963(a) by removing a misplaced period.

Section 0460

Section 0460 of the amendment amends the heading to 18 U.S.C. § 2114 to insert a missing comma.

Section 0461

Section 0461 of the amendment amends 18 U.S.C. § 2251(a) to remove a superfluous comma from the text.

Section 0462

Section 0462 of the amendment amends 18 U.S.C. § 2253 to correct (1) a grammatical error in subsection (a), and (2) a cross-reference in subsection (k)(4).

Section 0463

Section 0463 of the amendment amends 18 U.S.C. § 2254 to (1) correct a grammatical error in subsection (a), (2) insert a missing subsection heading in subsection (e), and (3) alter two cross-references in subsection (f).

Section 0464

Section 0464 of the amendment amends the table of sections at the beginning of chapter 111 of title 18, United States Code, to conform the entry for section 2271 to that section's catchline.

Section 0465

Section 0465 of the amendment amends the heading to 18 U.S.C. § 2318 to delete a superflous comma.

Section 0466

Section 0466 of the amendment amends 18 U.S.C. § 2516 to correct two cross-references in subsection (j).

Section 0467

Section 0467 of the amendment amends the table of chapters at the beginning of part II of title 18, United States Code, to make several clerical and typographical changes in the chapter headings.

Section 0468

Section 0468 of the amendment amends 18 U.S.C. § 3013 to make a grammatical and punctuation change.

Section 0469

Section 0469 of the amendment amends the table of sections at the beginning of chapter 203 of title 18, United States Code, to delete an entry for a repealed section.

Section 0470

Section 0470 of the amendment amends 18 U.S.C. § 3058 to correct a spelling error.

Section 0471

Section 0471 of the amendment amends 18 U.S.C. § 3077 to make several punctuation corrections.

Section 0472

Section 0472 of the amendment amends the table of sections at the beginning of chapter 205 of title 18, United States Code, renumber one of two sections that have the same number.

Section 0473

Section 0473 of the amendment redesignates 18 U.S.C. § 3117 as section 3118 to eliminate a duplication in section numbering.

Section 0474

Section 0474 of the amendment amends 18 U.S.C. § 3124(b) to correct a cross-reference.

Section 0475

Section 0475 of the amendment amends 18 U.S.C. § 3125 by (1) making grammatical and punctuation changes, and (2) correcting the format to make clear that the taking of certain actions under subsection (a) can occur only if the conditions of paragraphs (1) and (2) of that subsection are met.

Section 0476

Section 0476 of the amendment reenacts language in 18 U.S.C. § 3154(1) to clarify the intent of Congress.[41]

Section 0477

Section 0477 of the amendment amends 18 U.S.C. § 3165(e)(2) to correct punctuation.

Section 0478

Section 0478 of the amendment amends 18 U.S.C. § 3166(b)(8) to correct a spelling error.

Section 0479

Section 0479 of the amendment amends 18 U.S.C. § 3170 (a) and (b) to make a conforming change in a cross-reference.

Section 0480

Section 0480 of the amendment amends 18 U.S.C. § 3289 to insert a missing comma.

Section 0481

Section 0481 of the amendment amends the table of sections at the beginning of chapter 224 of title 18, United States Code, to conform the entry for section 3526 to that section's catchline.

Section 0482

Section 0482 of the amendment amends 18 U.S.C. § 3521 to insert a missing cross-reference and to make grammatical changes.

Section 0483

Section 0483 of the amendment amends 18 U.S.C. § 3562 to provide a full identification of a referenced rule.

Section 0484

Section 0484 of the amendment amends 18 U.S.C. § 3563 by making grammatical and punctuation changes.

Section 0485

Section 0485 of the amendment amends 18 U.S.C. 3565(a)(1) to correct a grammatical error.

Section 0486

Section 0486 of the amendment amends the table of sections for subchapter C of chapter 227 of title 18, United States Code, by conforming the entries for sections 3572 and 3573 to the catchlines of those sections.

Section 0487

Section 0487 of the amendment amends 18 U.S.C. § 3527(c)(2) to provide a full identification of a referenced rule.

Section 0488

Section 0488 of the amendment amends 18 U.S.C. § 3582(b)(2) to provide a full identification of a referenced rule.

Section 0489

Section 0489 of the amendment amends 18 U.S.C. § 3583 to make grammatical and punctuation changes, and to correct the misdesignation of a paragraph.

Section 0490

Section 0490 of the amendment amends the table of sections for subchapter A of chapter 229 of title 18, United States Code, to conform the entry for section 3607 to that section's catchline.

Section 0491

Section 0491 of the amendment amends 18 U.S.C. 3611 to correct a cross-reference.

Section 0492

Section 0492 of the amendment amends 18 U.S.C. § 3612 to correct several cross-references.

Section 0493

Section 0493 of the amendment amends 18 U.S.C. § 3613(c) to correct punctuation.

Section 0494

Section 0494 of the amendment amends the table of sections at the beginning of chapter 232 of title 18, United States Code, to conform the entry for section 3669 to that section's catchline.

Section 0495

Section 0495 of the amendment amends 18 U.S.C. § 3663(f)(4) to correct a cross-reference.

Section 0496

Section 0496 of the amendment amends 18 U.S.C. § 3664(a) to correct a cross-reference.

Section 0497

Section 0497 of the amendment amends the table of chapters at the beginning of part III of title 18, United States Code, to add entries for two chapters that were enacted without making a conforming amendment to the table of chapter.

Section 0498

Section 0498 of the amendment amends 18 U.S.C. § 4109(a) to correct cross-reference mistakes.

Section 0498A

Section 0498A of the amendment amends 18 U.S.C. § 4013 to remove a subsection designation because that section is not broken down into subsections.

Section 0498B

Section 0498B of the amendment amends the table of sections at the beginning of chapter 307 of title 18, United States Code, to correct capitalization in order to conform the entry for section 4126 to that section's catchline.

Section 0498C

Section 0498C of the amendment amends the heading to 18 U.S.C. § 4106A to insert a missing word.

Section 0498D

Section 0498D of the amendment amends 18 U.S.C. § 4106A(b)(1)(C) to correct punctuation.

Section 0498E

Section 0498E of the amendment amends 18 U.S.C. § 4246(g) to correct a cross-reference.

Section 0498F

Section 0498F of the amendment amends 18 U.S.C § 4285 to correct a spelling error.

Section 0498G

Section 0498G of the amendment amends 18 U.S.C. § 4352(c) to insert a missing word.

Section 0498H

Section 0498H of the amendment amends 18 U.S.C. § 5032 to correct a cross-reference.

Section 0498I

Section 0498I of the amendment amends the table of sections at the beginning of chapter 403 of title 18, United States Code, to correct capitalization in order to conform the entry for section 5042 to that section's catchline

Section 0498J

Section 0498J of the amendment amends section 102(32)(A) of the Controlled Substances Act (21 U.S.C. § 802(32)(A)) to correct a spelling error.

Section 0498K

Section 0498K of the amendment amends section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. § 960(b)(2)) to correct a spelling error.

Section 0498L

Section 0498L of the amendment amends sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. § 841(b)(1)(A)(ii)(IV) and § 841(b)(1)(B)(ii)(IV) to correct a typographical error.

Section 0498M

Section 0498M of the amendment amends sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (21 U.S.C. §§ 845(b), 845a(b), and 845b(c)) to correct a grammatical error.

Section 0498N

Section 0498N of the amendment amends section 510(b)(3) of the Controlled Substances Act (21 U.S.C. § 880(b)(3)) to correct a cross-reference.

FOOTNOTES

[1] 18 U.S.C. § 3563(a)(3), which was added by the Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, § 7303(a)(1), 102 Stat. 4464, makes a mandatory condition of probation that the probationer "not possess illegal controlled substances".

[2] *See* 18 U.S.C. §§ 3551, 3561. *See also* S. Rep. No. 225, 98th Cong., 1st Sess. 59, 88-90 (1983).

[3] This could be accomplished, for example, by adding a new condition of probation. If the original sentence of probation involved incarceration—for example, weekend confinement for 10 weekends—the court could increase the number of weekends.

[4] 18 U.S.C. §§ 13 and 1153 respectively.

[5] *See* United States v. Norquay, 708 F.Supp. 1064 (D. Minn. 1989) (18 U.S.C. § 13, *rev'd* 905 F.2d 1157 (8th Cir. 1990); United States v. Richards, 1 Fed. Sent. R. 303 (Mag. D. Kan 1988) (18 U.S.C. § 1153). The *Richards* case was overruled by United States v. Garcia, 893 F.2d. 250 (10th Cir. 1989).

[6] United States v. Norquay, 905 F.2d 1157 (8th Cir. 1990); United States v. Leake, 908 F.2d 550 (9th Cir. 1990); United States v. Garcia, 893 F.2d. 250 (10th Cir. 1989).

[7] *See* S. Rep. No. 225, 98th Cong., 1st Sess. 660-67 (1983).

[8] *See* S. Rep. No. 225, 98th Cong., 1st Sess. 89 (1983).

[9] *See* 18 U.S.C. § 3583(b)(3).

[10] Pub. L. No. 649, § 2(a), 102 Stat. 3816-17.

[11] United States v. Riccardelli, 794 F.2d 829 (2d Cir. 1986).

[12] United States v. Barry, 888 F.2d 1092 (6th Cir. 1989).

[13] *See, e.g.*, United States v. Steele, 685 F.2d 793, 804-05 (3d Cir.), *cert. denied*, 459 U.S. 908 (1982) (treating Puerto Rico as if a State).

[14] *See, e.g.*, United States v. Bordallo, 857 F.2d 519, 523-24 (9th Cir. 1988) (holding that Guam is not a "State").

[15] *See* United States v. Bordallo, 857 F.2d 519 (9th Cir. 1988).

[16] *See* S. Rep. No. 225, 98th Cong., 1st Sess. 369-70 (1983).

[17] *See* Pub. L. No. 99-646, § 59(a), 100 Stat. 3612 (1986).

[18] Pub. L. No. 94-241, 90 Stat. 263 (976).

[19] *But see* Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America § 502(a), 90 Stat. 268 (1976) (set out as a note to 48 U.S.C. § 1681).

[20] *See* United States v. Steele, 685 F.2d 793, 804-05 (3d Cir.), *cert. denied*, 459 U.S. 908 (1982) (Puerto Rico); United States v. Taitano, 442 F.2d 467 (9th Cir.), *cert. denied*, 404 U.S. 852 (1971)(Guam).

[21] Schact v. United States, 398 U.S. 58 (1970).

[22] Hiett v. United States, 415 F.2d 664 (5th Cir. 1969), *cert. denied*, 397 U.S. 936 (1970).

[23] Tollett v. United States, 485 F.2d 1087 (8th Cir. 1973); United States v. Handler, 383 F. Supp. 1287 (D. Md. 1974).

[24] *See* Title II of H.R. 5269.

[25] *See generally* H.R. Rep. No. 594, 99th Cong., 2d Sess. 17 (1986).

[26] Pub. L. No. 101-73, § 204(b), 103 Stat. 1900-91.

[27] *See* Victims of Crime Act of 1984, Pub. L. No. 98-473, § 1403(b), 98 Stat. 2172.

[28] Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, § 7125 (a), (c), (d), 102 Stat. 4422-23.

[29] *See Id.* at § 7129, 102 Stat. 4423.

[30] Sentencing Reform Act of 1984, Pub. L. No. 98-473, § 235, 98 Stat. 2031.

[31] *Id.* at § 235(b)(1), 98 Stat. 2032.

[32] *Id.* at § 235(b)(3), 98 Stat. 2032.

[33] *Id.* at § 235(a)(1), 98 Stat. 2031.

[34] The phrase "as an independent agency in the Department of Justice" is carried forward from 18 U.S.C. § 4202, which was enacted by the Parole Commission and Reorganization Act. *See* H.R. Rep. No. 838, 94th Cong., 2d Sess. 21 (1976) ("It is the intent of the Conferees that parole decisionmaking be independent of, and not governed by, the investigative and prosecutorial functions of the Department of Justice").

[35] New section 4221 gives the Board powers, duties, and jurisdiction vested in the Parole Commission by laws repealed effective November 1, 1987, but kept in effect until November 1, 1992, by § 235(b)(1) of the Comprehensive Crime Control Act of 1984, 98 Stat. 2032, and by laws saved by § 235(a)(1) of the Comprehensive Crime Control Act of 1984, 98 Stat. 2031, and 1 U.S.C. § 109.

[36] The Parole Commission has the authority to reduce the number of regions under 18 U.S.C. § 4203(a)(2) (the Parole Commission can "create such regions as are necessary to carry out the provisios of this [parole] chapter").

[37] *See* note 36 *supra*.

[38] Pub. L. No. 98-473, 98 Stat. 2032.

[39] Pub. L. No. 98-473, 98 Stat. 2032.

[40] *See* note 36 *supra*.

[41] The Sentencing Reform Act of 1984, Pub. L. No. 98-473, § 203(b)(1), 98 Stat. 1984-85, sought to amend 18 U.S.C. § 3154(1) by deleting specified language and adding new language. The language specified, however, was not in the section, and the law revision counsel executed the amendment in section 203(b) of the Sentencing Reform Act to reflect the probable intention of Congress. *See* 18 U.S.C. § 3154, note on 1984 Amendment. Section 0476 ratifies the manner in which the law revision counsel executed the amendment in section 203(b) of the Sentencing Reform Act.

Mr. GOSS. Mr. Chairman, I rise in support of the Foreign Affairs Committee amendment to the crime bill on the Andean initiative. This bipartisan compromise is the result of the hard work and good faith of my colleagues, especially Chairman FASCELL and Mr. SMITH of Florida on the Democratic side and Mr. BROOMFIELD and Mr. GILMAN on the Republican side.

The Andean initiative is a vital piece of legislation that ensures a comprehensive approach to the President's war on drugs. Bill Bennett, the Director of the Office of National Drug Control Policy said in a letter to the committee:

The Andean initiative, the centerpiece of the President's international cocaine control strategy, is a five year program of comprehensive law enforcement, security, and economic assistance for the three source countries of Colombia, Bolivia, and Peru. When President Bush met with his Andean counterparts in Cartegena, Colombia, in February 1990, the summit four created an unprecedented alliance, subscribing to a common approach to counternarcotics policy in the region.

Mr. Chairman, the President's Andean initiative has achieved a number of important successes in its first full year, most notably record low prices at the farm gate in parts of Bolivia and Peru, the destruction of labs in Colombia and the extradition of 15 Colombian drug traffickers, the death of Colombia drug lord Rodriguez Gacha, seizure of over 200 metric tons of cocaine in 1989, and numerous smaller interdiction efforts.

I would have preferred that the amendment included the full $135 million authorization requested by the administration. However the compromise is a major improvement over the original language considered by the House Foreign Affairs Committee. In my opinion this amendment will provide the administration with the flexibility to continue the program without the onerous restrictions originally pro-

posed by some Members of the other side of the aisle. Among the worst of their proposals were caps on military assistance, police training funds so low as to endanger the program and human rights standards more stringent than exists in any legislation regarding any United States foreign assistance including El Salvador.

This compromise maintains human rights standards comparable to existing law and allows the administration the flexibility to shift funds within several military assistance accounts to meet the need of this important program.

The President's Andean initiative is working. Approval of the Fascell amendment will continue the program in the next fiscal year. While I would prefer that the foreign military funding authorization were significantly higher, this amendment—hammered out in the spirit of compromise—will allow this vitally important program of eradicating drugs at the source to continue.

Mr. FASCELL. Mr. Chairman, the amendment we are offering today is the result of a bipartisan compromise on international narcotics control assistance for fiscal year 1991. A great deal of work has gone into this compromise. In particular, I would like to commend our ranking minority member, BILL BROOMFIELD; LARRY SMITH, the chairman of the Committee's Task Force on International Narcotics Control, and his minority counterpart BEN GILMAN; PETER KOSTMAYER, from the Subcommittee on Western Hemisphere Affairs; and chairman and ranking minority member of the Human Rights Subcommittee, for their tireless efforts to put together this language. None of us is completely satisfied with the language as it stands, but in an effort to move this process forward we have all had to make some sacrifices. I have no doubt that further changes will be made as we move through the legislative process.

The Committee on Foreign Affairs ordered reported a predecessor bill, H.R. 5567, on September 11 of this year. In that bill, we attempted to put a ceiling on overall military assistance to the Andean countries. I would still prefer that formulation. However, for the time being we have agreed instead to reduce the authorization for the foreign military financing account for the Andean countries, and allow military assistance to flow through other existing authorities as well. I would like to make it clear at this point that we have reduced this one military assistance account primarily for management reasons, and not because we oppose military assistance to the Andes. The fact is, the money we approved for fiscal year 1990 has still not been spent even though the fiscal year is virtually over. We are not attaching blame to anyone over the amount of time it has taken to deliver the fiscal year 1990 assistance, but the fact that this assistance is so late has led the committee to proceed with caution in providing additional assistance in the coming year. The mechanisms for assuring that the large amount of assistance, that is, the $125 million in fiscal year 1990 funds and the original executive branch request of $137 million, are being effectively managed and utilized are not yet in place. In addition, there are serious doubts as to whether or not the countries receiving this assistance, which have not had security assistance relationships with the United States for some 20 years, have the capacity to absorb the amount of equipment that the administration had originally proposed or, in some cases, the political will to use it for counternarcotics efforts. So, in response to these concerns, the committee has limited the amount of FMF for practical, rather than policy reasons.

On the economic side, the committee amendment increases the authorization for economic support fund and development assistance by $125 million over the executive branch request of $175 million. During consideration of international narcotics control legislation last year, the committee reluctantly deferred to the administration's request to postpone the provision of economic assistance to the Andean countries until 1991. However, in postponing an economic component to our Andean strategy until this year, we may have lost a valuable window of opportunity in the effort to move people out of coca production. A combination of factors, primarily the crackdown by the Government of Colombia on trafficking organizations in that country, led to the sustained depression of coca leaf prices in Bolivia, and to a lesser extent in Peru. Unfortunately, because the administration chose to wait on an authorization for economic assistance, we had no means by which to offer the campesinos an alternative to coca production at a time when such assistance could have had a dramatic impact. Hopefully, we have addressed that problem to some degree with the increased authorization contained in this amendment.

It should be noted, that due to the concerns expressed by many members of the committee, and the Congress as a whole, the provision of both the military assistance and the economic assistance to the Andean countries is conditioned on narcotics control performance and respect for internationally recognized human rights. Again, since the human rights conditions originally contained in H.R. 5567 were for some reason objectionable to the executive branch, the minority and the majority members of the committee have reached an agreement on modified language which is now contained in the amendment before the House. We believe that this language is reasonable, and, while it may not be exactly what some Member would have like to have seen, it satisfies the interests and concerns of both parties. I would also point out that all of the assistance authorized for the Andean countries in this amendment is subject to the regular congressional notification process.

The amendment also contains provisions designed to enhance the effectiveness of our narcotics control programs overseas, including some limited waivers of existing law, a training program for host country pilots, and a review of riverine interdiction programs. I believe that these provisions will significantly enhance our efforts overseas, as well as providing effective oversight and management control on our extensive counternarcotics programs in the Andes.

On a related issue, I have received several inquiries from members of the committee, particularly Mr. BROOMFIELD, regarding a provision in the original executive branch request that we did not include in the committee amendment. That provision would have revised section 482(B) of the Foreign Assistance Act to allow defensive arming of aircraft and personnel from narcotics funding. The question arose during consideration of this provison whether or not the administration has the authority under current law to procure arms and ammunition for the defensive arming of aircraft and personnel engaged in counternarcotics missions.

This is a difficult issue because we all share the goal of ensuring the safety of American personnel involved in counternarcotics operations, yet there is an appropriate concern about allowing the Department of State to provide weapons and ammunition through the Bureau of International Narcotics Matters. It is my understanding that the administration has been procuring weapons and ammunition strictly for defensive arming purposes under other authorities. I believe these actions are not in violation of the section 482(b) prohibition as long as they do not involve the expenditure of funds authorized under chapter 8 of part I of the Foreign Assistance Act.

Finally, I would like to note that the Committee on Foreign Affairs has been actively involved in the planning and implementation of counter narcotics efforts overseas for more than a decade. We have actively encouraged, indeed pushed, successive administrations to bring the expertise of all U.S. Government agencies into this effort. It was this effort to pull together the vast resources of the Federal Government that was the genesis of the Andean strategy. I point this out not to pat ourselves on the back, but to illustrate, the committee's, and indeed the Congress', longstanding support for these programs.

However, this support cannot be blind. The Andean strategy represents a calculated risk on the part of the United States involving large sums of money, and a potentially high threat to the lives of the personnel involved, not to mention reliance on partners whose priorities may differ from ours. We must therefore not accede to every program requested under the rubric of drug war rhetoric without a cautious examination of the risks and benefits involved. And that type of examination is what I believe we have accomplished with this legislation.

In closing, I would like to include in the RECORD a detailed summary of the committee's action on this legislation and an explanation of the provisions contained in the committee amendment:

COMMITTEE ACTION AND BACKGROUND

On May 22, 1990, the Director of the Office of National Drug Control Policy submitted proposed legislation to implement the National Drug Control Strategy (Executive Communication 3226) which contained requests for authorities and funding pertaining to international narcotics control activities. On June 14, Hon. Robert H. Michel introduced H.R. 5055, which contains the executive branch request for international narcotics control programs.

On September 11, the committee met in open markup session to consider draft legislation which incorporates, in whole or in part, the executive branch legislative request. The committee approved draft legislation the same day by voice vote, a quorum

being present. On the same day, H.R. 5567 was introduced by Hon. Dante B. Fascell, chairman, with 20 cosponsors. Subsequently, changes to H.R. 5567 were agreed to in order to facilitate bringing the measure to the Floor as an amendment to the Comprehensive Crime Control Act of 1990. In addition to the committee markup of this legislation, the following hearings were held during 1990 which contributed to the formulation of this legislation:

February 20 and 28: Review of the Department of State Inspector General's Reports on Bureau of International Narcotics Matters Programs (Task Force on International Narcotics Control);

February 27: Review of the International Aspects of the President's 1990 Drug Control Strategy (Full Committee);

March 1: Overview of the 1990 International Narcotics Control Strategy Report and the 1990 Presidential Certifications on Narcotics Control Cooperation (Task Force on International Narcotics Control);

March 6: Review of the 1990 International Narcotics Control Strategy Report: South America (Task Force on International Narcotics Control);

March 8: Review of the 1990 International Narcotics Control Strategy Report: Central America and the Caribbean (Task Force on International Narcotics Control);

March 13: Review of the 1990 International Narcotics Control Strategy Report: Southeast Asia (Task Force on International Narcotics Control);

March 15: Review of the 1990 International Narcotics Control Strategy Report: Southwest Asia, Europe, and Africa Task Force on International Narcotics Control);

April 3: Overview of the Agency for International Development's Economic Assistance Strategy for the Andes and Other Programs (Task Force on International Narcotics Control);

May 23: Operation Snowcap: Past, Present, and Future (Task Force on International Narcotics Control); and

June 6 and 20: The Andean Initiative (Subcommittee on Western Hemisphere Affairs).

In addition to the above, the committee has conducted numerous closed briefings with members of the Administration on the implementation of the Andean Initiative, as well as informal meetings with U.S. Government officials, foreign officials, and other interested non-governmental organizations and persons on counternarcotics issues.

This measure contains three major themes. First, the legislation responds to requests from the executive branch to implement the 1990 strategy submitted by the Director of the Office of National Drug Control Policy. Second, it codifies the stated objectives of that strategy. These include the concept that counternarcotics efforts in the Andean countries are primarily the responsibility of host country law enforcement agencies, with the support of host country militaries, and that economic and military assistance provided by the United States will be conditioned on narcotics control performance criteria as well as respect for human rights concerns. Finally, the legislation contains certain provisions responding to problems identified in extensive oversight activities by the committee.

Prominent among the provisions contained in this legislation are increased economic assistance to the Andean countries, and a carefully defined role for U.S. support to host country military and law enforcement agencies. Regarding economic assistance, the committee notes that the United States has been unable to build on some initial successes during 1990 which were primarily a result of vigorous enforcement efforts against narcotics trafficking by the Government of Colombia. The courageous actions of the Colombian Government, coupled with a reinvigorated eradication progam in Bolivia, seem to be responsible for having driven the price of coca leaf below the cost of production for a sustained period of time, thus encouraging coca farmers to seek alternative forms of support. The committee predicted this development in its report on the International Narcotics Control Act of 1989; however, due to the opposition of the executive branch, no increased economic assistance was available in fiscal year 1990 to respond to this development and thus no programs were available to offer to such farmers. For fiscal year 1991, the executive branch has requested $175 million in economic assistance for Bolivia, Colombia, and Peru. The committee believes that this amount is insufficient to provide a credible incentive for governments to sustain an attack against an industry which by conservative estimates generates several billion dollars for local economies, and which employs hundreds of thousands of people. While the financial burden for supporting such programs should not fall entirely on the United States, the United States should contribute a sufficient amount to provide an adequate incentive for governments to take unpopular law enforcement steps which are necessary to curb coca production and trafficking. The committee has therefore authorized $300 million to be used for both balance-of-payments support and alternative development programs, conditioned on those governments meeting narcotics control performance targets agreed to by both parties and on respect for basic human rights. In order to better monitor this assistance, the committee has required that the Congress be notified in advance of the provision of such assistance, and that such assistance be coordinate with regular international narcotics control programs. These conditions do not apply to non-narcotics related economic assistance, estimated for fiscal year 1991 at $135 million.

Regarding support to host country armed forces and law enforcement agencies, the committee originally set a ceiling of $200 million on the total amount of such funding, of which up to $100 million would be provided to armed forces and up to $100 million would be provided to police forces. In addition, the committee provided the President with the authority to reprogram an additional 10% in funds for these two groups, and to choose under which of numerous statutory authorities assistance may be provided. However, due to the executive branch's opposition to any military assistance ceiling, the committee subsequently agreed to delete the aggregate ceiling and instead reduced the Foreign Military Financing (FMF) assistance to $67.5 million and established a ceiling of $67.5 million on assistance to the police.

The committee has taken this action for a number of reasons. First, there are currently five different authorities under which narcotics-related military assistance may be provided. Three of the five authorities were enacted at a time when no regular military assistance funding was available to the Andean countries; such regular funding has now been provided. The committee understands the special utility each of these authorities has and is therefore maintaining all of those authorities in law. However, the committee believes it is essential for purposes of planning and oversight that the combined spending permitted from these accounts not exceed reasonable levels. The reduction in the FMF authorization serves the purpose of limiting the overall availability of military assistance funds.

Second, due to a variety of delays, none of the $125 million in regular military assistance provided for fiscal year 1990 has yet been delivered. The committee therefore has no basis for judging the utility or impact of military assistance on narcotics control programs. Further, the delay in fiscal year 1990 assistance deliveries will result in two fiscal years of military aid being delivered in the space of one year. The committee does not believe that host countries can effectively absorb, nor the United States effectively manage, the $125 million for fiscal year 1990 and the potential $242 million or more requested or available for fiscal year 1991. This is of particular concern because the United States has not had sizable security assistance relationships with these countries for two decades, and appropriate personnel and management and oversight mechanisms are not yet in place. This problem was apparent during the provision of $65 million in emergency assistance to Colombia in August 1989.

Third, it is unclear at this time as to whether newly-installed Peruvian President Fujimori will accept the military assistance proposed for his country for fiscal year 1990 ($40 million), and whether the Bolivian Army will participate in narcotics control efforts ($10 million).

Finally, the committee notes that the Andean strategy is based on the premise that narcotics control efforts are primarily a law enforcement responsibility, with host country armed forces playing a supportive role. Yet current and proposed funding levels for the two groups have been in inverse proportion to this stated premise, with the armed forces receiving more than twice as much funding as law enforcement agencies. This legislation attempts to address this discrepancy by providing equivalent funding levels for both groups.

SECTION-BY-SECTION ANALYSIS

Section 2301—Short title and table of contents

Section 2301 establishes a short title of the International Narcotics Control Act of 1990 and sets forth a table of contents of this title.

Section 2302—Economic assistance for Andean countries

Section 2302 authorizes the appropriation of $300 million in addition to amounts otherwise authorized for economic support fund assistance and development assistance for the Andean countries for fiscal year 1991. Of that amount, $16 million is authorized to be appropriated in addition to amounts otherwise authorized for the administration of justice program for use in Bolivia, Peru, and Colombia. The additional authorization for the administration of justice program may be used to provide protection against narco-terrorist attack on judges or other government officials. In addition, section 2302 expresses the sense of Congress that up to $2 million of the additional funds authorized for the administration of justice program should be used to provide training and equipment to Colombia's Office of Special Investigations and the Special Prosecutor for Human Rights.

The committee intends that, to the maximum extent possible, economic assistance for Peru and Bolivia be used to provide alternative development programs that will directly benefit small farmers, micro-enterprises and others who in the absence of such assistance would most likely turn to the production of illicit narcotics. Of particular importance are programs that provide legal access to land, credit, and appropriate technology and infrastructure development, as well as programs that promote the production, processing, and marketing of alternative products. The committee notes its concern that the Agency for International Development (AID) has apparently failed thus far to adequately develop any such alternative development programs for these countries, and urges AID to expeditiously design and implement such programs if the conditions outlined in section 2304 are met. Finally, it is the committee's intention that for the purposes of this legislation the term "Andean countries" include Ecuador.

Section 2303—Military and law enforcement assistance for Andean countries

Section 2303 authorizes the appropriation of funds for military and law enforcement assistance for the Andean countries, establishes the purposes of such assistance, and places certain conditions and limitations on the uses of such assistance.

Section 2303(a) authorizes the appropriation of $67.5 million, in addition to amounts otherwise authorized for fiscal year 1991 for assistance for the Andean countries, under the Foreign Military Financing Program under section 23 of the Arms Export Control Act.

Section 2303(b) specifies that assistance provided by this section shall be designed to enhance the ability of the recipient government to control illicit narcotics production and trafficking, strengthen the bilateral ties of the United States and the recipient country, strengthen respect for internationally recognized human rights, and assist the armed forces of the Andean countries in their support roles for those countries' law enforcement agencies.

Section 2303(c) provides that assistance may be provided under this section for an Andean country only so long as the country has a democratic government and the armed forces and law enforcement agencies of that country do not engage in a consistent pattern of gross violations in internationally recognized human rights.

Section 2303(d) provides that funds made available by this section may be used notwithstanding section 660 of the Foreign Assistance Act, to provide education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts to law enforcement units specifically organized for narcotics enforcement. Section 2303(d) also provides that such funds may be used for the expenses of deploying, upon the request of the Govenments of Peru, Bolivia, or Colombia, Department of Defense mobile training teams (MTTs) to conduct training that will enhance that country's ability to conduct operations in narcotics interdiction and for the procurement of defense articles or commodities for use in narcotics control, eradication, or interdiction efforts by law enforcement agencies specifically organized for narcotics enforcement.

Section 2303(e) establishes a ceiling of $67.5 million in FMF and funds authorized under chapter 8 of part I of the Foreign Assistance Act (relating to international narcotics control assistance) on assistance that may be provided to law enforcement agencies in Peru, Bolivia, and Colombia for fiscal year 1991. Section 2303(f) establishes an aggregate ceiling of $60 million in acquisition costs for the amount of excess defense articles that may be provided for Peru, Bolivia, and Colombia for fiscal year 1991 and waives the existing ceiling contained in section 517(e) of the Foreign Assistance Act on the provision of excess defense articles to an individual country for those countries. In addition, section 2303(f) exempts excess defense articles provided to Peru, Bolivia, and Colombia from counting against the worldwide ceiling contained in section 31(d) of the Arms Export Control Act.

Section 2303(g) clarifies the authority of the Department of Defense to finance the leasing of aircraft for the purpose of satisfying the requirement of section 484 of the Foreign Assistance Act, which requires that aircraft provided to a foreign country for counternarcotics purposes be leased rather than sold (For a detailed history of this provision, see pages H2103 to H2108 of the Congressional Record of May 8, 1990).

Section 2304—General provisions relating to assistance for Andean countries

Section 2304(a) requires that before assistance is provided to Bolivia, Peru, or Colombia in fiscal year 1991 pursuant to this legislation the President make a determination that (1) that country is implementing programs to reduce the flow of cocaine to the United States in accordance with a bilateral or multilateral agreement that contains specific qualitative and quantitative performance criteria and, (2) that the armed forces and law enforcement agencies of that country are not engaged in a consistent pattern of gross violations of and has made significant progress in protecting certain internationally recognized human rights. In order to accommodate concerns of the executive branch, the committee did not statutorily require that the determination contained in this section be written. However, the committee expects that the executive branch will communicate to the Congress, in an appropriate form, the basis on which the Presidential determination established in this section was made.

Section 2304(b) provides that not less than 15 days before funds are obligated the President shall notify Congress pursuant to the reprogramming procedures applicable under section 634A of the Foreign Assistance Act. Such notification shall specify the country to which assistance is to be provided, the type and value of all assistance to be provided, in the case of assistance provided pursuant to section 2303(a) the law enforcement agencies or other units that will receive such assistance, and an explanation of how the proposed assistance will achieve the purposes specified in this legislation.

Section 2304(c) specifies that assistance provided under sections 2302(a) and 2303(a) shall be coordinated with international narcotics control assistance provided under chapter 8 of the Foreign Assistance Act.

Section 2304(d) waives the prohibitions on assistance contained in section 620(q) of the Foreign Assistance Act (relating to failure to repay on a timely basis past U.S. government loans) for fiscal year 1991, and a similar prohibition contained in the annual Foreign Operations Appropriations Act, with respect to narcotics-related assistance provided to an Andean country provided the President has made the determination contained in section 2304(a).

Section 2304(e) allows the President to waive the 50 percent withholding requirement contained in section 481(h)(1)(A) of the Foreign Assistance Act for Bolivia, Peru, and Colombia provided that the President determines that its application is contrary to the national interest, and if he notifies Congress pursuant to the reprogramming procedures applicable under section 634A of the Foreign Assistance Act.

Section 2305—Narcotics control assistance

Section 2305 authorizes to be appropriated $150 million for fiscal year 1991 for narcotics control assistance provided under chapter 8 of part I of the Foreign Assistance Act.

Section 2306—Assistance for agricultural and industrial alternatives to narcotics production

Section 2306 allows the President to provide economic support fund assistance or development assistance to promote the production, processing, or marketing of products or commodities for the purpose of reducing dependence upon the production of crops from which narcotic or pyschotropic drugs are derived, notwithstanding any other provision of law that would otherwise prohibit such assistance.

Section 2307—Exceptions to requirement that aircraft provided to foreign countries for narcotics control purposes be leased rather than sold

Section 2307 exempts seized aircraft provided by the U.S. to a foreign government and aircraft purchased by a foreign government with Export-Import Bank financing from the requirement contained in section 484 of the Foreign Assistance Act that the U.S. retain title to all antinarcotics aircraft provided to a foreign government.

Section 2308—Number of members of United States Armed Forces in Andean countries

Section 2308 requires the President to submit to Congress a monthly report on the number of U.S. military personnel assigned, detailed to, or otherwise performing functions in each Andean country during that month. Section 2308 also amends section 517(c) of the Foreign Assistance Act to establish a new ceiling of 12 on the number of U.S. military personnel who may be assigned to carry out international security assistance programs in Bolivia, Colombia, and Peru if the current statutory limit of six military personnel is waived either by the Congress or the President. The President may waive this new ceiling if he determines and reports to Congress 30 days prior to the assignment of any additional personnel that it is in the national interest of the United States to do so.

The correspondence between the committee and the executive branch on this issue follows:

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 31, 1990.

Hon. RICHARD CHENEY,
Secretary of Defense,
Washington, DC.

DEAR MR. SECRETARY: The Committee on Foreign Affairs has supported, and continues to support an appropriate role for the Department of Defense in counternarcotics efforts overseas. DOD has already made important contributions to those efforts in the Andean countries. However, to allay growing concerns about the scale of U.S. military involvement, we believe steps should be taken now to set levels of military personnel

in these countries which the Congress and the American people can support over the long-term. The best way to do this is for the executive branch to voluntarily set a limit on the number of military personnel who might be deployed in the Andean countries.

If a voluntary limit on military participation in Latin America is not established, congressional and public fears of an unchecked escalation of military involvement will make it difficult to concentrate attention and reach agreement on the more important issues in the national counternarcotics effort. Ever effort must be made to ensure that overseas counternarcotics efforts will neither be perceived to be nor become dominated by the U.S. military. As we have all learned, it is vitally important that host countries realize that the success of this initiative depends on their activities, not ours. It is equally important that we continue to support their efforts with funds and material assistance.

To ensure that counternarcotics efforts be seen by all as a joint executive-legislative effort, we stand ready to work with you in a bipartisan manner to arrive at a policy that will give the executive branch the ability to accomplish our goals and objectives, while dispelling fears over excessive U.S. military involvement.

If we cannot reach some agreement on this important issue, it is very probable that the Congress will, in due time, see fit to impose such a limit on military personnel in the Andean countries. Such a divisive and unproductive debate could be avoided if you act now to establish voluntary limits.

A duplicate letter has been sent to the Secretary of State. Because the Committee anticipates Floor action on narcotics control legislation the week of September 10, 1990, we would request that a response be provided to us by September 1. Thank you for your cooperation and assistance in this matter.

With best wishes, we are

Sincerely yours,

WILLIAM S. BROOMFIELD,
Ranking Minority Member.
DANTE B. FASCELL,
Chairman.

U.S. DEPARTMENT OF STATE,
Washington, DC, August 22, 1990.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Secretaries Baker and Cheney has asked us to reply on their behalf to the separate letters they received last month from you outlining your concerns over the levels of U.S. military personnel to be employed in our nation's counternarcotics efforts in the Andean region.

We with to note that the Departments of State and Defense share your desire to dispel congressional and public fears of excessive U.S. military involvement in joint counter-narcotics efforts in the Andes. We understand the sensitivities in our country as well as in the rest of the hemisphere to U.S. military involvement in Latin America. We are making every effort to minimize our military presence in the region while providing adequate support to host country-narcotics efforts. The Administration's policy continues to be that no U.S. military personnel will enter any of the Andean countries to work in the counter-narcotics field without the express authorization of the U.S. Ambassador accredited to that country. The Administration has been opposed heretofore to artificially-imposed ceilings on U.S. military participation in Andean counter-narcotics activities, considering them to be a hindrance to the achievement of our nation's goal in this area.

Presently, we have monitoring mechanisms in place to assure that our counternarcotics efforts represent a balanced program. The Andean Initiative is a comprehensive plan to achieve that balance. Your letter, however, has prompted us to re-examine our personnel situation and we will share our findings with you as soon as they become available.

Let me assure you that the Administration shares your interest in avoiding lengthy and counterproductive debate on the implementation of the President's National Drug Control Strategy. Any delay in implementing this much needed legislation could lead our allies in the struggle against illicit narcotics to question our nation's sincerity and resolve in doing its part to carry out this vitally important joint endeavor.

Sincerely,

DAVID J. GRIBBIN III,
Assistant Secretary, Legislative Affairs, Department of Defense.
JANET G. MULLINS,
Assistant Secretary, Legislative Affairs, Department of State.

Section 2309—Nonapplicability of certification procedures to certain major drug-transit countries

Section 2309 extends the provisions of section 8 of the International Narcotics Control Act of 1989 to fiscal year 1991.

Section 2310—Authority to transfer military assistance funds to economic programs

Section 2310 allows the President to transfer funds authorized for military assistance programs under section 23 of the Arms Export Control Act to economic programs. This provision is designed to correct an inadvertent elimination of this authority which occurred when the grant military assistance programs authorized under the Foreign Assistance Act were consolidated with the credit military assistance programs authorized under the Arms Export Control Act.

Section 2311—Extradition of United States citizens

Section 2311 expressly permits the surrender of U.S. nationals notwithstanding the language of limitation in antiquated treaties. This section addresses a problem that arises under some very old U.S. extradition treaties that fail to include specific authority to extradite U.S. nationals who are charged with crimes in the country seeking extradition. Under prevailing case law, the United States may extradite its nationals in the absence of any limiting language in a bilateral treaty (*Charlton v. Kelly*, 229 U.S. 447, 1913). However, if an extradition treaty contains language which limits that authority, e.g., "neither party shall be bound to deliver up its own citizens", the Supreme Court has held that U.S. nationals may not be extradited unless the treaty also contains a positive grant of authority to surrender U.S. citizens. (*Valentine v. United States ex rel. Neidecker*, 229 U.S. 5, 7-12 1936). Post-Valentine extradition treaties of the United States uniformly contain language such as "Neither of the contracting Parties shall be bound to deliver up its own citizen under the stipulations of this convention, but the executive authority of each shall have the power to deliver them up, if, in its discretion, it is deemed proper to do so." Such a clause contains the necessary positive grant of authority to the executive branch to extradite U.S. citizens.

However, the United States still has several pre-*Valentine* treaties in force that contain the limitation but lack a requisite grant of authority. In those instances, the United States must refuse to extradite based on the nationality of the offender. Moreover, the limitation on extradition of nationals posed by these pre-*Valentine* treaties must be remedied in light of the extradition provisions of the new United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), Article 4 Paragraph 2. Under these provisions, the United States must either assure that nationality is not a bar to extradition of its citizens or establish its jurisdiction to prosecute those citizens for the drug offenses they have committed abroad. The alternative of prosecution is not feasible as a practical matter. Moreover, it would be inconsistent with the U.S. general policy against creating "universal" jurisdiction over extra-territorial crimes.

This section is also consistent with the general policy of the United States favoring extradition of nationals to the country where the greatest harm has been suffered because of the commission of criminal acts. The committee recognizes that it is not feasible to address this situation on a piecemeal basis by renegotiating all the pre-*Valentine* treaties that contain this flaw. Moreover, it would permit the United States to fully meet the important objectives of the new U.N. Convention.

Section 2312—Congressional review of narcotics-related assistance for Afghanistan

Section 2312 provides that not less than 15 days before funds are obligated for narcotics-related assistance programs in Afghanistan for any fiscal year the President shall notify Congress pursuant to the reprogramming procedures applicable under section 634A of the Foreign Assistance Act.

The committee has included this provision due to the unusual nature of previous funding for the Afghan Resistance. Assistance to the Afghan Resistance has been provided "notwithstanding any other provision of law," which has exempted the program from the requirement for prior notification to Congress applicable under section 634A of the Foreign Assistance Act. This authority has been used by AID to begin a $12.5 million narcotics control program in Afghanistan, which would constitute the third largest AID narcotics control program in the world, in a country in which the United States has no capability to monitor or control the use of funds and in which the assistance recipients are historically involved in opium production and trafficking. Given the high risks associated with this project, it is reasonable to require prior congressional notification for further project funding.

Section 2313—Training of host country pilots

Section 2313 requires the President to implement a detailed program of instruction for host country pilots and other flight crew members to fly aircraft involved in counternarcotics activities in the Andean countries that have been made available by the U.S. Government. Such program shall be implemented not less than 90 days after enactment of this act. In addition, section 2313 requires the President to ensure that host country pilots and flight crew members re-

place all U.S. Government pilots and flight crew members, including direct hire and contract personnel, within 18 months of the date of enactment of this act.

This provision stems from the committee's concern that despite a long-standing U.S.-sponsored aircraft program in Peru, there are insufficient numbers of Peruvian pilots to fly anti-narcotics aircraft. As a result, U.S. contract pilots are performing these duties. The committee notes that Peru is the only country in which U.S. Pilots are required to fly routine interdiction and transport missions (as opposed to Turbothrush aerial eradication missions, which require specialized personnel). Despite several years of congressional concern on this issue, the situation has still not been remedied.

While the committee understands that the executive branch shares the goal of having host country personnel perform aerial support functions, and has been in the process of preparing a plan to achieve this goal by a date certain, subject to safety concerns and unanticipated obstacles, the committee believes that at the present time, efforts on the part of the executive branch to achieve this goal have not lived up to its stated commitments. When the executive branch develops a plan in accordance with its stated priority on this issue, the committee is prepared to modify the current language of this section.

The committee also notes that the Drug Enforcement Administration (DEA) operates some aircraft in South America. Because these aircraft are operated primarily in support of DEA operations and are not made available on a sale, lease, or loan basis to foreign governments, it should not be construed, nor is it the committee's intention, that those aircraft or the DEA pilots operating them be affected by this provision.

The correspondence between the committee and the executive branch on this issue follows:

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, August 8, 1990.

Hon. MELVYN LEVITSKY,
Assistant Secretary for International Narcotics Matters, Department of State, Washington, DC.

DEAR MR. SECRETARY: I am writing about a matter which has concerned me for some time: the need to train host country pilots for INM's air wing in Peru.

Our mutual goal, as I understand it, has always been to have host country pilots eventually assume full responsibility for the operation of these aircraft. I understand the difficulties involved in achieving this goal, but feel that we need to make every effort to ensure that these pilots are trained as soon as possible. The continued extensive use of U.S. contract pilots, particularly in the highly volatile environment in Peru, may undermine public and congressional support for this program.

The Committee would prefer not to address this issue legislatively. In this regard, I would hope that the executive branch could expeditiously agree on a reasonable plan for the training of host country pilots, including a date by which we hope that these pilots will be fully qualified. As you know, the Committee expects to mark up draft narcotics control legislation during the week of September 3. It would therefore be helpful if you could ensure a response before that time.

I cannot overemphasize my personal interest in and concern over this matter. I therefore look forward to working with you to find a solution to this problem.

With best wishes, I am

Sincerely yours,

DANTE B. FASCELL,
Chairman.

Section 2314—Review of riverine program

Section 2314 prohibits the use of funds for the procurement of new riverine craft for counternarcotics programs in the Andean countries until the Secretary of State and the Secretary of Defense have jointly assessed and audited, and submitted to Congress a report to Congress on the specific goals and objectives of such programs, how the acquisition of such craft will further the attainment of such goals and objectives, the cost and utility of the craft to be provided, and how such craft will be sustained.

This provision results from long-standing congressional concern, validated by numerous reports from independent observers, that the current riverine programs contemplated for the Andean countries have not been the subject of adequate planning and preparation on even a most basic level. While the committee understands the need for riverine programs and supports such programs, it believes that before further resources, estimated at more than $20 million in fiscal year 1991, are devoted to these programs a thorough review should be undertaken of the programs' goals and objectives and the appropriate equipment to achieve those goals. The committee understands that the executive branch agrees with the need for a thorough review of these programs, and has initiated action to begin such a review. When the committee receives documentation of this review it will be prepared to modify the current language of this section.

Section 2315—Uses of excess defense articles transferred certain major illict drug producing countries

Section 2315 amends section 517(c) of the Foreign Assistance Act to clarify that excess defense articles provided to major illicit coca producing countries may be provided primarily for antinarcotics purposes.

Section 2316—Export-Import Bank financing for sales of defense articles and services

Section 2316 amends the Export-Import Bank Act to extend the authority to finance sales of defense articles and services for counternarcotics purposes to September 30, 1992.

U.S. DEPARTMENT OF STATE,
Washington, DC.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: Thank you for your letter of August 8 to Assistant Secretary Levitsky concerning the need to train host country pilots for International Narcotics Matters' (INM) air wing in Peru. As you know, USG contractor pilots have been successfully flying interdiction and resupply missions between Lima and the Upper Huallaga Valley (UHV) for over two years. The Department shares your goal of turning over such operations to host country pilots as soon as they are qualified. We would like to describe our plan for achieving this goal.

The American Embassy in Lima and INM have been working together to develop a plan to train Peruvian pilots and maintenance personnel. Currently, the Department is seeking support from DoD in identifying a U.S. Army Spanish-speaking instructor pilot for assignment to Peru at the Santa Lucia forward operations base where our helicopters are deployed, in order to give a boost to the program. We intend to identify and deploy such an individual no later than September. Further, we are directing the incumbent contractor to increase its efforts in the training program. We are also drafting an air crew training program to ensure flight standardization and flight safety.

Training highly competent helicopter pilots is not an easy matter. It requires considerable time and effort even assuming the trainees have a high aptitude for flying. The majority of the copilots now flying entered the program with little or no experience. They have been trained to their present level of expertise through our efforts.

Peruvianization has been further complicated because the Peruvian National Police (PNP) have not made firm commitments of flying personnel. We have already sent 17 Peruvian pilots to the U.S. Army helicopter training center at Ft. Rucker, Alabama. About half of these individuals are now flying as copilots in air wing aircraft and the others are flying PNP aircraft conducting other missions. Our goal is to enroll all the PNP-dedicated copilots in our air crew training program and advance them to pilot-in-command (PIC) status as they become qualified. We seek not only Peruvianization but the safe and purposeful use of U.S.-supplied equipment. We believe that roughly half, i.e., four, of the current copilots could reach PIC status by spring 1991. Also, we plan to provide basic pilot training to an additional ten PNP pilots at Ft. Rucker in the coming months.

We do not believe that legislation will address the variables of operating in an uncertain environment, and we hope you agree that the plan outlined above is not only appropriate but will result in the Peruvianization of the aviation program in the shortest time possible consistent with aviation safety Perhaps the principal constraint on such a program is the inability, thus far, of the PNP to provide appropriate personnel for training and for retention in the program. We intend to encourage senior GOP officials to make such a commitment. Our Peruvianization plan would be facilitated if Peruvian Air Force pilots were made available to the program. We intend to raise this question with senior GOP officials.

Sincerely,

JANET G. MULLINS,
Assistant Secretary, Legislative Affairs.

Mr. BROOMFIELD. Mr. Chairman, I support the Fascell amendment to the Comprehensive Crime Control Act of 1990. I want to take this opportunity to commend Chairman FASCELL for his energetic efforts in making this compromise amendment concerning international narcotics possible.

Special recognition must also go to LARRY SMITH and BEN GILMAN of the Task Force on International Narcotics Control. All of us on the minority side salute BEN for his extensive knowledge and strong leadership on international narcotics issues.

Last year, the President crafted a strategy for dealing with the drug-producing nations in the Andes. The plan's objective include increasing military and law enforcement effectiveness and inflicting significant damage on trafficking organizations.

Recently, the Foreign Affairs Committee passed H.R. 5567, the International Narcotics Control Act of 1990, after defeating the Gilman substitute. After committee consideration, the majority and minority staffs incorporated modifications addressing our concerns into the bill. This compromise legislation is the product of many hours of discussions, and is now being offered as the Fascell amendment.

In particular, we worked closely together to resolve disagreements over the human rights language in an earlier draft. In my opinion, the current language is greatly improved in that it restates existing language from human rights legislation, with some modifications.

After we reached our compromise, I received a letter from William J. Bennett, the Director of the Office of National Drug Control Policy, in which he commends our efforts to improve the human rights language in the bill. He notes, however, that he is "still deeply troubled by the committee's decision to lower the authorization level for the FMF account."

Although the levels of foreign military funding requested by the administration are not fully met, this amendment provides $67.5 million in FMF for the important military component of the Andean strategy.

This amendment gives the administration many of the additional tools it needs to carry on the vital struggle against the Andean drug lords. It provides assistance to military and police units involved in counternarcotics activities in the regions that grow and produce cocaine.

The amendment provides economic and development assistance for the Andean countries, conditioned on counternarcotics and human rights performance. The amendment also authorizes the requested level of $150 million for the Department of States' Bureau of International Narcotics Matters.

Although this amendment does not give the administration everything it requested—particularly in the level of foreign military financing authorized—I believe it is a workable compromise that reflects the committee's bipartisan approach to the drug issue.

I encourage my colleagues to support the Fascell amendment.

Mr. GILMAN. Mr. Chairman, I am pleased to rise in support of this amendment to the Crime Control Act of 1990, H.R. 5269, which represents a compromise between the two sides of the aisle on the Foreign Affairs Committee. I would like to commend the distinguished chairman of the Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL], the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], and the distinguished chairman of our international task force on narcotics, the gentleman from Florida [Mr. SMITH], for their talents in compromising and conciliation.

Mr. Chairman, this amendment authorizes funding for a comprehensive and coordinated U.S. effort to aid the war against drugs at its source: The Andean drug producing nations. Our assistance is desperately needed in those Andean countries, such as Colombia, whose governments have pledged to fight against the powerful drug cartels, native to their countries. Our own Drug Enforcement Administration has recognized the advances the Colombians have made since they pledged to fight drug traffickers a little more than 2 years ago. Since that time, some of the most notorious drug lords have been captured or killed, and the price of cocaine has soared on U.S. streets, while the price paid for coca leaf has dropped dramatically.

Mr. Chairman, obviously, progress has been made, but the war has not been won. Recent intelligence reports now reveal a union forged between the Italian mafia and the Colombian drug kingpins. This union has the potential to be the most powerful drug trafficking and distribution network ever. Clearly, the struggle of our Andean neighbors must be reinforced by the United States.

While I cannot emphasize enough the need for treatment, rehabilitation, and education to stem the tide of demand in the United States, similarly, I cannot emphasize enough the need to continue to pressure the drug cartels of South America.

This amendment would authorize $67.5 million in foreign military financing for Andean military and law enforcement agencies, and authorizes $300 million in economic assistance, economic support fund and development assistance, for the Andean countries.

Accordingly, I urge my colleagues to vote in favor of this measure so that we may continue to support our southern neighbors at this very critical point in their struggle.

Mr. DINGELL. Mr. Chairman, the Energy and Commerce Committee's Subcommittee on Oversight and Investigations which I chair has held more than 25 hearings on accounting and financial reporting over the past 5 years. Based on those hearings, Representative WYDEN introduced in the 99th Congress two versions of legislation, H.R. 4886 and H.R. 5439, which have been modified into the current amendment in response to comments of various interested parties. The Subcommittee on Telecommunications and Finance held hearings on the proposed amendment on August 2, 1990. The amendment is supported by the American Institute of Certified Public Accountants and the Big 6 accounting firms who collectively audit 98 percent of the assets subject to audit.

The $500 billion savings and loan debacle has focused attention on the regulatory gaps that exist in the prevention of fraudulent practices by banks, thrifts, and other financial institutions, and, in that context, the role of accountants and auditors. In a word, the financial statement watchdogs fell asleep on the job, their Kennel Rations drugged with regulatory accounting standards whose purpose and effect was to hide the true condition of the S&L's. Our amendment issues a wakeup call to management and to the accountants. Our amendment would require management reports on internal control structure and auditor reporting thereon to assure the integrity and reliability of the financial reporting process. Our amendment would establish standards for audit design to include procedures to identify material related party transactions and detect illegal acts, and to evaluate and report when substantial doubt exists about an entity's ability to continue as a going concern. It would also provide for direct reporting of illegal acts first to management, and, if the illegality is not properly addressed, then directly to the SEC. This fraud reporting is vital.

In August, U.S. District Court Judge Stanley Sporkin, in his memorandum opinion in the Lincoln Savings and Loan and American Continental Corporation case, stated:

Keating testified that he was so bent on doing the right thing that he surrounded himself with literally scores of accountants and lawyers to make sure all the transactions were legal. The questions that must be asked are:

Where were these professionals, a number of whom are now asserting their rights under the Fifth Amendment, when these clearly improper transactions were being consummated?

Why didn't any of them speak up or disassociate themselves from the transactions?

Where also were the outside accountants and attorneys when these transactions were effectuated?

What is difficult to understand is that with all the professional talent involved (both accounting and legal), why at least one professional would not have blown the whistle to stop the overreaching that took place in this case.

While we in this nation have been trying to place blame for the savings and loan crisis on the various governmental participants in the crisis and on the government's fostering of deregulation within the thrift industry, this Court believes far too little scrutiny has been focused on the private sector. We are the world's greatest example of the success of the private enterprise system. It would thus seem that the private sector ought to be able to put in place a system that would prevent the kinds of excesses that took place in Lincoln from recurring.

Our amendment is a strong and positive step in addressing this problem. More remains to be done and the Committee on Energy and Commerce will continue its oversight and legislative work in this area. For now, I urge the House's adoption of these provisions to strengthen the early warning system against financial fraud.

Mr. GINGRICH. Mr. Chairman, I rise today to offer an amendment to require mandatory functional literacy programs in Federal prisons, and to urge my colleagues to support this important amendment. The amendment that is being considered today is similar to my amendment affecting state prisons which was included in the House-passed Education in Excellence Act and tentatively agreed to by the conference committee.

Let me take a few minutes to explain how this idea was brought to my attention. On May 2, John Chancellor delivered a commentary on the "NBC Nightly News" aimed at shedding light on one of our society's major shortfalls. The commentary was aptly titled "Reading', Writin' & Pris'n."

Chancellor's main thrust was that "in the American penal system, too many people go to prison, get out, commit another crime and go back in again." In Japan, the rate of rescidivism is much lower.

One reason suggested by Chancellor for the disparity is that "* * * in Japan, if your prison sentence is longer than one year, they won't let you out if you can't read and write." To illustrate the problem just consider that in the United States 62 percent of all released prisoners who are rearrested have an education of eighth grade or less.

Given the constitutional concerns of due process, the eighth amendment (cruel and unusual punishment), and equal protection, we certainly can't go as far as the Japanese. However, we can and should make significant strides in prisoner education.

This amendment can be summarized as follows:

Attorney General will direct the Bureau of Prisons to have in effect a mandatory functional literacy program in each Federal correctional facility before the end of the 2-year period beginning on the date of enactment of the Comprehensive Crime Control Act of 1990. Prisoners convicted of a felony, incarcerated in the Federal prison system and who are not functionally literate must participate in the literacy program.

Functional literacy is defined as the ability to demonstrate, in English, at not less than the eighth grade level, educational skills necessary to function independently in society, including reading, writing, comprehension and arithmetic computation. Persons must participate in a mandatory literacy program until they: Achieve functional literacy; complete his or her prison sentence; or are released.

Exempts persons who test at or above the eighth grade level and those persons serving life sentences, sentenced to the death penalty or mentally impaired.

The Federal prison system already has in place a 90-day mandatory literacy enrollment requirement for all Federal prisoners. My colleagues should understand that the U.S. Bureau of Prisons has been a world leader in the area of prisoner education. They view it as an essential prison program.

While the Bureau has some legitimate concerns with my amendment, they do not oppose its passage today, as I have agreed to work closely with them and my colleagues on the conference committee to seek needed modifications in the legislation.

Mr. Chairman, enactment of this amendment will be a critical and important step in our nation's fight to combat illiteracy among our prison population. I urge its adoption.

Mr. LEVINE of California. Mr. Chairman, I rise in full support of these amendments. Specifically, I would like to express my strong support for the language on poppers and steroids, two very dangerous drugs which are being abused by our children.

Alkyl nitrites were restricted under the 1988 Omnibus Act, but popper manufacturers switched to using other forms of nitrites that had the same effect, thus effectively circumventing the intent of the legislation. The time has come to close the loophole—to let manufacturers and marketers know that we will no longer tolerate the sale of these harmful drugs, marketing of which has historically been aimed at our children.

For years, poppers have been used as a gateway drug. They are seen by many young people as a harmless way to experiment with drugs. Their easy availability and legal sale makes them safe in the eyes of many unknowing young people. Unfortunately, there is no such thing as a safe harmless drug. Once the trap is set, pushers get these kids into harder drugs: Crack, heroin, ice.

Research tells us that poppers are far from harmless. Among their damaging side effects are delirium, severe headache, profound hypotension, dermatitis, and methemoglobinemia, the impairment of the ability of blood cells to carry oxygen to the brain. A number of deaths have resulted from users ingesting these drugs. Use of nitrites has also been linked to the development of Kaposi's sarcoma, a rare cancer frequently occurring in AIDS victims. Of further concern in the AIDS high-risk groups is the linkage of popper use to the inability to fight off infectious diseases such as tuberculosis, among the leading killers of AIDS victims.

As a nation we have already taken the lead to restrict the use of similar nitrites, such as amyl and alkyl nitrites. Congress must now again take the lead to restrict all volatile alkyl nitrites and rid our Nation of the grave threat to health they pose.

The amendment on anabolic steroids is identical to language in a bill which Mr. WAXMAN, Mr. GILMAN, and I introduced last year. It is very straightforward: it authorizes demonstration programs to identify and deter the abuse of anabolic steroids by students—high school students in particular.

I'm sure that when many of my colleagues think of steroid users, they think of elite athletes, but steroid abuse has reached alarming levels among high school, and even junior high school students. Studies have shown that 5 to 7 percent of high school boys have used steroids. The National Institute of Drug Abuse reports that about 10 percent have tried cocaine. We have clearly not done an adequate job of explaining the dangers of steroid abuse to our young people.

Recent reports indicate that many nonathletes are using steroids to enhance their appearance. In their attempt to improve their appearance they may be sowing the seeds for years of suffering in later life. We must do a better job of explaining to these young people that they are making a deal with the devil.

As many as half a million high school boys may be using these dangerous drugs that can cause liver and kidney damage, cardiovascular disease, and sterility. And according to an HHS report release earlier this month, the numbers are growing. This abuse of steroids must stop. We need to promote innovative steroid education programs in our schools.

Steroid users are generally not the same kids who use other drugs. They are very goal-oriented, they do not take steroids to get high, or to escape from reality. Because the motives behind steroid abuse are markedly different from the motives behind the use of other drugs, we need to approach the problem differently.

Supporting demonstration programs geared toward combating steroid use is a simple, efficient means of targeting potential users and educating them about the risks associated with prolonged steroid use.

I urge my colleagues to join with me in supporting these important amendments.

Mr. MANTON. Mr. Chairman, I rise in support of H.R. 5269, the Comprehensive Crime Control Act. I commend my good friend and colleague from New York, Mr. SCHUMER, the chairman of the Subcommittee on Criminal Justice, the gentleman from New Jersey [Mr. HUGHES], the chairman of the Crime Subcommittee, and the gentleman from Texas [Mr. BROOKS], the chairman of the full Judiciary Committee, for their diligence and hard work in bringing forth this comprehensive package to fight crime and drugs. I believe this measure will provide our law enforcement personnel with the assistance they need and will go a long way toward assuring that hardened criminals are caught and receive the most severe punishment.

I am particularly grateful to my colleagues for incorporating in the bill the provisions of H.R. 2870, the Steven McDonald Public Safety Officers' Compensation Act, which I sponsored. Title XVII will provide much-needed and long-overdue recognition and assistance to this Nation's public safety officers who are permanently and catastrophically injured in the line of duty. I believe this modest expansion of the current Federal death benefit for police officers, firemen, paramedics, and other public safety officers is the least we can do in Congress on behalf of their valiant and dedicated service to the public.

Mr. Chairman, Steven McDonald is a brave young man. While serving as a New York City police officer he was gunned down by a suspect and paralyzed from the neck down. Steven has demonstrated an inner strength and unfailing faith which should be a model for all of us. It is in Steven's honor that I offered H.R. 2870. The untiring dedication and sacrifice of individuals, such as Steven, is the reason that our communities remain safe. The least we can do in response to this unselfish service is to provide for public safety officers and their families in their times of need. Again, I congratulate and thank my colleagues on the Judiciary Committee for including title XVII in the crime bill.

Mr. McCOLLUM. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Texas [Mr. BROOKS].

The amendments en bloc were agreed to.

The CHAIRMAN. It is now in order to consider amendment number 17 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MCCOLLUM:

Page 108, beginning in line 3, strike "by striking" and all that follows through the end of line 4 and insert "by inserting after the first sentence the following: "The authority provided by this subsection may be used to place a prisoner in home confinement, with or without monitoring by telephonic or electronic signaling devices.

Page 108, beginning in line 5, strike "The amendment" and all that follows through line 8 and insert "Section 3624(c) of title 18, United States Code, as amended by this sec-

tion, shall apply with respect to all inmates, regardless of the date of their offense.".

Page 108, strike line 9 and all that follows through line 19 (section 1404).

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, under the presently existing law, if the Bureau of Prisons releases someone early in some way under the law, they have some problems because of the fact that they do not have the language in the law that says that the incarceration at the end of the term can be in a facility other than a Federal prison or correctional facility.

My amendment would give them that opportunity to allow some home confinement with or without monitoring by telephonic or electronic signaling devices. The reason I am offering this amendment is because in the language of the bill as it is now out here before us, there has been a concern I have had for some time that we were giving a whole lot more authority to the Bureau of Prisons than we really ought to. I do not think that was anyone's intent. The language in the bill, without being amended, would have effectively allowed the Director and the Bureau of Prisons to release any prisoner for any length of time under the home custody or whatever, so they would not have had to have served a day in prison.

Mr. Chairman, I have worked with the gentleman from Wisconsin [Mr. KASTENMEIER] on this matter. I prepared this amendment, which is very simple. It strikes two provisions in the bill that now I think would do damage to the law as it is and would be too lenient, and simply provides that the Director of the Bureau of Prisons will have the authority to provide a place for a prisoner in home confinement, with or without monitoring by these devices. That is really all it does. So if there are 6 months left on the person's sentence, or the final 10 percent of his sentence, that much of the time this device may be used.

Mr. Chairman, this is in conformity with current law. It simply allows the home-placed confinement with this monitoring device, without having to use a correctional facility.

Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KASTENMEIER], who I believe concurs in this amendment as it is now written and changes his work product.

Mr. KASTENMEIER. Mr. Chairman, I rise in agreement with the substitute amendment to title XIV offered by the gentleman from Florida [Mr. MCCOLLUM]. Our Federal prisons are extremely overcrowded. Today's Federal prison population is close to 60,000. It was 23,000 in 1980 and it will grow to over 100,000 by the year 1995. Prison overcrowding is an intractable problem that requires bipartisan efforts to redress.

Title XIV contains two provisions relating to the Federal Bureau of Prisons' authority to place nonviolent inmates in prerelease and home confinement programs. These provisions are intended to provide the Department of Justice with the tools that it needs to manage the overcrowded Federal prison system.

Our Republican colleagues did not support these provisions as drafted. Because I firmly believe that we must collaborate in our efforts to control our growing national prison emergency, I worked with Mr. MCCOLLUM to develop a substitute amendment that we can all approve. The amendment that Mr. MCCOLLUM offers today will assist the Department of Justice in its inordinately difficult task of enforcing our criminal laws and operating our Federal prisons.

It is my hope that we can continue to work in a bipartisan venture to assure that our streets are safe and that our prisons are secure, efficient, and humane. I look forward to the active participation by the Department of Justice in this endeavor. I fear that there will be dire consequences if we do not make substantial progress in the coming years.

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say that it has been a pleasure to work with the gentleman from Wisconsin [Mr. KASTENMEIER], particularly on prison-related matters over the last few years, and on this one. I thank the gentleman for his courtesy. I think this is a good amendment that strengthens the system and does not go as far as the bill had gone, which I think was a little excessive.

Mr. Chairman, I urge a yes vote on the McCollum amendment.

Mr. Chairman, I have no further requests for time, and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The amendment was agreed to.

Mr. KYL. Mr. Chairman, while I support many of the amendments that were offered to H.R. 5269, the Comprehensive Crime Control Act, I rise specifically to support two amendments, Mr. HYDE's amendment on habeas corpus reform and Mr. WYLIE's amendment to prevent the S&L crooks from sheltering their illegally gained assets.

The former will implement the Powell Committee's recommendation for long-needed habeas corpus reform. Despite what critics proclaim, this amendment will not forgo the rights of any American. To the contrary, the amendment requires States to provide competent counsel to all indigent defendants to assure that the accused receives adequate counsel from the very beginning of the criminal justice process.

In the event that a defendant is found guilty by a jury of his peers, however, the amendment will prevent the seemingly endless procedural delays that have served as an unjustified shield to the most heinous criminals in our society. Removing this shield by creating a more just and streamlined appeals process will serve two purposes: First, it assures that criminals are punished appropriately for their crimes; second, it enhance the deterrent value of our criminal justice system, which has been eroded over the past few decades.

The latter amendment will increase the Federal Government's power to attack the ill-gotten gains of the S&L crooks who have stolen billions of dollars from the American taxpayer. My constituents, as well as those of many of my colleagues, have long insisted that Congress get tough on these crooks. Adoption of this amendment will be a positive step in that direction.

It amazes me, however, that if it were not for the bipartisan support of this body, the liberal Democratic leadership would have prevented both these valuable amendments from being debated here. While I am pleased that this same House leadership finally conceded to the will of the majority, I would have hoped that they could have also incorporated many other valuable amendments denied under the original rule.

I offered one such amendment to the Rules Committee. My amendment would have required individuals denied Federal benefits under the Anti-Drug Abuse Act of 1988 to submit to drug testing in order to verify that they have become drug free. Without such testing requirements, the courts and drug treatment facilities have no adequate means of determining whether an individual has been successfully treated. This concept has the support of the administration, which considers drug testing of criminals an integral part of the user-accountability element of the national drug control strategy.

Mr. CROCKETT. Mr. Chairman, I rise in strong support of title XVIII of the Comprehensive Crime Control Act, known as the Racial Justice Act, and in opposition to the Sensenbrenner amendment, which would strip those provisions from the bill.

Simply put, the Racial Justice Act would make it unlawful to carry out a death sentence imposed on the basis of the race of the defendant or race of the victim. It would set a Federal standard of nondiscrimination in capital cases and would permit individuals who believe that they are the victims of racial discrimination in death sentencing to prove it by using valid statistics to establish an inference of such discrimination.

Some have argued that this title of the crime bill is unnecessary. But study after study has found a clear cut and persistent pattern of racial and color discrimination in the handing down of the death penalty in our courts.

The fact is that if the victim is white, the defendant is far more likely to receive the death sentence than would be the case if the victim had been black. If the defendant is black, he is more likely to be sentenced to death than if he were white. Let me cite a few shocking examples.

Verified and valid statistics show that:

In Georgia, a person convicted of murdering a white person is 4.3 times more likely to be sentenced to death than a person convicted of murdering a black person.

In Florida, defendants convicted of killing white people are 8 times more likely to receive the death sentence than those convicted of murdering black people.

A black person in Florida convicted of killing a white person is 40 times more likely to receive the death penalty than someone either white or black who killed a black person.

In Alabama, since the resumption of executions in the early 1980's 71 percent of the people executed have been black.

Watt Espy, America's foremost death penalty historian, in a study published in 1980, documented over 12,000 legal executions in the United States since 1622. Of the thousands of cases in his files, Espy found only two in which a white was executed for killing a black, both in the late 1800's. And while he found more than 450 executions for rape, in not one case was a white man executed for raping a black woman.

And the American Civil Liberties Union has reported that from 1976 to 1989, not one white defendant who committed a crime against a minority victim was executed.

Mr. Chairman, every American should be deeply offended that this undeniable racial bias in death sentencing exists; and every Member of Congress should be committed to eliminating the influence of race in capital sentencing. The only question before us ought to be how best to prove whether race is influencing death sentences.

In other areas of the law, including criminal law, the courts have allowed the use of statistics to raise an inference of race discrimination. The Supreme Court, for example, has accepted statistical evidence in jury selection cases and employment discrimination cases.

The Racial Justice Act language in the crime bill does not create a presumption of racial bias; it merely says that a defendant facing the death penalty should have an opportunity to use statistics, along with other evidence, to prove that his sentence was based on race. The government, in turn, will have full opportunity to dispute that evidence and to show that there was no racial bias.

And so, I urge my colleagues today to defeat the Sensenbrenner amendment and to retain the Racial Justice Act provisions of the crime bill.

Mr. VENTO. Mr. Chairman, I want to commend the distinguished chairman of the Judiciary Committee, Mr. BROOKS, and the members of the Judiciary Committee for the efforts which they have made to bring this bill to the floor of the House today. I realize that considerable time and effort have gone into the process of fashioning a bill which would enjoy broad congressional support.

While there are clearly some provisions in the bill which are favorable, such as the establishment of a single set of procedures for imposing the Federal death penalty, and the prohibition of executions where the sentence was imposed because of racial discrimination, nevertheless, I have serious concerns regarding numerous provisions of this legislation.

Although the bill before us today contains useful provisions to close existing loopholes in the President's ban on the importation of foreign semiautomatic weapons, the bill does not include the so-called Brady bill provision which would have mandated a 7-day waiting period for any person seeking to purchase a handgun despite the fact that this proposal enjoys very broad public support.

I am concerned by the provisions in this legislation which expand the existing scope of the Federal death penalty by adding additional offenses for which the death penalty can be applied. While no one would reasonably argue that these 10 new offenses are offenses not heinous crimes, this provision seems to hold the death penalty out as a deterrent when in fact the deterrence value of the death penalty is highly questionable. Many States, such as my home State of Minnesota, which does not have capital punishment, have a markedly lower rate of homicides and other serious crimes compared to other States which do have the death penalty available, such as Florida, Texas, and California.

I am pleased that the Judiciary Committee has crafted a bill which prohibits the imposition of the death penalty in any Federal or State case where a capital sentence is based upon racial discrimination. Race should play absolutely no part in evaluating whether a capital sentence or any other sentence should be imposed by our courts. To argue otherwise or to ignore evidence of racial discrimination in sentencing is to deny the constitutional guarantee of equal protection of the law. I hope that my colleagues will vote against the Sensenbrenner amendment which would strike this important provision from the bill.

The thrust of the habeas corpus reforms contained in this legislation is to put an end to frivolous appeals in capital cases. Undoubtedly, there are examples where criminal defendants in capital cases take advantage of the appeals process in the extreme. But considering that the sentence involved is death, is absolutely essential to ensure that every constitutional and procedural safeguard has been observed throughout a capital case. While some Members may choose to ignore this value. The fact is that there are occasionally cases where a defendant is not represented by competent counsel in a capital case. This legisation takes important steps at the beginning of a capital prosecuton rather than at its conclusion to ensure that adequate counsel is available.

Despite numerous concerns which I have mentioned, I will support the bill and the work of the Judiciary Committee today because I believe that it represents a reasonable effort to balance competing and conflicting values of ensuring fair and swift justice and of protecting important constitutional values.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

□ 1857

Accordingly the Committee rose; and the Speaker pro tempore [Mr. AUCOIN] having assumed the chair, Mr. Bosco, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5269) to control crime, had come to no resolution thereon.

□ 1900

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4825, ARTS, HUMANITIES, AND MUSEUM AMENDMENTS OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-801) on the resolution (H. Res. 494) providing for the consideration of the bill (H.R. 4825) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION TO RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the House be permitted to recess subject to the call of the Chair.

The SPEAKER pro tempore (Mr. AUCOIN). Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, and I shall not object, I do so to ask the gentleman from Texas whether or not he has information to give to the House as to the reason for the recess authority and whether or not this relates to the program for the rest of the evening?

Mr. BROOKS. If the gentleman will yield, it does relate directly to the program for the rest of the evening in that the leadership of the House, both Republicans and Democrats, are now in deep conversation with the administration about coming right back very shortly with a budget resolution.

Mr. WALKER. Further reserving the right to object, so it is the gentleman's understanding we will probably be taking up the budget resolution later on this evening? Is that the gentleman's understanding?

Mr. BROOKS. That is my understanding, but it is still in discussion. They have not given us a final answer on it.

Mr. WALKER. I thank the gentleman.

Mr. BROOKS. Until they agree, we cannot know, as the gentleman understands.

Mr. WALKER. I understand.

39-059 O-91-29 (Pt. 19)

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House earlier today, the Chair declares a recess, subject to the call of the Chair.

Accordingly at 7 o'clock and 4 minutes p.m., the House stood in recess subject to the call of the Chair.

□ 2030

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MURTHA) at 8 o'clock and 38 minutes p.m.

SETTING FORTH THE CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1991, 1992, 1993, 1994, and 1995

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 488 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 488

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration. Debate on the conference report shall be limited to not more than 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

SEC. 2. Following disposition of the conference report, on motion with respect to disposition of H. Con. Res. 310 shall be in order except pursuant to a subsequent order of the House.

SEC. 3. The allocations of spending and credit responsibility to the committees of the House, to be printed in the Congressional Record by the chairman of the Committee on the Budget as soon as practicable, shall be considered to be the allocations required to be printed in the joint statement of managers on H. Con. Res. 310 pursuant to section 302(a) of the Congressional Budget Act of 1974.

SEC. 4. Rule XLIX shall not apply with respect to the adoption by the Congress of the conference report on the concurrent resolution (H. Con. Res. 310).

□ 2040

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. SHUSTER. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. DERRICK. I yield to the gentleman from Pennsylvania.

PARLIAMENTARY INQUIRY

Mr. SHUSTER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman will state it.

Mr. SHUSTER. Mr. Speaker, rule XXVIII provides that the time shall be divided between the proponents and the opponents of a report; however, it is my understanding that that rule has been waived.

Does that mean, therefore, that even though a large number, if not possible a majority of the Members of this House oppose this legislation, those in opposition will not be permitted to control any of the time?

The SPEAKER pro tempore. Under the rule, if adopted, the debate on the conference report will be controlled by the chairman representing the majority, and the ranking minority member of the Committee on the Budget. They will be able to yield time to whomever they see fit.

Mr. SHUSTER. So that means, Mr. Speaker, that those in opposition will not be able to control any of the time, is that my understanding?

The SPEAKER pro tempore. That is correct. They would not be able to control the time, but certainly could get time from either of the two gentlemen.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, it is the intention of this gentleman to allow those opposing the conference report adequate time to make their presentation as well in the hour that I control.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman.

Mr. DERRICK. Mr. Speaker, House Resolution 488 is a rule providing for the consideration of the conference report on House Concurrent Resolution 310, setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995. The rule waives all points of order against the conference report and against its consideration.

The rule provides for 2 hours of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Budget Committee. After disposition of the conference report, no other motion with respect to the disposition of the conference report is in order, except by subsequent rule.

The rule also provides that as soon as practicable, the Budget Committee chairman will cause to be printed in the CONGRESSIONAL RECORD allocations of spending and credit which will be considered to be the allocations required under section 302(a) of the Budget Act.

Finally, the rule provides that rule XLIX will not apply with respect to the conference report on House Concurrent Resolution 310. Rule XLIX provides that when Congress adopts the conference report on the budget resolution which contemplates a level of public debt different than that currently allowed by law, the House is deemed to have adopted a joint resolution either increasing or decreasing the statutory limit on the public debt. Because the House has already passed and sent over to the Senate H.R. 5355, a long-term debt limit bill, there is no need for the conference report on the budget resolution to generate another debt limit bill.

Mr. Speaker, House Resolution 488 is an important rule that will provide for the expeditious consideration of the conference report on the congressional budget resolution embodying the recommendations of the bipartisan budget summit. I urge my colleagues to support this rule.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, I thank the gentleman from South Carolina for yielding this time.

Mr. Speaker, this Nation has been at the crossroads for some time, headed down the road to fiscal destruction. There has been a need for a plan to reduce the deficit and get back to a balanced budget. The summiteers have been meeting now for months, without producing a resolution to bring to the floor of the House which would be agreeable to this body.

Finally an agreement has been reached. It is not what I would like to have in its entirety. It is not what you would like to have in its entirety, but Mr. Speaker, it is the best that we can do at this point. It is a good compromise. We face a crisis if we do not pass it. It is absolutely necessary that we act favorably here this evening. If we do not, sequestration will take effect, and in my opinion, there will be absolute chaos in the financial markets through this country and the world. The Congress will have mud on its face because it will have failed to face up to the Nation's problems forthrightly and without hesitation.

I am a strong supporter of this rule and the budget compromise.

There are those who say it adversely affects Medicare recipients in low income families.

Let me repeat what is in the bill itself. Those who are below the poverty level will have no increase in premiums, no increase in deductibles. It will be exactly as it is today, and in the measure there is $2 billion which takes care of those just above the poverty level.

Our elderly will be protected.

I have a strong feeling for those who are on Social Security, but there is no increase in taxes on Social Security benefits. Social Security remains as it is.

Sure, we are all going to bear part of the burden.

I do not like the gasoline tax, but we must face the fact that our deficit is ever soaring. We must reduce it.

We have go to do things we do not want to do. If we have to hold our noses and vote for this, let us do it, because it is for the benefit of America.

This rule makes it possible for us to debate the compromise, and I fully support the rule.

I think it is mandatory that the Members of this body face up to our financial crisis and do the job that we must do for this country of ours. We have no other choice. Our financial markets and the financial markets of the world will react adversely if we fail.

One of the things that helped sell me on this measure was Mr. Greenspan. Mr. Greenspan said that he looked forward to reducing the interest rates if this package passes. We need that. The home building industry is on its knees. The real estate market is also slow. We are facing a recession. Let us strengthen the economy.

I urge you this evening to vote for this rule and for the summit agreement when it is brought before the House.

Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I support House Resolution 488, the rule for consideration of the conference report on House Concurrent Resolution 310, which is this Congress' budget resolution.

□ 2050

All Members know why we are here and know how we got here. Our problem, of course, is that we have been waiting for our summiteers to bring back a summit agreement.

They have finally done that as of last Sunday. That summit agreement has been put into a budget resolution. The conference committee has met on the budget resolution. And if this rule is passed, the House can then consider the adoption of the budget resolution.

We cannot get to where we are going, that is, to set some kind of fiscal policy for the United States, unless we first pass this rule, then pass the budget resolution, then take the summit agreement into reconciliation and have the committees of this House begin work on them, bring them back and report them to the full House so that we may then work our will.

It is a complicated, cumbersome, time-consuming, agonizing, frustrating experience which none of us has liked and none of us is going to like in the next 2 or 3 weeks. Nevertheless, it has to be done. There is no choice.

The summiteers have brought us an enforceable deficit reduction program of $40 billion in the first year and $500 billion over 5 years. Immediately the Members of Congress spring to their feet and say, "Hah, but you can't get it, it is smoke and mirrors, you will never enforce it."

Well, this particular summit agreement is likely to be enforceable. In the first place, it has 5 years of reconciliation. We have never attempted that before in this Congress. For those of you who think it cannot be done, why don't you give us a chance to try it and let us show you why we can get it done?

With respect to the enforcement in this bill, not only do we have the normal Gramm-Rudman sequester, but we have the automatic categorical offsets which apply not only to appropriations, as the Gramm-Rudman sequester does, but also to entitlements when either appropriations or entitlements breach their respective spending ceilings.

We have never had enforcement this good. It is as strong enforcement as we can get without a constitutional amendment. We who have negotiated some of these enforcement conditions believe that this is strong medicine. Yes, there will be slippage in it. We do not deny that. But we believe that nearly all the savings can be actually achieved, and if Congress really has a will, they will all be achieved.

Now, some of our Members cannot stand cuts in expenses, some of them hate all taxes, any and all taxes, but the reason we are here, the reason we went through the summit was to reduce the deficit because we all know that enormous debt is a terrible millstone around the neck of our economy.

We are obliged to borrow much to service that debt from abroad. The reliance on foreign capital has been an agonizing thing for all of us.

We hope with this resolution and reconciliation to be able to begin to limit that debt. Indeed, the unified budget breaks into plus numbers into fiscal year 1994 under this scheme and shows a $68 billion surplus in fiscal year 1995, a huge achievement notwithstanding the fact that a unified budget is assisted mightily by Social Security receipts.

Mr. Speaker, we cannot do anything unless we pass the rule. If we decide that we cannot deal out any sacrifice, that the American people are not concerned about our enormous deficit, about the huge burden of interest that we pay, about the liabilities that we are storing up for our children and grandchildren and great-grandchildren, they will probably want to vote against it. I think more serious and more responsible Members believe that we need to get the job done. We can begin getting the job done on the rule.

I urge adoption of the rule and yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the distinguished chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, this rule provides for the consideration of the conference report, which reflects the spending, revenue, and savings targets that were agreed upon by the President and the bipartisan congressional leaders in the budget summit. It is the essential first step in the budget process.

If we pass this budget resolution, we can then proceed to the consideration of reconciliation, which is essentially the implementation of the budget resolution itself. But if we fail to pass this budget resolution, we are nowhere.

The fact is that tonight we are a nation at risk; we are a nation at risk militarily in the Persian Gulf, we are a nation at risk politically in a world of shifting powers and relationships, and we are a nation at risk economically, facing the slow but steady erosion of our economy, a frustrating inability to confront the difficult issues that face us and the rising likelihood of a recession.

And if we fail today, of course, if we fail tonight to adopt a budget resolution, this Nation is indeed at risk, from the specter of mindless sequestration, the across-the-board cuts that will impact on vital programs that affect people, devastating to people and devastating to our economy.

For 5 months the bipartisan leadership of the Congress have been trying to work with the administration hour after hour, day after day, week after week, confronting these problems, trying to make the trade-offs, trying to arrive at a compromise, and finally they were able to do that. They have achieved the biggest deficit reduction package in the history of this country, $500 billion over 5 years.

Some of you may support this budget resolution, some of you may oppose it. But it surely deserves, and I think the leaders on both sides of the aisle deserve, an opportunity for an up or down vote on this proposal, without amendments, without substitutes.

Perhaps the biggest crisis we face tonight is the crisis of confidence in our

ability to govern. Tonight we have the opportunity to show the American people that indeed we can make the tough decisions and indeed we can govern.

Mr. Speaker, I urge support for this rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. I thank the gentleman from Tennessee for yielding.

Mr. Speaker, let me say in all due respect and even, yes, indeed affection for the summiteers and for the members of the Committee on Rules, that I rise in opposition to this rule. I implore the Members of this body to vote down this rule and to not proceed in, what is for me at least, an extralegal basis by which we would come to a resolution of a budget in October that we are mandated by law to resolve on April 15.

I might also say in addition to that concern which I have, that during the course of this debate, and the one that may follow, we will be told that this budget resolution, this conference report, this summit agreement is the only alternative to sequestration. I would suggest to this body that there is an alternative and there is a better alternative that avoids repressive taxation, that more certainly gets to the budget deficit target goals outlined in the summit agreement earlier than the summit agreement, that does exist. It was filed in the RECORD last Tuesday for anybody to see. I might mention I am a member of the Committee on the Budget, and I have not yet seen this summit agreement in print, nor have I seen this conference report in print.

And the most I know about it is what I heard from the Speaker today when he said that it is the President and the bipartisan leadership always understood that many of the policies set forth in the budget agreement are for illustrative purposes only. What is it we are asked to pass on tonight?

I ask for a "no" vote.

□ 2100

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, the best that I can say about the Budget Summit Agreement is that it could have been worse. Without our Democratic leaders, it would have been worse.

President Bush says the agreement could have been better if he had, as he said to the press, more of his horses.

Thank goodness he did not have more of his horses at the summit. Mr. Darman and Mr. Sununu were enough, bolstered by Mr. Brady who brought us $12 billion in new tax loopholes in the last hours of the summit.

In my view, the Bush team was motivated by several things:

First, protect the rich from paying their fair share.

Second, cut the dickens out of Medicare—the health plan for our elderly.

Third, keep the military budget high by completely ignoring the fact that the cold war is over.

The President's men succeeded on all three counts, although our democratic leadership kept it from being worse.

As a result of the tax policies in the summit, the very wealthy will see their income go down—less than 1 percent—0.7 percent while the working class will be hit by a decrease in income of greater than 2 percent.

So those making about $20,000 a year get a 2 percent cut in income and those making over $490,000 get a 0.7 percent cut in income—hardly a ripple to those whose incomes have gone up 90 percent in the Reagan-Bush era. Unbelievable!

How does the summit agreement treat the military? Here we are at the end of the cold war—when the Warsaw Pact is literally disappearing.

There is no more East Germany. Here we are after spending 4 trillion of American dollars defending NATO from the Warsaw Pact.

Today still half of our $300 billion military budget goes to the defense of NATO and a sizable portion—more than $20 billion—to the defense of Japan.

Is it too much to ask that these allies of ours for whom we have sacrificed so much of our captial—now pay for their own defense? Or at least a part of it. None of this is in the summit.

In this summit, the elderly citizens on Medicare—our moms and dads—our grandmothers and grandfathers—must bear the burden to continue high military spending to defend against Mikhail Gorbachev who now stands side-by-side with our President in the Persian Gulf. And our elderly will sacrifice $60 billion in Medicare cuts in this summit. Our democratic leaders stopped it from being worse.

So this summit agreement protects the very wealthy from paying their fair share and protects our allies from paying their fair share.

But it gets worse. There is something in this summit that makes me ill.

The unemployed are asked to wait 2 weeks before they get their unemployment checks. Can you believe it? This will drive our citizens into despair as many of them are in their darkest hour.

It could happen to any of us—any of us could lose our job. And we head into a possible recession, this provision could prove to be the cruelest cut of all. Believe it or not, our democratic leaders stopped an even crueler cut to even a more vulnerable population—children with crippling disabilities.

So our democratic leaders made it better, but we can do still better.

This Congress can do better—without Mr. Darman, without Mr. Sununu, without Mr. Brady—none of them is elected. We were elected and we can do better. Congressmen OBEY and DORGAN have a budget—it is far better. I support it, and I hope we have a chance to send it to the President. If we defeat this rule we can get that chance and let the legislature function—not eight people or four people or two people, but the legislative process.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, my colleagues, I rise in strong opposition to this rule. Here we are tonight, dealing with the most significant issue facing this Congress, and we are told that we are not permitted to work our will. We are told that we are not permitted to offer any motions to this very important rule. In effect, Mr. Speaker, we are asked to buy a pig in a poke, and, yes, there have been whispers on this floor in the past few hours: "Just vote for this rule now, vote for the resolution later, and we'll fix these problems in the next 2 weeks."

Is that really reasonable, to ask us to buy something like this on such an important issue?

It is sheer folly for us to impose upon the American people a $130 billion tax increase when we are on the brink of a recession, and it is grossly unfair for us to impose a $69 billion tax increase on one sector of our economy, on the transportation sector; 42 percent of all the tax increases going on our transportation sector, and it is unfair to rural America which must drive twice as many miles as our urban Americans. It is unfair because it is regressive on the poor and the middle class in America, and, yes, we are told, through some last minute legerdemain that 50 percent of the gas tax money is going to go into the highway trust fund. Mr. Chairman, that is interesting.

What we are not told is that the domestic spending cap is going to stay on that money, so that is right. It can go into the trust fund. It just cannot come out of the trust fund to be spent for our badly needed infrastructure.

If we pass this resolution, we are going to snuff out the opportunity to improve America's infrastructure, and that means we are going to snuff out American lives. Nearly 50,000 people are killed each year on our highways. We all know what a decaying infrastructure we have, and it is conservative to say that thousands of lives will be lost if we do not address this problem.

Defeat this rule; defeat this resolution.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2¼ minutes to the gentleman from Pennsylvania [Mr. FOLGIETTA].

Mr. FOGLIETTA. Mr. Speaker, I rise to speak in favor of the budget resolution and the rule. First, I congratulate TOM FOLEY, DICK GEPHARDT, LEON PANETTA, and BOB MICHEL for what they were able to achieve.

Let us face it: The problem many of us are facing is how to explain this agreement to people back home, to Federal workers, to working families, to senior citizens. And that is not easy. Because this means a lot of pain.

First, we have to face what would happen if we did not reach agreement. In the short term, the result would have been chaos. The Government would have shut down; hundreds of thousands of workers would have been forced to stop work. Airports would close. Social Security checks would not be mailed out. Military spending would be cut by a third, jeopardizing our defense.

Then, we have to explain the long term implications. Our sick economy would sink into a deep recession. The stock markets would dive. The cost of groceries at the supermarket would rise and so would interest rates—Alan Greenspan told us that yesterday.

With that bleak future in mind, a compromise was reached. In all compromises there are aspects that we like, and aspects we do not like. The same holds true with this agreement.

There are aspects of this compromise to which I strongly object. That it places an unfair burden on middle income Americans—by raising taxes on gasoline at the pump, heating oil, and a six-pack of beer. That the richest Americans will not pay their fair share. That it hurts senior citizens by making Medicare more expensive. That it does not make deep enough cuts in defense.

But the benefits outweight the negatives. That it prevents the super rich from getting a windfall in the capital gains tax cut. That COLA's for Federal retirees, and Social Security recipients were preserved. That Federal employees are not being furloughed. That they kept their hands off Social Security.

In our lives, in our constituents' lives, we all make compromises. Compromises are hard. This is hard. But what is the alternative: Throwing up our hands and giving up? Continuing to ignore the problem? They are not choices.

Tough decisions had to be made, and they were. We have to make a tough decision today. Respectfully, I support this compromise because I believe it will lead to a stronger and better America.

□ 2110

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. MICHEL], our distinguished minority leader.

Mr. MICHEL. Mr. Speaker, I will be very brief, because I still have some other fish to fry yet this evening before we move on hopefully to the next stage in this process. But I think this rule is one that ought to be adopted. It waivers all points of order because of the tremendous scope of the problem that we have here.

Mr. Speaker, that should catch nobody by surprise. We have been at this thing now for months. Members knew we were going to come to the day of judgment. This is just the beginning step in that judging process.

Now, you know that you cannot change the conference report without beating it first. So you are just wasting time if you are going to try and defeat this rule. We have got to get to the conference report before any of you can have a chance to beat it or amend it.

So we are wasting time. Here we are on a Thursday night. Friday the continuing resolution runs out. We have got to be begin the process before we can move to the second step, or the third. Then let us not forget, we also have our friends over in the other body, who certainly are entitled to have their say on this.

So in my judgment, very briefly, it makes no sense to defeat this rule. Our own objective here is to take the first ministep in moving the process along. You cannot do that until you consider that conference report, which this rule makes in order.

So I would hope that those Members who want to see the legislative process work its will, in whatever fashion, at least give us an opportunity to adopt this rule. Frankly, it it goes down, we will just have to come back with another rule. And if it that goes down, we will come back with still another rule.

Maybe some Members might have the faint notion up here to simply let this place blow up in chaos, as we come to the end of the week with a continuing resolution facing us. Those of you on my side over here know what the President's commitment has been. We have got to enjoin this issue now. If there is a continuing resolution passed without a budget agreement, he is going to veto it, because that is the only way to keep our feet to the fire.

So what I am saying is, do not put another roadblock in the way of an orderly legislative process here, because you cannot get anyplace without first adopting this rule.

Mr. PASHAYAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from California [Mr. PASHYAN].

Mr. PASHAYAN. Mr. Speaker, I wish to associate myself with the remarks of the minority leader. This is a procedural vote, obviously. It is on the rule. We have a group of Members and members of the administration that worked long and hard on this thing. The President wants a vote, the Speaker wants a vote, the minority leader wants a vote.

Irrespective of how the Members are going to vote on the resolution, I certainly think that we owe them the courtesy of granting this rule, voting in favor of this rule, and then Members can go whichever way they choose to. But I certainly think our leader is correct, and I urge our side of the aisle absolutely to vote in favor of this rule.

Mr. MICHEL. Mr. Speaker, reclaiming my time, I thank the gentleman for his contribution. I simply want to thank the gentleman from Tennessee [Mr. QUILLEN] for yielding to opponents of the rule. Obviously there is going to be limited time when we get to the conference report for Members to express their objections, and if we have an opportunity here for some of those Members to air their feelings, we have no objection to that.

It is just that in the final analysis, after airing those views, those of you out there who want to see the process move along, I ask you, please, give us an affirmative vote on the rule that we might get the process moving.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Tennessee [Mr. QUILLEN] has 12 minutes remaining and the gentleman from South Carolina [Mr. DERRICK] has 20 minutes remaining.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, I rise to oppose the rule and the package. Tonight we are told that it is this package or nothing, the Hobson's choice. Bad package—by even its ardent defenders—or chaos. No opportunity to consider alternative packages. This is the ultimate closed rule. Clearly, congressional democracy as we know it has broken down.

Mr. Speaker, how did we get into this awful spot, this Hobson's choice? Well, first we had 18 months of "Read my lips." No taxes under any circumstances. That produced gridlock for 18 months.

Then we had 4 months of insistence on capital gains, or no ball game. That produced gridlock for 4 more months.

Now, here at the 11th hour, the 12th hour, presto, a package. A package that should make even capital gains advocates blush: There are $12 billion

in here for a whole new industry of creating tax shelters that we thought we had wiped out in the tax reform bill of 1986.

Mr. Speaker, I feel sorry for my GOP colleagues in this process, because scores of them signed pledges for no new taxes. Remember over there in the Triangle, all those meetings and pledges in front of TV cameras? Well, those lists of those Members who signed that no new tax pledge, those lists are going out all over America this evening. They will probably begin to appear in newspapers. I don't know how you on the GOP side of the aisle are going to reconcile that to your constituents. I don't know how you are going to explain how you broke faith to them.

Mr. Speaker, I know I am not going to break faith with my constituents on this package. This package raises taxes on those in the $20,000 to $50,000 income bracket twice as hard as it does on those who earn above $200,000. That after a decade of taxing the middle class and exempting the upper income groups, as we all know. The wealthy are protected once again.

Mr. Speaker, this package hits newly unemployed workers with a loss of unemployment compensation at the very moment when they most need help. The 2-week waiting period is harsh and mean-spirited.

I urge rejection of the package and the rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, we all know what the issue here this evening is, whether or not we are going to solve this deficit mess with tax increases or spending cuts. That is the issue.

The rule that has been presented to us for consideration gives us only one option, that we are going to solve this deficit mess with tax increases and claimed spending cuts, which I do not think will last more than 6 months, if they last that long.

Mr. Speaker, I rise in opposition to this rule because I believe there is an alternative that should be presented before the House for its consideration.

I sincerely believe that there is a way out of this mess without raising taxes. All we have to do is assert the discipline as an institution to limit the growth of spending over the next 5 years to not more than 4 or 4½ percent over what it is this year and each year thereafter—spending growth $60 billion, revenue growth $90 billion. If we can just observe that kind of discipline, we will each year produce about $30 billion more from the growth of the economy, producing more tax revenue under the existing tax system which can be applied to reduce the deficit.

Mr. Speaker, that would be called a freeze by anyone's terms. The American people can understand this. It would avoid this specter of sequestration, which I do not want, but frankly, as a Californian who went through the same litany and the same prophets resisting Proposition 13 back in 1978, we were told our State would come to a halt when we cut the revenue from the property tax by 50 percent. Admittedly, a 33-percent cut in spending as a result of sequestration is a pretty good bite. I would like to avoid it.

Mr. Speaker, my purpose in rising this evening is to ask Members to defeat the previous question, on which I will ask for a rollcall vote, so an alternative can be presented, which essentially subjects or gives this House the opportunity of an alternative to solve the deficit problem without raising taxes.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, some may cheer the budget agreement here on Capitol Hill, but back home there is little celebration.

The budget package delivers nothing but spending cuts and tax increases to those in our society who can least afford to bear the burdens—the poor and the middle class.

Congress should dump this budget agreement. We should demand a budget that is fair and balanced, that does not stick it to older Americans, and that does not ask those who have the least money to pay the most in taxes.

I thought Congress had stopped paying homage to the worn-out, Reagan-era adage of tax the middle class, protect the rich, and spend money for defense as if we were in world war III. Apparently, it has not.

While I am not opposed to tax increases and spending cuts, these taxes and spending cuts fall disproportionately and unfairly on the lower- and middle-income classes. The very people this budget hurts will face economic uncertainty in the coming months with rising oil prices and looming inflation. Yet we are willing to ask them to sacrifice more of their paychecks to pay for what Congress does not have the courage to do—cut the Pentagon budget.

Of the tax increases totaling $134 billion, most of them are regressive, consumer exise taxes. These consumer taxes account for $74 billion of the total tax increases, or over half of the tax increases.

The budget agreement is not only regressive in its taxation, but insensitive in its spending cuts. The Medicare Program will be cut by $60 billion, which represents over half of all the cuts in entitlement programs. That cut is bitter medicine for millions of older Americans across the Nation. The monthly Medicare premiums will be increased and the deductible doubled. This means that those who are most vulnerable, least able to pay, will pay a sizable portion of their fixed incomes on vital and expensive health care services.

The agreement lands a blow to low- and middle-income people in the area of education. The Stafford Student Loan Program will be cut by a whopping $2 billion. As almost every mom and dad knows, these loans are vital to paying for the rising costs of a college education.

But while mom and dad scrimp and save to put their child through college, the agreement extends a charitable hand to the rich for investments in energy exploration. Something is obviously rotten. This time, it's not in Denmark, but in the United States.

The $28 billion in tax credits include $4 billion for unspecified energy tax breaks for Texas and other oil States. The tax code already overwhelmingly favors President Bush's friends in the American oil industry. And with the price of oil at $40 per barrel, the oil industry doesn't need any more Federal Government handouts.

When the Federal Government gives tax breaks to the rich, increases taxes on the rest of the country, cuts health care benefits to older Americans, and reduces funds for college education, then I say that Government's budget priorities are not only regressive, but dangerously out of touch with the country.

The budget agreement comes on the heels of a decade when the Federal Government all but bought the richest in this country a comfortable second home at the beach. The massive wealth built up in the 1980's was so incredible that the number of millionaires in the country doubled by the end of the decade.

Why is Congress not taxing this wealth? Instead, some members of Congress and the President would rather hold middle-income taxpayers by their ankles and shake every last dime out of their pockets.

Not everyone prospered with the millionaires in the 1980's. While the richest in our country jammed dollar bills in their pockets, infant mortality rose to a tragically high rate, AIDS turned into an epidemic, and the average worker's wage stagnated.

This inequity is a direct result of the Reagan Administration policies of supply-side economics. Its credo was "tax breaks for the rich, tax breaks for the rich." Haven't we had enough of taking from the poor and giving to the rich?

A more equitable budget agreement should have raised the upper bracket to 33 percent on Federal income taxes. It should have included a windfall profits tax on the outrageous increase in the price per barrel of oil.

Meanwhile, the largest bureaucracy ever—the Pentagon—sits on top of a $290 billion a year budget. That budget alone could finance the Departments of Commerce, State, Justice, Energy, Labor, and Health and Human Services.

A responsible agreement would at least cut the most obvious boondoggles in the Pentagon, such as the Staten Island Homeport, $500 million; strategic defense initiative, $2.3 billion and the Stealth bomber, $800 million.

What's worse, Defense spending is even higher than stated in the budget agreement. The defense figures are all out of whack because they do not include $15 billion for Operation Desert Shield.

Until we get a budget agreement that is equitable, that gets a hold on spending in the Department of Defense, then I will withhold my support. I urge my colleagues to vote

against this agreement by defeating the rule for consideration of the budget agreement. In its place, Congress should support the Obey-Dorgan amendment, which rearranges the spending priorities of the budget agreement along the lines of the House-passed version of the budget resolution.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, in the infinite wisdom of Congress, Congress today passed the death penalty for anyone who would kill a Congressman. Tomorrow we will find out if the death penalty is a deterrent, if Members vote for this bill.

They say, "I am for the rule. We deserve a right to vote." But they say an aye vote is a responsible vote.

Mr. Speaker, there is no responsible vote in this House for a bad bill, period. They say, "If you don't vote for this, what comes next is going to be worse."

All I see is this. And they say if this fails, we are going to shut the Government down.

Well, listen to what this guy says, who has almost one out of every two constituents on some form of public assistance: Shut it down. We are better off with a short-term shutdown of this Government than putting into practice and law a budget that threatens our national security and the freedom of our people.

□ 2120

Let me tell you what. I go home. I go home every week. We cannot make it with more than $250 billion in defense outlay spending; you know it and I know it.

We do not cut foreign aid. We keep shipping money to Japan and Germany.

We do not make the rich pay their fair share. We tax mom and dad, and the census goes out, and they are trying to tell us that the population is dwindling.

Let me tell you, the silent majority is out there. They called your office. They were against this before the President's speech, and dammit, they are against it now, because it is no good. And I am prepared to take the flak on having our Government shut down, but having us come back and send a budget to the President that is good for this Nation.

And I do not like the last minute shotgun affair. If this thing cured cancer I would vote no on it because I am tired of bills that I do not have the time to read, and my people have been taxed to death. They are "taxed off."

I am going to vote for this rule and I am going to vote against this turkey.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes and 30 seconds to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, tonight we want a decision based upon fact, a reality, and not upon emotion.

Mr. Speaker, these are difficult times for us in this body and difficult days for our people. But I say, Mr. Speaker, that the only issue before us is whether we want to reduce the deficit and avoid sequestration, which is provided by law.

I rise to support this rule, and I also rise to support the subsequent resolution for which it stands.

The budget summit was convened. Our distinguished leaders met for weeks, not for hours or days, and they did come up with a recommendation to meet the goal of reducing our deficit. I support it for a reason that is as straightforward as democracy itself: There is no better alterantive.

We have two choices. Adopt the deficit reducing resolution or be thrown into sequestration where the law slices $100 billion from governmental operations. Sequestration is dramatic and it is drastic.

This debate is really more basic than any other that we will have this year. This debate will determine whether we as a nation and we as a people can face difficulty and govern ourselves. The resolution, though far from perfect, and I would not say that any of it is perfect, takes a step toward reducing our deficit, Mr. Speaker, and it must be done.

Were I to write this deficit reduction plan it would be much different than the one before us, but that plan would not meet the President's signature nor his approval.

Let me tell Members the effects of this resolution not passing. The sequestration law would come into effect and result in these consequences:

Veterans would be turned away from the VA hospitals. A reduction of $514 million would eliminate VA medical care for 83,000 inpatients and over 1½ million outpatients.

Mr. Speaker, Social Security checks would be deferred or slowed down as a result of the $742 million cut in the Social Security Administration employes and operation. The Social Security Administration has already notified my office that it will cut back to a 4-day week with reduced hours.

Hundreds of thousands of Federal employees would be furloughed, in addition to a hiring freeze and a release of thousands of employees.

Payments to farmers will be delayed, and when they call their local ASCS office, fewer people or possibly no one will be there to hear their complaints.

Military expenditures will be cut extensively while our sons and daughters are on duty tonight in Saudi Arabia.

One hundred thirteen thousand children will be eliminated from the Head Start Program; 35 percent of student financial aid recipients will have their assistance reduced or completely eliminated.

Mr. Speaker, in addition thereto, higher interest rates will occur, placing an added burden on our farmers and rural America. Financial markets will react adversely.

In a word, governmental disruption and possibly a recession will happen.

Mr. Speaker, we cannot allow this to happen. Let us vote this resolution, let us vote this rule, and get on with reducing the deficit and get our country back on a sound fiscal track.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, tonight we have a very important decision to make, a decision that is the culmination of many many months of work, and in fact is the focal point of much of the work that we do in Congress.

As we contemplate this vote on the budget I think we should remember that many people view our budget as a statement of our values as a country. How we allocate our resources is a statement of what is important to us.

Mr. Speaker, I do not believe that it is a statement of value to propose a plan that taxes young families while giving a $12 billion tax break to business. I do not believe it is a statement of our values to say that the wealthy will pay less while increasing the tax burden to the middle class. Mr. Speaker, I do not think it is a statement of our values to menace our senior citizens while cutting their health benefits, while we keep the defense spending high.

As we consider this vote I urge my colleagues to consider whether this budget is a statement of their values.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Speaker, I support this rule and the budget resolution to follow. The question before us tonight is whether this House will act to address the budget crisis or do nothing. That is our choice. I believe the American people will view this vote as testing whether the Nation's elected leaders can still govern this country.

This is a test we cannot fail.

No one will stand before us tonight to argue that the budget agreement is a perfect one. It is not. Like each of you, I have real problems with some provisions. And, like each of you, I have heard from constituents and interest groups who have problems with some provisions. But I stand in support of the agreement because taken as a whole it will benefit the country and respond to the American people who have demanded that we do something about the budget mess here in Washington. Taken as a whole, the

agreement will provide for: $500 billion in real and verifiable deficit reduction over the next 5 years: lower interest rates and increased long-term growth—which means more jobs for American workers; renewed confidence of world financial markets in the American economy; a fair share of spending cuts and new taxes for all income groups; and continued strong investment in education and research—key factors in America's future.

Mr. Speaker, the alternative to the budget agreement and these benefits is to do nothing. And if we do nothing, the Government of the United States—the greatest democracy in the history of mankind—will shut down.

The President and the summiteers agreed that there will be no continuing resolution until there is a budget. Can those who oppose the budget proposal before us tonight seriously believe they can propose and pass a more acceptable one before tomorrow's deadline? That is clearly an impossibility. A vote against this budget is a vote to close down the government and make us the laughingstock of the world.

Mr. Speaker, I have a word for my Republican colleagues who are opposing our President on the critical issue. I say to them that the Nation and the entire world view this vote as a test of the President's leadership; that a vote against this proposal is a vote of no confidence in our President. In a parliamentary system such a vote would bring down the Government. In our system, you will be voting to tie the President's hands both here and abroad in time of national crisis.

Tonight, Mr. Speaker, duty calls us to make a decision that will affect Americans for generations to come. A vote for this agreement signals that the Nation highest elected officials have at last accepted their responsibility to make the tough choices the American people know must be made.

□ 2130

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, at this late hour in our budgetary ordeal, we should do the orderly thing to move the process ahead. We should vote for this rule and send the budget to the committees of jurisdiction so that they can go to work on it in the next few days and attempt to correct some of the inequities that you and I know exist in it.

The President has given his assurance to our leadership that the committees of jurisdiction—the Committee on Ways and Means, the Committee on Energy and Commerce, the Committee on Agriculture, the Committee on Education and Labor have the flexibility to go to work. This is what we do in all normal circumstances. This is what we should do tonight. We should correct some of the inequities in Medicare and hopefully in the gasoline excise tax, and I believe we can do that in the committee process.

To vote down the rule simply means that we are back on square 1, and that does not help resolve anything.

This procedure is what we would follow in any normal circumstance, and this is the procedure that our leadership is asking for, and this is the procedure that the President is asking for.

So it seems to me we ought to advance this rule tonight, and then let the committees under the direction of our leadership go to work, make whatever improvement we can and bring us back a bill what we perhaps can all support. That is what we should do. That is the responsible thing to do. And that is what I ask this House to do tonight, approve this rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, Members of the House, I have arrived at the last resort, and it is not a very restful place. For months I have been telling my constituents that I could not and would not support increasing their taxes unless it be a last resort, and that is where we have come, to the last resort.

I do not want to, and I do not crave, imposing new taxes on the people of my district. I am not voting to do that, as a matter of fact. I am voting to stop the prospect, that gruesome prospect, of the shutdown of government and the imposition of Gramm-Rudman which, for my region, and many other regions, would mean a collapse of the whole economy.

Mr. Speaker, in my region, just as in yours, it is important to stop the imposition of Gramm-Rudman. There are automatic cuts. In my region, it means furloughs, unemployment, and a dive into a recession that will bring on a possible depression. That is how strongly I feel about this.

It is more hurtful to my people to suffer through that than it is to suffer, which I know is painful, the series of taxes for which I am voting tonight. I know that. But there is a greater reason for it.

We should not allow the stoppage of government. Stop the Government? Let it come to a halt? You would suffer, some of you, the stoppage of government while 200,000 of our fellow Americans are counting on us and on our President as they wait silently on the borders of Saudi Arabia to do their duty if called upon to do so while the people back at home allow the Goverment to shutdown?

The Government must not shut down, and we must do our duty.

I spoke with the President of the United States today. This man, who received the automatic and instantaneous cooperation of Mitterand and Thatcher and Kohl and 100 other world leaders to bring about the resolution of the immediate response to the Persian Gulf crisis, that individual deserves the same kind of cooperation from the Congress of the United States.

Vote for the rule and for the resolution.

Mr. DERRICK. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, evidently the gentleman from Pennsylvania [Mr. GEKAS] was speaking to me.

There are 200,000 troops over in the Persian Gulf; 165,000 of them are Americans. This is a world problem. Let the world pay for it.

Our kids keep coming back in body bags, and our taxpayers keep financing it.

Let the United Nations work; 165,000 Americans is ridiculous. Let us get more people from other countries over there.

And, I say, shut it down. It is better than crippling this Nation's freedom with a bad bill.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, my colleagues, I think that we all know that this is one of the most important and one of the most painful votes that we will cast in our time in Congress.

□ 2140

I, like many Members, hate much that is in this compromise. However, I hate the deficit even more. The real question we face tonight, really, though, is not just the deficit question, as important as that is. The real question tonight is: Can our divided Government work? Can this Congress function as a Congress and deliver on a reasonable compromise that all our leadership has agreed to? I say yes. I say we are in control of our own destiny and our own future.

For 10 years we have had a long wait for action. For 10 years we have piled $2 trillion of debt on our children and grandchildren. We need to stop that credit card process. We need to get our fiscal house in order, and this is the way to start.

I say, please vote yes on the rule tonight. Vote yes on the budget summit agreement. Not only does this House need to prove that it can govern, the folks across this proud Nation need to know that we can govern and that this proud democracy still works, as painful as many of the tough choices that we have to make are.

We each have our own preferences. We each have our own solutions, but we need to set aside our parochial interests, our special interests, tonight, and think of the good of the nation. Our economic future hangs in the balance tonight. The debt ceiling is about to expire. The Federal budget itself is about to expire. Sequestration in many ways is the least of our problems. Let Members stand with the President. Let Members stand with our leaders. Support the rule, and support this budget summit agreement.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, the moment of truth is upon us. We have two choices. We can vote for a budget resolution containing a number of unattractive provisions, but one which tells the world we are serious about getting our fiscal house in order. That is something the American people demand. That is something common sense dictates. That is something the financial community requries if we are going to keep our economy moving. Or we can acknowledge failure, do nothing and stand by while the Government comes to a near standstill.

I can think of 38 reasons to be negative about this package, but there is one overriding, compelling reason to be positive. It is called the national interest. I would have come up with a different plan. Many Members have said the same thing. I would have eliminated the so-called bubble that would generate $40 billion over 5 years. we could have cut the gasoline tax, we could have minimized the Medicare changes, but there is no chance to do that here and now. This is it. Like it, and no one does, or walk away from responsibility. We can run, but we cannot hide. We can run from the responsibility of passing a necessary budget resolution, but we cannot hide from the disaster which will follow if it fails. We can run from the necessity of imposing modest excise taxes on beer, wine, liquor, and most luxury items like expensive cars, yachts, furs and jewels, but we cannot hide from the results of no action, sequester forcing a $470 million cut from Head Start, $514 million cut in veterans' medical service, massive reduction in educational programs, a $379 million slash in funding for the Centers for Disease Control. The list goes on and on and on. Stop the wishful thinking. The time for partisan maneuvering is over. Let Members cast aside the political rhetoric. Read my lips: No more demagoguery. The moment of truth is here and now. We have to swallow hard and do the right thing, or abandon any sense of responsibility.

Mr. DERRICK. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, as all Members know, I detest this plan because in my view the White House won the tax debate. We wind up with a package which socks it to the middle class twice as hard as it socks the wealthiest people in this country. I do not agree with that. I have detested that all my life, and I am never going to support that kind of idea.

I have been asking people all day to vote against the rule because I wanted an opportunity to offer a progressive package which 55 Members have put together on this side of the aisle. I am still asking the leadership for that right to offer that package. So I am going to ask people who were prepared to vote against the rule, to vote for this rule so that during the debate on the resolution we can still try to work out a reasonable opportunity for people on both sides who are unhappy with this package, when we reach the reconciliation process, to be able to put up intelligent alternatives to it.

I want an opportunity to be able to offer a package which makes this more just to the middle class than this package before Members today. It is obvious that we are not going to have the votes to get that opportunity tonight. However, I do not want to foreclose that opportunity for the entire 3-week process. Therefore, I am going to ask Members to vote for the rule, to give us more time during the discussion on the resolution before us tonight, to see if we cannot arrive at a decent accommodation so that those Members who feel that this program is basically unjust to the middle class will have an opportunity during the reconciliation process to obtain votes on those packages.

I have enough confidence in the leadership on both sides of the aisle to think and expect that we can get that done. I do not know if we can, but I am willing to wait for another hour to find out.

Mr. QUILLEN. Mr. Speaker, I urge the Members of this body to vote for the rule. I urge the Members of this body to vote for the summit agreement. It is important for each and every individual in this Nation of ours that we pass it, that we stop the spiraling cost of government, that we reach a balanced budget over a 5-year period of time. It is so important. I urge the adoption of the rule.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, the President of the United States of America believes that this budget agreement is vital for America. The Speaker of this House of Representatives believes this budget agreement is vital for America. While there might be things that I would desire that were not in it, I have yet to see a program or an agreement or a proposal that makes more sense.

We are not going to allow a meat ax sequester that would lay off thousands and deny beans and bullets to our people in the Persian Gulf. That is unacceptable. We are not going to increase income tax rates and stifle incentives for economic growth. That is unacceptable. We are not going to cut Social Security or other retirement benefits which the elderly depend on daily to exist. That is unacceptable. We are not going to stop the war on drugs or stop immunizing children, or slash research on AIDS or cancer. That is unacceptable.

Around the world, my friends, people are watching what we are doing tonight. In our country, people are watching what we are doing tonight to see whether democracy can work, to see whether this Congress can work. I urge Members to support the rule and to support the agreement.

Mr. DERRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I rise in opposition to the rule.

I oppose this rule because it prevents us from having the opportunity to vote on a deficit reduction package that protects the middle income, working family of America.

There are those who argue that there is only one choice: Either vote for the summit package, or plunge into the black hole of sequestration.

That is not the only choice. That cannot be the only choice.

I appreciate the need to compromise. But I see nothing admirable about compromising away the economic security of America's working families, of America's elderly, and of America's children. But that is what this budget will do.

And for what? What is the great principle served by the grand compromise?

Deficit reduction? Spending reductions? Entitlement cuts?

We can achieve all those goals: We can improve on all those goals, with a substitute that is already available.

This budget serves the principle of expediency and the principle of the further polarization of wealth in America. The effect of this budget is to give hundreds of millions to those who have reaped the greatest economic gains of the past decade and to demand further sacrifice from those whose economic condition has stagnated or deteriorated.

Since 1977, the wealthiest 1 percent of all Americans raised their average income to $550,000, an increase of 90 percent, while receiving a simultaneous 23-percent reduction in their tax rate. Middle-income families, who will shoulder twice the sacrifices of the wealthy in this summit deal, saw their income increase only 6 percent over the past 13 years, while receiving a 4-percent increase in their tax rate.

What ever became of the principle that those who go to the party pay for the party.

Today, after 10 years of phony budgets and deficit busting fiscal policy, the party is over.

I am not prepared to tell the working people of America that they must pay twice as much in new taxes, in spending cuts, and in entitlement losses as the wealthiest of all Americans.

I believe the American people now understand that the economic surge promised by Reaganomics was a pipe dream. It did not happen. The jobs that were created were low paying, leaving millions dependent on government programs for the necessities of life. Trickle down worked only from the top 1 percent to the top 5 percent; the other 95 percent of Americans are dying of economic dehydration.

Even so, I believe the American people are willing to endure some sacrifice to reduce the deficit if everybody shares in the pain. But they are not willing, and they should not be asked, to carry a disproportionate share of the burden.

That is what this budget does.

And I think it is important to note that the only reason that this budget is not worse is because we Democrats were able to say "no" to the cutbacks and tax hikes demanded by the President and his negotiators.

The President's plan would have increased the income of the richest 1 percent of all Americans—those with after tax incomes in excess of $428,000—by 1.4 perecent, or more than $6,000, while reducing their effective tax rate.

In fact, until the capital gains windfall was finally withdrawn, at no point in the summit negotiations did any member of the White House team propose any package that did not provide additional income benefits to the top 5 percent of Americans.

The President's plan demanded greater sacrifice from seniors, retirees, the sick and disabled, and children. Under some of the original Republican plan, the increase in Medicare costs would have been about $90 billion, or almost twice the final figure that is drawing such anger from senior citizens.

And still President Bush was not finished with seniors. While obeying the obligatory axiom to protect Social Security beneficiaries, budget director Richard Darman and White House Chief of Staff John Sununu attacked the benefits of Federal retirees in the form of COLA freeze and a limitation on future COLA's to 1 percent beneath of inflation rate. Federal retirees would lose, as a result, more than $15 billion in benefits.

President Bush and his team have been successful in requiring greater burden sharing from those who benefit from U.S. military strength in the Middle East. Why can we not apply the same principle of burden sharing to the overall defense budget, where we spend $20 billion a year to defend the Japanese sea lanes and tens of billions of dollars defending Western Europe?

Why can we not apply the principle of burden sharing to our own budget, and ask those who have the most, and who have gained the most, to contribute the most to the national effort to reduce the deficit?

We are told the summit cannot be changed. We are told we have no alternative. We are told that the legislative authority of this House, of the elected Members of Congress, is powerless to modify the agreement.

Well, I did not agree to the agreement, and I didn't agree to give up my constitutional responsiblitity to defend the interests of the people I represent.

If this agreement is sound, it should be able to stand up to full scrutiny by the Congress, and it should be able to withstand an alternative. It should not prevail simply because the alternative is fiscal chaos.

But the rule before us does not provide us any choice, any right to real debate, or any opportunity to allow the political system to operate as it should. Therefore, I urge my colleagues to vote "No" on this rule, and to allow us to debate the budget plan and our alternative that protects the working people of this country and achieves real, and equitable, deficit reduction.

Mr. ACKERMAN. Mr. Speaker, I rise in support of the conference report on the budget resolution under consideration by the House today.

Although I strongly disagree with a number of the suggestions contained in the proposal, I support it because I believe that it is in the best interests of our country to proceed with the budget process.

First, I am strongly opposed to the use of the Gramm-Rudman sequester as a solution to the budget deficit. I have consistently voted against this reckless budget-cutting gimmick because I believe Congress has a responsibility to make spending decisions based on the merit of programs to our society.

Second, as House Speaker TOM FOLEY said at the White House following a meeting with President Bush, "* * * the budget summit agreement always presumed that in going to the committees for a reconcilitation bill, that many of the policies outlined were for illustrative purposes, (and) that other actions might be taken * * *" In other words, while the budget sets broad outlines for spending and revenues, the specific items—including and especially those that so many of us find abhorrent—are subject to full congressional review.

Like all budget resolutions, the conference report on the budget resolution simply sets targets and guidelines for overall spending and revenues. Its role is to trigger the process for developing the actual legislative measures needed to implement the summit deficit reduction plan.

The budget resolution does not specify precise spending and revenue levels for every program, and does not preclude committees from relying on measures different than those agreed to in the summit. Once the budget resolution has been adopted, the House and Senate Appropriations Committees can begin their work determining specific levels.

I support adoption of the budget resolution in order to activate the process for developing the actual spending levels. I do not support all components of the package. Far from it. In particular, I am opposed to increasing the Medicare contribution required of beneficiaries. Balancing the budget on the backs of the Nation's elderly is unacceptable. Many of our Nation's elderly cannot afford any increase in Medicare and would be unable to afford health care services if their premiums were to rise.

Likewise, it is unfair to ask the recently unemployed to shoulder the burden of reducing the deficit by withholding unemployment benefits for another week.

I am also troubled by the failure to extend the Mortgage Revenue Bond Program for at least 1 year. I am opposed to restricting deductions from Federal income taxes that would result in double taxation on income already paid in taxes to State and local governments.

Nonetheless, I urge my colleagues to join me in supporting passage of the conference report to ensure that the budget process can move forward. The committees of jurisdiction will retain the right to determine specific revenue and spending levels, and to address concerns about this budget package that are shared by the overwhelming majority of the American people. Let's not shut down the Federal Government. Let's not furlough our Federal employees. Let's vote to continue the budget process by supporting the conference report, and get on with the people's business.

Mr. MATSUI. Mr. Speaker, I am voting for the budget resolution before us today. It was a very tough decision to make, but I believe it is the correct choice. The Nation is on the brink of fiscal disaster. The alternative to approving this budget resolution before us is a shutdown of the Federal Government, disruption of financial markets, and fiscal chaos for the Nation.

I agree with my colleagues that many parts of this budget resolution disproportionately impact low- and middle-income Americans. Many of the proposals included are of great concern to me, chief among these are the increases in premiums and deductibles for Medicare beneficiaries, the waiting period for unemployed individuals, and the unraveling of the 1986 tax reform package.

While each and every one of us must make a sacrifice to bring our fiscal house in order, these Medicare cuts place a disproportionate burden on the backs of the Nation's older citizens. For those seniors of little means, the impact will be catastrophic.

The members of the Ways and Means Committee, on which I sit, will have opportunity to make changes and adjustments in the budget resolution, redistributing the burden so those with the least won't have to pay the most to rebuild our Nation's economy. Foremost among these will be a reexamination of the Medicare beneficiary payment increases. I will vote against any package coming out of the committee that does not include significant changes in the Medicare provisions contained in this budget resolution.

I am voting for this budget resolution today with great concern about its impact, as it was drafted, on the American public. However, I know the consequences of not passing a budget resolution are far more ominous than approving the proposal before us and adjusting it to make it less burdensome to lower- and middle-income American.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have 2 hours of general debate on the resolution, and we

can argue the merits of that resolution at that time. However, let me tell Members that back about a month ago I was in upper part of my district in South Carolina, and I was in a restaurant. I saw a couple over there, and I decided I would go over and speak to them. I went over there and I introduced myself, and the man looked at me. He says, "I know who you are, Congressman Derrick." He said, "I voted for you before." He said, "I think you have done a good job. I think you are a good Congressman. I think you are honest, but I'm not going to vote for you." He said, "I'm not going to vote for you because we the people of this country have given you guys in Congress the responsibility of governing our country and you are not doing it."

I will tell Members, as much as I have heard about budgets and all of this for the 16 years that I have been here, the very idea that anyone would consider not voting for this rule is absurd, that you are not going to even give the House an opportunity to govern the country.

□ 2150

So I suggest that you vote for it and let us govern the country and do what we were sent here to do.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. MURTHA). Without objection, the previous question is ordered.

Mr. DANNEMEYER. Mr. Speaker, I object.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Two hundred nineteen Members are present, a quorum.

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So the previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 339, noes 94, not voting 0, as follows:

[Roll No. 420]

AYES—339

Ackerman	Frost	McCollum
Alexander	Gallegly	McCurdy
Anderson	Gallo	McDade
Andrews	Gaydos	McDermott
Annunzio	Gekas	McGrath
Anthony	Gephardt	McHugh
Applegate	Geren	McMillan (NC)
Archer	Gibbons	McMillen (MD)
Aspin	Gillmor	McNulty
AuCoin	Gilman	Meyers
Baker	Gingrich	Mfume
Barnard	Gonzalez	Michel
Bartlett	Goodling	Miller (OH)
Barton	Gordon	Miller (WA)
Bateman	Goss	Mineta
Bates	Gradison	Mink
Beilenson	Grandy	Moakley
Bennett	Grant	Molinari
Bentley	Gray	Mollohan
Bereuter	Green	Montgomery
Berman	Guarini	Moorhead
Bevill	Gunderson	Morella
Bilbray	Hall (OH)	Morrison (WA)
Bilirakis	Hamilton	Mrazek
Boehlert	Hammerschmidt	Murphy
Boggs	Hansen	Murtha
Bonior	Harris	Myers
Borski	Hastert	Nagle
Bosco	Hatcher	Natcher
Boucher	Hawkins	Neal (MA)
Brennan	Hayes (LA)	Neal (NC)
Brooks	Hefner	Nelson
Broomfield	Hiler	Nielson
Browder	Hoagland	Nowak
Brown (CA)	Hochbrueckner	Oberstar
Bruce	Hopkins	Obey
Buechner	Horton	Olin
Bunning	Houghton	Ortiz
Bustamante	Hoyer	Owens (UT)
Byron	Hubbard	Oxley
Campbell (CO)	Huckaby	Pallone
Cardin	Hughes	Panetta
Carper	Hutto	Parker
Carr	Hyde	Parris
Chandler	Ireland	Pashayan
Chapman	Jenkins	Patterson
Clarke	Johnson (CT)	Paxon
Clement	Johnson (SD)	Payne (VA)
Clinger	Johnston	Pease
Coble	Jones (GA)	Pelosi
Coleman (MO)	Jones (NC)	Penny
Coleman (TX)	Jontz	Perkins
Combest	Kanjorski	Pickett
Condit	Kaptur	Pickle
Conte	Kastenmeier	Price
Conyers	Kennelly	Pursell
Cooper	Kildee	Quillen
Coughlin	Kleczka	Rahall
Courter	Kolbe	Ravenel
Cox	Kolter	Ray
Crockett	Kostmayer	Rhodes
Darden	LaFalce	Richardson
Davis	Lagomarsino	Ridge
de la Garza	Lancaster	Rinaldo
Derrick	Lantos	Ritter
DeWine	Laughlin	Robinson
Dickinson	Leach (IA)	Roe
Dicks	Leath (TX)	Rogers
Dingell	Lehman (CA)	Ros-Lehtinen
Dixon	Lehman (FL)	Rose
Dorgan (ND)	Lent	Rostenkowski
Dornan (CA)	Levin (MI)	Roukema
Downey	Levine (CA)	Rowland (GA)
Dreier	Lewis (CA)	Roybal
Duncan	Lewis (FL)	Sabo
Durbin	Lewis (GA)	Saiki
Dwyer	Lipinski	Sawyer
Eckart	Livingston	Saxton
Edwards (CA)	Lloyd	Scheuer
Edwards (OK)	Long	Schiff
Emerson	Lowery (CA)	Schneider
English	Lowey (NY)	Schroeder
Erdreich	Luken, Thomas	Serrano
Espy	Lukens, Donald	Sharp
Fascell	Machtley	Shaw
Fazio	Madigan	Shays
Feighan	Manton	Shumway
Fish	Markey	Sikorski
Flippo	Marlenee	Sisisky
Foglietta	Martin (NY)	Skaggs
Ford (MI)	Matsui	Skeen
Frank	Mavroules	Skelton
Frenzel	Mazzoli	Slattery
Slaughter (NY)	Tallon	Walsh
Slaughter (VA)	Tanner	Washington
Smith (FL)	Tauke	Watkins
Smith (IA)	Tauzin	Waxman
Smith (NE)	Taylor	Weber
Smith (NJ)	Thomas (CA)	Wheat
Smith (VT)	Thomas (GA)	Whittaker
Smith, Robert (OR)	Thomas (WY)	Whitten
	Torres	Williams
Snowe	Torricelli	Wilson
Solarz	Traficant	Wise
Solomon	Traxler	Wolf
Spratt	Udall	Wolpe
Staggers	Unsoeld	Wyden
Stallings	Valentine	Wylie
Stearns	Vander Jagt	Yates
Stenholm	Vento	Yatron
Studds	Visclosky	Young (AK)
Sundquist	Volkmer	Young (FL)
Swift	Vucanovich	
Synar	Walgren	

NOES—94

Armey	Glickman	Poshard
Atkins	Hall (TX)	Rangel
Ballenger	Hancock	Regula
Bliley	Hayes (IL)	Roberts
Boxer	Hefley	Rohrabacher
Brown (CO)	Henry	Roth
Bryant	Herger	Rowland (CT)
Burton	Hertel	Russo
Callahan	Holloway	Sangmeister
Campbell (CA)	Hunter	Sarpalius
Clay	Inhofe	Savage
Collins	Jacobs	Schaefer
Costello	James	Schuette
Coyne	Kasich	Schulze
Craig	Kennedy	Schumer
Crane	Kyl	Sensenbrenner
Dannemeyer	Lightfoot	Shuster
DeFazio	Martin (IL)	Smith (TX)
DeLay	Martinez	Smith, Denny (OR)
Dellums	McCandless	
Donnelly	McCloskey	Smith, Robert (NH)
Douglas	McCrery	
Dymally	McEwen	Spence
Dyson	Miller (CA)	Stangeland
Early	Moody	Stark
Engel	Morrison (CT)	Stokes
Evans	Oakar	Stump
Fawell	Owens (NY)	Towns
Fields	Packard	Upton
Flake	Payne (NJ)	Walker
Ford (TN)	Petri	Weiss
Gejdenson	Porter	Weldon

□ 2209

Mr. NOWAK and Mr. DREIER of California changed their vote from "nay" to "yea."

Mr. SCHUMER changed his vote from "yea" to "nay".

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Ms. OAKAR. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. (Mr. MURTHA). The gentlewoman will state it.

Ms. OAKAR. Mr. Speaker, could I inquire as to the manner in which the time is allocated? Is there any allocation? Is the time equally divided for those who are for the budget resolution and those who are opposed?

The SPEAKER pro tempore. The Chair will announce that under House Resolution 488 the time is controlled, 1 hour by the gentleman from California [Mr. PANETTA], and 1 hour for the gentleman from Minnesota [Mr. FRENZEL].

Ms. OAKAR. Mr. Speaker, that did not answer my question, though.

I merely want to inquire whether there is an equal division of time for those who are for the budget resolution and those who have a different opinion of it.

The SPEAKER pro tempore. The rule provides that one-half of the time will be allocated to the gentleman from California [Mr. PANETTA], and one-half will be allocated to the gentleman from Minnesota [Mr. FRENZEL]. They will be able to yield time.

Ms. OAKAR. Mr. Speaker, is the gentleman from Minnesota opposed, or shall I ask him that question?

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. OAKAR] may ask him that question.

Ms. OAKAR. Mr. Speaker, I would like to ask the gentleman from California [Mr. PANETTA] and the gentleman from Minnesota [Mr. FRENZEL] whether they intend to equally divide their time for those who are for the resolution and for those who are opposed to the resolution.

Mr. PANETTA. Mr. Speaker, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, as I indicated, I was prepared to accommodate those that would speak in opposition to the resolution until the time that I have given them is used up.

Ms. OAKAR. But is it equally divided?

Mr. PANETTA. Approximately equally divided. Not exactly. But I did it based on those that came to the desk and asked for time. There was nobody in opposition who came to the desk that did not get any time.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Ms. OAKAR. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, the Republican side will be divided exactly evenly between opponents and proponents.

Mr. PANETTA. Mr. Speaker, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, if others are prepared to accommodate, I could try to provide a minute to the gentlewoman from Ohio [Ms. OAKAR]. I could try to do that.

Mr. PANETTA submitted the following conference report and statement on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995:

CONFERENCE REPORT (H. REPORT 101-802)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the resolution and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the budget for fiscal year 1991 is established, and the appropriate budgetary levels for fiscal years 1992, 1993, 1994, and 1995 are hereby set forth.

MAXIMUM DEFICIT AMOUNTS

SEC. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1991: $1,172,900,000,000.
Fiscal year 1992: $1,260,800,000,000.
Fiscal year 1993: $1,349,800,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1991: $1,486,100,000,000.
Fiscal year 1992: $1,563,300,000,000.
Fiscal year 1993: $1,583,900,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1991: $1,236,900,000,000.
Fiscal year 1992: $1,269,300,000,000.
Fiscal year 1993: $1,305,200,000,000.

(4)(A) The amounts of the deficits are as follows:

Fiscal year 1991: $64,000,000,000.
Fiscal year 1992: $8,500,000,000.

(B) The amount of the surplus is as follows:

Fiscal year 1993: $44,600,000,000.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 3. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1990, October 1, 1991, October 1, 1992, October 1, 1993, and October 1, 1994:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1991: $858,600,000,000.
Fiscal year 1992: $923,900,000,000.
Fiscal year 1993: $987,900,000,000.
Fiscal year 1994: $1,045,200,000,000.
Fiscal year 1995: $1,101,400,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1991: $14,700,000,000.
Fiscal year 1992: $24,300,000,000.
Fiscal year 1993: $26,900,000,000.
Fiscal year 1994: $30,700,000,000.
Fiscal year 1995: $30,300,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1991: $75,400,000,000.
Fiscal year 1992: $83,200,000,000.
Fiscal year 1993: $88,900,000,000.
Fiscal year 1994: $95,200,000,000.
Fiscal year 1995: $101,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1991: $1,175,200,000,000.
Fiscal year 1992: $1,230,800,000,000.
Fiscal year 1993: $1,231,100,000,000.
Fiscal year 1994: $1,216,900,000,000.
Fiscal year 1995: $1,267,100,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1991: $1,002,300,000,000.
Fiscal year 1992: $1,024,800,000,000.
Fiscal year 1993: $1,050,100,000,000.
Fiscal year 1994: $1,060,000,000,000.
Fiscal year 1995: $1,080,800,000,000.

(4)(A) The amounts of the deficits are as follows:

Fiscal year 1991: $143,700,000,000.
Fiscal year 1992: $100,900,000,000.
Fiscal year 1993: $62,200,000,000.
Fiscal year 1994: $14,800,000,000.

(B) The amount of the surplus is as follows:

Fiscal year 1995: $20,600,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1991: $3,369,600,000,000.
Fiscal year 1992: $3,540,900,000,000.
Fiscal year 1993: $3,676,700,000,000.
Fiscal year 1994: $3,766,900,000,000.
Fiscal year 1995: $3,827,600,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1990, October 1, 1991, October 1, 1992, October 1, 1993, and October 1, 1994, are as follows:

Fiscal year 1991:

(A) New direct loan obligation, $21,000,000,000.

(B) New primary loan guarantee commitments, $106,800,000,000.

(C) New secondary loan guarantee commitments, $85,400,000,000.

Fiscal year 1992:

(A) New direct loan obligations, $17,800,000,000.

(B) New primary loan guarantee commitments, $109,600,000,000.

(C) New secondary loan guarantee commitments, $88,700,000,000.

Fiscal year 1993:

(A) New direct loan obligations, $18,200,000,000.

(B) New primary loan guarantee commitments, $112,100,000,000.

(C) New secondary loan guarantee commitments, $92,100,000,000.

Fiscal year 1994:

(A) New direct loan obligations, $18,400,000,000.

(B) New primary loan guarantee commitments, $115,450,000,000.

(C) New secondary loan guarantee commitments, $95,600,000,000.

Fiscal year 1995:

(A) New direct loan obligations, $18,600,000,000.

(B) New primary loan guarantee commitments, $118,100,000,000.

(C) New secondary loan guarantee commitments, $99,200,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new primary loan guarantee commitments for fiscal years 1991 through 1995 for each major functional category are:

(1) National Defense (050):

Fiscal year 1991:

(A) New budget authority, $289,100,000,000.

(B) Outlays, $297,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $291,600,000,000.
(B) Outlays, $295,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $291,800,000,000.
(B) Outlays, $292,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $351,500,000,000.
(B) Outlays, $341,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $364,900,000,000.
(B) Outlays, $351,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(2) International Affairs (150):
Fiscal year 1991:
(A) New budget authority, $19,200,000,000.
(B) Outlays, $17,400,000,000.
(C) New direct loan obligations, $1,900,000,000.
(D) New primary loan guarantee commitments, $7,200,000,000
(E) New secondary loan guarantee commitments of $400,000,000.
Fiscal year 1992:
(A) New budget authority, $19,800,000,000.
(B) Outlays, $18,000,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $7,200,000,000
(E) New secondary loan guarantee commitments, $400,000,000.
Fiscal year 1993:
(A) New budget authority, $20,600,000,000.
(B) Outlays, $18,500,000,000.
(C) New direct loan obligations, $2,100,000,000.
(D) New primary loan guarantee commitments, $7,500,000,000.
(E) New secondary loan guarantee commitments, $400,000,000.
Fiscal year 1994:
(A) New budget authority, $22,400,000,000.
(B) Outlays, $19,700,000,000.
(C) New direct loan obligations, $2,100,000,000.
(D) New primary loan guarantee commitments, $7,700,000,000.
(E) New secondary loan guarantee commitments, $500,000,000.
Fiscal year 1995:
(A) New budget authority, $23,800,000,000.
(B) Outlays, $20,700,000,000.
(C) New direct loan obligations, $2,200,000,000.
(D) New primary loan guarantee commitments, $8,000,000,000.
(E) New secondary loan guarantee commitments, $500,000,000.
(3) General Science, Space, and Technology (250):
Fiscal year 1991:
(A) New budget authority, $15,200,000,000.
(B) Outlays, $15,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $15,900,000,000.
(B) Outlays, $15,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $16,500,000,000.
(B) Outlays, $16,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $17,100,000,000.
(B) Outlays, $16,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $17,700,000,000.
(B) Outlays, $17,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(4) Energy (270):
Fiscal year 1991:
(A) New budget authority, $6,100,000,000.
(B) Outlays, $3,800,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1992:
(A) New budget authority, $5,300,000,000.
(B) Outlays, $4,100,000,000.
(C) New direct loan obligations, $1,600,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $6,100,000,000.
(B) Outlays, $4,700,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $6,500,000,000.
(B) Outlays, $5,000,000,000.
(C) New direct loan obligations, $2,100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $6,900,000,000.
(B) Outlays, $4,800,000,000.
(C) New direct loan obligations, $2,300,000,000.
(D) New primary loan guarantee commitments, $0.
(5) Natural Resources and Environment (300):
Fiscal year 1991:
(A) New budget authority, $18,700,000,000.
(B) Outlays, $18,800,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $19,700,000,000.
(B) Outlays, $19,500,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $20,400,000,000.
(B) Outlays, $20,000,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $21,100,000,000.
(B) Outlays, $20,500,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $21,800,000,000.
(B) Outlays, $21,000,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(6) Agriculture (350):
Fiscal year 1991:
(A) New budget authority, $16,600,000,000.
(B) Outlays, $12,800,000,000.
(C) New direct loan obligations, $9,000,000,000.
(D) New primary loan guarantee commitments, $7,000,000,000.
Fiscal year 1992:
(A) New budget authority, $20,600,000,000.
(B) Outlays, $15,100,000,000.
(C) New direct loan obligations, $8,800,000,000.
(D) New primary loan guarantee commitments, $7,300,000,000.
Fiscal year 1993:
(A) New budget authority, $17,600,000,000.
(B) Outlays, $13,200,000,000.
(C) New direct loan obligations, $8,600,000,000.
(D) New primary loan guarantee commitments, $6,600,000,000.
Fiscal year 1994:
(A) New budget authority, $14,800,000,000.
(B) Outlays, $12,000,000,000.
(C) New direct loan obligations, $8,600,000,000.
(D) New primary loan guarantee commitments, $6,700,000,000.
Fiscal year 1995:
(A) New budget authority, $15,300,000,000.
(B) Outlays, $10,700,000,000.
(C) New direct loan obligations, $8,400,000,000.
(D) New primary loan guarantee commitments, $6,800,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1991:
(A) New budget authority, $85,200,000,000.
(B) Outlays, $85,400,000,000.
(C) New direct loan obligations, $6,000,000,000.
(D) New primary loan guarantee commitments, $63,300,000,000.
(E) New secondary loan guarantee commitments, $85,000,000,000.
Fiscal year 1992:
(A) New budget authority, $85,100,000,000.
(B) Outlays, $79,000,000,000.
(C) New direct loan obligations, $3,300,000,000.
(D) New primary loan guarantee commitments, $65,500,000,000.
(E) New secondary loan guarantee commitments, $88,300,000,000.
Fiscal year 1993:
(A) New budget authority, $41,300,000,000.
(B) Outlays, $37,000,000,000.
(C) New direct loan obligations, $3,400,000,000.
(D) New primary loan guarantee commitments, $67,800,000,000.
(E) New secondary loan guarantee commitments, $91,700,000,000.
Fiscal year 1994:
(A) New budget authority, −$6,800,000,000.
(B) Outlays, −$12,200,000,000.
(C) New direct loan obligations, $3,500,000,000.

(D) New primary loan guarantee commitments, $70,300,000,000.
(E) New secondary loan guarantee commitments, $95,100,000,000.
Fiscal year 1995:
(A) New budget authority, $2,300,000,000.
(B) Outlays, −$6,400,000,000.
(C) New direct loan obligations, $3,600,000,000.
(D) New primary loan guarantee commitments, $72,100,000,000.
(E) New secondary loan guarantee commitments, $98,700,000,000.
(8) Transportation (400):
Fiscal year 1991:
(A) New budget authority, $32,100,000,000.
(B) Outlays, $30,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $33,300,000,000.
(B) Outlays, $31,700,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $34,500,000,000.
(B) Outlays, $32,900,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $35,800,000,000.
(B) Outlays, $34,000,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $37,100,000,000.
(B) Outlays, $35,200,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(9) Community and Regional Development (450):
Fiscal year 1991:
(A) New budget authority, $9,200,000,000.
(B) Outlays, $8,500,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1992:
(A) New budget authority, $8,900,000,000.
(B) Outlays, $8,300,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1993:
(A) New budget authority, $9,000,000,000.
9& (B) Outlays, $8,500,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1994:
(A) New budget authority, $9,400,000,000.
(B) Outlays, $8,700,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1995:
(A) New budget authority, $9,600,000,000.
(B) Outlays, $9,000,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1991:
(A) New budget authority, $43,000,000,000.
(B) Outlays, $41,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $12,500,000,000.
Fiscal year 1992:
(A) New budget authority, $43,500,000,000.
(B) Outlays, $42,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $12,900,000,000.
Fiscal year 1993:
(A) New budget authority, $44,000,000,000.
(B) Outlays, $43,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,200,000,000.
Fiscal year 1994:
(A) New budget authority, $45,700,000,000.
(B) Outlays, $44,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,300,000,000.
Fiscal year 1995:
(A) New budget authority, $47,300,000,000.
(B) Outlays, $46,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $13,400,000,000.
(11) Health (550):
Fiscal year 1991:
(A) New budget authority, $66,600,000,000.
(B) Outlays, $65,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1992:
(A) New budget authority, $73,900,000,000.
(B) Outlays, $73,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1993:
(A) New budget authority, $81,200,000,000.
(B) Outlays, $80,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1994:
(A) New budget authority, $89,400,000,000.
(B) Outlays, $88,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $350,000,000.
Fiscal year 1995:
(A) New budget authority, $98,300,000,000.
(B) Outlays, $97,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $400,000,000.
(12) Medicare (570):
Fiscal year 1991:
(A) New budget authority, $123,600,000,000.
(B) Outlays, $100,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $138,100,000,000.
(B) Outlays, $110,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $153,600,000,000.
(B) Outlays, $122,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $170,200,000,000.
(B) Outlays, $135,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $187,600,000,000.
(B) Outlays, $149,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1991:
(A) New budget authority, $203,500,000,000.
(B) Outlays, $159,300,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $211,300,000,000.
(B) Outlays, $166,200,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $217,900,000,000.
(B) Outlays, $174,000,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $228,200,000,000.
(B) Outlays, $184,800,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $236,600,000,000.
(B) Outlays, $192,300,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(14) Social Security (650):
Fiscal year 1991:
(A) New budget authority, $3,800,000,000.
(B) Outlays, $3,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $4,500,000,000.
(B) Outlays, $4,500,000,000.
(C) New direet loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $4,900,000,000.
(B) Outlays, $4,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $5,400,000,000.
(B) Outlays, $5,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $6,000,000,000.
(B) Outlays, $6,000,000,000.
(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1991:
(A) New budget authority, $31,300,000,000.
(B) Outlays, $31,100,000,000.
(C) New direct loan obligations, $700,000,000.
(D) New primary loan guarantee commitments, $15,700,000,000.
Fiscal year 1992:
(A) New budget authority, $32,400,000,000.
(B) Outlays, $32,000,000,000.
(C) New direct loan obligations, $600,000,000.
(D) New primary loan guarantee commitments, $16,000,000,000.
Fiscal year 1993:
(A) New budget authority, $33,400,000,000.
(B) Outlays, $33,100,000,000.
(C) New direct loan obligations, $600,000,000.
(D) New primary loan guarantee commitments, $16,300,000,000.
Fiscal year 1994:
(A) New budget authority, $34,400,000,000.
(B) Outlays, $35,600,000,000.
(C) New direct loan obligations, $500,000,000.
(D) New primary loan guarantee commitments, $16,700,000,000.
Fiscal year 1995:
(A) New budget authority, $35,400,000,000.
(B) Outlays, $35,400,000,000.
(C) New direct loan obligations, $500,000,000.
(D) New primary loan guarantee commitments, $17,000,000,000.
(16) Administration of Justice (750):
Fiscal year 1991:
(A) New budget authority, $13,300,000,000.
(B) Outlays, $12,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $13,900,000,000.
(B) Outlays, $13,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $14,500,000,000.
(B) Outlays, $14,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $15,000,000,000.
(B) Outlays, $14,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $15,700,000,000.
(B) Outlays, $15,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1991:
(A) New budget authority, $11,700,000,000.
(B) Outlays, $11,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $12,000,000,000.
(B) Outlays, $12,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $12,300,000,000.
(B) Outlays, $11,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $12,500,000,000.
(B) Outlays, $12,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $13,000,000,000.
(B) Outlays, $12,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(18) Net Interest (900):
Fiscal year 1991:
(A) New budget authority, $215,600,000,000.
(B) Outlays, $215,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $228,700,000,000.
(B) Outlays, $228,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $239,200,000,000.
(B) Outlays, $239,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $243,700,000,000.
(B) Outlays, $243,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $244,500,000,000.
(B) Outlays, $244,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(19) Allowances (920):
Fiscal year 1991:
(A) New budget authority, $0.
(B) Outlays, −$95,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $0.
(B) Outlays, $113,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $0.
(B) Outlays, −$86,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $0.
(B) Outlays, −$66,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $0.
(B) Outlays, −$76,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 1991:
(A) New budget authority, −$28,600,000,000.
(B) Outlays, −$33,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, −$27,700,000,000.
(B) Outlays, −$31,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, −$27,700,000,000.
(B) Outlays, −$29,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, −$99,400,000,000.
(B) Outlays, −$90,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, −$116,700,000,000.
(B) Outlays, −$105,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

RECONCILIATION

SEC. 4. (a) Not later than October 12, 1990, the committees named in subsections (b) and (c) of this section shall submit their recommendations to the Committees on the Budget of their respective Houses. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

HOUSE COMMITTEES

(b)(1) The House Committee on Agriculture shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $1,409,000,000 in outlays in fiscal year 1991, $2,023,000,000 in outlays in fiscal year 1992, $2,827,000,000 in outlays in fiscal year 1993, $3,432,000,000 in outlays in fiscal year 1994, and $3,936,000,000 in outlays in fiscal year 1995.

(2) The House Committee on Banking, Finance and Urban Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $1,507,000,000 in outlays in fiscal year 1991, $2,635,000,000 in outlays in fiscal year 1992, $2,812,000,000 in outlays in fiscal year 1993, $3,081,000,000 in outlays in fiscal year 1994, and $3,223,000,000 in outlays in fiscal year 1995.

(3)(A) The House Committee on Education and Labor shall report (i) changes in laws

within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (ii) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (iii) any combination thereof, as follows: $120,000,000 in outlays in fiscal year 1991, $330,000,000 in outlays in fiscal year 1992, $530,000,000 in outlays in fiscal year 1993, $730,000,000 in outlays in fiscal year 1994, and $930,000,000 in outlays in fiscal year 1995.

(B) The House Committee on Education and Labor shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $95,000,000 in fiscal year 1991, $195,000,000 in fiscal year 1992, $230,000,000 in fiscal year 1993, $280,000,000 in fiscal year 1994, and $330,000,000 in fiscal year 1995.

(4) The House Committee on Energy and Commerce shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $4,731,000,000 in outlays in fiscal year 1991, $9,622,000,000 in outlays in fiscal year 1992, $12,924,000,000 in outlays in fiscal year 1993, $15,788,000,000 in outlays in fiscal year 1994, and $19,156,000,000 in outlays in fiscal year 1995.

(5) The House Committee on Interior and Insular Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $343,000,000 in outlays in fiscal year 1991, $400,000,000 in outlays in fiscal year 1992, $412,000,000 in outlays in fiscal year 1993, $425,000,000 in outlays in fiscal year 1994, and $438,000,000 in outlays in fiscal year 1995.

(6) The House Committee on Judiciary shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $91,000,000 in outlays in fiscal year 1991, $95,000,000 in outlays in fiscal year 1992, $99.000,000 in outlays in fiscal year 1993, $103,000,000 in outlays in fiscal year 1994, and $107,000,000 in outlays in fiscal year 1995.

(7) The House Committee on Merchant Marine and Fisheries shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $222,000,000 in outlays in fiscal year 1991, $241,000,000 in outlays in fiscal year 1992, $249,000,000 in outlays in fiscal year 1993, $256,000,000 in outlays in fiscal year 1994, and $263,000,000 in outlays in fiscal year 1995.

(8) The House Committee on Post Office and Civil Service shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $2,165,000,000 in outlays in fiscal year 1991, $2,140,000,000 in outlays in fiscal year 1992, $2,780,000,000 in outlays in fiscal year 1993, $3,545,000,000 in outlays in fiscal year 1994, and $3,720,000,000 in outlays in fiscal year 1995.

(9) The House Committee on Public Works shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $42,000,000,000 in outlays in fiscal year 1991, $53,000,000,000 in outlays in fiscal year 1992, $53,000,000 in outlays in fiscal year 1993, $53,000,000 in outlays in fiscal year 1994, and $53,000,000 in outlays in fiscal year 1995.

(10) The House Committee on Science, Space, and Technology shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $5,000,000 in outlays in fiscai year 1991, $5,000,000 in outlays in fiscal year 1992, $ 5,000,000 in outlays in fiscal year 1993, $5,000,000 in outlays in fiscal year 1994, and $5,000,000 in outlays in fiscal year 1995.

(11) The House Committee on Veterans' Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $620,000,000 in outlays in fiscal year 1991, $645,000,000 in outlays in fiscal year 1992, $670,000,000 in outlays in fiscal year 1993, $695,000,000 in outlays in fiscal year 1994, and $720,000,000 in outlays in fiscal year 1995.

(12)(A) The House Committee on Ways and Means shall report changes in laws within its jurisdiction relating to medicare provider payments sufficient to reduce outlays as follows: $3,100,000,000 in outlays in fiscal year 1991, $5,200,000,000 in outlays in fiscal year 1992, $6,300,000,000 in outlays in fiscal year 1993, $7,000,000,000 in outlays in fiscal year 1994, and $8,400,000,000 in outlays in fiscal year 1995.

(B) The House Committee on Ways and Means shall report changes in laws within its jurisdiction relating to medicare beneficiaries and medicare beneficiary payments sufficient to reduce outlays as follows: $1,100,000,000 in outlays in fiscal year 1991, $3,300,000,000 in outlays in fiscal year 1992, $5,200,000,000 in outlays in fiscal year 1993, $7,300,000,000 in outlays in fiscal year 1994, and $9,100,000,000 in outlays in fiscal year 1995.

(C) The House Committee on Ways and Means shall report changes in laws within its jurisdiction relating to other medicare program matters sufficient to reduce outlays as follows: $0 in outlays in fiscal year 1991, $400,000,000 in outlays in fiscal year 1992, $500,000,000 in outlays in fiscal year 1993, $500,000,000 in outlays in fiscal year 1994, and $600,000,000 in outlays in fiscal year 1995.

(D) The House Committee on Ways and Means shall report changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974 (other than laws relating to medicare), sufficient to reduce outlays as follows: $0 in outlays in fiscal year 1991, $1,143,000,000 in outlays in fiscal year 1992, $1,178,000,000 in outlays in fiscal year 1993, $1,150,000,000 in outlays in fiscal year 1994, and $1,200,000,000 in outlays in fiscal year 1995.

(E) The House Committee on Ways and Means shall report changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974 sufficient to reduce outlays as follows: $120,000,000 in outlays in fiscal year 1991, $702,000,000 in outlays in fiscal year 1992, $692,000,000 in outlays in fiscal year 1993, $698,000,000 in outlays in fiscal year 1994, and $720,000,000 in outlays in fiscal year 1995.

(F) The House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $14,225,000,000 in fiscal year 1991, $25,635,000,000 in fiscal year 1992, $26,040,000,000 in fiscal year 1993, $31,450,000,000 in fiscal year 1994, and $31,450,000,000 in fiscal year 1995.

(G) The House Committee on Ways and Means shall report changes in law within its jurisdiction which provides for an increase in the permanent statutory limit on the public debt by an amount not to exceed $1,900,000,000,000.

SENATE COMMITTEES

(c)(1) The Senate Committee on Agriculture, Nutrition, and Forestry shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $1,387,000,000 in fiscal year 1991, and $13,473,000,000 in fiscal years 1991 through 1995.

(2) The Senate Committee on Banking, Housing, and Urban Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as

follows: $1,507,000,000 in fiscal year 1991, and $13,258,000,000 in fiscal years 1991 through 1995.

(3) The Senate Committee on Commerce, Science, and Transportation shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $232,000,000 in fiscal year 1991, and $1,335,000,000 in fiscal years 1991 through 1995.

(4) The Senate Committee on Energy and Natural Resources shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $36,000,000 in fiscal year 1991, and $364,000,000 in fiscal years 1991 through 1995.

(5) The Senate Committee on Environment and Public Works shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $329,000,000 in fiscal year 1991, and $1,808,000,000 in fiscal years 1991 through 1995.

(6)(A) The Senate Committee on Finance shall report (i) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (ii) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (iii) any combination thereof, as follows: $4,015,000,000 in fiscal year 1991, and $65,883,000,000 in fiscal years 1991 through 1995.

(B) The Senate Committee on Finance shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $14,225,000,000 in fiscal year 1991, and $128,800,000,000 in fiscal years 1991 through 1995.

(C) The Senate Committee on Finance shall report changes in law within its jurisdiction which provide for an increase in the permanent statutory limit on the public debt by an amount not to exceed $1,900,000,000,000.

(7) The Senate Committee on Governmental Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $2,165,000,000 in fiscal year 1991, and $14,350,000,000 in fiscal years 1991 through 1995.

(8) The Senate Committee on Judiciary shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $91,000,000 in fiscal year 1991, and $495,000,000 in fiscal years 1991 through 1995.

(9)(A) The Senate Committee on Labor and Human Resources shall report (i) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (ii) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (iii) any combination thereof, as follows: $120,000,000 in fiscal year 1991, and $2,640,000,000 in fiscal years 1991 through 1995.

(B) The Senate Committee on Labor and Human Resources shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $45,000,000 in fiscal year 1991, and $840,000,000 in fiscal years 1991 through 1995.

(10) The Senate Committee on Veterans' Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $620,000,000 in fiscal year 1991, and $3,350,000,000 in fiscal years 1991 through 1995.

SALE OF GOVERNMENT ASSETS

SEC. 5. (a) It is the sense of the Congress that—

(1) from time to time the United States Government should sell assets to nongovernment buyers; and

(2) the amounts realized from such asset sales will not recur on an annual basis and do not reduce the demand for credit.

(b) For purposes of allocations and points of order under section 302 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be allocated to a committee and shall not be scored with respect to the level of budget authority or outlays under a committee's allocation under section 302 of that Act.

(c) For purposes of reconciliation under section 310 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be scored with respect to the level of budget authority, outlays, contributions, or revenues reconciled under a concurrent resolution on the budget.

(d) For purposes of this section—

(1) the terms "asset sale" and "prepayment of a loan" shall have the same meaning as under section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) the terms "asset sale" and "prepayment of a loan" do not include asset sales mandated by law before September 18, 1987, and routine, ongoing asset sales and loan prepayments at levels consistent with agency operations in fiscal year 1986.

RESERVE FUND FOR CHILDREN

SEC. 6. (a) In the Senate, budget authority and outlays may be allocated to the Senate Committee on Finance for increased funding for children, including funding through tax credits, if the Committee on Finance or the committee of conference reports funding legislation that—

(1) will, if enacted, make funds available for that purposes; and

(2) to the extent that the costs of such legislation are not included in this resolution, will not increase the deficit in this resolution for fiscal year 1991, and will not increase the total deficit for the period of fiscal years 1991 through 1995.

(b) Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if such a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in this resolution. The Committee on Finance shall report revised allocations pursuant to section 302(b) of such Act for the appropriate fiscal year (or years) to carry out this subsection.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the resolution.

LEON E. PANETTA,
RICHARD GEPHARDT,
BILL FRENZEL,
Managers on the Part of the House.
JIM SASSER,
WYCHE FOWLER, JR.,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the resolution struck out all of the House resolution after the resolving clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House resolution and the Senate amendment.

EXPLANATION OF CONFERENCE AGREEMENT

The following tables show the functional allocations and budget aggregates included in the conference agreement over five years for the total budget, the on-budget amounts and the off-budget amounts. In addition, a table is included which breaks out the credit amounts by function.

CONFERENCE AGREEMENT TOTAL BUDGET

[In billions of dollars]

	1991	1992	1993	1994	1995
Budget Authority	1,486.1	1,563.3	1,583.9	1,594.3	1,669.5
Outlays	1,236.9	1,269.3	1,305.2	1,324.9	1,355.4
Revenues	1,172.9	1,260.8	1,349.8	1,433.3	1,511.7
Deficit (−) / surplus (+)	−64.0	−8.5	44.6	108.4	156.3
050 National defense:					
Budget authority	289.1	291.6	291.8	351.5	364.9
Outlays	297.0	295.0	292.0	341.7	351.5
150 International Affairs:					
Budget authority	19.2	19.8	20.6	22.4	23.8
Outlays	17.4	18.0	18.5	19.7	20.7
250 General science, space and technology:					
Budget authority	15.2	15.9	16.5	17.1	17.7
Outlays	15.2	15.7	16.1	16.8	17.4
270 Energy:					
Budget authority	6.1	5.3	6.1	6.5	6.9
Outlays	3.8	4.1	4.7	5.0	4.8
300 Natural resources and environment:					
Budget authority	18.7	19.7	20.4	21.1	21.8
Outlays	18.8	19.5	20.0	20.5	21.0
350 Agriculture:					
Budget authority	16.6	20.6	17.6	14.8	15.3
Outlays	12.8	15.1	13.2	12.0	10.7
370 Commerce and housing credit:					
Budget authority	85.2	85.1	41.3	−6.8	2.3
Outlays	85.4	79.0	37.0	−12.2	−6.4
400 Transportation:					
Budget authority	32.1	33.3	34.5	35.8	37.1
Outlays	30.5	31.7	32.9	34.0	35.2
450 Community and regional development:					
Budget authority	9.2	8.9	9.9	9.4	9.6
Outlays	8.5	8.3	8.5	8.7	9.0
500 Education training, employment and social services:					
Budget authority	43.0	43.5	44.0	45.7	47.3
Outlays	41.8	42.8	43.6	44.8	46.1
550 Health:					
Budget authority	66.6	73.9	81.2	89.4	98.3
Outlays	65.8	73.3	80.7	88.7	97.3
570 Medicare:					
Budget authority	123.6	138.1	153.6	170.2	187.6
Outlays	100.2	110.8	122.0	135.3	149.5
600 Income security:					
Budget authority	203.5	211.3	217.9	228.2	236.6
Outlays	159.3	166.2	174.0	184.8	192.3
650 Social security:					
Budget authority	341.9	370.3	397.8	430.5	464.4
Outlays	266.8	284.0	301.8	319.3	337.6
700 Veterans benefits and services:					
Budget authority	31.3	32.4	33.4	34.4	35.4
Outlays	31.1	32.0	33.1	35.6	35.4
750 Administration of justice:					
Budget authority	13.3	13.9	14.5	15.0	15.7
Outlays	12.3	13.6	14.3	14.8	15.4
800 General government:					
Budget authority	11.7	12.0	12.3	12.5	13.0
Outlays	11.7	12.0	11.8	12.0	12.4
900 Net interest:					
Budget authority	194.4	201.9	206.2	203.8	197.0
Outlays	194.4	201.9	206.2	203.8	197.0
920 Allowances:					
Budget authority	0	0	0	0	0
Outlays	−96.6	−115.3	−88.3	−61.8	77.4
950 Undistributed offsetting receipts:					
Budget authority	−34.6	−34.2	−34.8	−107.2	−125.2
Outlays	−39.3	−38.4	−36.9	−98.6	−114.1

CONFERENCE AGREEMENT ON-BUDGET ONLY

[In billions of dollars]

	1991	1992	1993	1994	1995
Budget authority	1,175.2	1,230.8	1,231.1	1,216.9	1,267.1
Outlays	1,002.3	1,024.8	1,050.1	1,060.0	1,080.8
Revenues	858.6	923.9	987.9	1,045.2	1,101.4
Deficit (−)/surplus (+)	−143.7	−100.9	−62.2	−14.8	20.6
050 National defense:					
Budget authority	289.1	291.6	291.8	351.5	364.9
Outlays	297.0	295.0	292.0	341.7	351.5
150 International affairs:					
Budget authority	19.2	19.8	20.6	22.4	23.8
Outlays	17.4	18.0	18.5	19.7	20.7
250 General science, space and technology:					
Budget authority	15.2	15.9	16.5	17.1	17.7
Outlays	15.2	15.7	16.1	16.8	17.4
270 Energy:					
Budget authority	6.1	5.3	6.1	6.5	6.9
Outlays	3.8	4.1	4.7	5.0	4.8

CONFERENCE AGREEMENT ON-BUDGET ONLY—Continued

[In billions of dollars]

	1991	1992	1993	1994	1995
300 Natural resources and enivronment:					
Budget authority	18.7	19.7	20.4	21.1	21.8
Outlays	18.8	19.5	20.0	20.5	21.0
350 Agriculture:					
Budget authority	16.6	20.6	17.6	14.8	15.3
Outlays	12.8	15.1	13.2	12.0	10.7
370 Commerce and housing credit:					
Budget authority	85.2	85.1	41.3	−6.8	2.3
Outlays	85.4	79.0	37.0	−12.2	−6.4
400 Transportation:					
Budget authority	32.1	33.3	34.5	35.8	37.1
Outlays	30.5	31.7	32.9	34.0	35.2
450 Community and regional development:					
Budget authority	9.2	8.9	9.0	9.4	9.6
Outlays	8.5	8.3	8.5	8.7	9.0
500 Education, training, employment and social services:					
Budget authority	43.0	43.5	44.0	45.7	47.3
Outlays	41.8	42.8	43.6	44.8	46.1
550 Health:					
Budget authority	66.6	73.9	81.2	89.4	98.3
Outlays	65.8	73.3	80.7	88.7	97.3
570 Medicare:					
Budget authority	123.6	138.1	153.6	170.2	187.6
Outlays	100.2	110.8	122.0	135.3	149.5
600 Income security:					
Budget authority	203.5	211.3	217.9	228.2	236.6
Outlays	159.3	166.2	174.0	184.8	192.3
650 Social security:					
Budget authority	3.8	4.5	4.9	5.4	6.0
Outlays	3.8	4.5	4.9	5.4	6.0
700 Veterans benefits and services:					
Budget authority	31.3	32.4	33.4	34.4	35.4
Outlays	31.1	32.0	33.1	35.6	35.4
750 Administration of justice:					
Budget authority	13.3	13.9	14.5	15.0	15.7
Outlays	12.3	13.6	14.3	14.8	15.4
800 General government:					
Budget authority	11.7	12.0	12.3	12.5	13.0
Outlays	11.7	12.0	11.8	12.0	12.4
900 Net interest:					
Budget authority	215.6	228.7	239.2	243.7	244.5
Outlays	215.6	228.7	239.2	243.7	244.5
920 Allowances:					
Budget authority	0	0	0	0	0
Outlays	−95.4	−113.6	−86.6	−60.5	−76.4
950 Undistributed offsetting receipts:					
Budget authority	−28.6	−27.7	−27.7	−99.4	−116.7
Outlays	−33.3	−31.9	−29.8	−90.8	−105.6

CONFERENCE AGREEMENT OFF-BUDGET ONLY

[In billions of dollars]

	1991	1992	1993	1994	1995
Budget authority	310.9	332.5	352.8	377.4	402.4
Outlays	234.6	244.5	255.1	264.9	274.6
Revenues	314.3	336.9	361.9	388.1	410.3
Deficit (−) / surplus (+)	79.7	92.4	106.8	123.2	135.7
050 National defense:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
150 International affairs:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
250 General science, space and technology:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
270 Energy:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
300 Natural resources and environment:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
350 Agriculture:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
370 Commerce and housing credit:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
400 Transportation:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
450 Community and regional development:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0

CONFERENCE AGREEMENT OFF-BUDGET ONLY—Continued

[In billions of dollars]

	1991	1992	1993	1994	1995
500 Education, training, employment and social services:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
550 Health:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
570 Medicare:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
600 Income security:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
650 Social security:					
Budget authority	338.1	365.8	392.9	425.1	458.4
Outlays	263.0	279.5	296.9	313.9	331.6
700 Veterans benefits and services:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
750 Administration of justice:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
800 General government:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
900 Net interest:					
Budget authority	−21.2	−26.8	−33	−39.9	−47.5
Outlays	−21.2	−26.8	−33	−39.9	−47.5
920 Allowances:					
Budget authority	0	0	0	0	0
Outlays	−1.2	−1.7	−1.7	−1.3	−1.0
950 Undistributed offsetting receipts:					
Budget authority	−6.0	−6.5	−7.1	−7.8	−8.5
Outlays	−6.0	−6.5	−7.1	−7.8	−8.5

CREDIT BUDGET FUNCTION TOTALS

[In billions of dollars]

	1991	1992	1993	1994	1995
Direct loans	21.0	17.8	18.2	18.4	18.6
Guaranteed loans	106.8	109.6	112.1	115.5	118.1
Secondary guaranteed loans	85.4	88.7	92.1	95.6	99.2
050 Defense:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	
150 International Affairs:					
Direct loans	1.9	2.0	2.1	2.1	2.2
Guaranteed loans	7.2	7.2	7.5	7.7	8.0
Secondary guaranteed loans	.4	.4	.4	.5	.5
250 General science, space and technology:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
270 Energy:					
Direct loans	2.0	1.6	2.0	2.1	2.3
Guaranteed loans	.4	0	0	0	0
300 Natural resources and environment:					
Direct loans	.1	.1	.1	.1	.1
Guaranteed loans	0	0	0	0	0
350 Agriculture:					
Direct loans	9.0	8.8	8.6	8.6	8.4
Guaranteed loans	7.0	7.3	6.6	6.7	6.8
370 Commerce and housing credit:					
Direct loans	6.0	3.3	3.4	3.50	3.6
Guaranteed loans	63.3	65.5	67.8	70.3	72.1
Secondary guaranteed loans	85.0	88.3	91.7	95.1	98.7
400 Transportation:					
Direct loans	0	.1	.1	.1	.1
Guaranteed loans	0	0	0	0	0
450 Community and regional development:					
Direct loans	1.2	1.2	1.2	1.3	1.3
Guaranteed loans	.4	.4	.4	.4	.4
500 Education, training, employment and social services:					
Direct loans	0	0	0	0	0
Guaranteed loans	12.5	12.9	13.2	13.3	13.4
550 Health:					
Direct loans	0	0	0	0	0
Guaranteed loans	.3	.3	.3	.4	.4
570 Medicare:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
600 Income security:					
Direct loans	.1	.1	.1	.1	.1
Guaranteed loans	0	0	0	0	0
650 Social security					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0

CREDIT BUDGET FUNCTION TOTALS—Continued

[In billions of dollars]

	1991	1992	1993	1994	1995
700 Veterans benefits and services:					
Direct loans	.7	.6	.6	.5	.5
Guaranteed loans	15.7	16.0	16.3	16.7	17.0
750 Administration of justice:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
800 General government:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
900 Net interest:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0

CREDIT BUDGET FUNCTION TOTALS—Continued

[In billions of dollars]

	1991	1992	1993	1994	1995
920 Allowances:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
950 Undistributed offsetting receipts:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0

Reconciliation Instructions

The conference agreement includes reconciliation instructions directing twelve House Committees and ten Senate Committees to report legislation to achieve savings over five fiscal years, 1991-1995. The House Committee instructions specify savings targets for each of the five years. The Senate Committee instructions specify targets for fiscal year 1991 and for total savings over the five years.

The conference agreement requires House and Senate Committees to report reconciliation recommendations to their respective Budget Committees not later than October 12, 1990.

CONFERENCE AGREEMENT RECONCILIATION BY HOUSE COMMITTEE

[Deficit reduction in billions of dollars]

	Fiscal Year—					5-year
	1991	1992	1993	1994	1995	
Agriculture:						
Fees:						
Agriculture fees	−0.079	−0.082	−0.086	−0.091	−0.095	−0.433
Forest Service Recreation [1]	−.008	−.008	−.008	−.008	−.008	−.040
EPA [1]	−.022	−.033	−.033	−.033	−.033	−.154
Subtotal	−.109	−.123	−.127	−.132	−.136	−.627
Other: Agriculture	−1.300	−1.900	−2.700	−3.300	−3.800	−13.000
Committee total	−1.409	−2.023	−2.827	−3.432	−3.936	−13.627
Banking:						
Fees: Flood/Crime Ins	−.014	−.346	−.177	−.150	−0.146	−.833
Other:						
FHA assignment waivers	−.193	−.189	−.185	−.181	−.177	−.925
Other FHA reforms	−.200	−.300	−.550	−.650	−.800	−2.500
Bank Insurance Fund	−1.100	−1.800	−1.900	−2.100	−2.100	−9.000
Subtotal	−1.493	−2.289	−2.635	−2.931	−3.077	−12.425
Committee total	−1.507	−2.635	−2.812	−3.081	−3.223	−13.258
Education and Labor:						
Fees: OSHA/MSHA penalties (REV)	−.095	−.195	−.230	−.280	−.330	−1.130
Other:						
Stafford Loans (GSL)	0	−.200	−400	−.600	−.800	−2.000
PBGC [1]	−.120	−.130	−.130	−.130	−.130	−.640
Subtotal	−.120	−.330	−.530	−.730	−.930	−2.640
Committee total (DR)	−.215	−.525	−.760	−1.010	−1.260	−3.770
Energy and Commerce:						
Fees:						
NRC [1]	−.287	−.298	−.310	−.323	−.336	−1.554
EPA [1]	−.022	−.033	−.033	−.033	−.033	−.154
Railroad safety	−.020	−.037	−.037	−.038	−.038	−.170
U.S. Travel and Tourism	−.007	−.014	−.014	−.014	−.014	−.063
Subtotal	−.336	−.382	−.394	−.408	−.421	−1.941
Other:						
Medicare [1]	−4.700	−9.200	−12.400	−15.200	−18.500	−60.000
Medicaid savings	−.195	−.440	−.530	−.580	−.635	−2.380
Medicaid package	−.500	−.400	−.400	−.400	−.400	2.100
Subtotal	−4.395	−9.240	−12.530	−15.380	−18.735	−60.280
Committee total	−4.731	−9.622	−12.924	−15.788	−19.156	−62.221
Interior:						
Fees:						
NRC [1]	−.287	−.298	−.310	−.323	−.336	−1.554
Corps of Engineers [1]	−.020	−.020	−.020	−.020	−.020	−.100
Forest Service Recreation [1]	−.008	−.008	−.008	−.008	−.008	−.040
Hardrock mining claims	0	−.030	−.030	−.030	−.030	−.120
Subtotal	−.315	−.356	−.368	−.381	−.394	−1.814
Other: Tongass	−.028	−.044	−.044	−.044	−.044	−.204
Committee total	−.343	−.400	−.412	−.425	−.438	−2.018
Judiciary:						
Fees: Patents and Trademark	−.091	−.095	−.099	−.103	−.107	−.495
Merchant Marine:						
Fees:						
Coast Guard	−.200	−.208	−.216	−.223	−.230	−1.007
EPA [1]	−.022	−.033	−.033	−.033	−.033	−.154
Subtotal	−.222	−.241	−.249	−.256	−.263	−1.231
Post Office:						
Other:						
Eliminate CS lump-sum	−1.230	−1.340	−1.830	−1.810	−1.840	−8.050

CONFERENCE AGREEMENT RECONCILIATION BY HOUSE COMMITTEE—Continued

[Deficit reduction in billions of dollars]

	Fiscal Year—					5-year
	1991	1992	1993	1994	1995	
Other POCS	−.935	−.800	−.950	−1.735	−1.880	−6.300
Subtotal	−2.165	−2.140	−2.780	−3.545	−3.720	−14.350
Public Works:						
Fees:						
EPA [1]	−.022	−.033	−.033	−.033	−.033	−.154
Corps of Engineers Recreation [1]	−.020	−.020	−.020	−.020	−.020	−.100
Subtotal	−.042	−.053	−.053	−.053	−.053	−.254
Science, Space and Technology:						
Fees: NOAA weather service	−.005	−.005	−.005	−.005	−.005	−.025
Veterans:						
Fees: VA fees (unspec)	−.120	−.125	−.130	−.135	−.140	−.650
Other: Unspecified Veterans	−.500	−.520	−.540	−.560	−.580	−2.700
Committee total	−.620	−.645	−.670	−.695	−.720	−3.350
Ways and Means:						
Fees: Customs fees	0	−.572	−.562	−.568	−.590	−2.292
Other						
Medicare: [1]						
Provider payments	−3.100	−5.200	−6.300	−7.000	−8.400	−30.000
Beneficiary payments	−1.600	−3.600	−5.600	−7.700	−9.500	−28.000
Miscellaneous	0	−.400	−.500	−.500	−.600	−2.000
Medicare subtotal [1]	−4.700	−9.200	−12.400	−15.200	−18.500	−60.000
Social Security package	−.500	−.300	−.400	−.400	−.400	−2.000
RR pension fund (REV)	−.025	−.035	−.040	−.050	−.050	−.200
PBGC [1]	−.120	−.130	−.130	−.130	−.130	−.640
Unemployment Insurance	0	−1.100	−1.150	−1.150	−1.200	−4.600
Social Security overpayments	0	−.043	−.028	0	0	−.071
Subtotal	−4.345	−10.208	−13.348	−16.130	−19.480	−63.511
Taxes: Summit tax package (REV)	−14.200	−25.600	−26.000	−31.400	−31.400	−128.600
Committee total (DR)	−18.545	−36.380	−39.910	−48.098	−51.470	−194.403
All committees (w/o double counts):						
Fees (DR)	−.968	−2.068	−1.957	−2.021	−2.122	−9.136
Other (DR)	−9.526	−17.341	−22.577	−27.290	−31.736	−108.470
Taxes (REV)	−14.200	−25.600	−26.000	−31.400	−31.400	−128.600
Total reconciled (DR)	−24.694	−45.009	−50.534	−60.711	−65.258	−246.206
IRS enforce initiatives (REV)	−3.037	−1.835	−1.803	−1.488	−1.213	−9.376
Miscellaneous other mandatory entitlement/fee	−.600	−.600	−.600	−.600	−.600	−3.000
Total revenue increase and mandatory spending cuts (DR)	−28.331	−47.444	−52.937	−62.799	−67.071	−258.582

[1] Joint jurisdiction, double-counts not included in the totals.

Note: All amounts are outlays unless specified as REV (revenues) or DR (deficit reduction—outlays and revenues combined).

CONFERENCE AGREEMENT RECONCILIATION BY SENATE COMMITTEE

[In millions of dollars]

		1991	5-year
Agriculture:			
APHIS	0	79	433
Forest Service rec. fee [1]	0	8	40
Agriculture programs	0	1,300	13,000
Subtotal, Agriculture	0	1,387	13,473
Banking:			
FEMA Flood and Crime Insurance	0	14	833
FHA assignement	0	193	925
Other FHA reforms	0	200	2,500
Increase flexibility for FDIC to raise assessment rates and reduce borrowing costs.	0	1,100	9,000
Subtotal, Banking	0	1,507	13,258
Commerce:			
Coast Guard	0	200	1,077
NOAA Weather Service	0	.....	25
Railroad safety inspections	0	20	170
U.S. Travel/Tourism Administration	0	7	63
Subtotal, Commerce	0	232	1,335
Energy:			
Forest Service Rec. Fee [1]	0	8	40
Hardrock mining claim holding	0	0	120
Tongass Forest	0	28	204
Subtotal, Energy	0	36	364
Environment:			
Corps of Engineers rec. fee	0	20	100
EPA	0	22	154

CONFERENCE AGREEMENT RECONCILIATION BY SENATE COMMITTEE—Continued

[In millions of dollars]

		1991	5-year
NRC	0	287	1,554
Subtotal, Environment	0	329	1,808
Finance:			
Customs	0	0	2,292
Medicare	0	4,700	60,000
Medicaid	0	195	2,380
Unemployment insurance	0	0	4,600
Fund Rail Pension Liability	REV	25	200
Social Security overpayments	0	0	71
PBGC premiums [2]	0	120	640
Medicaid package	0	−500	−2,100
Social Security package	0	−500	−2,000
Subtotal, mandatory	DR	4,040	66,083
Summit tax package	REV	14,200	128,600
Subtotal, Finance	DR	18,240	194,683
Government Affairs:			
Eliminate lump sum	0	1,230	8,050
Postal FEHB	0	689	4,200
Postal COLA	0	0	1,187
Other	0	246	913
Subtotal, Government Affairs	0	2,165	14,350
Judiciary:			
Unspecified	0	91	495
Labor:			
OSHA/MSHA penalties	REV	95	1,130
Pension asset reversion [3]	REV	−50	−290
GSL reforms	0	0	2,000
PBGC premiums [2]	0	120	640

CONFERENCE AGREEMENT RECONCILIATION BY SENATE COMMITTEE—Continued

[In millions of dollars]

		1991	5-year
Subtotal, Labor	DR	165	3,480
Veterans:			
Unspecified	0	620	3,350
Total reconciled to committees	DR	24,694	246,206
Other miscellaneous	0	600	3,000
IRS enforcement	REV	3,037	9,376
Totals:			
Mandatory	DR	11,094	120,606
Summit taxes	REV	14,200	128,600
IRS enforcement	REV	3,037	9,376
Total	DR	28,331	258,582

[1] Joint jurisdiction: Agriculture and Energy.

[2] Joint jurisdiction: Finance and Labor.

[3] Joint jurisdiction with Finance (revenue). Included in reconciliation revenue totals.

Note: Outlays are specified as "O," revenues as "REV," and deficit reduction as "DR."

ALLOCATIONS OF SPENDING AND CREDIT RESPONSIBILITIES TO HOUSE COMMITTEES

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(a) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

	Fiscal year 1991		Entitlement authority
	Budget authority	Outlays	
HOUSE APPROPRIATIONS COMMITTEE			
Current level (enacted law):			
050—National Defense	165	165	0
150—International Affairs	765	784	0
270—Energy	250	250	0
300—Natural Resources and Environment	1,433	1,865	0
350—Agriculture	12,509	623	0
370—Commerce and Housing Credit	3,024	4,438	0
400—Transportation	479	477	0
450—Community and Regional Development	1,667	1	0
500—Education, Training, Employment, and Social Services	11,133	10,877	0
550—Health	49,507	49,910	0
570—Medicare	35,350	35,350	0
600—Income Security	36,319	36,853	0
650—Social Security	47	47	0
700—Veterans Benefits and Services	16,763	16,645	0
750—Administration of Justice	241	236	0
800—General Government	6,231	6,232	0
Subtotal	175,883	164,754	0
Discretionary appropriations action (assumed legislation):			
050—National Defense	289,718	297,660	0
150—International Affairs	20,100	18,600	0
250—General Science, Space, and Technology	15,090	15,063	0
270—Energy	6,222	5,562	0
300—Natural Resources and Environment	19,485	19,148	0
350—Agriculture	2,640	2,649	0
370—Commerce and Housing Credit	4,435	4,422	0
400—Transportation	14,323	30,240	0
450—Community and Regional Development	7,412	7,626	0
500—Education, Training, Employment, and Social Services	29,896	30,152	0
550—Health	16,790	16,224	0
570—Medicare	0	2,304	0
600—Income Security	24,360	25,426	0
650—Social Security	0	2,317	0
700—Veterans Benefits and Services	13,989	14,109	0
750—Administration of Justice	12,975	11,914	0
800—General Government	10,184	10,142	0
950—Undistributed offsetting Receipts	4,900	802	0
Subtotal	492,519	514,359	0
Discretionary action by other committees (assumed entitlement legislation):			
550—Health	305	305	0
600—Income Security	17,774	17,338	0
700—Veterans Benefits and Services	−65	−107	0
Subtotal	18,015	17,535	0
Committee total	686,416	696,649	0
AGRICULTURE COMMITTEE			
Current level (enacted law):			
270—Energy	1,068	10	0
300—Natural Resources and Environment	440	435	0
350—Agriculture	9,004	10,965	8,813
400—Transportation	46	46	0
450—Community and Regional Development	56	850	0
800—General Government	339	344	339
Subtotal	10,952	12,649	9,152
Discretionary action (assumed legislation):			
350—Agriculture	−1,379	−1,379	−1,300
600—Income Security	0	0	974
Subtotal	−1,379	−1,379	−326
Committee total—	9,573	11,270	8,826
HOUSE ARMED SERVICES COMMITTEE			
Current level (enacted law):			
050—National Defense	11,301	11,259	1
500—Education, Training, Employment, and Social Services	3	2	0

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(a) OF THE CONGRESSIONAL BUDGET ACT—Continued

[In millions of dollars]

	Fiscal year 1991		Entitlement authority
	Budget authority	Outlays	
600—Income Security	36,414	23,043	23,043
700—Veterans Benefits and Services	217	202	202
Subtotal	47,935	34,506	23,246
Committee total	47,935	34,506	23,246
BANKING, FINANCE, AND URBAN AFFAIRS COMMITTEE			
Current level (enacted law):			
150—International Affairs	0	−1,279	0
370—Commerce and Housing Credit	77,833	77,907	0
450—Community and Regional Development	12	−5	0
600—Income Security	200	281	0
800—General Government	5	5	0
900—Net Interest	22	2	0
Subtotal	78,072	76,931	0
Discretionary action (assumed legislation):			
370—Commerce and Housing Credit	−197	−1,493	0
450—Community and Regional Development	0	−14	0
Subtotal	−197	−1,507	0
Committee total	77,875	75,424	0
DISTRICT OF COLUMBIA COMMITTEE			
Current level (enacted law):			
750—Administration of Justice	18	18	18
Subtotal	18	18	18
Committee total	18	18	18
EDUCATION AND LABOR COMMITTEE			
Current level (enacted law):			
500—Education, Training, Employment, and Social Services	24	13	5,358
600—Income Security	92	89	7,504
Subtotal	116	102	12,863
Discretionary action (assumed legislation):			
600—Income Security	0	−120	−120
Subtotal	0	−120	−120
Committee total	116	−18	12,743
ENERGY AND COMMERCE COMMITTEE			
Current level (enacted law):			
370—Commerce and Housing Credit	53	52	0
550—Health	36	27	45,985
600—Income Security	13,672	12,865	10,116
800—General Government	7	7	7
Subtotal	13,768	12,951	56,109
Discretionary action (assumed legislation):			
270—Energy	−287	−287	0
300—Natural Resources and Environment	−22	−22	0
370—Commerce and Housing Credit	−7	−7	0
400—Transportation	−20	−20	0
550—Health	0	0	305
Subtotal	−336	−336	305
Committee total	13,432	12,615	56,414
FOREIGN AFFAIRS COMMITTEE			
Current level (enacted law):			
150—International Affairs	8,176	8,714	0
600—Income Security	835	368	368
800—General Government	5	5	0
Subtotal	9,016	9,087	368
Committee total	9,016	9,087	368
GOVERNMENT OPERATIONS COMMITTEE			
Current level (enacted law):			
800—General Government	20	19	0
Subtotal	20	19	0
Committee total	20	19	0

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(a) OF THE CONGRESSIONAL BUDGET ACT—Continued

[In millions of dollars]

	Fiscal year 1991		Entitlement authority
	Budget authority	Outlays	
HOUSE ADMINISTRATION COMMITTEE			
Current level (enacted law):			
500—Education, Training, Employment, and Social Services	8	9	0
800—General Government	29	21	93
Subtotal	37	29	93
Committee total	37	29	93
INTERIOR AND INSULAR AFFAIRS COMMITTEE			
Current level (enacted law):			
270—Energy	170	−102	0
300—Natural Resources and Environment	189	167	10
450—Community and Regional Development	475	471	404
550—Health	3	3	0
800—General Government	800	797	830
Subtotal	1,637	1,335	1,244
Discretionary action (assumed legislation):			
300—Natural Resources and Environment	−72	−56	0
Subtotal	−72	−56	0
Committee total	1,565	1,279	1,244
JUDICIARY COMMITTEE			
Current level (enacted law):			
370—Commerce and Housing Credit	217	226	0
500—Education, Training, Employment, and Social Services	910	805	0
550—Health	1	1	0
600—Income Security	24	10	5
750—Administration of Justice	653	658	135
800—General Government	581	581	500
Subtotal	2,386	2,281	640
Discretionary action (assumed legislation):			
370—Commerce and Housing Credit	−91	−91	0
Subtotal	−91	−91	0
Committee total	2,295	2,190	640
MERCHANT MARINE AND FISHERIES COMMITTEE			
Current level (enacted law):			
300—Natural Resources and Environment	427	431	0
370—Commerce and Housing Credit	67	65	0
400—Transportation	6	0	427
600—Income Security	13	6	0
800—General Government	6	6	0
Subtotal	519	508	427
Discretionary action (assumed legislation):			
400—Transportation	−200	−200	0
Subtotal	−200	−200	0
Committee total	319	308	427
POST OFFICE AND CIVIL SERVICE COMMITTEE			
Current level (enacted law):			
550—Health	0	−636	2,873
600—Income Security	54,623	33,067	33,067
800—General Government	12,199	12,199	0
Subtotal	66,822	44,629	35,940
Discretionary action (assumed legislation):			
600—Income Security	50	−1,230	−1,230
950—Undistributed Offsetting Receipts	−935	−935	0
Subtotal	−885	−2,165	−1,230
Committee total	65,937	42,464	34,710
PUBLIC WORKS AND TRANSPORTATION COMMITTEE			
Current level (enacted law):			
270—Energy	433	101	0

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(a) OF THE CONGRESSIONAL BUDGET ACT—Continued

[In millions of dollars]

	Fiscal year 1991		Entitlement authority
	Budget authority	Outlays	
300—Natural Resources and Environment	158	177	0
400—Transportation	17,497	0	0
450—Community and Regional Development	5	5	0
800—General Government	1	54	0
Subtotal	18,094	338	0
Committee total	18,094	338	0
SCIENCE, SPACE AND TECHNOLOGY COMMITTEE			
Current level (enacted law):			
250—General Science, Space, and Technology —Natural Resources and Environment	135	134	0
270—Energy	19	23	0
500—Education, Training, Employment, and Social Services	1	1	0
Subtotal	155	158	0
Discretionary action (assumed legislation):			
300—Natural Resources and Environment	−5	−5	0
Subtotal	−5	−5	0
Committee total	150	153	0
VETERANS' AFFAIRS COMMITTEE			
Current level (enactd law):			
700—Veterans Benefits and Services	1,588	1,429	18,144
Subtotal	1,588	1,429	18,144
Discretinary action (assumed legislation):			
700—Veterans Benefits and Services	−120	−120	−65
Subtotal	−120	−120	−65
Committee total	1,468	1,309	18,079
WAYS AND MEANS COMMITTEE			
Current level (enacted law):			
500—Education, Training, Employment, and Social Services	1,142	0	5,503
570—Medicare	134,026	114,263	114,267
600—Income Security	28,940	21,137	49,276
650—Social Security	345,303	269,829	265,050
750—Administration of Justice	164	165	0
800—General Government	500	505	406
900—Net Interest	286,286	286,286	286,286
Subtotal	796,362	692,185	720,788
Discretionary action (assumed legislation):			
570—Medicare	1,200	−4,700	−4,700
600—Income Security	26	0	0
650—Social Secutity	2,400	500	500
Subtotal	3,626	−4,200	−4,200
Committee totals	799,988	687,985	716,588
UNASSIGNED TO COMMITTEES			
Current level (enacted law):			
050—National Defense	−12,083	−12,083	0
150—International Affairs	−9,841	−9,419	0
250—General Science, Space, and Technology	−25	2	0
270—Energy	−1,775	−1,757	0
300—Natural Resources and Environment	−3,333	−3,341	0
350—Agriculture	−6,175	−58	0
370—Commerce and Housing Credit	−133	−120	0
400—Transportation	−32	−43	0
450—Community and Regional Development	−426	−435	0
500—Education, Training, Employment, and Social Services	−117	−59	0
550—Health	−42	−34	0
570—Medicare	−46,976	−47,017	0
600—Income Security	−9,842	−9,832	0
650—Social Security	−5,850	−5,893	0
700—Veterans Benefits and Services	−1,072	−1,057	0
750—Administration of Justice	−751	−690	−5
800—General Government	−19,208	−19,216	0
900—Net Interest	−91,908	−91,908	−72,029

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 302(a) OF THE CONGRESSIONAL BUDGET ACT—Continued

[In millions of dollars]

	Fiscal year 1991		Entitlement authority
	Budget authority	Outlays	
920—Allowances	0	−96,600	0
950—Undistributed Offsetting Receipts	−38,565	−38,567	0
Subtotal	−248,154	−338,127	−72,034
Discretionary action (assumed legislation):			
950—Undistributed Offsetting Receipts	0	−600	0
Subtotal	0	−600	0
Committee total	−248,154	−338,727	−72,034
Total—Current level	975,226	715,784	806,998
Total—Discretionary action	510,875	521,116	−5,636
Grand total	1,486,100	1,236,900	801,362

CONFERENCE REPORT FISCAL YEAR—ALLOCATION OF CREDIT RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991

[In millions of dollars]

House Committee	Direct loans	Primary guarantees
Current level (Enacted Law):		
Agriculture	8,019	6,100
Banking, Finance and Urban Affairs	3,250	1
Education and Labor	0	12,810
Energy and Commerce	0	290
Merchant Marine and Fisheries	0	104
Public Works and Transportation	299	0
Veterans Affairs	675	15,650
Ways and Means	2	0
Unassigned	54	191
Subtotal	12,299	35,145
Discretionary Action (assumed legislation):		
Appropriations	8,701	71,969
Education and Labor	0	(314)
Grand total	21,000	106,800

Economic Assumptions

The conference agreement is based on the economic assumptions displayed in the table below. These assumptions were prepared by the administration for the President's budget submission and were adopted as the basis of the House-passed and Senate-passed resolutions. These assumptions, as well as the administration's corresponding technical assumptions, are used in the conference agreement to achieve comparability between the conference agreement, the President's budget submission, and the House-passed and Senate-passed resolutions with respect to total revenues, total outlays and the deficit. (Gramm-Rudman-Hollings deficit targets will be adjusted as part of the reconciliation bill pursuant to this concurrent resolution and will not necessarily be based on these economic assumptions.)

ECONOMIC ASSUMPTIONS

[Calendar years]

	Projected					
	1990	1991	1992	1993	1994	1995
Annual averages:						
Gross national product (billion dollars)	5,560	5,973	6,398	6,821	7,264	7,734
Percent change	6.2	7.4	7.1	6.6	6.5	6.5
Real GNP (billion 1982 dollars)	4,236	4,370	4,499	4,613	4,725	4,838
Percent change	2.2	3.2	3.0	2.5	2.4	2.4
Deflator (percent change)	3.9	4.1	4.0	4.0	4.0	4.0
Consumer price index (percent change)	4.0	4.0	4.1	4.3	4.3	4.3
Civilian unemployment rate (percent)	5.5	5.4	5.3	5.3	5.3	5.3
Three-month Treasury bill rate (percent)	6.7	5.4	5.5	5.6	5.6	5.6
Ten-year Treasury note rate (percent)	7.7	6.8	6.8	6.9	6.9	6.9
Taxable incomes (billion dollars):						
Wages and salaries	2,794	3,007	3,226	3,445	3,668	3,905
Corporate profits before tax	345	390	406	419	443	464
Fourth quarter to fourth quarter (percent change):						
Gross national product	6.9	7.5	6.8	6.6	6.5	6.5
Real GNP	2.6	3.3	2.7	2.5	2.4	2.4
GNP deflator	4.2	4.1	4.0	4.0	4.0	4.0
Consumer price index	4.1	4.0	4.2	4.3	4.3	4.3
Civilian unemployment rate (percent, fourth quarter level)	5.5	5.3	5.3	5.3	5.3	5.3

ECONOMIC ASSUMPTIONS—Continued

[Calendar years]

Budget Summit Agreement

On May 6, 1990, the President and the bipartisan congressional leadership agreed to convene a special budget group. Five months later, the negotiators reached agreement. The budget summit agreement represents the largest deficit reduction plan ever agreed to, an estimated $500 billion during the next five years.

The agreement includes major reductions in discretionary spending that (on OMB estimates) account for 36 percent of the total, significant reductions in entitlement and mandatory spending programs (24 percent of the total), and tax revenue increases (27 percent of the total). Reductions in interest payments constitute the remaining 13 percent of the package.

This fiscal year 1991 budget resolution conference report, agreed to unanimously by the conferees, embodies this budget summit agreement. This conference agreement includes detailed five-year reconciliation instructions and discretionary spending limitations that reflect the agreement. The summit agreement will be implemented through enactment of the reconciliation bill resulting from the instructions in this resolution and the appropriations bills limited by the resolution's 302(a) allocations.

It is the conferees' understanding that the summit agreement will be fully implemented with the complete support of the President and the congressional leadership, including those provisions that will change the congressional and executive branch budget processes to enforce it.

The conferees also believe that the enactment of the agreement will result in a balanced Federal budget by 1996, reduce the demand on private credit markets and enhance the long-run growth potential of the United States.

Leadership Enforcement of Budget Summit Agreement

It is the intent of the conferees that the bipartisan leaders of the House and Senate work with the committees of Congress to assure that the amounts of deficit reduction and the policies to achieve such reductions are achieved and are consistent with the

budget summit agreement of September 30, 1990.

It is the intent of the conferees that the House-reported reconciliation bill should not contain provisions extraneous to the summit agreement.

Should legislation under consideration by any committee fail to comply with the summit agreement, the conferees intend that remedial efforts shall be made by all parties to achieve such compliance. Further, the conferees intend that the bipartisan leaders shall take steps to enforce the agreement.

ACHIEVEMENT OF UNSPECIFIED SAVINGS

The conferees urge that the joint leadership of Congress agree on a package of changes in laws that provide mandatory spending to achieve deficit reduction of $3,000,000,000 (in addition to the amounts reconciled in this concurrent resolution) and seek to include that package in the reconciliation bill pursuant to this concurrent resolution.

FUNDING FOR IRS COMPLIANCE

It is the intent of the conferees that the additional amounts requested by the President in the fiscal year 1991 budget for the IRS compliance initiative—$191 million in budget authority and $183 million in outlays in fiscal year 1991, $172 million in budget authority and $169 million in outlays in fiscal year 1992, $183 million in budget authority and $179 million in outlays in fiscal year 1993, $187 million in budget authority and $183 in outlays in fiscal year 1994, and $188 million in budget authority and $184 in outlays in fiscal year 1995—shall be provided by action of the Appropriations Committee in order to raise the assumed amounts of additional revenues from increased IRS compliance funding consistent with the budget summit agreement.

BUDGET PROCESS REFORM AND ENFORCEMENT

To assure a $500 billion deficit reduction package is achieved and maintained, the conferees intend that the reconciliation act implementing the budget summit agreement include provisions of the budget summit agreement's recommendations to strengthen the budget process and enforce the agreement.

LEON E. PANETTA,
RICHARD GEPHARDT,
BILL FRENZEL,
Managers on the Part of the House.
JIM SASSER,
WYCHE FOWLER, JR.,
PETE V. DOMENICI,
Managers on the Part of the Senate.

Mr. PANETTA. Mr. Speaker, pursuant to House Resolution 488, I call up the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995.

The SPEAKER pro tempore. Pursuant to House Resolution 488, the conference report is considered as having been read.

The gentleman from California [Mr. PANETTA] will be recognized for 1 hour and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 1 hour.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, we take under consideration this evening the conference report on House Concurrent Resolution 310, which is the concurrent resolution on the budget for fiscal year 1991. This conference report reflects all of the spending, revenue and savings targets that were agreed to by the President and the bipartisan congressional leaders in the budget summit. It is the essential first step in the budget process.

The President has called the budget package a tough agreement for tough times. Too often Presidents have not been willing to deliver that message to the American people when it was needed, and that is one of the reasons we are here today.

However, Mr. Speaker, the reality is, that we are a nation facing a number of very serious crises at the present time.

As we speak, we are at risk militarily with our troops located in the Persian Gulf who are looking to all of us to determine whether or not we have the courage and the leadership to govern. We are at risk politically in a world that is changing. The two Germanies united this week, the Soviet Union is changing, and Eastern Europe is changing dramatically, and the United States at this point in time can exercise tremendous leadership in that world, and yet we are here trying to determine whether or not the Government of the United States will stay in business.

In addition, Mr. Speaker, we are at risk economically. We have the rising likelihood of a recession staring us right in the face. We have a slow and steady erosion of our position in the world economy, and we have the frustrating inability to respond to these crises, to these difficult issues here at home.

□ 2220

Of course, if we fail today, we face the specter of sequestration, these dramatic cuts across the board that will affect everyone in our most critical areas, devastating to people, devastating to our economy.

This is not a time for blaming others. This is not a time to run and hide. This is not a time for cowardice. It is a time for leadership.

The huge budget deficits we all know have been piling up for decades. This last decade of the eighties has been a period when these deficits have tripled, sapping our Nation's strength. They have robbed the resources we need for investment in the future. The savings of the American people, which should have gone to new businesses and economic growth and economic development, are now financing Government borrowing. No more, no less.

Mr. Speaker, the taxes that we ask the American people to pay out of their hard-earned dollars, instead of improving our education or improving our Nation's transportation system, must go to pay interest on the borrowing that we do, by far the fastest growing part of the Federal budget. We are now looking, as we speak, at $300 billion deficits. What began as a $100 billion at the beginning of the year has now become a $300 billion record annual deficit that we are facing in this next year, because of the RTC problems, because of our economy, because of a shortfall of revenues. Whatever the cause, we are now confronting a record $300 billion deficit, and an overall debt in excess of $3.2 trillion.

Because the Federal Treasury has to borrow and borrow, it has pushed up interest rates. During periods of strong growth these interest rate problems could have only been troublesome in terms of our economy. But at a time of slow growth, which is what we are facing right now, higher interest rates can essentially submerge our economy and drop it into a recession.

Make no mistake about it: for those Members who have any question, our economy is on the brink. For those who play partisan or political games, there is a terrible price to be paid for such folly.

Growth in the second quarter was less than half a percent, and that was before the high energy prices hit our economy. The combination of a soft economy, of an oil shock, of inflation, of a sequester, will send the markets reeling, make no mistake about it, and endanger the financial stability of both the national and international economy.

All of us recognize that this agreement is not a panacea. It is not going to solve all of our problems. What we are looking at right now, according to a majority of economists, is the likelihood of a recession, albeit a mild recession. But deficit reduction is essential for giving the Federal Reserve the latitude it needs to reduce interest rates and try to mitigate the depth and the duration of the recession.

Furthermore, deficit reduction is the only proven tool for assuring long-term growth in investment and productivity, employment, and income. The package we have before us, $500 billion in deficit reduction over 5 years, is by far the largest and the most real deficit reduction package that has ever been seriously contemplated by a Congress or by a President.

It makes tough choices, we all know that, in defense, in entitlement programs, in taxes. But we cannot kid the American people. No matter how you design this package, it has to make tough choices, in defense, in entitlements, and in taxes.

There are no tricks, no smoke and mirrors. Everything in this package is real. Is it perfect? Far from It. Is it painful? With half a trillion dollars in

deficit reduction, how could it not be. Is it the package that I or any Member would have designed, or for that matter the President? Absolutely not. Of course not.

Mr. Speaker, it is a compromise. A compromise by its very nature means that everybody has to give something for the greater good. That is what democracy is all about, particularly at a time of divided Government. Nobody can have their own way, with the divided Government that we have at the present time.

Mr. Speaker, let us remember that we were elected not only to represent a particular point of view, but to govern. This budget package tries to break the stalemate that we have had between the parties and within a divided Government.

Perhaps no individual in this country has more of a direct impact on interest rates than the Chairman of the Federal Reserve. Yesterday Chairman Greenspan said the following:

If this agreement is voted down, prospects for coming to grips with the corrosive effects of budget deficits on our economy would be dim indeed. I am fearful that failure to enact the agreement would produce an adverse reaction in financial markets that could undercut our economy, already significantly weakened by the shock of the Middle East crisis and problems in our financial system.

Mr. Speaker, this is the moment of truth. It is the moment that we have to face the tough choices. There is no alternative. If we fail to pass this budget resolution tonight, it is over. We are going to find it very difficult to try to accommodate all of the different interests that are now involved. But if we do pass it, then I think we send a clear message to the people of this country, that we can govern.

Mr. Speaker, I ask all Members tonight, set aside and rise above your parochial concerns. Rise above your regional interests. Rise above ideology and partisanship, and cast a vote for the greater good of this country, for our Nation's future, but, most importantly, for our children's future.

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentleman from California [Mr. PANETTA] gave such a good speech that I can only improve on it by adding the word "grandchildren" in the last sentence.

The chairman has told us what we need to do, has set our course for us, and many of us in the Republican leadership feel exactly the same way.

It is absolutely essential that this House pass this budget resolution tonight.

Mr. Speaker, I yield 3 minutes to the distinguished vice chairman of the Committee on Appropriations, an inveterate summiteer, and always a crowd pleaser, the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I thank the gentleman from Minnesota for yielding time to me.

Mr. Speaker, I rise in support of this budget resolution conference report. As a member of the budget summit negotiating group, slaving away since May 15, I had hoped to be able to speak firmly in support of the summit agreement.

But there is one issue in here so punitive to my people back home and so unrelated to deficit reduction, that I must make my support for this agreement conditional. At the last hour, at the insistence of one Democratic Senator and without consultation, home heating oil was included in the 2-cent petroleum tax. This provision is punitive and life threatening to the poor and elderly trying to stay warm this coming winter.

That Senator says he didn't want the package to play regional favorities. We're not talking regional advantage here, we are talking about staying warm this winter. That same Senator excluded from that same tax the petrochemical feedstock industry and the agriculture on which his region depends. And that same Senator provided $4 billion in tax breaks to the oil producers in his region. And we will not even mention the S&L bailout.

This budget resolution we consider today only starts the process of enacting the summit agreement into law. This resolution provides the broad outlines, and if it is passed, the committees in the Congress will then draft the specific legislative changes. They will be voted on in the reconciliation bill next week, and that's the vote that counts.

The Ways and Means Committee has the ability to include the exemption of home heating oil, and to make other needed adjustments, particularly on Medicare, where changes are probably very much needed. My vote, and other votes in the Northeast, will depend in large part upon the favorable resolution of the exemption for home heating oil.

But we will not get to that point if we do not pass this budget resolution. The alternatives to passing this resolution are very unattractive. We toss our economic fate to the wind. We look incapable of governing, and of putting our economic house in order. That is the wrong message to send at this time.

In my opinion, the responsible thing to do is to vote for this resolution and move the process on down the road toward putting our Nation's fiscal house in order. Then, let the committees make their changes in the reconciliation bill, and decide at that point if the agreement should be finally passed.

□ 2230

Mr. PANETTA. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. Mr. Speaker, I rise today in opposition to the budget summit agreement. This agreement is the continuation of the same failed fiscal policies of the past 10 years. Yes, there is a budget problem, Yes we need to take action to resolve that problem. But why is that the option we're being given puts the burden squarely on the middle class yet again? In a time of crisis we must turn to the people of this Nation to help reduce our huge deficit. The poor can't solve the problem, they don't have the money. That leaves the middle class and the rich. The question I must pose to our President, our leadership and my colleagues is, why? Why is the middle class bearing a disproportionate share of the burden of reducing the deficit?

In the past decade the top 1 percent of wealthy taxpayers have seen their income increase by 74 percent with a corresponding decrease in their tax rate of 14 percent. In that same decade, families in the bottom fifth saw their total Federal effective tax rates go up 16 percent while their incomes went down 3.2 percent. This package's heavy reliance on excise taxes will again hit lower and middle income earners harder than the wealthy. Concerns about the progressivity of this agreement are not political rhetoric—they are based on cold, hard facts. Under this package those Americans making $20,000 a year will see a 3.5-percent tax increase. Yet the top 1 percent of Americans who enjoy an income of over $700,000 per year will have their taxes increased by only 1.7 percent. Believe me, these are very cold, hard facts of life for those middle-income taxpayers who are attempting to put their children through school, buy a home and make ends meet. The President has asked everyone to share in the sacrifice of reducing our budget deficit. But are tax loopholes and tax breaks for the rich anyone's idea of shared sacrifices? Is it a shared sacrifice when the newly unemployed must wait 2 weeks to receive their first unemployment check while the wealthiest Americans pay less taxes? I don't think so.

As if the slant of the package toward taking another bite out of the earning power of middle Americans was not enough, there are other serious flaws in the agreement. The defense number is still bloated beyond what is needed for a lean and efficient fighting force and does not take into consideration the cost of operation desert shield. And we should be very concerned about the last minute tax incentives in this deal. The very generous tax breaks or so-called growth incentives

have even taken the small business community by surprise. Have we not done this before—enacted overly generous tax breaks for certain segments or our economy, only to revisit those deals in later years and shake our heads and say, what were we thinking.

But the fundamental flaw, beyond progressivity is the process. There are tough choices to be made to solve the deficit visited on this country by the Reagan legacy. I was elected to make those choices and I'm willing to do so. What I'm being presented with today is a no-win situation. If I vote for the agreement I will be voting for balancing the budget on the backs of the over burned middle class. If I vote against the agreement I'm a naysayer to the only solution the summiteers could come up with. Either way, it's a bad vote because the solution is worse than the problem. This agreement only looks good in comparison to sequestration and I firmly believe that we can do better than that. Budget summits encourage the leadership of both parties to ignore the will of the rank and file of the Congress and to effect legislation without going through the legislative process. Instead we are presented with a budget agreement negotiated by congressional leaders and a handful of nonelected White House officials. Summits in general set up the legislative process for failure. As elected Members we should vote on a budget fashioned by our committees—win or lose at least we would be adhering to the principles of representational government. I'm not afraid to take my best shot and then abide by the decision of the majority.

We're being asked to swallow our reservations and vote for this package for the good of the country. The good of the country? Do we mean by country, a generic body of faceless people? This nation is composed of individuals—hard working, honest men, women, and children. I've been argued into making votes like this one before. And what happened—the rich got richer and had a party at the expense of the poor and middle class Americans who comprise the majority in this country. Well, I'm here to say that I'm not doing it anymore. And I hope you won't either.

The President asked the American people to contact us about this proposal. Well, they have spoken loud and clear and they are overwhelmingly against the summit agreement. They are telling us it is time to reverse the regressive trend of the past decade and make the Tax Code more equitable. It is time to distribute the burden of deficit reduction among those most able to afford it. I'm not making this vote today because of any perceived political consequences or because of pressure from special interest groups. A vote against this agreement is not only the right thing to do, it is the fair thing to do, and it is the just thing to do.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, our distinguished chairman of the Budget Committee has said there are several interests that we must rise above tonight, and I agree with him. But there is one interest that we cannot rise above. We cannot rise above reason as our own lights show us what reason is.

In my judgment, this resolution is bad for the economy and it is unfair, fundamentally unfair.

We have heard many horror stories, scare tactics even about how the Government is going to be shut down. We have been told that the President of the United States is going to veto any concurrent resolution that we should pass if this resolution fails.

My colleagues have been around here long enough to know what the legislative dance is. Of course, we get these kinds of threats. I have enough confidence in the President to believe that if this goes down he is going to think an awful long time before he shuts down the Government. And I also have enough confidence in this Congress that if the President were to veto a concurrent resolution we would override that veto.

So let us not let the scare tactics cause us to steer away from reason as we see it.

We are told there are no alternatives. We know that is not so. There are several alternatives.

There is the simple 1½ or three-quarters of a loaf after we fix the gas tax problem and the Medicare problem. I have seen a plan that calls for a $35 billion sequester instead of $105 billion sequester.

For those Members who lust for tax increases, why not a 1-percent stock and bond transfer tax? Let us let Wall Street participate in the pain here. And why not strip the sweetheart deals that we have seen in this resolution, put in there by the summiteers who had the privilege of crafting this resolution? And there are several other alternatives that we have already heard of.

□ 2240

Yes, there are alternatives. And what is wrong, what is so terrible, about letting the Members of Congress vote on the alternatives?

Let us defeat this resolution. Let us bring back some alternatives. Let us fix this, not after we pass the resolution as has been suggested here tonight, the suggestion being pass it and then we will fix it.

Does it not make more sense, is it not more reasonable to fix it first and then pass it?

So let us defeat this resolution. Let us go back to work and let us give the American people a more reasonable, better solution.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ANDERSON], chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. Mr. Speaker, I rise in support of the fiscal year 1991 budget resolution. As chairman of the Public Works and Transportation Committee, I am keenly aware of the impact this budget could have on the Nation's transportation network. However, I am willing to offer my support on this vote because of commitments I have received from the leadership that will lessen any potentially negative effects during the reconciliation process.

Thus far, we have agreed that 50 percent of the 10-cent increase in motor fuel taxes will be placed in the highway trust fund annually, with 20 percent of that set aside for mass transit. I also have an assurance from the leadership that in reconciliation, the Public Works Committee may authorize the entire amount of new trust fund revenues. Further, increased highway and transit spending will be permitted outside the overall domestic discretionary cap.

This is critical in assuring that the budget does not have antigrowth effects on the economy. Without an agreement to spend some of these increased revenues, we would be totally depriving the Nation of the economic benefits of increased spending on transportation improvements including the creation of jobs, increased productivity and competitiveness in the world market, and additional private investment through greater efficiencies in transportation for the business sector. Without additional spending on transportation infrastructure, economists have estimated that a 10-cent-a-gallon motor fuels tax increase would result in the loss of over 180,000 jobs and a decline in auto and truck sales of at least 120,000.

Another issue of concern is the reference in the budget agreement to an amended minimum allocation provision. This is clearly an authorizing issue that relates directly to the distribution of funds rather than the raising of taxes. It is, therefore, logically within the jurisdiction of the Public Works and Transportation Committee and the leadership has agreed that it will be handled by our committee in the reconciliation process. Because this is an intricate provision that can penalize as well as reward States, it is critical that the authorizing committee that established the original minimum allocation write the amendments to it in an informed and balanced way.

Because of these agreements with the leadership, Mr. Speaker, I will vote

in support of the budget resolution. My continued support for the package, however, will be contingent on our further progress and a satisfactory resolution of these issues in the reconciliation process.

Just as I have worked hard on Public Works and Transportation issues over the years, I have also worked hard for, and supported measures to protect our senior citizens and afford them the rights and benefits they deserve, Therefore, I again stress, it is with great reservation that I support this budget agreement, which asks so much from my senior constituency. A $59.9 billion cut in Medicare will hurt, yet, as I look at the alternative under sequestration, it is the route which, in the long run, will least affect our senior citizens. I want to emphasize that under sequestration there are also cuts in Medicare and Medicare Program administration, along with cuts in Social Security Program administration, supplemental security income, VA medical care and burial benefits, social services block grants, and human development services, to name only a few. These cuts mean that VA medical care will be eliminated for millions of patients, Social Security claims will be deferred or slowed down, meals for millions of senior citizens will be stopped, and many more services delayed or ended altogether. While I reluctantly support the budget agreement, I do remain hopeful that this legislation can be fine tuned so that those least able to pay will be least affected by the changes.

Also of great concern to me in making my decision was the regressive taxes on beer, wine, and distilled spirits, and on tobacco. These taxes will hurt most the poor and working class who are already shouldering much of the tax burden. The taxes on wine will especially hurt my State of California which faces of up to 25-percent drop in wine sales, as well as the ports of Long Beach and Los Angeles, which will most certainly lose revenues as the exportation of wine slows. However, I am certain that the economic chaos which would result under sequestration would have a far greater impact on the working class and the business community than under the budget agreement. Many economists agree that recession is imminent under sequestration. Obviously, deficit reduction is the only way to assure growth in investment and productivity in the long run. Moreover, the current Federal deficit is the worst enemy of American business today, and the budget agreement, however painful, is better than chaos under sequestration.

The alternative of sequestration would also gravely affect dozens of nondefense programs on which millions of Americans depend by requiring $70.3 billion in budget authority cuts. Head Start, NASA, Pell grants, NIH, and AIDS research funding are just a few of the programs which would be cut. Further, sequestration would result in hundreds of thousands of Federal employees to be furloughed, and many to lose their jobs. My decision to support this agreement has been a difficult one. Yet should this agreement not pass, I shudder to think of the consequences it will have across the Nation. For those of my constituency who do not support my vote, I only hope they understand the reasons behind my choice. The time to act is now, the choice is not easy, but it is necessary.

Mr. FRENZEL. Mr. Speaker, I yield 5 minutes to the distinguished vice chairman of the Committee on Ways and Means and a member of the summit negotiating team, the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, when I first saw this budget agreement on Monday, all of the objectionable features reached out to me, and, to say the least, I was disappointed.

But I learned many years ago, that before you make a hasty decision, it is far better to count to a legislative 10, and I went home and I counseled with my wife, and I shared my concerns. And as the night wore on, I realized that I could not get hung up on individual pieces in this agreement, but that it was far more important to look at the whole and what impact it would have on our country and on generations to come. By morning, I realized that this was the best we could do.

I cannot stand here and tell you that if you fail to vote for this package there will be a recession, or that if you do vote for this package there will be a recession. No economist knows, but I can tell the Members this country is in desperate need of a fiscal fix.

If Churchill were here today, he might possibly say that this is the worst possible budget agreement, until you consider all of the other realistic alternatives. Sequestration clearly is not a realistic alternative, perhaps for a few days, but those who accept that, and seem to wish it, will come quickly back to this body in a short time, demanding that many parts of it be lifted.

The Congress itself has never before in its history been able to produce this type of package. Individual Members working together through committees, through the budget process, have been unable to do so, and after months of deliberation this year, I am convinced this is the best that we can do.

Neither Democrats by themselves nor Republicans with the President, can pass a budget package. It can only be done by bipartisan effort.

In all of the years that I have been on the Committee on Ways and Means, I have only voted for one tax bill. That was in 1981, which was a tax reduction. That was easy.

And it is now time to pay the bills. We have run up consecutive deficits for the last 19 years, and I say to my Democrat friends, not just during the last decade. The last balanced budget was in 1971. We are leaving these massive deficits as a legacy to our children and to our grandchildren, and I do not serve in Congress to be a party in bestowing such a burdensome legacy.

Socrates 400 years before Chirst, said that when the masses of the people find they can vote themselves prosperity from the public treasury, democracy is no longer possible.

This is a historic test for our republic, our democracy. Democracies easily handle the easy decisions, but stumble on the tough ones.

Today is that watershed moment in our country's history where we will look back and say we did the right thing, as tough as it was, and as objectionable as some of the features of this package are, because, yes, our children and their children deserve it.

Could I have devised a better budget? Certainly. Give me 217 votes. But would it pass without giving me 217 votes? And the answer is no.

I feel that many Members on both sides want an easy package. There is no such thing as deficit reduction of $500 billion that is a happy package for anyone.

When I first ran for Congress, Barry Goldwater came to my district, and I must confess he was one of my ideals in politics. There was a rumor that he would not run again, and I asked him, "Are you going to run again?" He looked at me and said, "BILL, I have thought about it, and I want to retire. I feel that I have earned it. I want my privacy and my private life, but I will not one day sit with my grandchildren on my knee and tell them that I did not do everything that I could to make a better future for them." He ran Again.

And I will not sit and tell my grandchildren that I failed to make the tough decision when I had a chance to lift this debt from their shoulders.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, as a Member of Congress from Kentucky, a State hit extremely hard by this budget proposal, I rise to oppose this resolution. I oppose it strongly.

Mr. Speaker, I speak in opposition to this proposed budget resolution. Kentuckians want the Federal Government to cut spending as a means of balancing the budget. They cannot bear higher taxes.

Earlier this year, the 1990 Kentucky Legislature voted the highest tax increase in the history of our Commonwealth. Based on hundreds of contacts from my constituents this

week, I'm aware that 90 percent of my constituents oppose this budget resolution.

I urge my colleagues to vote against this proposal.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. COLEMAN].

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, this package has been called "necessary" by our very able budget chairman and other people we all respect, to mop up the $300 billion annual deficits now looming in front of us.

But how did this fiscal crisis happen? There were three major ways. I would ask the Members to consider, does this package address any of the three?

First, the huge tax cuts of the 1981 era that the gentleman from Texas [Mr. ARCHER] just referred to, mostly tax cuts for the wealthy, huge revenue losses. Does this package ask the wealthy to finally pay their fair share? No. It hits the middle income people twice as hard as the rich.

Second, the huge S&L losses; did the middle-income benefit from the jumbo CD's, the real estate manipulations, the fraud that created the S&L mess? No. But they're asked to pay here.

Third, huge defense spending. The Pentagon cost overruns, the unbelievable cost overruns, the defense procurement scandals, the enormous run up in military spending. In this sacrifice package, does defense do its share of sacrifice? No, they get more than either the House or the Senate would have provided.

We should defeat this package. Go back to the drawing boards. Only then can the Congress consider a package that is both responsible and fair.

Mr. FRENZEL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in opposition to the budget resolution.

Mr. Speaker, I rise in opposition to the budget resolution before us and the budget summit agreement it represents. Yes, the budget deficit is Public Enemy No. 1 but the negotiations that started early this summer with so much promise, has now produced a grossly inadequate and patently unfair product.

When the budget summit was first proposed some long months ago, we were assured that any agreement would produce significant reduction in a deficit that was spiralling upward. Since then, much has occurred with respect to the budget deficit—and none of it has been good. The costs of the S&L reform and recovery program has jumped precipitously, the Iraqis forced the deployment of Operation Desert Shielf and the economy has slowed dramatically.

All this makes an even stronger case for fiscal restraint. Yet the summit package we debate today will fall significantly short of the $50 billion first year savings we were promised. And, based on the dubious enforcement procedures included in this package and official Washington's equally dubious track record, I would venture an educated guess that we will never see the $500 billion in deficit reduction over 5 years that this package promises.

We could have, and should have, done much better. But beyond the inadequacy of this approach, there is a strong regional bias in the package. Indeed the Tax Foundation, in its analysis of the effects of the budget agreement, identifies New Jersey among the States facing the largest per capita tax increase.—These increases are largely the consequence of the increases in Medicare taxes and the limitations on itemized tax deducations.

MEDICARE

Recognizing that we must produce savings in domestic spending, this resolution takes direct aim at the group in our society who can least afford to pay—the sick elderly who are dependent on Medicare. Cuts in the Medicare program—$60 billion over 5 years—account for fully one-half of all the domestic savings. The monthly premiums and out-of-pocket costs paid by beneficiaries will double. The tax on employers and employees will rise. Hospital reimbursements will be cut.

Our past experience with Medicare cuts is clear. They have resulted in cutbacks in service. Cuts of this magnitude will not only put additional costly burdens on the sick elderly, but also result in further rationing of care.

And while this summit agreement contains these bone-deep cuts in the growth of Medicare, where is the equity? Domestic discretionary spending is growing by the rate of approximately $40 billion annually. Should our sick elderly bear such a proportion of the deficit reduction? The answer is—no way.

TAX DEDUCTIBILITY

Of equal significance, this budget could be devastating for New Jersey. For the first time, this package would violate the sanctity of many critically important income tax deductions. For the first time, this budget places limits on itemized deductions including limits on the deductibility of State and local income taxes, mortgage interest payments and charitable contributions. This is not just the camel's nose under the tent, it opens the door and gives an open invitation to future tax writers to further limitations and greater tax increases.

While initially this proposal may sound fair and the dollar amounts on the individual family relatively small, it is bad policy and will have a profound effect in future years. It is bad policy because it applies double taxation on the taxes already levied on State income and local property taxes. This is also an assault on the mortgage interest deduction, which in our area will drive more young couples out of the housing market.

Once the principle of deductibility of State and local taxes and mortgage interest is violated, it will only be a matter of time before future tax writers lower the income floor, raise the cap or limit deductibility entirely.

Mr. Speaker, the budget deficit is public enemy No. 1. It stands at the root of this Nation's economic ills. There is no more important task than deficit reduction. However, I cannot in good conscience vote for such a package that does such violence to my constituents. This is not the best budget option we have. We can and must do better.

[From the Tax Foundation, Washington, DC]

BUDGET SUMMIT AGREEMENT WOULD TAX STATES UNEVENLY

WASHINGTON, DC, October 3, 1990.—The tax package President Bush and congressional leaders are offering the American people will cost an average of $653 in new taxes for every man, women, and child over the next 5 years. Put another way, the agreement plans to extract $162 billion in extra revenue for the federal government by 1995—$22 billion of it in the current fiscal year which started on October 1. This works out to a per capital tax hit this year of $88 this year alone, a figure which will increase sharply in later fiscal years, when the tax plan is scheduled to garner more revenue.

The impact of the proposed taxes would not be felt evenly from state to state (see table below). Many residents of states already paying among the highest per-capita federal tax burdens would have to fork over an even greater share. Wyoming, Connecticut New Jersey, Delaware, Massachusetts, and District of Columbia residents will face the largest per capita tax increases. While no state would escape from the package unscathed, residents of Kentucky, Utah, West Virginia, Mississippi, Louisiana, and Alabama will not be hit as hard. The additional per capita burdens for fiscal year 1991 range from a high of $115 in Wyoming to a low of $72 in Kentucky.

Why will some states have to pay more? With nearly half the fiscal year 1991 revenue expected to come from major excise tax increases on motor fuels, cigarettes, alcohol, and luxury goods, a state's consumption level of these items will be one of the major determinants for the geographic impact of the new taxes. Another factor is the proposed limitation on itemized deductions which would place an extra burden on states with a higher percentage of tip earners, and higher property taxes.

This year, the average American will spend 82 days working to pay his share of federal taxes. With the $22 billion revenue increase proposed for 1991, every American will be working longer for Uncle Sam, but some states will be shouldering a disproportionate share of the load.

The Tax Foundation is a nonprofit, nonpartisan research and public education organization founded in 1937 to monitor tax and fiscal activities at all levels of government.

BUDGET SUMMIT'S EFFECT ON PER CAPITA FEDERAL TAX BURDEN STATE-BY-STATE

[Fiscal year 1991]

State	Pre-summit burden	Post-summit burden	Additional per capita burden	Total (millions)
Average	$4,596.80	$4,685.02	$88.22	$21,900.0
Alabama	3,343.33	3,418.84	75.51	310.9
Alaska	5,633.07	5,726.07	93.00	49.0
Arizona	3,958.44	4,044.26	85.81	305.2
Arkansas	3,126.37	3,208.28	81.91	197.1
California	5,102.64	5,195.29	92.65	2,692.6
Colorado	4,378.67	4,466.89	88.22	292.6
Connecticut	7,440.38	7,551.04	110.67	358.4
Delaware	5,434.65	5,536.33	101.68	68.4
Florida	4,640.79	4,731.54	90.75	1,149.9
Georgia	4,059.60	4,150.20	90.60	583.1
Hawaii	4,495.82	4,573.47	77.65	86.3
Idaho	3,166.84	3,244.13	77.29	78.4
Illinois	5,170.50	5,257.43	86.93	1,013.5
Indiana	4,018.62	4,101.54	82.93	463.8
Iowa	3,836.41	3,919.05	82.64	234.7

BUDGET SUMMIT'S EFFECT ON PER CAPITA FEDERAL TAX BURDEN STATE-BY-STATE—Continued

[Fiscal year 1991]

State	Pre-summit burden	Post-summit burden	Additional per capita burden	Total (millions)
Kansas	4,282.67	4,373.27	90.60	227.7
Kentucky	3,297.89	3,369.65	71.76	267.5
Louisiana	3,231.56	3,305.69	74.13	324.8
Maine	3,945.40	4,034.67	89.26	109.1
Maryland	5,544.29	5,641.40	97.12	455.9
Massachusetts	6,101.04	6,201.01	99.97	591.2
Michigan	4,669.59	4,756.09	86.50	802.1
Minnesota	4,597.17	4,685.91	88.74	386.3
Mississippi	2,700.37	2,774.18	73.81	193.5
Missouri	4,206.34	4,298.07	91.72	473.2
Montana	3,318.68	3,406.95	88.27	71.1
Nebraska	3,872.97	3,955.62	82.65	133.1
Nevada	4,812.22	4,907.34	95.12	105.7
New Hampshire	5,576.24	5,674.73	98.49	109.0
New Jersey	6,869.74	6,979.82	110.08	851.6
New Mexico	3,220.42	3,301.42	81.33	124.3
New York	5,668.10	5,759.33	91.22	1,637.5
North Carolina	3,826.95	3,910.62	83.67	549.8
North Dakota	3,423.90	3,509.04	85.14	56.2
Ohio	4,349.09	4,432.33	83.25	908.0
Oklahoma	3,538.97	3,623.63	84.67	273.0
Oregon	3,984.90	4,072.51	87.61	247.1
Pennsylvania	4,567.85	4,653.54	85.69	1,031.8
Rhode Island	4,958.60	5,047.80	89.19	89.0
South Carolina	3,360.30	3,437.50	77.20	271.1
South Dakota	3,218.88	3,300.74	81.87	58.5
Tennessee	3,758.12	3,840.85	82.72	408.6
Texas	4,067.65	4,152.11	84.46	1,435.1
Utah	3,055.09	3,127.48	72.38	123.6
Vermont	4,113.18	4,200.94	87.76	49.8
Virginia	4,808.28	4,900.35	92.07	561.4
Washington	4,536.43	4,624.71	88.29	420.3
West Virginia	3,012.51	3,085.44	72.93	135.4
Wisconsin	4,170.03	4,256.02	85.99	418.5
Wyoming	3,783.37	3,898.55	115.19	54.7
District of Columbia	6,379.52	6,477.90	98.39	59.4

Source: Tax Foundation Federal Tax Burden by State model.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I rise in support of the budget resolution.

Mr. Speaker, I rise in support of the budget resolution before us this evening which incorporates the agreements reached last weekend by the budget summit.

During the last 4 days I have had an opportunity to talk with the President, his economic team, numerous members of his administration, Members of Congress, business and community leaders from Arizona, and dozens of people who have called my office to express either their opposition or their support for the agreement. I've even talked to the distinguished economist, Milton Friedman, and heard his articlulate case against this agreement as an economic solution to our problems.

This agreement is not one I would have crafted. There are taxes on working people that I do not like. There is a little or no reduction in domestic spending. It is a step backward from the 1986 tax law which took us away from special interest provisions in the Tax Code.

But neither the President nor my party controls the House or the Senate. It was the Democratic leadership in this Congress who resisted the economic stimulation that would have come from a reduction in the rate of taxes for capital gains; it was the Democrats who insisted that taxes be included in the package; it was the Democrats who would not accept cuts in domestic spending.

Even so, there are positive aspects of this agreement. It puts caps on spending for the next 5 years. It gives us a true picture of the deficit by separating Social Security from the rest of the budget. There are real reforms of entitlement programs. And the enforcement mechanisms to make this work are undeniably better than those that currently exist under Gramm-Rudman. Moreover, all of these changes are made without affecting Social Security.

To those who say: "But it is still a bad agreement," I would pose this simple question: What is the alternative? Most assuredly, I could craft a solution that would be preferable to this. But could I get 218 votes in the House for it? No. If there was a solution that would get 218 votes in the House and 51 in the Senate, don't you think we would have heard about it by now?

Finally, there are those who will say that JIM KOLBE did not stick by his pledge to not raise taxes. I could argue that the marginal rates of taxation are not increased, but there are undeniably taxes in this package. When I took that pledge could any of us have foreseen the size of the savings and loan debacle? Could any of us have predicted that there would be 100,000 American soldiers in the Middle East?

Leadership demands an understanding of when one must fold the tent, when to strike for the best agreement that is possible. I was elected to help govern this Nation. I do not serve the men and women I represent by simply saying "no" to whatever may be presented.

It was Benjamin Franklin who said at the end of the great Constitutional Convention:

I confess that there are several parts of the Constitution which I do not at present approve, but I am not sure I shall ever approve them. For having lived long, I have experienced many instances of being obliged by better information, or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise.

I can never pretend to the widsom of Benjamin Franklin, but I can hope for enough wisdom to follow his sage advice. Tonight, on this budget agreement, I shall do so.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I am strongly opposed to this resolution.

Like most Americans, I want to end the deficits. But it must be done in a way that the American people can accept as fair. I know the President is sincere. He wants the best for this country. But when I read the details of this budget, there can be only one conclusion: It is not fair:

Not fair to the taxpayer;
Not fair to senior citizens; and
Not fair to working men and women.
There are three big problems:

First, it adds $134 billion in new taxes, without cutting any of the waste that we know pervades the Government.

Second, Medicare is cut $60 billion, putting even more of the burden of devastating health care costs on those with fixed incomes.

And third, there are no cuts in foreign aid—in fact there is a $1 billion increase. It forgives Egypt's $7 billion debt to our taxpayers. And we keep spending half of ur $300 billion defense budget in Europe.

Mr. Speaker, I say to you what the people of northeast Wisconsin are saying to me. It's time we take care of our own people and our own problems for a change. Too many people in Washington have been listening to economists, columnists and, frankly, each other. I have been listening to the average citizens in Wisconsin. And this letter from Irvin Arendt in Green Bay says it best:

I and my fellow workers are middle income employees and we are sick of these giveaway programs, while our parents suffer and our children face insurmountable debt, and we workers keep paying. We are sick of supporting every country in the world. When this country gets back on its feet, fine, but not now. Balance the budget.

I want to vote for a deficit reduction bill. But I will not vote for a bill like this. This bill is not in the best interests of our country or the people we represent.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. COX].

Mr. COX. Mr. Speaker, I rise in opposition to the resolution.

Mr. Speaker, with the October 1 commencement of the fiscal year already behind us, the prospects for sane congressional management of our Federal budget are gloomier than ever. Already, fiscal 1991 appropriations are far higher than last year's; and the crisis in the Persian Gulf—which has increased current military spending and renewed congressional willingness to spend on the national defense—has only added to the seemingly hopeless mismatch of revenues and expenses. Worse, even were this budget summit between Congress and the President to yield some grand solution to bring this year's numbers closer into balance, we would still have to deal with next year's, and the year's after. And the dismal truth is that history is not on our side.

Yet, the Federal Government's financial problems are not nearly so intractable as they first appear. The chronic failure to balance the budget is simply the inevitable result of a poorly designed congressional budget process, which not only permits but encourages violation of the very laws designed to force rational choices among competing priorities. The current process guarantees wasteful spending and financial chaos.

OUTLAW JIM WRIGHT

Not least among the reasons that the system is subject to manipulation and abuse is that very few people understand how it works. Even within the Congress itself, terms like "current services baseline," "section 302(b) allocation," and "undistributed offsetting receipts" often produce blank stares. The budget committees, whose members at least have the incentive and opportunity to understand the process, are powerless to enforce its requirements on the appropriations committees (which often spend in seeming disregard of budget guidelines), on the Congress as a whole, or even on the themselves. The Con-

gressional Budget and Impoundment Control Act of 1974, which sets out the current process, is routinely ignored; and there is no remedy at hand to enforce it. As in the Old West, the man with a gun can make his own law, and the current congressional leadership is doing just that.

On my very first day in Congress, then-Speaker of the House Jim Wright announced from the chair that he intended to break the law. This may shock most Americans, but in fact it is routine business in Washington. Speaker Wright pledged in January 1989 that the House would complete work on the required 13 appropriations bills by the August recess. The law requires final action on these bills by June 30.

Imagine the consequences if you were to ignore the April 15 deadline for filing your income tax return. Yet when it comes to more than $1 trillion in annual spending, that is precisely what Congress is now doing—and has been doing routinely throughout each of the 16 years since the passage of the 1974 Act. This violation of the law may have reached its apogee with the utter mismanagement of the fiscal 1990 budget, during the course of which the Congress violated every legal deadline; and the current year's process seems destined to continue that infamous record.

In place of the process mandated by law, the congressional leadership has built a totally extra-legal system whose complexity and incomprehensibility shield it from effective public scrutiny. Virtually no member of Congress—let alone the public—even reads the huge spending bills the Congress adopts. As if in an annual ritual, the President routinely faces a take-it-or-leave-it decision on a hastily crafted omnibus continuing resolution or 11th-hour reconciliation bill running into the thousands of pages and comprising virtually all Federal spending for the entire year. The use of such measures has effectively vitiated the President's veto authority, since signing them is the only alternative to closing down the United States Government.

Such a system serves only the interests of those who seek to guarantee that Government spending is literally uncontrollable, and who assert that the only alternative to massive and ever-increasing deficits is massive and ever-increasing taxation. This was not, however, the intention of those who drafted and passed the 1974 Act. Rather, this law represented an effort to place taxing and spending decisions within the context of an overall budget.

FAILURE OF THE 1974 ACT

Until 1974, Congress never voted on a budget. Then, as now, the Federal budget was simply the sum of the separately enacted annual appropriations bills, along with whatever financial commitments had been placed into law in prior years. To rectify this, the 1974 Act established the House and Senate Budget Committees, and provided for an annual budget to be adopted by Congress. The act required the passage of a non-binding first concurrent resolution on the budget early in the budgeting year, and a binding second concurrent resolution toward the end of that year. Additionally, it was intended that the second resolution would be enforced through reconciliation instructions that would require the various congressional committees to report to the floor whatever legislation was necessary to achieve the established targets. In practice, Congress simply came to ignore the requirement that it pass a second budget resolution, and the requirement of two resolutions was done away with altogether in the first Gramm-Rudman-Hollings law, enacted in 1985. Finally, the act set up a legally binding timetable to ensure the timely adoption of individual spending bills.

Certainly, providing for a floor vote on overall budget targets, mandating the timely adoption of spending bills, and enforcing overall budget limits through reconciliation represented positive steps. It is thus not for lack of a workable concept, but rather of effective enforcement mechanisms, that the 1974 Act has failed to bring order and coherence to the budgeting process and failed to bring discipline to congressional decisions to spend money.

PREMISES OF THE COX PLAN

To repair the broken-down congressional budget process, we must design a system with teeth in it to make sure that Congress doesn't again abandon it for some less-restrictive expedient. Beginning as a member of President Reagan's working group on budget process reform, and now as co-chairman of the House Task Force on budget process reform, I have developed a comprehensive proposal to rewrite the 1974 Act that would do just that. This new plan is based on the premises that an effective budget process must:

Encourage early consultation and cooperation between Congress and the President;

Produce decisions on overall budget levels early in the budgeting year;

Be evenhanded with respect to the President and Congress, not giving either an advantage in dealing with the other or in establishing spending priorities;

Tie each individual spending decision to an overall, binding budget total;

Require explicit decisions on spending levels for all Federal programs, not just those arbitrarily deemed "controllable";

Prevent actual or threatened annual shutdowns of the Federal Government;

Be as simple as possible in concept and means of implementation, so that the process is clear and understandable to Congress and the public;

Not raise difficult questions of constitutionality;

Contain a bias in favor of spending restraint that could be overcome only if both the President and Congress wish to do so; and

Protect individual members of Congress against the political fallout from tough spending decisions by placing the burden to cut spending on the process rather than on specific legislators.

To accomplish these objectives, the 1974 Act should be amended to establish three related reforms. Congress should be required to enact a simplified budget, in the form of a legally binding joint resolution (as opposed to the present non-binding concurrent resolution), before any spending legislation can be considered. As a joint and not a concurrent resolution, the budget would be presented to the President for his signature or veto, and would thus be more likely to reflect a decision on overall Government spending that combines the priorities of both the President and Congress.

Second, the budget process should contain enforcement mechanisms that will keep Congress within its budget ceilings for all spending except Social Security and the interest on the debt. Also needed is a sustaining mechanism that would be triggered in the event Congress and the President fail to act, so that the Federal Government will not be shut down because of political deadlock.

These are the basic elements of the Budget Process Reform Act, which, together with other members of the House Task Force on Budget Process Reform, I will soon be introducing in Congress.

A ONE-PAGE BUDGET

The Budget Process Reform Act would require that Congress enact a legally binding budget—in the form of a joint resolution—by May 15 of each year. Until the budget is signed into law, no authorization or appropriations bill could come to a vote in either House. The budget would set ceilings on all Federal spending—except Social Security and interest on the debt—for the coming fiscal year. It would fit on a single page—setting specified ceilings on Government spending within the 19 summary categories currently used in the budget. Because the budget would contain only 19 numbers, it is far more likely that the Congress and the President could agree at this high level of abstraction on how much the Federal Government should spend in the ensuing fiscal year. Numerous Government programs and activities would be aggregated within each category, so that wrangling over the more detailed breakdown presently required in the President's budget submission could be avoided. The President's budget in its present form would continue to be provided, but only after passage of the budget law. Just as now, the Congress would not be bound by its specifics.

The budget enacted by Congress would also set ceilings for spending on entitlement programs. If the budget set a ceiling below the projected program outlays for the upcoming year, Congress would be required to effect a reconciliation with the budget ceiling by amending the organic statute for the entitlement program so as to meet the new ceiling.

The result would be the establishment of a binding budget, jointly reached by the Congress and the President early in the budgeting year.

THE TWO-THIRDS REQUIREMENT

To end the sad spectacle of congressional lawbreaking, the act contains three enforcement mechanisms to ensure that its provisions are observed, making it more likely that Federal spending will be contained within the agreed-upon ceiling.

First, Congress would be permitted to enact spending legislation in excess of the budget ceilings only by a supermajority vote—two-thirds of both Houses. Such a requirement would be constitutional: Article I, section 5, cl. 2 of the Constitution gives each House of Congress the power to determine its own rules. And although unprecedented in statute, two-thirds majorities have been required by the rules of the Senate. Senate Rule 22, for

example—as amended in 1949—required the affirmative vote of two-thirds of the entire membership to end a filibuster.

The requirement of a supermajority for spending outside of a budget would provide a strong incentive for both the president and Congress to reach agreement on the budget, since neither—although perhaps for different reasons—would wish to be in the situation where all spending requires a supermajority vote. It would also provide a powerful tool to hold the Congress to the budget choices it makes. Thus, for example, if Congress wished to enact an appropriation that, together with other appropriations in the particular budget category, would exceed the budgeted ceiling for that category, this would subject all appropriations in that category to a two-thirds vote. Likewise, if Congress and the President failed to enact a budget, then all authorizing and appropriating legislation would require a supermajority for passage. The only way to adopt spending proposals by simple majority would be to authorize and appropriate within the ceilings of a duly enacted budget law.

NO MORE BLANK CHECKS

Second, Congress would be required to determine the desired level of spending for each Federal program except Social Security and interest on the debt. Openended, "blank-check" appropriations—such as those for entitlement programs, which authorize the spending of "such sums as may be necessary"—would be banned.

Under the current system, any member of Congress who seeks to cut spending on entitlements must introduce legislation and obtain an affirmative vote to do so. But anyone who wishes to increase spending on any program with an open-ended appropriation need only sit back and watch it go. By requiring the Congress to decide how much it is willing to spend on a program during the coming fiscal period, the new act will level the playing field for spending cuts and spending increases. At the same time, it should be emphasized, requiring fixed-dollar appropriations for all Federal programs will not in any way mandate reductions in entitlements. Congress would be able to decide to spend as much as it wants on entitlement programs. It would simply have to make that decision with every budget.

Entitlement programs are not "uncontrollable," merely uncontrolled. While the specifics often vary program by program, virtually all open-ended entitlements require that payments be made to any person or unit of government that meets eligibility requirements established by law. All persons who meet the program's eligibility requirements receive benefits to which they are entitled—regardless of the aggregate cost in any fiscal period.

AGENCY-ADJUSTED BENEFITS

But there is nothing requiring that entitlement programs have open-ended appropriations. Indeed, Senator RICHARD LUGAR proved that fixed-dollar appropriations can be used for entitlement programs with his amendment to the Food Stamp Program. As a result of the Lugar amendment, the Food Stamp Program operates from a fixed-dollar annual appropriation, but nevertheless entitles eligible households to receive certain levels of benefits. If the Secretary of Agriculture concludes that projected outlays will exceed the amount appropriated, he or she is required to recalculate the allotment to which each household will be entitled in order to keep expenditures within the statutory ceiling.

Following this model, the new act authorizes the heads of the relevant Cabinet departments and agencies to adjust benefit levels and eligibility requirements whenever entitlement spending exceeds the dollar amount actually appropriated by Congress.

PRESIDENT AS ENFORCER

Third, with respect to any spending in excess of the budget ceilings, the president would be granted enhanced rescission authority—that is, authority to rescind the over-budget portion of any spending unless Congress were to enact legislation expressly disapproving the specific rescission. This authority would be applicable only to the over-budget portion of proposed spending; the President, in other words, would simply be enforcing Congress's own budget decisions, as enacted into law. The President would also be granted authority to effect rescissions of any spending authorized or appropriated in excess of the previous year's funding levels in the event no budget were enacted.

To maintain the integrity of congressional control over the legislative process, the Congressional Budget Office, not the Office of Management and Budget, would be the score-keeper for determining whether particular authorization and appropriations measures are consistent with the budget ceilings, and consequently whether the supermajority vote or rescission authority mechanisms are applicable. A supermajority vote would be required for any spending legislation that would exceed the budget ceiling for one of the 19 budget categories.

To make sure Congress does not sandbag the process by withholding action on critically important programs that can easily command a two-thirds vote, while filling up a category piecemeal with less urgent spending proposals, passage of the first over-budget spending would subject all spending legislation in that category to a supermajority vote. And, to permit the CBO to evaluate individual spending proposals when Congress has failed to act on an entire category, the supermajority requirement would also be triggered in the event that outlays for a specific program under consideration, when added to the inflation-adjusted previous year's outlays for all other programs within the category, would exceed the budget ceiling in that category. The President's rescission authority would apply to any spending for which a supermajority vote was required.

These three enforcement mechanisms—the supermajority vote, fixed-dollar appropriations, and enhanced rescission authority for the President—ensure that the budget process will no longer be ignored. They do not, however, weaken the congressional power of the purse. Once a budget has been enacted, these mechanisms place procedural barriers in the way of only that spending that would exceed the limits to which Congress and the President have already committed themselves by law.

AVERTING A SHUTDOWN

The final element in the Budget Process Reform Act is the sustaining mechanism—an automatic continuing resolution. In the event Congress fails by October 1 to complete action on appropriations for any program or activity, the previous year's funding level would automatically be reappropriated for the upcoming fiscal year. This mechanism has the virtue of avoiding the termporary shutdown of the Government for lack of funds, while providing an additional incentive for Congress and the President to authorize and appropriate through the budget process. Unlike the Gramm-Rudman sequester, this continuing resolution would apply to all spending, except Social Security and interest. A freeze at the prior year's levels would be a result that both branches will wish to avoid, since each is likely to feel that there are some important accounts that should be dealt with differently than in the previous year. An added virtue of this sustaining mechanism is its bias in favor of spending restraint. If no action is taken, spending does not increase from year to year.

The sustaining mechanism is not the preferred means of determining Federal spending levels, but rather is a form of disaster insurance against the contingency that the Congress and the President do absolutely nothing. The Government does not shut down, and the Congress is not tempted to lay at the President's feet the night before October 1 a mountainous appropriations bill that he cannot read and must sign if he wishes to avoid shutting down the Government.

A POLITICIAN'S DREAM

The problems of runaway spending and lack of accountability are not new—they're simply getting worse. Now, our huge Federal borrowing is threatening to increase interest rates and inflation, and to destroy the overall health of the economy. The amount of taxes each of us will pay next year, the cost of our home loans and car payments, our career opportunities, the value of our retirement savings—all are dependent on whether Congress finally tames the budget beast. No longer will it suffice to consider one or two discrete repairs to the process, such as a line-item veto or new Gramm-Rudman-Hollings targets. While such reforms are needed, only a comprehensive rewrite of the 1974 act will go to the heart of the problem: An undisciplined, out-of-control budget process.

There is reason to be sanguine about the near-term prospects for this proposed comprehensive reform of the budget process. Like Representative DICK ARMEY's base-closing commission and the Gramm-Rudman-Hollings sequester, the binding one-page budget and its enforcement mechanisms can protect Members of Congress from some of the political consequences of tough budget decisions. The procedures themselves can take the heat for any unpopular spending cuts that might become necessary in order to meet the budget. First, because the budget ceilings are adopted early in the process and at a macroeconomic level, voting for a responsible budget will be politically less difficult than voting against specific spending bills. Even more important, the enforcement and sustaining mechanisms—supermajority vote, rescission authority, automatic continuing resolution—will permit politicians to say yes while the system says no. That is a politician's

dream. So for those in Congress who are concerned about the deficit, but who are unwilling to make an unpopular decision, the Budget Process Reform Act is ideal. The majority party of Congress should also presumably be interested in an act that would permit them to determine spending priorities with just a majority vote.

I believe a majority in the Congress could be persuaded to vote for a thoroughgoing reform of the 1974 act. An encouraging sign was the recent 279–150 vote in the House of Representatives in favor of a constitutional amendment requiring a supermajority vote for an unbalanced budget. The time has arrived for this bipartisan coalition of fiscal conservatives to go further and address the root causes of our budget crisis.

Mr. Speaker, the budget resolution before us today fails to do so. Only when we are successful in bringing budget process reforms to a vote, will the Nation discover for certain whether the Congress is serious about its responsibility to the taxpayer, to our economy, and to future generations of Americans. I urge my colleagues to vote against the resolution.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I stand in opposition to the resolution.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, this is a very grim day for me. I did not slosh in the snow in New Hampshire or go door to door in South Carolina to elect George Bush to come to a night like this where I have to vote against him. However, I have to look at this deal as a 1-year deal, and a 2-year maybe.

We have never, at least in my lifetime, stuck to a 5-year deal since I have been around. The only thing we have stuck to longer than 5 years is the Articles of Confederation. Do Members remember Gramm-Latta? It lasted 2 years. How about TEFRA? How about Gramm-Rudman? It lasted 2 years before we changed the targets.

Even the majority leader in a quote in his hometown newspaper said that he detests this: "I think it's wrong. The economy won't do what we think it's going to do now, and probably in 3 years we will be back in a summit."

The agreement has been changed as recently as today at lunch when the Speaker released a deal with the President and the bipartisan leadership also understood that many of the policies set forth in the budget agreement are for illustrative purposes only, and that the committees of jurisdiction retain the right to achieve the savings required through alternative policies. What agreement are we voting on? We do not even know.

I ask my collegues to look, if this truly is not a 5-year contract—and frankly, I do not think we ought to be making a 5-year contract—but if it is not, as I say it is not, then look at what happens in the first year. Loosen up, colleagues, because in the first year we cut defense more than we want to. We raise taxes by $12 billion, and mandatory spending, the increase in mandatory spending is cut $12 billion. So we put up $26 billion to get $12 billion in savings, and discretionary spending is allowed to keep going. That is not a good deal.

We are told to "Trust us, because the real savings will come in the next 3 to 4 to 5 years." I do not believe it.

I have to disagree with my President that this deal is being put forth here, that we have to look at it as a first-year deal. Let Members be very serious. Does anyone really believe that the world economy is hinging on this agreement tonight? An agreement that is being changed as we speak? If the agreement goes down today, is the world economy going to stop tomorrow? Is Congress going to lock its doors and cease to function? Is the President going to stop working?

There are alternatives. Alternatives have been presented during the whole 4½ months. Unfortunately, the fourth branch of Government—the summit—paid no attention to them, and that is what brought Members here tonight.

Vote against this agreement and give Members a chance to come up with a better one.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. EVANS].

Mr. EVANS. Mr. Speaker, I rise in strong opposition to the budget agreement.

Mr. Speaker, Tuesday night, the President went on prime time television and asked the American people to contact their Representatives in Congress in support of the budget agreement.

Well the results are in from the 17th Congressional District of Illinois are in and the tally is 260 to 5 against this package.

The American people must be wondering what kind of democracy we have when a handful of officials say in effect that if we, the elected representatives of the people, do not agree with the way they want to finance the operation of our Government then they will shut it down. That is not much of a political democracy and it is certainly not an economic democracy.

Average people like our farmers, our veterans, and unemployed workers lose in this agreement. Big oil companies and multimillionaires are the big winners.

I urge my colleagues to vote against this budget resolution.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. TALLON].

Mr. TALLON. Mr. Speaker, I rise in support of the budget agreement.

This is at the same time one of the most difficult and important votes I've cast during this Congress. Unfortunately, most segments of the budget, and as a result most Americans, will be negatively impacted by this agreement. This is the biggest deficit reduction package ever and therefore the most wide reaching. It is a bitter pill to swallow for us all.

We can no longer afford to ignore a budget deficit is wrecking our economy, forcing us into dependency on foreign nations. Right now we are faced with two alternatives: The budget package proposed by the President and members of the budget summit or severe automatic across-the-board cuts of every single domestic and defense program required by the Gramm-Rudman-Hollings law.

While I am not a member of the budget summit group that drafted this package I am convinced that the alternative of automatic across-the-board cuts would be much tougher for the average American.

Out of the choices available, the negotiated budget package is the one that offers managed controlled deficit reduction alternatives versus the automatic across-the-board cuts—32 percent for discretionary domestic programs and 35 percent for defense programs—that would wreak financial havoc on our already soft economy. Still, this is a gut-wrenching and difficult issue for me. There's no denying that we are at a fiscal crisis point—we can either manage this crisis or let it manage us. Our country's future depends on it.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I rise in opposition to the resolution. It is an outrage. The proposition is profoundly unfair to the majority of the people of Arkansas. Citizens earning less than $30,000 per year are to receive a tax increase of 3.1 percent, while citizens earning more than $200,000 will receive a hike of 1.7 percent. Unfortunately, the assumptions are invalid. It is the same voodoo economy that brought us here tonight. I do not see how any long-term problem is addressed. The budget decreases serving to pay increased interest on debt.

Mr. Speaker, the chickens have come home to roost.

These chickens were born in the early 1980's when the Reagan tax cut went into effect, slicing some $2.4 trillion in revenues.

These chickens have been hovering near the Capitol dome for years, waiting to come home to roost, but have been kept away by massive borrowing.

But, borrow-and-spend won't keep the chickens away from the roost any longer. They are coming in for a landing.

Many of us have known—and warned—there would be a day of reckoning: And, it's here.

The problem we face today is twofold: First, revenue losses caused by the Reagan tax cuts must be made up, and second, spending must be reduced.

We hear a lot of spending cuts, waste, fraud and abuse—but little about the first component of the problem. In my view, however, it is that first component—the massive Reagan tax cuts—which are mainly responsible for bringing us to this day.

It was not good economic policy then and it has led us to the brink of financial disaster today. At one point, the Reagan plan was branded "voodoo economics" by one prominent member of the Republican Party. George Bush and I can agree that it has certainly been a curse on our fiscal house.

According to a study I requested, slashing the corporate tax rates in the 1980's cost the Nation some $97 billion in expected revenues; twice the size of the revenue to be gained from the proposed fuel tax.

So, I am being told I should vote for a plan that would have the working families of Arkansas open their wallets wider when they fill up at the pump because of the corporate tax policy of the Reagan administration.

That brings us to the important question facing us: is the payback plan fair, or will the middle class working people of this Nation once again be asked to bear a greater share of the burden.

In addition to my own study of the impact of this proposal on my home State, figures from a Government document published this week in the New York Times indicate that the Reagan tax cut chickens will roost squarely on the heads of the middle class.

And, that isn't fair.

I do not care how you dress it up, it is not fair—period. We can and must do better.

Mr. Speaker, this is not a knee jerk reaction to the budget proposal. I know that our colleagues on both sides of the aisle and both sides of the Capitol worked very hard to hammer out this agreement.

But, the figures I have developed are stark and it is inescapable that we are asking too much of the middle class and not enough of the rich.

This plan shifts a greater burden for paying for the Reagan tax cuts on those who didn't enjoy a large benefit from the cuts in the first place.

The gasoline tax hike will hit my State particularly hard because of its rural nature. In fact, Arkansas is more dependent on transportation fuels than any other State in the Nation.

According to the Arkansas Highway and Transportation Department, Arkansas is first in the average number of miles driven per registered vehicle—at 13,468—and first with number of gallons of gasoline purchased per registered vehicle [1,129].

Yes, it is proposed that we tax fur coats and yachts, but you don't buy a fur coat or a yacht as often as the people of Arkansas fill up at the pump.

You might even be able to steel yourself and live without a fur coat or a yacht for a time, but you cannot work and make a living without enough gasoline to get to your job.

And, if an elderly person gets sick, He/She cannot choose whether to seek medical attention, attention which will be more expensive under this proposal.

We all realize that spending cuts are necessary, but this plan—by cutting Medicare for the elderly, farm programs and student loans—isn't falling fairly across the economic spectrum. It can be touted as fair, but the numbers don't show it, and I don't believe it.

In my view the issue boils down to Main Street being asked too much and Wall Street too little. Somewhere, sometime, somehow, the penchant to put more and more of the burden of operating Government on the backs of the middle class working families of this country has to stop. It might as well be now.

I wish that the views of all of the Members of this House could have been considered and openly debated during deliberations on this package. But, it was done out of our sight.

The process has made me feel as if someone is holding a loaded, cocked gun to my head and saying dance or die.

To ask for a blank check approval of this package, which is not treating my people fairly, is asking too much.

Yes, the chickens are at the door and the wolves are not far behind them.

There is no doubt that action is necessary, but that action should not result in asking moderate income people to fund the operations of a government which has increasingly become a government for the rich by the rich.

There are those who continue to call for cuts in nondefense discretionary spending. But, that is not the problem.

Since the mid-1940's, Congress has appropriated $173 billion less than the President has requested.

Congress regularly cuts Presidential requests. During the Reagan years, for example, we appropriated $16 billion less than was requested by the White House.

We have been responsible.

And, we will continue to be responsible. Part of that responsibility, however, is to represent the people who elected us—which leads me to oppose this package and to call for an open debate on alternatives to the current proposal.

Alternatives which will spread more evenly the burden of extricating the Nation from the flawed economic policies of the 1980's.

Yes, we face some tough decisions in the days ahead—and we should be willing to make those decisions. We should not be willing, however, to march blindly along a path dictated for us or go over the cliff on command.

We did that in the 1980's. It is something which does not bear repeating.

What is needed is a change of direction. We need tax reform with tax fairness. We need a comprehensive fiscal policy that includes a trade policy that encourages export and an energy policy that discourages import. Our Nation spent more than a trillion dollars in the last decade importing foreign oil.

We must reverse the economic direction of the Nation. I oppose this resolution.

Mr. PANETTA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I rise in guarded support of the resolution.

I am voting for this resolution this evening because of the promise of the President and our congressional leadership that the budget summit proposal will now be referred to appropriate committees for further refinement where major objections can be worked out. The Speaker has said: "In the opinion of the President any myself, before we move to the final vote 2 weeks from now—the stage of "reconciliation"—the committees will have reasonable flexibility to suggest alternatives policies for the final budget summit proposal. He also told me, "It was always understood that when the budget summit proposal went to the committees that some of the policies outlined were for illustrative purposes only." The committees secured the right to develop alternatives. I hold him at his word.

Let me express in detail my reservations about the proposal as originally drafted and presented to us.

The budget summit proposal—presented to Congress by five of its leaders and three unelected administration officials as a "done deal" on September 20—asks the middle class and elderly to once again shoulder the lion's share of the burden of budget deficit reduction. This proposal places the brunt of all tax increases and spending cuts on people earning between $20,000 and $75,000; their tax rates will rise twice as much as those earning between $100,000 and $200,000, and three times more than those earning over $200,000. Those earning under $10,000 a year will be hit hardest of all with a 7.6 percent increase while the super-rich earning over $200,000 a year will pay only 1.7 percent more. Why should taxes decrease as income rises? The President's Chief of Staff, John Sununu, recently scoffed that the impact on the typical taxpayer would amount to only "a handful of dollars per month." For many Americans, a handful of dollars means much more than to Mr. Sununu.

Overall, this proposal is very regressive. It makes no attempt to shift deficit reduction responsibility back to those who made real income gains during the Reagan era of supply-side economics. It hits again the working people who have been barely able to maintain their income levels over the last 10 years. The reason this agreement is so poorly crafted is because it was finally struck by eight men, five Republicans—three of whom were not elected directly by the people—and three Democrats. The normal inquiry and "sunshine" that accompanies legislative debate was impossible in a situation where these supranegotiations were held behind closed doors at Andrews Air Force Base. In my judgment the entire summit operated outside of normal constitutional processes. I hope this is not a precedent setting process that will be repeated again. Further, many key provisions in the proposal—such as the $25 billion in tax breaks for investors—are not spelled out in any detail in documents made available to the membership-at-large prior to the anticipated votes. The entire budget summit process has strained our constitutional system of shared power. I do not want this vote to be viewed as an endorsement nor precedent for repeating this procedure.

I am particularly aggravated that the proposal targets Medicare so heavily. Half the spending cuts in domestic programs will come from Medicare, $60 billion. The effect of Medicare premium increases will cause an average Social Security recipient to have his/her scheduled January 1991 $18 a month cost-of-living increase reduced to $6.75. That is, while senior citizens will still get their 1991 cost of living increases under the budget proposal, their monthly Medicare payment will increase

from $28.60 to $33.50—or a $4.90 per month increase—starting on January 1. By 1995, the premium will go up to $54.30—a total per month increase of $25.70. It will also cost seniors more to go to the doctor. Premiums for doctors' visits will increase from $75 a year to $150 a year, or $12.50 a month under the budget proposal as opposed to the current $6.25 a month. In the end, a person with a $400 check will lose a total of $11.15 a month—$4.90+6.25. Even though Social Secutity checks are scheduled for an $18 a month COLA in January, the net increase in income to an average senior will be reduced under the agreement to $6.85 a month, instead of $18. The lower income recipient will be hit even harder. A senior citizen from my district who is 75 years old stopped taking her medication 6 months ago when prices rose to $55.50 for a 2-month supply. She said "Doctor, I can't afford the pills". He said "Do you want to die or get a stroke." "It scares me". All of this will happen as heating oil prices go up, food costs increase, and inflation is running at an annual rate of 5.6 percent. I cannot do this to our seniors, nearly half of whom earn under $12,000 a year.

It is wrong to ask our seniors to pay more on Medicare premiums when some of these savings will be transferred to pay off the savings and loan crisis. The budget summit proposal carefully avoids including the additional money needed for the Resolution Trust Corporation to clean up the savings and loan debacle, as if the crisis didn't exist. Yet last summer, when the President's Budget Director came up to the Congress, he cited the S&L financing problems as the primary reason for the unusual budget summit process that was proposed. In 1990, interest alone paid out on bonds to cover some of the costs of the S&L crisis will reach $2 billion. Funds needed to pay for Operation Desert Shield are also omitted from the final proposal: we all know this bill will soon come due.

There are other harsh cuts in the proposal. State and local employees in Ohio will be pulled into Medicare even though they have their own retirement system. Federal retirees will lose the option to take their retirement money in a lump sum. Unemployed workers will be asked to wait an additional 2 weeks before being allowed to draw benefits, pushing people already in a hardship position to endure even more. And veterans' programs will be cut by $2.7 billion over 5 years at a time when our veterans' hospitals are bursting at the seams due to the influx of World War II veterans. More than half of the new revenues in the proposal will be raised by increasing excise taxes on items such as gas, alcohol, tobacco, and home heating oil. These are regressive taxes that end up hitting the average citizen more than the well off. Increasing excise taxes on gasoline and othe motor fuels by 5 cents per gallon by December and by another 5 cents per gallon on July 1, 1991 is hardly appropriate at a time when Americans are already facing huge price increases at the pump because of the Middle East crisis. Why not place some of this burden on the oil companies, now raking in big profits due to higher prices?

The $25 billion in tax breaks—which I am appalled to see included in the deficit reduction measure—are already being criticized for their unlimited potential to be lucrative tax breaks for wealthy investors. Why include these revenue losers in a deficit reduction package?

The budget negotiators say that this budget summit package is not smoke and mirrors, that there are real and hard cuts to be made. Yet the economic assumptions that they use to make their deficit reduction decisions are too optimistic. They assume interest rates for 91 day Treasury bills will fall as low as 5.7 percent in 1992, and to 4.9 percent in 1933, when current rates are as high as 7.7 percent. The uncertainty in the Middle East make it impossible to predict domestic oil prices. They are already as high as $37 to $40 a barrel today, they could not possibly fall as low as $24.15 in 1991 as projected. They assume real GNP will rise as much as 3.8 percent in 1992 and 4.1 percent in 1993. I certainly hope this will happen. But considering the current GNP growth rate of only 1 percent and the impact of the Middle East crisis on oil prices and economic growth, it hardly seems realistic. If the economy does not turn out to perform as vibrantly as our negotiators expect, then we could be actually much worse off than this agreement assumes. Those people who are asked to make the sacrifices for this proposal will have an even harder time doing so.

Because this is such an unfair proposal and because of the many problems I have outlined, I cannot vote in favor of the budget summit proposal as originally presented to the House. I await a final version 2 weeks from now and withhold judgment on what my vote will be at that time. Meanwhile, I vote for this resolution with the hope, but not the certainty, that the objectionable features of the original summit proposal can be remedied.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. McMILLEN].

Mr. McMILLEN of Maryland. Mr. Speaker, I rise in support of the resolution.

Mr. Speaker, today I rise in support of the budget agreement reached by the President and Democratic and Republican leaders of Congress.

This budget is far from perfect. It is a compromise which means we Democrats did not get everything we wanted. For example:

I am unhappy that the cuts in Medicare are unfair to our elderly.

I am unhappy that the new taxes and program cuts imposed are not more progressive.

I am unhappy that the boating industry in my district will be hurt by higher Coast Guard fees, new luxury taxes, and an increased gas tax.

I am unhappy about the change in the allocation of funding for highway programs which will hurt States like Maryland but result in no deficit reduction.

And I am unhappy about the elimination of the lump sum retirement option for Federal employees. But, Mr. Speaker, the sum of the budget agreement is greater than its parts.

I am voting in favor of this budget for the future of our children and our children's children. I can no longer support budgets with smoke and mirrors that place the burden of our fiscal irresponsibility on future generations of Americans. This budget agreement includes for the first time real enforceable deficit reduction.

We must take the bitter pill and enact the budget reform of this agreement.

We must be responsible representatives of the people.

We must put aside our own partisan interests because it is the right thing to do.

If we fail to pass this budget, we are showing the American people that we are unable to govern. If we do not approve this agreement, we are sending the American people down the dangerous and unknown road of sequestration. A sequestration that will wreak havoc in the economy and put thousands out of jobs, including our Federal employees who pay a disproportionate price in any sequestration.

Furthermore, let me remind Members of this body that they will have a chance to perfect this bill in committee and during the reconciliation process.

Finally, this agreement includes some vital provisions that would help America's small businesses and boost our slowing economy. There is a severe credit crunch spreading across this country, and our small businesses are unable to secure debt financing. The small business tax incentives in this budget agreement, although needful of fine tuning, will stimulate equity investment in small companies and fuel the job engine of our economy.

When I rise to cast my vote in favor of this agreement today, I do so for the sake of the economy, for the sake of the people, for the sake of the Nation. Join with me and support this budget resolution.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Speaker, I rise in opposition to the resolution.

Mr. Speaker, this budget package is unfair, it is bad policy, and it is a farce. It deserves to be defeated.

Like most Americans, I am fed up with our current annual deficit and total national debt. I desperately wanted to support an agreement, to acknowledge that as unpleasant as certain aspects of it might be, that it was balanced and required sacrifices by all of us, and therefore deserved our support. I wanted to join the President and say that this is a time for us to show our "Profiles in Courage" by voting for an agreement that does the job even if it is not popular.

But after reviewing this agreement for the better part of 4 days, the unavoidable truth is that it does not do the job. It is not fair, and the process which created it is fatally flawed.

There are so many things wrong with this package it is hard to know where to start. To begin with, this budget agreement does not do the job.

When the budget summit process began we were told that the objective was to reduce the deficit by $50 billion this year and by $500 billion over 5 years. This agreement saves only $40 billion this year, but does save $500 billion over 5 years.

39-059 O-91-30 (Pt. 19)

To make matters worse, since the summit process began, the baseline from which we are cutting has risen significantly. We are now told that the deficit for the upcoming year will be $294 billion, and even with these cuts it will still be an incredible $254 billion.

Over the 5-year period covered under this budget agreement, even if we assume that all its optimistic economic assumptions are correct, the national debt will still rise by well over $500 billion.

But even this does not tell the whole truth, Mr. Speaker, I have looked high and low in this budget summit agreement and I cannot find any mention of the growing cost of the savings and loan debacle. Nor do I see any contingency to pay for problems we may encounter with other Government guarantee or insurance programs, or for the cost of cleaning up Federal nuclear waste dumps, or for any armed conflict in the Middle East.

Frankly, I hope we do not have to spend another dime on any of these problems. But it is unrealistic to assume in our budget agreement that we will not have to face up to these possibilities.

The President's own advisers now tell him that his original estimate of the cost of the savings and loan cleanup was off by well over 100 percent. Another $50 to $70 billion will be necessary to payoff depositors at failed savings and loans. Yet the President and the budget summiteers have conveniently swept this problem under the rug.

The conclusion is unescapable. The summit agreement does not go far enough to reduce the deficit. It is not based on realistic economic assumptions, and it closes its eyes to expensive problems which we know we must face.

We must also examine the question, "Is this agreement fair?" On this point, the evidence is even clearer; it is not.

Let us look first at the question, "Who pays for this agreement."

Retirees, low- and middle-income Americans, and even the unemployed pay. Sixty billion dollars, one-half of the entitlement savings, comes from the Medicare Program. Senior citizens on fixed incomes will see their deductibles double and their monthly premiums increase by 95 percent.

These same senior citizens, who in my district have no way to go to the grocery store or to visit family and friends except by car, will pay 12 cents a gallon more for gasoline and 2 cents a gallon more to heat their homes. If they want to relax with a beer when they get home, that, too, will cost them more.

The Joint Tax Committee's analysis of the summit agreement is a devasting indictment of its unfairness. The analysis documents that the poor, families earning under $10,000, will see their taxes increase by an average of 7.6 percent. Working class families earning between $20,000 and $30,000, will see their taxes increase by an average of 3.3 percent. Middle class families earning between $30,000 and $50,000 will see their taxes increase by almost as much, 2.9 percent. Yet the rich, taxpayers earning over $200,000, will pay only 1.7 percent.

The rich will pay only half as much as working families, and only slightly more than one-fifth of what the poor will pay. Since when is it fair for the poor, working families and the middle class to pay more than the affluent?

Perhaps the worst single item in the budget summit agreement is its treatment of the unemployed. Here the agreement demonstrates just how insensitive it is to those who used to be called the truly needy. Under the budget agreement workers in Pennsylvania, and in more than three dozen other States, would have to wait twice as long before they could collect their first unemployment checks. Instead of collecting a check after 1 week of unemployment, they would have to wait until the end of their second week of unemployment.

This is nothing short of kicking a man when is is down. It hurts families when they are most vulnerable. It makes no sense when economists across the land believe we are entering a recession which may throw millions of Americans out of work.

Another item in the budget summit agreement, the 2-cent tax on home heating oil, is emblematic of both why this agreement, and the process which created it, are unfair.

The home heating oil tax strikes directly at the Northeast and families who have no alternative but to heat their homes with oil. It comes from the same administration that has tried repeatedly to slash funding for low-income fuel assistance, weatherization, and conservation programs.

When we first heard about the budget summit agreement on Sunday, we received documents from the summiteers indicating that there was a 2-cent-a-gallon tax on all petroleum products except home heating oil. That is what the documents said in clear black and white.

Then lo and behold, 2 days later we learn that the documents are not right. At the last moment a member of the other body from an oil producing State, with the support of the administration, deleted the exemption for home heating oil. Many of the summiteers did not even know this change had been made. Yet we are told we must live with it even though it is demonstrably unfair to northeastern States like Pennsylvania.

In addition to examining "who pays," we must also examine the question, "who does not pay?"

We already know from the Joint Tax Committee figures that the rich and the affluent are getting a virtually free ride.

As hard as it may seem to believe, under our current Tax Code taxpayers with incomes in excess of $150,000 pay a lower effective tax rate than taxpayers with incomes between $72,000 and $150,000. This is the result of a loophole in the Tax Code known as the bubble. If we eliminated the bubble, which would not cost taxpayers earning under $150,000 a dime, we could raise an additional $42 billion in revenue over 5 years while at the same time making the Tax Code fairer. That alone is enough revenue to eliminate all Medicare increases for seniors, the home heating oil tax, and the delay in unemployment benefits.

Similarly, it must be noted that virtually all of the increased taxes in the budget summit agreement will be paid by individuals. Almost none will be paid by large corporations.

Just take a look, an additional gas tax of $45 billion, new limits on itemized deductions costing $18 billion, a petroleum/home heating oil tax of $11.8 billion, increases in beer taxes equal to $10 billion, new taxes on State and local employees of $8.5 billion, insurance policy taxes of $8 billion, Medicare tax increases of $6.5 billion, additional cigarette taxes of $5.9 billion, and a new luxury tax for $1.9 billion. This list alone totals over $115 billion or more than 70 percent of the total revenue increases, and many of the remaining revenue provisions will also ultimately be paid by individual taxpayers.

It is particularly shocking to me that the major multinational oil companies escape scott-free under this agreement. As a result of the invasion of Kuwait and the resulting increase in the price of oil from $16 per barrel in June to around $40 per barrel today, the multinational oil companies will reap a windfall profit of more than $65 billion this year alone.

That is more than enough to pay for the entire budget agreement. And every dime comes at the expense of American consumers. The poor, the middle class, working families, senior citizens, all will be hit hard by these totally unjustified price increases.

I have introduced legislation to reinstate the windfall profits tax to recover at least a portion of these ill gotten gains for U.S. taxpayers. At current prices my bill would raise nearly $30 billion a year in new revenues—$150 billion over the 5 year life of this budget agreement—while still allowing the oil companies generous profits and giving them plenty of incentive to drill for new oil—which would be taxed at a much lower rate than old oil.

This is enough revenue to eliminate virtually all of the other tax provisions in the budget agreement. Alternatively, it is enough to eliminate the Medicare premium and deductible increases, the home heating oil tax, the cut in unemployment benefits, the gas and beer tax increases, the student loan and veterans' benefit cuts, and the cut in Federal retiree benefits, and still have enough left over to reduce the deficit by an additional $35 billion.

I cannot for the life of me understand why we are asking senior citizens, the unemployed and working families to pay through the nose for this deficit reduction package, when we are not asking the major multinational oil companies, whose profits are expected to more than triple this year, to pay a dime.

Mr. Speaker, sometimes the truth is stranger than fiction. Not only are the oil companies with their record profits not contributing to our deficit reduction effort. The oil companies actually stand to gain because summiteers from the oil States (the President and certain members of the other body) succeeded in including $4 billion in new tax credits and deductions for the oil companies.

Imagine, the oil companies will earn unprecedented, astronomical profits at a time when our budget deficit is spiraling out of control and every last dime is being shaken out of poor and middle-class families, and in this budget agreement we will give the oil companies $4 billion in new tax credits and deductions. That is an outrage.

Overall, the budget summit agreement provides business with approximately $20 billion

in new tax credits, deductions and exemption. Individuals will receive only a quarter as much.

In essence, Mr. Speaker, this agreement puts the American people on a bread and water budget, while continuing to dole out pork to the rich, large corporation, and the multinational oil companies.

Just as disturbing as the substance of this agreement, however, is the way it was arrived at.

While I have great respect for the summiteers individually, and I know they worked hard at a difficult task, the full Congress should never have turned over such fundamental decisions about the way our Government and our Nation will operate to such a small group.

The summit process has turned the most admired democracy in the world into an oligarchy.

Instead of making the tough individual decisions we were elected to make on spending cuts and tax increases, the representatives of the people have been given one take it or leave it option. On the one hand we are told to accept this package as is, with no changes, or the Government will grind to a halt because the President will veto all legislation. The economy, we are told, will go into a tailspin. On the other hand, if we approve this agreement, we are approving a very regressive, unfair package which will hurt millions of people.

We should be making the tough decisions, not passing them on to others. To those who ask, "If you are against this package then what are you for?" I say, "I am willing to make those decisions."

Eliminate the bubble in the income tax which allows individuals earning over $150,000 to pay a lower effective tax rate than individuals who earn less. This will raise $42 billion over 5 years.

Impose a windfall profits tax and raise $150 billion over 5 years.

Cut foreign aid, instead of forgiving past debts, and raise another $15 billion over 5 years.

Reduce the number of troops in Europe and Korea, close unnecessary bases, and eliminate unnecessary weapons systems and save another $50 billion over 5 years.

Reduce agricultural subsidies by an additional $15 billion over 5 years.

Include about half of the domestic spending cuts and tax changes agreed to by the budget summit and save about $165 billion over 5 years.

These changes will reduce our expenditures for interest on the national debt by $65 billion over 5 years, making the full 5 year package equal to $502 billion over 5 years, $2 billion more than the recommendations of the summiteers.

Meaningful reductions in the deficit can be achieved, in a fair manner, if we put our minds to it.

But we cannot turn the decisionmaking over to a small body of unelected administration officials and select members of our two houses. They have and will protect their special interests, like the oil companies in Texas and the airplane manufacturers in Kansas. It is understandable that these people would want to protect their sacred cows, but when we are crafting a national budget which is supposed to represent national priorities, we must do better and all sectors of the economy must be asked to participate.

If we approve this inequitable budget agreement today, we only guarantee that this same fatally flawed process will be used next year to impose even more painful cuts on the same sectors of our economy that have been cut in the past. The rich will get richer, and the poor and the middle class will get poorer. That approach is not only grossly unfair, it is foolish economic policy.

It is time to put an end to this abuse of our democratic process. It is time for the President of the United States to join the Congress in telling the privileged few who have profited in recent years at the expense of the many that they, too, must contribute to our deficit reduction process.

Mr. Speaker, I understand the possible serious consequences we may face if this package is defeated, but the negative consequences over the next 5 years of passing it are even more compelling. Enough is enough. It is time for this Congress to stand up for our principles. It is time for this Congress to open its eyes and really look at what this package is really all about. It is time for this Congress to just say no!

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I rise in opposition to this resolution.

Mr. Speaker, the budget that President Bush has asked us to accept is totally unfair to the middle class and the elderly. The cuts it would make in Medicare are an outrage, and the tax increases hit working people hard while barely nicking the wealthy who can most afford to pay them.

The agreement makes a $60 billion cut in Medicare, including a $30 billion direct cut in benefits for Medicare patients. Older Americans are patriotic; they love their country and are not unwilling to make sacrifices; but the size of these cuts cannot be justified. No other domestic program would be cut even one-quarter as deeply as Medicare, which is essential for the health and survival of millions of people.

The tax package is blatantly unfair. It relies on regressive excise taxes on beer, wine, cigarettes, and gas to make up a deficit that has more than tripled since income taxes on the wealthy were slashed 10 years ago. Excise taxes take a far higher percentage from the poor and middle class income than the wealthy. Families earning $40,000 will pay almost six times as high a share of their income as will the rich.

The right solution is to eliminate the Tax Code's special breaks for the wealthy, and especially the provision which imposes a lower—28 percent—income tax rate on people making more than $170,000 than it does on people making $75,000—33 percent. That, and making people who earn more than $75,000 pay the same payroll tax rate for Medicare as everyone else, would generate $63 billion over 5 years—more than all the Medicare cuts in the agreement.

Instead of socking working Americans with new taxes, the agreement should have made cuts in foreign aid and the Pentagon budget. At least $40 billion in savings could be gotten there, without affecting our national security in the least. President Bush not only rejected such cuts, he is trying to force a special $7 billion air package for Egypt through the Congress.

The summit agreement on the budget also requires that the costs of the student loan programs be reduced by $2 billion over the next 5 years. This provision continues the basic shortsightedness and unfairness of this ageement—it reduces our investment in the future of our Nation and it bears most heavily on people of moderate income.

The Stafford Student Loan Program provides more than $11 billion for education to over 3 million students each year. This program has been a favorite target of the budget cutters since Ronald Reagan and David Stockman first came to Washington more than a decade ago. The program has been trimmed, tightened, and reformed nearly every year. A further cut of $2 billion threatens to bring the program to an end.

When the Guaranteed Student Loan Program, now known as the Stafford Student Loan Program, was created in 1965, it was intended to provide help to middle-income families who could not meet the immediate cash flow demands of financing a college education. The budget cutting of the last decade has turned the purpose of the program on its head.

What once was a loan of convenience for middle-income families has become a loan of necessity for low-income and working families. The program now requires that in order to quality for a loan a student and the student's family must demonstrate financial need, and, indeed, they can only receive a loan up to the level of their demonstrated financial need. Thus, the loan program that is being threatened by this summit agreement is a program that only serves students from moderate income and working families. This is not a program that sends the sons of bankers and auto executives to Harvard and Yale. This is the program that sends the children of the autoworker, the teacher, the policeman, and the small businessman to Wayne State University, Eastern Michigan University, Wayne County Community College, and Washtenaw Community College. This is the program that helps open the doors of educational opportunity to those who are the first in their family to attend college, to those who want to improve their skills and their training and to those who hope to achieve the American dream of success through education.

What can be more shortsighted than to deny educational opportunities to those with ambition and ability who lack the financial means to afford the education best suited their talents and abilities? The bean counters at OMB and the Department of Education are confident that $2 billion can be saved in this program without threatening the existence of the program. These are the same people who gave us "growing out of the deficit." I don't believe their predictions. I don't trust their preditions. And, I believe that we should not risk

the future of this Nation based on their easy assurances, assurances that have proven consistently wrong for the last decade.

With respect to the jurisdiction of the Committee on Post Office and Civil Service, the budget summit agreement is unfair, unjust, and dishonest.

"No smoke and mirrors," the summiteers proclaim. Nonsense. By repealing the most popular Federal employee benefit offered in years—the lump sum retirement benefit the summit agreement saves no money. The benefit is budget neutral. A retiring employee trades an immediate refund of the pension contributions he or she has made over the years for an actuarially reduced annuity. The benefit costs the Government nothing, yet, the budget summit agreement claims its repeal will "save" $8 billion. My colleagues, that's $8 billion of very blue smoke.

And now that the Postal Service has managed to break even over the last few years, it is being asked to subsidize the Government. Not many of us are left who were around here when the old Post Office Department was a very political, very inefficient, highly subsidized Government agency. In 1971, it had an operating budget of about $9 billion and more than $2 billion of that was appropriated by the Congress—a $2 billion taxpayer subsidy. Today, the independent, off-budget Post Service has an operating budget of more than $40 billion and receives no operating subsidy from the Federal Government. No taxpayer money is appropriated for postal operations.

Now, we've come full circle. Instead of the Government subsidizing the Postal Service, the budget summit agreement calls on the Postal Service to subsidize the Federal Government to the tune of $5.3 billion. And where will this $5.3 billion come from? Higher stamp prices is the only answer. Start saving now so you can afford to mail your 1991 Christmas cards.

And don't be fooled by those who argue that the summit agreeement just requires the Postal Service to pay the costs of health and retirement benefits for its retirees. The Service has already been required to pay these costs by the 1985 and 1989 budget reconciliation bills. This summit agreement requires the Postal Service to pay for employee health benefits earned by those who processed and delivered the mail in the 1950's and 1960's. It asks today's ratepayers to pay for yesterday's postal service.

Mr. Speaker, let me put it to you the way several hundred residents of my 15th Congressional District in Michigan have put it to me. They have to drive cars to work. They take cigarette breaks at the plant. They sometimes pick up a six pack of beer on the way home, and when they get there, they thank God that Mom and Dad have Medicare to take care of them because they can't afford to.

Then they ask why, BILL FORD, would you ever support a budget package that would hurt us working people in every way? Well I do not have an answer for them, so I cannot, in good conscience support this package.

Most of my colleagues agree with my constituents that this is a bad package. But many of them are afraid that defeating the summit agreement will trigger Gramm-Rudman sequestration. I am not afraid of sequestration. There are worse things. And adding to the deficit our children will inherit is one of them.

We need an honest deficit reduction bill. After all those months of summit negotiations it has become clear that the negotiators weren't serious. They didn't accomplish anything serious; they only nibbled around the edges of the problem.

My grandchildren will look at this bill and see that over its 5-year life the Federal budget grew by a trillion dollars. They will not praise us for that, even if doing nothing would have added half a trillion more. This bill is not a solution.

But it is not just a question of failure. In many ways it will make life worse for the people I represent. For no good reason, it will work a real hardship on people whose lives are already hard—the unemployed. The package imposes a 2-week waiting period before the unemployed can begin to receive State unemployment compensation benefits.

No one could vote for that who knows what it is like to live from paycheck to paycheck, as many of my constituents do. The negotiators cannot have understood that millions of people are laid off once or twice a year and have nothing else to tide them over when their paycheck stops.

If the only choice is sequestration or this grotesquely unfair package, I vote for sequestration. I cannot support a package that raises taxes 7.6 percent on the very poor and only 1.7 percent on the very wealthy. It is time the wealthy paid their fair share.

If setting the place on fire is what it takes to get the President to stop trying to protect his political skirts, I'm willing to be the one to light the first match.

The people need to know who it is who is trying to jam these unfair taxes down their throats. They need to know who it is that's protecting the bubble and sheltering the rich from taxes. They need to know who it is who wants to slash health care programs for the elderly and the sick.

This package is bad for the American people; it is bad for America. It should be defeated.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I will support the resolution—keep the process going to achieve defunct reduction and economic security for our country. It avoids the hazardous affects of September but make no mistake about it—this resolution has many, many unfair features—the gas tax, medicine cuts and agriculture cuts, which hopefully we can fix before a final vote occurs on the package in the next 2 weeks.

One feature of this package, which I especially hope to fix, is the excessive and unfair cuts in agriculture. Nearly 10 percent of all domestic program cuts in this agreement are coming out of the pockets of our farmers—when only 1 percent of the total spending of our budget comes from agriculture commodity programs. The cuts recommended by the President and his summiteer allies in agriculture could have a devastating impact on farmers and rural Americans. I am frankly surprised that some of those summiteers who approved this agreement, represent the heartland of American agriculture and should have known better. It will be my goal to modify the budget agreement suggestions on agriculture in order to save the American farmer.

But I still reluctantly will vote for the resolution. I feel I have little choice. We must act in the face of a weakening economy and international crisis to begin putting our Federal financial house in order. We have waited too long to do so as it is; we are running out of time. Today, Congress takes the first step. It is a difficult step for me because I worry about the impact Medicare cuts will have on the elderly and the impact taxes in general will have on the poor and middle class. As I said before, I worry about Kansas farmers and how the proposed cuts will affect them. There is something for everyone to worry about in this budget.

And I have grave concerns about the process that led Members of Congress to face this either-or decision today. Eight men met in secret for several months to prepare this budget; that is not the democratic way to do business. But this is the preliminary budget and can and will be made better as the committees work on the plan.

During the next 10 days, Congress will fill in the blanks of this budget resolution. Committees will vote out pieces of a larger bill as we implement the final budget agreement. If some of the problems, esspecially with respect to the unfair agriculture and Medicare cuts cannot be moderated, then I will not vote for the final package. The American people deserve our untiring efforts to make this package as fair and reasonable as possible.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may comsume to the distinguished gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to associate my remarks with those of the earlier remarks of our chairman, the gentleman from California [Mr. ANDERSON]. I rise in support of this budget resolution.

Mr. Speaker, I rise in support of the conference report on House Concurrent Resolution 310, although I do so with a great deal of reluctance.

I have real reservations about this budget summit agreement. I am not at all sure that the spending cuts will materialize, and I am strongly oppose to using highway and aviation user taxes for deficit reduction purposes.

We are all committed to reducing the Federal deficit, but this is the wrong way to do it. Using the gas tax to reduce the deficit would make it an extremely regressive tax, and it would hurt the Federal-Aid Highway Program, as well as our national economy. It would also

hamper the ability of States to raise their own gasoline taxes.

Yet, as bad as it is when used for deficit reduction, the gas tax is very fair and equitable when used as a revenue source for highway construction and improvement.

While it is critically important that we reduce the Federal deficit, undermining the principles of equity and fairness that have made the highway trust fund so effective is entirely too high a price to pay.

Raising the gas tax to reduce the deficit would be just one more burden for our transportation funds to bear. These trust funds have already been victimized by a long-running budgetary charade.

Unnecessarily high balances are maintained in these trust funds, and annual net increases in the funds' receipts are used to give the appearance of a smaller general fund deficit. The practice had its beginnings in the administration of President Lyndon B. Johnson, who included trust funds in the unified budget to hide the true costs of the Vietnam war. Regrettably, the practice has continued with each succeeding administration.

The situation has been particularly frustrating for those of use on the Public Works and Transporation Committee. We spend many months developing the dollar figures that will enable States to build and maintain needed highways. Trust fund money is dedicated specifically for that purpose, and yet many of these highways are not being built because of the smoke-and-mirrors budget gimmickry being practiced at the Federal level.

Against this background, it is very difficult for me to support using the gas tax for deficit reduction.

The budget summit agreement calls for a 10-cent increase in the gas tax, with 50 percent of the revenues generated by the tax going for deficit reduction and 50 percent going to the highway trust fund.

Because of the seriousness of the Federal deficit crisis, and in the spirit of compromise, I might be able to go along with this budget summit proposal if, and only if, the full amount of the new revenues going to the highway trust fund are made available for expenditure in the year in which they are collected. The ability to spend these funds would have to be guaranteed, either by off-budget status or by exempting this spending from the spending caps in the summit agreement.

This is the only fair way to deal with this issue. If we are going to let 5 cents of the 10-cent increase be used for deficit reduction, then we must be assured that the other 5 cents that is going into the trust fund will be used to build and maintain our system of highways and bridges.

This brings me to a very difficult decision. Since we do not currently have assurances that we will be able to spend the portion of a gas tax increase going into the trust fund, and because of other reservations that I have about the budget summit agreement, I was inclined to vote against House Concurrent Resolution 310.

However, after much soul-searching, I have made the difficult decision to vote for the resolution. I have done so for several reasons.

First, I am somewhat optimistic about the negotiations our committee has been engaged in with the leadership regarding highway funding. We are making progress.

There have been discussions of allowing us to create new budget authority in an amount equal to the new revenues going into the trust fund. In addition, we have discussed increased obligational authority to reflect the new revenues.

However, we have not resolved this problem. The leadership has proposed that there would be some increase in obligational authority and that a portion of it could be exempt from the spending caps.

This is progress. But it does not go far enough. We need to be assured that we will be able to obligate the full amounts attributable to the increased revenues.

Given the good faith of the negotiations, I am prepared to continue working on this issue as we draft our reconciliation package. I am satisfied that there has been enough progress to justify a "yes" vote on the resolution. But there will have to be a great deal more progress before I would vote for the reconciliation package.

A second reason why I am prepared to vote for the resolution is the dire consequences of a sequester. It would be highly irresponsible, in my opinion, to allow a $170 billion sequester to take place at this time.

This budget resolution simply provides for the outline of an agreement. The real details will be worked out in the context of the reconciliation bill. It is here where the real battles will be fought.

We should get on with the task of drafting the reconciliation bill and put this resolution behind us.

Let me give you just one example of the problems that will occur if there is a sequester. It is my understanding that USDA inspectors may be furloughed up to 4 days per pay period. This would create havoc in the poultry industry.

Not only would it disrupt the chicken processing plants, it could result in layoffs of up to 60,000 persons in my area of the country alone.

This would be a real tragedy. Why should these hard-working people have to suffer because of the inability of the Congress to reach a budget agreement?

I think we need to get this resolution behind us and get down to the real task of drafting reconciliation legislation that is fair and that effectively deals with the budget deficit.

For these reasons, Mr. Speaker, I am prepared to vote for the conference report.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Missouri [Mr. BUECHNER].

Mr. BUECHNER. Mr. Speaker, just a few hours ago if any person walked through Statuary Hall and looked out the window, there was an amazing sunset framing the Washington Monument. Vivid colors, cast upon the last of the storm clouds. If we looked out, we could almost see the spirit of George Washington trying to wend his way back up this Hill, and I wonder if that spirit was not saying to Members that tonight, we are not candidates, we are not Republicans, we are not Democrats, nor liberals, nor conservatives. We are people who are put here for a special purpose, and perhaps everyone out there does not understand exactly what is in here, as many Members do not understand exactly what is in here, but tonight we are a reflection of those first men that governed this country.

They looked at a document that they knew was not perfect, that they knew was fragile, and they knew was controversial, and yet they joined together to do something to move the Nation forward. This is not the same time. The document, of course, is not nearly the same document. However, we are the same people. We are different, we have different colors, we are different ages, we have women now, we have minorities, we have people who have different educational levels.

□ 2300

But we are the same people and tonight, Mr. Speaker, we are here to govern. Everyone who has a new plan or everyone who has a new complaint must look at their neighbor and say, "Will it work?"

I do not know if this will work, but I know that in order for this country to work, for this Nation to work, it must have people who will choose to say "we" and not "I."

When I have asked people, "Is your plan going to work?"

They say, "I don't know."

"Can you get the votes?"

"I don't know."

What we do know, there is one plan that is here. It has bipartisan support. I would just hope that when we look out that window the next time, we can look at the spirit of George Washington and say, we governed. We may not be perfect, but we governed.

Mr. PANETTA. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, imagine the feelings of the Framers of the Constitution, if they thought that the way we governed was to have a handful of people go behind closed doors and make the decisions and present them to us and tell us to take it or leave it, up or down, without having any other options before us.

We have before us a budget resolution, and under the Budget Act this resolution states the priorities under which we will implement it through further legislation. There is not a lot of flexibility. There is not an opportunity to change it. We are going to be bound by this resolution if it is adopted.

Now, what does this resolution do? There will be at least four times greater cuts in Medicare than in any other domestic program. By 1995, the annual premium for the elderly under the summit agreement will nearly double, rising from $343 to $652.

By 1995, the increase in the monthly premium will absorb 70 percent of the cost-of-living increase in the average Social Security check.

In other words, the elderly are going to be spending an amount equal to virtually an entire month's benefit check on Medicare premiums alone. Who are these elderly? Well, 40 percent of the elderly have incomes of less than $12,000 a year.

Did the elderly cause this deficit? They did not.

We have a deficit because we gave tax breaks to the rich, and the elderly are being told that they should bear this burden, the greatest burden of any group, to lessen the deficit so that we do not go and raise taxes on the wealthy.

If we simply did one thing, tax the upper income persons at the 33 percent rate, we would raise $35 billion, more than enough to pay the entire cost sharing that will be placed on the elderly.

This is not a balanced budget. This is not a fair plan. This is going to be a burden inequitably placed on the middle income, the lower income and the elderly in our society.

We who want a just society cannot look at this budget agreement and say that it is something we can be proud of.

We also ought to be honest. Once you adopt it, you are stuck with it, because the next move is going to be to implement these cuts, and there is no other way around it unless they go back and reagree to a new formula, but I do not see that the administration is going to go for the tax increases that will allow us to spare the elderly. I do not see them willing to say that they are going to be able to switch defense dollars so that we will not put this burden on the elderly, and if they are willing to change the budget agreement, do it now. Otherwise, vote "no".

Mr. FRENZEL. Mr. Speaker, I yield myself a quarter of a minute to remind the crowd that the Founding Fathers did not mind working behind closed doors. As a matter of fact, they closed the windows, too, in Constitution Hall to keep prying eyes and ears away from their business.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I thank my distinguished colleague for yielding this time to me.

Mr. Speaker, let me state very quickly that we have heard some argumentation tonight that is a classic logical fallacy, the either-or argument.

There are a multiplicity of alternatives available to us. I would argue that the overwhelming majority of them are infinitely preferable to what we are contemplating tonight.

We have heard about the deadline of the crisis. What crisis? We passed a rule in 1974 saying all of the appropriation bills had to be cleared through this body by June 30.

Now, we have conveniently ignored that since 1974. What is the big deal?

I mean, if we stay here day and night, 7 days a week through the election, do it. Come up with those better alternatives.

The laws obviously are for the people, not for Congress. You know, we call them rules here, but those rules we blithely ignore. They have no relevancy to this Chamber.

It is an insult to the people. It is an insult to the Nation and it is an insult to this body.

The economic assumptions behind this are so bizarre, I mean, you all know we are going to have only a 3-percent inflation rate in 1992, right? And 3 percent in 1993, 1994, 2.8 percent in 1995. Well, all the COLA savings are predicated upon those assumptions. If you believe that, you believe in the tooth fairy, and people back home are going to remember it. They are going to remember the action that we are taking tonight.

This is one of the most regressive forms of taxation. We are talking about almost $60 billion of the revenue raising component coming from gas taxes; 78 percent of the people in the lowest income brackets drive to work. What kind of a tax package is this? What kind of equity are we talking about in fairness?

I would remind you also that taxes are forever and the spending cuts are transitory.

We can make our modifications.

Alexander Hamilton said it, and I hope there are millions of Americans viewing, "People get the kind of government they deserve." The American voters are getting what they deserve tonight.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. Mr. Speaker, it is with great reluctance that I speak against this conference report on the budget summit agreement.

I recognize the constraints under which the summiteers worked. I recognize the considerable difficulty that existed.

Still, Mr. Speaker, this agreement does too much damage to too many of the people least able to withstand the blow.

I am concerned that our senior citizens, especially those on fixed incomes, whether just Social Security or Social Security plus some other pension benefit, are going to be unable to protect themselves against illness and injury—at a time when they are most likely to be vulnerable to such illnesses and injuries and, afterward, most likely to face long and expensive periods of convalescence which might require special care.

Increasing both the monthly premiums for Medicare and the deductible is something with which I cannot agree. If it is necessary to raise funds by making changes in Medicare, why could we not focus on just one of these two options and seek reductions or additional fees in some other area.

Is it fair to expect all seniors to pay an additional $308.40 per year in premiums? I say no! Can our senior citizens afford to have their deductible increase by $25 a year until the current deductible of $75 is doubled to $150? I doubt it!

It has been argued by many that there are more retirees living on Social Security in Florida and southern California than anywhere else in this country.

I am not entirely sure of that, Mr. Speaker. I only know that as the steel industry in my part of Pennsylvania has shrunk over the past 10 to 12 years, the number of retirees in my district has increased significantly.

What's more, many of those retirees in my district are the ones who are living on fixed incomes, finding it more and more difficult to make ends meet as their costs continue to escalate.

Mr. Speaker, the seniors in my district cannot live with this double hit on their health care. Something, I am afraid, will have to give and, unfortunately, I am concerned that too many will forgo needed visits to their physicians for treatments of illnesses.

But that is not the only problem with this measure before us.

I am concerned that the increase in the Federal gasoline tax, to more than double what it is now, will put undue hardship on just those Americans who are trying to break the ring of poverty.

We have too many American workers earning the minimum wage, Mr. Speaker, and they will find it increasingly difficult to pay the additional costs.

It has been assumed that a person using about 500 gallons of gas a year would pay an additional $48 at the pump—in taxes alone. This increase does not take into account the already escalating cost of the gasoline itself as our oil companies seek to balance their higher expenses on the backs of the driving public.

To many of us, an additional $48 a year in Federal gas taxes may not seem like much, but to someone earning the minimum, it is an enormous cut into what is left of their income.

Our goal has been to encourage men and women to get out of the welfare system and to take jobs, even jobs at the minimum wage, as a first step. Many of those workers must drive many miles to those jobs. Increasing the gas tax will put an unfair burden on those at the bottom of the wage scale in this country.

For my final criticism of this budget agreement, Mr. Speaker, I call your attention to the recommendation to slash the guaranteed student loan program by $2 billion over the next 5 years. I cringe just thinking about what this might do to the thousands of prospective students who desperately need assistance to attend our postsecondary institutions, whether those institutions are 4-year public or private colleges and universities, community colleges, or career training schools.

What is more, Mr. Speaker, I think we all know that the burden for meeting this ridiculous reduction in cost will fall most heavily on the poorest students, especially those who

want to attend or are attending career training schools.

These men and women, whose only crime is their desire to learn those specific work skills that will enable them to get good-paying jobs rather than seeking academic learning, will be denied access to those institutions.

The administration's budget request for all programs under the Guaranteed Student Loan Program—Stafford loans, PLUS loans, and supplemental loans for students—was slightly more than $4 billion for fiscal year 1991.

The House, in accepting the appropriations bill for the Departments of Education, Labor, and Health and Human Services, adopted a figure of $3.9 billion for fiscal year 1991.

Now, Mr. Speaker, we are being told that we will have to reduce the GSL Program by $2 billion over 5 years, roughly $400 million a year.

Whether we use the new math or the old original math, the answer is the same: We will be cutting the 1991 amount for GSL programs by roughly 10 percent.

We cannot afford that cut. The men and women who desperately need the education in order to open doors to meaningful employment cannot afford that cut. The thousands of institutions that provide that instruction, whether academic or skill-oriented, cannot afford that cut.

Last November, during another round of budget reconciliation, the Congress agreed to changes in the supplemental loans for students, the SLS Program. We made a number of changes, including denying loans to students wanting to attend schools with student aid default rates of 30 percent or higher, denying loans to students who did not have either a high school diploma or an equivalency degree, and tying the amount of such loans to the length of the program.

When we debated those changes, it became clear that we had no real understanding of the impact those changes might have, especially on the career training segment of the higher education community. It was my gut feeling that the changes would be bad for all students, so I opposed the changes.

Now we have some idea of the impact, and, I am sad to say, I was right! It is currently estimated that as many as 200 career training schools have closed doors forever because of those policy changes. It is further estimated that as many as 200,000 eligible students lost their opportunity for education.

Mr. Speaker, I hesitate to think of the impact this budget agreement will have on future students if it is adopted.

I don't know where the logic to such an action is, and I stand here unable to support the entire proposal because of the negative impact it will have on our elderly, our poor, and our youth.

This is not the way to balance our budget.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise in opposition to the budget summit agreement.

I am voting against the budget resolution incorporating the summit agreement because I have determined after a thorough study of the provisions of the agreement that it was not fair to the vast majority of the people I represent. The tax provisions impose taxes disproportionally on the low and middle income, while the spending cuts are most severe on those who can least afford it. Our farmers would have their income reduced 25 percent while the agreement calls for increased production costs.

The elderly would see their social security checks reduced because of increases in their Medicare part B payment.

Our unemployed would have to wait another week to draw their unemployment checks.

At the same time all of us would be required to pay higher gasoline taxes, oil producers would get a return of the tax cuts for depletion allowances.

And lastly under the summit agreement the low and moderate income would have to adjust down their standard of living, while the wealthy would not have any change in their standard of living.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

Apparently everybody is pretty much outraged about this budget summit, and those who are not outraged are not real happy with it. Of course, I am not happy with it, but I am going to support it.

I have a practical problem. I am the chairman of the Subcommittee on Transportation of the Committee on Appropriations. I have to produce a bill. To produce a bill, I have to go to conference. I cannot go to conference without this budget resolution passing.

In the bill that I have, I have 100 requests from both sides of the aisle for projects on highways, for projects on airports, projects in urban mass transit. I cannot produce these projects for you unless I have a chance to go to conference.

I feel that this is the best possible amount of money that we will have in this budget. If this resolution does not pass, we will come back with a smaller amount of money for the transportation function and we will have less opportunity to help you with your projects.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise in opposition to the summit agreement.

At first glance, I did not think much of the so-called budget compromise. However, to be fair to those who had worked on developing this plan for the past 5 months, I felt it was important to hear them out and study and understand the package before I made any final decision on the package. Well, I did all of those things and on second, third, and all glances thereafter, I came to the same conclusion: This tax package that congressional leaders devised with administration help was not good fiscal policy and it would not be good for rural America and the middle-income taxpayers.

As I studied this plan, I thought back to 1982—the year Congress was asked to approve TEFRA [the Tax Equity and Fiscal Responsibility Act]. This was the plan by which we were promised $3 in real savings for every $1 in new revenue—taxes. I believed then, and I still believe, that the way to fix the deficit challenge is not through more taxes but through simple and serious spending controls. Therefore, I didn't vote for that package because I wasn't convinced that Congress had the discipline to cut spending and to use the new revenue for further deficit reduction purposes.

As time would tell, that prediction—unfortunately—came true. Since 1982, instead of having $3 in real savings for every $1 in new taxes, we have had no real savings and have had $1.10 cents in new spending for every dollar in taxes raised.

And, so when the President and congressional leaders told me that this new plan—which contains the second largest tax increases in history $134 billion—was the only way to bring the budget under control, I was reminded of TEFRA. Coupled with the fact that I believe that the gas tax, agriculture cuts, and cuts in Medicare contained in this package hits rural American and middle-income Americans the hardest—I came to the same conclusion that I came to in 1982: new taxes are not the answer, controlling spending is.

Certainly, the serious nature of the threat of our growing budget deficit cannot be ignored. We need to all work together to come up with a fair plan that encourages economic growth and stability and investment—not one like the current budget proposal that contains regressive taxes like the gas tax hike which would surely encourage a recession. I still do not believe that the American taxpayer is under-taxed but that Congress simply overspends.

Taxes, as the American taxpayer knows, are forever—while the so-called budget discipline measures of the compromise could and likely would be dismissed with a flick of the wrist. Without strong spending discipline such as the line-item veto, a balanced budget requirement, and very serious reforms in the budget process, I believe that measure Like TEFRA and the package before us will become an annual event. I do not think the American taxpayers want to go this route. And, I do not think our economy can weather this route. I reject the current budget proposal and believe we need to go back to the drawing table to come up with a plan that fairly and equitably curtails

spending, rejects regressive tax proposals that fall most heavily on middle-income taxpayers, and resists the tax and spend policies that have plagued this Nation for so many years.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Speaker, I rise in opposition to the agreement.

Mr Speaker, the Federal budget is a shambles. We need to take drastic action. We need to reduce the deficit. But this budget resolution is not the answer.

After reviewing this proposal, I am convinced that the folks who dreamed it up spent a little to much time up on the summit—and lost touch with planet Earth.

Down here at ground level, when you are on the verge of a recession—and we are—you don't raise taxes $163 billion. That is crazy.

And that $163 billion doesn't even count the "user" fees—14 billion dollars' worth. Or the Medicare premium increases and the increased deductibiles for the elderly—$30 billion.

These Medicare cuts are a disaster. It's worse than catastrophic health bill we repealed last year. At least that bill put the burden on healthy old Americans. This thing—by raising the deductibles, puts the costs on old, sick Americans.

And if the size of the tax package is straggering, the kind of taxes in it are mindbogling. In this proposal, the summiteers would have us team up with Saddam Hussein and raise gasoline prices another 12 cents a gallon.

Tobacco taxes and alcohol taxes. User fees that would be passed on to consumers through higher prices. All fo these are terribly regressive taxes that hit low- and middle-income families much harder than the wealthy.

This budget will saddle the lowest income people in the country with a 7.6 percent tax increase—the wealthiest will only pay 1.7 percent more.

There is something wrong there, folks.

Of course we are told that there is a crisis and that we are going to have to bite the bullet and swallow these huge tax hikes to avert disaster.

I agree things are bad—but if the situation is so bleak—and if our objective is to reduce the deficit—why in the world does not this proposal include any meaningful budget cuts.

Sure, it socks it to Defense spending. And it knocks medicare and Federal employees and farmers for a loop. But it does not cut a cent from discretionary domestic spending. In fact, it provides for at least $24 billion in additional spending over the next 3 years.

And the provisions in this proposal which are supposedly designed to restrain spending in the future have no more teeth than a turkey.

This is an old-fashioned, democrat tax-and-spend-bill.

If we enact this proposal—and its 163 billion dollars' worth of tax increases, it is going to shove us right over the cliff of recession.

For the past year and a half, we have had a furor here in Washington as the consequences and the costs of the savings and loan scandal have become clear. The American people have been outraged—and rightly so—as the costs of this crisis have added up—and up—and up.

But this budget proposal makes the savings and loan crisis look like chicken feed. Cleaning up the savings and loan mess will cost the taxpayers $150 billion. This tax bill will cost the American taxpayers more than that in just 5 years.

And what is even worse—the costs of this tax bill will be with us forever. They will go on and on and on.

This budget proposal is based on a faulty premise—the premise that we have a deficit because American taxpayers do not pay enough taxes.

That premise is totally wrong. We have a deficit because Congress spends too much. This budget does not address that problem adequately. I urge my colleagues join me in rejecting it.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I rise in support of House Concurrent Resolution 310, the summit's bipartisan deficit reduction agreement. I believe it is a balanced and fair package that represents a workable blueprint for eliminating the budget deficit and continuing economic growth. Speaker FOLEY, DICK GEPHARDT and BOB MICHEL deserve our thanks and support.

This agreement makes progress on the one issue that has continually haunted and virtually crippled the U.S. Government in recent times—the Federal deficit. This is the issue that my constituents have identified to me as one of their most pressing concerns. Failure, for the fourth time in five years, to produce a timely budget, threatens continuation of 93 consecutive months of economic expansion. Clearly, Federal spending is out of control, a fact that is best highlighted by a budget deficit projected to reach $253.6 billion this year.

This bipartisan plan is far from perfect. It has many shortcomings. But, it will shave $500 billion from the deficit by 1995. The plan's spending cuts will be real ones thanks to no-nonsense, stricter-than-ever enforcement provisions. I am convinced that under this agreement the deficit will eventually become a memory. Some of the objectional features can be ironed out by the committees, as they work on this budget.

My constituents remember the runaway interest rates and skyrocketing inflation that ate away at family finances during the late 1970's. As we all know "stagflation," as we termed it, proved a particularly cruel tax on the American people. It is our duty to ensure that those painful and unhappy days never return. So, it was with great interest that I noted yesterday's prediction by the Chairman of the Federal Reserve Board that enactment of this agreement will bring about lower interest rates and promote stability in financial markets.

I should also note that in light of alternative proposals discussed during the budget summit, the agreement represents a notable victory for my State of New York. Throughout the 5 months of talks, I repeatedly urged the participants not to tamper with the deductibility of State and local taxes. I am pleased that this important deduction, a most important writeoff for the overburdened taxpayers in my Long Island district, has been retained.

I am equally pleased that the negotiators heeded my call to leave Social Security alone. Current Social Security benefits, as well as future cost-of-living adjustments are fully and completely protected by this package. Nor is a greater share of Social Security benefits subjected to taxation. While deficit reduction is important, it should not and will not be accomplished on the backs of Social Security beneficiaries. Problems with Medicare and the tax on home heating oil can be worked out during the reconciliation process by the committees having jurisdiction.

Finally, Mr. Speaker, I would like to point out that there is no responsible and realistic alternative to this package that can command a majority of votes in this House. This is the only game in town, short of sequestration. A stalemate at this stage of the budget process would virtually assure that the Gramm-Rudman ax will fall. This would mean that the Federal Government, as we know it, would cease to function. There would be loss of jobs; there would be suffering; there would be disruption.

Domestic air traffic will grind to a halt, staffs at veterans' hospitals will be reduced, Federal law enforcement efforts will be curtailed, and meat and other food products will spoil in the absence of Federal inspectors. Two million families will immediately be cut from the Low-Income Energy Assistance Program and 113,000 children will be cut from the Head Start Program. And our support for the armed services will be drastically impaired.

I can only wonder what message such chaos at home would send to our sons and daughters stationed along a tense border in the Middle East and to the ruthless tyrant whose well-oiled war machine lies on the other side. I urge my colleagues to join me in support of House Concurrent Resolution 310 as our best chance for deficit reduction and continued prosperity.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Speaker, I rise in support of the budget resolution.

Five years ago I was in the rear of the House Chamber casting my vote on the highly touted Gramm-Rudman-Hollings bill. I arrived at the voting box at the same time as a dear friend of mine. He let me vote first, and I voted "no." He voted "yes," and looking at the tote board which had just passed 218 votes, he said something I will never forget, and it has proven to be very true. He said, "Well, it looks as though the dog finally caught the car." I thought about that every year as we faced our budget problems, and I'll concede that Gramm-Rudman's act kept pressure on Congress to try to meet the goal. That is, indeed, politically, mathematically, and morally difficult given the challenges we face. But in each of those years, the budgeting involved at least some use of smoke and a great deal of the use of mirrors. Now, I'm afriad, indeed,

the dog has caught the car. For many reasons, not the least of which is that we are fresh out of smoke and mirrors, this is for real.

I have spent the last few days considering and reconsidering how I would cast my vote. I have decided that a vote against this package is the exact equivalent of a vote for the massive sequestration required by Gramm-Rudman-Hollings, or perhaps much worse. Few people outside Washington have actually contemplated the total effects of sequestration. It would be disastrous. Anything that would be done in ensuing proposals to relieve ourselves of the burden of sequestration would probably be far worse than this package, as bad as it is. I am certain every Representative and Senator, left to their own devices, would individually craft a solution more to their liking than this package. But that is not an alternative. Most everyone in America, without much thought, could list 20 things they find wrong about this package. What they do not have before them is the experience of either the Gramm-Rudman sequestration or what would happen in these emotionally charged times if this Congress, either with or without the President's help, fashioned an alternative in this month before an election, or worse yet in a lame duck session. I prefer to live with the devil I know rather than the horrors I believe would visit us if this unhappy solution does not pass. Accordingly, I plan to vote in the affirmative and ask my colleagues to consider where they will be if this package fails and the economic chaos, not only in this country, but around the world that I envision actually happens. My further feeling is that the signal we send today might well be something far beyond our abilities or powers to amend if the downward spirit in the economy the President predicts start.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, millions of Americans across this country are asking us, "What does this budget agreement do to Social Security? You say it is necessary. You say it is unpleasant, but it is in the national interest. What does it do for Social Security?"

The answer is, I am pleased to report, this budget agreement does not cut Social Security benefits. Moreover, we protected the annual cost-of-living adjustment.

□ 2310

That is sacred. But what about Medicare part B? Does that not go up? The answer is "yes;" incrementally it goes from $28.60 in 1990 to $53.50 in 1995. But if this budget resolution goes down in flames, that same part B premium will continue to go up every year from $28.60 this year to $48.40 in 1995. The difference in 1995, $5.10 per month. But we protected the cost-of-living increase. And every single year from 1991 on there is an estimated increase in the benefits under Social Security, an annual cost of living adjustment, from $26.08 next year to a high of $29.08 in 1995.

So even after the part B premium is paid, the Social Security recipients of America will have an average of $23.98 more in their Social Security check.

Figures do not lie; liars figure.

These are the accurate figures. We have protected Social Security benefits; we have protected the annual cost-of-living increase; and we are making some adjustments, painful though they are, to the Medicare Program because it is absolutely essential that we retain the vitality and the fiscal integrity of that program because the alternative is it will go bankrupt, and none of us in this chamber wants that.

This budget package treats Social Security the way we all want it treated. We preserve that precious benefit for the elderly, we make a modest adjustment, painful though it is, in order to save the Medicare Program. But in the final analysis, the Social Security recipients will have that annual cost-of-living increase and they will have more in their monthly check from now to 1995, the period covered by the budget resolution.

The following table provides the facts:

MEDICARE SMI PREMIUM

	1990	1991	1992	1993	1994	1995
Hold premium at 25 percent (1990 level)	$28.60	$31.40	$34.00	$38.90	$43.50	$48.40
30 percent premium–budget agreement	28.60	34.00	38.20	43.30	48.10	53.50
Average montly social security increase (COLA)		26.08	26.83	27.67	28.33	29.08
Potential increase in monthly premium		2.60	4.20	4.40	4.60	5.10
Average check increase		23.48	22.63	23.27	23.73	23.98

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, I rise in favor of the budget agreement.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I know it is not easy for the Members who have been the negotiators of the budget with the administration. The budget chairman is one of the finest Members of Congress. He is my classmate; he is my friend.

The end role of the budget is noble, to achieve a sizable deficit reduction. But I was always taught that the means must justify the end.

This is not the case. The means are unfair, unfair to the middle-income taxpayer who pays a higher rate of taxation than the wealthy in this country. They get a higher hit in this budget. It is unfair to the unemployed, who are struggling with their families while we delay their compensation in this budget; and unfair to the elderly and disabled, who are among those who have done the most for this country and whose reward is to penalize and humiliate them by not providing the means for them to care for themselves and who will experience even greater humiliation and suffering by increasing the costs of premiums and their out-of-pocket expenses.

I say to my political party that founded Social Security and Medicare that we lost our values as a nation.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. ARMEY], a member of the Committee on the Budget.

Mr. ARMEY. I thank the gentleman from Minnesota, my trusted friend and mentor, for yielding to me this time.

Mr. Speaker, let me say at the outset that I make my remarks in full consideration of and appreciation for the summiteers. You did a remarkable job of producing a bad product from an illegal contraption, and I commend you for it, in all good humor.

Mr. Speaker, the leadership has defined for us tonight the singular choice between the summit package or sequestration. That is what we are to judge. Never mind that that choice is itself a fiction like the summit package. That is what we have to judge today.

So given that choice defined for us by the leadership, I will take sequestration.

The reason is simple: Sequestration hurts the Government and this summit package hurts the American people and their economy.

Let me explain what I mean.

As I have analyzed the potential economic effect of this summit package, I believe it will fail; it will fail the economy, it will fail to reduce the deficit.

Mr. Speaker, the pain of deficit reduction may be inevitable, but the suffering is optional. And if we vote for this package, we vote to accept the option to suffer.

Why would this happen? I remember the days of national malaise and I do not want to return to the conditions of stagflation, simultaneous inflation and recession with its increasing unemployment rates and decreasing production. That is what I believe we will get with the economy, as the chairman of the Committee on the Budget says today, teetering on the edge, from the immediate, the certain and represssive taxes that are in this package.

That is all that is certain about this package, in my estimation, and if we get that stagflation leading, as it will, with inflation, within the context of current service budgeting, a god-awful contraption created by Government in defining the surrender terms to inflation.

We will then have an inevitable rise in the cost of Government, with expenditures increasing, and then if we

get the other part of that stagflation which I predict we will get, and the rising unemployment and the lowering production, we will see the revenues decrease, and it is my estimate that 5 years from now the deficit will be worse instead of better and you will have opted for the suffering.

I say vote "no." Accept only the pain of deficit reduction and keep it on the Government where it belongs.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Speaker, I am going to vote for this resolution, but I hate doing it. I hate so much about it.

A few minutes ago I called the woman who cleans my apartment here in Washington. Her name is Ruby Powell. She is black. She is 65 years old.

I said, "Ruby, how much do you make a year?" She said, "About $9,000 a year."

Under this resolution, if implemented by the reconciliation bill, Ruby Powell and millions more like her will pay more in Medicare benefits. That is unacceptable to me. I will not vote for it, not now, not ever.

But I am going to vote for this resolution because it keeps the process going, and I hope that the leadership hears people like me who say we will not vote for reconciliation unless you change the Medicare provision. But to stop this process tonight is absolutely irresponsible. The markets will plunge tomorrow, we will send a terrible signal to the country and to the world.

We have to pass this tonight and work for the best between now and the time we vote on reconciliation.

That is the responsible thing to do. No one has a more marginal district than I have. How many of you have been defeated, how many of you have won by 1,000, 2,000, 3,000, 4,000 votes?

This is the right thing to do, and tonight is the time to do it.

Interest on the debt is now the third largest component in the budget.

When, oh when, will Congress act, let it be now, let it be tonight, let it be at this very moment.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. HOUGHTON], a member of the Committee on the Budget.

□ 2320

Mr. HOUGHTON. Mr. Speaker, I have been given a minute. I will try to take only a few seconds.

We have wrung all the emotion, and the politics, and everyone's favorite issue out of this. We have squeezed this dry. I could add no wise words to the debate.

Mr. Speaker, the only thing I could do is ask for one thing, and that is action. I ask, "Why can't we stop talking? Why can't we stop putting things off? Why can't we pass this budget?"

The American business community, the American people, want it. Let us do it. Let us get at it. Let us do it tonight.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from West Virgina [Mr. WISE].

Mr. WISE. Mr. Speaker, I have tried in every way to be for this budget package. First, because the Democratic leadership fought hard to improve it. Second, because many, including my State senior Senator, worked hard at the summit to preserve investment programs. Third, because, if the package does not pass, the President vows massive, across-the-board cuts.

However, Mr. Speaker, if budgets are statements of priorities, I cannot vote aye on what this document locks into place for 5 years.

The other night, when the President addressed the Nation, he said the budget represented shared sacrifice. He was wrong. The Medicare cuts again affect the low and middle income. The increased taxes again fall overwhelmingly on the working people who already bear the largest burden. The gas tax again affects those people driving daily to work. For true deficit reduction, I do not object to all sin taxes, but I believe it is a sin to give tax hikes to our working men and women while the wealthiest again get a tax slide.

Mr. Speaker, if sacrifice is to be shared, let it be shared by all. But who here thinks it is fair for persons making over $200,000 a year to pay a lower percentage of taxes than those who make less money?

This package may meet the Gramm-Rudman-Hollings test, but it does not meet my Trumps-Keating-Helmsley test, and that test says that they are going to get out and make out like bandits while my people get hit again.

I hear the threats of sequestration and the resulting financing meltdown of the Federal Government, but to the Federal employees who may be furloughed, to others facing cutbacks I say, "I know your anger, but approving this to save short-term distress means long-term pain."

Mr. Speaker, we are talking about priorities here tonight—10 years of misguided priorities have brought us here. This country wants new priorities, Mr. Speaker, investment in the future and fair taxes.

I am voting no against 5 more years of what we know we must begin changing tonight.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker and Members, in looking at this issue this evening, we sometimes have a tendency to define this in terms of a fiscal or a monetary problem. It is that, but the issue that we are dealing with tonight on this historical occasion is far broader than attempting to limit it to just fiscal terms. We are dealing with a moral crisis, and the reason I say that and put it in that perspective is that we are attempting to manage the affairs of the most productive nation in the world on the basis of our currency, a dollar backed by nothing.

Mr. Speaker, if we do not think this policy has consequences adverse to all of us, think what has happened to us since 1968 when we began this experiment with a dollar backed by nothing. In 1968 a mortgage home owner could borrow money at 6 percent. The U.S. Government could sell its paper at 2 percent or less.

What do we have today? First trust deed mortgage money, 11 percent. The U.S. Government is paying about 8 percent on its outstanding debt.

This is the litany of consequences of our society having let the inflation genie out of the bottle in 1968. The savings and loan disaster, $150 billion lost; a budget deficit; this year we are going to add $364 billion to the national debt, a national debt that is some 3.2 trilion dollars in size today, a negative trade balance of at least $125 billion, and we should not be surprised that these foreigners are buying up America with the dollars we are sending them because of this negative trade balance and high interest rates that are literally chocking our society.

This moral crisis in America is not limited to the denial of a standard in monetary policy. It is also in connection with the drug problem in America. Should we be surprised when the current generation of our kids is having difficulty in saying no to drugs, which is the observance in a standard as to how we treat our human body, when we, as a society, kicked the Creator of the standard out of the public school system in 1962? I do not think we should be surprised by that. When we look at the disintegration of family units in our society and the sadness that has come to those who marry in America today and the possibility of having a stable union, the dissolution of our family units from divorce, the increase in juvenile delinquency, the number of married women in America who leave the home to work in the workplace, not because they want to necessarily, but because they are forced to because inflation is causing them to go into the workplace to keep up a standard of living that we think we are entitled to enjoy.

If we Americans want to solve this moral, fiscal crisis in our society, we are going to have to debate the consequences of not reattaching the dollar to gold. When we do that, we can once again have the U.S. Government sell

our debt at 2 percent. If we take 6 percent off of the annual cost of maintaining our national debt of some $3-plus trillion a year, that is a reduction of annual interest expense of over $180 billion a year. This is the way we get to balancing the budget of this country. We are never going to get it the way this budget resolution suggests, by nickel and diming increased taxes on the American public.

I ask for a no vote on this budget resolution to give us a chance to produce an alternative that seeks to satisfy the deficit problem by cutting spending rather than raising taxes.

An alternative budget that reduces spending rather than raising taxes in order to reduce the deficit would read as follows:

COMPONENTS OF THE DANNNEMEYER BUDGET

[In billions of dollars by fiscal year]

Current services	1990	1991	1992	1993	1994	1995
Revenues [1]	1,044.2	1,121.4	1,194.2	1,278.6	1,363.0	1,441.1
Outlays [1]	1,264.3	1,38.2	1,441.8	1,451.5	1,443.1	1,506.4
Deficit	−220.1	−2644.8	−2747.6	−172.9	−802.1	−63.3
Savings:						
Defense [2]	9.8	20.5	29.7	51.6	58.2	169.8
Foreign aid [3]	5.6	5.8	5.9	6.6	6.3	30.2
Entitlements [4]	.1	4.9	11.7	6.2	7.2	30.1
Non-defense discretionary [4]	12.0	21.0	28.2	34.9	41.8	137.9
Interest	2.2	5.6	9.9	15.1	20.7	53.5
Total savings	29.7	57.8	85.4	114.4	134.2	421.5
Net deficit/surplus	−233.1	−189.8	−87.5	+34.3	+68.9	
Economic adjustment factor [1]	−30.4	−58.4	−54.4	−35.8	−19.3	−198.3
Consolidated deficit	−263.5	−248.2	−141.9	−1.5	+49.6	
Less deposit insurance and Social Security surplus [1]	+48.6	+32.3	−39.2	−21.0	−42.0	
GRH deficit and [targets] [5]	[−214.9]	[−215.9]	[−181.1]	[−22.5]	+7.6	[0]

[1] Assumed by budget summit (BS).
[2] Frozen for 5 years at fiscal year 1991 level assumed by budget summit.
[3] Annual baseline reduced by one-third each year.
[4] All other spending subject to 4.5 percent cap on annual increase (1990 base); freeze on discretionary allows average annual growth of 7.7 percent in entitlements.
[5] Assumes that deficit levels to be the revised Gramm-Rudman-Hollings targets for those years, the target for 1995 being zero.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I thank the gentleman from California, and I rise in strong opposition to this agreement and note that the American people have not been consulted on this, and they are basically saying an overwhelming no.

I rise in strong opposition to this agreement with deep respect for everyone at the summit. The American people have not been consulted, but their reaction is an overwhelming no. The congressional leadership and the Office of Management and Budget [OMB] did the best they could. But the result could and should be a lot better. I would note there wasn't one woman at the summit, nor was there one Medicare recipient, and Claude Pepper is gone.

Federal employees cleaning our offices in Washington, DC tonight told me they'd rather take a furlough than see the Medicare Program slashed. And Connie Buhmeier of Evansville called me tonight to say, "Nobody wants the package. Only the rich are favored."

Let's not pretend this is the best George Bush and the system can do. None of us will get our way. But we can make it better than this. Vote "no" on 5 years of inequity.

Mr. PANETTA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, when President Bush announced on Sunday that Congressional leaders and the administration had forged a $500 billion, 5-year compromise package of spending cuts and revenue increases. He said "It is balanced, it is fair, and in my view it is what the United States of America needs at this point in its history."

This is not the budget I would have written, but after protracted review of the agreement, I decided to support the President. This was one of the most difficult votes I've cast in the years I have served in the Congress and one of the most critical. The easiest vote would have been "No" because, certainly, there are many things in this package that I don't like. But if there ever were a time for all Americans to stand together for the future of our country, it is now.

Various House and Senate Committees will have to implement the summit agreement's targets for entitlement savings and revenue increases so the agreement will be subject to revision once the final conference report is filed. This package is not the last word and we will be looking for other ways to cut the budget.

I think it is important that the Congress have the opportunity to work the will of the American people as the budget agreement progresses because there is room for considerable improvement. I will reserve judgment on the final package until I am assured that it is fair and constructive as possible.

The alternative to this agreement is sequestration—across-the-board spending cuts which would be an unmitigated disaster for the Nation. It would undermine our national security policy by requiring a substantial cut in defense and would gravely damage domestic programs on which millions of American depend. It would cost thousands of Federal employees their jobs and force furloughs of hundreds of thousands of others.

Substantially reducing the Federal budget deficit is one of the most important challenges facing the United States and this package recognizes that. It represents real progress toward a responsible fiscal policy for the Nation and it contains important budget process reforms. It will spend the right signals to our financial markets and keep the economy growing.

This resolution reflects one of the toughest choices Congress has ever faced. It is the largest deficit reduction package ever considered by the Congress or any President. This process by definition involves difficult, unpopular choices and inevitably represents a compromise.

The larger problems of our country demand action. Deficit reduction is the only way out of the current economic impasse, and it is the only way to assure long-term growth in investment and productivity. It is the one sure and proven tool that the Federal Government has to increase national savings and thereby strengthen investment and productivity and improve our standard of living.

This path will not be easy to pursue and many sacrifices will be required from all Americans. I hope that can work together during the months to come to implement the course of action necessary to secure a strong economic base to allow our Nation to prosper.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Speaker, I rise in opposition to the resolution.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. McHUGH].

Mr. McHUGH. Mr. Speaker, as we all know, a vote on this budget resolution tonight is not a vote on the budget summit agreement. I am going to vote for this budget resolution, but I certainly do not accept all aspects of the agreement. We will have an opportunity over the next 10 days through our committees, through dialog between the President and the congressional leadership to modify in some respects this budget agreement. We all recognize that that process will be influenced by the summit agreement, but that agreement is not written in stone. We cannot predict tonight where that process will end up, but we can say with some assurance that, if we do not pass this budget resolution, the implication for our economy, for the budget process, for the country, can be quite severe.

Mr. Speaker, we should not take that risk tonight. I urge my colleague to support this budget resolution.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. My colleagues, this is a tough vote. The negotiators representing the Congress and the President have reached a long-term deficit control agreement. I wish that agreement did more to reform the budget process, to cut spending.

However, Mr. Speaker, I have to tell my Republican colleagues that I believe that this agreement is better than any other alternative that could conceivably pass this democratically controlled Congress this year. The real test is whether the Congress and the President can enforce the spending caps that have been agreed to for the next 5 years.

Mr. Speaker, we must do everything we can to make this agreement stick. The American people, the financial community, our allies, all want to see the United States control its deficit.

The choice tonight is to control the deficit, or to duck, do nothing. We must make the effort.

□ 2330

Mr. PANETTA. Mr. speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, the deficit faced by this Nation has grown to outrageous proportions. The basic and obvious problem is that the amount of revenue that this country generates does not jive with the rate of our spending levels. The problem is not understanding the basics of accounting, the problem is determining when and where to spend Federal dollars and more importantly addressing who makes that determination.

We have been faced with weeks and weeks of worry while a few Members of the Congress and a few members of the President's executive staff, who are not even accountable to the voters, attempted to hash out a budget summit agreement for this fiscal year. The Congress is being held hostage by 10 or so individuals who have essentially utilized what I consider to be a line-item-veto power to make very important budget decisions. Now they are asking us to expand the number of hostages to include the very poor, a population that continues to grow, and the middle class, a population that continues to decline in our society. We have basically given our congressional power to slash or delete this program or that program over to the so-called summiteers. I have grave problems with this process.

We were threatened with the furlough of millions of Federal workers, taunted with the threat of airlines grounding domestic flights, terrorized by the potential slashing of much-needed social programs and even faced with the possibility of the entire Federal Government shutting down. After weeks and weeks of pressure, an agreement has been fashioned—the few in the leadership of this country have defined our spending priorities.

I quite frankly do not understand this country's priorities. On a whim and with much less than a second thought, the President determined that the Federal Government is free to spend $1 billion a month to protect the interest of oil companies in the Middle East. The President at a moment's glance can forgive $7.1 billion in funding owed to the United States by Egypt.

Where are the politicians calling for a press conference announcing full funding of the child care legislation, or to forgive loans to students who have defaulted?

Given a review of the so-called budget summit agreement, I am dismayed. I certainly feel as if I am in a difficult position because there is a clear need to cut Federal spending, to increase revenues, and to keep the Federal Government operating. However, it is not clear to me how I am to accept as a part of this massive legislative package, considerable cuts to the Medicare Program, revisions in civil service retirement, or significant adjustments in student loan programs. I represent a poor inner-city district with constituents that have difficulty paying the present Medicare premium rates, the increased premiums will certainly have a devastating effect.

While the military, for the first time in over 9 years, finally begins to receive its fair share of cuts, it is merely not enough. I do not support a regressive tax on middle- and low-income Americans. I do not support deeper cuts in the Medicare Program. I do not support an increase in fiscal burdens on the U.S. Postal Service.

The time has arrived for the Congress to act. I guess what I would hope is that as easily as our President can forgive a $7.1 billion loan to another country and with a strike of an ink pen fund military maneuvers in the Middle East, that he too can focus his attentions on the real needs of this country.

It is time that Congress realign its priorities and bring them in line with what all Americans desire: Affordable housing, quality education, and adequate health care. I will continue to oppose proposals that are not in line with this basic philosophy and today I will not vote in support of this so-called budget summit agreement. This agreement will be devastating to the elderly, minorities, and the poor. It is time that we set a new moral tone for our Nation with a sound and compassionate budget.

Today, I join my colleagues in the Congressional Black Caucus and millions of concerned Americans in opposing this budget summit agreement. We cannot afford to surrender the fight, because the consequences will be destructive to all Americans.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. EDWARDS], chairman of the Republican Policy Committee.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I rise in opposition to the resolution.

During the past 5 days I have spent many hours reviewing the budget proposal submitted by the President and the participants in the budget summit. I have spoken with economists and business leaders and have heard from hundreds of my constituents. I believe the President and the Republican negotiators did the best they could within the constraints of a budget summit which assumed that the only way to proceed was by putting forth the best budget GEORGE MITCHELL and DICK GEPHARDT would agree to. I disagree with that assumption. The proper way to proceed was through a process which allowed for input from the people and for full participation of their representatives in the Congress. That procedure would have produced a far different result, just as it did in 1988 when the people chose between a policy of new taxes and a call for reduced Government spending, and elected George Bush on a platform of opposition to increased taxes. The summit process, on the other hand, has produced an agreement which is so lacking in spending cuts, so deficient in incentives for investment and productivity, and based on such erroneous economic assumptions, that I have no choice but to oppose it and to vote against it and to insist that the Congress do the job it was elected to do.

There are a great many reasons not to vote for this package. For example:

Substantial increases in Federal taxes are almost certain to increase the likelihood that the economy will enter a severe recession. It is a fundamental truth of free market economics that taxes should not be increased at the time of a weakened economy.

There are no cuts in discretionary domestic spending. The American people clearly favor reduced spending over higher taxes, yet the summit agreement does not cut so much as a single nickel from domestic discretionary spending. In fact, this spending will increase during the 5-year period covered by the agreement.

The economic assumptions are faulty.

The agreement contains a substantial amount of what has become known as smoke and mirrors. For example, the writeoff of the Egyptian debt, estimated at a projected $1.8 billion over the next 5 years, is simply taken off-budget. And the so-called user fees portion of the agreement contains not only higher OSHA penalties but a transfer of financing burdens almost certain to result in higher postal rates.

Defense spending, reduced but apparently to levels which can be accepted by the administration, is almost certain to be decimated in the fourth and fifth years of the agreement, when all domestic spending increases must be taken from the defense budget.

In short, there are so many things wrong with this package that it cannot be supported on its merits alone. The public is fed up with politics as usual. No legislation which cannot be supported on its merits, its substance, its content, should be supported, period. To pass legislation which cannot be supported on its merits is simply irresponsible.

The question, therefore, is: What happens if this package is defeated? I propose this scenario:

First, the President should insist that the Congress pass and send to him individual appropriations bills. He should then set an acceptable limit of spending for each appropriation and veto any appropriation which exceeds the levels he has set. He should enforce that insistence by refusing to sign a continuing resolution. He should go to the American people and urge them to write to their representatives in the Congress in support of this vetoes of excessive spending. He should make clear to the Republican Members of Congress that he will use the veto consistently as a planned strategy to reduce spending. I believe that decision, coupled with his appeal to the public, will result in producing a sufficient number of votes to sustain his vetoes. Defense spending cuts have already been accepted and agreed to. This strategy will add a critical element missing from the budget package: reduced discretionary domestic spending. Reduced entitlement spending should be considered only in conjunction with reduction in discretionary spending levels. To reduce spending for the elderly sick, and not for subsidizing the arts, is absurd.

Second, the President should resubmit his proposals for increased revenues, including the substantial package of user fees included in his original budget for the year.

These items should be considered under the normal congressional process of appropriations bills and Ways and Means legislation, with full participation by the members of the appropriate committees and, ultimately, all the Members of the Congress.

In addition, the Congress should adopt a program of incentives for investment and increased productivity, including a reduction in capital gains taxes, but containing as well a number of additional proposals. I am currently working with several other Members of Congress on such a proposal and will submit it to the White House and the Congress in the near future.

The failures of this budget package are a direct result of the process by which it was adopted. The laws and taxes which affect 260 million Americans should be developed through a process which allows for maximum input, not by half a dozen people sitting around a table, isolated from their colleagues and the public. This budget agreement should be rejected, and so should the practice of decisionmaking by the few. Members of Congress were not elected to be complacent and compliant but to offer their best counsel and to speak for the 500,000 Americans they represent. If the people speak out and let their voices be heard, their representatives will respond and the result will be legislation supported by the public. To force acceptance of legislation which has so little public support is simply an unacceptable way of conducting the business of the Federal Government.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Oregon [Mr. DENNY SMITH], a member of the Committee on the Budget.

Mr. DENNY SMITH. Mr. Speaker, this has been a tough fight, and some of us are coming away with a wound or two. This is not a budget package. In fact, it should be transmitted over to the Committee on Ways and Means. This is strictly a tax bill.

Mr. Speaker, let us get it straight here, what we are doing. We are not trying to reduce spending, we are trying to increase taxes. I do not care whether you are talking about the so-called tax period which is $134 billion, the largest tax bill that has ever been passed by the Congress, if it is passed. There is no deficit reduction.

Mr. Speaker, I personally took a no-tax pledge, and I intend to keep that by voting no on this budget package. This budget package, however, is arrived at the end of the fiscal year, plus 4 to 5 days into the next fiscal year. If you look at the appropriation bills that we have handled so far this year, 10 of the 13, we are up by 11 to 12 percent, some $40 billion.

Why did we not just freeze the budget at the present level of spending so that no one got any increases and nobody got any decreases? This would have been a simpler, more straightforward approach to the problem.

Mr. Speaker, we do not seem to be able to do that. Look at what we are doing though. In the gas tax, it is going to affect young people and working people more than any other segment. It is going to hurt business. Those of us who live in the West, where distances are great and where we have to transmit our goods a long ways, we are going to get 12 cents a gallon.

Mr. Speaker, we do not need that kind of help in an economy that is starting to falter. Not all of this is going to go back in the infrastructure. Too much of it is going to go into the general fund. There is no guarantee that we will not get more and more of this kind of taxation, which will basically change the way we are able to have opportunities and incentives.

The Medicare portion, supposedly in the deficit area, but really in the tax area, is going to increase premiums, doubling them in a couple of years. Half the savings is going to come from paying the providers less money. Is that going to be a way to improve the health care for senior citizens? No, it is another tax, with no benefit, except to big government and the bureaucracy.

The question I asked the other day in the conference I think is still very, very important. I think this is the key point; the tax law is going to go into effect if the Committee on Ways and Means follows through, and I hear people saying there are going to be some changes made to the agreement that have not been made yet here.

But what happens? What happens to us on the spending side when we run out of money in a category like food stamps? We all know what is going to happen. We will come forward with a dire emergency supplemental, and we will spend money anyway. So we are getting an increase in taxation, an increase in spending, and no deficit reduction out of this package.

Mr. Speaker, I think that this supplemental process is where we have a lot of problems, but that is exactly what is going to happen. If we could freeze the budget we would be much better off, but we cannot seem to do that.

Mr. Speaker, I intend to vote no on this package, and I urge Members to do likewise.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, in any other country of the world, any other parliamentary democracy, we would be on the verge of having a government failure tonight. But we are not like them. This is a de facto coalition government. It is time for us to act responsibly and stop being cowardly in front of the public opinion that flows into our offices over the telephone, from organized and unorganized interest groups.

Mr. Speaker, I respect people from all ideological points on the spectrum tonight who have spoken, but it is no longer enough for us to express our personal desires, how we wish it would be. We have to govern. The American people are losing confidence in this institution. That may be in the political advantage of some. Most of us I think

suffer as a result of that lack of confidence.

Mr. Speaker, I would urge that the center, if there is such in this institution, hold tonight, because if we fail we will have lost another battle for public confidence and public trust in this democratic institution. It is much harder to build it back than it is to lose it. I urge an aye vote for this.

SEQUESTRATION VERSUS SUMMIT AGREEMENT

If we don't pass this budget agreement, we are looking at massive cuts of at least $85 billion in outlays as a result of sequestration.

Defense would be cut by $42.7 billion. A cut of this magnitude would seriously threaten the ability of our Armed Forces to respond to a national security emergency.

Domestic discretionary programs would be cut by $42.7 billion.

The deficit is actually expected to be $20 billion greater by October 15, meaning even greater cuts under sequestration—$105 billion in cuts with $52.5 billion coming from defense and $52.5 billion coming from non-defense.

By far, the summit agreement treats every program more fairly. It involves real decisions, not a reliance on the "meat ax" approach.

The smmit is more lenient on domestic discretionary spending than sequestration. It is not a giveaway to discretionary spending. It requires restraint. It will require the Appropriations Committee to go back and make cuts to bills that have already been approved.

For example, the Energy and Water Appropriations Subcommittee will have to take roughly an $800 million hit in domestic discretionary just to make up for the increase in defense spending called for by the summit agreement. Even deeper cuts will likely occur when the subcommittee takes its share of the cuts in domestic spending called for under the agreement. That represents about an 8-percent across-the-board cut in nondefense energy and water programs.

The bipartisan agreement calls for deficit reduction of $40.1 billion in fiscal year 1991—$38.1 billion from changes in spending and tax policy and $2 billion from savings in interest costs. It saves $500 billion over 5 years.

In the first year, 57 percent of the savings come from spending reductions while 43 percent from revenues increases. But over the 5-year period, tax increases account for less than 27 percent of the total savings generated by the package.

EXAMPLES OF THE EFFECTS OF SEQUESTRATION

Federal employees: A full-year sequester would force a reduction-in-force [RIF] of thousands of Federal employees. Hundreds of thousands of Federal employees would be furloughed, ranging from 22 days to as many as 255 days.

Head Start: Would be reduced by $470 million, resulting in 113,000 children being eliminated from the program.

Human development services: Congregate meals for the elderly would be sharply reduced by $46 million, thereby serving nearly 900,000 fewer participants. Home delivered meals to the elderly would be reduced by $32 million, serving nearly 250,000 fewer participants.

Low-Income Home Energy Assistance Program [LIHEAP]: $443 million would be cut, reducing the number of families served by more than 2 million.

VA medical care: A reduction of $514 million would eliminate VA medical care for over 83,000 inpatients and 1.7 million outpatients.

Pell grants: 1.4 million students, or 35 percent of recipients, would find their grants eliminated and 2 million additional students would find their grants reduced.

NIH: $2.55 billion would be cut, reducing the number of biomedical research grants by 4,000 and the number of trainees by 4,000.

Drug Enforcement Administration: $140 million would be cut, resulting in a loss of one-third of DEA's agent work force at a time when law enforcement remains a top priority.

Alcohol, Drug Abuse and Mental Health Administration [ADAMHA]: A $893 million cut would preclude new research grants to fight alcohol and mental illness, and approximately 44,000 drug abusers would not receive treatment due to cuts.

Amtrak: The $189 million cut would result in the cancellation of most, if not all, service.

Mass transit: $206 million would be cut, causing cities which rely heavily on Federal operating subsidies to either curtail service or shut down. These cities include Buffalo, Detroit, Phoenix, and Kansas City, as well as most medium and smaller cities.

Aviation: $1.383 billion would be cut, causing chaos for the Nation's air traffic control system. Airport control towers would close, numerous flights canceled, and lengthy delays for air travelers.

Centers for Disease Control [CDC]: CDC would be cut by $379 million and 1.6 million children would not be immunized against measles, mumps, and other diseases.

HIV/AIDS: AIDS funding would be reduced by $537 million, which would reduce research, testing, education, and therapy for more than 1 million HIV-infected persons.

National Science Foundation: A reduction of $704 million would terminate the support of more than 21,000 research staff.

Farm ownership and operation loans: A reduction of $404 million would eliminate 7,400 new direct operating and ownership loans for farmers.

Compensatory education for the disadvantaged: $217 million would be cut eliminating nearly 2 million at-risk children from the current program. This would result in the program serving about 4.3 million children in 1991, which is only 43 percent of the children 5 to 17 years of age living in poverty. The current program serves 65 percent of this population.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Speaker, there is an idiom in the vernacular of American politics that "all politics is local." In the past couple of decades this truism has been translated in congressional politics to "all politics is interest group." Hence, legislation has had less to do with making choices between guns and butter and more to do with spooning from the cup of alphabet soup. In the 1980's in particular, elected representatives repeatedly gorged on the ABC's of spending and the XYZ's of tax cuts. The end result is a breakdown in the dietary discipline of the greatest legislative body in the world so such an extent that we are now confronted with a bloated $3 trillion national debt and a $300 billion deficit next year alone.

Mr. Speaker, to vote "no" on this budget resolution is ostrich politics and depression-inducing economics. The risks are grave: A rundown in the stock market; a runaway from Treasury bills; a runup of interest rates. Twelve-figure deficits simply have no place on the economic agenda of either a true liberal or a true conservative.

In particular, it is counterfeit conservatism to object to deficit reduction of the nature contemplated in this bill. And it is counterfeit liberalism to devalue the currency with the kind of living for the moment spending implicit in politics as usual.

Deficits of the magnitude that are currently in place are sinkholes in the road to economic recovery. They jeopardize the president's program and the presidency itself. The American people voted in 1988 for a reduction in the rate of growth of government and taxes, but they did not vote to mortgage their future to the whims of undisciplined politicians.

I have heard Members on my side suggest the budget package should be opposed because there is an insufficient growth component. What nonsense. None of us is so prescient that we can predict the future with confidence, but it is noteworthy that the Chairman of the Federal Reserve Board has made a commitment to use this good office to lower interest rates if the budget package is accepted. But it should be understood that the status quo is not the alternative. The world is watching. From Moscow to Tokyo; from Frankfurt to London, people are wondering what kind of mettle American legislators are made of. If we cannot have the discipline to reduce by $40 billion a $300 billion deficit this fiscal year, the likelihood of foreign funds continuing to finance our fiscal profligacy at low interest rates is nonexistent.

Here, let me stress that the most dangerous import that is costing American jobs is not in the first instance Toyotas and Nissans but the currency we are sucking up from around the world to help offset our fiscal deficits.

Reliance on this currency makes us vulnerable to foreigners and their, not our self-interest.

The economic times we face are unprecedented. Judgments are dicey. The possibility mild recession winds will accelerate into a full-blown depression is directly related to the issue of confidence, perceptions of whether this Government has the capacity to govern. In a very major sense, this

budget vote does not represent a vote of confidence or no confidence in the President who is for good reason riding a crest of popular support. Rather it is a vote of confidence in Congress which for even better reason is coming under skeptical, if not cynical, review by the American people.

At a time when the economies of the world are sliding into recession, at issue is whether the center will hold, whether confidence can be restored in representative government. Yes, the experiment in parliamentary-style government implicit in the summit approach to legislative-executive branch cooperation has offended the country, particularly Members of this body. But it should be clear to all that the reason this experiment was initiated is that in a decade of relative peace and prosperity Congress allowed the national debt to triple. It is now the morning after. The party is over. A new President has been handed a platter of mostly empty glasses to clean and he has no choice but to sweep the floor of the litter that reckless political abandonment produced.

There may be a modicum of disagreement among economists on how to put together a deficit reduction package, but I know of no economist abroad and very few at home that don't favor deficit reduction of at least the magnitude we are contemplating today. In fact, the most credible criticism of this deficit reduction package is that it is relatively modest and puts the burden of the reductions contemplated off to later years.

Over the last two decades powerful, if not compelling, cases were marshaled on the side of every tax cut and spending increase Congress individually enacted. But the whole in legislative packages is always a little more or a little less than the parts. While the arguments for each of the parts that made up the fiscal whole may have looked meritorious in the recent past, the deficits that resulted have made the economy vulnerable to breaches of confidence at home and abroad.

Today we have an inverse circumstance. Individually, the programmatic and tax restraints that make up this package lack merit; but the package as a whole is likely to be healthy for the economy. What is microeconomically dubious is macroeconomically sound.

While I, like so many Members, would have preferred different ingredients in this starchless supper, the problem is that credible alternatives lack consensus. If this plan is not politically achievable, the burden will be on those who oppose it to construct a pain killer that is less painful.

In this regard, I am extremely pleased at the commitment of the leadership of both parties to consider the framework of the summit agreement firm, but the details flexible. This Member is convinced that the equity case for a rearrangement of burdens is persuasive and frankly supports inserting greater elements of progressivity in deficit reduction efforts. As of this moment, the medicare and home heating fuel bite is too stiff; upper income burden sharing too light.

My strong preference, for instance, is to take this historic opportunity to eliminate tax deductability of interest for leveraged buyouts. It is time the average taxpayer be taken off the hook of subsidizing moneyed elite using the tax codes to concentrate ownership of American assets.

Yet, even without tinkering the bipartisan leadership plan has spread rather widely burdens of sacrifice. It has succeeded across the board in offending the young and the old; rich and poor; conservative and liberal. Sacrifice is asked of all. It is estimated, for instance, that it will cost the average Iowan $82.64 a year compared to the national average of $88.22. The cost/benefit could be more positive if it is assumed that refusal to reduce the deficit could lead to higher priced goods at the store and fewer jobs for families to earn a fair keep.

Nonetheless, as a legislative package Iowa gets a better than average deal, particularly the farm economy which is exempted from paying a new fuel tax for onfarm operations and which will find new markets for corn with the extension of certain tax deductions for gasohol consumption. By comparison, the $13 billion reduction in farm programs over 5 years is substantially less than most other alternatives being discussed in Washington these days. Sequestration, for instance, which looms if this budget package goes down would result in close to that much of reduction in a single year, with the Government being forced to refuse to honor current CRP obligations.

In conclusion, this body must understand that the reduction of spending and increase in taxes contemplated in this budget package will cause hardships for real people. Refusal to act, however, will also cause a hardship which I am convinced will even be greater, short term as well as long.

In the S&L debacle, Congress learned that refusal to deal with insolvency problems early cost far more later. Likewise, with budget deficits. The day of reckoning cannot forever be postponed. As far as this Member is concerned, this is a character vote; it is the last credible chance to deal with deficit reduction in such a way as to maintain confidence in the economy and avert a serious downturn in economic activity. The best chance to avoid serious sacrifice tomorrow is to impose a modicum of discipline today.

What is needed in Congress is a new mood, a new sense of public responsibility. Just as a bipartisan foreign policy demanding sacrifice from the American people was so crucial to the United States in the 1940's, so a bipartisan economic policy demanding sacrifice from the vast majority of political and economic interest groups is crucial to American national security in the 1990's.

While imperfect in detail, this resolution must be passed. It is time to switch legislative gears, to stop playing politics with the economy.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. DEFAZIO.)

Mr. DEFAZIO. Mr. Speaker, did Members listen carefully when the Clerk read this bill? "A budget resolution for the years 1991 to 1995." Locked in for 5 more years, with the cruel and discredited policies of Reaganomics. Did we not learn from the 1980's, fellow Members, you cannot spend it all on the military and reduce the budget? Yet this package far exceeds the House-passed defense budget. You cannot reduce taxes on the richest 1 percent of Americans again and raise more revenue. Yet this package is replete with new tax loopholes for folks who earn over $200,000 a year or who can afford to invest over $200,000 a year.

□ 2340

You cannot balance the budget with Pollyanna projections about the economy as middle Americans slip into the icy grip of recession; yet this budget assumes a reduction in the price of oil, halving of interest rates and unprecedented growth.

You cannot balance the budget on the backs of the unemployed, our seniors, wage earning families struggling to make ends meet, or even the beer drinkers.

Lord knows we tried in the 1980's, but they are collapsing under the burden.

It is time for change. Vote against the resolution.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished and beloved and erudite gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I thank the gentleman from Minnesota for yielding time to me.

Mr. Speaker, let me just refresh the memory of Members for a second. In 1989 we had a budget summit and we came to the floor with that budget summit, and I came to the floor with an alternative. On May 4, 1989, in regard to that agreement I said, "we are waltzing ourselves into a big fat tax increase in this summit agreement, and I will be back here next year telling you, 'I told you so,' but there will not be much solace in saying that. All I am asking you to do is to show a little restraint."

Do you know what? I have not heard one single person on the floor of this House saying anything good about the summit budget proposal. All they can say is it is the best that we can get. No one has said it is good.

If I pick up the RECORD and run through the comments of yesterday, there were scathing attacks on this budget agreement. What I say to Members is why feel so bad, why hold your nose and vote, and that was said on May 4, 1989, and as Yogi Berra said, it is deja vu all over again.

I do not believe the people that put this package together understand the public mood. Let me tell Members what I believe the public believes. They think there is ripoff, waste, inefficiency, and bad programs, and so do I.

The public wants it fixed with line item veto, a balanced budget amendment and wholesale changes, and in some cases elimination of Government programs, and so do I.

I offered two budgets, and an alternative to this proposal that makes huge deficit reductions without taxes, that preserves programs for the elderly and the needy and programs of opportunity, and they were rejected 3 years in a row for bad deals.

The public does not want to give more money to the Government, and neither do I.

The public does not believe taxes will be used to reduce the deficit, and neither do I.

The public wants us to clean up this Government, reform and eliminate programs. They want us to stay out of their pocketbooks. They do not want business as usual, and they want us to act to reject this deal for one that is revolutionary, not for one that just simply rearranges the furniture. The public wants that and so do I.

I hope and pray I am wrong. I hope that you are going to live up to this deal, that you are going to implement the cuts and do what you spell out, should this pass. But do you know what? I am afraid come next year I will be back here, and I will be back in this well, and I will be saying, just like Yogi did, it is deja vu all over again.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I do not like the budget summit agreement. Could I draft a better, more equitable package? You bet. Would 218 Members vote for my plan? Maybe. Would the President support it? Probably not.

Before voting against this bipartisan budget, ask yourself these same questions. I think you'll inevitably arrive at the same conclusion: There is not much choice other than to support the summit package.

A "no" vote leaves us without an alternative. Remember, it took our top leaders over 4 months to develop this proposal. Realistically, we cannot expect quick bipartisan agreement on another mix of cuts and taxes. That means, in the meantime, sequestration will be implemented.

If you think folks are mad about the summit package, wait until you see how they feel once we shut the Government down with a sequester. Don't kid yourself that they will blame the President or the other party. They will blame us all.

If you agree that more must be done to cut the deficit, there isn't much of a choice left. Your budget plan won't become law; neither will mine. The summit agreement is the only option available that a majority in Congress might support and that the President will accept.

Vote yes. It's a tough vote, but given the lack of a reasonable alternative—in Wilfred Brimley's words "it's the right thing to do."

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, when considering my vote on this evening's important issue, I thought about my reasons for supporting the budget agreement package. After looking through some messages from constituents opposed to the resolution, I wanted to ask them: How would you vote if you were presented with a package that would reduce the Federal deficit by $500 billion over the next 5 years? How would you vote if on a package that contained no new income taxes and that left Social Security COLA's untouched? How would you vote on a package that will likely lower interest rates and cause the financial markets to react positively? How would you vote on a package that limits the growth of Federal programs to the rate of inflation? How would you vote when the package before you avoids the disastrous automatic budget cuts under Gramm-Rudman?

Surely, the only answer is yes.

Economic benefits that can be expected are lower interest rates which will, in turn, create jobs, promote housing starts, and save billions of taxpayer dollars in interest payments. In dollars and cents for the average American, we are talking about savings of $110 per month in mortgage payments on a typical home and $350 in interest over the life of an auto loan.

There are flaws in the agreement, and plenty of them. But our alternative is much worse. Here is a sampling of what would result from Gramm-Rudman. Our military readiness would be cut by 50 percent, at a time when our troops are stationed in the Persian Gulf. It would have reduced net farm income by 3 percent because of a $3.3 billion reduction in commodity price support programs. The sequestration would mean that 113,000 children would be eliminated from Head Start. Inpatient and outpatient care for 1.8 million veterans would be eliminated. Pell grants would be reduced or eliminated for 3.4 million students. Prenatal health care for low-income women would be sharply reduced, no doubt contributing to our already tragic infant mortality rate. Add that to slower processing of Social Security claims, fewer air traffic controllers, and furloughs of hundreds of thousdands of Federal employees, and you can see why an alternative to automatic cuts had to be found.

The hard fact that must be faced is that we have only two alternatives to reducing the deficit, raising taxes and reducing spending. Nobody likes to do either. However, we have to make some short-term sacrifices to achieve the long-term goal of fiscal health, Government integrity, and solid economic prosperity.

The time has arrived to govern—to govern is to choose—let us choose to act decisively tonight.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Speaker, I rise in opposition to the resolution.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I rise in support of the resolution.

Today I voted to support the bipartisan package to reduce the deficit by $500 billion. It was a difficult vote to cast because as the Members of this House know, I believe that the best way to reduce the deficit is to cut spending, not raise taxes.

But, Mr. Speaker, no one gave me that clear cut choice. It was not an option.

The bipartisan package does reduce the deficit. But it does so by employing both spending cuts and tax increases.

The easy and popular vote on this package was "no." I, like each of my colleagues, was tempted to do just that. There are many things about this package I don't like and I could have legitimately used any one of them as a reason to reject this compromise.

But the people of this country, and of my district in Illinois, whether they support the package or not, are universally fed up with the inability of this Congress to take action to seriously attack the deficit.

The choice I had to make today was not just "yes" or "no" on the bipartisan package. In my mind it was a choice of whether this Congress would do something about the deficit or do nothing.

Doing nothing was unacceptable to me because I believe doing nothing means dragging an already weakened economy into a deep recession. A recession means unemployment and pain and broken dreams for real flesh and blood Americans. It's not just economic statistics were talking about.

I think as the Congressman from the 14th District of Illinois I have an obligation to prevent that kind of pain.

Many have called my office and said "let sequestration go forward." That approach has some appeal. We can easily conjure up the picture of some unpleasant Federal bureaucrat being laid off and say, "so what."

But consider that some of those Government employees are the nurses at the VA hospital, or the clerk processing a Medicare claim for an elderly person who needs the refund, or an air traffic controller who is vital to keeping people and goods moving through the sky.

The impact of the $100 billion Gramm-Rudman meat axe is a Government that cannot provide important services.

Those of us who reject the idea that big government is the answer to all our problems might feel some sense of satisfaction that sequestration has brought the monster to its knees, but the collapse of confidence around the world that would accompany the chaos would rock this country into deep recession.

Once again, the working men and women of America lose.

As to the tax increases in this package, I don't like them. I find the gasoline tax particularly hard to swallow at a time when our problems in the Middle East have already driven up prices at the pump.

But those in this House who refuse to make additional cuts in spending—and they are a majority here, leave us no choice but to look at some tax increases as a means to reduce the deficit.

If not the luxury taxes and the sin taxes, then what?

The alternative some Members of Congress propose is an across-the-board increase in income tax rates. That means paying more tax on every dime you earn. Most of the men and women in my district are working to put a roof over their heads and kids through school. They are not buying $100,000 boats and $30,000 cars. They'd rather stick with a luxury tax.

Mr. Speaker, the real answer to our deficit problem is to cut wasteful and ineffective Government programs and to curb our appetite for new spending. But the fact of life is that the majority in this House will not vote for those cuts. We know that because we've tried on vote after vote on this floor and President Bush tried for months in the summit.

But my constituents expect me to come here and vote, not on hopes and wishful thinking, but on reality.

That reality today is a choice between standing on the floor of the House and wailing about the fact that my colleagues would not agree with me about the need for more spending cuts, or to accept a package our President believes has a good chance of lowering interest rates and helping us avoid a deep recession.

The choice was posturing for the camera and telling people what they want to hear, or taking action.

I am voting for the budget package because it is the best deal President Bush could get from a spend crazy Congress and with our economy in deep trouble getting something is better than getting nothing.

Mr. Speaker, nothing is what we have been doing for too long about the deficit. We've gotten very good at it. But the people I represent are fed up with our doing nothing. I believe they wanted me to show some courage and to act.

In the days ahead, I hope this Congress will get serious about finding additional spending to cut. The American people should demand that we find them and trade them off for the taxes we hate.

But in the meantime, promises will not do. We have to take what we can get. The action we take today, as unpleasant as it is to me and to my constituents, meant we did something rather than nothing to reduce the deficit. It doesn't stop us from doing more and doing better. But it means we are finally facing up to the task we were sent here to do.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this member rises in strong opposition to this resolution. The deficit-reduction budget package is very inequitable. Most of the burden of reducing the deficit falls on working families and on middle-income retirees. Almost all of the revenue changes hit consumers. This package asks very little of the truly wealthy and, in fact, creates again a whole new category of tax shelters that would do little or nothing to increase productivity and economic growth. It is disproportionately an effort to balance the budget on the backs of working men and women. Furthermore, the economic projections on which it is based are wildly optimistic. Restraints on future spending are set too high and the resolution has weak enforcement mechanisms.

The budget proposal hits Nebraska especially hard. Thirteen billion dollars are to come out of agriculture price support programs in the next 5 years. In addition, of the proposed new taxes, over 40 percent fall on transportation. The increase in gas and diesel taxes will be especially hard on Nebraskans, who, of necessity, drive two to three times farther in a year than urban residents. Nebraskans have fewer mass transit and car pool opportunities. Many working Nebraskans have a daily round trip job-commute of 60 to 100 miles.

A State like Nebraska necessarily depends heavily on truck transportation. The combination of the 10-cent excise tax on diesel fuel for commercial trucking and 2 cents on nearly all refined petroleum products means a 12-cent-per-gallon increase for truck transportation. Most families in rural areas depend on fuel oil or propane for heat. Adding insult to injury, at the last minute, after a summit agreement had been reached, the senior Senator from Texas added a 2-cents-per-gallon tax on heating oil.

Nebraska is the last place that the President should look for support on this budget recommendation. This package is a bad deal for Nebraskans, for working people, and for the elderly. It is also bad for farmers and for rural communities. This proposal needs fundamental changes. Reject this resolution and lets get serious about putting together a serious deficit reduction package through the democratic process in the Congress.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland, [Mrs. BYRON].

Mrs. BYRON. Mr. Speaker, as we approach one of the most crucial votes this body will face this year, I cannot help but recall John F. Kennedy's eloquent words in his book, "Profiles in Courage." As a Member of the other body, Kennedy recalls the lives of numerous politicians faced with tumultuous times, difficult decisions, and powerful public pressures. Courage is the recurring theme, as each politician profiled decides to place aside parochial interests for the good of the Nation.

Today, Mr. Speaker, each one of us is faced with an extremely delicate dilemma: Do we reject this budget compromise for many specific objectionable items? In the process throwing the Federal Government into fiscal chaos? Do we defer to the President and our own congressional leaders who haved worked tirelessly to create a bipartisan budget accord? Each of us has that decision to make. Either way we decide to vote will not be easy. I must remind my colleagues that this Congress, insisting on distinct idealogical differences, failed in our duty to perform what ought to be our highest priority each year—responsibly managing this Nation's budget. What should have been accomplished by 435 legislative leaders this year was ultimately and unfortunately left for a handful of congressional and executive leaders to fix in a few short months. Now, with our backs to the wall again, there is no time left to accuse, to complain, to bicker. I feel swayed to prevent the catastrophic consequences of its defeat. Many of my constituents have voiced disapproval with this deficit package for one reason or another, and in some cases for selfish reasons. How many nations would love to have a choice as we have tonight. Mr. Speaker, the options are clear: Compromise or chaos.

In the words of John F. Kennedy, so eloquently penned 35 years ago:

> We shall need compromises in the days ahead, * * * but these will be, or should be, compromises of issues, not of principles. We can compromise our political positions, but not ourselves. We can resolve the clash of interests without conceding our ideals * * * compromise need not mean cowardice.

This may be unpleasant but we can not abdicate our responsibility or our duty. Therefore I urge my colleagues to support this budget.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Speaker, do you believe in America? Do you believe in what hundreds of thousands of brave citizens have sacrificed for? More than 300 years ago persecuted victims came to our shores seeking a simple right—a voice. A voice of independence—a voice of freedom—a voice of righteousness.

Now we are asked to chart a fiscal course that will impact the lives of generations to come.

I ask again—do you believe in America? Do you believe that this tax and slash proposal is best for America?

My colleagues, do you believe that we are here to endorse a punishing package because our partisan leaders ask us to do so? I think not. I believe in America. I believe in the basic tenet that ours is a government of the people, by the people, and for the people. This proposal fails to meet any of those standards, by any measure. This proposal rips cash from the pockets of the hardest working Americans, who are barely getting by as it is—our neighbors, who strive each day to achieve the American dream of financial security. This proposal will extinguish that dream.

Our Founding Fathers never intended for a private club of summiteers to set Federal spending priorities. We must vote down this devastating package borne in a cloud of cloistered secrecy, and instead craft a fiscal course that serves the interests and needs of all Americans. Do not be intimidated by political pressure or partisan gamesmanship. Please join me in voting for the best interests of the people who sent you here.

I believe in America. I believe that my vote—that my voice—must be representative of the people who sent me here. I believe in America—I believe in our democratic form of prepresentative Government and I trust and believe in the people who elected me. Tonight, I carry their message to this Federal legislature—do not punish the American people for the mistakes of the past. Care for their needs through compassionate fiscal restraint; believe in America. Do not be intimidated by political pleas. Please vote this down. And give America a voice in crafting a responsible and compassionate deficit reduction package that will create for ourselves and for the generations to follow a better America.

□ 2350

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I rise in support of this budget compromise.

The phones in my congressional offices have not stopped ringing since Monday morning. All of the callers agree on one point: Our budget deficit must be cut. Most of them also agree on a second point: deficit reduction should not come at their expense.

Beer drinkers don't want to pay an extra 2.5 cents for a can of beer. Car and truck owners don't want to pay an extra nickel or dime for a gallon of gas. Smokers don't want to pay an extra 4 or 8 cents for a pack of cigarettes. Persons earning more than $100,000 don't want to lose any of the deductions they now enjoy. Merchants selling expensive jewelry, furs and boats don't want to lose any customers due to a luxury on the goods they sell. Health care providers want to be reimbursed more not less for the services they provide. Senior citizens want no freeze on their annual COLA's, but they do want to see their out-of-pocket Medicare-related expenses frozen. Farmers want bigger subsidies, not smaller ones. Defense industry workers want to avoid layoffs. The insurance industry wants to be left alone. In short, everybody wants to go to heaven, but nobody wants to die.

This week, I have spoken with a number of our colleagues who apparently believe that once this compromise is defeated, they can put together a coalition of 218 Representatives and 51 Senators to pass a budget package more reflective of their philosophical views and put it on the President's desk. That, my friends, is a pipedream. It isn't going to happen. That belief represents a triumph of hope over experience. There are not 218 House Democrats and 51 Senate Democrats who will vote for a real deficit reduction plan that cuts spending and raises taxes, while every Member of the opposite party votes the other way.

If you plan on voting against this compromise today, you are playing a high-stakes game. If you want to throw financial markets into turmoil, vote against this package, cause the dollar to fall and interest rates to rise, vote against this package. If you want to trigger a transportation nightmare in this country, affecting airline passengers, Amtrak passengers, and mass transit commuters, vote against this package. If you want to close hundreds of Head Start child care programs and chapter 1 programs for disadvantaged kids across America, vote against this package. If you want to return school lunch programs to the days when ketchup was a fruit and relish was a vegetable, vote against this package. If you want to deny the chance for a college education to a million needy students using Pell grants and guaranteed student loans, vote against this package. If you want to make Meals on Wheels grind to a halt and to slash service at every Social Security office in this country, vote against this package. If you want our country to fight the war on drugs with one arm tied behind its back, vote against this package. If you want to cripple the most promising initiatives in years that could enable hundreds of thousands of Americans to move off the welfare rolls and onto payrolls, vote against this package.

If you want to protect our environment and the health and safety of American workers less, vote against this package. If you want to shut down meat and poultry processing plants and to play havoc with the lives with a great many dedicated civil servants and their families, vote against this package. And finally, if you want to demonstrate graphically to all Americans and to the world our inability to govern, vote against this package.

As I approached today's vote on this deficit reduction package, I took a step back to reflect on the reasons that led me, and I suspect many of you, to run for Congress in the first place.

We did not run for Congress in order to leave to the courts, to regulators, to OMB, or the Gramm-Rudman meat ax the responsibility for making difficult, politically dangerous decisions on the most critical issues facing our country.

We did not run for Congress in order to hold our fingers in the wind to discern how public opinion is blowing at a given moment and to vote accordingly.

And, we did not run for Congress to cast votes that might be politically expedient, but were not in the long-term interests of our country and its people.

We came here to make tough decisions. We have been entrusted by the people of our States to use our best judgments and to hammer out needed, if difficult, compromises with those holding differing views. We came here to govern. We came here more concerned about our country's future than about our own political concerns.

Let us recall today those reasons that brought us to Congress in the first place. Let us vote to adopt this budget resolution. It is the responsible thing to do.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. OBERSTAR], a member of the Committee on the Budget.

Mr. OBERSTAR. Mr. Speaker, tonight we vote on process, not substance.

Yesterday in the Democratic caucus, I raised the question, if this resolution is adopted, would the committees have the latitude in reconciliation which will become law to make changes in the specific provisions of the summit agreement and bring reconciliation through rules and to the floor. The Speaker, with the President's concurrence, issued a clarification statement today which makes it clear that committees have that latitude. The pivotal clarification he issued shapes the nature of our debate tonight.

A vote for the resolution is a vote to give Congress the opportunity to regain control over the budget process. We will have, in our committees, the opportunity to reshape and make significant changes in Medicare, tax policy, defense spending, unemployment compensation, highway and aviation restructure investments. We need to reshape the future of this country.

With that assurance, I will vote for this resolution, but I will retain the right and exercise that right to vote against reconciliation if it does not meet my hopes and my dreams.

Mr. Speaker, tonight we vote on process, not substance. Yesterday in the Democratic caucus, I raised this question: if this resolution were adopted, would committees have the latitude, in the reconciliation bill—which will become law, to make changes in the specific provisions of the summit agreement and bring that reconciliation bill through the Rules Committee to the floor.

Late today, the Speaker issued the following statement:

The President and the bipartisan leadership always understood that many of the policies set forth in the budget agreement are for illustrative purposes only and that the committees of jurisdiction retain the

right to achieve the savings required through alternative policies.

This pivotal clarification reshapes the nature of our debate tonight. It defines the question before us as a procedural vote—a vote on a 5-year, $500 billion deficit reduction goal—not a vote on the specifics of the summit agreement.

A vote for this budget resolution is a vote to give Congress the opportunity to regain control over the budget process. The Speaker's statement of clarification means that House committees will have the latitude to make significant changes in Medicare, tax policy, defense spending, unemployment compensation, and the highway and aviation infrastructure provisions of the summit agreement.

With that assurance from the Speaker—that we will be able to bring an alternative proposal to the floor of this House—I will vote for this resolution, to give the House the opportunity we need and deserve to reshape this budget to meet the needs of the people we represent.

I retain and will exercise the right to vote against reconciliation if that bill does not reflect the priorities that I hold dear.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I rise in opposition to the resolution.

Mr. Speaker, I signed the No Tax Increase pledge when I ran for Congress 4 years ago. I signed it again in 1988, and again this year.

I didn't make that pledge to my constituents because it was politically expedient. I did it because it was right. The American people are not undertaxed. The Congress has no lack of revenue to spend.

Ten years ago, the Federal Government collected more than $599 billion from the American people. Next year, revenues will total nearly $1.2 trillion—almost double the fiscal year 1981 level. However, the summiteers don't seem to believe that a doubling of revenues is enough. They want to levy one of the largest tax increases in the Nation's history on top of that.

Well, Mr. Speaker, I can't go along. I have to vote against the budget summit agreement, and I am going to do so for essentially three reasons.

First, this is not a deficit reduction accord. It is a tax increase accord, plain and simple—$134 billion in higher taxes over the next 5 years. And, that $134 billion is in addition to the revenue increases that will be generated as a result of economic growth.

The accord foresees revenues of $1.5 trillion by fiscal year 1995—a total of $338 billion more than in fiscal year 1991. How can our economy prosper with the Government taking that much out of the people's wallets? The answer, Mr. Speaker, is that it won't prosper. This tax increase will send the already soft economy into certain recession.

Second, the spending cuts purported to be in this package just don't exist. Spending will actually increase under this budget by $98.3 billion next year—up 7.8 percent. About the only thing that might be cut is the rate at which spending will increase.

Of the claimed spending reductions, about 20 percent aren't .eally spending reductions at all. They are fees, taxes, and premium increases—just more taxes.

A large portion of the reductions, the fees, come in the Medicare Program. Senior citizens would face higher premiums and a higher deductible amount on their Medicare coverage. Many seniors have told me they would be willing to pay a little more, but only if others had to make similar sacrifices, and only if Congress reduced spending. But, those other cuts haven't materialized.

Moreover, any claimed savings that do exist are certain to disappear as a result of the leadership's assurances to members of the majority all day that the specifics can be rewritten in the committees to satisfy the objections they might have.

With that assurance, any semblance of discipline remaining in the package is gone. The committees have produced budgets based on nothing but smoke and mirrors year after year. They will do it again, unless the terms of the agreement are binding—and apparently they are not.

Third, critical enforcement provisions are missing—no balanced budget amendment, no line-item veto, no enhanced rescission authority, no effective sequester.

Mr. Speaker, we have heard a lot here tonight about leadership. We've heard that it takes leadership to cast an "aye" vote on this package. Well, I don't think the American people really believe that leadership is about making bad choices, or blindly following the summiteers. That is not leadership.

What this budget resolution tells the American people, if it passes, is that Congress has no leadership; that it would rather lay a tremendous tax burden on the backs of the American people than make the difficult choices about how to spend less money.

Let's not fool ourselves, Mr. Speaker. The choice before us tonight is not between this package and the Gramm-Rudman-Hollings cuts. There are alternatives ready to be brought to the floor. Several weeks ago, for example, a number of us on this side of the aisle proposed the "4-percent solution." We also can consider a spending freeze. And, there are others.

Mr. Speaker, I urge my colleagues to vote "no" on this resolution. It is not fair. It is not effective. It is not the best we can do.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I rise in strong support of the budget resolution, not because I love it but because I recognize it as the only resolution which can pass this House.

Mr. Speaker, this Nation has arrived at a moment it has never before faced. This is the moment when the great size and cost of the Federal debt and the yearly budget deficits which add to it have forced this Congress to finally evaluate its future, and that of the national economy.

The share of the national debt of each man, woman, and child in this country now stands at $12,400. For a family of four that equals nearly $50,000. The Federal Government can no longer continue to mortgage the futures of this country's children.

A budget agreement has been reached by a bipartisan group of congressional Republicans and Democrats along with the President. It results from our Nation's confrontation with its fiscal future and our desire to finally end what has for too long been one of the Nation's greatest economic concerns—the Federal budget deficit. This agreement seeks to end the yearly deficits that have increasingly dragged down our economic future.

Mr. Speaker, if I could have designed my own budget, I would surely have included a capital gains cut, greater cuts in Government waste and spending and, at the very least, much less in taxes. In short, I would have done it a lot differently. The fact is, however, I am but one of 535 Members of Congress, and cannot always have my way. In truth, no Member feels he or she got it entirely their way in this budget agreement.

For the first time in Congress, this budget agreement includes caps on spending along with enforcement language requiring spending increases to be self-financing. In other words, if someone desires increased spending in a particular area, spending must be reduced somewhere else. This is a crucial step toward keeping the deficit, once balanced, in balance.

In the area of taxes, I have of course been extremely reluctant to support revenue measures. I have voiced concern over the effects of tax increases on the economy. Yet, Mr. Speaker, those that are included are of a nature that should not drastically affect the Nation's productivity. Some are phased in over a period of years. Others apply to only the wealthiest of individuals. Importantly, we allowed no increase in income tax rates.

Savings amounting to $500 billion is a lot of money, even when spread over 5 years. I think this Congress can continue to reduce spending; I think Congress can continue to reduce waste; I believe Congress must continue to look to ways to encourage the private sector and eliminate inefficient Government entities.

This budget agreement is an attempt to move toward reducing years of excessive governmental growth. I promise to continue my efforts toward more efficient, less expensive government. Years from now I hope we will look back at this agreement, remembering the skepticism and disdain in which it was first held, yet realizing it worked.

We have reached the end of the time in which we can just talk. We must, and will, act to do what needs to be done. It is not easy, just necessary.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, I certainly have a lot of reasons to oppose this resolution tonight: $13 billion in agriculture cuts, that is not a sector of my economy, that is my economy.

I certainly have a lot of reasons to oppose this. I have a district in a State has the highest density of people over the age of 85 in the country, and I also have a district that is going to get all of those middle-class taxes, because it is mostly middle class like the rest of the country.

But I am going to support it, and I have supported it since the beginning basically because my people told me to. They did not know they were saying that, but when I polled them about a week ago on economic matters, the one thing that concerned them as much as the Middle East, which is foremost in their minds, was the national debt, not agriculture, not Social Security, not Medicare, not even Iowa; the country. Maybe what they were saying at that time was, "You have got a choice to make here, politics which is about making speeches, or governing, which is about making choices."

If they can say that to us even before they knew what the gas tax was going to be or the dairy assessment or whatever, if they can say that they want us to pull together and come up with a national solution, we can at least begin that process tonight. We can at least support an agreement that the President and the Speaker and the majority and the minority leaders, maybe for the only time in the next decade, agreed upon begrudgingly. We can at least support that consensus.

I am going to support that consensus, because I believe the way the people of my district believe, that you cannot delay, you cannot debate, you have to deliver.

Support the resolution.

Mr. PANETTA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the resolution.

Mr. Speaker, I cannot vote for this deficit reduction budget resolution House Concurrent Resolution 310. The issue is fairness and equity. This budget package is neither fair or equitable. It does not distribute the tax burden fairly across the board. It favors the wealthy at the expense of the middle-income families.

First of all, Mr. Speaker, asking our elderly to pay an additional $383.40 each year for Medicare benefits is not fair when the rest of the Nation is not being asked to make the same or equivalent sacrifice. Many of our elderly are barely making ends meet. This resolution asks senior citizens to pay more than many can afford for medical care. Many will be forced to cut doctor visits, which are so essential for their health care and maintenance. This resolution cuts Medicare reimbursements to hospitals and clinics which will force many to shut down, making delivery of health care to the elderly even worse. Mr. Speaker, this resolution's Medicare provisions are cruel and unfair and cannot be allowed to take effect.

Second, the gasoline tax increase is especially unfair on my constituents who must drive long distances to and from work. I represent rural Hawaii. My constituents will suffer greatly from this tax increase. Hawaii already has the highest gasoline tax in the Nation. If this package passes, it would raise our combined local, State, and Federal gasoline tax to 52 cents a gallon. This is an outrageous levy on the working people, who are being asked to pay more than their fair share.

Mr. Speaker, the very wealthy, those in the upper 10 percent of the income scale, are being asked to carry only a small fraction of the burden. It is the middle-income families making from $20,000 to $50,000 a year who are being hit the hardest. Their burden is twice that of the higher brackets. The wealthy already benefit from the current tax laws, which give them a lower rate at the higher incomes. This inequity was not corrected in this deficit reduction package, ignoring the fact that the middle-income families are being asked to pay more while no adjustments to make the rates more equitably for them were included.

Finally, Mr. Speaker, this budget package allows for many tax loopholes that are vague but could result in massive windfalls for many corporations. The cost is listed at $12 billion. Why should this Congress vote for $12 billion more in tax loopholes in a deficit reduction package that levies new taxes on the working people? It is wrong to put in tax loopholes of undetermined magnitude and only justify them by saying they are needed for stimulating the economy.

Mr. Speaker, this resolution is unfair and inequitable. I urge the House to vote down this resolution so that we can write a budget that represents our sense of equity.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, the hour is late, the frustration is high, the oratory has been inspiring, sometimes, but let us stop and think what we are voting on, and we should vote aye on this.

This is a resolution. This is not law. This is a resolution that asks us and directs us to go back to our committees and to take our responsibilities and figure them out as best we can and then bring them back to the floor where we will try to make law. We owe that to the American public to do that.

There are three principal problems with this, and there are others, but there are three principal problems.

Medicare: Give us a chance, we will fix it. The burden distribution: Give us a chance, we will fix it. The tax expenditures: Give us a chance, we will fix it.

But do not vote no and bring down this Government in disgrace and disaster. Give us a chance to work.

We owe that to ourselves and to all the American people.

Mr. FRENZEL. Mr Speaker, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. BURTON.].

Mr. BURTON of Indiana. Mr. Speaker, how much money do we want to spend, folks? How much money do we want to spend?

Ten years ago, we were getting $599 billion in revenues from all kinds of taxes. Now, this next fiscal year, we are going to get $1.2 trillion, more than double the amount of tax revenues we were getting 10 years ago, but that is not enough.

Over the next 4 to 5 years, we are going to get at least $80 billion in new tax revenues without a tax increase because of economic growth, the growth that was started under Ronald Reagan, and with 21 million new jobs. But that is not enough. With $80 billion plus the $600 billion a year we are getting in new revenues from 10 years ago, that is not enough.

We are now going to load on the back of the American taxpayers the largest tax increase in American history. We are going to increase the gas tax, the beer tax, the wine tax, the cigarette tax, first-time sales tax, we are going to increase home heating oil 2 cents a gallon, we are going to increase Medicare fees by $30.7 billion.

Where is it going to end? I do not believe that we are going to cut spending. We did not cut it in 1982 when we passed TEFRA, and this House guaranteed that for each $1 in new taxes, there would be $3 in spending cuts. And I do not believe it now.

The American people want a lid put on spending. They do not want new taxes.

If we pass this, make no mistake about it, the precipice on which we sit right now, this recession that faces this Nation that we are about to enter, will be exacerbated. Hundreds of thousands of people will lose their jobs, and it will be on our heads.

We do not need a tax increase right now, folks. We need to cut spending.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as distasteful as it is to choose bad policy, it is better than choosing no policy. We should support this agreement.

This budget agreement is an abomination. Adopting it would be worse than all other possibilities except one—and that is not adopting it.

We have the awful choice between a grossly unfair agreement, on the one hand, and a plunge into fiscal and governmental chaos, on the other. As distasteful as the choice of bad policy is, it is preferable to the choice of no policy—a default in government—and the potential for catastrophe that goes with it.

Why resort to the seemingly dramatic use of a word like "catastrophe"? Because I believe there is a very real risk that's what would ensue. And I can't see how I meet my most fundamental responsibility to the country if I cavalierly ignore that risk. It is a risk that derives from the absence of any authority to fund the operations of the Federal Government after midnight on October 5, and the absence of any prospect for legislation to provide that authority unless Congress gives its approval to this lousy agreement.

Let's start with the basics. We simply have to get the deficit under control. And that's the basic purpose of this agreement—cutting the deficit by $40 billion this year, and by $500 billion over 5 years.

Wrongheaded policies over the last 10 years have produced a mountain of accumulated deficits. The national debt has more than tripled. It is mortgaging our future, draining national savings and investment, and leaving us dependent on loans from foreign countries. We have to reduce the deficit; we have to stop adding to the debt.

The people of this country understand that we can't keep operating in the red. They understand that reducing the deficit requires real action—not more of the accounting games and gimmicks that have enabled Washington for years to pretend it's reducing the deficit.

This budget agreement will mean real deficit reduction. That's the best that can be said about it. It is largely free of gimmicks, sleight-of-hand, or false accounting. It would cut spending, raise revenue, and reduce the deficit. And with that comes real pain.

Americans are willing to accept some cuts in spending, some increases in taxes, some belt-tightening all around, some pain—as long as they believe everyone is being called on to bear his fair share. They deserve no less. Unfortunately, this agreement gives them a lot less.

Take taxes. One of the myths of current politics is that Americans won't tolerate any increase in taxes and will vote against all candidates who do. When I first ran for Congress in 1986, I said that some tax increase would be a ncessary part of any balanced, effective package to reduce the deficit. And I've repeated that since then, in campaigns and in office. I've found people are willing to accept the idea of tax increases, if it's part of an overall, comprehensive program, and if the taxes are fair.

But this budget agreement would instead continue the recent trend of making the Tax Code less fair. Throughout the 1980's, tax changes kept giving breaks to the people with big incomes, and putting more and more of the tax burden on the people with low and middle incomes. It's long past time to reverse this trend, and make those who got the big breaks in the 1980's pay their fair share again.

Instead, this agreement would increase the tax burden on the low- and middle-income Americans more than on the wealthy. For example, families in the $30,000 a year category will pay 3 percent more in taxes; those over $200,000 a year, only 1.5 percent more. That is a fundamental flaw in the agreement. And it is a huge flaw. But it is not the only one.

It's also unconscionable to me that this budget relies on Medicare to make up a fifth of all cuts. Higher premiums, higher deductibles, and drops in payments for services will seriously affect millions of elderly and handicapped people who are dependent on the program, as well as the hospitals and physicians who serve them. Comparably outrageous is the idea of forcing those who lose their jobs to wait an extra week before becoming eligible for unemployment insurance.

The agreement on defense spending is also grossly inadequate. It would actually increase budget authority for defense in fiscal year 1992 and 1993. Have we completely closed our eyes to the changes going on in the world? The huge buildup of the past decade was designed to provide a defense against a Soviet threat that is not at all what it used to be. The world is not yet, and is not likely to soon be, a safe place, but there certainly are responsible ways to reduce the military expenditures while still meeting our current, real defense needs.

The agreement also includes $20 billion in tax breaks for business, much of that in the form of dubious incentives for certain businesses. These include $4 billion for an oil and gas industry already benefiting from high profits induced by the Persian Gulf crisis.

In short, I disagree with virtually everything in this agreement. But—and this is a critical "but"—it's better than having no agreement. The immediate consequences of rejecting this budget would be chaos, and could be catastrophe.

We're painted into a corner. By the size of the deficit. By the failure of the summiteers to reach an agreement any earlier. By the lack of congressional approval of any appropriations bills. By the expiration tomorrow night of all authority for any governmental spending. By the expiration the next day of any additional authority of the Government to borrow money. By the Gramm-Rudman-Hollings Act, with its impending cuts of more than 30 percent in all nonexempted programs.

Without a budget agreement, it's hard to see the Federal Government will continue to function for long after tomorrow, when appropriations under the current continuing reesolution expire.

We'll need a new continuing resolution to keep the Government operating. The House surely could pass one. But with the peculiar rules and practices of the Senate, it's not at all certain they could. And the President has vowed not to sign another continuing resolution, especially so if it lifts or delays the Gramm-Rudman sequestration provisions. Thus, we'd likely face at least a few days of the Government being without any funds, of Government being closed down. On top of that, the current extension of the Federal debt ceiling will soon expire, and with it the Government's authority to borrow money.

Eventually some agreement on a new continuing resolution would have to be produced, but probably one that left the Gramm-Rudman sequestration in effect. That would mean across-the-board cuts of 32.4 percent in domestic programs and 35.3 percent in defense programs.

The net result of all of this would the complete, even if temporary, cessation of all Government programs and activities. Which would be followed by a one-third cut in those programs and activities when they resume. Including the funds for our military forces in the Persian Gulf, and for essential services, like getting out Social Security checks and managing aviation operation, at home.

The Government would default on Federal bills and obligations for the first time in the history of our Republic. And that could easily trigger a panic in financial markets and flight from our economy of the foreign funds on which we absolutely depend.

We could have chaos in our Government, chaos around the country, and—as the effects of our inability to govern ripple outward—chaos in other world markets.

As I've said, the budget agreement would bring down the deficit. If this agreement, which took 5 months to prepare, isn't adopted, it's hard to imagine how the next one that's put together to do as much. I fear instead a return to past practice: A stopgap, 1-year proposition, full of gimmicks and false promises.

So I will vote for this budget conference report, in part because all we're really adopting at this point is an outline. This is a budget resolution, and as such only provides the overall targets and limits on Federal spending and revenues. The details of implementation will be filled in later with other legislation—a reconciliation bill to raise taxes and make other changes in law, and 13 separate appropriations bills. And on those, I plan to work like crazy to make sure the details are a heck of a lot fairer than the details of the summit agreement.

The broad outline and recommendations that we pass today are not etched in stone. As the agreement itself admits, Congress still has to act on the particulars and still has some discretion. I fully expect that between now and the consideration of a budget reconciliation bill, we'll be able to moderate some of the worst provisions we're faced with today. And that's the legislation on which my and our final judgment will be made.

We also have to recognize that this budget agreement is the product of a divided government. The American people have elected a Republican President and a Democratic Congress. This agreement is the ugly child of that most awkward relationship. We shouldn't expect it to be pretty.

In my 4 years in Congress, I've never voted for anything that I like less than this budget. But, as bad as it is, I truly believe the alternative would be worse.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, I rise in support of House Concurrent Resolution 310, the budget resolution.

Mr. Speaker, I rise in support of House Concurrent Resolution 310, the budget resolution.

It is way past time for the Congress to face up to its fiscal responsibility. We have waited until the midnight hour. We have waited until our national debt is over $3 trillion. We have waited until the interest on the debt has become the third largest component of our budget. We have waited until we are now selling a large number of our Treasury bonds to foreign countries in an effort to meet our Government's spending requirements. In fact, the foreign debt portion of our national debt will soon reach $1 trillion.

Mr. Speaker, every member of the Congress is aware of the terrible situation we have gotten the country into. I dare say that the majority of us have

made speeches demanding the opportunity to cut spending, to balance the budget, to get the Government operating within its income.

I have advocated that if we are going to keep the great free enterprise system of America working—the system in which the roots of our Constitution is embodied—we must pay up our bills from time to time. Everybody does this now or risks some type of penalty—families, workers, corporations, small businesses, cities, counties, States, and, yes, the Federal Government must do so also. We have managed to prevent paying our bills for too long a time.

The first $100 billion debt was presided over by President Kennedy. President Carter left office with a national debt of $900 billion. President Regan with the support of Congress ran up a debt of over $3 trillion. We all agree that deficit spending must cease.

I could praise President Bush and the congressional leadership for biting the bullet and taking the initiative to cut $500 billion over 5 years and $40 billion in fiscal year 1991. I also could praise my colleagues who support this budget resolution, and I do to some degree despite the pain it will inflict on many citizens.

But the truth is that we can't go any further responsibly without drastic measures. This is our opportunity. Personal politics should not be a factor. It is time to use a strong dose of intestinal fortitude.

Mr. Speaker, I urge the support and passage of House Concurrent Resolution 310, the budget resolution.

□ 2400

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN]

Mr. LEVIN of Michigan. Mr. Speaker, we are voting tonight on a budget resolution, not on the final reconciliation package. We are at the beginning, maybe the middle, but clearly not at the end of the budget process.

The Speaker has received assurances from the President that modifications in the summit agreement can be made, and they will be, I am sure, in the Medicare cuts that are too deep, in the mean-spirited 2-week waiting period for the unemployed, and in the unfair share of new taxes on the middle class.

The choice tonight is between chaos and orderly procedures. I vote for orderly procedures, to attack in a fair way the budget deficit that truly threatens our Nation.

Mr. FENZEL. Mr. Speaker, I yield 5 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I very unexpectedly thank my colleagues on both sides of the aisle for their reception here this evening. It is very touching.

I guess I have to go back to a year or so ago when we dealt with a very difficult issue of ethics and pay. We dealt with it on a bipartisan basis. It was kind of surprising how the results came out.

As far back as May of this year when it became obvious that we were not going to meet our deadlines, the President felt he had no recourse but to convene a budget summit on a bipartisan basis again, to get Members off dead center. We all know the sequence of events that followed, but only a few Members have been privy to the give and take that took place, the tortuous negotiations, particularly in the last 10 days of those negotiations.

I have heard those Members who expressed frustration at being on the outside and looking in. I wish there were a better way of doing it. I made mention to some of my Members that I wish we could have run different Members in randomly, a couple at a time for several days, so everyone would get the flavor of it. So that Members would realize that, brother, this is no black and white easy issue one way or another. There have to be so many considerations that take place in crafting legislation of this kind. I wish I could, as I said, take the time to take Members through all the give and take that led Members up to the final agreement. But that is not possible under our time constraints.

Suffice it to say that the strong point of our agreement can be found only in its totality. We have to accept it as a whole, as it provides the only bipartisan basis for attacking the deficit problem. We lose this moment, pick apart the agreement with 1,000 points of spite, and we not only lose the agreement but the ability to truly govern. What we have wrought is a package that reduces the deficit by $41 billion in 1991 and $500 billion over 5 years. We were shooting for $50 billion and $500, but then we found out when we got there in the last day or so that, frankly, the kind of revenue increases that we had in mind by way of the gasoline tax, were probably too much for the economy to assimilate. So we shrunk the numbers down to $41 billion in that first year. It is the largest deficit reduction package that has ever been contemplated.

The agreement does produce $120 billion in entitlement and mandatory changes, getting at the very heart of the fastest growing part of the budget. Medicare alone is now $90 billion this year, 5 years from now it will be $180 billion. It is the fastest growing program in the Government, increasing at a rate of 12.6 percent a year. What did we do by this agreement which is getting so much criticism in that area? We cut the rate of growth by 1.6 percent. However, I will say, folks, if we cannot make any savings in the entitlement programs at this time, I do not know where we are going to be in a generation.

I was appealing to Senator BYRD and the gentleman from Mississippi [Mr. WHITTEN] and some of the appropriators for the committee on which I served, where I thought we always did a pretty good job of whittling and whittling, and cutting and cutting. We are not going to have any pie to distribute in a few years because entitlements are driving discretionary spending down. We cannot cut entitlements on a piecemeal basis. No Member can take the heat.

What we are attempting to do here is to place it in one package, up or down, to get something enacted.

Yes, I am reminded of the criticism. Remember what happened with TEFRA? I remember. We did not have any entitlements savings in TEFRA. We did not have any enforcement in TEFRA. Yes, we raised $3 of revenue for barely $1 of savings. This is a different ballgame we are playing. We are playing under different rules. The agreement does provide continued Gramm-Rudman discipline and strong enforcement by way of automatic spending cuts, if any spending category has been exceeded.

The agreement will cause Government spending to drop as a percentage of GNP from 23.4 percent to 18.2 percent. Short-term interest rates ought to be affected by that—falling—leading to long-term growth.

The defense figure is controversial. Some want more here, others want less over there. I think we have arrived at a good common denominator for our defense figure.

Yes, we protected Social Security. We know how sensitive an issue that is. Some Members like freezes, or maybe even just a 2-month delay, or a 3-month delay. We stayed away from it. We do not touch it. Oh, yes, there was the temptation, to raise the amount of Social Security taxed from 50 percent to 85 percent. We stayed away from it. My friends over here who were so adamant about not raising marginal rates—we are proud of the fact that marginal rates have come down from 70 to 50, 33, and 28 percent—we did not touch them. We get no credit for that. Every Member has his plan. To my friends, whom I love dearly, I will vote with them, and there will be 40 Members on this plan; 45 or so on that plan and 50 on that one. We could not even get on our side the 176 votes together on the President's budget.

Oh, I wish Members would just think about the problem and the trauma we had when the mathematics did not play out. We have divided Government. The President is of the Republican Party and Democrats control this House. I have never once been in the majority in this House for 34

years. I would like to do it sometime, but it has not happened. I regret that, but we must come together. This is why I appeal to you. Tough, tough thing to do. After years of passing out the goodies, and running deeper and deeper in debt, now is the time to ante up, to pay up. It is a difficult situation. However, I wish we would get a little bit of consideration for the trauma that your negotiators had to go through over all that period of time. Give Members some credit for having some sense, and what we were able to do in a very practical way with the mathematics and the divided Government with which we had to contend.

I hope Members will give this an affirmative vote. It is not the last day because we still have an opportunity through reconciliation, to improve the product. I would appreciate it if Members could vote for it, and help out on this important vote.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, there are many parts of the conference report incorporating the budget summit agreement that I don't like. The increased costs to Medicare beneficiaries are unjustified. The President's economic incentive programs will create new loopholes in our tax laws for the rich. The defense budget allocation should be lower. The distributional effect of the package demonstrates that those best able to contribute to the deficit should be paying more. If I were crafting the budget resolution, each of these issues and many others would have been handled differently. It was the President who got his way in each of these matters.

But the budget resolution does meet the most important test. It really reduces the Federal deficit. It does so by reducing spending and increasing taxes. The new revenues and the spending cuts go to reducing the deficit. The Gramm-Rudman law is modified to make it more acceptable in accomplishing its purported goal of reducing the Federal deficit. The Social Security trust fund is taken off the Gramm-Rudman targets. Individual limits on each area of Federal spending are established within the Gramm-Rudman law that make more sense. The agreement is the best deficit reduction package that Congress will be able to enact in an orderly way and that the President will sign.

The compromise could have been much worse. The Social Security trust fund has been protected. Social Security recipients were not penalized by COLA delays. Layoffs or furloughs have been avoided for Government workers.

The adoption of this budget resolution makes possible the extension of the debt limit that will avoid the collapse of the Federal Government and provide for the orderly continuation of Government services. We will then have the opportunity to improve this package as the tax bill and spending programs make their way through our committees.

The time for action is now. To vote for the compromise is not popular. No one likes to increase taxes and reduce services. But courage is needed to pass this compromise so that the Federal Government can be a responsible partner in the building of our economy.

□ 0010

Mr. FRENZEL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in support of this package.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in opposition to this resolution.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. DICKINSON], the distinguished vice chairman of the Armed Services Committee.

Mr. DICKINSON. Mr. Speaker, I rise in support of the resolution.

Mr. Speaker, we as a nation are headed for a train wreck. To do nothing to head it off is to be direlect in our duties—regardless of how unpalatable it might be.

Mr. Speaker, the best position I could hope for politically is to vote "aye" and then have it fail. When the train wrecks I can smugly point to my vote and say "I did what I could to prevent it. But I was outvoted." That way I will be vindicated. What a price this country will pay. I will vote to head off the train wreck and pray it succeeds. I will vote in support of the resolution.

Mr. FRENZEL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise in strong support of this resolution. Let us remember, to do otherwise would be disastrous.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, how can this body foist upon the American people the second biggest tax hike in American history? How can we raise the premiums on sick and elderly Americans when we have not had the courage to say no to unnecessary and wasteful spending?

I do not have time to read the list, but I just have to say that we have not had the guts to say no to rich farmers, to troops for Korea, to art subsidies, and to waste by the bucket.

Many of those supporting, and some of those opposed to this budget resolution, this tax hike, have had words to say about the Reagan tax cuts as if without those tax cuts and the prosperity that resulted, that our level of deficit spending would be lower than we are now experiencing.

If this tax hike passes, you will get your chance to see what we would have had, had those tax cuts under Ronald Reagan not gone into effect.

If this tax-hike package passes, it is back to recession, back to high interest rates, back to double-digit inflation, back to malaise, and our level of deficit spending will be higher to boot.

Mark my words, come back in a year and we will find that the level of deficit spending is higher than is it right now, just as it would have been all along had those Reagan tax cuts not been implemented. It will not be deja vu all over again if this tax hike package passes. It will be Jimmy Carter all over again.

Mr. Speaker, I am opposed to this package.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, based on the representations that have been made here today that we will correct the inequities in the Medicare funding in this program, I rise in support of this resolution.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Speaker, I rise in support of the budget resolution, the largest deficit-reduction package in our history and the most realistic means we have of putting America's fiscal house in order.

This budget plan, negotiated by the leaders of this body, the Senate, and the Bush administration, would reduce the Federal deficit by $500 billion over the next 5 years through a combination of spending cuts, program revisions, and revenue increases.

Much has been said about the disastrous consequences of failing to pass this resolution, and rightly so—for the result could be not only a dangerous breakdown of government but also a body blow to our already weakened economy. As the President said in the letter he sent to Members today, "Failure to enact the agreement would result in governmental disruption and, quite possibly, recession."

On the other hand, if we pass this resolution we can show, despite the difficulties of divided government and despite the painfulness of the decisions we must make, that we are determined to work together for the common good. We can restore the badly shaken faith of our people that we can govern, and we can send a long overdue signal to the international marketplace that America's decade of fiscal irresponsibility is over.

This agreement will help us bring interest rates down, thus allowing young homebuyers

and small-business entrepreneurs to finance their first home or their creative new idea. It will reassure the financial markets and provide a more stable and fruitful environment for economic growth and capital investment. It will help us to get beyond these debilitating, unproductive annual wrangles over the budget, to make our decisions about what to cut and what to spend more rationally, and to get started on some critically needed national investments.

This budget agreement is not difficult to criticize, either in many of its particulars or in its distributive impact. I have opposed several of the provisions within it, and am especially disappointed that it does not do more to reverse the shift in tax burden that has been the hallmark of the Reagan-Bush years—away from the wealthy and toward people of modest income. The package has some progressive elements—luxury taxes, reductions in allowable deductions for those earning over $100,000—but because of the intransigence of Republican negotiators, the wealthy got off far too lightly.

I am encouraged by the Speaker's confirmation after his meeting with the President today that the committees of jurisdiction will have the ability, as the reconciliation bill implementing the agreement is drawn up over the next 2 weeks, "to achieve the savings required through alternative policies." It is my hope that this flexibility will be used to the maximum extent possible to achieve a budget that is fairer and more equitable in its impact.

At the same time, far too little has been said about the positive aspects of this plan both in what it achieves and what it leaves alone. It protects Social Security recipients and federal and military retirees from COLA freezes. It extends the low-income housing tax credit to keep in place an important incentive for developing affordable housing for the poor in this country. It increases the earned income tax credit to help working families cope with the financial demands of raising a family in these difficult times.

Moreover, while those who plan to vote "no" have said a great deal about the pain this proposal will cause among the people and the constituencies we care about, they have said less about the consequence of not acting, the consequences of sequestration. For example: 113,000 children cut from Head Start; 83,000 inpatients and 1.7 million outpatients losing their Veterans Administration medical care; 1.4 million students—fully 35 percent of all recipients—losing Pell grants and 2 million other students finding their grants reduced; thousands of mothers losing the vital prenatal care required to reverse unacceptable infant mortality rates; furloughs for hundreds of thousands of Federal employees; and a cut far beyond what any responsible defense analyst believes is possible in fiscal year 1991 without threatening the ability of the Armed Forces to respond to threats to national security.

Another positive feature of the agreement is its pay-as-you-go provisions, a method of enforcing budget discipline but also of adjusting to changing priorities and needs. Pay as you go is a simple concept: if you propose something that increases spending or decreases revenues, you must make up that loss to the Federal Treasury from another source. This provides flexibility within a overall structure of this agreement while maintaining the overall goal of significant and sustained deficit reduction. For those of us who disagree with some elements of the agreement, it gives us the opportunity to press for future changes that better reflect our values and changing economic and national security realities.

Today marks a turning point. We can continue to demagog budget questions while our deficit worsens, or we can do something about it. It is time to stand up for our children and grandchildren and to stop passing along to them the bill for our excesses. It is time to have the courage to pass a true deficit reduction package, so that we can get to work on the numerous challenges facing this country. There are many battles left to fight, but the House, by passing this agreement, will win a major one today.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, in listening to many of the speeches tonight I am tempted to rename this body the "House of Excuses". Excuses have been used many times in the last several years to avoid voting to bring the deficit under control, and let us not forget, we do have a deficit problem.

The Leath-Slattery-MacKay budget in 1985 received 56 votes.

The Penny-Tauke-Stenholm proposed budget in 1987 received 27 votes.

Both of these budgets would have reduced our deficit. Members votes against those plans using the excuse that they needed a greater bipartisan agreement. Members votes against the balanced budget amendment earlier this year. The excuse was it did not do anything to reduct the deficit. That it was too easy a vote without meaning.

The amendments cutting spending across the board on every appropriation bill this year have been defeated. Why? Because Members wanted the excuse of waiting for a summit.

Well, now we have the summit. It is not hard to find excuses for just about any vote you want to cast tonight.

But is it now about time we stopped making excuses and started making tough choices?

Vote for this budget tonight.

Mr. PANETTA. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, there are moments when we must remind ourselves that we can often be masters of hyperbole, masters of overstatement. I say that as a way for prefacing my remarks.

I rise tonight to make several concessions, Mr. Speaker. I will first concede that every single Member of this body understands the gravity of the moment in which we find ourselves, every single person. To not understand that would be to be a fool or a knave, and I do not think there are any fools or knaves in this room.

Second, I am prepared to concede, Mr. Speaker, that everyone wants to address the problems. But what I am not prepared to concede is that this budget resolution is the only answer to those problems. Therefore, I rise in very strong opposition to this budget resolution for three reasons.

First, Mr. Speaker, this budget resolution was negotiated within the framework of an absurd idea, Gramm-Rudman, against the backdrop of a very dangerous process, sequestration.

Second, this proposal was negotiated against the backdrop of summitry.

Do Members not understand that, as someone said earlier today, we are charting new waters here. We are blurring the distinction between the executive branch and the legislative branch of Government. We have never flown this route. We have never charted these waters. The creative tension that we call check and balance is going out the window.

You and I were elected to assume our responsibility. You cannot turn that over to four, five or six or seven human beings and back into your paycheck.

We are here to assume burdens, risks, and the responsibility of elective office. Summitry threatens that. Gramm-Rudman frightens that.

Finally, I stand in opposition to the substantive product of this summitry. This proposal embraces priorities that this gentleman came to fight. Twenty years ago I came to fight increased military budgets. It is here.

I came to fight a tax system that benefited the wealthy and harmed middle class and lower income people. This proposal does just that.

I did not come here to embrace a set of ideas that said we must saddle the poor working class, middle class human beings, with the burden of deficit reduction.

Budgets do not exist in a vacuum. We are not accountants here. We came here to stand our ground and to fight for what we believe in.

There are needy people in America. This winter some will die, freezing on the streets of this country. What do we do? We increase the price of home heating oil.

There are homeless, poor people, unemployed people. This budget does not address that.

With all due respect, I ask my colleagues, not out of expediency and lack of courage, but out of the right thing to do, oppose this resolution.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the

distinguished gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I rise in strong support of this resolution.

I have wanted to vote for a budget proposal which would have as its goal a zero deficit ever since I was elected to Congress.

I think the sluggishness of our economy is due in large part to the continuing budget deficits and the cost of financing it. So, I indicated my support for the package early in the week.

On Wednesday, Chairman Greenspan said the summit agreement is "credible and enforceable." I thought this meant the Federal Reserve is prepared to accommodate the budget package by lowering interest rates which will, in my judgment, have a positive effect on our economy.

I received a lot of calls against the budget resolution—mostly from senior citizens because of a slight increase in premiums. The increase is phased in over 5 years—at which time it will amount to an increase of about $25 per month by 1995 which is about $5.10 more than the present law. The deductible will gradually increase by $15 per year to $75 a year to $150 a year by 1995.

Medicare payments have represented the largest increases in Government spending over the last several years. The agreement actually increases Medicare payments by $2 billion but projected reduced costs will amount to $60 billion over 5 years. The premiums and deductible amounts are a small price to pay to reduce the tax burden on our children and grandchildren.

Social Security benefits were not touched.

I received complaints about the increase in gasoline tax, the tax on tobacco, alcohol, and luxury items. There is no increase in individual income tax rates. The tax increases are consumption taxes and will fall more heavily on people making more then $100,000 a year.

The deficit will be scaled back by $500 billion over 5 years; $133.8 billion will come from increased taxes and $301.4 billion from budget cuts.

There is a cap on spending so that if one program is increased, cuts must be made in other programs to offset the increase.

There is a cut in defense spending but not as much as some would have liked—but responsible cuts.

This resolution gives the President what amounts to line item veto authority which I have favored.

Most economists agree the package is a net plus and that it should have a positive effect on the United States and world financial markets.

The budget agreement is not like one I would have preferred—but it is a compromise between leaders with differing political views. I think it spreads the burden fairly—and the benefits for the economic future of our country could be enormous.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Speaker, I rise in opposition to the resolution.

Mr. Speaker, we've been down this road before—

Tax Equity and Fiscal Responsibility Act of 1982 [TEFRA];

Omnibus Deficit Reduction Action of 1984;

Gramm-Rudman Deficit Reduction Act 1986;

Consolidated Omnibus Budget Reconciliation Act of 1987 [COBRA];

Technical and Miscellaneous Revenue Act of 1988; and

Omnibus Budget Reconciliation Act of 1989 [OBRA].

All of those bills raised taxes on the American people, and we still have a budget deficit. Liberals in Congress are fond of saying that tax cuts won't reduce the budget deficit. Well, tax increases certainly won't either. History proves that point. The more we tax, the more we spend.

After taking inflation into account, Federal revenues during the 1980's grew by $254 billion. That means that if we had given every Federal program a so-called cost-of-living-adjustment each year—and saved the rest—our deficit would be $254 billion less. Naturally, we didn't. We spent every dime we got, and then some. Now we're asking the American people for another dime—one for each gallon of gas they buy—so we can reduce the deficit. It won't work; we'll spend their dimes again.

Mr. Speaker, it's not fair to tell the American people that this is the big fix; that passing this resolution and this budget agreement will solve the problem. It won't. I repeat, it won't. We will still have a budget deficit in 1995 and beyond. There is not one enforcement mechanism in this agreement that cannot be changed next year, or the year after, or the year after that.

The only real enforcement mechanism is a balanced budget amendment to the Constitution, and the liberals in Congress torpedoed that effort earlier this year. Now we are told that this agreement is enforceable. We were told the same thing in 1986 when Gramm-Rudman was passed. I'll tell you what, if we had that kind of law enforcement in New Hampshire, my constituents would be scared for their lives. Let's not kid ourselves here; the budget summit agreement is not enforceable.

Mr. Speaker, this budget agreement is fatally flawed. Aside from the painful tax provisions, the agreement makes promises of enforceability, and balanced budgets. Promises that the liberals in this body will not and cannot keep.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. HERGER].

□ 0020

Mr. HERGER. Mr. Speaker, if we adopt this budget agreement we will perfectly illustrate just how isolated the Congress really is from the American people. The public±asked Tuesday night to express their views on this budget plan to the Congress and they have. They have overwhelmingly rejected this sham deal.

Calls from my constituency run more than 5 to 1 against it. I know from talking to many of you that your calls have been running at least as much against this deal. Should we not listen to our constituents? Should we not be listening to our constituents, the ones who sent us here? Should we not at least try considering something else rather than the same old tax-and-spend formula that got us into this budget mess to begin with?

I think it is crystal clear the American people want us to hold the line on spending and establish realistic spending priorities.

Former Budget Director of the Office of Management and Budget, Jim Miller, points out in the Wall Street Journal the inconvenient fact that under the first year of this budget summit agreement alone, taxes were increased $73.9 billion while spending will increase $109 billion.

Clearly the new taxes in the agreement will only go to funding new higher spending, not deficit reduction.

This is just one of the many problems of this summit agreement. We get the taxes up front and we wait for spending cuts in the outyears. The 1982 tax increase offered the same prospect, and the savings never materialized. Instead, we need to adopt one of our alternative plans that places realistic limits on spending and which will get the savings up front where they will really count. And for a change, begin voting and legislating the way that the American people would have us vote and legislate.

Mr. PANETTA. Mr. Speaker, I yield 5 minutes to the distinguished Chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, it is somewhat of a rare occasion when I can address my colleagues in the well and associate myself with the remarks of one of the best friends I have in this Chamber, BOB MICHEL.

In my opinion, this is a time when our President has asked us to support him in the national interest. I am sure he knows the crisis that we face, better than any one of us. So I think that this is a time when we should support him.

The best thing and the best news about this evening's debate is that it is occurring at all.

When I unveiled a little challenge a couple of months ago, I never really thought we would get this far. But we are actually discussing a serious budget package tht could lead to significant reductions in our Federal deficit.

The bad news is that we are debating a package no one really likes for a fiscal year that has already begun. It is a package that certainly imposes big tax increases, makes harsh spending

cuts and still includes the largest deficit in our history.

Before we turn our backs on this plan we should remember how we got here. It took years of irresponsibility on both sides of the aisle, in both Chambers of the Capitol, at both ends of Pennsylvania Avenue to create the mire that we now find ourselves in.

Acting affirmatively tonight will begin to correct a decade of excesses. Before you decide how to vote on this issue, let me tell you what will happen next.

Make no mistake. The Committee on Ways and Means will process its section of the reconciliation bill in a responsible and timely fashion. But that does not mean that we will hide behind the questionable decisions made by others who are not on my committee, who are not elected representatives, and we will not be rubberstamps.

Mr. Speaker, several of the revenue provisions in the summit agreement are unacceptable, representing the full and unruly retreat from tax reform. It is especially galling that most of the egregious provisions were prompted by the very officials in the executive branch who are responsible for the integrity of the Tax Code.

To say that these provisions will promote growth and create new jobs is just a joke. The only growth will be in the sale of tax shelters, the only new jobs will be for the scam artists who peddle them.

This so-called economic growth package will accomplish only one thing, the reinstatement of tax loopholes enjoyed by the wealthy. It will allow the super wealthy to avoid paying their fair share and their tax avoidance shenanigans will distort the operation of our economy, ultimately making us less competitive than we are now.

Once again, the average American will think that our tax system is unfair and sadly enough, once again he will be right.

We in Congress who must account for our actions to our constituents have a high respect for the policies and principles contained in the Tax Reform Act of 1986. We are not ready to quickly cut taxes for the rich and run.

Here in this House the people rule, and as elected representatives of the American people, we have a clear right to examine the summit proposals. We have an equally obvious responsibility to perfect them.

Is it possible to preserve the framework of the summit agreement, amend policy errors and keep the remainder of the deal from unraveling? I believe it is. And I, along with my committee, intend to prove it.

I salute our President, George Bush, for his leadership. He correctly and courageously acknowledges that our economy is in trouble. He is right that we must work together to solve this problem. He is our President and he deserves our respect and cooperation.

But my President and his appointees must also respect the Congress. We also have privileges that are not to be trifled with.

The House of Representatives is known as the people's house. We, you and I, are closer to the people than any other elected officials in Washington, particularly other officials who do not report directly to the voters. We are not about to shirk our responsibilities. We will not sacrifice the concerns of our constituents merely to meet the standards set by appointed administration officials.

Is it too much to ask that the elected representatives of the American people be allowed to help design the program of shared sacrifice that is about to be imposed on our constituents? I think we should all share in that burden, and all share in that responsibility.

Make no mistake about it, my friends, the budget summit has done major violence to congressional procedures. It has virtually disenfranchised the great majority of Members on both sides of the aisle in both Chambers. It will take a long time for the scars to heal. The less leeway the committees here have in improving the summit agreement, the longer the resentment will remain.

If anyone thinks that I will delay my committee's decisions while I run to a phone to call some overseers on the White House staff everytime we consider a change, you're in for a big surprise.

□ 1230

Mr. Speaker, that would be demeaning to me, to my Committee on Ways and Means, and it would be demeaning to this House. If that is what is expected, I say, "Count me out. I'll have no part of it."

However, I honestly do not think that that is going to happen. I trust my leadership. I think they are great. And I trust BOB MICHEL. And I think he is great. And I have faith in this House. Ultimately all of us together must do the right thing for the American people.

Mr. Speaker, I am going to swallow hard, very hard, and then vote for the budget resolution tonight because I sincerely believe our Nation needs a serious deficit reduction package. Despite the arguments from the fringe factions in each party, I do not believe that there will be extra time to allow us to create a new and more palatable framework.

The choices are inevitably tough, and they are painful. A vote for this resolution will allow the regular legislative process to function. Changes will be made before we report a reconciliation bill later this month. When that happens, it will be time for others who were part of the summit process to swallow hard. It will also be time for everyone to say to their constituents, "This package will make us competitive in the world. This will continue allow us to lead in the world."

Mr. Speaker, this is the time, this is the moment, when we have to stand up and be leaders. This is what our constituents have elected us to do. It is time for us to assume our responsibilities.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I rise in support of the budget compromise. I thank the Members who have the courage to govern.

Mr. Speaker, we have had 8 years of philosophical gridlock in Washington mirroring, of course, the same gridlock which has existed across our Nation. Eight years has seen our side insisting on holding the line on taxes and raising defense spending and their side advancing social programs and protecting entitlements. Each side has succeeded in protecting their priorities and failed in defeating the others. The result: $250 billion of net new borrowing every year for 8 years and $2 trillion of additional debt. The effect: A stagnant economy now headed into recession, an interest cost now, at nearly $200 billion, the third largest item in the budget and an average additional tax burden for each of our children, just to pay the interest on the debt, of $150,000 over their working lifetimes.

Mr. Speaker, these deficits have pushed up interest rates, crowded out needed private investment, and, of greater concern, have made our country dependent on foreign capital, allowing Japanese and other foreign interests to control an increasing percentage of our productive capacity.

In short, Mr. Speaker, deficits are destroying our economy and the future opportunities for a better life of our children and grandchildren.

In the past 8 years I have voted against our spending proclivities—all spending, including defense—I compiled a voting record opposing spending increases second to none in the House. I have been repeatedly recognized for fiscal responsibility by Watchdogs of the Treasury and have been recognized by the National Taxpayers Union as one of the few members of the Appropriations Committee to match their high standards. For 4 years I offered my own budgets to address the deficit, freezing spending by function across the board. One year a rule made my budget in order. I received 64 votes from the 435 House members.

Mr. Speaker, obviously if you were to allow me to address the budget deficit alone I would make it the Nation's No. 1 priority and would solve it, and solve it without raising taxes. Unfortunately, in a free society with huge differences of opinion, that luxury is not available. I must do my best to address this terrible problem within the context of a Congress, each House of which is heavily controlled by the other party, whose philosophy is exactly oppo-

site—to solve the problem with massively increased taxes.

If deficit reduction is absolutely essential—and it is—and if such reduction cannot be achieved without Democratic votes—and it unfortunately cannot—then there is no choice but to meet with those whose philosophy is diametrically opposed to our own—and attemp to find common ground.

The President has had to take this course, to set our fiscal policy aright and set us on a course of true deficit reduction. He has had to set our party's priorities on the table and has required the Democrats to set theirs there as well. From the onset of the budget summit all the pieces—entitlements, social spending, taxes and defense spending—have been on the negotiating table. The gridlock of insisting that the deficit be solved on the other side's priorities, resulting in no progress for 8 years, had to be rejected.

The agreement that was finally negotiated 5 months and hundreds of meetings later satisfies no one. But it calls on every American to contribute to the solution. It asks for sacrifice—relatively small sacrifice, but real sacrifice—from us all, for the good of us all. It contains no COLA cuts, no income tax rate increase or surcharge, and no additional tax on Social Security retirement benefits. The taxes are, for the most part, consumption taxes on consumption that, apart from deficits, ought to be discouraged: excessive use of energy, alcohol and tobacco. On the other side, entitlements are required to make their contribution and discretionary spending is, in fact, restrained and new provisions are to be enacted that place in the hands of the executive branch alone the power to prevent spending beyond the limit set.

Some liberal Democrats oppose the agreement because they can't live with the spending restraints and don't see the income tax increases they had hoped for. Some conservative Republicans oppose this agreement because spending isn't restrained enough and the agreement contains some taxes. They will find themselves on the same side of the vote for exactly opposite reasons. Politics makes strange bedfellows and this indicates at least it is probably as good an agreement as could be obtained.

The alternatives—ours and theirs—cannot be passed. The President can fall back on a Gramm-Rudman sequester, designed not as a policy for deficit reduction but as a penalty for Congress' failure to agree on a deficit reducing budget. If all spending were included in the Gramm-Rudman swath, this would be a favored alternative. Unfortunately, all entitlements and much social spending is exempt. Cutting defense spending by 33 percent in 1 year and spending for biomedical research, education and transportation and other national priorities a like percentage is not a viable way to solve this problem. The deficits are so large and the Gramm-Rudman reach so short that this would lead to economic chaos without real deficit reduction progress.

If this budget agreement fails to pass, particularly if our party fails to support it, the President, I am convinced, even with the Gramm-Rudman sequester in hand, would be in a worse position than now to negotiate with the other party. This is, in my judgment, a terrible budget, but the best one that we can obtain in this political environment. Accordingly, I will support the compromise and urge my colleagues to reach deeply within themselves for the courage to govern and to stand with our President and help him remove this terible deficit scourge from our country.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from North Carolina [Mr. McMILLAN].

Mr. McMILLAN of North Carolina. Mr. Speaker, I rise in support of the budget proposal. Most Members have criticized this budget proposal because of perceived threats to their special interests in the form of spending cuts or higher taxes.

We are going to get absolutely nowhere if we put special interests ahead of the public interests.

In my own case, this package includes $.08 per pack increase in excise taxes on tobacco, the No. 1 agricultural and consumer products industry in my State of North Carolina. I don't like that provision any more than any other Member dislikes others. Most politicians in North Carolina who vote for tobacco taxes don't get reelected. I am supporting this package because it is imperative that we put the national interest above special interest.

I have supported repeated attempts to freeze or hold down the rate of spending growth for the past 6 years. In our attempts to hold down the rate of growth on appropriations bills, we have averaged anywhere from 80 to 120 votes in favor or such a policy. There are not enough votes here to achieve $500 billion in deficit reduction through spending cuts alone.

This is the only serious deficit reduction package with a chance for passage I have seen in my 6 years in Congress. The numbers are real and the flattening out of total Federal outlays for the next 5 years with strong enforcement provisions promises $3 of spending reduction for each $1 of added revenue. It holds spending growth to 2.2 percent per year. There are no other serious options that have a snowball's chance of passing this Congress and we have run out of time.

While I can wish there was another package and I can easily identify 100 improvements that I wish were in this one, my side does not control the House nor could we build a coalition to improve it. Now is the time for statesmanship, not posturing. I, my President and this House will be embarrassed if this, our only real shot at passing a credible deficit reduction package, fails.

If you think the special interests on the phones are giving you pressure to oppose it, wait till you face the responsible rank and file and try to explain why you failed to deal with America's fundamental problem.

I urge your support.

Mr. PANETTA. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, why are we here? We are here because in 1981 the Congress doubled military spending at the request of the Reagan administration. It cut taxes for the rich. It tripled our national indebtedness. It tripled the size of our deficits, and so we are here to try to clean up the mess of the 1980's.

In the 1980's, the richest 1 percent of Americans, whose average income started the decade at $350,000, ended the decade with their income averaging $550,000. Meanwhile, the average middle class American, precisely at the midstream of American income, saw the purchasing power of his income drop by $2,000.

This package contains something I have wanted to see for 10 years, since the disastrous votes on the Reagan supply-side riverboat gamble. But the way it gets to that deficit reduction is absolutely outrageous.

The White House has indeed succeeded in protecting and insulating the very wealthiest of all Americans from all but the tiniest hit, and so, as a result, this package is required to hit the middle income American twice as hard as it hit the very wealthiest of all Americans. It is required to say that we are going to make some poor devil who loses his job wait 2 weeks before he can collect an unemployment check. We are going to drive farmers to the wall, all so that the President can keep his promise to not raise tax rates on people making more than $200,000.

Mr. Speaker, that is economically wrong, it is immoral, and we ought not stand for it.

I have looked all day for any way to try to help keep the process going. The Speaker knows that, the majority leader knows that, and I am not going to tell anybody how to vote. But I just have to tell my colleagues that, if this package goes down tonight, I beg the President to recognize that what has to happen to bring us together is a sense of fairness.

The Congress is the last hope of every American who expects to get a square deal. They are not getting a square deal when we continue to insulate the rich and lay it off on the middle class worker who is not paying as much attention, lay it off on the Medicare recipient because they do not have the attention span that the chamber of commerce president has in our local districts.

I beg my colleagues, "When this goes down, if it goes down, come back to this floor with renewed dedication to fairness." I regretfully must vote no on this package.

0040

Mr. PANETTA. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of this legislation for one simple reason: The Committee on Agriculture was not allowed to perform its duty. I think that this package is inconsistent with fairness and equity to American agriculture. I support now the resolution so that we may be allowed to do our duty in reconciliation.

Mr. Speaker, there is little good to say about this budget resolution except that it is a broad-based plan to reduce the Federal deficit which is crippling our Nation's economy.

Throughout my years in this body I have tried to the best of my ability to represent my constituents in south Texas. This vote is one of, if not the most difficult, vote I have ever cast as a Member.

If I alone could ram a budget through Congress it would not increase taxes and Medicare premiums that fall disproportionately on the working poor and middle class.

The people of south Texas are going to feel the pain of these tax increases. They will feel it every time they gas up the car to get to work or go to the grocery store.

Most south Texas retirees have little more than a small Social Security check to depend upon for their entire existence. To these already hard-pressed senior citizens, a $300 increase in their Medicare deductible will have a major impact on their quality of life. For that reason, I will work particularly hard to find ways to avoid this devastating blow.

If I alone had put together this budget package, it would not propose these deep cuts in the vital programs that serve as a safety net for American farmers.

Farmers are willing to bear their fair share of deficit reduction. And Congress has put in place policies that have helped bring farm program spending down by more than 50 percent since 1986. But from the start of this budget summit, the Bush administration has made little secret of the fact that it wants to virtually dismantle the farm programs.

As a Member of the House and as the chairman of the Committee on Agriculture I have tried to represent the interests of my constituents and the needs of American agriculture. As their representative, I must reserve the right to oppose these provisions which I believe are neither fair nor equitable. I have told the House Democratic leadership of my strongly held views about these issues.

But my colleagues, as a Member of this body I must also ultimately weight these interests with what is in the best interests of our Nation.

Mr. Speaker, I don't like this budget resolution. But the prospect of a sequester and its devastating impact on our Nation is far worse and we all know it.

A sequester means even worse cuts in our domestic social programs. It means horrendous cuts in Medicare, veterans programs, and other areas. It means farm programs alone face a $3.3 billion hit compared to the $1.3 billion called for in this budget resolution for next fiscal year. A sequester means that we virtually shut down the Government.

Therefore, I will vote for this budget resolution—not because I favor its individual parts for I don't.

But I recognize that as the elected representatives of the people, we cannot allow this paralyzing debate over political priorities to continue. We must make a decision and we must go on with the business of governing this Nation of ours.

While I will vote for this budget resolution, I reserve the right to oppose the inequitable provisions contained in it when they come back before us in reconciliation. And I will continue to work as an individual Member toward a more fair and equitable deficit reduction package.

Mr. PANETA. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I rise in strong support of the budget resolution.

For the last 5 months, the American people have watched with disgust at the unseemly spectacle of the White House and Congress bickering, fighting, and finally failing to achieve a fair compromise to reduce the coming year's deficit. I dislike what has been done, but now that a stopgap solution has finally been agreed upon, I feel constrained to support its passage.

I am disappointed in this package, particularly in its disproportionate impact on the middle-income America and the poor. I am angry at the inequities of the proposed cuts, especially in Medicare.

But the public interest is absolutely clear. We must support the resolution to avoid the economic devastation of furloughs and cuts, and we must take this small step toward controlling national spending.

I support the compromise because there is no other choice, in my view, at this late date. If we close down the Government by sequestration, we close down the entire economy and cause widespread pain and distress.

By making this Hobson's choice, we must also commit ourselves to make every effort to work during budget reconciliation to improve some of the more odious provisions of the agreement, particularly the Medicare fee increases and service cuts. Some flexibility does exist in interpreting and implementing these provisions—and we must stretch that flexibility to its absolute limits to bring some fairness back into this agreement.

The $400 billion true deficit we face next year is a national disgrace. It gnaws at our economic vitality. The pitiful $40 billion in cuts which is proposed for this year is grossly inadequate to genuinely begin the process of deficit reduction. I wish this year's reduction were $100 billion, the additional amounts to be taken from additional defense cuts and reductions in agricultural subsidies as well as an oil import fee and the removal of the tax bubble which reduces the tax rate on income over $162,000.

Yes, Mr. Speaker, this is a difficult vote to cast, most particularly because of its timing 4 weeks before congressional elections. It's never easy taking a tax hike on the campaign trail. The fall winds are blowing chill, and political cowardice is in the air. Without exception, every one of my political advisers, from pollster and television consultant through campaign staff, have urged, in the strongest terms, that I vote against the budget agreement. Our telephone calls have run against this action by more than 50 to 1.

Aligned against that solid wall of political doomsayers has been my own conscience and my own judgment that this vote is important to national fiscal health. Thus, the decision was not that difficult to reach, although this vote is painful to cast.

I include two editorials printed over the last few days from the Desert News and the Salt Lake Tribune, Salt Lake City's two distinguished newspapers.

[From the Salt Lake Tribune, Oct. 4, 1990]

U.S. HOUSE CANDIDATES OBLIGED TO TAKE FEDERAL BUDGET STAND

As might be expected, the federal budget compromise announced Sunday is already under heavy attack. In one important regard, the timing is actually convenient.

Congressional leaders and the White House labored several months to produce what is supposed to be a conscious trimming of federal deficits. But relying on some tax increases and some public spending reductions, the product predictably distresses just about everyone. It does, nevertheless, frame a genuine political issue for current nationwide elections.

Emerging from protests against the budget plan are all the forces that have combined in the past to drive this country's government finances chronically out of balance. A succession of presidents and congresses, satisfying converging political platform propositions and pressure group persuasiveness, created spending obligations and revenue dependencies that can't and won't match. The American public, no less than the office holders, now must face up to crucial decisions.

To their credit, White House and congressional leadership negotiators composed a fiscal 1991 budget agreement calculated to at least gain better control of budget deficits. President Bush, in his personal televised message to the country Tuesday night, challenged everyone, regardless of the pain they may suffer from the budget plan, to enlist on the side of that control. His point is valid.

Now is the time for decision. If not in favor of the proposed budget compromise, then on behalf of some other process that achieves the same essential result.

It's simply not sufficient to bad mouth the negotiators' work. Rather, what would the critics substitute as their answer? Since the House of Representatives is instrumental in finalizing federal budget law, those seeking its membership, whether by re-election or

filing a vacancy, should start articulating their positions.

Not with such weasel words as "the plan is no good," or "no tax increases are needed," or "spending cuts are too low," or "the economy will suffer" or "the wrong people are being hurt too much." Voters need to hear specifics.

Where, if elected to the House, would incumbents or their challengers either add taxes or make expenditure cuts? Should more revenue derive from income tax changes, excise and luxury tax increases, energy tax enhancement, "sin" tax additions? A combination? If so how much in each category?

But if taxation isn't the answer, where should spending, public programs and services be cut? Defense? Where in defense? Entitlements? Which ones? Social Security, federal worker and military retirement benefits? Social welfare services? Public education support? Highway, airport, inland waterway, seaport construction and repair?

Less health maintenance effort? Retrenched assistance for law enforcement, whether against drug traffic or other prevalent crime? The sort of underfunded regulation policing that caused the Savings and Loan debacle? Reduced environmental pollution monitoring? More and higher fees for using federal assets such as rangeland, parks, forests and seacoasts?

No House of Representatives candidate should make a public appearance, participate in formally arranged debate or issue press releases this campaign season without addressing remarks specifically and repeatedly to such questions as these. In Utah, those candidates are:

Second District, incumbent Wayne Owens; challengers Genevieve Atwood, Lawrence Topham and Ellie Garcia. First District, incumbent James V. Hansen; challengers Kenley Brunsdale, Reva Marx Wadsworth. Third District Karl Snow, William Orton, Robert J. Smith, Tony Dutrow.

None can say this election year lacks issues. There's possible U.S. involvement in a Persian Gulf war, but more critical is the question of solving an intractable federal budget deficit. Utah residents, no less than Americans everywhere, must decide whether this nation is to slide ever deeper into deficit and debt or, instead, will make sacrifices necessary to restore the nation's financial integrity.

Choice of the state's House delegation can reflect the preference. But only if the candidates disclose their intentions, detailing alternatives they would, as House members, endorse for appropriate budget-making.

No vague, sloganeering politics as usual this election year. Let's hear where local congressional candidates would lead on federal funding and spending, with clarity and specifics. Voters can then confront their own expectations of the national government's purpose and performance.

[From the Deseret News, Oct. 2, 1990]

LAST-MINUTE BUDGET DEAL IS NOTHING TO CHEER ABOUT

The eleventh-hour budget conmpromise announced this past weekend came as no surprise to most astute observers. With congressional elections just five weeks distant, there was little doubt that negotiators would come up with some kind of an agreement preventing the 33 percent automatic budget cut required by the Gramm-Rudman Act from taking effect Oct 1 as promised.

While the package sounds good, especially when the deficit-reduction is presented as a five-year figure—$500 billion is more impressive than this year's savings of $40 billion—it raises all kinds of questions.

For example: If $100 billion worth of automatic budget cuts were threatened in order to meet Gramm-Rudman targets, how can negotiators produce a package that only cuts $40 biillion from the 1990-91 budget and still say they have met Gramm-Rudman guidelines?

Although there are cries of pain and talk of great compromises and sacrifices, the whole thing still reeks of the sleight-of-hand usually associated with federal budgetmaking.

The deal worked out between the Bush administration and congressional negotiators must still be passed by the House and Senate this week. Congress will not let the federal government financial structure collapse any more than the negotiators did.

The $40 billion deficit reduction contained in the budget compromise for the fiscal year that began Oct. 1 is trifling at best. Even with the cut, the United States will register an all-time $254 billion deficit this year—nearly triple last year's estimate.

Where, if elected to the House, would incumbents or their challengers either add taxes or make expenditure cuts? Should more revenue derive from income tax changes, excise and luxury tax increases, energy tax enhancement, "sin" tax additions? A combination? If so, how much in each category?

But if taxation isn't the answer, where should spending, public programs and services be cut? Defense? Where in defense? Entitlements? Which ones? Social Security, federal worker and military retirement benefits? Social welfare services? Public education support? Highway, airport, inland waterway, seaport construction and repair?

Less health maintenance effort? Retrenched assistance for law enforcement, whether against drug traffic or other prevalent crime? The sort of underfunded regulation policing that caused the Savings and Loan debacle? Reduced environmental pollution monitoring? More and higher fees for using federal assets such as rangeland, parks, forests and seacoasts?

No House of Representatives candidate should make a public appearance, participate in formally arranged debate or issue press releases this campaign season without addressing remarks specifically and repeatedly to such questions as these. In Utah, those candidates are:

Second District, incumbent Wayne Owens; challengers Genevieve Atwood, Lawrence Topham and Ellie Garcia. First District, incumbent James V. Hansen; challengers Kenley Brunsdale, Reva Marx Wadsworth. Third district, Karl Snow, William Orton, Robert J. Smith, Tony Dutrow.

None can say this election year lacks issues. There's possible U.S. involvement in a Persian Gulf war, but more critical is the question of solving an intractable federal budget deficit. Utah residents, no less than Americans everywhere, must decide whether this nation is to slide ever deeper into deficit and debt or, instead, will make sacrifices necessary to restore the nation's financial integrity.

Choice of the state's House delegation can reflect the preference. But only if the candidates disclose their intentions, detailing alternatives they would, as House members, endorse for appropriate budget-making.

No vague, sloganeering politics as usual this election year. Let's hear where local congressional candidates would lead on federal funding and spending, with clarity and specifics. Voters can then confront their own expectations of the national government's purpose and performance.

[From the Deseret News, Oct. 2, 1990]

LAST-MINUTE BUDGET DEAL IS NOTHING TO CHEER ABOUT

The eleventh-hour budget compromise announced this past weekend came as no surprise to most astute observers. With congressional elections just five weeks distant, there was little doubt that negotiators would come up with some kind of an agreement preventing the 33 percent automatic budget cut required by the Gramm-Rudman Act from taking effect Oct. 1 as promised.

While the package sounds good, especially when the deficit-reduction is presented as a five-year figure—$500 billion is more impressive than this year's savings of $40 billion—it raises all kinds of questions.

For example: If $100 billion worth of automatic budget cuts were threatened in order to meet Gramm-Rudman targets, how can negotiators produce a package that only cuts $40 billion from the 1990-91 budget and still say they have met Gramm-Rudman guidelines?

Although there are cries of pain and talk of great compromises and sacrifices, the whole thing still reeks of the sleight-of-hand usually associated with federal budgetmaking.

The deal worked out between the Bush administration and congressional negotiators must still be passed by the House and Senate this week. Congress will not let the federal government financial structure collapse any more than the negotiators did.

The $40 billion deficit reduction contained in the budget compromise for the fiscal year that began Oct. 1 is trifling at best. Even with the cut, the United States will register an all-time $254 billion deficit this year—nearly triple last year's estimate.

An angry American public ought to demand a detailed explanation as to how such a thing is possible. Especially since last year's budget agreement announced that Gramm-Rudman targets would be met. What makes Congress think this year's budget deal is going to work out any better?

This record-setting deficit results from the sneaky practice of building budgets on over-estimated revenues and under-estimated expenditures. Given past performances, it is unlikely that this mind-set will change any time in the near future.

Much of the burden in achieving the $40 billion deficit cut in the coming year will fall on those least able to afford it. The elderly will see a reduction in health care benefits while paying more for the remaining services. Others will see the 1.45 percent payroll tax for medicare extended to apply to a larger share of their earnings.

The gasoline tax will jump another 12 cents per gallon by next July, and consumers can expect additional fuel price increases as oil companies pass on the cost of a 2 percent refinery tax on petroleum products that will go into effect Jan. 1 if the plan receives final approval.

Despite the bombast and rhetoric, it is unlikely that the plan will prove much of a deficit cutting device over the long-term—despite promises of $500 billion in deficit reductions over the next five years.

The budget approved each October at the start of the fiscal year, without exception, bears little resemblance to the finished product the following September. And a

cynical Congress knows that from the beginning.

While there is always hope that Congress may someday come to grips with the need for serious deficit reduction, there is little optimism at this point. The greater likelihood is that Congress will continue its spend-thrift ways and the annual deficit will continue to grow.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Mr. Speaker, I rise in support of the budget resolution as an alternative to bringing the Government to a stop. I thank the gentleman from Illinois [Mr. MICHEL], the minority leader, for his letter.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Speaker, I rise in support of this budget resolution.

Mrs. MEYERS of Kansas. Although I am going to vote for the budget resolution, I will oppose the budget reconciliation that will be considered in the next 10 days to implement the budget summit agreement if problems with the current resolution are not resolved.

My vote tonight will not be for this specific budget summit agreement, but for the opportunity during the next 10 days to correct some of its many problems and to keep the deficit reduction process alive and moving.

Like many of my colleagues, I have several problems with the budget summit agreement. I am concerned that the agreement places a heavy burden on many of our Nation's senior citizens. In addition to other revenue increases included in the agreement, many middle-class seniors will be affected by the part B premium increases.

I am also concerned that in this budget resolution Congress begins again the process of granting tax shelters that we worked so hard to eliminate in the 1986 Tax Reform Act. These tax shelters should be eliminated in the budget reconciliation bill to be considered within the next 10 days.

Although I have several reservations about certain parts of the agreement, the budget plan has many positive features. It ensures that Social Security and Federal retirees will receive cost-of-living adjustments [COLA's]; it provides significant and reasonable savings in defense; it protects many vital low-income poverty programs; and it strengthens the Gramm-Rudman budget law.

Mr. Speaker, I do not embrace the budget summit agreement with open arms. But I will vote tonight for the budget resolution with the hope that it will get us closer to a deficit reduction plan that I can eventually support.

Mr HUGHES, Mr Speaker, I rise in opposition to their budget resolution. It's just not fair, it's not reasonable, and I just cannot bring myself to support it.

It hurts our senior citizens. It hurts families. It hurts our children. It hurts the poor. It hurts the unemployed. And it hurts the middle class.

What is worse, however, it helps the very wealthy once again; it helps the speculators and it helps certain special interest groups.

I have searched the proposal for some redeeming values and I just cannot find much of anything that I like about this summit agreement. If I truly believed that the committee had enough running room to make it truly fair for the average American, I would vote for it in a minute. Regretfully, I do not believe that so we need to start now—not in 2 weeks—to develop and vote on some alternatives.

Mr. HEFLEY. Mr. Speaker, on Sunday, September 31, the President and congressional leadership signed a budget package designed to reduce the deficit by $40.1 billion next year and by $500 billion over 5 years, including defense spending cuts of $182.4 billion, entitlement savings of $119 billion, revenue increases of $133.8, and interest expense savings of $64.8 billion.

Having looked at this package for several days now, and having listened to the arguments promoting its passage by the President and congressional leaders, I can honestly say that there is absolutely nothing contained in this package that would even tempt me to support it. The package has so many faults I don't know where to begin.

Increased taxes: The budget package includes tax increases of $22.2 billion for next year and $162.9 billion over 5 years—the largest tax increase in U.S. history. If you include increased user fees and deductibles, then the total tax increase exceeds $222 billion. Americans already support the highest peace time tax burden in history, paying over 40 cents of every dollar in taxes. This tax increase just adds to that burden.

Spending reductions: The budget agreement claims to cut spending $23.9 billion next year and $366.2 over 5 years, divided between defense and entitlements. While the cuts to defense spending are real enough, there are absolutely no specified cuts to domestic discretionary programs, and the so-called spending cuts to entitlements are really increased user fees, higher deductibles, and lower payments to hospitals and doctors for the same services they now provide.

Economic assumptions: The most extravagant example of chicanery contained in the budget package are the economic assumptions the negotiators used to arrive at their numbers. For example, the package predicts that between 1992 and 1995, the economy will grow almost 4 percent per year—a faster rate than the record economic growth of the 1980's.

If these projections were really accurate, then we wouldn't need to raise taxes to balance the budget by 1995. On the other hand, if we go through with this tax increase, I can't see how the economy will average 4 percent growth over the next 5 years. Most economists predict that we're already headed toward a recession.

Interest savings: The interest rate projections contained in the package are equally bad. In order to justify a projected $64 billion savings in interest expenses, the budget negotiators predicted that the yield on 10-year Treasury would decline from over 3 percent in the next 5 years, dismissing the fact that inflation is rising, already 1.2 percent above last year. There is nothing contained in the budget package to justify this optimism.

So what are we left with? We are left with $132 billion in real spending cuts to defense, $222 billion in increased taxes, user fees, and other direct payments to the Government, and no real restrictions on Federal spending nor cuts in nondefense discretionary spending.

To get this compromise package, the President gave up his "no new taxes" pledge, withdrew his support for true progrowth incentives such as the capital gains tax reduction, and abandoned the core group of Republicans that have sustained all 13 of the President's vetos.

Even as Massachusetts voters are running Michael Dukakis out of the State on a rail, the tax-and-spend legacy that he represents in government has taken control of the Capitol and is threatening the well-being of the American economy. I can't imagine a budget package agreed to by a Democratic President that could have been worse.

Mr. HAMILTON. Mr. Speaker, after months of difficult and sometimes bitter negotiations, the President and the Congress last week passed the largest deficit reduction package ever. The package calls for about $40 billion in deficit reduction in 1991 and about $500 billion over a 5-year period. There are more than $2 in spending cuts for every $1 of tax increases. While far from my ideal package, it is a positive step in the right direction. It will help us get our fiscal house in order and avoid the pain we would face without a budget agreement.

THE NEED FOR DEFICIT REDUCTION

The Federal budget deficit is our most pressing economic problem; it must come down. With the economy on the brink of recession, deficit reduction is urgently needed to allow lower interest rates to restore health to the economy. For the longer term, deficit reduction is the only sure and proven way for the Federal Government to increase national savings and thereby strengthen investment and productivity. The deficit is choking the economy, gobbling up most of our national savings, and forcing us to rely on foreign capital. The heavy competition for limited funds drives up interest rates. The deficit also keeps us from addressing important domestic needs. It has led to game-playing with the budget process and cost us dearly in terms of public trust. Failure to solve the deficit problem would lead to lower standard of living in the long run and reduced American influence in the world. It is more important now than ever to get the deficit down to stop the erosion of the economy. No one can believe that this country should allow $300 billion deficits to continue.

While cutting back popular spending programs and raising taxes is not a pleasant thing to do, this package generally goes after the obvious targets. On the spending side, the package recognizes that the Soviet threat has lessened and that Medicare costs—expected to double over the next 5 years—need to be restrained. Although the excise tax increases are controversial, higher prices for cigarettes and alcohol may discourage younger Americans from smoking and drinking, and the gasoline tax will encourage conservation. The crisis in the gulf makes it painfully evident that America still consumes too much foreign oil.

The package removes Social Security from the budget and avoids any cost-of-living-adjustment freezes or taxes on Social Security benefits.

MAIN REASONS FOR SUPPORTING THE PACKAGE

Although I disagree with many aspects of the package, I am voting for it for several reasons. First, and most importantly, the alternative is fiscal chaos. If we fail to pass the package, the Gramm-Rudman deficit reduction law will trigger large, automatic, across-the-board spending cuts, shutting down large parts of the Government and curtailing all kinds of essential services, from meat inspection to mail delivery to air traffic control. While the budget agreement reduces the 1991 deficit by $40 billion, the Gramm-Rudman cuts would wring out more than $100 billion. Cuts that large would be disastrous for the economy, almost certainly pushing the economy into a recession. Failure to pass the package would produce adverse reactions in the financial markets that would undercut an economy already weakened by the shock of increased oil prices and problems in the financial system.

Second, on the whole it is a credible deficit reduction effort. Over the past decade, we have lost the public trust as budget plan after budget plan proved to be a charade. With a few exceptions, this agreement relies on concrete steps that we will take now, not accounting gimmicks or vague plans for the future. The package contains new enforcement mechanisms that will ensure that most of the savings will materialize and grow in the coming years.

Third, the package should allow a drop in interest rates which will help bolster economic growth in the economy. The Federal Reserve Chairman has said that he will move to reduce interest rates if a credible budget package is enacted. That will help to offset some of the effects of tax increases and spending cuts; in particular, homeowners with adjustable rate mortgages and those buying homes wil' benefit. It will also increase business investment and productivity, and lengthen our Nation's current short-term planning horizon. Greater investment and spending on big-ticket items will help to cushion the current economic downturn.

Fourth, the size and the timing of the projected deficit reduction is about right. The package has a little of this and a little of that—a mix of excise taxes, user fees, limits on income tax deductibility, and cuts in defense spending and entitlements. I believe that the $40 billion reduction for next year is a reasonable target. Any less and the budget deal would lack credibility; any more and it might slow an already sluggish economy. Because the deficit reduction is real, the savings will grow, taking a larger bite out of the deficit a few years down the road.

DRAWBACKS OF THE PACKAGE

The package is certainly not my ideal budget plan.

Too much of the burden will be shouldered by the middle class, in excise taxes and user fees. The Medicare cuts are deeper than I would prefer, and could be a burden on low- and moderate-income persons. The package does increase the tax burden on the wealthy—through limiting their itemized deductions, taxing their luxury items, and raising the cap on their Medicare payroll taxes. Yet the overall results of the package is that low- and moderate-income taxpayers will be hit harder than most well off. My preference would be to place more of the burden on those most able to bear it. But these issues are not decided forever, and should be revisited.

The long-run economic assumptions underlying the package are still too optimistic. The deficit reduction is real, but the underlying deficit is much larger than indicated, and so the result will be higher deficits than predicted. Further substantial deficit reduction may be needed down the road.

OVERALL NEED FOR THE PACKAGE

Despite its drawbacks, the package addresses the very serious problem of our budget deficit. It is a major, long-overdue shift toward responsible fiscal policy.

The key question is: What do you get if this package is not enacted? What do you put in its place? For years we have been stalemated because each Member wanted a lower deficit and had his own unique program to achieve it. But this is not a question of this package versus some personal preference; it is this package or nothing. The package gives us a way out of a problem that has almost immobilized the Government for a decade.

This package is a result of divided government. It is a reflection of the election returns. With nobody totally in charge of the Government, nobody can get entirely what he or she wants. The President did not get his cut in capital gains tax and the congressional leadership was not able to raise income tax rates for families making more than $200,000.

It is easy to pick apart this agreement. But the political fact is that no other workable package can be put together and enacted into law. A "no" vote on this package means that the economy falters, the Federal Government stops, the markets fall, the defict explodes, and the economy slips out of control.

This package is better than nothing, and better than any feasible alternative. The President and the congressional leadership have achieved a necessary and difficult compromise. But this is not the way to govern. The package had no study, no hearings, and was drafted by a handful of closeted officials. It should reduce the deficit, but it does not elevate our respect for the way our Government works.

Mr. TRAXLER. Mr. Speaker, today is the first in a series of votes to reduce the budget deficit, a goal to which we are all committed.

While the media may report this vote as increasing taxes or cutting benefits, it does not. This package is only a guideline, and does not make specific changes in any program. Standing by itself this resolution does not change any law, impose any new tax, or cut any benefits. We will have more votes in the next 2 weeks on legislation implementing the specifics of the budget agreement, and I will have an opportunity at that time to support or oppose changes made in Federal programs. I am voting "yes" to keep the process moving. We must reduce the deficit.

Parts of this package I would not have written, nor do I support. Most especially, I am opposed to the Medicare reductions, the 2-week waiting period for unemployment benefits, and some other provisions proposed by the summit, and will work to see that they are substantially changed in the coming days. I am and will continue to be committed to deficit reduction.

Mr. DORGAN of North Dakota. Mr. Speaker, I am voting against this budget summit because it's wrong.

I know the President and the congressional leadership say it's the best we can get, but it's wrong.

It allows too much defense spending and lets the rich off the hook on their tax obligation. It once again soaks the middle class with an unfair tax burden while it imposes cuts that are too deep in Medicare and far out of line in agriculture.

The level of defense spending in the summit agreement is close to $40 billion above the level already agreed to by a vote in the U.S. House.

The cuts in the agriculture account represent the largest percentage cuts by far in any of the spending areas. Agriculture, which is six-tenths of 1 percent of the budget, will receive 11 percent of the cuts. Stated another way, 24 percent of the money for agriculture support programs will be taken away during the 5-year period.

Because the President refused to go along with a tax increase on the upper income people, the richest of the rich nearly get a free ride under this plan.

The $60 billion cut in Medicare is going to impose a serious hardship on many low-income senior citizens.

Mr. Speaker, there's a better way to construct a plan to reduce the deficit. My colleague DAVE OBEY, I and others have introduced today a plan that cuts slightly more in spending, increases slightly less in new taxes, but results in a lower deficit.

We do it in a substantially different manner than the budget summit. We cut defense spending back where it ought to be. We reduce the Medicare cuts to one-half of what the summit agreement provides. We reduce the agriculture cuts, and we ask the rich to pay their fair share of taxes.

The question isn't whether we have to administer the medicine to reduce the deficit. The question is what kind of medicine do we administer?

There's a right way and a wrong way to do this job, and those whom I represent here in Congress expect me to be supporting policies that represent the right way to reduce the deficit. That is why I cast a "no" vote on this budget resolution tonight.

Mr. STOKES. Mr. Speaker, I rise to voice my opposition to the measure we have before us. Although I strongly believe that the massive Federal deficit is one of the greatest threats to our economy and must be one of our highest priorities, this budget resolution, which reflects the plan drafted by the summit participants is a slap in the face to the majority of Americans.

By depending heavily on increasing excise taxes and reducing entitlement programs such as Medicare, the agreement places a disproportionate share of the deficit reduction effort on the shoulders of low- and middle-income Americans and the elderly. I cannot support a plan that provides tax breaks for the rich at

the expense of low- and middle-income workers. Under this plan, those who can least afford it—low- and middle-income Americans, the elderly, the unemployed—must shoulder the burden.

I am particularly concerned about the effect implementing the budget summit agreement would have on our senior citizens and the disabled Americans who depend on Medicare for their health care needs. The summiteers agreed to cut over $60 billion from the Medicare Program over 5 years, and this would result in a $4.85 billion cut in the program this fiscal year. This would have the effect of drastically reducing services for Medicare patients. In addition, this most vulnerable sector of our population would see their Medicare deductible doubled, from $75 to $150. I find these provisions of the agreement especially odious.

Also troubling is the plan's reliance on reducing the deficit by increasing excise taxes. This contradicts the efforts that Congress undertook in 1986 to make our Tax Code more progressive. Raising taxes on fuel and home heating oil will disproportionately impact those who are in the lower economic brackets, the very people who suffered most during the last 10 years of Republican leadership in the executive branch.

According to the Congressional Budget Office, the poorest 20 percent of American families spent 6.9 percent of after-tax income on gasoline, 3.7 percent on alcohol, and 4 percent on tobacco while people with income averaging $38,000 spent 2.9 percent on gasoline, 2.2 percent on alcohol, and 1.1 percent on tobacco. This means that the tax increases will hit harder on the poor since they spend a large portion of their income on the goods affected by the tax increases.

I find reprehensible the provisions which would prohibit States from providing benefits to the unemployed during the first 2 weeks of job separation. Forty-one States in our Union, including my home State of Ohio, now provide benefits to those who have lost their jobs after the first week of unemployment. Attempting to reap $4.6 billion from the unemployed is perhaps the ultimate indignity heaped on the poor and disadvantaged by this ill-conceived and unfair budget reduction agreement.

As a Member of the House Appropriations Committee, I am very concerned about the agreement on domestic discretionary spending, which would be limited to spending at the baseline level for each year during the fiscal year 1991 through fiscal year 1993 period. This would result in a level just sufficient to keep pace with inflation. At the time the agreement was announced, the House of Representatives had already passed 10 appropriations bills this year. The capping provision flies in the face of priorities already established in these bills.

This cap has severe ramifications for education programs for the disadvantaged, which the Appropriations Committee regarded as high priorities items in the Labor-HHS-Education bill for fiscal year 1991. At the same time, we recommended increases for these programs, the summiteers are suggesting that we cut $2 billion from the Guaranteed Student Loan program. The cuts, as proposed by the agreement, will result in fewer students from low- and middle-income families being able to pursue higher education and the possible closing of several historically black colleges and universities.

Contrary to previous actions taken by this House, the summit participants protected defense spending. They agreed to spend $289.1 billion for defense in fiscal year 1991. This is $6.2 billion more than the levels provided for in the recent House-passed defense authorization bill and about $200 million more than the Senate version of the bill. By reprioritizing defense, a small group of men have overturned the work of the entire Congress.

Ironically, the rich escaped unscathed. Those with incomes above $200,000 would only see their taxes increased by 0.3 percent, while those with incomes between $20,000 and $50,000 will have their taxes increased by 3.0 percent to 3.3 percent. In addition, the higher income earners will also see tax breaks from investments in small companies, and research and development. Those with the highest incomes are not being asked to share the burden of deficit reduction.

There is no question that the Nation sorely needs a deficit reduction package. The Federal deficit is one of the most serious issues confronting our Nation. However, the solution to our deficit problem must be a fair one. We cannot ask those who can least affort it to pay for the majority of the reduction effort. We must ask those who have done so well for the past 10 years under the Reagan and Bush administrations to pay their fair share of the cost. The budget accord presented to us does not do this and I will not support it.

Mr. Speaker, the vote that I will cast today, in opposition to this budget resolution, will be my first opportunity to participate in the decision-making process regarding a matter that touches the lives of all Americans. Until this moment, the negotiations on this matter have been conducted by a small group of our membership, away from public scrutiny and without the benefit of input from their colleagues, who are other duly elected Representatives. I do not believe that the decisions that were made during the budget summit have the support of the majority of this body. I will vote my conscience and urge my colleagues to do the same.

Mr. PURSELL. Mr. Speaker, Washington again has focused its attention on the Federal budget, with an eye toward a $500-billion, 5-year budget agreement. Worked out between the President and congressional leaders, the agreement has been presented as the fix to our continuing deficit spending problem.

While the numbers in the agreement—if adhered to—could bring about a zero deficit, I remain concerned about the underlying process.

With our national debt now topping $3 trillion, this habit of deficit spending didn't happen overnight. The last fiscal year in which there was a budget surplus, rather than a budget deficit, was 1969.

In 1974 a new budget process was adopted. The law created new committees and a new arm of the legislature—the Congressional Budget Office—to provide fiscal and economic information in both houses.

But the new procedures did little to persuade Congress to balance the budget and reduce the indebtedness.

During all but one fiscal year since 1960, our Federal Government has operated with a budget deficit of varying degrees—averaging about 1 percent of gross national product [GNP] in the 1960's to about 2.5 percent in the 1970's. In fiscal 1982, the deficit broke the $100 billion mark, and just 1 year later it broke the $200 billion mark—representing a record 6.3 percent of GNP.

Clearly, the growth of Federal spending has outpaced inflation, signaling a continued trend of expansion in Government and Government programs.

It was in recognition of that trend that I introduced legislation in 1981—H.R. 3282—to spread the Kemp-Roth tax cut over 5 years rather than 3. Fear that Congress would be unable to control its insatiable appetite for spending was well founded—spending continued to grow, and record deficits were encountered in the years after the Kemp-Roth tax cut.

But beyond the appetite for spending has been Congress' inability to adhere to the budget process.

Not since fiscal 1977 have all 13 of the individual appropriation bills been enacted before the beginning of the new fiscal year. Instead of living up to its responsibility, Congress has grown dependent on a legislative device known as the continuing resolution—the "wrap it all into one catchall spending bill approach."

During the last 10 fiscal years, Congress has grown so dependent on the continuing resolution that in fiscal 1987 none of the individual appropriation bills were completed.

Deadlines continue to be missed this year—the President's budget was 3 weeks late, the budget resolution was not approved by Congress prior to the start of the new fiscal year, and as of October 1 the House and Senate had failed to send any of the appropriation bills to the President.

This all-or-nothing approach to Federal spending is unfair to the administration, unfair to those Members of Congress interested in fiscal responsibility, and most importantly, it is unfair to those who pay the bills—the American taxpayer.

The Constitution guarantees the President the opportunity to sign or veto individual appropriation bills as part of the checks and balances system. The threat of a Presidential veto could provide greater discipline to the process. President Bush effectively used the veto last year to remove an unacceptable section of the District of Columbia appropriations bill. President Ford effectively used the veto to express his objections to legislation that he believed was too costly.

Likewise, the President should exercise the veto when Congress sends a spending bill to the White House which exceeds the bounds of fiscal responsibility. But this becomes difficutl when deadlines are missed and a potential veto of an all-or-nothing continuing resolution means shutdown of the Federal Government.

For too many years, congressional leaders have thumbed their noses at the constitutional and statutory responsibility to complete all appropriations by October 1. And there is no

excuse for this complete breakdown in discipline.

In 1985, I chaired a group of 40 Republican Members of Congress who authored a full budget plan. Introduced on time, our budget plan—called a Blueprint for Balance—proved that the process can be followed.

Working side by side with the Congressional Budget Office, our plan contained $51 billion of verifiable savings in the first year alone—achieved through a spending freeze, and without an increase in taxes. Our plan for deficit reduction operated from the premise that while the freeze held spending relatively constant, revenues would continue to increase due to the ongoing economic expansion—thus closing the deficit gap.

Ironically, had our plan been adopted, we would have arrived at a zero deficit during this current fiscal year 1991.

Since the introduction of our budget in 1985, Congress has attempted to stem the deficit accumulation through the Gramm-Rudman-Hollings [GRH] law. Originally targeted for a zero deficit by fiscal 1991, the dates in GRH have slipped to the point where the current budget agreement calls for a zero deficit by 1995.

GRH has been an honest attempt to establish deadlines and restore fiscal responsibility—but it hasn't worked. GRH has failed to restore the budget process to what it was and what it should be: A legislative give-and-take whereby Federal spending is allocated to specific programs based on realistic estimates of expected revenue.

As noble as the GRH effort has been, and as noble as the current budget summit agreement is, both are temporary fixes. It's comparable to using a spare tire while you wait to get the permanent tire fixed. Just as a mechanic would remove the nail causing the flat, Congress must act to plug the hole which threatens to deflate our economy.

The budget process now is so complex that few people understand the details. It is so time consuming that schedules and deadlines seldom are met—thus encouraging the practice of the continuing resolution and diminishing the power and option of a Presidential veto.

The system itself also is dishonest. Deficits can be reduced using accounting gimmicks and the seriousness of the problem constantly has been understated by overly optimistic economic assumptions.

Beyond the numbers in any budget agreement, an equally important ingredient must be enforcement of the timetables and deadlines in our existing laws. Individually approved spending bills, open to Presidential veto, are as important as the figures they contain. The use of checks and balances must be restored. And this ingredient, unlike negotiated spending and revenue figures, only can be assured by Congress. It's time we agreed to restore credibility to the budget process.

Mr. YOUNG of Florida. Mr. Speaker, I reluctantly rise to support this budget resolution.

I do so not because I am convinced it is the best possible budget agreement we can reach, but because we must keep the budget process moving forward. Otherwise, our Nation will suffer catastrophic across the board cuts to bring the 1991 budget deficit into line with the demands of current law.

It is important for all Americans to understand what it is we are voting on this evening. This is simply a document that broadly outlines the budget targets for the 1991 deficit, the total 1991 outlays, and the total 1991 revenues. This legislation also provides direction to each of the committees in Congress on budget targets they must meet to bring the entire package into line with the budget agreement.

This legislation does not implement any of the recommendations of the budget agreement. That omnibus legislation will follow in a week to 10 days after each of the committees meet to draft legislation to comply with their budget targets.

I have suggested to the House leadership and to President Bush that these committees be given wide latitude in meeting their targets. They are the committees with expertise in their various areas and will know better than the budget negotiators the impact of certain recommendations. They may even be able to better determine how to achieve savings with less of an impact on their respective program areas.

For instance, the Ways and Means Committee, which has jurisdiction over the Medicare program, already has expressed the same concerns I have raised about the proposed Medicare reductions and is in the process of developing other proposals that would lessen the burden on beneficiaries, especially those least able to afford increased monthly premiums or deductibles.

The action we are taking tonight makes it possible for the budget process to move forward for consideration by the committees. The package that emerges from the deliberations by the committees will be the actual implementing legislation. That will determine where the budget reductions and revenue increases will occur and that will be where the real deficit reduction vote is cast.

Voting to defeat this resolution tonight is a vote to stop the budget process in its tracks and leave the Federal Government with no other choice but to endure automatic across the board cuts in all areas and virtually every program. Not only would this negatively impact those who benefit from vital Federal services but it could possibly send our nation into the throws of recession, drive up inflation, and raise interest rates.

The budget process is a disaster and for confirmation one only has to look back on the steps that led us to this vote. The Congress once again has failed to meet its fiscal responsibilities. As a body, we have taken no positive steps to solve our budget deficit. Instead, the responsibility was shifted to a private room at an Air Force base 30 miles from here where a small group of Congressmen and Senators met with a handful of administration officials to reach a budget agreement that will affect every American household.

The process undercut the entire premise of our Constitution. There was no representation of the views of the public. There were no hearings on which to base these decisions. There was not even so much as a request for input from the 535 Congressmen and Senators who were outside the room.

The budget process is broken and it is beyond repair. It is full of gimmickry and allows those, elected by the people, to skirt the tough votes they are elected to cast. The current budget process is in such disrepair that I believe it may even violate the Constitution by allowing secret meetings by a small group outside of our Nation's Capitol to make the budgetary and financial decisions that are clearly to be made by the elected representatives of all the people.

There, however, is no time tonight, this week, or even in the remainder of this year to fix the process. That must be, and the people should demand that it be, the first and foremost responsibility of the 102d Congress when it convenes next year.

The job before us tonight is to do what is right for our Nation as a whole. In this case, that means taking action on this budget resolution to move the process onto the next step. Failing to do otherwise could result in catastrophic consequences that are unacceptable and would throw our Nation into economic turmoil.

Mr. Speaker, with great trepidation, I will vote to support this resolution tonight but I reserve the right to withhold judgment on the legislation that will come before the House later this month to implement this resolution. With the proper deliberations and the input of the entire Congress, the committees may be able to alleviate many of my concerns about Medicare cuts, veterans programs, and questionnable revenue increases.

The Congress once again has failed the American people by not living up to our financial responsibilities. Our failure, however, cannot be allowed to wreak havoc on the entire economy of the United States. Instead, it demands that we make a difficult decision tonight and another in a few days. It also demands that we make many tough decisions in the months ahead to eliminate the mockery that is the congressional budget process. The American people expect and deserve better.

Mr. Speaker, this is the people's House. But the process we experience here has excluded the people and most of their elected representatives.

Mr. SYNAR. Mr. Speaker, today I rise in opposition to House Conference Resolution 310, the summit agreement budget resolution. This decision has been made after careful consideration of the terms of the agreement. Once again we are up against a deadline and the urgency of approving a budget is without doubt. Urgency, however, can not under any circumstances replace fairness and this agreement is simply not fair.

I respect the work of the budget negotiators and I recognize the extreme difficulty of devising an agreement. I did not anticipate an agreement that satisfied everyone, because I knew that everyone would have to sacrifice. But I did expect an agreement that spread the burden among all income groups in an even-handed manner. Despite assertions to the contrary, this agreement is not fashioned in that manner. It is clearly not fair to my Oklahoma constituents.

Today's budget crisis is the result of ten years of the misguided policies of the Reagan Presidency. The enormous defense spending

increases and accompanying tax cuts cost the Treasury billions in lost revenues. For ten years Congress had to go along with budgets that built up defense to a point at which there was a real increase of over 45 percent in defense dollars. Contrary to popular belief, domestic spending both for human needs and the infrastructure of the country fell drastically. Spending for energy programs fell approximately 81 percent, education funding fell 16 percent, community and regional development fell 58 percent.

Spending for the elderly and disabled did grow during this same period but the growth did not occur because of increases in benefits. Instead, the growth was a result of an increase in the number of elderly Americans and the unbelievable rise in health care costs. By the end of the 1980's there were approximately 20 percent elderly Americans than at the beginning. During this same period health care costs rose approximately 91 percent. While programs for those in poverty grew slightly in real dollars, this did not compensate for the fact that the number of those considered poor grew.

For the past 10 years we have seen tax cuts disproportionately benefitting the rich and higher income Americans. Income growth for working Americans increased only slightly, in fact, for median income families, it decreased. Yet at the same time, 86 percent of the rise in income went to the wealthiest 20 percent.

The agreement once again asks working Americans to bear a greater burden to now reduce the deficit. Working Americans have not been part of those "good times." It is blatantly unfair to ask them now to pay for those good times enjoyed by others.

Earlier this year the House passed a budget which I supported that called for cuts of under $2 billion in the Medicare program in 1 year. There was a recognition that an effort had to be made to get the program under control and to address its increasing growth. Many attacked those cuts as harsh. If those cuts were harsh, what can $60 billion in cuts over 5 years possibly be called?

There is no attempt in the agreement to address the true problems of health care costs. Instead the costs of Medicare are simply shifted to the program beneficiaries. While there may be some who can certainly afford to pick up these costs, the summit agreement does not reflect reality. By 1995, the Aging Committee estimates that the Medicare part B premiums will equal one month's social security check. This is no way to make long-term policy.

The summit agreement contains not only cuts and revenues but policy agreements that come close to further reducing a need for Members of Congress to perform their most essential function. I have fought for years against budget procedures such as Gramm-Rudman-Hollings that remove responsibility for voting and decision making. This 5-year agreement continues that practice and removes us as Members further from the budget process. More importantly, it also diminishes the input of citizens in the process.

As a populist Democrat, I can not review the facts and figures from the past 10 years and say that the burden under the summit agreement is being borne equally by all Americans. Voting against the summit agreement is bound to draw criticism but I can not vote for an agreement because everyone says its the "best" we will get and another agreement is not possible. I am confident and optimistic that a fair budget agreement that reduces the deficit and stimulates economic growth can be devised. I know there are alternatives and I know they are better.

Mrs. COLLINS. Mr. Senator, I rise in opposition to the budget agreement.

The bills of the past decade are coming due and payment is being extracted from those least able to pay, while those most able to contribute escape virtually unscathed. Because of the policies of the 1980's, the wealthy gained the most while the poor, the elderly, children and the needy suffered the most. With this agreement, that trend continues. We suffered through the last decade and endured the slash and burn policy toward social spending, hoping upon hope that the kinder, gentler, nation that President Bush envisioned would see a return to fairness in budget priorities.

I have a large number of elderly and elderly poor in my district. How in the world can I go home and tell them that I voted for a package that would cause them to pay more for Medicare insurance and lower the service they will receive if they become ill. This double-edged sword is unconscionable. Medicare and other entitlement programs are already suffering. How in the name of all that is decent can we even begin to consider even deeper cuts? So what if someone's $12,000 diamond or fur Christmas present will be taxed at a higher rate? We're talking about cutting medical benefits and raising premiums for medical care on a significant segment of our population who live off much less than $12,000 per year. In my state of Illinois, doctors, hospitals, and other providers are already struggling to continue adequate care. Many will certainly pull out of the program rather than face diminished reimbursements that leave them in debt.

It is not just the elderly or poor who will suffer under this document. The economy is slipping further and further into recession and as things worsen, more and more jobs will be lost. How can I tell those whose jobs are taken or threatened that they will have to wait for two additional weeks to get unemployment benefits? Where is the rent to come from for those 2 weeks? Where is the food to come from? This is not only inhumane, it is downright ridiculous.

And who will suffer most from an increase in the gasoline tax? Not the Rolls-Royce owner, but the Rolls-Royce chauffeur and others who are earning the minimum wage. A regressive, higher tax on gasoline is going to make it even more difficult for low-wage earners to get to their jobs. Why? Because those who have the luxury of an automobile will pay more in fuel expenses, and those who ride public transportation will likely see increases in fares. We fussed and fought in this body over raising the minimum wage and patted ourselves on the back grandly when we compromised on a few cents more. Now we stand here ready to stick it to the little guy again.

In addition to many seniors, I have a sizable middle-class population in my district that is also sick and tired of being squeezed every single time we enact a tax cut or deficit reduction proposal. There is nothing wrong with having trained yourself, worked hard, and earned some few comforts in life. An annual household income of $30,000 or $50,000 may sound like a lot, but you try raising a family of four, or Heaven forbid, sending a child to a $20,000 a year college on that income and see just how far it gets you. Every time this Nation looks to increase revenues, it looks to the poor and middle class. Under this budget document, those with incomes over $200,000 will see their taxes increased by a whopping three-tenths of 1 percent, while those with incomes between $20,000 and $50,000 will see their taxes raised between 3 and 3.3 percent. Where is the kindness? Where is the gentleness? Where is the fairness?

My colleagues, this budget agreement is worse than "voodoo" economics, this is the devil himself! I urge each and every one of you to put this document behind us and let's come up with a package that is fair and workable.

Mr. ATKINS. Mr. Speaker, it is with regret that I rise today in opposition to the summit agreement budget resolution. My regret comes not from opposing this particular package, which I consider to be unfair to middle-income families, the elderly and those on fixed incomes. It comes from being forced to decide between this package and no package at all. I strongly believe that the best tonic for our ailing economy is a strong deficit reduction package, and that the sequestration alternative will have absolutely diastrous effects on our economy. Furthermore, the Nation's Federal work force was never meant to bear the brunt for delays in enacting a budget.

However, I cannot support this measure because it continues the unfair fiscal policies of the last decade. These policies have shifted the tax burden to poor and middle-income families who work for a living, and away from wealthier families who receive more of their earnings from dividends and capital gains. The economic rationale was to encourage investment and growth, the benefits of which would trickle down to all sectors of the economy. But there is no evidence that this has ever happened. Instead, the evidence shows that the poorest fifth of American households have seen their income drop by 5 percent over the last decade, the middle fifth has seen a meager 3-percent gain, while the top fifth has experienced a whopping 33-percent gain.

Mr. Speaker, I've had enough of these policies. They've resulted in a threefold increase in our Federal debt and they've resulted in a shrinking middle class that is more hard pressed than at any other time in our history. Yet, when I look at this budget package before us today, what I see is a continuation of the failed policies of the 1980's.

It is only fair that those who prospered from a decade of fiscal policies designed to help the rich should pick up the tab now that the bill has finally come due. But that's clearly not the case when Medicare premiums for people on fixed incomes will increase 20 percent, while the rich get a slew of tax breaks worth $12 billion. It's also not the case in light of increased taxes on beer and wine, gasoline, airline tickets and petroleum products, all of

which will be more onerous to middle and lower income families than they will to the very rich. According to estimates from the Joint Committee on Taxation, people with adjusted gross incomes of between $30,000 and $50,000 will see their taxes rise 2.9 percent, while those making over $200,000 will be subjected to only a 1.7-percent tax increase. That's just not fair.

This package will also cause a great deal of unfair damage to my home State of Massachusetts. Efforts by Representative SILVIO CONTE to exclude home heating oil from the tax on refined petroleum products were reversed at the last minute, and the resulting 2-cent-per-gallon tax will hurt our region of the country more than any other. Because of the Iraqi invasion of Kuwait, home heating oil prices have already skyrocketed, and State budget woes have necessitated a dramatic cut in State and local low-income home energy assistance programs. I don't see how low-income residents of the State are going to be able to heat their homes this winter with all of these circumstances working against them.

Meanwhile, the oil and gas industries will benefit from $3.5 billion in tax breaks for exploration and production incentives. I simply cannot fathom why, at a time when oil prices have doubled, we need to provide additional tax breaks for the oil industry.

Mr. Speaker, it is my sincere hope that we can reject this package and quickly pull together an alternative package that will require the rich to pay their fair share of the tax burden, yield further cuts in our defense budget, and remove the responsibility for cutting the deficit from the backs of the middle class and the elderly. While I completely agree with the urgent need to reduce our deficit, I cannot support a package that insulates the wealthy and shoves all of the costs on the people who have been forced to pay the price for Reaganomics—the middle class, the elderly and those who must survive on fixed incomes. Unfortunately, that would be the result of the package before us today, and that is why, as much as I would like to see our deficit reduced, I cannot give this package my support.

Mr. LOWERY of California. Mr. Speaker, this Nation's deficit is approaching $300 billion; our national debt has tripled since 1982 and we face increased dependency on foreign lenders to finance that debt; we have rising interst rates and an oncoming recession—all of which diminish our ability to compete internationally. Without action today, we stand to lose jobs, personal income, vital programs, and our credibility as the leading nation in the world.

The budget brought before us today is based on a compromise forged after weeks of intense negotiations between congressional leaders and the administration. While I believe Congress should have had the political will to make more substantial cuts in Federal spending, this package does provide for the largest deficit reduction agreement ever.

Unlike previous budgets, this one will cut $500 billion from the deficit over the next 5 years; the majority of these cuts are real and lasting. Implementation will result in reducing Federal spending from 23.4 percent of GNP in fiscal year 1991 to 18.2 percent in fiscal year 1995—this is a smaller percentage than any year since 1965. This agreement is mostly spending cuts—36 percent come from discretionary programs, 24 percent from mandatory programs and 13 percent from reductions in interest. Only 27 percent of the agreement involves revenue increases.

We are finally proposing enforcements that I believe will work. The pay-as-you-go system will ensure that planned deficit reduction occurs by requiring any expansions of entitlement and mandatory programs be offset in the same bill. Spending that violates these caps, or pay as you go violations will trigger automatic across-the-board offsets in the relevant categories.

While I would prefer to not see such deep defense cuts, I understand military programs must also contribute to reducing the budget deficit. Secretary Cheney has stated that he can manage these changes without damaging our ability to defend our interests in a dangerous world, and I trust his judgment.

And while I am not an advocate of increased taxes, I believe the package demonstrates equity and compromise. Clearly, an increase in excise taxes on beer and wine will impact many. However, to demonstrate a sense of fairness, it should be noted these excise taxes have not been increased since they were first instituted in 1951, while inflation has risen well over 400 percent.

I would like to take this opportunity to state my serious objections to the package's increase to the gas tax. My home State of California will be especially strained by this increase. As you may know, Californians had the fortitude to approve a 6-cent increase to their gas tax in June to raise revenues for transportation improvements. This additional increase will be a serious burden for my constituents.

The Medicare provisions will ask more from both providers and beneficiaries, but the cost of Medicare part B has quadrupled since 1980, and the program as a whole has become the fastest growing part of the Federal deficit. Contrary to some reports, Medicare is not being ravaged; the budget agreement requires participants to pay about $2.30 more a month next year in premiums than they would have paid. The deductible will rise from $75 to $150 over three years. The poor and near-poor will have many of these additional costs paid for them through Medicaid. Still, if the Energy and Commerce and Ways and Means Committees believe they have a more equitable approach, it should be considered.

Mr. Speaker, I don't like everything in this package. But, I know I don't like the alternatives. The compromise does not include provisions to raise income tax rates; social security benefits were not cut. COLA's—including Social Security, military, and Federal annuities—were not cut or delayed. We didn't see a reduction or elimination of the deduction of interest paid on home mortgages and, deductibility of State and local taxes was not capped.

Another alternative is sequestration of $85 billion, or 30 percent. If these cuts are put in place for the entire year we will find ourselves in total disarray. It would cause a breakdown of government—air safety, meat inspection, law enforcement, war on drugs, education, health, housing, veterans, research, and revenue collection. Its effect on the Department of Defense during Operation Desert Shield would be devastating.

All Federal employees will be furloughed for at least 2 days out of every 6. The San Ysidro Port of Entry at the United States/Mexican border near San Diego is the busiest border crossing in the world. Gramm-Rudman cuts in the personnel of the Customs Service and Immigration and Naturalization Service could mean dramatic reductions in the hours of operation and number of available vehicle inspection lanes. The delays resulting from these changes would have a domino effect damaging businesses, travel and trade in the San Diego area. It would damage our ability to intercept illegal drugs and aliens at the border. Related problems would grow tremendously. I have a responsibility to my constituents to insure that our Government can operate effectively and meet the needs of our citizens. Sequestration would cause catastrophic consequences to this nation.

While many of us are focusing on specific aspects of the bill that we don't like, a failure to pass this package will have a negative effect on an already tense international situation. Other nations are looking to the U.S. for leadership in a major international crisis; our failure to end this budget impasse will shake all nations' confidence in our political and economic strength and stability.

My colleagues need to remember that in a parliamentary system of government, the failure to accept a measure as vital as this budget agreement would result in the fall of the government and a dramatic loss of confidence at home and abroad. We cannot send this signal to our allies and trading partners when international unity is vitally needed to halt Iraq's economic and military aggression. My personal opposition to a gas tax, or concerns on the costs to medicare, must be tempered by the threat to our Nation if we do not take action on the budget immediately.

Mr. Speaker, we were elected to govern. There is much talk of incumbent advantages—here is an incumbent disadvantage. We have to stand up and be counted. Our votes go on the record. It would be easy to wash my hands, agree with those who might be inconvenienced and give my decisionmaking power over to chaos instead of order. I prefer to govern.

There is no winner or loser today—only equity and compromise. I believe we all have an opportunity to demonstrate each of our ability to put what is good for the country above what is good for ourselves.

Mr. HERGER. The Speaker, the congressional leadership claims that the budget summit agreement is fair; that it is a domestic version of burdern sharing. I ask my colleagues how it is fair to raise taxes on one industry by roughtly 700 percent.

This package victimizes the premium wine industry that is fundamental to the economy of the Napa Valley. This wasn't a budget summit, it was a tax summit.

This package does not simply increase the excise tax imposed on wine, it switches the method by which that tax is imposed. The budget summit agreement imposes a per

bottle tax, something we have never seen before. This change has been instituted for one reason, and one reason only: to mask the true size of this huge tax hike.

The wine industry contributes $31 billion to our Nation's economy. It employs 490,000 people, to whom it pays $8 billion in wages. And already, the industry pays $2.5 billion in State and local taxes.

Economic models indicate that the summit proposal will decrease wine sales by 10 percent. In the October 2 Wall Street Journal, one wine merchant is quoted saying his retail sales will plummet 20 percent. This is disastrous. This vital industry could lose at least $3 billion in business activity and 50,000 jobs. Also, it will result in a loss of $300 million in revenue to State and local governments. We're robbing Peter to pay Paul.

In California, which is the largest of the 43 wine-producing States, we forsee the loss of nearly 20,000 jobs.

Mr. Speaker, I represent the Napa Valley. In the Napa Valley, we are proud of our premium wines, many of which are produced at independent, family-owned wineries. Almost 75 of those wineries are going to be subject to this outrageous tax. Many will not be able to absorb the blow. I heard from the properietor of one winery who said this package will force him to lay off 150 of his 400 employees. Another has informed me that this proposal will cut over 100,000 cases in sales next year. This is not a way to encourage economic growth.

This package is a bad deal for northern California and a bad deal for America. In an increasingly competitive international market, these new taxes will severely handicap California wine products. I strongly urge my colleagues to oppose it.

Mr. GALLO. Mr. Speaker, the United States stands tonight at a fiscal fork in the road. We have reached the point in our economic history where we must make hard and difficult choices about the road we will take. One thing is clear, however—we cannot continue along the road which has taken us to the brink of economic disaster, as embodied in our ever-growing and seemingly uncontrollable Federal deficit.

For nearly 6 months the leadership of the House has been engaged in a budget summit with the leadership of the other body and of the executive branch. Members of Congress have watched with frustration and impatience the long and tortuous summit process.

Earlier this week the budget summiteers placed before this House and the American people the fruits of their labor. This agreement gives us what is probably our only—and best—chance to make a real attack on the spending spree which has led us to this deficit. If we take the opportunity this moment presents the benefits will be immediately apparent—lower interest rates and a renewed confidence in our ability to put our fiscal house in order.

After waiting so long, I had hoped that the result would have had more to recommend its immediate and certain passage. This agreement is not one I would have crafted. The cuts in Medicare are excessive and I believe that we could have lessened the impact of new taxes if the agreement had been able to do more in cutting excessive domestic spending. In the coming weeks I will be working hard to try to make changes in the final package which reflect these beliefs.

It would be easy to pick apart this budget, to find things in it that I do not like. As a member of the New Jersey delegation I am particularly sensitive to any discussion of tax increases. The people of New Jersey have been understandably and justifiably upset with tax policies in New Jersey this year.

But I hasten to add that not all taxes—and not all tax increases—are alike. The most important difference between this agreement and the situation in New Jersey is this—the agreement is a reasonable solution to a very real problem. It is not a piece of social engineering hiding behind a so-called budget crisis.

Let's look at what this budget agreement will cost the average New Jersey citizen in the next year. The tax on gasoline will cost the average citizen of New Jersey $33.58 a year. It will cost the homeowner who heats his home with oil an additional $12.54 a year. A New Jersey one-pack-a-day smoker will have to pay an additional $29.20 a year. A six pack of beer will go up 16 cents; a bottle of wine will go up 22 cents.

Even though these increases are relatively small, I do not dismiss them as insignificant. But I believe they are a small price to pay for getting our Nation's financial house back in order.

The Medicare provisions will cost our seniors $8 a month in increased premiums. I believe that this part of the plan should be modified. But even if the proposed hike remains, the Federal Government will still be paying fully 70 percent of the cost of Medicare coverage. And the good news is that our seniors' social security is untouched and they will receive their scheduled cost of living adjustment, as will Federal retirees and our veterans. I am, however, disturbed by the change in Federal employees' lump-sum retirement option and I will work for changes in that as well.

As we add up the cost of this package we must not ignore the cost if we fail to act. Failure to enact this budget resolution would result in a massive, dislocating, and painful sequester. Across the board cuts of $85 billion on just a third of the budget would wreak havoc on our Government and on our Nation. A sequester could very well bring our already shaky economy to a screeching halt.

It's not just that a sequester would cut defense spending, although it would, by more than 30 percent. But what about the tens of thousands of brave young Americans who are risking all in response to their nation's call? Do we tell them that partisan political bickering is more important than their mission.

It's not just that some Federal employees would be furloughed, although they would be. But what about the seniors who won't be able to be helped at a closed Social Security office, or those in veterans hospitals whose care would be compromised?

It's not just that air traffic control would be disrupted, although it would be. But what about the people whose living depends on their being able to fly as a part of their work?

It's not just that inspection of meats would come to a halt, although it would. But what about the jobs of those in that industry, and in the supermarket industry and the restaurant industry who would also be affected if we had a meat shortage?

There are a whole host of similar disruptions which would occur under the terms of a sequester, and the scenario is not a pretty one no matter how you put it.

The specter of sequester is too awful to even toy with at this stage in the budget process. I would rather vote for an imperfect agreement than risk the perfect disaster of a sequester.

I am not willing to abdicate my responsibility as a Member of Congress, a political leader, a representative of my constituents by opposing this agreement. I was sent to the Congress to help solve the Nation's problems—not make them worse.

I fully recognize that this is a difficult vote for many of my colleagues—it was for me as well. I respect my colleagues for their decision as I expect they will me for mine.

I have spent nearly half of my life in public service, seeking always to do what I believe is right for the people who honor me by choosing me as their representative. I know the people I represent and I know that when they are through looking at this agreement—and at the alternatives—they will find that the price this agreement demands of us is manageable and should be paid.

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in opposition to the budget resolution that is the product of the bipartisan budget summit. Despite my opposition, I do want to commend Speaker FOLEY, Republican leader MICHEL, President Bush, and all the other members of the budget summit for what I know was an exceedingly difficult exercise. While I cannot support the contents of the budget agreement, I know that it was put together in good faith as an effort to make the necessary meaningful and enforceable cuts in our massive Federal budget deficit.

Mr. Speaker, my South Dakota constituents do not shirk their responsibility to play a role in reducing our Federal budget deficit. In our part of the country, we recognize that there is no free lunch and that our bills must be paid. The current practice of simply charging the expenses of running our Government onto future generations while simultaneously driving up interest rates, fostering foreign takeovers of key industries, and shifting wealth from the middle class to the world's wealthy must come to a stop, and it must stop now.

Deficit reduction, yes. This particular plan, no. A nation's priorities, its values are reflected in its budget in a stark way. After the rhetoric clears, it is the budget which really tells us where our priorities lie. I don't expect, and my South Dakota constituents don't expect a budget plan which we regard as perfect—we know that this is a diverse Nation and that significant budget progress requires compromise and give and take.

But Mr. Speaker, this plan calls for more defense spending than either the House or Senate have previously approved, and takes nothing from foreign aid, while shifting more expenses onto the low-income elderly and in-

creasing taxes on the middle-class and working people. The trickle-down philosophy of the Reagan 1980's is continued in this plan—the notion that if the wealthy can just be made wealthier, the rest of Americans may get some trickle-down benefits. We've had enough of that in this Nation over the past decade.

This deficit reduction plan is in a major way built on huge reductions in agricultural spending, gasoline tax increases, and reductions in Medicare—together they constitute a particularly tough blow to a low-income, rural, agricultural State with a high proportion of low-income elderly. Already, the top 1 percent of American income earners—with average incomes over $549,000—enjoy an average tax cut of $82,000 per year over what they would have paid in the 1970's. Meanwhile, the typical middle-income family of four, earning $31,000 pays $409 more in taxes. This agreement continues that regressive trend by providing tax shelters for the rich but tax burdens for the middle class.

I appreciate that the alternative to this budget agreement is not the status quo—the alternative is not to do nothing and avoid all pain. But Mr. Speaker, despite the President's firm resistance to any proposal which would require the wealthy to make a fairer contribution to the Nation's budget crisis, I believe that we can come up with an alternative which creates greater tax fairness and spreads the pain of budget cuts in a much broader, more equitable way. I particularly comment Representative DORGAN and Representative OBEY for their innovative and far more progressive budget deficit-reduction plan which has been distributed among the Members. I do not believe that the brutal cuts imposed by Gramm-Rudman are our only alternative—a progressive, fair budget agreement is possible if only this body will demonstrate bipartisan political will.

Mr. LAGOMARSINO. Mr. Speaker, I must rise in opposition to the budget summit agreement. It pains to be unable to agree with the President, but I cannot support a budget resolution that raises taxes next year while further postponing cuts in domestic discretionary spending for 3 more years. I cannot support a budget that is based on unrealistic economic assumptions. I cannot support a budget that puts the burden of the national Federal deficit on the shoulders of a few selected groups of American consumers and the elderly.

I have been hearing the argument that I should support the budget summit agreement because "we must reduce the Federal deficit." Many Members are exclaiming that "we have to do something about the Federal budget deficit."

I have been trying to do something about the Federal budget deficit since I came to Congress 16 years ago. The need to reduce the deficit is nothing new. The fact that some Members have waited until now to warn the American people about our country's budget crisis certainly helps to explain how the problem got out of hand in the first place.

I think that Members who are concerned about reducing the deficit can start by repealing the 33-percent pay raise that passed Congress last year. How can Congress accept such an obscene pay increase and then call for extra taxes on American taxpayers? Any budget legislation aimed at reducing the Federal deficit should include a repeal of the congressional payraise.

History has clearly proven that an increase in taxes will lead to an even greater increase in Government spending. In fact, since World War II, for every $1 increase in taxes, Government spending has increased over $1.50. Now we are being asked to support the second largest tax increase in our country's history, almost $134 billion, and we're supposed to believe that everything is going to be different this time?

Let's take a closer look at the budget summit agreement for a moment. According to the agreement, the increase in taxes and user fees will total over $18.5 billion in 1991 and Domestic discretionary spending will be reduced by zero dollars. In 1992, the increase in taxes alone will total $26.7 billion and domestic discretionary spending will be reduced by zero dollars. By 1993, taxes will have been increased by almost $70 billion, and domestic discretionary spending will be cut by zero dollars.

Meanwhile, of the $119 billion in reduced mandatory spending under the budget summit agreement, about $60 billion comes out of the Medicare Program. It is unfair that elderly Americans, representing about 12.5 percent of the population, are being asked to bear more than 50 percent of the burden of the Federal deficit.

I have long called for an honest Federal budget with honest cuts in Federal spending. Our Nation's financial structure cannot be built on a shaky foundation. The economic assumptions that form the foundation of the budget summit agreement are too unrealistic to support true deficit reduction. A barrel of oil today already costs 89 percent more than the price listed in the economic assumption for 1990. Further, how will the American economy boast a 3.8 percent and 4.1 percent increase in real GNP in 1992 and 1993 after shouldering a $70 billion increase in taxes? Contrary to what I have heard, I believe that the real threat of recession lies behind the enactment of this budget agreement.

I urge my colleagues to look closely and seriously at the budget summit agreement. We desperately need to reduce the Federal budget deficit, but we do not need to pass desperate legislation to achieve that goal.

Mr. WOLPE. Mr. Speaker, I rise in reluctant but nonetheless strong opposition to the budget summit agreement. I do so because the agreement simply is unfair.

It is unfair that low- and middle-income working people would bear the largest share of the new taxes which would be imposed. According to the Joint Tax Committee, the agreement would mean a tax increase of 7.6 percent for those making less than $10,000; 2.9 percent for those making between $30,000 and $50,000; and only 1.7 percent for those making over $200,000.

It is unfair that senior citizens would be subjected to billions of dollars in increased cost sharing in the Medicare Program. Under this agreement, Medicare premiums would increase from $343 to $651 by 1995. This huge increase would absorb 70 percent of Social Security cost-of-living adjustments during this period.

It is unfair that laid-off American workers would face a 2-week delay in receiving their first unemployment check. It is clear that the Nation is either in a recession right now or will enter one soon. We can expect the Nation's unemployment rate to climb in the months ahead. I vividly remember the human toll of the 1982 recession in Michigan. I find it incomprehensible that we would even consider adopting such a measure in today's economic climate.

And it is unfair that, in the midst of the pain of increased taxes and spending cuts, billions of dollars of new tax breaks would be created for wealthy Americans. For example, this package contains $12 billion in new so-called growth incentives. Four years ago we passed a tax-reform package that reduced tax rates by eliminating inefficient and unjustified tax shelters that allowed some wealthy Americans to avoid paying any taxes at all. I have seen no evidence to indicate that these new growth incentives will encourage anything but the growth of a new tax shelter industry which will once again help the wealthiest among us avoid paying their fair share of the Nation's taxes.

This package also contains $4 billion in new production incentives for the oil industry. It seems that the doubling of oil prices in recent months has not been enough to satisfy domestic oil producers. I strongly support Government investments to reduce our dangerous dependence upon imported oil. But such investments must be based upon a rational analysis of how we can displace imported oil in the most cost-effective mannner. This $4 billion expenditure has not undergone such an analysis. It isn't included in this package because it is good energy policy; it is included only because the President and Members of Congress from oil-producing States have insisted upon it. If we continue to make energy policy decisions this way, we will squander scarce resources without any appreciable increase in our Nation's energy security.

Mr. Speaker, it has been said that this package is the only alternative to sequestration. I don't believe that. There are other alternatives. For example, if we were to simply eliminate the two new tax breaks that have been proposed, we could reduce the impact of the Medicare cut on seniors by almost 50 percent and we could eliminate the 2-week waiting period for the unemployed. How can we justify inflicting such painful cuts on senior citizens and unemployed Americans for the sake of highly questionable new tax breaks which will only further enrich wealthy Americans and the oil industry?

One last point: 40 percent of today's defense expenditures—over $130 billion—are still directed toward defending Europe from a threat that clearly no longer exists. Isn't it about time that we ask our European allies to assume a greater share of the burden of their own defense? That would certainly help produce a much less painful and much more fair deficit reduction package.

The sad truth is that the budgetary crisis we face today is the consequence of 10 long years of fiscal irresponsibility that has resulted

in an erosion of America's economic strength, a huge widening of the gap between the wealthiest one-fifth of our society and everyone else, and a loss of public confidence in the ability of our political leaders and institutions to put the interests of average citizens over those of the rich and powerful. This budget summit agreement will only reinforce all three of these disturbing trends. There is simply no way that I can vote for a package that is so blatantly unfair without breaking faith with the constituents who sent me to Congress. We can and must do better.

Mr. McCANDLESS. Mr. Speaker, I cannot and will not support this budget.

The people I am privileged to represent, the people of Riverside County, CA, consist largely of working families who must commute, and senior citizens. It would be difficult to write a budget that would hurt my constituents more than this one—with its 12-cents-a-gallon tax increase on gasoline, and its increases in the Medicare premium coupled with Medicare reductions.

There are six fundamental flaws in this budget:

First, it begins with the assumption that the deficit is so high because taxes are too low; second, it is technically flawed in its economic assumptions; third, it contains the largest first-year tax increase in American history; fourth, it creates the myth of spending reductions and reforms; fifth, there is no budget enforcement mechanism, and sixth, there are no budget process reforms.

I reject the assumption that we have a budget deficit because the American people are undertaxed. The average working American currently pays in excess of 40 cents of every dollar he or she earns in some form of taxation. The problem is that Congress has been unwilling to control Federal spending.

The economic assumptions which underlie the budget are completely unrealistic. The gross national product between 1990 and 1992 is projected—not to double, not to triple—but to increase by 543 percent. The budget assumes that the price of oil for the remainder of 1990 will be $21.15 a barrel. The current price is nearly $40 a barrel. The budget assumes that long-term interest rates will fall to 5.3 percent. That would be the lowest level since 1967. It's a nice goal, but it is not realistic.

The budget calls for a $134 billion tax hike over the next 5 years. Is a tax increase necessary? The answer is a resounding "No." It is estimated that, under current law and without enacting any new taxes, Federal revenues will grow by $400 billion over the next 5 years. If Congress held increases in spending to 4 percent per year, we could reduce the deficit and move toward a balanced budget without raising taxes. A tax increase, added to the $400 billion, will only allow Congress to spend more.

In 1991, the budget calls for zero dollars of budget reductions from domestic discretionary spending and foreign aid. In 1992, the budget calls for zero dollars in budget reductions from domestic discretionary spending and foreign aid. In 1993, the budget calls for zero dollars of budget reductions from domestic discretionary spending and foreign aid. In fact, the budget allows domestic discretionary spending and domestic entitlement spending to increase by an average of 6.5 percent. The spending increases in nondefense spending will total $724.6 billion over the next 5 years. That represents an $5.40 increase in spending for every new dollar of tax revenues.

There is no serious enforcement mechanism. New spending to deal with an emergency does not count in the new spending caps. Excessive spending due to faulty economic assumptions do not count against the caps. And the Gramm-Rudman balanced-budget law is weakened by allowing Congress to miss the mandated deficit-reduction targets by $15 billion. In technical terms, this has been dubbed "wiggle room." In real terms, it means that Congress will not be held accountable to abide by the budget.

And, there is no reform in the budget process. The current budget process was not and is not designed to control Federal spending. In fact, the current budget process was adopted in 1974 because President Nixon refused to spend some of the money that Congress had appropriated. I have long been an advocate of meaningful reforms in the budget process. Those reforms should include a balanced-budget/tax-limitation amendment to the Constitution; a line-item veto for the President; a zero-based budget where every budget dollar is justified on an annual basis; the use of a 2-year budget cycle; the removal of Social Security from the unified Federal budget; and, an end to the use of continuing resolutions.

Those are the fundamental flaws of this budget, and there are many more.

Californians recently approved an increase in the State gasoline tax specifically for the purpose of building and improving roads. The crisis in the Persian Gulf has meant another increase in the price of gasoline. And now, this budget calls for an additional 12 cents—2 cents at the wholesale level and 10 cents at the pump—a gallon increase that my constituents will have to pay. In my congressional district, a car is not a luxury, it is a necessity. A tax on gasoline should be used to reduce gridlock, not for general revenues.

Senior citizens should not be singled out for a massive increase in the cost of their health care insurance. The monthly premium that seniors must pay Medicare would nearly double, going from $29 today to $54 in 1995.

The budget assumes that $64 billion will be saved by a reduction in interest rates that isn't going to happen.

The budget claims a $8.1 billion savings by eliminating the lumb-sum civil service retirement option. There are no savings here. All that is changed is the timing of the payoff. Total spending, over time, remains unchanged.

Nearly $36.5 billion of savings from entitlement programs come from either new revenues or budget gimmicks. Another $23.8 billion comes from unspecified savings, optimistically relying on Congressional committees to produce real savings.

Increasing taxes under Gramm-Rudman does not reduce the deficit, it allows spending to increase.

A 10-percent tax imposed by the budget on certain luxury items could easily be converted to a national sales tax simply by altering the definition of "luxury."

The budget prohibits any tax reductions unless they are offset with a dollar-for-dollar tax increase.

The budget calls for a $5.4 billion transfer from the Postal Service to the Treasury. The Postmaster General estimates that the price of a stamp will have be raised by 5 cents just to cover loss.

There is an alternative to this budget. It's called the 4-percent solution. It limits the increase in Federal spending to 4 percent a year; it established a mid-year Gramm-Rudman review to insure that the deficit is under control; it eliminates current services budgeting; and it requires that any new spending in one area be offset by a spending reduction in another. I would urge the House leadership to allow this proposal to be brought before the House of Representatives.

But the issue before us is the budget summit agreement. It is bad budget, and one that should and must be rejected. Therefore, I will vote "no," and would urge my colleagues to do likewise.

Mr. TANNER. Mr. Speaker, as I reviewed the provisions of the budget summit agreement, I found some that I find objectionable. However, in making up my mind, three facts stood out.

First, we as a nation have been on a course of deficit spending promising economic disaster for several decades, but our speed on that course has accelerated during the 1980's. The national debt has tripled in the last 10 years and, absent action now, it will increase by 10 percent again in fiscal year 1991. We are clearly confronting a fiscal crisis that threatens our very future.

Second, the Congress had only two choices before it to reduce the budget deficit: vote for this agreement or let automatic, indiscriminate cuts—called sequestration—cut Federal programs by $100 billion immediately. No other alternatives were available for consideration.

Finally, there are about 200,000 American soldiers, sailors, marines, and airmen deployed in the Persian Gulf area facing imminent danger. The indiscriminate cuts would have cut funding for defense alone by about $48 billion.

In drawing my conclusion, it was painfully obvious that:

First, action is desperately needed to begin to stem the flood of budget red ink that has accumulated;

Second, an agreement forged by honest, difficult negotiations between the bipartisan congressional leadership and the President was preferable, in present circumstances, to across the board cuts that would have decimated Federal programs across the board; and

Third, it would be irresponsible to allow across-the-board cuts to undermine the support that is vital to the success and, hopefully, the safe return of those military forces.

This is the first step in this process. Over the next 2 weeks, some of us in Congress will be working hard to improve this proposal. At the end of this process, for the sake of our economic health and in fairness to our chil-

dren and grandchildren, we must have a deficit reduction package that is effective.

If this bipartisan agreement is the best we can achieve, we must join together as a nation willing and committed to the financial integrity of the United States of America.

Mr. RAHALL. Mr. Speaker, I rise in opposition to the budget resoultion.

I know that this resolution was arrived at by a very concerned, well-meaning, and dedicated group, who began their meetings well over 5 months ago.

I thank the leadership for their efforts. Frankly, with the past 2 years' worth of rhetoric ringing in their ears— "read my lips, no new taxes,"—and then "give me a capital gains tax reduction or else," I am surprised they were able to agree to anything.

In representing my district, to me things are quite clear. Of the hundreds of calls my office received after the President's speech, not counting the telephone calls before his speech on the budget, only 10 percent have been from people asking me to support this budget resolution. Only 10 percent say "yes"; 90 percent say "no."

One constituent said: "Congressman, didn't we learn our lesson when we fell for Reaganomics? Do we have to fall for 'Bushonomics,' too?"

In May of this year, the President's budget was withdrawn from the House floor with no vote allowed on it.

It seemed there were new worrisome economic indicators on the horizon that the President had not seen before.

The indicators were called: savings and loan costs. The costs we were told would amount to only about $50 billion just a year ago, are now projected to cost $375 billion.

While Mr. Bush was repeating his famous "read my lips" chant about no new taxes, the people of this country had already begun to pay a very new tax—a tax on every man, woman, and child, to pay off the savings and loan losses that were caused by outright, criminal fraud in most cases.

The President had not even abdicated his "no new taxes" theme when he urged Congress to enact the savings and loan bailout bill last year. If those aren't new taxes I don't know what are. Last year, in the face of Presidential and congressional pressure to pass the savings and loan bailout, I voted "no." I will vote "no" on this budget today as well. It is much the same thing.

But while the President was calling a budget summit because of the unprecedented growth in the costs of the savings and loan scandal, he was also very firmly telling budget summit negotiators that:

If the new budget resolution doesn't contain a tax cut for the rich—called capital gains tax reductions—he would veto it.

And so we are here today making sure the rich get richer.

When the rich are sick. They buy the best medical care in the country.

When the rich get sick, they don't need Medicare.

West Virginia's low- and middle-income seniors do need Medicare.

When the rich get sick, they go to the hospital of their choice.

When the poor get sick, they may find their local hosptial has closed, due to reduced, insufficient Medicare payments.

Now, when Medicare gets cut by $60 billion, the middle-income seniors get dumped on, while the rich get well.

When the rich want to get from one place to another, they climb into their expensive cars, never giving the cost of gasoline a thought.

When the poor want to get from one point to another, they look at the gas pumps to see if the price of gasoline has gone up since they last looked—as early as yesterday.

Now when gasoline goes up, the rich don't notice, and the middle income get left at home, unable to do more than get to work and back every week on their budgets. Forget the family outing with the kids, or a trip to the doctor, or to the high school where a son or daughter may be making their debut in the school play, or setting records on the sporting field.

When winter comes and the air outside is frigid, the rich lounge in warm houses, or travel to warmer climates.

The middle income stay home and try to conserve their home heating oil by heating only one room, rather than the whole house. If you are among the elderly and can't heat your home due to high costs of home heating oil, you run the risk of death from hypothermia. Isn't any one listening?

Or maybe, if you are a senior citizen you have had to make a choice, and instead of eating, you are heating.

That is not the choice our senior citizens should be forced to make, and I will not be a party to any budget agreement that makes them choose between food, and home heat, or between heat and health care.

Later in the budget summit process, the President abandoned his "no new taxes" pledge, but he still did not abandon his absolute demand for a tax cut for the rich—capital gains tax reduction.

This demand, unrealistic as he knew it was, held up this budget making process for 2 months longer than necessary.

And still we get a budget that does absolutely no harm to the rich, and great harm to the poor.

Our West Virginians are not able to bear any more tax burdens. They are taxed to death now. We have paid more than our fair share for the budget-busting, bygone days of the Reagan, rich-get-richer revolution.

West Virginians can't afford to close any more hospitals. Four closed in my district alone last year.

Veterans can't afford to lose more services while their out-of-pocket expenses for health care increase. They should not be asked to do without health care, which they would not need had they not risked health and life in defense of this country.

The economic sanctions we are imposing on the American people in this budget are the moral equivalent of the economic sanctions we have imposed in the Persian Gulf.

We are blockading our own people, and cutting them off from a world where they ought to at least be assured of the bare necessities of life.

And I haven't even mentioned the deprivation America will suffer from not meeing its infrastructure, and other critical economic needs, long neglected here in this very room in the name of stockpiling nuclear weapons.

All I can think about right now are the human deprivations contained in this bill. They are so deep, so harmful, I find it tough to talk about roads, or airports, or education, or child care, or jobs training—all of which are severely threatened here, make no mistake about that.

What would I do instead?

I would revisit the rich, and burst that Tax Code bubble once and for all. Then I would increase from 28 percent to 35 percent the top rate on people earning over $200,000 a year.

That would earn me $60 billion which I would then take to Medicare recipients and say: Here. Now you won't have to have your doctor and hospital care cut by $60 billion. I found it for you.

Next I would go to the Department of State, and from its foyer I would demand the $15 billion that goes to foreign aid. And I would take it to the homeless, to law enforcement officers, to educators, to working poor families in need of child care, and I would say you don't have to sleep with your families in the harsh streets, or find yourself unable to protect communities against the scourge of drugs, or do without an education, or leave your children alone while you work. I found the money you need, without raising taxes.

And then I would visit the Defense Department. And I would first get at least $3.4 billion for the veterans who, after all, went to war and became veterans in defense of this country.

Then I would go back to the Pentagon and get a few more billion and I would give them to towns and cities and businesses, to schools, and hospitals, and roads and wastewater treatment plants. And I would take what is left and I would help any Social Security recipient who had ever received an overpayment, to repay what is owed.

Then I would take a couple more billion, perhaps $10 billion from star wars and Stealth bombers, and use it to cancel the gasoline tax increase, and the home heating fuel increase. Then I would tell the elderly, the poor and the near-poor. It's OK. You can heat, and eat, and get to work, and to school, and to church, and to doctor appointments. You can afford it now.

I would even try, once and for all, to put a stop to the endless, shocking use of threatened furloughs for the Federal workforce, by writing into any budget resolution some provision that prohibits Federal worker bashing, and lump-sum option bashing, and Federal health insurance premium bashing.

It's time to stop making our Federal work force the scapegoat for late budgets whose delay was actually caused by a recalcitrant President who insisted upon a capital gains tax reduction for the rich.

And lastly, I would stop beating up on the Postal Service, whose men and women help this country stay in business and stay in touch, enabling us to engage in commerce, to communicate, by delivering the single largest volume of mail in the history of civilization in record time against seemingly impossible

odds. It's time to stop abusing them, stop threatening their ability to survive, and when they retire to reap the just rewards of their service to us all.

I repeat. There are other avenues to travel, other roads to take. Let us take them, Mr. Chairman. Let us defeat this resolution, and then let's pass a resolution that is fair—and by fair I mean to realize a peace dividend by raiding the defense coffers, by keeping our foreign aid funds here at home, and by making burden-sharing a mandate among the richest people in this Nation.

Mrs. KENNELLY. Mr. Speaker I rise in reluctant support of the budget summit agreement, House Resolution 310.

I don't like the Medicare provisions, I don't like the 2-week waiting period for unemployment compensation, and I don't like the bill's lack of progressivity. I don't like it, but I am going to vote for it because the alternative—sequestration—is unacceptable.

Sequestration represents the failure of Government. And my constituents didn't send me to Washington to fail. My constituents sent me here to vote. So I am going to support this package, not because I like it, but to move the process along.

If we approve the conference report today, the committees can begin to rework parts of the package. We have been assured of this. Therefore, I am going to vote to give the committees, and especially my committee—the Ways and Means Committee, the opportunity to make this a better package.

The 2 percent refined petroleum tax on home heating oil is unacceptable. But I have been assured that every effort will be made to remedy this. I want to be part of that effort to assure that New Englanders already burdened by a 44-percent increase in the price of home heating oil aren't the only Americans to have their source of energy for heating taxed.

Clearly if the decision was between this agreement and some other palatable plan, I would vote no. But that is not the case. So I am left with balancing my dislike of this package with the possibility of influencing the outcome, all along knowing that the alternative is sequestration. And sequestration is no option.

Thank you.

Mr. KASTENMEIER. Mr. Speaker, colleagues, like most of you, I have pondered long and hard over my vote on this budget agreement negotiated between the President and our leadership. I pondered long and hard because I had to recognize that any alternative to this agreement would be difficult to achieve. But I have come to the conclusion that I cannot, in good conscience, support the agreement.

This budget plan breaks faith with the average citizen in our country. It hits hardest at those who can least afford it—the poor, the middle class, the senior citizens. It breaks faith with those people whose interests I have always tried hardest to represent here in Congress, and those issues that I have always supported.

There is the obvious impact of the Medicare cuts on the elderly, and on our medical delivery system generally. The energy taxes may serve some beneficial conservation purposes, but the burden of paying those taxes, on top of the burden of gas prices that are already increasing, is asking too much of those whose incomes are already stretched to the limit. Those increases are inflationary, and they are recessionary. The agreement proposes to increase the tax on heating oil, when in northern States the poor elderly already face higher heating costs this winter.

For those who suddenly find themselves forced out of a job, this agreement would suspend the first 2 weeks of unemployment compensation.

And now, we learn of an even more egregious element to this budget agreement. We find that the agreement would restore the hoopholes and tax breaks for the wealthy that we eliminated in the Tax Reform Act of 1986. One of the only truly good things that could be said about that act was that it eliminated tax breaks for investments, that it ended the policy of using the tax codes to direct investment decisions. The Congress has addressed that issue and found it appropriate to eliminate those tax breaks, so why should we restore them in this budget agreement? That was the straw that broke the camel's back for me; the budget agreement suddenly lost all credibility.

Overall, the President and the Congress can do—must do—much better. Our congressional leadership has bargained in good faith, but the negotiations were ultimately ineffective in producing a fair result—that's the bottom line.

We must remember, that the House has already passed a budget that is much better than this agreement. It was a budget that I voted for, despite my opposition to most annual budget resolutions over the last 10 years. I voted for it because it achieved real spending savings, particularly in defense, and because it called for fair cuts in spending and a sharing of the pain.

This agreement gives the military $70 billion more than the budget we passed. And who do we ask to pick up the costs of that military spending? The poor, the middle-class taxpayer, the Medicare recipient.

We can do better. I am a cosponsor of the Obey/Dorgan alternative plan introduced this week. While still being painful, our alternative is a more fair plan; it does not spare the wealthy. We would cut defense spending by $35 billion more than this agreement. We would eliminate the tax bubble for wealthy taxpayers, and we would adjust the top tax rate of 35 percent for those with adjusted gross income over $200,000. We would reduce the Medicare cuts in the agreement by one-half. And we would cut the gas tax increase by one-half, and eliminate the increased tax on home heating oil.

That alternative is a better alternative, and I hope we will yet have an opportunity to consider it. But I cannot support the budget agreement before us today.

Mr. MOLLOHAN. Mr. Speaker, there has been a great deal of talk this evening about spending reductions and tax increases, but we are not debating any spending bills and we will not be voting on any tax legislation tonight. With our votes tonight, we are merely deciding whether to go forward with our goal of drafting and enacting a truly equitable deficit reduction package.

We have not, frankly, reached that point. The package presented to us this evening was probably the best that could be produced in summit negotiations with a President elected on a read my lips pledge against new taxes, but it is not a fair package, it is not an equitable budget.

I don't like this resolution, Mr. Speaker, but I am going to vote for it. I don't say this with any enthusiasm. Indeed, it would be awfully easy for me to stand here right now and explain why I oppose the resolution. I don't like the size of the Medicare reductions. I don't like the requirement that States impose a 2-week waiting period on unemployment compensation. I don't like the increase in the gas tax. I don't like the package's emphasis on excise taxes generally. Rest assured that I could easily go on for quite some time about the things in this budget that I do not like.

But, Mr. Speaker, we weren't sent here to do what is easy, we were sent here to do what is right, and it would be wrong, very wrong, for this Congress to reverse our progress toward equitable deficit reduction.

Let there be no misunderstanding: I will not vote for legislation that cuts Medicare by $60 billion. I will not vote for a tax bill biased against the lower- and middle-classes.

But that is not what we are voting on tonight. We are voting to continue a process, a process, Mr. Speaker, that will ultimately be successful only if it leads to legislation that addresses the fiscal inequities of the 1980's at the same time that it addresses the fiscal folly of the 1980's. We cannot turn our backs on that process tonight. We must not abandon our principles by taking the easy way out, by throwing up our hands and abandoning the fight when victory is within our grasp.

Mr. COLEMAN of Texas. Mr. Speaker, I rise in support of this budget resolution. I do so for two good reasons. The first is that the immediate alternative, an across-the-board cut or sequester of up to $105 billion, is worse for the American people and for the American economy. The second is that only an "aye" vote on this resolution gets us to a situation in which we may consider a reconciliation bill on the floor of this House within the next two weeks. The reconciliation bill will at least be a legislative package. It will provide this congress with an opportunity to do what it should do—that is, to write, debate and vote on an alternative legislative proposal, made up of revenue increases and spending cuts, which improves upon the product from the summit. Today's announcement from President Bush acknowledges and confirms the House's prerogative—this package needs to be made more fair for working men and women in this country. It has to be changed, and it will be changed, but only if this resolution passes.

Each of us finds some general aspect of the summit package that is intolerable politically and intolerable substantively to our constituents. Each of us can take some part of the package that directly contradicts some previously stated position at a town hall meeting, or in some letter that we have sent from our offices. It is my firm belief, for instance, that the Democratic Party's negotiators in the summit were overwhelmed on some issues by the Republican administration. This package is inequitable—it provides a very substantial tax break to the wealthiest among us. And while

the tax bill paid by all Americans would increase under this package, the tax bill paid by Americans with incomes of $50,000 or less would increase proportionately nearly twice as much as the Federal tax bill for those with incomes over $50,000. That is unacceptable as an overall outcome of these negotiations.

I specifically object to the Medicare provisions. Every year since Gramm-Rudman has gone into effect, we have come to October and November and found ourselves short of the deficit target. We have always looked at entitlements and we have always looked within entitlements at Medicare. This plan goes much too far on these accounts. The increase in the deductible is too high. The increase in premiums is too high. The savings from cuts to Medicare providers and increased fees for beneficiaries this year in the summit package is three times what it would be even under sequestration. That has to be changed.

The point is that there can be no changes in the package unless you vote to pass this budget resolution and to move the process forward. This is a complicated package, but it is a simple vote. President Bush has said, after a year and a half of sloganeering, that he now needs new taxes to run the Government. The leadership in the Congress has said that we need new revenues to enact appropriations bills. That much is very clear.

Most of the Republicans who vote "no" on this package will try to tell the American people that we don't need new taxes and we don't need tax increases. The reason for this is that most of the Republicans who will vote "no" on this package—and please watch closely to see how the vote goes within their own ranks—have no interest in governing. They will not tell you how ruinous the alternative is. They will not tell the people in their districts what the real and immediate effects of a sequester would be.

Those consequences would be disastrous by any reasonable economic or human standard of measure. Experts have testified that failure to enact an alternative package would bring about a prolonged recession and that it would panic already nervous financial markets in New York, Tokyo, and Europe.

In my district, I know the chaos that a sequester of $84 or $105 billion would bring about. I represent a district that is heavily dependent on the Federal Government. It is a very poor per capita income district—and a district which is proud to contain a large and essential Department of Defense installation, Fort Bliss. Cuts of one-third and more of the Federal dollars which go to my area would not just be deep, they would be life threatening.

West Texans would be hurt badly by the enactment of an unimproved summit package. But they would be hurt worse by a one-third cut in community development block grants and the nearly 50 percent cuts in training and readiness of our Armed Forces under the anticipated sequester. Fort Bliss has already sent 8,000 brave men and women to Saudi Arabia—how is our post and our community which depends on it supposed to absorb cuts of that magnitude? My city, located on the United States-Mexico border, already has unemployment of 10.7 percent. How can it stand to lose as much as $60 million out of its total Federal transfer check this year of $170 million? The answer is that it cannot.

This bill raises $16 billion in taxes and user fees in this fiscal year. It cuts spending by $21 billion over the next 12 months. This is not an easy package to support. But think about what happens under a sequester of $84 billion. Nondefense discretionary spending would decline by $34 billion. That is not a stretching of the safety net for the poorest in America—it amounts to tearing it to shreds. Defense spending, after the cost increases of Desert Shield had been paid for, would be cut by $43 billion. In the summit package, defense spending cuts would total $10 billion. That cut alone will bring us dangerously close to underfunding national defense, even after the cold war. Think what a cut 4½ times worse would do. The same Members of the other party who tar and feather Democrats as being weak on defense are the ones who are standing in the well today to say that they prefer these cuts to a package with revenues. Shame on them.

I urge Members to vote for this resolution, to avoid fiscal chaos, and to keep this process moving forward.

Mr. COYNE. Mr. Speaker, the deficit-reduction legislation has worthy objectives. However, the means to achieve the objectives are flawed.

I oppose this legislation for several reasons: First, it is unfair; individuals at the lower end of the economic scale bear a disproportionate share of the tax burden; second, the economic section of the tax package raises more questions than it answers, and is open to abuse; third, the Medicare component places an unfair burden, because of the increase in the premium and the deductible, upon the elderly; and fourth, the manner in which it was prepared, or as the New York Times describes the process "governing by cabal," is objectionable.

First, the Joint Committee on Taxation states that those making less than $10,000 will experience a 7.6-percent increase in taxes; whereas those making $200,000 and over will only experience a 1.7-percent increase in taxes.

Is this fair?

Second, the package includes tax breaks for small business, which according to the chairman of the Senate Finance Committee "could lead to a substantial increase in tax shelters and great abuse." This package contains proposals which have not been submitted to scrutiny which is achieved through public hearings. This legislation, directed at encouraging small businesses has been described by Hobart Rowen as "a slew of new tax shelters that would cost $12 billion over five years." As Rowen states, the $12 billion cost is merely the official estimate "that figure is likely to soar."

Third, the Medicare provisions are simply unfair. This agreement increases the premiums from $343 a year to $631 a year by 1995, almost doubling; while at the same time we raise the $75 deductible to $150. We are talking about increasing the tax burden for those least able to afford it.

Fourth, according to a New York Times editorial "Instead of basing budgets on reasoned, public review of spending demands and potential revenue, critical decisions are now made on an all-or-nothing basis by administration officials and a handful of Congressmen, negotiating in secret, not knowing themselves exactly what they've done. This process amounts to governing by cabal, and that's no way to run the U.S. Government."

This point, Mr. Speaker, raises some very serious questions. Citizens who are adversely affected by this proposal and who bear a disproportionate share of the burden, have every right to wonder about the process, especially when legislation is presented to this body on a take it or leave it basis, and the options are narrowed even more when the choice is—accept this legislation or face sequestration.

This does not have to be. First, the chairman of the Health Subcommittee, on which I serve, has crafted legislation which rectifies the inequities in the Medicare provision. The premium remains at 25 percent and the deductible is set at $100. The chairman then adjusts the HI wage cap upward to $150,000 and thereby raises $17.6 billion over 5 years.

There is a further option that we have, and that is the progressive plan for deficit reduction put forth by my colleagues, Mr. OBEY and Mr. DORGAN.

Their modification of the summit agreement, as set out in more detail by the authors, will produce lower deficits and do so in a manner that is much more equitable.

Mr. Speaker, Edmund Burke, writing at another time and in a different historical context, to the Electors of Bristol, stated that "government and legislation are matters of reason and judgment, and not of inclination; and what sort of reason is that in which the determination precedes the decision, in which one set of men deliberate and another decides * * *?"

Mr. Speaker, I urge defeat of this resolution. We can do better.

Mr. FIELDS. Mr. Speaker, I rise in opposition to House Concurrent Resolution 310.

While I take no pleasure in opposing our President, whom I have long admired, this budget agreement is so flawed and so bad for America that it must be rejected. It is a prescription for economic disaster and an elixir that will cause great suffering for millions of Americans.

There is no question that we face a budget crisis of historic proportions. But the solution to that crisis is not higher taxes. Rather, only by making substantial reductions in Federal spending, including large reductions in the domestic discretionary side of the ledger, will we accomplish the goal of reducing the budget deficit. But disturbingly, such discretionary spending reductions are conspicuously absent from this agreement for the first 3 years.

This budget agreement is the wrong medicine at the wrong time. It proposes the second largest tax increase in our Nation's history, and it does so at a time when our economy is teetering on the brink of recession. The worst thing we can do in an economic downturn is to raise taxes.

There is nothing in this agreement that will create jobs, spur economic growth, or encourage investment in America. Quite the contrary, this agreement is a disincentive to investment, and it will hurt those Americans least able to afford it—the poor and the elderly.

Under this agreement, my 84-year-old grandmother in Denver Harbor, TX, will face staggering increases in her Medicare costs. She will be forced to pay higher Medicare premiums, her deductible limits will be doubled and, for the first time, she will pay 20 percent of her laboratory costs. If this agreement is enacted, my grandmother and millions of elderly Americans like her will be forced to choose between food and medicine. No American should ever have to make that choice.

Mr. Speaker, I was hopeful we could get a budget agreement that was good for America. We still can. First, however, we must reject this package because it is a formula for economic stagnation.

I remember all too well when we approved the misnamed Tax Equity and Fiscal Responsibility Act of 1982. I learned then that tax increases, once enacted, are permanent and are both inflationary and recessionary. I also learned that Government spending reductions often fail to materialize. Why do we persist in making the same mistakes over and over?

The tax increases called for in this budget agreement will hurt many Americans—especially those of us who live in the Southwest—who must travel, without the benefit of federally subsidized mass transit, long distances in our cars and trucks to make a living.

Mr. Speaker, I urge my colleagues to vote "no" on House Concurrent Resolution 310. By rejecting this agreement, our Government will not cease to function. The sky will not fall on us. There is still time to come up with a budget agreement that is sound, fair, and doesn't destroy our economy. I am prepared to work day and night to accomplish such an agreement. We can do better. The American people deserve better.

Mr. VENTO. Mr. Speaker, I rise in opposition to the budget resolution. Deficit reduction is an urgent national priority. There are some individual elements of this resolution which I support. Opposition from many sources indicate some ground has been given and a difficult decision is presented to the House tonight.

In the final analysis however, this budget agreement fails the test of fairness and balance. It socks low- and middle-income Americans with regressive taxes and Medicare cuts while it insulates wealthier Americans from paying their share of the burden. It gives the bill for the tax cut party from the decade of the eighties to people who weren't even at the table. It uses cold war military assumptions for a post cold war world, resulting in much higher military spending than has already been approved by the House. Fundamentally the policy path established by this budget resolution is out of sync with the reality of this new decade. It raises expectations of budget savings for 5 years and the unrealistic economic assumptions and data in it will be outdated in 5 months.

Mr. Speaker, real budget choices go to the heart of our responsibility as legislators. It is the time when we put the flesh and bones on the vision we have for America's future. The decisions we make aren't easy, and they aren't supposed to be. Making tough decisions about taxes and spending is what we come here for, but this measure tonight raises expectations that set up the Congress and President for failure. The military operation in Saudia Arabia—Desert Shield—is off budget and apparently not scored for the law. Funding for the S&L bailout isn't counted, another example, but both these items will add greatly to the 1991 deficit.

There is no doubt that the budget resolution before us today is tough but is it effective? Is it fair? Is it good policy? It will inflict pain on nearly every sector of our society. The question is are such sacrifices going to be rewarded with positive, lasting results. Sadly I conclude that it would not! I would support reducing the deficit by $500 billion in 5 years as promised by the summit agreement. Indeed we should be supporting a plan which cuts the deficit even more. But any deficit reduction plan we enact should be a fair package. It should spread the burden in an equitable manner.

I am strongly opposed to the imposition of the automatic cuts, didn't vote for such law—but it is the law in 1990, sequestration would cause economic hardship for millions of Americans and would be a great disservice to Federal employees. If our choices today were only between the budget resolution and automatic cuts, most all of us would support the resolution. But these are not our only choices. We have several weeks before the elections and several months before the end of the 101st Congress. Decisions such as this always come down to the crunch. There is time to modify the package to make it fair to low- and middle-income Americans. As an example, we have an alternative plan, an amendment to this package which I am cosponsoring, the Obey/Dorgan progressive plan for deficit reduction. This package would produce lower deficits, lower spending levels and lower tax increases than the budget agreement. I hope we will have an opportunity to consider elements of this plan and substantial changes to the budget agreement before the House. This budget plan has by passed the committees of Congress, the obvious defects and short falls are ample evidence to the poor process which created it. Some of the specific reasons I am opposing the budget agreement are obvious. The increase in excise taxes on cigarettes, alcohol and gasoline and petroleum products are regressive taxes which hit lower- and middle-income people the hardest. These increases would be palatable if they were accompanied by progressive tax increases based on the ability today. This package lightly touches upper income individuals, hits some specific businesses directly with the insurance DAC without even consideration of its impact. But the biggest outrage is after raising $160 billion in revenue, taxes, this package gives $20 billion in tax cuts to the oil companies, so called small businesses and others. I am also concerned about the $20 billion cuts in Medicare proposed in this package. The agreement requires Medicare beneficiaries to pay $30 billion in premiums and deductibles over the next 5 years that doubles the premium cost in that period.

The average senior will have to pay $54.30 a month premium in 1995, up from the current $28.60 per month, and their deductibles would double. The plan also proposes cuts of $30 billion in Medicare cuts in payments to doctors and hospitals. Some have referred to this Medicare portion of the budget summit "catastrophic without the benefits". What ever the explanation, its plain catastrophic. While I understand that some cuts may be required, these cuts go much too far and result in denying many seniors adequate health care.

Certainly one of the most disturbing aspects of the budget summit agreement is that it rejects the House-passed budget resolution's levels for national defense, which would have fallen to $275 billion by fiscal year 1993 due to the end of the cold war. While this budget agreement takes a meat ax to the poor and elderly on Medicare, outlays next year for defense increase $6.1 billion more than the level approved earlier by the House. Over the next 3 years, the summit agreement budget levels are cumulatively $33.6 billion more than the levels previously agreed to by the House. Additionally, Operation Desert Shield is exempt from limitations of the budget agreement—estimated to expend at least $15 billion in 1991. This exemption will prove to be a major loophole in the higher ceilings which are set for defense spending in this budget agreement.

Mr. Speaker, this year I voted for final passage of the defense authorization bill. I did so because I believed that we were truly embarking upon a new policy path, a different direction with meaningful reductions in defense spending in light of the improved relations between the United States, the Soviet Union, and the Warsaw Pact. This budget agreement restates business as usual rather than long-term defense spending reductions than would have been the product of a House-Senate conference committee this year.

It saddles this Congress and Nation with a policy for the future of continued dramatic Pentagon spending path, almost unabated during the 1990's. I am concerned about the 2-cents-per-gallon increase in the tax on refined petroleum products. The price of heating oil in our Midwest region of the country has risen and will continue to rise should the situation in the Middle East deteriorate. This tax will be an extra burden on citizens of my State. The whole direction of energy policy in this package needs to be rethought. The package contains a $4 billion tax break for oil companies. While I support increasing domestic production of oil, I am not sure these expensive breaks will improve our energy security. Oil companies have already reaped huge windfall profits from the price increases. Energy security can be approached from a number of other directions including improving energy conservation and developing alternative energy sources. This package needs more balance in the area of energy policy.

Also included in the budget summit package is an agreement that cuts a middle ground between House and Senate-passed Federal Housing Administration [FHA] reforms. While each FHA reform proposal brings in funds over 5 years, the House-passed bill brings in less. The Vento-Ridge amendment, which passed this body by a vote of 418 to 2, is a better proposal in terms of the public policy intent to preserve FHA for first-time and low-downpayment homebuyers. Apparently, however, the $1 billion extra from first-time home

buyers was not enough of a cash cow for this budget agreement. Instead an "up the middle" split to raise $2.5 billion under this FHA function became the term to which we had to adhere. This is a clear example of how budget-driven revenue grubbing runs counter to or has no relation to actual policy goals—in this case home ownership. Preserving and repairing FHA should be our goal—not whether we should balance more of our budget on the already overloaded backs of some family who is trying to buy a home.

Mr. Speaker, we all appreciate the budget summiteers who labored to work out an agreement on the most critical problem facing the Nation—our economy. Their negotiations were lengthy and difficult. However, I cannot support this resolution in its present state. We don't have to go back to square one. Some elements of the budget package are necessary for compromise. Let's roll up our sleeves and work out an agreement that cuts the deficit by the same amount or even more but has a better balance, a better reflection of what the American people support. This measure is not worthy of this House and the Members who serve. We can do better and we should.

Mr. PANETTA. Mr. Speaker, I yield 4 minutes to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, we went to the summit about 4 months ago. I must tell you that I think everyone in that summit, both sides of the aisle and the representatives of the administration, worked as hard as they could to try to do what the President asked us to do. The reason we were in the summit was because we have a divided Government, the President of one party, and Congress controlled by another.

In Great Britain the Prime Minister's budget is approved 2 days after it arrives at the House of Parliament. We don't have that system. Because of our fundamental disagreements, we found ourselves in a summit trying to do what the Congress, along with the President, should do.

Having had that experience, having found it frankly to be unsatisfactory, because we had so much trouble dealing with those fundamental differences, I stand before you tonight to say that I hope we do not summit any more and that Congress does its work.

We tried hard, and everybody in that room worked hard. We came up with options and we came up with ideas, and we debated those differences week after week after week.

When it was over, just a few days ago, I was standing in my office, not far from here, with Senator MITCHELL and Speaker FOLEY. We had to make a decision on whether we would go forward with the agreement or not. I must tell all of you that I was personally deeply disappointed with the results that we achieved.

Going into it, I thought one of the things we had to try to do was to achieve a tax situation for all Americans that was at least as fair as the tax situation we have today. I do not think we achieved that. I do not think that is the result.

But even with that, and the other disappointments that I have and others have with the result, I believe the best thing to do tonight, and I thought the best thing to do the other day, was to go forward with this agreement.

The reason I say that is I think we have two choices. We can kill the agreement tonight and keep on fighting for what be believe in, which we should and we will; or we can pass this agreement tonight, try to improve it through the committees of the Congress, and come back to fight another day for what we believe in.

The reason I think we should approve it is not just because there is chaos in our economy, not just because there might be sequestration and even no continuing resolution with the whole Government going down, and not just because we have got kids in the desert in Saudi Arabia, and not just because we have got a trade deficit that makes us not as competitive as we should be at the very time in the world's history when we should be stronger than we have ever been, but most of all we should approve this agreement because I think the American people have begun to lose faith in our ability to do our business.

How many times have you had people come up to you and say, "Why can't you get this done?" Yes, they want it done the way they want it done, but most of all today I think they want us to act, and to act if we can in concert and move this country in some direction. And that is what we have failed to do, together.

So I ask Members tonight to put aside for a moment our partisan differences, to say that we will improve the product and make it as good as it can be, given our beliefs; that we will come back at the next possible moment to fight for our beliefs and try to come to some agreement, we will put those differences aside, we will pass the agreement, and we will move this country in a positive direction.

Mr. FRENZEL. Mr. Speaker, I yield myself 4 minutes.

Mr. FRENZEL. Mr. Speaker, tonight we have been treated to a rare display. I do not know if the forensics are better than that which we have enjoyed in the past, but certainly at least from the summiteers you have seen expressions of sincerity which I think are hard to match, at least in my career in the Congress.

We have heard the gentleman from California [Mr. PANETTA] and the gentleman from Illinois [Mr. ROSTENKOWSKI] and the gentleman from Illinois [Mr. MICHEL] and the gentleman from Missouri [Mr. GEPHARDT] tell you why they think this is what we need to do tonight.

Mr. Speaker, I want to stand here and agree with each of them, that they and we have done the best that we can do at this point, and what remains for the House is to push this matter through by passing this budget resolution, and letting the committees of jurisdiction begin work on reconciliation.

All of those speakers spoke a little bit about President Bush, too. I have heard many of you say it will be painful to vote for this bill. How painful was it for President Bush to accept the fact that there would be substantial new taxes? How painful was it for him to have come to ask each and every one of us personally if we could give him his vote? He, who has worked so hard and suffered so much for us. And I say this particularly to the Republicans, for we are the divided Government. We are the minority which can get rolled at any time by the majority, and our only defense is our President and our ability to sustain a veto every now and then.

Here is one time when he and we jointly are asking Members to stand up with us and give this country a chance to get its feet back on the path toward fiscal sobriety. Over the past two decades we, all of us, have managed to become the world's largest debtor nation. The U.S. Congress thankfully somehow has made us the world champs in one respect: We owe more money than anybody.

This may not be the best resolution in town, but I guarantee you, it is the only resolution in town.

And as BOB MICHEL correctly pointed out, each of us could do better. I think I could get maybe 80 votes for mine, which is much better than that. I doubt many of you could get that many.

This happens to be a good resolution because it saves $500 billion and places the country's feet on the path toward that desired fiscal sobriety.

It is enforceable. Will it all be enforced? No. Will we save all of the $500 billion? No. We will have some slippage. We always do. But with the enforcement in this package and the 5-year reconciliation, we have the best chance that we have ever had to actually make the savings that we claim we are going to have.

We can change all of this bad record tonight, or we can at least begin changing it. This package will take us to a unified budget surplus before fiscal year 1994. By fiscal year 1995 it will have taken our spending back to only 18½ percent of GNP, our rough average for the past two decades, and 5 percent less than we expect to spend in fiscal year 1991, the fiscal year approaching.

That is a pretty good record, a monumental achievement, I believe. And Alan Greenspan says it passes the credit market test, and so does his predecessor, Paul Volcker, and so do Martin Feldstein, Ronald Reagan's CEA, and so does Jim Lynn, who was Jerry Ford's budget man, and Charles Schultz, who was Jimmy Carter's Director of the Budget, and Herb Stein, who was the Chairman of the Council of Economic Advisers for President Nixon. All these men say this fits the bill, that it passes the test.

Now the question is are we going to pass the test? Are we going to have the courage to stand back and to go against a few phone calls and a few letters we have got from people who want to keep getting the same benefits that they have been getting over the years?

I have often said to the Republicans that I see us all as a bunch of cake eaters. We are afraid to lay on new taxes. We think that is naughty. We do not want to cut any spending. We do not want to deny any of our constituents anything.

We will tonight pass what I call the cake eater test if we can pass this budget resolution. We will prove that we can eat a little bread and maybe some of us, certainly myself, will have to eat a little crow, because none of us is going to like this budget resolution. But as I said before, it's all we got.

Our test is sterner than any we have faced since I have come to Congress. And for us good news people who do not like to lay on taxes, and who hate to cut expenditures, it is going to be particularly difficult.

But remember, we can begin moving down that path to fiscal sobriety. And for all of those of you that I have importuned over the years, that I have harangued and pleaded and begged to reduce spending, for me personally there could not be any finer monument than the passage of this budget resolution.

Mr. Speaker, I rise in support of the conference report to House Resolution 310.

Our economy is at a crossroads. GNP growth has nearly come to a halt. Real estate markets around the country are in a severe slump. American businesses aren't getting the credit they need for investment. This economy needs a shot in the arm if we are to avoid recession. That is what this package is all about.

Most economists agree that this deficit reduction package, taken on its own merits, is a net plus for the economy. Some might prefer other packages, but the question is whether this package will help or hurt the economy. I have contacted a number of widely respected economists just this morning and they believe the package will help. A summary of their comments is available here on the floor for anyone who wishes to look at it.

On Wednesday, Chairman Greenspan called the summit agreement "credible and enforceable." It is clear that the Fed is prepared to accommodate this package by lowering interest rates.

Lower interest rates resulting from this package would have dramatic positive effects throughout the economy. In the estimation of the Council of Economic Advisors, we can expect up to 150,000 more housing starts next year, 500,000 more auto sales, increases in business investment, and a reduction in mortgage payments of $110 per month in a typical household.

The long-term growth effects would also be dramatic. By the end of this decade, real GNP will be 2 percent higher than it otherwise would be. At the projected level of GNP in the year 2000, this budget package would add an extra $200 billion to the incomes of all Americans in that year alone.

U.S. and world financial markets would be extremely disrupted should this agreement fail to be enacted. For years Congress has been promising that a permanent solution to our deficit reduction problem was just around the corner. Now the chance to make good on those promises is at hand.

If we fail to deliver, it will be a sure sign to our creditors that the U.S. Congress is unable to put its fiscal house in order. Their only reaction can be to increase long-term interest rates. If you don't like our debt service costs now, just wait and see what happens if we defeat this bill.

The immediate alternative to this package is a sequester which would deliver a harsh arbitrary blow to an already soft economy. The most likely remaining alternative is a business-as-usual budget, which simply perpetuates our current problems and sets us up for a fall in the not so distant future.

This package balances the budget, and it does it with real cuts that won't evaporate the day after we pass the Gramm-Rudman snapshot.

On a consolidated budget basis, including Social Security and bank insurance, the Federal budget will reach a surplus of $16.6 billion by fiscal year 1994, $68 billion by fiscal year 1995. Even after removing Social Security from the deficit calculation, this plan puts us on the road to balance in 1996 or 1997.

If this plan is realized, this will be the first time the Federal Government has run an overall surplus since 1969.

Unlike previous budget agreements, most of the $500 billion in deficit reduction is real. This package does not depend on promises for cuts in future years or on shenanigans which move money around but don't really save anything.

New stronger enforcement will ensure that planned deficit reduction occurs. A pay-as-you-go system would require any expansions of entitlement and mandatory programs to be offset in the same bill by cuts in other entitlement or mandatory programs or by revenue increases. Spending that violates discretionary caps, or pay-as-you-go violations will trigger automatic across-the-board offsets in the relevant categories.

For the first time, this package attempts to reform Government credit programs and Government sponsored enterprises [GSE's]. Credit programs and GSE's have become back doors for dispensing Government largesse without being subject to the normal strictures of the budget process. It is vitally important that we assess our exposure in these areas and that we bring these programs under control.

The budget agreement reduces Federal spending from 23.4 percent of GNP in fiscal year 1991 to 18.2 percent in fiscal year 1995—a smaller percentage of GNP than any year since 1965. This happens because the package cuts spending twice as much as it increases revenues.

One-fourth of the savings from the package comes from reforms in entitlement programs. These are painful cuts but they are key to any package that seriously tackles the deficit.

Medicare spending in particular has been increasing annually at two or three times the inflation rate for the past 10 years. Continued growth at current rates threatens to bankrupt the Medicare system. This package will produce provider savings of $3.1 billion in fiscal year 1991 which are in line with cuts made in previous reconciliation bills. The beneficiary reforms will result in modest increases for the elderly, but these cuts are offset by a $2 billion increase in Medicaid funding to cover the additional costs to low-income elderly. These reforms are difficult, but they are necessary if we are to stave off the disasters that loom if we do nothing.

One-third of the saving in this package comes from defense. By almost all accounts this constitutes a rational build-down in defense spending. Secretary Cheney endorses the figures in this plan as both responsible spending cuts that reflect a changed world and the largest cuts that are possible without jeopardizing his ability to ensure our defense.

This package in no way jeopardizes our current efforts in the Persian Gulf. By holding Dersert Shield funding harmless to the spending caps, it allows $1.1 billion more in outlay spending than the House-passed budget resolution or the Defense authorization bill. Realistically, this is the best, largest defense package we could have hoped to achieve.

Slightly more than one-fourth of this package comes from revenue increase. Many Members on both sides find things in the revenue package which they don't like. I would certainly count myself among them. In the final accounting however, we must decide whether the overall economic benefits of this package outweigh its distasteful components. In this case, I would say that they clearly do.

This agreement is a product of compromise. The fact that almost no one seems to like it is probably an indication that it is about the best we can do. If this agreement is rejected, no other agreement is likely to be passed. Rejecting this agreement and living off of a continuing resolution, therefore means rejecting deficit reduction this year.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in support of the budget resolution.

Mr. PANETTA. Mr. Speaker, I yield the balance of my time to the distinguished Speaker of the House [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I take the well seldom. I take it tonight late in this legislative day, late perhaps in the life of our country to deal with a critical problem we have all ignored too long. Members of the Congress have ignored it, Members of both parties have ignored it, Presidents have ignored it.

Over the period of recent years, in the life of those who have served in this body and within the time of their service, the interest on the Federal debt has grown to a figure now third largest of all of the expenditures in the Federal budget, and greater significantly in absolute terms than the entire budget was only a few years ago.

This budget resolution is the result of a much decried summitry which is, as the majority leader indicated, the result of a divided government in which there is a Republican President and a Congress led by majorities of the Democratic Party. But the problem is not divided into a Republican problem and a Democratic problem. It is the problem that faces all of us, that faces the country and that affects every American.

We all have concerns about the specific provisions of this budget summit agreement which have been repeated and repeated time and time again tonight and in previous days. And it would serve no purpose to remind everyone that few actually embrace the specific terms of the summit. But passing a budget resolution only allows us to move forward to the legislative stage so that the authorizing committees and the Appropriations Committee may exercise their responsibilities and send to the House appropriation bills and a reconciliation bill for its judgment.

The budget resolution is not presented to the President. It enacts nothing. It establishes no policy. It declares no law. It changes no accounts. It spends or retracts no money.

The Constitution says in article 1, clause 9, paragraph 7 that "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." And no laws are changed in this country without the action of the Congress and the signature by the President, or our determination to act notwithstanding his lack of consent.

We will begin that process tonight if we pass this budget resolution. And those in this body who have said again and again that they believe that the legislative process should be allowed to work have the challenge to allow it to work.

The President said today to me, and I repeated to the press, that it was our conviction, along with the bipartisan leadership, that many of the policies established in the budget agreement were for illustrative purposes only, and that the legislative committees had the right as well as the obligation to consider alternative policies to achieve similar savings. Every Member will have the opportunity to decide for him or herself whether or not the bills which results from the legislative process during the next 2 weeks meet with their satisfaction. And every Member will have an opportunity, several opportunities, to vote on the reconciliation and the appropriations bills.

But if we stop the process tonight, if we tell the American people tonight that we choose not to go forward, that we have no confidence ourselves in our own system, in our committees, in our own responsibilities, in the institution of this House, we will do a disservice not only to ourselves but to the people we represent, including all of those about whom we are so concerned in a principled and legitimate way. Their interests as well as others' would be harmed by such a decision.

I ask you to consider that this is one of the most important evenings perhaps in your congressional career. This is one of the most important decisions that you will make.

□ 0100

And although the hour is late, and although the debate has been long; and although the passions have been real; and although the divisions are sincere; we have an opportunity to stand together; in at least the decision to go forward, to make this process work for ourselves, for the President, for the parties and for the American people.

We must ask ourselves this question: if not now, when; if not us, who?

Mr. PANETTA. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 179, nays 254, not voting 1, as follows:

[Roll No. 421]

YEAS—179

Ackerman	Boggs	Conte
Anderson	Bosco	Conyers
Andrews	Buechner	Cooper
Archer	Bustamante	Coughlin
Aspin	Byron	Courter
AuCoin	Cardin	Darden
Baker	Carper	de la Garza
Bartlett	Chandler	Derrick
Bateman	Chapman	DeWine
Bellenson	Clement	Dickinson
Bennett	Clinger	Dicks
Bevill	Coleman (MO)	Dingell
Bilbray	Coleman (TX)	Erdreich
Boehlert	Combest	Fascell
Fazio	Lloyd	Ridge
Fish	Lowery (CA)	Roberts
Flippo	Luken, Thomas	Robinson
Foglietta	Lukens, Donald	Rose
Foley	Madigan	Rostenkowski
Frenzel	Manton	Rowland (GA)
Frost	Martin (NY)	Sabo
Gallo	Matsui	Sawyer
Gejdenson	McCurdy	Scheuer
Gekas	McDade	Schiff
Gephardt	McDermott	Serrano
Gibbons	McHugh	Shaw
Gillmor	McMillan (NC)	Shays
Glickman	McMillen (MD)	Shumway
Goodling	McNulty	Sikorski
Gordon	Meyers	Sisisky
Gradison	Michel	Skaggs
Grandy	Miller (OH)	Skeen
Gray	Miller (WA)	Skelton
Green	Mineta	Slattery
Hall (OH)	Moakley	Smith (IA)
Hall (TX)	Molinari	Smith (NE)
Hamilton	Mollohan	Smith (VT)
Hammerschmidt	Montgomery	Solarz
Hansen	Morella	Spratt
Hastert	Morrison (WA)	Stenholm
Hatcher	Murtha	Sundquist
Horton	Nagle	Swift
Houghton	Nelson	Tallon
Hoyer	Oberstar	Tanner
Ireland	Olin	Thomas (GA)
Johnson (CT)	Ortiz	Torres
Kaptur	Owens (UT)	Traxler
Kennelly	Oxley	Udall
Kolbe	Panetta	Valentine
Kostmayer	Parker	Vander Jagt
LaFalce	Payne (VA)	Visclosky
Lancaster	Pease	Vucanovich
Lantos	Penny	Watkins
Leach (IA)	Pickle	Whittaker
Leath (TX)	Porter	Wilson
Lehman (FL)	Price	Wolf
Lent	Quillen	Wylie
Levin (MI)	Ray	Young (AK)
Lewis (CA)	Rhodes	Young (FL)
Livingston	Richardson	

NAYS—254

Alexander	Dellums	Herger
Annunzio	Dixon	Hertel
Anthony	Donnelly	Hiler
Applegate	Dorgan (ND)	Hoagland
Armey	Dornan (CA)	Hochbrueckner
Atkins	Douglas	Holloway
Ballenger	Downey	Hopkins
Barnard	Dreier	Hubbard
Barton	Duncan	Huckaby
Bates	Durbin	Hughes
Bentley	Dwyer	Hunter
Bereuter	Dymally	Hutto
Berman	Dyson	Hyde
Bilirakis	Early	Inhofe
Bliley	Eckart	Jacobs
Bonior	Edwards (CA)	James
Borski	Edwards (OK)	Jenkins
Boucher	Emerson	Johnson (SD)
Boxer	Engel	Johnston
Brennan	English	Jones (GA)
Brooks	Espy	Jones (NC)
Broomfield	Evans	Jontz
Browder	Fawell	Kanjorski
Brown (CA)	Feighan	Kasich
Brown (CO)	Fields	Kastenmeier
Bruce	Flake	Kennedy
Bryant	Ford (MI)	Kildee
Bunning	Ford (TN)	Kleczka
Burton	Frank	Kolter
Callahan	Gallegly	Kyl
Campbell (CA)	Gaydos	Lagomarsino
Campbell (CO)	Geren	Laughlin
Carr	Gilman	Lehman (CA)
Clarke	Gingrich	Levine (CA)
Clay	Gonzalez	Lewis (FL)
Coble	Goss	Lewis (GA)
Collins	Grant	Lightfoot
Condit	Guarini	Lipinski
Costello	Gunderson	Long
Cox	Hancock	Lowey (NY)
Coyne	Harris	Machtley
Craig	Hawkins	Markey
Crane	Hayes (IL)	Marlenee
Dannemeyer	Hayes (LA)	Martin (IL)
Davis	Hefley	Martinez
DeFazio	Hefner	Mavroules
DeLay	Henry	Mazzoli

McCandless	Regula	Spence
McCloskey	Rinaldo	Staggers
McCollum	Ritter	Stallings
McCrery	Roe	Stangeland
McEwen	Rogers	Stark
McGrath	Rohrabacher	Stearns
Mfume	Ros-Lehtinen	Stokes
Miller (CA)	Roth	Studds
Mink	Roukema	Stump
Moody	Rowland (CT)	Synar
Moorhead	Roybal	Tauke
Morrison (CT)	Russo	Tauzin
Mrazek	Saiki	Taylor
Murphy	Sangmeister	Thomas (CA)
Myers	Sarpalius	Thomas (WY)
Natcher	Savage	Torricelli
Neal (MA)	Saxton	Towns
Neal (NC)	Schaefer	Traficant
Nielson	Schneider	Unsoeld
Nowak	Schroeder	Upton
Oakar	Schuette	Vento
Obey	Schulze	Volkmer
Owens (NY)	Schumer	Walgren
Packard	Sensenbrenner	Walker
Pallone	Sharp	Walsh
Parris	Shuster	Washington
Pashayan	Slaughter (NY)	Waxman
Patterson	Slaughter (VA)	Weber
Paxon	Smith (FL)	Weiss
Payne (NJ)	Smith (NJ)	Weldon
Pelosi	Smith (TX)	Wheat
Perkins	Smith, Denny (OR)	Whitten
Petri	Smith, Robert (NH)	Williams
Pickett	Smith, Robert (OR)	Wise
Poshard	Snowe	Wolpe
Pursell	Solomon	Wyden
Rahall		Yates
Rangel		Yatron
Ravenel		

NOT VOTING—1

Crockett

□ 0017

Mr. STANGELAND and Mr. HOLLOWAY changed their vote from "yea" to "nay."

So, the conference report was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Concurrent Resolution 310, the concurrent resolution just rejected.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Ms. SLAUGHTER of New York. Mr. Speaker, during consideration of the Comprehensive Crime Control Act, H.R. 5269, my vote on rollcall 412 was recorded as "yea." I intended to vote "no" on this amendment in line with my longstanding moral opposition to the death penalty. I request that this statement be included in the RECORD at the appropriate point in order to reflect my intention to vote against this amendment.

REPUBLICAN MEMBERS RENEW PLEDGE TO RESIST TAX INCREASES

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous matter.)

Mr. DOUGLAS. Mr. Speaker, some of our colleagues are concerned about why the House Republicans have dug in so hard on the question of taxes. The headline in the Washington Post of July 19 tells the whole story: "House GOP Takes Stand Against Any Tax Increases."

That was the day after we adopted the following resolution:

Therefore, be it resolved That the Republican Conference opposes new taxes and all tax rate increases as a means of reducing the federal budget deficit, and instructs its leaders to represent this position to the President and the public.

It is because we adopted that position, Mr. Speaker, that we are sticking with that position. We are also sticking with that position because a hundred of us signed a written pledge in which we said we would not increase taxes or tax rates or the functional equivalent, which is what this budget does.

Mr. Speaker, I think it is owed to our leadership to understand why so many of us have stuck with the vote of our Conference and that pledge.

REPUBLICAN CONFERENCE RESOLUTION

Whereas new taxes or tax rate increases would have a detrimental impact on families, business, and the American economy as a whole; and

Whereas, Republicans have bargained in good faith on previous balanced deficit reduction attempts and were consistently denied by the Democrat-controlled Congress the promised spending reductions to accompany tax increases; and

Whereas, President Bush openly and forcefully stated his opposition to tax increases as a means to reduce the deficit and was overwhelmingly supported by the American people at the polls; and

Whereas, Republicans in the House of Representatives have the numbers to sustain a Presidential veto of legislation imposing new taxes or raising existing tax rates; and

Whereas, The Democats in Congress have consistently refused to approach deficit reduction in any way other than by raising taxes;

Therefore, be it resolved That the Republican Conference opposes new taxes and all tax rate increases [1] deficit, and instructs its leaders to represent this position to the President and the public.

[1] Tax rate increases include not only income tax rates but all rates on all existing taxes under federal jurisdiction.

NORTH CAROLINA BUSINESS IS SENSITIVE TO THE ENVIRONMENT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BALLENGER. Mr. Speaker, last year Catawba County, my home, located in North Carolina, was rated 25th among the Nation's counties with high levels of toxic air pollutants. Two businesses in my district have gone the extra mile to help protect the environment.

Meredith/Burda, located in Newton, NC, has set a national standard to reduce the consumption of chemicals in its processing and leading to improved air quality. In addition, the company stresses recycling and recovery processes to reduce waste.

Last year, our company, Plastic Packaging, moved several of our fuel tanks aboveground so that we can better monitor them for leaks. The company also installed a new state-of-the-art filter system to reduce air pollution from our plant. This is before the passage of the clean air bill and shows some businesses care. Two articles on these environmentally conscious companies follow:

[From the Hickory (N.C.) News, Aug. 16, 1990]

AT PLASTIC PACKAGING—EIGHT-TON CATALYTIC CONVERTER ADDS ENVIRONMENTAL PROTECTION

Plastic Packaging, Inc., a leading producer of printed plastic packaging, has installed an eight-ton catalytic converter which will destroy up to 90 percent of the exhaust which the company produces.

Installation of the huge system is part of Plastic Packaging's program to protect the environment.

The exhaust that Plastic Packaging produces is primarily alcohol, but the decision by the Hickory-based printer/converter's management to spend more than $500,000 for the system is an example of the company's commitment for environmental safety.

Other environmental protection actions taken by the company range from replacing underground storage tanks with aboveground storage tanks and with having recycling programs for everything from waste plastic to corrugated boxes, cans and computer paper.

"These aren't things that we had to do now. These are things that, as a company and as individuals, we wanted to do," said Weldon Fanjoy, president of Plastic Packaging. "We've been recycling many products for 15 years or more, so with us it's a way of life. One of the stated goals of our company is to be a good corporate citizen."

Plastic Packaging's recent addition to environmental protection is, in effect, a giant catalytic converter, similar to the pollution control device on an automobile. This system will destroy about 90 percent of the alcohol vapor that the company generates in its printing process. The remaining exhaust is carbon dioxide and water vapor—what people exhale with each breath.

The emissions converter is rated the best of its kind in the industry. Because of its huge size, the company had to get special permits to transport it across state lines. The converter weighs eight tons—it is 60 feet long, 16 feet wide and stands 14 feet high. Trucks delivered large segments of the converter to Plastic Packaging's plant in

Hickory where it was reassembled under the supervision of a manufacturer's representative.

Two Hickory-based companies completed the converter's installation. Huffman Metal Works was the local contractor which assembled and installed the converter and Electric Service of N.C. was responsible for preparing the plant for the needs of the converter's electrical systems.

The converter is fueled by natural gas and uses manganese dioxide as a catalyst to transform the captured alcohol vapor into carbon dioxide and water vapor. Even though heat is utilized to trigger the chemical reaction that transforms the alcohol into carbon dioxide and water, the manganese dioxidecatalyst allows this reaction to take place at lower temperatures than are found in thermal incinerators.

The alcohol vapor exhausted when Plastic Packaging is printing plastic material comes from special alcohol-based inks that are required to print on plastic materials. Alcohol is used as a solvent because it evaporates quickly and allows the ink to adhere to plastics. No heavy metals are used in the company's inks.

"There were no known environmental dangers from the old system, but this way we have significantly reduced the potential of any threat to the environment," Mr. Fanjoy said.

This year, the company initiated in-house programs for recycling its office paper and aluminum beverage cans. Four recycling stations have been set up through the plant—one for computer paper, another for recyclable white paper and paper products, and two for aluminum beverage cans. Plastic Packaging associates also are encouraged to contribute materials from home in order to assist in the company's recycling efforts.

The company has been recycling its scrap and waste polyethylene film for more than 15 years now, selling it back to reprocessors. It also has a long-time company policy of reusing and recycling both wood pallets and corrugated boxes. In the past two years, the company also has begun selling its used styrofoam cradle packs back to its supplier for reuse and recycling.

The Hickory-based manufacturer, founded in 1957, is among the pioneers in the flexible packaging industry. It supplies printed and non-printed flexible packaging to some of the largest retail manufacturers in the world.

[From Hickory (NC) Daily Record, Mar. 24, 1990]

POLLUTER LABELING DISPUTED

(By Troy Houser)

NEWTON.—The fact that the Catawba Valley is by virtue of its diversified industrial posture a leading generator of toxic chemicals, that does not mean the region is a leading violator of air and water quality standards.

Meredith/Burda, a rotogravure printer in Newton, has been depicted in several reports as a leading polluter in the region, and company officials say they are concerned because that portrayal is inaccurate.

Officials this week said the company has been singled out in government reports because of its high-volume usage of toluene—a toxic chemical used as a solvent in the company's inks.

They defended the company, however, by noting that Meredith/Burda is "a responsible corporate citizen" whose toluene recovery program has been used as a standard for federal legislation and as a model for other rotogravure companies throughout the country.

One report on Meredith/Burda's use of toluene identified the chemical as a carcinogen—or cancer-causing agent. Officials at Meredith/Burda said toluene has never been classified or suspected as a carcinogen.

But, they added, toluene is a toxic chemical with properties that make it a serious pollution agent if improperly used, handled, or discarded.

And that's where Meredith/Burda has set a national standard in the use and recovery of toluene.

According to Jim Fulton, vice president and general manager of the Newton plant, federal legislation adopted in 1978 used Meredith/Burda's toluene recovery rate as a basis for its standard—which requires 84 percent toluene recovery for gravure printers nationwide.

By the time the legislation was adopted, however, Meredith/Burda already had improved its recovery rate.

According to Chuck Barnhardt, mechanical and environmental engineer, the company now is recovering about 94 percent of its toluene in a sophisticated, computerized, high-tech, expensive recovery system.

Barnhardt, along with Alex Elliott, vice president of manufacturing, and Terri Hill, manager of employee relations, conducted a plant tour for the Record which included the plant's departments and expansive toluene recovery system.

Fulton pointed out prior to the tour that toluene is the only chemical Meredith/Burda uses in its inks, and the company does not use any other chemicals in sufficient volume to put it at pollution risk.

Barnhardt said the company spent millions of dollars initially to install the toluene recovery system, and spends millions annually to operate and maintain the system. He said one incentive to recover toluene is that the chemical costs about $1 a gallon, and the company recovers more than 4.4 million gallons—or 34 million pounds—a year.

The company does not purchase toluene by itself, but rather recovers it from inks purchased for the printing process. The recovered toluene is either shipped back to the ink supplier to be reused in the manufacture of the inks, or the company orders inks in concentrated quantities and the recovered toluene is mixed in-plant with the ink concentrate.

The mixing and use of ink take place in a closed system linked to computer-controlled panels, monitors, and carbon-bed adsorbers via a complex system of giant pipes. Vapors from the toluene are captured in the closed system and forced through the piping system by blowers. In the carbon-bed adsorbers—which look like tanks traditionally hauled by massive transport trucks—the toluene is captured on carboned particles, removed by a steaming process, then cooled, condensed, and reclaimed.

Elliott noted that air quality inside and outside plant is important. The smell of toluene in quantities beyond accepted standards is unpleasant and in concentrated quantities can cause eye irritation and nausea. But since levels in-plant consistently fall below standards the smell inside the plant is seldom noticeable—and officials said no smell is detected outside the plant.

The small percentage that escapes the recovery system goes into the atmosphere. Barnhardt said the public's awareness of that, plus the fact that reports have been remiss in disseminating complete information, has caused some public concern.

However, government and other outside testing agencies, as well as extensive company testing, has indicated a minuscule presence of toluene in the atmosphere at the company's fence-line or property boundary. Barnhardt said amounts detected are so small they almost are immeasurable, cannot be detected by smell, and are far less than allowed by rigid standards established by state legislation.

Fulton agreed that Meredith/Burda is as concerned about the environment outside the plant as inside. He said many of plant's employees, including himself, live in close proximity to the plant, therefore, air quality becomes an important issue from a personal as well as a corporate standpoint. Barnhardt said the small amount of toluene escaping into the atmosphere breaks down rapidly and poses no health threat to humans.

He added that only 1 to 2 percent of all toluene manufactured in the country is used in inks and paints, but that about 92 percent of all toluene is used in gasoline and other petroleum products.

He said it is likely that more toluene vapors escape into the atmosphere at gasoline pumps during pumping than all the toluene emitted by the rotogravure printing industry nationwide.

To stress Meredith/Burda's environmental responsibility. Barnhardt said other company programs are in place to reduce waste and subsequently improve the environment.

"We're an environmentally conscious company," he said, adding that one of the programs is the recycling of 15,000 tons of paper a year." And we were doing that before paper recycling became popular," he said.

Another program, he said, is the recycling of 35,000 pounds of copper a year. Copper is used to plate the printing cylinders used on the presses.

Ms. Hill re-emphasized the fact that Meredith/Burda takes its environmental responsibility seriously.

"We do these things (recovery and recycling) because we want to and not because legislation requires it," she said.

She added that the company traditionally has been far ahead of any legislation passed to date.

When the air quality standards for toluene went into effect by legislation, Meredith/Burda ". . . did not have to do one thing" to come into compliance. "We were already there—and way ahead of the game," she said.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that the committee did on the following date present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On October 3, 1990:

H.R. 2372. An act to provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing;

H.R. 3897. An act to authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes;

H.J. Res. 398. Joint resolution to commemorate the centennial of the creation by Congress of Yosemite National Park;

H.R. 1243. An act to require the Secretary of Energy to establish Centers for Metal Casting Competitiveness Research;

H.J. Res. 603. Joint resolution to designate the month of October 1990 as "Country Music Month"; and

H.J. Res. 469. Joint resolution to designate October 6, 1990, as "German-American Day."

ADJOURNMENT

Mr. PANETTA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 20 minutes a.m.), the House adjourned until today, Friday, October 5, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXVI, executived communications were taken from the Speaker's table and referred as follows:

4002. A letter from the Director, Defense Research and Engineering, Department of Defense, transmitting notification of intent to obligate funds for test projects for inclusion in the fiscal year 1990 Foreign Comparative Testing [FCT] Program, pursuant to 10 U.S.C. 2350a(g); to the Committee on Armed Services.

4003. A letter from the Secretary of Housing and Urban Development, transmitting the seventh report on rental rehabilitation for fiscal year 1990, pursuant to 42 U.S.C. 1437o(n); to the Committee on Banking, Finance and Urban Affairs.

4004. A letter from the Secretary of Health and Human Services, transmitting the Agency for Toxic Substances and Disease Registry (ATSDR) Medical Waste Tracking Act Report, "The Public Health Implications of Medical Waste," pursuant to 42 U.S.C. 6992h; to the Committee on Energy and Commerce.

4005. A letter from the Secretary of the Treasury transmitting a study of the effectiveness of the implementation of the Government Securities Act of 1986, pursuant to Public Law 99-571, section 103(b) (100 Stat. 3221); to the Committee on Energy and Commerce.

4006. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4007. A letter from the Legion of Valor of the United States of America, Inc. transmitting a copy of the Legion's annual audit as of April 30, 1990, pursunt to 36 U.S.C. 1101(28), 1103; to the Committee on the Judiciary.

4008. A letter from the Assistant Attorney General, Civil Rights Division, Department of Justice, transmitting the report and recommendations of the Task Force on IRCA-Related Discrimination; jointly, to the Committees on the Judiciary and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5132. A bill to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1991, and 1993, and for other puposes; with an amendment (Rept. 101-661, A2). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Report on the misconduct by senior managers in the Internal Revenue Service. (Rept. 101-800). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 494. Resolution providing for the consideration of H.R. 4825, a bill to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes (Rept. 101-801). Referred to the House Calendar.

Mr. PANETTA: Committee of Conference. Conference report on House Concurrent Resolution 310 (Rept. 101-802). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HERTEL (for himself, Mr. JONES of North Carolina, Mr. DAVIS, Mr. SHUMWAY, Mr. STUDDS, Ms. SCHNEIDER, and Mr. DYSON):

H.R. 5791. A bill to authorize appropriations to carry out certain ocean and coastal programs of the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mrs. KENNELLY:

H.R. 5792. A bill to allow Connecticut to permit certain recipients of aid to families with dependent children a one-time election to purchase capital equipment for a small business, to prohibit depreciation of such equipment, and to require that repayments by such persons of the principal portion of small business loans be treated as business expenses for purposes of the program of aid to families with dependent children; to the Committee on Ways and Means.

By Mr. McEWEN:

H.R. 5793. A bill to amend title 38, United States Code, to provide for the payment, on an interim basis, of compensation, dependency, and indemnity compensation, and pension to veterans and their survivors and dependents if their claims for those benefits are not decided by the Department of Veterans Affairs within specified time limits; to the Committee on Veterans' Affairs.

By Mr. ROYBAL (for himself, Mr. MARTINEZ, Mr. GOODLING, Mr. RINALDO, Mr. HAWKINS, Mr. GUNDERSON, Mr. CONYERS, Mr. GILMAN, Mr. SIKORSKI, Mr. HORTON, Mrs. MORELLA, Mr. LANTOS, Mr. DONALD E. LUKENS, Mr. CLAY, and Mr. WILLIAMS):

H.R. 5794. A bill to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967; to the Committee on Education and Labor.

By Mr. HAMMERSCHMIDT (for himself and Mr. STANGELAND):

H.R. 5795. A bill to extend the Federal Water Pollution Control Act through fiscal year 1992; to the Committee on Public Works and Transportation.

By Mr. BILBRAY:

H.J. Res. 663. Joint resolution to designate the third week of February 1991 as "National Parents and Teachers Association Week"; to the Committee on Post Office and Civil Service.

By Mr. OBEY (for himself, Mr. DORGAN of North Dakota, Mr. AUCOIN, Mr. BILBRAY, Mr. BRYANT, Mr. BORSKI, Mrs. BOXER, Mr. CARDIN, Mr. COYNE, Mr. DEFAZIO, Mr. DELLUMS, Mr. DICKS, Mr. DONNELLY, Mr. DOWNEY, Mr. DURBIN, Mr. EDWARDS of California, Mr. FOGLIETTA, Mr. FORD of Michigan, Mr. FRANK, Mr. GEJDENSON, Mr. GLICKMAN, Mr. HAYES of Illinois, Mr. JONES of Georgia, Mr. JONTZ, Ms. KAPTUR, Mr. KASTENMEIER, Mrs. KENNELLY, Mr. KKECZKA, Mr. LEHMAN of California, Mr. LEWIS of Georgia, Mr. LEVIN of Michigan, Mr. MCCLOSKEY, Mr. MCDERMOTT, Mr. MCHUGH, Mr. MILLER of California, Mr. MINETA, Mr. MOODY, Ms. OAKAR, Mr. OBERSTAR, Ms. PELOSI, Mr. PENNY, Mr. RANGEL, Mr. RUSSO, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SHARP, Mr. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. STARK, Mr. STUDDS, Mr. SWIFT, Mr. TORRES, Mrs. UNSOELD, Mr. WALGREN, Mr. WAXMAN, Mr. WEISS, Mr. VENTO, Mr. MORRISON of Connecticut, Mr. VISCLOSKY and Mr. SKAGGS):

H. Con. Res. 379. Concurrent resolution regarding modifications to the budget summit agreement for fiscal year 1991 through 1995; to the Committee on the Budget.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 747: Mr. CONDIT.

H.R. 775: Mr. LEVIN of Michigan.

H.R. 2531: Mr. MILLER of Ohio, Mr. CHAPMAN, Mr. COLEMAN of Missouri, Mrs. BYRON, and Mrs. SMITH of Nebraska.

H.R. 2911: Mr. PENNY, Mrs. LLOYD, and Mr. CAMPBELL of Colorado.

H.R. 3734: Mr. SHAYS and Mr. LANCASTER.

H.R. 4026: Mr. NIELSON of Utah.

H.R. 4508: Mr. SLAUGHTER of Virginia, Mr. WYLIE, Mr. JAMES, Mr. PACKARD, Mr. FISH, and Mr. TAUKE.

H.R. 4565: Mr. TALLON and Mr. CONDIT.

H.R. 4690: Mr. EVANS and Mr. SKEEN.

H.R. 4728: Ms. PELOSI.

H.R. 5212: Mr. LANCASTER.

H.R. 5244: Mr. FROST.

H.R. 5336: Mr. WILSON, Mr. ROBERTS, Mr. TALLON, and Mr. HASTERT.

H.R. 5356: Mr. SCHEUER.

H.R. 5388: Mr. LANCASTER and Mr. COBLE.

H.R. 5416: Mr. EVANS.

H.R. 5443: Mr. SYNAR, Mr. JOHNSON of South Dakota, Mr. WISE, and Mr. SERRANO.

H.R. 5481: Mr. HILER, Mr. YOUNG of Florida, Mr. GEJDENSON, Mr. HENRY, and Mr. WAXMAN.

H.R. 5582: Mr. DERRICK, Mr. VENTO, Ms. SNOWE, and Mr. MURTHA.

H.R. 5616: Mr. EVANS, Mr. RHODES, and Mr. RANGEL.

H.R. 5625: Mr. BORSKI, Mr. GAYDOS, Mr. MURPHY, Mr. YATRON, and Mr. FLIPPO.

H.R. 5652: Mr. MCCRERY, Mr. SCHIFF, Mr. HAMILTON, and Mr. MARKEY.

H.R. 5736: Mr. COLEMAN of Texas, Mr. EVANS, Mr. SMITH of Florida, and Mr. TORRES.

H.R. 5761: Mrs. MARTIN of Illinois, Mr. FAWELL, Mr. BAKER, Mr. SENSENBRENNER, Mrs. BENTLEY, Mr. RAVENEL, Mr. GALLEGLY, Mr. MCCANDLESS, Mr. SCHAEFER, and Mr. RITTER.

H.J. Res. 509: Mr. LEVINE of California and Mr. REGULA.

H.J. Res. 518: Mr. BARNARD, Mr. BATES, Mr. BOEHLERT, Mr. BRENNAN, Mr. CAMPBELL of California, Mr. COX, Mr. DANNEMEYER, Mr. DREIER of California, Mr. DUNCAN, Mr. ERDREICH, Mr. FIELDS, Mr. HANCOCK, Mr. HEFLEY, Mr. HUBBARD, Mr. HUNTER, Mr. IRELAND, Mr. KASICH, Mr. LAUGHLIN, Mr. LEVIN of Michigan, Mr. MCCRERY, Mr. MATSUI, Mr. MILLER of Ohio, Mr. MOODY, Mr. PICKETT, Mr. PORTER, Mr. RIDGE, Mr. ROHRABACHER, Ms. ROS-LEHTINEN, Mr. SABO, Mr. STEARNS, Mr. TAUKE, Mr. THOMAS of Wyoming, Mr. WALKER, Mr. WOLF, Mr. RINALDO, Mr. DELLUMS, Mr. SERRANO, Mr. VANDER JAGT, Mr. FAUNTROY, Mr. LEHMAN of Florida, Mr. COYNE, Mr. COURTER, Mr. MARKEY, Mr. CONTE, Mr. DONALD E. LUKENS, Mr. CLINGER, Mr. FEIGHAN, Ms. MOLINARI, Mr. MFUME, Mr. MURPHY, Mr. FALEOMAVAEGA, Mr. GEJDENSON, Mr. JONES of North Carolina, Mr. SKELTON, Mr. CONYERS, Mr. DOUGLAS, Mr. FISH, Mr. CALLAHAN, Mr. ESPY, Mr. HASTERT, Mrs. MARTIN of Illinois, Mr. GUNDERSON, Mr. PAXON, Mr. SMITH of Vermont, Mr. PALLONE, Mr. FOGLIETTA, Mr. KENNEDY, Mr. PARKER, Mr. TAUZIN, Mr. COSTELLO, Mrs. MEYERS of Kansas, Mr. BUNNING, Mr. GILLMOR, Mr. PAYNE of New Jersey, Mr. SAXTON, Mr. LANTOS, Mr. THOMAS A. LUKEN, Mr. OWENS of New York, Mr. MANTON, Mr. HUTTO, Mr. BATEMAN, Mr. BURTON of Indiana, Mr. DORGAN of North Dakota, Mr. ECKART, Mr. GILMAN, Mr. GOSS, Mr. HAYES of Illinois, Mr. HERGER, Mr. HILER, Mr. JOHNSTON of Florida, Mr. JONTZ, Ms. LONG, Mrs. LOWEY of New York, Mr. MCDERMOTT, Mr. RHODES, Mr. WHITTAKER, Mr. STARK, Mr. STAGGERS, Ms. SLAUGHTER of New York, Mr. SLAUGHTER of Virginia, Mr. SHAYS, Mr. STUDDS, Mr. ORTIZ, Mr. ROBINSON, Mr. DICKINSON, Mr. ALEXANDER, Mr. ROSE, Mr. KILDEE, Mr. GRANT, Mr. BROWN of Colorado, Mr. CHANDLER, Mr. HOAGLAND, Mr. LEATH of Texas, Mr. WAXMAN, Mr. BLAZ, Mr. BUECHNER, Mr. TAYLOR, Mr. RANGEL, Mr. STOKES, Mr. MARTINEZ, Mrs. BOGGS, Mr. ENGEL, Mr. GRAY, Mr. HALL of Texas, Mr. HOPKINS, Mr. LEACH of Iowa, Ms. OAKAR, Mr. SARPALIUS, Mr. SHUSTER, Mr. STENHOLM, and Mr. WYDEN.

H.J. Res. 525: Mr. SOLARZ, Mr. ANDERSON, Mr. BRENNAN, Mrs. BYRON, Mr. HALL of Ohio, Mrs. COLLINS, Mr. FLAKE, Mr. VENTO, Mr. REGULA, Mr. RHODES, Mr. BOEHLERT, Mr. GOSS, Ms. ROS-LEHTINEN, Ms. MOLINARI, Mr. SHAYS, Mr. FOGLIETTA, Mr. GRAY, Mr. PALLONE, Mr. SAWYER, Mr. SHUMWAY, Mr. SKELTON, Mr. STARK, Mr. WALGREN, Mr. SUNDQUIST, Mr. CHANDLER, Mr. MORRISON of Connecticut, Mr. GREEN, and Mr. KILDEE.

H.J. Res. 583: Mr. BOEHLERT, Mr. DE LUGO, Mr. NEAL of North Carolina, Mr. FROST, Mr. HARRIS, and Mr. SCHAEFER.

H.J. Res. 606: Mrs. BENTLEY, Mr. BERMAN, Mr. BUSTAMANTE, Mr. CLEMENT, Mr. COURTER, Mr. GEJDENSON, Mr. COOPER, Mr. DE LUGO, Mr. DORGAN of North Dakota, Mr. DONNELLY, Mr. FALEOMAVAEGA, Mr. GREEN, Mr. HUBBARD, Mr. BATES, Mr. SUNDQUIST, Mr. HOYER, Mr. KASICH, Mr. HOCHBRUECKNER, Mr. MANTON, Mr. MCDADE, Mr. DONALD E. LUKENS, Mr. MFUME, Mr. LAFALCE, Mr. BONIOR, Mr. FLIPPO, Mr. GALLO, Mr. LEATH of Texas, Mr. SANGMEISTER, Mr. SAVAGE, Mr. SMITH of New Jersey, Mr. SCHEUER, Mr. MILLER of California, Mr. STOKES, Mr. TALLON, Mr. BORSKI, Mr. DE LA GARZA, Mr. MAVROULES, Mr. DEFAZIO, Mr. TAUZIN, Mr. THOMAS of Georgia, Mr. DYMALLY, Mr. HOAGLAND, Mr. LIPINSKI, Mr. MCHUGH, Mr. BILBRAY, Mr. WEISS, Mr. FOGLIETTA, Mr. LEHMAN of Florida, Mr. CLINGER, Mr. GEKAS, Mrs. LOWEY of New York, Mr. CLARKE, Mr. EVANS, Mr. GUNDERSON, Mr. HEFNER, Mr. THOMAS A. LUKEN, Mr. MCDERMOTT, Mr. PANETTA, and Mr. MACHTLEY.

H.J. Res. 613: Mr. SAVAGE, Mr. ROWLAND of Georgia, Mr. STUMP, Mr. EMERSON, Mr. ACKERMAN, Mr. STAGGERS, Mr. VOLKMER, Mr. COX, Mr. YATRON, Mr. KENNEDY, Mr. WHITTEN, Mr. SERRANO, Mr. LIGHTFOOT, Mr. MAVROULES, Mr. WALGREN, Mr. HERTEL, Mr. SAWYER, Mr. MOLLOHAN, Mr. GREEN of New York, Mr. MONTGOMERY, Mr. JOHNSON of South Dakota, Mr. MATSUI, and Mr. KOSTMAYER.

H.J. Res. 639: Mr. BROWN of California, Mr. CRAIG, Mr. DEFAZIO, Mr. DIXON, Mr. DONNELLY, Mr. ECKART, Mr. FALEOMAVAEGA, Mr. FOGLIETTA, Mr. GORDON, Mr. GUARINI, Mr. HAMMERSCHMIDT, Mr. HASTERT, Mr. HEFNER, Mr. HERTEL, Mr. HOAGLAND, Mr. HORTON, Mr. JONTZ, Mrs. JOHNSON of Connecticut, Mr. KLECZKA, Mr. LEHMAN of Florida, Mr. LIPINSKI, Mr. MADIGAN, Mr. MANTON, Mr. MATSUI, Mr. MURPHY, Mr. NAGLE, Mr. NATCHER, Mr. NEAL of North Carolina, Mr. NELSON of Florida, Ms. OAKAR, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. RAHALL, Mr. RITTER, Mr. SARPALIUS, Mr. DENNY SMITH, Mr. SMITH of Florida, Mr. SMITH of New Hampshire, Mr. SPRATT, Mr. STALLINGS, Mr. TALLON, Mr. TAUKE, Mr. TAUZIN, Mr. WALSH, Mr. GEREN of Texas, Mrs. LOWEY of New York, Mr. HEFLEY, Mr. BERMAN, Mr. POSHARD, Mr. RAVENEL, Mr. RHODES, Mr. RINALDO, Mr. ROE, Mrs. SAIKI, Mr. SAVAGE, Mr. SCHUETTE, Mr. SAXTON, Mr. SAWYER, Mr. SPENCE, Mr. JENKINS, Mr. BENNETT, Mr. DORGAN of North Dakota, Mr. PERKINS, Mr. BARNARD, Mr. LANCASTER, Mr. ROSE, Mr. HAMILTON, Mr. LEATH of Texas, Mr. PRICE, Mr. ANDREWS, Mr. SYNAR, Mr. SLATTERY, Mr. HAYES of Lousiana, Mr. ESPY, Mr. PARKER, Mr. STENHOLM, Mr. HALL of Texas, Mr. WATKINS, Mr. RICHARDSON, Mr. JONES of Georgia, Mr. HUCKABY, Mr. KENNEDY, Mr. NEAL of Massachusetts, Mr. CLEMENT, Mr. DARDEN, Mr. THOMAS of Georgia, Mr. FEIGHAN, Mr. LEVIN of Michigan, Mr. STAGGERS, Mr. MOODY, Ms. LONG, Mr. CARPER, Mr. TANNER, Mrs. PATTERSON, Mr. DYSON, Mr. TAYLOR, Mrs. BYRON, Ms. PELOSI, Mr. FAZIO, Mrs. BENTLEY, Mr. WHEAT, Mr. HUBBARD, Mr. KOLTER, Mr. MURTHA, Mr. CONDIT, Mr. CHAPMAN, Mr. MCMILLEN of Maryland, Mr. RAY, Mr. DURBIN, Mr. SANGMEISTER, Mr. PICKETT, Mr. SCHUMER, Mr. BUSTAMANTE, Mr. SHUMWAY, Mr. ANTHONY, Mr. RUSSO, Mr. ALEXANDER DERRICK, Mr. TORRICELLI, Mr. VANDER, Mr. JAGT, Ms. KAPTUR, Mr. SISISKY, Mr. MCCANDLESS, Mr. MFUME, Mr. OLIN, Mr. COOPER, Mr. MCCLOSKEY, Mr. FLAKE, Mr. ACKERMAN, Mr. PICKLE, Mr. VALENTINE, Mr. DREIER of California, Mr. BUNNING, Mr. STUMP, Mr. DICKINSON, Mr. NIELSON of Utah, Mr. SUNDQUIST, Mr. BROOMFIELD, Mr. SOLOMON, Mr. LEACH of Iowa, Mr. GEKAS, Mr. BAKER, Mrs. MEYERS of Kansas, Ms. MOLINARI, Mr. HUNTER, Mr. MCCRERY, Mr. DANNEMEYER, Mr. ROHRABACHER, Mr. PARRIS, Mr. SMITH of Texas, Mr. BURTON of Indiana, Mr. COBLE, Mr. GALLO, Mr. HERGER, Mr. GALLEGLY, Mr. BOUCHER, Mr. LAFALCE, Mr. LIGHTFOOT, Mr. SLAUGHTER of Virginia, Mr. UPTON, Mr. WOLPE, Mr. MARTIN of New York, Ms. MINK, Mr. MILLER of California, Mr. FRANK, Mr. LEWIS of Georgia, Mr. HOYER, Mr. GRAY, Mr. SKAGGS, Mr. MCNULTY, Mr. TORRES, Mr. WASHINGTON, Mr. BRUCE, Mr. GOSS, Mr. SWIFT, Mr. LEHMAN of California, Mr. ANNUNZIO, Mr. KASICH, Mr. DONALD E. LUKENS, Mr. MCCOLLUM, Mr. MCEWEN, Mr. LEWIS of California, Mr. ROWLAND of Georgia, Mr. ORTIZ, Mr. WISE, Mr. KOSTMAYER, Mr. SKELTON, Mr. YOUNG of Alaska, Mr. DORNAN of California, Mr. BORSKI, Mr. SERRANO, and Mr. HATCHER.

H. Con. Res. 374: Mr. SOLOMON and Mr. LAGOMARSINO.

H. Res. 467: Mr. MCDERMOTT, Mr. FISH, Mr. BATES, Mr. DWYER of New Jersey, Mrs. BOXER, Mr. FRANK, Mr. PURSELL, Mrs. LLOYD, and Mr. LEHMAN of Florida.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

241. The Speaker presented a petition of the California State Sheriffs' Association, relative to H.R. 5269; which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

ANOTHER BREAKTHROUGH FOR THE NIH

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. DURBIN. Mr. Speaker, I rise today to call attention to an article that appeared in the Health section of the Washington Post on October 2. This article describes a recent breakthrough by researchers at the National Institutes of Health that could dramatically help the estimated 5,000 to 15,000 Americans who currently suffer from a devastating genetic illness known as Gaucher's disease.

Researchers at NIH have been working for 40 years to find a treatment for this disease, which causes deformity and great pain. These scientists have now discovered a treatment known as enzyme replacement that may significantly improve the quality of life of those with Gaucher's disease.

This finding is the latest in a long line of discoveries for which we have the NIH to thank. Biomedical research is giving us new hope for fighting a great variety of diseases that torment our fellow Americans. And that research is dependent on continued, generous Federal funding.

We must not let our budgetary problems blind us to the great opportunities we have to reduce human tragedy and suffering through adequate funding of our medical research effort. If we skimp on the research budget, we may miss out on discoveries such as this treatment of Gaucher's disease.

Mr. Speaker, I salute the National Institutes of Health for its breakthrough, commend the Washington Post article to my colleagues, and ask that it be printed in the CONGRESSIONAL RECORD.

SOME HOPE FOR PEOPLE WITH GAUCHER'S

(By Sandy Rovner)

For the first time, victims of the devastating genetic illness, Gaucher's disease, may be dramatically helped by a new therapy. For the estimated 5,000 to 15,000 Americans who live their lives in pain and fatigue and who may be bedridden for years, there now is genuine hope that the ravages of this sometimes fatal disorder can be almost completely controlled.

Robin Berman, medical director of the National Gaucher Foundation, anticipates that "enzyme replacement will be to Gaucher's what insulin was to diabetes, what Factor VIII clotting factor is to hemophilia." Even the sickest patients will recover eventually, the specialists believe.

Scientists at the National Institutes of Health who have been working on Gaucher's for some 40 years, along with those at a Boston biotechnology firm, believe their Gaucher treatment marks the first time that an enzyme missing in the human body because of a glitch in genetic material has been effectively replaced, fully restoring normal function.

Roscoe O. Brady is the NIH geneticist who identified the cause of Gaucher's disease and subsequently isolated the missing enzyme itself about 30 years ago. A few weeks ago, the outcome of a clinical trial he conducted on 24 patients with Gaucher's, 12 of whom were treated with the modified enzyme, was published in the American Journal of Human Genetics.

All 12 treated patients, ranging from very young children to middle-aged adults, "exhibited striking improvement," the scientists said. "Patients who were incapacitated prior to this treatment have resumed activities such as work and school."

If this is the happy culmination of his life's work for the 66-year-old Brady, it is simply "a miracle," as far as Robin Berman is concerned. Three of Berman's six children have Gaucher's disease and two others are carriers.

Both family practitioner Berman and her businessman husband, Dennis, are carriers of the recessive gene that causes the illness. In this country, about two thirds of the Gaucher patients are descended from Eastern European Jews. In Europe, about half the patients are non-Jews, and in some countries it is found mostly outside the Jewish population.

In the new treatment, the substitute enzyme is derived from human placental material, purified and then modified in a way that lets it zero in on the precise cells that need it.

Enzyme replacement has been tried with only marginal success for such diseases as cystic fibrosis or the disorder in which the missing enzyme is ADA, adenine deaminase.

Earlier work in enzyme replacement for Gaucher's was disappointing. The treatment seemed to work for some patients in some aspects of the disease, but most specialists continued to pin their hopes and their research on gene therapy.

Now, however, the modified enzyme product, called Ceredase, appears to work on all patients to a greater or lesser extent, depending on how long they have been ill and how seriously.

Alison Taunton-Rigby, scientist-spokeswoman for Genzyme, the Boston firm that makes Ceredase, says the enzyme replacement does not cure the disorder—probably only gene therapy could actually do that. "But," she says, "here is a disease that can be extremely debilitating and life-threatening, and it used to be there was no hope."

Some victims have died soon after the onset of the disease, which can occur at any time after birth and at any age. Others may have no symptoms at all, but many are deformed, in almost constant agony and subject to broken bones for year after year.

There are three types of the disease. In the U.S., Type-1 Gaucher's is the most common genetic disease in the Jewish community, far more common than the always fatal Tay-Sachs disease, for example. Gaucher Types 2 and 3 are found in all racial and ethnic groups and tend to be even more virulent, affecting the central nervous system and producing not only chronic bone and joint problems but retardation and dementia as well.

The current trials have all been done on the more common Type 1, but Brady is readying trials with the other more deadly forms of the illness.

In addition to her work with the National Gaucher Foundation, Berman has worked at NIH alongside Brady and his clinical chief, Norman Barton. And the Bermans' son, Brian, was the first Gaucher's patient treated with the modified enzyme.

When he was 6, his spleen was so enlarged he literally looked pregnant. He notes wistfully in a videotape he made for the foundation that "my friends called me fat, but I wasn't."

He has been on the enzyme now for almost six years. Recently, his dose was reduced drastically, but he continues to improve. Today, at 11, he looks like a normal healthy kid.

Gaucher's disease is caused by the body's inability to dispose of lipids, fatty substances that are normally broken down by the missing enzyme. As a result, they accumulate in the bone marrow, the liver and the spleen, preventing these and other organs from functioning properly.

The spleen becomes enlarged and blood platelet counts plummet; the accumulating lipids crowd out red blood cells produced by the bone marrow so that the victim becomes anemic. Bones become honeycombed and fragile, deformed and subject to constant breaks and barely function.

For New Orleans publicist Louise Glicksman, mother of two Gaucher patients, a son and a daughter, ages 20 and 16 respectively, the success of Ceredase may be a mixed blessing. Producing it is a complicated and extremely labor-intensive procedure, making it so expensive that in some severe cases it may cost up to $200,000 to bring a patient under control.

The Gaucher Foundation, of which Glicksman is a founding member, is working with health insurance carriers, as is Genzyme, and there has been some success in getting the treatment covered, even on preapproval experimental programs.

The product has been granted orphan drug status, giving the manufacturers a temporary monopoly in exchange for a guarantee that drugs for limited patient populations will be available.

The foundation expects that the cost will come down eventually. First, when the drug is approved, there will be a larger pool of patients over which the basic costs can be spread. Second, initial treatments were done with relatively high doses, because the sickest patients were treated first. Bigger doses are needed to correct symptoms that have developed in some cases for 20 years or more.

As many as 50 patients around the country are currently being treated, and all are responding, the researchers said. The Food and Drug Administration, which has already granted approval for the drug's use in experimental programs, is expected to approve it for general use sometime before the end of the year. An FDA advisory committee will look at it next month.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Once the symptoms are under control, the researchers expect that the doses may be dropped to as little as one tenth of the initial intensive therapy.

"That," says Brady, "is our next order of business," to find the lowest effective maintenance dose and the lowest dose at which the drug becomes effective, as well as determining if the therapy will work on the other two types of the disorder.

And Genzyme is already starting a program to try to replace the enzyme missing in people with cystic fibrosis. The cure for these diseases must await gene therapy, but control via enzyme replacement may now be at hand.

Brady, whose sense of excitement is almost palpable when he talks about the trials, is being asked by colleagues and friends how it feels to have success so close in his efforts. "How does it feel?" he repeats. "Well, it feels a lot better than if it didn't work, I'll tell you."

THE SILENCE ON TIBET

HON. CHUCK DOUGLAS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. DOUGLAS. Mr. Speaker, the Boston Globe on September 25 had an excellent editorial about the international silence concerning Tibet. The forced sterilizations occuring in that country and other atrocities are well outlined in the Glove Editorial and I commend it.

[From the Boston Globe, Sept, 25, 1990]

THE SILENCE ON TIBET

In the name of international law and national sovereignty, nearly all the nations of the world have condemned Iraq's invasion and annexation of Kuwait. In the 40 years since China invaded and annexed Tibet, the world has maintained a shameful silence, pretending not to notice.

The shame of that silence has not diminished. Today, the Tibetan people and their ancient culture are threatened with extinction at the hands of the regime in Beijing.

If it is right to prevent Iraq from obliterating Kuwait, then it is also right to take up the cause of Tibet. If it is honorable for President Bush to muster the diplomatic, economic and military powers of the United States in defense of Kuwait's national survival, then it is hypocritical for the president to refuse even to meet the Dalai Lama.

Tibet has suffered unimaginable horrors since it was conquered by Mao Tse-tung's army. Between 1949 and 1979, 1.2 million Tibetans lost their lives. Hundreds of thousands were incarcerated in prisons and forced labor camps. The Chinese destroyed more than 6,000 monasteries and looted their ancient works of art.

Tibetans were deprived of basic freedoms and forced by the Chinese army of occupation to observe the rituals of a tolalitarian tyranny. Much of the forests and wildlife of Tibet were extirpated by the foreign rulers, who also used the Land of Snows as a dumping ground for toxic wastes and for a gulag holding millions of slave laborers.

Six million Tibetans survived these horrors, their yearning for freedom stronger than ever. Now they are imperiled by Chinese policies intended to impose, incrementally, a final solution for Beijing's Tibetan problem.

It is a final solution derived from the premise that demography is destiny. As they have done in Manchuria, Inner Mongolia and East Turkestan, the masters of Beijing are inundating Tibet with Chinese settlers, so that in one or two decades the Tibetans will become a small minority in their own land.

At the same time, the Chinese have been coercing Tibetan women to submit to forced abortions and forced sterlization. 14- and 15-year girls are being sterilized before they can conceive Tibetan babies.

"I feel America should not isolate China, the world's most populous nation, but should bring China into the mainstream," the Dali Lama told the Globe last week. "At the same time, it is very important to point clearly to a wrong thing."

The Dalai Lama should be received in the White House, and the president should point to the wrong things that have been done to Tibet. China cannot continue to be America's "most favored nation" while it practices genocide in Tibet.

COLUMBUS DAY AND THE AMERICAN DREAM

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today in anticipation of Columbus Day—a time to reflect on the American dream. On this holiday we celebrate the rich heritage of the Italian-American community that has added so much to our Nation. This holiday is also a vivid reminder that this is, indeed, a new world, a land of opportunity with unique promise and potential.

The Columbus Day Celebration Committee of Yonkers, NY, has chosen this year to give their annual special achievement award to a family that needs no reminder of that fact. The Brittis family live the American dream every day of their lives.

Sixty-eight years ago, Nicola and Maria Brittis arrived in this country from Italy. They settled in Yonkers and set about making a life for themselves. Nicola worked hard, starting as a weaver at the Alexander Smith carpet factory, then became a shoemaker, then a sewing machine repairman in a curtain factory. He sold dry goods and produce from his own truck, and sold and repaired sewing machines. Maria worked at home, raising their five sons. She did a good job.

The Brittis' sons—Anthony, Nicholas, John, Dante, and Robert—grew up, went to college, served our country honorably in three wars, and became doctors and a pharmacist. They have now settled in Yonkers and started their own families. Nicola and Maria have 11 grandchildren; 4 of them are doctors. Others are pursuing successful academic careers. Still others have achieved distinction in the fields of engineering and teaching. The family is also proud of their youngest addition, 2-year-old granddaughter Julianna.

The experience of the Brittis family, Mr. Speaker, embodies the things that we celebrate on Columbus Day. This is the kind of strong, patriotic, hardworking family that has enabled the Italian-American community to prosper. This is the American dream at work.

BUDGET ALTERNATIVES

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. GINGRICH. Mr. Speaker, the most commonly asked question during the current controversy over the budget agreement has been. "What alternative is there? It's either this or sequester." This is incorrect. There are alternatives to the current budget deal, and I would like to share just one of them with my colleagues. In yesterday's Wall Street Journal, Paul Craig Roberts suggests an alternative, and it is worth the attention of my colleagues.

THE NO-GROWTH BUDGET

(By Paul Craig Roberts)

The $500 billion deficit reduction that the budget agreement claims for 1991-95 is unlikely to be realized, and the government knows it. The revised assumptions that the government expects to release next month (see below) show that lower-than-projected real growth in 1990 and 1991 reduces the claimed outlay reductions by $72.6 billion and eats up all but $8.1 billion of the $133.8 billion tax increase.

Nothing better shows the failure of the budget agreement than the fact that 40 percent of the claimed deficit reduction has already been lost to changed economic circumstances. A slowing economy drifting into recession demands a pro-growth budget. The budget negotiators have failed the job entrusted to them.

[In billions of dollars]

	1991	1992	1993	1994	1995	1991-95
Total outlays:						
Adjusted baseline	1,384.7	1,441.8	1,451.5	1,443.1	1,506.4	7,227.5
Savings	23.9	50.0	70.9	100.4	121.0	366.2
Agreed level	1,360.8	1,391.8	1,380.6	1,342.7	1,385.4	6,861.3
Revised assumptions	1,369.2	1,412.4	1,400.4	1,356.5	1,395.4	6,933.9
Net savings	15.5	29.4	51.1	86.6	111.0	293.6
Total receipts:						
Adjusted baseline	1,121.4	1,194.2	1,278.6	1,363.0	1,441.1	6,398.3
Savings	16.2	26.7	27.0	32.1	31.8	133.8
Agreed level	1,137.6	1,220.9	1,305.6	1,395.1	1,472.9	6,532.1
Revised assumptions	1,115.6	1,183.1	1,271.0	1,373.1	1,463.6	6,406.4
Net savings	−5.8	−11.1	−7.6	10.1	22.5	8.1

NONTRADITIONAL EMPLOYMENT FOR WOMEN

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. WEISS. Mr. Speaker, I rise today to praise an outstanding organization whose headquarters are located in the 17th Congressional District of New York and whose work deserves resounding recognition.

Nontraditional Employment for Women [NEW] is a nonprofit organization devoted to assisting women find employment in blue-collar and technical fields, fields which historically have underemployed women. Since its

inception in 1978, NEW has helped over 3,000 women find work in construction, electronics, auto mechanics, air conditioning, and various other traditionally male professions. Because these jobs pay two to three times as much as what women earn in conventional "pink collar" jobs, such as secretarial and sales positions, NEW is providing economic empowerment to the women it serves.

Economic empowerment is particularly important to these NEW women, most of whom are economically and educationally disadvantaged. For example, 85 percent of NEW's trainees receive welfare, 78 percent run their households singlehandedly, and 66 percent dropped out of high school. NEW places most of its 300 annual participants in jobs paying an average wage of $10 per hour.

In addition, it is estimated that NEW's efforts have already saved New York City more than $5 million in welfare payments.

NEW's numerous successes have prompted the U.S. Department of Labor to designate it as a model program. One of these projects, entitled "NEW Futures," encourages young women to consider nontraditional occupations. NEW also offers counseling to women already in the workplace in order to increase job intention rates.

Further, NEW is taking ambitious steps toward closing the gender gap. Through its training programs, publications, and advocacy services for both men and women, the group is actively battling sexual harassment in the workplace. Another initiative called "Workplace Literacy" is aimed at increasing the literacy and education of low-income single mothers.

NEW's work has afforded many women the opportunity to be self-reliant by awakening the self-esteem and self-worth of many who up to now have only experienced doubt and disappointment. Through the training and education provided by NEW, these women are redefining rigid gender roles while contributing to the beautification and economic viability of New York City. I salute NEW and the women whose lives it changes and wish them continued success.

RADIO STATION KILT NAMED "COUNTRY STATION OF THE YEAR"

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. FIELDS. Mr. Speaker, I was pleased that radio station KILT—100 FM in Houston—recently was named "Country Station of the Year" by the National Association of Broadcasters. Dickie Rosenfeld, KILT's station manager and Rick Candea, the station's program director, received the NAB's coveted Marconi Radio Award at the Association's convention last month in Boston.

KILT was selected "Country Station of the Year" in an exhaustive and highly competitive process in which the NAB received literally thousands of nominations from across the country for the 23 categories of achievement by radio stations. Broadcasters, broadcast consultants and representatives from the trade press selected KILT and four other stations to represent the southwest region in the competition.

A similarly constituted "blue ribbon" panel of judges chose five national finalists, from which NAB stations nationwide chose their "Country Station of the Year." When those ballots were tallied, KILT emerged the winner of the Marconi award.

As a country music fan myself, I can personally attest to the professionalism of KILT's staff and the outstanding musical selections the station airs—which explains why I, and many thousands of other Houstonians, enjoy listening to KILT. In addition to the quality music the station broadcasts, Houstonians have come to expect timely and complete news and information from the station's news and public affairs staff.

Winning the NAB's Marconi Radio Award doesn't just happen. Such achievement is not accidental. Rather, it is the result of skill, hard work and dedication by the men and women who staff the radio station. In particular, station manager Dickie Rosenfeld; program director Rick Candea; music director Debbie Murray; and news director Jim Carola should be commended. This award reflects the high esteem in which they are held by their colleagues in the radio broadcast industry.

All Houstonians recognize the outstanding job KILT, and Westinghouse Broadcasting Co., the station's parent company, do in entertaining and informing those of us who live in the Houston metropolitan area. And KILT and Westinghouse richly deserve this high honor which the National Association of Broadcasters has bestowed upon them.

Mr. Speaker, I know you join with me in wishing the good men and women at KILT and Westinghouse Broadcasting Co. continued success in the months and years ahead.

ST. MARY'S CHILDREN AND FAMILY SERVICES—A COMMITMENT TO THE FUTURE

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. LENT. Mr. Speaker, I would like to take this opportunity to recognize the good works of a health care facility in my district, the St. Mary's Children and Family Services of Syosset and Hempstead in Nassau County, NY. For years, St. Mary's has provided a safe haven for children seeking refuge from the myriad of social ills plaguing our Nation. This agency has served our community well and continues to be an example to all those engaged in caring for needy children.

Most recently, St. Mary's completed a new educational center on campus in Syosset. The Thomas F. Casey Educational Center, so named in honor of a generous benefactor, replaces the wood-framed school building that was erected in 1904 and which no longer meets the changing needs of the St. Mary's children.

The educational center emphasizes vocational preparation recognizing St. Mary's commitment to preparing its youth for the world of work by promoting practical and efficient work habits and skills at an early age. St. Mary's believes that these skills will prepare children for the future by building confidence and a sense of self-worth.

St. Mary's Children and Family Services provides rehabilitative residential care for emotionally troubled boys between the ages of 8 and 18. An extensive treatment program includes diagnostic evaluation, psychological and psychiatric services, academic, religious, and occupational training—all geared toward a boy's individual and special needs.

Our children are our future and St. Mary's is doing everything possible to ensure that our future is a bright one. In 1990, with the new educational center fully operational, St. Mary's continues its outstanding tradition of service and commitment to our community. I commend this fine organization for its efforts on behalf of our youth of today and future generations of Americans.

DAVE RIGHETTI: A WINNING GRAND MARSHAL FOR YONKERS

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mrs. LOWEY of New York. Mr. Speaker, baseball season has ended in New York. The end came a little earlier than we had hoped, but it was still an exciting season. Our teams made valiant efforts, and many individual players had outstanding years.

One of those players was Dave Righetti, who is also the grand marshal of this year's Yonkers, NY, Columbus Day Parade. He has been a steady and consistent standout for the Yankees. Since his Yankee Stadium debut in 1979, Righetti has been one of the American League's most consistently effective pitchers. Whether starting or coming out of the bullpen, he gets the job done. He threw a no-hitter in 1983, an achievement of which most pitchers only dream, and has played in the midseason all-star game twice. Dave Righetti is the Yankees' all-time save leader, and he has twice been recognized as the American League Fireman of the Year. This is truly a career of which anyone could be proud.

Dave Righetti's achievements do not end at the foul lines, however. He has also given his time to serve his community, making antidrug advertisements and helping the Leukemia Society in their vital work.

There will be other years—better years—for New York baseball. One thing that we can be certain of, Dave Righetti will be on the mound, making life difficult for opposing batters. The city of Yonkers chose wisely when they picked a grand marshal this Columbus Day. They picked a real winner in baseball, and in life.

THE BUDGET DEAL

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. GINGRICH. Mr. Speaker, I would like to share with my colleagues an article by Jim Miller, budget director under President Reagan, that appeared in the Wall Street Journal yesterday. As a veteran of past budget summits, Mr. Miller gives us valid reasons to reject the current budget agreement.

[From the Wall Street Journal, Oct. 3, 1990]

PULL THE PLUG ON THE BUDGET DEAL

(By Jim Miller)

As one who participated in a (1987) budget summit lasting half as long, my heart goes out to those brave, honorable souls who did their duty as they saw it in the negotiations at Andrews Air Force base. However, the result deserves to be rejected by Congress.

The agreement's greatest deficiency is that it contains no budget process reforms to rectify the bias toward ever-expanding government and increasing reliance on deficit finance. There is no line-item veto, no balanced budget amendment, no legally enforceable budget resolution.

The spending caps don't apply to some accounts, such as the International Monetary Fund and Egyptian debt forgiveness and to presidential requests for "emergency supplementals." The caps do not apply during the first two years of the agreement to revisions in spending because of "technical and economic adjustments."

Nor do they apply during the remaining three years if the president's representatives and the congressional leadership agree that revisions are in order. Since the economic assumptions for the out years are especially optimistic—for example, 4.1% real growth, 3.2% inflation and 4.9% T-bills in 1993—revisions almost certainly will be found to be in order. Moreover, the caps can always be waived by a three-fifths vote in both Houses.

It is truly remarkable that the compromise is so unbalanced. Roughly speaking, one side (led by the president) wanted to avoid increases in taxes and reductions in defense spending. The other side wanted to avoid cuts in domestic spending. Even if we were to take the results of the deal at face value, the president's side would have been outfoxed: The agreement calls for 1991 tax increases of $16.2 billion, defense cuts of $9.8 billion, and entitlement cuts of $12.1 billion.

However, the face value is inaccurate. $1 billion of the alleged $12.1 billion in domestic spending cuts is phony: It replaces a lump-sum payment to retiring civil-service employees with an annuity. Another $4 billion of "cuts" consists of new user fees that are counted as "negative outlays." Disregard the phony cut and count the user fees as what they are—taxes—and the "cost" of the agreement to the president's side is on the order of $30 billion in the first year, while the "cost" to the Democratic leadership's side is only $7.1 billion. And this imbalance persists throughout the five-year term of the agreement.

The agreement says that revenues are to rise by $73.9 billion next year, a 7.1% increase. Spending would go up by $109 billion, an 8.6% increase. Domestic spending would rise even faster. Evidently, the taxes raised by the agreement would be used to finance spending, not reduce the deficit.

Despite all the hype, the current agreement would not reduce the deficit, which would rise from approximately $218.5 billion this year to an estimated $253.6 billion next year. On the other hand, if there were an $85.4 billion initial sequester (as required by Gramm-Rudman), the deficit would fall to $168.2 billion.

President Bush gave up a lot for this agreement, and he has little to show for it. He broke his "no new taxes" pledge, and even accepted an increase in rates in the disguised form of a limitation on deductions. He cast aside the jewel of his negotiating demands—a cut in the tax rate on capital gains—which would have done much to stimulate economic growth and would have more than "paid for itself" through higher federal receipts.

Although he is honor-bound to support the agreement, the president should be ready with a quick response if Congress refuses to pass it. He should order a sequester. This would result in something approximating a nominal spending freeze. Then, he should challenge Congress to reorder spending priorities. Even if spending were permitted to rise as fast as inflation and even if there were no tax increase, the deficit would still be lower next year than it would be under this much ballyhooed but fatally flawed agreement.

CHILD CARE LEGISLATION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. WEISS. Mr. Speaker, I rise to stress the importance of sending a child-care bill to President Bush before the end of the 101st Congress. Although I would like to see a more sweeping measure enacted to help bring affordable quality child care to all Americans, the child-care package held up in conference is an important beginning.

Mr. Speaker, if we do not pass child-care legislation before recess, we will have to start all over again next session. What a tragic waste of 3 long and hard years of work this would be, as well as an unforgivable injustice to our Nation's families. Not since 1971, when President Nixon vetoed a child-care bill, has Congress sent the President child-care legislation. We simply cannot allow 10 more years to elapse before we address the child-care needs of millions of Americans.

The upcoming budget cuts in Medicare, unemployment benefits, and other Federal programs will have a negative impact on the ability of low- and middle-income families to afford quality child care. It is imperative, therefore, that we enact child-care legislation now.

The child-care legislation in conference is one of the most urgently needed domestic measures to come before us. Let's get the bill to the President and act to help families see a brighter and more promising tomorrow.

JUST SAY NO TO INCREASED SPENDING

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. PACKARD. Mr. Speaker, I rise today to urge my colleagues to "Just Say No!"—No to increased domestic spending, No to deep defense cuts, No to tax increases, No to business as usual with this bad budget deal.

The President has asked my constituents to call me to express their views on the budget package. They have called—of the over 500 calls I have received in 3 days 98 percent are opposed to this budget proposal. Many would prefer the automatic cut of Gramm-Rudman. Some say they plan to vote George Bush out of office in 1992.

Until today, I have stood by our President supporting every veto and almost every legislative position the administration has taken. However, on this occasion, much as I would like to, I cannot support the President. I deeply believe that this is the wrong budget package at this time. This budget package is simply a bad deal for America:

It is a bad deal economically: As our Nation slowly slides into a period of negative growth, increasing taxes will only make recession broader and deeper. A large part of the proposed taxes fall on the transportation sector of our economy. The motor fuels tax and the aviation tax will dampen economic activity just when we need to stimulate the economy. These taxes are also inflationary and will cause a ripple effect of increased prices throughout the economy.

It is a bad deal philosophically: This proposal is philosophically wrong because it continues Government business as usual. The so-called baseline budgeting process is the reverse of compound interest—it is compound spending. Baseline budgeting only cuts from projected increases. This is not cutting—it is only increasing by a smaller amount. With baseline budgeting, Government continues to grow like a cancer sapping the energy of the economy and the American people.

This proposal once again places the burden on the elderly, the veterans and the middle class. Cuts in Medicare and veterans benefits hurt those who can afford it least. The taxes on the middle-class working people increase the burden on those who already pay the most in taxes.

Lastly, this budget is a bad deal politically: The American people see this deal for what it is—one more burden for the middle class, while Congress continues to spend money on its pet programs to satisfy its special interest. It is simply not fair. The American people see a President who has thus far been very successful in dealing with Congress being out negotiated and coming away from the budget talks empty handed.

Mr. President, Mr. Speaker, and my fellow colleagues, we can and must do better for the American people.

DOING BUSINESS WITH H.R.H. PRINCE MISHAAL BIN ABDUL AZIZ OF SAUDI ARABIA

HON. JAMES A TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. TRAFICANT. Mr. Speaker, during a time when we feel a certain closeness to the Saudis and may well sell them a $6.74 billion arms package, I want to warn American businesses that doing business with certain Saudi Arabians can be destructive to the economic well-being of their companies.

In 1981, Buckeit International, Inc., a small construction company in my district, signed a contract with His Royal Highness Prince Mishaal Bin Abdul Aziz, a senior member of the Saudi Arabian royal family, to design, construct, and arrange financing for a shopping center in Riyadh. Now 9 years later, long after work has been completed and the center rented, a final settlement is yet to be made.

During construction of the mall, Prince Mishaal resorted to various unscrupulous practices to get Bucheit to acquiesce to demands that went beyond the limits of their contract agreement. The prince held Mr. Buchiet captive in his palace until he agreed to install 220 volt outlets not agreed on in the contract in each shop at Bucheit's expense. In addition, he held 15 Bucheit workers captive and refused to release them unless Bucheit agreed to finance additional work done on the project due to delays caused by the Prince's failure to meet contract obligations. While Bucheit was finishing work on the mall, the prince fraudulenty called on a $1.3 million letter of credit that Bucheit had put to guarantee the project's completion and blocked removal of 500,000 dollars worth of Bucheit's equipment and records.

Although Prince Mishaal entered into the contract as a private citizen, he used his connections with the royal family to cheat Bucheit out of over $11 million. The prince used his influence to change local building codes to suit his personal needs. He actually created documents which, in effect, were new laws to force Bucheit to do additional work on the project or face the threat of a jail sentence for failure to comply with Saudi laws. I have documentation in my possession that supports each of these claims made by Bucheit International.

Since completion of the mall in 1985, Bucheit has repeatedly requested that Prince Mishaal negotiate a compromise with him or submit the matter to arbitration as required by contract. Representatives from the Commerce Department have recently met with the prince's business manager to request that a final settlement be worked out. The prince not only refused to negotiate, but, in a spirit of willful defiance, indicated that he would invite international legal proceedings because he can outspend Bucheit 10 to 1 in legal fees. I can only conclude that the prince is unable to refute Bucheit's claims and, as a brother to King Faud, has set himself above the principle of contract sancity.

While the prince has avoided settling his obligations, Bucheit International has been informed by the Saudi Arabian tax authorities that it owes substantial taxes and penalties on income it never received from the project. The firm believes that Prince Mishaal used his influence to raise the tax issue so to further delay settling the construction contract claims.

The prince has used such tactics with other businessmen who have dealt with him. I am aware of at least nine other firms, American and foreign, that this prince has cheated out of million of dollars; among them is DRG Financial. In the next few weeks, I will be entering some of their stories in the RECORD.

It angers me that an arrogant prince who considers himself above the law is screwing American firms when the U.S. military is sparing no expense to preserve the kingdom's independence and integrity. Prince Mishaal is well-known for his unscrupulous behavior and his lack of business ethics.

A senior prince should not be able to block settlement of his contractual obligations, detain workers, and prevent to export of a company's property. Congress should encourage the Saudi Arabian Government to develop laws and regulations accepted as standard by the world trading community. Saudi Arabia has made great strides in economic and social development during the past 15 years. It should now address its inadequate legal system. It must provide safeguards to its local and foreign resident business communities if it expects to attract investors and technology.

OPPOSITION TO THE RULE ON H.R. 4300

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. KYL. Mr. Speaker, yesterday I opposed the proposed rule to H.R. 4300, the Family Unity and Employment Opportunity Immigration Act. Considering the openness and fairness that this bill sought to accomplish for our immigration policy, I would have hoped that we could have debated this issue under a similarly open and fair rule.

Although H.R. 4300 has many positive elements that should be adopted, the bill also has several provisions which should have been addressed by the full House. One such provision is the 25,000 annual cap placed on H1 nonimmigrant visas for aliens of distinguished merit and ability. Adoption of this cap will prove damaging to American high-technology competitiveness. Unfortunately, this rule denied me the opportunity to offer an amendment that would have addressed this issue, and that is one reason I opposed the rule and the bill.

The H1 visa allows companies to hire specially trained foreigners. A large number of these visas are awarded to foreign scientists, professors and engineers who do valuable work in the United States. The H1 visa has allowed experts in many fields of expertise, ranging from AIDS to fusion energy research, to come to the United States and assist in our effort to resolve some of the most difficult and demanding scientific questions facing our Nation. As our colleague, GEORGE BROWN, of California, said recently.

Today, American industry, academia and even the U.S. Government rely heavily on the talents provided by foreign-trained personnel to make up for the shortages resulting from the smaller numbers of native-born Americans choosing science and engineering as a career.

H.R. 4300, however, will force American industry to accept half the number of H1 visas than it currently uses. Simply put, this cut is anticompetitive.

Furthermore, because applicants for H1 visas already need labor certification, I do not believe that companies are using this program to cheat Americans from good jobs. A professor of engineering physics at UCSD recently pointed out that:

Qualified U.S. citizens are not being displaced by foreign-born engineers who work for lower wages. In fact, all engineers appear to be paid on the same scale and, generally speaking, both industrial and university employers favor qualified native-born (employees).

Of course, some would like to debate this assertion. A rule which adopted my amendment would have allowed for such an opportunity. It is my opinion, however, that we in the House would have reached the same conclusion that Senator KENNEDY and the majority of the Senate reached: That excluding scientists and engineers will not protect the jobs of U.S. workers, but it will hurt our ability to compete in an expanding high-technology global marketplace.

GERMAN-AMERICAN DAY

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. COLEMAN of Missouri. Mr. Speaker, today we celebrate German-American Day which in the past has been a time to recognize both the heritage of millions of Americans and the close ties between our Nation and West Germany. Of course, what sets today apart is, that for the first time in 45 years there is one united Germany, which yesterday took its rightful place among the free and democratic nations of the world.

Today we celebrate with our German friends the historic reunification of their people. It is a remarkable symbol of the changes that have swept the world over the past year. It represents a remarkable recovery from the depths of totalitarian oppression and a crushing defeat. It offers hope to every people who strive for political and economic freedom.

Today also marks a successful culmination of Western policy in Europe for the last four decades. That policy of determination, patience, and strength sustained and protected the German people during their darkest hours. Through the foresight of leaders like Harry Truman, George Marshall, Dwight Eisenhower, and other postwar leaders, these policies fostered the rebirth of German economic and political freedom. Today, because we and our allies remained united and strong, a democratic Germany stands ready to play its role in

helping the nations of Eastern Europe emerge from their own dark age.

As a founding Member and former Chairman of the Congressional Study Group on Germany, I congratulate my many friends among the German people and in the German Government. While they face great challenges in the years ahead, they approach them with energy and determination. More importantly, they approach them from the perspective of a free and democratic people.

Mr. Speaker, I ask my colleagues to join me—on this, German-American Day—in welcoming the united Germany into the family of nations.

RAISKIN CENTER TO CELEBRATE GOLDEN ANNIVERSARY

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. GREEN of New York. Mr. Speaker, it gives me great pleasure to call your attention to the 50th anniversary of the Community Synagogue Max D. Raiskin Center of Manhattan. The Raiskin Center has catered to the spiritual and cultural needs of the community for a half century.

In celebration of its contributions to the community, the center will mark its golden anniversary with a gala event in the synagogue on October 21, 1990. It is my hope that the celebration is a complete success and will be an evening remembered by all those in attendance. I should like to take this opportunity to wish the Community Synagogue Max D. Raiskin Center and its congregation all the best for another 50 years of success.

TRIBUTE TO FRANK DE GARCIA

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. GEKAS. Mr. Speaker, I rise today to ask my colleagues to join me in honoring a very special man from my 17th Congressional District in Pennsylvania.

Since becoming a U.S. citizen, O. Frank de Garcia, has shown through his immeasurable dedication and hard work that he is a true American. Time and time again he has devoted himself to helping fellow Hispanics achieve the decency of life and the promise of a future, their rights as Americans.

Besides dedicating much of his time to helping Hispanics, Frank de Garcia has been associated with several community and professional organizations. These include Harrisburg River Rescue, the Dauphin County Crime Stoppers, Crime Victim/Witness Program of Dauphin County, Mount Pleasant Hispanic Center, and the Dauphin County Planning Commission.

Currently, Mr. de Garcia is a commissioner with the Crime Victims' Compensation Board in the Governor's office, and was appointed by the Governor to serve in the Governor's Advisory Commission on Latino Affairs. He was unanimously confirmed by the State senate for a 6-year term ending March 1995, and he was recently appointed president of Harrisburg City Council.

Frank de Garcia has also dedicated much of his time assisting the Harrisburg Police Department. He is a special agent with the department, and is a duly licensed private detective and investigator in the Commonwealth of Pennsylvania.

Mr. Speaker, through his selfless devotion to others, Frank de Garcia has proven that he is well-deserving of this recognition. I personally wish to thank him for his dedication to the people of my district. His message to fellow Hispanics is important: Continue to grow together and never fail to reach for your goals.

I am proud that Frank is a part of my congressional district. The work he does for others is invaluable.

SALUTE TO THE REPUBLIC OF CHINA ON TAIWAN

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. BLAZ. Mr. Speaker, I rise today as the people of the Republic of China on Taiwan prepare to celebrate their national day on the 10th of this month. It was on October 10, 1911, that republican forces in Wu Ch'ang, Hupeh, central China, began the revolution which led to the abdication on February 12, 1912, of the last Emperor of China, Hsuan T'ung of the Ch'ing dynasty. As the Battle of Lexington and Concord, MA, on April 19, 1775, marked the opening volley of our Revolutionary War, so does the commemoration of the 10th of October recall for the people of the Republic of China on Taiwan the starting point of their struggle for self-determination.

I wish to tell my friends in Taiwan that we are very much heartened to hear about their economic and political progress in recent years. I hope that they will continue to prosper and become a true democracy. In the meantime, the trade conflicts between the United States and the Republic of China on Taiwan have become more manageable. This has come about largely to the efforts of the people of Taiwan themselves and is due to the untiring efforts of their representative, Mr. Ding Mou-Shih, and his staff in explaining what specific actions their Government has been taking to reduce the trade imbalance between our two countries. The efforts of the Republic of China on Taiwan in being cooperative and communicative with the United States are certainly worthy of other countries' consideration.

I congratulate the President and Vice President of the Republic of China on Taiwan, the Honorable Lee Teng-hui and the Honorable LI Yuan-zu.

ANOTHER BLOW TO THE HEART OF AMERICAN COMPETITIVENESS IN HIGH TECHNOLOGY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. RITTER. Mr. Speaker, on September 12, another American high-technology industry sold out for good. Cincinnati Milacron, a maker of large robots sold to a Swiss company, is yet another casualty of our ad hoc approach toward industry. There was barely a peep from the public. There was no outpouring of outrage that yet another American high-technology industry is 100 percent dominated by foreign interests.

Some say the sale of Cincinnati Milacron doesn't really matter. But robots and machine tools are critical to American companies which manufacture products critical to our economic well-being, our standard of living, and our jobs.

We cannot live well if we do not manufacture well, and we cannot go back to the dark days of the last four decades, when we treated manufacturing as the doormat of the American economy.

We also need to recognize that it matters whether we produce robots or radishes—or digital video versus dish towels. To those who say that's industrial policy, I say open your eyes to global realities and the important of value-added production.

Our current industrial policy fails to recognize that our competitors, particularly the Japanese, target key industries for success, and continue to overtake us in key areas. Look at the laptop computers making inroads into our computer market. Computers are next.

Our industrial policy hasn't made a dent in the high cost of investment capital, which makes it difficult for even the most innovative American companies to compete worldwide. According to an executive of the Swiss company that took over Cincinnati Milcron, it was the high cost of capital that put the robot maker at a serious disadvantage.

Last year, the Japanese saved over one-half trillion dollars, money which went into industry. We've got to start doing the same thing, developing more patient capital in the United States and creating tax incentives for entrepreneurial businesses, productive equipment, and facilities.

In one industry after another where Americans developed the important technology, we have yielded a leadership position. We can now add robots to autos, VCR's, compact discs, semiconductors, machine tools, and high definition systems.

Today, there isn't one single area of high technology where we are gaining on our foreign competitors, and indeed, there are many where we are already losing badly. We need a comprehensive effort to reverse this trend. I urge my colleagues to take a look at the Republican competitiveness package, our package of 12 bills designed to restore the luster of American high technology.

A SALUTE TO ROBERT POLHILL

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. FISH. Mr. Speaker, this past Sunday my district welcomed home an individual who has displayed remarkable courage and perseverance in the face of tremendous adversity: Robert Polhill.

As we all know, this brave American native of Beacon, NY, spent more than 3 years as a captive of Shiite Muslim extremists in Lebanon before his release in April. During his captivity he never gave up his dreams of freedom and returning to his family and the country he loves.

His wife, Ferial, and his sons also displayed remarkable poise in the midst of a weathering ordeal and his mother, Ruth, of Fishkill, NY, never lost faith that her son would come home.

Last Sunday, thousands of people lined the streets to cheer Polhill as he and his wife rode through Fishkill and Beacon. Fishkill Mayor George Carter presented Polhill with a plague while Beacon Mayor Clara Lou Gould gave him a key to the city.

The people of Beacon and Fishkill should be commended for their generous outpouring of love and hospitality to one of their own. I join them in saying, "Welcome home, Robert! It's great to have you back."

TRIBUTE TO KEN BURNS—CREATOR OF "THE CIVIL WAR" DOCUMENTARY ON PBS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. LANTOS. Mr. Speaker, I rise today to commend Ken Burns on his masterful vision and brilliant production of the documentary, "The Civil War," which aired on PBS last week.

The Civil War was the supreme test of our Nation. Although it was a supreme tragedy, it was also a triumph, for it united a nation that had been divided for over a quarter of a century. Before the Civil War, people spoke of the United States in the plural: "The United States are * * *." After the war it became singular: "The United States is * * *."

Ken Burns' outstanding documentary brings to us the realization that this critical crossroad of our history was, at the same time, the crucible that made us into the nation we have now become. He says, "The Civil War defines us * * *. It is a window into ourselves"—and Ken Burns' work has enabled us to look through that window to encounter our deepest values as a nation.

What race means to us, how we face death, where our loyalties lie, what ways we define ourselves—these are only a few of the issues Burns' exceptional work addresses. He chooses to teach us these profound truths without gimmicks, purely as an honest storyteller of human lives and human emotions. Ken Burns' "The Civil War" has the compelling character of a beautiful art exhibit and the narrative power of a tragic story.

Mr. Speaker, I invite my colleagues to join me in paying tribute to Ken Burns. All Americans owe a debt of gratitude to him for his monumental documentary which has enriched our understanding of our Nation's history and helped us understand the values we still hold sacred today.

HONORING THE UNITED BLACK MEN OF QUEENS FOUNDATION

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to the United Black Men of Queens Foundation, an organization that is dedicated to community service in Queens County, NY. On October 5, 1990, the foundation will hold its annual scholarship awards dinner and presentation honoring outstanding Queens musicians.

The UBM was founded in December 1975 by a group of men interested in community activities. It was designed to bring together people of strong, sometimes differing, views but who would move forward toward common goals through one voice. Each month about 50 members of this nonprofit organization meet at 8 a.m., Sunday to discuss various issues that affect life within the county's minority communities and to formulate appropriate action that its membership should pursue to remedy conditions that impact upon them. The members meet to develop strategies to confront each problem or cause.

Currently, the organization's efforts are directed toward a broad range of policy areas including social and political action, economic and community development, education, culture, crime, and youth development.

The charter prohibits participation in partisan politics and therefore does not endorse specific candidates. However, the foundation is involved in voter registration drives, political process education, and other activities designed to increase public awareness and activity in community affairs. Their goal is to produce a well-informed electorate who can make reasoned decisions on who their leaders in public office should be.

Proceeds of the foundation's October 5 celebration will go toward their scholarship program, which helps needy students further their educational goals. In addition, the fund helps provide an effective mentoring program for youth in fostering career decisions.

Mr. Speaker, community organizations such as these are vital in moving our Nation's youth toward a brighter future. Because of their strong and selfless commitment to Queens County, I ask my colleagues in the House of Representatives to join me in honoring the United Black Men of Queens and their president, William Jefferson, and to wish them continued success in their efforts.

PUERTO RICAN CULTURAL FOUNDATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, on November 18, 1990, the Puerto Rican Cultural Foundation will hold its first Puerto Rican Cultural Parade in the city of Miami, to commemorate the discovery of Puerto Rico.

The foundation was created to unite the growing population of Puerto Ricans in the State of Florida by hosting cultural events similar to the many celebrations held in their native land and by creating a scholarship program for Puerto Rican college students. These events are aimed to increase public awareness about Puerto Rican culture in the community. The foundation's board of directors are: Henry Mojica, chairman; Joseph Anthony Rios, vice president; Luis De Rosa, second vice president and treasurer; Elizabeth Martinez, secretary; and Carolina Borselo, member at large.

The Puerto Rican Cultural Foundation is interested in addressing the social issues confronting the Puerto Rican community in America. These issues are education and the expansion of business opportunities. In working toward these goals, the foundation is presently involved in creating a network of experts within and throughout the community. This network will be composed of successful business leaders, who will provide technical support and advice to small businesses.

In the area of education, the Puerto Rican Cultural Foundation has been very active in raising money for different college scholarship programs for students of Puerto Rican descent. In addition, the foundation is planning youth-oriented programs designed where young people will have the opportunity to meet successful Hispanic professionals.

The 3-day cultural event of November 18, will include a gala at the Hyatt Regency Downtown Miami, and will be attended by State and local elected officials in addition to other invited guests. In addition, there will be a concert at the Miami Marine Stadium featuring top Latin bands and performers, folkloric dancers, and other guest stars. To end the festivities, there will be a Puerto Rican Cultural Parade at Bicentennial Park in Miami, exhibiting floats, marching bands, musicians, and celebrities. This event is open to the public for their enjoyment of music, authentic Puerto Rican food and art.

The Puerto Rican Cultural Foundation deserves the highest praise for their continuous and tireless efforts to serve the Puerto Rican community in Dade County, FL.

LETTER FROM AN AMERICAN TRAVELER TO YUGOSLAVIA ON HUMAN RIGHTS ABUSES AGAINST ALBANIANS IN YUGOSLAVIA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. LANTOS. Mr. Speaker, during the past year, we have seen a dramatic transformation of Central and Eastern Europe—from totalitarian dictatorships to democratically elected governments, from centrally planned to market-oriented economies. This transformation has swept across the entire region—with one exception.

Northwestern Yugoslavia has felt the winds of democratic change, but southern Yugoslavia has not. The Yugoslav Republic of Serbia has clung to the old authoritarian system. The Serbian government has maintained—and even strengthened—repressive control over the Province of Kosova, with its majority population of ethnic Albanians.

Mr. Speaker, others of our colleagues and I have discussed the human rights abuses against the Albanians of Kosova on a number of occasions. Recently, our former colleague from New York, Joseph J. DioGuardi, received a letter from an American couple who traveled in Yugoslavia this past summer. Their firsthand account of conditions in Kosova, their personal experience of the abuse, mistreatment, and human rights violations against ethnic Albanians provides an excellent summary of current conditions in Kosova.

Mr. Speaker, I insert this letter to Mr. DioGuardi from Mrs. Gwen Batson in the RECORD, and I urge my colleagues to read this troubling document:

SUBJECT: SERBIAN ACTIONS AGAINST ALBANIANS IN THE PROVINCE OF KOSOVO, YUGOSLAVIA

Hon. JOSEPH J. DIOGUARDI,
President, AACL,
Capitol Hill, Washington, DC.

DEAR MR. DIOGUARDIA: My husband and I have recently returned from a five week tour of several countries in Europe. We spent eighteen days, July 16 until August 2, in the Kosovo Province of Yugoslavia. We were guests of friends in Gjakova, but we visited in homes in several other towns and villages. In July 1988, we spent a week there.

During our visit this year, we heard from relatives and friends of our host family the reality of the Serbian atrocities and oppression of the Albanians in the Kosovo Province and we also saw and experienced firsthand some of the things we had heard about.

We observed the reactions to the visit you and Congressman Tom Lantos had made earlier in the year. Your visit was a great inspiration to the people. It has given them a ray of hope that the United States will somehow find a way to help them. A dentist friend told us that the people felt toward you as if you were gods. They wanted to invite you to come back, but the Serbs absolutely forbade it.

We would have been shocked by the Serbian military changes that have been made there in the last two years had we not been in close contact during this time with our friends through their relatives in the U.S.

The first day we went to the town center in Gjakova, a tank was positioned on the town plaza facing the hotel. The turret was in the up position and a Serbian policeman, as all members of the occupational force are called, stood at readiness. We must question the purpose of an armed tank in the center of a town where the citizens have not been allowed to own guns or weapons of any kind.

Within the next few days the tank rumbled past our house. Our host lives on the main street at the edge of the city. There was word that a meeting was to be held concerning the Kosovo situation and the appearance of the tanks would reveal too much about the Serbs' actions. A few days after the meeting terminated, three more tanks rumbled back into town. At one time earlier in the year, a tank was stationed directly in front of our host's house.

In 1988, we rarely saw a police officer in the entire city of Gjakova and crime was almost nonexistent. This year Serbian police are everywhere. They travel in groups of never less than two but almost always in fours or sixes. They roam the streets with their small machine guns hanging from their shoulders. They walk through the stores and sometimes just stand on the street and stare at citizens. It was evident their conspicuousness and attitude were designed to intimidate and harass. At random times they stop pedestrians, cars, trucks, and even children and question them. They stopped and questioned one of the children, a boy of ten, in the home we were visiting on the day we arrived. They enjoy detaining people for questioning. They are determined to harass Albanians.

On the evening of July 30, 1990, immediately after we had left the house for a visit to another family, one of the daughters and her two children were sitting in the front yard and witnessed ten Serbian police stop five cars. They had the occupants get out of the cars. They then forced the men to stand aside and observe while the police searched their wives. They patted them up and down, fondling them and even feeling the women's breasts INSIDE their blouses. Then they allowed them to drive on. Later we heard that as the men seethed and revealed their anger, the police held their guns on them and mockingly asked what was the matter with them and other such taunting remarks. An attorney we visited said the Serbs are constantly doing this type of thing in their efforts to provoke them to violence so they can justify killing more Albanians.

This incident was not difficult to observe. Our friends' house is set back from the street with shade trees between it and the street. The place on the street where this took place was easily viewed from where she sat in front of the house. When she saw what was happening, she observed as cautiously as possible to get what facts she could observe.

Their next door neighbor on one side is a Serbian family. They own a bar that is located on the street in front of their house. This bar is a hangout for the Serbian police. They congregate there all through the day and at night. The first night we were there we heard unison singing coming from the bar. We found that the Serbian police gather there at night and sing their songs of "victory" and propaganda. They sing of how they have taken back their beloved Kosovo, how they have made the Albanians' blood run and how they will continue to make it run. My husband and I heard this singing almost every night through our bedroom window.

The sight of these armed men jumping out of army trucks with their guns slung over their shoulders in front of the house (they parked in front of our house to go into the bar) along with the singing was extremely intimidating to me. I felt fear but as a United States citizen, I felt a degree of protection. The Serbs do not want people from America to know what they are doing. One can imagine the terrible fear that grips the heart of the Albanian there.

It is a regulation that residents who have foreign visitors must take them to the passport section of the police department and have them registered. When we registered in 1988, one Albanian man handled the business of the office very efficiently and was very hospitable. The Serbs have now replaced that position with a Serb and now have an Albanian clerk to fill out the brief forms. The Serb in charge was polite. He asked us when we would leave. We told him and in Serbian he asked our hostess if she could guarantee that we would leave at that time. She assured him we expected to leave at that time because we had our plane tickets.

We can assume that it was important to them that we leave because as soon as we left, they increased their harassment of the Albanians. As a matter of fact, they did not wait. They had threatened to cut off the water to the Albanians on the first of August; however, on July 31 we awoke to a reduced pressure in the water, no more than a tiny stream. Shortly the water supply was cut off completely. This was not the first time for this tactic to be used so our hostess was prepared and had saved a good supply of water in containers. One problem the Serbs face with this strategy is that it is difficult for them to use it without depriving their own people. The Serbian neighbors in this instance and the bar frequented by their police caused them to turn that section of water back on before some of the other sections of town. Our water was off most of the morning. They like to use tactics such as this because they can always tell the world that they needed to make some kind of repairs to the water system, etc. Yet, they make sure the threat is known ahead of time that they are going to do this to the Albanians—more harassment.

Visitors and people we visited, friends and relatives, related details of shocking atrocities that should never be occurring in any country and especially not in a country as civilized as Yugoslavia is considered to be. They described episodes of physical abuse and harassment that had happened earlier and new episodes that were taking place daily. The people relating this were people from all walks of life from Gjakova and nearby towns. Several of them either had already been put out of jobs and been replaced by Serbs or expected to be. They were college professors, doctors, a dentist, factory administrators and workers, engineers, technicians, construction workers and many business men as well as farmers, store clerks, etc.

One horrible example of the atrocities is on everyone's mind in Gjakova. An Albanian family tried to take their child who had appendicitis to the hospital for treatment. On the way they were stopped by the Serbian police. The police detained the family for an excessive length of time although they were told and could see how ill the child was. The police beat the couple and took their car. The couple walked to the hospital

and carried the child. When they arrived at the hospital the same police were there and refused to allow the child to be treated. The family got the child to a hospital in another city, but it was too late. The appendix had ruptured and the child died.

A doctor told us he often makes house calls because if people come to the clinic, the police may not allow the doctors and nurses to treat them. Our hostess' daughter who is a registered nurse at the clinic in Gjakova says it often happens that she is not allowed to assist patients who come for help.

A female cousin of our host family had her arm broken earlier this year by the police when she went to the clinic to be treated for influenza.

Earlier in the year the Serbian police had grabbed an Albanian man by the scrotum and wounded him seriously.

In one instance, three Albanian men were wounded. They had cuts on their faces and arms. When they were taken to the hospital the police herded the doctors and nurses into a room and held them at gunpoint. The police put on white coats and sewed up the men's cuts. Of course the wounds became infected. One man's family took him to Slovenia for medical help but it was too late, he died from the infection. The others also died from the infections.

A doctor friend in Gjakova told us that he and two helpers had tried to help two Albanian men, one an 18 year old boy, who had been shot. The Serbian police held guns on them and would not allow them to help the wounded at all. He said he has been taken to the police department numerous times for questioning.

August 1, 1990, our friend who is a nurse received a call from a nurse friend who works in Pristina. She said the Serbs had sent police to the Pristina hospital that day and would not allow Albanian patients to be admitted nor treated. They do this frequently.

For some time now they have limited the supply of medicines allowed to be sent into the Kosovo Province, making it impossible for Albanians on regular medication to have the drugs they need for chronic conditions as well as temporary illnesses. An uncle in our host family experiences this.

Serbs have even burned out some of the pharmacies to further restrict the medicine the Albanian people can get. Two pharmacies were burned recently. (I believe the location was Ferizaj.)

Another type of horrible atrocity is a common occurrence. The Serbian police stop Albanian citizens and try to force them to give the police their gold jewelry, rings and chains usually. If the Albanians refuse, the Serbs force them to swallow it.

Our friend who visited home in Pec earlier in the year saw one account of this on television while she was there. Because an Albanian man had refused when stopped to give the police a gold ring, they had beaten him with their clubs until he was bruised black all over his face and front of his body. They had then pushed his ring down his throat. He was later taken to the hospital and the ring was removed. The man's bruised body and the operation showing the removal of the ring was televised and shown on the Albanian news.

The Serbs have now closed down the Albanian television and radio stations and August 9, we had word that they have closed down *Rilindje*, the Albanian newspaper; however, I understand that the newspaper is now being printed in Skopje in the Macedonian Republic. We were amazed that they were still allowing the newspaper to continue to be sold when we were there. They were however beating some people when they caught them reading it.

Our friend here who watched the man's operation on television when she visited her parents in Pec earlier in the year also observed the Serbs harassment over the newspaper. Her sister stopped and looked at one of the Albanian newspapers in the downtown area. As she stood looking at it, a police officer walked up and began staring at her. The sister from the U.S. told me walked over to him and in clear English said, "What is wrong?" He did not reply and she said, "Is there some problem?" He quickly walked away. Serbs do not want Americans to know what they are doing and as long as they are not observed directly by us, they feel they can deny anything they do.

Serbs sometimes go into the homes and beat the Albanian people. They can do this without being observed by the public and they can deny that they have done it.

Earlier in the year, they used this tactic. It so happens that one of the "token" Albanian policemen they kept on the force to meet the public and who does routine paperwork in the traffic department lives near our host. He discovered that the Serbs had planned one night to go into the Gjakova homes where lights were on and beat the people. There are not a large number of Serbs living in Gjakova, so they called the Serbian families and told them to be sure their lights were off on this particular evening. The Albanian policeman learned of the plot late, but he called our hostess and told her to be sure their lights were off and to send and get his wife and child and bring them to her house. Immediately after he hung up and one of the daughters ran out the backdoor to get his wife, the police came to their front door, but the family turned off their lights and had their door locked and the police left. The Serbs beat many people in their homes that evening.

As of August 9, they had brought in additional Serbian police and stepped up random beating of Albanians with renewed vigor. Albanians were trying to stay outside their homes as much as possible in order to be visible to others. Otherwise, the police can beat them inside their homes without being seen.

On July 18, visitors told us that a couple with their children had been walking home from town in Pec, a town near Gjakova. The police beat the couple in front of their children. The children went into shock from fear.

On July 19, visitors told us that a pregnant woman in Prizren, a nearby town, had been beaten by the police until she lost the child. This is a common occurrence. The Serbs want as many unborn Albanian children killed as possible. And they make their wishes known.

The Serbs have tried to force Albanians to walk through fields instead of walking along the roads. The reason is simple. They randomly kill those in the fields and can sometimes do so without being seen. Along the busy roads it is not easy to do this.

Trade has been opened up now so that the country of Albania now ships produce into Yugoslavia via trucks. The border between Albania and Kosovo is only about four miles from Gjakova. The Serbian police frequently stop the Albanian trucks and demand money from the truck drivers. If it is not given, they deny them passage or beat them. If the money is given, they charge them with bribery.

They sometimes stop cars and demand money. If they do not get it, they beat the people.

A cousin, Dine Hoti, in our host family was driving with one of the small children in the family in his car. The police stopped him and tried to question him. They claimed the little girl had made the "V" sign with her fingers. Everyone is making that sign throughout Kosovo meaning they want democracy. The driver said he had not seen her make a sign and he refused to talk. They held him from 1:00 p.m. until 11:00 p.m. and finally allowed him to go.

This same cousin is active among the Albanians. His brother Rame Hoti (mentioned below) is one who has been given the edict to leave Yugoslavia. Dine went to Zagreb and met with a small delgation from the United Nations to try to get help for his brother Rame. He speaks some English and his sister speaks English.

Two cousins from our host family were among several Albanians who have received edicts that they must leave Yugoslavia. They can leave their wives and families in Kosovo, but the men must go. It has been rumored that the youngest son in our host family is to be ordered to leave Yugoslavia; however, he has received no notification to that affect.

Young Albanian men who serve in the army are frequently mistreated. The families of those who are killed are not allowed to see the bodies. One Albanian solider was reported by the army to have committed suicide. His family was not allowed to claim the body. Relatives from America demanded his body so they could have him buried in Slovenia. They had an autopsy performed. It was found that his body had been shot five times—hardly evidence of a suicide. Some who served with him said he was shot by Serbs while lying in a hospital bed.

One friend, an assistant director of the computer unit of a textile mill in Gjakova, told us on July 27 that the economy is so poor there as a result of what the Serbs are doing that the administrators were faced at that time with the problem of whether to use the small amount of money they had to pay the employees (they should have been paid July 20) or to buy new materials to keep the factory in operation.

A brother to our hostess is an executive in a factory in Prizen. He told us how the work force has been changed in their factory by the Serbs. There had never been many Serbs working at the factory. Now 1,000 Albanians have been fired and only 200 remain. All others are now Serbs. We heard this same thing repeatedly from those working in factories.

The Serbs have been and are taking the money and resources from the Kosovo Province and using it in their own pursuits in other parts of the country. This of course bleeds the people of Kosovo of their economic blood.

The signs of interrupted progress abound. Gjakova needed a new school badly. The Albanians had begun a new one. The beginnings indicate a beautiful modern building, but the Serbs took the funds and the Unfinished building stands as a monument to the greed of the Serbs.

New streets, buildings and a beautiful monument to slain soliders of past wars are unfinished because the Serbs took the funds the Albanians were using for construction of the projects. They are trying to strangle

all the initiative and productivity of the Albanian people.

Albanians are being forced out of jobs at the whims of the Serbs. An engineer we talked to who is now living in Sweden but was visiting relatives in Gjakova was a good example of that. He had been teaching engineering in the university for six years. The Serbs told him, "You are Albanian and you cannot work here anymore. You are an Albanian citizen." He went to work at another place. Serbs came to him there and again said, "You cannot work here. You are an Albanian citizen." He had to go to Sweden to work and make a living.

The Serbs are planning to resettle Serbs from Romania into the Kosovo Province. They are pushing the Albanians out of the jobs and apartments to make room for the Serbs from Romania.

Our friend who is a nurse at the clinic says she expects to be fired from her job any time. Her job will then be given to a Serb.

They have also vowed to make the enrollment of the university at Pristina 50 percent Serbian. They plan to have the remaining 50 percent or less Albanians. The fact that they do not have that many qualified Serbs to enter the university is of no consequence, they plan to enter them into the university anyway.

August 11, it was reported via telephone from Gjakova that the Serbs planned to close the banks and take the money. The bank officials called as many of their customers as they could so they could get their money. When the Serbs discovered that the people were withdrawing their money, they began beating those waiting. One of our friends was standing in line to cash a check when the police began the violence. She quickly left.

August 14, another report from the family in Gjakova via telephone was that the Serbs are closing the flour stores and even some bakeries. They want to deprive the Albanians of their mainstay in food, their bread.

They have also taken the keys to flour mills, beaten the employees and thrown them out and locked the mills. This was reported to us August 23 in a telephone call.

Serbs are also closing Albanian owned shops. They simply go into the shops and tell the owners to get out.

The Albanians say that many of the police the Serbs have sent to Kosovo are actually criminals that have been given freedom from prison and sent to Kosovo as police. They are definitely criminals. They roam through the stores. They were in almost every store we entered. I think some of the time we were being followed. The clerks say the police often pretend to be drunk and pick up articles and put them in their pockets. If the clerks try to report them, the clerks are later beaten. I felt we were being followed as we walked through the Agimi Department Store because there was a group of two or three on each floor. They sauntered around with their small machine guns slung over their shoulders.

On the morning of July 21 a doctor friend and his assistant were visiting and we were sitting under the shade in front of the house. An army truck pulled up and parked on the street in front of our house. Six policemen jumped out of the truck with their guns slung from their shoulders. They hesitated behind the truck and stared a few minutes at us. They like to harass by making sure their presence is known. Then they went out on the street and stopped a few cars. After brief stops they allowed the cars to proceed. Then they went into the bar.

Later we noticed several trucks lined up on the street in front of the house. The police were out again and this time were stopping trucks. Finally, the trucks were allowed to move on.

On August 1, three policemen unloaded in front of our house and briefly stopped cars. Then they walked down the street a short distance and stopped a truck briefly.

When we bought our plane tickets to fly from the Kosovo area, we were advised to fly from Skopje in the Macedonia Republic instead of Pristina, although Pristina is closer, the Serbs often will not allow the planes to fly from Pristina. This uncertainly is as another tactic of harassment to the Albanians.

Since they had been denying Albanians treatment at the Pristina Hospital the day before we left the area, it was perhaps wise that our airline tickets were not purchased for departure from Pristina.

Finally, the Albanians have been driven to violence. Last week a group of policemen stopped an Albanian wedding procession and took the Albanian flag (traditionally carried by the lead car) and began beating the wedding guests. They ordered the wedding guests out of the cars and started searching the women in an intimate manner. Wedding guests from other cars in the procession got out and beat the policemen. One of the officers was stabbed and died and another one was beaten severely.

While we were in Gjakova, one of the children in the family was given an armload of cookies by the Serbian police in front of our house. The children have been taught never to eat anything given them by the police. So the child brought the cookies to his mother. An Albanian chemist analyzed the cookies. We talked with him via telephone August 28. He said the cookies did indeed contain poison. He had made a special trip to the house the day those cookies were given to the children to tell us that the police were distributing cookies that probably contained poison and that if the children were given cookies or anything edible, they should not eat it. He was correct.

These atrocities are the same as Japan used on the Korean people in WWII. The Korean farmers starved while their rice was shipped to Tokyo. The Albanians are living in poverty while the Serbs are taking their funds and resources and using them for themselves.

The Serbs are trying to force the Albanians to speak the Serbian language and they are trying their utmost to destroy the ethnic Albanian culture. These are the same actions exactly as the Japanese used against the Korean people.

These are but a very few of the actions the Serbs are using to harass the Albanians in Kosovo. New atrocities are reported daily.

We talked at length with a European correspondent about this situation while we were in Europe. The only suggestion he had for the U.S. to bring pressure on the Serbs seemed to be the power of veto we have with the World Bank for any financial help they might be able to give Yugoslavia for special projects.

I hope there is more than can be done by our government. I feel that the free world does not know what is actually taking place there. It is our hope that since you have been there, you will use your influence and hopefully gain support for an effort that will put a stop to these atrocities and this oppression. We are thankful for your group of officials who are interested. The Albanians we talked with indicated that they are trusting that the United States will help them out of this situation. They inquired of us as to what the U.S. is doing to help them. We did not know.

Sincerely,

MRS. ROBERT BATSON.

TRIBUTE TO TERESA D. ALIPERTI

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to Teresa D. Aliperti for her 40 years of dedicated service to the Huntington Union Free School District on Long Island.

Ms. Aliperti began her service to the Huntington UFSD on August 15, 1950. She served as a typist (1950–53), as a stenographer (1953–54), a senior stenographer (1954–56), an account clerk (1956–65), a senior account clerk (1965–84), and a principal account clerk (1984–89). Ms. Aliperti assumed the responsibility of district treasurer in 1967 and was promoted to administrative assistant in 1989.

In addition to her 40 years of service to the Huntington schools, Ms. Aliperti has been an active professional member of the Suffolk County chapter of the New York State Association of School Business Officials. She has served that association as secretary, vice president and president.

Mr. Speaker, Ms. Aliperti has dedicated her professional life to the Huntington schools. Her continuous service was broken only by a 6 week absence in 1964 after the birth of her son. The students and faculty of the Huntington schools have greatly benefitted from her service.

On October 11, 1990, the Huntington Union Free School District and the entire Huntington community will honor Teresa Aliperti with a dinner at the Huntington Elks Lodge. I am honored to add to this tribute and wish Ms. Aliperti well in all of her future endeavors.

TRIBUTE TO HURON WOODS NURSING CENTER

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. TRAXLER. Mr. Speaker, I rise today to pay special tribute to an outstanding health care facility located in my congressional district, the Huron Woods Nursing Center. On the evening of Tuesday, October 9, this facility will be honored by the Health Care Association of Michigan with the Facility Excellence Award.

Owned and operated by John and Arlene Peplinski, this long-term care facility is well known throughout my congressional district for the quality care it provides to its patients. Having recently gone through total renovation, Huron Woods has been described as "elegant, beautiful and very comfortable for both residents and families." As a result, it has

become the first choice for many families seeking nursing care in the Saginaw Bay area.

One of the major reasons for Huron Woods' success is the knowledge and awareness of its staff. The staff of Huron Woods Nursing Center is conscientious about providing good patient care and they work hard to offer residents an extensive array of recreational activities both inside and outside of the facility. One activity the residents eagerly look forward to each year is the lighting of the Christmas tree in Linwood Park. This annual event marks the start of the holiday season for them. Residents are also taken to several picnics during the summer and are provided with regular opportunities to go shopping in downtown Bay City.

The primary objective of the management and staff at Huron Woods is to provide health care that enhances quality of life. Workers strive to improve the physical, emotional and psychological well-being of their residents and whenever possible return residents to the mainstream of life. The overall philosophy of the nursing center is that every individual is worthy of appropriate health care and that the optimal quality of life must be maintained for all.

As one Michigan Department of Public Health surveyor said, "The Staff of Huron Woods should be proud of their facility and their accomplishments." With this in mind, I feel that the Huron Woods Nursing Center is well deserving of the recognition that will be bestowed upon them and should be looked at as a national model for health care facilities all over the country.

TRIBUTE TO THE 25TH ANNIVERSARY OF THE AACEOC, INC.

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to pay tribute to the 25th anniversary of the Anne Arundel County Economic Opportunity Committee, Inc. The AACEOC, Inc., Anne Arundel County's Community Action Agency, was founded in 1964, an extension of President Lyndon B. Johnson's "War on Poverty." The AACEOC has been at the forefront of improving the quality of life for not just the poverty-stricken of Anne Arundel County, but the county's entire community. Rallying behind their motto of "People Helping People" the AACEOC has strived for 25 years to help the poor of Anne Arundel County.

In recent years, progress has been made in many of the programs established and supported by the AACEOC. The Family Support Center at the Eastport Terrace/Harborhouse Community Center provides pregnant and nonpregnant youth with education and child care. The Head Start Program helps children at an early age to help keep them in school as they grow older. The Annapolis Youth Services Bureau helps to prevent delinquency among the youth of Annapolis by providing them with athletic activities and counseling services. The AACEOC also provides low-income families with housing counseling services to help them maintain their self-sufficiency. Low-income homeowners have access to other services as well, such as weatherization of homes and home heating credits. Senior citizens part-time employment schemes and other enrichment programs form the innovative structure of the Senior Aides Program. In a newer program, the AACEOC has brought about increased economic investment and entrepreneurial ventures through its subsidiary ECO, Inc. ECO has helped establish new businesses in Anne Arundel County. In so doing, the AACEOC has improved the overall economic situation in Anne Arundel County.

In this day and age we need more individuals and organizations dedicated to the ideal of "People Helping People." The Anne Arundel County Economic Opportunity Committee serves as an example to the Nation of how we can help the poor and less fortunate in society, at the same time as we improve the quality of life in our communities. I am pleased to take this time to honor and congratulate AACEOC, Inc., for their fine work over the last 25 years, and express the willingness of the people of Anne Arundel County, the State of Maryland, and the United States to stand behind the invaluable work of the Community Action Agencies nationwide.

LEGISLATION TO ASSIST SELF-EMPLOYED AFDC RECIPIENTS IN CONNECTICUT

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mrs. KENNELLY. Mr. Speaker, today I am introducing legislation to remove impediments to economic independence faced by self-employed AFDC recipients in Connecticut.

For 3 years now, I have followed the progress of a program in my district designed to facilitate economic independence for AFDC recipients. The concept is simple—work your way off public assistance by starting your business. The results have been very impressive. Graduates of this program have become contributing members of the community and have saved taxpayer dollars. It is so encouraging to see motivated people succeed against overwhelming circumstances.

However, it is apparent that there are a few Federal regulations that present obstacles to the success of some of the participants in these programs. Federal regulations do not allow the deduction of capital equipment used in a small business. Also, Federal regulations do not permit the repayment of the principle on a loan which is used in the business as a business expense.

While I support the concept of writing regulations designed to prevent fraud and abuse, I would have to observe that, during the infancy of a business, you put alot of money in and receive very few dividends. The problem facing the participants in this program is that the regulations present a significant enough impediment to the survival of the business that they are either forced to stay on public assistance or forced back onto it if they have already worked their way off. This punishes these entrepreneurs and wastes public money.

My legislation will remove these regulatory obstacles and motivated individuals. It will also save the taxpayer money and we can never do enough of that.

TRIBUTE TO THEODORE WELLS, JR.

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, on Saturday, October 6, 1990, the Calvin Coolidge High School Alumni Association will honor one of its own. Theodore Wells, Jr., a native Washingtonian and now a New Jersey resident will be honored for his tireless service to the New Jersey community. Ted, as many affectionately know him, has become one of the most highly regarded defense attorneys in the country.

Educated at the College of the Holy Cross in Worcester, MA, he then entered a joint degree program at Harvard Law School and Harvard School of Business. Upon completing his graduate education, Ted was encouraged by many of his colleagues to make New Jersey his home. Luckily, for the citizens of New Jersey, Ted decided to do just that.

In 1977, Ted joined the law firm of Lowenstein, Sandler where he has been able to make significant contributions. Realizing that each segment of our society is entitled to be represented well, Ted often works with the community at large on a pro bono basis. One of the many projects Ted is now working on is the shooting of a young black male in Teaneck, NJ, by a white police officer. Ted has been one of the few who has been able to bring this racially divided city to a common table for discussion and debate.

I am honored to say that he is my campaign finance chairman and a key advisor to Senator BILL BRADLEY. It is always heartwarming to see those who deserve accolades and roses get them. I salute Coolidge for its recognizing Ted's contribution to New Jersey and to the Nation. Mr. Speaker, I am sure my colleagues join me as I applaud Theodore Wells for his receipt of this award from the Calvin Coolidge High School Alumni Association, Washington, DC.

LITHUANIAN HALL CELEBRATES 75TH ANNIVERSARY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mrs. BENTLEY. Mr. Speaker, I rise today to congratulate the Lithuanian Hall Association, Inc., on the 75th anniversary of Lithuanian Hall. It is out of deep respect and admiration for the Lithuanian Hall Association that I congratulate them on this joyous occasion.

Completed in 1921, the hall was literally built throughout the Depression with pennies earned from sweatshop wages. Today, as then, the hall serves as a testament to the hard work and perseverance of the Lithuanian people.

On October 7, I will have the privilege and pleasure to attend the 75th anniversary festivities. The hall is, indeed, an ethnic jewel of Maryland housing a museum, library, ballroom, restaurant, catering rooms, and business offices. We truly are fortunate to have Lithuanian Hall located in the great State of Maryland.

The United States is blessed with a diversity that has provided this Nation with the knowledge and abilty of people from across the world. The ethnic and cultural diversity of our Nation is a characteristic which has helped to make our Nation foremost in the world. Immigrants to our country brought a wide range of skills, customs, and beliefs which have enriched the lives of us all and the Lithuanians have contributed to that enrichment.

The 75th anniversary of Lithuanian Hall will serve to exemplify the hard work and perseverance of the Lithuanian people both here in Maryland as well as in the United States and Lithuania.

The hard work of the Lithuanian people has been quite evident and has not gone unnoticed. In Upton Sinclair's book "The Jungle," he wrote of the hardships in the meat packing industry of Chicago that predominately Lithuanian immigrants had to endure. Lithuanian immigrants most certainly have played an important role in shaping and building our great Nation.

When Thomas Jefferson said, "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man," he did so knowing that the threat of tyranny was an ever present one. Thomas Jefferson recognized that one always must remain vigilant against the evils of tyranny and oppression. Lithuanian Hall also has shared in that pledge and has played a major role in bringing Lithuania closer to freedom as an independent nation for simple autonomy will not suffice. Lithuanian Hall has stood as a vanguard in the fight for a free Lithuania. Undaunted, the work of Lithuanian Hall shall not cease nor compromise for nothing other than a free Lithuania.

I must agree with Edmund Burke where he stated, "All that is necessary for the triumph of evil is for good men to do nothing." I hold this statement to be quite true and unfortunately repeated all too often. However, the men and women of the Lithuanian Hall know this and have selflessly given of themselves for the betterment of others. To devote so much time and energy to such a noble cause is truly commendable.

None of us shall forget that it was just this year on March 11 that Lithuania declared itself independent of the Soviet Union and elected a non-Communist head of state. Although recent developments have not moved as extensively and quickly as wanted and are admittedly more symbolic rather than tangible, they have nonetheless moved Lithuania closer toward being a sovereign and independent nation. Without a doubt, recent advances toward freedom have paved the way for a free and independent Lithuania. Such advances could not have happened if it were not for the hard work and dedication of the Lithuanian people everywhere and like those who have built up Lithuanian Hall in Baltimore.

Mr. Speaker, my fellow colleagues, I commend the perseverance and devotion of the Lithuanian people and congratulate Lithuanian Hall on its 75th anniversary. The future of Lithuania and all mankind who desire the blessings of freedom and liberty is much brighter thanks to the Lithuanian Hall Association.

NATURAL GAS IN CARS AND STEP ON IT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues the following article, which appeared in the New York Times on October 2, 1990, outlining the significance that natural gas can have as an energy alternative to reduce our dependence on foreign oil.

The reality of this energy alternative hits particularly close to my hometown of Louisville, KY, where there is underway a pilot project in which three of the city government's public works vehicles have been converted to natural gas powered vehicles.

I salute the director of public works for the city of Louisville, Bill Herron, for his work and dedication in this endeavor.

[From the New York Times, Oct. 2, 1990]

NATURAL GAS IN CARS—AND STEP ON IT

(By Patrick L. McGeer and Enoch J. Durbin)

PRINCETON, NJ.—Imagine a single action that could end the West's dependence on Middle East oil, shatter OPEC and drive oil prices below $10 a barrel. A daydream? No, all that is required is to equip all the cars and trucks on the road today to run on natural gas.

To a great extent, that is what British Columbia did after the last oil crisis, in 1979. Subsidies were introduced to encourage owners of fleets and private cars to add special tanks so that their cars could—at the flip of a dashboard switch—burn either gasoline or natural gas. Service stations were given inducements to add natural gas to the pumping bays.

Now, a network of 50 refueling stations serves fleet vehicles and individual owners. Owners of converted automobiles seldom use gasoline except as a reserve.

Natural gas has a high octane rating (130) and costs 50 to 80 cents per gallon equivalent. It is also plentiful, clean and easily distributed, and is much safer than gasoline (there has never been a fire in a natural gas vehicle). Compared with gasoline, it produces lower levels of nitrogen oxides and carbon monoxide and enormously lower levels of smog causing hyrocarbons.

Standard gasoline engines can run on natural gas without modification. The gaseous fuel prolongs the life of engines, spark plugs and lubricating oil. As a result, 500,000-mile engine life is not atypical.

Technically, converting vehicles from gasoline to natural gas is easy, Judging from British Columbia's experience, the process should take about two years. For roughly the cost of our current military operations in the Middle East, we could convert about a million vehicles a month.

And the advantages of using natural gas go far beyond the economic realm. It would end a momumental waste of resources, provide the single largest environmental dividend of all time and give us energy security.

When oil is pumped, dissolved natural gas is released. Globally, about half of this gas is burned off, vented or reinjected into the ground. The burning of "excess" natural gas is a major contributor of atmospheric carbon dioxide, which is thought to contribute to global warming. The Soviet Union alone flares off gas equivalent to a hundred million barrels of oil each year.

Known reserves of natural gas far exceed those of oil. Canada's are sufficient to serve North America's needs past the middle of the next century. Unlike oil, natural gas is a renewable resource. Nature makes it from rotting vegetation. Biomass is therefore a huge and renewable source of supply. In fact, we could supply all our current needs simply from the gas produced by rotting vegetation and garbage dumps.

Coal is yet another vast source of gas. But there is no need even to think about these potential sources because so much is either being wasted or just sitting in known underground fields.

With all this going for it, why hasn't natural gas supplanted gasoline? For one thing, natural-gas tanks hold less fuel, limiting the range for most cars to about two-thirds that of a full tank of gasoline. This means more frequent fill-ups, and the necessity to be near a refueling station. For vehicle fleets that return to their home base each day (buses, taxis, city delivery vehicles) this isn't a problem. They can refuel in their own garages.

But the principal barrier to complete conversion is the large onetime expense of around $1,500, which can be recovered through lower fuel and maintenance costs. Taxi cabs, which pile up the mileage, save about $2,000 a year in fuel costs, enough for fleet owners to recover the cost of conversions and refueling stations in less than one year.

However, few private cars are driven far enough to make conversions economically practical. A vehicle has to consume 1,500 to 2,000 gallons a year or more to make the investment pay. Moreover, many people assume that natural-gas prices would rise—either from higher demand or tax hikes—if cars were converted in significant numbers.

The expense of conversion, doubts about price and spotty availability are enough to frighten off all but the hardiest souls. Overcoming this understandable but self-defeating grid-lock requires Government action.

The place to start is with urban fleets. Natural gas is such a bargain for them that subsidies should not be needed. Indeed, major delivery companies, like Federal Express and United Parcel Service, have already begun converting on their own.

The Government could accelerate the process by requiring all urban fleet owners to operate some fraction of their vehicles on natural gas by a certain date. Fleet owners who could demonstrate that they would be economically harmed by such operation could be excused. Texas recently passed a law with both provisions that should serve as a model for the nation.

Once most of the nation's fleets are using natural gas, private fueling stations will have more of an incentive to sell the fuel. (In fact, many fleet owners in British Co-

lumbia found that they could make a good business of selling natural gas to the public.)

When consumers see that natural gas is readily available, they may consider converting.

Finally, if demand is strong enough, manufacturers may begin to equip new cars with natural-gas tanks. Since this is much cheaper than converting a standard car, it would make natural gas economical for virtually every driver.

Natural gas should not be looked upon as a temporary substitute for gasoline. It is a superb fuel that we should use irrespective of instability in the Middle East.

Energy dependence is one of the few national problems that we can solve. Let's do it.

TRIBUTE TO ERBY L. JENKINS

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. DUNCAN. Mr. Speaker, one of Tennessee's greatest lawyers, Erby L. Jenkins, passed away last Saturday in Knoxville.

Mr. Jenkins practiced law in Knoxville for over 50 years. He was so highly regarded in legal circles that he was frequently asked to sit as a special justice on the Tennessee Supreme Court.

Many outside of Tennessee would not understand how high a compliment it was for Mr. Jenkins to be invited to sit on our State supreme court.

No Republican has ever been elected to our State's highest court. Erby Jenkins was an active and well-known Republican.

For an all Democratic court to turn to him time after time on tough cases or when judges had to recuse themselves was a tremendous honor when the court could have chosen almost any lawyer in the State.

Erby Jenkins was especially close to my family. He was one of my late father's very best friends and served several times as his campaign manager.

Mr. Jenkins' only son, Ray Lee, serves as the Senior Judge of the Knox County Criminal Court, a division of which I served for 7½ years before coming to Congress.

Erby Jenkins helped many people during his life. The world has lost not only an outstanding lawyer, but a very kind and humble man. I know he will be missed by many.

I would like to have reprinted in the RECORD at this point the articles about Erby Jenkins and his career which ran in the Knoxville News-Sentinel and Knoxville Journal shortly after his death.

ERBY L. JENKINS, LAWYER AND POLITICAL FIGURE, DIES AT 83

(By Jim Balloch)

Erby L. Jenkins, one of Knoxville's most popular lawyers, died at home Saturday morning.

He was 83 and had been in ill health for some time. Family members said he died in his sleep.

Mr. Jenkins was admitted to the bar in 1931 and practiced law in Knoxville until the early 1980s, when he began gradually going into retirement. The law firm he cofounded, Jenkins and Jenkins, is still one of the city's most prestigious.

Longtime courtroom observers described Mr. Jenkins as a gentleman lawyer with an uncanny ability to know just how far to press a case or a witness.

Once, in the middle of his proof on behalf of a client accused of murder, he suddenly rested, though there were more than a dozen witnesses remaining on his list. Strolling from the courtroom with his famous grin on his face, he remarked to a News-Sentinel reporter: "Jury's heard enough."

The client was acquitted after 20 minutes of deliberation.

He once advised a group of young lawyers: "Get out of your head that you can make a killing. Be courteous to the court and other lawyers, be on time so that you can get the feel of things. And when you give your word, keep it."

He also said lawyers needed a sense of humor. "Without that, a lawyer is lost in the weeds."

Mr. Jenkins, the son of a country doctor, was born in Union County. His first job was carrying the Sunday newspaper—on horseback—to rural subscribers for $3 a week.

He was a principal and teacher at a two-room schoolhouse, where he set up Knox County's first free school lunchroom, using produce donated by farmers.

He borrowed $300 from a minister to attend law school at Cumberland University and married his childhood sweetheart, Nell Hubbs. Their one child, Ray Lee Jenkins, is a Criminal Court judge of Knox County. The elder Jenkins administered his son's oath of office in 1982.

After being admitted to the bar in 1931, Mr. Jenkins shared an office with colorful lawyer Ray Jenkins, the "Terror of Tellico Plains." The two men were not related, but many people believed they were because of the last names.

Long active in politics, Mr. Jenkins had been chairman of the Knox County Republican Executive Committee and the State Republican Executive Committee.

He had been president of the Knoxville Bar Association and the Tennessee Bar Association and held offices in the American Trial Lawyers Association and the American Bar Association. He also was an officer of the National College of District Attorneys, which he was instrumental in forming.

He played a key role in establishing the governmental law library, housed in the City County Building. During World War II, he served in the Army's Judge Advocate Corps.

He often sat as a special judge on the state Supreme Court. In 1972, in a highly publicized case, he strongly upheld the right of citizens and the press to criticize governments.

The case involved the arrest of two college students on charges of desecrating the American flag and subsequent articles about the incident in Look magazine and the Kingsport Times-News. The city sued the publications and a writer on accusations of libel and defamation.

The high court dismissed the lawsuit. To do otherwise, Jenkins wrote, would "place in jeopardy * * * every criticism of public expenditure, policy, management or conduct of public affairs. * * * It is difficult to imagine anything more destructive of democratic government than the power in the hands of a corrupt government to stifle all opposition by free use of the public treasury to silence critics by suit. * * * We trust that will ever be the law."

Besides his wife and son, he is survived by a brother, Aubrey Jenkins, also a prominent Knoxville lawyer, three grandchildren, and three great-grandchildren.

The family will receive friends from 5 to 7 p.m. Monday at Stevens Mortuary, Ogleweed Avenue at Broadway Services will be at 7 p.m. Monday at Stevens Chapel with the Rev. Robert M. Walker officiating. Family and friends will meet at 11:45 a.m. Tuesday at the entrance to Lynnhurst Cemetery for a noon graveside service.

[From the Knoxville Journal, Oct. 1, 1990]

JENKINS, "VALLEY SAGE," DIES AT 83

Friends say Erby Jenkins, who died Saturday after a long illness, was content to be a trial lawyer and never had a desire to be a judge.

But he was once asked to sit as a special justice on the State Supreme Court and wrote an opinion which showed not only judicial insight, but a sense of humor as well.

The case involved a man who had been convicted of contributing to the delinquency of a minor and received a fine and six-month jail sentence.

But in a display of mercy, Jenkins forgave the man his jail sentence with the following passages:

"He has suffered the humilitation of a public trial for a would-be sin of the flesh, and had to seek refuge behind the petticoats of an angry wife who publicly forgave him. But whatever is done by the courts cannot restore the peace and harmony of that happy marriage, for if the pattern of wifely conduct runs true to form, he will throughout his natural life be reminded of the time she saved him from jail.

"The defendant has done wrong in the eyes of the law, but not enough in this instance to be jailed, and the least the trial judge can do is to relieve him of his temporary sentence, and remember that he is forever and eternally on probation to his wife, who will be his wife, his warden and parole officer all wrapped up in one," Jenkins wrote. Although Jenkins was the instigator of many political scraps, "He never was interested in running for office," said Herbert Baker, a lifelong friend and political ally of Jenkins.

Barker said Jenkins, who served many years as chairman of the Knox County Republican Party, was more interested in getting people elected than being a candidate himself.

Jenkins, 83 has been ill and confined to his home for some time.

The funeral will be today at 7 p.m. at Stevens Mortuary, with Rev. Robert M. Walker presiding. A graveside service will be held at noon Tuesday at Lynnhurst Cemetery.

Known as the "Sage of Raccoon Valley," he was heralded not only for his expertise in the courtroom, but also as a witty and gifted writer and orator.

With his brother, Aubrey, and Ray H. Jenkins, who is no relation, they formed one of the most successful and widely-known law partnerships in the city.

His only son, Ray Lee Jenkins, is a Knox County Criminal Court Judge.

Jenkins was born Sept. 19, 1907 in the Raccoon Valley community in Union County, but graduated from Gibbs High School in Knox County. He attended the University of Tennessee.

He began his legal career in 1931 after graduation from Cumberland University Law School in Lebanon.

In 1936, he became a part-time prosecutor in the office of District Attorney J. Fred Bibb.

After leaving that position, he and Ray Jenkins began a partnership in the old General Building on Gay Street. Still in existence, the firm of Jenkins and Jenkins consists of nine partners and two associates with offices in the Bank of Knoxville Building.

Through the years, the two unrelated Jenkinses achieved almost legendary status in East Tennessee with their defense work in criminal cases.

But Jenkins also devoted quite a bit of his time to participation in the political process and was a driving force in local, state and national Republican politics.

He was first elected chairman of the Knox County Republican Executive Committee in 1942. He held that post for several terms, off and on, until the mid-50s.

Under his leadership, the GOP enjoyed almost unprecedented success in Knox County. In 1947, 1944 and 1952, the Republicans swept every office on the ballot in county elections.

Jenkins was campaign manager for Howard H. Baker Sr.'s races for U.S. representative from the Second District, and also co-managed the campaign of Baker's widow when she succeeded him in the house.

Besides his son and brother, survivors include his wife, Nell Hubbs Jenkins, three grandchildren and three great-grandchildren.

CUTOFF AID TO PAKISTAN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. STARK. Mr. Speaker, there is no hiding the fact this year that Pakistan has nuclear weapons. Under the Foreign Assistance Act, Islamabad is now ineligible for U.S. foreign aid. Unless Congress passes yet another waiver, aid to Pakistan will finally cease.

This cutoff is 10 years too late. We've given the Pakistanis $5.325 billion since 1981 and all the while we knew—we knew—they had a program to build nuclear weapons.

Pakistan's efforts in this area go back a number of years. In 1977, the French agreed to sell them a plutonium reprocessing plant. Such a facility had little commercial use, but it could have produced nuclear weapons-grade materials. The United States responded to this threat decisively and cut off economic and military aid to Islamabad. The French later backed off from the sale and United States assistance was restored.

With the reprocessing route closed off, Pakistan worked on developing a uranium enrichment capability, the other method of producing fissile material. Through clandestine deals and the assistance of foreign nationals, Pakistan began accumulating the technology and components needed for a centrifuge enrichment plant—this approach has served as a model for the Iraqi nuclear program in the last few years. Once again, Islamabad was headed toward nuclear weapons capability.

And once again, the United States acted responsibly and decisively. Under the recently passed Symington amendment to the Foreign Assistance Act, no country could receive U.S. aid without a reliable assurance that they were not acquiring and developing nuclear weapons. We cut Pakistan off again.

But 2 years later the United States exempted Islamabad from this law until 1987, paving the way for a 6-year $3.2 billion package of economic and military assistance. The aid would still be halted if Pakistan actually conducted a nuclear test.

In 1984, Pakistan acquired the design for a tested nuclear weapon from China. That same year, three Pakistani nationals were arrested in the United States for trying to smuggle out of the country 50 krytons—high speed triggers used for detonating nuclear weapons—the same kind of components the Iraqis were after last spring. Our response this time was an amendment that conditioned United States assistance on an annual certification by the President that the Pakistanis did not actually have a nuclear weapon and that aid would help reduce their likelihood of getting one.

In 1986, Pakistan became capable of producing weapons-grade uranium and now had the potential to build nuclear weapons. Each year since they have added to their stockpile of fissile materials. And each year the President of the United States has certified that Islamabad did not have a nuclear weapon. They may have been just a turn of a screwdriver away, but that was good enough to receive billions of American dollars.

In 1988, the United States agreed to another 6-year package of military aid worth more than $1 billion. In addition, each year we gave them hundreds of million more in other forms of assistance. Altogether, we gave Pakistan more than $5 billion during the decade, including $591 million in fiscal year 1990. Only Israel and Egypt received more.

Year after year we made excuses for the Pakistanis. After the Soviet invasion of Afghanistan, we said the aid was needed to win over Islamabad's support. More recently, we said we needed to support the fragile democracy of Benazir Bhutto. How much difference our aid actually made in these instances is a debatable question. What is clear is that we sat back and allowed Pakistan to become a nuclear weapons power.

What does this mean? India and Pakistan have already gone to war three times. Last spring, with the turmoil in Kashmir, fighting almost broke out again and it could have escalated into a nuclear conflict. The Pakistanis are also now in a position to supply other countries with technology to make weapons grade materials. They already have nuclear ties with several nations, including Iran.

Too much has already happened, but there are still goals here worth pursuing. We can still stave off a nuclear arms race in South Asia and encourage confidence building steps between the countries. But to have any leverage—to ever have any leverage or credibility in nonproliferation policy again—we must cut off aid. Otherwise, who will take us seriously next time?

Mr. Speaker, Members of Congress, for the sake of our national security for years to come, please, this time, no more excuses.

FIFTH REUNION OF U.S.S. "SAINT PAUL" CREW

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. GONZALEZ. Mr. Speaker, on October 16 through 20, about 400 crewmembers of the cruiser U.S.S. *Saint Paul* will convene in San Antonio for their fifth reunion. These events take place each 2 years, and I am glad that these veterans have chosen this year to meet in San Antonio. Our local navy consists only of fiesta barges, but San Antonio is home to many a sailor, and takes great pride in having these veterans visit with us for a few days.

The U.S.S. *Saint Paul* was in continuous service for 26 years. This cruiser of the heavy *Baltimore* class was commissioned in Boston on February 17, 1945, and immediately after a shakedown cruise in the Caribbean, transited the Panama Canal to join the Third Fleet under Admiral Halsey. With the Third Fleet, the *Saint Paul* joined task forces operating against the home islands of Japan. She fired the last salvo on Japan August 9, 1945.

The U.S.S. *Saint Paul* entered Tokyo Bay and was part of the fleet present at the surrender ceremonies on September 2, 1945. From November 1945 to early 1946, she was part of Task Force 73, anchored off Shanghai.

The Korean war saw the U.S.S. *Saint Paul* operating in close fire support for United Nations troops ashore, carrying out gun strikes against enemy supply lines and rescuing downed pilots. The "Fighting Saint" participated in the drive to Chogin, the Inchon invasion, and the evacuation at Hungnam, among other campaigns. The *Saint Paul* was active until the last day and last moment of the Korean war.

In 1959, the *Saint Paul* became the first heavy U.S. combatant ship to be homeported in the Far East since the pre-World War II days of the Asiatic Fleet. During her long tour operating from port at Yokosuka, Japan, the *Saint Paul* was Commander Seventh Fleet flagship. As such, she hosted President Eisenhower in June 1960 on a cruise from the Philippines to Taiwan. Three weeks later, she was the first Navy ship to raise the new, 50-star flag. Almost a quarter million visitors boarded the ship during her extended stay in the Far East.

During the next 4 years the *Saint Paul* operated in the eastern waters of the Pacific. There, she was flagship for the Commander First Fleet. In 1963, she hosted the Secretary of the Navy, the Commandant of the Coast Guard, and the Commandant of the Marine Corps. Scenes for the movie "In Harm's Way" were filmed aboard the *Saint Paul* in 1964.

In 1966, the *Saint Paul* returned to the western Pacific for the first of five annual deployments in the Vietnam war. Assigned to the Seventh Fleet, she performed gunfire support missions and interdicted supply lines. On February 17, 1970, the *Saint Paul* observed her silver anniversary. After a last deployment in Vietnamese waters, she finally steamed to San Diego to prepare for deactivation. The

Saint Paul was decommissioned in Bremerton, WA, April 30, 1971.

In her 26 years of service, the *Saint Paul* earned 18 battle stars, served in three wars, and fired more rounds of ammunition than any U.S. cruiser in history. She hosted 5 heads of states, and no fewer than 15 of her commanding officers rose to become admirals. I salute the *Saint Paul* and her crew, and welcome them to San Antonio for this, their fifth reunion.

IS WINE THE SAME AS ALCOHOL?

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. HORTON. Mr. Speaker, I want to bring to my colleagues' attention an article which appeared recently in the New York Daily News. The author makes clear the differences between wine and other alcoholic beverages. This distinction is important in light of the manner in which the current budget proposal treats the wine industry. I urge my colleagues to read it.

[From the Daily News, Sept. 26, 1990]

ANTI-ALCOHOL SENTIMENT A LOAD OF SOUR GRIPES

(By Barbara Ensrud)

The wine industry has been taking it on the chin lately. The anti-alcohol lobby seems bound and determined to propel America once again toward the catastrophe that spawned a far greater problem of crime and corruption than we have now—Prohibition.

The government seems right in step with that, creating a fear of alcohol that would have you believe that your glass of wine with dinner is the first step on the road to drug addiction.

The wine community, however, is starting to fight back by speaking up. "Can you distinguish chardonnay from crack cocaine?" asked James Tresize, president of the New York Wine & Grape Foundation. Tresize posed the question in a speech delivered at a food and wine festival sponsored by the American Institute of Wine & Food on Saturday.

"Not everyone can," Tresize continued. "There are people who say drugs and alcohol as one word. They say wine contains alcohol, that alcohol is a drug, that crack is a drug and therefore that chardonnay equals crack. Simple . . . logical . . . persuasive. And a politically easy way out of the budget crunch: Do a whopper of a sin tax, even on products that aren't sinful."

We have very warped notions about alcohol in this country. The warnings that must now appear on every bottle of beer, wine or liquor make no distinction between responsible use of alcohol and the abuse of it. Nor do they make any distinction between the types of alcohol and how they are commonly used.

Tresize cited the insidious implications of the infamous ads on equivalency that portrayed a bottle of beer, a glass of wine and a shot of whiskey, accompanied by a tag line "A drink is a drink is a drink"—as if they were all equal.

"Oh, really?" he said. "Then why are peace treaties, weddings and births toasted with champagne and not Scotch? Why is vodka served at bars, but wine at the table? Why do many hospitals offer patients wine but not rum? Why did Jesus turn water into wine instead of gin?"

Some people aren't thinking things through. And the wine industry is concerned that consumers aren't getting the full story. The media, for instance, are quick to report findings that connect alcohol with road accidents, breast cancer and fetal alcohol syndrome, but never indicate the limited extent to which wine is implicated.

Did you know that a study done by the Department of Justice found that wine figured in only 2% of deaths caused by drivers under the influence of alcohol? Even one death is cause for alarm, but it is the abuse of alcohol that is responsible, not moderate consumption; the statistics are telling. Fetal alcohol syndrome has not been identified in the offspring of any women who were not active alcoholics during pregnancy. The studies also showed that other factors such as malnutrition, nicotine, caffeine and drugs, were usually involved.

In the 15 studies that have attempted to relate alcohol to breast cancer, more than half of them show no relationship whatsoever. The other studies suggest that women who consume more than two drinks per day may have a 20%–50% higher risk of developing breast cancer than non-drinkers, but again, other variables such as diet, smoking and caffeine are implicated as well. The jury is still out.

Several organizations have been formed to try to set the record straight. AWARE (The American Wine Alliance for Research and Education) and The National Wine Coalition were organized by winegrowers, consumers, physicians and other scientists who feel that the very real distinctions between moderate social use of wine and alcohol abuse have become blurred.

They believe the best deterrent is education and a reasoned view of wine as a beverage of moderation that has been with us since the beginning of civilization, a beverage recommended in the Bible and praised for centuries by statesmen, philosophers, poets and scholars.

COASTAL BARRIER IMPROVEMENT ACT

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. ORTIZ. Mr. Speaker, I appreciate this opportunity to extend my remarks concerning the Coastal Barrier Improvement Act, H.R. 2840. I would like to express my appreciation of Chairman JONES and Chairman STUDDS of the Merchant Marine and Fisheries Committee for their efforts in working with me and various other members of the Congress to bring forth this legislation which takes into consideration the very unique concerns of each congressional district.

I cosponsored this legislation as it was passed out of the Merchant Marine and Fisheries Committee and have worked very diligently during consideration of this legislation to be mindful of the impact this bill will have on the many property owners that will be affected by this bill.

Although I support the bill, overall, I continue to have concerns regarding several aspects of the Coastal Barrier Resources Act [CBRA]. It has been my contention since the inception of this legislation that Federal dollars are not being wasted by allowing coastal landowners access to the National Flood Insurance Program. In fact, according to the Federal Emergency Management Agency, more revenues are collected from premiums that are actually paid out in insurance claims in coastal areas. In a letter responding to my inquiry to FEMA, which I would like to include as part of the CONGRESSIONAL RECORD, FEMA cited that the National Flood Insurance Program is financially strong and is unlikely to become insolvent. The financial strength of the fund is evidenced by the fact that even though the Congress has taken policyholder premiums out of the fund to help alleviate budgetary problems, the fund is still much more than sufficient to compensate policyholders for Hurricanes Hugo and Jerry losses. This further substantiates my contention that the National Flood Insurance Program is not a subsidy and landowners should not be restricted from access to this vital insurance.

I also continue to be very concerned that the impact of this legislation does not extend beyond the boundaries of CBRA and result in penalizing communities which are located adjacent or near to CBRA units. The provisions of CBRA should only apply to those units which are actually located within the boundaries of the system, so that adjacent property will not be subject to the Federal financial prohibitions of the bill.

In that regard, I worked with members of the Merchant Marine and Fisheries Committee to provide an exemption from CBRA. The intention of the original provision dealing with T–11 that was included in the Merchant Marine and Fisheries Committee bill was specifically designed to protect adjacent communities from being adversely impacted by this bill.

It is my contention that CBRA was not designed to penalize adjacent local communities by prohibiting their ability to grow with or in response to development within units in the Coastal Barrier Resources System [CBRS]. In fact, the purpose of CBRA is to limit Federal subsidies from encouraging development within CBRA units, it was never intended to extend beyond the CBRS boundaries to deny growth and development on the mainland. The Banking Committee chose to limit the T–11 exemption. Under their language, HUD assistance and access to the National Flood Insurance Program will not be granted to directly support development in the CBRS. However, this prohibition was not intended to stop an adjacent community's ability to grow in response or as a result of development in unit T–11.

Although the Banking Committee's Report language is intended to clarify this intent, I am concerned that the statutory language is not entirely clear and may be subject to misinterpretation by various Federal agencies who provide funds to local communities adjacent to unit T–11. It is my hope that as this bill is considered in conference that more exact statutory language is adopted to clarify that adjacent communities will not be penalized

simply because of their proximity to units in the CBRS.

Again, I appreciate this opportunity to clarify my concerns with this very important legislation which directly impacts my congressional district.

CLARIFICATION OF THE RECORD

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. BONIOR. Mr. Speaker, the CONGRESSIONAL RECORD does not accurately reflect my position on the Bryant amendment to H.R. 4300, the Family Unity and Employment Opportunity Immigration Act, which was voted on the floor on October 3.

I oppose the Bryant amendment, and wish to make the RECORD clear on this issue.

The Bryant amendment struck all provisions in the bill except those dealing with family unity.

It would have eliminated the amendment of Chairman MOAKLEY, for instance, that extends voluntary departure for political refugees from El Salvador, Lebanon, Kuwait, and Liberia. Each of these countries continues to be in a state of war, and we should not force people to go back to situations where their lives are in danger.

The Bryant amendment also removed special provisions to allow more immigration from Eastern Europe, Ireland, Italy, Poland, and Argentina—countries that are adversely affected under current law.

For these reasons I oppose the Bryant amendment.

WE CAN DO BETTER FOR AMERICA

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. GUNDERSON. Mr. Speaker, throughout the decade of the 1980's the Federal Government has continued to buildup deficits. Congress has shown a total inability to meet the discipline necessary to move towards a balanced budget. While Gramm-Rudman has provided some positive influence, witness the past fiscal year, where the Gramm-Rudman target was $100 billion, yet a final deficit figure showed the Government has overspent its revenues by $214 billion. This happened because the Gramm-Rudman law required its target to be met on only 1 day, not throughout the fiscal year.

Faced with a slowing economy, a projected deficit for fiscal year 1991 of $293 billion, and the inability of Congress to move forward on its own budget, a summit seemed the right course for our Government to take. A bipartisan summit between the Congress and the administration would produce a long-term deficit reduction package with real deficit reduction, sustainable over a period of years, and positive for the economy as it slows into a recession. Any budget summit must be judged by these standards.

I regret deeply that as I review this summit agreement, I find it is one that does not merit my support. I say this with great disappointment because I really believed that any bipartisan agreement would merit my support. This summit agreement represents the business as usual operations of the Congress which have produced the cynicism that exists today in America.

In summary, this agreement increases taxes only to fund increases in domestic spending. It is an agreement which allows growth in all areas of the budget except agriculture. There, it asks dairy farmers to take a disproportionate 36 percent reduction in the cost of their program. It is an agreement that makes savings in Medicare, not based upon ability to pay, but rather asking for the same increased payments regardless of annual income. It is an agreement, which in the face of a recession, provides no meaningful incentives for growth. Finally, it represents business as usual for Congress as the congressional leadership provided special favors for their States or districts while asking the rest of America to make special sacrifice.

I have always been willing to cast the tough votes. I will ask the people of my district to make any sacrifice asked of other Americans. I will not ask special segments of the American population to make great reductions in their family's income while the Government increases spending to satisfy the appetites of an undisciplined Congress.

First, this agreement like all budgets which have created our deficits was built upon unrealistic economic assumptions. Despite only seven-tenth's of 1 percent growth in our economy during fiscal year 1990, they anticipate growth in 1992 of 3.8 percent. They project interest rates to drop to 5.7 percent. And they believe the price of oil for 1991 will average only $24 per barrel. If their assumptions are overly optimistic, the agreement cannot meet its goals.

Second, this agreement increases domestic discretionary spending by $150 billion over 5 years. Make no mistake. In order to obtain the support of the Appropriations Committee chairman in the House and Senate, the summit agreement allows for an increase in domestic spending which exceeds the rate of inflation. I would be willing to support an agreement that at least froze the level of domestic spending. I am not even asking for cuts. But I find it impossible to defend an agreement that asks for sacrifice from the American public when the Congress refuses to promise discipline in domestic spending.

Third, this agreement is not fairly distributed to all sectors of the American public. Through the use of consumption tax increases, this agreement imposes a 7.6 percent increase in taxes on those with less than $10,000 income. Yet, the average increase for all income levels is only a 2.4 percent increase.

The inequity of this agreement on all segments of the population is most obvious in agriculture. I stand ready to ask my farmers to do their part for deficit reduction. I find it impossible to ask them to make substantial reductions in their price supports when other segments of the Government increase. The agreement asks for $13 billion in savings for agriculture over 5 years. The most difficult part is in year 1, when agriculture is asked to achieve $1.3 billion in savings. Because deficiency payments for the crops presently being harvested are already obligated, rather than a $7.7 billion base from which to achieve these savings, unobligated funds within the Commodity Credit Corporation only equal $3.6 billion, of which $700 million is the dairy program. The effect of this is a possible 36 percent reduction in the cost of the dairy program. No other segment of Government is asked to take that kind of reduction.

Fourth, this agreement is not sustainable. If we suggest to the American people that we are making a 5-year agreement, we should enact policies which have a chance of surviving for that duration. This is most obvious in the Medicare area. The agreement requires $60 billion in savings from Medicare. I realize the Medicare area has grown faster than any other and that savings are necessary. But I believe those savings must be fair. I don't believe recommendations for savings which treat all elderly the same, regardless of income and ability to pay is equitable. Coming from a rural area I have many lower income elderly. To ask them to increase their premiums and their deductibles the same level as higher income elderly is not fair. And I believe it is not sustainable. I am absolutely convinced that next session the Congress will increase tax rates to fund health care for our elderly because this year's agreement cannot be sustained.

Fifth, this agreement expands its inequity with a 10-cent gas tax in less than 1 year. I am willing to support increased revenue, including the gas tax. However, at a time when gas prices are increasing significantly due to the crisis in the Middle East, this seems an excessive amount from one area. This is especially true for rural America where gas usage is a necessity, not a luxury.

Sixth, this agreement's most blatant offense is the business as usual practices carried out by the summiteers. While asking the American people to sacrifice for the good of the Nation, this agreement includes a $2.5 billion tax break for Texas oil. It includes a similar tax break for ethanol production, the major producer who is one large firm. It imposes a surtax on cars and furs. But it exempts airplanes because small personal airplanes are built in the States of the negotiators. Similarly, because luxury boats boost the economies of two influential negotiators, the hull of a boat had to exceed $100,000 before a surtax was imposed. Electronic equipment, the bulk of which comes from Japan, escaped the surtax altogether.

Finally, this agreement does nothing to stimulate the economy. Federal budgets are as close to an economic blueprint as exists in our free market society. No one disputes the fact the economy is slowing. Yet, the agreement provides stimulus that can only be called a joke. Included within the package is a provision allowing a 25 percent deduction up to $50,000 for the purchase of stock for small businesses. Let me simply ask, how many small businesses do you know that sell stock through public auction.

Yes, this is a great disappointment. We have before us the chance to do something great for America and the American economy. The question every Member of Congress must ask in voting on this package is this: Is this the best we can do for America? To me, the answer is an emphatic "no." It increases taxes to increase spending. It is unfair, inequitable, and unsustainable. It is based on overly optimistic assumptions and does nothing to stimulate our economy. I predict we will soon be back looking for the courage, fairness, and wisdom we lack today. The American people wanted the best from their Government. In this case, they only get business as usual.

PROTECT THE RESOURCES OF THE GREAT LAKES

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1990

Mr. BONIOR. Mr. Speaker, I strongly support the passage of H.R. 4299, the Great Lakes Fish and Wildlife Restoration Act of 1990, which authorizes the U.S. Fish and Wildlife Service to undertake a comprehensive study of the management of Great Lakes fisheries. This legislation authorizes a 5-year study to develop safe and effective ways to clean up and enhance one of our most precious resources in the Great Lakes—our fisheries.

H.R. 4299 will look specifically at developing means to control the spread of nonindigenous species in the Great Lakes. These species, including the zebra mussel, ruffe, and the spiny water flea, have already had a very serious impact on the state of the Great Lakes' fisheries. The introduction of nonindigenous species in our inland waterways places new burdens on the fragile environmental balance of the Great Lakes.

H.R. 4299 is particularly important in the fight against the spread of the zebra mussel in the Great Lakes. The zebra mussel may be small in size, but it causes enormous problems that not only affect fish and wildlife, but the health and safety of entire communities. As the zebra mussel continues to spread through the Great Lakes, we must intensify our efforts to deal with this predator.

The Great Lakes are facing a major threat from zebra mussels and other exotic species. These species are a threat to our quality of life and our economy in the Great Lakes. The zebra mussel, for example, has already devastated the fishing industry of Lake Erie and is expected to eventually work its way through all of the Great Lakes as well as the rivers and tributaries of the Mississippi Basin.

According to the U.S. Fish and Wildlife Service, the zebra mussel will cause 5 billion dollars' worth of damage to factories, ships, fisheries, water supplies, and powerplants during the next decade. In 1989, the infestation of Lake Erie by zebra mussels cost the fishing industry over $200 million. We must take action to prevent this from happening to all of the Great Lakes.

Michigan's 12th Congressional District has, until recently, been spared the worst effects of the zebra mussel. Recent evidence confirms that our good fortune is running out—the zebra mussel has arrived and is colonizing Lake St. Clair, the St. Clair River and Lake Huron. Next spring, we can expect the zebra mussel to have even more thickly infested the waters of the 12th Congressional District.

As chairman of the newly formed congressional boating caucus, I would also like to point out that boaters and the fishing industry are hit very hard by the spread of zebra mussels in the Great Lakes. It costs over $100 to remove the zebra mussels from the hull of a 16-foot fishing boat. The cost of preventative measures is an even greater burden for boaters.

H.R. 4299 will go far toward helping the people of the Great Lakes by drawing the U.S. Forest Service's considerable resources into the concerted local, State and Federal efforts to protect our vital natural resources. The investment we make today in controlling exotic species like the zebra mussel will save the Great Lakes billions of dollars in spoiled recreation opportunities, cost revenue, and crippled industries tomorrow.

HOUSE OF REPRESENTATIVES—*Friday, October 5, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray using the words of Isaac Watts:

O God, our help in ages past,
Our hope for years to come,
Our shelter from the stormy blast,
And our eternal home.
Before the hills in order stood,
or earth received her frame,
From everlasting You are God,
To endless years the same.
O God, our help in ages past,
Our hope for years to come,
Remain our guard while life shall last,
And our eternal home.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Pennsylvania [Mr. MURTHA] to come forward and lead the House in the Pledge of Allegiance.

Mr. MURTHA led the pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 435. An act to amend the Appalachian Regional Development Act of 1965 to include Columbiana County, Ohio, as part of the Appalachian region; and

H.R. 4758. An act to provide for the construction, operation, and maintenance of an extension of the American Canal at El Paso, TX.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 247) "An act to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act, and for other purposes."

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4151, HUMAN SERVICES REAUTHORIZATION ACT, 1990

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that the managers have until midnight, Friday, October 5, 1990, to file the conference report on the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, the Community Services Block Grant Act, and the Low-Income Home Energy Assistance Act of 1981, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CAPITOL HILL TENNIS CLUB WINS CHAMPIONSHIP

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I want to recognize the accomplishments of the Capitol Hill Tennis Club, which recently won the Greater Washington Tennis Association 1990 Interclub League Division Championship.

The club is made up of Members of Congress, staffers from both the House and Senate and others who work in the Federal Government. They are coached by a good friend of mine and an outstanding tennis player, Peter Lu.

Much of the success of the club this year is due to the work of its president, George Cody. He has spent a lot of time to make sure courts were available, and all the other details were worked out. His organizational skills made sure things ran smoothly. I know George and Peter are very proud of winning the division championship, and as a long-time member of the club, so am I.

The team members certainly deserve recognition. They are: Senator JOHN BREAUX, David Gerken, Dennis Holland, Brian Lott, Jim Morgan, Bob Okun, Bill Schmidt, Ray Towle, Andy Vermilye, Mark Williams, Ney Williams, and Alex Winslow.

Congratulations to all of you for a job well done this year.

COME TO THE CATSKILLS AND ADIRONDACKS

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I would invite all of you to come up to my congressional district this weekend.

I happen to represent the Catskills and the Adirondack Mountains, and this weekend is the peak color period for the fall foliage season.

If you watched "Good Morning, America" today, this is the weekend when we have over 100 different species of trees with the most beautiful reds and golds and browns. The beauty and splendor is almost unbearable.

If we ever get out of here today, come on up; you will see something beautiful.

A HOLLOW VICTORY OF POLITICAL CONSULTANTS AND POLLSTERS

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, I rise to pay tribute this morning to you and to the gentleman from Missouri [Mr. GEPHARDT], the gentleman from Pennsylvania [Mr. GRAY], the gentleman from California [Mr. PANETTA], the gentleman from Illinois [Mr. ROSTENKOWSKI], and, yes, to the gentleman from Illinois [Mr. MICHEL], and George Bush.

Early this morning, the House treated the country to a display of governmental gridlock. The Republic's ability to function under stress was tested and was found wanting.

This was the hollow victory of political consultants and pollsters who warned us we faced hostility and perhaps political oblivion at home if we passed that inequitable package of compromises.

What these political geniuses did not sense, was that the alternative was worse, and the country is tired of weakness. The public wants us to make tough leadership decisions in times of crisis.

Mr. Speaker, sometimes leadership requires followership, and what we saw this morning was not a failure of leadership, it was a failure of followership.

There is a time in our jobs for us to lead, and there is a time for us to follow. Nobody hated that weak, in-

equitable package of compromises more than I did. Only the alternative of no decision was worse. We could have, and would have, changed some of the more odious provisions during the next 2 weeks of budget reconciliation.

So we must now pass a new continuing resolution and push back Gramm-Rudman and hope that the President will sign it and give us 2 weeks to come up with another compromise.

The American people do not want their Government to shut down. They want it to function.

WHAT DO THE NAY SAYERS HAVE TO OFFER

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute.)

Mr. LIVINGSTON. Mr. Speaker, last night my friends on the right said that they had a better plan than what was offered to us. My friends on the left said that they had a better plan than what was offered to us. The folks in the middle tried to come together.

I suspect theirs was probably the best plan that was, and will be available to us. I do not see any improvement coming, but I sure look forward to hearing what the nay sayers have to offer.

WE HAVE GREAT LEADERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the media said yesterday's "no" vote was an easy vote. That is not true. It was a hard vote. It was very hard to vote against leaders of this Congress who are some of the finest leaders this Congress has ever had.

Let there be no mistake, President Bush looked like a President, acted like a President, and is worthy of respect from this body including this Member. He has impressed all of us.

But I disagree with his budget. Mr. Speaker, I think we should send another budget to the President.

Let us cut foreign aid. Let us cut back on defense spending. Let us make the Tax Code fair. Let the rich pay their fair share. We can do that if we have to go to an open rule, get that last budget out, and let everybody bring their amendments, and when the air clears, we will have a package. We may not all like it, but we will have a part in it.

I stand here today, and I say we have great leaders. I commend them, and the President has stood tall through all of this, and is worthy of our respect and the country's respect.

BRING WEALTHY INTO THE DEFICIT-REDUCTION EFFORTS

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker and fellow Members, the package did not go down last night because the House cannot act. It went down because of its content.

Basically it was not fair. It socked it to the middle class and exempted the wealthy. It was kind of a Leona Helmsley budget which says that only the little people pay taxes.

It was the ultimate outcome of, "Read my lips, don't touch the tax rates."

You cannot get the rich in this country to pay their fair share of the income taxes unless you touch income tax rates, and we now, I think, see that plainly.

Let us now get realistic and bring the wealthy into the deficit-reduction efforts so we can get on with the process.

□ 1010

FAIRNESS IS THE KEY

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, now is not the time for recriminations. What we need now is simply some thought about what kind of package to bring to the Congress that can pass, to end this budget struggle which we have been engaged in over the last 10 years.

I simply ask the leaders of both parties to deliver a very sober message to the White House, and I ask the White House to listen to that message. That message is simply this: Please, for the sake of the country, do not just tinker with the package that went down last night. Please make some fundamental changes that will produce more fairness for the middle class, more fairness for senior citizens. That is the key to bringing this institution and our Government together. Fairness ought to be the key word for anything that is produced now. The question simply ought to be, will this be fair to average people? Will it help restore people's confidence in government?

I ask the House to please recognize that fairness cannot be accomplished unless the wealthiest people in this society pay just as much in new taxes as somebody making $7,000 or $10,000 or $15,000 a year. That is the key for getting a decent budget through this House.

ACCEPTABLE BUDGET SOLUTION IS GOAL

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, the budget summit is dead. It failed principally because it taxes the wrong people and cut the wrong programs. Many of its assumptions were perverse and mean-spirited. It was not a hard vote to vote against it. It was the right vote.

However, that does not relieve this Congress, this House of Representatives of the responsibility of cutting the deficit and coming up with a plan quickly. I would urge, Mr. Speaker, to keep the Committee on Budget here this weekend and all the other committees that have the responsibility to work on a package that is acceptable to the American people and to a majority of the House and to the Senate.

I would add a word of caution to the President. No person likes to lose. However, the last thing we want to do is to have the President veto the continuing resolution and have a fiscal temper tantrum. That is not responsible governance, and I think better of the President if he would work with Members and try and get a package that is acceptable to all Members.

BUDGET PACKAGE FUNDAMENTALLY FLAWED

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, there is a tendency in this well of the House to hyperbolize and dramatize and exaggerate, but I do not think I am doing any of those in saying last night in this very Chamber there was a struggle for in the heart and soul of the Democratic Party.

Now, some might say that the Democratic Party is not worth having a struggle over. I do. I am a proud Democrat. I think my party has stood for the correct values over the years, and I think that the struggle last night was over, simply, where will the direction of the party take Members. What will be the future shape and texture of the Democratic Party?

I think it was clearly demonstrated, Mr. Speaker, that last night we said we want to be sure that the Tax Code is fair and equitable. We want to be sure there is opportunity in this Nation for people who want to exercise their initiative. Last, but not least, we want to make sure this is a country that treats people equally.

Mr. Speaker, I think that the correct side of the spectrum won the battle last night. Now we have to put the

pieces together to take our party toward 1992.

PROPOSAL UNFAIR TO WORKING MEN AND WOMEN

(Mr. HUGHES asked and was given permission to address the House for 1 minute.)

Mr. HUGHES. Mr. Speaker, yesterday's vote was one of the toughest votes I have cast around here in some 16 years that I have been here. I really agonized over that vote, like I am sure most Members did. I wanted to support the President, and I wanted to support our leadership. I did not commit myself for the entire 3 days.

I looked during that 3 days for something I liked about the proposal. I could not find anything I liked about it. I could not find one thing I liked about the proposal. It was inherently and fundamentally unfair. The poorer would become poorer, the middle class gets clobbered again, and in New Jersey it would mean a double tax because Governor Florio just increased the taxes on many of the very things we are going to tax again. We have near revolution in New Jersey as it is over a tax package that was just put through.

Now I realize that no Members are going to get everything they would like in a budget proposal, but it has to be inherently fair for the working men and women of this country. If it is not, we will be here till Christmas debating a budget package. I am ready to go to work. I want to see some options. We have not worked our will yet. We voted one down that was a result of a summit that took 4 or 5 months, but we have had one vote. Let Members get to work, and let Members come up with something that we can pass that is fair to working men and women. When we do that, we will do our job.

COMPREHENSIVE CRIME CONTROL ACT OF 1990

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 490 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5269.

□ 1016

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5269) to control crime, with Mr. BARNARD (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose on Thursday, October 4, 1990, amendment No. 17, offered by the gentleman from Florida [Mr. MCCOLLUM] had been disposed of.

It is now in order to consider amendment No. 20, printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HUGHES: Page 124, strike line 3 and all that follows through line 24 on page 125 and insert the following:

"(a) IN GENERAL.—No person shall be put to death under color of State or Federal law in the execution of a sentence that was imposed based on race.

"(b) INFERENCE OF RACE AS THE BASIS OF DEATH SENTENCE.—An inference that race was the basis of a death sentence is established if valid evidence is presented demonstrating that, at the time the death sentence was imposed, race was a statistically significant factor in decisions to seek or to impose the sentence of death in the jurisdiction in question.

"(c) RELEVANT EVIDENCE.—Evidence relevant to establish an inference that race was the basis of a death sentence may include evidence that death sentences were, at the time pertinent under subsection (b), being imposed significantly more frequently in the jurisdiction in question—

"(1) upon persons of one race than upon persons of another race; or

"(2) as punishment for capital offenses against persons of one race than as punishment for capital offenses against persons of another race.

"(d) VALIDITY OF EVIDENCE PRESENTED TO ESTABLISH AN INFERENCE.—If statistical evidence is presented to establish an inference that race was the basis of a sentence of death, the court shall determine the validity of the evidence and if it provides a basis for the inference. Such evidence must take into account, to the extent it is compiled and publicly made available, evidence of the statutory aggravating factors of the crimes involved, and shall include comparisons of similar cases involving persons of different races.

"(e) REBUTTAL.—If an inference that race was the basis of a death sentence is established under subsection (b), the death sentence may not be carried out unless the government rebuts the inference by a preponderance of the evidence. The government cannot rely on mere assertions that it did not intend to discriminate or that the cases fit the statutory criteria for imposition of the death penalty.

SEC. 2922. ACCESS TO DATA ON DEATH ELIGIBLE CASES.

Data collected by public officials concerning factors relevant to the imposition of the death sentence shall be made publicly available.

The CHAIRMAN pro tempore. Under the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 10 minutes in opposition to the amendment.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

(Mr. HUGHES asked and was given permission to revise and extend his remarks.)

Mr. HUGHES. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, like those who support the amendment to strike the Racial Justice Act, I have serious reservations about those provisions as they presently appear in the bill.

I voted to strike title XVIII of the bill in Judiciary Committee markup. If the choice were between the provisions as they presently exist and striking, I would again vote to strike.

However, while title XVIII is unacceptable because it goes too far, merely striking the provision is also unsatisfactory. Striking it would leave in place a Supreme Court ruling that statistical evidence suggesting a pattern of racial discrimination in death penalty sentencing can never be considered.

It would be naive to believe that a prosecutor or other charging entity would admit their prejudice or their intent to discriminate. We all know that racial discrimination does not work like that.

I know from experience that factors such as an arrogant and contemptuous demeanor by a defendant in the courtroom can influence a jury. So too can the fact that a defendant takes the stand and tells obvious lies. Even when these lies do not go to the heart of the case against the defendant, they can insult the intelligence of the jury to the extent they tip the balance between a life sentence and a death sentence.

Because of factors such as these, I frankly doubt that statistics alone are ever going to overturn death sentences. Nonetheless, fundamental fairness requires that a defendant be given the opportunity to submit such evidence.

However, suppose the record for a particular jurisdiction indicated that, in a 10-year period, in like cases, 100 percent of all black defendants were given death sentence and zero percent of white murder defendants were. Should that record not even be considered?

Unless we act to restore a level playing field, that is exactly the result that will flow from the Supreme Court's decision in the McCleskey case.

Let me explain my amendment, how it differs from the present bill, and how it would operate in actual practice.

Unlike the bill as reported, the substitute does not provide that a prima facie case of racial discrimination is established by a mere showing of significant racial disparity in the imposition of the death penalty.

Instead the substitute merely provides that such evidence is to be considered. The Government may challenge the validity and significance of the statistics at any point. However, it is only after the court determines that the evidence is valid and that it supports an inference that race is influencing death sentences that the Government must respond and rebut the inference.

Unlike the bill as reported, my amendment does not limit the grounds on which the State may rebut. While the Government may rebut the inference by any relevant method of proof, my amendment specifies that it is not sufficient rebuttal for the Government to merely put the prosecutor on the stand to deny an intent to discriminate.

My substitute also lowers the State's burden of proof on rebuttal from "clear and convincing" to "preponderance of the evidence."

The amendment provides that statistical evidence must relate to current practices. If the practice has been corrected, the data is not valid.

Finally, my amendment deletes the recordkeeping requirements in the bill. It simply requires that States make available any data or records which are being compiled.

Opponents of the Racial Justice Act claim that it is a Trojan horse, designed to shut down the death penalty in the United States.

I assure you that I would not support any such effort, or any bill which might have that effect.

My amendment would not have that result.

I have carefully examined the Court decisions which prompted this proposal. Most of the attention in this controversy focuses upon one Supreme Court decision. In that case, the High Court held that historical or statistical data should never be considered.

As I have noted earlier, I think that decision is wrong, and that the Congress should accept the invitation of the Court to legislate in this area if we feel otherwise.

However, to understand the issue more fully, it is important to also read the decisions of the lower courts in that same case.

It is most useful to look at how the U.S. district court in Georgia handled the issue.

Unlike the Supreme Court, district court Judge Forrester concluded that statistical disparity can be used.

Judge Forrester examined the data in dispute and took extensive testimony from both sides regarding its content, validity, and meaning. He concluded that, because of omissions or defects in the data, it did not support a prima facie case of discrimination.

He also concluded that, even if it did, the State had successfully rebutted it by showing that nonracial factors explain the disparity.

This case illustrates that allowing historical evidence will not end the death penalty.

The study involved in that case was probably the most detailed study ever done of racial influences over the death penalty. It seemed to show stark racial disparity.

The fact that Georgia was able to prevail convinces me that the death penalty will not be ambushed if we do what is only fair and appropriate—allow persons facing the death penalty to introduce historical evidence of racial disparity, just as it is allowed in challenging racial discrimination in employment, housing, or other areas.

□ 1020

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 9 minutes.

Mr. Chairman, I rise in opposition to the Hughes amendment to the Racial Justice Act.

We all agree that justice should be color blind and that consideration of race should play no role whatsoever in the capital sentencing process. The Hughes amendment to the Racial Justice Act will have precisely the opposite effect. According to the National District Attorneys Association, which has characterized this provision as a legislative lemon, the so-called Racial Justice Act will have the effect of injecting considerations of race into a prosecutor's decisionmaking process.

The amendment offered by the gentleman from New Jersey [Mr. HUGHES] to cure the admitted serious problems with the Racial Justice Act as reported out of the Judiciary Committee, suffers from the same fundamental flaws as the base bill and, thus, should be rejected.

In addition, the Hughes amendment, like other versions of the Racial Justice Act will have the practical effect of the elimination of the death penalty in the United States.

There were many votes in the committee yesterday in support of the death penalty. One must reject the Hughes amendment and then support my motion to strike, which will come up next, in order to make those votes stick. If the Hughes amendment passes, or my motion to strike fails, then all the votes cast in favor of the death penalty yesterday in the Committee of the Whole will have been in vain.

The Hughes amendment allows an inference of racial discrimination to be created in an individual case by the use of raw statistics. There is no requirement that the defendant prove intentional discrimination or even discriminatory motive or intent.

According to the Department of Justice, compliance with the title—as amended by Hughes—would still effectively require a death-by-the-numbers system of quota justice that introduces race into capital charging and sentencing decisions in a constitutionally impermissible manner. The likely practical effect of title 18 would still be the invalidation of death sentences that are now in effect, where the trial has taken place, the jury has convicted the defendant, the jury has recommended death, and the court has so pronounced the death sentence, the appeals and habeas corpus process have all found against the defendant, and yet the passage of either the original bill or the Hughes amendment would reopen that issue up, and thus foreclose the future of capital punishment.

In essence, this remains a quota bill for the death penalty.

Some have alleged that since plaintiffs are able to prove employment discrimination based on statistical disparity under title VII of the Civil Rights Act of 1964, criminal defendants should be allowed to use statistics to challenge alleged disparities in the imposition of the death penalty on the basis of race. However, there are fundamental differences between the use of statistics in title VII cases and under the Racial Justice Act. First, in title VII cases, the decisionmaker has an opportunity to explain the statistical diparity. In the capital sentencing process, the State has no opportunity to rebut statistical studies. The State cannot go back and question every jury member, every prosecutor, every judge, and every other decisionmaker in the case in which the death sentence was imposed and also in every prior case upon which the statistical study relied. Second, as the Supreme Court stated in McCleskey versus Kemp:

> The nature of the capital sentencing decision, and the relationship of the statistics to that decision, are fundamentally different from the corresponding elements in the * * * Title VII cases. Each jury is unique in its composition, and the Constitution requires that its decision rest on consideration of innumerable factors that vary according to the characteristics of the individual defendant and the facts of the particular capital offense. Thus, the application of an inference drawn from the general statistics to a specific decision in a trial and sentencing simply is not comparable to the application of an inference drawn from general statistics to a specific * * * Title VII case. *McCleskey* v. *Kemp* 481 U.S. 279 at 294.

□ 1030

It is one thing to require an employer to hire or promote an individual, on the basis of that individual's race, in order to achieve the goal of a racially balanced workplace. It defies common

sense, the principles of the American criminal justice system, and perhaps the Constitution itself, however, to require a prosecutor to seek capital sentences against criminal defendants, regardless of the severity or brutality of the crime, in order to achieve the proper racial composition of prisoners on death row. This is exactly what both the Racial Justice Act and the Hughes amendment will do.

Proponents of the legislation cite the study of the General Accounting Office released in February 1990 entitled "Research Indicates Pattern of Racial Disparities." It is more important to note that the so-called research referred to is not the research of the General Accounting Office. They performed no original research, no gathering of facts and no compilation or analysis of independently obtained data, in reaching their conclusions in the study. Instead, they relied on the results of previously performed studies, several of which were funded by antideath penalty advocacy groups or were of questionable quality, in arriving at their conclusions. I therefore submit, that the GAO study proves very little, if anything, with regard to racial disparities in death penalty sentencing.

The Hughes amendment makes one change of note to title XVIII of the bill. It substitutes a "preponderance of the evidence" that the Government rebut the prima facie case by "clear and convincing evidence standard in title 18." Under the amendment, however, the Government would still be required to disprove any influence of racial bias on jurors, prosecutors, and judges in all the past capital cases in which these sentences were imposed. The burden of proving this enormous negative is a practical impossiblity under any standard. Thus, the lessening of the standard under the Hughes amendment is of no practical effect.

In conclusion, the cosmetic changes of the Hughes amendment cannot rescue the flawed and constitutionally dubious approach of the Racial Justice Act. I urge my colleagues to keep justice color blind. Vote "no" on the Hughes amendment to the Racial Justice Act, and support my motion to strike that act which will come up next.

During general debate on this bill, the gentleman from New Jersey [Mr. HUGHES] read into the RECORD portions of a letter from Nebraska Attorney General Robert Spire, in which he supports the so-called Racial Justice Act.

The Nebraska County Attorneys Association, by letter dated October 2, 1990, have stated, for the record that:

> We want to make it clear that Mr. Spire must be expressing his personal views and that those views are not those of the membership of the Nebraska County Attorneys Association.

> The misnamed Racial Justice Act does not create or insure racial justice in any manner. It was originally drafted by the Coalition to End the Death Penalty and its goal is clearly not to insure justice in any form, but to eliminate capital punishment.

I would hope that this House would vote against the proposal of the Coalition to End the Death Penalty, by voting "no" on the Hughes amendment, "aye" on the motion to strike, and support the overwhelming majority of State attorneys general, local prosecutors in this coutry by taking this notion out of the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the distinguished chairman of the Subcommittee on Civil and Constitutional Rights, the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I rise in support of the Hughes amendment. The chairman of the Crime Subcommittee has drafted an amendment which goes more than half-way in addressing the objections of the act.

The Hughes amendment makes it absolutely clear that the act does not abolish the death penalty.

The Hughes amendment makes it absolutely clear that the act does not presume the existence of racial discrimination.

What we are hearing from the opponents of this measure is the same old rhetoric about quotas that we always hear whenever we bring a civil rights measure to the floor. There are no quotas in this bill. It is intended to eliminate quotas, and that is what it would do.

Under the Hughes amendment, the act simply allows the consideration of statistics, along with other evidence, in determining whether the imposition of the death sentence is influenced by race.

Under the Hughes amendment, it is clear that statistical evidence must be valid and accurate. It must withstand scrutiny, before the burden shifts to the Government. The evidence must compare similar cases. It must take into account the relevant aggravating and mitigating factors. How could any State with a fair death sentence be afraid of this? If the evidence is not valid, the State has nothing to fear.

No one should be executed under a sentence that was based on race. Whether you support or oppose the death penalty, you should agree we must eliminate racial bias from the death sentencing process.

The Hughes amendment gives defendants a day in court, to use statistics to try to prove that race is influencing the death sentence. We use statistical proof in other areas. We should allow it in this area too. Support the Hughes amendment.

Mr. HUGHES. Mr. Chairman, I yield 1½ minutes to the distinguished chairman of the Committee on Government Operations, the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I speak on this as the author of the Racial Justice Act, which has taken a couple of Congresses to come forward.

Ladies and gentlemen, I come to this subject against a historical background of the slave codes that dated from the 17th century in which crimes were capital offenses only when committed by blacks.

In some of the Southern States, blacks could be sentenced to death for burglary, arson, destruction, and whites convicted of the same offenses were sentenced to either 5 years or a fine.

Now, I say that because although slave codes are no longer on the books, a dual system of justice continues to operate through the racial biases of the prosecutors, judges, and juries.

Can anyone here doubt that and fail to understand why we need to make this change? Ladies and gentlemen, there is not a single instance of a white person executed for the killing of an African-American or other minority in American history.

So I come to this compromise, as crafted by the gentleman from New Jersey, to support it, in which we would require that any inference of race as the basis of a death sentence should establish, if valid evidence is presented demonstrating that the law and policies in effect, that at the time the death sentence was proposed, that race was a statistically significant factor.

This will not apply in those jurisdictions where there is no disparity in the execution and imposition of the death sentence. It only applies in those areas, in those districts where there is disparity.

So I join with those who have waited so long to get this measure to the floor. Please oppose the Sensenbrenner proposal if it comes to the floor and support the Hughes measure on the Racial Justice Act.

Mr. HUGHES. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Kentucky [Mr. MAZZOLI], a valued member of the Subcommittee on Crime.

Mr. MAZZOLI. Mr. Chairman, along with the distinguished chairman of our subcommittee, Mr. HUGHES, I voted against the bill's language which currently exists on the question of racial justice, but today I will join him in strong support of his amendment which corrects many of the flaws and overreaches of that basic bill.

The bill's language currently would make a prima facie case where there is racial disparity of a racially discrimi-

natory application of the death sentence.

□ 1040

The amendment of the gentleman from New Jersey [Mr. HUGHES], which I strongly support, would simply allow that evidence to be used, and the Government could rebut the evidence. The grounds of the rebuttal is eased a bit in the gentleman's language.

Mr. Chairman, the bottom line here is: No human being should be executed because of any racial considerations, and the amendment of the gentleman from New Jersey [Mr. HUGHES] reduces that likelihood to zero.

I support the Hughes language.

Mr. HUGHES. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from New York [Mr. RANGEL], the chairman of the Select Committee on Narcotics Abuse and Control.

Mr. RANGEL. My colleagues, this amendment is described in one of the study group's paper, says the gentleman from Wisconsin [Mr. SENSENBRENNER] will offer an amendment to strike the provisions of the bill that bar executions of prisoners that demonstrate that their death sentence was imposed because of racial discrimination. What a statement. How would history ever want this to be recorded, that in this House we did something like this?

I can imagine what it is. It is that it is election time, and so, therefore, we have to really show the meanness that we have in us. We have to be for the death penalty where the likelihood of someone being convicted of a capital crime is minimal, such as in drugs where we only have 2,800 DEA agents. In order to get busted by one of them, someone has to have some pretty bad luck as a drug pusher, but now we are coming back to being even more meanspirited saying that in committees where it is shown that people are receiving the capital punishment, and that race, the color of their skin, has been a factor, that we should strike out the opportunity, not to stop the execution, but to study and see whether it was based on the color of their skin.

Mr. Chairman, I am suggesting to my colleagues that, if they have to do this to get reelected, then may be I do not understand their political problems as well as I should.

But I beg of my colleagues, when this obscene amendment is voted down by a voice vote, to please not ask their colleagues whether or not it is so important for them to be elected that they would support an amendment to strike the provisions of a bill that bar executions of prisoners who demonstrate their death sentence was imposed because of racial discrimination.

Mr. SENSENBRENNER. Mr. Chairman, I am sorry the gentleman from New York [Mr. RANGEL] was speaking on the wrong amendment. To set him straight, I yield the balance of my time to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I rise in opposition to the amendment of the gentleman from New Jersey [Mr. HUGHES] and in favor of the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER] to strike this whole business about putting race into the question of capital punishment.

There is no question that the law clearly says that, if there is racial discrimination at a trial, then in that case certainly that can be overturned, and it will be overturned in the normal process that is involved in our criminal justice system, but for us to come today and to say that because statistically that more people of one race commit crimes than others of another race, and more people are sentenced to death in one race than of another race, and say that somehow because of that there has to be an inference of discrimination and that the State has to come and rebut that inference, is an absurd situation.

Race should not be the basis of the decision on capital punishment at all, one way or the other. The fact of the matter is that, if this amendment which the gentleman from New Jersey [Mr. HUGHES] has offered is adopted, or the bill is adopted as it is, either one, we will not see a lot of the death sentences today carried out for the simple reason that the inference, the burden put on the State, to go back and dig up old evidence, cannot be found. Every law enforcement agency in this country is opposed to this particular effort, and they are in favor of the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER]. That includes States attorney, that includes State attorneys general, that includes all law enforcement and police people because they understand race should not be a part of it.

It is a very bad proposition to put into law, and it will effectively nullify capital punishment in the States for the vast majority. I urge a no vote on this and a yes vote on Sensenbrenner.

Mr. HUGHES. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN pro tempore (Mr. BARNARD). The gentleman from New Jersey is recognized for 1½ minutes.

Mr. HUGHES. Mr. Chairman, I never cease to be amazed at my colleagues. I wonder, "Where is our integrity and principle around here?"

What the gentleman from Wisconsin [Mr. SENSENBRENNER] wants to do is preserve it for those instances where a prosecutor gets up and admits he was biased or prejudiced, and that certainly is possible. But how many prosecutors or charging entities are going to admit that they were prejudiced?

All we are saying is that there ought to be a system, a process, where a district court can take evidence, where it shows that there has been a pattern of discrimination over a period of years, and it is valid evidence, and require some explanation of that. Sensenbrenner would not permit that process before a Federal court.

Mr. Chairman, I do not think anybody wants to execute somebody that has been convicted on the basis of the color of his skin and execute him if there is valid evidence that suggests there was a pattern of discrimination.

Come on. Let us be reasonable. Let us support the Hughes amendment. Preserve that process, and reject the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. OWENS of New York. Mr. Chairman, I have watched during the last 3 days as a majority of the Members of this body have repeatedly cast their votes in favor of expanding the death penalty.

I must confess that I do not see the logic in their actions. There is a button which says "why do we kill people who kill people to show people that kiling people is wrong?" I have learned during the proceedings of the last 2 days that a likely answer to that question would be: to win elections.

Yesterday, Mr. STAGGERS offered an amendment that would have substituted life in prison with restitution to the family of the victim for the death penalty. I and 102 of my brave colleagues voted for this amendment. In doing so, we called for mercy, in the manner in which so many civilized countries in Europe and elsewhere have done in abolishing capital punishment.

Mr. Chairman, today I do not call for mercy, but for fairness.

There are provisions currently in the bill which would require States to take steps to ensure that capital punishment is administered fairly. These measures include ensuring that adequate counsel is provided for capital defendants, that procedural fairness exists in Federal court review of death sentences, and that race is not a hidden factor in determining which convicted murderers are executed.

These measures require a mechanism, to be determined by the localities, for proving racial bias in death sentencing by using statistical evidence. Capital punishment cannot be administered if it can be shown that race significantly influenced the decision to sentence the defendant to death.

The death penalty would not be abolished—although I wish that were the case. In fact, the bill specifically permits States to carry out executions which are not tainted by racial factors.

Anyone who looks at the facts can see that these provisions are long overdue. The legacy of racial influence on sentencing convicted criminals to death dates back to the slave codes which existed in many States. Blacks convicted of burglary or vandalism were sentenced to death while whites convicted of these same crimes could be expected to pay a fine or, at most, spend 5 years in jail. Black

men convicted of raping white women were sentenced to castration or death, while the rape of black women by white men was not even considered a crime.

Today, these laws are no longer on the books, but the legacy of disparate sentences for similar crimes lingers on. In localities across the Nation there are stark statistics that show the racial disparities in the prosecution of crimes and the sentencing of criminals. These statistics show patterns whereby the murderers of white victims are executed far more frequently than the murderers of black victims—even where there are many more black victims than white victims. In some localities only the murderers of white victims are sentenced to death.

Mr. Chairman, since 1976 there has not been one white person executed for killing an African-American or any other minority in the United States.

In GAO's 1990 report on death penalty sentencing, it was determined that research conclusively showed that those who murdered whites were more likely to be sentenced to death than those who murdered blacks.

In Florida, the Stanford Law Review found that blacks who kill whites receive the death penalty 22 percent of the time, while whites who kill whites receive the death penalty 4.6 percent of the time.

These examples do not even begin to scratch the surface of the well-documented incidence of racial bais that is played out across the country in capital sentencing cases. The Racial Justice Act will play a crucial role in ensuring that such discrimination no longer has any effect on the sentencing process of capital cases.

Again, this is not a vote for mercy for convicted criminals, it is a vote for fairness and a vote against continuing the legacy of blatant discrimination that exists in our courts.

I urge you to support the racial justice amendment.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey [Mr. HUGHES] has expired. All time has expired.

The question is on the amendment offered by the gentleman from New Jersey [Mr. HUGHES].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 218, noes 186, answered "present" 1, not voting 28, as follows:

[Roll No. 422]

AYES—218

Ackerman	Boehlert	Bustamante
Anderson	Boggs	Campbell (CA)
Andrews	Bonior	Campbell (CO)
Annunzio	Borski	Cardin
Applegate	Boucher	Carper
Aspin	Boxer	Carr
Atkins	Brennan	Clarke
AuCoin	Brooks	Clay
Bates	Brown (CA)	Clement
Bennett	Bruce	Coleman (TX)
Berman	Bryant	Collins
Conte	Kaptur	Perkins
Conyers	Kastenmeier	Pickett
Cooper	Kennedy	Pickle
Costello	Kennelly	Poshard
Coyne	Kildee	Price
de la Garza	Kleczka	Rahall
DeFazio	Kolter	Rangel
Dellums	Kostmayer	Ray
Derrick	LaFalce	Richardson
Dicks	Lancaster	Roe
Dingell	Lantos	Rostenkowski
Donnelly	Leach (IA)	Rowland (CT)
Dorgan (ND)	Lehman (CA)	Roybal
Downey	Lehman (FL)	Sabo
Duncan	Levin (MI)	Saiki
Durbin	Levine (CA)	Sangmeister
Dymally	Lewis (GA)	Savage
Dyson	Lipinski	Sawyer
Early	Lloyd	Saxton
Eckart	Long	Scheuer
Edwards (CA)	Lowey (NY)	Schneider
Espy	Luken, Thomas	Schroeder
Evans	Machtley	Schumer
Fascell	Manton	Serrano
Fazio	Martinez	Sharp
Fish	Matsui	Shays
Flake	Mavroules	Sikorski
Foglietta	Mazzoli	Sisisky
Frank	McCloskey	Skaggs
Frost	McDermott	Slattery
Gaydos	McHugh	Slaughter (NY)
Gejdenson	McMillen (MD)	Smith (FL)
Gephardt	McNulty	Smith (IA)
Geren	Miller (CA)	Smith (NJ)
Gibbons	Mineta	Solarz
Gilman	Mink	Spratt
Glickman	Moakley	Staggers
Gonzalez	Mollohan	Stallings
Gordon	Moody	Stark
Gray	Morella	Studds
Green	Morrison (CT)	Swift
Guarini	Mrazek	Synar
Hall (OH)	Murphy	Tallon
Hamilton	Murtha	Tanner
Hawkins	Natcher	Torres
Hayes (IL)	Neal (MA)	Torricelli
Hefner	Nelson	Traficant
Hertel	Nowak	Traxler
Hoagland	Oakar	Udall
Hochbrueckner	Oberstar	Unsoeld
Horton	Obey	Vento
Hoyer	Olin	Visclosky
Hughes	Ortiz	Volkmer
Jacobs	Owens (NY)	Walgren
James	Owens (UT)	Weiss
Johnson (CT)	Pallone	Wheat
Johnson (SD)	Panetta	Williams
Johnston	Patterson	Wise
Jones (GA)	Payne (NJ)	Wolpe
Jones (NC)	Payne (VA)	Wyden
Jontz	Pelosi	Yates
Kanjorski	Penny	

NOES—186

Anthony	Craig	Hansen
Archer	Dannemeyer	Harris
Armey	Darden	Hastert
Baker	Davis	Hatcher
Ballenger	DeLay	Hayes (LA)
Barnard	DeWine	Hefley
Bartlett	Dickinson	Henry
Barton	Dornan (CA)	Herger
Bateman	Douglas	Hiler
Bentley	Dreier	Holloway
Bereuter	Edwards (OK)	Hopkins
Bevill	Emerson	Houghton
Bilbray	English	Hubbard
Bilirakis	Erdreich	Huckaby
Bliley	Fawell	Hunter
Bosco	Fields	Hutto
Broomfield	Flippo	Hyde
Browder	Frenzel	Inhofe
Brown (CO)	Gallegly	Ireland
Buechner	Gallo	Jenkins
Bunning	Gekas	Kasich
Burton	Gillmor	Kolbe
Byron	Gingrich	Kyl
Callahan	Goss	Lagomarsino
Chandler	Gradison	Laughlin
Clinger	Grandy	Leath (TX)
Coble	Grant	Lent
Coleman (MO)	Gunderson	Lewis (CA)
Combest	Hall (TX)	Lewis (FL)
Courter	Hammerschmidt	Lightfoot
Cox	Hancock	Livingston
Lukens, Donald	Ravenel	Smith, Robert (OR)
Marlenee	Regula	Snowe
Martin (IL)	Rhodes	Solomon
Martin (NY)	Ridge	Spence
McCandless	Rinaldo	Stangeland
McCollum	Ritter	Stearns
McCrery	Roberts	Stenholm
McCurdy	Robinson	Stump
McDade	Rogers	Sundquist
McEwen	Rohrabacher	Tauke
McGrath	Roth	Tauzin
McMillan (NC)	Roukema	Taylor
Meyers	Rowland (GA)	Thomas (CA)
Michel	Russo	Thomas (GA)
Miller (OH)	Sarpalius	Thomas (WY)
Miller (WA)	Schaefer	Upton
Molinari	Schiff	Valentine
Montgomery	Schuette	Vander Jagt
Moorhead	Schulze	Vucanovich
Morrison (WA)	Sensenbrenner	Walker
Myers	Shaw	Walsh
Nielson	Shumway	Watkins
Oxley	Shuster	Weber
Packard	Skeen	Weldon
Parker	Skelton	Whittaker
Parris	Slaughter (VA)	Whitten
Pashayan	Smith (NE)	Wolf
Paxon	Smith (TX)	Wylie
Petri	Smith (VT)	Yatron
Porter	Smith, Denny (OR)	Young (FL)
Pursell	Smith, Robert (NH)	
Quillen		

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—28

Alexander	Feighan	Ros-Lehtinen
Beilenson	Ford (MI)	Rose
Chapman	Ford (TN)	Stokes
Condit	Lowery (CA)	Towns
Coughlin	Madigan	Washington
Crane	Markey	Waxman
Crockett	Mfume	Wilson
Dixon	Nagle	Young (AK)
Dwyer	Neal (NC)	
Engel	Pease	

□ 1107

Mrs. ROUKEMA and Mr. THOMAS of Georgia changed their vote from "aye" to "no."

Messrs. TALLON, JONES of Georgia, and BENNETT changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. BARNARD). It is now in order to consider the amendment No. 21, printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SENSENBRENNER: Strike title XVIII.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 10 minutes, and the gentleman from California [Mr. EDWARDS] will be recognized for 10 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Wisconsin [Mr. SENSENBRENNER].

□ 1110

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this amendment strikes out all references to the Racial Justice Act from the crime bill. It is necessary that this amendment be adopted in order to avoid a potential veto of this legislation, and I believe that on the merits this amendment should be adopted as well.

It can arguably be stated that the Hughes amendment made the procedure of the Racial Justice Act marginally better; however, the question before the House now is whether there should be any statistical inference drawn in the capital sentencing process at all.

I rise in support of the amendment to strike title 18, the Racial Justice Act from the Comprehensive Crime Control Act of 1990.

We all agree that capital punishment should be handed down in a fair, consistent, and racially neutral manner.

Contrary to the assertions of the proponents of the Racial Justice Act, however, there is no body of reliable empirical evidence which proves that racial prejudice infects the capital sentencing process. Rather, the weight of reliable empirical study indicates that legally relevant factors overwhelmingly account for apparent disparities relating to the race of the victim or the offender.

In simple terms, legitimate factors, other than race, account for the apparent racial disparities.

In reiterating the opposition of the attorney general of California, John Van De Kamp to the Racial Justice Act, the chief assistant attorney general of California, Richard Iglehart has explained:

[The Act] will permanently submerge every capital case in endless, costly litigation over the scope and validity of statistical studies that are inherenlty inconclusive and equivocal. Procedural roadblocks should not be used to abolish capital punishment in this country. Such a decision should be made by a direct vote that the public can recognize. The only responsible position is to delete Title 18.

This so-called Racial Justice Act is just one more superfluous and arguably unconstitutional barrier that is being erected to circumvent the will of the American people who overwhelmingly support the death penalty.

If title XVIII is not stricken from the bill, the administration has promised a veto of the bill.

I therefore urge the adoption of this amendment.

Mr. Chairman, I include the letter from the attorney general of the State of New Jersey, as follows:

STATE OF NEW JERSEY, DEPARTMENT OF LAW AND PUBLIC SAFETY,

October 5, 1990.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. SPEAKER: Please be advised that I and all 21 of the county prosecutors in New Jersey continue strongly to oppose the provisions of proposed Title XVIII of the pending "Comprehensive Crime Control Act of 1990" concerning racially discriminatory capital sentencing. This provision is substantially identical to what was formerly called the "Racial Justice Act," a misnomer to be sure. In a nutshell, this provision would create havoc and would effectively eliminate the death penalty in New Jersey and throughout the nation.

The reasons for our continuing and strenuous objections are set forth in my attached July 31 letter to Congressman William Hughes. (I especially draw your attention to pages 1-3). Furthermore, the arguments which necessitate the rejection of this ill-conceived proposal have not been addressed in Congressman Hughes' recently offered substitute amendment. Accordingly, the arguments set forth in my July 31 letter remain relevant and compelling.

In the circumstances, I and the county prosecutors of New Jersey respectfully urge the Congress to reject the Hughes Amendment and to support Congressman Sensenbrenner's amendment to strike proposed Title XVIII from the "Comprehensive Crime Control Act of 1990."

Respectfully,

ROBERT J. DEL TUFO,
Attorney General.

Mr. EDWARDS of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this is the second civil rights vote that we will have, and I want to congratulate the Members for supporting the Hughes amendment. That was the first civil rights vote.

All of you back in your offices have for all over the country letters and telegrams and phone calls urging you to support the racial justice provision of the crime bill and reject the motion of the gentleman from Wisconsin [Mr. SENSENBRENNER] to eliminate this very important portion of the bill which insures, at least gives a chance to have fairness in the implementation of the death penalty so that we at least slow down this unfortunate trend in certain jurisdictions of our country where if the victim is black, the changes for execution are three or four times as much as if the victim were white.

So please, Mr. Chairman, and my colleagues, reject this Sensenbrenner amendment. Five State attorneys general support it and here is what they say:

SEPTEMBER 26, 1990.

HON. THOMAS S. FOLEY,
Office of the Speaker, U.S. Capitol, Washington, DC.

HON. ROBERT MICHEL,
Office of Minority Leader, U.S. Capitol, Washington, DC.

DEAR MESSRS. FOLEY AND MICHEL: We are writing to urge bipartisan support for the Racial Justice Act, which we understand will shortly come up for a vote in the House of Representatives.

As Attorneys General of our respective States, each of us has a responsibility to uphold our State laws and Constitutions. Some of us represent States with a death penalty, and some represent States without capital punishment. However, we all agree that in jurisdictions where there is a death penalty, it should only be applied in a manner that is scrupulously fair and non-discriminatory.

The Racial Justice Act is a response to the Supreme Court's decision in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987). The record in that case included an eight-year study of the Georgia capital sentencing system which found broad racial disparities and inferred extensive racial discrimination in the operation of that State's death sentencing scheme. The U.S. Supreme Court, did not reject this evidence but nevertheless concluded that unless an individual undertook the virtually impossible task of proving what went on in the minds of judges, jurors and prosecutors, the Fourteenth Amendment did not provide a remedy regardless of the degree of racial disparity in capital sentencing. The effect of that decision has been to insulate racial discrimination in the criminal justice system from challenge.

In February of this year, the General Accounting Office released a report which confirmed the findings of the study in *McCleskey*, based on more than fifteen years of research in capital sentencing. The GAO report documents the sad fact that today capital punishment operates in a manner that undervalues the lives of African-Americans in two fundamental respects: first, because the death penalty is not sought or imposed for African-American victims under circumstances that would trigger a capital trial and a death sentence for cases involving white victims; and second, because the death penalty is sought and imposed against African-Americans under circumstances that would result in non-capital punishment for whites.

The Racial Justice Act would require even handed, non-discriminatory treatment of capital cases in the system. Only where a defendant could prove widespread, significant and systematic disparities in sentencing based on race would the Act's provisions be triggered: the right to a hearing in Federal court at which the State may rebut the evidence of discrimination. A conclusive showing of bias would entitle a defendant to no more than a new sentencing hearing in court.

The Racial Justice Act is critical not only for the States that have capital punishment statutes, but also for Congress as it contemplates pending proposals to expand the application of the Federal death penalty. If Congress endorses broader use of capital punishment, it must ensure a fair and color blind process.

For the foregoing reasons, we believe that passage of the Racial Justice Act is reasonable and necessary to ensure that the death penalty will only be imposed in a fair and non-discriminatory manner. We urge you to take all steps necessary to bring this about.

We also note that our colleague, Attorney General Robert T. Stephan of Kansas, has previously supported the Act, providing certain amendments are adopted.

Sincerely yours,

HUBERT H. HUMPHREY III,
Attorney General of Minnesota.
ROBERT M. SPIRE,
Attorney General of Nebraska.
ROBERT ABRAMS,
Attorney General of New York.

JAMES M. SHANNON,
Attorney General of Massachusetts.
JAMES E. TIERNEY,
Attorney General of Maine.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Chairman, for 10 years prior to serving in this body I was a judge full time in our Nation's courts as a trial judge and a High Court judge.

I support the Sensenbrenner amendment because I support the death penalty, but I also wanted to place on the record what judges all across America today, as we speak, have as requirements in death penalty cases.

I am quoting from McCleskey versus Kemp, which is a case decided 4 years ago by the U.S. Supreme Court.

The Court reiterated that prosecutorial discretion cannot be exercised on the basis of race. A prosecutor cannot exercise peremptory challenges on the basis of race. State efforts to exclude blacks from grand and petit juries is not permitted under the Constitution. Widespread bias in the community can lead to a change of venue. Racially biased prosecutorial arguments are not permitted under the Constitution.

Mr. Chairman, the Court went on to point out that if the circumstances of a case indicate likelihood of racial bias influencing the jury, the Constitution requires the judge's questioning as to such bias.

Finally, in a capital sentence hearing involving interracial murder, questioning is required concerning the circumstances of the case.

These are all requirements today under the U.S. Constitution that every judge in every court in America must comply with; but having adopted the Hughes amendment, we have effectively ended the death penalty in the United States, and if anyone favors the death penalty, let me read one sentence from the letter of the Attorney General of the United States dated September 24:

> The Hughes amendment would eliminate the death penalty in the United States as a practical matter. Since no state has kept the kind of records necessary to disprove the statistical presumption, enactment of the Hughes amendment would nullify the sentences of 2,350 convicted killers on death row.

□ 1120

If you vote against the Sensenbrenner amendment, you are effectively ending the justice that 2,350 sentenced convicts have received from juries and appellate courts in this country.

You have commuted their death sentences.

If you vote for the Sensenbrenner amendment, you leave the Constitution the way I read it from McCleskey versus Kemp, the requirement that judges get race out of the courtroom, out of any consideration.

I strongly urge a vote in favor of the death penalty and in favor of the Sensenbrenner amendment.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I rise in opposition to the Sensenbrenner amendment and in support of the amendment offered by the gentleman from New Jersey [Mr. HUGHES].

Mr. Chairman, I rise today to speak in favor of title XVIII of the Comprehensive Crime Control Act, the Racial Justice Act, that my colleague Congressman CONYERS has introduced. History has shown us that without a doubt there is racial discrimination in death sentencing.

The U.S. General Accounting Office has recently concluded that in certain jurisdictions, if the victim is white, the defendant is far more likely to receive the death sentence than if the victim had been African-American. If the defendant is black, he is more likely to be sentenced to death than if he were white.

Although it is commonly believed that wrongful executions are rare, innocent people have and continue to be wrongly convicted, sentenced to death and executed. That is why it is imperative that defendants have every legal opportunity to prove that their death sentence was imposed on the basis of their race.

I know that we all accept the proposition that no person should be executed under a death sentence that was imposed because of racial considerations. That is why I support this amendment because it would make it unlawful to carry out a death sentence imposed on the basis of the race of the defendant or the victim. It would simply allow in court proceedings the use of valid statistics to establish an inference of race discrimination in death sentencing.

This provision does not create presumption of racial bias. It merely says that a defendant facing the death penalty should have an opportunity to use statistics, along with other evidence, to show that the sentence was based on race.

Mr. Chairman, I implore my colleagues' support for this provision. It is our duty today to protect the right of all Americans, and moreover to uphold our national commitment to equal justice for all.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in strong opposition to the Sensenbrenner amendment. It is a misguided amendment. This is a very important civil rights vote.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise in strong opposition to the Sensenbrenner amendment.

Mr. Chairman, I rise in opposition to the Sensenbrenner amendment to H.R. 5269, which would strike one of the most important civil rights measures that Congress will consider this year, the Racial Justice Act. I commend my colleague, Congressman CONYERS, for his tireless commitment to racial justice.

Mr. Chairman, racism pervades our criminal justice system. Study after study, including an exhaustive review of capital sentencing statistics by the General Accounting Office [GAO], has demonstrated a racial bias in capital sentencing. In Florida, for example, the Stanford Law Review found that blacks who kill whites are almost five times as likely to receive the death penalty as whites who kill whites. There is not a single instance of a white person executed for killing an African American or other minority in the entire United States since 1976.

It is time to take a stand against racial injustice in our criminal justice system. The Racial Justice Act would ensure that individuals are not sentenced to death because of the color of their skin. It would extend to individuals accused of capital crimes the same fundamental civil rights protections which are already available to voters, employees, and criminal defendants. It would guarantee that standards of equity and consistency prevail in our criminal justice system.

It is imperative that Congress extend fundamental civil rights protection to individuals who have the most to lose. I strongly urge my colleagues to oppose the Sensenbrenner amendment and support the Racial Justice Act.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from California, [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I rise in opposition to the Sensenbrenner amendment.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Wisconsin which would strike the Racial Justice Act from the Comprehensive Crime Control Act.

Though I ultimately oppose the death penalty, and hope that one day it will be seen for what it truly is—cruel and unusual punishment—this gentleman is a realist. I realize that the death penalty is with us today. I support the Racial Justice Act because I further realize that the application of the death penalty is unfair, uneven, and that the effect of its application has been discriminatory and racist.

First, let me say that as we consider measures that are only designed to punish offenders, we attempt to treat only the symptoms of our variety of societal ills not the causes of those ills. The causes are imbedded in the institutionalized greed of the wealthy, the growing desperation of the underclass, and widening economic gap between the two.

For the entire Reagan-Bush era, members of the Democratic Party have been baited as being soft on crime. As a result of our collective defensiveness on this issue, we have before us a bill that proposes to extend the death penalty to at least 10 Federal crimes. I

am aware that there are those who wait in the wings with proposals that could expand the Federal death penalty to another 20 crimes. Unfortunately, those proposals may someday prevail. The Comprehensive Crime Control Act would impose an unprecedented limitation on the filing of Federal appeals in capital cases, something that some of my colleagues would never stand for in the context of similarly complex civil litigation. Yet, incredibly, we continue to hear that even this measure is soft on crime.

In regards to the need for retaining the Racial Justice Act, let me say that in State after State race continues to play a role in determining who pays the ultimate sanction. For every 25 executions that have occurred in the United States since 1976—there have been 130 to date—21 have involved white victims. This is true despite the fact that proportionate to their numbers, African-Americans are far more likely to be victims of murder, as about half of all murder victims are African-Americans.

The Racial Justice Act is designed to end discrimination in the application of the death penalty. It is supported by more than 70 national and local organizations including the Leadership Conference on Civil Rights and the American Bar Association.

Concerns for fairness and bias-free capital sentencing are not procriminal. Let us not forget that the fundamental undervaluing of the lives of African-Americans extends not only to capital defendants, but to African-American victims as well. What is procriminal about legislation that would ensure that crimes against people of color are not treated as inherently less serious than crimes against white victims? What is procriminal about legislation that is supported by Members of this body who support capital punishment as well as by those who oppose it?

Opponents of the Racial Justice Act want the power to pick and choose when civil rights protections apply. Much has been made of the fact that a number of State attorneys general, but not all, oppose the Racial Justice Act. Small wonder. These opponents want the power to make decisions regarding life and death without public accountability that the Racial Justice Act would afford.

They have not had any standards for deciding which cases to bring as capital cases. The blatant pattern of race-based sentencing in State after State that is a result of this lack of standards. With the Racial Justice Act as part of the Comprehensive Crime Control Act, Congress may impose upon them the same standards that they are bound to apply in every other context—nondiscrimination. These attorneys general should be obligated to treat all victims in their States, including African-Americans, equally.

Make no mistake, if the House votes to strike the Racial Justice Act, it will have voted to tolerate discrimination in meting out the ultimate punishment—death—and abandoned its obligation to ensure that every institution in our society is governed by the principle of equal protection of the law. No clever use of buzz words will disguise that shameful fact.

I stand in opposition to the Sensenbrenner amendment to strike the Racial Justice Act from the bill, and look forward to the day that the equal application of the death penalty will be a moot point as a result of the prohibition of that cruel and unusual punishment.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I rise in opposition to the gentleman from Wisconsin's amendment.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the original author of the bill, the gentleman from Michigan [Mr. CONYERS.]

Mr. CONYERS. Ladies and gentlemen of the House, this is an important day in American criminal jurisprudence because now we have taken into consideration, with the Hughes amendment, that evidence of racial disparity and death sentences will now be able to be considered by the sentencing judge. It has nothing to do with whether you are for or against the death penalty. It is for the sentencing after the conviction.

What we have done here today is so important. Please do not let this motion to strike the Racial Justice Act from the crime bill occur. Let us continue exactly what we have decided to do, speak to this awful, ugly, festering question of race and sentencing, capital sentencing, in the criminal justice system.

Without the Racial Justice Act in this bill, Congress would have expanded the use of the death penalty for the first time since 1972, without ensuring that race bias was not a factor in the sentencing decision.

Please vote against the Sensenbrenner motion to strike.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, title XVIII of H.R. 5269, as amended, is the so-called Racial Justice Act. In *McClesky* v. *Kemp,* 481 U.S. 279 (1987), the Supreme Court held that any defendant who could show that race motivated the decision to charge him, convict him, or sentence him could get relief in Federal court. That is still the law. What McClesky refused to do is let a defendant get relief by proving—if he could, although none ever has—that there is a racial disparity in the way the death penalty is applied in cases in general, even though race did not affect his case in particular. This act would repeal that second part of McClesky, and it would go even further than that.

This legislation would have the effect of requiring prosecutors to prove through statistics the absence of any possible racial influence in the sentencing results of capital cases tried in their State. Because there are countless facts and variables that affect a capital sentencing decision, and because cases are being added to the pool almost every week, it is impossible to quantify all of the factors and to prove by a mathematical formula that no racial factor is involved in capital sentencing. In a January 24, 1990, letter to Senator THURMOND, while the Senate was considering the so-called Racial Justice Act, the Attorney General stated that enactment of it would "have the practical effect of abolishing capital punishment in the United States."

The Senate refused to have this in the crime bill, and by a vote of 58 to 38 it was stricken from their bill.

Mr. Chairman, I intend to vote for this amendment because I believe that these racial justice provisions should be stricken, and I believe we should support law enforcement on this issue. I am going to vote for it because I do not believe in the philosophy, that any injustice can be cured by multiplying it. I intend to vote for the amendment because I believe that the measure of justice should include consideration of the rights of the victims and society as a whole, and I believe that justice should not be reduced to the lowest common denominator of sentences. I intend to vote for the Sensenbrenner amendment because I am unwilling to embrace a system of sentencing by quota and I am unwilling to supplant judges and juries with statisticians and statistics.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER], a valued member of the subcommittee.

Mrs. SCHROEDER. Mr. Chairman, last week, tens of millions of Americans had their televisions tuned to the epic documentary "The Civil War." It is ironic that, here we are, in Congress debating the Racial Justice Act; 125 years after the Civil War, we are still working to eliminate racial discrimination in America.

The 14th amendment to the Constitution—an outgrowth of the Civil War—guarantees equal treatment under the law, without regard to race. Yet, there is now compelling evidence, that in the case of death penalty sentencing, whether consciously intended or not, the law has been applied unequally along racial lines. The General Accounting Office conducted a thorough evaluation of data on death penalty sentencing and discovered "a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty."

The important word here is pattern. In the McCleskey decision, the Supreme Court held that evidence of discriminatory death sentencing patterns could not be used to prove purposeful racial discrimination necessary to make a claim under the 14th amendment. A person challenging the death

penalty would have to prove that the individual prosecutor, judge, or jury in his or her case consciously intended to discriminate on the basis of race. The majority opinion in McClesky said that arguments about persistent patterns of racial discrimination in death sentencing should be brought before the Congress which, through its authority under section 5 of the 14th amendment, could develop appropriate responses. The Racial Justice Act takes up this challenge.

Consciously intended racial discrimination is often impossible to prove. No one publicly admits to holding racist views; and none of us thinks we possess a racist bone in our body. But when numbers speak so clearly of patterns, we have to acknowledge that result is just as compelling as intent.

The GAO report is clear: current sentencing practices in death penalty States are discriminatory, no matter what the intent. Even when the circumstances of the crime, the history of the defendant, and other factors are held constant, Blacks are more frequently sentenced to death than whites, especially if their victim is white. The Racial Justice Act would redress this inequality by requiring prosecutors to develop nonracial standards for choosing when to argue for the death penalty and to apply those standards consistently.

The Racial Justice Act is consistent with other civil rights law and Supreme Court rulings in allowing for the use of statistical evidence to prove patterns of discrimination. The bill does not attempt to eliminate the death penalty; and it does not encourage the establishment of racial quotas in sentencing. Rather, it attempts to extend the guarantees of the 14th amendment to equal treatment under the law to all citizens—even those who commit the worst of crimes.

The 125 years after Appomattox, and 30 years after the beginning of the Civil Rights movement, it is time to acknowledge the subtle ways in which racism still operates. It's time to pass the Racial Justice Act.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I believe in the death penalty, but only if it is applied in a fair way, in a nondiscriminatory way.

That is why I oppose the Sensenbrenner amendment.

I rise in opposition to the amendment and in support of the Racial Justice Act.

I do so as a Member of this body who supports the death penalty.

However, the evidence proves that in many cases, the death penalty is not determined by the severity of the crime—but by the race of the victim, or the defendant. That's something I can't support.

In cases where the data indicates racial disparity in sentencing, the Racial Justice Act will require States to show other factors justifying the death penalty.

But I do not believe it will. The Hughes amendment to this provision, lessens the burden of proof on the Government to rebut an inference of racial discrimination and it gives the Government unlimited grounds to rebut any statistical showing, while preserving the original intent of this provision to ensure that race is not a consideration in capital cases.

Under the Racial Justice Act, defendants will not be able to use their race to escape just punishment when it is merited. Nor will anyone face capital punishment simply because they, or their victims, are of a particular race.

It ensures that we have one system of justice, for everybody.

I urge colleagues to support the Racial Justice Act.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I have voted for three amendments to the legislation before us that will increase the applicability of the death penalty. I support the death penalty in these limited circumstances.

I am convinced the Racial Justice Act will not abolish the death penalty. The General Accounting Office has conducted an independent, unbiased appraisal of 28 studies of racial discrimination in capital sentencing and concluded that there is a clear pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty throughout the country.

As our colleague from Michigan said, there has never been a white American executed for killing an African-American or other minority.

Under the bill before us, States will be free to carry out death sentences, unless a significant racially discriminatory pattern can be shown. Prosecutors will have two opportunities to challenge statistics showing racial discrimination:

First, before the court decides whether a death row inmate has proven a prima facie case of discrimination;

Second, they will have the opportunity to rebut any prima facie case by showing that an apparently racial pattern is explained by nonracial factors.

The Racial Justice Act will eliminate race from the decision to seek the death penalty. It will encourage prosecutors to develop nonracial standards for deciding when to seek a death sentence and to apply those standards uniformly and consistently.

Mr. Chairman, I urge my colleagues to reject the Sensenbrenner amendment.

□ 1130

Mr. SENSENBRENNER. Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman from Wisconsin [Mr. SENSENBRENNER] for yielding to me. Nobody in this body wants to see racial discrimination in sentencing and the death penalty. Everybody here is against it. I am against it, and my colleagues are against it.

The issue before us is not that today. The issue before us is whether or not we are going to allow to become a part of the law a requirement that statistics be used to determine whether capital punishment should be invalidated in specific cases and whether or not we are going to place the burden on the prosecutor to have to go back in and say, "OK, there's an inference that there was racial discrimination because there were more members of A race than B race that were given capital punishment at a given period of time or more members who were given capital punishment in A race than B race because of X, Y, and Z in a given period of time," and then prove that that is not racially discriminatory by some positive burden that they are going to have an awful time proving, especially in the cases that have already been decided.

In many cases there are people who have been on death row for a long time. Those people's sentences should have long since been carried out, and we hope some of the things we have done in here will correct that in the future.

However, Mr. Chairman, can my colleagues imagine the difficulty someone is going to have if they are a prosecutor going back and overcoming this inference that is put into law by this provision in the bill right now? If they have to go back and overcome it with proof? It would be impossible, and that is why it is so important to vote for the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER].

If my colleagues voted for the amendment of the gentleman from New Jersey [Mr. HUGHES] a minute ago because they thought that it lessened the harshness of the bill as it came out of committee, perhaps it did in some minor way, but it still left this inference in there. It did not take the major part of it out, and if it is left alone and the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER] is not passed, we have gutted capital punishment from most of the States.

That is why every State attorney, every State's attorney general and all the district atorneys in this country are in favor of the Sensenbrenner amendment. That is why the police and law enforcement are. That is why

the gentleman from Alabama [Mr. HARRIS] spoke in favor of the Sensenbrenner amendment.

Mr. Chairman, I urge an "aye" vote on the amendment of the gentleman from Wiconsin [Mr. SENSENBRENNER]. Let us keep capital punishment intact in this country. Let us vote Sensenbrenner.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I support the death penalty, but I cannot countenance racial discrimination in the imposition of this sentence. Recent studies have shown that defendants in homicide cases involving white victims are four, five, and six times more likely to receive the death sentence as those involving black victims. This is not just a southern phenomenon. It is occurring in the North as well. Are the victims of these crimes any less dead? Are the crimes any less heinous? Are the murderers any less culpable?

It is painful to concede that America is still a racially divided Nation. Though we have made great strides toward quality, we still must struggle with hatred, prejudice, and bigotry. Here in the imposition of the most serious penalty known to man, death by execution, can we do anything less than call up every weapon in our legal arsenal to guarantee fairness and justice?

I rise in the strongest possible opposition to the amendment offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, I would just like to say that there are a lot of lawyers in this Congress, but there is not a single lawyer in this Congress who has ever practiced law in a courtroom who can stand on the floor of this House with a straight face and honestly deny that race is a factor in sentencing in capital cases, and if my colleagues are so naive as to actually believe that, they ought to take their law license off the wall and never again represent anybody in an American courtroom.

I say, "You guys on this side know it as well as I do and, if you're not a lawyer, look at the statistics."

In February of this year, the General Accounting Office concluded that after 15 years of study after study it was indisputable that race plays a role in sentencing in capital cases.

This is a moral question. I ask: How dare you stand up here and tell us that this amendment that's in the bill, the Hughes amendment, would abolish capital punishment? You know very well it would not abolish capital punishment, but what it would abolish, it would abolish the racially discriminatory application of capital punishment, and you folks that moralize in this Congress all the time have a moral obligation to stand with us and strike this out of the practice of American jurisprudence.

Vote against the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. RANGEL], the chairman of the Select Committee on Narcotics Abuse and Control.

Mr. RANGEL. Mr. Chairman, I rise again in opposition to the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER].

What lustful blood seems to exist in this House, this death penalty thing. One would think that the whole reason for being in this Congress is to take away people's lives, lives that we had no power to give, and yet we have the power to take away.

Mr. Chairman, the amendment of the gentleman from New Jersey [Mr. HUGHES] does not mandate that anyone black cannot be executed. It merely indicates that, if it is proven statistically that there is a disparity that if in a similar case whites with the same charge would not have had the death penalty, that these are factors to be considered. The prosecutor does not just take the factors and walk away from it. He evaluates it, and, if he can prove, like he should, that race did not have anything at all to do with this person being sentenced to be executed, then it is time to move ahead with the execution as planned.

It seems to me that if we did not have such a terrible history of racism as relates to capital punishment, then we could understand reluctancy in putting additional burden on prosecutors. But when we know that this has happened time and time again in this great country of ours, and we are merely trying to ask for fairness in the execution of criminal justice, that we should try to give fairness a break in this legislation.

Mr. EDWARDS of California. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Maryland [Mr. HOYER], the chairman of the Democratic caucus.

Mr. HOYER. Mr. Chairman, I rise in very strong opposition to the amendment of the gentleman from Wisconsin [Mr. SENSENBRENNER].

Very frankly, I liked the bill as it was presented, but the amendment of the gentleman from New Jersey [Mr. HUGHES] ensures that what is such a statistically stark truth in American history not be denied. It is absolutely indisputable that the chances of a black defendant being put to death are very marginally greater than a white defendant. It is indisputable from the stark statistics that have been read on this floor that racism continues to be endemic, not only in our society, but in the administration of our criminal justice system.

I have practiced criminal law for the last 24 years. As a matter of fact, I dare say I probably had the most recent appearance in court of any Member of this body in a criminal case.

□ 1140

I still practice law. There is absolutely no doubt that if you represent a black defendant, that defendant is at greater risk than a white defendant, anywhere in the country. To adopt the Sensenbrenner amendment is to undermine the commitment of this country to try to exorcise the vestiges and realities of racism from every aspect of our society.

Mr. Chairman, I rise in strong support of the Hughes amendment and in opposition to the amendment offered by the gentleman from Wisconsin to strike the Racial Justice Act from the bill before us today.

The Racial Justice Act is not about being for or against the death penalty. The Racial Justice Act is not about being pro- or anticriminal, or about who can be the toughest on criminals. The Racial Justice Act is about whether or not the sentence of death was issued impartially, based on the facts, and without consideration of the defendant's race. Our national heritage and our Constitution require nothing less of our judicial system. Equal justice under the law is one of the most fundamental principles of our Nation, we cannot allow it to be ignored.

The fact of the matter is that the death penalty is being imposed under a dual system in our Nation. Since 1976, 85 percent of the people who have been executed have been executed for killing a white person. Only 11 percent of the executions were for killing an African-American and all of the defendants in those cases were African-Americans. In my own State of Maryland, defendants convicted of killing whites received the death sentence eight times more often than killers of African-Americans. According to a recent GAO report, in 82 percent of the studies surveyed, those who murder whites were found to be more likely to be sentenced to death than those who murdered African-Americans. Furthermore, in Georgia, for example, blacks who kill whites received the death penalty 16 percent of the time while whites who kill whites are sentenced to die only 4.2 percent.

The Racial Justice Act simply provides a means for proving racial bias in death sentencing by the use of statistical evidence. If it is shown that either the race of the defendant or the victim significantly influenced the decision to sentence the defendant to

death, then the State or the Federal Government would be prohibited from carrying out the sentence. Furthermore, the prosecutor would have ample opportunity to challenge the statistics alleging discrimination. They can challenge the sufficiency and quality of any evidence before the court makes its decision and they can rebut any prima facie case by showing that an allegedly racial pattern is explained by nonracial factors.

The Racial Justice Act does not end the death penalty. Although, as many of you know, I am indeed, opposed to the death penalty. But, if the United States is going to have the death penalty, our laws of justice and our commitment to fairness, demand that death is dispensed without prejudice being the determining factor. I strongly urge my colleagues to oppose the Sensenbrenner amendment.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I rise in strong opposition to this very poorly conceived amendment.

Mr. EDWARDS of California. Mr. Chairman, I am going to put in the RECORD at the appropriate time communications approving this provision from the attorneys general of Nebraska, New York, Maine, Massachusetts, and Wisconsin.

Mr. Chairman, I yield the balance of my time to the distinguished gentleman from New Jersey [Mr. HUGHES], the chairman of the Subcommittee on Crime.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding. We have voted a lot on a lot of substantive capital offenses, and I must say, if they gave capital punishment to those that misrepresented amendments and votes on this floor, we would have a lot of executions on this side of the aisle. Because I do not even recognize sometimes what Members over here are suggesting is what this is all about.

First of all, if I thought for one minute it would eliminate capital punishment, I would oppose it. That is nonsense. That is a red herring. Our colleague from New Hampshire got up and said, "You know, the prosecutors and charging authorities are admonished today not to discriminate."

Well, that is so. That is not the issue. The issue is how do we in fact hear that?

The gentleman from Wisconsin [Mr. SENSENBRENNER] basically says that in those instances where a charging authority, a prosecutor, admits that he is prejudiced, the court should consider that. However, if it is circumstantial in nature, if there is a pattern of discrimination, if in fact in a particular jurisdiction over a 10-year period of time a prosecutor in 100 capital cases is charging blacks with capital punishment, and no whites with capital punishment, Sensenbrenner says the court should not hear that. That is what he is saying.

Now, is anybody naive enough to believe that somebody who is prejudiced is going to admit it, that we are going to be able to establish that by direct evidence? That is nonsense.

Mr. Chairman, this provides a level playing field. It says that if there is valid evidence of a pattern of discrimination, the court will consider that. If in fact it is established, then nobody would want to execute somebody on the basis of race or the color of their skin.

Come on, let us be fair. It is a fundamental fairness issue. I urge a rejection of Sensenbrenner.

Mr. RAHALL. Mr. Chairman, I rise in opposition to the amendment to strike the Racial Justice Act contained in H.R. 5269, the Comprehensive Crime Control Act of 1990.

Mr. Chairman, historically it has been shown that capital punishment has been imposed in a systematically racialy biased manner. According to the NAACP legal defense fund, as of May 1988, of 2,048 death row inmates, 836, or 40 percent, were black, although blacks constitute only 11 percent of the population at large.

The passage of time has shown that new capital punishment statutes have not removed the systematic and pervasive racial bias, but indeed seem to have only shifted the character and focus of such bias, by displacing some of the bias from the race of the offender to the race of the victim. Why? Because the victims of death row inmates are overwhelmingly white—84 percent. Approximately 30 percent of the cases involved minority defendants and white victims. Moreover, not one case involved a minority victim and a white defendant. Those statistics speak eloquently for themselves, and no expansion of them by me will make them go away.

In other words, there is irrefutable evidence that traditionally, the death penalty has grown to be one of an arbitrary nature—showing that for the same crime one individual is sentenced to death and another is not.

Whether we like to look at it in such terms of black and white or not, there seems to be no way to dispute the fact that when it comes to the death penalty, to quote the distinguished chairman of the Select Committee on Narcotics Abuse and Control, the long, curved blade of the grim judicial reaper extends farther when the defendant is a minority.

Mr. Chairman, I support the intent of the Racial Justice Act, and I hope that my colleagues will support it by defeating the amendment to strike that section of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 204, noes 216, answered "present" 1, not voting 12, as follows:

[Roll No. 423]

AYES—204

Archer	Hansen	Price
Armey	Harris	Pursell
Baker	Hastert	Quillen
Ballenger	Hatcher	Ravenel
Barnard	Hefley	Ray
Bartlett	Hefner	Regula
Barton	Henry	Rhodes
Bateman	Herger	Ridge
Bennett	Hiler	Rinaldo
Bentley	Holloway	Ritter
Bereuter	Hopkins	Roberts
Bevill	Houghton	Robinson
Bilbray	Hubbard	Rogers
Bilirakis	Huckaby	Rohrabacher
Billey	Hunter	Rose
Bosco	Hutto	Roth
Broomfield	Hyde	Roukema
Browder	Inhofe	Rowland (GA)
Brown (CO)	Ireland	Russo
Buechner	James	Sarpalius
Bunning	Jenkins	Schaefer
Burton	Johnson (CT)	Schiff
Byron	Jones (NC)	Schuette
Callahan	Kanjorski	Schulze
Campbell (CA)	Kasich	Sensenbrenner
Chandler	Kolbe	Shaw
Clarke	Kolter	Shumway
Clement	Kyl	Shuster
Clinger	Lagomarsino	Skeen
Coble	Lancaster	Skelton
Coleman (MO)	Laughlin	Slaughter (VA)
Combest	Leath (TX)	Smith (NE)
Condit	Lent	Smith (TX)
Courter	Lewis (CA)	Smith, Denny (OR)
Cox	Lewis (FL)	Smith, Robert (NH)
Craig	Lightfoot	Smith, Robert (OR)
Dannemeyer	Livingston	Snowe
Darden	Lukens, Donald	Solomon
Davis	Marlenee	Spence
DeLay	Martin (IL)	Stangeland
Derrick	Martin (NY)	Stearns
DeWine	McCandless	Stenholm
Dickinson	McCollum	Stump
Dingell	McCrery	Sundquist
Dornan (CA)	McCurdy	Tauke
Douglas	McDade	Tauzin
Dreier	McEwen	Taylor
Duncan	McGrath	Thomas (CA)
Edwards (OK)	McMillan (NC)	Thomas (GA)
Emerson	Meyers	Thomas (WY)
Erdreich	Michel	Traxler
Fawell	Miller (OH)	Upton
Fields	Miller (WA)	Valentine
Flippo	Molinari	Vander Jagt
Frenzel	Montgomery	Volkmer
Gallegly	Moorhead	Vucanovich
Gallo	Morrison (WA)	Walker
Gaydos	Murtha	Walsh
Gekas	Myers	Weber
Gillmor	Nielson	Weldon
Gingrich	Oxley	Whittaker
Goss	Packard	Whitten
Gradison	Parker	Wolf
Grandy	Parris	Wylie
Grant	Pashayan	Yatron
Gunderson	Paxon	Young (FL)
Hall (TX)	Payne (VA)	
Hammerschmidt	Petri	
Hancock	Porter	

NOES—216

Ackerman	Boucher	Conyers
Anderson	Boxer	Cooper
Andrews	Brennan	Costello
Annunzio	Brooks	Coyne
Anthony	Brown (CA)	de la Garza
Applegate	Bruce	DeFazio
Aspin	Bryant	Dellums
Atkins	Bustamante	Dicks
AuCoin	Campbell (CO)	Dixon
Bates	Cardin	Donnelly
Bellenson	Carper	Dorgan (ND)
Berman	Carr	Downey
Boehlert	Clay	Durbin
Boggs	Coleman (TX)	Dwyer
Bonior	Collins	Dymally
Borski	Conte	Dyson

Early	Lewis (GA)	Rostenkowski
Eckart	Lipinski	Rowland (CT)
Edwards (CA)	Lloyd	Roybal
Engel	Long	Sabo
English	Lowey (NY)	Saiki
Espy	Luken, Thomas	Sangmeister
Evans	Machtley	Savage
Fascell	Manton	Sawyer
Fazio	Markey	Saxton
Feighan	Martinez	Scheuer
Fish	Matsui	Schneider
Flake	Mavroules	Schroeder
Foglietta	Mazzoli	Schumer
Ford (TN)	McCloskey	Serrano
Frank	McDermott	Sharp
Frost	McHugh	Shays
Gejdenson	McMillen (MD)	Sikorski
Gephardt	McNulty	Sisisky
Geren	Mfume	Skaggs
Gibbons	Miller (CA)	Slattery
Gilman	Mineta	Slaughter (NY)
Glickman	Mink	Smith (FL)
Gonzalez	Moakley	Smith (IA)
Gordon	Mollohan	Smith (NJ)
Gray	Moody	Smith (VT)
Green	Morella	Solarz
Guarini	Morrison (CT)	Spratt
Hall (OH)	Mrazek	Staggers
Hamilton	Murphy	Stallings
Hawkins	Nagle	Stark
Hayes (IL)	Natcher	Stokes
Hertel	Neal (MA)	Studds
Hoagland	Nelson	Swift
Hochbrueckner	Nowak	Synar
Horton	Oakar	Tallon
Hoyer	Oberstar	Tanner
Hughes	Obey	Torres
Jacobs	Olin	Torricelli
Johnson (SD)	Ortiz	Towns
Johnston	Owens (NY)	Traficant
Jones (GA)	Owens (UT)	Udall
Jontz	Pallone	Unsoeld
Kaptur	Panetta	Vento
Kastenmeier	Patterson	Visclosky
Kennedy	Payne (NJ)	Walgren
Kennelly	Pease	Washington
Kildee	Pelosi	Watkins
Kleczka	Penny	Waxman
Kostmayer	Perkins	Weiss
LaFalce	Pickett	Wheat
Lantos	Pickle	Williams
Leach (IA)	Poshard	Wise
Lehman (CA)	Rahall	Wolpe
Lehman (FL)	Rangel	Wyden
Levin (MI)	Richardson	Yates
Levine (CA)	Roe	Young (AK)

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—12

Alexander	Crockett	Madigan
Chapman	Ford (MI)	Neal (NC)
Coughlin	Hayes (LA)	Ros-Lehtinen
Crane	Lowery (CA)	Wilson

□ 1202

Messrs. WATKINS, TALLON, SCHEUER, SPRATT, and DE LA GARZA changed their vote from "aye" to "no."

Mr. OXLEY and Mr. CLARKE changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 23 printed in part 2 of House Report 101-796.

The gentleman from Texas [Mr. GONZALEZ] does not seek recognition at this time.

It is now in order to consider amendment No. 24, printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WYLIE: Page 176, after line 23, insert the following:

(f) EXCEPTION TO EXEMPTIONS FOR CERTAIN PROPERTY.—Section 522(c)(1) of title 11, United States Code, is amended to read as follows:

"(1) a debt of a kind specified in—

"(A) paragraph (1), (5), (11), or (12) of section 523(a); or

"(B) paragraph (2), (4), or (6) of section 523(a) which is owed to an appropriate Federal financial institution's regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act) or a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act); or".

The CHAIRMAN. Under the rule, the gentleman from Ohio [Mr. WYLIE] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a very narrowly drawn amendment which would amend the U.S. Bankruptcy Code to preempt State laws which protect so-called homesteads from bankruptcy where those homesteads are being used by savings-and-loan crooks to shelter money taken through fraud from failed savings-and-loans.

The amendment was suggested to me by the Federal Deposit Insurance Corporation and the RTC. I would like to read a letter from L. William Seidman, Chairman of the FDIC:

DEAR MR. WYLIE: The Federal Deposit Insurance Corporation is pleased to comment on your proposed amendment to H.R. 5269, the Comprehensive Crime Control Act of 1990. The amendment modifies section 522 of the Bankruptcy Code to restrict the amount of personal assets that an individual who has committed fraud or misconduct against an insured depository institution can shield under the homestead exemptions contained in various State laws. The adoption of your amendment would enhance the ability of the FDIC and other agencies to recover funds from persons who cause losses to insured depository institutions. In our view this amendment is critical to our ongoing effort to reduce the cost of failed depository institutions and to protect the deposit insurance fund. The FDIC is pleased to endorse this important amendment. With best wishes.

Sincerely,

L. WILLIAM SEIDMAN,
Chairman.

What has happened is individuals in certain States, notably in Texas and Florida, have taken advantage of the State homestead laws to fraudulently take money from bank deposits, buy lavish mansions and furnish that homestead with that money.

The S&L fails, and money which has been drained from the S&L's is not recoverable because of State homestead law protection. It is not right, and something should be done about it.

My amendment does something about it. My constituents do not mind paying for their own home, but they do object strenuously to having their taxpayer money being used to buy palatial mansions for savings-and-loan crooks.

On August 16, 1990, Simon Edward Heath was convicted of 10 counts of bank and wire fraud as an officer of Guaranteed Federal Savings and Loan, Galveston, TX. On August 20, he declared bankruptcy.

The FDIC seeks $10 million in restitution from the S&L. His homestead, and a picture is worth a thousand words, in this case may be worth 10,000 words, is valued at $1.4 million and is protected under the State constitution.

Centrust in Florida, a State-chartered S&L, has failed. The cost to the taxpayers will be at least $1.5 billion. Some of that money is represented by this homestead which is valued at somewhere between $5 and $10 million, protected by the Florida homestead laws.

There are many, many more such examples where S&L officers have fraudulently taken depositors' money to maintain the standard of living to which they have become accustomed.

Senator DOLE has offered a similar amendment to the Senate crime bill which was adopted by the Senate.

□ 1210

The House should do no less. I respectfully urge adoption of my amendment.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, October 3, 1990.

Hon. CHALMERS P. WYLIE,
House of Representatives, Washington, DC.

DEAR MR. WYLIE: The Federal Deposit Insurance Corporation is pleased to comment on your proposed amendment to H.R. 5269, the Comprehensive Crime Control Act of 1990.

The amendment modifies Section 522 of the Bankruptcy Code to restrict the amount of personal assets that an individual, who has committed fraud or misconduct against an insured depository institution, can shield under the homestead exemptions contained in various state laws. The adoption of your amendment would enhance the ability of the FDIC and other agencies to recover funds from persons who cause losses to insured depository institutions.

In our view, this amendment is critical to our ongoing efforts to reduce the cost of failed depository institutions and to protect the deposit insurance funds. The FDIC is pleased to endorse this important amendment.

With best wishes.

Sincerely,

L. WILLIAM SEIDMAN,
Chairman.

Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] is recognized for 10 minutes in opposition to the amendment.

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise today in support of the savings and loan crime provisions contained in H.R. 5269, the Comprehensive Crime Control Act. These provisions will provide additional legal ammunition in the fight against fraud and abuse in the savings and loan industry.

Estimates of the cost to bail out the savings and loan industry have now reached $500 billion. Many pressing domestic needs must go unmet because of the money necessary to bail out the savings and loan industry. Hungry children are living on our streets, while high flying and corrupt individuals responsible for acts of fraud and abuse unparalleled in our Nation's history are walking those same streets still enjoying the fruits of their criminal activities.

For months, we have read one story after another of high-flying savings and loan executives who spend depositors funds on art, yachts, wine, and concert tickets. Now, as we try to recover lost assets in order to reduce the cost to the American taxpayer, many of these same executives are claiming that they are broke. Something is wrong.

In 5 years of the Reagan administration, over 14,000 criminal cases relating to savings and loans were referred to the Department of Justice. During that time, only 172 people were convicted of fraud or serious criminal misconduct. The Bush administration is doing only slightly better. As of 3 months ago, 22,147 criminal referrals had not been addressed. The few savings and loan crooks who have been caught are getting off easy. Bank robbers are getting sentences five times longer than people convicted of savings and loan related crimes.

The savings and loan provisions in this crime bill before us today would increase penalties for crimes involving financial institutions, authorize additional funds for Justice Department investigations and prosecutors of savings and loan crimes and create a unit in the Justice Department, headed by a special counsel, to investigate financial institution crime.

During hearings held by the House Banking Committee on a number of case studies of failed institutions, including Lincoln Savings and Silvarado Savings, we saw the outlines of the complicated transactions designed by crooked savings and loan executives to maximize their gains and to hide their assets. The cleverness of these people was matched only by their greed.

The savings and loan provisions would address these actions by making it a Federal felony to conceal assets or property from the agencies with control over the financial institutions. Other provisions would increase from 20 to 30 years the maximum prison term for bribe taking, bank, or thrift embezzlement. And, the authorization of funds for the Department of Justice available for the investigation and prosecution of financial institution crime would more than double to $153 million.

Mr. Chairman, for the sake of these hungry children on the street and for the sake of the American taxpayer, we must insist that the administration strenuously pursue savings and loan criminals. The record is not a good one so far. Not only has the investigatory effort been lackluster, but the record for collection of fines is abysmal. In fiscal year 1989, the Government ordered savings and loan crooks to pay $3.1 million in fines. The Treasury has received only $2,700. So far this year, $2.5 million has been ordered in fines; $50 in payments has been received.

I urge my colleagues to support the savings and loan provisions of the crime bill. We have an obligation to ensure that savings and loan criminals are accountable to the same principles of law as other criminals. With a $500 billion bill to bail out the savings and loans, we must leave no stone unturned in the efforts to find and return to the taxpayer all of the stolen assets.

Mr. Chairman, as we look at this issue we are looking for a silver lining to this crisis. So far, all we see are golden parachutes.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Chairman, I thank the ranking minority member of the Committee on Banking, Finance and Urban Affairs and of the Subcommittee on Financial Institutions Supervision, Regulation and Insurance, for yielding me this time.

I rise in strong support of the amendment offered by the distinguished banking minority member of the Banking Committee and the Financial Institutions Subcommittee [Mr. WYLIE]. The gentleman is to be commended for his efforts on this amendment. In the many years he has served on subcommittees which I have chaired, he has always been a pleasure to work with and the author of numerous constructive amendments.

The amendment he offers today is another very worthwhile amendment.

On June 28, the Financial Institutions Subcommittee unanimously passed H.R. 5050. That legislation, the Financial Crimes Prosecution and Recovery Act, was sponsored by the gentleman from Ohio [Mr. WYLIE], myself, and others. That bill was aimed at giving prosecutors and Federal agencies the tools they need to recover funds from those who looted financial institutions.

These looters use every possible device to shield their assets from seizure. Many use the homestead exemptions of the Bankruptcy Code to protect their assets. Some individuals who have cost the taxpayers millions of dollars in losses have shielded their loot by putting it into costly and fabulous mansions that are protected from the FDIC by State homestead exemptions.

The Wylie amendment was contained in H.R. 5050 as adopted by the Financial Institutions Subcommittee. It passed by a vote of 42 to 0, and would strip this exemption away for debts owed to failed financial institutions.

I had sought unsuccessfully to offer another amendment that would have made transfers by financial institution looters to family members or trusts without fair consideration presumptively void. While my amendment was not made in order, I intend to include it in subsequent legislation at the earliest possible date.

The Wylie amendment is a very good step toward stopping abuse of the Bankruptcy Code by financial institution looters. It was unanimously adopted by the Financial Institutions Subcommittee, and I urge the House to adopt it.

Mr. Chairman, I urge the House, if we are to continue this fight to recover the millions and millions of dollars that these crooks have made from the savings and loan industry, that we give overwhelming support to the Wylie amendment. I urge the House to adopt this amendment.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I would like to enter into a colloquy with the gentleman from Ohio [Mr. WYLIE].

It is my understanding that this legislation pertains only to cases where there is a clear case of fraud or other similar misconduct in connection with a financial institution. This language is necessary to recover funds and save the U.S. taxpayers from paying more tax dollars to protect depositors, but I am concerned that the law might be interpreted too broadly.

For example, many borrowers whose financial institutions deteriorated due to situations beyond their control, who were not willfully evading the law, should not be subject to this amendment's provisions. Is it the gentleman's understanding that this legislation applies only to cases of clear fraud or similar misconduct, and not

to situations where, for example, a borrower used a valid appraisal that later, because of the market, was found too high?

Mr. WYLIE. Will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Ohio.

Mr. WYLIE. That is my intention. That is, applying cases of fraud or other similar misconduct where they have used the depositors' money fraudulently to put into homesteads like this, and are protected under certain State homestead law, not intended to go against the individual borrower. There has to be a terribly false statement in connection with it, or fraud.

Mr. BARTLETT. Is it the gentleman's understanding that this language applies to situations where a clear fraud or similar misconduct existed, and not to situations where a borrower's loss of equity prevented the borrower from making good on an agreement with the financial institution?

Mr. WYLIE. That is my understanding.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. BROOKS] claims the time of the gentleman from New Jersey [Mr. HUGHES].

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. BROOKS] is recognized for 9 minutes.

Mr. BROOKS. Mr. Chairman, the amendment by the gentleman from Ohio [Mr. WYLIE] purports to override States' bankruptcy homestead exemptions in order to prevent S&L kingpins from keeping their ill-gotten mansions. To put my concerns about this amendment in perspective, it would be worthwhile to discuss for a moment just why the Wylie amendment was not made in order by the Rules Committee last week.

We were informed by the distinguished deputy minority whip, the distinguished gentleman from Pennsylvania, that it was all a plot on the part of the majority to coddle the S&L kingpins.

Mr. Chairman, if the proponents of the Wylie amendment had taken time off from waving the bloody shirt of S&L kingpins long enough to actually read the amendment, or if they had taken the extraordinary step of consulting the Judiciary Subcommittee on Economic and Commercial Law, which has jurisdiction over the Bankruptcy Code, they might have learned that there were good and sufficient reasons for the committee to recommend that the amendment not be made in order. In the first place, the problem that the amendment purports to deal with—the ability of individuals who have defrauded S&L's to shield their ill-gotten gains in mansions—is adequately dealt with in current law, in other provisions of H.R. 5269, and in legislation which was considered and passed by the House as recently as last week. It is unnecessary to override the homestead laws of 50 States in order to achieve the supposed goal of the Wylie amendment.

A quick look at the Bankruptcy Code would have revealed that it already closes the bankruptcy escape hatch for all debts resulting from fraud or from misleading financial statements, all debts resulting from criminal activities, all debts resulting from fiduciary defalcation, and all debts resulting from willful and malicious injury. The Bankruptcy Code says these debts are nondischargeable, which means that they cannot be erased in any bankruptcy proceeding. These obligations will follow the wrongdoer for the rest of his or her life until they are paid in full. There is no need for an amendment to state that these provisions also apply to S&L kingpins. They already do. Fully.

Title XXI of H.R. 5269 takes the additional step of bringing all directors and insiders under fiduciary duties, and creating a new kind nondischargeable debt, which is the failure to fulfill a commitment to maintain the capital of a depository institution. H.R. 5269 also closes the bankruptcy escape hatch for S&L crime-related debts in chapter 13 bankruptcies, even though as a practical matter no S&L kingpin could ever meet the stringent requirements of chapter 13 anyway.

The Members should also be aware that last Thursday the House passed by voice vote on suspension, without audible opposition, H.R. 5640, the Federal Debt Collection Procedures Act. That bill gives the Federal Government strong new powers to collect debts owed to the Federal Government—including criminal judgments and amounts retrieved by financial regulatory agencies.

It sets new restrictions on the homestead exemption that would make any mansion liable to Government seizure, limiting the homestead exemption in Federal enforcement actions to homes valued at under $100,000. Any home valued at $100,000 or more would be subject to Government seizure. So much for coddling S&L kingpins by protecting their mansions and country estates.

In addition, Mr. Chairman, the Wylie amendment was not made in order by the Rules Committee last week because it is, plain and simple, somewhat of a mess. It refers to provisions of law that do not exist. It uses terminology that is inconsistent with well-understood terms used in the rest of the bill and in the Bankruptcy Code itself. And it would have wildly perverse, and presumably unintended, consequences.

Mr. Chairman, we were informed this week that the banking agencies are in favor of this amendment. Well, I am not surprised. Of course they are: What good bureaucrat wouldn't be enthusiastic about a provision that pushes his claim to the front of the line—ahead of everybody else, including individuals who have been actually victimized by an S&L kingpin? After the Federal banking agencies have first grab, the actual victims can then pick through the remaining table scraps, if any. That may be some Members' notion of fairness and justice to victims, but it is not mine.

Having said all that, Mr. Chairman, I am not going to ask for a recorded vote on this Wylie amendment. The day has passed that we can have rational discussion on the floor of any matter dealing with savings and loans, even if you destroy the homestead laws in 50 States. So to spare the Members any more bombast on this subject, I yield back the balance of my time, and I urge the other side to do likewise.

Mr. WYLIE. Mr. Chairman, I yield myself 1 minute to respond to the gentleman from Texas, for whom I have great admiration and respect, but he misunderstands my amendment.

In the first place, we are talking about discharging debt. He is talking about discharging debt.

What happens is that some of the money that is acquired through fraud or misrepresentation of these S&L's is put into these homesteads. They are not available through bankruptcy. They are exempt under State homestead laws, so they pour all the money out of the assets which would otherwise come in through bankruptcy and would be discharged.

In the second place, he talks about the Federal Debt Collection Practices Act, which passed this House by a voice vote. It has not been passed by the Senate, and is not law, so the $100,000 that he talks about does not apply.

I believe that it is absolutely necessary to ensure that the FDIC and the RTC are able to preempt State homestead laws that are asserted in bankruptcy proceedings.

So I would, respectfully, suggest that the statement of the gentleman from Texas was not quite accurate with reference to my amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, this amendment that the gentleman from Ohio [Mr. WYLE] has offered is really very simple. I know there are some who were concerned with the technical features, but what it does is simply waive the current homestead

exemptions; overrides them in the State, for the simple purpose of allowing the Federal regulators to get at the State homes of people like David Paul in my State of Florida that the gentleman from Florida [Mr. WYLIE] showed us earlier where they have taken the proceeds, their ill-gotten proceeds from fraudulent transactions with regard to savings and loans and purchase these homes and put their money into these very lavish $1.2 million type of homes.

I think the narrow way that it has been drawn makes it a good amendment. It is one we ought to give to law enforcement.

I sure as heck do not want to be somebody around here supporting any provision of law in my State or anywhere else that lets the David Pauls of the world get away with big mansions like this, taking the rip-offs from the S&L's.

So I urge a yes vote for the Wylie amendment. It is constructive. It does not go to the average citizen, but it sure as heck gives the regulators the power in the cases of the bad S&L's to get at the big kingpins who have gone ahead and ripped us off in the S&L mess.

So vote "yes" for Wylie.

Mr. HILER. Mr. Chairman, I rise in strong support of the Wylie amendment and urge my colleagues to adopt this important measure to recover from S&L crooks.

The Homestead provisions of the Wylie amendment are derived from H.R. 3982 legislation that I joined Congression WYLIE in introducing this year. The provisions were introduced in the Senate by Senator DOLE and included in the President's package, H.R. 5150 that Congressman MICHEL, WYLIE, and I introduced on June 25, 1990.

The Federal bankruptcy law contains a number of gaping loopholes that benefit crooks who have looted financial institutions, particularly S&L's. The Wylie amendment would amend the Federal Bankruptcy Code to prevent those who have committed acts involving fraud or misconduct against any insurance financial institution that is now in receivership from taking advantage of generous State homestead exemptions. In certain cases, these homestead exemptions have been abused by bankrupt debtors that were involved in the looting of insured depository institutions to protect personal property—including multimillion dollar mansions—from the reach of the FDIC and other regulatory agencies.

The Wylie amendment is a very modest proposal to benefit the taxpayer. It represents a very narrow Federal preemption of State law. The Wylie amendment would only preempt State law in cases where a financial fraud or misconduct had been committed against an insured financial institution. The Wylie amendment would not apply in ordinary bankruptcy cases where the element of misconduct was not present.

Taxpayers are outraged by abuses in the savings and loan industry. I am disgusted with the lavish lifestyles of those persons who have violated the public trust and fraudulently appropriated money from our federally insured institutions. Individuals who have abused the system should not be able to shield their illicit profits through bankruptcy protections and homestead exemptions. The Wylie amendment works to protect taxpayers by allowing Federal regulators to relentlessly pursue the ill-gotten gains of crooks and who have defrauded our federally insured financial system.

The Wylie amendment is a modest step to recover for the taxpayer from the S&L crooks. It is a narrow preemption of state law that only applies in cases of misconduct. I urge my colleagues to join me in strongly supporting the Wylie amendment.

Mr. MCMILLEN of Maryland. Mr. Chairman, today I rise in strong support of an amendment offered by Representative Wylie to H.R. 5269, the Comprehensive Crime Control Act, that would lessen the ability of S&L embezzlers to find ways to get around from making remunerations to investors. This amendment would preempt State homeowner exemptions in bankruptcy proceedings of persons who committed fraud or acted recklessly with respect to a failed bank or savings and loan institution seized by the Federal Government.

It also support the Oakar amendments that would allow the Federal Deposit Insurance Corporation [FDIC] to recover "golden parachute" money given to officials in anticipation of the takeover of a depository institution by the Federal Government, and to prohibit officials affiliated with a saving and loan institution seized by the Federal Government from purchasing assets previously owned by the thrift and subsequently controlled by the Resolution Trust Corp.

The amendments further underscore the commitment of the House of Representatives to ensure that S&L embezzlers pay their due to society and that the Federal Government and the taxpayer recover some of the money lost from this financial debacle. I ask for your support of these measures.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. WYLIE].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider Amendment No. 28, printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DEFAZIO: Strike section 2202.

The CHAIRMAN. Under the rule, the gentleman from Oregon [Mr. DEFAZIO] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair now recognizes the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would strike section 2202 of the comprehensive crime bill of 1990, which makes it a criminal offense for States to use any means in interstate commerce to operate a sports lottery.

This provision is unfair, discriminatory, vague, and possibly unconstitutional. If passed, it will merely restrict the ability of States to raise local revenues, while with a wink and a nod sports betting, head to head sports betting by private industry and the Nevada gambling institutions continues without restraint.

It is a sad commentary that States have had to resort to lotteries to raise funds, but it is a fact of life. Citizens in 32 States have adopted lotteries.

The proponents of the Bryant provision in this bill contend that pool lotteries will threaten the integrity of professional and amateur sports and will lead to game fixing.

Mr. Chairman, I ask my colleagues, what poses a greater threat to game fixing, a game where an individual has to beat a spread of a minimum of four games with a wager of $1 to $20, or an individual who bets $1 million on the outcome of a single game with a legal bookmaker in Nevada or at a gambling casino?

The DeFazio amendment is supported by the U.S. Olympic Committee and 16 State lotteries. A number of other State directors would have supported our amendment, but they expressed concern that public opposition would lose their chances of getting a professional expansion team.

Mr. Chairman, protect States rights. Reject the Bryant amendment and support the DeFazio amendment.

The CHAIRMAN. Is any Member in opposition?

Mr. BRYANT. I am in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] is recognized for 10 minutes.

Mr. BRYANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, last year has allowed the American people to witness the spectacle of State governments beginning to either sponsor or consider sponsorship of gambling enterprises that are based on the outcome of sporting events, college games, professional games, presumably any other game that is played as well. They are mislabeled sports lotteries. I say mislabeled because they are not lotteries. They are based on the outcome of the game. They are not based on a random selection of numbers, such as the lotteries which are operated by many States.

In fact, the crime bill, the provisions of the crime bill which I sponsored and which the gentleman from Oregon [Mr. DEFAZIO] would have no impact whatsoever on regular normal State lottery operations, but it would provide that in the future the same prohibitions that apply to other types

of gambling that is listed in the Federal Code today would also apply to States who wish to sponsor gambling enterprises based on the outcome of sporting events.

□ 1230

Mr. Chairman, I submit to you that I think it does not take a very in-depth examination of this issue to conclude that that can only lead to problems; it can only lead to corruption in professional sports, that it can only lead to corruption in amateur sports, that it cannot lead to anything other than trouble. That is why we have, in support of the provisions which are in the crime bill now, the support of all the professional sport franchising organizations, including the National Football League, the National Basketball Association, professional baseball, and many others, as well as the president of the International Association of——

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield on the corruption point?

Mr. BRYANT. I yield to the gentleman from Oregon.

Mr. DEFAZIO. I thank the gentleman for yielding.

Mr. Chairman, if the gentleman's concern is truly the potential for any sort of fix or corruption, I suggest to the gentleman that perhaps the amendment should include outlawing the legal multibillion-dollar gambling that goes on in the State of Nevada. I would wonder why that was not included in the amendment, why it only targets State lotteries and particularly the State of Oregon, which has the only lottery.

Mr. BRYANT. Because the gambling that goes on in the State of Nevada is not sponsored by the State of Nevada; it is sponsored by private entrepreneurs who have been permitted to gamble there for many, many years.

The provisions that I have placed in the crime bill are provisions which are designed to prohibit States like yours from raising money in a way that I think is totally improper. First of all, it is a questionable way to run a government.

Second, it is only going to encourage problems in professional sports and college sports because those types of operations are based upon the scores of the games, not based upon random choices of numbers.

That is why all of the sports organizations support the bill as it is presently written and why I strongly urge Members to vote against the DeFazio amendment.

Mr. Chairman, I urge the House to reject the amendment of Representative DEFAZIO seeking to strike section 2202, the sports-lottery provision of the crime bill. I introduced this provision as separate legislation—H.R. 4843—on May 17, together with two other bills aiming to prohibit state-sponsored sports lotteries by other means. Section 2202 was adopted without dissent by the Judiciary Committee on July 23 after debate following presentations to committee members and staff by proponents and opponents of the measure.

Section 2202 amends chapter 61 of title XVIII to make clear that the Federal lottery laws apply fully to State-sponsored lotteries.

Chapter 61 prohibits the transportation of lottery tickets or advertisements in interstate commerce and the mailing of lottery tickets, advertisements, or other lottery-related information or material. Officers and employees of the Postal Service are forbidden to act as agents of any lottery office. Radio or television stations may not broadcast advertisements or information concerning any lottery.

In 1975, Congress added section 1307 to chapter 61 to exempt State lotteries from these prohibitions. But Congress at the same time limited the class of lotteries to which the exemption applies, specifying in section 1307(d) that the exemption applies only to lotteries that do not involve "the placing or accepting of bets or wagers on sporting events or contests."

Oregon has undertaken, and other States have considered—but so far have uniformly rejected—sports lotteries based on the games of the National Football League and the National Basketball Association. These States may believe that section 1307 exempts sports lotteries despite the language of section 1307(d). The U.S. attorney and the Justice Department have not acted against the State sports lottery, perhaps because of uncertainty about the scope of section 1307(d).

By providing expressly that State sports lotteries are not exempt from the prohibitions of chapter 61, section 2202 eliminates any uncertainty in this regard and serves notice that any sports lottery conducted by a State in violation of chapter 61 will invite prosecution.

Section 2202 is intended to serve the substantial governmental interest in minimizing the association between gambling and professional and amateur sports fostered by State-sponsored sports lotteries. The legislation would serve that interest, directly and effectively, either by discouraging any State from conducting, or continuing to conduct, any sports lottery based on actual professional or amateur athletic contests, or by preventing any State from bombarding the public—especially youngsters—with sports-lottery advertisements and promotions, which foster the association Congress wishes to avoid.

My amendment does not prohibit legalized private enterprise gambling such as permitted in Las Vegas, nor does it in any way inhibit a State from using a sports theme in an instant win, scratch card lottery game.

I understand that the U.S. Olympic Committee is considering loaning its logo to States to use in these instant play and win scratch card games; such an effort would not be prohibited by my amendment. Such scratch games for instant play and win are not sporting games or events, but simply use sporting themes as their base.

State sports lotteries threaten the integrity and character of professional and amateur sports, undermining public confidence in the games and the athletes who participate in them and communicating negative values about sports to the Nation's youth. State sports lotteries make sports betting a public institution, incorporating it into the fabric of public life and giving it the stamp of official sanction.

The President of the International Association of Chief of Police, Charles A Gruber, in a letter to Senator DENNIS DECONCINI dated June 21, 1990, condemned State-sponsored sports lotteries in these terms:

We should not allow the intermingling of professional sports and legalized gambling. To do so would severely undermine public confidence in the integrity of professional football, and possibly present the law enforcment and criminal justice systems with other problems.

Government should not promote or encourage any association between professional or amateur sports and betting, gambling, or wagering by conducting lotteries that capitalize on the popularity of athletic contests. And, like the States, private and other governmental organizations that enjoy the exemption of section 1307 should not be permitted to claim Federal sanction for sports lotteries.

Section 2202 amends section 1307 by providing expressly that the prohibitions of sections 1301–1304 apply to any sports-related lottery. It deletes from subsection (d) of section 1307 the language concerning "the placing or accepting of bets or wagers on sporting events or contests." In place of that language, the legislation adds a new subsection (e).

The new subsection (e) defines "sports-related lottery" to mean any undertaking that involves the sale of tickets or chances and the awarding of prizes based, directly or indirectly (through the use of geographical references or otherwise) on any professional or amateur sporting event or contest or any combination thereof, other than a horse race, which is conducted by a State acting under the authority of State law or by a not-for-profit organization or a governmental organization, or which is conducted as a promotional activity by a commercial organization if clearly occasional and ancillary to the primary business of the organization.

Some opponents of section 2202 have suggested that the provision would cover lotteries that merely have a "sports theme." This is incorrect. The provision would cover only lotteries based on the results of actual games between real teams. Contrary to these opponents, such lotteries do not account for any significant State revenues because only one State—Oregon—currently has such a lottery. Scratch games or sports theme lotteries that do not involve actual sports contests and that do not use professional or amatuer team names, logos, or scores or otherwise affect copyright or trademark rights would not be affected.

Section 2202 is necessary to protect the integrity and reputation of professional and amateur sports—to minimize their unwanted association with gambling. I strongly urge you to reject the DeFazio amendment seeking to strike section 2202 from the crime bill.

I would draw the attention of Members to the following legal memorandum relating to the constitutionality of section 2202:

SEPTEMBER 25, 1990.

MEMORANDUM

Section 2202 would amend Section 1307 of Title 18 to make clear that the prohibitions of Sections 1301-1304 apply fully to state-sponsored sports lotteries. Opponents of Section 2202 have suggested that the provision raises constitutional concerns, citing the decision of a federal district court earlier this year in *Edge Broadcasting Co.* v. *United States*, 732 F. Supp. 633 (E.D. Va. 1990), appeal pending, No. 90-2668 (4th Cir.).

The suggestion that Section 2202 may be constitutionally infirm under this case is incorrect.

Edge involves a challenge to Sections 1304 and 1307, as applied in the circumstances of the case. Those provisions prohibit radio and television stations from broadcasting lottery advertising and information in non-lottery states. Edge Broadcasting operates a radio station that broadcasts from North Carolina, a non-lottery state. More than 92 percent of the station's listeners reside in Virginia, a lottery state.

The district court ruled in February that Sections 1304 and 1307 violate the First Amendment as applied to the station's broadcast of advertisements for the Virginia lottery. The court ruled that applying those provisions to prohibit the station's broadcast of such advertisements fails the "third prong" of the four-part test set forth by the Supreme Court in the *Central Hudson* case for restrictions on commercial speech.

Under the third prong of the *Central Hudson* test, a restriction on commercial speech is invalid unless it "directly advances" the governmental interest the restriction is claimed to serve. The federal government claimed that prohibiting the radio station's broadcast of advertisements for the Virginia lottery in North Carolina served North Carolina's interest in reducing lottery participation by its own citizens.

The district court held that Sections 1304 and 1307 were an "ineffectual means" of serving this interest because North Carolina residents within the station's service area receive most of their radio, television and newspaper communication from Virginia-based media. The court concluded that the influence of the station's advertisements on lottery participation by these North Carolinians was participation by these North Carolinians was "speculative" and "marginal" at most.

Section 2202 would not be vulnerable to similar First Amendment challenging because it unquestionably would serve—directly and effectively—the substantial governmental interest in minimizing the association between gambling and professional and amateur sports fostered by state-sponsored sports lotteries.

Section 2202 unquestionably would serve this interest either by discouraging state sports lotteries altogether (by prohibiting the states from advertising them in any interstate media) or by preventing the states from bombarding the public (especially youngsters) with sports-lottery advertisements and promotions, which foster the association Congress wishes to avoid.

Because Section 2202 would apply to all sports-lottery advertising by all interstate media, its effect would be clear and direct. For that reason, Section 2202 would not be vulnerable to challenge under the third prong of the *Central Hudson* test, or to invalidation under *Edge*.

"Q. Doesn't Section 2202 raise constitutional questions? Hasn't a federal court recently ruled that, under the First Amendment, Congress can't prohibit lottery advertising?

"A. No. In the case you are referring to, the district court ruled that the ban on lottery advertising violated the First Amendment in the peculiar circumstances of the case, which involved advertising for the Virginia lottery by a radio station located just over the border in North Carolina. The court ruled that the advertising ban violated the First Amendment because it did not "directly advance" the goal of reducing lottery participation by North Carolinians who lived within the station's service area.

"Section 2202, by contrast, would directly and effectively advance the substantial governmental interest in minimizing the association between gambling and professional or amateur sports—either by discouraging state sports lotteries altogether (by preventing sports lottery advertisements in interstate media), or by prohibiting sports-lottery advertisements and promotions in the mass media, which foster the assocation we wish to avoid."

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS], chairman of the committee.

Mr. BROOKS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the amendment.

From little leagues to national franchises, sports permeate American life. Through sports, our children are taught team spirit, cooperative play, and the adage that, "It's not whether you win or lose that counts, it's how you play the game."

Now it seems that the States are threatening to undermine the essence of the American love of sports. In their quest for easy money, some States are contemplating establishing lotteries based on professional sports. One State already has such a lottery. Others may soon follow suit. These lotteries threaten to impair public confidence in the integrity of sports contests, place undue burdens on team players and coaches, and send conflicting messages to the youth of our country about the true importance of the games. One message they would send is that, "It's not just whether you win or lose—the point spread is important, too."

Mr. Chairman, Federal law now exempts State-run lotteries from the Federal prohibition against using interstate commerce, broadcasting, or the mails to further gambling interests. This exemption, however, does not specifically include or exclude State-run lotteries on sports. Section 2202 of the crime bill is meant to clear up any uncertainty on that point in the current law. This provision of the crime bill makes it abundantly clear that sports lotteries, even if they are State run, will not be exempt from Federal law.

We will not give it to those who would subvert a good, clean American pastime. I urge all Members to oppose this amendment and preserve for our children the pleasure of the games, uncompromised by gambling interests.

Mr. DeFAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. ROBERT F. "BOB" SMITH.]

Mr. ROBERT F. "BOB" SMITH. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the DeFazio amendment. I want to point out for just a minute this is an Oregon lottery program on professional sports. Where does the money go?—$2.7 million goes to intercollegiate sports for young people about whom the chairman was just talking, and to economic development.

Goodness knows we need that.

I think it is hypocrisy for us to say that we cannot have a lottery on professional sports when they do in Nevada. I do not think we have corrupted the dogs and the dog racing program, nor have we corrupted the horse racing in Texas. But now suddenly we are going to corrupt professional sports because they are played on a court or on a field.

I think it is ridiculous to deny States this opportunity to fund intercollegiate sports in their own State, hurting no one.

Mr. BRYANT. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. MCCOLLUM], to engage in a colloquy.

Mr. MCCOLLUM. I thank the gentleman for yielding.

Mr. Chairman, I want to support the gentleman, I am opposed to this amendment, by the way, because I really do believe that betting on sports with a lottery system, especially college sports, is very wrong.

But I want to clarify a couple of things with the gentleman from Texas, to make sure that his amendment does not cover some things that a few of the lotteries have been concerned about, and I do not think it does. That is not my interpretation. But I want to find out.

One of them is, some of the lottery folks have been asking me whether the provisions of the gentleman's amendment which are in the bill now would prohibit a lottery from advertising its lottery at a sporting event like in the Orange Bowl or Rose Bowl or whatever, or using a visor cap saying "Lotto" on it, putting an ad in the football program, something like that. Would the gentleman confirm for me that his provisions, the provisions in this bill, would in no way prohibit that?

Mr. BRYANT. Yes, and I thank the gentleman for asking the question. The bill would in no way prohibit that. The bill would not prohibit or affect anything unless it is related to the score of an actual athletic contest. The amendment does not prohibit legalized private enterprise gambling

such as is permitted in Las Vegas, nor does it in any way prohibit a State from using a sports game in an instant-win scratchcard lottery game.

Mr. McCOLLUM. If you have one of those instant tickets and you have a baseball game as a sort of the gimmick of it but it is not a real game, not a real baseball game, that is, it is just the theme of baseball in the lotto with the runs, the hits and the errors and all that, you would not have any problem with that under your provisions?

Mr. BRYANT. This amendment would not touch that in any way.

Mr. McCOLLUM. It would not touch advertising in any way?

Mr. BRYANT. That is correct.

Mr. McCOLLUM. I thank the gentleman.

I am opposed to the amendment and in favor of Mr. BRYANT.

Mr. BRYANT. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. McMILLEN].

Mr. McMILLEN of Maryland. Mr. Chairman, I rise today in opposition to the DeFazio amendment although I appreciate his reasons. As a former college and professional athlete, I believe this amendment would damage the integrity of intercollegiate and professional sports, and allow for yet another regressive tax to be placed on American citizens.

The committee bill includes a provision authored by Mr. BRYANT which would outlaw sports lotteries. I commend this provisions and urge that the DeFazio amendment be defeated.

In an age when the Federal Government is heaping more responsibility on States, and mandate that they carry out our noble ideas, State governments are becoming more creative in their search for revenue.

Mr Chairman, I believe the use of sports lotteries will hurt this Nation in the long run and has a corrupting influence on sports.

First, a lottery is the most regressive revenue measure of all, pandering on the fleeting hopes of our poorest citizens. These people should be the beneficiaries of our social spending—not the source of it.

Moreover, Government-sponsored sports gambling is incompatible with the integrity of athletic competition, both in fact and in public perception. Using government resources to advertise and promote sports betting appears to legitimize a relationship between sports and gambling. In so doing, it undermines the purpose of sports as a contest of athletic skills and the status of athletes as role models.

It feeds an addiction in our society that we should be combating, not encouraging. Some argue, "there's going to be gambling anyway"—but, is it really the role, the responsibility, and the goal of government to encourage this activity.

I say "no," Mr. Chairman. By voting for the DeFazio amendment, this body will be condoning yet another activity that we otherwise hope to dissuade.

As you consider the DeFazio amendment, think about how the embarrassment and human tragedy of a gambling scandal affecting your university or local professional sports team would outweigh the minor increases in government revenues from sports lottery games. It is in the public interest to maintain the integrity of intercollegiate and professional sports. Gambling is bad for sports and government should not be in the sports gambling business. I urge you to join me in opposing the DeFazio amendment.

Mr. BRYANT. Mr. Chairman, I reserve the balance of my time.

Mr. DEFAZIO. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman three things about the provision this amendment strikes make me so angry that my words could be taken down if I told the Members what I thought about it and its author.

The Bryant provision affects one State, my State, the State of Oregon. It was stuck in this bill by the gentleman from Texas without notice to anyone in the Oregon delegation, although our State's delegation is the only one affected.

It was the product of no committee hearings in the Committee on the Judiciary. No member of Oregon's delegation had a chance to evaluate, make their thoughts heard to the committee when this amendment was being drafted.

I had to read about the gentleman's amendment in the newspaper!

How would the gentleman like it if I offered a Stealth amendment in my committee, the Defense Subcommittee, and outlawed some oil advantages in the Tax Code? How would the gentleman like it if I offered another Stealth amendment in my committee, the Defense Subcommittee, and outlawed all funding for Sematech?

□ 1240

Mr. Chairman, I should think the gentleman would expect advance notice from me and that would be correct. But that's not what happened here.

I do not do business this way, and I am sorry that the gentleman from Texas [Mr. BRYANT], and the NFL and other sports associations seem to think that is the way business should be done around here.

Mr. BRYANT. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. No, I am not going to yield right now.

Second, I am upset that the major sports leagues claim that the Oregon State regulated sports lottery poses, as the gentleman says, a threat of corruption for professional sports.

Corruption? Corruption? If there is a threat of corruption by professional sports, what about the multibillion-dollar gambling empire in Las Vegas? What about the influence of the bookies who are crawling under every rock out in Las Vegas? Is this form of wagering OK just because the gentleman says its a form of private sector wagering? Nonsense.

My time has expired, but I just want to say to the gentleman, I resent this procedure. I resent this amendment. I know we don't have the votes because you caught us by surprise, but there is a conference, Mr. BRYANT, and I want you to know that this matter is not over now.

Mr. BRYANT. Mr. Chairman, I yield myself such time as I may consume to observe that I think what I resent in this body is feigned indignation on the part of anyone who would come to the floor of this House and act like he has not known for 1 month or 2 months that this amendment was pending here.

Mr. DEFAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Chairman. I rise with the rest of the Oregon delegation in strong support of the DeFazio amendment. The language in the crime bill that would do away with State-sponsored sports lotteries is unfair and misguided.

The regulation of gambling and lotteries has traditionally been left to the States. The States have an outstanding record of using the highest standards of security and integrity in running their lotteries. Funds from these lotteries have been used for public education, economic development, cities and towns, senior citizens and State general funds. The Congress should not take action against this vital source of State revenue without first giving a fair hearing to all sides of the issue. No such hearing has been given.

Like other State lottery games, Oregon's "Sports Action" is a lawful, carefully regulated game based predominantly on chance. Wagers are small, and players must pick the outcomes of multiple games based on pointspreads. It is absurd to think that anyone could fix the outcomes of 3 to 14 sports events for a share of a State lottery pool. As for copyrights, the game is based only on the results of the events, and identifies the teams only by city. It uses no team names, logos, colors or other identifying marks of professional sports.

I urge my colleagues to vote for States rights and support the DeFazio amendment.

Mr. DEFAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. WYDEN].

Mr WYDEN. Mr. Chairman and my colleagues, I rise in support of the amendment of the gentleman from Oregon [Mr. DEFAZIO], and more than anything I am just stunned about the NFL's misplaced sense of priorities. Just in the last week we have seen serious allegations of sexual harassment in an NFL locker room. Hardly a week goes by that we do not hear about problems with drug use in the NFL.

However, Mr. Chairman, instead of focusing on those serious matters, what the NFL is busy doing is going after Oregon's sports lottery, and I hope that the Members will read specifically the language in the proposal of the gentleman from Texas [Mr. BRYANT]. What it would do is impose criminal penalties, criminal penalties, on State officials in a way that is so vague and so broad that I think there are serious questions about whether or not the Bryant legislation would impose these penalties on a friendly neighborhood softball game in which raffle tickets were sold to raise money for charity.

Mr. Chairman, this is not the way to legislate. This is not the way to go forward in a responsible fashion. I hope my colleagues will support the amendment of the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, could I ask how much time remains on both sides?

The CHAIRMAN. The gentleman from Oregon [Mr. DEFAZIO] has 4 minutes remaining, and the gentleman from Texas [Mr. BRYANT] has 1½ minutes remaining.

Mr. DEFAZIO. Mr. Chairman, do I have the right to close?

The CHAIRMAN. No; the gentleman from Texas [Mr. BRYANT] would be representing the committee's view of this, and, therefore, he would have the right to close.

Mr. DEFAZIO. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in support of the DeFazio amendment, in support of all States' rights, and in support of sport betting enthusiasts.

Should the Bryant amendment pass, only one State in our Nation would be allowed to continue with sports betting. Only Nevada would be allowed to raise funds through the only popular revenue-raising device that I know of in existence! I object to that kind of favoritism.

My State of Washington does not have a sports lottery, but under the broad language contained in this bill, all States with lotteries are in jeopardy if they have any kind of so-called sporting theme. Thus all 32 State lotteries may be in jeopardy. Is your State one? Mine is.

I urge my colleagues to vote against the Bryant amendment.

Mr. DEFAZIO. Mr. Chairman, I yield myself such time as I may consume.

It seems, Mr. Chairman, if we were here for a high principle, and that is to become absolutely certain that across America there was no wagering of any sort on any professional sports because we feared that such wagers might somehow lead us to corruption or game fixing, then, Mr. Chairman, it seems that we would have to deal with the multibillion-dollar gambling industry in Nevada.

Now I understand that that would be very tough to do here on the floor of the House. It would probably be even tougher than taking on the National Football League, or one of the basketball leagues, or the baseball leagues. But that, Mr. Chairman, would be a principle, and perhaps a principle worth fighting for.

In fact, when Mr. Tagliabue wrote to me this week threatening me because of statements I had made regarding the NFL pressures on this amendment, I wrote back and urged him to make such a proposal, if he has such deep-seated concerns, and said I would seriously consider supporting it, but that is not the issue before us today.

This is an amendment targetted at one State, or the 32 States that have lotteries. It is not targetted at cleaning up gambling. In Nevada they set up giant helmets and jerseys, and they set the odds, and hundreds of people gather around, and individuals bet up to a million dollars on a game. If we are going to talk about who might fix a professional sports game, I think the individual who has the wherewithal to bet $1 million on the outcome of a single game might have more influence and more wherewithal to look at fixing a game than some guy in Oregon who walks into a convenience store and puts down $1 on a 4- or 12-game card.

No, the issue at hand is not whether or not this will corrupt the game. The issue at hand is the NFL probably wants a cut. That is the issue before us. There is no high principle to be debated here today. It is plainly and simply a muscle play, a power play, by the NFL, and they are picking on one little State and the other 31 States that would like to follow our lead on this lottery so that they could bet or fund intercollegiate and amateur athletics in their States, but they are being told, "If you do that, you'll never see an expansion team in your State," and those threats are documented in the press.

Mr. Chairman, I yield back the balance of my time.

Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from Oregon [Mr. DEFAZIO] is withdrawn.

It is now in order to consider amendment No. 29 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. DOUGLAS

Mr. DOUGLAS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DOUGLAS: Page 232, strike line 11 and all that follows through line 16 on page 233, and insert in lieu thereof the following:

SEC. 2204. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"§ 3509. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3509. Admissibility of evidence obtained by search or seizure.".

Mr. CHAIRMAN. Under the rule, the gentleman from New Hampshire [Mr. DOUGLAS] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from New Hampshire [Mr. DOUGLAS].

□ 1250

Mr. DOUGLAS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, what this amendment is all about is something called the exclusionary rule of evidence. Right now in our Nation's court, with only six exceptions—and those are the States of Louisiana, Mississippi, Texas,

Alabama, Florida, and Georgia—if a police officer makes a mistake in searching for or seizing evidence, that evidence, such as this, which happens to be sugar but could be narcotics, would be excluded from court unless the police officer conducted the search or the seizure with absolute perfection. If there is any mistake, if the Supreme Court opinions were not understood by the officer at 3 a.m. when the search was conducted, that evidence is excluded from the courtroom. The jury would never get to see that valid evidence.

Unlike a coerced confession under the fifth amendment, something that is unreliable evidence because it may not be a real confession but one that is coerced, this kind of evidence is real, it is solid, it is contraband, and it ought to be shown to the jury. But we require perfection from our police officers or the judge—and I was one for a decade—and must keep that out of evidence, and the jury will never see it.

We feel that is too strict a standard, that there should be some good faith permitted to allow evidence in that may not have made the 100-percent technical requirements of the Supreme Court.

The amendment that I offer would take the language in the bill, which has a good faith exception only in the case of search warrants. Right now what the bill says is that if you have a warrant, a piece of paper called a warrant, and you seize the evidence and it is technically not correct, it will still be permitted into evidence with that warrant. Let us say with an automobile or at the scene of some disturbance where the police officer senses there is a problem with a piece of evidence such as drugs, without a warrant, unless the police officer is perfect in what he or she does, the evidence is excluded.

There has been one exception to that, and that is why this bill, the way it is worded, will be a disaster in the States that have allowed a good faith exception. That one exception is in the 5th and 11th circuits, the 11th having been carved out of the old fifth. For 10 years the judges and the police officers in those States I mentioned—Louisiana, Mississippi, Texas, Alabama, Florida, and Georgia—have operated under the Douglas amendment. The committee version would strip from those six States the right to allow evidence in that is seized in good faith, because the committee version says only if you have a warrant are you going to get that evidence into court if there is a technical defect.

I think that if we overturn court opinions in six States that the Federal courts have lived with for a decade and that the U.S. Supreme Court has not overturned, we are doing a disservice. The National District Attorneys Association, 6,500 members of the National District Attorneys Association, wrote to the Members of this House and they say in paragraph of their letter that they support the Douglas amendment on reform of the exclusionary rule. The Attorney General of the United States has made it very clear that one of the vetoeable provisions of this bill is the committee version of the exclusionary rule.

So unfortunately, we are about to pass a crime bill that is going to overturn court decisions in six States, that the Attorney General says is not in the interest of law enforcement, that the district attorneys say is not in the interest of law enforcement, and that the State attorneys general say is not in the interest of law enforcement, and we are going to do that in the name of an anticrime bill.

Let us let this evidence in if it was seized in good faith with or without a warrant. Let us not have technicalities govern in that regard. Let us allow the 5th and the 11th circuit court systems to continue as they are.

I urge adoption of the amendment.

Our courts since 1961 have been in a judicial straitjacket when it comes to a judge-made rule that excludes evidence from trial unless the police are 100 percent correct. It is clear that the exclusionary rule imposes a single, inflexible, and drastic sanction without regard to the nature, circumstances, or degree of police misconduct. Whether an honest mistake, or outrageous misconduct, the result is always the same—exclude the evidence even if it means immunity from prosecution.

There can be no rational basis for applying the same sanction to an honest mistake and to outrageous misconduct. As former Chief Justice Burger stated:

I submit that society has at least as much right to expect rationally graded responses from judges in place of the universal "capital punishment" we inflict on all evidence when police error in showing in its acquisition.

The exclusionary rule has needlessly contributed to the problem of delay in our courts. Time-consuming hearings on motions to suppress often consume as much court time as the trial itself.

Remember that the function of these hearings is not to protect the innocent defendant but rather to review the police officer's conduct in an adversary fashion more appropriate to determining guilt. With its time thus consumed, it is little wonder that the courts and the public doubt the ability of the system to fulfill its principal function of conducting trials in search of the truth.

The House Judiciary version of the crime bill is a major step backward in correcting this technicality in the law. We need to modify the current exclusionary rule that prevents improperly seized evidence from being admitted in court. The current rule is too rigid and should be replaced by a more workable good faith standard, so that evidence gathered by police in good faith, in spite of some technical or paperwork errors, could be admitted in a court of law. All, too, often minor mistakes handcuff the police, and let the criminals go free.

The evidence is excluded even if it means the accused goes free. This is why I call it the rule of police perfection.

In addition to the work burden it imposes, the current exclusionary rule deceives the jury and distorts the facts by suppressing reliable, truthful evidence. Unlike questionable evidence, like a forced confession, solid physical evidence is reliable regardless of how it was gathered. Don't forget, it is the duty of judges and juries to find the truth.

The current exclusionary rule imposes a kind of artificial ignorance, forcing judges and juries to wear blinders while at the same time trying to fairly determine guilt or innocence.

Adopting instead a clear good faith standard for gathering evidence would help the police do their job better, ease the work load on the courts, and restore the people's confidence that our justice system can effectively keep criminals off the streets and protect the rights of honest citizens.

The bill before us, however, is a major step backward in this area. In fact, doing nothing would be better than enacting this.

Section 2204 of this so-called anticrime bill is purportedly a codification of three of the existing exceptions to the exclusionary rule—the Leon good faith exception for searches under warrants, the inevitable discovery exception, and the independent source exception.

However, enacting a statute that just says what the Supreme Court's caselaw already says will do nothing for law enforcement. Moreover, the language of section 2204 is actually much narrower than the existing exceptions, and it could discourage or prevent desirable caselaw developments.

The attempted codification in paragraph (1) of the good faith exception of *United States* v. *Leon*, 468 U.S. 897 (1984), limited to warrant cases, could inhibit the courts from extending the same exception to nonwarrant cases in which officers acted in an objectively reasonable belief that their conduct was lawful. The Federal courts in the 5th and 11th circuits have applied such a broader exception for 10 years—since the decision in *United States* v. *Williams*, 622 F.2d 830 (1980), may well adopt such a general good faith exception when it decides a case that squarely presents the issue.

Paragraph (2) limits the inevitable discovery exception to the exclusionary rule, see *Nix* v. *Williams*, 467 U.S. 431 (1984), to cases where the evidence would inevitably have been discovered by lawful means "within a reasonable time" and "in essentially the same condition." These limitations on the exception—within a reasonable time, and in essentially the same condition—do not exist under current law. The meaning of "reasonable time" and "essential sameness" of condition would give rise to endless litigation, and reliable evidence of guilt that is admissible under existing law would be excluded on the basis of these novel new requirements.

Similarly, paragraph (3) of section 2204 would narrow the independent source doctrine. See *Murray* v. *United States*, 487 U.S. 533 (1988); *Nix* v. *Williams*, 467 U.S. at 443–44. This doctrine, in part, admits evidence that is observed or discovered in an unlawful search, if the same evidence is later inde-

pendently obtained by lawful means. The independent source doctrine now applies in both warrant and nonwarrant case, but the formulation of paragraph (3) would arbitrarily limit it to warrant cases.

A further problem with section 2204 is that it selects a few of the existing exceptions to the exclusionary rule, but says nothing about the many other exceptions that are recognized under current law. For example, the exclusionary rule does not bar the use of evidence to impeach a defendant's testimony at trial, does not bar the use of evidence obtained in objectively reasonable reliance on an invalid statute, and does not bar the use of evidence having a sufficiently attenuated relationship to a fourth amendment violation. See *James* v. *Illinois,* 110 S. Ct. 648, 651–52 (1990); *Illinois* v. *Krull,* 480 U.S. 340 (1987); *United States* v. *Ceccolini,* 435 U.S. 268 (1978). The exclusionary rule is also generally inapplicable in habeas corpus proceedings and wholly inapplicable in grand jury and deportation proceedings. See *Stone* v. *Powell,* 428 U.S. 465 (1976); *United States* v. Calandra, 414 W.S. 338 (1974); INS v. *Lopez-Mendoza,* 468 U.S. 1032 (1984).

Under the formulation of section 2204, defendants could argue that a codification limited to three specific exceptions reflects implicit legislative disapproval of the other existing limitations should accordingly be reconsidered. Hence, section 2204 not only fails to provide an accurate codification of the exceptions it purports to address, but also potentially jeopardizes the exceptions and limitations it does not address.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New Hampshire [Mr. DOUGLAS].

The exclusionary rule puts teeth into the fourth amendment's protections against unreasonable searches and seizures. By prohibiting the use of illegally obtained evidence, the rule provides a solid deterrent against the use of improper procedures by law enforcement officers. In addition, there are no viable alternatives to the rule. As the Supreme Court stated nearly 30 years ago in the landmark case of Mapp versus Ohio, "other remedies have been worthless and futile."

While there is absolutely no reason to do away with the exclusionary rule, the Judiciary Committee recognized the need to update it. Thus, the bill reported by the committee codifies three exceptions to the rule created by Supreme Court decisions over the years. The most important of the three codifies a good faith exception for searches and seizures conducted under a warrant.

The amendment by the gentleman from New Hampshire would create a broader good faith exception that would cover searches and seizures carried out without a warrant. The Judiciary Committee considered and rejected this amendment when the gentleman offered it during markup of the crime bill. A key reason for the committee's rejection was that this approach would undercut incentives for police officers to use warrants when conducting searches and seizures. In addition, it would be difficult to apply such a rule because it would require a judge to determine what constitutes a reasonable mistake of law by an officer. In short, the gentleman's amendment simply goes too far.

The exclusionary rule has served us well in protecting our cherished fourth amendment rights and it should not be tampered with. I, therefore, urge my colleagues to oppose the gentleman's amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. DOUGLAS. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, the people I represent in Oregon are tired of justice only working for the criminal. I think that law-abiding citizens and victims of crime need to be protected. Our current system of justice puts criminals' rights ahead of citizen's and victims' rights. One criminal right is, of course, the so-called exclusionary rule which often disqualifies perfectly good evidence simply because a policeman acts slightly improperly in the heat of an arrest.

No one wants unconstitutional and unreasonable searches and seizures, but we must put the reasonable back in our legal system. In my opinion, the provisions in the bill do not do nearly enough to restore reasonableness in the collection of evidence. In fact, they may jeopardize the narrow exceptions we already have.

This amendment does put reason back in the Constitution's fourth amendment protections. The exclusionary rule needs fixing for several reasons, but mostly because the rule now punishes the police officer and lets the criminal go free to endanger law-abiding citizens. In effect, it puts blinders on judges and juries and asks them to determine guilt or innocence without the benefit of seeing all the relevant evidence.

The Douglas amendment allows evidence collected in good faith to be acceptable in a trial. It gives the police officer who carries out a search the benefit of the doubt rather than making him responsible for the technical conformity of a warrant. This amendment removes the blinders so that evidence collected in good faith can be used to put the criminal behind bars.

The guilty criminal should not go free simply because a police officer made an honest mistake or is himself the victim of one not of his own doing.

Mr. Chairman, a vote for the Douglas amendment is a vote for reasonableness in law enforcement and a vote for putting law-abiding citizens' rights ahead of criminals' rights.

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. SANGMEISTER].

Mr. SANGMEISTER. Mr. Chairman, I wish to thank the chairman of the committee, the gentleman from Texas [Mr. BROOKS] and the subcommittee chairman, the gentleman from New Jersey [Mr. HUGHES], for bringing forth this piece of legislation.

There were three things that I think all of us were concerned about in getting a crime bill out here, which is of importance to all of us: One is the death penalty, another was on habeas corpus, and of course, this is the other one, the one on the exclusionary rule.

I was very pleased to see that the committee accepted the recommendations I made on the exclusionary rule. I think we have to understand that today, as the law and the statutes are written, there is nothing, absolutely nothing, in the law on the exclusionary rule except the case law that has evolved from the U.S. Supreme Court.

□ 1300

I thought it very logical that what we ought to do is codify that law at this point as the first step toward doing something with the exclusionary rule. So in United States versus Leon, we have now codified the fact that the good faith exception is there, and we all accept that. In Nix versus Williams we have the inevitable discovery exception. In Segura versus United States, we have the facts from an independent source. I think that is exactly what we should have in this bill, and that is the way it ought to stay.

I ask Members to look at the amendment that the gentleman from New Hampshire [Mr. DOUGLAS] is asking us to adopt. His amendment says evidence shall not be excluded if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment.

I do not know exactly what that means. I do not think the courts know exactly what that means, when we talk about objectively, and reasonable belief. We are talking now about a warrant, a searchless warrant, and that is where the big difference comes in.

I would say to Members that it is time that we take a good look at what the fourth amendment actually says. It is brief enough that I think we ought to read it.

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches

and seizures shall not be violated, and no warrant shall issue but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the persons or things to be seized.

We are now going to go forth from what our forefathers have told us and have warrantless searches? This is not what our forefathers wanted. I can understand as a former prosecutor myself the disappointment that the courts have or that prosecutors have or police officers have when certain evidence that has been seized cannot be admitted.

If it is done with a search warrant, if it is done under the clause we have in the bill, it should be allowed to be admitted.

The Senate bill as I understand it has absolutely nothing to do with the exclusionary rule in it. I am afraid if we put in the Douglas amendment, what is going to happen is when it does go into conference, the Senate is going to throw this thing out or the conference committee altogether.

Mr. Chairman, I suggest we leave in what is in here. Let us codify the existing law. It is a first step forward. Let us not play around with warrantless searches at this time.

Mr. DOUGLAS. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding. This is one of the most important amendemnts that will be offered to this crime bill, and one of the most important votes that Members will make with regard to law enforcement in the time they serve in the U.S. House of Representatives.

We need to vote to pass this exception to the exclusionary rule if we are going to let our law enforcement people be able to get into evidence what they seize in these drug bust cases whre they do not have a search warrant, but they do not violate anyone's constitutional rights intentionally, but someone comes along with a technicality later and throws out the evidence.

There are hundreds of cases thrown out every year on the basis of the so-called exclusionary rule. All the Douglas amendment does is codify what is already in court law with regard to searches with warrants, and says with warrantless searches, police officers' evidence will be treated the same way if they have acted in good faith. It uses exactly the court language with this.

Mr. Chairman, if we do not do that and leave the bill the way it is, we will actually change the law in a lot of jurisdictions on this issue and allow less evidence in.

Mr. Chairman, if Members want more convictions, if Members want to support their local police, if Members want to get tough with law enforcement, vote for the Douglas amendment on search and seizures.

Mr. BROOKS. Mr. Chairman, I reserve the balance of my time.

Mr. DOUGLAS. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, there is a perception in this country that people aren't safe on the streets, or safe in their homes.

It doesn't take a Ph.D. to know that the fear of crime is real. We've all seen the statistics. There is one murder in this country every 24 minutes, one robbery every minute, one burglary every 10 seconds, one aggravated assault every one-half minute, and the list goes on.

According to one poll, 84 percent of Americans believe that crime is getting worse. At least 4 in 10 Americans are afraid to walk alone in their neighborhoods after dark.

Americans are sick and tired of criminals on our streets and in our courts. They use our justice system as if it's a one-way avenue—back to the street—back to crime.

Police officers tell me that if we could make one reform, it should be correcting the exclusionary rule. I agree.

People are most assuredly sick and tired of being victimized by criminals. But they are totally fed up with watching as the few criminals who are caught walk away—free on a technicality. The criminal is guilty, no question there, but he goes free on a legal hitch.

I am pleased to stand here today and support the efforts of Mr. DOUGLAS and Mr. SMITH. Their amendent would provide a limited exception for cases in which police had a reasonable, good faith belief that evidence was seized lawfully. It would help restore confidence, reason, and sanity to the criminal justice process.

The House passed similar language overwhelmingly in 1986 and 1988. Its enactment into law is long overdue. I urge my colleagues to vote for the amendment.

Mr. DOUGLAS. Mr. Chairman, I yield myself 30 seconds.

Mr. DOUGLAS. Mr. Chairman, I just want to say that the gentleman from Illinois [Mr. SANGMEISTER] makes it sound like there are no warrantless searches in the United States, and that somehow this would create them. That is pure bunk. We have warrantless searches every day. Most searches are warrantless.

Mr. Chairman, our police officers are high school graduates. They are not lawyers, they are not judges. Judges wrestle over these cases for 2 and 3 and 4 years after the search has occurred. All this amendment does is say that if the object was seized in good faith, but the police officer only got a 98 on the exam of law, not 100, we are going to allow it in front of those 12 jurors so they can decide the case without technicalities.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment being offered by the gentleman from New Hampshire [Mr. DOUGLAS]. This amendment would codify the good faith exception to the exclusionary rule in cases of warrantless searches. Under this exception, the exclusionary rule could not be used to suppress evidence at trial if it was seized without a warrant by a law enforcement officer who, although mistaken, was acting with the objectively reasonable and good-faith belief that his actions were legal. There is considerable merit in establishing such an exception to the exclusionary rule. I cannot support the amendment, however, for the following reasons.

First, although reasonable on its face, I am concerned about the potential that such an exception would have for abuse. It is an invitation to mischief that might result in an erosion of fourth amendment rights. Both the exclusionary rule itself, and the good-faith exception, are judicially created doctrines. Over the years the courts have successfully eliminated some of the excesses of the exclusionary rule by developing a series of exceptions. The U.S. Court of Appeals for the Fifth Circuit has adopted the good-faith exception in warrantless search cases. I would prefer to allow this natural evolution of the rule and its exceptions to continue before any further legislative action is taken. At the very least I want more information about the experience in the fifth circuit before I vote to extend the scope of the exclusion as proposed.

Second, the exclusionary rule has been an extremely controversial issue within the law enforcement community for decades and remains so today. The bill before us already contains a number of similarly controversial issues. Inclusion of this amendment, in my view, would threaten the chances of this important anticrime package achieving final enactment into law. We are carrying enough of a load.

Finally, I have consistently supported the provisions in the bill codifying three other exceptions to the exclusionary rule: Good-faith reliance on search warrants, inevitable discovery and independent source. I believe that these provisions serve to ensure that the exclusionary rule is not applied in clearly inappropriate circumstances.

Mr. DOUGLAS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire [Mr. DOUGLAS].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DOUGLAS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 265, noes 157, not voting 11, as follows:

[Roll No. 424]

AYES—265

Alexander	Hall (TX)	Porter
Andrews	Hammerschmidt	Price
Anthony	Hancock	Pursell
Applegate	Hansen	Quillen
Archer	Harris	Rahall
Armey	Hastert	Ravenel
Aspin	Hatcher	Ray
Atkins	Hefley	Regula
Baker	Hefner	Rhodes
Ballenger	Henry	Richardson
Barnard	Herger	Ridge
Bartlett	Hiler	Rinaldo
Barton	Holloway	Ritter
Bateman	Hopkins	Roberts
Bates	Houghton	Rogers
Bennett	Hubbard	Rohrabacher
Bentley	Huckaby	Roth
Bereuter	Hunter	Roukema
Bevill	Hutto	Rowland (CT)
Bilbray	Hyde	Rowland (GA)
Bilirakis	Inhofe	Russo
Bliley	Ireland	Saiki
Boehlert	Jacobs	Sarpalius
Borski	Jenkins	Saxton
Bosco	Johnson (CT)	Schaefer
Broomfield	Johnson (SD)	Schiff
Browder	Johnston	Schneider
Brown (CO)	Jones (GA)	Schuette
Buechner	Jones (NC)	Schulze
Bunning	Kanjorski	Sensenbrenner
Burton	Kasich	Sharp
Bustamante	Kolbe	Shaw
Byron	Kolter	Shays
Callahan	Kyl	Shumway
Campbell (CO)	Lagomarsino	Shuster
Chandler	Lancaster	Sisisky
Chapman	Laughlin	Skeen
Clarke	Leach (IA)	Skelton
Clement	Leath (TX)	Slaughter (VA)
Clinger	Lent	Smith (FL)
Coble	Lewis (CA)	Smith (NE)
Coleman (MO)	Lewis (FL)	Smith (NJ)
Combest	Lightfoot	Smith (TX)
Condit	Livingston	Smith (VT)
Conte	Lloyd	Smith, Denny (OR)
Cooper	Long	
Courter	Lukens, Donald	Smith, Robert (NH)
Cox	Machtley	
Craig	Madigan	Smith, Robert (OR)
Crane	Manton	
Dannemeyer	Marlenee	Snowe
Darden	Martin (IL)	Solomon
Davis	Martin (NY)	Spence
de la Garza	Martinez	Spratt
DeLay	Mazzoli	Stallings
DeWine	McCandless	Stangeland
Dickinson	McCollum	Stearns
Dicks	McCrery	Stenholm
Dornan (CA)	McCurdy	Stump
Douglas	McDade	Sundquist
Dreier	McEwen	Tallon
Duncan	McGrath	Tanner
Dyson	McMillan (NC)	Tauke
Edwards (OK)	McNulty	Tauzin
Emerson	Meyers	Taylor
English	Michel	Thomas (CA)
Erdreich	Miller (OH)	Thomas (GA)
Fascell	Miller (WA)	Thomas (WY)
Fawell	Molinari	Traficant
Fields	Montgomery	Udall
Fish	Moorhead	Upton
Flippo	Morrison (WA)	Valentine
Frank	Murtha	Vander Jagt
Frenzel	Myers	Volkmer
Gallegly	Neal (NC)	Vucanovich
Gallo	Nelson	Walgren
Gaydos	Nielson	Walker
Gekas	Ortiz	Walsh
Geren	Oxley	Watkins
Gillmor	Packard	Weber
Gilman	Pallone	Weldon
Gingrich	Parker	Whittaker
Goodling	Parris	Wilson
Goss	Pashayan	Wolf
Gradison	Patterson	Wyden
Grandy	Paxon	Wylie
Grant	Payne (VA)	Yatron
Green	Penny	Young (FL)
Guarini	Petri	
Gunderson	Pickle	

NOES—157

Ackerman	Gordon	Olin
Anderson	Gray	Owens (NY)
Annunzio	Hamilton	Owens (UT)
AuCoin	Hawkins	Panetta
Beilenson	Hayes (IL)	Payne (NJ)
Berman	Hertel	Pease
Boggs	Hoagland	Pelosi
Bonior	Hochbrueckner	Perkins
Boucher	Horton	Pickett
Boxer	Hoyer	Poshard
Brennan	Hughes	Rangel
Brooks	James	Roe
Brown (CA)	Jontz	Rose
Bruce	Kaptur	Rostenkowski
Bryant	Kastenmeier	Roybal
Campbell (CA)	Kennedy	Sabo
Cardin	Kennelly	Sangmeister
Carper	Kildee	Savage
Carr	Kleczka	Sawyer
Clay	Kostmayer	Scheuer
Coleman (TX)	Lantos	Schroeder
Collins	Lehman (CA)	Schumer
Conyers	Lehman (FL)	Serrano
Costello	Levin (MI)	Sikorski
Coyne	Levine (CA)	Skaggs
DeFazio	Lewis (GA)	Slattery
Dellums	Lipinski	Slaughter (NY)
Derrick	Lowey (NY)	Smith (IA)
Dingell	Markey	Solarz
Dixon	Matsui	Staggers
Donnelly	Mavroules	Stark
Dorgan (ND)	McCloskey	Stokes
Downey	McDermott	Studds
Durbin	McHugh	Swift
Dwyer	McMillen (MD)	Synar
Dymally	Mfume	Torres
Early	Miller (CA)	Torricelli
Eckart	Mineta	Towns
Edwards (CA)	Mink	Traxler
Engel	Moakley	Unsoeld
Espy	Mollohan	Vento
Evans	Moody	Visclosky
Fazio	Morella	Washington
Feighan	Morrison (CT)	Waxman
Flake	Mrazek	Weiss
Foglietta	Murphy	Wheat
Ford (TN)	Nagle	Whitten
Frost	Natcher	Williams
Gejdenson	Neal (MA)	Wise
Gephardt	Nowak	Wolpe
Gibbons	Oakar	Yates
Glickman	Oberstar	
Gonzalez	Obey	

NOT VOTING—11

Coughlin	Hayes (LA)	Robinson
Crockett	LaFalce	Ros-Lehtinen
Ford (MI)	Lowery (CA)	Young (AK)
Hall (OH)	Luken, Thomas	

□ 1332

Mr. DERRICK and Mr. MARKEY changed their vote from "aye" to "no."

Messrs. ATKINS, BORSKI, and FASCELL changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. THOMAS of Georgia. Mr. Speaker, on roll call 424 I inadvertently recorded my vote as "no." It was a mistake, and I intended to vote "aye."

The CHAIRMAN pro tempore (Mr. BENNETT). It is now in order to consider amendment No. 30, printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WAXMAN: Page 239, after line 5, add the following new section:

SEC. 2214. EFFECTS OF DRUG-RELATED VIOLENCE ON TRAUMA CARE.

Subpart I of part D of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new section:

"SEC. 330A. GRANTS WITH RESPECT TO UNCOMPENSATED COSTS OF TRAUMA-CARE CENTERS OPERATING IN AREAS SEVERELY IMPACTED BY DRUG-RELATED VIOLENCE.

"(a) IN GENERAL.—The Secretary may make grants for the purpose of providing financial assistance for the operating expenses of trauma-care centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence arising from the abuse of drugs. Grants under this subsection may be made only to such trauma-care centers.

"(b) MINIMUM QUALIFICATIONS OF TRAUMA-CARE CENTERS.—

"(1) SIGNIFICANT INCIDENCE OF TREATING PENETRATION WOUNDS.—

"(A) The Secretary may not make a grant under subsection (a) to a trauma-care center unless the population of patients that has been served by the center for the period specified in subparagraph (B) includes a significant number of patients who were treated for wounds resulting from the penetration of the skin by knives, bullets, or other weapons.

"(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma-care center involved is applying to receive a grant under subsection (a).

"(2) PARTICIPATION IN TRAUMA-CARE SYSTEM SUBJECT TO CERTAIN PROFESSIONAL GUIDELINES.—The Secretary may not make a grant under subsection (a) unless—

"(A) the trauma-care center involved is located in a State or political subdivision that—

"(i) has established a system for providing comprehensive medical care to victims of trauma in the geographic area involved; and

"(ii) has adopted guidelines for the designation of trauma-care centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons and by the American College of Emergency Physicians; and

"(B) the trauma-care center is a participant in the system.

"(c) PRIORITIES IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give priority to any application made by a trauma-care center that—

"(1) for the purpose specified in subsection (a), will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of such assistance provided under any Federal program requiring non-Federal contributions; or

"(2) with respect to the trauma-care system described in subsection (b)(2)(A)—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma-care center in the area permanently ceasing participation in the system as of a date occurring during the period specified in subsection (b)(1)(B); or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to participate in the system, resulting in a significant decrease in the availability of trauma care in the geographic area.

"(d) COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA-CARE SYSTEM.—The Secretary may not make a grant under subsection (a) unless the trauma-care center involved agrees that—

"(1) with respect to the trauma-care system described in subsection (b)(2)(A), the center will continue participation in the system throughout the 3-year period beginning on the date that the center first receives assistance under the grant; and

"(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center pursuant to subsection (a); and

"(B) an amount representing interest on the amount specified in subparagaph (A).

"(e) APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

"(f) LIMITATION ON DURATION OF SUPPORT.—The period during which a trauma-care center receives payments under subsection (a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

The CHAIRMAN pro tempore. Under the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

Mr. DANNEMEYER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from California [Mr. DANNEMEYER] will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment would authorize the Secretary of Health and Human Services to award up to $50 million in grants to help defray the uncompensated costs incurred by trauma centers arising from the drug war.

Trauma centers are the MASH units in the war against illicit drugs. Trauma centers located in the Nation's major drug trafficking regions are experiencing huge increases in the numbers of victims of drug-related violence.

The number of patients suffering from knife and bullet wounds are increasing. Uncompensated costs from such patient care are increasing.

Mr. Chairman, the damaging effects of the drug war on trauma care are real. Trauma centers have already closed in Miami, Houston, Philadelphia, Los Angeles, and Chicago.

When a trauma center closes, lifesaving services are denied to all citizens, including law enforcement officials wounded in the line of duty.

Hearings on this issue were held before the Subcommittee on Health and the Environment. Witnesses representing trauma centers in Detroit, Philadelphia, and Miami testified to the need for Federal assistance. They testified to the strong correlation between illicit drug trafficking and increasing trauma center costs. A law enforcement officer testified about the importance of a strong trauma center system as a vital medical backup to the drug agents and other law enforcement officials on the frontlines.

The American College of Surgeons recently wrote the House urging Members to support this amendment. Dr. Paul Ebert, director of the college wrote:

In the urban areas hardest hit by the drug war, hospitals that are providing some of the finest trauma care in the world are facing tremendous financial losses that are causing them to reassess their commitment to trauma * * * many are dropping out of their local trauma center networks. When trauma centers drop out of the system a domino effect results, with the remaining centers being required to assume a tremendous increase in * * * their uncompensated care burden * * *.

Tragically, the deterioration of our trauma systems does not merely translate into unnecessary death and disability among the perpetrators of violent crime, or even their innocent bystanders. Trauma systems prevent unnecessary death and disability among all members of our population; if the drug dealers cause our trauma systems to collapse, their impact on public health and safety will extend far beyond the immediate social and economic consequences of drug abuse and crime. Our family members and friends who are victims of automobile or bicycle accidents, falls, severe electric shock, lawn and garden tool accidents, and the rest are at real risk of suffering unnecessary disabilities or loss of life.

Mr. Chairman, no army should go to war without adequate medical support. If we are serious about fighting drug trafficking, and crime, we cannot allow the Nation's trauma systems to falter.

I urge support for the amendment and reserve the balance of my time.

Mr. Chairman, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Chairman, I rise in opposition to this amendment. The first reason for doing so is because it violates what I would call the rule of common sense. Last night the House was unable to come to an agreement on a deficit reduction program; considering that we are scheduled to add $364 billion to the national debt this year, it is my view that we are at a point in this Government's history when anyone who comes to the floor or in a committee with a request for yet a new program, that person, the promoter, the sponsor of the legislation or amendment must come forward with an area of existing spending in the Federal dollar stream that will be released so that this new program will take its place.

I did not hear anything uttered by the gentleman from California [Mr. WAXMAN] indicting what will be reduced so that room will be made for yet this new program. Believe me, this one is a new one.

Up until now, Public Health Service grants have been limited to such things as family planning or research. We have never used a Public Health Service grant to pay for any hospital care for patients. This is a new adventure, new development. We could say that this is a new window through which a truck of unlimited size can be driven in future years, depending on the Committee on Appropriations willingness to fund this function at future levels.

□ 1340

The gentleman from California [Mr. WAXMAN] for whom I have the greatest respect, is an adroit developer of the legislative and appropriating process in the Federal Government in the area of health care, and there is no doubt in my mind that if this amendment gets adopted in future years it will be used as a means of providing further Federal tax dollars for the need that he has now identified.

The administration is opposed to this bill. I can say to my colleagues that we considered this proposal in the Energy and Commerce Committee, a similar proposal by my colleague, the gentleman from California [Mr. BATES] for trauma centers. The committee declined to process it out of committee, so I think what we are witnessing here is the gentleman from California [Mr. WAXMAN], which he has every right to do, has come to the floor of the House on a crime bill and seeking to suggest with a measure of credibility that since we have drug problems in America, which I concede, there is a need for a trauma center. Therefore, we need to have this new program crafted to this crime bill, which some of us hope will pass through the process.

For these reasons, Mr. Chairman, I believe this amendment should not be adopted.

Mr. WAXMAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Chairman, I rise today in support of the

Waxman amendment to H.R. 5269, the Comprehensive Crime Control Act. This amendment strengthens the trauma system in this country and thereby the victims of drug-related violence. These trauma centers are themselves falling victim to the rapid increases in social problems threatening our Nation, among them chemical and substance abuse, gang violence, and child abuse. As was reported at the Conference of Metropolitan Hospital Associations:

The medical consequences bred by these social problems are on display every day in our nation's urban hospitals, where a tremendous number of emergency room cases are for patients seeking treatment for stabbings, gunshot wounds and drug overdoses.

Among these emergency room patients are law enforcement officials, abused children, and other victims. These cases such as the four children who were recently shot during an 8-day period in New York City drive-by shootings or the students on their lunch break at Austin High School in El Paso, TX, who were shot in gang-related drive-by shootings, require the life-saving devices in strong and stable trauma centers. Moreover, in more than three-fifths of the confirmed cases of child abuse in Dallas, TX, substance abuse was found to be a primary or secondary determinant. These factors help account for the fact that trauma ranks as the leading cause of death among children in this country.

Unfortunately, with the much publicized closing of Hermann Hospital's trauma center in Houston, TX, where renowned trauma surgeon Dr. James "Red" Duke is located, and the closings of other trauma centers in Los Angeles, Chicago, and Miami, it is clear that our Nation's fragile trauma network is crumbling. In El Paso, our community adopted a comprehensive trauma care network in October 1988. The system has saved the lives of people throughout west Texas and southern New Mexico, but is beginning to buckle. The public hospital in El Paso, which is the hub of the trauma system, faces severe financial strain. In fact, Thomason Hospital, in the El Paso County Hospital District, has requested a 65-percent tax increase from the community for the upcoming fiscal year due, in large part, to the uncompensated care from drug-related violence. for El Paso, this hospital represents the only game in town when it comes to civilian trauma care. Its failure would be felt by all of west Texas and parts of southern New Mexico.

Finally, newspapers in cities across the country have chronicled the spillover effects of the drug war and gang violence in the halls of our country's hospitals. However, they fail to note the effect on these trauma centers of AIDS, higher blood costs, growing fear among employees, and the effect of all these problems on professional staff recruitment. With the nursing shortage as acute as it is, how does a hospital recruit staff when these things are occurring?

At the public hospital in El Paso, the entire staff was put on alert recently when a rival gang of one of its patients began forming across the street in a parking lot of a local public high school. Despite the doubling of the security staff, a recent employee survey found personal safety and fear of theft to be the staff's No. 1 concern. These are some of those so-called hidden costs that, in addition to the uncompensated care burden, leads to trauma center closures across this Nation.

In short, our Nation's fragile trauma care network is in the business of saving lives. Nothing can be more important. I urge members to approve the Waxman amendment.

Mr. DANNEMEYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I can say to my colleague that I have never questioned the need that the gentleman from California [Mr. WAXMAN] and the gentleman from Texas [Mr. COLEMAN] have so eloquently stated. I do not quarrel with the necessity that our society has to provide treatment and trauma centers for persons who are unfortunate to be the victims of an accident or a stabbing or whatever. I do not quarrel with that need; but one thing I think the gentleman has difficulty understanding, the gentleman has exhibited this tender concern for the victims of trauma. I am only reflecting a tender concern for trauma experienced by the working men and women of our society who have said enough to this unlimited growth in spending from this uncontrolled institution where as a body we do not even have the courage on a rollcall vote to reduce an appropriation bill by 2 percent. That is what I think the gentleman should be responding to.

I want to share with my friend that I mean it sincerely, that if the gentleman believes that this existing need is so pressing that it demands immediate funding, the gentleman has the burden to come forward and suggest where an existing program is going to be reduced to take the place of this new program that the gentleman claims is so important. If the gentleman cannot do that, he does not belong in this Chamber.

Mr. COLEMAN of Texas. Mr. Chairman, I will do that if the gentleman will yield.

Mr. DANNEMEYER. I yield to my friend, the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I thank the gentleman for yielding to me, I really do, because I think it is important for us to understand, we claim in America that we fight the war on crime, that we fight the war on drugs. If we are going to fight it, then let us fight it all the way. You cannot run a football team or you cannot run a tank platoon or anything else in this country unless every segment of what we want to have is in place. That means that all of us, each and every one of us has the responsibility to make sure that we are doing the very best we can at every point along that line, and if the gentleman says we are going to get more money for the police departments, yet we are not going to help trauma centers in America, then we are not fighting a war. We are standing by and letting a part of this go to waste.

Mr. WAXMAN. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today in support of the Waxman amendment to H.R. 5269, the Comprehensive Crime Control Act of 1990. This amendment would provide for the authorization of $50 million in grants to help defray the uncompensated costs incurred by trauma centers in those areas severely impacted by drug-related violence.

All of us in this Chamber are aware of the toll this violence is taking on Americans in all walks of life. From bustling urban areas to small towns, illicit drug use and its related violence has worked its way into the core of our communities, causing suffering for many, and placing new demands on the law enforcement community and health care providers.

In my hometown of Miami, Jackson Memorial Hospital, a nonprofit facility, is charged with providing for all who need medical care, regardless of an individual's financial status. For years, Jackson Memorial has filled this void admirably. Now, however, this facility is faced with the very real possibility of not being able to meet the needs of our community's trauma patients.

The correlation between illicit drug sales, use and, later, drug-related violent crime is clear. Today, Jackson Memorial, like so many other hospitals across the Nation, is struggling as a direct result of drug-related violence to hold together overloaded and underfunded trauma and emergency care facilities. Tragically, some trauma care providers in areas like Los Angeles and Chicago have already had to close their doors as a result of this unmanageable financial burden.

Our Nation's local, State, and Federal law enforcement professionals are getting more financial support than ever to win the war they wage against the dealers of death. The Waxman amendment simply provides modest fi-

nancial support for those who pick up the pieces after the battle is done.

Mr. Chairman, Chairman WAXMAN's amendment is a ray of hope for Jackson Memorial and many other trauma care providers across the country. We cannot afford to see one more trauma unit closed due to a lack of funds and we need to remember that when such a facility closes, it is not just the victim of a drug-related violent crime who loses but, rather, all individuals needing sudden, lifesaving trauma care. For this reason, I urge our colleagues to act to ensure that their communities not face such a tragic scenario by voting for the Waxman amendment.

Mr. COSTELLO. Mr. Chairman, I want to rise today in strong support of the amendment to the crime bill offered by the gentleman from California [Mr. WAXMAN].

This amendment would authorize $50 million in fiscal year 1991 and additional sums in fiscal years 1992 and 1993 for grants to help local communities defray uncompensated costs incurred by trauma centers, arising from drug-related violence.

Mr. Chairman, more and more cities in America are becoming war zones because of the dramatic increase in drug-related violence. This is especially true in my congressional district, where St. Mary's Hospital in East St. Louis, IL, is facing a growing number of poor patients with an inability to pay their medical bills.

This inability to pay leaves the medical facility in an extremely difficult position, facing the dilemma of remaining open and facing greater financial losses, or closing because of a lack of sufficient funds.

For instance, St. Mary's has one of the highest Medicare and Medicaid rates of any medical facility in the country, and additional costs not covered by those programs often come at a direct loss to the hospital.

Last fall, I spent the night in St. Mary's emergency room, and had the opportunity to watch the hospital's qualified staff deal with an overwhelming number of drug-related emergencies. Many of those affected by the violence are innocent victims, trapped in the crossfire of drug gang and dealer activity.

This amendment would go a long way to addressing this critical problem in East St. Louis and many other urban areas. The program would allow the Secretary of Health and Human Services to distribute grants to communities hard hit by drug-related violence, to help pay for these related medical costs.

I urge my colleagues to strongly support this important amendment. It is an effective way to assist our urban areas in their continuing fight against drugs.

The CHAIRMAN pro tempore (Mr. BENNETT). The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 262, noes 160, not voting 11, as follows:

[Roll No. 425]

AYES—262

Ackerman	Gibbons	Pallone
Alexander	Gilman	Panetta
Anderson	Gonzalez	Payne (NJ)
Andrews	Gordon	Pease
Annunzio	Goss	Pelosi
Anthony	Gray	Perkins
Applegate	Green	Pickle
Aspin	Guarini	Poshard
Atkins	Hall (TX)	Price
AuCoin	Hamilton	Rahall
Baker	Hatcher	Rangel
Barnard	Hawkins	Ray
Bartlett	Hayes (IL)	Richardson
Bates	Hefner	Ridge
Beilenson	Hertel	Rinaldo
Bennett	Hoagland	Roe
Bereuter	Hochbrueckner	Ros-Lehtinen
Berman	Horton	Rose
Bilbray	Hoyer	Rostenkowski
Bilirakis	Hughes	Roth
Boehlert	Hunter	Rowland (CT)
Boggs	Hyde	Rowland (GA)
Bonior	Jacobs	Roybal
Borski	James	Russo
Bosco	Jenkins	Sabo
Boucher	Johnson (CT)	Saiki
Boxer	Johnson (SD)	Sangmeister
Brennan	Johnston	Sarpalius
Brooks	Jones (GA)	Savage
Brown (CA)	Jones (NC)	Sawyer
Bruce	Jontz	Scheuer
Bryant	Kanjorski	Schiff
Bustamante	Kaptur	Schneider
Campbell (CA)	Kastenmeier	Schroeder
Campbell (CO)	Kennedy	Schuette
Cardin	Kennelly	Schulze
Carper	Kildee	Schumer
Carr	Kolter	Serrano
Chapman	Kostmayer	Sharp
Clarke	LaFalce	Shaw
Clay	Lagomarsino	Shays
Clinger	Lantos	Sikorski
Coleman (TX)	Lehman (CA)	Sisisky
Collins	Lehman (FL)	Skaggs
Condit	Levin (MI)	Slattery
Conte	Levine (CA)	Slaughter (NY)
Conyers	Lewis (FL)	Smith (FL)
Cooper	Lewis (GA)	Smith (IA)
Costello	Long	Smith (NJ)
Courter	Lowey (NY)	Smith (VT)
Coyne	Machtley	Snowe
Darden	Manton	Solarz
Davis	Markey	Spratt
de la Garza	Martin (IL)	Staggers
DeFazio	Martinez	Stark
Dellums	Matsui	Stearns
Derrick	Mavroules	Stokes
DeWine	McCloskey	Studds
Dicks	McCollum	Swift
Dingell	McCrery	Synar
Dixon	McDade	Torres
Donnelly	McDermott	Torricelli
Dorgan (ND)	McHugh	Towns
Downey	McMillen (MD)	Traficant
Durbin	McNulty	Traxler
Dwyer	Mfume	Udall
Dymally	Miller (CA)	Unsoeld
Dyson	Mineta	Vento
Early	Mink	Visclosky
Eckart	Moakley	Walgren
Edwards (CA)	Molinari	Walsh
Engel	Mollohan	Washington
Erdreich	Moody	Watkins
Espy	Morella	Waxman
Evans	Morrison (CT)	Weiss
Fascell	Mrazek	Weldon
Fazio	Murtha	Wheat
Feighan	Nagle	Whittaker
Fish	Natcher	Whitten
Flake	Neal (MA)	Wilson
Flippo	Nelson	Wise
Foglietta	Nowak	Wolpe
Ford (TN)	Oakar	Wyden
Frank	Oberstar	Yates
Frost	Obey	Yatron
Gaydos	Ortiz	Young (FL)
Gejdenson	Owens (NY)	
Gephardt	Owens (UT)	

NOES—160

Archer	Henry	Petri
Armey	Herger	Pickett
Ballenger	Hiler	Porter
Barton	Holloway	Pursell
Bateman	Hopkins	Quillen
Bentley	Houghton	Ravenel
Bevill	Hubbard	Regula
Bliley	Huckaby	Rhodes
Broomfield	Hutto	Ritter
Browder	Inhofe	Roberts
Brown (CO)	Ireland	Rogers
Buechner	Kasich	Rohrabacher
Bunning	Kleczka	Roukema
Burton	Kolbe	Saxton
Byron	Kyl	Schaefer
Callahan	Lancaster	Sensenbrenner
Chandler	Laughlin	Shumway
Clement	Leach (IA)	Shuster
Coble	Leath (TX)	Skeen
Coleman (MO)	Lent	Skelton
Combest	Lewis (CA)	Slaughter (VA)
Cox	Lightfoot	Smith (TX)
Craig	Lipinski	Smith, Denny (OR)
Crane	Livingston	Smith, Robert (NH)
Dannemeyer	Lloyd	Smith, Robert (OR)
DeLay	Lukens, Donald	Solomon
Dickinson	Madigan	Spence
Dornan (CA)	Marlenee	Stallings
Douglas	Martin (NY)	Stangeland
Dreier	Mazzoli	Stenholm
Duncan	McCandless	Stump
Edwards (OK)	McCurdy	Sundquist
Emerson	McEwen	Tallon
English	McGrath	Tanner
Fawell	McMillan (NC)	Tauke
Fields	Meyers	Tauzin
Frenzel	Michel	Taylor
Gallegly	Miller (OH)	Thomas (CA)
Gallo	Miller (WA)	Thomas (GA)
Gekas	Montgomery	Thomas (WY)
Geren	Moorhead	Upton
Gillmor	Morrison (WA)	Valentine
Gingrich	Murphy	Vander Jagt
Glickman	Myers	Volkmer
Goodling	Neal (NC)	Vucanovich
Gradison	Olin	Walker
Grandy	Oxley	Weber
Grant	Packard	Williams
Gunderson	Parker	Wolf
Hammerschmidt	Parris	Young (AK)
Hancock	Pashayan	
Hansen	Patterson	
Harris	Paxon	
Hastert	Payne (VA)	
Hefley	Penny	

NOT VOTING—11

Coughlin	Hayes (LA)	Robinson
Crockett	Lowery (CA)	Smith (NE)
Ford (MI)	Luken, Thomas	Wylie
Hall (OH)	Nielson	

□ 1408

Messrs. GRANDY, GOODLING, HANSEN, and KASICH changed their vote from "aye" to "no."

Mr. JENKINS and Mr. ANDREWS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Chairman, I ask for this 1-minute in order that I might, in turn, yield to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT] to enlighten the membership on what they ought to be expecting in the course of the afternoon and evening.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri [Mr. GEPHARDT], my friend.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman from Illinois [Mr. MICHEL].

Our schedule for the rest of the day is to move to completion of the crime bill. We think it has an hour or two at the most left for consideration to completion. We are planning to bring a continuing appropriation bill to the floor sometime either during the consideration of the crime bill, or right after it. It will then be brought for consideration. If it is completed and passed, it will include a debt limit extension as well, and then it will be sent over to the Senate.

□ 1410

We then would ask for recess authority to await the Senate's moving the continuing back if we need to take further action on it so we can get it to the President's desk before midnight. So there would not be a lot of votes after the completion of the continuing appropriation and the crime bill. But there could be a vote later in the evening if we get into a disagreement over the continuing appropriation and/or the debt limit. I do not believe there will be other business or other votes today other than what I described.

On tomorrow, we will be back in session. We will be trying to bring about a resolution of the budget problem we have. We will try to decide how to deal with that further tomorrow, and there could be votes on that. There could be Republican conferences and Democratic caucuses later this afternoon on that, or maybe tomorrow. We do not see a lot of votes beyond that issue. We are not going to schedule a lot of votes tomorrow other than those dealing with the budget issue.

Members could expect that we might have to be here through the weekend. We do not know the answer to that yet. We ought to have a definitive answer for the Members tomorrow, once we see whether or not the budget issue has been resolved.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield to me?

Mr. MICHEL. Yes, I am happy to yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I do not think I understand exactly what the scenario is, and I am wondering if the gentleman would respond. It has just been announced on television at least that the President has said he would not sign a continuing resolution, if sent to him. The gentleman has indicated that we would pass one here, and then it would go to the Senate and then to the White House for signature. There have been numerous rumors circulating that there were active meetings to resolve the differences, and so forth.

I wonder if the gentleman could enlighten us as to whether or not there is an agreement? Has the President agreed or not agreed, or is it likely that he would sign a continuing resolution if it should be sent to the White House, if we should pass one?

Mr. GEPHARDT. Mr. Chairman, we do not know definitively whether the President will sign it or not, but the Speaker believes and I believe and our leadership believes that it is essential and important for the Congress to try to send a continuing appropriation to the President. It then would be his decision whether to veto it or simply to hold it for a while and sign it at a later time.

Mr. DICKINSON. Whatever goes to the White House from the Congress, would it contain a continuing resolution, a debt ceiling extension, and a waiver of Gramm-Rudman, all three?

Mr. GEPHARDT. It may. It would certainly contain a continuing.

Mr. DICKINSON. Well, what are we working on?

Mr. GEPHARDT. It would contain a continuing, it would contain a debt ceiling increase, and it may or may not deal with the issue of sequestration. I cannot tell the gentleman yet what the bill will look like coming out of the Appropriations Committee and what if any amendments would be allowed on it today.

Mr. DICKINSON. Mr. Chairman, I do not mean to try to belabor the point, but the gentleman has not really clarified things. We have no agreement among our own leadership, for instance, as to what we expect to come out of Appropriations, and there is certainly no agreement with the Senate, the other body. There certainly is no agreement, from what the gentleman says, with the President. So we do not know what is coming out, and we do not know if a waiver would be included in what goes to the White House, and we do not know whether he would sign it or not.

So really we do not know; is that what you are saying?

Mr. GEPHARDT. Mr. Chairman, if the gentleman will yield further, we have been suffering from a lack of agreement here for some hours now, and I would suspect we are going to be having these problems as we go along. But we are just going to have to be patient and deal with the steps that need to be taken as they come along. I know this is a difficult period, but it is where we are, and as a congressional body we have got to just hang in, be patient, and try to deal with each step as we go along.

Mr. MICHEL. And I might say, Mr. Chairman, that we are obviously not spinning our wheels here today. We are doing something very productive in dealing with the legislation that is currently on the floor. Conceivably, by the time it is concluded or even before it is concluded, we will have the kind of definitive action outlined for the distinguished gentleman from Alabama and for other Members.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I am happy to yield to one of the Members from our side on the Rules Committee, the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I appreciate the leader's yielding.

Mr. Chairman, let me just enlighten the body here on this: Less than 45 minutes ago, members of the Rules Committee received a phone call from the White House saying that those proposals before the Rules Committee—and we are due to go back into session in exactly 15 minutes—that those proposals from the Rules Committee would be vetoed. Those proposals are a 7-day CR that totally waives Gramm-Rudman and a 14-day debt limit that totally waives Gramm-Rudman. We were told that he will veto that.

That means we are going to go through another dog-and-pony show here through this entire weekend, if that is the rule that is provided.

I was prepared to offer a motion to make in order a rule which would give us a 7-day CR that did not exempt Gramm-Rudman, that puts sequestration into effect as of midnight tonight. That would allow the Government to continue under these conditions. That was not acceptable either.

There is another proposal that I proposed, one which does provide for a 7-day CR to be put into effect by this body this afternoon which would put sequestration into effect tonight but exempt certain items such as the VA hospitals back in our districts. They would continue to operate 100 percent, but the VA employees in Washington would be laid off subject to sequestration. The air traffic controllers back in our hometowns would continue to operate at 100 percent, but the DOT employees here in Washington would be subject to sequestration. The meat inspectors back in our districts would be operating at full scale, but here the Agriculture employees would be laid off here in Washington.

This is what we need to do. I believe that the President of the United States, given this alternative, which is sequestration with these exemptions for the necessary functions of Government, would sign such a thing, and I think we ought to consider it.

Mr. MICHEL. Mr. Chairman, let me make this inquiry of the distinguished majority leader: It may be impossible to answer at this juncture, but assuming that we will be here this weekend or at least tomorrow, what time would the gentleman be thinking of convening on Saturday?

Mr. GEPHARDT. Mr. Chairman, I would say to the gentleman off the top of my head that we would meet at

noon, but we would obviously be discussing with the gentleman as we talk about the budget issue exactly when we should meet and what we should meet about. So it may not be that time. I would say at a guess that would be the best time to look at.

Mr. MICHEL. Mr. Chairman, I thank the distinguished gentleman from Missouri.

PERSONAL EXPLANATION

Mr. EDWARDS of California. Mr. Chairman, in the remarks that I made on the Sensenbrenner amendment, I inadvertently stated that the attorney general of Wisconsin supported the Racial Justice Act. That is incorrect. We did have support from five attorneys general, including the attorney general of Minnesota.

The CHAIRMAN. The correction is noted for the RECORD.

Mr. EDWARDS of California. I thank the Chair.

The CHAIRMAN. It is now in order to consider amendment No. 35 printed in part 2 of House Report No. 101-796.

AMENDMENT OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OXLEY: Add at the end of title XXII the following:

SEC. . VICTIMS' RIGHTS.

(a) BEST EFFORTS TO ACCORD RIGHTS.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b).

(b) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

(1) The right to be treated with fairness and with respect for the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) The right to confer with attorney for the Government in the case.

(6) The right to restitution.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

(c) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b).

SEC. 3. SERVICES TO VICTIMS.

(a) DESIGNATION OF RESPONSIBLE OFFICIALS.—The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) IDENTIFICATION OF VICTIMS.—At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

(1) identify the victim or victims of a crime;

(2) inform the victims of their right to receive, on request, the services described in subsection (c); and

(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) DESCRIPTION OF SERVICES.—(1) A responsible official shall—

(A) inform a victim of the place where the victim may receive emergency medical and social services;

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;

(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and

(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

(A) the status of the investigation of the crime, to the extent that it will not interfere with the investigation;

(B) the arrest of a suspected offender;

(C) the filing of charges against a suspected offender;

(D) the scheduling of each court proceeding that the victim is either required to attend or, under section 2(b)(4), is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for release.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of—

(A) the escape, work release, furlough, or any other form of release from custody of the offender; and

(B) the death of the offender, if the offender dies while in custody.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

(d) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

(e) DEFINITIONS.—For the purposes of this section—

(1) the term "responsible official" means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and

(2) the term "victim" means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

(i) a spouse;

(ii) a legal guardian;

(iii) a parent;

(iv) a child;

(v) a sibling;

(vi) another family member; or

(vii) another person designated by the court.

SEC. . AMENDMENT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restitution order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the clerk of the court of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. . AMENDMENT OF BANKRUPTCY CODE.

(a) AMENDMENT OF CHAPTER 5.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) to the extent that such debt arises from a proceeding brought by a governmental unit to recover a civil or criminal restitution, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit.".

(b) AMENDMENT OF CHAPTER 13.—Section 1322(a) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) provide for the full payment, in deferred cash payments, of all claims that are nondischargeable under section 523(a)(11).".

SEC. . SENSE OF CONGRESS WITH RESPECT TO VICTIMS OF CRIME.

It is the sense of Congress that the States should make every effort to adopt the following goals of the Victims of Crime Bill of Rights:

(1) Victims of crime should be treated with compassion, respect and dignity throughout the criminal justice process.

(2) Victims of crime should be reasonably protected from the accused throughout the criminal justice process.

(3) Victims of crime should have a statutorily designated advisory role in decisions involving prosecutorial discretion, such as the decision to plea-bargain.

(4) Victims of crime deserve comprehensive reform of the exclusionary rule, the application of which often results in the release of criminals on technicalities, rather than for substantive reasons.

(5) Victims of crime should have the right to a reasonable assurance that the accused will be tried in an expeditious manner.

(6) A victim of crime should have the right to be present at all proceedings related to the offense against him, unless the victim is to testify and the court determines that the victim's testimony would be materially prejudiced by hearing other testimony at the trial.

(7) Victims of crime should have the right to information about the conviction, sentencing and imprisonment of the person who committed the crime against them.

(8) Victims of crime should be compensated for the damage resulting from the crime to the fullest extent possible by the person convicted of the crime.

(9) Victims of crime should have a statutorily designated advisory role in deciding the early release status of the person convicted of the crime against them.

(10) A victim of crime should never be forced to endure again the emotional and physical consequences of the original crime.

□ 1420

MODIFICATION OF AMENDMENT OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I ask unanimous consent that my amend-

ment be modified in the form that is at the desk.

The text of the amendment, as modified, is as follows:

Add at the end of title XXII the following:

SEC. . VICTIMS' RIGHTS.

(a) BEST EFFORTS TO ACCORD RIGHTS.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b).

(b) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

(1) The right to be treated with fairness and with respect for the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) The right to confer with attorney for the Government in the case.

(6) The right to restitution.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

(c) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b).

SEC. 3. SERVICES TO VICTIMS.

(a) DESIGNATION OF RESPONSIBLE OFFICIALS.—The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) IDENTIFICATION OF VICTIMS.—At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

(1) identify the victim or victims of a crime;

(2) inform the victims of their right to receive, on request, the services described in subsection (c); and

(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) DESCRIPTION OF SERVICES.—(1) A responsible official shall—

(A) inform a victim of the place where the victim may receive emergency medical and social services;

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;

(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and

(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

(A) the status of the investigation of the crime, to the extent that it will not interfere with the investigation;

(B) the arrest of a suspected offender;

(C) the filing of charges against a suspected offender;

(D) the scheduling of each court proceeding that the victim is either required to attend or, under section 2(b)(4), is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for release.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of—

(A) the escape, work release, furlough, or any other form of release from custody of the offender; and

(B) the death of the offender, if the offender dies while in custody.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

(d) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

(e) DEFINITIONS.—For the purposes of this section—

(1) the term "responsible official" means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and

(2) the term "victim" means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

(i) a spouse;

(ii) a legal guardian;

(iii) a parent;

(iv) a child;

(v) a sibling;

(vi) another family member; or

(vii) another person designated by the court.

SEC. . AMENDMENT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restitution order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued record-keeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the clerk of the court of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. . SENSE OF CONGRESS WITH RESPECT TO VICTIMS OF CRIME.

It is the sense of Congress that the States should make every effort to adopt the following goals of the Victims of Crime Bill of Rights:

(1) Victims of crime should be treated with compassion, respect and dignity throughout the criminal justice process.

(2) Victims of crime should be reasonably protected from the accused throughout the criminal justice process.

(3) Victims of crime should have a statutorily designated advisory role in decisions involving prosecutorial discretion, such as the decision to plea-bargain.

(4) Victims of crime deserve comprehensive reform of the exclusionary rule, the application of which often results in the release of criminals on technicalities, rather than for substantive reasons.

(5) Victims of crime should have the right to a reasonable assurance that the accused will be tried in an expeditious manner.

(6) A victim of crime should have the right to be present at all proceedings related to the offense against him, unless the victim is to testify and the court determines that the victim's testimony would be materially prejudiced by hearing other testimony at the trial.

(7) Victims of crime should have the right to information about the conviction, sentencing and imprisonment of the person who committed the crime against them.

(8) Victims of crime should be compensated for the damage resulting from the crime to the fullest extent possible by the person convicted of the crime.

(9) Victims of crime should have a statutorily designated advisory role in deciding the early release status of the person convicted of the crime against them.

(10) A victim of crime should never be forced to endure again the emotional and physical consequences of the original crime.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio [Mr. OXLEY] that the amendment be modified?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Ohio [Mr. OXLEY] will be recognized for 7½ minutes and a Member opposed will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the victims' rights and restitution amendment will establish a series of victim rights and require criminals to pay restitution to compensate their victims for their losses.

This amendment calls on Federal law enforcement agencies to treat victims with respect and dignity, and to keep them fully informed as to the progress of the ensuing court proceedings against their attackers. Under our amendment, a victim of crime has the right: To be treated with fairness and respect; to be reasonably protected from the accused; to be notified of court proceedings against the accused; to be present at court proceedings unless their future testimony would be effected; to confer with prosecutors; and to receive information about the conviction, incarceration, and release of the attacker.

Also, this amendment would ensure that Federal agencies provide various services to victims of crime. For instance, this amendment would require: Federal agencies to identify victims and inform them of their rights; and that victims be afforded the right to a waiting area out of sight and hearing of the defendant.

Why are victims rights important? Because victims should not have to suffer more pain from our justice system. Let me give you an example: A victim was literally a prisoner in her own home for fear of running into the man who raped and attempted to kill her. Finally, in 1986, the assailant was convicted and sentenced to jail, but for 3 years, this nurse was revictimized by the justice system.

If this amendment had been law at that time, this nurse would not have suffered more pain and agony.

In addition, this amendment would require Federal courts to order a criminal to pay restitution to the victim in the full amount of the victim's losses. This would include losses relating to property, bodily injury, death, and emotional injury. Restitution orders could not be discharged as a result of bankruptcy under this amendment.

To illustrate why this restitution language is needed, let me read a passage from the national magazine of the Mothers Against Drunk Driving. Regarding a case in Texas, MADD pointed out that:

> In criminal court, the criminal confessed to the sexual abuse of a young female child. He agree to pay $25,000 in damages in order to obtain a probated prison term. Off the "hook" in the criminal case, he raced to the chapter 13 bankruptcy court. There, he was allowed to pay only a small fraction of the debt owed to the minor child, without interest.

There is no doubt about it, victims of crime, such as the young girl in this case, are effectively revictimized when their attackers are relieved of criminal-related debts. Bankruptcy should not be a haven for criminals who wish to avoid payment to their victims.

Finally, this amendment contains a sense of Congress provision that the States should make every effort to adopt a model Victims of Crime Bill of Rights. While real progress has been made on the State level for victims' rights, greater uniformity is needed to combat ignorance of existing laws. If every State adopts the Victims of Crime Bill of Rights contained in our amendment, such uniformity, as well as real progress for victims, will result.

The amendment is supported by the Department of Justice and has been endorsed by the National Victim Center, the National Coalition Against Sexual Assault, Justice Fellowship, and the National Organization for Victim Assistance.

The amendment is provictim and anticriminal. I urge my colleagues to support it.

The CHAIRMAN. Does any Member wish to oppose this amendment?

If not, the gentleman from Ohio [Mr. OXLEY] controls the time.

Mr. OXLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, no Member can argue with the principle behind this amendment. Obviously, the victims of crime should be treated, in the words of the bill, with "compassion, dignity, and respect throughout the criminal justice process." The gentleman from Ohio is to be commended in terms of raising the visibility of this issue. While there were concerns with the provisions of the amendment dealing with the bankruptcy code, the gentleman has graciously agreed to remove those provisions. I, therefore, support the amendment.

Mr. OXLEY. Mr. Chairman, I would like to thank the gentleman from Texas [Mr. BROOKS] for his work in this matter. We appreciate his support.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. DEWINE], who has been a real force in victims' rights and has worked very hard on their behalf.

Mr. DEWINE. Mr. Chairman, I would like to congratulate the gentleman from Ohio [Mr. OXLEY] for inserting what really is a victim's bill of rights into this legislation. I would hope that it would serve as a model not only in the Federal courts, but in the State system, those States that have not already adopted a victim's bill of rights. I hope that the inclusion in this bill would encourage them to do this.

Victims for too long have been the forgotten people in our criminal justice system. The State is represented by a prosecutor or district attorney. The defendant, of course, has his counsel. But who represents the victim?

What this bill of rights says is that we are going to put in statutory language all the rights that the victim has, so that the victim truly does have certain rights, such as knowledge of the proceedings, to know what is going on. How important that is. How many times have victims been surprised, shown up at court, to find a case has been continued, or, worse yet, showed up in court to find for some reason the case has been dismissed, or have the case delayed day after day after day and they are never notified.

Mr. Chairman, this assures that they will be notified of this. It also assures, even more importantly, that they will be notified when the criminal, when the rapist, when the person who has committed an offense against them, is going to be released from prison. Should they not have a right to know that? This amendment assures that.

Mr. Chairman, I rise to congratulate the gentleman from Ohio [Mr. OXLEY] on this bill. For too long in our criminal justice system we worried always about the defendants. We house these people, we clothe them, we provide them with lawyers at trial and lawyers on appeal. You and I pay for it. Taxpayers pay for it. That is fine. But it is time that the victims had some rights.

So I congratulate the gentleman from Ohio [Mr. OXLEY], the author of this amendment, for this fine amendment.

Mr. OXLEY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of this amendment. The people of the State of California just last June adopted by initiative process something very similar to this for California. One of the most compelling reasons given for doing so was that not only is it right and just and fair to treat victms the way that the gentleman from Ohio [Mr. OXLEY] proposes in his amendment, but it also assists in the criminal justice system itself.

□ 1430

If victims know they are going to be treated fairly, are going to be kept informed, that they are not going to be hassled, that the trial is not going to be delayed and delayed and delayed without notice to them, they are certainly more apt to cooperate, thus ensuring proper trials and hopefully conviction of those who attack them. So I think it is a very good amendment, and I hope my colleagues will support it.

Mr. MICHEL. Mr. Chairman, I rise today to urge my colleagues to vote for this amendment, the Victims' Rights and Restitution Act.

This amendment will establish a series of victims' rights on the Federal level, and require criminals to pay restitution to compensate their victims for their losses. It will also contain a sense-of-Congress providing that the States should adopt a model victims of crime bill of rights.

Under this amendment Federal courts are required to order a criminal convicted of an offense to pay restitution to the victim in the full amount of the victim's losses.

This amendment will also require that Federal law enforcement agencies treat victims with respect and dignity, keep them fully informed of the court proceedings against their attackers, and provide them with various services such as information on counseling services, medical care, and police protection.

The bill of rights has 10 provisions that ensure that Americans can live free. The victims of crime bill of rights, to be adopted by the States, also has 10 provisions that will guarantee Americans the security necessary for freedom.

Among these provisions are guarantees that victims of crime will be treated with compassion, respect, and dignity throughout the judicial process.

That victims of crime will be protected from the accused throughout the criminal justice process.

That victims of crime have the right to information about the conviction, sentencing, and imprisonment of the criminal.

And that victims of crime should be compensated for the damage resulting from the crime.

There are many reasons to vote for this amendment.

One is that victims of crime make up the largest constituency in this country. Eighty-three percent of Americans will be victimized by crime during their lifetime, and they, or should I say we, need to know that the criminal justice system reflects our desires.

Another is that over 5,000 grass roots organizations have been working hard to get significant victims' legislation passed. This

amendment will be a significant step in the right direction.

Finally, this is a nonpartisan amendment that should be supported by both sides of the aisle. Victims of crime are not all Democrats, they're not all Republicans, not all liberals or conservatives. Crime affects everybody in this country, and this victims rights and restitution amendment will benefit everybody in the same fashion.

Victims of crime need the criminal justice system to treat them with dignity and respect, to advise them of their rights, and to support them in any way possible.

I urge my colleagues to remember the victim in this comprehensive crime bill, and adopt this amendment.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Ohio [Mr. OXLEY].

The amendment, as modified, was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 36 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. CLEMENT

Mr. CLEMENT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CLEMENT: Add at the end of title XXII the following:

SEC. . INCREASED PENALTIES FOR DISTRIBUTION OF CONTROLLED SUBSTANCES AT TRUCK STOPS AND REST AREAS.

(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)) punishable—

"(1) by a term of imprisonment, or fine, or both, up to twice that authorized by section 401(b) of this title; and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) a term of imprisonment of up to three times that authorized by section 401(b) of this title for a first offense, or a fine up to three times that authorized by section 401(b) of this title for a first offense, or both; and

"(2) at least three times any term of supervised release authorized by section 401(b) of this title for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' has the meaning given that term in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) which operates in commerce as defined in section 12019(3) of the Commercial Motor Vehicle Safety Act of 1986 and which derives at least 1/3 of its annual revenues from the sale of fuel or service, or both, to commercial motor vehicles as defined in section 12019(6) of such Act.".

(b) CONFORMING AMENDMENT.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by striking "or 405B" each place it appears and inserting "405B, or 409".

(c) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 409. Transportation safety offenses.".

SEC. . SENTENCING COMMISSION GUIDELINES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by section 3, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(2) in no event less than level 26.

(b) IMPLEMENTATION OF INSTRUCTION.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

(c) OFFENSES WHICH COULD BE SUBJECT TO MULTIPLE ENHANCEMENTS.—The guidelines referred to in subsection (a), as promulgated or amended under such subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to such subsection is subject to not more than one such enhancement.

The CHAIRMAN. Under the rule, the gentleman from Tennessee [Mr. CLEMENT] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I yield myself as much time as I might consume.

Mr. Chairman, drug use is an epidemic in virtually every sector of our society. The trucking industry is no exception. A survey conducted by the Regulatory Common Carrier Conference indicated that over one-third of all truck drivers have, on occasion, operated their vehicles under the influence of illegal narcotics. According to the Department of Transportation, 10 percent of all truckers, or approximately 800,000 truck drivers, use drugs.

The locations where it is easiest to distribute drugs to truck drivers are truck stop facilities and highway rest areas. These areas are locations where drivers frequently stop for fuel, vehicle service, relaxation, and rest. The National Association of Truck Stop operators estimates that drug use or distribution occurs at approximately 50 percent of truck stops.

My amendment would establish drug-free zones around truck stops and rest areas. Under the amendment, a first-time drug offense involving distribution would, for the first time, establish a minimum jail sentence of 1 year. The amendment doubles the maximum sentence for first-time offenses and triples the penalties for second offense sales occurring in the drug-free zone.

My amendment is supported by the National Association of Truck Stop Operators, the American Trucking Association, the National Private Truck Council, and others.

Mr. Chairman, I would like to close by saying that the vast majority of commercial truck drivers are honest, hard-working citizens who do not use drugs. But they do have the right to expect to work in an environment free from the scourge of drugs. High priority must be given to removing the temptation provided by ready accessibility to illegal narcotics for those drivers, both commercial and private auto, who may be inclined to use illegal drugs. I urge my colleagues to support my amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, the amendment offered by the gentleman from Tennessee would revise current laws on the distribution of controlled substances by imposing substantially greater penalties for violations of such laws that occur in or within 1,000 feet of a truck stop or safety rest area. While I am included to support the apparent objective of this proposal—to enhance safety on our Nation's highways—I must point out that I am supporting the amendment with certain reservations.

First, I have serious doubts as to whether it is possible to precisely define just exactly what a truck stop or rest area is for the purposes of enforcing a criminal statute.

Second, the enactment and enforcement of laws governing illegal drugs has traditionally been a State and local government function. While this

amendment would certainly not be the first time Congress has federalized drug law, I believe that if this trend continues it will soon become impossible to maintain any sort of logical and rational allocation of law enforcement functions and responsibilities among the three levels of government. In addition, we run the risk of enacting legislation that exceeds the enforcement capabilities of the Federal criminal justice system.

With these concerns in mind, I urge my colleagues to support this amendment.

Mr. CLEMENT. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. SLAUGHTER.]

Mr. SLAUGHTER of Virginia. Mr. Chairman, I rise in support of this amendment, and I commend my colleague for his work on the measure. I offered this same amendment in the Judiciary Committee, and it received unanimous support from my side of the isle.

The Department of Transportation says that 10 percent of the 8 billion truckers in the United States use drugs. That comes to a minimum of 800,000 truck drivers on drugs. While the vast majority of truckers are drug free, these statistics do not paint a very safe picture of our Nation's highways.

The trucking industry and law enforcement agencies across the country support the Drug Free Truck Stop Act, which would increase penalties for drug offenses at truck stops and rest areas. Simply put, this amendment will help reduce the flow of harmful, illegal substances to our schools and communities, and it will make our highways safer for everyone.

I urge my colleagues to support the amendment.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of this amendment offered by my fine colleague on the Public Works and Transportation Committee, Mr. CLEMENT from Tennessee. This amendment will send a strong message to those who choose to engage in illegal drug activities at truck stops and rest areas, and thereby endanger all of the motoring public, that they will face stiff consequences for their actions.

Mr. Chairman, the Public Works and Transportation Committee works diligently to further the cause of highway safety in our country. I am proud to associate myself with Mr. CLEMENT'S amendment as it will serve as a valuable contribution to that cause. The inherent risks of using illegal substances while driving on our Nation's highways call for a strong solution. This amendment is that solution, by establishing and increasing maximum penalties for persons convicted of distributing or possessing drugs within 1,000 feet of truck stops or rest areas.

Mr. Chairman, I urge my colleagues to join with me and support this necessary measure.

The CHAIRMAN. Does any Member rise in opposition to the amendment?

If not, the question is on the amendment offered by the gentleman from Tennessee [Mr. CLEMENT].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 41 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. ENGLISH

Mr. ENGLISH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ENGLISH:
At the end of the bill add the following:

TITLE XXIII—DRUG ENFORCEMENT ASSISTANCE

SEC. 2301. RURAL DRUG ENFORCEMENT.

(a) SHORT TITLE.—This section may be cited as the "Rural Drug Enforcement Act".

(b) LEADERSHIP ON RURAL DRUG POLICY.—

(1) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereafter in this subsection referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(2) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(A) examine the special needs of rural areas in drug interdiction;

(B) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(C) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs, and the National Forest Service) in rural areas; and

(D) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

(c) RURAL DRUG ENFORCEMENT ASSISTANCE.—

(1) IN GENERAL.—(A) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(A) by redesignating part N as part O;

(B) by redesignating section 1401 as section 1501; and

(C) by inserting after part M the following:

"PART N—RURAL DRUG ENFORCEMENT ASSISTANCE

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 1401. (a) Of the total amount appropriated for this section in any fiscal year:

"(1) 50 percent shall be allocated to and shared equally among rural States as described in subsection (b); and

"(2) 50 percent shall be allocated to the remaining States for use in nonmetropolitan areas within those States, as follows:

"(A) $100,000 to each nonrural State; and

"(B) of the total funds remaining after the allocation in subparagraph (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(b) For the purpose of this section, the term 'rural State' means a State that has a population density of fifty-two or fewer persons per square mile or a State in which the largest county has fewer than one hundred and fifty thousand people.

"OTHER REQUIREMENTS

"SEC. 1402. Subparts 1 and 3 of part E of this title shall apply with respect to funds appropriated to carry out this part, in the same manner as such subparts apply to funds appropriated to carry out part E, except that—

"(1) section 506(a) of this title shall not apply with respect to this part; and

"(2) in addition to satisfying the requirements of section 503(a), each application for a grant under this part shall include in its application a statement specifying how such grant will be coordinated with a grant received under section 506 of this title for the same fiscal year.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following:

"(7) There are authorized to be appropriated $20,000,000 for fiscal year 1991, and such sums as may be necessary for fiscal years 1992 and 1993, to carry out part N.".

(3) TECHNICAL AMENDMENTS.—(A) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is amended by striking "and M" and inserting "M, and N".

(B) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "or M" and inserting ", M, or N".

(C) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(A) by striking the items relating to part M and sections 1301 through 1312, as added by section 1552(b)(5) of the State and Local Law Enforcement Assistance Act of 1986 (Public Law 99-570; 100 Stat. 3207-46), and

(B) by striking the matter relating to part N and inserting the following:

"PART N—RURAL DRUG ENFORCEMENT ASSISTANCE

"Sec. 1401. Rural drug enforcement assistance.

"Sec. 1402. Other Requirements.

"PART O—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1501. Continuation or rules, authorities, and proceedings.".

(d) FEDERAL DRUG ENFORCEMENT ASSISTANCE.—

(1) GENERAL STATE ASSISTANCE.—In order to provide adequate Federal drug enforcement assistance to each of the several States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall assign not less than 10 Drug Enforcement Administration special agents to each of the several States.

(2) RURAL STATES.—In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than 10 Drug Enforcement Administration special agents, as of the date of enactment of this Act, the Attorney General shall assign not less than 4 additional Drug Enforcement Administration special agents to each rural State as defined in section 509(c) of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as added by subsection (c)(1).

(e) TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.—

(1) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop

a drug training program for law enforcement officers in rural areas.

(2) TRAINING.—Not later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(3) AUTHORIZATION.—There is authorized to be appropriated $1,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993 to carry out the purposes of this subsection.

SEC. 2302. SITUATIONAL AWARENESS TECHNOLOGY.

Of funds authorized to be appropriated for Research, Development, Test, and Evaluation, Air Force, for the fiscal year ending September 30, 1991, $12,000,000 shall be available for continued development of situational awareness technology for military and civilian drug interdiction applications. Such funds shall remain available until expended.

SEC. 2303. INTERNATIONAL DRUG INTERDICTION TRAINING SIMULATOR CENTER.

(a) ESTABLISHMENT OF CENTER.—There are authorized to be appropriated $28,000,000, to remain available until expended, for the establishment by the Secretary of the Treasury of an International Drug Interdiction Training Simulator Center at the Federal Law Enforcement Training Center facility at Marana, Arizona.

(b) PURPOSE OF CENTER.—The Center shall be used to provide to law enforcement personnel of the United States, Mexico, the Andean nations, other Latin American and Caribbean nations, and other nations, training in establishing and carrying out joint or unilateral drug interdiction operations.

(c) COORDINATION.—In order to maximize the capabilities and utilization of the Center, the Center shall be established in coordination with the National Guard, other relevant active and reserve components of the Department of Defense, and Federal, State, and local law enforcement agencies.

SEC. 2304. OFFSETTING SAVINGS IN GOVERNMENT TRAVEL TO COVER THE COST OF THIS TITLE.

To offset the additional outlays resulting from the increased budget authority provided for the programs, projects, and activities in this title for the fiscal year ending September 30, 1991, budget authority made available for fiscal year 1991 for the objection classifications "travel and transportation of persons" and "travel and transportation of things" for all agencies, commissions, boards, offices, departments, and panels of the Federal Government shall be reduced by such amounts as to cover such increased appropriations authorized in this title. Official travel and transportation directly related to the law enforcement missions of agencies, offices, and departments of the Federal Government, and emergency national security programs of the Department of Defense and other national security agencies shall not be affected by such reductions in travel and transportation of things and persons mandated by this section.

The CHAIRMAN. Under the rule, the gentleman from Oklahoma [Mr. ENGLISH] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, there is no question over the past few years that the focus as far as the war on drugs is concerned has been primarily, through the news media, at least, in our urban centers. This has led to an emphasis of fighting the war on drugs in urban areas primarily to the detriment of many of our rural areas.

Certainly those who are involved in the drug trade have not ignored the rural area of this Nation. In fact, they have found that if they should move from urban areas into rural areas that in many cases law enforcement cannot in any way compete or challenge these people who are involved in this vicious trade.

What we are attempting to do with this legislation, Mr. Chairman, is to focus attention upon the needs of rural areas as far as the war on drugs is concerned. This particular proposal establishes a rural drug policy coordinator in the Office of the National Drug Policy Control Center. It is a person who we need to coordinate the drug policy of this Nation for rural areas and to focus upon those needs.

It also authorizes $20 million in fiscal year 1991, and such sums as necessary in 1992 and 1993 for rural drug enforcement assistance. Half of those funds would go to the States whose populations are less than 150,000 people or 52 or fewer per square mile. The other half would go to the remaining States, but only for those nonmetropolitan areas.

It also directs, Mr. Chairman, that the Drug Enforcement Administration would station no fewer than 10 DEA agents in each State in this Nation.

□ 1440

There are 17 States that presently do not meet those requirements, and we feel, without question, that this is necessary for the Federal Government to meet its requirements

In addition to that, Mr. Chairman, it also establishes an international drug interdiction training simulator center in Arizona at out Federal law enforcement training center that also already exists there. The benefits of this training center are self-evident.

Obviously, this is a cost-effective way in which to meet the training needs with other nations, both with our neighbors such as Mexico, and particularly with those in the Caribbean and, in addition, Mr. Chairman, it establishes a situational awareness technology capability with regard to those involved in drug aircraft interdiction efforts. This would allow otherwise uncensored aircraft to be able to receive information that would identify both censored friendly aircraft and adversary and be able to track that particular aircraft.

Mr. Chairman, this legislation also pays for itself. It would transfer some $60 million from the increase that the President requested in his budget of $682 million in increased travel funds, and, now, these are travel funds on nonemergency and nonnational security type travel. This would not involve law enforcement travel or any national security travel, and transfer those funds to pay for these particular provisions.

Mr. Chairman, I yield 1 minute to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise in support of the amendment and ask unanimous consent to revise and extend.

This amendment would, among other things, add a title on rural drug enforcement. One part of this amendment would achieve three things. First, it would increase the number of DEA agents in low population States: Alaska, Arizona, Arkansas, Colorado, Idaho, Iowa, Kansas, Maine, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Utah, Vermont, and Wyoming. This bill sets a floor at 10 for the number of DEA agents that must be assigned to States with less than 10 agents. Second, this measure would provide training for law enforcement officers that would focus upon unique needs of rural law enforcement. America's drug problem is too often viewed as a plague confined to our Nation's large cities. As you know, nothing could be further from the truth. Small towns and rural areas across the country are grappling with dramatic increases in illegal drug use and, consequently, violence and serious crime. Last, this amendment would direct the drug czar to appoint a rural drug policy coordinator who would examine the special needs of rural areas in drug interdiction.

This part of the measure is substantially similar to a bill I introduced this year, H.R. 2970. This amendment is also similar to a provision that passed in the Senate's crime bill. Senator BAUCUS is the prime sponsor of the measure that was offered and supported by Senator BIDEN.

I am told that the Department of Justice would view this as congressional micromanagement of their turf. I would counter that the drug problem is far too important for petty turf battles and that the numbers are skewed in favor of urban centers relative to the war on drugs. This amendment does not strip urban areas of agents. The President has already requested an additional 705 DEA agents in his fiscal year 1990 budget. This measure deals with expanding existing DEA agent coverage into rural areas and by training these agents properly.

Congressman ENGLISH is to be commended for his work on this measure. He has worked long and hard on this amendment and all of the sections he devised—especially those on funding,

and the establishment of an international Drug Interdiction Training Simulator Center at the Federal Law Enforcement Training Center at Marana, AZ—should be adopted.

Mr. ENGLISH. Mr. Chairman, I reserve the balance of my time.

Mr. HUGHES. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. HUGHES] is recognized for 5 minutes.

Mr. HUGHES. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in opposition to the gentleman's amendment, and I will briefly point out some of my major concerns with the proposal.

First of all, this is a new major funding program for $20 million a year in law enforcement assistance, and there have been no hearings. This is just bad legislative process regardless of the merits of the amendment.

Second, there is a provision mandating the Attorney General to assign not less than 10 DEA agents to every State and 4 extra DEA agents to each rural State as defined in the bill. This would affect at least 20 States and is micromanagement at its worst.

Third, there is an extremely vague procedure of funding this amendment out of travel and transportation of persons of all agencies, commissions, and so forth, of the Federal Government. Law enforcement or DOD agencies would be exempted but nothing else. I assume this would cut travel for such things as public health and numerous agriculture programs designed to aid rural areas, but I don't know. For the life of me I don't know where this money could be accounted for in the appropriations process. This novel funding approach should be carefully considered during the normal committee process.

Fourth, there is $28 million for an International Drug Interdiction Training Simulator Center at Marana, AZ. In order to spend this kind of money we surely should have a specific justification for this endeavor from the committee which has jurisdiction.

Finally, the Department of Justice opposes this amendment, and I believe that we should not attempt to develop untried solutions to national law enforcement problems on the floor of the House in 10 minutes.

I ask my colleagues to reject this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. ENGLISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to respond very quickly.

The President's budget included an increase of 705 DEA agents across this country. Certainly, bringing each State up to a minimum of 10 is not too much.

As far as meeting the requirements, the Federal Law Enforcement Training Center is already established in Arizona and has been there for some time.

Mr. Chairman, as far as hearings, I think it is no secret that I chaired the Government Operations Subcommittee of Government Information, Justice and Agriculture. The lack of effort by the DEA in rural areas is well documented over an extended period of time, and I think, without question, Mr. Chairman, it appears that this is the only way we are going to get the DEA's attention.

I would ask for minimum support, 10 agents, for each rural State, which certainly is not asking for much.

I would urge adoption of the amendment, Mr. Chairman.

Mr. HUGHES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I definitely rise in opposition to the amendment of the gentleman from Oklahoma. The administration does, as the gentleman from New Jersey has pointed out, strongly oppose this amendment.

The fact of the matter is that we do not have enough drug enforcement agents in order to go out and do all the jobs that they are supposed to do.

We have DEA agents around the world strategically located to try to disrupt the production of cocaine and other narcotics. We have them located in strategic places in the United States to try to stop the flow, and to capture these.

The DEA is designed to restrict the inflow of these narcotics. It is not designed to be in every State of the Union, to be arresting officers. I mean, that is what we have other law enforcement officers there for. We need to put DEA agents in places where they will be most likely to intercept people who are the major traffickers and to make the production and the distribution of this more difficult on a Federal level.

I think the requiring of 10 of them to be in every State is absurd. I realize the gentleman from Oklahoma is trying to protect rural areas, and I am all for protecting rural areas in drug trafficking, too, but this ought to be done with more help with the Justice Assistant Act or local law enforcement, and it ought to be done with more help to the FBI and in other ways, but not taking the Drug Enforcement Administration agents and straightjacketing them and having micromanagement of their distribution around the Nation or, indeed, around the world.

They are our international arm for tracking narcotics, and they belong in areas where the international traffic is coming in. They belong in areas where the Administrator of the DEA says they ought to be.

I urge my colleagues in the strongest of terms to defeat this amendment.

There may be good portions of it, and it can come before the authorization process in the normal course of affairs, those portions that are, but the portion that straitjackets the DEA and specifies 10 agents to every State must be defeated.

I urge a no vote.

Mr. HUGHES. Mr. Chairman, I yield myself such time as I may consume.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I thank both of the gentlemen who, I know, have been active in this field for some time.

The difficulty we have here, and one that we have not been able to address, is that DEA has responsibilities that certainly apply to the rural areas which they have not been carrying out over the past decade. They have not carried them out, and it seems that unfortunately our law enforcement resources many times are stationed on the basis of where the news media seems to focus rather than where crime may actually exist.

I would hope, and I would ask unanimous consent, if this would address the gentleman's problem, to change the word "shall" to the word "should."

Mr. HUGHES. Reclaiming my time, I will say to the gentleman who really has been one of the leaders in the battle against drug abuse and crime, particularly during the years that he chaired a subcommittee that had direct jurisdiction over such things, the problem is, as I say to the gentleman, there have been no hearings on it. I cannot travel anywhere with drug enforcement that I do not have agencies, particularly overseas, that say, "We need more analysts."

□ 1450

We need more agents. We are overloaded. We have cases we cannot reach, particularly in the Foreign Cooperative Investigative Program.

Here we are, going to assign arbitrarily, 10 agents to every State, whether we need them or not. That is micromanagement at its worst. I would be happy to work with the gentleman to address the problems, but I cannot support the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. ENGLISH].

The amendment was rejected.

The CHAIRMAN. The Chair understands that the gentleman from Michigan (Mr. DINGELL) has decided to forgo offering amendment No. 42.

Mr. DINGELL. That is correct, Mr. Chairman.

The CHAIRMAN. It is now in order to consider amendment No. 43 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DINGELL: Add at the end of the bill the following:

TITLE —DRUG TESTING

SECTION 1. STANDARDS FOR CERTIFICATION OF LABORATORIES ENGAGED IN DRUG TESTING.

Title V of the Public Health Service Act is amended by adding at the end the following:

"PART E—DRUG TESTING

"CERTIFICATION PROGRAM

"SEC. 551. (a) Not later than one year after the date of enactment of this part, the Secretary shall, by regulation, establish a program (hereinafter referred to in this part as the 'certification program') for the certification of laboratories for the performance of toxicological urinalysis conducted for drug testing programs. The certification program shall, to the maximum extent practicable—

"(1) conform to the mandatory guidelines for Federal workplace drug testing programs published on April 11, 1988, by the Alcohol, Drug Abuse, and Mental Health Administration at 53 Fed. Reg. 11979 (hereinafter referred to in this part as the 'ADAMHA guidelines'), and

"(2) treat any person conducting a drug testing program in the same manner as the ADAMHA guidelines treat the Federal agencies to which they are applicable.

"(b)(1) The certification program established by the Secretary under subsection (a) shall, in addition to the requirements of subsection (a)—

"(A) allow access by any test subject, upon written request, to any record relating to the results of such subject's drug test and to any record relating to the result of any relevant certification, review, or revocation of certification proceeding,

"(B) provide that the Secretary shall, in considering applications for certification under the certification program, consider whether the applicant has owned or operated a laboratory which has had its certification revoked under the program,

"(C) provide that the Secretary may approve State agencies or private, nonprofit entities as accrediting bodies to act on the Secretary's behalf in implementing the certification program in accordance with the requirements of this section,

"(D) provide that the Secretary shall oversee and review the performance of any accrediting body acting on the Secretary's behalf to ensure its compliance with the requirements of the certification program, and

"(E) provide that the Secretary shall have the right to obtain from an accrediting body acting on the Secretary's behalf and from any laboratory that may be certified by such a body all records and materials that may be necessary for the oversight and review required by subparagraph (D).

"(2) A laboratory may not be certified to perform drug testing under the certification program established under subsection (a) unless the laboratory is certified under section 353, except that a laboratory which only performs toxicological urinalyses is not required to be certified under section 353 to be certified under the certification program.

"(c) In establishing the certification program, the Secretary shall take into consideration any special factors or circumstances applicable to the testing of participants in—

"(1) organized interscholastic or intercollegiate athletic competition, or

"(2) organized athletic competition conducted under the auspices of or sanctioned by the United States Olympic Committee or any member thereof

that warrant separate or different treatment of such testing in the certification program.

"(d) The Secretary shall, in accordance with section 553 of title 5, United States Code, revise the requirements of the certification program to reflect improvements in drug testing methods for the purpose of ensuring the full reliability and accuracy of drug testing, the accurate reporting of results, and the integrity and efficacy of drug testing programs.

"SANCTIONS

"SEC. 552. (a) No person may perform any toxicological urinalysis in connection with any drug testing program unless that person is a laboratory which is certified by the certification program established under section 551.

"(b) It shall be unlawful for any person—

"(1) who is a test subject to knowingly disclose the results of a toxicological urinalysis in connection with any drug testing program which was not performed on such person,

"(2) who is not a test subject and who has been directly or indirectly involved in a drug testing program or a toxicological urinalysis under such a program, to knowingly disclose the results of any toxicological urinalysis in connection with any drug testing program, except—

"(A) as provided in the certification program established under section 551,

"(B) that if the person is authorized to represent—

"(i) an educational institution in which a participant described in subsection (c) of section 551 is enrolled,

"(ii) an organized interscholastic or intercollegiate athletic team, league, or association, or

"(iii) organized athletic competition conducted under the auspices of or sanctioned by the United States Olympic Committee or any member thereof,

such person may disclose the results of a toxicological urinalysis performed on a participant described in subsection (c) of section 551 in connection with a drug testing program, and

"(C) that if the person is authorized to represent a team, league, or association which conducts a drug testing program in which participants in athletic competitions who are paid for their performance are test subjects, such person may disclose the results of a toxicological urinalysis performed on such participant in connection with a drug testing program,

"(3) to knowingly—

"(A) alter or falsely report the results of a toxicological urinalysis, or

"(B) adulterate any urine specimen (other than a specimen spiked for use in a proficiency challenge),

in connection with any drug testing program or proficiency challenge,

"(4) except in connection with epidemiological, biomedical, or other medical research in which the identity of the person providing the urine specimen is unknown, to knowingly perform or cause to be performed on a urine specimen a test for any medical condition or any substance, other than drugs or alcohol, without the consent of the person providing the urine specimen following disclosure to such person of the medical condition or substance for which testing will be performed,

"(5) if the consent of a person providing a urine specimen is required under paragraph (4) before the specimen may be tested, to take any adverse action against any test subject based, in any adverse action against such person for refusing to give such consent unless such person is a participant described in subsection (c) of section 551 or is a participant in an athletic competition who is paid for the participant's performance,

"(6) in the case of a toxicological urinalysis, to take any adverse section against any test subject based, in whole or in part, upon a positive result that has not been verified by a confirmatory test—

"(A) which uses gas chromatography/mass spectrometry, or

"(B) which, after the establishment of the certification program under section 551, is performed in accordance with the requirements of such program, or

"(7) to knowingly fail to administer or conduct any toxicological urinalysis or drug testing program in accordance with the requirements of the certification program established under section 551.

"(c) A person who violates subsection (a) or (b) shall be subject to one or more of the following sanctions for each such violation:

"(1) Assessment by the Secretary of civil penalty of not less than $1,000 or more than $10,000, taking into account the previous record of the person under subsection (a) or (b) and the gravity of the violation.

"(2) Imprisonment for not more than 3 years, or a fine under title 18, United States Code, or both.

"CIVIL ACTIONS

"SEC. 553. (a) Any test subject who is tested or whose test results are handled in violation of, or is deprived of rights under, subsection (a) or (b) of section 552 of the certification program established under section 551 may institute a civil action in any district court of the United States of competent jurisdiction for appropriate legal and equitable relief, including employment, reinstatement, promotion, the payment of lost wages and benefits, and damages. The costs of suit, including a reasonable attorney's fee, shall be allowed to a prevailing party. Such an attorney's fee shall be allowed in the manner in which attorney's fees are allowed under the last sentence of section 722 of the Revised Statutes (42 U.S.C. 1988). It shall not be a defense to such an action that the plaintiff has waived the rights or protections provided for in this section or such certification program or has otherwise consented to a violation described in subsection (a) or (b) of section 552 or that the defendant acted in good faith. No action may be instituted under this subsection after the expiration of 2 years from the date the person discovers the violation or deprivation.

"(b) The Secretary may bring an action to restrain violations of section 552. In any action brought under this subsection, the district courts of the United States shall have jurisdiction, for cause shown, to issue temporary or permanent restraining orders and injunctions to require compliance with section 552, including such legal or equita-

ble relief incident thereto as may be appropriate, including employment, reinstatement, promotion, and the payment of lost wages and benefits.

"(c) Any person conducting a drug testiing program who takes any adverse action against any test subject based, in whole or in part, upon a report by a laboratory of a positive test result which is thereafter found to have been a false positive result and who consequently is held liable under subsection (a) or (b) for damages or other sums may institute a civil action for indemnification against such laboratory in any district court of the United States of competent jurisdiction. No action may be instituted under this subsection after the expiration of one year from the date on which a judgment under subsection (a) becomes final.

"CONSTRUCTIONS

"SEC. 554. (a) Nothing in this part limits the authority—

"(1) of the Secretary to permit or require an accrediting body described in section 551(b)(1)(C) to maintain, or

"(2) of any test subject or duly authorized representative of a test subject to contract for,

standards, procedures, or requirements more stringent than those provided under the certification program established under this part or under section 552.

"(b) To the extent that the certification program established under this part or section 552 imposes more stringent standards, procedures, or requirements on—

"(1) the Secretary,

"(2) laboratories performing toxicological urinalysis, or

"(3) person conducting drug testing programs, such standards, procedures, or requirements shall supersede and replace those provided by the ADAMHA guidelines and by any statue, rule, regulation, executive order, or other law in effect on the date of the enactment of this part.

"STATE LAW

"SEC. 555. No State or local government may adopt or enforce any law, rule, regulation, ordinance, standard, or order relating to—

"(1) the certification of laboratories which perform drug testing, or

"(2) requirements for the conduct of drug testing under the certification program established under this part,

which is different from such certification program.

"FEES

"SEC. 556. The Secretary shall require the payment of fees by a laboratory for certification and recertification in such amounts as the Secretary may, from time to time, determine are necessary to recover the cost of granting or denying such certification or recertification under the certification program established under section 551. The Secretary shall also require the payment thereafter of annual fees by certified laboratories in such amounts as the Secretary may, from time to time, determine are necessary to recover the cost of ongoing testing, inspection, and other supervisory activities with respect to certified laboratories under this part and such certification program.

"DEFINITIONS

"SEC. 557. As used in this part—

"(1) the term 'blank specimen' means a urine specimen containing no drug,

"(2) the term 'controlled substance' has the meaning given to it in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)),

"(3) the term 'drug' means any controlled substance (other than a controlled substance used pursuant to a vaild prescription) and any metabolite of a controlled substance,

"(4) the term 'drug testing program' means any program or policy under which 2 or more individuals are, or can reasonably be expected to be, required or requested to submit urine specimens for toxicological urinalysis, but such term does not include—

"(A) any program for toxicological urinalysis—

"(i) administered by the armed forces (as defined in section 2101(2) of title 5, United States Code) or the intelligence community (as defined in Executive Order 12333 of December 4, 1981), or

"(ii) involving the testing of arrestees, detainees, probationers, incarcerated persons, or parolees in the criminal justice system, and

"(B) the submission to a laboratory of any urine speciment by an individual's physician if the testing by the laboratory of the specimen is to be conducted as part of the regular course of diagnosis or treatment prescribed by the physician,

"(5) the term 'false positive result' means a report in connection with any toxicological urinalysis of the presence of a drug in a urine speciment in which that drug is not in fact present at or above the concentration level for that drug established by the Secretary,

"(6) the term 'person' includes the Federal Government, a State or local government, or any agency of such a government,

"(7) the term 'proficiency challenge' means a test of a laboratory's ability—

"(A) to identify correctly whether a urine speciment contains a quantity of a drug, and

"(B) in the case of a spiked specimen, to identify correctly a quantity of any drug in that specimen,

"(8) the term 'spiked specimen' means a urine specimen into which a quantity of a drug or drugs has intentionally been placed for use in a proficiency challenge,

"(9) the term 'test subject' means an individual who has been required or requested to submit a urine specimen for toxicological urinalysis in connection with a drug testing program, and

"(10) the term 'toxicological urinalysis' means the performance of any analytical procedure or set of procedures on a urine specimen to identify the presence in that specimen of any drug and the amount thereof.".

SEC. 002. EFFECTIVE DATE.

Part E of title V of the Public Health Service Act, added by this title, shall take effect on the date of the enactment of this Act, except that subsections (a), (b)(2), and (b)(7) of section 552 of such part shall take effect one year after the date the Secretary of Health and Human Services establishes the laboratory certification program under section 551 of such part.

Mr. DINGELL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this amendment is sponsored by myself and the distinguished gentleman from Virginia [Mr. BLILEY] who is the cosponsor and the senior ranking minority member of our Subcommittee on Oversight and Investigations. It is offered to correct a large number of abuses which have been found by our subcommittee in connection with private sector drug testing.

Basically, it does several things. First, it requires that all testing in connection with drug testing be done in conformity with standards set out by the Department of Health and Human Services. Second, it requires that all drug testing which is done on urine specimens be done in a place where all the tests, the preliminary as well as the confirmatory tests, are done on a single premises. It establishes a single standard which affects everybody, and it takes steps to protect the rights of those tested.

Today we have a huge mishmash of uncertified laboratories testing people without any standards or certification. The newspapers are full of abuses of this particular kind. One of the complaints which has been raised about the amendment is that it would have an adverse impact upon small laboratories. That is untrue. There are large numbers of laboratories, many of which are small. There is no reason why small laboratories should be treateds differently than a large laboratory, or why small laboratories who are incompetent should be permitted to destroy the reputation and good name, and to deny employment to law-abiding, innocent citizens, without any redress whatsoever.

We have found repeated instances of failures of this kind, and abuses which have adversely and significantly affected the rights of innocent persons who had never engaged in any improper use of drugs at all.

The CHAIRMAN. Is the gentleman from Texas [Mr. BARTLETT] in opposition to the amendment?

Mr. BARTLETT. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas [Mr. BARTLETT] will be recognized for 5 minutes in opposition to the amendment.

Mr. BARTLETT. Mr. Chairman, I rise in very strong opposition to this amendment, I have been joined by the gentleman from Florida [Mr. MCCOLLUM], and the gentleman from Florida [Mr. SHAW] in opposition to this amendment.

The fact is that if we vote for this amendment, the chief result is that we will have more drugs in the workplace, less testing for drugs with employers in the workplace, more crime as the result of those drugs, and it goes completely contrary to the purpose of this bill.

Now, the fact is that employers all over this country are in the process of developing drug free workplace policies in which they develop with their employees specific policies that test for the presence of illegal narcotics in the workplace. This amendment goes exactly in the opposite direction by restricting the types of drugs for which

employees may be tested, by restricting the types of laboratories that may use those tests. It is my information that, in fact, there are only 57, I believe, laboratories in the entire country that would qualify for this particular test. If we want to protect employees from the safety and health hazard of work, side by side with users of illegal narcotics in the workplace, then we would vote against this amendment.

This amendment means more drugs in the workplace, less testing, fewer drug free workplace policies by employers, higher costs, and more crime. It is straightforward. It is direct. The amendment restricts drug testing. The purpose of this bill should be to encourage drug testing, and to encourage drug free workplace policies.

Mr. Chairman, I yield to the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, I strongly oppose this amendment. It, in effect, is an antidrug testing provision because it would eliminate the great majority of current testing programs without regard to their quality. It would increase the test turnaround times and test expense, and would greatly discourage employers from adopting drug-testing programs, and eliminate all fitness for duty testing, which is the preflight testing of pilots at all employee-operated on-site labs. This is a terrible amendment from the standpoint of antidrug testing.

We need to have drug testing in the workplace as much as we possibly can within the bounds of what would be constitutionally permissable, especially in those cases where there is a jeopardy involving the people in the workplace. I think we very much need to oppose this amendment.

Mr. BARTLETT. Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to my distinguished friend, the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I rise in strong support of this amendment. As has been explained, this amendment is composed of the test of H.R. 33 which was introduced the first day of the 101st Congress by the gentleman from Michigan and me.

This amendment is similar to legislation which passed the House on a voice vote during consideration of the drug bill in the last Congress. Unfortunately, these provisions were deleted during negotiations with the other body on the bill. In the last Congress, the chairman of the Energy and Commerce Committee and I began as adversaries on a prior version of this amendment.

I am pleased to say that we are no longer adversaries on this issue. We put aside our underlying differences on this issue to focus on our mutual belief that individuals who undergo drug testing are entitled to have such tests analyzed by laboratories that meet reasonable quality standards.

This amendment is based on a couple of key principles. First, this amendment neither encourages nor discourages drug testing. It does not address under what circumstances drug testing is or is not appropriate. The existing right of an employer to remove from the job an employee who may be impaired would not be affected. The bill does prohibit an employer from taking adverse action against an employee based on a positive screen that has not been proven by a confirmatory test.

The employer is not prohibited from taking action against an impaired employee provided such action is not based on an unconfirmed drug test. Thus, the bill preserves the right of employers to get impaired employees out of safety sensitive jobs immediately, following which the employer may pursue its usual procedures with respect to future employment.

Second, this amendment is based on the belief that drug testing must be conducted according to realistic standards that ensure that laboratories will analyze the tests accurately. We all know the potential for running lives and reputations based on faulty drug tests. This amendment provides minimum uniform standards based on the standards that apply to drug testing of Federal employees.

Mr. Chairman, this amendment is not perfect. We have met with representatives of many industry and labor groups that have suggested possible improvements in the legislation. If this amendment is adopted, I can assure my colleagues that these issues will be addressed in conference to the extent that we can without undercutting the basic thrust of the legislation—reasonable, uniform and minimum standards for drug-testing laboratories.

In closing, let me urge my colleagues to support this amendment. It is fair. It is equitable. And it will prevent fundamentally unfair situations like that uncovered by our committee staff investigation. It will do that without unnecessary and excessive regulation. I urge my colleagues to support it.

Mr. BARTLETT. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I want to express my appreciation to my colleague from Michigan [Mr. DINGELL] for calling attention to a very important issue. Certainly, we are all concerned to deal with problems where mistakenly, drug testing practices, because of bad laboratory procedures have, in fact, taken place.

□ 1500

But I have to say to my good friend that I believe the amendment is overreaching in the sense that it really limits it at this point in time, although there are time periods, as my colleague, the gentleman from Virginia has pointed out, for certification; but is much too far-reaching in terms of what it cuts into in terms of available laboratory services for drug testing. It cuts into new innovative programs with States setting standards, such as is happening in Utah which has a new State standard which if followed eliminates the risk that businesses have relative to litigation involving drug testing.

So Mr. Chairman, I would urge my colleagues to oppose this amendment, well-intentioned though it may be, it is overreaching.

PARLIAMENTARY INQUIRIES

Mr. BARTLETT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BARTLETT. Mr. Chairman, does the gentleman in opposition have the right to close?

The CHAIRMAN. The gentleman from Michigan would have the right to close.

Mr. BARTLETT. I have a further parliamentary inquiry, Mr. Chairman. Does the gentleman in opposition, which is this side, have the right to close, or the proponent of the amendment have the right to close?

The CHAIRMAN. Unless the opposition is presenting the committee position on this or is the committee, the proponent would have the right to close.

Mr. SHAW. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SHAW. Mr. Chairman, the committee position has no provision on this particular section.

The CHAIRMAN. The gentleman from Texas [Mr. BARTLETT] is not a member of the committee and would otherwise have no standing to close. Ordinarily the proponent would close. If the gentleman from Texas [Mr. BARTLETT] were on the committee or presenting the committee position, he would then have the right to close, but otherwise he would not.

Mr. BARTLETT. I have a further parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. BARTLETT. Mr. Chairman, the Committee on Education and Labor, of which I am a member, does have jurisdiction over this item and had it been introduced as a bill, it would have been referred to our committee.

The CHAIRMAN. Well, the Committee on Education and Labor is not presenting this bill today. It is the Judiciary Committee.

Mr. BARTLETT. Mr. Chairman, I yield my remaining 1 minute to the

gentleman from Florida [Mr. SHAW], who is a member of the committee of jurisdiction and is representing the committee position.

Mr. SHAW. Mr. Chairman, I rise in strong opposition to this amendment. this amendment would apply NIDA standards to all labs performing drug tests in the private sector. That sounds like a great idea. But the fact of the matter is that the labs that perform the bulk of current drug testing for the private sector will be excluded from this important function if this amendment is approved.

These labs are already certified under the Clinical Labs Improvement Act to do diagnostic and therapeutic tests. It only stands to reason that if we trust labs to perform tests in matters of life and death, then we can trust them to accurately screen drug tests. Hospital and small independent labs have a good record and follow sound procedures, but many would be barred from performing drug tests if the Dingell amendment passes.

For example, the NIDA guidelines would require that labs perform initial and confirmatory tests on the same site. The vast majority of labs currently perform only initial screening tests. Most could not afford the added costs for equipment required to perform the followup tests. Only 57 labs nationwide currently meet these guidelines. The labs that do not could not continue drug testing.

The Dingell amendment would also establish harsh penalties for employers who fail to comply with its complicated procedures. This includes civil law suits, damages and civil penalties of up to $10,000. This would clearly have a chilling effect on the use of workplace drug testing programs.

Mr. Chairman, the House should not be considering this issue as part of an unrelated bill. The subject of workplace drug abuse, and how to best deal with it, should be carefully examined by Congress. I urge all Members to reject the Dingell drug testing amendment. Do not wipe out private drug testing. Do not approve this amendment.

Mr. DINGELL. Mr. Chairman, I yield myself the remaining minute.

Mr. Chairman, I urge my colleagues to support the Bliley-Dingell amendment. It is a good amendment. It imposes uniform standards for drug testing and drug testing laboratories, the same standards and the same certification which are now required by Federal rules, regulations, and law for people in the transportation business and for Federal Government employees.

This legislation will not impair any testing program. It will not impair prosecution of crime. It will assure that the rights of innocent persons who are tested under drug testing programs are fully protected. It will require States to have the same minimum standards that the Federal Government does.

Lastly, it will assure that drug testing is conducted in a manner which protects the rights of people who submit to these tests.

Mr. Chairman, I urge my colleagues to support this amendment, to assure that we have good drug-testing programs in place, to assure that we have reliable results, to ensure protection of both the public interest and the rights of the people who are tested.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. DINGELL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BARTLETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 333, noes 86, not voting 14, as follows:

[Roll No. 426]

AYES—333

Ackerman	Davis	Hamilton
Alexander	de la Garza	Hammerschmidt
Anderson	DeFazio	Harris
Andrews	Dellums	Hatcher
Annunzio	Derrick	Hawkins
Anthony	Dickinson	Hayes (IL)
Applegate	Dicks	Hefner
Aspin	Dingell	Hertel
Atkins	Dixon	Hoagland
AuCoin	Donnelly	Hochbrueckner
Barnard	Dorgan (ND)	Horton
Barton	Dornan (CA)	Hoyer
Bates	Downey	Hubbard
Beilenson	Dreier	Hughes
Bennett	Durbin	Hutto
Bereuter	Dwyer	Jacobs
Berman	Dymally	James
Bevill	Dyson	Jenkins
Bilbray	Early	Johnson (CT)
Bilirakis	Eckart	Johnson (SD)
Bliley	Edwards (CA)	Johnston
Boehlert	Emerson	Jones (GA)
Boggs	Engel	Jontz
Bonior	English	Kanjorski
Borski	Erdreich	Kaptur
Bosco	Espy	Kasich
Boucher	Evans	Kastenmeier
Boxer	Fascell	Kennedy
Brennan	Fawell	Kennelly
Brooks	Fazio	Kildee
Broomfield	Feighan	Kleczka
Browder	Fields	Kolter
Brown (CA)	Fish	Kostmayer
Bruce	Flake	LaFalce
Bryant	Flippo	Lancaster
Bustamante	Foglietta	Lantos
Byron	Ford (TN)	Laughlin
Campbell (CO)	Frank	Leach (IA)
Cardin	Gallo	Leath (TX)
Carper	Gaydos	Lehman (CA)
Carr	Gejdenson	Lehman (FL)
Chandler	Gephardt	Lent
Chapman	Geren	Levin (MI)
Clarke	Gibbons	Levine (CA)
Clay	Gilman	Lewis (GA)
Clement	Glickman	Lipinski
Clinger	Gonzalez	Lloyd
Coleman (MO)	Goodling	Long
Coleman (TX)	Gordon	Lowey (NY)
Collins	Gradison	Machtley
Condit	Grant	Manton
Conte	Gray	Markey
Conyers	Green	Martin (IL)
Cooper	Guarini	Martin (NY)
Courter	Gunderson	Martinez
Coyne	Hall (OH)	Matsui
Darden	Hall (TX)	Mavroules
Mazzoli	Pickle	Smith (NJ)
McCandless	Poshard	Smith (VT)
McCloskey	Price	Snowe
McCurdy	Pursell	Solarz
McDade	Rahall	Spence
McDermott	Rangel	Spratt
McGrath	Ravenel	Staggers
McHugh	Ray	Stallings
McMillan (NC)	Regula	Stangeland
McMillen (MD)	Richardson	Stark
McNulty	Ridge	Stenholm
Mfume	Rinaldo	Stokes
Miller (CA)	Roberts	Studds
Miller (OH)	Roe	Sundquist
Miller (WA)	Rogers	Swift
Mineta	Ros-Lehtinen	Synar
Mink	Rose	Tallon
Moakley	Rostenkowski	Tanner
Molinari	Roth	Tauke
Mollohan	Roukema	Tauzin
Montgomery	Rowland (CT)	Taylor
Moody	Rowland (GA)	Thomas (GA)
Morella	Roybal	Thomas (WY)
Morrison (CT)	Russo	Torricelli
Morrison (WA)	Sabo	Towns
Mrazek	Saiki	Traficant
Murphy	Sangmeister	Traxler
Murtha	Sarpalius	Udall
Nagle	Savage	Unsoeld
Natcher	Sawyer	Upton
Neal (MA)	Saxton	Vander Jagt
Neal (NC)	Schaefer	Vento
Nelson	Scheuer	Visclosky
Nielson	Schiff	Volkmer
Nowak	Schneider	Walgren
Oberstar	Schroeder	Walsh
Obey	Schuette	Washington
Olin	Schulze	Watkins
Ortiz	Schumer	Waxman
Owens (NY)	Sensenbrenner	Weiss
Owens (UT)	Serrano	Weldon
Pallone	Sharp	Wheat
Panetta	Shays	Whittaker
Parker	Shuster	Whitten
Parris	Sikorski	Williams
Pashayan	Sisisky	Wilson
Patterson	Skaggs	Wise
Payne (NJ)	Skeen	Wolf
Payne (VA)	Skelton	Wolpe
Pease	Slattery	Wyden
Pelosi	Slaughter (NY)	Wylie
Perkins	Slaughter (VA)	Yates
Petri	Smith (FL)	Yatron
Pickett	Smith (IA)	Young (AK)

NOES—86

Archer	Goss	Moorhead
Armey	Grandy	Myers
Baker	Hancock	Oxley
Ballenger	Hansen	Packard
Bartlett	Hastert	Paxon
Bateman	Hefley	Penny
Bentley	Henry	Porter
Brown (CO)	Herger	Quillen
Buechner	Hiler	Rhodes
Bunning	Holloway	Ritter
Burton	Hopkins	Rohrabacher
Callahan	Houghton	Shaw
Campbell (CA)	Hunter	Shumway
Coble	Hyde	Smith (TX)
Combest	Inhofe	Smith, Denny (OR)
Cox	Ireland	
Craig	Kolbe	Smith, Robert (NH)
Crane	Kyl	
Dannemeyer	Lagomarsino	Smith, Robert (OR)
DeLay	Lewis (CA)	
DeWine	Lewis (FL)	Solomon
Douglas	Lightfoot	Stearns
Duncan	Livingston	Stump
Edwards (OK)	Lukens, Donald	Thomas (CA)
Frenzel	Marlenee	Valentine
Frost	McCollum	Vucanovich
Gallegly	McCrery	Walker
Gekas	McEwen	Weber
Gillmor	Meyers	Young (FL)
Gingrich	Michel	

NOT VOTING—14

Costello	Huckaby	Oakar
Coughlin	Jones (NC)	Robinson
Crockett	Lowery (CA)	Smith (NE)
Ford (MI)	Luken, Thomas	Torres
Hayes (LA)	Madigan	

□ 1526

Mr. HASTERT and Mr. GILLMOR changed their vote from "aye" to "no."

Mr. SKEEN and Mr. FIELDS changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 45 printed in part 2 of House Report 101-796.

AMENDMENT OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OXLEY: Page 239, after line 5, add the following new title:

TITLE XXIII—EFFECTIVE REHABILITATION

SEC. 2301. ESTABLISHMENT OF STATEWIDE DRUG TREATMENT PLANS.

(a) IN GENERAL.— Subpart 1 of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) is amended by inserting after section 1916A the following:

"STATEWIDE DRUG TREATMENT PLAN

"SEC. 1916b. (a) NATURE OF PLAN.—In order to receive the drug abuse portion of its allotment for a fiscal year under section 1912A, a State shall develop, implement and submit as part of the application required by section 1916(a) an approved Statewide Drug Treatment Plan, prepared according to regulations promulgated by the Secretary, which shall contain the following:

"(1) A single, designated State agency for formulating and implementing the Statewide Drug Treatment Plan.

"(2) A description of the mechanism that shall be used to assess the needs for drug treatment in localities throughout the State including the presentation of relevant data.

"(3) A description of a Statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary.

"(4) A description of performance-based criteria that shall be used to allocate funds to drug treatment facilities receiving funding under this subpart.

"(5) A description of the drug-free patient and workplace programs (all of which must include drug testing) to be utilized in drug treatment facilities and programs.

"(6) A description of the mechanism that shall be used to make funding allocations under this subpart.

"(7) A description of the actions that shall be taken to improve the referral of drug users to treatment facilities that offer the most appropriate treatment modality.

"(8) A description of the program of in-service training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques.

"(9) A description of the plan that shall be implemented to coordinate drug treatment facilities with other social, health, correctional and vocational services in order to assist or refer those patients in need of such additional services.

"(10) A description of the plan that will be implemented to expand and improve efforts to contact and treat expectant women who use drugs and to provide appropriate follow-up care to their affected newborns.

"(b) SUBMISSION OF PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to review and approve or disapprove State plans, and to propose changes to them.

"(c) SUBMISSION OF PROGRESS REPORT.—Each State shall submit such reports, in such form, and containing such information as the Secretary may, from time to time, require, and will comply with such additional provisions as the Secretary may from time to time find necessary to verify the accuracy of such reports.

"(d) WAIVER OF PLAN REQUIREMENT.—At the Secretary's discretion, the Secretary may waive any or all of the requirements of this subsection upon the written request of a State if the State implements an alternative treatment plan that fulfills the objectives of this subsection.

"(e) DEFINITION.—For purposes of this section, the term 'drug abuse portion' means the amount of a State's allotment under section 1912A that is required by this subpart, or by any other provision of law, to be used for programs or activities relating to drug abuse.".

(b) REGULATIONS AND EFFECTIVE DATE.—

(1) The Secretary shall promulgate regulations to carry out section 1916B of the Public Health Service Act no later than six months following the date of this Act.

(2)(A) Sections 1916B (a)(4) and (a)(5) of that Act are effective beginning with the second fiscal year beginning after the date final regulations are published in the Federal Register.

(B) The remainder of that section is effective beginning with the first fiscal year beginning after the date final regulations are published in the Federal Register.

SEC. 2302. MAINTENANCE OF EFFORT IN ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANTS.

Section 1916(c)(11) of the Public Health Service Act (42 U.S.C. 300x-4(c)(11)) is amended to read as follows:

"(11)(A)(i) The State agrees to maintain State expenditures for alcohol, drug abuse, and community mental health services at a level equal to not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments under section 1914.

"(ii) The State shall maintain State expenditures for drug abuse related services provided pursuant to this subpart at a level equal to not less than the average amount of such expenditures for the preceding two years.

"(B) The Secretary may, upon the request of a State, waive the requirement established in subparagraph (A) if the Secretary determines that extraordinary economic conditions in the State justify the waiver of the provisions contained in clause (i) of such subparagraph or if the Secretary determines that other extraordinary conditions in the State justify the waiver of the provisions contained in clause (ii) of such subparagraph.

"(C) The Secretary shall promulgate regulations implementing this paragraph which shall include the procedures by which a full or partial waiver may be granted.".

Conform the table of contents of the bill accordingly.

The CHAIRMAN. The Chair will inquire, is the gentleman from Ohio [Mr. OXLEY] the designee of the gentleman from Pennsylvania [Mr. COUGHLIN]?

Mr. OXLEY. That is correct, Mr. Chairman.

The CHAIRMAN. Under the rule, the gentleman from Ohio [Mr. OXLEY] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am offering an amendment that requires States to develop statewide treatment plans as a condition of receiving funds from the Alcohol, Drug Abuse and Mental Health Services block grant. Mr. Chairman, this amendment is language which the President requested last September as part of his national drug control strategy. It has already passed this House last year and became bogged down in conference over unrelated issues.

On the funding side of the drug war, the Congress has been very generous in its commitment to drug treatment programs. With the recent action by our Appropriations Committee to restore the President's request, Federal funding for drug treatment will likely grow from $888 million in fiscal year 1989 to almost $1.5 billion in fiscal year 1991. A substantial portion of this growth will have been in the ADMS block grant program for the States.

However, there is growing concern that we do not know what all this money is buying. Are we funding effective programs? Are there any discernable standards which the States use to fund different programs? Are we funding programs which are suited to the needs of each State's addict population?

These are questions which the Federal Government needs answered if they are to continue funding large increases in drug treatment programs. That is why the President asked for this amendment when he asked for his first and largest budget increase for treatment back in 1989.

This amendment would instigate fundamental reforms in how the States fund their treatment programs. It would require them to develop performance standards and then fund programs according to those standards. It would require accountability in programs by requiring drug-free patient and workplace programs, including drug testing. It would require States to look at ways to expand capacity, to train treatment professionals, to ensure proper referrals of patients and treat expectant women and their newborns. In short, this amendment represents major reform of our Nation's treatment system. It deserves the support of this House.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, I am familiar with the amendment. I talked to the admiral about that, and Admiral COUGHLIN and we have no disagreement about the subject matter and would accept the amendment, if we could vote on it, and go on with the program.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield

Mr. OXLEY. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman from Ohio [Mr. OXLEY] for yielding to me, and I strongly urge my colleagues to vote for the amendment of the gentleman from Pennsylvania [Mr. COUGHLIN] which the gentleman from Ohio [Mr. OXLEY] is offering because it does a great deal; but I also want to take the opportunity to say that this bill has been improved a great deal. I am a strong supporter of it. Let us go into final passage next with this amendment and the others in the bill. It is an excellent aye vote. We can say we have done an excellent job in the war against crime and drugs in this country if we vote aye for this bill in its present form, so I thank the gentleman from Ohio [Mr. OXLEY] for offering the amendment.

Mr. Chairman, I urge an aye vote on the amendment and on final passage.

□ 1530

Mr. OXLEY. Mr. Chairman, I want to pay special tribute to the gentleman from Florida [Mr. McCOLLUM] for his fine work on the floor on this bill. He is to be commended for taking a bill that was severely flawed and making it into an effective bill against crime and drugs.

Mr. Chairman, I yield back the balance of my time.

Mr. JAMES. Mr. Chairman, I rise in support of the Oxley amendment. All of us here in Congress understand that the drug problem in this country is running out of control. In order to eliminate drugs from this country once and for all, we must take strong measures. We must enact a framework that addresses all aspects of the drug problem, from growth and shipment to purchase and use of drugs. I have often said that we must have clear policy that emphasizes education, interdiction, and treatment.

The Oxley amendment addresses one critical aspect of that equation. It is really simple when you look at it. The amendment simply says that any States who receive certain funds from the Federal Government concerning drugs must set up a statewide drug treatment plan. Treatment of drug abuse is important, because drug use is not simply a vice. Instead, it is an addictive habit that destroys a person's will and self esteem. Any person that has fallen into the trap of drug abuse needs help to get out, and this amendment will work to see that they get it. I urge my colleagues to support this amendment, so that we can stop drug abuse in this Nation.

The CHAIRMAN. Is there any Member who seeks time in opposition to the amendment?

Hearing none, the question is on the amendment offered by the gentleman from Ohio [Mr. OXLEY].

The amendment was agreed to.

Mr. ALEXANDER. Mr. Chairman, an increasing number of our people are becoming statistics—crime statistics.

They are being held up and accosted within the shadow of the Capitol dome here in Washington and in rural homes in Arkansas.

It is a sad and frightening situation.

Where people once left their homes unlocked, their doors are now bolted.

Where they once felt free to take an evening stroll, they now stay behind locked doors.

Where they once thought nothing of a stranger approaching, now they fear that approach.

Where they once let their children play outdoors, they now keep them indoors.

The epidemic of illegal drug abuse is directly responsible for much of the increase in criminal activity.

Those who are addicted to illegal drugs will go to great lengths to obtain the means to feed their habit.

They steal.

They may even kill.

They make criminals of themselves.

They make crime victims of many others.

They need to be stopped.

The battle against crime requires a strong role by Government.

Making our homes, streets, workplaces, and schools safe is a goal I believe we can achieve, but it will take some tough measures.

For one thing, our criminal justice system will have to be tougher on criminals.

The American people have told us they want a war waged against crime—so let's get on with it.

Federal and State partnerships should be encouraged so that we can present a united law enforcement front in order to provide a safer environment in which to live and work.

Where the law enforcement system is weak, it should be strengthened. We are fighting a very tough and determined enemy. And, on the law enforcement front, we should certainly be as tough and determined as the criminal.

The war on crime will require more police, prosecutors, and prisons. As they say in Arkansas—a criminal needs to know that if he does the crime, he'll pay the time.

I believe we can beat the criminal. A safer America is certainly worth the effort.

Mr. CONYERS. Mr. Chairman, I rise in support of the amendment of the gentleman from New York [Mr. RANGEL] to establish a commission to study the root causes of drug abuse.

Over the last year, I have conducted a comprehensive series of hearings to examine the implementation of the national drug control strategy. In Detroit, in Los Angeles, and in Chicago the committee heard testimony about the decline in the casual use of cocaine while simultaneously, inner-city drug use, and addiction has increased dramatically.

Increasingly it has become apparent that we are fighting two very different drug wars—and we are only winning one of them. Prevention and education efforts directed at the educated middle class appear to be having a dramatic effect. Treatment programs only have room for clients who can afford to pay.

But meanwhile drugs are causing even greater devastation in our inner cities, populated primarily by poor people and people of color. We will never win this war on drugs until we rethink and refocus the priorities of the drug strategy. Spending over 70 percent of the budget on law enforcement leaves inadequate dollars for prevention and treatment.

The focus must be on the demand side of the drug war by providing appropriate drug treatment and prevention programs in the inner cities alongside of the suburbs. The statistics in the inner city are not going to change until we refocus the drug war to include an analysis of the root causes of drug use, and refocus our funding priorities to include the racial and economic factors that underlie so much of hard core drug addiction in America.

The victims of the war on drugs are disproportionately poor and minority. The emphasis on law enforcement is felt primarily in our inner cities because it is easier to focus on street level pushers than it is to break up larger drug cartels. We heard testimony around the country about the extent to which the war on drugs has become a vehicle to crack down on our inner cities. Twenty-three percent of young African-American men are involved in the criminal justice system in the United States—in prison, on probation, or on parole. The majority of these are drug related. Only 12 percent of the drug using population is black, yet 40 percent of drug-related arrests are black.

Common sense tells us that young people use drugs because they face lives of hopelessness and despair. But the majority of people in our inner cities are not drug users. We think that the lack of education, lack of job skills and job opportunities, and poor housing all contribute to drug use in our inner cities. The time has come to study the risk factors that cause some people to turn to drugs when others do not. It is only then that we can better focus the scarce dollars allocated to prevention and education programs.

The creation of a commission to study the root causes of drug abuse is an important step in expanding our thinking about the war on drugs and finding long-term solutions.

Mr. KILDEE. Mr. Chairman, I rise today in strong support of the provisions in the Comprehensive Crime Control Act which help our Nation's law enforcement officials fight crime in our country, and in equal opposition to the provisions authorizing the death penalty. I deeply regret that the Staggers amendment, which would have substituted a mandatory sentence of life imprisonment without parole for the death penalty, was defeated. If I had been given the opportunity to vote separately on these two issues, I would have voted for the crime bill and against the death penalty.

Mr. Chairman, the savings and loan executives who have violated the law and have ulti-

mately levied the cost of this bailout onto every American taxpayer must be penalized. The crime bill makes strong efforts in this area by increasing the penalties for crimes involving financial institutions and authorizes more money and personnel to investigate and prosecute those S&L thieves. Moreover, it is clear that we must do more to help our young people to say no to drugs. For this reason, the $15 million annually the crime bill provides our children in Education Department grants to help support drug abuse resistance education [DARE] programs is an essential component in our country's war on drugs.

I have never advocated the use of the death penalty as a means of deterring either violent crime or drug dealing. I strongly believe in the sanctity of human life, and I do not feel that we, individually, or collectively as a society, should engage in the taking of human life. This is my position on the issue of abortion and it is my position on the issue of the death penalty. I have many friends who disagree with my position. While I respect their right to hold a differing view, I must follow my conscience.

Mr. Chairman, it is well known that people of wealth are not executed in States which have the death penalty. I do not recall anyone making over $40,000 a year ever being executed by the Federal or State governments. The death penalty discriminates in the most profound and final manner against those who cannot afford the expensive legal counsel necessary to avoid such terrible punishment. My State of Michigan was the first government in the English-speaking world to abolish the death penalty and I think it would be a great tragedy if we reinstate these death penalty provisions.

Mr. Chairman, all my life I have been opposed to the death penalty in any instance and therefore I am forced to vote against this otherwise balanced and important bill.

Mr. WEISS. Mr. Chairman, I have already stated my opposition to, and abhorrence for, capital punishment. However, if it is the will of this Congress to extend the death penalty to additional Federal offenses, we must guarantee that it be meted out fairly. H.R. 5269, as reported by committee, accomplishes this.

Under the measure, all States that impose the death penalty must provide qualified counsel to indigent defendants in capital cases at trial, on appeal, on State collateral review and on petitions for discretionary review by the U.S. Supreme Court. Sanctions are established to penalize States that fail to provide counsel or appoint counsel that fails to meet the standards designated in the bill.

H.R. 5269 also specifies that the rule of law to be applies in Federal habeas corpus proceedings is generally the law in effect at the time of the proceedings rather than the law in effect during the last ruling on direct appeal.

In addition, the bill requires that prisoners sentenced to death file their Federal habeas corpus petitions within 1 year after their direct appeals have been exhausted. These changes are intended to provide one complete Federal review, to limit successive habeas petitions, and to focus judicial review on substance rather than procedural issues.

However, any further attempts to restrict the use of habeas corpus challenges must be thwarted. Habeas corpus originated in the Magna Carta and was guaranteed in the Constitution even before the Bill of Rights was added. We cannot allow election-year death penalty politics, such as the Hyde amendment, to undermine the Constitution and our respect for human life.

The Hyde amendment raises a series of procedural bars to Federal habeas petitions thus denying a fair chance to defendants with valid constitutional claims. It relegates the Federal courts to spectator status on constitutional matters and allows State courts free reign.

The Hyde amendment sets forth the Powell Committee recommendations almost verbatim. The U.S. Judicial Conference, the 26-member policymaking body of the Federal judiciary, refused to endorse these recommendations unless substantial revisions were made. We should do the same by defeating the Hyde amendment.

H.R. 5269 also includes an essential component concerning racial justice in capital sentencing. Discrimination which deprives individuals of opportunity and equality is unacceptable. Discrimination which deprives individuals of life is intolerable and without remedy.

There is compelling evidence, from more than 15 years of study, that race plays an integral role in capital sentencing. In February 1990, the General Accounting Office, after reviewing 28 studies, found a "pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death sentence."

Since 1976, in 85 percent of the cases when a person was executed, it was for killing a white person. Only 11 percent of the executions were for killing a black person and all of the defendants in those cases were black. There has not been one execution of a white person for the killing of a black.

The measure addresses this injustice by barring the execution of prisoners who statistically demonstrate that their death sentence was imposed because of racial discrimination, including those sentences imposed under State law. These provisions apply to all currently pending cases, whether or not the direct appeals have been exhausted. These racial justice provisions are an integral component of H.R. 5269 which must not be undermined in any way. During floor debate, Representative SENSENBRENNER will offer an amendment to strike these provisions from the bill. This amendment must be defeated.

I urge my colleagues to support a crime bill that is tough on offenders and protects our citizens but does not sacrifice constitutional liberties or remain blind to racial injustice. Vote against the Hyde and Sensenbrenner amendments to the crime bill.

Mr. SCHUMER. Mr. Chairman, I rise today in support of the Racial Justice Act which has been included as part of H.R. 5269, the Comprehensive Crime Control Act of 1990.

Any fair minded person would agree that when the ultimate penalty of death is at stake, it is absolutely essential to assure that our courts administer punishment in a manner that avoids any actual or apparent racial prejudice. Yet according to a GAO report issued this past February, race is frequently a factor in death sentences in the United States.

The GAO reviewed 28 different studies, spanning 15 years of research, and found a "pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty" across the country. According to the report, an individual convicted of killing a white person is far more likely to be sentenced to death than someone who is convicted of killing a black person. In Georgia, for example, a person who kills a white is more than four times as likely to receive a death sentence as someone who kills a black.

The Racial Justice Act will eliminate these disparities by allowing the use of statistics to prove discriminatory sentencing. But it will not, as its critics have charged, eliminate the death penalty. A prima facie case of discrimination can be rebutted through challenges to the sufficiency and quality of the statistical data; and the heinous nature of the crime, the defendant's prior record, and other nonracial aggravating factors must be taken into account.

When the ultimate sanction an organized society has within its power—the death penalty—is imposed, every citizen should feel confident of the fundamental fairness of the decision-making process. We cannot settle for anything less, and the Racial Justice Act assures that we need not.

Mr. WOLPE. Mr. Chairman, I rise in strong support of the racial justice provision of H.R. 5269. I see nothing more crucial to preserving our long-standing respect for the civil rights of all our citizens. There is absolutely no reason to oppose an initiative that has such solid statistical data backing up its premise as does the Racial Justice Act. We asked the GAO, upon passing the Anti-Drug Abuse Act of 1988, to study capital sentencing procedures to determine if the race of either the victims or the defendant in and of itself influences the likelihood that the defendants would be sentenced to death. The GAO findings were unambiguous: in 82 per cent of the cases reviewed, those who murdered whites were found to be more likely to be sentenced to death than those who murdered blacks. This pattern of clear racial discrimination was documented in every region of our Nation, from Florida to Ohio to Maryland. Indeed, across this land of our blacks are three times more likely than whites to be charged, convicted and executed in killing whites than whites are for killing blacks.

Clearly, we all agree that murder is a heinous crime. But the punishment for any crime should not be dependent upon the skin color of either the victims or the criminal. By providing defendants the opportunity to challenge a death sentence by offering valid statistical evidence that a disparity in capital sentencing exists, we are simply allowing them to exercise their right of equal justice under law. The prosecutor may still be able to establish that race has not been a factor affecting death sentences in a given jurisdiction, but the defendant would at least be assured of a constitutionally valid trial and sentence. If statistical evidence is allowed in workplace discrimination cases, it most certainly should be permitted in cases deciding the life or death of a defendant.

There are some who contend that the racial justice provision is a smokescreen to effec-

tively eliminate the death penalty. I make no bones about my personal opposition to the death penalty. But this legislation is emphatically not about the death penalty; it is equally emphatically about equal justice. It simply ensures that if an individual is sentenced to die, that decision has had nothing to do with the color of his or her skin. Period. I urge my colleagues to help ensure equal justice under law by accepting this racial justice provision.

The CHAIRMAN. There are no further amendments made in order, so the question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MONTGOMERY) having assumed the chair, Mr. Bosco, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5269) to control crime, pursuant to House Resolution 490, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute, adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOKS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 368, nays 55, not voting 10, as follows:

[Roll No. 427]

YEAS—368

Ackerman	Barton	Boxer
Alexander	Bateman	Brennan
Anderson	Bates	Brooks
Andrews	Bentley	Broomfield
Annunzio	Bereuter	Browder
Anthony	Bevill	Brown (CA)
Applegate	Bilbray	Brown (CO)
Archer	Bilirakis	Bruce
Armey	Bliley	Bryant
Aspin	Boehlert	Buechner
Atkins	Boggs	Bunning
Baker	Bonior	Burton
Ballenger	Borski	Bustamante
Barnard	Bosco	Callahan
Bartlett	Boucher	Campbell (CO)
Carper	Hertel	Nielson
Carr	Hiler	Nowak
Chandler	Hoagland	Oakar
Chapman	Hochbrueckner	Ortiz
Clarke	Holloway	Owens (UT)
Clement	Hopkins	Oxley
Clinger	Horton	Packard
Coble	Houghton	Pallone
Coleman (MO)	Hubbard	Panetta
Coleman (TX)	Hughes	Parker
Combest	Hunter	Parris
Condit	Hutto	Pashayan
Conte	Hyde	Patterson
Cooper	Inhofe	Paxon
Costello	Ireland	Payne (VA)
Courter	Jacobs	Perkins
Cox	James	Petri
Coyne	Jenkins	Pickett
Craig	Johnson (CT)	Pickle
Crane	Johnson (SD)	Porter
Dannemeyer	Johnston	Poshard
Darden	Jones (GA)	Price
Davis	Jontz	Pursell
de la Garza	Kanjorski	Quillen
DeLay	Kaptur	Rangel
Derrick	Kasich	Ravenel
DeWine	Kennedy	Ray
Dickinson	Kennelly	Regula
Dicks	Kleczka	Rhodes
Dingell	Kolbe	Richardson
Dixon	Kolter	Ridge
Donnelly	Kyl	Rinaldo
Dornan (CA)	LaFalce	Ritter
Douglas	Lagomarsino	Roberts
Downey	Lancaster	Roe
Dreier	Lantos	Rogers
Duncan	Laughlin	Rohrabacher
Durbin	Leach (IA)	Ros-Lehtinen
Dwyer	Leath (TX)	Rose
Early	Lehman (CA)	Rostenkowski
Eckart	Lent	Roth
Edwards (OK)	Levine (CA)	Roukema
Emerson	Lewis (CA)	Rowland (CT)
Engel	Lewis (FL)	Rowland (GA)
English	Lightfoot	Russo
Erdreich	Lipinski	Saiki
Espy	Livingston	Sangmeister
Evans	Lloyd	Sarpalius
Fascell	Long	Sawyer
Fawell	Lowey (NY)	Saxton
Fazio	Lukens, Donald	Schaefer
Fields	Machtley	Scheuer
Fish	Manton	Schiff
Flake	Markey	Schneider
Flippo	Marlenee	Schuette
Foglietta	Martin (IL)	Schulze
Ford (MI)	Martin (NY)	Schumer
Frank	Martinez	Sensenbrenner
Frenzel	Matsui	Sharp
Frost	Mavroules	Shaw
Gallegly	Mazzoli	Shays
Gallo	McCandless	Shumway
Gaydos	McCloskey	Shuster
Gejdenson	McCollum	Sikorski
Gekas	McCrery	Sisisky
Gephardt	McCurdy	Skaggs
Geren	McDade	Skeen
Gibbons	McDermott	Skelton
Gillmor	McEwen	Slattery
Gilman	McGrath	Slaughter (NY)
Gingrich	McMillan (NC)	Slaughter (VA)
Glickman	McMillen (MD)	Smith (FL)
Goodling	McNulty	Smith (IA)
Gordon	Meyers	Smith (NJ)
Goss	Mfume	Smith (TX)
Gradison	Michel	Smith (VT)
Grandy	Miller (CA)	Smith, Denny (OR)
Grant	Miller (OH)	Smith, Robert (NH)
Gray	Miller (WA)	Smith, Robert (OR)
Green	Mineta	Snowe
Guarini	Mink	Solarz
Gunderson	Moakley	Solomon
Hall (OH)	Molinari	Spence
Hall (TX)	Montgomery	Spratt
Hamilton	Moorhead	Stangeland
Hammerschmidt	Morella	Stark
Hancock	Morrison (CT)	Stearns
Hansen	Morrison (WA)	Stenholm
Harris	Mrazek	Studds
Hastert	Murphy	Stump
Hatcher	Murtha	Sundquist
Hayes (IL)	Myers	Swift
Hefley	Natcher	Synar
Hefner	Neal (MA)	Tallon
Henry	Neal (NC)	Tanner
Herger	Nelson	Tauke
Tauzin	Unsoeld	Weldon
Taylor	Upton	Whittaker
Thomas (CA)	Valentine	Whitten
Thomas (GA)	Vander Jagt	Wilson
Thomas (WY)	Vento	Wolf
Torres	Volkmer	Wolpe
Torricelli	Vucanovich	Wyden
Traficant	Walgren	Wylie
Traxler	Walker	Yates
Udall	Walsh	Yatron
	Watkins	Young (AK)
	Waxman	Young (FL)
	Weber	

NAYS—55

AuCoin	Hawkins	Penny
Beilenson	Hoyer	Rahall
Bennett	Kastenmeier	Roybal
Berman	Kildee	Sabo
Byron	Kostmayer	Savage
Campbell (CA)	Lehman (FL)	Schroeder
Cardin	Levin (MI)	Serrano
Clay	Lewis (GA)	Staggers
Collins	McHugh	Stallings
Conyers	Mollohan	Stokes
DeFazio	Moody	Towns
Dellums	Nagle	Visclosky
Dorgan (ND)	Oberstar	Washington
Dymally	Obey	Weiss
Dyson	Olin	Wheat
Edwards (CA)	Owens (NY)	Williams
Feighan	Payne (NJ)	Wise
Ford (TN)	Pease	
Gonzalez	Pelosi	

NOT VOTING—10

Coughlin	Jones (NC)	Robinson
Crockett	Lowery (CA)	Smith (NE)
Hayes (LA)	Luken, Thomas	
Huckaby	Madigan	

□ 1555

Messrs. BERMAN, HOYER, LEHMAN of Florida, TOWNS, MOLLOHAN, RAHALL, and BEILENSON changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. BYRON. Mr. Speaker, on the vote on final passage of the crime bill, I inadvertently voted "nay" and I meant to vote "yea."

PERSONAL EXPLANATION

Mr. LOWERY of California. Mr. Speaker, I was ill with a virus and was unable to vote on five rollcall votes and final passage of the critical crime bill, H.R. 5269. Had I been able to make the votes I would have voted "no" on the Hughes amendment, rollcall No. 422; "yes" on the Douglas amendment, rollcall No. 424; "yes" on the Waxman amendment, rollcall No. 425; "yes" on the Dingell amendment, rollcall No. 426; "yes" on the Sensenbrenner amendment, rollcall No. 423; and "yes" on final passage.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 5269, as

amended, the Clerk be authorized to correct section numbers, cross-references, and punctuation, and to make such stylistic, clerical, technical, conforming, and other changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5269, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. FISH. Mr. Speaker, on September 26, I was attending a funeral in New York during consideration of the motion to instruct conferees on H.R. 4500, the Campaign Cost Reduction Act of 1990.

Had I been present, I would have voted "aye" on the motion, rollcall vote No. 385.

PERSONAL EXPLANATION

Mr. SWIFT. Mr. Speaker, on September 25, 26, 27, and 28, 1990, I missed several rollcall votes due to an illness in the family.

Had I been present, I would have voted "nay" on roll call 379, and I would have voted "yea" on roll calls 380, 381, 382, 383, 384, 386, 389, and 392.

□ 1600

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 660, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-807) on the resolution (H. Res. 495) providing for the consideration of the joint resolution (H.J. Res 660) making further continuing appropriations for the fiscal year 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

Mr. NIELSON of Utah. Mr. Speaker, I was off Capitol Hill, and I missed the vote on rollcall No. 425.

Had I been present, I would have voted "no."

WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 489 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 489

Resolved, That the requirement of clause 4(b), rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is hereby waived with respect to any resolution reported from that committee on or before October 7, 1990, to provide for the consideration or disposition of a concurrent resolution on the budget, an amendment thereto, or a conference report thereon, or a joint resolution making continuing appropriations for the fiscal year 1991, an amendment thereto, or a conference report thereon, or a bill to extend the temporary increase in the public debt limit, an amendment thereto, or conference report thereon.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from California [Mr. PASHAYAN], for the purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 489 waives the provision of clause 4b of rule XI requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee.

The requirement is waived against any resolution reported from the Rules Committee this week, until Sunday, October 7, if the resolution provides for consideration or disposition of a budget resolution, a joint resolution making continuing appropriations, a bill to extend the temporary limit on the public debt, amendments to such measures, or a conference report on such measures.

Mr. Speaker, we all know that Congress must do all these things before the end of the week. By our own design, a specific disaster looms for each failure: Without the suspension in this continuing resolution, we bring on the chaos of sequestration, slicing one-third off almost every account in the Federal budget.

If we do not enact the continuing resolution, we abruptly shut down every Government function from air traffic control to the National Zoo. Without a debt limit increase or temporary extension, we default on our obligations for the first time in our history, indelibly staining our credit, forever making it more expensive to borrow.

Mr. Speaker, the purpose of House Resolution 489 is simple. The resolution gives the House the flexibility to do the essential business of the day by majority vote. The resolution permits the House to consider or dispose of a budget resolution, continuing appropriations, or a temporary debt limit bill but only if a majority of the House agrees to this rule and a majority agrees to the specific rules providing for consideration of any of the three measures.

We know what we must do. We know the consequences of our failure to act: sequestration, Government shut-down, default, the end of the world as we know it.

House Resolution 489 is a fair way to proceed. I urge adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 489 is a rule under which the House shall allow itself the flexibility to accomplish the essential work before the body.

The rule waives clause 4b of rule XI, in order to permit, on the same day the Committee on Rules will report the rule, consideration of the rule by a majority vote rather than the two-thirds vote required by the rules of the House.

Mr. Speaker, I want to say that I strongly support the rule and the waiving of the two-thirds requirement on any subsequent rule that makes in order a continuing appropriations resolution.

Normally, rules reported from the Committee on Rules lay over for 1 day before they are called up for consideration. If the leaders shall call up a rule for floor consideration on the same day it is reported, the rules of the House will require that its consideration be agreed to by two-thirds of the Members present.

In view of the defeat last night of the conference report on the budget resolution, and because the legal authority to continue the operations of Government will expire at midnight tonight, we must pass this rule in order to consider by a simple majority a rule that we just a few moments ago reported from the Committee on Rules.

The House does not have a day in which we can delay this, and we should not even want to, for that matter. The rule gives the leaders and the entire House some much needed flexibility.

Mr. Speaker, in many eloquent speeches made on this floor last night, the Members expressed their frustration at the fuzziness of the budget summit agreement.

Today it is imperative that we put aside short tempers, put aside the hot

rhetoric, put aside the short-term political maneuvering, and act to assure that the Government shall be able to continue to operate.

The Committee on Rules is prepared to call up a rule that shall make a short-term continuing resolution the business of the day. Normally, the vote on consideration would have to pass by two-thirds.

Under the rule, the vote on consideration of the rule on short-term continuing appropriations resolution will need only a simple majority.

Mr. Speaker, I would conclude by pointing out to the membership that our distinguished chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], was absolutely correct a moment ago when he said that we should not abruptly shut down every Government function.

I commend him for his remarks, I associate myself with his remarks, and I urge—in the strongest possible terms—adoption of this rule.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, this is the predecessor to the rule that we will be, at the majority's time, bringing forward concerning what we are going to do with the CR.

I just want to notify the Members on both sides of the aisle that in the Committee on Rules I attempted to make sure that the Members of Congress and the members of the executive would bear the same pain as Federal workers and our constitutents who do not have the ability to avoid problems when sequestration comes, and it becomes almost a philosophical point of view; either we treat ourselves as we are willing to treat others, which used to be called the Golden Rule, or we have the new plate rule for Congress which is we get out of everything we impose on others.

On almost a party-line vote, and yet I do not think that is what most Democrats think, the Committee on Rules has decided we do not have to sequester the salaries of Members of Congress even though we may well sequester everyone else's. I think that is grossly unfair.

I think that says what is wrong with this entire place, and I think it shows the kind of arrogance and the kind of thought that says that what we have and what we care about matters more than the file clerk who is a single mother trying to get along, or the person who works at the Social Security office, the very people who elect us.

I would hope there would be a second reason to throw away this rule so that we do the right thing.

Mr. PASHAYAN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Our guests in the galleries will not participate in the debates on the floor and will not applaud.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we are being asked to adopt an unusual procedure here, and I do not know that there is any great harm in it except that I think we need to understand what it is we are doing.

Is it my understanding, and I would direct this to the committee chairman, that the process that we are using here would only grant the authority to the leadership to get this particular rule in effect for 3 days until Sunday, is that right, in other words, until Sunday we would be able to bring up rules on the same day without the two-thirds vote?

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. The gentleman is correct.

Mr. WALKER. I listened to the majority leader earlier, and he indicated that we would probably be using that authority for the budget resolutions that are assumed to come this weekend. Is that the understanding of the gentleman from Mississippi?

Mr. MOAKLEY. If the gentleman will yield further, the gentleman is also correct.

Mr. WALKER. The only concern I have is that there are a number of other major pieces of legislation hanging around in conference committees and in various committees of the House that could also come up under a fairly unusual procedure here with practically no notification under this particular procedure.

I would hope that it is not the intent of anyone to use this extraordinary rule to bring up other major legislation before the House.

□ 1610

Can the gentleman give me some assurance on that?

Mr. MOAKLEY. Actually, the resolution just gives the House the flexibility to do the essential business. It permits the House to consider or dispose of a budget resolution, continue on appropriations, temporary debt limit bill, and that is it.

Mr. WALKER. so, specified in the rule is language indicating the items that could come up under this special power?

Mr. MOAKLEY. That is correct.

Mr. WALKER. And it would not extend the power to other resolutions that might come to the floor?

Mr. MOAKLEY. That is my understanding.

Mr. WALKER. I thank the gentleman. I think that it is very useful. As we get down in the waning days of the session, I think it is particularly important that the Members have an opportunity to look at the bills that we are voting on, particularly on some of these very major items that could be before Members.

I must say that this gentleman from Pennsylvania is somewhat concerned that even in the case of the budget, that we could have a budget rolled onto the House floor with very little notification of the Members. I think one of the reasons why the budget failed last evening, among many, but certainly one of the reasons was that the American people responded to the budget and had called congressional offices. Under this procedure, of course, we could have a budget agreement arrived at quickly, thrown onto the floor quickly, with very little chance of the membership to look at it, and certainly no chance for the country to look at it.

I will say that that is a concern of mine. I understand the need for it. I understand the crisis situation that we are in, and so I will therefore not oppose the resolution. However, I do caution Members that insofar as this rule gives Members flexibility, the Members ought to also be given the courtesy of as much notification as possible. I would hate to see this process used as a way to give the membership little notice of a major action that they might be asked to take. So, I would hope that that is at least a statement from this Member indicating that we ought to have at least a few hours to look over any kind of budget document that could emerge from various negotiations around the Hill.

I thank the gentleman for his explanation, and I thank the gentleman from California for yielding to me.

Mr. PASHAYAN. Mr. Speaker, I wish to thank the gentleman for his astute observations, and also to thank him for his cooperation.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time.

Mr. PASHAYAN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. MONTGOMERY). Without objection, the previous question is ordered on the resolution.

There was no objections.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

APPOINTMENT OF CONFEREES ON H.R. 4739, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

Mr. ASPIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4739) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, with a Senate amendment to the House amendment thereto, disagree to the Senate amendment to the House amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. DICKINSON

Mr. DICKINSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DICKINSON moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 4739, be instructed to insist on the House position which fully funds the research and development, procurement and operation and maintenance budget request for the Military Strategic and Tactical Relay Satellite (MILSTAR).

The SPEAKER pro tempore. The gentleman from Alabama [Mr. DICKINSON] will be recognized for 30 minutes in support of his motion, and the gentleman from Wisconsin [Mr. ASPIN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Speaker, this is a very simple subject matter, noncontroversial so far as this Member knows. The motion to instruct simply instructs the House conferees to insist on the House position with regard to MILSTAR, or the MILSTAR Program. MILSTAR is a critical Department of Defense communication satellite.

The situation in the Persian Gulf has demonstrated the need for the kind of antijam tactical communications that MILSTAR will provide.

The House has fully funded the MILSTAR Program. The Senate did not fund it. This is not a partisan issue, nor was it controversial when the House considered the Defense authorization bill. I think it is something that is needed. I urge all Members of the House to support it.

Mr. ASPIN. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin [Mr. ASPIN].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Speaker will appoint conferees later in the day.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS ON H.R. 4739

Mr. ASPIN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ASPIN moves that pursuant to rule XXVIII 6(a) of the House rules, the conference committee meetings between the House and the Senate on H.R. 4739, the fiscal year 1991 Department of Defense Authorization bill, be closed to the public at such times as classified national security information is under consideration; *Provided however,* That any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER pro tempore. Does the gentleman wish to have debate time on his motion?

Mr. ASPIN. No, Mr. Speaker, I am not seeking to debate the issue.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. ASPIN].

On this motion, the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 410, nays 2, not voting 21, as follows:

[Roll No. 428]

YEAS—410

Ackerman	Buechner	Donnelly
Alexander	Bunning	Dorgan (ND)
Anderson	Burton	Dornan (CA)
Andrews	Bustamante	Douglas
Annunzio	Byron	Downey
Anthony	Callahan	Dreier
Applegate	Campbell (CA)	Duncan
Archer	Campbell (CO)	Durbin
Armey	Cardin	Dwyer
Aspin	Carper	Dymally
Atkins	Carr	Dyson
AuCoin	Chandler	Early
Baker	Chapman	Eckart
Ballenger	Clarke	Edwards (CA)
Barnard	Clay	Edwards (OK)
Bartlett	Clement	Emerson
Barton	Clinger	Engel
Bateman	Coble	English
Bates	Coleman (MO)	Erdreich
Beilenson	Coleman (TX)	Espy
Bennett	Collins	Evans
Bentley	Combest	Fascell
Bereuter	Condit	Fawell
Berman	Conte	Fazio
Bevill	Conyers	Feighan
Bilbray	Cooper	Fields
Bilirakis	Costello	Fish
Bliley	Courter	Flake
Boehlert	Cox	Flippo
Boggs	Coyne	Foglietta
Bonior	Craig	Ford (MI)
Borski	Crane	Ford (TN)
Bosco	Dannemeyer	Frank
Boucher	Darden	Frenzel
Brennan	DeLay	Frost
Brooks	Dellums	Gallegly
Broomfield	Derrick	Gallo
Browder	DeWine	Gaydos
Brown (CA)	Dickinson	Gejdenson
Brown (CO)	Dicks	Gekas
Bruce	Dingell	Geren
Bryant	Dixon	Gibbons
Gillmor	McCollum	Saxton
Gilman	McCrery	Schaefer
Gingrich	McCurdy	Scheuer
Glickman	McDade	Schiff
Gonzalez	McDermott	Schneider
Gordon	McEwen	Schroeder
Goss	McGrath	Schuette
Gradison	McHugh	Schulze
Grandy	McMillan (NC)	Schumer
Grant	McMillen (MD)	Sensenbrenner
Gray	McNulty	Serrano
Green	Meyers	Sharp
Guarini	Mfume	Shaw
Gunderson	Michel	Shays
Hall (OH)	Miller (CA)	Shumway
Hall (TX)	Miller (OH)	Shuster
Hamilton	Miller (WA)	Sikorski
Hammerschmidt	Mineta	Sisisky
Hancock	Mink	Skaggs
Hansen	Moakley	Skeen
Harris	Molinari	Skelton
Hastert	Mollohan	Slattery
Hatcher	Montgomery	Slaughter (NY)
Hawkins	Moody	Slaughter (VA)
Hayes (IL)	Moorhead	Smith (FL)
Hefley	Morella	Smith (IA)
Hefner	Morrison (CT)	Smith (NJ)
Henry	Morrison (WA)	Smith (TX)
Herger	Mrazek	Smith (VT)
Hertel	Murphy	Smith, Denny (OR)
Hiler	Murtha	Smith, Robert (NH)
Hoagland	Myers	Smith, Robert (OR)
Hochbrueckner	Nagle	Snowe
Holloway	Natcher	Solarz
Hopkins	Neal (MA)	Solomon
Horton	Neal (NC)	Spence
Houghton	Nelson	Spratt
Hoyer	Nielson	Staggers
Hubbard	Nowak	Stallings
Hughes	Oakar	Stangeland
Hunter	Oberstar	Stark
Hutto	Obey	Stearns
Hyde	Olin	Stenholm
Inhofe	Ortiz	Stokes
Ireland	Owens (NY)	Studds
Jacobs	Owens (UT)	Stump
James	Oxley	Sundquist
Jenkins	Packard	Swift
Johnson (CT)	Pallone	Synar
Johnson (SD)	Panetta	Tallon
Johnston	Parker	Tanner
Jones (GA)	Parris	Tauke
Jontz	Pashayan	Tauzin
Kanjorski	Patterson	Taylor
Kaptur	Paxon	Thomas (CA)
Kasich	Payne (NJ)	Thomas (GA)
Kastenmeier	Payne (VA)	Thomas (WY)
Kennedy	Pease	Torres
Kennelly	Pelosi	Torricelli
Kildee	Penny	Towns
Kolbe	Perkins	Traficant
Kostmayer	Petri	Traxler
Kyl	Pickle	Unsoeld
LaFalce	Porter	Upton
Lagomarsino	Poshard	Valentine
Lancaster	Price	Vander Jagt
Lantos	Pursell	Vento
Laughlin	Rahall	Visclosky
Leach (IA)	Rangel	Volkmer
Leath (TX)	Ravenel	Vucanovich
Lehman (CA)	Ray	Walgren
Lehman (FL)	Regula	Walker
Lent	Rhodes	Walsh
Levin (MI)	Richardson	Washington
Lewis (CA)	Ridge	Watkins
Lewis (FL)	Rinaldo	Waxman
Lewis (GA)	Ritter	Weber
Lightfoot	Roberts	Weldon
Lipinski	Roe	Wheat
Livingston	Rogers	Whittaker
Lloyd	Rohrabacher	Whitten
Long	Ros-Lehtinen	Williams
Lowey (NY)	Rose	Wilson
Lukens, Donald	Rostenkowski	Wise
Machtley	Roth	Wolf
Manton	Roukema	Wolpe
Markey	Rowland (CT)	Wyden
Marlenee	Rowland (GA)	Wylie
Martin (IL)	Roybal	Yates
Martin (NY)	Russo	Yatron
Martinez	Sabo	Young (AK)
Matsui	Saiki	Young (FL)
Mavroules	Sangmeister	
Mazzoli	Sarpalius	
McCandless	Savage	
McCloskey	Sawyer	

NAYS—2

DeFazio Weiss

NOT VOTING—21

Boxer	Hayes (LA)	Luken, Thomas
Coughlin	Huckaby	Madigan
Crockett	Jones (NC)	Pickett
Davis	Kleczka	Quillen
de la Garza	Kolter	Robinson
Gephardt	Levine (CA)	Smith (NE)
Goodling	Lowery (CA)	Udall

□ 1648

So the motion was agreed to.

The result of the vote was announced as above recorded.

□ 1650

APPOINTMENT OF CONFEREES ON S. 1430, NATIONAL AND COMMUNITY SERVICE ACT OF 1990

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1430) to enhance national and community service, and for other purposes, with House amendments thereto, insist on the House amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. PORTER

Mr. PORTER. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. PORTER moves that the managers, at the conference on the disagreeing votes of the two Houses on the Senate bill, S. 1430, be instructed to insist on the provisions of section 132 of the House amendment to the Senate bill, S. 1430.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. PORTER] will be recognized for 30 minutes and the gentleman from California [Mr. HAWKINS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. PORTER. Mr. Speaker, several weeks ago the House adopted as an amendment to the National Service Act the essence of H.R. 9111, which is the Volunteer Protection Act. This is addressed to the liability problem that exists in much of American society from medical and other professional liability problems, to private liability, and to liability that is incurred by volunteers. The legislation was introduced in the 100th Congress, where it had 254 cosponsors. The legislation was also introduced in the 101st Congress, where there are over 220 cosponsors.

Mr. Speaker, this legislation, though promised, has never had a hearing. There are over 250 national volunteer organizations that support the legislation. They range from the American Red Cross to Big Brothers, Big Sisters, the Boy Scouts, and the Girl Scouts. You name it, that organization is undoubtedly a supporter of this legislation.

Why is that, Mr. Speaker? Because increasingly in our extra-litigious society, volunteers are fearful of coming forward to offer their volunteer services to such organizations because they are afraid they will end up in a court of law as a defendant in a lawsuit. This is seriously affecting volunteer recruitment across this country.

This amendment to the National Service Act adds a section that contains the essence of the volunteer protection legislation. It affects one relatively small program within the act and says to States that wish to be eligible for funding under this program, that they must be within 2 years time show the director that they have in effect laws or a program that exempts unpaid volunteers from normal negligence liability. That would leave, of course, the organization for which they were volunteering liable to any injured party.

This legislation is essential to encourage the States to act to protect volunteers from liability, to keep men and women across America coming forward to offer their services, to serve on boards of directors, and to offer their direct volunteer services to make those organizations work.

Mr. Speaker, this country, as we all know, is one that depends on the services of volunteers as perhaps no other in the world. Millions and millions of man and woman hours are committed by Americans every year to support worthy projects that run from the Little League to PTO or PTA and to organizations like the American Association of University Women, the Junior League, and so many others.

All of these organizations, Mr. Speaker, support this legislation because they know that they have to have volunteers to continue to come forward, and they know also that it is increasingly difficult to find people willing to do so because they fear they are going to be ending up in a court of law where their assets, their farm, or their home may be subject to a judgment.

So, Mr. Speaker, I want to make sure that our House conferees, as they address their responsibilities at the conference on the National Service Act, will take it as a very high responsibility that they stand up for the House position and support this provision of the legislation that we have passed.

Mr. Speaker, I reserve the balance of my time.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I indicated to the gentleman from Illinois [Mr. PORTER] when this bill was considered in the House that I had no objection whatsoever to considering the issue of liability in connection with the National Service Act. I indicated that the Committee on Education and Labor of the House does not have control over the subject matter. It is a matter within the jurisdiction of the Committee on the Judiciary. It is, therefore, of some importance, I assume, to the chairman of that committee, and as far as I know, he would perhaps join in giving full consideration to the issue in the conference committee.

I would like simply to assure the gentleman from Illinois that I will do everything possible to give consideration to the issue in the conference committee, and I would join with him in asking that his motion be agreed to. That is all that I can possibly do. I will join with him in every way possible to bring the issue to some resolution in the conference committee.

Mr. Speaker, I reserve the balance of my time.

Mr. PORTER. Mr. Speaker, I yield back the balance of my time.

Mr. HAWKINS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Illinois [Mr. PORTER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PORTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 21, as follows:

[Roll No. 429]

YEAS—412

Ackerman	Bevill	Campbell (CO)
Alexander	Bilbray	Cardin
Anderson	Bilirakis	Carper
Andrews	Bliley	Carr
Annunzio	Boehlert	Chandler
Anthony	Boggs	Chapman
Applegate	Bonior	Clarke
Archer	Borski	Clay
Armey	Bosco	Clement
Aspin	Boucher	Clinger
Atkins	Brennan	Coble
AuCoin	Brooks	Coleman (MO)
Baker	Broomfield	Coleman (TX)
Ballenger	Browder	Collins
Barnard	Brown (CO)	Combest
Bartlett	Bruce	Condit
Barton	Bryant	Conte
Bateman	Buechner	Conyers
Bates	Bunning	Cooper
Beilenson	Burton	Costello
Bennett	Bustamante	Courter
Bentley	Byron	Cox
Bereuter	Callahan	Coyne
Berman	Campbell (CA)	Craig

Crane	Hunter	Oakar
Dannemeyer	Hutto	Oberstar
Darden	Hyde	Obey
Davis	Inhofe	Olin
de la Garza	Ireland	Ortiz
DeFazio	Jacobs	Owens (NY)
DeLay	James	Owens (UT)
Dellums	Jenkins	Oxley
Derrick	Johnson (CT)	Packard
DeWine	Johnson (SD)	Pallone
Dickinson	Johnston	Panetta
Dicks	Jones (GA)	Parker
Dingell	Jontz	Parris
Dixon	Kanjorski	Pashayan
Donnelly	Kaptur	Patterson
Dorgan (ND)	Kasich	Paxon
Dornan (CA)	Kastenmeier	Payne (NJ)
Douglas	Kennedy	Payne (VA)
Downey	Kennelly	Pease
Dreier	Kildee	Pelosi
Duncan	Kleczka	Penny
Durbin	Kolbe	Perkins
Dwyer	Kolter	Petri
Dymally	Kostmayer	Pickett
Dyson	Kyl	Pickle
Early	LaFalce	Porter
Eckart	Lagomarsino	Poshard
Edwards (CA)	Lancaster	Price
Edwards (OK)	Lantos	Pursell
Emerson	Laughlin	Rahall
Engel	Leach (IA)	Rangel
English	Lehman (CA)	Ray
Erdreich	Lehman (FL)	Regula
Espy	Lent	Rhodes
Evans	Levin (MI)	Richardson
Fascell	Levine (CA)	Ridge
Fawell	Lewis (CA)	Rinaldo
Fazio	Lewis (FL)	Ritter
Feighan	Lewis (GA)	Roberts
Fields	Lightfoot	Roe
Fish	Lipinski	Rogers
Flake	Livingston	Rohrabacher
Flippo	Lloyd	Ros-Lehtinen
Foglietta	Long	Rostenkowski
Ford (MI)	Lowey (NY)	Roth
Frank	Machtley	Roukema
Frenzel	Manton	Rowland (CT)
Frost	Markey	Rowland (GA)
Gallegly	Marlenee	Roybal
Gallo	Martin (IL)	Russo
Gaydos	Martin (NY)	Sabo
Gejdenson	Martinez	Saiki
Gekas	Matsui	Sangmeister
Gephardt	Mavroules	Sarpalius
Geren	Mazzoli	Savage
Gibbons	McCandless	Sawyer
Gillmor	McCloskey	Saxton
Gilman	McCollum	Schaefer
Gingrich	McCrery	Scheuer
Glickman	McCurdy	Schiff
Gonzalez	McDade	Schneider
Goodling	McDermott	Schroeder
Gordon	McEwen	Schuette
Goss	McGrath	Schulze
Gradison	McHugh	Schumer
Grandy	McMillan (NC)	Sensenbrenner
Grant	McMillen (MD)	Serrano
Green	McNulty	Sharp
Guarini	Meyers	Shaw
Gunderson	Mfume	Shays
Hall (OH)	Michel	Shumway
Hall (TX)	Miller (CA)	Shuster
Hamilton	Miller (OH)	Sikorski
Hammerschmidt	Miller (WA)	Sisisky
Hancock	Mineta	Skaggs
Hansen	Mink	Skeen
Harris	Moakley	Skelton
Hastert	Molinari	Slattery
Hatcher	Mollohan	Slaughter (NY)
Hawkins	Montgomery	Slaughter (VA)
Hayes (IL)	Moody	Smith (FL)
Hefley	Moorhead	Smith (IA)
Hefner	Morella	Smith (NJ)
Henry	Morrison (CT)	Smith (TX)
Herger	Morrison (WA)	Smith (VT)
Hertel	Mrazek	Smith, Denny (OR)
Hiler	Murphy	Smith, Robert (NH)
Hoagland	Murtha	Smith, Robert (OR)
Hochbrueckner	Myers	Snowe
Holloway	Nagle	Solarz
Hopkins	Natcher	Solomon
Horton	Neal (MA)	Spence
Houghton	Neal (NC)	Spratt
Hoyer	Nelson	Staggers
Hubbard	Nielson	Stallings
Hughes	Nowak	Stangeland
		Stark
		Stearns
		Stenholm
		Stokes
		Studds
		Stump
		Sundquist
		Swift
		Synar
		Tallon
		Tanner
		Tauke
		Tauzin
		Taylor
		Thomas (CA)
		Thomas (GA)
		Thomas (WY)
		Torres
		Torricelli
		Towns
		Traficant
		Traxler
		Unsoeld
		Upton
		Vander Jagt
		Vento
		Visclosky
		Volkmer
		Vucanovich
		Walgren
		Walker
		Walsh
		Washington
		Watkins
		Waxman
		Weber
		Weiss
		Weldon
		Wheat
		Whittaker
		Whitten
		Williams
		Wilson
		Wise
		Wolf
		Wolpe
		Wyden
		Wylie
		Yates
		Yatron
		Young (AK)
		Young (FL)

NAYS—0

NOT VOTING—21

Boxer	Huckaby	Quillen
Brown (CA)	Jones (NC)	Ravenel
Coughlin	Leath (TX)	Robinson
Crockett	Lowery (CA)	Rose
Ford (TN)	Luken, Thomas	Smith (NE)
Gray	Lukens, Donald	Udall
Hayes (LA)	Madigan	Valentine

□ 1739

So the motion to instruct conferees was agreed to.

A motion to reconsider was laid on the table.

TEMPORARY EXTENSION OF DEFENSE PRODUCTION ACT OF 1950

Ms. OAKAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3155) to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

Mr. SHUMWAY. Reserving the right to object, Mr. Speaker, I shall not object, but I take this time to yield to the gentlewoman from Ohio to explain the bill.

Ms. OAKAR. Mr. Speaker, the Senate has sent us a further short-term extension of the Defense Production Act from October 5 to October 20, 1990. When the House passed its extension bill (H.R. 5725) on October 1, October 20 was the date this body originally recommended.

A conference is now in prospect on this legislation. Additionally, the administration had indicated a willingness to help in resolving the differences and concerns of the various parties.

Accordingly, I am hopeful that the interval between now and October 20 will be constructively used to work out a bill that will strengthen defense production, energy security, and overall national security.

I urge that the extension bill (S. 3155) be adopted to provide a continuity of vital authorities while this process goes forward.

Mr. SHUMWAY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "October 5, 1990" and inserting "October 20, 1990".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 4739, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

The SPEAKER. The Chair appoints the following conferees, and, without objection, reserves the right to appoint additional conferees on H.R. 4739:

From the Committee on Armed Services, for consideration of the entire House bill, the entire Senate amendment (except division D), and modifications committed to conference: Messrs. ASPIN, BENNETT, MONTGOMERY, and DELLUMS, Mrs. SCHROEDER, Mrs. BYRON, and Messrs. MAVROULES, HUTTO, SKELTON, LEATH of Texas, MCCURDY, FOGLIETTA, HERTEL, SISISKY, RAY, SPRATT, MCCLOSKEY, ORTIZ, DARDEN, EVANS, BILBRAY, MCNULTY, BROWDER, DICKINSON, SPENCE, STUMP, COURTER, HOPKINS, DAVIS, HUNTER, MARTIN of New York, KASICH, BATEMAN, BLAZ, IRELAND, HANSEN, ROWLAND of Connecticut, and KYL.

From the Committee on Armed Services, for consideration of division D of the Senate amendment, and modifications committed to conference: Messrs. ASPIN, BENNETT, and DELLUMS, Mrs. SCHROEDER, Messrs. MAVROULES, SKELTON, MCCURDY, HERTEL, SPRATT, EVANS, and MONTGOMERY, Mrs. BYRON, and Messrs. HUTTO, LEATH of Texas, FOGLIETTA, SISISKY, RAY, MCCLOSKEY, ORTIZ, DICKINSON, STUMP COURTER, DAVIS, HUNTER, HANSEN, KYL, SPENCE, HOPKINS, MARTIN of New York, KASICH, BATEMAN, and BLAZ.

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of rule XLVIII:

Messrs. BEILENSON, KASTENMEIER, and HYDE.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 324, 335, and 336 and division D of the House bill, and sections 1216, 1249, and 2806 through 2808 of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Ms. OAKAR, and Messrs. VENTO, TORRES, NEAL of Massachusetts, WYLIE, SHUMWAY, and ROTH.

As additional confererees from the Committee on Education and Labor, for consideration of section 504 and division D of the House bill, and sections 854, 1216, and 3130B of the Senate amendment, and modifications committed to conference: Messrs. HAWKINS, FORD of Michigan, WILLIAMS, MARTINEZ, SAWYER, GOODLING, COLEMAN of Missouri, and GUNDERSON.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 341, 345, 2834(c), 2851, 2852, 3134, 3135, and 3201 of the House bill, and sections 319, 813(f), 1003, 1222, 2821, 2824, 3130B, 3133, 3134, 3201, and 3202 and division D of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, THOMAS A. LUKEN, SHARP, SWIFT, ECKART, LENT, MOORHEAD, and WHITTAKER.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 226, 232, 303, 332, 352, 1037, 1331(a), 1346, 1347, 1401 through 1408, 3133, and 3141 through 3144 of the House bill, and sections 304, 852, 1106 1107, 1211, 1213 through 1215, 1224, 1225, 1242 through 1244, 1246, 1271 through 1275, 1304(d), 2811, 2812, and 3141 of the Senate amendment, and modifications committed to conference: Messrs. FASCELL, HAMILTON, YATRON, SOLARZ, SMITH of Florida, BROOMFIELD, GILMAN, and LAGOMARSINO.

As additional conferees from the Committee on Government Operations, for consideration of sections 227, 802, 803, 804, 807, 835, 1302, 1303, and 2822 of the House bill, and sections 811, 812(f), 813(a), 813(c), 813(d), 816, 817, 818, 819, 833(a), 1205, 1207, 2804, 2805, and 2809 of the Senate amendment, and modifications committed to conference: Mr. CONYERS, Mrs. COLLINS of Illinois, Mr. WISE, Mrs. BOXER, and Messrs. KLECZKA, HORTON, KYL, and SHAYS.

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of division D of the Senate amendment, and modifications committed to conference: Messrs. UDALL, MILLER of California, VENTO, MARKEY, LEVINE of California, YOUNG of Alaska, MARLENEE, and CRAIG.

As additional conferees from the Committee on the Judiciary, for consideration of sections 352, 552, 822, and 1343 of the House bill, and sections 804A, 833(a), 1102, 1218, 1226, 1251 through 1266, and 1503 of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, KASTENMEIER, FRANK, STAGGERS, BRYANT, FISH MOORHEAD, and JAMES.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 329(d), 553, 1324, and 2831 of the House bill, and sections 522, 631(b), 2805, 3132, and 3401 through 3407 and division D of the Senate amendment, and modifications committed to conference: Messrs. JONES of North Carolina, STUDDS, HUBBARD, TAUZIN, DYSON, YOUNG of Alaska, LENT, and SHUMWAY.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 361(c), 902, 905, 906, and 1217(b) of the House bill, and sections 831, 832, 834, 1001(a), 1502(b), 3202, and 3404 through 3406 of the Senate amendment, and modifications committed to conference: Messrs. FORD of Michigan, CLAY, and SIKORSKI, Ms. OAKAR, and Messrs. ACKERMAN, GILMAN, and HORTON, and Mrs. MORELLA.

As additional conferees from the Committee on Public Works and Transportation, for consideration of section 2803 and division D of the House bill, and sections 1216, 1232, 2804, and 2814 of the Senate amendment, and modifications committed to conference: Messrs. ANDERSON, ROE, OBERSTAR, BOSCO, SAVAGE, HAMMERSCHMIDT, PETRI, and PACKARD.

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 802, 804, 804A, 1001, 1002, 1501, 1502, and 3130B of the Senate amendment, and modifications committed to conference: Mr. ROE, Mr. SCHEUER, Mrs. LLOYD, Messrs. VALENTINE, MINETA, WALKER, Ms. SCHNEIDER, and Mr. BOEHLERT.

As additional conferees from the Committee on Small Business, for consideration of section 813(e) of the Senate amendment, and modifications committed to conference: Mr. LAFALCE and Mr. MCDADE.

As additional conferees from the Committee on Ways and Means, for consideration of section 1223 and division D of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, JENKINS, DOWNEY, PEASE, ARCHER, VANDER JAGT, and CRANE.

As additional conferees from the Committee on Ways and Means, for consideration of section 645 of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, FORD of Tennessee, DOWNEY, PEASE, MATSUI, ARCHER, VANDER JAGT, and CRANE.

There was no objection.

APPOINTMENT OF CONFEREES ON S. 1430, NATIONAL AND COMMUNITY SERVICE ACT OF 1990

The SPEAKER. The Chair appoints the following conferees and without objection, reserves the right to appoint additional conferees on S. 1430:

From the Committee on Education and Labor, for consideration of the Senate bill (except sections 222, 501, 502, 507 and 508), and the House amendment (except sections 132(e), 191-95, and 199) and modifications committed to conference: Messrs. HAWKINS, FORD of Michigan, GAYDOS, MILLER of California, KILDEE, WILLIAMS, MARTINEZ, OWENS of New York, SAWYER, Mrs. LOWEY of New York, Mrs. UNSOELD, Messrs. GOODLING, GUNDERSON, COLEMAN of Missouri, PETRI, TAUKE, Mrs. ROUKEMA, and Mr. FAWELL.

From the Committee on the Judiciary, for consideration of section 132(e) of the House amendment, and modifications committed to conference: Messrs. BROOKS, EDWARDS of California, STAGGERS, FISH, and DANNEMEYER.

From the Committee on Energy and Commerce, for consideration of sections 222, 501, and 502 of the Senate bill, and modifications committed to conference: Messrs. DINGELL, THOMAS A. LUKEN, WAXMAN, LENT, and WHITTAKER.

Except that, for consideration of sections 501 and 502, Mr. MADIGAN is appointed in lieu of Mr. WHITTAKER.

From the Committee on Foreign Affairs, for consideration of sections 507 and 508 of the Senate bill, and sections 191-99 of the House amendment, and modifications committed to conference: Messrs. FASCELL, BERMAN, LEVINE of California, BROOMFIELD, and GILMAN.

From the Committee on Interior and Insular Affairs, for consideration of subtitle C of title I of the Senate bill, and title II of the House amendment, and modifications committed to conference: Messrs. UDALL, VENTO, LEWIS of Georgia, YOUNG of Alaska, and LAGOMARSINO.

There was no objection.

□ 1750

ANDEAN TRADE PREFERENCE ACT OF 1990—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-244)

The Speaker laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Ways and Means and ordered to be printed.

(For message, see proceedings of the Senate of today, Friday, October 5, 1990.)

FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

FINAL REPORT OF COMMISSION ON THE BICENTENARY OF THE HOUSE OF REPRESENTATIVES

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, today I am submitting to the House the final report of the Commission on the Bicentenary of the House of Representatives and the report of the activities of the Office for the Bicentennial of the House since its inception in 1983.

It has been my great pleasure to serve the House in the capacity of chairman, and to work with my colleagues on the Commission in conducting the activities related to the 200th anniversary of the House of Representatives.

Mr. Speaker, I believe the publications, exhibitions, symposia, and other special events held during the bicentennial celebration have increased public awareness of the history of Congress and have established a firm foundation on which to build in the future. One reviewer called the congressional bicentennial "a triumph of advance planning," and I would like to thank my colleagues on the Commission and the staff of the Office for the Bicentennial for the overall success of the many programs that made up the bicentennial agenda.

I would also like to thank the Librarian of Congress and the staff of the Library for the many contributions they have made to the bicentennial of Congress. In addition to mounting three major exhibitions, the Library provided constant support and encouragement for many other programs mentioned in this report.

Under the leadership of Senator BYRD, the Senate Bicentennial Commission made many outstanding contributions to the overall commemoration, and I want to express my sincere appreciation to Senator BYRD and the other Members of the Senate commission for the high level of enthusiastic cooperation that sustained all of us during the years of planning and execution of our various projects.

This report also contains some proposals for the future of the Office of the Historian of the House of Representatives. It is important that the same kind of advance planning which made the bicentennial programs work so well be applied to the Office of the Historian in the years ahead so we can continue to build on our historical understanding of Congress as it begins its third century.

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-245)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 4328, the "Textile, Apparel, and Footwear Trade Act of 1990," which imposes import quotas on textiles, textile products, and nonrubber footwear. This highly protectionist bill would damage the national economy, increase already artificially high costs to consumers of several basic goods, and abrogate our international agreements. It would also reverse the tremendous progress we are making to generate a global economic renaissance.

Economic indicators illustrate that the problems this bill is intended to address do not exist. Despite assertions to the contrary, the textile industry has done well. Domestic production has been up slightly since 1987. Unemployment in major textile-producing States is currently lower than the national average. Since 1989, the textile industry has continued to operate at a higher rate of capacity than the average for all U.S. manufacturing industries.

All consumers, and particularly those at lower income levels, would be adversely affected if this legislation were to become law. The consumer costs of all restrictions on textile and apparel imports are conservatively estimated to increase to a total of $1650 billion over the next 5 years—that amounts to an onerous $2,600 for a family of four over that same period. These costs would continue to rise annually. In essence, this legislation picks the pockets of U.S. consumers in order to subsidize the textile industry at a cost of $70,000 annually per job saved.

Furthermore, U.S. merchandise exports, which have increased by more than 9 percent in the first half of this year, would be jeopardized. We could anticipate swift retaliation by countries exporting textiles and footwear if this bill became law. These countries have large and rapidly growing markets for U.S. exports, which would be placed at risk by the new restrictions required under H.R. 4328. They would retaliate against our most competitive exports, such as agriculture, aerospace, high technology, capital goods, and services, to the detriment of domestic employment in these industries.

All of these economic costs to consumers and American industry would be incurred without eliminating a single "unfair" trade practice or opening even one closed market abroad. Rather than address the industry's competitive problems constructively, this legislation merely closes our markets and insulates the textile, apparel, and footwear industries from international competition.

We already have very effective laws that provide remedies to unfair competition from abroad, which various sectors of the textile and apparel industries have used when necessary. Our best hope for opening new markets overseas and for sustaining our textile and apparel industries is not this legislation, but the Uruguay Round of global trade talks, now in its critical final weeks.

We are working in the Uruguay Round to negotiate a means for the textile and apparel industries to:

—Enhance their international competitiveness in the long term and to open foreign markets to our exports.

—Ensure that the current special quota protection for the industry is not terminated abruptly, but is phased in over a reasonable period of time to protect those parts of the industry that require more time to adjust to import competition.

—Provide sufficient stability so that our textile and apparel industries, as well as our importers and retailers, have a smooth, gradual path of adjustment to the regular rules of the General Agreement on Tariffs and Trade (GATT), as they are strengthened in the Round.

H.R. 4328 would eliminate any hope we have of achieving a successful Uruguay Round agreement in December that accomplishes these objectives. The bill would do this by taking a sector of considerable importance in international trade off the negotiating table. Furthermore, it would be an egregious violation of GATT rules, our commitments under the Multifiber Arrangement (MFA), and the numerous bilateral agreements we have negotiated under the MFA's auspices. This protectionist bill unquestionably would result in a mass exodus of perhaps half the 100 nations participating in the Round. All that we hope to achieve for the textile and apparel industries would be lost, as would all of our efforts for American businesses, consumers, and workers.

Beyond this economic calamity, H.R. 4328 is reprehensible at a time when the United States' highest international priority is to strengthen international cooperation. Many of the countries whose interests would be dam-

aged by H.R. 4328, such as Turkey and Egypt, are ones that have cooperated effectively in resisting Iraqi aggression in the Persian Gulf. In addition, this bill would undercut our attempts to rebuild economies on free-market principles and to build a strengthened global trading system that will permit trade to expand and thereby increase world prosperity and stability.

Additionally, while the Congress holds the authority to regulate commerce with foreign nations, several provisions of H.R. 4328 interfere with the President's constitutional prerogatives in conducting international negotiations and in proposing legislation.

The Textile, Apparel, and Footwear Trade Act of 1990 is simply not the panacea advertised by its proponents. Instead, it is blatantly protectionist, unwarranted, economically harmful, and internationally unviable.

Accordingly, I am disapproving H.R. 4328.

GEORGE BUSH.

THE WHITE HOUSE, *October 5, 1990.*

□ 1800

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the message and the bill be printed as a House document.

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that further consideration of the veto message on the bill, H.R. 4328, be postponed until Tuesday, October 9, 1990.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 660, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 495 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 495

Resolved, That upon adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 660) making further continuing appropriations for the fiscal year 1991, and for other purposes. The joint resolution shall be debatable for not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The amendments printed in section 2 of this resolution shall be considered as having been agreed to. All points of order against the joint resolution, as amended, and against its consideration are hereby waived. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

SEC. 2. (A) On page 7, line 22, strike "October 6, 1990" and inserting "October 12, 1990."

(B) Insert at the end of the joint resolution the following new section:

"SEC. 114. EXTENSION OF TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

"Section 1 of Public Law 101-350 is amended by striking 'October 6, 1990' and inserting 'October 12, 1990.'"

SEC. 3. House Resolutions 475, 482, and 492 are hereby laid on the table.

The SPEAKER. The gentleman from Massachusettes [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume.

Mr. MOAKLEY. Mr. Speaker, House Resolution 495 makes it in order to consider House Joint Resolution 660 in the House, with 1 hour debate time equally divided and controlled by the chairman and ranking minority member of the Appropriations Committee.

The rule waives all points of order against the joint resolution as amended and against its consideration. The rule provides that the amendment printed in section 2 of the rule will be considered to have been agreed to.

The amendment in section 2 of the rule changes the date of the continuing resolution, from October 20 to October 12. It also extends the temporary increase in the debt limit until October 12. The debt limit extension changes only the date not the dollars.

The rule provides one motion to recommit. Finally, the rule lays on the table the following rules: House Resolution 475, which provides for the consideration of the first fiscal year 1991 continuing resolution; House Resolution 482, which waives the two-thirds requirement against rules reported on Sunday, September 30; and House Resolution 492, the first rule the committee granted to considered House Joint Resolution 660.

Mr. Speaker, we all know that we have no budget agreement. But our responsibility did not end with the defeat of the conference report. Congress must still enact a continuing resolution, suspend sequestration until we can agree on a budget, and extend the debt limit. We must do all of this before midnight tonight.

Mr. Speaker, it is time to act. House Resolution 495 is a fair rule. I urge its adoption.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding this time to me.

Mr. Speaker, my colleagues, this is a closed rule that provides for 1 hour of debate on a short-term continuing resolution. There are two self-executing provisions in this rule. One such provision extends the life of this particular resolution until the date of October 12, 1 week from today. The other self-executing provision temporarily extends the debt ceiling until October 12, as well, but does not raise the actual debt limit itself.

Mr. Speaker, the continuing resolution itself waives the imposition of sequestration until October 12. In other words, Mr. Speaker, Congress is trying to dodge the bullet again here tonight.

It is precisely for that reason, Mr. Speaker, that I cannot support this rule, nor can I support the continuing resolution. Once again, Congress is waiving a law that it finds inconvenient. There is an attitude prevalent in this Congress which can be summed up in the following three statements:

There is not a House rule we cannot set aside; there is not a House precedent we cannot overturn; and there is not a law that we can't ignore if the pressure to maintain business as usual around here gets tough enough.

Mr. Speaker, business as usual is all over at midnight tonight. The official statement that accompanied the budget agreement calls for good-faith negotiations on both sides of this aisle, not for free-floating continuing resolutions that bear no resemblance to a bipartisan agreement at all.

Mr. Speaker, I will now read from another portion of the official statement from the budget summiteers. It reads as follows:

The President has stated that his intention is that no further continuing resolutions, beyond October 5, shall be signed until a budget resolution with reconciliation instructions fully reflecting the budget summit agreement shall have passed both Houses of Congress.

Mr. Speaker, that has not happened. I would advise my colleagues that the statement I just read still stands. President Bush himself reiterated it to the House Republican leader, the gentleman from Illinois [Mr. MICHEL], and Press Secretary Marlin Fitzwater reiterated that statement at his daily press briefing as early as this morning.

□ 1810

Mr. Speaker, we are now meeting under unprecedented circumstances, and one thing is fully clear: The time for business as usual is over and done with here tonight. Short-term stopgap CR's are a thing of the past. If this CR goes through here tonight, I do not know whether the President will veto the whole thing outright or simply let it go unsigned. Either way, the ax falls at midnight tonight. Make no mistake about it.

Rather than approving one more dying gasp at trying to maintain the appearance of normalcy, we ought to defeat this rule, because Members on both sides of the aisle are being gagged. The Committee on Rules this afternoon turned down my motion to

make in order a substitute rule to allow the gentleman from Wisconsin [Mr. OBEY] from your side of the aisle, the gentleman from Texas [Mr. ARMEY], and the gentleman from California [Mr. DANNEMEYER] from our side of the aisle to offer clear altenative substitutes to the budget resolution. The Democratic majority also defeated an amendment supported by the gentleman from Delaware [Mr. CARPER] to strike the sequestration waiver from this CR here tonight. Finally, the Democratic majority defeated my amendment to strike the sequester waiver, but exempt the necessary functions of government such as VA hospitals, air traffic controllers, meat inspectors, and other vital functions that mean so much across the Nation.

Mr. Speaker, it is obvious the Democratic majority does not want an open and fair debate on this issue on this floor. Otherwise, they would have allowed those amendments. We would have had our chance to debate it clearly here today.

Mr. Speaker, this rule ought to be defeated. If it is defeated, we will go back upstairs and we will make in order these alternatives that represent both sides of the aisle, Democrats and Republicans alike.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no requests for time.

Mr. SOLOMON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. MARTIN], a member of the Committee on Rules.

Mrs. MARTIN of Illinois. Mr. Speaker, there are a lot of reasons to defeat this rule, and I hope Members listen carefully to one of them. For those Members who have wondered what the problem has been, it has been because it is finally something that could hit all of us if we sequester. I do not care who you are, it is always different to talk about someone else getting hurt. If it is someone else, although we empathize and sympathize, boy-o-boy, when it hits us, it is tough.

Mr. Speaker, I know what I am going to ask Members is an extraordinarily difficult thing to do, but I think it may actually help in the long run, and indeed might actually say something to the people that we represent. I am asking Members to defeat the previous question. I understand those are usually leadership roles. I do not act on that behalf.

I also understand that Members can go home and nobody can talk about the previous question. For those of us who work hard on rules, describing what a wonderful job we have done on the previous question does not really move people to applause.

The reason to defeat this is because I am then, with your help, going to try to put on an amendment that does this: It says that Members of the House and Members of the Senate, the Vice President of the United States, the Director of OMB, and the Cabinet, if we move the sequestration, will be subject to sequestration too, and their salaries, until December 31.

Mr. Chairman, this is a very carefully drawn amendment. At all times I have tried to cooperate with both sides, who do not like it a lot, because they are trying to protect all of us, and I understand that. As someone who also was cochair of the task force that totally revamped how we look at things, I think this is well in keeping with what I am asking.

Mr. Chairman, this is saying to everybody that if we do not do our job, and if we cannot complete our work, and if we cannot force ourselves to agree, no matter how hard it is, and we sequester, that we get some of it too.

I know people think everybody here is rich, and we joke that maybe that is the other body. I cannot tell you how many Members have kids in college, but you know that I know that. I know about the two houses and the mortgages, and I know how no one appreciates that we do not get a per diem. I know all of that, but we should still do this so we once and for all say that the people's house recognizes what it is like to be a real person, and that when Government does not act, Government can hurt, and that we can at least share that hurt.

Mr. Speaker, I am asking Members to defeat the previous question so that that amendment can be offered. Not because it brings us to conclusion on the budget debate, not because it will change by too much the good or the bad that Members as individuals have done, but simply because it is the right thing to do if we sit here as representatives of the people.

Mr. Speaker, across party lines, with all the difficulties that brings, I ask Members to defeat the previous question.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I rise also to request or give notice to the House that I will ask to defeat the previous question, along with my colleague, the gentlewoman from Illinois [Mrs. MARTIN], to give an opportunity for the House to consider an alternative budget that I believe addresses the need that is pressing upon all of us.

The gentleman from New York [Mr. SOLOMON], a member of the Committee on the Budget, presented this idea to the Commiteee on the Budget today, and it was not made in order by this rule. I would like to describe very briefly what it does so that Members can appreciate what it would entail if I were given this opportunity today.

Mr. Speaker, I can say by way of preliminary remarks that if we learned anything last night from what is for all of us still a digesting experience, it is that the people's house, and in this I agree with the gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means, the people of America spoke last night through the House membership in saying we do not want to solve the deficit problem by raising taxes or increasing fees on Medicare beneficiaries in America. That is what it said to this Member from California.

This proposal I am talking about would entail a reduction of the deficit over the next 5 years of some $424 billion. Very briefly, the numbers are in the defense category, the same that was in the budget summit we considered, a little less than $170 billion over 5 years. Entitlements, by placing a cap on what growth can take place of no more than 7.7 percent a year. Nondefense discretionary, and this is a cornerstone of it, to be honest, it is a 4.5-percent cap in that category. That achieves a reduction of some $137.9 billion over the 5 years. Interest on money we do not have to borrow is $54 billion.

Then, of course, there is a provision in here that I debated with some Members as to whether to put in here, which deals with the subject that has such as great following around America, namely, foreign aid.

How many Members have been in town hall forums and heard questions, time and again, "Congress, how do you continue to fund foreign aid?"

Well, it cuts it by a third, which over 5 years would produce $32.4 billion in reductions. That is a total of $424 billion over 5 years.

Mr. Speaker, this proposal does not raise anybody's taxes, it does not raise anybody's fees. It seeks to reduce the deficit by cutting spending, or at least putting a cap on it.

I want to emphasize this proposal would not make any reductions in retirement, or Social Security, Federal military, veterans, Medicare, or Medicaid Programs.

□ 1820

The 4.5-percent cap, we have heard talk of 4 percent, and the 4.5-percent cap was utilized because we calculated that by projections we could not accommodate the projected increase in servicing the needs of Medicare and Medicaid beneficiaries under 4 percent. That is why it is 4.5 percent. I would hope that we could make that in order.

I will make just a brief comment on sequestration. Mr. Civiletti, who was the Attorney General for President Carter in 1970 or during the early

1980's, I believe wrote a memorandum stating that in the Antideficiency Act the President of the United States, in cases of emergency involving the safety of human life or the protection of property, has authority to order the continuation of activities for the sake of protecting human life or the protection of property.

The Wall Street Journal talked about this on September 27, 1990, and I will read in part very briefly.

There are some other improvements Mr. Bush could make to the distribution of cuts under Gramm-Rudman. Education, Labor and the EPA are among the agencies scheduled for sequestered cuts of less than 5 percent. Maybe when a budget is eventually passed these agencies could contribute to a fund to pay air traffic controllers.

Mr. Civiletti's memorandum cited two instances of where the President would have the authority under this law, the Antideficiency Act, to keep air traffic controllers working, to keep meat inspection going along in this country so that we do not have to send word out to the ranchers to take their cows away from the grass and interrupt the food chain, at least in the development of meat.

So I am saying that we can live with sequestration if that is what it takes. I am sorry that this rule does not permit us a separate vote on that. But in my view, the previous question should be defeated, and then I would be in opposition to the rule if the previous question is affirmed.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for his statement.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time.

CALL OF THE HOUSE

Mr. MOAKLEY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 430]

Ackerman	Bilbray	Campbell (CA)
Alexander	Bilirakis	Campbell (CO)
Anderson	Bliley	Cardin
Andrews	Boehlert	Carper
Annunzio	Boggs	Carr
Anthony	Bonior	Chandler
Applegate	Borski	Chapman
Archer	Bosco	Clarke
Armey	Boucher	Clement
Atkins	Brennan	Clinger
AuCoin	Brooks	Coble
Baker	Broomfield	Coleman (MO)
Ballenger	Browder	Coleman (TX)
Barnard	Brown (CO)	Collins
Bartlett	Bruce	Combest
Barton	Bryant	Conte
Bates	Buechner	Cooper
Bennett	Bunning	Costello
Bentley	Burton	Courter
Bereuter	Bustamante	Cox
Berman	Byron	Coyne
Bevill	Callahan	Craig
Crane	Jenkins	Panetta
Dannemeyer	Johnson (CT)	Parker
Darden	Johnson (SD)	Parris
Davis	Johnston	Pashayan
DeLay	Jones (GA)	Patterson
Dellums	Jontz	Paxon
Derrick	Kanjorski	Payne (NJ)
DeWine	Kaptur	Payne (VA)
Dickinson	Kasich	Pease
Dicks	Kastenmeier	Penny
Dingell	Kennedy	Perkins
Dixon	Kennelly	Petri
Donnelly	Kildee	Pickett
Dorgan (ND)	Kleczka	Pickle
Dornan (CA)	Kolbe	Porter
Downey	Kolter	Poshard
Dreier	Kostmayer	Price
Duncan	Kyl	Pursell
Durbin	LaFalce	Rahall
Dwyer	Lagomarsino	Rangel
Dymally	Lancaster	Ravenel
Dyson	Lantos	Ray
Early	Laughlin	Regula
Eckart	Leach (IA)	Rhodes
Edwards (CA)	Leath (TX)	Richardson
Edwards (OK)	Lehman (CA)	Ridge
Emerson	Lehman (FL)	Rinaldo
Engel	Lent	Ritter
English	Levin (MI)	Roberts
Erdreich	Levine (CA)	Roe
Espy	Lewis (CA)	Rogers
Evans	Lewis (FL)	Rohrabacher
Fascell	Lewis (GA)	Ros-Lehtinen
Fawell	Lightfoot	Rose
Fazio	Lipinski	Rostenkowski
Feighan	Livingston	Roth
Flake	Lloyd	Roukema
Flippo	Long	Rowland (CT)
Foglietta	Lowey (NY)	Rowland (GA)
Ford (MI)	Lukens, Donald	Roybal
Ford (TN)	Machtley	Russo
Frenzel	Manton	Sabo
Frost	Markey	Saiki
Gallegly	Marlenee	Sangmeister
Gallo	Martin (IL)	Sarpalius
Gaydos	Martin (NY)	Savage
Gejdenson	Matsui	Sawyer
Gekas	Mavroules	Saxton
Geren	Mazzoli	Schaefer
Gibbons	McCandless	Scheuer
Gillmor	McCloskey	Schiff
Gilman	McCollum	Schneider
Glickman	McCurdy	Schroeder
Gonzalez	McDade	Schuette
Goodling	McDermott	Schulze
Gordon	McEwen	Schumer
Goss	McGrath	Sensenbrenner
Gradison	McHugh	Serrano
Grandy	McMillen (MD)	Sharp
Grant	McNulty	Shaw
Gray	Meyers	Shays
Green	Mfume	Shumway
Guarini	Michel	Sikorski
Gunderson	Miller (CA)	Sisisky
Hall (OH)	Miller (OH)	Skaggs
Hall (TX)	Miller (WA)	Skeen
Hamilton	Mineta	Skelton
Hammerschmidt	Mink	Slattery
Hancock	Moakley	Slaughter (NY)
Hansen	Molinari	Slaughter (VA)
Harris	Mollohan	Smith (FL)
Hastert	Montgomery	Smith (IA)
Hatcher	Moody	Smith (NJ)
Hawkins	Moorhead	Smith (TX)
Hayes (IL)	Morella	Smith (VT)
Hefley	Morrison (WA)	Smith, Denny (OR)
Hefner	Mrazek	Smith, Robert (NH)
Herger	Murphy	Smith, Robert (OR)
Hertel	Murtha	Snowe
Hiler	Myers	Solomon
Hoagland	Natcher	Spence
Hochbrueckner	Neal (MA)	Spratt
Holloway	Neal (NC)	Staggers
Hopkins	Nelson	Stallings
Horton	Nielson	Stangeland
Houghton	Nowak	Stearns
Hoyer	Oakar	Stenholm
Hubbard	Oberstar	Stokes
Hughes	Obey	Studds
Hunter	Olin	Stump
Hutto	Ortiz	Sundquist
Hyde	Owens (NY)	Swift
Inhofe	Owens (UT)	Synar
Ireland	Oxley	Tallon
Jacobs	Packard	Tanner
James	Pallone	Tauke
		Tauzin
		Taylor
		Thomas (CA)
		Thomas (GA)
		Thomas (WY)
		Torres
		Torricelli
		Towns
		Traficant
		Traxler
		Udall
		Unsoeld
		Upton
		Valentine
		Vander Jagt
		Vento
		Visclosky
		Volkmer
		Vucanovich
		Walgren
		Walker
		Walsh
		Watkins
		Waxman
		Weber
		Weiss
		Weldon
		Wheat
		Whittaker
		Whitten
		Wilson
		Wise
		Wolf
		Wolpe
		Wyden
		Wylie
		Yates
		Yatron
		Young (AK)
		Young (FL)

The SPEAKER. On this rollcall, 394 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and on a division (demanded by Mrs. MARTIN of Illinois) there were—ayes 241; noes 28.

Mrs. MARTIN of Illinois. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So the previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So, the resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, pursuant to House Resolution 495, the resolution just adopted, I call up the joint resolution (H.J. Res. 660) making further continuing appropriations for the fiscal year 1991, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 660, as modified by section 2 of House Resolution 495, is as follows:

H. RES. 660

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1991, and for other purposes; namely:

SEC. 101. (a) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1990 and for which appro-

priations, funds, or other authority would be available in the following appropriations Act:

The Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991;

The District of Columbia Appropriations Act, 1991;

The Energy and Water Development Appropriations Act, 1991;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Departments of Labor, Health and Human Services; and Education, and Related Agencies Appropriations Act, 1991;

The Military Construction Appropriations Act, 1991;

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991;

The Department of Transportation and Related Agencies Appropriations Act, 1991;

The Treasury, Postal Service, and General Government Appropriations Act, 1991; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1990, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1990, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate of operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

(c) Whenever an Act listed in this section has been passed by only the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990; *Provided,* That where an item is funded in applicable appropriations Acts for the fiscal year 1990 and not included in the version passed by the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

SEC. 102. Such amounts as may be necessary to continue existing programs and activities (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 1990, under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, for which provision was made in the following Acts: The Department of the Interior and Related Agencies Appropriations Act, 1990, and the Legislative Branch Appropriations Act, 1990.

SEC. 103. Such amounts as may be necessary to continue existing programs and activities, which were conducted in fiscal year 1990, for which provision was made in the Department of Defense Appropriations Act, 1990, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $262,969,000,000, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1991 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriations Acts for fiscal year 1990, notwithstanding section 502(a)(1) of the National Security Act of 1947: *Provided,* That no appropriation or funds made available or authority granted pursuant to this section shall be used for new production of items not funded for production in fiscal year 1990 or prior years, for the increase in production rates above those sustained with fiscal year 1990 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1990, except projects, activities, operations, or organizations relating to "Operation Desert Shield": *Provided further,* That no appropriation or funds made available or authority granted pursuant to this section shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later; *Provided further,* That no appropriation or funds made available or authority granted pursuant to this section for procurement and research, development, test, and evaluation, shall be used to fund any program, project, activity, operation, or organization at a rate for operations in excess of the current rate or the rate provided for in the budget estimates for fiscal year 1991, whichever is lower, during fiscal year 1991, except programs, projects, activities, operations, or organizations relating to "Operation Desert Shield".

SEC. 104. Notwithstanding any other provision of this joint resolution, such amounts as may be necessary to continue the Aerostat Program of the United States Customs Service which was conducted in fiscal year 1990 at a rate of operations not exceeding the current rate and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1990.

SEC. 105. Appropriations made by sections 101, 102, 103, and 104 shall be available to the extent and in the manner which would be provided by the pertinent appropriations act.

SEC. 106. No appropriations or funds made available or authority granted pursuant to sections 101, 102, 103, and 104 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1990.

SEC. 107. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1990, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 108. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 12, 1990, whichever first occurs.

SEC. 109. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 110. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 111. No provision in any appropriations Act for the fiscal year 1991 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 108(c) of this joint resolution.

SEC. 112. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 113. (a) Any order on sequestration for fiscal year 1991 issued before, on, or after the date of enactment of this joint resolution pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is suspended and no action shall be taken to implement any such order

(b) Subsection (a) shall cease to be effective on the date set forth in section 108(c).

SEC. 114. EXTENSION OF TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.—Section 1 of Public Law 101-350 is amended by striking "October 6, 1990" and inserting "October 12, 1990".

The SPEAKER pro tempore (Mr. SPRATT). Pursuant to the rule, the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, and that I may include tabular material on House Joint Resolu-

tion 660, the joint resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume. House Joint Resolution 660 is a continuing resolution for only one more week. It suspends sequester for 1 week and extends the debt limit for 1 week.

This will not provide the committee near enough time to complete action on 13 appropriate bills. Being out here every week to get one more week is disruptive not merely to our committee but to the orderly work of the Congress. Because we have been requested to do so, I present this resolution to the House.

The budget resolution was due to have been completed April 15, but it was not.

□ 1850

Our committee was asked to wait. This we did. Then the House of Representatives passed a budget resolution May 1, but not the Senate, and we were asked to wait again. On June 19 the House deemed the House-passed resolution to be the conference agreement until a real one was passed, and on that same day we passed our first bill, and on July 30 we passed the 10th bill.

Our committee conformed to the limits in the resolution. The House had passed 10 bills and the Senate had passed 4 on September 25 when the committee reported a short-term clean continuing resolution through October 20 and appropriating $1.9 billion for Operation Desert Shield. That went for 20 days. We were asked to reduce the 20 days to 5, which we did, and today is the 5th day.

Mr. Speaker, our committee has one of the heaviest jobs in the House, working through 13 subcommittees, conducting 280 days of hearings with nearly 4,900 witnesses who bring to our attention hundreds of thousands of items. This is documented in 90 printed hearing volumes of over 97,000 pages.

The committee has completed action on 12 bills and has another coming before the committee next week. The House has passed 10 bills and the Senate has passed 7 bills. This means we must complete action on three bills in the House, have conference, and complete conference action on all 13 and have all bills signed.

Mr. Speaker, I call attention to the fact that since 1945 our Committee on Appropriations has held the total of appropriation bills to $173 billion below the recommendations in the President's budget, so our financial plight is not the fault of our Committee on Appropriations.

Recent actions of the Congress beyond our control may once again bring us to a point where a continuing resolution for the rest of the year may be the only way to complete our work in a timely manner, which none of us desire.

Mr. Speaker, doing a continuing resolution 1 week at a time interferes with our committee in the discharge of its duties.

Mr. Speaker, I know you are told by the President's senior advisers, "If you don't do what we say to do, the President will veto the bill."

I do not believe that. If the country is brought to its knees, it will not be because of our Committee on Appropriations.

It has not been our committee which caused our debt. It has not been our committee which has caused the delay on our appropriations bills. It is our committee that bears the load of providing for an orderly continuation of the Government.

Mr. Speaker, as has been pointed out, ours are the bills that have to eventually pass. It is fast reaching the point where we will have to proceed with our bills, regardless.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the continuing resolution.

Mr. Speaker, I am disappointed in this body.

In 15 minutes, this House recklessly trashed a bipartisan compromise budget agreement that took 4 months to craft. When Members discovered that a $500 billion deficit reduction plan might cause a little pain, they quaked and they cowered and they ran for the hills. It was easy to find something in that package to dislike. It was easy to bend to the will of special interests who did not like the agreement. But it was impossible to find courage enough to do the right thing for this country.

I am dismayed that this body treated our country's leadership with such disdain. The President of the United States, the Speaker of the House of Representatives, and the majority and minority leaders of both the House and the Senate sweated blood over this package and asked for your help. And Members of this body thumbed their noses at them. They said they could do better.

That agreement was as fragile as china. But this House picked it up, and without a second thought, threw it against the wall and made a mess.

Mr. Speaker, this country's leadership provided Members with enough political cover to shade an elephant and a donkey. Vote for the budget agreement, and they promised to take the blame.

The President agreed that differences over details in the package could be addressed through the reconciliation process. If you had a problem, like I did, with taxing home heating oil, or you did not like the way the agreement treated Medicare, you could take your case to Ways and Means. If you opposed the way highway trust funds would be allocated under the proposal, Public Works was there to listen.

The proposed changes to agricultural programs still had to go through the Agriculture Committee.

I joined the Speaker and the minority leader and the majority leader in coming to the well to provide support and cover for those Members who would have the courage to do the right thing. All we wanted to do was to move the process forward.

But the House chose instead to risk chaos, disorder and calamity.

Mr. Speaker, last night the House clearly expressed its will. And we all know what the House wants. It wants no new taxes. It wants no entitlement reform. It wants no spending cuts. And that is the problem. It is time for this body to learn that you just cannot have it all.

Mr. Speaker, the House has voted to leave us dangling by the thinnest thread over the rocky cliffs of financial catastrophe. We need to pass this resolution to avoid total chaos.

Unless we are eager to throw in the towel and altogether abandon our responsibility to govern, we must pass this CR.

We are in a deep, deep hole, and we are not going to get out of it by digging it even deeper. I do not know what the answer is right now, but I do know one thing: Chaos is not the answer. Let us take a week and try, once again, to find a way to do the responsible thing—not for the good of special interests; not for the good of our personal political fortunes; but for the good of the country.

Finally, Mr. Speaker, I would note that this new CR extends Government spending until October 12: Columbus Day. Christopher Columbus endured unbelievable hardships to discover this new world. With 15th century technology, he sailed across unchartered waters to lands of which he knew nothing. And now, in 1990, with all of our "progress" and five centuries of development, we are having a harder time passing a budget than Christopher Columbus had discovering America.

I urge my colleagues to vote "aye".

Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, to quote the inimitable Yogi Berra, this is "Deja vu, all over again."

Last week we passed a 1-week continuing resolution because we were

close to agreement on the budget and needed a few more days to consumate the deal.

Well, here we are again, 1 week later, being asked to vote on another CR—only this time we do not have a deal. We are not even discussing any possibilities. We do not know for sure what the President will do with this bill.

I voted for the budget resolution, because I believed we would not get a better alternative.

I was right. Not only do we not have a better alternative, we have no alternative. We are going to just continue on under a CR the same bankrupt practices that got us into this mess in the first place.

My tough vote was last night. I supported a budget agreement that was not good. Today my vote is easy. I am not only a "no" vote on a CR, I'm a "heck no."

The American people are demanding that Congress do something. The House is the body of the people. It is incumbent that we accept the yoke of leadership we thrust upon ourselves by our decision to reject the budget proposal.

Whether you voted yea or nay last night is now irrelevant. No matter how we voted, everyone who voted said there was a better alternative. It is now up to us to develop that better solution.

A continuing resolution that exempts spending from Gramm-Rudman sequestration is not acceptable.

And, as last night demonstrated, an agreement reached by a few, is not acceptable.

This body must come together, put all proposals on the table, to develop a budget resolution.

I urge the Speaker to bring before the House a budget resolution for debate under procedures that allow for the full consideration of all proposals for spending cuts, increased revenues, entitlement reform, economic growth incentives, new spending priorities, and enforcement provisions.

All of us should have the opportunity to have his or her proposal heard and voted on. We should debate the Stark proposal on Medicare—and vote on it. We should debate the 4-percent solution—and vote on it. We should let the Congress decide on whether to cut capital gains, raised individual income taxes, or limit COLA's.

It is time to step forward and be counted. Bring your proposals. Let the Congress be the free-wheeling body of leadership and debate it was intended to be.

But let us not pass this continuing resolution, not in this form.

□ 1900

Mr. CONTE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SPRATT). Under the rule, the previous question is ordered on the joint resolution.

The amendments printed in section 2 of House Resolution 495 are considered as having been adopted.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the joint resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 300, nays 113, not voting 20, as follows:

[Roll No. 431]

YEAS—300

Ackerman	Costello	Grant
Alexander	Coyne	Gray
Anderson	Craig	Green
Andrews	Darden	Guarini
Annunzio	Davis	Hall (OH)
Anthony	de la Garza	Hamilton
Applegate	DeFazio	Hammerschmidt
Aspin	Dellums	Harris
Atkins	Derrick	Hatcher
AuCoin	DeWine	Hayes (IL)
Barnard	Dicks	Hefley
Bateman	Dingell	Hefner
Bates	Dixon	Hertel
Beilenson	Donnelly	Hoagland
Bennett	Dorgan (ND)	Hochbrueckner
Bentley	Downey	Hopkins
Bereuter	Duncan	Hoyer
Berman	Durbin	Hubbard
Bevill	Dwyer	Hughes
Bilbray	Dyson	Hutto
Bilirakis	Early	Jacobs
Boehlert	Eckart	James
Boggs	Edwards (CA)	Jenkins
Bonior	Emerson	Johnson (SD)
Borski	Engel	Johnston
Bosco	English	Jones (GA)
Boucher	Erdreich	Jontz
Brennan	Espy	Kanjorski
Brooks	Evans	Kaptur
Broomfield	Fascell	Kasich
Browder	Fazio	Kastenmeier
Bruce	Feighan	Kennedy
Bryant	Flake	Kennelly
Bustamante	Flippo	Kildee
Callahan	Foglietta	Kleczka
Campbell (CA)	Ford (MI)	Kolter
Campbell (CO)	Ford (TN)	Kostmayer
Cardin	Frost	LaFalce
Carr	Gallegly	Lagomarsino
Chapman	Gaydos	Lancaster
Clarke	Gejdenson	Lantos
Clay	Gephardt	Leath (TX)
Clement	Geren	Lehman (CA)
Coleman (TX)	Gibbons	Lehman (FL)
Collins	Gilman	Levin (MI)
Combest	Glickman	Levine (CA)
Condit	Gonzalez	Lewis (GA)
Conte	Gordon	Lipinski
Conyers	Gradison	Lloyd
Long	Patterson	Smith (IA)
Lowey (NY)	Payne (NJ)	Smith (NJ)
Machtley	Pelosi	Smith (TX)
Manton	Perkins	Smith (VT)
Markey	Pickett	Snowe
Martin (NY)	Pickle	Solarz
Martinez	Poshard	Spence
Matsui	Price	Spratt
Mavroules	Rahall	Staggers
Mazzoli	Rangel	Stallings
McCloskey	Ravenel	Stangeland
McCurdy	Ray	Stark
McDade	Richardson	Stokes
McDermott	Rinaldo	Studds
McGrath	Roberts	Swift
McHugh	Roe	Synar
McMillen (MD)	Rogers	Tallon
McNulty	Rohrabacher	Tanner
Meyers	Ros-Lehtinen	Tauzin
Mfume	Rose	Taylor
Miller (CA)	Rostenkowski	Thomas (GA)
Mineta	Roth	Thomas (WY)
Mink	Rowland (CT)	Torres
Moakley	Rowland (GA)	Torricelli
Molinari	Roybal	Towns
Mollohan	Russo	Traficant
Moody	Sabo	Traxler
Morella	Saiki	Udall
Morrison (CT)	Sarpalius	Unsoeld
Morrison (WA)	Savage	Valentine
Mrazek	Sawyer	Vento
Murphy	Saxton	Volkmer
Murtha	Schaefer	Walgren
Myers	Scheuer	Walsh
Nagle	Schiff	Washington
Natcher	Schneider	Watkins
Neal (MA)	Schroeder	Waxman
Neal (NC)	Schuette	Weiss
Nelson	Schumer	Wheat
Nowak	Serrano	Whittaker
Oakar	Sharp	Whitten
Oberstar	Shuster	Williams
Olin	Sikorski	Wilson
Ortiz	Sisisky	Wise
Owens (NY)	Skaggs	Wolf
Owens (UT)	Skeen	Wolpe
Pallone	Skelton	Wyden
Panetta	Slattery	Wylie
Parker	Slaughter (NY)	Yates
Parris	Slaughter (VA)	Yatron
Pashayan	Smith (FL)	Young (AK)

NAYS—113

Archer	Hall (TX)	Payne (VA)
Armey	Hancock	Pease
Baker	Hansen	Penny
Ballenger	Hastert	Petri
Bartlett	Herger	Porter
Barton	Hiler	Pursell
Bliley	Holloway	Regula
Brown (CO)	Horton	Rhodes
Buechner	Houghton	Ridge
Bunning	Hunter	Ritter
Burton	Hyde	Roukema
Byron	Inhofe	Sangmeister
Carper	Ireland	Schulze
Chandler	Johnson (CT)	Sensenbrenner
Clinger	Kolbe	Shaw
Coble	Kyl	Shays
Coleman (MO)	Laughlin	Shumway
Cooper	Leach (IA)	Smith, Denny (OR)
Courter	Lent	
Cox	Lewis (CA)	Smith, Robert (NH)
Crane	Lewis (FL)	
Dannemeyer	Lightfoot	Smith, Robert (OR)
DeLay	Livingston	
Dickinson	Lukens, Donald	Solomon
Dornan (CA)	Marlenee	Stearns
Douglas	Martin (IL)	Stenholm
Dreier	McCandless	Stump
Edwards (OK)	McCollum	Sundquist
Fawell	McEwen	Tauke
Fields	McMillan (NC)	Thomas (CA)
Frenzel	Michel	Upton
Gallo	Miller (OH)	Vander Jagt
Gekas	Miller (WA)	Visclosky
Gillmor	Montgomery	Vucanovich
Gingrich	Moorhead	Walker
Goodling	Nielson	Weber
Goss	Oxley	Weldon
Grandy	Packard	Young (FL)
Gunderson	Paxon	

NOT VOTING—20

Boxer	Brown (CA)	Coughlin

Crockett	Henry	McCrery
Dymally	Huckaby	Obey
Fish	Jones (NC)	Quillen
Frank	Lowery (CA)	Robinson
Hawkins	Luken, Thomas	Smith (NE)
Hayes (LA)	Madigan	

□ 1925

The Clerk announced the following pair:

On this vote:

Mr. McCrery for, with Mr. Quillen against.

Mr. ARMEY changed his vote from "yea" to "nay."

Messrs. SAXTON, KASICH, ROHRABACHER, and BROOMFIELD changed their vote from "no" to "aye."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time that I might inquire of the distinguished majority leader how we intend to proceed for the balance of this day and tomorrow.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

It is our plan to not have further votes this evening. Members can leave without the fear that there will be a vote tonight. Later this evening when we find out exactly what the Senate has done on the continuing resolution, we can tell Members exactly when they will have to be here tomorrow.

I would say this about tomorrow: That either later tonight or tomorrow morning we will be able to tell Members whether they will need to be here at 12, or at 3, or it is possible, although not probable, that they will not have to be here at all. So later tonight, I would say within the next 2 hours, or tomorrow morning, the Cloakrooms will be in a position to tell Members exactly when they will need to be here tomorrow.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON SATURDAY, OCTOBER 6, 1990, UNTIL 3 P.M.

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses on the legislative day of Saturday, October 6, 1990, until 3 p.m.

The SPEAKER pro tempore (Mr. SPRATT). Is there objection to the request of the gentleman from Missouri?

There was no objection.

ADJOURNMENT TO SATURDAY, OCTOBER 6, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 noon on Saturday, November 6, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CONFERENCE REPORT ON H.R. 4151

Mr. HAWKINS submitted the following conference report and statement on the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, the Community Services Block Grant Act; and for other purposes:

CONFERENCE REPORT (H. REPT. 101-816)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Augustus F. Hawkins Human Services Reauthorization Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Section 1. Short title; table of contents.

TITLE I—HEAD START

Subtitle A—Amendments to the Head Start Act

Sec. 101. Short title.
Sec. 102. Statement of purpose and policy.
Sec. 103. Authorization of appropriations.
Sec. 104. Reservation of funds.
Sec. 105. Guidelines for local service delivery models; maintenance of current services.
Sec. 106. Comprehensive Head Start report.
Sec. 107. Conditions on renewed funding of grantees.
Sec. 108. Designation of Head Start agencies.
Sec. 109. Powers and functions of Head Start agencies.
Sec. 110. Technical amendments.
Sec. 111. Administrative costs.
Sec. 112. Neutrality.
Sec. 113. Participation in Head Start programs.
Sec. 114. Authority of Secretary.
Sec. 115. Notice and hearing.
Sec. 116. Staff qualifications.
Sec. 117. Requirements applicable to the Secretary.
Sec. 118. Cooperative research.
Sec. 119. Report on status of children.
Sec. 120. Study of Head Start participants.
Sec. 121. Poverty line.
Sec. 122. Comparability of wages.

Subtitle B—Head Start Transition Project

Sec. 131. Short title.
Sec. 132. Definitions.
Sec. 133. Head Start transition grants.
Sec. 134. Eligibility.
Sec. 135. Requirements.
Sec. 136. Application.
Sec. 137. Evaluation and report.
Sec. 138. Payments; Federal share.
Sec. 139. Coordination with follow through.
Sec. 140. Funding.

TITLE II—AMENDMENTS TO THE FOLLOW THROUGH ACT

Sec. 201. Technical amendments.
Sec. 202. Financial assistance for follow through programs.
Sec. 203. Applications and funding.
Sec. 204. Program improvement.
Sec. 205. Research and evaluation contracts.
Sec. 206. Evaluation.
Sec. 207. General and administrative provisions.
Sec. 208. Participation in other educational activities.
Sec. 209. Technical amendment.

TITLE III—AMENDMENTS TO THE STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT

Sec. 301. Amendments to the State Dependent Care Development Grants Act.
Sec. 302. Waiver of existing percentage set-aside of allotments.
Sec. 303. Operation costs of after school care programs authorized.
Sec. 304. Report by grant recipients.
Sec. 305. Technical amendments.

TITLE IV—AMENDMENTS TO THE COMMUNITY SERVICES BLOCK GRANT ACT

Sec. 401. Authorization of appropriations.
Sec. 402. Eligible entities.
Sec. 403. State allocations.
Sec. 404. Applications and requirements.
Sec. 406. Discretionary authority of Secretary.
Sec. 407. Community food and nutrition.
Sec. 408. Annual report.
Sec. 409. Technical amendment.

TITLE V—AMENDMENTS TO THE CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985

Sec. 501. Adequacy of scholarships.
Sec. 502. Definitions.
Sec. 503. Authorization of appropriations.

TITLE VI—AMENDMENTS RELATING TO DEMONSTRATION PARTNERSHIP AGREEMENTS ADDRESSING THE NEEDS OF THE POOR

Sec. 601. Programs for special populations.
Sec. 602. Authorization of appropriations.

TITLE VII—AMENDMENTS TO THE LOW-INCOME HOME ENERGY ASSISTANCE ACT OF 1981

Sec. 701. Forward funding of LIHEAP.
Sec. 702. Reauthorization.
Sec. 703. State allotments.
Sec. 704. Application.
Sec. 705. Authority to use funds for weatherization.
Sec. 706. Authority to carry funds over.
Sec. 707. Leveraging incentive program.
Sec. 708. Withholding of funds.

TITLE VIII—AMENDMENTS TO THE COMPREHENSIVE CHILD DEVELOPMENT CENTERS ACT

Sec. 801. Authorization of appropriations.

TITLE IX—COORDINATED SERVICES FOR CHILDREN, YOUTH, AND FAMILIES
Sec. 901. Short title.
Sec. 902. Findings.
Sec. 903. Definitions.
Subtitle A—Establishment of Administration and Awarding of Grants for Programs
CHAPTER 1—ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES
Sec. 915. Establishment of the Administration on Children, Youth, and Families.
Sec. 916. Functions of the Commissioner.
Sec. 917. Federal agency consultations.
Sec. 918. Federal Council on Children, Youth, and Families.
Sec. 919. Administration.
CHAPTER 2—GRANTS FOR STATE AND COMMUNITY PROGRAMS FOR CHILDREN, YOUTH, AND FAMILIES
Sec. 925. Purpose.
Sec. 926. Definitions.
Sec. 927. Establishment of programs.
Sec. 928. Administration.
Sec. 929. State plan.
Sec. 930. Independent State body.
Sec. 931. State coordination of services.
Sec. 932. Supportive services.
Sec. 933. Family resource and support program grants.
Sec. 934. Authorization of appropriation and allotment.
CHAPTER 3—NATIONAL CLEARINGHOUSE
Sec. 955. Short title.
Sec. 956. Findings and purpose.
Sec. 957. Definition.
Sec. 958. Establishment of National Center on Family Resource and Support programs.
Sec. 959. Evaluation.
Sec. 960. Authorization of appropriations.
Subtitle B—White House Conference on Children, Youth, and Families
Sec. 981. Short title.
Sec. 982. Findings.
Sec. 983. Authority of the President and Secretary; final report.
Sec. 984. Conference administration.
Sec. 985. Conference committees.
Sec. 986. Report of the conference.
Sec. 987. Definitions.
Sec. 988. Authorization of appropriations.
TITLE X—EFFECTIVE DATES
Sec. 1001. Effective Dates.

TITLE I—HEAD START

Subtitle A—Amendments to the Head Start Act

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Head Start Expansion and Quality Improvement Act".

SEC. 102. STATEMENT OF PURPOSE AND POLICY.

Section 636(b) of the Head Start Act (42 U.S.C. 9831(b)) is amended by inserting ", non-English language background," after "migrant".

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended—

(1) by striking "$1,198,000,000" and all that follows through "1989, and", and

(2) by inserting after "1990" the following: ", $2,386,000,000 for fiscal year 1991, $4,273,000,000 for fiscal year 1992, $5,924,000,000 for fiscal year 1993, and $7,660,000,000 for fiscal year 1994".

SEC. 104. RESERVATION OF FUNDS.

(a) RESERVATION OF FUNDS.—Section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (1) by striking "and (3)" and inserting "through (5)",

(2) in paragraph (2)—

(A) in subparagraph (A) by striking "children, except that there shall be made available for use by Indian" and all that follows through "1985" and inserting ", except that there shall be made available for each fiscal year for use by Indian and migrant Head Start programs, on a nationwide basis, not less than the amount that was obligated for use by Indian and migrant Head Start programs for fiscal year 1990",

(B) in subparagraph (B) by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, the Commonwealth of",

(C) in subparagraph (C) by striking "the amount expended" and all that follows through "1982" and inserting "2 percent of the amount appropriated for any such fiscal year",

(D) by striking the penultimate sentence, and

(E) in the last sentence by inserting "or paragraph (3)" after "this paragraph",

(3) in paragraph (3) by striking "87 percent of the",

(4) by redesignating paragraph (2) the following:

"(3)(A) For any fiscal year for which the amount appropriated under section 639(a) exceeds the adjusted appropriation, the Secretary shall reserve the quality improvement funds for such fiscal year, for one or more of the following quality improvement activities:

"(i)(I) Not less than one-half of the amount reserved under this subparagraph, to improve the compensation (including benefits) of staff of Head Start agencies and thereby enhance recruitment and retention of such staff. The expenditure of funds under this clause shall be subject to section 653.

"(II) If a Head Start agency certifies to the Secretary for such fiscal year that part of the funds set aside under subclause (I) to improve wages cannot be expanded by such agency to improve wages because of the operation of section 653, then such agency may expend such part for any of the uses specified in the subparagraph (other than wages).

"(ii) To pay transportation costs incurred by Head Start agencies to enable eligible children to participate in a Head Start program.

"(iii) To employ additional Head Start staff, including staff necessary to reduce the child-staff ratio and staff necessary to coordinate a Head Start program with other services available to children participating in such program and to their families.

"(iv) To pay costs incurred by Head Start agencies to purchase insurance (other than employee benefits) and thereby maintain or expand Head Start services.

"(v) To make nonstructural and minor structural changes, and to acquire and install equipment, for the purpose of improving facilities necessary to expand the availability, or enhance the quality, of Head Start programs.

"(vi) To supplement amounts provided under section 640(a)(2)(C) to provide training necessary to improve the qualifications of the staff of the Head Start agencies, and to support staff training, child counseling, and other services necessary to address the problems of children participating in Head Start programs, including children from dysfunctional families, children who experience chronic violence in their communities, and children who experience substance abuse in their families.

"(B)(i) Funds reserved under subparagraph (A) for the first and second fiscal years for which funds are so reserved shall be allotted by the Secretary as follows:

"(I) 80 percent of such funds shall be allotted among the States in the same proportion as the Secretary allots funds among the States under paragraph (5) for the respective fiscal year.

"(II) 20 percent of such funds shall be allotted among the States, and used to make grants to Head Start agencies, at the discretion of the Secretary.

"(ii) Funds reserved under subparagraph (A) for any fiscal year subsequent to the second fiscal year for which funds are so reserved shall be allotted by the Secretary among the States in the same proportion as the Secretary allots funds among the States under paragraph (5) for the respective subsequent fiscal year.

"(iii) To be expended for the activities specified in subparagraph (A) in the first fiscal and second fiscal years for which funds are required by such subparagraph to be reserved, funds allotted under clause (i)(I) shall be used by the Secretary to make a grant to each Head Start agency that receives a grant from funds allotted under paragraph (5) for such fiscal year in the amount that bears the same ratio to the amount allotted under clause (i)(I) for such fiscal year for the State in which such agency is located as the number of children participating in the Head Start program of such agency in such fiscal year bears to the number of children participating in all Head Start programs in such State in such fiscal year.

"(iv) To be expended for the activities specified in subparagraph (A) in each subsequent fiscal year for which funds are required by such subparagraph to be reserved, funds allotted under clause (ii) shall be used by the Secretary to make grants to Head Start agencies that receive grants from funds allotted under paragraph (5) for such fiscal year, in such amounts as the Secretary considers to be appropriate. The aggregate amount of grants made under this clause to Head Start agencies in a State for a fiscal year may not exceed the amount allotted under clause (ii) for such State for such fiscal year.

"(v) If a Head Start agency certifies for such fiscal year to the Secretary that it does not need any funds under subparagraph (A), or does not need part of such funds it would otherwise receive under clause (iii) or (iv), then unneeded funds shall be used by the Secretary to make grants under this subparagraph without regard to such agency.

"(vi) Funds received under this subparagraph shall be used to supplement, not to supplant, funds received under paragraphs (2), (4), and (5).

"(4)(A)(i) If the amount appropriated under section 639(a) for fiscal year 1991 exceeds the adjusted appropriation, the Secretary shall reserve $30,000,000 for fiscal year 1991, to make grants to Head Start agencies to carry out early childhood intervention programs, to be known as 'Parent-Child Center's, within Head Start programs.

"(ii) The Secretary shall reserve $31,200,000 for fiscal year 1992, $32,448,000 for fiscal year 1993, and $33,745,920 for fiscal year 1994 to make grants to Head

Start agencies to carry out such early childhood intervention programs.

"(B)(i) Such early childhood intervention programs shall be designed—

"(I) to enhance the development of children who are less than 3 years of age; and

"(II) to strengthen the family unit by providing opportunities for increasing the child development skills and knowledge of their parents.

"(ii) Such early childhood intervention programs shall provide comprehensive services (such as social, health, and educational services) to low-income families with children who are less than 3 years of age. Such programs may provide such services to any eligible family during any period of time and may be center-based, home-based, or a combination of both.

"(C) Funds reserved under subparagraph (A) for a fiscal year shall be allotted as follows:

"(i) For Indian and migrant early childhood intervention programs, the Secretary shall allot the amount that represents the same proportion as such programs collectively received of the funds appropriated under section 639 for fiscal year 1990.

"(ii)(I) Subject to subclause (II) and after making the allotment under clause (i), the Secretary shall allot the remainder of such funds among the States in the same proportion as funds are allotted among the States under paragraph (5), except that the amount allotted for each State shall not be less than $200,000 or the amount that represents the same proportion of the funds appropriated under section 639 for fiscal year 1990 that were allotted for such State and used to carry out early childhood intervention programs, whichever is greater.

"(II) In any fiscal year for which such remainder is insufficient to allot the minimum amount required by subclause (I), the Secretary shall reduce ratably the minimum allotment required by such subclause.

"(D) The Secretary may not make a grant under this paragraph to a Head Start agency for a fiscal year unless—

"(i) such agency certifies that carrying out the early childhood intervention program for which such grant is requested will not reduce services provided by such agency to children who participate in other programs provided by such agency under this subchapter; and

"(ii) such agency certifies that to the maximum extent practicable, it will provide continuous service to children who receive services under this paragraph through compulsory school age, either through the early childhood intervention programs authorized by this paragraph or through other Head Start programs.

"(E) For purposes of this paragraph, the term 'low-income family' means a family that satisfies the eligibility requirements applicable under section 645(a).", and

(6) in paragraph (6), as so redesignated by paragraph (4)—

(A) by inserting "the Commonwealth of" before "the Northern Mariana", and

(B) by striking "or the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau".

(b) DEFINITIONS.—Section 637 of the Head Start Act (42 U.S.C. 9832) is amended—

(1) in paragraph (2) by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau", and

(2) by adding at the end the following:

"(4) The term 'adjusted appropriation' means—

"(A) with respect to the first fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, the sum of—

"(i) $35,000,000; and

"(ii) 110 percent of the amount appropriated under section 639(a) for the preceding fiscal year, adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers (issued by the Bureau of Labor Statistics) occurring in the 1-year period ending immediately before the fiscal year with respect to which a determination is made under section 640(a)(3)(A); and

"(B) with respect to each subsequent fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, the amount appropriated under section 639(a) for the preceding fiscal year adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers (issued by the Bureau of Labor Statistics) occurring in the 1-year period ending immediately before the fiscal year with respect to which a determination is made under section 640(a)(3)(A).

"(5) The term 'quality improvement funds' means—

"(A) with respect to the first fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, 10 percent of the amount appropriated under section 639(a) for such fiscal year; and

"(B) with respect to each subsequent fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, 25 percent of the portion of the amount appropriated under section 639(a) for such fiscal year that exceeds the adjusted appropriation for such fiscal year.".

SEC. 105. GUIDELINES FOR LOCAL SERVICE DELIVERY MODELS; MAINTENANCE OF CURRENT SERVICES.

Section 640 of the Head Start Act (42 U.S.C. 9835) is amended—

(1) in subsection (d) by striking the last sentence, and

(2) by adding at the end the following:

"(f) The Secretary shall establish procedures to enable Head Start agencies to develop locally designed or specialized service delivery models to address local community needs.

"(g) If in any fiscal year, the amounts appropriated to carry out the program under this subchapter exceed the amount appropriated in the prior fiscal year, the Secretary shall, prior to using such additional funds to serve an increased number of children, allocate such funds in a manner that makes available the funds necessary to maintain the level of services provided during the prior year, taking into consideration the percentage change in the Consumer Price Index for all Urban Consumers, as published by the Bureau of Labor Statistics.".

SEC. 106. COMPREHENSIVE HEAD START REPORT.

The Head Start Act (42 U.S.C. 9801 et seq.) is amended by inserting after section 640 the following:

"COMPREHENSIVE REPORT

"SEC. 640a. (a) The Secretary shall prepare, through the Assistant Secretary for Planning and Evaluation, and shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

"(1) not later than July 1, 1993, an interim comprehensive report; and

"(2) not later than January 1, 1994, a final comprehensive report;

in accordance with this section.

"(b) The reports required by subsection (a) shall contain—

"(1) information concerning transportation, facilities, and methods for identifying and locating eligible children in both urban and rural areas, including cost, problems encountered, and innovative solution to such problems;

"(2) a description of the effect of the 1990 Decennial Census on the allotment of funds under this subchapter;

"(3) a description of the extent to which Head Start programs coordinate their respective activities with other programs serving young children, including local educational agencies;

"(4) separate descriptions of how this subchapter is administered by the headquarters of the Department of Health and Human Services and by its regional offices, including an analysis of the negotiations that occur between such regional offices and applicants for grants under this subchapter;

"(5) summaries of evaluations and studies of Head Start programs, conducted during the period covered by such report;

"(6) a description of the impact of expending funds under section 640(a)(3) on staff qualifications, staff wages, and staff turnover of Head Start agencies; and

"(7) information concerning the parents of children participating in programs receiving Head Start funding, including the—

"(i) employment status of such parents (including any change that occurred while the child was enrolled in Head Start);

"(ii) education level of such parents;

"(iii) the training or education that such parents received while their children were enrolled in Head Start programs; and

"(iv) the impact of parents' schedules on their ability to access Head Start Services and participate in the program.

"(c) The Secretary shall meet periodically with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate to inform the committees of the progress made in preparing the reports required by subsection (a).".

SEC. 107. CONDITIONS ON RENEWED FUNDING OF GRANTEES.

(a) IN GENERAL.—Section 641(c) of the Head Start Act (42 U.S.C. 9836(c)) is amended—

(1) by redesignating paragraph (1) as subparagraph (A),

(2) by inserting "(1)" after "(c)", and

(3) by striking paragraph (2) and the matter following such paragraph and inserting the following:

"(B) except that, if there is no agency of the type referred to in subparagraph (A) because of any change in the assistance furnished to programs for economically disadvantaged persons, the Secretary shall give priority in the designation of Head Start agencies to any successor agency that is operating a Head Start program in substantially the same manner as the predecessor agency that did receive funds in the fiscal year preceding the fiscal year for which the determination is made.

"(2) The Secretary shall conduct a full review of each designated Head Start agency at least once during each 3-year period, and shall determine whether each agency meets program and fiscal requirements established by the Secretary.

"(3) In carrying out a review of each Head Start agency under paragraph (2), the Secretary shall—

"(A) to the maximum extent practicable, carry out such review by using employees of the Department of Health and Human Services who are knowledgeable about Head Start programs;

"(B) ensure that an employee of the Department of Health and Human Services who is knowledgeable about Head Start programs supervises such review at the site of such agency;

"(C) measure the compliance of the programs of such agency with the performance standards in effect under section 651(b); and

"(D) identify the types and conditions of facilities in which such programs are located.

"(4) The results of a review conducted under this subsection shall not be sufficient alone for the purpose of determining whether to continue, or to discontinue, providing funds to a particular Head Start agency.".

SEC. 108. DESIGNATION OF HEAD START AGENCIES.

Section 641(d) of the Head Start Act (42 U.S.C. 9836(d)) is amended by adding at the end the following: "In selecting from among qualified applicants for designation as a Head Start agency and subject to the preceding sentence, the Secretary shall consider the effectiveness of each such applicant to provide Head Start services, based on—

"(1) any past performance of such applicant in providing services comparable to Head Start services, including how effectively such applicant provided such comparable services;

"(2) the plan of such applicant to provide comprehensive health, nutritional, educational, social, and other services needed to aid participating children in attaining their full potential;

"(3) the plan of such applicant to coordinate the Head Start program it proposes to carry out, with other preschool programs and with the educational programs such children will enter at the age of compulsory school attendance;

"(4) the plan of such applicant to involve parents of children who will participate in the proposed Head Start program in appropriate educational services (in accordance with the performance standards in effect under section 651(b) or through referral of such parents to educational services available in the community) in order to aid their children to attain their full potential;

"(5) the ability of such applicant to carry out the plans described in paragraphs (2), (3), and (4);

"(6) other factors related to the requirements of this subchapter; and

"(7) the plan of such applicant to meet the needs of non-English language children in the community.".

SEC. 109. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

Section 642 of the Head Start Act (42 U.S.C. 9837) is amended—

(1) in subsection (b) by striking "and (4)" and inserting the following: "(4) involve parents of children participating in its Head Start program in appropriate educational services (in accordance with the performance standards in effect upon section 651(b) or through referral of such parents to educational services available in the community) in order to aid their children to attain their full potential; and (5)", and

(2) in subsection (c) by striking "with other State" and all that follows through the end and inserting "with schools that will subsequently serve children in Head Start programs, the State agency responsible for administering section 402(g) of the Social Security Act, and other programs serving the children and families served by the Head Start agency to carry out the provisions of this subtitle.".

SEC. 110. TECHNICAL AMENDMENTS.

Section 643 of the Head Start Act (42 U.S.C. 9838) is amended—

(1) by striking "Governor" the first place it appears and inserting "chief executive officer", and

(2) by striking "Governor" the second and third places it appears and inserting "such officer".

SEC. 111. ADMINISTRATIVE COSTS.

The first sentence of section 644(b) of the Head Start Act (42 U.S.C. 9839(b)) is amended by inserting "the required" after "including".

SEC. 112. NEUTRALITY.

Section 644 of the Head Start Act (42 U.S.C. 9839) is amended by adding at the end the following:

"(e) Funds appropriated to carry out this subchapter shall not be used to assist, promote, or deter union organizing.".

SEC. 113. PARTICIPATION IN HEAD START PROGRAMS.

The last sentence of section 645(a)(2) of the Head Start Act (42 U.S.C. 9840(a)(2)) is amended by striking "1990" and inserting "1994".

SEC. 114. AUTHORITY OF SECRETARY.

Section 645(c) of the Head Start Act (42 U.S.C. 9840(c)) is amended by adding at the end the following: "The Secretary may not issue or enforce any rule (as defined in section 551(4) of title 5 of the United States Code) or guideline that forbids any Head Start agency to carry out a Head Start program in accordance with the authority described in the preceding sentence.".

SEC. 115. NOTICE AND HEARING.

Section 646 of the Head Start Act (42 U.S.C. 9841) is amended—

(1) by inserting "(a)" after "SEC. 646.",

(2) in paragraph (3) by inserting "or reduced" after "terminated", and

(3) by adding at the end the following:

"(b) The Secretary may not prescribe any procedure that would modify the operation of section 1303.21 or 1303.33, or any of subdivisions (a) through (f) of section 1303.35, of title 45 of the Code of Federal Regulations as in effect on April 1, 1990.".

SEC. 116. STAFF QUALIFICATIONS.

(a) IN GENERAL.—Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) by striking the section heading and inserting the following:

"TECHNICAL ASSISTANCE, TRAINING, AND STAFF QUALIFICATIONS",

(2) by inserting "(a)" before "The Secretary shall",

(3) by inserting "training for personnel providing services to non-English language background children," after "such personnel,", and

(4) by adding at the end the following:

"(b)(1) The Secretary shall ensure that not later than September 30, 1994, each Head Start classroom in a center-based program is assigned one teacher who has—

"(A) a child development associate (CDA) credential that is appropriate to the age of the children being served in center-based programs;

"(B) a State awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential;

"(C) an associate, baccalaureate, or advanced degree in early childhood education; or

"(D) a degree in a field related to early childhood education with experience in teaching preschool children and a State awarded certificate to teach in a preschool program.

"(2) On request, the Secretary shall grant a 180-day waiver of the applicability of paragraph (1) with respect to an individual who—

"(A) is first employed after September 30, 1994, by a Head Start agency as a teacher for a Head Start classroom;

"(B) is enrolled in a program that grants a child development credential (CDA); and

"(C) will receive such credential under the terms of such program not later than 180 days after beginning employment as a teacher with such agency.

The Secretary may not grant more than one such waiver with respect to such individual.".

(b) DEFINITION.—Section 637 of such Act (42 U.S.C. 9832), as amended by section 104(b), is amended by adding at the end the following:

"(6) The term 'Head Start classroom' means a group of children supervised and taught by two paid staff members (a teacher and a teacher's aide or two teachers) and, where possible, a volunteer.".

SEC. 117. REQUIREMENTS APPLICABLE TO THE SECRETARY.

(a) IN GENERAL.—Section 649 of the Head Start Act (42 U.S.C. 9844) is amended—

(1) in the section heading by striking "AND PILOT PROJECTS" and inserting "PILOT PROJECTS, STUDIES, AND REPORTS", and

(2) by adding at the end the following:

"(d) Subject to subsection (a) through (c), the Secretary shall conduct, through grants or contracts made or entered into with qualified persons, a study of various approaches to providing early, continuous, and comprehensive intervention to low-income or at-risk children from birth to age 3 and to the families of such children. Such study shall describe and assess a variety of approaches to providing such services, including—

"(1) program funded under the Comprehensive Child Development Act; and

"(2) Parent-Child Centers, home-based Head Start programs, Head Start family day care, and center-based Head Start (including migrant and nonmigrant programs), that are in compliance with the performance standards under section 651(b).

Such study shall assess such approaches based on their appropriateness for specific populations of children, including those from dysfunctional families, children of substance abusers, and children who experience chronic violence in their communities.

"(e) The Secretary shall conduct, through grants or contracts made or entered into with qualified persons, a study of Head Start family day care that is in compliance with the performance standards under section 651(b). Such study shall consider the effectiveness of providing Head Start services in a family day care setting and assess the program characteristics that are necessary to ensure the programs are effective.

"(f) Not later than October 1, 1993, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report summarizing the results of the studies conducted under subsections (d) and (e).".

(b) DEFINITIONS.—Section 637 of the Head Start Act (42 U.S.C. 9832), as amended by

sections 104(b) and 116(b), is amended by adding at the end the following:

"(7) The term 'Head Start family day care' means Head Start services provided in a private residence other than the residence of the child receiving such services.

"(8) The term 'home-based Head Start program' means a Head Start program that provides Head Start services in the private residence of the child receiving such services.".

(c) CONFORMING AMENDMENTS.—Section 650 of the Head Start Act (42 U.S.C. 9845) is amended—

(1) by striking the section heading and inserting the following:

"ANNOUNCEMENT OF RESEARCH, DEMONSTRATION, PILOT PROJECTS, STUDIES, AND REPORT CONTRACTS",

(2) in subsection (a)(1) by striking "or pilot project" and inserting "pilot project, study, or report", and

(3) subsection (c) by inserting "reports," after "studies,".

SEC. 118. COOPERATIVE RESEARCH.

Section 651(c)(2) of the Head Start Act (42 U.S.C. 9846(c)(2)) is amended by adding at the end the following:

"The Secretary is encouraged to provide funds for community-based cooperative research efforts to enable Head Start directors to conduct evaluations of their programs with the assistance of qualified researchers not directly involved in the administration of the program or project operation.".

SEC. 119. REPORT ON STATUS OF CHILDREN.

Section 651 of the Head Start Act (42 U.S.C. 9846) is amended by adding at the end the following:

"(g)(1) At least once during every 2-year period, the Secretary shall prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the status of children (including disabled and non-English language background children) in Head Start programs, including the number of children and the services being provided to such children, Such report shall include—

"(1) a statement for the then most recently concluded fiscal year specifying—

"(A) the amount of funds received by Head Start agencies designated under section 641 to provide Head Start services in a period before such fiscal year; and

"(B) the amount of funds received by Head Start agencies newly designated under section 641 to provide such services in such fiscal year;

"(2) a description of the distribution of Head Start services relative to the distribution of children who are eligible to participate in Head Start programs, including geographic distribution within States;

"(3) a statement identifying how funds expended under section 640(a)(2), and funds allotted under section 640(a)(3), were distributed and used at national, regional, and local levels;

"(4) a statement specifying the amount of funds provided by the State, and by local sources, to carry out Head Start programs;

"(5) cost per child and how such cost varies by region;

"(6) a description of the level and nature of participation of parents in Head Start programs as volunteers and in other capacities;

"(7) information concerning Head Start staff, including salaries, education, training, experience, and staff turnover;

"(8) information concerning children participating in programs that receive Head Start funding, including information on family income, racial and ethnic background, disability, and receipt of benefits under part A of title IV of the Social Security Act;

"(9) the use and source of funds to extend Head Start services to operate full-day and year round;

"(10) using data from the evaluations conducted under section 641(c)(2)—

"(A) a description of the extent to which programs funded under this subchapter comply with performance standards and regulations in effect under this subchapter;

"(B) a description of the types of conditions of facilities in which such programs are located;

"(C) the types of organizations that receive Head Start funds under such programs; and

"(D) the number of children served under each program option;

"(11) the information contained in the documents entitled 'Program Information Report' and 'Head Start Cost Analysis System' (or any document similar to either), prepared with respect to Head Start programs; and

"(12) a description of the types of services provided to children and their families, both on-site and through referrals, including health, mental health, dental care parenting education, physical fitness, and literacy training.

Promptly after submitting such report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, the Secretary shall publish in the Federal Register a notice indicating that such report is available to the public and specifying how such report be obtained.".

SEC. 120. STUDY OF HEAD START PARTICIPANTS

(a) LONGITUDINAL STUDY REQUIRED.—The Head Start Act is amended by inserting after section 651 (42 U.S.C. 9846) the following:

"SEC. 651A. LONGITUDINAL STUDY OF HEAD START PARTICIPANTS.

"(a) IN GENERAL.—The Secretary shall conduct, through grants or contracts made or entered into with persons that have the qualifications specified in paragraphs (1) and (2) of subsection (b), a longitudinal study of the effects that the participation in Head Start programs has on the development of participants and their families and the manner in which such effects are achieved.

"(b) ADVISORY PANEL.—In carrying out the study required by subsection (a), the Secretary shall establish an advisory panel to provide advice and guidance to the Secretary, and to the individuals who carry out such study, concerning the design and execution of such study. Such panel shall be composed of—

"(1) individuals who have—

"(A) expertise in the current operation of Head Start programs;

"(B) professional backgrounds in child development and related fields; and

"(C) experience in the evaluation of Head Start programs or comparable programs; and

"(2) individuals who have expertise in designing and executing large-scale longitudinal studies.

"(c) CHILDREN AND FAMILIES TO BE STUDIED.—The study required by subsection (a) shall follow the progress of children and their families—

"(1) who have attended Head Start programs (including Parent-Child Centers) that are in compliance with Head Start Performance Objectives;

"(2) who represent specific subpopulations, including children from dysfunctional families; and

"(3) who have attended Head Start programs that represent the various program options and that are located in both urban and rural areas.

"(d) SUBCONTRACTING.—Persons selected to conduct the study required by subsection (a) may subcontract elements of the study to other persons with the approval of the Secretary. Such study may be carried out through a series of several small studies focused on specific program options and subpopulations.

"(e) FOCUS.—The study required under subsection (a) shall consider the degree to which social, physical, and academic development, including grade retention, motivation to achieve, special education placement, health (including long- and short-term health), secondary school graduation, delinquency, substance abuse, teenage pregnancy, literacy, college attendance, employment, and welfare participation of children and the parenting skills, employment, literacy, education level, motivation to achieve, and welfare participation of parents are affected by—

"(1) the program options selected by the Head Start program;

"(2) the number and configuration of hours, days, and years the child participates in Head Start;

"(3) the Head Start program quality, including training and experience of Head Start teachers and teacher aides, staff to child ratios, and group size;

"(4) the level of parental involvement in the Head Start program;

"(5) the supportive services provided to children and their parents through the Head Start program;

"(6) the Head Start curriculum;

"(7) the characteristics of a subsequent schooling of the child and family characteristics and behaviors that affect social, physical, health (including long- and short-term health), and academic development as such children move through the primary grades; and

"(8) other factors identified by the advisory panel, including the variables that sustain gains as such children move through the primary grades.

"(f) COMPARISION.—To the maximum extent feasible, the study required under subsection (a) shall provide for comparisons with appropriate groups composed of individuals who do not participate in Head Start programs.

"(g) COORDINATION.—The study required under subsection (a) shall be coordinated with the National Longitudinal Study conducted under chapter 1 that is administered by the Department of Education.

"(h) INTERIM REPORT.—Not later than January 1, 1994, the Secretary shall prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, an interim report concerning the design and progress of the study conducted under this section, including interim results of such study.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 639 of the Head Start Act (42 U.S.C. 9834) is amended—

(1) by inserting "(a)" after "SEC. 639.",

(2) by inserting "(other than section 651A)" after "subchapter", and

(3) by adding at the end the following:

"(b) There are authorized to be appropriated to carry out section 651A, such sums as may be necessary for fiscal years 1991 through 1996.".

SEC. 121. POVERTY LINE.

(a) ISSUANCE OF POVERTY LINE.—Subsection (a) is section 652 of the Head Start Act (42 U.S.C. 9847(a)) is amended to read as follows:

"(a) The Secretary shall issue annually (or at any shorter interval the Secretary considers to be feasible and desirable) a poverty line which, except as provided in section 645, shall be used as a criterion of eligibility for participation in Head Start programs.".

(b) DEFINITION.—Section 637 of the Head Start Act (42 U.S.C. 9832), as amended by sections 104(b), 116(b), 117(b), is amended by adding at the end the following:

"(9) The term 'poverty line' means—

"(A) the official poverty line (as defined by the Office of Management and Budget) adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers, issued by the Bureau of Labor Statistics, occurring in the 1-year period or other interval immediately preceding the date such adjustment is made; or

"(B) the poverty line (including any revision thereof) applicable to this subchapter for fiscal year 1990, adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers, issued by the Bureau of Labor Statistics, occurring in the period beginning October 1, 1989, and ending immediately before the date such adjustment is made;

whichever is greater.".

(c) TECHNICAL AMENDMENTS.—Section 652 of the Head Start Act (42 U.S.C. 9847) is amended—

(1) by striking subsection (b), and

(2) in subsection (c) by striking "(c) Revisions required by subsection (a) shall be made and issued" and inserting "(b) The poverty line shall be determined by the Secretary".

SEC. 122. COMPARABILITY OF WAGES.

Section 653 of the Head Start Act (42 U.S.C. 9848) is amended by adding at the end the following:

"The Secretary shall encourage Head Start agencies to provide compensation according to salary scales that are based on training and experience.".

Subtitle B—Head Start Transition Project

SEC. 131. SHORT TITLE.

This subtitle may be cited as the "Head Start Transition Project Act".

SEC. 132. DEFINTIONS.

As used in this subtitle:

(1) DEVELOPMENTALLY APPROPRIATE CURRICULUM.—The term "developmentally appropriate curriculum" means a curriculum that is appropriate for the child's age and all areas of the individual child's development, including educational, physical, emotional, social, cognitive, and communication.

(2) FAMILY SERVICES COORDINATOR.—The term "family services coordinator" means an individual who is trained to assist families in obtaining supportive services. Such individual may be an existing employee of the local educational agency or Head Start agency.

(3) HEAD START AGENCY.—The term "Head Start agency" means any agency designated as a Head Start agency under the Head Start Act.

(4) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Department of Health and Human Services.

(6) SUPPORTIVE SERVICE.—The term "supportive service" means service that will enhance the physical, social, emotional, and intellectual development of low-income children, including providing necessary support to the parents of such children and other family members.

SEC. 133. HEAD START TRANSITION GRANTS.

(a) IN GENERAL.—With funds made available under section 639(c) of the Head Start Act to carry out this subtitle, the Secretary may make demonstration grants to Head Start agencies and local educational agencies to develop and operate programs that assist low-income elementary school students grades kindergarten through 3 (giving priority to students entering their first year of elementary school) and their families in—

(1) obtaining supportive services that build on the strength of families, including health, immunization, mental health, nutrition, parenting education, literacy, and social services (including substance abuse treatment, education, and prevention services); and

(2) supporting the active involvement of parents in the education of their children.

(b) TERM OF GRANT.—Each grant awarded under this subtitle shall be for a period of 3 years and shall be not less than $200,000.

SEC. 134. ELIGIBILITY.

(a) HEAD START AGENCY.—A Head Start agency shall be eligible for a grant under this subtitle if such Head Start agency has formed a consortium with one or more local educational agencies that received funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and that serves children who have been served by such Head Start agency.

(b) Local Educational Agency.—A local educational agency shall be eligible for a grant under this subtitle if such agency receives funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and has formed a consortium with one or more Head Start agencies serving children who will enroll in any elementary school located within the school district of such local educational agency.

(c) COOPERATING AGENCY.—A nonprofit agency or institution of higher education with experience in child development may participate in any consortium formed under subsection (a) or (b) in developing, operating, and evaluating programs assisted under this subtitle.

(d) FOLLOW THROUGH GRANTEES.—A local educational agency that is receiving assistance through a program under the Follow Through Act shall also be eligible for a grant under this subtitle if such agency meets the requirements of subsection (b).

SEC. 135. REQUIREMENTS.

(a) IN GENERAL.—The Secretary shall award grants under this subtitle to Head Start agencies and local educational agencies in both rural and urban areas.

(b) SPECIAL RULE.—The Secretary shall award at least one grant to one eligible applicant in each State before the Secretary may award a second grant within any one State.

(c) CONSIDERATION.—In awarding grants under this subtitle, the Secretary shall consider—

(1) the commitment of the Head Start agency and local educational agency to the program for which assistance under this subtitle is requested;

(2) the quality of the Head Start program operated by a Head Start agency desiring financial assistance under this subtitle, as measured by compliance with Head Start program performance standards;

(3) the proportion of low-income children in the school attendance area where the program assisted under this subtitle will be located;

(4) the suitability of the proposed program for replication in other locations;

(5) the quality of information and plans in the application; and

(6) the commitment of the community to the proposed program, as evidenced by additional resources, in cash and in kind, available to the applicant to support the program.

(d) PRIORITY.—The Secretary shall give priority to applicants that will operate a program under this subtitle at a school designated for a schoolwide project under section 1015(a) of the Elementary and Secondary Education Act of 1965.

SEC. 136. APPLICATION.

(a) IN GENERAL.—Each Head Start agency or local educational agency desiring a grant under this subtitle shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall include—

(1) a description of the activities and services for which assistance is sought;

(2) a description of members of the consortium established in accordance with section 134, including any cooperating agency;

(3) a self-assessment of the Head Start agency's and local educational agency's programs to address the health, immunization, mental health, nutrition, parenting education, literacy, social service (including substance abuse treatment, education, and prevention), and educational needs of low-income students and their families, including the use of a developmentally appropriate curriculum such as a model approach under the Follow Through Act;

(4) a plan for the development of a supportive services team of family service coordinators to—

(A) assist families, administrators and teachers to respond to health, immunization, mental health, nutrition, social service and educational needs of students;

(B) conduct home visits and help students and their families to obtain health, immunization, mental health, nutrition, parenting education, literacy, education (including tutoring and remedial services), and social services (including substance abuse treatment, education and prevention), for which such students and their families are eligible;

(C) coordinate a family outreach and support program, including a plan for involving parents in the management of the program assisted under this subtitle, in cooperation with parental involvement efforts undertaken pursuant to the Follow Through Act, chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), and the Education of the Handicapped Act of 1975;

(D) assist families, administrators, and teachers in enhancing developmental continuity between the programs assisted under the Head Start Act and elementary school classes; and

(E) prepare a plan for the transition of each child from Head Start or comparable programs to kindergarten, including—

(i) a meeting of the early childhood development program teacher with the kindergarten teacher and the child's parents to discuss the transition of each child and to address any particular educational needs of such child; and

(ii) the transfer of knowledge about the child, including the transfer (with parental consent) of written records from the early childhood development program teacher to the kindergarten teacher to become part of the school record of the child;

(5) the designation of a member of the supportive services team described in paragraph (4) who will serve as the supervisor of such supportive services team;

(6) assurances that State agencies, local agencies, and community-based organizations that provide supportive services to low-income students served by such Head Start agency or local educational agency have been consulted in the preparation of the plan described in paragraph (4);

(7) assurances that State agencies, local agencies, and community-based organizations that provide supportive services to low-income students served by such Head Start agency or local educational agency will designate an individual who will act as a liaison to the supportive services team described in paragraph (4);

(8) a description of the target population to be served by the supportive services team described in paragraph (4) including families previously served under the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), or comparable early childhood development programs;

(9) a description of the supportive services to be provided, directly or through referral;

(10) a plan to ensure the smooth transition of children served under the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), Education of the Handicapped Act of 1975, and comparable early childhood development programs to elementary schools;

(11) assurances that, and a plan describing how, families will be involved in the design and operation of the program assisted under this subtitle;

(12) a description of the Federal and non-Federal resources that will be used to carry out the program;

(13) if the applicant has applied for, or is receiving, assistance through a program under the Follow Through Act—

(A) a description of the activities that will be funded under this subtitle and the activities that will be funded with assistance provided under the Follow Through Act; and

(B) a description of the manner in which activities funded under this subtitle and activities funded with assistance provided under the Follow Through Act will be coordinated within the elementary school;

(14) assurances that the supportive services team described in paragraph (4) will be equipped to assist children and families with limited English proficiency and disabilities, if appropriate;

(15) a plan describing how the program assisted under this subtitle will be sustained, with chapter 1 funding or other Federal and non-Federal funding sources, after the grant has expired;

(16) program goals; and

(17) such other information as the Secretary may reasonably require.

(b) SPECIAL RULE.—Each supportive services team developed pursuant to paragraph (4) of subsection (a) shall include at least 1 family service coordinator for every 35 children to be served.

SEC. 137. EVALUATION AND REPORT.

(a) EVALUATION.—The Secretary shall, through grants, contracts or cooperative agreements, provide for the continuing evaluation of the programs assisted under this subtitle in order to determine the effectiveness of such programs in achieving stated goals, the impact of such programs on related programs, and the implications of the design and operation of such programs for the effective delivery of services.

(b) LOCAL EVALUATION AND INFORMATION.—

(1) REQUIREMENT.—Each Head Start Agency or local educational agency receiving a grant under this subtitle shall carry out an evaluation of the rogram assisted under this subtitle in order to determine the effectiveness of the program in achieving stated goals, the impact of the program on the families served and the community, the problems encountered in the design and operation of the program and ways in which such problems were addressed, and the impact of the program and ways in which such problems were addressed, and the impact of the program on the Head Start Agency and local educational agency.

(2) INFORMATION.—Each Head Start agency or local educational agency receiving a grant under this subtitle shall furnish to the Secretary any information the Secretary shall request in order to carry out the evaluation described in subsection (a).

(c) REPORT.—Not later than September 30, 1993, the Secretary shall, prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning evaluations conducted pursuant to subsections (a) and (b), including the strengths and weaknesses in the design and operation of programs assisted under this subtitle and the effectiveness of such programs in achieving stated goals.

SEC. 138. PAYMENTS; FEDERAL SHARE.

(A) PAYMENTS.—The Secretary shall make a grant to each Head Start agency or local educational agency having an application approved under section 136, to pay the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share shall be 80 percent of the cost of the activities described in the approved application.

(2) NON-FEDERAL SHARE.—The non-Federal share of such cost may be in cash or in kind fairly evaluated, including planned equipment or services.

(c) SUPPLEMENTAL OF FUNDING.—

(1) IN GENERAL.—All Federal funds and funds paid as a part of the non-Federal share under this subtitle shall be used to supplement the level of State and local public funds expended for services assisted under this subtitle in the previous fiscal year.

(2) SATISFACTION OF REQUIREMENT.—The supplementation requirement of this subsection shall be satisfied with respect to a particular program if the aggregate expenditure in the program for the fiscal year in which services are to be provided will not be less than the aggregate expenditure in the program in the previous year, excluding Federal and non-Federal funds provided under this subtitle.

SEC. 139. COORDINATION WITH FOLLOW THROUGH.

The Secretary shall arrange with the Secretary of Education to coordinate the programs established under this subtitle with the programs established under the Follow Through Act to enable local educational agencies to submit a single application for funding under both such programs, and shall, to the extent practicable, coordinate the promulgation of regulations that apply to such programs.

SEC. 140. AVAILABILITY OF FUNDS.

Section 639 of the Head Start Act, as amended by section 120(b), is amended by adding at the end the following: "(c)(1) If the amount appropriated under subsection (a) for fiscal 1991 exceeds the adjusted appropriation, the Secretary shall make available not less than $20,000,000 to carry out the Head Start Transition Project Act.

"(2) The Secretary shall make available not less than $20,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the Head Start Transition Project Act.".

TITLE II—AMENDMENTS TO THE FOLLOW THROUGH ACT

SEC. 201. TECHNICAL AMENDMENTS.

The Follow Through Act (42 U.S.C. 9861-9877) is amended—

(1) by inserting after section 661 the following: "PART I—DIRECT SERVICES," and

(2) in section 668—

(A) by striking "this subchapter" each place it appears and inserting "part I," and

(B) in subsection (a) by inserting "programs and" after "participating in."

SEC. 202. FINANCIAL ASSISTANCE FOR FOLLOW THROUGH PROGRAMS.

(A) PRIORITY.—Section 662(a) of the Follow Through Act (42 U.S.C. 9861(a)) is amended by adding at the end the following: "For the purpose of making grants under this section, the Secretary shall give priority to any local educational agency that requests the grant for purposes of carrying out a Follow Through program in a school that—

"(1) is designated as a schoolwide project under section 1015(a) of the Elementary and Secondary Education Act of 1965; and

"(2) has a high concentration of children described in the first sentence of this subsection.".

(b) PROVISION OF ASSISTANCE.—Section 662 of the Follow Through Act (42 U.S.C. 9861) is amended—

(1) in the first sentence of subsection (a) by inserting "quality pre-school" after "similar,"

(2) in subsection (c)

(A) in the first sentence by striking "this section shall provide such" and inserting "this part shall use model Follow Through approaches for which financial assistance is provided under section 664A and shall provide directly, through referral or a program established under the Head Start Transition Project Act, or by using any combination of these methods,", and

(B) in the second sentence by striking "projects" and inserting "programs", and

(C) in the last sentence by striking "project" and inserting "program", and

(3) by adding at the end the following:

"(d) The Secretary may not refuse to provide financial assistance under subsection (a) to an applicant solely because such applicant proposes to carry out a Follow Through program during a period in which school is not in regular session, at more than one site, or both.

"(e)(1) In making grants under subsection (a), the Secretary shall provide sufficient funds to enable programs to meet the requirements of subsection (c).

"(2) If the aggregate amount appropriated for a fiscal year to carry out this subchapter

exceeds $15,000,000, the amount of each such grant shall be not less than $200,000.

"(f) Notwithstanding subsection (c) any local educational agency that receives a grant under subsection (a) for purposes of carrying out a Follow Through program in an elementary school that-

"(A) receives funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(B) is designated as a schoolwide project under section 1015(a) of such Act;

may use such grant to serve all children attending such school in kindergarten through grade 3.".

"(c) TECHNICAL AMENDMENT.—Section 662(c) of the Follow Through Act (42 U.S.C. 9861(c)) is amended by striking "projects" and inserting "programs".

SEC. 203. APPLICATIONS AND FUNDING.

The Follow Through Act (42 U.S.C. 9861-9877) is amended by striking section 663 and inserting the following:

"CONSIDERATION OF APPLICATIONS

"SEC. 663. (a) IN GENERAL.—A grant under this part pay be made only to an applicant that submits an application to the Secretary containing such information as may be required by the Secretary by rule.

"(b) CONTENTS OF APPLICATION.—Each application for a grant under this part shall—

"(1) provide that the program for which assistance is requested will be administered by or under the supervison of the applicant;

"(2) contain an assurance that applicant will prepare, and submit to the Secretary, regular evaluations of and reports concerning such program;

"(3) estimate the number of children who are eligible for Follow Through services in the geographical area served by such program and the approximate number to be served by such program;

"(4) describe which model Follow Through approach the applicant intends to use, and the manner in which the applicant will implement such approach;

"(5) provide evidence that the applicant has made a formal arrangement to receive technical assistance and training relative to such approach from an appropriate agency, institution, or organization that receives funds under section 644A;

"(6) provide an assurance that the instructional program, including textbooks and other materials provided by the applicant, is appropriate to the ages and devlopmental needs of the children to be served by such program and to the model Follow Through approach selected;

"(7) specify the manner in which the applicant will provide comprehensive services, including through agreements with public or private entities to provide, make referrals to, or coordinate the provision of such services to children and their families theough the program established under subchapter B, the Head Start Transition Project Act, or another comprehensive program;

"(8) provide for direct participation of parents as provided in section 662(c), and include a cerification that such application has been approved by a committee (established in accordance with rules issued by the Secretary) that represents parents of children who participate, and parents of children who are likely to participate, in such program;

"(9) describe how the applicant proposes to coordinate services under this part with services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Bilingual Education Act, and the Education of the Handicapped Act of 1975;

"(10) demonstrate that—

"(A) athe applicant has entered into a formal arrangement with local Head Start programs and other preschool programs for such cooperation and activities as are necessary to ensure an effective transition of eligible children entering the Follow Through program carried out by such applicant; and

"(B) the follow Through activities to be provided by the applicant have been specifically designed to coordinate with, and build on, those activities provided to participants in local Head Start or other similar preschool programs;

"(11) describe the expected or, if possible, actual impact of such program on the applicant's regular school program; and

"(12) contain—

"(A) a certification that the applicant submitted such application to the State educational agency (as defined in section 1471(23) of the Elementary and Secondary Education Act of 1965) for a reasonable period for comment before submitting such application to the Secretary; and

"(B) any comments received from such agency during such period.".

SEC. 204. PROGRAM IMPROVEMENT.

(a) RESEARCH, EVALUATION, AND RELATED MATTERS.—The Follow Through Act (42 U.S.C. 9861-9877) is amended by striking section 664 and inserting the following:

PART II—PROGRAM IMPROVEMENT

"RESEARCH

SEC. 664. The Secretary may provide financial assistance, through grants and contracts, to public and private nonprofit agencies, institutions, and organizations to conduct research—

"(1) to improve Follow Through approaches;

"(2) to develop model Follow Through approaches; and

"(3) to meet the special needs of children who are eligible to participate in Follow Through programs.

"TECHNICAL ASSISTANCE AND TRAINING

"SEC. 664A. (a) The Secretary shall make grants to public and private nonprofit agencies, institutions, and organizations—

"(1) to provide technical assistance to assist in the development, inplementation, and expanded use of model Follow Through approaches; and

"(2) to provide training in conjunction with the operation of Follow Through programs or other programs that adopt such approaches.

"(b)(1) Technical assistance with respect to a particular model Follow Through approach may not be provided under subsection (a)(1) in more than 5 fiscal years to a particular recipient of financial assistance under section 662(a).

"(2) In the case of a recipient of financial assistance under section 662(a) that has received technical assistance prior to the date of enactment of this part, the Secretary may limit the provision of technical assistance with respect to a particular Follow Through approach under subsection (a)(1) to 3 fiscal years.

"RESOURCE AND EXPANSION

SEC. 664B. The Secretary may make grants to entities which operate, or previously operated, Follow Through programs that the Secretary finds to be effective—

"(1) to act as Follow Through resources to develop and provide information on the operation of their respective programs;

"(2) to promote the adoption of similar programs by local educational agencies; and

"(3) to assist agencies, institutions, and organizations that receive funds under section 664A, in providing technical assistance and training.

"NATIONAL CLEARINGHOUSE

"SEC. 664C. (a) If the amount appropriated to carry out this subchapter is not less than $30,000,000, then the Secretary shall make a grant to an organization that represents entities referred to in sections 662, 664A, and 664B to establish a national clearinghouse on Follow Through programs (hereinafter in this section referred to as the clearinghouse), which shall provide information, without charge or at such reasonable cost as the Secretary may determine, to the public concerning—

"(1) programs that receive financial assistance under section 662;

"(2) model Follow Through approaches;

"(3) the kinds of technical assistance and training available under section 664A;

"(4) the procedure to obtain technical assistance and training available under section 664A; and

"(5) Follow Through research and evaluations.

"(b) The Secretary shall make available to the clearinghouse all research and evaluations that relate to Follow Through programs and for which the Secretary provides, or has ever provided, funds.

"(c)(1) The Secretary shall promote the awareness and use of model Follow Through approaches by—

"(A) providing information to recipients of grants and contracts under section 1562 of the Elementary and Secondary Education Act of 1965 concerning programs and activities that receive assistance under this title; and

"(B) making information concerning such programs and activities available to such recipients without charge.

"(2) From amounts appropriated for each fiscal year to carry out this part, the Secretary shall expend not less than $100,000 to pay for the costs incurred by such recipients to disseminate information relating to programs and activities funded under this part.".

(b) CONFORMING AMENDMENT.—The Follow Through Act (42 U.S.C. 9861-9877) is amended by striking section 667.

SEC. 205. RESEARCH AND EVALUATION CONTRACTS.

Section 665 of the Follow Through Act (42 U.S.C. 9864) is amended—

(1) in the heading of such section by striking ", DEMONSTRATION, AND PILOT PROJECT" and inserting "AND EVALUATION", and

(2) in subsection (a)(1) by striking ", demonstration, or pilot project" and inserting "or evaluation".

SEC. 206. EVALUATION

Section 666(a) of the Follow Through Act (42 U.S.C. 9865(a)) is amended—

(1) by striking the last sentence and inserting "Such continuing evaluation shall measure the impact of such programs on participating parents and on entire schools and school districts in which such programs are carried out.".

(2) by inserting "(1)" after "(a)", and

(3) by adding at the end the following:

"(2) The evaluation required by paragraph (1) shall include evaluations of local educational agencies that receive Follow Through grants for use in a school that is designated as a schoolwide project under section 1015(a) of the Elementary and Secondary Education Act of 1965. Such evaluation shall compare children who only receive services under a grant under chapter 1 of title I of the Elementary and Secondary

Education Act of 1965 with children who receive services under such a grant and under a Follow Through grant for the purposes of determining whether the comprehensive services provided to the latter children through the model Follow Through approach had a positive effect on their educational progress and overall developmental progress. To the extent practicable, such comparison shall be made on the basis of results of evaluations conducted under such chapter and evaluations conducted under this subsection, and shall take into account the amount of funds provided to the project.".

SEC. 207. GENERAL AND ADMINISTRATIVE PROVISIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—The Follow Through Act (42 U.S.C. 9861-9877) is amended by inserting after section 666 the following:

"PART III—GENERAL AND ADMINISTRATIVE PROVISIONS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 667. (a) There are authorized to be appropriated to carry out this subchapter $20,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994.

"(b) Of the amount appropriated for each fiscal year to carry out this subchapter—

"(1) 70 percent shall be available to carry out part I; and

"(2) 30 percent shall be available to carry out part II.

"(c)(1) Except as provided in paragraph (4), financial assistance provided under part I for a Follow Through program shall not exceed 80 percent of the approved costs of the program assisted, except that the Secretary may approve assistance in excess of such percentage if the Secretary determines, in accordance with rules establishing objective criteria, that such action is required to carry out such part.

"(2) Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

"(3) The Secretary may not require non-Federal contributions in excess of 20 percent of the approved costs of the Follow Through program assisted.

"(4) Financial assistance provided under part I for a Follow Through program carried out in an elementary school that—

"(A) receives funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(B) is designated as a schoolwide project under section 1015(a) of such Act;

may be expended to pay 100 percent of the approved costs of the program assisted.

"(d) An application for assistance under this subchapter may not be approved unless the Secretary is satisfied that the services to be provided under this chapter by such applicant will be in addition to, and not in substitution for, services previously provided without Federal assistance. The requirement imposed by the preceding sentence shall be subject to such rules as the Secretary may issue.".

(b) CONFORMING AMENDMENT.—Section 670 of the Follow Through Act (42 U.S.C. 9861 note) is repealed.

SEC. 208. PARTICIPATION IN OTHER EDUCATION ACTIVITIES.

The Follow Through Act (42 U.S.C. 9861-9877) is amended by inserting after section 669 the following:

"PARTICIPATION IN OTHER EDUCATIONAL ACTIVITIES

"SEC. 669A. (a) The Secretary shall facilitate the participation of entities that receive funds under sections 664A and 664B in training and technical assistance activities carried out under other Federal programs that provide assistance to children in elementary schools, including programs and activities carried out under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(b) The Secretary shall consult with the Secretary of Health and Human Services in the coordination of the program established under this Act with the programs established under the Head Start Transition Project Act to enable local educational agencies to submit a single application for funding under both such programs and shall, to the extent practicable, coordinate the issuance of regulations governing such programs.".

SEC. 209. TECHNICAL AMENDMENT.

Section 668(a) of the Follow Through Act (42 U.S.C. 9867(a)) is amended by inserting "programs and" before "projects".

TITLE III—AMENDMENTS TO THE STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT

SEC. 301. AMENDMENTS TO THE STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.

Section 670A of the State Dependent Care Development Grants Act (42 U.S.C. 9871) is amended—

(1) by striking "is authorized" and inserting "are authorized",

(2) by striking "1987, 1988, 1989, and", and

(3) by inserting after "1990" the following: "and 1991, and such sums as may be necessary for fiscal years 1992, 1993, and 1994".

SEC. 302. WAIVER OF EXISTING PERCENTAGE SET-ASIDE OF ALLOTMENTS.

Section 670D(c) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(2) by striking "Of" and inserting "(1) Except as provided in paragraph (2), of", and

(3) by adding at the end the following:

"(2) For any fiscal year the Secretary may waive the percentage requirements specified in paragraph (1) on the request of a State if such State demonstrates to the satisfaction of the Secretary—

"(A) that the amount of funds available as a result of one of such percentage requirements is not needed in such fiscal year for the activities for which such amount is so made available; and

"(B) the adequacy of the alternative percentages, relative to need, the State specifies the State will apply with respect to all of the activities referred to in paragraph (1) if such waiver is granted.".

SEC. 303. OPERATION COSTS OF AFTER SCHOOL CARE PROGRAMS AUTHORIZED.

(a) USE OF ALLOTMENTS.—

(1) IN GENERAL.—Section 670D(a)(1) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(a)(1)) is amended by inserting "operation," after "establishment,".

(2) OPERATION AND SITES.—Section 670D(b)(1) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(b)(1) is amended—

(A) by inserting "operation," after "establishment," and

(B) by striking "in public" and all that follows through "communities".

(3) PARTICIPATION OF CERTAIN CHILDREN.—Section 670D(b)(1) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(b)(1)) is amended by adding at the end the following: "Amounts so paid to a State and used for the operation of such child care services shall be designed to enable children, whose families lack adequate financial resources, to participate in before or after school child care programs.".

(4) RESOURCE AND REFERRAL SYSTEM.—Section 670D(f) of the State Dependent Care Development Grants Act (42 U.S.C. 9871(f)) is amended by inserting "operate," after "expand,".

(b) LIMITATIONS.—Section 670D(d) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(d) is amended—

(1) by striking paragraph (1),

(2) by redesignating paragraph (2) as paragraph (1),

(3) by striking paragraph (3), and

(4) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

SEC. 304. REPORTS BY GRANT RECIPIENTS.

(a) IN GENERAL.—Section 670E(c) of the State Dependent Care Development Grants Act (42 U.S.C. 9875(c)) is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end the following:

"(2) The chief executive officer of each State shall include in such a description of—

"(A) the number of children who participated in before and after school child care programs assisted under this subchapter;

"(B) the characteristics of the children so served including age levels, handicapped condition, income level of families in such programs;

"(C) the salary level and benefits paid to employees in such child care programs; and

"(D) the number of clients served in resource and referral systems assisted under this subchapter, and the types of assistance they requested.".

(b) DATE OF REVISION.—Subsection (c)(1) of section 670E of the State Dependent Care Development Grants Act (42 U.S.C. 9875(c)), as so redesignated by subsection (a), is amended by striking out "September 30, 1987" and inserting "September 30, 1991".

SEC. 305. TECHNICAL AMENDMENTS.

(a) USE OF ALLOTMENTS.—Section 670D of the State Dependent Care Development Grants Act (42 U.S.C. 9874) is amended—

(1) in the first sentence of subsection (a)(1) by striking "for fiscal year 1985 and fiscal year 1986",

(2) in the first sentence of subsection (b)(1) by striking "for fiscal year 1985 and fiscal year 1986",

(3) in subsection (b)(2)—

(A) in subparagraph (D)—

(i) by inserting "school-age children," after "diverse", and

(ii) by inserting a comma after "children" the last place it appears, and

(B) in subparagraph (F)—

(i) by striking "Governor" and inserting "chief executive officer of the State", and

(ii) by striking "the provisions of",

(4) in subsection (d)(1) by striking "subsection (a)" and inserting "subsections (a) and (b)",

(5) in subsection (f) by striking ", which prior to the date of enactment of this subchapter, are provided" and inserting "which are provided before the date of the enactment of this subchapter,", and

(6) in subsection (g) by striking "operating activities to be carried out" and inserting "carrying out activities".

(b) APPLICATION AND DESCRIPTION OF ACTIVITIES.—The last sentence of section 670E(c) of the State Dependent Care Development Grants Act (42 U.S.C. 9875(c)) is amended by striking "until September 30, 1987,".

(c) DEFINITIONS.—Section 670G of the State Dependent Care Development Grants Act (42 U.S.C. 9877), is amended—

(1) in paragraph (2)(C) by striking "a person" and inserting "an individual",

(2) in paragraph (7) by inserting "in" after "State" the first place it appears, and

(3) in paragraph (10) by striking "Trust Territory of the Pacific Islands," and inserting "Federated States of Micronesia, the Republic of the Marshall Islands, Palau,".

TITLE IV—AMENDMENTS TO THE COMMUNITY SERVICES BLOCK GRANT ACT

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Section 672(b) of the Community Services Block Grant Act (42 U.S.C. 9901(b)) is amended—

(1) by striking "is authorized" and all that follows through "1989, and", and inserting "are authorized to be appropriated",

(2) by inserting after "1990," the following: "$451,500,000 for fiscal year 1991, $460,000,000 for fiscal year 1992, $480,000,000 for fiscal year 1993, and $500,000,000 for fiscal year 1994", and

(3) by inserting "(other than section 681A)" after "subtitle".

(b) AUTHORIZATION OF APPRORPRIATIONS FOR COMMUNITY FOOD AND NUTRITION PROGRAMS.—Section 681A(c) of the Community Services Block Grant Act (42 U.S.C. 9910a(c)) is amended—

(1) by striking "each of the fiscal year", and 1988, 1989, and" and inserting "fiscal year", and

(2) by inserting after "1990" the following: ", $10,000,000 for fiscal year 1991, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994".

SEC. 402. ELIGIBLE ENTITIES.

The third sentence of section 673(1) of the Community Services Block Grant Act (42 U.S.C. 9902(1)) is amended—

(1) by striking "In" and inserting "If",

(2) by striking "not presently" and inserting "is not, or ceases to be,",

(3) by striking "Governor" and inserting "chief executive officer",

(4) in subparagraph (C) by inserting after "new area." the following: "In making a designation under this subparagraph, such chief executive officer shall give priority to such organization.", and

(5) by striking "The Governor's" and inserting "Such officer's".

SEC. 403. STATE ALLOCATIONS.

Section 764(a) of the Community Services Block Grant Act (42 U.S.C. 9903(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3), and

(2) by inserting after paragraph (1) the following:

"(2)(A) Subject to subparagraph (B) and (C), if the amount appropriated under section 672 for each fiscal year which remains after—

"(i) the Secretary makes the apportionment required in subsection (b)(1); and

"(ii) the Secretary determines the amount necessary for the purposes of section 681(c); exceeds $345,000,000, the Secretary shall allot to each State not less than one-half of 1 percent of the amount appropriated under section 672 for such fiscal year.

"(B) Subparagraph (A) shall not apply with respect to a fiscal year if the amount alloted under paragraph (1) to any State is less than the amount allotted under such paragraph to such State for fiscal year 1990.

"(C) The amount allotted under subparagraph (A) to a State shall be reduced, if necessary, so that the aggregate amount allotted to such State under such subparagraph and paragraph (1) does not exceed 140 percent of the aggregate amount so allotted to such State for the fiscal year preceding the fiscal year for which a determination is made under this paragraph.".

SEC. 404. APPLICATIONS AND REQUIREMENTS.

(a) ASSURANCE BY STATE.—Section 675(c)(11) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(11)) is amended—

(1) by inserting ", or reduced below the proportional share of funding it received in the previous fiscal year," after "under this Act" the last place it appears,

(2) by inserting "or such reduction" after "such termination", and

(3) by adding at the end the following:

"For purposes of making a determination with respect to a funding reduction, the term 'cause' includes—

"(A) a statewide redistribution of funds under this subtitle to respond to—

"(i) the results of the most recently available census or other appropriate data;

"(ii) the establishment of a new eligible entity;

"(iii) severe economic dislocation; and

"(B) the failure of an eligible entity to comply with the terms of its agreement to provide services under this subtitle.".

(b) OPPORTUNITY FOR COMMENT.—Section 675(c) of the Community Services Block Grant Act (42 U.S.C. 9904(c)) is amended—

(1) in paragraph (10) by striking "and" at the end.

(2) in paragraph (11) by striking the period at the end and inserting "; and", and

(3) by inserting after paragraph (11) the following:

"(12) in the case of a State which applied for and received a waiver from the Secretary under Public Law 98-139, provide assurances that funds will not be provided under this subtitle by such State to an organization to which such State made a grant under this subtitle in fiscal year 1984 unless such organization allows, before expending such funds, low-income individuals to comment on the uses for which such organization proposes to expend such funds.".

(c) PROCEDURES FOR REVIEW OF REDUCTION OF FUNDING.—Section 676A the Community Services Block Grant Act (42 U.S.C. 9906) is amended—

(1) in the heading by inserting "OR REDUCTION" after "TERMINATION",

(2) in the first sentence of subsection (a) by inserting "or reduces" after "terminates", and

(3) in the first sentence of subsection (b) by inserting "or reduction" after "termination".

SEC. 405. DISCRETIONARY AUTHORITY OF SECRETARY.

(a) PLANNING AND DEVELOPMENT OF RURAL RENTAL HOUSING.—Section 681(a)(2)(D) of the Community Services Block Grant Act (42 U.S.C. 9910(a)(2)(D)) is amended by striking "rural housing and community facilities development" and inserting "the planning and development of rural housing (including rental housing for low-income individuals) and community facilities".

(b) ACTIVITIES FOR LOW-INCOME YOUTH.—Section 681 of the Community Service Block Grant Act (42 U.S.C. 9901) is amended—

(1) in subsection (a)(2)(F) by striking "recreational activities" and inserting "instructional activities described in subsection (b)",

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(3) by inserting after subsection (a) the following:

"(b) Any instructional activity carried out under subsection (a)(2)(F) shall be carried out on the campus of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) and shall include—

"(1) access to the facilities and resources of such institution;

"(2) an initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

"(3) at least one nutritious meal daily, without charge, for participating youth during each day of participation;

"(4) high quality instruction in a variety of sports (that shall include swimming and that may include dance and any other high quality recreational activity) provided by coaches and teachers from institutions of higher education and from elementary and secondary schools (as defined in sections 1471(8) and 1471(21) of the Elementary and Secondary Education Act of 1965); and

"(5) enrichment instruction and information on matters relating to the well-being of youth, such as educational opportunities and study practices, the prevention of drug and alcohol abuse, health and nutrition, career opportunities, and job responsibilities.".

SEC. 406. COMMUNITY FOOD AND NUTRITION.

(c) CONFORMING AMENDMENT.—Section 681A(a) of the Community Services Block Grant Act (42 U.S.C. 9910a) is amended by striking "local, and statewide" and inserting "local, Statewide, and national".

(b) AMOUNT OF GRANTS.—Section 681A of the Community Services Block Grant Act (42 U.S.C. 9910a) is amended—

(1) by striking subsection (b),

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (a) the following:

"(b)(1) Of the amount appropriated for a fiscal year to carry out this section, the Secretary shall allot funds for grants under subsection (a) as follows:

"(A) From 60 percent of such amount (but not to exceed $3,600,000), the Secretary shall allot for grants to eligible agencies for statewide programs in each State the amount that bears the same ratio to 60 percent of the amount appropriated for such fiscal year as the low-income and unemployed population of such State bear to the low-income and unemployed populations of all the States.

"(B) From 40 percent of such amount (but not to exceed $2,400,000), the Secretary shall allot for grants on a competitive basis to eligible agencies for local and statewide programs.

"(2) Any amounts appropriated for a fiscal year to carry out this section in excess of $6,000,000 shall be allotted as follows:

"(A) The Secretary shall use 40 percent of such excess to make allotments for grants under subsection (a) to eligible agencies for statewide programs in each State in an aggregate amount that bears the same ratio to 40 percent of such excess as the low-income and unemployed populations of such State bears to the low-income and unemployed populations of all States.

"(B) The Secretary shall use 40 percent of such excess to award grants under subsec-

tion (a) on a competitive basis to eligible agencies for local and statewide programs.

"(C) The Secretary shall use the remaining 20 percent of such excess to award grants under subsection (a) on a competitive basis to eligible agencies for nationwide programs, including programs benefiting Native Americans and migrant farm workers. In any fiscal year, the Secretary may not make grants under this subparagraph to a particular eligible agency in an aggregate amount exceeding $300,000.

"(3) For purposes of paragraphs (1)(A) and (2)(A), an eligible agency shall demonstrate that the proposed program is statewide in scope and represents a comprehensive and coordinated effort to alleviate hunger within the State.

"(4) From the amounts allocated under paragraphs (1)(A) and (2)(A), the minimum total allotment for each State for each fiscal year shall be—

"(A) $15,000 if the total amount appropriated to carry out this section is not less than $7,000,000 but less than $10,000,000;

"(B) $20,000 if the total amount appropriated to carry out this section is not less than $10,000,000 but less than $15,000,000; or

"(C) $30,000 if the total amount appropriated to carry out this section is not less than $15,000,000.

For purposes of this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(5) From funds allotted under paragraphs (1)(B) and (2)(B) in any fiscal year, the Secretary may not make grants under subsection (a) to an eligible agency in an aggregate amount exceeding $50,000.".

(c) REPORTS.—Section 681A of the Community Services Block Grant Act (42 U.S.C. 9910a) is amended—

(1) by redesignating subsection (c) as subsection (d), and

(2) by inserting after subsection (b) the following:

"(c) For each fiscal year, the Secretary shall prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the grants awarded under this section. Such report shall include—

"(1) a list of grantees;

"(2) the amount of funding awarded to each grantee; and

"(3) a summary of the activities performed by grantees with funds awarded under this section and a description of the manner in which such activities meet the objectives described in subsection (a).".

SEC. 407. ANNUAL REPORT.

(a) REPORT REQUIRED.—The Community Services Block Grant Act (42 U.S.C. 9901-9912) is amended by striking section 682 and inserting the following:

"ANNUAL REPORT

"SEC. 682. (a)(1) For each fiscal year beginning after September 30, 1991, the Secretary shall, by contract with an entity that is knowledgeable about programs and projects assisted under this subtitle, prepare a report containing the following information:

"(A) The identity of each eligible entity, agency, organization, and person that receives, directly or indirectly, funds to carry out this subtitle in such fiscal year.

"(B) With respect to each particular purpose or activity referred to in section 675(c)(1)—

"(i) the aggregate amount of such funds expended in such fiscal year to achieve such purpose or carry out such activity; and

"(ii) the number of individuals who directly beneifted from the amount so expended.

"(2) For any fiscal year beginning after September 30, 1991, the Secretary may, by contract, include in such report any additional information the Secretary considers to be appropriate to carry out this subtitle, except that the Secretary may not require a State to provide such additional information until the expiration of the 1-year period beginning on the date the Secretary notifies such State that such additional information will be required to be provided by such State.

"(3) The Secretary may not carry out this subsection by entering into a contract with any State, eligible entity, agency, organization, or person that receives, directly or indirectly, funds to carry out this subtitle.

"(b) Not later than 180 days after the end of the fiscal year for which a report is required by subsection (a) to be prepared, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

"(1) such report in the form in which it was received by the Secretary; and

"(2) any comments the Secretary may have with respect to such report.

"(c) Of the funds made available under section 681(d), not more than $250,000 shall be available to carry out this section.".

"(b) CONFORMING AMENDMENT.—Section 681(d) of the Community Services Block Grant Act (42 U.S.C. 9910), as so redesignated by section 405(b)(2), is amended by inserting ", section 682," after "this section".

SEC. 408. TECHNICAL AMENDMENT.

Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) is amended by striking "for all Urban" and inserting "For All Urban".

TITLE V—AMENDMENTS TO THE CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985

SEC. 501. ADEQUACY OF SCHOLARSHIPS.

(a) TRAINING ASSISTANCE. — Section 603(b)(1)(C) of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10902(b)(1)(C)) is amended by inserting "(including, at the option of the State, any training necessary for credentialing)" after "credentialing".

(b) LIMITATION.—Section 603(b) of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10902(b)) is amended—

(1) In paragraph (1)(C) by striking "and" at the end,

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (1) the following:

"(2) not more than 35 percent of the funds received under this title by a State may be used to provide scholarship assistance under paragraph (1) to cover the cost of training described in paragraph (1)(C); and".

SEC. 502. DEFINITIONS.

Section 604 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10903) is amended—

(1) in paragraph (1) by striking "poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))" and inserting "130 percent of the lower living standard income level",

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(3) by inserting after paragraph (1) the following:

"(2) the term 'lower living standard income level' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor;".

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

Section 606 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10904) is amended—

(1) by striking "is authorized" and inserting "are authorized",

(2) by striking "each of the fiscal years 1987, 1988, and 1989, and" and inserting "fiscal year", and

(3) by inserting after "1990" the following: ", $3,000,000 for fiscal year 1991, and such sums as may be necessary for fiscal years 1992, 1993, and 1994".

TITLE VI—AMENDMENTS RELATING TO DEMONSTRATION PARTNERSHIP AGREEMENTS ADDRESSING THE NEEDS OF THE POOR

SEC. 601. PROGRAMS FOR SPECIAL POPULATIONS.

Section 408 of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9910b) is amended—

(1) in subsection (e)—

(A) in paragraph (2) by striking "subsection (c)" and inserting "subsection (d)", and

(B) in paragraph (4) by striking "subsection (d)(2)" each place it appears and inserting "subsection (e)(2)",

(2) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively, and

(3) by inserting after subsection (b) the following:

"(c) PROGRAMS DIRECTED TO SPECIAL POPULATIONS.—(1) In addition to the grant programs described in subsection (a), the Secretary shall make grants to eligible entities for the purpose of demonstrating new and innovative approaches to addressing the problems of, and providing opportunities for leadership development, community involvement, and educational success to, disadvantaged persons between the ages of 14 and 25 from populations experiencing conditions such as a high poverty rate, high unemployment, high dropout rate, low labor force participation, low enrollment in college or participation in other post high school training classes, high incidence of involvement in violence, and a high rate of incarceration. Services provided through approaches funded by such grants may include assessment and development of employability plane, remedial education, motivational activities, life skills instruction, community service, mentoring, access to information on available financial aid, campus visits, career education, cultural enrichment, and employment training, placement, and follow-up.

"(2) Such grants may be made only with respect to applications that—

"(A) identify and describe the population to be served, the problems to be addressed, the overall approach and methods of outreach and recruitment to be used, and the services to be provided;

"(B) describe how the approach to be used differs from other approaches used for the population to be served by the project;

"(C) describe the objectives of the project and contain a plan for measuring progress toward meeting those objectives; and

"(D) contain assurances that the grantee will report on the progress and results of the demonstration at each time and in such manner as the Secretary shall require.

"(3) Notwithstanding subsection (b), such grants shall not exceed 80 percent of the cost of such programs.

"(4) Such grants shall be made annually on such terms and conditions as the Secretary shall specify to eligible entities that serve the populations described in paragraph (1) and that are located within those areas where such populations are concentrated.".

SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

Section 408(h) of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9910b(g)), as so redesignated by section 601, is amended—

(1) by inserting "(1)" after "(h)",

(2) by striking "$5,000,000" and all that follows through "1990", and inserting "$10,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994",

(3) by inserting "(other than subsection (c))" before the period, and

(4) by adding at the end the following:

"(2) There are authorized to be appropriated $10,000,000 for fiscal year 1991 and such sums as may be necessary in each of the fiscal years 1992 through 1994, to carry out subsection (c).".

TITLE VII—AMENDMENTS TO THE LOW-INCOME HOME ENERGY ASSISTANCE ACT OF 1981

SEC. 701. FORWARD FUNDING OF LIHEAP.

Section 2602 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621) is amended by adding at the end the following:

"(c)(1) In fiscal year 1993 and each fiscal year thereafter, amounts appropriated under this section for any fiscal year for programs and activities under this Act shall be made available for obligation only on the basis of a program year. The program year shall begin on July 1 of the fiscal year for which the appropriation is made.

"(2) Amounts appropriated for fiscal year 1993 shall be available both to fund activities for the period between October 1, 1992, and July 1, 1993, and for the program year beginning July 1, 1993.

"(3) There are authorized to be appropriated such additional sums as may be necessary for the transition to carry out this subsection.".

SEC. 702. REAUTHORIZATION.

Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended—

(1) by striking "$2,050,000,000" and all that follows through "1989, and", and

(2) by inserting after "1990" the following: ", $2,150,000,000 for fiscal year 1991, $2,230,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994. The authorizations of appropriations contained in this subsection are subject to the program year provisions of subsection (c).".

SEC. 703. STATE ALLOTMENTS.

Section 2604(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(f)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(2) by inserting "(1)" after "(f)",

(3) in the matter preceding subparagraph (A), as so redesignated by paragraph (1), by striking "up to 10 percent" and inserting "in accordance with paragraph (2) a percentage",

(4) in the matter following subparagraph (C), as so redesignated by paragraph (1)—

(A) by striking "any" the first place it appears and inserting "a", and

(B) by striking "paragraphs (1), (2), and (3)" and inserting "subparagraphs (A), (B), and (C)", and

(5) by adding at the end the following:

"(2)(A) Not to exceed 10 percent of the funds payable to a State under this section for each of the fiscal years 1991 through 1993 may be transferred under paragraph (1).

"(B) Beginning in fiscal year 1994, no funds payable to a State under this section shall be transferred under paragraph (1).".

SEC. 704. APPLICATION.

(a) CERTIFICATIONS.—Section 2605(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)) is amended—

(1) in paragraph (12) by inserting "timely and meaningful" after "provide for",

(2) in paragraph (13) by striking "and" at the end,

(3) in paragraph (14) by striking the period and inserting "; and", and

(4) by adding at the end the following:

"(15) beginning in fiscal year 1992, provide, in addition to such services as may be offered by State Departments of Public Welfare at the local level, outreach and intake functions for crisis situations and heating and cooling assistance that is administered by additional State and local governmental entities or community-based organizations (such as community action agencies, area agencies on aging, and not-for-profit neighborhood-based organizations), and in States where such organizations do not administer functions as of September 30, 1991, preference in awarding grants or contracts for intake services shall be provided to those agencies that administer the low-income weatherization or energy crisis intervention programs.".

(b) STATE PLAN.—Section 2605(c)(2) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(c)(2)) is amended by inserting "timely and meaningful" after "will facilitate".

SEC. 705. AUTHORITY TO USE FUNDS FOR WEATHERIZATION.

Section 2605(k) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B),

(2) by striking "Not" and inserting "(1) Except as provided in paragraph (2), not", and

(3) by adding at the end the following:

"(2)(A) If a State receives a waiver granted under subparagraph (B) for a fiscal year, the State may use not more than the greater of 25 percent of—

"(i) the funds allotted to a State under this title for such fiscal year; or

"(ii) the funds available to such State under this title for such fiscal year;

for residential weatherization or other energy-related home repair for low-income households.

"(B) For purposes of subparagraph (A), the Secretary may grant a waiver to a State for a fiscal year if the State submits a written request to the Secretary after March 31 of such fiscal year and if the Secretary determines, after reviewing such request and any public comments, that—

"(i)(I) the number of households in the State that will receive benefits, other than weatherization and energy-related home repair, under this title in such fiscal year will not be fewer than the number of households in the State that received benefits, other than weatherization and energy-related home repair, under this title in the preceding fiscal year;

"(II) the aggregate amounts of benefits that will be received under this title by all households in the State in such fiscal year will not be less than the aggregate amount of such benefits that were received under this title by all households in the State in the preceding fiscal year; and

"(III) such weatherization activities have been demonstrated to produce measurable savings in energy expenditures by low-income households; or

"(ii) in accordance with rules issued by the Secretary, the State demonstrates good cause for failing to satisfy the requirements specified in clause (i).".

SEC. 706. AUTHORITY TO CARRY FUNDS OVER.

Section 2607(b)(2)(B) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626(b)(2)(B)) is amended by striking "15 percent" and inserting "10 percent".

SEC. 707. LEVERAGING INCENTIVE PROGRAM.

(a) ESTABLISHMENT.—The Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621–8629) is amended by inserting after section 2607 the following:

"INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL RESOURCES

"SEC. 2607A. (a) Beginning in fiscal year 1992, the Secretary may allocate amounts appropriated under section 2602(d) to provide supplementary funds to States that have acquired non-Federal leveraged resources for the program established under this title.

"(b) For purposes of this section, the term 'leveraged resources' means the benefits made available to the low-income home energy assistance program of the State, or to federally qualified low-income households, that—

"(1) represent a net addition to the total energy resources available to State and federally qualified households in excess of the amount of such resources that could be acquired by such households through the purchase of energy at commonly available household rates; and

"(2)(A) result from the acquisition or development by the State program of quantifiable benefits that are obtained from energy vendors through negotiation, regulation or competitive bid; or

"(B) are appropriated or mandated by the State for distribution—

"(i) through the State program; or

"(ii) under the plan referred to in section 2605(c)(1)(A) to federally qualified low-income households and such benefits are determined by the Secretary to be integrated with the State program.

"(c)(1) Distribution of amounts made available under this section shall be based on a formula developed by the Secretary that is designed to take into account the success in leveraging existing appropriations in the preceding fiscal year as measured under subsection (d). Such formula shall take into account the size of the allocation of the State under this title and the ratio of leveraged resources to such allocation.

"(2) A State may expend funds allocated under this title as are necessary, not to exceed .0008 percent of such allocation or $35,000 each fiscal year, whichever is greater, to identify, develop, and demonstrate leveraging programs. Funds allocated under

this section shall only be used for increasing or maintaining benefits to households.

"(d) Each State shall quantify the dollar value of leveraged resources received or acquired by such State under this section by using the best available data to calculate such leveraged resources less the sum of any costs incurred by the State to leverage such resources and any cost imposed on the federally eligible low-income households in such State.

"(e) Not later than July 31, of each year, each State shall prepare and submit, to the Secretary, a report that quantifies the leveraged resources of such State in order to qualify for assistance under this section for the following fiscal year.

"(f) The Secretary shall determine the share of each State of the amounts made available under this section based on the formula described in subsection (c) and the State reports. The Secretary shall promulgate regulations for the calculation of the leveraged resources of the State and for the submission of supporting documentation. The Secretary may request any documentation that the Secretary determines necessary for the verification of the application of the State for assistance under this section.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 2602 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621), as amended by section 701, is amended—

(1) by inserting "(other than section 2607A)" after "title", and

(2) by adding at the end the following:

"(d) There are authorized to be appropriated to carry out section 2607A, $25,000,000 in fiscal year 1992, and $50,000,000 in each of the fiscal years 1993 and 1994.".

SEC. 708. WITHHOLDING OF FUNDS.

Section 2608(a)(2) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626(a)(2)) is amended by striking "in an expeditious and speedy manner to" and inserting "in writing in no more than 60 days to matters raised in".

TITLE VIII—AMENDMENTS TO THE COMPREHENSIVE CHILD DEVELOPMENT CENTERS ACT

SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

Section 670T(a) of the Comprehensive Child Development Act (42 U.S.C. 9887) is amended by striking "appropriated" and all that follows through "1993", and inserting "appropriated, $50,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994".

TITLE IX—COORDINATED SERVICES FOR CHILDREN, YOUTH, AND FAMILIES

SEC. 901. SHORT TITLE.

This title may be cited as the "Claude Pepper Young Americans Act of 1990".

SEC. 902. FINDINGS.

Congress finds that—

(1) children and youth are inherently the most valuable resource of the United States;

(2) the welfare, protection, healthy development, and positive role of children and youth in society are essential to the United States;

(3) children and youth deserve love, respect, and guidance, as well as good health, shelter, food, education, productive employment opportunities, and preparation for responsible participation in community life;

(4) children and youth have increasing opportunities to participate in the decisions that affect their lives;

(5) the family is the primary caregiver and source of social learning and must be supported and strengthened;

(6) when a family is unable to ensure the satisfaction of basic needs of children and youth it is the responsibility of society to assist such family; and

(7) it is the joint and several responsibility of the Federal Government, each State, and the political subdivisions of each State to assist children and youth to secure, to the maximum extent practicable, equal opportunity to full and free access to—

(A) the best possible physical and mental health;

(B) adequate and safe physical shelter;

(C) a high level of educational opportunity;

(D) effective training, apprenticeships, opportunities for community service, and productive employment and participation in decisions affecting their lives;

(E) a wide range of civic, cultural, and recreational activities that recognize young Americans as resources and promote self-esteem and a stake in the communities of such Americans; and

(F) comprehensive community services that are efficient, coordinated, readily available, and involve families of young individuals.

SEC. 903. DEFINITIONS.

As used in this title:

(1) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Administration on Children, Youth, and Families, as established under section 915.

(2) COUNCIL.—The term "Council" means the Federal Council on Children, Youth, and Families, as established under section 918(a).

(3) NONPROFIT.—The term "nonprofit", as applied to any agency, institution, or organization, means an agency, institution, or organization that is, or is owned and operated by, one or more corporations or associations, no part of the net earnings of which may lawfully inure to the benefit of any private shareholder or individual.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(5) STATE.—The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(6) YOUNG INDIVIDUAL.—The term "young individual" means any child or youth from birth to 21 years of age.

SUBTITLE A—ESTABLISHMENT OF ADMINISTRATION AND AWARDING OF GRANTS FOR PROGRAMS

CHAPTER 1—ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES

SEC. 915. ESTABLISHMENT OF THE ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES.

(A) IN GENERAL.—There is established within the Department of Health and Human Services an Administration on Children, Youth, and Families.

(b) COMMISSIONER.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administration on Children, Youth and Families, as established under subsection (a), shall be headed by a Commissioner on Children, Youth, and Families.

(B) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"Commissioner, Administration on Children, Youth, and Families.".

(2) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint the Commissioner.

SEC. 916. FUNCTIONS OF THE COMMISSIONER.

(a) IN GENERAL.—The Commissioner shall—

(1) serve as the effective and visible advocate for children, youth, and families within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review and commenting responsibilities, as appropriate, concerning Federal policies affecting young individuals, and the families of young individuals;

(2) collect and disseminate information related to the problems of young individuals and the families of such individuals;

(3) assist the Secretary in appropriate matters pertaining to young individuals, and the families of such individuals;

(4) administer the grants authorized under this subtitle;

(5) develop plans and conduct research in the field of young individuals, and the families of such individuals;

(6) assist, to the maximum extent practicable, in the establishment and implementation of programs designed to meet the needs of young individuals for supportive services including—

(A) health and mental health services;

(B) housing and shelter assistance;

(C) education and training services;

(D) protective services;

(E) foster care;

(F) teen parenting support;

(G) child care;

(H) family support and preservation;

(I) teen pregnancy prevention and counseling;

(J) counseling on the effects of violence in the communities of such individuals and their families;

(K) recreational and volunteer opportunities; and

(L) comprehensive early childhood development;

(7) provide technical assistance and consultation to States and the political subdivisions of such States with respect to programs for young individuals;

(8) prepare, publish, and disseminate educational materials concerning the welfare of young individuals;

(9) gather statistics concerning young individuals, and the families of such individuals, that other Federal agencies are not collecting;

(10) to the maximum extent practicable coordinate activities carried out or assisted by all developments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation, and dissemination of information relevant to young individuals and the families of such individuals;

(11) stimulate more effective use of existing resources and available services for young individuals and the families of such individuals;

(12) develop basic policies and set priorities with respect to the development and operation of programs and activities conducted under this title;

(13) convene conference of authorities and officials of organizations, including Federal, State, and local agencies, and nonprofit private organizations, of programs for children, youth and their families for the development and implementation of policies related to the priorities and purposes of this title, including topics such as the establishment of a nationwide network of comprehensive, coordinated services and opportunities for such individuals;

(14) conduct periodic evaluations of the programs and activities related to the purposes of this title; and

(15) develop, in coordination with other agencies, methods to ensure adequate training for personnel concerning children, youth and families and to ensure the adequate dissemination of such information to appropriate State and community agencies.

(b) ENCOURAGEMENT OF VOLUNTEERISM.—In executing the duties and functions of the Administration under this subtitle and in carrying out the programs and activities authorized under this title, the Commissioner, in consultation with the Director of the ACTION Agency, shall take necessary steps to coordinate with and seek the advice of voluntary agencies and organizations that provide services related to the purposes of this title.

SEC. 917. FEDERAL AGENCY CONSULTATIONS.

(a) IN GENERAL.—The Commissioner shall consult and cooperate with the heads of all appropriate Federal agencies or departments administering programs or services that are substantially related to the purposes of this title.

(b) INTERAGENCY AGREEMENTS.—To the extent practicable, the Commissioner shall facilitate cooperation through the entering into of interagency agreements.

SEC. 918. FEDERAL COUNCIL ON CHILDREN, YOUTH, AND FAMILIES.

(a) ESTABLISHMENT.—There is established a Federal Council on Children, Youth, and Families.

(b) NUMBER OF MEMBERS.—The Council shall be composed of 18 members to be appointed in accordance with subsection (d).

(c) TERM OF MEMBERSHIP.—Each member of the Council shall serve for a 3-year term without regard to title 5, United States Code.

(d) APPOINTMENT OF MEMBERS.—

(1) IN GENERAL.—The Council shall be composed of—

(A) six members who posess such skills and qualifications so as to be representative of—

(i) rural and urban populations; and

(ii) national organizations with an interest in young individuals, families, early childhood development, elementary and secondary education, business, labor, minorities, and the general public;

(B) six members who are representatives of public, State or local agencies that serve children, youth and their families and include representatives of child welfare and child mental health agencies; and

(C) six members who are cabinet-level representatives of Federal agencies that have responsibility for programs relating to children, youth and families.

(2) AGE OF MEMBERS.—At least one of the individuals appointed to the Council under paragraph (1)(A) shall be under the age of 21 at the time of such appointment.

(3) APPOINTING AUTHORITY.—Of the members of the Council who are appointed under paragraph (1)—

(A) six of the members described under subparagraphs (A) and (B) shall be appointed by the President pro tempore of the Senate on the recommendation of the Majority and Minority Leaders of the Senate;

(B) six of the members described under subparagraphs (A) and (B) shall be appointed by the Speaker of the House of Representatives on the recommendation of the Majority and Minority Leaders of the House of Representatives; and

(C) the members described under subparagraph (C) shall be appointed by the President.

(e) VACANCY.—

(1) FILLING VACANCY.—A vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(2) POWERS OF BOARD.—A vacancy on the Council shall not affect the powers of the Council.

(3) TERM OF APPOINTMENT.—A member of the Council who is appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(f) REAPPOINTMENT.—Each member of the Council shall be eligible for reappointment to the Council.

(g) EXPIRATION OF TERM.—Each member of the Council may serve after the expiration of the term of membership until the successor of such member has taken office.

(h) TRAVEL EXPENSES.—Each member of the Council, while serving on business of the Council away from the home or regular place of business of such member, may be allowed subsistence in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

(i) CHAIRPERSON.—The President shall designate the Secretary of Health and Human Services to serve as the Chairperson of the Council. In the event that the Secretary chooses to designate the functions of Chairperson under this subsection, such designation may only be made to the Commissioner.

(j) MEETINGS.—Not less than once during each 6-month period, the Chairperson of the Council shall call a meeting of the Council.

(k) DUTIES OF THE COUNCIL.—The Council shall—

(1) advise and assist the President on matters relating to the special needs of young individuals;

(2) review, evaluate, and inventory on a continuing basis Federal policies, programs and other activities affecting young individuals that are conducted or assisted by all Federal departments and agencies for the purpose of appraising the value and the impact of such policies, programs, and activities on the lives of young individuals, and of identifying duplication of services for young individuals and the families of such individuals;

(3) make recommendations to the President, the Secretary, the Commissioner, the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate concerning changes in such policies and programs that can streamline services, reduce duplication of services and encourage the coordination of services provided to young individuals and the families of such individuals at the State and local level; and

(4) provide public forums, including public hearings, conferences, workshops, and other meetings, for discussing and publicizing the problems and needs of young individuals and obtaining information relating to such individuals.

(l) STAFF.—The Chairperson shall appoint staff personnel to assist the Chairperson in carrying out the duties required under subsection (k).

(m) INFORMATION AND ASSISTANCE.—The head of each Federal department and agency shall make available to the Chairperson such information and other assistance as the Chairperson may require to carry out the duties required under subsection (k).

(n) REPORTS.—

(1) SUBMISSION TO THE PRESIDENT.—In fiscal year 1992 and each fiscal year thereafter, the Chairperson shall prepare and submit—

(A) interim reports as the Chairperson considers to be appropriate; and

(B) an annual report of the findings and recommendations of the Council concerning the matters described in paragraphs (2) and (3) of a subsection (k);

to the President not later than March 31 of each year.

(2) REVIEW AND SUBMISSION TO CONGRESS.—

(A) COMMENTS AND RECOMMENDATIONS.—The President may make comments and recommendations concerning reports submitted under paragraph (1).

(B) SUBMISSION TO CONGRESS.—The President shall submit such comments, recommendations, and reports to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(o) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out this section $200,000 for each of the fiscal years 1991 through 1994.

(p) TERMINATION.—The Council shall terminate on September 30, 1995.

SEC. 919. ADMINISTRATION.

(a) DUTIE OF COMMISSIONER.—In carrying out this subtitle, the Commissioner is authorized to—

(1) provide consultative services, technical assistance, and short-term training to the independent State bodies;

(2) conduct research and demonstrations;

(3) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this subtitle;

(4) provide staff and other technical assistance to the Council;

(5) evaluate the effectiveness of program authorized under this subtitle and periodically publish analysis of the results of such evaluations; and

(6) not later than 180 days after the end of each fiscal year, prepare and submit, to the President and the chairman of the Committee on Education and Labor of the House of Representatives and chairman of the Committee on Labor and Human Resources of the Senate, a report concerning the activities carried out under this subtitle and concerning such other activities as the Secretary determines appropriate.

(b) UTILIZATION OF SERVICES AND FACILITIES.—

(1) IN GENERAL.—Subject to agreements made between the Commissioner and the head of such agency or organization, in carrying out the duties referred to in subsection (a) the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organizations.

(2) PAYMENT.—The Commissioner may pay for such services and facilities, in advance or by way of reimbursement, as may be provided in such agreement.

(c) RESERVATION OF FUNDS.—Of the aggregate amount appropriated to carry out this title in any fiscal year, the Secretary may reserve not more than 10 percent for salaries and expenses of the Administration on Children, Youth, and Families related to the administration of this title.

CHAPTER 2—GRANTS FOR STATE AND COMMUNITY PROGRAMS FOR CHILDREN, YOUTH, AND FAMILIES

SEC. 925. PURPOSE.

It is the purpose of this chapter to encourage and assist State and local agencies to coordinate resources, reduce barriers to services, and develop new capacities to ensure that State and community services designed to serve children, youth, and families are more effective and comprehensive.

SEC. 926. DEFINITIONS.

As used in this chapter:

(1) COMMUNITY REFERRAL SERVICES.—The term "community referral services" means services to assist families in obtaining community resources, including health care, mental health care, employability development and job training, and other social services.

(2) CORE SERVICES.—The term "core services" means—

(A) educational and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children; and

(B) the early developmental screening of children to assess any needs of such children and to identify specific types of support that may be provided;

(C) outreach services;

(D) community referral services; and

(E) follow up services.

(3) FOLLOW UP SERVICES.—The term "follow up services" means services provided to ensure that necessary services are received by families and are effective in meeting their needs.

(4) INDEPENDENT STATE BODY.—The term "independent State body" means the entity established under section 930.

(5) LEAD AGENCY.—The term "lead agency" means an existing State agency, or other public or nonprofit private entity designated by the chief executive officer of the State as the agency responsible for the development and implementation of local family resource and support programs. Such agency shall have demonstrated ability to work with other State and community based agencies, to provide training and technical assistance, and shall also have a commitment to parental participation in the design and administration of family resource and support programs.

(6) OTHER SERVICES.—The term "other services" and "other support services" includes—

(A) child care, early childhood development and intervention programs;

(B) employability development services (including skill training);

(C) educational services, such as scholastic tutoring, literacy training, and General Educational Degree (GED) services;

(D) nutritional education;

(E) life management skills training;

(F) peer counseling and crisis intervention, family violence counseling and referrals for such services;

(G) referral for substance abuse counseling and treatment referral; and

(H) referral for primary health and mental health services.

(7) OUTREACH SERVICES.—The term "outreach services" means services provided to ensure (through home visits or other methods) that parents are aware of and able to participate in family resource and support program activities.

SEC. 927. ESTABLISHMENT OF PROGRAMS.

The Commissioner shall make grants—

(1) in each State under section 931 to improve State planning and coordination of services, and under section 932 to expand supportive services, in order to promote the availability of developmental, preventive, and remedial services to children, youth and their families that are designed to ensure—

(A) adequate and safe physical shelter whether in their own homes or, if necessary, in out-of-home programs;

(B) high quality physical and mental health care;

(C) the enhancement of the development of children to ensure that children enter school prepared and ready to learn;

(D) highest quality educational opportunity;

(E) effective training and apprenticeships to increase the likelihood of employment;

(F) opportunities for community service and productive employment, and for participation by children and youth in decisions affecting the lives of such children and youth; and

(G) a wide range of civic, cultural, and recreational activities that recognize young individuals as resources and promote self-esteem and a sense of community; and

(2) to States on a competitive basis under section 933 to establish family resource programs (including family support centers) in order to enhance the ability of families to remain together and to thrive through the provision of community based services that—

(A) promote and build family and parenting skills;

(B) promote and assist families in the use of formal and informal family support services;

(C) create a support network to strengthen and reinforce good parenting; and

(D) are closely linked with, but not duplicative of, other community resources.

SEC. 928. ADMINISTRATION.

(a) IN GENERAL.—The Commissioner shall administer programs under this chapter through the Administration on Children, Youth, and Families.

(b) TECHNICAL ASSISTANCE.—In carrying out this chapter, the Commissioner may request the technical assistance and cooperation of the Secretary of Education, the Secretary of Labor, the Attorney General, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Director of the Office of Community Services, and such other agencies and departments of the Federal Government as may be appropriate.

SEC. 929. STATE PLAN.

(a) SUBMISSION OF PLAN.—The chief executive officer of a State, in order to be eligible for grants from an allotment under section 931, 932, or 933 for any fiscal year, shall prepare and submit to the Commissioner a State plan for a 3-year period.

(b) REVISIONS OF PLAN.—Each chief executive officer of a State may make annual revisions of the State plan referred to in subsection (a).

(c) CONTENT OF PLAN.—The chief executive officer of a State shall include within the State plan of that State assurances as required under sections 931, 932, or 933, and a description of the proposed multi-year plans of the State for program development and implementation.

(d) TYPE OF APPLICATION.—A State may apply for funds under one or more of the following categories:

(1) section 931;

(2) sections 931 and 932 jointly; or

(3) section 933.

In the case of each category, the State application and plan shall comply only with the requirements of the appropriate section.

(e) APPROVAL OF PLAN.—

(1) IN GENERAL.—The Commissioner shall approve any State plan under sections 931 and 932 that the Commissioner determines meets the requirements of such sections.

(2) NOTICE AND OPPORTUNITY TO CORRECT DEFICIENCIES.—The Commissioner shall not make a final determination disapproving any State plan, modifying such plan, or declaring a State to be ineligible to receive funds under sections 931 and 932 without previously affording such State reasonable notice and opportunity to correct deficiencies in its application.

SEC. 903. INDEPENDENT STATE BODY.

(a) DESIGNATION.—A State shall not be eligible to receive a grant from an allotment under section 931 or 932 unless—

(1) the chief executive officer of such State designates an independent State body that is composed of—

(A) cabinet level representatives from each agency of such State that has responsibilities for programs affecting young individuals who shall comprise a majority of the independent State body; and

(B) individuals appointed from among—

(i) private nonprofit providers of services to young individuals;

(ii) advocacy and citizens groups concerned with young individuals;

(iii) committees of the legislature of such State that have responsibility for young individuals;

(iv) leaders who are young individuals, including such leaders who are recipients of services provided under this subtitle;

(v) representatives of the business community;

(vi) representatives of employees of providers of services to young individuals;

(vii) representatives of general purpose local government; and

(viii) such staff as shall be necessary to—

(I) develop a State plan to be submitted to the Commissioner for approval under section 931;

(II) administer and monitor the State plan within such State;

(III) assist in the coordination of all State activities related to the purpose of the title;

(IV) serve as an effective and visible advocate for young individuals by reviewing and commenting on all State plans, budgets, and policies that affect such individuals and the families of such individuals by providing technical assistance to any agency, organization, association, or individual representing the needs of young individuals; and

(2) the independent State body designated under paragraph (1)—

(A) develops a system for the distribution within the State of funds received under sections 931 and 932 by the chief executive officer;

(B) submits a description of such system to the Commissioner for review and comment; and

(C) ensures that preference will be given in such distribution of funds to developing or supporting local service delivery systems that—

(i) provide a range of services organized to tailor responses to needs rather than a predetermined array of services;

(ii) are rooted in and part of the communities that such systems are designed to serve as measured by the degree to which public and private community leaders and young individuals participate in the planning of such systems; and

(iii) demonstrate an ability to develop systematic collaboration among service provid-

ers on behalf of children, youth and families, including joint planning, joint financing, joint service delivery, common intake and assessment, and other arrangements that promote more effective service systems for such individuals.

(b) EXISTING ENTITY.—The Commissioner may approve a State plan in which the chief executive officer of the State designates as the independent State body an existing State entity that is comprised of the parties described in subsection (a) and that is authorized to conduct the same range of interagency planning and coordination activities.

SEC. 931. STATE COORDINATION OF SERVICES.

(a) AUTHORITY.—The Commissioner shall make grants under this section to States on a formula basis for the purpose of improving the coordination of services provided to children, youth, and families.

(b) APPLICATION.—To be eligible to receive a grant under this section, the chief executive officer of a State shall prepare and submit to the Commissioner an application containing a plan providing assurances that—

(1) the independent State body is committed to interagency planning that results in statewide policies promoting systematic collaboration among agencies on behalf of young individuals as demonstrated by joint planning, joint financing, joint service delivery, common intake and assessment, and other arrangements that reduce barriers to services and promote more effective local service delivery systems for young individuals;

(2) such plan will be based on needs as identified through an analysis of updated reports (such as "State of the Child" reports) prepared by the State, including detailed information gathered by the State, to the extent practicable, on young individuals and the families of such individuals concerning—

(A) age, sex, race, and ethnicity;

(B) the residences of such individuals;

(C) the incidence of homelessness among such individuals;

(D) the composition of families of such individuals;

(E) the economic situations of such individuals;

(F) the incidence of poverty among such individuals;

(G) experiences in the care of such individuals away from home;

(H) the health of such individuals;

(I) violence in the homes or communities of such individuals;

(J) the nature of the attachment of such individuals to school and work;

(K) dropout rates of such individuals from school; and

(L) the character of the communities in which such individuals reside;

(3) the system to be used for the distribution of funds within the State will require that—

(A) each area have an equal opportunity to apply for or receive funds under this chapter; and

(B) the public be given an opportunity to express views concerning the development and administration of such plan;

(4) the independent State body will provide an inventory of existing public and private services for children, youth and their families and will evaluate the need for supportive services within the State to address the purposes of this title and determine the extent to which existing public and private programs meet such need;

(5) the independent State body will make such reports, in such form, and containing such information, as the Commissioner may require;

(6) such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under this chapter to the chief executive officer of the State, including any such funds paid to the recipients of a grant or contract;

(7) the independent State body will conduct periodic evaluations of activities and projects carried out pursuant to sections 931 and 932 and will report the results and recommendations to the chief executive officer of the State and the State legislature;

(8) the chief executive officer of the State will provide technical assistance or in-service training opportunities for personnel responsible for carrying out the purposes of sections 931 and 932; and

(9) the chief executive officer of each State will provide for the implementation of the requirements of section 932, relating to supportive services.

(c) USE OF GRANTS TO STATES.—Notwithstanding section 934(g), the amounts made available to each State under section 934(a) may be used to make grants to a State to enable such State to pay such percentages as the independent State body of such State determines to be appropriate, of the cost of administering the State plan of such State including—

(1) the costs of the preparation of such plan and the provision of technical assistance to local areas;

(2) the costs of the evaluation of activities carried out under such plan;

(3) the costs of the collection of data and the carrying out of analyses related to the need for supportive services within the State;

(4) the costs of the dissemination of information obtained under paragraph (3); and

(5) the costs of the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this chapter.

(e) SUPPLEMENT NOT SUPPLANT.—Amounts received by a State under sections 931 and 932 shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the purposes for which grants are made under sections 931 and 932. In no event shall such expenditures be used to satisfy the matching requirements of any other Federal program.

(f) RELATIONSHIP TO FAMILY RESOURCE AND SUPPORT PROGRAM GRANTS.—If a State intends to apply for a grant under section 933 to be used for the same calendar year as the grant under this section, such State shall include in the application for a grant under this section a description of plans for family resource and support programs and for the coordination of the use of all funds received under this chapter.

SEC. 932. SUPPORTIVE SERVICES.

(a) AUTHORITY.—The Commissioner shall carry out a program for making grants to a State, that has designated an independent State body under section 930 and provided for coordinated services under section 931, for distribution by the chief executive officer under a State plan approved under section 931 to demonstrate successful program approaches to fill service gaps identified through State planning and advocacy efforts for any of the areas specified in paragraph (2).

(b) ELIGIBLE SERVICES.—The services eligible to be provided under subsection (a) are services—

(1) that are designed to facilitate the provision of comprehensive community based services that are efficient, coordinated, and readily available through such activities as case planning, case management, intake and assessment, and information and referral; and

(2) that serve any of the following purposes—

(A) provide adequate and safe physical shelter to young individuals and the families of such individuals, especially in emergency circumstances;

(B) provide transitional living services to young individuals who are homeless;

(C) enable young individuals to attain and maintain physical and mental well-being;

(D) provide health screening to detect or prevent illnesses, or both, that occur most frequently in young individuals as well as better treatment and counseling;

(E) enhance the development of children to ensure that such children enter school prepared and ready to learn;

(F) promote the highest quality of educational opportunity, especially through dropout prevention programs, remediation for young individuals who have dropped out of school, and vocational education;

(G) provide effective training apprenticeships and employment opportunities;

(H) promote participation in community service and civic, cultural, and recreational activities that value young individuals as resources and promote self-esteem and a stake in the community;

(I) promote the participation of young individuals in decisions concerning planning and managing the lives of such individuals;

(J) encourage young individuals and the families of such individuals to use any community facilities and services that are available to such individuals;

(K) ensure that young individuals who are unable to live with the biological families of such individuals have a safe place to live until such individuals can return home or move into independent adult life; and

(L) prevent the abuse, neglect, or exploitation of young individuals.

SEC. 933. FAMILY RESOURCE AND SUPPORT PROGRAM GRANTS.

(a) AUTHORITY.—The Commissioner shall make grants under this section to States on a competitive basis, for the purpose of developing, expanding, and operating a network of local family resource and support programs in collaboration with existing health, mental health, education, employment and training, child welfare, and other social services agencies within the State.

(b) AMOUNT OF GRANT.—The amount of a grant awarded under this section for the first year in which a program is operated or expanded under this section shall not exceed $6,000,000 nor be less than $1,500,000 based on an assessment by the Commissioner of the application submitted by the State under subsection (d), the scope of the proposed program to be operated or expanded, and the population to be served by the program.

(c) DURATION.—

(1) IN GENERAL.—A grant awarded under this section shall be for a term of 3 years.

(2) LIMITATION.—

(A) USE.—During the 12-month period immediately after the date on which the grant is awarded to a State under this section, the State may use the funds received under such grant exclusively for program development. Subsequent to such period grant funds shall

be used for program implementation and operation unless the Commissioner grants a waiver from this limitation.

(B) REPORTING REQUIREMENTS.—To receive funds after the period referred to in subparagraph (A) and after the 12-month period immediately following such initial period, the State shall report to the Commissioner concerning the plans of the State for—

(i) the establishment and expansion of a network of family resource and support programs in the State;

(ii) the number of family resource and support programs that have been expanded or newly established with grant funds under this section;

(iii) the nature of those programs, including the populations served and services provided; and

(iv) the extent of local community and parental participation in the development, operation, and governance of the programs.

(d) APPLICATION.—To be eligible to receive a grant under this section a State shall prepare and submit, to the Commissioner, an application at such time, in such form, and containing such information as the Commissioner shall require, including—

(1) an assurance that the chief executive officer of the State will designate a lead agency to assume responsibility for the development and implementation of family resource and support programs;

(2) an assurance that the State has a process for effective program development that—

(A) does not duplicate current processes or programs;

(B) makes publicly available a written plan for the establishment of a network of local family resource and support programs; and

(C) involves appropriate personnel in the development process, including—

(i) parents and prospective participants in family resource and support programs;

(ii) staff of existing family resource and support programs;

(iii) representatives of State and local government social service, health, mental health, education, employment, and economic development agencies;

(iv) representatives of the business community;

(v) representatives of general purpose local government;

(vi) representatives of local communities in which family resource and support programs are likely to be located; and

(vii) other individuals with expertise in the services that the family resource and support programs of the State intend to offer;

(3) a description of the current family support programs in the State, the current unmet need for such services, and the intended scope of the State family resource and support program, the population to be served, the manner in which the program will be operated, and the manner in which such program will relate to other community services and public agencies;

(4) a description of the projected level of financial commitment by the State to developing a family resource and support program;

(5) a description of the core services, as required under this chapter, and other support services to be provided by the program and the manner in which such services will be provided;

(6) assurances that the State program will maintain cultural diversity;

(7) a description of the guidelines for requiring parental involvement in State and local program development, policy design, and governance and the process for assessing and demonstrating that parental involvement in program development, operation, and governance occurs;

(8) an assurance that, in awarding local grants, priority will be given to programs serving low-income communities and programs serving young parents;

(9) a description of the local interagency planning process to be utilized to develop and implement local family resource and support programs;

(10) a description of the criteria that the State will utilize for awarding grants for local programs so that they meet the requirements of subsection (f);

(11) a plan for providing training, technical assistance, and other assistance to local communities in program development;

(12) a description of the methods to be utilized to evaluate the implementation and effectiveness of the family resource and support programs within the State; and

(13) a description of proposed actions by the State that will reduce practical and regulatory barriers to the provision of comprehensive services to families, including family resource and support programs.

(e) CRITERIA.—In determining whether to award a grant to a State under this section the Commissioner shall consider—

(1) the plans for program development, expansion, and operation by the State, including the amount of training, technical assistance and other support that the State will provide to local communities in the development and operation of their programs;

(2) the established guidelines for requiring and assessing parental involvement in local program development, policy design, and governance;

(3) the budget of the State for the expenditure of Federal and State funds and the ability of the program to secure financial commitments from a variety of sources, including public and private entities; and

(4) any other factors determined appropriate by the Commissioner.

(f) LOCAL PROGRAM REQUIREMENTS.—A State that receives a grant under such section shall use such grant to establish local family resource and support programs that—

(1) implement a community planning process involving parents, local public and private non-profit agencies responsible for providing health, education, employment training, Head Start and other early childhood, child welfare, and other social services to determine local family needs, and identify appropriate community agencies to administer such programs locally;

(2) provide core services, and other services directly or through contracts or agreements with other local agencies; and

(3) involve parents in the development, operation, and governance of the program.

SEC. 934. AUTHORIZATION OF APPROPRIATION AND ALLOTMENT.

(a) ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES; STATE COORDINATION; SUPPORTIVE SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out sections 919, 931, and 932 of this title, $30,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, and 1994. Funds appropriated under this paragraph shall remain available for expenditure in the fiscal year succeeding the fiscal year for which such funds are appropriated.

(2) AVAILABILITY OF APPROPRIATION.—Of the amount appropriated under paragraph (1) for any fiscal year—

(A) not more than 10 percent shall be available to carry out section 919; and

(B) not less than 90 percent shall be available to carry out sections 931 and 932.

(3) ALLOTMENT FORMULA.—Except as provided in paragraph (4), from the amount available under paragraph (2)(B) for each fiscal year, a State shall be allotted an amount that bears the same ratio to the amount appropriated for such fiscal year as the population of the State that is under the age of 21 bears to the population of all States that is under the age of 21.

(4) EXCEPTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and subject to the availability of appropriations under paragraph (1), no State shall be allotted less than $300,000 under the formula established under paragraph (3).

(B) LIMITATION ON ALLOTMENT.—Notwithstanding subparagraph (A), Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than $75,000 under the formula established under paragraph (2).

(b) DETERMINATION OF AGE.—The number of individuals under the age of 21 in each State shall be determined by the Commissioner on the basis of the most recent data available to the Commissioner.

(c) TRANSFER OF ALLOTTED FUNDS.—Whenever the Commissioner determines that—

(1) any amount allotted to a State for a fiscal year under section 931 or 932 will not be used by such State for carrying out the purpose for which such allotment was made; or

(2) a State has failed to qualify under the State plan required under section 929; the Commissioner shall make such allotment available for carrying out such purposes to other participating States in a proportional manner based on the relative population of the State of individuals under the age of 21.

(d) FAMILY RESOURCE AND SUPPORT PROGRAMS.—There are authorized to be appropriated to carry out section 933, $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994.

(e) LIMITATION.—A State shall not use in excess of 10 percent of a grant awarded under section 932 or 933 for administrative activities at the State level.

(f) GRANTS FOR INDIANS.—The Commissioner shall use 1 percent of the amount appropriated under this section for each fiscal year to make allotments to Indian tribes and tribal organizations (such terms having the same meaning given to such terms in section 4(b) and 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b (b) and (c))) that submit to the Commissioner a plan that meets criteria consistent with the provisions of this chapter and that comply with other requirements established by the Commissioner.

(g) LIMITATION.—Grants made under this subtitle may be used to pay not more than 80 percent of the cost of—

(1) the preparation, administration, and evaluation of State plans under section 931;

(2) the development of comprehensive, efficient, coordinated supportive services under section 932; and

(3) the development, expansion, and operation of local family support and resource programs under section 933.

The remaining 20 percent of such cost shall be paid by the State with funds from non-Federal sources.

CHAPTER 3—
NATIONAL CLEARINGHOUSE

SEC. 955. SHORT TITLE.

This chapter may be cited as the "Family Resource Act".

SEC. 956. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) fundamental changes in the demographics and economics of family life in the United States over the past 20 years have had a profound effect on children and their parents;

(2) since 1966, the number of women working outside the home has increased by 92 percent and the number of two earner families has increased by over 50 percent;

(3) 61 percent of the children born today will live in a single-parent family before reaching the age of 20, with one out of every three single female heads of households living on income below the Federal poverty level;

(4) one out of every four children under the age of 6 in the United States currently lives below the Federal poverty level;

(5) over the past 10 years, parents have increasingly come together with other parents to organize family resource and support programs that promote healthy child development and increase parental competency, particularly families at risk; and

(6) Federal investment in promoting the development of family resource and support programs will reap long-term benefits for individual families and the nation as a whole.

(b) PURPOSE.—It is the purpose of this Act—

(1) stimulate the development and expansion of family resources and support programs that are prevention oriented;

(2) encourage early intervention of such programs with families to ameliorate problem situations before such situations become crises; and

(3) assist parents in enhancing their children's development to ensure that their children enter school prepared and ready to learn.

SEC. 957. DEFINITION.

As used in this chapter, the term "family resource and support programs" means community-based services that offer sustained assistance to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

(1) the provision of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

(2) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

(3) the creation of supportive networks to enhance the childrearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

SEC. 958. ESTABLISHMENT OF NATIONAL CENTER ON FAMILY RESOURCES AND SUPPORT PROGRAMS.

(a) ESTABLISHMENT.—The Commission shall establish, through grant or contract, a national center for the collection and provision of programmatic information and technical assistance that relates to all types of family resources and support programs, to be known as the "National Center on Family Resources and Support Programs".

(b) FUNCTIONS.—The national center establishment under subsection (a) shall serve as a national information and data clearinghouse, training, technical assistance, and material development source for family resource and support programs. Such center shall—

(1) develop and maintain a system for disseminating information on all types of family resource and support programs and on the state of family resources and support program development, including information concerning the most effective model programs;

(2) develop and sponsor a variety of training institutes and curricula for family resources and support program staff;

(3) identify several model programs representing the various types of family resource and support programs to develop technical assistance materials and activities to assist other agencies in establishing family resources and support programs; and

(4) develop State-wide networks family resource and support programs for the purpose of sharing and desseminating information.

SEC. 959. EVALUATION.

The Commissioner shall, through grants or contracts awarded or entered into with independent auditors, conduct evaluations and related activities, of family resource and support programs, including—

(1) evaluations of on-going programs;

(2) process evaluations focusing on implementation strategies; and

(3) the development of simple evaluation models for use by local family resource and support programs.

SEC. 960. AUTHORIZATION OF APPROPRIATIONS.

(a) ESTABLISHMENT OF CENTER.—To carry out section 958, there are authorized to be appropriated $2,300,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994.

(b) EVALUATION.—To carry out section 959, there are authorized to be appropriated $700,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994.

Subtitle B—White House Conference on Children, Youth, and Families

SEC. 981. SHORT TITLE.

This subtitle may be cited as the "1993 White House Conference on Children, Youth, and Families".

SEC. 982. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) children and youth are inherently our most valuable resource and their welfare, protection, healthy development, and positive role in society are essential to the Nation;

(2) children and youth deserve love, respect, and guidance, as well as good health, shelter, food, education, productive work, and preparation for responsible participation in community life;

(3) an increasing opportunity for children and youth to participate in the decisions that affect their lives is essential;

(4) the family is the primary caregiver and the source of social learning which must be supported and strengthened, but when families are unable to ensure the satisfaction of the needs of children and youth, it is society's responsibility to assist them;

(5) at a minimum, all children and youth need and deserve access to—

(A) the best possible physical and mental health;

(B) adequate and safe physical shelter;

(C) the highest quality of educational opportunity;

(D) effective training, apprenticeships, opportunities for community service, and productive employment;

(E) the widest range of civic, cultural, and recreational activities which recognize young Americans as resources and promote self-esteem and a stake in their communities;

(F) comprehensive community services which are efficient, coordinated, and readily available; and

(G) genuine participation in decisions concerning the planning and managing of their lives; and

(6) there is a great need for a comprehensive national policy with respect to young individuals, designed to engage Federal, State, and local government agencies, youth organizations, and other voluntary organizations.

(b) STATEMENT OF POLICY.—It is the policy of the Congress that the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenge and needs of young individuals.

SEC. 983. AUTHORITY OF THE PRESIDENT AND SECRETARY; FINAL REPORT.

(a) CALLING OF THE CONFERENCE.—The President shall call a White House Conference on Children, Youth, and Families in 1993 in order to develop recommendations for further action in the field of children, youth, and families which will further the policy set forth in section 982(b). The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Commissioner and with the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(b) PURPOSES OF THE CONFERENCE.—The purposes of the Conference shall be—

(1) to increase the public awareness of the value and needs of young individuals;

(2) to examine the well-being of young individuals as well as the problems which they face;

(3) to describe the extent to which young individuals with identified needs do not receive services to meet such needs;

(4) to determine the reasons why young individuals are not receiving needed services; and

(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to improve the well-being of youth and their families.

(c) CONFERENCE PARTICIPANTS AND DELEGATES.—

(1) PARTICIPANTS.—In order to carry out the purposes of the Conference, the Conference shall bring together—

(A) representatives of Federal, State, and local governments, including representatives of the General Accounting Office;

(B) professionals who are working in the field of children, youth, and families; and

(C) representatives of the general public, particularly young individuals.

(2) SELECTION OF DELEGATES.—The delegates to attend the Conference shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of children, youth, and families.

SEC. 984. CONFERENCE ADMINISTRATION.

(a) ADMINISTRATION.—For purposes of carrying out this subtitle, the Secretary shall—

(1) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate;

(2) furnish all reasonable assistance to State agencies administering programs related to children, youth and families, and to other appropriate organizations, to enable them to organize and conduct conferences in conjunction with the Conference;

(3) prepare and make available for public comment a proposed agenda for the Conference which reflects, to the greatest extent possible, the major issues facing children, youth, and families consistent with subsection (a);

(4) prepare and make available background materials which the Secretary deems necessary for the use of delegates to the Conference; and

(5) engage such additional personnel as may be necessary to carry out this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) DUTIES.—The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, ensure that—

(1) the conferences under subsection (a)(2) will be conducted so as to ensure broad participation of young individuals;

(2) the proposed agenda for the Conference under subsection (a)(3) is published in the Federal Register not less than 180 days before the beginning of the Conference and the proposed agenda is open for public comment for a period of not less than 60 days;

(3) the final agenda for the Conference, taking into consideration the comments received under paragraph (2), is published in the Federal Register and transmitted to the chief executive officers of the States not later than 30 days after the close of the public comment period provided for under paragraph (2);

(4) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation of previous partisan activities;

(5) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any special interest, but will instead be the result of the independent judgment of the Conference; and

(6) to the extent practicable, current and adequate statistical data (including decennial census data) and other information on the well-being of young individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to children and youth. In carrying out this subparagraph, the Secretary may make grants to, and enter into contracts with, public agencies and nonprofit private organizations.

SEC. 985. CONFERENCE COMMITTEES.

(a) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to the Conference which shall include representatives from the Federal Council on Children, Youth, and Families, public agencies, and nonprofit private organizations as appropriate.

(b) OTHER COMMITTEES.—The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing of the Conference.

(c) COMPOSITION OF COMMITTEES.—Each committee established under this section shall be composed of professionals and public members, and shall include individuals from low-income families and from minority groups.

(d) COMPENSATION.—Members of any committee established under this section (other than any officers or employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily rate payable for GS–18 of the General Schedule under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons employed intermittently in Federal Government service.

SEC. 986. REPORT OF THE CONFERENCE.

(a) PROPOSED REPORT.—A proposed report of the Conference which shall include a statement of comprehensive coherent national policy on children, youth, and families together with recommendations for the implementation of such policy, shall be published and submitted to the chief executive officers of the States not later than 180 days following the date on which the Conference is adjourned. The findings and recommendations included in the published proposed report shall be available immediately to the public.

(a) RESPONSE TO PROPOSED REPORT.—The chief executive officers of the States, after reviewing and soliciting recommendations and comments on the proposed report of the Conference, shall submit to the Secretary, not later than 180 days after receiving such report, their views and findings on the recommendations of the Conference.

(c) FINAL REPORT.—Not later than 180 days after submission of the views and comments of the chief executive officers of the States, the Secretary shall—

(1) prepare a final report on the conference, which shall include—

(A) a statement of the policy and recommendations of the Conference;

(B) the views and comments of the chief executive officers of the States; and

(C) the recommendations of the Secretary, after taking into consideration the views and comments of such officers, for administrative and legislative action necessary to implement the recommendations of the Conference; and

(2) publish and transmit such report to the President and the chairman of the Committee on Education and Labor of the House of Representatives and chairman of the Committee on Labor and Human Resources of the Senate.

SEC. 987. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Conference" means the 1993 White House Conference on Children, Youth, and Families; and

(2) the terms "child", "youth", and "young individual" means an individual who is less than 21 years of age.

SEC. 988. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary, for each of the fiscal years 1993 and 1994, to carry out this subtitle. Sums appropriated under this subsection shall remain available until the expiration of the 1-year period beginning on the date the Conference is adjourned. New spending authority or authority to enter into contracts as provided in this subtitle shall be effective only to the extent and in such amounts as are provided in advance in appropriations Acts.

(b) RETURN OF UNEXPENDED FUNDS.—Any funds remaining upon the expiration of the 1-year period referred to in subsection (a) shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

TITLE X—EFFECTIVE DATES.

SEC. 1001. EFFECTIVE DATES.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1990.

(b) SPECIAL EFFECTIVE DATES.—(1) The amendment made by section 207(b) shall take effect immediately before October 1, 1990.

(2) Section 646(b) of the Head Start Act, as added by section 115, shall take effect on April 1, 1990.

And the Senate agree to the same.

From the Committee on Education and Labor, for consideration of the House bill, and the Senate amendment and modifications committed to conference:

GUS HAWKINS,
WILLIAM D. FORD,
DALE E. KILDEE,
TOM SAWYER,
JOLENE UNSOELD,
NITA M. LOWEY,
GLENN POSHARD,
BILL GOODLING,
TOM TAUKE,
TOM COLEMAN,
FRED GRANDY,

From the Committee on Energy and Commerce, for consideration of title II of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
PHILIP SHARP,
BILLY TAUZIN,
TERRY L. BRUCE,
E. TOWNS,
DOUG WALGREN,
AL SWIFT,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
JACK FIELDS,

Managers on the Part of the House.

EDWARD M. KENNEDY,
CHRISTOPHER J. DODD,
CLAIBORNE PELL,
TOM HARKIN,
BROCK ADAMS,
BARBARA A. MIKULSKI,
JEFF BINGAMAN,
H.M. METZENBAUM,
PAUL SIMON,
DAN COATS,
ORRIN G. HATCH,
NANCY LANDON KASSEBAUM,
JAMES M. JEFFORDS,
STROM THURMOND,
THAD COCHRAN,
DAVID DURENBERGER,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the

amendment of the Senate to the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

HEAD START ACT

HEAD START SHORT TITLE

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment provides that the short title will be the "Head Start Expansion and Quality Improvement Act of 1990".

Conference agreement.—The House recedes.

HEAD START PURPOSE AND POLICY

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment amends the purpose and policy section to include non-English background children.

Conference agreement.—The House recedes.

RESERVATION OF FUNDS/QUALITY FUNDS

The House bill.—The House bill distributes quality set-aside funds to each Head Start grantee for the first two fiscal years based on the number of children participating in each program. The Secretary determines the intrastate distribution of funds in the outyears. If a Head Start agency has met the wage ceiling, as provided in Section 653, it may use funds intended for wages on other quality improvement activities.

Senate amendment.—The Senate amendment provides that the Secretary determine the distribution of the quality set-aside funds in all fiscal years.

Conference agreement.—The Senate recedes with an amendment providing that in the first two fiscal years for which quality funds are available, the Secretary have discretion over 20 percent of the funds for the quality activities outlined. The remaining funds would be distributed to states and grantees by formula.

TRAINING

The House bill.—The House bill provides that the Secretary shall not reserve any less for training than was provided in 1990.

Senate amendment.—The Senate amendment provides that the Secretary shall not reserve any less for training than 2 percent of each year's total allocation. The Senate amendment includes training among the allowable uses of the quality set-aside.

Conference agreement.—House recede. The Conferees view the training set-aside as a floor and would encourage the Secretary to reserve additional funds if necessary to meet the training objectives of the legislation.

UNUSED FUNDS/CONSISTENCY OF STATE FUNDING

The House bill.—The House bill provides that a Head Start agency may return any unneeded quality improvement funds and that the aggregate amount of the quality grants for each state be consistent with the state's Head Start allocation.

Senate amendment.—The Senate amendment has no comparable provision.

Conference agreement.—The Senate recedes.

PARENT-CHILD CENTERS

The House bill.—The House bill distributes parent-child center funds based on the existing Head Start formula.

Senate amendment.—The Senate amendment gives the Secretary discretion over the distribution of parent-child center funds. The Senate amendment also provides that to the maximum extent practicable, Head Start agencies which provide parent-child services must certify that they will provide continuous services for such children through the age of compulsory school attendance.

Conference agreement.—The agreement provides that funds be distributed by a formula which includes a $200,000 minimum grant per state and a ratable reduction. The Conferees expect the Secretary to fund only one program in those states receiving approximately $200,000. The Conferees strongly support the provisions of continuous intervention strategies to children from birth through compulsory school age. However, the conferees recognize that circumstances such as a change in the permanent residence or in the parent's employment situation may preclude a parent from seeking such services. The Conferees wish to clarify that funding for Head Start agencies to carry out early childhood education intervention programs known as Parent-Child Centers shall not be predicated upon a grantee's ability to provide continuous services to eligible children from birth to compulsory school age. Adds the additional costs necessary for the Parent-Child Centers to the trigger which protects current services.

NON-ENGLISH BACKGROUND CHILDREN

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment adds services for non-English background children to the list of priorities for which funds under the 13 percent reservation are to be used.

Conference agreement.—The House recedes with amendment to strike the reservation language and insert, within the Designation of Head Start Agencies section, a requirement that the Secretary consider the plan of new agencies to meet the needs of non-English background children prior to designation of such agency.

TREATMENT OF MARSHALL ISLANDS

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment includes the Marshall Islands in the Secretary's discretionary fund and makes certain corresponding technical changes.

Conference agreement.—The House recedes.

REPORTING REQUIREMENTS

The House bill.—The House bill requires annual reporting on: (1) the amount of funds received by existing and newly designated Head Start programs; (2) a description of the distribution of Head Start services relative to distribution of eligible children; (3) a description of how funds under 640(a)(2) and 640(a)(3) [quality funds] were distributed; (4) a description of state and local funds used in the Head Start program; (5) cost per child by region; (6) employment status of parents; (7) teacher salaries and educational level; (8) number of parents who also receive benefits under Title IV of Social Security [welfare]; (9) the use and source of non-federal funds; and (10) the use and source of funds to extend programs to full-day, full-year.

The House bill also provides that a comprehensive report shall be submitted to Congress by 1994 containing: the Program Information Report and Head Start Cost Analyses System report; a description of the effect of the 1990 Decennial Census on the allotment of funds; a description of the coordination between Head Start and local elementary schools; a description of the extent to which Head Start families use other social service programs in the community; a description of the negotiations that occur between the Department and applicants; the condition of Head Start facilities; and results of recent studies on Head Start; the results of the quality set-aside on staff and items 1 through 4 above.

The House bill also requires that the Secretary develop guidelines that define criteria to enable Head Start agencies to modify or implement their service delivery models.

Senate amendment.—The Senate amendment requires that the Secretary prepare a report for Congress once every 2 years containing the status of children including the number and types of services being provided to such children. The report shall include information concerning tranportation, facilities, and methods for identifying and locating eligible children in both urban and rural areas, including cost, problems encountered and innovative solutions to such problems; information concerning the distribution of funds including the proportion of funds distributed to newly designated agencies, and the distribution relative to the number of eligible children; state and local funding sources; the cost per child by region; where available and appropriate, a description of the effect of the 1990 Decennial Census on the allotment of funds; information concerning children participating in programs receiving Head Start funding, including family income, racial and ethnic background, gender, disability, and receipt of benefits under Title IV of the Social Security Act [welfare]; information concerning the parents of children participating in programs receiving Head Start funding, including employment status, educational level, educational training received during a child's participation in Head Start, and the level and nature of participation of parents in the program; information concerning staff including salaries, education, training, experience and turnover; a description of services provided to children and parents; the use and source of Head Start funds at the national, regional and local levels; a description of programs funded including local designed or specialized programs; and summaries of recent evaluations and reports;

The Senate amendment requires the Secretary to establish procedures to enable Head Start agencies to develop locally designed or specialized service delivery models to address local community needs.

The Senate amendment also requires the Secretary to conduct, through grants or contracts, a study of various approaches to providing early, continuous and comprehen-

sive intervention to low-income at-risk children from birth to age 3.

Conference agreement.—The House recedes on the biennial report and the early childhood study. The Senate recedes on the comprehensive report. The biennial report includes: (1) the amount of funds received by existing and newly designated Head Start programs; (2) a description of the distribution of Head Start services relative to distribution of eligible children; (3) a description of how funds under 640(a)(2) and 640(a)(3) [quality funds] were distributed; (4) a description of state and local funds used in the Head Start program; (5) the cost per child by region; (6) the level and nature of participation of parents in the Head Start program as volunteers or in other capacities; (7) information concerning Head Start staff, including salaries, education level, training, experience and turnover; (8) information concerning children participating in programs receiving Head Start funding including family income, racial, ethnic background, disability and number of parents who also receive benefits under Title IV of Social Security [welfare]; (9) the use and source of funds to extend programs to full-day, full-year; (10) using data from the evaluations conducted under Section 641—(i) the extent to which programs funded under this subchapter comply with performance standards; and (ii) the type and condition of facilities in which such program are located; (iii) the type of organizations that receive Head Start funds under such programs; and (iv) the number of children served under each program option; (11) the information contained in the documents entitled "Program Information Report" and "Head Start Cost Analysis System" and (12) a description of the types of services provided to children and families though referrals.

The conference agreement provides that a comprehensive report shall be conducted through the office of the Assistant Secretary for Planning and Evaluation and shall be submitted to Congress by 1994 containing: 1) information concerning transportation, facilities, and methods for identifying and locating eligible children in both urban and rural areas, including cost, problems encountered and innovative solutions to such problems; 2) a description of the effect of the 1990 Decennial Census on the allotment of funds; 3) a description of the coordination between Head Start programs and programs serving young children including local educational agencies; 4) a description of the negotiations that occur between the Department and applicants; 5) the results and analysis of recent studies on Head Start; 6) a description of the impact of quality funds reserved under Section 640(a)(3) on staff qualifications, wages and staff turnover including information on the number of teachers and teachers aides who have or are enrolled in the Child Development Credential program; and 7) information concerning the parents of children including employment status, education level, training received, and impact of parent's schedule on their ability to access the program. The Conferees expect that the Department will provide comprehensive data on the number and locations of eligible Indian and Migrant children.

The House recedes on Senate study of various approaches to providing early, continuous, and comprehensive intervention to low-income at-risk children from birth to age 3.

The Conferees expect the Department to meet regularly with the House Committee on Education and Senate Committee on Labor and Labor and Human Resources to inform the committees of the progress being made in preparing each matter required in the comprehensive report.

EVALUATIONS

The House bill.—The House bill amends the "Evaluation" section of the existing law by requiring that a comprehensive review of at least one-third of all Head Start agencies be done annually and that each agency be evaluated at least once every three years.

Senate amendment.—The Senate amendment amends the "Designation of Head Start Agencies" section to require a full review of at least one-third of all Head Start agencies annually and that each agency be evaluated at least once every three years to determine if the agencies are meeting the program and fiscal requirements of the act.

Conference agreement.—The House recedes with an amendment which clarifies that such evaluations alone are not a condition of refunding. In cases of unsatisfactory evaluations, the conferees expect the Secretary to work with the individual grantees to correct deficiencies. The conference agreement also requires the Secretary to include in the review of Head Start grantees an evaluation of the condition of facilities in which Head Start services are being provided. The conferees intend that the reviews required under this section be conducted with monitoring devices which evaluate each of the performance standards in effect under Section 651(b). The conferees also note that the changes to section 641(c)(2) are purely technical and do not effect the operation of that section.

POWERS, DESIGNATION, COORDINATION OF HEAD START AGENCIES

The House bill.—The House bill adds the involvement of parents in appropriate educational activities to the list of requirements that must be met to continue as a Head Start agency and expands the existing coordination provision to include schools that will subsequently serve Head Start children.

The House bill requires the Secretary to consider the effectiveness of the grantee's past performance in providing services similar to Head Start services; the plan of such applicant to provide services; the plan of such applicant to coordinate with other preschool programs and LEAs; the plan of such applicant to involve parents of participating children in the program; the ability of the applicant to carry out these plans; and the plan of such applicant to meet the needs of non-English background children.

Senate amendment.—The Senate amendment expands the coordination provisions of the existing law to include schools and the state agency responsible for administering welfare reform and other programs serving children and their families served by Head Start.

Conference agreement.—The Senate recedes with an amendment to include coordination with the state agency administering the JOBS program under the welfare program.

LONGITUDINAL STUDY

The House bill.—The House bill provides for a twenty year longitudinal study with samples representing the national population and various subpopulations. The study shall include: information on characteristics of the Head Start programs in such study; the children and families participating in the program; the effects of the Head Start program including the effects of more than one year of services; the effects on the parent-child relationship; the long and short-term effects on the health of such children and their families; changes that occur in the community in which such program operates; the school grades, grade retention, motivation, special education placement, secondary school graduation, delinquency, college attendance, welfare participation and employment of such children; and variables that sustain gains as children move through the primary grades.

It also requires the Secretary to periodically report to the House Education and Labor and Senate Labor and Human Resources committees.

Senate amendment.—The Senate amendment provides for a twenty year longitudinal study following the progress of children who (1) have attended programs that are in compliance with Head Start Performance Objectives; (2) who represent specific subpopulations, including children from dysfunctional families; and (3) who have attended Head Start programs that represent the various program options that are located in both urban and rural areas. Subcontracting and the use of small studies by the program participants is authorized.

The study's focus is on the degree to which social, physical, and academic development, including grade retention, motivation to achieve, special education placement, health, secondary school graduation, delinquency, substance abuse, teenage pregnancy, literacy, college attendance, employment and welfare participation of children and the parenting skills, employment, literacy, education level, motivation to achieve, and welfare participation of parents are affected by: (1) the program options; (2) the number and configuration of hours, days and years the child participates in the program; (3) program quality; (4) the level of parental involvement; (5) supportive services; (6) Head Start curriculum; and (7) subsequent schooling and family characteristics and behavior which affects social, physical, and academic development.

Conference agreement.—The House recedes with the following amendments: (1) clarify that the grant or contract recipients must meet the same requirements as the advisory panel; (2) authorize the study for six years with the expectation that subsequent Congresses will reauthorize it to encompass twenty years; (3) clarify that universities are eligible grant and contract recipients; (4) clarify in the Section 115(c) that both children and families are to be studied; (5) clarify the definition of "health" to include long- and short-term health effects; (6) expand the focus to include variables that sustain gains as children move through the primary grades; and (7) require an interim report to the House Education and Labor and Senate Labor and Human Resources Committee by October 1, 1993 on the progress of the study, this interim report may be included in the biennial report required under Section 651(g).

The conferees wish to clarify that the study's design should take into consideration multi-year services, the impact of the program on the parent-child relationship, and how changes in the community may impact on the items being studied (such as a plant closing on the needs of participating families). The Conferees also wish to clarify that the coordination required between the Head Start and Chapter One study does not require a joint effort.

FAMILY DAY CARE

The House bill.—The House bill directs the Secretary to determine within three years whether family day care providers can provide Head Start services effectively and how much services would be designed to ensure high quality and comprehensiveness, and publish the facts relied upon to make such determinations in the Federal Register.

Senate amendment.—The Senate amendment includes a requirement that the Secretary conduct, through grants or contracts, a study of Head Start family day care. The report is to consider the effectiveness of providing Head Start services in a family day care setting and assess the program characteristics that are necessary to ensure that programs are effective.

Conference agreement.—The House recedes with an amendment that the study be submitted to the Congress by October 1, 1993 and that the programs studied meet Head Start performance standards. The study should review both currently funded programs as well as newly funded family day care programs.

STAFF QUALIFICATIONS

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment requires that each Head Start classroom in a center-based program have one teacher who (1) has a CDA credential; (2) a state awarded certificate for preschool teachers which meets or exceeds the requirements of the CDA; (3) an associate, baccalaureate, or advanced degree in early childhood education; (4) a degree in a field related to early childhood education with experience in teaching preschool children and a state awarded certificate to teach in a preschool. The Senate amendment also adds a definition of a Head Start classroom as a group of children supervised and taught by two paid staff members.

Conference agreement.—The House recedes with an amendment which allows a Head Start grantee to request from the Secretary a waiver for an individual who is enrolled in a child development credential associate program and will complete such program within a six month period. A single staff member may not receive more than one such waiver.

COOPERATIVE RESEARCH

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment encourages the Secretary to provide funds for community-based cooperative research efforts to enable Head Start directors to conduct evaluations of their programs with the assistance of qualified researchers not directly involved in the administration of the program or project operation.

Conference agreement.—The House recedes.

COMPARABILITY OF WAGES

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment directs the Secretary to encourage Head Start agencies to provide compensation according to salary scales that are based on training and experience.

Conference agreement.—The House recedes.

HEAD START TRANSITION PROJECTS

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment sets aside, from the annual Head Start appropriation, not less than $20 million each year for Head Start Transition Projects, which would provide for a smooth transition of children from Head Start to kindergarten and enable elementary schools to adopt the Head Start model for supportive services and parental involvement. Head Start agencies and local educational agencies receiving these funds would employ a team of family services coordinators to facilitate communication among low-income families and the schools, help these families obtain needed services, and ensure that there is developmental continuity between early childhood and elementary school programs.

Conference agreement.—The House recedes with an amendment making several changes to the Senate amendment. The first change strikes at the age 5 to 8 provision regarding eligible children and substitutes "grades kindergarten through 3". The agreement also: establishes a minimum grant amount of $200,000; focuses attention on the needs of the individual children without requiring individual education plans; and makes the minimum $20 million reservation of funds from the annual Head Start appropriation subject to trigger designed to ensure that funding this program will not reduce the amount needed to maintain current Head Start service levels.

Section 135(b) of the agreement provides that the Secretary shall award at least one grant to one eligible applicant in each state before the Secretary may award a second grant within any one state. The conferees wish to emphasize that the term "eligible applicant" means that an applicant should be required to satisfy minimum requirements in order to receive a grant, even if it is the only applicant from that state.

Section 136(a)(3) of the conference agreement requires each application for assistance to include a self-assessment of the school district's and Head Start agency's programs to address the range of children's needs. By self-assessment, the managers intend that an applicant shall determine the degree to which its current programs and resources enable it to meet the requirements of this Act, including the provision of comprehensive services and the use of a developmentally appropriate instructional program.

FOLLOW THROUGH

PROVISION OF COMPREHENSIVE SERVICES

House bill.—The House bill has no similar provision.

Senate amendment.—The Senate amendment specifies that comprehensive services may be provided in the Follow Through program, by referral, or through a Head Start Transition project.

Conference agreement.—The House recedes with an amendment specifying that comprehensive services in the Follow Through program also may be provided through a combination of these sources. The conferees wish to emphasize that applicants proposing to provide services by referral remain responsible for ensuring that Follow Through students actually receive the full range of quality services as required by the Act.

MINIMUM GRANT AMOUNT

House bill.—The House bill provides that, when the amount appropriated to carry out this Act exceeds $15 million, the amount of each grant under section 662 shall not be less than $200,000.

Senate amendment.—The Senate amendment has no comparable provision.

Conference agreement.—The Senate recedes.

EFFICIENT ADMINISTRATION

House bill.—The House bill requires applicants to provide for the proper and efficient administration of their programs.

Senate amendment.—The Senate amendment has no comparable provision.

Conference agreement.—The House recedes. This requirement was dropped only because the conferees consider it unnecessary to require what is an inherent responsibility of the administering agency.

REGULAR EVALUATION AND REPORTS

House bill.—The House bill, in two separate paragraphs, requires applicants to provide for regular program evaluation and reports.

Senate amendment.—The Senate amendment, in a single paragraph, requires applicants to provide assurances that regular evaluations and reports will be made to the Secretary.

Conference agreement.—The House recedes.

MANNER OF PROVIDING COMPREHENSIVE SERVICES

House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment requires an applicant to specify the manner in which it will provide comprehensive services.

Conference agreement.—House recedes.

COORDINATION WITH HEAD START

House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment requires applicants to demonstrate that their Follow Through activities have been designed to coordinate with, and build upon, those activities provided to participants in local Head Start and other quality preschool programs.

Conference agreement.—The House recedes. The conferees note that, in general, all of the model Follow Through approaches build upon the gains and activities that students received in preschool. Nevertheless, this evidence alone in an application would not be sufficient. It is important that the described coordination activities be those mutually agreed upon by the Follow Through program, the Head Start program, and the parents.

TECHNICAL ASSISTANCE

House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment provides that, in the case of a recipient of technical assistance which received such assistance prior to the date of enactment of this part, the Secretary may limit the provision of technical assistance relative to a particular Follow Through approach to 3 years.

Conference agreement.—House recedes. The conferees wish to emphasize that the five and three year limitations on the receipt of technical assitance apply to "a particular Follow Through approach." Therefore, if a local program decides to adopt a different approach, it would be eligible for such assistance for a new five year period.

NATIONAL CLEARINGHOUSE

House bill.—The House bill provides that, when the amount appropriated to carry out the Act reaches $30 million, the Secretary shall by grant establish a national clearing-

house on Follow Through programs and that the amount of such grant shall not be less than $300,000 per year.

Senate amendment.—The Senate amendment has no comparable provision.

Conference agreement.—Senate recedes.

INFORMATION DISSEMINATION

House bill.—The House bill provides for the dissemination of information related to Follow Through approaches.

Senate amendment.—The Senate amendment provides for the dissemination of information related to programs and activities funded under this part.

Conference agreement.—House recedes. It should be noted that "programs and activities under this part" specifically refers to Follow Through research and evaluation under sections 664 and 666, the model approaches in regard to which technical assistance and training is provided under section 664A, and resource and expansion under section 664B. The conferees intend that the information disseminated should identify and distinguish the various model approaches described, researched, and/or evaluated.

AUTHORIZATION OF APPROPRIATIONS

House bill.—The House bill authorizes appropriations to carry out the Follow Through Act as follows:

Fiscal year:	
1990	$10,000,000
1991	20,000,000
1992	30,000,000
1993	40,000,000
1994	50,000,000

Senate amendment.—The Senate amendment authorizes appropriations to carry out the Follow Through Act as follows: $20 million for FY 1991 and such sums as may be necessary for FYs 1992, 1993, and 1994.

Additionally, the Senate amendment provides that, of the 30 percent of the annual appropriation available for part II, one-third of such amount shall be made available to develop model Follow Through approaches.

Conference agreement.—House recedes with an amendment striking the Senate language requiring that one-third of the part II funding be spent on the development of Follow Through approaches. It is the intent of the conferees that the Secretary, after satisfying the part II requirements related to technical assistance and training, shall have discretion in committing remaining part II funds toward research. While Follow Through models should be evaluated on their merits as opposed to their age, and may be updated as needed, the Department may deem it prudent to support the development of new Follow Through model approaches as well.

COORDINATION WITH HEAD START TRANSITION PROJECT ACT

House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment requires the Secretary of Education to consult with the Secretary of Health and Human Services in the coordination of this Act with the Head Start Transition Project Act to enable local educational agencies to submit a single application for funding under both such programs. The Secretary of Education is also directed, to the extent practicable, to coordinate the issuance of regulations governing such programs.

Conference agreement.—House recedes.

STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT

WAIVER PROVISION

The House bill.—The House bill provides that a state may apply to the Secretary for a waiver of the provision which divides the funding within each state 60 percent for school-based programs and 40 percent to resource and referral programs.

Senate amendment.—The Senate amendment has no similar provision.

Conference agreement.—The Senate recedes.

OPERATION COSTS

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment permits Dependent Care funds to be used for operational costs.

Conference agreement.—The House recedes.

REPORTING REQUIREMENT

The House bill.—The House bill has no comparable provision.

Senate amendment.—The Senate amendment adds new reporting requirements requiring states to report on the number and characteristics of children served in before and after school programs, salary levels of staff in such child care programs, the number of clients for resource and referral programs, and the characteristics of clients served by resource and referral programs.

Conference agreement.—The House recedes with technical amendments.

COMMUNITY SERVICES BLOCK GRANT

ELIGIBLE ENTITIES

House bill.—The House bill amends the definition of eligible entity by making it possible for an organization that received a grant in a waiver state in 1984 (thereby making it an "eligible entity") to decline from serving as an eligible entity, thereby passing such designation and the responsibility for providing services on to the local community action agency.

Senate amendment.—The Senate amendment has no similar provision.

Conference Agreement.—The House recedes.

STATE ALLOCATIONS

House bill.—The House bill provides that the minimum state allocation will increase to one-half of one percent when the appropriation reaches $345M. It stipulates that the increase shall not apply if allocations based on the current minimum allocation would result in: 1) a state receiving less than its FY '90 allocation; or 2) a state receiving an allocation greater than 140 percent of its previous year's allocation.

Senate amendment.—The Senate amendment sets the trigger for the increase in the minimum state allocation at $360 million. It provides that in order for the increase to occur, each state must receive no less than its allocation for the preceding fiscal year. Notwithstanding the increase in the minimum allocation, no state can receive an allocation greater than 140 percent of its previous fiscal year's allocation.

Conference Agreement.—The conferees agree to an amendment setting the trigger for increasing the minimum state allocation at $345 million. The amendment stipulates that the each state must receive no less than its 1990 allocation and that adjustments shall be made to allocations to ensure that no state receives more than 140 percent of its previous year's allocation.

APPLICATIONS AND REQUIREMENTS

House bill.—The House bill states that no community action agency that received funding in the previous fiscal year will have its funding substantially reduced unless cause for the reduction is determined through hearings on the record before the county, and state, and review by the Secretary. The section also requires that states which received a waiver under Public Law 98-139 not give funds to any organization unless such organization allows low income individuals an opportunity to comment on the uses of funds before their expenditure.

Senate amendment.—The Senate amendment has no similar provision.

Conference Agreement.—The Conferees agree to an amendment extending the current protections given to community action agencies and migrant and seasonal farmworker organizations concerning termination of funding to reductions in funding, and making conforming technical changes. Such organization shall not have its funding reduced below the proportional share of the funding it received in the previous fiscal year unless such reduction is the result of a statewide redistribution of funds designed to respond to specific circumstances, or is the result of noncompliance. It is the intent of the conferees that this provision apply to community action agencies and migrant and seasonal farmworker organizations which receive funds directly or indirectly under the Act. Other entities which may receive funds from community action agencies or migrant and seasonal farmworker organizations are not covered by the provisions of this subsection should their funding be reduced or terminated. The amendment also clarifies that low income people in all states must be given an opportunity to comment on the expenditure of CSBG funds.

ACTIVITIES FOR LOW-INCOME YOUTH

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment strikes the works "national or regional" from the purpose of the program for low-income youth.

Conference Agreement.—The Senate recedes.

House bill.—The House bill states that instruction in a variety of sports, or another high quality recreational activity, shall be provided by coaches and teachers from institutions of higher education and secondary schools.

Senate amendment.—The Senate amendment states that instruction in a variety of sports, that shall include swimming, and that may include dance, shall be provided by coaches and teachers from institutions of higher education, and elementary and secondary schools.

Conference Agreement.—The Conferees have agreed to combine the provisions to read: "in a variety of sports, that shall include swimming, and may include dance, or another high quality recreational activity, provided by coaches and teachers from institutions of higher education, and from elementary and secondary schools . . .".

ANNUAL REPORT

House bill.—The House bill requires that the annual report on the CSBG program be transmitted to Congress no later than 60 days after the end of the fiscal year for which the report was prepared.

Senate amendment.—The Senate amendment requires that the annual report on the CSBG program be transmitted to Congress

no later than 180 days after the end of the fiscal year.

Conference Agreement.—The House recedes.

COMMUNITY FOOD AND NUTRITION

AUTHORIZATION OF APPROPRIATIONS

House bill.—The House bill authorizes the following appropriations for Community Food and Nutrition: $10M in 1991; $15M in 1992; $18M in 1993; and $20M in 1994.

Senate amendment.—The Senate amendment authorizes the following appropriations for Community Food and Nutrition: $10M in 1991; $15M in 1992; $20M in 1993; and $25M in 1994.

Conference Agreement.—The House recedes to the Senate authorization levels for fiscal years 1993 and 1994.

COMMUNITY FOOD AND NUTRITION PROGRAM

House bill.—The House bill maintains the current distribution formula (60% to states, 40% to competitive grants for local and statewide initiatives) for the first $10M appropriated to Community Food and Nutrition. The bill requires that appropriations in excess of $10M be divided 50/50 between the states and competitive grants categories. Within the competitive grant category: not less than $50,000 and not more than $250,000 shall be used to make grants for technical and training assistance focusing on the nutrition needs common to several regions of the U.S.; and not less than $100,000 and not more then $500,000 shall be used for research and demonstration project grants relevant to alleviating hunger in the U.S.

Senate amendment.—The Senate amendment maintains the current distribution formula for the first $5M appropriated to Community Food and Nutrition Appropriations in excess of $5M will be distributed as follows: 40% to states; 40% to competitive grants for local and statewide initiatives; and 20% to competitive grants for nationwide programs including programs benefiting Native Americans or migrant farmworkers.

The section also revises the purpose of the program to include providing grants for "national" programs, establishes a rolling small state minimum once the appropriation reaches $7M, and requires an annual report on the program.

Conference Agreement.—The House recedes with an amendment which raises the trigger for changing the allocation formula, from $5 million to $6 million, and sets the maximum grant size for those grants awarded under the twenty percent set-aside for nationwide programs including those benefiting Native Americans and migrant farmworkers at $300,000.

CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985

ELIGIBILITY LEVEL

The House bill.—The House bill raises the eligibility level to 125 percent of the lower living standard and defines lower living standard.

Senate amendment.—The Senate amendment raises the eligibility level to amount that does not exceed 150 percent of the poverty level.

Conference agreement—The Senate recedes with an amendment to increase the eligibility level to 130 percent of the lower living standard.

TRAINING

The House bill.—The House bill permits states to use up to 20 percent of its state allotment for training associated with the CDA.

Senate amendment.—The Senate amendment permits states to use up to 50 percent of its state allotment for training associated with the CDA.

Conference agreement—The Senate recedes with an amendment to increase the percentage of funds permitted for training to 35 percent.

DEMONSTRATION PARTNERSHIP PROGRAM

House bill.—The House bill authorizes $10M for the Demonstration Partnership Program (DPP) in 1991 and such sums through 1994.

Senate amendment.—The Senate amendment authorizes $10M for the Demonstration Partnership Program (DPP) in 1991 and such sums through 1994, and amends DPP to include an additional $10M authorization of appropriations for Programs Directed To Special Populations.

Conference agreement—The House recedes with an amendment expanding the age range for eligible participants in Programs Directed To Special Populations to include 14 through 25 year olds and expanding the range of services to include mentoring, career education, and other services. The conferees encourage the recipients of funds under the Programs Directed To Special Populations to coordinate (when feasible) their efforts with other similar programs such as the Youth Opportunities Unlimited (YOU) program operated by under the Department of Labor.

THE LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

FORWARD FUNDING

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment provides for the forward funding of LIHEAP by changing the current program year from October 1 to July 1 beginning in fiscal 1992. Under the provision, LIHEAP funding would be made available from July to June, rather than the normal October to September cycle.

Conference agreement—The Agreement adopts a modified version of the Senate provision for forward funding to provide for flexibility in its implementation. In order to ensure adequate time to procure the additional budget authority necessary for the provision to be implemented, the Agreement makes the forward funding applicable beginning in fiscal 1993. The conferees encourage the Appropriations Committee to implement the provision at the earliest possible opportunity.

REAUTHORIZATION

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment authorizes the following appropriations for LIHEAP:

1991	$2,150,000
1992	2,230,000
1993	such sums
1994	such sums

Conference agreement—The House recedes. In reauthorizing LIHEAP the conferees wish to clarify that in those instances where the Secretary has deemed it necessary to withhold funds from a grantee, no additional hearing will be required should one fiscal year end and another begin before the process outlined under Sec. 2608 of the law has been completed.

Also, the conferees would like to clarify that the Single Audit Act applies to LIHEAP. The current discrepancy between the LIHEAP statute and the Single Audit Act has caused much confusion among LIHEAP grantees. The conferees hope that clarifying that the Single Audit Act applies will alleviate this confusion and reduce audit-related concerns.

STATE ALLOTMENTS

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment allows states to continue to transfer up to 10 percent of LIHEAP funds to other social service programs for fiscal years 1991, 1992, and 1993 and eliminates the authority after FY 1993.

Conference agreement—The House recedes. Understanding the problems the elimination of the transfer out authority will pose for many states, the conferees are providing those states which transfer a portion of their LIHEAP funds into other block grant programs three years to find additional sources of funding for those programs. The conferees direct the Secretary to make every effort to inform states that the authority to transfer funds ends after 1993 and that states are to transfer no greater percent of funds than in FY 1990. The Secretary is to monitor the efforts of those states to prepare for the complete elimination of the transfer-out provision and to periodically inform the Congress of state efforts to identify or provide resources to replace transferred funds.

APPLICATION

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment adds "timely and meaningful" to the requirement that states provide for public participation in the development of state plans. Beginning in FY 1992, those states that are operating LIHEAP primarily through their public welfare departments must also utilize organizations such as community action agencies, area agencies on aging and community-based nonprofits to perform outreach and intake functions for crisis assistance and heating and cooling assistance. States that do not use community-based organizations for outreach and intake as of September 30, 1991, must give preference in the awarding of grants to those agencies operating the low income Weatherization program or the Crisis Assistance Programs.

Conference agreement—The House recedes. The conferees believe that intake or application processing are best provided by experienced service providers with approved federal and state grant management systems. If states are already offering alternate intake sites in some areas, this section does not require them to modify their system of program management in those areas.

The conferees recognize the potential for significantly increased administrative expenses for some states to comply with the new alternative site requirements, and intends to monitor possible effects on the program and recipients.

It is the intent of the conferees that the Secretary utilize funds provided under Sec. 2609A (Technical Assistance and Training) to provide assistance to those states which, at the time of enactment of this legislation, only provide outreach and intake services for LIHEAP through their Departments of Public Welfare. The conferees do not expect this assistance to extend past fiscal year 1992, when the new provisions regarding outreach and intake take effect. The confer-

ees understand several of these states are already using the entire 10 percent of their LIHEAP funds to administer this program and believe the Department should assist such states in making the transition required under the law.

AUTHORITY TO USE FUNDS FOR WEATHERIZATION

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment permits states to apply for a waiver to use up to 25 percent of their allocation for low-cost residential home repair or energy related home repair for low income persons. States applying for the waiver must demonstrate that (i) they will serve the same number of homes as in the previous year and that the aggregate number of households served will not be less than the previous year, or (ii) the state has good cause for failing to satisfy the above requirements.

Conference agreement—The House recedes with an amendment that clarifies the intent that the public be allowed to submit comments on any waiver request and that the state must demonstrate good cause in cases where it fails to provide the same level of LIHEAP benefits as in the previous year. The conferees intend that the public comment procedure not require hearings and that the process will be carried out in a timely and expeditious manner.

AUTHORITY TO CARRY FUNDS OVER

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment reduces from 15 percent to 10 percent the amount of funds a state may carry over from one year to the next.

Conference agreement—The House recedes.

INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL RESOURCES

House bill.—The House bill does not have a comparable provision.

Senate amendment.—The Senate amendment authorizes $25 million for FY 1992 and $50 million for FY 1993 and FY 1994 for distribution by the Secretary to states based upon their success in leveraging additional non-federal resources for LIHEAP. Funds will be awarded by formula taking into account the level of a state's leveraging effort as a percentage of the leveraging efforts of all states.

House bill.—The House bill does not have a comparable provision.

Conference agreement—The House recedes with an amendment which expands the definition of leveraged resources. The conferees intend that the Secretary develop a formula which apportions the supplementary funds under subsection (a) based upon the proportion of a state's leveraged funds, as quantified under subsection (d), to the total amount of leveraged funds of all states. Thus, states that leverage a greater percentage of their regular allocation relative to other states will receive a proportionally greater increase in their regular allocation.

COMPREHENSIVE CHILD DEVELOPMENT CENTERS ACT

REAUTHORIZATION

House bill.—No comparable provision.

Senate amendment.—Authorizes $50 million for the Comprehensive Child Development Centers Act in each of the following fiscal years 1991, 1992, 1993 and 1994.

Conference agreement—House recedes.

COORDINATED SERVICES FOR CHILDREN, YOUTH, AND FAMILIES

TITLES

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment cites this title as the "Coordinated Services of Young Americans Act of 1990" and subtitle A of this title as the "Young Americans Act of 1990".

Conference agreement.—The House recedes with an amendment which cites the title as the "Claude Pepper Young Americans Act of 1990".

FINDINGS

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment contains findings which provide the framework for a cohesive national policy regarding children, youth, and families.

Conference agreement.—The House recedes.

ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment establishes, within the Department of Health and Human Services, an Administration on Children, Youth, and Families (ACYF) to be headed by a Commissioner on Children, Youth, and Families. It also contains provisions relative to the functions and duties of the Commissioner as well as to federal agency consultations. Finally, the Senate amendment authorizes appropriations in the amount of $1 million for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 through 1994.

Conference agreement.—The House recedes with an amendment which makes the language relative to the duties of the Commissioner permissive rather than directive, and provides that the Commissioner's annual report shall be submitted to the House Committee on Education and Labor and to the Senate Committee on Labor and Human Resources instead of to the appropriate committees of Congress. Additionally, the agreement strikes the authorization of appropriations to carry out the duties of the Commissioner and substitutes language which provides that, of the amount appropriated to carry out this section, the Commissioner may reserve up to 10 percent for salaries and expenses of ACYF related to the administration of this Act.

FEDERAL COUNCIL

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment establishes an 18 member Federal Council on Children, Youth, and Families to review and evaluate federal policies and programs affecting young individuals and to report annually to the President, Secretary, Commissioner and the Congress regarding their findings and recommendations. The amendment requires the Council to make recommendations regarding methods to reduce duplication and enhance coordination of services, and provides that the Council terminates after September 30, 1995. It authorizes appropriations in the amount of $200,000 for each of the fiscal years 1991 through 1994.

Conference agreement.—The House recedes.

GRANTS FOR STATE AND COMMUNITY PROGRAMS

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment provides that it is the purpose of this chapter to encourage and assist state and local agencies to coordinate resources, reduce barriers to services, and develop new capacities to ensure that state and community services designed to serve children, youth, and families are more effective and comprehensive. To accomplish this, the Senate amendment authorizes three separate and distinct programs of grants to states to—(i) improve state planning and coordination of services, (ii) expand supportive services, and (iii) establish and operate local family resource and support programs. While each of these authorized programs has its own requirements and authorization of appropriations, the Senate amendment provides that a state may apply for funding for all, a combination, or any one of these programs.

Conference agreement.—The House recedes with an amendment which consolidates the authorizations of appropriations and the making of formula grants for state planning and supportive services. Under this consolidation, appropriations are authorized in the amount of $30 million for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 through 1994. Additionally, the agreement eliminates the individual federal/state match requirements for state planning, supportive services, and family resource and support programs, and instead, provides that the federal share for all of these programs is 80 percent and that the funds for the 20 percent state match must be from nonfederal sources.

The conferees want to strongly emphasize that state planning and coordination of policies and programs is of paramount importance. Thus, the conference agreement provides that, while a state may apply solely for funding for state planning and coordination or for family resource and support, it may not apply for supportive services alone unless it meets all of the state planning requirements (as determined by the Commissioner). This is designed to indicate the high priority which the Congress places on increased state coordination of services.

State grants for family resources and support programs are included in this chapter because they are designed to help build networks of family resources and support programs within states, and optimally, decisions regarding the funding of such grants should be made with the knowledge of how they will fit into a coordinated state system of services for children, youth, and families.

Family resource and support (FRS) programs are an important new form of community assistance for families. Significantly, they are designed to assist families before crises arise and without imposing categorical restrictions on eligibility. FRS programs, which are found in numerous communities across the country, seek to:

(1) Improve parent's skills and capacities to support, guide, and nurture their children;

(2) Assist families in using formal and informal community resources; and

(3) Create a supportive network designed to enhance parents' childrearing capabilities and to compensate for the increasing isolation and vulnerability of many families.

While specific programs are adapted to local needs, all FRS programs differ from more traditional social services in that they—(i) promote voluntary parental participation and ownership in the program, (ii) provide a comprehensive, development approach to services rather than one based

upon an identified problem or crisis that in turn defines the scope of the services for which the family may be eligible, and (iii) enable parents to help themselves. FRS programs build on family strengths and connect parents with other parents in their communities. Many are neighborhood drop-in centers, such as Maryland's family support centers in which a wide range of social, health, educational, and employment-related activities occur. Others emphasize school-based activities.

In order to ensure that programs are comprehensive and retain their community orientation, the conferees intend that funding priority be given to states which—(i) demonstrate a policy, program, and financial commitment to FRS programs, (ii) link and coordinate FRS programs to other health, education, and social service initiatives, and (iii) involve parents and local FRS providers in the design of the statewide network.

Further, the conferees intend that states not use these funds to support traditional, crisis-oriented services which assist families only after problems occur. Instead, they should establish and support FRS programs which—(i) are available to a wide range of parents in a community, (ii) evidence substantial parental involvement in their design and governance, (iii) reflect a philosophy of enabling families to help themselves, and (iv) clearly have as their goal building parenting capacities as well as promoting the full and healthy development of children.

Grants under the Claude Pepper Young Americans Act of 1990 are not intended to fund projects or activities which provide family planning and reproductive health services. Such services, with appropriate safeguards and limitations, are funded through various federal and state health programs, and it is not the conferees intent to duplicate such funding through this grant program.

NATIONAL CLEARINGHOUSE

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment provides that this chapter may be cited as the "Family Resource Act." It directs the Commissioner to establish a National Center on Family Resource and Support Programs which shall serve as a national information and data clearinghouse and as a source of training, technical assistance, and material development for family resource and support programs. The amendment also directs the Commissioner to award grants or contracts to conduct evaluations and related activities of family resource and support programs. Finally, the amendment authorizes to be appropriated $3 million for fiscal year 1991 ($2.3 million for the establishment and operation of the National Center and $700,000 for evaluation) and such sums as may be necessary for fiscal years 1992 through 1994.

Conference agreement.—The House recedes. The conferees intend that the National Center maintain close associations with local FRS programs and ensure that materials, training, and technical assistance reflect the experience and needs of practitioners.

With regard to evaluation of FRS programs, the Commissioner should consider assessing state networks as well as local programs.

Together, the FRS grant program, the National Center, and the evaluations of these programs are intended to promote a strong base of programs at the local level, clear policy directly for family support at the state level, and an ongoing capability to indentify cost-effective family support strategies on a national basis.

WHITE HOUSE CONFERENCE

House bill.—The House bill has no comparable provisions.

Senate amendment.—The Senate amendment directs the President to convene a White House Conference on Young Americans in 1992 and authorizes appropriations in the amount of such sums as may be necessary for fiscal year 1992 and 1993.

Conference agreement.—The House recedes with an amendment changing the title heading to read "TITLE IV—WHITE HOUSE CONFERENCE ON CHILDREN, YOUTH, AND FAMILIES" and the short title to the "1993 White House Conference on Children, Youth, and Families". Additionally, the conference agreement adds provisions describing the purpose of the conference and requires that Conference delegates be selected without regard to political affiliation or pass partisan activity.

The conferees changed the short title to emphasize that assistance for children and youth should be approached in the context of their families where possible.

The Conference was postponed to 1993 in order to give the Commissioner and the Secretary an opportunity to develop Administration support, as well as a budget request, for the Conference.

Finally, the conference agreement also authorizes appropriations in the amount of such sums as may be necessary, but does so for fiscal years 1993 and 1994.

HEALTH AND SOCIAL SERVICES FOR STUDENTS ACT OF 1990

House bill.—The House bill has no similar provision.

Senate amendment.—Creates a new program authorizing planning and operating grants to local educational agencies for programs which provide supportive health, mental health, and social services to eligible students and their families at the school site.

Conference agreement.—The Senate recedes.

From the Committee on Education and Labor, for consideration of the House bill, and the Senate amendment and modifications committed to conference:

GUS HAWKINS,
WILLIAM D. FORD,
DALE E. KILDEE,
TOM SAWYER,
JOLENE UNSOELD,
NITA M. LOWEY,
GLENN POSHARD,
BILL GOODLING,
TOM TAUKE,
TOM COLEMAN,
FRED GRANDY,

From the Committee on Energy and Commerce, for consideration of title II of the Senate amendment, and modifications committed to conference

JOHN D. DINGELL,
PHILIP SHARP,
BILLY TAUZIN
TERRY L. BRUCE,
E. TOWNS,
DOUG WALGREN,
SAL SWIFT,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
JACK FIELDS,

Manager on the Part of the House.

EDWARD M. KENNEDY,
CHRISTOPHER J. DODD,
CLAIBORNE PELL,
TOM HARKIN,
BROCK ADAMS,
BARBARA A. MIKULSKI,
JEFF BINGAMAN,
H.M. METZENBAUM,
PAUL SIMON,
DAN COATS,
ORRIN G. HATCH,
NANCY LANDON KASSEBAUM,
JAMES M. JEFFORDS,
STROM THURMOND,
THAD COCHRAN,
DAVID DURENBERGER,

Managers on the Part of the Senate.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 435. An Act to amend the Appalachian Regional Development Act of 1965 to include Columbiana County, Ohio, as part of the Appalachian region;

H.R. 971. An act to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practices in the provision of operator services, and for other purposes;

H.R. 1677. An act to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes; and

H.R. 2809. An act to provide for the conveyance of certain lands to the State of California, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3155. An act to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and a joint resolution of the House of the following title:

On October 4, 1990:

H.R. 3657. An act to amend the Securities Exchange Act of 1934 to strengthen regulatory oversight of the United States securities markets, improve supervision of financial market participants, and improve the safety and efficiency of market mechanisms, and for other purposes;

H.R. 5641. An act to amend title 5, United States Code, with respect to retirement of members of the Capitol Police;

H.R. 5643. An act to grant a temporary extension on the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to

private-sector positions while participating in an executive exchange program; and for other purposes; and

H.J. Res. 482. Joint resolution designating March 1991 as "Irish-American Heritage Month."

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 28 minutes p.m.) under its previous order, the House adjourned until tomorrow, Saturday, October 6, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4009. A letter from the Comptroller General, transmitting a report on the status of budget authority that was proposed for rescission by the President in his seventh special impoundment message for fiscal year 1990, dated June 29, 1990; to the Committee on Appropriations.

4010. A letter from the Administrator, Energy Information Administration, transmitting the second quarter 1990 report on status of U.S. coal imports, pursuant to 42 U.S.C. 7277(a); to the Committee on Energy and Commerce.

4011. A letter from the Secretary, Department of Health and Human Services, transmitting the 1990 annual report on the Indian Health Service [IHS] health facilities construction priority system, pursuant to Public Law 100-713, section 301 (102 Stat. 4813); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

4012. A letter from the Comptroller General, General Accounting Office, transmitting a report on certification of verification of certain expenses of the President and Vice President during fiscal year 1988 and the period from October 1, 1988, to January 20, 1989, pursuant to 3 U.S.C. 105(d), 106(b); jointly, to the Committees on Government Operations and Post Office and Civil Service.

4013. A letter from the Comptroller General, General Accounting Office, transmitting a report on the financial audit of the Civic Achievement Award Program for fiscal years 1989 and 1988, pursuant to 2 U.S.C. 1003; jointly, to the Committees on House Administration and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5679. A bill to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act; with an amendment (Rept. 101-803). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5702. A bill to amend the Public Health Service Act to provide for an improvement in the health of members of minority groups, and for other purposes; with amendments (Rept. 101-804). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 5749. A bill to amend the Act entitled "An Act to incorporate the American University", approved February 24, 1893, to clarify the relationship between the Board of Trustees of the American University and the General Board of Higher Education and Ministry of the United Methodist Church (Rept. 101-805). Referred to the House Calendar.

Mr. DELLUMS: Committee on the District of Columbia. H.R. 4257. A bill to create a supreme court for the District of Columbia, and for other purposes; with amendments (Rept. 101-806). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 495. Resolution providing for the consideration of H.J. Res. 660 a joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes (Rept. 101-807). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3095. A bill to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes; with an amendment (Rept. 101-808). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 5708. A bill to authorize acquisition of certain real property for the Library of Congress, and for other purposes (Rept. 101-809). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 4463. A bill to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes (Rept. 101-810, Pt. 1). Ordered to be printed.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 5419. A bill to designate the Federal Building at 88 West 100 North in Provo, Utah, as the "J. Will Robinson Federal Building"; with an amendment (Rept. 101-811). Referred to the House Calendar.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 5595. A bill, to redesignate the Federal building located at 1 Bowling Green in New York, New York, as the "Alexander Hamilton United States Custom House" (Rept. 101-812). Referred to the House Calendar.

Mr. CONYERS: Committee on Government Operations. Report on consumer cost of continued State motor carrier regulation (Rept. 101-813). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 4888. A bill to improve navigational safety and to reduce the hazards to navigation resulting from vessel collisions with pipelines in the marine environment, and for other purposes; with an amendment (Rept. 101-814, Pt. 1). Ordered to be printed.

Mrs. BOGGS: Commission on the Bicentenary of the U.S. House of Representatives. Final Report of the Commission on the Bicentenary of the U.S. House of Representatives 1990 (Rept. 101-815). Referred to the House Calendar.

Mr. HAWKINS: Committee of conference. Conference report on H.R. 4151 (Rept. 101-816). Ordered to be printed.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 3977. The amendment recommended by the Committee on Merchant Marine and Fisheries referred to the Committee on Interior and Insular Affairs for a period ending not later than October 6, 1990, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(l), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RICHARDSON:

H.R. 5796. A bill to conduct certain studies in the State of New Mexico; to the Committee on Interior and Insular Affairs.

By Mr. GILMAN:

H.R. 5797. A bill to regulate commerce and prohibit unfair or deceptive acts or practices in commerce, and for other purposes; jointly, to the Committee on Energy and Commerce and the Judiciary.

By Mr. HERTEL:

H.R. 5798. A bill to amend the Export Administration Act of 1979 to prohibit the export of refined petroleum products during a period of war or hostilities between the United States and any other country; to the Committee on Foreign Affairs.

By Mr. McDADE:

H.R. 5799. A bill to establish an Office of Youth Entrepreneurship in the Small Business Administration, and for other purposes; to the Committee on Small Business.

By Mr. SENSENBRENNER (for himself, Mr. STARK, Mr. BLILEY, Mr. MADIGAN, Mr. GILMAN, Mr. BEREUTER, and Mr. FROST):

H.R. 5800. A bill to amend title IX of the Civil Rights Act of 1968 to increase the penalties for violating the fair housing provisions of the act, and for other purposes; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H.R. 5801. A bill to establish the Harriet Taylor Upton National Historic Site in Warren, OH; to the Committee on Interior and Insular Affairs.

By Mr. WHITTEN:

H.J. Res. 664. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes; to the Committee on Appropriations.

By Mr. FALEOMAVAEGA (for himself, Mr. SHUMWAY, Mr. FLAKE, and Mr. BLAZ):

H. Con. Res. 380. Concurrent resolution expressing the sense of the Congress that the people of the Province of Punjab in India should be given the opportunity to determine its political status; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 98: Mr. EDWARDS of California.
H.R. 201: Mr. FRANK, Mr. MRAZEK, Mr. HERTEL, and Mr. JONTZ.
H.R. 222: Mr. PAYNE of Virginia.
H.R. 690: Mr. HARRIS.
H.R. 2025: Mr. MINETA and Mr. SHAYS.
H.R. 2531: Mr. DURBIN and Mr. WILSON.
H.R. 2902: Mr. DEWINE.
H.R. 2975: Mr. BROOKS.
H.R. 3037: Mr. GOSS.
H.R. 3243: Mr. MCCLOSKEY and Mr. REGULA.
H.R. 3283: Ms. PELOSI.
H.R. 3885: Mr. EMERSON.
H.R. 3936: Mr. OWENS of Utah, Mr. MCDADE, Mr. HUBBARD, Mr. ROBINSON, and Mr. SMITH of Florida.
H.R. 4181: Mr. DICKINSON, Mr. ROWLAND of Georgia, Mr. HATCHER, and Mr. ESPY.
H.R. 4258: Mr. YOUNG of Florida.
H.R. 4670: Mr. DELLUMS.
H.R. 4756: Mr. CLEMENT, Mr. HAMILTON, Mr. SISISKY, Mr. ROBINSON, Mr. OBERSTAR, Mr. EVANS, Mr. PAYNE of Virginia, Mr. PETRI, Mr. CARPER, Mr. ROGERS, Ms. LONG, Mr. SUNDQUIST, Mr. CLINGER, Mr. SMITH of New Hampshire, Mr. VOLKMER, Mr. BOSCO, Mr. EMERSON, Mr. PERKINS, Mr. DAVIS, and Mr. HILER.
H.R. 4993: Mr. RITTER, Mr. MADIGAN, and Mr. MACHTLEY.
H.R. 5028: Mr. MINETA.
H.R. 5097: Mr. DURBIN.
H.R. 5142: Mr. WALGREN.
H.R. 5145: Mr. CLINGER.
H.R. 5189: Mr. MCCRERY.
H.R. 5202: Mr. DIXON.
H.R. 5351: Mr. HEFLEY.
H.R. 5361: Mr. ROTH.
H.R. 5367: Mr. SOLARZ.
H.R. 5392: Mr. MATSUI.
H.R. 5393: Mr. MATSUI.
H.R. 5404: Mr. SARPALIUS, Mr. WEBER, Mr. STALLINGS, and Mr. LANCASTER.
H.R. 5490: Mr. VENTO, Mr. DIXON, and Mr. LEWIS of California.
H.R. 5585: Mr. MILLER of Washington and Mr. EMERSON.
H.R. 5603: Mr. STARK.
H.R. 5616: Mr. HERTEL.
H.R. 5652: Mr. NOWAK, Mr. MANTON, Mr. BURTON of Indiana, Mr. RAHALL, and Mr. SISISKY.
H.R. 5666: Mr. EVANS, Mr. FISH, Mr. FRANK, Mr. FROST, Mr. SMITH of Florida, and Mr. WEISS.
H.R. 5695: Mr. HAWKINS, Mr. MARTINEZ, Mr. UDALL, Mr. DEFAZIO, Mr. OWENS of Utah, Mr. FALEOMAVAEGA, Mr. MARKEY, Mr. MURPHY, Mr. STARK, Mr. MATSUI, Mr. MCDERMOTT, Mrs. BOXER, Mr. LANTOS, Mr. PANETTA, Mr. BEILENSON, and Mr. ROYBAL.
H.R. 5723: Mr. FASCELL, Mr. KOLTER, Mr. TRAFICANT, Mr. ROE, Mr. LIPINSKI, and Mr. OBERSTAR.
H.R. 5758: Mr. JOHNSON of South Dakota, Mr. WALGREN, and Mr. KOLTER.
H.R. 5766: Mr. HORTON, Mr. LIPINSKI, Mr. JONTZ, Mr. MCNULTY, Mr. ROHRABACHER, Mr. WHITTAKER, Mr. RANGEL, Mr. SKEEN, Mr. GUARINI, Mr. MILLER of Washington, Mr. HYDE, Mr. PAXON, and Ms. ROS-LEHTINEN.
H.J. Res. 492: Mr. HUCKABY, Mr. SISISKY, Mrs. BYRON, Mr. BATEMAN, Mrs. LLOYD, Mr. TAUZIN, Mr. ORTIZ, Mr. FASCELL, and Mr. SYNAR.
H.J. Res. 518: Mr. MCDADE, Mrs. UNSOELD, Mr. CHAPMAN, and Mr. DEFAZIO.
H.J. Res. 543: Mrs. SMITH of Nebraska, Mr. BERMAN, and Mr. BARTON of Texas.
H.J. Res. 566: Mr. WOLPE, Mr. PERKINS, Mr. HOAGLAND, Mr. MADIGAN, Mr. PRICE, Mrs. COLLINS, Mr. RITTER, Mr. LAGOMARSINO, Mr. HOCHBRUECKNER, Mr. VENTO, and Mr. GUARINI.
H.J. Res. 595: Mr. POSHARD, Mr. HOUGHTON, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. HALL of Ohio, Mr. LEATH of Texas, Mrs. UNSOELD, Mr. UPTON, Mr. VALENTINE, Mr. WISE, Mr. SCHIFF, Mrs. SAIKI, Mr. SLATTERY, Mr. STEARNS, Mr. STAGGERS, Mr. SAWYER, Mr. SLAUGHTER of New York, Mr. SOLOMON, Mr. CROCKETT, Mr. DARDEN, Mr. FRENZEL, Mr. HUBBARD, Mr. WYLIE, and Mr. HASTERT.
H.J. Res. 643: Mr. STANGLAND, Mr. OLIN, Mr. PRICE, Mr. SMITH of New Jersey, Mrs. BOGGS, Mr. DURBIN, Mr. SCHAEFER, Mr. PANETTA, Mr. SYNAR, Mr. HOCHBRUECKNER, Mr. KASICH, Mr. PALLONE, and Mr. CRAIG.
H. Con. Res. 151: Mr. ASPIN, Mr. EVANS, Mr. KENNEDY, Mr. NAGLE, Mr. OBERSTAR, and Mr. TRAFICANT.
H. Con. Res. 293: Mr. TAUZIN.
H. Con. Res. 331: Mr. LANCASTER.
H. Con. Res. 379: Mr. WOLPE and Mr. LAFALCE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 293: Mr. GILMAN.

SENATE—*Friday, October 5, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Call unto me, and I will answer thee, and shew thee great and mighty things, which thou knowest not.—Jeremiah 33:3.

Eternal God, sovereign Lord of history, powerful as the Senators are, they have no power over time—either to hasten or delay. While they struggle, the clock ticks inexorably. Which brings to mind the story of the little boy who, when the hall clock struck "13" ran into his parents' room crying, "Mama! Daddy! It's later than it's ever been before."

It is later than it's ever been before, Lord, and onerous issues with dangerous implications weigh upon Your servants. Time does not stop while they struggle for solution, and resolution eludes them. Mighty God, demonstrate Your presence and Your power at this crucial juncture in national and world affairs. Overcome our indifference to Thee—overrule any hindrance that would blind or deafen us against Your intervention and timely remedy.

We pray in Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 5, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BRYAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, it is my understanding that the Journal of proceedings has been approved to date.

The ACTING PRESIDENT pro tempore. That is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators, I will be consulting momentarily with the distinguished Republican leader and other Members of the leadership, and Senator CRANSTON, and then we will be discussing with the House leadership on the best course of action to follow for the day. I will have an announcement shortly.

RESERVATION OF LEADERSHIP TIME

Mr. MITCHELL. In the meantime, I reserve the time of the two leaders, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 9:30 a.m. this morning, the Senate proceed to the consideration of S. 3037, the money laundering enforcement amendments of 1990.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, following the period for morning business then, the Senate will proceed to the consideration of this legislation. It will, of course, then be open for amendment and debate.

In the interim, I will be consulting with the distinguished Republican leader and Members of the House and Senate leadership to determine the most appropriate course of action with respect to the budget and related matters, and I hope to have an announcement in the near future.

I thank my distinguished colleagues. I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

THE BUDGET

Mr. SANFORD. Mr. President, the news this morning is that the House of Representatives rejected the summit budget. There were a great many reasons for rejecting this budget agreement, a great many good reasons for rejecting it, but perhaps the best reason was that it locked us into a 5-year plan.

In that 5-year plan were seeds of disaster, national disaster, because it would permit us to continue a process that allows us to hide part of the problem. For 10 years, we have not told the public the truth; we have covered up the previous debts. We have invented a way to get a lesser figure to claim as our deficit. We have been claiming we were reducing our deficits, when in truth, we have not reduced them in 10 years.

It was the perpetuation of that deceit the summit agreement required, that bothered me, that we were going to continue for 5 more years to cover up the real deficits, the real problem of debt. The problem right now, is not the appropriations that keep basic Government programs running. The problem is the interest we pay on the debt, and that debt has been built up from less than $1 trillion to more than $3 trillion, virtually in secret, without anyone being quite aware. We were not reducing the real deficit, the increase and debt. Each year we have been adding a considerable amount of money to the national debt, generally $200 billion, $250 billion.

This budget agreement claimed that for the next 5 years, we were going to have, what the President grandly called, a deficit reduction program that is going to take $500 billion off of the increase in debt, and it would. But what he failed to say, is that while taking off $500 billion, we would still

be adding, by his own figures, $1.2 trillion to the debt. At the end of this grand deficit program, over $1 trillion in accumulated and hidden deficits.

Mr. President, the time is going to come when we cannot handle the interest payments on the national debt. The time is going to come when we cannot sell the bonds to cover the national debt. The day we offer bonds and Japan's investors have something else to do with their money, will make S&L crisis seem like a minor occurrence, because we will then not be able to finance this Nation's debt unless we run interest rates up awfully high.

We are going to find, if the Germans and the Japanese pull out of our markets, that we simply cannot draw the necessary money for interest from investors in the United States; it is not here. At the end of the proposed 5-year plan, the national debt will be $5 trillion. So I think that we did right in starting over.

How did we get in this trouble? By letting the White House get into the summit.

Mr. President, that is no way to build the budget. The President sent over his budget. We took his budget in the Senate Budget Committee, Ways and Means Committee in the House, and worked on it. The Senate Budget Committee reported a pretty good budget in early May, that called for $43 billion in real deficit reduction.

The White House called us back to the drawing board because their budget estimates were wrong. The deficit was much larger than earlier estimated. Unfortunately, past summits have not worked well.

The President's insistence on a capital gains tax reduction, I think, distorted the direction of the summit. It confused the issue. We spent all summer arguing whether or not the President was going to get a tax reduction that would, by and large, benefit the rich. The summit halted regular congressional action on the budget.

I hope now, Mr. President, that we will return to the regular order, as we say in the Senate. I would like to see us return the process to the appropriate committees. I think the Budget Committee in the Senate could come up with a budget for 1 year in short order. I think it would be a budget that the Senate would accept. We could then turn our attention to a multiyear agreement next year.

I think by moving the summit to Andrews Air Force Base and to the White House and away from Congress has taught us a lesson that we should have known. The President should propose a realistic budget, and Congress should act on it.

The power of the White House, the power of the President, could not sell this summit agreement. It should not have been able to.

So I hope we can return to the regular order. I would like to see the Budget Committee meet today and get on with the business of putting together a budget resolution that will meet the needs of the Nation, and which can pass the Congress.

I am sure there are various ways to go. But I believe if we put the Congress back in charge of the business of Congress we would be more likely to succeed.

Mr. President, I thank you and I yield the floor.

THE BUDGET

Mr. LAUTENBERG. Mr. President, the Congress and the White House need to regroup, and put together a budget plan that gets our fiscal house in order. We should do it without delay. And we should do it in a way that is fair to New Jersey, working middle-class Americans, and the elderly.

The need for deficit reduction is apparent to all. It is urgent and it is critical. We simply must do something to get control of our country's debt and our Nation's future. And we must do it soon.

I am committed to reducing our deficit and I have supported proposals to do so. Just this year, we in the Senate Budget Committee developed a budget resolution that would have reduced the deficit by about $54 billion. That is 25 percent more than called for in the summit agreement for 1991.

Reducing the deficit is simply vital. But it is equally important that we do so in a forward-thinking, growth-promoting, and fair manner. As serious a sickness as the deficit is, we should not accept a treatment that makes other societal problems even worse.

The budget summit agreement rejected last night in the House was the wrong cure. It was a bad plan for New Jersey. And it deserved to be considered seriously by the Congress, not rushed through without an opportunity for thorough consideration, modifications, and input from the public.

But before I discuss that plan in more detail, I want to commend the majority leader and the other participants in the budget summit for their work. They have put in long, difficult days and have demonstrated real political courage. They deserve much credit and many thanks for their efforts.

Mr. President, as we move forward now to develop an alternative approach to deficit reduction, I think it would be worthwhile to lay out some of the flaws in the summit package so that we can begin to make the necessary corrections.

From my perspective, the bottom line about this agreement was its lack of fairness. It was unfair to my State of New Jersey, to middle class, working Americans, to the elderly, and to the future of our country.

Mr. President, the people of New Jersey are not less willing than others to contribute their share to a fair and reasonable deficit reduction package. We know it is time to bite the bullet. But we do not want to have to take the leftovers.

This deficit reduction package, Mr. President, was simply not fair to New Jersey. For starters, the new taxes it proposed would have fallen disproportionately on New Jerseyans. In fact, according to a report by the Tax Foundation, New Jersey would have been hit harder than all States but two. That report found that the average New Jersey family of five would have paid another $550.40 each year under this agreement. That is 25 percent more than the national average.

Mr. President, the people of New Jersey are presently adjusting to a significant change in the State tax structure. Our economy is struggling. Working New Jerseyans are hard pressed to pay their mortgages. Pressed to save for their children's education. Pressed to keep their heads above water.

Under these circumstances, no responsible elected official would have supported an agreement that would have placed a disproportionate share of the tax burden on New Jersey. Nor would it have been right to support an agreement that hits average, middle class people harder than the wealthiest of Americans.

Mr. President, working, middle-class Americans have suffered under an increasingly regressive tax system for too long. Over the past decade, much of the burden of paying taxes has been shifted—from the rich to the middle class. It is an outrageous development with dramatic effects.

According to one recent study, the wealthiest 1 percent of the population—those with incomes of $549,000 each—will pay an average of $82,196 less in Federal tax this year compared to what they would have paid under the tax system in effect before 1978. That works out to a 36-percent tax cut. Meanwhile, Mr. President, 9 out of 10 other Americans have had their taxes increased.

The cost of the huge tax breaks for the wealthy, Mr. President are enormous. Just in 1990, the breaks given to the top 1 percent of the population have cost the Treasury nearly $85 billion.

Think about that, Mr. President. The budget summit agreement claimed to achieve $40 billion in deficit reduction in the first year; $40 billion through things like higher taxes on heating oil. Higher taxes on gas. Deep cuts in Medicare for our elderly.

Yet if instead we treated the richest of the rich the same as they were

treated about 13 years ago, we reportedly could reduce the deficit more than twice as much as this agreement provides.

Mr. President, I am not advocating a return to the exact tax policies of 13 years ago. But I think these statistics show that the Reagan tax cuts left us with a legacy of inequity. And the summit agreement would only make matters worse.

In addition to proposing additional taxes on the middle class, Mr. President, the agreement could have opened up needless loopholes in the Tax Code. The administration said its proposals would help stimulate investment in emerging small businesses, a goal I support. But, according to many experts, the proposals would lead to significant abuses. Instead of stimulating economic growth, we could have seen a proliferation of companies designed only to provide investors with up-front deductions. The only winners in such arrangements would be wealthy investors, lawyers, accountants, and syndicators.

I was also concerned about tax breaks in the agreement that were provided to a handful of special interests. While average Americans would have paid more for their gas, the oil and gas industry actually would have received a tax break. There is also an unspecified tax break for the ethanol industry.

But, Mr. President, while these favored interests would have received special tax treatment, the agreement failed to extend existing tax provisions that benefit the middle class. In particular, I would highlight the Mortgage Revenue Bond Program, which helps moderate-income people achieve the American dream of homeownership. Mr. President, how could we in good conscience have been expected to give a tax break to the oil and gas industry with one hand, and with the other hand take away a tax provision that provides homeownership opportunities to ordinary Americans?

Mr. President, I was also particularly concerned about the Medicare cuts that have been proposed in the summit agreement. We have been swinging the budget ax at Medicare for years. And if we had approved the kind of cuts called for in this agreement, it is our senior citizens who would have been bloodied.

A $60 billion cut in Medicare, Mr. President, is a very deep cut. It could have had a severe impact on New Jersey's hospitals, which are already strained to the breaking point. And it threatened to place significant new burdens on those people who happen to be both elderly and sick.

Mr. President, it does not make sense to target these people for such deep cuts. Many of them are already struggling. Millions live week to week, on fixed incomes, with little or no financial security.

So, Mr. President, this agreement was unfair to New Jersey. Unfair to working, middle class Americans. And unfair to senior citizens.

It was also unfair to the future of this country.

Mr. President, while the tax burdens has been shifted from the rich to the middle class over the past decade, there has been another important shift. We have taken enormous resources away from initiatives designed to help Americans here at home. And shifted piles of money to the Pentagon.

Let us get a little perspective, Mr. President. In 1980, at the heart of the cold war, soon after the Soviet Union had invaded Afghanistan, this country spent a total of $134 billion on defense.

Under this agreement, not even including the costs of Operation Desert Shield, defense spending would have been locked in for 1991 at $298 billion. Then, on top of that, add another $11.5 billion for our operations in the Middle East.

So we would have gone from $134 billion to almost $310 billion in just 10 years. Mr. President, even taking inflation into account, that is an enormous increase.

But while spending on the Pentagon has exploded, what has happened to those programs that are designed to help Americans here at home?

Well, from 1980 to 1989, nondefense discretionary spending was cut from 24 percent to 16 percent of the budget. We have seen real cuts in education, in housing, in community development. We've failed to maintain our physical infrastructure, and we continue to neglect the needs of America's infants and children.

In a nutshell, Mr. President, we have underinvested in this Nation's future. Because we have been putting our money into the Pentagon.

That has to change. The American people know that. And the Democrats in Congress know that.

But for some reason, this administration has wanted to freeze these skewed priorities into place. And that is what this agreement would have done. While cutting defense a modest amount, it would have placed virtually insurmountable procedural obstacles on future efforts to shift priorities from defense to domestic programs. That, Mr. President, was unacceptable.

Mr. President, despite all its flaws, some said that Congress had no choice but to accept the summit agreement. The President told the Congress that the agreement could not be amended. Take it or leave it, he said. It cannot be improved. And if you try, I will veto it.

I simply reject that approach, Mr. President. The American people do not send their Senators to Washington to be walking, talking rubber stamps. If we thought this agreement could be improved, it was our job to try. In fact, Mr. President, it was our duty.

So let me sum up.

We had a budget agreement that was unfair to New Jersey. That hurt working, middle class Americans and the elderly disproportionately. That continued overfunding of the Pentagon and underinvesting in America's future. And that locked all this into concrete for several years.

Mr. President, that is why I would have opposed this agreement had it reached the Senate. And it is why we have to go back to the drawing board and come up with something better.

VA-HUD-INDEPENDENT AGENCIES APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5158, the VA-HUD-independent appropriations bill and has found that the bill is under its 302(b) budget authority allocation by less than $50 million and under its 302(b) outlay allocation by less than $50 million.

I compliment the distinguished manager of the bill, Senator MIKULSKI, and the distinguished ranking member of the VA-HUD-Independent Agencies Subcommittee, Senator GARN, on all of their hard work to bring this bill to this point in the process.

Mr. President, I have a table from the Budget Committee showing the official scoring of the VA-HUD-independent agencies appropriations bill and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5158—VA-HUD-INDEPENDENT AGENCIES SUBCOMMITTEE—SPENDING TOTALS (SENATE REPORTED)

[In billions of dollars]

	Fiscal year 1991	
	Budget authority	Outlays
302(B) Bill Summary		
H.R. 5158, Senate reported, (new budget authority and outlays)	78.6	40.6
Enacted to date	0.0	37.9
Adjustment to conform mandatory programs to resolution assumptions	0.3	0.5
Scorekeeping adjustments	0.0	0.0
Bill total	78.9	78.9
Senate 302(b) allocation	78.9	78.9
Difference	−(*)	−(*)
Bill total above (+) or below (−):		
President's request	3.0	−0.9
House-passed bill	−1.7	−0.3
House 302(b) allocation	−2.0	−0.5
Programmatic baseline	4.0	0.6

MONEY LAUNDERING ENFORCEMENT AMENDMENTS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. 3037, which the clerk will report.

The legislative clerk proceeded to call the roll.

The legislative clerk read as follows:

A bill (S. 3037) to authorize Federal depository institution regulatory agencies to revoke charters, terminate deposit insurance, and remove or suspend officers and directors of depository institutions involved in money laundering or monetary transaction reporting offenses, to amend chapter 53 of title 31, United States Code, to require the Secretary of the Treasury to issue regulations concerning the identification of nonbank financial institutions subject to the Bank Secrecy Act, to prohibit illegal money transmitting businesses, to provide for the standardization of advertised yields on savings accounts and investments, to require the uniform disclosure of the key costs of such accounts and investments, and for other purposes.

The Senate proceeded to consider the bill.

Mr. KERRY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. KERRY. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERRY. Mr. President, this is the fourth day that we have been on this bill. We are now on the bill. It is open to amendment. At no time in the last 4 days has more than one amendment appeared. That one amendment, Mr. President, is not an amendment that is germane to the issue of money laundering, or to the other titles of this bill.

The fact is this is a bill that does not have opposition. It is a bill that passed unanimously in the House of Representatives, unanimously in the Banking Committee, and it ought to pass unanimously in the U.S. Senate if the Senate is serious about dealing with money laundering, drug laundering, other titles that are represented in the bill.

This Senator is certain that there is more going on here in a 3½, 4-day process of losing the Senate's time than mere opposition to the bill, seeing as opposition has never appeared until this point in time.

What is really happening is that there are people on the other side of the aisle who, regrettably, are using this in the context of the 1990 elections, and they are unwilling to see this piece of legislation pass for fear that it might somehow advantage Senators involved in it. I think that is really tragic. We always talk about trying to do the Nation's business and trying to proceed here as expeditiously as possible, and be serious.

This is the kind of thing that can come back to haunt people on the other side, too. There is not one piece of legislation here that does not have somebody's name on it or has not involved someone at some point in time. If everybody is going to start second guessing strategies about campaigns and things, and bring it to the floor every minute, it seems to me that the people lose. And the people are tired of losing, Mr. President. They are really tired of losing because of these kinds of petty antics.

This bill is open to amendment. There is no amendment pending on the Democratic side at this moment. We are ready to vote. We are ready to vote. We have been here for 4 days ready to vote. We are ready to vote now.

So, Mr. President, I hope we can proceed to that vote as expeditiously as possible. I hope anybody who does have an amendment will take advantage of that now. The clock is running. We are here. Nobody has filed cloture or anything in order to give people the opportunity to have a fair shake at it. But I do want to serve notice that the majority leader is obviously prepared to file cloture if people are not going to appear, and they are not going to debate and simply are going to let the clock run.

I hope at that time they will not then come to the floor with arguments, "Well, you did not give us a chance; you never let us debate it; you did not give us an opportunity to bring an amendment." For 4 days now there has been that opportunity. We are here, and we are prepared to vote.

Mr. GARN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah [Mr. GARN] is recognized.

Mr. GARN Mr. President, may I just echo Senator KERRY's remarks. This is getting to the point of being ridiculous. The American people ought to be very disgusted with Congress; not just on this bill. They deserve a great deal more than they are getting from their elected representatives.

Today is October 5, the scheduled adjournment date for the 101st Congress. After 9 months in office what have we done? Nothing; absolutely nothing. It becomes embarrassing to go out and talk to the people. We have not gotten a budget. There has been partisan bickering back and forth. There ought to come a time when the partisanship ends, and when we do the Nation's business and go home.

The Founding Fathers did not intend that we stay in session from January until December every year. I think they expected that we might live and work with the people who elected us to represent them. That means Senator KERRY in Massachusetts, Senator GARN in Utah, actually should be with the people we are supposed to represent, listening to them, finding out how they think, and coming back here representing their will.

But no, we reside inside the capital beltway all year long. We lost touch with reality. There is no reality in this town.

I did not like that budget last night, either. But it is an irresponsible thing to reject it. We are going to have air controllers off on Monday.

I hear people talking about how it was only a $500 billion reduction in the deficit and we still have $1 trillion left. Of course, do those people have a plan for the other $1 trillion? If you cannot pass this one, do they think they can raise taxes enough and cut expenditures enough to take another $1 trillion out?

The rhetoric on both this floor and the House floor is so disgusting the American people ought to rise up and toss every incumbent out until we start doing our work.

So then we have a money laundering bill on the floor for 4 days which nobody disagrees with. I am, frankly, tired of sitting out here on the floor for the fourth day in a row disrupting my schedule—I have important things that I could do—with nobody coming over here; not doing any work at all. We should close the place down. We are not doing anything.

This Senator has had a belly full of it, to put it bluntly. If somebody does not want to offer an amendment, let us move it; let us go to third reading, and see if that will get them out of their Cloakroom.

I yield the floor.

Mr. KERRY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I want to thank the distinguished Senator from Utah for his comments. He has very patiently been out here and very patiently been working with me to try to deal with each of the amendment problems that arose along the way.

Originally, we had an agreement with respect to this bill, that if the bill had no amendments, we would pass it. In keeping with the spirit of that, I went to the Members on my side.

The good Senator from Illinois, Senator DIXON, had an amendment about fair lending. He cares about that a great deal. Minorities in this country are being discriminated against by an extraordinary ratio in the lending

practices of certain banks. Senator DIXON cares about that very deeply. He was prepared to bring that amendment on this bill.

The Senator from Ohio, Senator METZENBAUM, had a check cashing amendment that he cares about very, very deeply. We have debated that issue on the floor before. There are a lot of citizens in the United States who do not even have bank accounts; they do not have that kind of money. They cannot cash their checks. When they go somewhere to cash a check, they are hit with usurious interest rates or a fee or a charge for the purpose of cashing that check.

And the question is whether or not banks should cash their checks at the rate that checks are cashed for other people. Senator METZENBAUM wanted to bring that amendment to the floor.

Senator BIDEN had some additional amendments he wanted to bring to the floor. We went to each of them, and each of them backed off in the interest of moving legislation on the floor of the U.S. Senate. Each of them withheld their personal agenda in an effort to try to get this bill, which is not controversial, through the Senate.

Senator GARN, likewise, went from Senator to Senator, but, boy, we found that was a moving target. One Senator, who we had received word had an objection, I called personally, and he did not even know about the objection. So they kept rising out of the shadows.

Here we are, 4 days later, ready to vote, ready to vote, after taking 4 days on a noncontroversial piece of legislation. I join my colleague from Utah in voicing a frustration. If we cannot move a noncontroversial piece of legislation, it is no wonder the American people are wondering whether or not we can move something as controversial as the budget. That has been an extraordinary process in and of itself.

Mr. President, we are ready to proceed, and we are ready to vote. There is no amendment that has yet appeared. As the Senator from Utah said, we are prepared to go to third reading and have a vote. But we will, obviously, in keeping with the manner with which we work with our leadership, wait until such time as that has been declared appropriate to us. But we certainly invite those who have amendments to come to the floor now, and to help us do the business with respect to that.

THE BOSTON RED SOX

Mr. KERRY. Mr. President, I want to take some time to say a word about something positive that happened in a State where things have been very difficult lately.

As many people know, Massachusetts is hurting economically. We have had people laid off from countless companies. Banks and the economy has taken a tailspin over the course of the last year and a half. In the midst of all of that, Mr. President, we have a no-quit baseball team. That has made a lot of people feel pretty good, I must say. It really has.

Maybe as we wrestle with the challenge of this budget, as we go through these next painful days, it might be possible to even take example from the Boston Red Sox, from their hanging in at the last moment.

I think that those who watched and take an interest in America's sport, which we know is most people, watched one of the greatest clutch catches that I have seen since Dwight Evans robbed Joe Morgan in the 1975 World Series. We saw a team which kept coming back, even though everybody said they did not have it and did not have a chance.

I think Tom Brunansky's extraordinary catch lifted the hearts of Red Sox fans and people all over New England. I can tell you that from the Berkshires to Cape Cod, from one end of the State to the other, Red Sox fans have been happy to be able to cheer for Roger Clemens and for our own Jeff Riordan from Dalton, MA, and Mike Bodicker, who won the game the other night.

We are particularly proud of Joe Morgan's magic. He said, "It is not magic; it is fundamental and hard work." Perhaps we can use a little of that touch down here over the course of the next few days.

Obviously, they face an awesome team. Most people in the country do not give them many odds to be able to beat the Oakland Athletics. But it is my sense that that special spirit that has carried them thus far is a spirit that can yet persevere.

Perhaps all of us in the Senate here ought to take a little lesson from what the Red Sox have been able to accomplish over the course of this year.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2933

Mr. KERRY. Mr. President, on behalf of myself and Senator GARN, as the managers of the bill, I send to the desk a series of amendments that are the managers' amendments which have been worked out with all parties and agreed upon.

One is a fair trade in financial services amendment which was adopted unanimously in the Senate on Wednesday in the Defense Production Act. The next is a fair lending amendment which was passed by the Senate Banking Committee. The third is an expedited funds availability amendment which adds emergency temporary suspension authority for the Federal Reserve. The fourth is a Truth in Savings Act. The fifth is an extension of the deadline for issuance by the Treasury of the Department's final regulation on funds transfers. The sixth is a series of amendments on money laundering passed in the crime bill previously.

I send those to the desk and ask for their immediate consideration.

The ACTING PRESIDENT pro tempore. Is it the request of the floor managers to have the amendment considered en bloc?

Mr. KERRY. It is indeed. I ask unanimous consent that all these amendments be considered en bloc, and I ask unanimous consent the motions to reconsider and motions to table be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself and Mr. GARN, proposes an amendment numbered 2933.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KERRY. Mr. President, we are in agreement on this and we are prepared to vote.

Mr. GARN. The minority has no objection.

Mr. RIEGLE. Mr. President, the managers' amendment includes the Fair Trade in Financial Services Act, the Fair Lending Enforcement Act of 1990, and consensus amendments to the money laundering and consumer provisions of S. 3037.

The amendment incorporates in full the provisions of S. 2028, the Fair Trade in Financial Services Act, which was reported by the Banking Committee with broad bipartisan support on May 24, 1990. These provisions, which amend the International Banking Act of 1978, the Securities Exchange Act of 1934, and the Investment Advisers Act of 1940, are designed to give Department of Treasury officials new leverage in their negotiations to obtain competitive access to foreign banking

and securities markets such as those in Japan.

The managers' amendment also includes the Fair Lending Enforcement Act of 1990, S. 3049, which was reported by the Banking Committee. The Fair Lending Enforcement Act of 1990 is designed to improve enforcement of mortgage antidiscrimination—fair lending—laws. I want to commend Senators DIXON and BOND for their work on this bill.

Specifically, the legislation requires depository institution regulatory agencies to establish separate consumer compliance programs with specially trained examiners to ensure compliance with all consumer protection laws. It requires regulatory agencies to refer to the Attorney General any cases where there is reason to believe a pattern or practice of violations of the Equal Credit Opportunity Act has occurred. Individual cases of suspected discrimination involving real estate would be referred to HUD. S. 3049 corrects a drafting error in a recent amendment to the Home Mortgage Disclosure Act in order to take mortgage bankers out of the $10,000,000 exemption and require the Federal Reserve Board, in consultation with HUD, to establish a comparable exemption for low-asset mortgage bankers. Finally, the legislation requires lenders to provide loan applicants with copies of their appraisals, to help determine if loans are being denied because properties are underappraised.

The managers' amendment includes most of the money laundering provisions from S. 1970, Senator BIDEN's crime bill. These provisions would strengthen and improve the operation of the money laundering statutes and should be included in S. 3037. Several of the amendments are purely technical amendments. The managers did not include the provision from S. 1970 which would create a safe harbor for depository institutions from civil suits. Members of the Banking Committee considered safe harbor proposals, but instead decided during the committee's consideration of S. 3037 to include a provision offered by Senator KERRY which would address prosecutorial policies. The managers do not believe the two approaches are compatible and therefore did not include the safe harbor in this amendment.

The managers' amendment contains consensus amendments to title III of the bill. These amendments include an amendment to the expedited funds availability provisions which grants the authority to the Board of Governors of the Federal Reserve to suspend the availability schedule for checks if the Board finds a pattern of significantly increased losses at depository institutions that are attributable to the schedule and suspension of the schedule is necessary to diminish the volume of such losses. The Board would be permitted to suspend the schedule only for 60 legislative days or less and would be required to report the reasons for the suspension to Congress. Depository institutions' customers would be notified of the suspension. The GAO is required to report to Congress on the implementation of the permanent schedule under the Expedited Funds Availability Act. The amendment includes one minor change in the Truth in Savings portion of the bill to permit disclosure of basic terms to existing customers in the next regularly scheduled mailing rather than by a separate mailing.

Finally, the managers' amendment extends the deadline for issuance by the Treasury Department of the wire transfer regulations required in title II, the money laundering provisions of S. 3037. The Banking Committee agreed to a January 1, 1990, deadline. Assistant Secretary of the Treasury for Enforcement Peter Nunez testified before the committee in May that the Treasury Department expected to issue proposed regulations in July. Those proposed regulations have not yet been issued, but are expected to be issued some time this week. Therefore, in order to permit the banking agencies and the financial industry to review the proposal and prepare comments, the managers' amendment extends the deadline for the issuance of final regulations by 3 months, from January 1 to April 1, 1991.

I urge my colleagues to support these provisions.

The ACTING PRESIDENT pro tempore. There being no further debate, the question is on agreeing to the amendments submitted en bloc.

The amendment (No. 2933) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERRY. Mr. President, we have now been here for about an hour and 10 minutes on the bill. The managers have adopted the managers' amendment.

There is no further business yet, although we are told there may be lurking, somewhere out there, one or two amendments.

I want to repeat, we are prepared to proceed. We would like to go to third reading. We are prepared to go to third reading.

If any Senator has an amendment, if the Senator wants to come down in the next 10 minutes or so we are obviously prepared to move forward on amendments. This bill is ready to be voted on. On the Democratic side there are no amendments whatsoever. We are prepared to proceed.

I do not know if the Senator from Utah knows specifically of somebody coming momentarily but I know he is anxious to vote on this.

Mr. GARN. There has been somebody coming momentarily for 4 days.

Mr. KERRY. Well, maybe we can redefine "momentarily" here on the floor of the Senate momentarily.

Mr. President, again I say we are prepared to go to third reading. I do not know if anybody has an amendment but I suggest we confere with our leaders and see what the possibilities are.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as in morning business for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BUDGET OPTIONS

Mr. NICKLES. Mr. President, there is a lot of discussion on the budget. I know my colleagues and others will be meeting shortly to talk about our options; how we can get out of the dilemma we are in; what should be contained in the continuing resolution. I, for one, will mention my preference would be that the continuing resolution, which we need to pass and pass today, would have spending levels not to exceed the spending levels that are in 1990; in other words, no increases; no increases in any of the appropriations levels over this year. That includes discretionary and mandatory.

I am afraid in the appropriations process—and I am on that committee—that we have allowed over the years and maybe through the budget process, whatever, but we have allowed a great percentage of the appropriations to be called mandatory. So the appropriators have very little control—only $212 billion out of the total Federal spending of $1.3 trillion. I think that is a mistake.

Again, I urge my colleagues, and I will urge my colleagues, to set the 1991

CR levels at levels not to exceed the appropriated levels for 1990. I think that way at least we will have some savings, one might say, from anticipated spending levels while we are working on further resolutions of this budget dilemma.

I might mention also, Mr. President, that I have heard a lot of discussion over the fact we are paying the price of the changes that were made in the Tax Code back in 1981, or maybe since then. When I hear my colleagues say that, I continually get the feeling that they think we are undertaxed.

Mr. President, taxes have risen dramatically since 1980. Unfortunately, so has spending. The spending level in 1980 was $590 billion. In 1990, spending will be more than double that amount. This year, just concluded, 1990, we will spend $1.262 trillion, $1,262 billion, well over double what we spent in 1980.

Revenues, interestingly enough, in 1980, were $517 billion; revenues in 1990 are $1.044 trillion, or $1,044 billion. In other words, revenues have more than doubled in the last 10 years. The problem is that spending has grown even faster. Spending has more than doubled in the last 10 years and, therefore, the deficit has widened even further. Revenues have been compounding, have been growing rapidly. If you look at the revenue growth, we have many years in the double digit figures.

Unfortunately, we have more years in the double digit figures on the expenditure side. Expenditures have been growing at rates well in excess of inflation, and that is our problem. The problem is that we are not undertaxed. The problem is that we have overspent. Spending today is 12.8 percent above last year. Revenues are 4.2 percent above last year. In other words, revenues may be keeping up with inflation this year.

The economy is a lot slower this year than in previous years, but the problem is expenditures are about three times the rate of inflation this year. And so, again, for my colleagues who say the problem goes back to 1980 and we cut taxes too much in 1981, I disagree. I think revenues have been growing and growing very rapidly. The problem is spending has been growing much more rapidly.

Again, to take some of the steps to help dig ourselves out of the fiscal dilemma that we are in, I would encourage, one, the level of CR not exceed the level of spending we had last year; that is, a freeze on the appropriated accounts until we resolve our fiscal problem. Maybe it will be 1 week; maybe it will be 2 weeks; maybe it will be in a lameduck session. I do not know. At least it will give us an incentive not to go at the higher levels.

We have worked on several appropriations bills that are compounding at 10, 11, 12, 13, 14, 15, 16 percent increased over last year's level. I do not think it would be right for us in the CR to reward ourselves by allowing those higher amounts to go into effect during the CR. I think during the period of the CR, we should really be fiscally prudent, and the first step in that regard, Mr. President, I believe would have the CR funded at last year's levels.

One additional comment, Mr. President, if we are considering various options. That would be to reduce somewhat the size of the sequester. Maybe we can say the size of the sequester will begin anywhere from $85 billion to $100 billion. The budget package that was taken before the House and defeated last night would have reduced the deficit by about $40 billion next year. We could reduce the amount of the sequester from 85 to 40, and so you would have a $40 billion deficit reduction package in the sequester.

How long will that last? If the sequester lasted a month, until we passed our budget, it would last a month. So what? If it lasts a month, what is that reduction? It is a reduction of about $3 billion. I do not think it will hurt anybody. Sure, there will be inconvenience, but we can eliminate a lot of the inconvenience if we gave the administration flexibility in managing that sequester so we would not have to shut down the air traffic control towers, so we would not have to shut down a lot of vital public services in administering that sequester. I think we can handle that if we give the administration some flexibility. And I would hope that we do so.

I do not think it is necessary for us to maximize the pain on our constituents in order for us to get our fiscal house in order. I do not think it is necessary for us to furlough thousands of employees for us to get our fiscal house in order. So let us have a sequester of, say, $40 billion and let us give the administration some flexibility in managing that reduction, and surely that is the least we can do.

The net result there will be, too, we are making our targets. Maybe the sequester would last all year, but I doubt it. My guess is many of us in Congress would come together and pass a responsible budget package. If not, I think we can live with it. If not, I think we can continue spending on appropriate levels equal to the levels we appropriated last year.

Again, Mr. President, I think those will be giant steps in the right direction. It would help get us out of the fiscal impasse that we find ourselves in now.

Mr. President, I ask unanimous consent to print in the RECORD a chart entitled "Historical Budget Data."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HISTORICAL BUDGET DATA—1970 to 1990 PLUS 1991 OPTIONS

[In millions of dollars.]

Year	Total outlays	Percent	Total receipts	Percent	Federal deficit	Percent
1970	$195,649	NA	$192,807	NA	$2,842	NA
1971	$210,172	7.4	187,139	−3	23,033	710
1972	$230,681	9.8	207,309	11	23,373	1
1973	$245,707	6.5	230,799	11	14,908	−36
1974	$269,359	9.6	263,244	14	6,135	−59
1975	$332,332	23.4	279,090	6	53,242	768
1976	$371,779	11.9	298,060	7	73,719	38
1977	$409,203	10.1	355,559	19	53,644	−27
1978	$458,729	12.1	399,561	12	59,168	10
1979	$503,464	9.8	463,302	16	40,162	−32
1980	$590,920	17.4	517,112	12	73,808	84
1981	$678,209	14.8	599,272	16	78,936	7
1982	$745,706	10.0	617,766	3	127,940	62
1983	$808,327	8.4	600,562	−3	207,764	62
1984	$851,781	5.4	666,457	11	185,324	−11
1985	$946,316	11.1	734,057	10	212,260	15
1986	$990,258	4.6	769,091	5	221,167	4
1987	$1,003,830	1.4	854,143	11	149,687	−32
1988	$1,064,044	6.0	908,954	6	155,090	4
1989	$1,142,900	7.4	990,800	9	152,100	−2
1990	$1,262,500	10.5	1,044,000	5	218,500	44

Mr. NICKLES. Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. KERRY. Mr. President, on behalf of the majority leader, I ask unanimous consent that Senator CONRAD be recognized for a period of 10 minutes, and that Senator SYMMS be recognized, following the remarks of Senator CONRAD, for a period of 10 minutes, and following the remarks of Senator SYMMS the Senate stand in recess until the hour of 12 noon today.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and the request of the Senator from Massachusetts is agreed to. The Senator from North Dakota is recognized.

Mr. CONRAD. I thank the Chair and the manager of the bill, the distinguished Senator from Massachusetts, for this time.

THE BUDGET

Mr. CONRAD. Mr. President, we all know now that the budget agreement failed last night in the House of Representatives. There is a lot of gnashing of teeth, a lot of concern about the Government closing down, a lot of people who said last night in the debate, "If you do not take this package, it is all over."

Mr. President, that is not the case. That need not happen. There is an opportunity now to do the job of deficit reduction and to do it right. I call on my colleagues, I call on our leadership, and I call on the President to take this opportunity. Let us do it right.

Let us first have a continuing resolution that continues the vital operations of Government, and then let us take the time to write a deficit reduction proposal that is fair and that can pass. Let us not write it behind closed

doors in a smoke-filled room. Let us write it on the floor of the Senate and on the floor of the House where the people of the United States can watch and see what it is we are doing. Let us do it the old-fashioned way. Let us do it the way the Constitution thought we would do it. Let us do it in the open.

Those who want to argue for the rich, let them do it on the floor of the Senate. Those who want to wipe out the farm program, let them do it on the floor of the Senate so the people can see. Those who want to stick it to the elderly sick, let them do it on the floor of the Senate. Those who want to do it to a region of this country, let them try to do it in the open where people can see and hear and then hold them accountable.

Mr. President, I think first we have to analyze why that package failed last night. I believe it failed because it was fundamentally unfair. That package which was put together at Andrews Air Force Base in a closed room with eight people meeting around a table was not fair. We can do better than that. I am confident that if we work together, Republican and Democrat, in the open air, for all to see, we will do better.

Let us write a package that does not stick it to the middle income, because that is what the package did that failed last night. Their taxes went up at twice the rate of the rich. That is not fair, and everyone knows it. That is a key reason why the package was rejected last night. That package had loopholes for the rich big enough to drive a Mack Truck through. We can do better than that and we will do better than that if we do it on the floor of the Senate.

Mr. President, let us write a package that does not stick it to the elderly sick. That is what the package did that was attempted to be sold last night. More than half of the cuts came out of the hides of the elderly sick.

Let us write a package that does not stick it to the farmers in this country. I was intrigued to see the quote of U.S. Secretary of Agriculture Clayton Yeutter. He said, "farmers are willing to take their fair share of the cuts, but they want to be assured that it is a fair share."

That package was not a fair share for the farmers of this country. They took by far the biggest hit proportionately of any group of this country, a 24-percent cut. The next biggest, defense and Medicare, took about a 9- to 10-percent cut. But even more than that, agriculture came off a different base because the others had inflation calculated in before their cuts occurred. Not agriculture. Agriculture has their spending held flat—target prices held even for 5 years. So not only were they cut 24 percent, but they had nearly a 20-percent loss because inflation had not been figured in. The real net effect was to cut agriculture 41 percent. That is not fair. That is not going to pass this Chamber with my vote. I can tell you it is not going to pass this Chamber with the votes of others who are in the farm bloc either.

We are willing to take our fair share, but let us remember agriculture has been cut 60 percent since 1986. Let us remember that it is held flat, no inflationary increase in those target prices for the next 5 years. We have already taken a dramatic hit and a dramatic cut. Frankly, agriculture, rural America, cannot stand much more.

Let us write a package that does not stick it to any region of the country. I was interested that Mr. Darman said, "It hasn't been designed"—referring to the package—"to try to equalize by region."

Further quoting Mr. Darman, he said, "It is also not, in my opinion, something that discriminates by region in a way that's especially preferential to one or unfavorable to another."

Mr. President, we did an analysis of this package. We looked at the major spending cuts, the major revenue items, and then we prepared a table and looked at the effect on States. Do you know what we found? We found that the State that was hurt the very most was my State, North Dakota. No. 2 was South Dakota. No. 3 was Nebraska. No. 4 was Iowa. No. 5 was Montana.

It sounds like a region of the country to me, Mr. President. It sounds like my region of the country, the very region of the country that has been devastated by drought, that is now beset by dramatic cuts in commodity prices.

The price of a bushel of wheat, as I have informed my colleagues, in the last 60 days has dropped from $3.50 a bushel to $2. That very region of the country that is in the deepest trouble, been hit the hardest, was now being told, "We are going to hit you again."

Mr. President, that is not fair. We can do better than that.

Let us write a package that does not keep paying the bills for Europe and Japan. We are spending over $100 billion a year paying the military bills for Europe. They are well able to pay their own bills. We are spending nearly $50 billion a year paying the bills for Japan. They can pay their own bills. We are over there paying their bills and we cannot even pay our own. We cannot even pay our own, and we are running out seeing whose bills we can pick up. That does not make any sense.

In this package that was advertised to cut the military spending by $170 billion over the next 5 years, it sounds like a big number.

Let me share with the American people what it would take in terms of a cut just to get back to the cold war average level of defense spending in this country. The cold war average would require a cut of $250 billion over the next 5 years, not $170 billion like was in this package, not $200 billion, but $250 billion just to get back to the cold war average.

Mr. President, the Warsaw Pact has collapsed. West Germany just announced they are going to be spending $8 billion over the next 4 years to keep the Soviet troops in East Germany. Now, we are going to be spending $100 billion a year to protect the Western Europeans from the Soviet troops they are paying to stay in East Germany.

We can do better, Mr. President. We have the opportunity now to do it.

Every time there is a dark cloud, there is sunshine behind that cloud. As we meet today, there is a dark cloud called sequester. But we can help that cloud blow away and see the bright sunshine of this Congress and this President working together to fashion a budget package that reduces that deficit and despair.

That is our opportunity. Let us take advantage of it.

I thank the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Idaho [Mr. SYMMS] is recognized.

Mr. SYMMS. Thank you, Mr. President.

THE BUDGET

Mr. SYMMS. Mr. President, this morning there is a great deal of consternation by many of our colleagues about what happened last night in the House of Representatives. We have high regard and respect for those Members of the negotiating team—the majority leader, the minority leader, the Speaker of the House, the Republican leader of the House, the Director of the Budget, the Secretary of Treasury, and President's representatives, and so forth, all men of very high ideals. We all hold them in very high esteem. But I think it should be a lesson to all of us that when those of us here in Washington sit around and talk to each other, sometimes we misread what the people out in America are thinking.

The American people spoke very clearly in the last election that they wanted a budget that was balanced, but on the basis of a restraint in the growth of spending, and not on the basis of raising taxes. Probably if there was one sentence in the campaign that had more to do with the election of this President, it was "No new taxes; read my lips."

39-059 O-91-35 (Pt. 19)

A week ago or 10 days ago, a group of Senators introduced a budget called the 4-percent solution. I believe that I said on the floor at that time, I have not checked the RECORD, but I think I said—that I know a lot of the Senators today do not think this is a very attractive solution, but wait a week or 10 days, 2 weeks, and you may come back and find out it looks a lot better.

Mr. President, I believe with my heart that it looks a lot better today. I think this is not Armageddon. I personally believe that it was a good thing that happened last night on the House floor if we take it in a good sense, and if we do not try to take it in some sense that we are going to patch around the edges.

What I fear is, having been in this town serving in the House and the Senate, I can guess at what will happen: The Representatives in the House will come in and try to fix the Medicare so it is a little less offensive to those recipients of Medicare that are opposing the package. They will try to fix the gas tax and make it a somewhat broader based energy tax, so it is a little less offensive. They will try to patch it around the edges and bring it back to another vote, and hope they can get 218 votes in the House and 51 votes in the Senate, and find something the President will sign. Everybody will go back home; business as usual. They will say they have solved the great crisis in the budget in Washington DC.

However, the fundamental flaw in the package is that it is based on real taxes. Out of the hip pockets, of working men and women in America the Government will take the tax money. And then the other domestic spending reductions that are really the ones that are going to have the most impact are probably going to get dropped only to have the defense budget take up the slack.

So there again you have a budget that is business as usual in Washington. Tax, spend, and elect; keep the bureaucratic welfare state growing; take the cuts out of defense. If you have to reduce spending, raise the taxes on the middle class, because, after all, that's where the money is.

Few people worry about the fact that the package that was voted down last night would have decimated the Federal Highway Program in the United States, decimated the States' and counties' ability to raise taxes to pay for their roads and bridges, because the Federal Government will have already taken that money from increased fuel taxes and funneled it into the Federal bureaucratic welfare state.

I view this event that happened last night in a very positive sense. I am hopeful that the President now will say what he really has been very careful not to say heretofore. I have to say that when I see my President, President George Bush, on television saying, "Blame me; do not blame the Members of Congress for this," it is no wonder that the people out in Nevada, Idaho, Montana, or in New Hampshire or other places, get confused as to what this philosophical argument is about here in Washington, DC.

The way I remember it, it was the Democrats who wanted to have a tax part in this budget, and who wanted to raise taxes. It was the Republicans who wanted to reduce spending. But what happened was a great confusion came in the land when the President agreed that he would put taxes on the table.

I must say, and I commend the majority leader, I think he has done a masterful job in spinning the story through the media to suit the argument that somehow Republicans were not for fairness and Democrats want fairness, that the Republicans want nothing but to have the middle-income working people pay for this, and that the Democrats were fighting that off.

It is interesting in how this story played. But I think part of the problem is that our President, who I have the greatest respect for, has been a little too nice in this argument. There have been too many people talking to each other here in Washington, and not out talking to the American people, who are ultimately going to decide who serves in the Congress of the United States.

If I could have my wishes right now, I would appeal to the leadership in my party to urge this President to ask Congress for a continuing resolution, Mr. President, that will fund the Government, say, until the 10th of November—I am sure to the distinguished Presiding Officer, the 10th of November means a lot to him. I just picked that number out of a hat—that we will have a continuing resolution; it will not exceed last year's funding level, no baseline, that meets last year's funding level; that he implement a partial sequester; that he waive the sequester on public safety, such as air traffic controllers; and he waive the sequester by Executive order on meat inspectors, and keep the milk flowing into the inner city to the underprivileged children that need milk in those early formative years.

If those in Congress do not like him waiving it by Executive order, they could take him to court; I guess that there will not be one Republican in the Congress and there will not be one Democrat in the Congress who would challenge the President in using some common sense and applying it to a sequester. In that month we would save a few billion dollars, and do a service to the country and to the taxpayers.

In between, let us have an election this November to let the people help decide what you ought to do. If the people want a budget with a lot of taxes in it, then choose which candidate you want to vote for and come January 15, or whenever it takes place, the President could sign the resultant budget. I will sign the taxes that the Congress passes if we let the American people vote on it and thereby put their Congressmen and their Senators up for election to a test. Will they give them a budget that is a commonsense budget, which restrains the growth of spending, achieves a balanced budget over a reasonable period of years without a big tax increase on the American people? Put this to a test.

What happens is, like the election in 1988, bring everybody to Washington, and spend too much time talking to each other. I have the highest regard for our leaders in the Congress, and our President and administration, but when they are so busy with what is going on here, we lose sight of the philosophical argument. If we want the bureaucratic welfare state to continue to grow the way it is we can raise taxes and feed the machine, and it will grow. We will break the economy in the process, but we will sure have a big bureaucratic welfare state. It is fascinating to this Senator to look around the world, Mr. President, and see that the enlightened people behind the Iron Curtain countries opt for perestroika. I say we need perestroika in the United States.

What seems to be happening is, in addition to our continuing to fund the current bureaucratic welfare state, we are passing more bills, more laws, more regulations, day after day, to grow a bigger bureaucratic welfare state, to pattern ourselves after those people who have been living in poverty and poorness.

I see that our distinguished colleague from Illinois is here. If he is seeking recognition, we will need to ask unanimous consent for him to speak, because the Senate is under a unanimous-consent order to go into recess as soon as this Senator completes his 10 minutes. Is the Senator seeking time?

Mr. SIMON. Mr. President, I ask unanimous consent to address the Senate as in morning business following the Senator. I will speak for a few minutes.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

Mr. SYMMS. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Fourteen seconds.

Mr. SYMMS. If I might have 30 seconds to wrap up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I will wrap up. I thank the indulgence of the Chair and my colleagues.

I do think we should not take the vote in the House as some Armageddon or end all problems. We need to take a message from the American people that what they want from their Congress is common sense. The 4-percent solution that many of us offered looks very attractive to me, very moderate. We can allow Government to grow at a 4-percent rate and have a balanced budget by 1995 and avoid a big recession. This Senator believes if we pass a tax increase and we pass more regulatory legislation like is pending now before us, which will burden banks, small country banks with more regulation, the Clean Air Act which will burden every person in America with an additional $30 to $50, $60 billion in regulatory costs and other legislation, we are asking to put this country in a tailspin economically and into a recession.

Yet, if we have a commonsense budget, restrain the growth of spending, ask a little more sacrifice from sacrifice from all of us in the country, and not allow the Government to grow at a rate any more than 4 percent—less if we can do it—we do not need new taxes, and we can have a growth in the economy. Maybe then we can have a little perestroika in America where all the ideas of freedom, liberty, and opportunity economics started. We have done so much with our people in such a short span of history, because basically they are free, and more government will make them less free. That is why I commend the House of Representatives for their intelligent vote last night to vote down that package which spells nothing but bigger government and less freedom for the people

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

THE BUDGET AGREEMENT

Mr. SIMON. Mr. President, I want to speak for a few minutes on what happened in the House last night. The world is not going to end because of what happened last night. I hope we come up with some sensible solutions.

The reality is that that package—and you cannot separate the budget from the package that was agreed upon at the summit—as has been pointed out by a number of people, is unfair to seniors, and there is a lack of equity in terms of being unfair to people of modest income. Senator CONRAD has just pointed out the agricultural sector takes an unfair hit in the process of the whole thing, a 24-percent cut, much higher than any other segment.

Let me point out a couple of other things that concern me, also. I agree that we are all going to have to make sacrifices. The Presiding Officer serves on the Budget Committee, on which I also serve, and I have been willing to make tough decisions and tough goals. I commend the Senator from Virginia for being willing to do that, also. He has been a most impressive member of the Budget Committee. I want to say that.

Let me just take two examples. First of all, in the national defense function, we start off with a number that is higher than either the Senate Budget Committee or the House Budget Committee. That is bad enough. We start off with $289 billion, but we go up in fiscal year 1995 to $364 billion, an increase of $75 billion over the fiscal year 1991 figure.

There ought to be some kind of rational examination of what has happened in the world. The cold war is over. We do not face the same kind of Soviet threat that we faced before. Yes, we have to have a highly mobile, very effective force to handle the kind of Iraq situation that may come up. But we do not need an increase of $75 billion over the next few years in the defense expenditure.

Plus, there is another aspect to this that I have never seen before in 16 years in Congress. That is, part of the budget agreement is, if we want to shift some money from defense over to education or health care or any other function, it takes a 60-percent vote of the House and the Senate to do that. I know of no precedent for that. I know of no reason we should have defense being this sacred cow. I want a strong defense, but let us put everything out on the table on an equal basis.

By comparison, let us take function 500: Education, training, employment, and social services. About half of that goes for education. The budget authority for fiscal year 1991 is $43 billion. The budget authority for fiscal year 1995, $47 billion, is an increase of about $4 billion. If you just take a 4-percent inflation factor, if my mathematics are correct—and I am just roughly sketching this out—for national defense, we would have a $45 billion increase over fiscal year 1991 to 1995 and, frankly, I do not think that is justified. But let us just say a $45 billion increase, while the resolution calls for a $75 billion increase.

Then let us go down to this area of education, which I think any rational analysis says we have to do much, much better. Get down to education, where we have a $4 billion increase, if you assume a 4-percent inflation factor, we would have a $10.8 billion increase. In other words, in the area of education, we are not keeping up with inflation. In the area of defense, we are going way ahead of inflation in expenditures.

I do not think that is a rational thing to do. I have to believe, if someone from Mars were to come down here and take a look at our needs, I think that that person from Mars would come to the conclusion that our military threat has diminished and we do not need to pile up all the weapons any more. We can cut back.

We are now 20 percent of the world's economy. We do not need all the bases that we had when we were 40 percent of the world's economy. Japan and other nations can share more of the burden.

I also believe that anyone coming and looking at our situation rationally would have to say we are going to have to do much better in the area of education. And yet this budget goes in precisely the opposite direction. I think that is a mistake, and I hope as we revise this we can come up with a more rational approach.

Mr. President, I understand that we stand in recess automatically at the end of my remarks.

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMON. I note the Senator from South Carolina has just come on the floor. I do not know if he wishes to speak.

Mr. HOLLINGS. I do not.

Mr. SIMON. All right. With that I yield the floor, Mr. President.

RECESS UNTIL 12 NOON

The PRESIDING OFFICER. Under the previous order the Senate will now stand in recess until 12 noon.

Thereupon, the Senate, at 11:20 a.m., recessed until 12 noon; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. REID].

The PRESIDING OFFICER. The Presiding Officer, in his capacity as a Senator from the State of Nevada, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Are there further amendments to the bill now pending?

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I have no further amendments. There are no amend-

ments on this side. We are prepared to vote.

The PRESIDING OFFICER. There being no further amendments, the question is on the engrossment and third reading of the bill.

The bill was read for the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I ask unanimous consent that the Senator from Pennsylvania be permitted to proceed with an amendment, notwithstanding third reading, subsequent to which there will be a voice vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Pennsylvania is recognized.

AMENDMENT NO. 2934

(Purpose: To specify an effective date for regulatory amendments affecting the management of collective investment funds by institutions exercising fiduciary powers)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 2934.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REGULATIONS AFFECTING FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE FUNDS.

Any final regulations regarding the management of collective investment funds by institutions exercising fiduciary powers amendment Part 12 of the Code of Federal Regulations, section 9.18, as proposed by the Office of the Comptroller of the Currency on February 7, 1990 (55 F.R. 4184), shall not become effective prior to 1 year following the date of enactment of this Act.

Mr. HEINZ. Mr. President, on February 7 of this year, the Comptroller of the Currency released a proposal to substantially modify and in certain instances repeal longstanding rules governing fiduciary powers of national banks and the use of collective investment funds.

I am troubled by the proposed abolition of the current prohibition on advertising common trust funds, as well as the repeal of existing restrictions which preclude banks from double charging trust beneficiaries for trust services and common trust fund management fees.

These actions, in my view, could have the effect of converting common trust fund activities established for the convenience of a bank in the administration of fiduciary accounts into a grant of broad authority to sponsor, to underwrite, to distribute mutual funds without addressing adequately issues concerning the protection of bank customers, conflict of interest, and functional regulation.

As my colleagues well know, Mr. President, I have previously supported congressional efforts to address financial modernization and to expand bank powers into areas like this. In March 1988, the Senate overwhelmingly approved, by a vote of 94 to 2, with my support, the Proxmire Financial Modernization Act.

Mr. KERRY. Will the Senator suspend for a moment?

Mr. HEINZ. I am pleased to.

Mr. KERRY. Could I put in a quorum for one moment? Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GARN. I object.

The PRESIDING OFFICER (Mr. KOHL). Objection is heard.

The clerk will continue to call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Is there objection?

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. Will the Senator from Pennsylvania withhold?

Is there any objection to calling off the quorum call? Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, on February 7, 1990, the Comptroller of the Currency released a proposal to substantially modify, and in certain instances repeal, long-standing rules governing fiduciary powers of national banks and the use of collective investment funds.

I am troubled by the proposed abolition of the current prohibition on advertising common trust funds as well as the repeal of existing restrictions which preclude banks from double charging trust beneficiaries for trust services and common trust fund management fees.

These actions, in my view, could have the effect of converting common trust fund activities, established for the convenience of a bank in the administration of fiduciary accounts, into a grant of broad authority to sponsor, underwrite and distribute mutual funds without addressing adequately issues concerning the protection of bank customers, conflicts of interest and functional regulation.

I have previously supported congressional efforts to address financial modernization. In March 1988, the Senate overwhelmingly—(94 to 2)—adopted the Proxmire Financial Modernization Act. The Senate determined that bank securities activities should be conducted in a separately capitalized securities affiliate subject to regulation under the Federal securities laws. The legislation placed certain firewalls between the bank and the securities affiliate to protect the Federal Deposit Insurance System and to mitigate potential conflicts of interest. Last, the bill mandated adequate disclosures to reduce the risk that consumers would confuse federally insured deposits with noninsured securities products.

The OCC proposal does not reflect these policies which the Senate strongly endorsed in connection with that legislation.

With respect to lifting the prohibition on advertising of common trust funds, I am concerned that absent adequate protections, bank customers could confuse bank common trust fund investments promoted and sold by bank on bank premises with federally insured deposits.

The Senate passed, as an amendment to the National Affordable Housing Act the Depositor Protection and Abuse Prevention Act of 1990, (S. 2058) which prohibits the sale of certain securities of bank affiliates on bank premises. The bill was introduced in the wake of recent experiences that demonstrate how easily bank customers can be misled concerning the insured status of investments sold by bank employees on bank premises.

With respect to conflicts of interest, I am concerned that bank trustees with broad discretionary authority may be inclined to favor bank-sponsored investment products over mutual funds sponsored by unaffiliated companies.

The OCC proposal repeals restrictions on double charging of fees, which was intended to address potential conflicts of interest. This action appears to unnecessarily remove a level of protection for bank trust account beneficiaries.

Moreover, the OCC proposal would permit banks to charge fees against trust assets to recoup costs associated with advertising the fund. In my view, banks should bear the promotional expenses relating to the sale of common trust funds.

The OCC proposal also portends the broad public sale of common trust funds without providing the full panoply of protections provided by the Federal securities laws. Functional regulation was an integral component of the Proxmire Financial Modernization Act. Accordingly, it is inappropriate to extend the securities activities of banks without also extending the protections that have long applied to the sale of mutual fund investments.

Over the past several years the Senate Banking Committee has been active in formulating and adopting legislation which addresses the appropriate scope of bank activities. Many members of the committee, including me, feel strongly that Congress is responsible for establishing policies in the financial services area. Unfortunately, while the Senate has addressed these issues, the House of Representatives has not.

The Banking Committee intends once again to address these issues at the start of the next Congress in the context of comprehensive legislation to modernize our financial services industry.

In my view, prudence dictates that the OCC await congressional action on financial modernization before establishing policies that have a profound impact on the scope of bank securities activities.

Consequently, I offer a straightforward amendment that would place a one year moratorium on the changes proposed by the Comptroller of the Currency to the regulations relating to the management of collective investment funds.

I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2934) was withdrawn.

Mr. DIXON. It is my understanding that language in the committee report clarifies that section 318 permits creditors to offer multiple margins. The report language specifies that multiple margins may be offered "for example, by tying the amount of the margin to the credit line or whether the consumer pays closing costs for the plan." These examples specified in the report relate only to specific features of the home equity plan. Am I correct that the statute would also allow creditors to offer multiple margins based on aspects of the consumer's credit situation, such as the consumer's credit limit, credit history, and amount of available equity?

Mr. DODD. The Senator is correct. The ability of a creditor to offer multiple margins is not limited to tying the amount of the margin to specific features of the loan. Margins may also be tied to specified aspects of a consumer's application. Section 318 means that the disclosure to the consumer must include each margin actually being offered and a description of the circumstances under which each margin is available.

Mr. DIXON. I believe that is an accurate description of the committee's intent. For example, it is my understanding that the disclosure could state different margins which would be available to a consumer based on a review of the consumer's credit qualifications.

Mr. DODD. The Senator's understanding is correct. The disclosure, however, would have to state the different margins in the same manner outlined in the committee report. The creditor would have to clearly set forth and describe the specific criteria to which the applicable margin is tied. For example, the creditor could disclose that the lowest margin is only available to consumers with prompt payment histories, low debt-to-income ratios, and other low risk consumer characteristics. In addition, the use of so-called creditworthiness criteria would have an impact on section 1647(d) of existing law, which relates to terms changed after application. This section is designed to protect consumers from incurring any costs paid in connection with a home equity loan application when key terms and conditions are changed before an account is opened. Because the consumer would not know the exact rate he or she would be getting when a creditor discloses different margins based on the creditor's evaluation of the consumer's creditworthiness, the failure to offer the consumer the lowest disclosed rate would, for purposes of section 1647(d), constitute a term changed after application that would permit the consumer to elect not to enter into the plan agreement and entitle the consumer to a refund of all fees paid by the consumer in connection with such application.

Mr. DIXON. I thank the Senator. His explanation clarifies the meaning of the statute and is eminently fair.

Mr. GRAHAM. Mr. President, I rise in support of the money-laundering provisions we are passing today. Money laundering is not a new activity—organized crime has always used the process to hide their illegal profits. But the narcotics traffickers have refocused law enforcements' attention on the process because of the incredible amount of money they are laundering. In Florida, the impact that dirty money has had on our local economics, real estate values, and banking practices is well documented. It is commonly estimated that drug traffickers' illegal profits are larger than the gross profits of all the Fortune 500 companies combined. That is over $100 billion a year.

Targeting the profits that the drug kingpins take may not produce multiton cocaine hauls, but we know that these narcoterrorists are also profit-motivated businessmen. We can help shut their businesses down by affecting their bottomline.

The States and banks have been helping Federal law enforcement agencies collect currency transaction data and investigate money laundering cases. The bill we are passing today improves the data collection process, and speaks to the issue of Federal-State cooperation in sharing that data.

The 1988 Anti-Drug Abuse Act amended both forfeiture statute and money laundering law. Senator KERRY was the driving force behind an amendment that requires the Treasury Secretary to pursue international agreements that would establish a mechanism of sharing currency transaction information. We cannot discuss international currency movements without including wire transfers. This issue is also dealt with in the bill.

Three of my major concerns are addressed in the money laundering bill. First, the bill now includes a fifth factor to be considered prior to any revocation or termination of charters or Federal deposit insurance after conviction of money laundering or currency reporting violations. That factor is whether the depository institution maintained, according to the review of the regulatory agency, a program of money-laundering deterrence and compliance that clearly exceeds federally required measures; adequately monitored the activities of its officers and employees, and promptly reported suspected violations to law enforcement.

This provision encourages banks to actively fight money launderers. It is similar in concept to the safe harbor provision in 1988 Anti-Drug Abuse Act that applies to the airline and shipping industry. On February 19, 1990, I worked as a customs inspector at Miami International Airport and had the opportunity to learn about a voluntary safe harbor program and how the airline and shipping industries comply with it. An effective safe harbor program encourages training, supervision, and higher standards of operation. In the shipping and airline industry these improved efforts translate into better cooperation with the U.S. Customs Service and therefore improved drug interdiction efforts. Our intent is for this fifth factor in the bill before us to encourage the same positive role for financial institutions with regard to money laundering enforcement.

Second, the bill now includes an important provision requiring the State

comptroller be notified of the pretermination hearing that is scheduled upon the conviction of a State bank or a credit union of money laundering violations.

And third, the bill allows States access to Federal currency reports—domestic currency transaction reports [CTRS], U.S. citizen's transactions with a foreign financial agency, and reports on exporting money out of the United States. None of these reports include wire transfers in their definition.

This was put into the bill in order to help relieve States of the administrative burden and expense of duplicating Federal reporting requirements. Florida has already developed its own system of CTR reporting that mirrors the Federal one—they will now be able to request and receive the Federal reports. States will still have to determine uses for the data and analyze it themselves.

Mr. President, let me thank the majority and minority staffs of the Banking Committee as well as my own staff for their tireless efforts on this piece of legislation. This bill is a continuation of the U.S. effort to go after illegal drug profits through money laundering.

Mr. DIXON. Mr. President, the Senate Banking Committee unanimously approved the Fair Lending Enforcement Act of 1990. That bill, which became S. 3049, has now been included as part of the managers' amendment to S. 3037. I thank the managers of the money laundering bill for agreeing to its inclusion.

We started working on the issue of mortgage discrimination in 1989. Last October the Subcommittee on Consumer and Regulatory Affairs held a hearing on the subject. The subcommittee heard troubling statistics which showed that blacks and minority neighborhoods got fewer loans and got rejected for loans more often than whites and white neighborhoods—even when incomes were comparable. We also heard about the inadequate regulatory response to this situation.

In May the subcommittee held a followup hearing. Some of the agencies reported new initiatives, which I commended. Yet, we still heard that the regulatory agencies find exceedingly few violations during examinations; never refer cases to the Justice Department; and have policies which do not adequately compensate victims of discrimination. Although I expect to continue both to hold oversight hearings and to develop legislative proposals, if need be, the time has come for some legislation from Congress to improve enforcement of our fair lending laws.

This bill would enhance enforcement of the Equal Credit Opportunity Act and, indirectly, the Fair Housing Act, which are the two overlapping laws dealing with mortgage discrimination. The bill has four parts.

Part 1 would require lenders to provide loan applicants with a copy of the appraisal, so long as the loan applicant has paid for it. In hearings we learned that discrimination may occur in the appraisal of a property. By providing the loan applicant with the appraisal, he or she—perhaps with the aid of counsel—will better be able to determine whether a racially discriminatory under appraisal was the reason for the loan denial. At our May 16 hearing, every single witness supported this proposal.

Part 2 would require the regulatory agencies to establish separate consumer compliance programs with specially trained examiners, and the head of this consumer program would have to report directly to the head of the agency. Both the Federal and OTS have testified that the only way for the agencies to be serious about consumer compliance is by having separate consumer examiners. Requiring the agencies to have separate consumer compliance programs, but not a separate consumer division, gives the agencies reasonable flexibility in their organizational structure.

Part 3 would require appropriate cases to be referred to the Department of Justice or the Department of Housing and Urban Development. Under current procedures, when a regulatory agency finds discrimination, it directs the depository institution to change any discriminatory policies or practices. Victims of discrimination are invited to reapply for loans, but full compensation for damages incurred is not sought. HUD, under the Fair Housing Act, is set up to conciliate claims and to handle damage claims in a more compensatory manner.

The bill overturns a court case which inappropriately tied the Justice Department's hands in enforcing the Equal Credit Opportunity Act. Currently, Justice rarely brings ECOA cases because it can obtain only injunctive relief. The bill would allow Justice to seek actual and punitive damages under the limits already specified in the statute.

Part 4 would provide for a small-mortgage banker exemption from the Home Mortgage Disclosure Act. The new exemption would be tailored to the mortgage banking industry. The current $10,000,000 asset exemption—a drafting error in FIRREA—was not meant to apply to mortgage bankers and results in exempting all but about 30 mortgage banking companies throughout the United States.

In a colloquy with other members of the Banking Committee, I earlier explained some of the changes between my original bill and the bill now included as part of the managers' amendment. One provision I did not describe earlier deals with credit unions. The managers' amendment clarifies that the bill applies to federally insured credit unions, not just federally chartered credit unions; the original language was inconsistent on this point. However, the amendment recognizes that the States, in coordination with the National Credit Union Administration, examine State-chartered/federally insured institutions. The amendment clarifies that NCUA will not have to start examining the State-chartered institutions, unless the States fail to have consumer compliance programs. The managers' amendment also clarifies that consumer compliance examinations do not have to be conducted at a different time from safety and soundness examinations.

In conclusion, I remind my colleagues that there is too much evidence of discrimination in mortgage lending for Congress to stand by without acting. Mortgage discrimination is illegal under more than four different statutes. What we need today is better enforcement of those laws. This bill takes a very practical, reasonable approach to strengthening enforcement of our fair lending laws. I ask my colleagues to join with me in supporting the Fair Lending Enforcement Act of 1990. America's working families—of all races—have earned their fair share of the American dream. Their rights to be free from discrimination in lending must be vigorously enforced.

FAIR LENDING AMENDMENTS

Mr. GARN. I understand that my colleague from Illinois has accepted several changes to the Fair Lending Enforcement Act of 1990 made by the managers' amendment which includes that act as part of the money laundering bill.

Mr. DIXON. The most significant change allows each of the regulatory agencies to consider the size of the institution and the complexity of the consumer examination issues presented in allocating personnel within their consumer compliance programs. I would like to clarify that, although the statutory language is essentially the same for all regulatory agencies, the factors to be applied will yield different results for the National Credit Union Administration than for the Federal banking agencies.

Mr. GARN. That is my understanding, as well.

Mr. DIXON. For example, credit unions are not subject to the Community Reinvestment Act. Also, credit unions tend to be smaller than national banks and have less sophisticated portfolios. By contrast, banks and thrifts generally are larger than credit unions. Their portfolios are more sophisticated and, because they are subject to the Community Reinvestment Act, they normally present more complex consumer compliance issues. For

these reasons, the Federal banking agencies will presumably need to devote considerably more examiners exclusively to consumer compliance issues than will the National Credit Union Administration.

Furthermore, credit union directors are democratically elected and credit unions often have committees of members who respond to consumer complaints. These differences in structure and mission of credit unions may lead to a lesser need for consumer compliance examiners working exclusively in that area. These differences, however, do not mean that we intend for the National Credit Union Administration to place a lesser priority on consumer compliance than the other Federal banking agencies.

Mr. GARN. I agree with my colleague, the chairman of the subcommittee which held hearings on fair lending issues, and the author of this bill. I would like to add that it is not the committee's intent to diminish agency efforts regarding safety and soundness examinations.

Mr. DIXON. That is certainly correct. Establishing a separate consumer compliance program promotes specialization. Specialization should enhance the effectiveness of both the consumer compliance and safety and soundness examination programs.

Mr. GARN. I understand that the managers' amendment drops the "frequency of examinations" provision for the Federal banking agencies. The Office of the Comptroller of the Currency objected strenuously to this provision because of their statistical sampling technique for consumer compliance examinations.

Mr. DIXON. I agreed to drop this provision because we could not reach agreement at this time on appropriate statutory language. The regulatory agencies should not interpret this as any lessening of interest by Congress in regular consumer compliance examinations.

Mr. GARN. I thank my colleague from Illinois and agree that these explanations accurately reflect the committee's intent in bringing this bill before the Senate. I now wish to acknowledge my colleague from Missouri, the ranking Republican member of the Senate Banking Subcommittee on Consumer and Regulatory Affairs.

Mr. BOND. I would like to join my colleagues in their understanding of the purposes and requirements of this legislation. I agree with their preceding discussion.

Mr. RIEGLE. I join in as well in my colleagues' understanding and applaud their efforts in putting forward this important piece of civil rights legislation.

Mr. President, today is the fourth day of Senate consideration of S. 3037, the Money Laundering Enforcement Amendments of 1990, reported by the Senate Banking Committee. The legislation has five parts: Titles I and II contain the money laundering enforcement measures; title III contains the Truth in Savings and Investment Act, amendments to the Expedited Funds Availability Act, and the Home Equity Consumer Protection Act; title IV contains the Counterfeit Deterrence Act of 1990; and title V contains the Coin Redesign Act. Almost all of the members of the Banking Committee were involved in this effort.

With respect to the money laundering provisions, I want to commend Senators KERRY and D'AMATO for introducing legislation which will strengthen enforcement efforts and increase the pressure on drug money launderers. The money laundering titles of S. 3037 incorporate most of the provisions of their bills—S. 2327, which Senator KERRY introduced and which I joined Senators METZENBAUM, GARN, BOND, BRYAN, and HATCH in cosponsoring, and S. 2651, which Senator D'AMATO introduced and which Senators DODD, WILSON, DECONCINI, DOLE, COATS, and THURMOND cosponsored.

S. 3037, reported by the Banking Committee, increases the penalties for money laundering by authorizing regulators of depository institutions, in appropriate cases, to revoke a charter, terminate deposit insurance and remove employees convicted of money laundering. S. 3037 also addresses a gaping hole in money laundering enforcement efforts which the committee discovered in hearings last fall—the money transmitting, money exchanging, and check cashing industries. The legislation requires depository institutions to identify their customers that are nonbank financial institutions, including money transmitters, money exchangers, and check cashers, to the Treasury Department. Conducting a money transmitting business without the appropriate State license will become punishable as a Federal felony. Furthermore, S. 3037 requires the Secretary of the Treasury to promulgate final regulations requiring depository institutions, money transmitters, and others to keep records of international and other funds transfers, another gap in enforcement efforts discovered by the Banking Committee.

Title III of the bill, the Truth in Savings and Investment Act, is the product of joint efforts of former Consumer Subcommittee Chairman DODD and the current chairman and ranking member, Senator DIXON and Senator BOND. Very briefly, the provisions of this title are designed to enable consumers to compare different savings and investment products so they can make better informed decisions on how to invest their money. The title also amends the Home Equity Loan Consumer Protection Act to require lenders to disclose the margin used in determining the annual percentage rate charged. Finally, the title amends the Expedited Funds Availability Act to clarify the holds depository institutions may place upon deposits to nonproprietary automated teller machines.

Title IV contains the Counterfeit Deterrence Act of 1990 which is substitute language to S. 2748 and was drafted by Senator GARN and me and supported by the Treasury Department, the Secret Service, and the private sector. The provisions adopted by the committee modify current law to further define counterfeit deterrents to take into account new technologies while protecting legitimate uses of advanced computerized technology. The legislation also increases penalties for counterfeiters.

I want to complement Senators CRANSTON and GARN for their fine work on the coin redesign legislation contained in title V. This title authorizes the modernization of the designs on the reverses of U.S. circulating coins—some of which are 52 years old—in order to better reflect today's values and accomplishments. Profits from the sale of uncirculated and proof sets of these coins will be deposited in the general fund of the U.S. Treasury.

I strongly urge my colleagues to support this legislation. S. 3037 represents a substantial and important effort by the Banking Committee. This is sound legislation and I urge its enactment.

Mr. BIDEN. Mr. President, drugs have become an insidious plague in this country. Everyday we are confronted by their disastrous effects on the minds and bodies of our children. We are struggling to hold back a tide of crime and violence flooding our courtrooms, classrooms and emergency rooms with the victims of this epidemic.

But the devastating impact of drugs does not end here. As drug addiction and corruption spread across America, they increasingly invade and undermine the institutional foundations of our society.

The hugh profits garnered by drug dealers makes money as important a motivation for drug trafficking, as is the addict's craving for drugs.

Drug money drives drug dealers to press into new schoolyards and neighborhoods;

Drug money supports sophisticated international distribution networks;

Drug money funds ruthless, heavily armed street gangs as they push their product; and

Drug money draws legitimate businessmen and bankers into criminal commerce.

To effectively attack drugs, we must successfully attack the financial underpinnings of the drug trade.

We must track and seize every possible ill-gotten dollar and ensure that drug money launderers face the same stiff prison sentences that drug dealers face.

That is exactly what we did in the Money Laundering Control Act of 1986, which I coauthored with Senator THURMOND and Senator D'AMATO. That law made money laundering a criminal offense, punishable by up to 20 years behind bars. It also authorized the forfeiture of the profits of the drug trade, which can be channeled back to the law enforcement agencies that are on the front lines of the drug war.

The amendment that I am offering today builds on the money laundering law that we passed in 1986. Specifically, my amendment would:

Foster cooperation in international money laundering cases by allowing U.S. law enforcement agencies to conduct joint money laundering investigations with foreign governments and to share the seized proceeds from these cases;

Assist U.S. authorities in tracking international drug money, by prohibiting the structuring of financial transactions in ways that could avoid the currency import/export reporting requirements under Federal law;

Require the Treasury Department to take a hard look at whether the banks and other financial institutions are complying with the currency transaction reporting requirements, and how these reports can be used more effectively by U.S. law enforcement agencies.

Mr. President, I want to thank my colleagues on the Senate Banking Committee—particularly the chairman, Senator RIEGLE, and the Senator from Massachusetts, Senator KERRY—for their cooperation on this amendment.

I ask unanimous consent that a section-by-section analysis of my amendment be printed in the RECORD at this time.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF BIDEN MONEY LAUNDERING AMENDMENT

Sec. 601. REPORT ON CURRENCY TRANSACTIONS.

Section 601 relates to the various reports that individuals and financial institutions must file in accordance with recently enacted anti-money laundering statutes. The provision requires the Secretary of the Treasury to report to Congress on the degree to which these statutes are being complied with and on the uses the government is making of the reports that are filed. Subsection (b) further requires the Secretary to establish an advisory group to inform representatives of the financial industry of these matters. The latter provision should encourage greater compliance with the reporting requirements, and to promote greater voluntary disclosures of unlawful financial activity.

Sec. 602. ELECTRONIC SCANNING TASK FORCE.

Sections 502 of S. 1970 creates an Electronic Scanning Task Force to study methods of using advanced printing and computer technology to assist U.S. law enforcement authorities trace suspicious money flows. A similar provision has been included in the House money laundering bill.

Sec. 603. COOPERATIVE INVESTIGATIONS OF FOREIGN AUTHORITIES.

Sections 603 (section 503 of S. 1970) authorizes the Attorney General to share the proceeds of a cooperative money laundering forfeiture case with a participating foreign government. Sections 6074 and 7366 of the Anti-Drug Abuse Act of 1988 amended 21 U.S.C. 881(e) and 19 U.S.C. 1616a, respectively, to provide for the equitable sharing with a foreign nation of property seized from drug traffickers where the foreign nation participated in the seizure. Under the Anti-drug Abuse Act amendments, transfers of property to participating foreign nations may be made where the transfer is authorized in an international agreement between the United States and the foreign country.

In thus amending the law to permit sharing of forfeited property or proceeds with foreign nations, Congress neglected to make a conforming amendment to 18 U.S.C. 981(i). Under 18 U.S.C. 981(i), however, such transfers could only be made "to the extent provided by treaty"—a restriction which rendered the provision virtually useless from a practical standpoint and which was the reason for seeking the amendments in the Anti-Drug Abuse Act of 1988 that relaxed the requirement so as to permit such transfers pursuant to an international agreement.

SEC. 604. CONFORMING AMENDMENT TO 1988 ANTI-DRUG BILL.

Section 604 amends the Right to Financial Privacy Act to expand the circumstances under which law enforcement agents can gain access to evidence of money laundering by bank insiders. Section 6186 of the Anti-Drug Abuse Act of 1988 created an exemption from the Right to Financial Privacy Act of 1978 for the financial records of "insiders". It provided that the Act does not apply to the transfer of financial records of financial institution officers, directors, controlling shareholders or certain major borrowers to federal or State law enforcement agencies where such records may be relevant to possible crimes against financial institutions or supervisory agencies by such persons, or to possible money laundering violations covered by the Bank Secrecy Act. The latter Act is described by reference to "any provision of subchapter II of chapter 53 of title 31, United States Code.

The quoted exemption for insider records pertaining to title 31 money laundering offenses should encompass money laundering offenses under 18 U.S.C. 1956 and 1957, since such offenses fall equally within the rationale and purpose of the provision. The instant amendment would accomplish this conforming addition.

SEC. 605. CLARIFYING TITLE 18 MONEY LAUNDERING LAW.

Section 605 clarifies current law and is not intended to have any substantive effect. The current definition of "monetary instrument" in 18 U.S.C. 1956(c)(5) is not subdivided into paragraphs (i) and (ii) as is proposed here. Thus, even though currently no comma precedes the phrase "in bearer form or otherwise in such form that title thereto passes upon delivery", and even though that phrase, in the present statute, is repeated after both "investment securities" and "negotiable instruments", both indicating that the "in bearer form" phrase was meant to modify only "investment securities" and "negotiable instruments", prosecutors have encountered repeated questions as to whether the "in bearer form" limitation is applicable also to travelers' checks, personal checks, bank checks, and money orders. Such reading would restrict the operation of the money laundering offenses to which the definition of "monetary instrument" is applicable in a manner inconsistent with the intent of Congress, and no case law exists to support this strained interpretation. Nevertheless, because the issue appears to be a persistent source of confusion and a potential source of litigation, a clarifying amendment would seem worthwhile. By subdividing the definition into two branches, the amendment makes clear that the phrase "in bearer form * * *" modifies only the categories of "investment securities" and "negotiable instruments" in the statute.

SEC. 606. LAUNDERING PROCEEDS OF FOREIGN OFFENSES.

Section 606 resolves an inconsistency in the money laundering statute. That statute makes it an offense to launder the proceeds of any form of "specified unlawful activity". It is not required that the launder know what form of unlawful activity was involved as long as he knows that it was some offense that would be a felony under "state or federal law."

The inconsistency is that while the "specified unlawful activity" could be an offense under foreign law, section 1956(c)(7)(B), the knowledge requirement relates only to "state or federal law". Thus a person who launders the proceeds of a foreign offense might not be prosecutable under the statute as currently drafted because the underlying offense would not be covered by the knowledge requirement. The amendment resolves this possible problem by expanding the knowledge requirement to include foreign offenses where the offense would qualify as a "specified unlawful activity" if committed in the United States.

SEC. 607. AMENDMENTS TO FIRREA (S&L BAILOUT) LAW.

Section 607 amends the anti-money laundering statute, 18 U.S.C. 1956, to conform with certain provisions in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRRE Act), Pub. L. 101-73. The act amended, increased the penalties for, and provided for forfeiture relating to violations of several offenses relating to financial institutions. The conforming amendments adds these same offenses (sections 1005, 1006, 1007, and 1014 of title 18) to the definition of "specified unlawful activity" in the money laundering statute. A second conforming amendment strikes the reference to section 1344 from this defintion since that reference was made redundant by the addition of section 1344 to the list of predicates for a RICO violation, 18 U.S.C. 1961, in the FIRRE Act.

SEC. 608. TECHNICAL CORRECTION TO 1988 ANTI-DRUG BILL.

Section 608 effects a correction to the list of predicate offenses in 18 U.S.C. 1956(c)(7)(D). Section 6466 of the Anti-Drug Abuse Act of 1998 amended the definition of "specified unlawful activity" for the purposes of the money laundering statute, 18 U.S.C. 1956, to include a reference to section 310 of the Controlled Substances Act, 21 U.S.C. 830, relating to precursor and essential chemicals. That reference, however, is

to a provision that contains no criminal penalty but rather only a direction to keep records and file reports regarding such chemicals. Felony penalties are set forth elsewhere in the Chemical Diversion and Trafficking Act of 1988 for importing, exporting, possessing or distributing a listed chemical with intent to manufacture a controlled substance and for other miscellaneous trafficking-type offenses involving listed chemicals. Misdemeanor penalties are set forth for recordkeeping violations. It is thus evident that the reference to 21 U.S.C. 830 in section 1956(c)(7)(D) is incorrect. An appropriate reference is provided by the amendment here to any felony violation, i.e., trafficking-type offenses, of the Chemical Diversion and Trafficking Act of 1988 involving precursor and essential chemicals.

SEC. 609. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 609 amends the money laundering statute to enhance the effectiveness of undercover operations against international money launders. Section 6465 of the Anti-Drug Abuse Act of 1988 amended the money laundering statute, 18 U.S.C. 1956, to permit a conviction for conducting a financial transaction involving property that the defendant believed—based on the representation of an undercover law enforcement officer—to be the proceeds of unlawful activity. This amendment made it possible for federal law enforcement agents to conduct undercover operations against money launderers by posing as drug traffickers.

The 1988 amendment, however, applied only to the offense of conducting a financial transaction. Logically, it should also have applied to the offense of transporting or transmitting the proceeds of unlawful activity by wire or some other means, as set forth in section 1956(a)(2). This section makes that conforming amendment to subsection (a)(2). It is necessary to allow federal agents to maintain undercover operations against international money launderers who knowingly participate in wire transfers of the proceeds of unlawful activity.

SEC. 610. PROHIBITION ON STRUCTURED TRANSACTIONS.

Section 610 amends section 5316 of title 31, United States Code, to prohibit the structuring of transactions to avoid the monetary import and export reporting requirements, the so-called CMIR reporting requirements. Under current law, structuring a financial transaction to avoid the reporting requirements under section 5313 is a criminal offense. This amendment simply extends this prohibition to include structuring transactions to avoid the currency import/export reporting requirements under section 5316.

Mr. KERRY. Mr. President, I thank the distinguished Senator from Pennsylvania for his cooperation in this matter and for his assistance in helping us to move forward at this point in time.

Mr. President, I do not believe there is any further amendment or any further debate. I believe third reading has taken place.

The PRESIDING OFFICER. If there be no further debate, the bill, having been read the third time, the question is, Shall the bill, as amended, pass?

So the bill (S. 3037), as amended, was passed, as follows:

S. 3037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Money Laundering Enforcement Amendments of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title, table of contents.

TITLE I—TERMINATION OF CHARTERS AND INSURANCE

Sec. 101. Revocation of charter of Federal depository institutions convicted of money laundering or cash transaction reporting offenses.
Sec. 102. Termination of insurance of State depository institutions convicted of money laundering or cash transaction reporting offenses.
Sec. 103. Removal of parties involved in currency reporting violations.
Sec. 104. Unauthorized participation.
Sec. 105. Access by State financial institution supervisors to currency transactions reports.

TITLE II—MONEY LAUNDERING ENFORCEMENT

Sec. 201. Identification of financial institutions.
Sec. 202. Prohibition of illegal money transmitting businesses.
Sec. 203. Compliance procedures.
Sec. 204. Nondisclosure of orders.
Sec. 205. Provisions relating to recordkeeping with respect to certain international funds transfers.
Sec. 206. Use of certain records.
Sec. 207. Report on currency changes.
Sec. 208. Report on bank prosecutions.

TITLE III—TRUTH IN SAVINGS

Sec. 301. Short title.
Sec. 302. Findings and purpose.
Sec. 303. Definitions.
Sec. 304. Disclosure of yields and terms of accounts.
Sec. 305. Account schedule.
Sec. 306. Disclosure requirements for certain accounts.
Sec. 307. Distribution of schedules.
Sec. 308. Periodic statements.
Sec. 309. Payment of interest.
Sec. 310. Regulations.
Sec. 311. Administrative enforcement.
Sec. 312. Civil liability.
Sec. 313. Credit unions.
Sec. 314. Review of disclosure requirements for open-end management investment companies.
Sec. 315. Effect on State law.
Sec. 316. Effective date of regulations.
Sec. 317. Expedited Funds Availability Act amendments.
Sec. 318. Home Equity Loan Consumer Protection Act amendment.

TITLE IV—COUNTERFEIT DETERRENCE ACT OF 1990

Sec. 401. Short title.
Sec. 402. Increase in penalties.
Sec. 403. Deterrents to counterfeiting.
Sec. 404. Reproductions of currency.

TITLE V—COIN DESIGN

Sec. 501. Denominations, specifications, and design of coins.
Sec. 502. Design changes required for certain coins.
Sec. 503. Design on obverse side of coins.
Sec. 504. Selection of designs.
Sec. 505. Reduction of the national debt.

TITLE I—TERMINATION OF CHARTERS AND INSURANCE

SEC. 101. REVOCATION OF CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

"(c) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A)(i) If a national bank has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) After receiving written notification from the Attorney General of such a conviction, the Comptroller of the Currency shall issue to such national bank a notice of his or her intention to terminate all rights, privileges, and franchises of such bank and schedule a pretermination hearing.

"(B) If a national bank is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Comptroller of the Currency may issue to such national bank a notice of his or her intention to terminate all rights, privileges, and franchises of such bank and schedule a pretermination hearing.

"(C) Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the bank has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be significant losses to the Federal deposit insurance funds or the Resolution Trust Corporation; and

"(E) whether the bank maintained at the time of the conviction, according to the review of the Comptroller of the Currency, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a bank that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a national bank, including members of the board of di-

rectors and individuals who own or control 10 percent or more of the outstanding voting stock of such bank or its holding company. If the institution is a Federal branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Comptroller shall by regulation specify which officials of a national bank shall be treated as senior management officials for the purpose of this subsection.".

(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(w) FORFEITURE OF CHARTER FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A)(i) If a Federal savings association has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Director a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) After receiving written notification from the Attorney General of such a conviction, the Director shall issue to such savings association a notice of his or her intention to terminate all rights, privileges, and franchises of such savings association and schedule a pretermination hearing.

"(B) If a Federal savings association is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Director may issue to such savings association a notice of his or her intention to terminate all rights, privileges, and franchises of such savings association and schedule a pretermination hearing.

"(C) Subsection (d)(7) shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Director shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the association has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be significant losses to the Federal deposit insurance funds or the Resolution Trust Corporation; and

"(E) whether the association maintained at the time of the conviction, according to the review of the Director, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a savings association, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of such savings association or its holding company. If the savings association is a United States branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Director shall by regulation specify which officials of a savings association shall be treated as senior management officials for the purpose of this subsection.".

(c) FEDERAL CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

"SEC. 130. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

"(a) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—(1)(A) If a credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(B) After receiving written notification from the Attorney General of such a conviction, the Board shall issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of such credit union and schedule a pretermination hearing.

"(2) If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Board may issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of such credit union and schedule a pretermination hearing.

"(3) Section 206(j) shall apply to any proceeding under this section.

"(b) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under subsection (a), the Board shall consider—

"(1) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(2) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(3) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(4) whether there will be significant losses to the credit union share insurance fund; and

"(5) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(c) SUCCESSOR LIABILITY.—This section does not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section.

"(d) DEFINITION.—For purposes of this section, the term 'senior management officials' means those individuals who exercise major supervisory control within a credit union, including members of the board of directors. The Board shall by regulation specify which officials of a credit union shall be treated as senior management officials for the purpose of this section.".

SEC. 102. TERMINATION OF INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) STATE BANKS AND SAVINGS ASSOCIATIONS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A)(i) If an insured State depository institution, including a State branch of a foreign institution, has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Corporation a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) After receipt of written notification from the Attorney General by the Corporation of such a conviction, the Board of Directors shall issue to such insured depository institution a notice of its intention to terminate the insured status of the insured depository institution and schedule a hearing on the matter, which shall be conducted in all respects as a termination hearing pursuant to paragraphs (3) through (5) of subsection (a) of this section.

"(B) If an insured State depository institution, including a State branch of a foreign institution, is convicted of any offense punishable under section 5322 of title 31, United States Code, after receipt of written notification from the Attorney General by the Corporation, the Board of Directors may initiate proceedings to terminate the insured status of such insured depository institution in the manner described in subparagraph (A).

"(C) The Corporation shall simultaneously transmit a copy of any notice issued under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the institution has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be significant losses to the Federal deposit insurance

funds or the Resolution Trust Corporation; and

"(E) whether the institution maintained at the time of the conviction, according to the review of the Corporation, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) NOTICE TO STATE BANKING SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board of Directors shall—

"(A) notify the State banking supervisor of any State depository institution described in paragraph (1) and the Director of the Office of Thrift Supervision, where appropriate, at least 10 days prior to the effective date of the order of termination of the insured status of such depository institution, including a State branch of a foreign bank; and

"(B) publish notice of the termination of the insured status of the depository institution.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with section 8(a)(7).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured depository institution, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of such institution or its holding company. If the institution is a State branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Board of Directors shall by regulation specify which officials of an insured State depository institution shall be treated as senior management officials for the purpose of this subsection.".

(2) TECHNICAL AMENDMENT.—Section 8(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(3)) is amended by inserting "of this subsection or subsection (v)" after "subparagraph (B)".

(b) STATE CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(t) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A)(i) If an insured State credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) After written notification from the Attorney General to the Board of Directors of such a conviction, the Board shall issue to such insured credit union a notice of its intention to terminate the insured status of the insured credit union and schedule a hearing on the matter, which shall be conducted as a termination hearing pursuant to subsection (b) of this section, except that no period for correction shall apply to a notice issued under this subparagraph.

"(B) If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after prior written notification from the Attorney General, the Board may initiate proceedings to terminate the insured status of such credit union in the manner described in subparagraph (A).

"(C) The Board shall simultaneously transmit a copy of any notice under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be significant losses to the credit union share insurance fund; and

"(E) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) NOTICE TO STATE CREDIT UNION SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) at least 10 days prior to the effective date of the order of the termination of the insured status of such credit union; and

"(B) publish notice of the termination of the insured status of the credit union.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured credit union, including members of the board of directors. The Board shall by regulation specify which officials of an insured State credit union shall be treated as senior management officials for the purpose of this subsection.".

SEC. 103. REMOVAL OF PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

(a) FDIC INSURED INSTITUTIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—Whenever the appropriate Federal banking agency determines that—

"(A) an institution affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured depository institution knew that an institution affiliated party of the insured depository institution violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

"(C) an officer or director of an insured depository institution committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, officer, or director a written notice of its intention to remove him from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the agency shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) FELONY CHARGES.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution.

"(B) A copy of such notice shall also be served upon the depository institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public

confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(D) A copy of such order shall also be served upon such depository institution, whereupon such party (if a director or an officer) shall cease to be a director or officer of such depository institution. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency.".

(b) CREDIT UNIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—Whenever the Board determines that—

"(A) an institution affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured credit union knew that an institution affiliated party of the insured credit union violated any such provision or any provision of law referred to in subsection (i)(1)(A)(ii); or

"(C) an officer or director of an insured credit union committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of its intention to remove him from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) FELONY CHARGES.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union.

"(B) A copy of such notice shall also be served upon the credit union. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(D) A copy of such order shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board.".

SEC. 104. UNAUTHORIZED PARTICIPATION.

Section 19(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)) is amended by inserting "or money laundering" after "breach of trust".

SEC. 105. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.

Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "to an agency" and inserting "to an agency, including any State financial institutions supervisory agency,"; and

(2) by inserting after the second sentence the following new sentence: "The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes.".

TITLE II—MONEY LAUNDERING ENFORCEMENT

SEC. 201. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) Title 31, United States Code, is amended by inserting after section 5326 the following:

"§ 5327. Identification of financial institutions

"By July 1, 1991, the Secretary shall prescribe regulations providing that each depository institution identify its customers which are financial institutions as defined in section 5312(a)(2) (H) through (Y) and the regulations thereunder and which hold accounts with the depository institution. Each depository institution shall report the names of and other information about these financial institution customers to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation. No person shall cause or attempt to cause a depository institution not to file a report required by this section or to file a report containing a material omission or misstatement of fact. The Secretary shall provide these reports to appropriate state financial institution supervisory agencies for supervisory purposes.".

(b) Section 5321 of title 31, United States Code, is amended by adding a new subparagraph (a)(7) as follows:

"(7)(A) The Secretary may impose a civil penalty on any person or depository institution, within the meaning of section 5327, that willfully violates any provision of section 5327 or a regulation prescribed thereunder.

"(B) The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 per day for each day a report is not filed or a report containing a material omission or misstatement of fact remains on file with the Secretary.".

SEC. 202. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) IN GENERAL.—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

"§ 1960. Prohibition of illegal money transmitting businesses

"(a) Whoever conducts, controls, manages, supervises, directs, or owns all or part of a business, knowing the business is in illegal money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

"(b) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to the seizure, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person in respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.

"(c) As used in this section—

"(1) the term 'illegal money transmitting business' means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

"(A) without the appropriate money transmitting State license; and

"(B) where such operation is punishable as a misdemeanor or a felony under State law;

"(2) the term 'money transmitting' includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 95 of title 18, United States Code, is amended by adding at the end the following item:

"1960. Prohibition of illegal money transmitting businesses.".

SEC. 203. COMPLIANCE PROCEDURES.

Section 5318(a)(2) of title 31, United States Code, is amended by inserting before the semicolon "or to guard against money laundering".

SEC. 204. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) NONDISCLOSURE OF ORDERS.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of or terms of the order to any person except as prescribed by the Secretary.".

SEC. 205. PROVISIONS RELATING TO RECORDKEEPING WITH RESPECT TO CERTAIN INTERNATIONAL FUNDS TRANSFERS.

Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b)(1) Where"; and

(2) by adding at the end the following new paragraph:

"(2) FUNDS TRANSFERS.—

"(A) IN GENERAL.—Before April 1, 1991, the Secretary, after consultation with the Board of Governors of the Federal Reserve System and State Banking Departments, shall prescribe such final regulations as may be appropriate to ensure that insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks or other similar instruments maintain such records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks or similar instruments as will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) FACTORS FOR CONSIDERATION.—In prescribing the regulations required under subparagraph (A), the Secretary shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) AVAILABILITY OF RECORDS.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary upon request.".

SEC. 206. USE OF CERTAIN RECORDS.

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting "or the Secretary of the Treasury" after "the Attorney General"; and

(2) in paragraph (2), by inserting "and only for criminal investigative or prosecutive purposes relating to money laundering by the Department of the Treasury" after "the Department of Justice".

SEC. 207. REPORT ON CURRENCY CHANGES.

The Secretary of the Treasury, in consultation with the Attorney General and the Administrator of Drug Enforcement, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the date of enactment of this Act, on the advantages for money laundering enforcement, and any disadvantages, of—

(1) changing the size, denominations, or color of United States currency; or

(2) providing that the color of United States currency in circulation in countries outside the United States will be of a different color than currency circulating in the United States.

SEC. 208. REPORT ON BANK PROSECUTIONS.

(a) IN GENERAL.—The Attorney General, after obtaining the views of all interested persons and agencies through public notice and comment procedures, shall determine to what extent compliance with the Money Laundering Control Act (18 U.S.C. 1956 and 1957), the Bank Secrecy Act (31 U.S.C. 5322), criminal referral reporting obligations, and cooperation with law enforcement authorities generally would be enhanced by the issuance of guidelines for the prosecution of financial institutions for violations of such Acts.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall transmit to the Congress a report on such determination.

TITLE III—TRUTH IN SAVINGS

SEC. 301. SHORT TITLE.

(a) This title may be cited as the "Truth in Savings and Investments Act".

SEC. 302. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the ability of consumers to make informed decisions among savings and investment options would be enhanced; and

(2) competition among depository institutions and investment companies would be increased,

if there were uniformity in the calculation and disclosure of the yields and the basic terms and conditions of savings accounts and investment accounts.

(b) PURPOSE.—It is the purpose of this title to require—

(1) standardization of the method of calculating yields which are payable on accounts and investments; and

(2) the clear and uniform disclosure of the key costs associated with such accounts and investments,

so that consumers can make meaningful comparisons among the competing claims of depository institutions and investment companies.

SEC. 303. DEFINITIONS.

For the purposes of this title—

(1) ACCOUNT.—The term "account" means an account offered other than for a business purpose to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds. Such term includes a demand account, time account, negotiable order of withdrawal account, and share draft account.

(2) ANNUAL PERCENTAGE YIELD.—The term "annual percentage yield" means the total amount of interest that would be received on a $100 deposit, based on the annual rate of simple interest and the frequency of compounding for a 365-day period, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

(3) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(4) DEPOSITORY INSTITUTION.—The term "depository institution" has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(5) INTEREST.—The term "interest" includes a dividend paid with respect to a share draft account which is an account within the meaning of paragraph (1).

(6) MULTIPLE RATE ACCOUNT.—The term "multiple rate account" means an account that has 2 or more annual rates of simple interest which take effect in succeeding periods and which are known at the time of disclosure.

SEC. 304. DISCLOSURE OF YIELDS AND TERMS OF ACCOUNTS.

(a) IN GENERAL.—Except as provided in subsection (c), an advertisement, announcement, or solicitation initiated by any depository institution, or by any other entity, relating to any account—

(1) may not include a reference to a specific rate of interest payable on amounts held in such account, or to a specific yield or rate of earnings on amounts so held, other than a reference to the annual percentage yield; and

(2) shall, if it contains a reference to the annual percentage yield, state the information described in subsection (b) in a clear and conspicuous manner.

(b) INFORMATION REQUIRED TO BE DISCLOSED IF ANNUAL PERCENTAGE YIELD IS USED.—The information required to be disclosed by subsection (a)(2), to the extent applicable, is the following:

(1) The period during which such annual percentage yield is in effect.

(2) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).

(3) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

(4) A statement that regular fees or other conditions could reduce the yield.

(5) A statement that a penalty shall be imposed for early withdrawal.

(c) BROADCAST AND ELECTRONIC MEDIA AND OUTDOOR ADVERTISING EXCEPTION.—The Board may, by regulation, exempt—

(1) advertisements, announcements, or solicitations made by any broadcast or electronic medium,

(2) any outdoor advertising display not on the premises of the depository institution, or

(3) any advertising display on the premises of the depository institution or other entity offering the account or investment,

from any disclosure requirements described in paragraph (3) or (4) of subsection (b) if the Board finds that any such disclosure would be unnecessarily burdensome.

(d) MISLEADING DESCRIPTIONS OF FREE OR NO-COST ACCOUNTS PROHIBITED.—No advertisement, announcement, or solicitation made by any depository institution may refer to or describe an account as a free or no-cost account if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions are limited during such period; or

(2) any regular service or transaction fee is imposed.

(e) MISLEADING OR INACCURATE ADVERTISEMENTS, ETC., PROHIBITED.—No depository institution shall make any advertisement, announcement, or solicitation relating to an account that is inaccurate or misleading or that misrepresents its deposit contracts.

SEC. 305. ACCOUNT SCHEDULE.

(a) IN GENERAL.—Each depository institution shall maintain a schedule of fees, charges, yields, and other terms and conditions applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The schedule for each class may be in the form of separate schedules or one comprehensive document. The Board shall specify, in regulations, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) INFORMATION ON FEES AND CHARGES.—The schedule required under subsection (a) with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charges, or penalties (or the method by which such amounts will be calculated), and the conditions under which any such amounts will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) INFORMATION ON YIELDS.—The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how such minimum balance is calculated.

(6) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(7) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from, or the closing of, the account will not be paid by the depository institution or credited to the account by reason of such withdrawal or closing.

(8) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

The information described in paragraphs (1), (3), and (4) shall be provided for each period during which a different annual rate of simple interest is in effect (or, if applicable, the method for computing such information).

(d) OTHER INFORMATION.—The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) STYLE AND FORMAT.—Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to give consumers the ability to readily understand the terms of the accounts offered.

SEC. 306. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS.

The Board shall by regulation prescribe such modifications in the disclosure requirements under this title relating to annual percentage yields as may be necessary to carry out the purposes of this title in the case of—

(1) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;

(2) variable rate accounts;

(3) accounts which, pursuant to law, do not guarantee payment of a stated rate; and

(4) multiple rate accounts.

SEC. 307. DISTRIBUTION OF SCHEDULES.

(a) IN GENERAL.—Any schedule required under section 305 shall be—

(1) made available to any person upon request; and

(2) provided to any potential customer before an account is opened or a service is rendered,

beginning not more than 6 months after the publication of regulations issued by the Board in final form.

(b) NOTICE TO CURRENT ACCOUNT HOLDERS.—For any account for which the depository institutions delivers an account statement on a quarterly or more frequent basis, the depository institution shall include on or with any regularly scheduled mailing posted or delivered within three months after publication of regulations issued by the Board in final form, a statement that the account holder has the right to request an account schedule containing the terms, charges, and interest rates of the account, and that the account holder may wish to request such an account schedule.

(c) DISTRIBUTION IN CASE OF CERTAIN INITIAL DEPOSITS.—If—

(1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and

(2) the schedule required under section 305(a) has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account not later than 10 days after the date of the initial deposit.

(d) DISTRIBUTION OF NOTICE OF CERTAIN CHANGES.—If—

(1) any change is made in any term or condition which is required to be disclosed in the schedule required under section 305(a) with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account,

all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect. This subsection does not apply to changes in annual percentage yields of variable rate accounts.

(e) DISTRIBUTION IN CASE OF ACCOUNTS ESTABLISHED BY MORE THAN 1 INDIVIDUAL OR BY A GROUP.—If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

SEC. 308. PERIODIC STATEMENTS.

A depository institution shall provide to each of its account holders on or accompanying each periodic statement clear and conspicuous disclosures of—

(1) the annual percentage yield;

(2) the amount of interest earned; and

(3) any fees or charges imposed.

SEC. 309. PAYMENT OF INTEREST.

(a) DETERMINATION OF BALANCE ON WHICH INTEREST IS CALCULATED.—Except as provided in subsection (c), interest shall be calculated on the principal balance in an interest-bearing account at a depository institution by using—

(1) the average daily balance method, which is the sum of each day's closing balance divided by the number of days in the period, or

(2) the day of deposit to day of withdrawal method, as defined by the Board.

Each agency referred to in section 311 shall, in connection with its examination functions, examine the accuracy of depository institutions' balance calculations.

(b) DATE BY WHICH INTEREST MUST ACCRUE.—Interest on accounts that are subject to this title shall begin to accrue not later than the business day specified for interest bearing accounts in section 606 of the Expedited Funds Availability Act, subject to subsections (b) and (c) of such section.

(c) SPECIAL RULE FOR CREDIT UNIONS.—Subsection (a) shall not apply to an account at a depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act if the depository institution—

(1) calculates the accrual of interest or dividends by a method other than the method described in subsection (a) with re-

spect to all funds, including cash, deposited in such account; and

(2) provides notice of interest payment policy in the manner required by section 605(e) of the Expedited Funds Availability Act.

(d) CALCULATED ON FULL AMOUNT OF PRINCIPAL.—Interest on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this title.

(e) NO PARTICULAR METHOD OF COMPOUNDING INTEREST REQUIRED.—Subsection (d) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting interest.

SEC. 310. REGULATIONS.

(a) IN GENERAL.—The Board, after consultation with each agency referred to in section 311(a) and after providing public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this title. The regulations may contain any classification, differentiation, or other provision, and may provide an exception for any class of accounts which, in the judgment of the Board, may be necessary or proper to carry out the purposes of this title, to prevent circumvention or evasion of the requirements of this title, or to facilitate compliance with the requirements of this title.

(b) MODEL FORMS AND CLAUSES.—

(1) IN GENERAL.—The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this title. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) USE OF FORMS AND CLAUSES DEEMED IN COMPLIANCE.—Nothing in this title may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this title if the depository institution—

(A) uses any appropriate model form or clause published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this title; or

(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) PUBLIC NOTICE AND OPPORTUNITY FOR COMMENT.—The Board shall adopt model disclosure forms and clauses after giving appropriate notice and opportunity for public comment in accordance with section 553 of title 5, United States Code.

SEC. 311. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

(C) depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act (other than member banks of the Federal Reserve System) by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act, by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act;

(3) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of Federal credit unions; and

(4) the Federal Trade Commission Act, by the Federal Trade Commission in the case of State-chartered credit unions.

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS TITLE TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each agency may exercise, for purposes of enforcing compliance with any requirement imposed under this title, any other authority conferred on such agency by law.

(c) REGULATIONS BY AGENCIES OTHER THAN THE BOARD.—The authority of the Board to issue regulations under this title does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this title.

SEC. 312. CIVIL LIABILITY.

(a) CIVIL LIABILITY.—Except as otherwise provided in this section, any depository institution or other entity offering an account that fails to comply with any requirement imposed under this title or any regulation prescribed under this title with respect to any person who is an account holder is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) CLASS ACTION AWARDS.—In determining the total amount of an award in a class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) BONA FIDE ERRORS.—

(1) GENERAL RULE.—A depository institution may not be held liable in any action brought under this section for a violation of this title if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) EXAMPLES.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a depository institution's obligation under this title is not a bona fide error.

(d) JURISDICTION.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(e) RELIANCE ON BOARD RULINGS.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding, the fact that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) NOTIFICATION OF AND ADJUSTMENT FOR ERRORS.—A depository institution shall not be liable under this section or section 311 for any failure to comply with any requirement imposed under this title with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder, the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions, actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(g) MULTIPLE INTERESTS IN 1 ACCOUNT.—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this title shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(h) CONTINUING FAILURE TO DISCLOSE.—

(1) CERTAIN CONTINUING FAILURES TREATED AS 1 VIOLATION.—Except as provided in paragraph (2), the continuing failure of any depository institution to disclose any particular term required to be disclosed under this title with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) SUBSEQUENT FAILURE TO DISCLOSE.—The continuing failure of any depository institution to disclose any particular term required to be disclosed under this title with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) COORDINATION WITH SECTION 311.—This subsection shall not limit or otherwise affect the enforcement power under section 311 of any agency referred to in subsection (a) of such section.

SEC. 313. CREDIT UNIONS.

(a) IN GENERAL.—No regulation prescribed by the Board under this title shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) REGULATIONS PRESCRIBED BY THE NCUA.—Within 90 days of the effective date of any regulation prescribed by the Board under this title, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

SEC. 314. REVIEW OF DISCLOSURE REQUIREMENTS FOR OPEN-END MANAGEMENT INVESTMENT COMPANIES.

The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 66. REVIEW OF DISCLOSURE REQUIREMENTS FOR YIELDS AND TERMS.

"Not later than January 1, 1991, and annually thereafter, the Commission shall consult with the Board of Governors of the Federal Reserve System (and any other agency it deems appropriate) to review the regulations prescribed under this title and the Securities Act of 1933 and the regulations prescribed under the Truth in Savings and Investments Act to determine whether such regulations are providing consumers the ability to compare effectively savings and investments options. If at any time as a result of such review, the Commission finds its regulations are not providing consumers the ability to effectively compare savings and investments options, it shall modify its regulations to assure that consumers have such ability.".

SEC. 315. EFFECT ON STATE LAW.

(a) IN GENERAL.—The provisions of this title do not supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist.

(b) BALANCE ON WHICH INTEREST IS CALCULATED.—The provisions of this title shall supersede any provisions of any State law relating to the determination of the balance on which interest is calculated to the extent such State law specifies the manner for determining the balance on which interest is calculated.

SEC. 316. EFFECTIVE DATE OF REGULATIONS.

The Board shall issue regulations to carry out this title in final form not later than 9 months after the date of enactment of this title. Such regulations shall take effect not later than 6 months after publication in final form.

SEC. 317. EXPEDITED FUNDS AVAILABILITY ACT AMENDMENTS.

(a) AVAILABILITY OF CASH DEPOSITS.—Section 603(a) of the Expedited Funds Availability Act (12 U.S.C. 4002(a)) is amended—

(1) in paragraph (1)(A), by striking "staffed by individuals employed by such institution";

(2) in paragraphs (2)(B)(ii) and (2)(C)(ii), by striking "and is staffed by individuals employed by such institution";

(3) in paragraph (2)(F)—

(A) by striking clause (i); and

(B) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(4) by adding at the end the following:

"(3) In the case of a deposit subject to paragraph (1)(A) or (2) of this subsection that is deposited in a facility that is not staffed by individuals employed by such institution the Board may, by regulation or order, extend the time by which such funds must be available for withdrawal by one business day if the Board determines that, because of operational constraints due to the location of the facility, the receiving depository institution cannot reasonably be expected to make the funds available for withdrawal as provided in paragraph (1)(A) or (2).".

(b) ATM DEPOSITS.—

(1) IN GENERAL.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended—

(A) in paragraph (1)(A), by striking "6" and inserting "4";

(B) in paragraph (1)(C), by striking "1990" and inserting "1994"; and

(C) in paragraph (2)(D), by striking "1990" and inserting "1994".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall take effect on September 1, 1990.

(c) SAFEGUARD EXCEPTIONS.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

(1) in subsection (b), by inserting "(a)(2)," after "subsection";

(2) in subsection (c)(1), by striking "(F)" after "subsections (a)(2)";

(3) in subsection (d), by inserting "(a)(2)," after "subsections";

(4) in subsection (f)(1)(A)(i), by striking "day" and inserting "time period within which"; and

(5) in subsection (f), by adding at the end of paragraph (2) the following:

"(D) In the case of a deposit to which subsection (b)(1) or (b)(2) applies, the depository institution may, for nonconsumer accounts and other classes of accounts, as defined by the Board, that generally have a large number of such deposits, provide notice at or before the time it first determines that the subsection applies.

"(E) In the case of a deposit to which subsection (b)(3) applies, the depository institution may, subject to regulations of the Board, provide notice at the beginning of each time period it determines that the subsection applies. In addition to the requirements contained in paragraph (1)(A), the notice shall specify the time period for which the exception will apply.".

(d) Loss ALLOCATION.—Section 611(f) of the Expedited Funds Availability Act (21 U.S.C. 4010(f)) is amended—

(1) by inserting "or other entities participating in the payments system, including the States and political subdivisions thereof on which checks are drawn," after "depository institutions"; and

(2) by inserting "finance charges, reasonable attorneys' fees, and other expenses related to the check" after "amount of the check giving rise to loss or liability".

(e) MODIFICATION OF FUNDS AVAILABILITY SCHEDULE.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended by striking subsection (e) and inserting the following:

"(e) PREVENTION OF FRAUD LOSSES.—

"(1) IN GENERAL.—The Board may, by regulation or by order, modify the funds availability schedule provided for in section 603 for not more than 60 days (excluding Saturdays, Sundays, legal holidays, or any day either House of Congress is not in session) for any classification of checks if the Board finds—

"(A) that a pattern of significantly increased losses at depository institutions exists that is attributable to the schedule; and

"(B) that modification of the schedule is necessary to diminish the volume of such losses.

"(2) REPORT TO CONGRESS.—Not later than 10 days after modifying the funds availability schedule pursuant to paragraph (1), the Board shall transmit a written report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate which shall specify—

"(A) the action taken by the Board;

"(B) the Board's specific reasons for modifying the schedule; and

"(C) any legislative or regulatory recommendations for preventing the need for future modifications of the schedule.

"(3) NOTICE OF CHANGE IN POLICY.—Notwithstanding the provisions of section 605(c)(2), a depository institution shall send a written notice to consumer customers within 10 days following a change in policy resulting from the modification of the funds availability schedule pursuant to paragraph (1) with respect to when customers may withdraw funds deposited into consumer accounts, and shall promptly post a notice of the modification at all branches and automatic teller machines which accept deposits.".

(f) GAO REPORT.—

(1) IN GENERAL.—Not later than 180 days following the date of enactment of this subsection, the Comptroller General of the United States shall submit a written report to the Congress evaluating the payments system changes that were implemented pursuant to the Expedited Funds Availability Act and the implementation of the perma-

nent funds availability schedule established by section 603(b) of such Act.

(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall contain—

(A) a description of any changes that have been made in the payments system to accelerate the collection or return of checks;

(B) a description of any increases in check-related losses at depository institutions due to the implementation of section 603(b) of such Act;

(C) an assessment of the risks of check-related losses at depository institutions due to the implementation of section 603(b) of such Act and an evaluation of the reasonableness of the permanent schedule availability deadlines;

(D) recommendations for actions that can be taken by banks, clearinghouses, or the Federal Reserve to facilitate the check clearing process and reduce the risk of check-related losses, together with an estimate of the costs and effects on consumers and other users of the payments system associated with such changes; and

(E) any other information or recommendations that the Comptroller General considers pertinent in effecting improvements to the payments system.

SEC. 318. HOME EQUITY LOAN CONSUMER PROTECTION ACT AMENDMENT.

(a) IN GENERAL.—Section 127A(a)(2)(A) of the Truth in Lending Act (15 U.S.C. 1637a(a)(2)(A)) is amended by inserting after "rate will be computed" the following: ", including a statement of the margin that applies under the plan,".

(b) EFFECTIVE DATE.—Regulations implementing the amendment made by subsection (a) shall become effective on October 1, 1991.

TITLE IV—COUNTERFEIT DETERRENCE ACT OF 1990

SEC. 401. SHORT TITLE.

This title may be cited as the "Counterfeit Deterrence Act of 1990".

SEC. 402. INCREASE IN PENALTIES.

Section 474 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever" the first time it appears;

(2) by striking "United States; or" at the end of the sixth undesignated paragraph and inserting "United States—";

(3) by striking the seventh undesignated paragraph;

(4) by amending the last undesignated paragraph to read as follows:

"Shall be fined not more than $50,000 for each violation, or imprisoned not more than 20 years, or both."; and

(5) by adding at the end thereof the following:

"(b) For purposes of this section, the terms 'plate', 'stone', 'thing', or 'other thing' includes any electronic method used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system (pursuant to section 504) to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press and others shall not be unduly restricted.".

SEC. 403. DETERRENTS TO COUNTERFEITING.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 474 the following new section:

"§ 474A. Deterrents to counterfeiting of obligations and securities

"(a) Whoever has in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury, shall be fined not more than $50,000 or imprisoned not more than 20 years, or both.

"(b) Whoever has in his control or possession, after a distinctive counterfeit deterrent has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States by publication in the Federal Register, any essentially identical feature or device adapted to the making of any such obligation or security, except under the authority of the Secretary of the Treasury, shall be fined not more than $50,000 for each violation, or imprisoned not more than 20 years, or both.

"(c) As used in this section—

"(1) the term 'distinctive paper' includes any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate or other natural or artificial fibers or materials; and

"(2) the term 'distinctive counterfeit deterrent' includes any ink, watermark, seal, security thread, optically variable device, or other feature or device;

"(A) in which the United States has an exclusive property interest; or

"(B) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item for section 474 the following:

"474A. Deterrents to counterfeiting of obligations and securities.".

SEC. 404. REPRODUCTIONS OF CURRENCY.

Section 504 of title 18, United States Code, is amended—

(1) in paragraph (1)(D), by striking the comma at the end thereof and inserting a period;

(2) in paragraph (1), by striking "for philatelic" from the text following subparagraph (D) and all that follows through "albums).";

(3) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) The provisions of this section shall not permit the reproduction of illustrations of obligations or other securities, by or through electronic methods used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press or others shall not be unduly restricted."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "but not for advertising purposes except philatelic advertising,".

TITLE V—COIN DESIGN

SEC. 501. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. 502. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first redesigned coin shall have a design commemorating the two hundredth anniversary of the United States Constitution for a period of 2 years after issuance. After that 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. Such selection, and the minting and issuance of the first selected coin shall be made not later than 1-year after the date of the enactment of this paragraph. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 503. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 504. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary and shall be done at the rate of one or more coins per year, to be phased in over 6 years after the date of the enactment of this Act. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following constitutional concepts: freedom of speech and assembly; freedom of the press; right to due process of law; right to a trial by jury; right to equal protection under the law; right to vote; themes from the Bill of Rights; and separation of powers, including the independence of the judiciary. The designs shall be selected by the Secretary upon consultation with the United States Commission on Fine Arts.

SEC. 505. REDUCTION OF THE NATIONAL DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

TITLE VI—FAIR TRADE IN FINANCIAL SERVICES

SEC. 601. SHORT TITLE.

This title may be cited as the "Fair Trade in Financial Services Act of 1990".

SEC. 602. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"NATIONAL TREATMENT

"SEC. 15. (a) PURPOSES.—This section is intended to—

"(1) encourage foreign countries to accord national treatment to United States banks and bank holding companies that operate or seek to operate in those countries; and

"(2) seek an end to discrimination against United States banks and bank holding companies.

"(b) ANNUAL REPORTS REQUIRED.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(1) identifying each foreign country—

"(A) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States banks and bank holding companies; and

"(B) with respect to which no determination under subsection (d)(1) is in effect;

"(2) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(3) describing the results of negotiations conducted pursuant to subsection (c)(1).

"(c) NEGOTIATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall initiate negotiations with any foreign country described in subparagraphs (A) and (B) of subsection (b)(1) to ensure that that country accords national treatment to United States banks and bank holding companies.

"(2) NEGOTIATIONS NOT REQUIRED.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(d) DISCRETIONARY SANCTIONS.—

"(1) IN GENERAL.—A Federal banking agency may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed by a person of a foreign country if the Secretary has published in the Federal Register (and has not rescinded) a determination that the foreign country does not accord national treatment to United States banks and bank holding companies.

"(2) REVIEW.—The Secretary of the Treasury shall annually review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) PREVENTING EXISTING ENTITIES FROM BEING USED TO EVADE THIS SECTION.—

"(1) IN GENERAL.—If a determination under subsection (d)(1) is in effect with respect to a foreign country, no bank, foreign bank described in section 8(a), branch, agency, commercial lending company, or other affiliated entity that is a person of that country shall, without prior approval pursuant to paragraph (3) or (4), directly or indirectly, in the United States—

"(A) commence any line of business in which it was not engaged as of the date on which that determination was published in the Federal Register; or

"(B) conduct business from any location at which it did not conduct business as of that date.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to transactions under section 2(h)(2) of the Bank Holding Company Act of 1956.

"(3) STATE-SUPERVISED ENTITIES.—

"(A) This paragraph shall apply if—

"(i) the entity in question is an uninsured State bank or branch, a State agency, or a commercial lending company;

"(ii) the State requires the entity to obtain the prior approval of the State bank supervisor before engaging in the activity described in subparagraph (A) or (B) of paragraph (1); and

"(iii) no other provision of Federal law requires the entity to obtain the prior approval of a Federal banking agency before engaging in that activity.

"(B) The State bank supervisor shall consult about the application with the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act). If the State bank supervisor approves the application, the supervisor shall notify the appropriate Federal banking agency and provide the agency with a copy of the record of the application. During the 45-day period beginning on the date on which the appropriate Federal banking agency receives the record, the agency may, after consultation with the State bank supervisor, issue an order disapproving the activity in question. The period for disapproval under the preceding sentence may, in the agency's discretion, be extended for not more than 45 days.

"(4) FEDERAL APPROVAL.—If the transaction is not described in paragraph (3)(A), the entity in question shall obtain the prior approval of the appropriate Federal banking agency.

"(5) INFORMING STATE SUPERVISORS.—The Secretary of the Treasury shall inform State bank supervisors of any determination under subsection (d)(1).

"(6) EFFECT ON OTHER LAW.—Nothing in this subsection shall be construed to relieve the entity in question from any otherwise applicable requirement of Federal law.

"(f) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States banks and bank holding companies if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banks and bank holding companies.

"(g) PERSON OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is citizen of that country, or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(h) EXERCISE OF DISCRETION.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Federal banking agencies shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Federal banking agencies, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States banks and bank holding companies; and

"(ii) whether that country would permit United States banks and bank holding companies already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this section.".

SEC. 603. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS.

Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at the end the following new paragraph:

"(11) NATIONAL TREATMENT.—(A) This paragraph is intended to encourage foreign countries to—

"(i) accord national treatment to United States brokers and dealers that operate or seek to operate in those countries; and

"(ii) seek an end to discrimination against United States brokers and dealers.

"(B) For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(i) identifying each foreign country—

"(I) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States brokers and dealers; and

"(II) with respect to which no determination under subparagraph (D)(i) is in effect;

"(ii) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(iii) describing the results of negotiations conducted pursuant to subparagraph (C)(i).

"(C)(i) The Secretary of the Treasury shall initiate negotiations with any foreign country described in subclauses (I) and (II) of subparagraph (B)(i) to ensure that that country accords national treatment to United States brokers and dealers.

"(ii) Clause (i) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(I) determines that such negotiations would be fruitless or would impair national economic interests; and

"(II) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(D) The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign

country does not accord national treatment to United States brokers and dealers:

"(i) The Commission may, in consultation with the Secretary of the Treasury—

"(I) deny any application for registration under this subsection filed by a person of that foreign country; and

"(II) prohibit any person of that foreign country from acquiring control of a registered broker or dealer, irrespective of when the acquisition was initiated.

"(ii) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered broker or dealer unless—

"(I) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(II) the Commission has not prohibited the acquisition.

"(iii) The Commission may, by order, extend the notice period with respect to any particular acquisition for not more than 60 days.

"(iv) The Secretary of the Treasury shall annually review any determination under this subparagraph and decide whether that determination should be rescinded.

"(E) A foreign country accords national treatment to United States brokers and dealers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic brokers and dealers.

"(F) A person of a foreign country is a person that—

"(i) is organized under the laws of that country;

"(ii) has its principal place of business in that country;

"(iii) in the case of an individual—

"(I) is a citizen of that country, or

"(II) is domiciled in that country; or

"(iv) is directly or indirectly controlled by a person described in clause (i), (ii), or (iii).

"(G) In exercising discretion under this paragraph—

"(i) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(ii) the Commission, in consultation with the Secretary of the Treasury—

"(I) shall consider, with respect to a broker or dealer that is a person of a foreign country and is already operating in the United States—

"(aa) the extent to which that foreign country has a record of according national treatment to United States brokers and dealers; and

"(bb) whether that country would permit United States brokers or dealers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's brokers or dealers; and

"(II) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this paragraph.".

SEC. 604. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS.

Section 203 of the Investment Advisers Act of 1940 (12 U.S.C. 80b-3) is amended by adding at the end the following new subsection:

"(i) NATIONAL TREATMENT.—

"(1) PURPOSES.—This subsection is intended to encourage foreign countries to—

"(A) accord national treatment to United States investment advisers that operate or seek to operate in those countries; and

"(B) seek an end to discrimination against United States investment advisers.

"(2) ANNUAL REPORTS REQUIRED.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(A) identifying each foreign country—

"(i) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States investment advisers; and

"(ii) with respect to which no determination under paragraph (4) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of negotiations conducted pursuant to paragraph (3)(A).

"(3) NEGOTIATIONS REQUIRED.—(A) The Secretary of the Treasury shall initiate negotiations with any foreign country described in clauses (i) and (ii) of paragraph (2)(A) to ensure that that country accords national treatment to United States investment advisers.

"(B) Subparagraph (A) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(i) determines that such negotiations would be fruitless or would impair national economic interests; and

"(ii) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(4) DISCRETIONARY SANCTIONS.—The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign country does not accord national treatment to United States investment advisers:

"(A) The Commission may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed pursuant to this title by a person of that foreign country.

"(B) The Commission may, in consultation with the Secretary of the Treasury, prohibit any person of that foreign country from acquiring control of a registered investment adviser, irrespective of when the acquisition was initiated.

"(C) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered investment adviser unless—

"(i) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(ii) the Commission has not prohibited the acquisition.

"(D) The Commission may, by order, extend the notice period with respect to any particular acquisition for not more than 60 days.

"(E) The Secretary of the Treasury shall annually review any determination under this paragraph and decide whether that determination should be rescinded.

"(5) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States investment advisers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic investment advisers.

"(6) PERSON OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(A) is organized under the laws of that country;

"(B) has its principal place of business in that country;

"(C) in the case of an individual—

"(i) is a citizen of that country, or

"(ii) is domiciled in that country; or

"(D) is directly or indirectly controlled by a person described in subparagraph (A), (B), or (C).

"(7) EXERCISE OF DISCRETION.—In exercising discretion under this subsection—

"(A) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(B) the Commission, in consultation with the Secretary of the Treasury—

"(i) shall consider, with respect to an investment adviser that is a person of a foreign country and is already operating in the United States—

"(I) the extent to which that foreign country has a record of according national treatment to United States investment advisers; and

"(II) whether that country would permit United States investment advisers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's investment advisers;

"(ii) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this subsection.".

SEC. 605. CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS.

(a) QUADRENNIAL REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS.—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in paragraph (3), by striking "and securities companies" and inserting ", securities companies, and investment advisers"; and

(2) by adding at the end the following: "For purposes of this section, a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities.".

(b) NEGOTIATIONS TO PROMOTE FAIR TRADE IN FINANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting "effective" after "banking organizations and securities companies have".

(c) PRIMARY DEALERS IN GOVERNMENT DEBT INSTRUMENTS.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342) is amended—

(1) by striking "does not accord to" and inserting "does not offer";

(2) by inserting "(including effective market access)" after "the same competitive opportunities in the underwriting and distri-

bution of government debt instruments issued by such country"; and

(3) by striking "as such country accords to" and inserting "as are available to".

TITLE VII—FAIR LENDING ENFORCEMENT

SEC. 701. SHORT TITLE.

This title may be cited as the "Fair Lending Enforcement Act of 1990".

SEC. 702. APPRAISALS.

Section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended by adding at the end the following:

"(e) Each creditor shall promptly furnish an applicant, upon written request by the applicant made within a reasonable period of time of the application, a copy of the appraisal report used in connection with the applicant's application for a loan that is or would have been secured by a lien on residential real property. The creditor may require the applicant to reimburse the creditor for the cost of the appraisal.".

SEC. 703. CONSUMER COMPLIANCE PROGRAMS.

(a) FDIC.—The Federal Deposit Insurance Act is amended by adding at the end the following:

"SEC. 35. CONSUMER COMPLIANCE PROGRAM.

"(a) ESTABLISHMENT REQUIRED.—Each appropriate Federal banking agency shall establish a separate consumer compliance program. The head of the consumer compliance program shall report directly to the head of the agency.

"(b) DEFINITIONS.—For purposes of this section—

"(1) CONSUMER COMPLIANCE EXAMINATION.—The term 'consumer compliance examination' means an examination of an insured depository institution to determine the extent to which such institution is in compliance with all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws.

"(2) CONSUMER COMPLIANCE EXAMINER.—The term 'consumer compliance examiner' means an examiner who specializes in assessing compliance with all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws.

"(c) CONSUMER COMPLIANCE EXAMINATIONS.—

"(1) CONDUCTED BY CONSUMER COMPLIANCE EXAMINERS.—Consumer compliance examinations shall be conducted by consumer compliance examiners under the supervision or oversight of the head of the consumer compliance program. Each appropriate Federal banking agency may consider the size of the depository institution and the complexity of the consumer compliance examination issues presented in determining whether to assign to a particular examination a consumer compliance examiner who exclusively conducts consumer compliance examinations or an examiner who has only received specialized training in consumer compliance examinations. In making this determination each appropriate Federal banking agency shall also consider whether substantive questions of compliance have been raised in previous examinations or in comments or complaints from the public.

"(2) EXAMINATION UPON REQUEST UNDER CERTAIN CIRCUMSTANCES.—Any bank holding company or savings and loan holding company which controls an insured depository institution which determines that a consumer examination of such depository institution may be appropriate to expedite an application or notice for a deposit facility described in section 803(3) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(3)) may request in writing the appropriate consumer compliance program to conduct an examination of the depository institution pursuant to paragraph (1).

"(d) ADDITIONAL RESPONSIBILITIES.—In addition to the responsibilities established by subsection (c), the head of each consumer compliance program shall—

"(1) develop procedures for consumer compliance examinations and other procedures necessary to implement all applicable laws relating to consumer protection, including fair lending and community reinvestment laws;

"(2) train and supervise or oversee consumer compliance examiners;

"(3) develop career opportunities for consumer compliance examiners comparable to those for safety and soundness examiners;

"(4) respond to consumer complaints and inquiries;

"(5) undertake supervisory action and initiate enforcement proceedings with respect to all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws;

"(6) make recommendations to its agency concerning policies and adopt policies with respect to all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws; and

"(7) perform any other duties and functions related to the consumer compliance program.

"(e) EFFECTIVE DATE.—The establishment of separate consumer compliance programs in each of the agencies shall be completed no later than January 1, 1993.

"(f) REPORTS.—Each consumer compliance program shall prepare a description of its activities, which shall be included in the agency's annual report to the Congress.".

(b) NCUAB.—Title I of the Federal Credit Union Act is amended by adding at the end the following:

"SEC. 130. CONSUMER COMPLIANCE PROGRAM.

"(a) ESTABLISHMENT REQUIRED.—The Board shall establish a separate consumer compliance program. The head of the consumer compliance program shall report directly to the Board.

"(b) DEFINITIONS.—For purposes of this section—

"(1) CONSUMER COMPLIANCE EXAMINATION.—The term 'consumer compliance examination' means an examination of an insured credit union to determine the extent to which such credit union is in compliance with all applicable laws and regulations relating to consumer protection, including fair lending laws.

"(2) CONSUMER COMPLIANCE EXAMINER.—The term 'consumer compliance examiner' means an examiner who specializes in assessing compliance with all applicable laws and regulations relating to consumer protection, including fair lending laws.

"(c) CONSUMER COMPLIANCE EXAMINATIONS.—

"(1) FREQUENCY.—The Board shall conduct an on-site consumer compliance examination of each credit union within its jurisdiction either at least once every 2 years, or as frequently as the Board conducts regular on-site safety and soundness examinations of such credit union, whichever is less frequent.

"(2) CONDUCTED BY CONSUMER COMPLIANCE EXAMINERS.—Consumer compliance examinations shall be conducted by consumer compliance examiners under the supervision or oversight of the head of the consumer compliance program. The Board may consider the size of the institution and the complexity of the consumer compliance examination issues presented in determining whether to assign to a particular examination a consumer compliance examiner who exclusively conducts consumer compliance examinations or an examiner who has only received specialized training in consumer compliance examinations. In making this determination the Board shall also consider whether substantive questions of compliance have been raised in previous examinations or in comments or complaints from the public.

"(d) ADDITIONAL RESPONSIBILITIES.—In addition to the responsibilities established by subsection (c), the head of the consumer compliance program shall—

"(1) develop procedures for consumer compliance examinations and other procedures necessary to implement all applicable laws relating to consumer protection, including fair lending laws;

"(2) train and supervise or oversee consumer compliance examiners;

"(3) develop career opportunities for consumer compliance examiners comparable to those for safety and soundness examiners;

"(4) respond to consumer complaints and inquiries;

"(5) undertake supervisory action and initiate enforcement proceedings with respect to all applicable laws and regulations relating to consumer protection, including fair lending laws;

"(6) make recommendations to its agency concerning policies and adopt policies with respect to all applicable laws and regulations relating to consumer protection, including fair lending laws; and

"(7) perform any other duties and functions related to the consumer compliance program.

"(e) EFFECTIVE DATE.—The establishment of a separate consumer compliance program shall be completed no later than January 1, 1993.

"(f) REPORTS.—The consumer compliance program shall prepare a description of its activities, which shall be included in the Board's annual report to the Congress.".

(c) SPECIAL RULE FOR STATE CHARTERED CREDIT UNIONS.—Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding after the second sentence a new sentence to read: "The Board shall conduct consumer compliance examinations as set forth in section 130 of State chartered, federally insured credit unions only if the appropriate State supervisory agency has not established an examination program similar to that described in section 130.".

SEC. 704. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) PATTERN OR PRACTICE.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following: "Each of the agencies referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever it has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a) of this title. Each of such agencies is authorized to refer the matter to the Attorney General whenever it has reason to believe that 1 or more creditors has violated section 701(a) of this title.".

(b) DAMAGES.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h))

is amended by inserting "actual and punitive damages and" after "including".

(c) NOTICE TO HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following:

"(k) Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a) has reason to believe that a violation of this title has occurred, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, and that the alleged violation would be a violation of the Fair Housing Act (42 U.S.C. 3601 et seq.), and the agency does not refer the matter to the Attorney General pursuant to subsection (g), it shall—

"(1) notify the Secretary of Housing and Urban Development of the violation; and

"(2) notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

SEC. 705. HOME MORTGAGE DISCLOSURE ACT.

(a) IN GENERAL.—Section 309 of the Home Mortgage Disclosure Act (12 U.S.C. 2808) is amended—

(1) by striking "depository" before "institution";

(2) by inserting "specified in section 303(2)(A)" after "institution"; and

(3) by adding at the end the following: "The Board, in consultation with the Secretary, may exempt institutions described in section 303(2)(B) that are comparable within their respective industries to institutions that are exempt under the preceding sentence.".

(b) EFFECTIVE DATE.—This section shall become effective on January 1, 1991.

TITLE VIII—INTERNATIONAL MONEY LAUNDERING

SEC. 801. REPORT ON USES MADE OF CURRENCY TRANSACTION REPORTS.

Not later than 180 days after the effective date of this section, and every 2 years for 4 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze, and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of—

(A) violations of the criminal laws of the United States;

(B) violations of the laws of foreign countries; and

(C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to in paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

SEC. 802. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than 30 days after the date of enactment of this Act, the Secretary of the Treasury (referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint the following to the Task Force:

(A) The Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member).

(B) At least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) Coding and symbology;

(ii) Scanning systems.

(iii) Computer data compilation.

(C) Representatives from each of the following:

(i) The Bureau of Engraving and Printing.

(ii) The Federal Reserve Board.

(iii) The United States Secret Service.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1) and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 803. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by—

(A) striking the first 2 sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country that participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (A) has been agreed to by the Secretary of State, (B) is authorized in an international agreement between the United States and the foreign country, and (C) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(B) striking the last sentence.

SEC. 804. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 805. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means—

"(A) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders; and

"(B) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 806. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) of title 18, United States Code, is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 807. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005 through 1007 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 808. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances

Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 809. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 810. STRUCTURING TRANSACTIONS TO EVADE CMIR REPORTING REQUIREMENTS.

(a) Section 5316(d) of title 31, United States Code, is amended to read as follows:

"(d) No person shall for this purpose of evading the reporting requirements of this section—

"(1) fail to file a report required by this section, or cause or attempt to cause a person to fail to file a report required under this section;

"(2) file, or cause or attempt to cause a person to file a report required under this section that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

Mr. KERRY. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. Mr. President, I would like to express my appreciation to the distinguished ranking member of the Banking Committee, the Senator from Utah, Senator GARN. I would like to thank the minority leader, Senator DOLE, for helping us to break this logjam in the last moments here. And I express my appreciation to the staffs of both sides who have been waiting so patiently and helping so effectively with respect to this legislation, not just before it came to the floor, but particularly in the last few days.

I am particularly grateful to Senator GARN for his integrity and for his sense of propriety and priorities. We have both agreed that this is not a Democratic piece of legislation, and it is not a Republican piece of legislation; it is a bipartisan effort to try to improve our ability to be able to fight drug money laundering, and we believe, both of us, as Senators and citizens, that this will assist us in that process. I think it is an important bill for that reason.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of all Senators with respect to scheduling of the House and the Senate today, I have spent the past several hours in discussions with representatives of the administration, Members of the House leadership, as well as Members of the Senate leadership. I have had extensive discussions with the distinguished Republican leader, Senator DOLE, with respect to these matters.

It now appears that the House will shortly be taking up a continuing resolution to fund the continued operations of Government beyond the expiration deadline of midnight tonight contained in current law, and that it will be a matter of a few hours before the House acts on that.

There is no further business pending before the Senate at this time, the Senate having just acted and approved by voice vote the money laundering bill which had been the pending business.

Accordingly, following discussions with the distinguished Republican leader, I have concluded that the wisest course of action for the Senate now is to recess until 6 p.m., by which time we will either have received the continuing resolution from the House or be in a better position to assess the time at which we will receive it.

Although we all, of course, would like precision in scheduling, the matters with which we are dealing are inherently imprecise, and it is not possible for the House leadership at this time to predict with certainty, at exactly what time they will be able to conclude action on the pending matter.

And so, Mr. President, Senators should be aware that we will have to act on that measure sometime this evening, and Senators should remain in or around the Capitol and be available at that time. I will have more information at 6 p.m., at which time I will make a public announcement here. If any further information is developed in the interim, both the Democratic and the Republican Cloakrooms will notify their respective Members of any up-to-date information.

I apologize to my colleagues for any inconvenience this may cause. As I stated earlier, it is not possible to be more precise at this time. But we will have to take some action this evening prior to the midnight deadline.

ORDER FOR RECESS UNTIL 6 P.M. TODAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator GRAHAM of Florida be recognized to address the Senate, and that upon the completion of his remarks, Senator HATFIELD be recognized to address the Senate, and that upon the completion of Senator HATFIELD's remarks, the Senate stand in recess until the hour of 6 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET RESOLUTION

Mr. GRAHAM. Mr. President, it had been my intention yesterday while working on this statement, to deliver this in the context of what I anticipated would be a Senate debate on that agreement. The events of last evening in the House of Representatives rendered that effort a nullity. However, I appreciate the opportunity to submit those remarks for the RECORD.

Mr. President, I would like to use this time to make a few comments as to where we go from here.

Mr. President, I think we have learned some lessons, both on process and substance, as a result of our recent experience. On process, I think that we have vindicated the traditional congressional processes, processes which emphasize orderly, open procedures, yes, sometimes contentious, but in the best spirit of democracy; procedures that inform and involve the public and large numbers of their representatives here in the Congress so that there is a sense of confidence drawn from understanding and direct participation in the final results of that process.

I am pleased to say, from conversations today, that I understand that we are going to be returning to a more traditional legislative process as we move forward.

As to substance, Mr. President, I believe that one of the key objections to the plan that was presented and rejected by the House of Representatives early this morning was the fact that it was seen as lacking policy orientation. You may ask, why are we doing this? What are the destinations that this budget agreement will lead us? Beyond those that related to the reduction of the deficit itself, obvious-

ly a highly desirable and critical objective, the plan seemed to be devoid of other discernible objectives.

Mr. President, let me suggest what I think should be at least two objectives of the next plan upon which we will vote. One of those should be economic growth. I was concerned when I read a news article last week in which one of the members of the budget summit negotiating team from the other House stated that the only element in the budget agreement which was proeconomic growth was the capital gains provision. I believe that that is a trivialization of the rest of the budget.

But the fact that there was not a clean set of objectives and initiatives, both on the tax and the spending side, that would move us toward a progrowth policy was a deficiency in that budget agreement.

Mr. President, I believe, that, for instance, we should have a very strong component in the budget agreement as it relates to those things that will contribute to America's long-term economic prosperity. And those include intelligent tax policy that will stimulate private sector investment and expansion. They include spending in those domestic programs which will have a significant positive impact on our future economic viability.

I particularly point to the need for such a directive in the area of education and transportation. There are no two areas in which an investment today will bring greater economic dividends in the future than in education and transportation.

Second, Mr. President, I believe that we should have as a policy objective of the new agreement how to begin to rationally deal with our Nation's health policy, particularly as it relates to a health policy for our elderly. Of all of the components of the budget agreement, the one that drew the greatest public animosity was the proposal for the savaging cuts in Medicare.

Under the budget agreement, Medicare would have been cut by $60 billion over the next 5 years. A program that represents approximately 10 percent of the Nation's spending would have been asked to carry almost 25 percent of the spending reductions in the agreement.

Not only was that unfair in terms of the allocation of burden, Mr. President, but it also failed to have any policy objective. When asked why are such deep cuts being recommended in Medicare, the President was reported to have responded: First, it is a large duck, and when you go hunting you have to hunt for big ducks. And, second, there has been an increasing cost of America's health care.

The first is clearly a true statement. This is a big program. The second is also true, that there has been an increase at a rate substantially above the cost of living in America's health care. But there was nothing in the plan that was presented to the House of Representatives yesterday that would have moved us toward a more rational national health care policy.

Mr. President, it has been my feeling that an important step toward rationality in Medicare and then being able to use the Medicare Program as one of the important ingredients toward a rational national health policy would be to move Medicare toward a trust fund status.

That is exactly what we did with Social Security in 1983. We identified a discrete revenue source. We dedicated it to the Social Security Program. And since 1983, Social Security has not only been saved from its impending financial collapse, but it also has allowed us to deal with Social Security on a more intelligent basis, and to consider the kinds of policy directions which I believe the Senator from New York may well present to this Senate before we adjourn.

We should take a similar step as it relates to Medicare. We should provide a dedicated revenue source so that it no longer is part B of Medicare drawing on the Federal general revenue Treasury in excess of $40 billion a year.

We should use this also as an opportunity to look at part A of Medicare, the portion of Medicare that relates to hospital payments, which is in the same fiscal distress that Social Security was 10 years ago.

I believe, Mr. President, that by acting in this manner as it relates to Medicare, that it could become the engine by which we could begin to deal with fundamental issues, such as containing the cost of health care for all Americans, directing us toward a more intelligent policy of access to quality, affordable health care.

I suggest we see the events of yesterday, not as an affront to our ability to govern, not as the end of the process, but rather as the time for new beginnings, and that those new beginnings, should be infused with our tradition of parliamentary democracy as the process by which we move toward determination of important public issues.

We also use that process to deal with important policy issues before our Nation today, economic growth and America's health care system, being two of those important issues.

All around the world, people, when given the chance, are electing democracy. A look at the map of the world as it exists in the fall of 1990 is startlingly different than that map in the fall of 1989. Countries which had been for generations under the yoke of totalitarian governments have thrown those governments out of power and have replaced them with democratic regimes with new, vigorous leaders.

Democracy has won the battle for the minds and the hearts and the commitment of the peoples of the world. We, as the oldest democracy on this planet, have the responsibility to continue to lead, to demonstrate that a government of, by, and for the people, can deal with those fundamental issues which will shape the quality of our society. The next few days will give us an opportunity to rededicate ourselves to that responsibility and to demonstrate to the people of this country and the people of the world, who are looking to this country for democratic leadership, our capacity to lead.

Mr. President, It has been my intention to vote for the budget agreement. I understand the importance to our Nation of reducing the Federal budget deficit. I had hoped to be able to support a plan which set us on a firm and fair path to that objective. However, as I studied the agreement, it became apparent that it failed. Failed because it does not significantly reduce the rate by which our national debt is growing. Failed because the inequitable distribution of new taxes and reductions of existing programs will cause this agreement—if adopted by Congress and the President—to be rejected by the American people.

In President Bush's speech to the Nation on October 2, 1990, he said, "Any workable solution must be judged as a whole, not piece by piece." I can say to the President that I have looked at the whole forest and have found it to be blighted.

First, although we may be achieving savings of $500 billion over 5 years, the national debt will grow by $942 billion. I arrived at this cumulative number by taking the baseline deficit for 1991-95 and including Resolution Trust Corporation spending plus removing the Social Security surplus, which has served to mask the true extent of the deficit. A $942 billion addition to the national debt over 5 years is essentially the same rate of additional borrowing as during the 1980's.

The underlying numbers for the President's deficit reductions are based on optimal economic assumptions. Who believes that in 1993 short-term interest rates will have fallen from the present almost 8 percent to 4.9 percent or that the rate of growth of our gross national product will have accelerated from less than 1 to 4.5 percent? Similar fantasy figures were part of the calculation in last year's savings and loan rescue legislation. These falsities were a key factor in the recalculation of the cost of the bailout from $50 billion in 1989 to $500 billion or more in 1990.

Mr. President, I predict a similar recalculation will occur within the year that will increase the estimate of the national debt to more than a trillion dollars if we adopt this agreement. President Bush in his speech to the

Nation also said, "With your help we can at least put this budget crisis behind us and face the other challenges that lie ahead." So much for putting the crisis behind us.

Second, is the question of equitable tax treatment. Quoting President Bush again from his October 2 speech, he said:

> Everyone who can should contribute something, and no one should have to contribute beyond their fair share.

How do you define "fair share"? The New York Times, October 3, printed a chart showing the Federal tax rate increasing by 3 percent on individuals making $20,000–$30,000 but for those individuals making $200,000 and over we are only increasing their rates by 0.3 percent. These are regressive taxes hitting low- and middle-income Americans disproportionately compared to high-income people. I would not say this defines "fair share."

Moving inside the forest of the budget agreement, I find an especially diseased three: the proposal to slash Medicare by $60 billion. A few weeks ago, I spoke on the Senate floor to express my outrage at an emerging deficit reduction package with draconian Medicare reductions as a principal element. Many of my worst fears became reality in the budget proposal.

The budget accord requires $60 billion in Medicare payment cuts and beneficiary increases over the next 5 years. This amount far surpasses any other domestic program cuts.

The budget agreement does not meet any of the health care objectives which a deficit reduction process should address. Deficit reduction should focus on long-term goals and solutions to fundamental American concerns and priorities.

Everyone—from senior citizens to providers, to lawmakers—agrees that health care costs are rising at an astronomical rate. Medicare benefit payments have been growing 12.2 percent per year between 1980 and 1989, significantly higher than the inflation rate.

The budget agreement does not consider long-term implications and check rising health care costs. Through increased premiums and deductibles, it does not restrain health care utilization. Instead, it shifts deficit reduction costs to our Nation's elderly, who live on a fixed income, and especially to low- and middle-income seniors.

Deficit reduction cuts should be fair and balanced. The $60 billion in Medicare cuts equals more than half the deficit reduction in entitlement programs and 25 percent of all cuts. The Medicare Program decrease would affect the 33 million Medicare eligible Americans and the 2.2 million who reside in Florida disproportionately and inequitably.

These budget cuts and premium increases follow years of Medicare changes. Over the past 10 years, Medicare premiums have risen more than 300 percent, about six times the rate of inflation. Older Americans now spend about 18 percent of their income on health care; when Medicare was first enacted seniors spent 15 percent on out-of-pocket costs. In part, due to lagging reimbursements, three hospitals in Florida closed in the last 2 years, and a dozen small rural hospitals are struggling to keep their doors open.

Mr. President, I fear that low-income individuals will suffer inordinately under this budget proposal. Low- to middle-income persons could drop part B coverage rather than pay higher deductibles, copayments, and premiums. Although over 97 percent of Americans participate in Medicare, part B physician coverage is voluntary. In addition, States will face Medicaid increases to over the premium and deductibles for those individuals under the poverty level. In Florida, over 290,000 individuals would fall into this category.

The American people must ultimately accept the summit agreement. My offices have received over a thousand calls a day in opposition to the Medicare reductions. The onslaught brought on by the 1988 Catastrophic Health Care Act will pale in comparison to elderly anger at this budget. At least with catastrophic, seniors received additional coverage—in this case, premiums increase and benefits are likely to decrease.

This year we celebrated the 25th anniversary of Medicare's enactment. I cannot accept a budget which undermines the integrity of a quarter century of health care progress. I look forward, instead, to lauding the program's accomplishments and stability in another 25 years.

Defeating the budget agreement is a crucial step in avoiding any detour from the celebration of the dignity of older Americans and the compassion of our Nation.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Montana.

Mr. BURNS. I ask unanimous consent I be recognized for 3 minutes and then the honorable Senator from Oregon [Mr. HATFIELD] be recognized pursuant to the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET RESOLUTION

Mr. BURNS. Mr. President, I rise today to discuss the budget resolution that failed to pass the House last night.

I commend President Bush for the leadership he has shown in trying to resolve the budget dilemma we all face. Despite his campaign pledge of no new taxes, he was willing to take the political heat and put taxes on the table in order to get the budget talks started. Once the budget package was announced he got behind it 100 percent and did not take any partisan swipes in trying to get it passed. The President has shown real leadership but Congress has refused to go along.

Now it is time for Congress to act like the real legislative body the founders of this country intended us to be. I think Congress should send the President a continuing resolution to run this Government until October 20. President Bush should sign it to give Congress the time to legislate a budget package and put it on his desk. We in Congress are responsible for legislating the taxing and spending for this Federal Government. The President is responsible for administering our budget.

I personally oppose the budget package worked out by the summiteers because it would increase taxes to finance runaway Federal spending, not decrease the deficit. I think all Americans would allow Congress to increase taxes if there was a guarantee it would go to reducing the deficit. I think that was President Bush's reason for putting taxes on the table in the first place. But to use new taxes to increase Government spending is a mistake.

I have been joined by 10 of my colleagues in the Senate in offering legislation that would balance the budget by 1997 without increasing taxes. As a former cattle trader, I know we must be willing to compromise from our position to get a deal, and I am willing to do that.

I invite all my colleagues in the Senate to take a look at our proposal, S. 3036, and to work with us on a budget package that can pass both Houses of Congress and be signed by the President.

I think that is what Americans want and the sooner we head down that path the better off we will all be.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

THE WAR POWERS ACT

Mr. HATFIELD. Mr. President, as I begin a few remarks I intend to make, I think there is no one in the entire Chamber with whom I would rather share these remarks than the presiding officer, the extraordinary Senator from the State of Nebraska [Mr. KERREY].

This morning I read the Washington Post, and the front page story carried this particular quote. I must admit I was highly disturbed.

> President Bush has initiated private discussions with Members of Congress on the possible use of military force in the Persian Gulf to meet in advance any congressional objections that could arise if he sends U.S. troops into battle there. * * *

That paragraph, in my view, is a wake-up call. It is a wake-up call for

the Congress to take its statutory responsibility that we have avoided and dodged and sidestepped for so long. Because, unless Congress is willing to take its specific duty under the War Powers Act, let us not be then surprised that where we have now almost 200,000 troops in the Middle East that are there in station or in position, they may well be in battle within the next few weeks.

Look at the facts. Congress will probably be in session only about 2 weeks longer, and it is a very long stretch until we convene the 102d Congress, in mid-January to be exact. In the interim, the 535 Members of Congress will be scattered to the four winds.

In the article I just quoted, I now want to refer to what the Secretary of Defense, Mr. Cheney, commented, and that is, it was probably "an advantage that the Congress was out of town" when the President deployed troops in August.

Mr. President, in my view, the handwriting is on the wall. We are about to enter into an extended period of time where tensions and high opportunities for consultation between the President and Congress are few. As the pressure for the President to use military force builds and escalates, Congress will have offered no law which either offers support or restraint: Hands off. We just do not want any part of it.

One week ago I stood on this floor and reminded my colleagues of this administration's track record on the use of U.S. troops. Perhaps few were listening, because the Senate went ahead and adopted a resolution overwhelmingly, with only three objections, three nay votes: the Senator from Nebraska presiding in the chair today; the Senator from Massachusetts [Mr. KENNEDY]; and myself.

This resolution, I believe, was nothing more than a Senate press release or perhaps worse, a blank check. Nevertheless, it was, a refusal of the U.S Senate to take a position on the War Powers Act, an act that we created right in this body. We passed it over President Nixon's veto, determined that we were going to take a position and never have another Presidential war like Vietnam.

But the list I read is telling. I can repeat the facts, because I believe that since this administration has come to office, it has authorized the U.S. troops involvement in five separate instances. The first time, the President ordered extra troops into Panama to augment the United States forces already in the region. Congress was in session at the time but did not authorize the action.

Let me list the other four experiences: December 1, 1989, United States fighter planes gave cover to President Aquino's troops as they successfully fought off a coup attempt in the Philippines. No congressional authorization was given. Congress was out of session. December 19, 1989, the United States invaded Panama, ousting General Noriega. No congressional authorization was given. Congress was out of session at the time.

August 5, 1990, United States Marines moved to rescue Americans threatened by the Liberian civil war. No congressional authorization was given. Congress was out of session at the time.

August 8, 1990, United States troops were ordered to Saudi Arabia to defend the country against a threatened invasion of Iraq. No congressional authorization was given. Congress was out of session during the initial deployment.

Four times out of five. Mr. President, I do not challenge one moment the constitutional authority of the President, where U.S. persons or property are endangered; that as Commander in Chief of the Armed Forces of this country, under the constitutional authority, he acted and acted probably sincerely and accurately. And that is another issue.

But the point is, when Mr. Cheney tells us that Congress being out of town on those instances was probably a facilitating factor in those decisions, that bothers me deeply. And none of those decisions that were made by the President at that time carried with it, in effect, a lingering, long-term possible involvement, as does the situation today. We are not comparing apples and oranges. We are not being inconsistent at all. We are merely saying that when the President is talking to leaders of Congress about possible warmaking activity in the Middle East, we will be home. We will be out of town. We will be in sine die adjournment.

My assertion, Mr. President, is that this country is likely to see military action while, as I say, Congress has not taken one step to assume a partnership role. We are not playing an adversary to the President. We were established as a partnership, both in the Constitution and under the War Powers Act.

Look at the statistics and listen to the words of the Secretary of Defense, and I want to repeat them: "It was an advantage that Congress was out of town," when those initial deployment of troops took place.

Advantage for whom? What was the advantage? For the 200,000 service men and women who had been sent to the desert wondering if the madman Saddam Hussein will lob a chemical weapon their way? The absence of congressional authorization is no advantage to them. It only increases the precariousness of our position there as they train, watch, and wait in Saudi Arabia and on the seas, wondering why they are there only at the behest of the Commander in Chief and not by the elected Representatives of the people.

We have handled this situation, from the congressional point of view, very badly. We have skirted our constitutional duties; we have ignored our own laws and we have failed our own troops and the families of those troops.

Since last Friday, when I objected to the limitation of debate on the concurrent resolution on the Persian Gulf, this Senate has done some talking about the Mideast situation—talk, talk—but we still have not found our true voice and still would refuse to offer up and pass legislation which has the force of law, and provide direction to the President and his Cabinet in partnership, not as an adversary.

I listened to the debate this last Tuesday, when the leadership outlined the thoughts on what the nonbinding resolution did and did not do. The leadership stated, "It is believed that the resolution did not constitute a blank check." He said, "This resolution is not a Gulf of Tonkin resolution."

I know he is absolutely sincere in his position, but I fear that time may prove him wrong. We created a piece of paper that a President can use, at least to the public, as some participating role that the Congress established by approving his policy as such.

What really mystified me about today's debate was all the discussion about how Congress, bypassing the resolution, was not declaring that our Nation is at war. Of course, it was not. That is not the point. The point is we may soon find ourselves waging war. And those of us who watched the decade-long tragedy of Vietnam know all too well that we can have war without the declaration. The shooting does not wait for the Congress in this day and age. Unless we draw some parameters, I believe we then stand accused of neglect of duty.

Believe me, Mr. President, as one who served in the military, as has the Presiding Officer, a neglect of duty in wartime can end up with a court martial and a firing squad, and yet the Congress escapes any accountability of our failure of standing to the duty post when we should be there.

I am taking the floor today to offer a suggestion to my colleagues, to offer a resolution which takes some responsibility, a resolution which is true to the letter and the spirit of the War Powers Act that we felt so strongly about that we passed it over a Presidential veto.

This resolution states congressional authorization for the troops for the purpose of carrying out the United Nations Security Council resolutions and for the protection of Saudi Arabia against an offensive initiative by Iraq.

I say to my friends, this does not in any way contradict the President's policy that has been established by unilateral action. This affirms the President's policy, but it puts the Congress on record rather than letting us remain as spectators in the grandstand; it forces the Congress down on to the playing field.

That is the role that we have under law. The authorization would be in effect for 90 days until we convene the next Congress. It establishes that bridge when we are out of town. The bill recognizes the President's authority to protect the lives of American citizens and conforms to the War Powers Act.

The resolution also calls upon the President to consider placing U.S. troops under U.N. multilateral chain of command to ensure that the United States does everything possible to avoid becoming a lightning rod for Saddam Hussein.

I feel very strongly that this Senate should speak firmly and with one voice. I believe we should do more than authorize defensive action. Perhaps this resolution, if it is considered, would be altered. That is fine. The Senate may work its will. I know I have colleagues who have other perspectives and dimensions to this problem, but, nevertheless, are seeking some, at least of the same goal that I seek; and that is, to put the Senate on record in a way that puts us into true partnership with the Commander in Chief.

All I am offering today is a vehicle for this body to accept its responsibility. For unless we do, there will be further meetings between the President and a few Members of Congress. Different scenarios and details will be spun about, new justifications for waging war developing each day, and our Nation will continue to slip and slide toward armed conflict by Presidential policy exclusively.

Congress will have gone home, and unless we accept this call to act by considering this resolution and have a vote upon it, we could very well come back into the 102d Congress and find ourselves trying to find an answer to how we are in war again without the authorization and without the partnership of the Congress.

Mr. President, I ask for the immediate printing of this resolution that I now send to the desk.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 376

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION FOR DEPLOYMENT AND USE OF UNITED STATES ARMED FORCES IN AND AROUND THE ARABIAN PENINSULA.

(a) AUTHORIZATION.—Pursuant to its war powers under the Constitution and the War Powers Resolution, the Congress hereby authorizes the President for a period of 90 days after the date of enactment of this Act to deploy United States Armed Forces in countries in and around the Arabian peninsula, only to carry out either or both of the following missions:

(1) To deter and defend the territorial integrity of Saudi Arabia against acts of aggression by Iraq.

(2) To enforce United Nations Security Council Resolution 665 or any other resolution adopted by United Nations Security Council that authorizes United Nations members to take additional steps to enforce United Nations Security Council Resolution 661, regarding economic sanctions against Iraq.

(b) APPLICATION OF EXISTING LAW.—Any deployment, introduction, or use of United States Armed Forces not covered by this authorization that involves hostilities may be undertaken only pursuant to the War Powers Resolution or the enactment by the Congress of additional legislation authorizing such activities.

SEC. 2. AFFIRMATION OF THE PRESIDENT'S CONSTITUTIONAL DUTY TO PROTECT UNITED STATES CITIZENS.

The Congress recognizes the constitutional duty of the President to protect the lives of United States citizens, and nothing in this Act shall be interpreted as a constraint on such constitutional duty.

SEC. 3. MULTILATERAL CHAIN OF COMMAND.

The President shall take every practicable step to establish a multilateral chain of command that places United States Armed Forces under the command of the United Nations for purposes of section 1(a)

SEC. 4. CONFORMITY WITH WAR POWERS RESOLUTION.

The authorization contained in section 1(a) shall be considered to constitute a specific authorization for the use of United States Armed Forces under section 5(b) of the War Powers Resolution.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. HATFIELD. I am happy to yield.

Mr. MOYNIHAN. I came just a bit late on the floor. I wondered whether the distinguished Senator from Oregon has made reference to a front-page story in the Washington Post?

Mr. HATFIELD. I did.

Mr. MOYNIHAN. "Bush Consults on Use of Force in Gulf Private Talks With Lawmakers Aim at Meeting Objections in Advance."

The Senator did?

Mr. HATFIELD. I did. To the Senator from New York I respond I did make reference not only to the President's statement but something equally alarming to this Senator and that is the statement of the Secretary of Defense having stated that it was an advantage for the Congress to have been out of town.

Mr. MOYNIHAN. If I may say rhetorically in answer to a question, I think the Senator is entirely right. On this side of the aisle, from the first, we have sought to engage the administration in some understanding of how shall we work the necessary joint consultations and agreements that are always required in the case where American forces are committed to battle, or to whatever overseas purposes, in the new context of a Security Council action. I have made the point—it is not any way commanding but it is significant. Article 25 of the charter binds members to abide by Security Council resolutions. I made the point that when the charter was drafted and when it was as a treaty agreed to by the Senate it was anticipated that the Security Council would have by prior agreement forces available to it that could be committed. None of those things actually happened. Now they are. We get very little response.

I am chairman of the Subcommittee on the Near Eastern and South Asian Affairs. From the first I have spoken on this floor, I mentioned that I was asking our Representative to the United Nations the same questions the Senator was on Thursday 2 weeks ago, 2 weeks and a day ago when the Senator was on the floor saying why are we not responding as a body.

No one from the administration has spoken with me—none. I do not requrie to be spoken of, but if they are interested you might have thought they would have done so.

Then last week on the day that we adopted this resolution referred to, the Senator from Maine was on the floor, and I spoke about what could appear to others as a two-track policy. We say fine, if you are working within the United Nations, within the context of the United Nations, stay that way and we stay with you. But simultaneously we read these stories and discussions of surgical strikes and the like as if there are two views downtown in the administration. That would be not unusual, but if it were deliberate, it woud be unforgivable in my view.

I read this. I was depressed. Not a single response to our action. It was on Tuesday that we acted. We previously expected Monday. It was on Tuesday. No response. Then this. And in the context of a debate—and the Senator is on his feet and will speak further—a debate in which we said now, listen, this is troubling. This requires some response. They have the makings of a policy in ruins.

And also in my view—and this is very personal perhaps—I would like to see a system of collective security working in this world. I would like to see the charter abided by—this seems to be such a moment—than to have the war party, the go-it-alone party, or just use the United Nations for purposes until it has served those purposes and then break it. This is not a policy of appeasing Saddam Hussein. It is a policy of responding collectively.

Mr. HATFIELD. That is right.

Mr. MOYNIHAN. I could not more agree with the suggestion that a U.N. command would make clear that it was

the world against Iraq, not the United States. I can only express my bafflement about his behavior and my appreciation of the commitment of the Senator from Oregon.

I see the Senator from Maine and the Senator from Minnesota.

Mr. COHEN. If the Senator will yield for a comment as opposed to a question that pertains to the statement just made by the Senator from New York——

Mr. HATFIELD. Mr. President, first of all, I thank the Senator from New York for his comments. I would be very happy to yield the floor and have the Senator from Maine have the floor.

Mr. COHEN. I was just going to respond to both my colleagues that a similar question was just raised during a House-Senate Armed Services Committee conference, as to whether or not the leaders of the Senate Armed Services Committee have been involved in these private discussions. There appears to be considerable error in at least the implications, erroneous implications being drawn, because there have been no such private sessions with the leadership of the Armed Services Committee as indicated in this particular article. So I think we have to go back and read it more carefully. There was a meeting that took place a couple weeks ago, a general leadership meeting at the White House but since that time according to the information I have received there have been no such private discussions.

Mr. MOYNIHAN. Would the Senator have any reason to wonder then why this story appeared?

Mr. COHEN. I do wonder why. I do not know the basis of it. I would have thought that if the White House were concerned about what congressional reaction might be, they might well have dialed the office of the Senator from New York, to inquire about his views. He and I were on this floor debating the issue of what kind of notification might be required, what kind of participation Congress might wish to establish in working with the White House.

I have been sitting patiently by my phone for the last 3 or 4 days and the phone has not rung, to the surprise of the Senator from New York but I have received no such phone call and, frankly, did not anticipate receiving such a phone call.

I say to my friends from Oregon and from the State of New York that I think it would be a mistake for the Executive to adopt an attitude saying we really do not need them, or want them, or we will be looking forward to the day when they depart from the city of Washington, DC, and that we will have a freer hand. If that is an attitude that is being widely circulated in the White House, I think it would be a mistake.

I am not sure it is. It may be that much of this is constructed in a way from various sources which gives a misleading impression. I share the concerns voiced by my friends from Oregon and New York in terms of the implications.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. MOYNIHAN. Could I ask the Senator to yield for a question?

Mr. HATFIELD. I will be very happy to yield.

Mr. MOYNIHAN. I observe the distinguished Senator from Rhode Island, who is chairman of the Committee on Foreign Relations, who was working in San Francisco 46 years ago on this very provision. I would ask him, the Senator from Maine has not heard from the administration. The Senator from New York, who is chairman of the subcommittee, has not heard. Has the chairman of the Committee on Foreign Relations perhaps heard? I wonder if the Senator might make that inquiry.

Mr. HATFIELD. I would make that inquiry of the Senator from Rhode Island.

Mr. PELL. Since a group of us came back from the Near East together several weeks ago and reported to the President, and for attendance at a White House leadership meeting, there has been no consultation of which I am aware between the administration and the Foreign Relations Committee.

Mr. MOYNIHAN. Then there has been none.

Mr. COHEN. If the Senator will yield, we also have present the chairman of the Armed Services Committee. We might inquire as to whether he has been involved in private discussions consistent with the article that appeared in today's Washington Post.

Mr. NUNN. I have not read the whole article in the Washington Post. I only read the front part of it. I have this early bird and it has the front page, and frankly I have not yet been able to find the next continuing page. My more well read colleagues perhaps could help me find the point in the early bird.

I believe it was 2 weeks ago today I was invited to the White House to meet with President Bush and a number of his leaders in the Cabinet. I believe Secretary Cheney was not there, but I believe that Secretary Baker was there, and the National Security Adviser Brent Scowcroft, and a number of others. But that meeting was a general leadership meeting.

Senator MITCHELL was there. Congressman FOLEY, the Speaker, was there. I know Senator WARNER was there. I believe the Foreign Relations Committee was included in that meeting.

Mr. PELL. I was at that meeting, to the best of my recollection.

Mr. NUNN. That was 2 weeks ago today. We had a very thorough discussion. The President gave his views. He told us about the dangers there, and he told us about the sensitivities from his perspective. He went around the room and invited the views of others.

Congressman FOLEY, the Speaker, gave his views. Senator MITCHELL gave his views. I gave my views, and made six or seven points to the President. I would say that the general thrust of the meeting of the President was that he should do his best, first of all. I think people congratulated him on working through the United Nations. I think that was the general thrust of the meeting. I know that was the thrust that I picked up. I think there also was a clear kind of consensus emerging there that we ought to continue to try to work through the United Nations.

I remember that I did say—and I said this publicly. I do not mind repeating it. I said the President has done a superb job rounding up a posse. Now that we have done that, we cannot be the Lone Ranger. We have to work with international community, the first preference, of course—the United Nations. I went on to say that I felt whatever happened in the United Nations we needed to keep our key allies in this particular situation informed, and that would include the Arab nations.

We were working with Britain, France, and some of the NATO nations. Also in this situation, it would include the Soviet Union. We needed to keep them informed of the activity.

We went on to discuss other things in some detail. I will not try to repeat that nor do I think I should here, but I believe that was the thrust of the meeting.

The President gave the Members there a chance to be heard. Of course, in a group of leaders of the Congress that large you never get unanimous views and some people expressed different views. But that is the thrust of the meeting. I have not been invited to any further meetings.

Mr. MOYNIHAN. That was the last meeting.

Mr. NUNN. That was the only meeting in which I met with the President. Of course, I meet with the Secretary of Defense constantly because of defense going on. But as far as a Middle East discussion with the President of the United States that is the only one in which I have been included.

Mr. HATFIELD. Mr. President, as my colleagues demonstrated here today, there is a great willingness to be a partner in this whole process, and on this very specific policy. I am baffled on two fronts I must confess. I am baffled as to the White House's atti-

tude toward the Congress as has been expressed here by my colleagues when there is a 75 percent public support for the President's policy out there when last Tuesday we passed a nonbinding resolution commending the President by a vote of 96 to 3, whatever it was.

The President is not an adversary. I do not think we feel that way in the Congress, or at least we should not be. If I were the President, I would want the Congress on record when it so willingly stands there ready for some kind of role to play. But I am equally baffled nevertheless not understanding the White House's attitude.

I do not understand the Congress' attitude because we have ample reason to participate in this whether we are invited to or not. We have the legal vehicle to establish a partnership role. I must say from my perspective, it is equally baffling why the White House has not communicated in a role that would invite and be a willing partner into this policy from the congressional point of view, and second, why we do nothing to invite ourselves into a partnership where we have every legal vehicle to do so. So I am baffled on two fronts, Mr. President.

Mr. NUNN. If I could respond briefly——

The PRESIDING OFFICER. The Chair advises that under the previous order, the Senate is to stand in recess after the remarks of the Senator from Oregon.

Mr. HATFIELD. Mr. President, may I retain my right to the floor and yield to my colleagues?

Mr. NUNN. If I could just ask the Senator from Oregon a question, what is it that the Senator believes that the Congress should do? I missed that point.

Mr. HATFIELD. I respond to my colleagues from Georgia, Mr. President, by saying that I have today introduced this resolution under the scope of the War Power Act, not waiting for the so-called document from the White House, but to authorize the troops there now for the 90 days that we will be in recess; also to carry out specifically the U.N. Security Council Resolution 665, and for any other resolution by the U.N. Security Council, and then to review that policy when we come back. It puts us on record as authorizing what has occurred, affirming the President within this War Power Act.

There are other ways to approach this perhaps, but my point is the resolution we passed last Tuesday, I refer to as a press release of the institution of the Senate, did not bind us to anything. It did not bind the President to anything. It was just a press release. I would like to see us take some action that puts us into a legal partnership with the President in this particular policy.

Mr. NUNN. If I could say to my friend from Oregon, I will be one of those who believes the War Powers Act needs substantial revision, but it is the law. I think that all of us have to respect the law. The problem with the War Powers Act—there are several problems, but one is that the President obviously is not going to trigger it, this President or any other President.

Mr. HATFIELD. We can trigger it.

Mr. NUNN. We can if we can pass the bill and get it down to the President, have him sign it, or in lieu thereof, override a veto. Of course we have never been able to muster two-thirds vote in the House and Senate to do that.

Mr. HATFIELD. We did on the initial War Powers Act. We passed it over President Nixon's veto.

Mr. NUNN. That was the last time. I do not think the Senator would believe we would have two-thirds of this body at this moment pass a resolution to trigger the timing element of the War Powers Act and have the President veto it, which I believe that he would, and then come back and override the veto.

Mr. HATFIELD. Mr. President, I would like to respond. I have no guarantee. I am only saying that Congress at least has taken that step, and that the President has the right to veto the bill if he selects to do so. That is another story. I am not so sure he would. But nevertheless that is speculative. But it does take the first step; that is, we the Congress take the first step under an existing law that may be flawed and all that, but it is still existing law. That is what I am basing this resolution on.

Mr. NUNN. I say to my friend, the Senator from Oregon, that there probably would be parts of the resolution that I would agree with. I would like to read it and study it, and I will.

I certainly think we ought to set up a consultative mechanism to give the President clear directions from the Congress that we expect consultation during this interim period after we go out as well as while we are in. I am very much in favor of that part of the War Powers Act.

I think we need to revise the War Powers Act to eliminate the part which I think is never going to work, never has worked, it never will work under any President, in my opinion, and that is the automatic withdrawal in absence of congressional action. That is what is wrong with the War Powers Act.

The War Powers Act, when it is kicked off by a notice from the President, or if we override a veto, pass a provision that says it is being implemented, it requires the President to withdraw the forces within 60 days, I believe 30 more days on an extension, unless Congress acts.

So by sitting here under the War Powers Act and doing nothing we can basically, after the trigger comes in under the War Powers Act, require the withdrawal of forces from Saudi Arabia or anywhere else. That is what is wrong with the War Powers Act. That is not congressional participation. What that is, is an act on the book that says to the President, when you send forces abroad, you send us a notice up here, we can sit on our hands on our chairs, we can run home, recess, the clock is ticking away, and if we do not do something, Mr. President, you bring them back. To me that does not makes sense in the modern world. That part of the War Powers Act needs eliminating.

The consultative part of it needs to be implemented, and in fact I think we need to strengthen that part of it. We need to tell the President what he needs to do in terms of consultation. We need to appoint by a position certain people to be consulted with on behalf of the Congress, and then we would be making progress.

In the ultimate, I would have to say to my friend from Oregon, the way we control this issue is through the purse. My friend from Oregon has a big hand on that purse. That is the ultimate sanction in terms of the Congress. That is what we have the power over. If we do not fund it, it will not happen. If we do not fund it at some point the money is gone. That is a tough, tough instrument. No one ever wants to cut off funds when we are engaged in some kind of foreign contingency. That is the power. The question is whether we ever decide to use that.

Mr. MOYNIHAN. Will the Senator yield for a comment?

Mr. HATFIELD. I am happy to yield. But may I respond a minute, if I could?

Mr. President, I would like to make two responses to the Senator from Georgia. Obviously, the Senator from Georgia is legally trained, and he is a lawyer. I need not say more. But nevertheless——

Mr. NUNN. I think you need to say more than that.

Mr. HATFIELD. May I speak as a nonlawyer? We can find the flaws in the War Powers Act, and we can listen to the arguments between the lawyers. Nevertheless, let me just make one simple layman's observation: It is the law of the land. I know of no revision instrument that is in place or that is in process. Therefore, it is the law of the land. And all of these parts to the war powers in no way, negate that first step that the Congress can take to trigger its responsible partnership role.

There is no way that we can excuse ourselves from inaction merely because, well, the President might veto

it, or parts are not operative down the line.

I cannot recall, but I think the Senator from Georgia was here when the war powers was adopted. We had Jake Javits, the Senator from New York, who was considered to be one of the best constitutional lawyers. We had other lawyers on this floor, who stood up and gave an answer to every one of those charges about its flaws, and we had eloquent responses arguing it out. But the majority of this body adopted the law as it now is on the statute books.

All I am saying, is that I do not think we can engage in legal speculation about what would happen or not happen, and avoid the responsibility that permits us to trigger a partnership role. That is all I am saying.

Secondly, I want to say this about the purse strings. I can recall very vividly when Senator McGovern and I offered a resolution to cut off the funding of the Vietnam war; we went around to the Senate colleagues, including the chairman of the Senate Foreign Relations Committee, Senator Fulbright, and other people, and we could get only five other cosponsors. And you had dozens of people out here criticizing the war, dissenting from the war policy.

We could only get five cosponsors because the answer was that "you cannot cut off the funds now." We said it is prospective. As of the end of a certain period, the funds will be cut off, because once you get those troops in there and once you get them into battle, then to say cut off the funds or control the policy by the purse strings is absolutely not realistic.

Mr. NUNN. Will the Senator yield on that point? I think the Senator makes a good point. However, again, the Senator said we should not refrain from triggering the War Powers Act on the theory that the President may veto it. That is too much of a legal argument. That is the same thing the Senator is using on the purse.

The fact that power has not been exercised does not mean it could not be. It means Congress chose not to exercise it during the Vietnam war.

I say to the Senator, further, that the big problem with the War Powers Act is that, actually, in a nuclear age the War Powers Act, itself, would permit the President to fight a nuclear war without ever talking to Congress, and if it lasted within 60 days—which I do not know of anybody who believes it would not be over within that period of time, or at least the damage would have been absolutely tragic at that period of time, and probably in the first few days—the War Powers Act would say everything is fine.

So if we really are worrying about nuclear war, I submit that the War Powers Act does not address that.

I say also that the War Powers Act does not address what happened in Saudi Arabia. The Senator says we cannot cut off the purse strings after the troops are deployed. The President already has them over there now. He had them over there before there was any triggering of the war powers. So I think the Senator is making the case strongly that the War Powers Act does not work.

I agree with the Senator that it is the law of the land, but it ought to be revised. It is not working. It is having the effect of cutting Congress out of the act more than it ever is doing anything to make Congress part of the act.

The other thing wrong with it, if I could keep going, is we should not have numbers of days in it. That is probably where I differ with my good friend on this resolution, if he has 90 days in there.

When you say the number of days and when you have a military mission abroad, which nobody in the world knows the number of days it is going to take, when you put the number of days on it, you give a tremendous psychological advantage to your adversary.

I do not believe we should say 60 days or 90 days. If we are going to define a policy, we ought to say what the military mission is, and give the President and the troops a chance to carry it out. If we are not going to do that, we should not specify the number of days. Putting that in there creates a tremendous problem and works against our own interests and, in many cases, when you start giving a congressional deadline for military activity, what you do is precipitate the very conflict you hope to avoid.

So I think we have to be very careful in this area. There were some good people who worked on the War Powers Act. But I say that it simply has not worked. I see no indication that it is going to work.

Mr. HATFIELD. Mr. President, I would just like to say that the Senate engages in speculation on one hand, and ignores the pragmatic events of the moment. Everything that the Senator has indicated is speculation, speculation. He gets into nuclear war and all that. That is not the issue at hand.

The very simple thing is, we can speculate about laws and all the things about it, but it all ends up, the bottom line is, it is an excuse to do nothing; it is an avoidance, because we can say, well, it may be flawed, or it is this, or it has to work.

Let me say that to compare this back to the Vietnam war, the Senator engaged in speculation on one hand, and I am engaging in imperical data and experience on the other hand. That is, when we introduced that, it was not just because of the deployment; we were involved in bloody warfare. I did not indicate that it was because the President has deployed; I said deployed and embattled. Once they engage in battle, we have no role left to really play. That is not speculation, but empirical experience of the McGovern-Hatfield amendment, as it related to the Vietnam war. I would like to keep it right down to the pragmatic instance at hand.

Mr. NUNN. Would the Senator's resolution—as I understand it—give the President the authority to basically, if necessary, and if need be, fight a war for the next 90 days? Or would it preclude him from doing that.

Mr. HATFIELD. It does not address the question of war, except as it engages in the authorization of those troops already there. That puts the Congress on record.

Mr. NUNN. What would it do——

Mr. HATFIELD. Does the Senator know the alternative? To come back and find the battle, everybody is going to be up here making a speech about the Bush war. That is the alternative to what the Senator says.

Mr. NUNN. What would the Senator's resolution do to prevent the President, while we are gone, from starting a war in the Middle East and fighting it until we got back? Is there anything in the resolution to prohibit him from doing that?

Mr. HATFIELD. The Senator is engaging in speculation. I am taking this from the War Powers Act. Does it restrict the President to wage war?

Mr. NUNN. No.

Mr. HATFIELD. Neither does the resolution. It is nothing more, nothing less; not all this speculative, what if this and that. It takes it out of the War Powers Act. Congress goes on record authorizing the troops that are there, and we have to deal with whatever consequences come, because we have no other way to do it when we adjourn to go home anyway.

So let us keep the reality of the moment and instead of all of this What if, because all I am doing is taking it from the law, and it is only asking the Congress to stand up instead of avoiding and dodging ways not to take action, and it puts us on record of authorizing the President's action thus far under the war powers.

I yield to the Senator from New York.

Mr. MOYNIHAN. I note that the Senator from Maine would like to speak, also.

Between my two friends here, are we not basically saying that we need to establish a relationship with the administration with respect to what is going on, and we have not? I believe very strongly that down there in their legal counsel's office there is a terror of this War Powers Act in thinking that you might even reach the subject. The President is not being well ad-

vised. It may sound large, but he has put his Presidency at issue here, in an effort never before undertaken of its kind to have economic sanctions to put an end to acts of aggression. Economic sanctions are not a kinder, gentler form of behavior. They are tough, hard, demanding, and hugely demanding of the country that imposed it.

It seems to me that what I hear from the comments of the Senator from Maine is that someone down in the executive branch had better listen or they could indeed find themselves all alone with an immensely debilitating and demanding and possibly ruinous policy; whereas, we would like to see, and I think the Senator from Oregon would like to see the policy of the charter put in place. That would be a new exercise.

They ought to come up and say to the Senator from Rhode Island, the chairman of the Foreign Relations Committee, and the Senator from Georgia, the chairman of the Armed Services Committee: How do you think we might best go about this; at the minimum that, and yet we have all testified to silence. I am baffled.

But I once again thank the Senator for raising the subject.

Mr. HATFIELD. I agree with the Senator from New York. I am baffled, too. The chairman of the Foreign Relations Committee, the chairman of the Armed Forces Committee, and the ranking members of the committees have not been consulted.

Mr. MOYNIHAN. And the Intelligence Committee.

Mr. HATFIELD. And the Intelligence Committee.

I am baffled by that. Nevertheless, what is the alternative? The alternative is to go home and say we were not invited. We were not invited there.

Mr. MOYNIHAN. May I say I much agree. If they do not come to us, we must go to them.

Mr. HATFIELD. Exactly.

Mr. MOYNIHAN. We must be stronger than we have been.

Mr. HATFIELD. If it takes a vehicle of this kind.

I yield to the Senator from Maine.

Mr. COHEN. Mr. President, a couple of weeks ago, the Washington Post published an article I wrote pointing out precisely this dilemma. That is, the War Powers Act is not working because, first, the President does not recognize the constitutionality; and second, the Congress itself does not recognize its viability.

So we have a unique situation in which we have passed a bill that has been put into law over the objection of a President, and we have ignored it. We have ignored it for a variety of reasons. The Senator from Georgia has pointed out several of those reasons.

No. 1, by fixing a time certain, we have not necessarily aided our own cause, but rather perhaps emboldened the enemy to simply sit down tight, wait it out, and watch the troops then be removed. We decrease our leverage, rather than increase our leverage.

Under the War Powers Resolution, we engage something of an act of cowardice simply by doing nothing; we overturn a Presidential decision by doing nothing. That is not a concomitant role or a coequal partnership in the entire field of declaring or waging war as such.

I think the Senator from Oregon suggested that there is nothing in the works. There is. There is a bill that has been sponsored by the Senator from Georgia; the majority leader, Senator MITCHELL; myself, and others, called S 2. And it is designed precisely to deal in an effective way with the war powers question.

Mr. MOYNIHAN. Consultative group.

Mr. COHEN. A consultative group, and with an expedited process, by a vote of both Houses. That is for me a preferred result. It is not on the books. What I was suggesting in the article published in the Post was that Congress itself cannot continue to accuse the executive branch of trying to circumvent the law or abuse the law, as occurred in Watergate or Irangate, while we ourselves ignore the laws we pass.

Mr. HATFIELD. Simple laws.

Mr. COHEN. It may be that the 90-day period is offensive. I think what the Senator from Oregon is trying to do is say while we are out of session, while we are gone, we want to say simply yes, we support President Bush's decision to deploy the troops. We want to see them continue to remain there, and he may, in other contexts, have to go to war. Something may occur.

Mr. MOYNIHAN. In the context of the United Nations.

Mr. COHEN. I yield on that point to the Senator from New York, but it is not an open-ended type of approval. It might be by the time we come back in January, or whatever timeframe it might be.

I also will suggest in terms of where we go from here as far as insisting on that consultative role, I do think we have to take the initiative. I do not think we can simply ignore it. I do not know that we can go away and say the President has made the decision. We knew about it. After all, we passed a resolution overwhelmingly in favor of it. And that, by implication, if nothing else, would indicate that we are solidly behind what he intends to do.

I think we ought to, as an institution, assert ourselves. I would prefer to go with S. 2, frankly, as perhaps an amendment to start debating. We have only started to debate this issue this past week. This is the first time, I think, in recent years, we really started to debate the issue.

We had a similar situation, as I recall, back during the deployment of peacekeeping forces into Lebanon. Again, there was no War Powers Resolution provision invoked on the part of the executive. But we authorized specifically, as I recall, the deployment of those forces for a period of 18 months.

Mr. HATFIELD. That is correct.

Mr. COHEN. It was not 60 days or 90 days; it was a period of 18 months. A great tragedy occurred. Many of our marines were killed over there in a bombing attack in Beirut. We lost well over 250 or 300 marines, as I recall. It may have been more. We bore an equal responsibility; it was not President Reagan's debacle at that point, since we said that; we favor this peacekeeping deployment.

Mr. MOYNIHAN. Nor were there recriminations.

Mr. HATFIELD. There were no recriminations.

Mr. COHEN. There was not anyone in the Senate or House pointing a finger at the President, saying this is what you have done to our brave young men. That was not what occurred. It was a shared responsibility.

I think that is precisely what the Senator is trying to do.

Mr. NUNN. I say to the Senator from Maine—will the Senator from Oregon yield?

Mr. HATFIELD. I will.

I only want to say before the Senator from Georgia arrived, I not only have questioned the front-page story in the Post as it related to the President's reported consultations with certain leaders of the Senate.

What equally bothered me was a quotation from the Secretary of Defense, Mr. Cheney, who said that in the previous deployment, it was an advantage to have the Congress out of town. I am only indicating that it is a long time between now and January, mid-January 1991, when Congress reconvenes.

This bothers me. This bothers me deeply, because again it is almost as if the story had a linkage between those two statements giving us a signal, and that really helped give rise to this.

I want to also comment, I think this is the most extensive debate we have had, or discussion. The Senator from New York has spoken on this floor; the Senator from Nebraska [Mr. KERREY] has spoken on this floor; I have spoken on this floor; the Senator from Washington State [Mr. ADAMS]; but always singly. To get a group together to discuss this issue I think is an important step forward.

I also feel that S. 2 is excellent. I am glad to be informed of that particular concept that is in committee. But again I am saying we are facing sine die in the next 2 weeks. I do not visualize S. 2 coming out of committee and being acted on and signed into law.

But there is the War Powers Act on the books, and all I am just saying is it gives us an opportunity, and basically I am looking for a hook to hang this on. It gives us that hook, with all its flaws or all of the kinds of faults we may find with that act.

I am not wanting to bring an adversarial role between the White House and the Congress. As I say, I am equally appalled at how these things have sort of moved along. We cannot point to the White House and blame the White House entirely.

I think again we have an opportunity and a responsibility to just trigger some kind of action that indicates a role that we are willing to stand up and take for ourselves under the law, and I do not consider that resolution other than just a poll of the Senate, and I am in support of the President's policy.

I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I say to my friend from Oregon, I believe we all agree—I know I agree with the Senator from Oregon—on the problem, in stating the problem. I think there is a problem. The problem I have is thinking through the solution or any approach to the solution.

It seems to me before we go home we ought to do something. I submit that we have implicitly authorized what the President is doing by the resolution that is already passed. We basically, as I recall it, set it forth in the United Nations—we were acting under the United Nations. I think, implicit in that, we authorize the forces that the President has deployed.

What I do think we ought to do before we go home is we ought to pass at least a resolution that says to the President: We have the following leaders, by position, that ought to be consulted with on a regular basis while the Congress is not in session. That is the least that we should do, and we ought to make that absolutely clear and abundantly clear.

Again, I have not read the Senator's resolution. I probably would agree with much of it, but I believe that would be a step forward.

If I could add one other comment to the comments of the Senator from Maine. There were some of us who were opposed to the Lebanon resolution, and I was one of those who voted against that for the reason that I have outlined here. For one thing, we did not say what the mission was. No one could say what the mission was over there. That turned out to be the problem. I made that point in the debate here.

The second point was we put a time limit on it. If you have a mission, you cannot prescribe a time limit for it in Congress. Those two things work against each other. If you do not have a mission, which we did not in Lebanon, I suppose you could put any time on it you want to.

We have just seen the great presentation on the Civil War. If during those years in the Senate and the House here in Washington, if it had been a time limit put on President Lincoln, as Commander in Chief, in terms of how long he could prosecute that war, we would be meeting probably in Richmond today rather than here.

Mr. HATFIELD. Mr. President, the Senator from Georgia has now triggered another problem for me which really frightens me more than anything. He said, not in an adversarial way but just in a comment generally, he said the resolution we passed on Tuesday implies there was an authorization of the President's troops that he has deployed there. I believe that is what Senator indicated.

Mr. NUNN. It said we have approved of what the Senate did today.

Mr. HATFIELD. The Senator used the word "authorize."

Mr. NUNN. I consider that when we approve of what the President has done to this date, and he has over 150,000 troops in Saudi Arabia, that we have implicitly, if not explicitly, condoned that or authorized that.

(Ms. MIKULSKI assumed the chair.)

Mr. HATFIELD. Have authorized those troops.

I will tell you why that bothers me even more. And I think the Senator is right; I am not challenging the Senator's comments.

In a concurrent resolution, nonbinding, but nevertheless when that word "authorization" of those troops was used in that, it was followed by "and appropriations"—"and appropriations." That was one of the things that caught my eye, and that was in the last paragraph.

Again, I can just see, having gone through the experience of the Vietnam war period, when President Johnson invited all the Governors to the White House to brief them on the Vietnam war after a resolution had been adopted supporting his policy by a vote of 49 to 1—I was the only Governor voting no—the first thing he did was pull out the Gulf of Tonkin Resolution. Now that was a joint resolution. But, nevertheless, he wanted to show paper of how the Congress had in effect approved of his policy; therefore, it was not the Johnson war policy, it was not the President's war. Here Congress, except for two votes, had passed a resolution.

All I am saying is that when you use the word "authorization," as was used in that resolution last Tuesday "and appropriations," it bothers me that we have had a piece of paper—and I am not suggesting President Bush is going to do that or anything, but I am saying, having experienced that one instance in history, I am cautious, very cautious about giving the President any paper that states that we have in any way implicitly or explicitly authorized and appropriated a policy of deploying troops abroad.

Mr. NUNN. If the Senator would yield on this point. The Senator makes a good point, I believe. I wish we had that resolution before us, but we do not. But I believe those words "authorized and appropriated" were down at the bottom part of the resolution and that was setting forth the procedure we wanted the President to follow; first, the United Nations, in accordance with the Constitution of the United States, and in accordance with the statutes of the United States, including authorization and appropriation.

Mr. MOYNIHAN. I believe that is correct.

Mr. NUNN. I believe that was the context of that, basically the intent of that, because I was involved, to some extent, in the drafting. It was to make it clear that his actions there do follow under the authorization and appropriation of Congress, that we have to authorize and appropriate.

Mr. HATFIELD. I say to the Senator that is all this resolution seeks to do, to authorize those troops under a law that is on the books and not under what I call a press release action of a concurrent resolution.

Mr. NUNN. I thank the Senator for his service. I think he has really served the Senate well.

Mr. HATFIELD. I yield to the Senator from North Carolina.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. HELMS. Madam President, notwithstanding the previous order, I ask unanimous consent that, at the conclusion of Senator HATFIELD's colloquy with his colleagues, I be recognized as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. COHEN. Will the Senator amend his request to include the Senator from Maine to follow?

Mr. HELMS. I certainly will, Madam President.

The PRESIDING OFFICER. Is there objection?

Without objection, the request of the Senator from North Carolina is agreed to.

Mr. HATFIELD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS. Madam President, I thank the Chair very much.

THE MOCK BURIAL OF MIA'S

Mr. HELMS. Madam President, the Department of Defense announced

several days ago that the remains of four U.S. servicemen, missing in action in Laos since March 5, 1971, would be interred in a military burial today at Arlington National Cemetery. The names of the four are: Sp4c. Joel C. Hatley, from Albemarle, NC; Capt. David L. Nelson, from Kirkland, WA; WO Ralph Moreira, from Beaver Falls, PA; and Sp4c. Michael E. King, from Calhoun, GA.

On September 21, the Department of Defense stated that:

Remains recovered during January 5-10, 1990, joint excavation efforts by the U.S. and Lao governments have resulted in accounting for the four servicemen. * * * The remains of these Americans will depart Hickam Air Force Base in Hawaii for a full military honors ceremony * * * and will travel to Travis Air Force Base, CA, for the final journey home.

Madam President, almost anyone reading such a statement as that which I have just quoted, might well conclude that U.S. experts have made positive identification of the remains, and that the families of the four men will at last be comforted by the knowledge that they know where the bodies of their loved ones lie.

Unfortunately, that is not the case.

There are no remains whatsoever for Specialist 4 Hatley or for Captain Nelson. For Warrant Officer Moreira and Specialist 4 King, there are minuscule fragments of bone and a tooth not positively identifiable by any objective forensic analysis. Yet four coffins will be buried with full military honors.

Madam President, I have contacted the families of both Specialist Hatley and Captain Nelson. They were thrilled when they first got the news that their sons had been found; but they were shocked when they were told, upon further inquiry, that no actual remains were being returned, just four empty coffins.

Why does the Department of Defense put the families of MIA's through this kind of charade?

The answer, Madam President, lies in a highly convoluted system of investigation and analysis that depends more upon procedure and methodology than upon practical result. For example, in announcing what amounts to mock burials at Arlington Cemetery related to the four men, the Department of Defense proudly talked about "remains," and cases "accounted for." In a question and answer statement, DOD says:

Q. How many remains recovered from Southeast Asian countries have thus far resulted in the accounting for missing Americans?

A. Including these individuals, 287 Americans (245 from Vietnam, 40 from Laos, and 2 from PRC) previously missing in Southeast Asia have been accounted for.

Q. How many Americans are still unaccounted for in Indochina?

A. With this determination, there are still 2,298 Americans (1,677 in Vietnam, 530 in Laos, 83 in Cambodia, and 6 in PRC Coastal Waters) missing in Indochina.

Clearly, the implication in these statements is that physical remains have been recovered and restored to the families of the missing servicemen. Yet that is not what the bureaucratic system means. DOD obviously has its own language, its own definitions of ordinary words, its own purposes to be served.

When DOD says "accounted for," it means only that DOD has gone through a stereotyped process that allows it to close the files on a case. It means first of all that all reports of sightings of specific individuals by eyewitnesses—so-called live-sighting reports—have been checked out, and either dismissed or investigated. Of course it is easier to dismiss reports by discrediting the witnesses, or by insisting that the reports meet bureaucratic criteria than it is to check them out.

Since the fall of Saigon in 1975 up to September 1, the U.S. Government says it has received 12,184 live sighting reports. DOD states that it has rejected 68 percent of these reports by correlation with Americans who were in Southeast Asia during the period. But the criteria for correlation are themselves suspect, frequently bureaucratically rigid, and to be honest about it, absurd. I will explain this in a moment with respect to the four mock burials today. Undoubtedly, many reports are mistaken, many are distorted, and many are fabricated. But DOD seems to be claiming by its own statistics that over two-thirds of the reports can be summarily dismissed.

Second, DOD's use of the term "remains" does not meet the ordinary definition of the word. For DOD, the word "remains" refers not to the actual physical remains, but to an abstract concept deduced from circumstances.

In the case of the four servicemen, an excavation team found remnants of a helicopter at the site where it presumably crashed on March 5, 1971. In the intervening 19 years, many things could have happened to the bodies of those killed in the crash. A fire could have consumed most of the bodies, including most of the bones. The process of tropical decay could obliterate most traces. Wild animals could drag bodies away. The difficulty of finding actual remains, and identifying them correctly, is indeed formidable. This Senator does not want to minimize the difficulties facing DOD. I acknowledge that.

In practice, DOD works by a process of deduction. Records of the incident would show who was pilot and copilot and crew. Any remains found in the appropriate places in the wrecked vehicle are then arbitrarily assigned to the case of the crewman who was supposed to be sitting in that place. That is reasonable enough. In some cases, teeth and dental work can be identified, but in many cases human fragments are too small to be positively identified. Nevertheless, the case is stamped "resolved," tentative though the identification may be.

Many families would prefer to know simply that the vehicle had been found at the crash site, and that unidentifiable remains were recovered inside. They would be happy to join in a ceremony commemorating anyone who may have died in the crash, but they are disturbed when told that remains have been identified as their loved one even though, in fact, no positive identification is possible.

However, DOD goes even further. When no actual human remains are found in the crash, or not enough remains are found to account for each of the crewman, the DOD declares that the whole crew has been accounted for. Thus empty caskets are returned as symbolic remains. That is why no actual remains are being buried today for two of the missing airmen.

The problem with this method, although bureaucratically convenient for closing cases, is that it is dishonest. The missing servicemen may well have escaped by jumping in the last moments of the crash—something not impossible in a helicopter that falls in a certain way. If that is the case, the man may have survived and disappeared as a prisoner of war.

You see, Madam President, that raises another question of great moment to these families. I say again, we have talked with them and we know how they feel about it.

This possibility is very inconvenient for closing cases, particularly if there are live-sighting reports of the missing airman. That is exactly what happened in the case of Captain Nelson. In 1986, a Laotian eyewitness, a member of the Royal Laotian Army, reported that he had been imprisoned in 1978 with Captain Nelson and another westerner, that he had nursed Captain Nelson, who was badly burned, as best he could in the prison camp, and buried him in the camp when he died. He provided specific locations, geographical names, a hand-drawn map of the camp, and the site of the grave in the camp.

Press reports have stated that, instead of treating the Laotian eyewitness' information seriously, DOD sought to discredit him. DOD adiminstered lie detector tests on him, and claimed that he was lying, even though he had no discernible motivation to lie, and the information on his map checked out with other sources. Indeed, some reports say that he was threatened with deportation from the United States, where he now lives, if he did not retract his story. There was no reason for him to concoct the story. But it seems to this Senator that, to submit this man to a lie detector test

and to threaten him with deportation and that sort of thing is beyond the pale. I hope that these reports are inaccurate, especially since the conduct of the interrogation team was questionable and no native language statement was taken from a witness not thoroughly familiar with English. In my opinion, his testimony should be reexamined by competent experts.

Nevertheless, this is an example of a "live-sighting report" that was "resolved" through "correlation." Meanwhile, DOD insists that the empty casket that will be buried in Arlington is the true "remains" of Captain Nelson. The quoted words are bureaucratese.

The question remains as to why such efforts are made to resolve cases instead of vigorously prosecuting any reasonable leads on MIA's. I cannot answer that question yet, but I am very disturbed by a further statement that appears in the DOD guidance on these cases. DOD states:

The serious cooperation of the Lao Government was instrumental in achieving productive results from this joint operation and is deeply appreciated by the U.S. Government. The most important measure by which to judge the success of agreements reached between Washington and Vientiane to broader cooperation on the POW/MIA issue is obtaining final answers for the families of Americans missing in action in Southeast Asia.

Madam President, I know I have gone on too long about this, but this is a matter of extreme interest to me. It has been for many, many years. But I am bound to reiterate, DOD has not obtained final answers for the family nor can the results be described as truly productive, when nothing has been produced.

But this fawning appreciation lavished upon a government that may well be concealing the fate of many other American MIA's suggests that politics has been placed before the American family.

Mr. President, with the able assistance of the distinguished senior Senator from Iowa [Mr. GRASSLEY] I have been studying the question of MIA/POW's very closely. Recently, DOD granted access to the 12,000 files on open cases to me and Mr. GRASSLEY—an access I am sorry to say, which was granted reluctantly, and after many weeks. Mr. GRASSLEY and expert analysts on my staff have personally spent more than 110 man-hours reviewing hundreds of these documents. These files are classified, and it is not my intention to discuss them at this time. Of course, these four cases I have been discussing here today, are based upon open sources and unclassified documents.

However, I can say that we have found a number of problems similar to those cases which I have been discussing today. Although certain elements in the U.S. Government were bitterly opposed to an independent examination of the cases by qualified independent experts, I deeply appreciate the efforts of top-level officials to make the documents available to elected representatives of the people for proper oversight purposes. In the weeks to come, I hope that even greater access will be granted to make evaluation of the cases go more smoothly. The American people will not rest until they are convinced that the questions relating to MIA/POW's are satisfactorily cleared up.

Mr. President, I ask unanimous consent that the unclassified DOD cable relating to the cases of the four servicemen be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PUBLIC AFFAIRS—POW/MIA—PRESS GUIDANCE FOR IDENTIFICATION OF REMAINS

1. A joint U.S./Lao excavation has resulted in the accounting for four American servicemen. These remains are scheduled to depart Hawaii on September 21, 1990.

2. The following press release may be made after 1400 hrs (est). 14 Sept 1990: Quote: Remains recovered during Jan. 5-10, 1990 joint excavation efforts by the U.S. and Lao governments have resulted in accounting for the following American servicemen:

David L. Nelson, Cpt., USA, Kirkland, WA.

Ralph A. Moreira, Jr., WO-1, USA, Beaver Falls, PA.

Doel C. Matley, Spec 4, USA, Albemarle, NC.

Michael E. King, Spec 4, USA, Calhoun, GA

The remains of these Americans will depart Hickam Air Force Base in Hawaii with a full military honors ceremony at 8:00 a.m., Hawaii time, September 21, 1990, and will travel to Travis Air Force Base, Calif., for the final journey home.

The serious cooperation of the Lao government was instrumental in achieving productive results from this joint operation and is deeply appreciated by the U.S. government. The most important measure by which to judge the success of agreements reached between Washington and Vietnam to broaden cooperation on the POW/MIA issue is obtaining final answers for the families of Americans missing in action in Southeast Asia. End quote.

3. Local media interest at each serviceman's home of record is anticipated. Service manpower/personnel offices should prepare and forward to service public affairs offices circumstances of loss and biographical data on the individuals identified for use in response to query.

4. The following general guidance is provided:

A. Discussion with media should emphasize that POW/MIA accounting is a separate humanitarian issue.

B. Address the possibility of live Americans being held against their will using only the official USA position. Outlined in answer four below.

C. Emphasize that the use is deeply committed to achieving the fullest possible accounting for all missing Americans.

5. The following Q's and A's may be used in response to specific query:

Q1. Was the next of kin of these individuals been notified?

A1. Yes.

Q2. How many remains recovered from southeast Asian countries have thus far resulted in the accounting for missing Americans?

A2. Including these individuals, 287 Americans (245 from Vietnam, 40 from Laos, and 2 from PRC) previously missing in Southeast Asia have been accounted for.

Q3. How many Americans are still unaccounted for in Indochina?

A3. With this determination, there are still 2.298 Americans (1,877 in Vietnam, 630 in Laos, 83 in Cambodia and 6 in PRC Coastal Waters) missing in Indochina.

Q4. What is the U.S. Government's position on the possibility that Americans may still be held captive in Indochina?

A4. Although we have thus far been unable to prove that Americans are still detained against their will, the information available to us precludes ruling out that possibility. Actions to investigate live-sighting reports receive, and will continue to receive, necessary priority and resources based on the assumption that at least some Americans are still held captive. Should any report prove true, we will take appropriate action to ensure the return of those involved.

Q5. Why does the U.S. government operate on the assumption that Americans are held captive?

A5. Since the fall of Saigon in 1975, and as of September 1 this year, the U.S. has received 12,184 reports related to the POW/MIA issue, most of them from Indiochinese refugees. Of the total reported, 1,435 are firsthand live-sighting reports. Approximately 68 percent of these have been resolved through correlation with Americans who were in Indochina but have since returned to the United States. Another 26 percent are known or suspected fabrications by the source. However, 106, or approximately seven percent of the reports, are under continuing investigation in an attempt to confirm the information. All reports pertaining to the POW/MIA issue are thoroughly investigated on a priority basis. Additionally, we are actively pursuing many discrepancy cases. These are cases of Americans for whom there was strong evidence that they survived their incident and were captured by Indochinese governments, or about whom those governments should have information. Yet neither these cases nor their remains have been returned.

Q6. How can you be certain of these determinations?

A6. We have complete confidence in our identification and review process. Following the analysis and recommendation of the U.S. Army central identification laboratory, Hawaii, these cases were reviewed by forensic consultants who agreed with the laboratory's findings. All information has been made available to the next of kin, and they have been thoroughly briefed on the findings.

Q7. When was the last repatriation of remains?

A7. The most recent repatriation of remains which resulted in the accounting for these American servicemen was as a result of joint excavation efforts of the U.S. and Lao governments. January 5-17 1990.

Q8. Have U.S. Government efforts to obtain the cooperation of the Lao government met with success?

A8. Yes. In Laos there has been a significant increase in productive joint activities in

recent years. Including surveys and excavations of crash sites. Official U.S. delegations to Laos in January and November 1989 reached important agreements with Lao government officials concerning measures to significantly expand BT.

COMMUNIST CHINA'S NUCLEAR PRESENT TO SADDAM

Mr. HELMS. Mr. President, the Independent of London, one of Britain's most prestigious newspapers, reported on September 30 that the Communist Chinese have sold seven tons of lithium hydride to Iraq. Lithium hydride is on the United States Commodity Control List and is severely restricted by our export control laws due to its unique properties.

According to The Independent, lithium hydride can be used to make nerve gas, to make ballistic missile fuel, and, finally, to make hydrogen bombs. Lithium hydride has very limited civilian uses: pharmaceuticals and computer—but only in very small quantities.

At the same time that the Communist Chinese were publicly supporting U.N. sanctions on Iraq, they were secretly trying to make $1.5 million selling Saddam the means to destroy any target in the Middle East. Quoting a British weapons proliferation expert, the Independent says, "It's hard to imagine a more cynical deal than this one."

Who would dispute that statement?

Mr. President, the Independent further reports that Western intelligence services were aware of this alarming sale and the United States Embassy at Beijing made complaints to the Communist Chinese, clearly without success.

I raise this question, having found them committing this crime, what is the U.S. Government going to do? Frankly the State Department's record in dealing with Communist China in recent years is abysmal. His Holiness, the Dalai Lama, this year's Nobel laureate, came to the United States last month but was not invited to Washington. The Republic of China on Taiwan offered the United States $100 million to help defray our costs in the gulf but they were turned down. The State Department was afraid of offending Communist China.

What is this Communist China that the State Department does not want to offend? Is this the same Communist China which has completely integrated slave labor into its economy—as the General Accounting Office has charged? Is this the same regime accused of mass executions and holding its citizens in jail for their political beliefs as the Asia Watch has charged? Without a doubt, it is.

Mr. President, the State Department stands accused in the world's press for having served as an apologist for Saddam Hussein. The soothing words given privately by our ambassador and backed up by official statements in public by higher officials sent a signal to the Iraqi dictator that aggression will not be opposed.

You would hope that our State Department diplomats had learned something from that experience, but apparently not. Instead of welcoming the Dalai Lama and a check from Taiwan, they are excusing the Peking regime of all of its crimes. We are in the same position now with Peking that we were in with Iraq last July. The Congress is pointing to flagrant human rights abuses and aggression and the Department of State is resisting every inch of the way.

Mr. President, it is time to do with Peking what we should have done with Iraq 2 years ago: lift most-favored-nation treatment and cut them off from Western technology.

Mr. President, I ask unanimous consent that two articles from the September 30, 1990 issue of the Independent of London be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the London Independent, Sept. 30, 1990]

CHINESE ARMS DEALERS FLAUNT U.N. EMBARGO: CHINA SHIPS VITAL NUCLEAR CARGO TO IRAQ

(By Tim Kelsey)

In flagrant breach of the United Nations embargo, China has sold Iraq large quantities of a rare chemical used in the manufacture of nuclear weapons and missile fuel. *The Independent on Sunday* has learned that, in a secret deal 10 days ago, a subsidiary of North China Industries Corporation (Norinco), a Chinese state company, agreed to supply about seven tons of lithium hydride to Baghdad.

The revelation is likely to have grave diplomatic repercussions, since it jeopardises Peking's attempts to remove the stain of Tiananmen and to improve its reputation in the West. As a permanent member of the UN Security Council, China has aligned itself with the West on a number of crucial votes, including resolution 661 in August, which banned trade with Iraq. It is possible that the central government in Peking may not have been made aware by Norinco of the deal.

Intelligence reports relating to possible sales to Iraq by Norinco have already aroused concern in Washington. Earlier this week, the US embassy in Peking advised the Chinese of US anxiety over the company's activities. It is not known if this related to the lithium hydride deal.

The sale has shocked and alarmed scientists and weapons proliferation experts. "In view of its potential nuclear applications, it is very serious indeed," said Frank Barnaby, a former Aldermaston scientist and author on military technology.

The most frightening, but in an Iraqi context least likely application of lithium hydride, is in hydrogen bombs. Only five countries, including China and Britain, have tested hydrogen bombs, and scientists agree that Iraq will not have the know-how to build such a weapon for at least a decade. But defense experts say that Saddam Hussein is stockpiling components for future development of such a weapon. Lithium hydride is also used in making the atom bomb, although alternatives are available which can perform the same functions. Intelligence sources believe Iraq may be able to build an atom bomb within five years.

It is thought most likely that Iraq wants the chemical for use in fuel for ballistic missiles. It is working on rockets capable of reaching Tel Aviv, Riyadh, and southern Europe.

Scientists are also worried that lithium hydride could be used in the manufacture of nerve gasses. "It is a precursor for lithium aluminum hydride, which is an extremely powerful reducing agent, and potentially of use in the production of nerve gasses," said Julian Perry-Robinson, an internationally-respected authority on chemical weapons. John Hassard, a weapons proliferation expert at Imperial College, London, said: "This is extremely disturbing, particularly in view of Iraq's proven use of nerve gas in the past. It is a very grave potential problem."

Lithium hydride has very few civil applications. It is used in pharmaceuticals, and in the computer industry, but only in minute quantities. Iraq is believed to have tried to buy the chemical in the past, but there are only three manufacturers in the West, all of whom would have been suspicious of an order even one-tenth this size.

The sale was conducted in great secrecy. Just before the UN arms embargo was imposed, sales material was sent from Peking to five arms dealers worldwide, including three in Europe and one in Latin America. *The Independent on Sunday* has obtained copies of some of the documents. They suggest potential uses for the chemical "in the space industry as a high energy fuel" and "as an excellent catalyst used in the organic-synthesis industry" which could include the manufacture of poison gas.

The Chinese offered 10 tons for sale, priced at around $210,000 a ton. The offer was open to any purchaser, but within days Iraq agreed to buy around seven tons, at a total cost of approximately $1.5m, according to defense sources. Delivery was to be within 20-30 days of purchase.

It is likely that the lithium hydride is still in China. Sources suspect the Chinese planned to fly it to Tehran, and then forward it as "pharmaceuticals" to Baghdad.

It was clearly intended to be a pilot sale: it was confirmed to parties approached by the Chinese that additional quantities of lithium hydride were available. This has underscored the worst fears of weapons proliferations experts in the West. "There has always been a tension between commercial expedience and their concern for international security," said one. "It's hard to imagine a more cynical deal than this one."

[From the London Independent, Sept. 30, 1990]

PEKING'S ARMS DEALERS UNDO ITS GOOD WORK

China has endangered months of painstaking work to improve relations with the West with its apparent failure to control a freewheeling state company more interested in dollars than diplomacy.

Evidence that a Chinese firm has sold large quantities of lithium hydride to Iraq is likely to damage severely Peking's efforts to present a more co-operative face to the outside world.

"The stakes are so high for China I can hardly believe they would do this," said one

military attaché in Peking. "But it is not entirely out of character."

On Friday Italy, the current president of the European Community, said it was going to recommend to EC members a full normalisation of relations with China, and an end to the trade restrictions imposed after the Tiananmen Square massacre of 4 June 1989. The decision had been made, explained the Italian Foreign Minister, Gianni De Michelis, in the context of Peking's support in the UN against Iraq.

It seems inconceivable that the central government would risk losing good will in the West by trading with Iraq. The culprit would seem to be the powerful and profit-hungry state firm, Norinco, which has more than 200 factories, countless subsidiaries and employs upwards of one million people.

Sources close to the negotiations have identified a "sister corporation" of Norinco, which produces everything from arms to bicycles, as the suppliers.

China has mined lithium ore and produced compounds since the 1950s, driven partly by its ambition (successfully realised in 1967) to build its own hydrogen bomb. It has also legitimately exported lithium products, mainly to Japan. But these did not include lithium hydride, according to defence industry sources. In the past, sales of lithium compounds were not managed by Norinco, or its subsidiaries, but by another government agency, the China National Non-Ferrous Metals Import Export Corporation. The fact that a Norinco sister company is handling this deal suggests that the Chinese are seeking to move into defence related sales of the chemical.

American suspicions that it had been trading with Iraq in breach of the UN embargo led last week to the US embassy warning the Chinese authorities.

Publicly, China has been steadfast in its opposition to Iraqi aggression. It is a commitment that has often combined with veiled criticism of US military intervention, but has been seized on as a way of helping to erase the stigma of last year's Peking massacre and put pressure on Western nations to lift sanctions.

For the US in particular, cooperation in the Gulf and respect for the UN-mandated trade embargo on Iraq has become the key yardstick by which China is measured. Peking has repeatedly and categorically denied rumours of arms or other sensitive sales to Iraq. Questioned by The Independent on Sunday, the Chinese Foreign Ministry yesterday said "all import and export trade with Iraq has already stopped". Senior leaders have also put their own prestige on the line by vowing to enforce the trade embargo on Iraq. Last month the Prime Minister, Li Peng, said: "China voted for the UN Security Council Resolutions 660 and 661 and hopes that these resolutions will be implemented effectively."

International confidence in China's commitment to arms control in the past has never been great. Its refusal to sign the Nuclear Non-Proliferation Treaty has been a source of lasting concern to defence analysts in the West. But its attendance as an observer at the fourth review conference of the treaty earlier this year encourage some experts to hope China was changing policy.

China exploded its first nuclear bomb on 16 October 1964 in the deserts of Xinjiang, and has built a plant to manufacture lithium 6 deuteride—a compound used in the hydrogen bomb—in Inner Mongolia. Its sale of ballistic missiles to Saudi Arabia last year was an example of a "world view dictated by economic considerations and not informed by political responsibility," according to one diplomat. But official credibility has been most strained by the activities of China's arms merchants, who have proved both impervious to diplomatic pressure and insensitive to the diplomatic interests of their own government. During the Gulf war they supplied both Iran and Iraq. Having denied selling Silkworm missiles to Iran, Peking later admitted such weapons may have made their way to Tehran via "middle-men". These aggressive arms salesmen included Norinco.

According to Jane's Defence Weekly, Iraq in the past purchased from China as many as 1,000 T-69 tanks, Red Arrow anti-tank weapons, F-7 reconnaissance jets as well as artillery shells, mines and vast quantities of small-arms ammunition. Following the Iraqi invasion on 2 August, China pledged to halt any further such sales, but left open the possibility that contracts already signed might be honoured. American diplomats in Peking say that China seems to have stood by this commitment for the most part. Nonetheless, there have been persistent but still unsubstantiated reports that artillery shells and ammunition rounds were still getting through.

The potential diplomatic fallout of the lithium hydride deal suggests that the central government may have been unaware of it. "They have wanted to be straight on the Gulf . . . This has been helpful in all respects. They have too much to lose," said a U.S. diplomat. Any hint of double-dealing would not only damage China's image but also its economic interests by reviving pressure in the US Congress to suspend China's status as a most favoured trading nation. This would sharply increase US tariffs on Chinese goods and deliver a serious blow to its export earnings. Peking also needs Washington's help if it is to enter the world trade organization GATT and secure a full resumption of World Bank lending suspended after Tiananmen. Over the past decade, however, the central government has steadily lost control over state-run companies, some of which have become semi-independent bureaucratic and commercial fiefdoms. Poly Technologies Inc. for example, an arms firm run by the People's Liberation Army, enjoys almost limitless freedom thanks to its army links and its close contacts with the sons and daughters of Deng Xiaoping and other veteran revolutionaries. Norinco, though less well connected, has enormous power by virtue of its size.

The central government has itself acknowledged the dangers inherent in China's foreign trade system. Only two weeks ago, Zhang Tuobin, the Minister of Foreign Economic Relations and Trade, called for an end to "irregularities" among Chinese trading companies: "It is specially significant for the foreign trade sector to operate honestly and to combat irregularities because, as its operation can be seen by the outside world, its conduct has a close bearing not only on China's economic development but also on its international image and reputation," he said.

The PRESIDING OFFICER. Under the previous order, the Senator from Maine is recognized.

SOVIET UNION IN IRAQ

Mr. COHEN. Thank you, Madam President. Earlier this afternoon, there was a fairly lengthy discussion based on the reports that appeared in the daily newspapers about the White House either wishing, or not wishing, to consult with key Members of Congress about the possibility of conflict in the Middle East. There are a number of other items that appeared in today's newspapers which attracted my eye, in addition to the budget problems that we are currently trying to negotiate in these final hours. But they also pertain to the Middle East.

There was one headline story that said, "Iraq Rebuffs Suggestion of Pullout," and that Saddam Hussein apparently prefers war to submission. That was a bold headline. This was another story which indicated that "Gorbachev Aide Meets Iraqi on Soviets Trapped in the Gulf." Another item which said "Gorbachev Sends Secret Message to Saddam Hussein" in the personage of Mr. Primakov.

Madam President, I would like to take a few moments this afternoon to discuss something I have mentioned on several occasions which I think continues to receive too little attention on the part of my colleagues and perhaps others.

The United States has been reluctant to press the Soviet Union very hard because, on the one hand, the Soviet Union has been quite helpful in terms of its support for the U.N. decision on sanctions and the deployment of troops to the region. It had the opportunity to veto such a resolution, the resolution that passed in the U.N. Security Council. And so it reflected a termination of the cold war mentality. Indeed, they have entered into the new age of today. So we were very praiseworthy and complimentary of the Soviet Union in cooperating in this regard.

On the other hand, I do not think we have gone far enough. I think we have been a bit too reluctant to criticize the Soviet Union, and it pertains to, I believe, the Soviet Union perhaps holding the key to a peaceful resolution of the situation in the Persian Gulf.

This is an ambivalence about the Soviet policy, and it surrounds the continuing presence of their technicians, call them advisers or technicians. We have the following situation:

The Soviet Union now has in Iraq anywhere from 154 or 155 advisers, as they maintain, 500 to 1,000 personnel—we call them technicians—that we believe they currently have in Iraq. Whether one calls them technicians or advisers, it is clear that, nonetheless, they do provide some measure of support to the Iraqi regime.

Whether it is in the form of economic advice—some Soviet leaders have suggested that most of them are economic advisers, whatever that means—or whether they are military advisers or technicians, it seems clear to me

that whatever advice they are giving to the Iraqis can only be helpful to them substantively or, in addition to that, morally or psychologically.

I still would like to know why it is that the Soviet Union has not withdrawn their 154 advisers or their, what we call 500 to 1,000 technicians, whatever the number, and the number is not critical. I think it is important, but it is not critical. Why is it they have refused to withdraw those particular individuals?

Initially, it was suggested that they are there simply to carry out the contractual arrangement with Iraq. After all, the Soviet Union had been a prime supporter of the Iraqi regime. They have supplied them with much of their military equipment, including the Scud-B's that we hear so much about, the T-72 tanks, and many other types of lethal equipment. They had been a principal supporter of Iraq over the years. And now they have contracts that they have to honor, and those technicians or advisers are helping those Iraqi military personnel, or others, maintain the viability of that equipment. That is the rationale that was originally offered.

Frankly, I cannot accept that. The notion that somehow the intrinsic value of a contract signed some years ago or months ago, long prior to the Iraqi invasion of Kuwait, outweighs that of hopefully preventing the breakout of war in the Persian Gulf, strikes me as a deception masquerading as a principle. I simply cannot accept that as a rationale.

I raised this at the White House. I also raised it with Secretary Baker who testified before the Senate Foreign Relations Committee. Secretary Baker said we would like to have the Soviet advisers come out, provided they were free to leave. Of course, that raised the possibility that, perhaps, they are not free to leave. Immediately, there was a statement put out by the Iraqi foreign minister that, of course, the Soviet technicians, advisers, citizens, are free to leave.

I am not to sure. But it certainly was a fundamental issue. If they were not free to leave, then it seems to me this is a world class story. This is something that merits a headline: Soviet citizens being held hostage or guests in Saddam Hussein's house of horrors. That would be a major world story, if they are not free to leave. And if they are free to leave, but the Soviets choose not to remove them, that, too, is a story worthy of world attention.

It seems to me the Soviets cannot maintain, as General Moiseyev did just 2 days ago while traveling in this country, that the integrity of those contracts are more important than the impact of what the removal might be.

I submit, Madam President, that if the Soviet Union were to say to Saddam Hussein, "we think you have done a terrible thing; we think this is an outrage against the United Nations community, the international world order as such; that you have taken an act of aggression, that you are threatening world peace, that you could, in fact, precipitate a conflict that could cost hundreds of thousands of lives potentially, and yet we maintain that the integrity of our contracts are more important than withdrawing those forces," then I do not think we could accept that, nor should we accept that.

It may be that the Soviets have a number of different motivations. Obviously, they may be interested in trying to keep a door open to the Arab world. After all, they have been principally viewed as supporters of the Arab cause over that of Israeli security, in the Middle East. Perhaps they do not want to take that last, final step that would have a tremendous psychological impact, if not a practical impact. And I think that it might have a practical impact. It would have a tremendous psychological impact on Saddam Hussein, making clear that he truly is isolated now; there is no lifeline back to the Soviet Union, no hope for more T-72 tanks, no hope for greater Soviet advice, technical or military, economic advice. That is all shut off. We are pulling our forces, our technicians, our people out of your country because you have behaved in a completely unacceptable fashion and we are not going to contribute to your survival, your economic survival or, indeed, your military efficiency 1 day longer.

That is what Mikhail Gorbachev should be doing. That is what he is not doing. Instead, he is sending a general out to say, well, we have military contracts and we have this contractual arrangement which we must maintain.

I do not think that is the case. Perhaps they are not free to leave. As a matter of fact, in recent days I have received some information—I do not know if it is accurate or inaccurate, but I have received information that perhaps they are staying because the Iraqis have said they cannot leave, not until the contractual arrangements are completed. So they are being held there against their will, and the Soviet Union itself, does not wish to raise this issue to a level of international concern. That would be very embarrassing. After all, what would Mikhail Gorbachev say at that point? Mikhail Gorbachev, the leader of one of the most militarily powerful nations on Earth, looks over and he sees a country his nation has been supporting over the years saying we are not letting your people go; we are going to hold them as guests in our country. They are now hostage to these contracts. What would his reaction be? Would he sit there with a calendar and start crossing the days off in which his people are being held hostage? That is apparently something they do not wish to face up to. If that is not the case, then it seems to me they have an obligation to pull out those advisers or technicians. That would be a way in which the Soviet Union truly could contribute to resolving this issue in a peaceful way.

Right now we have a situation in which the Soviet Union is warning us that we should take no military action. Indeed, I do not believe that any of us are advocating we do take military action. We are hoping that it will not be taken. But the Soviet Union has now adopted the position, do not take any military action; it must be settled diplomatically. By the way, we have some suggestion if only Saddam Hussein will remove his forces back to Baghdad, we are sure we can work this out at the bargaining table. That is a line that has been followed by the French, with President Mitterrand. This is also a position which it appears the United States may even be evolving toward. Frankly, the only person speaking out against this happens to be Margaret Thatcher, who is saying, wait a minute; we are not going to reward Saddam Hussein for his aggression by suggesting, by implication, that all you have to do is pull your troops out, go back to Baghdad and we will sit down and negotiate for your access to those fields you have taken by force. She has said, no, that cannot be; that should not be tolerated. It should not even be suggested by anyone who is interested in preserving world order or peace because that, indeed, would amount to rewarding Saddam Hussein for the very acts for which we now stand poised with well in excess of 100,000 troops in the Middle East against his forces.

I must say, Madam President, that if the Soviet Union were not to insist it has to adhere to its contracts and take this step, it would have in my judgment again, not only psychological implications—I think it would have a practical implication as well, to the extent that those advisers are needed there to upgrade the capability of the sophisticated equipment that they have furnished to Saddam Hussein.

By the way, there was also an item in today's paper which indicates that the United States now has come to the conclusion that Iraq has devastating fuel air explosive devices, something that can be tantamount to a tactical nuclear weapon in the way in which it could operate. To the extent that the Soviet Union or others have now contributed to Saddam Hussein's having this capability, we know he has chemical weapon capability. We know he is about to deploy a biological weapons capability. We know he is trying desperately to acquire a nuclear weapons capability. And yet we have the situation where the Soviet Union is saying yes, we have to honor our contracts to

make them more efficient. Efficient in what? Efficient in killing, potentially, American soldiers in the Persian Gulf?

If a situation comes up in which we are called upon to vote for some kind of assistance, economic or otherwise, to the Soviet Union, and they are in desperate need to economic assistance, I would find it very hard to justify supporting a nation who is lending economic, military, or moral support to Saddam Hussein. I could not justify doing that. I doubt very much whether the American people under any circumstances would support such a position on the part of the United States.

Madam President, I take the floor this evening simply to point out that there is some ambiguity in the Soviet policy. It is now promoting a diplomatic solution to the situation in the Persian Gulf, which I heartily support. But they have not done the one thing which may have the greatest psychological and practical impact upon the Iraqis as anything they might do. That is to say, you are not going to have the benefit of our capabilities any longer. No more technical advice. No more support for these systems. We are pulling out our citizens. And if they are not free to go, then I think the world should know that Saddam Hussein has turned upon his principal benefactor over the years. That, too, is worthy of world attention.

Madam President, I ask unanimous consent that the time be extended for comment until such time as the Senator from Iowa has spoken and the Senator from Delaware, Senator ROTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair advises both Senators that under the previous order, we were originally scheduled to recess upon the termination of the comments of the Senator from Maine. Under the unanimous-consent agreement, the Senator from Iowa will be recognized, the Senator from Delaware will be recognized, and then we will recess until the hour of 6 p.m.

The Senator from Iowa.

Mr. GRASSLEY. I thank the Chair.

I thank the Senator from Maine for asking unanimous consent. I thank the Senator from Maryland, who is serving as our Presiding Officer, for waiting for me to make my remarks.

THE BUDGET

Mr. GRASSLEY. Madam President, 5 months ago, I joined my colleagues on the other side of the aisle, meaning the Democrat Members of this body, for a vote that took place within the Senate Budget Committee, which vote produced a budget agreement for fiscal year 1991. Madam President, I was the only Republican to support the budget that came out of the Senate Budget Committee. I cast that "aye" vote as much for the procedure of budgeting as well as for the substance of that specific budget.

I wanted to help move the budget process to avoid the very same things that we are going through right now that I anticipated would be happening. I took that step across the political line to the other side of the aisle, despite risking animosity against me from my fellow Republicans. At the time I suggested a two-track budget approach that included moving a budget resolution through Congress while the summit was meeting.

I also voiced reservations about budget summits because usually budget summits produce little deficit reduction, and lots of smoke. And as just such a case in point, what do we have to show for 5 months of summiting?

Because I supported my colleagues on the other side of the aisle in that vote, I believe that I have a right and I have even a responsibility to get on their case.

It is not the budget summit that has failed. What has failed is the budget process, and the part of that process that failed is the part that Congress is responsible for. It is now 7 months, if you remember, after the President submitted his budget for fiscal year 1991. We have yet to pass a budget resolution in this body or in the Congress as a whole.

Why did not the Congress move ahead with a budget resolution in the event of a failed summit? The reason is because the majority in Congress was looking for political cover—in a sense, wrap your arms around the President's neck. If you fall, the President falls with you, and you can blame the fall on him.

There is just one problem with that scenario, Madam President. In the process of looking for political cover, the leadership here in the Congress has abdicated its responsibility to dispose of the Federal budget, and the Congress as a whole has also abdicated its responsibility. The President of the United States cannot be blamed.

Why in the world would a responsible Congress put all of its eggs in a summit basket, thereby avoiding its constitutional responsibility to produce a budget, and then blame it on the President? What kind of logic is that?

Of course, I think that is pure and unadulterated blatherskite. Just in case, Madam President, you do not know what blatherskite means, it means just pure poppycock. We, the Congress, should have been doing this budget work in March and April, maybe even up through May, not 3 weeks before sine die.

Let me voice another concern, Madam President, We keep hearing on radio and TV, even this morning, and even in the papers this morning that the President on the one hand and the leadership in Congress on the other are running this process. Might I suggest that is indeed what the problem is, because this is microwave management of the budget process; you know, fix the ingredients, cook the numbers, package it up at the last minute, and run it through Congress for a brief week.

Well, that is not how the process works around here, Madam President. That is not how the Constitution, written 203 years ago, anticipated that this process worked. That is not how the budgeting process worked for probably 200 years.

Also, you need to know that the public knows what that constitutional process is. And the public is accustomed not to microwave management but they are accustomed to home-cooked budgeting with their own 535 elected representatives involved as cooks; the ingredients usually cooked in a large open pot, over a low simmer, and over a long period of time. And all 535 cooks get to stir the pot before that process is done. And everyone gets to peer into the pot, to taste it, and to suggest through this process how to make it better.

That is the way it should be done, Madam President. That is the normal budget process. This microwave management just does not work. It was a gamble, and it did not work. It violates the separation of powers and the checks and balances of our constitutional process. It prostitutes the whole process.

The majority in this Congress who took that gamble and lost—and that abdicated its responsibility to make the process work—should not point the finger at the President and say it is his fault. They should be beating their breasts and saying mea culpa.

There is no doubt in my mind, Madam President, that budget summiting at the 11th hour was a mistake, and it has eroded the public's confidence in our ability to govern. This is not Monday morning quarterbacking because I warned about summits back in May. And this is not partisan sniping, Madam President, partisan sniping on my part, because, as I said earlier, I was the only Republican who supported the budget out of the Budget Committee. That was in May.

I am simply calling it like it is. Congress has no one to blame but itself. We have seen the enemy and it is us. It is time for the majority in this Congress to loosen its grips around the President's neck, stand on its own two feet and take responsibility for its own inaction and failure.

I joined that side of the aisle in May because I did not want to see the process come to a grinding halt, and yet that is exactly what has occurred. I think the burden of moving that process forward again is squarely on the

shoulders of the majority in the Congress. And that majority does not have to be just a one-party majority because if we let the process work, the process will bring a working majority together.

Thank you, Mr. President.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. GLENN). The Senator from Delaware is recognized.

THE BUDGET AGREEMENT

Mr. ROTH. Mr. President, I rise to address the issues raised by the budget summit agreement. I wish to bring to my colleagues attention a proposal I have developed, and I urge the budget negotiators and the other Members of the Congress to look carefully at this plan. But first, let me state that I appreciate the long hours and hard work put in by the participants of the budget summit, especially under extremely difficult circumstances. I think the President and congressional leadership from both parties should be commend for their willingness and ability to draft a bipartisan proposal. However, last night's vote on the budget resolution conference report in the other body clearly indicates that we need an alternative.

The debate last night focused on several issues, with the summit's Medicare changes and tax increases bearing the weight of the controversy. Last Thursday, I addressed the Senate and introduced into the record an alternative to the proposal being discussed by the budget summit.

This alternative would reduce the Federal deficit by $400 billion over the last 5 years. It would help get our deficit down by:

Reducing defense spending by $6 billion in the first year and $176 billion over the next 5 years;

Reducing entitlement spending by $6 billion in the first year and $58 billion over the next 5 years; and

Reducing nondefense discretionary spending by $4 billion in the first year and $65 billion over the next 5 years.

In addition, this plan raises $39 billion in new revenues over the next 5 years and $13 billion in new user fees. Mr. President, I ask unanimous consent that a detailed chart of the specific spending and tax proposals that I have outlined be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Item	Fiscal year—					
	1991	1992	1993	1994	1995	1991–95
Revenue items:						
IRA (w/rollover)	$1.50	$3.40	$3.30	$3.30	$3.30	$14.80
Extension of current law tax provisions	1.85	3.04	2.97	2.90	2.81	13.57
Retiree health benefits rollover	.50	.20	.20	.10	.10	1.10
Insurance company taxes	1.80	1.90	1.90	1.80	1.70	9.10
Pollution excise taxes	.10	.10	.10	.10	.10	.50
Subtotal of increases	3.85	6.64	6.47	6.30	6.21	39.07
Spending cuts:						
Defense	6.00	17.00	34.00	50.00	69.00	176.00
Non defense discretionary	4.00	10.00	14.00	18.00	19.00	65.00
Entitlement changes	5.34	9.09	11.30	14.30	17.86	57.89
User fees	5.74	1.70	1.80	1.61	1.90	12.75
Net interest	1.10	4.50	9.40	14.80	22.00	51.80
Subtotal of cuts	22.18	42.29	70.50	98.71	129.76	363.44
Total	26.03	48.93	76.97	105.01	135.97	402.51

Item	Fiscal year—					
	1991	1992	1993	1994	1995	1991–95
Revenue items:						
IRA (w/rollover)	$1.50	$3.40	$3.30	$3.30	$3.30	$14.80
Extension of expiring provisions:						
(a) Permanent research and development credit	(.50)	(.90)	(1.10)	(1.30)	(1.60)	(5.40)
(b) Educational Assistance Act	(.23)	(.33)	(.35)	(.36)	(.37)	(1.63)
(c) Health insurance for self-employed	(.25)	(.31)	(.36)	(.41)	(.46)	(1.79)
(d) Foreign allocation of R&D	(.50)	(.71)	(.77)	(.84)	(.90)	(3.72)
(e) Mortgage rev. bonds and credit certificate	(.01)	(.05)	(.14)	(.24)	(.33)	(.77)
(f) Airport and airway trust fund taxes	.88	1.56	1.67	1.81	1.99	7.91
(g) IRS user fees	.06	.06	.06	.06	.60	.30
(h) Administrative expense limits of private foundations						
(i) Tax on Deep Seabed Hard Mineral						
(j)Telephone Excise Tax Extension)	1.50	2.50	2.70	2.90	3.10	12.70
(k) FUTA 0.2% Surtax Extension	.77	1.09	1.12	1.15	1.18	5.31
Extension of Leaking Underground Storage Tax	.13	.13	.13	.13	.14	.66
Retire health benefits with reversion compromise	.50	.20	.20	.10	.10	1.10
Ozone depleting chemical excise tax	.10	.10	.10	.10	.10	.50
Loss deductions and salvage values for insurance co	.30	.20	.20	.20	.20	1.10
Amortize insurance policy deferred acquisition expenses	1.50	1.70	1.70	1.60	1.50	8.00
Subtotal of increases	3.85	6.64	6.47	6.30	6.21	39.07
Spending cuts:						
Defense	6.00	17.00	34.00	50.00	69.00	176.00
Non-Defense discretionary	4.00	10.00	14.00	18.00	19.00	65.00
Agriculture subsidies:						
(a) Reduce price supports	.50	1.10	1.40	2.00	2.50	7.50
(b) Reduce REA loan subsidies	.07	.19	.33	.43	.50	1.52
Medicare:						
(a) Secondary payer reform	.31	1.27	1.63	1.98	2.33	7.52
(b) Part B premium floor 25 percent		.67	1.75	3.13	4.81	10.36
(c) Rural hospital capital at 85 percent	.17	.21	.23	.25	.27	1.13
(d) Urban hospital capital at 75 percent	1.36	1.72	1.88	2.05	2.22	9.23
(e) Overvalued procedures	.11	.18	.21	.24	.26	1.00
(f) Durable medical equipment	.11	.20	.22	.25	.27	1.05
Medicaid:						
(a) Eliminate Federal Medicare match	.61	.66	.71	.76	.81	3.55
(b) Pay employee premium if cost effective	.18	.22	.26	.31	.97	1.94
General Government and Postal Service:						
(a) Federal retirement lump sum	1.00	1.70	1.70	1.80	1.90	8.10
(b) Federal employee health program	.32	.37	.38	.50	.42	1.99
(c) Postal service indirect subsidy	.60	.60	.60	.60	.60	3.00
User fees:						
(a) Customs	.81	.82	.84	.86	.88	4.21
(b) Nuclear Regulatory Commission	.30	.32	.33	.34	.36	1.65
(c) Naval petroleum reserve	1.00	(.09)	(.03)	(.27)	(.03)	.58
(d) Food and Drug Administration	.16	.16	.16	.17	.17	.82
(e) Strategic petroleum reserve	3.00					3.00
(f) Additional user fees	.47	.49	.50	.51	.52	2.49
Net interest	1.10	4.50	9.40	14.80	22.00	51.80
Subtotal of cuts	22.18	42.29	70.50	98.71	129.76	363.44
Total	26.03	48.93	76.97	105.01	135.97	402.51

Note.—Estimates based on CBO, OMB and JCT figures.

Mr. ROTH. Mr. President, putting together a budget is hard. I have experienced this as I attempted to put together this plan, just as I am sure the budget summit grappled with putting together their proposal.

But for those who believe that the changes in Medicare are too large, the Roth alternative takes a more reasonable approach. Instead of savings of more than $60 billion in Medicare of the next 5 years, my proposal would save half that amount. Beneficiaries would be protected from large premium increases and their deductibles would remain unchanged.

For those who believe that the tax increases are too large, the Roth alternative takes a different approach. This proposal has minimal revenue increases. This proposal drops the proposed tax cuts for small business contained in the budget summit. At the same time, the proposal does away with the reduction in the capital gains tax. I am willing to forgo this for the moment as we try to forge a bipartisan agreement which will reduce the deficit without harming the economy. Finally, my proposal does away with all taxes imposed on individuals and families, like the gasoline taxes, contained in the budget summit proposal.

For those who believe that the reductions in agriculture subsidies are too large, this alternative would reduce subsidies by a lesser amount. The summit had $13 billion—this plan would save $7.5 billion.

Mr. President, the problem we are facing may be due to the fact that we are trying to do too much too fast. Needed is the fact that a $500 billion package requires tax and spending decisions that are practically achievable at this time. But if we cannot achieve a $500 billion package, I think we can achieve a $400 billion plan. Mr. President, even a $400 billion deficit reduction package would be the largest in history, yet it would not burden the

American people, and our economy, with large, new taxes.

Mr. President, the No. 1 challenge facing our country is competitiveness. The largest employment statistics, announced this morning, along with the latest GNP figures, do not inspire confidence in our economy. But I strongly believe we can continue our economic expansion with the right mix of economic and budget policies.

Mr. President, I believe this alternative will work. I reach out to my Republican and Democratic colleagues. I urge you to look at this proposal. I believe this proposal will help the Congress and administration break the budget gridlock. It is a productive response to meeting the fiscal necessities given the current economic climate, without requiring the furloughing of Federal employees who provide needed services, and it will not require tax increases on the American people at the very time the economy is very sluggish.

Mr. President, an opportunity exists. It will not be here too long. I urge my colleagues to seize this opportunity in our struggle with the deficit and enact some changes which will help meet our shared goals of a lower deficit and stronger economy.

OPPOSING PROPOSED DEFICIT REDUCTION PACKAGE

Mr. PRESSLER. Mr. President, with great reluctance I must state my opposition to the budget agreement proposal. The budget problem needs to be addressed quickly—and we should stay here until we get it done. But the proposal before us was just too unfair to my State. I cannot support it as written. We must address the inequities.

As one who has had a long voting record in favor of spending controls, balanced budgets, line-item vetoes, and other touch budget measures, my purpose here is not simply to throw rocks at the proposal. While I do not support this budget package, it would be irresponsible to vote against it without detailing some of my specific suggestions and alternatives.

Too much of the burden of this deficit reduction package falls on the elderly, the wage earner, and rural America. That is unacceptable. I think all Americans are willing to share if the burden is distributed equally. But it is very unfair, I think, to put the burden on middle America when areas such as foreign military aid are untouched. I do not understand the logic of a program that asks deep sacrifices of our farmers, from our elderly, and from our wage earners, but does not even touch foreign aid—particularly to countries who have proven time and time again to be unfriendly to U.S. interests. Not only does this budget package spare any foreign aid cuts, but at the same time we are proposing to forgive $6.7 billion of Egyptian debt to the United States, with certainly billions more debt relief to other countries to follow. To me, this makes no sense. Let us help our friends and aid our allies in a fair manner. But they certainly should not get a higher priority than our own citizens. And, more importantly, we can eliminate completely a great deal of foreign aid to countries who repeatedly vote against us in the United Nations or use our own aid against us later on. Reductions in foreign aid could cut the deficit by billions of dollars over the next 5 years.

Another area in which I would propose to offset Medicare and agricultural program cuts would be defense spending. I am for a strong defense. I do not feel comfortable suggesting deeper defense cuts than have already been made. But this is an issue of priorities. We need to come up with the money somewhere. We can make deeper cuts in defense as an alternative to the deep Medicare and agricultural program cuts that have been proposed.

I propose eliminating production of the B-2 bomber and cutting Pentagon waste. By cutting the B-2 bomber, at least $35 billion could be saved over the next 5 years. Congress should also push for accelerated withdrawals of United States troops from Europe, Japan, and South Korea. These countries can afford to pay for their own defense.

On the revenue side, I have always been reluctant to support tax increases. But recognizing the need to compromise, I would agree to eliminating the so-called high income bubble by increasing taxes for those with adjusted gross incomes over $113,000. I think more of the burden on the revenue-raising side of this package should come from the rich. The middle class and poor are hit by regressive excise taxes on consumer products contained in the package defeated by the House of Representatives last night. By eliminating the bubble, Congress could raise almost as much revenue as would be raised by the proposed Medicare cut.

Another absolutely outrageous and unnecessary provision in this budget agreement deals with the highway trust fund. It increases the minimum return for large, urban States from 85 to 95 percent. Changing the highway formula moves money into Texas and other populous States. I seriously question the motives for changing the highway funding formula in the budget agreement. When populous States like Texas try to grab more highway money, their hands are usually found in the pockets of smaller States like South Dakota. I will not vote for an agreement that robs South Dakota of its highway funding.

Mr. President, the inequities of the budget reform package must be addressed now. Budget reform must be fair and shared by all Americans.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,029th day that Terry Anderson has been held captive in Beirut.

Today in the Foreign Relations Committee we heard the testimony of the United States Ambassadorial nominee to Lebanon, Ryan C. Crocker. In his opening statement Mr. Crocker spoke of the priorities of the United States and commitment to the hostages still held in Lebanon. I ask unanimous consent that this piece of his statement be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

> This conflict [in Lebanon] has touched the United States directly and painfully: the assassination of our Ambassador in 1976 and the bombings of the American Embassy and the Marine Barracks in 1983 during my own previous assignment to Beirut. It continues to affect us all through the plight of the six American hostages who are held in Lebanon. I can assure you Mr. Chairman, that the United States has no higher priority in Lebanon than the safe and unconditional return of our hostages.

The PRESIDING OFFICER. In accordance with the previous order, the Senate stands in recess until the hour of 6 p.m.

Thereupon, The Senate, at 5:03 p.m., recessed until 6 p.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, the House of Representatives is just in the process of taking up the continuing resolution which includes a waiver of sequester and extension of the debt limit.

My understanding, although I have not seen the legislation itself, is that it will extend until next Friday, midnight. It is for 1 week.

I will shortly hope to meet with the distinguished Republican leader to obtain his views before making the decision on how best to proceed with respect to the Senate schedule for the rest of the evening, and I hope to have an announcement in that regard shortly.

We are also checking with the staff on the House side to get the best current estimate of when the House

might complete action on the measure and when we might be able to take it up here.

So I will shortly have an announcement, following the consultation I have just described, and for the moment I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I might be able to proceed as if in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE BUDGET AGREEMENT

Mr. METZENBAUM. Mr. President, we all know that the budget summit agreement is no longer a reality. It did not come to pass. It is a fact that some of us found fault with it, felt that it was one-sided, that it provided too much for the wealthy, and placed too much of a burden on middle-class Americans, and the farmers. It hit the poor, and it was a giveaway to the rich.

But in all fairness, I think it came about because the negotiators were put in a very difficult spot. They were put in that spot because for 8 years the President of the United States had failed to provide any leadership in moving us toward a balanced budget, and it added $2 trillion to the deficit.

This President that is presently in office had waited until the very last minute to give up on the whole question of a capital gains tax cut.

We know of some of the egregious provisions that were in that budget proposal. I would like to discuss this evening perhaps a new thrust, a new direction for a budget, not totally different, but with enough changes that I think it would be much fairer to the American people.

I think that we can cut defense spending in view of what is happening throughout the world—not including, of course, the Desert Shield situation—to a compromise level between what the House and the Senate passed in their respective budget resolution; not something below that which was in the budget that was defeated. The total cut over 5 years in the defense budget would be $218 billion. That is $41.7 billion more than the summit agreement. But the fact is that it is $20 billion less than the House Armed Services Committee had proposed, and it is halfway between the Senate and the House Budget Committee figures.

So it seems to this Senator that it is a reasonable figure, and we would pick up $41.7 billion more than the summit agreement. We can greatly reduce, therefore, cuts in Medicare benefits to senior citizens. The benefit cuts would be reduced from the $30 billion under the summit to a figure less than $10 billion, to $9.6 billion.

That makes sense because it is not logical to be balancing this budget on the backs of the senior citizens of this country, on those in need of medical care. And yes, they still would be paying some portion of it, but a far lesser proportion than that which was originally called for of $30 billion. It would be reduced to $9.6 billion.

Under the concept that I would have, the Medicare providers would still pay the additional $30 billion called for under the summit agreement, and that cut would remain extant.

With respect to where some of the funds would be coming from, in order to do some of the other cuts and savings that I will talk about subsequently, I see no reason for the Medicare tax wage cap to be in place.

Why should Medicare taxes be capped arbitrarily at $51,000, as at present, or at $73,000, as envisioned under the budget summit? There is not any reason why those whose salaries are in excess of $73,000 should not continue to pay the same rate of tax on their incomes over $73,000. Lifting that cap on those salaries would raise $53.7 billion over 5 years, $40.7 billion more than the summit agreement, and would place the burden on those most able to pay it, those whose incomes were in excess of $73,000 a year.

One of the reasons we have to find some additional dollars is because I believe that we have to make cuts in addition to the cuts as far as the Medicare is concerned.

The farm State Senators have been on the floor complaining and speaking out about the fact that they did not feel farmers in this country were in a position to bear the burden of a $13.8 billion cut in agricultural programs. That is what the summit cuts provided for, $13.8 billion in cuts.

Under the proposed budget that I would suggest to this body we would cut that to $6.9 billion, or slash it in half. Why should farmers have to bear such a heavy burden in an effort to reduce the deficit?

There is another item that the summiteers brought to us.

That is, they provided that part of the way to balance the budget would be to say to those who are on unemployment compensation that they should have to give up the first week of unemployment compensation. I believe that we ought to eliminate the additional unemployment compensation 1-week waiting period in the summit agreement. I would not eliminate the waiting period entirely, but the summiteers would go to 2 weeks from 1 week. I think 1 week waiting period is more than adequate and may be tough enough on the unemployed individual. But to ask the unemployed individuals to bear the burden of balancing the budget on their backs, to me, is absurd. People who have been laid off from their jobs are the last people who should be called upon to make up the deficit.

On the other side, when we talk about income—and I am trying to give some balance to this proposal that I would suggest to this body—I believe that it is time that we eliminate the bubble in the Tax Code. I know the President does not want to do that, but I do not know why he does not want to do that. I do not know what the logic can be of having a Tax Code that goes up to 33 percent on those earning up to $185,000, if they are married or $109,000, if single, and all of a sudden, it drops to 28 percent. Maybe they do this in Abu Dhabi. Maybe they have the rich pay less in Saudi Arabia. Maybe they do it in Qatar and some other countries around the world, but it is an absurdity for a civilized nation, one that claims to be civilized, to provide that the wealthiest people pay a lesser rate of tax than those who earn a lesser amount of money.

So I think that it is time we face down the President. I think that the Democrats ought to send him a budget, whether he likes it or not, and let him veto it. Let that be on his back. I do not think we can get an agreement between the Republicans and the Democrats on a budget. I think the Democracts ought to have their own budget, and we ought to send it to the President, and if he wants to veto it, so be it. And I believe that that Democratic budget ought to provide for elimination of the bubble.

I am aware of the fact that the leaders of this body, both in the Senate and in the House, advocated that position in the negotiations and that they had to give up that position in order to try to bring about some agreement, I guess partially in order to the President to back off on the capital gains tax cut. But, as I see it, the summiteers came to an agreement, the President and the leadership of the House and Senate came to an agreement, and after they came to an agreement with respect to a budget, what happened? The American people suddenly realized what the agreement was and maybe one of the few times in history

when the President, the leaders of his party in Congress, and the leaders of the minority party in Congress all had agreed upon a package, the people's voice was heard.

What happened was a majority of Democrats and a majority of Republicans voted against that budget. That sends a loud and clear message. The people have a say as to what kind of budget they want. They want a budget that is fair and equitable. I believe they understand full well what it means for rich people in this country not to have to pay a fair share of the cost of doing business in this country. They are aware of what happened with the 1986 tax bill. In the 1986 tax bill, when we eliminated a lot of these special tax giveaways, we reduced taxes across the board, so that the taxes now for the wealthiest people are 28 percent on everything over the amount previously stated by me. They understand what is going on. And now they saw this was just going to be expanded upon and that their ox was going to be gored, and they were going to be called upon to pay more for cigarettes and liquor and wine and so many other necessities, and they were going to have their Medicare cut. Their voices were heard. There is not a Member of this body, there is not a Member of the House whose phones were not ringing off the wall because the people of this country understood what the Congress was about to do at the behest and urging of the President of the United States. And they said "No." The Members of Congress said "No."

I think it is time that we send the President a budget that makes sense, a budget that we can stand tall and be proud of. If he does not like it because it is going to place some of the burden on some of his wealthy friends, that is his problem. But a Democratic budget ought to reflect the view of the overwhelming majority of the people in this country. This budget ought to eliminate tax increases on home heating oil, which is provided for in the summit agreement. Why should those who need heating oil for their homes be called upon to pay extra taxes for that heating oil? I think we ought to eliminate the gasoline tax increases and the increase in the excise taxes on beer and wine and spirits and cigarettes.

Who pays those taxes? Who pays them? Working people pay them, people who will drive to work and need their car for work, people who want a cigarette. I do smoke, and I do not approve of it, but I do not believe those are the people who should be called upon to bear the burden of the deficit. Is it so terrible that you drink a bottle of beer that we would call upon those who drink beer in order to balance the budget and say to the wealthiest people in this country, I tell you what we are going to do for you. We are going to make it possible for you to have some new capital gains tax cuts. We are going to hide them. It is not going to be called a capital gains tax cut. What we are going to do is say to you, when you buy stock, we are going to permit you to deduct 25 percent of the cost of that stock up to $200,000 of that stock. That was in the summit agreement. What an absurd proposition. Never before in the history of this Nation was there such an absurd proposition brought before the Congress of the United States.

Then, as if that were not bad enough, it provided that when you sold your stock, you could choose one of two ways in filing your tax return. One way is you could just report 50 percent of the sales price and pay taxes only on 50 percent of the sales price. That is just a reduced capital gains tax with a different way of getting to it.

The other way is that you could take the cost of your stock and adjust it to cost basis as related to inflation over a period of years. Every special provision in that bill was to help, not the farmers, not the working people, not the people who needed medical care, but to help those who are the "haves" of this country, and let those who are fighting hard to make a daily living pay the burden.

I would also extend the 10-percent summit agreement luxury tax to private airplanes. It was not done. Why should those who can afford to buy private planes not have to pay a luxury tax on those planes. Simple enough. If you can afford $2.5 million or $10 million for a plane, you can afford to pay that extra 10 percent tax on that. I would lower the threshold to $30,000 for those who are buying boats or airplanes. Less than that amount, I can understand that could be middle-income people. But when you are buying a plane or a boat or a yacht in excess of those dollars, I think it is entirely appropriate that there be a tax of 10 percent on that excess, not the $100,000 figure with respect to yachts that was in the proposal of the summiteers. The airplanes were not even included.

I believe we ought to eliminate the energy incentive tax reductions that were provided for in the summit agreement and which were asked for by the President in his State of the Union message. How much more do you have to give the oil and gas producers as an incentive than the $40 price per barrel that presently is the price for oil in this country and throughout the world? How much more incentive do you have to give them, tax reductions, special writeoffs?

That is the kind of thing we thought we were getting rid of in 1986, and we did, and now we are coming in through the back door because the President is insisting on those special kind of tax incentives for those in the energy field.

I mentioned before this matter of eliminating these special tax loopholes, that and the special 25 percent tax writeoff when you buy stock. And I mentioned the matter of special treatment with respect to taxes when you sell your stock. I do believe that we ought to do something in this area that has been talked about but really the summiteers did not attend to. I think we ought to replace it with more sensible small business venture capital and seed capital bills similar to those now pending in the Senate.

I believe we ought to indeed have incentives for people to invest in small businesses, but I do not believe small business ought to be big businesses under the guise of small business. I believe we can agree upon a definition of small business and see to it that we do provide some incentives, but we have to preclude ourselves from running away with that definition. And when we do, we have to make it logical and reasonable enough so it does not have that great an impact upon the revenues to our Government.

But as a matter of fact, there are two bills pending in the Senate. Those bills, I think, are off on the right track and I would have little difficulty in using them as a basis in order to work out something as far as tax incentives for those investing in small businesses.

There is another provision in the summiteer's proposal that I think we ought to eliminate, and that is the $2 billion reduction in the Student Loan Program. What kind of absurdity is that? We are talking about trying to further the educational aspirations, hopes, and needs of young people in this country. The Student Loan Program has had some problems in collections. But is that the reason that we would eliminate and cut back $2 billion in the Student Loan Program? That would be just turning the clock backwards. That would be keeping more young people from being able to go to college.

We ought to do more about the collection process, but that does not mean we ought to eliminate the rights of young people to participate in the Student Loan Program.

Doing all that I have said here this evening, doing all of that, we would still save $38 billion more than the summit agreement. In other words, under the package that the summiteers had agreed to, there would be a $500 billion savings. Under the plan that I would propose, a copy of which I will submit for the RECORD, using the CBO numbers, this plan would result in a budget reduction of $548.6 billion over the next 5 years.

It would be a fairer plan. It would be a reasonable plan. It would be a plan

that I believe the American people would be more, far more prepared to accept than that which we have been discussing. And if there are some Republicans who would not be comfortable with it, or if the President would not be comfortable with it, that, I believe, is his problem.

I do not think we have to be certain to send him a vetoproof measure. I do not think we have to concern ourselves as to whether he will or will not sign it. I think it is our responsibility as Democrats in the U.S. Senate to send down a Democratic budget, hopefully get as many Republicans as possible to sign on to that budget, and if the President wants to sign it, well and good. But if he does not, let the people of this country know why a sequestration is needed.

I think that to do less than that would be failing to meet up to our own responsibilities.

Mr. President, I ask unanimous consent to print in the RECORD a copy of the figures in connection with the proposed budget the Senator from Ohio has been speaking to.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF PROPOSAL WITH SUMMIT AGREEMENT

[In billions of dollars]

	Savings over 5 years		
	Summit	Metz. proposal	Difference
Discretionary (increase defense savings)	176.3	218	41.7
Entitlements:			
Reduce Medicare cuts	60	39.6	−20.4
Reduce Agriculture cuts	13.8	6.9	−6.9
Reject unemployment insurance cut	3.9	No Cut	−3.9
Revenues:			
Burst bubble	0	45	45
Gas tax increase	45	0	−45
Cigarette tax	5.9	0	−5.9
Beer, wine, distilled spirit tax	10	0	−10
Eliminate Medicare wagecap	13	53.7	40.7
Eliminate energy incentives	−4	0	4
Alter Small Business incentives	−12.1	0.8	11.3
Student loan	2	2	−2
Grand Total	500	548.6	48.6

Mr. METZENBAUM. Mr. President, I yield the floor and suggest the absence of a quorm.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I say to the Members of the Senate, the House has now completed action on the rule and is proceeding to consideration of the continuing resolution which, as I earlier stated, would continue to fund the operations of the Government through midnight next Friday, 1 week from this evening.

I am now advised by House staff that it is anticipated that we would receive that matter, assuming favorable action by the House, sometime between 8:30 and 9 p.m. this evening.

I met off and on throughout the day with the distinguished Republican leader and with House leaders in attempting to determine the best way to proceed with respect to Senate consideration of the measure. We will be continuing these meetings shortly. For now, it appears that the most prudent course would be for the Senate to stand in recess until 9 p.m., at which time we can anticipate that action by the House will have been completed.

In the event of further information developing between now and 9 p.m., Senator DOLE and I will notify the respective cloakrooms so that Senate offices may be notified immediately.

RECESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now stand in recess until 9 p.m., this evening.

There being no objection, at 6:59 p.m., the Senate recessed until 9 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DASCHLE].

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, we are attempting to determine the best course to proceed with respect to handling the pending matter, and I have had continuous discussions with the Republican leader as we attempt to bring those to a conclusion now.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAKING FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

Mr. BYRD. Mr. President, House Joint Resolution 660 extends the current continuing resolution (H.J. Res. 655, Public Law 101-403) from October 5 to October 12, 1990. It continues to provide temporary, restrictive financing for fiscal year 1991, which began on October 1, 1990. In addition, House Joint Resolution 660 continues to provide that implementation of any sequestration order is suspended for the term of the continuing resolution.

So far, the House has passed 10 of the 13 annual appropriation bills. The Senate Appropriations Committee has reported seven of those bills to the Senate, all seven of which have been passed.

It is critical that the Senate complete action on this continuing resolution today. This resolution is not a budget buster; it does not in any way prejudice the budget agreement. It simply allows for the continuation of the operations of the Federal Government for the period from October 5 through October 12, under the terms and conditions of the first continuing resolution for fiscal year 1991.

As I indicated in my remarks in connection with the content of the first fiscal year 1991 continuing resolution—House Joint Resolution 655, this resolution follows the same basic form and concept as have other continuing resolutions in previous years. In summary, the resolution provides restrictive funding for 13 appropriation measures depending on their legislative status as of October 5, 1990, under a formula that specifies that:

First, when the particular appropriations bills has passed both Houses, and the amount as passed by the House is different from that as passed by the Senate, the project or activity is continued under the lesser amount or more restrictive authority.

Second, when provision is made for a program in only one version of a bill as passed by both the House and the Senate, the rate of operations shall not exceed the current rate or the rate provided by the one House, whichever is lower.

Third, when the particular appropriations bill has passed only the House, the rate of operation for a particular program shall not exceed the current rate or the rate provided by the House, whichever is lower.

Fourth, when provision is not made for a particular program in a bill that has passed only the House and that program was funded in fiscal year 1990, the program shall be continued at the current rate.

Fifth, finally, when a bill has not passed either the House or the Senate by October 5, programs under these bills shall be continued at the current rate, except for defense, which is continued at a special rate, consistent with the House 302(b) allocation for defense for fiscal year 1991.

Under the provisions of the resolution, it is expected that the Essential Air Services Program will continue without any service reduction and that the Office of Commercial Space Transportation will continue at the current rate, in view of its important safety responsibilities associated with licensing the commercial space industry.

Mr. President, the continuing resolution also extends a provision which suspends any sequester orders for the term of the continuing resolution. It is

absolutely imperative that the sequester order be suspended so as to avoid unnecessary disruption of essential governmental services to the public such as veterans medical care, air traffic control operations, inspection of food and drugs, the apprehension and prosecution of violent criminals and those associated with the savings and loan scandal and other activities related to essential services, especially those related to the protection of the health and safety of human life and property. Without the above-mentioned language, the sequester would be triggered and would result in serious and widespread reductions in Government services.

I ask unanimous consent that an illustrative list of the potentially adverse consequences of the implementation of the sequester order, as reported to the committee by several of the departments and agencies of the Government, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. In summary, Mr. President, the timely enactment of this continuing resolution, which incorporates a provision to delay the implementation of the sequester order, is critical to maintaining essential governmental services needed to protect the health and safety and property of our citizens and avoid unnecessary widespread disruption in the provision of governmental services.

I might also point out that this resolution contains an extension of the debt limit through October 12.

I urge the adoption of this resolution.

EXHIBIT 1

JUDICIARY

A 30% sequester in the Judicial Branch would cause the release of 46,000 potentially dangerous probationers and parolees from supervision.

JUSTICE DEPARTMENT

Layoffs would cause severe curtailment of criminal litigation and prosecutions under the Violent Crime program and the Financial Institution Fraud program.

Layoffs would result in a 41 percent decrease in the number of investigations conducted by the Organized Crime Drug Enforcement Task Force and actually cost the Government money because of an estimated $294 million reduction in seizures and forfeitures.

Six thousand FBI personnel would be laid off which will cause curtailment of investigations in the S&L fraud cases, rendering many cases unprosecutable because of the lapse in the Statute of Limitations. Drug and organized crime investigations would be restricted or not investigated at all.

Drug enforcement operations in smaller U.S. cities and rural areas without DEA offices would be severely restricted because of reductions in travel funds.

Cutbacks in the Immigration and Naturalization Service would result in 5,000 fewer drug seizures and a reduction in the apprehension of 8,000 criminal aliens entering the U.S.

AGRICULTURE DEPARTMENT

The nation's 7,800 meat and poultry plants, employing over 400,000 people, and which cannot operate without Federal inspection, would have to be shut down for 137 days while USDA employees are furloughed.

The Forest Service estimates that the reduction in timber sales as a consequence of a sequester would result in a loss of revenue to the Treasury of the $400-$500 million that would otherwise have been paid by the estimated 70-80 thousand timber industry jobs that would be lost due to the reduced timber sales.

FOOD AND DRUG ADMINISTRATION

The safety of the nation's blood supply could no longer be guaranteed. Blood banks would be inspected only once every two years, increasing the risk of AIDS, hepatitis, and other serious diseases transmitted through contaminated blood.

FDA's special programs to improve access for the desperately ill to promising AIDS and other therapies may have to be substantially abandoned.

DEPARTMENT OF DEFENSE

A full year sequester would not be manageable without significant damage to national defense. All Defense agencies would be required to furlough personnel. Virtually every defense procurement program would be reduced by about 35% and the Department would have to renegotiate the contract prices and lower the quantities of most equipment it planned to purchase.

DEPARTMENT OF ENERGY

A full year sequester would require the layoff of about 900 DOE personnel and the layoff of a further 52,000 contractor personnel.

DEPARTMENT OF THE INTERIOR

The Washington Monument and other parks and monuments would close 2 days a week. Many National Parks would close during the winter and some park areas would close year-round.

Forest fires of the type which had previously been contained by the Federal Government, would be left to burn freely.

FEDERAL AVIATION ADMINISTRATION

Six thousand flights a day at 40 key airports would be reduced. Research in new weapons and explosives detection equipment would be postponed, along with wind shear research and development.

FEDERAL HIGHWAY ADMINISTRATION

Rehabilitation of over 2,000 bridges and 13,500 miles of Interstate highways would not be conducted with the respective loss of at least 100,000 jobs and increased traffic fatalities.

OTHER TRANSPORTATION

Five hundred thousand commercial vehicles and driver inspections would not be conducted, resulting in an increase in unfit vehicles and drivers on the highway.

Operation of the program which ensures that drunk drivers and criminals with suspended driving licenses do not obtain licenses in other states would be curtailed.

Coast Guard drug interdiction patrols, both on sea and in the air would be greatly curtailed and other marine search, rescue, and law enforcement activities would be limited.

Mass Transportation operating assistance would be curtailed with special adverse impact on medium and small cities, such as Buffalo, Detroit, Phoenix and Kansas City.

The Federal Railroad Administration would be required to terminate its oversight activities for drug testing of railroad employees.

Amtrak would be brought to the brink of bankruptcy, and the maintenance of the Northeast Corridor train lines would be greatly reduced, thus endangering hundreds of thousands of passengers that ride between Boston and Washington, DC every year.

Federal inspections of interstate oil and gas pipelines would be cut by 40%.

DEPARTMENT OF THE TREASURY

Cuts in law enforcement training would result in 18,000 Federal law enforcement officers and agents not being trained for the war on drugs.

Violent Crime task forces, instead of being expanded from eight U.S. cities to sixteen cities, would be completely abandoned.

Over 2,700 repeat armed career criminal suspects would not be prosecuted as a result of staff cutbacks.

Staff reductions at the Bureau of Customs would result in a 50% reduction in arrests, indictments and convictions for narcotics violations.

IRS staff cutbacks would result in 570,000 tax audits not being conducted and a total revenue loss in the range of $10 billion.

POSTAL SERVICE

Preferred mail rates to non-profit organizations such as United Way, the Girl Scouts, etc. would be increased, thus adversely affecting the ability of many voluntary organizations to raise funds for continued existence.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Department's oversight and audit responsibility over the millions of people who deal with the Department would be curtailed, with a resulting increased opportunity for fraud and abuse.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Drug abuse treatment and prevention efforts would be reduced by $648 million.

AIDS funding would be reduced by $475 million.

Medicare claims processing would be curtailed, resulting in a backlog of 261 million claims. Medicare audits would be curtailed, resulting in a loss to the Treasury of $2 billion.

78 million meals to older Americans would be eliminated.

Social Security audit activities would be reduced, increasing erroneous payments by $10-$15 billion.

Biomedical research would be reduced by $3.5 billion.

Head Start would be reduced by over $500 million, eliminating help for 185,000 children.

Childhood immunizations would be eliminated for 1,600,000 children.

The Department of Education would be reduced by $6.5 billion.

Homeless programs would serve 87,500 fewer people.

Black lung clinics would serve 10,600 fewer patients.

Mr. KERRY. Mr. President, I rise in support of this short-term continuing resolution, debt limit extension and sequester waiver with deep regret. I, like millions of Americans, had great hope that the White House and congres-

sional leadership would propose an agreement that would win widespread support by making the tough choices, but make them fairly. That would have kept us from having to pass another short-term continuing resolution which we are now doing unanimously, Democrats and Republicans alike.

Unfortunately, and despite the hard work and great effort devoted to producing the proposed agreement by the White House and congressional leaders the agreement was fatally flawed. And, as a result it was soundly defeated in the House where it received the votes of neither a majority of Democrats or Republicans.

Mr. President, while I am very disappointed that the House was unable to pass a budget agreement, I am pleased that at least the Congress was presented with a proposal to consider, to debate and to act upon. The White House and the congressional leadership has heard from the Congress and from the American people regarding the specifics of the budget agreement. Hopefully, with their explicit guidance, the summiteers will be able to modify their proposal and return to Congress with a budget agreement that the country can accept and that will be enacted. That is the way the process should work, and I hope will work.

I am supporting the continuing resolution tonight, a short 5-day resolution, to give the summiteers a chance to produce a new budget agreement for the Congress to consider. I would oppose a long-term resolution at this time because we must continue the pressure on all parties to come to a fair and acceptable agreement. We must redouble our efforts to produce a serious, long-term deficit reduction plan, but it must be a fair plan. Unfortunately, the budget agreement could not, in my opinion, pass that test.

I regret that the President has indicated that he may veto even this short-term resolution if it is passed by the Congress. While we are all frustrated with the failure to enact a resolution last night, we cannot shut the Government down, thrown innocent Federal workers out on the street and cut or disrupt critical services to our citizens. I believe a veto would be unwise and unnecessary, and I hope the President would not pursue such a course.

Mr. President, as I indicated in my remarks in the Senate on September 30, when we passed the short-term continuing resolution that expires tonight, there are three criteria that I will apply to any budget agreement that comes before the Senate—three criteria that were not met by the proposal overwhelmingly defeated in the House last night. Three criteria that must be met in order for me to support a budget agreement. I believe they are reasonable. I believe they are the criteria that the people of Massachusetts would expect me to apply before casting my vote, and I will do so.

The criteria are the following:

First, it must be fair to the working people of Massachusetts. It must not discriminate against our region of the country. It must not continue or increase the burden on the middle-class families of our state and unfairly benefit those with substantial wealth.

Second, it must be consistent with the expansion of the Massachusetts economy and recovery from the serious recession that we are currently in.

Third, it must have real, substantial multiyear reductions and abandon the recent practice of phony budgets with rosy economic assumptions and gimmickly short-term measures predominating.

Mr. President, I have been a strong supporter of deficit reduction since I came to the Senate. I understand that it is crucial to our Nation's economic health. I understand that it requires tough choices. But we dare not enact a budget agreement that will back us into several years of unfair results from one unwise decision. I will make the tough choices, but I will not make what I believe to be the wrong choices for the people of Massachusetts.

Mr. DODD. Mr. President, in the last week, Congress has been asked to hold its collective nose and vote for a budget compromise that no one truly likes. We were told that despite its imperfections, the budget proposal was better than nothing at all and that without some action, there would be a mindless across-the-board sequester bringing many elements of essential government to a screeching, irrational halt.

I wanted to support a budget agreement, and I still hope that the difficult process in which we are now engaged will produce a buget I can support. We desperately need a budget agreement so that we can limit or avoid a shutdown of the Federal Govenment and send a message to the Federal Reserve Board and the markets that will restore confidence and stability and help restimulate the economy.

On the other hand, Mr. President, I simply could not and cannot support a budget package which is not fundamentally fair and meaningful. While I truly appreciate the herculean efforts of the leadership in both Houses who labored mightily to bring us the budget compromise of the past week, I am unable to support a budget plan which puts the burden of our deficit on the backs of the most vulnerable Americans—elderly and disabled people and children.

The agreement simply was regressive. The consumption taxes that dominated the package guaranteed a regressive bias to the compromise, extracting most of the deficit reductions from lower and middle-income groups that can least afford it.

Increased Medicare premiums and deductibles also placed a greater burden on poor taxpayers than on the rich. Health care costs have been skyrocketing for a decade; Americans pay more for health care than any country in the industrialized world, but we have huge health care gaps that leave many without care, particularly children and older people. Instead of offering relief, the budget agreement would have mandated the largest increase in Medicare payments imposed by any President or Congress since the program began 25 years ago. Medicare beneficiaries would have been required to pay nearly double for their coverage by 1993.

The agreement also included a tax on home heating oil—a necessity of life for many Americans, particularly those of us in the Northeast. While $4 billion in tax breaks for the oil companies was doled out, a tax which hits the poor and the elderly was added at the last minute.

As we return to the table and reopen the question of fair and responsible deficit reduction, we in Congress should look at the only solution which truly would benefit the majority of Americans—restoring to this country a progressive income tax. For the last decade, lower and middle-income Americans have shouldered a disproportionate share of the burden. The proposed budget agreement only would have worsened their plight.

Those people in the very highest income brackets, who gained so dramatically in wealth and tax benefits in the last decade, were not asked to pick up a proportionate new responsibility for deficit reduction.

I would urge that Democrats and Republicans in the Congress work with the President to produce a budget agreement that is fair, reasonable, equitable, and meaningful. We are capable of producing a much better plan than the one reflected in the compromise package.

The problems in the past week's budget agreement can be resolved if we work together to make some modifications—and if we adhere to the principle of fairness.

I look forward to supporting a budget proposal that will responsibly adjust spending priorities, reform the budget process without reducing economic growth, and require the wealthy to bear their fair share of the cost of Government without shoving the brunt of that cost onto the poor, the middle class, and the elderly.

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate receives House Joint Resolution 660, it be deemed to have been read the third time and passed and the motion to reconsider be deemed laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 660) was deemed passed.

Mr. DOLE. Is that the CR we just passed?

Mr. MITCHELL. The CR we just passed. Although it is one of those things that took only a moment to occur, it took several hours in the preparation.

I thank my colleagues for their cooperation, the distinguished Republican leader, the distinguished Senator from New York, the chairman of the committee, and all of our colleagues who cooperated in making this possible.

I am pleased to yield.

Mr. DOLE. Mr. President, if the majority leader will yield, I understand now this will go to the President and then he will decide whether or not to keep it, study it for a few days, or to sign it, or to veto it and send it back. I assume if it were vetoed—I think the House comes in at 12 tomorrow. I am not certain of the time. In any event then it would come to us, I assume, shortly after that time.

Mr. MITCHELL. That is correct.

Mr. President, it is my understanding that the House will be coming in at noon tomorrow. They are coming in at noon with the authority to be in recess between noon and 3 p.m., depending on the situation at that time.

Of course, Mr. President, it is my hope that following his study of the matter the President will decide to sign the measure. Failure to do so will, of course, result in the operations of the Government coming to a halt and the sequester occurring as well. I understand that there are arguments on both sides of that issue. I merely state my own view that it is my strong and fervent hope that the President will sign it because not to do so, it seems to me, would create an undesirable situation which all should be seeking to avoid. I undersand the arguments all ways.

I thank my colleagues for permitting this matter to occur.

Mr. DOLE. Mr. President, if the majority leader will yield further, I do not have any exact knowledge of what the President may do. I have some idea. But I am not certain that final judgment has been made. I think it is fair to say the President was disappointed that the House failed to pass the budget summit agreement, but certainly he has praised the work of the leadership on the House side, the Republican leader, the Speaker, and the majority leader on the Democratic side.

I think I am safe in saying had it passed the House we could have dealt with it in the Senate. I think we had the requisite number of votes on each side—each have 50 percent or more—and passed the budget resolution if it were not rejected by the House last evening.

Now the President is faced with the very difficult decision on how to get a budget resolution and get some resolution of what we have been working on for several months. I happen to believe that 90 percent of the budget agreement is satisfactory. There are four or five key areas that need some attention.

I would hope we would continue using the framework of the budget summit and find some way to resolve the other differences soon. I think that is the President's hope. And that is why he will be looking very carefully at whether or not to sign the CR or to hold the CR to see if Congress might respond within 24 hours or 48 hours, or at some appropriate time to veto it, and send it back, where I believe the veto would be sustained in the U.S. Senate.

Mr. MITCHELL. Mr. President, if I might comment further, I believe the distinguished Republican leader's estimate of what would have occurred in the Senate had the House enacted the budget resolution is correct. I believe that there would have been a majority vote on both sides and, accordingly, a majority in the Senate.

However, as we know, the House rejected the package, by a substantial margin. Therefore, the question is how do we best proceed to achieve the common objective of significant deficit reduction in the manner that produces the best result with the least undesirable effects.

Now, there are some certain problem areas, as the distinguished Republican leader indicated and, as he knows, we have met for several hours today with Members of the House leadership and relevant committee chairman and ranking members in an effort to go over those matters. Whatever our view was about the prior agreement, it is obvious that at least in its total form it was rejected by the House, by a substantial margin, and we have to proceed from there.

I believe that we can resolve the matter in the way that achieves our objective, and I say with all due respect that I do not believe going to sequester, discontinuing the operations of Government as of midnight tonight, will in any way move us toward this objective.

Indeed, it is my view—and I recognize this is a personal view not shared by all—that it will have the opposite effect; that it will make it more difficult; that it will create pressures that will operate in a manner different from those intended; and I think we cannot lose sight of the fact that it could have an adverse effect upon many thousands of individuals and families.

It is often difficult. When we deal with these large numbers and we see table after table in the billions of dollars, we lose sight of the fact that what we are ultimately dealing with are individual American citizens and families, their lives, their fears, their hopes.

So I urge the President, after giving it careful study—and I know that he will—to sign this measure; to encourage continuation of the process that we started some months ago that received a significant setback last night, but still remains, in my judgment, the most appropriate way to resolve this, using the legislative process and the relevant committees of jurisdiction in the House and Senate, and trying to find a way to get what we always have to in a democracy, and that is the best product that is capable of enactment into law. Given the disparate views of the 535 Members of Congress, there are 535 opinions on what that is, and there has to be a process by which we reconcile those often conflicting objectives.

In my humble opinion, we can do that. I believe we will do that. And I believe that we can spare needless anguish and pain, and help move us further toward that objective if this legislation is signed and we can continue it right away tomorrow.

As the distinguished Republican leader knows, it has been my hope that the conference committee, the budget conference committee, could have met this evening. As the Republican leader knows, in a meeting this morning with the House leadership, I urged that course of action so that we could get this process moving forward, and that if they could not do it this evening, and it obviously is a late hour, I would recommend they do it tomorrow. These are responsible people who I hope would help sort this out and make whatever judgments that are necessary.

So I conclude by simply repeating my hope that this will be signed into law. But if it is not, and the House meets to override it and does override, then obviously we would be back sometime tomorrow afternoon. And we will have to recess until that time, a time that I will not set before I discuss it with the Republican leader.

Mr. DOLE. If the majority leader will yield, we will attempt to ascertain what the President plans to do. I think it is a very difficult decision for him. Here is 1 week gone. I do not see how we are going to be out of here by the 19th of October. There are still a number of appropriation bills. We do not have a budget. Some suggest maybe we will be back after the election. That may be true. I do not know at this point. I doubt it; I hope not. It could happen.

I think that the President must determine after reflecting, as I know he will, as to how do we get something

moving, how do we urge those who were so quick to find fault with the product last evening to get onboard. Even after we make some changes. People were in fairly hard positions.

And even if the changes were made, some indicate that might not even change the vote. Even if we made changes, it will not change any votes.

So I think the President must determine what is in the long-term national interest. Certainly deficit reduction is a very important concern to him and to us. I think he wants to do that. So it does not in any way alienate the cooperation he has had with the leadership on both sides. I think that is the judgment the President will make and I feel certain he will make the right judgment, whatever that may be.

I would just indicate that I believe on this side of the aisle there are enough of us who are willing to support the President—if he should decide to veto the CR—to sustain that veto, again in an effort to speed up the process. Because if we delay it until next Friday, then there is another week. Then we will be delayed until the next Friday.

Sooner or later, we have to come to grips with very tough choices. And some people do not like tough choices. They like to talk about tough choices, they like to make tough speeches, talk about the budget, the budget deficit. But then when it comes time to make a choice, there is something wrong with the package. And I think in many cases that is true. I think Members truly believe they cannot support the package. So I do not question anybody's motives for voting for or against any particular measure. But it does put a great deal of pressure on the President, who has the ultimate responsibility.

I am prepared to support him in whatever he does.

Mr. MITCHELL. Mr. President, in view of the enactment of the continuing resolution, I now will announce that there will be no more votes this evening. We will have a brief quorum call—and if any other Senators wish to speak, they will be free to do so—following which I will discuss with the Republican leader and others the best time for coming in tomorrow, and we will make an announcement of that later.

So Senators are no longer required to stay. There will not be any more votes this evening.

Mr. HOLLINGS. Mr. President, I think it ought to be clearly understood that in the unanimous consent requested for the continuing resolution, it also contained an extension of the debt limit and an extension of the Gramm-Rudman-Hollings provisions.

I went along, and that is why I am making this public record, with the distinguished majority leader with respect to his commitment last year, and again this year several times, relative to the particular provisions that I had introduced in January a year ago on putting Social Security off budget.

I really resist the categorization of being an obstructionist when I bring it up. The fact of the matter is that January a year ago I determined by that time to stop, as has been characterized by the distinguished Senator from New York, to stop the stealing from the Social Security trust fund, and as has been characterized by the Senator from Pennsylvania as embezzlement, and I wanted to put it totally off budget and treat it as a trust.

It took me all spring long to bring everyone around, particularly the majority of the Budget Committee. Thereupon, the distinguished majority leader and the Speaker of the House and the distinguished chairman of the Social Security Subcommittee, the Senator from New York [Mr. MOYNIHAN] and all of us in public appearances said this was a priority.

And that was by the beginning of the summer when the debt limit came up. It was temporary. I got a firm commitment then from the majority leader that it would come up on the permanent debt limit. When the permanent debt limit came up, the majority leader then committed to bringing it up the following year, early in the year, no later than February.

Then we voted it out by a vote of 20 to 1 in the Budget Committee. We have been waiting a turn to bring this particular measure up. And to my dismay, rather than adhering to the 20-to-1 vote in the Senate Budget Committee to treat this as a trust fund and stop the theft and stop the embezzlement, the so-called summit package came up with a raiding of Social Security over a 5-year period to the tune of $169 billion, with the President of the United States on national TV saying we did not mess with Social Security. We just robbed it blind. So somewhere, sometime we ought to clear the truth from the falsity, and the commitments from the unkept commitments, and not be treated as an obstructionist.

A moment ago I came to the floor, and I understood that the leader had promised the distinguished Senator from New York a call for the consideration of his particular initiative to put Social Security on a pay-as-you-go basis. I have hailed the Senator from New York on his leadership. I guess I was the second or at least the third sponsor. It was in December of last year when the distinguished Senator from New York brought it up.

He has been our leader in Social Security trust fund treatment, and I cosponsored that, and I will vote for it and join him. I was told by the majority leader I could bring it up as an amendment, which I do not mind doing. I would like to get it up as an amendment and bring it up for a vote. I do not know how the body would vote on treating Social Security on a pay-as-you-go basis versus treating Social Security as a trust fund. There could be a not carrying vote. I will take my chances and put it on. I will support, of course, my own amendment and that of the distinguished Senator from New York, but I did not want to offend the leadership position taken by the Senator from New York.

I say these things to put everybody on notice of the fact that I do not nag. I know the burdens on the majority leader. I know the burdens on the summiteers and everyone else. I do not nag and race around and threaten and everything else, but it has not been forgotten; it has been pursued.

In August of this year I, of course, let my distinguished colleague from Pennsylvania take that position. I sat here and watched. We were the last to leave on Friday night. I have been here each time protecting it. The Senator from Pennsylvania, Senator HEINZ, joins me, I take it, with the majority of the Budget Committee and the distinguished Senator from New York.

I have not been an obstructionist, and I have not gotten in the way when people ask why am I bringing it up. I brought it up in January 1989 and thereupon worked all spring long to bring them around. I was resisted and then finally got it and said, Mr. Majority Leader, you put your name first on this measure.

Then we got the Speaker to come, and we had a big public show before TV. Then, of course, we did nothing on the temporary debt limit. We did nothing on the permanent debt limit and promised the early part of the year, no later than February. Now it is October and past adjournment time and we are into another fiscal year.

It has not been from a lack of interest. I have been trying to pace myself and make sure it was considered. A red flag raised immediately when I saw this crowd work for 4 months and rob the Social Security interest cause to the tune of $169 billion and come out for the Good Government Award, how they had worked so hard.

I could go into the things they worked so hard on. I think the House did a good job last night. I am glad they did it. Maybe we will sober up and maybe we will start getting truth in budgeting. I have not heard my colleagues who joined with me in Gramm-Rudman-Hollings recently, but that was the trust, that everything was on top of the table; no more games, no more mirrors, no more smoke. They started off putting the rouge on the rosy scenario, hiding it here, forgetting about FSLIC that Seidman says here in October we need another $100 billion for. So the very

tenets of truth in budgeting of Gramm-Rudman-Hollings are being totally ignored, and then everybody goes on national TV saying Gramm-Rudman-Hollings does not work.

Well, neither do the Ten Commandments. But we do not do away with the Ten Commandments, and fiscally we should not do away with this commandment, this particular initiative. Gramm-Rudman-Hollings and "everything on the table" got us to that summit, unfortunately. I did not think it was a good idea.

But that is why I did not object. I wanted to get that understanding. I appreciate the courtesy of the distinguished chairman of the Social Security Subcommittee for his indulgence in considering our amendment. I want to join hands with him. I hope he gets a majority vote putting Social Security on a pay-as-you-go basis, but I want to put Senators on notice I am putting it up as an amendment. I hope we get a vote separately, not a voice vote, on that when we bring it up next week and, of course, a rollcall on the initiative of the distinguished Senator from New York. Then if the initiative does not carry enough force to take along my amendment, we will come back with a reminder of our particular commitments.

Somehow we have to get in here and fight for the easiest thing in the world, what everybody wants. They have taken a categoric position we have a trust fund and we do not mess around with it. Then when we start messing around with it and are not even given a vote, we are looked upon as some kind of obstructionists here on Friday night.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, first I would like to express my compliments and also my respect to the Senator from Maine and the Senator from Kansas for the leadership they provided this body throughout the most recent chapter of this budget debate.

As I listened carefully to both our leaders, I detect there is serious work now going on to try to resolve this budget issue.

Yesterday I was prepared to pitch in, as I did two times, with the leadership to support the President and do what we could to past that package. But that is history.

Now there is a renewed effort. I associate myself with those who believe we should not in any way signal to the President that we ought to shut down the Federal Government. To lock out a number of honest, hardworking civil servants, who day in and day out labor to make this Government work, irrespective of who is President, irrespective of which party has the executive branch or, indeed, which party controls the Chambers of the Congress. Year after year that group carries forward the basic structure of our Government. To lock them out is unfair.

I do not think in any way will it encourage this body to proceed to do its work more conscientiously. Locking them out? No. Locking this door? Yes. Let us stay here and do the job for which we have been elected. We all raised our hands at one time or another as we took the oath of office in this Chamber to support the Constitution and to perform our duties.

I am very hopeful the President will not veto the joint resolution that we passed tonight providing for a reasonable period of additional time within which to work out this budget situation. If that veto is lodged, this Senator from Virginia will not vote to sustain that veto.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, let me add my voice, if I can, to those of other colleagues, the Senator from Virginia, encouraging the President not to veto the continuing resolution. Many of my colleagues have questioned me about the impact of a furlough on air traffic controllers, and I have contacted many aviation experts and believe if a continuing resolution is not enacted and the air traffic controller work force is furloughed due to shutdown of Government, there will be a total breakdown of the Nation's air transportation system. The Air Transport Association estimates that, if there is a total shutdown of the air traffic control system, approximately 18,000 flights a day will be grounded. It is estimated that 1.2 million air passengers will be stranded each day of the furlough. And the cost to the economy will be well over $1 billion.

The ramifications of a furlough of air traffic controllers also reaches into the cargo arena. Foreign packages as well as domestic would sit in cargo terminals and not be delivered. I cannot fully comprehend what a shutdown of air cargo would do to American businesses. There is no doubt that air traffic controllers are essential employees, and it is hoped that some decision can be reached, if there is a veto and it is sustained, as we hear tonight, to avoid the enormous consequences to air travelers and cargo. Federal agencies in Washington must realize that, if the system is totally shut down and controllers are furloughed, then 400,000 employees in the air carrier industry will also be out of work.

Mr. President, it is my understanding that certain Federal employees essential for public health and safety and for the protection of property can be exempted from furloughs under a shutdown of Government. Such employees in the past have included FBI employees engaged in criminal investigations, USDA meat and poultry inspectors and National Transportation Safety Board aircraft accident inspectors. Clearly, other such exempted personnel should include mine safety and health inspectors, medical personnel at VA hospitals, Federal marshals, wardens and other law enforcement personnel, to name only a few.

So, Mr. President, I encourage the President of the United States and the Office of Management and Budget to very carefully consider the consequences of widespread furloughs among these essential personnel. The President has the authority, if he does veto the continuing resolution, and it is sustained, to keep the essential services of Government functioning, even in the absence of the continuing resolution.

Mr. President, I urge him to strongly do these things and especially not veto the continuing resolution. I yield the floor.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO LAWRENCE F. "LARRY" O'BRIEN

Mr. MOYNIHAN. Mr. President, somewhere the poet William Butler Yeats writes of a man who "was blessed and had the power to bless." There could not be a better evocation of the person and the life of Lawrence F. "Larry" O'Brien, who died this week, aged 73.

We knew each other a full 30 years, from John F. Kennedy's 1960 campaign for President. I served with him in the Kennedy, and then the Johnson administrations and grew ever more admiring, indeed, a word that would have embarrassed him, devoted. We last saw each other not weeks ago.

He blessed all the institutions he touched, above all the Democratic Party in which he began his work—it was that, a vocation—in the north end of Springfield, MA, where, as the Springfield Union-News notes in an affectionate obituary, his father, who hailed, as did his mother, from the County Cork, ran "a popular saloon." Will we ever truly absorb what the American democracy owes to that singular breed? He went from walking about the wards of Hungry Hill to become a congressional aid, a Presidential adviser, Postmaster General, and twice Democratic National Chairman. Chairman, that is, of the oldest political party on Earth, the oldest in the history of mankind. We will celebrate our bicentennial in New York City in 1992, observing the "botanizing expedition" up the Hudson River

during which Aaron Burr and Thomas Jefferson forged the first national political institution in our history, and in doing so, changed the history of government and politics the world over.

His talent and his joy was to bring people into the circle of public life, which is what politics is. A noble calling, as President Kennedy put it; and for a democracy an indispensable duty. My wife Elizabeth was cochairman, as the term then was, of Citizens for Kennedy in central New York State in the 1960 campaign. Just weeks ago she was sorting through some papers at our farm and came across the "O'Brien Manual," as it has become known technically. It has a pale blue cover, with the title "Field Worker's Manual" printed in dark blue. It was sent to party workers across the land, and it touched our land. When John F. Kennedy became President there were literally millions of his fellow Americans who knew that they had had a part in the making of the President, 1960.

He was gracious in victory; more so in defeat. I will ever remember watching him on television at about 4 o'clock in the morning in August, or was it July?—no matter—of 1972 as the Democratic Convention ground to the conclusion of another awful day of dispute and dissension. He was national chairman. He had seen to it that everyone had been heard. Had waited patiently until all were finished, or at least exhausted. Then he came to the podium and blew a kiss to the conventional all. "You're wonderful," he exclaimed. And he believed it.

He is survived by his wonderful and beloved Elva, and his son, Lawrence F. O'Brien III, of this city. Hail to our chief.

Mr. President, I ask unanimous consent that David Broder's affectionate memoir be included in the RECORD at this point.

There being no objection, the memoir was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 3, 1990]

LARRY O'BRIEN'S VICTORIES

(By David S. Broder)

Lawrence F. O'Brien, who died last week of cancer, was many things: a key figure in John F. Kennedy's "Irish Mafia," an architect of Lyndon Johnson's Great Society legislation, a Cabinet member, the target of the Watergate break-in that eventually cost Richard Nixon the Presidency and, later in life, a most successful commissioner of the National Basketball Association.

But above all else, Larry O'Brien was a Democrat—a politician devoted to the nurture of his party. To salute him and his work is to defend what is now most denigrated in American politics: the principle that parties matter, even more than personal ambitions or the policy clashes of the moment.

The son of immigrants from County Cork who ran a rooming house and restaurant in Springfield, Mass., he was different from the others in the Kennedy circle—and not just because he had no enthusiasm for touch football. O'Brien had been actively involved in Democratic politics before JFK came along, and he stayed involved long after he was gone.

Devoted as he was to President Kennedy and to his brother Robert Kennedy, it was perfectly in character for O'Brien to give generously of his talents to President Johnson and to Hubert Humphrey, when they carried the Democratic banner after the deaths of the Kennedy brothers.

Some Kennedy courtiers never forgave O'Brien for that. But anyone who understood him knew that his concept of loyalty went well beyond the individual to an institution he genuinely believed served the interests of most Americans—the Democratic Party.

I met O'Brien during the West Virginia primary of 1960. We hooked up one day at the Kennedy headquarters in the basement of the Kanawha Hotel in Charleston, where he and Matt Reese and Bob McDonough worked the phones 18 hours a day, and drove together down to Beckley. By the end of the drive, I'd not only had a lesson in O'Brien's techniques for political organizing but an insight into the values that framed his life.

He was a small-d democrat as well as a Democrat. He believed that the people could and should rule. But unlike so many of the current crop of self-proclaimed "populists," who visualize themselves as personal embodiments of the mass will, O'Brien understood that popular rule required mobilization. And mobilization required political party organization.

The secret of his success as a political organizer was no secret at all; he laid it out in simple terms in the "O'Brien Manual." It is all about participation, about techniques for expanding the campaign from the cadre of insiders to wider and wider circles of volunteers; of reaching people at the doorstep and giving them a sense of involvement in a candidacy.

My dog-eared copy reads: "Volunteers are essential to the success of any political campaign. . . . There is no such thing as having a surplus of volunteers. . . . There is always work to be done in a political campaign."

It is no accident that the campaigns he helped design in the 1960s saw levels of turnout the Democrats have not been able to match ever since.

His techniques as a congressional liaison for Kennedy and Johnson rested on the same principle—finding ways to involve Members of Congress enough in the framing of a program that they acquired a sense of ownership in seeing it passed. It wasn't easy, for Kennedy had too few allies on Capitol Hill and Johnson had almost too much ego to let others play. But O'Brien did the job with skill, in large part because he never let himself become a cynic.

"I always felt," he wrote, "that we could never discount any Member of Congress, no matter how much we might disagree with him. The people of his state or his district had elected him; he spoke for them and he was, therefore, deserving of our respect."

O'Brien understood that the goal of politics was not just to win but to govern. The policy issue that concerned him most, always, was education. He knew, as well as Mr. Jefferson, that democracy without education was a contradiction in terms. I don't believe I had any interview with him during the Kennedy years that he did not express his frustration at the lack of votes to pass a federal aid-to-education bill. I know he was never happier than when Johnson signed the landmark education bills of his Presidency.

But the job O'Brien valued most was the chairmanship of the Democratic National Committee, though the two times he held it between 1968 and 1972 were hard times for his party. "I'm proud to be known as a politician," he wrote in his memoirs. "Politics is the art of the possible, and it is an intensely personal art."

O'Brien practiced that art as well as anyone Washington has seen in a long, long time. He titled his book "No Final Victories," because he was always a realist. But his final victory was sustaining the Democratic Party—both in government and at the grass roots—at a time when that was tough to do.

THE 30TH ANNIVERSARY OF THE SPURWINK SCHOOL

Mr. COHEN. Mr. President, in my home State of Maine, we are preparing to celebrate the 30th anniversary of the Spurwink School.

This outstanding institution, established in 1960, has specialized in helping seriously emotionally disturbed children, adolescents and adults. First designed as a group home serving just six children, the Spurwink School has grown to become a network of community-based residential treatment centers, intermediate care facilities, waiver homes, therapeutic foster homes, day activity and day treatment centers located not only in Maine, but in New Hampshire and Rhode Island as well.

In 1986, the National Institute of Mental Health conducted a survey of more than 2,500 programs for residential and day treatment around the country, and I am proud to say that Spurwink School was one of 11 chosen as a model program.

The growth, success and maintenance of quality programs over Spurwink's 30-year history is a tribute to the many hard working and creative members of the school's staff and governing bodies. During the last three decades literally thousands of young people and adults with special needs have been served by the talents and energies of the Spurwink employees.

Today, as a national role model for schools across the country, Spurwink is recognized for the quality of its programs and its ability to respond to the needs of the handicapped.

Mr. President, we all agree education must be our Nation's highest priority. And when we witness the success of an educational system like the one employed by Spurwink School, we must vigorously applaud it.

Mr. President, my State, and our country, are fortunate to have an institution as fine as the Spurwink School serving those with special needs.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

ANDEAN TRADE PREFERENCE ACT—MESSAGE FROM THE PRESIDENT—PM 150

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Finance:

To the Congress of the United States:

I am pleased to transmit a legislative proposal entitled the "Andean Trade Preference Act of 1990" and a section-by-section analysis. The Andean nations are engaged in a serious struggle to combat illegal narcotics trafficking. It is incumbent upon the United States to aid them in their efforts to develop legitimate trading opportunities for their people. Their struggle is our struggle as well.

This proposal would implement my Andean Trade Preference Initiative of July 23, 1990. It would create a trade preference program patterned after the Caribbean Basin Initiative (CBI) for four Andean countries—Bolivia, Colombia, Ecuador, and Peru.

The Andean Trade Preference Initiative is intended to:

—fulfill, in part, my commitment at the Cartagena Summit to expand economic alternatives for these four Andean countries;

—complement the program of economic assistance, drug control, and the economic reforms agreed on with the Andean countries; and

—provide U.S. economic support to those Andean countries that are fighting to eliminate the production, processing, and shipment of drugs.

Just as CBI did for the countries of the Caribbean Basin, the Andean Trade Preference Act of 1990 will provide the authority to establish duty-free treatment of imports from the four Andean countries. These trade preferences would be granted for a period of 10 years.

The legislation outlines the rule-of-origin requirements for duty-free entry. Articles must be imported directly from a beneficiary country. These imports must consist of at least 35 percent value-added in one or more of the beneficiary countries, or one or more of the CBI countries, to which 15 percent of the total value from U.S.-made components may be applied. If foreign components are used to produce an article, the final product must be substantially transformed into a "new and different article of commerce" in one or more of the beneficiary countries. Products not qualifying under these three requirements will be dutiable.

Products that are particularly sensitive to import competition will still be dutiable. These products include textiles and apparel; footwear; canned tuna; petroleum and petroleum products; and watches and watch parts. Handbags, luggage, flat goods, work gloves, and leather wearing apparel also will continue to be dutiable, but will be subject to the same duty reduction program as has been made available to products from the Caribbean Basin. Duty-free entry of sugars, syrups, and molasses is provided consistent with the tariff-rate quotas on these products.

The proposal includes provisions for general import relief and emergency relief to safeguard domestic industries. Specific relief provisions are also included to safeguard domestic industries producing perishable products (i.e., live plants and fresh cut flowers, certain fresh or chilled vegetables, certain fresh fruit, and concentrated citrus fruit juice).

To assess the effects of the legislation on the U.S. economy and on particular industries producing like or directly competitive articles, the U.S. International Trade Commission would be required to issue reports to the Congress. The first such study will assess the effectiveness of the Act during its first 2 years, with annual reports thereafter. The proposal also requires the Secretary of Labor to report to the Congress annually on the impact of the Act on U.S. labor.

Enactment of the Andean Trade Preference Act of 1990 will permit the United States to support the efforts of the Andean countries to eliminate the production, processing, and shipment of illicit drugs. In conjunction with other Andean trade measures announced on July 23 and the Enterprise for the Americas Initiative announced on June 27, it will also increase the prospects for economic growth and prosperity in the Andean countries and throughout the hemisphere. I look forward to working closely with the Congress to enact this vital initiative.

GEORGE BUSH.

THE WHITE HOUSE, *October 5, 1990.*

MESSAGES FROM THE HOUSE

At 10:06 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 2017) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 418. Joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons.

ENROLLED BILL SIGNED

At 4:56 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1677. An act to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 9:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 3155. An act to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 660. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 3155. An act to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990;

H.R. 435. An act to amend the Appalachian Regional Development Act of 1965 to include Columbiana County, Ohio, as part of the Appalachian region;

H.R. 971. An act to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practices in the provision of operator services, and for other purposes;

H.R. 2809. An act to provide for the conveyance of certain lands to the State of California, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 418. Joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 5, 1990, he had presented to the President of the United States the following enrolled bills:

S. 1128. An act for the relief of Richard Saunders;

S. 1229. An act for the relief of Maria Luisa Anderson;

S. 1683. An act for the relief of Paula Grzyb;

S. 1814. An act for the relief of Wilson Johan Sherrouse; and

S. 3155. An act to extend the expiration date of the Defense Production Act of 1950 to October 20, 1990.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 3160. An original bill to authorize the relocation of the Southeast Light on Block Island, Rhode Island (Rept. No. 101-497).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1118. A bill to provide for the transfer of the Platoro Reservoir to the Conejos Water Conservancy District of the State of Colorado, and for the protection of fish habitat on the Conejos River (Rept. No. 101-498).

H.R. 2567. A bill to authorize additional appropriations for the construction of the Buffalo Bill Dam and the Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming (Rept. No. 101-499).

S. 620. A bill for the relief of Leroy W. Shebal of North Pole, Alaska (Rept. No. 101-500).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1767. A bill to reimburse individuals for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison, and for other purposes (Rept. No. 101-501).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2802. A bill to authorize the establishment of the Fort Totten National Historic Site (Rept. No. 101-503).

H.R. 3863. A bill to amend the National Trails System Act to provide for the study and designation of the Underground Railroad Historic Trail (Rept. No. 101-504).

H.R. 4834. A bill to provide for a visitor center at Salem Maritime National Historic Site in the Commonwealth of Massachusetts (Rept. No. 101-506).

H.R. 5084. A bill to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes (Rept. No. 101-507).

By Mr. BIDEN, from the Committee on the Judicary, with amendments:

H.R. 426. A bill for the relief of Christy Carl Hallien of Arlington, Texas.

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. Res. 334. An original resolution reaffirming United States policy regarding the independence of the Baltic States.

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment:

S. 2888. A bill relating to Indian health care (Rept. No. 101-508).

S. 2995. A bill to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under the Social Security program (Rept. No. 101-509).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Richard A. Claytor, of California, to be an Assistant Secretary of Energy (Defense Programs).

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 101-20. Treaty on the Final Settlement With Respect to Germany (Exec. Rept. No. 101-33).

TEXT OF RESOLUTION OF RATIFICATION

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty on the Final Settlement with Respect to Germany and its related Agreed Minute, signed by the United States of America, the Federal Republic of Germany, the German Democratic Republic, the French Republic, the Union of Soviet Socialist Republics, and the United Kingdom of Great Britain and Northern Ireland in Moscow on September 12, 1990.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURDICK:

S. 3160. An original bill to authorize the relocation of the Southeast Light on Block Island, Rhode Island; from the Committee on Environment and Public Works; placed on the calendar.

By Mr. BOREN (for himself and Mr. PRYOR):

S. 3161. A bill to amend the Internal Revenue Code of 1986 to prohibit the retroactive application of Treasury Department regulations and rulings: to the Committee on Finance.

By Mr. BAUCUS:

S. 3162. A bill to amend the Internal Revenue Code of 1986 to increase the amount of bonds eligible for certain small issuer exceptions, and for other purposes; to the Committee on Finance.

By Mr. BENTSEN:

S. 3163. A bill to make technical corrections to certain customs and tariff laws; to the Committee on Finance.

By Mr. BRADLEY:

S. 3164. A bill to provide for youth sport programs at public housing projects that have substantial drug problems; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LIEBERMAN (for himself, Mr. GLENN, Mr. LEVIN, Mr. AKAKA, and Mr. KOHL):

S. 3165. A bill to amend the Internal Revenue Code of 1986 to extend to 10 years the period of limitation on collection after assessment; to the Committee on Finance.

By Mr. LEVIN (for himself and Mr. DODD):

S. 3166. A bill to amend the Public Health Service Act to extend the immunization program for vaccine-preventable diseases, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN:

S. 3167. A bill to cut Social Security contribution rates and return Social Security to pay-as-you-go financing, and for other purposes; placed on the calendar.

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. ROBB, Mr. COCHRAN, Mr. LOTT, and Mr. WARNER):

S. 3168. A bill to amend the Natural Gas Pipeline Safety Act; the Hazardous Liquid Pipeline Safety Act of 1979; and the Ports and Waterways Safety Act to establish permanent offshore pipeline inspection and burial requirements which will improve navigational safety in coastline waters; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG:

S. 3169. A bill to provide for the reduction of metals in packaging; to the Committee on Environment and Public Works.

By Mr. HATFIELD:

S.J. Res. 376. A bill authorizing the deployment and use of United States Armed Forces only to deter aggression by Iraq against Saudi Arabia or pursuant to the authority of the United Nations to enforce economic sanctions against Iraq; to the Committee on Foreign Relations.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY).

S.J. Res. 377. A joint resolution designating the Oak as the National Arboreal Emblem; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PELL, from the Committee on Foreign Relations:

S. Res. 334. An original resolution reaffirming United States policy regarding the independence of the Baltic States; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOREN (for himself and Mr. PRYOR):

S. 3161. A bill to amend the Internal Revenue Code of 1986 to prohibit the retroactive application of Treasury Department regulations and rulings; to the Committee on Finance.

TAXPAYER REGULATORY RELIEF ACT

● Mr. BOREN. Mr. President, I rise today to introduce the Taxpayer Regulatory Relief Act. If enacted, this bill will prohibit the Treasury Department and the Internal Revenue Service from writing retroactive regulations.

Under the present statutory scheme, Treasury and the IRS often issue regulations retroactively, notwithstanding that the statutory change has a specific effective date. I believe this practice to be both unfair and bad for the economy. Unfair, because the IRS often changes the rules in midstream: A taxpayer should be able to rely on the rules of the road at the time he or she fills out a tax return; bad for the economy, because such practices have a chilling effect on legitimate business transactions.

The bill provides that all regulations to implement broad legislative guidelines issued by Treasury and the IRS are to be prospective from the date of issuance in final form. In the interim between the effective date of the statute and the effective date of the regulations, taxpayers will be deemed to have satisfied the necessary requirements if they made a good-faith, reasonable effort to interpret the statute that results in substantial compliance.

The general rule requiring that the regulations be prospective could be superseded by a special legislative grant authorizing the Treasury to issue regulations retroactively with respect to a specific statutory provision.

Mr. President, this legislation has the support of the small business community. National Small Business United, the Small Business Legislative Council, the National Federation of Businesses, and the U.S. Chamber of Commerce all support the Taxpayer Regulatory Relief Act.

I believe this bill will provide some fairness to the administration of the Internal Revenue Code. I urge my colleagues to cosponsor.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Taxpayer Regulatory Relief Act of 1990".

(b) AMENDMENT OF THE 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS AND RULINGS.

(a) RULES AND REGULATIONS.—Subsection (b) of section 7805 is amended to read as follows:

"(b) RETROACTIVITY OF REGULATIONS OR RULINGS.—

"(1) IN GENERAL.—All final, temporary, or proposed regulations and rulings issued by the Secretary shall apply prospectively from the date of publication of such regulation or ruling in the Federal Register.

"(2) CONGRESSIONAL AUTHORIZATION.—The prospective only treatment of paragraph (1) may be superseded by a specific legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to a statutory provision."

SEC. 3. EFFECTIVE DATE.

(a) The amendments made by this Act shall be effective for any temporary or proposed regulation published as a final regulation after September 27, 1990.●

By Mr. BAUCUS:

S. 3162. A bill to amend the Internal Revenue Code of 1986 to increase the amount of bonds eligible for certain small issuer exceptions, and for other purposes; to the Committee on Finance.

ELIGIBILITY OF CERTAIN BONDS FOR SMALL ISSUER EXCEPTIONS

● Mr. BAUCUS. Mr. President, recently State and local officials in Montana made me aware of continuing problems they are facing in the area of tax-exempt financing. I regret to report that those problems stem from well-intentioned, though perhaps, overzealous changes which we made to the tax code in the Tax Reform Act of 1986. To address the legitimate concerns of State and local governments, today I am introducing legislation which will ease the financing burden placed on State and local governments by continuous changes in the tax law regarding tax-exempt financing.

During consideration and passage of the 1986 Tax Reform package, Congress significantly reduced the ability of State and local governments to use tax-exempt bonds to finance governmental projects. At the time, sweeping changes were made, in part in response to perceived abuses by the industry, and in part as the result of the process pursued during negotiation of the 1986 act. Some of those changes were appropriate and some, with the benefit of hindsight, were excessive.

The legislation which I am introducing addresses the excesses without touching the provisions enacted to avoid abuses in the tax-exempt bond area. This bill deals primarily with administrative burdens created by the 1986 act which serve no appropriate Federal purpose and dramatically increase the cost and complexity of State and local financing.

Currently the Congress is considering a massive deficit reduction package. Many of the provisions contained within that package will dramatically impact the ways in which State and local governments raise funds. The increase in Federal reliance on excise taxes is tapping a traditional State and local source of revenues. Some provisions directly require increased expenditures by State and local governments for programs like Social Security and Medicare. Then there are the cuts in this deficit reduction package, and during the past decade, which have all but eliminated many programs, which directly funded State and local projects in areas like rural development, economic revitalization, environmental compliance, international competitiveness, and infrastructure development.

As a result of all these changes, the need for State and local governments to increase their financing capacity is obvious. This legislation will improve their ability to do that at lower cost and with less Federal regulation. It will be particularly helpful to small municipalities, such as those in Montana, which borrow less frequently and can ill afford the cost of complex regulation. Specifically this legislation will do the following:

First, raise the current exemption for small municipalities from compliance with the rebate requirement from $5 million to $25 million. This is appropriate both in recognition of the fact that project costs have increased since 1986 and that small borrowers will try to borrow as infrequently as possible, seeking to combine several projects at one time to hold down their borrowing expenses.

Second, allows issuers to keep 10 percent of the arbitrage earned during financing to reduce project costs. Current law requires a 100 percent rebate payment if an issuer is not eligible for the small issuer exception. This results in complex arbitrage investment decisions, which usually result in uneconomical investment practices to avoid arbitrage rebate payments. The Federal Government loses the possible payment, which often gets diverted to investment contract providers, thereby benefiting neither the State or Federal Government.

Third, eliminates the regulatory requirement that issuers restrict the yield on their investments if they are paying a rebate to the Federal Government.

Fourth, makes the change enacted in the 1989 tax bill to provide rebate relief for construction projects spending their proceeds in 2 years retroactive to 1986 for projects eligible to comply. Since Congress recognized the need for this change in the 1986 act,

issuers who complied with this policy should have the benefit of the change.

Fifth, eliminates the requirement that a governmental issuer spend no more than 5 percent of the proceeds of the borrowing on a disproportionate or unrelated project. This 1986 act requirement was unnecessarily restrictive given the other restrictions placed on the issuance of governmental bonds.

Sixth, increases the market for bonds of small governmental issuers from $10 to $25 million when the bonds are purchased by a bank. Small communities often rely on their local banks to purchase their bonds but the requirements of current law disallow interest costs the banks incur for owning tax-exempt bonds. This change will make banks more interested in purchasing the bonds, thereby reducing the interested costs of the governmental issuer.

These changes will make the issuance of tax-exempt bonds less complicated and costly for State and local governments. The Treasury Department is currently trying to revise the 243-page arbitrage rebate regulations in response to Congress admonition in the 1987 Tax Act, that the regulations be workable and reasonable for the governmental units required to comply with the regulations. The provisions included in this legislation, will provide statutory safe harbors for governmental issuers. This will benefit both the Treasury as it undertakes those revisions, and governmental issuers, as they try to comply with complex Federal tax law.

While this bill will not solve the complex problems facing State and local governments in the areas of rural development, infrastructure improvement, environmental compliance, international competitiveness, and improved education, it will make those jobs a little easier and less costly. I urge my colleagues to join me in enacting this legislation as part of the budget package we are considering.●

By Mr. BENTSEN:

S. 3163. A bill to make technical corrections to certain customs and tariff laws; to the Committee on Finance.

TECHNICAL CORRECTIONS TO CERTAIN TRADE AND CUSTOMS LAWS

● Mr. BENTSEN. Mr. President, today I am introducing legislation to make necessary technical corrections to the Customs and Trade Act of 1990 (Public Law 101-382).

The Customs and Trade Act of 1990 was enacted on August 20, 1990. Since enactment, a number of technical and inadvertent errors in the legislation have come to the Finance Committee's attention. Those errors relate primarily to the miscellaneous tariff provisions of the act.

The legislation I am introducing today makes necessary changes to customs and tariff laws to correct these errors. All provisions of this legislation are consistent with the conference agreement on the act. They are necessary to carry out congressional intent in passing the original legislation.

I am introducing this legislation today so that Members of the Senate have an opportunity to review the legislation in anticipation of any action that might be taken on it.●

By Mr. BRADLEY:

S. 3164. A bill to provide for youth sport programs at public housing projects that have substantial drug problems; to the Committee on Banking, Housing, and Urban Affairs.

SPECIAL PROGRAM OF RECREATIONAL TRAINING ACT

● Mr. BRADLEY. Mr. President, today I rise to introduce the SPORT [Special Program of Recreational Training] Act of 1990. This legislation will authorize a program within the Department of Housing and Urban Development [HUD] to provide grants for organized sports activities for the young residents of public housing.

As a former professional athlete, I know first hand the importance of sports for young people. Organized sports provide discipline, self-confidence, and guidance to help a young person through the difficult process of growing up. The lessons learned through sports are valuable ones that can enhance many different aspects of life. The lives of young people growing up in public housing are particularly difficult and complex. Organized sports can be an inexpensive and fun way to help these children at risk find a meaning and purpose in life. The SPORT Program can be a healthy alternative to the lure of drugs.

Under this bill, public housing authorities, units of State and local government and nonprofit organizations will be eligible to apply for grants of up to $125,000. Funding would be used for activities such as development of recreational facilities, acquisition of sports equipment, and organization of youth sports leagues.

The SPORT Grants Program would replace a similar project administered by HUD prior to enactment of the HUD Reform Act of 1989 which eliminated the discretionary authority for this program. This act provides the authority and guidelines for a new program to promote organized sports and activities at public housing developments.

This bill is another weapon to combat the war on drugs. Drugs have hit all segments of society but the impact on kids in public housing has been severe. Sports can mean the difference between a life of drugs and crime and being a productive member of society. I urge adoption of this bill.●

By Mr. BREAUX (for himself, Mr. JOHNSTON, Mr. ROBB, Mr. COCHRAN, Mr. LOTT, and Mr. WARNER):

S. 3168. A bill to amend the National Gas Pipeline Safety Act; the Hazardous Liquid Pipeline Safety Act of 1979; and the Ports and Waterways Safety Act to establish permanent offshore pipeline inspection and burial requirements which will improve navigational safety in coastline waters; to the Committee on Commerce, Science, and Transportation.

NAVIGATIONAL SAFETY AND OFFSHORE PIPELINES HAZARDS REDUCTION ACT

● Mr. BREAUX. Mr. President, today I am introducing legislation which will substantially improve operating safety in the Gulf of Mexico for the more than 30,000 commercial, recreational fishing/shrimping, and other vessels that ply those waters. In these same waters, along the Louisiana coast alone, there are more than 2,500 miles of large-diameter pipelines and some 16,000 miles of flow lines running between platforms and wells.

As I introduce this bill, Mr. President, I recall the October 3 anniversary of the tragic *Northumberland* Zapata Haynie Corp. fishing vessel accident off the southwest coast of Louisiana and southeast coast of Texas in the Sabine Pass. The *Northumberland* struck, in shallow navigable waters, an exposed natural gas pipeline. This pipeline should have been buried. The resulting fire and explosion took the lives of 11 fishermen, 10 of them were residents of Louisiana.

Mr. President, the *Northumberland* tragedy raised the urgency of this matter, but it was not the first of such accidents. While no Federal agency has an accurate count of other than major cases, we can document at least 10 cases dating back to 1965. Some of them have included loss of lives. The *Sea Chief* struck a line in July 1987. One person died. On July 15, 1979 the *Pete Tide II* hooked a pipeline, and two men are missing and presumed dead. There is evidence of hundreds of serious pipeline strikes, wherein cases were quietly settled outside of the glare of publicity.

Members of the congressional delegations of Gulf Coast States have grieved with families and friends of the *Northumberland* fishermen. We are equally aggrieved that Federal law, rules, and regulations were not sufficient to prevent such an accident in the first place.

When the insufficiency of Federal law became clear, Mr. President, my colleague and friend, Representative BILLY TAUZIN, chairman of the House Subcommittee on Coast Guard and Navigation—worked to develop corrective legislation. The bill that I am introducing today is the companion bill to Mr. TAUZIN's bill, H.R. 4888. The

full House Energy and Commerce Committee has approved the bill, as well as the House Committee on Merchant Marine and Fisheries; formal approval is expected today, October 5, in the House Committee on Public Works and Transportation.

Mr. President, I recognize that there are other pipeline problems which need to be considered. Are our waters and their environments adequately protected against leaky hazardous liquid pipelines? Who is responsible for clearing abandoned pipelines? And, there are other issues which do not rise to the level of urgency raised here today. The complexity of some issues not addressed here deserve careful research and study, which can be afforded them in the next Congress.

This bill, Mr. President, is narrowly focused. It is a water-highway safety bill; it does no more than serve the immediate need to have our coastline waters permanently cleared of the potentially dangerous obstructions of exposed underwater pipelines. It says that once pipelines are buried as is presently required, pipeline operations must keep them buried. Interested industries, including appropriate fisheries, gas, pipelines, and oil company representatives, recognized the necessity and participated in the development of the legislation. Of equal importance is the support provided by the Army Corps of Engineers and the Departments of Transportation—the Coast Guard and the Office of Pipeline Safety—and the Interior—the Office of Minerals Management.

The collaboration of these interests, Mr. President, has resulted in an agreement on the following major provisions for improving the safety of gulf coastline navigation:

The Secretary of Transportation must establish standards in 6 months which will define exposed pipeline facilities that constitute hazards to navigation; and, have in place within 30 months mandatory, periodic, permanent inspection requirements and procedures.

Within 18 months of enactment, operators of offshore pipeline facilities must do an initial inspection of lines and report any exposed or hazardous conditions to the Secretary of Transportation. This provision only applies to facilities that are located in less than 15 feet of water. Hazards must be marked with a Coast Guard approved marine buoy.

The Secretary is directed to consult with appropriate Federal, State agencies, pipeline owners/operators, the fishing industry, and others about pipeline burial, burial methods and depth, shallow water rights-of-way, and on the availability and quality of navigational charts.

Mr. President, I believe Senators will recognize the urgent need for this legislation, and will support our efforts to enact this legislation during this Congress.●

● Mr. JOHNSTON. Mr. President, the waters of the Gulf of Mexico provide the people of the State of Louisiana with many trades such as shrimping, fishing, commercial shipping and recreational boating just to mention a few. These same waters, however, are the home of more than 18,000 miles of federally regulated oil and gas pipelines. A total of 191 natural gas pipelines come ashore from the Gulf of Mexico, 154 of which make landfall on the coast of Louisiana.

In the last decade, a deadly problem surfaced. Natural gas pipelines in less than 12 feet of water are required by law to be buried at least 3 feet beneath the sea floor. In recent years, many of these pipelines have become exposed. The exposure of these pipelines in areas heavily traveled by fishing and trawling vessels poses an immediate hazard to navigation and a potential threat to the marine environment.

In October of last year a fishing vessel, the *Northumberland*, struck an exposed subsea natural gas pipeline. The 168-foot boat carried a crew of 14. An explosion and resulting fire killed 11 crewmen and injured 3 others. The accident occurred approximately three-quarters of a mile offshore and 4 miles from Sabine Pass, TX.

This incident is not the first of its kind to happen in the shallow waters of the Gulf of Mexico. There have been at least two other fatal accidents in recent years involving exposed submerged pipelines. One in particular stands out in my mind due to the similarities to the *Northumberland* tragedy. In July 1987, the F/V *Sea Chief*, a fishing boat of comparable type and size to the *Northumberland*, struck an exposed subsea natural gas pipeline in comparable depths of water and distances from the shoreline of Louisiana. Both the F/V *Sea Chief* and the *Northumberland* trawled for menhaden, a small fish used in preparation of chicken feed. One crewman was killed and another never found in the explosion and fire that ensued aboard the F/V *Sea Chief*. In that case, the Coast Guard determined that the pipeline had most likely been exposed through coastal erosion.

Current Federal law regulates the initial burying of the pipeline and then requires only periodic aerial or surface inspections by the pipeline company of the submerged pipelines. Although the courts have overwhelmingly ruled in favor of vessel owners in accidents where the pipeline operators failed to properly maintain and inspect their pipelines, by then it is too late. A fatality has occurred. What we need is legislation establishing a compliance procedure to ensure that each pipeline stays buried.

A bill, introduced by my good friend and colleague from Louisiana, does just that. This bill requires that, within a 12-month period, all natural gas and petroleum pipelines in the Gulf of Mexico must be inspected and any pipelines found to constitute a hazard to navigation must be reburied. The bill further requires that upon discovery of a hazard to navigation, the operator of a pipeline facility must mark the area with a marine buoy until the exposed area can be reburied. The measure mandates that the Department of Transportation require long-term, periodic inspections in addition to the initial inspection.

My concern is for the safety of the people who depend on the Gulf of Mexico for their livelihood. Accordingly, I pledge my full support to facilitate the consideration, and ensure the enactment, of this bill. I commend my colleague from Louisiana for his hard work on this legislation and strongly urge your support of it.●

By Mr. LAUTENBERG:

S. 3169. A bill to provide for the reduction of metals in packaging; to the Committee on Environment and Public Works.

REDUCTION OF METALS IN PACKAGING ACT

● Mr. LAUTENBERG. Mr. President, today I am introducing the Reduction of Metals in Packaging Act. This bill, which is based on the efforts of the Coalition of Northeast Governors [CONEG], in cooperation with nearly two dozen environmental and industry groups, will phase down the use of four metals—cadmium, mercury, lead, and hexavalent chromium—in packaging in favor of more benign alternatives. This will tackle waste at the source, before it is generated and before it is emitted into the air, soil, and water.

Mr. President, lead, mercury, cadmium, and chromium are among the most harmful substances found in packaging today. A 1989 report by the Office of Technology Assessment identifies cadmium, mercury, and lead as the principal toxic metals in municipal solid waste. The medical community has concluded that these metals can damage the nervous system and cause mental retardation. As part of our solid waste stream, these metals pose significant threats to the environment and public health. When disposed of in landfills, these metals can leach into ground water and poison our drinking water supplies or migrate into surface waters where they harm fish and wildlife. Humans and wildlife can also inhale or injest these toxic metals when they are incinerated, either through air emmissions or landfill disposal of the incineration ash.

And hexavalent chromium can cause lung cancer. Last year, the Environmental Protection Agency banned the use of hexavalent chromium in certain heating and air conditioning systems

because they release dangerous amounts of chromium into the air.

Sources of lead in packaging include solder in steel cans, paint pigments, ceramic glazes and inks, and plastics. Cadmium is found in metal coating and plating, in pigments for some plastics, and in some printing inks. Chromium is also used to plate metal products and appears in paints, pigments, and dyes. Mercury too is found in certain paints.

Mr. President, alternatives to these harmful materials in packaging are available. For example, the National Association of Printing Ink Manufacturers has noted that the use of lead-based orange and yellow inks can be further reduced by using organic pigment substitutes. Progress is already being made in many areas. The use of lead in soldering food cans declined 77 percent between 1979 and 1986.

Mr. President, packaging comprises nearly one-third of all municipal solid waste. It is about time that we stop using these dangerous metals in packaging when safe alternatives are readily available.

The bill I am introducing today requires that manufacturers reduce the total concentration of cadmium, mercury, lead, and chromium in packaging to 600 parts per million in 2 years, 250 parts per million in 3 years, and 100 parts per million in 4 years. It does allow exemptions for packaging that either is made from recycled materials or where the metals are needed to protect the contents, such as medical products used in radiation and x rays. Further, this legislation requires that manufacturers present certificates showing that they are complying with these reductions. Finally, this bill calls for the EPA to report on how effective these steps prove to be and whether other toxic materials should be reduced as well.

This legislation complements S. 1112 and S. 1113, introduced by Senators BAUCUS and CHAFEE. Both these bills address toxic materials in products and their packaging and ban the disposal and incineration of batteries, which account for the bulk of lead, cadmium, and mercury in municipal solid waste. The bill I am introducing today will also complement legislation developed by Senators REID and BRADLEY to reduce exposure to the harmful effects of lead. Together, my legislation and these other bills will help prevent harmful materials from infecting our soil, air, water, and ultimately ourselves and our children.

Mr. President, the bill I am offering today reflects the hard work of CONEG and industry and environmental organizations. I commend all of the organizations involved for their effort to protect the environment from these toxic materials.

In the mere 8 months since CONEG developed this model legislation, eight States have adopted legislation to reduce toxic metals in packaging; including: Connecticut, Maine, New Hampshire, New York, Rhode Island, Vermont, Iowa, and Wisconsin. Other States currently have similar legislation pending. Mr. President, the swift action on behalf of the States to enact this legislation indicates that getting toxic metals out of packaging is a pressing problem—and one that can be solved efficiently and effectively under this bill. We have waited much too long to control these dangerous metals. CONEG realizes that the time is ripe for a national effort and has endorsed this legislation. The Congress now needs to build on the pathmaking efforts of the States and enact this bill.

I urge my colleagues to support this legislation.

I ask unanimous consent that the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reduction of Metals in Packaging Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the management of solid waste can pose a wide range of hazards to public health and safety and to the environment;

(2) packaging comprises a significant percentage of the overall solid waste stream;

(3) the presence of heavy metals in packaging is a part of the total concern in light of their likely presence in emissions or ash when packaging is incinerated, or in leachate when packaging is landfilled;

(4) lead, mercury, cadmium, and hexavalent chromium, on the basis of available scientific and medical evidence, are of particular concern;

(5) it is desirable as a first step in reducing the toxicity of packaging waste to eliminate the addition of these heavy metals to packaging; and

(6) the intent of this Act is to achieve this reduction in toxicity without impeding or discouraging the expanded use of post-consumer materials in the production of packaging and its components.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "package" means a container providing a means of marketing, protecting, or handling a product and includes a unit package, an intermediate package, and a shipping container as defined in ASTM D996, and unsealed receptacles such as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs;

(2) "distributor" means any person, firm, or corporation who takes title to goods purchased for resale; and

(3) "packaging component" means any individual assembled part of a package such as, but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels.

SEC. 4. PROHIBITION/SCHEDULE FOR REMOVAL OF INCIDENTAL AMOUNTS.

(a) The Administrator of the Environmental Protection Agency shall issue such regulations as may be necessary to require, not later than 2 years after the date of the enactment of this Act, that no package or packaging component shall be offered for sale or for promotional purposes by its manufacturer or distributor in any State of the United States, which includes, in the package itself or in any packaging component, inks, dyes, pigments, adhesives, stabilizers, or any other additives, any lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution as opposed to the incidental presence of any of these elements.

(b) Such regulations shall further provide that not later than 2 years after the date of the enactment of this Act, no product shall be offered for sale or for promotional purposes by its manufacturer or distributor in any State of the United States, in a package which includes, in the package itself or in any of its packaging components inks, dyes, pigments, adhesives, stabilizers, or any other additives any lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution as opposed to the incidental presence of any of these elements.

(c) For purposes of such regulations, the sum of the concentration levels of lead, cadmium, mercury, and hexavalent chromium present in any package or packaging component shall not exceed the following—

(1) 600 parts per million by weight (0.06%) effective two (2) years after the date of the enactment of this Act;

(2) 250 parts per million by weight (0.025%) effective three (3) years after the date of the enactment of this Act; and

(3) 100 parts per million by weight (0.01%) effective four (4) years after the date of the enactment of this Act.

SEC. 5. EXEMPTIONS.

(a) Such regulations shall be applicable to all packages and packaging components except the following—

(1) those packages or package components with a code indicating date of manufacture that were manufactured prior to the effective date of this statute;

(2) those packages or packaging components to which lead, cadmium, mercury, or hexavalent chromium have been added in the manufacturing, forming, printing, or distribution process in order to comply with health or safety requirements of Federal law or for which there is no feasible alternative, except that the manufacture of a package or packaging component must petition the Environmental Protection Agency for any exemption from the provisions of this subsection for a particular package or packaging component based upon either criterion. The Administrator of the Environmental Protection Agency may grant a 2-year exemption if warranted by the circumstances. Such an exemption may, upon meeting either criterion of this subsection, be renewed for 2 years. For purposes of this subsection, a use for which there is no feasible alternative is one in which the regulated substance is essential to the protection, safe handling, or function of the package's contents; or

(3) packages and packaging components that would not exceed the maximum contaminant levels set forth in subsection (c) of

section 4 of this Act but for the addition of post-consumer materials.

(b) The provisions of subsection (a) shall be of no effect on and after the expiration of the 72-month period following the date of the enactment of this Act.

SEC. 6. CERTIFICATE OF COMPLIANCE.

(a) Such regulation shall require, not later than 2 years after the date of the enactment of this Act, a Certificate of Compliance (stating that a package or packaging component is in compliance with the requirements of this Act) be furnished by the manufacture or supplier of such package or component to its purchaser. Where compliance is achieved under the exemptions provided in subsection (b) or (c) of section 5, the Certificate shall state the specific basis upon which the exemption is claimed. The Certificate of Compliance shall be signed by an authorized official of the manufacturing or supplying company. The purchaser shall retain the Certificate of Compliance for as long as the package or packaging component is in use. A copy of the Certificate of Compliance shall be kept on file by the manufacturer or supplier of the package or packaging component. Certificates of Compliance, or copies thereof, shall be furnished to the Environmental Protection Agency upon its request and to members of the public in accordance with section 9.

(b) If the manufacturer or supplier of the package or packaging component reformulates or creates a new package or packaging component, the manufacturer or supplier shall provide an amended or new Certificaate of Compliance for the reformulated or new package or packaging component.

SEC. 7. FEDERAL ENFORCEMENT.

Whenever on the basis of any information the Administrator of the Environmental Protection Agency determines that any person has violated or is in violation of this Act, the Administrator may issue an order assessing a civil penalty in an amount not to exceed $25,000.

SEC. 8. REVIEW BY THE ENVIRONMENTAL PROTECTION AGENCY.

The Administrator of the Environmental Protection Agency shall review the effectiveness of this Act no later than 42 months after the date of its enactment and shall report to the Congress the results of such review. The report may contain recommendations to add other toxic substances contained in packaging to the list set forth in this Act in order to further reduce the toxicity of packaging waste, and shall contain a recommendation whether to continue the recycling exemption as it is provided for in subsection (c) of section 5 of this Act, and a description of the nature of the substitutes used in lieu of lead, mercury, cadmium, and hexavalent chromium.

SEC. 9. PUBLIC ACCESS.

Any request from a member of the public for a copy of any Certificate of Compliance from the manufacture or supplier of a package or packaging component shall be—

(1) made in writing with a copy provided to the Administrator of the Environmental Protection Agency;

(2) made specific as to package or packaging component information requested; and

(3) responded to by the manufacturer or supplier within 60 days.

SEC. 10. NON-PREEMPTION.—Nothing in this Act shall be construed so as to prohibit a State from enacting and enforcing a standard or requirement with respect to toxic metals in packaging that is more stringent than a standard or requirement relating to toxic metals in packaging established or promulgated under this Act.●

By Mr. HATFIELD:

S.J. Res. 376. Joint resolution authorizing the deployment and use of United States Armed Forces only to deter aggression by Iraq against Saudi Arabia or pursuant to the authority of the United Nations to enforce economic sanctions against Iraq; to the Committee on Foreign Relations.

(The remarks of Senators, and the text of the joint resolution appear earlier in today's RECORD.)

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S.J. Res. 377. Joint resolution designating the oak as the national arboreal emblem; to the Committee on the Judiciary.

DESIGNATION OF THE OAK AS THE NATIONAL ARBOREAL EMBLEM

● Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation on behalf of myself and Senator BRADLEY to designate the oak as the national arboreal symbol.

The oak tree is a fitting choice for the United States' national arboreal symbol. Over 300 species of oak are native to North America, and many turn beautiful colors in early autumn. The oak is found in every State of the Union. Oak wood is hard and strong, symbolic of the strength of our Nation and its people. The oak has played an important role in the building of our Nation. We and our ancestors have used the oak for housing, furniture, food, and decoration. All in all, the oak would make an excellent symbol to highlight our Nation's diversity, beauty, strength, durability, and longevity.

The International Society of Arboriculture strongly supports the designation of the oak as our Nation's arboreal symbol, and, in a recent poll, found that an overwhelming majority of those sampled favored the oak as our arboreal symbol.

This year the Senate and House of Representatives highlighted the importance of the tree by passing Senator BRADLEY's legislation proclaiming the last Friday of April as "National Arbor Day." The President too, has recognized the importance of trees to our Nation: his "America the Beautiful" program calls for public and private sector cooperation to plant, improve, and maintain nearly one billion additional trees annually.

Mr. President, adoption of a national tree would heighten environmental awareness and appreciation of the importance of our arboreal resources, and I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that a copy of a letter by the International Society of Arboriculture urging adoption of the oak as our national tree be printed in the RECORD following my statement along with the text of our legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 377

Whereas the oak has more than 300 species native to North America;

Whereas the oak is grown today in every State;

Whereas the oak represents durability and longevity;

Whereas the fruit of the oak, the acorn, was used as food by early native Americans;

Whereas, in a poll conducted by the International Society of Aboriculture, the oak was selected by a majority of people as the tree that symbolizes the United States;

Whereas the oak has been renowned in art, music, and literature; and

Whereas it is fitting and proper that the United States have a national arboreal emblem: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the tree commonly known as the oak is designated and adopted as the national arboreal emblem of the United States, and the President is authorized and requested to declare such fact by proclamation.

INTERNATIONAL SOCIETY OF ARBORICULTURE,
Urbana, IL, September 13, 1989.

Hon. FRANK R. LAUTENBERG,
Senate Office Bldg.,
Washington, DC.

DEAR SENATOR LAUTENBERG: In August of 1988, I had the honor of being appointed the Chairman of the National Tree Committee by President Claude Desjardins of the International Society of Arboriculture. With this appointment, President Desjardins instructed me to conduct a nationwide survey not only of our ISA Chapter membership but other arboricultural and horticultural organizations to determine which tree should be nominated as our National Tree. Although we have a National Bird—the Bald Eagle—and a National Flower—the Rose—no President or Congress has ever established a National Tree.

In the past year, more than 1,000 ballots from 38 states have been cast to nominate a national tree. Many individual citizens have also participated in the survey. To date the genus Quercus or Oak is leading the balloting by a wide margin.

We are enclosing a few copies of the many news clippings from all over the country supporting this important effort. The three major New Jersey arboricultural organizations also strongly support this important endeavor. They are the Arborists Association of New Jersey, the New Jersey Chapter of the ISA, and the New Jersey Shade Tree Federation. Members of New Jersey Garden Clubs and Environmental Commissions have also cast nominating ballots for a National Tree. Our balloting records are available for your examination.

On behalf of the officers and members of the International Society of Arboriculture, as well as the arboricultural organizations in New Jersey, may I respectfully urge you to introduce legislation in Congress to make the Oak our National Tree.

Sincerely,

HARRY J. BANKER,
Chairman, National Tree Committee.

National Tree Ballot Count as of Apr. 2, 1990

Abies	3
Acer	126
Aesculus	5
Ailanthus	1
Amelanchier	3
Asimina	1
Betula	10
Carya	5
Catalpa	1
Castanea	8
Cedrus	3
Cercis	1
Cocos	13
Cornus	25
Cupressa	1
Fagus	21
Fraxinus	5
Ginkgo	58
Gleditsia	1
Gymnocladus	1
Ilex	7
Juglans	7
Juniperus	7
Liquidambar	8
Lirodendron	9
Magnolia	7
Malus	25
Mimosa	1
Morus	2
Oxydodendron	1
Picea	23
Pinus	151
Platanus	9
Populus	19
Prunus	16
Pseudotsuga	16
Prospis	1
Pyrus	1
#1 Quercus	5,728
Robinia	3
Salix	19
Sassafras	2
Sequoia	133
Sorbus	1
Taxodium	5
Tilia	3
Tsuga	2
Ulmus	36
Zelkova	1
Total	6,535●

ADDITIONAL COSPONSORS

S. 1677

At the request of Mr. BOSCHWITZ, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1677, a bill to amend the Railroad Retirement Solvency Act of 1983 to provide a 3-year extension of the transfer of revenues attributable to taxation of tier 2 benefits to the Railroad Retirement Account.

S. 1860

At the request of Mr. BOREN, the names of the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1860, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 2356

At the request of Mr. SYMMS, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2356, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees

S. 2657

At the request of Mr. WILSON, his name was added as a cosponsor of S. 2657, a bill to direct the Secretary of the Interior, acting pursuant to the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and Acts amendatory thereof and supplementary thereto, to undertake certain studies to investigate opportunities for wastewater reclamation and reuse, to conduct studies of groundwater, and for other purposes.

S. 2750

At the request of Mr. SASSER, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 2750, a bill to amend the Federal Property and Adminstrator Services Act of 1949 to authorize the Administrator of General Services to make available for humanitarian relief purposes any nonlethal surplus personal property, and for other purposes.

S. 2822

At the request of Mr. LAUTENBERG, the names of the Senator from Connecticut [Mr. DODD], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 2822, a bill to promote and strengthen aviation security, and for other purposes.

S. 2902

At the request of Mr. PRYOR, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 2902, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the code relating to church and welfare benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 2993

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2993, a bill to amend the Internal Revenue Code of 1986 to extend the solar, geothermal, ocean thermal energy tax credits through 1995.

S. 3002

At the request of Mr. MOYNIHAN, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 3002, a bill to amend title XIX of the Social Security Act to permit coverage of residential drug treatment for pregnant women and certain family members under the Medicaid Program, and for other purposes.

S. 3091

At the request of Mr. THURMOND, the names of the Senator from Arizona [Mr. MCCAIN], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 3091, a bill to amend the Act incorporating the American Legion as to redefine eligibility for membership therein.

S. 3118

At the request of Mr. MOYNIHAN, the names of the Senator from New Jersey [Mr. BRADLEY], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of S. 3118, a bill entitled "the Medicaid Drug Dependency Treatment Coverage Act of 1990."

SENATE JOINT RESOLUTION 263

At the request of Mr. HELMS, the names of the Senator from Indiana [Mr. COATS], the Senator from Georgia [Mr. FOWLER], the Senator from Iowa [Mr. GRASSLEY], the Senator from California [Mr. WILSON], the Senator from Alaska [Mr. STEVENS], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 263, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

SENATE JOINT RESOLUTION 305

At the request of Mr. THURMOND, the names of the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Joint Resolution 305, a joint resolution to designate the month of September 1990, as "National Awareness Month of Children With Cancer."

SENATE JOINT RESOLUTION 344

At the request of Mr. THURMOND, the names of the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 344, a joint resolution to designate the week of November 18 through 24, 1990, as "National Wild Turkey Week" and November 22, 1990, as "National Wild Turkey Day."

SENATE JOINT RESOLUTION 352

At the request of Mr. SIMON, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of Senate Joint Resolution 352, a joint resolution designating the month of September, 1991, as "National Growth Month."

SENATE RESOLUTION 296

At the request of Mr. ROTH, the names of the Senator from Colorado [Mr. ARMSTRONG], the Senator from Illinois [Mr. DIXON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Mississippi [Mr. COCHRAN], the Senator from Connecticut [Mr. DODD], the Senator from Nevada [Mr. REID], and the Senator from Nebraska

[Mr. EXON] were added as cosponsors of Senate Resolution 296, a resolution to express the sense of the Senate to the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 334—ORIGINAL RESOLUTION REPORTED REGARDING THE INDEPENDENCE OF THE BALTIC STATES

Mr. PELL, from the Committee on Foreign Relations, reported the following original resolution; which was placed on the calendar:

S. RES. 334

Resolved,

(a) The Senate finds as follows:

(1) the President and Secretary of State have made repeated statements emphasizing long-standing United States policy to reject, and not recognize, the incorporation of the Baltic States by the Union of Soviet Socialist Republics; and

(2) the President and his representatives have also stressed that this policy is in no way altered or compromised by the provisions of the Treaty on the Final Settlement with Respect to Germany.

(b) It is the sense of the Senate that the President should take all appropriate steps to ensure that the act of United States ratification of the Treaty on the Final Settlement with Respect to Germany, and the affirmation of the definitive nature of the borders of a unified Germany which the Treaty entails, are not construed by any government to imply any diminution or compromise of United States determination not to recognize the forceful incorporation of the Baltic States by the Union of Soviet Socialist Republics.

AMENDMENTS SUBMITTED

MONEY LAUNDERING ENFORCEMENT ACT

KERRY (AND GARN) AMENDMENT NO. 2933

Mr. KERRY (for himself and Mr. GARN) proposed an amendment to the bill (S. 3037) to authorize Federal depository institution regulatory agencies to revoke charters, terminate deposit insurance, and remove or suspend officers and directors of depository institutions involved in money laundering or monetary transaction reporting offenses, to amend chapter 53 of title 31, United States Code, to require the Secretary of the Treasury to issue regulations concerning the identification of nonbank financial institutions subject to the Bank Secrecy Act, to prohibit illegal money transmitting businesses, to provide for the standardization of advertised yields on savings accounts and investments, to require the uniform disclosure of the key costs of such accounts and investments, and for other purposes, as follows:

At the end of the bill, add the following:

TITLE VI—FAIR TRADE IN FINANCIAL SERVICES

SEC. 601. SHORT TITLE.

This title may be cited as the "Fair Trade in Financial Services Act of 1990".

SEC. 602. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"NATIONAL TREATMENT

"SEC. 15. (a) PURPOSES.—This section is intended to—

"(1) encourage foreign countries to accord national treatment to United States banks and bank holding companies that operate or seek to operate in those countries; and

"(2) seek an end to discrimination against United States banks and bank holding companies.

"(b) ANNUAL REPORTS REQUIRED.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(1) identifying each foreign country—

"(A) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States banks and bank holding companies; and

"(B) with respect to which no determination under subsection (d)(1) is in effect;

"(2) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(3) describing the results of negotiations conducted pursuant to subsection (c)(1).

"(c) NEGOTIATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall initiate negotiations with any foreign country described in subparagraphs (A) and (B) of subsection (b)(1) to ensure that that country accords national treatment to United States banks and bank holding companies.

"(2) NEGOTIATIONS NOT REQUIRED.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(d) DISCRETIONARY SANCTIONS.—

"(1) IN GENERAL.—A Federal banking agency may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed by a person of a foreign country if the Secretary has published in the Federal Register (and has not rescinded) a determination that the foreign country does not accord national treatment to United States banks and bank holding companies.

"(2) REVIEW.—The Secretary of the Treasury shall annually review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) PREVENTING EXISTING ENTITIES FROM BEING USED TO EVADE THIS SECTION.—

"(1) IN GENERAL.—If a determination under subsection (d)(1) is in effect with respect to a foreign country, no bank, foreign bank described in section 8(a), branch, agency, commercial lending company, or other affiliated entity that is a person of that country shall, without prior approval pursuant to paragraph (3) or (4), directly or indirectly, in the United States—

"(A) commence any line of business in which it was not engaged as of the date on which that determination was published in the Federal Register; or

"(B) conduct business from any location at which it did not conduct business as of that date.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to transactions under section 2(h)(2) of the Bank Holding Company Act of 1956.

"(3) STATE-SUPERVISED ENTITIES.—

"(A) This paragraph shall apply if—

"(i) the entity in question is an uninsured State bank or branch, a State agency, or a commercial lending company;

"(ii) the State requires the entity to obtain the prior approval of the State bank supervisor before engaging in the activity described in subparagraph (A) or (B) of paragraph (1); and

"(iii) no other provision of Federal law requires the entity to obtain the prior approval of a Federal banking agency before engaging in that activity.

"(B) The State bank supervisor shall consult about the application with the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act). If the State bank supervisor approves the application, the supervisor shall notify the appropriate Federal banking agency and provide the agency with a copy of the record of the application. During the 45-day period beginning on the date on which the appropriate Federal banking agency receives the record, the agency may, after consultation with the State bank supervisor, issue an order disapproving the activity in question. The period for disapproval under the preceding sentence may, in the agency's discretion, be extended for not more than 45 days.

"(4) FEDERAL APPROVAL.—If the transaction is not described in paragraph (3)(A), the entity in question shall obtain the prior approval of the appropriate Federal banking agency.

"(5) INFORMING STATE SUPERVISORS.—The Secretary of the Treasury shall inform State bank supervisors of any determination under subsection (d)(1).

"(6) EFFECT ON OTHER LAW.—Nothing in this subsection shall be construed to relieve the entity in question from any otherwise applicable requirement of Federal law.

"(f) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States banks and bank holding companies if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banks and bank holding companies.

"(g) PERSON OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is citizen of that country, or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(h) EXERCISE OF DISCRETION.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Federal banking agencies shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Federal banking agencies, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States banks and bank holding companies; and

"(ii) whether that country would permit United States banks and bank holding companies already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this section.".

SEC. 603. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS.

Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at the end the following new paragraph:

"(11) NATIONAL TREATMENT.—(A) This paragraph is intended to encourage foreign countries to—

"(i) accord national treatment to United States brokers and dealers that operate or seek to operate in those countries; and

"(ii) seek an end to discrimination against United States brokers and dealers.

"(B) For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(i) identifying each foreign country—

"(I) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States brokers and dealers; and

"(II) with respect to which no determination under subparagraph (D)(i) is in effect;

"(ii) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(iii) describing the results of negotiations conducted pursuant to subparagraph (C)(i).

"(C)(i) The Secretary of the Treasury shall initiate negotiations with any foreign country described in subclauses (I) and (II) of subparagraph (B)(i) to ensure that that country accords national treatment to United States brokers and dealers.

"(ii) Clause (i) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(I) determines that such negotiations would be fruitless or would impair national economic interests; and

"(II) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(D) The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign country does not accord national treatment to United States brokers and dealers:

"(i) The Commission may, in consultation with the Secretary of the Treasury—

"(I) deny any application for registration under this subsection filed by a person of that foreign country; and

"(II) prohibit any person of that foreign country from acquiring control of a registered broker or dealer, irrespective of when the acquisition was initiated.

"(ii) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered broker or dealer unless—

"(I) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(II) the Commission has not prohibited the acquisition.

"(iii) The Commission may, by order, extend the notice period with respect to any particular acquisition for not more than 60 days.

"(iv) The Secretary of the Treasury shall annually review any determination under this subparagraph and decide whether that determination should be rescinded.

"(E) A foreign country accords national treatment to United States brokers and dealers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic brokers and dealers.

"(F) A person of a foreign country is a person that—

"(i) is organized under the laws of that country;

"(ii) has its principal place of business in that country;

"(iii) in the case of an individual—

"(I) is a citizen of that country, or

"(II) is domiciled in that country; or

"(iv) is directly or indirectly controlled by a person described in clause (i), (ii), or (iii).

"(G) In exercising discretion under this paragraph—

"(i) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(ii) the Commission, in consultation with the Secretary of the Treasury—

"(I) shall consider, with respect to a broker or dealer that is a person of a foreign country and is already operating in the United States—

"(aa) the extent to which that foreign country has a record of according national treatment to United States brokers and dealers; and

"(bb) whether that country would permit United States brokers or dealers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's brokers or dealers; and

"(II) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this paragraph.".

SEC. 604. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS.

Section 203 of the Investment Advisers Act of 1940 (12 U.S.C. 80b-3) is amended by adding at the end the following new subsection:

"(i) NATIONAL TREATMENT.—

"(1) PURPOSES.—This subsection is intended to encourage foreign countries to—

"(A) accord national treatment to United States investment advisers that operate or seek to operate in those countries; and

"(B) seek an end to discrimination against United States investment advisers.

"(2) ANNUAL REPORTS REQUIRED.—For each calendar year beginning on or after January 1, 1991, the Secretary of the Treasury shall, not later than May 1 of the following calendar year, submit to the Congress a report—

"(A) identifying each foreign country—

"(i) that, according to the most recent report submitted under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, does not accord national treatment to United States investment advisers; and

"(ii) with respect to which no determination under paragraph (4) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of negotiations conducted pursuant to paragraph (3)(A).

"(3) NEGOTIATIONS REQUIRED.—(A) The Secretary of the Treasury shall initiate negotiations with any foreign country described in clauses (i) and (ii) of paragraph (2)(A) to ensure that that country accords national treatment to United States investment advisers.

"(B) Subparagraph (A) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(i) determines that such negotiations would be fruitless or would impair national economic interests; and

"(ii) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(4) DISCRETIONARY SANCTIONS.—The following provisions shall apply if the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination that a foreign country does not accord national treatment to United States investment advisers:

"(A) The Commission may, in consultation with the Secretary of the Treasury, deny any application, and disapprove any notice, filed pursuant to this title by a person of that foreign country.

"(B) The Commission may, in consultation with the Secretary of the Treasury, prohibit any person of that foreign country from acquiring control of a registered investment adviser, irrespective of when the acquisition was initiated.

"(C) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered investment adviser unless—

"(i) the Commission has been given notice 45 days in advance of the acquisition, in such form as the Commission shall prescribe by rule; and

"(ii) the Commission has not prohibited the acquisition.

"(D) The Commission may, by order, extend the notice period with respect to any

particular acquisition for not more than 60 days.

"(E) The Secretary of the Treasury shall annually review any determination under this paragraph and decide whether that determination should be rescinded.

"(5) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States investment advisers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic investment advisers.

"(6) PERSON OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(A) is organized under the laws of that country;

"(B) has its principal place of business in that country;

"(C) in the case of an individual—

"(i) is a citizen of that country, or

"(ii) is domiciled in that country; or

"(D) is directly or indirectly controlled by a person described in subparagraph (A), (B), or (C).

"(7) EXERCISE OF DISCRETION.—In exercising discretion under this subsection—

"(A) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(B) the Commission, in consultation with the Secretary of the Treasury—

"(i) shall consider, with respect to an investment adviser that is a person of a foreign country and is already operating in the United States—

"(I) the extent to which that foreign country has a record of according national treatment to United States investment advisers; and

"(II) whether that country would permit United States investment advisers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's investment advisers;

"(ii) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purposes of this subsection.".

SEC. 605. CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS.

(a) QUADRENNIAL REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS.—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in paragraph (3), by striking "and securities companies" and inserting ", securities companies, and investment advisers"; and

(2) by adding at the end the following: "For purposes of this section, a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities.".

(b) NEGOTIATIONS TO PROMOTE FAIR TRADE IN FINANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting "effective" after "banking organizations and securities companies have".

(c) PRIMARY DEALERS IN GOVERNMENT DEBT INSTRUMENTS.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342) is amended—

(1) by striking "does not accord to" and inserting "does not offer";

(2) by inserting "(including effective market access)" after "the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country"; and

(3) by striking "as such country accords to" and inserting "as are available to".

TITLE VII—FAIR LENDING ENFORCEMENT

SEC. 701. SHORT TITLE.

This title may be cited as the "Fair Lending Enforcement Act of 1990".

SEC. 702. APPRAISALS.

Section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended by adding at the end the following:

"(e) Each creditor shall promptly furnish an applicant, upon written request by the applicant made within a reasonable period of time of the application, a copy of the appraisal report used in connection with the applicant's application for a loan that is or would have been secured by a lien on residential real property. The creditor may require the applicant to reimburse the creditor for the cost of the appraisal.".

SEC. 703. CONSUMER COMPLIANCE PROGRAMS.

(a) FDIC.—The Federal Deposit Insurance Act is amended by adding at the end the following:

"SEC. 35. CONSUMER COMPLIANCE PROGRAM.

"(a) ESTABLISHMENT REQUIRED.—Each appropriate Federal banking agency shall establish a separate consumer compliance program. The head of the consumer compliance program shall report directly to the head of the agency.

"(b) DEFINITIONS.—For purposes of this section—

"(1) CONSUMER COMPLIANCE EXAMINATION.—The term 'consumer compliance examination' means an examination of an insured depository institution to determine the extent to which such institution is in compliance with all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws.

"(2) CONSUMER COMPLIANCE EXAMINER.—The term 'consumer compliance examiner' means an examiner who specializes in assessing compliance with all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws.

"(c) CONSUMER COMPLIANCE EXAMINATIONS.—

"(1) CONDUCTED BY CONSUMER COMPLIANCE EXAMINERS.—Consumer compliance examinations shall be conducted by consumer compliance examiners under the supervision or oversight of the head of the consumer compliance program. Each appropriate Federal banking agency may consider the size of the depository institution and the complexity of the consumer compliance examination issues presented in determining whether to assign to a particular examination a consumer compliance examiner who exclusively conducts consumer compliance examinations or an examiner who has only received specialized training in consumer compliance examinations. In making this determination each appropriate Federal banking agency shall also consider whether substantive questions of compliance have been raised in previous examinations or in comments or complaints from the public.

"(2) EXAMINATION UPON REQUEST UNDER CERTAIN CIRCUMSTANCES.—Any bank holding company or savings and loan holding company which controls an insured depository institution which determines that a consumer examination of such depository institution may be appropriate to expedite an application or notice for a deposit facility described in section 803(3) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(3)) may request in writing the appropriate consumer compliance program to conduct an examination of the depository institution pursuant to paragraph (1).

"(d) ADDITIONAL RESPONSIBILITIES.—In addition to the responsibilities established by subsection (c), the head of each consumer compliance program shall—

"(1) develop procedures for consumer compliance examinations and other procedures necessary to implement all applicable laws relating to consumer protection, including fair lending and community reinvestment laws;

"(2) train and supervise or oversee consumer compliance examiners;

"(3) develop career opportunities for consumer compliance examiners comparable to those for safety and soundness examiners;

"(4) respond to consumer complaints and inquiries;

"(5) undertake supervisory action and initiate enforcement proceedings with respect to all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws;

"(6) make recommendations to its agency concerning policies and adopt policies with respect to all applicable laws and regulations relating to consumer protection, including fair lending and community reinvestment laws; and

"(7) perform any other duties and functions related to the consumer compliance program.

"(e) EFFECTIVE DATE.—The establishment of separate consumer compliance programs in each of the agencies shall be completed no later than January 1, 1993.

"(f) REPORTS.—Each consumer compliance program shall prepare a description of its activities, which shall be included in the agency's annual report to the Congress.".

(b) NCUAB.—Title I of the Federal Credit Union Act is amended by adding at the end the following:

"SEC. 130. CONSUMER COMPLIANCE PROGRAM.

"(a) ESTABLISHMENT REQUIRED.—The Board shall establish a separate consumer compliance program. The head of the consumer compliance program shall report directly to the Board.

"(b) DEFINITIONS.—For purposes of this section—

"(1) CONSUMER COMPLIANCE EXAMINATION.—The term 'consumer compliance examination' means an examination of an insured credit union to determine the extent to which such credit union is in compliance with all applicable laws and regulations relating to consumer protection, including fair lending laws.

"(2) CONSUMER COMPLIANCE EXAMINER.—The term 'consumer compliance examiner' means an examiner who specializes in assessing compliance with all applicable laws and regulations relating to consumer protection, including fair lending laws.

"(c) CONSUMER COMPLIANCE EXAMINATIONS.—

"(1) FREQUENCY.—The Board shall conduct an on-site consumer compliance examination of each credit union within its jurisdiction either at least once every 2 years, or as frequently as the Board conducts regular

on-site safety and soundness examinations of such credit union, whichever is less frequent.

"(2) CONDUCTED BY CONSUMER COMPLIANCE EXAMINERS.—Consumer compliance examinations shall be conducted by consumer compliance examiners under the supervision or oversight of the head of the consumer compliance program. The Board may consider the size of the institution and the complexity of the consumer compliance examination issues presented in determining whether to assign to a particular examination a consumer compliance examiner who exclusively conducts consumer compliance examinations or an examiner who has only received specialized training in consumer compliance examinations. In making this determination the Board shall also consider whether substantive questions of compliance have been raised in previous examinations or in comments or complaints from the public.

"(d) ADDITIONAL RESPONSIBILITIES.—In addition to the responsibilities established by subsection (c), the head of the consumer compliance program shall—

"(1) develop procedures for consumer compliance examinations and other procedures necessary to implement all applicable laws relating to consumer protection, including fair lending laws;

"(2) train and supervise or oversee consumer compliance examiners;

"(3) develop career opportunities for consumer compliance examiners comparable to those for safety and soundness examiners;

"(4) respond to consumer complaints and inquiries;

"(5) undertake supervisory action and initiate enforcement proceedings with respect to all applicable laws and regulations relating to consumer protection, including fair lending laws;

"(6) make recommendations to its agency concerning policies and adopt policies with respect to all applicable laws and regulations relating to consumer protection, including fair lending laws; and

"(7) perform any other duties and functions related to the consumer compliance program.

"(e) EFFECTIVE DATE.—The establishment of a separate consumer compliance program shall be completed no later than January 1, 1993.

"(f) REPORTS.—The consumer compliance program shall prepare a description of its activities, which shall be included in the Board's annual report to the Congress.".

(c) SPECIAL RULE FOR STATE CHARTERED CREDIT UNIONS.—Section 204 of the Federal Credit Union Act (12 U.S.C. 1784) is amended by adding after the second sentence a new sentence to read: "The Board shall conduct consumer compliance examinations as set forth in section 130 of State chartered, federally insured credit unions only if the appropriate State supervisory agency has not established an examination program similar to that described in section 130.".

SEC. 704. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) PATTERN OR PRACTICE.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following: "Each of the agencies referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever it has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a) of this title. Each of such agencies is authorized to refer the matter to the Attorney General whenever it has reason to believe that 1 or more creditors has violated section 701(a) of this title.".

(b) DAMAGES.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h)) is amended by inserting "actual and punitive damages and" after "including".

(c) NOTICE TO HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following:

"(k) Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a) has reason to believe that a violation of this title has occurred, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, and that the alleged violation would be a violation of the Fair Housing Act (42 U.S.C. 3601 et seq.), and the agency does not refer the matter to the Attorney General pursuant to subsection (g), it shall—

"(1) notify the Secretary of Housing and Urban Development of the violation; and

"(2) notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

SEC. 705. HOME MORTGAGE DISCLOSURE ACT.

(a) IN GENERAL.—Section 309 of the Home Mortgage Disclosure Act (12 U.S.C. 2808) is amended—

(1) by striking "depository" before "institution";

(2) by inserting "specified in section 303(2)(A)" after "institution"; and

(3) by adding at the end the following: "The Board, in consultation with the Secretary, may exempt institutions described in section 303(2)(B) that are comparable within their respective industries to institutions that are exempt under the preceding sentence.".

(b) EFFECTIVE DATE.—This section shall become effective on January 1, 1991.

On page 62 between lines 16 and 17, insert the following:

(e) MODIFICATION OF FUNDS AVAILABILITY SCHEDULE.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended by striking subsection (e) and inserting the following:

"(e) PREVENTION OF FRAUD LOSSES.—

"(1) IN GENERAL.—The Board may, by regulation or by order, modify the funds availability schedule provided for in section 603 for not more than 60 days (excluding Saturdays, Sundays, legal holidays, or any day either House of Congress is not in session) for any classification of checks if the Board finds—

"(A) that a pattern of significantly increased losses at depository institutions exists that is attributable to the schedule; and

"(B) that modification of the schedule is necessary to diminish the volume of such losses.

"(2) REPORT TO CONGRESS.—Not later than 10 days after modifying the funds availability schedule pursuant to paragraph (1), the Board shall transmit a written report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, which shall specify—

"(A) the action taken by the Board;

"(B) the Board's specific reasons for modifying the schedule; and

"(C) any legislative or regulatory recommendations for preventing the need for future modifications of the schedule.

"(3) NOTICE OF CHANGE IN POLICY.—Notwithstanding the provisions of section 605(c)(2), a depository institution shall send a written notice to consumer customers within 10 days following a change in policy resulting from the modification of the funds availability schedule pursuant to paragraph (1) with respect to when customers may withdraw funds deposited into consumer accounts, and shall promptly post a notice of the modification at all branches and automatic teller machines which accept deposits.".

(f) GAO REPORT.—

(1) IN GENERAL.—Not later than 180 days following the date of enactment of this subsection, the Comptroller General of the United States shall submit a written report to the Congress evaluating the payments system changes that were implemented pursuant to the Expedited Funds Availability Act and the implementation of the permanent funds availability schedule established by section 603(b) of such Act.

(2) CONTENTS OF REPORT.—The report required by paragraph (1) shall contain—

(A) a description of any changes that have been made in the payments system to accelerate the collection or return of checks;

(B) a description of any increases in check-related losses at depository institutions due to the implementation of section 603(b) of such Act;

(C) an assessment of the risks of check-related losses at depository institutions due to the implementation of section 603(b) of such Act and an evaluation of the reasonableness of the permanent schedule availability deadlines;

(D) recommendations for actions that can be taken by banks, clearinghouses, or the Federal Reserve to facilitate the check clearing process and reduce the risk of check-related losses, together with an estimate of the costs and effects on consumers and other users of the payments system associated with such changes; and

(E) any other information or recommendations that the Comptroller General considers pertinent in effecting improvements to the payments system.

On page 44, strike line 14.

On page 44, between lines 20 and 21, insert the following:

(b) NOTICE TO CURRENT ACCOUNT HOLDERS.—For any account for which the deposity institution delivers an account statement on a quarterly or more frequent basis, the depository institution shall include on or with any regularly scheduled mailing posted or delivered within three months after publication of regulations issued by the Board in final form, a statement that the account holder has the right to request an account schedule containing the terms, charges, and interest rates of the account, and that the account holder may wish to request such an account schedule.

At page 33, line 1, strike "January 1" and insert "April 1."

At the end of the bill, add the following:

TITLE VI—INTERNATIONAL MONEY LAUNDERING

SEC. 601. REPORT ON USES MADE OF CURRENCY TRANSACTION REPORTS.

Not later than 180 days after the effective date of this section, and every 2 years for 4 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze, and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of—

(A) violations of the criminal laws of the United States;

(B) violations of the laws of foreign countries; and

(C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to in paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

SEC. 602. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than 30 days after the date of enactment of this Act, the Secretary of the Treasury (referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint the following to the Task Force:

(A) The Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member).

(B) At least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) Coding and symbology.

(ii) Scanning systems.

(iii) Computer data compilation.

(C) Representatives from each of the following:

(i) The Bureau of Engraving and Printing.

(ii) The Federal Reserve Board.

(iii) The United States Secret Service.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue a report to the appropriate committees of the Congress that summarizes the findings and recommendations of the Task Force under subsection (a)(1) and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $250,000 to carry out the purposes of this section.

SEC. 603. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by—

(A) striking the first 2 sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country that participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (A) has been agreed to by the Secretary of State, (B) is authorized in an international agreement between the United States and the foreign country, and (C) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(B) striking the last sentence.

SEC. 604. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 605. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means—

"(A) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders; and

"(B) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 606. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) of title 18, United States Code, is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 607. DEFINITION OF "SPECIFIED UNLAWFUL ACTIVITY" FOR MONEY LAUNDERING STATUTE.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "sections 1005 through 1007 (relating to false statements by an employee of a financial institution), section 1014 (relating to false statements in connection with loan and credit applications)," after "section 875 (relating to interstate communications),"; and

(2) by striking "section 1344 (relating to bank fraud),".

SEC. 608. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 609. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 610. STRUCTURING TRANSACTIONS TO EVADE CMIR REPORTING REQUIREMENTS.

(a) Section 5316(d) of title 31, United States Code, is amended to read as follows:

"(d) No person shall for the purpose of evading the reporting requirements of this section—

"(1) fail to file a report required by this section, or cause or attempt to cause a person to fail to file a report required under this section;

"(2) file, or cause or attempt to cause a person to file a report required under this section that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

HEINZ AMENDMENT NO. 2934

Mr. HEINZ proposed an amendment to the bill S. 3037, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REGULATIONS AFFECTING FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE FUNDS.

Any final regulations regarding the management of collective investment funds by institutions exercising fiduciary powers amending Part 12 of the Code of Federal Regulations, section 9.18, as proposed by the Office of the Comptroller of the Currency on February 7, 1990 (55 F.R. 4184), shall not become effective prior to 1 year following the date of enactment of this Act.

PERMANENT AUTHORITY FOR THE UNITED STATES SUPREME COURT POLICE

LEAHY AMENDMENT NO. 2935

Mr. MITCHELL (for Mr. LEAHY) proposed an amendment to the bill (H.R. 4757) to provide permanent authority for the United States Supreme Court Police, as follows:

Strike out all after the enacting clause and insert in lieu thereof: That section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States," approved August 18, 1949 (40 U.S.C. 13n(c)), is amended in the first sentence by striking out "1990" and inserting in lieu thereof "1993".

RELIEF OF NEBRASKA ALUMINUM CASTINGS, INC.

BIDEN AMENDMENT NO. 2936

Mr. MITCHELL (for Mr. BIDEN) proposed an amendment to the bill (S. 3043) for the relief of Nebraska Aluminum Castings, Inc., as follows:

On page 1, line 7, insert after the first comma, the following; "the sum of $95,000".

MEDICAID DRUG DEPENDENCY TREATMENT COVERAGE ACT

MOYNIHAN AMENDMENT NO. 2937

Mr. MITCHELL (for Mr. MOYNIHAN) proposed an amendment to the bill (S. 3118) entitled the "Medicaid Drug Dependency Treatment Coverage Act of 1990," as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Drug Dependency Treatment Coverage Act of 1990".

SEC. 2. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY TREATMENT SERVICES.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended)—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (21);

(B) by redesignating paragraph (22) as paragraph (23); and

(C) by inserting after paragraph (21) the following new paragraph:

"(22) alcoholism and drug dependency treatment services (as defined in subsection (t)); and"; and

(2) by adding at the end the following new subsection:

"(t) The term 'alcoholism and drug dependency treatment services' means alcoholism and drug dependency treatment services (including counseling) otherwise allowable under a State plan (as described in section 1902) provided on an inpatient basis by a hospital, nursing facility, psychiatric hospital, or a distinct unit in a general hospital, or on an outpatient basis by any entity otherwise eligible to participate as a provider of health care services under a program under a State plan approved under this title.".

(b) STATUTORY CONSTRUCTION.—Nothing in this Act shall be construed so as to affect sections 1905(a)(1), 1905(a)(4)(A), 1905(a)(14), and 1905(a)(16) of the Social Security Act (42 U.S.C. 1396d (a)(1), (a)(4)(A), (14), and (16), respectively) and the manner following paragraph (23) of section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

NATIONAL AWARENESS MONTH OF CHILDREN WITH CANCER

THURMOND AMENDMENT NO. 2938

Mr. BOSCHWITZ (for Mr. THURMOND) proposed an amendment to the joint resolution (S.J. Res. 308) to designate the month September 1990 as "National Awareness Month of Children With Cancer," as follows:

On page 2, line 3, strike "September," and insert in lieu thereof "October,".

Amend title by striking "September," and inserting in lieu thereof "October,".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, October 5, 1990, to hold hearings on abuses in Federal student aid programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a hearing during the session of the Senate on October 5, 1990, at 2 p.m. on the nomination of Joseph M. McLaughlin, to be U.S. circuit judge for the second circuit, Thomas G. Nelson, to be U.S. circuit judge for the ninth circuit, James B. Loken, to be U.S. circuit judge for the eighth circuit, Diane Gilbert Weinstein, to be a judge of the U.S. Claims Court, Donna M. Owens, to be Director of the Bureau of Justice Assistance.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WRITINGS OF COL. WILLIAM J. RISCH, BELLEVUE, KY

● Mr. McCONNELL. Mr. President, the other day I was going through my mail and came across a letter from Col. William J. Risch of Bellevue, KY. Colonel Risch expressed his concerns on a wide range of topics, and enclosed several works of poetry that he penned.

I would like to bring two of Colonel Risch's poems to the attention of my colleagues. The first, entitled "Dark Days on Iwo Jima," clearly depicts the dangers and rigors of combat. The second, entitled "The Vietnam Veteran," shows the pain and frustrations many veterans experienced in Vietnam and America. I think there is one particularly telling line, one that demonstrates the love of country in all our veterans hearts: "If he had to protect you again, He would gladly say, 'I'll go!'"

Mr. President, I ask that a copy of Colonel Risch's poems appear in the RECORD for the benefit of all my colleagues. As we go about our busy lives, let us not forget to keep America's veterans in our hearts and minds.

The poems follow:

DARK DAYS ON IWO JIMA

(By Col. William Risch)

I am glad I am alive today
Because we went through Horrow
If I would make one Mistake
There wouldn't be no tomorrow.

I lay in my Fox Hole
In Heat, Rain and Thunder
I Wouldn't be here Today
If I would have made one blunder.

Its hard to sleep at Night
When you haven't had a Bath
But that's all over Now
That's all in the Past.

People in this Land
Don't know what we went Through
I heard one Sea Bee Say
"Oh God"! If people only Knew.

THE VIETNAM VETERAN

(By Col. William Risch)

We Came back from Vietnam
We walked with our heads held high
I lost a few of my buddies
Many times I sit and cry.

People look at you and Stare
They just don't understand
We fought for our Country
In some God forsaking land.

If the people saw Everything
They would treat us Better
We didn't ask to go over There
In that hot jungle weather.

I went into a sleazy bar
Some made a Sarcastic Slur

Where did you get all those Medals
Did you buy them over there.
When I pulled off my uniform
I felt like a Stupid Goose
I asked myself why did I go
Then I said "Oh What's The Use"!
What's wrong with the Veteran
He did Fight too and Fro
If he had to protect you again
He would Gladly say "I'll Go."●

DOMESTIC VIOLENCE

● Mr. ROCKEFELLER. Mr. President, today I rise to speak on one of the most pressing and upsetting issues in our country today: Domestic violence. As one of the foremost health threats against women in the United States, domestic violence is especially horrible because it undermines a basic structure of society—relationships of respect within families. A woman is battered every 18 seconds in our country. The rate of assaults against women ages 20–24 has risen 48 percent since 1974, and the rate of rapes has risen four times as fast as the total crime rate in the last 10 years. Yet, often our society is silent and refuses to intervene. Mr. President, it is time to break this insidious trend.

I am proud to say citizens in my State have done a great deal for these victims. The West Virginia Coalition Against Domestic Violence was formed in 1979, and in 1989 two coordinators were hired to run the coalition. The 12 shelters in my State serve nearly 1,000 people every month, providing them with group support, information and referral services, counseling, crisis intervention and advocacy, and emergency support services. Very few people work in these centers full time, and so they rely on substantial volunteer support. Fortunately, there is a lot of it. Volunteers work selflessly for many hours, donating not only time but warmth and sympathy as well. In one shelter alone volunteers worked for over 2,750 hours in a year—and this is common throughout the State.

West Virginia has also passed legislation to help stop this violence. The Domestic Violence Act of 1990 made possible many important steps to help protect women. It included verbal and emotional belittling in its definition of abuse, extended the family protection order from 30 to 60 days, and mandated uniform law enforcement response to domestic violence.

I am sorry to say, however, that this bill was passed only after the community was made painfully aware of an extremely tragic and fatal incident of domestic violence. Cheryl Zirkle, a victim of family assault, was murdered in Elkins, WV on February 13, 1990. Following this incredibly sad event, concerned citizens staged a demonstration where the community turnout was enormous. The community's demonstration not only improved working relationships with local law enforcement officials, it also raised community awareness. These West Virginians were not willing to sit back and let women be abused. They decided to fight back.

Mr. President, we need to take a similar initiative nationwide. Every time a woman or child is battered, all of society is punished. By not making a more serious effort to combat this cycle of violence, we are all guilty. It is time to break the silence, to show these women that we are on their side, and fight for their health and dignity.●

TELEPHONE OPERATOR CONSUMER SERVICES IMPROVEMENT ACT

● Mr. SIMON. Mr. President, I was pleased to join my colleagues on Monday in passing S. 1660, the Telephone Operator Consumer Services Improvement Act of 1990. This legislation will give consumers a fair chance to protect themselves against unfair business techniques and will also protect the reputations of honest businesses.

Alternative Operator Services [AOS] are resellers who pay commissions or rebates to supply communications services to hotels, motels, hospitals, airports, universities, and private payphone firms. The commissions are paid for the right to provide the transient customers of these institutions and pay-phone firms with operator services for long-distance calls. The result of providing these services means higher than necessary costs for the consumer.

I originally became involved in this issue after I received a letter from a constituent in my home State of Illinois. Understandably, my constituent was outraged because he had unknowingly used the services of an AOS while on vacation and received his bill, which listed exorbitant charges. I shared his sense that this was not a fair deal and began checking into the issue. I was amazed when I found out that not only is this practice widespread, it is legal.

AOS companies are relatively new to the communications field; they entered the market after the breakup of AT&T as ordered by Judge Green. While competition in the marketplace is a desirable goal, AOS works against the free market system. Since the owners of the pay phones do not use these phones, they have no incentive to keep the costs down. Instead, the incentive is in increasing the costs as the owners can get a percentage of the profits. So rather than competition to benefit the consumer, there is competition to find the most expensive service.

In 1989 I sent a letter to Senator HOLLINGS, chairman of the Commerce, Science, and Transportation Committee, requesting that this committee investigate the matter, and I joined Senator BREAUX in introducing S. 1660. I am pleased by the response of my colleagues to this situation. It has resulted in the passage of this legislation. With the enactment of S. 1660, consumers will finally have the right to make an informed choice in making calls and to protect themselves from unfair and deceptive practices. Another important point is that it will protect those service providers who have been playing by the rules of fairness from the beginning. This is a good bill, and I applaud my colleagues for passing S. 1660.●

POPULATION PRESSURES AND ENVIRONMENTAL DEGRADATION IN ASIA

● Mr. BOSCHWITZ. Mr. President, having discussed earlier the linkage between population pressures and the state of the environment in three other regions of the globe, I would like to conclude today with a brief review of the problems in Asia.

On the surface, Asia as a region may appear to be somewhat better off in this regard than the rest of the developing world. It has had a fair degree of economic growth, in large part due to an abundance of natural resources. And fertility rates have declined, as a rule, faster than in most other parts of the Third World.

Efforts to bring about sustainable and environmentally sound development in Asia involve a variety of complex factors. But it is clear to me that past rapid population growth has been a key underlying cause of unsustainable development in this region of the world, development often accompanied by increasing destruction and degradation of the region's natural resources.

In the name of "development" and short-term economic gain, forests have been and are still being destroyed without regard to regeneration; wildlife habitats are eliminated and soil degraded; coastal areas are threatened with actions that will destroy the very features that make them economically valuable; cities are increasingly polluted from uncontrolled sewage and industrial waste. In retrospect, many shortsighted efforts to deal with unanticipate surging populations have led to situations, for at least some countries of the region, that today threaten options for those countries' future productive activity and growth.

I should point out, by the way, that some of the most successful family planning efforts in the world have taken place in Asia. Population growth rates in that region have been declining steadily over the last 25 years. Countries like Japan, Korea, and Singapore have some of the lowest rates in the world. The average for

Asia is now the lowest among the developing regions.

This reduction in birth rates is, in relative terms, a success story demonstrating what can be accomplished when countries make a high-level national commitment to such reduction, provide appropriate services, and have access to financial and technical resources from outside donors, including, very particularly, the U.S. Agency for International Development.

But Asia's long-term population picture is less rosy. Today, more people live in Asia than in the United States, Canada, Europe, and the Soviet Union combined. Thus, small changes in fertility rates in this large population base, particularly in South Asia, can translate into untold millions more people in future generations.

Consider India. Almost half the people in all of Asia, excluding China, live there. Twenty-six million births—one in every five in the world—occur in India each year. About 52 million people have been added to India's population in the past 3 years—equivalent to the entire poplulation of Egypt or Thailand. If each woman capable of bearing children were to have one less child than the current pattern, India would have 181 million fewer people by the year 2025.

Contraceptive use rates in India are moderately high; 35 percent of women are using contraception. However, India's population program is heavily reliant on a single method—sterilization. Couples who opt for sterilization typically already have three or four children. What is needed is more emphasis on spacing of births, and better access to a wide range of methods and services.

In Pakistan, seven children per woman is the norm, and contraception is practiced by only 8 percent of married women. Nearby Bangladesh is another densely populated and poor country where much remains to be done. The national contraceptive prevalence rate there is 33 percent. But demonstration projects that made available a wide range of contraceptive options and counseling and support from village workers have led not only to fairly dramatic fertility reductions, but also to improved women's status, both in their homes and the larger community.

Many family planning challenges remain in Asia. As elsewhere in the world, reducing population growth is not the only factor in improving the pace of development. But it is, as I hope these talks have demonstrated, a vital component of sustainable and environmentally sound development.

Mr. President, I look forward to your support and that of my other colleagues here, this year and in the years ahead, for the family planning programs of the Agency for International Development. Unless we allow, and budget adequately for, continuation and expansion of this very valuable work, I have some doubts that viable economic development is ever going to take place in most of the Third World.●

GILDA F. AMANTEA

● Mr. SIMON. Mr. President, Just before I left for the August recess, I received an impressive letter from Gilda F. Amantea of Chicago. Mrs. Amantea is one of the 3,240 parents elected to the 540 local school councils that now run schools in Chicago.

After reading Mrs. Amantea's letter, I called her on the phone to find out more about her. About 34 years old with 3 children, she recently completed her GED and is now attending Oakton Community College part time. If she could afford to, she would go to college full time and become a teacher. Mr. President, it strikes me that there are a lot of people out there like Mrs. Amantea who would be valuable to the schools if we gave them more encouragement. Reviving the Teacher Corps, as proposed in S. 1676 currently on the Senate floor, is one way to tap the energy and enthusiasm of people like Gilda Amantea. In addition, next year, when we reauthorize the Higher Education Act, we should ask ourselves again, how can we help Gilda Amantea become a teacher?

There is nothing startlingly new in the letter I received from Mrs. Amantea, but its tone and spirit are most impressive, Mr. President, I ask that the letter be included in the RECORD.

The letter follows:

Chicago, IL, June 30, 1990.

DEAR SENATOR SIMON: The reason for my writing you is to respond to your letter dated June 11, 1990 concerning the education of our children.

You asked if I had any idea on how to improve the education system? Well matter of fact I have several deep down inside I know this would work we would have to investigate a little more because at this time I wouldn't have any idea on how much this would cost, however I do want to share my ideas with you, because it was your letter that motivated me to respond. I feel that you are sincere when you ask for my imput. I will try to answer them one on one and then summarize my feelings. Here they are.

1. How do we prepare young children for school? I feel that the Head Start program is a Head Start on helping children. We could expend these programs to all schools and all children, in the neighborhood and for the bussed children. Offer parents a minimum wage to participate in the classrooms.

2. How can we get parents more involved? Speaking from experience as a volunteer for the past seven years is there are many parents life myself who enjoyed volunteer however volunteering doesn't put food on the table or cloth my children. That is why I had to return to work. I love children and have a great way of getting though to them, if I would of been offered pay say minimum wage with benefits of hospitalization for my children and family. I would still be there. It was because being around children that not wanted me to return to school at the age of 33 years old. I was a high school dropout but now attend college two nights a week. Mr. Simon you don't need a college degree to help children. There are many parents and grandparents, community persons, seniors etc., that have love for children and have basic skills with math and reading. The two most important skills that our children are failing. Get us into each classroom! We can make a difference!!!

3. Good teachers who get discouraged? Why are they discouraged? Should be the question? I feel that the class size is too large. One teacher to handle (let alone teach) 30 small children is ridiculous! Get the teacher (each teacher) and aide. Not a college graduate, but a concerned parent into the classroom. Teacher can instruct and the parent aides would go around the room help each child? A child with a little encouragement and little more attention can excel! I truly believe this. Team teach is also a good idea. All day school 9 to 5 with two people a teacher and an aide can accomplish much more than one teacher to 30 students. 9-3 with little time. How about it Mr. Simon let's give this a try too! Too much to accomplish in little time.

4. Concerning children who are labeled Troublemaker, why is the child a troublemaker? Should be the question. Maybe because he needs a little more attention, a little stroke of care once in a while to encourage him. Someone to tell him he is special. Maybe this child is fraustrated that he is not able to understand what is going on in a classroom filled with 30 students. Removing or "kick that child out" is not the answer. We have to reach out and reach into his innerself, when a child believes he can do it, he will do it.

5. When the children are realy trying hard, these children are the ones that need to be zoned in on. Why are they slipping? Do they need more instructions or explanation of the problem. These children are motivated, what they need continued support to keep them interested in what they are learning.

6. Substitute teachers capabilities? Each school should have one or two substatitute assigned to that school so both the teacher and the children are familiar with each other. Also a lesson plan from the classroom teacher would help a great deal, the principal can be given daily sheets on where the classroom is at a certain subject. Substitutes can review lessons with the children. Perhaps this substitute can shed some light on something that the teacher could not?

Supplies and books? Teaching children to take care of them things is something we all can be involved in. When you respect what a book stands for the way you treat it make a difference! Be sure that books are up to date and that children can relate to what is in the book, that is, the book should relate to what is happening at the present time in their environment.

8. Foundations helping schools? I think the adopt a school program is a start but needs to be expanded. Sometimes businesses think that they have to contribute large amounts of money. They don't, a little from everyone helps. And they can help with supplies. Paper pencils, pens, crayons, tools etc. Anything that would help, even nutritious snacks and treats. Certificates to popular fast food stores. Gift certificates from stores, these can be used as incentives and awards for children who are trying to learn and work hard!!

9. Special Projects are excellent! Yes it would work at our school!! Talking with parents and teachers, the problem some children have is handing in home work! When you ask Teachers why? They respond that the parents don't help the children! When you ask the parents, they say that they don't understand the homework to help their children and that perhaps it was hard for the child to understand the work with $30 students in the room. What I would like to see (again it involves getting parents to participate). Let the Board of Education open the schools all day, hire parents to supervise the children and have the children study together with their friends! Why do some children find it easer to do homework and for others its too hard! One, could be no supervision at home because both parents NEED to work. Two, child needs a little more help to understand. Three, doesn't have anywhere or tools to help him do it. Four feels that no one cares if he does it or not! Five, A peer could help him understand the work at their level. They also have time to socialize with each other. Home work can be fun when you have the motivation to do it. Children don't need T.V. They need each other's company and a sense of belonging to help them understand. T.V. for some children is the only friend. Get this child in a classroom after school to do homework with friends and you'll see this child soar.

10. For the student who excels? I don't think they are stimulated enough. What I suggest is Departmental classes at all levels of teaching. Example, if a child is in 1st grade, he does first grade work in some areas and 2d or 3d grade in reading and math. Why not move these children to other classrooms for that time period. Perhaps the system that they use in upper grades should be expanded to primary and intermediate levels too! The child will be stimulated to do more. This system would have to benefit all children. Not to retain or hold back or (flunk) a child but to move all the children in that school to classrooms and levels that will motivate the child to do more. Don't label children Dump or Brainy or Nerd! When everyone in the class is at the same level for that particular subject, there is a teacher and have an aide that will inspire that child. Different teachers move different talents. Match that teacher to the right subject and the product will be a child who feels that he understands what he is doing and this in turn helps with positive self esteem. At the present time each room does have separate "groups" however, this is where we make the mistake of labeling children Smart, Slow, & Dumb. The child's self esteem is lowered among his classroom peers. Allowing departmental classrooms at 1st grade—8th is an excellent idea. This would have to be well organized which will take a lot of work to begin it. Reform is an excellent idea. However, it happened all at once. No one knew what we were doing. Perhaps pilot programs would be best to see if they work. Please Mr. Simon give this some thought. We all need to do something. Our children are turning to drugs and crime to give them a High Self Esteem! Let's help our children get high on Life. Let's help our children feel good about themselves. We must help our children love themselves before they can love learning or anything else. Let's examine our own feelings, what makes us like or dislike something. Why do we work extra hard at something and not enough at other things.

Well these are my ideas Senator Simon, I'm not going to re-write this because I feel my true thoughts are on this paper. I would truly appreciate in hearing from you on what you think of these ideas. I think you are sincere. Help me to help kids. Reach out to me Mr. Simon and together we can reach out to our children. Let's tell our children and help them believe that They are special! Thank you and God Bless you.

Sincerely.

Mrs. GILDA F. AMANTEA.●

SALUTE TO WATSON, MN

● Mr. BOSCHWITZ. Mr. President, I rise today to bring to the attention of this body the outstanding accomplishments of the town of Watson, MN. Watson is not a big city—a little over 200 people live there—but it has done big things and will soon be receiving a big award.

The Environmental Protection Agency is nationally recognizing Watson in a ceremony in Washington, DC, with its "1990 Operation and Maintenance Excellence Award," for having one of the most improved wastewater treatment plants in the country. Watson has already received EPA's region 5 award for operation and maintenance excellence.

The award is based on the plant's perfect compliance record throughout 1989; the enthusiasm and hard work of the new operator to refurbish and return the 35-year plant to full service; the support of the community for the plant's restoration; and the effective training and technical assistance provided to the city by the Minnesota Pollution Control Agency's outreach program.

The Watson plant treats 20,000 gallons of wastewater daily. The plant consistently removes from wastewater more than 90 percent of polluting biochemical oxygen demand and suspended solids. It also effectively disinfects wastewater and neutralizes disinfectant residues. From what I know about wastewater treatment facilities, Watson's record is among the very best.

Mr. President, I also understand it only cost the city $15,000 to come into compliance with EPA regulations and to obtain this remarkable record. Where many cities would have spent $1.5 million for a new plant, with proper technical assistance and a lot of hard work, Watson was able to achieve the same results with its current facility. Truly an effective use of taxpayers' dollars.

I would also like to commend plant operator Harlis Nordaune and Watson Mayor Robert Buchanan for their hard work and dedication to this project. Without their devotion to the project, this award wouldn't be possible.

Again, Mr. President, I am very pleased to recognize Watson, its residents, and its fine wastewater treatment facility.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of Rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for David McKean, a member of the staff of Senator JOHN KERRY, to participate in a program in Canada, sponsored by the Institute de Formation Intrbancaire [INSIG], and the International Crime Police Organization, on May 30, 1990.

The committee has determined that participation by Mr. McKean in the program in Canada, at the expense of the INSIG, and the International Crime Police Organization, is in the interest of the Senate and the United States.●

POPULATION PRESSURES AND ENVIRONMENTAL DEGRADATION IN LATIN AMERICA

● Mr. BOSCHWITZ. Mr. President, I spoke here several times earlier this summer about the clear link between world population pressures and the degradation of our global environment. Previously, I described this linkage in the Near East and in sub-Saharan Africa. Today, I would like to touch briefly on the situation in Latin America and the Caribbean.

In 1950, the populations of North America and of Latin America were roughly equal—165 million inhabitants each. Let us look at what's happened since then, over the past four decades.

Today, the combined population of the United States and Canada totals 278 million. South of the Rio Grande, however, the corresponding figure is 447 million, more than double its size 40 years ago, more than 60 percent larger than that of its northern neighbors.

Population growth in Latin America and the Caribbean has been particularly explosive in the cities, where migration from rural areas compounds growth due to high fertility. Four of the world's ten largest cities are in Latin America: Mexico City, Sao Paulo, Buenos Aires, and Rio de Janeiro. Lima, which now ranks 25th, will overtake Chicago and London in size during the next decade.

If we think New York City is crowded, consider this: Sao Paulo is smaller in area than Philadelphia, but it has as many people as New York City and Philadelphia combined. Simply imagine Mexico City, with almost twice as many people as New York City crammed into less than half the space.

This growth brings in its wake very negative consequences for the ecology of the region. This spring, the well-regarded World Resources Institute characterized Latin America's environmental situation this way. "Increasingly," and I quote, "pollution and environmental degradation are blighting the natural resources of the region, decreasing its productive potential for current and future generations, and threatening human health and the very existence of countless plant and animal species."

I think most of you know of my grave concerns about the world's diminishing forests. As I have previously described, both here and at last spring's Interparliamentary Conference on the Global Environment, half of the world's tropical forests have been lost since the turn of the century.

More and more people have led to increasing acceleration of land clearing. The resultant destruction of trees continues today, with precious little in the way of planned reforestation. This destruction's going on, most unfortunately, in Brazil, which has the world's largest remaining tropical forest, and by far the largest area of annual deforestation. It is also going on in Costa Rica, which has much smaller forest areas, but probably the highest annual rate of forest loss, an estimated 7.6 percent, in the world.

My concerns, and those of most Latin American leaders, however, go beyond forests, important as those resources are. Increasing population pressures have been directly responsible for the region's intensification of agriculture, for opening of marginal land, for the diversion of river and ground water, and for continuing soil erosion.

These burgeoning numbers of people have created life-threatening air, water, and other forms of pollution in crowded urban areas, river pollution from untreated sewage and from mining and other industrial operations, and damage to coastal estuaries and other marine resources through pollution, clearing of mangrove swamps, and overfishing.

In addition, Latin America is a significant contributor to global environmental problems through emissions of carbon dioxide and other greenhouse gases. Population pressure is not the only cause of this rape of the land. Other culprits include land tenure inequities, lack of emission controls, and very serious fiscal indebtedness.

Ultimately, most of these problems are closely interrelated, and, in my view, can be traced to excessive population growth, by which I mean growth at levels that threaten sustainable development, growth that outpaces resources, and, lastly, growth that substantially exceeds the opportunities for productive employment.

Notable achievements in slowing population growth have taken place in a number of countries. Brazil, Colombia, and Mexico together account for almost 61 percent of the region's total population, have all achieved impressive declines in population growth and fertility. Families in those countries have about half of the number of children that families had 30 years ago, primarily due to the increased use of contraceptives by women.

But progress is mixed. The average Haitian woman, for example, has approximately eight children. And only 7 percent of married women in that country use any form of contraception. Most countries in the region fall somewhere between these two extremes, with moderate progress in increasing access to family planning services.

Mr. President, family planning will not solve all of Latin America's problems by any means. But it can help to buy time needed to cope with other development challenges. Previous United States investments of money and expertise have paid off in Brazil, Colombia, and Mexico. We need now, and over the coming years, to provide modest increases in the family planning budget of the Agency for International Development, increases that will allow for continuation and expansion of this work for the whole of the region. I look forward to your support in coping with the extremely serious threat that rapid population growth poses to our planet's quality of life.●

VICTIM RIGHTS AND RESTITUTION ACT AFTER PASSAGE IN THE HOUSE

● Mr. NICKLES. Mr. President, during today's consideration of comprehensive crime legislation, the House of Representatives acted on an amendment I offered here in the Senate to provide rights and restitution to crime victims. I am pleased to report that the House passed the landmark Victim Rights and Restitution Act.

Passage of this amendment signals a great victory for all victims of crime, both State and Federal. When this bill becomes law, crime victims will enjoy rights at the Federal level that most States already guarantee. Most important are the act's restitution provisions, making criminals pay for their crimes. Under the legislation, crime victims will be entitled to receive full financial compensation directly from the criminal in the form of mandatory restitution. The law will ensure that crime will not pay—but criminals will. The Victim's Act also overturn two recent Supreme Court decisions that limit the scope and effectiveness of court-ordered restitution.

Last spring as the Senate began formulating what would become the omnibus crime package, I realized that in reforming the judicial system to facilitate more effective and efficient methods of dealing with criminals, we were overlooking the most important part of the crime-fighting equation: the victims. I believe very strongly that laws need to be changed to help our police officers and courts deal with the overwhelming increase in crime and I think many of the provisions in the Senate crime bill are headed in the right direction. What the original bill failed to do, however, was to improve the system at the other end.

The Victim Rights and Restitution Act establishes rights for victims of crimes tried in Federal court including the right to be notified of and involved in court proceedings, the right to be protected from the accused, the right to be treated fairly and with respect, and the right to be informed of the detention status of the convicted criminal.

More importantly, the Victim's Act mandates that courts order restitution in all Federal criminal cases. Victims would be able to recover financial losses resulting from the criminal act. This restitution order would be a condition of any form of release for the offender. The legislation would ensure that the criminal not only pays his debt to society, but he also pays his debt to this victim.

The Victim's Act also serves to close damaging loopholes in current law. In May 1990, the Supreme Court ruled in the Davenport case that a criminal can avoid paying court-ordered restitution by declaring bankruptcy under Chapter 13 of the bankruptcy code. This is wrong. If this loophole is allowed to remain on the books, no restitution order will be enforceable because criminals will be able to escape the court order through the bankruptcy code. My bill prohibits the discharge of restitution orders as part of a bankruptcy proceeding.

Also in May of this year, the Supreme Court ruled in the Hughey case that restitution could not be ordered for crimes beyond the scope of the offense of conviction. So, if a criminal is convicted of a criminal offense, but plea bargains his way out of a conviction on a second offense, he cannot be held responsible to repay the victim of the second offense. My bill would allow the court to consider the course of criminal conduct and order restitution for crimes other than the offense of conviction. Plea bargains should not

result in victims being denied the justice they deserve which certainly includes full restitution from the offender.

Mr. President, the Victim Rights and Restitution Act has received the written endorsements of victim rights experts across the Nation including the National Organization for Victim Assistance, the National Victim Center, Mothers Against Drunk Driving, and the National Coalition Against Sexual Assault.

In its letter of support, the National Victim Center called the act "one of the most comprehensive and necessary bills we have seen emerge from Congress. It will undoubtedly change a criminal justice system that for too many innocent victims is more criminal than just." Mothers Against Drunk Driving states that the act "promises significant protection for the rights of victims and better judicial response to their unique needs." The Justice Department has also expressed its support for the measure.

I am pleased this landmark victim's legislation has been approved by both Houses of Congress. I appreciate the support the chairman of the Senate Judiciary Committee has given this amendment and extend a personal thanks to Congressman MIKE OXLEY of Ohio, who offered the legislation in the House today.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the executive session to consider the following nominations: Calendar Nos. 1035, 1040, 1041, 1042, 1043.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and the Senate return to legislative session.

I further state for the RECORD that Wayne Berman, Calendar No. 1035, has made a commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF COMMERCE

Wayne Lee Berman, of New York, to be an Assistant Secretary of Commerce.

DEPARTMENT OF JUSTICE

Benjamin F. Marsh, of Ohio, to be a member of the Foreign Claims Settlement Commisson of the United States for the term expiring September 30, 1992.

Stephen B. Higgins, of Missouri, to be U.S. attorney for the Eastern District of Missouri for the term of 4 years.

Doris Swords Poppler, of Montana, to be U.S. attorney for the District of Montana for the term of 4 years.

Arthur D. Borinsky, of New Jersey, to be U.S. Marshal for the District of New Jersey for the term of 4 years (reappointment).

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

BILLS INDEFINITELY POSTPONED—S. 663 AND H.R. 2151

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following items be indefinitely postponed: Calendar No. 133, S. 663 and Calendar No. 348, H.R. 2151.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT AUTHORITY FOR THE UNITED STATES SUPREME COURT POLICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 571, H.R. 4757, an act to provide permanent authority for the Supreme Court police.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4757) to provide permanent authority for the United States Supreme Court police.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2935

(Purpose: To provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police)

Mr. MITCHELL. Mr. President, on behalf of Senator LEAHY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for Mr. LEAHY, proposes an amendment numbered 2935.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof:

That section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States," approved August 18, 1949 (40 U.S.C. 13n(c)), is amended in the first sentence by striking out "1990" and inserting in lieu thereof "1993".

Amend the title so as to read: "To provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2935) was agreed to.

Mr. BIDEN. Mr. President, I am pleased to join my colleague from South Carolina, the distinguished ranking member of the Judiciary Committee, Senator THURMOND, in urging passage of a bill to provide for a 3-year extension of authority for the Supreme Court Police.

When I joined Senator THURMOND earlier this year in introducing this legislation, I commented on the importance of providing adequate safeguards for the Justices serving on the bench of our Nation's highest court. Because the Supreme Court must involve itself in the most controversial issues of the day, the Justices are, unfortunately, potential targets.

The legislation before us extends for 3 more years the authority of the Supreme Court Police to provide security for Supreme Court Justices beyond the building and grounds of the Court. Without this authority, it would be impossible to guarantee that the Justices will be protected in all phases of their service.

The bill introduced by Senator THURMOND and myself would have made permanent the authority of the Supreme Court Police to protect the Justices beyond the grounds of the Court. Chief Justice Rehnquist had requested this change.

Because of the concerns of some Members, the original legislation has been amended to include a sunset provision requiring the Senate to review this authority before the end of 1993. It is my view that the Senate should then seriously reconsider the Chief Justice's request to make this authority permanent.

Mr. President, I urge the Senate to pass this security measure for the Justices of the U.S. Supreme Court.

Mr. THURMOND. Mr. President, today, I rise to strongly urge my colleagues to vote in favor of this legislation. On May 3, 1990, I introduced this important legislation which will ensure the continued availability of police protection to the U.S. Supreme Court Justices while they are off of the Supreme Court grounds.

Under current law, the Supreme Court Police may provide protection outside of the Court grounds to the Supreme Court Justices, and to any officer, employee, or official guest of the Supreme Court. Unfortunately, this

authority expires at the end of this year. This legislation as originally introduced would replace the statute's sunset provision with a permanent authorization for protection. However, concerns were raised about eliminating the sunset provision. Therefore, this legislation simply extends the police protection for an additional 3 years.

Mr. President, this provision of law is rarely, if ever, used. For example, last year it was only utilized by the Court on three occasions at a total cost of only $541. Yet, it is necessary. Should events arise which would require the police protection of the Chief Justice or an Associate Justice, protection ought to be available. In this time of escalating crime, drug trafficking, and narco-terrorism, it is essential that the U.S. Supreme Court Justices and their employees have police protection if, and when, the unfortunate need should arise.

In closing, this legislation was requested in a letter I received from Chief Justice Rehnquist. He has expressed concern that this protection should be available if the need for such protection should ever arise. I believe that we ought to take this necessary step to enhance the safety of our Nation's highest court.

For these reasons, I urge my colleagues to support this legislation.

The PRESIDING OFFICER. If there be no further debate, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall the bill pass?

So the bill (H.R. 4757), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Calendar No. 531, S. 2572 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF NEBRASKA ALUMINUM CASTINGS, INC.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 910, S. 3043, a bill for the relief of Nebraska Aluminum Castings, Inc.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3043) for the relief of Nebraska Aluminum Castings, Incorporated.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 3043

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIM AGAINST THE UNITED STATES.

(a) IN GENERAL.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated **[**the sum of $95,000, plus interest from March 26, 1986,**]** to Nebraska Aluminum Castings, Inc., of Hastings, Nebraska, for costs arising out of the rejection by the United States Army of a proposal by Nebraska Aluminum Castings, Inc., in response to Solicitation No. DAAKO1-85-B-BO6O issued on August 27, 1985, by the United States Army Troop Support Command, for hand-held aluminum compasses.

(b) CONDITION OF PAYMENT. The payment of the sum referred to in subsection (a) shall be in full satisfaction of any claim of Nebraska Aluminum Castings, Inc., against the United States arising out of the proposal rejection described in such subsection.

[(c) RATE OF INTEREST.—The payment of interest authorized by this section shall be computed in the same manner as interest allowable under section 2516(a) of title 28, United States Code, for a judgment of the United States Claims Court entered on March 26, 1986.**]**

SEC. 2. LIMITATION ON ATTORNEY AND AGENT FEES.

(a) IN GENERAL.—Not more than 10 percent of the amount appropriated pursuant to section 1 shall be paid to or received by any agent or attorney for services rendered in connection with the claim described in such section.

(b) ENFORCEMENT.—Any person who violates the provisions of this section shall be fined not more than $1,000.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

AMENDMENT NO. 2936

Mr. MITCHELL. Mr. President, on behalf of Senator Biden I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. BIDEN, proposes an amendment numbered 2936.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 7, insert after the first comma, the following' "the sum of $95,000".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2936) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed; as follows:

S. 3043

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIM AGAINST THE UNITED STATES.

(a) IN GENERAL.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $95,000, to Nebraska Aluminum Castings, Inc., of Hastings, Nebraska, for costs arising out of the rejection by the United States Army of a proposal by Nebraska Aluminum Castings, Inc., in response to Solicitation No. DAAKO1-85-B-BO6O issued on August 27, 1985, by the United States Army Troop Support Command, for hand-held aluminum compasses.

(b) CONDITION OF PAYMENT.—The payment of the sum referred to in subsection (a) shall be in full satisfaction of any claim of Nebraska Aluminum Castings, Inc., against the United States arising out of the proposal rejection described in such subsection.

SEC. 2. LIMITATION ON ATTORNEY AND AGENT FEES.

(a) IN GENERAL.—Not more than 10 percent of the amount appropriated pursuant to section 1 shall be paid to or received by any agent or attorney for services rendered in connection with the claim described in such section.

(b) ENFORCEMENT.—Any person who violates the provisions of this section shall be fined not more than $1,000.

Mr. MITCHELL. I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEDICAID DRUG DEPENDENCY TREATMENT COVERAGE ACT OF 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 3118 to amend title XIX of the Social Security Act to clarify coverage of alcoholism and drug dependency treatment services and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3118) entitled the "Medicaid Drug Dependency Treatment Coverage Act of 1990."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being not objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2937

Mr. MITCHELL. Mr. President, on behalf of Senator MOYNIHAN, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. MOYNIHAN, proposes an amendment numbered 2937.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Drug Dependency Treatment Coverage Act of 1990".

SEC. 2. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY TREATMENT SERVICES.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (21);

(B) by redesignating paragraph (22) as paragraph (23);

(C) by inserting after paragraph (21) the following new paragraph:

"(22) alcoholism and drug dependency treatment services (as defined in subsection (t)); and"; and

(2) by adding at the end the following new subsection:

"(t) The term 'alcoholism and drug dependency treatment services' means alcoholism and drug dependency treatment services (including counseling) otherwise allowable under a State plan (as described in section 1902) provided on an inpatient basis by a hospital, nursing facility, psychiatric hospital, or a distinct unit in a general hospital, or on an outpatient basis by any entity otherwise eligible to participate as a provider of health care services under a program under a State plan approved under this title.".

(b) STATUTORY CONSTRUCTION.—Nothing in this Act shall be construed so as to effect sections 1905(a)(1), 1905(a)(4)(A), 1905(a)(14), and 1905(a)(16) of the Social Security Act (42 U.S.C. 1396d (a)(1), (a)(4)(A), (14), and (16), respectively) and the matter following paragraph (23) of section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2937) was agreed to.

Mr. MOYNIHAN Mr. President; with the great cooperation of our distinguished chairman, Senator BENTSEN, and of our ranking Republican, Senator PACKWOOD, the Committee on Finance has discharged S. 3118, the Medicaid Drug Dependency Treatment Coverage Act of 1990. This measure would simply codify current administration policy with regard to the reimbursement by the Federal Medicaid Program of treatment services for crack cocaine and other alcohol and drug addictions.

Just 1 year ago I took to the floor to introduce S. 1673 the Drug Abuse Treatment Act of 1989. That bill was in large part a response by this Senator to my inability to get a clear response to the question of whether Medicaid would reimburse for the treatment of crack cocaine addiction. We did know that Medicaid would cover methadone for heroin addiction. But since a pharmacological treatment for crack cocaine has not become generally available, we were in the position of being told that since crack addicts had no treatment, crack addicts had no disease.

The following day I announced my intention to offer my bill as an amendment to the then pending bill S. 1711, the National Drug Control Strategy Act of 1989. In short order, on October 3, 1989, I offered a modified version of the original proposal and with the cosponsorship of our distinguished Republican leader Senator DOLE, the Senate unanimously passed amendment 919. The operative section of the amendment stated:

* * * treatment on request may be provided to all individuals eligible for assistance under this title (A) who desire to rid themselves of substance abuse problems, and (B) whose income and resources are insufficient to meet the cost of such treatment.

The Senate unanimously endorsed the proposition that Medicaid should and would reimburse any eligible man or woman who sought treatment for addiction to crack cocaine. This no small accomplishment, however, was all but lost on those whose responsibility it is to see to it that the principles of the Anti-Drug Abuse Act of 1988, Public Law 100-690, be implemented fully To wit, section 2012 of the act entitled "Purposes":

It is the purpose of this subtitle * * * to increase to the greatest extent possible, the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem.

With no little effort from this Senator over the past months to get an answer to my question concerning the administration's policy with regard to Federal Medicaid reimbursement for crack cocaine treatment services, on May 23, 1990, I received the kind of reasoned and professional response we have come to expect from our most capable Administrator of the Health Care Financing Administration, Dr. Gail Wilensky.

Dr. Wilensky's letter clarifies—for the first time—for us and for the States the extent to which the Federal Medicaid Program will pay for the treatment of crack cocaine addiction. Her statement that "it is simply not true that Federal Medicaid policy will not permit payment to hospitals for treatment of crack cocaine addiction" was a most welcome pronouncement. Even more so her statement that:

The Medicaid program offers a wide range of benefits which may be of use to crack cocaine addicts. Beyond payment for impatient and outpatient hospital treatment which are mandatory benefits, States also have the option to include clinic and rehabilitative services in their Medicaid benefit packages. These could range from short episodes to full day treatment programs.

Mr. President, the States did not know this. Perhaps now, with the passage of the bill the Senate considers today, they will do.

At a hearing before the Senate Committee on Finance on June 28, which addressed the tragedy of crack babies, Secretary Sullivan agreed with the position described in Dr. Wilensky's letter.

I would now take a moment to inform my colleagues that their patience has been rewarded. I have harangued a bit. But this has been a matter of simple yet great importance. Drug addiction is a disease of the brain. It must be treated as such. What services exist must be readily available to eligible individuals who seek treatment.

On August 20, 1990, Dr. Wilensky again wrote to me. This time enclosing a letter she had directed to be sent to all State Medicaid directors outlining the services that the Federal Medicaid Program would reimburse for the treatment of substance abuse and specifically crack cocaine addiction. This is a matter of some consequence. Problems remain. Limitations exist. Those we in Congress can address. But the administration has now clearly delineated for the States the services available to them for the treatment of crack addiction.

The bill before the Senate would codify in the statute the two letters from the Health Care Financing Administration thereby making permanently and explicitly clear to the States the current scope of the Federal Medicaid Program with regard to the variety of services and reimbursement for substance abuse treatment.

The Congressional Budget Office has provided me with a "no cost" estimate for this clarification.

Mr. President, I ask unanimous consent that the CBO cost estimate and the two letters from Dr. Wilensky be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRELIMINARY CBO STAFF ESTIMATE

Proposal: Draft bill language codifying letter from G. Wilensky. Proposal would clarify current law with respect to States' ability to provide substance abuse treatment services under Medicaid.

Preliminary CBO Staff estimate: Outlays by fiscal year, in millions of dollars; 1991, 0; 1992, 0; 1993, 0; 1994, 0; 1995, 0; 5-year total, 0.

Date: 01-Oct-90, 05:35 PM.

Analyst: Jean Hearne.

Basis of estimate: The preliminary estimate of no cost is based upon the current ability to provide substance abuse services in entities authorized by the State to do so. The draft language would clarify current law and would not result in additional expenditures to the Medicaid program. Estimate is subject to uncertainty due to being on draft language. The final language may require a separate cost estimate.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Washington, DC, May 23, 1990.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing to convey our concern that there may be some misunderstanding about Medicaid coverage for crack cocaine addiction. The intent of this letter is to clarify what coverage does exist under the Medicaid program. To the extent individuals are eligible for Medicaid and need inpatient hospital care, it is covered under the Medicaid program. For mandatory Medicaid benefits, such as inpatient hospital services, our regulations explicitly prohibit States from using a recipient's diagnosis, type of illness, or condition as the basis for arbitrary limiting or denying coverage.

A State may determine that the hospital setting is not appropriate for the treatment of certain conditions. However, it is simply not true that Federal Medicaid policy will not permit payments to hospitals for treatment of crack cocaine addiction.

In fact, the Medicaid program offers a wide range of benefits which may be of use to crack cocaine addicts. Beyond payment for inpatient and outpatient hospital treatment which are mandatory benefits, States also have the option to include clinic and rehabilitative services in their Medicaid benefit packages. These services provide outpatient care that could range from short episodes to full day treatment programs.

Although the above services are allowable for all States, they are optional. Each State designs its own program, building on the basic Federal requirements. States establish their own regulations and instructions and construct eligibility, coverage, and payments rules with which they operate their programs. Thus, general statements about Medicaid must be quite general to be applicable across the board.

Another difficulty in discussing an issue like treatment of crack cocaine addiction is that Title XIX of the Social Security Act provides coverage for generic services rather than coverage for specific diagnoses or conditions. Thus, when a specific condition is discussed, it is necessary to determine the appropriate services the State Medicaid program offers that can be used to treat the condition. In raising the question of hospital care and crack cocaine addiction, the issue must be posed as follows—what if any, type of inpatient hospital care is medically appropriate for the treatment of crack cocaine addiction? This is a question that must be answered by the individual State in developing its Medicaid coverage package.

Medicaid has one statutory restriction that is of particular relevance to the coverage of substance abuse services. Title XIX precludes the payment for services to individuals between the ages of 22 and 65 in institutions for mental diseases (IMDs). Under the International Classification of Diseases, Clinical Modification (ICD-9-CM), alcohol and drug abuse are classified as mental disorders. Consequently, facilities that exclusively treat psychiatric or substance abuse disorders are considered by Medicaid as IMDs. This restriction in Medicaid coverage relates to the long standing State role in supporting mental health and substance abuse treatment services and operating State mental institutions.

While recognizing the States' primary role in providing services in these areas, the Federal government does target substantial support to States for the prevention and treatment of substance abuse through many activities, most notably the Alcohol, Drug Abuse, and Mental Health Services Block Grant. This grant program provides funds to the States to enhance and expand alcohol, drug abuse, and mental health services according to individual States needs. In response to the National Drug Control Strategy, the drug abuse portion of this block grant has been significantly increased this year. The Alcohol, Drug Abuse, and Mental Health Administration also has funds available through several categorical programs which target pregnant women and their infants as well as high-risk populations.

Like you, Dr. Sullivan and I remain strongly committed to fighting drug abuse and reducing the demand for drugs. Should you or your staff require further information on this matter please contact me or Thomas Gustafson, Acting Director, Office of Policy Analysis, of my staff. He may be reached at (202) 245-0500. We welcome your interest in this area, and look forward to working with you on matters of mutual concern.

Sincerely,

GAIL R. WILENSKY, PH.D.,
Administrator.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Washington, DC, August 20, 1990.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am responding to your letter of July 16 regarding current Medicaid payment for drug abuse treatment. You indicated that my recent explanation of the Medicaid policy was "a most welcome pronouncement." I assure you that Secretary Sullivan agrees with the position described in my letter to you.

As you know, we share your concerns about drug addiction and related problems. We thought it would be helpful to remind States of the extent to which the Medicaid program could be used to help persons with these conditions. Therefore, we sent letters to each State Medicaid Director reminding them of services available under the program. A copy of that letter is enclosed. I hope you will find it informative.

We appreciate your continued interest in this important national issue. Please be assured that we support all efforts to resolve this problem.

Sincerely,

GAIL R. WILENSKY, PH.D.,
Administrator.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Baltimore, MD, August 2, 1990.

ALL STATE MEDICAID DIRECTORS: The Medicaid program is an excellent resource in the national effort to deal with drug addiction and related problems. Because Medicaid's benefits are described in terms of specific services rather than the conditions to be treated, there are often misunderstandings as to the extent that the Medicaid program's benefits can help persons with drug addiction and related problems. I am writing to review the ways that available Medicaid benefits relate to the treatment of these conditions in order to ensure that all States are aware of these possibilities.

A number of primary care services may be used, including physicians' services, clinic services, and pharmaceuticals (e.g., methadone). Additionally, services appropriate for treating addiction may be provided (1) by home health agencies, (2) under home and community-based services waivers, and (3) as part of the EPSDT benefit constellation. A number of States have also used freedom of choice waivers or exceptions to their State plans to implement managed care programs targeted to substance abuse. Case management may be used to coordinate the needed services, and special day treatment programs may be established that combine needed therapy, counseling and other services.

Inpatient hospital benefits may be used for acute treatment of symptoms, detoxification and drug-related medical complications. Rehabilitation services may be provided in a wide variety of settings. These include outpatient programs in hospitals and clinics, and inpatient programs located in nursing facilities, psychiatric hospitals, and special units in general hospitals. Rehabilitation services may also be provided in settings that are not Medicaid participating facilities.

Although payment restrictions relating to institutions for mental diseases (IMDs) can affect some inpatient programs for treating chemical dependency, it is important to remember that these restrictions do not apply to any facility that has less than 17 beds. For this reason, it may be advantageous to set up this type program in smaller facilities, even though room and board payment would not be made unless it is a participating facility. Optional IMD benefits are also available in psychiatric facilities for individuals under age 21 and for individuals age 65 and over regardless of the size of the facility.

There are many State and local programs funded by the Office of Substance Abuse Prevention, National Institute on Drug Abuse, and Health Resources and Services Administration. You may find it worthwhile to collaborate with these programs. If your State is interested in expanding Medicaid services in the area of substance abuse treatment, we can support this effort by responding to questions as they arise in developing new programs. Please contact your HCFA Regional Office.

Sincerely,

ROZANN ABATO,
Acting Director,
Medicaid Bureau.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Drug Dependency Treatment Coverage Act of 1990".

SEC. 2. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY TREATMENT SERVICES.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (21);

(B) by redesignating paragraph (22) as paragraph (23); and

(C) by inserting after paragraph (21) the following new paragraph:

"(22) alcoholism and drug dependency treatment services (as defined in subsection (t)); and"; and

(2) by adding at the end the following new subsection:

"(t) The term 'alcoholism and drug dependency treatment services' means alcoholism and drug dependency treatment services (including counseling) otherwise allowable under a State plan (as described in section 1902) provided on an inpatient basis by a hospital, nursing facility, psychiatric hospital, or a distinct unit in a general hospital, or on an outpatient basis by any entity otherwise eligible to participate as a provider of health care services under a program under a State plan approved under this title.".

(b) STATUTORY CONSTRUCTION.—Nothing in this Act shall be construed so as to affect sections 1905(a)(1), 1905(a)(4)(A), 1905(a)(14), and 1905(a)(16) fo the Social Security Act (42 U.S.C. 1396d (a)(1), (a)(4)(A), (14), and (16), respectively) and the matter following paragraph (23) of section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

Mr. MITCHELL. I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table is agreed to.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 328, to designate October 1990 as the month to commemorate awareness of domestic violence and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 328) designating October 1990 as "National Domestic Violence Awareness Month."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The joint resolution was considered, ordered to a third reading, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 328

Whereas it is estimated that a woman is battered every fifteen seconds in America;

Whereas domestic violence is the single largest cause of injury to women in the United States, affecting six million women;

Whereas urban and rural women of all racial, social, religious, ethnic, and economic groups, and of all ages, physical abilities, and lifestyles are affected by domestic violence;

Whereas 31 percent of female homicide victims in 1988 were killed by their husbands or boyfriends;

Whereas one-third of the domestic violence incidents involve felonies, specifically, rape, robbery and aggravated assault;

Whereas in 50 percent of families where the wife is being abused, the children of that family are also abused;

Whereas some individuals in our law enforcement and judicial systems continue to think of spousal abuse as a "private" matter and are hesitant to intervene and treat domestic assault as a crime;

Whereas in 1987, over three hundred and seventy-five thousand women, plus their children, were provided emergency shelter in domestic violence shelters and safe homes, and the number of women and children that were sheltered by domestic violence programs increased by one hundred and sixty-four thousand between 1983 and 1987;

Whereas 40 percent of women in need of shelter may be turned away due to a lack of shelter space;

Whereas the nationwide efforts to help the victims of domestic violence need to be expanded and coordinated;

Whereas there is a need to increase the public awareness and understanding of domestic violence and the needs of battered women and their children; and

Whereas the dedication and successes of those working to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "National Domestic Violence Awareness Month". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe this month by becoming more aware of the tragedy of domestic violence, supporting those who are working to end domestic violence, and participating in other appropriate efforts.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL NUTRITION MONITORING AND RELATED RESEARCH ACT OF 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1608, the National Nutrition Monitoring and Related Research Act, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1608) to strengthen national nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human services to prepare and implement a ten-year plan to assess the dietary and nutritional status of the United States population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, as someone who has a long history in the nutrition area, I am pleased to see a national nutrition monitoring bill move toward final passage. This measure is designed to establish a comprehensive, coordinated system for collecting and distributing information on the nutritional status of Americans. Such a system will provide a sounder knowledge base for our Federal food assistance, nutrition education, and nutrition research programs.

The measure before us incorporates language, some suggested by the administration, that makes its provisions more workable and cost-effective than those of previous versions of this legislation. In particular, I am pleased that the bill gives the President appropriate flexibility in naming his appointees to the new advisory council that is to be established. This language is similar to an amendment I successfully offered to the Senate version of this legislation.

The National Nutrition Monitoring Act is supported by a broad array of major agricultural, health, and advocacy organizations. I commend the sponsors on their efforts, and I urge my other colleagues to give this measure their support.

Mr. BINGAMAN. Mr. President, almost a year ago to the day, the Senate passed a piece of legislation very important to me and many of my colleagues, S. 253, the National Nutrition Monitoring and Related Research

Act of 1989. Today, I have the pleasure once again of discussing the National Nutrition Monitoring bill, this time in the form of H.R. 1608, which passed the House earlier this week. The House bill is nearly identical to S. 253, with the exception of five minor amendments which I will outline below.

Before going into detail about the House amendments, Mr. President, I wish to note that once enacted, this measure will greatly enhance the Federal Government's ability to collect and disseminate important information about the nutritional quality of our food supply. I believe this legislation is crucial to the health and well-being of all Americans, and I urge its swift passage and enactment into law.

A. THE NEED FOR LEGISLATION

I am pleased to say that over the past 3 or 4 years, some significant improvements have been made in Federal efforts to coordinate nutrition-related research. I believe that much of the improvement is a direct result of the congressional concern this legislation embodies, which our distinguished colleague in the House, Representative GEORGE BROWN, first introduced more than a decade ago. Despite this improvement, current Federal efforts related to nutrition monitoring remain largely inadequate and disjointed. In 1990, we still do not have a comprehensive nutrition monitoring program in this country. In 1990, we still do not know the nutritional status of our citizens. And without knowledge of this fundamental component, how can we—at this critical time in our Nation's history—develop programs to encourage safer, more nutritious food consumption nationwide? How can we develop programs to deal with the many diseases associated with dietary habits?

I believe that we can lay the groundwork for a truly coordinated national data-gathering program only through a congressional mandate, such as S. 253 and H.R. 1608. Fortunately, an overwhelming number of my colleagues agree. During the 100th Congress, both the House and the Senate overwhelmingly passed legislation nearly identical to this bill. Unfortunately, that measure was vetoed by former President Reagan.

I am confident that no such veto looms on the horizon with respect to this version of the bill and that the American people will soon reap the benefits of a national nutrition surveillance system capable of providing the type of up-to-date information essential to the development of effective nutrition education, nutrition research, and nutrition intervention programs.

B. H.R. 1608 PROVISIONS

H.R. 1608 recognizes that we must streamline the administrative functions of Federal nutrition monitoring programs if we are to better understand the relationship between diet, nutrition, and health.

Title I of the act establishes a 10-year coordinated nutrition monitoring and research program that is to be the joint responsibility of the Secretaries of the Departments of Agriculture and Health and Human Services. An interagency board will help the Secretaries to develop a comprehensive plan for nutrition monitoring and to implement the program. The bill also stipulates that an administrator may be appointed to serve as a coordinator for the plan and program activities.

The 10-year comprehensive plan will serve both as a focal point for nutrition monitoring activities and as a means to identify national nutrition monitoring priorities. The coordinated program will build upon the 1981 Joint Implementation Plan for a Comprehensive National Nutrition Monitoring system and will include, among other components:

A grant program to encourage and assist State and local monitoring initiatives;

An annual interagency budget for each fiscal year of the program;

A means to stimulate academic-industry-government partnerships that will help meet national nutrition monitoring needs and foster productive interaction; and

A biennial report, through contract with a nationally known scientific body, on the dietary, nutritional, and health-related status of the American people and the nutritional quality of our food supply.

Title II establishes an advisory council, to be appointed by the President and the Congress, that will provide scientific and technical advice on the development and implementation of the national nutrition monitoring program established under title I. The Council will also evaluate the effectiveness of the program.

Title III of the legislation directs the Secretaries to publish a report, based on current scientific and medical knowledge, containing nutritional and dietary information and guidelines for the general public. Entitled "Dietary Guidelines for Americans," the report is to be updated at least every 5 years.

Title III also requires a public comment period before a Federal agency may issue certain dietary guidance if either Secretary finds the guidance inconsistent with the "Dietary Guidelines for Americans." Briefly, after a 60-day period during which the Secretaries are to review internally the proposed regulations, if either Secretary—or both Secretaries—objects to the proposal, the proposing agency must publish a notice of comment in the Federal Register. After the expiration of a 30-day comment period, either Secretary may approve the guidance for dissemination to the public. The guidance must be accompanied by an explanation of its basis and purpose which addresses any substantive comments received.

C. HOUSE AMENDMENTS

Mr. President, I would like to take this opportunity to briefly outline the amendments that the House Agriculture Committee developed, largely at the request of the Department of Agriculture. I believe these amendments are perfectly acceptable and should not threaten the realization of this bill's chief purpose: to enhance our ability to collect and disseminate important information about the nutritional quality of our food supply. Indeed, in many ways, these amendments strengthen this bill.

1. BIENNIAL REPORT

This amendment reduces the reporting requirements of USDA and DHHS. As amended, the legislation would require the agencies to contract with a scientific body and publish, at least every 2 years, a report on the dietary, nutritional, and health-related status of the American people, the nutritional quality of the food supply. This requirement may be waived, however, if the Secretaries determine that within a 2-year period, data sufficient to warrant a report has not been gathered. If no report will be issued, the Secretaries are to inform Congress of that fact. However, a report must be published at least every 5 years.

2. ADVISORY COUNCIL APPOINTMENTS

This amendment clarifies that presidential appointments to the advisory council are to be based upon the recommendations of the Secretaries of USDA and DHHS.

3. ADVISORY COUNCIL MEMBERSHIP

This amendment clarifies that council membership will include at least two representatives each from the following areas: public health, nutrition monitoring research, and food production and distribution.

4. GRANT PROGRAMS

This amendment clarifies that the bill's grant programs are to be implemented to the extent that funds are made available.

5. SAMPLING GROUPS

This amendment deletes the words "geopolitical" from the described sampling groups.

In summary, Mr. President, the restructuring mandated in H.R. 1608, as amended, will ensure the effective use of Federal and State funds. It will help develop State and local initiatives to improve monitoring methods and standards. It will stimulate academic, industrial, and governmental partnerships. And, most important, it will help ensure that the American public receives the most up-to-date and comprehensive dietary guidance possible

so that healthful dietary decisions may be made.

D. CONCLUSION

I am pleased to note that this legislation, which is the result of long and intensive negotiations spanning a number of years, has won the support of a strong bipartisan coalition in the Congress and a coalition of more than 70 organizations representing health, diet, agriculture, and commodity interests. These organizations include the American Heart Association, the American Dietetic Association, the National Grange, the National Cattlemen's Association, and the United Egg Producers.

I ask unanimous consent that a more complete list of supporters, and a letter expressing their views on the legislation, be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, I would like to conclude by thanking my colleagues on the Governmental Affairs and Agriculture Committees for their assistance in the development and evolution of this legislation. The distinguished chairman of the Committee on Governmental Affairs, Senator GLENN, has provided tremendous leadership as that committee has sought ways in which the Congress can help improve health care, reduce health-care costs, and generally promote good health. His enthusiastic support for health promotion and disease prevention is a testimony to his concern for the well-being of all Americans.

I would like to thank the distinguished chairman of the Agriculture Committee, Senator LEAHY, and the distinguished ranking member, Senator BOSCHWITZ, for their role in this legislation. We are indebted to them and all of the committee members for their efforts to ensure passage of this legislation. It has indeed been a pleasure to work with the chairman, Senator BOSCHWITZ, and other members of the Agriculture Committee over the past few years.

Finally, I wish to acknowledge the tremendous staff contributions to this bill. Dr. Eileen Chofness and Gioia Bonmartini of the Governmental Affairs Committee, Laura Madden of the Agriculture Committee, and Donna Porter, who is on sabbatical from the Congressional Research Service, all have provided valuable assistance to me and my staff.

I would also like to thank and acknowledge the tremendous contribution of the American Heart Association, and in particular, Mary Crane. Her tireless work and enthusiasm truly are admirable.

Without the diligence and hard work of these people, and many others who I have not listed, we would not be in a position to take this important step toward implementing a comprehensive national nutrition monitoring system. Many long hours of effort over the past decade have gone into developing a plan for such a system that all interested parties can support.

The entire Nutrition Monitoring Coalition in the Senate, the House, and the private sector has come together in the spirit of cooperation to support this legislation. I hope we will be joined by the rest of our colleagues today in passing this bill and sending it to the President for his signature. Thank you.

EXHIBIT 1

JULY 11, 1990.

Hon. KIKA DE LA GARZA,
Committee on Agriculture,
House of Representatives,
Washington, DC.

DEAR CHAIRMAN DE LA GARZA: On behalf of the more than 30 national organizations that have endorsed the nutrition monitoring bill reported by the House Agriculture Subcommittee on Department Operations, Research and Foreign Agriculture in March 1990, we strongly urge you to support passage of this important legislation.

Recently, the U.S. Department of Agriculture and the Department of Health and Human Services have developed a package of amendments to the nutrition monitoring bill. We have reviewed those amendments and endorse their inclusion with minor modification (see attached).

Speedy action by the Committee on Agriculture will help ensure the eventual development of a coordinated comprehensive nutrition monitoring system.

Again, we strongly urge you to support the passage of nutrition monitoring legislation.

Sincerely,

AMERICAN DIETETIC ASSOCIATION.
AMERICAN HEART ASSOCIATION.
NATIONAL CATTLEMEN'S ASSOCIATION.

SEPTEMBER 13, 1989.

Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BINGAMAN: Our organizations and their members strongly urge you to support the passage of nutrition monitoring legislation reported by the Senate Committee on Governmental Affairs.

In the 100th Congress, such legislation passed the Senate twice via unanimous consent requests and passed the House in a 311 to 84 vote. These overwhelmingly favorable votes clearly point to the broad bi-partisan support that this proposed legislation enjoys.

This legislative mandate would require Federal agencies to develop and coordinate a comprehensive national nutrition monitoring system. It would provide for responsible government by requiring the Department of Health and Human Services, the Department of Agriculture, and others to "speak with one voice" on diet, nutrition and health.

Again, we strongly urge you to support the passage of this important legislation.

Sincerely,

American Academy of Pediatrics, American Association of Retired Persons, American Baptist Churches, USA, American College of Preventive Medicine, The American Dietetic Association, American Farm Bureau Federation, American Federation of State, County, and Municipal Employees, American Heart Association, American Home Economics Association, The American Meat Institute, American Medical Student Association, American Public Health Association, Association of Schools of Public Health, Association of State and Territorial Health Officials, Association of Teachers of Preventive Medicine, Bread for the World.

Food and Research Action Center, Mennonite Central Committee, National Broiler Council, National Cattlemen's Association, National Consumer League, National Farmers Union, National Milk Producers Federation, National Osteoporosis Foundation, National Pork Producers Council, National Rural Health Association, National Rural Housing Coalition, National Student Campaign Against Hunger, Public Voice for Food and Health Policy, Second Harvest, Service Employees International Union, Society for Nutrition Education, United States Conference of Local Health Officers, World Hunger Education Service.

Mr. BOSCHWITZ. Mr. President, as an original cosponsor of this bill, I am very pleased that we are able to complete final action on the National Nutrition Monitoring and Related Research Act today and send it on to President Bush for signature.

Certainly there have been improvements in the cooperation of nutrition monitoring in the past few years. However, I remain concerned that our current system does not adequately address the nutrition and health needs of Americans.

This legislation strengthens the cooperation that has been developing among the Federal agencies. A comprehensive and coordinated nutrition monitoring system will be established to assess the dietary and nutritional status of our Nation's population. The bill also better coordinates the efforts of Federal agencies regarding dietary guidance.

As the ranking Republican on the Senate Nutrition Subcommittee and a strong supporter of Federal nutrition programs, I realize that accurate, timely data are vital to help us determine how effective Federal hunger programs are.

This legislation has received broad bipartisan support in Congress. In addition, a wide range of organizations have enthusiastically endorsed the bill.

I urge my colleagues to support this vital legislation to monitor the nutritional health of Americans.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 1608) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLAUDE PEPPER FEDERAL BUILDING AND JOHN F. KENNEDY CENTER AUTHORIZATION FOR REPAIRS AND MAINTENANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Environment Committee be discharged en bloc from consideration of the following: H.R. 4985, the Claude Pepper Federal Building and H.R. 5070, John F. Kennedy Center Authorization for Repairs and Maintenance; and that the Senate then proceed, en bloc, to their consideration, that the bills be deemed read a third time and passed, and the motion to reconsider the passage of these bills be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bills (H.R. 4985 and H.R. 5070) were passed.

THE SAN CARLOS MINERAL STRIP ACT

Mr. MITCHELL. I ask unanimous consent that the Senate proceed to consideration of H.R. 4593, the San Carlos Mineral Strip Act, just received from the House.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4593) to transfer to the Secretary of the Interior the administration of the surface rights in certain lands presently within the boundaries of the San Carlos Indian Reservation, Arizona, and managed by the Forest Service as part of the Coronado National Forest, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I am pleased to support the passage of H.R. 4593, the San Carlos Mineral Strip Act of 1990. This bill will resolve a problem relating to the boundary of the San Carlos Apache Reservation which has existed for much of this century.

The south boundary of the San Carlos Reservation was originally established by President Ulysses S. Grant in 1872.

In 1896, the San Carlos Tribe conditionally ceded a total of 232,000 acres of mineral strip land to the United States. In ratifying the agreeement, Congress expressly provided that the lands so surrendered shall be open to occupation, location, and purchase under the provisions of the mineral-land laws only."

San Carlos mineral strip lands were subsequently added to the Crook National Forest—now known as the Coronado National Forest—by Presidential proclamation on July 1, 1908, and March 21, 1917. These actions were prohibited by the Act of June 10, 1896. They also violated section 24 of the Act of March 3, 1891, which authorized the Federal forest reserves to be created from public lands, not Indian lands, as well as section 10 of the 1891 Act which stated "[T]hat nothing in this act shall change, repeal or modify any agreements or treaties made with any Indian tribes for disposal of their lands, or of any land ceded to the United States to be disposed of for the benefit of such tribes. . . ."

In 1963, Under Secretary of Interior Carr issued an order restoring the subsurface rights in the mineral strip to the San Carlos Apache Tribe, subject to any valid existing rights.

In 1969, Secretary Udall issued an order restoring the surface rights in the mineral strip to the tribe. However, the Forest Service objected that National Forest lands were not subject to the authorities under which the Secretary of the Interior's order was issued, and that there was no other authority by which the Secretary of the Interior could legally transfer National Forest lands to the tribe.

Mr. President, H.R. 4593 settles this dispute once and for all. The bill affirms that the mineral strip lands are a part of the San Carlos Apache Reservation as established by Executive orders in 1871 and 1872.

A new survey is to be conducted pursuant to those executive orders and the correct boundary is to be fenced. I would estimate that the amount of acreage that will be affected is 11,853 acres. The boundaries of the Coronado National Forest will be modified accordingly.

Since the San Carlos Apache Tribes has indicated that it may seek damages against the United States as a result of Federal occupancy of the lands—it would be inappropriate to try to influence the outcome of that potential litigation here—language has been included to make it clear that nothing in the act can be construed to enhance or diminish any such claims. The tribe will have to make its case in the courts if it chooses to do so.

The bill includes language directing the Secretary of the Interior to acquire the permanent improvements on the grazing allotment located on the mineral strip lands which are subject to a grazing permit from the Forest Service on the date of enactment.

The Secretary is directed to pay $122,842 for such improvements, an amount based upon a BIA-obtained appraisal in 1978. H.R. 4593 is supported by the administration, the San Carlos Apache Tribe, and the interested non-Indians. This is a fair settlement to an old dispute and I urge my colleagues to support S. 4593.

In closing, I would like to thank my colleagues in the House, Mr. UDALL and Mr. KYL, for their work on this bill.

Mr. DECONCINI. Mr. President, I rise today in support of H.R. 4593, the San Carlos Mineral Strip Act of 1990, and urge the passage of this critically needed legislation. This act finally and conclusively brings an equitable solution to a serious problem that has existed, in essence, since 1908 when Indian lands being administered for the benefit of the San Carlos Apache Tribe were included in the National Forest System. The problem has been particularly acute since 1969 as the result of a jurisdictional dispute between the Departments of the Interior and Agriculture.

The San Carlos Indian Reservation was established by Executive orders in 1871 and 1872. Subsequently, in 1896, about 232,000 acres on the south side of the reservation were conditionally ceded to the United States to be opened up for mineral exploration with the tribe to receive the proceeds from any mineral sales. This land was and still is referred to as the San Carlos Mineral Strip. Under this arrangement, the United States was to be merely a trustee over these Indian lands. The Indians were to remain the beneficial owners of the land until such time as any particular tract of the San Carlos Mineral Strip was sold and the proceeds deposited to their benefit.

Beginning in 1908 and contrary to this trust status, 10,650 acres of the San Carlos Mineral Strip lands were added by Presidential proclamations to the National Forest System. They continue to be administered today by the Department of Agriculture as part of the Coronado National Forest.

In the 1930's, when it was determined that these lands would no longer be developed for mineral resources, the Secretary of the Interior released the San Carlos Mineral Strip from its status as set aside for mineral development. These lands were then to be returned to Indian trust status. Administrative efforts, begun in the 1930's, to return these lands to the tribe have, however, been pitifully slow and unsuccessful.

In 1969, the Secretary of the Interior restored to the tribe full surface rights in the mineral strip lands and effectively transferred management of all those portions of the mineral strip under Interior Department control to the tribe. The Forest Service, however, has refused to recognize the authority of the Secretary of the Interior to restore land that is in the National Forest System. The Forest Service,

while agreeing that these lands should be returned to the tribe, has insisted that only congressional action can accomplish a return of the land to reservation status and full tribal jurisdiction.

Mr. President, it is time to put this jurisdictional dispute aside. The portion of the mineral strip covered by the legislation before us today, the 10,650 acres within the Coronado National Forest, is the last segment of tribal land that has not been returned to Indian trust status. In order that there be no question as to the status of this land, it is time that Congress recognize and acknowledge that these lands are part of the San Carlos Indian Reservation, subject to the administration of the Secretary of the Interior as tribal trust lands and return them to the jurisdiction of the tribe. The legislation before us today accomplishes this goal.

This legislation also ensures equity for all persons affected by this longstanding dispute between governmental agencies. The Secretary of the Interior is authorized to acquire the permanent improvements made in good faith by persons holding a grazing allotment under a permit issued by the Forest Service on the land that was administered as part of the Coronado National Forest. In 1974, Congress passed a similar provision, Public Law 93-530, the San Carlos Mineral Strip—Purchase law, which appropriated funds for and directed the Secretary of the Interior to purchase from private individuals all range improvements made by them on the lands that he had returned to the San Carlos Indian Tribe. To date the only person who has not been compensated for range improvements has been the rancher whose grazing allotment is in the disputed area within the boundary of the National Forest.

Mr. President, this legislation is necessary to properly restore the control and administration of Indian tribal lands to the San Carlos Apache Tribe as part of their historic and cultural heritage and to ensure equitable restitution to those who relied in good faith on the permits issued for grazing rights by agencies of the U.S. Government. I sincerely and earnestly urge my colleagues to join me in the support and passage of this fair and just legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 4593) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE DEFENSE PRODUCTION ACT OF 1950

Mr. MITCHELL. Mr. President, I ask the Chair to lay before the Senate H.R. 486.

The PRESIDING OFFICER. The clerk will report.

A bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes.

Mr. MITCHELL. I move that the Senate insist on its amendment, request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. RIEGLE, Mr. SARBANES, Mr. DODD, Mr. DIXON, Mr. SASSER, Mr. GARN, Mr. HEINZ, Mr. GRAMM, and Mr. D'AMATO conferees on the part of the Senate.

NATIONAL AWARENESS MONTH OF CHILDREN WITH CANCER

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 305 to designate the month of December 1990 as National Awareness Month of Children With Cancer; and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 305) to designate the month of September 1990, as "National Awareness Month of Children With Cancer."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 2938

(Purpose: To change month to be commemorated from September to October)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. BOSCHWITZ], for Mr. THURMOND proposes an amendment numbered 2938.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 3, strike "September," and insert in lieu thereof "October,".

Amend title by striking "September," and inserting in lieu thereof "October,".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2938) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 305

Whereas cancer causes more than 10 percent of all deaths among children in the United States between the ages of 1 and 10;

Whereas cancer is second only to accidents as the leading cause of death for children in that age group;

Whereas families that have a child cancer victim encounter one of life's most tragic experiences;

Whereas parents of children suffering from cancer need the support and compassion of their employers, and the siblings of such children need special attention at home and in school;

Whereas dramatic progress has been made in the early diagnosis and treatment of cancer in children;

Whereas the number of children who die each year from cancer has decreased by approximately one-third since 1973;

Whereas private sector organizations and government agencies have been responsible for significant progress in the fight against cancer in children; and

Whereas these organizations and agencies, which help children suffering from cancer and their families cope with the emotional and financial stress caused by cancer treatment, are worthy of praise and support: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October, 1990, is designated as "National Awareness Month for Children with Cancer", and the President is requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The title was amended so as to read: "Joint resolution to designate the month of September 1990 as 'National Awareness Month of Children With Cancer'."

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FIREFIGHTERS' SAFETY STUDY ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate con-

sideration of Calendar No. 806, H.R. 4522, the Firefighters' Safety Study Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4522) to improve the information available to emergency response personnel in the field, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BRYAN. Mr. President, as chairman of the Consumer Subcommittee, and cochairman of the Congressional Fire Services caucus, I am pleased to recommend to the full Senate the Firefighter Safety Study Act of 1990. The purpose of this legislation is to improve the emergency response information used by firefighters and emergency response personnel while responding to fires and other hazards.

As we all know, firefighters and emergency response personnel are often required to respond to emergencies involving dangerous substances. Because of the dangers associated with these materials, it is vital that they have the best and most reliable information possible when responding to these hazards.

There have been too many incidents where firefighters and emergency personnel have had to deal with dangerous chemicals in certain emergencies but were equipped with insufficient information and instruction on how to handle such materials. This lack of information has resulted in serious injuries and, in some cases, death.

The bill provides for the formation of a special working group of Federal, State, and local officials and representatives of private industries to review information used by firefighters and emergency response personnel, particularly as it relates to hazardous materials. This working group would be required to report to Congress within 1 year the results of its study, along with recommendations to ensure that the information used by emergency response personnel is accurate and reliable.

I believe that this is a good bill and one that serves an important purpose. Therefore, I would hope that we can proceed to approve this legislation, and I urge my colleagues to support it.

Mr. HOLLINGS. Mr. President, as chairman of the Commerce Committee, I am pleased to express my support for H.R. 4522, the Firefighter Safety Study Act of 1990. This bill is designed to improve the kinds of information and materials provided to emergency personnel when responding to emergencies involving hazardous materials.

As my colleagues well know, firefighting and emergency response are very dangerous professions. Firefighters and emergency response personnel are required to respond not only to fires and medical emergencies, but also to situations involving hazardous substances. Because of the dangers associated with these materials, medical experts and those in the scientific field have stressed how important it is that proper instructions be given on how to handle such emergencies.

As a resident of South Carolina, a State that has become the repository of much of this Nation's hazardous materials, I certainly can appreciate the need for and importance of this legislation. This bill serves a vital purpose, and I hope that my colleagues will join me in supporting its passage.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4522) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON CALENDAR—S. 3167

Mr. MITCHELL. Mr. President, I ask unanimous consent that on Tuesday, October 9, 1990, at 10 a.m., the Senate proceed to the consideration of S. 3167, Senator MOYNIHAN's Social Security pay-as-you-go bill; I further ask unanimous consent that the bill be placed in the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR SATURDAY, OCTOBER 6, 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 2 p.m. on Saturday, October 6; that following the prayer, the Journal of the proceedings be deemed approved to date; and that the time for the two leaders be reserved for their use later.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, for the information of Senators, we do not know whether it will be necessary to have a vote tomorrow because we do not yet know what action the President will take with respect to the continuing resolution just passed. If the President vetoes that measure, then it will go to the House where it will be taken up, we assume, sometime in the early afternoon. The House is coming in at noon. If the House overrides the veto, then it will come to the Senate for a vote on the override.

Therefore, I urge Senators to check with their respective cloakrooms tomorrow before coming in. We should have a better idea at that time, first, as to what the President's action has been, which may make our session unnecessary or, if the President does veto it, and I hope very much that he will not, but if he does, then what the House action can be expected and what action will occur in the House. We will do our best to inform Senators as soon as possible as to what will occur at what time here in the Senate. The session tomorrow has been set as a precaution in the event there is a veto and it is overridden by the House and a vote then becomes necessary in the Senate.

Mr. WARNER. Will the Senator yield for a question?

Mr. MITCHELL. Certainly.

Mr. WARNER. I was given the clear impression during the earlier statements of the distinguished majority leader and the distinguished Republican leader that there is an ongoing effort in the Senate to try to work out a compromise budget; am I not correct in that?

Mr. MITCHELL. The Senator is correct.

Mr. WARNER. So when the distinguished leader says we would not have to have a session tomorrow, a person observing what we are saying here might interpret that as saying we are going to pack up and are going to take a holiday tomorrow, which is not the case.

Mr. MITCHELL. No, that is not the case.

Mr. WARNER. Maybe some clarification along that line would be in order, that while we may not have a formal session there will indeed be a group working primarily with the leadership and other Members who have responsibility to try to make up the initial recommendation of the package.

Mr. MITCHELL. Yes, and I thank the Senator for raising the point.

If I did not make myself fully clear, let me do so. My reference to the Senate session was merely to the formal meeting of the Senate and in this Chamber. In fact, the continuing effort to which the Senator refers involves more than just Members of the Senate. It involves Members of the House and the House leadership. I have discussed the matter with the majority leader in the House as late as just a short time ago this evening. We will be here in the morning, along with other participating Senators and House Members and staff, to continue the effort that is under way to try to reach some resolution of the matter. It is possible that there could be some action with respect to a budget resolu-

tion, although I do not want to indicate that as likely. It depends upon what develops tomorrow. But, yes, the Senator is correct. There is continuing intensive effort.

It had been my hope, and it was my suggestion earlier today, that the conference committee on the budget resume this evening, informally, to continue their discussions on a budget resolution. That proved not to be possible. But I certainly hope that such action will be possible tomorrow and that that will be part of the continuing discussions in an effort to reach a resolution of the budget.

Mr. WARNER. I thank the distinguished leader. I am sure the Republican leader, as I heard his remarks, will likewise be working throughout the weekend to try to reconcile such differences so that we can have a package. I know it is his hope that we can reach a satisfactory package not only to this body and to the House but to the President and to put this matter to rest once and for all.

Again, I commend our distinguished colleague from Maine as well as the distinguished Senator from Kansas. This may well be remembered as one of their finest hours.

Mr. MITCHELL. I thank my colleague very much for his comments.

MAKING FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

The PRESIDING OFFICER. The Chair notes for the record House Joint Resolution 660, the continuing resolution, has been passed and the motion to reconsider laid upon the table pursuant to the previous order.

RECESS UNTIL 2 P.M. TOMORROW

Mr. MITCHELL. If there be no further business to come before the Senate and no other Senator seeking recognition, I now ask unanimous consent the Senate stand in recess until 2 p.m. on Saturday, October 6; that following the prayer, the Journal of proceedings be deemed approved to date, and that the time for the two leaders be reserved for their use later.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 10:40 p.m. recessed until Saturday, October 6, 1990, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate October 5, 1990:

DEPARTMENT OF STATE

CONNIE MACK, OF FLORIDA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 5, 1990:

DEPARTMENT OF COMMERCE

Wayne Lee Berman, of New York, to be an Assistant Secretary of Commerce.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate

DEPARTMENT OF JUSTICE

Benjamin F. Marsh, of Ohio, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1992.

Stephen B. Higgins, of Missouri, to be U.S. Attorney for the Eastern District of Missouri for the term of 4 years.

Doris Swords Poppler, of Montana, to be U.S. Attorney for the District of Montana for the term of 4 years.

Arthur D. Borinsky, of New Jersey, to be U.S. Marshal for the District of New Jersey for the term of 4 years.

EXTENSIONS OF REMARKS

A BILL TO CREATE A SUPREME COURT FOR THE DISTRICT OF COLUMBIA, AND FOR OTHER PURPOSES

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. DELLUMS. Mr. Speaker, I submit for the RECORD the following report on the amendment in the nature of a substitute to the bill H.R. 4257, which I intend to bring to the floor on Monday, October 15, 1990.

REPORT ON THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO ACCOMPANY H.R. 4257

PURPOSE OF LEGISLATION

A bill to create a Supreme Court for the District of Columbia, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

In 1986, Chief Judge William Pryor of the District of Columbia Court of Appeals engaged Congressman Mervyn M. Dymally, Chairman of the Subcommittee on Judiciary and Education, in considerable discussion about the creation of a local Supreme Court, noting a considerable backlog and delay in the appellate calendar. At that time, there was a 15-month delay from the point of the filing of an appeal. Today there is a 22-month delay, which is about four (4) times longer than recommended by American Bar Association (ABA) standards. Chief Judge Pryor referred to the Subcommittee Chairman's attention several different studies on the issue.

By the beginning of our hearings in 1988, there were three different studies regarding creation of a Supreme Court in the District of Columbia.

The first was the final report of the Subcommittee on the Workload of the D.C. Court of Appeals Judicial Planning Committee dated August 1979. In that report, the subcommittee cited a 15.5-month average delay from notice to appeal (three times longer than that contemplated by ABA standards) and concluded that an Intermediate Appellate Court should be established in the District of Columbia.

The second report was a copy of a 1986 National Center for States Courts (Southeastern Region) Study on Appellate Delay in the D.C. Court of Appeals, which concluded that "serious consideration should be given to the creation of an Intermediate Appellate Court" and a 1987 resolution of the Board of Directors of the Bar Association of the District of Columbia, which "urges the creation of an Intermediate Appellate Court for D.C. * * *."

The third was a September 1987 Resolution of the Board of Directors of the Bar Association of the District of Columbia, which endorsed the idea of an intermediate court.

Each concluded that there was a need for a Supreme Court in the District of Columbia in order to alleviate its backlog and improve the quality of justice in the District of Columbia. Staff Counsel was assigned to further explore the matter and to develop a bill to establish a three (3) tier court system.

Since 1980, several states have added Intermediate Appellate Courts. According to studies of those courts, the addition of an Intermediate Court has result in a considerable increase in total appellate case dispositions. Those states include Idaho (1982), Minnesota (1983), South Carolina (1983), and Virginia (1985). For example, in Virginia total appellate dispositions in 1980-84 averaged 1,968 annually. Total appellate dispositions in 1986 were 2,479—a 26 percent increase.

It is important to note that the Appellate and Supreme Courts have two distinct functions. The Intermediate Court generally has an error correcting function—correcting errors in the lower court's application of law. The Supreme Court—as the highest state court—has a law stating (law development) function and a *final* error correcting function—being the final interpreter of the law. These functions are more logically performed by a court sitting en banc (as a whole) rather than by a subpanel of a larger court in the Court of Appeals.

Presently, in the D.C. Appellate Court, nine (9) members sit most frequently in separate three (3) judge subpanels. Although authorized to meet en banc, it very rarely does. Thus, it is seldom that a legal opinion represents the full opinion of the majority of the Appellate Court. This shortcoming affects law development in the District of Columbia.

The proposed legislation revises the system to address the appellate backlog problem and the policy concern of having an appellate judicial system with both law stating and error correcting functions.

II. Legislative History

A. Introduction of First Bill: H.R. 4366

On April 13, 1988, Messrs. Walter E. Fauntroy, Chairman of the Subcommittee on Fiscal Affairs and Health; Mervyn M. Dymally; and Romano L. Mazzoli introduced H.R. 4366, a bill to establish a Supreme Court of the District of Columbia, and for other purposes. On April 19 and 28, 1988, the Subcommittee on Judiciary and Education held hearings on H.R. 4366.

Witnesses included the Honorable William C. Pryor, then Chief Judge of the D.C. Court of Appeals, accompanied by both Larry P. Polansky, then Executive Officer of the D.C. Courts, and Richard B. Hoffman, Clerk of the Court of Appeals; Frederick D. Cooke, Jr., then Corporation Counsel for the District of Columbia; Charles A. Horsky, Esq., former Chairman of the D.C. Bar Subcommittee on the D.C. Court of Appeals; Sidney White Rhyne, D.C. Bar Association; the Honorable Wilhelmina Rolark, D.C. Councilmember and Chairperson of Committee on the Judiciary; and Nathaniel Speights, President of the Washington Bar Association.

B. Introduction of Revised Bill: H.R. 3470

Per the recommendation of Mr. Fauntroy's Judicial Mission Team and their independent hearings, on October 16, 1989, Mr. Fauntroy introduced H.R. 3470, a similar but revised bill to establish a Supreme Court of the District of Columbia. This bill authorized eight (8) additional judges for the Superior Court of the District of Columbia and revised the present Hearing Commissioner system in the Superior Court of the District of Columbia.

C. 1989 Hearings on H.R. 3470

On October 26 and November 2, 1989, the Subcommittee on Judiciary and Education held hearings on H.R. 3470. Pursuant to a request from minority members of the subcommittee, and additional hearing was held on November 15, 1989, at which time the subcommittee received testimony from several opponents of the bill.

Witnesses at the October 26, 1989, hearing included Herbert Reid, Corporation Counsel for the District of Columbia; the Honorable Wilhelmina Rolark, Chairperson of the D.C. Council Judiciary Committee; the Honorable Fred B. Ugast, Chief Judge of the D.C. Superior Court; and the Honorable Judith Rogers, Chief Judge of the D.C. Court of Appeals.

Witnesses at the November 2, 1989, hearing included James P. Schaller, Esq., Chairman of the D.C. Bar Special Committee to Study the D.C. Court of Appeals; Sidney White Rhyne, Esq., Chairman of the Bar Association of D.C. Study Committee on the D.C. Intermediate Appellate Court; and the Honorable Charles McC. Mathias, Jr., President of the Council for Court Excellence, accompanied by Charles A. Horsky, Esq.

Witnesses at the November 15, 1989 hearing included the Honorable John W. Kern, III, Senior Judge of the D.C. Court of Appeals; Alan I. Herman, Esq., Former Clerk of the D.C. Court of Appeals; and the Honorable Frank Q. Nebeker, Chief Judge of the U.S. Court of Veterans Appeals and Former Associate Judge of the D.C. Court of Appeals. These witnesses opposed the legislation and recommended that additional judges be added to the Court of Appeals in order to address the backlog.

Earl Silbert, Esq., former U.S. Attorney for the District of Columbia, submitted a written statement for the record at the November 15th hearing. Although it did not present testimony, the Department of Justice provided a written statement in opposition to the bill.

A subcommittee mark-up of H.R. 3470, originally scheduled on March 6, 1990, was postponed to Thursday, March 15, 1990, per D.C. Committee Member Rohrabacher's request.

D. Introduction of Revised Bill: H.R. 4257

Based upon a substantial hearing record, on March 14, 1990, Messrs. Fauntroy and Dymally introduced a new bill, H.R. 4257, which is a revised version of H.R. 3470. It includes several recommendations from the last series of hearings.

On Thursday, March 15, 1990, the Subcommittee on Judiciary and Education referred H.R. 4257 to the full committee. Further, it agreed to incorporate the record for H.R. 3470 as the record for H.R. 4257.

The Committee in mark-up on October 2, 1990, adopted an amendment in the nature

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of a substitute to H.R. 4257. This legislation accomplishes several things:

1. It establishes a seven member supreme court by elevating the present nine member appellate court and by attrition allowing the size to diminish to seven. The President would then appoint nine new judges to fill the appellate division.

2. It provides for four additional superior court judges, two to be appointed by the President in October, 1992; two to be appointed by the President in October, 1993.

3. It changes the make-up and size of the Joint Committee on Judicial Administration. Presently the committee has five members, two from the appellate and three from the superior court. Under the new bill, there would be a seven member joint committee made up of the chief justice of the supreme court, two associate justices; the chief judge of the appellate court; and the chief judge of the superior court and two associate judges.

4. The new bill upgrades the hearing commissioners to judicial magistrates and increases their number from 14 to 20 by October 1, 1995.

5. The new bill authorizes $15.5 million over a 6 year period beginning FY 1991—ending September 30, 1996.

It is important to note that the appellate and supreme courts have two distinct functions. The intermediate court generally has an error correcting function—correcting errors in the lower court's application of law. The supreme court—as the highest state court—has a law stating (law development) function and a final error correcting function—being the final interpreter of the law. These functions are more logically performed by a court sitting en banc (as a whole) rather than by a subpanel of a larger court in the court of appeals.

SECTION-BY-SECTION ANALYSIS OF THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4257

TITLE I. SUPREME COURT OF THE DISTRICT OF COLUMBIA

Section 101. Amends Title 11 of the D.C. Code and adds a new Chapter 6 after Chapter 5.

Chapter 6 contains three subchapters. Subchapter I provides for the establishment of a seven (7) member court and outlines various administrative and other guidelines regarding compensation, hearing quorum, assignments, and reporting requirements. Subchapter II outlines the Court's jurisdiction and certification authority. Subchapter III contains miscellaneous provisions regarding the Court's contempt powers, rules, and the judicial conference.

Section 102. Section 102 provides transition provisions for the Supreme Court. It elevates present Court of Appeals judges to the Supreme Court for the remainder of their terms and reduces high court numbers from nine (9) to seven (7) through attrition. Those judges on the Court of Appeals who decide not to serve on the Supreme Court may remain on the Court of Appeals by providing written notice to the Chief Judge of that court within thirty (30) days of the date of enactment of this bill. This section gives the Joint Committee responsibility for the court's transition, including staff hirings, facility preparation, and equipment purchases. The Joint Committee would also be responsible for submitting a transition report to the Congress within 120 days of the legislation's enactment.

Section 103. Contains several conforming technical and other amendments to the Home Rule Act, the District of Columbia Code, and the United States Code. Specifically, these amendments are made in Section's 431, 432, and 434 of the Home Rule Act; Title 11: Chapters 1, 3, 7, 9, 15, 17, 25, and 26; Title 13: Chapter 3; title 17: Chapter 3 of the D.C. Code; and Title 28 of the United States Code.

While most of these amendments are technical in nature, there are several substantive amendments, which are outlined below.

TITLE 11, D.C. CODE

Chapter 1. Chapter 1, Section 11-102, provides that the Supreme Court of the District of Columbia is the highest court of the District of Columbia. It further states that final orders of the Supreme Court and those Appellate decisions where Supreme Court review is denied are reviewable by the United States Supreme Court.

Chapter 3. Chapter 3 is amended at 11-301 regarding the jurisdiction over appeals from the Supreme Court of the District of Columbia. This section provides that the United States Court of Appeals for the District of Columbia Circuit has jurisdiction of appeals from judgments of the Supreme Court of the District of Columbia regarding certain criminal laws not applicable exclusively to the District of Columbia.

Chapter 7 & 9. Sections 11-703(b) and 11-904(b) increase the additional compensation for the Chief Judges of the Superior Court and the Court of Appeals from $500.00 to $2,500.00.

Section 11-708 is amended to leave to the discretion of the Chief Judge of the Court of Appeals the number of law clerks for the court and law clerks and secretaries for the senior judges. Section 11-910 is amended to authorize the Chief Judge of the Superior Court to appoint and remove law clerks for the courts, who will also serve under his or her direction.

Chapter 15. Section 11-1504(a)(1) is amended to prohibit retired judges from serving or performing judicial duties on the Supreme Court of the District of Columbia.

Chapter 17. This section addresses the management of the revised court system. It preserves the management approach under which the courts have operated since 1970, vesting management in a Joint Committee on Judicial Administration.

Subsection 1701(c)(1) regarding the Joint Committee is amended to increase the Committee to seven (7) members, the Chief Justice of the Supreme Court, two associate justices, the Chief Judge of the Court of Appeals, and three judges from the Superior Court—including its Chief Judge.

Section 11-1702 is amended to provide the Chief Justice with parallel authority over internal administrative matters.

Section 11-1721 is amended to provide three (3) clerks, one for each Appellate Court and one for the Trial Court, respectively appointed by the Chief Justice of the Supreme Court and Chief Judge of the Appellate and Superior Court.

Section 104. Provides for an authorization of federal funds for the purpose of implementation of the various amendments as follows:

Fiscal year 1991—$500,000.
Fiscal year 1992—$5 million.
Fiscal year 1993—$4 million.
Fiscal year 1994—$3 million.
Fiscal year 1995—$2 million.
Fiscal year 1996—$1 million.

This federal authorization is consistent with the previous federal authorization regarding the creation and establishment of the D.C. Court System in the 1970 Court Reorganization Act.

TITLE II. JUDGES OF THE DISTRICT OF COLUMBIA COURTS

Section 201. Amends Section 11-1503(a) to provide for the Chief Justice and Chief Judges to be appointed by the Judicial Nomination Commission for a four (4) year term and the first Chief Justice of the Supreme Court to be appointed by statute, as provided in Section 102(a).

Section 202. Amends Section 11-903, as amended by Section 138 of the D.C. Appropriations Act of 1990. It adds two Superior Court Judges in fiscal year 1992 and two additional judges in fiscal year 1993, which would bring the total number of Superior Court judges to 63.

Section 203. Requires those provisions to take effect on the date of enactment of this Act.

TITLE III. JUDICIAL MAGISTRATES

This Title represents another major revision to the local court system. Modification of the present Superior Court Hearing Commissioners' title, selection, and tenure processes, and authority is intended to alleviate the Superior Court's calendar and give increased status to the Hearing Commissioners.

Section 301. Section 301(a) would amend Section 11-1732 of the D.C. Code to replace Hearing Commissioners with Judicial Magistrates. In fiscal year 1991, the present 14 Commissioners would be grandfathered in as Magistrates and would finish out the remainder of their terms as such. Upon completion of their terms, they would become subject to review by the Judicial Tenure Commission. In 1992, the Magistrate authorization would be increased from 14 to 16, in 1993 from 16 to 18, and in 1995 from 18 to 20.

Pursuant to the amended 11-1732 (b) and (d), Judicial Magistrates would be recommended by the Judicial Nomination Commission and appointed by the Chief Judge of the Superior Court with the approval of a majority of the active Superior Court judges.

The Magistrates would be subject to the same qualifications as previous Hearing Commissioners and would be appointed to six (6) year terms, rather than the present four (4) year terms.

Subsection 11-1732(e) provides that the Magistrates would be compensated at a rate equal to 80 percent of the compensation paid to judges.

Subsection 11-1732(f) addresses magistrate jurisdiction and is one of the more critical components of this revision.

All Magistrate decisions must be authorized by the Chief Judge and subject to the rules of the Superior Court. As such, a Magistrate may make findings and enter final orders or judgments in the following areas:

1. Landlord and Tenant Disputes;
2. Small Claims Proceedings;
3. Civil Proceedings at law or in equity when the amount at issue is less than $25,000.00;
4. Criminal Misdemeanors;
5. Conditions of Release in Criminal Cases;
6. Preliminary Examinations and Probation Revocation Hearings regarding Probable Cause;
7. Civil Pre-trial Discovery;
8. Traffic Offenses;
9. Proceedings related to the Mentally Retarded;
10. Uncontested Family Matters;

11. Contested Child Support Matters;
12. Contested Child Delinquency and Neglect Matters;
13. Proceedings related to Commitment of the Mentally Ill;
14. Proceedings related to the Substantially Retarded and matters involving Interstate Juveniles;
15. Uncontested Probate and Fiduciary Proceedings.

Section 301(b) provides that the Commission on Judicial Disabilities and Tenure shall be authorized to remove judicial magistrates.

Section 302. Requires the Chief Judge of the Superior Court, in consultation with members of the Unified Bar of the District of Columbia, to conduct a study of the utilization and effectiveness of Judicial Magistrates and to submit an annual report to the Congress and the Mayor of the District of Columbia for the first 3 years after the date of enactment.

Section 303. Provides that the provisions in this Title would take effect immediately.

H.R. 4257

COMMITTEE VOTE

The Full Committee favorably reported the bill by a vote of 11-1.

INFLATIONARY IMPACT STATEMENT

This bill, if enacted into law, will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

BUDGET AUTHORITY STATEMENT

This legislation creates no new budget authority or tax expenditure by the federal government. Therefore, a statement required by section 308(a) of the Congressional Budget and Impoundment Control Act of 1974 is not necessary.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

EFFECTIVE DATE

The effective date of this act except as otherwise provided, is one year after the enactment of this act.

COMMITTEE ON GOVERNMENT OPERATIONS OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Operations were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

DISSENTING VIEWS OF MR. ROHRABACHER

As the Vice Chairman of the Subcommittee on Judiciary and Education, which has jurisdiction over this legislation, I sat through hearings in which witnesses for and against this bill were allowed to testify. I was not convinced that the caseload and structure of the District of Columbia court system is such that an additional level of appelate review is required. There are other, less expensive ways of addressing the problems of the D.C. court system, as pointed out by some of the witnesses before our subcommittee.

I would also note that the Administration opposes this legislation, and directly takes issue with the assertions that this bill will help in the fight against crime in the District of Columbia. In fact, it is the contention of the Justice Department that this bill will hurt the fight against crime by placing additional appelate response burdens on the U.S. Attorney's office, which after all is the office responsible for prosecuting criminals in the District of Columbia.

Finally, I find it to be especially inappropriate for the federal government to spend $15.5 million on establishing another level of the local court system, at the same time as the District of Columbia Committee is proposing an increase, based on a formula under the District's control, in the authorization level for the District's federal payment. If the City Council and Mayor believe that this additional layer of appeal is necessary, they should be able to find the necessary funds in their own budget.

H.R. 5505, LEGISLATION TO REPEAL NRC'S BELOW REGULATORY CONCERN POLICY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. MILLER of California. Mr. Speaker, on August 3, 1990, I introduced H.R. 5505, legislation to protect the right of State and local governments to prohibit the disposal of radioactive waste in ordinary landfills and to overturn the Nuclear Regulatory Commission's "Below Regulatory Concern" policy. Similar legislation was introduced in the other body by Senate Majority Leader GEORGE J. MITCHELL.

In the brief period of time that has passed since its introduction H.R. 5505 has received overwhelming support from my colleagues in the House of Representatives and from numerous environmental organizations. H.R. 5505 was passed unanimously by the Interior Committee on September 12, 1990, and has been cosponsored by 60 House Members. In addition, I have received letters in support of H.R. 5505 from the States of Minnesota, New York, Alaska, Illinois, Pennsylvania, Hawaii, and Rhode Island.

Mr. Speaker, I request that the following letters in support of H.R. 5505 be printed in the RECORD:

STATE OF ILLINOIS,
OFFICE OF THE GOVERNOR,
Springfield, IL, September 17, 1990.

Hon. GEORGE MILLER,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN MILLER: Thank you for your letter concerning H.R. 5505, your bill to protect states rights to prohibit the disposal of low-level radioactive waste in ordinary landfills. The State of Illinois is on record in opposition of the Nuclear Regulatory Commission's Below Regulatory Concern policy, and supports efforts to repeal the policy.

Your bill and that of Senate Majority Leader Mitchell have been reviewed by the Illinois Department of Nuclear Safety. My Washington office is working with your staff in order to craft the best bill possible.

Your efforts on behalf of the states are most appreciated.

Sincerely,

JAMES R. THOMPSON,
Governor.

STATE OF MINNESOTA,
OFFICE OF THE GOVERNOR,
St. Paul, MN, September 4, 1990.

Hon. GEORGE MILLER,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN MILLER: Thank you for contacting me regarding your legislation to protect the right of states to prohibit the disposal of low-level radioactive waste in landfills. I am pleased you have taken the initiative on this important issue and fully support the intent of your legislation.

Earlier this year, I supported legislation enacted by the Minnesota Legislature that prohibits the treatment, recycling, or disposal of low level radioactive waste at any Minnesota facility that is not specifically licensed to handle low level radioactive wastes. The legislation also requires a comprehensive study be completed on all issues surrounding the disposal of low level radioactive wastes.

Minnesota's legislation, which is sunsetted in 1996, gives our state more time to study the issues surrounding the disposal of low level radioactive wastes. Allowing sufficient time for the study before low level radioactive wastes are actually placed in landfills will eliminate the potential for very serious environmental consequences that may need to be mitigated in the future. Your legislation will affirm Minnesota's authority to impose a moratorium on low level radioactive waste disposal at unlicensed facilities.

Please let me know if there is anything I can do to assist you with your efforts to pass this needed legislation.

Sincerely,

RUDY PERPICH,
Governor.

STATE OF NEW YORK,
EXECUTIVE CHAMBER,
Albany, NY, September 11, 1990.

Hon. GEORGE MILLER,
Rayburn House Office Building, Washington, DC.

DEAR GEORGE: Thank you for your recent letter apprising me of your bill, H.R. 5505, to bar the federal government from preempting state regulation of radioactive wastes "below regulatory concern" (BRC). I am pleased to tell you that I support the enactment of H.R. 5505 and its companion bill in the Senate, S. 2979.

As a matter of general policy, I oppose federal government preemption of state authority to set more stringent standards for the protection of public health and safety than those set by the federal government. Preemption not only violates basic principles of federalism, it prevents the states from protecting their citizens' health and safety in cases where excessive federal deregulation may place their citizens at risk.

The BRC question well illustrates the rationale for opposing preemption. As you note in your letter, the Nuclear Regulatory Commission's proposed level for BRC exposure is several times greater than levels adopted by the U.S. Environmental Protection Agency and several other nations. My agencies have examined and discussed your bill in some detail, and concur that this divergence raises legitimate health and safety issues which the states should retain the authority to address. I applaud your leadership in introducing legislation that would protect the states' right to address these issues.

Sincerely,

MARIO M. CUOMO.

EXECUTIVE CHAMBERS,
Honolulu, HI, September 17, 1990.

Hon. GEORGE MILLER,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE MILLER: Thank you for your August 15, 1990, letter forwarding a copy of your Bill, H.R. 5505, regarding state regulated disposal of low-level radioactive waste.

As you may know, the State of Hawaii is a member of the Northwest Interstate Compact of States as established under the Low-Level Radioactive Waste Policy Act and transports its waste to the State of Washington for disposal. I believe that your proposed legislation, in conjunction with the Nuclear Regulatory Commission's proposed Below Regulatory Concern (BRC) policy, would provide relief to the three national low-level radioactive waste disposal sites, to include Hanford, Washington, from being pressured to receive and dispose of BRC low-level radioactive waste. More importantly, your legislation would also assure the several states the opportunity to regulate the disposal of BRC waste material in their local disposal sites or landfills.

In view of the above, I concur with your proposal to allow states the opportunity to fill the regulatory gap created by the Nuclear Regulatory Commission's change in policy. Should you wish to discuss this matter further with our lead agency in this regard, please contact Dr. John Lewin, Director of the State's Department of Health at (808) 548-6505.

With kindest regards,
Sincerely,

JOHN WAIHEE.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL RESOURCES,
Harrisburg, PA, September 18, 1990.

Hon. GEORGE MILLER,
Congress of the United States, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE MILLER: Thank you for your letter dated August 15, 1990, concerning your introduction of H.R. 5505 in response to the Nuclear Regulatory Commission's (NRC) "Below Regulatory Concern" (BRC) policy statement. The Department of Environmental Resources is very supportive of your timely legislation and we will notify our Pennsylvania delegation of our position.

As you know, Governor Casey recently signed into law Act 107, the Low-Level Radioactive Waste Disposal Regional Facility Act which prohibits disposal of BRC waste at unlicensed waste disposal facilities. In addition, the Appalachian States Low-Level Radioactive Waste Compact Law makes it "unlawful for any person to dispose of any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the Compact Commission and by the law of the host state in which the said disposal takes place."

The enclosed testimony of R. David Myers, Deputy Secretary for Public Liaison, Pennsylvania Department of Environmental Resources, presented before your committee, the U.S. House Interior and Insular Affairs Committee, Subcommittee on Energy and the Environment, expresses the Department's concern with the NRC adoption of Federal BRC regulations mandatory for states that assume responsibility for the regulation of radioactive materials.

As expressed in the enclosed testimony, the Department opposes any attempt by the NRC to require states to adopt BRC regulations. The Commonwealth intends to carry out the letter of Pennsylvania law which requires the disposal of all low-level radioactive waste in a licensed facility.

Sincerely,

ARTHUR A. DAVIS,
Secretary.

STATE OF ALASKA,
OFFICE OF THE GOVERNOR,
Juneau, AK, September 25, 1990.

Hon. GEORGE MILLER,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR GEORGE: Thank you for asking us to lend our support to your efforts to protect the right of States to prohibit the disposal of low-level nuclear reactor wastes in landfills. We have reviewed H.R. 5505, and look forward to assisting you in working toward its passage.

Although Alaska has no nuclear reactors, we do have stringent regulations regarding the disposal of hazardous wastes. We have only one facility in the State licensed to accept hazardous wastes; none, however, is certified to accept reactor wastes. We are part of an interstate compact governing the disposal of low-level radioactive wastes generated by medical, scientific and educational activities, and we currently regulate such disposal.

As you correctly point out, the waste disposal challenge facing the States is daunting enough without the addition of potentially dangerous wastes being added to our overtaxed landfill capacity. Further complicating the matter for Alaska is the fact that our remote communities barely have the resources to construct or manage landfills for non-hazardous household wastes. It is inconceivable that they could be made to accept radioactive wastes in these unlicensed landfills—even over local objections.

Perhaps most compelling, though, is the fact that once again the federal government is attempting to override State efforts to protect their citizens by preempting strong State environmental protection laws and stringent health and safety standards. Local water quality standards, landfill regulations and waste disposal requirements are issues that directly affect the health and well-being of local citzens, and they must have a voice in setting those standards. We have appreciated the opportunity to work with you on other anti-preemption efforts, and support your efforts in this one as well.

Thank you again for the opportunity to share our views on this important issue.

Sincerely,

STEVE COWPER,
Governor.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS, EXECUTIVE CHAMBER,
Providence, RI, September 7, 1990.

Hon. GEORGE MILLER,
Representative, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE MILLER: I have been requested by Governor DiPrete to respond to your August 15 letter regarding NRC's new "Below Regulatory Concern" (BRC) Policy. Although Rhode Island does not have any nuclear power plants, Rhode Island does generate low-level radioactive waste from our hospitals and universities, and the Governor feels that it is appropriate for low-level radioactive waste to be disposed of in NRC sanctioned disposal facilities and support your legislation to prohibit its disposal at solid waste facilities.

Rhode Island feels that it is more important to work with generators to reduce their low-level waste through source reduction and compaction. Provisions to require better source reduction could serve to reduce the low-level radioactive waste equivalently to this new BRC policy without creating a potential hazard to population. If the Governor can be of any further assistance in this matter, please do not hesitate to contact me or Victor Bell in our Department of Environmental Management at (401) 277-3434.

Sincerely,

ANNA F. PRAGER,
Senior Policy Analyst.

EDUCATION AND THE ECONOMY

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. FRENZEL. Mr. Speaker, the National Center on Education and the Economy's Commission on the Skills of the American Workforce, chaired by former Labor Secretaries William E. Brock and Ray Marshall, recently completed months of research that focused on how the United States can improve the education of its students and workers to help us improve our productivity and international competitiveness.

Printed below is an op-ed piece from the Washington Post on the study as well as the executive summary of the study. The group has some illuminating and disturbing conclusions regarding our educational system. It also details a 5-point program including educational performance standards, more focus on specific job-training programs in the schools and incentives for employers to invest more in worker training and education.

I commend the study as must reading for those who are concerned about United States competitiveness.

[From the Washington Post, Sept. 3, 1990]

BUILDING A BETTER WORK FORCE

(By William E. Brock and Ray Marshall)

Labor Day, a recognition of the accomplishments of our nation's work force, also signals the return to school for millions of students. Unfortunately, these two events have little in common other than their placement on the calendar. The world of work and what one learns in school are more disconnected than ever in the United States.

This September, we have little to celebrate in this country. We continue to lose ground in many international markets, our real earnings and productivity growth have declined, our students rank at the bottom on international achievement tests and we all but ignore the one million high school dropouts we "lose" every year.

Why?

Part of the problem is the American workplace, which is still based on a system of mass manufacture pioneered during the early 1900s. Under this system, complex jobs are broken into simple rote tasks that workers can repeat with machine-like efficiency; for many workers, an eighth-grade education is about all they need to do their jobs. For employers, financial success de-

pends on keeping labor costs down; therefore, workers with high-level skills do not necessarily receive higher wages. Further, only 8 percent of America's front-line workers receive any formal on-the-job training.

The other part of the problem is our education system. It serves the needs of only 30 percent of our young people—those who proceed to college. The other 70 percent receive the worst job preparation in the developed world, even though it is they who will make or break our economic future.

To ensure a more prosperous future for all Americans, we need to make some fundamental changes in the workplace and in the schools. By the year 2000, more than 70 percent of American jobs will not require a college education—building a relationship between school and work is nothing short of an economic necessity.

As two former labor secretaries, we recently co-chaired the National Center on Education and the Economy's Commission on the Skills of the American Workforce, a group of leaders from business, labor, education and government gathered to study the future skills needs of our nation's non-college work force.

After months of research in businesses and in schools in the United States and in six foreign countries, the commission offered some ideas for change.

First, to meet global competition, the commission believes the United States must create an education performance standard—bench-marked to the highest in the world—to be met by all American students at age 16, the age at which young people can legally leave school in most states. Students who meet the standard would qualify to enroll in a college-preparatory program, to begin studying for a skilled non-college occupation or even to enter the work force. However, those who did not meet the standard would be required to continue their education toward the performance standard as a condition for being allowed to work part-time before age 18.

Certain young people, for a variety of personal or societal reasons, do not do well in the present public school environment. Therefore, the commission also proposed alternative learning programs to recover nearly all of our dropouts and help them meet this new educational standard. The programs would provide counseling and job-experience services, would combine work with studies and would interact closely with the business community.

At present, there is no consensus about how to prepare students for the world of work if they are not college bound. To accomplish this goal, the commission recommended a comprehensive system of technical training and certification for non-college professions. We used the word "professions" deliberately, because these certificate programs would set higher standards and reward higher skills in a range of occupations. This would be an opportunity for business and labor to work together to create anew the skilled crafts on which America was built.

These recommendations, together with those which would provide incentives for greater investment in the training of front-line workers by all employees, have the potential to once again build the world's premier work force.

This September, as our workers celebrate Labor Day and our students return to the classroom, we ought to be conscious of the choices we are making. Only when we begin to insist on a high-skills, high-wage economy—in our schools and in our companies—will our workers and students have cause for celebration.

EXECUTIVE SUMMARY

THE PROBLEM

Since 1969, real average weekly earnings in the United States have fallen by more than 12 percent. This burden has been shared unequally. The incomes of our top 30 percent of earners increased while those of the other 70 percent spiraled downward.

In many families, it now takes two people working to make ends meet, where one was sufficient in the past.

The United States is in the midst of the second longest economic expansion in its history. But that expansion is built largely on the fact that 50 percent of our population is employed compared with 40 percent in 1973. Forty million new jobs were created as the "baby boom" generation reached working age, and more women entered the workforce. More of us have been working so we produced more.

However, workforce growth will slow dramatically in the 1990's. We can no longer grow substantially just by adding new workers.

The key to maintaining, to say nothing of improving, our standard of living is productivity growth—more products and services from every member of the workforce.

But, during the past two decades, our productivity growth has slowed to a crawl. It now takes nearly three years to achieve the same productivity improvement we used to achieve in one year.

If productivity continues to falter, we can expect one of two futures. Either the top 30 percent of our population will grow wealthier while the bottom 70 percent becomes progressively poorer or we all slide into relative poverty together.

THE TASK

To ensure a more prosperous future, we must improve productivity and our competitive position. We cannot simply do this by using better machinery, because low wage countries can now use the same machines and can still sell their products more cheaply than we can.

The key to productivity improvement for a high wage nation lies in the third industrial revolution now taking place in the world. The steam engine and electric motor drove the first two industrial revolutions, causing profound changes in work organization. This boosted productivity, quality and living standards dramatically. The creation of the modern factory in the 1800's and mass production in the 1900's followed these technology breakthroughs.

The advent of the computer, high speed communication and universal education are heralding a third industrial revolution, a revolution the key feature of which is high performance work organization.

THE ORGANIZATION OF WORK IN AMERICA

The organization of America's workplaces today is largely modeled after the system of mass manufacture pioneered during the early 1900's. The premise is simple: Break complex jobs into a myriad of simple rote tasks, which the worker then repeats with machine-like efficiency.

The system is managed by a small group of educated planners and supervisors who do the thinking for the organization. They plan strategy, implement changes, motivate the workers and solve problems. Extensive administrative procedures allow managers to keep control of a large number of workers. This form of work organization is often referred to as the "Taylor" model.

Most employees under this model need not be educated. It is far more important that they be reliable, steady and willing to follow directions.

But in the world's best companies, new high performance work organizations are replacing this "Taylor" method. These companies are using a new approach to unleash major advances in productivity, quality, variety, and speed of new product introductions.

Mass production methods will continue to produce high volume, inexpensive goods and services for a long time to come. But what the world is prepared to pay high prices and high wages for now is quality, variety and responsiveness to changing consumer tastes, the very qualities that the new methods of organizing work make possible.

"Tayloristic" methods are not well suited to these goals. Firms struggling to apply the traditional methods of work organization to more complex technologies, more frequent product introductions, increased quality requirements and proliferating product variety often create cumbersome and inefficient bureaucracies.

The new high performance forms of work organizations operate very differently. Rather than increasing bureaucracy, they reduce it by giving front-line workers more responsibility. Workers are asked to use judgment and make decisions. Management layers disappear as front-line workers assume responsibility for many of the tasks—from quality control to production scheduling—that others used to do.

Work organizations like these require large investments in training. Workers' pay levels often rise to reflect their greater qualifications and responsibilities. But the productivity and quality gains more than offset the costs to the company of higher wages and skills development.

Despite these advantages, 95 percent of American companies still cling to old forms of work organization.

IS THERE A SKILLS SHORTAGE IN THE UNITED STATES?

Because most American employers organize work in a way that does not require high skills, they report no shortage of people who have such skills and foresee no such shortage. With some exceptions, the education and skill levels of American workers roughly match the demands of their jobs.

Our research did reveal a wide range of concerns covered under the blanket term of "skills." While businesses everywhere complained about the quality of their applicants, few talked abut the kinds of skills acquired in school. The primary concern of more than 80 percent of employers was finding workers with a good work ethic and appropriate social behavior: "reliable," "a good attitude," "a pleasant appearance," "a good personality."

Most employers we interviewed do not expect their skill requirements to change. Despite the widespread presumption that advancing technology and the evolving service economy will create jobs demanding higher skills, only five percent of employers were concerned abut a skills shortage. These were mainly large manufacturers, financial service organizations and communications companies.

The reason we have no skills shortage today is that we are using a turn-of-the-century work organization. If we want to com-

pete more effectively on the global economy, we will have to move to a high productivity work organization.

HOW WE PREPARE OUR FRONT-LINE WORKERS FOR WORK

More than 70 percent of the jobs in America will not require a college education by the year 2000. These jobs are the backbone of our economy, and the productivity of workers in these jobs will make or break our economic future.

No nation has produced a highly qualified technical workforce without first providing its workers with a strong general education. But our children rank at the bottom on most international tests—behind children in Europe and East Asia, even behind children in some newly industrialized countries.

More than any other country in the world, the United States believes that natural ability, rather than effort, explains achievement. The tragedy is that we communicate to millions of student every year, especially to low-income and minority students, that we do not believe that they have what it takes to learn. They then live up to our expectations, despite the evidence that they can meet very high performance standards under the right conditions.

Unlike virtually all of our leading competitors, we have no national system capable of setting high academic standards for the non-college bound or of assessing their achievement against those standards.

America may have the worst school-to-work transition system of any advanced industrial country. Students who know few adults to help them get their first job are left to sink or swim.

Only eight percent of our front-line workers receive any formal training once on the job, and this is usually limited to orientation for new hires or short courses on team building or safety.

The American post-secondary education and training system was never designed to meet the needs of our front-line workers. The system is a combination of education programs for full-time college students and short term training for the severely disadvantaged, and can be difficult to access. Because employers have not set training standards, few students can be sure that there is a market for the courses they pursue. Education is rarely connected to training and both are rarely connected to an effective job service function.

ANOTHER WAY

While the foreign nations we studied differ in economy and culture, they share an approach to the education and training of their workers and to high productivity work organization.

They insist that virtually all of their students reach a high educational standard. We do not.

They provide "professionalized" education to non-college bound students to prepare them for their trades and to ease their school-to-work transition. We do not.

They operate comprehensive labor market systems which combine training, labor market information, job search and income maintenance for the unemployed. We do not.

They support company based training through general revenue or payroll tax based financing schemes. We do not.

They have national consensus on the importance of moving to high productivity forms of work organization and building high wage economies. We do not.

Our approaches have served us well in the past. They will not serve us well in the future.

THE CHOICE

Americans are unwittingly making a choice. It is a choice that most of us would probably not make were we aware of its consequences. Yet every day, that choice is becoming more difficult to reverse. It is a choice which undermines the American dream of economic opportunity for all. It is a choice that will lead to an America where 30 percent of our people may do well—at least for awhile—but the other 70 percent will see their dreams slip away.

The choice that America faces is a choice between high skills and low wages. Gradually, silently, we are choosing low wages.

We still have time to make the other choice—one that will lead us to a more prosperous future. To make this choice, we must fundamentally change our approach to work and education.

1. Problem: Two factors stand in the way of producing a highly educated workforce: We lack a clear standard of achievement and few students are motivated to work hard in school. One reason that students going right to work after school have little motivation to study hard is that they see little or no relationship between how well they do in school and what kind of job they can get after school. Other advanced industrial nations have stringent performance standards that virtually all students must meet at about age 16 and that directly affect their employment prospects.

Recommendation: A new educational performance standard should be set for all students, to be met by age 16. This standard should be established nationally and benchmarked to the highest in the world.

We propose that all American students meet a national standard of educational excellence by age 16, or soon thereafter. Students passing a series of performance based assessments that incorporate the standard would be awarded a Certificate of Initial Mastery.

Possession of the Certificate of Initial Mastery would qualify the student to choose among going to work, entering a college preparatory program or studying for a Technical and Professional Certificate described below.

Creation of the Certificate of Initial Mastery standard would require a new approach to student performance assessment. We recommend the creation of new performance based examinations for which students can explicitly prepare. The assessment system would provide multiple opportunities for success rather than a single high stakes moment of possible failure. Most important, the examination, though set at a very high standard, is not intended as a sorting mechanism on the pattern of virtually all the major tests now in use. Our goal is to set a tough standard that almost everyone will reach, although not all at the same time.

Once created, this system would establish objective standards for students and educators, motivate students and give employers an objective means to evaluate the accomplishments of students.

2. Problem: More than 20 percent of our students drop out of high school—almost 50 percent in many of our inner cities. These dropouts go on to make up more than one third of our front-line workforce. Turning our backs on those dropouts, as we do now, is tantamount to turning our backs on our future workforce.

Recommendation: The states should take responsibility for assuring that virtually all students achieve the Certificate of Initial Mastery. Through the new local Employment and Training Boards, states, with federal assistance should create and fund alternative learning environments for those who cannot attain the Certificate of Initial Mastery in regular schools.

All students should be guaranteed the educational attention necessary to attain the Certificate of Initial Mastery by age 16, or as soon as possible thereafter. Youth Centers should be established to enroll school dropouts and help them reach that standard. Federal, state and local funds should be raised or reallocated to finance these dropout recovery programs. Once the Youth Centers are created, children should not be permitted to work before the age of 18 unless they have attained the Certificate of Initial Mastery or are enrolled in a program to attain it.

3. Problem: Other industrial nations have multi-year career-oriented educational programs that prepare students to operate at a professional level in the workplace. Graduates of these programs have the skills to hit the ground running when they get their first full-time job at age 19 or 20. America prepares only a tiny fraction of its non-college bound students for work. As a result, most flounder in the labor market, moving from low paying job to low paying job until their mid-twenties, never being seriously trained.

Recommendation: A comprehensive system of Technical and Professional Certificates and associates' degrees should be created for the majority of our students and adult workers who do not pursue a baccalaureate degree.

Technical and Professional Certificates would be offered across the entire range of service and manufacturing occupations. A student could earn the entry-level occupation specific certificate after completing a two- to four-year program of combined work and study, depending upon the field. A sequence of advanced certificates, attesting to mastery of more complex skills, would be available and could be obtained throughout one's career.

The Secretary of Labor should convene national committees of business, labor, education and public representatives to define certification standards for two- to four-year programs of professional preparation in a broad range of occupations. These programs should combine general education with specific occupational skills and should include a significant work component.

Students could pursue these programs at a wide variety of institutions accredited to offer them, including high schools, community colleges and proprietary schools. The system should be designed to make it possible for students to move easily between the Certificate programs and college.

A means should be established to ensure that all students can receive financing to pursue these programs.

4. Problem: The vast majority of American employers are not moving to high performance work organizations, nor are they investing to train their non-managerial employees for these new work organizations. The movement to high performance work organizations is more widespread in other nations, and training of front-line workers, funded in part by national assessments on employers or general public revenues, is commonplace.

Recommendation: All employers should be given incentives and assistance to invest in the further education and training of their workers and to pursue high productivity forms of work organization.

We propose a system whereby all employers will invest at least one percent of their payroll for the education and training of their workers. Those who do not wish to participate would contribute the one percent to a general training fund, to be used by states to upgrade worker skills. We further recommend that public technical assistance be provided to companies, particularly small businesses, to assist them in moving to higher performance work organizations.

5. Problem: The United States is not well organized to provide the highly skilled workers needed to support the emerging high performance work organizations. Public policy on worker training has been largely passive, except for the needs of a small portion of the severely disadvantaged population. The training system is fragmented with respect to policies, administration and service delivery.

Recommendation: A system of Employment and Training Boards should be established by Federal and state governments, together with local leadership, to organize and oversee the new school-to-work transition programs and training systems we propose.

We envision a new, more comprehensive system where skills development and upgrading for the majority of our workers becomes a central aim of public policy.

The key to accomplishing these goals is finding a way to enable the leaders of our communities to take responsibility for building a comprehensive system that meets their needs. The local Employment and Training Boards for each major labor market would:

Take responsibility for the school-to-work and Youth Center-to-work transition for young people.

Manage and oversee the Youth Centers.

Manage and oversee a second chance system for adults seeking the Certificate of Initial Mastery.

Manage and oversee the system for awarding Technical and Professional Certificates at the local level.

Manage a labor market information system.

Manage and oversee the job service.

Coordinate existing programs.

The states would need to create a parallel structure to support the local Boards, coordinate statewide functions and establish state standards for their operation.

IN CONCLUSION

America is headed toward an economic cliff. We will no longer be able to put a higher proportion of our people to work to generate economic growth. If basic changes are not made, real wages will continue to fall, especially for the majority who do not graduate from four-year colleges. The gap between economic 'haves' and 'have nots' will widen still further and social tensions will deepen.

Our recommendations provide an alternative for America. We do not pretend that this vision will be easily accepted or quickly implemented. But we also cannot pretend that the status quo is an option. It is no longer possible to be a high wage, low skill nation. We have choices to make:

Do we continue to define educational success as 'time in the seat,' or choose a new system that focuses on the demonstrated achievement of high standards?

Do we continue to provide little incentive for non-college bound students to study hard and take tough subjects, or choose a system that will reward real effort with better pay and better jobs?

Do we continue to turn our backs on America's school dropouts, or choose to take responsibility for educating them?

Do we continue to provide unskilled workers for unskilled jobs, or train skilled workers and give companies incentives to deploy them in high performance work organizations?

Do we continue in most companies to limit training to a select handful of managers and professionals, or choose to provide training to front-line workers as well?

Do we cling to a public employment and training system fragmented by institutional barriers, muddled by overlapping bureaucracies and operating at the margins of the labor market, or do we choose a unified system that addresses itself to a majority of workers?

Do we continue to remain indifferent to the low wage path being chosen by many companies, or do we provide incentives for high productivity choices?

Taken together, the Commission's recommendations provide the framework for developing a high quality American education and training system, closely linked to high performance work organizations. The system we propose provides a uniquely American solution. Boldly executed, it has the potential not simply to put us on an equal footing with our competitors, but to allow us to leap ahead, to build the world's premier workforce. In so doing, we will create a formidable competitive advantage.

The status quo is not an option. The choice we have is to become a nation of high skills or one of low wages.

The choice is ours. It should be clear. It must be made.

NGA GROCERS CARE AWARDS

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. DE LA GARZA. Mr. Speaker, I wish to bring to the attention of the House the community contribution of the American independent retail grocers and their wholesalers.

In past years, through passage of the National Grocers Week, the House and Senate have recognized the important role these businesses play in our economy. This week, September 30–October 6, 1990, commemorates the sixth year we have recognized this important segment of the food industry.

Next week, National Grocers Association, heads of philanthropic and consumer groups will honor outstanding independent retail grocers and wholesalers as well as their State association executives for their community service with the NGA "Grocers Care" Awards.

This annual celebration highlights the important role small business plays. According to Thomas K. Zaucha, president and CEO of the National Grocers Association [NGA]:

Active leadership with community service projects reflect the commitment independent retail grocers and their wholesalers have to the communities they serve.

GROCERS CARE AWARD HONOREES

The "Grocers Care" awards ceremony will be held Tuesday, October 9, in New Orleans, Louisiana. Representatives from companies, organizations and associations around the United States will be honored. These honorees include:

Alabama: Peter Gregerson, Sr., Gregerson's Foods, Gadsden;

Arkansas: Roy Foster, Foster's Shop-n-Save, Hot Springs Village; Don Pennington, Harvest Foods, Little Rock;

California: Morrie Notrica, 32nd Street Market, Los Angeles; Alan Scharm, Gelsons Market, Encino; Mark Kidd, Mar-Val Food Stores, Lodi; Darioush Khaledi, Top Valu Markets, Long Beach; Pat Young, Young's Payless Market, Lockeford; Don Kaplan, Bonfare Markets, San Ramon;

Florida: Lorena Jaeb, Pick-Kwik Food Stores, Mango; Doyle LaGrone, LaGrone's IGA, Plant City; James H. Rines, Rines AG Market, Indiantown;

Georgia: Fred Ligon, Fred's Super-Valu Foods, Madison; Billy Griffis, T.J. Morris Co., Statesboro;

Idaho: Steve Zimmerman, M&W Markets, Boise;

Illinois: Daryl Bridwell, Bridwell's Supermarket, Paris; Robert Walker, Walker's Supermarkets, Mattoon; Steven Zeidler, Mr. Z Supermarkets, Lombard;

Indiana: Larry Contos, Pay Less Super Markets, Anderson; Daniel O'Malia, O'Malia Enterprises, Noblesville; Ed Polleta, Money Miser, Wheatfield; Gilbert Pautius, Al's Markets, Michigan City; Gerald Bardeson, Key Markets, Hammond; Joseph Rupp, Royal Super Foods, Evansville; Bill Reitz, Scott's Food Stores, Ft. Wayne;

Iowa: Robert Hand, Dahl's Foods, Des Moines; Jim Conrey, Jim's Super Valu, West Liberty;

Kentucky: Kenneth Techau, Techau's, Cynthiana; Danny Allnutt, Food World, Williamsburg; Charles Lynxwiler, Piggly Wiggly Super Markets, Mayfield;

Louisiana: Ferdie Barbier, Big B Supermarket, Belle Rose; Anthony Rouse, Rouse Supermarkets, Thibodaux; John Schwegmann, Schwegmann Giant Super Markets, New Orleans; Hillar Moore, Associated Grocers Inc., Baton Rouge;

Maryland: Tom Smith, Tom's Thriftway, Cardiff; John McCormick, McCormick & Company, Baltimore;

Michigan: Larry Shoaff, Ric's Food Center, Interlochen; Lowell McDonald, McDonald's Food & Family Center, Bad Axe; Glenn Hartley, Plumb's Stores, Muskegon; Bud Peel, Buds Country Market, Jonesville; Kathleen Ferguson, Ashcraft's Market, Alma; Tom Hormacek, Pinny Food Center, Pinconning; Gene Southworth, Litchfield Thriftway, Litchfield; Bill Dawson, Glen's Markets, Gaylord; Bob & Dorothy Anderson, Snyder's IGA, Perry; Patrick Quinn, Spartan Stores, Grand Rapids;

Minnesota: Vince Caron, A&S Foods, Litchfield; Myron Machart, Tersteeg's Holiday Market, Redwood Falls; Bill Farmer, Fairway Foods, Minneapolis, Elliot Christensen, Elden's IGA, Austin; Jeff Marchand, Country Market, Brainerd; Daniel Coborn, Coborn's, St. Cloud; Jim Flury, Barlow Foods, Rochester;

Missouri: Doris Carr, Bob's IGA, Kansas City; Donald Woods, Woods Super Market, Bolivar;

Montana: Charlean Keller, Kons IGA, Billings;

New Hampshire: Chuck Butson, Butson's Supermarkets, Woodsville; Ronald Violette, Violette's IGA, Milford; Vernon Violette, Violette's Supermarket, Newport; Robert Cricenti, Cricenti's Market, New London;

New Jersey: Joe Pagano, Pagano's IGA, Bayonne; Jerome Yaguda, ShopRite/Wakefern Food Corp., Elizabeth;

New York: Ray Furnal, Hilton Food Market, Hilton;

North Carolina: Dewey Hill, Hill's Food Stores; Whiteville;

Ohio: Joe & Mike Bolognue, Bolognue Brothers Apples, Canton; Terry Littrell, Cardinal Foods, Columbus; Walter Churchill, Churchill's Super Markets, Sylvania; Darrel Steele, Darrel's Super Valu, New Lebanon; Charles Warren, Fleming Foods of Ohio, Massillon; Bob & Scott Gardner, Gardners Cardinal, Norwalk; Henry Nemenz, HP Nemenz Food Stores, Poland; Lloyd Bay, L.T. Bay Enterprises, Lithopolis; Harold Massie, Massie's Super Market, Portsmouth; Richard McKenzie, McKenzie's Fine Foods, Worthington; Robert Eastman, Ohio Valley Supermarkets, Gallipolis; Tony Bailey, Sacks Food Avenue, Amelia; Ann Pinchera, Super Valu Stores, Xenia; Lee Schear, Metro Markets, Inc., Dayton; Mark Ossage, Dillonvale IGA, Cincinnati; Michael Needler, CWC Companies, Inc., Findlay; John Olszeski, Hartville Foods Inc., Hartville; Burt Salzman, Dave's Supermarket, Cleveland; James Grace, Abbott's Super Duper, Columbus;

Oklahoma: L.M. "Larry" Dillard, Love's Country Stores, Paul's Valley; Steve Buchanan, Buchanan Food Mart, Oklahoma City; Scott Petty, Petty's Fine Foods, Tulsa; Maurice Box, Box Food Stores, Tahlequah;

Oregon: Gordon Smith, Vernonia Sentry, Vernonia; Bob Ray, Sandy Sentry, Sandy; Jim Robinson, Thriftway, Portland; Alan Jones, United Grocers, Portland;

Pennsylvania: Carole Bitter, Friedman's Supermarkets, Butler; Paul Bunyan Stores, Erie; Christy Spoa, Christy's Markets, Ellwood City;

South Dakota: Kevin Scheel, Randall Foods, Huron; Ken Fiedler, Ken Fairway Stores, Aberdeen; John Clarke, County Fair Food Store, Mitchell;

Tennessee: Eddie McMillan, Food City, Knoxville; Jim Bolonda, Red Foods, Chattanooga;

Texas: Jay Madden, Carls Supermarkets, Mission; Doug Pendley, Affiliated Foods, Keller; Ray Bishop, Town & Country Food Stores, San Angelo; Benny Cooper & George Lankford, Affiliated Foods, Amarillo: Jody Gerland, Gerland's Food Fair, Houston; Robert Onstead, Randall's Food Markets, Houston; Donald Bonham, Fiesta Mart, Houston; Jere Lawrence, Lawrence Bros., Sweetwater;

Utah: Terry Harmon, Harmon's West Valley City; Ken Macey, Macey's, Salt Lake City;

Virginia: Daniel Maenza, Wade's Super Markets, Christiansburg; Ray Urbanbrite, Ray's of Virginia, Inc., Stanton;

Washington: A.J. Weiks, Al's Mega Foods, Olympia; Jim Bourland, O'Neils Markets, Tacoma; Chris Brown, Wrays, Yakima; Don Whittaker, Rosauers Supermarkets, Spokane;

West Virginia: Harold Wilkes, Mini-Giants, Parkersburg;

Wisconsin: Don Miller, Sentry Foods, Waunakee; George Prescott, Prescott Supermarkets, West Bend: Dave Skogen, Skogen's IGA, Onalaska; Bill Confer, Roundy's, Milwaukee; Anton Grasch, Grasch's Foods, Brookfield.

The following state associations are instrumental in coordinating information relative to the community service activities of their members:

Arkansas Grocers and Retail Merchant Association, California Grocers Association, Southern California Grocers Association, Georgia Grocers Association, Illinois Food Retailers Association, Grocers Association of Iowa, Kentucky Grocers Association, Louisiana Grocers Association, Mid-Atlantic Food Dealers Association, Michigan Grocers Association, Minnesota Grocers Association, Missouri Grocers Association, New Hampshire Retail Grocers Association, New Jersey Food Council, New Mexico Grocers Association, Ohio Grocers Association, Oklahoma Grocers Association, Association of Oregon Food Industries, Rhode Island Food Dealers Association, South Dakota Retailers Association, Tennessee Grocers Association, Retail Grocers of Houston, Utah Retail Grocers Association, Vermont Grocers Association, Washington State Food Dealers Association and Wisconsin Grocers Association.

"Grocers Care" awards recognize the involvement of individual food retailers and wholesalers in community programs. A sampling of exemplary contributions includes:

Participation in a single day sales support of "Grocers Fight Cancer," American Heart Association, American Diabetes Alert, Red Cross and other national charity organizations where a percentage of sales are donated;

Voter registration campaigns;

Local educational commitments through scholarships, percentage of sales direct contributions;

Contributions of time, funds and buildings in support of the Arts;

Programs to shelter and feed the homeless and hungry;

Fitness programs and support in planning activities as well as supply healthy food;

Sports tournaments in support of hospitals, fire and police departments;

Safe trick or treat events;

Reading programs to fight illiteracy;

Senior citizen assistance; and

Boy and Girl Scouts, Little and Lassie Leagues, and other sports program sponsorships.

TRIBUTE TO REPRESENTATIVE RUDY DININNI

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. GEKAS. Mr. Speaker, I wish to draw the attention of my colleagues to the accomplishments of a fine Pennsylvania legislator, who is retiring after serving wisely and well for over two decades.

Rudolph Dininni, known to most of his friends and constituents as Rudy, has represented Pennsylvania's 106th House district since 1966. Throughout those years, he became known as the friendly and generous House member who never forgot a face. Since I had the honor of calling him a colleague when I served in the Statehouse, I know firsthand the dedication and love with which Rudy approached his job. His constituents indeed have been fortunate.

Rudy's legislative record has been a proud one. As Republican chairman of the House Committee on Transportation, he tirelessly worked to improve Pennsylvania's roads, undoubtedly saving countless lives.

Children too young to understand the importance of safe roads or the legislative process know Rudy as the man who brings Santa to Rutherford every Christmas Eve. On that very special night, Rudy Dinnini sponsors a float pulling Santa Claus through the town's streets tossing candy and gifts to the children. This loving gesture captures the nature of the man.

Before running for the House, Rudy had a long and varied career that included farming, banking, construction, and real estate. Certainly his exposure to so many fields helped him understand his needs and values of this constituency. He entered politics because he wanted to make a contribution to his community. That is always the best reason to seek public office.

Mr. Speaker, I thank Representative Rudy Dininni for his years of service to our fine State of Pennsylvania.

JOHN PASSIDOMO: A LEADER WITH AN EYE TO THE FUTURE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today to congratulate Mr. John Passidomo of Harrison, NY, on being honored by the White Plains Knights of Columbus during their Columbus Day celebrations. I have known John and his remarkable wife Gloria for many years, and I am proud to say that I have learned much from his example of public service.

John Passidomo served my home community, Harrison, NY, as its supervisor for 18 years. He set an example of leadership that reflected his understanding of the need to balance priorities with an eye toward the future. His philosophy has been the guiding force which has made Harrison an exceptional community for those who call it home. He also has served as New York Commissioner of Motor Vehicles and currently is a member of the New York State Cable Commission.

John Passidomo is a creative individual with an understanding of the need to respond effectively to the needs of his community. He had the foresight to implement the 100-acre corporate park concept which has been tailored to meet the needs of single corporations in many communities in the Northeast including several in Westchester County.

John Passidomo is a man who loves his community deeply. Service to his neighbors is an integral part of his life. Wherever he goes in Westchester, he is surrounded by friends and admirers. It is totally appropriate that he is being honored by the Knights of Columbus in this very special way.

COLUMBUS DAY

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Ms. PELOSI. Mr. Speaker, as we celebrate Christopher Columbus' arrival in the America's, we ought not to think of ourselves as merely commemorating an event which took place back in 1492, we ought, as well, to think of ourselves as celebrating the enduring legacy which that event has left us.

Columbus' passage to the New World helped to usher in the modern age. His landing and the landing of those he brought with him helped to shape our present day America. Because Christopher Columbus had the determination and courage to initiate the flow of people and ideas across the Atlantic nearly 500 years ago, today America is a land of venturing spirits, visionaries, scientists and innovators, and perhaps most significant, a land of culturally and ethnically diverse persons.

Columbus' voyage paved the way for Italians, Spanish, Portuguese, English, Irish, German, and eventually Africans and Asians to come together in the New World. As an Italian American, I am proud to honor Cristoforo Columbo for helping to give America the very rich heritage it derives from the immigrants of the Old World.

I can think of no better example of the legacy of diversity of persons and ideas Columbus bequeathed to us than my own district of San Francisco. Of San Francisco's population, approximately 13 percent of its people are African-American, 12 percent Hispanic-American, 22 percent Asian-American and Pacific Islander, and almost 1 percent are American-Eskimo and Aleut.

We in San Francisco have already begun to celebrate Columbus' linking of the Old and New World. Among the many events San Francisco has held are a pageant in honor of Queen Isabella, a reenactment of the landing of Columbus and his return to Spain, a coronation ceremony hosted by Mayor Agnos in city hall, an art and cultural exhibit held at San Francisco Town and Athletic Club, a children's art contest, a blessing of the fishing fleet at Fisherman's Wharf by the pastor of St. Peter and Paul Church. This Columbus Day, in a civic ceremony atop Telegraph Hill, a wreath will be laid at the statue of Columbus, and of course there will be the traditional Columbus Day Parade.

Mr. Speaker, as Americans of various backgrounds celebrate Columbus Day, let us each in our way reflect on it not solely as an important historical event, but as one whose significance continues to influence us today.

THE SPORTS LOTTERY PROVISION IN THE COMPREHENSIVE CRIME CONTROL ACT OF 1990

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. FISH. Mr. Speaker, I have always been a supporter of State-conducted and State-operated lotteries. In the last two decades the growth of State lotteries has been dramatic. State lotteries have provided an important, new source of revenue for programs needed at the State and local level. In my own State, the New York Lottery has been in operation for over 15 years and continues to be a great success story.

However, I do not believe that it is a wise policy for the States to use the results of professional and collegiate sporting events as the basis for determining their lottery winners.

Sports-based State lotteries would have numerous adverse consequences. First, they undermine public confidence in the integrity of the games themselves. Mere "breaks of the game" or strategy choices would become the source of suspicion and cynicism—undermining public confidence in the honesty of what transpires on the field. Controversial or close calls would be viewed differently because of their impact on lottery winnings. Second, sports-based lotteries convert team sports from a wholesome family entertainment into a vehicle for gambling. This communicates very negative values about sports and the legitimacy of sporting events to the youth of America. Further, the legalization of team sports betting by a State or municipality would increase the chances that persons gambling on games will attempt to influence the outcome of those games. Third, State government sponsorship of sports lotteries would carry with it unintended symbolism. If States like Oregon make betting on sports a public institution, they really are incorporating it into the fabric of public policy and implicitly are giving it the stamp of an official sanction. Fourth, State-supported sports lotteries would borrow on and utilize the trademarks, business goodwill and the traditions of well-known sports franchises and they would do so without any renumeration to the trademark owners. For example, what right does a State have to use the legendary name "Boston Celtics" or to profit from the popularity of the "Los Angeles Dodgers."

Mr. Speaker, there is an array of amateur and professional sports groups that favor the language in section 2202 of the crime bill. This includes the NCAA, the National Basketball Association [NBA], the National Football League [NFL], the Major League Baseball and the National Hockey League [NHL]. Congress has a legitimate interest and right to prevent the use of interstate commerce and communications in connection with sports lotteries. The State lotteries have been a financial success without having their random winnings depend upon the outcome of sporting events. There is simply no reason to change what has been a successful system at the cost and expense of the legitimacy of professional and collegiate sports in the United States.

TAKING ANOTHER LOOK AT DIETARY SALT

HON. HOWARD C. NIELSON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. NIELSON of Utah. Mr. Speaker, for the past decade, the Federal Government has promoted dietary guidelines for Americans to improve nutrition and reduce the incidence of chronic diseases.

The public is properly concerned with the link between good nutrition and good health. Informed consumers make better dietary choices for themselves and their families. Public health authorities must also incorporate new scientific discoveries into their public information and regulatory programs.

One area of continuing controversy is the linkage of dietary sodium to hypertension. Table salt is the most common source of dietary sodium, and the State of Utah is a major U.S. production center of salt.

The controversy concerning dietary sodium was explored earlier this year in Consumer Reports, which is dedicated to providing consumers with independent and objective information and advice. Because it may be of interest to my colleagues as well as Federal and State public health authorities, I submit the following article for the RECORD.

[From Consumer Reports magazine, January 1990]

TOO MUCH SALT?

"Most people would do well to banish the salt shaker from the dining room table," said nutrition expert Jean Mayer a generation ago. Over the years, that advice has become an axion in public-health circles. Cutting back on salt, says the American Heart Association, is "safe, feasible, and probably useful in prevention of high blood pressure in many Americans." Federal public-health agencies currently advocate that all Americans "moderate" their salt intake.

Although there are sound public-health reasons for such advice, it is probably irrelevant to the health of most people who act on it. A growing body of scientific evidence indicates that the role of dietary salt as a threat to health has been greatly exaggerated.

SPOTLIGHT ON SODIUM

Salt is relevant to health mainly because it's the principal source of sodium in the diet. Sodium helps regulate body fluids, and animal studies indicate that it influences blood pressure. Salt, or sodium chloride, is about 40 percent sodium. (Sodium also occurs naturally in many foods and is a common component of certain food additives, such as monosodium glutamate and sodium nitrite.)

Everyone needs some sodium in the diet to replace routine losses. The Food and Nutrition Board of the National Academy of Sciences/National Research Council has estimated that an "adequate and safe" intake of sodium for healthy adults is 1100 to 3300 milligrams a day, the equivalent of approximately ½ to 1½ teaspoons of salt. Americans, on average, consume at least twice that amount—some 2300 to 6300 milligrams of sodium daily, according to estimates by the Food and Nutrition Board.

Most people appear to suffer no ill effects from such amounts. But a significant minority is affected by dietary sodium. That minority includes roughly half of American adults who develop hypertension, a persistent elevation of blood pressure above normal levels. A high sodium intake raises their blood-pressure levels. Some researchers believe sodium can also contribute to the development of the disease, a hypothesis not yet proven.

THE PUBLIC-HEALTH STANCE

Until the 1980s, advice to cut back on sodium was directed primarily to people with hypertension or a family history of the disease. During the last decade, however, the admonition was extended to the public at large. While some experts on hypertension view the "official" line on salt as reasonable and practical, others consider it unwarranted and lacking in scientific merit.

At the crux of the disagreement is a question common to many public-health policies; Is it reasonable to prescribe something for an entire population to protect a vulnerable minority—in this case, people susceptible to hypertension? The issue in this instance arouses further argument because there's no proof in humans that excess sodium actually causes hypertension or that lowering sodium intake will prevent the disease.

While only a minority of Americans might benefit from a sharp reduction in sodium intake, that minority is by no means a small one. An estimated 60 million people in the U.S. are hypertensive, and about half of them are believed to be sensitive to sodium. The advice to the whole population is also influenced by the fact that there is no practical way to predict who is, or will become, sensitive to sodium.

Experimental evidence in rates indicates that sensitivity to sodium can be inherited, and many experts believe that the same may be true of humans. Some people are resistant to hypertension and never develop the disease even though they eat large amounts of salt all their lives. Others appear to inherit a susceptibility to high blood pressure, and a high-salt diet may promote the disease. If this theory is correct, susceptible people may be able to avoid hypertension by using salt sparingly throughout life.

PRIMITIVE DIETS

Evidence that a low-salt diet may prevent hypertension comes largely from population studies. In cultures where diets are extremely low in salt, such as the Kung Bushmen of Africa and the Yanomamo Indians of Brazil, there is virtually no hypertension. Moreover, their blood pressure does not rise with age, as does that of people in industrialized societies. By contrast, about 40 percent of the farmers of northern Japan, who preserve food in salt, have high blood pressure. Those farmers consume as much as 30,000 milligrams of salt daily, compared to less than 500 milligrams for the African and Brazilian tribes.

Similar studies have been carried out on more than 20 cultures, ranging from Greenland Eskimos to natives of the Solomon Islands. Taken together, the studies show that hypertension is rare in populations that use very little salt. Conversely, in societies that consume a lot of salt, a significant minority of people develop the disease.

IS SALT THE VILLAIN?

While such studies appear to point the finger at salt, they don't make an ironclad case. The low-salt groups are all relatively primitive, pre-industrial societies. Salt intake isn't the only thing that sets them apart from Americans. They are much leaner and more physically active than Americans, their diets differ in many other ways, and they are free from various stresses of modern industrial life.

"In low-salt cultures, body weight doesn't rise with age, and we know that obesity is a major factor in hypertension," says Dr. Harriet Dustan, professor of medicine at the University of Alabama and an expert on hypertension. Primitive societies also eat lots of potassium-rich foods, she notes, and some researchers suspect that a liberal potassium intake helps to keep blood pressure down. Finally, says Dustan, there's the homogeneity of pre-industrial groups. "Their gene pool is relatively small," an important factor if hypertension is genetically determined. If a society starts out relatively free of hypertension and remains homogeneous, succeeding generations are likely to escape the disease as well.

A MISSING LINK

The hypertension incidence is studied within a population rather than across different cultures, the link between salt intake and the disease tends to vanish. Studies of people living in the same community, for example, have repeatedly failed to document a salt-hypertension connection.

In a typical study several years ago, researchers at Yale University School of Medicine examined the effect of salt intake on blood pressure among 3,566 Connecticut residents who had never been diagnosed as hypertensive. All the subjects were interviewed about their salt intake and had their blood pressure recorded.

After developing an approximate "index" of salt intake, the scientists compared the mean blood pressure of those in the top 10 percent of the index with the mean of those in the bottom 10 percent. The difference in average blood pressure between those eating the most or the least salt was insignificant.

More recent evidence has cast further doubt on the link between salt and blood pressure. One major study involved 7,354 middle-aged people selected at random throughout Scotland. They were asked about various factors that could affect blood pressure, and their urine was analyzed for sodium excretion (an indicator of salt consumption). The results of the study, reported in the British Medical Journal in 1988, indicated that several factors, including alcohol consumption and potassium intake, had "significant independent effects" on blood pressure, but that sodium did not. "The most likely explanation of these results," the researchers concluded, "is that the relation between sodium and blood pressure in the population is weak and that potassium and alcohol are of greater importance."

THE INTERSALT STUDY

The most ambitious and far-reaching study to date, however, involved an international effort among scientists in 32 countries. Called "Intersalt," it was designed to subject cross-cultural comparisons—the chief basis for the theory that salt consumption affects blood pressure—to careful scientific observation under controlled circumstances. Instead of focusing on a single culture, it compared dozens of societies around the world. The Intersalt Cooperative Research Group enlisted scientists from 52 medical centers in 32 countries and then trained them in standardized methods of data collection. Each center recruited 200 men and women from ages 20 to 59 and, like the Scottish study, compared blood-pressure readings and the amount of sodium excreted in the urine over a 24-hour period. Among the 10,079 participants, salt intake ranged from less than 500 milligrams a day for the Yanomamo Indians of Brazil to some 35,000 milligrams among residents of northern China.

Overall, the Intersalt study found that salt intake had only a minor influence on blood pressure. At four centers where participants had very low salt intakes, blood pressure was also low. But for the other 48 centers, there was no relationship between salt intake and either median blood pressure or high blood pressure. For example, blacks in Goodman, Miss., had the fifth-lowest salt intake of the 52 groups but the third-highest prevalence of hypertension.

The headline of an editorial accompanying the 1988 Intersalt report in the British Medical Journal essentially summed up the findings: "Salt has only small importance in hypertension."

SYSTOLIC PRESSURE AND AGE

Both the Intersalt and Scottish studies reported a positive association between sodium intake and systolic blood pressure with age. (Systolic pressure is the pressure exerted against the arterial walls when the heart contracts; diastolic pressure, usually considered the more important indicator of hypertension, is the pressure between contractions.) Older people with high systolic pressure tended to eat more salt.

Whether reducing sodium intake would have much of an effect on systolic blood pressure in the elderly remains unclear, however, "I think it's pretty much due to stiffening, a loss of flexibility, of the major blood vessels," says Dr. Ray Gifford, vice chairman of the Cleveland Clinic's division of medicine and a hypertension expert. "It's like pumping water into a stiff tube; you build up pressure because there's no resiliency there. What sodium has to do with that, I'm not sure."

IF YOU'RE HYPERTENSIVE

While cutting back on salt may not prevent high blood pressure, about half of all people who already have hypertension will benefit from a reduction in salt. Often, the cutback needn't be drastic. Many hypertensives experience a significant fall in blood pressure by reducing sodium intake to about 200 milligrams a day. A few, however, need a more stringent low-salt diet. Still others show no improvement no matter how strict the regimen.

Concentrating mainly on salt restriction can be self-defeating, however, if other important measures are neglected. An obese person, for example, should put weight loss at the top of the list. "If you have fairly significant obesity to begin with, and you reduce significantly, you can accomplish a lot more than by sodium restriction," says Dr. Norman Kaplan, a hypertension expert at the University of Texas Southwestern Medical School in Dallas. Similarly, a person who drinks heavily should cut back on alcohol before cutting back on salt.

Even those patients who seem to benefit from adopting a salt-restricted diet may not be responding solely to a reduction in sodium. "These are the people who are willing to take steps to change things," says Dr. Barry Massie, an associate professor of medicine at the University of California in San Francisco. "They might be smoking less, drinking less, and exercising. And if you stick to a low-salt diet, you also tend to lose weight. So you can't pick out salt alone as the cause."

PEOPLE AT RISK

Although most Americans won't develop hypertension even if they go heavy on salt, there's no way to tell in advance who they are. But there are certain risk factors that suggest which people are more likely to become hypertensive.

A family history of hypertension.—If either of your parents or a brother or sister

developed hypertension, you're about twice as likely to do so as someone without that background. "If someone has a family history of hypertension, it won't hurt to cut down on sodium and it might help," says Kaplan.

Race.—Black people are twice as likely as whites to develop hypertension. In blacks, the disease develops earlier in life, is often more severe, and is more likely to be fatal at a younger age than in whites. In the Intersalt study, blacks in Goodman, Miss., developed high blood pressure even with a very low salt intake, which indicates that sodium wasn't a factor. But the chance that heavy salt use might increase the risk for blacks remains a possibility.

Obesity.—Studies show a higher prevalence of hypertension in obese people than in lean people. For an overweight person who develops hypertension, weight loss is one of the most effective ways to reduce blood pressure, often to normal levels. Watching salt intake should generally be subordinate to counting calories.

Age.—In Western societies, blood pressure rises with age. Nearly half of all Americans who live to age 74 develop hypertension, mainly from stiffening of the arteries. Whether or not sodium restriction helps to reduce blood pressure in the elderly is still uncertain, but many physicians advise older patients to cut back on salt on the chance that it might help. (Those with illnesses involving fluid retention such as congestive heart failure, must restrict sodium intake.)

If you have normal blood pressure and none of those risk factors, chances are it won't matter much if you restore the salt shaker to the table.

WHEN YOUR NUMBERS ARE UP—THE ANATOMY OF HYPERTENSION

Fear, sex, "aggravation," excitement—they all hike your blood pressure. But your body can take these transient rises in stride. Trouble starts when your blood pressure goes up and stays up. It means you have hypertension, a persistent elevation of blood pressure above normal levels. (The term "tension," here, means pressure, not nervous tension.)

The body regulates blood pressure through a complex system of checks and balances. Nerve signals, hormones, and other influences act to widen or narrow the artenioles—small, muscular blood vessels that deliver oxygen and nutrients to body tissues. When a part of the body works hard (the stomach during digestion, muscles during exercise, nearby arterioles expand to allow increased blood flow. Arterioles in other parts of the body constrict to maintain normal blood pressure. If they didn't, blood pressure would fall.

In some people, the regulatory system goes awry. Arterioles throughout the body constrict at the same time and stay constricted. The heart is forced to work harder to maintain blood flow, and pressure throughout the arterial system rises and remains elevated. Eventually, the heart enlarges and the linings of the blood vessels become damaged and narrowed. That causes decreased blood flow to the heart, brain, and kidneys.

Sometimes the problem arises from a disorder of the kidneys or the adrenal glands, and it may be corrected by surgery. In most cases, however, the cause of the regulatory breakdown remains obscure. Hypertension of unkown cause is called *essential* hypertension. If the disease isn't detected and treated, it can lead to heart failure, stroke, or kidney failure. The higher the blood pressure, the greater the risk of such complications.

PENNSYLVANIA COUPLE HONORED

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. GEKAS. Mr. Speaker, I would like to draw the attention of my colleagues to a very special couple from my congressional district.

Phyllis and Norman Lipsett have been selected to receive Israel's 1990 Heritage Award, presented by the Harrisburg Committee State of Israel Bonds. The award recognizes the Lipsetts' leadership, community service and dedication to their community, Judaism, and the State of Israel.

For more than three decades, the Lipsetts have served on charitable boards such as the Boards of Beth El Temple, the Jewish Home of Greater Harrisburg and Guild, the UJC Endowment Fund, and the Board of Overseers of the Jewish Theological Seminary. They helped establish the Israel Center for the Elderly and Blind in Harrisburg's twin city Ma'alot. In addition, they separately work with Capital Health System, the Central Pennsylvania Literacy Council, and the Drug and Alcohol Advisory Board. Norman is a founding member of the Ronald MacDonald House.

Mr. Speaker, these are just a few of the causes through which the Lipsetts have strived to make our world a better place. And not only have they touched lives across the globe, but they have improved lives right in our central Pennsylvania community. For that, I am proud to call them constituents.

FAMILY SERVICES OF WESTCHESTER: SERVING FAMILIES IN TIMES OF NEED

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mrs. LOWEY of New York. Mr. Speaker, today I rise to draw attention to an organization in my district which provides invaluable service to Westchester families who are experiencing rough times. Family Services of Westchester recently marked its 35th year of helping people in 33 communities across my district.

The traditional American family has been the cornerstone of American society. However, today families are encountering more and more difficult obstacles. The pressures of our society today have sent divorce rates skyrocketing. There are an unprecedented number of single parents struggling to raise their children. Families today often include elderly parents who need special care. The teen pregnancy rate is very troubling, and teens need counseling to help them cope with the dilemmas which accompany pregnancy.

Where can families turn to help them with these and countless other problems. Each year, more than 6,000 individuals look to Family Services of Westchester [FSW] for help. Whatever their problems, Family Services of Westchester tries to help find solutions.

From elder-care to big brother/big sister programs, FSW lends a hand to families who are seeking help. Thirty-five years ago, FSW had just one counselor and a budget of $26,000. Today, the staff numbers 80 and the budget is $2.5 million a year. Although funding is always a problem, United Way and private contributions make up half of the FSW's budget. The increased budget has enabled FSW to add numerous services to help families cope with changing times, and the staff is constantly handling overflowing caseloads.

Mr. Speaker, Family Services of Westchester is a shining example of a program that should be emulated throughout the United States. It is heartening indeed, that at a time when families face trials and tribulations, there is an organization which is helping families cope.

RECOGNIZING NATIONAL BREAST CANCER AWARENESS MONTH—OCTOBER 1990

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Ms. PELOSI. Mr. Speaker, I rise today to recognize National Breast Cancer Awareness Month, October 1990. It is important that all women understand the importance of screening for early detection that can save lives.

In 1990, over 150,000 new cases of breast cancer will be diagnosed in this country and almost 44,000 American women will die of the disease. Most tragic is the number of deaths that could be prevented if the cancer had been detected in the early stages, over 90 percent of the women whose breast cancer is detected in the early stages survive and continue to lead a productive life. The most important risk factors for breast cancer are age and a family history of breast cancer. Two-thirds of all breast cancers occur in women over 50 years of age.

The purpose of National Breast Cancer Awareness Month is to promote awareness of breast cancer and how to prevent it from spreading and killing more women. One of the easiest prevention methods is the breast self examine procedure. It is recommended that all women over the age of 20 examine their breasts once a month. A doctor or a pamphlet from the local American Cancer Society can explain this procedure to you.

Another preventive method is a mammogram, which is a special breast x ray that can reveal a small breast cancer up to 2 years before it can be detected by examination. This important test is extremely safe, as modern mammography uses very low amounts of radiation. Women should consult with their doctor on how often to schedule a mammography. Congress is currently working on making mammographies more affordable and accessible to poor women.

I encourage all women of all ages to call their local American Cancer Society or public health department to see what activities are taking place in their communities in conjunction with National Breast Cancer Awareness Month. It can save your life. Thank you.

GOOD POINTS FROM HENRY WAXMAN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. STARK. Mr. Speaker, I would like to include in the RECORD at this point an outstanding article by our colleague HENRY WAXMAN, which appeared in the October 1, 1990 Los Angeles Times.

It is a perfect explanation of why we need to change the Medicare part of the budget negotiations:

FRENZY OF CUTS IN MEDICARE PLUGS DEFICIT

(By Henry A. Waxman)

This summer Congress and the White House had public celebrations of the 25th anniversary of Medicare. Now a private party—the "budget summit"—has turned back the clock on 25 years of Medicare progress in providing health care to the elderly and disabled. The elderly—and the Medicare program they rely on—are bearing the burden of the summit's failure to raise the revenues needed to reduce the deficit.

The summit participants have homed in on the Medicare program for massive savings. The budget summit requires $60 billion in payment cuts and beneficiary cost increases over the next five years, an amount far larger than the cuts in any other domestic program. The President held on his demand for capital-gains cuts until the end and "settled" for $25 billion tax incentives for businesses and investors. Meanwhile, rather than raising revenues from those best able to pay them, summiteers of both parties seem to have concluded that the elderly can shoulder the burden of deficit reduction.

So the summit requires an increase in the Medicare premium from about $360 a year to more than $650 in 1995—roughly equal to the average monthly Social Security check today. The summit endorses doubling the deductible, even for those struggling on subsistence budgets. Included in this frenzy of program cuts are also steep drops in payments for services, cuts that threaten the viability of many hospitals and health-care institutions on which millions of other Americans also rely.

The impact of these budget proposals will be dramatic. Raising the Medicare premium to cover 5 percent more of the program's costs will affect every participant. This reduction will mean hardship for many—and a reminder to them all that they are being asked to solve a deficit problem they didn't create.

How can we explain the surplus in the Social Security Trust Fund when a higher Medicare premium means a reduction in every Social Security check? And the situation will get worse, because cutting Medicare coverage by increasing deductibles and co-insurance will mean that private Medi-Gap supplemental coverage will cost more as well.

All the news for the elderly in this budget is bad. Especially reprehensible are the effects of these budget proposals on the low-income elderly—40% of the elderly have incomes of less than $12,000 per year. Nearly half of all elderly women and two-thirds of all elderly minorities are in this group. While some of these people are so poor that they qualify for the minimal services of Medicaid, nearly one-quarter of all elderly Americans rely entirely on Medicare as their only form of insurance. For them the premium and deductible increases will be trully catastrophic.

These budget cuts and premium increases follow a decade of Medicare changes. Over the past 10 years Medicare premiums have risen more than 300%, or about six times the rate of inflation. While the price has gone up, protection has gone down. When Medicare was enacted 25 years ago the elderly spent about 15% of their incomes on health and long-term care; today, even with Medicare, they spend more than 18% for these services. There's no help with prescription drugs, no protection against financial ruin from costs of nursing-home care.

Perhaps the most serious consequence of all is the great risk that will be created for Medicare itself. It is now unquestionably one of the most broadly supported federal programs. Much of that support comes from attracting all income classes to it, as well as all ages—because each of us knows that it is there for us in the future and, most important, for our parents today.

But reforming the way we pay physicians one year and reneging on the reforms by freezing payments the next undermines Medicare. Redesigning it to provide catastrophic benefits one year and repealing them the next undermines it. Adopting income-tested premiums one year, repealing them the next and reconsidering them the year after undermines it. Letting premiums and deductibles soar undermines it and hurts all who depend on it.

It is remarkable that the budget negotiators have so quickly turned to the elderly to bear so much of the deficit burden. And in the end, it will not solve the deficit problem—only restructuring our tax system so that the wealthier carry their fair load will do that.

The urgency of the budget deficit must be tempered by the urgency of maintaining confidence and stability in the program of health care for the elderly and disabled. Now is not the time to turn our backs on 25 years of Medicare.

A TRIBUTE TO CAPT. THOMAS G. KELLEY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. SKELTON. Mr. Speaker, it gives me great pleasure to pay tribute to an outstanding naval officer, Capt. Thomas G. Kelley, who retired from the Navy on August 31, 1990, at the Navy Memorial in Washington. During his 30 years of service as a naval officer, Captain Kelley proved his leadership abilities under fire which won him the prestigious Medal of Honor, among other awards for courage.

After graduating from Holy Cross in 1960, Thomas Kelley entered the Navy through Officer Candidate School [OCS]. He later earned a master's degree at the Navy Postgraduate School and graduated from the Armed Forces Staff College.

As a Navy lieutenant in the Mekong Delta, Republic of Vietnam, Kelley earned a place in naval history by maneuvering his river assault craft during an ambush to shield a disabled boat and army troops. The loss of an eye during the ambush did not hamper Lieutenant Kelley; he continued to relay orders as he lay immobilized on the deck of his boat until enemy fire ceased.

Captain Kelley also made his mark in Washington but not before achieving his ultimate goal of serving as a commander at sea. He commanded the Frigate U.S.S. *Lang* (FF 1060) from September 1977 to December 1979. The captain proved his ashore capabilities in Washington by serving as a special assistant to the Chief of Navy Personnel for Legislative Affairs. Credit is given to Captain Kelley for successfully explaining Navy manpower strategy to Members of Congress and their senior staffs.

Mr. Speaker, I know that my colleagues in the House join me today in recognizing Capt. Thomas G. Kelley's 30 years of leadership and devotion to our country.

THE ANCIENT ORDER OF HIBERNIANS AND IMMIGRATION REFORM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. GILMAN. Mr. Speaker, I rise today to bring to the attention of my colleagues the efforts of the Ancient Order of Hibernians in supporting a comprehensive reform of our immigration system.

In particular, the Ancient Order of Hibernians played a positive role throughout the recent debate on a measure introduced by my colleague from Connecticut, Mr. MORRISON, the Family Unity and Employment Opportunity Immigration Act, H.R. 4300, which was approved by the House this week. This important legislation would allow their countrymen to emigrate freely and fairly to the United States.

Irish-American immigrants have contributed to our Nation faithfully and well, from laboring on our railroads and canals to serving in the highest elected offices of our land, and they have served with distinction in our Armed Forces, from Gettysburg to Saudi Arabia.

His Eminence John Cardinal O'Connor has said that the issue of immigration is "Not a matter of charity. It is a matter of justice. It is something we owe to our Irish forebears."

The Ancient Order of Hibernians, founded by Irish-American immigrants to protect the rights of immigrants, has long served as a voice for Irish-American concerns, with regard to both the violence in Northern Ireland and to the plight of immigrants here in America.

In commending the Ancient Order of Hibernians on their efforts to reform our immigration laws, I wish to draw particular attention to "Project One Million," a joint effort on the part of the Ancient Order of Hibernians and the

Irish Immigration Reform Movement, to make one million contacts with President Bush in support of immigration reform.

Mr. Speaker, in order to share the following views with my colleagues, I wish to enter the text of "I Remember," the ADH creed of "Project One Million," at this point in the CONGRESSIONAL RECORD:

ANCIENT ORDER OF HIBERNIANS IN AMERICA,
Woodside, NY.

I AM PART OF PROJECT ONE MILLION BECAUSE * * *

I remember that our people were once immigrants, and that they were shut out of American society.

I remember in my mind's eye the signs that said "NO IRISH NEED APPLY."

I remember how poor our people were and how hopeless the future must have seemed back then.

I am part of Project One Million, because * * *

I remember the 150,000 Irish immigrants who fought to save the Union just one hundred and twenty-five years ago. Though I am quiet and not easily stirred into action,

I do remember what Robert E. Lee said of the Irish Brigade at Fredericksburg, and

I do remember the Bloody Lane at Antietam and the Wheatfield at Gettysburg, and yes

I remember the 257 Irish Immigrants who have received the Congressional Medal of Honor.

I remember when all we had was faith; but it was the faith to move mountains, and with it we built churches and schools and hospitals that are still in use today.

I remember all of the Irish who worked on the canals, especially the Erie Canal, the Gateway to the West, and

I remember all of the Irish who built the railroads that made this sprawling country into one nation from sea to shining sea. * * *

I remember the heroes and the faint-hearted, the politicians and the statesmen, the saints, the rascals and the sinners, all of them, and

I remember that it took pluck and luck and sweat and blood, and not a few tears for us to get to where we are now, and to enjoy the acceptance we have today. But most of all it took hard work, the kind of work that needs doing now before October 5, 1990.

Project One Million is supported by the Irish Immigration Reform Movement, The American Irish Political Education Committee, and The Irish American Unity Conference—and by everyone who wears green on St. Patrick's Day.

PATRICK HURLEY.

EMPLOYER: AGENCY IS BULLYING HIM ON MINORITY HIRING

HON. WILIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. GOODLING. Mr. Speaker, I would like to call to my colleagues attention to an article which recently appeared in the Eau Claire Leader-Telegram regarding an issue which we will soon be again debating—hiring quotas.

Although none of us supports workplace discrimination, do we really want to subject employers like Mike Welbel to this type of costly litigation? Do we really want to force employers like this to defend their hiring decisions against pure statistics?

EMPLOYER: AGENCY IS BULLYING HIM ON MINORITY HIRING

(By Mario Fox)

CHICAGO.—Mike Welbel's lamp company employs 26 people—21 Hispanics and five blacks. Yet the Federal Government has accused him of job discrimination.

The U.S. Equal Employment Opportunity Commission recently ordered him to pay more than $130,000 for not hiring enough blacks, an order that might put the lights out on his Daniel Lamp Co.

"I don't have that kind of money. The whole business isn't worth that much," Welbel said Friday at his business on the city's West Side.

Based on a 1989 complaint, the EEOC accused him of hiring bias for the past two years even though, he said, more than 70 percent of the people he hired during those years were Hispanic.

"Why is the EEOC pitting Hispanics against Blacks?" Welbel said. "Does it want to make Daniel Lamp's 26 minority employees unemployed so it can report that it badgered another small employer into oblivion?"

The EEOC isn't saying anything publicly.

"When charges are filed and a case is in the administrative process, the commission cannot talk about them. I couldn't even confirm that the individual has a complaint," EEOC spokesman Mitchell Edison said Friday.

"Many of these cases end up in Federal district court. But until then, it is not public record," Edison said in a telephone interview.

Welbel's employees are shocked by the EEOC's action.

"Look around. He hires a lot of minorities," said Johnathan Poe, 20, a black who has worked at Dennis Lamp for six months. "He treats everybody well. I never had any trouble here."

Welbel, 42, said he can't even afford to pay the legal costs of fighting the agency's charges against him. "My wife and I started this business nine years ago with $3,000 borrowed money. We got a second mortgage on our Chevy wagon," he said.

Welbel's problems started in May 1989 when he was informed that a Lucille Johnson filed a complaint with the EEOC, saying she applied for a job and wasn't hired because she was black.

Welbel said he didn't interview the woman and has no record of her application. He thinks his general manager, Vital Lora, may have talked to her, but he left the company months ago and moved out of state.

Chicago's directory assistance had no telephone listing for Lora, nor could Johnson be located. The EEOC and Welbel's lawyer, Martin Dennis, refused to divulge her address or telephone number.

Soon after Johnson filed her complaint, two EEOC representatives visited the lamp company. "I thought, 'What do I have to hide? All my employees are black or Hispanics.' So I opened my books to them," said Welbel, of suburban Buffalo Grove.

The EEOC told him he must pay Johnson $340 in wages she lost by not being hired.

No problem, Welbel thought—a small price to be rid of the headache.

But that was not all.

Welbel said the EEOC maintains that employers within a 3-mile radius of Daniel Lamp had an average of 31.3 percent of black laborers, so Welbel should have the same percentage.

So the agency is demanding he pay $123,000 to six other blacks whose names were in Welbel's files but weren't hired. He also must spend $10,000 on newspaper advertising to find those six blacks.

For years, Welbel has done much of his hiring through the Spanish Coalition for Jobs Inc., which trains and refers people for employment.

Carlos Ponce, the coalition's executive director, said whites and blacks are in the organization's training program.

"Because we get Federal funds, we naturally follow the guidelines of the EEOC. We don't discriminate on the basis of race, religion, etc.," he said. "We refer our trainees on the basis of qualification for position and availability."

But the EEOC has refused to back down, Welbel said. "They won't budget a penny," he said.

YOUTH ENTREPRENEURSHIP ACT OF 1990

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. McDADE. Mr. Speaker, I rise today to salute the young men and women, under the age of 29, who are important to the future economic strength and vitality of the United States, and to promote youth entrepreneurship. These young people are bringing an innovative spirit and vigor to the marketplace by providing new goods and services, revenues, and job opportunities. Evidence of this fact is reflected in the top 100 young entrepreneurs who earned a total of over $700 million in 1989. The efforts of these young people to nurture and challenge their own business skills is admirable. However, for the United States to be economically successful in this decade and beyond, we must make systemic changes to the Nation's educational curriculum to assure that entrepreneurial skills are taught our youth from the schoolroom to the boardroom. For this reason, I am introducing the Youth Entrepreneurship Act of 1990. This measure would establish the Office of Youth Entrepreneurship within the U.S. Small Business Administration for the purpose of promoting business education and the acquisition of entrepreneurial skills by our young people.

Every day in this country, businesses are restructuring to meet the future. They are becoming more competitive and more responsive to the consumer's needs. Should our educational system do less to meet the entrepreneurial needs of the future? Should it be any less sensitive to change? I believe that our educational system must become innovative and entrepreneurial if it is to play a role in strengthening the American economy. The Office of Youth Entrepreneurship can play a critical role in the formulation of the Nation's entrepreneurial curriculum. This bill instructs the Director of that office to promote the development of programs that teach educators about the virtues and fundamentals of youth entrepreneurship and encourage the estab-

lishment of business mentorship programs in elementary schools, secondary schools, colleges, and universities. Business mentors can be a source of inspiration and guidance who can share their life and professional experiences and success with young people who aspire to start their own businesses.

Second, this act instructs the Director of the Office of Youth Entrepreneurship to positively impact the development of the Nation's educational curriculum by forming business advisory groups that will help develop curriculum which reflect the needs of local businesses. It is important that the curricula that result from these advisory groups be tailored toward producing business leaders with flexible skills that can respond to rapid and unpredictable changes in the marketplace. It is here where we can have the greatest impact on the future competitiveness of the United States. In reality, entrepreneurial education could be America's most effective economic program. It could be our most productive jobs and antipoverty program. Entrepreneurial education could be the way to out-compete the Japanese, the South Koreans, and the Germans.

Third, in order to facilitate the networking of organizations and individuals which promote youth enterpreneurship, this act requires the Director of the Office of Youth Entrepreneurship to compile, maintain, and distribute a list of organizations which are dedicated to promoting youth entrepreneurship. This list will help reduce the informational void which currently exists amongst those concerned with promoting youth entrepreneurship.

Finally, the act directs the Office of Youth Entrepreneurship to conduct a study of the educational methods that are most effective in promoting youth entrepreneurship and report its findings to Congress no later than 1 year after the enactment of this act. By identifying the best methods by which to continuously develop and challenge the enterpreneurial skills of our youth from elementary school to the boardroom, we will once again be able to reassert our leadership as a world economic force.

The Youth Entrepreneurship Act of 1990 presents an opportunity to change the focus of our productions process to invest more heavily in training and to reshape our thinking in order to promote continuous entrepreneurial learning. More that 2,200 years ago, Aristotle wrote,

All who have mediated on the art of governing mankind have been convinced that the fate of one's country depends on the education of youth.

His words are just as true today as they were when he spoke them. Please join me in supporting the Young Entrepreneurship Act of 1990 so that America will continue to be a viable economic force in the coming decade and beyond.

LET'S VOTE ON THE BRADY BILL

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. BROWN of California. Mr. Speaker, I rise to express my disappointment that the provisions of the Brady bill were not allowed to be offered as an amendment to the crime bill. As you know, the Brady bill would establish a national 7-day waiting period for the purchase of handguns. While we are all intent on cracking down on crime, so far the House has not taken adequate steps to insure that individuals with criminal records cannot walk into a gun shop and walk out with a weapon.

By creating a national 7-day waiting period for handgun purchases, the Brady bill would provide law enforcement officials with a much needed opportunity to review the background of potential purchasers and keep honest gun dealers from selling handguns to those who are legally barred from handgun ownership. Further, it would provide a cooling off period during which a person, intent on violence, may calm down.

The Brady bill simply provides an enforcement mechanism for the 1968 Gun Control Act which prohibits criminals, drug addicts, minors, illegal aliens, and those diagnosed mentally ill from buying handguns. Many States currently have a waiting period so that background checks can be carried out on potential purchasers.

Where waiting periods and background checks exist, we know they work to keep guns out of the wrong hands. For example, the California Attorney General's office reports that that State's waiting period caught 1,200 prohibited handgun buyers in 1 year alone. Another example, drawn from New Jersey, shows that in the 19 years that State has required a background check, 10,000 convicted felons have been caught trying to buy handguns.

The lack of a national policy on handgun sales undermines the effectiveness of the waiting periods and background checks that do exist in some parts of this country and makes a mockery of the 1968 Gun Control Act. Currently, criminals have a free ride to travel to States and municipalities where waiting periods do not exist, purchase the weapons of their choice, and transport them to wherever they desire. John Hinckley, Jr., walked into a Dallas pawn shop and instantly obtained a pistol. This despite lying about his address on the Federal firearm form that he was required to fill out. He later used that same pistol in his failed assassination attempt of President Reagan—an attempt that wounded the President and left his press secretary, James Brady, partially paralyzed. A national 7-day waiting period would have allowed the Dallas Police to run a background check on Hinckley and block his purchase.

Most major police organizations have endorsed this bill. The Federal Law Enforcement Officers Association, the Fraternal Order of Police, the International Brotherhood of Police Officers, the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, the National Association of Police Organizations, and the National Sheriff's Association are just some of the law enforcement organizations that have spoken in favor of the Brady bill. The police are asking us to give them this important tool for keeping guns out of the hands of criminals; it is high time that we do it.

Some have argued that this bill would infringe upon second amendment rights. I cannot see how a waiting period for handgun purchases can, in any sense, be interpreted as an infringement upon Constitutional rights. The Brady bill will simply allow us to serve the public's interest and enforce the law by keeping handguns away from criminals who prey upon society and endanger the lives of our police officers.

I hope that this Congress will be given an opportunity to act on the Brady bill before the end of the session. It is an important and simple reform that will finally put teeth into the Gun Control Act passed more than 20 years ago. I know my colleagues want to get tough on crime, and I can't think of a better place to start than to take steps to keep guns out of the hands of criminals.

THE ECONOMIC CRIMES ACT OF 1990

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to draw the attention of my colleagues to a bill I have introduced today, H.R. 5797, the Economic Crimes Act of 1990, legislation to address the growing problem of fraud against consumers, our Government, and business entities throughout our Nation.

Statistical evidence indicates that the overall economic loss due to fraud may total more than $400 billion per year, and our constituents have made it clear that this Nation is increasingly subject to fraud against our Government, our businesses, and against the citizens of our Nation. Fraud has become an epidemic that must be stopped quickly and effectively.

Currently, there are a multitude of statutes designed to process complaints against various forms of fraud. It has become all too clear that these statutes are unwieldy, inconsistent, and ineffective. Fraud today comprises more than three-fourths of the class in all the courts of our Nation. This waste of our resources must be stopped.

Specifically, my legislation would protect our Government, our business sector, and our Nation's consumers against deceptive advertising practices, misleading representation of goods or services, and against all forms of coercion. It would provide for uniform standards and effective and efficient enforcement by various agencies of the State, Federal Government, and the private sector, against all forms of fraud.

Mr. Speaker, I insert the full text of H.R. 5797 at this point in the CONGRESSIONAL

RECORD, and I invite my colleagues to cosponsor this vital measure.

H.R. 5797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Crimes Act of 1990".

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside such State;

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A); and

(C) within the District of Columbia or within any territory or possession of the United States.

(2) The term "organization" means an entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, estate, society, union, club, church, and any other association of persons.

(3) The term "consumer" means any individual who is offered or supplied any goods or services for personal, family, or household purposes, and any small business concern which is offered or supplied any goods or services for use in connection with the business of such concern.

(4) The term "agency of government" includes the Federal Government, State governments, and governments of political subdivisions.

(5) The term "goods" means personal and real property, but such term does not include securities or interests in securities.

(6) The term "sale" means any transfer of goods or services in exchange for anything of value.

(7) The term "services" means any benefit resulting from the labor, skill, or time of another person or from the use of property, including labor, professional service, transportation, telephone, mail, other public service, electricity, gas, other public utility service, banking, accommodations in hotels, restaurants, or other places, admission to exhibitions, performances, or other places, and the use of property owned by another person.

(8) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and any other territory or possession of the United States.

(9) The term "State attorney general" means the chief legal officer of a State, or any other person authorized by State law to bring actions under section 3, 4, or 5. Such term includes the Corporation Counsel of the District of Columbia. Such term does not include any person employed or retained—

(A) for a contingency fee based on a percentage of the monetary relief awarded in the action involved; or

(B) on any other contingency fee basis, unless, in the cae of actions brought under section 4(a)(1), the amount of the award of a reasonable attorney fee to a prevailing plaintiff is determined by the court under section 4(d)(1).

(10) The term "statement" means any representation in any form of advertising, any oral or visual presentation, or any other representation, presentation, or conduct which is communicated to consumers.

(11) The term "supplier" means any person who is in the businesss of making goods or services available to consumers.

(12) The term "deceptive practice" means any of the following:

(A) offering or advertising goods or services for sale to an organization, consumer, or agency of government and not selling such goods or services as so offered or advertised, or without ability to supply reasonably expectable public demands, unless the offer or advertisement clearly and conspicuously discloses the limitation;

(B) making false or misleading statements with respect to goods or services which are offered for sale or sold to an organization, consumer, or agency of government with respect to—

(i) the need for such goods or services;

(ii) the need for repair or replacement of such goods or services;

(iii) rights, privileges, or remedies, in connection with the purchase of such goods or services;

(iv) prior ownership of such goods or services;

(v) the grade, age, quality, style, standard, or model of such goods or services; or

(vi) price or quality comparisons with similar goods or services offered for sale to organizations, consumers, or agencies of government by the same or another supplier;

(C) making a statement that goods or services offered for sale, or sold to organizations, consumers, or agencies of government, have sponsorship, approval, origin, safety or performance characteristics, ingredients or components, uses, features, benefits, or qualities which the goods or services do not have;

(D) accepting consideration for goods or services and failing to deliver such goods or perform such services as promised or failing to return or refund deposits or advance payments for goods or services which are not rendered in absence of any default or breach of obligation on the part of the organization, consumer, or agency of government making such deposits or advance payments;

(E) using physical force, threat of physical force, tortious threats or harassment, or misrepresentation of law in the course of a sale or attempted sale to an organization, consumer, or agency of government of goods or services or in the course of collection of the purchase price or any portion of the purchase price of goods and services from an organization, consumer, or agency of government;

(F) making a statement that goods are original or new if such goods are deteriorated, altered, reconditioned, reclaimed, or otherwise used; or

(G) making any false or misleading statement with respect to the reasons for, existence of, or amount of, any price reduction in connection with the sale of any goods or services.

SEC. 3. SANCTIONS RELATING TO UNFAIR CONSUMER PRACTICES.

(a) IN GENERAL.—Any contract or agreement in commerce which provides for the purchase of goods or services and which results from a transaction involving a deceptive practice by a supplier may be voided by the affected organization, consumer, or agency of government.

(b) CRIMINAL PENALTIES.—Any person who induces an organization, consumer, or agency of government to enter into a contract or agreement pursuant to or in furtherance of a deceptive practice shall be subject to the same penalties as are provided by section 1963 of title 18, United States Code, for persons who violate that section.

(c) DAMAGES.—Any person who induces an organization, consumer, or agency of government to enter into a contract or agreement pursuant to or in furtherance of a deceptive practice shall be liable to such organization, consumer, or agency of government in an amount equal to 300 percent of the damage or loss sustained, together with an amount equal to the cost of any legal action required (including a reasonable attorney fee). Such amount may be recovered in a civil action in an appropriate district court of the United States or in any State court of competent jurisdiction.

(d) COURT ENFORCEMENT.—The district courts of the United States may have jurisdiction of any action brought under this section without regard to the citizenship of the parties or the amount in controversy. An action under this section may be brought not later than three years after the date on which the deceptive practice was discovered or reasonably should have been discovered.

SEC. 4. ACTIONS BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—(1) Any State attorney general may bring an action in the name of the State, as parens patriae on behalf of organizations and consumers residing in the State, in any district court of the United States having jurisdiction over the defendant, or in any State court of competent jurisdiction, to secure relief as provided for in this section for any dmage or loss—

(A) which is sustained by such organizations or consumers by reason of any unfair consumer practice; and

(B) with respect to which an action may be brought by any injured party under section 3.

(2) An action under this section may be brought not later than 3 years after the date on which the deceptive practice was discovered or reasonably should have been discovered.

(3) The court shall award to the State as monetary relief an amount equal to 300 percent of the total damage or loss sustained, together with an amount equal to the cost of the action (including a reasonable attorney fee).

(4) The court shall exclude from the amount of monetary relief awarded in any action brought under paragraph (1) any amount of monetary relief which—

(A) duplicates amounts which have been awarded for the same damage or loss under section 3, or

(B) is properly allocable to organizations or consumers who have excluded their claims in accordance with subsection (b)(2).

(b) NOTICE.—

(1) In any action brought under subsection (a)(1), the State attorney general shall, at such times, in such manner, and with such content, as the court may direct, cause notice of such action to be given by publication. If the court finds that notice by publication would deny due process of law to any person, the court may direct further notice to any such person according to the circumstances of the case.

(2) Any person on whose behalf an action is brought under subsection (a)(1) may elect to exclude from adjudication the portion of the State claim for monetary relief attributable to such person by filing notice of such election with the court not later than the

end of the period specified in the notice given under paragraph (1).

(3) The final judgment in any action brought under subsection (a)(1) shall be res judicata as to any claim based upon a deceptive practice under this Act by any person on behalf of whom such action was brought and who fails to give the notice specified in paragraph (2) before the end of the period specified in the notice given under paragraph (1).

(c) DISMISSAL OR COMPROMISE.—Any action brought under subsection (a)(1) may not be dismissed or compromised without the approval of the court. Notice of any proposed dismissal or compromise shall be given in such manner as the court directs.

(d) FEES AND DAMAGES.—In any action brought under section 3, 4, or 5—

(1) the amount of any attorney fee to the prevailing plantiff shall be determined by the court; and

(2) the court shall award a reasonable attorney fee and actual and consequential damages to a defendant upon a finding that the plantiff has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

(e) MONETARY RELIEF.—Any monetary relief recovered in any action brought under subsection (a)(1) shall—

(1) be distributed in such manner as the district court in its discretion may authorize, or

(2) be deemed a civil penalty by the court and deposited with the State as general revenues;

subject to the requirement that any distribution procedure adopted by the court shall afford each person involved a reasonable opportunity to secure his appropriate portion of the net monetary relief.

SEC. 5. ENFORCEMENT.

The Attorney General of the United States, the appropriate United States attorney, the Postal Service, the Federal Trade Commission, the Secretary of Health and Human Services on behalf of the Food and Drug Administration, or the State attorney general of any State in which a prohibited act or practice occurred (as parens patriae of the people of such State, after notifying the Attorney General of the United States) may, upon a finding that any person is engaged or is about to engage in any act or practice which constitutes a deceptive practice, may issue subpoenas, and bring an action in the appropriate district court of the United States, or in any State court of competent jurisdiction, to enjoin such act or practice and obtain sanctions in accordance with section 3. Such courts shall have jurisdiction over such actions and shall provide appropriate relief. Such courts may grant a temporary restraining order, or a preliminary or permanent injunction without bond.

TRIBUTE TO THE REVEREND N. LAMONTE NEWSOME, PASTOR OF SERENITY BAPTIST CHURCH, PATERSON, NJ

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. ROE. Mr. Speaker, on Saturday, October 13, residents of my Eighth Congressional District and the State of New Jersey will join the parish community of Serenity Baptist Church, which has been a spiritual focal point and a beacon of faith for countless numbers of worshipers, on the welcoming of Rev. N. LaMonte Newsome to their holy family as pastor.

This occasion will be observed with a special installation banquet on October 13, 1990, at the Excelsior Banquet Hall in Saddle Brook, NJ. I know that this event will be a source of great pride to the entire congregation, and especially to this fine church's new spiritual leader, Rev. N. LaMonte Newsome, pastor, and his wife Teri.

Mr. Speaker, as a means of providing you and our colleagues with the details of this important event, I would like to insert for the RECORD the official history of Serenity Baptist Church along with the biography of Rev. N. LaMonte Newsome:

The Reverend N. LaMonte Newsome is a graduate of Hampton Institute, Hampton, VA, as well as the school of theology at Virginia Union University where he received his master's of divinity in May 1988. It was at this time that he was ordained into the gospel ministry by the Peninsula Ministerial Alliance and the First Baptist Church in Hampton, VA.

Reverend Newsome has served in the past as the associate minister for the First Baptist Church where his particular responsibility was that of the youth ministry. While serving in this capacity, he initiated several major programs oriented toward young adults, including workshops and theatrical revivals for the Greater Tidewater Area of Virginia.

As a community activist, Reverend Newsome has served as the chairman of the Youth Development Committee for the Coalition for Good Government, as well as the Hampton Youth Service Commission and the Peninsula Family Services and Traveler's Aid, Inc. He is presently employed at the U.S. Army Fort Monmouth, NJ, Office of Equal Employment Opportunity as an equal opportunity manager.

Mr. Speaker, it is Rev. Newsome's combination of theological studies and civil services which has brought him, through the direction of God, to Serenity Baptist Church.

Serenity Baptist Church was established under the leadership of Rev. Willie James Worthem on September 29, 1979. Guided by the hand of the Lord, he dreamed of broadening the Christian faith in the Paterson area. Weekly worship services were held at the Riverside Baptist Church, and eventually Sunday school classes were established. Over the years, they have been able to create many different internal committees to carry out the works of the Lord.

Mr. Speaker, for the past 11 years, Serenity Baptist Church has been able to nourish needy bodies with spiritual food and their minds with the feeling that someone cares. I know that you and all our colleagues here in Congress will want to join me in extending our warmest greetings and best wishes to Reverend Newsome as the new pastor of Serenity Baptist Church. We do indeed salute an esteemed pastor and institution for their service to their church, our Nation, and all mankind.

COLUMBUS DAY, 1990

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. BILIRAKIS. Mr. Speaker, I rise today to pay tribute to the man who set out on a voyage of exploration nearly 500 years ago, a voyage that resulted in the discovery of America. That man, of course, was Christopher Columbus.

It is fascinating to me to think back to that time some five centuries ago, to reflect on the foresight and courage of this great explorer as he set out into the unknown with but three tiny ships and a handful of men.

Columbus' four voyages to the new world were fraught with hardship and danger. However, Columbus persevered and though he died without grasping the full significance of his actions, an entry in his diary proved profoundly prophetic.

On his third voyage, he wrote on spotting the mainland of what would be America: "I believe that this is a very great continent, until today unknown . . . and if this be a continent it is a marvelous thing, and will be so among all the wise."

On Monday, we will celebrate for the 20th year in a row the day set aside in honor of Christopher Columbus. However, it is fitting at this time that we remember and honor the contributions to America of all Italian-Americans—sons and daughters of Italy who in their own way have followed Columbus to America.

It has been reported that the average Italian came to these shores with but $17, and settled in the major cities of the east. While it is a fact widely known, that most of these immigrants planned only a brief sojourn in America, followed by a return to Italy, only a few followed through. The remainder stayed and gave to this land generations of its teachers, athletes, artists, musicians, doctors, lawyers—even politicians. Also, it was an Italian in point of fact—Francesca Cabrini—who became the first American saint.

Ten years ago, the Rev. William J. O'Halloran, president of Lemoyne College, remarked upon this in words difficult to improve upon. I would like to close my remarks today with Rev. O'Halloran's: "We salute Christopher Columbus on this day of his discovery and we salute the Italian-American people who discover in our own day, the new Americas of opportunity and challenge."

IN RECOGNITION OF MOIRA JACKSON

HON. Nancy PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Ms. PELOSI. Mr. Speaker, I rise today to recognize the 80th birthday of an extraordinary woman, Moira Jackson.

Moira has been a member of the California Senior Legislature for 10 years, a member of the California Commission on Aging, and the

San Francisco Commission on Aging. She has authored proposals for medication education for seniors and senior health services which have been adopted by the California State Legislature to become model programs for seniors throughout the State. She has also volunteered her considerable talents in countless organizations whose mission is to assist and advocate for seniors.

I was proud to appoint Moira as the senior intern representing the Fifth Congressional District, a position in which she served with great distinction and great vigor.

Moira's life and works are dedicated toward the improvement of life for seniors, and I am proud to say that the citizens of the State of California are better because of her efforts. At 80 years young, Moira is an example of the truism, "you are only as old as you feel." She will be celebrating her "Gift of Life" with a Mass and reception at St. Teresa's Church in San Francisco on October 6.

Mr. Speaker, I wish to celebrate the "Gift of Life" Moira has bestowed upon us all through her good deeds.

PRESIDENT BUSH URGES CONGRESSIONAL ACTION ON LEGISLATION RE PUERTO RICO'S POLITICAL STATUS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. LAGOMARSINO. Mr. Speaker, I have just received a letter from President Bush urging the Congress to act quickly on legislation providing a referendum on Puerto Rico's political status. The President's words reflect his genuine and stalwart support of the right of the people of Puerto Rico to choose their relationship with the United States.

During President Bush's first address to a joint session of the Congress last year, he expressed his long-held belief that the people of Puerto Rico should be able to decide their future relationship with the United States. Although he expressed his strong personal preference for statehood, he asked the Congress to take the steps necessary to let the people decide in a referendum.

Since the President's request, committees of jurisdiction in both the Senate and the House have labored to develop legislation authorizing a referendum in Puerto Rico in 1991. Senators BENNETT JOHNSTON and JAMES MCCLURE of the Senate Committee on Energy and Natural Resources completed through herculean efforts a bill over a year ago detailing precisely the terms of the three prevailing status preferences in Puerto Rico: independence, statehood, or a commonwealth relationship.

Recently the Committee on Interior and Insular Affairs and the Committee on Rules favorably reported H.R. 4765, the Puerto Rico Self-Determination Act. The legislation gained approval by the committees only after months of complex discussions with various parties in Puerto Rico supporting different status options.

I urge my colleagues to support legislation providing the 3.6 million U.S. citizens of Puerto Rico with the opportunity to decide their future relationship with the United States. The enactment of such measure will be a testament to the democratic principles upon which this Nation was founded. "We the People," including the United States citizens of Puerto Rico, have a right to participate in the governance of the country in which they reside.

President Bush's letter follows:

THE WHITE HOUSE,
Washington, DC, October 5, 1990.

Hon. ROBERT J. LAGOMARSINO,
House of Representatives,
Washington, DC.

DEAR BOB: I applaud everything you have done to give the people of Puerto Rico the chance to declare what they want their political future to be. Your subcommittee performed truly historic labor, and now your bill is about to come to the House floor.

As you know from my first address to Congress, this issue is important to me, and not just because of my long-standing interest in Puerto Rico. As President in a time of democratic growth and vibrancy throughout the world, I strongly believe it is past time that we guarantee the residents of the Island a voice in resolving the political status of Puerto Rico, American territory for 92 years. We owe this to them, and we owe it to a world that watches to see whether the United States of America believes as much in the consent of the governed now as it did in 1776.

I would urge the entire Congress to act affirmatively and rapidly on whatever responsible measure comes before them to call for a referendum on Puerto Rico's political status. And I stand ready to sign such legislation when it reaches my desk.

Sincerely,

GEORGE BUSH.

H.R. 1461

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. SPRATT. Mr. Speaker, I rise to express my support for H.R. 1461, the Textile Machinery Modernization Act. This legislation is designed to revitalize America's beleaguered domestic textile machinery manufacturers.

Over the past three decades, domestic textile manufacturers have suffered serious financial setbacks at the hands of imported machinery. In 1960, U.S. producers supplied 93 percent of the domestic market for machinery. By 1982, that was down to 48 percent, and in 1988 it dropped to 35 percent. In 1972, the U.S. textile machinery industry recorded a trade deficit of $270 million. That rose to $618 million in 1986. Unless our Government takes speedy and effective steps today, we will witness the continued decline and eventual disappearance of this critical domestic industry.

H.R. 1461 would establish a fund within the Treasury Department to support research for textile machinery modernization. The money for this fund would come from a small duty imposed on imported textile machinery. The Commerce Secretary would administer this fund by providing grants to finance research projects.

The Commerce Department has concluded that this industry's critical need is research and development to close a technology gap. H.R. 1461 is a modest, but important step in the direction of closing that gap. Just as America cannot afford to lose its domestic textile industry, we cannot afford to lose our textile machinery industry. Even in a time of tight budget constraints, our Government cannot afford to ignore its responsibility to help save vital domestic manufacturing industries like textile manufacturers.

POLICE OFFICER MARY RUDY HONORED

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. MANTON. Mr. Speaker, I want to pay tribute to a special constituent of mine, police officer Mary Rudy. This evening, Mary will be honored by her friends and colleagues as she retires from the New York City Police Department [NYPD].

Mary Rudy joined the NYPD in December 1973, and was assigned to the 108th precinct in Long Island City, Queens, in June 1984. Working in the 108 was especially exciting for Mary. She was born and grew up within blocks of the station house. She protected her longtime friends and neighbors working this job.

Mary was a victim of the city's budget problems in 1974 when the department experienced a reduction in force. However, she did not give up her determination to serve the city as a police officer.

Mary returned to the 108th precinct in 1977 and served there on patrol, as captain's clerical, as youth coordinator and, finally, as community affairs officer. She went from the 108 to the auto crime division where she also distinguished herself.

Mary Rudy has been an outstanding police officer. She is dedicated, courageous, intelligent, and empathetic. Her courage is demonstrated best, perhaps, by her gallant fight against cancer. Mary came back to the NYPD twice after bouts with the disease.

Mary Rudy is now retiring from the department on disability and her friends want her to know how much they appreciate her. They plan to thank her for her devotion to the community and to the police department. They plan to tell her how much they admire her perseverance and faith. They plan to say "Well done, Mary Rudy."

Mr. Speaker, I know my colleagues join me in congratulating Mary Rudy and in wishing her all possible happiness in the years ahead.

RECOGNIZING JOHN R. POPE, M.D.

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. SYNAR. Mr. Speaker, I rise to honor a physician whose healing hand has touched the lives and hearts of many Oklahomans. Dr. John R. Pope, a cardiologist on the staff of the Holt-Crock Clinic in Fort Smith, AR, is an exemplar of the ideals expressed in the Hippocratic oath:

I will follow that system of regimen which, according to my ability and judgment, I consider for the benefit of my patients. . . While I continue to keep this oath unviolated, may it be granted to me to enjoy life and the practice of the art, respected by all men, at all times.

Dr. Pope is, indeed, respected by all who have had the privilege to know him. He has been honored by the Mayor of Fort Smith, the Governor of Arkansas, and the Oklahoma House of Representatives. C.B. and Ann Miller, of Sallisaw, OK, have donated a patient room at Sparks Hospital, Fort Smith, in thanksgiving for his professional practice and skill.

Mr. Speaker, I invite my colleagues to join me in recognizing Dr. John R. Pope.

OPPOSING THE PERSIAN GULF RESOLUTION

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. McDERMOTT. Mr. Speaker, for 2 months, Congress has given the President a free hand to resolve the crisis in Kuwait. We supported the President in his initial attempts to contain Iraqi aggression and to mobilize the support of the international community. We agreed with the President that Saddam Hussein's actions could not go unanswered—for whenever one nation's sovereignty is violated, every nation's is threatened.

I support this resolution's call to strengthen international efforts, to commend the prompt response of the United Nations, and to work for a diplomatic solution to this crisis. These are appropriate and essential measures.

I support our service men and women in the Persian Gulf region, and those in the Ready Reserve and the National Guard who have been called to duty. Their lives have been disrupted and those sent overseas are at great risk of military and terrorist attack. We all respect their dedication and courage. I fear for the Americans being held hostage and my prayers are with them and their families.

But as the days since August 2 have passed, we have entered a new phase in this crisis. The imminent threat of attack on Saudi Arabia has diminished. Now we must respond to a lingering threat. In view of this shift, I have concerns about the strength of our commitment, the length of our commitment, and the fundamental purpose of our commitment.

There is talk of direct attack by U.S. troops. Various military scenarios are openly discussed. There is talk also of a deepening stalemate. The prospect of our prolonged presence in the region has increased in recent weeks, and this prospect raises serious and troubling questions.

Are we doing everything possible to resolve this crisis by means other than military force? "I am convinced that peace will not be established by military means. Sooner or later the issue is bound to be settled at the conference table. Eventually, why not now?" This is the question Senator Ernest Gruening posed on August 6, 1964, during debate of the Gulf of Tonkin resolution.

This resolution is not the Gulf of Tonkin. It does not commit us to future action and the circumstances of our intervention are quite different. But Senator Gruening's essential question bears repeating today. He went on to ask if all of the parties involved has sought, as required by the U.N. charter, "first of all—a solution by negotiation? Have they sought a solution by inquiry? Have they sought a solution by mediation? Have they sought a solution by conciliation? Have they sought a solution by arbitration? Have they sought a solution by judicial settlement? Have they sought a solution by 'resort to regional agencies or arrangements'? Have they sought a solution by resort to 'other peaceful means of their own choice'?"

At this point, it is not clear to me whether or not we are seeking a peaceful resolution or military intervention. As 100,000 troops languish in the desert, the potential for escalation grows each day.

I believe that the United Nations should be the guiding hand in our response to this crisis. Its support thus far has been vital, and the response of the world community has been reassuring. At this point, responsibility for restoring Kuwait, for stopping Hussein, for ensuring the world order, rests overwhelmingly with the United States. If Hussein is truly a world threat, the United Nations should step in to deploy a multinational force or to initiate a negotiating effort.

Certainly the United States must share the global burden of halting tyranny, and our initial response to assist Kuwait and Saudi Arabia was appropriate. But there is no direct threat to the United States, and I am uneasy whenever the "national interest" is invoked to justify risking American lives. Certainly a continued abundance of foreign oil is not worth this risk. Stability in the Middle East is clearly in our interest, but I am not convinced that prolonged deployment of United States troops is the best way to achieve it.

Finally, I do not want the United States to become a nation accustomed to using military force as the means of first resort rather than last, or to applying military might when steady negotiations might succeed, or to relying on the military to cure the failures of diplomacy. Over the past decade, we have gone on a binge of cut-rate military adventures that may well undermine rather than promote our influence in the world.

This President knows how to talk tough. I want to hear him talk tough about peace. I cannot support this resolution or our continued presence in the gulf until I am convinced of his resolve to seek other means to end this crisis and to respect the process of consultation with Congress that our constitutional institutions provide.

I served in the Navy during the Vietnam era. I treated the casualties of that war. For too long, our country lied to those soldiers, and we deluded ourselves. I never again will consent to risking American lives for vague "national interests." We are deluding ourselves again if we think there will be winners in a shooting war in the gulf. I want to be sure that we have exhausted all other means before we ask our citizens—or any others—to make this sacrifice. As we seek long-term stability for the region, we must look beyond the deployment of U.S. troops. Only a negotiated settlement can bring lasting peace to the Middle East.

REMEMBERING SHIRLEY SCHECTER

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. SCHUMER. Mr. Speaker, the community of Canarsie and our Nation have lost a great asset. Shirley Schecter recently passed away.

One of the great joys of my job is being able to meet the many fine community leaders of Brooklyn. Without pay and with great personal sacrifice, these men and women give of their time and energy for the community. Shirley Schecter was such a person.

In 1978, Shirley joined the staff of the Remsen Heights Senior Center as a bookkeeper. By 1983, she was the director of the center. But Shirley was more than the head of the vibrant center, she was its heart and soul. Her dedication and genuine affection for the seniors she served was evident in everything she did. With Shirley the seniors got more than service with a smile. They got service with a smile, a joke and a hug.

Outside the senior center, Shirley Schecter was committed to improving her community. She served as president of the Ladies Auxiliary of the Crown Heights Post of Jewish War Veterans and held just about every post in Hadassah.

We will miss Shirley dearly. But her commitment and the example Shirley set, will not soon be forgotten.

BUDGET RESOLUTION IS BEST OPTION

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mrs. VUCANOVICH. Mr. Speaker, I voted yesterday in favor of the budget resolution because it is the responsible choice between the lesser of two evils. I agonized over this decision, weighing the tough vote for the budget summit provisions against the catastrophe of across-the-board cuts in life or death Federal programs.

Yesterday we had the opportunity to balance the budget, and this is something I've been committed to do since I was sworn in in 1983. This vote shows that when Congress had an opportunity to show some backbone, it was their decision to opt for chaos.

I am very unhappy with the cuts in Medicare, and the effect this proposal could have on the elderly. The reality is, though, that the alternative we now face, a $130 billion sequester will be a catastrophe for every American: the elderly, the sick, the poor, veterans, students, and our brave young men and women in the military.

Under sequestration Medicare will fare no better. Reductions would be limited to 2 percent and all hospital, doctor and other provider payments would be reduced by 2 percent. Beneficiary services may not be cut and coinsurance may not be increased as a result of sequestration. However, some providers may alter the quality or quantity of services delivered in an effort to absorb the reductions. On the other hand, the administration of the Medicare Program would be subject to the full 32.4 percent sequestration. This would affect the processing of claims and the implementation of the program.

Of great concern to me was the decision to establish an annual fee of $100 per claim to keep hardrock mining claims on public lands active, which replaces the current Federal requirement that claimholders spend at least $100 per year on development of the claim.

Mr. Speaker, the OMB estimate of $390 million of revenue over a 5-year period is completely unrealistic. In fact, the figure may be much lower; CBO has estimated that receipts to the Treasury will only be $120 million. Whatever the true number will be, it is a fact that this $100 fee per claim will have a very large, detrimental impact on the Nevada economy, that we are still trying to assess. I only voted in favor of the budget because there existed an opportunity to change these revenue raising provisions when the resolution is sent to the Interior Committee for reconciliation. I hope any new budget resolution will eliminate this $100 fee per claim.

Furthermore a sequester will cut $742 million from Social Security, deny needed medical care for 83,000 veterans in hospitals and 1.7 million more veteran outpatients. It will deny one-third of needy students loans for their college education, put 113,000 children out of the Head Start Program, and paralyze commercial airline travel nationwide.

We made a commitment to our brave young men and women that we will support them as they face Iraq. A sequester will cut defense activities by almost 50 percent, and we are going to leave them out in the desert without the support they desperately need.

In ideal circumstances, I prefer fundamental reforms to the budget process, and strong, enforceable reductions in spending. But I wonder if Congress will ever show that kind of courage.

I made this tough decision because I am truly committed to reducing the deficit. If Congress responds today with temporary spending measures and more smoke and mirrors, I will not vote for any continuing resolution or budget bill.

HONORING HERMAN R. FAST, WEST COVINA CITY MANAGER

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. TORRES. Mr. Speaker, I rise today to recognize a special individual, Mr. Herman R. Fast, city manager for the city of West Covina, CA. Bob is retiring from the position of city manager after 14 years in that capacity. He will be honored at a special dinner on, October 28, 1990.

Bob Fast has served the community of West Covina as its city manager, a position that he has held since 1976. I commend Bob for his sincere dedication to the citizenry of West Covina.

Bob was born at Mountain Lake, MN. He received his bachelor of science degree in engineering at the University of Minnesota. In 1955, he moved to California where he earned his masters of science degree in public administration from California State University, Los Angeles. Bob is married to Doris Fast; he has three grown children, Mary Kay McMillan, Patricia A. Nelson, and Robert J. Fast.

Prior to his tenure as city manager, Bob had the unique opportunity of serving the city of West Covina in several capacities. He became a member of its planning commission, assistant city manager, and public services director. Bob additionally served as a representative to the League of California Cities, Los Angeles Division; Los Angeles City-County Consolidation Commission; and on the public works subcommittee as vice-chairman and chairman. A resident of West Covina, Bob has actively participated in numerous community activities.

Mr. Speaker, on October 28, 1990, the citizens of West Covina will say farewell to a dynamic individual. A man with the ability not only to shape new ideas, but a leader who was able to make those ideas a reality. I ask my colleagues to join with me in a salute to a fine individual and friend, Herman R. Fast, for his outstanding record of service to the community of West Covina. And, to wish both he, and his wife, Doris, best wishes for a successful future.

GERMANY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. HOYER. Mr. Speaker, yesterday representatives of the four victorious powers of World War II suspended control of Berlin and today 41 years of national division ended. Last winter civil society staged a successful, bloodless revolution in East Germany and over the past 11 months we witnessed the breaching of the wall, the collapse of communism and the first free elections in the East.

Fifteen years ago the Helsinki Final Act spoke to the aspirations of the citizens of the 35 signatory states. It established a framework in which the interdependence of peace, security, and human rights proved to be more than words. The revolutions of 1989 proved that civil society energized by cries of peace and freedom for all men and women in a world of justice could coalesce to bring down the Communist tyranny that had ruled for 45 years. We witnessed a collective consensus with immense moral force surge forth demanding that human dignity as a political issue be reckoned with. And when regimes failed to respond they fell. Human rights triumphed as a crucial determinant governing the relationship between state and society.

The legacy of communism will not be eradicated overnight. As President Vaclav Havel stated before the U.S. Congress:

> The communist type of totalitarian system has left * * * a legacy of countless dead, and infinite spectrum of human suffering, profound economic decline and, above all, enormous human humiliation * * *.

The task of nation building lies ahead for all Germans. Wedded to democratic ideals the peoples of Germany will overcome the legacy of World War II.

UNFAIR BUDGET AGREEMENT

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. KLECZKA. Mr. Speaker, I rise today to express my dismay about the budget summit agreement which came before the House late last night. This package, which was negotiated for months, would have driven the tax burden sword further into the backs of elderly and middle-income taxpayers.

These are the same Americans who have seen their tax burden increase throughout the 1980's. And now, we are going to slap them with the bill for the Reagan-era mess. I say "no fair."

The $60 billion cut in Medicare programs for the elderly was a truly cruel proposal. This represented half of all domestic program cuts. These seniors' out-of-pocket deductible would have doubled. Their monthly premiums nearly would have doubled, and clinical lab services would cost them more. They don't deserve another hit.

This budget would stick the middle class with a 12-cent increase in the gas tax and another 2-cent levy on home heating oil. In return, oil and gas companies would get $4 billion in new tax breaks. This would result in windfall tax savings for the owners of these energy resources.

Furthermore, the landmark Tax Reform Act of 1986 would be undermined by the budget package. Tax shelters, which primarily benefit wealthy individuals, would once again be allowed to flourish under the so-called "growth incentives" proposed by the President and included in the budget plan.

Mr. Speaker, the disparity in the tax burden between upper and lower income categories over the past decade has been confirmed again and again by congressional studies. The top 20 percent of income earners paid less of their income in taxes in 1990 than in 1977.

The bottom 80 percent paid more in taxes over the same period.

The budget package increases this inequity in tax distribution. It increases taxes for those Americans earning between $20,000 and $50,000 by 3 percent to 3.5 percent. As for those earning over $200,000 per year, the average tax increase was only about 0.3 percent. Clearly, this is unfair.

The time is now to clear up these inequities, especially in the Medicare provisions, and draft a compromise that achieves the deficit reduction goal in a fair and responsible manner. With these changes, this Member of the House will be more willing to swallow had and vote to pass a budget bill.

HARRIET TAYLOR UPTON NATIONAL HISTORIC SITE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. TRAFICANT. Mr. Speaker, today I introduced legislation that would designate the former residence of famous suffragette Harriet Taylor Upton of Warren, OH, a national historic site.

Harriet Taylor Upton dedicated her life to the cause of women's rights. In 1921, she served as a representative from Ohio on the national executive committee of the State Suffrage Association. She also served as an honorary vice president of the association that same year. As treasure of the National American Woman Suffrage Association, Harriet Taylor Upton transformed the association into a debt-free, profitable organization.

In addition to her work in the suffrage movement, Mrs. Upton was a major figure in other spheres of national politics. She served as vice chairperson of the executive committee of the Republican National Committee—the first woman to ever hold that position from either party. She was also instrumental in opening the U.S. diplomatic corps to women.

My legislation would give the U.S. Department of the Interior the authority to acquire the property with either Government money, donated funds or by exchange. The former resident would be designated as the Harriet Taylor Upton National Historic Site and would be administered by the National Park Service.

I encourage my colleagues to cosponsor this bill. Harriet Taylor Upton's residence is a precious historic landmark. It should be preserved and maintained to educate future generations of Americans and as a lasting tribute to this great American.

DEDICATION OF THE CHARLES J. STROSACKER CENTER FOR HUMAN SERVICES

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. SCHUETTE. Mr. Speaker, I rise today in honor of each individual and organization involved in making the Charles J. Strosacker Center for Human Services a reality. The board of directors of the United Way of Midland County will hold an open house for the public at the Strosacker Center on October 9, 1990.

According to By the Way . . ., a publication of the United Way of Midland, the Strosacker Center is named in honor of the Charles J. Strosacker, who funded the Charles J. Strosacker Foundation. In conjunction with other Midland foundations, the Strosacker Foundation provided funds to purchase and renovate the former Sears building on Midland's Main Street. The entire capital cost of the project was funded by foundations, so moneys from United Way contributions were not, in any way, used for the building. A formal dedication honoring the late Mr. Strosacker and the foundation supporters will be held later this year.

The Strosacker Center is intended to provide efficient office and program space for human service agencies such as the Midland County Council on the Aging, the Voluntary Action Center of Midland County, ARC, Big Brothers/Big Sisters, and the Midland County Chapter of the American Red Cross. The various agencies share space and a level of visibility which has helped to promote greater accessibility to those who are in need of their services.

Mr. Speaker, and my colleagues in the House, join me today in applauding the United Way, and all other responsible organizations and individuals for the opening of the Charles J. Strosacker Foundation. Their dedication to the service of others is to be recognized and commended.

TOWARD EXCELLENCE IN SCIENCE

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 5, 1990

Mr. SCHAEFER. Mr. Speaker, I rise today in well-deserved recognition of a teacher from the Sixth District of Colorado, Sue Anne Berger, who is firmly committed to achieving one of the President's top priorities—ensuring that American students are "first in the world in math and science" by the year 2000. Ms. Berger, a teacher from Bear Creek High School in Lakewood, CO, has been selected as a 1990 recipient for a prestigious Presidential Award for Excellence in Science and Mathematics Teaching.

A 27-year veteran of teaching, Sue Anne Berger brings top credentials to her chosen profession. With a bachelor of science in chemistry, a master's of combined science and masters of science in mineral economics to her credit, she brings a broad knowledge of the sciences to Colorado and sets a high academic standard for all teachers. In addition, she has been honored with the Institute of Electrical and Electronics Engineering Outstanding Teacher Award, the Colorado School of Mines Sigma XI Award and the American Chemical Society High School Chemistry Teacher's Award.

Berger has developed methods to open up the world of science to children of all ages. She has created innovative programs to enliven science for every level student. They include: descriptive teaching techniques; microscale chemistry labs; and hands on chemistry for 9- to 10-year-olds. Perhaps one of her most valuable teaching approaches, however, is a course entitled "Chemistry for Elementary Teachers." This course is a teaching aid which imparts effective science teaching skills to the educators who will have the first opportunity to interest our children in the sciences. In this way she has created a positive ripple effect that will impact thousands of children in Colorado.

Again, I would like to congratulate Sue Anne Berger for her selection as a recipient of a 1990 Presidential Award for Excellence in Science and Mathematics Teaching. Her unique contributions have opened up the magical world of science for many Colorado children.

SENATE—*Saturday, October 6, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. BRYAN].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Though I speak with the tongues of men and of angels, and have not love, I am become as sounding brass, or a tinkling cymbal.—I Corinthians 13:1.

Owe no man anything, but to love one another; for he that loveth another hath fulfilled the law.—Romans 13:8.

Gracious God, infinite in love and understanding, help us in this time of great tension to find our way. Save us from fragmentation. Remind us, "United we stand, divided we fall." "A house divided against itself cannot stand." Either we stand together, or we fall apart.

Thou alone dost know, Lord, the minds and hearts of Your servants in Congress—their motivation—the pressure upon them from constituents often who are misinformed. Knowing the future, Thou dost know how close we are to a precipice, to catastrophe. Save us, Lord, from winning battles and losing the war.

Holy Father, there are those who undoubtedly feel calling upon God is irrelevant in pragmatic politics. But our Founding Fathers understood its importance. Some of our greatest leaders depended on prayer. President Lincoln, in a time of great national crisis, discovered often there was no other place to go except to his knees. In wisdom and love, patient Father in heaven, lead us to a just and equitable solution.

In His name, who is love incarnate, we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, and I say to the Members of the Senate, the President has vetoed the continuing resolution enacted last evening by the House and Senate which would have extended the operations of Government through midnight next Friday. The House will be coming into session at 3 p.m. to take up the veto override.

If the House overrides the veto, then the matter will come before the Senate for consideration and we will have a vote on the veto override sometime later this evening.

According to the members of the House staff handling the processing of the matter, we can expect House action to be completed, and if the veto is overridden, the papers to be in the Senate by approximately 5 p.m., perhaps sometime thereafter.

So I am shortly, following consultation with the distinguished Republican leader, going to suggest that the Senate stands in recess, following remarks from certain Senators who are here and wish to address the Senate, until 5 p.m., at which time we will be in a position to make an announcement regarding any action that may be necessary this evening.

If there is to be a vote on the veto override, I have, again following consultation with the Republican leader, decided that we will give Senators a minimum of 3 hours' notice before such time as a vote occurs, so that those Senators who are not present in the Nation's Capital can return for that vote. So we will be in a position to make an announcement at about 5 p.m.

Those who wish to do so, of course, have available to them directly viewing the House proceedings so they would know as soon as the vote occurs whether or not the veto was overridden and, if so, whether action here would be necessary.

In addition, I will be consulting with the distinguished Republican leader further this afternoon to determine whether there will be any other purpose for our being in session, and whether or not any session of the Senate will be necessary on tomorrow.

We are continuing the effort to reach agreement on the budget. It is my hope that the budget conference committee will reconvene today, that is, members of both parties and both Houses, in an effort to see if some progress toward that objective is possible.

ORDER FOR RECESS UNTIL 5 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator SANFORD be recognized to address the Senate for 5 minutes; that thereafter, Senator BOND be recognized to address the Senate for 5 minutes; that thereafter, Senator BOSCHWITZ be recognized to address the Senate for 10 minutes; that thereafter, Senator SPECTER be recognized to address the Senate for 10 minutes; and that thereafter, Senator CONRAD be recognized to address the Senate for 5 minutes; and that following the using or the yielding back of that time, the Senate stand in recess until the hour of 5 p.m. today.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DOLE. Mr. President, I was not aware of the 3-hour notice before we vote. I wonder if the time can start not at 5 o'clock but from the moment we know there will be a vote over here. That may be 4 o'clock on the House side.

Second, if someone needs to get somewhere else after, the vote can run for awhile, if necessary.

Mr. MITCHELL. I certainly would be agreeable to that. Frankly, Mr. President, it had been my hope that the House would have already acted and we would have known now, so that the vote in the Senate would have occurred perhaps sometime this afternoon.

We are trying to juggle two things here: One, to accommodate those Senators who are not in the Capitol by giving them time to get back, and to accommodate those who are here to have the vote as early as possible so they can go wherever they are going. That intersection will be at about 3 hours after the House votes. We will attempt to notify as many Senators as possible when we can. We are just trying to accommodate as many Senators as possible.

Mr. BOSCHWITZ. I would say, if the Senator will yield, I am in the latter group. I want to go off in the last plane that leaves at about 8 or so, so I am hopeful we will be able to vote. Does the majority leader feel there

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

will be much time used after the vote in the House, after it comes over here, or are we going to proceed quickly?

Mr. MITCHELL. First, let me say that our voting on a veto override is, of course, conditioned on the House's overriding the veto, and we do not know that yet.

Mr. BOSCHWITZ. I understand.

Mr. MITCHELL. If it is not overridden in the House, then we will not take it up. Second, since I have a feeling that the President's decision to veto it was not made until after he had some assurance of votes to sustain the veto on the Republican side, I do not think a debate is going to change too many minds. So it would be my expectation that it could be a relatively short debate. We all know what the issues are, and if the votes are there for sustaining the veto, or, in any event, whether they are there to sustain or override the veto, I think that we ought to do that with relatively brief but what I know, I am confident, will be informative and incisive debate.

Mr. BOSCHWITZ. The President is mindful, as he should be, about counting votes.

The ACTING PRESIDENT pro tempore. Is there objection to the unanimous-consent request propounded by the majority leader? The Chair hears none. The request is agreed to.

Under the previous order, the Senator from North Carolina [Mr. SANFORD] is recognized.

A MANUFACTURED CRISIS

Mr. SANFORD. Mr. President, this is a manufactured crisis. Congress, with a considerable sense of responsibility, voted to keep the Government going for a few days in order to work out of the mess that the President's summit budget has caused.

The President's veto of the continuing resolution is juvenile, I started to say, but that word has too much dignity for the act. It was a childish act, a temper tantrum because his summit maneuver did not work. The President tied the hands of Congress for 4 months and now expects to force Congress to rush to do his bidding. It is now clear that the President is the one who has brought the Government to a halt. It is a childish temper tantrum.

Congress has acted in good faith throughout this exercise. This mess is caused by President Bush. His budget sent to Congress last February was a fraud, predicting a mere $64 billion deficit, one-fifth of the true deficit that we now face. It was his deceit that caused us to have to resort to a summit.

President Bush is more responsible for the massive debt than anyone in government. He has continued to practice the 10 years of deceitful budget coverup. His summit 5-year budget would have added $1.2 trillion to the debt we are putting on our children, Mr. President.

Congress did the responsible thing in voting down the summit budget. It was a very bad budget. It is now time for Congress to force the President to accept an honest budget. The President has caused enough budget mischief. Congress should not be rushed into accepting a very bad budget.

I say, Mr. President, to the Federal employees, to the citizens disadvantaged by the lack of public services, "Do not call your Congressman. Call the White House."

I thank the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Missouri [Mr. BOND] is recognized for a period of 5 minutes.

Mr. BOND. Mr. President, I thank the Chair.

SUGGESTIONS FOR IMPROVING THE BUDGET

Mr. BOND. I came to try to offer some constructive suggestions on what is obviously a very critical situation for us and this country. Let me say, though, that I am very disappointed to hear an attempt at this point to blame the President as being the one solely responsible for the quandary which we face. The President obviously is part of the process, but he cannot spend a nickel until we authorize it and appropriate it. We are not going to confuse the American taxpayers, the American citizens by saying, "Oh, it is all the President's fault." Come on, we are all big boys, big girls. We have been around a little while. We have a stake in this. We have a responsibility to deal with this budget problem. To say that Congress has acted completely in good faith and has no responsibility is about as effective as saying "the dog ate my homework" or "the Devil made me do it." That just is not going to wash.

I talked to many people back in my State of Missouri who are very fed up with everybody in Washington, both the executive and the legislative branches, and they expect us to do something. I can tell you that the time has long passed when we are going to gain any points or make any progress saying it is the Republicans' fault, it is the Democrats' fault. Sure, we could point the finger at the House of Representatives; they were the first party to have an opportunity to vote on the budget agreement. They voted it down. I happen to think that that threatens to bring real chaos on this country. But I am not saying that they are venal. I am not saying, "Write the Members of the House of Representatives." I say, let us get about doing something about this mess we are in.

We have a real problem, Mr. President. It is not going to be solved by a short-term continuing resolution extending for a few more days the ability of the Government to spend when we cannot get our spending under control.

Most Members of this body and most people who follow Government and economics respect the chairman of the Federal Reserve. Alan Greenspan has said that if we do not have a credible, honest-to-goodness deficit reduction plan that is enforceable and that carries over a number of years, then we are going to see the cost of our fiscal irresponsibility in higher interest rates and higher unemployment.

Chairman Greenspan said what we all said: the budget agreement was not the greatest. I respect our leaders in this body who worked hard to get that deficit reduction agreement. I commend them for probably the most significant process reform that we have seen at least in the 3½ or 3¾ years that I have been here, some means of assuring we do not spend money in the outyears above and beyond what we have agreed upon. That was a very good part. There are a lot of ugly parts. There are parts I did not like, and there are parts that people in my State did not like, and I am sure every Member of this body has people back home telling them they do not like the gas tax; they do not like the Medicare costs.

I hope we can get about solving the problem and coming up with a modification of that summit agreement that will enable us to get out of this quandary. I suggest freezing domestic spending at 1990 levels, including agriculture—and I will say why in just a minute—taking those savings and the $11 billion in what may become a massive tax shelter for small business and using those funds to eliminate the gas tax as a deficit reduction measure and to provide more relief for lower income elderly who have the potential of facing higher Medicare costs. The moneys available would also let us give some relief to homeowners from the ravages of inflation. Rather than lowering the capital gains tax, we could permit them to index the base of their home from when they purchase it. These would deal with many of the problems we found in my State and I am sure in other States.

I hope that a proposal like this would allow Democrats and Republicans to come together with the President and say we acted responsibly; we can balance our checkbook; we are shaking the notion that we are the gang that cannot shoot straight. That, Mr. President, is the view that we have conveyed, the message we have sent to our people. It is time that we got rid of it.

Agriculture can be cut in future years when we reach an agreement under the GATT negotiations to bring down subsidies and overseas dumping

of agricultural surpluses. That will allow us to make substantial reductions. But to do so now unilaterally is to disarm us in the critical GATT negotiations and threaten higher costs and loss of exports on our farmers. These are items I hope will be constructive, Mr. President.

I would like to see us working together as Democrats and Republicans, legislative and executive. We need to stop the finger pointing and start the solution.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Minnesota [Mr. BOSCHWITZ] is recognized for 10 minutes.

Mr. BOSCHWITZ. I thank the Chair.

I ask my friend from Missouri, is he going to be supportive of the Presidential veto?

Mr. BOND. The Senator from Minnesota is correct.

CONTINUING RESOLUTIONS

Mr. BOSCHWITZ. I too, Mr. President, am rising to say that I will support the Presidential veto of this continuing resolution. This is the 36th continuing resolution since March of 1981. We have gotten into the habit here in the Senate and here in the Congress of doing business by continuing resolutions.

We are now past the beginning of the fiscal year. Not a single appropriations bill has been passed into law that would fund Government agencies for this fiscal year. There can, in reality, be no sequester. There is nothing to sequester. Nothing has been appropriated unless this continuing resolution were to go forward and then you were to sequester from it.

But a continuing resolution is not the way to do business. I recall when President Reagan, in one of his State of the Union messages, picked up a continuing resolution. I think it was 2,000 pages long. Not a single Member of this body knew what was really in that continuing resolution.

Lots of mischief are in these bills that are passed in an overnight fashion, when they are negotiated and put together in the earliest hours of the morning by staff, often without the consultation of Senators or Congressmen. It is just the wrong way to govern. We were not sent down here to govern that way.

So I am against continuing resolutions, just continuing and continuing the process. This is already the second continuing resolution. Now there should be a third, and then a fourth. If you give the Congress of the United States three more days to come up with a budget, they will come up with it on the third day. If you give them 45 days in order to give them time to consider it, it will be on the 45th day.

I know that earlier this year people said well, it is not unlikely that the budget summit will conclude prior to the August recess. And the President has been most forthcoming. He first delayed in June and gave us more time to come up with a budget resolution. Then he gave another delay in August, and against last week. How long will we delay? The time has come to govern. We cannot govern by continuing resolutions where everything is thrown into the pot and mixed around, and nobody really knows what the ingredients are.

So I will support the President's veto because that veto will draw this process to a conclusion. It will indeed shut down the Federal Government to a large degree. It will indeed inconvenience very many Federal workers. It will create some hardships for some Federal workers. I understand that. But continuing resolutions will also create some hardship for the way this country is governed. And it is time that we get on to the business of governing it in a more organized fashion.

I often talk to my constituents about the fact that this body of 100 people contains about 65 lawyers. You know, those fellows will negotiate on and on in as much time as you give them. If you give those set of lawyers, and of course there are a couple hundred or three hundred of them over in the House, something like that—no wonder this negotiation goes on and on.

There are too few businessmen. I see the Senator from Idaho, who, as was I, was a businessman in his career. We could conclude this very, very rapidly. We are used to concluding things very rapidly. Lawyers are used to getting continuances, and going on and going on. That is not the way to do business. But regrettably, it is the way that we do business here in the Senate of the United States.

I agree with my distinguished colleague from Missouri who said that even though the package is now history, it had very many strong process reforms. He said that they were the best budget process reforms that had occurred in the 3½ years that he has been here. They are the best process reforms that have occurred in the 12 years that I have been here. It would cap appropriations and have enforcement provisions. It would also prevent new entitlement programs from arising unless they were on a pay as you go basis.

It also dealt with supplemental appropriations, because toward the end of the fiscal year we always seem to run out of money, and then we have dire emergency supplementals. It dealt with that as well. It dealt with reconciliation because reconciliation normally is done 1 year at a time. All of us are expert in moving expenses from 1 year to the other, and not saving a dime but claiming that we saved a lot.

So the process reform in the budget package has failed, and that is now history. I hope at least those process reforms will show up once again in this new package.

Let me just say a word about my friend from North Carolina, who I see is no longer on the floor, but he said the Congress acted with a considerable sense of responsibility.

I do not share that particular feeling. He said that the President's veto was a childish temper tantrum. I wish he had not said that. I hope this will not become a partisan fight. Certainly, my vote to sustain his veto is in a degree partisan. I am a Republican. I want to support a Republican President. But I think it also deals with the facts that we cannot continue to govern by continuing resolutions. We simply have to pass appropriations bills. We have to get on with the business of having a budget for the fiscal year that has already begun. One continuing resolution leads to another.

We are going to be here right up to Christmas. Very frankly, our only hope of not having a lameduck session is to get on with it, have the President force us to get on with it, and then write the necessary enabling legislation that it takes to bring that budget into effect.

My good friend from North Carolina said that the Congress should not be rushed. Those were his words. I do not agree with that. He said that the President was deceitful. I certainly do not agree with that.

This morning I talked to two Minnesotans, John and Helen, and they were terribly upset about this budget package. They thought that their Social Security had in some way been imposed upon. Social Security is not touched. They thought that she could no longer go to the hospital, and Helen has some health problems. I said that part A of Medicare, the larger part of Medicare that deals with hospitals, has not been touched by the budget agreement; that part B that deals with doctors has been touched, and that they would now pay for the first year $3.60 a month more. The annual deductible that now is $75 would go to $100, and then would go to, in the second year, $125, and in the third year to $150.

They had not understood the parameters of this agreement. They had been scared by press reports, and by just misunderstanding. They did not understand that it was not as extensive as they had feared.

So I say to the Johns and Helens of Minnesota and the rest of the country that this is not such an onerous agreement. The agreement that will be forthcoming probably should look

something like the agreement that has failed.

Yes, some of the rough edges will be taken off but the idea of renegotiating the entire thing I think should not be done. I think that agreement came pretty close to the mark.

Mr. President, I am going to vote to sustain the President's veto. I think the time for action has come. I am glad that the President is pushing us to take action. I am glad that the President is not going to just go from one continuing resolution to another. That is not the way to govern. It is time that the Congress acted. The President has given us adequate time. The fiscal year has begun. We have in the budget agreement that has already come forth a pretty good roadmap of what to do. I trust we can get the whole thing resolved by Tuesday noon.

I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Pennsylvania [Mr. SPECTER] had 10 minutes reserved to be followed by Senator CONRAD.

Mr. SYMMS. Will the Senator yield for a request? I ask unanimous consent that I be added to the list of Senators to get 10 minutes to speak.

The ACTING PRESIDENT pro tempore. Is there objection? The Senator from Idaho has asked that he be given 10 minutes to speak following Senator CONRAD.

Mr. FORD. I have no objection, Mr. President. I would like to be added to the list for 5 minutes following the distinguished Senator from Idaho.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Idaho is added for 10 minutes, and the distinguished Senator from Kentucky for 5 minutes. The Senator notes the absence of the Senator from Pennsyvlania who has 10 minutes reserved to him under the previous order. Senator CONRAD is recognized.

Mr. CONRAD. Mr. President, I ask for 10 minutes. I think the original order was for 5, but others were granted 10.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chairs hear none, the Senator's time is expanded to 10 minutes.

THE PRESIDENT'S VETO

Mr. CONRAD. I thank the Chair and my colleagues for their indulgence as well.

Mr. President, I believe the President's veto of the continuing resolution is a mistake. The summit process went for 4 months and failed to reach a conclusion, failed to reach a conclusion that could pass the Congress of the United States. And now we are told, those of us who have been left out of this process for 4 months, that we are to produce a package in 48 hours.

Mr. President, it does not quite add up. Four months they have been out closeted at Andrews, 4 months, meeting in closed meetings, eight men around a table. The rest of us were not advised of what was in that negotiation. And now they failed to produce a package that could pass. Perhaps one of the reasons they cannot produce a package that will pass is because most of us were not consulted as they went through that process. Now they have come back and said, well, that process is broken down. All of you do the job in 48 hours.

Mr. President, that is not going to work. The President, it seems, is trying to get us to choke down a package that has been totally rejected, totally rejected. Not only by our side of the aisle in the House of Representatives, but by his own side of the aisle in the House of Representatives.

Has the President missed the vote in the House of Representatives? His own whip of his own party rejected the package. One of the people who was a negotiator rejected the package, led the revolt. We need to be given a little time here so other constitutional process can work. There is a genius in that document. The genius is a separation of powers.

The President, the administrative branch of Government, the judiciary, the Supreme Court, and the Congress, the legislative branch of Government, we need a chance to let the legislative process work. That is the genius of America, 435 Congressmen elected from the 50 States, 100 Senators elected to come and make these decisions, not 8 people in a closed room.

Let us let the constitutional process work. Let us let the genius of that document unfold here on the floor, and let us produce a result that we can be proud of and that can pass. That is what we ought to be doing.

Mr. President, let us turn to the package that the President is apparently trying to have us choke down. Did he not get the message? He called on the people of the United States to phone in, call your Congressman, call your Senator, and tell them to pass this package.

Well, you know what? The people did call in; they called my office, and it was 7 to 1 against his package. Seven to one. I am told that every other Member had the same kind of experience. So the President told the American people, asked the American people, let us know what you think, and, boy, they did. They said thumbs down. They said thumbs down for a very good reason: this package is no good. It is not fair. And you know, they are pretty smart. The American people are pretty smart, because the package was not any good. It was not any good, is not any good, did not pass, is not going to pass, and should not pass.

That package was not fair to the middle class in this country. They could come up with a tax package that increased their tax at double the rate of the increase for the rich, after the rich have already had tax cut after tax cut after tax cut. And we are told, let them go again, let them go again, let them have another break.

I do not believe that package would have increased the rich's taxes at all. I am a former tax commissioner, and that package had loopholes big enough to drive a moving van through. I will tell you, every rich person's accountant in this country, every tax attorney in this country, their mouth was watering at the potential to reduce the taxes on their client's income.

Mr. President, it was not fair to the middle class. It was not fair to the elderly sick. That is a good group to pick up. By God, they cannot fight back very well. Let us pick on the elderly sick. Let us sock it to them. Let us take over half of the cuts that were in that package out of their hide. That is a great way to operate around here. That is courage.

The President says to us, this is a fair package. That is not a fair package, not a fair package for the middle class, not a fair package for the elderly sick, not fair package for the farmers of this country. Let us review the record. This package said, proportionately, agriculture takes the biggest cut, take the biggest cut agriculture, because you have already been cut 60 percent over the last 5 years, so come on in and take another cut. That is fair. We will give you the biggest cut. You have been cut 60 percent over the last 5 years, and so let us give you another 24 percent cut.

But that does not even tell the whole story, Mr. President, because agriculture is the only functional area which has been frozen for the next 5 years before they ever started cutting. Absolutely. The baseline for every one of these other categories has an inflation adjustment. They have inflation built in. But not agriculture. And so the total cut to agriculture was 41 percent, compared to 10 percent for defense, 9 percent for Medicare. How can anybody stand here on this floor and say that was a fair package?

And regionally, Mr. President, we did an analysis and looked at major cuts, major revenue, and we put the States in order. No. 1, my State of North Dakota. No. 2, South Dakota. No. 3, Nebraska. I see the distinguished senior Senator from Nebraska on this floor now. No. 4, Iowa. No. 5, Montana.

And Mr. Darman, the head of the OMB, has the nerve to tell the Associated Press that there is no regional

unfairness in this package. Who is he kidding?

That was not fair regionally. It was not fair to the elderly sick. It was not fair to the middle class. It was not fair to the farmers.

In the middle of all that, Mr. President, apparently the assumption is we are going to keep on paying the bills for Japan and Europe when we cannot pay our own bills—$100 billion a year for Europe, $50 billion a year for Japan. We have to borrow the money from them to do it and we wonder why this country is in trouble and this President is trying to get us to choke down a package that says stay the course, keep right on doing it, this makes sense for America's economy.

It does not make sense. It does not make sense. The American people are smart enough to have figured that out. So when the President said call, they called and they said no. The Congress got the message. I wish the President had gotten the message.

Mr. President, I would love to see somebody come in this Chamber and tell us that we ought to write a check for $100 billion for Europe, write a $50 billion check for Japan. But that is exactly what that summit agreement suggested we do. The American people said no.

We can do so much better, Mr. President, we can do so much better, if we do our business out here in the open, right in front of the American people, right the way the Constitution said to do it and we will write a package that is fair to the middle class, that is fair to the elderly sick, that is fair to the farmers, that is fair regionally, and that meets this deficit crisis.

Mr. President, that is our opportunity. We ought to seize it.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Idaho [Mr. SYMMS] is recognized for a period of 10 minutes.

THE PRESIDENT'S VETO

Mr. SYMMS. Mr. President, I rise this morning to announce that I will support the President's veto of the continuing resolution as my colleague from Minnesota just mentioned that he would. I do not know whether this was the right thing for the President to do or not. I think many people who have said it is the wrong thing, were they President, they might have made the same decision because of the frustration and the difficulties of dealing with a Congress in which the majority party in the Congress has a different philosophy than the President.

I do think this: If this is going to be a successful exercise, and we are going to end up with a better resolution of the problem, and a better budget process, and hopefully, a balanced budget in the future fiscal years of this decade, the President himself must say very clearly to the American people that they are really getting exactly what they voted for.

The fact is, Mr. President, I have an uncle who is a political scientist and educator, who has spent his entire career in education. Incidentally, he happens to be a member of the majority party here in this body, and he would probably, by definition, call himself a liberal Democrat. He told me at the time that President Reagan was elected, the American people are going to get a big shock because Ronald Reagan is not going to be able to come to Washington and do what Maggie Thatcher has done in England and get the legislative body to form coalitions and pass her programs and put them into effect.

The American people think when the President is elected the Government is going to end up doing what he wants. However, our constitutional system and the media's influence presently prevent that.

So, in my opinion, in order for this process to be successful—and I hope it is successful and I hope we do as the Senator from Minnesota said—have this resolved by Tuesday or Wednesday of this week, and pass a budget with the Congress adjourning sine die by the close of the week and going home to not come back until next year, it will save the American people a lot of grief. I say that because there is still a lot of legislation laying out there that is going to impose a lot of Government, a lot more cost, and a lot more interference on a lot of people, and there is some of those pieces of legislation that are in the conferences right now that this Senator hopes do not get back over here until this Congress adjourns so we can start over and rethink and relook at some of those pieces of legislation.

In order for this budget process to be successful the President is going to still have to at some point take his gloves off and say to the American people, look you elected a President who ran on the most conservative platform of anybody in the 20th century, and elected him by a big majority and you turn right around on the same day and you elect a liberal Democratic majority to the House and Senate who have a different philosophy, a different vision of America.

It is not a surprise to this Senator that we are now in a conflict. In fact, it is a surprise to me that we have not had more crises and more conflicts, and that we have worked as well as we have when you look at how fundamentally different we are on the issues. There is one large body of thought here who believes we should raise revenues and a large body of thought in the Congress and the country that think we should hold the line on spending.

The facts of it are, Mr. President, that the Government has the power to borrow money, to fulfill their spending obligations, and it has the power to tax people to fulfill its spending obligations. Or it can end up through the Federal Reserve System printing money to fulfill those spending obligations and inflate the currency. Printing money is the most dishonest way of fulfilling the obligations. Borrowing it or taxing for it is much more honest because you really have to pay for it eventually, or incur the wrath of the electorate when you extract their money. But regardless of how the Government raised the money, the fact of the matter is, Mr. President, that we spend too much money.

The Senator from Missouri said earlier that we could freeze these appropriated accounts, if we would freeze the budget, it would give us quite a lot of money. Let's be honest, there is confusion out there. If you get outside of the Budget Committee or outside this Chamber, outside the Beltway, and you talk to people supposedly we are cutting all this money out of the budget. In fact, the myth has been annually circulated that we have been cutting the budget ever since I have been a Member of the Senate. That we have been cutting billions of dollars from every budget since 1981.

Interestingly enough, I think the first budget we had when I came over to the Senate was something like $600 billion. Now it is twice that much. It is $1.2 trillion or $1,200 billion plus and that is after all the cuts that have taken place. Why is this? Because inside the Beltway we never say you spent x number of billion dollars last year, and we are now spending y number of billions over last year. It is always on a projected growth, current services budget that we compare the next year's increases or reductions to. It is no wonder that the budget process confuses the American people.

Fundamentally, there is a basic philosophical difference between me and those of my colleagues who may disagree with me on some basic philosophies of economics.

I believe we can reach a budget compromise, despite this fact.

However, I think the American people need to hear from all of us that if they do not want to have these crises or these confrontations—and I am sure my colleague from Kentucky who is about to speak next would probably agree with this—they should elect a liberal Democratic President who then could probably work with the Democrats in Congress better. Or more preferably, they should elect a conservative Republican House and Senate to work with a conservative Re-

publican President who could easily work out their differences.

However, the system is in crisis here this morning. I hope the President is successful and I hope he has done the right thing.

I do want to say again, that it is not all that complicated what is going on here. It is very hard to accomplish this, but it is a rather simple solution. We simply spend too much money and we never can agree with each other on where it is we ought to make the cuts in Government.

One Senator who just spoke eloquently comes from North Dakota where they are in an impoverished situation. They have cheap wheat prices. The primary income for the people in that State is wheat, a State where they have had a lot of drought the last few years. Also, the cuts in the farm program are very difficult cuts in agriculture for those people in that State. I am sympathetic with that, coming from an agricultural State myself. But, nevertheless, the fact of the matter is that the present crisis is not all that complicated to figure out. Government revenues have been growing at a very rapid rate all through the eighties, but the appetite to spend money on whatever program it may be—whether it is the Defense Department, whether it is the Agriculture Department, or whether it is this or that regulatory alphabet soup agency that is out there—the appetite to spend money continues to grow at a rate faster than the revenue that comes in.

Mr. President, I think there is one thing we need to think about, and I know that the common thread that I keep hearing here in the Chamber, is if we do not solve this budget package, we are going to have a lot of problems in the financial markets. My good friend from Missouri was talking about some of the things that Chairman Greenspan of the Federal Reserve said, but it is important for the Members to notice what the responses of the markets have been. The Chairman of the Federal Reserve made a comment, that if this package is passed, the one that was voted down by the House, he implied he might drop short-term interest rates.

The second that happened, the dollar hits the tank on the international financial markets.

Now, the Fed, for the last several years, through Manny Johnson and Wayne Angell, has been keying off of commodity prices and a stable dollar and, most importantly, off the yield curve, the differences between short- and long-term interest rates which keeps a stable dollar.

In my opinion, Mr. President, the markets are looking at this package that came out of the budget compromise just the opposite of what most of the people in the Senate are interpreting. If you look very carefully, the stock market yesterday morning opened headed down. Only after everyone realized on Wall Street, that maybe we are going to get a sequester in Congress and maybe Government really will spend less money, did the crash of the stock market stop, turn around, and close almost unchanged from Thursday's trading. I invite my colleagues, when Monday's Wall Street Journal comes out, to take the Wall Street Journal and look at what is happening in the international currencies.

The ACTING PRESIDENT pro tempore. The Chair would inform the Senator from Idaho that his 10 minutes have expired.

Mr. SYMMS. I ask unanimous consent that I might extend my comments for 2 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SYMMS. I invite my colleagues to note the fact that in international currency markets all throughout the period of this so-called compromise, the dollar has actually been going down and down and down. It has been dropping dramatically against the pound, dramatically against the yen and other currencies.

What that means is that Federal Reserve Chairman Greenspan, who I believe is a very responsible American, and the other governors of the board, will have no choice but to push interest rates up, not down as he has implied, to defend the dollar. So we should be telling ourselves how lucky we are, and how lucky America is that the House voted down that package.

We need a better package, and it needs to truly and deliberately, reduce spending. The markets are looking to see if Congress has the courage to reduce spending, freeze spending, or even just hold the lid on the growth of spending.

We would do better by limiting spending to 1 or 2 percent growth across the board on the budget, and no new taxes. Because basic economics tells you when you are going into a recession, if you raise taxes on work and on savings and on investments you are going to get less of it.

Money travels nowadays very rapidly around the world because of electronic transfers and so forth. Americans and people in other countries now invest where they think they will have the most favorable return on invested capital. They look for countries that have a more capitalistic view, if you will, and a less socialistic view, if you will.

Mr. President, money will flow to those countries that are receptive to open markets and nonregulatory States, and governments that control their spending.

Foreign investors thought America was a good place to invest during the 1980's. If we think we have problems today in the Congress, because we keep adopting continuing resolutions, come back next year and see where we are here in the Congress. I dare say it will be worse.

So I urge my colleagues to not be afraid of a sequester. In fact, we can modify the sequester order. Let us take out $50 billion in real reductions via a sequester and let us tell the President he has the authority to keep the meat inspectors, keep the FAA people working, and reduce spending across the board in the rest of Government so that it really is a meaningful reduction, without hardship to necessary governmental functions.

If, in fact, it is a meaningful reduction we will get a favorable response in the world; the American people will be better served, and the Government will have to work a little bit harder with a few less employees. But, Mr. President, that may be a good thing. In this Senator's opinion, it would be a good thing.

So I urge my colleagues, in the next 2 days, let us come up with a budget, for the best we can agree on between colleagues who have philosophical differences in growth economics, free enterprise, and vision of government.

We can make a compromise. But let us not do this by raising taxes on the very people who are paying the bills. Let us not kill the goose that lays the golden egg; that is, the working men and women of America who are the ones that suffer every time the profligate spenders in Washington simply cannot say no.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. SPECTER].

Mr. SPECTER. Mr. President, I suspect that speeches this afternoon are becoming——

The ACTING PRESIDENT pro tempore. If the Chair might inform the Senator, under the previous order, Senator FORD is scheduled to speak for 5 minutes. I know the Senator previously requested 10 minutes of time, but to do so will need unanimous consent.

Mr. SPECTER. I ask such unanimous consent to that effect.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Pennsylvania is recognized for a period of 10 minutes.

THE PRESIDENT'S VETO

Mr. SPECTER. Mr. President, the speeches this afternoon may be somewhat tiresome to those who are in the gallery and those who may be watching on C-SPAN II or those who would

rather watch the Saturday afternoon football games. But I believe that it is important to articulate the reasons why the President's veto ought to be sustained, at least as I see it.

I intend to vote to sustain the President's veto because I believe that it will put the maximum pressure on the Government to govern. The U.S. Government has become the laughingstock of the country, really the laughingstock of the world. That is because we are unable to accomplish our fundamental and principal business: to establish a budget to allocate $1.2 trillion in as fair and equitable a way as we can, recognizing all the while, that politics is the art of the possible and accommodation and compromise are indispensable ingredients in our work.

Mr. President, the budget proposal which was agreed to by the leadership in both Houses, along with the President, was not a good budget. It was a bad budget. But the question is not how bad it was but rather whether it was better than no budget at all and whether it was better than a sequester. So that those of us who had to make a choice are really facing an issue of the lesser of the alternative evils.

This Senator made a speech on September 26 of this year regarding the impact of sequestration. It appears in the CONGRESSIONAL RECORD, S13902, which I would refer to so that I may abbreviate these remarks. I said at the time that the sequestration was unthinkable because it would exemplify the failure of Government. We would have the air traffic controllers not regulating air traffic. We would have the meat inspectors not inspecting meat. We would have a million school children not being innoculated. I said that the sequestration is irrational.

When my distinguished colleague from Idaho, Senator SYMMS, talks about the sequestration going forward, he urged us to come out and modify the sequestration. But, are we going to modify the sequestration when we cannot agree on anything to start with? We have 537 people in the Government, 100 in the Senate, 435 in the House, the President, and the Vice President, all elected. And as a group we cannot agree on anything.

The issue is: What will make this Government govern? In the 10 years that this Senator has been here, the only thing that I have seen work is the maximum possible pressure.

Typical of our budget recently, was an agreement at 3 a.m. on a December 22, because Christmas was coming. And had the Congress had the ability to postpone Christmas, we might still be here.

[Laughter.]

Mr. SPECTER. Well, somebody is listening.

[Laughter.]

Mr. SPECTER. And that is precisely, Mr. President, why I think President Bush is preeminently correct in saying that he is not going to allow a continuing resolution for 7 days because, as sure as we are here now on a Saturday at 3 o'clock in the afternoon, we would be here next Saturday at 3 o'clock in the afternoon asking for 7 more days.

Beyond that, we would be here on the following Saturday and as many successive Saturdays as the absence of pressure would permit procrastination. That seems to be what the Congress does best: Nothing. More procrastination. I think President Bush is exactly right in compelling the Congress to act. Now we do not have 2 days without disastrous effects of the Government not functioning—in a sense it is surprising we have electricity in the room and have anybody tending to this Chamber so we can argue about what we ought to be doing. We ought to come to grips, with it just as promptly as we can, and this pressure is indispensable.

Mr. President, at some length in the speech on September 26 I articulated my reasons for saying that if the Government did not demonstrate its ability to govern, there were going to be 537 people looking for new jobs because America is fed up with our inability to come to grips with the deficit problem and to solve the many other pressing issues our Nation is facing.

There is a suggestion circulating, Mr. President, that President Bush might sign a continuing resolution if it contained sequestration. This Senator wants to state flatly, now, that I will not support that. A continuing resolution to keep the Government going with sequestration will be seized upon by some as a preferable way to deal with the budget problem. However, as I said before, sequestration is totally irrational and does not permit selection of the alternative and priorities.

The sequestration, for those who may not know its impact, involves an across-the-board cut. Certain expenditures are exempt. It was adopted back on December 11, 1985, as part of Gramm-Rudman-Hollings, when we were trying to deal with the budget deficit.

But it was not possible to predict then and it is not possible to say now exactly what the impact of sequestration will be except that we know, as Senator DOMENICI articulated it, it is a planned train wreck. It was a planned train wreck so that it would compel Congress to avoid it at all costs. The cuts simply are not rational. Certainly, they are not as rational as the Congress and the Executive can make them.

So, Mr. President, I find the idea of a continuing resolution with sequestration to be totally unacceptable. We are here this Saturday. We are prepared to be here this Sunday and we are prepared to be here this Monday. We ought to stay until we get the problem solved.

The budget resolution has been turned down in the House of Representatives. It is time to see what better alternative there is. We have to face up to our responsibility and govern, because that is what we were sent here to do.

Mr. President, I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kentucky [Mr. FORD] is recognized for 5 minutes.

OVERRIDE THE PRESIDENT'S VETO

Mr. FORD. Mr. President, I thank the Chair. I guess all the zoos except this one are closed. And the admission here is free.

This has become a zoo, in my opinion. The Senator from Idaho said we got exactly what we voted for. We got exactly what we voted for? We started back in 1981 with Reaganomics. We voted for a balanced budget in 1983. I remember it well: balanced budget in 1983; $250 billion deficit in 1983. Cut taxes, increase the military; everything will be fine.

Well, they cut the taxes on the rich from 70 percent on unearned income down to 28 percent. It did not help the middle class. We got exactly what we voted for. Everything is going to be OK.

Then we hear the Senator from Idaho say that we have the most conservative platform and the most conservative President in the last decade elected 2 years ago: "No new taxes; read my lips."

Let me say to those on the other side who are trying to blame the Democrats, you had a President, you had a majority in the Senate and we went down the tubes. What is exactly what happened. We have not been able to get out from under those 6 years yet. Conservative platform—increase taxes on the middle class.

The President was not in the budget summit with Mr. Sununu, Mr. Darman, and Mr. Brady. He was in Kennebunkport setting new records: Under 2 hours to play 18 holes; out on the water fishing, not catching any fish; leaving three times in our airplane to go politic and raise money for Republican candidates. He should have been here sitting as the table.

Mr. Sununu sat there like a stump. So now everybody is trying to shift the blame over on this side. This body is controlled by the minority, and do not let anyone ever fool you. We got 65 ayes the other day; 35 nays; and the

nays won. If that is not control, I do not know what is.

So we talk about, "I like this veto of the continuing resolution." Let me tell my colleagues, we are not trying to inflict pain on anyone. It is the President who is inflicting pain on the American people. He is the one who embraced new taxes. He is the one who wanted to cut Medicare. He got on national television, and said: This is my budget. I embrace it. He could not get a majority of his own party in the House to vote for it. A Member of the Republican leadership on the House side led the opposition against President Bush. The President said it was his budget. The people spoke when they elected him. They sure spoke when the telephones started ringing. There were so many calls coming in you could not call out. If you make over $200,000 a year, you have a real friend in the White House.

Who is inflicting pain? The President is. Because he is the one who vetoed the continuing resolution to give us an opportunity. He is as much at fault, the administration is as much at fault because the budget was turned down, as anyone. Now he will not even give us time to try to put it back together. And it will be difficult, at best.

The ACTING PRESIDENT pro tempore. The Chair will inform the Senator from Kentucky his time has expired.

Mr. FORD. Mr. President, I ask for 2 more minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. Mr. President, we got exactly what we voted for? I am not sure. We could not even bring up a bill to encourage the American people to register to vote. We could not get it up. We had a cloture motion, if you remember. We voted on it, and guess who voted against encouraging Americans to vote? When you get a driver's license, you are automatically registered to vote—they voted against it; although 90 percent of Americans eligible to vote have a driver's license. It is just like the World Series—baseball you watch on and off during the year, but when it comes down to the playoffs and the World Series, you really get interested.

That is how it is in politics, Mr. President. When you get closer to the election, you get interested in the election, and you find out you should have registered to vote 30 days ago. If you got your driver's license, you would have been ready and able to vote.

Let me tell my colleagues one other thing. I am not sure, but that with the veto of the continuing resolution, we will default on payments. I am not sure—and I am going to do some research on it—that we will have a penalty to pay because we defaulted on our payments. Think about that 1 minute. It is going to cost us more money than we are talking about. So we default on our payment, where are we?

I ask everybody to override this veto. Give us another week. Let us get out in front of the American people. I am for that, and let us begin to develop a budget that the people understand and, when we pass it, will put us back on the right track. It is about time that the House and the Senate took Government back and started answering and responding to the people.

Mr. President, I yield the floor.

Mr. EXON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska [Mr. EXON].

Mr. EXON. Mr. President, I ask unanimous consent that I be allowed to proceed for no longer than 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOT A TIME FOR BLAMING

Mr. EXON. Mr. President, I have been listening with great interest to my colleagues on both sides of the aisle on this very difficult situation we are in. I do not panic under these situations because, as the Governor of the State of Nebraska for 8 years, we had some version of the crisis that we are facing today. Somehow we worked our way out of it.

When I was Governor of Nebraska, there was a lot of gnashing of teeth from time to time, and I, too, took veto action on spending measures that I thought we could not afford. There were confrontations between the executive and the legislative branches in the State of Nebraska, as there are controversies today. But somehow the process worked its way through, and when the Governor's veto was overridden by the legislative body, it then became law. Those vetoes that I exercised that were not overridden, why, the law did not go into effect.

But this was not personal animosity. There were no attempts to say this idea is good and this idea is bad. We all have our responsibilities, I suggest, as elected officials, to do what we think is right and not to be overly persuaded by a few people getting together in a room and attempting to tell everybody else in the Senate or in the House of Representatives what we should do.

It is my firm belief that the people of the United States as a whole were not only shocked, were not only dismayed, but were overwhelmingly against the President's budget summit. I will not go into that in great detail, but at least that is the impression that I am receiving from my constituents in Nebraska, and that is what we are hearing from clear across the land.

It was clear to me that, given the overwhelming vote by both Democrats and Republicans in the House of Representatives the other night, that that Presidential package would not be accepted by the other very important part of our Government, the elected officials, Democrats and Republicans, in the Senate and the House.

So I simply suggest, Mr. President, that this is not a time for hand grenade throwing. This is not a time, I suggest, as we try and work out this proposition, to be blaming liberal Democrats, conservative Republicans. The Chair knows that the Senator from Nebraska is a Democrat, but I have never been accused of being a liberal Democrat. Therefore, I try to do what I think is right regardless of my political affiliation.

In this particular instance, Mr. President, I went against the dictates of the President and the dictates of the leadership of the Democratic Party. I do not believe that most people, if they knew and understood the leadership of the Democratic Party in the House and the Senate, could honestly call them liberal Democrats, if that connotation has a bad connotation, which I do not necessarily suggest that it does.

Panic after panic after panic. I remember when the national debt of the United States broke through the $1 trillion figure 10 years ago just after Ronald Reagan was elected President. I remember some of the statements that I heard on the floor at that time that the markets were going to have a negative reaction to all of this, and the sky was falling, and we were in dire, dire straits. I thought we were in some significant difficulty at that time, but if my colleagues will look at the record in the last 10 years, they will see that the national debt of the United States not only exceeded $1 trillion under Ronald Reagan, but went up consistently all during his period as the President of the United States when he had the right to veto any time that he saw fit.

The ACTING PRESIDENT pro tempore. The Chair informs the Senator that his time has expired.

Mr. EXON. Mr. President, I ask unanimous consent for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. EXON. I simply say, Mr. President, that the record under Ronald Reagan with George Bush as his right-hand man and now George Bush as President of the United States has seen the national debt of the United States go from under $1 trillion in 10 years to over $3 trillion today. And if the President's budget recommendation to us that was voted down would have been passed with all of its other

shortcomings and with all of this other opposition that the people stated and that their Representatives stated here, the national debt would have continued to go on up in the next 4 years or 5 years to $5 trillion. Imagine that, I say to my colleagues, Mr. President.

There are a lot of things wrong with what the President recommended to us, and I think we were wise in turning it down. Therefore, I thought it was time to give us time, at least a week's time, to say to the President that, "We looked at your proposition; it was rejected by the people as a whole and it was rejected by their Representatives in the House and very likely, I suspect, would have been rejected if voted upon by their elected Representatives here in the U.S. Senate."

I just hope that, if we are going to talk about a sequester, then we should recognize what the commitment was when the Gramm-Rudman law went into effect. It was said time and time again that under the sequester, if that train wreck ever occurred, we would cut half of the money out of national defense and half of the money out of domestic programs. How many of my colleagues remember that? How much of the intended sequester that we are hearing about now is going to go along those lines? Little, if any, I suggest. All the things I have heard today I heard 5 years ago when Gramm-Rudman was passed. It promised to balance the Federal budget on October 1, 1990. That was 5 days ago. We are in far worse shape than we were when that was enacted.

I simply say, Mr. President, above everything else—and let me close on this—above everything else, if the President's recommendations had passed this body, it would not have eliminated the serious problem that we have with deficits and rising national debt. In fact, it would probably have had no significant effect at all. Therefore, I plead for time. I plead for putting partisanship aside. I plead for not trying to blame. I emphasize that we should not be trying to destroy the Presidency or the Congress. We have to get our work done, and I am prepared to stay here and be a key player in this as long as is necessary, although I would rather have been elsewhere. I yield the floor.

Mr. SARBANES. Mr. President, I ask unanimous consent to proceed for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CLOSING GOVERNMENT OPERATIONS

Mr. SARBANES. Mr. President, this morning the Washington Post paper is headlined "Bush Closes Most Government Operations." I would like to address this issue.

Subsequent to the defeat of the budget package in the House early Friday morning, a continuing resolution was sent over to the Senate yesterday. That continuing resolution was to be valid until next Friday, this coming Friday at midnight. That would have kept the Government functioning and would have allowed an effort that was then under way in the Congress to try to regroup and recoup a budget settlement. In fact, the leadership was engaged in that very endeavor. It is my understanding that the White House even had sent representatives to such a discussion.

The continuing resolution passed the House and the Senate yesterday evening. It proposed to provide appropriations for the operation of the Government for 1 week. Unfortunately, it was vetoed this morning by the President, apparently on the advice of the same people in the administration who have been very much involved in these budget discussions.

Even though it is a holiday weekend and therefore Government activity is not at full level, this action by the President is going to cause a good deal of misery around the country. The question is, Why did the President take this action?

In trying to address it, I first of all ask unanimous consent to have printed in the RECORD an article from the New York Times of this morning entitled "Bush Aides' Tactics Irritate the House."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BUSH AIDES' TACTICS IRRITATE THE HOUSE

(By Maureen Dowd)

WASHINGTON, October 5.—By the day of the budget vote, it was already glaringly apparent to some White House officials and Republican strategists that the bad-cop, bad-cop routine of John H. Sununu and Richard G. Darman was not working.

"The people in the White House did not serve the President well on this," said Representative Bud Shuster, a Pennsylvania Republican who crossed swords with Mr. Darman on Monday and voted against the President's budget deal with Congress on Thursday. "They antagonized so many Republicans, it was awful."

The chief of staff and budget director pride themselves on their reputation around the White House as "raging bulls" who snort and paw the earth get their way on domestic policy and budget matters. But the routine that allows them to dominate the White House backfired this week on Capitol Hill, contributing to the humiliation that George Bush suffered at the hands of his own party early this morning.

By today, there was a loud chorus of complaints in Washington that the two men, who both glory in a haughty intellectualism and an open disdain for Congress, had badly miscalculated the temper of House Republicans, the threshold for bully-lobbying and the willingness of members of Congress to play follow the leader.

NIXON AIDES REMEMBERED

Capitol Hill denizens said that they had not seen so much fury aimed at the White House in many years.

"They're being referred to up here as Haldeman and Ehrlichman," said Mr. Shuster, the Pennsylvania Republican, alluding to President Richard Nixon's vengeful and high-handed aides, Bob Haldeman and John Ehrlichman. "In the beginning, I felt badly about the way I voted. In the end, it didn't bother me a bit because of those guys."

When Representative Dan Rostenkowski, Democrat of Illinois, made a scathing speech on the House floor late Thursday night about unnamed "unelected officials" who were ruining the budget process, he got a standing ovation on both sides of the aisle.

Publicly, White House officials were supportive of Mr. Sununu and Mr. Darman, noting that they were simply trying to complete months of difficult and delicate negotiations. But privately, some Bush officials, watching the White House desperately regrouping to win back Republicans, agreed that the mood between the White House and House Republicans had been strained by Mr. Sununu and Mr. Darman's "anti-Dale Carnegie approach."

As Mr. Sununu and Mr. Darman rushed back over to Congress today to court the House Republicans they had tried to coerce just the day before—accompanied by the more popular Defense Secretary and former Republican Whip, Richard Cheney—jokes circulated about the failure of the President's men to push their deal through.

Some members were referring to Mr. Sununu, Mr. Darman and Nicholas Brady, the Treasury Secretary who helped lobby, as "The Three Stooges," for their mistaken assumption that the House members would simply fall into line with the leaders' deal, after being excluded until the last-minute and then treated in rather pre-emptory fashion.

Others members were trading a joke that was illustrative of their bitterness over the White House's failure to include them or listen to their concerns: "What's the difference between Mousketeers and Summiteers? Mousketeers have ears."

CLEAR IRRITATION

One Democratic consultant, Robert Squier, said: "Sununu believes he's at the top of a chain of command that starts at the White House and goes to Congress, that the White House gives the orders and Congress will follow. He's never gotten used to the fact that this is not the New Hampshire Legislature and that he's not the Governor any more."

At an usually animated and tense Cabinet Meeting today, several Cabinet members were clearly irritated with Mr. Sununu and Mr. Darman, fretting that the two men were too eager for revenge against Representative Newt Gingrich, the Republican who led the revolt away from the bipartisan deal, and too committed to the cloistered bipartisan budget process.

On the eve of elections, Republicans in the House were already feeling touchy because of the way Mr. Bush had stripped the party of its two main issues by agreeing to raise taxes and cut defense spending.

"A ROTTEN DEAL"

Mr. Bush sat quietly in a meeting in the Cabinet room on Tuesday with 15 members of Congress as Mr. Sununu loudly berated Representative Fred Upton, a Republican lawmaker from Michigan who had just ex-

plained that he would not vote for the bipartisan package because he thought it was "a rotten deal."

After Mr. Upton quietly but firmly gave his reasons for voting no, Mr. Sununu erupted in a brief tirade, demanding of the Congressman, "What are you smoking?"

At the Republican conference on the Hill on Monday, Mr. Shuster had a minor verbal dust-up with Mr. Darman. When he began to ask the budget director a question about the percentage of tax that pertained to transportation, Mr. Darman interrupted as though he were in his former profession of Harvard professor and Mr. Shuster was a dense student.

"Do you want to talk or do you want to listen?" Mr. Darman asked the Congressman.

In the cloakroom today, members angrily traded rumors of White House threats and contemptuous behavior.

Representative Ralph Regula, an Ohio Republican who had his reservation for the Presidential box at Kennedy Center abruptly canceled on Wednesday night after he said he was "leaning against" the budget deal, said today that the Bush Administration approach "doesn't work."

"Count the votes," said Mr. Regula, who voted against the plan. "We're here to represent the people, not the White House." The Congressman said he was able to take a group of his constituents to see "The Playboy of the Western World" after all. "I called Ticketron," he said, triumphantly.

The Democrats had their own grudges. During the budget negotiations at Andrews Air Force base, Mr. Sununu put his legs up on the conference table, with his feet sticking near Senator Robert C. Byrd's face.

After the incident, Senator Byrd, a Democrat from West Virginia, gave a speech to the 21 negotiators and their staffers inside the meeting room, saying that in four decades in the Senate, he had never been treated with such disrespect.

"After that," said a House Democrat, "Byrd became a lot tougher negotiator on behalf of the Democrats."

Mr. SARBANES. In that article, it is said:

By the day of the budget vote, it was already glaringly apparent to some White House officials and Republican strategists that the bad-cop, bad-cop routine of John H. Sununu and Richard G. Darman was not working.

"The people in the White House did not serve the President well on this," said Representative Bud Shuster, a Pennsylvania Republican who crossed swords with Mr. Darman on Monday and voted against the President's budget deal with Congress on Thursday. "They antagonized so many Republicans, it was awful."

The Chief of Staff and the budget director pride themselves on their reputation around the White House as "raging bulls," who snort and paw the earth to get their way on domestic policy and budget matters. But the routine that allows them to dominate the White House backfired this week on Capitol Hill.

And it goes on to talk about their open disdain for the Congress—this is Sununu and Darman—and also their bully lobbying, which was reflected on this issue.

Now, of course, they have obviously recommended to the President the bludgeoning tactics reflected in the veto. This is at a time when the leadership and other involved and interested parties in the Congress are trying to see if a comprehensive budget agreement cannot be restructured subsequent to the vote that took place on Thursday evening in the House. The administration has decided to close down the Government.

This closing down is the result of a decision made downtown. The Congress sent down a continuing resolution. It was not long-term. It was for 1 week. No one was trying, through the continuing resolution, to avoid the necessity of meeting the challenge of the comprehensive budget issue. The continuing resolution would have provided a few more days to try to work out this matter without closing down the Government. Unfortunately, the decision to close down the Government was made downtown and the President exercised the veto.

The ACTING PRESIDENT pro tempore. The Chair informs the Senator that his 5 minutes have expired.

Mr. SARBANES. I ask unanimous consent to proceed for another 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SARBANES. Could I make a parliamentary inquiry. Are we in morning business?

The ACTING PRESIDENT pro tempore. We are acting under a previous order, under the terms of which, in the absence of a request by any other Senator other than the Senator who now has the floor asking for time, we will stand in recess until the hour of 5 p.m.

Mr. SARBANES. There is no one else waiting to speak?

Mr. SIMPSON. Mr. President, I would request that right for 5 minutes under unanimous consent.

The ACTING PRESIDENT pro tempore. If that is a unanimous-consent request, the Chair would so construe it. Is there any objection?

Without objection, following the additional 5 minutes requested by the Senator from Maryland, the Senator from Wyoming will have 5 minutes before we go into recess.

Mr. SARBANES. Mr. President, in discussing this article which I submitted to the RECORD, let me continue to quote it:

Capitol Hill denizens said they had not seen so much fury aimed at the White House in many years. "They're being referred to up here as Haldeman and Ehrlichman."

Referring to Sununu and Darman. This is quoting a Republican Member of the House.

"In the beginning I felt badly about the way I voted. In the end, it didn't bother me a bit because of those guys."

And then the article goes on to report an apparently animated and tense Cabinet meeting with sharp exchanges between several Cabinet members and Mr. Sununu and Mr. Darman.

A good-faith effort is being made, has been underway actually since the vote on Thursday, to try to come back and address the budget problem. In order to deal with that and not close down the Government, you need a continuing resolution.

For the life of me, I do not understand why the President vetoed this continuing resolution. Why have the people downtown, the President's advisers, chosen to deepen and intensify a difficult situation? Why have they put at some risk and jeopardy thousands of Americans across the country which will intensify with the passage of time? Why are we going through the exercise of shutting down the Government and opening it up again, which in and of itself involves expense—completely wasted money, completely and totally wasted money. They have kept the people in the executive branch on the end of that string now for the last few weeks with a very sharp and harmful impact on morale, with a complete distraction from the job that needs to be done. Why are we going through this exercise? Why has the President closed down the Government?

Administration spokesmen say they are going to intensify the pressure leading up to a budget package. Well, they are not going to get it in the next hour, they are not going to get it in the next 2 hours. In the meantime, the impact of closing down the Government is beginning to take effect, is taking effect, has been felt.

It is not as though we sent the President a continuing resolution that extended for months or even weeks. Had that been the case, I could understand the White House saying, "Now, wait a minute, here is the Congress trying to send down this continuing resolution to keep the Government going on a normal basis, but they have a very long time period here. They have months. They are carrying it over until next February and will not come to grips with the budget problem."

That is not what was done in this continuing resolution. This continuing resolution which we passed last night on a voice vote, passed overwhelmingly in the House, ran only until next Friday evening. It would have given us a few days in which to try to work out a comprehensive budget solution.

The President vetoed it. I now understand that they are making a party appeal to sustain the President's veto. The administration is saying vote with us to close down the Government, vote with us to sustain this veto so we can keep the Government shut down, have the pain that follows along with such a shutdown take place in order to increase the pressures.

I quoted what has been said about Mr. Darman and Mr. Sununu. It is interesting it was being said by members of the Republican Party, not by Democrats. It talks about Mr. Sununu in fact berating Republican lawmakers in meetings with them—Mr. Darman doing the same.

The ACTING PRESIDENT pro tempore. The Chair would inform the Senator from Maryland that the time——

Mr. SARBANES. I ask to proceed for 1 more minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, to sum it up, it seems to me that what we need to do here now is pass a continuing resolution, allow the Government to continue with a resolution for a limited period of time, allow the Government to continue, not go through this exercise which is wasteful in terms of finances, wasteful in terms of stress, wasteful in the legacy it will leave behind in terms of comity between the executive and the legislative branches, allow the effort that is now underway to try to work on a comprehensive budget response to take place.

The budget package did not pass the House last Thursday night. That is regrettable but it did not. This is a democracy. People do not take their marching orders—certainly not from these unelected officials about whom this article is written.

It seems to me that we need to go back and give that process a chance to work, and do it without the disgraceful development here of closing down the Government when it was not necessary, was not required, and makes no contribution. Not only does it not make a contribution toward solving this matter, but in fact it worsens the situation. It has a negative impact.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Wyoming [Mr. SIMPSON] is recognized.

Mr. SIMPSON. Mr. President, I ask unanimous consent that I be allowed to proceed for 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I, too, have been listening to the activities on the floor and the comments of those who have spoken, all of whom have started with the premise that they did not "intend to be partisan" and then certainly touching very closely to it, if not right smack in the middle of it.

I am fascinated by it all—because it was the President of the United States who started the negotiations going—nobody else. And he did it by putting on the table one of his most sacred campaign promises. That is what the President of the United States did. He said he would deal with tax revenue increases, and it kind of shocked those on the other side of the aisle. They wished he had not done that because they had a lot of fun with "read my lips." So George Bush stepped forward because he believed more in his country than he does in partisanship, and he laid it right on the table.

You cannot feel sorry for the Democrats in this situation. This was not the President's budget that went down the tubes. This was the Democrat leaders budget and the Republican leaders budget. It was not as if the Democrats were just sitting aside and barking into the full moon. They were right there smack in the middle of it. Their leaders were right there smack in the middle of it.

Speaker FOLEY, Majority Leader GEPHARDT, Senator GEORGE MITCHELL, our fine majority leader, BOB DOLE, our respected and able leader—that is who was there. It was not Haldeman and Ehrlichman who were there. It was not two sinister characters. It was not just one newspaper article telling us about the people who were there. This was about Democrats and Republicans, and the President of the United States who were trying to desperately put something together. And I say it was the President who started it all and got it rolling along.

But we never ever saw very much come from the other side. No. What we saw come out was class warfare. What about the rich, those slobs, those people who earn over this certain amount of money? What about these evil sinister slobs?

That is not very becoming. That is old Democrat stuff. That is class warfare. Democrats love it. I do not know what it takes to get that across.

We are spending $600 billion a year on health care. You have not really dented a thing, not a heavy dent. We are spending $260 billion a year in Social Security and have not even made a dent. We are spending tons of bucks on the entitlements program with no means testing, and we have not made a dent. What do you think is going to happen? Nothing. When you exempt and set aside 75 percent of the budget of the United States from our efforts—and you cannot even touch it—does any sane person doubt what is happening here? And every one of us voted for those exemptions, because we said "Oh, Lord, get the special interest groups out of there; or the mail room will break down." Do not touch Social Security, do not touch this, do not touch that, do not even touch them with a means test, do not even touch them if they are millionaires—and we did not.

But let us go to the final result of that class warfare, let us just say that if you confiscated the net worth and the entire assets of all of the rich people in the United States—just take everything they have, their big houses, their place on the sea, or up in the mountains, or the yacht—take it all, confiscate it all—and the proceeds from that fire sale will run the Government for about 4½ months. That is where we are, ladies and gentlemen. That is where we are.

The debt limit which we will extend today is $3,214,000,000,000. We have really not even done a thing toward resolving that. The deficit has a range and span so that none of us are able to determine exactly where it is. But we are hip deep in it and that is a long way off the ground in my particular case.

So if you took all the wealthy people and just trashed them, just ripped it all out of their hands, you would run the Government for 4½ months. Is that sense? That is goofy.

This is a great game of chicken caused by the failure of the Congress, not by George Bush, to deal honestly with doing something with the entitlements programs of the United States. That is what it is. Nothing more, nothing less. Our leaders could not even get a means test, could not even add a percentage point on people who really are up there in the heavy money volume area, could not even include a little more of a wealthy person's Social Security in the tax base—could not even get that done. I speak too of people who are more than just middle class. These folks are rich. No wonder there is displayed here today animosity, partisanship, irritation, anguish, embarrassment.

We are all here today because we are embarrassed. They set this thing up yesterday so we would have a session on Saturday before we even knew what we were to do or where we were going because we do not want to be home today because too many people would say, "What in Heaven's name are you doing?" And they do not care a whit whether it is Republicans doing it, or Democrats doing it. They just absolutely cannot believe it.

But it would reach the epitome of scapegoating if we were suddenly now to blame Sununu and Darman for this hideous exercise.

But when you have set aside and exempted from our work 75 percent of the budget of the United States, can anyone imagine that will not be anguish in all that we do?

So we received this package and we looked at it—and the reason we did what we did is because the phone calls began to roll in. Somebody got out there and ginned them up and said, "What are you doing to the veterans, and to the poor people and to the wretched, the old and infirm?"

The answer is, not very much. In fact, we are not doing anything to veterans compensation—not one thing; not one thread of their compensation or pension is touched here. The VA

direct heath care account is touched 2 percent and then never over 1 percent—even when the rest of the budget sequester might be 32 percent. That is what we are doing for veterans—keeping our promise to them.

And so we were trying to do something with part B premiums under Medicare. Ladies and gentlemen, part B of Medicare is a voluntary procedure. You do not have to be in part B. The reason people are in part B is because it is the best show in town, pretty good insurance—physicians, lab coverage, and so on. That is what part B is. You do not have to be part of it. It is voluntary and elective. But if you are part of it, your premium was going to go up from $27.50 a month, going up $3.90 a month. That is what was happening, and that was all that was happening, $3.90 a month, on a voluntary program you do not even have to belong to. But the reason you do get in it is because it is a pretty good plan. It was going to be up to $54 a month, as we phased it in over the 5 year period. If you do not want it, do not do it. But you might remember this: When the beneficiary is paying only 25 percent of the premium "good old Joe," the working man in the United States, is paying 75 percent of it all.

When are we going to wake up and smell the coffee? Here you have a program where the beneficiary—and we are going to try to take him up to 30 percent of the cost of the premium, and guess who is paying the remaining 70 percent? I'll tell you who? Joe Six-Pack, of course, the guy we always bleed about all over this floor. Why should he or she have to pay the premium for the beneficiary who gets all the services under part B of Medicare? Ask them that. Stick with the facts here.

It is said that we will not get a package in an hour or 2 hours, and we may not get one in 10 hours. But I'll bet you a buck we will get one before Tuesday morning when Americans go back to work. This is the only thing we understand.

I must say, in closing, that there is also a role for the media in the United States and in this situation, they sure botched it. If their role is to report and educate, then they sure missed the boat. Day after day we see some wretched soul with a mike rammed in their ear, and the entreaty, "Tell us how bad it is." And get them to respond, "Well, I guess I will never eat again. I will never be able to do this or that again." They probably were not even in part B of the premium structure. But I can tell you this, the only other thing we did—and this is the only other thing we did to seniors—we raised the annual deductible from $75 a year to $150 a year. That was the total hit.

So as long as nobody is working hard on the real issue of the entitlements and nobody intends to deal with 75 percent of the budget, then I am ready to put all of us in just about as much anguish as we should go through until we all wake up and smell the coffee, and see who is doing what to whom. That is what is happening in this country right now.

We are just sitting here today because we simply will not touch any of those programs, because if we do then here comes the National Association for the Preservation of Social Security. There is Jim Roosevelt and his happy band of squirrels who come by to pound your brains in, and they make tons of money. They pick up scratch all over the United States at $10 a whack, and they have about $34 million in the till, and they pay all these dandy people to work here, and pay them big money to beat our brains in. That is a nice outfit. Do not send them $10 bucks anymore. Send them something in the envelope though. They have to pay the postage, so put a brick in there and mail it back to them. The next time you hear from AARP, remember that in many ways, it is "a money machine." You send your $5 and you get all sorts of benefits, by god. They are in on this party, and they have children and grandchildren, and if you and they want to leave your children and grandchildren $3.244 trillion of debt and all of the rest of this by failing to touch 75 percent of the American budget—take what you get. I thank the chair.

Mr. SASSER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. SASSER. I ask unanimous consent that I be extended 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE PRESIDENT'S VETO

Mr. SASSER. Mr. President, I was distressed to learn this morning that the President of the United States chose to veto the continuing resolution that was passed by both Houses of Congress last evening. I feel constrained to say that the President was badly served by his advisers, who persuaded him to veto this continuing resolution.

Bear in mind, as the distinguished Senator from Maryland has indicated, this was a temporary continuing resolution, a resolution that would have kept this Government in operation for a week, in order for the Congress to regroup, work with the administration and come back with a satisfactory budget plan.

In vetoing this continuing resolution, what did the President do? No. 1, he shut down the Government of the United States. Here in Washington, many families arrived here as tourists having saved for vacations, to see some of the national monuments which are shrines to our democracy. They were turned away today because the President chose to veto this continuing resolution.

Why would he do that, Mr. President? What does that say to those Members of both bodies of this Congress who have worked for months, for weeks, who have worked many nights, on occasion all night, who have given up time with their families, in an effort to try to fashion a bipartisan budget agreement? What does this say to them?

That was a very difficult budget agreement. Many items in that agreement were bitter, indeed. It was bitter gall for me to have to accept some of these proposals that were advanced by the men representing the administration, advanced by the Budget Director, and advanced by the White House Chief of Staff.

But in the final analysis, we compromised and compromised and compromised, and we may have compromised too much. We Democrats in those negotiations may have made such compromises, that in my judgment, encroached upon our basic principles.

Why did we do that? All in an effort to get a budget agreement so we could demonstrate to the American people that this Government, that this Congress, and this administration, were capable of governing, and that we could go forward with our day-to-day obligations.

When that budget agreement came to the floor of the House of Representatives, the people of this country got their first look at it, and the people of this country rejected it.

I accept their judgment. My offices in the State of Tennessee got over 1,500 telephone calls in the space of just a few days, the heaviest telephone traffic that we had ever received. They were against this budget agreement by 100 to 1. They listened to the President's message. They took his advice to register their opinions with their elected representatives, and they were overwhelmingly opposed to the budget agreement. Responding to their constituent's wishes the House of Representatives, in a bipartisan way, also rejected the agreement just the other evening.

The administration, which had undue influence in the fashioning of that agreement, in the final analysis, could not even deliver a majority of the President's own party in support of it. Why not? Because the American people had rejected it.

We can say that these telephone calls were instigated. We can say that this was the result of lobbyists. But I will tell you the elderly citizens of my State who called my offices were opposed to the Medicare cuts in this

agreement. They took the position they did not make this deficit; it ought not to be resolved on their backs. And the middle class and the working poor who called my offices, who drive to work, sometimes long distances, rejected large portions of the tax package including the gasoline tax.

So the people spoke, and the House of Representatives listened to their constituents, and that is what this country is all about. The people are supposed to have a say in their own business and they did not like this agreement that was produced behind closed doors. They did not like this agreement that was produced with a shotgun of sequester, the threat of sequester held to the heads of the negotiators by the representatives of the administration.

The budget agreement was rejected in spite of valiant efforts by Members of the leadership on the House side on both sides of the aisle to try to persuade their Members to support the agreement.

I do not think I have ever heard a more eloquent speech than the one made by the leader of the minority party, the leader of the President's party, Congressman MICHEL, from Illinois, on the floor of the House of Representatives just night before last. He begged his Republican colleagues to follow the leadership of the President. The Speaker of the House of Representatives, in a very unusual moment, took the floor of the House and implored his colleagues to support this agreement.

Rarely does the Speaker of the House of Representatives vote, but the first vote cast in favor of this agreement was cast by the Speaker of the House of Representatives, the Honorable THOMAS FOLEY, of Washington. That represents to me good faith on the part of the leadership of this Congress to live up to that agreement. And we were prepared here in the Senate, even though it was bitter gall indeed, for this Senator to support this agreement, that in the final analysis had almost been dictated to us by the White House staff.

But it was overwhelmingly defeated. It went down in a bipartisan way. It was rejected by both parties. It was rejected by the American people. So we asked the administration and the President to give the Congress the representatives of the American people just a few more days to come back and fashion an agreement that will be acceptable to our constituents.

What is the response? The response from the White House is to veto a temporary continuing resolution and to shut down the Government.

Now, Mr. President, I see a pattern emerging here. My mind goes back to the spring of this year when as chairman of the Senate Budget Committee I was striving valiantly to try to produce a budget, to move a budget through that committee. One that would reduce the staggering deficits that have come about as a result of failed fiscal policies of the preceding administration, which this administration seemed intent on carrying on.

As I tried to fashion that budget agreement in a bipartisan way, with colleagues on both sides of that committee, it became crystal clear to me that this administration and leading figures in this administration did not want a budget to come out of the Budget Committee of the Senate of the United States. They wanted to frustrate the process. They wanted to stagnate the process. They wanted to defeat the process. They were throwing sand in the wheels of government in the Senate Budget Committee this spring.

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senator from Tennessee be recognized for another 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SASSER. Mr. President, when we got down to the 11th hour after days and days and days and days of an effort to fashion a budget in the Budget Committee of the Senate of the United States, I learned that the Director of the Office of Management and Budget was making telephone calls to Republican Senators urging them not to support a budget agreement. The Chief of Staff of the White House was talking to members of the minority on the Budget Committee, apparently, as related to me, by them, urging them not to vote for a budget to come out of the committee.

Why would they want to frustrate the legitimate aims of government? Why would they want to frustrate the budget process?

But almost instantly, within a matter of a few hours after that budget emerged from the Senate Budget Committee, there came the request for our leadership to meet with the President and try to put together an agreed settlement. After being unsuccessful in frustrating the effect to bottle up the budget in the committee, then came the request to negotiate.

The leadership did that and they charged some Members of this body and Members of the other body to carry on negotiations. It went on for months, weeks, all night on occasion, until finally an agreement was fashioned.

We in the Congress and particularly on this side of the aisle have gone the last mile with this administration in trying to deal with the fiscal problems of this Government. Last night we saw the pattern of confrontation continue. We passed a continuing resolution here in order to give us time to work out a budget agreement, so that this Government could continue to operate in an orderly fashion as the American people have a right to expect it to operate.

The first word was, well, the President will not sign the continuing resolution. And then later we learned this morning that the President would veto the continuing resolution. And I am reliably advised that the reason the administration changed its mind and, rather than letting the continuing resolution die by not signing it, and why they decided to veto it, is that in the interim they have been able to persuade enough Senators on the other side of the aisle to sustain the President's veto.

Mr. President, I ask you and I ask my colleagues: Who bears the responsibility for shutting down the Government of the United States and all of the dire consequences that may ensue? It is not this Congress. It is not our negotiators who negotiated out their hearts. It is not the leadership of the minority, Mr. MICHEL, who took the floor of the House of Representatives and implored in eloquent fashion his colleagues to support it on the Republican side. It is not the Speaker of the House of Representatives or the majority leader there, Mr. GEPHARDT, who worked as hard as I have seen two men ever work to produce a bipartisan agreement.

No, this government is being shut down because the President is being badly served by those who advise him. They are telling him that the only way he can have his will over the Congress, exert his will over the American people, is by shutting down the Government, depriving the people of the Government they paid for, all in an effort to embarrass the legislative body of this Government.

I submit, Mr. President, that this is a sad day. It is a sad day for the administration that presently occupies the White House. And it defeats the comity that should exist between the executive and the legislative branch of Government.

I said this morning that I thought the veto of the continuing resolution was irresponsible and counterproductive, and I will submit, in the final analysis, mean-spirited. I request and implore and beseech the administration to take its hand off this Congress and to allow Members on both sides of the aisle to vote their own conscience when the question comes to us today as to whether or not we will override the President's veto.

Mr. SARBANES. Mr. President, I ask unanimous consent to proceed for 5 minutes.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I commend the very able Senator from

Tennessee, the chairman of the Budget Committee, for his very fine statement. I know of no Member of the Congress who has worked harder and with greater ability to try to fashion a budget agreement than the very able and distinguished Senator from Tennessee.

Mr. President, what is being used here is a bludgeoning tactic, to put it very bluntly. It is the blackjack tactic applied not only to the Congress but to the American people.

The House did not pass this budget proposal on Thursday night, regrettably. But that was an exercise of free judgment. Mr. Sununu and Mr. Darman do not dictate to the Members of the Congress how they ought to vote. And they were not about to be dictated to, and they made their judgment.

Now the administration has closed down the Government to bludgeon the Congress, bludgeon the American people, to accept exactly what the administration wants in order to lift this closing of the Government which the President has brought about by vetoing the continuing resolution.

The continuing resolution was for 1 week, 1 week only, during which time the Congress would have been able to address the aftermath of the vote on last Thursday and try to put together a comprehensive budget approach.

I heard someone say, "Well, you know, this is happening on a holiday weekend, and therefore the impact will not be as great." Well, the impact on some of the activities of Government will not be fully felt until Tuesday, but the impact on American citizens is being felt right now. They had on the radio, as I was coming in, stories of people who had traveled long distances to come to Washington on this holiday weekend. They were off from work. They had an opportunity to come here. Everything has been closed down.

All of the institutions of the Smithsonian, the museums, are closed down today. Now for working people, that makes a difference. It is working people who can take their children to the museums on the holiday weekends. They do not have the luxury of going to the museums of the Smithsonian on working days.

So, Mr. President, what we are confronting here is we have a situation where we sought an additional handful of days in order to address a serious budget problem and that was denied to the Congress. I deeply regret that. I do not think that that kind of tactic should be applied to the Congress or to the American people.

I yield the floor.

Mr. SASSER. Mr. President, I ask unanimous consent that I be allowed to continue for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, this morning there was a meeting at the White House between the leadership of the House and Senate and the President of the United States. Following that meeting, the Senate majority leader, Senator MITCHELL, was questioned by the press as he emerged from the White House. The distinguished majority leader was asked his views on the President's decision to veto the continuing resolution and in essence shut down the Government of the United States.

Senator MITCHELL answered in these words:

> President Bush's decision to shut down the Government is wrong and unnecessary. It will not advance the President's position in the negotiating process.

And further he said that "it will serve no useful purpose, and the President now has before him legislation which, if merely signed, would continue the operations of Government."

The majority leader continued:

> This decision by the President to shut down the Government, to cause this unnecessary pain and anguish to thousands of American families, is not helpful.

I would add that it is totally unnecessary.

What we have here, it appears to me, is an effort on the part of some advisers of the President to exert their will and their view over what the priorities of the budget of the U.S. Government should be over the will of the majority of this Congress, and indeed, in contravention, as I perceive it, of the will of the majority of the American people.

I think it is high time that the administration let this Congress work its own will on the budget and allow us to sit down with our colleagues on the other side of the aisle, unfettered by administration pressure or unfettered by administration advice or unfettered by administration threats, to deal with the fiscal problems of this Government.

I am confident that if that occurred, the Congress could do its duty and present the President with a budget and with a budget reconciliation.

Now, it might not be precisely the one that certain members of the administration favor. It might not have a very large reduction in Medicare. It might not have some of the revenues that were urged on the negotiators by the administration. I dare say it would probably have a revenue portion of the budget agreement that would be more progressive, that would be fairer, that would put less of burden on the middle class and working people of this country and place that revenue burden more on the wealthier portion of our body politic.

But, if that is the will of the Congress, then that is the way it ought to be, and the President ought to respect that, and members of his administration, in my view, ought to respect it. This is a Government of three coequal branches. Congress ought to be allowed, in the final analysis, I believe, to work its will on the budget. We tried it the other way. We tried to come up with a budget agreement that was tilted, I think, predominantly in the direction the administration wished it to be, that was fashioned primarily by the wishes of the administration negotiators. That has been rejected overwhelmingly by Members of both parties in the House of Representatives, and it was overwhelmingly rejected by the American people.

So it is time to go back to the drawing board. We are ready to do that. But I think to hold a pistol to the head of the Congress, to shut down the Government of the United States, to disrupt the lives of tens of thousands of American citizens is a failure of Government. It is the wrong way to go. The President, in my view, has made a serious error in vetoing the temporary continuing resolution that was presented to him just last evening.

But it is not too late. The administration should back off and allow this Congress to work its will on the President's veto. And, if the Congress, of its own free will, Members on both sides of the aisle, wish to vote to override that veto, then I submit they ought to be allowed to make that decision, a decision of conscience, and the administration should not seek to unduly influence any Member of this body or of the House of Representatives when the veto override comes up for a vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have a parliamentary inquiry. Are we as in morning business?

The PRESIDING OFFICER. The Senator needs consent to speak right now.

Mr. DOMENICI. I ask unanimous consent I be permitted to speak for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I was not present on the floor for the entire statement made by the Senator from Tennessee, the chairman of the Budget Committee. I am not going to speak on the veto. But I did hear a few remarks about letting the budget process work its way, and the White House need not be part of it. Some allusions were made to why we did not get a budget resolution earlier in the year, and some of that was blamed on the White House. I would just like to make a few brief remarks on both.

Frankly, I am the ranking member of that committee. I serve with my good friend from Tennessee. As far as why we did not get a budget resolution earlier this year, suffice it to say from

this Senator's standpoint the White House had nothing to do with it, so we ought to make sure the record is clear. If they called me, I do not remember it. And if they called me, they did not call me to tell me not to support it, because they did not have to. Frankly, it was the kind of budget resolution that most Members on this side of the aisle could not support. As a matter of fact, I believe it would have been called up had it had the support from both sides of the aisle. I do not think it did. That is why we never got a budget resolution, plain and simple.

Aside from the fact that it cut too much out of defense, in my opinion, and would not receive the support of this body, in addition it was, when it comes to cutting spending for domestic programs across the board, it really was kind of a phony. I say that guardedly. I do not usually use words like that. Some used those kinds of words before and called Director Darman's budget the year before, called some of his unspecified savings, "black box." Everyone should know the budget resolution that was reported had a black box so it could get out of committee. It increased all the spending in the areas where you need votes, and then down at the bottom it had a little box and it took all the money away. It took $4.5 or more billion away, but it did not say where. So you could say it did not cut, but it did cut. I think that is enough to talk about it. There are some other things wrong with it, but the White House did not have anything to do with that.

Second, as to why we should not just proceed with a budget resolution put together by Members of the House and Members of the Senate now in these too late hours and leave the White House out, let me suggest this body did not have the courage until the President said, let us meet to talk about the serious issues. If we do not want the President in now, why did we have him in before? I know why. Because we needed the President of the United States to agree that we would increase taxes, that there could be new revenues in this package. In fact, he said, let us have a summit and everything will be on the table. And that was not enough. We did not meet for 3 weeks until he said the magic words. So he was the stimulus for getting it together. It did not fall apart on his score. It was not his fault it fell apart over in the U.S. House. It was somebody else's fault.

To say all that work and all those commitments ought to just disappear and we ought to do our work—our, Congress'. We are really good at doing our work. We leave him out and then we want him in 2 or 3 or 4 weeks to sign what we produce. Is that not wonderful? That will produce wonderful policy, I am sure, wonderful for those who are not Members of the President's party. But why is he not part of it?

Someone would say, oh, he can veto it. Everyone should understand this process is on this kind of track. A budget resolution is going to be produced, either with his help and his people's help or without it, and all it does is leave it up to all the committees of the Congress in 2 or 3 weeks to produce legislation that we are going to put into law, all in one package, take it or leave it.

With time running out, I hope that is no one's plan. I hope no one thinks we ought to just leave the President out, leave out the agreements that were good agreements made in the summit, and do our thing, which we have not been able to do thus far, and, if we can do it now, we will do it, because he made a commitment that permits us to do it. We could not come close to putting a budget resolution together without his commitment, his willingness to say, put revenues on the table. Now we are going to use that, put a budget resolution together, and say, "We do not need you, and somehow or other we are going to do it, and somehow or other it is just going to come out neat." Does anyone believe that?

We all know where the restraint in Government has to come. And it is tough. And I surmise if we put one together without the President and without Republicans, without the minority, it will not restrain the Government where the Government has to be restrained because that is too tough. And then we will say, here we are, 3 weeks down the line, the same arguments being made that are being made here today, but now we have a big piece of legislation. We send it over to the President, and it is all protected as it runs through Congress. You can hardly amend it, it does not take very long, because that is called reconciliation: Sign it, take it or leave it.

I believe the President has been decent. He has been sincere. His people have worked just as hard as we have and we are reasonably close to having a proposal that will fix the deficit and that could be sold to both sides of the aisle.

In fact, I believe, instead of saying no more summiteers, that if we would put back into position that framework that we had and change three or four things, I surmise that they would come up with something that would pass. We ought to do that. I am not the leader, so I am not complaining, but obviously we should not abandon the framework that brought us as close as we got to a real, tough but fair budget proposal.

Mr. SARBANES. Will the Senator yield for a question?

Mr. DOMENICI. I will be pleased to.

Mr. SARBANES. Assuming for a moment everything the Senator said, in terms of how he would like to proceed, does the Senator think that a contribution is made towards a positive environment in which to try to address how to recoup from last Thursday's votes in the House by vetoing a very short-term continuing resolution and creating this kind of chaos and pressure?

Mr. DOMENICI. Was my colleague finished with the question?

Mr. SARBANES. I was.

Mr. DOMENICI. Let me say this. I, frankly, believe we all are entitled to our views. The distinguished Senator from Maryland is entitled to his. I am entitled to mine. But I think the President is entitled to his also.

I was not privy to the reasoning and rationale, but I saw some of his discussion about it and what he said was that he thought we needed to keep our feet to the fire and get the job done. That is the President's opinion, and he believes that that will work.

Mr. SARBANES. If this continuing resolution, as I said earlier, and I do not think the Senator was here when I spoke, had been for a matter of weeks or months, one of those long-term things, I can understand that argument which says they are working in such a broad timeframe that the pressure is going to be taken off. That was not the case here. This was a 1-week CR, and it seems to me the pressure of trying to reach an agreement would still be present without paying the price that is involved in closing down the Government.

Mr. DOMENICI. It appears to me that, as the President said this morning, in spite of the perceptions of the Presidency with reference to this Congress, he has terribly few powers, and he sees it that this is one of his powers that he wants to exercise to make us do our work.

I am not certain that if it is sustained, and I assume it will be, either there or here, I am not at all certain that that is the end of continuing resolutions. As a matter of fact, I understand there is a continuing resolution in the mill to take the place of this. Perhaps my colleagues have not heard of it, but I understand there is one in the mill that will take the place of this, that indeed will come right behind it, that might do the job.

It might be satisfactory to the Senator from Maryland also in terms of how it reads and what it does. In fact, I said here today that I stood up not to talk about it—I am pleased to answer questions and pleased to talk about it; when we get it over here we will probably debate it some more. Who knows, maybe it will be debated 3 or 4 hours so we will all get a chance to talk about it.

I really came to the floor to make the point, and I urge the distinguished Senator from Maryland, who is influ-

ential with his leadership, that everyone seriously consider the dilemma we are putting ourselves in when we say the summit framework as encapsulated in that resolution which failed, and my colleague understands it carried some language that said in addition to that, we are going to do other things in the reconciliation bill that will make all these things enforcable, that will change these processes.

I am urging that we find a way to respond to the clamor of committees for input and the clamor from House and Senate Members for input. The Senator and I have been here long enough to know what that means; that we find a way to respond to it without leaving the White House out of the loop, and without destroying the basic framework that was established because I honestly believe nothing good will come of it.

That is all I meant. It had nothing to do with this particular CR.

Mr. SARBANES. Except I want to say to the Senator, I think the veto of the CR contributes to potentially fragmenting the summit framework which he is concerned about. In other words, I think that it was a very bad mistake to veto this CR. It was not a long-run CR. It was clearly not an effort to escape from the problem of trying to resolve the comprehensive budget question, which was not resolved last Thursday evening because it went down.

Because it went down; there is a problem that has to be faced. It has to be faced in the House, here in the Senate by both parties, and by the President. To veto the continuing resolution, simply extending the appropriations for 1 week while we have a chance then to address the situation, perhaps in the way the Senator has outlined—I am not taking a position on that part of it—but to exercise the veto is not a positive contribution in trying to work out the problem with which we are now confronted.

Mr. DOMENICI. Mr. President, do I have the floor?

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senator be able to continue for 3 minutes.

Mr. DOMENICI. I only need 2 more minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair. Let me conclude my remarks by saying I came here—and I repeat I am concerned about things falling apart that I do not necessarily think can be put back together, and that worries me. I really think those who are responding to the desire of Members to fix the summit understandings, if they really literally mean they are going to listen to everybody and fix everybody's concerns, it is impossible. Instead of having a real constructive effort follow on to what has already been done, it is going to be destructive and we will end up at the end of the year with relatively little in real deficit reduction, maybe another sham, maybe something that has to be put off for months.

I think that is deplorable when we were within days of getting something done. I say to my friend from Maryland, I believe the anger, the bitterness that arose 2 days before that vote and immediately subsequent to it in the House, had already begun to deteriorate the notion of keeping the summit framework intact.

So my answer to my colleague is, I do not believe what we do here today, what the President did 3 hours ago or 4, has anything to do with it. I do not think it is going to be a plus or minus. There are some who think it will be a plus because it will get us to do our work, but I really do not believe it has much to do with it.

Mr. SARBANES. Will the Senator yield on that point?

Mr. DOMENICI. I yield for a question. I am scheduled to be somewhere.

Mr. SARBANES. When the Senator concludes, I want to make one very specific point.

Mr. DOMENICI. Let me conclude by saying that it is absolutely imperative that we not fall back into the trap of business as usual in putting together the budget resolution, in letting that be followed by a so-called law called reconciliation to carry out the instructions. We will truly have wasted months of effort when, if we were on a football field, whether one liked the summit agreement or not, we had gone 90 yards and they were slow, begrudging, they took forever kind of yards. But we were on the 10-yard line, not the 50. Maybe we were even on the 8- or 7-yard line, as one looks at that framework and sees where the problems were. We were way down the playing field.

I truly urge those who are thinking about it understand that while people are angry about specifics, we have a responsibility to this Nation to fix the deficit and we cannot fix it by easy, no-paying programs. These who are angry about specifics also want the deficit fixed. If we keep it as a package, we are apt to have a chance to get it done. I yield the floor.

Mr. SARBANES. Mr. President, I ask unanimous consent to proceed for 2 minutes, and I want to address my colleague.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I want to say to the able Senator from New Mexico, the ranking member on the Budget Committee, for whom I have great regard, and I think he knows that, I had publicly indicated in my State that I supported the budget package and was prepared to vote for it even though I had grave misgivings about many of the provisions in it. It certainly was not the package that I would have put together.

But I say to the Senator that this tactic, this veto of the continuing resolution, this bludgeoning tactic that obviously has been counseled to the President, I think, by both Mr. Sununu and Mr. Darman, as far as this one Senator is concerned, is affecting my view about this budget framework and this budget process.

I do not think this closing down the Government is a contribution toward solving the problem. In fact, just the reverse. It is a negative. It is an effort, in effect, to step on the neck of the Congress and on the necks of the American people as we try to resolve now this budget situation by applying a heavy and, in my view, improper pressure; namely, the closure of the Government.

No one is trying to get a continuing resolution that extends so far in time that it can be said well, you are just trying to duck the problem. We are talking about a 1-week extension to try to make the process work and go back and rethink where we are after what happened Thursday night on the House vote. To come along and use these tactics is abusive.

And so I repeat again as I said when I first came to the floor, Mr. President, I condemn this tactic. It ought not to have been done. The continuing resolution should have been signed, giving us a week to go back to work to try to resolve this matter. I think it has worsened the framework, made it more difficult now to achieve a satisfactory result.

HOUSE FAILS TO PASS BUDGET SUMMIT PROPOSAL

Mr. KERREY. Mr. President, the stage for last night's failure by the House to pass the budget summit proposal was set with a full Moon and deepening fall colors. The dry and falling leaves, the red and orange which has appeared so suddenly remind me of harvests past.

The failure itself jogged loose another memory from my youth. Movie theatres were a favorite gathering place when I was a boy. One of the most commonly shown previews at the movie theatre contained the display of the unsuccessful attempt by man to fly. Bicycles and other contraptions rigged with wings that flapped slowly rushed down ramps or leapt from buildings with great hope and promise—only to crash in an instant.

As the budget summit crashed in the House vote last night, I thought of these earlier setbacks. Then the ethereal dream of man to fly; now it is the dreary need to reduce the deficit. Now, as then, we are going to have to go

back to the drawing board until we get a plan which will fly.

Will we fail a second time? Maybe, but if we genuinely see the great good which could come from our labors—rather than just the negatives—we will persevere. We all appreciate how the fear of negative sanctions work as effective motivators. The axe of a sequester has gotten our attention and forces us to the task; the darkening clouds of an economic recession bring political movements which were previously unthinkable.

However, if we are moved by fear alone, we will address the deficit as if it is a mechanical problem to be solved by statisticians and programmers. We will attack it with the same intensity as we would a mathematical formula, and though we may get an answer which is technically correct, it will not be good enough for the human beings who form the communities of this country.

Warren Buffett once told me that reducing the deficit—he is still more concerned about the trade deficit—is like dieting. We must see ourselves healthier—and with this image in mind we will be able to consume fewer calories today.

I believe we must see and want lowered interest rates, increased savings and economic growth. I also believe we must see the tremendous potential of our children that is being squandered by our failure to provide a rich and healthy environment for them. I believe the deficit must be reduced so that we can get on to the business of investing in the value of human lives again.

This morning—as we all drag to the top of this hill where we do our work—we must keep our minds and hearts directed toward the children of our future; 45 million of whom are dragging themselves into classrooms this morning to do the work of their schools. We must consider the increasing problems faced by American families as they struggle to cope with the daunting costs and tasks of living in the U.S.A.

The failed package of our leaders contains some very good work. They have cleared the brush and leveled the ground and have most of the foundation built. It is the structure of this house which must be designed and erected.

Let me describe two of the most important things the summiteers accomplished. First, they have cleared away the simplistic notion that the deficit is under control—as the President said in January—and that it can be reduced with easy solutions like a flexible freeze or improved tax collection.

As a consequence of this exercise—which we must now continue—the size of the deficit is beginning to be understood by all. In fact, the summit proposal was subject to the most effective attack by those who pointed out that it merely reduced the increase. Even after the so-called painful cuts, the deficit would still grow to an estimated $254 billion—last year we finished our work estimating the deficit at $110 billion; its actual size is $260 billion. Even after the tax increases we would still see a 5-year increase in the national debt of $1.2 trillion.

The second revelation of the summiteers, is that we now have before us an opportunity to consider the fairness of our tax system. It is clear from the protests that middle income Americans know what happened to them in the 1980's: they got the shaft. Not surprisingly, they didn't like it, and are up in arms at the prospect of having it done to them one more time.

The smart editorial page writers, who didn't see much wrong with the gas tax, cigarette tax, beer tax, and other middle income taxes, have never been very sympathetic to the bowling alley crowd of my origins. The bowling alley crowd—who have always done the real work of this country—revolted. Their message: You are nickel-and-diming us to death.

The charts that finally came out from the Ways and Means Committee, the Joint Economic Committee and others bore them out: They are being nickled-and-dimed to death—and the percentage of the increase that they were being asked to bear is greater than that of someone filing a tax return of more than $200,000.

Yet, the specter of new loopholes for the rich, questionable business incentives, and a so-called luxury tax that was a joke both in the portion of the market to which it applied and the amount which it was to raise were also part of this package.

We must go back to the drawing boards. We must look beyond what was proposed. We must look at a so-called bubble which gives 600,000 high income taxpayers a lower marginal tax rate than some taxpayers with lower taxable incomes. We could look at an additional limitation on deductions for business meals and entertainment. We could question whether or not we really need additional tax incentives for energy sources when the market itself may provide those. We should look again at the questions which have been raised about the proposed small business incentives.

We need to take a hard second look at the gas and heating oil taxes and at the portion of the burden we are asking the elderly ill, the unemployed, the farmers and the veterans to bear.

The parameters have been set. We aren't going far beyond them. I don't propose that we do. But, we can do some work on that package that will make it a better proposal.

My hope and belief is that we will get back to work on building a package that will fly. My belief is that we should build it for a long flight. It should do more than stay in the air until we get beyond the elections of 1990 or 1992. It should take us into the 21st century where we will need to be stronger and healthier than we are today.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,030th day that Terry Anderson has been held captive in Beirut.

MESSAGES FROM THE HOUSE

At 2:07 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 1430) to enhance national and community service, and for other purposes, with amendments; it insists upon its amendments to the bill, asks a conference with the House on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Education and Labor, for consideration of the Senate bill—except sections 222, 501, 502, 507, and 508—and the House amendment—except sections 132(e), 191-195, and 1991—and modifications committed to conference: Mr. HAWKINS, Mr. FORD of Michigan, Mr. GAYDOS, Mr. MILLER of California, Mr. KILDEE, Mr. WILLIAMS, Mr. MARTINEZ, Mr. OWENS of New York, Mr. SAWYER, Mrs. LOWEY of New York, Mrs. UNSOELD, Mr. GOODLING, Mr. GUNDERSON, Mr. COLEMAN of Missouri, Mr. PETRI, Mr. TAUKE, Mrs. ROUKEMA, and Mr. FAWELL.

From the Committee on the Judiciary, for consideration of section 132(e) of the House amendment, and modifications committed to conference: Mr. BROOKS, Mr. EDWARDS of California, Mr. STAGGERS, Mr. FISH, and Mr. DANNEMEYER.

From the Committee on Energy and Commerce, for consideration of sections 222, 501, and 502 of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. THOMAS A. LUKEN, Mr. WAXMAN, Mr. LENT, and Mr. WHITTAKER: Except that, for consideration of sections 501 and 502, Mr. MADIGAN is appointed in lieu of Mr. WHITTAKER.

From the Committee on Foreign Affairs, for consideration of sections 507 and 508 of the Senate bill, and sections 191-199 of the House amendment, and modifications committed to conference: Mr. FASCELL, Mr. BERMAN, Mr. LEVINE of California, Mr. BROOMFIELD, and Mr. GILMAN.

From the Committee on Interior and Insular Affairs, for consideration of

subtitle C of title I of the Senate bill and title II of the House amendment, and modifications committed to conference: Mr. UDALL, Mr. VENTO, Mr. LEWIS of Georgia, Mr. YOUNG of Alaska, and Mr. LAGOMARSINO.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4739) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Armed Services, for consideration of the entire House bill, the entire Senate amendment (except division D), and modifications committed to conference: Mr. ASPIN, Mr. BENNETT, Mr. MONTGOMERY, Mr. DELLUMS, Mrs. SCHROEDER, Mrs. BYRON, Mr. MAVROULES, Mr. HUTTO, Mr. SKELTON, Mr. LEATH of Texas, Mr. MCCURDY, Mr. FOGLIETTA, Mr. HERTEL, Mr. SISISKY, Mr. RAY, Mr. SPRATT, Mr. MCCLOSKEY, Mr. ORTIZ, Mr. DARDEN, Mr. EVANS, Mr. BILBRAY, Mr. MCNULTY, Mr. BROWDER, Mr. DICKINSON, Mr. SPENCE, Mr. STUMP, Mr. COURTER, Mr. HOPKINS, Mr. DAVIS, Mr. HUNTER, Mr. MARTIN of New York, Mr. KASICH, Mr. BATEMAN, Mr. BLAZ, Mr. IRELAND, Mr. HANSEN, Mr. ROWLAND of Connecticut, and Mr. KYL.

From the Committee on Armed Services, for consideration of division D of the Senate amendment, and modifications committed to conference: Mr. ASPIN, Mr. BENNETT, Mr. DELLUMS, Mrs. SCHROEDER, Mr. MAVROULES, Mr. SKELTON, Mr. MCCURDY, Mr. HERTEL, Mr. SPRATT, Mr. EVANS, Mr. MONTGOMERY, Mrs. BYRON, Mr. HUTTO, Mr. LEATH of Texas, Mr. FOGLIETTA, Mr. SISISKY, Mr. RAY, Mr. MCCLOSKEY, Mr. ORTIZ, Mr. DICKINSON, Mr. STUMP, Mr. COURTER, Mr. DAVIS, Mr. HUNTER, Mr. HANSEN, Mr. KYL, Mr. SPENCE, Mr. HOPKINS, Mr. MARTIN of New York, Mr. KASICH, Mr. BATEMAN, and Mr. BLAZ.

As additional conferees from the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of Rule XLVIII: Mr. BEILENSON, Mr. KASTENMEIER, and Mr. HYDE.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of sections 324, 335, and 336, and division D of the House bill, and sections 1216, 1249, and 2806 through 2808 of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Ms. OAKAR, Mr. VENTO, Mr. TORRES, Mr. NEAL of Massachusetts, Mr. WYLIE, Mr. SHUMWAY, and Mr. ROTH.

As additional conferees from the Committee on Education and Labor, for consideration of section 504 and division D of the House bill, and sections 854, 1216, and 3130B of the Senate amendment, and modifications committed to conference: Mr. HAWKINS, Mr. FORD of Michigan, Mr. WILLIAMS, Mr. MARTINEZ, Mr. SAWYER, Mr. GOODLING, Mr. COLEMAN of Missouri, and Mr. GUNDERSON.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 341, 345, 2834(c), 2851, 2852, 3134, 3135, and 3201 of the House bill, and sections 319, 813(f), 1003, 1222, 2821, 2824, 3130B, 3133, 3134, 3201, and 3202 and division D of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. THOMAS A. LUKEN, Mr. SHARP, Mr. SWIFT, Mr. ECKART, Mr. LENT, Mr. MOORHEAD, and Mr. WHITTAKER.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 226, 232, 303, 332, 352, 1037, 1331(a), 1346, 1347, 1401 through 1408, 3133, and 3141 through 3144 of the House bill, and sections 304, 852, 1106, 1107, 1211, 1213 through 1215, 1224, 1225, 1242 through 1244, 1246, 1271 through 1275, 1304(d), 2811, 2812, and 3141 of the Senate amendment, and modifications committed to conference: Mr. FASCELL, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. SMITH of Florida, Mr. BROOMFIELD, Mr. GILMAN, and Mr. LAGOMARSINO.

As additional conferees from the Committee on Government Operations, for consideration of sections 227, 802, 803, 804, 807, 835, 1302, 1303, and 2822 of the House bill, and sections 811, 812(f), 813(a), 813(c), 813(d), 816, 817, 818, 819, 833(a), 1205, 1207, 2804, 2805, and 2809 of the Senate amendment, and modifications committed to conference: Mr. CONYERS, Mrs. COLLINS, Mr. WISE, Mrs. BOXER, Mr. KLECZKA, Mr. HORTON, Mr. KYL, and Mr. SHAYS.

As additional conferees from the Committee on Interior and Insular Affairs, for consideration of division D of the Senate amendment, and modification committed to conference: Mr. UDALL, Mr. MILLER of California, Mr. VENTO, Mr. MARKEY, Mr. LEVINE of California, Mr. YOUNG of Alaska, Mr. MARLENEE, and Mr. CRAIG.

As additional conferees from the Committee on the Judiciary, for consideration of sections 352, 552, 822, and 1343 of the House bill, and sections 804A, 833(a), 1102, 1218, 1226, 1251 through 1266, and 1503 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. KASTENMEIER, Mr. FRANK, Mr. STAGGERS, Mr. BRYANT, Mr. FISH, Mr. MOORHEAD, and Mr. JAMES.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of sections 329(d), 553, 1324, and 2831 of the House bill, and sections 522, 631(b), 2805, 3132, and 3401 through 3407 and division D of the Senate amendment, and modifications committed to conference: Mr. JONES of North Carolina, Mr. STUDDS, Mr. HUBBARD, Mr. TAUZIN, Mr. DYSON, Mr. YOUNG of Alaska, Mr. LENT, and Mr. SHUMWAY.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 361(c), 902, 905, 906, and 1217(b) of the House bill, and sections 831, 832, 834, 1001(a), 1502(b), 3202, and 3404 through 3406 of the Senate amendment, and modifications committed to conference: Mr. FORD of Michigan, Mr. CLAY, Mr. SIKORSKI, Ms. OAKAR, Mr. ACKERMAN, Mr. GILMAN, Mr. HORTON, and Mrs. MORELLA.

As additional conferees from the Committee on Public Works and Transportation, for consideration of section 2803 and division D of the House bill, and sections 1216, 1232, 2804, and 2814 of the Senate amendment, and modifications committed to conference: Mr. ANDERSON, Mr. ROE, Mr. OBERSTAR, Mr. BOSCO, Mr. SAVAGE, Mr. HAMMERSCHMIDT, Mr. PETRI, and Mr. PACKARD.

As additional conferees from the Committee on Science, Space, and Technology, for consideration of sections 802, 804, 804A, 1001, 1002, 1501, 1502, and 3130B of the Senate amendment, and modifications committed to conference: Mr. ROE, Mr. SCHEUER, Mrs. LLOYD, Mr. VALENTINE, Mr. MINETA, Mr. WALKER, Ms. SCHNEIDER, and Mr. BOEHLERT.

As additional conferees from the Committee on Small Business, for consideration of section 813(e) of the Senate amendment, and modifications committed to conference: Mr. LAFALCE, and Mr. MCDADE.

As additional conferees from the Committee on Ways and Means, for consideration of section 1223 and division D of the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. JENKINS, Mr. DOWNEY, Mr. PEASE, Mr. ARCHER, Mr. VANDER JAGT, and Mr. CRANE.

As additional conferees from the Committee on Ways and Means, for consideration of section 645 of the Senate amendment and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. FORD, of Tennessee, Mr. DOWNEY, Mr. PEASE, Mr. MATSUI, Mr. ARCHER, Mr. VANDER JAGT, and Mr. CRANE.

At 7:25 p.m., a message from the House of Representatives, delivered by

Mr. Hays, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was,

Resolved, That the said joint resolution do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

RECESS UNTIL 5 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 5 p.m.

Thereupon, at 4:30 p.m., the Senate recessed until 5 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. FORD].

The PRESIDING OFFICER. The Chair, using his prerogative as a Senator from Kentucky, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, the House is now completing a vote on the override of the President's veto of the continuing resolution. It appears that the veto will be sustained.

I will shortly meet with the distinguished Republican leader and will also attempt to talk with the House leadership to determine what their next course of action is, and as soon as I do that I will have an announcement on what our plans will be for the remainder of the day.

In the meantime, I will shortly seek consent to recess subject to the call of the Chair, rather than setting it at a specific time. That will give us flexibility to make any announcement that is appropriate at the earliest possible time.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that the Senate now stand in recess subject to the call of the Chair.

There being no objection, at 5:06 p.m., the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 7:24 p.m., when called to order by the Presiding Officer [Mr. FORD].

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have just discussed with the distinguished Republican leader who is present on the floor and Members of the House leadership, the current situation in the House and what may be expected to occur there in the next 24 hours. It now appears that there will not be any action in the House this evening that would cause us to be in session and taking up any measures in the Senate this evening. Accordingly, I will now state that there will be no rollcall votes this evening and it is my intention to shortly recess for the day.

Tomorrow the House will come into session at 1 p.m. Efforts are continuing there to reach agreement on a budget resolution which can be presented to the House for action tomorrow.

The House, a short time ago, took action which permitted the reconvening of the budget conference committee and it is their hope and ours that the conference committee will be meeting this evening to attempt to move toward the development of a budget resolution conference report, which could then be acted upon in the House tomorrow and which, if that did occur, would require action in the Senate later tomorrow.

Accordingly, following consultation with the Republican leader, I will shortly seek consent to recess until 6 p.m. tomorrow with the advice to all Senators that they call in through the day to their respective cloakrooms to seek updates on the current situation in the House of Representatives, because if the House does not take any action tomorrow there will, of course, not be any reason for the Senate to be in and acting tomorrow.

The only reason for setting the Senate session for 6 p.m. tomorrow instead of going over until Monday is in the hope and expectation that the House may take action tomorrow which would permit us then to proceed with respect to whatever measure the House acted on.

So, we will be in session tomorrow at 6 p.m. We will take action thereafter tomorrow if the House has, prior to or sometime during the day or evening tomorrow, acted on a measure in such fashion as would permit us to act on it. If no such action occurs in the House, then our session tomorrow would be merely pro forma. Therefore, before making plans to come in, Senators should check throughout the day, again with their respective cloakrooms, on the progress of what is occurring in the House during the day tomorrow.

So, Mr. President, I am pleased now to yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, I thank the majority leader.

It could be that if they reached some agreement in conference tomorrow on the budget, there could be a budget conference report tomorrow night if the House acts. That could come sometime after 6, as I understand it.

We might need considerable notice. I think there will be a number of Members on each side of the aisle who may not be in the area, in some other States, for example, and it would take a while for them to return.

I assume if the budget conference report passed, then there would be a straight continuing resolution that would keep the Government going for a couple of weeks while we work on reconciliation. I guess those are the two possibilities which may or may not occur. We just do not know at this time.

Mr. MITCHELL. That is correct. Depending, of course, upon what happens with the budget resolution, we may be able to dispose of the continuing resolution in a relatively brief period of time, perhaps by voice vote.

Mr. DOLE. And maybe even the conference report on the budget by voice vote.

Mr. MITCHELL. That is possible, and that would certainly be my hope, if we can do so. Obviously that will require further consultation between us and other Members of the leadership, and particularly the Budget Committee. But that is possible and that is the kind of thing that Senators will have to check on during the day. We obviously will keep them advised and then have an announcement at 6 p.m. tomorrow when we come into session.

Mr. President, obviously, there is a high level of uncertainty in what will occur. It is my very strong hope, and I know the Republican leader shares this, that we will be able to reach agreement on a budget resolution that will enable us to proceed to what is the essential task of developing the reconciliation bill.

Unfortunately, as we have all seen, what has occurred is that the budget resolution has become invested with at least the perception of the characteristics of the reconciliation bill and a vote on the budget resolution has now be deemed to be a vote on the entire legislative package that ordinarily occurs in the reconciliation bill. I hope that we can get a budget resolution passed so that we can begin the very difficult task of trying to put together a reconciliation bill that would deal with the problem. That is an essential first hurdle.

The budget resolution does not solve the problem. It is an internal congressional action. It does not require presentment to the President. It does not bind us beyond the aggregate numbers and the instructions to the committees with respect to their contribution to

the aggregate level. So it is my hope that we can do that.

If we cannot do that tomorrow, then, of course, it seems implicit, but I think it should be made explicit, that a Monday session would be possible because we have to get this done and I hope very much that we can get it done before the holiday ends and the severe adverse effects of the current situation are actually felt on Tuesday morning.

So, we will keep Senators advised as best we can on both sides. I recommend strongly again that Senators call in throughout the afternoon tomorrow to be kept abreast of what is happening so that they do not make unnecessary trips to and from the Capitol. There is no assurance that there will be a vote at 6 o'clock or that any action will be necessary. That depends very largely, if not entirely, upon what occurs in the House prior to that time.

Mr. President, if there is no further business to come before the Senate, the distinguished Senator from Rhode Island has requested the opportunity to address the Senate, and I am about to seek consent to recess following his remarks unless other Senators wish to be included in this request.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that Senator PELL be recognized to address the Senate and that at the conclusion of his remarks the Senate stand in recess under the previous order until 6 p.m. on Sunday.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S VETO

Mr. PELL. Mr. President, I regret very much that the President chose to close down the Government of the United States by his veto. I regret also that the House of Representatives has been unable to override that veto. If the Senate had been given an opportunity to act, I would have voted to override the President's veto, I would have voted to permit the Government to continue to function.

It is deplorable, indeed shameful, that our Government is being brought to a standstill by disagreement over budget policies. The American people deserve and expect a better and a more solid performance.

The summit budget agreement presented to the Congress by its leadership and by President Bush was rejected last week. I rejected the agreement, the American people rejected the agreement, and the Congress rejected the agreement.

The Congress then proposed that budget deadlines be deferred for a week to permit action on a new budget. President Bush has said no, he will not permit further time, but will shut down the Government without further delay. I think he is badly mistaken.

This is an artificial crisis that is totally unnecessary. The administration strategists apparently believe that shutting down the Government will put pressure on the Congress to pass a budget that meets with its approval. Shutting down the Government may indeed put some pressure on Congress, but more importantly it punishes the American people. It deprives the people of Government services they want, need, expect, and deserve.

Our Nation would not collapse if the Congress were given a few more days to prepare a budget that the American people will find more acceptable. The Congress now must act, not with due speed and deliberation, but with haste, to avoid imposing unnecessary penalties on the American people.

Mr. MOYNIHAN. Will the Senator from Rhode Island yield for a comment?

Mr. PELL. I will be glad to yield.

The PRESIDING OFFICER. The chair will say to the distinguished Senator, he can secure the floor in his own right by unanimous consent.

Mr. MOYNIHAN. I thank the Chair.

May I say in response to the statement, characteristically brief, concise, and precise, of the Senator from Rhode Island, that he has other things to do than the idiocy in which we will find ourselves caught up next week or beyond.

The Senator from Rhode Island is the chairman of the Committee on Foreign Relations. He is trying to manage matters of the utmost importance. He will be bringing momentarily a treaty to the floor of this body that brings an end to the Second World War in Europe; the 4-plus-2 agreement that brings the unification of Germany and the withdrawal from Germany, save under other agreements, of all the occupying powers—the Soviet Union, the United States, France, Britain—that have been going on since 1945.

He will soon have the most important conventional arms treaty in history to manage. He has on his hands 200,000 American men and women deployed in the gulf, possibly at war any instant, exposed to the utmost dangers; negotiating a multinational coalition that has no equivalent in history.

The chairman of the committee and his committee have work to do instead of which we will be trying to put together an agreement which, one way or the other, will not be 5 percent different, one outcome from the other.

If I have a touch of asperity in my voice, it is in amazement at the statesmanlike nature of the chairman's remarks. He knows how important his work is and how much he is being diverted by irresponsible behavior on many quarters, and not just on Capital Hill.

Mr. PELL. Mr. President, I thank the Senator very much indeed for his nice remarks. I remind him of the real definition of a statesman, which is that of being a successful and dead politician.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. For what purpose does the Senator from Nebraska rise?

Mr. EXON. I ask that I might be able to continue for no more than 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S VETO

Mr. EXON. Mr. President, I know there has been a lot of hard work going on in the Congress of the United States these last few hours. However, I must say that despite those efforts I was very disappointed to hear that we, seemingly, have concretely accomplished nothing today. We are coming in at 6 p.m. tomorrow, as I understand it. I do hope that at least by that time we will have something to vote on, to begin to do something about this proposition.

I, for one, Mr. President, was discouraged when the President saw fit to veto the measure that would have allowed us some time to work out the difficulties. I hope all will undertand that for 4 months we were locked in secret negotiations—and evidently the President. The budget submitted, it was assumed by the President and the leadership, would automatically solve the problem.

I think it is a little bit too much to ask that, since it took them 4 months to come up with something that was overwhelmingly objected to in the House of Representatives, that in a very few hours we can do something totally different that would be agreed to. That is why we desperately needed that 1 week, without the chaos and the confusion that the President's action will cause across this great country of ours.

Nevertheless, whether that is right or wrong, that action has been taken. I do hope that when we come back tomorrow, we will have at least an option to begin meaningful debate on what the options might be and come to some kind of a consensus that we should be coming to, to meet this problem that many of us have predicted would be happening for many, many years and have offered many, many plans to avert.

I simply appeal to those on both sides of the aisle who, notwithstanding the box that the President has put us into, unfortunately, that we still have an obligation to discharge our duties now. I hope that nonpartisanship and good will can now prevail in the next few hours, and let us get on with set-

tling this most difficult task in one fashion or another. I thank the Chair, and I yield the floor.

ORDERS FOR SUNDAY, OCTOBER 7, 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 6 p.m. on Sunday, October 7; that following the prayer the Journal of the proceedings be deemed approved to date; and that the time for the two leaders be reserved for their later use.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 6 P.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until Sunday, October 7 at 1990, at 6 p.m.

Thereupon, the Senate, at 7:41 p.m., recessed until Sunday, October 7, 1990, at 6 p.m.

HOUSE OF REPRESENTATIVES—*Saturday, October 6, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray using the words of St. Francis of Assisi:

Lord, make us instruments of Your peace. Where there is hatred, let us sow love; where there is injury, pardon; where there is doubt, faith; where there is despair, hope; where there is darkness, light; and where there is sadness, joy.

O, Divine Master, grant that we may not so much seek to be consoled as to console; to be understood as to understand; to be loved as to love; for it is in giving that we receive; it is in pardoning that we are pardoned; and it is in dying that we are born to eternal life. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BROWN of Colorado. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROWN of Colorado. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Mr. SPEAKER. Pursuant to clause 5, rule I, further proceedings on this question will be postponed until the end of the legislative day.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Arizona [Mr. RHODES] come forward and lead the House in the Pledge of Allegiance.

Mr. RHODES led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, *October 6, 1990.*

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received at 10:15 p.m. on Friday, October 5, 1990 the following message from the Secretary of the Senate: That the Senate passed without amendment H.J. Res. 660.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled joint resolution on Friday, October 5, 1990:

H.J. Res. 660. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

DAY OF DISGRACE FOR PRESIDENT BUSH

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, today we are witnessing pick-and-choose government run by a President who in defeat is acting like a willful child.

The President has shut down the Government, and he is choosing what services he will permit the American people to enjoy and what services they will be denied, even though this House and the Senate sent the authority for this Government to function to the President yesterday. There is no need for this.

Under his definition of necessary services we saw NASA launch the space shuttle this morning, but the Statue of Liberty is closed to Eagle Scouts.

Why permit Americans to visit our preeminent symbol of freedom when the President is acting like a ruler most of the immigrants fled away from?

This is a day of disgrace for the President, but it need not be. He should stop this attempt at running the Government himself, contrary to the Constitution, and permit the Congress to write a budget.

This stalemate has been created by the President with phony budget assumption numbers earlier this year and his insistence on helping his rich friends. Now it is time to stop and let the constitutional authority work.

LET US GET THE UNFAIRNESS OUT OF THE BUDGET AND GET ON WITH IT

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, time is wasting and the Government is closing down while the world waits on Congress to pass a budget. The only way we're going to pass one is to get rid of the major flaws in the last one. It's no secret what we've got to do.

The first thing is burst the bubble that gives the richest taxpayers, couples earning over $185,000, a lower 28 percent marginal rate than people who earn less. Why should the poor and the middle class pay more taxes when the very richest people, 600,000 taxpayers, less than 1 percent of all taxpayers, don't even take a hit.

I will have some more for you guys on the Democrat side later.

If anyone can take the hit, and if anyone should take the hit, it's the wealthiest 1 percent of Americans. Let the wealthy pay at 33 percent, too. That's fairness. It's time someone, yes, a Republican, came out and said it like it is.

The second thing that's got to change is the Medicare proposal. Of the $60 billion in savings over 5 years, $30 billion comes from the elderly who receive Medicare benefits. More than half comes from raising the premium seniors pay monthly from 25 percent of the program cost to 30 percent—$18 billion, a 20-percent increase. Why are we socking it to the elderly? Where are they going to get the money?

And the third thing is the Democratic proposal—shame on you guys—for a 2-cent-a-gallon home heating oil tax. Talk about kicking the poor and elderly when they're down.

If you want a fair package, you have to shift the burden to the people who can afford it. And I call upon the "big eight," our negotiators, to get off their duffs today, to make these changes I propose now, before it's too late.

THE WORLD IS NOT COMING TO AN END

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, in the late 1700's the Connecticut Legislature was in session and was experiencing some very turbulent times. About that time the first major eclipse of the sun in their lifetime came about, and many people feared that in fact the world was coming to an end because it all of a sudden had become dark.

But the Speaker of that legislature, one Abraham Davenport, upon receiving a motion to adjourn from one of the nay-sayers because it was, in fact, a very dark day, and perhaps the world was coming to an end, that they ought to adjourn, the Speaker, Abraham Davenport, said to the group assembled, "Bring in the candles, light up the lamps. If this is indeed the end of the world, I want it to be said that when the world came to an end the Connecticut Legislature was in session."

Mr. Speaker, I do not think the world is going to come to an end today. I think we have some very serious problems, but it is important that we keep our demeanor about us, that we continue to strive for a solution to this problem and that we realize that the world is not coming to an end.

Many of us have events scheduled back in our districts. I know that I am having 500 or 600 of my closest friends come to an event for me tonight where I probably will not be, and I know everybody else has their plans. But let us stay here. Let us keep our good humor and our demeanor, and let us do the job of the American people. Let us get it done, and remember the world is not coming to an end.

□ 1210

THE PRESIDENT, SENATE, AND HOUSE LEADERS ARE TO BLAME

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, now is not the time for partisan cheap shots, and the gentleman from Florida [Mr. SMITH] just did an egregious one on the President of the United States.

If you look at the fine print of the budget summit agreement that was announced last Sunday, it said expressly that unless the Congress came up with an agreeable budget summit package, there would be no more continuing resolutions signed after Friday, October 5. The President did just what he said when he signed off on the budget summit package last Sunday.

There are other people who signed off on that, the Speaker of this House, the majority and minority leaders of this House, the President pro tempore of the other body and the majority and minority leaders of the other body. They are just as much to blame for the Government shutting down as the President of the United States is.

So let us start getting together and put together a package that can be signed so that we can get the public's business done and go home so the gentleman from Georgia can enjoy the 500 or 600 friends who are coming to his house tonight.

THE PRESIDENT AND CONGRESS MUST BRING PEACE AND FINANCIAL STABILITY

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, I have not spoken on the budget, because I thought other people probably knew more about it than I did, those who have been on the budget summit.

But I have a very deep feeling about two things that are happening now in our country. One of them has to do with the war, and the other one has to do with the budget. We all come down to the fact that when you are in a position of responsibility, as we are in Congress, or as the President is in the White House, it is up to us, and it is up to the President to make Government work.

The people I have been elected by, who sent me here to Congress, expect me to see that the Government works. They are not prepared to do anything about it. They have got to take care of their responsibilities to make a living for their families, and they expect to see their regularly elected officials see that the Government works out its problems.

It is very distressing to me to see what is occurring not only with regard to the budget but also as to what I read in the paper about the President inviting people into the White House talking to them about when belligerence will actually occur in that area over there in the mideast. That concerns me very, very deeply.

We have a Constitution which says that the warmaking powers of the United States are in the hands of the Congress and not in the hands of the President. When they were arriving at the language that they would put in the Constitution, they selected the language they did with the thought that the President would be able to bring out troops and things of that kind in a belligerent capacity if we were actually attacked, but if we were ourselves mounting a situation which would bring about a war, that was not to be the case. Only the Congress has that constitutional responsibility and authority.

I hope the President and the Congress together can bring peace to this world and bring financial stability to our country.

FACE UP TO RUNAWAY SPENDING

(Mr. BROWN of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Colorado. Mr. Speaker, we are here today because this House has not done its work, and neither has the Senate. We have had all year. We have not gotten the appropriation bills through, although I think it is clear that the House has done a far better job than the Senate in facing up to those responsibilities.

The fact is the crisis we are in is a product of a failure for us to do our job. Now is not the time to throw stones at others. What we ought to do is settle down and get our work done.

What can we do in the way of a compromise? Do we have to increase the burden on working people? Absolutely not. We can get a budget that dramatically reduces the deficit, and we can do it by giving entitlement programs a cost-of-living increase and by freezing discretionary spending for 1 year.

If we will just quell the appetite to hand out more and more taxpayers' money, we will get this budget crisis under control, but we will not do it by sticking it to the American working men and women once again.

Taxes are up 107 percent in the last decade.

The answer to our problems is not to impose heavier burdens on the people who work and make this country go. The answer to our problems is to face up to the runaway spending.

SETTLEMENT IS WITHIN OUR REACH

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, I am truly embarrassed. I think every Member in this House is truly embarrassed. The very credibility of our institutions of Government have come under great question. There has been a firestorm of resentment and outrage around our country. Nobody out there today separates Democrats from Republicans, the House from the Senate, the executive from the legislative branch. It is the entire Government that has come under a cloud. Our very competence to govern is in question.

It is the very institution of government that people think are failing them and, indeed, we are failing them.

We are an advanced, sophisticated, prosperous Nation with a proud 200-year history of democracy. Even now, we have over 150,000 troops in the Persian Gulf, Mr. Speaker, ready to fight for the ideals and freedoms that our Government stands for. And yet, our President closes down this same Government at home? That is preposterous, unworthy, and unacceptable.

Mr. Speaker, the New York Times this morning berates the "appallingly small cuts in defense that are in the failed budget agreement as though no one had noticed that the cold war was over." The cold war is over, and it should be recognized as a memory. We have the opportunity to cut tens of billions more from defense over the next 5 years. We should ax SDI, ax the B-2 bomber, and ax the many more military systems that have outlived their reason for being, with the demise of the cold war. But cutting these two albatrosses will suffice, for now, to give us substantial breathing space. Cut them out, and cut them out now.

A settlement is within our reach. We ought to grasp the nettle and make this settlement. We ought to stop taxing the elderly, the poor, and the middle class. And we must be willing to make the wealthiest among us pay their fair share.

Mr. Speaker, we ought, as my colleague, the gentleman from Massachusetts [Mr. CONTE] said, to burst that bubble, and get on with the settlement.

Burst that bubble, reduce the hit on Medicare, and cure this offensive regressivity. The Wall Street Journal noted a couple of days ago, that under the failed budget agreement, our poorest citizens would have paid 7.6 percent more in taxes, while those people earning upwards of $200,000 would pay a mere 1.7 percent more in taxes. That is offensive and unacceptable to the American public, which believes in fairness, equity, and even burden sharing.

Imagine what they are saying about us around the world, what the rest of the world's leaders are saying, what Prime Ministers Thatcher, Kohl, and Kaifu are thinking now about the safety and security of their investments in this country. What can the Japanese possibly think about the safety and security of the billions of dollars of United States Treasury bills they have bought, when the President thinks he can simply ask the last person in Government to turn off the lights before they leave the premises?

A century ago a British legal philosopher explained, "the law is not an ass." Were he here today, would he have been so kind about those who are charged with making and executing our laws?

LEFT, RIGHT, AND CENTER MUST COME TOGETHER

(Mr. SHAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAYS. Mr. Speaker, I was elected in 1987, and my first objective was to help control the rising Federal budget deficits. I voted for the Kasich amendments which cut spending. There were only 38 of us who supported his amendment last year. I supported the Kasich amendment again this year, and while there were more, there were still only 120 who supported it.

Mr. Speaker, my first real opportunity to vote for a meaningful and comprehensive deficit reduction package was to support the budget summit with all its flaws, and I supported it. It cut spending, it raised some taxes, and it helped control the growth in entitlements. It was not a great package but it was a responsible one.

With its defeat maybe we can do better. There is no question that the right is against it because there are taxes, and because they do not want defense cuts. The left is against it, because they do not want cuts in domestic spending.

Somewhere the right, the left, and the center are going to have to come together. We are going to have to get out a deficit reduction package.

In conclusion, I would vote to eliminate the bubble for the wealthiest in our society. I would want to see, in its place, the capital gains tax exemption.

I want a package that will reduce this deficit. And I intend to vote for one.

LET US GET REJUVENATED BY THE WISDOM OF THE AMERICAN PEOPLE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I understand the President has just vetoed the continuing resolution. Unfortunately that means more confrontation, more partisan bickering, more grief on the part of people who need the Federal services and more exasperation by the American people in this country.

It does not take an Albert Einstein physicist to figure out what to do. It does not even take the genius of a Thomas Jefferson to figure out what to do. It just takes good judgment and a sense of fairness that the folks in this country expect of us in order to get them out of this mess.

I supported the agreement to keep the process going.

What do we do now? I think the Speaker and the Republican leader and all of the other leaders of this country, and particularly the President, ought to take the basic summit agreement and make the changes of what the American people were yelling at us to make, burst the bubble, as the gentleman from Massachusetts [Mr. CONTE] said, to have a little higher part of this battle paid for by the wealthy in this country, and reduce the Medicare cuts. There are other parts that we can do.

Above all the American people believe and want a budget agreement and want one that is fair, and then let us get out of this town. Let us go home after we have taken care of this problem, and let us get rejuvenated by the wisdom of the American people.

PROBLEM IS LIBERAL CAREER POLITICIANS

(Mr. SCHUETTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUETTE. Mr. Speaker, the reason we are here today is because Congress is out of control, and it does not take a genius for people to understand that when you raise taxes, cut Medicare, lay people off and then have a pay raise, Congress is out of control, and the problem is the liberal career politicans.

What we need, frankly, in any budget agreement is a first paragraph that says, "Rescind pay increases," and if there are going to be furloughs for Federal workers and cuts in programs to the poor, we ought to furlough Congress and cut Congress' pay.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would desire to tell our friends in the gallery, and you are friends and you are our guests, and we are glad you are here, the rules of the House forbid demonstrations of either support or opposition to statements made on the floor.

AMERICANS WILL NOT BE IMPRESSED WITH A GOVERNMENT SHUTDOWN

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, let us get a budget this weekend.

Americans will not be impressed with a Government shutdown come Tuesday.

□ 1220

Americans will not be impressed with partisan posturing, each side blaming the other. Americans will not be impressed with days or weeks of continued deadlock. The time for argument is past. The time for agreement has come. The budget summit

package was rejected. It was not perfect. It was painful, but it would have seriously cut the deficit.

We can make the package more fair and more palatable. We know it has to be done. Let Members get the job done this weekend.

LET'S WORK TOGETHER

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, I voted for the continuing resolution to keep the Government operating through next Friday. I have heard that the President has vetoed or is about to veto the continuing resolution. I intend to vote to override that veto if that has occurred because I think that we should not bring government to a halt while we try to resolve this very difficult problem.

However, I do have to sympathize with the President in this respect: If so many Members of this body and the other body continue to believe that their idea of fairness is the only possible idea of fairness, and their program is the only possible program, then we will be here past October 12, 1990. We will be here past October 12, the year 2000, and still not have gotten anything accomplished. We have to work together.

CONSIDER PROGRESSIVE CAPITAL GAINS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DEFAZIO. Mr. Speaker, it appears inevitable that the next budget package will include some kind of a capital gains allowance in exchange for finally bursting the regressive bubble. Let Members think about a progressive capital gains rate so we do not give all the progressivity in revenue gained by bursting the bubble. Set up a system of capital gains that encourages Americans at all income levels to invest long term, and fairly distribute the benefits. Reduce the marginal tax rates on capital gains by 5 percent a year in each tax bracket. Why have a flat rate capital gains tax which only benefits the people in the top and highest brackets? If a person is in the 15-percent bracket, holding something for 3 years, they get a 15-percent reduction in their tax rate, they pay 12.75 on the gains, if a person is in the 33 percent bracket, they pay at 28.05; in the 28 percent bracket, 23.8. It is more fair, it loses less revenue, and it would still, I think better encourage long-term investment in the future of America.

Finally, it accomplishes the objective which has brought Members to this impasse, which is finally making the tax system progressive once again in the greatest tradition of this country, those who have the most and can afford to pay the most should pay more than middle income and working people.

[In percent]

Asset held	Tax rate		
	15	28	33
1 yr	14.25	26.6	31.35
2 yrs	13.5	25.2	29.7
3 yrs	12.75	23.8	28.05
4 yrs	12	22.4	26.4
5 yrs	11.25	21	24.75

CUT SPENDING OR RAISE TAXES?

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, Americans need to know what this fight is all about. We can have a budget in 5 minutes. All we have to do is agree to $135 billion in new taxes, 10 cents a gallon on every gallon of gas that America buys. A tax increase of such a magnitude, it will put the United States into recession and put hundreds of thousands of people out of work.

We can cave in and spend that extra money. The problem is this battle is between 2 philosophies: Do we spend more money, or do we keep taxes low. That is the question.

Now, I think all Members need to know one more time, 10 years ago we had $599 billion in tax revenues. This fiscal year we will get $1.2 trillion in tax revenues, more than double. However, that is not enough. We want to spend more. We are getting $80 billion a year in tax revenues right now, and we will get it for the next 4 to 5 years. However, $400 billion in new tax revenues over the next 5 years is not enough. They want more. They want $135 billion in new taxes that will put the United States into a recession. That is what the battle is all about, America. Do we want more taxes or do we want to control spending?

READ OUR VOTES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, we have gone from "read my lips," to "read my veto." It is time for Congress to reiterate today, to the Nation, to "read our votes." No, not to a budget that is un-American. Let me say this to the Congress, any budget that would raise premiums on Medicare but not touch foreign aid is un-American. That is what the American people in my district are telling me.

When this President attended a $25,000 a plate fund raiser, he broke bread with the president of British Petroleum. None of my truckers were there. None of my seniors were there. None of my veterans were there, and they want me to vote no. I do not have a tough race, and I hope it does not get tough. That has nothing to do with it.

This budget is bad if we have to shut this budget down. Let Members get a good budget for America.

FURLOUGH WHITE HOUSE NONESSENTIAL STAFF

(Mr. VOLKMER asked and was given permission to address the House for 1 minute.)

Mr. VOLKMER. Mr. Speaker, last night when Marlin Fitzwater from the White House addressed the Nation and told the Nation that the President would not sign the continuing resolution, in his remarks he said that the only Members who voted against the budget were those who did not have the courage, and those who are afraid of reelection.

Well, Mr. Fitzwater, I want you to know that I voted against the budget resolution because, as has been said here before, it was grossly unfair to the low and middle income. I do not plan to vote for any budget Mr. Fitzwater, as long as it contains those provisions that are unfair to those people.

In the meantime, I want to say to the other American that lives in that little White House, and this imperial Presidency, as he is releasing people from the Social Security offices and other offices that are not essential for safety and health, at the same time he should be releasing the White House cooks, valets, doormen, gardeners, press persons, waiters, housekeepers, chauffeurs. They are not necessary for the safety and health of the Nation. Let them all go, I say, Mr. President. Tell the President, "Let them go." He doesn't need any of those people. Absolutely not. Mr. President, I say, give notice to your help. They are no longer essential employees.

ANNOUNCEMENT OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would ask the gentleman in the well to address the Chair in his remarks under the rules. It might be timely for the Chair to state again that under the rules of the House, persons need to be addressed in the third persons through the Chair, rather than directly.

RENEWAL OF BUDGET PROPOSAL

(Mr. INHOFE asked and was given permission to address the House for 1 minute.)

Mr. INHOFE. Mr. Speaker, today is a day to make a lot of accusations and to get all Members upset, but I think today is a day to renew something that I proposed last Monday.

Last Monday, I proposed that we take the summit proposal, that we cut the gas tax, that we cut out the cuts that would be Medicare that would end up costing $118 billion over a 5-year period. This could be very easily made by taking the nonmilitary discretionary accounts and cutting them by 12½ percent, and allow the appropriate committees in Congress to come in and do it and make the determination of those programs that should be cut.

A lot of sacred cows and pet programs would go down with it, but that is what the American people want. They do not want more taxes. They want to cut spending. I think it is time to renew that offer, which I am going to do today.

A SALUTE TO CONGRESS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I want to say how proud I am to be a Member of this body. I think this week we finally got our spines out of the cloakroom. In 1981 we saw a pattern started by the Reagan-Bush administration, and that was to march this body right down to the last day, and then shove a deal at Members that they could never pass on this House floor, that could only pass in the last minutes, and say, "Either sign it or we shut everything down."

Well, it worked a lot in the 1980's. We see where it got the United States, one of the most unfair Tax Codes this country has ever had, and incredible deficits.

I am very proud that we did not blink this time. I am also very proud that we are going to have a chance to show we can keep this Government going and come up with a much, much better budget. Now, it is painful for those who are going through the turbulence of these days. It is very, very painful for all Members. We do not like it. This is not pleasant. However, the alternative of signing a 5-year deal that would cost the average family in America $2,500 more in taxes is certainly not a good alternative. So the turbulence of a few days is much better than an incredible package we would have to live with for 5 years.

I salute your courage, Congress. Hang in there and keep battling. Override this budget and let Members show them.

□ 1230

CONGRESS SHOULD GET TOGETHER AND SOLVE BUDGET IMPASSE

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, I voted for the resolution for my own reasons, but I do not point the finger or chastise anyone who voted "no" for their own reasons.

The fact is that we are caught in an impasse that seems to be very difficult to resolve. It is not. It is very simple.

I just want to relate to you one item. A family from California, a husband and wife, two children, came to Washington. This morning they called me. All the museums are closed. That is not what we should be doing.

I urge the President to sign this resolution, because that is the way we can continue doing business.

My area does not approve a reduction in Medicare. My area cannot sustain higher gas taxes. I will protect those interests to the best of my ability.

Someone may question why I voted for the resolution. As I said, it was for other reasons, but now I think that instead of finger pointing, we should get together. We know what cannot pass this House. We know what the President will not accept. Now we have to come somewhere in-between.

OVERRIDE PRESIDENT'S VETO

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, where is the President of the United States when 250 million Americans need him?

Congress has given the President a budget to keep the Government open and he vetoed it. He vetoed it. He says if he does not get what he wants, shut the Government down.

Mr. Speaker, we cannot afford to shut the Government down. He is willing to hold every American hostage, all 250 million of you, including the elderly, the sick, the disabled, the veterans, the poor, everybody, he is willing to hold hostage if he does not get what he wants.

Congress does not have this attitude. We are not willing to shut it down. We do not have everything that we want in the bill, but this is a 50-50 working proposition.

We just killed a monster the other night that Dr. Frankenstein would have been proud to have had. Now we have got to look forward to the bargaining table to get something that we can work together and open the Government back up and find the ability to balance our budget; but in the meantime, we have got to override this veto when it comes back, possibly today, so that we open the door of Government Tuesday morning and allow the services to be continued.

THE SUM OF THE BUDGET IS MORE THAN ITS INDIVIDUAL PARTS

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remaks.)

Mr. McMILLEN of Maryland. Mr. Speaker, I just came back from my district this morning. The American people are mad and they are scared.

I think the time has come for all of us to put away our partisan differences, our parochial differences, our individual concerns. Let us pass a budget and show the world that the executive and legislative branches of this Government can truly govern.

I do not like this budget agreement, but it is better than chaos, gridlock, and uncertainty.

This economy is on a slippery slope. Are we going to be remembered as the President and the Congress who pushed this economy over the cliff?

Mr. Speaker, now is the time for all of us to be leaders, to stand up and do what is right for this country. Passing a budget with real deficit reduction must be a greater and more pressing priority than all of our individual concerns. The sum of this budget is truly greater than its individual parts.

THE PRESIDENT SHOULD BE LISTENING TO THE VOICES OF THE PEOPLE

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. President, yesterday many of us voted for the continuing resolution because we felt that we did not want to see the Government close down. As has been said before, the President has decided to veto it because the President does not have his way about what he wants for the people.

It is my belief, Mr. Speaker, that the President has forgotten that we represent the people, too. We represent 500,000 or 600,000 people in our districts. They are the voices we are listening to, as he should be listening to the voices of all Americans.

Americans have said they do not want to pay more for Medicare and have less service. They have said they want cuts in defense.

Mr. Speaker, even though we are in a crisis right now, there is still room for cuts.

People are watching television. They see that NASA is sending money to the Moon, money to foreign people, and so forth.

We are an American people who believe in democracy, but we also believe in taking care of our own as well.

So I say to the President, Mr. Speaker, that he should come down off his imperial throne and listen to those of us who sent him there and who sent us here to represent them.

THE PRESIDENT SHOULD NOT SHOOT THE INNOCENT

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, the President has pushed us up against a budget deadline and expected the Congress to roll over and give him a budget package which hit middle Americans twice as hard as it hit the wealthy. That simply is not fair.

Now to compound the problem, he has vetoed the continuing resolution to keep the Government going.

I simply have one suggestion. If the President is unhappy with the action of the Congress, and I think that action was right, if the President is unhappy with our action he ought to shoot at Congress. He ought to squawk at us. He should not hold Boy Scouts at the Washington Monument hostage to his demands to pass a budget which preserves and protects the privileged position of the wealthiest people in this society. He should not prevent Boy Scouts from getting into the Washington Monument. Because the Government is shut down, they cannot get in because he wants so badly to protect high income people from paying their fair share of taxes.

He ought not to shoot the innocent. He ought to come down and deal with the bipartisan leadership of both Houses and put together a package which has far more justice than that outrageous package which the Congress justifiably turned down 2 days ago.

PRESIDENT TAKES ALL THE MARBLES AND GOES HOME

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, I noticed on my way in today that the only Federal building open for tourists apparently is the Capitol, and perhaps well it should be, because that is where the work is being done.

The other night a bipartisan majority, Democrats on this side of the aisle, and Republicans on that side of the aisle, rejected the budget summit deal, rejected the priorities, many of those priorities that the President tried to get in there. They rejected in the battle of priorities, higher taxes on working people. They rejected Medicare cuts that would ravage the elderly.

So what was President Bush's reaction? "Not my way, then no way. I'll take all the marbles and go home."

Well, if he can do that, that would be fine, but when the President goes home the Government shuts down.

So Mr. Speaker, make no mistake about it, this Government today is being shut down over priorities. I hope that all the tourists in town will make a stop by the White House and let them know their priorities. Their priorities are to have a Government.

George Bush was not elected to be the President of no Government, and that is the kind of Government we have today. It is time to get this Government up and running again.

BUDGET IS NOT A QUESTION OF PERSONALITIES

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, I was sitting in my office watching the television when the press conference occurred on the White House lawn, I guess. I could not stand it any longer. I had to come over here and make my position very clear.

The President made it clear he is going to veto the continuing resolution. This is not a question of personalities. It is a question of what this Congress of ours does to protect the rights of people, the rights of people, to be in a position where we as a Congress stop running from what is right and what is wrong. That is basically where you make your decision.

□ 1240

I am sick and tired of being in the position where we ignore the poor and the middle-class in this country and just are concerned about those who have. I have no problem with people becoming millionaires, but do not do it at the expense of others. There is a mass of people in this country who need a right to live in human decency. They do not even have a place to live.

We are not concerned about them.

I think it is high time we prioritize our agenda in such a way that we spend our tax dollars on those who are fortunate enough to be working. Cut the budget, and let him veto it; but let us override the veto and stand up for the American people.

IT IS TIME FOR CONGRESS TO STAND UP TO THE PRESIDENT

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, President Bush is behaving like a child who threatens to hold his breath and die unless you give him what he wants.

This Congress passed a continuing resolution yesterday to continue appropriations for the Government for another week while the budget resolution situation is being worked out. That is not good enough for the President. He gets what he wants immediately, or he shuts the Government down.

What an outrageous course of conduct.

Do you know what he is trying to do? He is trying to shift the burden for having shut the Government down to Congress because now he has vetoed it, now it comes to Congress and it requires two-thirds vote in each body to override that veto. If we do not do it, then he says, "It is not me, it is Congress."

It is time for Congress once again to stand up and demonstrate that we will not be bullyragged into doing what is unfair to the American people. Vote to override the veto.

SOME SWAPPING IN THE BUDGET IS POSSIBLE

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I just watched C-SPAN or CNN, and I heard the President say that it is the Congress, that Congress is at fault for the problem and that we are just thinking of our individual districts.

The fact is, when I voted against the budget that was proposed and we had no way of amending it, it was just an up or down vote, a take-it-or-leave-it vote, I was not just thinking of the middle-class in my district. I was thinking of the middle-class in this country who have picked up the tab pretty much for all the problems that we have in this country and they are fed up with having a different tax rate than the very, very wealthy who make over $200,000 a year and were held harmless by the budget proposal.

I was not thinking only of the older Americans in my district when I voted against the budget package, I was thinking of the entire older American and disabled American population in this country. I believe that the suicide rate is going up for older people in this country because they can hardly afford the health costs.

We cannot just keep hammering away at the older people.

I think there is some swapping to be done, however. I would like to make some proposals for that. I think that we ought to increase the rate of tax-

ation for the $200,000-and-over crowd and use that money against the money they were going to cut with respect to Medicare.

I think we can do away with some of the defense dollars, particularly those dollars that go abroad, and keep to the House budget that wanted to cut defense $6 billion and use that against the gasoline tax that we were going to charge our consumers.

I think we can take the special tax breaks to the tune of $12 billion, $3 billion per year, that were in the budget that we rejected, and put it back into Federal employee programs and veterans programs and the unemployment programs and the student loans. It is a real simple way of swapping, and then we could all go home and the American people would be, I think, satisfied.

IT IS TIME THE PRESIDENT READ THE LIPS OF THE AMERICAN PEOPLE

(Mr. CARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARR. Mr. Speaker, at his request, the American people read the American people's lips, and now it is about time the President read the lips of the American people: No unfair taxes, no unfair budgets, and "no" to holding the American people hostage.

Mr. Speaker, the President's veto is nothing short of being childish. He has essentially said, through empty spitefulness, that if he cannot have his way, he is going to take his marbles and go home.

The American people know the difference between having a budget and paying bills. Heck, a lot of Americans do not have a budget, but they are required to pay their bills. Our Government may not have a budget but it is required to pay its bills.

We should override this veto and go on with the work of trying to get a budget.

THE AMERICAN PEOPLE ARE BEING HELD HOSTAGE TO THE THREAT OF SEQUESTRATION

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker, consider this: If a foreign agent were to take American hostages, the first thing the President of the United States would say is, "I refuse to negotiate under duress, I refuse to negotiate with a gun to my head."

Yet, today millions of American people are being held hostage and we are being forced to negotiate with the gun of sequestration to our collective head.

Mr. Speaker, we are not the enemy. I came here to fight. I came here to stand up for my constituency. I will continue to call for the repeal of Gramm-Rudman; I will continue to reject the absurdity of summitry and I will continue to stand here and to fight for fairness and economic justice.

We cannot lock ourselves into 5-year proposals based on programs and ideas calculated to render us impotent in our capacity to address the human misery of our people.

No solution built on the backs of the poor, working-class and middle-class human beings; we reject it, Mr. Speaker.

KENTUCKIANS ENDORSE 5-PERCENT CUT ACROSS THE BOARD FOR CONGRESS AND 13 MAJOR DEPARTMENTS OF OUR FEDERAL GOVERNMENT

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, 254 Members of the U.S. House of Representatives voted early yesterday morning against this budget summit proposal.

Of the Kentucky delegation, seven out of seven voted "no."

There are those who would say, "Well, those who voted against this summit budget proposal are just interested in reelection and are worried about November 6." Well, those who know the Kentucky delegation realize that two of our seven Congressmen are unopposed and this Member of Congress does not have that tough a race with a third-party candidate opposing my reelection on November 6.

The people of Kentucky do not want higher taxes. The Kentuckians I represent want less Government spending. My constituents would endorse a 5-percent cut across the board for Congress and also for the 13 major departments of our Federal Government.

What is the Federal spending program that is most unpopular in my own district? Foreign aid. But not one dime, yes not one penny was offered for cuts in foreign aid in the defeated budget proposal. We send two foreign countries as much as $3 billion a year while we do not have revenue sharing for our counties and cities in the United States. We send a total of many billions of dollars in foreign aid to countries who don't vote with us at the United Nations.

Yes, the people of America were upset about the higher taxes in the defeated budget proposal. That is why a majority of the House Members voted "no" early yesterday morning.

THE REAL PROBLEM IN GOVERNMENT IS THE CONGRESS OF THE UNITED STATES

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, the President has succeeded in what he has attempted to do, to focus to the American people that the real problem in Government this day and tomorrow and yesterday is the Congress of the United States.

The very reaction of all those who have spewed venom against the President here today have proved once and for all that the President is correct.

If the President had signed this continuing resolution to postpone the crisis to another crisis for another crisis, he would have said the Congress is back doing business as usual. We understand that.

It is the Congress that is failing its responsibility, and the President, through what he has said by vetoing the continuing resolution, has pointed it out once and for all.

□1250

Mr. Speaker, I ask my colleagues, "Do you know what?" He did not even have to point that out to the people of the United States because the people already know that.

Now this Government is not going to shut down, and the opponents of the President are taking a grand opportunity to say, "See, American people? We're not going to let the Government shut down when we know it's not going to shut down," but in the meantime the President has proved that the Congress is incapable of overcoming crisis and continuing the crisis to the detriment of the American people.

THE COMPREHENSIVE CRIME CONTROL ACT

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, yesterday I voted against final passage of H.R. 5269, the Comprehensive Crime Control Act. I was joined by 54 Members of Congress who refused to be swept up in the politics of the present, voting negatively on a bill that is bad for the country, bad for the courts, bad for attorneys, bad for defendants, bad for our prisons, and bad for civil liberties.

Admittedly, the crafting of effective criminal laws is an arduous and hazardous endeavor, especially during the final days of the Congress when passions and pressures run high. We, as elected officials accountable to the public, certainly should not shirk our responsibility in this regard. But, we must remember our constitutional oath. And we must recognize that the substance of the penal law has a

profound effect on our daily lives as well as those of our families and constituents.

We, as a country, are graded by the quality of our laws and procedures. In my view, H.R. 5269 flunks the test.

As a former member of the National Commission to Reform the Criminal Law, the Brown Commission, and the recent Federal Courts Study Committee, I have long been concerned about the rationality, clarity, and quality of our criminal laws. In my capacity as chairman of the House Judiciary Subcommittee on Courts, Intellectual Property, and the Administration of Justice—which has jurisdiction over this Nation's prisons, courts, U.S. attorneys and U.S. marshals—I have witnessed the gradual erosion of civil liberties, the development of conflicting criminal justice policies, a breakdown in citizen confidence in the rule of law, a crisis in corrections, and a Federal judiciary near the point of breakdown.

Let me identify my reservations about the Comprehensive Crime Control Act that we just passed.

HABEAS CORPUS

The Federal habeas corpus proceeding exists for the purpose of ensuring that no person will be sent to prison, or worse yet, put to death, until he is tried and convicted in a manner consistent with the Constitution of the United States. Ironically, however, H.R. 5269, as passed by the House, is so preoccupied with putting people to death as quickly and efficiently as humanly possible, that this essential purpose has been completely lost.

In crafting habeas corpus procedures, we must be mindful of those who would abuse such procedures. There is an incentive for petitioners to protract habeas corpus proceedings indefinitely, if given the opportunity, as a means to fend off ultimate execution of sentence. That opportunity was denied in the habeas procedures contained in the bill reported out of the Committee on the Judiciary.

The opportunity that the bill reported out of the Committee on the Judiciary did not deny, is the opportunity to receive a thorough and fair judicial review of competently presented habeas petitions. That opportunity is denied altogether in the bill that has passed this body.

H.R. 5269 offers no assurances that competent counsel will be provided to defendants at trial or beyond, because it gives the States the choice of whether to opt into the bill; the result is a two-tiered system, in which the States that choose not to opt in will be under no obligation to provide competent counsel. Wealthy defendants will receive the best representation that money can buy, while poor defendants—particularly in capital cases—will continue to receive counsel that is nothing short of shocking: Lawyers who are drunk, lawyers who call their clients garbage to the jury, lawyers who plug their parking meters during a critical phase of trial, lawyers who are members of the Ku Klux Klan, and lawyers who are law students and not lawyers at all.

More fundamentally, the bill just passed preserves the procedural hurdles that often prevent the courts from addressing the merits of habeas petitions, meaning that defendants will be put to death notwithstanding that they were unconstitutionally convicted. If, for example, it is discovered that a convicted prisoner has been sentenced to death on the basis of deliberately perjured testimony, but that discovery is not made until too late in the proceedings, H.R. 5269 will send that defendant to his death.

Paradoxically, by failing to insist upon the provision of competent counsel, the bill ensures that bad lawyers will continue to make bad mistakes, necessitating more retrials and longer delays. And by preserving nonsensical procedural impediments, the bill ensures that needless litigation over the procedural impediments will continue to occur, delaying matters still further.

PRISON INDUSTRIES

While the bill creates an ever-increasing array of offenses which will be used to send an ever-increasing number of people to prison, it simultaneously ties the hands of the Federal prisons which will have to cope with the influx of prisoners. Our prisons are already operating at 170 percent of capacity. The prison population is expected nearly to double in the next 5 years. In the face of desparate overcrowding, prison violence becomes an increasingly real possibility. Prison industries is the key to preventing such violence. It is work that keeps prisoners busy, forestalls idleness, and alleviates the boredom that gives way to riot. My subcommittee has received letters from associations of prison guards expressing fear for their lives if prison industries is cut back. And the Department of Justice has urged that prison industries not be crippled by additional restrictions upon product expansion.

Yet such restrictions are included in this bill, which provides that the Bureau of Prisons may not expand further in several product lines. It is safe to anticipate that if this provision becomes law, every industry in America that competes for business with Federal prison industries will request similar treatment. And in the process, our Federal prisons will be rendered incapable of managing the influx of prisoners that the rest of this bill will be sending them.

EXCLUSIONARY RULE

Simply stated, the bill eviscerates the exclusionary rule. By creating a warrantless, good faith exception to the rule, it confers upon the police unfettered discretion to conduct any search or seizure the police deem to be reasonable. It removes the requirement that a magistrate review the evidence and approve the search before it is conducted, making it all the easier for police to make illegal searches and seizures only to defend them after the fact as undertaken in good faith. Indeed, it effectively encourages the police to remain as ignorant of the law as possible, so as to ensure that their searches are not knowingly unlawful and thereby remain in good faith.

Criticism of this bill's treatment of the exclusionary rule should not be construed as criticism of the police. Crime control depends upon zealous law enforcement, and it is unfair to expect the police to stop short, curb their zeal and preoccupy themselves with their suspect's constitutional rights, in the absence of a meaningful exclusionary rule. Sadly, however, this bill does not preserve a meaningful exclusionary rule.

DEATH PENALTY

As regards the death penalty, H.R. 5269 is fundamentally flawed and constitutionally suspect. The bill is designed to put more people to death. The death penalty could be imposed if a defendant acts with reckless disregard and someone dies in the course of the criminal activity. An individual could receive the death penalty for a manslaughter conviction—such as reckless driving—if a death occurs.

The amendment will almost certainly result in litigation and conflicting decisionmaking by trial courts. It will promote confusion, inconsistent application of the criminal laws, and disparate sentences, something we voted against—upon the advice of penal law experts—several years ago.

The bill even attempts to micromanage the sentencing authorities in the Federal judiciary by manipulation of aggravating and mitigating factors. The Supreme Court held several years ago that aggravating factors should serve to narrow the death eligible class of defendants, not expand it. The amendment lists 11 aggravating factors and 3 mitigating factors, which gives some idea of its intended effect. The bill is an insult to Federal judges and jurors. It is an assault on fundamental fairness. And, in my opinion, it is unconstitutional.

In short, in the past 2 days, we have voted to put more people in jail, but to reduce the amount of work done by prison inmates; to prosecute more offenses but to sequester prosecutors; to create a two-tier approach for habeas corpus; to promote racial justice while subjecting more blacks and Hispanics to the death penalty; to give more work to the Federal courts but to reduce penalty; to give more work to the Federal courts but to reduce judicial discretion to apply the exclusionary rule.

I am particulary disappointed in the lack of leadership from the U.S. Department of Justice which knows full well, but refuses to admit, that we face a twin crisis in the Nation's correctional system and the Federal courts as well. The only proposals to emanate from the Department are ones that exacerbate this crisis. Any vision about how to improve the correctional system and the Federal courts is singularly missing. Justice should be impartial but not blind.

Like other policy areas, we are engaging in voodoo criminal justice. We cast sorcerer's spells and hex criminal activities. We even promote the barbaric rite of the death penalty.

My only consolation is that all of this will not work. In 2 years, we will return for our biannual ritual of comprehensive crime control. Things will have to get worse before they get better.

Then, maybe we will understand that the criminal justice system is a mirror which reflects ourselves. I do not like what I see.

YOU DON'T HEAR ABOUT REAGANOMICS ANYMORE

(Mr. HUGHES asked and was given permission to address the House for 1 minute.)

Mr. HUGHES. My colleague, the gentleman from Pennsylvania [Mr. GEKAS], says the Congress is responsible, the Congress is responsible. Well,

perhaps the gentleman is partly responsible. Part of the problem is that we did not share with the American people honestly in the last election the needs and priorities of this country. We got off on the Willie Horton issues and had a lot of demagoguery, and we did not share with the American people the deplorable condition of our American economy unfortunately.

Mr. Speaker, those who voted for that 1981 tax bill are partially responsible. That emptied the Treasury of $1 trillion. It was called Reaganomics. We could cut taxes by a trillion dollars, build up the military significantly, and balance the budget by 1985. My colleagues do not hear about Reaganomics anymore. Basically it has left us in shambles. I looked for 3 days for something I could support in that budget resolution. I did not participate in it. I could not find anything I liked about it.

I generally like to support any President, whether he be a Democrat or Republican. I give him the benefit of the doubt. He has the presumption in his favor.

I could not find anything I could in fact like and vote for because we did not work our will in this Congress. We are the ones that are to work the will. The same people that sent the President's budget to us, Mr. Darman, and for which no Republican wanted to offer it here on the floor of the House, helped craft this particular budget and then tried to jam it down our throats.

Mr. Speaker, that is not the way we work. Do not close down the Washington Monument and hurt the kids. Let us work together and try to develop something that is reasonable.

IT WONDERS ME

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, up in Pennsylvania Dutch country we have a saying: It wonders me. What that saying means is it causes me to wonder.

As I sat here this morning and listened to the speeches one has to have cause for wonder. We have had people come to the floor who voted for the budget resolution the other night and then gave us a whole string of things that they would now change. They would now want to have all kinds of things that they would change in the very budget resolution that they voted for.

We have had a number of people come here today and suggest that it is the President's fault the Government shut down. Most of these are people who voted continuously to do things like bean budgets rather than meet budget deadlines.

The Congress has yet to meet one budget deadline this year. We have acted illegally throughout the course of the year.

It also has to wonder one a little bit about the people who are complaining about the President's veto of the continuing resolution when in fact yesterday in the House Committee on Rules an opportunity was given to make the sequester or the shutdown of the Government rational, and it was turned down on a party line vote in the Committee on Rules because the leadership of the other side did not want to have this thing done rationally.

So, Mr. Speaker, I say to my colleagues, "It does have to wonder you. It wonders you why the President of the United States would continue to deal with folks who come to the House floor and treat him so viciously."

THIS IS A CONSTITUTIONAL EXPERIENCE FOR AMERICANS

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, not long ago we had an opportunity on public television to view an excellent series on the Civil War. It was an educational experience for most Americans. Now I think Americans will have an opportunity to have a constitutional experience to see whether or not we in the House of Representatives govern or whether or not the President can depend on the handful of appointed officials to dictate the economic future of the United States. That process was severely violated not long ago when people met at Andrews Air Force Base and attempted to shove down the American people's throats an unfair balanced budget that was balanced off of the backs of the poor folks and those that were on Medicare, and the taxes were actually raised through excise taxes on the poorest of the poor.

Mr. Speaker, this Congress did the right thing. The proudest moment I felt as a Member of this House was in rejecting it and telling the President and the American people, "Give us an opportunity to do what we are paid to do, and that is to work out a fair and a balanced budget and reduce the deficit."

And what does he give us? What does he give our troops in Saudi Arabia? What does he give their families that are home concerned? What does he give the poorest of Americans, those that are homeless, and jobless and without hope? A veto.

I hope we give the American people what they deserve, an override.

THE PRESIDENT SHOWS DISREGARD FOR WORKING AMERICA

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, the President went before the American public and asked the public to support his budget, and the American people said "no" because, once again, that budget would have hit working America in the gut.

The Congress yesterday decided we must solve this problem in an orderly fashion, and we sent that tool, the short-term continuing resolution, to the President, and it was vetoed this morning. The President by that veto showed disregard for order and disregard for working America, and instead he chose chaos. We must send the message back to him so that the Congress can exercise its constitutional duty on behalf of the people we work for to solve this problem on behalf of all the American public.

THAT DOG DON'T HUNT

(Mr. JONES of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES of Georgia. Mr. Speaker, last night the President's spokesman engaged in as remarkable a piece of revisionist history that we will ever hear, blaming the Congress for the budget impasse, blaming the Congress for putting thousands of Americans out of work, as if the White House could walk away from the scene of the crime, whistling in the dark.

To the gentleman from Pennsylvania [Mr. WALKER], my friend, I will say that we have a saying down in Georgia, too. Our saying is: That dog don't hunt.

The American people do not want fault-finding. There is plenty of blame to go around here at both ends of Pennsylvania Avenue because that negotiating table has had two sides.

What the American people want is not blame. The American people want solutions, and they want them now.

NO MORE DEMAGOGUERY

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, I am disappointed in this Congress today and this House of Representatives. One after another speaker is getting up here and trashing the President of the United States. Quite frankly, that is appalling.

I hear speaker after speaker, come up here saying his budget was reject-

ed. My colleagues of the Congress must be reminded that that budget was fashioned, not by the President of the United States, but by the joint leadership of the Congress: the Speaker of this fine institution, who happens to be one of their fellow Democrats; the majority leader of the Senate, who happens to be one of their fellow Democrats, along with Republicans.

This was a bipartisan effort. Do my colleagues know why it was a bipartisan effort? Because the American people demand that we get our fiscal house in order.

George Bush did not create a $4 trillion national debt. The President cannot appropriate one penny. Every cent must be appropriated by Congress. That $4 trillion national debt means that every single day we are spending $500 million just in servicing that debt. That does not feed anybody, or educate anybody, or clothe anybody, or take care of the health care needs of anybody, it simply services the national debt.

And do my colleagues know who created that debt? We did. The Congress. Mea culpa.

I say to my colleagues, that I am willing to vote for programs to educate our young people, but I am also willing to stand in this well and say, "Let's finance that program. Let's not have any more deficit spending. I want clean air and clean water, and I'm willing to stand here and vote yes for a tax to pay for that clean air and clean water."

Americans want some leadership from us. What I would say to my colleagues is, "Read my lips, no more demagoguery."

LEGISLATIVE GRIDLOCK

(Mr. MFUME asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MFUME. Mr. Speaker, 4 years ago I came to this body out of a great sense of commitment and pride, a great deal of respect for this institution and its Members, and not once in that period have I taken this well to impugn the integrity of any Member of this body, not once, and I will not do it today.

We vote in different ways, for different reasons, because of different ideological backgrounds, but we all have a basic premise of being here, and that is to govern.

So, Mr. Speaker, I am distressed, and I come to this well in that manner this morning, that we are at a point constitutionally and legislatively, where gridlock has occurred, where people are questioning the ability of this institution, that has served this Nation and this world so well, as to whether or not we can, in fact, continue.

□ 1300

So I call upon the President, just as he called upon us, to put aside our partisan leanings this time, to allow this body another week to work its will, and not to veto a bill that will carry us on, but would allow us to work our will. That is what we ask, not to come here and to lambaste him, and not particularly to have him lambaste us, but to be reminded that we came here, not to play games, but to serve.

So, Mr. Speaker, I would hope, despite what we feel this morning, we are able to come here and override this veto and do the right thing.

GREAT MOMENTS IN LIFE LOST FOREVER

(Mr. SYNAR asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SYNAR. Mr. Speaker, I yield to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, today should be perhaps one of the happiest days of my life. I have lived long enough for my oldest son to be married today, to have chosen someone to walk the rest of his life with. And it is such a beautiful day out there. It is one of the most incredible days to be married, and I thank all of the powers that be, and that are more powerful than myself, that gave my wife and me and our other two children this fantastic opportunity to witness the wedding of two wonderful, beautiful human beings.

But there is incredible sadness and great pain in my heart because, once again, this may be one more beautiful moment in the lives of my children that I will miss because we are here on the weekend doing business that we should have done some other time.

I have said to many of my young colleagues, "Take every moment that you have to be with your children, because it goes by in a fleeting second." Yet here I am on the verge of being 55 years of age, with a beautiful 28-year-old son about to be married, and here we are fighting to override a veto. What an incredible juxtaposition and what extraordinary pain.

NOT PRESIDENT-BASHING, JUST MORE POLITICS

(Mr. HEFNER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HEFNER. Mr. Speaker, I do not rise to bash the President of the United States and argue with the gentleman from New York. I voted for clean water, for senior citizens, for Medicare, and for many of these programs, and we made some tough choices to pay for them. But today we are here, and let us face it, this is politics. The only people who are going to win from this are the "hired guns" that are doing TV spots for the candidates that are being reelected to the other body and to this body, to see who can get the most mileage out of it. They are going to be getting 15 percent of the TV ads they place this week. Who is going to get the advantage?

In the meantime, people are here trying to see the Smithsonian and the Washington Monument, things they have paid for, and they cannot see them because we are playing politics. If that is bashing the President, so be it, but it is politics. If this were 6 months ago, it would not even be happening.

Mr. Speaker, what is wrong with keeping the Government running?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would once again suggest to our friends in the gallery that the rules in the House forbid demonstrations either in support of or in opposition to what is said.

SHUTTING THE GOVERNMENT DOWN—A BAD DEAL

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, it would appear today that Mr. Darman and Mr. Sununu want President Bush to be the President in history who slashed Medicare benefits tremendously. If they do not get to throw the senior citizens of the United States over the bridge, so to speak, they are going to shut down the Federal Government.

Just look at what is at stake here. I say to the President, just pick up the New York Times today and realize how increasingly the American people in every city and town from coast to coast realize this is a bad deal. I say to the President, use some common sense and restore justice and order and let our Government run. We are willing to compromise. You should be, too.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Friday, October 5, 1990, the Chair declares the House in recess until 3 p.m.

Accordingly (at 1 o'clock and 5 minutes p.m.), the House stood in recess until 3 p.m.

□ 1500

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 3 p.m.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

THE JOURNAL

The SPEAKER. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROWN of Colorado. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 264, nays 101, not voting 68, as follows:

[Roll No. 432]

YEAS—264

Ackerman	Davis	Hall (TX)
Alexander	de la Garza	Hamilton
Anderson	DeFazio	Hammerschmidt
Andrews	Dellums	Harris
Annunzio	Derrick	Hatcher
Anthony	Dicks	Hawkins
Applegate	Dingell	Hayes (IL)
Archer	Dixon	Hefner
Aspin	Donnelly	Hertel
Atkins	Dorgan (ND)	Hoagland
AuCoin	Downey	Hochbrueckner
Barnard	Duncan	Horton
Bartlett	Durbin	Houghton
Beilenson	Early	Hoyer
Bennett	Eckart	Hubbard
Bevill	Edwards (CA)	Hughes
Bilbray	Emerson	Hutto
Bonior	Engel	Jenkins
Borski	English	Johnson (CT)
Bosco	Erdreich	Johnson (SD)
Boxer	Evans	Johnston
Brooks	Fascell	Jones (GA)
Broomfield	Fazio	Jontz
Browder	Feighan	Kanjorski
Bruce	Fish	Kaptur
Bryant	Flippo	Kasich
Bustamante	Foglietta	Kastenmeier
Byron	Frank	Kennedy
Cardin	Frost	Kennelly
Carper	Gaydos	Kildee
Carr	Gejdenson	Kleczka
Chapman	Geren	Kolter
Clarke	Gibbons	Kostmayer
Clement	Gillmor	Lagomarsino
Clinger	Glickman	Lancaster
Coleman (TX)	Gonzalez	Lantos
Collins	Gordon	Laughlin
Combest	Gradison	Leath (TX)
Condit	Grant	Lehman (CA)
Conte	Gray	Lehman (FL)
Cooper	Green	Lent
Costello	Guarini	Levin (MI)
Coyne	Gunderson	Levine (CA)
Darden	Hall (OH)	Lewis (GA)
Lipinski	Parker	Slattery
Lloyd	Patterson	Slaughter (NY)
Long	Payne (NJ)	Slaughter (VA)
Lowey (NY)	Payne (VA)	Smith (FL)
Manton	Pease	Smith (IA)
Markey	Pelosi	Smith (NJ)
Martinez	Penny	Smith (VT)
Matsui	Perkins	Snowe
Mavroules	Petri	Solarz
Mazzoli	Pickett	Spratt
McCloskey	Pickle	Staggers
McCollum	Porter	Stallings
McCurdy	Poshard	Stark
McDade	Price	Stenholm
McDermott	Pursell	Stokes
McHugh	Rahall	Studds
McMillen (MD)	Rangel	Swift
McNulty	Ravenel	Synar
Mfume	Rinaldo	Tallon
Miller (CA)	Ritter	Tanner
Mineta	Roe	Taylor
Mink	Rose	Thomas (GA)
Moakley	Rowland (CT)	Torres
Mollohan	Rowland (GA)	Torricelli
Moody	Roybal	Traficant
Moorhead	Russo	Traxler
Morella	Sabo	Udall
Morrison (WA)	Saiki	Unsoeld
Mrazek	Sangmeister	Valentine
Murtha	Sarpalius	Vento
Myers	Sawyer	Volkmer
Nagle	Scheuer	Washington
Natcher	Schiff	Watkins
Neal (MA)	Schulze	Weiss
Neal (NC)	Schumer	Wheat
Nielson	Serrano	Whitten
Nowak	Sharp	Williams
Oakar	Shaw	Wilson
Oberstar	Shumway	Wise
Obey	Shuster	Wolpe
Olin	Sisisky	Wyden
Ortiz	Skaggs	Wylie
Owens (UT)	Skeen	Yates
Pallone	Skelton	Yatron

NAYS—101

Armey	Grandy	Roberts
Barton	Hancock	Rogers
Bentley	Hastert	Rohrabacher
Bereuter	Hefley	Ros-Lehtinen
Bilirakis	Hiler	Roukema
Bliley	Hopkins	Saxton
Boehlert	Hunter	Schaefer
Brown (CO)	Inhofe	Schroeder
Buechner	Ireland	Schuette
Bunning	Jacobs	Sensenbrenner
Burton	James	Shays
Campbell (CA)	Kolbe	Sikorski
Chandler	Kyl	Smith (TX)
Clay	Leach (IA)	Smith, Robert (NH)
Coble	Lewis (CA)	
Coleman (MO)	Lewis (FL)	Smith, Robert (OR)
Coughlin	Lightfoot	
Cox	Lukens, Donald	Spence
Craig	Machtley	Stangeland
Crane	Marlenee	Stearns
DeLay	Martin (NY)	Sundquist
DeWine	McCandless	Tauke
Dickinson	McGrath	Thomas (CA)
Dornan (CA)	McMillan (NC)	Thomas (WY)
Douglas	Meyers	Upton
Dreier	Miller (OH)	Vucanovich
Edwards (OK)	Miller (WA)	Walker
Fawell	Molinari	Walsh
Fields	Murphy	Weber
Frenzel	Oxley	Whittaker
Gallo	Parris	Wolf
Gekas	Pashayan	Young (AK)
Gingrich	Paxon	Young (FL)
Goodling	Regula	
Goss	Rhodes	

NOT VOTING—68

Baker	Courter	Gilman
Ballenger	Crockett	Hansen
Bateman	Dannemeyer	Hayes (LA)
Bates	Dwyer	Henry
Berman	Dymally	Herger
Boggs	Dyson	Holloway
Boucher	Espy	Huckaby
Brennan	Flake	Hyde
Brown (CA)	Ford (MI)	Jones (NC)
Callahan	Ford (TN)	LaFalce
Campbell (CO)	Gallegly	Livingston
Conyers	Gephardt	Lowery (CA)
Luken, Thomas	Panetta	Smith, Denny (OR)
Madigan	Quillen	Solomon
Martin (IL)	Ray	Stump
McCrery	Richardson	Tauzin
McEwen	Ridge	Towns
Michel	Robinson	Vander Jagt
Montgomery	Rostenkowski	Visclosky
Morrison (CT)	Roth	Walgren
Nelson	Savage	Waxman
Owens (NY)	Schneider	Weldon
Packard	Smith (NE)	

□ 1528

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present for rollcall No. 432, I would have voted "aye."

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 101-246)

The SPEAKER pro tempore (Mr. MURTHA) laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.J. Res. 660—a resolution making continuing appropriations—which would extend funding for the Federal Government through October 12, 1990. In providing for such funding, H.J. Res. 660 would also suspend the sequester that is required by the Gramm-Rudman-Hollings law. The sequester would be suspended even though the Congress has failed repeatedly to act in any meaningful way to reduce the Federal deficit. Under these circumstances, I simply cannot approve H.J. Res. 660.

When the Budget Summit Agreement was announced by the Bipartisan Leadership on September 30th, I indicated that I would not sign a continuing resolution until a satisfactory budget resolution was passed. The Congress failed to pass such a budget resolution during the past week. I have made the difficult political decisions that are required to achieve a meaningful reduction in the Federal deficit. Responsible congressional action to reduce the deficit can be delayed no longer. It is time for the Congress to act responsibly on a budget resolution—not time for business as usual.

I urge the Congress to concentrate its energies on passing a satisfactory budget resolution to clear the way for approval of another short-term continuing resolution, and the enactment of meaningful deficit reduction legislation no later than October 19th.

I note that H.J. Res. 660 would also increase the Federal debt limit until October 12th. If it becomes clear that

the Congress cannot pass a satisfactory budget resolution by October 9th, I urge that it enact a clean bill extending the debt limit so that the U.S. Government will not default on its obligations on October 11th. The latest date by which action on a debt limit extension is needed to avoid default is October 9th, so that the Treasury can auction securities on October 10th and settle them on October 11th.

GEORGE BUSH.

THE WHITE HOUSE, *October 6, 1990.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal, and the veto message and the joint resolution will be printed as a House document.

The question is, Will the House, on reconsideration, pass the joint resolution, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, as I understand it, we will have an hour on this side, and it is customary to yield half that time to my colleague, the gentleman from Massachusetts [Mr. CONTE], and I do so at this time.

The SPEAKER pro tempore. The gentleman is correct.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may desire.

Mr. Speaker, I am proud of being a Member of this Congress, and I have tried to conduct myself as though Congress were an equal branch of the Government and each of the other branches were also equal.

I remember when the late Claude Pepper said one time that our Government was like the ancient Russian troika, a carriage pulled by three horses, "if they didn't pull in the same direction, you didn't get anywhere."

During the time I have been chairman of this Appropriations Committee, with the support of the members, my friends, we have handled 157 appropriation bills. Of those, 155 bills have been presented to the President, and 145 of those 155 have been signed by the President. Ten bills were vetoed by the President; one was overridden, and we worked out the others.

We on the Appropriations Committee have done our best to run a bipartisan committee. In my own judgment, there are three things that could happen here that I could recommend, subject to your approval: One is to refer to committee, another to defer it to a later time, or we could vote to override now.

May I say at this time that I was deeply disappointed when the President vetoed this bill. We know for all practical purposes that the Government would close down in this circumstance. And may I just pause to say that we had better get rid of this sequestration business. It was written to make us do that which we do not believe in, and if we are going to have one branch or the other threaten to close the Government down unless we do as they say, it cannot be sound in the long run.

Now, when I say this, I have not had a chance to study it, but I understand that these exemptions to Government operation come from interpretations of an attorney general's opinion. An attorney general's opinion may keep us from being prosecuted, but it does not change the law, whatever the law is. That is one thing to remember.

But the one thing I call to your attention is that this so-called summit agreement was based on assumptions and projections, and for anybody to project what will happen in the next 4 years and try to tie the hands of the Appropriations Committee or any committee, is very, very shortsighted, in my opinion. In the first place, we cannot do it because every Congress is going to act for itself. We did not see any cuts in the agreement in some of these programs that have a foreign address; it was only in the domestic programs that the agreement proposed cuts.

So may I say again that we have a chance here, if Members are so strong against closing the Government down, to prevent it. I do not see any other vote that any Member could cast here, in my own opinion—and how a Member votes is his business—than a vote to override. When we have an opportunity to have 7 days to work this out and keep the Government in operation, we certainly should take it, in justice to ourselves. So I hope the Members will override this veto.

Let me point this out: I called the following things to the attention of the participants at the summit, and every time I called attention to these things, they changed the subject. Every time I pointed out these facts, they changed the subject.

These are from the executive branch's figures. Because of the 1981 tax bill which forgave the windfall profits tax, we are out $2 trillion in income. Listen to these figures. We have failed to have $2 trillion in income because of that 1981 act. Not only that, but we are out $1 trillion because we are letting producers from foreign countries send their products to the United States to get our domestic markets while we have the Secretary of Agriculture running around begging these same countries to let us send our products to them. But we let their products in first while they continue to exclude our products.

So when we look for the cause of our problems, and I remember my early experience: I was raised practicing law, you might say, any problem I might encounter, I said, "What is the situation? How did we get there?" I still believe that. We should go after the causes, but every time I brought it up, my good friends in the deficit-reduction group changed the subject.

I cannot help but believe, although it may not be intended, that when you cut down on the aged and you add 8 cents to a gallon of gasoline when the price has already shot up, it just does not make sense to me when we look at what was in the budget agreement.

Let me tell the Members something else that has happened. On television we have seen a sign for 3 straight days where the Republicans are for freezing everything the Democrats want to cut. Let me say this to those of you who think about politics—I never think about that except where I am concerned—I told the President of the United States, when he was Vice President, and President Reagan when he asked me down to the White House, "Mr. President, you may freeze everything, but you are not going to get by with cutting it." I still believe that.

So I hope Members will vote to override this to protect ourselves. The President has set this in motion, and I regret to say that because we have been personal friends for a long time. But the Congress is the one to be affected. We will be the ones that will be affected if we do not override this. I hope the Members will override it.

Mr. Speaker, I reserve the balance of my time.

□ 1540

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in support of sustaining the veto of the President. I think it is imperative that every one of us, regardless of party, rise to the challenge of providing for the United States of America a budget that will address the needs of our people and reduce the deficit.

If we sustain the President's veto, we send a very clear signal to ourselves, not just to him, that there can be no more business as usual. We know that CR's are a disease, they are a malignancy, they are business as usual.

I would hope that when we sustain the President's veto, that then the leadership would come back with a continuing resolution that would continue the funding of the Government with sequestration to that level and only to that level of the summit agreement. That way we start out in this fiscal year with some modicum of fiscal discipline that does not have to be made up for, the lack of which does not create some deficit that has to be made up for later.

If we sustain the President's veto, we can pass a much more responsible continuing resolution that is fair to Federal employees and is fair to us, by keeping our feet to the fire.

If we sustain the President's veto and the leadership of this House refuses to bring forward such a continuing resolution, we do have 2 days before Federal employees have to go back to work. Actually we all know that what is lacking is not number crunching, what is lacking is the will to make the tough decisions that have to be made in order to get a deficit reduction package.

Mr. Speaker, let us have no more business as usual. Let us sustain the President's veto.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Speaker, yesterday I voted for the continuing resolution because it was the only game in town. Happily, it is not the only game in town today, and therefore I vote to sustain the President's veto.

Mr. Speaker, I do so because the Republican leadership is prepared, if permitted by the Democratic majority in this House, to offer a continuing resolution, a short-term continuing resolution, which will provide for a $40.1 billion partial sequester. That is exactly the amount of deficit reduction that we agreed and the leadership agreed to accomplish in the bipartisan agreement, that unfortunately failed earlier this week.

So we have a continuing resolution available to us which can achieve the purpose of deficit reduction, not the present one under consideration.

Mr. Speaker, I think it is important that we show the Nation we are prepared to achieve that deficit reduction, and therefore I shall vote to sustain the President.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Speaker, I want to congratulate our courageous leader, the gentleman from New York [Mr. GREEN]. I too want to ask Members to sustain the President's veto. Democrats and Republicans, including CARL PURSELL, get insatiable habits from time to time, so I think it is important that the President of the United States exercises that veto. It is his only constitutional tool to keep an equal branch of Government here with a check and balance. So I am very much supportive of this, and I think the Republican Party and the Democratic Party can craft a good budget. I think the people back home are asking for fiscal responsibility, a balanced budget, less taxes, and I think we can do it.

Mr. Speaker, we have got $1,234,000,000,000 in this budget. I think we have to be careful that we do not continually increase the interest on the national debt. There will be $185 billion this year in interest on the national debt alone. My children are going to have to pay for that.

So we are here because of that crisis. Let us stand up and sustain this veto. I think we can work this out and have a sense of fiscal responsibility among both political parties.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, we not only have a fiscal crisis, a deficit crisis, we have a constitutional crisis. We have a situation where the President is spending money without an appropriation. The Constitution says that no money shall be spent unless it is appropriated but he has authorized some functions to continue.

Mr. Speaker, if this does not pass, if we do not override the veto, he will be spending money for at least several days for the first time on the basis of an old Attorney General's opinion, for those purposes that are not just for life, and death, but for whatever he says is essential.

If this continues and is not challenged, that would be a serious precedent. It will have to be challenged. It will take several days to resolve it. If the President can spend money not appropriated for whatever he wants, we might as well not have a Congress. The White House operators will just decide from now on what they consider essential and spend the money, use the money without an appropriation authorizing it.

Mr. Speaker, we have both a constitutional crisis and a deficit crisis. We need time. Under any scenario that anyone has, we need until next Friday to resolve and approve an agreement.

Mr. Speaker, the majority voted here Thursday night not to give the committees until next Friday to resolve differences in the package of revenue increases and reduced expenditures. That was the vote we had. It was not to send the tentative package to the committees under an agreement to give them until next Friday while we operate on a continuing resolution. So the committee now does not have permission to have until next Friday. So the only thing that is left to do is to have the conference of the Budget Committee reconvene and give them a few days. That is the same thing as saying send it back to the summit and denies the broader congressional participation where we could have a greater opportunity to improve it.

Under any scenario we have here, we need at least until next Friday as provided in the bill which was vetoed. People are being hurt. Within the marble walls of this Capitol, some may not feel it, but people out there are being hurt. Unlike some are saying, the Government does not wait until next Friday to shut down. It is down at this minute and there are some important functions on weekends and holidays. We should not hurt people just because we have a divided Government.

The people gave us this divided Government, not by accident. Twenty out of the last 24 years they have voted in State after State and on a national basis, that they wanted divided Government. They have not chosen to give consent to either party controlling both the executive and legislative branch. That means they want those elected to compromise and that means the majority in neither party can have it all their own way. We need at least until next Friday to consider and develop the appropriate bills. I say override the veto.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Speaker, I rise in support of the President's veto. I would just like to relate some of the conversations that I have had with Federal employees in my district. It is a very touchy period for them. I explained the best I could as to what was happening.

They say, "It has taken you 4½ months, and then on the eve of that budget summit and the vote, you turn it down."

Actually, what we are doing right now I think is using Federal employees as pawns. They do not want to wait 7 days to find out whether they have a job or whether they are being furloughed. They want to know now.

Mr. Speaker, I think that is our job, to make sure we take care of it now. That is way I am in support of this, because I do not think we can delay any further, and it is not fair to the Federal employees.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will vote to override the President's veto.

When the first continuing resolution of the fiscal year went before the Appropriations Committee on September 25, I led my Republican colleagues on the committee in opposing the measure. I did so to keep budget negotiators' feet to the fire—to force a resolution of the budget gridlock and development of a deficit reduction package that the administration and congressional leadership could both support. No budget agreement, no CR.

Well, we kept their feet to the fire, and over the next weekend, the summiteers descended from the mountaintop with a compromise budget package. Nobody loved it, but it was a compromise that leadership could accept, and the President signed a short-term continuing resolution to keep the Government up and running.

We all know what happened next. The outlines of the budget agreement, included in the conference report on the budget resolution, came before

this body for a vote. And it went down in flames—torched by Members from both sides of the aisle.

So we are back at step one—back at the negotiating table. We still need a budget resolution, but we also need some time to put one together.

This morning I explained the changes to the agreement that I think are necessary: Adjust marginal tax rates to burst the bubble; look for maybe a more useful growth package for the economy, instead of the $11.4 billion investment package that's in there now; ease the burden on Medicare recipients; and above all take out the Democratic-sponsored tax on the poor and the elderly on home heating oil inserted by that gentleman from Texas who ran for the Vice Presidency last time; exempt home heating oil from additional taxation; get rid of $4 billion in oil producer and petrochemical company tax breaks, and do whatever it takes to get enough Members on board to support the package.

But, Mr. Speaker, this course of action takes time. We need to go Member to Member to find out why they voted against the budget agreement and learn what we need to do to gain their support.

Clearly, Mr. Speaker, the American public did not cause this mess, and they should not be the ones to suffer. They should not have to endure the pain caused by our inability to support our leadership and enact a budget package. Federal workers should not have to take the heat for our failures. Let's not load the burden of our differences onto the backs of the people who depend on the Government for vital and lifesustaining services.

The burden for inaction should not be borne by the American people. We have an obligation to lead the country and produce a budget. We are the ones to blame—not our Government workers and beneficiaries of Federal programs.

All this continuing resolution does is keep Government up and running for another week. It suspends sequester for a week. It extends the temporary debt ceiling for a week. It gives us a week to work things out.

But what if we sustain the President's veto? What happens if we close down the Government and fail to extend the temporary increase in the debt limit? What happens if we permit the Government to go bankrupt because of the failure of this Congress to demonstrate courage and will? I'll tell you what happens: chaos, disruption, disorder, pain, suffering, collapse.

I cannot in good conscience vote to sustain the veto.

I felt that I made the courageous and tough vote last Thursday night in supporting a painful deficit reduction package.

Mr. Speaker, the answer to gridlock is not chaos. Differences are not reconciled through disruption. And progress is not achieved through breakdown.

I urge my colleagues to vote "aye."

□ 1550

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, we are here at this moment because 58 percent of the Republicans in this Chamber and 56 percent of the Democrats in this Chamber voted "no" on a package which we thought was unfair to the middle class and senior citizens. To give us more time to try to work out our differences, we passed a continuing resolution which the President has now vetoed.

To sustain that veto is simply to shoot the innocent because of a fight between the Congress and the President. We were not elected to do that and the President was not elected to do that. In all decency, we ought to pass this motion to override the veto.

There are those who say they want restraint in spending. This resolution gives it. In the case of bills passed by both Houses. This continuing resolution spends, at the lower of the Senate or the House level. It provides that we spend at the lower of the House or Senate level, or at the lower of current law or the House-passed bill, whichever is lower in the case of bills passed only by the House. That means on an annualized basis it would spend at a level $40 billion below the House-passed budget resolution this year. It would spend at a level $25 billion below last year's spending level. That is $25 billion in savings on an annualized basis. You get the fiscal restraint you are looking for if they vote for this resolution.

I beg the President to understand that every hour that he ties us up voting on motions like this because of his veto is an hour which our leaders and our negotiators cannot spend on what they ought to be doing, putting together that substitute budget which we hopefully can all vote for.

What we ought to do is to pass this, knock it off, get down to the business of producing a new budget. And the only way we can do that is to vote "yes" on this resolution.

Mr. CONTE. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. I thank the gentleman for yielding, because 1 minute is about all I need to make one point clear and get the record straight.

We are not here today on October 6 dealing with a budget that is not completed or appropriations that are not completed because the President did or did not do his duty. The law of this land says that this Congress shall complete a budget on April 15. Every American citizen made their deadline on that date; we did not. It says we will complete appropriations in this body on June 10. We did not do that. It is our failure.

And as for all the spin on this story, let me tell you this: If Machiavelli were alive today he would be headmaster in the White House because they are so without guile over there. He would be an apprentice over here.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, this morning the press received a notice to attend a photo opportunity in the office of the minority whip, Mr. GINGRICH. This was to show in visual terms the new unity among the Republicans. Mr. GINGRICH was committed to helping the President obtain his goal today.

The new Republican unity is bringing the Government of the United States to its knees. That is the situation we face. The antigovernment forces have finally found common ground. They want to show the American people that it is the Congress that has failed in its responsibility when, in fact, every one of us knows that those three people who were assigned by the President to participate in the summit are inextricably involved in the failure to govern that occurred the other night. Mr. Sununu, Mr. Darman and Mr. Brady hung tough for principles which made it impossible for us to pass a bipartisan agreement the other night.

□ 1600

I think we all understand, if we bring the forum back to Congress, letting our elected leaders in both parties work together, that sometime this evening or tomorrow we can put together a budget resolution that this President will find acceptable. We all know that.

We have to reject this effort to wipe clean the hands of the President from this fiasco. This is a failure to govern that is bipartisan. It is bicameral. It is nonideological. We do not need to retreat back to our corners to come out fighting and give the American people another disgraceful 2-week delay in coming to some closure on the work that should have been done long ago. We do not need to be arguing about whether we should keep the people here in the balcony from going to the Smithsonian or the Washington Monument today when they have every right to do that.

We need to grow up. We need to stop being carping critics, recriminating from one end of Pennsylvania Avenue to the other.

This is a government that will only work when we work together, and we can do that if we begin by passing this veto override, letting the Government

continue, and then going back to work to finish the job we were elected to do.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DORNAN].

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). Let the Chair remind the gallery that they are here as guests of the House. There will be no show of any kind of expression of support for any of the speakers. We appreciate their presence, but we want no show of support.

Mr. DORNAN of California. I again thank the Speaker.

Mr. Speaker, the gentleman from Mississippi [Mr. MONTGOMERY] once said that I am the best tour guide in this sitting Congress. Anybody who runs into a closed museum today at 5 o'clock, I will give them a tour of the Capitol as good as any they will see in any of the museums.

Mr. Speaker, I do not rise today just as BOB DORNAN or as a conservative, I am the elected 2-year chairman of the conservative action arm in the House, the Republican Study Committee, and I would expect the distinguished leader of the Democratic Study Group, the action arm and the conscience that drives the agenda on their side, to be against the President on this. I am asking every one of the 130 members of the Republican Study Committee to, please, please, stand with your President on this. This is the key vote to accomplish something, and I am ready to stay until 4, 5, 6 o'clock tonight. I had 8 hours of sleep last night for the first time in about 3 weeks, and I am ready to go. Let us stay.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, on Thursday night 149 Democrats voted "no" on the budget compromise. On Thursday night 105 Republicans, of which I was one, voted "no" on that budget compromise that was brought forth. Last Sunday, the Speaker of the House, the leadership of both parties and the President of the United States made a public announcement that Friday there would be no more CR's until there was a budget agreement.

What we now have facing us today is that those of us on both sides are suggesting that we can vote "no," and have business as usual, politics as usual, and that just does not go. You cannot have it both ways. If you voted "no," then you have got to keep the feet to the fire of the Congress of the United States to get an agreement.

We have 2 more days, all day Sunday, all day Monday, and half a day today. I come from a rural district, a lot of farmers. They do not take vacation. They do not take weekends off until the work is done. We ought not either. Sustain the President's veto, and get on with getting the work done.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, unless we override this veto, we will be endorsing the President's strategy of treating 2 million Federal workers like Saddam Hussein treats his so-called guests in Iraq.

Defeating this 7-day continuing resolution straps Federal employees to the machinery of the Government and leaves them to suffer in the withering political crossfire between Capitol Hill and the White House.

This crisis began when President Bush failed to deliver his budget in a timely fashion. It continued when not one single member of the Republican membership of this House would offer President Bush's budget on the floor of this Chamber, and it continued when the President's budget summit proposal was rejected not only by Democrats but by the President's own political party.

The burden is on Congress, and the Constitution requires as our Forefathers intended, but while we labor over this difficult but attainable task, let us not penalize nurses in veterans' hospitals, Federal prison guards, air traffic controllers and Federal drug prosecutors.

Many Republicans have told us how much courage it takes to penalize the Federal work force. I have never heard of any definition of courage, political or otherwise, which includes victimizing innocent people. The Republicans and President Bush are threatening to hold their breath until the Federal work force turns blue.

Reject this veto. Vote for common sense and common decency and override this styptic-hearted veto.

Mr. CONTE. Mr. Speaker, I yield 30 seconds to my good friend, the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, please, can we not end this partnership? You know, I am one of the back-rail troops, and I only get 30 seconds. I do not come to the well often.

Can we quit lobbing handgrenades back and forth? Can we quit making the 1-minutes?

Sure, the President is at fault; sure, the Democrats are at fault; sure, the Republicans are at fault.

You want 435 votes on this? My gosh, we cannot even decide when to adjourn let alone do a summit.

This is far more serious than this petty partisanship. Do you want an answer? I will give you an answer. We did not sell any cows in Dodge City for 3 days when we even hinted about a sequester, and yet I am going to support the President, because I think we are close to an agreement.

Let us not really put this off any longer. End this budget purgatory.

Do you want an agreement? The gentleman from Kansas [Mr. SLATTERY], the gentleman from Kansas [Mr. ROBERTS], the gentleman from New Mexico [Mr. SKEEN]; heart-of-America, back-rail-troops agreement, you take Medicare from 60 to 40, you get the bubble, we get the bubble, let us burst the bubble—we get capital gains, end the so-called investment subsidies, put in the same spending caps, and let us go down the road.

End the partisanship, please.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, some people know that I can be almost as partisan as anybody else when the occasion calls for it. But I do not think this is the time for partisan rhetoric.

We are going to do on our side what you would do on your side as a political party. We are going to sustain our President's veto, but after that, let us try and lower the partisan hormones just a little.

The real resolution to this deficit crisis, is if you, my Republican colleagues, will admit that the Democrats are not trying to undermine national security, and let the Democrats write the defense portion of the budget.

□ 1610

Democrats, we can solve this deficit problem if you would all admit that Republicans do not have stone hearts, that if you let Republicans write the domestic portion of the budget, you would find that the elderly, the poor, and the others will be taken care of. This is the problem. If we would agree to accept each other's work product in advance, Democrats on defense spending, Republicans on domestic spending, we would not have a deficit problem.

Do not ask Republican Members to reject our President. We still support our President. We will sustain the veto. Then let Members move a CR with the only possibility, the summit agreement for 1 year, $40 billion, and start looking at each other from each other's shoes. Then we can solve the problem.

If we do not want to do that, the people have every right to shake their heads and laugh at Members, as they have been doing for most of this debate.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, fellow Americans, Oklahomans know the difference between a good deal and a bad deal.

The other night they spoke through the Members and said the budget deal

was a bad deal. A bad deal for working Americans, for farmers, and for elderly. The President cannot hold this Nation hostage for the sake of a bad deal. It is wrong. It is irresponsible. It hurts the people who are the most vulnerable in our society, and the people who sent Members here. We can do no less than override this veto.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, Congress has got to wake up and take a look and act responsibly today. We have got to do this by overriding an irresponsible veto. We cannot allow the President of the United States to shut the Nation down.

To my Republican friends over here, this may be the most important vote they make, and it may be their last. I would suggest that they take a look and talk to their most distinguished gentleman from Massachusetts [Mr. CONTE] and follow his lead. He has got a lot of guts, but he is one who has foresight and who has a humane feeling for the people in this country. We, on this side of the aisle, are not going to sell the American people out. We are not going to see the veterans have their checks stopped. We are not going to see Social Security recipients have their checks stopped. We are not going to see the disabled have their checks stopped.

We must act responsibly and override the President's veto.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentlewomen from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I, as I am sure other Members have heard, have received calls from across the country indicating that when they call the comment line of the White House, the comment line is closed. People, the American people, have no access to allowing the White House to know what their views are. I think this is wrong.

I, personally, think that the people who were well-intentioned in trying to bring about a budget resolution during the time the budget negotiation were very insulated, because they were in a room where they did not hear from a lot of people, grassroots people, who do not want an increase in their tax, senior citizens who are afraid to lose their Medicare and others.

I think it is time that the President listened to the American people. I think it is time that the President hear from the American people and listen to the American people's priorities. Open that White House line. Override the veto.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I rise simply to extend hearty congratulations to the President. I hope very much that my colleagues sustain his veto.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, last Thursday evening we were presented a budget package. It was painful. It was problematic. However, it was the right thing to do.

We all knew what the budget package was. It was simply a blueprint. We had 2 weeks to fill in the blanks. We failed to do that. In failing to do that, we ignored our President. The last time I checked, the country overwhelmingly elected him. In failing to do that, we ignored our leader, and we elected them, and we rejected the package.

Therefore, we are here on a beautiful Saturday afternoon, not because the President failed, but because we failed. We as an institution and we as individual Members. Ultimately, it is our responsibility to authorize programs, and it is our responsibility to appropriate dollars for those programs. We are here today not because we are taxed too little. We are here because we spend too much. We are here today because none of the tough choices that I have heard all Members claim they are willing to make for the last 8 years have ever been made. We are here because it was easier to say no to a painful package than it was to say yes to those tough choices we have been talking about.

I do not know about all the other Members, but I understand the political predicament. No Member has ever lobbied me for less. Nobody. As an institution, Congress has failed the American people, and the continuing resolution is our report card. When we have to come up with a continuing resolution, that means we get an F. An F is a failure.

We have time to devise an acceptable budget package before the unnecessary dislocations occur if we are willing to lead the polls and not try to follow them.

One final thought. The President said if we failed to pass the summit agreement he would veto the continuing resolution. For all those who have chastized him because of the events of the last 2 years made him renege on a campaign pledge, I read his lips on this one. He did what he said he would do. I encourage my colleagues to sustain him.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, what we witnessed here the other night in the rejection of the President's budget agreement was the ultimate rejection of Reaganomics. For 10 years, they have been pushing that agenda. Give the rich a break, tax the middle-class, cut the benefits to the poor. Do Members know what happened the other night? Mr. and Mrs. America out there, even the Republicans in this room, finally said, "Enough is enough. You have gone too far."

Mr. President, we will not support you. When you want to close the deficit on the backs of the elderly and screw the middle-class once again, and give your rich friends another break. We will not do it any more. Mr. President, you have heard them. Mr. Speaker, he has got to now hear Members. We will do our work, stay out of our job, leave the Constitution tampering alone, we will help govern America. We, however, will not allow the President to take the people of this country and shut them off from their Government.

Sustain this veto and Members sell out your constituents. Override this veto, and pay homage to the people that sent all Members here.

□ 1620

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Speaker pro tempore (Mr. MURTHA). The Chair will remind all Members to address the Chair, rather than the President directly.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, this is a partisan fight. America ought to be very glad that the Democrats were at the summit and that the Democrats were in the House the other night, because when the Republicans came to the summit, the first thing they offered was to cut Medicare, not by $60 billion, but by $90 billion, and 5 months later at the end of the summit their last offer was to pick up $1 billion by taking 100,000 children who are multiply handicapped and denying them SSI benefits. They were going to do this so corporate jets would not have to be taxed, so the rich would not have to pay through the bubble, so the rich could have capital gains.

This is a partisan fight, Mr. Speaker. It is about the direction of this country. It is about the direction of our party and it is about whether or not the middle class, as under the summit last night, will have 10 times the burden of the wealthy, about whether the poor will sustain those cuts.

This is not a nice fight. It is an important fight. It is about the direction of this country.

We need a budget agreement for the 1990's, not one that endorses the greed of the 1980's.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I rise to urge my colleagues to sustain the President's veto. Last weekend I voted

for the continuing resolution. At that time we had what we thought was a budget agreement and we needed some time to work that out. Adopting a continue resolution was the responsible thing to do then.

I voted for the summit agreement last Thursday, flawed though I thought it was, as badly flawed as it was. But this body failed. This Congress failed. Equal proportions of Democrats and Republicans voted against that budget summit agreement.

It was this body, this House that failed to get it done.

The President upheld his part of the bargain. The President and the House leadership agreed last weekend that if we did not have an agreement we would not go forward with more continuing resolutions.

Now it is our turn, our time to take a little bit of medicine. It is our turn to sustain the veto, not because we want to shut down the Government, and we will not, but to keep the heat on to make sure that we do get an agreement.

If we pass a continuing resolution for 7 days, you and I know we will be here 7 days from now dealing with this. If we pass one for 3 days, we will be here 3 days from now carrying on the same arguments.

We need to sustain the veto to get a budget summit agreement now.

I urge my colleagues to vote to sustain the President's veto.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, I rise to a point of clarification. Somebody mentioned Oklahoma a minute ago, and Senator Monroney used to say out in Oklahoma, "If they want to know what a cowboy would do when he got drunk, they found out what he did the last time he got drunk."

The last time an administration sent Federal workers home, at the end of the month they paid them every penny they would have paid them if they had stayed on the job.

So however this goes, I would counsel the White House, "Don't do that again. We don't need any more paid vacations for Federal employees. They already have some scheduled."

Mr. CONTE. Mr. Speaker, I yield 1 minute to my young protege, the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I wanted everyone to take a breath after the deal went down the other night, and I supported the CR that was available; however, if we sustain the President we will have a sequestered CR that represents a change in business as usual, which I believe the people want, but it does give us time to do what I think we ought to do, and that is to work out an agreement that will be positive; but I want to say something to the dealmakers to the SILVIO CONTE's of this world. The people want change, even if it means closing the Washington Monument. If they had their way, they would close the Capitol and open all the other monuments up, I can tell you that; but what those on the left and those on the right are saying is one consistent thing. We are sick and tired of the old shopworn ways that we have operated this place and we want real change.

In this agreement, we want a little bit of revolution, not continued evolution away from where the American people are.

Support the President, get the CR going, and let us put together a deal that is going to represent a change in the way this country has been going.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, this does not really have to be partisan. A great American said many years ago that in the House the people govern.

Not too long ago our leaders, Republicans and Democrats, met with the President's staff and fashioned a package that they brought to this House. After examining that package, it became abundantly clear that the sick and the old folks in this country would get less benefits and would have to pay more money for them, that the tax package not only protected the rich of this country, but gave them $12 billion in shelters, and at the same time was taxing the very small commodities that poor working folks enjoy.

So what happened when in this House it was examined? As a great American said, the people spoke, because our President who got on television and asked the American people to call us, and they did call us and they said, "Vote no," and we did.

I am asking you to override the veto and let the American people speak once again.

Mr. CONTE. Mr. Speaker, I yield 1½ minutes to my good friend, the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I came to the floor this afternoon undecided how I might vote on this override. I did not intend to even speak today, but I have been troubled, and I think the rest of the Nation is by what I hear this afternoon.

Has there not been enough partisanship? Has there not been enough bashing?

I think it is time for us to start thinking about our country. This is not a Democratic problem. It is not a Republican problem. It is a problem for our entire country, and I think it is time all of us put this partisanship aside, and I have not seen it this afternoon.

□ 1630

I shall vote to override the President's veto. He is a friend of mine. We came to Congress together. It is not bashing the President when I do that. But I think it is time that we give the country and to give us a few more days to resolve this.

But I want to say, next Friday if we have not settled this problem, if we are not closer to settling, at least than we are now, I may not vote to override the President's veto then. I will side with him at that point.

I think it is altogether fair that we be given a little more time.

So let us lay aside this partisanship. Let us do that on November 6. Let us do that outside. Let us think about the people's responsibility here that has been given to us.

Mr. President and our leaders here who fashioned this agreement that brought us here, the budget summitry, it was not a Democrat or a Republican, certainly today I say, but I think both of us, both Democrats and Republicans, are sincere in trying to resolve this. I would be voting—I say to the President, "Mr. President, it is not that I love Ceasar less but that I love Rome more."

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, the people that are benefiting the most from this debate and from this exercise that we are going through are the hired guns that are in the political campaigns that are putting together 30-second TV spots to try to get candidates elected 2 or 3 weeks from now.

But I got a solution for this problem. We passed the budget here. The President has not had his budget aired. I would suggest to put the thing to rest that we say to the President of the United States, "Mr. President, you work with your party, not somebody that is in your administration, but elected officials, bring your budget up here with your priorities, and let's vote for it here on the floor of this House, and then we can get on with business. Find out what your priorities are. If they are capital gains and protecting the rich and the bubble, let's vote on it and get it over with where it will have your fingerprints on the budget along with everybody's else's where we can separate all the facts out."

Mr. CONTE. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, it is clear to all the Members that there is many an issue that has little to do with partisan politics. We have demonstrated that to each other and

in important circumstances more than once.

On this budget package there were 105 Republican Members who voted "no" and 149 Democrats. I was a Member who voted "aye."

It was a package, however, that few of us thought was a very effective package. Most of us wanted to vote "no." The reality is that we are faced with a crisis. Unless we move soon, well before the election, our economy could see a major downfall, and that could be disaster not just for us individually but for Congress and the country.

Because of that, the President indicated he would veto a continuing resolution.

The President vetoed the continuing resolution because he knows full well that none of us in this Chamber wants to see citizens furloughed from their jobs. He knows full well that that pressure point is critical to make the tough decisions that are left.

We are not that far apart. But if we wait another week, it will be continued another week, we will be beyond the election, and I must say the downfall in the economy between now and then could mean disaster to many more of us than will be affected by this vote today.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman has hit it right on the head. I voted for the continuing resolution yesterday, but I think we need to bring this thing to a head right now. If we do not do it now, we will be here next week doing the same thing and go on and on and on.

Mr. LEWIS of California. All of us will be here next week. I urge you to sustain this veto.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, I yield to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. I thank the gentleman for yielding.

Mr. Speaker, today my first-born is to be married at 5, and again I find myself standing in the Chamber praying this is not one more time when I miss one more event of young children that I love and that love me.

To get married in 1990 is an act of love, it is an act of faith, it is an act of hope, it is an act of idealism.

The veto is an act of cynicism. I ask you to cut off this debate. We know how we are going to vote. Let us override this veto and let me love my son.

The SPEAKER pro tempore (Mr. MURTHA). There remain 14½ minutes of debate: The gentleman from Massachusetts [Mr. CONTE] has 6½ minutes remaining and the gentleman from Mississippi [Mr. WHITTEN] has 8 minutes remaining.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, you have heard what this side has to say about this vote. We believe the President needs to be sustained.

The Congress, this House, certainly the majority of the House, wants to consider business as usual, take this to a continuing resolution.

When that runs out, take us to another one.

We do not want any deadlines, we do not want to be forced to have too many unhappy decisions. We do not want to tell anyone that they have to sacrifice anything.

That is what you get with a vote to override the President.

Now, if you are fortunate enough to sustain the President's wise decision, there will be another continuing resolution coming, there will be a chance to pass a continuing resolution with a partial sequester at the rate of savings that was embodied in the budget resolution which failed the other night. That would be a short term which would give the negotiators some incentive, some reason to continue with their negotiations.

If we vote this continuing resolution without any incentive in it, the negotiators will take another nap and they have already been on a 6-months' session. Perhaps with a little help they can make it to a Rip Van Winkle 20 years.

But the public demands better than that. If the President's veto is not sustained, he will lose all his ability to convince the Congress to come to some kind of a conclusion.

The Congress has proved to be expert——

Mr. CONTE. Mr. Speaker, regular order.

The SPEAKER pro tempore. The gentleman from Minnesota is recognized.

Mr. FRENZEL. Mr. Speaker, in deference to weddings, I just repeat, the best thing we can do to help the President and ourselves and the people is sustain the veto and put the negotiators back to work.

□ 1640

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to my last speaker, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I think it comes as no surprise that I would obviously rise and ask you to sustain the President's veto of the continuing resolution.

We have had some very partisan exchanges, and I guess that is no more than what my colleagues would expect when the President vetoes a piece of legislation or throws a roadblock, maybe, in the way of some folks' way of thinking. That is natural, but, as my colleagues know, the President, in his message said responsible congressional action to reduce the deficit can be delayed no longer, and I think many of us would have to agree with that. It is time for Congress to act responsibly on a budget resolution; no time for business as usual.

"Business as usual." We have heard that little phrase a thousand time. It is one of the major cliches of the American political language, an overly familiar phrase that skims over the surface of our minds. But in my view the President has used it in a fresh and rather invigorating sort of way. He has reminded us that we do have business to conduct, new, important business, and we cannot allow ourselves to drift back to business as usual.

Now, we are meeting on a weekend, of all things. Why? Kind of extraordinary because we are in extraordinary times, and I consider it just another step to get us to where we eventually want to go. I do not like it, quite frankly, that we are even being consumed taking up this time when some of us could be doing what I think we can do if we just get another shot at it or two.

So, this veto, I think, is going to be sustained.

Now I want to make a little pitch over here. Boy, I will tell you, it will be kind of a thing of personal pride, if it were done on our side. It is the only time we have got any leverage over here. As my colleagues know, we only need one-third of our Members, and we can support the President's position. It is the only time we really have that kind of leverage.

In all respect to my friends over here who made their point, I am talking this way now, and we can do it, if we will, and the gentleman from Minnesota [Mr. FRENZEL] has also pointed a little way there. It is not the end of the world here. Let us not become deluded there. This is just again another one of the steps in the process, and it just applies a little more pressure on all of us, and, as my colleagues know, we are in a weekend here. This is Saturday. Tomorrow is Sunday. Monday is a holiday. Brother, I think it would be the greatest holiday ever if we just hunkered down here and wrapped this thing up for good this weekend once and for all.

So, Mr. Speaker, one final point. We had a big controversy the other night

on whether or not we adopt or not adopt the conference report, and normally it takes on something in finality, but really the way we are wrapped in a procedural morass here is the fact that that conference report on the budget resolution is not final. It is another procedural thing that gets us to reconciliation. We did not get that point across a couple nights ago, or whenever it was. It is a procedural thing that gets us to the place where the committees do their work, they got 10 days to do it, and that is the time when you really get your big vote up or down. The President, if he does not like that reconciliation bill—he is going to veto it. So, we are again moving again, step at a time, tortuous as it is, and I know it gives my colleagues some angst over here, and I understand that. Just give some of us, and I know the gentleman from Massachusetts [Mr. CONTE] and a few others spoke that way, but I am hoping that the rest of them who spoke that way, we can get the number here, if we will just get over the hump this time. Then the next step, and do not plan to take the whole weekend off here. We are locked in on Saturday. That is blown.

So, if we just hunker down and we are given the pressure to do that, I think we can come back here with something that we can get a sufficient number here, a sufficient there, and pass this thing and get out of town.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I rise for two purposes: to override the President's veto, and to get the gentleman from California [Mr. DELLUMS] to the church on time.

More and more, each day, citizens are realizing that it is unavoidable that deficits due to the excesses of the Reagan years have to be paid back in some form.

But, we must insist that the payback be fair, and not fall more heavily on middle-class working families, farmers, and the elderly.

We must insist that the payback is fair.

The White House obviously disagrees.

So, we must continue to try to reach accord on the budget.

My people have told me—by a 6-to-1 margin—what they want: They want a plan which requires the burden to be evenly distributed, not one which asks too much of the middle class and too little of the super rich.

I believe we will be able to craft such a package.

Meanwhile, it is not necessary to shut down the Government and make people suffer so the White House can make a political point.

It's rather like shooting innocent hostages to attract attention.

This shutdown will not change anything in terms of where we are in the process of arriving at a budget agreement which is more fair than the one we rejected this week.

What it does do is harm Federal employees and those who depend on Federal services.

If the action of the White House in shutting down the Government would help us reach our goal 1 minute faster, I would support it.

But, it doesn't. Therefore, I will vote to override.

Mr. WHITTEN. May I say this, Mr. Speaker, where the summit group has been tied up for so long, anybody who feels that in 2 hours, or 3 hours, or 24 hours, they will get together, is hopefully optimistic.

I want to call my colleagues' attention to this. The President's veto is like a check that has to have two endorsers. If my colleagues endorse his veto, my colleagues are the ones that are closing up all these things, not the President by himself because he has got to have my colleagues' signature before they close. I say that to who I consider my friends. I also say that I have been on this summit. I did not see any evidence of any agreement. I heard of it. Those on it with seniority did not get to be included in the White House talks. We did not have the privilege of talking to the President.

But let me say to my colleagues again, and for the world, this check has to have two endorsements. We have got one. That is the President. It is up to my colleagues as to whether they endorse it and close all these facilities.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Dakota [Mr. DORGAN].

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the veto message of the President to the joint resolution (H.J. Res. 660) making further continuing appropriations for the fiscal year 1991, and for other purposes, and that I may include extraneous and tabular material.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MURTHA. Mr. Speaker, I firmly believe we must override the veto of the President on this continuing resolution. The funding of the Government must be maintained so that essential services continue for the taxpayers of this country.

The country is currently facing a military crisis in the Middle East which could break out into an actual military confrontation. This is not the time to put roadblocks in the path of our defense establishment. We must support our Armed Forces and specifically the troops in the Middle East. We will not be able to pay our Armed Forces without this continuing resolution authority. Other defense operations may have to be curtailed and that is not acceptable.

I urge you to vote to override the President's veto of this continuing resolution.

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in support of the effort to over-ride President Bush's veto of the continuing resolution—a resolution which is necessary to keep our Government going for the next week while a fairer budget agreement is acted upon.

The budget agreement which I voted against this past Friday would have created massive tax shelters for the super-rich while "sticking it" to the middle class, farmers, and the elderly—all the while, leaving foreign aid and defense spending virtually untouched. This agreement was simply not acceptable to me or to my South Dakota constituents. While I recognize that any budget agreement must involve compromise and will not likely be entirely satisfactory to me, it must provide for tax fairness and it must be premised on the need to assist our own citizens prior to bailing out every corner of the world with military and foreign aid subsidies.

I am confident that such a budget agreement can be reached and that the President's choice to close down the Government is both unnecessary and counterproductive. The President's veto only serves to disrupt our Nation's economy, negatively impact the lives of Federal employees, and causes serious problems for the people who are innocent in all of this—the American public.

Mr. OWENS of Utah. Mr. Speaker, cool heads are needed back here, not partisan accusations. The people are disappointed and they are angry because they want the Government to function, not to disrupt their lives. They have a right to expect that the machinery of Government will hum, not rattle and grind to a halt.

It is a time for Democrats and Republicans to work together, not pin blame. I supported the package of budget tradeoffs, though it was terribly unfair to elderly and middle income groups, because I was convinced that it served the national interest at a time of crisis, and because the President and Speaker signaled that the worst injustices could be corrected after it passed.

When that failed, I voted for this 6-day continuing resolution and to send Congress and White House leaders back to the bargaining table to come up with another package which Congress could support. Budget summitry is a weak, last ditch process, but it is the Nation's best opportunity for a bipartisan solution to a genuine crisis, and we should play it out.

Now everybody's pointing fingers, starting with President Bush, and all are scrambling for political cover, and nothing positive is being done.

The President decided to close down the Government instead of trying to keep it running. That will turn out, I believe, to be a costly mistake because enormous and widespread suffering will result, not only by Federal employees, who are being used as pawns by the President. The Government cannot stop its essential functions without impacting very badly on business and the economy in

general—and both are already in a serious downturn. Make no mistake about it, when you close down the Government, you close down the Government.

Those who like the idea of forcing the Government to close down, have no idea what it means. Without this continuing resolution, into which is integrated the authority to increase the debt ceiling, there will be no Medicare, no Social Security, no defense. None. For the first time since the founding of the Republic, the U.S. Government will bounce its checks. From here on in, the Government will pay a risk premium on its borrowing, and this will cost an estimated $5.5 billion in the first year alone.

I'll vote to override the President's veto, though I fear it will be a party line vote and will not solve the problem. We'll stay around to try to find another solution if it does not, and I know that one is available if we'll quit politics as usual, forget the election 4 weeks away, and do what is right for the country. We can work out an agreement if everybody will just give a little and quit maneuvering to look good.

Mr. RAHALL. Mr. Speaker, I rise in support of overriding the President's veto of the short-term continuing resolution to keep Government running. Let us be fair to all Americans. Let us begin by keeping Federal workers from being furloughed.

Next, let us be fair to elderly recipients of Medicare coverage, and put the money back.

Let us agree to a budget that doesn't allow defense spending to increase by $51 billion over the next 5 years, while education is cut by $2 billion.

Can't cut defense? Nonsense.

There are, according to a GAO study only a few months old, $34 billion in defense spare parts scattered so widely in warehouses here and abroad that they don't even know how to find them, much less use them; $34 billion in lost defense spare parts—adds up to $34 billion in lost, misspent revenues we can't even account for.

Let's not take it out on senior citizens, poor college students, postal workers, and people eligible for unemployment checks.

In the budget resolution just defeated, foreign aid was not cut by one dime—not a dime from its $15 billion-plus price tag.

Let us revisit foreign aid, and get enough dollars so that veterans programs won't need to take a hit next year.

And lest anyone forget the main reason for the budget's defeat the other morning, let us revisit the Tax Code and burst the bubble of the rich, so that the next budget resolution does not tax the poorest among us by 7.6 percent, while taxing the richest 1 percent of us by only a piddling 1.7 percent.

It was capital gains tax reduction demands that delayed the budget-making process until the eleventh hour.

Let us say no to it by taxing the rich, and help the low and middle income America by saying no to gasoline taxes they can't afford, and home heating oil taxes they can't afford; and health care cuts they can't afford.

Cut defense, cut foreign aid, and tax the richest among us, if you want my vote on a budget resolution for fiscal year 1991.

Mr. WHITTEN. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is, Will the House, on reconsideration, pass the joint resolution, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 260, nays 138, not voting 36, as follows:

[Roll No. 433]

YEAS—260

Ackerman	Foglietta	McNulty
Alexander	Foley	Meyers
Anderson	Ford (MI)	Mfume
Andrews	Ford (TN)	Miller (CA)
Annunzio	Frank	Mineta
Anthony	Frost	Mink
Applegate	Gaydos	Moakley
Aspin	Gejdenson	Mollohan
Atkins	Gephardt	Moody
AuCoin	Geren	Morella
Barnard	Gibbons	Morrison (CT)
Bateman	Gilman	Mrazek
Beilenson	Glickman	Murphy
Bennett	Gonzalez	Murtha
Bentley	Gordon	Myers
Bereuter	Grant	Nagle
Bevill	Gray	Natcher
Bilbray	Guarini	Neal (MA)
Boehlert	Hall (OH)	Neal (NC)
Boggs	Hamilton	Nelson
Bonior	Hammerschmidt	Nowak
Borski	Harris	Oakar
Bosco	Hatcher	Oberstar
Boucher	Hawkins	Obey
Boxer	Hayes (IL)	Olin
Brennan	Hefner	Ortiz
Brooks	Hertel	Owens (NY)
Browder	Hoagland	Owens (UT)
Bruce	Hochbrueckner	Pallone
Bryant	Hoyer	Panetta
Bustamante	Hubbard	Parris
Byron	Hughes	Pashayan
Cardin	Hutto	Patterson
Carr	Jacobs	Payne (NJ)
Chapman	Jenkins	Pelosi
Clarke	Johnson (SD)	Perkins
Clay	Johnston	Pickett
Clement	Jones (GA)	Pickle
Coleman (TX)	Jontz	Poshard
Collins	Kanjorski	Price
Condit	Kaptur	Rahall
Conte	Kastenmeier	Rangel
Conyers	Kennedy	Ravenel
Cooper	Kennelly	Roe
Costello	Kildee	Rose
Coyne	Kleczka	Rowland (CT)
Darden	Kolter	Rowland (GA)
de la Garza	Kostmayer	Roybal
DeFazio	LaFalce	Russo
Dellums	Lancaster	Sabo
Derrick	Lantos	Saiki
Dickinson	Leath (TX)	Sangmeister
Dicks	Lehman (CA)	Sarpalius
Dingell	Lehman (FL)	Savage
Dixon	Levin (MI)	Sawyer
Donnelly	Levine (CA)	Scheuer
Dorgan (ND)	Lewis (GA)	Schiff
Downey	Lipinski	Schroeder
Durbin	Lloyd	Schumer
Dwyer	Long	Serrano
Dyson	Lowey (NY)	Sharp
Early	Luken, Thomas	Shuster
Eckart	Manton	Sikorski
Edwards (CA)	Markey	Sisisky
Engel	Martinez	Skaggs
English	Matsui	Skeen
Erdreich	Mavroules	Skelton
Espy	Mazzoli	Slattery
Evans	McCloskey	Slaughter (NY)
Fascell	McCurdy	Smith (FL)
Fazio	McDermott	Smith (IA)
Feighan	McGrath	Snowe
Flake	McHugh	Solarz
Flippo	McMillen (MD)	Spratt
Staggers	Torricelli	Weiss
Stallings	Traficant	Wheat
Stangeland	Traxler	Whitten
Stark	Udall	Williams
Stokes	Unsoeld	Wilson
Studds	Valentine	Wise
Swift	Vento	Wolf
Synar	Visclosky	Wolpe
Tallon	Volkmer	Wyden
Tanner	Walgren	Yates
Taylor	Washington	Yatron
Thomas (GA)	Watkins	Young (AK)
Torres	Waxman	

NAYS—138

Archer	Hancock	Porter
Armey	Hastert	Pursell
Ballenger	Hefley	Ray
Bartlett	Herger	Regula
Barton	Hiler	Rhodes
Bilirakis	Hopkins	Ridge
Bliley	Horton	Rinaldo
Broomfield	Houghton	Ritter
Brown (CO)	Hunter	Roberts
Buechner	Hyde	Rogers
Bunning	Inhofe	Rohrabacher
Burton	Ireland	Ros-Lehtinen
Campbell (CA)	James	Roukema
Carper	Johnson (CT)	Saxton
Chandler	Kasich	Schaefer
Clinger	Kolbe	Schuette
Coble	Kyl	Schulze
Coleman (MO)	Lagomarsino	Sensenbrenner
Combest	Laughlin	Shaw
Coughlin	Leach (IA)	Shays
Cox	Lent	Shumway
Craig	Lewis (CA)	Slaughter (VA)
Crane	Lewis (FL)	Smith (NJ)
Davis	Lightfoot	Smith (TX)
DeLay	Lowery (CA)	Smith (VT)
DeWine	Lukens, Donald	Smith, Robert (NH)
Dornan (CA)	Machtley	Smith, Robert (OR)
Douglas	Marlenee	Solomon
Dreier	Martin (NY)	Spence
Duncan	McCandless	Stearns
Edwards (OK)	McCollum	Stenholm
Emerson	McDade	Sundquist
Fawell	McMillan (NC)	Tauke
Fields	Michel	Thomas (CA)
Fish	Miller (OH)	Thomas (WY)
Frenzel	Miller (WA)	Upton
Gallo	Molinari	Vucanovich
Gekas	Moorhead	Walker
Gillmor	Morrison (WA)	Walsh
Gingrich	Nielson	Weber
Goodling	Oxley	Weldon
Goss	Parker	Whittaker
Gradison	Paxon	Wylie
Grandy	Payne (VA)	Young (FL)
Green	Pease	
Gunderson	Penny	
Hall (TX)	Petri	

NOT VOTING—36

Baker	Henry	Robinson
Bates	Holloway	Rostenkowski
Berman	Huckaby	Roth
Brown (CA)	Jones (NC)	Schneider
Callahan	Livingston	Smith (NE)
Campbell (CO)	Madigan	Smith, Denny (OR)
Courter	Martin (IL)	Stump
Crockett	McCrery	Tauzin
Dannemeyer	McEwen	Towns
Dymally	Montgomery	Vander Jagt
Gallegly	Packard	
Hansen	Quillen	
Hayes (LA)	Richardson	

□ 1703

The Clerk announced the following pairs:

On this vote:

Mr. Tauzin and Mr. Dymally for, with Mr. Quillen against.

Mr. Roth and Ms. Schneider for, with Mr. McEwen against.

So, two-thirds not having voted in favor thereof, the veto of the President was sustained and the joint resolution was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The message and the bill are referred to the Committee on Appropriations.

The Clerk will notify the Senate of the action of the House.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 310, CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1991, 1992, 1993, 1994, AND 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-817) on the resolution (H. Res. 496) providing for consideration of the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 310, CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1991, 1992, 1993, 1994, AND 1995

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 496 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 496

Resolved, That upon adoption of this resolution the conference report on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, shall be considered as recommitted to conference, notwithstanding the prior action of the House on the conference report.

SEC. 2. All points of order against any subsequent conference report on House Concurrent Resolution 310 and against its consideration are hereby waived. Any such conference report shall be considered as read when called up for consideration. Debate on any conference report shall be limited to not more than 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget.

SEC. 3. No motion with respect to disposition of House Concurrent Resolution 310 shall be in order except pursuant to this resolution or a subsequent order of the House.

SEC. 4. The allocations of spending and credit responsibility to the committees of the House, to be printed in the CONGRESSIONAL RECORD by the chairman of the Committee on the Budget as soon as practicable, shall be considered to be the allocations required to be printed in the joint statement of the managers on House Concurrent Resolution 310 pursuant to section 302(a) of the Congressional Budget Act of 1974.

SEC. 5. Rule XLIX shall not apply with respect to the adoption by the Congress of any conference report on the concurrent resolution (H. Con. Res. 310).

The SPEAKER pro tempore (Mr. MFUME). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 496 sets the process in motion to bring a new budget agreement to the floor. This is a procedural matter; it is not an attempt to reconsider the budget we recently defeated.

The rule provides that the conference report on the budget will be recommitted to conference upon adoption of the rule. The rule waives all points of order against any subsequent conference report on H. Con. Res. 310 and against its consideration.

Mr. Speaker, debate on a new conference report will be 2 hours, equally divided and controlled by the chairman and ranking minority member of the Budget Committee.

The rules makes in order no other motion with respect to disposition of House Concurrent Resolution 310 except by this or subsequent rule. The rule also provides that the Budget Committee chairman will print in the CONGRESSIONAL RECORD allocations of spending and credit which will be considered to be the allocations required under section 302(a) of the Budget Act.

Finally, Mr. Speaker, the rule provides that rule 49 will not apply with respect to any conference report on House Concurrent Resolution 310. Under rule 49 when Congress adopts a conference report on a budget resolution, the House is deemed to have adopted a measure increasing the debt limit to the amount specified in the budget resolution.

Mr. Speaker, the Federal Government has been shut down. The President has vetoed the short-term continuing resolution and has vowed to veto any other attempt to keep the Government running at full power at least until a budget agreement has been reached.

Mr. Speaker, it is our duty to speed up the process by which agreement can be reached; it is our responsibility to see to it that those who depend upon Government are not made to suffer because Congress and the President do not agree.

The best we can do now is make available a vehicle in which to place any budget and clear the way for its consideration in the House. That is the purpose of this rule.

The rule sends the budget resolution back to conference and allows the House to consider any subsequent conference report.

I urge adoption of the rule.

□ 1710

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is not much point in having an extended debate on this issue. We have before us what is essentially a partisan ploy.

My concern is very simple, and I speak for every Member of this side of the aisle. We do not want to be in a position of being blindsided by a Democrat budget resolution.

In the absence of an agreement or instructions to the conferees, we cannot allow ourselves to be placed in this kind of untenable position. Without belaboring the point, Mr. Speaker, I would note further that we cannot in good conscience be party to reviving a defunct conference committee in this fashion.

This rule is fraught with too many loopholes. It waives all points of order, as usual, and includes a bizarre provision that requires the chairman of the Budget Committee to provide as soon as practicable the spending allocations that are mandated by the Budget Act. As soon as practicable. What in the world does that mean?

By law, this Congress was required to complete its action on a concurrent budget resolution 25 weeks ago. By law, we were to have completed all appropriation bills 17 weeks ago. And by the law of the land, we were to have completed reconciliation 16 weeks ago.

So do not come back to us with this nonsense about getting the budget numbers as soon as practicable.

Mr. Speaker, I yield such time as he might consume to the distinguished gentleman from Minnesota [Mr. FRENZEL], the ranking member of the Committee on the Budget.

Mr. FRENZEL. Mr. Speaker, this House resolution which provides that the conference committee on the budget resolution will be reconstituted and take up its work in trying to figure out a new budget resolution is probably a pretty good resolution, but it is offered at the wrong time.

The distinguished gentleman from New York [Mr. SOLOMON] has already suggested that as far as we know the potential conferees, of whom I am likely to be one, do not have any instructions, no charter, no agreement with one another. The leaders of this House, majority and minority, the summitteers, or any other leaders, elected or appointed or self-appointed, have not come to any agreement on how we are going to settle a budget resolution.

To create the committee of conference now, with its very important

powers of being able to drop on us a budget resolution at any time, is to the Republican side of this House incurring undue risk. We believe that good faith negotiation would require that whatever negotiation is being undertaken continue to go forward and that this resolution be passed only after there is some kind of an agreement as to how the to-be-appointed conferees will bring forth the budget resolution.

Mr. Speaker, we are not objecting to this resolution on the ground that it waives all points of order or on the ground that we strike out some other rules. We are saying that in the negotiating environment which exists at this time, the House makes a real mistake, this disadvantages the minority and causes the minority to negotiate far more carefully and far more slowly than we could in the rather open environment in which we thought we were operating.

I hope the House will turn down this resolution, and in the likely event that it does not, I hope that the conferees are not appointed until we know which direction the leadership of this House is taking us.

I thank the gentleman for yielding time to me.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER], the deputy minority whip.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I beg to differ slightly with the two gentlemen who spoke before on our side, but I come to the same conclusion. The gentleman from New York said that this is a largely partisan question that is involved in this rule. I would say differently. Some of us on this side of the aisle voted against the budget resolution the other evening, and one of the reasons why we did was because when we saw the details of the budget resolution we were disturbed by them.

Under the process that will be set up by this rule, literally you could bring a budget resolution to the floor and have consideration of it without the Members ever seeing a copy of it, because under this particular rule all points of order are waived against the consideration of it, and all the points of order are waived on any conference report. So, therefore, regardless of the form that it is in, the House will act without necessarily knowing the details. I think that that probably is a bad idea given the concern that this House expressed just the other evening.

I would, therefore, also disagree with the gentleman from Minnesota [Mr. FRENZEL] just slightly, and that is that I do believe those particular provisions are a problem. When we begin waiving points of order this late in the session, and we do not know exactly what is coming down the pike, we ought not to adopt a pig in the poke. If we adopt this resolution that is what we are doing, and we are giving ourselves the impossibility that at some point in the near future a budget resolution could be dumped on the floor, and we will have no idea what is in it.

Again I thank the gentleman for yielding time to me.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Speaker, I rise in support of the rule.

The only purpose for this rule, the only purpose for this rule is to get us back in conference on the budget resolution. For those who are arguing that we have to move fast, this is essential for us to be able to get into the conference and be able to pull the budget resolution back together again so we can bring it back to the floor. This is an essential step. If we do not have this, we cannot even get to first base in terms of trying to pull the elements that we need together to get a budget resolution.

□ 1720

At that point, I want to share with the Members, we have had discussions with the leadership on the minority side, with others, to try to see if we can find a resolution to the concerns that were raised in the budget resolution when we voted on it Thursday. We are making some progress, and I feel that if we can continue to work at it we have the opportunity perhaps to be able to then bring it into a conference, get it adopted, and bring it as soon as possible to the floor so we can end this crisis that faces the country and faces this institution.

The rule puts the House back into conference with the Senate and provides basically the same rule governing the consideration of the subsequent report of the committee on the conference that we voted on before. There is nothing new here. There is nothing hidden.

This is basically to get us to conference.

Please, give us that opportunity and vote for this rule.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MFUME). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 285, noes 105, answered not voting 43, as follows:

[Roll No. 434]

AYES—285

Ackerman	Gephardt	Nagle
Alexander	Geren	Natcher
Anderson	Gibbons	Neal (MA)
Andrews	Gilman	Neal (NC)
Annunzio	Glickman	Nelson
Anthony	Gonzalez	Nielson
Applegate	Gordon	Nowak
Aspin	Grant	Oakar
Atkins	Gray	Oberstar
AuCoin	Green	Obey
Barnard	Guarini	Olin
Bateman	Hall (OH)	Ortiz
Beilenson	Hall (TX)	Owens (NY)
Bennett	Hamilton	Owens (UT)
Bereuter	Harris	Pallone
Bevill	Hatcher	Panetta
Bilbray	Hawkins	Parker
Bilirakis	Hayes (IL)	Parris
Blilley	Hefley	Patterson
Boehlert	Hefner	Payne (NJ)
Boggs	Hertel	Payne (VA)
Bonior	Hoagland	Pease
Borski	Hochbrueckner	Pelosi
Bosco	Horton	Penny
Boucher	Houghton	Perkins
Boxer	Hoyer	Pickett
Brennan	Hubbard	Pickle
Brooks	Hughes	Porter
Broomfield	Hutto	Poshard
Browder	Jacobs	Price
Bruce	Jenkins	Rahall
Bryant	Johnson (CT)	Rangel
Bustamante	Johnson (SD)	Ravenel
Byron	Johnston	Ray
Campbell (CA)	Jones (GA)	Ridge
Cardin	Jontz	Rinaldo
Carper	Kanjorski	Roberts
Carr	Kaptur	Roe
Chapman	Kastenmeier	Ros-Lehtinen
Clarke	Kennedy	Rose
Clement	Kennelly	Roth
Clinger	Kildee	Roukema
Coleman (TX)	Kleczka	Rowland (CT)
Collins	Kolter	Rowland (GA)
Condit	Kostmayer	Russo
Conte	LaFalce	Sabo
Conyers	Lancaster	Saiki
Cooper	Lantos	Sangmeister
Costello	Laughlin	Sarpalius
Coughlin	Lehman (CA)	Savage
Coyne	Lehman (FL)	Sawyer
Craig	Lent	Schaefer
Darden	Levin (MI)	Scheuer
de la Garza	Levine (CA)	Schiff
DeFazio	Lewis (GA)	Schroeder
Derrick	Lipinski	Schumer
Dicks	Lloyd	Serrano
Dingell	Long	Sharp
Dixon	Lowey (NY)	Shays
Donnelly	Luken, Thomas	Sikorski
Dorgan (ND)	Machtley	Sisisky
Downey	Manton	Skaggs
Durbin	Markey	Skeen
Dwyer	Martinez	Skelton
Dyson	Matsui	Slattery
Early	Mavroules	Slaughter (NY)
Eckart	Mazzoli	Smith (FL)
Edwards (CA)	McCloskey	Smith (IA)
Emerson	McCurdy	Smith (NJ)
Engel	McDade	Smith (VT)
English	McDermott	Snowe
Erdreich	McHugh	Solarz
Espy	McMillen (MD)	Spratt
Evans	McNulty	Staggers
Fascell	Mfume	Stallings
Fazio	Michel	Stark
Feighan	Mineta	Stenholm
Fish	Mink	Stokes
Flake	Moakley	Studds
Flippo	Mollohan	Swift
Foglietta	Moody	Synar
Ford (MI)	Morella	Tallon
Ford (TN)	Morrison (CT)	Tanner
Frank	Morrison (WA)	Taylor
Frost	Mrazek	Thomas (GA)
Gaydos	Murphy	Torres
Gejdenson	Murtha	Torricelli

Traficant	Walgren	Wise
Traxler	Watkins	Wolf
Udall	Waxman	Wolpe
Unsoeld	Weiss	Wyden
Valentine	Wheat	Wylie
Vento	Whittaker	Yates
Visclosky	Williams	Yatron
Volkmer	Wilson	Young (AK)

NOES—105

Archer	Gunderson	Paxon
Armey	Hammerschmidt	Petri
Ballenger	Hancock	Pursell
Bartlett	Hastert	Regula
Barton	Herger	Rhodes
Bentley	Hiler	Ritter
Brown (CO)	Hopkins	Rogers
Buechner	Hunter	Rohrabacher
Bunning	Hyde	Saxton
Burton	Inhofe	Schuette
Chandler	Ireland	Schulze
Coble	James	Sensenbrenner
Coleman (MO)	Kasich	Shaw
Combest	Kolbe	Shumway
Cox	Kyl	Slaughter (VA)
Crane	Lagomarsino	Smith, Robert (NH)
Davis	Leach (IA)	
DeLay	Lewis (CA)	Smith, Robert (OR)
DeWine	Lewis (FL)	
Dickinson	Lightfoot	Solomon
Dornan (CA)	Lowery (CA)	Spence
Douglas	Lukens, Donald	Stangeland
Dreier	Marlenee	Stearns
Duncan	Martin (NY)	Sundquist
Edwards (OK)	McCandless	Tauke
Fawell	McCollum	Thomas (CA)
Fields	McGrath	Thomas (WY)
Frenzel	McMillan (NC)	Upton
Gallo	Meyers	Vucanovich
Gekas	Miller (OH)	Walker
Gillmor	Miller (WA)	Walsh
Gingrich	Molinari	Washington
Goodling	Moorhead	Weber
Goss	Myers	Weldon
Gradison	Oxley	Young (FL)
Grandy	Pashayan	

NOT VOTING—43

Baker	Henry	Robinson
Bates	Holloway	Rostenkowski
Berman	Huckaby	Roybal
Brown (CA)	Jones (NC)	Schneider
Callahan	Leath (TX)	Shuster
Campbell (CO)	Livingston	Smith (NE)
Clay	Madigan	Smith (TX)
Courter	Martin (IL)	Smith, Denny (OR)
Crockett	McCrery	
Dannemeyer	McEwen	Stump
Dellums	Miller (CA)	Tauzin
Dymally	Montgomery	Towns
Gallegly	Packard	Vander Jagt
Hansen	Quillen	Whitten
Hayes (LA)	Richardson	

□ 1739

Mr. BROWN of Colorado changed his vote from "aye" to "no."

Mrs. JOHNSON of Connecticut and Messrs. SHAYS, SKEEN, and BROOMFIELD changed their vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

□ 1740

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time so that I might inquire of the distinguished majority leader how we intend to proceed for the balance of the evening and the balance of the weekend, if possible.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, it is our intent to ask for a unanimous consent that the House be declared in recess now until not later than 8 o'clock. We are continuing to try to see if there is a way to bring a modified budget out of conference later tonight. That may or may not be possible. If it is not, and I have some doubts that is is, but we are going to continue to talk about it.

We will be back on tomorrow, and I would suggest probably 1 o'clock will be the starting time tomorrow.

Members could leave at this point and know that there would be a 2-hour notice tonight until you would have to come back so Members would be able to go home or go to their offices. Tomorrow would be a 1 o'clock, not 12.

Mr. MICHEL. Might I inquire of the distinguished majority leader, would that be a perpetual kind of thing that would run through the night, or would we say after 10 or 11 o'clock that was it?

Mr. GEPHARDT. No. We would know before 8 o'clock whether there is any intention to do anything in here tonight.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield just briefly?

Mr. MICHEL. I yield to the gentleman from California.

Mr. THOMAS of California. My understanding, Mr. Speaker, is not later than 8, but we are going to go on 2 hours notice? That gives us 15 minutes.

Mr. GEPHARDT. Two hours notice on or before 8 o'clock.

Mr. WEBER. Mr. Speaker, will the gentleman yield to me?

Mr. MICHEL. I yield to the gentleman from Minnesota.

Mr. WEBER. Mr. Speaker, as I understand it, the unanimous consent request will be for a recess authority, with a 2-hour notification.

Mr. GEPHARDT. The unanimous consent for a recess authority until no later than 8 o'clock; that means we will not have business here until 8 o'clock at the earliest and we will give notice before 8 o'clock as to whether or not we intend to try to do anything.

Mr. WEBER. Mr. Speaker, if the gentleman will yield further, what business might we anticipate being taken up in the course of tonight if indeed we were to come back in session?

Mr. GEPHARDT. The only thing that might be possible would be if we were able to reach some agreement in the conference on the budget and to be able to bring that conference report back to the House.

There would obviously be allowed ample time for both the Republican Conference and the Democratic Caucus to meet to consider that material.

Mr. WEBER. Mr. Speaker, if the gentleman will yield further, is there any intention of bringing up another continuing resolution tonight at any point?

Mr. GEPHARDT. There would be no intention probably until tomorrow.

Mr. WEBER. Mr. Speaker, if the gentleman will just yield further, I am not going to object at this point because I do not want to cut off the discussion, but speaking for myself and for many Members, I would object very strongly to the consideration of any resolution of the budget problem in the middle of the night.

Mr. GEPHARDT. Absolutely.

Mr. WEBER. Now, I understand we are here over the weekend, but it seems to me that Members should be afforded at least some opportunity, if they want to, to go home and rest and spend the evening with their families. If we have to come back on Sunday, that is all right, but we ought to be able to assure Members that they are not going to have to come back at 8, 9, 10, 12, 1, or 2 in the morning.

Mr. GEPHARDT. We obviously will not have a session here late at night. We are trying our level best to try to produce a budget agreement that we can get a majority for in this House and eventually in the Senate.

Mr. WEBER. Why is it not possible for us to adjourn to a time specific on Sunday or even Monday?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, it is impossible for us to be able to predict with certainty when this business will be ready for the floor. We are doing our best to reach some agreements. We are working on it every minute that we have been here today. We were interrupted by a 3-hour transaction on the continuing resolution.

Mr. WEBER. Mr. Speaker, if the gentleman will yield further, though, it is possible since we are not with a short-term continuing resolution for us to say we are not going to deal with the budget prior to a time specific.

Mr. GEPHARDT. I just said a moment ago that the House will know before 8 o'clock whether or not we intend to try to consider that matter tonight, so you will have notice before then. Obviously, we would then want to run it say between 9 and midnight if we were going to do it tonight.

Mr. WEBER. I must, I would inform the majority leader that I would object to considering a budget between 9 and midnight.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield further, we have been saying all day that this is a very important matter. We have been saying that time is of the essence. We just had a vote.

Mr. WEBER. Well, if the gentleman will yield further, those on the Democrat side may wish to applaud a budget they have not yet seen, but I do not. I want some time to look at it and study it, and I think most on our side would feel the same way. One day or even less than that is not an inordinate amount of time to study the budget of the United States.

Mr. MICHEL. Mr. Speaker, let me if I might, make another observation that I have to share with the majority leader, and that is if we are in a state where we are currently, without a continuing resolution in effect, but another one in which we are going to have to act, that it looks a little bit ridiculous if the Government shut down and the Congress took the weekend off.

So with no prejudice one way or another, I am just saying that we are trying to do this in an orderly and presentable a fashion as possible.

I understand the gentleman's problem, because certainly I know full well that I could not possibly bring some new crafted budget in. If it were, it would not be all that terribly far from what we currently have agreed to in order to open this thing up, you know, unmercifully. We would just be here forever. We cannot do that.

But I would surely have to assure the gentleman there is no way we could expect to come to the floor without my coming back to our own conference and saying, "Folks, this is roughly what we've got. Now, what is your reaction to this?"

Obviously, if we think it is good, we would be asking some of you who voted the other way, there is significant enough of a difference here for you to come aboard this time.

I have to be very careful, I have to tell you quite frankly, that in that process, the 71 or 72, or whoever were there, it cannot be something that erodes that support, or what have I gained, you see?

Mr. WEBER. Mr. Speaker, will the gentleman yield to me?

Mr. MICHEL. I yield to the gentleman from Minnesota.

Mr. WEBER. I understand that fully. I am not objecting to the notion that we have to work this weekend, but as the distinguished leader has just pointed out, the leader is going to be coming to many of us and some on the other side of the aisle to support whatever budget we bring to the floor.

What I am objecting to is the notion that we could be asked to consider that and vote on that yet tonight or sometime in the middle of the morning.

I do not understand why it is not possible to let Members go home for the evening and the best part of the day tomorrow even perhaps and come back if we must this weekend, at least on Sunday after we have time to think about it.

Mr. DELAY. Mr. Speaker, will the distinguished minority leader yield?

Mr. MICHEL. I am happy to yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I am just trying to find out, and maybe the distinguished majority leader or our minority leader would point out to us, what is going on and who is doing the negotiations? Has the summit been reconvened?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, we just took an action to reform a conference on the budget between the House and the Senate. That conference can now begin to work and the members of that conference who have been appointed can meet and work on the budget.

In the meantime, Members on the Democratic side in the House and on the Republican side in the House have been informally communicating to try to see if there is some way to put a budget package together that can reach a consensus.

□ 1750

Mr. DELAY. Who has been appointed to that conference from the House?

Mr. GEPHARDT. I believe Mr. FRENZEL, Mr. PANETTA, and myself. I am not sure if there is another member of that—on the other side there is Mr. SASSER. Mr. ARCHER, I think, is on it.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, I have been proud of the work the majority leader has done, our Speaker, the minority leader, and I guess for the past 2 weeks they probably have not had 4 consecutive hours of sleep. Yet the majority leader has shown up every morning, he has attended our caucuses, he is on the floor, and informed us of what is going on.

With all respect to my friend from Minnesota, and I realize having a family—which I have—they would like to get back home. But people were locked out of the Smithsonian Institutions this afternoon. They were not allowed to go into the Washington Monument.

I think we ought to be here and work if it takes all night long, and frankly even if we are here at 3 in the morning I think we ought to get it done tonight, this weekend, and not take time off.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Speaker, if I may have a colloquy with the majority leader. I understand, and I think all of us really understand, the pressure that you are under and you do need some flexibility. But indeed you also understand the challenge before us by way of the vote that we had the last time that we were here.

Is it your intention after these negotiations take place to give a reasonable amount of time for your Members to study the package before they come to the floor and, if so, how much? And if you do not feel that you can give that number, at least it is important that we have enough notice so that we can have the full-scale conference that my leader referred to, so that my Members may have an opportunity to weigh the measure.

Mr. GEPHARDT. If the gentleman will yield, I do not want to recriminate in any way, but we have spent 3 hours now today here on the floor dealing with the continuing resolution.

We are now here spending another half hour talking about this, and I am more than willing to talk about it. But we are quickly eating this day up in terms of our ability to come back and, in an orderly way, do exactly what the gentleman has described, which is absolutely necessary. That is that there would be time for his conference and our caucus to look at whatever recommendations we have, to think about them, and then to be able to vote.

I rather think that we are running out of time to do it today. I had hoped that we could perhaps do this because I think it is important that we do it. But we are not going to do this in a slipshod manner. We are not going to force Members to vote without knowing what is going on. And if we run out of time today to do it, even if we have an agreement, we will put it over until tomorrow, give time for both the conference and the caucus to meet and look at what we have, if we have it.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Let me go back to a point that the gentleman from Minnesota [Mr. WEBER] made: If you are worried about working, I will stay right here on the floor all through the weekend, Monday, Tuesday, as long as you want. It is not a matter of whether you are going to work, it is a matter of whether you are going to vote having read the material. Do not say we can do it in a conference or a caucus; we cannot sit there, 170 or 200-some people in one room for an hour, and say we know what is in this bill. The reason that the last attempt went down was because Members had time to read it,

to see what the assumptions were, to see the mistakes.

You owe it to your constituents just as I owe it to mine to have adequate time to read through whatever the agreement is.

Mr. Speaker, let me have order, please. Don't just stand there saying, "Work, work, work."

The SPEAKER pro tempore (Mr. MFUME). The gentleman will suspend. The gentleman shall suspend.

The Chair will request order and will request it of all Members. The distinguished minority leader, the gentleman from Illinois [Mr. MICHEL] controls the time.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman continue to yield?

Mr. MICHEL. I will continue to yield to the gentleman.

Mr. EDWARDS of Oklahoma. The booing, this hissing, the chanting, when we are talking about raising the taxes on the American people or cutting spending or adjusting Medicare, that is nonsense; what is required is a chance for the Members of Congress to read the legislation and make an intelligent, informed discussion on it. That is all that we are asking for.

Mr. MICHEL. Mr. Speaker, the gentleman makes a valid observation.

Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. I thank my distinguished leader for yielding.

I just want to say to my classmate, from the spirit of 1976, that you made the most forceful speech I have ever seen you or any Member make on the floor the other night. In it you said that budget summitry was bad, bad, wrong, that we should never do it again.

I notice that the same people you just named, all distinguished colleagues, every one of them a hard worker, are the same people who were in the cobra-summit committee. Bad, bad.

I just want to work tonight with study time.

Everybody in this Chamber does their best study time at night when the phones are not ringing and the staff is not disagreeing with us. Mr. WEBER is asking for good study time. All I want to know is—and I agree with the work chant. I already said in the well I am ready to work and take tours. I just took three people on a tour who got shut out of the museum.

So that no one disagrees and tempers will stay cooled here, my study committee is meeting in the caucus room 345 at 6. I will cancel it in a minute for a conference. But let us keep the friendly mood going here. It is the Lord's day in 6 hours. Some of us are not going to do it. We are not going to do something imprudent.

Mr. MICHEL. Mr. Speaker, we have not had a woman's voice in here yet.

Mr. Speaker, I yield to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. I thank the minority leader for yielding.

Mr. Speaker, I want to thank the gentleman from California for cooling passions here. That is an extraordinary situation.

Seriously, Mr. Leader, I do want to ask a question here, and it is a serious question because I am concerned as my colleague from Minnesota is, and our leader from Oklahoma has expressed the concerns, about knowing what is in the document when it comes back.

But we have a leader here. I want to ask our leader, are you confident that you can protect the interests of the minority here under this procedure? Mr. Leader, I think if we elect a leader, we ought to let him lead, and I am looking to you for your leadership now and the confidence that you can give to us to sooth our concerns. And anybody who knows me knows that I read the small print in all of these things, and I intend to do that here. But I am confident that Mr. MICHEL would not lead us down the primrose path.

So I ask the leader for his comment now.

Mr. MICHEL. I thank the gentlewoman for her comments. I think all of us would have to agree regardless of what side of the aisle we are on, that if we get too far, kind of like a platoon leader without the troops. I can recall the days, when, "You know, I am your leader, but tuck it up a little tighter, folks. I don't want too much space between us."

I have always found that a leader, to maintain his position, just could not get too far out in front of his troops. But we are dealing with some very, very sensitive matters and for a commitment 5 years out. Everybody certainly is deserving of that opportunity to know exactly what we have wrought whenever it comes about.

I would honor everybody's feelings in that regard.

I yield to the distinguished gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I would simply like to say that I fully agree with and understand the concerns of the gentleman from Oklahoma, the gentleman from Minnesota. Frankly, given some of the conversations I have heard about some of the suggestions being made about the changes in the budget summit, I am still very skeptical that I am going to wind up voting for it.

But it seems to me that when we turned down the motion to override the President's veto, that we did, all of us, individually, give up the luxury of having a lot of time to review what came out of the summit. That is the practical fact of life.

Without that continuing resolution, we simply do not have that time.

So it seems to me that all of us have enough faith in the gentleman from Illinois, the gentleman from Missouri, the gentleman from California, and the gentleman from Minnesota, the chairman and ranking minority member of the Budget Committee, and the best thing we can do to assure ourselves that we have enough time to review that agreement is to get out of here now to give them an opportunity to go to work so that they can get the job done.

□ 1800

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from Illinois [Mr. MICHEL] for yielding.

I did not want to speak until after the veto effort. I am delighted though, although I have to say to all of my friends, now they understand the tucking tradition over here. We were not as tucked the other evening as we were this afternoon, so this afternoon worked better from our standpont. We kept pretty tight behind our leader, and it worked fairly well, but I have two concerns.

First of all, I say to the gentleman from Wisconsin [Mr. OBEY] that if the Congress simply wanted this evening to pass a signable continuing resolution, and we already have a commitment from the administration as to what they would sign, we could pass the continuing resolution tonight. We could have an entire week to work this out. So, there is no artificial emergency, except that which the majority wishes to schedule. But we could pass a signable continuing resolution tonight, and the Government could be back at full strength in the morning.

So, if we suspend tonight, let no one be under any confusion. The Democratic leadership will have decided to go home without having passed a signable continuing resolution. That happens to be technically true. My colleagues may not agree with it, but it is true.

Second, I am not concerned just for the Members, and this seems to me a great peculiarity. We are talking about a giant, massive, decisive, important 5-year, $500 billion budget decision. I would hope that we would have an orderly procedure which would last several days so that the country—remember the country? The people who called in all week? The country might actually have a chance to look at a 5-year.

I understand for those who are wise and experienced legislators that it is hard to do something if we actually let the country watch it, but I frankly am

very concerned if we are going to bring a document out on a very short time frame, run it through the House, and, by the way, if we do, I will predict tonight it will get totally bogged down in the procedures of the Senate. It will not get quickly out of the Congress. It will just stay enmeshed in the Senate for a while.

So, I just think we ought to take the time and actually let the people of America watch what democracy is since we have heard Vaclav Havel, and Lech Walesa and all those people who talk about democracy. We might actually try it and let the American people watch.

Mr. MICHEL. Mr. Speaker, if I might just ask the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader, one more question.

The gentleman from Missouri [Mr. GEPHARDT] made mention of our meeting tomorrow at 1 p.m.

Mr. GEPHARDT. The gentleman from Illinois [Mr. MICHEL] is correct.

Mr. MICHEL. Now we will be in a new day, and could we take up that continuing resolution first off tomorrow as an order of business?

Mr. GEPHARDT. We will check with the chairman. I would think it would.

Mr. MICHEL. That will, maybe, allay some feelings of some, and then, quite frankly, I would be for the rest of the evening, or the balance of this evening, to get over this first increment of 2 hours, if we do have the recess, and then we will do whatever we can do, and then there will be a judgment, what; around 8 o'clock, as to whether or not there is anything happening for the balance of the evening and then come back and reconvene at 1 o'clock tomorrow.

All right.

REQUEST FOR RECESS

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the House be declared in recess until no later than 8 p.m.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Missouri?

Mr. WEBER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, this afternoon I was unavoidably absent from the Capitol for the Speaker's approval of the Journal, rollcall No. 432. Had I been present I would have voted "yes."

THE WHITE HOUSE STRATEGY

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I did not get a chance to deliver my address during the CR because I was fortunate enough to be after the wedding of the child of the gentleman from California [Mr. DELLUMS], and so, while we are here in session, I thought I would make a few points now.

First, I think there is one thing all of us in this Chamber know about the summit, whether we be Democrat or Republican, and that is, if it were left to our four leaders, the gentleman from Washington [Mr. FOLEY], the genttleman from Illinois [Mr. MICHEL], Mr. MITCHELL and Mr. DOLE, we would have had an agreement months ago.

No, it was not this Congress that messed up the summit. It was not the Democrats, and it was not the Republicans. We all know what happened, and it was that the White House and the minions there, Mr. Sununu and Mr. Darman, not only used bully boy tactics that alienated many of the Republicans, but, much worse than that, when Darman and Sununu at the summit started pushing demands on the summiteers, they were told by people from both parties, from all parts of the political spectrum, that this was not going to sell, that this would kill the summit. But they persisted. They persisted in demanding that the tax system be inequitable. They persisted in demanding that there be deep cuts in Medicare, cuts so deep that very few Members on either side of the aisle would vote for them. They insisted on putting such nasty provisions in that summit, such as the unemployment insurance provision, and they were told, time and time again, Mr. Sununu and Mr. Darman, that, if these kinds of provisions were put in the package, it was doomed to failure. But they had a strategy, my colleagues. The strategy was that this House and the American people would swallow anything if backed up against the wall. If we were told that it was this or nothing, we would vote for this, and, in fact, their strategy had some merit, and that was it had happened in the past.

ANNOUNCEMENT OF MEETING OF CONSERVATIVES ON THE BUDGET

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute.)

Mr. DORNAN of California. Mr. Speaker, I think everybody was in a good mood here when we came in today, and I think we are getting back to it, and in the spirit of peace and harmony and work, work, work, the Republican Study Committee is going to meet as soon as the gentleman from Wisconsin [Mr. ROTH] has done his excellent 1-minute. We are going to meet very briefly and then go home to our families for dinner.

□ 1810

But for about 15 minutes the conservatives in this Congress—and we invite any conservatives on the majority side—will meet at the Cannon Building, in the Caucus Room, room No. 345. The door is open. I am going over there right now. And the feeling over there is—good—good.

GOOD NEWS AND BAD NEWS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, during an earlier recess today and did my every-other-day run. Of course, we know that today was one of the beautiful days in this year. I noticed thousands upon thousands of people who were on the Mall, most of whom, I guess, had been locked out of the Smithsonian Institutions and locked out of the Washington Monument and the Jefferson Memorial. That is, of course, very sad because it could have been avoidable.

These people, Mr. Speaker, it ought to be noted, run the gamut. They were the rich people, the poor people, young people, old people, disabled people, and not disabled people, the very sort of people, Mr. Speaker, who are very much for the House, the Senate, and the White House getting their act together and getting a budget resolution. That is the bad news, Mr. Speaker.

The good news, Mr. Speaker, is twofold. A lot of these wonderful people had a chance to walk in this glorious day that the good Lord brought us today and get some exercise and kick the leaves and smell the smells along that beautiful mall. The other good thing is this: I am not so sure that many of us have ever ridden the carousel on the Mall, but the carousel had no empty seats today. All the animals and all the seats were taken, but in an earlier time of the year that might not have been.

So in everything there is good news and bad news. In this case I think in some respects the good news outweighs the bad news.

TIME TO FISH OR CUT BAIT

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, I am not here to point fingers, but there is a time to study, there is a time to debate, and there is a time to act. Now is the time to act. This budget process has been going on since April and May, day in and day out.

Now our Government has shut down, and this is irresponsible. We must act. We must move forward. We owe it to the country. Time is of the essence. People are being furloughed. People are losing their jobs, and people with families are being hurt. Yet we are talking, talking, talking. There is a time to talk, and there is a time to act. Now is the time to act.

We have an old saying that says, "Either fish or cut bait." Talk is cheap. Now is the time to move forward. We owe it to the country. We should be here debating this and voting on it and getting on with the Government's business.

H.R. 5779, BUSINESS CASH REPORTING COMPLIANCE ACT OF 1990 NEEDED TO CURB TAX EVASION AND MONEY LAUNDERING

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous matter.)

Mr. PICKLE. Mr. Speaker, on Wednesday, I along with every Member of the Subcommittee on Oversight, introduced H.R. 5779, the Business Cash Reporting Compliance Act of 1990. This legislation will close the loopholes in Internal Revenue Code section 6050I and strengthen the IRS's ability to identify taxpayers with sizable cash incomes that might otherwise be underreported. H.R. 5779 is a strong antitax evasion and money laundering bill.

The Subcommittee on Oversight recently conducted an extensive undercover investigation which exposed the U.S. business community's predisposition to violate section 6050I. Ninety-six percent of the merchants probed agreed to take large sums of cash, without question, and not report the transactions to the IRS. Ninety-five percent of the merchants were willing to take false names and more than 25 percent suggested ways to avoid the reporting rules.

While subcommittee investigators were traveling across the country collecting evidence on merchants ready and willing to violate the law, a team of Federal law enforcement agents were preparing its first major sting. Posing as drug dealers and boasting the illegal source of their cash, agents from the IRS and Drug Enforcement Agency bought almost 900,000 dollars' worth of luxury items from five leading New York car dealerships. A dozen executives and salesmen and three insurance agents were arrested on charges of violating money-laundering laws and disguising the true ownership of the vehicles. According to Federal agents, the investigation, code-named Operation Drug Wheels is the largest investigation of its kind in the Nation to date. I'm confident it won't be the last. I am submitting for the RECORD the press release issued by the U.S. attorney's office in Manhattan outlining the operation in more detail.

With this major bust, the business community has been unmistakenly put on notice. The time has come for those who knowingly accept large sums of cash and deliberately conceal the transactions from the IRS to face the consequences. Their actions aid and abet tax evasion and seriously undermine this Nation's war on drugs. There is no excuse for their flagrant violation of the law.

H.R. 5779 will assist in bringing a stop to this behavior. The bill ups the ante for violators and tightens the reporting requirements making it more difficult for merchants and clients to structure their transactions in an effort to conceal their cash. I urge my colleagues to support H.R. 5779.

OUTLINE OF ARRESTS, CHARGES, AND FORFEITURES

Fifteen individuals, five automobile dealerships, and two insurance company agencies were charged in sealed complaints yesterday in federal court in Manhattan with money laundering, cash reporting violations and mail fraud. The complaints were unsealed today.

Thirty-one (31) new cars of a retail value of more than $877,000 were also seized as part of an undercover investigation into the laundering of narcotics money by car dealers and automobile insurers. They included 6 Mercedes Benz, 6 Mazdas, 6 Nissan, 7 Acuras, 5 Fords and a Cadillac. All are 1990 models except for the Mercedes and a Nissan Navajo, which are 1991 models. A list of the automobiles actually seized is attached as Addendum A. In addition, seven bank accounts of the automobile dealerships were seized yesterday pursuant to seizure warrants.

Concurrent with the arrests, the car dealerships and the insurance company agencies, which are alleged to have been involved in the money laundering were searched yesterday pursuant to warrants by a team of federal agents from the Internal Revenue Service, the Drug Enforcement Administration, and the United States Postal Inspection Service.

The car dealerships charged are: Gidron Ford, Inc., 251 Main Street, Mt. Kisco; Mercedes Benz Manhattan, Inc., 536 W. 41st St. in Manhattan; Manhattan Nissan, Inc., 799 Eleventh Ave. in Manhattan; Bronx Auto Mall, Inc., d/b/a "Bronx Acura", 2625 East Tremont Avenue in the Bronx; and 11th Avenue Motors, Inc. d/b/a "Manhattan Mazda" and "City Mazda", 801 Eleventh Ave. in Manhattan.

The insurance agencies charged are: Allstate Insurance, 3176 Bainbridge Ave., Bronx; DCAP Insurance Agency, 1980 E. Tremont Ave., Bronx.

The 15 individual defendants are listed in Addendum B.

"It is imperative that the business community realize that it cannot act as an aider and abettor in the money laundering schemes of the drug kingpins without subjecting itself to serious consequences," said United States Attorney General Dick Thornburgh. "Federal prosecutors will pursue these drug proceeds through whatever disguised means are employed."

According to Otto G. Obermaier, United States Attorney of the Southern District of New York, Peter P. Farrell, Chief, Criminal Investigation Division of the Internal Revenue Service, Robert A. Bryden, Special Agent in Charge of the Drug Enforcement Administration, and John Slavinski, Postal Inspector in Charge, United States Postal Inspection Service, the arrests, searches, and seizures are the result of joint undercover investigation conducted by the United States Attorney's Offfice, the Internal Revenue Service, and the Drug Enforcement Administration, and assisted by the United States Postal Inspection Service.

The investigation, code-named "Operation Drug Wheels" is the largest investigation of its kind in the nation to date. It revealed that employees of the automobile dealerships, with the assistance of the insurance company employees, were aiding nacotics dealers by knowingly accepting drug profits in cash for the purchase of automobiles and concealing the identity of the purchasers and the cash.

The applicable statutes are discussed in Addendum C.

Four of the criminal complaints filed yesterday charge a conspiracy to commit a money laundering offense, the money laundering offense itself, a conspiracy to violate the cash reporting requirements, and an actual violation of those requirements. The complaints each allege that in the past convicted narcotics dealers purchased cars for cash from the defendants and with their assistance disguised the true ownership of the vehicles—the automobile dealers knowing full well that the purchasers were drug dealers. The complaints each further allege that these automobile dealers, some with the collaboration of the named insurance agencies, recently sold or attempted to sell a fleet of new cars for cash to federal undercover agents posing as narcotics dealers. In each instance, as the complaint alleges, the undercover agents spoke openly of their drug trafficking and the sources of their cash. Allegations are made that the dealers and insurance agents assisted in concealing the true ownership of the automobiles in order to protect the identity of their customers, the purported drug dealers. Each of the four criminal complaints also alleges that a search of the records maintained by the Department of the Treasury revealed that the necessary cash receipt forms were almost never filed.

The fifth complaint charges an automobile insurance agency, DCAP, and two individuals with committing mail fraud by concealing the true ownership of many of the automobiles purchased and ordered in the undercover operation.

Gidron Ford (Mt. Kisco) and Richard D. Gidron, Jr., along with Anthony Lopez and the Allstate Insurance Company agency on Bainbridge Avenue, Bronx are alleged to have received cash in payment for six new cars, from federal undercover agents who openly admitted that the cash was the proceeds of large-scale narcotics trafficking. The defendants, it is alleged, also helped to conceal the true ownership of the automobiles in an attempt to hide the assets of the purported drug dealers by preparing purchase agreements in the names of "Ray Charles", "Arsenio Hall", and "Eddie Murphy". The complaint goes on to allege that a convicted narcotics dealer purchased two Mercedes Benz automobiles from Lopez and the Dick Gidron Cadillac dealership in the past. Lopez, describing those past transactions, the allegations continue, remarked,

"[the] way we did it—everything we did—was totally illegal. . . ." According to the criminal complaint, Department of Treasury records show that over the past five years Dick Gidron Cadillac, Inc. and Gidron Ford, Inc., have deposited millions of dollars in cash, but have filed only one Form 8300.

The Mercedes Benz Manhattan, Inc. dealership, Lawrence Nash, a salesman, and Charles Luciano, the general sales manager, are charged with similar money lanudering and cash reporting violations. In a criminal complaint, it is alleged that the federal undercover agents purchased or arranged to purchase five Mercedes Benz automobiles for cash at one time. One undercover agent asked Nash, "What's the most . . . cars a doper ever bought from you?" and Nash responded that the undercover's purchase was the largest deal. Luciano assured the purported drug dealers that their purchases and ownership of the cars would be disguised and not revealed to any investigative authorities. The complaint alleges that known drug dealers purchased cars for cash ir. the past and that the dealership over the past five years has failed to file the necessary cash receipt forms.

11th Avenue Motors, Inc. d/b/a "Manhattan Mazda" and "City Mazda", Manhattan Nissan, Inc., Thomas Dunn, Richard Morris, Thomas Muridian, Carlos Franco, and Carlos Zepeda, are charged with money laundering violations and cash receipt reporting offenses involving six Mazda automobiles and six Nissans. A complaint alleges that a convicted narcotics dealer reported that other narcotics traffickers purchased 4-wheel drive Nissan automobiles from "City Mazda" for cash. The cash, although paid in a single installment, was separated by the Mazda dealership's salesman into installments under the $10,000 reporting requirement and the cash receipts were made out in the names of a professional basketball star and a fashion designer, among others. The complaint further alleges that a search of the IRS Data Bank showed that neither 11th Avenue Motors, Inc. nor Manhattan Nissan, Inc. has ever filed any of the necessary cash receipt reporting forms. During the course of the undercover operation, as the complaint alleges, although the undercover agents spoke of importing "loads" of narcotics, arrests of crew members, and seizures by U.S. Customs, Dunn, Morris, Muridian, Franco, and Zepeda all assured the undercovers that cash was no problem. The complaint alleges that the purchase orders for the Nissans and the Mazdas were written in the names of "Mary Brown" and "Jim Jones" to hide the identity of the undercover agents posing as drug dealers.

Bronx Auto Mall, d/b/a "Bronx Acura", Michael D. Miele, Glen Peterson and Brad Schwartz are charged in one complaint with money laundering and cash reporting offenses relating to the sale of seven Acura Legend automobiles. Harvey Grossman, Rebecca Morales, and DCAP Insurance Co. (East Tremont Agency) are charged in a separate criminal complaint with mail fraud in aid of the concealment of undercover agents' purchases of Acuras and other new cars. The Acura complaint alleges that a convicted member of a crack distribution network reported that other crew members of the network purchased Acuras at "Bronx Acura" under false names with the assistance of the salesman and that when the cars were not picked up as scheduled, the salesman called to ask if the buyers were in jail. In the course of the undercover operation, Peterson assured the undercover agents that the purchases would not be identified with them and referred to other satisfied customers who were also in the drug business. It is further alleged in the complaint that when the undercover agent mentioned that he had sold "a load [of narcotics]" during the weekend and had a supply of cash, Schwartz asked the undercover agent for a sample of the drugs. During the course of the undercover negotiations for the purchase of the Acura automobiles, Schwartz telephoned Grossman at the DCAP Insurance Agency and told Grossman that it would be "worth a lot of money to these people to be able to register these cars without anybody being involved." The affidavit in support of the mail fraud complaint alleges that when the undercover agents arrived at DCAP Insurance, Grossman had six drivers' licenses arrayed on his desk to use in disguising the true ownership of the new cars. During their later discussions, as alleged in the complaint, Grossman noted that through a contact at the Department of Motor Vehicles he could sell "fake" drivers' licenses to the undercover agents to permit them to conceal the ownership of their other new car purchases as well. The complaint further alleges that when the undercover agents returned to DCAP Insurance, Morales counted out the money they provided for the purchase of ten sets of fake documents.

Fifteen individual defendants were presented on the criminal complaint yesterday and this morning and have been released on bail.

Mr. Obermaier praised the work of the Criminal Investigation Division of the Internal Revenue Service which supplied the lead undercover investigator and the Drug Enforcement Administration which provided additional undercover agents and assisted in the course of the investigation. He also expressed his appreciation for the work of the United States Postal Inspection Service and the Intelligence Division of the New York City Police Department.

Assistant United States Attorneys Paul G. Gardephe, Deborah Landis, and Adria de-Landri are in charge of the prosecution and forfeitures in these cases.

ADDENDUM A.—VEHICLES SEIZED FOR FORFEITURE

Make	Year/model	Color	Purchase price
Dick Gidron Ford, Inc.			
Ford	1990 Thunderbird	White	$25,157.40
Ford	1990 Mustang	Black	18,664.88
Cadillac	1990 Sed. DeVille	Gray	32,033.75
Ford	1990 Explorer	Black	24,077.38
Ford	1990 Probe LX	Gray	21,750.00
Ford	1990 Thunderbird	Blue	21,966.50
Subtotal			143,649.21
Mercedes Benz Manhattan, Inc.			
Mercedes Benz	1991 190E	White	33,001.50
Mercedes Benz	1991 190E	Red	33,001.52
Mercedes Benz	1991 190E	Blue	33,651.00
Mercedes Benz	1991 190E	White	33,001.50
Mercedes Benz	1991 300SEL	White	58,000.00
Mercedes Benz	1991 190E	Dark blue	33,000.00
Subtotal			223,655.52
11th Avenue Motors, d/b/a Manhattan Mazda, and City Mazda			
Mazda	1990 929	Burgundy	27,344.98
Mazda	1990 929	Burgundy	27,344.98
Mazda	1990 MX6	White	18,249.81
Mazda	1990 RX7	Blue	22,877.50
Nissan	1990 300ZX	Burgundy	32,944.75
Mazda	1991 Navajo	White	21,952.78
Mazda	1990 626 LXB	Black	17,430.00
Subtotal			168,144.80
Manhattan Nissan, Inc.			
Nissan	1990 300ZX	Black	31,537.50
Nissan	1990 Maxima SE	White	22,872.09
Nissan	1990 Maxima SE	Burgundy	22,872.09
Nissan	1990 300ZX	White	32,620.00
Nissan	1990 Pathfinder	Charcoal	24,988.38
Total			134,890.06
Bronx Auto Mall, Inc., d/b/a Bronx Acura			
Acura	1990 Legend	Gold	28,282.84
Acura	1990 Legend	Ivory	28,282.84
Acura	1990 Legend	Dark gray	28,282.84
Acura	1990 Legend	Red	28,282.84
Acura	1990 Legend	Gold	28,282.84
Acura	1990 Legend	Blue	28,282.84
Acura	1990 Legend	Black	34,109.34
Subtotal			207,053.87
Total			877,394.16

ADDENDUM A.—VEHICLES SEIZED FOR FORFEITURE—Continued

ADDENDUM B.—INDIVIDUAL DEFENDANTS

1. Richard D. Gidron, Jr., Fordham Hill Oval, Bronx, N.Y.; Larry Blkan, 125 Bryant Pond Rd., Putman Valley, N.Y.; Anthony Lopez, 332 Bear Ridge Road, Hartsdale, N.Y.

2. Larry Nash, 39 Roberts Road, New City, N.Y.; Charles Luciano, 40 Devon Road, Essex Falls, N.J.

3. Thomas Dunn, 86-27 Forest Pkwy, Woodhaven, N.Y.; Richard Morris, 45 Wagner Place, Irvington, N.J.; Thomas Muridian, 9 Rosemont Drive, New City, N.Y.; Carlos Franco, Carlos Zepeda, 156-30 80th Street, Howard Beach, N.Y.

4. Michael Mible, 151-28 80th Street, Howard Beach, N.Y.; Glenn Peterson, 1245 Bradford Ave., Bronx, N.Y.; Brad Schwartz, 215 Middle Neck Road, Great Neck, N.Y.

5. Harvey Grossman, 5 East 87th Street, N.Y., N.Y.; Rebecca Morales, 140-23 Asch Loop, Bronx, N.Y.

ADDENDUM C.—STATUTES INVOLVED

The Federal money laundering laws make it unlawful for anyone, "to conduct or attempt to conduct a financial transaction involving property represented by a law enforcement officer to be the proceeds of specified unlawful activity [*e.g.*, narcotics trafficking] . . . with the intent (A) to promote the carrying on of specified unlawful activity; (B) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity; or (C) to avoid a transaction reporting requirement . . ." Violators may be fined $500,000 or imprisoned for not more than 20 years, or both. 18 U.S.C. § 1956(a)(3).

The Federal transaction reporting laws and regulations require that those engaged in a trade or business who receive more than $10,000 in cash in any one transaction must file a Form 8300 with the Internal Revenue Service, reporting the amount of cash received, identifying the customer from whom it was received, and specifying the date and nature of the subject transaction. Each violation carries a possible five years in prison and $25,000 fine for individuals and a $100,000 fine for corporations. 26 U.S.C. § 6050I, 7203.

BIPARTISAN APPROACH NEEDED IN BUDGET CONSIDERATIONS

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, there is no one who more desperately wants to ensure that the necessary services of the Federal Government continue to proceed than our great President, George Bush. It is very clear to me that the debate that we had on the continuing resolution unfortunately exacerbated the partisanship. I remember the statements made by my good friend, the gentleman from California [Mr. MILLER] during that debate, which I truly believe played a role in encouraging this "us versus them" mentality. That is a very unfortunate thing.

President Bush, as he tried to put together this package that had been agreed upon by our joint leaderships, wanted to see us put partisanship aside, but unfortunately there are still many on the other side of the aisle, Mr. Speaker, who are attempting to encourage it. I hope very much, as we work through this evening and tomorrow, as we move ahead with our attempts to put together a continuing resolution and budget package which can be accepted by a majority of this House, that we keep our heads cool and avoid the kind of partisanship we have witnessed here today.

FINAL DECISION ON BUDGET SHOULD BE FORTHCOMING THIS WEEKEND

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, I have the privilege of representing thousands of Federal Government employees in the Takoma-Kitsap County area in the great State of Washington, and I want them to know tonight that I am hopeful that this Congress, if we can pull together, can get a budget resolution adopted over this weekend and then enact a continuing resolution in order to keep the Government functioning.

I am just concerned that we are having these objections so that the House cannot go out of session for a couple of hours and then recess and come back and look at this budget package and make a final decision. I would hope that tempers would cool and we would allow our negotiators an opportunity to give us an agreement so the Government can operate next week.

NO REASON TO PUT OFF DEBATE ON CONTINUING RESOLUTION

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, if the majority wants to continue to work on this floor, then why do we not bring out the CR that they are working on? Let them bring it to the floor, and let us get with it. Let us do that CR. If they want to continue the Government, why do they not bring the CR out on the floor? Let them bring up the CR if it is already written.

They know what they want. They can bring it to the floor and let us vote on it. Bring the CR to the floor and let the House work. Why do they want a recess?

Mr. Speaker, let us bring the CR to the floor and let us vote on it.

ADOPTION OF A BUDGET TONIGHT POSSIBLE

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, the gentleman from Texas [Mr. DELAY] has just made a valid point. There is no reason why any facilities of the U.S. Government have to be closed down tomorrow, and there is no reason why we cannot continue to do our work. All we have to do is bring the continuing resolution to the floor and we can pass it in a matter of moments.

The President has indicated he would sign a continuing resolution that does not fund the budget above the level that was already agreed to by the budget summiteers. All we have to do is put that level of funding in the CR. It is something that virtually all of us, I think, agree to. We could adopt it tonight. In that way the Government can continue uninhibited. We can continue to do our work, and no one suffers.

It seems to me, Mr. Speaker, eminently reasonable that we could adopt the CR, as amended, this evening.

□ 1820

PRESIDENT WILL SIGN PROPER CONTINUING RESOLUTION

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, it is apparent that the business of the House is finished for the day. That does not need to be the case. We have heard a number of speeches today referencing the folks who are visiting the Capitol because there are no other monuments or no other museums open in the town.

The fact is that the President has indicated that he can sign a continuing resolution that will have a provision in it that will allow the sequester to kick in at the same rate as was agreed to by the bipartisan congressional leadership in the budget that was on the floor the other night.

There is no reason not to go ahead with that. We have the availability of time here this evening. Why not bring that to the floor, take it up, and allow the Government to go back to functioning tomorrow morning? We took up this measure late last night. We can take it up late tonight, get the President's objections taken care of, and move forward from there, and assure that the budget process is being negotiated, not under the guise of a CR not having been passed, but with the standard procedures, where something can get done rationally.

BUDGET DEBATE IS ABOUT PRINCIPLES

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, sometimes the democratic process is not a very pretty process. In fact, seldom does it look as unattractive as it has been looking the past several days. But in many ways its weakness is also its strength, because this is not frivolous, this debate. The debate we are involved in in these past days is about principles, how we tax, how we spend, how we reduce the Federal deficit, who pays, and how much.

Some years ago I read in the local newspaper a couple of politicians being quoted. They said, "This argument has been reduced to a debate about principle." I kind of smiled, and I thought, I hope so. That is why we are here.

We have deep divisions in this Chamber about who ought to pay and how much and where the budget cuts should come from.

In the Cloakroom minutes ago I heard the President say the Congress is responsible. Well, 9 months ago this tortured trail began. The President sent a budget down here. In fact, it was such a worthless budget, it was not even offered. It was not offered.

CONTINUING RESOLUTION WOULD ALLOW TIMELY CONSIDERATION OF BUDGET

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, the gentleman from North Dakota [Mr. DORGAN] was making a very valid point, that this debate is not just child's play, this struggle is not minor.

This is real. This is what democracies are all about.

I just wanted to make two points which I said earlier in the colloquy. First, we clearly could pass a continuing resolution tonight and have it signed. The President has indicated he would sign one. So anyone who is worried about why Government workers are not going to work in the morning, the Democratic leadership can bring a continuing resolution in at any time tonight and pass it.

Second, it is vital that the budget resolution come slowly enough that we be able to have the country look at it. Not just Congress. It is vital that we slow down and take our time on an issue which is being made precisely for the reason the gentleman from North Dakota indicated. These are major issues of major importance.

REPUBLICANS WANT REDUCED SERVICES, BUT NO REVENUE INCREASES

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, it is rather interesting now we are given the choice where we are told we can bring a CR to the floor that would allow for $40 billion in revenue reduction within that resolution, recognizing that even the summit agreement had some revenues into it.

So again we are presented with the position by the Republican Party that all of the deficit reduction will fall on cuts in programs for the poor, will fall on cuts in programs for services to the middle class, but will not require any revenues nor any increases to be paid by anybody else who can afford it in this country. The $40 billion in deficit reduction that the summiteers agreed to included revenues.

The point is this. That is what this struggle is about, Mr. Speaker. It is about the question of how the resources in this country are used and who pays for that. It is fundamental. It is fundamental, and it is coming at a time when the direction of this country has changed. We added 1 trillion new dollars to the deficit in the 1980s. We had junk bonds, savings and loan scandals, and military scandals from one end of this country to the other.

The question now is, are the 1990's going to be different, is the middle class going to get a break, are the poor and the elderly going to get the services they are entitled to, and are the wealthy going to contribute something.

DECENCY AND EQUITY NEEDED

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

The SPEAKER pro tempore (Mr. MFUME). Without objection, the gentleman from New York is recognized for 1 minute.

There was no objection.

Mr. SCHEUER. Mr. Speaker, I believe that the next 28 or 48 hours, surely by Tuesday morning when the American people go back to work, we are going to come up with the answer to this problem. The pieces in the jigsaw puzzle that have to be put together are perfectly clear, and they have been discussed ad infinitum here in the last day or two.

I think there is a thirst out there among the American people for decency, for equity, for burden sharing. That makes sense.

At this point in history we have the all-time 50-year low rate for taxation, both for individuals and for corporations. The package that we just looked at, according to the Wall Street Journal a couple of days ago, would have taxed the people in our country making less than $10,000 a year at a 7-percent increase. But the people making over $200,000 a year would get a 1.7-percent increase.

Mr. Speaker, that is not equity, that is not decency. We can do better than that.

PASS BUDGET AND PUT COUNTRY BACK ON TRACK

(Mr. OBEY asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore. Without objection, the gentleman from Wisconsin is recognized for 1 minute.

Mr. OBEY. Mr. Speaker, I yield to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, let me finish the point I was making earlier. When the President said the Congress was at fault, of course, the Congress had some responsibility. There is no question about that. The process has not worked for us. The President sent a budget here 9 months ago, and it was not even considered, because it was worthless. It was not even offered.

But we have failed as well. All of us have failed. We should never again have another budget summit. It finally brought to us a product that no one here would support, that we could not provide a majority to pass. We should not do that again. We have to reform our processes in this House.

The gentleman from Minnesota said let us not work past 9 o'clock. But the Government is stopped. Let us work until we finish our business in this House and in this Congress. Pass a budget and get this country back on track. The sooner we do it, the better.

PRESIDENT IS SHUTTING DOWN GOVERNMENT, NOT CONGRESS

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

The SPEAKER pro tempore. Without objection, the gentleman from New York is recognized for 1 minute.

There was no objection.

Mr. WEISS. Mr. Speaker, the President by his action in vetoing the resolution to continue appropriations for 1 week has in fact shut down the Government of the United States. It is now his position that he can pick and choose as to which function of Government he will allow to continue to operate. Some have already stopped operating.

Some of our friends on the other side of the aisle tell us that oh, the President will sign a continuing resolution. All we have to do is give him what he wants.

Do you know what he wants? He wants Gramm-Rudman sequesters to be allowed to go into effect. He wants $40 billion to be cut by having sequestration go into effect.

Mr. Speaker, sequestration is a modified version of shutting down the Government. So on the right hand he wants to shut down Government, and on the left hand he wants to shut down the Government. And no matter what he says, you cannot shift that burden onto the Congress of the United States. It is the President who is shutting down the Government and hurting millions of people in the process.

□ 1830

VACATING SPECIAL ORDERS

Mr. GOSS. Mr. Speaker, I ask unanimous consent that any special orders for 60 minutes previously entered into for the gentleman from California [Mr. DORNAN] be vacated.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Florida?

There was no objection.

THE BUDGET PACKAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, I have heard a number of statements that all of us have failed, Democrats and Republicans, the House of Representatives, and the Senate. I think the House of Representatives has not failed. We voted on a budget more than 2 months ago. We

passed a budget resolution. It was up to the other body to pass a budget resolution and negotiation should have taken place between the two bodies and all of this could have taken place without a summit. So I do not think we have failed, all of us have failed. I think some of us in the Congress have failed, but certainly the House of Representatives did not fail in passing a budget.

I think that we had our finest hour 2 nights ago when we voted down a budget package which was ridiculous, a budget package which sought to continue the very worst features of the Reagan administration, a budget package which had in it a $74.2 billion item for the savings and loan associations. They were so afraid of that item until it was not included in the document that was originally circulated to the Members of the House. The $74.2 billion that was placed in the budget for the savings and loan association bailout was given to us in a document called "Major Technical Revisions."

Technical revisions traditionally in this House have been revisions made by the staff. They dot some "i's," they cross some "t's," they make some corrections, and it is left up to staff, things that are so unimportant that staff can do them instead of elected representatives. This is the first time in history ever that a $74.2 billion item has been labeled a major technical revision and placed in the budget as if there should be no debate about it.

It is the costliest technical revision in the history of the country. It is the most immoral act in that budget agreement which has a lot of immoral acts.

The immorality of it arises from the fact that the savings and loan bailout is an effort to pay back money to meet the obligations that we have to the depositors, and we should meet those obligations, but we as taxpayers are being forced to meet the obligations to pay back money that has been stolen by S&L crooks who sat on the boards of directors, who were CEO's, chief executive officers, were lenders who loaned at exorbitant rates to each other, all kinds of crooked deals with land, jacking up the price of land, and selling buildings to each other for more than they cost, all kinds of conflicts of interest. That is how we got the savings and loan scandal, the savings and loan swindle. To have no discussion of the progress in terms of the bailout and what we are doing about these crooks, and at the same time put in $74.2 billion in the budget is immoral.

There is a need for a long discussion of exactly where we are now with the S&L bailout, and what is this $74.2 billion going to go for. What happened to the first $50 billion that we put in, part of it on budget, part of it off budget? What is going on with the prosecution of the people who did the stealing?

The Federal Government, under Attorney General Thornburgh, appears to be paralyzed. They cannot prosecute anybody.

The worst offender in the country, Charles Keating, has been prosecuted by the Los Angeles district attorney. Thank God for the Los Angeles district attorney. They took steps to prosecute one of the worst offenders. They put him in jail. They have looked at him and said look, it is not so subtle what you have done, and we are not going to sue you in civil court. You sold junk bonds, you sold worthless bonds in the lobbies in your banks to senior citizens and to widows, and you sold them to 21,000 people, and they were worthless, and then you took more than $21 million of these people's money and you are a crook. We are going to prosecute you as a criminal, $5 million bail, and he is being treated like the crook he is.

Thornburgh, and the rest of his office, the Attorney General's office and the FBI, they seem to be lost in a maze. They cannot come right out and deal with crooks as crooks. They are suing Keating. Keating and other crooks are being sued. It is like having slick Willy Sutton who used to rob banks. For all of his lifetime he never got over $1 million. Put all of the money that Willy Sutton stole while robbing banks, and it was not $1 million. It is like saying we should have sued him instead of putting him in jail as a crook.

Keating has given us a bill of $2 billion. And there are plenty of other S&L's that have been closed down with multibillions of dollars in bills handed to the taxpayers.

The General Accounting Office has estimated that it will be $500 billion at least. Stanford University has a study that says it is going to be at least a trillion dollars that the American people are going to be paying back over the next 20 years. And yet the President and the budget summiteers chose to deal with this in an offhanded way. They just put it in the budget as a technical revision, another $74.2 billion.

It is the most immoral act of an agreement that is full of immoral acts.

PHILOSOPHICAL DIFFERENCES ON THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. LEACH] is recognized for 5 minutes.

Mr. LEACH of Iowa. Mr. Speaker, in this constitutional crisis, we have embarked today on a debate that goes to the root of philosophy as well as procedures. My own sense is that the White House may have erred a bit by standing by the views of legislators who would not stand by the President.

There is, after all, a great center in this body, and more importantly in the country, that supports the general framework of the President's approach, but would like to shift the internal balance of the budget brought forth this past week.

My sense also is that the majority party in Congress has little to be proud of. After all, no spending bills have been passed for the fiscal year that has already begun. Democratic members of the summit were conspicuous in their desire to postpone decisionmaking and present limited alternatives until the President announced a September 28 deadline.

More importantly, while there is a great question of fairness in details of the deficit reduction package that was presented to the House, there is a greater question of fairness in not having a package at all.

It is not fair, for instance, to Federal employees that this Congress cannot do its job on a timely basis.

□ 1840

It is not fair to the young of America to add an additional $300 billion to the national debt.

It is not fair to those who will be thrown out of work by the inability of Government to govern.

It is not fair to the elderly who will have to pay more for the same amount of food and medicine because of a refusal of this Congress to rein in deficits.

It is not fair to taxpayers who will have to pay more for nothing, that is, interest on the national debt.

If one assumes that the fairest budget of all is a balanced one, this Congress has failed the most important test of fairness.

It is not enough for the majority party to have the conviction to criticize. It must also have the courage to embrace pain. Just as we cannot fix a broken tooth with a cherry sucker, we cannot reduce the deficit without raising taxes or reducing spending.

Given the excesses of the past several decades, there is no way to avoid a tax increase or benefits revolt, no way for Members of Congress to hide from the telephone.

The lesson of the S&L debacle, the greatest one of all, is that the longer problems of insolvency are put off, the more expensive they will be later to rectify. The day of reckoning cannot be postponed forever. With regard to the gargantuan deficits, it is clear it has finally arrived.

It is now up to the majority party to lead. By turning back the President's initiative, the mantle of responsibility falls squarely on the shoulders of the Democratic Party.

It is this Member's view that the minority should listen. It should wait. It should be willing to work constructively on the detail, but based upon the record, it is not a time to have a great deal of confidence.

WHY THE AMERICAN PEOPLE ASKED FOR REJECTION OF THE BUDGET SUMMIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of California. Mr. Speaker, Members of the House, today during the discussions on the continuing resolution and the closedown of our Government and the prospect for us to reach an agreement, many people suggested that this was a frivolous debate, that this debate should be ended, that we should get on about our work.

I suggest to the people of this House and to the people of this Nation that this is a most important debate. This is a debate of how we will spend our money over the next decade. This is a debate about how we shall share the burdens of American life and how we shall reward those who share the benefits. This is a debate about how other nations shall share with us the burdens that we carry throughout the world, the nations that we protect, the sealanes that we keep open. Should those just be burdens of the American taxpayer, or should those burdens be shared by the nations that benefit?

We pay $29 a barrel for oil from the Middle East, and oil from the Middle East to the United States costs the American taxpayer $29 before we buy it. Why does it cost you $29? Because that is the defense cost before Iraq, last year and the year before, that we spent to keep the sealanes in the Middle East open.

The beneficiaries were not just Americans. They were not just people who drive in California or heat their homes in New England or till their farms in the Midwest. They were the Europeans. They were the Latin-Americans. They were the Asian countries. They contributed nothing to that.

That is what this debate is about tonight, tomorrow, and the next day, and it was about this last week. It is about the fact that in this last decade we added a trillion new dollars of debt.

We were told at the outset of the 1980's, much in debate like this, that we could lower taxes, increase defense spending, and have a smaller debt. They lied. They lied to the American people. Because in fact what we saw was, yes, we had lower taxes. What we saw was the people in the top 1 percent, the top 1 percent of earners in this country had their taxes reduced 23 percent. They had their incomes increased 90 percent. And yet we saw no relief for middle-income workers. They, in fact, saw their taxes go up. We saw very little, or no relief for poor workers, people who get up every day and go to work but at the end of the year they are poor. Their taxes were relieved a tiny, tiny bit, or maybe not at all when you figure in Social Security.

But what did you see? Those people who earned on an average of $550,000 got the biggest tax cut in this Nation. This debate tonight is about what will those people pay in the 1990's.

The question is: Should those who enjoyed the party, in fact, pay for the party, or should those who were not invited to the Reagan party, to the trickle-down economics, to the voodoo economics that George Bush described, should they have to pay?

When the summiteers went to the summit, they went for one reason, because they did not want to have the debate that we are now having in public. They went to Andrews Air Force Base.

If the American public knew what the President and John Sununu and Mr. Darman were offering at Andrews Air Force Base, they would need Andrews Air Force Base to protect them. They offered not $60 billion in cuts in Medicare that this House on a bipartisan basis rejected. They offered $90 billion in cuts in Medicare. That was their opening bid. And they struggled back and forth, struggled as they might between Democrats and Republicans.

And what was one of the things they threw on the table at the very last minute? They decided that they would take away Social Security from severely disabled children, children who are multiple handicapped in many instances, both physically and mentally handicapped, children who are blind, children who suffer from these handicaps. Our Government gives them a minimal allowance to survive. The summiteers, in the name of equity, in the name of balancing the budget, wanted to take away $1 billion from those 100,000 children so they could balance the budget.

No wonder they were at Andrews. No wonder they were there in secret. No wonder they do not want this debate on the floor of the Congress where the American public can see it.

Because the last time the President told the American public to pay attention to the budget, they called our offices overwhelmingly and asked us to reject it, reject it because of its cruelty, because of its meanness.

THE MORE WE TALK, THE LESS WE DO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. HOUGHTON] is recognized for 5 minutes.

Mr. HOUGHTON. Mr. Speaker, I am not going to take 5 minutes. I am probably going to take 1 or 2 minutes.

I know this is a house of debate. I know also it is a house of the people. And the people, frankly, have had it up to here with our oratory

Forget about philosophy, forget about different opinions, forget about the dramatics, we all have a different approach to the budget. We all could point our finger accusingly at someone and make a very effective point, and so with no disrespect to my associates, I am sick and tired of all this discussion in words and talk. The more we talk, the less we do.

You do a job in the amount of time you allow yourself to do it. Let us get to work and do it and dim the lights of this House and go about the process.

NO NEW GASOLINE TAX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] is recognized for 10 minutes

Mr. HAMMERSCHMIDT. Mr. Speaker, we are all committed to reducing the Federal deficit, but increasing gasoline and diesel fuel taxes to reduce the deficit, as contemplated in the budget summit agreement, is decidedly the wrong way to do it. It would be an extremely regressive tax and would be injurious to our Federal-aid highway program and the national economy.

Many Americans are concerned, and none more so than the fine transportation organizations that make up the American Transportation Advisory Council [ATAC]. They know better than most the value of maintaining a strong highway system and the importance of preserving the integrity of our highly successful and deficit-proof highway trust fund.

I would like to share with my colleagues the following letter that I received from ATAC, which states very forcefully and eloquently the importance of not using any gas tax increase for deficit reduction.

Hopefully we can make sure that all gasoline tax revenues collected will go into the highway trust fund as we move into the reconciliation process.

AMERICAN TRANSPORTATION ADVISORY COUNCIL,
Washington, DC, October 1, 1990.

Hon. JOHN PAUL HAMMERSCHMIDT,
House of Representatives,
Washington, DC.

DEAR MR. HAMMERSCHMIDT: While the undersigned organizations support the need to reduce the federal budget deficit, we are concerned about the approach taken by the budget negotiators to reach the $500 billion five-year deficit reduction goal.

The member of the American Transportation Advisory Council (ATAC) oppose any effort to raise the federal motor fuels taxes to achieve deficit reduction. For more than 34 years, motor fuel taxes paid by highway users have financed the nation's highway improvement programs and in recent years, urban mass transit grants.

The success of the Federal-aid Highway Program is due, in large measure, to the user financing mechanism of the Highway Trust Fund. The public supports road programs because they can see the benefits gained from the payment of the federal and state motor fuel taxes. With surface transportation needs growing at an alarming rate, sufficient investment must be made if our transportation system is to provide the level of service which Americans demand and on which the national economy depends.

A gas tax increase for deficit reduction would destroy the most equitable and dependable source of transportation development funding. It would remove the link between the user-pay concept and transportation improvement work seen by business and the motoring public.

The American Transportation Advisory Council urges you to reject the portion of this deficit package which proposes a 10 cents-per-gallon increase in the motor fuels tax for deficit reduction. The integrity of the Highway Trust Fund must be maintained to meet this nation's future highway needs.

Respectfully submitted,
American Road and Transportation Builders Association.
Associated General Contractors.
Construction Industry Manufacturers Association.
National Asphalt Pavement Association.
Partnership for Improved Air Travel.
National Stone Association.
Highway Users Federation.
Associated Equipment Distributors.
Salt Institute.
Virginia Road and Transportation Builders Association.
Wilbur Smith Associates.
American Concrete Pipe Association.
American Society of Civil Engineers.
United Bus Owners of America.
National Moving and Storage Association.
International Bridge Tunnel and Turnpike Association.
The Road Information Program.
National Waterways Conference.
Better Roads and Transportation Council.
American Consulting Engineers Council.
National Society of Professional Engineers Association.
National Utility Contractors Association.
Washington Representative, Florida Department of Transportation.
American Trucking Associations.
National Redi Mixed Concrete Association.
Associated Builders and Contractors.
Portland Cement Association.
International Road Federation.
Contech Construction Products.
American Bus Association.
National Coal Association.
Parsons Brinckerhoff.
Asphalt Institute.
American Public Works Association.
National Association of Counties.
Art Cameron Associates.
American Public Transit.
Donohue Associates.
U.S. Chamber of Commerce.
National Aggregates Association.

INTRODUCTION OF THE CIVIL RIGHTS AMENDMENTS OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. SENSENBRENNER] is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, today I am introducing the Civil Rights Amendments of 1990. The purpose of this bill is to rectify an inadequacy in our civil rights laws by increasing the criminal penalties to punish as a felony any violation of section 3631 of title 42, United States Code, in which damage exceeded $100, or fire was used or attempted to be used, or a firearm was used or carried during the commission of a violation of fair housing rights.

Consider the following examples:

A man spreads gasoline throughout a house recently rented by a black family and sets it on fire. Because no one is inside at the time, no one is injured, but the house is seriously damaged.

In an unrelated incident, a man lights gasoline to destroy a trailer in which a white woman lives with her biracial children because he saw the mother socializing with a white man. Fortunately, no one is injured, but the trailer is burned to the ground.

In each instance, the Department of Justice prosecuted the wrongdoers for violation of the rights and protections of the Fair Housing Act for interference by force or threat of force with an individual exercising of those rights, section 3631 of title 42, United States Code.

Despite the outrageous and criminal nature of these acts and the serious danger posed to the lives and safety of others, current Federal law only allowed each of the defendants to be charged with a misdemeanor, punishable by a maximum fine of $100,000 and 1 year in jail.

The proposed amendments would allow such acts to be punished as a felony rather than merely a misdemeanor.

Crossburnings are another type of conduct which should be chargeable as a felony. Even though there is often no bodily injury or significant property damage, crossburnings inflict enormous psychological damage on victims, particularly children who live in a targeted house.

The proposed amendments would not change the basic requirements that the Government prove that a perpetrator had "by force or threat of force willfully injure[d], intimidate[d] or interfere[d] with" another person because he is engaging in activity protected by the Fair Housing Act or encouraging others to do so.

The sole effect of the amendments would be to authorize the Government to charge a felony if it could establish one of the three enhancement factors. These factors would then be on a par with bodily injury and permit the imposition of a sentence that more accurately reflected the gravity of the defendant's conduct.

I urge the support of my colleagues on this matter.

A TRIBUTE TO ROBERT B. PEASE

The SPEAKER pro tempore (Mr. MFUME). Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, I rise today to offer my congratulations to Mr. Robert B. Pease, who is retiring after 4½ decades of civic service to the people of Pittsburgh.

Mr. Speaker, the cities of America have witnessed dramatic changes over the past few decades. We spend much of our efforts here in Congress trying to enact legislation to deal with urban problems. Yet among the many great cities in this Nation, Pittsburgh stands as one which has remained vital. Our downtown area has experienced more than one renaissance, and our neighborhoods remain dynamic. We in Pittsburgh have accomplished these goals in large part because of the lifelong dedication of Mr. Robert B. Pease.

Robert B. Pease's dedication to public service began during World War II when he served his country as a navigator in the 15th Air Force in the European theater. After the war, he graduated from Carnegie Institute of Technology—now Carnegie Mellon University—with a degree in civil engineering. From 1949 to 1953 he learned the art of redevelopment at Carnegie Tech, making major contributions to the university's own reconstruction.

In 1953, he joined the newly formed Urban Redevelopment Authority of Pittsburgh as an engineer. At the time, the URA was engaged in the large-scale renaissance of Pittsburgh. Bob quickly rose through the URA and became its executive director in 1958. For the next decade, he spearheaded the urban renewal of America's premier "Renaissance City" and created an example of urban redevelopment that set the standard for the Nation.

Since 1968, Bob has served our city as executive director of the Allegheny Conference on Community Development, one of America's most successful examples of public-private partnerships. Under Bob's able guidance, the Alleghany Conference has provided leadership in urban renewal, neighborhood revitalization, public education, and housing.

Mr. Speaker, we often hear that America has become so complex that individuals no longer matter. Yet, Bob Pease is an individual who has mattered. He has been a major player in almost every civic undertaking that has accomplished anything of scale in our city throughout his career.

In retirement, I am sure Bob will continue to provide leadership to our community through his many board positions. Those of us who have been involved in civic affairs will continue to seek his advice.

My warmest congratulation to Bob and his entire family on his retirement. I commend him for providing us with an example of how one person's career can add substantially to the quality of life in America's cities.

AN EXPLANATION OF WHAT IS GOING ON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, before I start, I think I should explain exactly what is going on for the uninitated.

After the House declined to override the President's veto, the leaders of both parties suggested that we recess this House until 8 o'clock so that the summiteers could try to put together a new budget resolution and bring it back to us. When the motion was made to recess until that time, it was objected to by several Republican Members of the House, or one Republican Member of the House, and so, very frankly, what is happening here now is because we were unable, under the rules, to adjourn.

Some of us have simply been asked to fill in, to give the summit time to move and to comply with the rules of the House by staying in session while they try to do that.

□ 1850

In a sense, we are time fillers. However, I think we can fill that time usefully.

What I intend to do with this time is to try to explain why I think we are at this moment with respect to the national deficit, and what we are trying to do about it.

However, I yield to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Madam Speaker, first a word to the many Federal employees if I could. I ran into a Federal employee from my district yesterday on temporary duty in Washington, DC. She said to me that she was worried about whether or not she would be reporting to work back home in Oregon on Tuesday. She was worried about whether the air traffic controllers would be allowed to work, to allow her plane to fly, so she could go back home to Oregon, and she worried as to whether or not she would have a job under the orders of the President.

However, she understood that what we were doing here was fighting over whether or not she would have fair working conditions, whether or not she would have a decent retirement system, whether of not she and her parents could now and in the future enjoy a decent Medicare system, and whether or not we would begin again in America to ask those of the greatest means to carry a fair share of the burden.

In the early 1980's, President Reagan spawned a fairy tale that we could reduce taxes on the rich, we could spend a lot more on the military, we could deregulate the savings and loan industry and other industries, and we would all be better off for it.

Well, it is 1990. Events have burst the bubble of Reaganomics. The national debt has tripled since 1980, the savings and loan scandal boggles the mind. We do not know how much that will cost. The evil empire that caused a trillion-dollar arms buildup has disappeared. Now we need to burst the bubble that still encapsules the White House down the street.

We will not slash Medicare here in the House of Representatives to subsidize more tax breaks for the rich. We will not cut unemployment benefits to subsidize more tax breaks for the rich. We will not raise a tax on all heating oil to subsidize more tax breaks for the rich. We will not continue to spend billions on weapons that do not work, to defend against a powerful evil empire that does not exist.

No more free lunch for the wealthiest 1 percent of Americans. We will burst the bubble here on this floor of the House of Representatives as many times as it takes. We burst it 2 nights ago, and we will burst it again and again until we restore a fair rate of taxation on the rich, until we restore a fair and equitable society for all Americans so that we can enjoy the fruits of our labor, and we can enjoy the great democracy of the United States of America.

It is not about partisan policics. It is about a White House that is suspended in time, that is trying to lock in Reaganomics, the cruelty of Reaganomics for 5 more long years. We cannot have it. We must not have it. We will stand firm here in this House.

Mr. OBEY. Madam Speaker, what I would like to do is try to give my own personal view of what has happened in the economy of this country which has created this situation which we face today, and what I think we ought to do about it.

I was elected to this House on April Fool's Day of 1969, so I have been here over 21 years. I have seen this House deal with a lot of problems. I have seen times when Democrats and Republicans have stood together, and I have seen when they fought very bitterly. This is one of those times when we are fighting very bitterly.

However, I do not think it is exclusively about politics. I have watched a number of the networks analyze what happened in the House the last 2 days, and I have heard reporters saying something like this. They say, "Well, you know, you have 435 politicians in the Congress, and they are all reacting to political pressures in their districts. That is why the President's package went down." Well, I would like to suggest that, believe it or not, believe it or not, there are officials in this Chamber and in the Senate and in other legislative bodies all around the country who do take positions not just based on political considerations. They also take positions based on what they happen to believe in.

I did not come here so that I could have a day-in-day-out political debate. I ran for office because I thought there were some things this country needed done. I ran for office because, frankly, I was mad as hell about some of the things the country was doing. I thought that we needed to change a lot of things. I thought that there were important principles to stand for, as well as thinking that there were plenty of important things which were important to stand against. One of the most important things in my view that we ought to stand for is economic policy and budget policy that both strengthens the ability of this economy to grow, and also presents a square deal to every working American in this country.

To try to explain why I think the House shot down the President's package the other night, I would like to explain what I think is happening to our economy. I want to start with the end of World War II. At the end of World War II our economy stood on top of the world. It was a colossus. It was unchallenged. Nobody could lay a glove on Americans. We were almost the only economy in the world that had not been ruined by the war. So for any young worker just entering the work force at that time, he faced a golden era in American economic history because in the first 25 years after World War II, the income of the average American essentially doubled. The real income, even after we adjust for inflation. The major reason for that is because wages went up by a very significant degree, about 80 percent of all the growth in the economic wealth of this country over those 25 years came from increases in wages.

Then we were hit with the oil shocks of 1973. We were hit with the oil shocks of 1977, and in my view what happened to the economy then revealed a number of major weaknesses in the American economy. It showed, for instance, that we really were not doing a very good job of hanging on to our ability to produce traditional products such as the good old-fashioned American automobile. We produced products which Americans thought were pretty good, but all of a sudden foreign competitors were producing products which a lot of consumers thought were better. That was not just true of autos. It was true of an awful lot of other items. So America began to lose market share with respect to an awful lot of those traditional products.

At the same time, Americans also began to have a great deal of difficulty in competing with foreign countries and selling new products on the market. VCR's are one example, television is another example. So, little by little, Americans lost our share of world markets for a whole range of products. We began to see a squeeze on income growth in this country, especially for people who earned their income through wages.

Then came the inflation of the late 1970's brought on by the second

energy price oil shocks, and that led to the election of President Reagan in 1980. The President brought this Congress a set of new ideas about how to deal with the economy. Essentially, he proposed budgets in the form of the Gramm-Latta budget proposal in 1981, and in the form of the Hance-Conable tax amendment in 1981 to very much change the structure of the American budget and to try to change the nature of the American economy. If we take a look at that, we see why we are here today.

□ 1900

At the time that Ronald Reagan walked into the White House in January of 1981, our deficit was $57 billion. Our defense budget was $160 billion.

President Reagan told the Congress, "If you pass my budget, if you pass my tax bill, we will increase prosperity across the board. We will have a generalized increase in prosperity."

So we took what was called by the Senate Republican floor leader at that time, Howard Baker, we took what was called a riverboat gamble. I did not. I happened to oppose both of those actions.

I did not just say no, as a good many Members of this House just said no 2 days ago. I felt that I had the responsibility if I was going to have a constructive alternative.

So we went to work with a large number of Members of this body and we put together what we called at that time a progressive alternative to the President's budget. That alternative would have borrowed less, spent less, and provided lower tax levels for middle income taxpayers than the President's package. We were defeated, but we stood for something and we did so clearly. We did not just say no. We offered an alternative.

The guts of the Reagan proposal at that time were simply to say that over a 5-year period of time we ought to double military spending, and they suggested we could afford to do that because we would cut tax rates.

Now, I was never very good at math, either in high school or in college, but I always had a tough time figuring out how you could reduce your income, increase your spending, and balance the budget at the same time.

But the President said, "Don't worry. If you follow our package, we will generate so much by way of income growth in this country that we will wind up bringing more revenue into the Treasury, not less."

So the Congress followed his judgment. The Republican Party voted virtually unanimously in this House, with one dissenting vote on the budget, very few, I think no dissenting votes on the tax package. There may have been a few. I do not quite remember after 10 years.

On the Democratic side, the vast majority of us, about 175, opposed both those packages, but there were about 60 Democrats who did not and that coalition was enough to put the President's package into law.

Donald Regan, who was the Secretary of the Treasury at that time, said after all of it was passed, "Our program is now in place." I am quoting him virtually verbatim.

Well, I think we ought to take a look at what that program did, and it was not solely responsible. I want to be very clear on this. A lot of what has happened in this economy did not just happen because of Reaganomics. A lot happened because we have fundamental problems in this economy and this society has not faced up to those problems, and unfortunately in my view we have not had the leadership coming from the executive branch of the Government which forced American society to face up to those problems. We have essentially had the good news bearers in charge, in my view. We have had two Presidents and three sets of Presidential advisers since that time who have essentially said, "Let's just deliver the good news and paper over the bad news."

So we have muddled along for 10 years, subtly getting weaker and weaker in terms of our relative strength in the world economy, until today we face a very serious situation.

If you take a look at what has happened in the budget which has contributed, in my view, to that decline, what has happened is this. If you take a look at military spending as a percentage of the budget, it has increased by about 5 cents out of every dollar that we spend on our budget from 1980 to today.

What we spend on programs for retired people has remained as a share of the Federal budget just about even. It probably has gone up about half a cent out of every dollar in the budget from 1980 to today.

What we have spent for the nonelderly poor has essentially been cut by about 20 percent. What we have spent on interest has increased by almost 60 percent, because while we were spending about 9 cents out of every dollar on interest before Ronald Reagan went into the White House, today we are spending about 14 cents on the dollar.

Then we come to the biggest chance of all outside of interest, that is what I call the domestic investment portion of the budget, and I am not talking about programs that simply give checks to people. That is in the entitlement part of the budget. What I am talking about are the investments we make in kids by way of education, investments we make in science by way of research to stay on the cutting edge, whether it be science to put our equipment in space or send it to Mars, to whether it is science to keep us on the cutting edge of technological change so that we can remain competitive in producing products all around the world. We have seen a huge reduction in all that; but whether you are talking about education, what we invest in science, what we invest in health by way of health research at the National Institutes of Health, at the National Academy of Science, all of those, if you take a look at what we invest in community infrastructure, the highways, the bridges, the sewage treatment plants, things that you need to make communities a place where you can grow and prosper and be a good place for businessmen to create jobs and workers to make decent wages, if you take a look at that portion of the budget, you will see two things. You will see, first of all, that as a percentage of the budget we have shrunk that part of the budget by about 40 percent since 1980, and you will see that in real dollar terms, if you want to look at it in another way, you will see that in real dollar terms after you adjust for inflation, we have reduced what we are putting into those investments by about 30 percent. I think that has caused a tremendous amount of problems in terms of our ability to compete.

But that budget put in place by President Reagan at that time has done some other things, because it was really a 5-year plan upon which we all embarked. That budget also resulted in our doubling the military budget over 5 years time, and because that fact was accompanied by a tax proposal which cut huge amounts out of our revenue base and gave especially large tax cuts to the wealthiest people in this society, we wind up today with a budget deficit approximately three times, almost four times the size it was when Ronald Reagan walked into the White House.

Now, to understand the difference between the Democratic Party, or at least the Democrats who voted against the budget 2 days ago and the President's summit package, to understand why we voted against it, I think you have to look at who got what in the 1980's, because that is what this fight is all about. If you take a look at what happened to income growth in the 1980's, this is what you will see. From 1980 to today, the wealthiest 1 percent of American society increased its income on average from about $313,000 in 1980 to $556,000 today. That is a huge increase.

If you take a look, however, at the worker precisely in the middle of the income stream in this country, the mean level exactly in the middle, half of all American workers on top and half of all American workers below it, you will see that worker right exactly in the middle has lost in purchasing

power on his income since 1980 about $2,000.

Now, that has been papered over because as the squeeze on middle Americans continued, American families in the main responded by simply sending more women into the workplace. A lot of women went into the workplace outside of the home because they wanted to.

□ 1910

But a lot of them left home and went into the workplace because they had to, to try to make up for the lost purchasing power of their husbands' incomes.

On average, on average the new second workers in the workplace over the last 10 years brought about $3,400 in additional income into every American family. That is on average.

High-income workers brought in a lot more and low-income workers, unfortunately, brought in a lot less.

So the income from that second earner in the economy managed to help keep the middle American family just floating with their head above water, not much gain at all over the 10 years, just staying even.

But about 30 percent of the additional income brought into families by those new working women, about 30 percent of that income was eaten up by transportation costs, child care costs, uniform costs, you name it.

And so the result is, that for American families in that broad middle, they have stayed just about where they were in the 1980's, while the high rollers in this society have been on the gravy train, if I can mix a metaphor.

But take a look at the tax side, at the same time. We have heard an awful lot about the Reagan tax cuts in 1980. But when you combine Social Security taxes with other taxes that taxpayers paid, you see that for virtually all taxpayers under $60,000 they have not had a real tax cut in the 1980's; they have had a tax increase. And the only families who have really cleaned up are families at the very, very top of the income scale, because the wealthiest 1 percent of American families in the 1980's have had, on average, a tax cut of $12,000 while virtually everybody below $50,000 or $60,000 a year has really had a tax increase. And that fact is, at the core of the concern for Democrats like yours truly, who voted against the President's summit package several days ago.

If you take a look at the income growth in the 1980's, for instance, you will see that the total income growth for American families in the richest 1 percent of the population was larger than the total combined income growth for 90 percent of all American families.

That is how astronomically the income of the richest 1 percent of Americans has grown. That is why we are insisting that in any budget deal we finally get a break for the middle class, for the middle-income worker. And that is what we had hoped we would get.

Now, you also need to understand one other fact about taxation. At the present time the Tax Code has, what is politely called, an anomaly and what I would call a rip-off. The Tax Code works pretty much like this: On all income up to about $42,000 you pay at a 15-percent rate. But then on income between $42,000 and $75,000 you pay at a 28-percent rate. Because of a new gimmick in the Tax Code, income between $75,000 and $175,000 is taxed effectively at the marginal rate of 33 percent. But then, once you get above $175,000 in income, that tax rate drops again. It drops 5 percent down to 28 percent.

What that means is: If you are making $200,000 a year, the marginal tax rate on your income is 5 percent lower than it is on somebody who makes $75,000 a year.

As my uncle used to say, "That just ain't fair." And it is not fair.

So what the Democratic Party has fundamentally believed is, that if we are going to have any budget deficit reduction package which includes taxes—and the President has now concluded that that is necessary, and so has the leadership of both political parties—what we say is that if any budget deal includes taxes, the very first place you ought to go to get the bucks is to that bubble, what is called the bubble, the drop in income tax levels for people making more than $175,000 a year.

Yet, when we looked at the summit agreement, we saw that is not what took place at all. We saw a summit agreement that wanted to cut Medicare by $60 billion, we saw changes in taxes which wound up in the end providing a double hit on someone making $16,000 to $25,000 a year. They wound up effectively losing twice as much of their income on a percentage basis as the wealthiest 1 percent of American families. And so that is what we objected to. We felt, for instance, that it was terribly unfair to say to a GI in Saudi Arabia now on the front lines who perhaps might have to lay down his life for his country in America's national interest, we found it quaint, to say the least, that the package the President was recommending would, in fact, impose a higher tax increase on that GI than it would somebody making a million bucks a year in this country. We thought that was backward. That is why we offered, Congressman DORGAN and I, tried to offer during the budget summit fight 2 days ago, we tried to get the right to offer a package that would make a number of changes. The first thing we wanted to do was to cut military spending by an extra $35 billion above the cuts provided in the summit agreement. You know, the summit agreement is an interesting document. When it sets the defense number, it exempts from the defense budget limit whatever amount is going to be spent on our war efforts in Saudi Arabia.

Now, I have been here 21 years: that is a long time. I never thought I would see the day when the defense budget is dedicated to all those expenses except the possibility of fighting a war. The logic of that escapes me.

I thought the whole purpose of the defense budget was to prepare us for war, and I think that makes about as much sense as saying, "OK, we are going to set a ceiling on Medicare, but we are not going to count what it costs to deliver health care to sick, old people."

I think it would make just about as much sense.

So we wanted to cut defense spending by about $35 billion. We wanted to move about $30 billion of that money into Medicare. We wanted to also eliminate the 2-weeks' waiting period for the unemployed to collect unemployment insurance because, as the summit agreement says, it said to those who lose their jobs, "Sorry, folks, we are going to make you wait 2 weeks before you can collect your first unemployment check."

We did not think that was fair. We also wanted to reduce the hit on veterans health programs by $1 billion, and we wanted to provide some adjustment in the agriculture number to ease the squeeze on farmers.

On the tax side, what we wanted to do was to eliminate that notoriously unjust bubble so we could get the very wealthiest people in this society to pay tax rates at least as high as people in lower groups. By eliminating that bubble, we would have raised $45 billion in revenue.

Then we wanted to say for all those making more than $200,000 a year, we would raise that marginal tax rate to 35 percent. So it would be an additional 2 percent above what somebody is paying if they make $75,000. That is hardly Karl Marx revisited. That is hardly confiscatory taxation. It simply is suggesting that we ought to have a tax code based on the ability to pay, not on your political ability to avoid taxation. That is what we asked for, and that is what we were fighting for.

□ 1920

Mr. Speaker, we also wanted to eliminate the outrageous $12 billion new items that would have created a whole new series of tax breaks for the very wealthy, which one network indicated would enable those with incomes over $700,000 to in fact reduce their taxation under the President's budget package. There is absolutely no reason on God's green earth why in the con-

text of a deficit reduction package, we should be telling the richest people in America that they can explore the possibilities of a tax cut, especially given the fact of who had the biggest party in the 1980s.

So, that is basically what we were trying to do in the Dorgan-Obey budget proposal which we offered for consideration, and it was not that we were wedded to that proposal. What we were simply doing, by offering that proposal, is trying to put pressure on the system to move it toward fairness for the average taxpayer.

Let me tell my colleagues why I think that is important. As my colleagues know, this town pays a lot of attention to polls, and one of the polls that people are talking about these days is the new Los Angeles Times poll, which shows that a tremendous number of Americans are turned off on American politics.

Mr. Speaker, I think they are turned off with good reason. I happen to be immensely proud to be a politician. I got into politics because of what I thought Government, acting intelligently, could do to make the life of the average person better. I got into politics because I saw the abuse of power in my own State by a turkey by the name of Joe McCarthy a long time ago, who figured that the only way to succeed in politics was by smearing somebody else's reputation. I got into politics because I cared about civil liberties. I got into politics because I cared about a square deal for average working people in this country. I got into politics because, before I leave this place, I want to see universal health insurance so that every American who needs to see a doctor or needs to go to a hospital can go to that hospital, go to that doctor, without embarrassment because it is a basic American right, not because somebody is showing them a little kindness, much though, I think, we all ought to show people in that position, kindness, but I think people ought to have the right to access to health care simply based on the fact that they are an American and they live in the greatest country in the world.

Mr. Speaker, that is why I went into politics, and, when I look at the Los Angeles Times poll, it disturbs me because I think that the very essence of democracy is threatened when you have people turned off on the political system itself.

Mr. Speaker, people ask, Why are people turned off on politics, and some people say, Well, it's because they have got a lot of ethical problems. Mr. Speaker, I would be the first to admit that there have been some spectacular problems faced by the Congress and by the executive branch lately. However I think my record also indicates that I have been at the very core of all the efforts to strengthen the House ethics code, to strengthen campaign finance reform and to basically try to evaluate the American political system along the way.

However, Mr. Speaker, in my view there is a much more basic reason why average Americans are turned off on politics, and that is because they say that the political system no longer delivers a square deal for the average American. They say that politics is all too often the system by which the fix gets put in for the very wealthiest people in this society, and, unfortunately, if my colleagues take a lock at the Tax Code, that is exactly what it looks like because, if someone is making more than $60,000 or $70,000 a year, they are treated not too badly, and, if someone is making more than $200,000 a year, they are treated very, very well, indeed.

I think that if we want to restore people's confidence in the ability of the American political system to deliver what they have a right to expect from us, the place we have to start with is the Tax Code, and the place we have to start with is the budget. It just seems to me that the American public will not regain its faith in the American political system until they know that we will turn down every budget deal which gives a better deal to the wealthiest in this society than it does to the basic middle American, who does the most to carry the load, and who often gets the least out of the political system.

As my colleagues know, at the end of World War II the average American thought that Government was on his or her side because Government was helping him to go to school with the G.I. bill Government was helping young families to buy their first homes through the VA housing program and other housing programs. Today what do they see Government doing? Imposing taxes and providing tax breaks for the wealthiest among us, and in my view that, more than anything else, has to change. The people have to know that this system is strong enough to stand up to those who want special deals and can have the financial ability to lobby this place and the White House. They have to know that we are going to cut through all of that and produce a package which provides absolute, or at least reasonable, fairness for the average American.

In my view, the single most important thing we can do to restore the faith of the average American in the American political system is by earning that faith, by changing the Tax Code to provide a much better deal for working Americans than they get today, and we do that by eliminating the bubble, by, in my judgment, raising the taxes on people above $200,000 up to 35 percent, and then we will take a look at what we will do on taxes for the middle class. I do not expect that any middle-class American expects that he will be able to avoid taxation, but he should not be he first one in line because he is the guy who paid for the party in the 1980's while the high rollers are the guys who went to the party. We should not expect working class Americans to not only pay the bill, but also pay the tips.

So, it just seems to me that those who voted down that budget package this week because of that concern were right, and I hope that the summiteers recognize that, and bring us a summit, which will give us the possibility at the reconciliation stage in this process, to produce a tax package a whole lot more fair than the package presented by the leadership and supported by the President so vigorously over the past week.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. OBEY], my friend, for yielding, and I am not sure my friend remembers, but back in the 1970's, just soon after the gentleman from Wisconsin arrived in the House, he conducted a seminar for those who had just been elected. I was very much impressed by what the gentleman said then, and that goes back almost 20 years, and I remain impressed by what the gentleman has said, not just tonight in this special order, but have said for the last several weeks concerning the questions of progressivity, and equity and fairness in the Tax Code. I thank the gentleman for his leadership, and I would also reflect on one other thing.

The gentleman from Wisconsin [Mr. OBEY] alluded to another problem on the part of the American people, the fact that they are losing faith. They have much misgiving about the fairness of the political system, how the political system operates, and the gentleman from Wisconsin who is in the well, is a leader in the House on the whole question of election reform. I would just ask the gentleman very simply, as he concludes his time, if he agrees with the gentleman from Kentucky, that we would be remiss in the 101st Congress if, despite all of these anxieties we have over budget, and sequester, and continuing resolutions and all of the things that are keeping us in session on Saturday night or will have us in session tomorrow, would we not, I ask the gentleman from Wisconsin [Mr. OBEY], be remiss if we did not attempt to pass some type of campaign reform even in these last 2 weeks of the Congress?

Mr. OBEY. Mr. Speaker, let me simply say that until this year, when we did pass just a month ago or so, the Swift bill, I say up until that time, as

the gentleman knows, the last campaign finance reform bill was the one with my name on it, the Obey-Railsback, in the 1970's.

□ 1930

I believe very strongly that we simply must have election reform. But I feel that any reform which does not include spending limits is in fact no reform at all. The most important reform that we can have is a reform which enables every single Member of this body to spend more time here working on the problems of this country and more time home listening to the views and concerns of our constituents, and less time on the fund-raising trail trying to raise money, because we know that under the way the political system works today, it is possible literally overnight for some lobby group to get mad at you and decide they are going to spend $200,000 or $300,000 against you in an independent expenditure and feed a lot of money to a potential opponent as well.

So it just seems to me that the best thing we can do to restore a sense of equilibrium in American politics would be to pass that kind of campaign financing.

Mr. MAZZOLI. Mr. Speaker, I would just say to the gentleman that I agree with him 100 percent. I supported him in the amendment he and the gentleman from Oklahoma offered on the question of public financing, which may not be possible in this Congress, but I hope the gentleman will continue to show his leadership on that question, because I do think ultimately the one hope we have of limiting spending and bringing the cost of campaigns down is to have some form of partial public financing that would be triggered after a candidate shows that he or she has reasonable support within their communities.

So I thank the gentleman for his leadership on the tax questions, on the questions of ethics, and certainly on the question of campaign reform.

Mr. OBEY. Mr. Speaker, I thank the gentleman from Kentucky.

As I said, I certainly think that is a part of restoring people's basic confidence in the political system, but I really believe in the end that when people evaluate the political system, they evaluate it most clearly in terms of how it has affected their own lives and what kind of pressures it brings to them and what kind of pressures it relieves and what kind of possibilities it creates for them.

I want to make one other point. When I talk about taxing the very wealthiest people in this society, I do not have anything whatsoever against people happening to have a lot of money. I congratulate them for it. I am happy that there are people in this country that can make it. Part of the American dream is always the idea that if you work hard enough and if you get lucky enough, just maybe you can make it big. Every American wants that, and I do not think many Americans begrudge people who do happen to do that.

All I suggest is that those people who are fortunate enough to be in those circumstances need to pay their fair share.

Let me tell the Members something: When I go back home, I run into many businessmen. I talked to a chief executive officer of a major corporation in my district just about 3 weeks ago. He happens to be in that very favored bracket, making more than $170,000 a year, and he said to me, "Dave, I don't understand it." Now he said, "Why doesn't the President support eliminating the bubble?" He said, "I find it embarrassing." He said, "Nobody can object if you eliminate the bubble." He said, "I shouldn't be paying a tax rate lower than people who make less than I do."

He said, "Why can't you guys get that done?"

I think that is a very good question. I do not understand it either, and I would ask the President that question: "Why can't we get that done?"

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I am very happy to yield to the distinguished minority leader.

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, we were listening with unabashed attention to the very profound remarks of the distinguished gentleman from Wisconsin, and I hesitated really to interrupt that discourse, but I am most appreciative of the gentleman's yielding so that I might in turn ask the distinguished Speaker of the House a question as to how he sees our proceeding, No. 1, on the balance of this evening or into the night, and then how we would proceed tomorrow.

Mr. FOLEY. Mr. Speaker, let me say this to the distinguished Republican leader, if the gentleman will yield.

Mr. OBEY. I am happy to yield to the Speaker of the House.

Mr. FOLEY. Mr. Speaker, I am in the unusual role of acting in behalf of the majority leader, Mr. GEPHARDT, who is even now engaged in efforts of trying to obtain an agreement on the budget, which is what we are all anxious to do. But it appears clear that because of objections and concerns of Members on any consideration this evening, it would be unnecessarily demanding on Members to leave them in doubt about whether there will be a vote on the conference report tonight when almost assuredly that cannot take place.

So it will be my intention in a few moments to ask unanimous consent that when the House adjourns this evening, it adjourn to meet at 1 p.m. tomorrow. We are taking this time tomorrow to allow Members to attend church services and to be present in the House in the afternoon.

It is doubtful in my mind that there would be anything except procedural votes before about 2, but I cannot give assurances beyond that. There may be procedural votes almost immediately at 1 p.m.

It is our intention tomorrow to seek to proceed with an effort to reach a conclusion on a budget summit conference report which, if concluded, would be brought to the House tomorrow and considered by the House and subsequently approved by the Senate.

It is my hope that the House could concentrate its work for the rest of the evening tonight and into the early morning hours, which some Members will undoubtedly be doing in seeking this event, so that the full membership could be presented with a conference report at an early time tomorrow afternoon or evening or whatever time it requires.

In the meantime, it will be necessary, I assume, for Members on each side to be meeting and discussing their views and concerns. We have determined on this side—and I know that view is shared by the distinguished gentleman from Illinois—that it is very important that we obtain a budget resolution conference agreement, and that it is approved by the Congress this weekend, and as soon as possible. No one can give a precise date, but our joint efforts in that direction are most important.

I think that is about all that I can say at this time. I would be happy to respond to any questions the gentleman might have.

Mr. MICHEL. Yes. I thank the Speaker for that particular information.

I would assume that we would try and have a request that we both could agree with sometime tomorrow for recess authority after we once convene. I know on my side it is just imperative that we have a conference. I have nothing new to tell them yet, obviously, but, if nothing else, the conference might be held just so they could air their feelings, probably prior to our then going back to doing what we normally have to do. I assume that may be the situation on the other side of the aisle.

Mr. FOLEY. Yes indeed.

Mr. MICHEL. So I think we would want to alert Members, as the Speaker indicated, probably no more than with a call of the House or a vote on the Journal. I would not call it, but some of the Members may very well do that. So once we have convened the House, that is a prospect. Then beyond that we would take it step by step and hopefully make it a meaningful day, because I think every one of the Members, quite frankly, down deep in their

hearts, would like to get this thing resolved.

Mr. FOLEY. Mr. Speaker, I share those views entirely, and I think, for the convenience of both sides of the aisle and for the party conferences and caucuses meeting, as they almost surely should and will meet, that we need to obtain early recess authority.

Mr. MICHEL. Then I might also assume, Mr. Speaker, that having no further business in order for this evening, but not wanting to x out any Members making any further profound remarks in the nature of a special order, sometime we would come to the point where we would adjourn this evening without requiring the other Members to be present.

□ 1940

Mr. FOLEY. Mr. Speaker, I also agree with that.

ADJOURNMENT TO SUNDAY, OCTOBER 7, 1990

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 1 p.m. on Sunday, October 7, 1990.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Washington?

There was no objection.

AN EXPLANATION OF WHAT IS GOING ON, CONTINUED

Mr. OBEY. Mr. Speaker, reclaiming my time, if I could just note, Mr. Minority Leader, I remember in times past when I first came here when we were waiting for adjournment, sometimes rather than speeches, we were entertained by the vocal efforts of the minority leader—I mean in song, not in speech.

The next time someone asks me to fill in while you two are working out an agreement, if you could just make arrangements so I could bring my bluegrass band here, I think the minority probably would have a whole lot more fun than listening to my views on the economic developments the last 20 years.

Mr. MICHEL. I thank the gentleman for that comment. If I might just add to it, there were those days when either at adjournment or in moments when we were attempting to bide some time, there was much more conviviality and frivolity maybe, and humor and good accord between the parties at that time. I guess I would be remiss if I did not say I long for the return of some of those old days when there was much more of that in evidence.

I have to say, however, that quite frankly, even today, with a very contentious issue like voting to override or sustain the President's veto, which naturally brings us to some partisan exchange, it went quite well. Frankly in the last several days Members have all I think become more and more aware of the fact that it is absolutely necessary to come together in order finally to get a budget resolution to which we can get a majority vote in this House.

Mr. HOYER. If the gentleman will yield, I just want to say with the minority leader still on the floor, that I know, Mr. Minority Leader, that I speak for all Members on both sides of the aisle, to the degree that we have worked toward that objective of civility between the two sides, with respect for one another and positive actions on behalf of the country and its citizens, I think the minority leader, whom all of us admire and have a great deal of respect for, plays a very, very significant role in that effort.

Mr. MICHEL. I thank the distinguished Member.

Mr. CAMPBELL of California. If the gentleman will yield, the day should not pass without notice of one very happy event amidst potential turmoil, and that is that Stanford University defeated Notre Dame in football, and that this victory establishes to all in doubt not only the presence of God, but on which side she plays.

Mr. OBEY. Mr. Speaker, I yield to the gentleman from Indiana.

Mr. VISCLOSKY. Mr. Speaker, I appreciate the gentleman yielding. As a Notre Dame law graduate, I want to congratulate the gentleman, all of the residents of the State of California, and particularly Stanford University. They were the better football team today. They are an outstanding university. If Notre Dame has to lose a football game, it is a privilege to lose it to Stanford.

Mr. MAZZOLI. If the gentleman will yield, I would join with the gentleman. As a Notre Dame alumnus, I listened to the game on the radio and was in deep despair in the last quarter when Stanford scored its winning touchdown. As the gentleman has said, the university the gentleman represents is a topflight university, a topflight operation, as Notre Dame, is. If we had to lose, it was a worthy opponent we lost to.

Mr. OBEY. Mr. Speaker, let me observe, coming from Wisconsin, given our record the last 3 years, we were playing Michigan today. I have no idea how we are doing. All I know is I am praying.

Mr. DE LA GARZA. If the gentleman will yield, forgive me for not continuing with the topic, but I just wanted to advise Members that tomorrow, if there be time, I expect to take some time to visit about agriculture and the impact that agriculture has on the Federal budget.

We under the summit proposal that was defeated were allocated $1.3 billion for 1991, and $13 billion in the 5 years. But yet the impact of agriculture on the Federal budget is, if you can see the tiny little line that you cannot even see, this is the impact that programs in agriculture have on the Federal budget. We are being given a tremendous amount.

Also to lay some misconceptions or erroneous perceptions that all of the funds in agriculture go to farmers and farm support programs, again, this chart shows almost 50 percent is nutrition, food stamps and school lunches.

So when you are hitting agriculture, you are aiming at the big farmer, and that actually is an erroneous perception. But it is not hitting the big farmer. Only 17 percent of the budget of the Department of Agriculture goes to farm support programs.

I think it is unfair, and I hope that the conference takes that into account. Because as the gentleman was mentioning, in the defense area the cost overrun in one system in defense would pay for all of agriculture for 1 year, more often than not. But if someone gets a few more dollars in agriculture, they are reprimanded, they are filed upon in Federal court, they are taken to court, some of them. If they were in error or if they were guilty, well, they should pay for it.

But in the Defense Department they call it a cost overrun, and everything is OK, as long as it is a cost overrun.

I want all Members to remember for tomorrow when I have more time than this 0.6 of 1 percent is what farm support programs impact on the budget. I hope that we can be treated accordingly.

Mr. SERRANO. If the gentleman will yield, I will not take long. I come down after watching the gentleman from Wisconsin [Mr. OBEY] to join in a discussion, being very supportive of what the gentleman is saying, but perhaps trying to bring us to another level, certainly in another direction.

Mr. Speaker, I will not interfere with the fact we want to adjourn, but I think at some time we have to begin to take the comments Members are making, which are so on target, and to begin to discuss how they affect people who live in districts like the South Bronx.

I was told that we had a good 6 or 8 years in the economy, and no one in my district really saw any of that goodness that took place in this country.

Over the last 2 or 3 weeks, I have been listening to conversations about stockholders and about bonds and about interest rates and cuts in certain areas. I am sure it has nothing to do with the fact that I have only been here 6 months, and it has nothing to do perhaps with a lack of understanding of some of these figures.

I think it has to do with a desire to see us discuss more and more the fact that 1 out of 4 babies that are born in my district now are testing positive with AIDS; that I have more babies born addicted to crack than any other place in the Nation; and that 62 percent of all young people in my district do not graduate from high school. That goes on and on and on and on. There are 125,000 individuals waiting to move up from a rat-infested apartment into public housing.

Now, I grew up in public housing. Why anybody would want to move up to public housing really indicates the condition that we are talking about.

I hope that within the next 24 hours a few Members would get up and try to bring this conversation that has to do with stocks and bonds and people who play the market and people who are affected by mathematical figures, and try to explain to me and other people in this country how all of these things can affect the AIDS patients in my district, the 62 percent who drop out, and the fact there is a large segment of this community in this country which does not enjoy the beauty and the strength and the goodness and the richness of this, the greatest country on Earth.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DYMALLY (at the request of Mr. GEPHARDT), for today, to attend the funeral of Mayor Tucker of Compton in the 31st Congressional District.

Mr. HANSEN (at the request of Mr. MICHEL), for today, on account of attending a funeral.

Mr. HENRY (at the request of Mr. MICHEL), from 6 p.m. Friday and Saturday, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Goss) to revise and extend their remarks and include extraneous material:)

Mr. DOUGLAS, for 5 minutes, today.

Mr. HAMMERSCHMIDT, for 5 minutes, today.

Mrs. BENTLEY, for 60 minutes, each day on October 9, 10, 11, 12, 15, 16, 17, 18, and 19.

Mr. LEACH of Iowa, for 60 minutes, today.

Mr. BOEHLERT, for 5 minutes, today.

Mr. SENSENBRENNER, for 5 minutes, today.

Mr. DREIER of California, for 60 minutes, each day on October 12, 15, 16, 17, 18, and 19.

Mr. DORNAN of California, for 5 minutes, each day on October 9, 10, 11, 12, 15, 16, 17, 18, and 19.

(The following Members (at the request of Mr. MILLER of California) to revise and extend their remarks and include extraneous material:)

Mr. COYNE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of New York, for 5 minutes, today.

Mr. OBEY, for 60 minutes, today.

Mr. DURBIN, for 60 minutes, today.

Mr. VOLKMER, for 60 minutes, today.

Mr. MAZZOLI, for 15 minutes, today.

Mr. GAYDOS, for 60 minutes, each day on October 9, 10, and 11.

Mr. VISCLOSKY, for 15 minutes, today.

Mrs. UNSOELD, for 15 minutes, today.

Mr. STENHOLM, for 15 minutes, today.

Mr. MILLER of California, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

The following Members (at the request of Mr. MILLER of California) and to include extraneous matter:)

Mr. MRAZEK.

Mr. WEISS in two instances.

Mr. MCMILLEN of Maryland.

Mr. TRAXLER.

Mr. TRAFICANT.

Mr. ACKERMAN.

Mr. LANTOS in two instances.

Mr. BONIOR in two instances.

Mrs. KENNELLY.

Mr. MANTON in two instances.

Mr. MAZZOLI.

Mr. GONZALEZ.

Mr. STARK.

Ms. SLAUGHTER of New York.

Mr. SKELTON.

Mr. MILLER of California.

Mr. DE LA GARZA.

Mr. ROE in two instances.

Mr. TORRES.

Mr. SCHUMER.

Ms. PELOSI.

Mr. SYNAR.

Mr. SCHEUER.

Mr. RAHALL.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 660. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

ADJOURNMENT

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 50 minutes p.m.), under its previous order, the House adjourned until tomorrow, Sunday, October 7, 1990, at 1 p.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. H. Res. 496. Resolution providing for consideration of the conference report on H. Con. Res. 310, a concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995 (Rep. 101-817). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. CONYERS: Committee on Government Operations. H.R. 5687. A bill to amend title 31, United States Code, to improve the financial management of the Federal Government by establishing a Chief Financial Officer of the United States within the Office of Management and Budget; by establishing a Chief Financial Officer within each executive department and within each major executive agency; and by requiring the development of systems that provide complete, accurate, and timely reporting of financial information; with an amendment; referred to the Committee on Post Office and Civil Service, for a period ending not later than October 9, 1990, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(o), Rule X (Rep. 101-818, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 3977. Committee on Interior and Insular Affairs discharged from further consideration of H.R. 3977.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. YOUNG of Alaska:

H.R. 5802. A bill to provide for the transportation of cargo by vessel in the Aleutian trade, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MICHEL.

H.J. Res. 665. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes; jointly, to the Committees on Appropriations and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 222: Mr. SCHIFF.

H.R. 5505: Mr. VENTO, Mr. SMITH of Vermont, and Mr. MCCLOSKEY.

H.R. 5625: Mrs. MEYERS of Kansas, Mr. KILDEE, Mr. BOUCHER, Mr. DORGAN of North Dakota, Mr. HARRIS, Mr. BUSTAMANTE, and Mr. LEHMAN of Florida.

H.J. Res. 644: Mr. FISH, Mr. SCHIFF, Mr. DWYER of New Jersey, Mr. LANCASTER, Mr. JONES of North Carolina, Mr. LEHMAN of Florida, and Mr. CLARKE.

H. Con. Res. 371: Mr. HOCHBRUECKNER, Mr. BUSTAMANTE, and MS. KAPTUR.

EXTENSIONS OF REMARKS

WHERE THERE IS NO JUSTICE, THERE IS VIOLENCE

HON. CRAIG A. WASHINGTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 6, 1990

Mr. WASHINGTON. Mr. Speaker, I had planned to make a short statement on the floor during the consideration of the Sensenbrenner amendment. It is not my practice to make statements for the record because I believe that the more excellent way to address the serious problems with regards to the Sensenbrenner amendment would be to address them directly and forthrightly within earshot of all, in order that we may know exactly how an individual feels before voting on this very important matter. Unfortunately, due to the constrictures of the amount of time allowed for debate, I was unable to have an opportunity to speak on this matter.

While I certainly recognize that my 20 years' experience in the practice of criminal law give me no greater vantage point than any other Member of this Congress, it is my belief that having represented individuals in one dozen capital cases gives me a unique practical view.

There's no question but what there is racial discrimination present in the prosecution and trial of many criminal cases. There is no question but what racism raises its ugly head in the selection of cases wherein the death penalty is sought, in the trial on the merits and at the punishment phase of those capital cases. What I thought this Congress would attempt to do was to ensure that every person charged with the death penalty receive a fair trial before we hang 'em.

As a young, native lawyer who began a practice on February 1 of 1970, having recently studied law at Texas Southern University in Houston, I had great respect for the criminal Justice System. I loved, then, and do love now, our Constitution, with all my heart. I cried on the inside, time and time again, when I saw individuals of color present themselves in jury panel only to be stricken time and time again because the prosecutors felt that it was the right thing to do to remove all of the Blacks and Hispanics and other minorities from jury panels in general, and from capital cases in particular.

I suffered with the interpretation of the Supreme Court in Swain versus Alabama, because I knew that it presented an insurmountable hurdle for individuals to overcome when all knew and most readily conceded that discrimination was taking place.

Black people, in many instances, are the predominant victims of crime in our society. Why, then would they not make good jurors? It seemed to me then, as it does now, that it strikes a blow at the fairness and justice that our criminal justice system purports to ensure when preemptory challenges are used in a discriminatory manner.

I applauded the decision of the U.S. Supreme Court, finally, in Batson versus Kentucky which recognized that a case could be made on the use of discriminatory preemptory challenges in one case. I had been making Batson objections for almost 17 years before Batson was decided, only to have those cases go to the Texas Court of Criminal Appeals and the appeal turned down based upon Swain versus Alabama.

Now I hear my colleague, Mr. SENSENBRENNER admit that discrimination takes place, but argue that, in spite of such discrimination in court, the death sentence should be carried out.

How can we, as a civilized society, allow this to happen? It seems to me that the very least that we can do inasmuch as we have: added many new death penalty offenses, severely limited the right of habeas corpus, and otherwise made more likely the institution and prosecution of death cases, we must ensure that such individuals receive a fair trial before we hang 'em.

We must have justice, for where there is no justice, there is violence! Where there is no justice, there is violence! Where there is no justice, there is violence!

HONORING THE CENTER OF MEXICAN AMERICAN AFFAIRS AT WHITTIER COLLEGE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 6, 1990

Mr. TORRES. Mr. Speaker, I rise today to honor the Center of Mexican American Affairs, the Hispanic Student Association and the Hispanic Alumni Organization of Whittier College. The organization will celebrate the 20th anniversary of their annual "Tardeada" on Sunday, October 21, 1990.

The purpose of the "Tardeada" is to serve as a welcome (Dienvenida) to the college's Hispanic students, their parents, and family members. Whittier College has demonstrated its longstanding commitment toward meeting the academic and social needs of its significant Hispanic student enrollment throughout the past 20 years.

Mr. Speaker, I ask my colleagues to join me in a special salute to Dr. James L. Ask, Jr., president of Whittier College and Mr. Martin Ortiz, director of The Center for Mexican-American Affairs for their continued efforts on behalf of Hispanic students at Whittier College. Therefore, it is with great honor that I congratulate Whittier College's faculty, staff, and students on the occasion of their 20th anniversary "Tardeada."

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Sunday, October 7, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 6 p.m., on the expiration of the recess, and was called to order by the Honorable DAVID PRYOR, a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Praise ye the Lord. Praise God in his sanctuary: praise him in the firmament of his power. Praise him for his mighty acts: praise him according to his excellent greatness. Praise him with the sound of the trumpet: praise him with the psaltery and harp. Praise him with the timbrel and dance: praise him with stringed instrument and organs. Praise him upon the loud cymbals: praise him upon the high sounding cymbals. Let everything that hath breath praise the Lord. Praise ye the Lord—Psalm 150.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 7, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, Members of the Senate, throughout the day I and other Members of the Senate negotiating group have been meeting with our counterparts in the Senate, and with Members of the House, in an effort to develop a bipartisan budget agreement that will modify in some important respects the budget summit agreement reached between the President and the congressional leadership a week ago but rejected by a majority of the House of Representatives on late Thursday evening.

It is our hope that the budget committees' conference will resume this evening and report out the modified bipartisan budget agreement, and that the House will be able to take it up this evening and hopefully enact it. If that is the case, that measure will then come to the Senate tomorrow for action in the Senate on tomorrow.

No final agreement has been reached yet but we are working toward that end.

I have had numerous discussions today both in person and by telephone with the distinguished Republican leader, the chairman of the Senate Budget Committee, and the ranking Republican member of the Senate Budget Committee, as well as many members of the House leadership in an effort to move this forward.

Mr. President, I was part of the congressional leadership which worked out the agreement with the President which was announced a week ago today. I believe that it was in the best interests of the Nation for that agreement to be enacted, and for the budget resolution to be enacted. That would enable us to proceed with the real task of dealing with deficit reduction in the procedure known to those of us in the Senate as the reconciliation bill.

That was not to be the case as a majority of Members of the House of Representatives rejected that resolution. They did so no doubt believing they were acting in response to the wishes of their constituents and their perception of what is right for the country.

While I disagree with their decision, I respect it, and recognize that ours is a democracy in which, a majority of the Members of the House of Representatives having spoken, we must now move forward, not look backward in recrimination, but rather move forward to attempt to devise a budget package that will do the job of meaningful deficit reduction, and do it in a way that is acceptable to a majority of the Members of the House and the Senate.

There is no alternative. That is the only course of action that we can responsibly take, and is one that we have been attempting to move forward throughout the day. It is my hope that we will be able to do so and obtain favorable action on the resolution tonight in the House and tomorrow in the Senate.

I think it most unfortunate that the budget conference report on the resolution has come to be seen as the deficit reduction package, as we know that is not the case. The budget resolution is an internal congressional document which does not by itself have the force of law because it is not presented to the President for his signature. It is a mechanism which permits the Congress to move forward to deal with the specific changes in law that will in fact reduce the deficit and that will be included in the reconciliation bill to be voted upon in approximately 2 weeks.

In baseball terms, you cannot score a run until you get to first base. The budget resolution merely enables us to get to first base, and then to make the rest of the trip around to second, third, and get to home. We have to deal with the reconciliation bill.

The budget resolution in and of itself does not reduce the deficit by $1. The budget resolution in and of itself does not change the law by one bit. It is a procedural mechanism which establishes the aggregate levels of reduction and provides instructions to the respective committees as to what their share of those aggregate levels are.

Unfortunately for a variety of reasons, many of which were not foreseen, the budget resolution now under consideration has achieved the perception of being much more than that, or being the budget itself, or being the changes in law that will reduce the deficit. It is not that, and I think it important that we do what we can to demythologize the budget resolution which we are trying to get enacted so that we can get on with the business of passing the laws necessary to reduce the deficit in a fair and responsible way.

I hope my colleagues and those of the American people concerned about this process will think carefully about our being able to proceed in a rational and orderly fashion to deal with this problem. I hope very much that we can move forward this evening, continuing in a bipartisan fashion with Republicans and Democrats coming together to attempt to fashion a package that will achieve that objective.

That is what we have been working on throughout the day. That is what we hope will culminate in action by the conference committee this evening and the House of Representatives fa-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

39-059 O-91-40 (Pt. 19)

vorable approval of the conference report this evening.

Again, if that does occur, that will be taken up in the Senate tomorrow. It is my expectation that the Senate respective caucuses will occur tomorrow at 12:30, or at least informal meetings of Senators on both sides to be briefed on where matters stand at that time, and that for the Senate to come in at 2 p.m. to hopefully at that time act on what will have been approved in the House of Representatives this evening.

ORDER OF PROCEDURE

Mr. President, I will momentarily propound a unanimous-consent request. This has been cleared with the distinguished Republican leader with whom, as I earlier said, I have spoken and met several times during the day.

ORDERS FOR TOMORROW

Mr. MITCHELL. Accordingly, I ask unanimous consent that the Senate stand in recess until 2 p.m. on Monday, October 8, that, following the prayer, the Journal of proceedings be approved to date; and, that, following the time for the two leaders, there be a period for morning business not to extend beyond 2:30 p.m. with Senators permitted to speak therein for up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 2 P.M. TOMORROW

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will stand in recess until 2 p.m. tomorrow.

Thereupon, the Senate, at 6:10 p.m., recessed until Monday, October 8, 1990, at 2 p.m.

HOUSE OF REPRESENTATIVES—*Sunday, October 7, 1990*

The House met at 1 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray using the words of John Greenleaf Whittier:

Dear Lord and Father of mankind,
Forgive our foolish ways;
Reclothe us in our rightful mind,
In purer lives thy service find,
In deeper reverence praise.
Breathe through the heats of our desire,
Thy coolness and thy balm;
Let sense be dumb, let flesh retire;
Speak through the earthquake, wind and fire,
O still small voice of calm!

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present. Pursuant to clause 5, rule I, the Chair will postpone the vote on the Speaker's approval of the Journal.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Georgia [Mr. BARNARD] come forward and lead the House in the Pledge of Allegiance.

Mr. BARNARD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PERMISSION FOR SPEAKER TO DECLARE RECESSES ON THIS LEGISLATIVE DAY

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses on this legislative day until 4 p.m.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. WALKER. Mr. Speaker, reserving the right to object, I reserve the right to object to inquire what the business is that is going to be in order after 4 o'clock so that we may have some understanding of the context of the recess authority.

A number of us feel as though it is possible to bring up immediately a bill that was introduced that is a signable continuing resolution that is fiscally responsible that would result in no Federal employees being furloughed, and we think that it would probably be reasonable to get that up as early as possible and would be somewhat reluctant to agree to recess authority that would seem to delay such a piece of legislation from getting to the floor.

Can someone tell us what the schedule is? Are we recessing so that we can have a meeting that brings the continuing resolution to us at 4 o'clock, or are we, in fact, recessing so that we can come back and reexamine our options at 4 o'clock?

It would just be helpful for the membership to know.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the distinguished Speaker.

Mr. FOLEY. Mr. Speaker, I find somewhat surprising the gentleman's question since this resolution or request for a recess authority until 4 o'clock was cleared with the leadership on both sides, and the gentleman is a member of that leadership. I find that, accordingly, the objection to it or the question about it somewhat surprising, but I will answer the gentleman the best I can.

Mr. WALKER. I thank the gentleman.

Mr. FOLEY. It was the intention, I think, of both the political groups of the House, the Republican conference and the Democratic caucus, to have an opportunity this afternoon to meet in conference and in caucus. That was the request of the Republican leadership and the Republican conference, and it is the request of the Democratic leadership and the Democratic caucus.

I think those meetings are important for both party groups in facilitating our work in reaching a budget resolution, and this is a matter which was designed to facilitate that.

The schedule with regard to any other legislation is, in the judgment of this gentleman, secondary at this moment to getting a budget resolution. The President of the United States, in his veto message yesterday, suggested in the message itself that the Congress should concentrate its efforts on obtaining a budget resolution. I agree with the President. I think we should concentrate on those efforts.

If those efforts are successful today or tomorrow, we will have no problem with continuing resolutions, but to take up debates to shut the Government down partially or wholly or to proceed to take the actions that will keep the Government open is the task before us. I prefer, speaking for myself, to take the actions that will keep the Government open, that will give an answer to the American people on how we proceed, that will put our priorities forward clearly, and I think I represent, in that case, the views of the President, the views of the leadership in both parties, and I would hope the view of the gentleman from Pennsylvania.

Mr. WALKER. Further reserving the right to object. I thank the Speaker for his explanation.

One of the probems we have had here in the last few days, and I do not know if the people on the gentleman's side have experienced it as much as we have, but there has been a certain lack of communication with the general membership about just where we are going and how we are getting there.

This gentleman is reserving the right to object simply to figure out what the schedule is. I certainly agree with the distinguished Speaker that it would be useful to move ahead and get our work done so that we do not have this problem hanging over the country for an extended period of time.

I would say, however, that there is also a concern on the part of the membership that they not be rushed to judgment in terms of major agreements with which they may have to cast their votes.

It certainly will be helpful to have the party caucuses meet. That may facilitate some of the communication that I am talking about. On the other hand, I do not think that we need to be delaying action until later on in the day that we could take now.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I will not object to the present request. I understand it has been worked out with the leadership, but it certainly would be helpful that at 4 o'clock if we had some idea of the design so that the Members could feel comfortable that they will not be asked to take major actions without being fully informed.

I thank the Speaker for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will announce that the Chair will postpone 1-minute statements until later in the legislative day.

RECESS

The SPEAKER. Under a previous order of the House, the House will stand in recess until 4 p.m.

Accordingly (at 1 o'clock and 9 minutes p.m.), the House stood in recess until 4 p.m.

□ 1608

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MOAKLEY) at 4 o'clock and 8 minutes p.m.

AUTHORIZING A RECESS TODAY UNTIL 6 P.M.

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare a recess today until 6 p.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to the previous order of the House, the Chair declares that the House will be in recess until 6 p.m.

Accordingly (at 4 o'clock and 9 minutes p.m.), the House stood in recess until 6 p.m.

□ 1800

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 6 p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1608. An act to strengthen national nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human Services to prepare and implement a 10-year plan to assess the dietary and nutritional status of the U.S. population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes;

H.R. 4522. An act to improve the information available to emergency response personnel in the field, and for other purposes;

H.R. 4593. An act to transfer to the Secretary of the Interior the administration of the surface rights in certain lands presently within the boundaries of the San Carlos Indian Reservation, Arizona, and managed by the Forest Service as part of the Coronado National Forest, and for other purposes;

H.R. 4985. An act to designate the Federal building located at 51 Southwest 1st Avenue in Miami, FL, as the "Claude Pepper Federal Building"; and

H.R. 5070. An act to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2331. An act to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, and solicitations which are offered in terms implying any Federal Government connection or endorsement, unless such matter contains an appropriate conspicuous disclaimer, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 303) "An act to establish a framework for the conduct of negotiated rulemaking by Federal agencies" with amendments.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 427. An act to designate the Federal Building located at 1801 Gulf Breeze Parkway, Gulf Breeze, FL, as the "Bob Sikes Visitor Center";

S. 2879. An act to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes;

S. 2965. An act to designate the Federal building located at 51 Southwest 1st Avenue in Miami, FL, as the "Claude Pepper Federal Building";

S. 3046. An act to redesignate the Federal building located at 1 Bowling Green in New York, NY, as the "Alexander Hamilton United States Custom House";

S. 3062. An act to transfer the responsibility for operation and maintenance of Highway 82 Bridge at Greenville, MS, to the States of Mississippi and Arkansas;

S. 3068. An act to establish the Office of Take Pride in America, and for other purposes; and

S.J. Res. 206. Joint resolution calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons.

SACRIFICES FOR ALL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute.)

Mr. MAZZOLI. Mr. Speaker, there are so many serious things afoot with the budget, sequester, and all of these matters, I think it might be useful for us to have a change of pace to mention what all Members have given up to stay here in session to rescue the budget crisis. Yesterday, we know our colleague from California [Mr. DELLUMS] barely was able to make his son's wedding. I understand our friend from New York [Mr. SOLOMON] actually had to miss his oldest son's yesterday because of being here in session.

I guess in some respects my sacrifice is less, but because of being here today and yesterday I have had to miss celebrating our daughter and son-in-law's fourth wedding anniversary, and also to celebrate a wonderful occasion for our family, our son was judged outstanding in his moot court competition back home at the University of Lousiville Law School.

While we have given up in each and every way something, I think we are doing it for a noble cause, Mr. Speaker. This is obviously a very serious time in American history, and we obviously have to be here on duty to help the Speaker and to help our leaders on both sides of the aisle fashion an agreement to move our Government ahead. So while there is personal chagrin and personal sadness, in the long run these sacrifices today will be worth it.

PASS A CONTINUING RESOLUTION

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, I have in my hand a statement from the office of the President of the United States in which he says, indeed encourages the Congress of the United States to pass a continuing resolution continuing the functions of this Government. To do any less is irresponsible on our part. We have the capacity to pass a continuing resolution to fund the Government, and I call upon this Congress to do so.

If we continue tonight to play this game of brinkmanship, we bring disserve and dishonor to this body. I would say to those who have run this Congress for 56 of the last 60 years, do not underestimate George Bush. The President understands what is at risk here. He has extended his hand to continue the operations of Government, and political gamesmanship that refuses to fund the Government for this week is irresponsible on the part of the party that dominates this House.

DEMOCRATS SHOULD SUBMIT ALTERNATIVE BUDGET

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, today begins a fight for the policy change of our Nation. This is much more than another budget though. I think bipartisanship is great, but 6 years ago when I ran for Congress I did not run on a bipartisan ticket. I ran as a Democrat, and there used to be a difference between a Democrat and a Republican and a two-party system is what made America great.

Today we have a hybrid party, and I am not so sure that these coalition governments are what the people want. It is evident that the budgets of the last 10 years have failed. I say it is the responsibility of the Democratic Party to submit an alternative budget for the people of this country. If we fail to do that, the Democratic Party will become a dinosaur. In fact, the American people are so turned off, they are about to turn off both parties.

I am not for raising taxes, and I am not going to vote for a budget that raises taxes. I would like to see Members take 50 percent of that NATO expenditure, 50 percent of foreign aid international assistance, and take the bubble of 5 percent and let taxes alone. However, the Nation is looking at the Democratic Party today.

AGREEMENT IS NEAR

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, the hour now is becoming later. There are rumors on the floor that the House will not take up the budget, proposed budget until even later this evening.

I think that the American people are all viewing exactly what is going on in this House today. We have seen our viewing sections full over the last several days. It is perhaps because the other zoo is closed.

However, I do believe that if the members of the summit would get together, I think they do now have the nucleus of an agreement. I think it is not going to take anybody any wizardry to find out there are going to be increases in the top rates of our highest income taxpayers, I anticipate that. And I anticipate being able to support that, provided that there is a growth section in it which will include capital gains. I have no doubt that but both of these will be in here.

We will at last pop the bubble which makes absolutely no sense whatsoever. We will take that top range up slightly from the 28 percent, perhaps even as high as 32, and that we will have a growth factor in there which is vitally important, because we are at the front of a recession here in this country. This is not a break for the wealthy. It is a break for America's working people. It will not promote unemployment, discourage the onslaught of the recession, which we are getting into, and it will make it much easier on all American people.

What is good for the American capitalistic system is good for all people. It is good for jobs. I think that America's highest taxpayers, the people now who are in the top rates, are going to have to put in a little bit more. I think that is exactly what the Republicans and Democrats will eventually agree to.

If we can stop the posturing, if we can get our summiteers back to work, and if they will listen to the middle section of both of these parties, we can put together an agreement.

THE VETERAN AND HEALTH CARE

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, if we really cannot get a budget soon, the veterans of this country are going to be seriously hurt. If I see something that will help save the veterans and other programs, I will support the programs.

In two succeeding weeks, the ABC-TV show, Primetime Live, aired stories critical of the care received in some Department of Veterans Affairs hospitals across the country. While I would agree that there have been cases of poor judgment by staff and poor care, the vast majority of our 172 VA hospitals are providing quality care for this country's veterans.

I fear that the ABC reports will frighten sick veterans from seeking treatment from the VA. That would be unfortunate because dollar for dollar, service for service, VA health care is among the best in the world. It is as good as private hospitals due to the fact that more than 100 top medical schools throughout the country are affiliated with VA hospitals.

It is a fact of life that every hospital, whether public or private, has problems from time to time with the adequate delivery of health care. When you slip hidden cameras into a hospital you can find problems. It would be unfair, however, to take these few instances and paint a broad picture of incompetence and indifference in our VA health care system. That would be a great disservice to the tens of thousands of dedicated employees who work for the VA.

Over the past 10 years or so, the medical inflation rate has been 10 percent or more. At the same time, we have only been able to secure a 3 or 4 percent increase in funding each year for our veterans programs here in Congress. We have made progress in the past couple of years. President Bush and Veterans' Affairs Secretary Ed Derwinski have helped us get additional funding for VA health care services. That has been a plus.

I don't condone the instances of insensitivity shown on Primetime Live and the persons responsible should be dismissed. But I know that the overwhelming number of VA empoloyees work very hard each day to care for veterans all across the country. And, I can tell you that veterans live longer and in less pain today as a result of the care they get at our VA hospitals.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS UNTIL 8:15

Mr. FOLEY. Mr. Speaker, I rise to ask unanimous consent that it be in order for the Speaker to declare a recess of the House at any time up to 8:15 p.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, would there be any assurance when we come back at 8:15 that there would be legislative business on the floor, or would it be like what has happened now, and what happened at 4 o'clock, and what happened at 1 o'clock?

Mr. FOLEY. Mr. Speaker, I will tell the gentleman that the conference committee on the budget resolution is meeting, or prepared to meet, and that if there is a resolution of the conference, of course there would be an opportunity for legislative business tonight. It is not for lack of determination to move forward on any Member's part, but the conference committee must be given an opportunity to reach a conclusion, and we have not thought it either wise or considerate to have the Members waiting without any idea as to what is happening.

Therefore, as soon as it is possible, we will advise the House.

By the way, this has been cleared, I understand, on your side. It should not

come as a surprise that we are making this request.

Mr. SENSENBRENNER. Mr. Speaker, further reserving the right to object, if there is a budget conference on the floor, is there any assurance there will be a continuing resolution considered tonight to keep the functions of Government operating?

Mr. FOLEY. If we adopt a conference report tonight, it would be my hope that we could also consider a continuing resolution tonight, yes.

Mr. SENSENBRENNER. Further reserving the right to object, is the distinguished Speaker aware that the other body is not planning any legislative business tonight, so that if we would consider these two pieces of legislation, they will not be around to act on them?

□ 1810

Mr. FOLEY. I am aware that there is that possibility. As the gentleman knows, however, under Senate rules the consideration of a conference report provide for 10 hours of debate and in the event we did adopt the conference report tonight, as I would hope we could, it would still be necessary for the Senate to act on it tomorrow. In any event, the House will have to consider the conference report and, of course, a continuing resolution must originate in the House.

Mr. SENSENBRENNER. Further reserving the right to object, I would hope that this material would be available for the Members to study and vote on at 8:15.

The Democratic Study Group has already issued an explanation sheet of what is in this revised conference report.

Mr. FOLEY. Neither the Democratic Study Group nor anyone else has any definitive information about a conference report. There is no such conference report. I am sure as usual they are giving the membership on both sides of the aisle the benefit of their tremendously competent research and very able predictions about what might happen. They are not always right, but they have a high degree of success in both research and predictions. I have not seen the report, but I can tell you one thing, there is no official conference report. There is no conclusion as far as I know at this moment as I speak of the conference.

I would remind the gentleman that this is not a Democratic conference. It is a conference on which Republican Members of the House and the Senate are Members. I am sure the gentleman knows what I am saying is correct.

Mr. SENSENBRENNER. Further reserving the right to object, the fact sheet that has been issued by the Democratic Study Group dated October 7, 1990, starts out by saying:

This DSG fact sheet details with the revised budget conference report on H. Con. Res. 310 the Congressional Budget Resolution which the House is expected to consider today.

Apparently the DSG knows something that our Member, the gentleman from Minnesota [Mr. FRENZEL] has not been made aware of, but I will send this explanation over to the distinguished Speaker so that he can review it.

Mr. FOLEY. I would be most happy to see it. Thank you very much.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Washington?

Mr. DELLUMS. Reserving the right to object, Mr. Speaker, and I shall not object. I simply rise at this time to observe the fact that we were called in at 1 p.m. by unanimous consent to recess several times. No one has objected, Mr. Speaker, because all of us understand there is substantive work transpiring at this very moment that precludes our ability to expeditiously deal with the budget resolution.

I simply rise in order to give the Speaker an opportunity to explain to the membership and through us to the American people why we are not able to move at this particular point.

The last time we had an extension of time, several people here booed that who did not understand it, and I think we ought to take the opportunity to explain it fully to people, and I yield to the Speaker.

Mr. FOLEY. The respective parties of the House and Senate have acted to commit to the committee of conference between the House and the Senate the subject of a budget resolution. The conferees have that matter before them, and are working to reach a conference agreement to send back to the House and the Senate for consideration.

I know that people in the gallery and others in the country watching this may wonder why we are not acting immediately, but we have given this conference committee the duty of trying to work out a recommendation for solving the differences between the House and the Senate, with respect to the budget resolution, taking into consideration all of the views of the various Members and parties, as well as of the President, and coming back to us with a report so we can act on it tonight.

We are working to resolve this problem in the most expeditious, effective way that we can. I would think it would serve no purpose for us to merely sit here in session with no conference report to consider.

We will from time to time have recesses of the House to allow the committee to come back and give a report to the leadership on both sides. I ask Members and the public to be patient. We are trying to move this process forward.

I have a degree of optimism which I hope is well-founded that later this evening it will be possible for us to consider a conference report, and after that is adopted, as I hope it will be, that it will also be possible for us to consider a continuing resolution to continue the operation of Government and make any decision that Members wish about the President's recommendation in that regard.

That is the best that I can do to inform Members of the business over the course of the evening.

This is only the seventh time since the end of the World War II that the House has been in session on a Sunday. It is a day we respect out of tradition and history, but a severe problem faces our country and its people have the right to expect that the Members of both parties will stand available as long as there is the possibility of work to be done and progress to be made.

I think I speak for this side, as I hope I do for the gentleman's in suggesting that we accomplish as much as we can to resolve this problem tonight, and that the House be in session again tomorrow, another holiday, if necessary. I will ask that we do the work that the President, the country, our party leadership on both sides, have requested that we do.

Those who suggest we delay further or put off the decision that we are trying to make tonight bear the burden of responsibility for that delay.

I want every Member to be aware of everything that is brought to the floor that he or she will be asked to vote upon. That is reasonable and fair, but delays that are intended for some other purpose are not in the interest of the country, not in the interest of either party, and not in the interest of advancing the work that this Congress has sworn to do.

Mr. DELLUMS. Further reserving the right to object, I thank the Speaker for his very straightforward explanation as to what got us to this point.

I would only remind the Speaker and my colleagues that as I understand it there was also a unanimous-consent request for a recess in order for the Republican conference and the Democratic caucus to meet to explore the parameters of the budget proposal. Is that not correct?

Mr. FOLEY. Yes; I thank the gentleman for pointing that out.

I think that very often when the public views the Chamber in recess, with no action occurring on the floor, they imagine that no work is being done at all.

We had meetings this afternoon on both sides of the aisle, the Republican conference, the Democratic whip orga-

nization, and the Democratic caucus. They have been meeting constantly since the House first came into session at 1 p.m. this afternoon.

Woodrow Wilson, who was a student of the Congress as well as one of the great experts on American Government generally, said once in a somewhat overstated way that Congress in committee was Congress at work, while Congress on the floor was Congress on display.

Now, that is perhaps too strong a statement, because we do important work here; but the point is made that other work, important work, is done away from this particular Chamber.

When we are ready to bring a matter to the whole body for decision, it is reported here for debate and a decision to take place.

Mr. DELLUMS. Further reserving the right to object, Mr. Speaker, I thank the Speaker for his explanation.

I just want to say to all my colleagues that I did make it to the church on time, and thank you very much.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. SOLOMON. Reserving the right to object, Mr. Speaker and my colleagues, I will not hold up this body and I probably will not object, either; but I just want to say to the Speaker that no one on this side of the aisle is trying to hold up the work of this Congress.

I would like to just read the advisory of the President of the United States, George Bush, in his Statement of Administration Policy. It states that "if a continuing resolution covering the period October 6," which is yesterday, "through October 12," which is next Saturday, "is passed, that implements a sequester which on an annual basis would equal a reduction in spending of $40.1 billion," the 1991 savings of the bipartisan budget agreement, which was voted down on this floor the other day, "the President's senior advisors will recommend that he sign it."

The President has said that he will sign it.

We do have a request pending upstairs in the Rules Committee, where I will be going as soon as we leave here, where we would offer an amendment to the continuing resolution which would do just that. It would really keep this Government functioning all next week, allow our negotiators to continue to negotiate so that we could at the same time continue such services as veterans' hospitals, the air traffic controllers, the meat inspectors, and all necessary functions of government.

□ 1820

So I just want the Speaker to know I have a great deal of respect for you, sir, that we are not trying to impede, that we are trying to get this job done.

I thank you for your indulgence.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Washington?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, I would like to ask the Speaker a question if I may. I was interested to hear him comment, if I heard him correctly, that if the budget resolution 310 is adopted this evening, then perhaps the House can take up a continuing resolution. My question is, Mr. Speaker, if that is your pleasure, how did it come to be that the Rules Committee under a majority of members of your party declined our request to have a continuing resolution made in order with the rule that made this continuing resolution on the budget in order?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the Speaker.

Mr. FOLEY. I thank the gentleman for yielding.

Yesterday when the President vetoed the continuing resolution of Friday, his veto message suggested that we concentrate our efforts on getting a budget resolution.

As the gentleman knows we cannot at the same time spend our hours here on the floor debating whether we are going to shut down the entire Federal Government, a third of it or half of it. I for one do not want to close any of the Federal Government even for a single day. I do not want to sequester 14.4 percent of the domestic accounts or 16.6 percent of the military accounts for a single day.

I will give you this assurance, as I have given the Republican leader, Mr. MICHEL, that when we bring a continuing resolution to the floor, whether tonight or tomorrow, that it will be possible for Mr. MICHEL or his designee, the Rules Committee permitting, to offer an amendment that would bring before the House the question of sequestering all accounts by $40.1 billion on an annual basis. The House should have the right to vote on that if we consider a continuing resolution.

I will personally recommend a vote against it, particularly if we have adopted a budget resolution.

Let us do what we are charged to do. As I have told him personally, I think the President made a mistake, I say it in vetoing the continuing resolution. I say that regretfully. This Government and all its departments could be open today while we are resolving this problem if he had simply put his signature on the temporary continuing resolution. He chose to do otherwise.

The House voted yesterday on the override. Two-thirds did not insist, and consequently the President's veto stands.

But the reason we are talking about continuing the Government is because the President has been unwilling to sign a continuing resolution in the absence of a budget resolution. Let us get the budget resolution done. Then we will not have endless arguments.

Mr. DANNEMEYER. Further reserving the right to object, I thank the Speaker for his observation that apparently a continuing resolution with the condition of sequestration in it will at least be made in order on the floor so that the Members will have a chance to vote on it. I thank the Speaker for that dispensation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

AN ALTERNATIVE BUDGET RESOLUTION

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, I think it is obvious that there is an impasse that has developed here, and I do not make any attempt to hide it at all. What bothers me a little is the point I just raised with our distinguished Speaker. I think the House should have an opportunity to vote on what the Democratic majority seeks to bring to the floor in the way of a budget resolution. There are some of us on the Republican side who seek also to present an alternative to the House for its consideration.

I make no secret of the fact that this Member from California has been attempting the last several days to present that to the House. The cornerstone is, frankly, restraint on spending, consistent with a 4.5-percent cap over the next few years.

That is a major cornerstone of this effort. It seeks deficit reduction with no increase in taxes. That contrasts between what our Democratic friends seek to have in a budget resolution. They yearn to raise our taxes.

There are some of us in this institution who do not want to raise the taxes as a means to resolving this dilemma. I think the American people are entitled to know who stands where on this issue of who supports tax increases and who is opposed to a tax increase in connection with deficit reduction.

It is a major difference today in the country. And I think the process

should permit those of us who want to do it, reducing the deficit by cutting spending rather than raising taxes, should have the opportunity.

THERE IS NO REASON TO SHUT THE GOVERNMENT DOWN

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, what is at stake here is not whether it is going to be a Republican package or a Democratic package or what the President wants. What is at stake is whether America, the world's greatest democracy, is able to function.

We are becoming the laughingstock of the world. No one will want to invest here. We are being looked at as a Third World country.

Several days ago, Mr. Speaker, I responded to the President in his appeal that we act as Americans and we resolve the budget crisis. He acted like a President.

Two days later, he is acting as if he is chairman of the Republican Party denouncing Democrats, me, who supported him in a bipartisan effort.

The time to stop acting like politicians is over, and acting like responsible elected officials has come. It is very important that we not shut down the Government. There is no reason to do that. There is no reason that one employee should lose his job temporarily.

Let us pass a budget. There will be a budget tonight. Let us pass a continuing resolution so that the Government and America's reputation can survive.

A BUDGET ALTERNATIVE

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, before I go up to the meeting of the Committee on Rules, let me just suggest one way we can break this stalemate. I discussed it with Members on both sides of the aisle.

We can adjust the bubble, but not adjust it up, adjust it down to 28 percent for all Americans; we could then set a capital gains tax rate at 22 percent. We could then, ladies and gentlemen, set a new tax bracket of a 10-percent surcharge on all Americans earning over $300,000. If we did that and agreed on that here today, we could eliminate the home heating fuel tax, we could eliminate the gasoline tax almost entirely, and we would certainly eliminate the Medicare tax.

Why don't we start working on that? I think we will get a budget before 48 hours go by.

THE NEW BUDGET PACKAGE

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, I congratulate the previous speaker from New York on his constructive suggestion that the rich begin to pay something approaching their fair share for the mess that faces us after 10 years of free ride for the very wealthy, as the deficit mounted and they bore little burden, but most of the benefit.

The new budget package that is shaping up this evening I think will be much better than the one rejected Thursday evening. It keeps the summit agreement at a solid $40 billion for 1 year and $500 billion for 5 years. It greatly softens the hit on the senior elderly or sick, it would lead to the deletion of the 2-week waiting period for unemployment compensation and the hit on home heating fuel.

Most importantly, it will allow the very wealthy to participate in this package in deficit reduction.

As the budget goes forward tonight, the relevant committees can begin to do their work to bring these results about. An "aye" vote is a green light to proceed on our constitutional duties to provide a package that is fair to the Nation and is in the spirit of real, enforceable deficit reduction.

BRING US SOME MORE ALTERNATIVES

(Mr. CALLAHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALLAHAN. Mr. Speaker, yes, there is great confusion here in this House of Representatives. The Democrats are blaming the Republicans and the Republicans are blaming the Democrats. The President is blaming some and some are blaming the President.

But let me suggest to the leadership that obviously, since we are not going to accept the summit agreement that you reached after all of those months of deliberations, that you bring us some alternatives.

□ 1830

Mr. Speaker, there are some of us that cannot support the gasoline tax, but there are some of us that can support an import tax on foreign oil coming into this country. There are some of us that find offensive the provisions in that bill that have to do with the legislation on controlling insurance companies. There are some of us that find offensive the fact that it does cost an awful amount of money for our senior citizens.

But bring us some alternatives, and permit us the opportunity to vote these alternatives up or down on an individual basis. Give us a rule that we can debate for a week. Give us the opportunity to address capital gains. Give us the opportunity to address alternatives to what the summit agreement came up with. Give us alternatives, and give them to us soon.

RICH GET RICHER MENTALITY MUST END

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, we should have had a bipartisan agreement months ago. It is tragic that that was not able to occur at that time, but I would have to say that the budget agreement that was brought to this House the other night was one that I could not support, direly as we need an agreement. It is one that would have continued providing massive tax breaks for the very wealthy, while sticking it to the middle class, sticking it to the elderly, the farmers, a continuation of the same sort of rich-get-richer, and stick-it-to-everyone-else sort of mentality that has prevailed now in Washington for over a decade. The White House's initial budget proposals would have provided $11 billion in tax breaks for those Americans who earn over $50,000 a year, but would have required $4 billion of added taxes for Americans who earn less than $50,000 a year. It is the same sort of rich-get-richer trickle-down economics that has been so discredited for so long.

Mr. Speaker, I do not expect perfection in an agreement. I recognize a budget agreement necessarily involves give and take and compromise, but I am confident that we could have a budget agreement proposal this evening that will provide greater tax fairness, that will provide for reducing expenditures for foreign aid and for military expenditures abroad which will not place deficit reduction on the backs of our elderly and which will protect the interests of rural America.

THE BUDGET AND APPROPRIATIONS PROCESSES ARE BROKEN

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, I get a sense of deja vu here today. Here it is Sunday. The Government is shut down. Reminds me of 4 years ago, my first year in office. It was 2:30 in the morning, a week before the Christmas holidays were to begin. We were given a massive document, 1,400-page-thick, and we were asked to approve that document, to approve the spending

plan for this country for the following fiscal year, even though most of us had no idea what was contained wholly and totally inside of it.

The problem continues today, Mr. Speaker. The problem lies within this institution. Our forefathers designed a system to allow us to pass a budget and 13 appropriation bills. How many appropriation bills have we sent to the President this year? Here, in the month of October, not one. In the last 25 years, only 1 year have we in the Congress done our job, and passed the budget and appropriation bills, and allowed the give and take between the administration to set the tone for this country for the following fiscal year.

Mr. Speaker, there is definitely something broken here, and it is the budget process and appropriation process of this institution. Any budget agreement needs to have budget process reform, or it will not have the confidence of the American people.

LINK RATE INCREASE FOR THE $200,000 AND UP TO THE S&L BAILOUT

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, what the American people and the Congress should be remembering is that, as we go forward with this agreement, there is still a need to discuss the savings-and-loan swindle, the amount of $74.2 billion which is included in this budget package, and nobody is talking about it. That $74.2 billion additional to bail out the savings and loan associations is not linked to anything. In the minds of all Americans and in the mind of the Congress we ought to link that to the bursting of the bubble. An additional rate increase on the richest Americans, those above $200,000, should be placed on there just to pay for the S&L's. These are the people who enjoyed the party. The money flowed like a sieve through the S&L's, like a sieve into the hands of rich real estate dealers, accountants, lawyers, all kinds of people who made lots of money. Many millionaires were made as a result of the S&L swindle. Let them pay for it now.

My colleagues, link the increase in the rate for the $200,000 and above to the S&L $74.2 billion.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). The Chair will remind the gallery that they are guests of the House and should not respond in any way to anything said on the floor of the House.

WE MUST COME TO AN AGREEMENT

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, this is the first time that I have been in this body at the end of a session at the end of 2 years, and I am disappointed in the process. We were to have had a budget prepared in April. We did not. We found excuses not to do that. We were to have appropriation bills in June. We found reasons not to do that, and still we have no agreement.

Mr. Speaker, we are right down to where we have our feet up to the fire. We do not make the best kind of decisions that way.

Second, the people in Wyoming have enough government. We do not need more government. During the past 10 years we have doubled the revenue to the Federal Government. There is not a shortage of revenue. It is a shortage of control in spending. It is a reason for us to limit the growth.

Finally, I just tell my colleagues that we must come to an agreement. It is our responsibility. We need to do it today and, at the latest, tomorrow.

REPORT ON RESOLUTION WAIVING CLAUSE 4(b) OF RULE XI AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-819) on the resolution (H. Res. 497) waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

WE HAVE TO PAY FOR WHAT WE WANT

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, a democracy is never a neat and tidy process. The Founding Fathers did not promise us wine and roses all the way 200 years ago. Winston Churchill once said that democracy is the worst possible form of government, except for all the other forms of government.

We have been through a very frustrating period. People around the country have watched in amazement as we began to close down the establishment of Government. People around the world, as my colleagues can read from today's press, are astonished and horrified that the richest Nation in the world, with 150,000 troops sweating their guts out in Arabian desert, with all that going on, our President decides to close down the process of governing, of providing necessary goods and services to the American people.

But rationality is returning. I think we are going to wind this up in the next 24 hours.

However, Mr. Speaker, I hope we will remember some lessons, and the greatest lesson is, from this crunch that we are in, is that we have got to learn how to pay for the Government's facilities and services that we want. There is no free lunch. We have had Presidents telling us for the last 10 years that taxes are bad, that Government is sort of bad, that we can have it all, that it is a free lunch. This is wrong, wrong, wrong.

Mr. Speaker, I would like to commend my colleagues for suggesting that we finally bring the wealthy, the rich among us, into the process. A tax surcharge has been suggested for those making over $300,000 a year. I would suggest we could do beter than that, maybe $100,000 or $150,000 a year, but that is the kind of thinking we need.

Mr. Speaker, we have to learn to pay for the education we need, for the health care we need, for the affordable housing we need, for the infrastructure we need, and pay for it like responsible men and women, like responsible national leaders. That means taxes. That means reducing waste. There are a couple of hundred billion dollars to be sweated out of two great big black holes in our society, our military establishment and our health care system. One of the military's own, former Defense Secretary Robert McNamara, suggested cutting the defense budget in half in 10 years. That's $30 billion a year we should be cutting incrementally. Our own Armed Services Committee is responsibly looking at the demise of the cold war and at the regional problems that are the only military threat left. The continued waste and unnecessary buildup in the defense establishment is a slap in the face to our children and seniors who are again asked to shoulder new cuts in health, education, and other necessary benefits.

The other black hole, our health care system, is an absolute paradox. We have the finest health care system in the world, but it is riddled with waste, with unnecessary and duplicative treatment, with poorly managed administration. With over 31 million Americans excluded from our health care system, it is a crime not to set to work immediately to squeeze the fat out of the health care system.

The Joint Economic Committee last year had 9 days of hearings on how we could bring rationality to our health service system. There is another $100 billion available by making people in the medical community practice rea-

sonably and efficiently. With this much money available under a lean and mean health care system, the Congress has a moral obligation to set a plan in motion to bring doctors, hospitals, clinics, senior citizen homes, and all other members of the health care system who have so far eluded efforts to discipline health care procedures and management in our country.

With a combined total of waste and unnecessary spending of $250 billion within these two systems, it is a patent absurdity that we would go first to our senior citizens and our children to make up the Federal deficit.

Mr. Speaker, if we learn these lessons today, we can avoid another budget circus tomorrow.

A REACTION AGAINST TAX-AND-SPEND LIBERALISM

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, the people of this Nation are fed up. They are sick and tired of the tax-and-spend liberalism that has controlled this Congress for more than 30 years now—a liberalism that harms most the very people it professes to help the most.

They are resentful of a government that has become of, by, and for the bureaucrats instead of one that is of, by, and for the people. They are angry toward a government that acts like a ruler instead of a servant.

One of my constituents called the night before the budget summit vote. He said that he lived on less than $9,000 a year. He said "I live within my budget, but you guys don't live within yours."

The Federal Government will take in more than $1 trillion, $300 billion this fiscal year. Surely this is enough to operate even a wasteful, inefficient, and greedy government like ours.

Finally, Mr. Speaker, if we want to know where to begin cutting, the people of my district would say we should stop sending so many billions of dollars overseas and into outer space. We are spending money we do not have, and we must stop.

A MISUSE OF THE PRESIDENT'S VETO POWER

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, at this time we are testing the Constitution of the United States, because it was that Constitution which gave the President the power of the veto. Until the time Andrew Jackson was President, no President ever used the veto except to raise a constitutional question against a law that had come before him for signature. Andrew Jackson was the first President to exercise a veto that went to the merits of the measure rather than on its constitutionality and this had to do with the bank of the United States. He was convinced that the bank was corrupt, and he said the system under which it was established should be abolished, and, therefore, he opposed the new charter on that basis.

Today we are involved in a veto situation with the President which has nothing to do with the merits of a bill before him. It is a continuing resolution just to run the Government, and he is not opposed to running the Government, but he is using the veto power in a way in which it has never been used or even been thought to be used, and we in Congress are breaking down one of the great things in the Constitution by having this summit. Having the summit means that the President is being taken into the legislative process of the Government, and our checks and balances are being eroded by this process.

It is a grave mistake to do what we are doing. The Congress ought to act on bills, send them to the President, and let him veto them if he does not like them. He can veto them, and then we can bring them up and see if we have enough votes to override. But actually the veto in this particular constitutional situation we have today is being used in a way that it has never been used before, in a way that I think is very improper.

It is being used not to test the validity of a particular bill but to express the will of the President about other bills and other matters before the Congress. This is a very dangerous thing, in my opinion, to change the Constitution of the United States, and this is a habit-forming sort of thing that might well occur again.

Mr. Speaker, we have the oldest constitutional government in history. It has lived longer than any other. It needs to be strengthened by our actions. We should not break it down by giving additional power to the President in the legislative process.

PROJECTED REVENUES FROM TAXES ON OIL AND GASOLINE

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, we need to do several things this evening. First, I believe we should bring the Solomon-Michel continuing resolution to the floor for a vote and pass it. That would keep the Government in business, and it would give our budget negotiators a chance to negotiate a final budget agreement. It would also have a modified version of sequestration which would require some nonessential Government functions to shut down, but it would protect essential Government services.

Second, we ought to begin to look at some alternatives in what I call the 40-percent solution that failed in the House of Representatives last Thursday night. I have a suggestion for the gasoline tax increase. I would suggest an oil import floor price of either $25 a barrel or $28 per barrel, using the same economic assumptions that were in that budget agreement.

The $25 floor price would raise $9 billion in 1991 and $36.5 billion in the 5 years of the agreement. The $28 floor price would raise $14 billion in 1991 and $64.4 billion over 5 years.

Some variation in a floor price for oil taxes has the support of such Democrats as our majority leader, the gentleman from Missouri [Mr. GEPHARDT] here in the House, and Senate Finance Committee Chairman LLOYD BENTSEN in the U.S. Senate.

We would not have a tax; we would have a user fee. We would have some production incentives for domestic production, we would have some stability in the world oil markets, and it would promote conservation in the United States.

A PRESCRIPTION FOR LESS RHETORIC, MORE COMITY

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, yesterday was not one of the finest days in the House. I have been here 16 years, and I shared with my colleagues in the Democratic Caucus some thoughts about yesterday that I would like to share with the rest of the House and my colleagues on the Republican side at this time.

We can disagree, and we often do disagree, but we can do it civilly. We did not do that yesterday. There were a lot of catcalls yesterday. There were a lot of hisses and sisses, and I understand the frustrations were high. But frankly, that is no way to treat colleagues. We can accord one another respect, we can disagree and still not be disagreeable. It does not really help the process to have the bomb-throwers on either side get up and engage in a lot of rhetoric. Let us lower the rhetoric.

I have served in the Congress, as I said, for 16 years. Before that I was in law enforcement for about 10 years. There really is not a finer group of people than those I see here. Most of the Members are decent, honest people. There were about 25 here yesterday who engaged in that practice. That does not represent the views of the 435 generally that I serve with in the Congress.

As I say, Mr. Speaker, we all want to get this over with. So let us see if we can reduce the rhetoric and get on with the business of passing a budget so that the Government can continue operating as it should.

A RELATIONSHIP BETWEEN THE HOUSE RULES AND THE BUDGET PACKAGE

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Iowa. Mr. Speaker, the rules of the House are very complicated. They are unique. We do not operate under Robert's Rules of Order. It is difficult to understand these rules, even for Members. But that difficulty should not result in misleading the public.

We have a situation here where the Budget Committee reports a resolution on the budget. That resolution just suggests macro numbers for the budget for the year, and then the matter is referred to the committee to decide how the numbers will be accomplished. The budget resolution may suggest possible ways of reaching the result desired but the numbers to be voted on in the House is in a bill reported by the committees.

All we voted on 3 nights ago was to send the budget resolution overall spendings limits and revenue enhancements to the various committees. That resolution did not secure a majority of either Democrats or Republicans. We did not vote for or against a package of specific changes in the law. All this talk about the package we voted for or against is malarkey. Due to misleading statements, there are people out there who think we voted for a specific package, but we did not vote for or against a package. The resolution is not even a law. It is an internal document which does not have the standing of law or need be signed by the President. Voting down the resolution has caused us to lose 3 days now, and we are right back where we were 3 nights ago trying to agree on a resolution so the committee can vote.

It is time to stop worrying about perceptions in the country. Let us get the Nation's business done, let us send a bill to committee, and let them work on it for a few more days.

GOVERNMENT OVERSPENDING ADDS STILL MORE TO THE DEFICIT

(Mr. FAWELL asked and was given permission to address the House for 1 minute.)

Mr. FAWELL. Mr. Speaker, I think we should emphasize just how much overspending this Congress has been guilty of and how bad and how profligate it is. In doing so, I do have to bring out the fact that Congress has been under the control of the majority party.

In 1990 we will add $355 billion to the national debt for our children and our grandchildren to pay off. That is a $220 billion deficit, and, in addition another $135 billion because we have sucked out every last dollar of all the surplus trust funds we had in 1990. And in 1991 even the budget summiteers are saying there will be at least a $293.7 billion deficit and another $145 billion in borrowing all of the trust funds. This represents every last surplus dollar from our trust funds. Congress is like an alcoholic who has to find every liquor bottle in the house.

□ 1850

That adds up in these 2 years to just about $800 billion in new debt. In addition, Congress has not balanced a budget for 20 years in a row. How could anybody in America understand a Congress which is doing that? On top of all this, we have an estimated $290 billion of incurred interest in 1991 on the national debt which presently stands at $3.2 trillion.

That is the supreme irony of everything, $290 billion just to pay interest on the national debt. As a result, all the programs that we want, we cannot now afford, because we have been so profligate, because we have not done what is elementary to every business person in America and every household—balance your budget.

Now, please do not bring us another budget agreement where we do not really attack the real problem, which is restraints upon spending. In the budget summit agreement given to us, we had a cut from a 12-percent increase in spending in nondefense, for instance, down to 11 percent increase in spending. That is not recognizing the profligate spending problem which we have. Until we recognize that we need a budget agreement where the idea of cutting spending comes before new taxes, we will never solve this problem.

Remember, new taxes don't pay off deficits or debt—they are usually used to finance more Federal spending.

POLITICIANS WILL LISTEN TO THE PEOPLE

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker, I have taken the well on numerous occasions and stated to Members that I believe the business of writing a national budget is the most important business of those of us who assume the responsibility of political leadership in this country, and that I believe the budget is the most significant document that any nation can develop, because our budget document is a statement of what we perceive to be important, our priorities, our values. So if you want to know something about a nation, look at its budget.

So what we do with respect to the budget is the most important business in which we engage.

I would like for Members to consider this point, Mr. Speaker: that maybe the fact that we have not arrived at a budget consensus, since we are indeed a representative government, maybe lies in the fact that the American people have not signaled us what ought to be the national consensus.

Now, in this moment of great chaos and pain, American people are now focusing upon us. Mr. Speaker, maybe the American people would take this moment to now signal clearly and without equivocation what that consensus ought to be.

Mr. Speaker, I would hope that as the American people speak, they would join me in saying let us have the boldness to move beyond the insanity of war as we have addressed the problems internationally, and move to a position of peace; that the American people would reject $300 military budgets, as I do; that the American people would understand that over the last 10 years we have spent in excess of $150 billion per annum to maintain our role in NATO, and now the Warsaw Pact at best has been rendered impotent, and at worst, it no longer exists; $150 billion a year.

Maybe they will join me in saying, "Yes, we can find a peace dividend." Maybe, Mr. Speaker, the American people can join me in saying we do not need B-2 bombers and Trident submarines and MX missiles to endanger the lives of millions of our children, expanding nuclear weapons beyond comprehension, weapons that have no function but to destroy human life on this planet. Maybe, Mr. Speaker, the American people will join me in saying let us tax the wealthy and get off the backs of working class and middle class people in America. Maybe, Mr. Speaker, finally, they would join me in saying it is cruel and unusual to live in a society with 13 million children in poverty, and millions of people in poverty.

Mr. Speaker, let us reduce the human misery. If the American people say that, the politicians will follow gladly and we will have a magnificent budget for America.

SIMILARITIES BETWEEN CONGRESS AND CHRISTOPHER COLUMBUS

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I think it is perhaps a little bit ironic, but never-

theless may be a little appropriate, to remind ourselves this evening that we are on the Columbus Day weekend, the celebration of the great event of almost 500 years ago, the discovery of our country.

Mr. Speaker, there are some rather striking similarities that we might want to consider at this poignant moment. Columbus was broke, history tells us. He was deep in debt. He had no money whatever to finance his activities. When Columbus set out, he was certainly not sure where he was going, and when Columbus got there, he did not know where he was.

I suggest that there are some real similarities between Columbus and this institution. However, there is some very good news there, and perhaps if we can get on with the continuing resolution that has been suggested by several Members for a managed sequester, the Michel-Soloman resolution which the President had indicated he will sign, we will then have the advantage that Columbus did not have. We will have the advantage of time, to find out where we are and where we are going with this budget. I think the country deserves that.

BUDGET FIGHT HAD TO BE WAGED

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute.)

Mr. TORRICELLI. Mr. Speaker, with the wheels of the Federal Government coming to a halt and a budget stalemate dominating the national agenda, there is some need to explain to the American people why it is this is occurring before them.

In the first instance, it is not necessary. While the budget negotiations are going forward, the President could have signed a continuing resolution. But he chose not to. Like a petulant child, he would have it his way, or the Federal Government would not operate at all. Those who suffer are the American people in need.

Second, no matter what may be said by the media and the pundits, this is not much to do about nothing. This is a fundamental fight. None of us wanted to be here this holiday weekend. We would all prefer to be home with our families. But the price to support the request of the President to take billions away from needy people on Medicare and continue a decade long effort to shift the finances of this Government onto the backs of the middle-class, onto working families, and continue the efforts to give privilege upon privilege to the American wealthy.

No, this is not a fight about nothing; it is a fight about something very fundamental. We are all sorry about the inconveniences, but this fight had to be waged.

TIME TO WORK IN A BIPARTISAN MANNER

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, I was looking in my calendar earlier today and I was struck by the fact that today is October 7. October 5 was targeted adjournment sine die for this Congress. Think of that. Two days ago we were supposed to have been done. Rather, we have not even completed a budget agreement.

Now, because there was a budget agreement that did not get majority support on the Democratic aisle or did not get majority support on the Republican side, we have decided we are going to become partisan. So what we are going to do here tonight is not try to move the process toward a bipartisan agreement that puts the Government back on its feet and allows Federal workers to go to work on Tuesday. What we are going to do is play partisan politics.

I would suggest that if all the rhetoric we have heard for the last couple of weeks means anything at all, it is time we pass a continuing resolution that the President has said he will sign at the level of the budget agreement that your leaders and our leaders endorsed a week ago, and then get back on with the negotiations. No more politics as usual.

BE FAIR IN BUDGET RESOLUTION

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, for 3 days I have been one of those Members sitting back listening to the arguments. Everybody across the country wonders what is going on.

First of all, they do not understand. My own staff half the time does not understand what the budget resolution is and what the reconciliation act is in the end. People thought if you voted a few days ago for the budget resolution, you supported and endorsed everything in the suggestions from the budget summit.

Mr. Speaker, I did not agree with those suggestions. I did believe we had to pass a budget, and I believe today we have to pass a budget.

Mr. Speaker, I do not agree on the Medicare cuts. I do not think that the poorest and the hardest hit people in the country should bear the costs of this deficit reduction. In fairness, I think there are other places to find that money.

This is my suggestion: One, the taxes on gasoline. Let us forget about the taxes on gasoline and let us pass a windfall profits tax on those oil companies that are gouging the American public with the high price of oil now.

□ 1900

How about the defense budget that our friend from California mentioned? The House budget was much less than the Senate, but they marked to the Senate budget. How about accepting the House budget?

People amaze me that we can continue to fight this battle day after day, and people say it is too partisan. Yes, it is partisan. The people elect a GOP President and a Republican President and then they are amazed that he wants to protect the rich and tax the middle class. Of course that is what he is going to do. That is their donors. They are not going to tax the rich. They are going to tax the middle class, and then people are amazed that he does it.

That is why we are so partisan. We Democrats are trying to protect the middle class and the poor, and we will continue to be partisan to protect them forever. And the GOP can continue to try to keep the bubble in, and keep the Republicans from increasing the taxes on the rich.

THE BUDGET BATTLE CONTINUES

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, this is a historic moment in the history of this country and of this body. We are engaged in great debate over the rule of the Federal Government and its cost to the American taxpayer.

Some in this body, and I might say they are largely Republicans, believe that the essential strength of this country comes from the grass roots, and they are the Members who also believe that $1.3 trillion is a lot of money, and that the taxes on the American people are already too high, at historic highs. That is right, too high already.

The average American worker works from January to May 8, more than 5 months, just to pay local, State, and Federal income taxes. Then if we add other taxes on top of that, maybe we add another month or two.

For God's sake, the American people are not undertaxed, and this demagoguery over rich versus poor is a lot of malarkey. The taxes that the Democrats have in mind hit the middle class right between the eyes, and that is the way it has always been.

We need a budget with a freeze that accommodates for some inflation, that gives us on top of the $1.3 trillion about $75 billion extra. It is enough for the appetites of our committee

chairmen and the establishment in Congress.

SIGN LETTER AGAINST OFFENSIVE ACTIONS IN THE MIDDLE EAST

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, while the Congress has understandably been focused this past week on the budget crisis, there have been some very ominous reports in the newspapers. On Friday, for example, on the front pages of the major newspapers of this Nation, as a result of what I can only take to be orchestrated leaks from someplace in the administration, there were stories suggesting that the President has already made a decision to undertake offensive military action in Saudi Arabia against Iraq.

I have a letter circulating which urges the President not to accept the temptation urged upon him by some people within his administration, to undertake a military attack upon Iraq but to continue to pursue his diplomatic and nonmilitary efforts to resolve the crisis.

I ask my colleagues, if they have not already done so, to consider signing the letter to the President. I think that we may be in a position of warding off some terrible action because of inaction by the Congress.

THE BUDGET AGREEMENT ON EDUCATION AND HEALTH AND SAFETY

(Mr. GAYDOS asked and was given permission to address the House for 1 minute.)

Mr. GAYDOS. Mr. Speaker, I ask my colleagues to pay more specific attention to some of the details in this budget.

Internationally we are being criticized that our students do not measure up, our scientists are second class, and yet we have as one of the specifics a suggestion that $2 billion be cut out of the next 5 years as far as aid to education, loans, community colleges, proprietary schools, all of those sensitive areas. We on the Education and Labor Committee will do our duty, but we are going to do it under adverse circumstances.

We have even gone so far after 20 years of fighting to make OSHA effective that we are now asked to take the OSHA fines, increase those fines, and to use them to take part in this budget solution. That is unfair. I thought we would have more inspectors and more negotiators as far as OSHA is concerned. Give us more inspectors in the field. That is not what is going to happen.

In conclusion, let me suggest this: Public pressure I think substantially contributed to the fact that the negotiators pulled off immediately from Social Security and the consideration of that great program. But there still remains the other aspects of it, the Medicare, for instance. I think that should be untouchable. Surely we in this group, in this Congress, negotiators, all of us together, can sincerely find and determine another area to chop or cut and take hands off of Medicare.

CLARIFICATION ON WHAT BUDGET WE ARE TALKING ABOUT

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I take 1 minute just to ask my colleague from Pennsylvania, if I could, will the gentleman tell me which budget he was talking about that does the various things he was talking about?

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, those are the suggested solutions. We are talking about $2 billion is suggested to be cut.

Mr. WALKER. So the gentleman is talking about the budget where we have a factsheet from the Democratic study group?

Mr. GAYDOS. I do not know what the gentleman is looking at.

Mr. WALKER. The revised budget, you are talking about the revised presentation over what we had the other evening?

Mr. GAYDOS. No; that was the other evening's budget. That is still in there.

Mr. WALKER. You are now talking about the new budget?

Mr. GAYDOS. No, I am talking about the concept of those that are directing their attention toward making a cut in that area.

Mr. WALKER. I am trying to figure out which one you are referring to. I mean, in essence I agree with some of the points you made. But are we talking about the one that was turned down the other evening, or are you talking about the budget coming to the floor later?

Mr. GAYDOS. The original that was turned down, that was in that budget. I now understand it is still in this budget.

Mr. WALKER. So there is one around that is coming, that you understand has some problem with it, is that correct?

Mr. GAYDOS. I am making an attempt to alert my colleagues to watch and to be alert in that particular area so that this does not occur again. That is what I am trying to say, the point I am trying to make.

Mr. WALKER. I thank the gentleman, and I concur with him on that. I think that it is absolutely essential, I think that it is absolutely essential that we do take a very close look at what these numbers mean, because if this factsheet is anywhere close to correct there are some numbers in this particular presentation which the American people should find very disturbing. And I think the gentleman has pointed out some of them, and we may have to point out some more in the course of the evening.

Mr. GAYDOS. If my colleague will yield, probably the reason why my interest is directed toward those points is because that is the jurisdiction of our committee. I am quite sensitive to that area, and those were the figures that I had.

Mr. WALKER. I thank the gentleman.

BUDGET PRIORITIES

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, hopefully in a short period of time the House will be voting on another budget resolution or budget agreement. To those who are visiting the Capitol today, or to those who visited the Congress today, they may be wondering what is going on.

What is going on is a battle of priorities, and if there is no easy answer it is because there is not one. It is an impasse. It is an impasse that this country is at as it tries to struggle with what to do in the 1990's, and how do we live in the 1990's and beyond.

What is at issue is whether we invest in this economy, and financially for those who have not been paying their fair share of taxes in the past, whether they are going to pay their fair share of taxes. It is an issue of fairness, an issue of who pays, an issue of how do we go forward.

I was interested to hear discussion from my friend on the other side of the aisle about whose budget, and indeed that is a fair question, because from the other side of the aisle there has not been any budget. There was no budget when the House voted on the budget back in the spring, and the Republicans had a chance to offer one, and they chose not to. I suspect there will not be a budget alternative offered in the near future. Once again, why go on the record if you do not have to? I think that is the answer.

We are going to put forward a budget, and hopefully it is a compromise, but it is going to be a budget that makes an investment in the

future. That is what is at issue, is priorities.

I did not vote for the last budget, the one a couple of nights ago because I thought it had the wrong priorities. Based upon what I heard so far, and I hope is in the budget tonight, I intend to be on board and vote yes this time, because for the first time we begin moving toward the right priorities.

□ 1910

THERE IS A SILVER LINING IN THE CLOUD

(Mr. SERRANO asked and was given permission to address the House for 1 minute.)

Mr. SERRANO. Mr. Speaker, growing up in the south Bronx, I have learned to look for a silver lining in every cloud that comes before me, and there is a silver lining in this problem.

It seems to me that a lot of the American people, and certainly a lot of Members of Congress, have not noticed the following: Throughout the world, countries are trying to imitate us. Democracy is being born in places that we never thought would take place.

Part of being a democratic system, part of being a democratic country is that sometimes Government does not agree on a budget, and so while we are all in favor of moving this along and while we are in favor of making sure that the American people are not hurt anymore this week, not tonight, not in an hour from now, we cannot have it both ways. We cannot be proud of the greatest democracy on Earth, and when the democracy does not reach a budget within the specified time, begin to criticize it as something that should be thrown away.

As the newest Member of Congress, I can tell you it hurts to see that we have not reached agreement, but I also think that it is democracy at its best. It is what people are trying to imitate, and we should not be ashamed of the process.

The result, the time it takes, maybe we should be upset, but not the process in full.

AMERICAN PUBLIC NOT WILLING TO HAVE TAXES RAISED

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, there are rumors all over this place this evening that we are about to get a new budget, although no one seems quite willing to admit what is in it; but the rumor is we are going to remove, at least part of it will be to remove $10 billion from revenues and $10 billion from entitlements to create what is called a $20 billion plug, and that $20 billion plug will be given over to the Committee on Ways and Means to do with whatever it likes, including raising taxes by $20 billion.

Mr. Speaker, if there was any message from the rejection by a majority of both Democrats and Republicans of the last budget deal to reach this floor just a couple of nights ago, it was that the American public is not willing to have its taxes raised.

If they were not willing to have the taxes raised by the amount that was rejected two nights ago, then a fortiori, they are not willing to have them raised by $20 billion more.

It seems to me that this rumor that we are hearing about it, if in fact it is true, is a nonstarter from the beginning. If that is what the Democratic leadership wants to bring to this floor, the American people are going to reject it, and I suggest that this House also will reject it.

SPACE SHUTTLE MISSION PROGRESSING NICELY

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute.)

Mr. NELSON of Florida. Mr. Speaker, in the midst of all of this budgetary crisis that we are going through, I want to give some good news. The good news is that happily the space shuttle mission Discovery is progressing nicely. We have launched the Ulysses probe in a very complicated and tricky set of maneuvers on the way to the planet Jupiter, and then using the gravitational pull of Jupiter it will accelerate the speed of the spacecraft, throwing it out of the solar plane at a 90-degree angle so that we will be able to take measurements of a part of the universe that we have never been able to, below the solar plane and above the solar plane.

I say happily, certainly for those of us who want to understand more about our universe, this is a happy occasion. It is also a happy occasion in that NASA has had such a public-relations problem recently with the hydrogen leaks, with the flaw that was discovered in the original manufacturing of the Hubble Space Telescope some 10 years ago, but now I think we are starting to put it into perspective and to see that, in a complicated research kind of program, we are able to get it together and go on and do what Americans do best, and that is release our spirit as discoverers and explorers.

Happily that is the direction in which the space program is going.

BUDGET-BALANCING AMENDMENT TO THE CONSTITUTION NEEDED

(Mr. INHOFE asked and was given permission to address the House for 1 minute.)

Mr. INHOFE. Mr. Speaker, I know that we have gone for several very, very long days now, and it does not look to a lot of people like many things are being done. But I think things are being done.

I can remember my father used to say that when bad things seem to happen, usually good things are happening. In fact, I remember a movie. The movie was called "The Sound of Music." In there you will remember that the nun said, "When God closes the door, he leaves a window open."

I think with all of this discussion that all of America should focus on the big problem. Eighty-seven percent of the people in America want a budget-balancing amendment to the Constitution.

Last July 17, we were able to force a vote through a lot of maneuvering and get a public record. In that public record, which I have right here, we came within seven votes of passing a budget-balancing amendment to the Constitution.

I have a feeling that even though this looks like all of these bad things are happening and we are going to reach a temporary resolution to the problem, and next year, maybe even before this session is over, we will be able to use the public sentiment who is standing by and watching all of this and getting a budget-balancing amendment to our Constitution so we will not have to go through all of this stuff again.

WE ARE ALL GOING TO GIVE ON SOMETHING

(Mr. SISISKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SISISKY. Mr. Speaker, I think it is very interesting; this is the first time that I have come in front of the House during this debate.

Maybe I am not hearing right. I thought I heard the Speaker of the House of Representatives say to the Members of this body that the conference committee was meeting on a new budget. We have a piece of paper here, I understand that, but the Speaker even explained that saying that the piece of paper was something that they may have judged, but they have been wrong before.

When Members come out here and say you are going to get a budget tonight and it is going to have $20 billion in taxes, $30 billion, $40 billion, you are not voting on that. You are voting on process, so let the committees of this House operate.

Every Member will have the opportunity to vote when the reconciliation bill comes out. That is when you can express yourself.

There is nothing wrong in expressing themselves now, but, Mr. Speaker, I can take any piece of paper or any budget, and I think you know, Mr. Speaker, that I would question any decrease in the amount going to the defense of this Nation, and yet there are other Members who want just that, and that is why we are in a problem.

But let me tell the Members, my friends, we are all going to give on something in order to help the economy of this country and, of course, to protect this country.

A GOOD VOTE FOR BOTH DEMOCRATS AND REPUBLICANS

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, there is a new budget deal in the works, but in terms of its effect on reducing the deficit it is not much different than the previous plan.

This new budget deal still requires a $40 billion cut in the deficit in the first year, and $500 billion over the 5 years of the program. The changes are not drastic. The changes simply allow more flexibility for the Committee on Ways and Means to decide how to apportion the Medicare and tax provisions.

The changes make it clear that while there are spending caps on defense and domestic spending, there are no floors. If we want to vote for less and to cut the deficit more, we are allowed to do that. The new deal makes it clear that we are expected to offset the cost of Desert Shield with contributions from other nations, and that any new initiatives must be done on a pay-as-you-go basis. In other words, no new spending unless there are cuts to offset that spending.

So we basically achieve the objective of deep deficit reduction with a little added flexibility in how we get there.

I think it is a good vote for both Democrats and Republicans to make.

RECESS

The SPEAKER pro tempore [Mr. MURTHA]. The House will stand in recess until 8:15 p.m.

Accordingly (at 7 o'clock and 19 minutes p.m.), the House stood in recess until 8:15 p.m.

□ 2023

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. HOYER] at 8 o'clock and 23 minutes p.m.

LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, I have asked to proceed for the purpose of informing the House as best I can. We are at a point this evening when we are approaching some decision with respect to the evening schedule.

I know Members would have preferred to have that earlier, but the conference committee has not yet announced that it has reached a decision. Because it remains my hope that we can still take some action this evening, I would be reluctant to take any step which might send the House home, as much as I know Members would like to have an early departure. If we can have some expectation of a conference report or other action on a budget resolution, I think it would be most valuable and important to do so.

PERMISSION FOR SPEAKER TO DECLARE RECESS UNTIL 9:30 P.M. TONIGHT

Mr. FOLEY. It would be my intention at this time, Mr. Speaker, to ask unanimous consent that the Chair may declare a recess of the House at any time until 9:30 p.m. tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, reserving the right to object, and I shall not object, the question that continues to recur on our side is one that we have discussed in the course of the evening as to whether or not there is any chance at all that we could get a continuing resolution to the floor, given the fact that the budget process seems to be dragging out here. I know the Speaker had hoped earlier in the day to have something out, but we do have a recurring question. Is that at all a possibility for later on this evening?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the Speaker.

Mr. FOLEY. Mr. Speaker, I will tell the gentleman there is that possibility, assuming we have taken up and disposed of the conference report on the budget resolution. However, I am extremely reluctant at this point to put the cart before the horse so to speak by doing continuing resolution with the dispute that will occur on that until we resolve the fundamental question of adopting a budget resolution or take another action to set that process forward.

Tomorrow is a Federal holiday. The next day is not. As I have said, it was our feeling on this side that we should not have this question of a continuing resolution before us at all, because the Government should not be closed. But it is, and we have to take action on the budget resolution to satisfy the concerns of the President in order to obtain his signature on the continuing resolution.

I am willing, as I have told Mr. MICHEL, the Republican leader, and say again to the House, at anytime we consider a continuing resolution to ask the distinguished chairman and members of the Rules Committee to make in order an amendment satisfying the President's desire that the House vote on whether or not we have a partial shutdown of the Government under a pro rata sequester of the Federal Government. I am opposed to that. I think it is unnecessary. But I made that commitment and I will keep it. But there is no commitment on taking up a continuing resolution first before the House has approached the responsibility of deciding on a budget resolution.

Mr. WALKER. Further reserving the right to object, I appreciate that explanation, and we do appreciate the Speaker's assurance to the minority leader that such an amendment would be made in order, and we know that he has assured us that he would follow through on that.

Further reserving the right to object, I yield to the gentleman from Minnesota, [Mr. WEBER].

Mr. WEBER. Mr. Speaker, I just wonder if the Democrats are not intending to bring their budget resolution to the floor tonight, I wondered if there is some time at which they do intend to bring a continuing resolution to the floor?

Mr. WALKER. I am glad to yield to the gentleman from Washington.

Mr. FOLEY. I would respond to the gentleman, if you will yield, that I have not been conscious of the fact that we have had problems in delay. We are trying to determine the position of the Republican side on the questions that are before the conference committee.

But in any case, we are trying to accommodate a reasonable opportunity for the committee to act. If it is impossible for the committee to act with unanimity, then perhaps they will have to make a judgment about coming back without being able to agree on a conference report. I do not have before me at the moment a solution to the problem. But believe me, we would like to act tonight and soon. I hope that that will not only be possible but possible in a way that assists in taking this budget resolution and conference report forward.

The President does not sign a budget resolution, as we all know, as he does a continuing resolution.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I yield to the distinguished minority whip.

Mr. GINGRICH. I thank the gentleman for yielding.

I would just make the observation, because I watched earlier today on television the various comments about what our options are, first of all that if we were to pass a continuing resolution in a sensible form that was fiscally responsible, which would mean that for one we would be only at the budget summit number, which is $400.1 billion, which would mean for one only basically travel funds. No Federal employees would be furloughed. We would only be cutting spending in discretionary amounts such as travel money. And the administration has said:

If a continuing resolution covering the period October 6 through October 12, 1990, is passed that implements a sequester which on an annual basis would equal a reduction in spending of $40.1 billion (the 1991 savings of the Bi-Partisan Budget Agreement), the President's senior advisers will recommend that he sign it.

□ 2030

Now, my only point is this: On behalf of the Republicans, I think on behalf of the President, there are millions of Americans who want to go to the national parks; there are thousands of Americans in this city who planned their vacations to be able to go to the Smithsonian, to the Washington Monument. There are Americans who want to do a variety of things Monday morning.

If this Congress, if the Democratic leadership in the House and Senate would simply this evening pass a signable continuing resolution which would cut nothing except travel money, not a single Federal employee would be furloughed. Tomorrow morning all over America people could use Federal facilities.

I would just simply ask the Speaker: Why are we inconveniencing millions of Americans, keeping this level of uncertainty?

Mr. FOLEY. If the gentleman will yield to me, I have a very easy answer to that.

Mr. WALKER. Further reserving the right to object, I am happy to yield to the distinguished Speaker.

Mr. FOLEY. Because the President vetoed a continuing resolution which would have allowed everybody to go to work, every national park to stay open, every Federal facility to be open. That was passed by this House with a bipartisan majority vote. It was passed by the Senate by a unanimous vote with every Republican and Democratic Senator supporting it. It went to the President, and he, I say with the greatest respect, made a terrible and unnecessary mistake in vetoing that bill.

Nobody is denied the use of Federal facilities because this body wanted it to happen, we did not; or because the U.S. Senate wanted it to happen, because it did not. It is because the President of the United States chose to exercise a veto which this body sustained, with all but 24 votes to sustain that veto, coming from the Republican side. That is why the American people are being inconvenienced.

Let us not have any doubt about it.

Mr. WALKER. Mr. Speaker, further reserving the right to object.

Mr. FOLEY. Now, we can have this battle later and probably will, but let me repeat again what the President said in the veto message that your side voted overwhelmingly to sustain yesterday. He said, "Please concentrate your efforts on getting a budget resolution." That is in the veto message.

I am reluctant, I will tell the distinguished whip, to take this House through another exercise of deciding how many of the American people will be inconvenienced, how many communal feeding centers will be closed down, how many schools programs, education facilities, and airports will be closed to satisfy the gentleman's desire for fiscal responsibility in a week when we are trying to get an ultimate solution to this problem rather than playing further games with the American people, the Federal budget or Federal workers.

Let us get on with the job of doing this.

Mr. WALKER. Further reserving the right to object, I yield to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, let me say to the distinguished Speaker just three things. First of all, under the continuing resolution the President has indicated he would sign, none of the institutions the gentleman described would be closed.

Second, this House is about to go back into recess. This House could easily simply avoid recess, spend the time passing the resolution, while working on the budget. And, third, it does seem to me, since I am often lectured about responsibility, that when the Democratic majority fails to override a veto, it has an obligation to respond to that failure by cooperating with the President. You failed to override the veto. Therefore, it seems to me, you have an obligation under the Constitution to allow the Government to operate and not simply to close it down.

Mr. FOLEY. Mr. Speaker, would the gentleman yield further to me?

Mr. WALKER. Mr. Speaker, further reserving the right to object, I am happy to yield to the distinguished Speaker.

Mr. FOLEY. Of all the people in this House, of all the people in this country who has little claim to cooperating with his President, it is the gentleman from Georgia.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I would hope that we could keep the matter here on policy and not on personalities.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Speaker, I wonder if the distinguished Speaker would return to the subject of why we are not in a position to vote on a budget tonight.

Apparently our Senate colleagues believe that the bipartisan conference has broken down, because they have adjourned until 2 o'clock tomorrow. If we believe that there is some other reason, if there is some other reason to believe that we are going to be able to vote on something, we must know something that they do not. I wonder what is the Speaker's presumption about the status of budget negotiations? I am assuming we are preparing to see a Democrat budget delivered to this floor.

Mr. FOLEY. Mr. Speaker, will the gentleman from Pennsylvania yield?

Mr. WALKER. Further reserving the right to object, I am happy to yield to the distinguished Speaker.

Mr. FOLEY. Responding to the gentleman from Minnesota, as we used to say in the law business, the gentleman's question contains a conclusion that is not in evidence.

We have had the Senate adjourn until tomorrow, but that does not mean that all of the possibility of a conference report has ended. The Senate conferees are here in the Capitol. The House conferees are here in the Capitol. They are available to meet.

The fact is that the Senate, under Senate rules, is provided 10 hours to debate any conference report on a budget resolution. It was unlikely under the circumstances that the Senate could conclude such an action tonight, and that is why they adjourned.

Mr. WALKER. Further reserving the right to object, I yield to the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Speaker, I would like to just respond to something that has been said in this debate and questioning, and that is the continuing resolution. First of all, we had a vote, I believe yesterday, where anyone who wanted to prevent the stoppage of the Government could have voted to do that by simply voting to override the President's veto.

Secondly, I would also point out to the distinguished gentleman from Pennsylvania that the continuing resolution that we passed would have been $25 billion below, more than travel money, last year's funding.

I would also point out to the gentleman that the President's veto message stated very specifically something that was clear to all of us. He said he wanted a budget first and then a CR, so it is interesting that today we now

want to have a CR before we have a budget from the minority side, and so I would simply say to the gentleman that I find it very interesting that we want to have a continuing resolution before we have the budget when we have what the President's veto message said.

Mr. WALKER. Further reserving the right to object, I would simply say to the gentleman a couple of things.

First of all, the President's complaint about the CR was the fact that in your CR you were making a specific attempt to eliminate the budget discipline which is available to the Government under Gramm-Rudman-Hollings. So that he is attempting to have that corrected in the message that he sent up here.

He regarded as an act of irresponsibility by the Congress to eliminate what little budget discipline is left, given the fact that Congress has had an inability to act on these matters up until now.

I would also point out to the distinguished Speaker and to the distinguished majority whip that when you all went into the budget summit agreement with the President, a part of that budget summit agreement was an understanding that should the budget fail on Capitol Hill, that the President would not sign any further CRs.

It is somewhat surprising then to me that you now claim that this is something totally unknown to you. That was part of the understanding that, as I understand it, everyone was a party to in the course of the events.

Mr. FOLEY. Mr. Speaker, will the gentleman yield further?

Mr. WALKER. I am happy to yield to the distinguished Speaker.

Mr. FOLEY. Mr. Speaker, I do not want to interrupt the distinguished Democratic leader who is biting his tongue, I think, as I am, at the suggestion that we agreed, any of us on the Democratic side, that the President would not sign a continuing resolution. It is not expressed in terms of the agreement as anything other than the President's unilateral intention, and there is a reason for that. There was never any agreement by any of the members of the summit on the Democratic side that there should be any delay, any interruption, any refusal to continue the Federal Government, even for 1 minute.

A recent statement by the White House Press Secretary that this was part of an agreement, was corrected by them, and the President made a personal assurance to us at the White House yesterday that he understood, as did Mr. Darman and the others, that we never agreed that he should take this action.

□ 2040

The action was his alone. The statement was made of his intention, but it was never part of any agreement, and explicitly did not have our consent or approval.

Mr. WALKER. I thank the gentleman. I would simply point out to the gentleman that it was part of the documents that were handed out to the Members that this was part of the understanding.

The gentleman may well be stating it correctly, and I think that it is useful for the House to know that, but it certainly was within the understanding of the Democratic leadership that that was the potential. The President is attempting now to compromise that by suggesting if we maintain the discipline that was incumbent in the bipartisan agreement, that for $40 billion worth of savings for a year, he will now sign a continuing resolution. It is that resolution which the House has failed to bring to the floor. It is that resolution that we are suggesting ought to come out to at least give Members the opportunity to have the Government operate at a disciplined level.

I yield to the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. I am having a difficult time understanding the gentleman because just the other night when he had an opportunity to support his President, and the bipartisan summit agreement that he continues to refer to over and over again, the gentleman from Pennsylvania did not support the summit agreement. Therefore, how can the gentleman from Pennsylvania tonight invoke summitry or any of its parts when the gentleman did not even support the President?

Mr. WALKER. I simply say to the gentleman that that was my position on the budget agreement. The majority of your people also did not support the budget agreement, and I invoke it only because the gentleman on your side of the——

Mr. GRAY. We are talking about the gentleman from Pennsylvania, not the majority. We are talking of the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Further reserving the right to object, I simply say to the gentleman that it was your leadership who signed on to that budget agreement. None of these Members did. Most of the Members on the minority side, and many on the majority side, never had an opportunity to have any input into that particular question. I have to think that is one of the reasons why your side lost, if the gentleman will allow me to complete my statement. Allow me to make my statement. The point being, one of the reasons why the gentleman failed along the way was because there was not enough consultation and because the budget, I do not think, was one where Members could accept leadership judgment fully.

Mr. GRAY. If the gentleman will yield, I find his statement is absolutely astounding. I sat at Andrews Air Force base for about 8 weeks. I saw at least the person whom I believe is the minority leader of the House, at least he was as of this morning, and that is the gentleman from Illinois [Mr. MICHEL]. He was there. I saw the minority whip, the gentleman from Georgia [Mr. GINGRICH]. He was there. I saw the ranking member of the Committee on the Budget, the gentleman from Minnesota [Mr. FRENZEL]. He was there. The ranking member of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER]. He was there.

I do not understand how one can even say to the American public that your side was not represented, and your leadership did not sign on to the summitry.

Mr. WALKER. I thank the gentleman for his point, and further reserving the right to object, I point out that the gentleman was there. The Speaker was there, and a lot of leaders on your side were there, and your side did not carry a majority of your caucus. Your caucus also abandoned your leadership on the budget.

Therefore, I think that there is much bipartisanship on the belief of the general Members of this body that the budget that was produced was an unworkable, unmanageable, and fiscally unsound budget. So at this point, we now have to look at the whole package back together.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. I understand that, having watched the first part of this over the television, that the concern here is that we need a continuing appropriation because we do not have a budget. I have been sitting in the office of the Senate majority leader for the last 6 hours, trying to convene the conference on the budget so that we could put an agreement together to bring to the floor. Up until now we have had all of the Democrats there. We have had the Senate Republicans there, but we cannot quite seem to get the House Republicans to attend the conference to see if we could get a budget agreement put together tonight.

I am going to leave here, and I will go back. I hope someone will come from your side so that we can do what the President has asked Members to do now for 5 months, what he asked Members to do yesterday and what he continues to ask Members to do today, which is to put a budget resolution together.

We are ready to confer. We have been sitting in the room for 6 hours, and I think it is time to begin to

confer, to do the Nation's business to get a budget done so we can get the Nation's business done.

Mr. GRAY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, further reserving the right to object, I am happy to yield to the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Speaker, I hear the majority leader of the House saying there is a budget conference going on right now, and no one from your side is there. Could the gentleman explain why no one from your side will represent your side for the budget conference?

Mr. WALKER. Further reserving the right to object, that may be well above my pay grade, I would say to the gentleman, but I would simply say to the gentleman that there is a feeling on our side that we have not been very well consulted with in the course of developing the budget.

We were surprised early today to find a Democratic study group budget out on the floor explaining this whole document that the Republicans had not been consulted about, and we now understand there is a correction out saying it is possible that some of the figures in the conference report could change, so that maybe the DSG was not exactly accurate, but at least they had the feeling that something was coming down the track, that we were not familiar with. So, some of our people may be trying to figure out what is there before they go into a meeting where they are gong to be asked to adopt something.

Mr. FOLEY. Mr. Speaker, I respectfully ask again for unanimous consent that the Speaker may declare a recess up until 9:30 p.m. this evening.

The SPEAKER pro tempore. (Mr. HOYER). Is there objection to the request of the gentleman from Washington?

There was no objection.

RECESS

The SPEAKER pro tempore. Without objection, the House will stand in recess until 9:30 p.m.

There was no objection.

Accordingly (at 8 o'clock and 45 minutes p.m.), the House stood in recess until 9:30 p.m.

CONFERENCE REPORT ON H. CON. RES. 310

Mr. PANETTA submitted the following conference report and statement on the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995:

CONFERENCE REPORT (H. REPT. 101-820)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the resolution and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the budget for fiscal year 1991 is established, and the appropriate budgetary levels for fiscal years 1992, 1993, 1994, and 1995 are hereby set forth.

MAXIMUM DEFICIT AMOUNTS

SEC. 2. The following levels and amounts in this section are set forth for purposes of determining, in accordance with section 310(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution, shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1991: $1,172,900,000,000.
Fiscal year 1992: $1,260,800,000,000.
Fiscal year 1993: $1,349,800,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1991: $1,485,600,000,000.
Fiscal year 1992: $1,562,600,000,000.
Fiscal year 1993: $1,582,400,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1991: $1,236,900,000,000.
Fiscal year 1992: $1,269,300,000,000.
Fiscal year 1993: $1,305,000,000,000.

(4)(A) The amounts of the deficits are as follows:

Fiscal year 1991: $64,000,000,000.
Fiscal year 1992: $8,500,000,000.

(B) The amount of the surplus is as follows:

Fiscal year 1993: $44,800,000,000.

RECOMMENDED LEVELS AND AMOUNTS

SEC. 3. (a) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1990, October 1, 1991, October 1, 1992, October 1, 1993, and October 1, 1994:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1991: $858,600,000,000.
Fiscal year 1992: $923,900,000,000.
Fiscal year 1993: $987,900,000,000.
Fiscal year 1994: $1,045,200,000,000.
Fiscal year 1995: $1,101,400,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1991: $14,700,000,000.
Fiscal year 1992: $24,300,000,000.
Fiscal year 1993: $26,900,000,000.
Fiscal year 1994: $30,700,000,000.
Fiscal year 1995: $30,300,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1991: $75,400,000,000.
Fiscal year 1992: $83,200,000,000.
Fiscal year 1993: $88,900,000,000.
Fiscal year 1994: $95,200,000,000.
Fiscal year 1995: $101,400,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1991: $1,174,700,000,000.
Fiscal year 1992: $1,230,100,000,000.
Fiscal year 1993: $1,229,600,000,000.
Fiscal year 1994: $1,216,000,000,000.
Fiscal year 1995: $1,266,000,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1991: $1,002,300,000,000.
Fiscal year 1992: $1,024,800,000,000.
Fiscal year 1993: $1,049,900,000,000.
Fiscal year 1994: $1,059,900,000,000.
Fiscal year 1995: $1,080,900,000,000.

(4)(A) The amounts of the deficits are as follows:

Fiscal year 1991: $143,700,000,000.
Fiscal year 1992: $100,900,000,000.
Fiscal year 1993: $62,000,000,000.
Fiscal year 1994: $14,700,000,000.

(B) The amount of the surplus is as follows:

Fiscal year 1995: $20,500,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1991: $3,369,600,000,000.
Fiscal year 1992: $3,540,900,000,000.
Fiscal year 1993: $3,676,700,000,000.
Fiscal year 1994: $3,766,900,000,000.
Fiscal year 1995: $3,827,600,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1990, October 1, 1991, October 1, 1992, October 1, 1993, and October 1, 1994, are as follows:

Fiscal year 1991:
(A) New direct loan obligations, $21,000,000,000.
(B) New primary loan guarantee commitments, $106,800,000,000.
(C) New secondary loan guarantee commitments, $85,400,000,000.
Fiscal year 1992:
(A) New direct loan obligations, $17,800,000,000.
(B) New primary loan guarantee commitments, $109,600,000,000.
(C) New secondary loan guarantee commitments, $88,700,000,000.
Fiscal year 1993:
(A) New direct loan obligations, $18,200,000,000.
(B) New primary loan guarantee commitments, $112,100,000,000.
(C) New secondary loan guarantee commitments, $92,100,000,000.
Fiscal year 1994:
(A) New direct loan obligations, $18,400,000,000.
(B) New primary loan guarantee commitments, $115,450,000,000.
(C) New secondary loan guarantee commitments, $95,600,000,000.
Fiscal year 1995:
(A) New direct loan obligations, $18,600,000,000.
(B) New primary loan guarantee commitments, $118,100,000,000.
(C) New secondary loan guarantee commitments, $99,200,000,000.

(b) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations and new primary loan guarantee commitments for fiscal years 1991 through 1995 for each major functional category are:

(1) National Defense (050):
Fiscal year 1991:
(A) New budget authority, $288,300,000,000.
(B) Outlays, $297,000,000,000.

(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $290,900,000,000.
(B) Outlays, $295,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $291,100,000,000.
(B) Outlays, $292,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $351,500,000,000.
(B) Outlays, $341,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $364,900,000,000.
(B) Outlays, $351,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(2) International Affairs (150):
Fiscal year 1991:
(A) New budget authority, $19,200,000,000.
(E) Outlays, $17,400,000,000.
(C) New direct loan obligations, $1,900,000,000.
(D) New primary loan guarantee commitments, $7,200,000,000.
(E) New secondary loan guarantee commitments, $400,000,000.
Fiscal year 1992:
(A) New budget authority, $19,800,000,000.
(B) Outlays, $18,000,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $7,200,000,000.
(E) New secondary loan guarantee commitments, $400,000,000.
Fiscal year 1993:
(A) New budget authority, $20,600,000,000.
(B) Outlays, $18,500,000,000.
(C) New direct loan obligations, $2,100,000,000.
(D) New primary loan guarantee commitments, $7,500,000,000.
(E) New secondary loan guarantee commitments, $400,000,000.
Fiscal year 1994:
(A) New budget authority, $22,400,000,000.
(B) Outlays, $19,700,000,000.
(C) New direct loan obligations, $2,100,000,000.
(D) New primary loan guarantee commitments, $7,700,000,000.
(E) New secondary loan guarantee commitments, $500,000,000.
Fiscal year 1995:
(A) New budget authority, $23,800,000,000.
(B) Outlays, $20,700,000,000.
(C) New direct loan obligations, $2,200,000,000.
(D) New primary loan guarantee commitments, $8,000,000,000.
(E) New secondary loan guarantee commitments, $500,000,000.
(3) General Science, Space, and Technology (250):
Fiscal year 1991:
(A) New budget authority, $15,200,000,000.
(B) Outlays, $15,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $15,900,000,000.
(B) Outlays, $15,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $16,500,000,000.
(B) Outlays, $16,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $17,100,000,000.
(B) Outlays, $16,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $17,700,000,000.
(B) Outlays, $17,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(4) Energy (270):
Fiscal year 1991:
(A) New budget authority, $6,400,000,000.
(B) Outlays, $4,000,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1992:
(A) New budget authority, $5,600,000,000.
(B) Outlays, $4,400,000,000.
(C) New direct loan obligations, $1,600,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $6,400,000,000.
(B) Outlays, $5,000,000,000.
(C) New direct loan obligations, $2,000,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $6,800,000,000.
(B) Outlays, $5,300,000,000.
(C) New direct loan obligations, $2,100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $7,200,000,000.
(B) Outlays, $5,200,000,000.
(C) New direct loan obligations, $2,300,000,000.
(D) New primary loan guarantee commitments, $0.
(5) Natural Resources and Environment (300):
Fiscal year 1991:
(A) New budget authority, $18,800,000,000.
(B) Outlays, $18,900,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $19,900,000,000.
(B) Outlays, $19,600,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $20,500,000,000.
(B) Outlays, $20,200,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $21,200,000,000.
(B) Outlays, $20,600,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $22,000,000,000.
(B) Outlays, $21,200,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(6) Agriculture (350):
Fiscal year 1991:
(A) New budget authority, $18,000,000,000.
(B) Outlays, $14,100,000,000.
(C) New direct loan obligations, $9,000,000,000.
(D) New primary loan guarantee commitments, $7,000,000,000.
Fiscal year 1992:
(A) New budget authority, $22,600,000,000.
(B) Outlays, $17,100,000,000.
(C) New direct loan obligations, $8,800,000,000.
(D) New primary loan guarantee commitments, $7,300,000,000.
Fiscal year 1993:
(A) New budget authority, $20,400,000,000.
(B) Outlays, $16,000,000,000.
(C) New direct loan obligations, $8,600,000,000.
(D) New primary loan guarantee commitments, $6,600,000,000.
Fiscal year 1994:
(A) New budget authority, $18,200,000,000.
(B) Outlays, $15,300,000,000.
(C) New direct loan obligations, $8,600,000,000.
(D) New primary loan guarantee commitments, $6,700,000,000.
Fiscal year 1995:
(A) New budget authority, $19,200,000,000.
(B) Outlays, $14,600,000,000.
(C) New direct loan obligations, $8,400,000,000.
(D) New primary loan guarantee commitments, $6,800,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1991:
(A) New budget authority, $85,500,000,000.
(B) Outlays, $87,000,000,000.
(C) New direct loan obligations, $6,000,000,000.
(D) New primary loan guarantee commitments, $63,700,000,000.
(E) New secondary loan guarantee commitments, $85,000,000,000.
Fiscal year 1992:
(A) New budget authority, $85,400,000,000.
(B) Outlays, $81,400,000,000.
(C) New direct loan obligations, $3,300,000,000.
(D) New primary loan guarantee commitments, $65,500,000,000.
(E) New secondary loan guarantee commitments, $88,300,000,000.
Fiscal year 1993:
(A) New budget authority, $41,600,000,000.
(B) Outlays, $39,700,000,000.
(C) New direct loan obligations, $3,400,000,000.
(D) New primary loan guarantee commitments, $67,800,000,000.
(E) New secondary loan guarantee commitments, $91,700,000,000.
Fiscal year 1994:
(A) New budget authority, $6,500,000,000.
(B) Outlays, $9,200,000,000.
(C) New direct loan obligations, $3,500,000,000.
(D) New primary loan guarantee commitments, $70,300,000,000.

(E) New secondary loan guarantee commitments, $95,100,000,000.
Fiscal year 1995:
(A) New budget authority, $2,600,000,000.
(B) Outlays, $3,200,000,000.
(C) New direct loan obligations, $3,600,000,000.
(D) New primary loan guarantee commitments, $72,100,000,000.
(E) New secondary loan guarantee commitments, $98,700,000,000.
(8) Transportation (400):
Fiscal year 1991:
(A) New budget authority, $32,300,000,000.
(B) Outlays, $30,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0
Fiscal year 1992:
(A) New budget authority, $33,500,000,000.
(B) Outlays, $31,900,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0
Fiscal year 1993:
(A) New budget authority, $34,700,000,000.
(B) Outlays, $33,100,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0
Fiscal year 1994:
(A) New budget authority, $36,000,000,000.
(B) Outlays, $34,300,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0
Fiscal year 1995:
(A) New budget authority, $37,400,000,000.
(B) Outlays, $35,500,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0
(9) Community and Regional Development (450):
Fiscal year 1991:
(A) New budget authority, $9,200,000,000.
(B) Outlays, $8,600,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1992:
(A) New budget authority, $8,900,000,000.
(B) Outlays, $8,600,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1993:
(A) New budget authority, $9,000,000,000.
(B) Outlays, $8,700,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1994:
(A) New budget authority, $9,500,000,000.
(B) Outlays, $8,900,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
Fiscal year 1995:
(A) New budget authority, $9,600,000,000.
(B) Outlays, $9,200,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $400,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1991:
(A) New budget authority, $43,000,000,000.
(B) Outlays, $41,800,000,000.
(C) New direct loan obligations, $0
(D) New primary loan guarantee commitments, $12,500,00,000.
Fiscal year 1992:
(A) New budget authority, $43,700,000,000.
(B) Outlays, $43,000,000,000.
(C) New direct loan obligations, $0
(D) New primary loan guarantee commitments, $12,900,000,000.
Fiscal year 1993:
(A) New budget authority, $44,400,000,000.
(B) Outlays, $44,000,000,000.
(C) New direct loan obligations, $0
(D) New primary loan guarantee commitments, $13,200,000,000.
Fiscal year 1994:
(A) New budget authority, $46,300,000,000.
(B) Outlays, $45,400,000,000.
(C) New direct loan obligations, $0
(D) New primary loan guarantee commitments, $13,300,000,000.
Fiscal year 1995:
(A) New budget authority, $48,100,000,000.
(B) Outlays, $46,900,000,000.
(C) New direct loan obligations, $0
(D) New primary loan guarantee commitments, $13,400,000,000.
(11) Health (550):
Fiscal year 1991:
(A) New budget authority, $66,300,000,000.
(B) Outlays, $65,500,000,000.
(C) New direct loan obligations, $0
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1992:
(A) New budget authority, $73,900,000,000.
(B) Outlays, $73,300,000,000.
(C) New direct loan obligations, $0
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1993:
(A) New budget authority, $81,300,000,000.
(B) Outlays, $80,900,000,000.
(C) New direct loan obligations, $0
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1994:
(A) New budget authority, $89,600,000,000.
(B) Outlays, $88,900,000,000.
(C) New direct loan obligations, $0
(D) New primary loan guarantee commitments, $350,000,000.
Fiscal year 1995:
(A) New budget authority, $98,500,000,000.
(B) Outlays, $97,500,000,000.
(C) New direct loan obligations, $0
(D) New primary loan guarantee commitments, $400,000,000.
(12) Medicare (570):
Fiscal year 1991:
(A) New budget authority, $122,400,000,000.
(B) Outlays, $104,900,000,000.
(C) New direct loan obligations, $0
(D) New primary loan guarantee commitments, $0
Fiscal year 1992:
(A) New budget authority, $133,500,000,000.
(B) Outlays, $120,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $147,500,000,000.
(B) Outlays, $134,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $161,900,000,000.
(B) Outlays, $150,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $177,200,000,000.
(B) Outlays, $168,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1991:
(A) New budget authority, $196,800,000,000.
(B) Outlays, $160,000,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $205,200,000,000.
(B) Outlays, $167,800,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $212,800,000,000.
(B) Outlays, $175,300,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $223,500,000,000.
(B) Outlays, $185,300,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(14) Income Security (650):
Fiscal year 1995:
(A) New budget authority, $231,100,000,000.
(B) Outlays, $192,200,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
(14) Income Security (650):
Fiscal year 1991:
(A) New budget authority, $3,800,000,000.
(B) Outlays, $3,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $4,500,000,000.
(B) Outlays, $4,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $4,900,000,000.
(B) Outlays, $4,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $5,400,000,000.
(B) Outlays, $5,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $6,000,000,000.
(B) Outlays, $6,000,000,000.
(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1991:
(A) New budget authority, $31,900,000,000.
(B) Outlays, $31,700,000,000.
(C) New direct loan obligations, $7,000,000.
(D) New primary loan guarantee commitments, $15,700,000,000.
Fiscal year 1992:
(A) New budget authority, $33,100,000,000.
(B) Outlays, $32,700,000,000.
(C) New direct loan obligations, $600,000,000.
(D) New primary loan guarantee commitments, $16,000,000,000.
Fiscal year 1993:
(A) New budget authority, $34,100,000,000.
(B) Outlays, $33,800,000,000.
(C) New direct loan obligations, $600,000,000.
(D) New primary loan guarantee commitments, $16,300,000,000.
Fiscal year 1994:
(A) New budget authority, $35,000,000,000.
(B) Outlays, $36,300,000,000.
(C) New direct loan obligations, $500,000,000.
(D) New primary loan guarantee commitments, $16,700,000,000.
Fiscal year 1995:
(A) New budget authority, $36,100,000,000.
(B) Outlays, $36,100,000,000.
(C) New direct loan obligations, $500,000,000.
(D) New primary loan guarantee commitments, $17,000,000,000.
(16) Administration of Justice (750):
Fiscal year 1991:
(A) New budget authority, $13,300,000,000.
(B) Outlays, $12,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $14,400,000,000.
(B) Outlays, $14,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $15,000,000,000.
(B) Outlays, $14,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $15,600,000,000.
(B) Outlays, $15,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $16,200,000,000.
(B) Outlays, $16,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1991:
(A) New budget authority, $11,700,000,000.
(B) Outlays, $11,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $12,000,000,000.
(B) Outlays, $12,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $12,300,000,000.
(B) Outlays, $11,800,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $12,500,000,000.
(B) Outlays, $12,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $13,000,000,000.
(B) Outlays, $12,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(18) Net Interest (900):
Fiscal year 1991:
(A) New budget authority, $215,600,000,000.
(B) Outlays, $215,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $228,700,000,000.
(B) Outlays, $228,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $239,200,000,000.
(B) Outlays, $239,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $243,700,000,000.
(B) Outlays, $243,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $244,500,000,000.
(B) Outlays, $244,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(19) Allowances (920):
Fiscal year 1991:
(A) New budget authority, $0.
(B) Outlays, −$95,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, $0.
(B) Outlays, −$113,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, $0.
(B) Outlays, −$86,600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority, $0.
(B) Outlays, −$60,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority, $0.
(B) Outlays, −$76,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 1991:
(A) New budget authority, −$23,000,000,000.
(B) Outlays, −$43,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1992:
(A) New budget authority, −$21,400,000,000.
(B) Outlays, −$49,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1993:
(A) New budget authority, −$22,700,000,000.
(B) Outlays, −$52,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1994:
(A) New budget authority,—$93,800,000,000.
(B) Outlays,—$115,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1995:
(A) New budget authority,—$109,100,000,000.
(B) Outlays,—$134,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

RECONCILIATION

SEC. 4. (a) Not later than October 15, 1990, the committees named in subsections (b) and (c) of this section shall submit their recommendations to the Committees on the Budget of their respective Houses. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

HOUSE COMMITTEES

(b)(1) The House Committee on Agriculture shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $1,022,000,000 in outlays in fiscal year 1991, $2,023,000,000 in outlays in fiscal year 1992, $3,214,000,000 in outlays in fiscal year 1993, $3,432,000,000 in outlays in fiscal year 1994, and $3,936,000,000 in outlays in fiscal year 1995.

(2) The House Committee on Banking, Finance and Urban Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $1,507,000,000 in outlays in fiscal year 1991, $2,635,000,000 in outlays in fiscal year 1992, $2,812,000,000 in outlays in fiscal year 1993, $3,081,000,000 in outlays in fiscal year 1994, and $3,223,000,000 in outlays in fiscal year 1995.

(3) The House Committee on Education and Labor shall report changes in laws

within its jurisdiction sufficient to reduce the deficit as follows: $215,000,000 in fiscal year 1991, $525,000,000 in fiscal year 1992, $760,000,000 in fiscal year 1993, $1,010,000,000 in fiscal year 1994, and $1,260,000,000 in fiscal year 1995.

(4) The House Committee on Energy and Commerce shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $3,731,000,000 in outlays in fiscal year 1991, $6,822,000,000 in outlays in fiscal year 1992, $9,224,000,000 in outlays in fiscal year 1993, $10,988,000,000 in outlays in fiscal year 1994, and $12,956,000,000 in outlays in fiscal year 1995.

(5) The House Committee on Interior and Insular Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $343,000,000 in outlays in fiscal year 1991, $400,000,000 in outlays in fiscal year 1992, $412,000,000 in outlays in fiscal year 1993, $425,000,000 in outlays in fiscal year 1994, and $438,000,000 in outlays in fiscal year 1995.

(6) The House Committee on Judiciary shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $91,000,000 in outlays in fiscal year 1991, $95,000,000 in outlays in fiscal year 1992, $99,000,000 in outlays in fiscal year 1993, $103,000,000 in outlays in fiscal year 1994, and $107,000,000 in outlays in fiscal year 1995.

(7) The House Committee on Merchant Marine and Fisheries shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $222,000,000 in outlays in fiscal year 1991, $241,000,000 in outlays in fiscal year 1992, $249,000,000 in outlays in fiscal year 1993, $256,000,000 in outlays in fiscal year 1994, and $263,000,000 in outlays in fiscal year 1995.

(8) The House Committee on Post Office and Civil Service shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficent to reduce outlays, or (C) any combination thereof, as follows: $2,165,000,000 in outlays in fiscal year 1991, $2,140,000,000 in outlays in fiscal year 1992, $2,780,000,000 in outlays in fiscal year 1993, $3,545,000,000 in outlays in fiscal year 1994, and $3,720,000,000 in outlays in fiscal year 1995.

(9) The House Committee on Public Works shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $42,000,000 in outlays in fiscal year 1991, $53,000,000 in outlays in fiscal year 1992, $53,000,000 in outlays in fiscal year 1993, $53,000,000 in outlays in fiscal year 1994, and $53,000,000 in outlays in fiscal year 1995.

(10) The House Committee on Science, Space, and Technology shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $5,000,000 in outlays in fiscal year 1991, $5,000,000 in outlays in fiscal year 1992, $5,000,000 in outlays in fiscal year 1993, $5,000,000 in outlays in fiscal year 1994, and $5,000,000 in outlays in fiscal year 1995.

(11) The House Committee on Veterans' Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $620,000,000 in outlays in fiscal year 1991, $645,000,000 in outlays in fiscal year 1992, $670,000,000 in outlays in fiscal year 1993, $695,000,000 in outlays in fiscal year 1994, and $720,000,000 in outlays in fiscal year 1995.

(12)(A) The House Committee on Ways and Means shall report (i) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (ii) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (iii) any combination thereof, as follows: $3,320,000,000 in outlays in fiscal year 1991, $9,245,000,000 in outlays in fiscal year 1992, $11,870,000,000 in outlays in fiscal year 1993, $14,148,000,000 in outlays in fiscal year 1994, and $17,020,000,000 in outlays in fiscal year 1995.

(B) The House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $13,225,000,000 in fiscal year 1991, $24,135,000,000 in fiscal year 1992, $24,040,000,000 in fiscal year 1993, $28,950,000,000 in fiscal year 1994, and $28,450,000,000 in fiscal year 1995.

(C) In addition to the instructions in subparagraphs (A) and (B), the House Committee on Ways and Means shall report changes in laws within its jurisdiction sufficient to reduce the deficit as follows: $2,000,000,000 in fiscal year 1991, $3,000,000,000 in fiscal year 1992, $4,000,000,000 in fiscal year 1993, $5,000,000,000 in fiscal year 1994, and $6,000,000,000 in fiscal year 1995.

(D) The House Committee on Ways and Means shall report changes in laws within its jurisdiction which provides for an increase in the permanent statutory limit on the public debt by an amount not to exceed $1,900,000,000.

SENATE COMMITTEES

(c)(1) The Senate Committee on Agriculture, Nutrition, and Forestry shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $1,000,000,000 in fiscal year 1991, and $13,473,000,000 in fiscal years 1991 through 1995.

(2) The Senate Committee on Banking, Housing, and Urban Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $1,507,000,000 in fiscal year 1991, and $13,258,000,000 in fiscal years 1991 through 1995.

(3) The Senate Committee on Commerce, Science, and Transportation shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $232,000,000 in fiscal year 1991, and $1,335,000,000 in fiscal years 1991 through 1995.

(4) The Senate Committee on Energy and Natural Resources shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $36,000,000 in fiscal year 1991, and $364,000,000 in fiscal years 1991 through 1995.

(5) The Senate Committee on Environment and Public Works shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $392,000,000 in fiscal year 1991, and $1,808,000,000 in fiscal years 1991 through 1995.

(6)(A) The Senate Committee on Finance shall report (i) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (ii) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (iii) any combination thereof, as follows: $3,015,000,000 in fiscal year 1991, and $55,883,000,000 in fiscal years 1991 through 1995.

(B) The Senate Committee on Finance shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $13,225,000,000 in fiscal year 1991, and $118,800,000,000 in fiscal years 1991 through 1995.

(C) In addition to the instructions in subparagraph (A) and (B), the Senate Committee on Finance shall report changes in laws within its jurisdicton sufficient (1) to reduce outlays, (ii) to increase revenues, or (iii) any combination thereof, as follows $2,000,000,000 in fiscal year 1991, and $20,000,000,000 in fiscal years 1991 through 1995.

(D) The Senate Committee on Finance shall report changes in law within its jurisdiction which provide for an increae in the permanent statutory limit on the public debt by an amount not to exceed $1,900,000,000,000.

(7) The Senate Committee on Governmental Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $2,165,000,000 in fiscal year 1991, and $14,350,000,000 in fiscal years 1991 through 1995.

(8) The Senate Committee on Judiciary shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $91,000,000 in fiscal year 1991, and $495,000,000 in fiscal years 1991 through 1995.

(9)(A) The Senate Committee on Labor and Human Resources shall report (i) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (ii) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (iii) any combination thereof, as follows: $120,000,000 in fiscal year 1991, and $2,640,000,000 in fiscal years 1991 through 1995.

(B) The Senate Committee on Labor and Human Resources shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $45,000,000 in fiscal year 1991, and $840,000,000 in fiscal years 1991 through 1995.

(10) The Senate Committee on Veterans' Affairs shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce outlays, or (C) any combination thereof, as follows: $620,000,000 in fiscal year 1991, and $3,350,000,000 in fiscal years 1991 through 1995.

SALE OF GOVERNMENT ASSETS

SEC. 5. (a) It is the sense of the Congress that—

(1) from time to time the United States Government should sell assets to nongovernment buyers; and

(2) the amounts realized from such asset sales will not recur on an annual basis and do not reduce the demand for credit.

(b) For purposes of allocations and points of order under section 302 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be allocated to a committee and shall not be scored with respect to the level of budget authority or outlays under a committee's allocation under section 302 of that Act.

(c) For purposes of reconciliation under section 310 of the Congressional Budget and Impoundment Control Act of 1974, the amounts realized from asset sales or prepayments of loans shall not be scored with respects the level of budget authority, outlays, contributions, or revenues reconciled under a concurrent resolution on the budget.

(d) For purposes of this section—

(1) the terms "asset sale" and "prepayment of a loan" shall have the same meaning as under section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985; and

(2) the terms "asset sale" and "prepayment of a loan" do not include asset sales mandated by law before September 8, 1987, and routine, ongoing asset sales and loan prepayments at levels consistent with agency operations in fiscal year 1986.

RESERVE FUND FOR CHILDREN

SEC. 6. (a) In the Senate, budget authority and outlays may be allocated to the Senate Committee on Finance for increased funding for children, including funding through tax credits, if the Committee on Finance or the committee of conference reports funding legislation that—

(1) will, if enacted, make funds available for that purpose; and

(2) to the extent that the costs of such legislation are not included in this resolution, will not increase the deficit in this resolution for fiscal year 1991, and will not increase the total deficit for the period of fiscal years 1991 through 1995.

(b) Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference report on such legislation (if such a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of such Act as allocations, functional levels, and aggregates contained in this resolution. The Committee on Finance shall report revised allocations pursuant to section 302(b) of such Act for the appropriate fiscal year (or years) to carry out this section.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the resolution.

LEON E. PANETTA,
RICHARD GEPHARDT,
Managers on the Part of the House.

JIM SASSER,
WYCHE FOWLER, Jr.
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the resolution struck out all of the House resolution after the resolving clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House resolution and the Senate amendment.

EXPLANATION OF CONFERENCE AGREEMENT

The following tables show the functional allocations and budget aggregates included in the conference agreement over five years for the total budget, the on-budget amounts and the off-budget amounts. In addition, a table is included which breaks out the credit amounts by function.

CONFERENCE AGREEMENT TOTAL BUDGET

[In billions of dollars]

	1991	1992	1993	1994	1995
Budget authority	1,485.6	1,562.6	1,582.4	1,593.4	1,668.4
Outlays	1,236.9	1,269.3	1,305.0	1,324.8	1,355.5
Revenues	1,172.9	1,260.8	1,349.8	1,433.3	1,511.7
Deficit (−) / surplus (+)	−64.0	−8.5	44.8	108.5	156.2
050 National Defense:					
Budget authority	288.3	290.9	291.1	351.5	364.9
Outlays	297.0	295.0	292.0	341.7	351.1
150 International Affairs:					
Budget authority	19.2	19.8	20.6	22.4	23.8
Outlays	17.4	18.0	18.5	19.7	20.7
250 General Science, Space and Technology:					
Budget authority	15.2	15.9	16.5	17.1	17.7
Outlays	15.2	15.7	16.1	16.8	17.4
270 Energy:					
Budget authority	6.4	5.6	6.4	6.8	7.2
Outlays	4.0	4.4	5.0	5.3	5.2
300 Natural Resources and Environment:					
Budget authority	18.8	19.9	20.5	21.2	22.0
Outlays	18.9	19.6	20.2	20.6	21.2
350 Agriculture:					
Budget authority	18.0	22.6	20.4	18.2	19.2
Outlays	14.1	17.1	16.0	15.3	14.6
370 Commerce and housing credit:					
Budget authority	85.5	85.4	41.6	−6.5	2.6
Outlays	87.0	81.4	39.7	−9.2	−3.2
400 Transportation:					
Budget authority	32.3	33.5	34.7	36.0	37.4
Outlays	30.7	31.9	33.1	34.3	35.5
450 Community and regional development:					
Budget authority	9.2	8.9	9.0	9.5	9.6
Outlays	8.6	8.6	8.7	8.9	9.2
500 Education, training, employment and social services:					
Budget authority	43.0	43.7	44.4	46.3	41.8
Outlays	43.8	44.0	44.0	45.4	66.3
550 Health:					
Budget authority	66.3	73.9	81.3	89.6	98.5
Outlays	65.5	73.3	80.9	88.9	97.5

CONFERENCE AGREEMENT TOTAL BUDGET—Continued

[In billions of dollars]

	1991	1992	1993	1994	1995
570 Medicare:					
Budget authority	122.4	133.5	147.5	161.9	177.2
Outlays	104.9	120.0	134.4	150.5	168.0
600 Income security:					
Budget authority	196.8	205.2	212.8	223.5	231.1
Outlays	160.5	167.8	175.3	185.3	192.2
650 Social security:					
Budget authority	339.5	367.0	396.2	427.5	460.9
Outlays	266.3	283.7	301.4	318.9	337.2
700 Veterans benefits and services:					
Budget authority	31.9	33.1	34.1	35.1	36.1
Outlays	31.7	32.7	33.8	36.3	36.1
750 Administration of justice:					
Budget authority	13.3	14.4	15.0	15.6	16.2
Outlays	12.3	14.2	14.9	15.4	16.0
800 General government:					
Budget authority	11.7	12.0	12.3	12.5	13.0
Outlays	11.7	12.0	11.8	12.0	12.4
900 Net Interest:					
Budget authority	194.4	201.9	206.2	203.8	197.0
Outlays	194.4	201.9	206.2	203.8	197.0
920 Allowances:					
Budget authority	0	0	0	0	0
Outlays	−96.6	−115.3	−88.3	−61.8	−77.4
950 Undistributed offsetting receipts:					
Budget authority	−26.6	−24.6	−28.2	−98.6	−114.1
Outlays	−48.5	−55.7	−58.7	−123.3	−142.5

CONFERENCE AGREEMENT ON-BUDGET ONLY

[In billions of dollars]

	1991	1992	1993	1994	1995
Budget authority	1174.7	1230.1	1229.6	1216.0	1266.0
Outlays	1002.3	1024.8	1049.9	1059.9	1080.9
Revenues	858.6	923.9	987.9	1045.2	1101.4
Deficit (−) / surplus (+)	−143.7	−100.9	−62.0	−14.7	−20.5
050 National defense:					
Budget authority	288.3	290.9	291.1	351.5	364.9
Outlays	297.0	−295.0	292.0	341.7	351.5
150 International affairs:					
Budget authority	19.2	19.8	20.6	22.4	23.8
Outlays	17.4	18.0	18.5	19.7	20.7
250 General science, space and technology:					
Budget authority	15.2	15.9	16.5	17.1	17.7
Outlays	15.2	15.7	16.1	16.8	17.4
270 Energy:					
Budget authority	6.4	5.6	6.4	6.8	7.2
Outlays	4.0	4.4	5.0	5.3	5.2
300 Natural resources and environment:					
Budget authority	18.8	19.9	20.5	21.2	22.0
Outlays	18.9	19.6	20.2	20.6	21.2
350 Agriculture:					
Budget authority	18.0	22.6	20.4	18.2	19.2
Outlays	14.1	17.1	16.0	15.3	14.6
370 Commerce and housing credit:					
Budget authority	85.5	85.4	41.6	−6.5	2.6
Outlays	87.0	81.4	39.7	−9.2	−3.2
400 Transportation:					
Budget authority	32.3	33.5	34.7	36.0	37.4
Outlays	30.7	31.9	33.1	34.3	35.5
450 Community and regional development:					
Budget authority	9.2	8.9	9.0	9.5	9.6
Outlays	8.6	8.6	8.7	8.9	9.2
500 Education, training, employment and social services:					
Budget authority	43.0	43.7	44.4	46.3	48.1
Outlays	41.8	43.0	44.0	45.4	46.9
550 Health:					
Budget authority	66.3	73.9	81.3	89.6	98.5
Outlays	65.5	73.3	80.9	88.9	97.5
570 Medicare:					
Budget authority	122.4	133.5	147.5	161.9	177.2
Outlays	104.9	120.0	134.4	150.5	168.0
600 Income security:					
Budget authority	196.8	205.2	212.8	223.5	231.1
Outlays	160.5	167.8	175.3	185.3	192.2
650 Social Security:					
Budget authority	3.8	4.5	4.9	5.4	6.0
Outlays	3.8	4.5	4.9	5.4	6.0
700 Veterans benefits and services:					
Budget authority	31.9	33.1	34.1	35.1	36.1
Outlays	31.7	32.7	33.8	36.3	36.1
750 Administration of justice:					
Budget authority	13.3	14.4	15.0	15.6	16.2
Outlays	12.3	14.2	14.9	15.4	16.0
800 General government:					
Budget authority	11.7	12.0	12.3	12.5	13.0
Outlays	11.7	12.0	11.8	12.0	12.4

CONFERENCE AGREEMENT ON-BUDGET ONLY—Continued

[In billions of dollars]

	1991	1992	1993	1994	1995
900 Net interest:					
Budget authority	215.6	228.7	239.2	243.7	244.5
Outlays	215.6	228.7	239.2	243.7	244.5
920 Allowances:					
Budget authority	0	0	0	0	0
Outlays	−95.4	−113.6	−86.6	−60.5	−76.4
950 Undistributed offsetting receipts:					
Budget authority	−23.0	−21.4	−22.7	−93.8	−109.1
Outlays	−43.0	−49.5	−52.0	−115.9	−134.4

CONFERENCE AGREEMENT OFF-BUDGET ONLY

[In billions of dollars]

	1991	1992	1993	1994	1995
Budget authority	310.9	332.5	352.8	377.4	402.4
Outlays	234.6	244.5	255.1	264.9	274.6
Revenues	314.3	336.9	361.9	388.1	410.3
Deficit (−) / surplus (+)	79.7	92.4	106.8	123.2	135.7
050 National defense:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
150 International affairs:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
250 General science, space and technology:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
270 Energy:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
300 National resources and environment:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
350 Agriculture:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
370 Commerce and housing credit:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
400 Transportation:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
450 Community and regional development:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
500 Education, training, employment and social services:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
550 Health:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
570 Medicare:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
600 Income security:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
650 Social security:					
Budget authority	335.7	362.5	391.3	422.1	454.9
Outlays	262.5	279.2	296.5	313.5	331.2
700 Veterans benefits and services:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
750 Administration of justice:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
800 General government:					
Budget authority	0	0	0	0	0
Outlays	0	0	0	0	0
900 Net interest:					
Budget authority	−21.1	−26.8	−33.0	−39.9	−47.5
Outlays	−21.2	−26.8	−33.0	−39.9	−47.5
920 Allowances:					
Budget authority	0	0	0	0	0
Outlays	−1.2	−1.7	−1.7	−1.3	−1.0
950 Undistributed offsetting receipts:					
Budget authority	−3.6	−3.2	−5.5	−4.8	−5.0
Outlays	−5.5	−6.2	−6.7	−7.4	−8.1

CREDIT BUDGET FUNCTION TOTALS

[In billions of dollars]

	1991	1992	1993	1994	1995
Direct Loans	21.0	17.8	18.2	18.4	18.6
Guaranteed loans	106.8	109.6	112.1	115.5	118.1
Secondary guaranteed loans	85.4	88.7	92.1	95.6	99.2
050 Defense:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
150 International affairs:					
Direct loans	1.9	2.0	2.1	2.1	2.2
Guaranteed loans	7.2	7.2	7.5	7.7	8.0
Secondary guaranteed loans	.4	.4	.4	.5	.5
250 General science, space and technology:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
270 Energy:					
Direct loans	2.0	1.6	2.0	2.1	2.3
Guaranteed loans	.4	0	0	0	0
300 Natural resources and environment:					
Direct loans	.1	.1	.1	.1	.1
Guaranteed loans	0	0	0	0	0
350 Agriculture:					
Direct loans	9.0	8.8	8.6	8.6	8.4
Guaranteed loans	7.0	7.3	6.6	6.7	6.8
370 Commerce and housing credit:					
Direct loans	6.0	3.3	3.4	3.50	3.6
Guaranteed loans	63.3	65.5	67.8	70.3	72.1
Secondary guaranteed loans	85.0	88.3	91.7	95.1	98.7
400 Transportation:					
Direct loans	0	.1	.1	.1	.1
Guaranteed loans	0	0	0	0	0
450 Community and regional development:					
Direct loans	1.2	1.2	1.2	1.3	1.3
Guaranteed loans	.4	.4	.4	.4	.4
500 Education, training, employment and social services:					
Direct loans	0	0	0	0	0
Guaranteed loans	12.5	12.9	13.2	13.3	13.4
550 Health:					
Direct loans	0	0	0	0	0
Guaranteed loans	.3	.3	.3	.4	.4
570 Medicare:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
600 Income security:					
Direct loans	.1	.1	.1	.1	.1
Guaranteed loans	0	0	0	0	0
650 Social security:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
700 Veterans benefits and services					
Direct loans	.7	.6	.6	.5	.5
Guaranteed loans	15.7	16.0	16.3	16.7	17.0
750 Administration of justice:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
800 General government:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
900 Net interest:					
Direct loans	0	0	0	.....	0
Guaranteed loans	0	0	0	0	0
920 Allowances:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	0	0	0
950 Undistributed offsetting receipts:					
Direct loans	0	0	0	0	0
Guaranteed loans	0	0	.....	0	0

Reconciliation Instructions

The conference agreement includes reconciliation instructions directing twelve House Committees and ten Senate Committees to report legislation to achieve savings over fiscal years, 1991–1995. The House Committee instructions specify savings targets for each of the five years. The Senate Committee instructions specify targets for fiscal year 1991 and for total savings over the five years.

The conference agreement requires House and Senate Committees to report reconciliation recommendations to their respective Budget Committees not later than October 15, 1990.

CONFERENCE AGREEMENT RECONCILIATION BY HOUSE COMMITTEE

[Deficit reduction in billions of dollars]

Committee	Fiscal year—					5-year
	1991	1992	1993	1994	1995	
Agriculture: Mandatory/fee savings	−1.022	−2.023	−3.214	−3.432	−3.936	−13.627
Banking: Mandatory/fee savings	−1.507	−2.635	−2.812	−3.081	−3.223	−13.258
Education and Labor: Deficit reduction (DR)	−.215	−.525	−.760	−1.010	−1.260	−3.770
Energy and Commerce: Mandatory/fee savings	−3.731	−6.822	−9.224	−10.988	−12.956	−43.721
Interior: Mandatory/fee savings	−.343	−.400	−.412	−.425	−.438	−2.018
Judiciary: Mandatory/fee savings	−.091	−.095	−.099	−.103	−.107	−.495
Merchant Marine: Mandatory/fee savings	−.222	−.241	−.249	−.256	−.263	−1.231
Post Office: Mandatory/fee savings	−2.165	−2.140	−2.780	−3.545	−3.720	−14.350
Public Works: Mandatory/fee savings	−.042	−.053	−.053	−.053	−.053	−.254
Science, Space and Technology: Mandatory/fee savings	−.005	−.005	−.005	−.005	−.005	−.025
Veterans: Mandatory/fee savings	−.620	−.645	−.670	−.695	−.720	−3.350
Ways and Means:						
Mandatory/fee savings	−3.320	−9.245	−11.870	−14.148	−17.020	−55.603
Deficit reductoin (DR)	−2.000	−3.000	−4.000	−5.000	−6.000	−20.000
Revenues (REV)	−13.225	−24.135	−24.040	−28.950	−28.450	−118.800
Committee total (DR)	−18.545	−36.380	−39.910	−48.098	−51.470	−194.403
Total reconciled [1] (DR): Mandatory/fee savings	−24.307	−45.009	−50.921	−60.711	−65.258	−246.206
IRS enforce initiatives (REV)	−3.037	−1.835	−1.803	−1.488	−1.213	−9.376
Miscellaneous other mandatory entitlement/fees	−.600	−.600	−.600	−.600	−.600	−3.000
Total revenue increases and mandatory spending cuts (DR)	−27.944	−47.444	−53.324	−62.799	−67.071	−258.582

[1] Savings that may result from action by more than one committee due to joint jurisdiction are counted only once in the total.

Note.—All amounts are outlays unless specified as REV (revenues) or DR (deficit reduction—outlays or revenues).

CONFERENCE AGREEMENT RECONCILIATION BY SENATE COMMITTEE

[In millions of dollars]

		1991	5-year
Agriculture:			
Unspecified mandatory/fees	0	1,000	13,473
Banking:			
Unspecified mandatory/fees	0	1,507	13,258
Commerce:			
Unspecified mandatory/fees	0	232	1,335
Energy:			
Unspecified mandatory/fees	0	36	364
Environment:			
Unspecified mandatory/fees	0	329	1,808
Finance:			
Unspecified mandatory/fees	0	3,015	55,883
Unspecified revenues	REV	13,225	118,800
Unspecified rev or mandatory	DR	2,000	20,000
Subtotal, Finance	DR	18,240	194,683
Government Affairs:			
Unspecified mandatory/fees	0	2,165	14,350
Judiciary:			
Unspecified mandatory/fees	0	91	495
Labor:			
Unspecified revenues	REV	45	840
Unspecified mandatory/fees	0	120	2,640
Subtotal, Labor	DR	165	3,480
Veterans:			
Unspecified mandatory/fees	0	620	3,350
Total reconciled to committees	DR	24,307	246,206
IRS enforcement	REV	3,037	9,376
Miscellaneous mandatory/fees	0	600	3,000
Total	DR	27,944	258,582

Note: Savings that may result from action by more than one committee due to joint jurisdiction are counted only once in the total. Outlays are specified as "0," revenues as "REV," and deficit reduction as "DR."

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
APPROPRIATIONS COMMITTEE			
Current level (enacted law):			
National defense	165	165	0
International affairs	765	784	0
Energy	250	250	0
Natural resources and environment	1,433	1,865	0
Agriculture	12,509	623	0
Commerce and housing credit	3,024	4,438	0
Transportation	479	477	0
Community and regional development	1,667	1	0
Education, training, employment, and social services	11,133	10,877	0
Health	49,507	49,910	0
Medicare	35,350	35,350	0
Income security	36,319	36,853	0
Social Security	47	47	0
Veterans benefits and services	16,763	16,645	0
Administration of justice	241	246	0
General government	6,231	6,232	0
Subtotal	175,883	164,754	0
Discretionary appropriations action (assumed legislation):			
National defense	288,918	297,660	0
International affairs	20,100	18,600	0
General science, space, and technology	15,090	15,063	0
Energy	6,222	5,562	0
Natural resources and environment	19,485	19,148	0
Agriculture	2,640	2,649	0
Commerce and housing credit	4,435	4,422	0

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991—Continued

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
Transportation	14,323	30,240	0
Community and regional development	7,412	7,626	0
Education, training, employment, and social services	29,896	30,152	0
Health	16,790	16,224	0
Medicare	0	2,304	0
Income security	17,742	25,280	0
Social Security	0	2,317	0
Veterans benefits and services	13,989	14,109	0
Administration of justice	12,975	11,914	0
General government	10,184	10,142	0
Undistributed offsetting receipts	11,517	948	0
Subtotal	491,719	514,360	0
Discretionary action by other committees (assumed entitlement legislation):			
Income security	17,774	17,338	0
Veterans benefits and services	435	393	0
Undistributed offsetting receipts	−195	−195	0
Subtotal	18,015	17,535	0
Committee total	685,616	696,649	0
AGRICULTURE COMMITTEE			
Current level (enacted law):			
Energy	1,068	10	0
Natural resources and environment	440	435	0
Agriculture	9,004	10,965	8,813
Transportation	46	46	0
Community and regional development	56	850	0
General government	339	344	339
Subtotal	10,952	12,649	9,152
Discretionary action (assumed legislation):			
Income security	0	0	974
Undistributed offsetting	−1,000	−1,000	−921
Subtotal	−1,000	−1,000	53
Committee total	9,952	11,649	9,205
ARMED SERVICES COMMITTEE			
Current level (enacted law):			
National defense	11,301	11,259	1
Education training, employment, and social services	3	2	0
Income security	36,414	23,043	23,043
Subtotal	47,935	34,506	23,246

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991—Continued

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
Committee total	47,935	34,506	23,246
BANKING, FINANCE, AND URBAN AFFAIRS COMMITTEE			
Current level (enacted law):			
International affairs	0	−1,279	0
Commerce and housing credit	77,833	77,907	0
Community and regional development	12	−5	0
Income security	200	281	0
General government	5	5	0
Net interest	22	22	0
Subtotal	78,072	76,931	0
Discretionary action (assumed legislation): Undistributed offsetting receipts	−197	−1,507	0
Subtotal	−197	−1,507	0
Committee total	77,875	75,424	0
DISTRICT OF COLUMBIA COMMITTEE			
Current level (enacted law): administration of justice	18	18	18
Subtotal	18	18	18
Committee total	18	18	18
EDUCATION AND LABOR COMMITTEE			
Current level (enacted law):			
Education, training, employment, and social services	24	13	5,358
Income security	92	89	7,504
Subtotal	116	102	12,863
Discretionary action (assumed legislation): Undistributed offsetting receipts	0	−120	−120
Subtotal	0	−120	−120
Committee total	116	−18	12,743
ENERGY AND COMMERCE COMMITTEE			
Current level (enacted law):			
Commerce and housing credit	54	53	0
Health	36	27	45,985
Income security	13,672	12,865	10,116
General government	7	7	7
Subtotal	13,769	12,952	56,109
Discretionary action (assumed legislation): Undistributed offsetting receipts	−336	−336	305
Subtotal	−336	−336	305
Committee total	13,433	12,616	56,414
FOREIGN AFFAIRS COMMITTEE			
Current level (enacted law):			
International affairs	8,176	8,714	0
Income security	835	368	368
General government	5	5	0
Subtotal	9,016	9,087	368
Committee total	9,016	9,087	368
GOVERNMENT OPERATIONS COMMITTEE			
Current level (enacted law): General government	20	19	0
Subtotal	20	19	0
Committee total	20	19	0
HOUSE ADMINISTRATION COMMITTEE			
Current level (enacted law):			
Education, training, employment, and social services	8	9	0
General government	29	21	93
Subtotal	37	29	93
Committee total	37	29	93
INTERIOR AND INSULAR AFFAIRS COMMITTEE			
Current level (enacted law):			
Energy	170	−102	0
Natural resources and environment	189	167	10

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991—Continued

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
Community and regional development	475	471	404
Health	3	3	0
General government	800	797	830
Subtotal	1,637	1,335	1,244
Discretionary action (assumed legislation: undistributed offsetting receipts	−72	−56	0
Subtotal	−72	−56	0
Committee total	1,565	1,279	1,244
JUDICIARY COMMITTEE			
Current level (enacted law):			
Commerce and housing credit	217	226	0
Education, training, employment, and social services	910	805	0
Health	1	1	0
Income security	24	10	5
Administration of justice	653	658	135
General government	581	581	500
Subtotal	2,386	2,281	640
Discretionary action (assumed legislation): Undistributed offsetting receipts	−91	−91	0
Subtotal	−91	−91	0
Committee total	2,295	2,190	640
MERCHANT MARINE AND FISHERIES COMMITTEE			
Current level (enacted law):			
Natural resources and environment	427	431	0
Commerce and housing credit	67	65	0
Transportation	6	0	427
Income security	13	6	0
General government	6	6	0
Subtotal	519	508	427
Discretionary action (assumed legislation):	−200	−200	0
Subtotal	−200	−200	0
Committee total	319	308	427
POST OFFICE AND CIVIL SERVICE COMMITTEE			
Current level (enacted law):			
Health	0	−636	2,873
Income security	54,623	33,067	33,067
General government	12,199	12,199	0
Subtotal	66,822	44,629	35,940
Discretionary action (assumed legislation): Undistributed offsetting receipts	−885	−2,165	−1,230
Subtotal	−885	−2,165	−1,230
Committee total	65,937	42,464	34,710
PUBLIC WORKS AND TRANSPORTATION COMMITTEE			
Current level (enacted law):			
Energy	433	101	0
Natural resources and environment	159	178	0
Transportation	17,497	0	0
Community and regional development	5	5	0
General government	1	54	0
Subtotal	18,095	338	0
Committee total	18,095	338	0
SCIENCE, SPACE AND TECHNOLOGY COMMITTEE			
Current level (enacted law):			
General science, space, and technology	135	134	0
Energy	19	23	0
Education, training, employment, and social services	1	1	0
Subtotal	155	158	0
Discretionary action (assumed legislation): undistributed offsetting receipts	−5	−5	0
Subtotal	−5	−5	0

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991—Continued

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
Committee total	150	153	0
VETERANS' AFFAIRS COMMITTEE			
Current level (enacted law): Veterans benefits and services	1,588	1,429	18,144
Subtotal	1,588	1,429	18,144
Discretionary action (assumed legislation):			
Veterans benefits and services	0	0	435
Undistributed offsetting receipts	−120	−120	−500
Subtotal	−120	−120	−65
Committee total	1,468	1,309	18,079
WAYS AND MEANS COMMITTEE			
Current level (enacted law):			
Education, training, employment, and social services	1,142	0	5,503
Medicare	134,026	114,263	114,267
Income security	28,940	21,137	49,276
Social Security	345,303	269,829	265,050
Administration of justice	164	165	0
General government	500	505	406
Net interest	286,302	286,302	286,302
Subtotals	796,378	692,201	720,804
WAYS AND MEANS COMMITTEE			
Discretionary action (assumed legislation): Undistributed offsetting receipts	3,626	−4,200	−4,200
Subtotal	3,626	−4,200	−4200
Committee total	800,004	688,001	716,604
UNASSIGNED TO COMMITTEES			
Current level (enacted law):			
National defense	−12,083	−12,083	0
International affairs	−9,841	−9,419	0
General science, space, and technology	−25	2	0
Energy	−1,762	−1,844	0
Natural resources and environment	−3,333	−3,324	0
Agriculture	−6,154	−137	0
Commerce and housing credit	−129	−112	0
Transportation	−52	−63	0
Community and regional development	−426	−349	0
Education, training, employment, and social services	−117	−59	0
Health	−37	−29	0
Medicare	−46,976	−47,017	0
Income security	−9,849	−9,836	0
Social Security	−5,850	−5,893	0
Veterans benefits and services	−1,092	−1,077	0
Administration of justice	−751	−690	−5
General government	−19,208	−19,216	0
Net interest	−91,924	−91,925	−72,029
Allowances	0	−96,600	0
Undistributed offsetting receipts	−38,642	−38,853	0
Subtotal	−248,251	−338,523	−72,034
Discretionary action (assumed legislation): Undistributed offsetting receipts	0	−600	0
Subtotal	0	−600	0
Committee total	−248,251	−339,123	−72,034
Total—current level	975,147	715,405	807,014
Total—discretionary action	510,453	521,495	−5,257
Grand totals	1,485,600	1,236,900	801,757

CONFERENCE REPORT FISCAL YEAR 1991 ALLOCATION OF CREDIT RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

House Committee	Direct loans	Primary guarantees
Current level (enacted law):		
Agriculture	8,019	6,100
Banking, Finance and Urban Affairs	3,250	1
Education and Labor	0	12,810
Energy and Commerce	0	290
Merchant Marine and Fisheries	0	104
Public Works and Transportation	299	0
Veterans Affairs	675	15,650
Ways and Means	2	0
Unassigned	54	191
Subtotal	12,299	35,145
Discretionary action (assumed legislation):		
Appropriations	8,701	71,969
Education and Labor	0	(314)
Grand total	21,000	106,800

BUDGET SUMMIT AGREEMENT

On May 6, 1990, the President and the bipartisan congressional leadership agreed to convene a special budget group. Five months later, the negotiators reached agreement. The budget summit agreement represents the largest deficit reduction plan ever agreed to, an estimated $500 billion during the next five years.

This conference agreement includes five-year reconciliation instructions and discretionary spending limitations that reflect the work of the budget summit. All caps for discretionary spending are upper limits on spending and not floors.

The conferees believe that the adoption and implementation of the conference agreement will hasten the achievement of a balanced Federal budget, reduce the demand on private credit markets, and enhance the long-run growth potential of the United States.

LEADERSHIP ENFORCEMENT OF CONFERENCE AGREEMENT

It is the intent of the conferees that the bipartisan leaders of the House and Senate work with the committees of Congress to assure that the deficit reduction amounts required by this conference agreement will be achieved and will result in real, permanent savings.

It is the intent of the conferees that the House-reported reconciliation bill should not contain provisions extraneous to the agreement.

Should legislation under consideration by any committee fail to comply with the conference agreement, the conferees intend that remedial efforts shall be made by all parties to achieve such compliance. Further, the conferees intend that the bipartisan leaders shall take steps to enforce the agreement.

ACHIEVEMENT OF UNSPECIFIED SAVINGS

The conferees urge that the joint leadership of Congress agree on a package of changes in laws that provide mandatory spending to achieve deficit reduction of $3,000,000,000 (in addition to the amounts reconciled in this concurrent resolution) and seek to include that package in the reconciliation bill pursuant to this concurrent resolution.

FUNDING FOR IRS COMPLIANCE

It is the intent of the conferees that the additional amounts requested by the President in the fiscal year 1991 budget for the IRS compliance initiative—$191 million in budget authority and $183 million in outlays in fiscal year 1991, $172 million in budget authority and $169 million in outlays in fiscal year 1992, $183 million in budget authority and $179 million in outlays in fiscal year 1993, $187 million in budget authority and $183 in outlays in fiscal year 1994, and $188 million in budget authority and $184 in outlays in fiscal year 1995—shall be provided by action of the Appropriations Committees in order to raise the assumed amounts of additional revenues from increased IRS compliance funding consistent with the budget summit agreement. The Appropriations Committees will be held harmless vis-a-vis the summit agreement's discretionary spending caps for increased funding in these amounts.

BUDGET PROCESS REFORM AND ENFORCEMENT

To assure a $500 billion deficit reduction package is achieved and maintained, the conferees intend that the reconciliation act implementing this conference agreement include provisions to strengthen the budget process.

COSTS OF OPERATION DESERT SHIELD

This agreement assumes the current costs for Operation Desert Shield represent emergency funding requirements not subject to the defense caps. Funding for Desert Shield will be provided subsequently through the normal legislative process and this agreement makes no assumptions as to the amount that may be required. Desert Shield costs should be accommodated through allied burden-sharing contributions, offsets within other non-Desert Shield accounts of the defense budget and/or subsequent appropriations Acts. Desert Shield costs mean those incremental costs directly associated with the increase in operations in the Middle East and do not include costs which would be experienced by the Department of Defense as part of its normal operations absent Operation Desert Shield.

PAY-AS-YOU-GO FOR NEW INITIATIVES

The conferees do not intend to preclude the enactment of legislation providing for additional new initiatives. However, the conferees do intend that all new initiatives be paid for on a pay-as-you-go basis.

DEFICIT REDUCTION

The Managers expect that the legislative committees will maintain, to the greatest degree possible, the distribution of entitlement reductions and revenue increases in the bipartisan leadership agreement. The Managers expect that the shares of deficit reduction will closely parallel those of the summit agreement—36 percent discretionary, no less than 22 percent mandatory, no greater than 30 percent revenues, and 13 percent net interest. Further, the Managers expect that gross revenues would not exceed those assumed in the bipartisan budget summit agreement.

LEON E. PANETTA,
RICHARD GEPHARDT,
Managers on the Part of the House.

JIM SASSER,
WYCHE FOWLER, Jr.
Managers on the Part of the Senate.

□ 2146

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. MURTHA) at 9 o'clock and 46 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Are there any Members who wish to be recognized for 1-minute speeches?

OBSERVATIONS ABOUT THE MINORITY PARTY

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute.)

Mr. TORRICELLI. Mr. Speaker, it is common in this House to hear members of the minority lament that for more than a generation they have been in the minority in this House. Indeed, Members hear it repeatedly.

Tonight, in an exchange on the floor with the Speaker and Members of the minority, it was never clearer why.

In 1 week, the Members of the minority have betrayed their own President, savaged their own leader, failed to participate in the continuing resolution to keep this Government operating and, tonight, leave their Senate colleagues, Democrats in the Senate, and this leadership, waiting for them to participate in budget discussions.

The American people during these years may have wondered why it is the Republicans are a minority, why is it, despite advantages in finance, in holding the White House, they continually cannot win elections.

My colleagues, if they wondered in the past, if they are watching tonight, they need wonder no longer. They richly deserve to be the minority that they are.

CONCERNS RELATING TO AGRICULTURE

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, my colleagues, I take this time to address a question of the proposed budget and the negotiations that have gone on and will continue to go on perhaps into the evening.

I hope that some agreement is reached and that we might be able to proceed to the satisfaction of everyone.

Mr. Speaker, my concern this evening relates to agriculture and the Committee on Agriculture that I am a member of and my colleagues have honored me to allow me to be chairman. In the initial proposal, agriculture was asked to take a $1.3 billion cut which I was concerned with, because it was much higher percentagewise than the impact that we make on the budget.

□ 2150

The proposal that is now floating around, or the discussions, and this

DSG sheet which has been bandied around this afternoon, I do not know whether it is accurate or not, but it shows a slight reduction on agriculture. I would like to say with all due respect that in the negotiation process we are now in a conference committee, House and Senate, on the agriculture, on the so-called farm bill, and there are Senate and House Members from the Committee on Agriculture and from about six other committees because of the collateral jurisdiction, and of course there is the administration to consult and advise, should there be need for it in relation to the position of the administration. However, they do not sit at the table as negotiators. They are our guests, and sit there as advisers or as consultants, and not as equal partners.

We asked them, or they asked to be heard, and it is a workable situation, but it is not that they sit at the table as negotiators. This is one of my concerns, that there seemed to be an obsession with the Director of the Office of Management and Budget in relation to agriculture. This is what I wanted to do, and I have already explained it to the negotiators. I wanted to share again with the Members of the House, if Members can see this chart, Members can see the tiny line at the bottom that is the impact that we, agriculture, make on the Federal Government. Yet the obsession of the gentleman and many others is that we are going to hit agriculture because they have been reading the editorials that are incorrect and have a misconception or erroneous perception, and at times consultants from outside of the Congress, but these are the facts of the $1 trillion plus budget. Six-tenths of 1 percent are the support programs for agriculture. Six-tenths of 1 percent. 0.63. However, editorials show this farmer got $1 million, and this one should or should not have, and I keep insisting and shall forever keep insisting that one cost overrun on a defense or offensive system in the Pentagon takes more than all of what agriculture is concerned with.

Also, I think it would be well for Members to realize that the support programs are but 17 percent of the Department of Agriculture, is what goes to farmer programs. If we look at this chart again, the red on the right, almost 50 percent is nutrition, food stamps, school lunch, feeding the elderly. Therefore, looking at the farmer that is involved or participating in a program that is only 16 or 17 percent of the Department of Agriculture, the major part is nutrition. If we now look at what is being discussed in the conference, that we are speaking of a reduction of some $500 billion, if we take that then, $300 billion are going to be cuts. The rest is going to be income. So if we take $300 billion, a general figure, of cuts, and agriculture impacts on the total budget only six-tenths of 1 percent, then I would assume that we should take six-tenths of 1 percent of the cuts, equal with everyone else. However, it does not come out that way because if we take the $300 billion, then 10 percent would be $30 billion, 1 percent would be $3 billion, and they want agriculture to take 13 percent in the 5 years. I think that this is not fair to agriculture. If we take it in a larger proportion, let me use one of the larger charts here that I have here so that we can more readily see, if I could have this chart that we are speaking about. Here is how we impact on agriculture. The bottom line, this is a trillion dollar budget that I must agree is exceedingly high, and reduction should be made in good faith and in good order, and cool, calm, and collected, I hope. However, I cannot remain cool, calm, and collected when we are making this much of an impact.

PARLIAMENTARY INQUIRY

Mr. ARMEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. (Mr. MURTHA). The gentleman will state it.

Mr. ARMEY. Mr. Speaker, I want to make a parliamentary inquiry into whether this is a Texas minute we are having here?

The SPEAKER pro tempore. It is a Texas minute.

Mr. DE LA GARZA. It is an agricultural cut minute, much larger than we are supposed to have. That is what I am trying to get across.

I thank my distinguished colleague from Texas [Mr. ARMEY] for allowing me to make that point.

So, that is what it is. However, we are the best-fed people in the world, in the history of the world, for the least amount of disposable income of any other people in the world, in the history of the world, and if the Director of OMB says he wants to cut from agriculture, well, that is agriculture, but over here almost 50 percent is food stamps and nutrition and school lunch. Only this part here is a part, that is the erroneous perception that they have. Only this part here is what goes to farm support programs, and then it does not include cattle. It does not include poultry. It does not include hogs. They get no support. My fruit and vegetable production in my congressional district, all they get from the Government is harassment, to tell Members the truth. This is how it comes out.

Then, again, let me show Members, it is almost embarrassing that, and I point this out with pride, for being the best-fed people in the world, in the history of the world, and now we are going into organic, and we are going into a lot of other areas in agriculture, but yet when we look at the Federal Government and the functions, we start with Defense around $300 billion, and then we go to Social Security, and net interest, and that is too high. That is one of the areas that we need to cut, but we have already spent 99 percent of the budget by the time we get to agriculture. Shame on OMB's Director, when they want people in agriculture to take an inordinate amount of the cut, when we have already spent. That has not made the deficit. This has not made the deficit. This has not made the deficit. That has not made the national debt. This has not impacted at all the way we sit here with 99 percent of the budget already spent by the time we get to agriculture.

Therefore, I would hope that my colleagues, with some degree of charity and civic consciousness, and responsibility as realizing and appreciating we are the best-fed people in the world, for the least amount of disposable income per family, that when they ask for the cuts, that we be in proportion to the impact that we make.

□ 2200

Now, all along I have been saying that we will take our fair cut. We have been responsible. Every year I have stated, give us a number, let us decide, make the decision where the cuts are made and we will give you the number.

The other night when it was 1 to 3, I voted for the resolution, even though it was not in my estimation in my district, the Medicare part of it I thought would impact on my district, the gasoline tax would impact very hard on my district, and it was unfair, I thought, to agriculture, but nonetheless I voted for it because I thought it was the right thing to do.

I do hope now that we are reversing that position and we will be addressing those areas, but nonetheless as chairman of the Agriculture Committee I bit the bullet, regardless of political consequences, and I am not here pointing at anyone or crowing about it myself, but just so that Members will know that we have been responsible. We will continue to be responsible, but I think the honest and the fair thing to do is to allow us to be cut in proportion to the impact that we make.

Mr. Speaker, I hope this might help my colleagues in their deliberations and maybe entice some of you, even though you are being treated unfairly, the total aspect of the impact of what we do here goes beyond your immediate interest and beyond your immediate needs and beyond your fair and equitable responsibility, and I would hope that all of us will feel and act accordingly.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just like to point out that I share a lot of the concerns of the gentleman. I would like to call to the attention of the membership that the leadership on that side has called a Rules Committee meeting for 10:15 to take up a budget resolution and a continuing resolution.

I would invite the gentleman from Texas [Mr. DE LA GARZA] and others concerned like the gentleman is, to come up and testify; the gentleman from Wisconsin [Mr. OBEY], the gentleman from Texas [Mr. ARMEY], the gentleman from California [Mr. DANNEMEYER], myself, over the budget resolution that is going to be taken up there. Maybe we need an open rule and really air out our differences on this floor. Let us have a real budget. You are all invited to come up.

Mr. DE LA GARZA. Mr. Speaker, let me tell my distinguished colleague and dear friend that he did not hear me throughout this long minute mention this side or that side. That was one of the things that I was trying to get away from, because I do not feel that I want to point the finger at any official.

My dissatisfaction is with the Director of the OMB, that is the one and only one that I feel about, because that is where the figures the administration is using comes from.

Again, I did not come here to say this side or that side. All I came here to say was how agriculture benefits the entire country, how agriculture supports and provides that which is needed for our country, but yet somehow there is this benign neglect of agriculture because of erroneous conceptions.

Now, let me just finish once again. You may have heard my summary story. Why all this thing about agriculture? Why all this stuff about agriculture?

Well, let me tell you, you have seen what is happening now in the world, that there is our Secretary of State meeting with a distinguished Member the Foreign Minister of another country, but along with him is the Soviet Union's Foreign Minister.

You have seen what is happening in Poland, Czechoslovakia, Hungary, and to some degree Romania, the emergence of democracies. This came about for one reason and one reason only.

Our main concern was between the United States and the Soviet Union. Each side had enough megatonnage to destroy the world as we know it, but the deterrent, and we have to admit, and sadly I do, was military. We did not convince them with life, liberty and the pursuit of happiness. They were convinced that they did not want to have a miscalculation or go over the brink because we had the megatonnage. We had to treat them with soft gloves for the same reasons. They had the megatonnage; but then eventually the process came where now you have the emerging democracies. Why? Because of the military deterrent? No. Every minute of the day they knew where our troops were, but looked down at them from above. Every minute of the day they knew where our silos were. Everybody knew where our silos were.

I was in Montana one evening and I said, "What are all those lights over there?"

"That's where our silos are." Everybody knew where they were.

Every minute of the day they saw from above where our planes were on the ground or in the air. Every minute of the day they knew where our ships were, in port or at sea. The only thing they did not know where it was were the submarines, under the water. One submarine had enough megatonnage to destroy the world. That was the deterrent. That is what kept them from going over the brink. That is what eventually brought the emerging democracies and all this cooperation that we now have.

Now, the question was, how long can you keep a submarine under water? Well, I went on a submarine, nuclear powered and nuclear armed, and asked the question of the captain—if you just would allow me 30 more seconds, because this is the vital part. This is what my whole discourse, my whole 1 minute this evening is all about.

I asked the captain of the submarine, "How long can you keep the submarine under water?"

Now I know that the submarine can outlast the propellant, but at that time I did not know.

So I said, "How long can you keep it under water?"

He replied, "Well, why don't you take a guess."

So I was thinking of the propellant, long 15 years, short zero, so I said, "Seven years."

He looked at me and he smiled and he said no—a very young man. By the way, the average age, the median age of our submariners is 23 years old. Those people who are driving those submarines are 23 years old. That is the median.

But I said 7 years.

Well, his reply was, "No. I can keep the submarine under water—" and reminding you, that is what brought about all the emerging democracies, that is what kept peace in the world—I asked him how long.

He said, "As long as I have food for my crew."

So who is responsible for peace in the world? Who is responsible for the emerging democracies? That submarine. And who kept that submarine under water and managed properly? The farmers and ranchers of America, the producers.

So I leave you. I think my time has run out.

WHICH CLASS DESERVES SYMPATHY?

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore. Without objection, the gentleman from California [Mr. DANNEMEYER] was allowed to address the House for 1 minute.

Mr. DANNEMEYER. Mr. Speaker, I listened with interest to our colleague, the gentleman from New Jersey [Mr. TORRICELLI], and I kept waiting for the classes for whom he has sympathy, tenderness in his heart, compassion and understanding.

There is one class that the gentleman omitted, and I will give him the benefit of the doubt, it was just inadvertence, but perhaps it is psychological bias, given the fact that he is on the political left in American politics.

The class of people that the gentleman left out are the overburdened taxpayers of this country.

□ 2210

I do not know about the rest of you in your offices, but I received a fact sheet in my office from a gentleman in Columbus, OH. I do not know whether you received it. It is pretty long. I will read the closing paragraph of this:

> Taxes are too high. I pay 33 percent plus 4 percent to Ohio, 2 percent to Columbus, 1½ percent actual sales tax plus 3 percent other user tax plus 14 percent Social Security tax as a self-employed person equals a total tax load of 57.5 percent of my income. This is a disgraceful tax load. I am left with 42.5 percent of my income to pay for housing, utilities, food, clothing, transportation, medical, children's college, insurance. Am I rich because I am in the 33 percent tax bracket? I am not rich. No new taxes, please. Read my lips.

This is the class of people that is the concern of those of us in the House of Representatives this last week, last Thursday when we turned down that budget summit resolution. This is the concern we have this evening. We Americans are not undertaxed, my friends, we are spending too much money.

What we all were asking for, those of us who have that point of view, is an opportunity to present to the House for its consideration a budget resolution that will reflect that bias, that we are going to achieve a reduction in our deficit by cutting spending, not raising taxes.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. I thank the gentleman for yielding.

Mr. Speaker, I am surprised the gentleman did not bring in the gold standard at some point.

Mr. DANNEMEYER. Would you like for me to talk about that in a moment?

Mr. GEJDENSON. I would like to say to the gentleman the debate here is not whether all Americans are overtaxed or not; the debate which we have had now for some time is whether the people in the wealthiest portion of American income are paying their fair share.

What we are trying to get here is how do we apportion the patriotism that we all have, our desire to support our country, in some fair manner?

And the basic difference that I see between the gentleman's position and ours is that the gentleman wants to protect the very top bracket from being moved up and want to have the cuts occur from the people at the very bottom of the ladder.

Mr. DANNEMEYER. I will reclaim my time. I say it again, we are not undertaxed as a people, we do not need new taxes on cigarettes and beer and gasoline and to beat up on senior citizens by increasing their Medicare part B premiums.

We do not need new taxes. All we need are Members of Congress—I hope someday the gentleman will see it in his heart to join us, to exercise enough restraint so that we can cut 2 percent off of an appropriation bill that contains a multibillion-dollar increase over what we expended in the preceding year.

I can say to my colleague, some of us offered amendments to reduce appropriations bills by 10 percent and 5 percent and 2 percent. The majority of the House declined to even reduce one of those appropriation bills by 2 percent. Should the American people have any mystery in their minds as to what the institution as it is organized today wants to achieve? This institution is controlled by people that are so committed to spending other people's money to such an extent that we cannot as an institution bring ourselves to reduce an appropriation bill by 2 percent.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to my friend from New York.

Mr. WEISS. Mr. Speaker, I thank my friend for yielding.

I was going to ask him: There was sort of a facetious comment a few moments ago about the gold standard. I was wondering whether the gentleman would be pleased to explain how the gold standard issue would relate to the issues raised by the distinguished chairman of the Committee on Agriculture, the gentleman from Texas, Mr. DE LA GARZA?

Mr. DANNEMEYER. I would be happy to do that for you. Neither America or the U.S.S.R. is now on the gold standard. Both nations would be well served to go forward to it.

One of the strengths of America in relation to our adversary behind the Iron Curtain is the productive nature of our economy. And the fact of the matter is that the Soviet Union and their satellite countries could not really develop an economy to provide the goods and services for the people of their country.

We on our side of the Iron Curtain were able to do that. And because of the fact that our economic system was more productive, we were able to provide an abundance of resources and goods for our citizens that were the dream of people all over the world.

Now, this did not happen all at once. The fact of the matter is, up until 1968 this Nation was on the gold standard in the sense that our currency was backed by gold.

As of that time, up until 1968, this Nation had the ability to sell Government debt for 2 percent. We had a 6-percent first-trust deed mortgage rate available for consumers in this country to participate in the American dream. And in 1968, the fact of the matter is we let the inflation genie out of the bottle by separating the link between the dollar and gold.

Then in 1971, Richard Nixon, our President, made the decision to close the gold window. As a result of having closed the gold window, we have not been on the gold standard since that time. The fact of the matter is that the strength of our economy has never—the Soviets have never been able to match that strength at all in any way whatsoever. And that fact came out last September when a member of the Federal Reserve Board by the name of Wayne Angell from the State of Kansas went to the Soviet Union and advised the Soviet leadership as to what they should do to rescue their economy from the doldrums in which it was mired.

Do you know what advice he gave them? He said they should back the ruble with gold and they should issue gold-backed bonds.

I happen to believe that was good advice for the Soviet Union and it is good advice for the United States of America.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Speaker, you know, you cannot eat gold, but you can eat soybeans. Would it not make more sense to go on the soybean standard?

Mr. DANNEMEYER. History has shown, interestingly enough, that gold has the capacity for being not only a medium of exchange but a storehouse of value. And I admire the taste and utility of soybeans, but I do not think they can qualify as a storehouse of value.

For centuries man has dreamed of ways to grow gold or change iron into gold. No one has figured out how to do it.

On the other side of the coin, gold does not grow mold.

Mr. WEISS. Mr. Speaker, would the gentleman yield further to me?

Mr. DANNEMEYER. I yield to my friend from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Speaker, the perplexing problem that I have with this is that the gentleman refers to 1968.

Mr. DANNEMEYER. That is right.

Mr. WEISS. Now, my recollection is that the President of the United States at that time was a conservative Republican gentleman named Richard Nixon.

Mr. DANNEMEYER. No; Lyndon Johnson.

Mr. WEISS. Pardon?

Mr. DANNEMEYER. Lyndon Johnson was President in 1968.

Mr. WEISS. But by that time Richard Nixon was on his way to becoming President of the United States.

Mr. DANNEMEYER. No. History records that Lyndon Johnson, as our President, had two major problems on his plate. He had to finance the Great Society and the Vietnam war in the face of a Congress that did not want to produce the revenues.

So he made the decision, I think, on bad advice, to do it by the way of inflation, and that is what our society began in 1968, when we separated the link between the dollar and gold.

Mr. WEISS. Why did not Richard Nixon, who came into office immediately after that, reverse that policy?

Mr. DANNEMEYER. Mr. Nixon did not reverse that policy. Three years later, in 1971 he was faced with the reality of his advisors telling him, "Mr Nixon, if you don't shut the gold window, you will go down in history as the President who presided over the movement of what is left in our gold stocks out of this country to foreign central banks." And Mr. Nixon did not choose to go down in history in that capacity, and he shut down the gold window in 1971. He said to the American people it is merely temporary.

What he should have done at that time, in my opinion, was not to shut the gold window but face the reality of raising the price of paper dollars which we would exchange for our gold. If he had done that, we would have had far less destabilization in our economy than we have witnessed all during the seventies, and what we are dealing with, in truth, tonight.

This whole contest today is being driven by record-high interest rates, and I would hope someday that we can

convince the House to begin issuing gold-backed bonds which can be sold on the market for 2 percent instead of causing the U.S. Government to be paying 8 percent to service its debt.

Mr. WEISS. Does not the Soviet Union have much more gold that we?

Mr. DANNEMEYER. On the contrary, we do not know how much gold they have. We believe there are about 100,000 tons of gold in the world. In private hands there are about 60,000 tons. In Government hands there are about 40,000 tons. The combined production of the Soviet Union and South Africa is about 1,500 tons a year. That quantity of production of gold is not close enough to destabilize the gold market at all.

The argument is sometimes made, which I would expect we are going to get to, if we were on the gold standard, it would help the Soviet Union. On the contrary.

Mr. BILBRAY. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Nevada.

Mr. BILBRAY. First of all, Mr. Speaker, the gentleman from California [Mr. DANNEMEYER] is right on the gold.

As my colleagues know, Nevada has become the biggest gold producing State in the Union, and practically the United States and Canada combined. Gold is a product that we in Nevada would like to see become a standard for use in this country.

But I would like to point out one thing in case the public is out there watching everything that is going on. They may wonder where we are at, what we are doing talking about the gold standard now and talking about a lot of things they think are immaterial to what is going on.

We are in the process of trying to get this thing resolved, and we are filling, they are watching filler, things that are important to the gentleman from California [Mr. DANNEMEYER], important to many of us, but certainly are not what we are looking at today. So, please, do not think we are a bunch of fools tonight.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Speaker, I thank the gentleman from California [Mr. DANNEMEYER], my colleague, for yielding.

I would just inject one thing here in the discussion of gold. I introduced legislation, one of the first pieces of legislation, when I came here in 1969 to restore our precious right to buy, sell and hold gold. It took 5 years before that became reality in 1974. Americans could again buy, sell, and hold gold legally for the first time in 40 years.

Mr. Speaker, I share in my compatriot's commitment to trying to restore gold standard because, when we have a gold standard, we have honest money. When I first came to Congress in contrast to what was the situation before FDR took us off the gold standard in 1934, the dollar that I paid for my home in 1970 is worth roughly 25 cents today.

Now, in terms of gold's value, it has escalated accordingly. Gold in 1970 was $35 per ounce. Today it's closer to $400 per ounce. But gold is a constant. It does not change value. All that changes is the denomination of it in terms of deteriorating paper. Those little pieces of paper the Federal Reserve System issues tell us it is legal tender, good for all debt public and private. That is paper. Backed by what? The Federal Reserve System has the authority to take the $1 bill, and print the word trillion after the one, just as Germany did in 1923. Then we resolve all of our economic problems. It is that easy.

I say to my colleagues, when you have a convertible currency, it keeps government honest. It is vastly more important than having a balanced budget amendment.

We went through the pain and anguish back in the last century of trying to play games when we were on a convertible standard, and Republicans did it. As my colleagues know, the Democrats were the party and Grover Cleveland was the man who acknowledged that when we play fast and loose with our money, we are inflicting our greatest injury on the man who earns his daily bread with the sweat of his brow. After Grover Cleveland shocked us Republicans by getting elected in 1884, the party of treason coming back into the White House, we defeated him after one term and elected Benjamin Harrison.

And what did Republicans do? They passed the protection McKinley tariff, which cut revenues off because that was the chief source of revenue to the Government. We passed a lot of pork barrel legislation, and we created the panic of 1893.

Now a lot of unintelligent Americans, economically unintelligent, knew that there was something fishy going on. There was a lot of easy money in circulation. So, they started converting it because it was convertible on demand to gold. They started making runs on the bank. At that time we had a requirement by law to have a hundred million dollars in gold reserves to back up all the paper in circulation. Runs on the banks forced the Government to buy gold to cover the mandated reserves several times before Harrison left office. Before Grover Cleveland took his second term, it once more dropped, and there was an imminent collapse in the offing. And Grover Cleveland, a man who was innocent of any of the misdeeds, got blamed for the panic in 1893. And while the Democrats were the ones who suffered the political grief, it was Cleveland who righted it by lowering the tariffs on the one hand, and getting J.P. Morgan to reassure the American people that there would be sufficient gold to back all the convertible paper in circulation.

It is an important lesson, but it is illustrative of what is the most important discipline on the natural predisposition of politicians to spend more than they take in. When we have a convertible currency, people who are not sophisticates in economics nevertheless know, as the German people learned in 1923, that when money is subject to the printing press and has no other known value, the temptation is compelling to print more, and more, and more, and that is why we are in the state we are in, and that is why I commend the gentleman from California [Mr. DANNEMEYER], my colleague, for resurrecting the debate on this issue.

Mr. Speaker, there will come a time, I guarantee my colleagues there will come a time, when we get back to a gold standard, and we will be back to honest money; and we will have the kind of inflation rates we had throughout the entire last century. And I am talking 1 to 2 percent annually. The convertible gold standard currency disciplined the politicians because there was truly a dreadful economic and political price to pay if one tried to ignore it. In the instance I cited, sad to say, you Democrats and especially Grover Cleveland caught the blame for what was not his doing. It was the doing of the Republicans at that time, but we need bipartisan cooperation to guarantee it does not happen again, and to restore integrity to our circulating medium, our pensions, insurance, and savings.

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman from Illinois [Mr. CRANE] for his contribution, and I yield back the balance of my time.

FAIRLY TAME STUFF

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore. [Mr. MURTHA]. Without objection, the gentleman from Kentucky is recognized for 1 minute.

There was no objection.

Mr. MAZZOLI. My colleagues, following the colorful orations of the gentleman from Texas [Mr. DE LA GARZA], and the gentleman from California [Mr. DANNEMEYER] and the gentleman from Illinois [Mr. CRANE], what I am going to say, and I hope that some of my friends would join me, is fairly tame stuff. Maybe at this

hour of the evening, as we hope to proceed into the consideration of our budget resolution, maybe some tame stuff is in order.

I would like perhaps to say two things, Mr. Speaker. One is a fairly mundane thing. In the event that somehow we cannot pull off a budget resolution tonight with a continuing resolution thereafter to end this terrible impasse, and I hope that this is not considered to be out of order to say it, but I am told that because the Federal buildings, including the monuments, are closed to tourists, that, the restrooms have also been closed or are inaccessible. I realize this is not exactly a huge, monumental problem compared to a $1 trillion budget, but I would request those powers that be, who have any control over emergency appropriations or emergency spending to, as we go into tomorrow, to maybe think about putting up some kind of restroom facilities so the people who are walking The Mall might have an opportunity to have this break.

I would like to change the subject just a bit, Mr. Speaker, to talk to my colleagues tonight about some of our other unfinished business. There is obviously a tremendous amount of interest nationally and internationally in the budget and continuing resolution, but we do have other legislation pending.

□ 2230

Some of the Members who are in the Chamber tonight, and perhaps observing these proceedings, are much more knowledgeable and much more in charge of these affairs than I am. But I would mention the Clean Air Act. We have in this last few weeks seemingly overlooked and totally forgotten about the Clean Air Act which is pending in the committee of conference.

I recognize that the issues of acid rain and stationary emissions and all of the questions dealing with alternative fuels and conservation are vexing, but they are terribly important.

I would hope in the waning hours of the 101st Congress we do not forget that that bill needs to be passed. It is one bill that, as we look down the road to the year 2000 and to the other generations, has a tremendous effect upon them.

The child care bill. Once again, the Senate has acted, the House has acted. We have pending in the committee of conference a child care bill we are hopeful could be adopted.

If one were to study the labor situation and the workplace situation, it is very clear that America's work force is changing, is becoming more feminine. It is becoming largely composed of working couples working in support of their families and who do need facilities for their children.

So I would hope and urge that at some point, Mr. Speaker, we have an opportunity to take up the child care bill.

The Civil Rights Act. Both Chambers have passed civil rights legislation. The President has said he would like to sign a civil rights bill. I believe we ought to try to send him a good civil rights bill that amends the 1964 act in a solid way. I hope he would sign that bill. Certainly I think we have the obligation to send that type of bill to the White House.

Mr. Speaker, I believe, and I realize this is very difficult, but we ought to pass firearms legislation. We have, as pending business for next week, the bill sponsored by our friend from New Jersey [Mr. HUGHES] of which I am a cosponsor, the bill banning assault weapons.

In my own hometown of Louisville, Kentucky, an AK-47 assault weapon was used by a deranged former employee of a company to kill several people. We recognize the bill that came out of our subcommittee and the full committee, which I hope will come to the floor next week, will not solve all of those problems, but obviously making it more difficult to have assault weapons in commercial transactions would, I think, help.

Mr. TORRICELLI. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. I thank the gentleman for yielding.

Mr. Speaker, earlier in this discussion the gentleman from California made reference to my remarks with regard to taxation. He was concerned that I had not mentioned the problem of the level of taxation in America, that that had been absent from my remarks.

The gentleman need not really have been concerned, because that indeed was central to why I took the floor, the idea that in fact we have reached a point where a great number of the American people, no matter how great their willingness to sacrifice, no matter how much they want to help with our national agenda, simply no longer have the resources.

I am certain we have all met such people and had such responses in our offices. I know I have. People who say, "Congressman, I hear this talk about how I need to do more, how the Government needs help. I simply do not have the money."

Indeed, that is why I think we have been here during this long holiday weekend, because the question is not simply before America how much they will be taxed, but who will pay the taxation, the idea that the American people at long last now understand that for more than a decade they have witnessed a significant shift onto the backs of working families.

People who do the work of America want to help, but simply no longer can bear the burden.

Mr. MAZZOLI. Mr. Speaker, reclaiming my time, I thank the gentleman from New Jersey [Mr. TORRICELLI] for his very important contribution.

Mr. Speaker, I would mention other pending bills. We have a housing bill pending. We have a crime bill, an omnibus crime bill, which came out of the gentleman from New Jersey's subcommittee and our full Committee of Judiciary. Of course, we wrestled with the bill quite a bit last week here on the floor.

The gentleman from New Jersey [Mr. HUGHES] has shown great leadership in the crime bill and in the question of adequate and good firearms legislation. So I hope that before this Congress adjourns, we can get to the gentleman's legislation.

I would mention one other bill at least before I yield back my time, Mr. Speaker, and that is the campaign election reform bill. I agree with what the gentleman from New Jersey [Mr. TORRICELLI] said about the people being ill at ease and perhaps feeling dispossessed about their Government because of the taxation question. But I will tell Members, there is another issue which clearly affects the American people, and that is their belief, not necessarily founded, but their belief, their perception, that politics today is driven by money. Politics is not driven by issues, it is not driven by merit or demerit of the issue, but it is driven by money, by the special interests.

This house, in what I consider to be in an election year practically an act of true courage, did pass earlier this year a campaign reform bill.

It is a matter which conventional wisdom suggests would never be adopted in final form and sent to the President in an election year, because it is, as the lawyers say, against our own interest. But I believe it is so vitally important that this Congress reestablish the enternal truth which has guided this Nation since its foundation over 200 years ago, which is that people are or should be at the heart of the political process, and not money and not special interests.

So I would like to suggest that the Members of the conference committee who will be working on the question of voluntary limits on spending, who are going to be working on the question of political action committees and what influence they should have, who are working on the question of independent expenditures, and other questions among the leaders in this Congress on the issue is the gentleman from Kansas [Mr. GLICKMAN], who is in the Chamber, and he and the gentleman from Oklahoma, [Mr. SYNAR] among

others, have shown leadership on this tough issue.

Mr. GLICKMAN. Mr. Speaker, would the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I happen to serve on that conference committee of campaign finance reform. I hope we can get a bill this year. If we cannot, it ought to be a high priority for next year.

The gentleman from Kentucky [Mr. MAZZOLI] has weathered the storm of special interest financing, has proven you can be a successful in politics by basing your campaign on the contributions of average people, that we do not have to be locked into a perpetual battle for interest group money in this world, and one can be a successful politician and not be subject to the whims of having your hand out to every lobbyist and interest group in the world.

The gentleman has fought the battle and knows that can be done. From my perspective, I want to do everything I can to see that we pass sensible campaign finance legislation that elevates the role of the general public and diminishes the role a bit, not necessarily completely, but a bit of those folks that have money and interests and power in this world.

Mr. Speaker, I just wanted to compliment the gentleman from Kentucky [Mr. MAZZOLI] on his stand, and hope that we can move forward with that legislation.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for his contribution. It has been valiant, and I think terribly necessary. As the gentleman from Kansas [Mr. GLICKMAN] made reference, it is true that I have foresworn political action contributions. But one way or the other, I think there is a need in political circles, and not just at the Federal level, but all down the line, to limit campaign spending.

For example, persons campaigning for the State senate in the State of Kentucky where I served before coming to this body now expend as much as I spent in my very first race for this Congress and some of my earlier races thereafter.

That, of course, makes the American people feel like politics is just money, money, money, and that there is a money culture on Capitol Hill. That is wrong.

Mr. PENNY. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Minnesota.

Mr. PENNY. Mr. Speaker, I simply want to add my words of commendation to the gentleman from Kentucky [Mr. MAZZOLI] regarding campaign finance. I agree with his remarks that there is too much money spent in campaigns, and far too much of that money comes from special interest groups.

The example the gentleman set out in his own reelection effort this year is one that all of us should follow. The gentleman showed commitment and conviction and courage, and I would hope that in the years ahead other politicians would have that same kind of courage in regard to the way we raise money and the way we spend money.

Mr. Speaker, it is really unfair to the American public that too often the seats in this institution go to the highest bidder. We have to do something to bring democracy back to this process and competition back to the political arena.

□ 2240

You have proven that you can eschew that reliance on special interest money and large campaign budgets and still win based on your integrity and your record, and I compliment you for that. You have set an example for all of us.

Mr. MAZZOLI. I thank the gentleman from Minnesota very much. And of course, he in his own way as a younger Member of this body has shown a great deal of courage, and a lot of foresight in the way he has handled his issues.

It is not so much a matter of heroism on my part or even courage, it is just a matter of belief. As the gentleman has said, democracy is premised on people, and in fact a root word of democracy is people. I believe the perception, and I do not want to make too much of it, of the perception becoming the reality, but the perception abroad in this land is that special interests dominate Capitol Hill, special interests dominate all of the State houses and virtually on down to the lowest elected officials.

I don't believe it is that way. I think the gentleman would share my belief that it is not the way, but the perception is so terribly important in how we run this country. And I think it is, therefore, important that we try to do what we can in our own way, individually and collectively as Members of this esteemed body, to make some changes to show the people how we feel about their government.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I am happy to yield to my friend, the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, does the gentleman have any time left?

Mr. MAZZOLI. If this is a Kentucky minute, and if the Kentucky minute matches the Texas minute that we were treated to a few minutes ago, I have about 30 seconds left.

Mr. HUGHES. I too want to congratulate the gentleman. I think he has put his finger on one of the major problems today with many of our institutions, and that is that the public has lost confidence in government and those that govern. That is probably one of the most unhealthy signs in our democracy today.

Political action committees are only a part of that problem. There is a tremendous cynicism that exists today, and we are going to have to work extra hard to try to overcome that. Certainly the gentleman's own effort at campaign reform is commendable. I have done something very similar over the years. I have attempted to limit my contributions back home from political action committees, but it is very difficult for some to do that.

When I started 16 years ago we did not see the proliferation of political action committees that we see today. People then did not contribute at work to a special fund so that their money would be contributed in one lump sum. They gave it individually. And I bet the gentleman probably has heard hundreds and hundreds of times as I have from individuals that contributed to me individually 16 years ago that they gave at the office, that they give to a political action committee. I hear it all the time, and frankly, you cannot expect them to contribute to you individually if they are contributing at the office or somewhere else to some trade association or other organization.

There is a misunderstanding in the country about political action committees. I do not know that the average person really understands that there are groups that have been formed really to receive funds from individuals, modest sums, often as small as a dollar, and that these contributors are just average Americans that happen to be working in one sector. They contribute to this single fund so that their moneys can be given in concert to those candidates who share their views. There is a tremendous misperception about PAC's. Does the gentleman not believe that is what has happened?

Mr. MAZZOLI. I certainly agree with what the gentleman has said. I think if my campaign at home is any kind of an example of what we might all see as we diminish our reliance upon political action committees and try to increase our reliance on individual contributions, I think the people sense that to be a good step and I think, therefore, the people, using my situation as an example, do respond in a very positive way with those dollars and $2 and $5 to which the gentleman has referred. I believe the people want very much to be involved in this governance of ours. And I believe that they have felt, wittingly or unwittingly that the laws, including our campaign laws, have sort of moved them away from the center of the stage and have moved into the center of political action committees.

So I just think we have an opportunity to move ahead. It is not easy. It is dangerous. It is delicate. It is difficult. One has to spend a lot more time beating the bushes for small contributions than you would at the higher level. But the sense of satisfaction, the sense of fulfillment, the sense that you get, that I got in this past election, probably like none since I got started over 20 years ago in the sense of having a real grassroots effort.

Mr. HUGHES. If the gentleman will yield further, you started out with crime and the crime bill and the Brady bill and some of the other initiatives that are awaiting floor action. I wonder if I can just enter into a dialog with the gentleman about the crime issue, since what we are attempting to do is to keep the House in session while the Rules Committee and our negotiators work out a budget resolution. We are attempting to just keep the House in session and we are talking about things of interest to ourselves and hopefully to the American public.

I am interested in crime. I have worked in the criminal justice field for 26 years now. There is no area that needs reform more than the criminal justice system.

We have lost something in our criminal justice system over the years since I worked in law enforcement, and that is the certainty that is essential to the system; certainty that people that commit crime are going to get caught, and certainty that once they are caught that they are going to be punished.

The gentleman is a very distinguished member of the Subcommittee on Crime and has worked over the years in trying to reform the system. He understands that the system is broken down in a number of different areas, not the least of which is in the prison system.

During debate on the crime bill, we talked about the death penalty, the exclusionary rule, and habeas corpus reform. But title I of the bill deals with some prison reform initiatives. While I think all of the other initiatives we talked about are very important, in my judgment title I dealing with prison reform probably will do more to place certainty back into the system than anything else in the bill. And why do I say that? The gentleman knows. But I wonder if we can share it with our colleagues, because I suspect that not too many people listening to the debate are aware of the fact that we have developed four new initiatives a year, eight over a 2-year period, that would provide intermediate prison sanctions.

One of the things that is happening in Washington, DC, and all around the country is that people, young people in particular, are being arrested every day. They are coming back into the system sometimes four and five times where a judge is faced with the realization that they are either going to have to send them back home to the same bad environment, or they are going to have to send them to jail where they are incarcerated with major offenders, and they come out worse for the experience.

Mr. MAZZOLI. That is exactly right.

Mr. HUGHES. They are often illiterate when they go in, and they are illiterate when they come out. They go in with drug problems and they come out with drug problems. They go in without skills and they come out without skills. What we are doing around the country today is shameful. In many instances, particularly at the State level, we are warehousing prisoners. Today in Ohio, for instance, you have to make a reservation to go to jail. The judges, when they sentence somebody, they send them home because they do not have the jail space.

These intermediate sanctions will enable us to develop new sanctions, something between jail and sending them home, particularly for the youthful offenders. Alternatives such as boot camp where we can offer them some training, and some skills, provide some discipline where perhaps we can restore some of their dignity and their self-esteem.

□ 2250

We must provide other options for our sentencing judges. We are not doing that in too many instances.

I want to thank the gentleman for his work in making that discussion possible.

Mr. MAZZOLI. Mr. Speaker, I yield to the gentleman from Florida [Mr. BENNETT], a pioneer in this effort of campaign reform, and also to thank my friend from New Jersey under whose leaderhsip I have been proud to serve for the past 16 years in this crime area, but without peer in this country.

Mr. BENNETT. Mr. Speaker, I congratulate the gentleman.

In a few seconds I cannot discuss what I thought I was going to discuss, but today there is a distribution of funds in the House of Representatives that if you are running for chairmanship of a committee or a position in the caucus or something like that, you can distribute funds to members of the caucus who vote for you. That ought to be prohibited.

We passed several years ago, Senator Spessard Holland and I, who took the leadership in the 26th amendment to the Constitution, to say that you could not have a poll tax as a prerequisite for voting. This was to prevent politicians from paying other's poll taxes as a pressure for voting for the politician. This is the same sort of thing, you should never have money passed out to people who are going to vote for you. That is something that this House should stop. Years ago this was a crime but that law was quietly repealed about 10 years ago and that repeal was a mistake.

Mr. MAZZOLI. Mr. Speaker, I would like to thank the gentleman who has shown his courage in many different subject areas over 40 years in the House, but nothing probably took more courage than to be in this behalf when he did.

BILLIONS CAN BE SAVED THROUGH SPENDING CUTS

(Mr. BROWN of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Colorado. Mr. Speaker, as our conferees deliberate tonight as to what they can do to put a budget together, I thought a couple of observations might be appropriate.

First, I think as a discussion of whether or not the taxpayers of this country are willing to do their part merits some observations.

Over the past decade, the taxpayers of this Nation have increased what they pay to the Federal Government by 102 percent. That is right. They have not had their taxes reduced. Their taxes have gone up and gone up dramatically. They pay 102 percent more this year than they did a decade ago.

If the question is whether or not the taxpayers of America have done their part or are willing to do their part, I believe the answer is very clear. They have done their part in spades.

The failure to bring the budget in line is not a question of a failure of this House to tax the working men and women of this Nation. We have done that. The failure is this House's inability to curtail spending.

There are some folks who are deliberating tonight as to how we can possibly bring that deficit down. I think it is incumbent upon us who would like to see it done without more tax increases on working people to suggest ways it can be done.

Here are some ideas that I think make sense. First of all, this House can vote to keep spending within the budget once they pass it. Let me be the first to acknowledge that part of the failure of our budgets are outrageous, unrealistic economic assumptions that are shared both by the White House and this House. The White House has not done a good job on coming up with realistic economic estimates, and this House, while it has criticized them, has adopted them, every one of them.

We must be willing to keep spending within the budget. That suggestion alone, if followed, would have saved an average of $20 billion a year for every

year in the last 10 years. Now, that is an average, but we would have a deficit that is $200 billion less if we had kept spending within the budget each year. That is something we have the power to do.

The second thing I think we could do is look into the silly programs that I call red-face programs. That is a program when one accuses you of having voted for it you get a red face. Do we need a honey program? Will bees honestly lose interest in flowers if we do not pay $69 million a year? Of course not. It ought to be eliminated. The tobacco program could be eliminated, and liquidating the inventory could bring us $500 million this next year. We could revise the Davis-Bacon Act, not eliminate the portions that deal with wages, but simply eliminate most of the paperwork which is a nightmare and save anywhere from $500 million a year on up into the billions. That would save redtape and paperwork. We can eliminate the Appalachian Regional Commission. We can eliminate the FDR Memorial Commission, and that is not because we do not need an FDR Memorial. I think it would be fine, but to pay a Commission to meet for 40-plus years and not come up with a memorial seems a bit silly, doesn't it?

I think we could ask Japan to pay for its own national defense. To pay for their defense in 1946 might have made sense, perhaps even in 1950, and 1955, but to pay for it today is outrageous, and the American taxpayer should not have to bear that burden.

We could reduce the number of our men and women at arms in Europe. I think we could save substantial amounts of money if we do that, and I believe we ought to move ahead with it.

We ought to have a balanced-budget amendment, and this House knows it.

We ought to have a line-item veto to eliminate waste, and this House knows that as well.

When we think about these great issues, keep in mind that the budget we deliberate tonight is one this House by law should have done months ago. This House and the Senate, have not done their job. It is not the President who did not recommend the budget. He recommended one back in February. It is the House and the Senate that have not done their job to put a budget together.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Colorado. I am happy to yield to the gentleman from California.

Mr. DREIER. of California. Mr. Speaker, I thank my friend for yielding.

Mr. Speaker, I would simply like to say that I asked my distinguished friend from Colorado to yield about four times, and every time I asked him to yield, he came up with a more eloquent example of places in which we could responsibly make cuts which would benefit the taxpayer.

I would like to have my friend reiterate the line that he had at the very outset about, what was it, 102-percent increase over the past decade of the tax burden which has been imposed.

Mr. BROWN of Colorado. Tax revenue has gone up 102 percent, and our problem is not that we have not increased taxes. It is that spending has gone up 107 percent.

Mr. DREIER of California. If the gentleman will yield further, I would say to my friend it is to me extraordinarily important, and I cannot tell the gentleman how what he said brought to mind a study which for a number of reasons was thrown out in the eyes of many in this Congress and that was the 2,417 recommendations to save $424.4 billion over a 3-year period made by this organization that was privately funded known as the Grace Commission.

I think some of the examples that the gentleman mentioned were included in the Grace Commission study. The Grace Commission study is a place in which this Congress could look as we begin to address the problem that the American taxpayer faces.

I thank my friend for yielding.

Mr. BROWN of Colorado. Before I yield to my friend from Connecticut, let me first observe that if this Chamber is serious about deficit reduction, we could reduce our staff by 90 percent and still have the biggest congressional staff of any country in the world. Let me repeat that. Those are figures from the CRS. We could reduce our staff by 90 percent and still have a bigger staff than any country in the world. I do not know as we need to reduce it 90 percent, but we can achieve enormous savings if we will simply buckle down and not put it to the taxpayer once again.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Colorado. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Let me commend my friend, and while I disagree with one of what he said, I certainly agree with the burden-sharing portion of his statement.

For the United States to subsidize the defense of our richest competitors in Western Europe and Japan at this point is ludicrous at a time when we are denying our own citizens vital services.

Where I would disagree with my friend is that the real debate here is not adding additional tax burden on working Americans. The question is whether the top 1 percent are paying their fair share, and that the proposal that was worked out at the White House and other proposals do not adequately address the need for some burden-sharing in this country that the top 1 percent whose income has grown from some $280,000 to over $500,000 in the last 10 years as compared to the middle class which I think the gentleman rightly pointed out actually has less disposable income today than they did 10 years ago.

Let us have the Europeans and the Japanese provide for their defense. It is a half century since the end of World War II. In this country let us share that burden so it is not just laid-off Federal workers, so it is not just working people that pay the tax, but the wealthiest 1 percent ought to pay their fair share as well.

I just saw a statistic today that said that the top 1 percent in this country has as much after-tax money as the bottom 40 percent. I think that there is something wrong in how our tax policy is working when we put most of the burden on that bottom 40 percent.

Mr. BROWN of Colorado. Let me say that I appreciate what the gentleman said. Certainly, coming from Connecticut, he would know more about the high-income taxpayers than I would from Colorado.

Mr. GEJDENSON. If the gentleman will yield further, I say that many of them are ready to pay their fair share.

Mr. BROWN of Colorado. I believe the gentleman's comments about our allies are exactly right. I must tell the gentleman I sincerely believe we ought to maintain our alliances, that we ought to be good allies. I believe the Europeans and the Japanese will be better allies if they carry their fair share rather than continue to be subsidized by America.

Mr. ROHRABACHER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Colorado. I am happy to yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Speaker, there has been a lot of talk tonight over this debate about the tax package as to just who is protecting middle-class Americans.

What I have to ask is, just whom is kidding whom about who is a friend of the American taxpayer, the American working people. The Democrats have controlled this House, the House of Representatives for decades. How is it now that we have American people, American working class people who are being taxed at rates that were previously restricted simply for the wealthy?

Now, if the Democratic Party is in control of this House and the American middle-class think that they are overtaxed, and I believe they are, and I believe they are being taxed at rates right now that before were reserved only for the rich, how did this come about? Well, it certainly was not the fault of the party that did not control this House. The fact is that we were

sold a bill of goods, meaning the American people were sold a bill of goods that we must raise the taxes on the rich. What happened during the last time we had a Democrat President, a Democrat Senate, and a Democrat House of Representatives? Why simply, the inflation rate went so far up that working class Americans were pushed into the highest tax brackets. Some people think that is exactly what they are planning again. Let Members not try to fool the American middle class as to who is their friend. Any person who is asking for higher Government spending, any person who is asking for higher taxes is an enemy of working class Americans because they are the ones who eventually pay the bill.

People can talk about we are going to tax business, and we are going to tax the rich, but the American working class people know they are the ones who end up paying the bill, because if we tax business, all we are really saying is, let Members let business collect the taxes, and pass it on to the Government, from the American working class consumers.

So, right now, we want to determine what direction we are going to go. It is not whether we are going to tax the wealthy, or are we going to tax the middle class. The real question is, are we going to keep control of spending, and are we going to keep control of taxes, because in the end, it is the working class people who will pay these taxes. Let me add that I remember the fight that went on when we were trying to index the tax rates so that working class Americans were not pushed into higher tax brackets. I remember that fight very well. Who was it who opposed the indexing of those tax rates in order to protect the American working class people? It was not the people on the Republican side of the aisle, I can tell Members that much.

So, what can I say as we look at this challenge of a dangerously high rate of deficit spending? I do not think the solution is taxes because working class people know they are going to end up paying the taxes, no matter how the wording goes. The fact is, the law can be worded in whatever, and it can be pointed at some business, or it can be aimed at some group of people, but it is the consumer who is going to pay for it, and the regular Americans. The question we should face is, how do we bring down spending? How do we cut out of the budget spending that is not absolutely necessary?

My colleague from Colorado has given Members a few suggestions. I think they are terrific suggestions, and I do believe that this side of the House, the Republican side, does have to bear some responsibility in the sense that for a decade now we have been unable, unwilling to make some of the cuts in defense that should have been made. I think that problem is being corrected on this side.

What I do not see is that same kind of honesty coming out of the other side of the House, who are not willing to make cuts in domestic programs, programs that are aimed specifically at special interests, whether they are rich farmers. I can remember a debate less than a month ago, trying to place a limit on the subsidies that a rich farmer can receive, if an individual happens to be a farmer and has an income over $100,000, net income, that is, after all of his expenses, we tried to put a limit on it and say he is just a rich individual who should not be receiving any more subsidy. How many of those people on the other side of this hall opposed that, and now are willing to raise the taxes on gasoline?

By the way, whether it is a tax on gasoline at the pump, or whether it is an oil import fee, who is kidding who? It is the consumer who is going to pay for it. Let Members have courage enough to talk about that and admit it.

Mr. BROWN of Colorado. Mr. Speaker, I might mention if we are looking for a place to cut spending, let Members eliminate the select committees that cannot draft legislation. If things are so tough to impose higher taxes on the American people, that is an extravagance we should do away with.

Mr. Speaker, I yield to the gentleman from Florida (Mr. SMITH).

Mr. SMITH of Florida. Mr. Speaker, I do not really want to comment all that much on what the gentleman from California has just said except to the extent that he had the distinct pleasure of not having to serve here during the Reagan years, otherwise he would have probably tempered what he had to say about whose responsibilities those attacks would fall on.

However, let me discuss with the gentleman something that he mentioned that we have mentioned on this side, that your colleagues have mentioned on that side, over the course of the last few days and which, frankly, we will have to discuss in the context of the future of this country, because it is coming to pass right now as a basis for reducing spending and reducing the deficit.

That is, what the gentleman mentioned as to the cost of maintaining our troops in Europe or NATO, and in Japan and Korea for the defense of our allies. It is really a little known fact in this country that we spend over $100 billion a year on those costs to protect our allies. It has been an investment which has paid off. There was peace in Europe. It was significant. After the Korean War and in Japan, there was no war, and we have been very successful. But the world scene has changed enormously. We should now come to grips with that. We should be able, as colleagues in this House, in the future, starting next year, without a doubt, to be able to sit down and plan how we can reduce our commitment in a new, more secure Europe.

Let me just say to the gentleman what most people do not also realize, it is something very, very frustrating, and somehow demeaning to the American public while we have shouldered these burdens, and many Americans have shouldered them willingly because their roots, their heritage, was in Western Europe or in other places, and they wanted to maintain freeedom and democracy, and ultimately we were right, and that system opposing the United States crumbled. However, for the last few years, and I am sure the gentleman would agree, we have heard this rhetoric coming out of Western Europe and Japan, saying, "You've got to reduce your deficit. You've got to reduce your deficit. You are hurting the world economy. You are spending too much." But all that spending, to a large degree, was for their benefit. We were spending it in England, and France, and Germany, and in Norway, and in Denmark, and in Belgium, and in Holland, and in other NATO countries including Turkey, and Greece for their security while they were sitting there, snug in their beds because the American defense umbrella was protecting them. They were telling the United States, "You must reduce your deficit."

However, the gentleman from Colorado (Mr. BROWN) I am sure is aware, as soon as we started to talk, even the smallest amount about reducing our commitment to NATO, why they were ready to commit hari-kari even in Western Europe. This is something that we are going to have to discuss because this is where the taxpayers really have a significant question, and have the right to question our priorities.

I would hope that the gentleman, while he will not be here, and I wish him luck, he will not be here, but many of the other colleagues on that side and this side will be here. I would hope, notwithstanding anything else, that we could, starting next year, have a bipartisan agreement on how to reduce our spending on defense commitments overseas, and thereby reduce the deficit and the tax burden on middle Americans.

Mr. BROWN of Colorado. Mr. Speaker, I thank the gentleman. It is my understanding that the European expenditures run about 17.9 percent of our defense budget. Nevertheless, it is an enormous figure.

THE JOURNAL

The SPEAKER. Before the Chair recognizes any other Members for 1 minute, pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROWN of Colorado. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

The SPEAKER. Pursuant to clause 1, rule 1, the Journal stands approved.

□ 2310

THE CONTINUING POW TRAGEDY

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, tonight I would briefly like to call to my colleagues attention an American tragedy of enormous pathos. It may bring all our lives into perspective and remind us that there are other things going on in the world than budget problems and there is pain out there in our land that transcends any hurt or discomfort of our own making in this 101st Congress.

As of this year there is only one American prisoner still carried on the rolls of our U.S. military active forces, one, repeat one, POW from the Vietnam conflict, our longest war. He is U.S. Air Force Col. Charles Shelton. Although I never met him, his wife is a good and dear friend. Charlie is my exact age. He received his Air Force Wings in 1955 as I did. He married in 1955 as I was. He has five grown children as I have. He was shot down over Laos on April 29, 1965, was a known POW for 5 years and then 20 years ago, faded into the abyss. That is why he is still carried as a POW. No proof whatsoever since 1970 that he is not still a prisoner. Charlie was in a cave for some of those 5 years with my best friend in the Air Force, Col. David Hrdlicka, shot down as a captain on May 18, 1965. Dave was also a known prisoner for about 5 years after which information about his fate dried up.

Like myself, Charlie and Dave are Catholics. And their wives are so very, very much like my wife. Charlie Shelton's beautiful wife Marian has been tirelessly fighting for her husband for 25 years. One of their sons, who was 9 or 10 when his dad was shot down, is now a Franciscan priest, several of the children married and made Charlie and Marian grandparents. But I am heartbroken to tell this Congress that sweet, wonderful, loyal Marian, wife of America's one and only prisoner of war from the Vietnam war, took her own life two nights ago.

This is yet another tragic page in the chronicle of our crippled effort to keep half of Vietnam free from Communist enslavement. Our hearts go out to Marian our prayers to the five Shelton children.

This is an unbelievable staggering tragedy. Life can be so hard for some families. Only God's wisdom can answer the mysteries involving this kind of pain. And how close this family's suffering is the pain of families who have loved ones hostages in the Middle East.

Did any of my colleagues see tonight's "60 minutes" show on CBS. If you did you now know what a sadistic beast Saddam Hussein is and always has been. He has killed and tortured and murdered to cling to his power. Our President's problems regarding Operation Desert Shield and all decisions regarding our fine young men and women in the gulf will be the true measure of his greatness, not any budget crisis. God knows we do not want any more Navy, Marine, or Air Force pilots taken prisoner or missing-in-action. We do not want any young hero like Dave Hrdlicka or Charlie Shelton shot down over Baghdad to be cut to pieces, as some Israeli pilots were after emergency ejections over enemy territory during the 1973 Yom Kippur war. But what do we do about the "Killer of Baghdad."

These decisions of life and death should put into perspective the struggle we are going through here trying to get our financial house in order.

Let us go through the next couple of weeks, keeping our friendships intact on both sides of the aisle, remembering that out there is a dangerous world. We have a great President to lead us through the storm ahead. It hurts beyond comprehension when an Air Force wife of 35 years, 25 of those years while her husband is a prisoner, whereabouts unknown, feels so deserted and lost and let down by her own country that she takes her own life.

I know Marian suffered so much in this life, that she has gone straight to heaven and is with her beloved Charlie now, if, that is, he's not still alive rotting in some Communist hellhole praying not to be forgotten by his countrymen. Marian, you kept faith with your young hero—your handsome fighter pilot. Rest in peace.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to announce that in receiving 1-minute requests, the Chair will resume the practice of considering those requests within the normal time limits.

The Chair is expecting within about 20 minutes to one-half hour the filing of the conference report.

THE TIME HAS COME TO STAND UP AND BE COUNTED

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, in the same spirit that the previous speaker has addressed the House in a moment of seriousness, I would take this 1 minute to ask all my colleagues on both sides of the aisle to do what my colleague, the gentleman from Kansas [Mr. ROBERTS], asked us yesterday, to please now, as we consider in just a few minutes a very serious matter before the House, the budget of the United States and how we are going to address the deficit problem that we have, that we stop lobbing hand grenades. We are still getting casualties on both sides.

The hour is late and it is time for us now to address a very serious problem.

There was a letter in this morning's Washington Post that says it very, very well:

> What ever happened to the plain old belt-tightening patriotism? I would proudly support any clear-eyed politician, Republican or Democrat, who would look directly at me in person or on television and say, in effect, the time has come for all Americans to stand up and be counted. The budget crunch is such that we must confront it together now for our own sakes and for that of our children.

That says it very well, and wherever you are out there, this is one Democrat who is saying the time is now. In just a few minutes we will get the opportunity to make that first important step. I hope that we can do it in the spirit of bipartisanship.

BUDGET ENFORCEMENT

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

The SPEAKER. Without objection, the gentleman from New York is recognized for 1 minutes.

Mr. SOLOMON. Mr. Speaker, and my colleagues on both sides of the aisle, the other day I was called to the White House, into the Oval Office, and President Bush, whom I deeply admire and respect, spend a great deal of time trying to convince me to vote for that budget package. He dwelled on how much there was in enforcement in that package. He failed to convince me, and I came back here and I voted against that package because I did not feel there was enough by way of enforcement mechanisms.

I did not feel that this Congress could really be trusted to make the spending cuts if we agreed to the tax increase.

I will just call your attention to the Democratic study group paper and what kind of enforcement this package coming before us in a few minutes

really has. Read page 1, the last sentence, which says:

"Any deal that exceeds their allocations would be subject to a point of order."

Mr. Speaker, I assure you that is the line that replaces all the enforcement that was in the other package. That means there is no enforcement at all. That means we are going to submit to the second largest tax increase in the history of this country with no enforcement that this Congress is going to produce any spending cuts at all.

I just remind you all of that, because I have to vote against the package for that very reason. Let us build in some real enforcements and I will take a second thought. Without them, I cannot.

NEXT YEAR's DEFICIT WILL STILL BE $250 BILLION

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, we are all here this evening for a very serious problem, and that problem is the resolution of the deficit which faces us. While we talk about the difficult cuts in spending, while we talk about the tax increases that may be likely, when we talk about the order or magnitude of $40 billion, we ought also to reflect upon the fact that should we enjoy success in the endeavor we are embarking upon this evening, next year's deficit will still be $250 billion.

One of the problems I think that we have had in resolving this from a political standpoint on both sides of the aisle is the inability for our constituents to understand that this is a serious problem and that this has reduced their standard of living, perhaps imperceptibly, but nevertheless in a very real sense throughout the decade of the 1980's.

You have to look no further than the First Congressional District of Indiana, where the real wage rate earned by a worker in northwest Indiana today is 22 percent less than it was in 1980.

For the worker in Porter County, IN, that real wage rate is now 19 percent less than it was in the year of 1989.

There has been a lot of concern expressed about senior citizens in the debate, a lot of controversy about the Medicare Program.

CALL FOR THE HOUSE

Mr. RUSSO. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 435]

Ackerman	English	Lewis (GA)
Anderson	Erdreich	Lightfoot
Andrews	Espy	Lipinski
Annunzio	Evans	Livingston
Anthony	Fascell	Lloyd
Applegate	Fawell	Long
Archer	Fazio	Lowery (CA)
Armey	Feighan	Lowey (NY)
Atkins	Fields	Luken, Thomas
AuCoin	Fish	Lukens, Donald
Baker	Flake	Machtley
Ballenger	Flippo	Manton
Barnard	Foglietta	Marlenee
Barton	Ford (TN)	Martin (IL)
Bates	Frenzel	Martin (NY)
Beilenson	Frost	Matsui
Bennett	Gallegly	Mavroules
Bentley	Gallo	Mazzoli
Bereuter	Gaydos	McCandless
Berman	Gejdenson	McCloskey
Bevill	Gekas	McCollum
Bilbray	Gephardt	McCrery
Bilirakis	Geren	McCurdy
Bliley	Gibbons	McDade
Boehlert	Gillmor	McDermott
Boggs	Gilman	McEwen
Bonior	Gingrich	McGrath
Borski	Glickman	McHugh
Bosco	Gonzalez	McMillan (NC)
Boucher	Gordon	McMillen (MD)
Boxer	Goss	McNulty
Brennan	Gradison	Meyers
Brooks	Grandy	Michel
Browder	Grant	Miller (CA)
Brown (CO)	Gray	Miller (OH)
Bruce	Green	Miller (WA)
Bryant	Guarini	Mineta
Buechner	Gunderson	Mink
Bunning	Hall (TX)	Moakley
Burton	Hamilton	Molinari
Bustamante	Hammerschmidt	Mollohan
Byron	Hancock	Montgomery
Callahan	Hansen	Moody
Campbell (CA)	Harris	Moorhead
Cardin	Hastert	Morella
Carper	Hatcher	Morrison (CT)
Carr	Hawkins	Morrison (WA)
Chandler	Hayes (IL)	Mrazek
Chapman	Hefley	Murphy
Clarke	Hefner	Murtha
Clay	Herger	Myers
Clement	Hertel	Natcher
Clinger	Hiler	Neal (MA)
Coble	Hoagland	Neal (NC)
Coleman (MO)	Hochbrueckner	Nelson
Coleman (TX)	Hopkins	Nielson
Collins	Houghton	Nowak
Combest	Hoyer	Oakar
Condit	Hubbard	Oberstar
Conte	Hughes	Obey
Conyers	Hunter	Olin
Cooper	Hutto	Ortiz
Costello	Hyde	Owens (NY)
Coughlin	Inhofe	Owens (UT)
Cox	Ireland	Oxley
Coyne	Jenkins	Packard
Craig	Johnson (CT)	Pallone
Crane	Johnson (SD)	Panetta
Dannemeyer	Johnston	Parker
Darden	Jones (GA)	Parris
Davis	Jontz	Pashayan
de la Garza	Kanjorski	Patterson
DeFazio	Kaptur	Paxon
DeLay	Kasich	Payne (NJ)
Dellums	Kastenmeier	Payne (VA)
Derrick	Kennelly	Pease
DeWine	Kildee	Penny
Dicks	Kleczka	Perkins
Dingell	Kolbe	Petri
Dixon	Kolter	Pickett
Dornan (CA)	Kostmayer	Pickle
Douglas	Kyl	Porter
Downey	LaFalce	Poshard
Dreier	Lagomarsino	Price
Duncan	Lancaster	Pursell
Durbin	Laughlin	Quillen
Dwyer	Leach (IA)	Rahall
Dyson	Leath (TX)	Rangel
Early	Lehman (CA)	Ravenel
Eckart	Lehman (FL)	Ray
Edwards (CA)	Lent	Regula
Edwards (OK)	Levin (MI)	Rhodes
Emerson	Lewis (CA)	Richardson
Engel	Lewis (FL)	Ridge
Rinaldo	Skeen	Thomas (GA)
Ritter	Skelton	Thomas (WY)
Roberts	Slattery	Torres
Roe	Slaughter (NY)	Torricelli
Rogers	Slaughter (VA)	Traficant
Rohrabacher	Smith (FL)	Traxler
Ros-Lehtinen	Smith (IA)	Unsoeld
Rose	Smith (NE)	Upton
Roth	Smith (NJ)	Vander Jagt
Roukema	Smith (TX)	Vento
Rowland (CT)	Smith (VT)	Visclosky
Rowland (GA)	Smith, Robert (NH)	Volkmer
Roybal	Smith, Robert (OR)	Vucanovich
Russo	Snowe	Walgren
Sabo	Solomon	Walker
Saiki	Spence	Walsh
Sangmeister	Spratt	Washington
Sarpalius	Staggers	Watkins
Sawyer	Stallings	Waxman
Saxton	Stangeland	Weber
Schaefer	Stearns	Weiss
Schiff	Stenholm	Weldon
Schneider	Stokes	Wheat
Schroeder	Studds	Whittaker
Schuette	Sundquist	Whitten
Schulze	Swift	Wise
Schumer	Synar	Wolf
Sensenbrenner	Tallon	Wolpe
Serrano	Tanner	Wyden
Sharp	Tauke	Wylie
Shays	Tauzin	Yates
Shumway	Taylor	Yatron
Sikorski	Thomas (CA)	Young (FL)
Sisisky		
Skaggs		

□ 2339

The SPEAKER. On this rollcall, 383 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

AUTHORIZING EN BLOC AMENDMENTS DURING CONSIDERATION OF HOUSE JOINT RESOLUTION 666 FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that during the consideration of House Joint Resolution 666, making further continuing appropriations for fiscal year 1991, that it be in order for Representative MICHEL, or his designee, to offer an en bloc amendment to sections 108(c) and 114 changing the termination dates, in addition to the amendment made in order under the rule (H. Res. 498); further, that debate on the en bloc amendment be limited to 30 minutes, to be equally divided and controlled by the proponent and a Member opposed thereto.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 666, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-821) on the resolution (H. Res. 498) providing for con-

sideration of the joint resolution (H.J. Res. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON H. CON. RES. 310

(The conference report on House Concurrent Resolution 310 appears on pages 27958-27967 in today's RECORD.)

Mr. PANETTA. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the House concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the U.S. Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Pursuant to House Resolution 496, the conference report is considered as having been read.

The SPEAKER. Pursuant to House Resolution 496, The gentleman from California [Mr. PANETTA] will be recognized for 1 hour, and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 1 hour.

The Chair recognizes the gentleman from California [Mr. PANETTA].

(Mr. PANETTA asked and was given permission to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, I yield myself 9 minutes.

Mr. Speaker, first of all I want to apologize for the time that was involved here in trying to complete this conference report. In 14 years of working with the budget process, this was indeed one of the most unusual conferences that I have attended, in the sense that it was difficult to assemble all of the Members for various reasons that were not related to the conference. But we were able to have discussions with both the Republican leadership in the House, as well as that in the other body. We have had extensive discussions on the various pieces that are contained here in the conference, and we have now proceeded to complete the conference so that we can move forward.

We are tonight a government in crisis, and it is extremely important that we move forward with this budget resolution. We can no longer engage in just partisanship or games. The time has come for action to move this budget resolution.

The country is waiting, the people are waiting. We have a responsibility to exercise leadership tonight.

The goals that we sought here were bascially two: One was to try to address some of the concerns that had been raised as a result of the defeat of the budget resolution the other night on both sides of the aisle.

In addition to that, we tried to return to the basic purpose of a budget resolution, which I think every Member has to understand basically sets out aggregate numbers and tries to provide policy guidance pursuant to the summit agreement that was arrived at between the President and the leadership.

Those recommendations go forward to the committees. The committees then have the responsibility to meet those numbers and to present their recommendations. The test is that what they present is real in terms of deficit reduction, and that will be the test that we apply in this instance.

There are basically seven changes that have been made. I will address those briefly.

As I said, we have discussed this with the leadership on both the Republican side, as well as in the other body, so that every Member is familiar with the basic changes that we made.

No. 1, we basically preserved in the summit agreement the goals that were established by the summit that we achieve $40.1 billion in savings the first year, and over 5 years that we achieve $500 billion in savings.

We also maintained the aggregate numbers that were established by the summit, on revenues, on mandatory program savings, and on the discretionary accounts. All of that is maintained pursuant to the summit agreement.

Second, we modified reconciliation instructions to both the Committee on Ways and Means and the Committee on Finance to allow them to adjust particularly in the area of Medicare, as well as with regard to unemployment insurance.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, parliamentary inquiry.

The SPEAKER. Does the gentleman from California [Mr. PANETTA] yield for that purpose?

Mr. PANETTA. Mr. Speaker, I would prefer to continue my statement at this time.

The SPEAKER. The gentleman declines to yield.

Mr. PANETTA. Mr. Speaker, the specific policy decisions that raised tremendous concern on both sides of the aisle included home heating oil, the gas tax, issues related to capital gains, as well as tax rates. Those issues would be determined by the committees, in consultation with the bipartisan congressional leadership, so that both the Committee on Ways and Means and the Committee on Finance would consult with the bipartisan leadership in making their decisions in these areas.

All of the caps that have been provided here, caps for defense, caps for discretionary domestic spending, and also the caps for international spending, these would be spending caps, and would not represent floors, which means that we could achieve savings in each of those areas and those savings would go to deficit reduction.

There is a wall between each of these areas established under the summit agreement. We would maintain that wall. But what we seek to do is to provide that we can achieve savings, additional savings in each of these areas, and they would go for deficit reduction.

The funding for Operation Desert Shield is tightened up in the sense that there was concern that Desert Shield could possibly become a blank check for additional spending, and we wanted to ensure that the spending in this area was focused on the costs related specifically to Desert Shield.

In addition, there is a technical adjustment with regard to the defense budget authority to reflect the Senate-passed defense authorization bill. That would provide for about a $2.2 billion adjustment in the first 3 years.

On agriculture, what we did in agriculture is to move about $400 million in agricultural savings from the first year to the third year, so the first year would be approximately $1 billion. The 5-year savings would represent the overall savings that were provided under the summit.

□ 2350

All other committees are required to achieve exactly the same amount as provided in the budget summit with the President and the congressional leadership.

We also indicate that obviously any new program would be paid for on a pay-as-you-go basis, something that was agreed to in the summit as well.

The bottom line here is that we have essentially tried to maintain the core of the agreement arrived at between the President and the leadership, tried to adjust those areas that Members have raised concerns about, particularly with regard to Medicare and unemployment compensation, and also provide some flexibility to the committees, which was the case even on the vote that was held the other night, but to recognize that flexibility, understanding that any savings to be achieved would have to be real and would have to meet the targets established for each of those committees.

Those, in summation, are the key points that we have provided here. Let me just conclude by saying how important it is that we act tonight.

It is not just the debate that has gone on here over the last 2 days that I think concerns all of us. It is the fact that this country is at risk tonight as we speak, economically, militarily with our troops located in the Persian Gulf, and certainly from a budget point of

view as well. People in this country are looking to us tonight to solve this problem.

There was last night in the interviews on television with the tourists who were being kept out of the Smithsonian, there was an interview with a little girl who was trying to get into the Smithsonian to see the Constitution at the Archives, and of course it was closed. When they asked her the question why were you not let in, and she was very disappointed, and said we had come here for the purpose of seeing the Constitution and seeing the Archives, it was not so much what she said, it was the look in her eyes. For those of you who are parents, when you look into your children's eyes and there is that look of fright, that something is terribly wrong, you know that you have to reach out and try to provide some comfort. That look was in that girl's eyes.

That some concern exists with the American people. Democracy will survive. We go through these tests all of the time. That is the price we pay for freedom in this society.

But the responsibility in a democracy and the duty of all of us is to exercise leadership, tonight, to move this budget resolution, not only for that little girl but for the American people, and for all of us, and for this institution of the House of Representatives.

Let us do that tonight.

Mr. FRENZEL. Mr. Speaker, I yield myself 9½ minutes.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate the gentleman yielding. I wonder if I could ask my colleague a question.

I appreciated the explanation given and especially the concern that I have for the people who will be negatively affected by this package. But could the gentleman be very specific about one thing for all of us. Just how much gas tax is in this package?

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

The approach we have taken here is that all of the areas with regards to the gas tax, as well as capital gains for those who favor capital gains, those that are concerned about tax rates, those that are concerned about home heating oil, those are issues that will be determined by the committees of responsibility, as they should be, in consultation with the leadership of the Congress.

Mr. LEWIS of California. I thank the gentleman for his candor.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding. If the gentleman from California would please rise again, I just want to make sure that I understand, as I understand his points, Medicare, the cuts that were to accrue in Medicare are gone from the package?

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, that is not correct. What we have provided here is room for modifications in that area if the committees so desire. The presentation basically provides for about $10 billion less in entitlement savings, $10 billion less in revenue savings, but it is made up with a $20 billion unspecified reconciliation to the committees.

Mr. LIVINGSTON. If the gentleman will yield further, the agricultural savings that were to be gained in this next year were put off for 2 years; that is, $400 million?

Mr. PANETTA. The total number was $1.4 billion that would be achieved the first year. We have taken $400 million of that and moved it to the third year. The overall 5-year savings remain the same in agriculture.

Mr. LIVINGSTON. The savings in home heating oil is left to the committees?

Mr. PANETTA. That is correct.

Mr. LIVINGSTON. The savings in gas taxes or the accrued revenues from gas taxes, presumably beer taxes and whatever happen to capital gains, that is all left to the committees?

Mr. PANETTA. If the gentleman will yield further, the purpose of a budget resolution has always been to present aggregate numbers to the committees. In reconciliation we provide the policy guidelines that determine those numbers. In this instance it was the summit agreement, and we will provide that to the committees as guidance. But the final determination as to what is in or out of this bill will be left to the committees.

Mr. LIVINGSTON. If the gentleman will yield further, the bill is very specific, very specific with respect to caps on defense and restrictive expenditures for Desert Shield. Our 200,000 young people who are over there in Saudi Arabia are now having the strings tightened on their purse, is that correct?

Mr. PANETTA. If the gentleman will yield, this is language that we have worked out with the administration, and it basically provides that for those expenditures that are presented on Desert Shield, they merely have to show that these expenditures relate to Desert Shield expenditures and not to just the normal operations of DOD, and I assume we would want to see that in any event.

Mr. LIVINGSTON. Surely. As I understand from the gentleman's eloquent statement about the little girl, that we are standing up for her rights and privileges and her future. But we are tightening the restrictions on the purse in Desert Shield in an effort to get this package?

Mr. PANETTA. No; that is not correct. Desert Shield still remains outside of the defense cap. It will be handled in a supplemental. What we want to ensure is that when it is presented those costs relate to Desert Shield.

Mr. LIVINGSTON. So finally, if the gentleman will yield, the flexibility in the gentleman's package is left entirely to the committees, and we really do not know what we are getting; is the correct?

Mr. PANETTA. In answer to the gentleman, the guidance is provided to the committees pursuant to the summit agreement, and obviously it would have to be done in consultation with the bipartisan leadership.

Our goal here is to work with the President and with the bipartisan leadership in a package in reconciliation that will be acceptable hopefully to both sides of the aisle.

Mr. LIVINGSTON. As vague as it may be, I thank the gentleman.

Mr. FRENZEL. Mr. Speaker, the budget agreement that is before us tonight has been presented to us only recently. But, in fairness to the conference committee which reported it, its changes, while not insignificant, are not too hard to understand.

At least to me it is not reasonable to complain that we have not seen it soon enough. The details of it, or most of them, were given to me two evenings ago by the distinguished chairman of the House Budget Committee. We have considered them and worked on them in our Republican councils.

I owe the distinguished gentleman and other conferees an apology for not being able to come to most of their conference committee meetings. The Republicans were busy trying to hammer out a position of their own after what they considered to be the changed conditions subsequent to the failure of the budget resolution on Friday night. And I apologize to all of the other people to whom I have acted in a waspish and owly fashion. It has been a long weekend for me as it has been for many of the others of my colleagues.

□ 0000

But I do want to get back to saying the changes are not large in number. They may be important to some of you. They are important to me.

The first important fact not changed is that the overall summit agreement

structure is the same as was brought to us on Friday night.

The next thing is that there is an important change, and that is that the Committee on Ways and Means has been instructed to bring in $10 billion less in entitlement savings. Some Members think this will all be Medicare. Some believe it will be a combination of unemployment insurance and Medicare. And others have other speculations about it. I think the only thing that is certain is that there will be less entitlement savings in the new package.

As a result, we have been given some more flexibility in unspecified reconciled deficit reduction which, to me, sounds like the only place we can go is to raise taxes by $10 billion.

Due to an item which has been put in the statement of the managers, one can only assume that we are going to keep the same level of taxes so that the $10 billion extra is going to come out of tax incentives. I cannot read it any other way than that.

Otherwise, the committees will, as always, bring in the results of their determinations, and I believe it is still the chairman's intention and the leadership's intention to at least maintain the threat of an amendment if the committees do not meet their targets.

If any of you have this little sheet that tells you the changes that were made, there is a statement about how caps are upper limits and not floors. My own interpretation is that all of the agreed-upon spending limits are agreed-upon spending limits, and what the agreement really says is that the enforcement of these agreed levels will prevent us from exceeding the upper limits, and there is no enforcement on floors. I think that explains what we are dealing with here with more accuracy.

There is the funding of Desert Shield, which was investigated by the gentleman from Louisiana. That, I think, was put in this resolution mainly to calm the fears of people who believe there will be some leakage. The language does not have a lot of force and effect other than to make people more comfortable. The real force and effect will come from the supplemental appropriation which will contain similar language. I am told that it will be worked out with the administration, and it may be slightly different from the words in this agreement. But the intention is that Operation Desert Shield, which is exempted from the agreed limits, will not leak over into other Department of Defense operations.

There is a technical adjustment which reduces the BA only in fiscal year 1991 as a result of a disagreement between what Senator NUNN says the agreed Nunn number is and what the Democrat Committee on the Budget says it is. That is an $800 million downward adjustment.

There is also the $400 million agriculture adjustment we have already talked about.

The other parts of the agreement are as we have discussed it last Friday. But, I do need to say one thing about enforcement. The DSG put forth a paper today which indicated there was no enforcement, and that is, of course, technically correct. However, the strong enforcement, which I believe is one of the good parts of this package despite some infirmities that have crept into it, will be entered by a leadership agreement at the Committee on Rules level after reconciliation has been completed. There is the same enforcement that was in the budget resolution which we defeated Friday night. Yes, it is not reconciled to a specific committee, but the anticipation is that it will occur at the Committee on Rules level.

Mr. Speaker, for reasons I will explain later, I oppose the budget resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I rise in support of the budget resolution, pay my respects to the chairman of the committee and the other conferees and the leadership for providing the flexibility, the assurances and the adjustments that are represented in this resolution and to preserve the prerogatives of the committees which cause so much concern in this body. I would trust that in a show of civility even if we have differences of opinion that we could discuss those differences as colleagues and ultimately get to a vote on this very important resolution.

Mr. FRENZEL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas [Mr. ARCHER], the vice chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, sadly this budget conference report is not a bipartisan agreement. Many of us worked many months this year agonizingly to reach a bipartisan agreement so that his country could move together cooperatively, but the summit agreement in all of its ramifications insofar as the restraints as to what could be done and could not be done, as to tax rates and many other items has been discarded, and now we have lump numbers assigned to the Committee on Ways and Means which has the major jurisdiction over this legislation.

Yes, if I were in the majority, I would like that, and I understand that that was used to get your votes. The votes that will finally be cast on this agreement will show and demonstrate to the public it is not bipartisan.

On the Committee on Ways and Means we are outnumbered 23 to 13, and when you put lump numbers that are subject to the majority being able to implement it without the constraints that were carefully hammered out during those months of summit negotiation, it ceases to be a bipartisan agreement.

As my friend, the gentleman from Minnesota [Mr. FRENZEL] said, it is an open door, and clearly has been labeled as such to get your votes on the Democrat side. I understand the Speaker has his problems. He has to try to pass a resolution to give you another $10 billion of taxes with an increase in spending of $10 billion, and that has been a trouble to me all the way through.

I bent as far I could last Thursday on the tax side. I can bend no farther. I particularly feel that when the chairman of our committee is going to establish what he calls his mark which becomes the enforcement mechanism for all of the taxes that go into this bill and lays it before our committee on Tuesday, that becomes the legislation, and no one else has any other input into it. Anyone who wishes to change it must then satisfy the burden of proof of knocking out any individuals item in that chairman's mark, and that is not bipartisanship, and that is not the spirit of the summit.

The promise that has been made to the Democratic Members is by putting lump numbers in we are going to let you solve your problems, and I can tell you will not get all of your problems solved, but in the process of trying to solve them, the odds are great that you will create massive problems for our side.

The increased spending in entitlements makes it more important to understand what has happened in discretionary spending, because while we are asking the working people of this country to pay higher taxes, this budget resolution provides for an additional $170 billion of new spending over the 5 years on discretionary spending. I do not think the people of this country want to be taxed to increase spending on domestic spending and discretionary spending. Perhaps I am wrong, but that is not the way I read my district nor the people that make input to me from across the country.

I must sadly say to you that I must oppose this budget resolution, and I wish that there were some way that we could bring back together the spirit of the restraints that the summit reached.

Mr. PANETTA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I regret the position of the gentleman from Texas, but I un-

derstand it. He was a participant in the summit, and I respect his views as sincere.

I just want to share with him the fact that no one takes a back seat on spending savings to the chairman of the Committee on Ways and Means, who has said to me time and time again, "I want to bring out a bipartisan package that I want to work with the gentleman from Texas [Mr. ARCHER] on and ensure that the President is part of that effort."

□ 0010

I just want to share those views with Members that the package that the chairman of the Committee on Ways and Means intends to bring out is a package that will achieve the goals presented in the summit, and hopefully he will work with the Republicans in that effort.

Mr. ARCHER. Mr. Speaker, if the gentleman will yield, it would have been most helpful for me had the chairman contacted me and said that he would have liked to have me participate in the development of that, but that has not occurred. Regardless of the chairman's position, the numbers are still there, 23 to 13. That is a massive, massive hill to get cooperation from over the very tough decisions that lie ahead of Members.

I appreciate the gentleman's comments.

Mr. PANETTA. I understand, and I yield myself 1 additional minute.

The purpose here was to try to develop the flexibility on an issue that was of concern on both sides of the aisle, which was the Medicare reductions. All Members know that. All Members recognize the concerns that were registered out there. What we tried to do here is provide some flexibility to the committee to address that area. It does not necessarily mean that taxes are going to go up. It could mean that entitlement savings could replace those savings. In fact, what we have done is give the committee the ability to replace whatever it takes to try to modify those reductions. I am convinced, and I trust in the judgment of the chairman of the Committee on Ways and Means that he will do that.

Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, I think everyone recognizes that we are running out of time. I regret very much that we have been unable, as an institution, to come to a bipartian budget agreement that must be decided tonight.

Obviously, when my good friend and colleague on the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER] says that they on the Republican side are going to be unable to work in the Committee on Ways and Means, as I understand it, in a bipartisan manner, the end result is that we on the Democratic side will end up having to write the legislation. That is unfortunate.

Now, if I recall correctly, both sides rejected the summit agreement. Both sides rejected the summit agreement. House Members indicated I think, by their votes, that they did not like the reductions, maybe in Medicare, that they did not like the taxes, possibly on gasoline, or that they did not like the other parts of the package. I agree with them. I think that the normal process should be to let the committee work, to work its will. That is the way it has always been.

If we do not like the package, at the end of this process, we always have the right to vote no. If we signed a pledge that we cannot get around, we can always vote no. I am sure that many Members will do that.

I simply want to say to my colleagues, as the American television viewers have watched for the last 2 or 3 days, that the people have not been too pleased with what they have seen in this institution. The facts are that the bubble in the Tax Code has to be eliminated, and the majority of Members on your side know that and have indicated that to many people on this side of the aisle. It simply is not defensible for a high income person to pay at a lower tax rate on ordinary income as is presently in the code.

Whatever we do, whether we reduce the impact on Medicare, whether we take gasoline taxes lower, the bubble is going to be gone because the majority of your Members, as well as the majority of our side, are going to eliminate the tax bubble. Therefore, I think it is incumbent upon this House to say to the Committee on Ways and Means to bring out a balanced package. Everyone will get hurt to some extent, but the country has to go forward. At some point we have to govern. Now is the time to begin. I urge you to vote "aye" on this proposal.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, as we engage in a lengthy late hour debate on budget proposal No. 2—the son of budget No. 1—I rise to appeal to my colleagues to put partisanship behind us. We have heard too many harsh words on both sides of the aisle in the last few days. Let us work together tonight to enact a fair budget agreement acceptable not only to all the Members of this body but most important to our constituents back home.

In this debate I urge my colleagues to avoid partisanship and to focus, not on the upcoming November elections, but on working together to complete the job we were sent here to do, bearing in mind what President Bush stressed in his recent message; the need for bipartisanship, not interparty bickering.

There is no Member of this body who is not devoted to our Nation and who does not toil for the good and welfare of our citizens.

But, in doing so, we must respect the different approaches we may take to achieve those very same goals.

By working together I am certain we can and will achieve what all of us and our Nation are seeking—a fair and equitable budget.

Let us bear in mind on both sides of the aisle what a presidential nominee once said, "More important than winning an election is governing the Nation. That's the test of a political party * * * the acid, final test." Those were the words of Adlai Stevenson, in 1952.

Mr. Speaker, in the interest of bipartisanship, I support the proposal before us.

Mr. PANETTA. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER], a member of the Committee on the Budget.

Mr. SCHUMER. Mr. Speaker, we are here tonight at a very important juncture, and I would like to address this budget on both a substantive and a process basis.

On a substantive basis, I say to my colleagues, particularly on this side of the aisle, make no mistake about it, the basic structure of the summit remains intact. There are 2½ times the savings from spending cuts than from revenue increases. Many on our side of the aisle had always thought that ought to be one for one, that for every dollar of spending cuts to the constituencies that need help, there would be an increased dollar of revenues, but that was not to be. And it is not there.

Then, when we get to the cuts in spending, again, many on our side of the aisle thought for every dollar of domestic cuts there ought to be a dollar of defense cuts. There is not. There is greater cutting on the domestic side than on the defense side. Therefore, the framework of the summit, which hardly leans in the direction of our party, is still there. By abandoning it, I would say to my colleagues on this side of the aisle, they are making a mistake, but there were four major objections to the package, and the proposal by the gentleman from California deals with those.

First, Medicare. The cuts proposed in Medicare were so deep that everyone knew that they could not be accepted. Does Medicare have to bear some of its share of cuts? Yes, but the summit proposal would have meant the closing of hospitals, urban and rural alike, and it would have put a burden on beneficiaries, far too great, including beneficiaries who could hardly afford it. The new proposal allows that to change. Second, pro-

gressivity. From one end of the country to the other, Americans said that the middle class, the working people, and the poor people of this country should not pay a higher percentage of tax increases than the very wealthy. The original summit called for that. The new proposal allows the Committee on Ways and Means, which has had a tradition of enacting progressive taxes, to do so.

□ 0035

Third, defense. Many said that the defense number was too high. I still feel the number in this package is much too high, that we are wasting dollars that should be spent in other areas. The defense number was changed a little, but not very much.

Finally, the fourth objection, heard by many on this side of the aisle, that there should be no new taxes altogether. Well, your President, our President, has stated that in 1988, and when you examine the budget you realize that if you stick to a doctrine of no new taxes, you will have no new, old, present, or future deficit reduction.

So make no mistake about it. If you wish to cling to the doctrine of no new taxes, which of course is your right, you are saying we will never reduce this budget deficit, and in fact you will have written yourself out of the process today, tomorrow and in the future.

On the issue of process, the gentleman from Louisiana had talked about, "Well, what is in the package? Why don't we specify what Ways and Means is going to do?" We never have in the budget process, we never have.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. PANETTA. Mr. Speaker, I yield 30 more seconds to the gentleman.

Mr. SCHUMER. Finally, on the issue of bipartisanship, the leader of the other body, the minority leader, Senator DOLE, the Senator from New Mexico, Mr. DOMENICI, as well as the President have said they want the process to go forward. There are many people in the Republican Party participating in this, and simply because there is great disagreement in this body on the Republican side, we cannot hold up the package any longer. We must move forward in a bipartisan way, and if there are so many of you not on the train because of the turmoil in your caucus, that train must move out of the station and go forward anyway.

Mr. Speaker, I urge support of this resolution.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Speaker, I would like to thank the distinguished gentleman from Minnesota for yielding me this time, and thank him personally for the job he does as ranking member on the budget.

Let me say that when we went through the summit agreement, I agonized for 3 days, having my staff look up one side and down the other, to understand fully the impact that was going to take place and further understood that my President and my leadership was there and supportive.

I think I made no bones to any of them that I was not overly pleased with elements of that particular package.

In an effort to bring bipartisanship to this House and to that summit agreement, I voted for it; but tonight, to receive this at 11:30, one page that outlines very, very briefly what may be in the budget agreement and that the committees are going to take care of the whole thing, "Don't worry about a thing, Congressman GALLO. They are going to take care of it."

As the gentleman from Texas [Mr. ARCHER] said, I can understand the majority party taking that attitude when you have the numbers on each committee; but I do not think you can ask people on this side that made that hard vote to be all that trusting.

We just got word that the President is not in favor of the way this has been handled. I am not sure what his attitude will be overall. Maybe others will indicate that as this evening goes on.

But let me tell you, there were very few things that I thought were important in this, including the growth package. I understand that is gone.

I understand also that the open-end-edness that the gentleman from Texas had indicated is still a concern. Therefore, I cannot support this package.

Mr. PANETTA. Mr. Speaker, I yield myself just 20 seconds.

There is nothing in here that indicates that the growth package is either in or out. Again, that recommendation is being made pursuant to the summit agreement, but the ultimate judgment is going to be left to the Ways and Means Committee.

There are a lot of concerns about that growth package, and obviously it has to be weighed in the committee, along with the other proposals, and that is as it should be.

Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I thank my chairman and I thank the Speaker.

Everybody is very tired and everyone, I think, is being very reasoned tonight. I think Members of both sides of the aisle should be complimented for that.

I would like to address myself to the comments of the gentleman from Texas [Mr. ARCHER]. I do not see him in the Chamber. I hope he can hear these comments.

The gentleman said that he understands that the Speaker has a problem, and that is why we are bringing this budget agreement here tonight.

I would say to my friend, the gentleman from Texas [Mr. ARCHER], it is not just the Speaker who has a problem. It is not just the President who has a problem. It is all of us, whether we are on the Democratic side of the aisle or the Republican side of the aisle. And the people of America have a problem. We have a horrible deficit. We have to deal with it, and this is the time.

I would say to my friend, the gentleman from New Jersey [Mr. GALLO] who I serve with on the Budget Committee and who is a very caring member of that committee and serves the task force that I chair. He is concerned about the impact of Medicare cuts on hospitals and on the elderly.

But he said the President, he has heard, is not that pleased with this process. The President is the one who told the Speaker and who told the people on the gentleman's side of the aisle that he wanted to see a budget resolution. He wanted to see it very quickly. He wanted to put this behind us, and I have to commend our leadership here for moving quickly.

Yes, the agreement is one page, because it is really a modification of the summit.

The gentleman from California [Mr. PANETTA] heard from both sides of the aisle what the problems were, and those have been outlined—deep cuts in Medicare, loopholes in defense spending, unfair taxes, and the gentleman from California [Mr. PANETTA] went to work with people with both parties, in both Chambers, to fix those problems, and I think we are on our way.

Finally, I want to make one last point to my friends on both sides of the aisle. The reason I am so pleased about this is that I do not want to see people who are not elected to Congress running our budget operation, and that is what happened as a result of the summit. Now we have the budget back where it belongs, in this Chamber.

Yes, we will have disagreements. We will have disagreements among ourselves, Democrats will, Republicans will and we will have problems with each other; but I would rather argue with Members in this Chamber over values, over priorities, over what is fair in terms of taxes, in what is fair in the way of spending. I would like to see that argument right here, not in some summit with eight people, well-meaning, hard-working leaders of both sides and staff of the President.

So I am very pleased to support this. I did not vote for the summit package. I think that this is a big improvement and I want to compliment everyone who worked on it.

Mr. FRENZEL Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I do not know how I am going to vote on this budget resolution, because I really do not know much of what is in it. I hope that the next hour or so will elucidate that.

But I do feel insulted as a Member of this House at the way this resolution has been presented to us.

At 6 o'clock this evening we were handed a Democratic Study Group Report, only to have the Speaker say a few minutes later that we should not rely on it.

OK. Now shortly after this debate began, we have been handed two-thirds of a page. It contains such wonderful descriptions as, "Item 4. Funding for Operation Desert Shield will be covered by the attached guidelines."

Unfortunately, no guidelines are attached, and, on whatever original this copy was made, there were no staple marks, so I do not think anything has ever been attached to this document.

I know the gentleman from California [Mr. PANETTA] told us that the relevant language has been worked out with the President, and I assume it has been because I trust the gentleman from California on that. But I really think that on something as important as Operation Desert Shield the Members of this House should be given the courtesy of knowing what the agreement is.

I am disturbed that we are now well into the debate, and I see the members of the majority staff are looking around to find a copy of the agreement. Maybe they will now give me a copy, but I wonder if they are going to give it to all the other Members of this House, so that we can all know what the rules are that govern a very important part of American foreign and military policy today.

□ 0030

Finally we are told, "Trust the Ways and Means Committee." Well, we trusted the Ways and Means Committee last year, and it brought back a 35-percent shortfall on its reconciliation instructions. The Budget Committee, which has statutory authority under the Budget Act to bring its own bill to the floor when a committee fails to meet its reconciliation responsibilities, failed to do so. I do not think that after last year's experience we ought to be asked to trust the Ways and Means Committee, and I do not think that after last year's experience we ought to be asked to trust the Budget Committee.

So I am deeply disturbed at all we are being asked to take on faith tonight. Past history does not entitle us to have that faith, particularly in view of the paucity of information we are being given.

I hope in the next hour we are going to learn a lot more about this resolution than we have been told up to now.

Mr. PANETTA. Mr. Speaker, I yield myself 30 seconds of time to respond to the gentleman from New York.

First of all, it would have been nice to have had a Republican at the conference so we could have discussed the language with regard to Desert Shield.

Second, the language is contained in the conference report which is available at the desk.

And third, if the gentleman is so interested in the language on Desert Shield, he can come over and I will give him a copy of it.

Mr. GREEN. Mr. Speaker, I really do not think 400 of us ought to have to line up at the desk to read the Desert Shield language, and I do not think only I should see it. All Members of the House are entitled to see it.

It is the most important foreign policy initiative in which this Government is engaged. I do not think we should have to take it on trust.

Mr. PANETTA. The gentleman is a member of the Committee on Appropriations. I wish we had some advance notice when those conference reports come to the desk as well.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA] the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I really do not feel good having to say this, but Desert Shield seems to be coming into the picture for partisan reasons, for personal reasons, and I say it very sincerely, what appears to me to be beyond the personal interests of the individuals.

Mr. Speaker, I trust the gentleman from California. I trust my leadership.

Mr. Speaker, our oldest son is in Saudi Arabia. I should be the one—there are only two of us here—I should be the one who is questioning if we are taking care of Desert Shield.

I am not. I hope that my colleagues, for whatever reason, leave that out of this debate because one or two of us that has a personal interest is satisfied that it is being taken care of.

Mr. FRENZEL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, when I began my part in this debate I apologized for not being at several meetings of the conference committee, but particularly the one at which the conference report was signed by all of the Democrats' conferees and none of the Republicans' conferees.

I do, however, recall being present for 3 months before the August break, night and day, waiting for the Democrats to bring in suggestions. I remember camping out at Andrews Air Force Base at Camp Runamok waiting for you guys. Now you can wait for us a minute or two. You are certainly going to have to before the night is out.

Mr. PANETTA. Mr. Speaker, I yield 5 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the chairman for yielding.

Mr. Speaker, I rise this evening as probably one of the least partisan Members of this body. I do not think you have seen me come down here and throw a lot of political spears.

I came this evening to plead with my colleagues on both sides of the political aisle to support this budget resolution. I say this because as far as I am concerned it is just fundamentally absurd for us to bring this Government to the stage where it is this evening.

The thought of us having several million Federal employees wondering whether they are going to go to work adds absolutely nothing to the deliberations of this body. And the thought of the entire world wondering whether this great democracy that they have attempted to emulate, can really govern itself is a sad commentary.

We ought to all be concerned about that fundamental point.

I seems to me, Mr. Speaker, that all of us here this evening are going to have to recognize that we truly have a divided government. I am absolutely amazed to hear speakers on both sides of the political aisle pretend like somehow one party is going to dominate this deliberation. Wrong; it is not going to happen.

The fact of the matter is, the Committee on Ways and Means is going to have to work out these terrible difficulties that yet remain in close consultation with the White House. We all know that this evening this budget resolution merely gives the Committee on Ways and Means the direction that it must have to move this process forward. We all know, also, that reconciliation will never become law without the President's signature. And we all know for that to happen we have to have at some point a bipartisan compromise.

We have to have that or we stay right here until hell freezes over.

Mr. Speaker, compromise in the political realm has become a dirty word. It leaves maybe a bad taste in your mouth. But I would suggest that compromise is really the cement that holds our families together. It holds our society together. It holds our democracy together.

And that is what we are going to have to do in the next few days to solve this mess that we find ourselves in.

And with that, Mr. Speaker, I would just like to offer maybe the details of a compromise that perhaps we can find 218 people to support.

It seems to me we are going to have to cut this proposed fuel tax at least in half. And then extend the 33 percent rate that middle income taxpayers are paying to all taxpayers above that level. Common sense demands that.

My friends on this side of the aisle have privately confided to me that they cannot defend that anomaly in the Tax Code today and they want to change it. And that is going to have to be part of the deal.

We are going to have to reduce the proposed tax incentives that somehow just grew out of this summit. Some of them are absolutely preposterous. The idea of additional tax incentives to encourage oil exploration at a time when the price of oil has doubled in the last year does not make sense. Have we lost our bloody minds?

We are going to have to also restore the current law in the area of unemployment insurance benefits. We all know what a fundamentally unfair proposition this is.

And, yes, in the final analysis we are going to have to do something with capital gains. We all know that. The Democrats are not going to win everything on that issue. We are going to have to recognize that.

I suggest we say we are going to have $5 billion to provide some kind of capital gains relief, $5 billion over 5 years, and I think we can deal with that problem in that context.

And, yes, we are going to have to reduce the Medicare cuts. People on this side of the aisle recognize they cannot go home and sell $60 billion worth of Medicare cuts, and we understand that on this side of the aisle also. We are going to have to get those cuts down in the range of $45 billion. I believe we can convince the people in this country that Medicare is going to consume nearly $700 billion in the next 5 years. Can we not find $45 billion out of that $700 billion in the next 5 years? I think we can.

Mr. Chairman, I know I have overextended my welcome here this evening. But I just hope that we can recognize that we must compromise if we ever want to wind this session down. And there is nothing wrong with that compromise.

And I suggest, Mr. Speaker, tonight, the sensible, the responsible thing for all of us to do is to support this budget resolution, to move on to the next stage of the process, which is the Ways and Means Committee, knowing that Mr. ARCHER, Mr. ROSTENKOWSKI, and the President and his troops are going to negotiate a deal that the President will sign or it is going nowhere.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Washington [Mr. CHANDLER].

□ 0040

Mr. CHANDLER. Mr. Speaker, on Thursday I voted with you and with my President on the summit package, which I thought was truly bipartisan. It was something I had believed in, a process that I thought was really our only way out of this mess that we are in, and, unfortunately, that strategy did not work.

However, Mr. Speaker, tonight I am afraid that we are embarking on another exercise that is not going to work one bit better.

Thursday we brought out a package that was defeated by 60 percent of our Members, and now I have to ask, "You brought the package out. Did you care that it lost? Was that part of the grand strategy? Why did you force a vote if you didn't know that you had the votes? You can count as well as we can."

Mr. Speaker, I was part of the whip organization over here, and I knew we were in deep trouble. I am sure the Speaker must have known it, too.

I think it is time we answered that question.

Now, tonight, Mr. Speaker, you bring out a new package. You strip out the specifics, you pass it, and you tell the country we're going to work for the next 2 weeks and walla! We're going to have deficit reduction. I have to ask you what makes you think there's going to be any more courage on this House floor 2 weeks from now than there was Thursday night.

If we could not pass a package that this Speaker put his prestige on the line for, how are we going to pass a reconciliation package 2 weeks from now when we are right on the doorstep of an election?

I think we are wasting our time, and I think it is time that we stop beating up on a President who has gone out and tried to lead this country, who has told the country we have a problem and has tried to do something about it in a very high risk way. We are going to put off this decision until it is too late. There will be no more courage then than there is now. Everybody is going to want to go home and get relected. There will be a phony reconciliation package out here. All my colleagues will vote for it and hope that the President vetoes it and brings the Government to a standstill so they can blame him.

Mr. Speaker, that is the strategy. There could not be anything more clear. But I tell my colleagues this: "I liked what my friend from Kansas said, and, if what he says happens, I'll be there. If it's bipartisan, and if it's effective, and if it's a fair, I'll vote for it."

However, Mr. Speaker, I am sorry. I cannot participate in this.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I am sorry that the gentleman from Washington [Mr. CHANDLER] cannot participate in it, because I can. I voted no the other night also, Mr. Speaker. I am glad to be back. I am back because there is a budget proposal before us that makes sense, that truly, I think, has bipartisan earmarks to it and can provide the vehicle for us to get out of this mess. I am back because this leaves the tax question open, and it goes to where it ought to go, the committee of jurisdiction. I am back because it says to Medicare and those that are elderly and sick, "You're not going to get nailed for the full brunt of this deficit reduction," and indeed about a third of those cuts are lifted. I am back because it leaves the investment programs in this Nation intact, and I am back because it leaves the committees to do what they ought to do.

And now I would like to talk about numbers for a second. Someone said, "Well, it won't be fair because the Ways and Means Committee is 23 to 13." Well, the American people kind of elected that, made it happen that way, but even that being the case—oh, touchy, huh—but even that being the case, I have noticed that that 13 seems to stand in pretty well, and I might point out another point, and the number is one, zero. That is the President, as somebody else pointed out on our side of the aisle, can veto reconciliation. This gets the project moving.

However I am back also because I want to be involved in governing. I do not want to be standing out there saying, "no, no, no," to everything that goes on.

I watched the President's budget come up in January. Nobody really pushed that too hard. Gave us numbers that have since turned out to be $150 billion off the mark. I watched in spring when no Republican alternative was offered when they had a chance. I watched again at the summit where all the proposals turned out to be leaks and, therefore denied, and tonight I am back because I want to be about governing. This gets that going, and it lets us do something in this Chamber where men can be men, women can be women, and, most importantly, Members of Congress can be Members of Congress and do what we get paid to do.

Mr. FRENZEL. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Vermont [Mr. SMITH].

Mr. SMITH of Vermont. Mr. Speaker, I did not come here to represent Donald Trump, or Michael Milken, or the S&L thieves. I came here to represent the working men and women, the shopkeepers, the family farmers, the parents and the elderly of Vermont.

They deserve three things:

First, the honesty to tell them their government is broke and the economy is teetering.

Second, the fairness that comes with tax policies that insist that we all play our part that those who are well off.

Third, pay their fair share too. The ingenuity to give them a government longer on effectiveness, humanity, and intelligence, and shorter on bureaucracy, rules, and domination.

It is fair to insist that we end our grotesque obsession with deficit spending with a 5-year plan. This deficit contorts and disfigures our ability as a society to create either economic or social opportunity. This deficit is the enemy of our future.

And it is fair to insist that the burden be shared—that all Americans be in the barrel together with no groups escaping because of wealth or situation.

I supported the budget summit proposal last Thursday because it created a base from which we could create fairness in the 5-year plan as we debated a reconcilation bill over the next 2 weeks.

And when that failed, I supported the President's veto, because I believed that Congress needed it's feet held to the fire now, this weekend, when the only people hurt as regrettable as it is, would be tourists; before Tuesday when 10's of millions of Americans, whose only crime is that they have need or work for our government, pay the price of our institutional failure.

Our country is as great as the vision of hope, of opportunity, we create for our children; as great as the legacy we leave behind. The deficit destroys both.

And in the end it is not ideology and partisanship—yours, ours, or the crumbling facade of socialism that creates our future. Within the context of our constitutional democracy it is common sense, a heart that cares, the capacity to see what is right, and do it.

As our first Republican President, Abraham Lincoln, said over 125 years ago—

> The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion.* * * we must think anew and act anew * * * and then we shall serve our country.

I stand in the well of the House tonight to say this package can create fairness we need; is effective to the deficit reduction task; and is enforceable.

It will have my support.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I want to say to the gentleman from Minnesota [Mr. FRENZEL] and the gentleman from Texas [Mr. ARCHER] and the gentleman from New York [Mr. GREEN] that we are all personal friends. We can all work together, and I hope we will. I extend to them my hand in friendship and my hand in sincerity, and I will try to work with them in all of this. I will try to work with everybody on all of this.

I think all of us should recognize that what we are talking about tonight is essentially a procedural problem. If we cannot pass this, then we cannot go to work. If we cannot to work, we can never solve this problem.

Essentially the Committee on Ways and Means must produce 194 billion dollars' worth of pain, 194 billion dollars' worth of pain. Now I do not ask my colleagues to trust the Committee on Ways and Means, but give us an opportunity to work. Give us an opportunity to bring back to our colleagues a package. They can accept it or reject it, or do whatever they want to with it, but do not keep us from working any longer. We can never get this job done.

I hope that my colleagues sitting over here to my left will find it within their hearts to be peacemakers, to let us proceed and judge us on the quality of the work that we bring back to our colleagues, and I say the same thing to my colleagues on the right over here.

That is, Mr. Speaker, "You don't have to trust any of us. We'll do the best we can. We'll take into consideration all of your views and what we think is best for this country. But give us the opportunity to go to work and get this problem solved. We don't need any more long speeches. We don't need any more histrionics. We just need the opportunity to go to work."

□ 0050

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman for yielding. I really have no intention to adding to the political theater here tonight. Last night I said I always read the fine print, and my questions are going to be directed as to whether or not there is fine print here. If either the committee chairman or the ranking member can help me out here by reference to the statement of the managers or other documented agreements I would appreciate it.

Mr. Speaker, I think we have to shed some light, rather than more heat on this discussion. I was very hopeful tonight that I would be able to come in here and be pleased with the Medicare figures. But at first blush I have got to say that these restorations look more cosmetic than real.

It is very close, as far as I can tell, to what was in the original package for the first year, and indeed, over 5, if you are including a number of entitlements in this number here in the brief outlines. I do not know what the $9.2 billion represents with respect to Medicare, and I am concerned about that. I do not think it addresses the problem the way the gentleman from Kansas [Mr. SLATTERY] had hoped it would.

Second, there is no reference here to the so-called Pease floor. Every Member here knows how concerned I am for my State of New Jersey and other States like it that are concerned about the intimation that we are going to go after State and local tax deductibility and the mortgage interest deduction.

There is no specific reference here, to these issues. And, as far as I can tell, at the same time there is a $20 billion account in unspecified 5-year deficit reductions assigned for the Committee on Ways and Means, either for revenue increases or cuts in a programs.

I am frankly concerned that that is the way you are going to open the door, and it is going to be wide open for whatever the Committee on Ways and Means wants to do with respect to mortgage deductibility and double taxation of State and local taxes.

Mr. PANETTA. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentlewoman for yielding.

Mr. Speaker, what we tried to do here was create the flexibility within the Committee on Ways and Means to be able to reduce the hit on Medicare. That is something that is going to be left obviously to the judgment of the committee. Obviously it is not going to be $60 billion. Whether it is $50 billion or whether it is $40 billion is going to be worked out in the committee. This provides them the flexibility to do that. But they have to replace the savings that are included.

The flexibility is there, but they have to replace the savings used for that purpose of reducing the hit on Medicare.

Mrs. ROUKEMA. Mr. Speaker, reclaiming my time, the maximum savings in Medicare then is $45 billion, as compared to the $60 billion.

Mr. PANETTA. Mr. Speaker, if the gentlewoman will yield further, the maximum savings again, it allows flexibility down to 40, depending on what the committee decides. It may be higher than that. It may be at the 40 level. But what we tried to do was provide the flexibility in reconciliation so the committee could make that judgment.

Second, with regard to the Pease provisions, what we have done there is similar to the gas tax, capital gains, and the tax rates. That decision rests with the Committee on Ways and Means.

Mrs. ROUKEMA. Mr. Speaker, reclaiming my time, unfortunately the details of the so-called summit agreement have poisoned the well on these

issues. I am not at this point convinced that I can give you that blank check, because of the previous discussions.

Finally, I do want to say that I am concerned also again as to the latitude given the Ways and Means Committee for $20 billion. How does this relate to the earned income tax credit? I have not spoken on this before, but I do find it absolutely, totally, unsupportable to be contemplating creating another new entitlement program in the face of overwhelming deficits. I suspect, that the pressures will build on your side to expend some of this money for this new entitlement. That is a serious problem for me.

Mr. PANETTA. Mr. Speaker, I yield myself 20 seconds.

Mr. Speaker, the gentlewoman from New Jersey [Mrs. ROUKEMA] is expressing exactly the reason we are providing the Committee on Ways and Means and the Committee on Finance with discretion on these issues, because there is concern about the deductions, because there is concern about the gas tax, and because there is concern about the growth package. We want the committee to work with these provisions, to allow them to make those judgments.

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I will not take the 3 minutes that the gentleman kindly allotted to me. I simply want to say one thing: 3 days ago a majority of Members of both parties voted "no" on the package which they thought was essentially unjust. I think there were two main reasons why Members voted "no," at least on this side of the aisle, and I assume the reasons were roughly the same on that side.

First of all, because many of us felt that $60 billion was simply too much to cut out of Medicare, and we thought there ought to be another way.

Second, we were concerned because we thought that the tax package for which the summit agreement was designed to create momentum was a tax package that would wind up hitting middle Americans twice as hard as it hit Americans making more than $200,000 a year. We did not think that was fair, because we thought that equity was a core ingredient, or should be a core ingredient, in anything we did, especially with respect to taxation.

I think the changes that we have before us tonight are very simple. In essence, these ease the squeeze just a bit on agriculture in the first year and move it to the third to create more time for transition. They reduce the hit on Medicare, or they are designed to reduce the hit on Medicare by about one-third. That is a whole lot better position than we were in 3 days ago.

Third, because the first package was beaten, you have an entirely different spin on the question of revenue than you had 3 days ago. Because both parties essentially voted down that agreement, we have a clear message to the Committee on Ways and Means, a much clearer message than we would have had had that package passed, that we want a package which is fair to middle class Americans.

While I would like to see more, I think that is all we can ask at this stage. That is why, while I opposed the original agreement, I intend to support this one.

I have only one note of caution to add. I know that there is some discussion going around this place about the possibility of trading the bubble for capital gains at the reconciliation process 3 weeks from now.

I would simply caution Members to remember that if that is all you do, you wind up, in effect, reducing the effective tax rate on people making a million dollars by 2 percent. I do not think we want to do that.

I caution the Committee on Ways and Means not to bring that kind of package to the floor, but I congratulate the gentleman for making the progress he has made tonight. I would urge support for the resolution.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I rise in opposition to the budget reduction.

Mr. Speaker, there should be no doubt in anyone's mind this evening that this revised agreement has a tax-increment package in it of anywhere between $134 and $194 billion beyond what the existing tax system collects from all of us in this country. Depending on what the Committee on Ways and Means does with the instructions will determine the size of the package.

□ 0100

This Member made an effort on several occasions in the last few days to get the Rules Committee to make in order an alternative for the House to consider a budget package that would direct our committees to solve our deficit problem, not by raising taxes but by just putting a limit on how our spending expands in the next 5 years. For example, in nondefense discretionary if we just put a 4½-percent cap we would save a total of $137.9 billion. For entitlements, if we would put a 7.7-percent cap on growth, we would save $30.1 billion. In defense the numbers of the budget summit agreement for the next 5 years effectively freezing defense would save $169.8 billion. Other elements of the proposal are set forth as follows:

COMPARISON OF PROVISIONS—BUDGET SUMMIT AGREEMENT VERSUS BUDGET RECOVERY ACT

[In billions over 5 years]

	BS agreement	BR Act
Total deficit savings	$500	$424
Tax increases	134	0
Spending cuts	366	424
Defense [1]	182	170
Medicare	60	0
Other entitlement [2, 3]	8	0
Unemployment compensation	5	0
Veterans programs	3	0
Foreign aid [4]	0	32
Other non-defense discretionary [5]	0	138
Net interest	65	54
Special treatment:		
S&L bailout; not factored in GRH targets.		
Operation Desert Shield; excluded from package.		
Social Security surplus; not factored in GRH targets.		

Notes on Budget Recovery Act:
[1] Freezes defense spending for 5 years at fiscal year 1991 level assumed by BS.
[2] Allows annual growth averaging 7.7 percent.
[3] No reductions in retirement programs.
[4] Reduces annual amounts by one-third.
[5] Freezes programs for 5 years at fiscal year 1990 level.

COMPONENTS OF THE BUDGET RECOVERY ACT

[In billions by fiscal year]

Current services	1990	1991	1992	1993	1994	1995
Revenues [1]	1,044.2	1,121.4	1,194.2	1,278.6	1,363.0	1,441.1
Outlays [1]	1,264.3	1,384.2	1,441.8	1,451.5	1,443.1	1,506.4
Deficit	−220.1	−262.8	−247.6	−172.9	−80.1	−65.3
Savings:						
Defense [2]	9.8	20.5	29.7	51.6	58.2	169.8
Foreign aid [3]	6.0	6.5	6.5	6.5	6.9	32.4
Entitlements [4, 5]	.1	4.9	11.7	6.2	7.2	30.1
Non-defense discretionary [4]	12.0	21.0	28.2	34.9	41.8	137.9
Interest	2.2	5.7	10.1	15.2	20.8	54.0
Total savings	30.1	58.6	86.2	114.4	134.9	424.2
Net deficit/surplus	−232.7	−189.0	−86.7	+34.3	+69.6	
Economic adjustment factor [1]	−30.4	−58.4	−54.4	−35.8	−19.3	−198.3
Consolidated deficit	−263.1	−247.4	−141.1	−1.5	+50.3	

COMPONENTS OF THE BUDGET RECOVERY ACT—Continued

[In billions by fiscal year]

Current services	1990	1991	1992	1993	1994	1995
Less deposit insurance and Social Security surplus [1]	+48.6	+32.3	−39.2	−21.0	−42.0	
GRH deficit and [targets] [6]	[−214.5]	[−215.1]	[−180.3]	[−22.5]	+8.3	[0]

[1] Assumed by Budget Summit (BS).
[2] Frozen for 5 years at fiscal year 1991 level assumed by BS.
[3] Annual baseline reduced by one-third each year.
[4] All other spending subject to 4.5 percent cap on annual increase (1990 base); freeze on discretionary allows average annual growth of 7.7 percent in entitlements.
[5] No reductions are made in retirement (Social Security, Federal, Military), Veterans, Medicare, or Medicaid programs.
[6] Assumes that deficit levels to be the revised Gramm-Rudman-Hollings targets for those years, the target for 1995 being zero.

Unfortunately, Mr. Speaker, for reasons that are not entirely clear to me, I could only speculate, this rule under which we are considering this budget resolution does not permit any of us to even vote on the idea of solving the deficit problem by cutting spending rather than raising taxes. I am sorry to say that, but the Democrats have the majority in this House, and that is the way it is.

I think it would be instructive for all of us to let the body vote on whether or not we want to proceed with the course that this Member from California is outlining.

Let me conclude by making this observation: There is no bubble in our existing tax system. The Members on the Ways and Means Committee can explain this in detail. No person in America is paying a higher tax rate than 28 percent on their income. Going from $10,000 to $120,000, nobody pays a higher rate than 11.9 percent to 28 percent, and that is the way the Tax Code is structured. So this idea that somehow there is a bubble is just erroneous and I will attach this chart in the RECORD for Members to peruse.

THE NONEXISTENT BUBBLE

Income	$10,000	$20,000	$30,000	$40,000	$50,000	$60,000	$70,000	$80,000	$90,000	$100,000	$110,000	$120,000
Exemption	−2,050	−2,050	−2,050	−2,050	−2,050	−2,050	−2,050	−2,050	−2,050	−2,050	[1] 0	0
Taxable	7,950	17,950	27,950	37,950	47,950	57,950	67,950	77,950	87,950	97,950	110,000	120,000
Marginal rates:												
15 percent [2]	1,193	2,783	2,783	2,783	2,783	2,783	2,783	2,783	2,783	2,783	[3] 0	0
28 percent [4]	0	0	[5] 2,632	5,432	7,378	7,378	7,378	7,378	7,378	7,378	[6] 30,800	33,600
33 percent [7]	0	0	0	0	[8] 1,007	4,307	7,607	10,907	14,207	17,507	[9] 0	0
Total tax	1,193	2,783	5,415	8.215	11,168	14,468	17,768	21,068	24,368	27,668	30,800	33,600
Effective rates (percent)	11.9	13.9	18.1	20.5	22.3	24.1	25.4	26.3	27.1	27.7	28.0	28.0

Note: [All rates and levels effective 1990 for individual taxpayers; families would have additional exemptions.]
[1] Personal exemption eliminated for taxable income above $104,610.
[2] 15 percent rate applies to the first $18,550 of taxable income; this rate is eliminated on income above $104,610.
[3] 15 percent eliminated for taxable income above $104,610.
[4] 28 percent applies to taxable income above $18,550.
[5] 28 percent rate applied to taxable income above the first $18,550.
[6] Taxable income above $104,610 is subject to 28 percent only.
[7] 33 percent rate applied to taxable income between $44,990 and $104,610 and is used to gradually phase out benefits from the 15 percent rate and the personal exemption.
[8] 33 percent rate applies to taxable income between $44,900 and $104,610.
[9] 33 percent rate eliminated on taxable income above $104,610.
Note: [Deductions are not factored into this calculation; they would reduce taxes and effective rates even further.]
No taxpayer pays more than 28 percent in income taxes. The so-called "bubble" exists only to phase out both the personal exemption and the 15-percent marginal tax rate for higher income taxpayers.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, the most important problem the American people face today is getting our deficit under control. The President recognized that this spring when he asked for a summit, when the economic indices were so frightening that he realized that a recession would march forward and cause great trouble in this country.

We agreed to the summit. That was not an easy pill for some of our committees to swallow, but we recognized that this is a serious national problem. We had hoped that the summit would work. It did not work.

During the summit the minority party had the advantage, almost 2 to 1 over the regular congressional committee system. Still, we tried to pass the summit, and cooperate. But the majority of both sides said no, the summit failed, regrettably. It is a dead dodo.

Our President recognized that we must find new ways to balance this budget, and that is going to include revenues as well as spending cuts. He has recommended that in the summit budget.

Had we passed the budget last week, Friday, our committees would already have been at work, and with the flexibility the President had promised we would have been able to have had 2 or 3 days work already. That did not happen. Now we are asking for almost the same thing. Really what we are doing tonight is just doing what we should have done in May. We didn't because of the President's request for a summit. But the fact of the matter is that now, we have no alternative. We have no other option but to pass this resolution tonight.

I say to you we have to produce a budget. That is what the people want. The people back home listening to us do not care so much whether it is a Democrat or Republican budget. They want to know when are we going to get a budget.

What are our options? The budget has failed. I had hoped that the bipartisan budget would have worked, but now the only thing that we can do is to go to the committees, which is essentially the same thing.

So I say to the minority: What are your options? You do not have any options. We must go this route unless you want to close the Government down.

Now, you may not want to trust the Ways and Means Committee, completely, and I understand that. Well, the chairman of our Ways and Means Committee has cautioned us a day or two ago that if we produce a bill, assuming this resolution is passed, he reminds us that we must pass a bill that is going to be fair, not just to the Ways and Means Committee but to both sides of the House. We appeal to you for your cooperation. We have no other option. We have to move forward with this budget and we must do it tonight.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts, the bard of Pittsfield, Mr. SILVIO CONTE.

Mr. CONTE. Mr. Speaker, I have a little rhyme that I would like to share with this body. And with your indulgence, I will do so now, with apologies to an unknown lyricist:

In fourteen-hundred-ninety-two

Columbus sailed the ocean blue.
Through storms and gales and fiercest seas
And armed with foreign subsidies
He came upon this brave new land
Just he and his intrepid band.
In nineteen-ninety here we are.
I don't think we have come so far.
We scream and moan and boo and hiss.
We don't have time to take a—break.
We shout and jeer and fuss and bark.
We blame each other in the dark.
Although we've had five centuries,
We see no forest for the trees.
We're frightened by the interest groups.
We act like silly nincompoops.
We can't make cuts that cause some sting.
We cannot even do a thing.
And now we have run out of time.
And that, dear friends, is our own crime.
The government—it has shut down,
And we're the only game in town.
Let's work to get this budget through,
And get these tourists to the zoo.
If Christopher were here tonight,
He'd be astounded by our fight.
He'd know not why we can't agree.
It seems so elementary.
We're in such deep financial trouble,
That we will have to burst the bubble.
Home heating oil must be tax-free.
And we can't hurt the elderly.
Incentives that will make some sense
Could get this body off the fence.
And this is how I end my poem:
Let's pass some thing, and then go ho-em.

Mr. PANETTA. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, in the spirit of the last speaker, I would say I am not sure if it was Confucius or Garfield that once observed that when you find yourself in a hole, the first rule of thumb is to quit digging. And tonight I hope we are about to quit digging.

The deficit is a problem, no mistake about it. As we debate whether or not we are going to try to reduce the deficit by $500 billion, that will only reduce the net interest on our national debt in the next 5 years by 50 percent. All of the concern about $119 billion in taxes over the next 5 years will reduce the interest on our national debt by 12 percent.

I believe I have bipartisan credibility in this body. Last Friday morning I voted for the agreement that was brought by the President of the United States, the Speaker of the House, and the leadership on this side of the aisle. Last night or the day before that I voted against the CR because I believe we should first pass a budget before we pass a continuing resolution, and the majority of my colleagues voted in favor of having a CR without a budget.

Last night I was in the bipartisan majority since there were six votes that supported our President, three of us Democrats, three of us Republicans. There were nine Democrats, but I am talking about the majority of six that it took to support the President, because I believe the President was right last night in demanding that this body pass a budget before we pass a CR.

Now here we are tonight, and I thought we had from 6 o'clock last night until 1:10 Monday morning to come up with an alternative.

□ 0110

Then I find out, to my chagrin, that this side of the aisle did not even bother to come to the conference, and yet you got the guts to stand up and tell CHARLIE STENHOLM that my side of the aisle is not being fair at this late date. Forget what has happened in the last 6 months. Can we, please, forget about the past and concentrate only on the present?

We have got a problem. It is a serious problem. This budget we are about to vote on allows the process to move forward in exactly the same way, in my opinion, that we were voting on it last Friday morning. It has not changed that much.

I understand the budget process. I am sorry the rest of us do not.

We have a very, very serious problem, and I am disappointed that we find ourselves now once again in a partisan debate, and I could take additional time and challenge those on this side that believe that we have got to continue doing what we have been doing, because that is the best way to go about it. But that would not help anything.

What it is time for us now is to get on with helping to solve our problem.

Mr. President, I know you are watching this. I believe you will be pleased with the results of this budget when we present it to you, because if you are not, this is one Member that will once again stand with you and make sure that the enforcement is, in fact, real, and I believe the Speaker of the House will be doing the same thing.

If that is not enough for us in this body, I do not know what else is.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, it is a new day, but it is not a new deal. There are a number of phrases you can use, but please do not use the phrase "trust me."

I am a member of the Committee on Ways and Means, and I know some of you are trying to remember the poem about "The Spider and the Fly." I understand that.

Please, 23 to 13 was not dictated by the American people. It was dictated by your leadership in an attempt to control the key committees. They would prefer 2 to 1. It is control that dictates that number, not the American people.

What this package contains is $10 billion more in taxes and $10 billion less in entitlement cuts.

The bubble; the bubble was pushed in the name of fairness. It was Bradley-Gephardt, but all of a sudden now if you get rid of the Bradley-Gephardt bubble, it is helping the rich. You folks are wonderful at shifting positions, shifting sands.

Capital gains, you remember, the Committee on Ways and Means, despite that number, passed capital gains. This House passed capital gains. This House repudiated the leadership and, boy, are we going to pay, over and over again.

You said, "Let us look at the present. Let us not look at the past."

Thursday night we had in front of us, small as they may be, protections on spending cuts. The language was, "The budget summit agreement includes provisions of the budget summit agreement's recommendations to strengthen the budget process and enforce the agreement." The summit agreement's recommendations to strengthen the budget process and enforce the agreement. Is that language in this document? Yes or no? Chairman of the Committee on the Budget? Yes or no?

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, the language on what, sir?

Mr. THOMAS of California. The answer is no. The language in that package, and do you want me to read it to you? Let us be present. Let us look at the specifics. It says, "To assure a $500 billion deficit reduction package is achieved, this conference agreement includes provisions to strengthen the budget process." It does not say what it said before.

It is the old shift. It is the old shift.

Revisiting what I just said, this package does not say that the enforcement provisions of the summit agreement are in the reconciliation package. It does not say that. The words are not there. Do not tell me to trust you. I am about ready to sing "Back Home Again in Indiana."

The language here is not the summit agreement. All it says is that the conference agreement include provisions to strengthen the budget process. You want the base moving forward with trust on this? Come on.

Mr. PANETTA. Mr. Chairman, I yield myself 10 seconds.

What it provides is that to assure the $500 billion deficit-reduction package is achieved and maintained, the conferees intend that the reconciliation act implementing this conference agreement include provisions to strengthen the budget process. It is our intent to proceed to implement, as the gentleman from Minnesota [Mr. FRENZEL] has pointed out, a leadership amendment to implement the budget-process provisions that were contained in the summit.

Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. MOODY. Mr. Speaker and colleagues, I did not support Thursday night's budget, but I do support this one.

There are two groups of people in the body I would like to take a minute to speak to. One is those on this side of the aisle who voted "aye" on Thursday night who might be tempted to vote "no," and those on this side, my own side, who voted "no" who might be tempted to remain that way.

Let me suggest to those of my friends on the GOP side that there are three strong reasons for you to hold with your "aye" vote. First of all, the package is the same size. That is very important. It is very important to the White House. The President has stressed many times that it is the size of the package more than anything else, more than the details.

Mr. Speaker, the key to the package, by everyone's estimation, is the size of the package. As I think many of us saw today, DAN QUAYLE, our Vice President, stressed the size is essential if we are to avert a surge in interest rates which would be truly catastrophic for this Nation given the weak state of the economy.

The size is the same, $40 billion the first year, $40 billion the first year, $500 billion over 5 years.

No. 2, the package is more fair rather than less fair than what we voted "aye" for the other evening. Even those who supported the package frequently mentioned that they wished it had been more fair. I do not see how you can vote "aye" on a package that is not a fair and then turn around and vote "no" on a package that, by every measure, is more fair. That is a vote, I think, would be very hard to justify, and I hope none of you will be put in that position.

You cannot be saying, "Hey, the package tonight does not help the elderly hard enough. The package tonight does not distribute income upward, not nearly enough. The package tonight does not hit home heating fuel enough." You cannot be saying that; if you liked last Thursday's package, you certainly have got to like this one much more.

The third reason I would stress is the urgency, one which many of you yourselves have brought up. You grumbled, many of us grumbled, the package was not that great, but it was urgent. Well, if it was urgent Thursday night, it is a lot more urgent tonight.

We have a CR coming right after this, and on that CR is a debt ceiling, and if we do not pass that debt ceiling then, of course, the United States defaults.

I would urge those of you who voted "yes" the other night to retain that "yes" vote tonight.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, I feel that the House will do itself proud this morning by ending the stalemate and moving the process forward.

The events of the past days, I think, have been misleading particularly to those from afar. It has looked like organized confusion.

Of course, there has been debate, and it has been heated at times, and there are major differences. But what would one expect from a collection of 435 individuals of geographic and philosophic and so many other differences?

But despite those differences, I do not really think we are so far apart. I sense a broad bipartisan support for bursting the bubble in the interests of taxpayer fairness and broad bipartisan support for improvements in capital gains to encourage investment in America, and we have to end the tax on home heating oil, and we have to make improvements to Medicare and not require those who lose their jobs to have to wait 2 weeks without any income until they can collect their benefits.

□ 0120

But I think we should support this resolution because it maintains the spirit of the summit. It accedes to the wishes of the President and the demands of the American people that we get serious about deficit reduction. $40 billion in 1991, $500 billion over a 5-year period. When all is said and done, we all want to move toward that kinder and gentler Nation that the President seeks and we embrace. Let Members begin the journey here and now, as the Speaker said so eloquently from this well just 2 days ago, "If not now, when? If not us, who?"

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Speaker, I want to speak tonight to the 71 Republicans, if I might, who voted for the first budget resolution.

What we are doing tonight is incorporating the flexibility that the Speaker expressed to Members before we voted, with the approval of the President. I worked hard with others to obtain that flexibility. Flexibility to reduce the increase in the Medicare premium, most of the 71 wanted that. That is incorporated. Flexibility to get rid of the punitive second waiting week in unemployment compensation. Most of the 71 Members wanted that out. We now take it out. Flexibility to look at the poorly constructed $12 billion in investment incentives. Many Members expressed desire that the Committee on Ways and Means look at that. That is what we are going to do. Flexibility to build more tax fairness into this package and that is what we are going to do.

The Committee on Ways and Means is composed, it is true, of more Democrats than Republicans, but with the veto power of the President. I want to say to the 71, I feel in my heart that if the package here had been presented a few days ago, your Members would have voted for it. Vote for it tonight and help save this Nation.

We must always remember our original purpose: To dramatically reduce the Federal budget deficit and thereby improve the economic future of all Americans. This was never going to be an easy or painless task. This resolution sustains the real reduction of $500 billion in the first resolution, which I supported in view of the assurances described above.

We are now confronted with twin crises. We have a Federal budget deficit that is crippling our economic future and that of our children. Now we also have an atmosphere of political chaos that threatens to further erode the belief of the American people in their political system. This is a battle which threatens to leave every participant a loser, including, and especially, all of the citizens of this Nation.

For 5 years, I have been talking at town meetings and on the floor of the House about the compelling need for getting a hold of the Federal deficit. It is the cancerous legacy of a decade of supply-side economics—the grand delusion of the 1980's.

As a member of the Ways and Means Committee, I pledge to do my part to resolve the budget crisis in a way that is fair and economically responsible. I hope that in doing so, we can gain the confidence of the American people in our ability to confront squarely and honestly the pressing national problems confronting us.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Speaker, the hour is late. I am a little disappointed in my colleague from Texas who says we have not got the guts to stand up to the budget tonight. This budget should have been presented in May, and the appropriations in June.

I am in a position here that I am going to vote "no" on a budget that I have not studied and analyzed and looked at, and I have not seen.

However, I want to say this to our colleagues. We need constructive Republican alternatives. I am going to ask my President to continue a veto when bills are too high. I am going to ask my Committee on Appropriations to get our bills on time and get them to the President's office by October 1, all 13 appropriation bills. I am asking on both sides to eliminate the summitry. We have four tiers, now: The authorization tier, the appropriation tier, the budget tier, and now the summit tier. I think it is time to elimi-

nate the top two levels and get back to basic fundamentals.

We have not got a game plan. If I was a coach and I had a deadline of October 1 to get on the field, I would like my players to see that plan and be ready to have some homework completed, and get a drill, and be ready to win a ball game. We will not win this ball game for the American people. We have not offered a vision for the future of this Nation. This is a bad plan. I am going to vote against it. I asked my President to support me, and I am going to support my President.

The SPEAKER pro tempore. (Mr. SYNAR). The Chair will inform the gentleman from Minnesota [Mr. FRENZEL] he has 20½ minutes remaining, and the gentleman from California [Mr. PANETTA] has 15 minutes remaining.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I rise in support of the budget resolution.

Mr. Speaker, this budget agreement would cut the deficit by $40 billion in the first year and $500 billion over the next 5 years.

In that respect it achieves the same overall objective of the budget summit agreement.

Savings of this magnitude represent real progress and I am convinced the provisions of this budget resolution will help to make those savings enforceable.

It is also instructive to compare this budget to the one adopted by the House last May. That budget cut the deficit by only $30 billion in the first year and roughly $250 billion over 5 years.

The bipartisan budget summit was a success in terms of emboldening our deficit reduction effort. This new agreement honors that goal and offers us additional flexibility in meeting it.

I urge both Democrats and Republicans to vote "yes."

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, like my friend from Wisconsin, I am particularly interested in those who, having voted yes on Thursday, are thinking about voting no today. I understand the people who voted no on Thursday are going to vote no today. Some of them have evinced lately an enthusiasm for the agreement they voted against that they did not have when it was on the floor. When our friend from California whipped himself up into a frenzy because the current package does not include language that was in Thursday's package, I wonder why he voted against Thursday's package? However, I do not expect people who have not voted for a budget all year with a possible exception.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman.

Mr. THOMAS of California. That is one specific item in which the folks have changed it. All of the other numbers were the reasons I voted against it on Thursday.

Mr. FRANK. Mr. Speaker, I thank the gentleman. So I understand now that the presence or absence of that would not have made any real difference. That is what I suspected. The point now is the numbers. I address myself to those who voted yes on Thursday and are thinking of voting no today. As I understand it, as I listen to them, nobody liked the package Thursday. That was the most unloved offer ever dragged in off the streets. What people said is, "It's a bad package. I will vote for it anyway." As I understand it, the yesses on Thursday that plan to be noes today are saying that they voted for a bad package Thursday, but because we did not make it better enough today, they are going to vote against it. So, they voted no when it was bad, and yes when it was bad, they will vote no when it is better because it is not perfect. When they say, "Well, it's because it's not bipartisan."

Now we will talk about the merits. Are you saying, comparing Thursday's to today's, that today we do not hit the elderly hard enough? Because everybody agrees the elderly will be hit less hard this time than Thursday. Or maybe some people who voted yes on Thursday and they are planning to vote no today, said on Thursday we reached somehow tax equity perfection? So today we are not threatening middle class enough, the working people who have to suffer, enough?

I do not understand on what basis the people who voted yes. I understand a no and a no. I understand a yes and a yes. I understand a no and a yes because Thursday was not so good but today is better, but a yes and a no has no object. I hope people will tell me what it was so good about Thursday that they voted for it, that today because we are trying to make it better and more flexible, that those Members cannot vote for it.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding, and I will try for just a moment to put some logic in that argument, why some Members who very painfully voted yes the other night will be voting no this evening.

For three terms I was mayor of the city of Fort Lauderdale. Two terms before that I served on the city commission. Each year we would receive a budget of approximately an inch thickness. We pored over it for several meetings, for several days, or several weeks. We would have several hearings.

Tonight, right now, it is 27 minutes after 1 o'clock a.m. We are now in the second hour of the 2 hours that are set aside for Members to take a look at this budget. I was first somewhat offended when I got a 1-page summary of a 5-year budget for this country. I thought I was missing out on something until I got the 50-page summary. Then I looked through that and I found out it really did not have any more detail than the 1-page summary.

Now, I know the budget procedures in this House really do not mean a lot. If they mean anything at all, it is a political exercise that we go through every year in order to try to put discredit on the other party. The President sends his down, the Democrats say its dead on arrival, then we do one, and very often we Republicans do not even put one forward. If the House Democrats put one forward, they sail it down the hall to the Senate, they sail it back, and we turn it all down like this year, like a skunk sitting in the middle of road. However, it really does not stop the procedure from going forward.

We have $120 billion of taxes, unspecified taxes, totally unspecified taxes in this so-called budget resolution. This is an insult to the intelligence of this House. We should not be made to come in here, just getting the document as we walk in the door, for a 5-year budget for this country, and we should not be given it with such lack of detail. I urge a no vote without the details. We do not know what we are voting on. It will come back to haunt us. I urge all my colleagues to vote no because none of us have any idea what we will be voting on.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

□ 0130

Mr. TRAFICANT. Mr. Speaker, I was supposed to get 3 minutes, but because I am going to vote no, I only got 2.

I am going to tell you why I am going to vote no tonight, because I am a Democrat.

Tonight is not a debate about national issues, the budget. It is about priorities and policies.

The Republican program has failed and we are sending a hybrid budget over so the President will accept it, rather than challenge the political agenda of the Nation.

I ran as a Democrat in 1984. I did not run on the bipartisan ticket.

I voted with the gentlewoman from New York [Ms. MOLINARI], and the gentleman from Oregon [Mr. SMITH]. I believe in helping as much as I can, but when it comes to setting the future of the national agenda, there is

a difference between a Democrat and a Republican, and I am voting no because I am a Democrat.

Now let me tell you why. There is $150 billion that goes to take care of NATO, and we do not touch it.

The budget agreement defense amount was $283 billion. I tried to cut it to $277 billion. Everybody said that would be too much. Now it is $290 billion.

About the only cuts over there, some general got a vasectomy.

Let me go forward. There is $134 billion in new taxes.

I do not listen to what people say. I watch what they do, and Congress has put the burden on the backs of people who can least afford to pay all along, and I do not expect anything different from anybody now.

Foreign aid and international assistance, no one touches it, but we are playing with Medicare.

Let me say something to the Democratic Party tonight. Tonight the Democratic Party has an opportunity to seize the leadership of America and take us away from failed policies that have taken us into a group of trustees tonight.

I heard about Desert Shield. Eighty-two percent of the troops over there are Americans. My question tonight is, why do American kids keep coming home in body bags and pine boxes? Where is the the rest of the world?

We do not have to raise taxes. We could take 50 percent of NATO, 50 percent of foreign money, and put the 5-percent bubble back without raising one other tax, not one new tax, and the Democrat Party will seize the agenda for the future.

I do not like this hybrid business. I am not a part of a coalition government. I am a Democrat, and there is a difference between a Democrat and a Republican.

I am voting "no."

Mr. FRENZEL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, what we have before us tonight purports to be a bipartisan budget agreement. Now, that is a real misnomer, because what we have here is neither a budget nor an agreement and it certainly is not bipartisan.

In fact, Mr. Speaker, I have heard several people from the other side of the aisle tonight refer to it as a bipartisan agreement. I would like to know where the heck one side of the aisle gets off describing it as bipartisan, without reference to whether the other side is in agreement on this or not.

This thing, this sheet we have that purports to give us some details about this, really is more information than we need about it. Really, it could all be written in one sentence. It ought to just say, "There shall be a budget of the United States and we will determine what it will be in the future and the committees will determine how to implement it sometime in the future."

Now, Mr. Speaker, I was one of the 71 Republicans that did not vote for the budget resolution last Thursday night. I did so reluctantly. I did not like a lot of the things in there, but I thought it was the very best that we could get at that time. Looks like I was right, because what we are getting tonight is certainly a lot worse.

I cannot support this. To be an agreement the Republicans can support, it has to have some reasonable guidelines, some definition in it.

Now, Mr. Speaker, it does not have to be rigid. It does not have to be a complete rewrite of the tax laws, but it has to be reasonable. There have to be some outlines, some certainty where this reconciliation process is going to take us, not a blank check.

The vice chairman of the Ways and Means Committee pointed out to the extent there are any outlines to this, I do not think we can see anything except a blank horizon out there. The package does contain $10 billion more in taxes than we had the other night and thus, of course, $10 billion more in spending. Heaven forbid that we should ever apply it to deficit reduction.

The agreement we had last week was too much taxes and too little spending restraints, and this goes even further than that.

I urge, Mr. Speaker, let us quit this sham, get back to work for a real budget agreement.

Mr. PANETTA. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, a few moments ago one of our Republican colleagues, the gentleman from Vermont, quoted Abraham Lincoln, challenging the Nation to disenthrall itself from the dogmas of the quiet past and to think and to act in a new manner. That was in 1861. That was a challenge to compromise, a challenge to be bipartisan, and that really is where we are tonight.

We find ourselves at the end of another rope, and not to compromise, not to work together and pass this budget resolution, will invite economic chaos next week. It is time to act.

I believe the Committee on Ways and Means will go to work next week, and I believe we can produce a revenue package that most Members in this Chamber will support and one the President will accept.

During the congressional debate over the League of Nations, Woodrow Wilson's closest adviser was a man named Colonel House. He told the President, "The best politics is to do the right thing." Well, that was hard to find the other night on the first budget resolution. It should not be hard tonight. Let us pass this budget resolution. Let us move this process forward.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I thank my colleague, the gentleman from Minnesota, for yielding some time to me to talk tonight.

Mr. Speaker, I stood here several nights ago about this time in the evening or morning and took what I thought was a tough vote. I voted yes on the budget agreement, the budget summit, if you will, because I thought that I could go back home and look my constituents in the eye and say, "Yes, there are some real savings here. I'm going to do what you elected me to do when you sent me to Washington, and that is to start to balance the budget, that is to start to make some tough cuts."

You know, there was a pretty tightly crafted piece of legislation there. It had entitlement cuts and it had language and rescission agreements on how those cuts were going to come about. It had some pretty precise tax language in it on how we are going to balance those cuts off with revenue; but you know, I watch what happens around this House, and I watched very carefully the other night. I watched members of the Appropriations Committee, the chairman, the subcommittee chairman of that committee. They did not vote for that agreement. A majority of them did not vote for that agreement, along with their chairman. Why? Because it started to tighten down, it started to take money off the table. It started to say we need to make some tough decisions, not with a lot of Novocain, or not with a shot of ether, some real tough decisions on how we are going to order our priorities in this House.

Tonight we are asked to come here again and make another vote, and that vote does have the Novocain and that does have the shot of ether, because we can go sit in a corner while somebody else makes those tough decisions, whether it is the Appropriations Committee or the Ways and Means Committee. Well, I have a great deal of faith in them, but I have seen the results.

I think back home we call this buying a pig in a poke, and smart people do not do that.

Mr. PANETTA. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

□ 0140

Mr. TORRICELLI. Mr. Speaker, the theme of the evening is the budget process and bipartisanship. Well, I do not serve on the Committee on the Budget, and I am not a real bipartisan kind of guy.

But I know this, it is not simply later in the evening, not simply later in the budget process. My friends, the simple truth is, if we do not bring some discipline to the finances of this Government, some order to this national economy, it is later in the life of the standard of living we have come to know, later in the life of the economy of our country.

I did not come here, my friends, as you did not come to this Congress, to preside over the gradual, slow, steady but certain decline in the standard of living of the American people. But that is what is happening.

Mr. Speaker, the 1980's began on January 20, 1981. We began 10 years of telling the American people the things they wanted to hear, not the things they needed to know. We told them that there were things you could have without sacrifice, benefits without paying for them.

My friends, the 1980's can come to a close on October 8, 1990; it can begin with this budget process.

This budget resolution is not as I would write it. It is not all my priorities. But it makes sense. It is without alternative.

So, my friends, I would say this to you: Join with your President in governing, join at least with your own leadership in governing, join with the majority in supporting this budget resolution, or get out of the way so that the rest of us can begin governing America.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, this evening brings a bizarre closing chapter to one of the most bizarre weeks in congressional history; bizarre because the country has been laughing at this institution all week and indeed tonight we add to the national joke.

Bizarre because we are presented with zero leadership when the Nation is crying out for leadership and responsibility; bizarre because there are no enforceable deficit reduction provisions in this budget package and the Nation is crying out for deficit reduction; bizarre because the Nation is seeking bipartisanship and they are presented with the worst type of partisanship.

Let use examine what we know about this budget—and it is not a lot, because it was just presented at 10:15 this evening.

First, we know it was conceived in entirely partisan posturing; no Republicans in the room, no negotiations, drafted in the caucus of one particular party.

Second, we know it is all posturing. There is no substance, no details, no results. No spending bills under this can be passed and signed into law. No tax bills are presented under this, can be passed and signed into law.

Third, we know there are no spending cuts in reality in this package. In fact, this package provides for $170 billion in domestic increases over current spending, and there are not even the enforcement provisions that were in the summit package from last Thursday night.

Fourth, we know it adds to the recession and has nothing that would bring us out of the recession and put American men and women back to work.

Fifth, we know at its heart this is a tax increase budget. At least $20 billion in additional taxes in addition to what was voted down last Thursday night by a majority of both sides of the aisle.

What we should do is turn this down, take a few days with a short-term CR with $40 billion in agreed-to cuts, ask our leadership to get together and demonstrate some leadership and responsibility.

I have two teenagers who have a word for what we are doing here tonight. The word is "nothing-burger."

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I rise in support of the conference agreement.

Mr. Speaker, I rise in support of the new conference agreement on the budget. I do so for two reasons. The first is that there really is no choice. A vote for this new budget resolution is the only responsible vote. In my judgment, it is absolutely essential that there be a budget agreement. It is essential that the budget process go forward. It is essential that we make the hard choices that have been avoided for far too long. It is essential that we avoid the chaos that this Nation and its people will face if we again fail to agree on a Federal budget.

Failure to agree now will, in my view, not only have serious economic repercussions, but will also trigger a very dangerous political and constitutional crisis. The American people deserve better than that.

My second reason for supporting this revised budget resolution is that this resolution, unlike the summit agreement, will give the legislative committees the flexibility they need to insure that the pain and burdens of deficit reduction will be spread fairly. The summit agreement would have placed far too heavy a burden on Medicare beneficiaries, would have required a 2-week delay in laid-off workers receiving their unemployment checks, would have placed the principal tax burden of deficit reduction on the backs of lower-income and middle-income working people, and would have provided $12 billion of new growth incentives that would have done little but encourage the growth of a new tax shelter industry that would once again help the wealthiest among us avoid paying their fair share of the Nation's taxes. These elements of the summit agreement were simply unfair. The American people understood that and so did a majority of this House from both parties.

Mr. Speaker, the past decade of supply-side economics has been a disaster for America. Contrary to its promise that lower taxes, primarily for upper income people, would usher in a new era of increased savings, new investment, economic growth and prosperity, we have seen only a steady erosion of Federal revenues and of our economic strength. Today the country stands on the brink of a recession.

The harsh truth is that we have, for too long, been substituting the wish for the reality. And we simply can no longer wish our troubles away. We must face the reality of our deficit crisis head-on. Even with the $40 billion in savings this budget resolution would achieve next year, we will still have a $254 billion deficit or $300 billion, if we do not count the Social Security surpluses.

And there are simply no easy or pain-free solutions. Certain things are given:

First, the administration—regrettably, in my view—has pledged to reject any defense number lower than that contained in the budget resolution before us.

Second, the interest on the national debt must be paid.

Third, there is a national consensus that Social Security benefits must not be cut, and that retirement programs be protected.

Yet these three elements alone claim over two-thirds of the total Federal budget. All domestic discretionary programs combined make up no more than 17 percent of the Federal budget. This category includes the war on drugs, all educational and job training programs, all health research, all environmental protection, all law enforcement, all transportation programs, all housing programs. And the list goes on. Incredibly, the Federal deficit today is so monstrous that everyone of these programs, and all of the Federal agencies that administer them, could be totally eliminated, and we would still have a Federal deficit of $100 billion.

The President, like most of us, has come to recognize that there truly is no realistic way to solve our deficit crisis without some combination of both spending cuts and new tax revenues. The real question we face is who should pay those taxes. I, for one, will not be able to support new tax legislation that again sticks it to the middle-class and the poor, while letting the wealthiest Americans off the hook.

Mr. Speaker, the past decade of supply-side economics has produced a few big winners and a lot of losers. The rich got very rich indeed—this year the income of the richest 1 percent of the population will total $564 billion, more than the total income of 40 percent of all American families—and all of this has come at the expense of the poor and the middle-class. It is time to say, "Enough." Those who have been the decade's economic victims cannot be asked to continue to pick up the tab, while the principal beneficiaries of the policies of the last 10 years, the wealthiest Americans, are sheltered from any burden. That is not right. That is not fair.

Mr. Speaker, we are a nation that has always pulled together in time of crisis. The American people, I believe, are willing to pull together and work together to get this Nation and its economy back on solid ground. What they are not willing to do is to tolerate an unfair budget and a political system that ig-

nores average citizens and caters to the wealthy and the powerful.

Mr. Speaker, I will vote for the budget resolution before us. I believe it is vital that a significant, credible deficit reduction package be enacted, and that this process be kept moving. I don't do this lightly. I know there are those out there who are just waiting to attack, to say that we should all take "read my lips" pledges not to raise taxes, to say that we can balance the budget with cuts alone. What they will not tell you is that their real agenda is to lock in an unfair tax system that permits someone earning a $200,000 income to pay a lower marginal tax rate than an individual earning one-fourth as much.

Mr. Speaker, I am supporting this budget resolution because it provides a reasonable framework for meaningful deficit reduction. Its passage will keep the process moving and get us beyond political stalement. It discusses bipartisan support. But I must serve notice that neither I nor my constituents will be able to support a reconciliation bill that does not produce a much fairer distribution of the deficit-reduction burden than that proposed in the original summit agreement. I am prepared to make the hard choices. I am not prepared to make the wrong choices for this Nation, its people and its future.

Mr. Speaker, I urge support of this budget resolution.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, the integrity, the viability of the U.S. Government is at stake. The issue is not whether we can produce a budget or keep the Government from closing down or sequestering thousands of people or programs—but whether we can govern, whether we can keep the American democracy that the world looks up to as its beacon to become another banana republic laughingstock. This is our last chance to avoid chaos.

The President has said to the Congress after vetoing the continuing resolution to produce a budget. Well, here it is. It achieves the same cuts as the summit agreement—$500 billion over 5 years. It corrects some of the major concerns, such as Medicare cuts, to the point where every senior citizens group now supports the budget resolution. It says there must be tax increases—but asks the committees of Congress and not unelected White House officials to put together a package and deal with gasoline taxes, heating oil, and liquor taxes, and the bubble and capital gains and report back for up and down vote. It establishes a caps and not floors and says achieves savings in defense, in international programs, in discretionary funding, and let these savings go to deficit reduction.

Mr. Speaker, there is no reason to have any Government layoffs or services curtailed as a show of fiscal disruption.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, the budget resolution which I vote for tonight is substantially better than the one I voted against last Friday.

This budget allows us to reduce the burden of the gasoline taxes and it gives the committee the opportunity to require the upper income earners to pay their share of the taxes.

This budget also reduces the proposed cuts in Medicare from $60 billion to $42 billion and it allows us to cut some more of the overspending in defense.

For those and other reasons, this budget is more acceptable than that which we voted on 2 days ago.

I want to be clear however. I will vote for this budget because we must move this process forward. But I will not vote for the reconciliation bill that will follow this budget unless the budget savings in agriculture are accomplished in some part through an increase in loan rates. Our family farmers must not be required to bear budget cuts that are unfair. We will accept budget cuts in rural America, but we expect them to be fair.

Starting now, we must enact a budget and start doing the Government's work. The American people deserve a President and Congress that can and will work together to solve America's problems. We can't wait. It's time for all of us to pull together—now.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I rise in support of the conference agreement.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Speaker, I rise in support of the budget conference report. It is the right signal for the marketplace. It lays the foundation for lower interest rates.

Mr. Speaker, I rise in support of the budget conference report as the right signal to the marketplace and lays a foundation for lower interest rates. It sets the parameters for $500 billion in deficit and spending cuts over the next 5 years—while allowing the committees of jurisdiction to work their will in coming up with the specifics.

The initial summit agreement included unconscionable cuts in Medicare, shifted the tax burden even further on the backs of the working class and contained many sweetheart deals in the spirit of bipartisanship. I couldn't in good faith support an agreement that already made those important decisions for me—especially when they are detrimental to my own State of New Jersey.

My colleagues on the other side of the aisle are concerned about leaving those specific tax and spending decisions up to the committees. I ask them why? If we fail to enact a budget and the President decides to veto a continuing resolution again—it won't matter to the millions of Federal workers who is responsible or to the millions of investors when the market reacts like it did on October 19, 1987.

This conference report embodies the same overall revenue and spending targets agreed to by the President. Its passage will allow the Federal Reserve to react accordingly—lower interest rates and restore some confidence back in the marketplace. Its passage will allow the committees to roll up their sleeves and begin working on a bipartisan reconciliation bill. I urge my colleagues to support the budget.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I voted for the first package the other night. Its purpose was to trim the deficit. As I said then, in the 1-minute preceding it, there was something bad in that package for everybody. It spread the pain in bipartisan fashion. It was a bad budget agreement, but it was the only one we had and we had to support it.

And the hard left did not support it, and our right did not support it, and now it is payback time because they have the numbers.

What have they done? They have taken this bill that we had the other night and shifted it leftward. Oh, they say it is a better, more fair bill, they say. This is a "don't worry budget," they say; this is the "no rough edges budget," they say; let the Ways and Means Committee handle all the problems; and let all the committees take care of the problems.

Well, ladies and gentlemen, I am voting "no" on this budget because it provides $10 billion less in entitlement cuts, because it provides $10 billion to $20 billion more in taxes than the agreement the other night; because it provides greater agricultural subsidies; because it is tougher on defense; and because it tightens the noose on our 200,000 young men and women in Desert Shield.

Ladies and gentlemen, this is a leftward budget. And for those who voted "no" the other night, you have got no excuse to vote "aye" on our side to this one. It is not a good package. We need to go back to the table in a bipartisan fashion, come back to the Senate, pass a budget for everybody in America. It is not going to be easy. It is going to be painful. But we need to get the deficit under control. And if we do not, we have got only ourselves to blame.

I urge a "no" vote on this package.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Speaker, I support the budget resolution.

Mr. FRENZEL. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL of California. Mr. Speaker, I rise in opposition to the conference report.

At a minimum, any budget deficit reduction package must insure a lower deficit. That is an unremarkable proposition. What is remarkable is that neither this package, nor the one

developed by the budget summit, does guarantee a deficit reduction. The reason is that domestic and international discretionary spending, and entitlements other than those targeted specifically, are all allowed to grow at the inflation rate. If that inflation rate exceeds 6 percent, by my calculations, the growth in discretionary spending and entitlements permitted by this agreement will swamp the announced savings in this agreement. And if interest rates grow rather than fall, the assumed $70 billion in savings from debt service paid by the Federal Government will not materialize either. In that case, an inflation rate even lower than 6 percent would make this deficit reduction package into a deficit increase package.

What are the expectations about inflation and interest rates that underlie this agreement? They are the same that underlay the first budget agreement, and they are unrealistic. They are:

	1990	1991	1992	1993	1994	1995
Inflation (GNP deflator)	5.2	4.6	3.4	3.2	3.0	2.8
Interest rates (91-day Treasury bills)	7.7	7.2	5.7	4.9	4.4	4.2

Does any economist, does any citizen seriously believe inflation will fall every year? Does any economist, does any citizen seriously believe interest rates will fall every year?

These are untrue predictions; I will not vote for a budget agreement based upon them; and I cannot support a proposal that is more likely to increase the deficit than reduce it. To increase the deficit is to steal from our children. I will not do it.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. PASHAYAN].

Mr. PASHAYAN. I thank the gentleman for yielding.

Mr. Speaker, I have observed in this package—let me say first of all I have appreciated all the rather sweeping oratory that we have had tonight. I am going to take a little bit different direction. I am going to have a question for the chairman of the committee.

I have observed that there has been a concentration of taxes. In that concentration, the rates have been escalated quite dramatically; namely, in the various fluids; the gasoline of various kinds, and wine and beer.

I wanted to ask that under No. 2, where it says specific policy decisions, for example, capital gains, home heating oil, gas tax: Does that mean that the Committee on Ways and Means will be able to consider other taxes, excise taxes on other commodities with the notion of maybe finding a lot of other things to tax out there and not raise the rates so high, rather than taking a few items and raising the rates dramatically? Is that authority contained here? I should hope the chairman could also add whether there were any discussions along that line while these negotiations were going on. But more importantly, does this grant the Ways and Means Committee the authority to raise other excise taxes just a little bit rather than raising a few a lot?

□ 0150

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. PASHAYAN. I yield to the gentleman from California.

Mr. PANETTA. Again, Mr. Speaker, the point is to allow the Committee on Ways and Means to make those judgments based on the overall elements that would be on the table, so that the answer to the gentleman's question is that that is possible in the Committee on Ways and Means, if they decide to go in that direction. I would think they would try to prove the progressivity of the overall package, however.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker and my colleagues, I am, I hope, known not to be one of the bomb or grenade throwers. If I were, I might have two in my pocket, and I might scatter them on either side of the aisle.

I am, frankly, alarmed, disturbed more than I can tell my colleagues, about how I believe this process has broken apart. I am one of the 71 who voted for the leadership role of the President, the Speaker, the majority leader, the minority leader at something like 2 days ago, less 30 minutes.

I cannot vote for this budget resolution, if I can call it a budget resolution, and the reason I cannot is that I signed onto that because there was some sense of commitment that that budget resolution was going to bind the committees of the Congress, and they would then implement legislation and reconciliation pursuant to it.

Now tonight I find myself in the position where the committee on which I serve, the Committee on Armed Services, is definitely going to be bound by this so-called agreement, but nobody else's committee apparently is bound by it. It is all to be worked out any way they choose to work it out.

I am very concerned about the way this process has turned from having been told that we had an agreement, it was bipartisan, and it was totally distasteful to me, but this country requires that we resolve this crisis, and all we have done since is fritter away the time.

Last night I came back here, and we voted on whether to sustain or override a Presidential veto, and what did we do? We sustained that veto. And what has happened since that occurred? The process has moved to the left, not to the center, not anywhere.

Let us pass a continuing resolution, put the Government back in business, and get back to a true bipartisan and binding, binding budget resolution.

Mr. FRENZEL. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Speaker, I want to thank the gentleman from Minnesota [Mr. FRENZEL] for yielding me the time. I also want to compliment the chairman of the committee and the ranking member. They are both very sincere individuals, and I think that, when the other side is right, I voted with the other side because I think one of the things we are supposed to do is what is best for our constituents here.

Mr. Speaker, let me tell my colleagues a little bit about my constituents. Let me tell my colleagues a little bit about my home State of New Jersey.

The people were just hit with an increase in excise taxes, an increase in the sales tax, a doubling of the State income tax, removal of exemptions on the sales tax, another tax increase totaling $3 billion, probably one of the largest tax increases of any State in the history of the United States of America.

On Friday night, some people here wanted to add more to that burden. I voted "no". And I voted "no" not because I did not want the process to be moving forward, but because I wanted to send the negotiators back to the bargaining table. I was hoping that, if we went back to the drawing board, they could return with a better package.

I have read this package, and, quite frankly, it says nothing. When it talks about tax increases, it says the Committee on Ways and Means is free to meet its revenue increase target through any combination of tax measures, and that is a problem, my colleagues. It is a problem for me, and I think it is a problem for my constituents.

What I see here is worse than the original package, and I do not know what kind of new or increased taxes my constituents are going to be hit with, but I can say this: It is obviously a pig in a poke, it will not sell in Peoria, it is not going to sell in New Jersey, and I intend to vote "no."

Mr. FRENZEL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I have listened to the debate very intently here this evening because I was not sure how I was going to vote when I came here tonight. I voted for the package on Thursday because I have wanted to vote for a balanced budget amendment for 23 years, and it was bipartisan, and it was supported by the President, for whom I have great personal affection.

However, Mr. Speaker, I think the most important thing we can do is vote for a balanced budget agreement.

Now, I was at the Republican Conference today, and two-thirds of our Members said "no" to any revenue enhancement. In my judgment that takes us out of the process right away. We can always vote "no" on reconciliation, if we do not like the package after it is fleshed out.

We have to feel good about our vote. I want to feel good about my vote, and I would feel very bad if this budget agreement is turned down tonight, and I plan to vote "aye."

Mr. PANETTA. Mr. Speaker, I yield 3 minutes to the distinguished majority whip, the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Speaker, some of the debate that we have heard over the weekend reminds me of a story about two men on an airplane. The air-conditioning fails, and, after an hour, the first man turns to the other and says, "One of our deodorants isn't working," and the second man says, "It must be yours. I don't wear any."

Well, it is easy to say things are somebody else's fault, but tonight is not the time to fix the blame. It is time to fix the problem. The agreement before us can do just that, Mr. Speaker. It reflects a real attempt to listen to the Members of this House on both sides of the aisle who last Thursday night very eloquently argued for their positions.

What did they say? They said the Medicare cuts were too deep, we were hurting seniors. As one Member of this side of the aisle said, the Medicare portion is going to increase premiums, doubling them in a couple of years, and another distinguished Member of the minority side said that the package last Thursday night was a bad deal for the elderly.

We also heard from both sides of the aisle that tax increases were not fair, and in the words of a distinguished Member of the minority side from Illinois: "This is one of the most regressive forms of taxation."

"What kind of tax package is this? What kind of equity are we talking about in fairness?"

Mr. Speaker, we did listen, and we made some modifications. Now the Medicare cuts are not as deep. Now the committees that have jurisdiction have flexibility to look at the package and make adjustments for progressivity.

Is tonight's package perfect? Of course not, because each one of us here tonight has their own individual plan, but we must have one plan, not 435.

□ 0200

If we act tonight, we can achieve the largest deficit reduction in the history of this country. With all of its faults, we have before us a pro-low-interest rate agreement, which is a pro-growth, pro-jobs agreement, that can jumpstart our sagging economy.

Now what do we hear? Well, first, that we are not acting in a bipartisan manner. Well, you cannot have it both ways, my friends. The complaints about Medicare were bipartisan, and the fix is bipartisan.

Now we hear people saying that there are taxes in the plan. But it was a Republican President that said we needed new revenues. Why do we not join him? If you do not want taxes, you have a responsibility to come forward and tell us what cuts you will make.

I urge Members to look at this plan. It is not the best, but I contend it is probably the one that we can unite behind and achieve economic growth. I urge support of this resolution.

Mr. BEVILL. Mr. Speaker, as Congress continues to seek passage of a budget resolution as its next step toward reducing the Federal deficit, we must realize that any resolution we pass is only a recommendation. It is a necessary recommendation, however, in order for the budget process to go forth. The recommendations in that resolution then will be sent to the committees of the House and Senate. They will be used as guidance in formulating legislation which achieves specific deficit reductions. It is those very committees which have the expertise in areas referred to in the resolution. The committees not only will fine tune the resolution's recommendations, they will be free to make needed alterations, as long as they remain within the parameters set by the resolution.

On Thursday evening, I supported the budget summit's resolution which had been sent to this body. I did so, not out of complete agreement and support for the contents of that proposal, but because it was the responsible step to take toward orderly implementation of deficit reduction. Had it not falled, the House committees would have been busy at this very moment, adjusting the specifics of that proposal in keeping with the welfare of our citizens. Such an agreement must be in place in order for our system to continue to function.

Several of the items within that agreement recommended spending cuts and tax increases which I found unacceptable. Specifically, the Medicare cost increases for our senior citizens were far in excess of being fair. The gasoline tax increase imposed far too great a burden on our rural citizens who often drive great distances to work. And the unemployment compensation changes would have severely penalized the unemployed. However, these measures, along with others I also opposed, would have gone before the House committee system. There they would have been debated, defined, or eliminated in order to provide fairness for all our citizens.

It is the job of Congress to use the budget resolution as a tool in legislating authorizations and appropriations. We are not tied to the specifics within these resolutions.

As chairman of the Energy and Water Development Appropriations Subcommittee, I have received 14 White House budgets. I have always considered every item recommended by the President, but I have never accepted these budgets in their entirety. Had I gone along with President Reagan's budget proposals, 13 of our Nation's waterways would have been closed. Today, those waterways are busy expanding our Nation's commerce. Also, the Nation's only fertilizer research center would have been jeopardized, severely damaging our agricultural production. This center has made it possible for our farmers to produce the world's most abundant harvests.

President Reagan's budgets zeroed out the Appalachian Regional Commission, created by Congress in 1965 to bring the 13 Appalachian States to parity with the rest of the Nation. The ARC's infant mortality program would have been eliminated, along with other health, education, and industrial development programs they provide.

I view the budget resolution before the House today, as well as the one we voted on Thursday, in the same light as the Presidential budget. They are recommendations deserving of our attention and consideration. But they do not replace congressional initiative or responsibility. Too much emphasis has been placed on the resolution and not enough on the real meat of deficit reduction, which will be accomplished by the committees of the House.

As you know, the Speaker has informed us today that the major senior citizens organizations in this country have notified the House they are supporting this resolution before us today. I also support this resolution, realizing that it may contain elements not acceptable. But, it is not in the final form yet, and needed changes will be made in committee. Therefore, I urge every one of my colleagues to support this resolution so that the committee system of the House can get on with the Nation's work and begin significant, lasting, and needed deficit reduction.

Mr. ROYBAL. Mr. Speaker, I rise to state that I will vote "yes" on this budget agreement.

Mr. Speaker, as you and the Members of this body know, I strongly opposed the first budget package and urged my colleagues to reject it. The regressive tax package hit lower- and middle-income Americans unfairly and the spending cuts hit elderly and disabled Medicare beneficiaries unfairly. Sixty billion dollars in Medicare cuts were the final straw that lost this Member's vote.

What was so bad about the summit's Medicare deal? First, the proposal to increase the annual Medicare part B premium to $652 by 1995 would have nearly devoured a month's Social Security check. Second, America's elderly have already experienced an erosion in their purchasing power as more and more of their limited incomes go for health care, now almost one-fifth of their incomes, even without further cuts. Third, the much-maligned Reagan 5-year Medicare budget cuts in his fiscal year 1987—$55 billion—and fiscal year 1988—$48 billion—budget proposals would have been surpassed by the budget summit 5-year deal to cut Medicare by $60 billion.

Though far from a perfect package, the new agreement is a substantial improvement and reduces the inequities of the original agreement. Instead of $60 billion in Medicare cuts,

the new agreement is closer to $40 billion. This is near the level that the aging organizations have indicated they will accept. As I have stated many times before, even these cuts are high and will pose a burden on beneficiaries. Key to my supporting this agreement is the expectation and understanding that Medicare beneficiaries will be protected from most of the cuts.

I further expect and understand that the tax-writing committee will be producing a tax package that substantially reduces the regressiveness of the original.

Mr. Speaker, I go along with the new agreement not because all my objections have been met but because it is more equitable and probably the best deal given the constraints. The time for divisiveness has long past; the time for good and caring government is now.

Mr. VENTO. Mr. Speaker, I rise in support of the budget resolution before the House this morning, October 8, 1990. While each of us can find fault with some of the goals, this plan has been significantly modified from the first product of the summit that was rejected October 5, 1990. The specific language of the October 5 budget resolution that outlined unacceptable changes in policy have been removed from this document tonight with the opportunity to address serious problems in the legislative process, changing the depth of Medicare cuts and limiting the oil tax break and the so-called small business tax break which has been so harshly criticized.

Mr. Speaker, in voting no on the original package I did so with careful thought—I knew that if, and I emphasize if, I voted for the budget resolution which was very unacceptable that I could not vote for the taxes, policy changes, and spending cuts, that were outlined in the earlier October 5 budget resolution in an overall reconciliation measure—the budget resolution would have been an easier vote than the implementation which would have been very difficult, under those circumstances maybe impossible.

Today as I vote for this budget resolution tonight I believe that it can be implemented—with good faith on the part of Members of Congress and the President. This measure gives us the opportunity to move forward in a fair manner.

The citizens spoke Thursday when this House rejected the initial budget resolution, today some of the various constituents that were opposed now favor this measure and the intent to carefully weigh the elements as we move through the legislative process in the days ahead.

Hopefully this will be a positive step that will permit reordering in a small way our Nation's priorities in the next few years. Lowering military spending reflecting the 1990's not the 1950's. Many of the concerns regarding economic forecasts and projections persist. Apparently we in Congress always want to claim much more impact and greater results than what is rationally possible, I understand the motivation but deplore the circumstance of raising expectation so unrealistically we simply set ourselves and the Congress up for criticism.

Let us vote this budget resolution up and be about the implementation the next 2 weeks.

The summit concept and process has been less than desirable, I hope that in the future Congress will be able to process our work in the regular order long before we enter into talks with the administration rather than in this compressed manner which is bound to cause confusion and misunderstanding.

Mr. Speaker, as has been demonstrated when we are up against the shut down of the National Government.

Mr. SYNAR. Mr. Speaker, tonight I will vote for the improved budget agreement. My Oklahoma constituents made it known that no matter what budget is agreed to, it must be fair. The alternative budget compromise provides for true deficit reduction, but it is also an acknowledgment that the groups in society who have to share the burden of deficit reduction must be carefully considered.

While the amount of deficit reduction nor the amount of revenues needed to be raised have changed, the agreement does not dictate the specifics within each category. This is important because the previous budget summit contained instructions which were rejected by the majority of the House and the American people.

The parameters of cuts and revenues set by this compromise leave the necessary flexibility for the appropriate committees to work out a final deal that is equitable. As I stated when I voted against the summit agreement, I know there is an alternative that is better.

I will reserve judgment on the final package which is expected in about 2 weeks. I will be reviewing the final bill with several thoughts in mind. In implementing the agreement, there should be provisions under Medicare that do not simply shift costs to beneficiaries who cannot afford to pay. The revenues to be raised must recognize that working Americans and the middle class have borne a disproportionate share of the cost of Government over the past 10 years. Finally, whatever is presented in 2 weeks must be fair.

Mr. HUGHES. Mr. Speaker, I rise in support of this conference agreement on the budget.

This agreement will bring the budget process back to the Congress where Members and their respective committees can work their will. That is the framework under our Constitution to set priorities and establish the fiscal policy for our country. The budget summit was a failure.

The conference agreement gives the Ways and Means Committee the flexibility to achieve basic fairness in reaching the revenue and entitlement targets. The committee can reduce the Medicare cuts and identify revenue options that will not subject any one sector of the economy or group in our society to an undue or unfair burden.

It also gives our other standing committees that same flexibility to find savings to reduce our huge deficits. Most importantly, passage of this resolution will move the budget process forward once again.

Ms. OAKAR. Mr. Speaker, I rise in guarded support of the budget resolution before us tonight.

This resolution corrects, what in my opinion, was an oversight in the original budget summit agreement, which superseded the committee system for consideration of important budget resolutions. Given the targets in this resolution, the committees can now exercise the proper authority given to the Members of this body by the Nation's voters.

I strongly objected to the original agreement's provisions which placed undue burden on senior citizens and middle-income Americans. The proposed cuts for Medicare, veteran's programs, unemployment benefits, and postal and Federal workers programs were grossly unfair. In contrast, this new agreement allows the Congress to more equitably distribute the burdens of eliminating the Federal budget deficit.

All committees should carefully consider their decisions related to this agreement. Clearly, the American people have voiced their opinion that the Medicare cuts were far too deep, the average middle-income taxpayer was being asked to shoulder too much of the cost of revenue increases, and that veterans, the unemployed and postal and Federal workers would have to, once again, sacrifice their pay and benefits for the purpose of deficit reduction.

In addition, I have great concerns regarding the single largest part of the Federal budget, the funding of the Defense Department. This area of the budget does not fairly receive its share of reductions. Further, I am concerned that the Desert Shield expenditures are not placed on budget to show all Americans the true costs of this operation to our Nation.

In closing, I wish to stress that my support for this budget resolution tonight does not necessarily commit my support for the final form of the budget reconciliation resolution. The primary basis for my final vote on the budget reconciliation conference report will be the fairness of its final content.

Thank you.

Mr. THOMAS of Wyoming. Mr. Speaker, there is little merit in continuing debate over the substance of the budget summit proposal. It has been flailed because it has too much tax and not enough spending control—and on the other hand because it has too much control and not enough tax.

I would like to make two points. One, as a member relatively new to this body, I would like to tell you that I am disappointed with the process that has brought us to tonight. The law required that we have a budget resolution in April. We found reasons not to do that. Instead, we procrastinated; we did not use the method available for making decisions * * * putting the alternatives before the body for debate and voting.

Finally, we settled on a summit group to solve the problem; that took it out of the hands of the Congress. And last, and most disappointing, the decision was held off until the eleventh hour so that the drafters could say, "This is an awful package, but it's the best possible. We are on the edge of a precipice and everyone should vote for it." Support for the proposal is simply continuing the practices of the past.

The second point: I have been here only a short time, but I have observed the behavior of Congress for several years. I've noted that revenues have doubled in the past 10-year period. In spite of the increase in revenues, spending has increased much more quickly—at such a pace that we have run-away deficits.

Now we come with another taxing package—one which will increase revenues, with little dedication to curtailing the growth of Government. And it is said this is the best alternative we can get.

We should reject that argument, Mr. Speaker. It is time for a fundamental change. People of Wyoming want less Government—not more. The people I represent want to cap the growth of Government—not encourage growth through additional taxes.

We need to reject this taxing proposal and replace it with one which encourages the economy and limits growth in spending.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the budget resolution before us, as I have indicated earlier, is different from the one that faced us Friday night. We have $10 billion less in entitlement savings reconciled in the bill, and the tradeoff is, of course, going to occur in taxes.

We will have $10 billion more in taxes, or, more likely, we will have $10 billion less in tax stimulus, leaving us no growth incentives in the bill when we are done, or $10 billion less in savings. Either way, the economy loses.

The bill is beginning to fall apart. In addition to the reduction in entitlement savings, we relieved the Committee on Agriculture of $400 million more in savings in fiscal year 1991 than we asked of it on Friday night.

On Friday night we had a bipartisan agreement. We had the President working hard for us and leaders on both sides working hard for us. As I recall, as one of those repudiated leaders, or would-be leaders, we got about the same percentage of vote on both sides of the aisle.

If there is any blame to be taken for the defeat of that resolution, I think both parties can share it. We went down together in about equal numbers.

However, the version before us tonight is not bipartisan. Yes, as the previous speaker indicated, the complaints were bipartisan. The fix is not bipartisan.

And, yes, we will act in the committees on reconciliation, as we always do. And we will be told to trust the committees, where the Republican proportion is considerably less than their 40 percent proportion of the House.

Mr. Speaker, some of us will trust those committees, and others of us will be quite nervous. We know that the Democrats can probably pass this resolution tonight by themselves, but, when they do so, they take on some awesome new responsibilities. They have to prove, for a change, that they are able to work with the minority and with the President, or otherwise face a certain veto of the product of reconciliation.

For those who have spoken in terms of conciliation, my longtime friend the gentleman from Florida [Mr. GIBBONS] and my friend the gentleman from Kansas [Mr. SLATTERY], we look forward to working with you and trying to achieve something together. But we believe that tonight we are not together. Most of us on this side shall oppose this resolution.

We believe that we should have passed the continuing resolution in a sequester mode last night. We find that our citizens are inconvenienced. But under the scenario that this majority leadership is directing, there will be no public official, no bureaucratic job, that will be threatened.

We believe that if you have a continuing resolution with a sequester, you will be able to reduce expenses other than payroll expenses for the first couple of weeks. We can clean out the supply closets in the first week and the travel budget in subsequent weeks. But if it does not look to the country like we are serious in reducing expenses through a continuing resolution, the public is going to laugh at our deficit reduction efforts. Later it will laugh at us as it sends us home.

The leadership of the House which found great amusement in delaying summit negotiations for 5 months is now seized with an urge for action. Bipartisan actions can be deferred, but partisan offerings are emergencies.

I shall vote against this bill. I wish it were otherwise. I am sorry we must proceed on this basis.

Mr. PANETTA. Mr. Speaker, I yield such time as he may consume to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, it is very, very late, and I know that everybody is very, very tired. I am sorry to inform Members that when we finish this bill, we are going to have to stay here and go through a continuing appropriation. There will be a rule, and probably two votes after that. It could be 4 o'clock in the morning before we finish.

We are not going to meet tomorrow until about 8 o'clock at night, when we have to come back to see if the continuing is finished on the other side and try to process that bill, because, as all Members know, if we do not get it done, we have a shutdown of the Government beginning Tuesday morning. We want to avoid that in one manner or another.

But as tired as we are, and as we are going to be, and as much as tempers have been frayed and frustrations have risen in the past few days and weeks, I know that each Member feels as I do every time you walk on the floor of this House, that we are privileged and that we are honored to have the opportunity to be here to represent half a million Americans and to carry on this experiment in self-government in the greatest country in the history of the world on the face of the Earth.

The other night, even though I did not care that much for the plan, I wanted it to pass, because I thought the compromise had been tough to reach. I knew that if we did not pass it, the days after would have us edging into chaos, and that it would be hard to put the agreement back together again. I think that it is still possible to be able to put this agreement back together again.

The other night the people spoke. I understand on your side that the President called almost every Member. Members of the Cabinet called. I am told that former Presidents Ford, and Nixon called.

We do not have so many former Presidents to call. We did have the leadership on our side talk to almost every Member. We had a task force of over 50 people that talked to our Members over and over and over again to try to pass that package. But for all of that work and all of that persuasion, here, sir, the people govern.

Even though I was disappointed, and even though I was chagrined at what was to happen in the next few days, I was proud that the House reflects the people of this country, and their voices were heard as the vote came in, a resounding defeat for the package.

But now as we are here a couple of nights later, we have to make some changes in the package if we are to get it passed. We in the leadership on this side wanted to work with your leadership on your side to try to figure out how we could put this package back together. One of the things we heard was that people did not like the summit. They did not want some few going off to make the decisions for the rest of us. So in adjusting this package, we have said, let us not be so specific. Let us not take the agreement that was made in the small room. Let us send it back to the committees and let the committees work to shape the package.

We also felt that we should not change it too much, but change it as little as we could. It would have been easy to go to the Democratic caucus and say, "What does it take to get your vote; what does it take to get your vote; and what does it take to get your vote?" And then put together a big "D" Democratic package and roll it out and try to get it done. That would have been fun, it would have made a lot of people feel good, but it would not have helped us achieve the result.

So if we can pass this package tonight with these small changes, passing the trust back to the committees, the challenge in the next 10 or 14 days is for us, each of us, to be bigger than ourselves; to go back to our committees and do something that we have had a lot of trouble doing, and that is working in a truly bipartisan manner to reach the reconciliation instruc-

tions so we can produce a reconciliation bill in 10 days or 2 weeks that we can bring out here and get 218 votes, half of this side and half of this side, so that we can address this deficit problem that everybody in this room knows has to be solved for the future of the country, and I would even say the future of the world.

□ 0210

We can do it. We do not have the luxury of being in a parliamentary system where we can just say I believe in what I believe in and I want to vote for only what I believe in, I will not compromise. I will only stand for the beliefs of myself and my party.

In Great Britain and France and Japan and other countries they can do that. We do not have that luxury. We have to compromise our beliefs and come to an agreement that will move the country in a positive direction.

I do not think I am overstating, and I do not think I am being melodramatic to tell you tonight that with all my heart I believe the country is at stake. These deficits cannot go on.

We have an S&L crisis that boggles the imagination. If we have a recession in the next 6 months we will lose another 300 or 400 savings and loans, and where will we get the money to bail them out and the depositors who will be standing in line wondering where their money is? And if we have that recession, the banks will be right behind, and where will it end?

We have kids in the desert, 150,000 of them, and their strength is only as strong and as much as our economic strength now and in the days ahead.

After our Democratic caucus this afternoon I walked over to the Capitol, and there was a group of tourists, citizens who were milling around the front of the Capitol. They gathered around me. They saw my blue suit and red tie and I guess thought I was one of them, and they were angry. One woman shook her finger in my face and she said, "Why can't you people get this done?"

Our citizens do not understand that this is a divided government. They do not understand that the one party controls the Presidency and another party controls the Congress. They do not understand why we cannot get this done.

Tonight we have a chance to begin to get it done, but if we are going to do it we have to be bigger and better and stronger and more willing to compromise in these next 2 weeks than we have been in the past.

We can do it. Let us get it done.

Mr. FRENZEL. Mr. Speaker, I yield back the balance of my time.

Mr. PANETTA. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 250, nays 164, not voting 20, as follows:

[Roll No. 436]

YEAS—250

Ackerman	Gilman	Montgomery
Anderson	Glickman	Moody
Andrews	Gonzalez	Morella
Anthony	Goodling	Morrison (WA)
Aspin	Gordon	Mrazek
Atkins	Gradison	Murphy
AuCoin	Grandy	Murtha
Barnard	Gray	Nagle
Bates	Guarini	Neal (MA)
Beilenson	Hall (OH)	Neal (NC)
Bennett	Hall (TX)	Nelson
Bereuter	Hamilton	Nowak
Berman	Hammerschmidt	Oakar
Bevill	Harris	Oberstar
Bilbray	Hatcher	Obey
Boehlert	Hawkins	Olin
Boggs	Hayes (IL)	Ortiz
Bonior	Hefner	Owens (NY)
Borski	Hertel	Owens (UT)
Bosco	Hoagland	Panetta
Boucher	Hochbrueckner	Parker
Boxer	Horton	Payne (NJ)
Brooks	Houghton	Payne (VA)
Browder	Hoyer	Pease
Bruce	Hughes	Pelosi
Bryant	Hutto	Penny
Bustamante	Jenkins	Pickett
Byron	Johnson (CT)	Pickle
Cardin	Johnson (SD)	Price
Carper	Johnston	Quillen
Chapman	Jones (GA)	Rangel
Clarke	Jontz	Ray
Clay	Kanjorski	Richardson
Clement	Kaptur	Ridge
Clinger	Kastenmeier	Roberts
Coleman (MO)	Kennedy	Roe
Coleman (TX)	Kennelly	Rose
Collins	Kildee	Rowland (GA)
Conte	Kleczka	Roybal
Conyers	Kolter	Sabo
Cooper	Kostmayer	Sawyer
Coyne	LaFalce	Scheuer
Darden	Lancaster	Schroeder
de la Garza	Lantos	Schumer
DeFazio	Leach (IA)	Serrano
Dellums	Leath (TX)	Sharp
Derrick	Lehman (CA)	Shays
Dicks	Lehman (FL)	Sikorski
Dingell	Levin (MI)	Sisisky
Dixon	Levine (CA)	Skaggs
Donnelly	Lewis (GA)	Skelton
Dorgan (ND)	Lipinski	Slattery
Downey	Lloyd	Slaughter (NY)
Durbin	Lowey (NY)	Smith (FL)
Dwyer	Luken, Thomas	Smith (IA)
Early	Manton	Smith (NE)
Eckart	Markey	Smith (VT)
Edwards (CA)	Martinez	Solarz
Engel	Matsui	Spratt
Erdreich	Mavroules	Staggers
Espy	Mazzoli	Stallings
Evans	McCloskey	Stark
Fascell	McCurdy	Stenholm
Fazio	McDade	Stokes
Feighan	McDermott	Studds
Fish	McGrath	Swift
Flake	McHugh	Synar
Flippo	McMillan (NC)	Tallon
Foglietta	McMillen (MD)	Tanner
Foley	McNulty	Taylor
Ford (MI)	Meyers	Thomas (GA)
Ford (TN)	Mfume	Torres
Frank	Miller (CA)	Torricelli
Frost	Mineta	Traxler
Gejdenson	Mink	Unsoeld
Gephardt	Moakley	Valentine
Geren	Molinari	Vento
Gibbons	Mollohan	Visclosky
Volkmer	Weiss	Wolpe
Walgren	Wheat	Wyden
Walsh	Whittaker	Wylie
Washington	Whitten	Yates
Watkins	Wise	
Waxman	Wolf	

NAYS—164

Annunzio	Hansen	Regula
Applegate	Hastert	Rhodes
Archer	Hefley	Rinaldo
Armey	Herger	Ritter
Baker	Hiler	Rogers
Ballenger	Hopkins	Rohrabacher
Bartlett	Hubbard	Ros-Lehtinen
Barton	Huckaby	Roth
Bateman	Hunter	Roukema
Bentley	Hyde	Rowland (CT)
Bilirakis	Inhofe	Russo
Bliley	Ireland	Saiki
Brennan	James	Sangmeister
Broomfield	Kasich	Sarpalius
Brown (CO)	Kolbe	Savage
Buechner	Kyl	Saxton
Bunning	Lagomarsino	Schaefer
Burton	Laughlin	Schiff
Callahan	Lent	Schneider
Campbell (CA)	Lewis (CA)	Schuette
Carr	Lewis (FL)	Schulze
Chandler	Lightfoot	Sensenbrenner
Coble	Livingston	Shaw
Combest	Long	Shumway
Condit	Lowery (CA)	Shuster
Costello	Lukens, Donald	Skeen
Coughlin	Machtley	Slaughter (VA)
Cox	Marlenee	Smith (NJ)
Craig	Martin (IL)	Smith (TX)
Crane	Martin (NY)	Smith, Robert (NH)
Dannemeyer	McCandless	
Davis	McCollum	Smith, Robert (OR)
DeWine	McCrery	
Dickinson	McEwen	Snowe
Dornan (CA)	Michel	Solomon
Douglas	Miller (OH)	Spence
Dreier	Miller (WA)	Stangeland
Duncan	Moorhead	Stearns
Dyson	Morrison (CT)	Sundquist
Edwards (OK)	Myers	Tauke
Emerson	Natcher	Tauzin
English	Nielson	Thomas (CA)
Fawell	Oxley	Thomas (WY)
Fields	Packard	Traficant
Frenzel	Pallone	Upton
Gallegly	Parris	Vander Jagt
Gallo	Pashayan	Vucanovich
Gaydos	Patterson	Walker
Gekas	Paxon	Weber
Gillmor	Perkins	Weldon
Gingrich	Petri	Williams
Goss	Porter	Yatron
Grant	Poshard	Young (AK)
Green	Pursell	Young (FL)
Gunderson	Rahall	
Hancock	Ravenel	

NOT VOTING—20

Alexander	Hayes (LA)	Rostenkowski
Brown (CA)	Henry	Smith, Denny (OR)
Campbell (CO)	Holloway	
Courter	Jacobs	Stump
Crockett	Jones (NC)	Towns
DeLay	Madigan	Udall
Dymally	Robinson	Wilson

□ 0230

The Clerk announced the following pair:

On this vote:

Mr. DYMALLY for, with Mr. DELAY against.

Mr. SARPALIUS changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the conference report on House Concurrent Resolution 310, the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1991

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 498 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 498

Resolved, That upon adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes. The joint resolution shall be debatable for not to exceed thirty minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. It shall be in order to consider an amendment printed in section 2 of this resolution, offered by Representative Michel of Illinois, or his designee, said amendment shall be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent and a Member opposed thereto. The previous question shall be considered as ordered on the joint resolution and amendment thereto to final passage without intervening motion except one motion to recommit, which may not contain instructions. All points of order against the joint resolution and against its consideration are hereby waived.

SEC. 2. Strike section 113 and insert in lieu the following:

"SEC. 113. (a) The order of the President issued on August 25, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is hereby modified by reducing the across-the-board percentage reduction reflected in such order and set forth in the report of the Director of the Office of Management and Budget issued on August 25, 1990, from 32.4 percent for nondefense programs and 35.3 percent for defense programs to 14.4 percent for nondefense programs and 16.6 percent for defense programs.

(b) Subsection (a) shall be effective as of October 6, 1990, and shall cease to be effective on the day following the date set forth in section 108(c)."

The SPEAKER. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 498 makes it in order to consider House Joint Resolution 666 in the House, with 30 minutes of debate time equally divided and controlled by the chairman and ranking minority member of the Appropriations Committee.

The rule waives all points of order against the joint resolution and against its consideration. Two amendments are made in order. The amendments will be offered by Representative MICHEL or his designee and each will be debatable for 30 minutes.

Section 113 of the continuing resolution suspends sequestration until October 20. One Michel amendment would replace suspension with partial sequestration, cutting 14.4 percent from nondefense programs and 16.6 from defense programs. This Michel amendment puts sequestration in effect for the duration of the continuing.

The other Michel amendment is an en bloc amendment made in order under the unanimous-consent request I made when filing the rule. The en bloc amendment would change the duration of the continuing resolution and the duration of the temporary increase in the debt limit. It is my understanding that the Michel amendment will propose to move the date from October 20 back to October 12.

Finally, Mr. Speaker, the rule provides one motion to recommit which may not contain instructions.

Mr. Speaker, we have just adopted a budget plan. It will require some time for the committees to report the pieces of reconciliation, fleshing out the plan we just adopted tonight.

Our task tonight is to get the government funded and back to work, at least until October 20. By October 20 we expect to enact the legislation to put into effect the budget plan.

Our other responsibility tonight, Mr. Speaker, is to insure that the government does not default on its obligations, by extending the temporary debt limit increase. House Joint Resolution 666 would do that.

There are two issues in dispute. First, should we suspend sequestration while we work on legislation to implement the budget plan? The alternative is to provide for partial sequestration.

Mr. Speaker, the rule makes in order one Michel amendment which nicely frames that issue.

The other Michel amendment raises the question: How long do we keep the Government running before we must enact another continuing resolution?

Mr. Speaker, the hour is late. It is time to act. It is time to govern. House Resolution 498 is a fair way to proceed. I urge its adoption.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able chairman of the Committee on Rules has explained the provisions of the rule, and I think it would be redundant for me to repeat them at this late hour.

□ 0240

I support the rule, with the Michel amendments.

Let me read a letter that our distinguished minority leader sent to the chairman of the Committee on Rules:

OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, October 7, 1990.

Hon. JOHN JOSEPH MOAKLEY,
Chairman, Committee on Rules, Washington, DC.

DEAR MR. MOAKLEY: I request that the Committee on Rules make in order a complete substitute amendment to the Continuing Resolution which the Committee is considering this evening. The President has stated that the elements contained in my substitute amendment would be acceptable to him.

The amendment I am proposing would continue Government operations through October 12. It also implements a sequester which on an annual basis would equal a reduction in spending of $40.1 billion. The sequester would only be in effect until October 12. Finally the amendment changes the date for the public debt limit to October 12.

I thank the Chairman and the Committee Members for their consideration of this matter.

Sincerely,

ROBERT H. MICHEL,
Republican leader.

We all know that we need a continuing resolution. There is no need to debate it.

I support the Michel amendments. I think they should be adopted. I think both sides of the aisle should go along with them, because we do not want any more confrontation.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no request for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, pursuant to the rule just adopted, and the previous order of the House, I call up the joint resolution (H.J. Res. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 666

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1991, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in

this joint resolution) which were conducted in the fiscal year 1990 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991;

The District of Columbia Appropriations Act, 1991;

The Energy and Water Development Appropriations Act, 1991;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991;

The Military Construction Appropriations Act, 1991;

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991;

The Department of Transportation and Related Agencies Appropriations Act, 1991;

The Treasury, Postal Service, and General Government Appropriations Act, 1991; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1990, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1990, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

(c) Whenever an Act listed in this section has been passed by only the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990: *Provided,* That where an item is funded in applicable appropriations Acts for the fiscal year 1990 and not included in the version passed by the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

SEC. 102. Such amounts as may be necessary to continue existing programs and activities (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 1990, under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, for which provisions was made in the following Acts: The Department of the Interior and Related Agencies Appropriations Act, 1990, and the Legislative Branch Appropriations Act, 1990.

SEC. 103. Such amounts as may be necessary to continue existing programs and activities, which were conducted in fiscal year 1990, for which provision was made in the Department of Defense Appropriations Act, 1990, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $262,969,000,000, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1991 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriations Acts for fiscal year 1990, notwithstanding section 502(a)(1) of the National Security Act of 1947: *Provided,* That no appropriation or funds made available or authority granted pursuant to this section shall be used for new production of items not funded for production in fiscal year 1990 or prior years, for the increase in production rates above those sustained with fiscal year 1990 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1990, except projects, activities, operations, or organizations relating to "Operation Desert Shield": *Provided further,* That no appropriation or funds made available or authority granted pursuant to this section shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later: *Provided further,* That no appropriation or funds made available or authority granted pursuant to this section for procurement and research, development, test, and evaluation, shall be used to fund any program, project, activity, operation, or organization at a rate for operations in excess of the current rate or the rate provided for in the budget estimates for fiscal year 1991, whichever is lower, during fiscal year 1991, except programs, projects, activities, operations, or organizations relating to "Operation Desert Shield".

SEC. 104. Notwithstanding any other provision of this joint resolution, such amounts as may be necessary to continue the Aerostat Program of the United States Customs Service which was conducted in fiscal year 1990 at a rate of operations not exceeding the current rate and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1990.

SEC. 105. Appropriations made by sections 101, 102, 103, and 104 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 106. No appropriation or funds made available or authority granted pursuant to sections 101, 102, 103, and 104 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1990.

SEC. 107. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1990, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 108. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 20, 1990, whichever first occurs.

SEC. 109. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 110. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 111. No provision in any appropriations Act for the fiscal year 1991 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 108(c) of this joint resolution.

SEC. 112. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 113. (a) Any order on sequestration for fiscal year 1991 issued before, on, or after the date of enactment of this joint resolution pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is suspended and no action shall be taken to implement any such order.

(b) Subsection (a) shall cease to be effective on the date set forth in section 108(c).

SEC. 114. EXTENSION OF TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.—Section 1 of Public Law 101-350 is amended by striking 'October 6, 1990' and inserting 'October 20, 1990'.

The SPEAKER. Pursuant to House Resolution 498, the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 15 minutes, and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the consideration of House Joint Resolution 666.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, may I say to my colleagues that House Joint Resolution 666 is a continuing resolution until October 20—12 more days. It suspends sequester and extends the debt limit for the same period.

Mr. Speaker, when they start talking about money and debt and expenditures, the public's attention gets directed to our Committee on Appropriations.

I would like to tell my colleagues here that our Committee on Appropriations has held the total of appropriation bills since 1945 to $173 billion below the recommendations of our Presidents. So, our national financial plight is not the fault of our Committee on Appropriations.

Recent actions by the Congress, beyond our control, may once again bring us to a point where a continuing resolution for the rest of the year may be the only way to complete our work in a timely manner—which none of us desire.

It has not been our committee which has caused our debt. It has not been our committee which has caused the delay in our appropriation bills. But it is our committee that bears the load of providing for an orderly continuation of the government.

The budget resolution was due to be completed April 15, but was not, and our committee was asked by the leadership to wait. This we did. Then the House of Representatives passed a budget resolution May 1, but not the Senate, and we were asked again to wait. On June 19 the House deemed the House-passed resolution to be the conference agreement until a real one was passed, and on that same day we passed our first bill, and on July 30 we passed the 10th bill. Our committee conformed to the limits in that resolution.

The House had passed 10 bills and the Senate had passed 4 on September 25 when the committee reported a short term, clean continuing resolution to go to October 20. That was for 20 days. We were asked to reduce it to five. This we did, and that five ran out Friday, October 5.

We were than asked to go 7 days and did. The President kept that from operating by vetoing House Joint Resolution 660.

Mr. Speaker, our committee has one of the heaviest workloads in the House, working through 13 subcommittees, conducting 280 days of hearings with nearly 4,900 witnesses who bring to our attention hundreds of thousands of items. This is documented in 90 printed hearing volumes of over 97,000 pages.

Mr. Speaker, as has been pointed out, ours are the bills that have to eventually pass. It is fast reaching the point where we will have to proceed with our bills, regardless.

I am hopeful that we can do our job without asking for a continuing resolution for the rest of the year.

I call this to your attention, not only for the protection of the committees, but for the protection of the Congress.

This deficit has not been of our making, and we have tried to do the best we can to get our bills through on time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the hour is late, and I will be very brief.

This resolution continues operations of the Government until October 20. It suspends sequester for that period, and it extends the limit on the national debt as well.

This resolution will grease the wheels of government to begin the end of this long and tortuous process. The House has adopted a budget resolution. That is a fact. What the Senate does is anyone's guess, but we in this House—so often referred to as the "People's House"—owe it to the Nation to act as leaders, and lift the veil of uncertainty from Federal employees, Government beneficiaries and millions of Americans who depend on the Federal Government for vital services.

Mr. Speaker, this resolution gives the process a chance to work in a serious atmosphere—not in chaos—not in a circus atmosphere that in the end punishes innocent people.

It is time to begin the end of the process. It is time to govern, and it is time to lead.

Vote "aye," and let us get on with the people's business.

Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, it is pretty late and there is no reason to take 3 minutes.

The CR, as I explained earlier, does not now have the Bob Michel amendment which will attach sequester to the CR.

If we are serious about saving $40.1 billion in this fiscal year, we have to start here. If we are not, and if you reject the prospect of sequester, you prove to the world that you were not serious in the first place and that you do not intend to save any money.

You will also probably earn yourself a veto. If you want to enact the CR, you had better vote for the Michel amendment.

Mr. CONTE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

AMENDMENTS EN BLOC OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer amendments en bloc.

The Clerk read as follows:

Amendments en bloc offered by Mr. MICHEL:

In section 108(c) strike "October 20, 1990," and insert "October 12, 1990,".

In section 114 strike "October 20, 1990," and insert "October 12, 1990".

Mr. MICHEL (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. Pursuant to the order of the House of earlier today, the gentleman from Illinois [Mr. MICHEL] will be recognized for 15 minutes and a Member opposed to the amendments en bloc will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, tonight we are faced with a resolution that continues appropriations and extends the debt limit through October 20 and which waives sequester for this same period.

The President has indicated to me that he will not accept a continuing resolution which does not embody a limited sequester.

Now, I had asked or requested the Rules Committee earlier this evening to make in order a complete substitute amendment. This amendment would have both reduced the length of the continuing resolution and debt limit from October 20 to October 12 and would have implemented a limited sequester that on an annual basis would be equal to a reduction in spending of $40.1 billion, the amount of savings assumed in the summit and in the budget resolution.

□ 0250

Instead I have given the right to offer two separate amendments, one to change the date of the continuing resolution and the debt limit, and the second to put in place a limited sequester.

In the interest of saving the time, I would make just several arguments in behalf of both amendments, and would urge Members to vote for the date change, because it would give all parties involved an interim point at which to assess where we are in implementing the budget resolution.

Second, a limited sequester mirrors the amount of savings contemplated in

the summit and in the budget resolution, that we just adopted here tonight, puts pressure on the Congress to complete its work and deal with a large and increasing deficit.

It seems to me that if Members are really serious about the budget resolution just passed, then you would want to support this amendment to immediately implement the deficit reductions recommended by the summit.

A sequester of $40.1 billion, the amount of the savings for fiscal year 1991 provided in the budget summit agreement will result in across-the-board reductions of 14.4 percent in nondefense accounts, 16.6 percent from defense accounts after exempting military personnel account subject to the sequester.

However, if the sequester were applied for only 1 week, then the percentage reduction on an annual basis would be a little less than 3/10ths of 1 percent of defense accounts.

All national forests, museums, monuments, parks, battlefields will reopen immediately, remain open all week. Although there will be some cutback in hours, it would not occur until after the holiday weekend.

Critical meat, poultry and grain inspection, food quality grading will be able to continue, ensuring the normal supply of food. There would be a small decrease in the hours of operations that may be needed and overtime hours may be curtailed. Furloughs will be minimal, if at all, for air traffic controllers, FBI agents, Social Security Administration personnel and most other Federal civilian agency employees.

Generally there would be no noticeable disruption in the services provided to the public by Federal agencies.

But as was indicated earlier by the distinguished ranking member of the Committee on Rules, the statement on the part of the administration is, again, that if a continuing resolution covering the period October 6 through 12 is passed that implements a sequester which on an annual basis would equal a reduction in spending of $40 billion, the President's senior advisors will recommend that he sign it.

So we would in effect be getting over the shoals without another pass at a veto and overriding and all the rest. I would certainly urge Members to support both amendments, one to change the date from the 20th to the 12th; second, to implement the sequester.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The gentleman will suspend for a moment.

The Chair wishes to clarify what he believes is the parliamentary situation.

The amendment before the House is in two parts dealing with changing the date in the continuing resolution from the terms of the resolution on the 20th of October 1990 to the 12th of October 1990; and the second date change, which changes the date of the debt ceiling extension from the 20th of October 1990 to the 12th of October 1990.

The gentleman from Illinois asked that they be considered en bloc, and the Chair understood that to be the two date changes.

Mr. MICHEL. Yes.

The SPEAKER. The second amendment of the gentleman, involving sequestration, has not yet been read.

Mr. MICHEL. I appreciate the explanation to the Members.

Mr. Speaker, I yield to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding.

I want to clarify: I have here in front of me, and I will speak to the Republican Members over here: There were 25 Members who voted to override the President. Most of you came to us at that time and said that the reason you were voting to override the President was that you wanted to keep the Government functioning. Under Mr. MICHEL's amendment, you do just that, you keep the Government functioning.

So I would just urge you 25 that voted to override, now is your chance to support this, and you really ought to do it.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with some misgivings, I voted for the budget a while ago. My misgivings come about because it is misunderstood. It deals only with functional categories. It must go to the various committees to work out the actual legislation and we will have a chance to vote against many of the items. But sequestration is one of the worst things that we deal with here in the history of this country.

It has appeared in the paper and several Members have said that the President has said if we do not pass the CR that the President wants, he will veto it. If we do not get rid of sequestration, we will be held up on everything that this Congress does. This President happens to be a friend of mine. I do not agree with his conduct in every case. I am sure he does not agree with mine. But if we are going to have sequestration where they bring the Government to a halt unless we do like they want down at the White House, we might just as well quit Congress and stay at home and look after your business there.

What I have here is, in order to get by for the time being, is a waiver only until October 20. I certainly hope you will stay with this, and I hope you will stay with me and get rid of the sequestration, because it is a surrender of all the authority and obligations that we have as a Congress. I hope you will vote this amendment down. I am surprised that my friend from Illinois, who is one of the finest people I ever knew, had to have a whole lot of pages to explain this one.

It is now October 8. May I point out again it is now October 8. This amendment would carry the resolution only to October 12, just 4 days from now.

The time we take extending continuing resolutions is time taken away from that time we need to spend working on the 3 bills we need to get through the House and the time we need to conference all 13 bills. And if you do pass this amendment, you invite continuing resolutions for the rest of the year on many of the appropriation bills. I hope you will vote with the committee.

The SPEAKER. The question is on the amendments en bloc offered by the gentleman from Illinois [Mr. MICHEL].

The amendments en bloc were rejected.

AMENDMENT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MICHEL: Strike section 113 and insert in lieu the following:

"SEC. 113. (a) The order of the President issued on August 25, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is hereby modified by reducing the across-the-board percentage reduction reflected in such order and set forth in the report of the Director of the Office of Management and Budget issued on August 25, 1990, from 32.4 percent for nondefense programs and 35.3 percent for defense programs to 14.4 percent for nondefense programs and 16.6 percent for defense programs.

(b) Subsection (a) shall be effective as of October 6, 1990, and shall cease to be effective on the day following the date set forth in section 108(c)."

Mr. MICHEL. Mr. Speaker, I had previously spoken to the amendment. I am happy to yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. I thank the minority leader for yielding.

Mr. Speaker and my colleagues, in the preceding debate on the budget resolution, we had a number of Members express a great deal of partisan tension and deep-seated concern. The concern was centered around one issue, and that issue was trust.

The budget resolution that we voted on tonight did not differ a whole lot from the budget resolution that we voted on a few nights ago, with one exception, and that is that it was not harnessed by the verbiage of the summit agreement and all that verbiage had been agreed to in a bipartisan fashion. In effect, you asked us to trust that through the process we could come out not only with the bottom line that the budget resolution set forth, but with a program that would roughly resemble the summit agreement.

Now, a few of us voted with you. This is an important vote. This is not a meat-ax approach. This is a vote that symbolizes whether you are or you are not dedicated to the budget resolution's goals that we just passed. This vote says: Are you going to care as much about the cuts that were committed to in that resolution as you are going to care about the tax increases?

□ 0300

Mr. Speaker, this is a very important vote because, if we are going to adopt the fiscal discipline that was within the budget resolution, then we have to start now. We cannot start next week or in the weeks after.

Mr. Speaker, I ask my colleagues' indulgence. This is really a very important amendment. It goes to the heart of the problems that we have on this House floor, and it goes to the very cause of our ability to put the public interests above sometimes a partisan and personal interest.

Now, the gentleman from Illinois [Mr. MICHEL], our leader, has proposed a perfectly reasonable amendment that only says, "Let's demonstrate to the Nation that we are committed to the fiscal discipline that lies behind our budget resolution, and we're going to start with that today. We're going to figure out the details as we go through the process, and we hope to have that wound up soon, but that we are committed, not just to the tax in that resolution, but that we are committed to the spending discipline in that resolution," and I say to my colleagues, If you expect to have the trust in the committees and the trust in the end that will bring Presidential signature to the outcome of our budget process, then, my friends, you must join with us in making this continuing resolution a bipartisan resolution that demonstrates to all of America that, not only have we adopted a budget resolution for America, but one that involves fiscal discipline, writing the spending order of our House, as well as addressing our long-term problems.

Mr. Speaker, I urge a unanimous vote in support of the minority leader's amendment.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FROST). The Chair will state the situation in the House at this point.

On this amendment the gentleman from Illinois [Mr. MICHEL] controls a total of 15 minutes, and the gentleman from Mississippi [Mr. WHITTEN] controls a total of 15 minutes.

Does the gentleman from Mississippi [Mr. WHITTEN] wish to be heard at this point?

Mr. WHITTEN. Mr. Speaker, I can see why my good friend, the gentleman from Illinois [Mr. MICHEL], passed this amendment on to be handled.

According to OMB, this amendment would cost the Department of Defense $710 million each week, $4.9 million from the FBI, $1.6 million from the Drug Enforcement Agency, $7.3 million from the prison system, $3.2 million from the Center for Disease Control, $7.6 million from the Alcohol, Drug Abuse, and Mental Health Administration, $20.8 million from subsidized housing programs, $3.7 million from NOAA, which includes the weather service, $15.5 million from compensatory education, $5.9 million from education for the handicapped, $17.6 million from student financial assistance, $8.4 million from the veterans program, $35.3 million from NASA, $8.8 million from FAA operations, $16 million from the IRS, and that would be each week—a total of $2.2 billion each week.

Mr. Speaker, this is budget authority. What they do not tell us is the 14.4 percent and 16.6 percent reductions in outlays will require sequestration of $111.9 billion in appropriations to produce $38.5 billion in outlays.

Mr. Speaker, I rise in opposition to the amendment. Members know my views on sequester—that I think it should be suspended for the entire year. I ask my colleagues to vote down this amendment.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just make the observation that, as my colleagues know, if we cannot make that kind of a reduction within a short timeframe, I do not know how we are ever going to get around to saving the $40 billion we are all talking about.

As my colleagues know, the time to really implement this thing is now, and we got to get a taste of it, and the taste is going to be rather a bitter pill, but we cannot be putting it off, and putting it off, or we completely foul up the arguments we have been making all this week on how we need to reduce the deficit.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, the President has talked about putting discipline into our process, and our friends on the Democrat majority side of the aisle have indicated they want to proceed on a bipartisan basis. On Friday night the Speaker said, "If not now, when; if not us, who?"

This is the night we test Democrats for size and for enthusiasm is reducing the deficit. We are watching. We are waiting with great enthusiasm to see whether they really want to save any money or not.

I say to them, "Good luck. I hope you pass the test."

Mr. MICHEL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, just one fact before we vote.

We have been told that we ought to begin the fiscal stringency, which we indicated we were willing to undergo, by the passage of the budget resolution. This continuing resolution would have us spending at a rate which is $35 billion below the budget resolution which we just approved and $24 billion below last year. It does exactly what we were asked to do on the other side of the aisle, and my colleagues ought to stick with the chairman.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, two quick points.

One is we do not have to take reductions out of these accounts. We will take care of whatever assignment we get, but we will not take the same amount out of every account. Some accounts have higher priorities. Surely my colleagues believe that. I would think that we could do a better job, if we get the assignment a week or 10 days from now and do whatever we have to at that time.

Another point: It will cost more money to reprogram all the computers that have to be reprogrammed twice than we are going to save by this. We are going to have to take a little percentage, a few dollars, a few cents, out of the benefit programs and various other programs. It will cost more money to administer it than it is worth.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the amendment offered by the gentleman from Illinois [Mr. MICHEL].

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 186, noes 224, not voting 24, as follows:

[Roll No. 437]

AYES—186

Archer	Campbell (CA)	DeWine
Armey	Chandler	Dickinson
Baker	Clarke	Dornan (CA)
Ballenger	Clinger	Douglas
Bartlett	Coble	Dreier
Barton	Coleman (MO)	Duncan
Bateman	Combest	Edwards (OK)
Bereuter	Condit	Emerson
Bliley	Conte	English
Boehlert	Coughlin	Fawell
Bosco	Cox	Fields
Broomfield	Craig	Fish
Brown (CO)	Crane	Frenzel
Buechner	Dannemeyer	Gallegly
Bunning	Davis	Gallo
Burton	DeLay	Gekas
Callahan	Derrick	Geren

Gillmor	McCrery	Schiff
Gingrich	McDade	Schneider
Goodling	McEwen	Schuette
Goss	McGrath	Schulze
Gradison	McMillan (NC)	Sensenbrenner
Grandy	Meyers	Shaw
Grant	Michel	Shays
Green	Miller (OH)	Shumway
Gunderson	Miller (WA)	Shuster
Hall (TX)	Molinari	Skaggs
Hammerschmidt	Montgomery	Skeen
Hancock	Moorhead	Slattery
Hansen	Morrison (WA)	Smith (NE)
Hastert	Murphy	Smith (NJ)
Hefley	Myers	Smith (TX)
Herger	Nielson	Smith (VT)
Hiler	Owens (UT)	Smith, Robert (NH)
Hopkins	Oxley	Smith, Robert (OR)
Houghton	Packard	Snowe
Hubbard	Pallone	Solomon
Hunter	Parker	Spence
Hyde	Pashayan	Stallings
Inhofe	Patterson	Stangeland
Ireland	Paxon	Stearns
James	Petri	Stenholm
Johnson (CT)	Pickle	Sundquist
Kasich	Porter	Tanner
Kolbe	Pursell	Tauke
Kyl	Quillen	Tauzin
Lagomarsino	Ravenel	Taylor
Lancaster	Regula	Thomas (CA)
Laughlin	Rhodes	Thomas (WY)
Leach (IA)	Ridge	Upton
Lent	Rinaldo	Valentine
Lewis (CA)	Ritter	Vander Jagt
Lewis (FL)	Roberts	Vucanovich
Lightfoot	Rogers	Walker
Livingston	Rohrabacher	Walsh
Lowery (CA)	Ros-Lehtinen	Weber
Lukens, Donald	Roth	Weldon
Machtley	Roukema	Whittaker
Marlenee	Rowland (CT)	Wylie
Martin (IL)	Saiki	Young (FL)
Martin (NY)	Sarpalius	
McCandless	Saxton	
McCollum	Schaefer	

NOES—224

Ackerman	Dingell	Hughes
Anderson	Dixon	Hutto
Andrews	Donnelly	Jenkins
Annunzio	Dorgan (ND)	Johnson (SD)
Anthony	Downey	Johnston
Applegate	Durbin	Jones (GA)
Aspin	Dwyer	Jontz
Atkins	Dyson	Kanjorski
AuCoin	Early	Kaptur
Barnard	Eckart	Kastenmeier
Bates	Edwards (CA)	Kennedy
Beilenson	Engel	Kennelly
Bennett	Erdreich	Kildee
Bentley	Espy	Kleczka
Berman	Evans	Kolter
Bevill	Fascell	Kostmayer
Bilbray	Fazio	LaFalce
Bilirakis	Feighan	Lantos
Boggs	Flake	Lehman (CA)
Bonior	Flippo	Lehman (FL)
Borski	Foglietta	Levin (MI)
Boucher	Foley	Levine (CA)
Boxer	Ford (MI)	Lewis (GA)
Brennan	Ford (TN)	Lipinski
Brooks	Frank	Lloyd
Browder	Frost	Long
Bruce	Gaydos	Lowey (NY)
Bryant	Gejdenson	Luken, Thomas
Bustamante	Gephardt	Manton
Byron	Gibbons	Markey
Cardin	Gilman	Martinez
Carper	Glickman	Matsui
Carr	Gonzalez	Mavroules
Chapman	Gordon	Mazzoli
Clay	Gray	McCloskey
Clement	Guarini	McCurdy
Coleman (TX)	Hamilton	McDermott
Collins	Harris	McHugh
Conyers	Hatcher	McMillen (MD)
Cooper	Hayes (IL)	McNulty
Costello	Hefner	Mfume
Coyne	Hertel	Miller (CA)
Darden	Hoagland	Mineta
de la Garza	Hochbrueckner	Mink
DeFazio	Horton	Moakley
Dellums	Hoyer	Mollohan
Dicks	Huckaby	Moody
Morella	Rangel	Studds
Morrison (CT)	Ray	Swift
Mrazek	Richardson	Synar
Murtha	Roe	Tallon
Nagle	Rose	Thomas (GA)
Natcher	Rowland (GA)	Torres
Neal (MA)	Roybal	Torricelli
Neal (NC)	Russo	Traficant
Nelson	Sabo	Traxler
Nowak	Sangmeister	Unsoeld
Oakar	Savage	Vento
Oberstar	Sawyer	Visclosky
Obey	Scheuer	Volkmer
Olin	Schroeder	Walgren
Ortiz	Schumer	Washington
Owens (NY)	Serrano	Watkins
Panetta	Sharp	Waxman
Parris	Sikorski	Weiss
Payne (NJ)	Sisisky	Wheat
Payne (VA)	Skelton	Whitten
Pease	Slaughter (NY)	Williams
Pelosi	Slaughter (VA)	Wise
Penny	Smith (FL)	Wolf
Perkins	Smith (IA)	Wolpe
Pickett	Solarz	Wyden
Poshard	Spratt	Yatron
Price	Staggers	Young (AK)
Rahall	Stokes	

NOT VOTING—24

Alexander	Henry	Stark
Brown (CA)	Holloway	Stump
Campbell (CO)	Jacobs	Towns
Courter	Jones (NC)	Udall
Crockett	Leath (TX)	Wilson
Dymally	Madigan	Yates
Hall (OH)	Robinson	
Hawkins	Rostenkowski	
Hayes (LA)	Smith, Denny (OR)	

□ 0325

Mr. BARNARD changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

(By unanimous consent Mr. MICHEL was allowed to speak out of order for 1 minute.)

Mr. MICHEL. Mr. Speaker, before putting the question on final passage I would like to ask the distinguished majority leader to have a brief exchange with respect to the program.

I am happy to yield to the distinguished majority leader so that he might advise the Members on what the program would be, if any.

Mr. GEPHARDT. I thank the gentleman for yielding.

My understanding is that the Senate will take up the budget conference at 2 p.m., and they have a 10-hour debate rule. Therefore, we want to ask unanimous consent for recess authority so that we can come in at 8.

I would say to the Members that we would give 2-hour notice through the cloakrooms if there would be a need for any votes after 8. We could anticipate the Senate would probably finish the budget around 10 or 12, and they will then take up this continuing. We would then need to stand by any changes that they might make, conference reports, et cetera. Obviously we need to be standing by in order to get this done.

So Members should know that it could be 2, 3, or 4 o'clock in the morning when they might be needed here for a vote. Again, we will give 2 hours notice through the cloakroom.

Mr. MICHEL. On that request I see no reason for objection because of the ungodly hours again that may be required, and quite frankly, the way the other body does business sometimes it may not require a vote on our side, and it would be best just to check in. Members may not have to come for any kind of official business after that hour.

PERMISSION FOR SPEAKER TO DECLARE RECESSES

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses on the legislative day of Monday, October 8, 1990, subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 305, noes 105, not voting 24, as follows:

[Roll No. 438]

AYES—305

Ackerman	Carper	Edwards (CA)
Anderson	Carr	Emerson
Andrews	Chapman	Engel
Annunzio	Clarke	English
Anthony	Clay	Erdreich
Applegate	Clement	Espy
Aspin	Clinger	Evans
Atkins	Coleman (MO)	Fascell
AuCoin	Coleman (TX)	Fazio
Barnard	Collins	Feighan
Bateman	Combest	Fish
Bates	Condit	Flake
Beilenson	Conte	Flippo
Bennett	Conyers	Foglietta
Bentley	Cooper	Foley
Bereuter	Costello	Ford (MI)
Berman	Coughlin	Ford (TN)
Bevill	Coyne	Frank
Bilbray	Darden	Frost
Bilirakis	Davis	Gaydos
Boehlert	de la Garza	Gejdenson
Boggs	DeFazio	Gekas
Bonior	Dellums	Gephardt
Borski	Derrick	Geren
Bosco	DeWine	Gibbons
Boucher	Dicks	Gilman
Boxer	Dingell	Glickman
Brennan	Dixon	Gonzalez
Brooks	Donnelly	Goodling
Browder	Dorgan (ND)	Gordon
Bruce	Downey	Gradison
Bryant	Durbin	Grant
Bustamante	Dwyer	Gray
Byron	Dyson	Guarini
Campbell (CA)	Early	Hall (TX)
Cardin	Eckart	Hamilton

Hammerschmidt	Miller (CA)	Schneider
Harris	Mineta	Schroeder
Hatcher	Mink	Schumer
Hayes (IL)	Moakley	Serrano
Hefley	Mollohan	Sharp
Hefner	Montgomery	Shuster
Hertel	Moody	Sikorski
Hoagland	Morella	Sisisky
Hochbrueckner	Morrison (CT)	Skaggs
Horton	Morrison (WA)	Skeen
Houghton	Mrazek	Skelton
Hoyer	Murphy	Slattery
Hubbard	Murtha	Slaughter (NY)
Huckaby	Nagle	Slaughter (VA)
Hughes	Natcher	Smith (FL)
Hutto	Neal (MA)	Smith (IA)
James	Neal (NC)	Smith (NE)
Jenkins	Nelson	Smith (NJ)
Johnson (SD)	Nowak	Smith (TX)
Johnston	Oakar	Smith (VT)
Jones (GA)	Oberstar	Snowe
Jontz	Obey	Solarz
Kanjorski	Olin	Spence
Kaptur	Ortiz	Spratt
Kastenmeier	Owens (NY)	Staggers
Kennedy	Owens (UT)	Stallings
Kennelly	Pallone	Stangeland
Kildee	Panetta	Stenholm
Kleczka	Parker	Stokes
Kolter	Parris	Studds
Kostmayer	Pashayan	Swift
LaFalce	Patterson	Synar
Lancaster	Payne (NJ)	Tallon
Lantos	Payne (VA)	Tanner
Laughlin	Pelosi	Tauzin
Leach (IA)	Perkins	Taylor
Lehman (CA)	Pickett	Thomas (GA)
Lehman (FL)	Pickle	Thomas (WY)
Levin (MI)	Poshard	Torres
Levine (CA)	Price	Torricelli
Lewis (GA)	Rahall	Traficant
Lipinski	Rangel	Traxler
Lloyd	Ravenel	Unsoeld
Long	Ray	Valentine
Lowey (NY)	Regula	Vento
Luken, Thomas	Richardson	Visclosky
Machtley	Ridge	Volkmer
Manton	Rinaldo	Walgren
Markey	Ritter	Walsh
Martin (NY)	Roberts	Washington
Martinez	Roe	Watkins
Matsui	Rose	Waxman
Mavroules	Roth	Weiss
Mazzoli	Roukema	Wheat
McCloskey	Rowland (CT)	Whittaker
McCrery	Rowland (GA)	Whitten
McCurdy	Roybal	Williams
McDade	Russo	Wise
McDermott	Sabo	Wolf
McGrath	Saiki	Wolpe
McHugh	Sarpalius	Wyden
McMillan (NC)	Savage	Wylie
McMillen (MD)	Sawyer	Yatron
McNulty	Schaefer	Young (AK)
Meyers	Scheuer	Young (FL)
Mfume	Schiff	

NOES—105

Archer	Fields	Lewis (FL)
Armey	Frenzel	Lightfoot
Baker	Gallegly	Livingston
Ballenger	Gallo	Lowery (CA)
Bartlett	Gillmor	Lukens, Donald
Barton	Gingrich	Marlenee
Bliley	Goss	Martin (IL)
Broomfield	Grandy	McCandless
Brown (CO)	Green	McCollum
Buechner	Gunderson	McEwen
Bunning	Hancock	Michel
Burton	Hansen	Miller (OH)
Callahan	Hastert	Miller (WA)
Chandler	Herger	Molinari
Coble	Hiler	Moorhead
Cox	Hopkins	Myers
Craig	Hunter	Nielson
Crane	Hyde	Oxley
Dannemeyer	Inhofe	Packard
DeLay	Ireland	Paxon
Dickinson	Johnson (CT)	Pease
Dornan (CA)	Kasich	Penny
Douglas	Kolbe	Petri
Dreier	Kyl	Porter
Duncan	Lagomarsino	Pursell
Edwards (OK)	Lent	Quillen
Fawell	Lewis (CA)	Rhodes
Rogers	Shays	Tauke
Rohrabacher	Shumway	Thomas (CA)
Ros-Lehtinen	Smith, Robert (NH)	Upton
Sangmeister	Smith, Robert (OR)	Vander Jagt
Saxton	Solomon	Vucanovich
Schuette	Stearns	Walker
Schulze	Sundquist	Weber
Sensenbrenner		Weldon
Shaw		

NOT VOTING—24

Alexander	Henry	Stark
Brown (CA)	Holloway	Stump
Campbell (CO)	Jacobs	Towns
Courter	Jones (NC)	Udall
Crockett	Leath (TX)	Wilson
Dymally	Madigan	Yates
Hall (OH)	Robinson	
Hawkins	Rostenkowski	
Hayes (LA)	Smith, Denny (OR)	

□ 0344

So the joint resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. PANETTA. Mr. Speaker, I was unable to be present to vote in favor of the Senate amendments to House Joint Resolution 666, the continuing appropriations resolution. Had I been present, I would have voted for the resolution.

ADJOURNMENT TO MONDAY, OCTOBER 8, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns this morning it adjourn to meet at 8 p.m. on Monday, October 8, 1990.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

By unanimous consent, leave of absence was granted to:

Mr. HENRY (at the request of Mr. MICHEL), for today through Wednesday, October 10, on account of death in the family.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 427. An act to designate the Federal Building located at 1801 Gulf Breeze Parkway, Gulf Breeze, FL, as the "Bob Sikes Visitor Center", to the Committee on Interior and Insular Affairs.

S. 2879. An act to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Public Works and Transportation.

S. 3068. An act to establish the Office of Take Pride in America, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3062. An act to transfer the responsibility for operation and maintenance of Highway 82 Bridge at Greenville, MS, to the State of Mississippi and Arkansas; to the Committee on Public Works and Transportation.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4758. An act to provide for the construction, operation, and maintenance of an extension of the American Canal at El Paso, TX.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 247. An act to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act, and for other purposes;

S. 830. An act to amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission; and for other purposes;

S. 2437. An act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes.

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 45 minutes a.m.) under its previous order, the House adjourned until today, Monday, October 8, 1990, at 8 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[Omitted from the Record of October 6, 1990]

4014. A letter from the Comptroller General, General Accounting Office, transmitting a copy of a report entitled "Implementing Strategic Management Process Would Improve to Veterans"; jointly, to the Committees on Veterans' Affairs and Government Operations.

[Submitted October 7, 1990]

4015. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend chapter 631 of title 10, United States Code, authorizing additional foreign countries to acquire supplies and services from the Department of the Navy; to the Committee on Armed Services.

4016. A letter from the Secretary of Education, transmitting the annual report on Indian Education Act part a formula grant projects for fiscal year 1987, pursuant to 20

U.S.C. 241aa nt.; to the Committee on Education and Labor.

4017. A letter from the Administrator, Health Care Financing Administration, transmitting a report on the Rural Health Care Transition Grant Program, pursuant to 42 U.S.C. 1395ww nt.; to the Committee on Energy and Commerce.

4018. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of defense equipment sold commercially to Japan (Transmittal No. DTC-31-90), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4019. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of defense equipment sold commercially to Japan (Transmittal No., DTC-25-90), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 497. Resolution waiving the requirement of clause 4(b) of rule XI, against consideration of certain resolutions reported from the Committee on Rules (Rept. 101-819). Referred to the House Calendar.

Mr. PANETTA: Committee of conference. Conference report on House Concurrent Resolution 310; with amendment (Rept. 101-820). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. House Resolution 498. Resolution providing for consideration of House Joint Resolution 666, a joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes (Rept. 101-821). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII.

Mr. WHITTEN introduced a joint resolution (H.J. Res. 666) making further continuing appropriations for fiscal year 1991, and for other purposes; jointly, to the Committees on Appropriations and Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

[Omitted from the Record of October 6, 1990]

535. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the National Collegiate Athletic Association; to the Committee on Education and Labor.

536. Also, memorial of the Legislature of the State of California, relative to broadcasting emergency information; to the Committee on Energy and Commerce.

537. Also, memorial of the Legislature of the State of California, relative to supporting the opposition of the United States to the Iraqi invasion and annexation of Kuwait; to the Committee on Foreign Affairs.

538. Also, memorial of the Legislature of the State of California, relative to a Dollar for Dollar Act; to the Committee on Government Operations.

539. Also, memorial of the Legislature of the State of California, relative to the Aleda E. Lutz Department of Veterans Medical Center in Saginaw, MI; to the Committee on Veterans' Affairs.

540. Also, memorial of the Legislature of the State of California, relative to immigration employer sanctions; jointly, to the Committees on the Judiciary and Education and Labor.

541. Also, memorial of the Legislature of the State of California, relative to transportation policies; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4591: Mr. VENTO.

H.R. 5671: Mr. FROST, Mr. SKEEN, and Mrs. JOHNSON of Connecticut.

H.R. 5751: Mr. JONTZ.

H.R. 5771: Mr. HILER and Mr. CAMPBELL of Colorado.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

[Omitted from the Record of October 6, 1990]

242. By the SPEAKER: Petition of the Association of Pacific Island Legislatures, relative to disposing of chemical weapons on Johnston Island; to the Committee on Armed Services.

243. Also, petition of the Puerto Rico Manufacturers Association, relative to Puerto Rico's future political status; to the Committee on Interior and Insular Affairs.

244. Also, petition of the Association of Pacific Island Legislatures, relative to pay claims of Micronesian former employees of the Trust Territory government; to the Committee on the Judiciary.

245. Also, petition of the American Public Transit Association, relative to trust fund and motor fuel tax concerns; jointly to the Committees on Ways and Means and Public Works and Transportation.

[Submitted October 7, 1990]

246. By the SPEAKER: A petition of the Board of County Commissioners, Broward County, FL, relative to the WIC Program; to the Committee on Education and Labor.

EXTENSIONS OF REMARKS

H.R. 971 AS AMENDED BY THE SENATE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 7, 1990

Mr. MARKEY. Mr. Speaker, the Senate-passed bill represents a compromise between H.R. 971, which passed this body on September 25, 1989, and S. 1660 as it was passed by the Senate Commerce Committee. The differences between the two bills are minimal and in most regards are technical drafting changes. The most significant change is that the Senate establishes specific statutory requirements for operator services providers [OSP's] and aggregators, who make telephones available to the public, rather than initiating a Federal Communications Commission [FCC] rulemaking procedure to impose the same regulatory requirements as did H.R. 971. In addition, to ensure that the FCC has the full administrative authority embodied in the Communications Act of 1934, the legislation is redrafted as an amendment to title II of the Communications Act.

REQUIREMENTS FOR OPERATOR SERVICES PROVIDERS (OSP'S)

The compromise amends the Communications Act to include provisions for providers of operator services. This section states that at a minimum, an OSP shall identify itself at the beginning of each telephone call and before a consumer incurs any charge for the call. It requires that a consumer be permitted to terminate a telephone call at no charge before the call is connected. Upon the customer's request, the OSP's must fully disclose the charges and methods by which the charges are collected and how complaints regarding such rates will be resolved.

The compromise also prohibits billing for unanswered telephone calls in equal access areas and, to reflect technical difficulties in nonequal access areas, requires OSP's to take necessary steps so that they do not knowingly bill for unanswered telephone calls. It requires OSP's to withhold payment of compensation to aggregators who block consumer's 950 and 800 access to interstate common carriers. This section prohibits the use of call splashing, which is the billing of a call from a location other than the call's origination points as a result of a call transfer between OSP's. In addition, OSP's who bill to a billing card issued by another carrier are prohibited from billing at rates greater than the rate of the issuing OSP unless the consumer consents. This language reflects the minimum requirements that were to be incorporated into the FCC's rulemaking proceeding in H.R. 971.

Furthermore, the compromise adds a requirement to the provision regarding the identification of the presubscribed OSP. This new requirement mandates that for the first 3 years, the OSP identify itself for a second time before connecting the call and before the consumer incurs any charge.

The legislation defines operator services as any interstate telecommunications service which includes automatic or live assistance to the consumer. This bill is not directed toward the traditional operator services provided by the local exchange carriers in their telephone service areas since they are already regulated by State authorities.

At a House Subcommittee on Telecommunications and Finance hearing, testimony was offered regarding a new billing service, known as billed party preference. Proponents contend that this emerging technology could give customers the ability to have their operator-assisted calls handled and billed by the carrier of their choice. Because at the time of consideration of this legislation the feasibility and benefits of this technology were yet to be determined, billed party preference was not addressed.

REQUIREMENTS FOR AGGREGATORS

Again, that compromise amends the Communications Act of 1934 to mandate that aggregators who make telephones available to the public meet the minimum requirements that H.R. 971 would have imposed through FCC rulemaking proceeding. This section requires the aggregators to post identifying information regarding the name, address, and toll-free number of the provider and a written disclosure that rates are available upon request. This section incorporates the condition that aggregators provide access to 800 and 950 numbers and ensures that no charge associated with access to such services is greater than the aggregators' charges for calls placed using a presubscribed OSP.

The compromise also added two new requirements. First, aggregators must provide the name and address of the enforcement division of the Common Carrier Bureau of the FCC on or near the telephone. This will assist those consumers who may have complaints regarding operator services by directing them to notify the appropriate Federal Government agency. Second, the compromise includes a new provision that waives the requirements for aggregators outlined in the legislation if State law or State regulation requires the aggregators to take actions that are substantially the same as those required by this section. This language will ensure that aggregators are not subject to requirements already covered by State law or regulation.

RULEMAKING PROCEEDING

These provisions mirror the requirements in H.R. 971 except for a change in the timing of the FCC rulemaking. The FCC is allowed 210 days to complete a rulemaking to enforce the provisions of the bill. The time period for compliance with these rules is reduced from 90 to 45 days. Congress granted the FCC additional time to conduct its rulemaking proceeding because certain other provisions, that were most necessary to protect consumers, are required through statute to be implemented 30 days after the enactment of the legislation. The compromise stipulates that the FCC must develop provisions in its regulations for the implementation of each of the requirements of the section and, like H.R. 971, allows the FCC to establish other such provisions determined to be necessary to fulfill the obligations of this section.

The compromise incorporates the language in H.R. 971 that ensures consumer safety is not hindered by this legislation. It retains the requirement in H.R. 971 mandating that the regulations establish minimum standards for the handling of emergency telephone calls. Moreover, it mandates that a Federal policy for informing the public of recent changes in the choices of operator services available to consumers in the market be drafted and implemented.

The compromise establishes a separate rulemaking proceeding on access and compensation to be completed within 9 months of the date of enactment. The FCC must establish rules requiring that aggregators ensure that consumers can access the carrier of their choice through the use of equal access codes, for example, 10XXX, or ensure that OSP's make available to consumers; 950 and 800 access from anywhere in the United States. The language provides that the FCC allow a reasonable period of time for the aggregators or the OSP's to meet the requirements imposed in this section. This language clarifies and improves on the access provisions in H.R. 971 by requiring that the FCC choose the preferred regulatory method to guarantee consumers have access to any OSP from every public phone.

The compromise retains House language requiring the FCC to consider the need for prescribing compensation to aggregators to cover the cost, if any, of routing calls for OSP's, other than for the presubscribed provider of operator services. This language reflects Congress' belief that the FCC should make a determination on the issue of compensation for aggregators.

TECHNOLOGICAL CAPABILITY OF EQUIPMENT

The provisions of H.R. 971 that address the technological capabilities of equipment were expanded to include software. Thus, any equipment and software manufactured or imported more than 18 months after enactment of this legislation and installed by any aggregator shall be capable of providing consumers with the access to interstate OSP's through the use of equal access codes.

FRAUD

The House language that requires the Commission to protect aggregators against exposure to undue risk of fraud was left unchanged in the amended version.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

RATE COMPLIANCE

The compromise likewise incorporates the provisions of H.R. 971 regarding the filing, review, and waiver of informational tariffs. Each OSP is required to file and keep open for public inspection an information tariff. The informational tariff would not only include the data specified in H.R. 971, but also would require OSP's to file reasonable estimates of the amount of traffic priced at each rate. The compromise adds to the House language by stipulating that any changes in rates, terms, or conditions of operator services be filed no later than the first day on which the changed rates, terms, or conditions are in effect.

If, in the review of informational tariffs, the FCC finds that the rates of any OSP appear unjust or unreasonable, the FCC may require such provider to demonstrate that its rates and charges are just and reasonable. Similarly, the FCC could supplement or replace this obligation by requiring that the OSP announce, at the beginning of each call, that its rates are available upon request.

Finally, the FCC must conduct a proceeding to determine whether the objectives embodied in the legislation are being achieved and report its findings to Congress. The proceeding will monitor and determine if the operator services industry is providing consumers with improvements in service quality, price, innovation, and other factors. If the FCC determines, through its review of the proceedings, the OSP's rates are unjust and unreasonable, the FCC must establish regulations to limit the amount of commissions or any other compensation given to aggregators by OSP's. However, if the FCC finds in its review that market forces are securing rates and charges that are just and reasonable, it may conclude that regulation of OSP's rates is not required.

BUDGET CRISIS

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 7, 1990

Mr. ANDREWS. Mr. Speaker, sometimes we in Congress are forced to choose between the lessor of two evils. It is not a pleasant task, but it is our responsibility to make these tough choices.

The deficit reduction package before us presents such a difficult choice.

We are forced into this situation by the way we now make our budgets—through highly charged summits that reach an accord just hours before the Federal Government can no longer pay its bills. This system narrows our choices dramatically. We are forced to choose between this budget and the mindless devastation of the Gramm-Rudman ax. I know of no one who would argue that this is a responsible or rational way to run our Nation's business.

I do not believe this is the best package we could come up with. While the plan spreads the burden across a broad section of the country, it requires more belt tightening from some than it does from others. Also, this package does little to advance important policy goals. For example, we should be reducing deaths from smoking through significant excise tax increases on tobacco products.

Obviously, reducing the Federal budget deficit will require many sacrifices. Yet, we must reduce the defict. There is no more.

It is my hope that the Committee on Ways and Means, on which I serve, will soon have an opportunity to work on this budget summit plan and reduce the more onerous portions of the package while spreading the burden with more equity.

Often we are constrained into choosing between the lesser of two evils. In this instance, the budget plan is preferable. Under Gramm-Rudman, Federal programs and services would be gutted and our economy would surely plummet.

For years, many of us have argued that deficit reduction is the Nation's top priority. Even though this bill falls short in some respects, it is the largest deficit reduction plan that we have ever considered. Let our actions today reflect our words of yesterday.

We cannot escape the fact that the Federal budget deficit has put us to the wall. The economy is growing weak, the deficit is too large, and projections on inflation and interest rates are bad. The mask of accounting gimmickry has fallen off; we must significantly reduce this deficit.

This agreement is not the one I would write. But the choice today centers on a much larger issue: Whether we shut down the Federal Government and wreak economic chaos, or we take responsible action to reduce the Federal budget deficit.

HOUSE OF REPRESENTATIVES—*Monday, October 8, 1990*

The House met at 8 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May we be open, O God of love, to Your gracious gifts to us—the gifts of wisdom for our minds and integrity for our souls, for a clarity in our vision that transcends our personal needs and for a spirit of respect and honor in all our relationships. Give us, we pray, the patience to truly listen and the courage to speak what we believe to be right. Above all else, O God, we recognize that You have called us to be Your people at this time with all the responsibilities of this day. Whatever our task may we remember our duty to do justice, to love mercy, and ever to walk humbly with You. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Oklahoma [Mr. INHOFE] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. INHOFE led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I would like to state to the House the schedule for this evening. We are still awaiting action in the Senate on both the budget conference and on the continuing appropriation. We understand now that it may happen before midnight on both matters, but we do not know that, and so we are standing by to see when the continuing will be passed.

I think it is likely the continuing will have some differences with the bill that we passed here, so it is likely that some action will have to be taken on the House floor. We will give all Members 2 hours' notice through our respective cloakrooms and whip operations so that Members will be able to get back to the floor in case there is a recorded vote needed.

Mr. QUILLEN. Mr. Speaker, will the distinguished majority leader yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from Tennessee.

Mr. QUILLEN. Mr. Speaker, the Senate has just started, and the word I have is that it will be at least 8 hours or longer, and coming back in at 8 0'clock tonight without any realistic view of what we are doing really is most unfair to the Members.

We have been in session now two consecutive Sundays, and since World War II, I think this makes history, and saying that it probably will be midnight, has the gentleman a reading from the Senate, or is that just speculation?

Mr. GEPHARDT. I have had a conversation with the majority leader in the Senate. He said they have a unanimous-consent agreement that the continuing appropriation could be taken up out of order, in other words, they could break into the budget consideration and take up the continuing appropriation. That is why he felt it may happen between now and midnight; it was a good likelihood that that could happen and, therefore, that is why I said what I did.

Mr. QUILLEN. If the distinguished majority leader will continue to yield, do we intend to come back in just for the continuing resolution and pass that or disagree with it, and then come back later for the budget conference report?

Mr. GEPHARDT. We do not have to take further action on the budget conference report if the Senate approves it. That is the end of it. We would have an agreement on the conference report.

The only matter we really have to deal with tonight is the continuing appropriation, and we hope to be able to do that.

Mr. QUILLEN. If the gentleman will yield further, if they make some changes in the budget resolution, does the gentleman intend to do that this evening?

Mr. GEPHARDT. If changes are made, there would either have to be a conference to deliberate on those changes and to come up with a conference report or there would have to be an attempt here to pass the changed bill on this side, so that it would meet up and conform with the bill they passed on their side.

Mr. QUILLEN. If the gentleman will continue to yield, does the gentleman intend to do that this evening in the event changes are made?

Mr. GEPHARDT. We hope to, because as the gentleman knows, tomorrow morning, very early, Federal employees will have to know whether they are able to go to work, and we want to try to get this done before then.

Mr. QUILLEN. I thank the gentleman for yielding.

Mr. SOLOMON. Mr. Speaker, will the distinguished majority leader yield further?

Mr. GEPHARDT. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would ask the majority leader if it is our understanding that the continuing resolution may be modified to perhaps move the date from October 20 back to October 12, which was the Michel amendment on the floor here the other day, and that they might further modify it to continue the appropriations at last year's level? If that is the case, is it acceptable to the majority so that there would not be any disagreement over on this side as far as the leadership is concerned?

Mr. GEPHARDT. We are still consulting with the committee chairmen here and other members on the committee. We have not made a decision. The latest information I had was they were considering the date to the 19th and using on the domestic side, I guess, last year's numbers, and then on the defense number, using a number between where the House was and where the Senate was. That is the latest I have heard. We will just have to wait and see what they come up with.

Mr. SOLOMON. I would just ask again, is that acceptable to the majority side as far as the gentleman knows?

Mr. GEPHARDT. It may well be. We have not finally gotten an answer to that question, but we will work toward that end.

Mr. SOLOMON. I certainly thank the gentleman for yielding.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I am happy to yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, just to sum up what was said here, the budget resolution itself is of no relevance with respect to whether or not we pass it tonight or tomorrow if the Senate

should change it or the next day or the following day. It is simply the CR, the continuing resolution, which is at stake.

In following up what the gentleman from New York asked, if the changes made by the Senate are in conformity with those preagreements made, there would only be one vote, up or down, just to conform with the Senate amendment? Is that correct, from our standpoint?

□ 2010

Mr. GEPHARDT. I believe that is correct.

Mr. GEKAS. If the gentleman will continue to yield, so that then the Senate would be through with the CR totally, and the final action would be taken here in plenty of time before the first bell rings for the Federal employees tomorrow morning?

Mr. GEPHARDT. That is the hope.

Mr. GEKAS. I thank the gentleman. I would simply urge that whatever agreement is reached, that it would be one that we can act on quickly over here in the House. I thank the majority leader.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Has the time been set tomorrow, what time we will come into session?

Mr. GEPHARDT. We will have to make that announcement later when we see what transpires tonight. If we cannot get the continuing done, we may have to be here. It may be that we will not have business here tomorrow.

Mr. MONTGOMERY. The time is not set when we come in tomorrow?

Mr. FRENZEL. Will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Minnesota.

Mr. FRENZEL. It looks like it will take a long time over in the Senate to do the job. I assume that the distinguished majority leader will be asking for recess authority?

Mr. GEPHARDT. I think we asked for that and obtained it last evening.

Mr. FRENZEL. Can the gentleman detail what the recess authority is? Would the gentleman talk about this now?

Mr. GEPHARDT. I would be happy to.

Mr. FRENZEL. I think it is important that the Members know what we are talking about. It seems to me if it will take a long time, we ought to recess to a time certain, so the Members are not hanging around here, if it is unnecessary for them to do so.

Mr. GEPHARDT. What I had suggested was that we offer to give Members 2 hours' notice so that they do not have to stay here if they are close enough that 2 hours is enough that they can get back here. I think they ought to go home until we know where we are.

Again, we are hopeful that the Senate will do its work on the continuing, interrupting the budget, and get it over here before midnight so we can get it done here.

Mr. FRENZEL. Is the gentleman aware that there would be a vote if, as we anticipate, the Senate has amended the CR? That a voice vote will not satisfy here?

Mr. GEPHARDT. There is no reason that I know of that we could not do it without a vote, unless the gentleman intends to ask for a vote. If he does, we will have a vote.

Mr. FRENZEL. The gentleman is perfectly content to scream a loud no, but I think there are Members that are going to want to vote on it. I think the leadership should understand that.

Mr. GEPHARDT. I understand.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

THANK YOU, AT&T

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, I take this time to inform my colleagues of a very helpful and salutary aspect of corporate America. A couple of days ago in the middle of the night the phone rang and I answered it, and a voice said, "This is your AT&T free call from Saudi Arabia." The next words that I heard were, "Hi, Dad," and it was our son who was over there.

On behalf of all of the families, parents, wives, and the children of those men and women over there, I would like to say a very sincere thank you to the AT&T family, from your highest executive down to your technicians, and your linemen, and everyone that is employed by AT&T for making this available to our men and women who are serving in Saudi Arabia. Thank you, thank you, thank you.

CONGRESS HAS FAILED

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, we have heard them all by now. We have heard all those jokes about Congress. Members know, the one about the National Zoo being closed, but it does not make any difference because all the monkeys are right here. Those kind of jokes.

As one who believes in representative government, and one who believes in this institution, those biting jokes about this Congress hurt. This night and this week, those jokes, unfortunately, are too well deserved. This Congress has failed. Last night we adopted a budget resolution so lacking in direction, so devoid of specificity, it would be laughed out of any other legislative Chamber. However, as hollow as that resolution was, it was one that should have been adopted last April by this body, a conference report that should have been adopted last May. Our Committee on Ways and Means, our Committee on Appropriations, our other authorizing committees should have been working all summer, all fall on implementing this budget. Instead, here we are, October 8, 8 days into the new fiscal year, and we are just about, just about to give some direction to our committees about how to draft a budget for the fiscal year 1991.

This is the failure of Congress and its leadership at its very worst. The American people deserve better of this Congress, and they expect better. Let Members resolve to give that to them tonight. Let Members get this job done.

PROGRAMS CUTS NECESSARY

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, everybody in this country, in fact throughout the world, most people are looking at the budgetary problems the United States has tonight. However, there is one thing we are not looking at, and well we should, and that is that there really is not any real good way to balance the budget, and get ourselves in good fiscal situation, unless we meet the desires of our constituents to not pay additional taxes and do it in a way that we eliminate programs in the Federal Government. In the last 25 or 30 years, the United States has added many grant programs and other programs very needed, very helpful, very wonderful, to help a lot of people and a lot of different things, but the people of the United States are saying in no uncertain terms that they do not want to pay for it. So the best thing we can do in the oncoming months, we cannot do it before the end of this year I am afraid, we really ought to look at what programs we have that we could dispense with. Then there are some that are not really properly run, because of the looseness of the

structure. Some could be modified. However, it is much better to actually eliminate some of these grant programs which are bankrupting the U.S. Government, on the basis of the present income we have.

There is no trickery, no mystery, no something that is going to be discovered that is going to make it possible for Members to continue the affluent and spendthrift Government that we now have, for all these very good projects that are very good things, but we will just have to cut out some of these programs.

RECESS

The SPEAKER pro tempore (Mr. MRAZEK). Pursuant to the order of the House of earlier today, the Chair declares the House in recess subject to the call of the Chair. Notice will be given 2 hours prior to reconvening, and bells will be rung 15 minutes before the House reconvenes.

Accordingly (at 8 o'clock and 19 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1250

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock and 50 minutes a.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is required, a joint resolution of the House of the following title:

H.J. Res. 666. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time that I might proceed for 1 minute to inquire of the distinguished majority leader the program for this evening, or this morning, and for the next several days if that is possible.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman.

We are in a few moments going to take up the continuing resolution. There are some differences in the Senate, so we will be taking it up here and having a vote in a few minutes.

Our plan is to not have a session on tomorrow, or today, Tuesday.

On Wednesday, we will have a meeting at noon. We will consider a number of suspensions. The vote will be held until the completion of all of the suspensions, and then we will, after that, after those votes, have the override of the textile bill.

Then on Thursday and Friday, we have a number of bills that we had talked about. There will be conference reports. We will be meeting all day and probably into the night on both of those days.

We will not have votes on Saturday or Sunday. We are getting used to that, but we are not going to do that this weekend.

Then obviously the next week will be very intense, and we have a lot of committee activity going on this week and next.

Mr. MICHEL. Will we have a list of those suspensions that will be scheduled for Wednesday?

Mr. GEPHARDT. Yes.

Mr. MICHEL. Are those already in the whip notice and that has not changed any?

Mr. GEPHARDT. Yes. The gentleman is correct.

Mr. MICHEL. Then we will roll the votes on Wednesday until they have all be concluded? I forget what the number is, but it was an extensive list, nearly 30.

Mr. GEPHARDT. Forty-three.

Mr. MICHEL. Then after that we would have the vote to either sustain or override the President's veto on the textile bill?

Mr. GEPHARDT. That is right.

Mr. MICHEL. I would underscore the point, as the distinguished majority leader said, that means working late Wednesday, Thursday, and Friday. The schedule is really closing in on us.

Mr. Speaker, while I have just a moment, if I might take this opportunity, because in all the furor over the last several days, one thing and another, I have never really had an opportunity to express my own feelings of appreciation for the manner in which the majority leader conducted himself as chairman of those prolonged, elongated, extensive summit deliberations. He has the patience of Job, and his ears just got bigger and bigger and bigger. He had to listen, listen, listen, and it is a traumatic experience to have to weather the storm all that time. I applaud him for what he has done.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield one moment, let me return to the compliment by the minority leader. There were many, many times when the going got rough, and I think everybody in this body knows that all of us believe that BOB MICHEL is the finest human being that we have known, and certainly one that I am proud to know, and I am proud to have been working with you in this effort, and I appreciate all that you did.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I would just like to find out if we are going to roll those votes on Wednesday, does the gentleman have any idea what time on Wednesday we will have our first vote for those of us who may be out of town?

Mr. GEPHARDT. If the gentleman will yield further, we cannot give the gentleman a certain time, but there are 43 different bills. I would say late in the afternoon, 5 or 6 o'clock would be a good guess.

Mr. BURTON of Indiana. If the gentleman will yield further, if we planned on being back here Wednesday at 5 o'clock, we should not miss any votes then?

Mr. GEPHARDT. That is correct.

Mr. MICHEL. We cannot guarantee it, I do not think.

Mr. GEPHARDT. Right.

Mr. MICHEL. But it stands to reason that if we do not come in until 12, 43 bills, the arithmetic tells us it is going to be very late.

TRIBUTE TO THE CHAIRMAN OF THE COMMITTEE ON APPROPRIATIONS

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I would like to proceed for 1 more minute out of order, because I know we are going to move now to this appropriation bill.

I would also like to commend the chairman of the Committee on Appropriations who has been so willing and able to deal with so many continuing resolutions of different time periods. I think all of us in the Chamber appreciate his ability and willingness and capacity to deal with this and help us get through these continuing appropriations, and I want the chairman to know that I personally very much appreciate his help in a very difficult period.

ADJOURNMENT FROM LEGISLATIVE DAY OF MONDAY, OCTOBER 8, 1990, TO WEDNESDAY, OCTOBER 10, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on the legislative day, of Monday, October 8, 1990, it adjourn to meet at noon on Wednesday, October 10, 1990.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMISSION TO CONSIDER BILLS UNDER SUSPENSION OF THE RULES ON WEDNESDAY, OCTOBER 10, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the House be able to consider bills under suspension of the rules on Wednesday, October 10, 1990.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

POSTPONING CONSIDERATION OF VETO MESSAGE ON H.R. 4328, TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990, NOTWITHSTANDING ORDER OF THE HOUSE OF FRIDAY, OCTOBER 5, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that notwithstanding the order of the House of Friday, October 5, 1990, that further consideration of the veto message on H.R. 4328, the Textile, Apparel, and Footwear Trade Act of 1990 be postponed until Wednesday, October 10, 1990.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes, with Senate amendments thereto, and consider the Senate amendments in the House.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendments, as follows:

Senate amendments:

In subsection 101(b), after "the Senate as of October 1, 1990," insert "or at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990,".

In section 103, strike out "$262,969,000,000" and insert "$265,369,000,000".

In subsection 108(c), strike out "October 20, 199,language to their
respective Budget Committees should be October 12.

(b) The Budget Committees should report the reconciliation bills no later than close of business October 13.

(c) It is the Sense of the Senate that the Senate should begin consideration of the reconciliation bill on the first day of session following its report by the Budget Committee.

□ 0100

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I move to concur in Senate amendments Nos. 1, 2, 3, 4, and 5.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. WHITTEN moves to concur in Senate amendments Nos. 1, 2, 3, 4, and 5.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume, and I appreciate the comments made by the majority leader very much.

May I say that our committee on Appropriations does have its hands full this year particularly because we have been delayed repeatedly, for one reason or another, and we have cooperated in connection with it. The first continuing resolution that we first reported went for 20 days, and we were asked to drop back to 5. The second one went until October 20 and we were asked to go to the 12th. This resolution went to the 20th, and now I come here tonight and the Senate had made an amendment making it the 19th instead of the 20th. These are examples of some of the recent actions of the Congress, beyond our control, which may once again bring us to a point where a continuing resolution for the rest of the year may be the only way to complete our work in a timely manner—which none of us desire.

At this time, I move to concur in the Senate amendments, and prior to a vote, I would like to point out that the amendments are thought to be important on their side. I do not think they are doing any material harm to the House position, and for that reason I do support them, but particularly in view of the fact that we all need to get through and get home. For that reason, I move to concur in Senate amendments 1, 2, 3, 4, and 5.

The SPEAKER. The gentleman from Mississippi [Mr. WHITTEN] is recognized for 1 hour.

Mr. WHITTEN. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. CONTE] for purpose of debate only pending which I yield myself such time as I may consume.

May I say here, it has been a privilege to cooperate with my good friend, the gentleman from Massachusetts [Mr. CONTE] these recent weeks when we have had many, many things to contend with.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker. I yield myself such time as I may consume.

Mr. Speaker, at the outset, I want to commend my counterpart, the chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN]. We have had a very, very difficult year. He has been most cooperative. I appreciate the cooperation he has given me.

I rise in support of the Senate amendments, Mr. Speaker, as I understand it, for spending in the appropriations bills, the Senate amendments would require that the rate of spending, while this continuing resolution is in effect, be at the lower of the House-passed bill, the Senate-passed bill or fiscal year 1990.

Under the continuing resolution as it passed the House, the rate for bills that had passed both the House and the Senate was to be at the lower of the two bills. The Senate amendment adds a third level, last year's level, and so would prevent any increases in spending over last year's level. This would impact on five appropriations bills: Treasury/Postal; Transportation; Energy and Water; D.C.; and Agriculture. This means no appropriations will now be spending at a rate higher than in fiscal year 1990, although they may be spending less.

If this spending rate were in effect for a full year, it would have the effect of reducing the rate of budget authority by as much as $11.3 billion. It is impossible to know exactly, because you have to go through each bill account by account.

For defense, the Senate amendments raise the annual amount on which spending under this CR is based by some $3 billion.

In addition, the Senate amendments change the expiration date of the CR, sequester suspension, and the debt ceiling from October 20 to October 19, and set forth a sense of the Congress timetable for the legislation that will need to be enacted to carry out the budget resolution.

Mr. Speaker, the witching hour is near when all Federal workers and programs will be affected by not having a continuing resolution in place. We need to take action to assure the orderly functioning of the government.

If we pass these amendments, we will have prevented the shutdown of the Government. We will have slowed the spigot of spending to increase pressure in the system to carry out the budget resolution. It is the responsible thing to do.

I urge that the House agree to the amendments of the Senate.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, as most of the Members know, early this evening the other body amended the continuing resolution that we sent over to them yesterday morning, and of course we had the debate with respect to my amendment, hoping that we could at least, during the period of a continuing resolution, make this sav-

ings that we were espousing at the time, at a level that would mirror what the summit had agreed to in a proportionate sort of way.

What the Senate had done is a good compromise. I certainly support that compromise, and it is my understanding in consultation with the administration that we adopt this resolution with the Senate amendments, then we have the support of the President, and it will not be vetoed. Adoption of the amendment will open the way for the Government to resume operations, provide the Congress an opportunity to continue its work on enacting a Federal budget that substantially reduces the Federal deficit over the next 5 years.

Specifically, as both gentlemen from Mississippi and Massachusetts have pointed out, we will outline the levels as I am sure they may very well have, in detail, in the extension of remarks.

I simply want to add to that that the Senate amendment further contains a sense of the Senate language setting forth a tight schedule for the next 2 weeks. Committees are to report reconciliation legislation to the Committee on the Budget by October 12. The Committee on the Budget will then report the reconciliation bill by October 13, and floor consideration will begin as soon as possible. Final action on the reconciliation bill is anticipated by October 18.

Now, those Members who have been over the traces before, and through this procedure, know that is a big order of business to get adopted, and through our committees by that very tight schedule. I hope the House is contemplating a similar expedited schedule. It is imperative that the Congress complete action on the separate appropriation bills, and a reconciliation bill acceptable to the administration by that time.

I have been told the President would have to withhold his signature from a further continuing resolution if an acceptable reconciliation bill has not been presented to him by the date of October 19. So we have plenty of work ahead of Members, and there will have to be some late nights around here.

Mr. WHITTEN. Mr. Speaker, may I say that I am surprised at some of the statements made by my colleague and friend, the gentleman from Illinois [Mr. MICHEL].

We must, to keep this country running right, begin to do our own business. I said in my remarks of yesterday that sequestration and Gramm-Rudman, are processes where, on the threat of veto, the executive branch absolutely can control the Congress of the United States. I insisted that we are going to waive sequestration. May I say that an amendment made here by the Senate is a sense of Congress, which I do not concur with, but I do not take issue with.

We have reconciliation where we tell those who know something about it, such as the Committee on Ways and Means, what to do. That seems to be the order of the day. I want to repeat again, this matter of letting any individual close the whole country down, which will close then at 7 o'clock in the morning if we do not do this, is not sound government.

I mentioned earlier, and I believe Claude Pepper was the first I heard say it, our system of government was very similar to the Russian Troika—a chariot with three horses that had to pull together. I have done that in my service here. I believe in that, but we cannot turn over to any group the right to close everything else down unless they have their way. I say that to my good friend down the street and others. I sincerely believe we need to do that. We must insist on being an equal and important branch of Government, and run our Government as we see fit.

□ 0110

Now, in saying that I would like to point out again that since I have been chairman of this committee, we have had 155 appropriation bills; 145 have been signed, and we worked the others out; 7 we failed to override. It takes cooperation and not tricks and not a case of closing the government down unless we do as we are told.

I have gone along because I do not want to have any part in closing the government down, which would be by 7 o'clock in the morning.

The Senate amendments I think were written for the purpose of trying to get it signed. I think for that reason we will go along with it; but I repeat again, let us look after our business and trust our good friends on the other side of the avenue to look after theirs and to work with us.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments now under consideration, and that I may include extraneous and tabular material.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to make one point about the Senate amendments before I yield my time, so we have the record straight.

In section 115 of the CR that we are going to vote on in a few minutes, it says here:

(a) It is the sense of Congress that the date by which committees should report their reconciliation language to their respective Budget Committees should be October 12.

(b) The Budget Committees should report the reconciliation bills no later than the close of business October 13.

And then section (c) of that section says:

It is the sense of the Senate that the Senate should begin consideration of the reconciliation bill on the first day of the session following its report by the Budget Committee.

I would just like to have the record clear on that.

Mr. WHITTEN. Mr. Speaker, the gentleman is correct. That was written on the other side of the Capitol, and I reserve on that part of it.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, when I saw this plan that we are about to vote on, it struck me that this would give us a chart by which we can be clear as a Congress that we will never again have stopgap funding, never again shall we put our Federal workers in jeopardy, never again shall we see the Federal Government be threatened to be closed down.

How? All we have to do is pass legislation that will say that if we do not have a budget by the end of the fiscal year, by September 30 of each fiscal year, that automatically the next day will be reenacted one of the current levels, House levels, Senate levels, that are inherent in the proposal about which we are here tonight; so the Federal workers can forever be satisfied that they will never face a crisis like this again, nor shall the House.

In fact, I have legislation like that which I have introduced. I am going to commend it to the reconciliation process and go before the Rules Committee and ask for their support.

Never again should we have stopgap funding. Never again crisis intervention.

Mr. CONTE. Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion to concur.

The previous question was ordered.

The SPEAKER. The question is on the motion to concur offered by the gentleman from Mississippi [Mr. WHITTEN].

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONTE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 362, noes 3, not voting 68, as follows:

[Roll No. 439]

AYES—362

Alexander	Anthony	Archer
Anderson	Applegate	Armey

Atkins	Flake	Machtley
AuCoin	Flippo	Madigan
Baker	Foglietta	Manton
Ballenger	Ford (TN)	Marlenee
Barnard	Frank	Martinez
Bartlett	Frenzel	Mavroules
Barton	Frost	Mazzoli
Bateman	Gallegly	McCandless
Bates	Gallo	McCloskey
Bennett	Gaydos	McCollum
Bentley	Gejdenson	McCrery
Bereuter	Gekas	McCurdy
Bevill	Gephardt	McDermott
Bilbray	Geren	McEwen
Bilirakis	Gibbons	McGrath
Bliley	Gillmor	McHugh
Boehlert	Gilman	McMillan (NC)
Boggs	Gingrich	McMillen (MD)
Bonior	Glickman	McNulty
Borski	Gonzalez	Meyers
Bosco	Goodling	Mfume
Boucher	Gordon	Michel
Boxer	Goss	Miller (CA)
Brennan	Grandy	Miller (OH)
Browder	Grant	Miller (WA)
Brown (CA)	Gray	Mineta
Brown (CO)	Green	Mink
Bruce	Gunderson	Moakley
Bryant	Hall (TX)	Molinari
Buechner	Hamilton	Mollohan
Burton	Hammerschmidt	Montgomery
Bustamante	Hancock	Moorhead
Byron	Hansen	Morella
Callahan	Harris	Morrison (WA)
Campbell (CA)	Hastert	Mrazek
Campbell (CO)	Hatcher	Murtha
Cardin	Hawkins	Myers
Carr	Hayes (IL)	Nagle
Chandler	Hefley	Natcher
Chapman	Herger	Neal (MA)
Clarke	Hiler	Neal (NC)
Clay	Hoagland	Nielson
Clement	Hochbrueckner	Oakar
Clinger	Holloway	Oberstar
Coble	Hopkins	Obey
Coleman (MO)	Horton	Olin
Coleman (TX)	Houghton	Ortiz
Collins	Hoyer	Owens (UT)
Combest	Hubbard	Oxley
Condit	Huckaby	Packard
Conte	Hughes	Pallone
Conyers	Hunter	Parker
Cooper	Hutto	Parris
Costello	Hyde	Pashayan
Coughlin	Inhofe	Patterson
Courter	Ireland	Paxon
Cox	Jacobs	Payne (NJ)
Coyne	James	Payne (VA)
Craig	Jenkins	Pelosi
Darden	Johnson (CT)	Penny
Davis	Johnson (SD)	Perkins
de la Garza	Jones (GA)	Petri
DeFazio	Jontz	Pickett
DeLay	Kanjorski	Pickle
Dellums	Kaptur	Porter
Derrick	Kasich	Poshard
DeWine	Kastenmeier	Price
Dicks	Kennedy	Pursell
Dixon	Kennelly	Quillen
Dorgan (ND)	Kildee	Rahall
Dornan (CA)	Kleczka	Rangel
Douglas	Kolbe	Ravenel
Downey	Kolter	Regula
Dreier	Kostmayer	Rhodes
Duncan	Kyl	Richardson
Durbin	Lagomarsino	Ridge
Dwyer	Lancaster	Rinaldo
Dymally	Lantos	Ritter
Dyson	Laughlin	Roberts
Early	Leach (IA)	Roe
Eckart	Lehman (CA)	Rogers
Edwards (CA)	Lent	Rohrabacher
Edwards (OK)	Levin (MI)	Ros-Lehtinen
Emerson	Levine (CA)	Roth
Engel	Lewis (CA)	Roukema
English	Lewis (FL)	Rowland (GA)
Erdreich	Lewis (GA)	Roybal
Evans	Lightfoot	Sabo
Fascell	Livingston	Saiki
Fawell	Lloyd	Sangmeister
Fazio	Long	Sarpalius
Feighan	Lowery (CA)	Savage
Fields	Lowey (NY)	Sawyer
Fish	Lukens, Donald	Saxton
Schaefer	Smith, Robert (NH)	Traficant
Scheuer	Snowe	Unsoeld
Schiff	Solarz	Upton
Schneider	Solomon	Valentine
Schroeder	Spence	Vento
Schuette	Spratt	Visclosky
Schulze	Staggers	Volkmer
Sensenbrenner	Stallings	Vucanovich
Serrano	Stangeland	Walgren
Sharp	Stearns	Walker
Shaw	Stenholm	Walsh
Shays	Stokes	Washington
Shumway	Studds	Watkins
Sikorski	Sundquist	Weiss
Sisisky	Swift	Weldon
Skaggs	Synar	Wheat
Skeen	Tallon	Whittaker
Slattery	Tanner	Wise
Slaughter (NY)	Tauzin	Wolf
Slaughter (VA)	Taylor	Wolpe
Smith (FL)	Thomas (CA)	Wyden
Smith (IA)	Thomas (GA)	Wylie
Smith (NJ)	Thomas (WY)	Yatron
Smith (TX)	Torres	Young (AK)
Smith (VT)		Young (FL)

NOES—3

Crane	Dannemeyer	Williams

NOT VOTING—68

Ackerman	Jones (NC)	Russo
Andrews	LaFalce	Schumer
Annunzio	Leath (TX)	Shuster
Aspin	Lehman (FL)	Skelton
Beilenson	Lipinski	Smith (NE)
Berman	Luken, Thomas	Smith, Denny (OR)
Brooks	Markey	Smith, Robert (OR)
Broomfield	Martin (IL)	Stark
Bunning	Martin (NY)	Stump
Carper	Matsui	Tauke
Crockett	McDade	Torricelli
Dickinson	Moody	Towns
Dingell	Morrison (CT)	Traxler
Donnelly	Murphy	Udall
Espy	Nelson	Vander Jagt
Ford (MI)	Nowak	Waxman
Gradison	Owens (NY)	Weber
Guarini	Panetta	Whitten
Hall (OH)	Pease	Wilson
Hayes (LA)	Ray	Yates
Hefner	Robinson	
Henry	Rose	
Hertel	Rostenkowski	
Johnston	Rowland (CT)	

□ 0142

Mr. CRANE changed his vote from "aye" to "no."

So the motion to concur was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present for rollcall No. 439, I would have voted "aye."

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON A BILL MAKING APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE FOR THE FISCAL YEAR 1991

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight, October 9, 1990, to file a privileged report on a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

Mr. MILLER of Ohio reserved all points of order on the bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee has examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4522. An Act to improve the information available to emergency response personnel in the field, and for other purposes;

H.R. 4593. An act to transfer to the Secretary of the Interior the administration of the surface rights in certain lands presently within the boundaries of the San Carlos Indian Reservation, Arizona, and managed by the Forest Service as part of the Coronado National Forest, and for other purposes; and

H.J. Res. 666. Joint Resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 1677. An act to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience and for other purposes;

H.J. Res. 660. Joint resolution making further continuing appropriations for the fiscal year 1191, and for other purposes;

H.R. 435. An act to amend the Appalachian Regional Development Act of 1955 to include Columbiana County, Ohio, as part of the Appalachian region;

H.R. 2809. An act to provide for the conveyance of certain lands to the State of California, and for other purposes; and

H.R. 971. An act to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practices in the provision of operator services, and for other purposes.

ADJOURNMENT

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 45 minutes a.m.), under its previous order, the House adjourned until Wednesday, October 10, 1990, at 12 noon.

SENATE—*Monday, October 8, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Put on then, as God's chosen ones, holy and beloved, compassion, kindness, lowliness, meekness, and patience, forbearing one another and forgiving one another, if any man has a quarrel against any; even as Christ forgave you, so also do ye.—Colossians 3:12–13.

Eternal God, perfect in patience and love, Congress is knee-deep in frustration, trying to please everyone. But this is democracy. We remember the words of Winston Churchill: "Democracy is the worst form of government, except for all the other forms."

As your servants struggle with conviction, conscience, and constituent demands, much, if not most, of the complaint comes from people who don't want their share of public funds touched or taxed. Help the people to remember, Lord, that they have their best opportunity to exercise their sovereignty in just 4 weeks. Forbid Lord, that any should forfeit their responsibility to this fundamental, indispensable foundation of our political system. In Jesus' name, who loves and forgives and forgets. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 8, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Charles S. Robb, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, at 2:30 p.m., or as soon thereafter as possible, it is my intention that the Senate proceed to the consideration of the budget conference report. It was approved by the House of Representatives in the early morning hours of today, and it is imperative that the Senate approve that resolution and follow that with approval of a continuing resolution which will permit, in the first instance of the budget resolution, the process to move foward toward a reconciliation bill and a meaningful, fair, and responsible program to reduce the Federal budget deficit. In the latter instance of the continuing resolution, it will permit the continued funding of the Government until October 20, by which time it is our hope that we will have completed action on the former, the deficit reduction package.

The budget resolution on which we will vote, will not become law. It does not require the President's signature. It is an internal mechanism of the Congress to permit the Congress to move forward toward the changes in law that will be included in the reconciliation bill on which we will vote on or prior to October 20.

Unfortunately, in the past week, there has developed the perception that a vote on the budget resolution is itself a final vote on the budget and will itself cause changes in law such as those that have been suggested as part of the budget summit agreement and otherwise.

That is not the case. The budget resolution does not become law. It merely permits the Congress to proceed to enact those laws that will be necessary to implement a deficit reduction process.

I believe it imperative that the Congress proceed to adopt the budget resolution to permit the continued operation of the Government and to move toward the reconciliation bill on or prior to October 20 that will change the law and bring about the much-needed reduction in the deficit, which we all seek, in a fair and responsible way. I hope very much that can be done in a bipartisan fashion. Throughout the day on Saturday and yesterday, until very late last night, we were involved in discussions with our House colleagues and with our colleagues on the Republican side in the Senate, including the distinguished Republican leader, the ranking member of the Budget Committee, and many others. We have tried to structure this in a way that would make it truly bipartisan and would be acceptable to the President, so as to enable us to proceed to deal with the deficit in a fair and responsible way.

The two parties are now meeting in respective conferences to discuss the pending budget resolution and continuing resolution. It is my hope that out of that will emerge a broad consensus, embracing Members of both parties, that will enable us to act in a decisive manner to end the period of doubt and indecision and negative activity which has so rightly concerned the American people.

We all want to reduce the deficit. We recognize that in a Nation as large and diverse as ours there is not unanimity, nor even consensus, on precisely the best way to do it, and so each Member of Congress, being a responsible individual but representing a different constituency, has his or her own views on how best to do it. The process in which we are now engaged is an effort to reconcile those conflicting views in a manner that is acceptable to the President.

The President has been a principal participant in these budget negotiations. Indeed, I think it fair to say, as one who has participated in all of the summit meetings, that the dominant participants have been the President's representatives. They have done most of the talking and most of the negotiating from the administration's side.

We made a good faith effort to achieve consensus on a budget summit agreement. That was not accepted in the House of Representatives. We may all at a later point in life look back and speculate on how or why that happened, but this is not the time to point the finger of blame or to engage in recrimination. This is a democracy. Thank God for that. And in a democracy, we must have a majority of votes of the elected representatives of the people to move the process forward and to pass laws.

A majority of the House of Representatives has spoken. It is a decision with which I disagree, but I accept the result. All of us must now bend our efforts not toward engaging in Monday

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

morning quarterbacking about what might have occurred but, rather, in looking forward to trying to deal with the situation in which we now find ourselves and moving forward to resolve the difficult situation which now exists.

That can be done best by adopting this budget resolution. Indeed, it is my judgment at this point that can only be done by adopting this budget resolution. Failure to adopt this resolution will continue and deepen the crisis which now exists, and, with the ending of the holiday period tomorrow morning, it will be much worse than it has been over this past weekend.

So I repeat that it is my hope that we will be able to move shortly toward consideration of the budget resolution; that we will be able to get an agreement to reduce the length of time for its consideration; that we will have strong bipartisan support for adoption of the resolution; and that we will pass it by a substantial vote, and then move on to consideration of the continuing resolution so that we can demonstrate to the American people that we can act decisively, and that we can move this process forward. And hopefully, before this month is out, we can take strong, fair, and meaningful action to reduce the Federal budget deficit which we all know is necessary to the future economic health of our society.

Mr. LEAHY addressed the Chair.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I wish to reserve the remainder of my leader time, if any, and all of the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2:30 p.m., with Senators permitted to speak therein for not to exceed 5 minutes.

The Chair recognizes the Senator from Vermont [Mr. LEAHY].

THE BUDGET

Mr. LEAHY. Mr. President, I do not wish to interfere with what the distinguished majority leader has said, but I understand he has completed his statement.

Mr. President, I hope that the American public and Members of the Senate on both sides of the aisle will listen to what the distinguished Senator from Maine said. We are not playing some kind of an abstract game even though there are some who want to stage it that way.

This weekend, we have seen the unnecessary and symbolic closing of the Washington Monument, the unnecessary and symbolic closing of the Smithsonian, and the unnecessary and symbolic pileup of trash along the Mall. Some tried to make political points, calling the press and claiming these as examples of sequestration. This is the baloney kind of political and symbolic posturing that got us in this mess in the first place.

Since 1981, some have felt that we could handle the budget by symbols, and not by substance; that we could talk about what we wanted for America, without asking for any sacrifice or pain.

Sequestration is more than the inconvenience of having some of the national monuments close. It means that those on parole will not be supervised; that the savings and loan crooks cannot be prosecuted; that school lunches will not be served; that Meals on Wheels will not be there; that the Head Start Programs will not exist; and that our educational system will fall even further behind Japan, Europe, and the others.

These are the real effects of a sequester even if they do not photograph as well or show as well in a 10-second cut. No matter, because they are far more deadly to the United States.

Mr. President, I was 1 of the 12 in this body who voted against the program that got us in this mess in the first place. It is frustrating for me to see visitors come to Washington, DC, to find the monuments in the Nation's Capital closed. They come here for a firsthand view of democracy, to only find the doors slammed shut.

In 1981, we were told: Let us have a huge tax cut and 85 percent of the people in America said, "What a wonderful idea." We were told: Let us have a huge defense buildup and 80 or 85 percent of the people in the United States said, "What a wonderful idea." We were told: Let us have a balanced budget; again 80 to 85 percent of the people of the United States said, "What a wonderful idea."

But the President of the United States, and unfortunately a lot of Members of both parties in the Congress, did not have the guts to stand up and say: It may be popular, but you cannot do all three. You cannot have a huge cut in taxes, a huge buildup in defense, and a balanced budget.

There were very few people who said the Emperor has no clothes. Only 12 in the Senate voted against that package. Now those of the 12 who are still here will be asked to help try to get us out of this mess. Those who started the fiscal forest fire we face now ask those who did not start the fire to help put it out.

Mr. President, we have lived on symbols and empty promises for 10 years. We have tried to substitute rhetoric for reality. We have tried to find this easy "sloganeering" from the President to the Members of Congress, to get us out of this mess. It did not work.

Now the piper has to be paid. It is going to be a very, very painful payment. We have to ask ourselves are we willing to do it? Is the President willing to stand up and eschew symbols and go for a painful reality?

Is the Congress willing to do so? The American people can expect no less. They can go back and find those who got us in this mess in the first place, and if they want to replace somebody, replace them. But they should also ask how many of us are willing to stand up and put this country back on its economic feet, and put this country in a position where finally we can start competing with Japan and Europe, and bring out the best of our own country.

When I grew up, Mr. President, I grew up in a family where we were told each generation should try to make it better for the next generation. I suspect the distinguished Presiding Officer was told the same thing by his parents.

We have squandered so much of the future of this country during the past 10 years. We have truly eaten our own seed corn. We are not leaving a better world for the next generation. But we must do more. We must prepare something for the next generation. I hope that we can.

We must follow the leadership of Senator MITCHELL and others to stand up and say: This has to be done. This must be done. We can no longer use excuses. We can no longer flee our responsibilities. There is no package of taxes, spending cuts, spending programs, tax programs that is going to be popular in the park.

It may be popular passing budgeted packages, but, Mr. President, the devil is in the details. Those details are going to make up the 30-second spots claiming that Congressman so and so, or Senator so and so voted to cut your Medicare. Who wants to face that ad? Congressman so and so, at a time when our brave men and women are in Saudi Arabia, voted against defense spending. Who wants to face that? Congressman so and so voted to raise your taxes, and on and on and on.

Well, Mr. President, some of us ought to be willing to take the heat; we cannot hide behind the comfort of dealing in symbols, and shoveling smoke instead of helping to lead this country. None of us owns a seat in the U.S. Senate none of us own a seat in the House of Representatives. We were sent here to do the best for our State and for our Nation, not the best for our political constituents, or for

whatever might be the momentary poll.

Mr. President, there will be other speeches made on the specifics, but I listened to some of the speeches in this debate, and I think some of the ones giving them ought to go back to school to take a history course, just for the heck of it. It would be a very, very interesting procedure. We must stop thinking that the American people can think in only 30-second sound bites.

The American people expect the best of the greatest democracy in history, the greatest and most powerful nation in history. We are at a threshold of seeing this Nation slide into decline against Europe and Japan and other nations. We have the ability today to stop the decline, to reverse it, to get us back on the path of greatness. We cannot do it with empty symbols and with feel-good resolutions, and we cannot do it with things that are just going to be popular to every single special interest group from the left to the right. We can do it if we think of only one interest group, 260 million Americans, and stand up for them. That is the choice we have today.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. LEAHY. Mr. President, I ask unanimous consent that morning business continue under the same conditions as before, reserving the appropriate leaders' time until 3 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I see nobody on the floor seeking recognition. I understand that both parties are still in caucuses. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

THE BUDGET

Ms. MIKULSKI. Mr. President, I almost was not here today, but I am. And I am ready to do my duty as a Senator on the important budget issue facing us. I was almost not here today because my mother was admitted to intensive care. I say that not to draw attention to myself or my family but to tell you a story about how the American people feel about the crisis confronting this Congress and this country today.

We received a call from mother's homemaker, a lady in the neighborhood who gets up and makes her breakfast, to say something terrible was happening to my mother. Fortunately, my sisters and I are only blocks away. We dashed there and found out that my mother could barely talk, could not catch her breath, and by ambulance we were ready to take her to a hospital in Baltimore served by the Sisters of Mercy, a hospital where my sisters and I were born.

While I am happy to report to you and to other Senators my mother is stable, what happened there at the hosptial was interesting because here was my mom, 75 years old, about my height and probably even twice as spunky when she is not set back; with the oxygen mask over her, with my sisters and I standing next to her, she asked me if I was coming to vote today.

Mr. President, I could not believe it, because only an hour earlier we did not know if my mother was going to live or die. I said, "Oh, I don't know, mom. I don't have it straight. I'm just worried about you." She said, "You have to go and vote. If the budget lost by one vote, I would have another heart attack. You go to Washington and save Medicare."

As I sat there with my mother, Sister Thomas, who heads up Mercy Hospital, said to me, "your mother is in the hands of God and the Sisters of Mercy. We will do our job by your mother. You go to Washington and you do your job. Save Medicare." Save Medicare.

Mr. President, I am here dressed a little bit more informally than I would ordinarily be to address the Senate, to participate in my formal duties. I just dashed out this morning.

Mr. President, I am here to save Medicare. I am here to save Medicare not only for my mom but for all the moms. I am here to save veterans' health care, not only for my uncles but all the men who benefit from that most important service. And most of all, I am here today to save the United States of America.

Mr. President, I am going to vote for the budget that will be presented to the Congress this afternoon. I am going to vote for it because I truly believe we are going to be able to make 40 billion dollars' worth of cuts. But we are going to do it in a way that is going to be fair; we are not going to cut Medicare in the way that was originally proposed. We are going to, instead, take a look at a tax package that goes after those who have and those who have benefited by this decade of glitz economy.

Mr. President, I look forward to being able to vote on raising the tax rates of people who make over $150,000 a year. I look forward to it. I think they ought to pay as much as an FBI agent, a schoolteacher, an electrician, a waterman, or a farmer in the State of Maryland. I think we should make sure that the people who make over $200,000 a year now, who only pay 28 percent on their taxes, will then begin to pay their fair share.

Mr. President, I advocate to the Finance Committee, let us put an additional surcharge on those people who make over $500,000 a year. I think the sports figures in our society ought to be able to step up to the bat and begin to pay their fair share. I think we ought to put on a surcharge when people make over $500,000. Who would they be? How about the people in the entertainment industry. Let them sing a tune of tax fairness.

Mr. President, I think that surcharge ought to go on the captains of industry so they start paying their fair share of this country's budget. I think the people who run the corporations ought to pay the same taxes as the people who work for the corporations.

Mr. President, I think it is time that the Wall Street go-go boys start paying their fair share. I am tired of hearing about Donald Trump. We ought to trump his card and call in the game. I am tired of wild card casino, speculative kinds of economics in this society.

So I know that when I vote on this budget today the decision will be made by the Finance Committee and the Ways and Means Committee. People have talked about this Democratic Congress not being able to do its job. The reason we have not been able to do this job is because we are trying to do business with another party that wants to protect that 2 percent that wants to live like parasites off the other 98 percent. I think we have all had it, and that is why we are going to be able to support this.

There are those who say, well, we ought to be able to make more cuts. I absolutely agree with that. I think we can make more cuts in the military. I think we can cancel that MX missile. I think we can cancel star wars. I think there are cuts we can make, and yet at the same time look out for the men and women who are out there performing their duties in Operation Desert Shield.

Mr. President, I think there are cuts in domestic spending. In my own Sub-

committee that I chair in Appropriations, we fund the programs for veterans, housing, and space.

In our budget, in VA appropriations, we have eliminated the Moon Mars project. This is very special to the President. I know it will be very important to the future of space exploration. But, Mr. President, $300 million on a high-risk, Buck Rogers sci-fi project is not what is called for when people do not know whether we are going to have rail service to get to work. I would rather make sure they get to work than worry about whether we are going to get to Mars in the year 2040.

I believe we have to take a bit out of bureaucracy. In one agency, we froze the first-class travel of a Cabinet officer. I believe the American people ought to start going first class rather than Cabinet officers.

Mr. President, we have taken action to eliminate some of the public relations offices. If we are going to tell our story, let our actions speak for us.

Now when all is said and done, more needs to get done than said. I think if we start putting on our green eyeshades where there is fat to cut out, we do not have to cut out FBI agents, we do not have to cut out meat and poultry inspectors, we do not have to cut out claims examiners in Social Security. We need those people on the job. But there are a lot of things that we can cut. Also we can come up with the taxes—when people spend more on lawyers to evade the taxes than the taxes many of us pay.

Mr. President, that is what I call fairness. That is what I call a budget. When my name is called this afternoon, I am going to vote "aye." When I go back and see my mother tonight or tomorrow morning, I am going to say that, when I left her, I know that I left her in the hands of God and the Sisters of Mercy. And I pray that both of those are with me today when I cast my vote.

I yield back the remainder of my time, and I look forward to casting my vote.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, I ask unanimous consent to proceed as in morning business for a brief period of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE INITIATION OF DIRECT FLIGHTS BETWEEN THE SOVIET UNION AND ISRAEL

Mr. DIXON. Mr. President, the Soviet Union and Israel are discussing the possible commencement of direct flights between those two countries. This could be a historic opportunity for both countries, and I wish to urge the Soviets and Israel to reach an accord at the earliest possible date.

There has been a considerable warming of relations between the Soviet Union and Israel in recent months. Consulates may soon open in each country, opening the prospect for further actions leading ultimately to normalization of relations.

A direct flights agreement is a critical first step in this process, and this Senator's impressions of the Soviet's pronouncements of glasnost and perestroika, will in part, be shaped by their willingness to conclude a satisfactory agreement.

A satisfactory agreement will include flights for the emigration of Soviet Jews and others, not just flights for those Soviets granted visitor's visas.

Should such an agreement be reached, at long last the prospect of allowing Soviet Jews to go directly to Israel to begin a new life in freedom would be upon us. We in the international community must work to ensure direct flights become reality.

As cochairman of the Congressional Caucus for Soviet Jews, I have spoken frequently on behalf of refuseniks and others who have been locked behind Soviet borders, unable to pursue their dream of life in their ancient homeland. While the flow of emigrants from the Soviet Union has risen dramatically, there are still hundreds of refuseniks who even in this era of glasnost cannot gain permission to leave the Soviet Union.

This is the story behind the story, Mr. President.

The struggle for freedom has come true for former refuseniks such as Georgi Samoliovich, Alexander Pyatetsky, and Vladimir Dashevsky, but it remains elusive for Mikhail Kazachkov, Sergie Veprinsky—whose wife, by the way, lives in Illinois—Anatoli Genis, and others who have waited as long as 10 years for permission to emigrate.

Mr. President, every step taken by these two countries toward a direct flights agreement represents a further opening in the window of opportunity for increased Soviet Jewish emigration. We must remain committed to the cause of free emigration from the Soviet Union.

I will continue to do all I can to support the commencement of direct flights. An agreement would be cause for celebration, Mr. President, and remind all of us to rededicate ourselves to the cases of those whose struggle for freedom continues.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,032d day that Terry Anderson has been held captive in Beirut.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERREY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, what is the order of business right now?

WHAT NORTH DAKOTA IS ALL ABOUT

Mr. BURDICK. Mr. President, I would never consider living anywhere but North Dakota. The people of my State truly are special, as I was reminded when a fine farmer and State Senator, Clark Ewen, passed away recently. Hearing Clark was dying of cancer, more than a hundred neighbors and friends organized to harvest almost 6 million pounds of his sugar beets in a single day. As his widow said, "That's the way people do things in rural communities. This Is What North Dakota Is All about."

A third-generation Red River Valley farmer, Clark Ewen started raising sugar beets in 1962. He helped organize the Red River Valley Beet Sugar Cooperative that merged with American Crystal Sugar in 1975. He worked to change the payment formula to reward beet farmers for higher levels of extractable sugar and to build huge storage facilities. Clark was truly a pioneer in my State's sugar beet industry.

To honor this individual and the spirit of Dakota, I ask unanimous consent that a newspaper story by Colleen Munro of the Grand Forks Herald be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Grand Forks Herald, Sept. 29, 1990]

'FOR EVERYTHING THAT HE'S DONE FOR BEETS'

(By Colleen Munro)

MAYVILLE, N.D.—It was a perfect morning to dig beets; dry, cool and sunny. Neighbors and friends of the late Clark Ewen did just that.

In the space of a single morning, seven lifters scooped out beets six rows at a time, chewing through 200 acres of the Ewen family's sugar beet crop.

As soon as one truck was full, another was there to take its place. A line-up of more than 100 trucks, two deep, waited for their turn to get in the field, snaking through the better part of a quarter mile.

Idle truck drivers left vehicles to gather in groups. They visited about the weather. The beet crop. And Clark Ewen.

"Clark was a good friend. We're doing it as a gesture for everything that he's done for beets," says Butch Lovas, a Hillsboro farmer and friend.

Ewen, former chair of the board of American Crystal Sugar and veteran sugar beet grower, died of cancer at age 59 in Mayville last Sunday. Friends and neighbors knew he was ill, and had decided long before his passing they would give the family a hand with harvest this year.

Ewen had a reputation of being peacemaker. But he was also admired for his dedication to farming.

A couple of weeks before he died, Ewen called his friend John Freije, mayor of Mayville. He wanted to see the farmstead, and his fields, one last time. His wife, Joann, drove the truck.

So Ewen, with hospital bed, IV, nurses and all was loaded into the back of Freije's pick-up truck. He got to see the fields he knew his neighbors would be harvesting for him one last time.

Lovas, along with Mark Steinberger, American Crystal agriculturalist for the Mayville area, coordinated the special harvest.

The idea got started in August, with people calling Lovas, asking how they could help. Early in September, a letter went out describing the plan to help the Ewens lift about a third of their beet crop.

And on Thursday, KDGO radio in Fargo reminded farmers about the special effort on its harvest report. Farmers came from as far as East Grand Forks and Moorhead to pay tribute to Ewen.

Hillsboro's pre-pile havest was finished on Thursday, so the factory was open on Friday just to receive beets from the Ewen farm.

Truck drivers gathered early in the morning at the Hillsboro factory, and formed a convoy out to the field south of Mayville. A neighbor said the trucks coming around the Blanchard corner sounded like a train at 7 a.m.

Nearly 6 million pounds of beets later, by early afternoon, the harvest was all done.

The women's auxiliary of the Congregational United Church of Christ in Mayville was ready with lunch for the troops afterword.

The Ewen family was there, too, through most of the morning and for lunch.

"It sounds like a cliche," said Joann Ewen, Clark's widow. "But this is what North Dakota is all about.

She said that her husband knew and approved of the harvest.

"He knew that everyone wanted to help, knew that that's the way people do things in rural communities," Joann Ewen said.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business has expired.

ORDER OF PROCEDURE

Mr. DIXON. Mr. President, I ask unanimous consent to proceed as though in morning business to discuss matters relevant to the consideration shortly of the budget resolution and the continuing resolution when they are before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET RESOLUTION

Mr. DIXON. Mr. President, as you know, and as all Members of the Senate know, and I am sure as the country knows, the House late last night—or I guess one could say early this morning because most of the work was done after midnight—passed a budget resolution and a continuing resolution that I expect are now in the hands of the Senate, or if they are not now in the hands of the Senate will shortly be here.

One of the, I think, giants in all that has occurred to date in the difficult months of discussions is here on the floor of the Senate with me, the distinguished senior Senator from Tennessee, the chairman of the Budget Committee. It will shortly become his major obligation to attempt to persuade a majority of the Senators of both political persuasions in this Chamber to act on a budget resolution and a continuing resolution that will determine the course of history for this Nation, I am convinced, for a period of time in the future.

I think many of us, even those who shrink from the task, are concerned about the chaotic result if we do not act, and I said at the conference today that I was a little amused when my wife and I, and my little grandson, my 3-year old grandson, were in Union Station Saturday night having a little pizza in a Chicago pizza parlor.

A person came up and said, "You are Senator DIXON." "Yes, sir." And he advised me that he was a constitutent of my State and said, "You know, I do not know why we are so concerned about sequestration. We have been here this weekend, and you cannot see a couple bears at the zoo, and you cannot get in the Washington Monument. Big deal."

And I thought maybe we ought to think in terms of what this sequestration really is, starting tomorrow. This is a legal holiday, Columbus Day. Were it not for these obligations, I would be in Chicago marching in the Columbus Day parade, having lunch with Joe DiMaggio, a great baseball player; later having the honor of introducing Gov. Mario Cuomo of New York State. But instead I am here, as I should be.

I would like to talk a little bit about sequestration. These figures are not inviolate, but this is information that the chairman of the Budget Committee, the President pro tempore, and others have distributed to tell you a little bit about what sequestration is.

Well, Mr. and Mrs. America, here is sequestration. Here is the alternative to acting now. In the Judiciary, a 30-percent sequester in the judicial branch would cause a release of 46,000 potentially dangerous probationers and parolees from supervision. That is sequestration.

In the Justice Department, layoffs would cause severe curtailment of criminal litigation and prosecutions under the Violent Crime Program and the Financial Institution Fraud Program. Layoffs in the U.S. Marshals Service would result in an increase of more than 3,000 felons at large into our society. Layoffs, under sequestration, would result in a 41-percent decrease in the number of investigations conducted by the Organized Crime Drug Enforcement Task Force, and would actually cost the Government money because of an estimated $294 million reduction in seizures and forfeitures.

Mr. President, under sequestration, 6,000 FBI personnel would be laid off. That would cause curtailment of investigations in the S&L fraud cases, which is the scandal in this country today, rendering a lot of those cases unprosecutable because of the fact that the statute of limitations would run out.

I hope most Americans understand what that means. I am a lawyer, and the statute of limitations is the limitation on the time in which you can bring prosecution of these cases. Drug and organized crime investigations would be restricted. Drug enforcement operations in smaller U.S. cities and rural areas would be severely restricted. Cutbacks in the Immigration and Naturalization Service would result in 5,000 fewer drug seizures and a reduction in the apprehension of 8,000 criminal aliens entering the United States.

Mr. President, that is the Judiciary and Justice Department. That is only part of the story.

You live in rural America, Mr. President, and my great State is always first or second in corn and first or second, soybeans; big competition, always, with Iowa. In the Agriculture Department, the Nation's 7,800 meat and poultry plants, employing 400,000 people, which cannot operate without Federal inspection, would have to be shut down for 137 days, while USDA employees are furloughed. The Forest Service estimates that the reduction in timber sales, as a consequence of a sequester, would result in a loss of revenue to the Treasury of one-half billion dollars.

The Food and Drug Administration, let us talk about that. The safety of the Nation's blood supply could no longer be guaranteed. Blood banks would only be inspected once every 2 years, increasing the risk of AIDS,

hepatitis, and other serious diseases transmitted through contaminated blood.

I am on the Armed Services Committee, and I am chairman of the Subcommittee on Readiness, Sustainability, and Support, very jurisdictional to what is happening in Operation Desert Shield over in the Mideast. A full year sequester would not be manageable without significant damage to the national defense. All defense agencies would have to furlough personnel. Virtually every defense procurement program would have to be cut 35 percent.

The sequester would lay off about 900 Department of Energy personnel and 52,000 contractor personnel. I have the biggest airport in the world in my State, in Chicago, Mr. President, which is O'Hare. Six-thousand flights a day at 40 major airports in the country would be reduced.

Listen to this. Rehabilitation of over 2,000 bridges and 13,500 miles of interstate highway could not be done, and 100,000 jobs would be lost in that area.

What about Amtrak? Amtrak would be brought to the brink of bankruptcy. My State depends on Amtrak. In downstate Illinois, where I come from, from city to city in small-town America, Amtrak is the way you travel. It would be brought to the brink of bankruptcy by sequestration.

In the Postal Service, preferred mail rates to nonprofit organizations, such as the United Way, the Girl Scouts, and so forth, would be discontinued. In Health and Human Services, drug abuse treatment in America would be reduced $650 million; AIDS fundings, $475 million.

Medicare claims would be curtailed, resulting in $260 million in claims in backlog. Mr. President, in sequestration, 78 million meals to older Americans would be eliminated. Social Security audit activities would have to be reduced, increasing erroneous payments by about $15 billion. Biomedical research would be reduced $3.5 billion.

Head Start would be reduced by over $500 million, eliminating help for over 185,000 kids in America. Childhood immunizations would be eliminated for 1,600,000 kids. The Department of Education would be reduced by $6½ billion. Black lung clinics—and in my State, in southern Illinois, where they mine soft coal—would serve 10,600 fewer patients.

Well, Mr. President, I am indebted to my friend, the chairman of the Budget Committee, and others, who have brought this to our attention. For those that think there is an easy vote here, Mr. President, there is none.

This is not just the bear at the zoo, and the Washington Monument, and a park you cannot go into next weekend, for change. This is very, very serious stuff. And shortly, our friend, the chairman of the Budget Committee, will take the floor, along with his distinguished ranking member, who in his time has chaired this committee. Both have performed a great service to this country, representing different philosophical views and different political parties, but representing their States and their country the best they know how.

I hope that the Senate will listen, and I hope the country will listen, while some men who have a very difficult and unpleasant job to do, lay before this body, Mr. President, the frightful alternative to passing this budget resolution, which, of course, does not require the President's signature, but, important as well, a continuing resolution which does.

I say, in conclusion, that while what some of these fine men did in leadership of the summit was rejected by the House, the goal they seek of major reductions, a total of $500 billion in reductions, both by cuts and revenue in our budget deficit over the next 5 years, is a goal very much in the interest of a prosperous, well-managed, and decently run America. And I thank them for their efforts.

Mr. President, since I see that my colleagues are not quite ready to begin their discussions on the resolution, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislation clerk proceeding to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to proceed for 15 minutes with the understanding that if either one of the floor managers of the budget resolution or either one of the leaders wishes to speak or lay the budget resolution before the Senate, I will happily relinquish the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE POLITICAL PROCESS

Mr. BUMPERS. Mr. President, these are indeed times that try men's souls. I have been in the Senate 16 years, and I have never seen a time that I thought was more ominous for the future of the country than now. I do not quarrel with the antipathy and the cynicism that I sense across the country toward not just Congress but the whole political process.

I think if you were to ask the ordinary citizen on the street, "Do you think you ought to kick the rascals out?" you would get about an 80-percent "aye" response.

Incidentally, I agree with that. If you could kick the rascals out, maybe we could get something done around here. But you and I both know that, at times like this, people do not make distinctions between the rascals and the good guys. One of the reasons we are in this predicament is that 10 years ago the herd instinct swept across this floor and there was no distinction between what was right and what was wrong.

I do not really intend this to be partisan, but I do want to review why we are here today. I might also say that I heard one of the network commentators Friday night say that this mess started 10 years ago. Then they proceeded to show President Reagan saying we are going to cut your taxes 30 percent, we are going to double defense spending, and we are going to balance the budget.

I do not intend to be critical of that particular network, but I wanted to say, where were you 10 years ago when there were 11 lonely Senators standing on the floor saying that those promises were nonsense?

The next night I heard a network correspondent say, after the President vetoed the continuing resolution, that he had turned the heat up on Congress. Nobody said, "The President is being irresponsible. That this is going to shut down the Government." His veto was not to assure a sequester. It would shut down the Government, all Government. It would make one yearn to live in Eastern Europe if that took place.

That evening on that same network, the commentator implied that Congress cannot get its work done, cannot do anything. And yet it was the President's own party that killed his budget in the House.

Going back 10 years ago when this whole thing was set in motion, I am reminded of a good friend of mine who used to be in the House of Representatives. His name is Ray Thornton. He was president of the University of Arkansas. He was president of the University of Arkansas at the time this Reagan proposal, so-called supply side economics, came into vogue in 1981. Ray said to his father-in-law one day, "The President says he can cut taxes by 30 percent, double defense spending, and balance the budget." He said his father-in-law said, "What a dynamite idea. I wonder why nobody ever thought of that before?"

We have $3½ trillion in debt now to show why nobody ever thought of that before. It made no sense then. I have a speech here that I made on July 29, 1981—I am not sure that was the day we voted, but I think it was—in which I simply said you pass this bill and you are going to create deficits big enough

to choke a mule. And we passed the bill and we doubled defense spending and we created deficits big enough to choke a mule.

Mr. President, do you know what that bill has cost the Treasury? I can remember pleading at that time. I said I will support a 5-percent tax cut but we do not have to do this all at one time. We are going to be here next year and the following year. Let us proceed with some caution here. But, as I say, I have never seen the herd instinct sweep across this floor quite like it did that day.

These are President Bush's figures that he submitted to us this year in his budget. As of this year, 1990, which ended September 30, that tax cut cost $1.763 trillion. Even with all the tax increases we have had since then, the net loss from that tax cut of 1981 is still well over $1 trillion.

Listen to what Mahatma Gandhi said:

> Performance of one's duties should be independent of public opinion. I have all along held that one is bound to act accordingly to what one appears to be right even though it may appear wrong to others. I admit that there is always a possibility of one's mistaking right for wrong and vice versa, but often one learns to recognize wrong only through unconscious error. On the other hand, if a man fails to follow a light within, fails to follow the light within, for fear of public opinion or any other similar reason, he would never be able to know right from wrong and in the end lose all sense of distinction between the two.

A lot of politics is involved in what is going on right now. So far as I am personally concerned, I do not like this budget resolution. I like it better than the one the House defeated the other night, but I do not like a lot of the provisions in it by any means. I will do my very best at the proper time, to change some of the priorities.

Defense spending, in the allocation of this budget, is higher than either the House or the Senate figure. Now I could wax and wane for an hour about that and I know some of my colleagues are also deeply disturbed by that defense number. By the same token, I would remind them that we all had a chance to cut defense when the defense authorization bill was on the floor, but we did not, and indeed, could not.

I would also remind you that the defense appropriations bill is coming through here sometime in the next 2 weeks and everyone will have a chance to offer cuts. I am going to offer an amendment to cut SDI by almost $1 billion. Others will attempt to eliminate the B-2 bomber. Some people will say we ought to bring 100,000 men home from Europe immediately. I have spent the last 3 years trying to get our forces in Korea reduced.

We have 50,000 men in Japan; 40,000 in Korea; 300,000 in Germany. And they cost billions of dollars. We do not need 50,000 people in Japan. Japan makes a contribution, but it is a pittance compared to what it costs us. And the same way with Korea. The Koreans make a small contribution but South Korea has twice the population of North Korea, 10 times the GNP rate, and we have 40,000 people there to defend South Korea. What kind of nonsense is that? The point I want to make is that everybody is going to have an opportunity to reduce that defense figure if they want to.

My problem, I should say problems, with the first budget resolution, included the gas tax, cuts in Medicare, and cuts in agriculture. Arkansas has the highest consumption of gasoline per registered vehicle in the country. That gasoline tax was devastating. We are No. 2 in the percentage of our people over 65, just behind Florida. And we are still an agriculture State, and farm programs were devastated under the budget proposal. I am glad it was defeated.

But in the final analysis, Mr. President, my really strenuous objection came when I saw the figures that showed people who make $10,000 a year—that is below the poverty line—7½-percent tax increase while people who made over $200,000 a year got a 1½-percent tax increase.

The only thing I could find in the Washington Post yesterday that I found very interesting was an article by Lester Thurow, the very esteemed, well-known and thoughtful economist at MIT. He laid it out so perfectly. Not only did he talk about the regressivity of that budget resolution, he also said that $40 billion, in light of a $290 billion deficit, is nothing. And that is true.

We are going to have a heck of a time getting a budget resolution through that will cut $40 billion in the year 1991. Even under Gramm-Rudman accounting, the deficit, after you cut $40 billion, will still be $250 billion. If you add Social Security and the trust funds, the deficit, after we have labored to cut $40 billion in spending and raise that much revenue, will be $390 billion.

The other day I was driving down Pennsylvania Avenue, and I saw a group of people in front of the White House. They had signs saying, "Tax the Rich." I thought, what a strange looking group of people. They did not look like the far-out kind who are concerned about income distribution in this country or the terrible disparity of wealth that has gone on a rampage in the last 10 years; they were well-dressed people. So I stopped and talked to a man. I said, "You favor taxing the rich?" He said "Yes." I said, "Who are these people?" He said, "They are rich people. These are all people who make $200,000 or more. We are tired of the White House pandering to us. We are patriots; we love America, too. We are concerned about this country and our children's future, just like everybody else."

I said, "Well, you have certainly got a friend in the White House. He does not think you ought to pay taxes." He said, "That is just it. We consider it rank discrimination against us."

I said, "Really?" He said, "Yes." And I said, "Well, have you seen the President?" He said, "No."

"Is this the point you want to make with him?"

"Yes."

I said, "Well, I wish you well," and I started to walk off. And I have already told him who I was, and he said, "Senator, just one other question. Who is NEWT?"

I said, "Who is NEWT?" "Yes," he says, "I see in the press all the time where everything has to be run by NEWT. They think he will approve it or he will not approve it." He said, "I voted for Ronald Reagan twice, and George Bush once, but I have never voted for anybody named NEWT."

So I told him who NEWT was.

That is just an Art Buchwald spoof. None of that ever happened. But I thought, what an interesting thing it would be if it did happen. Because, you see, I happen to believe that even though the wealthy people of this country do not enjoy paying taxes any more than I do, you give them a choice of doing their share in this budget or watching this country go down the tubes and they will choose to do their share. They love America. Most of them have done extremely well under our system. Unhappily, nobody ever asked them for very much.

Mr. President, while I do not like this resolution, I am going to vote for it. I really do not like this resolution. I can give you 20 reasons not to vote for it. I do not like the defense number; I do not like the agricultural numbers; I do not like anything else in it, much. But there is one thing about it. It has one benefit that the other one did not. We will have an opportunity to amend it and change it the way we want it, and put some progressivity in the taxes that are going to be raised here. While the defense number is very high, it can be reduced. It is a ceiling, not a floor.

I am also going to vote for it because I know that people across the country are saying this place can not function. They are saying this is just like that shortstop position that Leo Durocher talked about. Durocher pulled his shortstop out of the game because he had let three successive balls roll between his legs. He said, "Take the bench; I am going to show you how to play shortstop." The first ball went right between his legs and he came back to the dugout and he said,

"you've got that position so screwed up, nobody can play it."

(Disturbance in the Visitors' Galleries.)

Mr. BYRD. Mr. President, may we have order in the gallery. There are not to be any demonstrations of approval or disapproval in the galleries.

The PRESIDING OFFICER (Mr. BRYAN). The Senator is correct. Order in the galleries.

The time of the Senator from Arkansas has expired.

Mr. BUMPERS. My humor is irresistable, Mr. President.

Mr. BYRD. Mr. President, will the distinguished Senator from Arkansas yield?

Mr. BUMPERS. Yes, I am happy to yield.

Mr. BYRD. The Senator from Arkansas referred earlier—and I beg his pardon for interrupting him—he referred earlier to the defense numbers. It may be that he is laboring under a wrong impression. Or it may not be.

Mr. BUMPERS. On the defense numbers?

Mr. BYRD. Yes.

Mr. BUMPERS. Senator, the figure I saw, I thought I saw, and I may have looked at the wrong line, was $297.1 billion, I believe.

Mr. BYRD. I thought the Senator might be referring to the numbers that appear in the RECORD of yesterday, the House of Representatives, October 7, page H9143.

Mr. BUMPERS. What page is that on this resolution before us, Senator?

Mr. BYRD. I am not referring to the resolution right now. I think, from what I gather by the answer of the Senator, that I am not—he and I are talking about the same basic figures. I would like to refer to the figures that are on page H9143 of the RECORD of October 7, yesterday. The CONGRESSIONAL RECORD of the House. These numbers, I believe, were referred to in the conference, the Democratic conference today in the Senate.

I wanted to correct those numbers, for the RECORD. I thought the Senator might be referring to them and that is why I interrupted him. If he is not, I can wait until later.

Mr. BUMPERS. Senator, that is quite all right. I was looking at the same page you are looking at now and the budget numbers, 050, national defense. It shows budget authority for 1991 of $288.3 billion, and outlays of $297 billion.

Mr. BYRD. Yes.

Mr. BUMPERS. It was my understanding that this budget resolution had a cap of $297.1 billion. This is the first budget that came to us, is it not?

Mr. BYRD. What I would like to do, I would like to call the attention of the Senator to the numbers for fiscal year 1994 and 1995. He will note that in 1994, the figure for our budget authority for national defense is $351.5 billion, and in 1995 $364.9 billion, and for outlays in defense, $341.7 billion in 1994 and $351.1 billion in 1995.

I am sorry, because I do not now believe, as I listened to the Senator, that he was referring to those figures. But if he had been, I wanted to call to his attention that those figures are in error.

Mr. BUMPERS. They are in error?

Mr. BYRD. They are very much in error. Let me give the Senator the correct figures. Instead of $391.5 billion for fiscal year 1994 in budget authority for defense, the correct number would be $292 billion.

Mr. BUMPERS. In outlays?

Mr. BYRD. In budget authority.

Mr. BUMPERS. For 1991?

Mr. BYRD. For 1994. I am talking about 1994 and 1995, where the figures are grossly in error.

Mr. BUMPERS. Is the Senator saying the budget authority for 1994 is $282 billion?

Mr. BYRD. I am saying it is $292 instead of $351.5, as shown in that table.

Mr. BUMPERS. How on Earth did this happen? I do not understand.

Mr. BYRD. These are the nonbudget authority figures that were in the bill as passed by the Senate. So let me finish, if the Senator will allow me. Let me finish making the corrections. Instead of $351.5 in 1994, for budget authority under 050, national defense, the correct number is $292.0. In other words, a difference of $59.5 billion. And 1995, instead of $364.9 for budget authority, national defense, the correct number is $295.0; in other words, a difference of $69.9 billion.

Then for outlays, instead of $341.7 billion, as shown in the CONGRESSIONAL RECORD of yesterday, for 1994 the correct number is $290.0.

In other words, that is a difference of $51.7 billion. And for fiscal year 1995, instead of $351.1 billion in outlays for national defense, the correct number is $291.0, a difference of $60.1. So the conference agreement figures for defense printed on page H9143 of the CONGRESSIONAL RECORD of yesterday, October 7, 1990, misstates the defense budget authority and outlays for fiscal year 1994 and 1995 by the amounts that I have stated.

Mr. BUMPERS. That is very enlightening, and I appreciate that. As my colleague knows, I do not mean to reveal anything said in the caucus. He knows those numbers were bandied around in our caucus today, and there are some misperceptions.

Mr. BYRD. There were, and the reason I did not attempt to correct them then was because I did not have the correct figures at my fingertips, and I had to wait until I could secure those.

Mr. BUMPERS. I thank the Senator very much. I am pleased he interrupted me to clarify.

Mr. BYRD. I thank the Senator for the service he is performing, and I thank him for allowing me to interrupt him, which I very much regret having to do. But I felt that he was laboring under a misimpression because of these figures, and even though he was not even at that point, I thank him for giving me the opportunity for correcting them.

Mr. BUMPERS. I will close. I assume there are others who wish to speak while we are still waiting for this budget resolution to be laid down.

Let me just mention, Mr. President, the attitude of people across the country. We cannot blame the American people for what can only be described as a highly distrustful, cynical attitude about Congress.

As I have said on this floor many times, we all feel that the President shares a large part of the responsibility for whatever is going on here because of a lack of leadership. But that is not satisfactory to the people. They believe that the country is stagnant economically, that the deficit is going to ultimately result in our trading partners demanding that we pay them in marks and yen instead of dollars, as terrible as that may sound.

The Japanese have sold more American debentures since January 1 of this year than they purchased by a large margin. The Germans are engrossed in a terrible expense, close to a trillion dollars, probably, before it is over, in absorbing East Germany.

The economy is stagnant and cannot move as long as interest rates stay where they are. This budget resolution does not go far enough. And it certainly does not arrange priorities to suit me or the people in my State. But they expect, and they have a legitimate right to expect, this body to do something about the deficit.

If we want to see the stock market, which has been so volatile in the past 60–90 days, settle down, we must come up with realistic figures in this budget resolution and show the kind of resolve that people have a right to expect of us.

The people on Wall Street and the money managers across America are not dummies. They have analysts all over this town saying, "What does this mean? Is it real? Are they really serious about reducing the deficit? Are they going to finesse the problem yet one more year?"

You saw the market the other day. I spoke to a group of bankers downtown on Monday after the budget summiteers announced the budget proposal on Sunday. I told that group of bankers that the market would go up probably 100 points that day. As it turned out, it only went up 63 points. And I also predicted it would start south again as people began to realize that the budget resolution was not ade-

quate, and especially that it was going nowhere.

So, Mr. President, I am going to support something that I do not much like because the alternatives are too ominous to even think about. Let me give an illustration. I have heard the Senator from West Virginia describe what will happen in case of a sequester. Let me tell my colleagues what it will do just in one instance in my State.

We are, by far and away, the biggest grower and processor of broilers. We have 12 big poultry plants in our State. One out of ten people in Arkansas work for the poultry industry or in related industries. We have 24,000 people working in poultry processing plants.

Tomorrow morning at 7 o'clock when those poultry plants would normally open, if we do not take action tonight, 24,000 people will be without jobs because they cannot process a single chicken unless there are Federal inspectors there. And the thousands of meat and poultry inspectors across the country will be without jobs tomorrow morning at 7 a.m., and 24,000 people in my State will be out of work just in the one industry.

Do my colleagues also know that the President wants us to pass some kind of a $40 billion sequester when we pass a continuing resolution to send to him. The word sequester doesn't mean much to most people. We talk about sequester on the floor, but many folks do not know what that means. They just know that they do not want to lose their jobs, and that they have bills they can't pay if they do.

The poultry industry is highly programmed. We have hundreds of millions of eggs being set every week in this country. From the time that egg is laid, they can tell you when that chicken will come off the processing line about 10 weeks later. There are hundreds of millions of chickens in chicken houses and they have to move on a given day at a given hour.

If we shut those plants down, not just in my State but all over America—beef packers and poultry processors—everything starts backing up. We will have a backlog of chickens that will be catastrophic to that industry.

If that happens in just one industry, with which I happen to be totally familiar, and we compound that with all the other things that would happen in the country, just imagine the result. There will be no drug enforcement. Thousands of felons on parole will be unsupervised. The list goes on and on. We will lose more by the chaos that results than we will ever save with a $40 billion sequester.

If the Government is shut down, within 2 or 3 weeks time I promise my colleagues that the poultry people will owe no taxes this year. That is how devastating it would be. So if we pass a continuing resolution and a budget resolution, and the President chooses to veto it, I will let him explain his action. I am going to do my duty this afternoon and try to avoid a shutdown. I am entitled to dislike this budget and yet vote for it, because I think it is essential as a responsible Senator not to let this shutdown happen. If the President says, "I want every 't' crossed just so, and every 'i' dotted just so, or I am going to veto it," let him explain it to the American people.

I do not know the President well. I knew him better when he was Vice President than now. He never invites me over for dinner, but I like him personally. I think he is a decent man. He is not without compassion.

Surely he is not going to stand on ceremony or on some devious mythical political proposition that this is the way to show his leadership skills; that he lets this country literally go into chaos tomorrow. It is a very ominous thought, is it not, Mr. President?

So I am hoping we get this budget resolution laid down, debated and voted on. I do not see that I have any choice, quite frankly, but to vote for this resolution. I do not think anybody else who really wants to be responsible does either because the consequences are too great.

Mr. President, I think the Ways and Means Committee and the Finance Committee are very likely to raise income tax rates and come back saying that in the future for wealthy people who make $170,000 or more, the tax rate will not go from 33 percent back to 28 percent. In the future, the rate will stay at 33 percent. That produces quite a bit of money. The argument will be made on this floor that if you do that, this economy, which is already stagnant and teetering, will go into a depression.

I used to buy that argument, and I think it has some credibility. But I also think a lot of people use it just to make sure taxes are not raised. There is a novelist, and I cannot think of his name now, who said he grew up in a household where Franklin Roosevelt was considered the biggest pariah ever to come down the pike in this country. He said his father was still cussing Franklin Roosevelt 30 years after he died because of all the taxes he had imposed. He said his father used to say, "Do you realize that Bing Crosby has to work for 6½ days before he ever makes a dollar for himself?" Back when Bing Crosby was working 6½ days a week to pay his taxes, he was making about 1,000 times or more in that half-day than my father was.

I was taught that Franklin Roosevelt was our savior because we got pure water. We got sewage facilities. We got REA. My father was a small-town hardware dealer. He could sell refrigerators and radios to country people who had never known those kinds of luxuries. So you can imagine how people in my household felt about Franklin Roosevelt.

I know all those arguments about not raising taxes because it will really speed this recession into a depression. I do not believe that any more than I believe that it really hurt Bing Crosby to pay his taxes. He still died with quite a bit of money.

And you tell me this. Since August 2, when Saddam Hussein invaded Kuwait, how is it that we are willing to pay in excess of $100 billion a year, for the increase price of oil in this country, in excess of $100 billion a year on an annualized basis—and a lot of it is going to people that we are not especially fond of—right out of the American consumer's pocket? They tell you that $40 billion, or $50 billion, or even $60 billion in increased income taxes over a 5-year period will send the economy into a tailspin. Yet you do not hear a peep, not a peep, not even a suggestion that we conserve energy in order to get the price down; not one single national appeal to even carpool to try to get oil prices down. We are going to cough up about $110 billion a year just for the increased price of oil since August. Yet some will say, "Yes, but you cannot call on the American people to pay any more in taxes, especially the wealthy."

For Senators who are concerned about the defense figures, let me reiterate that you will have two golden opportunities between now and the time that we leave here to do something about those numbers. I was pleased that the distinguished senior Senator from West Virginia pointed out that these figures in the CONGRESSIONAL RECORD are in gross error and the figures look much, much better than they did.

Mr. President, I had a letter from a man the other day. It is a common kind of letter we all get all the time: "Why don't you all stop that spending?" he asked.

Spending is always a question of priorities. One man's program is his livelihood, another is perceived by that same person as a boondoggle. Gerald Ford, in the only spate of humor I ever heard from him, said it did not take him long after he came to the Congress to realize the virtue and necessity of those magnificent projects out in Michigan and those boondoggles down in Arkansas. We are all that way, are we not?

I wrote this man and I said, "If you are really concerned about spending, do you want to cut student loans?" "No." "Do you want to kick Aunt Sarah out of the nursing home?" "No." "Do you want children to go unimmunized?" "No." We are going to lose 60, 70 children this year to measles. Three, four years ago a measles

death was unheard of in this country. We thought we had it conquered. Eight million children will die around the world this year just because they do not get the immunizations that are available to Americans.

What do you want to cut? The President said in his joint session address that the deficit will be $100 billion. He said it was now under control; that we would grow out of it without increasing taxes. That was all in only one sentence.

Four months later Dick Darman said that these had been a slight miscalculation; that the deficit was $150 billion. They made a little miscalculation. Three weeks later they admitted another miscalculation; it was going to be $170 billion. And now we know it is going to be $291 billion. Those are some pretty hefty miscalculations—triple the original estimate.

I might also say, in a partisan way, somebody always says something sounds pretty partisan to them. So be it. The President said the other day he was tired of Congress throwing phony figures around after he told us in January the deficit would be $100 billion for next year.

I wrote this man back, and I listed a whole host of things that I knew he did not want to cut. He does not want to cut Medicare. He does not want to cut Medicaid. Do you know what Medicaid is? That is health care for the poorest of the poor people in the country. We have 38 million people now with no health care coverage. He does not want to cut Medicaid. He does not want to cut Medicare.

Listen to this, Mr. President. If you just fund defense, Social Security, Medicare, Medicaid, interest on the debt, civil service pensions, and veterans pensions, just fund those seven and do not cut spending, for the other 493 functions, eliminate them, eliminate the FBI, eliminate Congress, eliminate the judiciary, the Federal prison system, the Drug Enforcement Administration, agriculture programs, eliminate all of those and just fund seven, you still have a whopping deficit.

I wrote this man back and I said, President Bush wants to go to Mars. Do you know what that costs, Mr. President? Five hundred billion dollars. He says cut all that spending, but he wants to go to Mars. Five hundred billion for that. He wants a space station, and we just appropriated $1.2 billion last week to continue the space station.

Did you hear any of that debate? When we started in 1984, the space station was supposed to cost $8 billion. The conservative estimates today are $32 billion. The space station has gone up in estimated cost by 80 percent every year since 1984; worse than the B-2 ever thought about.

But the President wants it. I tell them they might write the President about the so-called superconductor super collider, that physicists want to discover the origin of matter. I must confess as a political science major and lawyer I am not curious about the origin of matter. But I am glad somebody else is. The super collider started out at $5 billion. It is now up to $12 billion, and it is barely on the drawing board. Those are all exotic things that I divinely wish that we could afford. But you tell me. Is this deficit which threatens the economic fabric of this great Nation more important than these nice curious things that we would like to know?

And the Swiss, and I believe the Japanese, and a couple of other countries, have a super collider of their own going in Switzerland. There is a very good possibility they will find the answers to these questions after we have spent about $10 billion or $15 billion but before we even complete construction of our facility.

So when we start talking about controlling spending, it always depends on the question of priorities. There are people in this Senate who are as sensitive as I am about their children, about the future of this Nation. I think about Philadelphia. In 1787 there was the greatest assemblage of minds ever in the history of the world. That is not just according to me. That is according to everybody.

I said on the floor the other day, and it bears repeating. Alfred North Whitehead, a great British philosopher, said that only twice in the history of the world has man set about to do something and came as close to succeeding as was possible. One was the reign of Caesar Augustus, and the other was the drafting of the U.S. Constitution.

What has happened? In 203 years, what has happened? How many of you watched "the Civil War" the other evening, that magnificent documentary by Ken Burns? I have always been a Civil War buff but I never really felt in the fiber of my body the feelings that both sides had. It had always been sort of a clinical observation with me. But seeing and hearing David McCullough narrate that program on the Civil War, I felt for the first time the chill, the exhilaration and the excitement. The South thought they were going to decimate the North overnight. The North thought the war would be over in 90 days. All of a sudden, at First Manassas the bodies were on the wagons, and blood was everywhere in full view of all the socialites from Washington who had gone out to watch this massacre.

If Robert E. Lee had been the Northern commander, the war would not have lasted a year.

The man from Illinois was almost a laughingstock in his hometown—tall, gangly, high-pitched voice—never succeeded at much of anything. Finally, he got himself elected President because everything was so confused. It was a chaotic situation that brought him to power. Think about the greatness of this man, steering this country through easily the most traumatic event in the history of this great Nation. And he held this Republic together. He even said he would accept slavery if that would preserve the Union.

Then I could name some other heroes, certainly one of which was Franklin Roosevelt. Harry S. Truman is another. Here at a time when we are trying to get bipartisan support, I think about what on Earth has happened to leadership in this great Nation?

I was dead wrong about Harry S. Truman. I was a student at the University of Arkansas when he was president. I was embarrassed by him. I was just a kid, just a youngster. He wore those steel rimmed glasses, plastered his hair down with Vaseline hair tonic, had a nasal twang voice, and could not coordinate his words with his hands to save his life.

When he called up a music critic who criticized Margaret's singing, he called him an SOB. I was a little embarrassed that the President of the United States would use a term like that. I could not believe it until my daughter was born, and then I understood exactly how old Harry felt. Think about how that man on the advice of George Marshall, Averall Harriman, Clark Clifford, and other people that he surrounded himself with decided to implement the Marshall plan. His advisers said, "Mr. President, Europe is going to go to the Communists. We have devastated Europe. They are our enemies but if we do not want them to go Communist, we have to give them some help."

Harry Truman did not waste 10 minutes in making one of the most monumental decisions ever made in the history of the world. Think about what rich dividends we are collecting off that right now. Eastern Europe has folded because they want to be like Western Europe. Western Europe is where it is because of the Marshall plan. And the Marshall plan was there because of Harry Truman, who left office with a lower approval rating than Richard Nixon had when he left office.

The PRESIDING OFFICER. The Chair informs the Senator from Arkansas that the time originally requested by him has expired.

Mr. BUMPERS. By about 30 minutes Mr. President. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I am sorry I took up so much time. There are some distinguished colleagues here who wish to speak.

I strongly urge all of my colleagues to not just look at a particular item that bothers them in this budget proposed. I can certainly understand why they could do that. Believe me, I understand it.

I just pointed out to you a moment ago what that first budget resolution would have done to my State. But we simply cannot allow this Nation to fall into a state of chaos and anarchy starting tomorrow morning at 7 o'clock because there was some little part of this that we did not like.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, will the Senator allow a 30-second observation? I mean it as a compliment to the Senator from Arkansas. Back in 1981 he was 1 of the 11 who had the foresight to vote against the fiscal runaway train that got us here. I compliment him for that.

I would also note that unpopular as that vote was at the time for those 11 Senators, 7 still serve here, and 4 are retired at a time when each one of them could have easily been reelected but simply retired from the Senate.

So the Senator from Arkansas was right then, and the Senator from Arkansas is right today.

Mr. BUMPERS. I thank the Senator very much for his kind remarks.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. We are in morning business at this time; is that correct?

The PRESIDING OFFICER. We are not. The Senator can make that request.

Mr. WIRTH. I ask unanimous consent to speak as in morning business for 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hearing none, it is so ordered.

Mr. WIRTH. If the leadership comes on the floor on the budget debate, we will move to that.

THE BUDGET

Mr. WIRTH. Over this last weekend, I had four airplane trips back and forth to Colorado. I flew out to Colorado on Friday night, had a very important speech there on Saturday morning, heard that we were going to vote in the Senate perhaps Saturday afternoon, flew back here and found there was not a vote, flew back to Colorado on Saturday night and came back early this morning for deliberations here this afternoon.

That comes with the turf. We all know the uncertainties of scheduling. I bring that up not for the purpose of saying that there is confusion about this, because we all knew about that, but rather to reflect on the fact that I saw an awful lot of people in a lot of different places over the last 72 hours. I cannot tell you how much hostility there is out there. I was asked over and over again, at the ticket counters, walking through airports, waiting outside, everywhere, "When are you all going to get your act together? When are you going to get together and make the decisions that have to be made for this country?" Mr. President, over and over again, they said, "for this country."

I was struck, as I had a lot of time on airplanes to think about this, to think about what we were doing and where we were going. I found myself musing on the Civil War drama that so many of us saw last week, in which it was very clear on both sides there was a tremendous sense of national resolve, a tremendous sense of shared value, a tremendous sense of purpose. People knew who they were, who their neighbor was, what ought to be done, and where we ought to go.

How familiar that drama was. And yet how far away, both in terms of being well over 100 years away, and how very different that is from today, in the distinct lack of shared values and lack of a shared national resolve.

The other time, coming closer to my own experience, is the post World War II era in which, again, we came out of that war victorious as a nation, but also with a tremendous sense of shared values, a tremendous sense of shared concern, a tremendous sense that we had national responsibilities to be fulfilled, and that those would require a significant amount of sacrifice.

In both of those situations we made that sacrifice, we reflected, and accurately worked upon that foundation as a Nation. How far we are from that today.

We are now engaged not in a great Civil War, but in a great battle, where we have allowed ourselves to become polarized on fundamental interpretations as to what we ought to be doing here.

On the one hand, there are those who say there is no way in the world that we can look at the crisis that we are currently in and deal with that with brevity. We cannot raise taxes, cannot move into the situation and pay for what we are voting to do. We cannot pay for the space station, cannot pay for Social Security, cannot pay for defense; just run up the deficit and do not pay for it.

Taxes are not on the table. We were told that we could not do anything like that; we were told 10 years ago. In fact, everything is going to be better off if we dramatically cut tax, taken away our ability to pay, which is a politically popular resolution, sounds good, if we say it fast enough, and we did at that point. But the chickens are coming home to roost.

While that is going on, we have, on the other hand, a sense that somehow the Government is going to pay for an endless number of programs, and we are going to index all of those, and there is going to be a sense of expectation that all is going to be met by the Federal Government. Do not worry about paying for it. But those programs are going to be ratcheted, retirement programs and medical programs, civil service programs, and all of these marching inexorably step by step by step, eating us alive. There are no revenues to pay for these, Mr. President, and no willingness to talk about them. And there is no stop to this endless escalation of programs and no willingness to talk about that either.

So we have this divergent approach in which one group is going this way, another that way, and we compound the problem by saying we are going to spend enormous amounts of money on defense.

So the problem is getting worse and worse and worse, and that is where we are today. The result of this is this huge budget deficit that we are now facing, and suddenly reality is coming home, and reality that many of us predicted in 1981, when we began to move in this direction. That reality is now coming home. The deficit has increased from $1 trillion in 1980—and it took us 200 years to build up that deficit, $1 trillion in 1980—to $3.5 trillion now. We have tripled, in a decade, the deficit of the United States. Interest on that deficit is escalating just as rapidly.

Those who warned us of that were told that was anti-American, antifree enterprise. But the drift has gone on for the last decade. The debt has gone up. Interest on the debt is now the second largest item in the Federal budget.

Our dependence on foreign capital has increased dramatically in a very dangerous way. Foreign ownership is gnawing away at a whole part of America. We can continue to sell off America to pay this debt, but that is very poisonous for our future.

Research and development has declined. Certainly our ability to invest in ourselves has gone away. We are all familiar with the horrors of the S&L scandal, when we said we could deregulate industries, get the Government off their back. That is costing us hundreds of billions of dollars.

I hope, behind that, the reality does not set in on the insurance system, or the banking system, and that we do not have a similar kind of problem.

In addition to these check problems, the other issues are right out there everybody is familiar with, if we are willing to address them. The gap between

rich and poor is greater today in the United States than ever in our Nation's history. The percentage of wealth controlled by a few at the top, is greater than it has ever been before, and that gap is growing and getting worse, and with that, we are inviting social dynamite and severe problems.

The drug issues pervade our cities and the country. Education remains unattended, as it ought to be attended. It ought to be looked at, our very survival depending upon the opportunities we give to people in this society, and our ability to compete with people all around in an increasing global economy.

I have very deep concerns about this, Mr. President. Our country appears to me to be in a drift on all of these accounts. We are being asked now to finally cope with it, finally in this resolution to think about what we want to do.

I was asked on all of those trips, "What are you doing for the country, for our country; what kind of national decisions have to be made?" That is what we are up to now. We are down a slick log, Mr. President. That is going to happen within the next few hours, as we vote on this budget resolution, which I desperately hope that we support. We should do it. I would have voted for the earlier budget resolution, Mr. President, had that come over here from the House. I have consistently voted for these as a member of the Budget Committee and will continue to do so, to try to move down this deficit.

Finally, Mr. President, I started with reference to where we were in the Civil War in a sense of national resolve, where we were after World War II in a sense of national resolve. Again, we want to learn from history, Mr. President.

Let me close by citing a piece written by Paul Kennedy, a Dilworth professor of history at Yale, who wrote a book that had a great impact on the country a couple years ago, "The Rise and Fall of the Great Power." He reminds us about the need to attend to the fabric of our own economic health, not to neglect it. Let us learn from history. In commenting about the situation in the Middle East, Mr. Kennedy wrote in the London Times earlier last month:

> Yet this focus on military capability, or on national will-power, may obscure rather than illuminate the larger question of America's real position in world affairs and the critically important, non-military dimensions of national power. If we allow this to happen, we will be repeating the blindness of many earlier great powers engaged in large-scale military operations abroad.
>
> Consider, for example, Spain's decision in 1634 to send a powerful army into Germany to join its beleaguered Austrian Habsburg cousins during the Thirty Years War. Its infantry and generals were first-rate, its deployment (from Spain, via Milan, the Alps, the upper Rhine) swift and professional, its troops moving to the battlefront from a wide array of Spanish bases and possessions.
>
> No other European nation at the time could equal such force projection; Spain, it was clear, was still number one militarily. Yet in the non-military dimensions of power it was beginning to sag badly: massive debts, inefficient industries, reliance on foreign manufacturers, vested interests that debilitated rather than strengthened.
>
> Little attention was paid to those features in the excitement of watching the glittering Spanish battalions pour into the Rhineland. By the 1640's, however, the suspension of interest payments and declarations of bankruptcy by Spanish kings revealed the decline of Spanish power.
>
> Or consider the stupendous British force projection in the South African war, 6,000 miles from home, at the turn of the century. Before that war was won, the British had poured in more than 300,000 troops from all over the globe—India, the Near East, Australia, Canada and Britain itself. Simultaneously, the Royal Navy controlled the sea lanes: British cable communications had a world-wide monoploy; no other contemporary power could equal its global position.
>
> In the upsurge of British patriotism, however, it was easy to forget the other part of the story: the inadequate educational system, the meagre levels of investment, industry's growing uncompetitiveness, the vast trade deficit in manufactured goods. Those weaknesses would one day cause the collapse of British power.
>
> Is there a lesson here for the US? Many will doubtless claim that America in 1990 is not like Spain in 1634 on Britain in 1900. (And they will be right: no two countries in history are ever alike.) But that misses the basic point, which is that to remain number one generation after generation requires not just military capability, not just national will, but a flourishing and efficient economic base on which the nation's military strength ultimately rests.

The lessons of history have to be there for us and they are right in front of us today. The vote that we have and our willingness to start the process of making the difficult decisions on this deficit are going to be with us right now.

I hope we pass this resolution, and this is going to be easy tonight, Mr. President; this is an easy decision. We just are setting overall targets in this budget resolution. This is easy. Then we have to enforce it with very specific pieces of legislation related to raising taxes, related to moving in on entitlement programs, dramatically, and I hope more than in this resolution, cutting defense spending; less on defense and more on education, which I think is part of what this ought to be all about.

Those are the more difficult decisions we have to make, and we have to get on with those, as well, not, I would hope, concerning ourselves with what that poll might be, but doing what people asked me as I went across the country over this last weekend, asked me over and over again, "What are you doing for the country?"

For the country, we must support this budget resolution. We must get on with this process. If we do not, we have reason to suspect that the American public is reacting and should react in a very dramatic way to what is going on here.

Thank you very much for your courtesy, Mr. President.

I ask unanimous consent that the full article by Professor Kennedy be printed after my remarks in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the London Times, Sept. 1, 1990]

DISPLAY OF MIGHT, BUT A GULF WITH THE POWER THAT COUNTS

(By Paul Kennedy)

Among the responses to the Kuwait crisis in the American media and among strategic analysts, one of the more prominent has been a sense of satisfaction at the rapid projection of US military force halfway across the globe. After all the worrying talk of decline, it is clear once again that only America has the capacity to dispatch large military forces to Saudi Arabia, to deter further Iraqi aggression and preserve international order.

By comparison, the Germans and Japanese, touted as the new economic superpowers, have failed the basic test; the European Community has again displayed the weaknesses of not being a unitary state; a weakened Soviet Union is playing a marginal role.

America is still number one, the actor dominating the world's stage. Far from displaying imperial overstretch, it has robustly demonstrated its quasi-imperial power. The only worry at present is whether the American public has the will to support a conflict that might be long and bloody.

Yet this focus on military capability, or on national willpower, may obscure rather than illuminate the larger question of America's real position in world affairs and the critically important, non-military dimensions of national power. If we allow this to happen, we will be repeating the blindness of many earlier great powers engaged in large-scale military operations abroad.

Consider, for example, Spain's decision in 1634 to send a powerful army into Germany to join its beleaguered Austrian Habsburg cousins during the Thirty Years War. Its infantry and generals were first-rate, its deployment (from Spain, via Milan, the Alps, the upper Rhine) swift and professional, its troops moving to the battlefront from a wide array of Spanish bases and possessions.

No other European nation at the time could equal such force projection; Spain, it was clear, was still number one militarily. Yet in the non-military dimensions of power it was beginning to sag badly, massive debts, inefficient industries, reliance on foreign manufactures, vested interests that debiliated rather than strengthened.

Little attention was paid to those features in the excitement of watching the glittering Spanish battalions pour in the Rhineland. By the 1640s, however, the suspension of interest payments and declarations of bankruptcy by Spanish kings revealed the decline of Spanish power.

Or consider the stupendous British force projection in the South African war. 6,000 miles from home, at the turn of the century. Before that war was won the British had poured in more than 300,000 troops from all

over the globe—India, the Near East, Austrialia, Canada and Britain itself. Simultaneously, the Royal Navy controlled the sea lanes: British cable communications had a world-wide monopoly; no other contemporary power could equal its global position.

In the upsurge of British patriotism, however, it was easy to forget the other part of the story; the inadequate educational system, the meagre levels of investment, industry's growing uncompetitiveness, the vast trade deficit in manufactured goods. Those weaknesses would one day cause the collapse of British power.

Is there a lesson here for the US? Many will doubtless claim that America in 1990 is not like Spain in 1634 or Britain in 1900. (And they will be right; not two countries in history are ever alike.) But that misses the basic point, which is that to remain number one generation after generation requires not just military capability, not just national will, but a flourising and efficient economic base on which the nation's military strength ultimately rests.

This, then, is the larger irony of President Bush's bold commitment of strong American forces to Saudi Arabia. The cause may be just, the deployment impressive and the actual fighting by US forces—if it comes to that—may demonstrate efficiency and resolve. But all this will divert national attention, energies and resources from dealing with America's growing fiscal, technological and educational weaknesses. Mr. Bush, like Philip IV of Spain, prefers the glorious role of commander-in-chief to haggling over budget deficits; and much of the American media reflects that inclination.

The most significant news item of recent weeks, however, was not datelined Baghdad or Kennebunkport but appeared on an inside page of The Wall Street Journal on August 21. It reported that next year's budget deficit will almost certainly be the largest in American history, between $250 billion and $300 billion.

The cost of the military deployment (estimated by some to reach $1.5 billion before October, even if no shots are fired), the likelihood of smaller cuts in overall defence spending (or none at all), the difficulty of raising the tax on petrol, the economic slowdown and consequent fall in revenues, will all weaken America's fiscal position. In consequence, the article concluded, the cuts in government spending authorised by the Gramm-Rudman budget law probably will likely be cancelled by legislation later this year.

Is it any surprise that the dollar's value has been sagging, the stock market tumbling, and voices are heard demanding that superrich Japan and Germany help pay the spiralling cost of America's force projection?

The United States may get out of the Gulf quite soon without serious fighting and cost. On the other hand, it may be dragged into a long and expensive stay in the Arab world which, whatever the military outcome and popular mood, will certainly worsen its fiscal position and make it increasingly dependent on foreign capital, as happened to Britain when it lingered too long east of Aden until the Suez crisis.

For that reason alone, it may be premature to dismiss Tokyo and Bonn as being relegated to the margins of world affairs. Imperial overstretch has rarely occurred because a great power had too little military force; on the contrary, it was likely still to possess massive forces and at times to deploy them a along way from home. The real problem, it seems has not been the force-projection capabilities of the current number one, but a failure to recognize that long-term wealth and strength depend on the non-military dimensions of national power and on making hard political decisions on the home front.

The emperors, kings, prime ministers and presidents of great powers have always preferred the heady world of diplomacy, war and international affairs to the unglamorous realm of fiscal reform, educational change and domestic renewal. That is understandable, since they will go down in history as leaders of this or that spectacular demonstration of the country's still-powerful military capacity. It is left to later generations to pay the price.

Mr. WIRTH. I yield the floor, and I thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. LOTT], is recognized.

Mr. LOTT. Mr. President, I ask unanimous consent to address the Senate as if in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET RESOLUTION

Mr. LOTT. Mr. President, as we wait for the leadership to bring forward the budget resolution, rather than delivering my thoughts on the subject later on tonight, I thought I would go ahead and do it now and maybe save the Members a little time later on.

First, I would like to comment on the fact that this is a so-called bipartisan leadership agreement with the support of the President. I emphasize that I think the leadership has tried very hard to come up with a package that is reasonable and one that could pass. It is tough being in leadership.

One of the criticisms of the leadership, both in the administration and the Congress now, is that they went on over the hill and did not look back to see if the troops were with them. That is probably true.

When you are in the leadership position and you are on top of the mountain—at the summit—lightning always strikes first at the top. I think that is probably what happened here. They were doing the best they could, but they came up with a package that the rank and file American people and rank and file Members of the House and Senate just could not support.

I do no intend for my remarks to be construed as being critical of our leadership on either side of the aisle. I think they have done a good job in view of their respective, very difficult positions.

A moment ago, somebody referred to the fact that this may have been caused by the 1981 fiscal runaway train. As a matter of fact, the absolute reverse is the case. In 1981 we passed budget resolutions then known as Gramm-Latta that actually cut spending, and that was probably the last time the Congress voted to cut spending—9 years ago.

It is very popular around here to talk about the fact that, when in 1981 we cut taxes a little bit on people, that contributed to the problems we had in the eighties. As a matter of fact, the eighties were pretty good; and as a matter of fact, I still do not accept the argument that when you allow the people to keep some of their own money in their own pockets, that is bad for the economy. I think the reverse is true.

I just had to refer to this fiscal runaway train. It was one of the few times we really showed any fiscal restraint around here.

The problem with this budget agreement still is basically simple. It is fundamentally a tax package, a tax increase package. Everybody says it; it is trite, but I repeat it: Only inside the beltway, around Washington, DC, and in the news media here in this city, in the Washington Post, and by some commentators, do they say, "Oh, the people are undertaxed."

Go out in the real world and ask the people, whether it is in Mississippi, Montana, Nevada, or Maine, "Are you undertaxed?" Look at all the taxes they have to pay and ask the people across the country, "What is the solution to the budget deficit?" and they will tell you, "There is too much spending. Do not tax me any more."

We get into these arcane discussions around here. Let us burst the bubble; do this, do that. The average people out there, the people working, paying the taxes, do not understand all the nuances. They ask very simply. "Is it going to cost us more in taxes or not?" If the answer is more taxes, they say, "That is not the way to solve the problem."

The reason the budget agreement went down in the House is because the American people spoke to their Representatives in the Congress—Democrats and Republicans—and said, "Reject this thing, because it is going to hit the average working, taxpaying person too hard."

Gasoline tax is a classic example. Gasoline taxes hit everybody, and they hit especially hard the low-income, middle-income, working people. Then we see in the Washington Post this morning, once again, talk about exempting home heating fuel that affects the ability to stay warm. What do you think they do in Mississippi and Texas when they have to pay 12 cents a gallon or 10 cents a gallon more? When you look at what has happened over the last 6 weeks, it could lead to a situation where people in all parts of the country cannot stay warm.

If we are going to have a petroleum fee, it has to be across the board. It has to hit Maine just like it hits

Texas. So I hope that exemption would not be put into place.

If you ask the people—and I understand there is a poll out right now—ask the people again, "Where do you want to control this deficit; how do you want to do it?" the response comes back with 83 to 12 percent of the people saying cut spending.

My colleagues will get up on the floor of the Senate and say, "Where would you cut?" I respond, how about everywhere? How about a hard freeze? As a matter of fact, if we would just have a hard freeze on domestic discretionary nondefense spending in the first year, we would save $6 billion. We could even allow for a nominal increase from 1991 through 1995, and that would save $3 billion.

But in the budget package that they tried to get through the House of Representatives, they had cuts in defense, not cuts in international accounts, no cuts in domestic discretionary accounts. As a matter of fact, it had increases.

Let us talk about this package we have before us now. This is one that has been described as a shell—fill it in any way you want to—or a blank check. I have heard it described as a prism. You can show it this way to one group, and they see one thing. Turn around and show it that way to a different group, and it shows another thing.

What they have done is take anything controversial—whether a gasoline tax or Medicare or anything else—and say that is not in there. We are going to leave a plug and let the Ways and Means Committee figure out whether it is going to be Medicare costs for Medicare recipients, or going to be a tax increase. So you can see what you want to see or not to see what you do not want to see. That is what is in the package. Now we have a budget resolution that is a ghost resolution.

We are going to be told: Let the process work. I have used that argument. I have bought that argument. Yes, let us move the process along, vote for this budget resolution, and then we will be told a week from now we have to vote for the reconciliation package because we voted for the budget resolution. They are going to have to come up with a better argument than just moving the process along.

Let me assure everyone that when the Ways and Means Committee in the other body gets through with the budget resolution, when they develop the reconciliation, it is going to be more tax, not less. And they have a long track record. I have watched them for years, now. Frankly, I have a little more faith in the Finance Committee here in the Senate. I believe that the chairman of the committee will try very hard in the Senate to keep home heating fuel from being exempted.

But when the smoke clears, what they are going to have to do is again look for tax increases. We have jumped that hurdle here in the Senate and in Washington. We have quit arguing over where should we cut spending. We have all gotten to the point now of identifying which taxes we are going to find acceptable.

That is the fundamental flaw. We are looking for more and more taxes, whether it is gasoline taxes—or call them fees. We have a whole long list.

I urge my colleagues to look at the budget resolution, look at the numbers in here. Each committee is told, here is a number, find it. On reconciliation, we are going to tell the various committees, you go out and find your numbers.

Let us just take one committee, the House Committee on Post Office and Civil Service. We tell them to come up with a deficit reduction of $2.165 billion for fiscal year 1991. Anybody here believe they are really going to get that? Look at their past record. The last time they were instructed to come up with a reduction of savings in the deficit, I think the record will show they ignored it. They just said we are not going to do that.

Is the leadership going to roll all these various chairmen in the House and the Senate? Who are we kidding? It does not work that way. So the number we are told we are going to get in the reconciliation from the various committees, that is just a joke. We are not going to get these real savings. And all you have in this budget resolution is a long list of numbers that are hard to even explain.

So, we are counting on the committees to do the job for us. We are just going to move the process along. I do not think this is going to produce any savings. I think all it is going to do is produce more tax increases.

Now some people will say, all right what is your package? I guess you could come up with 100 different packages right here in the U.S. Senate. But just in case anybody would like to see one, I have one. I have one right here that will save $6 billion in nondefense discretionary spending. It would take Chairman NUNN'S numbers on defense, that is $10 billion savings; it would take $10.7 billion out of entitlements, and I can even specify where those savings would come from, and it would provide for $16 billion in revenue. I still think that is a wrong way to go, but if you want a package that we can consider, I have got numbers here that we could work on.

I urge my colleagues to vote against this shell of a budget resolution. I might go along with a continuing resolution, but I would like for it to be a shorter one. That way, the pressure will stay on the Congress to do its job and not come down to the wire on October 19, right up against the deadline, when once again we'll be told we have to take this thing whole hog, take it or the Government will be shut down again.

I predict that on October 19, that is what we will be doing. Taking reconciliation just like it is, so that we can go home. I think we ought to at least back date up to the 15th. If we are going to have another drop-dead date, it would better to be the 15th than the 19th. If we do that, I would take another look at the continuing resolution.

I am glad to yield to the distinguished Senator from Colorado.

Mr. ARMSTRONG. I have been listening to the distinguished Senator from Mississippi. I wonder if he would yield for a question.

Mr. LOTT. I am glad to yield.

Mr. ARMSTRONG. I heard a moment ago the Senator's reference to the savings which are directed by this budget resolution to the Committee on Post Office and Civil Service.

The PRESIDING OFFICER. The Chair would inform the Senator from Mississippi, who has the floor, that his time has expired.

Mr. LOTT. I ask unanimous consent to have 2 additional minutes so I could respond to the question of the Senator from Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. The Senator was commenting that he was not sure that savings of the magitude that had been suggested could actually be achieved and, in fact, if I understand his comment correctly, he was asking how in the world could they do that, particularly when it came to the post office.

I just wanted to tell him that we have done a little research on this and I think the essence of at least the $489 million in savings is that they are going to have the post office, which is now off-budget—we took it off-budget last year as part of the reform—they are now going to have this off-budget activity write a check for $489 million to the Government, which would put it back on budget. So at least that portion of it you can be sure will not be a real savings, will not be any reduction in the general level of expenditures. It will just be a bookkeeping trick.

If you look through this at several places, you have the same reason for skepticism. In fact, as you look at the proposal to pick up $9 billion as a result of enhanced enforcement by the IRS, all that means is that we are going to hire a few more IRS agents, and I suppose that it will bring in an extra $9 billion. We could as easily, I suppose, have said $19 billion or $29 billion or any other number, because it is just a supposition.

It is the same thing, if I could just sum up, as we once had around here, which was the magic asterisk. I do not know if the Senator remembers that, but it was just where we plugged in a number because it helped us achieve a total. If you look carefully at the proposed savings in the budget resolution, there are a lot of asterisks, or little places where we may have assumed things that may or may not pan out.

Mr. LOTT. You could probably call this budget resolution an asterisk. In a sense the original proposal for the specifics went down. Now they are saying we are going to take everything from the House, just vote to move the process along, and we will let the Ways and Means Committee and the Post Office and Civil Service Committee—and I am not picking on that one committee—fill in the blanks. This is one great big asterisk.

While I was not inclined to vote for the earlier agreement, I am even less inclined to vote for this because I have no idea what it means or what it is going to lead to. And if I vote for it, then I am going to be told I have an obligation to vote on the whole reconciliation package.

Mr. ARMSTRONG. What does the Senator think of the argument that is made in support of the budget resolution that, after all, we are not shooting with real bullets; it does not really change anything; it does not have any effect on subsequent legislation; therefore, this is virtually a ministerial act; it really does not count and should not be taken seriously?

Mr. LOTT. There is no question that Congress is firing with blanks. This is not a blank. This is real because we are going to have to pay the price with increased taxes.

Since there is another Senator waiting for time to speak, I yield the floor at this time, Mr. President.

(Applause in the galleries.)

The PRESIDING OFFICER. The Chair would inform spectators in the gallery that it is contrary to the rules of the U.S. Senate for spectators in the gallery to express either approval or disapproval of the remarks of any Senator on the floor, and if there is a further outbreak, the Chair will have to direct the Sergeant at Arms to take appropriate action.

The Chair recognizes the Senator from North Dakota [Mr. CONRAD].

THE DEFICIT

Mr. CONRAD. Mr. President, as the occupant of the Chair knows, in the last several days I have been on the floor arguing strongly against the summit agreement for deficit reduction. I argued strongly against it because I did not feel that agreement was fair. It was not fair to the middle class in this country; was not fair to the elderly sick; was not fair to the farmers of this country; was not fair regionally. It should have been rejected and has been rejected and should not come back.

Mr. President, I thought I would take the floor today to talk a little bit about how we got here. How do we find ourselves in such a difficult situation as we face today with deep disagreement in this Chamber and in the other Chamber not only between parties but among Members of the same party and between those of us on Capitol Hill and the White House?

I brought some charts along to show what has happened in the last 10 years. Very briefly let me review these charts with my colleagues.

The first one shows the trend of Federal spending and revenue from 1980 through 1991. Mr. President, the top line is the spending line, a steady increase over this 11-year period. The bottom line is the revenue line. And that shows a dramatic turn, because in 1981 the Congress passed a tax bill that dramaticaly cut taxes in this country. The result of that combination of increased spending, constant trend line up, and that dramatic tax reduction was that deficits exploded in this country. Deficits tripled on a yearly basis and more. The result of those increasing deficits was the Federal deficit in this country grew like a cancer.

This chart shows the growth in the national debt from less than $1 trillion when Ronald Reagan came into office to over $3 trillion today, and headed for $4 trillion.

At the same time we saw this dramatic increase in the Federal debt, we also saw the opening up of an enormous chasm in the trade deficit of this country. The United States went from being a country that ran trade surpluses to a country that ran enormous trade deficits.

Those budget deficits and trade deficits are related. One helps cause the other. As Federal deficits go up, interest rates go up, and that makes us less competitive. The trade deficit opened up so the trade deficit in 1989 was greater than the total of all the trade surpluses accumulated since the end of World War II. The result of that pattern was the United States went from being the largest creditor nation in the world, as recently as 1981, to now being the largest debtor nation in the world. The largest creditors, more countries owing us more money as recently as 1981 to now being the largest debtor nation. More countries owed us money than any other country in the world. We now owe an external debt of over $650 billion. That, Mr. President, suggests economic decline.

And, while we have seen this pattern, I think it is also instructive to look at what has happened in the tax burden in this country because one of my strongest objections to the summit agreement was that it was not favorable and not fair to the middle-income earners in this country.

Mr. President, this chart shows the annual change in taxes from 1977 to 1990. The tax changes are expressed in billions of dollars and it is expressed in terms of equal one-fifth categories of American taxpayers. So the lowest one-fifth have had a modest tax increase in this country; the second one-fifth a tax increase; the third one-fifth a tax increase, the fourth one-fifth a tax increase. The very top here is the top 1 percent in our country; the top 1 percent. What have they experienced? A dramatic tax reduction.

Mr. President, at the very time the wealthiest 1 percent have enjoyed a massive tax reduction we can also look to this chart which shows what has happened to the change in real income as well as Federal tax rates by the various categories in our society. This chart, too, is very revealing. It shows, again, that the lowest one-fifth have had a negative real income change and a modest tax rate change. The middle one-fifth, very modest real income change and a modest increase in taxes. The richest one-fifth, a dramatic increase in real income, over 25 percent and a modest tax reduction.

But look at the richest 1 percent among us. They have enjoyed real income increase of over 90 percent and their tax burden has reduced. Mr. President, that is not fair and that is why I among others so strongly objected to the package that was put before us that increased the income taxes, or the tax burden, I should say, on the middle-income people of this country, at double the rate of increase of the richest among us.

That was not fair. And it was rejected, and rejected overwhelmingly because the people of this country are pretty darned smart. They knew that package was not fair. They knew it should be rejected, and it was.

Mr. President, there is another area that is not fair either. This time it is on the spending side. Because, for too long, Mr. President, we have been paying the bills for Europe and Japan even when we cannot pay our own bills—$100 billion a year for Europe, $50 billion a year for Japan. And we have to borrow the money from them to do it. What sense does that make? Yet we continue the pattern. Pay Europe's bills; pay Japan's bills. And then wonder why we have a massive increase in the deficit here at home.

I looked back in my files for an article that appeared in the Economist. The Economist is a distinguished journal published abroad. This came from July 1987. Let me quote from that issue. They are suggesting that Europe ought to pay more of their own defense. Here is what they say:

Why is that so desirable? Not just for the reason usually given that 240 million Americans with an income at about a bit over $4 trillion do not see why 374 billion Europeans with nearly $3.5 trillion should need 300,000 American servicemen and about $100 billion a year of the American defense budget to guard them, giving nothing in reply except the cheery explanation that Europe is worth every penny of it.

Mr. President, Europe may be worth every penny of it, but they ought to be their pennies. They ought to be their dollars. It ought to be their contribution to their defense and we ought to say in this country that we are responsible for our defense and we are ready to meet that challenge. But we cannot continue to pay the bills for Europe and Japan when we cannot pay our own. And we cannot continue to pay the bills for Europe and Japan when we have to borrow the money from them to do it. That way lies weakness, not strength.

I have long believed, Mr. President, that the greatest threat to America's security is our economic vulnerability, and what could be more clear in these last 72 hours, as we have watched a great nation brought to its knees, its Government closed, its most sacred monuments and memorials closed, because we cannot pay our own bills.

It is time for change. It is time to say to the wealthiest among us: You have to pay more. You have to take more of this load. And it is time to say to our friends in Europe and Japan. It is time for you to pay your own bills, we cannot afford to do it any longer.

I believe those are fundamental principles against which any final resolution of this budget imbroglio should be measured. This budget resolution is not the final test. This budget resolution is simply guidelines about trying to achieve $500 billion of deficit reduction over the next 5 years. The details come later.

Mr. President, when we have the details they better meet these tests because the American people are smart, they know there is a problem. They do not know the precise numbers but they know there is trouble. They see the storm clouds on the horizon and they want it resolved.

They want this body and the other body and the President of the United States to face up to the challenge that we confront. No coverup, no phony estimates, no feel good programs, but for once: Truth and honesty. I am convinced if we go to the American people and are straight with them, they will support the hard choices that need to be made.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. Mr. President, I ask unanimous consent I be permitted to speak for 10 minutes as in morning busines.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET RESOLUTION

Mr. GORTON. Mr. President, on Monday last, I stood before this Senate and was among the first to endorse the budget resolution which resulted from several months of negotiations involving leadership of both parties and this body and in the House of Representatives and the President of the United States. I agreed to that support not because it proposed a solution which I regarded as ideal, but because it did seem to represent a broad cross-section; it did spread the very real pain of attempting to save some $500 billion over a 5-year period from the deficit and because it called for strong, in fact, unprecedented enforcement mechanisms.

Within the 24 hours or so after I made those remarks, the President of the United States asked for public support for the bill, and the majority leaders, both of this body and of the House of Representatives, mildly endorsed a proposal in the drafting of which they had played a major role but essentially denounced it as unbalanced and unfair.

From that point on, almost all possibility of a broad bipartisan agreement unraveled. The Speaker of the House of Representatives and I believe the majority leader here said, if it is passed, the committees will work their will on it and it will change in some form in the way in which it was adopted by the summit agreement. That, because of the nature of the majority in both Houses, was not calculated to bring Members of the Republican Party into agreement with the proposal and the result we already know. Neither Republicans nor Democrats in the House were willing to give that proposal a majority of their votes.

On the next morning the most thoughtful suggestion which I heard mentioned came from the distinguished junior Senator from Texas [Mr. GRAMM] who said he felt that the next step in this process must be three fundamental goals:

First, it must reach the deficit reduction goals of the first proposal; that is to say, $40 billion in the first year, and $500 billion during the course of 5 years.

Second, it must be different from the proposal which was rejected and be perceived both in the Congress and in the country as being different.

And third, the Senator from Texas said that he felt strongly that it must be in a form which was regarded by both Republicans and Democrats as being more favorable to the causes which they sought, perhaps the most difficult of those three goals to reach.

In any event, when the President's veto of the continuing resolution was upheld in the House, that forced quick action with respect to another budget resolution. The majority party of the House drafted such a resolution and agreed to it last night.

Mr. President, that resolution met two of the three goals which the Senator from Texas set out. It meets the same goals with respect to budget deficit reduction and it is perceived to be different. It does not, however, meet the third of those goals. It was drafted by Democrats, largely in favor of Democratic positions.

It has two major differences, as I see it, from the one which was defeated in the House of Representatives last Thursday. The first is that it has few of the specifics which were a part of the statement of managers in connection with the first budget resolution. In other words, it leaves these generalized goals to the Ways and Means Committee, primarily in the House of Representatives, and the Finance Committee in this body. It is in that respect that I find it particularly troubling.

I am reminded of the line from Hamlet, Mr. President, and I find myself in the position of preferring to "bear those ills we have and fly to others that we know not of." I knew, whether I like it or not, what was in that first budget resolution and what it meant. I do not know what this budget resolution will lead to, and it is largely out of the control of the party of which I am a party.

The second major difference is that it gives each of those committees $20 billion in unspecified savings. In theory, of course, that $10 billion, which is taken out of entitlement savings and $10 billion out of tax increases, could be used to increase the amount of spending discipline which we had imposed on the Congress and on the country. As a matter of fact, we almost all know that what will happen is there will be $10 billion less in budget discipline and $10 billion over this 5-year period more in taxes.

Mr. President, I do not regard that at this point as a satisfactory solution and, therefore, will be among those who favored or would have voted for last week's solution and will not vote for this one this evening.

I may say, Mr. President, that that is a fairly close question. Certainly, this budget resolution creates a pattern which can allow for a responsible and balanced approach on the part of both of those distinguished committees and on the part of the House of Representatives and the Senate. It might lead to a good, effective, and enforceable reconciliation bill which will be balanced between tax increases, other forms of revenue and spending discipline. It may lead to a way in which the plan

which it has for 5 years can effectively be enforced. It it does so, I will intend to support the much more difficult proposition of voting for a reconciliation bill which actually meets those goals in a way which is satisfactory to the President and I hope to a majority of Members of both of those parties.

At this point, however, the downside risk of turning this over, most particularly to the Ways and Means Committee in the House of Representatives, is not one which I wish to take. I believe that there is a legitimate fear that this budget resolution will result in more taxes and less spending discipline, and I believe that this is exactly what the people of the United States do not wish.

As a consequence, Mr. President, I intend to vote against this budget resolution with the hope that I am proven to be in error by the actions of the Ways and Means Committee, the House of Representatives, the Finance Committee and this body. And if I am, when the reconciliation bill appears on the floor for debate here, I will be happy to acknowledge it and to support a proposal which will at least begin to get us out of the fiscal mess that we find ourselves in at the present time and on the road to fiscal sanity.

Mr. BOSCHWITZ. Will the Senator from Washington yield?

Mr. GORTON. I will be happy to.

Mr. BOSCHWITZ. Let me ask the Senator, as my colleague knows, I just returned by plane from Minnesota and I noticed in the summary I received, there is $20 billion more in unspecified but reconciled reduction. The Senator says he is concerned that will be $10 billion more, cut $10 billion more in revenue that are not presently——

Mr. GORTON. Not quite, I say to my friend from Minnesota. I fear what I read in the newspaper and hear from the House of Representatives that it will mean $10 billion more in taxes and $10 billion more in spending. That is to say $10 billion less in spending discipline.

Mr. BOSCHWITZ. But then the $20 billion will not be the reconciled dificit; reduction will not be met.

Mr. GORTON. Yes, it will be. What I understand the leadership of the House to believe is that they will be required to reconcile $10 billion less in spending reductions in the entitlement field and match it by $10 billion more in taxes.

That is what the $20 billion in unspecified is; $10 billion comes from the tax side, $10 billion comes from the spending side. So all they need to do is add $20 billion in taxes and they will have accomplished the goal I have just outlined.

Mr. BOSCHWITZ. But the summary that I received also states, "Gross revenues will not exceed those in the summit agreement." Is that not correct?

Mr. GORTON. That is also correct. It is also deceptive because gross revenues in the budget summit included some $150 billion in new taxes against which somewhere between $12 billion and $15 billion or $18 billion of tax goodies, of new preferences—remember, the investment incentives were to be subtracted, so that the net of new taxes was approximately $130 billion. So it is very easy for the Ways and Means Committee in the House to strike all of those incentives—incidentally, I believe they should be stricken—but to add $20 billion to the taxes authorized here, still stay under the $150 billion gross but have a net increase in taxes of $10 billion over and above what the net of the earlier budget agreement called for.

Mr. BOSCHWITZ. So that the net revenues before were about $138 billion.

Mr. GORTON. About $130 billion, I believe. But in any event they will be $10 billion higher than that.

Mr. BOSCHWITZ. There was $14 billion more than that in some preferences that were added including that whole small business package.

Mr. GORTON. The Senator is correct.

Mr. BOSCHWITZ. So the word "gross" is the operative word in that particular regard.

Mr. GORTON. That is correct.

Mr. BOSCHWITZ. I thank the Senator. It looks like it followed the budget agreement that the Senator and I in our discussions would have voted for, but this one has departed from it in a way that is not readily noted from the description.

Mr. GORTON. It does. As I said in my own remarks, this is broad enough so that it could permit an ultimate reconciliation package which would be quite consistent with what the distinguished Senator from Minnesota and I supported a week ago today. The problem is it also could be very, very different from that proposal.

Mr. BOSCHWITZ. The Senator from Washington is somewhat apprehensive about such a reconciliation bill starting in the Ways and Means Committee of the House, I gather.

Mr. GORTON. The Senator from Washington is extremely apprehensive about the prospects there.

Mr. BOSCHWITZ. I share the apprehension. I thank the Senator.

Mr. GORTON. Mr. President, I yield the floor.

BUDGET NEGOTIATIONS

Mr. MITCHELL. Mr. President and Members of the Senate, as I announced earlier in the day, it had been my hope that we could proceed to consideration of the budget conference report at or shortly after 2:30 p.m. this afternoon. As is obvious, it now being some 4 hours later than that and we not having formally gone to the budget conference report, I was unable to gain consent to do that.

In the interim, however, two things have occurred. We have had a number of discussions among the leaders on the Budget Committee, the chairman and ranking member and others and I, with the distinguished Republican leader, in an effort to reach an agreement on the handling of the conference report and the continuing resolution in such a way that might ultimately reduce the amount of time that would otherwise have been consumed in consideration of those two measures.

In addition, I note that a number of Senators have made statements as though we were on the budget resolution, and it is my fervent hope that when we get to it, informative as those statements were, Senators will not make the same or similar statements again.

Mr. GORTON. Will the majority leader yield?

Mr. MITCHELL. Yes, I am pleased to yield.

Mr. GORTON. It was exactly for that purpose that this Senator spoke, and the distinguished Senator from Mississippi. The time which I had informally reserved has now been utilized, and we recognized that and hoped that we could reduce the time for debate after we had formally laid down the budget resolution.

Mr. MITCHELL. I thank my colleague for his cooperation in that regard, and I encourage all other Senators who have expressed an intention to speak when we get to the budget resolution to use this period of time to do so and then permit a reduction in time formally allocated to the resolution when we get to it, which I continue to hope will be shortly.

Having said I hoped to go to it at 2:30 and it now being 6:30, my hopes and expectations are not much to rely on for Members of the Senate, but I am an eternal optimist. I sincerely hope we are going to be able to resolve the matter in a way that we ultimately save time for all and permit us to complete action on both measures promptly.

That being the case, I am not able to say we are there yet. I conclude by saying it is incumbent upon the Senate to act on these measures today. We are not just dealing with numbers. We are not just dealing with what we call programs. We are dealing with individual human beings and their families and their hopes and fears and concerns.

It is our responsibility as public officials to act and act in what I hope will be a prompt and decisive manner to approve the budget resolution to

permit us to go forward in an attempt to develop a responsible, fair, and meaningful legislative package that will reduce the deficit.

The first step to that, the essential first step, is to pass the budget resolution. This is the time of the baseball playoffs, and to use a baseball analogy, you cannot score until you get to first base. The budget resolution is the means by which we get to first base. It does not score a run. It does not change the law. It does not have to be signed by the President. It simply is an internal mechanism of the Congress under the Budget Act that permits us to proceed to attempt to develop in the actual legislation on which we will be voting in a couple of weeks those changes in law that will produce savings in a fair, meaningful, and responsible way.

So I apologize to all of the Members of the Senate for the inconvenience resulting from our inability to bring this forward. It does require consent, and as we have all learned from many long months of experience getting 100 Senators to give their consent to anything can be a difficult task. I hope to be able to move to it very shortly in a way that all will agree is appropriate.

Mr. President, I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. PRYOR] is recognized.

Mr. PRYOR. I see where some of our budget leaders in this debate are now coming to the floor. Therefore, I will not speak at this time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I ask unanimous consent that I might proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. COHEN. Mr. President, I take the floor at this time to offer a few comments pertaining to the budget as we continue to negotiate as to whether we proceed with the taking up of the budget resolution or the continuing resolution.

I have been impressed with the vigor of the debate this evening, particularly those who have gone back over the past decade and tried to analyze why we are where we are.

Since we are living in the age of attribution, I want to attribute the following quote to the appropriate source, the Senator from South Carolina [Mr. HOLLINGS]. I remember reading some years ago, a statement that he delivered when he said the following:

> A veteran returning from Korea went to college on the G.I. Bill; bought his house with an FHA loan; saw his kids born in a VA hospital; started a business with an SBA loan; got electricity from the REA and soil testing from USDA. When the father became ill, the family was saved from financial ruin by Medicare and a life was saved with a drug developed through the National Institute of Health. His kids participated in the school lunch program, learned physics from teachers trained in a National Science Foundation program and went through college with guaranteed student loans. He drove to work on the Interstate and moored his boat in a channel dredged by Army engineers. When floods hit, he took Amtrak to Washington to apply for disaster relief, and spent some time in the Smithsonian museums. Then one day he wrote his congressman an angry letter asking the government to get off his back and complaining about paying taxes for all those programs created for ungrateful people.

I thought the comments delivered by my colleague, Senator HOLLINGS, were quite appropriate, pointing out that many Americans, indeed, most Americans, approve of the vast array of programs that have been adopted over the years, while at the same time they are unwilling to look at the costs required to pay for those particular programs.

I have been intrigued with some comments of my colleagues who have denounced this new revised budget proposal because it does not go far enough in one direction or the other. I have not heard many of my colleagues be specific in terms of which programs they want to cut deeply, whether this be the GI bill, or the FHA loan program, or the money for veterans' hospitals, or the SBA loan program, or the REA and soil-testing programs.

Certainly a lot of attention has been directed toward Medicare. I am not sure exactly why some of my colleagues are so eager to cut so deeply into Medicare when it provides so much in the way of relief for people who are hard pressed with medical bills.

It is unclear whether my colleagues want to cut the interstate highway fund, Amtrak, the drug enforcement, and National Science Foundation programs. I have not heard many specifics in terms of how many are eager to cut back those programs. There is some question on the part of a number of Members on this side. There is a fear of flying, or fear of flying blind. They are not quite sure exactly what direction we are heading, and at what speed we are traveling.

One of my colleagues suggested that this budget proposal sets up a pattern that could in fact be fair and balanced, provided the right things are put in the mix when it finally comes out of the reconciliation package, and that he could forsee the circumstance where he would find himself voting for the reconciliation package, but could not support this particular budget proposal.

I think that has been brought about because of a certain Delphic ambiguity that the administration has expressed toward this budget proposal. There is no indication coming from the White House as to whether they favor it or not. They have washed their hands. They have been through the budget summit. They were rejected in terms of the proposal that they helped to hammer out, and now they are not too sure they want to have any part with this particular process. So now there is doubt. There is doubt in the minds of a number of the Senators on this side as to exactly what the White House might do in the future.

There was a statement made by Chekhov many, many, years ago. He said:

> If you cry "Forward!" you must without fail make plain in what direction you intend to go. Don't you see that if, without doing so, you call out the word to both a monk and a revolutionary, they will go in directions precisely opposite?

And that is the problem that we face tonight. We are hearing the cry, "Let us go forward," but a number of Members are not sure exactly what that means. Does that mean defense cuts; higher taxes; does it mean less in taxes and more in social programs? It is very hard to determine exactly what direction the President ultimately will go. And there is some, I must say, distrust that you can at least evince from the words spoken by my colleagues particularly on this side.

They are not sure, No. 1, what this package will look like a week or 10 days from now. They fear, on one hand, Ways and Means will send a reconciliation package that will be completely unacceptable; that it may, in fact, even though it is unacceptable to a minority over here, be passed by a majority. And they are unsure exactly what the President might do with that reconciliation package. Even if it were to violate his pledge about new taxes, even if it were to violate his commitment for deeper reductions, they are not too sure whether the President would then veto the measure and they would be allowed the opportunity to sustain that veto.

Mr. President, there is no question that serious and lasting progress must be made to reduce the Federal deficit. The debate on how best to achieve this goal has been lengthy and at times fractious. I think it is critical,

however, that we pass this budget resolution so that the committees can get on with the business of working to produce a budget reconciliation bill.

The budget resolution that we vote on today is primarily procedural. It sets forth the broad goal of reducing the Federal deficit by $40 billion this year and by $500 billion over the next 5 years. However, it leaves the committees with substantial latitude to reach these goals. This is a vote simply to allow the committees to commence work on meeting broad deficit-reduction targets. It is not a vote for their final product.

I have no intention of giving these committees a blank check in this matter. I will be carefully scrutinizing the committees' work to assure that the final budget agreement is fair and equitable.

Fairness is the yardstick by which any deficit reduction plan must be measured. If the burden of deficit reduction falls disproportionately on the elderly, the poor or the middle class, this principle of fairness is violated. Deficit reduction is a national problem, requiring the full and fair participation of everyone. Failure to meet this standard undermines confidence not only in the budget process, but in the entire Government as well.

Next week, after the committees make their final recommendations, each of us will have to decide whether these recommendations are fair and equitable. If not, we will have an opportunity to reject the budget plan when it is presented in the reconciliation bill.

I certainly intend to exercise that authority freely. If the final package is not substantially more equitable than the original budget summit agreement, I will oppose it. I will be looking very closely at the Medicare provisions. Medicare recipients should not be called upon to shoulder half of the cuts in domestic spending. Such a burden would simply be unfair. Likewise, a tax on home heating fuel is unacceptable because it places such a disproportionate burden on States like Maine.

It would be premature, however, to pass judgment now on a final budget package now since it has not even been developed. At this point, it is incumbent upon the Senate to pass this resolution and allow the committees to begin their work.

Failure to pass this resolution will simply delay our efforts to reduce our Federal deficit. In the short term, failure to pass this resolution will force the Federal Government to shut down. In the long run, it will undermine our ability to make serious and lasting progress to reduce the Federal deficit.

I urge my colleagues to join me in supporting this resolution, recognizing that each of us will have an opportunity to reject the final plan when we consider the budget reconciliation bill.

I hope my colleagues will put aside fear at this particular moment, reserve their right to reject the reconciliation package, and allow the committees an opportunity to fashion a reconciliation package that they can support in the future.

I yield the remainder of my time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I rise today in opposition to this budget resolution. The budget process is broke and, as far as I can tell, this package does not fix it. I can not support a package that is wrought in the dark of the night and is only described in terse prose on a few pieces of papers a few hours before the Senate is asked to vote upon it.

Like the rest of my colleagues, I am fully committed to the task of regaining fiscal control. Since World War II there has been a steady deterioration in our fiscal policy—deficits as a percentage of GNP have doubled every decade since the 1950's, and it is time to turn this trend around.

None of us is unaware that enormous Federal budget deficits have plundered our national savings to the point where our savings rate has more than halved—from 9 percent in the 1960's to under 4 percent in the 1980's. At a time when we struggle to remain internationally competitive and to foster investment, our savings rate is 40 percent of Germany's and only 20 percent of Japan's.

It is discouraging and almost frightening to realize that, in spite of the tax increases of the 1980's—yes, tax increases—Congress has heaped $1.6 trillion onto the national debt. That's bigger than our national budget has ever been. In fact, despite six tax-increasing budget summits since 1983, the deficit fell only in years when there was no summit and no new taxes.

It is largely because tax increases do not ever seem to lead to spending cuts or lower deficits, that I find myself in opposition to this budget resolution. Congress will just use the new taxes for new spending.

This budget resolution, like the failed budget summit agreement before it, shortsightedly contains the largest tax increase in history. Mr. President, the average American taxpayer already works until May 5 just to pay his or her tax bill. Never before have taxpayers had to work for the Government for such a long time.

In case you have missed the polls over the last few years, the American taxpayer has had enough. Two-thirds of the American public regard a tax increase as a way to feed Congress' appetite for overspending. Who are we to ignore the American public?

We need to eliminate waste, inefficiency, and mismanagement before we even consider raising taxes. This package is 0 for 3 and yet we are being asked to agree to the largest tax increase in history.

Not since World War II have we raised taxes to over 19.6 percent of GNP—as the package certainly will—without tipping the economy into recession. We can not justify a tax increase. Annual tax collections are already a third higher now than in the 1960's and 1970's but spending has grown even faster.

I know that some people say that we are undertaxed compared to other countries, but I disagree—I think that other countries are overtaxed and that Congress spends too much.

I also disagree with the approach taken on Medicare, however vaguely it is described in the three or four pieces of paper my staff has managed to glean. Despite the alleged changes from the budget summit agreement that the House defeated last week, the Medicare changes are still proposed for the wrong reasons in the wrong context.

Let me remind my colleagues that the last time we tried to balance the budget on the backs of seniors, a firestorm swept the country. We need to address rising health care costs, but any changes we make to Medicare without thorough reform or providing new benefits is a thinly veiled budget maneuver, and senior citizens from Alaska to Florida will know it.

In addition, I am concerned about the potential impact on Medicare providers—physicians and hospitals, and especially rural and high Medicare hospitals—because of this proposal. I submit that a meat-ax approach to Medicare provider reforms is no longer acceptable, yet we have no assurances that the committees will now once again pull the ax from shelf and aim at providers.

Any restructuring of Medicare must be debated openly before the public through the committee process with the input of Members and the comments of the public. This budget resolution, which is barely laid out for us so that we know what is in it, does neither.

I also strongly believe that without constructive changes to our budget process, we are going to face budget crises like these at regular intervals. We need real, structural reform in the budget process, not phoney changes

with fancy names that confuse the daylights out of everyone, including so-called budgeteers. We need budget reform that will require us to make our deadlines and that will impose discipline on Congress—the negligent keeper of the country's purse.

One of the most important budget reform measures we can adopt and should adopt is the line-item veto. The time has come for us to concede that Congress' desire to fritter away the taxpayer's hard earned dollars is insatiable. We need to give the President the line-item veto now.

While a minority of Americans want their tax raised, over 70 percent of American taxpayers, who fund preposterous projects and special interest programs each year, support giving the President the line-item veto. This package seems only to contain the complex budget measures that the failed summit agreement contained, which will worsen this already confusing process.

Under this proposal, we will continue missing deadlines and facing 11th-hour decisions again next year and the year after that and the year after that.

Finally, this agreement just will not work. The economic assumptions it is based on underestimate outlays; the temptation by committees to play smoke and mirrors games remains; and if the new taxes slow the economy, spending will burgeon.

It is vitally important to achieve the goal this agreement aims for—but it misses badly. As GAO recently wrote in a report on the budget deficit, deficits have an "ominous implication for economic growth."

I know that the President has had a difficult time negotiating with the Democratic leadership of this body. He has made serious concessions. In fact, he has had to go too far in his concessions to make the Democrats come along. It is because of many of these huge concessions that I oppose this package.

But, I also oppose this package because we—and that is me and many of my colleagues and the people we represent—do not know what is going to be put into it. Once these vague outlines are turned over to the various committees that are supposed to comply with them, who knows what will be rammed down our throats?

No, Mr. President, this budget resolution, as flawed at it is, is not as "good as we are going to get," as its supporters argue. It basically amounts to "business as usual" at a time when our constituents want change and results—the truth of the matter is that this budget resolution is not good enough.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I want to thank my colleague from Arizona for his courtesy in yielding.

Mr. President, I say to the Members of the Senate, as I have reported previously on several occasions during the day, we have been consulting with the distinguished Republican leader, the ranking member on the Budget Committee, the chairman of the Budget Committee and others, to develop a means by which the Senate could act on these two important matters, the conference report on the budget resolution and the continuing resolution, in such a manner that would permit us to move forward in the effort to develop a meaningful and fair budget reduction legislative package and also that will permit the continued funding of the Government and prevent the inconvenience and, indeed, much more than inconvenience, that would result by the inability of the Government to continue its operations after midnight tonight.

We are very close to an agreement in that regard. I particularly thank the distinguished Republican leader for his cooperative efforts throughout the day.

What I will momentarily do is to seek consent to proceed to the conference report on the budget resolution, and while that is being considered, at least during the opening statements of the managers, we will attempt to move finally to an agreement regarding the continuing resolution and then perhaps, if possible, an agreement limiting the time for debate on the budget resolution, which, it is at least my hope, we could complete action on prior to midnight; that is, on both of the measures if we are able to work it out.

Accordingly, Mr. President, I am going to seek the consent and then defer to the distinguished Republican leader and give him the opportunity to comment before any action is taken on the consent request.

CONCURRENT RESOLUTION ON THE BUDGET—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the conference report on House Concurrent Resolution 310.

Mr. DOLE. Reserving the right to object, and I shall not object.

The PRESIDING OFFICER. The distinguished Republican leader.

Mr. DOLE. Mr. President, I share the views expressed by the majority leader. We have been attempting to make some modification of the continuing resolution. We have been working with a number of my colleagues on this side and with the majority leader and others on the other side. We believe that we may have an agreement on that, which would expedite passage of the continuing resolution, hopefully prior to midnight. I understand the President will not sign the CR until we also agree to the budget resolution. I just confirmed that with the White House. That would not inconvenience workers or others because, as I understand the rules, they would come to work in the morning and they would be there for 3 hours and, by that time, surely, we will have the budget resolution agreed to and hopefully the CR.

There are, of course, all kinds of options with the CR. It is subject to debate. It could be filibustered. It could be filibustered on a motion to proceed, or on the CR itself. So it is within the power of anyone in the Senate or any group, or any of us to—in effect, we can shut down the Government, any one of us. I do not think that is the desire of anyone, but I want to make certain everyone understands there are a number of options available and that is why I felt, it seems to me, if we can work out some agreement, it would expedite the process and it would be in the best interest of this country.

I want to thank the distinguished Senator from Idaho, Senator MCCLURE, for his help in crafting what we hope will be an agreement satisfactory to a number on this side. It may mean additional votes for the budget resolution; it should mean additional votes for the budget resolution itself.

I have no objection to the request of the majority leader.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of Sunday, October 7, 1990.)

The PRESIDING OFFICER. Pursuant to section 305(c) of the Congressional Budget Act, the time for debate on the conference report is limited to 10 hours, to be equally divided and controlled by the leaders or their designees.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, I wonder before the distinguished majorty leader leaves the floor if I might just ask a question. It is my understanding the negotiations regarding the continuing resolution would indicate that if all is ready with the majority leader and the distinguished minority leader, the majority leader may want to proceed with it before completion of the budget resolution that is now pending before the Senate; is that correct?

Mr. MITCHELL. That is correct.

Mr. DOMENICI. Do I understand then if that is the case and the majority leader is ready, that the majority leader would request that we set this aside so he could proceed with the CR?

Mr. MITCHELL. That is correct. Indeed, I believe the preferable course of action would be to obtain consent now to permit the majority leader, following consultation with the Republican leader, to proceed to the continuing resolution at any time, notwithstanding the pendency of the conference report. But before propounding that, I want to make certain that it is agreeable with the Republican leader.

Mr. DOLE. It would be agreeable. In fact, I think some of my colleagues on this side would like that option. What they do not want to happen is for us to spend all the time on the budget resolution and then move to the CR.

In addition, I think the sooner we can take up the CR the better, because as I indicated, it might mean additional votes and fewer speeches, each of which would be welcomed.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

UNANIMOUS CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 666

Mr. MITCHELL. Mr. President, in view of the distinguished Republican leader's response, I now ask unanimous consent that the majority leader, after consultation with the Republican leader, may move to the continuing resolution, House Joint Resolution No. 666, at any time notwithstanding the pendency of the conference report.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? The Chair hears none. It is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues and I will now yield to the distinguished chairman and ranking member of the Budget Committee and will continue efforts to complete action on this agreement that will permit us to proceed as earlier suggested.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. I thank the distinguished majority leader.

PRIVILEGE OF THE FLOOR

Mr. SASSER. Mr. President, I ask unanimous consent that the following staff of the Committee on the Budget and its members be allowed to remain on the floor during consideration of the conference report to accompany House Concurrent Resolution 310:

STAFF OF THE COMMITTEE ON THE BUDGET

REGULAR FLOOR PRIVILEGES

Majority staff: Tim Ahern, Kip Banks, Agnes Bundy, Steven Burns, John Callahan, John Cestar, Alan Cohen, Bill Dauster, Kathy Deignan, Randy Devalk, Matt Greenwald, John Hilley, Phil Kardis, Charles Marr, Doug Olin, Larry Stein, Gordon Stoddard, Barry Strumpf, Ingrid Taylor, John Wagster, Paul Weech, and David Williams.

Minority staff: Hal Brayman, Jim Capretta, Charlie Flickner, William Hoagland, Bill Hughes, Krys Krystynak, Melissa Longoria, Carole McGuire, Ann Miller, Michelle Mrdeza, Adele Obermayer, Roy Phillips, Cheri Reidy, Austin Smythe, and Peter Taylor.

Nondesignated: Alison Cormack, Lisa Guzzi, Anne W. Hill, and Sue Nelson.

These individuals have privileges to be admitted without pass under a previous letter to the Sergeant at Arms.

FIFTEEN MINUTE FLOOR PRIVILEGES

Lisa Bartko, Diane Bath, Alice Benton, Louise Echols, Elaine Gaither, Andres Gatta, and Bert Gilliam.

Amy Kestnbaum, Jackie King, Cathy Mallison, Angela Nicholas, Cris Ondrick, Beth Strader, and Carolyn Willis.

STAFF OF MEMBERS OF THE COMMITTEE ON THE BUDGET

REGULAR FLOOR PRIVILEGES

Staff member: Barry Strumpf, Laura Hudson, Joan Huffer, Chris McLean, Bruce King, John Weinberger, Judy Love, Brian Wheeler, Tracey Thornton, Vi Boyer, Jeff Anders, Julius Hobson, Nancy Mitchell, Hillel Weinberg, Jeff Kumer, Kris Kolesnik, Cesar Conda, Hazen Marshall, Rachel Sotsky, Mike Solon, and Julie Dammann.

Senator on Whose behalf request is made: Senator Hollings, Senator Johnston, Senator Riegle, Senator Exon, Senator Lautenberg, Senator Simon, Senator Sanford, Senator Wirth, Senator Fowler, Senator Conrad, Senator Dodd, Senator Robb, Senator Armstrong, Senator Boschwitz, Senator Symms, Senator Grassley, Senator Kasten, Senator Nickles, Senator Rudman, Senator Gramm, and Senator Bond.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

USE OF SMALL ELECTRONIC CALCULATORS ON THE FLOOR

Mr. SASSER. Mr. President, I ask unanimous consent that the presence and use of small electronic calculators be permitted on the floor of the Senate during the consideration of House Concurrent Resolution 310.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. SASSER. Mr. President, we take up this particular budget resolution at a moment of governmental crisis and, of public frustration through genuine agreements, through partisan contention and, frankly, sometimes through outright petulence. We have brought this Nation to the brink of fiscal collapse. Let us remind ourselves this evening that what we do or do not do here will not shut down the Government because the facts are that this Government is presently either shut down or in the process of shutting down even as I speak. What we are doing here this evening, hopefully, is to reopen all of the offices and functions of the Federal Government Tuesday morning.

I remind my colleagues that this is not a shining moment for anyone. Our countrymen are rightly tired of it. Citizens of this country are tired of what they perceive to be an endless and fruitless debate.

I am tired of it also. I am sick to death of all the bickering that has been going on. I think it is high time we pass a budget resolution in this body this evening.

In my view, the American people are not out there asking who is to blame. They do not care. They are not asking who is the heartless program cutter. They are not asking who is the person trying to raise the taxes. The American people are simply saying, for goodness sakes, fix it; do what we are paid to do—make decisions, legislate, keep this U.S. Government functioning.

The resolution before us gives us the opportunity to do the one thing I think is most needed at the present moment, and that is to govern. It does so without reducing the agreed size of the deficit reduction that is to be achieved over the next 5 years. This remains the single largest deficit-reduction package in the history of this republic.

The deficit-reduction package that we consider this evening will preserve the original form of the summit agreement that was entered into with the President of the United States. It will achieve $40 billion in savings for fiscal year 1991 and over 5 years it will achieve $500 billion in savings.

This agreement provides the kind of flexibility that Dr. Alan Greenspan, the Chairman of the Federal Reserve Board, has said he will use to lower interest rates and to pump a needed charge into this flagging economy that either is in recession or certainly teetering on the edge of recession.

This agreement reaches these very ambitious goals while at the same time incorporating some of the hard-won wisdom of the failed effort to pass the summit agreement in the House of Representatives four evenings ago. Sometimes we learn by losing, and certainly we learned a lesson the other evening when the American people, speaking through their elected representatives in both parties, chose to reject the summit agreement that had

been hammered out in cooperation with representatives of the White House and negotiators from both the House and the Senate for both parties.

I think what we learned last week was that the legislative process simply cannot be dictated to. We learned that the American people through their telephone calls will not have their lives shaped by an arbitrary exercise in number crunching.

The fundamental correctives to those problems are simply to return the freedom of the legislative body to make necessary policy decisions, to return that authority to the committees of competent jurisdiction in the Congress.

I say to my colleagues that those committees will have fixed and reliable savings targets to achieve, but at the same time they will be free to craft their own reconciliation provisions as they have always done. Specific policies are not going to be dictated to these committees. Legislative responsibility and flexibility is not going to be usurped by the budget summit agreement.

Instead, the committee members who understand the issues, which many of them have been dealing with for years, who understand the responses of the American people to particular issues, members who have worked with these issues for many years, such as Medicare, will be deciding how to structure the necessary program, how to effectuate the necessary policy changes, and how to make the necessary deficit reductions.

That will give us the opportunity to craft an overall reconciliation bill that is more sensitive to the needs and wishes of the American people.

We are simply not going to pull a Medicare deficit reduction number out of thin air and demand that it be met with policies that Members and the American people simply will not support. We are going to have the freedoms of the normal legislative process to bring to bear on all the tax policy decisions. We are going to have the freedoms of the normal legislative process to make the decisions in health care, to make the decisions that deal with agriculture policy and the destiny of the farmers of this country.

Every decision that is made will be made by those who have the expertise and the sensitivity to do it. We will give ourselves an opportunity to avoid some of the political land mines that we blundered into when we labored beneath the blindfold of the budget summit.

We have a return to the legislative process, to state it very simply, as it was designed. In my view, that ensures that we will reach the necessary deficit reduction totals but we will do that with sufficient policy sensitivity to give the resulting reconciliation package a chance to pass, a chance to pass in the Senate and a chance to pass in the House of Representatives.

I say to my colleagues that what we seek now is a budget resolution that will provide fundamental discipline but one that will still give us the chance to pass the true reconciliation policy which will come before us in a few days that really changes the law, changes the policy, and makes the savings.

This is a budget resolution that really is in fact a budget resolution. It makes no pretense of being anything else. It simply is an aggregate of numbers which go to the various committees and charge them with the responsibility of making savings in their committee of jurisdiction or raising revenues in their particular committee of jurisdiction.

It is the first step to necessary changes int he law itself. It enables us to move the process along, to a point that we are making decisions which do, indeed, require the President's signature, which do, in fact, have the force of law, which do, in fact, affect the day-to-day lives of the citizens of this country.

But we have to stand first before we can run. I say to my colleagues let us give the process a chance to work this evening, for if we kill the seed we will never know what kind of plant it may have produced.

I am sure there are going to be those who will feel that the resolution is not specific enough, and they will make that argument. They will say this resolution is not a specific number; it does not charge this committee with saving this much out of Medicare or some other programs. They will recite recent history. They will argue, will, we cannot trust the congressional committees.

But to those of my colleagues who make that argument, let me simply say that this resolution binds us only to the dimensions of a deficit reduction package upon which I believe most of us largely agree. The policies that will reach these dimensions will be worked out in a bipartisan way in the relevant committees.

For example, the distinguished chairman of the Finance Committee—and make no mistake about it, Finance has the biggest burden to carry in this budget resolution. The chairman of that committee, the very distinguished Senator, has traditionally taken a bipartisan approach to the Finance Committee. Other committee chairmen, I am sure, will do the same. But even if bipartisanship fails at the committee level, there is always a fail-safe guarantee. If 2 weeks from now we are dissatisfied, let us say, with the work of the Finance Committee or with the work of the Commerce Committee or with the work of the Governmental Affairs Committee, the bipartisanship leadership has agreed to work together to craft a leadership amendment that will clean up and cure these disagreements.

Let us say that fail-safe mechanism fails because anything that is devised by man or woman is not perfect. We still have a final safeguard of executive prerogative. If the President of the United States does not like what we craft or fashion or produce here within the guidelines established by this agreement, why then he can simply veto it and send it back to us and repair it.

I remind you, Mr. President, and my distinguished colleagues, that the President has vetoed 14 pieces of major legislation during his administration. And we have not overridden his veto a single time. I must confess to my colleagues on the other side of the aisle. I say that with some regret. But we have not been successful in overriding this President's veto one time this year.

Of course, we will never be absolutely certain that the complicated legislative process ahead of us is going to produce all of the positive results that we hope to achieve with a real, enforceable deficit reduction package, but we can certainly all work to that end.

I submit that we can be certain of one thing: if we do not pass this budget resolution, we will never even have a hope of reaching the desired conclusion. We will have killed this agreement and more importantly, Mr. President, I fear we will lay open a partisan rift within this body that will not heal soon, and may leave this Government in a state of tattered confusion for many, many days to come.

Mr. President, I began my remarks by saying that the American people simply do not understand. They do not comprehend, and rightfully so, our inability to perform the most basic functions of a legislative body. They do not understand the continuous sniping and bickering over matters which seem abstract and largely insignificant to them.

I guess that out of the literally thousands and thousands and thousands of constituents who telephone our offices to complain about the various unappealing elements of the summit accord, not one has said that this summit agreement was defective because it contains insufficient specific reconciliation instructions, or that they disagree with this budget amendment because of the caps on domestic discretionary spending that are going to be inadequately enforced.

No, Mr. President. They told me they did not like it because it cut too much out of Medicare. That is what they were saying. Or we do not like it because it has a gasoline tax in it. We do not like it because you are not cut-

ting enough out of defense or you are not putting enough in for highways. But not one said that it had insufficiently specific reconciliation instructions. And nobody—nobody—said that the caps on domestic discretionary spending were inadequately enforced. No, of course not.

The people of this country are concerned about their daily lives. They are concerned about the services that their Government is going to deny them if we do not get it back open. They are concerned about the taxes that we are going to impose on them. They are also concerned, perhaps more than anything else, about the fundamental ability of their Government to govern. They are worried about it. They are angry about it. Quite frankly, I think they have a right to be.

So, in short, the stakes are simply too high for those of us in this body to get bogged down in procedural minutia. It is like Nero fiddling while Rome burned.

The opportunity for fighting the real policy battles of deciding what the law is going to be really is before us. And I think it should be debated at that time.

So in summation, we simply cannot allow this Government to continue the gradual shutdown that is occurring. It does not serve anyone's interest. It does not serve the interests of Democrats, certainly. It does not serve the interests of Republicans. It certainly does not serve the interests of a Republican President. It does not serve the interests of liberals or conservatives. It serves no one's interest to obstruct this process that we are trying to kick off here this evening.

So to the Members of this body on both sides of the aisle, I say that those of us who participated in the summit worked in good faith to produce an agreement, an agreement that would avert the catastrophe that is staring us brutally in the face right now, and we worked hard.

I worked hard with my distinguished colleague, Senator DOMENICI from New Mexico. While the rest of our colleagues were still on recess, we were back here in Washington rally locked up at Andrews Air Force Base for days trying to work out this summit. We have worked every Saturday and Sunday for the past 4 or 5 weekends. We left here last night, many of us, at midnight fighting to avert the catastrophe that is staring us in the face.

It is a very bitter thing for me to say, Mr. President, that we failed, and that this corrosive debate has now eaten into the very foundations of the legitimacy of our Government and into our own credibility as legislators.

I hope that tonight we can move forward and adopt this budget resolution. I urge my colleagues to act now to save the credibility of the U.S. Senate with the people of this country because, mind you, if we fail to act this evening, if we fail to pass this budget resolution, if we fail to pass a continuing resolution, and if this Government does not reopen for business as usual Tuesday morning, and if it should be ascribed to this U.S. Senate, I submit, Mr. President, that the American people will never forgive us, and they should not.

So I urge my colleagues, as we move into the debate here, to vote for this budget resolution, and after we have adopted it then we can move on to the very difficult policy decisions that are going to be ahead of us in the days and weeks.

Mr. President, I yield to the distinguished Senator from Minnesota.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I will speak briefly and then yield time to the Senator from Colorado.

Mr. President, I have not made up my mind what to do about this budget resolution. To me, it looks like the failsafes that the Senator from Tennessee speaks about are lacking; that we are not dealing in procedural minutiae, as he said, but what we really seem to be doing is extending the process for another couple of weeks without any real strong indication that it is going to come to a conclusion at that time.

What we are saying is that the leadership of the Congress could not give direction to the rest of us that would be accepted, and so we are going to give it to the committee. We hope they do a good job, and we are loosening the ties that the leadership package had upon us, and in loosening the ties we say to the committee, "now, you do it."

The distinguished Senator from Tennessee talks about the fact that we are now going to give it to the committees, to the nonpartisan committee chairman he spoke about. I sometimes wonder if he is in the same body that I am in. I have not noticed that the committee chairmen are nonpartisan or that we on our side are nonpartisan in this or in other matters.

I talked to a number of the people who called my office, and I had the director of my State operation in Minnesota talk to them, so that they would be answered by someone who had a detailed understanding of the process and of what we were doing. What they really said to us was, yes, some said, Medicare cuts were unbearable, but by and large they had a misunderstanding of what those so-called cuts were. They said in some instances, yes, the gas tax was too high. But by and large they expressed the lack of confidence in the Congress. They sometimes did not say it; they were just made. They were mad that we could not agree, and that in the process of not agreeing, that we were going to impose upon them some additional burdens. They were not quite sure what those burdens were.

In listening to the news and in listening to some of the networks, who kind of accumulated all this 5-year burden into one large figure, they certainly were scared. And they thought, here goes the Congress again, and their confidence in the Congress has fallen to new, lower levels.

Frankly, if you look at polls of some of the Members on both sides of the aisle, it is reflected in their reelection numbers, it is reflected in the margins they have or the margins that are developing against them, that indeed people are annoyed with us.

What we are doing now, in my judgment, is that we are going to pass a continuing resolution for the better part of 2 weeks, and then we are going to give it to the committees and say we are not going to give you as much direction as the leadership gave you, but do the best you can.

I differ with my colleague from Tennessee, that this is a failsafe type of mechanism or a failsafe type of procedure, because this agreement that we are giving them is certainly less precise than the agreement that the leadership worked out, for which I was prepared to vote.

This agreement comes with no mandates, because most budget agreements do not come with mandates as to how to achieve the goals that are set in the budget agreement; yet, while those goals might be mandated, the ways of getting there are not mandated. So I am afraid that we are just going to find ourselves 10 or 12 days down the road here with something that the committees have come up with, in which there has been enormous amount of effort made by every lobbyist in the country.

It is going to be a marvelous windfall for all the hotels and for the airlines, because we are going to be descended upon; there is no question about that. We are going to be descended upon by those who seek to protect their interests, and those interests can be very narrow.

There are 2 more weeks of that which we now have before us. I am afraid that at the end of those 2 weeks, we are not going to be nearer to a conclusion than we are tonight.

Look at closing down the Government and creating something of a crisis: I am afraid that these bodies, the Congress of the United States, the House and Senate, cannot operate well unless we have a crisis before us. Then that crisis becomes a mandate, and the outrage of the people that the crisis creates becomes a mandate, that results in our moving to a better, a more formidable, and a more enforceable

type of budget agreement. I do not think we are doing that now.

Unless the chairman has somebody who wants to speak on his side, I will yield to the Senator from Colorado.

Mr. SASSER. I say to the Senator from Minnesota that we have nobody wishing to speak at this time.

Mr. BOSCHWITZ. I yield to the Senator from Colorado. How much time is the Senator requesting?

Mr. ARMSTRONG. I would be pleased if the Senator would yield me not to exceed 30 minutes.

Mr. BOSCHWITZ. I yield 30 minutes to the Senator from Colorado.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Colorado.

Mr. ARMSTRONG. Madam President, this whole budget crisis and our role in it is being discussed in very stern, even stirring, dramatic terms here tonight. In fact, it is being portrayed almost in heroic terms. Here is a tiny band of Senators and a handful of others who are bravely standing up to this deficit monster who somehow are trying to stem the tide and perform this heroic service for an uncaring country, for an ungrateful country.

Madam President, that may be the way it looks to some Members. It does not look that way to me. My hunch is, out in the country they do not think we look like heroes. They think we look like jerks.

The Denver Post summed it up:

> The annual Federal budget crises are as predictable—and their resolutions almost as fictional—as the recurring crises on daytime TV soap operas.
>
> This low-rated series, which might be titled "As the Economy Churns," annually stars the Federal Government preparing to shut down because the Gramm-Rudman budget law supposedly mandates sharp cuts in the deficit. At the last minute, Congress and the administration announce an agreement that keeps the Nation's airports and hospitals running and purports to begin solving America's long-term budget woes.
>
> The latter promise is never kept, of course, and there is little reason to think that the latest fiscal patchwork is any different. President Bush and congressional leaders claim the agreement reached over the weekend will trim $500 billion from the deficit over 5 years. However, as it has been with past fixes, most of those purported savings are to happen during the final years of the agreement, which makes them about as reliable as the estimates of 5 years ago showing how the deficit would be eliminated by this year.

Mr. President, the Denver Post goes on and critiques the outline of the agreement and then sums up with, I think, quite a memorable paragraph:

> A television soap opera whose crises were this predictable would be canceled for bad ratings. It can only be hoped that the voters are just as demanding in the voting booths this fall as they are in the Nielsen surveys.

Madam President, I ask unanimous consent that this Denver Post editorial appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ARMSTRONG. Madam President, as we begin the debate on this budget resolution, I cannot help remembering what happened when one of our colleagues was supposed to have been seen wondering around the Capitol with a glum look on his face. So the story goes, he was greeted with a hearty hello by one of his colleagues who said, "Cheer up; things could be worse." He reported afterward, "Well, I cheered up and, sure enough, things got worse."

That is sort of how I feel tonight, because when they announced this budget package a week ago, I felt pretty bad. I listened to the President, and he had invested a lot of his personal prestige in this. I listened to the leaders. They wanted to have a chance to present this package. I withheld any public comment until this time. And as I cheered, things got worse.

The truth of the matter is that this package that comes before us tonight is basically just like the package that came out a week ago, only it is a little worse.

The original summit package represented either the largest or the second largest increase in taxes in the history of our country, depending on whose figures you believe.

The Wall Street Journal, which is known for pretty insighful appraisal of these things, says it is the largest increase in taxes in the Nation's history. A congressional staffer whose judgment I respect points out that it may only be true if you include the so-called fees along with the taxes and roll them together. And even so, it may not be as large as the TEFRA tax increase of a few years ago.

But whether it is the largest tax increase or the second largest tax increase in history, this package is full of large, burdensome increases in taxes on gasoline and oil. There is an increase in personal tax rates, although it is cleverly disguised as a change in the itemized deductions for individuals. The way that works, it amounts to, I guess, about another 1-person increase on income tax brackets, and there is a tax on beer, automobiles, boats, furs, jewelry, and so on.

There are even, buried deep down inside the original budget package, some rather arcane but still rather significant increases in such thing as the taxes paid by corporations. They have a proposal in there which says that if you do not pay income taxes because of a dispute, if there is a judgment of a lawsuit, or something against a corporation where a matter has largest tax increase in history, this package is full of large, burdensome increases in taxes on gasoline and oil. There is an increase in personal tax rates, although it is cleverly disguised as a change in the itemized deductions for individuals. The way that works, it amounts to, I guess, about another 1-percent increase on inomce tax brackets, and there is a tax on beer, automobiles, boats, furs, jewelry, and so on.

There are even, buried deep down inside the original budget package, some rather arcane but still rather significant increases in such things as the taxes paid by corporations. They have a proposal in there which says that if you do not pay income taxes because of a dispute, if there is a judgment of a lawsuit, or something against a corporation where a matter has been in dispute, then you are charged interest.

That, of course, is the present law. What is new in this package is that that interest which is charged to a corporation under those circumstances is no longer deductible as a business expense for computing the taxes of that corporation.

I leave it to you whether or not that is fair. It seems to me that it is not. But the fact of the matter is that it represents another huge increase in taxes.

This new package that comes before us tonight is different in two or three ways. First of all, there are fewer savings in this package. One of the salient features of this proposal is that they have reduced somewhat the amount of savings that were expected to be obtained on the spending side. Second, there will be an increase of $10 to $20 billion in taxes above the $154 billion in the original package, which came out 7 days ago.

One is almost tempted to say we better pass it quick because it is getting steadily worse; and we better take this before it deteriorates any further. I also note in this package there is a significant change from the prior version in that we have no assurance of how these taxes will be structured. I want to say more about that in a moment, but that is a very, very significant change.

Now we have been told budget resolutions do not have detail, and that is true. But the prior package at least comes forward to us with a pledge by the joint leadership in this body and in the other body and from the White House that, if the final package did not meet a certain set of rather detailed specifications, it would be killed and that the leaders and the President would join in doing so.

We do not have any such assurance about this package, and so within a very few days we may face a tax package and for that matter a spending package quite different than anything that was originally contemplated.

Madam President, I would like to review briefly some of the arguments that have been presented in support of

this package. Perhaps the most novel was suggested by the Senator from Tennessee a few minutes ago when he said we really need this kind of a package in order to ward off the threat of a recession.

Madam President, I agree with one of the newspaper writers—I think it was Tom Wicker, but I am not sure—who said that the idea of—and by the way, as the Rocky Mountain News noted, Mr. Wicker is not thought of generally as a fan of small government, but his point was this: That the notion of a huge tax increase to ward off a recession is more or less the same as using blood in the water as shark repellent.

This is Herbert Hoover's worst nightmare being started again. Heading into a recession, and most economists agree that we are on the brink of a recession probably the most unlikely proposal that most of us would think of is to cope with a recession by raising taxes, and not just raising one tax a little, but by raising every tax we can think of by quite a bit and in fact to come forward with the first or second largest tax increase in the history of our country.

Madam President, if tax increases make us strong, the proposition about which I have a lot of doubt, then our country must already be stronger than gangbusters, because in the last few years, we had tax increase after tax increase.

Some people have been sharing the experience they had with constituents, the phone calls, letters, and other contacts they had. I had contact with people, too, and I have yet to have typical constituents—I am not talking about inside the Beltway experts; somebody who works for think tanks or the White House or Congress—a person from home, a business person, a homemaker, somebody trying to make ends meet. I have yet to have even one such person approach me and look me in the eye and say, "You know, we are a little undertaxed. We think that this country really would be stronger and better, the economy would perform better, our life would be better if you just raised the gas tax, beertax, jewelry tax, fur tax, income tax, heating oil tax, and anything else that you might be able to think of."

Madam President, on the contrary, I find in talking to people at home that most of them seem to think that taxes are plenty high enough. They do not have access to detailed information about taxes and spending, but all Senators do. And all Senators know that as recently as fiscal year 1987, the receipts of this Government were $854 billion. This year, they are going to be about $1.67 trillion, an increase of $200 billion in just about 3 years.

I would say that is a pretty healthy increase. In fact, if you want to go back further, in 1960, receipts of this Government were $92 billion. That may seem like a long time ago to somebody, but you know when you reach a certain age you have a little greater sense of history and perspective, and 1960 is not that long ago.

In 1980, which is scarcely an eternity ago, the total receipts from taxes in this country for the Federal Government were $520 billion. This year, they are more than twice that. And yet we have the proposal before us tonight to increase the rates of taxation on practically every kind of human activity that is known to man.

Let me just say, Madam President, that if taxes are the secret to a strong economy and to a strong, growing country, then we must already be very, very strong indeed.

Madam President, the Senator from Tennessee has also suggested that, by gosh, we have to pass this budget resolution to reopen the Government. I do not know if that is true or not, but evidently the President does not think so because a couple nights ago, he vetoed the continuing resolution.

And in exploration of that, he cited a memorandum of law which has been presented to him which he and his staff believe to make clear that he has the power to keep the Government running, to keep all the essential functions of Government going, not just for a day or two, but indefinitely if necessary. That is to say, he is going to keep the Social Security checks going out, the FAA controllers at work, keep the Army guarding our country and the ships at sea steaming and the Desert Shield operation in Saudi Arabia going on.

I do not know whether or not this legal opinion is valid. I have not read it. Someday when I have a chance, I would like to. But it is my understanding from those who have looked at it that the President has, under existing statute and under his powers as Commander in Chief, sufficient authority to keep all of the functions of Government which he deems to be essential in place and running.

And in any case, even if that is completely dead wrong, we do not have to pass the budget resolution in order to reopen the Government, as the Senator from Tennessee put it, because right after this we are going to vote on a continuing resolution, and the continuing resolution would have that effect if indeed the President lacks the legal authority that he thinks he has.

The Senator from Tennessee also made the point that if we do not pass this quickly, we are liable to see some kind of partisan rift right here in the U.S. Senate. I say, ladies and gentlemen, it is about time we had a partisan rift around here.

One of the things gone haywire in this process is the attempt to smoke over, to obfuscate, to somehow diffuse the partisan differences in this Chamber. I do not always agree with everything the majority leader says. I agree with his statement on television the other night when he said there are deep and lasting real differences of opinion between Republicans in this Chamber and Democrats. But the way we have been acting portrayed either we do not believe that, or somehow we do not want the voters at home to know what those differences are.

I agree with the Wall Street Journal. What the United States dearly needs right now is a large, national debate over its priorities. Senator MITCHELL is right. There are deep, philosophical differences between the political ideologies of this country.

The purpose—hear this well, my colleagues, because this is getting lost in the shuffle—the purpose of a functioning democratic system is to clarify and resolve those differences, utimately, with elections in which the voters choose between two positions.

Well, now we have just been treated to about 5½ months in which the leaders of both parties have tried to find ways to avoid letting those differences of opinion come out in public, for understandable reasons. But in doing so they cheat the public out of the opportunity to know what is going on and to make an informed decision. So I reject the notion that we ought to vote for this budget resolution in order to avoid partisan discussions. That is what this is all about. We are not talking about personal discussion, we are not talking about personal animosities. We are talking about, among friends, among professional colleagues, deep, lasting differences of opinion which our voters at home have hired us and sent us here to debate and to discuss and to vote on, not to obfuscate.

Mr. President, one of the things we are told of this resolution is it does not really mean anything. This is just to keep the process moving. Now, that is a little different argument than the Senator from Tennessee made. He said this is a big, crucial issue of national policy. But in the cloakrooms and caucus rooms and out behind the scenes what at least some Senators have heard is, "You can vote for this; it doesn't really mean anything. It just keeps the processing going."

Well, this is real. This is a real policy decision. This is not the breakdown of the system. This is how the system is supposed to work. The system has been broken down all year. The system was broken down when the Budget Committee earlier this year decided it did not have the willpower or the courage or the information or the time to really develop a budget resolution. So we just sent out a pro forma resolution to the floor. And when it got to the floor, we said, "Well, this is too controversial, too

time-consuming," or something. So instead of having a debate on it and offering amendments and considering it, we just took it up and had a voice vote. There was no rollcall. Nobody knew anything. And it went off to conference and has been there ever since about mid-May and now it has finally come back.

All that time the system was broken. All that time from May 15, when a budget resolution is required by law to be considered, until now, the system was not working. Now, at long last it is working. And yet some people are being invited to vote for this on the grounds that well, this does not matter. I mean, it is not real. We are not shooting with real bullets.

I will tell you what is real about it. What is real about it is at least $150 billion in taxes. Now, if anybody thinks they are voting for this and it is just voting for a process, just voting to continue the consideration of this matter, they ought to think again. Because a vote for this budget resolution is a vote for a minimum of $150 billion in new taxes. You cannot tell for sure whether those are income taxes, gas taxes, oil taxes, or cigarette taxes. And we are all free to interpret in any way we want to how much of the tax burden is going to fall on which group of taxpayers and to say to ourselves, "Look, when the reconciliation bill comes back I do not have to vote for it. Just because I vote for the budget resolution does not mean that I am going to vote for the tax bill which follows." That, of course, is true. The reality is, if you vote for this, you are putting yourself on record in favor of the proposition that what this country needs as we teeter on the brink of a recession is a $150 billion tax increase.

Let me tell you something else that is real in this budget resolution. That is the mandate to increase the debt of this country by $1.9 trillion. I cannot tell you which page it is on, but somewhere very deep in this budget resolution is a 5-year increase in the national debt.

I was talking earlier about tax revenues. Let me just put in perspective the national debt. In 1960, a lot of people were alarmed about the growth of the national debt. It stood in that year at $283 billion. By 1980, it had gone to the breathtaking sum of $520 billion. I happen to remember what it was in 1978 because, when I ran, one of the things I accused my opponent of, one of the things I hung right around his neck was that he voted to increase the debt of this country to the staggering sum of $483 billion. And out our way people felt that was a little too much.

By 1985, it had risen to $734 billion. I beg your pardon. It had risen, by 1985, to $1.823 trillion. Somehow the word "trillion" does not come readily to one's lips. Now we have a national debt of about $3 trillion. If we vote for this budget resolution, anyone who chooses to do so, you are voting to increase it to $5 billion. That is real.

Mr. BOSCHWITZ. Trillion.

Mr. ARMSTRONG. Trillion. I thank the Senator from Minnesota. Somehow that word "trillion" just sticks in my throat. That is real.

I will tell you something else that is real. Anybody who thinks they are going to have some political cover to vote for this resolution and then pick and choose among the propositions that follow it better face the reality that when that happens, when the bill comes back, the first thing they are going to say is, "Well, look, you voted for the budget resolution. Are you now not prepared to vote for measures that follow?" Then there are variations on that theme.

Anyway, that is what I am against. I can just hear somebody saying, "Fine. You are against all this stuff. What is it substantially that you are for?" Well, I will tell you what I am for. I am for two broad propositions: First, reform of the budget process, because it has become a national joke.

One of our colleagues earlier said that he thought there were doubts about the Senate's credibility, that the public doubted the credibility of the Senate. Well, I tell my colleague he better wake up and smell the coffee, in Abigail Van Buren's memorable phrase.

Voters do not have any doubt about the credibility of the Senate. They made a decision about that. They do not believe in the Senate. A recent nationwide poll showed, among others, far beyond whether they think we have credibility on budget issues. Only 30 percent of the people in this country in a recent survey think that Members of Congress always or almost always tell the truth on any subject. People are not beginning to doubt our ability to govern. They know we have failed. They know that we have let down our responsibility. They know this process is a colossal flop. They also know that we are taking a dog-in-the-manger attitude.

Mr. MACK. Will the Senator yield?

Mr. ARMSTRONG. I wonder if the Senator from Florida knows where the phrase "dog in the manger" comes from?

Mr. MACK. It certainly is not the reason I asked the Senator to yield. I would be happy to hear the answer to that question.

Mr. ARMSTRONG. The answer to the question is that this comes from Aesop's fables. The dog got in the manger and barked and scared the cattle away. He would not eat the straw himself, and yet he would not let them eat it either.

Congress is doing the same thing. Congress will not balance the budget, will not show any fiscal responsibility, yet they also deny to the President the line-item veto and the other tools by which he could balance the budget. That is why I say it is like the dog in the manger.

Mr. MACK. The reason I asked the Senator to yield is that when he said "budget reform," I know that one of the thoughts that has come to my mind during this past year or so is that I really believe that there ought to be a repeal of the Budget Act of 1974, I believe that is when the Budget Act was put into place. I know my initial reaction to that when it was first proposed several years ago while I was serving on the Budget Committee in the House was that should not happen. But now that I look and see what has happened, it seems to me that the Budget Act of 1974 allowed us to begin talking about a multiyear budget process; that is, a series of spending and taxing decisions over a 5-year period. What is interesting to me, it seems that every year that we have put together a budget resolution, the tough decisions about what spending should be reduced or what taxes ought to be raised are pushed out into the outyears and we claim all of these. A little later on I will touch on that.

Mr. ARMSTRONG. Backloading.

Mr. MACK. I think it is important for people to focus on this budget resolution and ask what does it do in the first year and what does it purport to do in the second, third, fourth, and fifth years.

Mr. ARMSTRONG. I thank the Senator for his contribution. Anybody who follows the budget debates around here knows the Senator from Florida is not only one of the best-informed but he is also one of the most thoughtful Members of this body and is increasingly recognized as a leader in consideration of these matters. He is absolutely right. This thing is backloaded just as most of these budget deals are.

Well, I started to say what it is I am for. First, I am for process reform, and, second, I am for spending cuts. You do not have to cut anything to balance the budget. The truth of the matter is if you just went to a freeze or partial freeze, that over 5 years or a reasonable period of time you could get this thing in balance. I personally would like to go much further. I would like, for example, to cut back on the appropriations bills we have put through this year. They are running 10 and 12 percent ahead of last year. I would hold them to no increase. I would go for a freeze.

But I would go for more than that. Personally—I think I am one of just a handful in this regard—I would freeze all the cost-of-living adjustment programs, Social Security, veterans, you name it. You do not have to do that. You do not have to take that kind of

bitter medicine to get the budget in balance. All you really have to do is something simple like take the defense cuts, plus a nondefense discretionary freeze for a couple of years and over a 5-year period that would make a big, big dent in the whole thing.

Personally, I would like to go further. I would like to cut defense. It is obvious we are going to do that. I am ready to cut agriculture, and I am from a farm State, but we ought to phase out of that business. I am not just here saying that tonight, I have been home to tell my farmers about that and a lot of them agree with me. It is not as if we spend an enormous amount of money helping the farmers. The fact is the farm program have bankrupted the farmers.

We have poured a torrent of Federal money into programs which, in the end, have not only been useless, they have been self defeating. They have made the situation for the family farmer much worse than it was a generation ago.

If my colleagues do not believe me, talk to the cattlemen and say to them, how would you like to be in the cattle industry under the same kind of programs of Federal support that we have for corn and wheat? Senators will find out fast what people who are not under these programs think of them.

I think we ought to do something to reform Medicare and yes, I think we ought to do it sooner rather than later. There is nothing wrong with the idea of saving some money in Medicare and there is certainly nothing wrong with the idea that relatively high-income families ought to pay a larger fraction of their own health care. I say whether it is by means testing or however we want to do it, it is time to reform Medicare.

I think we ought to curtail or abolish Amtrak. Again I am not running for anything so it is easy for me to say that. But when I was, I made it a point to go to Lamar, CO, where Amtrak enters my State and looked the voters in the eye. I said, folks, we know you love to have the train coming through here every day, but for sound national policy reasons I think we ought to abolish it. We had a good discussion and as far as I could tell, after we got done, they agreed.

I believe we are, in a lot of cases, underrating the people we represent. If we leveled with them and just said look, we have to make cuts in everything, most of them would agree.

Housing programs. We have 6 million units of subsidized housing in this country. Surely that is enough, without passing an enormous increase in the programs of subsidized housing. Could we not just reallocate some of the units we have that went to middle- and upper-income people, to low-income people and solve the problem that way instead of adding $10 or $15 or $20 billion of new subsidized housing units this year, especially in those programs which have been so scandal ridden?

Then, I think we could save a couple of billion dollars or at least a half a billion dollars in the operations of Congress itself. We are spending about $2 billion a year to run this place. Does anybody believe if we wanted to, we could not scale back by $300 or $400 or $500 million?

What is wrong with this budget package is not that it is too severe, not that it is too draconian, but it is too little, too late. The public has been excluded. There is too little accountability because so much was drawn up behind closed doors. I can remember when leadership consisted of trying to figure out what the country needed and then going around trying to sell it to the people. Now leadership, it seems to me, is can you put together a package without anybody knowing whose fingerprints are on the component parts of the package.

I think it is time for us to decide what are we willing to do if we really care about this and we are not just crying wolf. I think it is a serious problem. I believe the deficit is a problem which will come back to haunt us, is already haunting us. Our children cannot get jobs as good as they would like because of this deficit. We have become the world's largest debtor nation. We were the biggest creditor Nation a decade ago. Interest rates have ratcheted up and we are leaving behind a heritage of diminished prospects, not only for our children, but their children as well. It is not the end of the world. We are going to muddle through. Things are going to be OK but not good either.

As Senators, we ought to look ourselves in the eye when we get up in the morning and ask ourselves this question: Here we are, the leaders of the greatest nation in the world; a nation of people who are prudent, thrifty, hardworking, and sensible. And we are the leaders who have given these people a government which is none of these things.

Madam President, in closing I would like to say exactly what I would like to do next. If this budget resolution should perchance be defeated, which I doubt, what would I like to do next? I would like to do five things. I will tick them off.

First, I would like to pass a continuing resolution with a $40 billion sequester included in it on a very short time fuse; a week or 10 days, with a sequester built into it, but only lasting for a few days, as point No. 1.

Point No. 2, send our committees out and tell them to come back with the best package they can, not under reconciliation instruction that limits debate, but just under the regular procedures of the House and Senate with a short deadline and lots of moral suasion.

Third, I would like to make that continuing resolution with its sequester permanent, unless the committees come up with something better.

Fourth, I would like to give the President emergency power while Congress is in recess to exercise some discretion, some version of the line item veto or of enhanced rescission.

And then fifth, I think we ought to go home and beg the forgiveness of our constituents for not doing much, much better.

EXHIBIT 1

AS THE ECONOMY CHURNS

The annual federal budget crises are as predictable—and their resolution almost as fictional—as the recurring crises on daytime TV soap operas.

This low-rated series, which might be titled "As the economy churns," annually stars the federal government preparing to shut down because the Gramm-Rudman budget law supposedly mandates sharp cuts in the deficit. At the last minute, Congress and the administration announce an agreement that keeps the nation's airports and hospitals running and purports to begin solving America's long-term budget woes.

The latter promise is never kept, of course, and there is little reason to think the latest fiscal patchwork is any different. President Bush and congressional leaders claim the agreement reached over the weekend will trim $500 billion from the deficit over five years. However, as it has been with past fixes, most of those purported savings are to happen during the final years of the agreement—which makes them about as reliable as the estimates of five years ago showing how the deficit would be eliminated by this year.

The agreement does appear to reduce the upcoming deficit by about $40 billion, mostly because of higher taxes on alcohol, cigarettes, gasoline and luxury goods. The deal also imposes a petroleum tax and a significant boost in Medicare premiums and raises taxes on the wealthy slightly by limiting the deductions of those who make over $100,000 a year.

Yet even that new revenue may not stop the deficit from growing this year. That's because on Sunday, Budget Director Richard Darman increased the estimate for the fiscal 1991 deficit to $293.7 billion. That is a sharp increase from $231 billion he estimated in July.

Deficit estimates have been soaring because of the faltering economy and the mushrooming costs of the savings-and-loan bailout. A shooting war in the Persian Gulf or persistence of the current $40 a barrel price for crude oil could make the performance even worse.

Finally, there is the risk that the economy, overstimulated and robbed of investment by the fiscal grotesqueries of the Reagan years, may simply collapse on the canvas.

Economic forecasting is a notoriously difficult art, and taxpayers shouldn't hold politicans responsible for the fine details. But they can—and should—hold Congress and Bush accountable for continuing to view the budget purely as political theater, to be tinkered with as campaign applause lines dictate.

For eight years under former President Reagan's "What, me worry?" borrowing binge, the nation lacked a clear blueprint to put its fiscal house in order. Two years into the Bush administration, we still don't have one.

A television soap opera whose crises were this predictable would be canceled for bad ratings. It can only be hoped that the voters are just as demanding in the voting booths this fall as they are in the Nielsen surveys.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield myself up to 30 minutes.

The PRESIDING OFFICER. The Senator from New Mexico, ranking member of the Budget Committee, is recognized.

Mr. DOMENICI. I was not present as Senator BOSCHWITZ was handling matters for me. If there was a different arrangement I surely do not want to change that. Was there an arrangement made for someone else to speak?

Mr. BOSCHWITZ. I would say to the distinguished Senator from New Mexico that the Senator from Florida asked if he could speak after the Senator from Colorado. I responded if no one was there from the other side who wanted to speak, he could.

Of course, the Senator is running the floor for us.

Mr. DOMENICI. Senator, I am going to change my request to 2 minutes and then you are next.

Mr. MACK. I thank my colleague.

Mr. DOMENICI. I yield myself 2 minutes. Then I want to yield to the Senator from Florida.

The PRESIDING OFFICER. Without objection.

Mr. DOMENICI. Mr. President, I am going to speak a little more than this 2 minutes unless we are ready to do the CR, and want to get this thing finished off. Then I will probably restrain my remarks. Otherwise, I am probably going to take a half-hour sometime during the evening.

Let me say there is no one in this body I respect more than the very distinguished Senator from Colorado. As I heard him speak so eloquently about what he would do, I harken back to a day when I had arrived in the U.S. Senate. I think I had been here a year and a half. I was sitting in my front room. My last born are twins. They were 6 years old and I was told I did not have to come to work very early so I did not have to leave. They were there. I could stay until about 8:30, instead of leaving at 6 or 6:30.

They were watching television, and it disturbed me because they were not interested in me. So I pulled up close to them and I started talking to them. They really were not interested. I pushed a little harder. Finally one of them looked back over her shoulder and said: Daddy, you is no king. You is just a Senator.

It seems to me I would like very much to stand before the U.S. Senate as one of 100, on the Republican side of the aisle, where there is also a Democratic side of the aisle, and I would like to say that I do not want to do this because I have a better plan.

As a matter of fact, I would like to share with my colleagues my plan. The only problem is that my plan is terribly irrelevant because I am only one Senator and the U.S. Senate has to reduce this deficit.

It seems to me, what we are trying to accomplish with a President who is Republican, a Republican minority here in the Senate and a majority on the other side that are Democrats, we are trying to put together a package of deficit reduction activities and actions that will achieve $500 billion in deficit reduction over 5 years that will pass the U.S. Senate; that will be signed by the President of the United States; that will pass the U.S. House. If that is not our goal, we ought to quit now and everyone can give speeches, and we can all tell our people what we would do.

It is absolutely right that people say they are not going to vote for this if they do not want to. It is absolutely right, under our system, that they tell us what they would do. And it is absolutely right that they apply their philosophy to this—absolutely right.

When all of that is finished, we have to decide, as a U.S. Senate, whether we are going to get the first step in deficit reduction or not. And I will have something further to say in the evening, as to why I believe, under the circumstances, we better proceed to pass this resolution and take the first step in trying to get 500 billion dollars' worth of deficit reduction.

I do say to my friend who is the next speaker, that he made a point about 1-year budgets, and first year versus second and third and fourth years. I did not want to interrupt.

If we look at the reconciliation package, that is the committees being ordered to do things, some of which are very distasteful because they are taxes. Some are very distasteful because they are entitlements. Some we do not like but, nonetheless, take them all and list them.

If, in fact, they do their job and when they come back and we bring this reconciliation bill here, if I bring it here and lay it before the Senate, if they have done their job, I just want to make the point that each year in the next 5, there are savings and/or revenues that come from those activities. That is why we are getting 5-year events, 5-year effect.

We can talk about other accounts in another way, but I do believe it is absolutely urgent that many Senators who are wondering about this understand that if the entitlement and tax package is achieved, the only thing we have to control in the outyears is the appropriated accounts, and before we are finished, we will discuss budget process reform because it is contemplated by this summit event, dramatic budget process reform without which we should not vote for the final package when it comes over.

I will be pleased to yield. How much time does the Senator ask for?

Mr. MACK. I believe I would not take more than 15 minutes.

Mr. DOMENICI. I yield 15 minutes to the distinguished junior Senator from Florida.

Mr. DODD. Parliamentary inquiry, Mr. President. Who is controlling the time?

The PRESIDING OFFICER. Will the Senator withhold?

Mr. DODD. Parliamentary inquiry. Who is controlling the time?

The PRESIDING OFFICER. The Senator from Tennessee [Mr. SASSER] is controlling the side for the Democrats; the Senator from Minnesota [Mr. BOSCHWITZ] has been designated by the minority leader to control time. It has subsequently, temporarily, been assumed by the Senator from New Mexico.

Mr. DOMENICI. I might say to my good friend, I was going to use mine to speak for half an hour. Senator MACK arranged to speak for 15 minutes. I did not use my half hour. Presumably, when he is finished, we will start rotating.

Mr. DODD. I thank my colleague.

The PRESIDING OFFICER. Will the Senator from Florida withhold? The Senator has yielded how much time to the Senator from Florida?

Mr. DOMENICI. Fifteen minutes.

The PRESIDING OFFICER. The Senator from Florida may proceed for 15 minutes.

Mr. MACK. Mr. President, let me again thank the Senator from New Mexico for both yielding the time and for his comments with respect to the reconciliation package, which I do understand. Also I want to say to my distinguished colleague and friend, the Senator from Colorado, I thank him for his kind comments a few moments earlier.

I rise to indicate at the beginning of my comments that I will be opposing this package for a number of reasons, the first of which is because I view it as being a tax package. I see it raising $165 billion in taxes, and I will touch on that a little bit later. Second, I do not believe it really cuts Federal spending. One of the reasons that I believe that goes to the point that Senator ARMSTRONG and I spoke about a few minutes ago and that is because it shifts the major spending reductions into the outyears.

Third, I would raise the point that there is nothing in this package that encourages economic growth, and I make this point. If we really are serious about doing something about the

deficit, the first thing we have to do is to make sure that we have a growing economy.

Last, I will say, as important as the others, is that, frankly, it makes me angry to find that we are still talking about roughly 50 percent of the domestic savings of this plan coming out of Medicare. Maybe I ought to try to explain how I arrived at 50 percent. We were originally told that domestic savings would be $119 billion. If we take $14 billion of that which, in fact, are user fees, we are down to $105 billion. As I understand it in the agreement that has been worked out—I do not really have all the details—roughly $10 billion of the Medicare reductions have been put back into place. So we are roughly talking about $50 billion in Medicare reductions. That is $50 billion out of a package of $105 billion domestic, and I claim that is pretty close to 50 percent. I think that is just too large to ask one group of Americans to pay in this deficit reduction package.

Let me frame the debate, again, from my perspective. The two most significant myths that have come out of Washington and come out of the Congress of the United States over the last several years are that Federal spending has been cut to the bone; that there really is not anything else that can be done to Federal spending. And the second is that the huge tax cuts that went into effect in 1981 created the deficit that we are dealing with today.

Let me address both of them. Again, reality, and Senator ARMSTRONG touched on these. In 1981, Federal spending was $75.8 billion. The estimate for 1990 is $1.2 trillion. It is hard for me to see how Federal spending has been cut to the bone.

With respect to taxes, if we go back to 1980, roughly $520 billion in taxes were collected in 1980. In 1990, as the Senator from Colorado indicated, $1,067,000,000 in taxes were collected in 1990. My point is that we are not here today dealing with this issue because Federal spending has been cut to the bone. It is because we have not done enough with respect to Federal spending.

One of the things that I have heard almost in the entire 8 years that I have been in Washington in the Congress, 6 years in the House, 2 years in the Senate, and this is actual wording: "Any fool knows that the only way to solve this problem is to raise taxes" as if raising the taxes would do away with the Federal spending problem and we solved the problem.

Let me make a couple of points here. Since 1982, there have been 13 different tax packages passed through the Congress. The Tax Equity and Fiscal Responsibility Act of 1982; the Highway Revenue Act, gasoline tax; Social Security amendments of 1983; Railroad Retirement Revenue Act of 1983; Deficit Reduction Act of 1984; Consolidated Omnibus Reconciliation Act of 1985; Omnibus Budget Reconciliation Act of 1986; Superfund amendments, continuing resolution; omnibus budget resolution, 1987; continuing resolution; Medicare catastrophic coverage, one of the 13, the only one that has been repealed; and the Family Support Act of 1988.

The calculation is that those tax increases from 1982 to 1989 amounted to $851 billion of tax increases. I just really ask the question: How much do we need? How much does this Government really need?

The reason I do not believe that this plan will work is very, very simple. Two points: One, there are 190,000 line items of the Federal budget—190,000 line items. I have been told that maybe one of those line items will disappear as a result of this budget resolution.

The second point is, and I heard this on C-SPAN yesterday while I was watching to see when we were coming back down here, one of the individuals who called in said they were looking at a Federal Register of some kind and indicated that there are 1,176 Federal programs. And I am pretty confident about this next statement. None of those Federal programs will disappear as a result of this budget resolution.

Again, I have to say to my colleagues both on the Democrat side and the Republican side, there is only one way to get control of this. We have to eliminate some Federal spending programs. If we can imagine there are 1,176 of these programs gobbling up every dollar that possibly can come into the coffers, and even with $850 billion over the last 8 years, that is not enough. I just ask people, what is enough?

This plan calls for, it says, $133 billion in taxes. There are $133 billion in what people refer to as taxes. Then there is $14 billion in what are called user fees. That is a way of funding the Government, any way you want to look at it. The last time I heard there was $18 billion in here of premium increases for Medicare. That brings the tax package to $165 billion. I think that this is, again, relying way too much on the tax side and not enough on the spending side.

Again, my colleagues have heard me say a couple of times, how much is enough? When is it going to stop? Is it not interesting that just last week the head of the General Accounting Office, Mr. Bowsher, said that these taxes, after they are passed, will not be enough; that the Congress will have to come back and raise more taxes a year from now, certainly within 3 years. Again, I think that makes my point, that as long as you leave all the Federal programs in place, it is just going to require more and more taxes each year to fund them.

Again, another study was done by Professor Hathaway several years ago. He looked at the taxing pattern of the Federal Government over a 40-year period and drew the conclusion that for every new $1 in taxes raised at the Federal level, the Congress found $1.58 to spend. I say if you look at this package, it indicates the same thing. You would conclude that as a result of this package there would be less Federal spending in 1995 than there is in 1990. That is absolutely wrong. The number goes up some $260 billion over the next 5 years. There is no cut in Federal spending.

I am going to say something now that is very elementary, but I think it needs to be said because nobody understands what we mean by a spending cut in the Congress of the United States. Let me use an example.

I have a young son. I say to Connie, look, we have $100 to spend for you to go to the movies. That is what you spent last year. We have to do something about it. What about a 5-percent cut. Do you know what Connie's reaction would be? He would say, gee, that means I only have $95 to spend next year.

That is not the way we do it in the Congress of the United States. We say that since the cost of the movies are going to go up, let us see, we would have to project then about $110 in spending for my young son to go to the movies. So, a 5 percent cut means that we only have $105 this next year to go to the movies. You see, that is a $5 increase in spending, not a $5 cut in spending. I think people understand that.

So when you hear people say around here we are cutting Federal spending, that is not what is happening. We are cutting Federal spending from an imaginary line that is increasing year after year after year. So under this program Federal spending will increase as it has done so often in the past.

Again, I want to restate the comment that was made in the colloquy that the Senator from Colorado and I had a moment ago. The major problem in this is again it is talked about as being a $500 billion spending plan. Interestingly enough, though, $117 billion in the discretionary accounts, whether that is defense or nondefense, have not been agreed to. They have not been agreed to. No one knows whether they are going to be in defense or whether thay are going to be in nondefense. If they are in nondefense, which one of the accounts would be affected?

So I raise the question in the beginning whether this really is a $500 billion package.

The second point I want to make with respect to the colloquy is what has happened in this particular spending plan is that the tough decisions have been moved off to 1993, 1994, and 1995. The best way to express it is for me to read from an article that was written by Paul Craig Robertson, I believe. He calls it "Numerical Chicanery."

He starts out by saying, "Do you believe that the Federal Government is going to spend fewer dollars in 1993, 1994, and 1995?"

You see, because that is what this budget resolution calls for. It actually calls for outlays to be less in 1993, 1994, and 1995.

He says, "Do you believe that outlay dollars in 1994 will be $50 billion below the amount the Government spends in 1992?" I certainly do not believe that, but those who are going to vote for this are apparently basing their support on that premise.

Then he goes on further to say that "The savings are based on the assumption that spending in absolute dollar terms in 1993, 1994, 1995 is below the level of 1992. In other words, the savings are based on the assumption of 3 years of budget cuts that individually are more severe than the threatened 1991 budget sequester."

He goes on further, "Do you believe that politicians who fear a sequester that would still allow a spending increase in 1991 are going to implement a budget plan that actually cuts spending, not in relation to some projected frowth figure but in relation to a previous year spending? I certainly do not believe it."

One further comment about the numbers and why I find this a plan that is hard for me to accept and believe.

The budget outlays, Federal spending in the year 1991, the year of crisis as it is being said, are going to increase by $128 billion. In other words, in the first year budget outlays are going to increase by $128 billion. In 1992, they are going to increase to some degree. But in 1993, 1994, and 1995, somehow magically, very magically, they are going to be cut below the 1992 level. That I find very hard to believe.

The last point that I want to make with respect to the package is that there is nothing in here that goes to the issue of economic growth. As I said a moment ago, I think that is the most important lack, I guess, of a feature. The most important thing we need to do is to follow policies that create growth. What we need to do is to cut the capital gains rate to 15 percent.

I know that there are two immediate reactions that come with mentioning cutting the capital gains rate. The first is that this is a big giveaway to the wealthy.

I ask people to refer to an editorial in the Wall Street Journal, July 25, 1989, where they showed what the distribution of the benefits of a lower capital gains rate would be. Interestingly enough, when there are less than $10,000 of earned income, they showed that 20.8 percent of all the benefits from a lower capital gains rate would go to that particular group. I know people have to be shaking their heads saying how in the world can this be?

The reason, No. 1 is, that is a group of retirees who have worked and saved all of their lives to set aside money for their retirement years when they are no longer working. They periodically sell off assets, and as they sell off those assets, they are allowed to maintain a certain standard of living. But they are being socked under the present tax plan to the tune of 28 percent. Many of us think that that ought to be reduced to 15 percent.

The other message you hear all the time is that it is going to cost the Federal Government money if you lower the capital gains rate. The same argument that was made in 1987 is being made all over again. Secretary Blumental in 1987 said if you cut the capital gains tax rate, it is going to cost the Federal Government money. In fact, he estimated that there would be a 25-percent loss.

The PRESIDING OFFICER. If the Senator from Florida will withhold, the Chair advises him the 15 minutes yielded by the controller of the time on his side of the aisle has expired.

Mr. MACK. I ask the Senator to yield me 1 minute to wrap up.

Mr. DOMENICI. Mr. President, I have more time requested than I have to yield, but I yield the Senator an additional minute.

Mr. MACK. I appreciate that.

Let me conclude by saying I believe that a lower capital gains rate will in fact increase the revenues. If you go back and look at the statistical data, you are going to find that is true. Capital gains is a voluntary tax. You only pay the tax when you decide to sell an asset. You decide to sell the asset when it is to your economic advantage to do that. If the rates are too high, you do not sell the asset. If you do not sell the asset, there is no income. If there is no income, there is no revenue to the Federal Government.

I say to my colleagues I think this budget resolution should in fact be defeated. There is nothing in it that is going to stimulate economic activity. It raises the taxes and it really does not control Federal spending.

I thank the Senator from New Mexico for yielding me the time.

I yield the floor.

The PRESIDING OFFICER (Mr. DASCHLE). Who yields time?

Mr. SASSER. Mr. President, I yield such time as the distinguished Senator from Connecticut may consume.

Mr. DODD. Mr. President, I thank my distinguished colleague from Tennessee.

Mr. President, for the purpose of my colleagues, I will not use a great amount of time here this evening, but I did want to take a few minutes to express my own views on the budget resolution that we may be voting on a little later this evening, and also to share some general comments about the events of these last several days that have caused us now to be in a situation where a good part of our Government is not operating.

Mr. President, I indicated last week that I had severe reservations about the summit budget proposal that failed to win a majority of votes in the House of Representaives. I expressed those reservations because I felt it placed too great a burden of the deficit reduction on the backs of some of our most vulnerable citizens.

I said that I wanted to support a budget resolution that would responsibly adjust spending priorities to perform the budget process without reducing economic growth and require the most affluent of our Nation to bear some fair share of the cost of government without shoving the brunt of that cost onto the middle-income taxpayers of this country.

It seemed absolutely essential that we agree on a budget compromise that would provide for serious long-term deficit reduction; a budget resolution that represents real progress toward the Federal deficit in a coherent manner.

Sound arguments, of course, can always be brought to bear against virtually every detail of any budget package. But there is an overriding need to start the deficit on a downward trend if we are to remain a strong country and are to leave our children a legacy of economic prosperity.

Mr. President, I intend to support the budget resolution now before us. The resolution is a major improvement over the resolution that was rejected by the House last week. This resolution retains some of the strengths of the summit budget agreement while ameliorating many of its most glaring faults. It represents the largest deficit reduction package in history. It preserves the overall summit agreement, including deficit reduction of $40.1 billion in fiscal year 1991, and $500 billion over fiscal years 1991-95.

However, Mr. President, the resolution modifies the reconciliation instructions to the Ways and Means Committee and Finance Committee by providing the discretion to specify some $20 billion worth of deficit reduction. It suggests that possible changes include lower Medicare cuts, revision of the unemployment insurance waiting period, elimination of the

home heating oil tax, and revision of the tax incentive package.

All of these changes, Mr. President, would be in my view positive steps, and I urge the tax-writing committees to adopt these changes, and look elsewhere for cuts.

In addition, the committees would have more flexibility to write a fair tax package than one contemplated under the original budget agreement. My strong hope is that such a tax package will not be regressive as was the proposal in last week's budget compromise.

The burden of tax hikes and spending cuts should fall primarily on those who can afford them the most. Under no circumstances should the middle-income wage earner bear such a significant burden as I believe was in the rejected proposal.

This budget resolution is imperfect, as all budget resolutions are. But the solid deficit reduction it provides is far more important, Mr. President, than its flaws.

Our country must have a national budget, which means compromises have to be made. If this resolution fails, the growing deficit and the ongoing paralysis in budget making will continue to erode our ability to govern.

Once and for all, we must begin erasing this Federal deficit that has plagued this Nation for the past 10 years, and now is the time to end this fiscal insanity. All of us must come together in the spirit of cooperation to help solve this financial crisis.

We are now paying the price for the so-called supply side economics, championed under the Reagan administration. The crisis we face today stems in my view from two fundamental policy decisions made in the early 1980's at the insistance of the Reagan administration and with the overwhelming acquiescence of Congress: Huge increases in defense spending and massive tax cuts for primarily the wealthy.

This gigantic deficit created by these two decisions is the major reason, although not the only reason, that we are here tonight.

I happened to have voted against the Reagan tax bill in 1981, and I voted against the Reagan budget in 1981 as well because, as I said then, Mr. President, I did not think that "it presents the fiscal policy needed to increase productivity, employment, trade and growth while restraining inflation."

I quote further. I said "It falls far short of what we can and should develop both as an economic recovery plan and as a statement of national priorities." I concluded that the increased deficits that would be created by that tax bill outweighed the need for tax relief and would make a balanced budget a pipe dream.

Mr. President, I wish I had not been so right. We no longer can nonchalantly pile up huge deficits as we did in the 1980's. These deficits made us into a debtor nation dependent on paying foreign investors high interest rates to keep our own Government running. The total national debt from the beginning of our Nation to 1980 was $1 trillion. From 1980 to 1987, it tripled to $3 trillion. Interest on the national debt is now $180 billion. Mr. President, that is $500 million a day. Every day our Nation must borrow $500 million, and we borrow most of it from foreign sources.

The debt takes a special toll on our young people. We all pay hidden tax in higher interests for mortgages and credit because our Nation borrows so much. But young people pay the most because they have the most need to borrow.

Cutting the deficit is the only way to reduce the high cost of borrowing to consumers and Government without spurring inflation. It is the only way, Mr. President, we can afford to meet the new national needs without mortgaging the next generation's future.

Supporting this budget resolution for the sake of finally doing something tangible and meaningful does not enter the debate on taxes and spending programs. It just begins the debate. In the next days and weeks the committees of appropriate jurisdiction will implement legislation in the form of a budget reconciliation bill to implement the dollar targets contained in this resolution. If the final product represents real deficit reduction, and everyone shares fairly in the cuts, then we will have done our job.

I hope, Mr. President, we will pass this resolution and get about the business, the hard job that the reconciliation package requires.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I rise to speak in opposition to the budget resolution, and I would like to begin by explaining why I intend to vote "no," even though I am hopeful that I am wrong.

I am hopeful that this budget resolution will prove to be an effective roadmap to adopt a budget reconciliation bill that will meet the fiscal needs of the Nation, and that will in fact reduce the deficit. But, Mr. President, I am very concerned that it will not.

Mr. President, I supported the original budget summit agreement not because I thought it was a great agreement—I did not—not because I supported every element in it—I did not—but because I thought it represented hard choices that needed to be made, a bitter pill that needed to be taken to cure the ills of the Nation.

Mr. President, whatever you thought of the budget summit agreement, it represented choices. It set out a blueprint. It defined what we were going to do and how we were going to do it.

Mr. President, the budget before us does not make choices. In fact, the budget before us is an effort to run away from making hard choices. A budget, Mr. President, is a blueprint for action. A budget is in fact a promise.

We put together the summit agreement. It was voted on in the House and it was rejected, and it was rejected because it asked, at least in the minds of those who voted against it, too much sacrifice, and the decisions were too hard.

But what we have done, rather than going back and making specific changes in that budget and giving people a new choice based on a concrete program, we have instead decided to bring forth a budget that says we will reduce the deficit in the sweet by and by; that we will do it in a way as yet undetermined; and we will do it when we get ready.

Mr. President, I think this moves away from making hard choices, and I am concerned that if we cannot agree on the easy part, if we cannot agree on the promise, how in the world are we ever going to agree on the actual program? What we have before us is a package that says we are now going to let committees make the decision. There is an oblique reference to the budget summit agreement, but if you read these instructions, you read in vain to find any real commitment to fulfill that agreement.

I am hoping that the moral suasion that still exists from that summit agreement will make it possible for us to move in that direction and come fairly close to that agreement. But there is no hard choice in this budget.

Mr. President, ultimately the American people want us to make choices, not promises. I have tried to come up with a way of explaining what I think the problem is here, and I came up with an analogy, and I just want to share it with my colleagues.

This budget would be roughly the equivalent of the following statement by a young suitor who might come to your house to seek the hand of your daughter. And the young suiter would show up on your front porch and say, "I want to marry your daughter. Your objective is that she is happily married, and I believe I can fulfill that objective, and I want you to give me her

hand. But I want you to understand that normally in the service, you have to pledge to love, honor, and cherish, and I am not willing to make that commitment. I am willing to set out some parameters, where we will discuss it. I am willing to come back after the fact and say that we will look at each one of those things. I may be able to come within 20 percent of one of them, but I am not willing to make that commitment."

Well, Mr. President, I think most of we parents would not be terribly impressed by that commitment. If the potential groom was not willing to make a commitment at the altar, the easy part, how can we expect him to live up to that commitment after the marriage?

The problem with this budget agreement—and I predict it will be a problem that is going to come back to haunt us in the coming weeks—is that we will have agreed to a budget which is supposed to be a plan, and a promise that makes no concrete promise. We supposedly are setting out a blueprint, a road map, and yet we do not agree on what that blueprint is or where the road map will lead us. And, yet, we are supposed to, within a week or 2 weeks, come forth with an actual program to reduce the deficit by $500 billion.

So, Mr. President, I believe we are moving in the wrong direction. I think we are avoiding hard choices and, quite frankly, I think by coming forward with a broad, general agreement with specifics to be determined later, that we make the ultimate decision more difficult.

So I am concerned about two things. One, we are not going to get as good an agreement as we had before; and two, we are more likely to get no agreement than was the case before.

So, Mr. President, I am not urging others to follow my lead in voting "no." I think it is something on which people have to make a determination for themselves. I think you can make strong arguments in either direction. But I come down on the side of voting "no," because I think this is a movement in the wrong direction. This is a movement to gain a 2- or 3-day reprieve from the public outrage which has existed for the last week. But in the process of gaining that reprieve, by not doing what a budget is supposed to do, by not setting out how we are going to achieve our goal, I think we make it harder to achieve it.

Finally, I think if my colleagues have watched the debate on this budget in the House, they have to be alarmed. Because as they listen to Member after Member, who has been told by his leadership, that this agreement allows them to do so-and-so, that this agreeement has assured them that there will be a specific outcome, I hear dozens of people all telling a different story.

I submit that if we are going to end up adopting an actual deficit reduction package, it is probably not good policy to have any doubt about what it is that we are supposed to do. And when we have Members who have been told that this is going to come out to their liking when they have totally diametrically opposed views, I submit that we are setting out a standard which cannot be achieved. I hope I am wrong.

I intend to work on the committees that I serve on and work in any capacity that I am asked to work to try to enforce this agreement. I am committed to working to try to produce a reconciliation bill that will meet the national need, but I do not believe that I would be honest to my constituents or my colleagues if I did not say that by adopting a budget, which basically makes undefined promises, that we are making the job that ultimately must be done harder to do, and we are making it more likely that our goals will not be achieved.

I am committed to doing that job. I will never give up in an effort to deal with this problem. If this turns out to be the vehicle, I will work very hard to make this process work. But I thought it was important that I come here and express my concerns, because I believe that we have made a road, which was already steep and already rocky, far steeper, far harder to climb, by our inability to define what it is we intend to do.

The day is coming quickly when we have to do it, and I submit that we better get on the job.

I yield the remainder of my time.

Mr. BOSCHWITZ. Mr. President, if there is nobody who wishes to speak on the other side, I will yield such time as is necessary to the distinguished senior Senator from Wyoming [Mr. WALLOP].

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I ask that the Chair inform me when 20 minutes has passed, if I have not completed by then.

Mr. President, I do not know who believes that this budget package will result in a $500 billion reduction. I challenge anybody who has been around this body, this Congress, to state that they believe in the budget reduction package, on the basis of either what we have done in the past or what they see contained in it.

As we look at the process which began when the majority party refused to allow the process to work at the budget summit, and forced the President into a negotiation—which he, in my estimation, was mistaken to have entered—we found all of a sudden that absent some risk, the parties became self-indulgent.

The majority party jumped into the politics of class, and cited that somehow or another their purpose was to accuse Republicans of favoring the rich. And those who claimed they were not willing to be parties to that, and who said to the world that it is the Republicans who are the party of the rich, then set about in the original agreement digging the socks off of the middle class—my State in particular—with the gasoline tax, with taxes that increased their role in fuel oil.

And absent some philosophy, both sides lapse into the politics of slogans. There have been slogans attached to this effort. How else do you explain the politics of class when it does not exist in your constituency?

I do not find the people of Wyoming overwhelmingly bitter about the rich. I do not find the rich overwhelmingly bitter about the poor. It is not the subject of which they talk. The subject of which they talk is whether or not this bloody Congress will get down to do its work. It has not, and, in my estimation, when all is said and done, it will not.

How else do you explain the tax decisions in the original bill that forget growth in America, that forget that investment creates jobs? How else do you explain a proposal that forgets all about tax policy and focuses on spite amongst Americans? How else do you explain an original bill that came out with that small company, that investment procedure which nobody thought was anything but another tax loophole, when we spent a couple years trying to get rid of loopholes? How else do you explain an investment proposal that, as most economists knew to be the case, created money, failed to reduce the deficit?

Mr. President, who believes that this will result in a $500 billion reduction? The public does not. Look, if you will, at the votes in Massachusetts. Look, if you will, at the vote in Oklahoma to limit terms. Look, if you will, at the politics in California. Look, if you will, at the politics in Louisiana.

We in the Congress are viewed with scorn. We in the Congress isolate ourselves from the public we serve which is now perhaps awakened. But what we do is play for the Beltway press because that is what we read; the Washington Post, the New York Times, other things have become our hometown newspapers, and that is where the slogans are repeated, and that is where the editorials are written, and that is where the politics of class are played.

That the budget process is a sham has been well spoken to by the Senator from Florida and the Senator from Mississippi.

One of the most obscure processes in that process is the so-called 302(b) allocation. Mr. President, while everybody in this body has all year said so many times he resents the size of the

deficit, my goodness, we have to do something about it; who amongst us will explain why spending is 14 percent higher than it was a year ago?

All during the day last week when we were giving the greatest speeches, while the original budget proposal was going along, what did we do here on the Senate floor but vote for a HUD, VA and related agencies bill that was $19 billion higher than a year back, $2 billion higher than the budget, and nobody looked back, and only eight of us voted against that.

With every bill that we have passed this year, every appropriations bill, you go down to the desk and ask if it is within the budget; they say, yes. How can they all be within the budget if we are 14 percent higher than the spending we have already approved?

How do you do it? You do it with 302(b) allocations. I do not know how that process works; nobody else does. All I know is the 302(b) allocation is an excuse for higher spending and gives everybody a chance to say, "I voted for something that was within the budget."

We are a joke, Mr. President. And we rightfully are a joke to the American public. One of the jokes is the pay faise, and it is not about the pay raise. It is about a pay raise with posturing. What did we do but seek to raise our pay with the promise to change the ethics, which basically says to the American people, "If only you will pay me enough, I will, by God, behave this time. I have not yet, but if you pay me enough, I will learn how."

That is not the way this body behaves. This is not a body where people operate outside norms of ethics. But it is one that just cannot come up to the decision that is rightful to make, without making some kind of a big excuse.

How else do you explain election reform that is not about election reform but about insulating parties? The whole question is, Mr. President, it is about courage and responsibility, and those are the two things which are the most difficult for this body to rise to. How else do you explain tax proposals which return us not to tax policy but to favoritism, for revenge? How else do you explain the Medicare reform that increases revenue but does nothing about how it is spent? How else do you explain front-loading the tax increases and back-loading the spending reductions?

Examine this package, Mr. President. Do you believe it will reduce the deficit by $500 billion over the period of time?

One of the slogans that we talk about—one of them is included in a letter which I just signed—talks of smoke and mirrors. We talk about it in repetitive ad infinitum.

More likely this budget proposal is one of balloons and fans. Why? Because it is a tease. It promises things that we all know it will never deliver. It has no enforcement provisions. It just says that they should be raised. It contains $1.9 trillion increase in the debt limit over 5 years. Mr. President, I will say to the body: You will duck it, and you well know it.

The Senator from Arkansas, in an eloquent speech on the other side, said he did not like this thing; he could give us 20 good reasons why we should vote against it, but he said he will support it. Guess what, Mr. President? Those 20 good reasons will recur one by one by one, and there will be more than 20. And he will have the chance among his 20 good reasons to vote for it, and he will seize it, and he will not be alone, and it will not be partisan; it will be completely bipartisan. He will seize them one by one by one as they come along, and all the things going along in here will fall but for the tax increases.

The package contains no entitlement reform by design, and we will not have a package in reconciliation that puts some entitlement reform in front of us by design and by lack of courage.

Mr. President, if you look at the past as a mirror of the future, it is ugly, it is repetitive, and it is bipartisan. Examine for a minute, if you will, the continuing resolution process. It is absolutely typical of how this body has found a way to avoid being dinked for anything it does. You have seen them all. President Reagan even had a CR on his State of the Union desk that weighed 6 pounds or 8 pounds, or some incredible weight.

And you go home and your constituents say to you: How come you voted for all those bad things? And they will name one or two that were in a continuing resolution. You say, "Look, my friend, I know those bad things were in there, but you were for the women and children and I had to vote for them and I had to swallow the bad things."

On the other side of it, somebody will say, "Why did you vote against all those good things for the women and the children, or the veterans, or the other things?" And you will say, "I did not vote against those good things. I know they were in there, but the bad things outweighted them."

Who is to blame on either side when you go home? The answer, Mr. President, is nobody. Each of us has found a way to duck any accountability in front of the American people through the CR process.

Mr. President, who in here believes that this package will reduce the deficit by $500 billion in the stated time?

I have heard a lot of people talk about how the tax cuts came along and favored the rich. Who of those who are practicing the politics of class will talk about the Tax Reform Act of 1986 that took 6 million Americans off the tax rolls? Those 6 million people do not pay income taxes. No, no, that is not part of it. That does not work in the politics of class. These people were taken off the tax rolls because we raised the threshold upon which you entered the tax paying classes of America.

If you are thinking about it, who in here will remember TEFRA, TEFRA the biggest increase in the history of America until we get to this one. And it was to be returned with $3 in savings for every dollar in taxes that were raised.

In fact, Mr. President, what happened was that all we got out of TEFRA was the biggest tax increase in the history of America. We got no savings—and yet everybody is wondering why we are in trouble now. Every time you do that, Mr. President, you reduce the base from which the real resolution of the problem can take place. You raise the taxes and raise the deficit all at the same time.

Who in the Senate will remember in 1985 when we voted for real cuts in entitlements and in programs, a budget which we passed by one vote, including the vote of the sitting President of the United States when he was Vice President. Those were tough votes. And the Democratic majority in the House killed it dead and killed almost everybody who had voted for it who was up in the next election.

It is interesting that Congress is only too willing to deliver the gifts and is never willing to deliver the pain. Ask me for some day care, ask me for some anything, ask me for some new veterans benefits, ask me for anything that we have done this year and I will give it to you. But now is the time when you want to deliver the pain and take back something: oh, no, I have given you the gift. I do not have the stomach for the pain. But we are going to get the rich and we are going to the cash cow called the defense budget, as though there is no problem left for America to defend itself against in the world.

Mr. President, I would note something very interesting. Those who say we have nothing to fear in the world are the ones who also say that we have everything to fear if Gorbachev is no longer the leader of the Soviet Union. Why would we have anything to fear if Gorbachev is no longer the leader of the Soviet Union, if we have nothing to fear about what is in the Soviet Union?

The answer, Mr. President, is that we do have something to fear, but we will not even deliver to the American people the pain of telling them that a threat still exists. We have a cash cow called the defense budget and we can milk it and we can pay for things out of it.

So the process that we have seen going on in the summit was a political

process and the result is a political result. And we find now here tonight even a more political result which has no consequences to us except that it will weaken the United States.

How will it weaken the United States? It will weaken it by curtailing investment, by eliminating the attractiveness of investment in America, and thus we lose jobs. And when we lose jobs, we weaken consumption. And when we weaken defense, we weaken America's resolve. And when we weaken our presence in the world, we weaken our influence in the world and thus we weaken our future, because without influence in the world much can happen upon which every American's job and every American's security depends.

We are perfectly willing to weaken the United States in the name of politics of class. We are perfectly willing to weaken us by telling Americans that there is nothing left for them to worry about. We are perfectly willing to weaken us by saying that we do not wish to create an investment climate that expands the economy and creates jobs.

So when all of this has taken place, Mr. President, what happens? The Congress will look for someone to blame. And we will blame the Japanese or we will blame the Germans or we will blame the Saudi Arabians or we will blame the Democrats or we will blame the Republicans or we will blame the President or we will blame the education system. But the last place on Earth we will look for blame is in the Congress of the United States. And I am telling you here tonight that is where the blame is collectible.

So alone in America—and I say that really, alone in America—we in Congress will declare ourselves blameless. But the public to which we claim to be so close knows different. The public has expressed itself in Massachusetts, in Oklahoma, in Louisiana, in California, and probably in the election coming. This is so primarily because we have been unwilling to do anything but give goodies and shun the honest expression of pain that is necessary to create the real savings which will come through the $500 billion.

Let us make no mistake about it, 5 years down the road, we will have been in this debate before then or we will be in this debate at that time and we will not have achieved the savings.

I call attention once again, Mr. President, to the mirror. The mirror on the past is the reflection of our future. The only thing I would say to my colleagues is, do not look in it too long and see yourselves. The sight is us and the sight is where the blame lies and the sight is where the reconciliation package is almost certain to fail.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. SASSER. Mr. President, is the Senator from Florida seeking recognition?

Mr. GRAHAM. Yes.

Mr. SASSER. Mr. President, I yield such time to the distinguished Senator from Florida as he may consume.

Mr. GRAHAM. Mr. President, it is my intention to vote for the concurrent resolution that is before us tonight. Last week I announced that had the original budget proposal reached the Senate, I would have voted no. And I outlined my reasons which were, essentially, that I thought it was unfair both in terms of where it sought to raise revenue and where it distributed the pain; that it did not deal effectively with the budget deficit and it particularly singled out one program, Medicare, for approximately $1 out of every $4 of reductions of the overall program.

I am pleased that many of those problems, many of those weaknesses, have now been resolved or we are on a path toward their resolution. We have certainly received a clear signal, a clear signal from the American people and from our leadership, that the issue of health care for elderly Americans will be revisited and that the consequence of that revisit will be to reduce the share of the total national burden that that part of the program is expected to carry, that that part of the budget is obligated for, to a more reasonable and more equitably distributed one.

We also, Mr. President, have assurance, as we turn to the Finance Committee and the Ways and Means Committee and ultimately to the full membership of the House of Representatives and the Senate, that we will be able to consider a tax program that will be more in concert with the statement that the President made in his address to the Nation last week, which was that everyone will be asked to carry some of the burden; no one will be asked to carry an excessive amount. I believe those are attainable objectives.

Mr. President, I continue to be concerned about the high level of deficits that will be left after we take this action. I am also concerned that we may be giving a misimpression to ourselves and to the American people in the concurrent resolution that we are about to adopt.

I know from having discussed this with the chairman of the Budget Committee that this is not his intention. But I want, for the record, to clearly state what the basis is of the numbers that are in this concurrent resolution and how they relate to what I believe the facts will be.

Mr. President, if you turn to page 3 of the concurrent resolution, at the bottom there is a line that says, "The amounts of the deficits are as follows."

These are the deficits that the concurrent resolution indicates will be in existence without considering the Social Security surplus. This is without the Social Security surplus. The estimate for fiscal year 1991 is that the deficit will be $143.7 billion.

The reality is that the Federal deficit for 1991, including the amount that will be spent this year for the Resolution Trust Corporation, the corporation established to complete the bailout of the savings and loan industry, will be approximately $265 billion. And for 1992, $245 billion. And for 1993, $182 billion. All of those figures, Mr. President, I give with some caution because they themselves are predicated on very unrealistic economic assumptions.

How many Americans believe that in 1993 the rate of economic growth will be almost 4 percent, given the fact that today we are less than 1 percent. How many Americans believe that the interest rate on short-term borrowings will be approximately 5 percent, given the fact that it is today 8 percent? Those are some of the economic assumptions upon which the numbers which I have just stated, numbers which are approximately $100 billion a year greater than what is contained in the concurrent resolution, would portray.

So, Mr. President, I will vote for this aware of the fact that we are still going to be making very significant additions to our national debt. Over the period of this 5-year period, we will be growing the national debt by approximately $1 trillion, which is to say if we did nothing tonight, we would add to the national debt over the next 5 years, $1.5 trillion. By what we are doing tonight, we are avoiding $500 billion and adding the $1 trillion. That is not, Mr. President, a happy legacy of this Congress to the future of America.

But, Mr. President, we ask ourselves what is the alternative? What can we do tonight, other than move forward in the manner that has the greatest prospect of giving us some control and giving to the American people some sense of confidence in their national leaders' ability to govern?

We have had some suggestions made tonight that maybe this can be a problem solved without any pain; that we can solve this problem strictly on the spending side by reducing the programs of the Federal Government. We have just started to witness what the consequences of that approach would be. If any Senator wants to have that fully played out I suggest we not act tonight and we begin to see the results tomorrow; whether, in the State of the

Presiding Officer, it is meat inspectors who will not be employed, or whether it is public health officers in my State, air controllers across the country, the whole array of critical services provided by the Federal Government which would not be available.

In my State, Mr. President, one of the most critical demands of the Federal Government is in the area of law enforcement. My State is a coastal State. Much of our law enforcement activity, much of our vulnerability is to illegal activity that comes across our Nation's borders. If we do not have an effective national Government, whether it be through the Coast Guard or Customs, which can protect our Nation's borders, and if we do not have an effective Federal criminal justice system within our boundaries that can then investigate, arrest, prosecute, and punish those who violate our laws, our people will be in even greater jeopardy. All of that system of protection of our people is at risk if we go the next step toward a full sequester, a shutdown or a substantial reduction of critical Federal programs.

Mr. President, because I believe our options are so limited, but with a clear understanding that the numbers that are contained in this concurrent resolution do not reflect the actual consequences to our Nation's economy as a consequence of adopting this concurrent resolution, but aware of the fact that to do less than this would be to impose even greater burdens on this and future generations of Americans, it is my intention to vote for this concurrent resolution.

I conclude by extending my congratulations to the majority leader, the minority leader, and the ranking member and chairman of the Budget Committee for the outstanding service they have rendered to this Chamber and to the Nation in bringing us to a position that we can act this evening.

Mr. SASSER. Mr. President, I thank the distinguished Senator from Florida for his very perceptive remarks tonight. I am doubly grateful for his kind comments regarding this Senator.

Mr. President, if no other Senator seeks recognition at this time?

Mr. DANFORTH. Mr. President, I might ask a question of the chairman of the Budget Committee. It is my understanding that the real difference between the budget resolution that we will be dealing with tonight and the budget resolution that we were contemplating a week ago is about a $20 billion swing. Is that correct?

Mr. SASSER. We keep the same levels of deficit reduction, and that is $40 billion, or slightly over $40 billion in the first year, $500 billion over the 5 years.

Then there is a swing in the jurisdiction of the Finance Committee with regard to revenues and/or entitlements.

Mr. DANFORTH. That is my understanding. I would say, to the chairman of the Budget Committee, I am going to support this budget. I would have supported it last week.

It is my belief based on representations by our leader, Senator DOLE, that we would have had a majority of Republican Senators for the budget resolution that we were contemplating last week. I do not know what the vote is going to be tonight.

I know some Senators have expressed great concern about this $20 billion that is going to be within the jurisdiction of the Ways and Means and Finance Committees.

I spoke with the minority staff director of the Budget Committee. I am told that this $20 billion, which apparently for some has upset the apple cart, amounts to 4 percent of the total deficit reduction package. And further, that it amounts to 0.003, if I am correct, 0.003 which I think is three one-hundredths of 1 percent of the projected Federal budget over the next 5 years, which is what we are dealing with.

I make this point for one simple reason. I think that one of the problems that we have gotten ourselves into in Congress is that we have 535 Members of Congress, each of whom has an absolutely perfect idea of how to deal with the budget deficit, and any deviation from our individual view of perfection is totally unthinkable. Therefore, some people say, we would have voted for the budget resolution that we were contemplating last week, but we cannot possibly vote for this because it gives the tax-writing committees jurisdiction over $20 billion spread over a period of 5 years, about $2 billion a year, and the estimated total Federal budget over those 5 years is about $6 trillion.

So $20 billion total, compared to $6 trillion of Federal budget, seems to me to be, although $20 billion is a large figure by any standard, but a very precious view of budgeting.

It seems to this Senator that after some 5 months of deliberation, some 5 months of negotiating among various summiteers, the time has come to get on with it, to get on with the business of government. If we have reached the point where we are going to fuss around by about three one-hundredths of 1 percent of the total budget and that is going to be the make or break for some Senators, then I would suggest that we have become so finicky in our approach to national policy and economic policy, in particular, that it is no wonder that we are stalemated.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Let me reply to my friend from Missouri by saying once again I think he has put his finger on the problem. The Senator from Missouri is known as an individual who gets to the meat of the coconut, and he has here this evening.

The majority leader stated today in the Democratic conference that since the budget summit agreement was initially defeated on the floor of the House of Representatives, that he and I together had been presented with no fewer than 34 separate budget proposals, just by members of the Democratic conference. Every Senator seems to have the proper formula for solving this fiscal dilemma that we seem to have ourselves in.

I might say this, and then I will yield to the distinguished majority leader, with regard to the $20 billion of fungibility that will be principally or exclusively within the jurisdiction of Finance and Ways and Means, the distinguished members of the Finance Committee could choose, if they wished, simply to not make all of the tax expenditures which were in the budget summit agreement, such as some of the incentives, so-called business incentives, some of the so-called energy incentives, and so forth, and actually save $20 billion just by throwing those so-called incentives overboard. I am suggesting that to the distinguished Senator from Missouri, but one Senator's incentives on occasion may become another Senator's budget waste.

I yield to the distinguished majority leader.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 666

Mr. MITCHELL. I ask unanimous consent that when the Senate considers House Joint Resolution 666, that the only amendments in order be the Byrd-McClure amendments to be considered en bloc; and that no motions to commit be in order; that there be a time limitation of 10 minutes for debate on the joint resolution; and that the Byrd-McClure amendments be equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1991

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation in reaching this point.

Mr. President, having consulted with the distinguished Republican leader, I now ask unanimous consent that the Chair lay before the Senate House Joint Resolution 666.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes.

The Senate proceeded to consider the joint resolution.

AMENDMENT NO. 2939

Mr. BYRD. Mr. President, on behalf of Mr. McCLURE and myself, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, and Mr. McCLURE, proposes an amendment numbered 2939.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In subsection 101(b), after "the Senate as of October 1, 1990," insert "or at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990,".

In section 103, strike the sum "$262,969,000,000" and insert in lieu thereof: "$265,369,000,000".

In subsection 108(c), strike "October 20, 1990," and insert in lieu thereof: "October 19, 1990,".

In section 114, strike "October 20, 1990" and insert in lieu thereof: "October 19, 1990".

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, this amendment is really a group of amendments, en bloc. They provide that the rate of operations for programs and activities of the Federal Government shall be continued through October 19, 1990, at the lower rate contained in House-passed appropriations bills, Senate-passed appropriations bills, or the current fiscal year 1990 rate, whichever is the lower.

One of the amendments changes the date for extension of the debt limit from October 20, 1990, to October 19, 1990.

The amendments would also change the amount to be available for the programs funded under the Department of Defense appropriations bill during the period of the continuing resolution from $262,969,000,000 to $265,369,000,000.

These amendments have been cleared by the leadership on both sides of the aisle.

I ask unanimous consent that the amendments be agreed to en bloc. But before I do that, I yield to Mr. McCLURE or Mr. HATFIELD for such statements as they care to make.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I have participated in the summit in the earlier meetings and saw the summit move to reduce military spending for not only fiscal year 1991 but for the next 5 years, and I applauded that effort. I must say I do oppose this amendment which adds money back to the military spending programs which I do not think are necessary.

I want to say we have been in a state of paralysis long enough, and even though the votes are here to agree to these amendments, I urge we agree to them. I merely want to say I support the chairman of the committee and others who are trying to bring us out of the stalemate and get the appropriations process underway. We cannot afford this any longer. So that is the good part of the amendment. But I do oppose the amendment.

Mr. BYRD. Mr. President, I should state for the record that the programs for defense would be $2.3 billion below the summit figure.

Mr. President, I ask unanimous consent that the amendments be agreed to en bloc and that the motion to reconsider en bloc be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

The amendment (No. 2939) was agreed to.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I support this resolution on the problem with respect to the continuing resolution for a couple of reasons and I think they are very important reasons. First of all, it is necessary that we move forward, and I think all of us are very conscious of that necessity. This continuing resolution contains with it appropriate figures and real reductions in spending. There is a freeze in spending under this. I hope those of us who are very much concerned about limiting the growth of Federal spending during the period of time while we are trying to solve the budget problem are committed to some real savings, and this has some real savings in it. They are marginal, admittedly. We hope the period is short. But there are real savings in it and, therefore, it certainly has my support for that reason.

The second thing that I think is very important is that it sets up a timetable for the consideration of it that is about as short as anyone can reasonably expect to occur. It is not something that leaves the decision to some time in the future. It is something that forces a decision to be made at the earliest possible moment and under the tightest possible time schedule.

Both of those objectives, I think, are in tune with what the President of the United States has said that he wants. He wants some discipline in this process. He wants a budget resolution that moves us forward in this process and he wants some real restraint on spending while we do those things we have yet to do. This continuing resolution accomplishes all of those objectives.

I realize that all people on all sides can question how we got here, why we are where we are, how we get out of this mess, and I think the American public is saying to us, solve the problem.

I think that is the fundamental question we are addressing in this continuing resolution. We are going to solve the problem as fast as is possible for us to do so. I think this is a responsible and reasonable action for us to take. I applaud those on both sides of the aisle who contributed to this result.

It is not where I would like to be. I do not suppose anyone on this floor really says this is exactly what they wanted. But it is a way for us to move forward from where we are, not from where we would like to be but from where we are. I think it is an important effort in that respect. I certainly support it wholeheartedly. I am glad to cosponsor the amendment with my distinguished friend, the chairman of the Appropriations Committee, Senator BYRD from West Virginia.

I thank the Chair.

Mr. BYRD. Mr. President, House Joint Resolution 666, as amended, extends the operations of the Federal Goverment through October 19, 1990. It continues to provide temporary, restrictive financing for fiscal year 1991, which began on October 1, 1990. It also continues to provide for the extension of the debt limit ceiling through October 19.

Thus far, the House has passed 10 of the 13 annual appropriations bills. The Senate Appropriations Committee has reported seven of those bills to the Senate, all seven of which have been passed.

It is critical that the Senate complete action on the continuing resolution tonight. This resolution is not a budget buster. It does not in any way prejudice the budget agreement. It simply allows for the continuation of the operations of the Federal Government through October 19.

Under the provisions of this resolution, it is expected that the essential air services program will continue without any service reduction and that the Office of Commerce Space Transportation will continue at the current rate in view of its important safety responsibilities associated with licensing the commercial space industry.

Failure to enact this continuing resolution would cause massive reductions in all Federal agencies tomorrow morning. The Director of the Office of Management and Budget has issued instructions to the heads of executive departments and agencies indicating that if no continuing resolution is en-

acted by Tuesday, October 9, which begins 1 second after midnight tonight, instructions will be issued initiating a phase down of activities at Federal agencies to take place during the first 3 hours of tomorrow morning.

If, on the other hand, the continuing resolution now before the Senate is enacted, Federal agencies will be allowed to continue operations at the rates provided in the resolution.

I believe that enactment of the continuing resolution is vastly superior to a Government shutdown which would occur tomorrow morning if this resolution were not to be enacted. I urge my colleagues to support the resolution.

I thank the distinguished majority leader and the distinguished Republican leader for their excellent efforts in making it possible for this matter to be disposed of expeditiously.

I yield the floor.

Mr. MITCHELL. Mr. President, I wish once again to restate so that there is no misunderstanding in the Senate about the level of funding for the defense function under this amendment. The budget authority for fiscal year 1991 for the defense function under the summit agreement was $288.3 billion. This amendment provides that in this continuing resolution the level of funding, that is, budget authority for fiscal year 1991 for the defense function, will be $286 billion. That is $2.3 billion less than the level in the budget summit agreement.

Mr. BYRD. Mr. President, will the majority leader yield?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Let me put a little emphasis on that figure also. What this really means, we are talking about 11/365 or $2.3 billion. In other words, Mr. President, this is just for 11 days, 11/365 or $2.3 billion.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I make this statement because the Senate is considering the continuing resolution, which is managed by the chairman of the Senate Appropriations Committee and the ranking member of that committee, and there is an amendment which I shall send to the desk. It is a sense-of-the-Congress amendment. I shall read it. It is as follows:

It is the sense of Congress that the date by which committees should report their reconciliation language to their respective Budget Committees should be October 12; that the Budget Committees should report the reconciliation bills no later than the close of business October 13; and that it is further the sense of the Senate that the Senate should begin consideration of the reconciliation bill on the first day of session following its report by the Budget Committee.

Mr. President, this amendment is a sense-of-the-Senate amendment. It is not mandatory and has no binding effect whatsoever. It expresses a pious hope, and if that hope is not realized, nothing can be done about it. It is an expression of the intent, intent and good faith.

But as I want to call to the attention of the Senate—and I am confident that the majority leader will want to comment on this part—should the Senate take up the reconciliation bill no later than the close of business on October 13, should the Senate take up the reconciliation bill on the first day of session following its report by the Budget Committee, which is a statement of intent, a statement of good faith, but were that to happen, then this could very well mean that after the Senate had acted on the Senate reconciliation bill and then proceeded to take up the House bill, the time under the rule could be doubled.

In other words, there could be 20 hours on the Senate reconciliation bill and 20 hours on the House reconciliation bill. So I merely state that to say that we are not going into this blindfolded. We know exactly what could happen, and I am sure that we are not going to let that happen.

So I think we should say that as we offer this sense-of-the-Senate pious hope resolution, so that we all know that we are not walking into that kind of situation with our eyes closed.

Before I send the amendment to the desk, I am sure the distinguished majority leader wishes to speak. Or would he prefer I send it to the desk?

Mr. MITCHELL. Yes.

AMENDMENT NO. 2940

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2940.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution add the following:

It is the sense of Congress that the date by which committees should report their reconciliation language to their respective Budget Committees should be October 12; that the Budget Committees should report the reconciliation bills no later than the close of business October 13; that it is the sense of the Senate that the Senate should begin consideration of the reconciliation bill on the first day of session following its report by the Budget Committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2940) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, if I might comment. We are all acting in good faith in an attempt to make a serious effort to deal with this very important national problem, in the most expeditious and thorough manner possible. The amendment offered by the Senators from West Virginia and Idaho expresses an intention that we do that, and that is our intention. We are going to do the very best we can to proceed as promptly as we can.

I have indicated to the Senator from Idaho that after the Budget Committee reports, we will then make an assessment depending upon the situation here and in the House as to the best way to get this done as promptly as possible, so as not to add time or to cause us to duplicate out efforts, which could occur even if we did or did not wait for the House bill.

Therefore, we are going to proceed, I want to assure all Senators, in good faith to move forward as promptly as possible in an effort to meet these very tight deadlines, and I will continuously, as I have throughout this process, review the matter with the distinguished Republican leader and with certainly the ranking member on the Budget Committee, as well as our colleagues and the Senator from Idaho.

Mr. McCLURE. Will the Senator yield?

Mr. MITCHELL. Yes.

Mr. McCLURE. Mr. President, I thank the Senator from Maine for the statement that he just made. I think all of us have to understand that there is an element of good faith in this. I think everyone on both sides of the aisle is trying to make it work in just exactly that way, as indeed the President of the United States and his administration are trying to make it work in that way.

As I understand where we are now, with this action, the authorizing committees, the committees of jurisdiction, will have through the 12th to make their recommendations on reconciliation; and that, if as a matter of

fact they do so, then the Budget Committee meets immediately following their recommendations and puts the package together in reconciliation and reports to the Senate. If the committees fail to meet their instructions, either by that date or in substance, then the Budget Committee, under existing law, is empowered to suggest the manner in which their jurisdictional subject matter should have been met. I mention that because I think it is a little bit more than just a precatory desire. It has a little bit of substance in empowing the Budget Committee to take action. That is the way I understand it, that by the end of the 13th, we will know what the shape of the proposed reconciliation is with respect to the several areas that are encompassed in the instructions in the Reconciliation Act.

I also understand—and certainly it is very true—that we cannot control what happens in the House of Representatives. The other body will follow their own process, and we are not trying to dictate to them. We have to await a Reconciliation Act from the House of Representatives before we can complete our action here. I agree with the distinguished majority leader that, indeed, we do not want to waste time over here going through a process twice. We do not want to extend that time beyond any reasonable bounds.

But I think we can at least put ourselves in a position to respond quickly when the other body has acted and submits that legislation to us. We can put ourselves in a position to react to that as quickly as is practicable and the Democratic leader and I and no one else can know exactly what it is they will give us nor exactly how we will have to react to it.

So I understand, and I want to be very clearly understood at this point that I understand what the distinguished Democratic leader is saying to us this evening; that there has to be some latitude for the leadership to respond to the situation as presented to us by the House of Representatives when they send that reconciliation act to us. Certainly, I accept it in exactly that manner for myself and I hope for some others on this side of the aisle. Our action tonight is an action of good faith, accepting good faith on the other side. Indeed we are going to try to expedite this matter as quickly as we can, because after we act it has to then go to the floor of the Senate, from there to a conference with the other body, in every likelihood, and come back in a conference report.

The concern I have, and many others have, whether we like where we are or not, we are up against an adjournment date. We want to give ourselves as much time as it is possible to give ourselves, to deal with the question as free of pressure as we can, and that means as early as possible so that we are not right up against an adjournment date; we are not faced with a take it or leave it that forces people to vote for it when they do not want to, or that automatically means we are back in a Lame Duck session after the election which I think all of us want to avoid.

So I accept the statement made by the distinguished Democratic leader and for myself I will welcome the opportunity to work with him and others in trying to make this process work the way it is outlined there this evening.

Mr. MITCHELL. Mr. President, I thank my colleague and I merely wish to state that lest there be any misunderstanding it is not the intention of the amendment most recently adopted to create any authority or power in the Budget Committee beyond that which exists in the existing Budget Act. We are not attempting to give them any new authority or power here. This merely establishes what we hope will be a timeframe within which action will occur.

Mr. President, I thank my colleagues. I hope that if the time for debate has expired we could proceed to dispose of this measure, and then I am going to seek consent to dispose of the budget resolution.

The PRESIDING OFFICER. All time for debate has expired.

The question is on the engrossment of the amendments and third reading of the joint resolution.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution, having been read the third time, the question is, Shall it pass?

So the joint resolution (H.J. Res. 666), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I ask unanimous consent that a vote on the adoption of the conference report on House Concurrent Resolution 310, the budget resolution, occur at 11:30 p.m. this evening with the time between now and then to be divided and controlled by Senators SASSER and DOMENICI.

The PRESIDING OFFICER. Is there objection?

The minority leader.

Mr. DOLE. Mr. President, could we extend the vote if we vote at 11:30 and the 15 minutes are up? We may have one late arrival.

Mr. MITCHELL. Certainly I think we have done that in every instance that occurred this year. It would be my intention to do that.

Mr. DOLE. If it becomes too late, say, 1 o'clock or——

Mr. MITCHELL. I do not think I understood "extend" in the same context as the Senator suggested. We have extended it, I think, as much as 20 minutes.

Mr. DOLE. A reasonable time. I say that would not be a reasonable time. I will work it out.

Mr. MITCHELL. We will work it out. I renew my request.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that a vote on the adoption of the conference report on House Concurrent Resolution 310, the budget resolution, occur at 11:45 p.m. this evening with the time between now and then divided and controlled between Senators SASSER and DOMENICI.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues and I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

CONCURRENT RESOLUTION ON THE BUDGET—CONFERENCE REPORT

Mr. SASSER. Mr. President, at this time I would yield 2 minutes to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. SASSER. Mr. President, I ask unanimous consent that the Chair vitiate the request for time for the Senator from Hawaii.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I suggest the absence of a quorum.

39-059 O-91-44 (Pt. 19)

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, the senior Senator from Georgia has indicated that he wishes to address the Senate and I yield to him 5 minutes at this juncture.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank my colleague from Tennessee and I thank all of those on both sides of the aisle who struggled long and hard to be able to pass this continuing resolution which has just passed, which will take a few days and at least alleviate the immediate hardship that was going to be so tough on so many people. I am certainly hopeful the President will sign this this evening.

I also commend the Senator from Tennessee, the Senator from New Mexico, the Senator from West Virginia, the Senator from Oregon [Mr. HATFIELD], and others who worked so hard on the budget resolution. We all know we are trying to save $500 billion over 5 years and everybody is trying to look for a way to do it where nobody gets hurt and nobody gets mad. By definition that is impossible. You do not save $500 billion without hurting someone and without costing someone some money or programs. It is impossible by definition.

The one thing I regret so far in this whole budget deliberation is something that no one has yet done. President Reagan never did it, President Bush has not done it, nor has the congressional leadership been able to gain the attention of the public in terms of addressing the issue of the overall deficit. The Senator from Florida talked about it tonight, but the American people need to be told or we are going to have another period of disillusionment in 6 months or a year. They need to be told this is only addressing a portion of the deficit, that the deficit is going to be probably between $1 trillion and $1.5 trillion over the next 5 years, and we are talking about cutting $500 billion.

Also I think the public needs to be told. I know the Senator from Tennessee has said this many times, that even those deficits are based on scenarios which are very, very optimistic.

Just one point that I think needs to be made and that is that the Bush administration's economic assumptions on which this whole deficit projection is based shows that we are going to go from a gross national product growth rate of 1.3 percent in 1991 to 3.8 percent in 1992. Well, now that is optimistic. I hope it will occur. And maybe it is possible it will occur. But at the same time they have the Treasury bill interest rate, 91-day T-bills, going down from 7.2 percent in this year with a slow economic growth to 5.7 percent in 1992, when we are going to be experiencing much stronger economic growth and much higher borrowing.

I do not know many people who believe that. So I am afraid when you look at these assumptions that we are going to have another whole period of disillusionment and the credibility of the Government itself, both political parties, the White House in particular, and the Congress also is going to be further eroded into the future.

That is not to say this package is not going to do some good. It is. But the problem is when you project deficits at this level, and it is really going to be at this level, and you end up cutting it down somewhat, it is still going to be higher than we are projecting now because the economic assumptions are simply not likely to hold.

I think that those paying attention to this debate in America might also want to know that the Bush administration's projection on 91-day Treasury bills in 1993, that is the interest rate the Government would pay, is 4.9 percent; 1994, 4.4 percent; 1995, 4.2 percent. The budget committees are not buying all these numbers, but for these deficits to come anywhere near the projections that is what the interest rates have to be.

I just do not know of anyone who is projecting that kind of interest rate decrease. I am hoping that will come about but I think it would be a near miracle if it does. Of course that makes an enormous difference in the deficit because we pay interest on the debt.

Mr. President, in the remaining 1 minute or 2 I have, I would like to address the defense numbers just very briefly. I have had a number of my colleagues, the Senator from Arkansas [Mr. PRYOR] and others who have expressed an interest in these numbers.

Suffice it to say that defense numbers are coming down somewhat from the summit levels. The reason for that is that the Senate-passed bill was lower by a small amount than the speeches I made back in the spring that laid out 5 years' budget projections with policy assumptions after analyzing the threat assessment and the strategy. The CBO scored our defense bill slightly below the numbers that I had anticipated, and we have seen because of the decrease of $2.2 billion in budget authority, not in outlays but in budget authority, over 3 years.

There are a number of people who are saying the defense numbers are too high. I can understand that frustration, but I believe that people have not focused really on what is happening in defense. We are making the most profound, sweeping changes in defense this year in a downward direction that we have made in at least the last 25 or 30 years.

The numbers that are in this resolution are the numbers that passed the Senate in the Senate authorization bill by a vote of 79 to 16. That has not been but about a month and a half ago. Some of those 16 may be part of those who are frustrated, but 79 Senators endorsed the numbers that are in this resolution we are considering.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SASSER. Mr. President, I yield the Senator from Georgia an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank my friend from Tennessee.

Let me just make two or three other points. Defense spending cuts in this budget resolution over the next 5 years represent 36 percent of all the deficit reduction in this package. Add in the interest on debt saved by reason of the reduction and it comes to 40 percent. Forty percent of the $500 billion is coming out of defense.

I think it also should be said that as a share of the gross national product the defense spending is going to drop from 5.5 percent of the GNP in 1990 to 4 percent in 1995. And I will not go into the details on those numbers but in 1991 we will be cutting $25 billion out of budget authority; 1992, $35 billion out of budget authority; 1993, $47 billion out of budget authority; 1994, $60 billion out of budget authority; and 1995, $70 billion.

Mr. President, those are large numbers. It is going to be very difficult to meet those numbers.

I have also been asked by a number of people why do we not reduce forces in Europe. We are reducing forces in Europe. We are going to have to reduce forces in Japan, Korea, and the Philippines also to be able to meet these numbers. We did not do it all in this bill that passed this year. We only took 50,000 out of Europe. But we have taken approximately 500,000 people out of the force structure in the Defense authorization bill that passed. Those numbers will come down over 5 years—500,000 people over 5 years. That is going into law if our bill prevails on that point in conference.

In order to accomplish that—and that is where you save the money; you do not save money by bringing troops home from Europe directly unless you take them out of the force structure, and that is what we are going to be doing to save money—in order to meet that level, I have anticipated—now the commitee has not endorsed this, this is my assumption to get the numbers and the projections—I have assumed

we are going to take about 50,000 out of Europe on an annual average, maybe more in some years, others less, 50,000 per year for the next 5 years. That is about 250,000 out of Europe.

The administration is not agreeing with that. The Secretary of Defense does not agree with that. The Joint Chiefs do not agree with that. But that is what I think we are going to have to do over the next few years, assuming the threat continues to diminish, and we have to relate our defense needs in Europe and elsewhere to the threat.

Mr. President, I thank my colleagues. I thank my colleague from Tennessee. I yield the floor.

Mr. SASSER. Mr. President, the Senator from Maryland has requested time. I yield 5 minutes to the distinguished Senator from Maryland.

Mr. SARBANES. I yield to the Senator from Georgia.

Mr. FOWLER. Mr. President, I thank the Senator from Maryland.

Mr. President, the budget summit was a long and difficult process, and made so not because of a lack of good will or commitment but because of the magnitude of the problems and the sharp differences among the participants as to how those differences could or should be addressed. Indeed, these same divisions were evident last Thursday when majorities of both Republicans and Democrats in the House rejected their President and the bipartisan congressional leadership in voting down the first budget resolution which sought to implement the budget summit agreement.

When we started the budget summit in May, the difficulties were daunting enough: a deficit which the President had reestimated at $200 billion, rather than the $93 billion he submitted in his January budget; ballooning costs associated with the bailout of savings and loan companies; and a looming across-the-board sequester, which would cut over $100 billion in Government programs, devastating everything from crime and drug enforcement, to education, to air traffic control, to environmental protection, to national defense.

But these obstacles were only magnified by events of late summer: the Iraqi aggression in the Persian Gulf, and the increasing signs of a weakening economy, both of which multiplied the deficit problem while narrowing the available options for solving that problem.

I have tried to support the President of the United States in this deficit reduction effort, by participating in the budget summit, in negotiating in good faith, and even in supporting a summit agreement which all participants in the summit know was very far from my liking.

Yet in spite of the policy differences I had with the President and his representatives, the only real criticism I have of the President's role in all of this is the one I made at the outset of the process: I do not believe that he has used the bully pulpit of the Presidency to prepare the public or their Representatives in the Congress for the sacrifices that would be a necessary part of any significant deficit reduction package. Whether you listen to the reaction in the country or to the debate in the House the other night I think you will have to agree that this is so.

The bipartisan agreement which emerged from the summit was not a "good news" document. It was not painless. It was not something that I, or any other participant, found it easy to support. Indeed, I venture to say that there is not a single member of the negotiating team who was completely happy with that package.

In response to last week's House defeat of the budget resolution, some changes have been made which make more explicit the role of House and Senate committees in shaping the final details of the deficit reduction package. More flexibility is provided to correct some of the inequities that many perceived in the original budget resolution conference report.

Yet, I do not want to mislead any Member of this Senate into believing that his new conference report will ultimately lead to easier choices. It may be less difficult to vote for this less specific deficit reduction plan tonight, but you will still be faced with the specifics when the reconciliation bill comes out of our committees. Even if the worst fears of my friend, the distinguished junior Senator from Texas, are realized and we use the lack of specificity to shortchange real deficit reduction, we will still pay the price down the road, when we have to face this deficit problem again and again.

Nonetheless, I believe that approval and implementation of the deficit reduction provided for in the budget conference report now before us is vital to our long-term national security. The budget package is about sacrifice: There are no easy ways to resolve the problems I have already alluded to.

It is about commitment: Now, with our servicemen and women on the front line in the Persian Gulf, is a time when we must demonstrate national unity and national resolve.

It is about our Nation's future: Without a solution to our budget, trade, and investment deficits, we will continue mortgaging our children's futures.

And, yes, it is also about political courage: Many of the things this agreement proposes to do are considered suicidal politically, and all of us who have signed on to the cause can look forward to Monday morning quarterbacking, negative TV ads, and special interest attacks.

This is a major effort, being the largest deficit reduction package in American history, by far, even if one takes the most pessimistic view of how the committees will implement its provision. But, given the magnitude of the problem, no other course was possible.

I would like to say a word about the comments that some are making about the unwillingness of our senior citizens to participate in this national sacrifice. I say that those who make such comments do not know older Americans very well. Our elders know about sacrifice. They weathered the Great Depression, and fought and won the Second World War. They love their country, and they want to make a contribution in this time of national need. What they don't want is to be singled out, unfairly, while others escape from any sacriface. I have no doubt in my own mind that when the need for this deficit reduction package is made clear to them, and when the alternatives are made plain, older Americans will be in the forefront urging us all to do what is right for our country.

Let me be clear on one point. There will be some difficult economic times ahead, whether or not this deficit reduction package is approved. But while, as I have said, no one could possibly endorse every item of this package with great enthusiasm, you must consider the alternatives if the agreement is not ratified.

First, the Federal Reserve Board will conclude that there is insufficient political will to correct our fiscal policy problems, and will therefore, understandably, fail to reduce interest rates. Second, the Gramm-Rudman across-the-board sequester will be triggered, producing not only the undesirable policy outcomes I mentioned before, but also taking more than twice the amount of money out of the economy as envisioned in the summit agreement. Both of these factors will worsen, rather than improve, our economic situation.

Some ask, why act now to take such massive amounts of dollars out of the economy even as we are on the brink of a recession? Up to a point, I would agree. Under any economic theory I am familiar with, now indeed is not the best time to be embarking on a major deficit reduction effort; 1985 would have been a better time; or 1987, when the first budget summit was held between President Reagan and the Congress, or even last year's summit. At all of those times, the economy was in better shape than it is today.

The truth of the matter is that the President and the Congress did not undertake serious deficit reduction in those years, when the economy was

stronger and the job would have been somewhat easier. But, if we fail to act now, how much longer will the country have to wait; how much more will our budget, trade, and investment deficits have to grow; how much larger a share will have to go simply to pay interest on the national debt, before action is taken?

My answer is we cannot afford to wait. If we do nothing now, projections are that the Federal deficit will grow to over $300 billion over the next 5 years, not even including the effects of an economic downturn. If left unattended, this deficit problem is going to grow and grow, and it will be much more difficult, not easier, to solve it in the future.

Clearly, the budget summit agreement is open to attack on many fronts. It represents neither what the Democrats nor the President and the Republicans would have produced if they were able to enact a plan on their own.

A quick review of the initial offers which we presented to each other at Andrews Air Force Base should suffice as an indicator of what each side would like to have done.

Compared to the final agreement, the Republican package had larger cuts in entitlements, including Medicare and agriculture, and in domestic discretionary spending, and lower cuts in defense. The Democratic offer was just the reverse. On taxes, they offered tax breaks for the wealthiest; we offered higher taxes on those who make over $125,000 a year.

These are all legitimate and important differences which separate our two parties, and they are the very subjects which elections should be fought over, not the personal vilification or television attack ads which now dominate what passes for campaign debate.

But the budget summit agreement and this budget conference report which would start implementing it, is about governing, not campaigning, and all but one of the summit members understood that.

There were many policies which I fought hard for at Andrews but which didn't make it in the final agreement. Contrary to Wall Street Journal editorials, I supported inclusion of a capital gains provision as far superior to the so-called business incentives included in the final agreement, but I also felt very strongly that this had to be accompanied by higher tax rates for those earnings $125,000 or more, as in the original Democratic offer.

In closing I would like to cite the words of Benjamin Franklin, which were read for him by James Wilson on the final day of the Constitutional Convention, September 17, 1787, to conclude debate on that difficult, contentious compromise, the United States Constitution. Incidentally, the distinguished majority leader gave a Reader's Digest version of this statement on national TV the other night:

> I confess that there are several parts of this Constitution which I do not at present approve, but I am not sure I shall never approve them; for, having lived long, I have experienced many instances of being obliged by better information or fuller consideration to change opinions, even on important subjects, which I once thought right but found to be otherwise. It is therefore that the older I grow the more apt I am to doubt my own judgment and to pay attention to the judgment of others.* * *
>
> In these sentiments, sir, I agree to this Constitution with all its faults, if they are such * * * I doubt too whether any other convention we can obtain may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a perfect production be expected? * * *
>
> Thus I consent, sir, to this Constitution because I expect no better, and because I am not sure that it is not the best. The opinions I have had of its errors I sacrifice to the public good. I have never whispered a word of them abroad. Within these walls they were born, and here they shall die. * * *
>
> On the whole, sir, I cannot help expressing a wish that every member of the Convention who may still have objections to it would, with me, on this occasion doubt a little of his infallibility, and, to make manifest our unanimity, put his name to this instrument.

Mr. BURNS. Mr. President, I rise to express my opposition to the Democratic budget resolution now before us. I was prepared to vote against the original budget summit agreement for a number of reasons. And the day after the House defeated that budget package, I was hopeful that we could go back to the table and come up with a better plan.

Unfortunately, that did not happen. Instead we are presented with a budget resolution which is 10 times worse than the original one. It is worse because we do not even know what the agreement is. There is at least $150 billion in increased taxes in this package. It does not take a rocket scientist to figure out that this is a tax package, not a deficit reduction package. The $150 billion in increased taxes may come from gasoline, beer, wine, cigarettes, income or sales taxes. But one thing is for sure—the average American is going to fork over at least an additional $140 per year to Uncle Sam.

In addition to the outright tax increases included in this package, there are additional unspecified fees. The Commerce Committee, of which I am a member, is directed to come up with $1.3 billion in unspecified mandatory spending cuts or unspecified fees. I can tell you right now that the Commerce Committee's recommendation will be 100-percent fees. There will be no spending cuts. I know this because last year when we went through this exercise the members of the committee were presented with various recommendations which would achieve the required savings. Every provision was a fee. And when Senator LOTT and I spoke up and asked "where are the cuts?" we were told that it was not counted as savings to cut programs under our committee's jurisdiction—that we had to raise fees to meet our reconciliation instructions.

Ten committees in the Senate are instructed to come up with similar packages—all of which could be 100-percent fees. Now inside the beltway people may call paying a fee to have your small business inspected for compliance with EPA regulations a spending cut. But I think that most people—especially people paying those fees—will think of them as taxes. This means that over 50 percent of this package could fall on the shoulders of the working people and small business owners in this country.

This is an approach I cannot and will not support.

In my opinion, we are approaching the question of serious deficit reduction from the wrong side of the equation. Revenues are not the problem—runaway Federal spending is.

This package does not ensure that one dime will be cut from the Federal budget. There is no effective enforcement mechanism in this package. It is business as usual for the U.S. Congress. We say we are going to cut spending and raise a few revenues to reduce the deficit. We promptly increase taxes and fill our coffers and the spending cuts never come to pass.

I have introduced a plan a couple of weeks ago called the 4-percent solution. The 4-percent solution brings the deficit under control by limiting growth in Federal spending to 4 percent over the previous year. It also reforms the budget process and strengthens Gramm-Rudman-Hollings to ensure that these savings are actually achieved. The package before us claims to cut spending, but includes no enforcement provisions to ensure us that those savings will actually accrue.

I have heard many supporters of the budget summit agreement and of this proposal say that those of us who oppose their package are just refusing to make the hard choices necessary to attack the deficit problem. I submit to you, Mr. President, that enactment of the 4-percent solution would force the hard decisions needed to get rid of our Federal budget deficit. Raising taxes is the easy way out—it is much more difficult to control Federal spending.

I reject this budget resolution for that reason. I doubt that any reconciliation package put together on the guidelines in this package will be acceptable to this Senator. It is for that reason that I must vote against this package in the hopes that it will be defeated and we can turn the focus away

from tax increases and back to controlling Federal spending and reforming the budget process.

THE TRUTH-IN-BUDGETING FREEZE

Mr. HOLLINGS. Mr. President, this past week is just about the worst Government I have ever seen in Washington, which is saying a lot. Secret summits, pollster politicians, deceitful claims, dangerous policy, abdicated responsibility—you name it, we have witnessed it in recent weeks.

Of course, this latest summit deal was doomed from the start. These summits are not the cure, they are the cancer. Each year the poor patient, the Federal budget, just gets worse and worse off. Last week, the House of Representatives rejected the summit package as if it were a diseased organ, which it was. They did the right thing, even if they did so for the wrong reasons. Now we have a chance to do better.

Mr. President, let us look back at that rejected summit package for a minute. After all, most of its basic elements have been preserved intact in this latest reincarnation that is before us today in the conference report. The summiteers claimed that their $500 billion in deficit reduction between 1991 and 1995 would balance the budget. But, in truth, they agreed to solve the problem by ignoring half of it. The General Accounting Office concluded only last month that it will take closer to $1 trillion in deficit reduction between 1991 and 1995 to balance the budget. On top of that, the summiteers included impossibly inflated economic assumptions, for instance, projecting 1992 economic growth at 3.8 percent and interest rates at 5.7 percent. At very best, the agreement's $500 billion objective is like throwing a 50-foot lifeline to a drowning man 100 feet off shore.

This agreement calls for only $16 billion in new taxes in 1991, but calls for $5 billion in new tax cuts next year—all of them targeted for the well off. As Lester Thurow wrote this past weekend:

> It is remarkable that the initial deal * * * would aggravate the very features of the current tax system that seemed most generally objectionable to tax experts and the public: Its small business growth incentives would offer new tax dodges to the wealthy.

So as far as the President's core constituency of high-income GOP voters is concerned, Mr. Bush has fulfilled his campaign pledge not to raise their taxes.

I am confounded by the press's willingness to take President Bush at his word when he claimed that the summit agreement "does not mess with Social Security." The truth is that the summit agreement robs Social Security blind, as does this latest revision of the summit agreement. Both packages expressly provides that a total of $169 billion will be borrowed from the Social Security trust fund between 1991 and 1995 in order to reduce the Gramm-Rudman-Hollings deficit. So, concerning the Social Security trust fund, this agreement ensures that there will be no trust and no fund.

Likewise, neatly tucked away in both the original agreement and in this revised version is a provision for putting all new expenditures for the S&L bailout off budget. At the same time, the statutory debt limit is extended for 5 years and left open-ended. The game here is to grant congressional authorization for a blank check to fund spending by the Resolution Trust Corporation. Of course, this comes at a time when FDIC Chairman Bill Siedman says he will need at least another $100 billion to keep the bailout rolling just in fiscal year 1991. This budget trick solves Congress' and the administration's No. 1 political problem by keeping the S&L mess out of sight and out of mind.

Aside from the deceit, both the original and revised packages included are downright dangerous in terms of policy. Both packages officially kill any idea of a peace dividend. Gone are predictions of defense budgets being pushed down toward $250 billion over the next several years. Instead, the budget deal expressly locks in Pentagon budgets at no lower than $292 billion annually for the next 3 years. What is more, the cost of Desert Shield—whether it end up at $5 or $50 billion—does not count against the $292-plus billion spending limit. Instead of a peace dividend, the agreement awards the Pentagon a war dividend by exempting it from significant cuts and giving it carte blanche in the Persian Gulf.

Mr. President, this budget agreement is especially shameful in that it fails to address our changing national priorities. During the last year, our Nation has moved from the cold war to the trade war. We have a crying need for new investment in education and infrastructure in order to get our country moving and competitive. This budget deal offers a martial plan, not the domestic Marshall plan we desperately require.

I can tell you that the extremely low-spending ceilings for domestic discretionary spending are not adequate to fund even current program obligations. Beyond that, the agreement assumes zero new initiatives by the self-styled education president, environment president, child care president, and his like-minded colleagues in Congress.

Mr. President, this budget resolution presents us with a formula for a gridlocked Congress and a do-nothing Government for the next 5 years, during which time the budget agreement calls for at least $1.2 trillion in additional deficit spending. The deal provides three-way veto authority to a willful minority in Congress. Take your pick from the Sununu veto, the Dole veto, and the Darman veto. The Sununu White House can exercise the traditional constitutional veto requiring 67 votes for override. The distinguished Republican leader, Senator DOLE, has his own veto power under the provision requiring a 60-vote point of order for any bill exceeding the spending caps. And Dick Darman has yet a third veto option by virtue of OMB's authority under the terms of this package to rule unilaterally on whether a given bill violates the spending caps.

As I said, Mr. President, this is a sure-fire formula for a deadlocked legislature and a do-nothing Government. That may be just fine in the eyes of a President without an agenda. But America deserves an agenda, and a leadership willing to pay for it.

My own druthers, Mr. President, are for a package that incorporates an across-the-board spending freeze in conjunction with a cut in the capital-gains tax rate to 15 percent and an increase in the top income tax rate to 32 percent—a tradeoff that was endorsed this weekend by Vice President QUAYLE. I would also include entitlement savings of $6 billion as proposed by the President in his January budget submission—savings that do not gut Medicare in any way, shape, or form. This truth-in-budgeting freeze would save fully $50 billion in the first year, and in excess of $500 billion over 5 years.

Mr. President, I ask unanimous consent that a table illustrating the key elements of my budget plan be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Truth-in budgeting freeze—Fiscal year 1991

[Figures in billions]

Discretionary savings:	
Defense freeze (excludes Desert Shield)	$12
Non-Defense freeze	14
Entitlements [1]	6
Revenues	16
Interest	2
Total deficit reduction	50
Revenues:	
Eliminate tax bubble	4.2
Capital gains	5.0
Summit taxes [2]	6.8

[1] Entitlement savings include a freeze on doctor and hospital Medicare fees, elimination of lump sum, and assorted other summit agreement savings. No cuts in COLAs. Limits summit agriculture cuts to $1 billion.

[2] This excludes all trust fund revenues. It includes tobacco ($600 million), alcoholic beverages ($1.5 billion), luxury tax ($200 million), corporate underpayment interest limitation ($1.4 billion), itemized deductions ($500 million), payroll tax deposit ($1 billion), enhanced IRS enforcement ($700 million) and other summit savings.

Mr. HOLLINGS. Mr. President, I have shared this plan with many of

our Senate colleagues. Some two dozen Senators have said they could support such a truth-in-budgeting freeze.

Mr. President, there is a great deal of justified anger in the country over this budget debacle, primarily incited by the obvious inequity and deceit of the original plan. In contrast, Americans will accept an honest plan on the part of Government to deal with this fiscal crisis, as long as everyone shares the burden. My freeze ensures honesty and fairness.

The plan is simple—freeze all spending at last year's levels. On the spending side, this would mean a $12 billion savings in defense spending, excluding Desert Shield, a $14 billion savings in domestic discretionary spending, and entitlement savings which include a freeze on doctor and hospital Medicare fees, elimination of lump sum, and assorted savings already outlined in the budget summit. There would be no cost-of-living cuts. Agriculture subsidy cuts would be limited to $1 billion. Total entitlement savings, $6 billion.

On the revenue side, I propose we accept a cut in the capital gains rate in exchange for the elimination of the tax bubble. I would also accept the tax increases approved by the summit, including tobacco, alcohol, and luxury taxes, corporate underpayment interest limitation, itemized deductions, payroll tax deposit, enhanced IRS enforcement, and other summit savings. Total revenue, $16 billion.

With $2 billion in interest savings, the truth-in-budgeting freeze totals $50 billion in real savings in fiscal year 1991, nearly $10 billion more than the summit. Additionally, this plan, if adopted over the next 5 years, would mean well over $500 billion in total savings.

Mr. President, this freeze proposal is simple, direct, honest, and real. It simply takes last year's budget for this year's. No one's budget is cut. No one's budget is increased. We simply continue through 1991 with the very same budget that was approved last year by both Houses of Congress along with the President of the United States. This truth-in-budgeting freeze will break the deadlock that now paralyzes us. At the same time, it will take us a long way toward the balanced budget our country so desperately needs.

Mr. SARBANES. Mr. President, I want to take just a couple of minutes to talk about what is at stake in passing this budget resolution, the problem that we are trying to address. There are, in fact, three deficits that we have to face up to in this country. One is the budget deficit, another is the trade deficit, and the third is an investment deficit, which the Senator from West Virginia has spoken about eloquently on a number of occasions.

What is really at issue is getting our own budget in order, our own fiscal house in order in order to enhance our ability as a nation to compete internationally in the global economy in which we now find ourselves.

I hope the Senate will indulge me for just a moment or two. I have a few charts. I want to run through them very quickly because I know the hour is late and the time is limited. We are going to vote here in about an hour.

This is the Federal budget deficit. As one can see, in the 1980's, it just shot up. This is what we have been contending with.

The question is, then, why did this happen? Well, a number of my colleagues have alluded to it earlier in the evening. Essentially for two reasons. We had a large increase in defense spending. But expenditures on defense are spending just like any other spending. In fact, what happened in the 1980's is we had this runup in military expenditure, with a restraint and a leveling off in civilian expenditures. At the same time that we had this upsurge in defense spending, we also had an erosion of the revenue base because by the sweeping tax cuts that were made at the beginning of the 1980's.

Obviously, if we are going to increase spending and restrain or lower revenues, we are going to widen our deficit. And the consequence was, that is exactly what we did.

All of this comes in the context of trying to address a major trade deficit, in part affected by this budget situation. Not entirely, but in part.

This chart shows the deterioration in the American trade balance. This is back in the 1960's, but we could take it back even further. We have had an incredible erosion in our trade balance. We are importing far more than we are exporting. It has improved a bit in the last couple of years but we are still running a large negative trade balance. In other words, we are taking in more than we are sending out and the consequence of that is we have had a marked deterioration in our net asset position.

The United States has gone from being a creditor nation, internationally, to being a debtor nation. This chart shows that deterioration in our net asset position. This starting line is 1970. This one is the mid-1980's, when these accumulated trade deficits mounted up and drove us into a debtor position.

The United States was a creditor nation ever since World War I. We could run that chart back to World War I. We should show a positive net asset position. Now it has deteriorated. We are now a debtor country. We owe more to others than they owe to us. We are paying out every year in order to service that debt.

Just to dramatize that, I want to make this point about our position compared with that of Japan and Germany.

This is 1980. We see all three countries here with a positive net asset position: The United States, Japan, and Germany. Beginning in 1983 onward, the United States moves into a debtor position; Japan and Germany move even stronger into a creditor position. And the projections, unless we can change this, show a continued growth in that with the United States moving further into a debtor position and Japan and Germany moving further into a creditor position.

One of the things we are trying to do tonight with this budget resolution is to change these trends. We have to come to grips. I want to commend the very able and distinguished chairman of the Budget Committee, the Senator from Tennessee, for the really extraordinary contribution which I think he has made to this process, along with the chairman of the Appropriations Committee. They have worked together throughout all of this.

Could I have just 1 more minute?

Mr. SASSER. Mr. President, in view of the Senator's remarks, I will be pleased to yield 2 minutes.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Let me say, as we are approaching reconciliation, it matters how we do it. We want to achieve deficit reduction but how we achieve it is also an important question. First of all, we have to do it in a way, in my opinion at least, that we address some of this investment deficit. If we do not invest in our infrastructure, our transportation, communication network, in education and training, in research and development, we are not going to enhance our ability to compete with the other nations internationally, particularly Japan and Germany which are the very strong economies.

Look at this. This is nondefense research and development as a percentage of GNP. In 1971, the three countries were all roughly about the same place. The United States has stayed down here at this level; Japan and West Germany have risen. They are putting more money into nondefense research and development, and it is reflected in the economic gains which they are making.

So we need a budget resolution which is now going to be crafted by the committee which addresses some of these investment deficits so we can have a first-class transportation network, so we can educate our people for the competitive challenge they are going to face in the 21st century, and so we can be on the cutting edge of technology in terms of research and development.

The President finally conceded we cannot come to grips with this budget deficit problem without addressing revenues as well as the expenditure

side. We have to address both sides. We have to have restraint on the expenditure side and address the revenue side.

But we need on the revenue side to make sure that it reflects a sense of fairness and justice and equity amongst our people. That has been one of the struggles we have been going through here. It is essentially, from this Senator's perspective, whether those who are at the very top of the income scale are going to make a reasonable contribution toward meeting the Nation's problems, which I have set out here.

We have to pass this budget resolution tonight. We have to start coming to grips with this problem. We then need to go on and fashion a reconciliation measure that takes into account the necessity of a fiscal policy which will address the problems of the next century and put America back on track again so we can start to compete, so we can marshal our strengths, and so we can move into the international environment of the future in which a nation's economic strength may be more important to its international position than its military strength. That is the challenge we face tonight.

I urge my colleagues to vote for the resolution.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield 5 minutes to the distinguished junior Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from New Mexico.

Mr. President, I support the budget resolution because I think it is imperative that we move forward in the process of providing a budget and some cooperative responsibility for this country.

We have heard on the Senate floor in the course of the past year, really, lamentations on all sides. After months of negotiation, we have seen a budget proposal crafted by the leadership of this body and the other body and the administration. It is a budget proposal which failed in the House of Representatives because there were many faults in it.

Mr. President, I suggest the real issue is not how many faults there were but what was the alternative. During the course of the past 3 days we have seen Americans grow more and more disgusted with the Congress for our failure to act. Ten days ago, Mr. President, I said if we had a sequestration and had the automatic cuts, did not come to a budget compromise, there would be 537 of us in Washington out of work: 100 from the Senate and 435 from the House and the President and the Vice President; that the people of this country would toss us all out because we simply were not doing our jobs.

In the course of the past 3 days we have been in a stalemate and, as a result, many aspects of the Government have stopped their functions. However, because it was the weekend, there were those who could afford to play the delaying process. As we approach midnight, 1 hour and 2 minutes from now, that time is up. We simply have to act.

Mr. President, it seems to me that we really have to come to grips with the basic proposition that politics is the art of the possible and we have to compromise. Beyond compromise, which may be described as making concessions to come to an agreement, we really need the sense of accommodation and we need the sense of generosity which this body and the other body and America seem not to possess today.

We really are out for every last drop of every last issue on every matter which we face. During the 10 years that I have served in the Senate, the process of the U.S. Senate has been characterized by our budget. Last year, we came to terms at 3 a.m., on December 22, and if we could have postponed Christmas we would have on that occasion. I made that comment on last Saturday afternoon to an empty Chamber and I was surprised to hear some response from the galleries.

The galleries were full on that occasion. The reason they were full was pointed out by my distinguished colleague from Kentucky, Senator FORD, who followed after I spoke.

He said, the galleries are full because the other zoo in town is closed; people could not get into the other zoo, which Senator FORD spoke about, and I say that with some trepidation because the distinguished chairman of the Appropriations Committee may cite that as an inappropriate comment on the Senate floor. I think that it had a lot of merit and that the operation of Government has become pretty much like a zoo.

This budget resolution we are considering tonight is not perfect. I do not think it is possible to devise one which is perfect. Speaker after speaker tonight has lamented about what is going to happen with this budget resolution.

On the side, it is going to help our problems in international trade and, on the other side, it is going to be destructive. On the one side, it is going to help drive interest rates down and, on the other side, it is going to be destructive of interest rates.

In the Appropriations Committee, we had economists testify with many opinions. In the Senate, we hear 100 Senators argue and we hear 1,000 opinions because they are opinions stated 10 times over in every Senator's speech.

Mr. President, I conclude where I began, and that is with my deep conviction that it is necessary to move ahead with the process. I am very much concerned that we may not resolve it in the course of the time span between now and October 19. We have a great deal of work to do. It is going to have to be done in good faith and it is going to have to be done in the sense of accommodation.

I think of what my father told me about a partnership. He said, "Arlen, if you are in a partnership with a person, give 60 percent, because it will look like 50 percent to the other person. If you give 50 percent, it will look like 40 percent. So try to act with just a little bit of generosity and give a little more than you might think you have to."

I think this country is great, Mr. President, because of the sense of generosity which somehow seems to elude us. We have the greatest productive power on Earth. We have the power to solve all the problems in this country, every last one of them, in terms of the homeless, in terms of housing, in terms of aging and health care. Somehow we cannot seem to take the next step forward. We have gridlock.

Americans cannot stand it and Americans will not stand it. I think we have to move forward. Since my time has expired—I have a great deal more to say—I will conclude to stay in the parameters of trying to move this process forward. I thank the Chair and yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Tennessee.

Mr. SASSER. Mr. President, I yield 4 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM] is recognized.

Mr. BURNS. Will the Senator yield just so I can insert a statement?

Mr. METZENBAUM. Not on my time.

Mr. BURNS. On our time or anybody's time?

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield 4 minutes to the Senator from Ohio, and I ask the Senator to withhold until Senator DOMENICI is here.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. METZENBAUM. Mr. President, I think we are all here this evening to try to objectively move forward with respect to the budget process to keep the Government running. I think there are three parts to this whole package. I think the American people understand it. One has to do with the amount of money we spend on domestic concerns, one has to do with the amount of money we spend on defense, and one has to do with the

amount of income this Government has through its tax procedure.

I just heard the distinguished Senator—and he is a distinguished Senator, and there is probably no more respected Senator in this body than the senior Senator from Georgia—address himself to the subject of defense spending.

Let us not kid ourselves. Defense spending is protected in this budget agreement. The Senator from Georgia talks about the amount of savings that will be affected, the cuts that defense is taking. But the fact is that the House Armed Services Committee said that they could save over $250 billion over 5 years in defense spending. This budget agreement has a figure of $170 billion in savings of 5 years, an $80 billion spread.

The fact is that American people do not understand it. The American people do not understand why when the Soviets are moving their troops out of Europe, when the West Germans are paying for the Soviet troops in Eastern Germany, while we have 310,000 troops stationed in Europe.

I respect the Senator from Georgia when he says we do not save anything just by bringing them home. We certainly would save on the balance of payments and certainly we would save much more if we had a reduction in force.

The American people cannot understand why we are spending so much money on this exotic weaponry and planning new exotic weaponry until we recognize and appreciate the fact that years ago, not too many years ago, you could go to the American people and say we want more spending for defense and the crowd applauded and they cheered. That is not so any more. Today they understand we ought to be cutting back on defense spending.

Even though the Senator from Georgia says that the vote was 79 to 16, that only tells part of the story. Most Members of this body do not like to vote against a defense spending bill, defense authorization bill. But the reality is that the Senator from Georgia is the one man in this entire body who is in a position to provide leadership to produce some effective cuts in the defense budget, and this budget does not produce that kind of effective cut.

This is the same amount as was in the authorization bill. But we had other authorization bills for domestic spending, and they will be cut by reason of this budget. Defense is a sort of a protected enclave. We cannot touch it. We cannot move in on it. We cannot eliminate any. We cannot cut back.

We can pay for all the troops defending Korea and all of the troops that we have in Korea and all the troops defending Japan. And we can pay for the troops in Europe. But we cannot cut back on defense spending. Why? The American people want an answer, and they are not getting an answer in this budget.

There is only one way they are going to get an answer because I am frank to say that I cannot offer an amendment here and cause it to be agreed to because there will be a coalition of some Members on this side and all of the Members on that side who would probably not vote for it, and I understand that.

But the one man who is in a position to provide that leadership who has the respect and the ability to, who knows what it is all about, is the distinguished Senator from Georgia. And so I say to him plaintively——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. METZENBAUM. And I say to him respectfully, you are the only one who can provide the leadership to help us do something about the defense spending in this country. I really hope you will.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I believe we reserved 10 minutes for Senator McCLURE.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. McCLURE. I thank the Chair and I thank my colleague from New Mexico. I will try to use less than that time. The hour is late, and I know people are trying to get to a vote, and, indeed, it is important for the country that we do that.

My purpose is not to debate the composition of the resolution that we are about to agree on. My purpose is not even to try to outline the distaste that I feel for how we arrived at the point we are. In my judgment, we should have been fighting this budget resolution over a period of weeks, much earlier in the year, as provided by the budget law. We are violating the law in having failed to do so much earlier in the year.

But I am not going to complain about that because I am concerned about how we get from the point we already find ourselves to the point of resolution. I have listened to some of my friends over the last weeks and months and, indeed, in the last few minutes talking about their own view about how we ought to be treating this problem. I intended earlier and thought seriously about saying what is the real fact, what is really behind this, and state it in terms of what everybody in this body knows. But I am constrained to withhold that this evening and say instead what I know, what I believe, and not ascribe it to anybody else's motives or to their knowledge or to their purposes because if there is any one thing that is abundantly clear, there are differences of opinion between us that must somehow be resolved. The American public may well want more defense, not less. There are those who say they want less defense, not more. There are differences of opinion within this body as to what it is they wish. That is the way this body ought to function in terms of differences of opinion between people on both sides of the aisle, between both political parties, between the Congress and the administration, each stating what it is we believe and contending for our viewpoint.

But the one thing the American public does not understand and cannot stand and should not have to stand is the continued disagreement over a solution. Classically, if there is a difference of opinion that cannot be reconciled, parties on both sides get together and make some kind of an agreement that compromises the viewpoints. That is what this budget resolution is about. But let me sketch just behind that what is not understood by the American public, in my view, because we have not told them.

What is the essential political economic debate about over the last 10 years? Well, every generalization is false and so is this, and it is inaccurate at the edges, but in the main I believe it to be true. I believe it is fair to say that the Democratic Party and their Representatives in this body want more Government, more Government services, more governmental activities, and they are willing to raise more taxes in order to get it. But Republicans have been beating them up over taxes, and the American public does not want taxes. So the Democrats are afraid to admit that they want more taxes.

On the other hand, Republicans believe that we are not in trouble because we tax too little; we are in trouble because we spend too much, and we want to restrain the growth of Government and restrain the cost of Government and by doing so eliminate the necessity for raising taxes. But because we are afraid that the American public wants those services and will object if we curtail the growth of those services, that somebody will object about what we are doing, therefore we are busily trying to cover up the fact that we want to restrain the growth of services and the growth of Government.

So you have the Democrats on one side trying to cover up their agenda and its cost, and the Republicans are busy trying to cover up their agenda and its cost, and the American public says what in the world is going on?

I do not blame them, because we are not telling the truth, as I see it. It seems to me that it is time for us, in this budget resolution, to cut that out.

The American public is saying, for heaven's sake, you are grown men, and why can you not resolve your problems? We could, if we were honest. We could, if we were willing to lay those facts out on the table and say, OK, you, in general, on that side of the aisle want more Government but want to raise taxes. The President did not ask for more taxes. He did not agree to more taxes because he wants them. He agreed to more taxes because he understood that in order to get a compromise, he was going to have to give people on the other side of the aisle that much in a compromise.

Now, why do we not admit on this side of the aisle that we want to curtail the growth of Government? That may impinge upon somebody who likes something they are getting from Government, and the people on the other side of the aisle are right in telling us, come on, level with the American public: You are trying to cut back on the growth of Government.

We are. I am proud of that. I am not ashamed of that. I am willing to talk about the Republican agenda. But let us, for heaven's sake, at least tell the American public what the argument is about and then get about compromising, as indeed the President of the United States said some weeks ago he was willing to do.

Yes, indeed, some taxes may have to be increased. I am totally opposed to that. I do not think it is necessary. But some on that side of the aisle believe it is necessary. All right, I will meet them halfway. I will meet them in the middle of the aisle. I will meet them on this proposition and say OK, we will increase some taxes if at the same time we get some restraint on the growth of Government.

That is what the debate is about, and that is why we are having difficulty getting there, because neither political party wants to admit what their agenda is, and neither political party is proud enough of their agenda and confident enough of its appeal to the American public to state it clearly.

That is my view about what the dilemma is. I think every Senator will have to examine in his or her own heart whether they believe that is the heart of the dilemma that we face. But if it is, there is only one solution, and that solution lies in each side giving a little bit.

I do not know that this resolution will produce that kind of real compromise. I thought the last summit agreement gave too much, from my point of view, toward your point of view or toward somebody else's point of view. But it was a reasonable attempt, and I was prepared to accept and support it if my vote was necessary to pass it, because if there is one thing the American public and the world understands, it is that we cannot continue to go on spending more money than we have. We cannot keep on burdening the future of this country the way we have with a national debt that now has an interest rate that is the fastest growing part of the entire budget, that is going to crowd out discretionary spending if we do not find some way to eliminate it.

Certainly the growth of the entitlements programs is another part of that problem, and we have to find both the political will and the courage and the means to curb the growth of entitlements programs and their spending so that we can have room for the discretionary spending and levels of taxation, which I do not agree with but which will be the result of a compromise.

That is exactly what I think our dilemma is. I will not try to ascribe motives or even put in the mouths of anyone else what it is they think about where we are. But that is the way the Senator from Idaho believes we have to address this question, and I believe this budget resolution gives us the chance to do that.

Will it do that? I think the budget summit—and I give great credibility and a lot of compliments to the people who tried to put that together over a period of weeks and months. Perhaps it was predictable that, indeed, the first one out had to be defeated, because none of us like it. I do not think even the people who put it together really like it. They knew it was the best they could do.

So until we get to the point of being mature enough to understand that other people who have a different point of view are entitled to their point of view, and they are not necessarily wrong, although we believe they are wrong, that they are entitled to their point of view and they may be right, and they have a right to expect to be partially met on their point of view, the American public says to the Congress of the United States: Get on with the business of the country. Quit this posturing. Quit paralyzing Government.

In my view, the American public is exactly right. It is time for us to quit posturing. It is time for us to put aside our partisan differences and our philosophical differences and find a reasonable compromise between opposing points of view. This budget resolution can do that.

The reconciliation that must be produced will have to meet certain guidelines. I am absolutely confident that the President of the United States will veto a reconciliation bill that does not come pretty close to the budget summit guidelines. I am confident that if it departs very much in one way or the other, it will fail.

The PRESIDING OFFICER. The time allocated to the Senator from Idaho has expired.

Mr. McCLURE. I hope we do our job in the time that is constrained by the CR and in the way that is outlined in the budget resolution.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield the Senator from Nebraska 2 minutes.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. EXON] is recognized.

Mr. EXON. I thank my friend from Tennessee. I want to congratulate all the very hard work that has been done by the leadership of the U.S. Senate. We are here tonight, I guess, to begin to do something.

The good news, Mr. President, I suggest, is that maybe the exercise, as painful as it is, and the painful exercise that we go through between now and 19th day of this month—maybe we will bring home to the American people what this Senator and others have been telling the Senate for a long, long time with a whole series of measures that we tried to get through years and years ago. That is the good news.

I simply want to say that this is another grand compromise, and I hope it works. I will be looking and having a part in figuring out how this plays out, and the changes that had to be made after the rejection of the original proposal by the President. I am afraid that this grand compromise, as well-intentioned as it is, will fall far short of covering the real problem as addressed very ably by the Senator from Georgia.

May we have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order. The Senator from Nebraska has the floor.

Mr. EXON. I intended to use many of the same statistics that the able Senator from Georgia used. I ask Senators to reference those very closely.

This is a very, very serious problem. This is a tiny step forward and not a leap forward in solving the problem. Maybe it is worthwhile, but I have some grave concerns about it, including let me say, that I could not disagree more with the remarks made by the Senator from Ohio. Indeed, the very able Senator from Georgia is the one that is leading us very ably to making the reductions in defense spending that are obviously necessary.

I do not have time to go into that any further at this time, but I for one am very pleased that we have SAM NUNN where he is to do the job that has to be done to keep the defense solid but still cut the cost. I reserve the reminder of my time.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Washington Post of October 7.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE BIG LIE THAT CAUSED THE BUDGET CATASTROPHE

(By Lester Thurow, dean of MIT's Alfred P. Sloan School of Management)

In 1980 the American electorate embarked on a grand experiment—supply-side economics. Ten years later, that experiment continues to warp the political process. Its enduring influence explains why Congress and President Bush found it so difficult to reach any budget agreement at all; why the failed agreement was so peculiarly shaped; and why the public nourished on a decade of false promises, seems unwilling to make even modest sacrifices to assure the nation's economic future.

In the current economic climate almost any solid deficit-education package would be welcome. Still it is remarkable that the initial deal struck last week would aggravate the very features of the current tax system that seemed most generally objectionable to tax experts and the public: Its "small business growth incentives" would offer new tax dodges to the wealthy—who had supposedly traded away their shelters for the much lower tax rates provided by the 1986 tax reform; its tax-deduction limit would worsen, rather than eliminate, the disreputable "bubble" feature which grants the very, very rich lower marginal income tax rates, and hence lower capital-gains tax rates than those faced by the merely well-to-do taxpayers; and it would increase the relative tax burden borne by the low- and moderate-income taxpayers. All this in a package endorsed by Democratic leaders who claimed to have tax fairness as their top concern.

What explains the persistence of supply-side mythology? From where comes its power to so constrain American politics?

When America first jumped on the supply-side bandwagon, people felt, rightly, that the economic performance of the 1970s was unacceptable. The political and military affronts in Tehran were compounded by the vision of a chained economic giant wilting in the face of Japanese and German competition.

A GNP growth rate of 2.8 percent was unacceptable when compared with the 4.1 percent growth rate of the 1960s. That dismal record was compounded by an even more important measure of economic performance, productivity growth—the rate at which a nation is becoming more efficient and hence more affluent. The 1960s growth rate of 2.9 percent has fallen to only 1.4 percent in the 1970s. Such a decline meant that instead of doubling every 24 years, America's standard of living would take 50 years to double—each generation could no longer expect to have a standard of living twice that of its parents. Facing these facts Americans were willing to try something new and different.

Supply-side economics, as enunciated by President Reagan and later embraced by Bush, promised that lower taxes on upper income groups would stimulate savings and hence permit more investment—the argument used by Bush to advance his capital-gains tax cut proposals in the recent budget summit. Higher investment would lead to higher growth. In addition to restoring economic vigor and rebuilding international competitiveness, higher growth would accomplish two other important objectives—without asking for painful sacrifice from anybody.

First, with a larger economy, government tax revenue could go up even though tax rates had been reduced. In 1981 Reagan promised that the federal budget would be balanced in 1985 without having to make significant spending reductions. Second, although most of the tax cuts would go to high-income individuals (it was they who had the capacity to save more), higher growth would lead to better paying jobs for middle- and low-income Americans. In the short run their total tax rates would go up—for 80 percent of the population the extra payroll taxes they would be asked to pay to fund Social Security would be larger than the income tax cuts they would get. But with higher earnings they would in the end benefit. All gain, no pain.

Politically supply-side economics delivered the goods—three presidential elections have been won using it—but economically it has not delivered on any of its promises.

Where higher GNP growth was promised, lower growth was delivered—2.6 percent over the decade of the 1980s. In 1990 the economy is stalled on the lip of a recession, just where it was in 1980. Because of the debt and banking problems built up during the 1980s, any recession in the 1990s will produce levels of bankruptcy not seen since the Great Depression. Even without a recession, middle-income wealth is melting away as housing prices fall in much of the nation in reaction to the debt excesses of the 1980s.

Instead of growing faster, productivity slowed down—1.2 percent during the 1980s. In 1989 productivity actually declined. There is only darkness visible at the end of the productivity tunnel.

Savings rates plunged. In the last four years of the 1970s. American families saved 7 percent of their disposable income; in the last four years of the 1980s, they saved only 4 percent. The rich saved nothing from their tax cuts. In contrast, the Japanese saved 15.7 percent of their income in the past 12 months.

If total national savings (a measure that includes corporate savings and government dissavings) is examined, savings fell from 17.4 percent of GNP in the last four years of the 1970s to 11.3 percent of GNP in the last four years of the 1980s. As a result, in 1989 Japanese investments in plant and equipment per worker were three times as large as those in the United States.

At the beginning of the decade the United States had a small surplus in its trading accounts ($1.5 billion in 1980 and $8.2 billion in 1981). At the end of the decade it recorded a current-account deficit of $129 billion in 1988 and $110 billion in 1989. What was a competitive problem at the beginning of the decade was a competitive disaster at the end of the decade.

In 1981 the United States was the world's largest creditor nation with net assets totaling $141 billion. Every year the rest of the world paid interest, dividends, and profits to Americans. By 1989 the United States had become the world's largest net debtor nation with debts totaling $620 billion. Where Americans used to get, they now give.

The federal deficit did not, of course, vanish in 1985. In the year ahead, the deficit is estimated to be $254 billion and rising if last week's deficit reduction proposals are passed by Congress ($294 if they are not) and over $300 billion if the Social Security surpluses are excluded from the totals, as they ought to be. A budget summit that reduces the deficit by $40 billion is essentially the equivalent of Nero fiddling while Rome burns. The difference is that Nero wanted to burn Rome so that he could rebuild it—the Roman Colosseum was his. Unfortunately there is no evidence that the current fiddlers have any real rebuilding in mind.

President Bush is fond of saying that "we have more will than wallet." He has it exactly backwards. Our GNP after correcting for inflation is four times as large as it was in 1947 when we were paying to rebuild the world after World War II. Our per capita GNP is 2.3 times as large. We can afford to do what must be done abroad; we can afford to do what must be done at home.

America is not an over-taxed country. In 1989, Americans paid fewer taxes as a percentage of GNP (about 30 percent) than the citizens in any other industrial country. Taxpayers in 22 industrial countries, including Japanese and the Germans, paid more. Moreover, there are places where the budget can be cut without harm. Based on the performance of other countries (far lower spending levels; far better performances when it comes to health and longevity), substantially less could be spent on health care if the system were fundamentally reorganized. The events in Eastern Europe mean that big defense cuts can occur while still maintaining our ability to fight wars in the Third World. America has more than 2 million troops; fewer than 200,000 are in the Middle East.

The American problem is will—not wallet. In a democracy, will depends upon leadership and in the United States that means presidential leadership. It isn't leadership to spend months arguing that a capital-gains tax cut is the most important issue facing the American economy.

Whatever one believes about the growth-enhancing aspects of a capital-gains tax cut—or other "tax incentives"—everyone agrees that they leave more after-tax income in the hands of the wealthiest. In the last decade America had already had a heavy dose of that kind of "sacrifice."

Recently the U.S. Census Bureau confirmed that inequality in the distribution of income had increased substantially in the last decade. Every statistic points in the same direction. In the decade of the 1980s, the average real income of the top 5 percent of the population rose from $120,253 to $148,438. At the same time the average real income of the poorest 20 percent fell from $9,990 to $9,431. After-tax measures of income would report an even wider gap. As the income share of the top 20 percent rose in the 1980s, the income share of each of the bottom four quintiles was falling—the lower the quintile the bigger the decline. Despite a 21-percent rise in the real per capita GNP, the average real hourly wages of rank-and-file workers fell 5 percent. Those promised good jobs for middle- and low-income Americans did not appear.

If the income share of the rich is rising at the expense of the rest of the population (it is), if government is directly altering its policies to augment the income share of the rich (it has), if the campaign contributions of special interests increasingly dominate the political process (they do), if fewer and fewer middle- and lower-income individuals vote (it's happening), America is, under the cover of supplyside economics, rapidly moving towards becoming (dare we say it openly?) a plutocracy.

Unfortunately history tells us that as a social and governmental system, plutocracy does not for long work.

Mr. KERREY. Mr. President, the budget debate this year has been different than last.

It began the same as last year: The President addressed the joint session of Congress telling us the deficit was under control. This relaxed attitude—the year before he told us deficit reduction would be easy with the $80 billion of new revenue being generated by a healthy economy—encouraged all of us to roll out our own proposals for new spending.

However, as he did in 1989 with his Savings and Loan Program, we in Congress were outdone by the President who wins first place again in 1990 in the most expensive spending proposal of the year category. This year's award goes for his suggestion that we invest $500 billion to send a handful of Americans to the planet Mars.

When the year ended in October 1989, President Bush, who would prefer to address international rather than domestic problems anyway, agreed to go along when we told the American people the deficit for fiscal year 1990 would be $110 billion. This year, with the economy on the edge of recession, with our lenders—Japan and West Germany—indicating they may be less interested in funding our debt, and with the Savings and Loan Program costs growing by leaps and bounds, and with enough time having elapsed that the President felt it would be OK to break his pledge not to raise taxes, and with our own budget committee unable to resolve the bitter conflicts of increased need and decreased revenue this year with all these and more bearing down upon us, the leadership of Congress agreed to sit down with the President to fashion a bipartisan agreement.

One additional thing happened on the way to the disasterous scene last week when a President with approval ratings in the 70-percent-plus range could not convince the Nation or 80 Republican House Members to support a very modest proposal to reduce our deficit over 5 years. It is modest because in the end—it will still require us to borrow an additional $1.2 trillion over the next 5 years and will in the first year merely reduce the size of the deficit increase.

The additional happening was the tremor set off by Senator MOYNIHAN when his longstanding attempt to expose the borrowing from the Social Security trust fund finally took hold. All of us returned to Washington last year with Senator MOYNIHAN's battle cry ringing in our ears: "By what right and for how long are we going to make deficit reduction the singular burden of Americans who get paid by the hour".

Mr. President, Americans who get paid by the hour have begun to figure out what all this talk about the need for tax incentives and increased opportunity means. It means they will pay more and they will get less from a Government which would be technically insolvent without their contributions. Their protest, more than any other, has scuttled the proposal offered by the budget summitteers.

Some here hope this agreement, which we will pass tonight with my support, will calm the rising protest from the voters. Let me make a prediction: The small tail we have pulled at for 5 months does not belong to a small cat; it belongs to a lion—the American people—who will devour us all unless we go further.

We must go further with spending reductions particularly those which affect the size of the Federal bureaucracy here in Washington, DC. Americans will not be pleased when they learn we have reduced their program payments and increased their taxes while the payroll in the Nation's Capital continues to grow.

We must go further than the $725 reduction in take-home pay which will occur for Members of Congress with the proposed increase in the Medicare ceiling. If the full-time equivalents for Federal employees grows, while we are reducing the resources available to local government, we are going to struggle to explain what and why we have done this.

Mr. President, I received a letter from Nebraska this week from a small businessman who has been abused by the SBA, OSHA, and the Department of Transportation. He is not alone in describing the world thus:

> I find that my own Government is my biggest problem. I can work around the weather, I can improve our beautiful forest while providing income to many people, I can handle environmental concerns, I can find markets for our local resources, but my Government has me whipped.
>
> There is no way Congress or the administration will ever, ever balance the budget with these agencies so out of control that they choke off any incentive that Americans have, while building their outfits into more powerful organizations each year at the working man's expense. If I act completely irresponsible some agency will bail me out. If I strive to be responsible for my own actions other agencies will consider me fair game.

Mr. President, it is not just small businesses who are struggling with the institutions we have created to help them. The list includes teachers, welfare recipients, Medicare patients and providers, builders, environmental activists, and farmers.

All of these people heard the candidate, Ronald Reagan, say that Government is the problem and then watched him preside over one of the most spectacular increases in Federal power in the history of the United States of America. Alexander Hamilton would be proud of the fine work of President Reagan.

As one who believes America is hungry for a progressive domestic agenda, we must remember the intense distrust which rightfully exists in the heart of the citizen toward their Federal Government. For those of us who see the need for an aggressive domestic agenda to address the desperate need of America's children, to restructure our health care system, to tackle the declining performance of our schools, to address the growing shortage of affordable housing, and to rebuild the deteriorating infrastructure of our country, we dare not propose solutions which continue the centralizing trends of the past 10 years.

Rather, I believe we should accept this budget resolution and should resolutely push beyond for further real decreases in spending. Until we do the taxpayers of this country will not trust us with further proposals to make their lives better.

I do not view this deficit-reduction effort as an exercise in mathematics. Nor do I view it as a passive political move designed to avoid our responsibilities.

Mr. President, allow me to predict what we will face when our work ends this fall. We will pass a budget the President can sign which will reduce the deficit by $34 billion in the year beginning October 1, 1990. Regrettable, the American economy will continue to weaken through the first quarter of our fiscal year and the deficit, rather than being reduced from $294 billion to $260 billion, will grow beyond $300 billion.

The pressure from rising energy costs will at least in the short term mean higher inflation and higher long-term interest rates. This is likely because the cost of borrowing money is more dependent upon inflation expectations than it is upon the size of the Federal fiscal deficit.

As the cuts in some of the entitlements take effect—most notably in agriculture—the consumers of America, who are responsible for two-thirds of our economy, will consume less. This will put further downward pressure on our economy.

Unemployment and the pressure on food stamps, AFDC, and Medicaid will grow. Although it is still possible for us to avoid a severe recession, it is unlikely we will avoid a mild one.

The Savings and Loan Program, already estimated to cost $122 billion in this next fiscal year, will cost us more as real estate values decline and the damage spreads to the commercial banking and insurance sectors of our banking system. The additional $100 billion in energy costs—paid by consumers and businesses alike—will make matters worse for the most expensive domestic program in America's history.

Mr. President, the desire to restore growth to our economy will become stronger as the year goes on. Those

who believe the answer to the question of how to increase our productivity and growth lies with additional tax incentives will argue that we need to make further changes in our Internal Revenue Code.

While not disregarding the incentives and disincentives of our tax policies, I believe we should also analyze the impact of our spending policies. I believe we should pay attention to supporting and getting our money's worth for those spending programs which will add value to human beings—child care, nutrition, training, education, housing, and infrastructure—to lead America toward higher productivity and growth.

Most importantly of all, Mr. President, in the fire storm which has surrounded this budget proposal and which will hopefully not subside with its passage, we need to pay attention to some intangibles. No government program—Federal, State, or local—can substitute for personal attitudes of responsibility, honesty, and selflessness.

A few weeks ago in the Omaha World Herald we learned from a writer, James A. Flannery, about the growth in the numbers of children in Nebraska born out of wedlock. In 1970 the number was 6 percent; in 1990 the number was a startling 20 percent. In Omaha the number was one out of three. For African Americans in Omaha 78 percent of all children were born out of wedlock.

I believe much of this change is due to the increased difficulty of supporting a family on an hourly wage. Much of the change is due to our failure to respond to the rapidly increasing requirements of the competitive workplace. High real interest rates, rising costs of health care, transportation, and education have squeezed the disposable income of working families. It is also undeniable that our own welfare system has contributed to some of the increase.

However, the greatest contributor I believe is a change of attitude that has encouraged people to be irresponsible and to care only about what is in it for them right now. If we are to make this deficit reduction package work, we are going to have to work to set new examples for our people to follow. Rather than idolizing and rewarding the greed and avarice and unashamed, conspicuously excessive consumption of that small percentage who love to take us to dinner, we must idolize and reward those who save and sweat to produce one small item of quality.

This deficit reduction package—if we follow it with further action—could be a great first step in turning this county in a direction which will enable us to do better and feel prouder of our accomplishments not just as politicians, but as human beings.

Mr. KASTEN. Mr. President, I will oppose the new House-passed budget plan for many of the same reasons I opposed the original budget summit agreement: It imposes the largest first-year tax increase in history, and it fails to provide real progrowth incentives—like a capital gains tax cut—to stave off recession.

Second, many of the savings are based on unrealistic economic assumptions. For example, who in their right mind believes that GNP growth will double by 1992 in the face of the largest tax increase in history? Does anyone really believe that the price of oil will fall to $24 per barrel next year? How on earth are long-term interest rates going to fall when the Federal Reserve is supposed to ease money which in turn raises the inflation premium in long-term interest rates?

Third, the proposed tax increases would discriminate against my State of Wisconsin. A gas tax would single out large and less densely populated States like Wisconsin. The doubling of the beer excise tax will cost 2,300 jobs in the Wisconsin beer industry, a major employer in my State. And the proposed tax on home heating oil would unfairly hit the families of cold weather States like Wisconsin.

This budget resolution is even worse than the original bipartisan budget summit agreement. It envisions $10 billion more in new taxes and $10 billion less in domestic savings. It raises the net tax increase on the economy by $29.1 billion over 5 years for a grand total of $162.9 billion.

Mr. President, there is no economic theory that I know of—keynesian, supply-side, or monetarism—that argues for higher taxes when the economy is sliding into recession. There is no tax increase that has ever been designed to that would cause people to work harder, to save more, or to invest more in America's competitive future.

There is now talk of raising income tax rates in exchange for a capital gains tax cut. I would vehemently oppose such a tradeoff. In my view, you have to earn income first before you can invest it. If you raise tax rates on earned income, you reduce the amount of earned income—and therefore the resources available for investment.

An increase in income tax rates would increase the political pressure to restore tax loopholes that were eliminated in the 1986 Tax Reform Act.

More importantly, any increase in tax rates is the camel's nose under the tent. It's the first step down the road to a punitive and progressive tax system. It establishes the legitimacy of soak the rich tax policy that will end up killing our economy.

Mr. President, instead of increasing tax rates, we ought to be cutting tax rates to spur economic growth.

Let me quote a former President who believed in supply-side incentives to fight the deficit:

> Our true choice is not between tax reduction, on the one hand, and avoidance of large Federal deficits on the other. It is increasingly clear that no matter what party is in power, so long as our national security needs keep rising, an economy hampered by restrictive tax rates will never produce enough revenue to balance the budget—just as it will never produce enough jobs or enough profit.

This is not Ronald Reagan or George Bush, but President John F. Kennedy.

JFK didn't prescribe progressive tax increases to solve the budget and economic problems of the early 1960's. Instead, he sought tax cuts every bit as favorable to the rich as anything Ronald Reagan or George Bush has ever proposed.

What happened? By encouraging productive activity, the rich paid more taxes. The budget deficit declined. And the Nation entered a period of unprecedented growth.

Mr. President, today we need the same kind of tax cut policies to get America moving again. We ought to cut the tax burden on labor—by cutting payroll taxes—and on capital—by reducing and indexing capital gains taxes. Freeing up both labor and capital would increase the productive capacity of our economy.

History proves that progressive tax theories don't work. Raising income tax rates in the name of fairness ends up reducing opportunities for all.

This budget plan simply perpetuates the same old tax-and-spend practices that got us into this mess in the first place. Furthermore, the desire on the part of some to impose the largest first-year tax increase in U.S. history simply is not justified by the facts.

The case for new taxes goes like this: Under the Reagan administration, tax cuts for all Americans have impoverished the U.S. Treasury—and Federal spending has been mercilessly slashed to the bone.

Under this theory, I think most folks would conclude that higher taxes are needed. The only problem with this theory is that it simply is not justified by the facts:

Since 1981, tax revenues have doubled. Tax revenue growth averaged 7.4 percent a year. The tax burden is at a near record high of 19.4 percent of GNP.

Since 1981, Federal spending has skyrocketed from $678 billion to over $1.2 trillion. Annual spending growth averaged about 8.0 percent a year. Federal spending consumes between 22 and 23 percent of GNP.

Given these facts, I think most people would conclude that the deficit is caused by too much Government spending, not too little taxes.

Mr. President, aside from the substantive objections I have with this plan, I think the way by which the budget summit was developed raises some very troubling questions about the future of our democratic process.

For the last 6 months, important decisions that affect the lives of every American citizen were made in secret by a small group of legislators and the White House staff. No public hearings were held to permit democratic participation. Most Members of Congress had little or no influence on the tax and spending policies that affect their constituents.

The Congress was told to swallow this plan—hook, line, and sinker. The Congress was told to rush through the largest first-year tax increase in U.S. history without hearings and without substantial debate.

The summit process had, in effect, short circuited the democratic process. Last week's vote in the House sent a signal to Congress that the American people want—and deserve—far more input.

I know the house is late. It's much too late to go all the way back to the drawing board. But if we reject this package now, I think we can make some adjustments to this package. We could reduce the level of tax increases, we could inject some realism to the assumptions, and we could limit the growth of nondefense spending.

In this way, I think we can make some progress on the deficit without hurting the economy.

Finally, Mr. President, an argument has been made on the floor that a vote for this budget resolution is a vote to keep the process moving.

This argument is simply wrong. This budget resolution represents a blueprint for the country. It is not an internal congressional document. It's a statement about what our priorities are as a nation—how much of our national resources we will spend and how much we will tax.

It represents a vote for principles as well as process. This Senator will not sacrifice principles for process.

TAX INCREASES: UNWISE AND UNNECESSARY

Mr. HELMS. Mr. President, we have heard repeated declarations that this latest budget agreement—like the one that was overwhelmingly rejected last week—includes tax increases; plus spending cuts; both of which will solve the Federal budget problems; and thereby help the Nation's economy.

All of which is pure hokum, because, at best, it is exactly one-fourth correct. It contains the largest tax increase—or maybe the second largest, depending on whose figures you believe—in history. But that's about all that even borders on being accurate.

Now as several Senators have demonstrated tonight, Federal revenues have more than doubled since the level in 1980—from $517 billion to $1.044 trillion. No one can convince me that our budget problems are the result of a lack of revenues. Yet this resolution calls for more than $134 billion in tax increases over the next 5 years.

In fact, Mr. President, the only difference I can discern in this resolution and the one that was rejected last week, is that it calls for even more tax increases and less spending cuts. At least with the first resolution, we knew what taxes were encompassed; in this one, nobody yet knows what taxes are encompassed.

Mr. President, most economists agree that our economy is either on the verge of a recession, or already in a mild recession. Now you can ask a dozen first-year economics students what is the worst thing Congress can do when the economy is entering a recession. You will likely get the same answer from all 12: raise taxes.

A huge tax increase, as required by this resolution, will harm our economy and lower the standard of living for all Americans.

Some of the tax increases that have been discussed are particularly bad. The 12-cent increase in the gasoline tax will add to the hardship that Saddam Hussein has already inflicted on American consumers.

Excise taxes on cigarettes, alcoholic beverages, and the like are always easy targets. But excise taxes always fall the hardest on the lowest income people in the economy.

The so-called luxury tax is another easy target. Few, if any, of my constituents are likely to buy a $30,000 car, or a $100,000 yacht, or a $5,000 fur coat. But I predict that if this so-called luxury tax is enacted, it will adversely affect each and every person in this country.

Why? Because it is the first step toward a national Federal sales tax. Mark my words. Once a tax is created, it takes on eternal life—it never goes away. It always gets broadened and increased.

The telephone tax is a perfect example. It has been scheduled to expire a number of times. Yet it is always extended.

Now what about the spending cuts encompassed in this resolution? As has been pointed out, it will be left up to the various committees. But if the so-called cuts encompassed in the previous resolution are any guide—and I have every reason to believe that they will be—we will see cuts like: First, increasing the premiums for Medicare; second, imposing a host of user fees to generate additional income; and/or third, requiring the Postal Service to pay billions to the Treasury.

Mr. President, without arguing whether any or all of those are wise policies, they just are not what most people would consider spending cuts. Yet that is how they will be advertised.

I have to admit, there will be some real, significant spending cuts—in defense. In fact, defense is the only program for which we would actually be spending less in 3 years than we are spending now.

Washington is the only place you can ask your boss for a $10 raise, get a $5 raise instead, and go home and say you got a $5 pay cut. That is exactly how our budget operates. That is how Congress has managed to spend more money on programs throughout this decade and tell the American people that there have been massive cuts.

Some are saying that at least it is better than a sequester. That is debatable. If a sequester took effect, the President could manage it in a way to keep, on the job, meat inspectors, FAA personnel, and other essential Federal employees.

Do I want to see a sequester? Of course not. It would be tremendously difficult and unfair to a lot of people, but it would not be the economic disaster that is being predicted for the purpose of scaring people into supporting this proposal.

Is there a solution? I think so.

Senator BURNS and I, and a few other Senators, have introduced a plan to force Congress to follow a simple, commonsense budget like every family in America must follow. It calls for no new taxes. It merely limits the amount that Congress can increase total Federal spending each year to 4 percent.

Under our plan, Congress could still increase spending by $45 to $50 billion each year—enough to cover Medicare, Social Security, Federal and military retirees, and other essential programs. Spending can even be increased in other programs—provided they are offset by savings in other areas.

The General Accounting Office and the Grace Commission have identified hundreds of billions of dollars in Federal waste. We could start making serious efforts to attack that waste and use the money saved to either increase some programs where necessary, or reduce the deficit even faster.

I said that our proposal is simple; but I am not saying that it will be easy. It is a drastic measure. It will require Congress to make difficult choices. No one will have to go hungry, or lose their home, or the retirement security they have earned, but Congress will be forced to cut waste, and to eliminate unnecessary spending.

Some people will not like it; the liberals who control Congress will hate it. But in the long run, our children, our grandchildren, and the country will be better off.

Mr. President, we are in the eighth year of the longest peacetime economic expansion in our history. Now we

must decide whether we shall pursue the path of economic growth or whether we will revert to the policies that brought us to the brink of national ruin.

Mr. President, I cannot in good faith support this latest budget agreement. With all due respect, the people will regard it for what it is—a turkey, flapping around Congress more than 5 weeks before Thanksgiving. I am obliged to vote against it because it is more of the same bad medicine that has made the economy shaky in the first place.

Mr. BOREN. Mr. President, our democracy has to be rebuilt by each succeeding generation. Each generation of Americans must care enough about our country to breathe new vitality into the institutions of Government formed by our Constitution and entrusted to our care. We who now occupy these seats in the Senate are the trustees of a great heritage passed on to us by the sacrifice and dedication of those who have come before us.

This is one of those moments which tests whether we are worthy to sit in the Senate and act as trustees for these great institutions. We are surrounded by desks once occupied by Webster and Clay and Calhoun, LaFollette and Taft, Truman and Vandenberg, Humphrey and Goldwater. Will we prove worthy of the high standards of political courage which they have set? Will we have the strength to look past the polling results and look to the history books?

We all know that the state of our economy is very fragile. If we demonstrate that we lack the will to truly deal with the budget deficit even when asked by the President and congressional leaders of both parties, we run the grave risk that the final vestiges of confidence in our economy will be destroyed. Such a loss of confidence could well do serious damage to our economy for decades to come and endanger the future for the next generation.

This budget resolution is not perfect, but the alternative could well be economic chaos for our country. The risk of defeating it is too great. We cannot in conscience play Russian roulette with America's future. Tonight we must act as trustees worthy of our great system. We must not fail the American people.

Mr. SANFORD. Mr. President, last year I said here on this Senate floor that I would not vote for another budget that did not have an honest deficit that more fairly reflects the annual increase in the national debt.

More than $1 trillion have been added to the debt under Gramm-Rudman. Almost half of that debt buildup was not included, never mentioned in the Gramm-Rudman deficit numbers. Our deficits have become moving targets and in large part hidden from the public, and this practice must stop.

Our $3.2 trillion debt will climb to $5 trillion under this 5-year budget package. And just as under Gramm-Rudman, the coverup will continue. If we indeed achieve $500 billion real deficit reduction, we will still add $1.4 trillion more to the national debt.

During fiscal year 1990 we paid in excess of $260 billion just in interest to pay for our massive debt. That interest that is not subject to sequestration, that must be paid, will soon exceed the total amount we pay for defense.

This budget resolution is the largest deficit reduction package we have attempted to achieve. But it fails to properly define the problem.

The problem is debt. It is not deficits we need to reduce, as such. It is the piling up of debt—secret debt—that we must stop and then reduce. The only way to do this is to reveal to the public the full debt increases each year, the true deficits. Debt increase is the deficit; let us call it that.

This budget resolution falls far short of this. Using the debt and deficit numbers included in this resolution, figures which are not realistic at all, there is a large difference in what the debt is estimated to increase each year and deficit numbers used. Using the figures in this resolution, using figures on the same page, we see that the cover up will continue. Our problem, our need, is a call for simple honesty in budgeting.

Mr. President, I think the estimates in this resolution are far too optimistic, and the deficits are very misleading. We can never achieve a balanced budget until we require an honest accounting of the Federal budget. Until we do this we will continue to coverup annual debt buildup that we cannot now afford. I cannot support the continuation of this practice.

Mr. KOHL. Mr. President, I rise tonight in support of the budget resolution. As I understand it, this package does one thing, and one thing only: It commits this Congress to writing solid deficit reduction proposals to achieve $40 billion in savings for this fiscal year and $500 billion over the next 5 years. That is a goal we all can and should support.

But I would like to make clear that my support for this goal will not extend to the reconciliation bill that implements the budget resolution if that bill does not do two basic things. First, and most importantly, it must add to, not subtract from, the progressivity of the Tax Code. Second, that bill must not ask for unreasonable sacrifice from the most vulnerable members of our society: the poor, the elderly, the ill, and the children. In other words, to keep my support, the reconciliation bill has got to be fair. Deficit reduction involves cutting benefits, stopping programs, and raising taxes; there is no way to make those actions painless. But there are ways to make them fair. In the days ahead, I will be doing everything I can to make sure that we do deficit reduction, and that we do it in a fair and progressive way.

I would also like to address the issue of the continuing resolution that we have passed tonight. There are three related issues which created the need for this stopgap funding measure: First, the House rejected the President's budget proposal so, second, the President decided to take revenge by refusing to fund the government in the hope that, third, we will be under pressure to accept the same kind of plan we rejected. Let me comment briefly on each of those points.

First, if the Senate had voted on the so-called bipartisan summit agreement on the budget, I would have voted "no." With all due respect to the people involved—with full recognition of the hard work they did, the good intentions they had—I simply did not think the plan was fair to middle-income Americans. But it should be clear to the President and to the American people that those negotiations were conducted in good faith. The Democratic and Republican congressional leadership worked hard to sell the agreement. So did the President. There was no doublecross, there was no political gamesmanship. They did what they promised to do. And the Congress did what it was obligated to do: It listened to the American people and exercised its independent judgment and rejected the agreement.

Second, while we rejected the budget agreement, we need not have rejected government; we did not need to close the enterprise down to make some rhetorical or political point. Some people say that by sustaining the veto we "kept the feet of Congress to the fire" and "generated the pressure needed to get an agreement." What nonsense, Mr. President. There is pressure on us now, and there is a giant fire ranging across the country. We don't need artificial, painful, and expensive posturing. The President's decision to veto our first CR simply forced us to spend a day in debate instead of negotiations, and it allowed us to spend a day in partisan bickering instead of cooperative efforts. Rejection of today's CR would have had the same counterproductive effects. So I'm glad that we have at least passed the continuing resolution and can get on with the real business before us.

Third, and finally, what is most depressing about all this is that we should have gotten a reasonable budget agreement some time ago. The budget resolution we are working on tonight is a step in the right direction. It will allow us to put together a package that increases taxes on upper

income people, reduces the Medicare cuts, eliminates the 2-cents-a-gallon tax on home heating oil, helps the unemployed, and brings defense down to at least the House level. And, if political reality demands it, there is even room to give the President some sort of capital gains cut, not because the economy needs it, but because it may be necessary to get a deal. It does not take a brain surgeon to figure out what we need to do. The kind of plan we need equalizes the burden of real deficit reduction, it would deserve the support of the people, and it can command the support of this Senator and 50 other Members of this body.

The President has characterized the continuing resolution we passed earlier this week, and perhaps the one we will pass tonight, as business as usual. Mr. President, it is anything but that.

Business as usual would have been to accept the budget summit package even though many of us had serious problems with its provisions and its overall progressivity. Business as usual would have been to blame the leadership and the President for forcing the package down our throats. Business as usual would have been to say this year that the summit package is the answer to all our deficit problems, and to say next year "Sorry, we're back for more." Business as usual would have been to pass the summit package by voice vote, and then to spend the rest of our lives giving speeches on how strongly we opposed it.

Today is not business as usual. The budget resolution before us allows us to put together a deficit reduction package that takes into account the hundreds of thousands of calls and letters our offices have received. We are on new ground; we are starting to put together a real deficit reduction package. We are trying to do so in a way that is fair. We're trying to do so in a way that puts the interests of the Nation before the interests of politics. That is not business as usual.

I believe strongly that we are moving in the right direction. And I believe that this body and our leaders are capable of putting together a package without the pain and waste of government shutdown or sequester. Those actions are kind of political games that demean this institution and the Presidency. We have serious work on the budget to do. We don't have time for the kind of political brinkmanship that truly represents business as usual. I urge my colleagues to support the budget resolution and support movement toward a serious and fair deficit reduction package.

"PAY-AS-YOU-GO" FOR ENTITLEMENTS

Mr. RIEGLE. Mr. President I would like to engage the distinguished chairman of the Budget Committee, Mr. SASSER, in a colloquy on new program funding in this 5-year budget resolution. As you know, I participate in a bi-committee, bipartisan Senate working group that is working on legislation to expand access to health care for all Americans and to control rising health care costs. The working group intends to develop a self-funded program to accomplish this. It is a national tragedy that millions of our citizens have no health care coverage. At the same time, health care costs are skyrocketing. This type of effort is absolutely critical for this country. I would like to inquire of the chairman as to whether the budget agreement will allow for this type of initiative.

Mr. SASSER. I thank the Senator from Michigan for his comments, and I want to say that I certainly agree with him that the lack of access to affordable health care for millions of American citizens is a critical national problem.

In answer to the question, I would say that the budget agreement does allow for new program funding on a pay-as-you-go basis. In other words, if there is to be a new entitlement program, that can be done as long as these new expenditures are paid for and do not increase the deficit.

Mr. RIEGLE. I thank the distinguished chairman. I would further inquire as to whether there is any requirement about the origin of the funding. For example, would it be possible to fund this or any program through savings in unrelated programs, or through new revenues or user fees?

Mr. SASSER. Let me respond to the Senator, that, yes, as we envision it, the new pay-as-you-go mechanism would allow for new mandatory spending initiatives if they were paid for by either reductions in other entitlement programs or revenue increases.

Mr. RIEGLE. Mr. President, I want to thank the chairman once again. His comments are appreciated. I would also like to commend him for his efforts to develop a budget package. He has served the Senate admirably under very difficult circumstances. I know there are many members of Congress in both bodies and on both sides of the aisle who believe that action must be taken to address this critical issue.

Mr. LAUTENBERG. Mr. President, I am going to support this conference report, though I do it with great reluctance.

I am opposed to the budget summit agreement that the President and congressional leaders developed last week. If this conference report simply adopted the proposals in that agreement, I would vote against it.

As I explained in my statement to the Senate on Friday, I was opposed to the budget summit agreement for four primary reasons: It was unfair to New Jersey, to working, middle-class Americans, to the elderly, and to the future of this country. It was unfair to New Jersey because the taxes it would have imposed would fall disproportionately on our State. It was unfair to the middle class because it proposes taxes that would have fallen disproportionately on them. It was unfair to the elderly because of its deep cuts in Medicare. And it was unfair to the future because it would have overspent on the Pentagon and underinvested in education, infrastructure, and other key domestic areas.

Today, though, we are not voting on the budget summit agreement, nor are we voting on the particular policies included in it. Today we are voting on a budget resolution. And a budget resolution is not a vehicle for changes in the law, or the enactment of specific policies. A budget resolution simply sets general outlines of a fiscal policy.

It specifies how much we will spend, but it does not say how we will spend it. It specifies how much we will have in revenues, but it does not say how those revenues are to be raised, or who will pay. It specifies how much we will save through changes in existing law. But it does not say which changes are to be made. In other words, Mr. President, there is much that this budget resolution does not do. But it does do several important things. First, it moves the congessional budget process forward. It sets out targets for overall deficit reduction goals, and it assigns committees particular goals for contributing to these overall goals. These are important steps.

But more importantly in the current context, I am hopeful that the conference report will prevent the Government from remaining closed down. As my colleagues know, the President has made adoption of a budget resolution a prerequisite to his signature of the continuing resolution. Although I find that position unnecessary and unwise, it is reality that we cannot ignore. It also would be wrong to ignore the problems that would be created by continued Government closure for all citizens and for our Nation's Federal employees, who are charged with administering essential programs.

Finally, Mr. President, adoption of the conference report offers the hope of real progress on our Nation's serious deficit problem. The general framework of this conference report is roughly similar to the earlier version defeated in the House, in that it would produce about $40 billion in deficit reduction in the first year, and $500 billion over 5 years. However, it is a very different document. Let me explain how.

The House resolution included assumptions of specific policies that committees were expected to approve in the reconciliation process. The Finance Committee was to produce $60 billion in Medicare cuts, several in-

creases in excise taxes, and a handful of new tax loopholes.

But this conference report takes out those specific recommendations. It does not mandate particular Medicare cuts. It does not mandate excise tax increases. It opens no new tax loopholes.

This conference report simply tells the Finance Committee to go out and find a certain amount of deficit reduction. It tells the committee that you can shape the details as you see fit. You do not have to hit Medicare as deeply as we said earlier. If you want to tax the richest of the rich, rather than hitting the middle class, you can. So long as you meet your overall goals, you are free to act as you like. That, Mr. President, is the essential function of a budget resolution in our system. It is nothing unusual.

But having said all this, I want to emphasize that just because I will support the conference report, I will not support the reconciliation bill if it fails the fairness test for New Jersey and its citizens.

In fact, if that reconciliation bill looks much like the budget summit agreement, I will vote against it. If it treats my State of New Jersey unfairly, I will vote against it. If it treats working, middle class Americans unfairly, I will vote against it. If it treats elderly Americans unfairly, I will vote against it, too.

I am not going to prejudge the reconciliation bill, though, since neither I nor anyone else can know what will be in it. I'm going to give the committees in this body a chance to do the right thing. If they succeed, I will vote for the reconciliation bill. But if they do not, I will oppose them and rise to defend the interests of my State, poor and middle class families, and the elderly.

Mr. BAUCUS. Mr. President, I rise in opposition to the budget resolution.

We have heard a great deal over the last few days of the need to sacrifice.

We have heard that we all must be prepared to tighten our belts to control the budget deficit.

Mr. President, I agree with those statements.

And I would be willing to bite the bullet and vote for a package that included an across-the-board freeze or even some deep cuts in programs close to my heart.

But this budget cuts far too deeply into Medicare and imposes an inequitable tax burden on middle and lower income Americans.

In addition, I am very concerned about the impact of gasoline tax increases and the highway funding formula on rural States like Montana.

But because time is short I will tonight focus on an issue that has not gotten sufficient attention in the budget debate—the drastic cuts in the farm program.

In the debate on the budget we have heard so many numbers thrown around that it is easy to lose perspective.

Supporters of every program claim that their ox is being unfairly gored.

FARM PROGRAM CUTS

But the reality is that the fastest declining major Federal program is the farm program.

In 4 short years, annual spending on the farm program has shrunk from $24 billion to $10.6 billion.

In other words, the farm program has already absorbed a cut of more than 60 percent.

But now we are faced with a budget resolution that cuts an additional $13 billion from the farm program over 5 years. That amounts to a 20-percent cut by 1995.

If this budget resolution passes, farm program spending by 1995 would be less than 50 percent of today's level.

And this includes only the nominal cuts. If inflation is considered, the 1995 farm program could be as little as 10 percent of the 1986 farm program.

Already annual farm program spending represents less than 1 percent of the Federal budget—about 2 percent of the cost of the savings and loan bailout.

IMPACT UPON RURAL AMERICA

But those numbers seem cold and impersonal.

And we have all heard stories of rich farmers feeding at the Government trough. Surely, those rich farmers can absorb some cuts.

But, Mr. President, those cases are by far the exception and not the rule.

The average farmer in America makes a litte more than $13,000 per year—a few thousand dollars above the poverty level.

A recent CBO study predicted that if farm program spending stayed at current levels, 500,000 farmers would be forced off of the land in the next 5 years.

In other words, we would lose one in every four farmers in America.

I have not been able to obtain a CBO analysis of the additional cuts in the budget.

But if we project linear increases it means that we could lose 750,000 to 1,000,000 farmers by 1995. One out of every two or three would be forced out of farming.

Mr. President, that would be nothing short of a disaster for farm States like my own.

When the farmers go out of business, the rural communities built around them disapepar.

Within a few years, we will see more and more ghost towns in Montana, South Dakota, North Dakota, and Nebraska as a result of these budget cuts.

THE FARM PROGRAM AS AN INVESTMENT

Mr. President, we must stop thinking of the farm program as a program only for farmers.

The fact is that anyone that eats has an interest in the farm program.

We already spend less than one fourth of what the Japanese and the Europeans pay for their farm programs.

And on top of that, consumer food costs in the United States are the lowest in the developed world.

The farm program has provided us with a wholesome, stable supply of food since the Great Depression.

And if we are willing to make the investment, it will go on supplying us with food for decades to come.

With the multibillion cuts being considered it is easy to lose sight of the farm program. But isn't a stable supply of food worth 1 percent of our budget?

Isn't a stable farm program worth at least as much as the space program?

Isn't it worth one-thirtieth of the amount we spend on defense to secure a supply of food?

And isn't it worth a few billion dollars to keep rural America alive?

Mr. President, I believe it is.

And I plan to vote against this budget. I hope to work with my colleagues to devise a budget that is fairer to American agriculture.

Mr. LEVIN. Mr. President, the budget resolution before us tonight is silent on whose taxes are going to be raised and by how much. While this approach is not specifically unfair to middle-income Americans, it does not offer any assurance that middle-income Americans will not be asked to carry tons of deficit reduction while those making over $200,000 a year don't even work up a sweat. We risk, by passing this resolution in its current ambiguity, adding momentum to a legislative vehicle which could come roaring back at us in a couple of weeks loaded with many of the objectionable features of the budget summit agreement.

In addition, this budget resolution does not correct the flaw in the budget summit agreement relating to the baking in for 3 years of the numbers for defense and domestic discretionary spendi' g. For instance, this budget resolution makes it virtually impossible for us for 3 years to shift resources from the relatively high defense budgets, to wit, $288.9 billion, $291.6 billion, and $291.8 billion in budget authority for fiscal years 1991, 1992, and 1993 respectively, to meet other growing challenges of interest to all Americans in areas such as education, the environment, and the war on drugs. I recognize that any credible deficit reduction plan must include restraint on spending. However, it is unnecessary and unwise for us to transform this vehicle

for deficit reduction into a vehicle for establishing defense and nondefense priorities for the next 3 years when the world is changing so rapidly.

Mr. President, in voting against this budget resolution, I am not saying that I will not give a full review to the reconciliation legislation which will be reported out of committee pursuant to it. This Nation must have a real, credible reduction in the deficit. I am, however, saying that in order for me to consider supporting that legislation it must meet the test of achieving credible deficit reduction in a manner consistent with fundamental fairness to middle-income Americans and their long-term interests.

Mr. BRADLEY. Mr. President, I will vote for the budget resolution to avoid Government from shutting down and hurting a lot of innocent people. This is not a final vote on the budget or its components. Unlike the agreement from the budget summit, this is a vote only to move the process to the committees. I will base a final budget vote on what comes out of the committees. I will fight in the Finance Committee to make sure that middle-income taxpayers will not have their taxes increased while the wealthy get more tax breaks. This resolution raises no specific taxes. I will not hesitate to vote against a final bill that increases taxes on middle income taxpayers. I will also fight to protect senior citizens from dramatic increases in health care costs.

Finally, I still believe that the defense budget is too high and I will continue to push for deeper cuts in defense. We cannot ask senior citizens to reach ever deeper into their pockets for medical care while the Pentagon squanders scarce resources on obsolete missions and superfluous forces.

Mr. DURENBERGER. Mr. President, 4 nights ago, I said on this floor that the debate over this budget package had gotten very noisy and very complicated. In the aftermath of the vote of the House of Representatives, it has gotten noisier and more complex by several orders of magnitude. I hope the lessons of the last 5 days are not lost on all of us.

The budget summit was an unprecedented compromise among Democrats and Republicans, leaders of the House and Senate, and the President of the United States. And the rejection of that agreement by majorities in both parties in the House was likewise unprecedented. H.L. Mencken cynically observed that democracy is the art of running the zoo from the monkey cage. By abandoning our leadership, we have partially proved his observation. We should be thankful that we are close to restoring order tonight. The American people are understandably upset and frankly fed up with it. There is no need for further delay or posturing; let's do our duty tonight.

Mr. President, this all boils down to one simple, vital question. What is the most important obligation of this Government at this time? My answer is: reduce the fiscal deficit. Every other obligation, for once, has to take a back seat to that.

Our recent history, over the last dozen years, has been exactly the opposite. Everything, at one time or another has taken precedence to the deficit. Cutting taxes. The military buildup. Farm programs. AIDS. The drug wars. Foreign military aid. Child care. And so on. In the process, the American people have lost a war of attrition against Federal debt.

This package represents a day of reckoning for all of that. Finally, we have a chance to make a decision, as a united government, to be responsible. Having participated in 1985 in a failed attempt to do just that, and having seen the bitter consequence of inaction, I am praying the Congress will find the guts to do the right thing this week.

Mr. President, it is clear to me from the calls I have received this past week from my fellow Minnesotans that we have failed to convince people of the seriousness of the problem of the deficit. We have failed to communicate that a problem of this seriousness demands solutions of the magnitude contained in the budget summit agreement. We cannot ever seem to agree on the nature and impact of the deficit, that it is not just a creation of Congress, or Washington's problem.

I say to the thousands of Minnesotans who have taken the time to write or call that I am grateful to each one of them. Many more of them called to oppose the summit agreement than to support it. Many of them expressed fear, and most were angry. Some indicated their intention to withhold their vote from me or anyone who supported this agreement.

So my vote tonight will not satisfy many. Possibly, my actions in the Finance Committee over the rest of this process may be seen more positively. Most of the details of this package will be settled there.

The biggest area of concern for Minnesotans and for me is the Medicare part of this budget. There has been great concern over proposed increases in premiums. That is not a problem unique to Medicare. People of all ages have expressed fear over the sharp rise in the cost of health care. Medicare has been insulated to a large degree from some of the pain all insurance holders have felt, and it will continue to be. We will work for the soundest, fairest financing package we can.

We will also deal with the proposed tax on home heating oil which has an adverse and disproportionate impact on Minnesotans. It is my hope that we can defeat it.

Edmund Burke said that a Representative owes his constituents both his industry and his judgment. As I exercise my best judgment tonight, in a way that many of you will disagree with, all I can say is I value your input but believe the greatest good is served in another way.

Mr. President, several years ago, I used to tell a joke that went like this: Question: Why were there so many heros at the Alamo? Answer: Because there was no back door. Since this agreement was announced on Sunday, many of our colleagues have been looking for a back door of some kind. My hope and my conclusion, Mr. President, is that there is none.

Mr. President, I was ready to vote for the package the House defeated last week. The package before us is only cosmetically different from what was defeated 4 days ago. It makes explicit what most of us must have assumed anyway: that some flexibility was necessary in the Finance and Ways and Means Committees to hit revenue and savings targets in the way that made the most policy sense. As a member of the Finance Committee, I obviously welcome that flexibility. For those colleagues who fear putting that kind power in the committee's hands, you need only look at the recent history of our committee and our record of producing moderate, consensus bills. For House Members of the minority, who have not always seen such behavior from the Ways and Means Committee, I can assure them that we have no intention of bowing to the House.

Mr. President, before we label this a "bad" agreement, as many have done, we must ask compared to what?

Is the sequester the right policy for America?

Is it balanced? Is it fair? Of course not.

Gramm-Rudman-Hollings has done its job. It has raised the cost of inaction to an intolerable level. To put it another way, it has cut through the political fog to expose the true cost of inaction by providing a glimpse of the fiscal chaos we will reap if we don't make changes.

Well what about the other alternatives? It would probably be instructive to have Members bring their own individual plans to the floor here and put them in a pile. It would be a kind of budgetary Tower of Babel. We don't lack for ideas. What we need are majorities to pass them and carry them out.

The deficit is not an abstraction or an illusion. It is an obligation incurred on behalf of American taxpayers present and future. It jeopardizes our economy and it compromises our sovereignty as a nation. Our inability to say no got us into this, and saying yes to every interest group with a problem

with this package is not going to get us out of it.

Two of the finest speeches I have ever heard were made on the floor of the House last week just before the House vote. The first was by BILL ARCHER, ranking member of the Ways and Means Committee. He finished with these simple, eloquent words he described his days after he leaves the Congress: "I will not sit and tell my grandchildren that I failed to make the tough decision to lift this debt from their shoulders."

And my dear friend and colleague from Minnesota, BILL FRENZEL, who is one of the finest men to ever serve the Congress, said this:

Our test is sterner than any we have faced since I have come to Congress. And for us "good news" people, who do not like to lay on taxes, and who hate to cut expenditures, it is going to be particularly difficult. But remember, we can begin down that path to fiscal sobriety. And for all of you that I have importuned over the years, that I have harangued and pleaded and begged to reduce spending, for me personally, there could not be any finer monument than the passage of this budget resolution.

Their high ideals will be fulfilled in this vote tonight. I ask unanimous consent that their full statements appear at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DURENBERGER. Mr. President, I have been around this city for 12 years now. I think the thing that disturbs me most about how we operate, and how I operate, is that we have the ability to do microscopic analysis of parts of a problem, and at the same time be totally blind to the whole.

Yes, there is unfairness in elements of this package. I concede that. But how important are those concerns up against the catastrophic and wanton unfairness of the deficit itself? This generation spending hundreds of billions of dollars it does not have, and passing the bill to our children. Can anything be more unfair or more in need of our attention than that?

Mr. President, we do not have a range of options to choose from. We cannot go back to the drawing board and remake the compromise to make it more to our liking. There are only two real alternatives: the sequester or the summit agreement. A vote against this agreement is a vote for the sequester, or a decision to do nothing at all.

The deficit is either the most important thing, or it is not. My vote says it is.

EXHIBIT 1

[From the Congressional Record, Oct. 4, 1990]

Mr. ARCHER. Mr. Speaker, when I first saw this budget agreement on Monday, all of the objectionable features reached out to me, and, to say the least, I was disappointed.

But I learned many years ago, that before you make a hasty decision, it is far better to count to a legislative 10, and I went home and I counseled with my wife, and I shared my concerns. And as the night wore on, I realized that I could not get hung up on individual pieces in this agreement, but that it was far more important to look at the whole and what impact it would have on our country and on generations to come. By morning, I realized that this was the best we could do.

I cannot stand here and tell you that if you fail to vote for this package there will be a recession, or that if you do vote for this package there will be a recession. No economist knows, but I can tell the Members this country is in desperate need of a fiscal fix.

If Churchill were here today, he might possibly say that this is the worst possible budget agreement, until you consider all of the other realistic alternatives. Sequestration clearly is not a realistic alternative, perhaps for a few days, but those who accept that, and seem to wish it, will come quickly back to this body in a short time, demanding that many parts of it be lifted.

The Congress itself has never before in its history been able to produce this type of package. Individual Members working together through committees, through the budget process have been unable to do so, and after months of deliberation this year, I am convinced this is the best that we can do.

Neither Democrats by themselves nor Republicans with the President, can pass a budget package. It can only be done by bipartisan effort.

In all of the years that I have been on the Committee on Ways and Means, I have only voted for one tax bill. That was in 1981, which was a tax reduction. That was easy.

And it is now time to pay the bills. We have run up consecutive deficits for the last 19 years, and I say to my Democrat friends, not just during the last decade. The last balanced budget was in 1971. We are leaving these massive deficits as a legacy to our children and to our grandchildren, and I do not serve in Congress to be a party in bestowing such a burdensome legacy.

Socrates 400 years before Christ, said that when the masses of the people find they can vote themselves prosperity from the public treasury, democracy is no longer possible.

This is a historic test for our republic, our democracy. Democracies easily handle the easy decisions, but stumble on the tough ones.

Today is that watershed moment in our country's history where we will look back and say we did the right thing, as tough as it was, and as objectionable as some of the features of this package are, because, yes, our children and their children deserve it.

Could I have devised a better budget? Certainly. Give me 217 votes. But would it pass without giving me 217 votes? And the answer is no.

I feel that many Members on both sides want an easy package. There is no such thing as deficit reduction of $500 billion that is a happy package for anyone.

When I first ran for Congress, Barry Goldwater came to my district, and I must confess he was one of my ideals in politics. There was a rumor that he would not run again, and I asked him, "Are you going to run again?" He looked at me and said, "Bill, I have thought about it, and I want to retire. I feel that I have earned it. I want my privacy and my private life, but I will not one day sit with my grandchildren on my knee and tell them that I did not do everything that I could to make a better future for them." He ran again.

And I will not sit and tell my grandchildren that I failed to make the tough decision when I had a chance to lift this debt from their shoulders.

Mr. FRENZEL. Mr. Speaker, tonight we have been treated to a rare display. I do not know if the forensics are better than that which we have enjoyed in the past, but certainly at least from the summiteers you have seen expressions of sincerity which I think are hard to match, at least in my career in the Congress.

We have heard the gentleman from California [Mr. PANETTA] and the gentleman from Illinois [Mr. ROSTENKOWSKI] and the gentleman from Illinois [Mr. MICHEL] and the gentleman from Missouri [Mr. GEPHARDT] tell you why they think this is what we need to do tonight.

Mr. Speaker, I want to stand here and agree with each of them, that they and we have done the best that we can do at this point, and what remains for the House is to push this matter through by passing this budget resolution, and letting the committees of jurisdiction begin work on reconciliation.

All of those speakers spoke a little bit about President Bush, too. I have heard many of you say it will be painful to vote for this bill. How painful was it for President Bush to accept the fact that there would be substantial new taxes? How painful was it for him to have come to ask each and every one of us personally if we could give him his vote? He, who has worked so hard and suffered so much for us. And I say this particularly to the Republicans, for we are the divided Government. We are the minority which can get rolled at any time by the majority, and our only defense is our President and our ability to sustain a veto every now and then.

Here is one time when he and we jointly are asking Members to stand up with us and give this country a chance to get its feet back on the path toward fiscal sobriety. Over the past two decades we, all of us, have managed to become the world's largest debtor nation. The U.S. Congress thankfully somehow has made us the world champs in one respect: We owe more money than anybody.

This may not be the best resolution in town, but I guarantee you, it is the only resolution in town.

And as BOB MICHEL correctly pointed out, each of us could do better. I think I could get maybe 80 votes for mine, which is much better than that. I doubt many of you could get that many.

This happens to be a good resolution because it saves $500 billion and places the country's feet on the path toward that desired fiscal sobriety.

It is enforceable. Will it all be enforced? No. Will we save all of the $500 billion? No. We will have some slippage. We always do. But with the enforcement in this package and the 5-year reconciliation, we have the best chance that we have ever had to actually make the savings that we claim we are going to have.

We can change all of this bad record tonight, or we can at least begin changing it. This package will take us to a unified budget surplus before fiscal year 1994. By fiscal year 1995 it will have taken our spending back to only 18½ percent of GNP, our rough average for the past two decades, and

5 percent less than we expect to spend in fiscal year 1991, the fiscal year approaching.

That is a pretty good record, a monumental achievement, I believe. And Alan Greenspan says it passes the credit market test, and so does his predecessor, Paul Volcker, and so do Martin Feldstein, Ronald Reagan's CEA, and so does Jim Lynn, who was Jerry Ford's budget man, and Charles Schultz, who was Jimmy Carter's Director of the Budget, and Herb Stein, who was the Chairman of the Council of Economic Advisers for President Nixon. All these men say this fits the bill, that it passes the test.

Now the question is are we going to pass the test? Are we going to have the courage to stand back and to go against a few phone calls and a few letters we have got from people who want to keep getting the same benefits that they have been getting over the years?

I have often said to the Republicans that I see us all as a bunch of cake eaters. We are afraid to lay on new taxes. We think that is naughty. We do not want to cut any spending. We do not want to deny any of our constituents anything.

We will tonight pass what I call the cake eater test if we can pass this budget resolution. We will prove that we can eat a little bread and maybe some of us, certainly myself, will have to eat a little crow, because none of us is going to like this budget resolution. But as I said before, it's all we got.

Our test is sterner than any we have faced since I have come to Congress. And for us good news people who do not like to lay on taxes, and who hate to cut expenditures, it is going to be particularly difficult.

But remember, we can begin moving down that path to fiscal sobriety. And for all of those of you that I have importuned over the years, that I have harangued and pleaded and begged to reduce spending, for me personally there could not be any finer monument than the passage of this budget resolution.

Mr. PELL. Mr. President, I intend to vote against the budget resolution presented to the Senate today.

Five days ago, I announed that I opposed the budget summit agreement and would vote against the budget resolution needed to carry out that agreement. At that time, I said the budget agreement was unfair in placing the heaviest burden of deficit reduction on the elderly, and the heaviest burden of new taxes on middle and lower income families and individuals.

I objected strongly to taxing the necessities of life such as home heating oil, and to eliminating one of the few programs that help first-time home buyers of modest means to buy a home.

Fortunately that budget resolution was rejected—not only by me but by the American people and by the Congress.

We have now been presented with a revised budget resolution. And it is frankly an improvement over the original resolution. But the resolution still leaves open the possibility, and indeed the probability, that the final result will still be large cost increases for the elderly in the Medicare Program, and heavy increases in excise taxes that hit hardest at the middle and lower income families and individuals.

The resolution leaves open the possibility that a tax ultimately will be imposed on home heating oil.

In addition, the revised resolution contains inadequate reductions in defense spending, and actually requires smaller spending cuts in agricultural support programs than did the original budget resolution.

For all of these reasons I will vote against this budget resolution. I emphasize at the same time that I do not believe the Federal Government should be brought to a standstill while the Congress and the administration seek a better solution to the budget problems. I believe the President's veto on Saturday or the continuing resolution permitting the Government to continue its operations was an error and I regret that the House of Representatives failed by a narrow margin to override that veto.

Disruption of essential Government services contributes nothing to resolving budget disagreements. Such disruptions impose penalties on the American people for budget and political disagreements that are not their fault. Accordingly, I will vote in favor of a continuing resolution to permit continued operation of the government while the Congress and the administration work out a good budget agreement.

Mr. BIDEN. Mr. President, I will vote for the budget resolution because it moves the budget process forward. I did not support the previous plan, and I have reservations about this one, but it appears the negotiators moved much of the burden of deficit reduction off the elderly Medicare beneficiaries and on to those in very high income brackets.

This is not the final agreement—that will come in 2 weeks. But this vote will move the process forward. I will look for further improvement before voting for the final package.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I had intended to give my closing remarks and then Senator DOLE, but the distinguished Senator, Mr. THURMOND, wanted 2 minutes, so I will yield 2 minutes to him. The only remaining speakers on our side are Senator DOLE and myself.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the budget resolution. It is not what I want. It is probably not exactly what any person wants, but we must resolve this matter and bring the first step in the budget process to a close.

The American people are wondering what in the world is wrong with the Congress. We have been working on a budget for weeks and months. Now is the time for action. The American people want action. We must support this resolution.

Earlier, remarks were made about the senior Senator from Georgia, the able chairman of the Armed Services Committee. I want to commend him for the sound position he has taken with regard to defense spending. This position will protect the security of this Nation. We have turmoil all over the world. We cannot afford to cut defense any more than he is advocating. In his behalf, I want to say I stand with him, and I hope the Senate will.

Mr. President, I hope we will stand together on this budget resolution, I commend the able Republican leader, the Senator from New Mexico, the able ranking member on the Budget Committee, the other Members who have been involved, for their hard work. I ask my colleagues to support this resolution.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield myself 10 minutes, and then our only remaining speaker is Senator DOLE.

Mr. President, I see my friend the distinguished senior Senator from Georgia on the floor. He raised some issues about interest rates. I only have 10 minutes, so let me say to my friend I will not use my time to explain how I see the interest rates, but I believe the assumptions in the budget agreement are rational. In due course I will have printed in the RECORD why I believe they are not out of line with reality for a budget resolution.

Having said that, let me suggest that I want to break my remarks up in three parts. First, I want to talk about what we are doing and why we are doing it, and, second, I want to discuss what is going to happen if the committees who are supposed to put this together do not do their job.

Let me start by saying the issue before us is whether or not the U.S. Senate and the U.S. House in the next 15 or 20 days will have the courage to change programs of the Federal Government sufficient to make the savings that their respective committees have been directed to do in this budget resolution. That is hard work. I can just say to the chairman and ranking member of Governmental Affairs Committee, and to the chairman and ranking member of Finance, "You had better get ready. You have about 4 or 5 days, not 40 or 50 days, about 4 or 5 days to put in place in your committee the savings that are mandated in this budget resolution." I am going to give you a rule of thumb. If no one is complaining and you are not hearing from the American people and from lobbyists, you are not doing your job. Because what we have instructed in this budget resolution cannot be done without pain.

I am not going to bother to talk about who and how, but I tell you, there are not very many ways to achieve the savings that are better than those that the summit arrived at. You may find some other savings proposals. But if you really are going to do the job, you are going to come out pretty close to what the summiteers arrived at after weeks and weeks of discussion and meetings.

So I hope you will have in front of you what was agreed to by the budget summit. There are many who are saying they are upset, and we should never have a budget summit again.

Well, if we do this right, we will not need to do it again. But I tell you, I do not apologize for the summit agreement because I guarantee you, for all the pious remarks about doing it another way and all the demands that we should wait for our committees, I guarantee you if you did not have that summit, you would not be here tonight with a package that recommends a $500 billion reduction. I bet my life on it. I mean, who would do it? If you did not have Gramm-Rudman, which everyone criticizes, you would not even have had the budget meetings, and you would not have had this kind of deficit reduction until the United States of America went broke. That is about the time you would have it.

So why do we not forget about the budget summit? We went out to Andrews Air Force base and learned a lot. I heard House Members who were supposed to know so much about Government saying, "I never knew it was so tough to cut the deficit of the United States." It is nice and easy and pious to say "freeze." But, what about Social Security? What about Medicare? These Senators that run around and say, "Everything is growing too much, claiming it is Senator BYRD's Appropriations Committee." The entitlements are going up 14 to 15 percent. Some are going up 17. How come? Senator BYRD cannot change those. We have to change them. And some of those have to be changed through a budget reconciliation bill. If not, we are not going any-where. So that is my first point.

My second point is we would not be doing this if we were not worried about our country. And it just stands to reason that sooner or later, you have to cut the deficit. You might have gone on another year, but how many more? Borrowing the kind of money we are borrowing from all over the world raises interest rates for those who want to buy houses, and for Americans who want to build a business. With interest rates outlandishly high, we cannot grow.

We are pursuing this deficit reduction package so that we can grow, so that we can leave something for our children, and so that working men and women can have some hope that the private sector of America has a chance to continue to grow. We did not do it because it is neat and because it is nice to be on the summit. We did it because the country demands it. I do not mean demands it in the sense that the country is standing out there ready to whip us. A great country demands the best of its leaders. Anyone that does not want to vote for this resolution may have all kinds of legitimate reasons.

Let me tell you, the most important thing is my third point. This resolution is meaningless if the committees of this Senate do not comply with the reconciliation directives. And tonight the Senator from New Mexico is going to vote for this budget and recommends anyone that wants to get the deficit down to vote for it. Those who do not, I hope we get a good enough reconciliation bill to get your vote for it.

Let me say that this budget resolution is meaningless if the committees of this U.S. Senate find ways to use smoke and mirrors to get out of their responsibility. As one summiteer, I am going to recommend to our leader that if they do that, we are going to bring an amendment here to the floor and fix it.

So, I guess I am saying, Mr. Chairman and ranking members the good times are gone. The times when you can fool around with all those numbers in your reconciliation bills, when you call on those smart guys and say, "Hey, did you used to work on the Budget Committee?" "Yes." "Do you know how to fix this so I do not have to do anything hard?" They say, "Sure do." Well, that is not going to work. At least I hope it is not going to work.

The last part is, we must change the budget process to enforce what we have committed to here tonight. For those who say defense has not been cut, all of the discretionary savings in this proposal are from defense—$180 billion. For those who say discretionary is coming down, yes, it is, all because of defense. If we did not happen to have defense coming down at this particular moment in history, we could not do this. Where would we get $180 billion? We got it solely from defense.

We do have caps on the discretionary accounts for 3 years, defense, domestic and foreign. We have a new enforcement process that we agreed upon that will enforce the caps, provide for an extension of Gramm-Rudman-Hollings, and do some other things that will help the appropriation process not bear the full burden of Gramm-Rudman-Hollings. Those are all written up.

I, for one, want to say to those who asked the Senator from New Mexico yesterday and the day before to support this budget, that I am supporting it. But I guarantee you that I am not going to support a reconciliation bill that does not produce the savings in the budget summit agreement. I am not going to support a reconciliation bill that does not have the reforms in the budget process to show the American people, who are going to take some pain, that the savings are real.

For those who say this is unbalanced, I want to give you three numbers. I think it is balanced. Listen to how balanced it is. Thirty-six percent of the savings in this package come from discretionary accounts. For those who said before you tax, cut spending, well, there is 36 percent. Another 22 percent comes from mandatory and entitlements. That is domestic spending, not military. It is not just appropriations; it includes mandatory and entitlement spending. If my arithmetic is right, 36 and 22 is 58. Fifty-eight percent is from reducing expenditures, if you pass the reforms that make it happen. And 30 percent taxes.

I think that is a pretty fair package. To repeat, 36 percent cuts in discretionary; 22 percent from entitlements; 30 percent from taxes. I say tonight, I have done my job, and I enjoyed it. I am not embarrassed or abashed about having been a summiteer. You would not be here but for the summit, and I was pleased to be part of it.

Now let us see if the members of the committees, all of whom want deficit reduction, many of them came to the floor and told us how to do it; let us see if they get it in the next 5 or 6 days.

Mr. President, I ask unanimous consent that reasonableness of interest rates in the budget agreement be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTEREST RATE ASSUMPTIONS IN THE BUDGET AGREEMENT

Real interest rates are what matter for financing the budget deficit.

The administration projects real interest rates to be approximately the same in 1991 as this year and slightly lower in 1992.

And real interest rates are projected to decline only modestly in later years, back to more normal historical levels.

These are modest improvements if we carry out real sustained deficit reduction.

Chairman Greenspan has confirmed that implementation of a budget agreement is a necessary condition for lower interest rates and continued economic growth.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I see the distinguished Senator from West Virginia on the floor. Does he wish some time?

Mr. BYRD. I do not wish time, except to thank the distinguished Senator from Tennessee [Mr. SASSER] for the excellent work that he has done

throughout the long and difficult days at the so-called summit.

Let me, for one, say that I do not intend to ever attend another summit. I have had my belly full of summits. But I want to thank him. I attended the summit, and we summiteers have undergone and experienced a great deal of castigation, calumny, and opprobrium, but we did our best. I think we did a pretty good job.

I want to thank the Senator from Tennessee [Mr. SASSER]. I want to thank Mr. DOMENICI, the ranking member of the Budget Committee. I also wish to thank Mr. BENTSEN, the chairman of the Finance Committee, and Mr. ROSTENKOWSKI, his counterpart in Ways and Means. I want to express my gratitude to Mr. HATFIELD, my own counterpart on appropriations, and I also express appreciation to the majority leader and the minority leader for the work that they did at the summit.

Mr. DOLE, I think, attended all of the sessions there, and whatever success may have been achieved can be attributed to the dedication of the Members of the Senate and House who attended. But I have had enough of summits, as far as I am concerned. I think this resolution is imperative. I did not intend to speak, because I think everybody has their minds made up as to how they are going to vote.

I think it is imperative, however, that we adopt this resolution. It takes us to the next phase in the budget process. We could not bring out a reconciliation measure unless this resolution is passed instructing the committees as to what they must do in regard to raising revenues and reducing outlays and so on.

It is a far more serious matter than the American people believe. This country is operating right now under a $1.434 trillion budget. If anyone is interested in knowing how much a trillion dollars is, at $1 per second, it would take 32,000 years to count a trillion dollars. The national debt is $3.189 trillion. How much time is left? I might take it.

The PRESIDING OFFICER. The Senator from Tennessee has 3 minutes 25 seconds.

Mr. BYRD. It takes me that long to get warmed up.

In 1981, domestic discretionary spending was $157 billion.

The budget at that time was $678 billion. Domestic discretionary spending constituted 23 percent of the total budget. Today, fiscal year 1991, we are looking at that budget; domestic discretionary spending is $171 billion. It has increased $14 billion since 1981, from $157 to $171 billion, while the total budget has increased from $678 billion in 1981 to $1.434 trillion. In other words, the budget has increased $756 billion over what it was in 1981. Now domestic discretionary spending constitutes 11.9 percent of the total budget; whereas 10 years ago it constituted twice that much, 23 percent.

We do have a third deficit, the investment deficit, the infrastructure deficit in this country. Our roads are falling in. The bridges are crumbling and falling down. We need waste water treatment facilities and water quality facilities. We need to improve our rivers, our harbors, our airways, our railways, and our mass transit. And we are not doing it.

That is why I am fighting to increase domestic discretionary spending, and we are doing it. That is what we agreed on at the summit.

To those who wish to further cut domestic discretionary spending, I say we have had enough and it is time we invested in our country. Any company that does not invest in its plant, equipment, and its people is going to fail. We have not been investing in our plants and equipment. I have just described how our domestic discretionary spending has been going down in relation to the entire budget and in relation to GNP.

A country that does not invest in its people, that does not train them, that does not educate them, that does not invest in its plant and equipment, its roads, its bridges, its railways, its waterways, is going to fail. It is not going to be able to compete with other countries.

Mr. President, I will not belabor the Senate further. I urge the Senate to approve this resolution so that we can go on to the next step and develop a reconciliation bill and get on with our efforts to deal with this terrible budget deficit, $3 trillion. It is a terrible debt, $3.189 trillion.

I thank the Senate and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, I understand that many in this chamber will vote for this second budget resolution as did many of our colleagues in the House. They will vote for this measure in order to let the congressional process work, in the hope of a final Reconciliation Bill that will reduce the deficit in a manner that reflects their values and priorities. They will also vote for it in the hope that the President will agree to sign a short-term continuing resolution to keep the Government in business. I support a short-term continuing resolution because it would be absurd to shut the Government down: It would produce chaos and be unfair to American taxpayers.

However, while I understand the thinking of those who will vote for this second budget resolution, I do not share that thinking and will vote against this second budget resolution.

Why? Because this budget resolution establishes parameters for tax increases, entitlement reductions, and defense spending that are inconsistent with my values and priorities and those of the people I represent. Operating within these constraints, I find it very hard to imagine that the committees can produce a budget I can support. I hope I am wrong if this measure passes, and that fair package that reflects my priorities will come before the Senate. If it does not, I will try to change it and if that fails, oppose the reconciliation bill as well. I am also highly skeptical of the basic economic assumptions on which this budget resolution is based. With this budget resolution, as with the last one, the key assumptions behind the budget projections are wildly optimistic. This budget assumes, for example, that interest rates will drop below 5 percent in just a few years. As a result of assumptions like this, the massive reductions that are projected in the out years are phoney. With most of the $500 billion savings coming in the out years and driven by inflated assumptions, the package as a whole is seriously flawed.

Some say we have no option other than to pass this budget resolution. They maintain that as much as they disagree with it that it is the best that we can achieve and develop a reconciliation bill the President will sign. I reject that argument. I believe Congress should pass the budget that best reflects the majority of this body. If this is it, I reject it. If we can do better, let's do so. If we pass a better budget and reflect that in a better budget resolution, and the President vetoes it, then we, and more importantly, the American people, will know why we are forced to enact a bad budget deal.

So, Mr. President, I believe it would be wiser to pursue another option.

And that is to reject this budget resolution and pass a short-term continuing resolution. This would keep the Government operating for a few days, while we develop and consider a budget resolution that more fairly distributes the unfortunate but necessary pain of deficit reduction. If we pass this budget resolution I fear we have stacked the deck in favor of more taxes, and probably unfair ones; more cuts in programs people need; excessive spending on unnecessary weapons systems; and agribusiness subsidies and tax giveaways to oil and gas companies and the superrich.

Mr. President, the original summit agreement produced a budget resolution which was unacceptable to a majority in both parties in the House. It was rejected because it did not reflect the wishes of the American people. It was not fair to the middle class and to lower income Americans. It was not fair to the elderly with excessive cuts in Medicare. It was not fair to Massachusetts people and would not have

been helpful to an economy already in recession in my state and teetering on the brink of recession nationwide.

Today we are considering a budget resolution that in some ways is an improvement on the earlier proposal. As I understand it, this second agreement would reduce the cut in Medicare, very slightly increase the cut in defense, possibly eliminate the 2-cent tax on heating oil, and probably modify the business tax incentive package. It would also leave the committees of Congress with a great deal more latitude in developing a bipartisan legislative package to implement the broad policies outlined in the second Budget Agreement.

However, I am still gravely concerned with the parameters within which the development of specific policies will occur. I am concerned that the budget resolution could result in a reconciliation bill that remains regressive and unfair to working people. I am concerned that the Reconciliation measure may force too great a deficit reduction on the elderly, our veterans, and society's most vulnerable people. I am concerned that the defense spending figure is too high, particularly with the exclusion of the costs of Desert Shield. And, I am concerned that the reconciliation bill may not be fair to Massachusetts or consistent with restoring economic growth. I can understand the possibility of producing a better reconciliation bill under this agreement than under its predecessor. And I hope that would be the case. But I see insufficient evidence that that would be the case. And I must vote on the evidence and not on some vague hope, even if that hope is widely shared.

Mr. President, I believe that it is also necessary that some Democratic Senators remain uncommitted to this budget agreement in order that we act as a counter weight to Republican opponents of the budget resolution. It is important that Democratic Senators send a message to the committees working out the details of the reconciliation package. It is critical that they recognize that a passable bill must be one that responds to Democratic as well as Republican concerns. I do not want the lopsided vote in the House to suggest to the committees that they must lean to the rich and the right during their deliberations. Passage of a reconciliation bill is essential. But we must not lose track of the fact that this reconciliation bill is more important than any we have passed before.

This reconciliation bill will lock in the fiscal priorities for this nation for the next five years. It is imperative that committee members understand that they must not only overcome Republican objections if it is to pass, but also concerns shared by many Democratic members, including many of those who will vote for this resolution.

As I said before, I am not convinced that the budget agreement reflects adequate attention to savings that I believe can be made in many areas, particularly in wasteful and unnecessary weapons systems, excessive subsidies to wealthy farmers, and in closing tax loopholes to the oil and gas industry and to the wealthiest of Americans.

I am willing to make the tough choices because they must finally be made. But I am not willing to make the wrong choices for the people of Massachusetts. And I am not afraid that the tax and spending configuration on this budget resolution will produce that result. I am unwilling to start down this slippery slope. For once we begin to descend, reversing ourselves will be difficult if not impossible.

Therefore, I intend to vote against the revised budget agreement: First, in the hope that a better agreement can quickly be reached; second, to remind committee members that some Democratic Senators are watching their work carefully and will oppose a final reconciliation bill that is unfair to working people if the second budget resolution is enacted.

Whether we pass this budget resolution or not, I supported the short-term continuing resolution that delays sequestration for the duration of the continuing resolution. It is absurd that we would continue to strangle the operation of the Federal Government until our people turn blue. We must keep the critical functions of Government operating, while we work to forge a better budget, a budget and ultimately a reconciliation bill, that truly reflects the values, priorities, and sense of fundamental fairness of the American people.

Mr. SASSER. Mr. President, how much time do we have remaining on our side?

The PRESIDING OFFICER. All time allocated to the Senator from Tennessee has expired.

Mr. DOMENICI. How much time remains on our side?

The PRESIDING OFFICER. The Senator from New Mexico has 3 minutes and 22 seconds.

Mr. DOMENICI. Mr. President, I have one speaker remaining, the Republican leader. I ask unanimous consent that he have 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senate Republican leader.

Mr. DOLE. Mr. President, first of all, I want to thank President Bush for starting this process several months ago. It has been a bipartisan process. We have had our ups and downs. We have had our problems, and we had the summit and we have been out at Andrews Air Force Base. A lot of us were frustrated, and some of us are still frustrated. Some of us want to reduce the deficit but do not touch Social Security, do not raise taxes, do not touch Medicare, do not touch agriculture, but $500 billion is not enough, the same speaker will say.

I have heard all those speeches and they are great. But they do not reduce the deficit. And those who say no new taxes that is fine; that is your position, stick with it. Some of us who would not take pledges on taxes remember certain things that happened.

I certainly urge my colleagues on this side of the aisle to support this budget resolution. The American people want leadership not speeches. They may disagree with us. They may vote against us. But they have children and they have grandchildren. And if we do not act now, when? If we are not capable, who is going to act?

I have said for the past several years the biggest problem we have in America is the deficit. Boy, we hear great speeches on the Senate floor. I do not question anyone's motives but sooner or later we have to make tough choices. This is only a budget resolution. It is important, do not misunderstand me.

I thank the chairman, Senator SASSER, and Senator DOMENICI. They did a lot of hard work. I thank the other members of our team, Senator GRAMM, Senator HATFIELD, and Senator PACKWOOD on this side, and all others who were summiteers. I do not apologize for anything, except we spent a lot of time in the last 30 days. We have been night and day on the budget, 2 o'clock in the morning, 3 o'clock, 4 o'clock in the morning, midnight, all weekends.

We made an agreement and I hope we can stick by that agreement that we would each furnish at least half the votes, Republicans half of their votes, Democrats half of their votes.

I cannot help what happened in the House. I may not agree with it. I think they let the President down. I think they let the country down when they rejected the budget summit agreement because, as the distinguished Senator from New Mexico says, you can take a look, you can try everything else, and sooner or later you are going to come back to just about where we were. It is not easy to save $500 billion in a balanced package.

But this is the U.S. Senate. And we have a bit more flexibility. We have 6-year terms for a specific purpose so we can make harder choices. So I do not quarrel with the House of Representatives. I was there for 8 years and I understand the frustration, particularly if you are a Republican in the minority and have never had to govern, never been in the majority.

It is frustrating. But I believe we are on the right track. I want a majority on this side so that I can go to Senator

MITCHELL and others on the other side and say, listen, we are players in this game, and if we do not follow the guidelines in the reconciliation process we will not deliver any votes if we can help it on this side of the aisle. That is what we all agreed to do.

Some of my friends say, oh, well, what about the gas tax? There is nothing about a gas tax in here. What about this—some who I heard argue before—there is no specificity in the budget resolution. If you put it in there, they argue take it out. I want my committee to make the judgments.

I remember when I was chairman of the Finance Committee I argued with the Budget Committee every year, "Do not tell me what to do with the budget deficit; we will tell you what to do." I learned that from ROBERT C. BYRD.

Mr. DOMENICI. The Republican leader did, too.

Mr. DOLE. He is a great teacher.

So in any event, we know pretty much what the agreement is going to be. It is going to be tough. It is going to be hard to vote for, and it is not going to pass the Senate unless Republicans and Democrats support it. So nobody is going to engage in fun and games and try to fool anybody. If so it is not going to pass. If it should pass on a party line vote, it will be vetoed. I understand when the President signs a CR he may issue certain guidelines on what he expects in the reconciliation.

They have a $13 billion cut for agriculture in this, if you look at the budget summit agreement. It is in here but I have an inkling, it is probably going to be somewhere. And I am from a farm State. It is an entitlement program. Thirteen billion dollars is a lot of money for agriculture, but so is paying additional interest for farmers, and so is inflation for farmers. You add up what 1 percent interest rate means to farmers, more than 3 percent in target price or 1 percent inflation. My farmers want to be part of the solution not part of the problem.

Gas tax—oh, that is a bad idea, but that is only why we are over in the Persian Gulf, or in the gulf; the gulf crisis is all about oil. So we do not want any good policy. Do not have a gas tax because people do not like a gas tax. They are for cigarette tax, business taxes, liquor taxes, beer taxes, and wine taxes, unless they smoke or drink.

But a lot of people drive. And you take a poll and say, do you want to contribute to the gulf crisis and help our boys over there? Oh, yes, 89 percent. Do you want to pay 1 penny more in gas tax? No, 73 percent.

I do not know what the answer is unless we have leadership. I have a feeling the American people are about 6 months or a year ahead of us and have been and continue to be and they are fed up with this whole process, because they do not understand it.

We were out at Andrews Air Force Base so long we could have been called up or retired. I went over to the Officer's Club one night and there were some civilians over there, retired officers. They said, "What are you guys still doing here? You have been here all week." That was only the 5th day. They were still eating over there on the 10th day. They like it there. The rates are good. And we were still there the 10th day. They did not understand it. They are only normal human beings.

And we were running this up and down the tree, the capital gains and the bubble. They had not heard of the bubble in the Officer's Club. The buddly they heard of, but not the bubble. [Laughter.]

So we have an opportunity tonight to take a step forward to keep the process moving.

We had a rather raucous caucus this morning on our side. I apologize to anybody I may have offended, probably everybody who was there. But we want to move the process forward. The President of the United States wants to move the process forward. One of my responsibilities is to represent the President of the United States. And I am proud to do that. We want a majority vote on this side. In fact, we want more than a majority vote on this side to demonstrate our commitment to deficit reduction.

I think a lot of people forgot what this is all about. It is about deficit reduction. It is not about the gas tax or the cigarette tax or Medicare. In the long run, it is about deficit reduction, and our children and our grandchildren.

So the easy vote is no. Just vote no. It is too much this or it did not do enough of this or I will not vote for this. And that is fine, as long as we have a majority.

And keep in mind the tough vote is coming—reconciliation. That is the law. The President does not sign the budget resolution. He stayed out of this process. He does not sign the budget resolution. But he is going to sign the reconciliation or he is going to veto the reconciliation. He is going to sign it if it is fair and if it meets his requirements and our requirements in the Congress and sort of lives up to the budget agreement. If not, he is going to veto it.

Finally, I thank the majority leader and all of our colleagues on each side of the aisle. This has been a long, tough, tough process. Whatever happens, whatever the vote is, we thank you for your patience and your tolerance, because this has not been an easy job.

And the distinguished Senators from New Mexico and Texas and the two Senators from Oregon who have been on the firing line day after day in the process, I particularly thank them; and also the members of our staff who have gone through this for the past several months.

I think we have done a pretty good job, not perfect. We could all do a better job. I think at one time we had at least, 46 plans on this side and we only have 45 members; DOMENICI had 2. [Laughter]. And that is the way it goes. But this is what we have. This is it.

I urge my colleagues to vote "aye" for the United States, vote "aye" for the senior citizens, the farmers, the business people, the workingmen, the workingwomen, the children, the grandchildren who want to have a future, too.

The PRESIDING OFFICER. All time has expired.

Mr. MITCHELL. Mr. President, I ask unanimous consent that I be permitted to address the Senate for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, Members of the Senate, midnight is not ordinarily harvest time, but it is tonight. Tonight, we reap the bitter harvest of a decade of national indulgence. For 10 years, the American people have been told they can have it all—more for defense, more for Medicare, less in taxes. Way down deep, in our national heart of hearts, we all knew it was not true. But it was easy to believe, easy to ignore the truth, easy for a nation to indulge itself. And our Nation did.

That is why in the past few months we, the elected representatives of the American people, have been caught in a crossfire. From one side, we have been hit with the insistent demand that we reduce the deficit. The American people know and we know that we cannot go on each year spending hundreds of billions of dollars more than we take in. But from the other side has come with equal insistence fierce resistance to higher taxes or lower spending.

Oh, of course, everyone is for less spending in the abstract. Few are for it in the specific. That is why there have been many speeches in this Senate calling for deep cuts in something called entitlements. I have listened and I have yet to hear one speech calling for deep cuts in Medicare or Social Security. But we all know that Medicare and Social Security are entitlements and the largest. We all know the problem. We all know the solution. And it has to begin here tonight.

This is not a perfect resolution. Every Senator who wants to vote against it, who wants to find a reason to justify a no vote, can say it does not do this exactly the way I would like to

see it done. We have 100 Senators and we have 100 perfect plans for reducing the deficit, if only the other 99 knew as much as each one did.

Well, this does not do everything every Senator would like, but it is a beginning. Its is a real beginning. It is a serious beginning.

The single most important contribution that we can make to America's economic future is to bring the deficit down so interest rates can come down. High interest rates are the greatest barrier to the expansion of our economy. The need to provide jobs for our people, jobs in a free market economy, the best social program ever devised, the best solution to our economic problems, the best way to have productive families, living in decent homes with their children going to good schools; in short, to give American families a chance to achieve the American dream. That is what we can help contribute to if we vote for this budget resolution.

Those who vote no, I respect their sincerity. I disagree with them and theirs is not the answer. But we simply must pass this resolution and we have committed ourselves on both sides of the leadership to have a majority of votes, a majority of Democrats and a majority of Republicans.

I want to say to my Democratic colleagues, we simply must meet our commitment. The American people do not think we are serious about the deficit. They do not think we are serious about managing the economy in a responsible way. We have got to begin here and now with this vote to prove that we are.

I urge my colleagues: vote yes for this resolution so we can begin the process of writing into law a fair and responsible and meaningful plan to reduce the deficit.

The budget resolution is not a law. It does not go to the President for signature. It is an internal mechanism by the Congress which enables us to proceed to write the law we can all then vote on in a couple of weeks. So there is not any excuse here to say "I did not vote for this because it cut this program" or "It raised that tax." It does not do that. That is going to be up to the committees to recommend and to bring back to us in the reconciliation bill. If you do not like it then, then you can try to change it or vote no then. But that is not an excuse for voting against this resolution.

I urge my colleagues: vote yes. Let us be serious and let us begin to harvest what we have sowed over this past decade. Let us try to begin now, and make sure that one decade of national self indulgence is enough. This Nation cannot stand two decades of national self indulgence. A yes vote ends one and begins a new decade.

I thank my colleagues.

The PRESIDING OFFICER. (Mr. PRYOR). All time has expired.

The Senator from Tennessee.

Mr. SASSER. I was just going to inquire of the Chair if all time had been yielded back?

The PRESIDING OFFICER. All time has expired.

The Chair will advise the managers that the yeas and nays have not been ordered.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The PRESIDING OFFICER. Before the vote is announced, the Senate rules prohibit expressions of approval or disapproval from those in the gallery.

The result was announced, yeas 66, nays 33, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—66

Adams	Dodd	McClure
Akaka	Dole	Metzenbaum
Bentsen	Domenici	Mikulski
Biden	Durenberger	Mitchell
Bingaman	Ford	Moynihan
Bond	Fowler	Murkowski
Boren	Garn	Nunn
Boschwitz	Glenn	Packwood
Bradley	Gore	Pryor
Breaux	Graham	Reid
Bryan	Hatch	Riegle
Bumpers	Heinz	Robb
Burdick	Inouye	Rockefeller
Byrd	Jeffords	Rudman
Chafee	Kassebaum	Sarbanes
Cochran	Kennedy	Sasser
Cohen	Kerrey	Simpson
Conrad	Kohl	Specter
Cranston	Lautenberg	Stevens
Danforth	Leahy	Thurmond
Daschle	Lieberman	Warner
Dixon	Lugar	Wirth

NAYS—33

Armstrong	Hatfield	McCain
Baucus	Heflin	McConnell
Burns	Helms	Nickles
Coats	Hollings	Pell
D'Amato	Humphrey	Pressler
DeConcini	Johnston	Roth
Exon	Kasten	Sanford
Gorton	Kerry	Shelby
Gramm	Levin	Simon
Grassley	Lott	Symms
Harkin	Mack	Wallop

NOT VOTING—1

Wilson

So, the conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I thank my colleagues for their patience and effort on this matter. Many persons contributed much effort to this result. I thank all of them.

I especially want to thank my friend and colleague, the distinguished Republican leader, without whose efforts this result would not have been possible. I am very grateful for his continued cooperation and support, as we both recognize the difficult task lies ahead with respect to the reconciliation bill. I think this is a good beginning toward that objective.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO MS. BLANCHE BLAUVELT

Mr. LEAHY. Mr. President, I come before the Senate today to recognize the achievements of Ms. Blanche Blauvelt of Stowe, VT.

For 25 years Blanche Blauvelt has volunteered her time at Copley Hospital in Morrisville, VT. She was also instrumental in the establishment of the Copley Auxiliary Second Chance Store.

During those 25 years, Copley has seen many volunteers come and go and served thousands of patients. The one constant throughout these years has been Ms. Blauvelt's service to Copley Hospital and the people of Vermont.

Copley now has over 100 volunteers, but this has not always been the case. When she first began, Ms. Blauvelt recalls how she and a handful of others were called upon to do whatever needed to be done at that particular instant. She thinks fondly of those earlier years, but is glad to see so many giving their time today and the expanded efforts and greater organization that this has brought about.

Copley Hospital is one of the fine rural hospitals Vermonters rely upon for their health care needs. I have spent the day with the people at Copley and seen firsthand the warmth of volunteers such as Blanche Blauvelt. The patients benefit from their care and the staff has come to depend on the support of Blanche Blauvelt and the rest of the volunteers at Copley.

For the record, I would like to submit an article from the Times Argus of Barre, VT, dated August 9, 1990, that acknowledges the dedication and commitment of Ms. Blauvelt to Copley Hospital. I join in their praise and extend my thanks and the

thanks of her fellow Vermonters for all of her work.

I wish her continued success with the hospital and hope she fulfills her dreams of helping out at Copley until the youthful age of 90 or 100 years old.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[The Times Argus, Aug. 9, 1990]

STOWE WOMAN MARKS 25 YEARS AS A COPLEY HOSPITAL VOLUNTEER

Blanche Blauvelt of Stowe has been serving as a volunteer at Copley Hospital in Morrisville for 25 years—and she still loves every minute of it. "Back when I started there was no volunteer director or anything—just a group of us who came to do whatever we could. We helped nurses change beds, put away office files and did everything in general. Now everything is wonderfully organized. We have schedules, know exactly what to do each day—and I think this way we really are better able to be of help," she added.

During Blauvelt's years with Copley she has seen many changes and feels the hospital has evolved into an outstanding rural health care facility. She especially enjoys working "up on the second floor" where volunteers deliver patients' mail, offer cheerful assistance to patients and visitors alike, and often run assorted errands.

"On the floor you meet more people and really stay in touch with the hospital," she noted.

Blauvelt was one of the original organizers of the Copley Auxiliary Second Chance Store but, once that was well established, she returned to spend more time in the hospital.

There are nearly 100 men and women who give of their time and talent to Copley Hospital and their efforts are of benefit to us all. Through their work, the hospital saves time and money executing a variety of tasks. Through the volunteers' concern for the community, patients and their families get a helping hand and a cheerful smile—part of the general TLC that has become a tradition at Copley.

"This place is great! I love being able to volunteer here. It is very rewarding working with such a fine team. As long as my health allows it, I plan to continue—perhaps until I'm 90. Who knows? Maybe I'll still be helping here when I'm 100," Blauvelt commented with a gleam in her twinkling eyes. The folks at Copley certainly hope so.

MESSAGES FROM THE HOUSE

At 2:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the concurrent resolution (H. Con. Res. 310) setting forth the congressional budget for the United States Government for the fiscal years 1991, 1992, 1993, 1994, and 1995.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 666. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

ENROLLED BILLS SIGNED

At 7:47 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 247. An act to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act, and for other purposes;

S. 830. An act to amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission;

S. 2437. An act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes; and

H.R. 4758. An act to provide for the construction, operation, and maintenance of an extension of the American Canal at El Paso, Texas.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2297. A bill to reauthorize certain provisions relating to Indian alcohol and substance abuse prevention and treatment programs (Rept. No. 101-510).

S. 2895. A bill to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes (Rept. No. 101-511).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAUCUS (for himself, Mr. BOREN, Mr. DASCHLE, Mr. EXON, Mr. CONRAD, and Mr. KERRY):

S. 3170. A bill entitled the "Commodity Credit Corporation Relief Act of 1990"; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATFIELD:

S. 3171. A bill to authorize the Secretary of the Interior to survey sites associated with the relocation and internment of Japanese and Japanese-Americans during World War II, to provide for suitable identification, preservation, and interpretation of such sites, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS (for himself, Mr. BOREN, Mr. DASCHLE, Mr. EXON, Mr. CONRAD, and Mr. KERRY):

S. 3170. A bill entitled the "Commodity Credit Corporation Relief Act of 1990"; to the Committee on Agriculture, Nutrition, and Forestry.

COMMODITY CREDIT CORPORATION RELIEF ACT

● Mr. BAUCUS. Mr. President, I rise to introduce legislation to provide emergency repayment of Iraqi debts guaranteed by the Commodity Credit Corporation by liquidating Iraqi assets in the United States.

Since Iraq's invasion of Kuwait the United States has imposed a number of economic sanctions against Iraq.

On August 3, 1990, the President imposed an embargo on Iraq and froze substantial Iraqi assets in the United States. Precise estimates of the value of the Iraqi assets frozen are not available, but they appear to be worth several hundred million dollars.

In retaliation, Iraq took a number of steps, including suspending payments on debts to creditors in the United States.

On September 19, Iraq took the additional step of seizing all assets of nations supporting the U.N. embargo of Iraq.

This included an as yet unspecified amount of U.S. assets.

Iraq now owes creditors in the United States about $2.6 billion.

This includes about $1.9 billion in loans to Iraq guaranteed by the U.S. Department of Agriculture for loans to purchase U.S. agricultural exports.

If Iraq defaults on these debts, USDA's Commodity Credit Corporation would be forced to pay off the loans.

These debts would cost the CCC approximately $900 million in fiscal year 1991 alone.

That would be a tremendous drain on CCC assets that are already drawn thin to support the farm program.

My legislation would direct the President to liquidate a portion of Iraqi assets sufficient to repay their debts to United States creditors—particularly the Department of Agriculture.

The point of this legislation is simple.

American farmers are already suffering because of the Middle East crisis in many ways.

Farmers are paying drastically higher fuel prices because of the threat to the flow of oil.

Farmers also stand to lose hundreds of millions in sales to Iraq because of the embargo.

But if we do not take action, farmers will also be effectively forced to pay off Iraqi debts out of the farm program.

This is simply unacceptable.

Iraq has seized United States assets. It is now time for us to follow suit.

This legislation is cosponsored by Senators BOREN, DASCHLE, EXON, CONRAD, and KERRY.

We must move to pass this critical legislation quickly.

I ask unanimous consent that the text of the legislation appear directly following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(A) FINDINGS

(1) The Commodity Credit Corporation of the U.S. Department of Agriculture is now guaranteeing loans to the Government of Iraq valued at $1.9 billion;

(2) Default on these loans by Iraq force the Commodity Credit Corporation to pay $900 million in loan guarantees in the next fiscal year;

(3) Paying these loan guarantees could cause the Commodity Credit Corporation and the farmers that depend upon it in substantial financial distress.

(B) Notwithstanding any other provision of law the President is directed to—

(1) to vest title in a portion of the property in which transactions have been blocked pursuant to Executive Order 12722 of August 3, 1990, which portion shall be equal to the total amount of obligations owed to the United States Government and the United States nationals for which Iraq has suspended repayment; and

(2) to liquidate such property and pay the United States creditors the amount of the obligation referred to under paragraph (1).

(C) In the event that property liquidated under subsection (B)(2) is less than the total amount of obligations described in subsection (B)(1), then obligations the repayment of which is guaranteed by the Commodity Credit Corporation shall be given priority in the payment of creditors.

(D) The President is authorized to waive action under the section if he determines that such action would not be in the national interest.●

ADDITIONAL COSPONSORS

S. 2319

At the request of Mr. GARN, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2605

At the request of Mr. PRYOR, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2605, a bill to amend title XIX of the Social Security Act to provide mechanisms to control Medicaid drug prices while assuring that beneficiaries receive quality medical care, physicians' prerogative to prescribe is protected and the role of pharmacists is enhanced.

S. 2956

At the request of Mr. GRAHAM, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 2956, a bill for the relief of Benjamin H. Fonorow.

S. 3029

At the request of Mr. PRYOR, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 3029, a bill to amend title XIX of the Social Security Act to provide mechanisms to control Medicaid drug prices, to assure that medicaid beneficiaries receive quality medical care, and to protect the physician's right to prescribe.

AMENDMENTS SUBMITTED

CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

BYRD (AND McCLURE) AMENDMENT NO. 2939

Mr. BYRD (for himself, and Mr. MCCLURE) proposed an amendment to the joint resolution (H.J. Res. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes; as follows:

In subsection 101(b), after "the Senate as of October 1, 1990," insert "or at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990,".

In section 103, strike the sum "$262,969,000,000" and insert in lieu thereof: "$265,369,000,000".

In subsection 108(c), strike "October 20, 1990," and insert in lieu thereof: "October 19, 1990,".

In section 114, strike "October 20, 1990" and insert in lieu thereof: "October 19, 1990".

BYRD AMENDMENT NO. 2940

Mr. BYRD proposed an amendment to the joint resolution (H.J. Res. 666), supra; as follows:

At the end of the joint resolution add the following:

"It is the sense of Congress that the date by which committees should report their reconciliation language to their respective Budget Committees should be October 12; that the Budget Committee should report the reconciliation bills no later than close of business October 3; that it is the sense of the Senate that the Senate should begin consideration of the reconciliation bill on the first day of session following its report by the Budget Committee.".

AUTHORIZATION FOR SENATOR BRYAN TO SIGN ENROLLMENT ON HOUSE JOINT RESOLUTION 666

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator BRYAN be authorized to sign the enrollment on House Joint Resolution 666.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILDRED AND CLAUDE PEPPER SCHOLARSHIP PROGRAM

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2666.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 2666) entitled "An act to establish a Mildred and Claude Pepper Scholarship Program," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Hawkins, Mr. Ford of Michigan, Mr. Williams, Mr. Goodling, and Mr. Coleman of Missouri be the managers of the conference on the part of the House.

Mr. MITCHELL. Mr. President, I move that the Senate insist on its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses and that the chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. KENNDY, Mr. PELL, Mr. METZENBAUM, Mr. HATCH and Mrs. KASSEBAUM conferees on the part of the Senate.

NATIONAL AND COMMUNITY SERVICE ENHANCEMENT ACT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1430

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 1430) entitled "An act to enhance national and community service, and for other purposes," and ask a conference with the Senate on the disagereing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Education and Labor, for consideration of the Senate bill (except sections 222, 501, 502, 507, and 508), and the House amendment (except sections 132(e), 191-195, and 199), and modifications committed to conference: Mr. Hawkins, Mr. Ford of Michigan, Mr. Gaydos, Mr. Miller of California, Mr. Kildee, Mr. Williams, Mr. Martinez, Mr. Owens of New York, Mr. Sawyer, Mrs. Lowey of New York, Mrs. Unsoeld, Mr. Goodling, Mr. Gunderson, Mr. Coleman of Missouri, Mr. Petri, Mr. Tauke, Mrs. Roukema, and Mr. Fawell.

From the Committee on the Judiciary, for consideration of section 132(e) of the House amendment, and modifications committed to conference: Mr. Brooks, Mr. Edwards of

California, Mr. Staggers, Mr. Fish, and Mr. Dannemayer.

From the Committee on Energy and Commerce, for consideration of section 222, 501, and 502 of the Senate bill, and modifications committed to conference: Mr. Dingell, Mr. Thomas A. Luken, Mr. Waxman, Mr. Lent, and Mr. Whittaker: Except that, for consideration of sections 501 and 502, Mr. Madigan is appointed in lieu of Mr. Whittaker.

From the Committee on Foreign Affairs, for consideration of sections 507 and 508 of the Senate bill, and sections 191–199 of the House amendment, and modifications committed to conference: Mr. Fascell, Mr. Berman, Mr. Levine of California, Mr. Broomfield, and Mr. Gilman.

From the Committee on Interior and Insular Affairs, for consideration of subtitle C of title I of the Senate bill and title II of the House amendment, and modifications committed to conference; Mr. Udall, Mr. Vento, Mr. Lewis of Georgia, Mr. Young of Alaska, and Mr. Lagomarsino.

Mr. MITCHELL. Mr. President, I move that the Senate disagree to the House amendment and agree to the request for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. KENNEDY, Mr. PELL, Mr. DODD, Ms. MIKULSKI, Mr. HATCH, Mr. JEFFORDS, and Mr. DURENBERGER conferees on the part of the Senate.

PERMANENT ENDOWMENT FOR THE EISENHOWER FELLOWSHIP PROGRAM

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2017.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2017) entitled "An Act to provide a permanent endowment for the Eisenhower Exchange Fellowship Program," do pass with the following amendment:

Page 8, after line 8, insert:

SEC. 9. FASCELL FELLOWSHIP PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Fascell Fellowship Amendments Act of 1990".

(b) SERVICE OF FASCELL FELLOWS.—

(1) ESTABLISHMENT.—Section 1002(a) of the Fascell Fellowship Act (22 U.S.C. 4901(a); hereinafter in this section referred to as "the Act") is amended—

(A) by striking out "formerly" and inserting in lieu thereof "which would otherwise be"; and

(B) by striking out "in the Soviet Union or Eastern European countries" and inserting in lieu thereof "abroad".

(2) PURPOSE OF THE FELLOWSHIPS.—Section 1002(c) of the Act (22 U.S.C. 4901(c)) is amended—

(A) by striking out "in the Soviet Union or an Eastern European country" and inserting in lieu thereof "abroad"; and

(B) by striking out "Soviet or Eastern European" and inserting in lieu thereof "that country's".

(3) INDIVIDUAL WHO MAY RECEIVE A FELLOWSHIP.—Section 1002(d) of the Act (22 U.S.C. 4901(d)) is amended by striking out "Soviet or Eastern European area studies or languages" and inserting in lieu thereof "international affairs, foreign languages, or career and professional experience or interest in international affairs,".

(c) FELLOWSHIP BOARD.—

(1) MEMBERSHIP.—Section 1003(b) of the Act (22 U.S.C. 4902(b)) is amended in paragraph (4) by striking out "Soviet or Eastern European area studies or languages" and inserting in lieu thereof "international affairs or foreign languages,".

(2) TRANSITION.—The amendment made by paragraph (1) shall apply only to appointments to the Fascell Fellowship Board after the date of the enactment of this section and shall not affect the service of members of such board on the date of the enactment of this section.

(d) POSTING OF FELLOWS.—Section 1005(a) of the Act (22 U.S.C. 4904(a)) is amended by striking out "in the Soviet Union or Eastern Europe" and inserting in lieu therof "abroad".

Mr. MITCHELL. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. DOLE I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration, en bloc, of Calendar Nos. 896 and 897; that the bills be read a third time and passed; that the motion to reconsider the passage of these bills be laid upon the table.

I further ask unanimous consent that any statements relating to these calendar items appear at the appropriate place in the RECORD, and that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONNECTICUT COASTAL PROTECTION ACT

The bill (H.R. 3468) to amend the act entitled "An Act to extend the Wetlands Loan Act," to provide for the expansion of the Stewart B. McKinney National Wildlife Refuge, was considered, ordered to a third reading, read the third time, and passed.

CHEHALIS RIVER BASIN FISHERY RESOURCES STUDY AND RESTORATION ACT

The bill (H.R. 3787) to authorize a joint Federal, State, and tribal study for the restoration of the fishery resources of the Chehalis River Basin, Washington, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

ORDERS FOR TUESDAY, OCTOBER 9, 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Tuesday, October 9; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that upon reservation of leaders' time, the Senate proceed to the consideration of Calendar No. 946, S. 3167, the Social Security pay-as-you-go proposal; and that the Senate stand in recess from 12:30 to 2:15 p.m. in order to accommodate the party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess, as under the previous order, until 10 a.m. this morning.

There being no objection, the Senate, at 1:19 a.m., recessed until Tuesday, October 9, 1990, at 10 a.m.

EXTENSIONS OF REMARKS

THE BIG BUDGET LIE

HON. PAUL E. KANJORSKI
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Sunday, October 7, 1990

Mr. KANJORSKI. Mr. Speaker, the noted economist Lester Thurow, dean of MIT's Alfred P. Sloan School of Management, has written an incisive analysis of our current budget crisis. His critique, which appeared in this morning's Washington Post traces the origin of the crisis as well as offering a prescription for change. I commend it to all my colleagues in the House.

[From the Washington Post, October 7, 1990]

THE BIG LIE THAT CAUSED THE BUDGET CATASTROPHE

(By Lester C. Thurow)

(Dean, Alfred P. Sloan School of Management, Massachusetts Institute of Technology)

In 1980 the American electorate embarked on a grand experiment—supply-side economics. Ten years later, that experiment continues to warp the political process. Its enduring influence explains why Congress and President Bush found it so difficult to reach any budget agreement at all; why the failed agreement was so peculiarly shaped; and why the public, nourished on a decade of false promises, seems unwilling to make even modest sacrifices to assure the nation's economic future.

In the current economic climate almost any solid deficit-reduction package would be welcome. Still it is remarkable that the initial deal struck last week would aggravate the very features of the current tax system that seemed most generally objectionable to tax experts and the public: Its "small business growth incentives" would offer new tax dodges to the wealthy—who had supposedly traded away their shelters for the much lower tax rates provided by the 1986 tax reform; its tax-deduction limit would worsen, rather than eliminate, the disreputable "bubble" feature which grants the very, very rich lower marginal income tax rates, and hence lower capital-gains tax rates than those faced by the merely well-to-do taxpayers; and it would increase the relative tax burden borne by low- and moderate-income taxpayers. All this is a package endorsed by Democratic leaders who claimed to have tax fairness as their top concern.

What explains the persistence of supply-side mythology? From where comes its power to so constrain American politics?

When America first jumped on the supply-side bandwagon, people felt, rightly, that the economic performance of the 1970s was unacceptable. The political and military affronts in Tehran were compounded by the vision of a chained economic giant wilting in the face of Japanese and German competition.

A GNP growth rate of 2.8 percent was unacceptable when compared with the 4.1 percent growth rate of the 1960s. That dismal record was compounded by an even more important measure of economic performance, productivity growth—the rate at which a nation is becoming more efficient and hence more affluent. The 1960s' growth rate of 2.9 percent had fallen to only 1.4 percent in the 1970s. Such a decline meant that instead of doubling every 24 years, America's standard of living would take 50 years to double—each generation could no longer expect to have a standard of living twice that of its parents. Facing these facts Americans were willing to try something new and different.

Supply-size economics, as enunciated by President Reagan and later embraced by Bush, promised that lower taxes on upper income groups would stimulate savings and hence permit more investment—the argument used by Bush to advance his capital-gains tax cut proposals in the recent budget summit. Higher investment would lead to higher growth. In addition to restoring economic vigor and rebuilding international competitiveness, higher growth would accomplish two other important objectives—without asking for painful sacrifice from anybody.

First, with a larger economy, government tax revenue could go up even though tax rates had been reduced. In 1981 Reagan promised that the federal budget would be balanced in 1985 without having to make significant spending reductions. Second, although most of the tax cuts would go to high-income individuals (it was they who had the capacity to save more), higher growth would lead to better paying jobs for middle- and low-income Americans. In the short run their total tax rates would go up—for 80 percent of the population the extra payroll taxes they would be asked to pay to fund Social Security would be larger than the income tax cuts they would get. But with higher earnings they would in the end benefit. All gain, no pain.

Politically supply-side economics delivered the goods—three presidential elections have been won using it—but economically it has not delivered on any of its promises.

Where higher GNP growth was promised, lower growth was delivered—2.6 percent over the decade of the 1980s. In 1990 the economy is stalled on the lip of a recession, just where it was in 1980. Because of the debt and banking problems built up during the 1980s, any recession in the 1990s will produce levels of bankruptcy not seen since the Great Depression. Even without a recession, middle-class wealth is melting away as housing prices fall in much of the nation in reaction to the debt excesses of the 1980s.

Instead of growing faster, productivity slowed down—1.2 percent during the 1980s. In 1989 productivity actually declined. There is only darkness visible at the end of the productivity tunnel.

Savings rates plunged. In the last four years of the 1970s, American families saved 7 percent of their disposable income; in the last four years of the 1980s, they saved only 4 percent. The rich saved nothing from their tax cuts. In contrast, the Japanese saved 15.7 percent of their income in the past 12 months.

If total national savings (a measure that includes corporate savings and government dissavings) is examined, savings fell from 17.4 percent of GNP in the last four years of the 1970s to 11.3 percent of GNP in the last four years of the 1980s. As a result, in 1989 Japanese investments in plant and equipment per worker were three times as large as those in the United States.

At the beginning of the decade the United States had a small surplus in its trading accounts ($1.5 billion in 1980 and $8.2 billion in 1981). At the end of the decade it recorded a current-account deficit of $129 billion in 1988 and $110 billion in 1989. What was a competitive problem at the beginning of the decade was a competitive disaster at the end of the decade.

In 1981 the United States was the world's largest creditor nation with net assets totaling $141 billion. Every year the rest of the world paid interest, dividends, and profits to Americans. By 1989 the United States had become the world's largest net debtor nation with debts totaling $620 billion. Where Americans used to get, they now give.

The federal deficit did not, of course, vanish in 1985. In the year ahead, the deficit is estimated to be $254 billion and rising if last week's deficit reduction proposals are passed by Congress ($294 billion if they are not) and over $300 billion if the Social Security surpluses are excluded from the totals, as they ought to be. A budget summit that reduces the deficit by $40 billion is essentially the equivalent of Nero fiddling while Rome burns. The difference is that Nero wanted to burn Rome so that he could rebuild it—the Roman Colosseum was his. Unfortunately there is no evidence that the current fiddlers have any real rebuilding in mind.

President Bush is fond of saying that "we have more will than wallet." He has it exactly backwards. Our GNP after correcting for inflation is four times as large as it was in 1947 when we were paying to rebuild the world after World War II. Our per capita GNP is 2.3 times as large. We can afford to do what must be done abroad; we can afford to do what must be done at home.

America is not an over-taxed country. In 1989, Americans paid fewer taxes as a percentage of GNP (about 30 percent) than the citizens in any other industrial country. Taxpayers in 22 industrial countries, including the Japanese and the Germans, paid more. Moreover, there are places where the budget can be cut without harm. Based on the performance of other countries * * * performances when it comes to health and longevity, substantially less could be spent on health care if the system were fundamentally reorganized. The events in Eastern Europe mean that big defense cuts can occur while still maintaining our ability to fight wars in the Third World. America has more than 2 million troops; fewer than 200,000 are in the Middle East.

The American problem is will—not wallet. In a democracy, will depends upon leadership and in the United States that means presidential leadership. It isn't leadership to spend months arguing that a capital-gains

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

tax cut is the most important issue facing the American economy.

Whatever one believes about the growth-enhancing aspects of a capital-gains tax cut—or other "tax incentives"—everyone agrees that they leave more after-tax income in the hands of the wealthiest. In the last decade America has already had a heavy dose of that kind of "sacrifice."

Recently the U.S. Census Bureau confirmed that inequality in the distribution of income had increased substantially in the last decade. Every statistic points in the same direction. In the decade of the 1980s, the average real income of the top 5 percent of the population rose from $120,253 to $148,438. At the same time the average real income of the poorest 20 percent fell from $9,990 to $9,431. After-tax measures of income would report an even wider gap. As the income share of the top 20 percent rose in the 1980s, the income share of each of the bottom four quintiles was falling—the lower the quintile the bigger the decline. Despite a 21-percent rise in the real per capita GNP, the average real hourly wages of rank-and-file workers fell 5 percent. Those promised good jobs for middle- and low-income Americans did not appear.

If the income share of the rich is rising at the expense of the rest of the population (it is), if government is directly altering its policies to augment the income share of the rich (it has), if the campaign contributions of special interests increasingly dominate the political process (they do), if fewer and fewer middle- and lower-income individuals vote (it's happening), America is, under the cover of supply-side economics, rapidly moving towards becoming (dare we say it openly?) a plutocracy.

Unfortunately history tells us that as a social and governmental system, plutocracy does not for long work.

MS. VIVIAN FREEMAN

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 8, 1990

Mr. DYMALLY. Mr. Speaker, a woman who was like a mother to me, and for whom I had great love and respect, passed away on October 4, 1990.

Vivian Freeman was the grandmother to my two children—Mark and Lynn, and great grandmother to my only grandchild, Miya Dymally. Among the many kind acts she showered on me, I remember her sewing shirts for me while I attended college in the day, and worked at night.

On Monday, October 8, her family and friends paid their last respects to her at the Angelus Crenshaw Chapel in Los Angeles.

Her family and friends will surely miss her, and I continue to have fond memories of this beautiful woman whom I called mother.

OBITUARY

VIVIAN FREEMAN was born in Harrellsville, North Carolina, May 6, 1913. After graduating from Tarboro N.C. High School, she moved north to Harlem, New York. She had a great love for the jazz/swing music of the times and was quite proficient in the Lindy Hop and so she landed a job at the famed Savoy Ballroom, first as a dance hostess and later as a hat checker.

During World War II, she worked as a seamstress, making and repairing flyer's jackets and parachutes. In 1944, she came out to California with her daughter and sister. She always used to say, "When I stepped out of the Union Station downtown—I KNEW I WAS HOME!"

She continued to work as a seamstress after the war and became very active in the labor movement. A staunch member of the International Ladies Garment Workers Union, she served first as Chairlady for the shop where she was employed. As time progressed she was Chairperson of The Dress and Sportswear Joint Board, ILGWU, and later served as Chairperson of the Los Angeles Joint Board of ILGWU. She was a Delegate to the County Federation of Labor, a member of COPE and was appointed to the County Democratic Central Committee. She was known for her scrappy, no nonsense personality in politics and civil rights causes. Vivian Freeman was a dedicated Democrat and a fighter!

Her bouts with diabetes and heart trouble forced her retirement in the very early seventies. She beat the odds with two double by-pass surgeries, several heart attacks and vascular surgery. Vivian had a fantastic will to live and she fought off all her physical ailments with a stamina that was remarkable to family and friends.

Although ailing, she was an active member with Crenshaw Christian Center's Seniors and loved to work with the Food Committee at Baldwin Villa Plaza, the Senior Citizens complex where she resided until a stroke in May facilitated her recuperation at a skilled nursing center. She died of multiple complications at Daniel Freeman Memorial Hospital, October 4, 1990.

Twice widowed, she is survived by her only child, Amentha Dymally; two grandchildren, Mark Dymally and Lynn Dymally-Lee and husband, Bill Lee; one great granddaughter, Miya Dymally; son-in-law, Congressman Mervyn M. Dymally; the sisters, Mrs. Maude Porter of Tarboro, N.C., Mrs. Ethel Wallace and husband, Rev. Joseph Wallace and Mrs. Ella Mable Wildon of Norfolk, VA; former husband Charles W. Wilkes of Harlem, New York; nephews, Kim Wallace and Milton Newton (wife, Sheila) and niece, Candace Wallace Brown of Washington, D.C. She was beloved by a host of in-laws and grand nieces and nephews.

May God bless her.

TRIBUTE TO THE SESQUICENTENNIAL OF ST. JOSEPH'S ACADEMY IN ST. LOUIS, MO

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 8, 1990

Mr. BUECHNER. Mr. Speaker, there are those who believe that our society has lost the priority it once assigned to education; that the days of caring teachers, interested students, and concerned parents are over; and that schools are now mostly administrative entities. However, I would suggest to such people that they merely observe the St. Louis area Catholic schools. Thus, it is with great pleasure that I rise in tribute to the sesquicentennial of St. Joseph's Academy, a school which epitomizes all that ever was right about American education.

St. Joe's, as it is known in the area, enjoys a long and rich history. The school was first conceptualized by Bishop Joseph Rosati in 1843, as the bishop recognized the need for a school that could educate girls in spirit as well as mind. At the request of the bishop, six sisters of St. Joseph of Carondelet laid the foundation for a school which today has become synonymous with excellence in education to the people of the St. Louis area.

The school has come a long way from the little cabin founded in the mid-1800's. Today the campus sits on a 37-acre lot which includes a large academic building, a chapel, a convent and a gymnasium. It has a substantial endowment, a strong alumnae organization, and a record of academic and athletic achievement which is unsurpassed among St. Louis area girls' schools.

And yet, Mr. Speaker, I would still submit that the St. Joseph's Academy has never strayed far from the principles that shaped that first little school that Bishop Rosati envisioned. The Sisters of St. Joseph continue to emphasize the importance of spiritual growth among the students, and the religious side of education has never wavered at St. Joe's.

Mr. Speaker, if I had to describe the philosophy of Catholic education in one phrase, I would say that education must be a beginning, a means, and an end in itself. I am fortunate enough to have come from such a background, and it is with great pride that I take this occasion to salute an excellent example of this philosophy. Accordingly, Mr. Speaker, I ask this assembly to join me in saluting St. Joseph's Academy upon the occasion of its sesquicentennial anniversary.

HOUSE CONCURRENT RESOLUTION 310

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 8, 1990

Mr. ROWLAND. Mr. Speaker, during the early hours of Friday, October 5, 1990, I, along with 253 of my colleagues, voted to reject House Concurrent Resolution 310, which contained the blueprint for implementing the budget summit agreement. I voted against the resolution because it contained severe Medicare premium and deductible increases, economically devastating gasoline and other excise tax increases targeted at working class America, a home heating oil tax increase that can only be labeled a callous disregard for human life in the Northeast, and two provisions which would have had crippling effects on the life insurance industry in my home State of Connecticut.

To make an already dismal package worse, the spending reductions in the agreement made Alice in Wonderland read like a more informed dissertation on budget control, process, and reform. How many years in a row now have there been bills introduced in the House and Senate to remove the Social Security and Aviation and Highway trust funds from the unified budget so that they could not be counted against the budget deficit? At least every year since I arrived in Washington

in 1985. But in this budget agreement, the Federal Government is going to have a balanced budget by 1994 if, and only if, the trust fund surpluses were included. The trust fund surpluses have been used in the past to hide increased Government spending and the budget agreement spelled business as usual.

I was excoriated by the editorial board of Connecticut's largest newspaper for my vote, but I remain proud of it. My job is to represent my constituents, to protect their welfare and to ensure that their livelihood is not casually discounted for a phony budget agreement that has little in it for the national public good, but a lot in it that will only guarantee continued Federal budget deficits for years to come.

Mr. Speaker, I did what I was elected to do on October 5. I did so again on October 8 when I voted to reject the reworked and equally dismal budget resolution. The new budget resolution contains the same hit on working class America, the elderly, the economy, thousands of Connecticut residents who work in the insurance industry, and still does not contain any fundamental control on Government spending.

The leadership in the House and Senate, as well as the White House may say that there is no alternative to the budget summit agreement, and that a "no" vote is a vote against the Government and its operations. This strong arm rhetoric completely ignores the many alternatives that have been put forward every year since Congress approved the Budget and Impoundment Control Act of 1974. The most obvious alternatives, and which I have supported since coming to Congress in 1985, are to place freezes on spending. Whether it is a freeze at the previous year's level of spending, or at the baseline, that is, the previous year's spending level plus inflation, or some level in between, the fact is that spending freezes provide absolute and unavoidable spending reductions. The Congress has tried every other way to reduce the deficit, but has rarely used spending freezes as fully as they should have.

Mr. Speaker, spending freezes will reap benefits far beyond simple deficit reduction. The financial markets recognize spending freezes as the truest form of deficit reduction. Thus spending freezes will bolster the financial markets. The Federal Reserve—as Chairman Greenspan has reminded us so often—will also view spending freezes as the most effective deficit reduction plan possible and will consequently lower interest rates. Lower interest rates will mean more investment, more jobs and the ability to grow out of the recession the Nation now faces. Most importantly, however, a freeze on spending will mean no new or increased taxes on working class America would be needed. In the Northeast, where the economic recession is all but total, no new taxes is the only hope the region has to shorten the duration of the recession.

Mr. Speaker, I was also fulfilling my congressional responsibilities when I voted to override the president's veto of the continuing resolution on Saturday. I believed that the Members of the House and the Senate ought to have the chance to make substantial changes in the budget summit agreement. I went against my President and the majority of my party to do this. Not an easy decision to make, but, again, a decision based upon my responsibility to my constituents and their welfare. Perhaps it was because the President's veto was sustained that the House found placed before it on October 8 the rehashed, rebaked, reused, and ridiculous budget resolution I again voted against. That is why I also voted again in favor of the new continuing resolution, in order to provide the Members of the House and Senate yet another chance to make the needed changes to the budget agreement.

The opportunity exists to forge a deficit cutting budget agreement that does not target the elderly, that does not polarize regions of the country, that does not ruin the economy, and that does not cripple individual industries. Everyone talks about how everyone must sacrifice in order to reduce the deficit. A freeze in current spending will guarantee that everyone does their share in the most equitable manner possible.

Let me close by asking one question of you, Mr. Speaker, and all of my colleagues; if spending is our problem, how can taxing be our answer? Because let me make it very clear, if taxes are raised and spending is not frozen—even if taxes on the rich were raised by 50 percent—the Congress will be right back here next year voting on another worthless budget resolution and trying to convince an American public of how serious we are about reducing the deficit. All I can say, is if that is the game plan, I am glad I have chosen to take up a new sport.

DR. WALTER R. TUCKER

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 8, 1990

Mr. DYMALLY. Mr. Speaker, the city of Compton, CA, experienced a great loss recently with the passing of its mayor, Dr. Walter R. Tucker.

Mayor Tucker had two great loves—his family and the people of Compton.

On Saturday, October 6, 1990, family and friends from all over California bid him farewell at a memorial service held at Double Rock Missionary Baptist Church, Compton, CA.

I join with the people of the city of Compton in expressing our deep sympathy to his family.

HIS LIFE REMEMBERED

" A GOOD name is rather to be chosen than great riches, and loving favor rather than silver and gold." Proverbs 22:1

Walter R. Tucker—a Doctor of Dentistry, the Mayor of the City of Compton, and a clergyman. Walter R. Tucker, a name that bore many titles, but also one synonymous with words like honesty, humility, integrity, temperance, and sensitivity. A name that defines such terms as "devoted husband," "loving father," "a man of high moral character," "a friend of the down-trodden," "a model citizen," and like David, "a man after God's own heart." Walter R. Tucker, a good man—A Good Name.

Walter Rayford Tucker was born on August 27, 1924 in Taft, Oklahoma to the union of Carrie Matilda Watson Tucker and Nye James Tucker. The seventh of eight children, and a twin, he graduated from Washington High School in Haskell, Oklahoma. Prior to completing his higher education, he served in the United States Army achieving the rank of Sergeant and receiving an honorable discharge. Dr. Tucker's tours of duty during World War II (1942-1946) included the Philippines and occupied France. He received his Bachelor of Arts Degree from California State University in Los Angeles. Dr. Tucker also attended graduate school at the University of Southern California-Los Angeles, and Meharry Medical College, School of Dentistry whence he received his Doctor of Dental Surgery Degree in 1955.

While in medical school, Dr. Tucker met and fell in love with Martha Ann Hinton, and on June 6, 1955 they were united in marriage. To this blessed union four children were born: Keta Gale, Walter Rayford III, Kenneth Nye and Camille Elizabeth. In 1957 Dr. Tucker and his wife Martha, moved to Compton, California, where they raised their children and have resided since that time.

Dr. Tucker's political career spans some 23 years. In 1967 Dr. Tucker was elected to the Compton Union High School Board of Trustees, and then the Compton Unified School District Board of Trustees. In 1973 he was elected to the Compton City Council, representing the third district. Finally in 1981 Dr. Tucker was elected as Mayor of Compton. Serving three consecutive terms, he was the only Black Mayor ever to be re-elected to office in the City of Compton.

As the Mayor of Compton, a dentist, minister and family man, Dr. Tucker maintained a full schedule. His charisma and concern for others led him to be well respected not only in his community but also throughout the state and across the nation. His expertise in city government, his talent and proficiency in the dental profession and his Christian deportment were in his trademarks.

He recognized the importance of Compton's participation in issues that reached beyond the city's borders. He wanted to see the City prosper and grow, and worked diligently toward that end. Mayor Tucker was involved in on-going negotiations and lobbying efforts to gain a higher ranking for the City of Compton in many federal and state programs, bringing much-needed funds to support City projects. Mayor Tucker was instrumental in and supported the building of the first major hotel in the City of Compton. Among his priorities was the desire to see gun control laws established. Also at the top of his list of priorities was the annexation of those properties within the sphere of influence of the City of Compton.

He was a member of the Board of Directors of the National Conference of Black Mayors (NCBM), the World Conference of Mayors (WCM), and the California Council of Criminal Justice Planning. Mayor Tucker was the City's representative, and attended meetings regularly for the following organizations: The Local Agency Formation Commission, Los Angeles County Sanitation District, Southeast Mayors and Council Members Group, Independent Cities Association of Los Angeles County, League of California Cities, Southern California Association of Governments, California Contract Cities, and many other organizations.

Despite the demands made on him as mayor, Dr. Tucker—for many years—maintained a successful dental practice in the City of Compton, many times providing free dental assistance to those who could not afford to pay.

Rev. Tucker's strong faith and compassion attested to the spiritual influence of his Christian parentage. While his mother and father stressed respect for others, discipline, education and knowledge, they always encouraged him to put God first, and he did. Having received Christ at an early age, Rev. Tucker responded to God's call to the ministry in 1986. He was ordained at Zion Baptist Church in Compton by Rev. C. Albert Henson. There he served faithfully until his health began to fail.

Few invitations to participate in community events were even refused, especially those involving children. "Education," he said, "is what will save our children . . . that, and a firm belief in the Almighty." Dr. Tucker took every opportunity to be among residents of the community, not only as their Mayor but also as their family dentist, their neighbor and their friend.

Dr. Tucker was loved and revered by the young and the old, the rich and the poor—many were the times he would reach into his pocket to give to a person in need. He labored tirelessly to educate, inspire and improve the quality of life for those around him. But on October 1, 1990 at 1:00 p.m., the Lord looked down on the work Walter had done and said, "Well done thou good and faithful servant . . . enter thou into the joy of the Lord."

Dr. Tucker leaves to rejoince in his homegoing his devoted wife, Martha Tucker. Two sons: Walter Rayford Tucker, III and Kenneth Nye Tucker. Two daughers: Keta Gale Tucker-Collins and Camille Elizabeth Tucker. One daughter-in-law: Robin Marie Tucker. Two grandchildren: Walter Rayford Tucker, IV an Autumn Monet Tucker, all of Compton, California. Four brothers: Nye James Tucker, Jr., of Los Angeles, Calif.; Dr. Booker T. Tucker of Compton, Calif.; Wallace Tucker of Inglewood Calif.; and Dr. Sebron Edward Tucker of Rancho Palos Verdes, Calif. Three sisters: Mrs. Mercia McCollum of Los Angeles, Calif.; Mrs. Mary Jane Scott of Pasadena, Calif.; and Mrs. Clara Lyons of Los Angeles, Calif.; and a host of nieces, nephews, other relatives, inlaws, friends, and brothers and sisters in Christ.

May he rest in peace.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 9, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 10

9:00 a.m.
Labor and Human Resources
Business meeting, to mark up the proposed Civilian Ex-Prisoners of War Health Benefits Act, to consider budget reconciliation pursuant to the provisions of H. Con. Res. 310, and to consider the nominations of Perry L. Adkisson, of Texas, to be a Member of the National Science Board, National Science Foundation, Richard C. Hackett, of Tennessee, to be a Member of the Board of Trustees, Harry S Truman Scholarship Foundation, J. Michael Farrell, of the District of Columbia, to be a Member, National Commission on Libraries and Information Science, and Mary Louise Smith, of Iowa, to be a Member of the Board of Directors, United States Institute of Peace.
SD-430

9:15 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Sharon P. Rockefeller, of West Virginia, to be a Member of the Board of Directors of the Corporation for Public Broadcasting.
SR-253

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to review the sale of Semi-Gas Company, focusing on antitrust issues and the Committee on Foreign Investment's views.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
To hold hearings to review the recent Environmental Protection Agency Science Advisory Board report, "Reducing Risk: Setting Priorities and Strategies for Environmental Protection."
SD-406

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine alleged fraud, waste and abuse in Federal student loan programs.
SD-342

10:00 a.m.
Judiciary
To hold hearings on the crisis in the Persian Gulf, focusing on the role of an international criminal tribunal.
SD-226

10:30 a.m.
Select on Intelligence
Closed business meeting, to consider pending calendar business.
SH-219

OCTOBER 11

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Paul K. Dayton, of California, to be a Member of the Marine Mammal Commission, and Sylvia A. Earle, of California, to be Chief Scientist of the National Oceanic and Atmospheric Administration, Department of Commerce.
SR-253

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study to examine the bleaching of Atlantic tropical coral caused by the coral releasing algae and the resulting deterioration of the species.
SR-253

Governmental Affairs
To continue hearings on the Office of Management and Budget's response to the Federal government's management failures.
SD-342

10:00 a.m.
Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on S. 1734, to regulate interstate commerce with respect to parimutuel wagering on greyhound racing, and to maintain the stability of the greyhound racing industry.
SR-253

OCTOBER 12

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Mary S. Brunette, of Virginia, to be an Assistant Secretary of Housing and Urban Development.
SD-538

Finance
Social Security and Family Policy Subcommittee
To hold hearings to examine the problem of Fetal Alcohol Syndrome, focusing on the impact of alcohol abuse on babies on Indian reservations and babies born in public service hospitals.
SD-215

FEBRUARY 26

9:30 a.m.
Veterans Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.
345 Cannon Building

FEBRUARY 28

9:30 a.m.
Veterans Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Blinded Veterans Association, Vietnam Veterans of America, Military Order of the Purple Heart, and Non-Commissioned Officers Association.
345 Cannon Building

APRIL 17

9:00 a.m.
Veterans Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of AMVETS, Ex-Prisoners of War, Jewish War Veterans, and World War I Veterans.
345 Cannon Building